UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS
FIRST SESSION

VOLUME 121—PART 31

DECEMBER 11, 1975 TO DECEMBER 16, 1975

(PAGES 39861 TO 41102)

MAR 9 1978

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1975

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

SENATE—*Thursday, December 11, 1975*

The Senate met at 10 a.m. and was called to order by Hon. Richard Stone, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God who has made all history incandescent with the Light of Christmas, we thank Thee for its luminous message down through the years. Grant that its rapturous spirit may lay hold on us once more and control our inmost being. May we be born again not to the child which once we were but to the child we never yet have been—men and women of simple faith, believing in the herald angels' song, with watching shepherds, star-led to the manger, worshipping with ancient kings.

Take from us all that obstructs hearing Thy voice, seeing Thy guiding light, or doing Thy will. As we bow at the manger, let there be in us, O Lord, a new nativity of faith and hope and charity that touches our lives and guides us in shaping the destiny of men and nations, until the old refrain of "Peace on Earth" is the song and the reality which pervades the Earth.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., December 11, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Richard Stone, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, December 10, 1975, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

THE DEPARTMENT OF TRANSPORTATION

The second assistant legislative clerk read the nomination of Roger W. Hooker, Jr., of New York, to be an Assistant Secretary of Transportation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—COAST GUARD

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 506, 507, 508, 509, 510, and 513.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXPENSES IN CONNECTION WITH THE CONTESTED ELECTION IN NEW HAMPSHIRE

The resolution (S. Res. 247) authorizing payments out of the contingent fund of the Senate to reimburse John A. Durkin and Louis C. Wyman for certain expenses incurred in the recent contested election for a seat in the Senate from the State of New Hampshire was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate is authorized and directed to reimburse John A. Durkin and Louis C. Wyman for the expenses which (1) were incurred by them or others on their behalf and under this direction as a result of and in connection with the consideration by the Committee on Rules and Administration and by the Senate of the recent contested election for a seat in the Senate from the State of New Hampshire and (2) the Committee on Rules and Administration finds were reasonable and necessary for the proper consideration by that committee and by the Senate of such contested election and were not reimbursed to them from any other source or paid for by any other person.

Sec. 2. Payments under this resolution shall be made from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee on Rules and Administration.

AMERICAN FOLKLIFE PRESERVATION ACT

The Senate proceeded to consider the bill (H.R. 6673) to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 22, strike "develop, promote, and implement a program of support for" and insert "preserve and present";

On page 3, beginning with line 1, strike out:

(1) the term "American folklife" means the

> traditional customs, beliefs, dances, songs, tales, sayings, art, crafts, and other expressions of the spirit common to a group of people within any area of the United States, and includes music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional, or other grouping of American people;

and insert in lieu thereof:

> (1) the term "American folklife" means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, handicraft; these expressions are mainly learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction;

On page 7, in line 20, strike out:

> of the Center. He shall carry out the programs of the Center subject to the supervision and direction of the Board, and shall carry out such functions as the Board may delegate to him consistent with the provisions of this Act.

and insert in lieu thereof:

> Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center.

On page 8, in line 9, strike "The Center and its Director are" and insert "(a) The Librarian is";

On page 8, in line 12, strike "with, make grants and loans to, and award scholarships to" and insert "with";

On page 8, in line 24, after "displays," insert "publications,";

On page 9, in line 15, after "artifacts," insert "manuscripts, publications,";

On page 10, line 4, strike "contracts, loans, and grants" and insert "contracts";

On page 10, beginning with line 11, insert "and State arts councils established pursuant to the National Foundation on the Arts and the Humanities Act of 1965,";

On page 10, line 19, insert "(b) The Librarian shall carry out his functions under this Act through the Center";

On page 10, in line 21, strike "GRANTS" and insert "CONTRACTS";

On page 11, in line 7, strike "grant or other";

On page 12, in line 20, strike "Code, at rates for individuals not to exceed $100 per diem" and insert "Code";

On page 13, in line 1, strike "contracts, grants, or other arrangements, or modifications thereof, to" and insert "contracts to";

On page 13, in line 3, strike "or modifications thereof";

On page 13, in line 13, strike "The Center and its Director" and insert "The Director";

On page 13, in line 22, strike out "$167,750 for the fiscal year ending September 30, 1976; $710,000 for the fiscal year ending September 30, 1977, and $1,716,000 for the fiscal year ending September 30, 1978."

and insert in lieu thereof:

> "$133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, $295,000 for the fiscal year 1977, and $349,000 for the fiscal year 1978."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ABOUREZK. Mr. President, I want to take this opportunity to thank the distinguished chairman of the Senate Rules Committee (Mr. CANNON) for his cooperation and efforts in reporting H.R. 6673, the "American Folklife Preservation Act." I am proud to be the original cosponsor of this legislation. To date, 69 other Senators have joined me in urging passage of this bill.

The committee report sums up in one paragraph the need for this legislation:

> It is believed that it is appropriate for the Federal Government to encourage and support American folklife, even though it may primarily be a matter for private and local initiative, and that the general welfare of the nation is enhanced by the preservation, support, revitalization, and dissemination of American folklife traditions and arts.

The American Folklife Center will be established in the Library of Congress, under the supervision of the Librarian. But it was never my intent, nor do I believe the intent of the Rules Committee, that the Library will be the only one actively involved in the preservation and support of American folklife. In fact, it should be clearly understood that the Library is to be a further partner in the Government's efforts to enhance and preserve American folklife, and that all Government agencies that have an interest in this important area of American life will be able to work together to achieve the purposes of the bill.

Mr. President, I believe it is worth noting that the Congress will be establishing an organization with the sole purpose of preserving and promoting our American heritage. I cannot think of a more appropriate time to rededicate ourselves to our heritage than on the eve of this country's Bicentennial.

Mr. HUGH SCOTT. Mr. President, I applaud the action of the Senate today in paving the way for the establishment of a national clearinghouse for the preservation and study of ethnic and cultural contributions to the American heritage. As one of the prime Senate sponsors of the American Folklife Preservation Act for a number of years, I am pleased that this long-awaited day has arrived.

America is blessed with rich and diverse cultural strains. However, with the passage of time and the increase of sophistication in our society our ethnic and cultural heritage continues to homogenize. What better time than on the eve of our Bicentennial to reverse this growing trend and recapture those old country elements of our past which have nourished and strengthened this great land of ours. The American Folklore Center will provide the necessary spark to encourage each and every one of us to seek a better understanding and appreciation of our cultural diversity.

During the past year, I have been privileged to work with a distinguished Pennsylvanian who is in the forefront of this cultural recognition effort. Mr. Kenneth Goldstein, chairman of the Folklore and Folklife Department of the University of Pennsylvania and president of the American Folklore Society, is to be commended for his fine work. Mr. Goldstein, incidentally, is a professor of folklore at the University of Pennsylvania, one of our Nation's finest schools. The folklore program there is extremely well developed and is aimed at educating young people to the values of their own particular heritage.

Also, I would like to congratulate Senator CANNON for his efforts—with the able assist and coordination of Bill Cochrane, Ray Nelson, and Larry Smith—in reporting a measure that is destined for enactment this year.

SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

The resolution (S. Res. 299) authorizing supplemental expenditures by the Select Committee on Nutrition and Human Needs for inquiries and investigations, was considered and agreed to, as follows:

S. Res. 299

Resolved, That section 3 of S. Res. 260, Ninety-third Congress, agreed to March 1, 1974, as amended by S. Res. 295, Ninety-third Congress, agreed to March 29, 1974, is further amended by striking out "$353,800" and inserting in lieu thereof "$366,800".

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE DISTRICT OF COLUMBIA

The resolution (S. Res. 316) authorizing supplemental expenditures by the Committee on the District of Columbia for inquiries and investigations, was considered and agreed to, as follows:

S. Res. 316

Resolved, That section 2 of S. Res. 30, Ninety-fourth Congress, agreed to July 26, 1975, is amended by striking out the amounts "$130,300" and "$7,000" and inserting in lieu thereof "$175,300" and "$45,000", respectively.

LYNDON BAINES JOHNSON MEMORIAL GROVE

The bill (H.R. 9883) to amend the joint resolution approved December 28, 1973, providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FATHER MARQUETTE NATIONAL MEMORIAL

The bill (H.R. 2724) to provide for establishment of the Father Marquette National Memorial near Saint Ignace, Mich., and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

TAX LEGISLATION

Mr. MANSFIELD. Mr. President, now that the New York City and New York State dilemma seems to be on the way to a solution, the hottest question at the moment seems to be the question of tax legislation and the attitude of the Congress on the one hand and the President on the other. This is a time for both the President and the Congress to exercise a degree of responsibility. It is not the time for name-calling; it is the time for soul searching.

I would like to read some excerpts from a very excellent editorial which appeared in the Christian Science Monitor under date of the 10th of December of this year. I read as follows:

> The United States economy is making progress out of the worst recession in 40 years, but that progress is slow in coming and needs all the help it can get from government policy. To let taxes rise sharply Jan. 1 would seriously reduce needed economic stimulus and undercut consumer confidence.
>
> Latest figures show inflation running at well over 7 percent. Unemployment is holding steady above 8 percent, with 7.7 million Americans out of work. The Federal Reserve Board recently reported that consumer confidence, as reflected in the growth of credit obligations, is down 30 percent from a year ago. The stock market last week dropped by the largest weekly amount in over a year, indicating a weakening of confidence in the country's economic recovery.
>
> The most optimistic projections have unemployment remaining at well over 7 percent through 1976, and the top economic forecasters say the economy will expand by 5 to 6 percent next year, which is not enough to make much of a dent in unemployment.
>
> While most attention has been paid to inflation as indicated by rises in the consumer price index, the average family's tax liability has gone up by more than twice as much as the CPI since the base year of 1967. For many people, taxes will go up after Jan. 1 in any case, because the government will again be withholding social security from paychecks.
>
> In sum, the U.S. economy is by no means out of the woods and failure to extend the 1975 tax cut would seriously dampen the recovery.
>
> The President says he will let taxes rise if Congress refuses to set a $395 billion federal spending limit for the coming fiscal year (1977). This is an unrealistic proviso, however, that may make good political sense, but undercuts congressional budgetary procedures that have seen vast improvement this year.
>
> Instead of piecemeal budget writing, Congress now sets overall spending limits and works to hold down federal expenditures within those limits. The mood of the country indicates the desire to curb "big government." Thus legislators are under just as much pressure as Mr. Ford to economize.
>
> Then Congress and the White House could negotiate a spending ceiling once Mr. Ford has made public his 1977 budget.
>
> If the President doesn't do at least this much, the U.S. economy will suffer.

Mr. President, I ask unanimous consent that the full text of this fine editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TAX-CUT QUARREL

> President Ford is mistaken if he believes, as his advisers do, that a sudden increase in federal taxes after the first of the year would not have any "material effect on the economy." For this reason, we urge him to approve legislation extending this year's tax cuts into 1976.
>
> The United States economy is making progress out of the worst recession in 40 years, but that progress is slow in coming and needs all the help it can get from government policy. To let taxes rise sharply Jan. 1 would seriously reduce needed economic stimulus and undercut consumer confidence.
>
> Latest figures show inflation running at well over 7 percent. Unemployment is holding steady above 8 percent, with 7.7 million Americans out of work. The Federal Reserve Board recently reported that consumer confidence, as reflected in the growth of credit obligations, is down 30 percent from a year ago. The stock market last week dropped by the largest weekly amount in over a year, indicating a weakening of confidence in the country's economic recovery.
>
> The most optimistic projections have unemployment remaining at well over 7 percent through 1976, and the top economic forecasters say the economy will expand by 5 to 6 percent next year, which is not enough to make much of a dent in unemployment.
>
> While most attention has been paid to inflation as indicated by rises in the consumer price index, the average family's tax liability has gone up by more than twice as much as the CPI since the base year of 1967. For many people, taxes will go up after Jan. 1 in any case, because the government will again be withholding social security from paychecks.
>
> In sum, the U.S. economy is by no means out of the woods and failure to extend the 1975 tax cut would seriously dampen the recovery.
>
> The President says he will let taxes rise if Congress refuses to set a $395 billion federal spending limit for the coming fiscal year (1977). This is an unrealistic proviso, however, that may make good political sense, but undercuts congressional budgetary procedures that have seen vast improvement this year.
>
> Instead of piecemeal budget writing, Congress now sets overall spending limits and works to hold down federal expenditures within those limits. The mood of the country indicates the desire to curb "big government." Thus legislators are under just as much pressure as Mr. Ford to economize.
>
> President Ford may have painted himself into a corner on the tax cut-spending cut issue, but he could save face by ordering temporary continuation of this year's tax withholding rates. Then Congress and the White House could negotiate a spending ceiling once Mr. Ford has made public his 1977 budget.
>
> If the President doesn't do at least this much, the U.S. economy will suffer.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

ROGER W. HOOKER, JR.

Mr. **HUGH SCOTT.** Mr. President, first of all, I want to congratulate Mr. Roger W. Hooker, Jr., of New York on his confirmation as Assistant Secretary of Transportation. Mr. Hooker has been well known to many of us as a prominent aide to the Vice President and his work has been excellent. His ability to perform the new assignment which he will undertake is, in my judgment, without question.

So I am delighted that he has been so designated by the Secretary of Transportation and approved by the Senate.

WHY DELAY A BUDGET CEILING?

Mr. **HUGH SCOTT.** Mr. President, I see no reason why Congress could not reassure the country earlier and help the economy of the country accordingly by indicating its intention to live within a budget ceiling. The President has suggested $395 billion as a livable ratio of growth, which is not a cut in spending but a leveling off of the growth cycle, for the very purposes of holding down inflation and reducing unemployment.

I always hate to see confrontation between the executive and the legislative branches. I myself am in favor of our trying to find a way to reduce taxes, even to the extent of $28 billion, if we can, as long as we can reduce spending by the same amount.

The argument is being made that along about next May or sometime in the future, Congress will have some sort of a budget ceiling, but that means that the economy will be in doubt as to how much of the total gross national product is to be withdrawn from individuals and companies and used by the Federal Government until that spending ceiling is finally arrived at.

I see no reason why Congress should not at this time work with the President by saying, "Yes, we do think that a spending ceiling is necessary. We do believe we can stay within the close or approximate limits of $395 billion, and we will undertake to make the budget reflect those figures, and would be happy to extend the benefits of that reflection in the form of tax relief to the people of this country."

I do not think it helps too much to argue over whether we are going to have a budget ceiling today or in April or May. I think it would be more helpful if we could have a tax reduction now and a budget ceiling cut decision made now, because this Congress is pretty familiar with appropriation bills, their growth, and their percentage of growth; and while the argument is made that we must wait until the President's state of the Union address, it is still readily available to the Budget Committee to determine about the rate of growth which they are willing to agree to, just as the President suggests some slowing down in the growth, and I refer only to the growth of spending by Congress.

Mr. **GRIFFIN.** Mr. President, will the distinguished minority leader yield?

Mr. **HUGH SCOTT.** Yes.

Mr. **GRIFFIN.** I wish to associate myself with what the minority leader has said, and perhaps add a further word.

The Budget Committee, of course, has a very important responsibility in helping to determine priorities—to establish, even with the adoption of the ceiling, how the total amount of money to be made available is to be allocated. But there is nothing so unusual about that—the Budget Committee of every family is required to budget with a spending ceiling. In most of the States of the Nation, the State constitution imposes a spending ceiling—State officials cannot spend more than the total amount of revenue.

The $395 billion ceiling which the President asked for is not only generous—it contemplates a substantial deficit. So, what we are really talking about is how much of a deficit we are going to agree to.

The distinguished minority leader is absolutely right about the importance of setting the spending ceiling now. If

Congress would cooperate with the President now in setting a spending ceiling, the right kind of a signal would be sent throughout the economic and financial communities of this country—there could be realistic hope that inflation would be held under control.

In asking for this ceiling, the President is not seeking to cut back on the level of spending for this fiscal year; he seeks only to put some restraint on the projected growth of spending in the next year if no ceiling were set.

The President's $395 billion ceiling actually contemplates a 7-percent increase in spending next year over the level of spending this year. But unless we take this action, it is anticipated that the level of spending will go up 15 percent over the level of spending this year.

So, the choice before the Congress is a choice between 7 percent more spending—or 15 percent more spending.

I feel confident that the American public support the President in this very reasonable and necessary effort.

Mr. MANSFIELD. Mr. President, I think that the choice is between confrontation and cooperation, and I am sure that if the President, in his wisdom, would see fit to call down the chairman and the ranking minority member of the Finance Committee and the same two members of the Budget Committee, a better understanding would develop about the realities which confront the President and Congress at this time.

It is not going to get us anywhere just to stick doggedly to our positions if we do not intend to be reasonable about what differences in interpretation otherwise may exist.

Let me say that if there is one committee which the Senate can be truly proud of this year it is the Budget Committee, which has acted responsibly, has kept requests for appropriations within bounds, has done so on a bipartisan basis, has done so in its first year while still feeling its way, and I think has been a credit to this body.

It was the arguments of the distinguished Senator from Louisiana (Mr. Long) plus the arguments of the distinguished Senator from Maine (Mr. Muskie), the chairman of the Budget Committee, which created a very deep and, I think, lasting impression in the Democratic conference yesterday on the Members who were in attendance—and there were 44 at that time. Unfortunately, the distinguished present Presiding Officer (Mr. Stone) was not there. I hope that something will happen which will allow him to understand that he has a responsibility and a duty to represent the State of Florida as well as the Nation in the Democratic conference. Others were on the floor, and a few in committees.

But this is a most serious question, and I want to repeat that the choice is between confrontation and cooperation, and I would much prefer to see cooperation, between the administration and the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from South Dakota yield me a couple of minutes?

Mr. McGOVERN. Yes; I would be happy to yield. I have not yet been recognized, however.

Mr. HUGH SCOTT. Mr. President, I may have some time remaining. I yield whatever time I have.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

REQUEST FOR CHANGE OF CONFEREE—H.R. 10647

Mr. ROBERT C. BYRD. Mr. President, yesterday the Senate adopted an amendment to H.R. 10647, making supplemental appropriations for the fiscal year ending June 30, 1976, and for other purposes. That amendment would increase funds for fuel cell development.

I was named as a Senate conferee. I do not feel—after thinking overnight about the matter—that I can conscientiously serve as a conferee on that amendment. Although there is no rule that would bind me to support the Senate position on the amendment, I would not wish to go to the conference and oppose the Senate position, because in so doing I would be putting myself and my will above the Senate and the majority will of the Senate.

The Senate voted on the amendment, and it was the Senate's will that the amendment be adopted. In good conscience, I cannot go to the conference and support the amendment—not because the amendment was adopted over my objections, but because the Senate adopted the amendment adding funds, over the objections of the chairman and ranking member of the full Committee on Appropriations, and the chairman and ranking member of the Subcommittee on Appropriations, and supported, instead, the letter of request yesterday for more funds from an agency head, who, only 2 months ago, appeared before the Senate Appropriations Subcommittee on the Department of the Interior and testified as to the full amount of money he needed for fuel cell development. That amount of money was in the bill that the Senate, hopefully, will complete action on today, and his letter yesterday was in direct contradiction to his testimony before the subcommittee 2 months ago. I do not like that backdoor approach. The agency head did not extend the courtesy to the committee of making any request to the committee for more funds.

He wrote a letter that was delivered at the 11th hour one might say—the last hour before the amendment was discussed—and I do not think that the Senate ought to ride roughshod and barefoot over its Committee on Appropriations on the basis of a request that comes in the back door from the agency head. Were the matter of such urgency and compelling nature that more money were immediately needed, the agency head could have requested another hearing by the committee and the subcommittee could have conducted that hearing within the last 2 or 3 days.

I am sure that had the agency head justified a request to the committee for more money, the Senate conferees could have held out for at least $2.5 million more for the same item even in the conference on the regular bill the day before yesterday, and I would also not have objected to the amendment on yesterday.

So I strongly object to this method of presentation of an agency viewpoint by an agency head. The agency head has been told by me since the vote on yesterday exactly how I feel about the matter, and he admitted he made a mistake. I only hope that he will not make it again.

So I ask unanimous consent that my name be removed from the list of conferees. I am authorized to do this by the distinguished chairman of the committee, Mr. McClellan, whom I have contacted in this regard earlier today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from South Dakota (Mr. McGovern) is recognized for not to exceed 15 minutes.

TRYING TO MAKE SENSE ON BUSING AND THE CONSTITUTION

Mr. McGOVERN. Mr. President, during the recent debate in this Senate Chamber on the question of busing, several reports characterized our colleague from Massachusetts (Mr. Brooke) as a lonely advocate on the side of the Constitution and the courts. I regret now that I did not then and there stand more visibly with him.

This is not an issue of deep direct concern to my constituents in South Dakota, but it is an issue that once addressed raises the most serious constitutional and ethical questions.

But after the reaction to my recent speech about busing before the Democratic Issues Convention in Louisville, I think I have some better comprehension why it is easier on this issue for Senators simply to vote their conscience than to give their voices to it.

It is a sensitive and difficult matter. In Louisville I attempted to address that issue responsibly and firmly. To my dismay, critics have attacked what I did not say, while the real issues which I did raise have been largely ignored.

I have even been accused of trying to ride a schoolbus into the White House.

I did not say in Louisville that the Democratic Party should make busing the issue in 1976. Rather, I said almost the direct opposite: That we should accept the rule of law and lay this issue to rest. I said no one should pretend that Presidential candidates can overturn the courts. No President and no Presidential candidate should imply that he can stop the buses—unless he has an alternative which the courts would accept as constitutional. No one should say that his election would mean a constitutional amendment to prevent busing—because every Senator in this Chamber knows what every recent vote in this Congress proves: Such an amendment will not pass. So what I urged in Louisville was not that the party and its candidates commit themselves to liking busing, but to accepting it in those instances where our courts have found it to be a necesary remedy for segregation.

If we believe in the rule of law, then we have to abide by the due process of law under our courts. Sometimes decisions will be ones that make us unhappy; sometimes we will find those decisions irritating and inconvenient. But how else does a society of laws conduct itself except by respect for the rulings of the courts?

It is wrong to deceive the people about matters of this kind. If it is wrong to do this on economic policy, it is wrong to do it about social policy. If it was wrong to have a so-called "secret plan" for peace in 1968 that did not in fact exist, then it is wrong to have a "secret plan" to prohibit busing in 1976.

It is, of course, anyone's right to take a different view.

It is anyone's right to offer, indeed like all of us I would support, any effective legal alternative to busing that breaks down the barriers of segregation. But whoever makes that offer should demonstrate good faith by explaining how it will be fulfilled, not some kind of vague indication that magic is going to be performed after the election that will release us suddenly from the orders of the courts. They need to explain how that alternative will achieve integration because otherwise the Federal courts will reject it and continue to require busing.

It is also anyone's right to promise a constitutional amendment. But any candidate who makes that promise should demonstrate good faith by explaining how it will be kept, how that amendment can command enough votes, and that means two-thirds in both the House and the Senate for it to even pass Congress. Otherwise, the hope of an amendment only reinforces a futile and damaging resistance to the law. And when the promise has been broken again, and the busing continues and increases, the only result will be another reduction in the remaining sum of credibility between the people and political leadership.

It is far better for us not to hold up false hopes on issues that are not within the prerogatives of the President or Presidential candidates.

It is possible to be cynical—to hold out a false hope of an alternative or a constitutional amendment merely as a campaign tactic whose sole and final effects will be felt on election day. Then the next day, and on the school days afterwards, the buses will be on the road—and the voters will have another President to be distrusted and disbelieved.

I did not demand in Louisville that the Democratic Party write a strong pro-busing plank into the national platform next year. I see no reason why there needs to be any plank on busing. I stand now, and will settle at the convention, for the basic proposition that my party and its nominees believe in obeying the law and believe in the Constitution. That statement, as it relates to civil rights and to the issue of busing, which no one would deny in that form, means that there must be busing or a specific and effective alternative, which few of us seem ready to admit plainly and publicly. I have been accused of trying to impose one man's view on busing. If there are others who disagree with the platform plank in favor of obeying the Constitution and the orders of our courts, then let them explicitly state that disagreement.

I did not say in Louisville that I would consider running for the Presidency on the busing issue. I may have lost 49 States in the last election, but I still possess some awareness of political reality. I have no intention of being a candidate for any office in 1976; but, certainly, if that were the case, I would not be so foolish as to launch a campaign on the busing issue. I did not speak what I see to be the truth of busing to gain political advantage, but because it is necessary to face the truth, even if it is unpopular. In the long run, the Nation and the Democratic Party will be better served by hard truth than convenient evasions. Perhaps it is inappropriate for me to say so, but I happen to believe that the campaign with which I was connected 3 years ago served the Nation better in defeat than our opposition did by their deceptive and manipulative kind of victory.

Perhaps the reason why many have assailed what I did not say in Louisville is that they do not want to deny what I did say.

No one has directly denied my statement that the Democratic Party must stand for integration and civil rights.

No one has directly denied the fact that in some cases, where all other remedies have failed, busing has been found by the courts to be the only means to overcome the segregation which an earlier court declared to be unconstitutional.

Some people will say that we will have busing only as a last resort. Mr. President, that is precisely what the courts have said, and they have ordered it only where they found it a last resort.

No one has denied the fact that in such circumstances, busing is a constitutional mandate of the courts, which cannot be reversed merely by politicians saying they are against busing.

No one has denied the fact that the courts will continue to rule, as the Supreme Court already has, that alternatives are insufficient unless they achieve a similar degree of school integration—and that in a number of places and cases, no currently stated alternative appears likely to do so.

No one has denied the fact that the required two-thirds of the Senate and the House will not approve a constitutional amendment now or in the foreseeable future. We are only kidding ourselves and kidding the people when we imply that that is likely to happen.

There have been denials, not of what I said, but of the wisdom of saying anything at all.

The truth is that there were thousands of local people marching outside that convention hall, asking us where we stood on this issue. Any halfway imaginative person should have known that you cannot conduct a conference on public issues in Louisville today without some discussion of the issue that the people are marching and talking about in that city.

One theory seems to hold that we were not supposed to answer. The assumption seems to be that if people demonstrate their views and politicians conceal their disagreement, the protestors will yield in the end—not because they have been convinced or even because the constitutional reasons have been conveyed, but out of a sullen frustration with an apparently unresponsive and unfair system. When citizens ask: "Why is this happening?," politicians should not be ashamed to cite and support the Constitution, or afraid to address genuine concerns.

Tensions and disruptions are made worse rather than better by a silence which seems to imply that their continuation could force changes which in fact will not occur. Nothing could exacerbate the situation more than for a politician to join the antibusing chorus, to offer an easy opposition to busing when there is no meaningful prospect of stopping the buses. Such a course exploits the concerns of people and deepens the crisis of Louisville and other cities.

Are we only supposed to tell the truth to the voters when it says things which they want to hear? Are we supposed to close the doors of our conventions and meetings to those who want to ask a question we might prefer not to answer?

We are also told that it is divisive to question issues of this kind. Curiously, it appears to be that mentioning the issue is divisive only if it counsels acceptance of the law, but it is not supposed to be divisive, I gather, if mentioning it promises to undo the law and thereby encourages citizens to disrupt and disobey the law.

I was not the first public official in Louisville to raise this issue, but the one who did so first said it would be prevented if we had the right President.

By some rule whose rationalization I cannot discern, that position of suggesting that we can somehow bypass the court and the law was regarded as less divisive, even though it fails in both legal and legislative terms. Labels like "divisive," in any event, are a superficial way to discuss public policy. Is it always wrong to be divisive?

Is that what we mean by being candid or what politicians must do in order to be elected? What would be hypocritical—and irresponsible—would be to vote for busing in the Senate, or to speak for it in places where it is not an important issue, and then to adopt a studied pretense that it is not a relevant or fitting topic in Louisville—to insist that the one thing which should not be talked about is the one issue which the people in the streets are marching about. Do we really ask them to accept silence as our answer?

Second, I have been told that it is divisive to mention busing. Curiously, it appears that the mentioning is divisive only if it counsels acceptance of the law, but not if it promises to undo the law and thereby encourages citizens to disrespect and disobey it. I was not the first public official in Louisville to mention busing, but the one who did so first said it would be prevented if he were President. By some rule whose rationale I cannot discern, that position somehow was regarded as less divisive, even though it fails in both legal and legislative terms.

Labels like divisive are a silly, superficial way to discuss public policy. Is it always wrong to be divisive?

The American Revolution, whose Bicentennial we celebrate in the next year, was divisive. George Washington was divisive. Thomas Jefferson was divisive. It was divisive to put a choice between revolution and submission. There were unifiers who had a way to compromise with the King. Abraham Lincoln was divisive and was willing to fight a great national conflict over the issue of human rights.

And so it has been throughout our history. The Civil War was divisive: it divided the Nation over the issue of slavery or freedom. Social security was divisive: it divided the Nation between Franklin Roosevelt and the Liberty Lobby. And we should remember how Martin Luther King was denounced for dividing the civil rights movement by opposing the war in Vietnam.

The issue is not what is divisive, but what is best for the Nation. An America which was united behind a mistaken policy of global militarism could still be fighting and losing in Vietnam. That might not be divisive, but it would be bad for our Nation. A united Democratic Party could pretend or imply that somehow, some way, busing can be wished away. That would be bad for the Nation. It would also be a lie and a deceit.

There are other indirect, irrelevant ways to dismiss what I said in Louisville.

One commentator said that I took a "strange" position. What is so strange about asking for political honesty and obedience to the law?

Another commentator accused me of being "moralistic" once again. Presumably my past transgressions of this kind include my opposition to the war in Vietnam and my statement that the Nixon administration was the most corrupt in American history—a statement which was denounced during the 1972 camapign, not for being inaccurate, but for being harsh and strident or "moralistic." For that sort of moralism I do not apologize.

In 1960, the pragmatists said a Catholic could not be elected President and should not be nominated.

In 1968, the pragmatists said an antiwar campaign could not succeed and should not be tried.

After the first Catholic was elected, or after the war was unpopular, then they changed their minds—not because of what was right, but because there were different rules of political acceptability.

All of us here or anywhere in politics have made too many mistakes and misjudgments to be self-righteous. But at least we can try to say and serve the right as we see it. We cannot say and mean that we believe in the truth if we are afraid to face and state it.

We cannot say we believe in the people if we seek to trick them, or to evade their questions, or to avoid hard truth. The first foundation of democracy is the faith that the people can be trusted to hear and heed difficult realities as well as happy reassurances. Abraham Lincoln told his fellow citizens of a "great civil war," not a passing skirmish. Franklin Roosevelt said the Nation faced a "Great Depression," not a slight downturn. Is it so impossible, or imprudent, for us to say that busing will not be ended by a political slogan—and that the words of "quality education" without the content signify and change nothing?

In 1972, I briefly considered a decision to oppose busing. I knew then, as I know today, that busing is inconvenient and unpopular. But as I searched the problem with others, and as I thought about it, I found no alternative methods to achieve education which was both integrated and improved for all children. I would still welcome such an alternative—and I wish that any who claim to have one would state it—and I would support it. In the meantime, I would be content if busing were not an issue in a Presidential campaign which cannot reverse the mandate of the Supreme Court. Those who believe we must uphold the law did not raise this issue. There were antibusing demonstrations and an antibusing speech in Louisville before I spoke. And I am willing to agree that not one more word should be spoken about busing in the contest for the Democratic nomination except in honest answer to the questions of the voters.

Mr. President, apparently I have raised a storm by saying the obvious—that the law should be obeyed, that on this issue the Constitution will not be changed, that the antibusing emperor has no clothes. I have reconsidered my views, and I hereby reaffirm them.

Mr. President, one of the reassuring experiences that has followed the discussion of this issue in Louisville is that it not only drew some sharp criticism, but also, I was strengthened in my resolve by thoughtful editorials that appeared in the metropolitan newspapers in the cities where this issue has been most seriously fought. There, where busing is a question of policy rather than mere politics, a matter of the children's right to equality of education rather than the candidates' chances for election, the editorials supported my position and my decision to state it. I ask unanimous consent that the relevant editorials and columns from the Boston Globe, the Louisville Courier Journal, and the Louisville Times be printed at this point in the RECORD, together with commentaries by the Milwaukee Journal, the Madison Capital Times, a column by the distinguished syndicated columnist Mary McGrory appearing in the Washington Star, and two earlier excellent articles by C. Robert Zelnick and by Cynthia Parsons in the Christian Science Monitor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Louisville Courier-Journal, November 25, 1975]

1976: A WORTHWHILE EFFORT—McGOVERN VIEW ON BUSING HELPS TO FOCUS QUESTION

Mayor Sloane was correct in saying that George McGovern's pro-busing speech to the National Democratic Issues Forum dealt with only part of a complex issue. But since the anti-busing demonstrators outside the door of Louisville Gardens were doing the same thing, though from another point of view, the McGovern speech was useful.

It was especially so because our own local and state politicians have largely quit talking about the issue of segregation (some of them, indeed, seem never to have addressed it), and spend much of their time making placating noises to those who find court-ordered integration un-American or uncomfortable.

What Senator McGovern said, though he put it eloquently, was hardly new. But it's useful to be reminded periodically that civil rights is one of those issues in a democracy that just won't blow away. It might be easier for Democratic presidential aspirants and other politicians to cater to majority sentiments or try to avoid the issue altogether. But such actions are hardly responsible in facing what Mr. McGovern called "the transcendent moral issue of three centuries on this continent."

KELLERMAN AND CONYERS

Not much acknowledgement of that attitude is visible when the anti-busers march or honk their horns. Yet there are encouraging signs, from time to time, that those who might seem to be extremists on both sides of the busing issue are not necessarily all that divided.

True, some anti-busers are quick to show how thin is the veneer over their racist attitudes; some of the civil-righters, by contrast, tend in confrontation to be driven by counter-emotion into unrealistic positions of their own.

Yet when Louisville anti-busing leader Bill Kellerman got together Saturday with black congressman John Conyers of Detroit, they seemed for a few moments to attain that attitude of mutual respect (and willingness to listen) on which all progress hinges. Somewhere between the rights expressed by George McGovern and those of, say, an anti-buser who respects law and the democratic process enough to find the Ku Klux Klan repellent may lie answers that all of us can live with.

But this will come only if we're willing to face the issue squarely, as Senator McGovern proposes. The suburbanite who dismisses minority rights when they conflict with his own comfort contributes nothing to the debate but irrational noise. The civil libertarian who isn't concerned that court-ordered integration could result in greater prejudice and segregation is substituting emotion for reason.

In the middle somewhere may reside a pathway to a color-blind society, quality education for all, and a fair balance of individual rights. If we're to find it, the answer lies not in legislating the issue away (as through a constitutional amendment to eradicate busing) or in shouting insults at each other. Like Mr. Kellerman and Representative Conyers, we may find that we all have quite a bit to talk about if we'll lower our voices and show some mutual respect.

[From the Louisville Times, Nov. 25, 1975]

A CLEAR CHOICE—McGOVERN SPEECH HELPS CLARIFY THE MUCH-OBSCURED ISSUE OF BUSING

To David Cohen, president of Common Cause, the citizen lobby, the National Democratic Issues Convention reflected the tensions within the party. It cast the older New Dealers against practitioners of the New Politics and matched the Democrats' traditional interest groups against the so-called public interest groups.

Had the conference been somewhere other than Louisville, those conflicts might have surfaced more clearly. But in a sense the convention was in the wrong place at the wrong time. With anti-busing demonstrators in the streets outside, the convention could hardly give its undivided attention to the issues of law and order, foreign policy and energy and growth that the presidential candidates came to talk about.

It remained, though, for George McGovern to take to heart the advice of pollster Peter D. Hart who told the convention that "the old political axiom which dictates steering clear of anything controversial and playing it safe is a recipe for certain defeat in 1976." Sen. McGovern, who as a presidential candidate in 1972 increased the margin of his defeat by refusing to play it safe, chose again not to play it safe. He put the issue of busing squarely before the forum in much the same way as he earlier put the issue of the Vietnam war before the nation.

In doing so, he stated the case for the nation. "The issue is not the method of transportation, but the reason for it. . . . Where the law and public authority were misused to separate the races, and where no other means will secure the equality of integration, then under the Constitution some vehicle must be selected to move black and white children to the same schools. Buses happen to be safer than bicycles and cheaper than helicopters."

It was understandably embarrassing to Mayor Sloane, whose national political stock was raised considerably by the convention. The mayor did not think it appropriate for Sen. McGovern to be so outspoken on such a sensitive local issue.

The evidence indicates that the senator chose his forum deliberately. R. W. Apple Jr., of the New York Times, reported on Saturday, even before the massive demonstration outside Louisville Gardens, that the senator would probably use his speech to make "a strong defense of busing as a valid tool in the struggle for integration."

Sen. McGovern made no apology for being so outspoken. "If telling the truth is a promise to be kept rather than a slogan to be broken," he said, "then we must speak of busing openly and plainly." If there had been more of that, we would all be much better off.

Instead, the politicians have tried to tiptoe around busing with smokescreens of talk about "quality education" when the issue is really one of "equality." Elected leaders, sworn to uphold the law, have looked the other way and encouraged scofflaws by allowing marchers to violate their parade permits, and terrorize innocent bystanders. They have led school boycotters to think the truancy laws are not going to be enforced. They have talked about alternatives when in 20 years they have made no effort to develop any.

Those are the actions, as Sen. McGovern said, of men "rationalizing . . . to evade the question." They are not the actions of leaders willing to meet the question responsibly. By casting the issue where it needs to be cast—as a moral issue involving the right of all Americans to equal opportunity—Sen. McGovern has chosen conscience over expediency. He gave the Democrats what they needed: A clear choice.

[From the Boston Globe November 25, 1975]

McGovern Prods Party

(By Robert L. Healy)

Sen. George McGovern in the long run may have done the Democratic Party a favor. It probably did not look that way to many on Sunday in Louisville, when McGovern told some 2000 delegates to the National Democratic Issues Convention to support busing and called on the party "not to sell its soul on the issue of busing."

McGovern pointed out to the delegates that the real issue was not busing but rather integration and that busing was needed because "by the power of law and the effect of public policy, we imposed apartheid in America."

What McGovern has done is to make the busing question part of the national presidential debate. This is not necessarily bad because in the last eight years both Congress and the executive have left the busing question to the courts.

There also has been some movement in Congress on this subject. Last week, the House Democratic Caucus in its first open meeting voted down a move to force the House Judiciary Committee to report out within 30 days the antibusing amendment to the Constitution. The vote was 172 to 96 to kill the resolution.

It was a strange mix who voted against the amendment. There was a healthy representation of antibusing congressmen who felt that the constitutional amendment cause was not the proper one and that busing as a means of integration must be dealt with by Congress.

Rep. Richardson Preyer (D-N.C.), a former Federal District Court Judge opposed the resolution and said the constitutional amendment was the wrong way to end busing.

"Because busing is wrong doesn't mean a constitutional amendment dealing with it is right. Busing has been a failure. But we should overcome that failure through the legislative approach, not constitutional amendment."

Preyer warned that the constitutional amendment proposed in the Milford-Teague resolution would end not only busing but integration itself. "If the Supreme Court interprets it literally, this constitutional amendment would not just stop busing," he said "it would take us back beyond the Brown decision. Brown would be rendered meaningless. It would eliminate most of the voluntary means of integrating school systems," and make it "impossible for the Congress to establish national school policy by legislation." (The Brown decision of 1954 held that school segregation was unconstitutional.)

McGovern said yesterday that he had good response from the speech, although he admitted that people had asked him why he did it. "The problem is that the courts have ordered it. You either pass a constitutional amendment, which is not going to happen, or you enforce it."

McGovern said that President Ford and President Nixon both held out hope as antibusing advocates that there would be less busing and under each President there has been more busing. "They have held out hope for people and they did not deliver," said McGovern.

"I am no great fan of busing but I am for an integrated society and I know of no alternative to getting there," said McGovern.

Further he said the issue of busing itself has made people look at their school systems and they have found that there are "lousy" schools. "No one wants their children in bad schools."

The Democrats then have at least begun the debate. It is not enough to do as the President has done—come out in opposition to busing, propose no alternative, promise less busing and do more busing.

If the McGovern speech has done nothing else, it will make the Democrats focus on the problem in the next year.

[From the Washington Star]

Hardly a Bid for the Nomination

(By Mary McGrory)

George McGovern continues to take a heavy pounding from the pros in his party for bringing up the subject of busing at a Democratic party issues conference.

Actually, it would have been rather odd if the question had not been discussed—with 5,000 angry anti-busing pickets boiling outside the doors of their meeting hall in Louisville two weeks ago.

But McGovern notes that the matter was first raised by one of the two people against whom his remarks were directed. Henry Jackson, an unblushing and unwavering foe of busing, reaffirmed his opposition in the course of a foreign policy panel discussion. McGovern's other target, of course, was George Wallace, who hardly needs to state his views.

McGovern got the only standing ovation of the occasion. But many were infuriated that he had waded into so volatile and dangerous a matter when everybody knows that the Democrats concentrate on their winning card, which is the economy. His intervention was regarded as an intolerable disruption of an otherwise "harmonious" affair.

Chairman Robert Strauss fumed publicly that McGovern's remarks constituted "the kind of polarization the party can't afford."

And Philip Noel of Rhode Island, who will be chairman of the Democratic Platform Committee, called McGovern's speech "irresponsible," and the kind of utterance that could lead the Democrats "to a crushing defeat."

Both Strauss and Noel are of the opinion that busing should not be a campaign issue. McGovern insists he agrees with them. He wants Democrats to put busing behind them by restating their commitment to civil rights and integration. Party silence, he claimed, would "abandon the public dialogue to be twisted and enflamed."

He conceded that as a South Dakotan he knew little first-hand about the anguish of busing and "the full intensity of the antibusing reaction." He called busing "an inconvenient device" and "unfair" to those hard-pressed city neighborhoods who bear the brunt of it. He said that those who regard it as he does should be looking for a better way.

Meantime, he told the Democrats, with their history in civil rights, they have no place to hide.

Any candidate of either party "who says or implies that by supporting him the voters can stop the buses will prove as president to be either a liar or a violator of the Constitution," he said.

The virulent, organized resistance to busing in Louisville is exceeded only by that of South Boston, which is in its second year and shows no signs of easing. South Boston High School's white pupils are encouraged to boycott classes by their parents. Black students are told to drop out by hostile white classmates and teachers. Truancy and suspenion rates continue to go straight up.

South Boston does not settle down, obviously, because it is getting encouraging signals from high places. President Ford, has on two crucial occasions, sent messages of sympathy. Indignant South Boston whites, who exchange intelligence with likeminded Louisvillians, have visited Sen. Jackson, who speaks of fashioning a new, prejudice-free constitutional amendment.

The Democratic Caucus of the House overwhelmingly turned back a demand by conservatives to bring an anti-busing amendment to the floor. One Southerner, Richardson Preyer of North Carolina, no friend of busing, bravely said he would not "sully" the Constitution with such language.

McGovern has been getting a lot of mail, most of it against, for Democrats.

"They remind me of defenders of the war," he said. "Those of us who were speaking out were dividing the country, we were responsible for the people who died. If you stand up for the Constitution, you're an extremist."

Having grabbed all the conference headlines from candidates who virtuously did not rock the boat, McGovern was accused of wanting to be, not the conscience of its party, but its nominee.

"If I ran on the busing issue," he says, "I ought to be committed."

[From the Milwaukee Journal, Dec. 3, 1975]

The Issue Is Civil Rights

The blunt support of busing for school desegregation that Sen. George McGovern gave at the recent Democratic National Issues Convention may not have been smart politics for him personally, considering how political demagogs have been exploiting public emotion against busing lately. But McGovern's warning not to sell out civil rights because of the busing issue needed to be said.

A good deal of nonsense about busing is being uttered these days as the 1976 election campaign heats up. Not the least of this has come from President Ford, who charged that federal courts had ignored the law requiring them to consider alternatives to busing in desegregation cases. The Justice Department later was unable to produce evidence justifying Ford's assertion.

What McGovern wants to head off is not just the move to write an antibusing amendment into the Constitution. House Democrats, fortunately, have killed that idea for this Congress. McGovern also worries that "stop busing" is becoming a rallying cry for the effort to stop a broader range of civil rights progress.

This is not just a remote possibility. The antibusing fever is afflicting all sorts of people who ought to know better. The Senate, long a staunch supporter of school integration, buckled this fall and voted to prohibit the Department of Health, Education and Welfare from using busing as a desegregation tool. Now the United Auto Workers Union reportedly is reconsidering its support of busing because many of the union's leaders think it's a losing issue politically.

If civil rights for minorities were dependent on broad public demand, the nation could not have made anywhere near the progress that it has. Civil rights progress has come largely in the face of forceful opposition, overt and subtle.

The greatest uncertainty in the busing controversy, therefore, is not the nature of current popular opinion about busing, but whether present American political leadership is capable of supporting what is right. American society cannot hope to survive unless it reverses what the Kerner commission of 1968 found to be a trend "toward two societies, one black, one white—separate and unequal."

Progress toward integration of American society must be attempted on a broad front—in education, employment, housing and other fields simultaneously. Busing is just one of several techniques to break down high concentrations of racial separation in schools. Busing has never seemed the best way to do this—except where it has been the only possible way. Courts have ordered busing only where they found it necessary to right an unconstitutional wrong.

To argue that busing should be prohibited even in those cases is to argue that constitutional rights under certain circumstances ought to be ignored. That is not an argument worthy of anyone aspiring to lead the world's greatest democracy, which is what George McGovern meant in his warning to his party's leaders.

[From the Boston Globe, Nov. 25, 1975]

The Real Issue and a Settled Question

School busing became an unexpected question for the National Democratic Issues Convention in Louisville when a public demonstration by Kentucky citizens wound up at the front door asking to be heard.

There was corridor debate among the delegates about how to respond to a group advocating defiance of a court-ordered busing program to achieve school integration. The compromise position reached by the convention managers was to meet privately with the demonstration's leadership and to allow them to hold a press conference—but to stay with the original convention agenda.

It remained for Sen. George McGovern to put the issue in its proper perspective and he did it in the final speech of the convention. Sen. McGovern, the badly defeated Democratic candidate for President in 1972 and a potential candidate again next year, may have had political considerations in mind when he called on the party to refuse to endorse a candidate who did not support busing.

But he was talking to the central issue in pointing out that those who base campaigns on suggestions they will somehow get around the court orders are either misleading the public or are proposing to act in violation of the Constitution.

In every case, busing has been ordered by courts as a last resort because local school boards—including Boston's—have failed to come up with alternative solutions that achieve integration. Separate education is not equal education, the court has found repeatedly.

The public has often been confused on this point. Once school committees have abandoned their duty to fulfill the constitutional rights of all citizens by ending segregation in schools, the courts may have no other option. Being bused may be an inconvenience; being segregated racially is a violation of a basic human right to equal treatment under the law.

There are politicians at all levels who are willing to add to the public's confusion by implying that the courts' findings are not the law of the land. In the worst cases they say they will defy the law—though they generally back down when the real crunch comes — leaving their constituents behind them.

George McGovern is right to lay the matter baldly before the Democratic Party and the American public. The question of segregation in schools, whatever its format, has been settled. It is plainly unconstitutional.

[From the Madison (Wis.) Capital Times, Nov. 25, 1975]

McGovern's Timely Warning

George S. McGovern, who generally spells out the goals of forward-looking Americans with uncommon eloquence, has sounded a timely warning to his fellow-Democrats.

McGovern warned his party not to "sell its soul on the issue of busing," and threatened to oppose personally any 1976 contender who has "perjured" himself by promising to stop court-ordered school desegregation plans.

It didn't take the 1972 Democratic presidential candidate long to smoke out opposition. Sen. Henry M. Jackson, who is an announced Democratic candidate for his party's 1976 presidential nomination, who called busing a failure said "we'd better be intellectually honest about this subject, or the Democratic party will go down to defeat next year."

Isn't it strange that all of the people who oppose busing minority students to achieve a non-segregated education never offer any solutions of their own to this most pressing problem?

This country has never faced up honestly to the cancer of racism. The courts have ordered busing in an attempt to assure the blacks and the ghetto dwellers a quality education in a non-segregated setting.

Jackson is no different than Wallace in his stand on busing. Both favor an anti-busing constitutional amendment. McGovern told a National Democratic Issues Conference in Louisville that there is a link between "forced busing" and the whole litany of racial discrimination that we have accorded the American blacks.

As for references to "forced busing" by Jackson, Wallace and others, McGovern demanded, "what of the forced lashings and the forced lynchings and malignant neglect of forced hunger and helplessness—all of which came before forced busing?"

If we are ever to achieve the goals of an honest-to-God democracy in this country we are going to have to desegregate our society, desegregate our schools, desegregate our churches, desegregate our labor force.

We will not cast out the cancer of racism by prattling about intellectual honesty.

If the Democratic party wants to be "intellectually honest" it will reject any candidate who talks about "forced busing."

There are plenty of candidates out on the right end of the political spectrum who are offering thmeselves to the voters, George Wallace, for example; Ronald Reagan, for instance, and above all, Gerald Ford, also is trying to out-Wallace Wallace and out-Reagan Reagan in an attempt to woo the Republican right-wing.

McGovern has sounded a rallying cry for all who can see beyond the racist overtones of the busing controversy.

[From the Christian Science Monitor, September 15, 1975]

Busing—Desegregation—Quality

(By Cynthia Parsons)

The Christian Science Monitor

Those who would oppose integration in the United States have succeeded somewhat in confusing three quite separate issues: namely, busing, desegregation, and quality.

What the U.S. Constitution provides and the U.S. Supreme Court ruled was that the public schools across the nation must be desegregated. One definition of segregation states. "The imposition of the separation of a race or class from the rest of society."

In 1954, when the Supreme Court ended racial segregation in the schools, hundreds of school systems in both the North and South had deliberately imposed a separation of one or more minority races from the rest of society. Yet only a handful of school systems have voluntarily abolished racial segregation; most have waited to be forced to do this through court cases.

In the meantime, the issues of the quality of schooling and forced busing have been used to confuse the dominant issue of desegregation. One often hears, as well as reads, that the whole problem could be solved if black (or brown, Indian, Asian) schools were given the same equipment and high quality teachers as the white schools have. Then, the argument continues, the blacks (browns, Indians, Asians) would not want to attend white schools.

The truth of the matter is that blacks and other minorities have no more right to segregation than do whites. What the law says is that racial separation may not be imposed. And so, wherever more than one race lives in one school district, there must be an equitable distribution of pupils; that is, the schools must be integrated insofar as possible.

And now that inflammatory word "busing." Even the last two presidents of the United States have deliberately tried to confuse the issue by stating that they were—at the same time—for integration but against busing. When pressed as to how either of them could be the former but opposed to a method for achieving it, both presidents have reverted to the question of quality—further obfuscating the issue.

The question is not whether transporting children long distances at great expense is "good" or "sensible" or "economical." The question is how else to abolish racial separation. The question is not whether one school has better equipment and better trained teachers than another. The question is how to provide each racially mixed school with the best equipment and the best trained teachers available.

President Ford (and before him President

Nixon) is fooling no one when he says he's for integration but against busing. Obviously he's for segregation, as are all those who oppose busing to achieve racially balanced schools and insist that separate schools be maintained for separate races.

Over 100 years of deliberately imposing racial separation in U.S. public schools has taken an enormous toll. It has created a climate in which those who manage the public school systems think they are working in the best interest of the communities they serve by separating rather than mixing the children of various races.

It has allowed a climate where two presidents of the United States in a row—men who have sworn to uphold the Constitution of the United States—can publicly state their opposition to a transportation scheme which would end segregation.

It has allowed a climate where hundreds of otherwise loving and thoughtful families have taken their children out of the schools rather than have them live, work, and play with children of other races, colors, or creeds.

Yet, as the Pledge of Allegiance says we are ". . . one nation, under God, indivisible. . . ."

[From the Christian Science Monitor, Aug. 28, 1975]

PANEL FINDS ONLY FRACTION OF WHITES FLEE INTEGRATION

(By C. Robert Zelnick)

WASHINGTON.—Does school desegregation produce "white flight" from racially mixed urban areas to predominantly white suburbs, defeating the purpose of desegregation efforts?

A panel of scholars here has concluded that only a small fraction of white families migrate to avoid integration.

In addition, the experts say that "white flight" seems to be a "one-shot" thing limited to the year in which the particular integration project occurs.

Studies also indicate that where the integration effort involves entire counties or metropolitan areas, the likelihood of whites leaving affected school systems is greatly reduced.

Observers believe the implications of the findings may prevent both courts and school boards from abandoning integration projects where supported by law or social policy. The findings also may encourage experimentation with integration plans involving multiple school districts, although the Supreme Court of the United States to date has rejected multidistrict approaches unless official discrimination is shown to have affected more than a single school district.

Joining the consensus was the widely respected James C. Coleman of the University of Chicago, whose reported endorsement of the "white-flight" theory early this summer produced a storm of controversy in the nation's academic and legal communities.

The research paper upon which Dr. Coleman's earlier conclusions were reportedly based has now been substantially revised. At the symposium, hosted by the Brookings Institution but sponsored by the Center for Policy Review, Catholic University Law School, and the Notre Dame Center for Civil Rights, Dr. Coleman said:

The percentage of white families leaving the nation's largest cities increases by some 2 to 4 percent in the single year in which an integration plan is implemented.

Following that year the rate of white exodus returns to previous trends.

The effects of desegregation on "white flight" are intensified in the largest cities, in those where black populations are large and in those surrounded by predominantly white suburban enclaves.

"White flight" is greater in Southern than in Northern cities, all other things being equal.

It was noted that a number of factors unrelated to school integration have encouraged whites to move from cities during the postwar period: federal housing and highway policies, the rapid movement of urban job opportunities to suburban areas, urban crime and civil disorders, high taxation in many large cities, a general decline in urban services over the years, and an expansion of black ghetto areas.

But changing racial attitudes offer hope for changing social and educational conditions, according to some panelists:

Recent public-opinion surveys indicate that an overwhelming majority of blacks wish to live in racially mixed neighborhoods while more whites stand ready to welcome black neighbors of similar economic standing.

According to Reynolds Farley of the University of Michigan, "Although busing may be necessary in the short run, it may be more desirable to integrate schools in the long run by minimizing racial residential segregation."

Papers at the symposium showed an overwhelming white hostility toward busing to achieve integration, but sharply different patterns of conduct among whites when busing was imposed as a tool of desegregation.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Colorado (Mr. GARY HART) is recognized for not to exceed 15 minutes.

MORE ACCOUNTABILITY FOR THE CIA

Mr. GRAY HART. Mr. President, last week, the Senate Intelligence Committee released a staff report on CIA covert involvement in Chile. Earlier, in its interim assassination report, the committee disclosed attempts by U.S. officials to prevent Salvador Allende from taking office as President of Chile. The two reports set out, in detail, the scope and extent of U.S. involvement in the internal political and economic affairs of Chile. It is not something that this country can be proud of.

The reports show that, over a 10-year period, the CIA spent $13 million in Chile on covert operations. An equivalent per capita amount spent in the United States would have been about $260 million. The reports show that the CIA penetrated virtually every sector of the Chilean society, including labor unions, the media, peasant and student groups. The CIA funded political parties and candidates. It was involved not only in Presidential elections, but congressional, municipal, and by-elections as well. It spent over $1.5 million on one Chilean newspaper alone. And, in 1970, the CIA attempted to prevent Allende from taking office by promoting a military coup d'etat. This was in response to a direct instruction from President Nixon.

The reports also demonstrate, beyond a shadow of a doubt, that at least two congressional committees were not told the truth about our involvement in Chile. Let me cite a few examples of statements by administration and CIA officials which appear to be misleading at best, or, perhaps, perjurious.

In march 1973, Richard Helms, who was then Director of the CIA, appeared before the Senate Foreign Relations Committee in executive session. This was 6 months before Allende was overthrown. He was asked: "Did the CIA attempt at any time to prevent Salvador Allende Gossens from being elected President of Chile in 1970?" He replied, "No, sir." This statement contradicts the record. The committee has in its possession a CIA memorandum dated September 16, 1970. That memorandum states:

> The Director [Helms] told the group that President Nixon had decided that an Allende regime in Chile was not acceptable to the United States. The President asked the agency to prevent Allende from coming to power or to unseat him. The President authorized $10,000,000 for this purpose, if needed.

Following President Nixon's instruction, the CIA attempted, unsuccessfully, to prevent Allende from taking office.

In March 1973, Charles Meyer, who was then Assistant Secretary of State for Inter-American Affairs, appeared before the Senate Foreign Relations' Multinational Subcommittee. He stated that, despite all the electricity in the air, U.S. policy toward Chile was, and remained throughout his tenure, noninterventionist. In response to a question, he also stated that the United States did not attempt to precipitate economic chaos in Chile. Yet, on September 15, 1970, President Nixon instructed the CIA to "make the—Chilean—economy scream." Shortly threafter, the United States began applying economic pressure on Chile. That pressure included cutting off aid, cutting off credits from international financial institutions, and coordinating activities of U.S. businesses. These actions were intended to "make the economy scream." They were spelled out in National Security Memorandum 93.

Former U.S. Ambassador to Chile Edward Korry appeared before the Senate Foreign Relations Multinational Subcommittee in March 1973. He stated that the United States did not pursue a hard line against Chile. Specifically, he stated that the United States gave no support to any electoral candidate, maintained a hands-off policy with the Chilean military from 1969 to 1971, had not been involved in the so-called Alessandri formula, and did not seek to pressure, subvert, or influence a single member of the Chilean Congress during his 4 years in Chile. Portions of his testimony appear to contradict the record the committee has compiled. Although the United States did not support any candidate prior to the 1970 election, the CIA did spend as much as $1 million, covertly, to prevent the election of Allende. Further, the United States did suport the so-called Alessandri formula, apparently with Mr. Korry's knowledge.

Henry Kissinger appeared before the Senate Foreign Relations Committee, in executive session, in September 1973. He was asked whether the CIA had been deeply involved in Chilean affairs over a period of time. He responded:

> The CIA was heavily involved in 1964 in the election, was in a very minor way involved in the 1970 election and since then we have absolutely stayed away from any coups.

The CIA was heavily involved in the 1964 election. Of the $6 million spent by the Christian Democratic party to elect Eduardo Frei president, the CIA contributed approximately half. Whether one can term our involvement in the 1970 campaign "minor" is another question. The record shows that a "spoiling" operation was conducted against Allende by the CIA prior to the September 4 election. About $1 million was spent in this effort. And, following the election, the United States attempted to prevent him from taking office by promoting a military coup. I would not call this kind of involvement "minor."

These examples, and others that could be cited, indicate the dilemma we find ourselves in today. Knowing that Congress was not told the full truth about our involvement in Chile is important. Knowing why the full truth was not told is more important. For years the CIA has operated on a "need to know" basis. Congress was to be told only what it had to know about covert operations and sometimes not even that. A former Director of the CIA, Allen Dulles, once said that he would tell the President of the United States anything he was asked but would not necessarily tell anyone else. Congress has, on occasion, fallen into the "anyone else" category.

Congress must also share part of the blame for this dilemma. For years Congress avoided knowing what the CIA was up to. In fact, when the CIA was set up in 1947, Congress even avoided debating whether the CIA should engage in covert operations. Congressional oversight of CIA activities, over the years, has been based on a system of winks and nods. Congressional overseers were told very little about CIA covert operations, often in private discussion. But this is the way they wanted it. Overseers winked and the CIA nodded. That was the essence of congressional oversight of the CIA. It made accountability a sham. Few really wanted to know what the CIA was up to.

There is a third reason why Congress was not told by certain witnesses of our involvement in Chile. Some simply did not know the extent of our involvement. They had been cut out of the action.

Take the example of Charles Meyer. He stated that U.S. policy did not change during his tenure as Assistant Secretary of State. He was telling the truth, as far as he knew it. But he did not know the full truth. Meyer had not been informed that on September 15, 1970, President Nixon instructed the CIA to foment a military coup in Chile.

Take the example of Edward Korry. He stated that the United States maintained a hands-off policy toward the Chilean military from 1969 to 1971. As in the case of Meyer, he was apparently unaware of President Nixon's instruction to the CIA in 1970. In fact, the President had instructed Richard Helms specifically not to tell the Ambassador. Mr. Korry was, however, authorized to inform the Chilean military that if Allende were seated, the military could expect no further military assistance—MAP—from the United States.

The record compiled by the Senate Intelligence Committee and other committees indicates that perjury may have been committed concerning Chile. The Department of Justice is currently investigating this. Yesterday the Senate select committee received a letter from the Department requesting access to testimony of past and present CIA officials, State Department representatives, and others dealing with Chilean activities. I am going to ask at tomorrow's business session of the committee that we cooperate fully with Justice in this matter. The select committee has determined the facts. The Department of Justice should act on them.

Having said this, however, I want to add that punishing one or two officials will not solve the problem. The problem is, in large part, the system. This system of winks and nods, of plausible deniability, of assuming the right to lie unless otherwise notified, must be ended. Further, Congress must no longer avoid its oversight responsibility A permanent Senate, or Joint, Intelligence Committee is required. Only in this way will accountability become a reality.

I am reminded of a quote from *Clark* v. *U.S.* [289 U.S. 1, 1932] which best describes the Chile case:

> Whether this was perjury or false swearing, there is no occasion to inquire. It was a deliberate endeavor to thwart the process of inquiry, and to turn a trial into a futile form.

I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements herein limited to 2 minutes each.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

THE FEDERAL OCEAN PROGRAM—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. STONE) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

Pursuant to P.L. 89–454, I am herewith transmitting to you the 1974 Annual Report on the Federal Ocean Program. The report presents a summary of national efforts to comprehend, conserve and use the sea, and lists significant activities of the Federal Government related to the marine sciences.

GERALD R. FORD.

THE WHITE HOUSE, *December 11, 1975.*

MESSAGES FROM THE HOUSE

At 10:53 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 9924. An act to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes; and

H.R. 11027. An act to amend the effective date of the Defense Production Act Amendments of 1975.

The message also announced that the House has passed the bill (S. 95) to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States, with an amendment in which it requests the concurrence of the Senate.

At 1:05 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendments of the Senate to the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. WHITTEN, Mr. BOLAND, Mr. FLOOD, Mr. STEED, Mr. SLACK, Mr. MCFALL, Mr. YATES, Mr. CASEY, Mr. CEDERBERG, Mr. MICHEL, Mr. EDWARDS of Alabama, and Mr. COUGHLIN were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers.

At 2:05 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8773) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 16, 43, 50, 60, 61, 76, 77, 83, and 95 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 3, 18, 23, 35, 47, 48, 58, 62, 64, 70, 84, 85, 92, and 107, each with an amendment in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Commerce, without amendment:

S. Res. 318. A resolution expressing the sense of the Senate with respect to authorizing domestic satellites pursuant to the Communications Act of 1934 (Rept. No. 94–533).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 314. A resolution waiving section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of S. 2711 (Rept. No. 94–535).

By Mr. CHILES, from the Committee on the Budget, without amendment:

S. Res. 322. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2635 (Rept. No. 94–543).

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

H.R. 1753. An act to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes (Rept. No. 94–539).

H.R. 7976. An act to amend title 5, United States Code, to provide that annual leave lost by a Federal employee because of an unjustified or unwarranted personnel action shall be restored to the employee, and for other purposes (Rept. No. 94–536).

H.R. 6642. An act to provide for allotment or assignment of payments from civil service annuities, and for other purposes (Rept. No. 94–537).

H.R. 4865. An act to amend title 39, United States Code, to prohibit certain franked mailings by Members of the Congress and certain officers of the United States, other than mailings related to the closing of their official business, after such Members or officers have left office (Rept. No. 94–538).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with an amendment:

H.R. 508. An act to amend title 5, United States Code, to authorize civilians employed by the Department of Defense to administer oaths while conducting official investigations. (Rept. No. 94–541).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

H.R. 4573. An act to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes (Rept. No. 94–540).

S. 1009. A bill to amend title 13 of the United States Code, to require the compilation of current data on total population between censuses and to require the use of such current data in the administration of Federal laws in which population is a factor (Rept. No. 94–542).

THE FEDERAL JUDICIAL SYSTEM—REPORT OF THE COMMITTEE ON THE JUDICIARY—S. REPT. NO. 94–534

Mr. BURDICK, from the Committee on the Judiciary, submitted a report entitled "The Federal Judicial System," prepared by the Subcommittee on Improvements in Judicial Machinery, pursuant to section 10, Senate Resolution 255, 93d Congress, 2d session, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, without reservation:

Ex. T, 93d Congress, 1st session. Convention Between the United States of America and the Union of Soviet Socalist Republics on Matters of Taxation, with related letters, signed at Washington on June 30, 1973 (Exec. Rept. No. 94–19).

By Mr. MAGNUSON, from the Committee on Commerce:

Elliot L. Richardson, of Massachusetts, to be Secretary of Commerce.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MAGNUSON. Mr. President, as in executive session, I send to the desk the nomination of Elliot Richardson, of Massachusetts, to be Secretary of Commerce, which was reported unanimously by the Committee on Commerce earlier today. The nomination is reported with a recommendation that it be confirmed subject to the nominee's commitment to respond to certain requests, which poses no problem whatever.

I announce to the Senate that I am hopeful that the Senate can act on this nomination quickly.

The ACTING PRESIDENT pro tempore. The nomination will be received.

By Mr. EASTLAND, from the Committee on the Judiciary:

Richard J. Arcaro, of New York, to be U.S. attorney for the western district of New York.

Richard N. Moore, of Tennessee, to be U.S. marshal for the western district of Tennessee.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

John Paul Stevens, of Illinois, to be an Associate Justice of the Supreme Court of the United States.

Patrick E. Higginbotham, of Texas, to be U.S. district judge from the northern district of Texas.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McINTYRE (for himself, Mr. PROXMIRE, and Mr. TOWER):

S. 2772. A bill to provide for the uniform application of the tax laws to all financial institutions and a credit for interest from qualifying real property loans. Referred to the Committee on Finance.

By Mr. ABOUREZK:

S. 2773. A bill to amend the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act. Placed on the Calendar.

By Mr. EASTLAND:

S. 2774. A bill to extend the Federal Tort Claims Act to members of the National Guard when engaged in training duty under Federal law, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S. 2775. A bill to amend the Agricultural Adjustment Act of 1938 relating to farm poundage quotas for burley tobacco. Referred to the Committee on Agriculture and Forestry.

By Mr. McINTYRE (for himself, Mr. PROXMIRE, and Mr. TOWER):

S. 2776. A bill to amend chapter 37 of title 38, United States Code, to permit the Administrator of Veterans' Affairs to guarantee under such chapter loans for the acquisition or construction of homes at current market rates of interest. Referred to the Committee on Veterans' Affairs.

By Mr. BENTSEN:

S. 2777. A bill to provide comprehensive employment counseling and job placement services to youths by establishing a Youth Employment Service, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 2777. A bill to provide comprehensive employment counseling and job placement services to youths by establishing a Youth Employment Service, and for other purposes. Referred to the Committee on Labor and Public Welfare.

YOUTH EMPLOYMENT SERVICE ACT

Mr. BENTSEN. Mr. President, today I am introducing the Youth Employment Service Act of 1975, a bill which would make job guidance and job placement services available to our Nation's young people when they need it most—while they are in school preparing themselves for their careers and while they are searching for their first jobs.

Our young people are the lifeblood of our Nation. What they make of our country as the next generation of workers, businessmen, and political leaders depends very much on how well we train them and the environment we provide for their participation in our society now. But look at our legacy to the more than 38 million Americans between the ages of 15 and 24 years of age—more than 18 percent of our Nation's population—who are at or entering the age of forming career plans and entering the work force:

HIGH UNEMPLOYMENT

During November, the unemployment rate among all workers was 8.3 percent, seasonally adjusted. But for young Americans, the figures were much worse. The unemployment rate for youths 20 to 24, the age when most young people start up the career ladder and hold their first serious job, was 13.8 percent. For teenagers, aged 16 to 19, the unemployment rate was 18.6 percent.

These two groups made up almost half the unemployed—there were 3.3 million youths under 25 years old out of jobs compared with 3.9 million jobless 25 and older.

Certain groups of young Americans have been particularly hard hit. Among Vietnam veterans aged 20–24, unemployment reached 22.5 percent in October. Among black teenagers, aged 16–19, it was 33.8 percent. In many of our central city ghettoes, black teenage unemployment has exceeded 50 percent.

On top of these figures are young Americans who have been so discouraged by this recession that they have just given up looking for a job and are not even counted among the unemployed. Just looking at teenagers aged 16–19, there are over 300,000 dropouts from the labor force—over 300,000 fewer teenagers looking for work than there would be if jobs were available. Add the number of dropouts in the 20–24-year-old group, and you have more than half a million able young Americans who have given up on our system, who have been so discouraged by our economy's sign "No Jobs Today" that they have stopped trying.

And the future does not look much brighter. At hearings I held earlier this year before my Subcommittee on Economic Growth on "Labor Market Policies for Full Employment" and "Employment Problems of Women, Minorities, and Youths," witness after witness painted a bleak picture of America's youths.

George Meany, president of the AFL–CIO said:

> From the point of view of equity and human decency, I think the bad figure is the teenage figure, because you take these kids coming into the labor force; they have completed their education, they now want to contribute—maybe to help their families. And right now this is one of the worst figures of all. Here is the real tragedy. You take young kids coming into the labor market, just completing their education, and they are confronted with nothing. What is this going to do to America? We have an administration that is sitting back and saying, in effect, this is all right, this is great, that it is going to be all right, that everything is going to come out fine at the end of 4 or 5 years.
>
> If that is going to happen, we are going to have a very different picture of America. It is going to be an entirely different America than we see today.

Prof. Bernard Anderson, of the Wharton School at the University of Pennsylvania, said:

> Unemployment among black teenagers has been getting worse over the past two decades. This is not the result, mainly, of the current recession. The position of young blacks in the labor force has continued to deteriorate, in good times and bad, over the past two decades. If you will look at the statistics during the 1960's, when we supposedly approached full employment, you will find that even in those times the employment conditions for black teenagers continued to deteriorate.
>
> Now, if we look at projected unemployment rates through 1977, through 1978, 1979, and 1980, what we are saying is that a large number of those young blacks who are in the inner city cannot look, cannot expect to find any jobs available for them until they become adults. And I believe that there will be a connection between the joblessness as teenagers and the incidence of unemployment when they become adults.

Finally, Dr. Ralph Smith of the Urban Institute projected total joblessness among American youths for next year. Dr. Smith found that if the official unemployment rate falls to 7.9 percent in 1976, total joblessness among teenagers, including those who have dropped out of the labor force, will reach 22.3 percent. For black teenagers, it will reach 45.7 percent.

If unemployment, however, stays at our current level of 8.6 percent, then joblessness among teenagers will hit 24.5 percent, and for black teenagers, it will soar to 50.9 percent.

These are not just figures in some bureaucrat's book. These are young Americans who are out of work, who are being told by our country that they have no productive role to play in our society. These are 3.3 million young Americans who are being told that they must wait 2, 3, even 4 years before they can begin planning their lives and their careers. These are young Americans who want to work, who want to be productive, who want to become responsible American citizens, but who are being told they must wait.

INADEQUATE JOB COUNSELING AND JOB PLACEMENT SERVICES

The second serious obstacle our young people face, both during the years they spend in school and while looking for their first jobs, is lack of information—lack of information about jobs, lack of information about educational requirements, lack of information needed to form realistic and meaningful career plans, lack of information needed for the most important decision of their lives.

The cost to these young people, and to the Nation, is tremendous. Lives spent in dead-end jobs. Lives wasted on unproductive careers. Lives spent preparing for jobs that do not exist. Billions of dollars spent each year on education, wasted. Billions spent each year on skill development, wasted. Billions spent each year on job training, wasted.

At the same time, productive and useful jobs go unfilled. As Willard Wirtz, former Labor Secretary under Presidents Kennedy and Johnson and now head of the National Manpower Institute, said in his new book "The Boundless Resource":

> For some years more and more young people have been preparing themselves for futures that have No Help Wanted signs up when they get there. Other jobs, meanwhile, have gone begging.

Our Nation is experiencing significant shifts in job opportunities and our young people do not know it. For example, look at teaching. During the 1970's over 4 million teachers will be trained for what will be only 2 million grade school and high school openings. During the hearings I held on "Labor Market Policies for Full Employment," Labor Secretary John Dunlop explained this waste of young lives:

> Some people tend to choose their careers based on what looks—at the present moment—to be a good market and then they get out there and go looking for a job. Everything was up during the 1960's, as you will recall, in this market, as the age distribution was very favorable and one had to get all kinds of new teachers in order to take care of that great youth movement that was going through the schools. The trouble was the youth movement went completely through and now the number of teachers is greater than necessary. The teachers were geared up not merely to teach a constant number of students, but they were geared up to teach increasingly larger numbers of students. When that turned around and started down the number of teachers required was very sharply reduced and that is what we have run into.

We knew years ago that the number of students would fall following the passage of the postwar-boom babies through the schools, but we did not pass that information on to preparing teachers. So, now, millions of young Americans will waste time and money preparing for teaching jobs that do not exist.

This job shift is occurring throughout our economy. In his testimony, Secretary Dunlop presented two tables projecting job opportunities by industry and by occupation through 1985. I ask unanimous consent that these tables be printed in the Record.

There being no objection, the tables were ordered to be printed in the Record, as follows:

TABLE 1.—EMPLOYMENT BY OCCUPATIONAL GROUP, 1972 AND PROJECTED 1980 AND 1985 REQUIREMENTS

[Numbers in thousands]

Occupation group	Actual 1972 Number	Actual 1972 Percent distribution	Projected 1980 Number	Projected 1980 Percent distribution	Projected 1985 Number	Projected 1985 Percent distribution
Total employment	81,703	100.0	95,800	100.0	101,500	100.0
Professional and technical workers	11,459	14.0	15,000	15.7	17,000	16.8
Managers and administrators, except farm	8,032	9.8	10,100	10.5	10,500	10.3
Sales workers	5,354	6.6	6,300	6.6	6,500	6.4
Clerical workers	14,247	17.4	17,900	18.7	19,700	19.4
Craft and kindred workers	10,810	13.2	12,300	12.8	13,000	12.8
Operatives	13,549	16.6	15,000	15.6	15,300	15.1
Nonfarm laborers	4,217	5.2	4,500	4.7	4,500	4.4
Service workers	10,966	13.4	12,700	13.3	13,400	13.2
Farmers and farm laborers	3,069	3.8	2,000	2.1	1,600	1.6

Source: Manpower Report of the President, 1975.

TABLE 2—TOTAL EMPLOYMENT BY MAJOR INDUSTRY SECTOR, 1960 1972, AND PROJECTED 1980 AND 1985

[Numbers in thousands]

Industry sector	Actual 1960	Actual 1972	Projected 1980	Projected 1985	Percent distribution 1960	Percent distribution 1972	Percent distribution 1980	Percent distribution 1985
Total	68,869	85,597	101,576	107,609	100.0	100.0	100.0	100.0
Government	8,353	13,290	16,610	18,800	12.1	15.5	16.4	17.5
Total private	60,516	72,307	84,966	88,809	87.9	84.5	83.6	82.5
Agriculture	5,389	3,450	2,300	1,900	7.8	4.0	2.3	1.8
Nonagriculture	55,214	68,857	82,666	86,909	80.0	80.4	81.4	80.8
Mining	748	645	655	632	1.1	.8	.6	.6
Contract construction	3,654	4,352	4,908	5,184	5.3	5.1	4.8	4.8
Manufacturing	17,197	19,281	22,923	23,499	25.0	22.5	22.6	21.8
Durable goods	9,681	11,091	13,629	14,154	14.1	13.0	13.4	13.2
Nondurable goods	7,516	8,190	9,294	9,345	10.9	9.6	9.2	8.7
Transportation and public utilities	4,214	4,726	5,321	5,368	6.1	5.5	5.2	5.0
Transportation	2,743	2,842	3,250	3,266	4.0	3.3	3.2	3.0
Communication	844	1,150	1,300	1,312	1.2	1.3	1.3	1.2
Public utilities	624	734	771	790	.8	.9	.8	.7
Wholesale and retail trade	14,177	18,432	21,695	22,381	20.6	21.5	21.4	20.8
Wholesale	3,295	4,235	4,946	5,123	4.8	4.9	4.9	4.8
Retail	10,882	14,197	16,749	17,258	15.8	16.6	16.5	16.0
Finance, insurance and real estate	2,985	4,303	5,349	5,932	4.3	5.0	5.3	5.5
Other services	12,152	17,118	21,815	23,913	17.6	20.0	21.5	22.2

Source: Manpower report of the President, 1975.

Mr. **BENTSEN.** Mr. President, these tables from Secretary Dunlop's testimony indicate that we will experience a decline in the percent of our Nation's jobs in manufacturing, transportation, trade, and agriculture during the next 10 years, and an increase in services and government.

We must begin preparing our young people for this shift now, before millions more set their goals on jobs that will not be there when they are.

But job counseling and job placement services in this country are woefully inadequate.

Survey after survey, and study after study, show that students consider lack of information and experience with the world of work as the biggest gap in their educations:

In 1969, 86 percent of a national sample of 763 Youth Opportunity Center counselors found that the major problems faced by youths in the transition from school to work was in job preparation—inadequate training, inadequate job skills, and most important for the job counselors, lack of information about work and training opportunities.

A 1966 survey of 353 high schools, involving over 7,000 students, teachers, parents, and counselors found that: first, in most schools, no one took the prime responsibility for helping students choose and decide on vocational programs; second, almost all ranked "aid in choosing an occupation" as the guidance service which they most wanted; third, job counseling was least available of all counseling services and most needed; and fourth, over one-third of the students could not find information at school on the kind of job they wanted.

A 1967 study done by researchers at the Pennsylvania State University found that over two-thirds of the girls and more than three-fourths of the boys who were planning to work after high school reported that they had never discussed their occupational plans with a guidance counselor.

In a 1973 nationwide study involving more than 28,000 students in the 8th, 9th, and 11th grades, more than three-quarters of the 11th graders indicated a need for help with career planning, but less than half felt they had received any needed help; furthermore, over 40 percent of the 11th graders indicated that they were not even sure if their educational plans were in line with the occupations they were seeking.

For black youths, the counseling situation is even worse. A 1974 study reported that black youths showed a great discrepancy between their educational goals and their occupational aspirations, with most youths planning and fervently hoping to finish a college education, but having low occupational aspirations. For instance, 30 percent of the black youths questioned who aspired to a college education did not aspire to a job requiring one.

What a waste, Mr. President. What a waste of the talents and energies of our Nation's young people.

The time has come to reverse our dismal record, and provide our young people with job counseling and job placement services they need to fill productive roles in our society.

Here is what a youth counseling and placement service must provide:

First, information about career and job opportunities;

Second, guidance help in making career choices;

Third, help in the development of job skills; and

Fourth, help in finding jobs with a future.

The Youth Employment Service Act, if enacted, would provide this much-needed help for our young people.

Here are its major provisions:

First, it establishes a Youth Employment Service within the U.S. Employment Service.

Second, it provides the Employment Service with funds to make grants to the various State employment services to set up a wide variety of programs to deliver job counseling and job placement services to young Americans, both in school and out of school.

Third, it provides grants for guidance personnel training, for information gathering and career information systems, and for demonstration and evaluation programs.

I ask unanimous consent that the fact sheet on the Youth Employment Service Act be printed in the RECORD.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

FACT SHEET ON THE YOUTH EMPLOYMENT SERVICE ACT

Title: The title of the bill is the "Youth Employment Service Act of 1975."

Purpose: This bill seeks to ensure that effective and comprehensive employment counseling and job placement services are available to all our young people, especially to those still in school and those about to enter the labor force.

Provisions: The bill would establish a Youth Employment Service within the Department of Labor's United States Employment Service. This new Service is to be headed by a Director who will report to the Secretary of Labor through the Assistant Secretary of Labor for Manpower. The bill establishes four grant programs for the provision of job counseling and job placement services to the nation's youths:

YOUTH EMPLOYMENT SERVICE PROGRAM GRANTS

The Secretary of Labor shall make grants through the Service to State Employment Services to establish youth employment guidance and job placement programs. These programs are intended for the following purposes:

(1) To improve information available to youths on career opportunities, compensation, skill requirements, educational requirements, job locations, and other information needed by youths to improve career decision-making;

(2) To provide for better matching, locally and nationally, of youth career desires and job opportunities;

(3) To furnish job counseling and job placement services to youths in secondary and postsecondary schools and to youths who are out of school;

(4) To furnish pre-employment counseling to youths in intermediate and secondary schools; and

(5) To furnish information to youths, both in school and out of school, on post-secondary educational opportunities, job training and vocational education programs, manpower development programs, and Federal, State and local assistance available to youths for participation in such programs.

These purposes may be carried out by:

(1) Establishment of Service Officers in secondary and post-secondary schools;

(2) Establishment of neighborhood, mobile, and seasonal Service offices, to bring employment counseling and job placement services to disadvantaged, rural and minority youths who would otherwise not have access to such services;

(3) Establishment of Services offices in correctional institutions;

(4) Assignment of one or more employees of the staffs of local employment service offices to assist youths in employment counseling and job placement;

(5) Establishment of computer on-line terminals in schools and neighborhood locations that are linked to Employment Service databanks to provide occupational counseling and job placement information;

(6) Establishment of programs designed to bring employment and career counseling to pre-secondary youths;

(7) Establishment of other programs that the Secretary of Labor determines will carry out the purposes of the Act.

GUIDANCE PERSONNEL TRAINING GRANTS

Grants shall be made to public agencies and non-profit private organizations to provide training and retraining of employment guidance and job placement personnel. These personnel may include school guidance counselors, school administrators, teachers and other pupil personnel specialists, counselors in community agencies, in the United States Employment Service, in affiliated state employment services, in rehabilitation settings, in career resource centers and in post-secondary educational institutions.

FACILITIES AND EQUIPMENT GRANTS

Grants are to be made to the states to provide:

(1) Computer programs and equipment for information services, computer assisted guidance, and storage and retrieval of current information on employment trends and educational opportunities in local areas and nationally;

(2) Employment and career information systems for State employment services which shall be integral parts of the State Employment Service's plan for employment, guidance and job placement programs. These systems will include (a) accurate and up-to-date survey and statistical data on current projected areas of occupational need, (b) accurate and up-to-date information on educational institutions and opportunities, (c) material to promote career decision-making skills among youth, and (d) information on the availability of jobs, loans, work-study and scholarships for obtaining post-secondary education;

(3) Equipment and supplies such as books, films, video and audio tape equipment, periodicals, career information bulletins, commercially prepared information packets, computer facilities, film and slide projectors, microfiche and microfilm readers.

DEMONSTRATION AND EVALUATION PROGRAMS

The Youth Employment Service will be empowered to carry on demonstration and evaluation projects with the purposes of:

(1) Developing and demonstrating new employment guidance and job placement techniques for youth, both in school and out of school;

(2) Promoting demonstration activities in employment guidance and job placement for youth, both in school and out of school, through the encouragement of pilot projects and the publication of developments in new technology, personnel utilization, multipurpose facilities and delivery systems with innovative administrative and structural designs;

(3) Providing for evaluation of the programs and services offered to determine their effectiveness and efficiency in meeting the needs of youth, both in school and out of school; and

(4) Providing for the communication of proven effective and efficient employment guidance and job placement programs for youth, both in school and out of school.

These purposes may be carried out with the following kinds of projects:

(1) Innovative employment guidance and job placement techniques,

(2) Updating and communicating information on projected areas of need for trained people,

(3) Identifying effective methods for communicating information on how to develop programs of employment guidance and job placement for youth that meet the needs of the staff and clientele in the setting,

(4) Development of multimedia materials which (a) provide information on such areas as career options, projected need for specific skills and training at the local, State, and national levels, and educational and training program opportunities and (b) assist youths in making career decisions and finding employment, and

(5) Identifying more effective methods for the training and retraining of employment guidance and counseling and job placement personnel.

Eighty percent of the funds to be appropriated under the Youth Employment Service Act are to be allocated by the Secretary of Labor to the states in an equitable manner. The Secretary is required to take into account the proportion which the total number of youths in each State bears in relation to the total number in all States.

The cost of providing the many services described above is minimal. For the fiscal year ending June 30, 1976 the cost is 15 million dollars. For the period from July 1, 1976 to September 30, 1976, 10 million dollars are required and for the fiscal year ending September 30, 1977 the cost to the Treasury is 75 million dollars.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 3

At the request of Mr. Kennedy, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 3, a bill to create a national system of health security.

S. 872

At the request of Mr. Hatfield, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 872, a bill to provide that certain State conservation publications shall qualify for second-class mail rates.

S. 2359 AND S. 2360

At the request of Mr. Bayh, the Senator from Iowa (Mr. Clark) was added as a cosponsor of S. 2359, a bill to provide equal treatment for all persons entering into health insurance agreements; and S. 2360, a bill to amend the Public Health Service Act to provide health care service for pregnant adolescents before and after childbirth.

S. 2677

At the request of Mr. Biden, the Senator from Montana (Mr. Mansfield), the Senator from Vermont (Mr. Leahy), and the Senator from Kentucky (Mr. Huddleston) were added as cosponsors of S. 2677, the Regulatory Agency Responsibility Act.

SENATE RESOLUTION 326—SUBMISSION OF A RESOLUTION RELATING TO POLITICAL PRISONERS CONFINED IN CUBA

(Referred to the Committee on Foreign Relations.)

Mr. STONE (for himself and Mr. Chiles) submitted the following resolution:

S. Res. 326

Whereas the subject of human rights in Latin America is recognized as a matter of great importance by the United States;

Whereas the concern of the United States with respect to this matter has been reemphasized by the present administration;

Whereas the subject of political prisoners confined in Cuba has received considerable attention on the part of such international organizations as the Inter-American Commission on Human Rights of the Organization of American States, the International Red Cross, Amnesty International, the Inter-American Press Association, and the International Commission of Jurists;

Whereas the Secretary of State of the United States is not prepared to negotiate with Cuba unless on the basis of reciprocity; and

Whereas the United States is a member of the Organization of American States; Now, therefore, be it

Resolved, That it is the sense of the Senate that the government of Cuba cooperate with the Inter-American Commission on Human Rights of the Organization of American States and admit representatives of the International Commission of Jurists or the International Red Cross or Amnesty International to Cuba, providing them access to all detention facilities where political prisoners are confined.

Mr. STONE. Mr. President, I rise to speak of subjects concerning the present Cuban regime: First, Cuban political prisoners; second, Castro's illegal militarism in Angola; and third, on Cuba's refusal to release U.S. citizens held in Cuba.

On June 25, 1975, I submitted Senate Resolution 195 regarding Cuban political prisoners. After conferring with Ambassador Robert J. McClosky, Assistant Secretary of State for Congressional Affairs, at his request I am today submitting a modified version of Senate Resolution 195.

I believe that it is of extreme importance for the United States Senate to express its concern for political prisoners. The United States at the United Nations recently called upon all governments to "proclaim an international amnesty by releasing all political prisoners." Also, there are moves in the Senate to cut off United States security assistance to countries systematically engaging in human rights violations. In relation to these efforts, one often hears attacks on Chile, Brazil, or South Africa; thus it is only fitting that the suffering of thousands of prisoners just 90 miles off our own shores be fully revealed and corrected.

A few months ago, International Rescue Committee, Inc., prepared a statement on Cuban political prisoners. I ask unanimous consent that this material be printed in the Record for consideration by the Senate before the Congress considers any move to change present relations with the Cuban regime.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STONE. For many months I have been pointing out the inadequacies of the trend of the Department of State's present policy toward the Cuban regime.

As evidence accumulates to demonstrate Cuba's terroristic interference in the domestic affairs of our country and those of Europe, Africa, and Latin America, the State Department continues to show reluctance in condemning the Castro government and continues in its conciliatory posture toward the present Cuban regime.

To the detriment of African nationalists who seek self-determination for their peoples, it now appears that Cuban arms and soldiers are turning the tide in the Angolan civil war in favor of the

Communist-backed "Movement for the Liberation of Angola"—MPLA. Two front-page December 8 New York Times articles under the headline "Cubans With Soviet Arms Said To Turn Angola Tide" fully describe Castro's successes in Angola. For months, the Cuban-backed MPLA was "bottled up" by coalition government troops but, with the addition of 3,000 Cubans armed with Soviet-supplied weaponry, MPLA forces have broken through and achieved strategic military gains. Indications are that Cuban-Soviet involvement will continue to turn the tide in Angola. Daniel P. Moynihan, U.S. Ambassador to the U.N., declared on December 2, that Cuban and Soviet involvement in Angola has signified the Soviet's intention to "colonize Africa." He stated that Russia has landed the Cuban troops on the southwest coast of Africa, alluding to Angola. His statement appeared the following day in the New York Times.

Although Secretary Kissinger has mildly protested Cuban subversion in Angola on a number of occasions, I fail to see any effect of his statements in view of the fact that no major change in Cuba's policy has been announced, that the territorial limit of Cuban diplomats in the U.N.—many of whom are intelligence agents—has been extended to 200 miles from New York to include Washington, D.C., and that the United States is easing our economic policy to help the Cuban regime.

Mr. President, the present situation in Angola is only one of Castro's many violations of international law and human rights. These violations warrant reevaluation by the State Department of its present attitude toward Castro's regime, and I challenge Secretary Kissinger to explain this policy in view of the facts I have described. I ask unanimous consent that these articles be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 2 and 3.)

Mr. STONE. In order to put this matter in the proper perspective, I point out one more significant incident.

On November 28, 1975, Nassau County police in New York arrested two Cubans at the scene of a bank robbery after they fled at the approach of three policemen. The two were identified by both the police and Radio Havana as Jose Luis Mendez, third secretary of the permanent Cuban mission to the United Nations, and Noel Verges Ferrer, adviser of the Cuban delegation to the 30th period of sessions of the General Assembly. It was revealed, in fact, they were Cuban diplomats, members of the Cuban Mission at the U.N. Both carried illegal weapons and the sum of $1,200. It is of interest to note that one of the weapons, a revolver, had no identification markings whatsoever, and the other was an automatic pistol of Soviet manufacture.

Al Tarabochia, chief investigator of the Internal Security Subcommittee, in his testimony released on November 28, 1975, gave the details of how the Cuban U.N. Mission operates as an adjunct of the D.G.I., the Cuban KGB. I recommend that all of my colleagues read that report very carefully because it is indicative of the bad faith that surrounds every move the Cubans make toward the United States.

Exhibit 1

Cuban Political Prisoners

(Statement submitted by the International Rescue Committee to the House Subcommittee on International Trade and Commerce)

1. There are no reliable figures about the number of Cuba's political prisoners. A strongly pro-Castro author who visited Cuba in 1973 and had access to Cuban judicial authorities and penal institutions, reported as follows: "Although no current figures are available, the number of political prisoners in Cuba in 1965 was estimated as 20,000 by Prime Minister Fidel Castro. . . . There is reason to believe that the 20,000 figure has been reduced over the years through completed terms and fewer arrests." (Robert Cantor, in *Cuba Resource Center Newsletter,* Volume III, No. 5–6, December 1973)

2. Cuba's political prisoners are divided into two groups, those who have submitted to what's referred to as "reeducation" or "rehabilitation" ("Regimen Progresivo") and those who have refused to do so. The former are moved from high-security prisons to work farms, i.e., labor camps, from which they have a chance of being released upon the completion of their terms or perhaps even earlier. The latter are detained in high-security jails like La Cabana in the City of Havana and Boniato in Oriente. Women prisoners who have refused to submit to reeducation were being held at Granja "El Nuevo Amanecer," Kilometro 2½, Carretera El Guatao-Punta Brava, in the Province of Havana.

3. Conditions in the prisons have been described as dismal and worse. Lack of food, lack of water, lack of medical attention, lack of space, lack of exercise and brutal treatment have frequently been reported. A group of prominent prisoners is now being held at La Cabana, among them Huber Matos, a former Major in Castro's Army, which was then the highest rank; Eloy Guttierez Menoyeo, a former student leader; ex-officers Antonio Lamas and Silvino Rodriguez; also Jose Pujals, Lauro Blanco, Jorge Valls, Cesar Perez, Osvaldo Figueroa and Artilino Gomez. (Another student leader, a pro-Castro activist prior to Castro's seizure of power, Pedro Luis Boitel, died in prison three years ago.)

Most of the prisoners listed above have families in the United States. Many of their family members have since become American citizens. It is, in consequence, a proper concern to inquire into the reasons why they should not be released after so many years of detention. (The wife and children of Huber Matos live in New Jersey.)

4. The official position of the United States was first formulated in connection with the *Memorandum of Understanding* which established the Cuban Refugee Airlift in 1965. The United States then offered to include in the airlift agreement a provision for the priority movement of political prisoners to the United States. When Cuba specifically excluded political prisoners, the U.S. government reaffirmed its readiness to grant entry to the United States to Cuba's political prisoners and stated: "The Government of the United States regrets that at this time the Government of Cuba has not permitted political prisoners to be included under the terms of the Memorandum of Understanding. The Government of the United States expresses the hope that the Government of Cuba will be willing to reconsider this position. The Government of the United States wishes to stress the particular importance which such reconsideration would have in *permitting the reunion of many families.*"

5. In 1971 the International Rescue Committee in conjunction with the American branch of Amnesty International addressed an appeal to the governments of Chile, Norway, Sweden, Mexico and the United Kingdom—five nations which at the time had diplomatic relations with Cuba—urging them to intercede on behalf of political prisoners in Cuba. It is not known whether this intercession, if it took place, bore any fruits.

6. What is most appalling in the case of Cuba's political prisoners is the unconscionable length of incarceration. To them applies what Andrei D. Sakharov stated in his appeal for the prisoners in the Soviet Union: "Do what you can, *at least* for some of the prisoners—the women, the old people, those who are ill, those who have been tried more than once. . . . Bring about the immediate release of all who have been incarcerated for *more than fifteen years,* the maximum term fixed by law."

7. Since Cuba is quite vocal in denouncing the treatment meted out to the prisoners of the Chilean Junta, she cannot reasonably claim interference in internal affairs if the subject of her own political prisoners is raised. The humanitarian concern for the reunion of families separated for a decade and longer legitimates the expression of hope that the prisoners will be freed and permitted to leave *whenever, wherever* and at *whatever level* a dialogue with Cuba is being conducted.

8. Many women who have refused to be reeducated are victims of the Cuban version of Gulag Archipelago, among them, as of January 1975, were Clara Alonso, Maria M. Alvarex, Zoila Aguila, Ana Bustamante, Teresa Bustanzuri, Georgina Cid, Dolores Correoso, Nilda Diaz, Maria Garcia Rangel, Felicia Garcia, Leopoldina Grau, Albertina O'Farrill, Leonor Olivera, Nereida Polo, Aracely Rodriguez, Aleja Sanchez, America Quesada, Caridad Cabrera, Lucrecia Sanchez, Ofelia Rodriguez, Xiomara Wong, Esther Castellanos, Fidelinal Suarez at Granja El Nuevo Amanecer; Ana Laza Rodriguez, Bertha Aleman, Maria A. Fernandez, Esther Campos, Miriam Ortega at Havana; and Doris Delgado and Mercedes Pena at the Boniato prison in Oriente.

What could be more fitting in 1975—International Woman's Year—than their release?

NEW YORK, N.Y., *July 18, 1975.*

Exhibit 2

[From the New York Times, Dec. 8, 1975]

CUBANS WITH SOVIET ARMS SAID TO TURN ANGOLA TIDE—UNITED STATES IS CONCERNED

(By David Binder)

WASHINGTON, December 7.—A Cuban expeditionary force equipped with Soviet armored vehicles and rocket launchers is turning the tide of civil war in favor of the Popular Movement for the Liberation of Angola, according to American officials.

The officials, who are assigned to watching developments in Angola, made this estimate on the basis of information reaching here through intelligence channels as well as from friendly governments.

They said Cuban infantry and artillery units had spearheaded columns of the Popular Movement in their advance north of Luanda, the old Portuguese colonial capital, against the National Front for the Liberation of Angola.

The National Front has set up a coalition government in Huambo—formerly Nova Lisboa—with the National Union for the Total Independence of Angola. Both the National Union, known as Unita, and the National Front have been fighting the Soviet-armed and Cuban-aided troops of the Popular Movement, which has proclaimed itself sovereign and has its capital in Luanda.

The Popular Movement has pushed more than 50 miles up the coast during the last 10 days, the American officials said, capturing the town of Caxito and moving toward the Atlantic port of Ambriz.

Cuban infantry and artillery units, the American officials said, have been responsible for advances in the south-central battle area where they are contesting for control of the 896-mile Benguela railroad, which links the countries of Zaire and Zambia to the large Angolan harbor of Lobito.

CUBANS PUT AT 3,100

In that area, the Popular Movement's forces, stiffened by the Cubans, have been fighting sizable numbers of men of the National Union, who are said here to be supplemented by soldiers from South Africa. The Cubans and the Popular Movement are said to have taken the town of Cangumbe, which is on the rail line.

[Correspondents in Angola, however, say they have seen no evidence that South African soldiers are actually fighting there, though the South African Government has admitted giving training and logistical support.]

"The Cubans are involved everywhere," an American official observed. A Latin-American official who has just arrived here from Havana said today that Cuban officials had told him that 3,100 soldiers were now serving in Angola. He said Cuban soldiers had also been seen south of Luanda in a third battle region, centered around the rich agricultural belt between Gabela and Quibala.

This region, about 120 miles south of Luanda, is where Unita's forces advanced in the first half of November, driving back the Popular Movement. The American officials said that the National Union and the South Africans still hold the Atlantic port of Novo Redondo, but apparently have fallen back from Porto Amboi, farther up the coast.

At the moment the coalition's forces still hold about three-quarters of the 1,000-mile coast of Angola. The American officials said, however, that they were skeptical about the coalition's ability to keep control of areas it now holds.

"There are indications that the Cubans are turning the tide or will turn the tide," one official said.

"It could still reach a stalemate," another said, "but the M.P.L.A. has been making all the military gains lately."

Both officials said there was clear evidence that the Soviet Union was continuing large-scale shipments of military supplies directly to Luanda by sea and by air.

The last big Soviet airlift to Luanda occurred last Monday, the officials here said, when several huge AN–22 transports came in.

DISPUTE OVER NUMBERS

There is still a dispute within the Ford Administration on the size of the various Angolan forces. Some officials, drawing on Portuguese intelligence estimates, believe the Popular Movement has as many as 30,000 soldiers, while others believe there are only 10,000. Similarly, Portuguese intelligence rates the National Front at more than 20,000 men, while other sources believe the number is closer to 10,000.

Finally, the Portuguese estimate of the National Union's military strength is about 40,000 troops, while some American officials put it closer to 6,000. The Americans also believe about 1,000 troops from Zaire are involved in Angolan battle areas, and about 1,000 South Africans.

KISSINGER EXPRESSES CONCERN

TOKYO, December 7.—The position of Secretary of State Henry A. Kissinger that Soviet action in Angola is sure to have a bad effect on United States relations with the Russians—was reiterated today to reporters traveling with the Secretary to Japan.

Mr. Kissinger, who had been accompanying President Ford on his Asian tour left the Presidential party in Manila to come here and brief Japanese leaders here on the meetings in Peking.

On the flight to Tokyo, reporters aboard Mr. Kissinger's plane were told that in July, American efforts prevented a take-over of the West African territory by forces armed by Moscow and aided by Cuban troops. Angola became independent on Nov. 11.

But now, Mr. Kissinger said, the situation has worsened in Angola, and will have an effect on American-Russian efforts to achieve a new agreement in limitation of strategic arms.

EXHIBIT 2

[From the New York Times, Dec. 8, 1975]

LUANDA-BASED TROOPS APPEAR TO MAKE BIG GAINS IN FIGHTING

(By Michael T. Kaufman)

HUAMBO, ANGOLA, December 4.—As seen from here, the Popular Movement for the Liberation of Angola, aided by vast quantities of Soviet arms and by Cuban fighting men, has made sharp military advances on three fronts in recent days.

Huambo, in south-central Angola, is the capital of a government in opposition to the Popular Movement's regime that is based at Luanda, in the north. Here in Huambo, military strategists acknowledged that their troops were losing ground rapidly under a continuing barrage of missile fire from the Popular Movement's forces.

"This is a war of men against weapons—we have the men and they have the weapons," said Holden Roberto, the president of the National Front for the Liberation of Angola. On Nov. 27 his group joined in a coalition government in this area with the National Union for the total Liberation of Angola.

The armies of these two factions continue to fight the Popular Movement's forces in spite of the fact that they have nothing to match the Soviet-supplied tanks and rockets of the other side.

Huambo was called Nova Lisboa until Portugal relinquished control of Angola last month.

Two weeks ago the National Front and the National Union together controlled close to 80 percent of Angola's huge territory, with the Popular Movement's forces holding only a corridor stretching east from Luanda.

In the days just before Nov. 11 when the Portuguese officially departed from this, their last African colony, National Front forces, moving behind a motorized column with many white soldiers, swept north from the southern port city of Mossamedes to take firm control of the port cities of Benguela and Lobito. They still control some 80 percent of the country's 1,000-mile West African coast.

A BREAKTHROUGH CONCEDED

But with independence, Soviet arms began pouring into the harbor at Luanda. Some 3,000 Cuban soldiers had arrived some time before; in the last weeks the weapons and the Cubans have turned the tide.

For months, the Popular Movement was bottled up on a floating front 35 miles north of Luanda around the junction town of Caxito. Now National Front leaders, whose forces controlled that northwestern area, say gloomily that their enemies have broken through.

Popular movement forces have also taken Caxito, northeast of Luanda, and are threatening the national front stronghold of Ambriz, still farther north. Long-range missiles were reportedly fired into Arbriz, forcing an evacuation of the civilian population to Zaire, over Angola's northern border.

On the south-central front, the Popular Movement's forces have taken the town of Luso, a critical railroad terminus that was destroyed in earlier fighting between the forces of the National Front and the National Union before they entered into their marriage of necessity. From Luso, the Popular Movement has taken a Cangumbe, a town 80 miles west along the railroad.

RAILROAD IS CRITICAL

This is a particularly serious blow to the coalition, since its forces control the Benguela railroad from the coast to Silva Porto, 100 miles east of Huambo. The coalition leaders had hoped to open the entire road and resume shipments of copper to Angola's Atlantic ports from Zaire and Zambia. While the Popular Movement controls the banks in Luanda, the old Portuguese colonial capital, and receives concessions from oil and diamond companies, the coalition here is strapped for revenue it was counting heavily on railroad-transportation fees.

The third front, just north of here, is now reported to be along the Cuvo River, near the towns of Cela and Ebo. Three weeks ago the motorized column, led by whites, some of whom are believed to be South Africans, had moved northward from here and was threatening Dondo, about 200 miles north of Huambo; at Dondo there is a hydroelectric plant that supplies Luanda's power.

Now it is reported that Cuban infantry and missile technicians, backed by some of the 3,000 soldiers from Zaire who are fighting along with the Popular Movement's men, repulsed that advance and pushed south more than 100 miles, taking the towns of Gabela and Quibala.

On all three fronts, the Popular Movement reportedly relies primarily on 122-mm. Soviet rockets, nicknamed "Mona Caxitos," after the town where they were first used here.

A PORTUGUESE IN THE FIGHT

Carlos Ferreira, a 29-year-old Portuguese who commands a National Front unit, returned the other day from the front at Cela and described the battle.

"The Cubans placed armored cars on high ground and from the back of the trucks they fire the rockets, 24 at a time," he said. "The things have a range of eight miles and they fired hundreds of them." He is a former Portuguese soldier who says he is fighting without pay because he is "against Communism."

Just how many men the various factions have under arms is difficult to pin down. The Popular Movement says it has 30,000 Angolan fighters, though independent intelligence sources believe a third of that would be more accurate. These sources say, however, that the Popular Movement does have some 3,000 Cubans, 3,000 well-trained Zairians and smaller numbers of soldiers from Mozambique and Congo.

The National Union says it has 40,000 men; again, the independent intelligence sources believe there are probably not more than 5,000. Many of these seen here are boys in their teens. The National Front, the sources say, has about 10,000 Angolans under arms.

There are also numbers of whites fighting in the National Front and National Union forces, most of them Portuguese. They are either native-born Angolans, or, like Captain Ferreira, men who came from Mozambique where they sought to overthrow the leftist Frelimo Government last year.

There are also some Belgian and French soldiers, and some pale-blond men who are described as Norwegians. When these men speak, these Norwegians seem to have South African accents.

AMENDMENTS SUBMITTED FOR PRINTING

SUSPENSION OF DUTIES ON CERTAIN SILK—H.R. 7727

AMENDMENT NO. 1253

(Ordered to be printed and to lie on the table.)

Mr. BROOKE (for himself, Mr. DOMENICI, and Mr. RIBICOFF, and Mr. MCINTYRE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

Mr. BROOKE. Mr. President, the Home Heating Systems Improvement Act of 1975, which I and my colleagues Senator DOMENICI, Senator MCINTYRE and Senator RIBICOFF, are submitting today in the nature of an amendment to H.R. 7727, is an essential part of a national energy conservation program. Each year, the 35 million American homes which lack adequate insulation waste the equivalent of 130 million barrels of oil that could have been saved through proper retrofit of the building.

Each year, 2 million gas and oil fired home heating systems waste 9 million barrels of oil which could be saved if they were simply fitted with more efficient components.

We cannot keep missing the opportunity for fuel savings which could be realized by proper home heating conservation measures.

A large part of the problem, particularly in the market for heating system improvements, is that consumers are not aware of possible savings. Furthermore, the heating equipment industry needs to expand its procedures for evaluating and standardizing new conservation equipment. And homeowners need more education about the money-saving impact of home insulation and storm windows.

One efficient way to educate homeowners is through a temporary program of tax credits for such energy saving expenditures. This would be an appropriate use of the tax system, as few national goals are so important as a reduced reliance on oil imports.

The House of Representatives wisely passed a tax credit for home insulation as part of the Energy Conservation and Conversion Act of 1975 which it sent to the Senate last summer. In July, I testified before the Senate Finance Committee on provisions of this act, as well as on energy conserving measures of my own I hoped would be included.

But the committee has taken no action on this vital matter. Winter is upon us, and again, poorly insulated and inefficiently heated houses are billowing forth wasted heat into the cold air. I believe the Senate can wait no longer, so I have used the House language which is before the Senate Finance Committee and introduced it today for prompt consideration.

I have made one amendment I feel is important which was not a part of the House bill. The tax credit in H.R. 6860 only applied to expenditures for insulation. But important fuel savings can also be realized by upgrading existing oil and gas furnaces and the pumps, ducts and thermostats which control heat flow. Many well-insulated homes are still using 10 percent more fuel than they should for lack of new heating system components. I have added the words "other retrofit expenditures" to the list of those expenditures which may be counted for the tax credit. This means "any item fixture equipment or material" used as part of the existing heating system which meets conservation and quality standards established by the FEA Administrator. As the $500 ceiling on the allowable credit remains as the House passed it, this should not increase the demands on the Treasury above the House estimates of $190 million for the first year and $260 million for the following 2 years of the program's life.

This program is not the answer to all our residential energy conservation problems. Clearly we need loans, consumer education, and tough construction standards for energy conservation. More important, this bill treats residences owned by individuals who can respond to admittedly small tax incentives by investing in improvements. It is not a response to the high energy costs borne by tenants in multifamily buildings. Nor is it a solution to the truly dire needs of the poor who usually live in the least well insulated buildings. Therefore, I am working on other approaches to the severe financial difficulties of poorer families. I have for 2 years seen to it that the Senate Appropriations Committee, of which I am a member, has made funds available to the Community Services Administration for emergency payment of the utility bills of low income families. I am now trying to draft a more general kind of energy inflation coverage for low income households which is acceptable to a majority of my colleagues.

Nevertheless, most residential energy is used and wasted by middle income families. This tax credit is an important and long overdue incentive to cut our residential fuel consumption.

Mr. President, I ask unanimous consent that three documents be printed in the RECORD following my statement: These are, ERDA, data on homes in need of retrofit equipment, part of a paper by the National Oil Fuel Institute on the general problem of heating system retrofit, and the section of the House Ways and Means Committee report on H.R. 6860 referring to this tax credit.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACT SHEET

(By Maxine Savite, Ph. D., Director, Department of Buildings Conservation, ERDA)

THERMALLY INADEQUATE HOMES

There are 48 million single family dwelling units as of 12/31/74.

13 million have adequate protection or are in climates where insulation of other retrofit won't pay[1]

5 million are occupied by the poor[2]

Of the 35 million remaining homes:

17 million need ceiling insulation;[3]

10 million need storm doors and windows;[4]

20 million need clock thermostats;[5]

20 million need caulking and weather-strippings.[6]

Another way of looking at it—who will do it?

Action	Per year millions of actions	Estimated actual 1974 retrofit[6]	(Millions) cost per action[7]	Total cost
Ceiling insulation	3. 0	0. 7	$200	$600
Storms (12 windows, 2 doors)	2. 0	. 5	450	900
Clock thermostats	1. 0	. 06	70	70
Caulking and weather stripping	2. 0	NA	50	100
Other	1. 0	NA	100	100
Total	[8]9. 0			1, 770

[6] Owens-Corning data.

[7] NBS estimates.

[8] These actions would occur in approximately 6,000,000 homes for an approximate average cost per dwelling unit $300.

In the 5 year program, we have assumed 5 million homes would be retrofit the first and second year and 6 million each year thereafter—a total of 28 million homes—or 80 percent at a weighted average cost of $300/home.

5 million homes at $300 at a 15 percent tax credit equals $225 million per year.

The 15 percent tax credit will cause roughly twice as many people to take some retrofit action for a net savings of 250,000 barrels per day by 1980.

Why?

15 percent communicates that Government thinks it's a good thing and wants to help;

Elasticity is only a minor factor;

Virtually all consumer expenditures are cost effective with or without tax credit.

Government costs are $1,260 billion to save 250,000 barrels per day or $1.0 billion per year, or 1.26 year pay back.

FOOTNOTES

[1] Based upon today's energy prices (which justify a doubling of the current FHA standard), we estimate that only 10% of the 32 million homes above 2500 degree days (FHA dividing line) and 60% of the balance are adequately insulated (3.2+9.6=12.8).

[2] Washington Center for Metropolitan Studies Report.

[3] Market study by Owens-Corning Fiberglass (homes with 3" or less). Industry capacity is estimated at 3-4 million per year.

[4] Owens-Corning insulation study and Washington Center data (9 million homes with no protection in North).

[5] Inadequate data available. Estimate is based upon other figures.

[6] Owens-Corning data.

RESPONSES WHICH QUALIFY FOR CREDIT

	Single		2 units		3 units or more	
	(1)	(2)	(1)	(2)	(1)	(2)
Ceiling	3	$200	0. 15	$125	0. 5	$50
Storms	3	450	. 10	300	. 2	160
Clocks	1	70	. 05	70	. 1	70
Caulk or weather-strip	2	50	. 10	40	. 5	50
Other	1	100	. 05	75		
Total spending by public ($M)		1, 770		60		89

[1] Millions per year.
[2] Cost per unit.

COST OF POSSIBLE RETROFIT ACTIONS FOR TYPICAL UNITS

	Single	2 units	3 units or more
Ceiling insulation.	$200	$125	$50/unit.
Wall insulation	$750	$400	
Storm windows	$30/window	$30/window	$40/window.
Storm doors	$50/door	$50/door	$50, if door to outside.
Clock thermostats.	$70/home	$70/unit	$70/unit, where possible.
Caulking and weather stripping.	$50/unit	$40/unit	$50/unit.

TYPICAL SAVINGS AND EXPECTED ACTIVITY FOR VARIOUS RETROFIT ACTIONS (1-FAMILY HOMES)

	Cost per unit	Minimum number of units poorly protected	Expected yearly appropriation for tax credit	Btu per year saved per unit (millions)	Dollars saved per action[1]	Payback period (years)
Ceiling insulation	$200 per home	18,000,000	3,000,000	35 per home	$86. 80	2. 3
Wall insulation	$500 per home	25,000,000	100,000	30 per home	74. 40	6. 7
Storm windows	$30 per window	70,000,000 windows in north	25,000,000 (including replacements).	2.2 per window	5. 46	5. 5
Storm doors	$75 per door	25,000,000 in north	4,000,000 (including replacements).	1 per door	2. 48	30. 0
Clock thermostats	$70 per home	Not available	1,000,000	15 per home	37. 20	1. 9
Siding and weatherstripping	$50 per home	20,000,000	2,000,000	Substantial but indeterminate.		2. 0

[1] Computed at an average national cost of $2,480,000 Btu, weighted 60-percent gas, 30-percent oil, 10-percent electricity.

SUMMARY REPORT: SOME OPPORTUNITIES FOR ENERGY CONSERVATION THROUGH IMPROVED FUEL UTILIZATION

(By the National Oil Fuel Institute)

INTRODUCTION

Because of the cooperative equipment development activities sponsored by the National Oil Fuel Institute for the oil heating industry and carried out during the period 1969–1973, the Institute was directed to make an assessment of Federal research and development plans as they related to the heating oil industry. The results of that analysis were subsequently presented in a statement before a Congressional committee on behalf of the Manufacturers Committee of National Oil Jobbers Council. This report summarizes the projects which were the basis for estimating the potential energy savings presented in that statement.

RESEARCH BACKGROUND

A brief history of the development efforts of the past two decades will answer many questions which might otherwise arise in considering the types of projects presented here, and the atmosphere in which they would be carried out.

Research of a basic nature on combustion and heat transfer was undertaken more than a decade ago under the sponsorship of the American Petroleum Institute. That program reflected recognition of a need that was not being met, in part because of the small scale of many of the oil equipment manufacturers, and, in part, because the rapid growth of natural gas consumption (due to Federal pricing policies) made investment in new oil products relatively less attractive to manufacturers. Carried out under the management of Battelle, this program added to fundamental knowledge, but, significantly, no equipment resulting directly from that work ever reached the market.

After the termination of the American Petroleum Institute program, responsibility for further development of oil power equipment was placed on NOFI. After detailed studies of consumer needs, manufacturing requirements, and market realities, an equipment-oriented effort was designed.

Beginning in 1966 the nation's oil dealers, with the support of the marketing elements of many major oil companies, and with inputs from the manufacturing community, all under the Institute's coordination, took new concepts and elements of space age knowledge many steps forward. Prototypes were tested, field testing was initiated in many cases, and service, manufacturing, and user acceptance studies were completed.

Several products reached the commercial market place as a result of this program. Only recently, however, the fear of energy shortages and uncertainty of governmental policy toward the various fuels has brought these projects to a standstill.

Therefore, what is proposed in this report does not call for a fresh start from ground zero. No prolonged, probing studies are needed because the hard and unrewarding spade work has already been done. Unsound or impractical concepts have been weeded out, and a methodology for successful commercialization has been developed.

PROJECT MANAGEMENT

The essence of the NOFI Equipment Development Program was hardware orientation with the goal of successful commercialization. Detailed studies of attempts to carry new concepts and the results of research through to commercialization by corporations and organizations such as AGA and API, resulted in NOFI evolving a methodology of project selection and management offering better results.

NOFI found that regardless of the sponsor, three elements were necessary for success: research, manufacturing and marketing. As a result, a team utilizing highly knowledgeable representatives from research laboratories, manufacturing operations, and marketing was brought together to select projects for development, monitor their progress and, where necessary, stop or redirect the development effort. This approach proved more effective than outside management.

The probability of success, estimated time to market, and project costs given in this report are based on the use of this type of approach and are not necessarily valid if project selection and management are handled in a different manner. NOFI stands ready to assist whatever agency may be selected to carry out a program for improved fuel utilization equipment and would be able to draw together the necessary people from the industry: Men with solid technical background, engineering representatives from the manufacturing sector, and men responsible for sales and installation of equipment in the field. This team could then become an advisory or guiding group to insure a high percentage of success, on budget and on schedule.

FOUR AREAS OF DEVELOPMENT

The types of projects which warrant support have been divided into four groups by priority in terms of how rapidly they would contribute to energy conservation. Coincidently, they have a probability of success ranging from "Assured" to "Fair" in the same rank as the time priority.

These four project areas—immediate, short term, medium term, and longer term—are all aimed to produce fuel savings within less than six years from the starting date. The general type of project, application, source of savings and estimated total conservation results are detailed in the following section.

Immediate: Improved testing equipment for faster and more accurate servicing of combustion equipment in the field. This would insure the operation of a high percentage of units at maximum efficiency.

Applies to: 14 million installations.

Would Save: 5% average fuel saving or more.

Energy Conserved: 25 million Bbl/year.

Short Term: Retrofit components for existing burners and improved replacement burners for existing heating units. This would make advances already used or proven, available for speedy, low cost upgrading of present equipment.

Applies to: 2 million installations.

Would save: 10% average fuel saving, starting within two years.

Energy Conserved: 9 million Bbl/year.

Medium Term: Improved retrofit complete burners and heat exchangers. In addition to inherent operation at high combustion efficiency, these units can in many cases be sized more closely to the reduced heat losses of reinsulated structures. This becomes very important considering the amount of insulation now being installed. Savings in installation cost are also provided by the smaller space required for the replacement units.

Applies to: 2.5 million installations, approximately.

Would save: 10–20% average fuel savings, starting within three years.

Energy Conserved: 18–36 million Bbl/year, after five years.

Longer Term: Complete systems approach including cooling. Can also reduce other forms of energy waste within the structure, provide inputs for heat recovery, and become building blocks for interface with solar systems.

No specific yield can be estimated for the longer term program, but initial savings would be realized before 1980, and source energy otherwise required in the form of electricity for air conditioning and other energy wasteful services would be cut substantially.

(To place present efficiency status in perspective it should be noted that the efficiency of on-site heating oil use—even before the gains listed above—is approximately twice as high as the source efficiency would be if the oil were used for the generation of electricity to provide electric heating.)

EXCERPTS FROM HOUSE WAYS AND MEANS COMMITTEE REPORT ON H.R. 6860

4. Credit for Insulating a Principal Residence (Sec. 331 of the bill and new sec. 44C of the Code)

Under present law, expenditures for insulation of a person's principal residence generally have no tax consequences.[4]

Because of the substantial energy savings that may be effected by proper insulation of homes, your committee's bill provides a temporary program (through 1977) of credits against income tax for a portion of such expenditures.

Under the bill, a credit against income tax liability is allowed for 30 percent of the first $500 (for a maximum credit of $150) spent on insulating a principal residence[5] owned or rented by the individual paying for the insulation. The credit being provided here is intended only as a temporary program in the sense that your committee wants to review it to see whether, in its view, the credit should be further extended. For that reason the bill makes the credit available only for installations of insulation material before January 1, 1978, and only where payments were made for the material before that date. Also, it is intended that the credit be available only for insulation of structures actually in use as residences on March 17, 1975, and only for insulation material installed and paid for after that date. The credit is for both the expenditures for the insulation material itself and the expenditures for its installation.

The credit may be claimed only for insulation payments made during the year (or other tax period) for which the tax return is filed. To the extent that (during the period for which the credit is in effect) the taxpayer in any prior year, or any owner or renter of that residence, has paid for insulation that could have qualified for the credit—whether or not the credit was actually claimed—the $500 limit on the insulation expenditures for which the credit is given must be reduced by the amount of the earlier payments.[6]

If an individual has already claimed the maximum credit under the limitation for insulation installed on one residence and thereafter changes his principal residence, the limitation begins to run again from zero; that is, he may claim 30 percent of the first $500 spent on insulating his new principal residence. That amount, however, must be reduced by the amount of qualified insulation expenditures (made during the period for which the credit applies) any previous owner or renter of that residence could have or did in fact claim as a credit.

The insulation for which the credit may be claimed includes storm or thermal windows, storm doors, and similar items (such as weather-stripping, caulking, etc.) However, the insulation qualifies only if it is specifically and primarily designed to reduce the heat loss or gain on a building, is material first used by the taxpayer claiming the credit has a useful life (to that taxpayer) of at least 3 years, and meets those performance standards that may be prescribed in Treasury regulations. The Secretary of the Treasury is to consult with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development in developing those standards. (In conjunction with this last criterion, it is understood that the National Bureau of Standards, which is already engaged in performance studies regarding insulation materials, will be consulted for its expertise on technical questions concerning the properties of materials.)

In addition, the credit is to be allowed only for the original installation of insulation in a dwelling unit. As a result, expenditures for such purposes as the reinstallation in the fall of storm windows which had been taken down in the spring is not to qualify for the credit. Insulation removed from one structure and placed on the taxpayer's principal residence also will not qualify for the credit because of this requirement.

The Treasury Department is to prescribe methods by which expenditures for qualified insulation are to be verified by taxpayers. No credit is to be allowed for expenditures that are not verified in the prescribed manner.[7]

Qualifying insulation materials must be specifically and primarily designed for insulation use. Except with reference to storm windows or doors and thermal windows, the items that qualify for the credit are intended to be primarily and specifically insulating materials and not materials that are primarily structural or decorative in purpose. For example, drapes and wood paneling would not qualify although they may have been designed in part to have an insulating effect. Whether or not other materials such as attic fans, insulated siding, and clock thermostats qualify is left to administrative determination which should take into account the extent of the energy saving, the extent of their use of conventional energy sources, and whether they otherwise meet the standards of this provision. In addition, since the credit is only for insulation installed in existing houses, and not for newly built homes or reconstructions, the replacement of an existing wall with a new wall having greater insulating qualities is not to qualify for the credit. Nevertheless, the replacement of an existing window or door by a storm door or window, or thermal window, could qualify although these items might otherwise be considered structural in nature.

The credit is available for materials that either reduce heat gain or reduce heat loss, as well as for materials that possess both these qualities. For example, polyester film installed on windows that has a cooling quality and which fulfills the requirements of the bill common to all qualifying materials would be eligible for the credit although it may possess no quality of reducing heat loss. However, the credit would not be available for polyethylene film (usually taped over a window) which does not normally have a useful life of at least 3 years.

If joint occupants of a dwelling unit install qualifying insulation in that dwelling unit during a calendar year, the total credit is subject to the regular limit for one person (30 percent of the first $500 of expenditures) and is apportioned among those who made the expenditures in accordance with the proportion which each paid bears to the total payment during the calendar year.

In the case of qualifying expenditures by a cooperative housing corporation, each of the corporation's stockholders who is entitled to occupy a dwelling unit owned by the corporation, and who in fact occupies the dwelling unit as his principal residence, is treated as having paid for that portion of the corporation's qualifying expenditures that is the same as his proportionate share of the corporation's total outstanding stock.

The expenditures made by a residence's owner that qualify for the credit in some instances may constitute capital expenditures that increase his tax basis in the residence.

In order to avoid a double tax benefit (allowance on a credit and also a reduced gain on sale), the bill requires that any increase in basis on account of a qualified insulation expenditure be reduced by the amount of the expenditure that is allowed as a credit. For example, assume that the taxpayer makes $600 of qualified expenditures which would normally increase his basis in the home. The maximum credit allowable in this case is $150 (30 percent of the $500 limit). Consequently, the taxpayer's basis in his home would be increased by $450 (the $600 of expenditures minus the $150 of credit).

The home insulation credit is a nonrefundable credit (like the foreign tax credit, the retirement income credit, the investment credit, etc.).

The predecessor of your committee's bill (H.R. 5005) was introduced on March 17, 1975, and that bill proposed a similar credit. If the credit were not allowed for expenditures made before the date of enactment of this bill or some other future date, then homeowners and tenants might defer their purchases and installations of insulation until that time in order to obtain the benefits of the credit. In order to avoid such a deferral of purchases, your committee's bill makes the credit apply where the expenditures and the installations have been made after March 17, 1975.

The credit program is to continue through December 31, 1977, by which time the Congress is to examine the usefulness of this tax approach and the availability of other approaches to secure the necessary energy savings.

---

[4] However, if the expenditures are undertaken in connection with the sale of the residence, then it has been held that those expenditures might be deductible under section 212 of the Code as being incurred in connection with the production of income. Also, if the insulation is of such a magnitude as to be an improvement in the house, then the expenditures may constitute additions to the taxpayer's basis in the house.

[5] Condominium and cooperative units may be treated as separate principal residences.

[6] Note that expenditures before March 18, 1975, and installations before that date are not to qualify for the credit. Consequently, such pre-March 18, 1975, expenditures and installations are to be ignored in determining whether and to what extent the $500 limit is to be reduced under this provision.

[7] This provision is not to detract from the general authority of the Internal Revenue Service to require vertification of the correctness of claimed deductions, credits, etc.; the effect of this provision is to preclude the use of the so-called "Cohan rule" where the Treasury regulations specifically prescribed one or more appropriate manners of verification.

It is estimated that the credit for qualified insulation and retrofit expenditures will reduce revenues by $190 million for 1975, and $260 million for each of the next 2 years.

AMENDMENT NO. 1254

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 7727), supra.

TEMPORARY RENTAL OF RAILROAD ROLLING STOCK—H.R. 5559

AMENDMENT NO. 1255

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations.

NATIONAL COMMISSION ON SMALL BUSINESS—S. 2498

AMENDMENT NO. 1256

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill (S. 2498) to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

FEDERAL-AID HIGHWAY ACT OF 1975—S. 2711

AMENDMENT NO. 1257

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY (for himself, Mr. Bellmon, Mr. Domenici, and Mr. McClure) submitted an amendment intended to be proposed by them jointly to the bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1975—S. 2662

AMENDMENT NO. 1258

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. PELL. Mr. President, I submit an amendment to S. 2662, the International Security Assistance and Arms Export Control Act of 1975. I propose that the amount requested by the administration for security supporting assistance for Greece be increased from $65,000,000 to $90,000,000.

These additional funds are urgently needed by the new democratic Government of Greece in the context of its 5-year development plan to strengthen the Greek economy and to overcome a particularly difficult balance of payments problem. I urge that the Senate increase the amount of security supporting assistance for Greece in order to demonstrate the continuing importance that the United States attaches to its Alliance relationship with Greece and to the strengthening of democracy in Greece.

The amendment is as follows:

On page 101, line 2, strike out "$1,858,300,000" and insert in lieu thereof "$1,883,300,000 of which not less than $90,000,000 shall be available only for Greece."

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1154

At the request of Mr. Gravel, the Senator from California (Mr. Cranston) and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of amendment No. 1154, intended to be proposed to S. 2568, a bill to revise the method of providing remuneration in the event of a nuclear incident.

AMENDMENT NO. 1154—WITHDRAWAL

At his own request, the Senator from Pennsylvania (Mr. Hugh Scott) was removed as a cosponsor of amendment No. 1154, intended to be proposed to S. 2568, supra.

AMENDMENT NO. 1237

At the request of Mr. McIntyre, the Senator from New Mexico (Mr. Montoya) and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of amendment No. 1237, the Solar Energy Equipment Tax Credit Amendment of 1975, intended to be proposed to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns and silk.

DISTRICT COMMITTEE PROCEEDING WITH PLANS FOR SURVEY OF FISCAL PROCEDURES OF DISTRICT GOVERNMENT

Mr. EAGLETON. Mr. President, since the Senate has adopted Senate Resolution 316, I wish to announce that there will be a meeting on Monday, December 15, 1975, at 2 p.m. in the committee hearing room, 6226 Dirksen Senate Office Building of all certified public accountants who may be interested in submitting a proposal on the committee's proposed study of the financial situation in the District of Columbia. At the meeting specifications of the study will be released to all interested parties. I have already notified by telegram every accounting firm or group which has contacted the committee.

ADDITIONAL STATEMENTS

U.S. FOOD POWER: ULTIMATE WEAPON IN WORLD POLITICS?

Mr. DOMENICI. Mr. President, since the dawn of mankind the search for food has helped shape the course of history. Today, the United States provides three-fourths of the world's net grain exports. The world is experiencing an intense demand for grains, particularly from the more affluent nations. This increased demand, plus the dominance of the United States in the world grain trade, has given rise to the issue of U.S. food power and how it should be used.

The issue of U.S. food power raises many important policy questions. How does food power compare to petropower? What should our policy be toward nonmarket economy countries, such as the Soviet Union? What are our obligations to the lesser developed countries? Should we link industrial imports to our food exports? What effect will new policies have on our domestic economy and especially the agricultural sector? These are all important policy questions with far-reaching consequences.

Mr. President, a recent article in Business Week provides an excellent background and discussion on the issue of food power, and I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Business Week, Dec. 15, 1975]

U.S. Food Power—Ultimate Weapon in World Politics?

Earl L. Butz, the peripatetic Secretary of Agriculture, just back from a tour of eight countries, tells a story to show how America is waking up to the use of its food power as a diplomatic tool. "When, I visit a foreign capital," Butz says, "The reaction of the U.S. ambassador there is likely to be, 'I wonder how long I'll have to put up with this agriculture cluck?' " That is, Butz explains, until the ambassador sees presidents and premiers perking up at the chance of talking with an influential U.S. food official. Then, says Butz, the reaction turns to "Gee, this guy can open doors for me."

The deployment of American food power is the focus of a serious policy debate now under way in Washington. Nearly everyone agrees that in a world of hunger and overpopulation, the U.S. can apply its tremendous agricultural capacity as a lever on foreign countries to adopt policies beneficial to this nation. "We have the food, and the hell with the rest of the world," snaps one high-level State Dept. official.

The controversial question is how much to exploit food power to advance U.S. national interests. Some government officials question the merits of an aggressive policy on the grounds of both morality and efficacy.

Recent world trends in grain stocks underscore the extent of the nation's food power: While supplies outside the U.S. are steadily declining—the current total is about 69 million tons—U.S. grain stocks are rising sharply; they now amount to more than 31 million tons and are approaching half the world's supply.

Even as the policy debate goes on, the Ford Administration is slowly, even awkwardly, to wield food power in the diplomatic arena. For the first time, the U.S. has established a national grains export policy. In place of the free rein allowed commercial grain exporters in the past, Washington has shown itself ready to set up precise quid pro quo conditions for delivering American food.

The new policy was employed in the Russian grain agreement negotiated recently in Moscow. For the Russians, the price was to stop disruptive, inflationary raids on the U.S. grain market. They were also asked to ante up some oil on favorable terms, which have yet to be spelled out. And there is strong evidence that, as another condition for the grain sale, the Russians were persuaded to keep their hands off during Secretary of State Henry A. Kissinger's negotiations on the Egyptian-Israeli accord.

Food power discreetly figures in the multilateral trade negotiations getting under way in Geneva, aimed at reducing tariffs. U.S. officials privately concede that it will be exploited to try to reduce trade barriers in countries that buy large quantities of food here. Japan is an obvious case in point.

Japan and Poland both typify how eager foreign countries are to nail down U.S. grain supplies. Both have informal purchase agreements, but says one State Dept. official, "They now want something formal like the Russians have." As in the Russian case, both would have to commit themselves at least to buying fixed volumes of U.S. grain in orderly fashion. In fact, says a top-level Agriculture Dept. official, "The word here is that any country that wants to buy substantially more than its normal amounts of grain will be faced with a Russian-type situation." In Poland's case, Washington would use food power to help loosen that country's economic links to the Soviet bloc.

Ever since the Arab oil-producing nations began to wield petroleum as a geopolitical tool in 1973, the world has recognized that the U.S. has a comparable weapon in food, since much of the world nourishes itself on U.S. grains.

But there are crucial distinctions between food power and petropower. The most obvious is the moral consideration. "Can you imagine the repercussions of the U.S. trying to play God with food?" asks a White House official. Beyond that are practical limitations that do not apply to oil.

MORAL QUESTIONS

Industrial nations dependent on imported oil are highly vulnerable to a cutoff of supplies. While they can dispense with some discretionary uses in an emergency, they need a certain amount to run their plants and basic transportation. The threat of an embargo, shutting down national economies, is a potent weapon that can be used as a bludgeon.

Not so in the case of a food embargo. People in developed countries, ranging from well fed to overfed, can always pull in their belts a few notches if necessary. In developing countries, where people are on subsistence diets or less, the U.S. ability to apply political pressure with the overt or implicit threats to withhold supplies is even more limited. Such action would probably be counterproductive, since the nation would be severely condemned on moral grounds.

Moreover, curtailing food sales for foreign policy reasons would have an immediate and adverse impact on several million U.S. farmers who have considerable political clout. In short, the U.S. has less room for maneuver—economically and politically—in wielding food power than the oil producers have with petropower.

Despite these limitations, U.S. food power does exist. It is just one of several kinds of economic power that the nation possesses—financial resources, technology, managerial knowhow, and the bargaining strength in trade relations that comes from having the world's biggest domestic market.

There is a growing consensus that the U.S. should be as tough in using food power to achieve national objectives as it is in employing its other economic capabilities. But food stirs up strong emotions because it is associated with the most primary human need. So there is also a growing realization that food power must be handled with particular skill and sensitivity.

American food power grows out of an incredible capacity for agricultural production at a time when rising population and affluence are increasing global demand for more and better food. Butz describes this capacity floridly: "The U.S. has the largest contiguous land mass of fertile soil, good growing climate, and adequate rainfall of any place on earth." After they finish feeding their own countrymen, American farmers have left over for export nearly 60% of their wheat and rice, nearly half of their soybeans, one-fourth of their grain sorghum, and more than one-fifth of their corn.

WHAT RUSSIA NEEDS

The U.S. already provides nearly three-fourths of the world's net grain exports. In a recent report on world population and food production, the Central Intelligence Agency predicts: "Over the next several decades, the world's increasing dependence on U.S. surpluses portends an increase in U.S. power and influence, especially *vis-a-vis* the food-deficit poor countries. Indeed, in times of shortage, the U.S. will face difficult choices about how to allocate its surplus between affluent purchasers and the hungry world."

Few nations are so fortunate, and the Soviet Union is a significant example. While most of the best growing land in the U.S. lies south of the 45th parallel, most of the Soviet Union's lies above it. As Reid Bryson, a University of Wisconsin climatologist, describes it: "The best land in Russia has a climate something like North Dakota—and from there on it gets worse." In the eastern virgin lands, weather, rainfall, and yields are uncertain. This year the Agriculture Dept. has been scaling down its estimate of total Soviet grain production from an initial 215 million tons to perhaps 160 million tons or less. As a minimum, the Soviets need about 210 million tons of grain.

The deplorable grain crop confronted Soviet leaders with a tough political decision. Several years ago they committed themselves to feeding more livestock in order to put more meat in the Soviet diet. Would they now disappoint consumer aspirations and slaughter their herds, or would they buy feed on the world market—most of it from the U.S.? The answer was "buy." and this summer the Soviets began chartering ships for what could be the biggest movement of grain in world history.

Japan is another nation with food problems. With nearly every square foot of its islands under cultivation, it depends on food imports, particularly U.S. soybeans and feed grains. Like the Russians, the Japanese are eating more beef. And when the Soviets began buying up U.S. grain this summer, the Japanese wondered if they would be left out. "You could see the shock waves coming through," says a U.S. diplomat who was conducting food talks in Tokyo at the time. The Japanese were reassured with an informal agreement promising them 14 million tons of grain a year for three years.

The grain deal negotiated in Moscow by Under Secretary of State Charles W. Robinson was a beginning in the new, calculated use of U.S. food power to achieve specific goals. For a decade, the Soviets have been upsetting the world grain trade with sporadic, sometimes secretive purchases. The 19 million tons they bought here in 1972 triggered a 14% increase in food prices over the next two years. When massive Soviet purchases were resumed this past summer, labor unions and consumers began protesting. The Ford Administration decided to nail down the Russian business, but on regulated terms: a commitment from Russia to buy 6 million tons of U.S. wheat and corn a year for five years starting on Oct. 1, 1976—plus more if the Soviets need it and U.S. production will allow it—but all on an orderly basis.

To the surprise of many, the Administration tied the grain deal to oil. The Robinson agreement includes a letter of intent under which the Soviet Union may supply the U.S. with 64 million bbl. of oil a year—a mere trickle, but in the words of a White House aide, "a diversification of the sources of U.S. oil imports."

The Soviet oil shipments could rise eventually to 192 million or 256 million bbl. annually, one State Dept. official conjectures, at a price "below the competition," meaning below the price established by the Organization of Petroleum Exporting Countries. Creating even a fissure in the OPEC price front would be a coup for the Administration, but as yet not a drop of Soviet oil has been agreed upon formally.

The Robinson grain-oil agreement has come under fire. Traditionally Republican Midwestern farmers are furious at President Ford for tampering with the international grain trade and for essentially stabilizing prices. Says Charles Drew, a Garden City (Kan.) wheat farmer. "We think the government is trying to manipulate the price of wheat because of political pressures from [AFL–CIO President] George Meany and the consumers." An Administration official explains how things have changed: "The Agriculture Dept. has a constituency of farmers, and it ran the grain export policy in a way to support that constituency. It was necessary to use [grain exports] in the national interest. This matter can no longer be left up to the Agriculture Dept."

The latest Russian agreement is also being questioned by skeptics who doubt whether Moscow would overtly undercut OPEC's oil price. The likeliest device, according to Washington sources, would be concealing a discount in some favorable shipping arrangement. Skeptics also worry that the Soviets, with their hangup on secrecy, will not provide the crop forecast data Washington needs to formulate a rational grains policy.

THE ADMINISTRATION'S POSITION

In a world of growing scarcity, it remains to be seen how far the U.S. will go in linking food resources with industrial commodity needs. Many links could be established. In the case of 21 important minerals, the U.S. is 60% to 100% dependent on foreign suppliers—some of which are large importers of U.S. food. India, for example, is a major supplier of titanium, the Soviet Union of chromium. In oil the U.S. would have little leverage; the only major producer that buys much food here is Iran.

President Ford is clearly a believer in food power. He told the Russians the price for grain was market stability and possibly some oil. And although Kissinger laid out a grand plan for food cooperation rather than confrontation at the U.N. food conference in Rome last year, one of his deputies stresses: "He sees the power our food position gives him."

As the negotiator of the Soviet grain deal, Robinson, who was formerly president of Marcona Corp., a San Francisco-based mining and transportation company, is one of the most obvious food power advocates. Thomas O. Enders, Assistant Secretary of State for economic and business affairs, is one of the most prominent skeptics. He believes that food power will not work short of a state grain monopoly, export controls, or membership in an international food cartel—all devices that are unattractive in the U.S.

Nevertheless, says a high State Dept. official: "Agripower is there. The Soviet grain deal was significant. That really signified throughout the world that it exists. Its a perception of that power that will bring about a change in attitudes, and clearly the U.S. has a greater monopoly in grains than any OPEC nation has in petroleum."

This official already sees the impact of U.S. grain power in Eastern Europe. Expanding livestock herds and concurrently supplying large amounts of grain to Eastern Europe is proving too much for Soviet agriculture. "They committed themselves to making available amounts of grain that are not sustainable," he says, pointing out that this year "the Soviets are practically out of this." The East Europeans are turning more to the U.S. Poland, a nation that has experienced food riots, would normally have gotten 2 million tons of grain from Russia. This year it will probably get none from Russia. This week Butz announced that the informal agreement with the Poles calls for shipments of at least 2.5 million tons of U.S. grain annually for five years.

Even some State Dept. officials who decry the use of food power recognize that it has potential. One of them argues initially: "Grain power is power over people who are hungry—people we don't want to push around anyway." He says wryly that the Russian grain deal might "get us as much oil as the Finns use." Still, he concedes that "we could make OPEC look sick if we were just to use what our agriculture gives us."

Even though the State Dept. has usurped some of his power, Butz is the Administration's most outspoken proponent of food power. He sees two contesting commodity powers in the world—agripower and petropower. "In the long run," says Butz, "agripower has to be more important than petropower. The single most important way we have of communicating with two-thirds of the people in the world is food."

Butz gives two examples of how, as he says, "food talks." Referring to Kissinger's Mideast peacemaking efforts, Butz says: "The Russians could have blocked that agreement between Egypt and Israel when Henry was shuttling back and forth." The reason they did not, the Secretary contends, is that they needed millions of tons of U.S. grains, and "they knew it was no time to be fooling around." Asked if there was such a link between the Mideast peace agreement and the Soviet grain deal, a high State Dept. official conversant with both negotiations concurs in one word: "Undoubtedly."

The Agriculture Secretary also credits much of the warm-up in U.S.-Egyptian relations to food. When he visited Egypt a year ago, he says symbolically, "I had a little wheat in my pocket"—in fact 200,00 tons worth $37 million. According to Butz, President Anwar Sadat told him that if he could improve Egypt's infrastructure, it would increase political stability and turn the country's mind away from war with Israel. On the spot, Butz signed an agreement that allowed Sadat to sell the wheat in Egypt and use the proceeds for such things as road construction. "That's agripower, and the tool is food," Butz, says with satisfaction.

One of the bluntest assessments of U.S. Food power comes from Presidential aspirant John Connally, the former Treasury Secretary, who told Business Week recently that the nation is too soft with other countries, acting "as if our needs had no bearing on their needs." Connally poses the question: "When the Soviets want 9 or 10 million tons of wheat, what's wrong with saying, 'That's fine, we'll sell you wheat but we want oil.' What's wrong with that?"

IMPACT ON GENEVA

Lester Brown, a former Agriculture Dept. official who is now president of Worldwatch Institute, a research organization that focuses on food and related problems, says: "The issue is not whether food represents power, but how that power will be used." most countries, Brown notes, depend on Canada and the U.S. for a part of their food supplies. Thus the two should allot their food exports liberally to countries doing a good job of increasing their food supplies and give sparingly or not at all to food-production laggards. "Agricultural mismanagement, wherever it occurs, has become a luxury which the world can ill afford," Brown says.

One benign application of U.S. food power would be a proposal by Senator Adlai Stevenson III (D-Ill.) to ration U.S. grain exports in times of shortage. Stevenson, who breeds Simmenthal cattle on his 1,000-acre Illinois farm, says he has trouble talking about food power because "you begin to sound as if you want an OPEC for corn." In fact, his idea does have some OPEC overtones. The crux is his belief that, when shortages occur, "America can control the world price and supply of grains" without turning to embargoes, as it has done with wheat and soybeans in the past three years. Under Stevenson's plan, export fees would be imposed. "Fees would recapture for the U.S. the price premium which arises when exports are limited," he says. "Price would then distribute supplies abroad." The fees—"agridollars"—would be distributed in turn to poor nations to help them pay their food bills.

Because of its formidable capability to produce food, British historian Geoffrey Barraclough, who is teaching at Brandeis University in Waltham, Mass., contends that the U.S. is now regaining the diplomatic clout it lost during the Vietnam war. The intense demand for grains, particularly from affluent nations such as Russia and Japan, pushes world grain prices up, Barraclough says, but as the major grain exporter, the U.S. benefits by earning billions to pay its oil bill. Meanwhile, major industrial competitors of the U.S. are getting hit not only with big oil import bills but also with big food import bills. The trade result, says Barraclough, is more competitive price tags on U.S. exports.

Many officials are uncomfortable grappling with the implications of U.S. food power, For example, Nebraska farmer Clayton K. Yeutter, a former Assistant Secretary of Agriculture who is the deputy special trade representative at the Geneva trade talks, insists that the U.S. would win more enemies than friends if it tried to use food as a weapon. Still, he is unable to avoid its role as a trade lever in what he calls "supply-access" situations—"you buy food from us and we get access to your market."

An associate tells how Yeutter is already making shrewd use of food power at Geneva. When a foreign delegate turned to him and asked, "You are not going to embargo soybeans again, are you?" Yeutter, who is completely opposed to embargoes, commiserated solemnly, then responded: "Well, we certainly hope we won't have to."

Some food experts see limitations on how effectively the U.S. can flex its agricultural muscle. The moral arguments that Washington has made against petropower also seem valid for food power, says Don Paarlberg, the Agriculture Dept.'s chief economist. He disagrees with his boss, Secretary Butz, over the issue of food power politics. "I mistrust the use of food as an instrument of coercion in international affairs," Paarlberg says. But more significantly, he doubts that the U.S. has that much leverage in the world as he envisages an increase in agricultural productivity in other nations.

"Using food as a tool requires an extremely tight demand situation," says Patrick O'Brien of Paarlberg's staff. "If you happen to be sitting on a large supply in one short year, you're in good shape." But over the longer haul, he contends, you create a backlash: "You encourage every little producer to step up and do his duty." As an example, he cites the surging production of corn and grain sorghum in Thailand.

The Paarlberg-O'Brien position is amplified by economist Fred H. Sanderson, a senior fellow of the Brookings Institution. "Window dressing," Sanderson calls the Soviet grain agreement. "The tie with oil is completely meaningless, but the Administration can go to the public and say, 'We are doing something for you.'" Sanderson calls the food production potential of the developing nations "tremendous."

The Arab oil-exporting countries, in particular, are placing a high priority on expanding their region's agricultural output. Says a veteran Mideast representative for an American company: "The feeling I always get is that the Arabs know that if the West ever starts to have other sources of crude, we are going to get even in the next decade with food. They are terrified of this and are pouring money into Sudan." An Agriculture Dept. specialist on Africa, Charles Treakle, says of the Arab intentions: "They look on the Sudan as a possible breadbasket."

At 967,000 sq. mi., the predominantly Moslem republic of Sudan is the biggest country in Africa, substantially larger than Alaska and Texas combined. Only 11 million of its 200 million arable acres have come under the plow. So far Saudi Arabia, Kuwait, and Abu Dhabi have provided several hundred million dollars for irrigation projects and paved roads. One of the latter terminates on the Red Sea at Port Sudan, which could become the main port for food exports to the Middle Eastern oil-producing countries.

Not surprisingly, the most bitter criticism of U.S. food power politics comes from foreign sources. Says Holland's Addeke H. Boerma, the outgoing director general of the Food & Agriculture Organization: "The world will judge nations on their willingness to give food to nations in need much more than it will judge those nations who might withhold oil."

TRADING FOOD FOR COPPER

"It is absolutely unacceptable that a human need as basic as food should be manipulated for political ends," argues a European Community official, apparently overlooking his own organization's highly politicized common agricultural policy. The EC's commissioner for agriculture, Pierre Lardinois, recognizes the growing sensitivity of food and claims that nations are accepting the concept that "grain is not just the same thing in world trade as sewing machines."

Some Europeans think agripower just cannot be exploited. Franz-Josef Speck, head of foreign policy for Germany's agriculture ministry, says the EC can only give away a million tons of surplus skimmed-milk powder that developing countries need "because there's no buying power on the other side." Speck says: "To use food as a club to wield power simply isn't in the cards." His countryman, Herbert Hruhl, a Christian Democratic member of the German parliament, does not agree. Hruhl says: "In a few years, money will not be playing much of a role in these transactions. If Zaire or some other country needs a million tons of wheat, it will have to pay with copper, for example."

The Japanese, who must import 80% or more of crucial commodities such as wheat, barley, soybeans, and sugar, are particularly bitter that a politicizing of food could put them under even more pressure. "Japan lived on rice once and could live on rice again," declares Morihisa Emori, a commodities expert for Mitsubishi Research Institute Inc. Anyway, Emori rationalizes, "The U.S. must sell because it has grain surpluses and needs overseas sales for its balance of payments."

In economic terms, the possession of food power is proving a mixed blessing for the U.S. The trade benefits have been overwhelmingly positive since 1970. At that time, the trade balance of nonfarm products began to show heavy deficits while the balance of agricultural exports and imports began to zoom upward as world food supplies grew shorter and a depreciating dollar made U.S. farm goods a bargain. Through last year, the increase in the positive food-export balance was elevenfold, counting both commercial and government concessional food exports. Taken alone, the commercial food balance increased more than a hundredfold. Each year agricultural exports have set a new record. In 1975–76, farm exports are expected to total $22 billion, up from $21.6 billion last year. The U.S. farm sector will account for a positive agricultural trade balance of $12.7 billion, according to current estimates. This will cover about half a year's oil imports.

It is a different story on the domestic price front. The 14% food-price inflation that aroused consumers in both 1973 and 1974 is attributed in large part to the U.S.'s assuming its expanded role of major food purveyor to an increasingly hungry world. In particular, the massive Russian grain purchases of 1972 and 1973 are blamed because they emptied the U.S. granary.

FARMERS' DILEMMA

Economics professor George E. Brandow of Pennsylvania State University calculates that selling the Russians 20 million tons of grain in the next 12 months would raise retail food prices an additional 2.4%, adding some $4.5 billion to the national food bill. (Actually, the Russians are expected to buy a few million tons less.)

Certainly massive foreign grain sales have been a two-edged sword for farmers, depending on whether they produce cattle or grains. Garden City, Kan., provides an unusual focus on grain and cattle production today. Outside the town, grain fields that flow to the horizon are spotted here and there by large feedlots, where pen riders—the Kansas cowboys—shuttle fat steers from pen to pen.

Sitting in the Garden City Cooperative Grain Terminal, Ralph "Pete" Beckett, a tall, calm wheat farmer of 57, says easily, "I've kind of struck it rich." Beckett raises wheat, corn, sorghum, and hay on 1,700 acres of land he owns or leases. "Détente was the big watershed," he explains. "My income practically doubled in 1973 (after the first Russian grain sale). In 1974 it was good, and it will be good this year." Ten years earlier, Beckett was raising cattle. "That's what saved my bacon—when I got out of that," he says with relief. However, Beckett says he does not really feel rich when he considers the way costs are rising for fuel, fertilizer, tractors, and machinery. "We've got to have $4.50 or $4 for wheat to come out," he says. (This week, wheat was bringing about $3.52 a bushel in Chicago.)

Down the street in the Wheat Lands Motor Inn, where Garden City's now-affluent farmers congregate to talk business and eat the inn's celebrated hotcakes, wheat farmer Charles Drew was complaining about the Russian grain deal. "One thing that disgusts me," Drew protested, "was for us to raise this record 2.1-billion-bu. wheat crop after they said 'plant fence row to fence row,' and then they turn around and impose export controls on grain sales to Russia and Poland."

Clyde Mercer, a grain farmer held in awe because he raised some 226 bu. an acre of irrigated corn (average in his county last year): 108 bu. an acre) conceded that he could really raise wheat for $1.72 a bu., but only because 10 years ago he bought nearly half of the 2,000 acres he farms for $94 an acre. The world demand for U.S. grains has done something to the price. "The other day I was offered $1,180 an acre for it," Mercer reported. Like Drew, Mercer considers Under Secretary Robinson's grain deal to be meddling, although he is aware that consumers were demanding something to offset the inflationary impact of big grain sales. Recently, he and his wife took an autumn bus tour of New England. "I was the only farmer on that bus, and I never met such hostility in my life," Mercer recounts.

On the edge of town at the Brookover feed lots, a huge sign stands astride four towering feed tanks. It reads: "Eat beef. Keep slim." It is the idea of owner Earl C. Brookover, himself a tall, heavy-set man who has made money in irrigation and natural gas and made and lost some in cattle feeding. His lots handle more than 100,000 cattle a year. Brookover is a survivor of what Kansas cattlemen call "the wreck" of 1973, when feeders were holding record numbers of cattle, the 1972 Russian grain sales doubled feeding costs, meat prices were frozen, and housewives were boycotting beef.

"We went into a tailspin," Brookover says. "We lost money for 20 consecutive months." Now profits have caught up with costs, and Brookover concedes that "we are making some money this year." He figures he can live with the Russian grain agreement if it stabilizes prices, even at a high level.

But what bothers Brookover is that the State Dept., which he thinks does not have the best interests of farmers at heart, seems to be taking over agricultural policy. If this is the case, Brookover and other farmers worry whether all the big thinking about food power will be tempered by the down-to-earth fact that U.S. farmers, processors, dealers—the whole agribusiness complex—are in the business of growing and selling food to the rest of the world. They want to sell the most they can for the highest price they can get. And they are going to be very unhappy, like any other businessmen, if too much of their freedom to do business is sacrificed to other national objectives.

SUPPORT FOR JUDGE STEVENS

Mr. BAYH. Mr. President, yesterday the Judiciary Committee completed its hearings on the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court. I have now reviewed the testimony presented at those hearings, as well as the opinions of Judge Stevens, his other legal writings, his medical records, his financial statements and income tax returns, his former client list, and the ABA and FBI reports on him. Based on my review of this information, I have decided to support Judge Stevens' nomination.

My decision to support this nomination is not based on ideological kinship. Indeed, certain of my positions directly differ with those taken by Judge Stevens in his opinions as an appellate judge and his testimony before the Judiciary Committee. His views, in particular, on equal justice for women do not demonstrate the type of empathy and concern that I would prefer in a Supreme Court Justice. For that reason alone, if the choice had been mine, Judge Stevens would not have been the nominee. My nominee would not only have been someone who had greater understanding of the real nature of the discrimination faced by women in our society today, but would also have been someone whose general beliefs and convictions more closely mirrored those of the two previous holders of this seat on the Court—Mr. Justice Douglas and Mr. Justice Brandeis.

However, I do not believe it responsible to oppose a nominee solely because that nominee's views differ in part from mine or the nominee's predecessors. Therefore, in deciding whether to support Judge Stevens, I did not simply compare his views with mine or with William Douglas or with Louis Brandeis. Rather, I carefully considered whether this nomination ran afoul of the same standards I used in deciding to oppose the nominations of Judge Haynsworth, Judge Carswell and Mr. Justice Rehnquist. It is clear to me that it does not.

First, I considered whether Judge Stevens was intellectually and professionally qualified to sit on the Nation's highest tribunal. It was, of course, the distinct absence of such intellectual and professional qualities that forced me to oppose the nomination of Judge Carswell. Judge Stevens is an individual whose intellectual abilities and professional achievements are substantial. That fact is undisputed by everyone who knows Judge Stevens or has examined his record.

Second, I considered whether Judge Stevens has demonstrated the personal and judicial integrity expected of a Supreme Court Justice. As you know, Mr. President, it was the lack of such propriety that led me to oppose the nomination of Judge Haynsworth. Judge Stevens is clearly a man of great integrity. In his service on the Seventh Circuit Court of Appeals, he has scrupulously observed the highest standards of judicial propriety. In this respect, he can serve as a model for the entire Federal judiciary.

Third, I considered whether Judge Stevens' views demonstrated the kind of gross insensitivity to the rights, liberties, and protections guaranteed to individuals by the Constitution. It was such extreme insensitivity that forced me to oppose the nomination of Justice Rehnquist.

I must say I am troubled about Judge Stevens' opinions in cases involving the efforts of women to overcome discrimination. I have heard some people interpret Judge Stevens' statement that the equal rights amendment has more symbolic, than legal significance to be an indication that he would take an expansive view of the protection extended to women as a class by the 14th amendment to the Constitution. But given the substance of his views in *Sprogis* v. *United Air Lines, Inc*,. 444 F. 2d 1194 (7th Cir. 1971), and in his opinion in *Doe* v. *Bellin Memorial Hospital,* 479 F. 2d 756 (7th Cir. 1973), I tend to share the concern of women who have expressed doubt as to the likelihood that Judge Stevens will take such an expansive view.

The position taken by Judge Stevens in his dissent in Sprogis was rejected by the Supreme Court in *Phillips* v. *Martin-Marietta Corp.,* 400 U.S. 542 (1971). Given this fact, Judge Stevens' insistence before the Judiciary Committee that he would not in retrospect change his opinion in Sprogis seems peculiarly defensive.

While, as I have noted, Judge Stevens' views on the rights of women are in certain cases deeply troubling, I do not think they are as objectionable as I found Mr. Justice's Rehnquist's views on the first amendment. On balance, I cannot conclude that Judge Stevens' views on women's issues are of such magnitude to deny him confirmation.

With respect to the rights of groups other than women who have often received less than equal treatment before our courts, I am also satisfied that Judge Stevens, while holding somewhat more restrictive views than mine, does not evidence anything approaching a general insensitivity. In fact, in certain areas, his opinions and testimony indicate empathy with the rights and aspirations of minorities.

Mr. President, for the reasons that I have just outlined, I have decided to support the nomination of Judge Stevens before the Judiciary Committee and the Senate, and I am hopeful that this nomination can be soon confirmed and the Supreme Court restored to full membership.

WORLD ECONOMIC ORDER

Mr. FANNIN. Mr. President, a recent article published in the Petroleum Economist, a scholarly British journal, deals with the subject of world economic order. Notwithstanding the problems that we are facing in this Nation in dealing with the advocates of income redistribution, the Third World efforts at achieving the same objective on an international scale make U.S. efforts seem trivial by comparison.

Our private enterprise system has given all its practitioners higher standards of living, while the Socialist system has stagnated. Yet, many in the Third World want to adopt programs that will perpetuate inflation and arbitrarily transfer wealth which, in the end, will destroy the economic well-being of the free world—developed and underdeveloped. OPEC's moves toward "indexing" oil and other commodity prices is one good example of what not to do, and this article makes the case.

I commend this excellent article to my colleagues and ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Petroleum Economist, December 1975]

In Search of Economic Order

Since the sixth special United Nations session in the spring of 1974, many deliberations have been held in various international bodies on the need to establish a "new international economic order", designed to remedy the problems of poverty and development in the Third World. These have now culminated in the agreement to hold a Conference on International Economic Co-operation in Paris on 16th and 17th December to discuss world economic problems covering energy (including oil and probably gas), raw materials, development, and monetary and financial affairs.

The roots of this desire by developing nations for a new course in international economic relations can be traced as far back as the Bandung Conference in 1955 and, more recently, to the formation of the Group of 77 in 1971. But more particularly, it was the success of the OPEC nations in taking over control of oil supply and prices in late 1973 which has inspired the developing countries to seek what in essence amounts to a greater transfer of wealth from the industrialised countries with free market economies. At the recent IMF/World Bank meeting, the chairman (Mr Gumersindo Rodriguez of Venezuela) summed up the feelings of developing nations by warning that the "old international economic order" that had benefited the more affluent countries since the 1944 Bretton Woods agreement must give way to a new system more sensitive to the needs of poorer countries.

TOO SUCCESSFUL

In a sense, the "old international economic order"—based on the monetary principles of fixed parities and the dollar standard and on the commercial principles of non-discrimination and free trade—has been too successful. For it led to rapid economic expansion and high living standards in the industrialized nations with market orientated economic planning. This structure of international economic relations came under increasing pressure after the USA suspended the convertibility of the dollar into gold in August 1971. The general currency float followed in 1973, then came the huge rise in OPEC oil prices, and since early 1974 the industrialised nations have sunk into deepening recession.

Yet the developing countries still pin their hopes on the non-Communist industrialised countries. Mr. Rodriguez and others have asked them to adopt stimulative fiscal and monetary policies leading to economic expansion in order to promote the quickest possible improvement of Third World economies. Significantly, the Paris conference of eight industrialised and 19 developing nations excludes the Communist bloc.

This is not surprising since the "new international economic order" which the Third World is seeking depends crucially upon maintaining the dynamism of market oriented economies which have shown the best track record to date in terms of economic growth and high living standards. The leaders of developing nations know full well that the economic expansion of their societies depends primarily on the greater transfer of money and technology from the Western countries and Japan.

Supporting the Communist Bloc

The facts are that 75 per cent of the Third World's external trade is with the OECD countries and only about five per cent with the centrally planned Communist economies. Although Communist countries are increasingly more active in international trade, they are also leaning heavily on Western and Japanese credits and technology to sustain their large programmes of industrialisation and modernisation. The recently released "Economic Bulletin for Europe, Vol 27" of the United Nations states that Western credit for the Soviet Union's development of energy and other industrial materials which can be exported to the West amounted to some $8 billion during 1974 and the early months of 1975. (On 28th October, Italy granted the Soviet Union $900 million credit for buying industrial equipment, to be repaid over eight years at 7.55 per cent interest per annum.)

The report discloses that the Soviet Union is becoming increasingly active in the Eurodollar market and that other East European countries are also borrowing heavily from the West. Hungary has even become active in placing bonds in the Euro currency market. The report predicts that the Communist countries of Eastern Europe will need large amounts of foreign capital and Western technology for their 1976–80 programmes.

It is clear from all the deliberations in the UN and other international bodies that the developing countries are not involved in an argument with the Communist bloc about improvements required in the international distribution of income. Their argument is with the rich countries of the OECD which have all done well by broadly following the basic principles of economic liberalism and free trade.

In simple terms, the coming economic dialogue is going to be a negotiating contest over the wealth which the OECD has been capable of generating. The negotiators, including those Western statesmen who increasingly are leaning towards statism in their economic planning, will have to find compromises which will lead to more rapid growth of the developing economies and thus to higher earnings, without undermining the OECD economies from where the wealth has to come. Any new system of international economic co-operation will have to avoid the pitfall of too much paralysing interventionism, through complicated and rigid price fixing and indexing schemes for all commodities, rather than direct cash transfers to the poorest nations which have little scope for earning enough from commodity exports. Such price-rigging schemes could lead to declining consumer markets and underutilised productive capacities of raw materials as well as of finished goods.

Contrary to the general assumption, the developing countries do not dominate the supplies of raw materials (excepting oil). According to a survey by the West German Federal Geosciences and Raw Materials Institute, the world's proven reserves of raw materials are more or less equally divided between the OECD, the Third World and the Communist bloc. Taking current world mineral production, the developing countries account for only 28 per cent and the market economy countries 45 per cent. The products for which the Third World accounts for more than 50 per cent of world exports are relatively few in number, *ie* tin, copper, bauxite, manganese, sugar and cotton.

INTERNATIONAL DIRIGISM

Probably the best advice was given to a special UN session on proposals to aid the poorer countries by the West German Foreign Minister (Mr. Hans-Dietrich Genscher), representative of a country which has done better than most to build up a rich economy from utter ruins and which is weathering better than most the current recession. Presenting a comprehensive nine-point plan for assisting the Third World's development, he told his audience bluntly that the complicated task of co-ordinating the world economic system could only be carried out with the help of the steering principle of the free market. It would be utopian and dangerous to try and solve the world's economic problems by international dirigism, Mr. Genscher warned.

The rub is, of course, that the developing countries have expressed no faith in the free international market mechanism which they say has worked more in favour of making the rich countries still richer. They dream of commodity producers' cartel arrangements of high prices such as producers of oil, tin and recently cocoa have achieved. But, as Mr. Genscher pointed out, fixing prices independently of the long-term market equilibrium price could only be maintained by restricting production and exports. The transfer of wealth would not be served because some key industrialised countries are also raw material producers.

The Genscher plan proposes opening the market of the OECD countries more than in the past to products from developing countries, providing low cost credits to countries whose commodity export earnings have declined, accelerating the industrialization of the Third World and vigorously increasing its food production, stepping up the flow of private and government capital to the poorest countries, facilitating the transfer of technology, and restructuring the international monetary system by promoting the role of the IMF's special drawing rights.

THE LOMÉ MODEL

The world indeed needs economic initiatives which do not lead to further economic stagnation and decline of consumption of raw materials and finished goods. The peoples of the developing countries want more growth and higher living standards, while those in the industrialized countries want to maintain their hard-earned affluency. The Paris negotiators have an immense task of reconciling the economic ambitions of over 150 countries which must learn to share their resources as equitably as is humanly possible. Before them is a new model of such co-operation between the EEC and some 46 developing countries, now bound together in economic co-operation under the terms of the Lomé Convention of 28th February, 1975, guaranteeing financial aid from the European Development Fund should earnings from a dozen listed commodities fall more than 7.5 percent below the average of the previous four years. The agreement also covers development aid, industrial, financial and technical co-operation, and provisions for capital movements.

These are practical steps in the right direction, as distinct from political rhetoric or the passing of well-meaning but impractical resolutions which have marred some international conferences. This is a danger which will certainly exit in Paris, especially if the OPEC states insist on leading a move towards indexing oil and other commodity prices to the rate of inflation in the industrialized countries. Such a course at the present time would only perpetuate inflationary trends; it is debatable whether a system based on that premise would best serve the interests of all, but in any case it would only be workable when the industrialised countries solve their own individual inflation problems.

DR. EDWARD LAWRIE TATUM

Mr. JAVITS. Mr. President, a memorial service for Dr. Edward Lawrie Tatum, a Nobel Laureate and a professor at Rockefeller University, will be held today, December 11, at 11 a.m. in Caspary Auditorium of the Rockefeller University, 66th Street and New York Avenue, New York City. Dr. Tatum died on November 5 at his some in New York after an extended illness.

Dr. Tatum, a biochemist, was one of the three recipients of the 1958 Nobel Prize in physiology and medicine, with Dr. George Wells Beadle and Dr. Joshua Lederberg, for pioneering work on the structure and function of the gene. The experimental work by Dr. Tatum and Dr. Beadle indicated that each individual gene, the chemical unit of heredity, is responsible for specifying the makeup of each individual protein, the building blocks of living material. Their research established one of the basic premises from which modern genetics has evolved.

Born in 1909 in Boulder, Colo., Dr. Tatum received his undergraduate degree from the University of Wisconsin in 1931, and his Ph. D. in biochemistry from the same university in 1935. From 1937–44 and 1949–57 he was a member of the biology faculty of Stanford University, successively as a research associate, assistant professor, professor, and chairman of the department. He was on the staff of Yale University as associate professor of botany, 1945–46, and as professor of microbiology 1946–48. He joined the Rockefeller University in 1957.

Dr. Tatum served as a civilian with the Federal Wartime Office of Scientific Research and Development in 1944. He was a member of the National Science Board, the governing body of the National Science Foundation, for two terms—1956–68.

He also served on the United States-Japan Joint Committee on Scientific Cooperation. Dr. Tatum helped to initiate one of the continuing activities of the United States-Japan program, the exchange of eminent scientists between Japan and the United States.

At the memorial service at the Rockefeller University on December 11 Dr. Tatum's colleagues will pay honor to him. Dr. Beadle will present a paper on the highlights of Dr. Tatum's research, including the work on which the two men collaborated that led to the 1958 Nobel Prize.

Dr. Tatum is survived by his wife and his two daughters, Ms. Barbara Tatum and Ms. Margaret Easter, who live in California. I express my profound condolences to his wife and family.

Mr. President, it is with sadness that we mark his passing, but it is with pride that the science community and the Nation can remember Dr. Tatum's accomplishments and contributions.

OLDER AMERICANS AMENDMENTS OF 1975

Mr. BAYH. Mr. President, it has been my pleasure to cosponsor and wholeheartedly support legislation recently signed into law, the Older Americans Amendments of 1975, which is of signal importance in our efforts to recognize and meet the needs of our senior citizens. I have not had the opportunity to comment on these amendments since they became law, but I would like to take a moment now, if I may, to review the merits of this action, and its benefits to the American people.

Mr. President, every week I receive approximately 300 letters from our older citizens telling me of the problems they face in living on fixed incomes while attempting to deal with ever-increasing costs in making ends meet. I am honored to say that these letters are sent to me from proud people, who are used to earning their keep, people who are simply asking their elected Government to recognize their needs along with those of other citizens, and support them in their efforts to be self-sufficient. These hopes have been heard and acted upon by Congress, which committed itself to the task of meeting the needs of our elderly some time ago. In 1965, we passed the Older Americans Act, the first comprehensive Federal legislation directed to the elderly beyond medicare and social security. I am pleased that we have now reaffirmed our commitment to this task, and further refined the law to improve and extend the administration of services for the elderly.

Mr. President, the Older Americans Amendments extend the authorizations of our earlier legislation, and build upon this sound foundation with strong efforts in new directions.

In extending earlier authorizations, the new law continues basic grant authority for another 2 years in order that State and local agencies may continue programs that have proven so valuable. We now have over 400 area agencies in regions populated by over 70 percent of the elderly. These local agencies serve as hubs for a comprehensive network of services, and it was most important that funding for them be continued. This new law also extends authorizations for senior community center programs, and community service employment programs for older workers. In requiring the Secretary of Labor to maintain older workers job program activities levels, our action gives preference to experienced national organizations that have carried on such programs in the past. In addition, remaining funds will be distributed in a way that takes into account the number of low-income older workers in each state.

It seems to me that the latter program, the community service employment, will be supported and amplified by another provision of our new law, the extensions through fiscal 1978 of the Retired Senior Volunteers program, the Foster Grandparents program, and the Senior Companions program run by ACTION. I am certain that drawing upon the experience of our older Americans will go a long way toward helping our younger citizens gain the perspectives they need to solve community problems and will set a strong example of our commitment to what must be a national policy of full employment, with no one in America denied work when in need of a job.

Moreover, this legislation has taken new directions in helping our elderly manage those unique problems caused them by inflation by setting priorities for use of granted funds and placing emphasis on specific programs that are of immediate need. Emphasized are home medical and in-home assistance programs, transportation programs, legal and tax counseling, and home repair and renovation. Mr. President, I would like to briefly comment on these important steps forward in national policy and show how they are tailored to very real needs.

Our action gives special priority to home services programs, since our aged must frequently bear the expenses and inconveniences of institutionalized care, simply because they cannot secure adequate care at home. Emphasis on providing adequate home care will help our elderly in their efforts to be self-sufficient.

In addition, even when the aged are well and living at home, they are often prevented from utilizing existing programs aimed at assisting them, solely because they are trapped by the costs of transportation, a major item in many senior citizens' budgets. This lack of adequate transportation is also targeted for priority grants.

Furthermore, Mr. President, the older Americans amendments provide for special emphasis on legal and tax counseling programs. As an attorney, I know that even while we work to reduce and streamline Government paperwork, the elderly are confronted by complicated, confusing regulations in ways no other sector of our population encounters. Their lives are often dependent upon cutting through a maze of regulations governing pensions, social security, medicare, and other necessary programs, confusing even to the most educated laymen. By providing proper legal advice, we insure fair treatment for our elderly, who might otherwise lose what is due to them in a forest of redtape.

The last of these priority granting procedures is addressed to helping the elderly repair and renovate their homes, since, as we all know, the costs of maintaining a home and performing virtually all construction work have been especially boosted by inflation. Also encouraging is that the older Americans amendments include provisions giving States optional choices in directing their grants to these priority programs, so that existing activities will not be injured by withdrawn support.

Mr. President, I hope that the President's signature on this bill is an indication that the administration is prepared to reconsider its earlier positions on several important issues, and take better account of what its fiscal policies imply for the elderly in this country. This past year has been a particularly bleak one for our older citizens. Unemployment for persons over 55 has soared. Increasing property taxes have made it impossible for many senior citizens to keep their homes. On top of this, the Ford administration has been remarkably insensitive to the needs of the aged. Despite solid evidence of their vital importance, attempts have been made to reduce scheduled increases in social security, and to make drastic cuts in benefits under medicare and the food stamp program. Ignoring serious unemployment and high food prices, the President proposed cutbacks in the elderly manpower and nutrition programs. He continues to call for increased fuel prices without accounting for the 20 million older Americans who would be most injured by such increases.

Finally, and most seriously, in increasing the costs of medical care, rent and food to all consumers, inflation has hit our elderly especially hard, and has forced them to trim their budgets again and again, as they watch the buying power of their fixed incomes continually diminish. Spiraling costs have frequently meant that more and more older people have been unable to assemble sufficient funds to buy adequate meals or nutritious food.

Fortunately, our new law increases authorizations for nutrition programs for the elderly, some of the most popular programs that I have witnessed in a long time. Under title VII of the Older Americans Act, nutrition services are provided to senior citizens in friendly, congregate settings. In addition, meals on wheels, a program which has proven highly successful in Indiana, are provided for those unable to reach meal centers, and gain access to nutritious food. In extending and improving this well-conceived program, the Older Americans Amendments of 1975 required the Secretary of Agriculture to increase the value of food commodities, and purchase meats and other high protein foods.

In closing my remarks, Mr. President, I point out perhaps the most encouraging aspect of this law, its firm commitment to future support of our older citizens. By authorizing the Commissioner on Aging to make grants for training personnel to help the elderly, this law will work to insure that future programs will not lack properly trained staff, and will help to create a pool of professionals equipped to deal with the special problems of the aged. Finally, perhaps the most far-reaching provisions of the older Americans amendments is the prohibition of unreasonable discrimination on the basis of age in federally funded programs. Implementation should come about as soon as possible.

It is crucial we assure the aged that at least one branch of their Government will remain responsive to their problems, and truly cares. The provisions recently passed into law represent the continued congressional commitment to the vital health needs of all Americans, and the continued congressional acceptance of the leadership role that has fallen on our shoulders in meeting the needs of the elderly, as it has in so many areas.

Mr. President, I wish to again commend my colleagues in acting effectively on this legislation, and pledge my continued support for steps toward a national policy that treats our senior citizens as equal citizens, and heeds their requests for proper recognition.

ON THE DOLE

Mr. FANNIN. Mr. President, I am very concerned about the efforts of bureaucrats who seem intent on somehow getting everyone possible on the dole. Efforts to recruit people to quit their jobs to collect welfare are detrimental to the people involved and to the country as a whole.

In the December 8, 1975, issue of Industry Week magazine, Consulting Editor Walter J. Campbell wrote an editorial citing what is happening regarding welfare recruitment. Mr. President, I ask unanimous consent to have this editorial printed in the RECORD for the benefit of our colleagues who are concerned about the need for welfare reform and general reform of our bureaucratic structures.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNCLE WANTS YOU: ON THE DOLE

WHISPERING PINES, N.C.— "My dad was a mechanic at Johnson's Garage. And he was a good one. But a government man came down from Raleigh and explained how dad could get $92 a week—tax free—if he wasn't working. The government man showed him he'd be better off if he quit his job. So he did, and he isn't doing anything now."

Such was the reply a young soldier on furlough gave to our question while he was hitchhiking a ride with us from the Raleigh-Durham Airport to his home near here.

A few days later we dined at a locally famous restaurant. The food, usually superb, was no more than mediocre. The owner explained: his cook of 18 years' standing had tearfully quit. Seems that a government man from Raleigh had explained she could get $92 a week—tax free—if she quit.

Both the mechanic and the cook had been drawing $125 a week in wages—not much if you are a New York garbageman, but pretty fair in this rural area.

The spectacle of federal bureaucrats busily recruiting people away from productive jobs to go on the dole fills us with a sense of outrage. That outrage is heightened as we view the rise in transfer payments. Transfer payments is official Washington jargon for taking money from people who have worked and produced and earned and giving it to people who don't work, produce or earn.

This year, transfer payments will soar to $180 billion.

That is equal to the total federal, state, and local tax take of 1965.

The federal government appears to be in a headlong rush to follow New York City into the abyss of financial irresponsibility.

But there will be no one with the resources to bail out the USA.

Solution: Let there be a groundswell of public indignation and outrage forcibly expressed that will give Congress the guts to say "No" to piling more expensive social programs upon expensive social programs.

Before it is too late!

WALTER J. CAMPBELL,
Consulting Editor.

THE ALLOCATION TO THE NORTHERN TIER OF CANADIAN OIL

Mr. HUMPHREY. Mr. President, as most of my colleagues know, Canada now intends to cut off all oil exports to the United States by 1981. This will affect about 50 refineries located along the border from Washington State to New York in varying degrees.

While all of them must locate alternative oil sources, some can do so only with great difficulty. In fact, some 14 or 15 Northern Tier refineries have no access at all to oil except through Canada. These Canadian-dependent refineries must find new oil supplies; more significantly, they must also construct new oil transportation facilities to bring this new oil to their refineries—at least a 2-year job.

Unfortunately, the Canadians have scheduled reductions in their oil exports between 1976 and 1981. By mid-1976, for example, only 50 percent of present export levels will be available to American refineries. And in 1977, only 33 percent of present export levels will be available.

If priority allocations of Canadian oil exports are not made to Canadian-dependent refineries, the Northern Tier faces economic disaster. Refineries in this area cannot possibly replace the declining volume of Canadian oil within 2 years. It will take at least 2 years to construct new oil pipeline systems—systems to supply oil to replace Canadian exports.

In recognition of this fact, the Federal Energy Administration has proposed to allocate Canadian oil to Canadian-dependent refineries. The objective is to prevent economic disruption in areas by Canadian dependent refineries. Such refineries would receive a priority claim on Canadian oil as its volume diminishes through 1981.

The Federal Energy Administration conducted hearings Monday and Tuesday on their proposed program for the mandatory allocation of Canadian crude oil. I ask unanimous consent to print my remarks at that hearing in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

The proposed Federal Energy Administration's mandatory allocation plan for Canadian oil correctly recognizes that some present domestic users of Canadian oil can more easily acquire replacement oil than can others.

It will assign a priority right-of-access to Canadian oil exports to Canadian-dependent refineries who can least easily acquire replacement oil.

It is designed to give these Canadian-dependent refineries sufficient time to arrange for permanent new oil supplies and to set in place the necessary new transportation networks.

The effect of the proposed FEA allocation plan, therefore, is to minimize unemployment associated with the Canadian oil export curtailment.

I endorse the basic concept embodied in the proposed FEA allocation plan that Canadian-dependent U.S. refineries receive a priority right-of-access to Canadian oil exports.

And I endorse the concept that Canadian oil acquired as the fruit of intercompany swaps by Canadian-dependent refineries not be counted against the allocation otherwise available to these refineries under the proposed FEA allocation plan.

Promulgation of the proposed FEA allocation plan in its present general form is of vital importance to my own State of Minnesota. It receives 60 percent of its petroleum products from Canada through refineries in Duluth, Superior, and the Twin Cities area. Petroleum now provides about 46 percent of all energy used in Minnesota. So as a result, Canada currently provides 27 percent of all energy used in Minnesota.

If the FEA's proposed allocation plan in its current general form is not promulgated, Minnesota faces an immediate economic crisis. By June 1976, fully 13 percent of all energy now used in Minnesota will be cut off as Canadian oil imports decline to 50 percent of current levels. By January 1977, almost 20 percent of our current energy supply will be cut off.

There are some short-term steps we can take, of course, to ameliorate modest energy shortfalls. Oil companies could use barges, rail cars, and tank trucks to replace Canadian oil.

These interim steps would be expensive.

One oil firm has suggested, in fact, that these alternatives would cost as much as $1 per barrel in higher transportation costs—or some $70 to $80 million annually by 1977.

But higher oil prices would be only the tip of the iceberg.

It is simply impossible for alternative transportation systems to carry even one-half the likely oil shortfall in 1976 and 1977 in Minnesota—in the event the proposed FEA allocation plan is not promulgated in its present form.

Conceivably a shortfall of as much as 80,000 to 100,000 barrels per day could occur by mid-1976—a quantity we in Minnesota cannot possibly replace using coal, natural gas, or propane. By 1977 this shortfall could reach 120,000 barrels per day.

Minnesota would face an energy and employment crisis. Facilities to transport a sufficient quantity of oil to replace these volumes of Canadian oil cannot conceivably be ready in less than two years. Therefore, in 1976, and especially in 1977, before new oil transportation facilities are ready:

Thousands of jobs would be lost—lost forever in some cases as firms permanently relocate;

A massive increase in welfare payments to the unemployed would occur—perhaps as many as 200,000 persons or 10 percent of Minnesota's labor force could be temporarily thrown into our State unemployment compensation system;

Economic development efforts in Minnesota would be thrown back years as new firms look elsewhere—as they look to States with abundant energy supplies; and

Production, conceivably worth $2 billion, 250 million or more would be lost forever.

At the same time, oil badly needed to keep Minnesota's farms in operation, and our offices and factories open, would be flowing to areas with ready access to alternative fuel resources.

Without the proposed FEA allocation plan, in other words, Minnesota and the Northern Tier would suffer an economic disaster—an economic disaster exceeding in degree or duration that ever suffered through an Act of God. And it would continue until the beginning of 1978—the earliest date when new pipeline to transport replacement oil can be in place.

Implementation of the proposed FEA allocation plan in its present general form is the only means available to give Minnesota the time necessary to avoid this economic disaster.

While I clearly and emphatically endorse the concept embodied in the proposed FEA allocation—and much of the specific plan itself—there are several substantive revisions I would like to propose.

These revisions are specifically suggested to ensure that the FEA allocation program does what it is supposed to do—that it provide Canadian-dependent refineries with sufficient time to find permanent sources of oil to replace Canadian oil.

First, the proposed FEA plan would allocate Canadian-dependent, first-priority refineries a total of 237,000 barrels of oil.

This is their base allocation amount.

It was derived from oil company data on Canadian oil usage in the six months ending on April 30, 1975.

The use of this base period as the sole determinant of allocation levels is inappropriate. It short-changes first-priority refiners who were totally dependent on Canadian crude oil in that period. The four Minnesota area refiners, for example, purchased an average of 183,000 Canadian barrels in that base period—a period when the entitlement's program did not adequately cover the cost of high-priced Canadian oil. The reduced usage of expensive Canadian oil was particularly pronounced by independent refiners who could not offset losses on Canadian oil purchases with revenue from domestic or lower-cost foreign oil. The four Minnesota area refiners, as a result, in that period bought less Canadian oil than usual, as much as 50,000 barrels a day less.

I suggest, therefore, that the Canadian oil allocation amount for first-priority refiners be revised upward by using a combination of the present base period and another variable which more accurately reflects the normal, historic level of Canadian oil usage by the Canadian-dependent refiners. This variable could be, for example, the first six months of 1973 or the most recent six-month period for which data is available.

I am aware that the proposed base period allocation amount of oil can be administratively revised by the FEA. Any substantive revision of base allocation amounts for first-priority refiners, however, should be set forth in the plan itself—and not left for later consideration.

Second, I understand that the Canadian Government does not intend to insist upon allocating its oil exports once the FEA plan is implemented. Canada is willing to leave the proposed FEA plan intact, although it would prefer that some 22.6 percent of available oil exports travel across the Transmountain Pipeline system to the Pacific Northwest.

It would violate the specific purpose of the proposed FEA plan to revise it in response to the Canadian preference for a fixed export share to flow through the Transmountain pipe system.

It would provide Canadian oil to second-priority refiners—refiners with alternative oil supplies—while some first-priority Canadian-dependent refiners do without that same or any other oil.

While I specifically urge the FEA to reject the Canadian suggestion, I do propose the following revision of the FEA's allocation plan: permit up to 22.6 percent of all Canadian oil exports to flow across the Transmountain Pipeline system to the Pacific Northwest as long as the full, base allocation amount of Canadian oil is available to first-priority refiners—those with no alternative oil supplies.

Certainly in 1976, during the most difficult transition period, this would result in the same quantity of Canadian oil flowing across the Transmountain system as would flow if the Canadian suggestion were adopted by the FEA.

Third, it is vital that first-priority Canadian-dependent refiners be allowed two full years to find oil to replace Canadian supplies. If these refiners are not provided with adequate allocation of Canadian oil for 1976 and 1977, the Northern Tier will suffer from energy shortages, lost production, and unemployment—which can be avoided.

Canada intends to make available enough oil for export in 1976 that all first-priority refineries will receive a full allocation. This is true even if the total amount of oil allocated to first-priority refineries is increased as I've first suggested—to a total of 275,000 or even 300,000 barrels per day.

Based on the Canadian National Energy Board's recent study and their unpublished data, however, Canadian oil exports will decline to about 238,000 barrels per day in 1977. This figure is derived using the NEB's formula $(E=[P(D+C)]1/10)$ with the following values assigned for 1977 by the NEB; $P=1.884$ million barrels/day, $(D+C)=1.304$ million barrels per day, $T=4.1$ years.

We, therefore, face the very real prospect that first-priority refiners in 1977 will not receive their full base period oil allocations. There will simply be too little oil available from Canada to supply all Canadian-dependent, first-priority refineries. This prospect becomes a certainty if, as I have expressly urged, the total base period allocating oil level for all first-priority refineries is enlarged to a realistic level.

The likelihood of this disastrous situation occurring is increased by the only preliminary nature of the NEB's 1977 P (producibility) value. As you know, the NEB sharply reduced oil exports for 1976—reduced them far more than they or others had anticipated last year at this time. In fact, the allowed 1976 oil export level is a large 75,000 barrels a day below earlier estimates. There is, therefore, a high probability that the NEB again next fall will cut 1977 oil export levels below current projections.

The result: despite the FEA's best allocation efforts, Minnesota and the Northern Tier face oil shortages in little more than one year from today.

First-priority refineries will be left high and dry. They would have only one year—not two—to acquire replacement supplies for Canadian oil.

One year is insufficient.

Two years is a just barely sufficient time period in which to establish these new networks.

The FEA's allocation plan must be revised to reduce Canadian oil allocations in 1976, and possibly in 1978 and beyond—with the savings shifted to 1977. Needless to say, negotiations on such a rescheduling of Canadian oil exports during the period 1976 to 1980 must begin immediately. And they must be conducted in a marked atmosphere of uncertainty with 1977 Canadian oil export availability not known until September 1976 at the earliest.

Let me emphasize, again, that first-priority refineries must receive two entire years of their full base period oil allocations. The FEA allocation plan must achieve this objective or it will fail in its purpose of providing Canadian-dependent refiners with the base period of time necessary to locate new oil sources and transportatiton facilities.

Fourth, the Canadian National Energy Board has proposed to vary the level of oil exports monthly for "several months" beginning in January 1976. These variations will occur as the Sarnia-Montreal Pipeline comes on line—and will fluctuate between 510,000 barrels per day and 385,000 barrels per day.

The proposed FEA allocation plan should allow for monthly allocations of Canadian oil, therefore, rather than semi-annual allocations during the expected transition period.

Fifth, in 1977 or 1978 when insufficient Canadian oil is availabue to meet base period allocations for first-priority refineries, the proposed FEA allocation plan would require first-priority refiners to bear any deficiency on a pro rata basis.

I disagree with this provision.

To stimulate an energetic search by first-priority refiners for swaps or other means to locate supplies to replace Canadian oil, I propose that the following provisions replace the *pro rata* procedure for allocating Canadian oil among first-priority refineries when deficiences exist.

1. First-priority refineries should receive a bonus amount above their base-period allocation, equal in amount to that expected to be acquired in the subsequent six-month period through swaps or exchanges with Canadian refineries; and, in addition.

2. First-priority refineries should receive allocations based on the relative transportation cost of alternative product to their traditional market.

Those first-priority refineries serving markets with relatively high transportation costs for products should receive a relatively large allocation—at the expense of those serving markets with relatively low product transportation costs.

Such a modification would insure that the lowest net cost for all oil to replace Candian exports is being achieved.

These suggested revisions do not in any sense distort either the general or specific thrust of the proposed FEA allocation plan.

Implementation of this proposed plan is critical to the continued economic wellbeing of the Northern Mid-West until supplies to replace Canadian oil can be found. And I urge the rapid promulgation of the proposed plan, with those modifications I've suggested here.

In particular, I am most concerned that provisions be made to insure a two-year, base-period amount of Canadian oil for first-priority refiners. There is simply no economic justification for allocating Canadian crude oil to second-priority refiners in 1976, when this results in first-priority refiners shutting-in-capacity in 1977, causing economic disruption.

Finally, in view of the possibly adverse environmental impact of the proposed FEA allocation plan in the Gulf of Mexico and the Puget Sound, I would strongly urge the preparation of an Environmental Impact Statement on the proposed FEA plan.

U.N. AMBASSADOR MOYNIHAN SPEAKS OUT

Mr. **BELLMON**. Mr. President, in common with many other Members of the Senate, I have long resented the abusive treatment which our country has received at the United Nations from representatives of other countries. This abuse has been especially irksome since our own Ambassadors to the U.N. have in the past sat silently and failed to point out the misrepresentations about the U.S.A. They also have failed to call attention to the negative aspects of actions which other governments take.

It is for this reason that I have been reassured and pleased by the recent statements made by our current Ambassador to the U.N., Mr. Daniel P. Moynihan. Ambassador Moynihan's recent conduct has demonstrated that the United States, while willing to admit its own imperfections, is no longer content to sit by silently while representatives of other governments, whose records are far from perfect, gleefully denounce us for any domestic or international difficulties which this country encounters.

Ambassador Moynihan's policy of speaking up to defend our Nation's honor and to point out the internal imperfections which other countries need to deal with before attempting to serve as American critics, is certainly in our own national interest. I heartily endorse his policies.

The Biblical admonition, "First take the log out of your own eye, and then you will see clearly to take the speck out of your brother's eye," applies here.

Ambassador Moynihan is speaking for the senior Senator from Oklahoma, and I believe for the vast majority of Oklahomans, as he stands up for the honor of this country and insists that other governments spend less time criticizing the United States and more time dealing with the injustices and inequities which abound in most countries of the world.

The world needs the United Nations. The United Nations needs the United States of America. No purpose is served when members of the United Nations devote their time to the unfair and unfounded attacks on this country.

This unfair treatment has seriously undermined America's support for the United Nations. Ambassador Moynihan, by speaking out strongly, has helped to restore domestic support for the U.N.—and to assure continued U.S. participation in the world organization.

HUMANE TRAPPING LEGISLATION

Mr. **BAYH**. Mr. President, on November 17 and 18, the House Committee on Merchant Marine and Fisheries held hearings on bills to discourage the use of painful trapping devices, specifically the use of the steel-jaw leg-hold traps.

I commend the committee for holding these hearings. The interest shown in these bills reinforces my belief that the country is becoming more receptive to this kind of legislation. In fact, the Congress is now catching up with the true public will on the issue of humane treatment to animals.

As the prime sponsor in the Senate of S. 1223 outlawing the use of painful trapping devices, I submitted testimony to the House committee urging its members to vote favorably on the passage of legislation to achieve humane trapping.

I ask unanimous consent that my testimony before the committee be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR BIRCH BAYH

Mr. Chairman, since 1971 I have repeatedly introduced in the Senate legislation aimed at controlling the use of steel jaw traps and other painful devices in the capture of wild animals. I therefore welcome with more than a passing note the introduction of H.R. 66 by the Honorable Glenn Anderson and 96 of his distinguished colleagues. This fine bill contains substantially the same language and spirit as S. 1223. It is my fervent hope that these hearings will lead to the passage of legislation to make humane trapping a reality.

The issue really is how we will deal with a vital national natural resource—the wild and domestic animals of our land who belong to all citizens. The Congress of the United States has passed laws to protect our national forests, to protect pets from abuse, and to preserve endangered species. We should add to our positive record the elimination of the most outrageous acts of cruelty inflicted on animals, the use of the steel jaw trap. This is a goal that can be reached relatively easily since there are other methods with which to trap animals that are much more humane. The legislation before you today recognizes this, as does my legislation. While outlawing the use of cruel and inhumane trapping devices, we do not forbid or limit trapping itself.

In recent years there has been growing concern over the use of the steel-jaw leg-hold traps in the control of wildlife, and taking furbearers. This device, the most widely used trap in the United States, was developed in the 1820's. The leg-hold trap is designed to capture and hold an animal until the trapper arrives to kill it. Most frequently, the animal is killed with a club or other blunt instrument.

Two factors make leg-hold traps work. First, the jaws of the trap must close quickly in order to prevent the animal from removing its foot and escaping. Second, the traps must have sufficient resistance to prying so the animal cannot spread the jaws and free itself. In time the leg of the animal caught in a steel jaw trap may become numb from loss of blood circulation. When first captured, however, the animal is subject to intense agony, and even after the blood circulation has been slowed, there will be intermittent periods of pain and numbness as long as the trap remains locked around the animal's leg.

As painful as the leg-hold trap is in its clamping and holding action, its greatest cruelty lies in the fact that the trapped animal is held fast for hours, perhaps even days, before being killed or released.

The animal's initial reaction to trapping often will be repeated attempts to bite or pull the affected limb free, resulting in torn ligaments and flesh, broken teeth, and other injuries. In many instances, animals will chew off their legs in order to escape. Known as "wring-offs" the wounded escapees are easy prey for other animals. Those that avoid predators face a slow death from gangrene, shock, loss of blood, and infection.

The suffering of trapped animals is not confined to furbearers; the steel jaw trap does not discriminate. Dogs, cats, birds, deer, domestic stock, and even endangered species are being caught and killed in these devices. The Canadian Government has reported that the number of unwanted, or "trash" animals "accidentally" caught in leg-hold traps is twice the catch of the target animals. And, according to the Canadian Association for Humane Trapping, the ratio of unwanted animals to desired furbearers found in traps is 3 to 1.

There are many tragic situations involving unwanted wildlife and traps. Ducks, for example, often use ponds constructed by beavers as feeding grounds; reports have been made of ducks caught in beaver sets both above and below water level, resulting in crushed or shattered legs or broken necks.

One of the most significant facts about trapping is that it is primarily conducted by amateurs who are interested in recreation or a source of supplemental income. According to Argus Archives, a reputable publication on humane issues, the single greatest portion of trappers in the United States consists of high school students. Only 1 percent of all trappers can be classified as experienced professionals. Thus, for the most part trapping is a hobby, for weekend sportsmen whose traps are left unattended during much of the week, and for children who are unlikely to check their lines during the inclement weather which usually accompanies trapping seasons.

It is recognized that a market for wild animal pelts does exist, and that it would not be possible for the United States to ban leg-hold traps unless inexpensive, effective alternative traps are available. There are a variety of commercially available traps capable of painlessly capturing or instantaneously killing animals. For instance, the Conibear series is competitive with leg-hold and other traps, but their purpose and design are radically different from those of the leg-hold; the Conibear is designed to kill an animal instantly by breaking its back or neck. For those trappers who have already invested in a number of steel jaw traps and who thus cannot buy new traps, strips of weatherstripping can be wrapped around the jaws of an offset trap. An Oneida Victor No. 3 trap thus transformed, will not harm or even pain the fingers of a person accidentally caught; nor can the fingers be set free without aid from a third party. The cost to the trapper of this minor adjustment **is less than 40 cents per trap.**

The feasibility of banning leg-hold traps is already well established. The States of Florida and Hawaii have taken such action and in New Jersey and Alabama the use of leg-hold traps is so restricted as to require an almost total dependence on instant kill and humane capture devices. In addition, several other States have considered similar legislation in recent years.

While there has not been enough experience to evaluate fully the impact of such laws in the United States, other countries provide us with ample evidence that wildlife management programs will not be significantly retarded by passage of tis legislation. Eleven countries now prohibit the use of leg-hold traps, including England, West Germany, Chile, and Denmark.

More humane trapping methods can and must be adopted. For too long Government and wildlife management agencies have ignored and evaded the question of humane trapping, because of economic considerations. We must begin to promote the development and use of painless, selective methods of wildlife control and leave behind the antiquated weapons of the past.

The bill that I have introduced this session and the bill before this committee have several common goals. In both bills, the Secretary of the Interior would be instructed to set criteria for acceptable means of trapping following this legislation's intent. An advisory commission would be established to assist him in his work. Regulations would prescribe acceptable methods of trapping and would designate legal traps designed to capture painlessly or to kill instantly.

Secondly, there would be no trapping with inhumane devices on Federal lands. The animals on these federal lands belong to all citizens of this nation, not only the trappers. The people of this country who do not want animals suffering in the grip of steel jaw traps should not have to tolerate this on federal land, especially when there are humane alternatives available.

Third, interstate commerce of inhumane traps would be prohibited as well as the interstate shipping of products of the animals caught in inhumane traps.

Lastly, the Federal Government would be instructed and authorized to assist the states in carrying out these rules and regulations.

The Senate version of the bill also adds the requirement that the trapper must check his traps every 24 hours, and encourages the submission by individuals of information leading to the apprehension of any individual violating the provisions of the act.

One of the most important provisions of S. 1223 is its instruction that on and after the effective date of the law, no Federal agency shall engage in any program or activity which aids, subsidizes, or encourages the trapping or capturing of wild mammals or birds for recreational or commercial purposes, or assist, financially or otherwise, any State or political subdivision thereof in connection with any program or activity of that State or subdivision involving the trapping or capturing of wild mammals or birds for recreation or commercial purposes. I believe it is time for government to stop encouraging the young people of today to kill animals for enjoyment.

The time is right for Congress to pass humane legislation which will not harm the trapping industry nor in any way condemn the trapper. We are merely outlawing the use of an early 19th century killing device which no longer is acceptable to a modern civilization. There are as effective means to reach the trappers' ends available—with no loss to him and with more humane treatment of his prey—I say let us bring this field into the twentieth century with positive action on the bill before you today.

I hope, Mr. Chairman, that this committee recommends H.R. 66 for passage. Humane trapping legislation has been neglected for too long.

THE END OF DETENTION WITHOUT TRIAL IN ULSTER: A STEP FORWARD

Mr. BUCKLEY. Mr. President, the Washington Star, December 9, 1975, carried an editorial, "Gamble in Ulster." The editorial praised the long-overdue decision of British leaders to put an end to the policy of detention-without-trial in Northern Ireland. As the Star pointed out:

> The selective denial of due process worsened the polarization of the Protestant majority and Catholic minority in the Six Counties. Catholics viewed the policy as one-sided—with justification. Of almost 2,000 persons who were detained for varying periods without trial, slightly more than 100 were Protestants, although Protestant extremists contribute substantially to the continuing toll of sectarian strife. Repeated roundups of suspects for reasons never explained in open court led to charges of unfairness and brutality . . .

Mr. President, I am glad that Great Britain has at long last ended what I referred to on October 3, 1972, in a colloquy with Senator BROOKE as "the hated policy of internment." At that time I said, in reference to the best process to bring about peace in Ulster:

> The first link in the chain must be the total cessation of terrorist activities on both sides, combined with an effective end to the internment without due process of the 200 remaining prisoners . . .

It is my hope that this step, now undertaken, will prove an important step along the difficult road to a peaceful, free, prosperous, and, ultimately, united Ireland.

Mr. President, I ask unanimous consent that the Star editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GAMBLE IN ULSTER

Britain has ended its policy of detention-without-trial for suspected terrorists in Northern Ireland. The move is a worthwhile gamble that should have been taken long ago.

The indefinite jailing of suspects who were not charged with specific crimes started more than four years ago as a desperate effort to contain violence in the province. The measure did not work. Shootings and bombings increased, the British peacekeeping task was complicated and London's commendable program to bring about a fair division of political power in Belfast was undermined.

The main flaw in the detention policy was that, instead of crippling the outlawed Irish Republican Army, it provided a great propaganda and recruiting tool for the terrorist organization. Sympathy for the IRA was created in Ulster's Roman Catholic community. The civil rights issue and the plight of detainees' families became basic ingredients of IRA fund raising, including that in the United States.

The selective denial of due process worsened the polarization of the Protestant majority and Catholic minority in the Six Counties. Catholics viewed the policy as one-sided—with justification. Of almost 2,000 persons who were detained for varying periods without trial, slightly more than 100 were Protestants, although Protestant extremists contribute substantially to the continuing toll of sectarian strife. Repeated roundups of suspects for reasons never explained in open court led to charges of unfairness and brutality.

Defenders of the policy claimed it removed from the streets some known desperadoes, who could have been convicted but for the intimidation of witnesses. But any value detention had in this respect was overwhelmed by the damage to Britain's effectiveness as the honest arbiter of Ulster's communal grievances.

Opinion remains divided in Britain and Ulster about ending detention now. A spokesman for the opposition Conservatives has criticized the action of the Labor government's Northern Ireland administrator, Merlyn Rees, in releasing the last 46 detainees.

We find more persuasive some comments closer to the scene. Gerry Fitt, a moderate Catholic leader, welcomed the Rees announcement as did William Cardinal Conway, the Catholic primate of all Ireland, who said detention had "cost too much in human lives and suffering." And the Reverend Ian Paisley, a hardline Protestant leader whose supporters used to demonstrate for detention, now says detention was "the best bonus the IRA ever received." There is a convincing theory that the Provisional wing of the IRA, the prime target of detention, paradoxically timed some recent outrages to head off the conciliatory move by the British government.

As Rees noted, the end of detention-without-trial means no relaxation of the campaign to catch and prosecute actual perpetrators of violence. No one claims that peace will suddenly descend on Ulster, or that the search for a political reconciliation will be less frustrating in coming months. But the scrapping of detention removes an obstacle and a distraction in the effort to employ sanity in the solution of the Northern Irish problem.

URBAN COUNTIES NEED COMMUNITY DEVELOPMENT AID

Mr. GLENN. Mr. President, H.R. 9852, a bill raising the mortgage limits for mobile homes, will soon reach the Senate floor. That bill contains a provision that would modify the urban county formula accounts under title I of the Housing and Community Development Act of 1974.

As the program now operates, the Secretary of HUD allocates 80 percent for metropolitan areas including a series of formula block grants to metropolitan cities and urban counties. These grants assist in the development of programs and plans to deal with the problems of inadequate housing, poor community services and deteriorating neighborhoods. The allocations follow this procedure; from what remains after the first formula grant, amounts are allocated to metropolitan cities, urban counties and other units of government so that they are not worse off as a result of the congressional change in the community development and housing approach. These are known as "hold harmless" grants.

The provision in H.R. 9852 that I object to would reduce urban county formula amounts so as to meet the hold harmless needs of metropolitan cities.

Mr. President, this provision does special damage to States in which there are large urban counties and which have large entitlements. Many of these county units of government have already begun joint efforts with their metropolitan counterparts to formulate joint solutions to problems that do not stop at the boundary lines of our cities. Indeed, the problems of urban blight and decay, poor housing and inadequate services have in many areas become regional problems that require regional solutions. Therefore, it is very important that we make every effort to encourage these counties to become active in community development. The provision in H.R. 9852 that I object to would in fiscal year 1977 deduct $100 million from total urban county entitlements of $298 million. This would be a one-third cut among 84 urban counties. Coupled with uncertainties about future authorizations and appropriations, as well as the disruptive effects of such a sudden change on current intergovernmental efforts in this area, this provision seems unwise at this time.

I would hope that we would resist any effort like this that penalizes urban county government. If we are going to solve the problems of our cities, urban county government will have to play an important part.

I would like to have printed in the RECORD the approximate urban county formula reductions for the Nation under H.R. 9852 as presently written this estimate was compiled by the National Association of Counties.

There being no objection, the urban county formula reductions were ordered to be printed in the RECORD, as follows:

Approximate urban county formula reductions under H.R. 9852

STATE

County:	Entitlement amount (in thousands)
ALABAMA	
Jefferson Co	$1.361
CALIFORNIA (13)	
Alameda Co	745
Contra Costa Co	1.060
Fresno Co	1.560
Kern Co	1.440
Los Angeles Co	14.461
Marin Co	558
Orange Co	1.361
Riverside Co	1.342
Sacramento Co	1.258
San Bernardino Co	1.361
San Diego Co	1.611
San Mateo Co	2.772
Santa Clara Co	1.012
Total	29.983
DELAWARE	
New Castle Co	759
FLORIDA (5)	
(Plus Dade Co. which is "held harmless")	
Broward Co	1.435
Hillsborough Co	922
Orange Co	905
Palm Beach Co	1.068
Pinellas Co	816
Total	5.146
GEORGIA	
DeKalb Co	840
ILLINOIS (5)	
Cook Co	3.246
DuPage Co	826
Lake Co	696
Madison Co	992
St. Clair Co	890
Total	6.650
KENTUCKY	
Jefferson Co	$2.357
LOUISIANA	
Jefferson Parish	1.452
MARYLAND (3)	
Anne Arundel Co	798
Montgomery Co	1.423
Prince Georges Co	5.436
Total	7.657
MICHIGAN (3)	
Genesee Co	721
Oakland Co	954
Wayne Co	637
Total	2.312
MINNESOTA	
Hennepin Co	738
MISSOURI	
St. Louis Co	2.034
NEW JERSEY (7)	
Bergen Co	1.730
Burlington Co	509
Hudson Co	385
Middlesex Co	655
Monmouth Co	978
Morris Co	608
Union Co	613
Total	5.478
NEW YORK (5)	
Erie Co	1.621
Nassau Co	1.531
Onondaga Co	734
Rockland Co	465
Suffolk Co	1.079
Total	5.430
OHIO (6)	
Cuyahoga Co	476
Franklin Co	720
Hamilton Co	849
Montgomery Co	757
Stark Co	549
Summit Co	579
Total	3.930
PENNSYLVANIA (11)	
Allegheny Co	6.456
Beaver Co	542
Berks Co	540
Bucks Co	629
Chester Co	575
Delaware Co	810
Lancaster Co	680
Luzerne Co	584
Montgomery Co	362
Washington Co	617
Westmoreland Co	939
Total	12.734
TEXAS (2)	
Harris Co	963
Tarrant Co	660
Total	1.623
UTAH	
Salt Lake Co	1.172
VIRGINIA	
Fairfax Co	1.548
WASHINGTON (3)	
King Co	1.511
Pierce Co	718
Snohomish Co	573
Total	2.802

Total equals 72 counties.

Total loss approximately—$98.5 million.

GERMAN WARNS OF SOVIET CHALLENGE AT SEA

Mr. TAFT. Mr. President, the December issue of the U.S. Naval Institute Proceedings contains an article which I recommend to the attention of my colleagues. The article is entitled "Soviet Global Strategy: The Great Challenge to the West at Sea," and it is written by the eminent editor of Deutsche Zeitung: Christ und Welt, Dr. Wolfgang Hoepker.

What is interesting about this article is that we see a German, someone from the country where the West confronts the East most intensely on the land, stating that:

> The Kremlin leadership . . . (has realized) that confrontation in the East-West conflict is shifting ever more strongly from land to sea . . . The NATO alliance can be paralyzed from the sea even without force of arms. In conventional Western thought the security of Europe is still identified with a line, the Iron Curtain . . . It is high time for the West to redefine its idea of the threat. In view of the danger to the sea-lanes . . . it has acquired a broader spectrum . . . the north European coastal areas form the basis of their grand strategic offensive, with which they would attempt to cut off Western Europe from its American "hinterland" and thereby automatically cause the European defensive front to collapse. The defensive line Lubeck-Hof-Passau (Lubeck-Trieste) would be overcome from the outside—the sea.

These are all points which I have been making for some time. It does not matter how many troops we have in Europe, if the Soviets control the Atlantic in wartime. Every American soldier in Europe is merely a hostage in that case, and the only choices available to our ground force commanders would be internment in a neutral country or surrender. An army cannot fight without supplies and reinforcements, and those must come by sea in the case of NATO.

It is time that NATO became aware of this basic fact. The whole strategic situation of NATO has changed with the advent of Soviet seapower. When NATO was formed, there was only one critical threat: the Red army. Today there is another equally critical, the Soviet Navy. Unless responsibilities within the alliance are reallocated so that the essentially maritime partners—such as the United States—can concentrate on meeting the threat at sea, NATO will soon obviously be a force on paper only.

I commend the entirety of this article to my colleagues. Again, remember that it is a German talking—one for whom the land threat to NATO is only several hours driving time away. Yet even one who faces the land threat so directly can realize that the sea threat is equally critical. It is time we realize that also.

Mr. President, I ask that the article, "The Great Challenge to the West at Sea," by Dr. Wolfgang Hoepker, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET GLOBAL STRATEGY: THE GREAT CHALLENGE TO THE WEST AT SEA

(By Wolfgang Höpker: Translated by Jack Sweetman)

The greatest continental power in the world in surface area has set out to become the greatest sea power as well. Far ahead of Great Britain, once the ruler of the waves, and in intense competition with the United States, the Soviet Union is pressing forward on the high seas with the creation of an oceanic navy. People speak of the greatest challenge to the West since the birth of Soviet imperialism. The ship, not the tank, is the military element to which the Soviets give priority today. The sea, an indestructible highway, is open to all. The Soviet Union has grasped the meaning of command of the sea. Behind the maritime ambitions of the Kremlin leadership is the realization that confrontation in the East-West conflict is shifting ever more strongly from land to sea.

Naval policy is foreign policy. It holds ready a military threat, but has its principal sphere of action in the demonstration of political power. In view of the atomic stalemate of the two superpowers, the Soviet Union cannot want a big war. Its naval buildup is primarily intended to add another means of expansive pressure to the Vienna talks on troop reduction to look only at Central Europe and to ignore the unprecedented Soviet naval buildup.

The principal concern of the Western alliance today is Europe's elongated southern flank, which stretches from the Atlantic through the Mediterranean to the center of unrest in the Middle East. In a sort of chain reaction, crises have flared up around the Mediterranean basin. Winston Churchill's phrase, "Europe's soft underbelly," has achieved an oppressive reality. With the Mideast crisis, aggravated by the oil situation and the Cyprus conflict which burst into flame in the sumemr of 1974, the Eastern Mediterranean has become more than ever a storm center of international affairs. The southeastern flank of NATO has lost its reputation as the "pillar" of the Atlantic alliance. Crippled through the Greco-Turkish quarrel, it has become a question mark. With the outbreak of the centuries-old "hereditary antagonism" between the Turks and Greeks, both peoples—for better or worse—lost sight of their dependence upon the alliance against the pressure from the Soviets to the north.

Still another danger sign is Moscow's understanding with Libya. By massive arms shipments, the Soviet Union acquired rights to military bases on the southern shore of the Mediterranean. With the construction of air bases on the North Africa coast opposite Italy and Greece, in the very center of the Mediterranean basin, the Soviet Mediterranean squadron would receive the air cover it has lacked until now. The minimum objective of this squadron is the diminution of Western influence, especially American. The maximum objective is hegemony in the Mediterranean—to secure the claim to Soviet superiority. Between its minimum and maximum objectives, Soviet naval activity is designed to outflank Europe from the south by weakening the position of the Western alliance.

A fundamental concept of the Red general staff is the envelopment of Europe on *both* its wet flanks. The critical situation on the southern flank must not obscure the danger on the northern flank. That applies to the Baltic, which with its construction and training potential, is the starting point of the present worldwide Soviet expansion at sea. That applies most of all, however, to the concentration on the Arctic Ocean front, where the Soviets have assembled a mass of naval, air, and land forces which can be characterized as the greatest military complex in the world today. The Baltic and the North Sea, bounded by the Danish Straits are not just a strategic naval unity in the view of the Soviet Union. The superiority of the Soviet naval forces in the Baltic facilitates operational cooperation with the Norwegian Sea fleet, which forms a sort of pincers around the Scandinavian peninsula. Moscow's flanking concept is in turn inseparably intertwined with strategic land objectives in Central Europe—another sign that the northern, central, and southern sectors of NATO should not be partitioned into individual districts.

The concentration of naval striking forces off Northern Europe aims at a breakout into the open Atlantic, across which run the vital lines of communication of the Western alliance, the arteries binding Western Europe with North America. While the Soviets still pursue limited objectives in the Mediterranean, the north European coastal seas form the basis of their grand strategic offensive, with which they would attempt to cut off Western Europe from its American "hinterland" and thereby automatically cause the European defensive front to collapse. The defensive line Lübeck-Hof-Passau (Lübeck-Trieste) would be overcome from the outside—the sea.

War at sea knows no frontlines which opposing forces can change by attack and counterattack. It does not lend itself to Maginot thinking. It can be grasped only in flexible, spatial terms. This fundamental proviso does not exclude a central question: where in the North Atlantic are the West's crucial rallying points to be found? The Barents Sea, extending from the Kolafjord with Murmansk as a nodal point, has already become a *Mare Sovieticum*, removed from Western inspection and control. But the Norwegian Sea also appears to be earmarked to become a sort of Soviet lake in the plans of the Red naval command. From the Red Navy's maneuvers it becomes ever clearer that much of Norway is already *behind* the forward Soviet operational line. The Soviets refer publicly to the calculation that the Western defense would be deployed in the "narrows" between Iceland, Scotland, and central Norway.

The Atlantic strategy takes on a new dimension with the extension of atomic warfare to sea. This exceeds the bounds of classic naval warfare. Nuclear weapon-carrying submarines are not a means of naval warfare, but rather submerged, seagoing missile batteries aimed at land targets. The navy is thus reduced to the role of a trustee. Besides the intercontinental missiles and the far-distant strategic bombers, the U.S. missile submarine fleet is the most effective means of deterrence. An important reason for the current Soviet naval buildup is the intention to paralyze the seagoing atomic potential of the United States in the North Atlantic if at all possible. In the same connection, the Soviet fleet is moving to threaten the NATO coastal areas of both Europe and America through the creation of its own ballistic missile-armed submarine fleet.

The alliance founded a quarter-century ago as a North Atlantic union considers only the North Atlantic as its defensive zone. This self-imposed limitation or confinement of NATO to the ocean area north of the Tropic of Cancer has become more and more questionable with the oceanic expansion of the Red Fleet. The vacuum which the South Atlantic exhibits in the picture of the Western alliance represents a growing temptation to the Soviets. The role of Cuba as a Soviet base is connected with the development of Conakry into a naval and air base in West Africa. Thus a control line, patrolled by Soviet aircraft, runs across the narrowest part of the ocean, the "wasp's waist" from Conakry through the Cape Verde Islands into the Caribbean to Cuba. Today the South Atlantic is anything but a "no man's sea." It has gained significance through the rerouting, necessitated by the blocking of the Suez Canal, of the great shipping lanes between Europe and Asia around the Cape of Good Hope. Most important of all was the rerouting of the oil stream, which follows a course from the Persian Gulf—the richest oil region on earth—around the southern tip of Africa to Western Europe. Due to the trend toward supertankers and containerships, the Cape route remains one of the great arteries of world traffic even after the reopening of the Suez Canal.

To be sure, the NATO doctrine that an attack on one alliance partner will be regarded as an attack on all alliance partners can hardly be extended to the South Atlantic. Yet the limitation of Western solidarity to the area of the North Atlantic pact need not mean that NATO naval forces cannot undertake sea control and defensive functions in other areas. Brazil, following the Japanese example, has begun to emerge as a potential new world economic power. By a wide-ranging naval program, she has demonstrated a recognition of her responsibility in the South Atlantic. This in turn relates to the defensive efforts of South Africa. Thanks to her key geostrategic position between the Atlantic and the Indian Oceans, South Africa forms an extremely inconvenient obstacle to the offensive plans of the Soviet fleet. Thus, it would be in the generally understood defensive interests of Western Europe and America to support South Africa through military collaboration.

The reopening of the Suez Canal early in June of this year brings strategic advantages principally to the Soviet Union. For warships of even the largest Soviet cruiser class—indeed even for the soon-to-be-operational Soviet aircraft carriers—the canal is sufficient in its present dimensions. The central issue is Soviet access to the Indian Ocean, which is drastically shortened with the reopening of the canal. The concentration of the Soviet squadron in the Mediterranean remained abortive so long as the connection between the Mediterranean and the Indian Ocean by the direct north-south passage was not assured. The massing of the Soviet Fleet in the Eastern Mediterranean signifies more than a threat to Europe's southern flank; it is applied on a still greater strategic scale.

The Indian Ocean is the only great sea to which the Soviet continental empire has no direct access. Yet despite all the disadvantages of geography, the Soviet Union has increased its naval presence in the Indian Ocean tenfold in the last five years. The thrust of the Soviet leadership toward heightened presence in the Indian Ocean is anti-Western, but also in part anti-Chinese. Here Moscow is moving to contain its great rival China, on the sea side as well. Even in the Indian Ocean, Moscow will "show the flag" to increase its influence.

Yet stripped of its local psycho-political effects, the general mission of a Soviet fleet in the Indian Ocean emerges as a plan to work in conjunction with the Pacfiic fleet massed around Vladivostok to alter the strategic situation in South and Southeast Asia as occurred in the Arabian region.

Thereby the Soviet position in the Mediterranean would coalesce with that in the Indian Ocean into a strategic combination which surrounds the Arabian peninsula, extends into the Persian Gulf, and stretches to the coast of India, which is in close military cooperation with Moscow. In regard to the Persian Gulf, the Middle East is now the "Near South" for the Soviet Union. Oil interests mesh with strategy there. The prospect of being able to shut off gulf oil to the West is a major impetus to Soviet global strategy. Consequently, the Red Navy is endeavoring to build a system of bases along the tanker route from the Persian Gulf. This applies to the eastern flank of the African continent as well as to positions on the Red Sea, which like the Eastern Mediterranean ranks as a potential Soviet lake in the planning of the Red general staff.

While the Western countries were inclined to view the navy as a weapon of yesterday, the Soviet Union proceeded to make the fleet a weapon of tomorrow. Behind the smokescreen of the vocabulary of détente, Moscow opened through its naval buildup a whole spectrum of new possibilities of direct—but principally of indirect—strategy to the hegemonial aspirations of Soviet imperialism. From cold war to hot peace—the West has every reason to be on guard against a concept which would replace the *Pax Atlantica* with the *Pax Sovietica*. A maritime epoch has dawned; sea power will be the decisive factor in world power. The Soviet Union is determined to draw the conclusion from that, and with an intensified maritime dynamic to attain not merely equality but superiority.

INTERNATIONAL WOMEN'S YEAR

Mr. BAYH. Mr. President, the United Nations has designated 1975 as International Women's Year. In making this declaration, the United Nations General Assembly stated three major goals—to promote equality between men and women, to insure full participation of women in the total development of their countries, and to recognize the importance of women's increasing contribution to world peace. In order to further recognize the importance of the United Nations declaration, the President, through Executive Order No. 11832, established a National Commission on the Observation of International Women's Year. It is a privilege for me to have been appointed as a member of this Commission by the President.

International Women's Year provides an unprecedented opportunity for all concerned with promoting equality for men and women, to affect the ways and means by which women can achieve full participation in all aspects of our society. It is now incumbent upon Congress to implement measures which will make this symbolic recognition a meaningful one.

It is for this reason, Mr. President, that I introduced a bill, S. 2229, on July 30 for the convening of an American Women's Conference to assess and evaluate the progress that has been made in achieving the goals of International Women's Year. Senators McGEE, WILLIAMS, McGOVERN, BUMPERS, CLARK, and CASE joined me in sponsoring this legislation.

Mr. President, the House, under the capable leadership of the Congresswoman from New York, Ms. ABZUG, has just passed legislation, H.R. 9924, which is substantially the same as the version of this bill introduced in the Senate.

The House bill, sponsored by Congresspersons ABZUG, BURKE, BOGGS, CHISHOLM, COLLINS, FENWICK, HECKLER, HOLTZMAN, JORDAN, KEYS, MEYNER, MINK, PETTIS, SCHROEDER, SPELLMAN, CONYERS, HARRINGTON, MAGUIRE, McCLOSKEY, MOFFETT, MOSS, and RYAN, was modified in only one important respect—the amount authorized for the American Women's Conference was reduced from $10 million in the Senate version and the original House version, to $5 million. In addition, a prohibition of the use of these funds for lobbying purposes was added on the floor of the House. These modifying amendments were accepted by the leadership of the House bill in a spirit of compromise, and I feel that we on the Senate side should be willing to show a similar spirit of good will.

Because we are rapidly nearing the end of the legislative session and the press of Senate business is growing even more intense, I have asked unanimous consent that the Senate immediately consider H.R. 9924.

Under the provisions of H.R. 9924, a committee would be established within the executive branch with the express purpose of planning and convening an American Women's Conference. This conference would occur no later than December 31, 1976, and would be composed of representatives from local, State, regional, national, and international institutions, agencies, or unions which promote the advancement of women's rights and world peace, representative men and women involved in policymaking and decisionmaking in government, private industry, education, child care, social welfare, the media, and other fields; and members of the general public with special emphasis on the representation of low-income and minority women. The planning committee would remain in existence until the completion of a report to Congress and to the President summarizing the recommendations of the Conference.

Significant progress has been made in this country toward furthering women's rights and in recognizing the value of women's contributions to society within and outside the home. Women provide a substantial portion of the human resources of our Nation. More than half of all women between the ages of 18 and 64 are in the labor force. Among married women with children, 45.7 percent work today. The American economy needs the talents and skills of women. Despite the fact there are over 36 million women in the labor force, there are still barriers which prevent women from preparing for and entering suitable employment, in addition to barriers which prevent advancement or full recognition.

Women who work at full-time jobs the year round, earn on an average, less than $3 for every $5 earned by similarly employed men. The ratio varies slightly from year to year, but the earnings gap is greater than it was 15 years ago. In 1955, women earned 63.9 percent of similarly employed males. In 1973 this gap had widened to 56.6 percent. It will be the mandate of the American Women's Conference to identify and address such barriers. The Conference will develop the specific recommendations for the elimination of these barriers as well as establishing a timetable for their implementation.

International Women's Year is an important year. We have a unique opportunity to focus attention on the current status of American women and on the means to improve their status. Our emphasis must be on constructive action. Other nations already have begun preparations for national conventions, such as I am suggesting. I urge Congress to act promptly to insure that an American Women's Conference be held as part of this Nation's commitment to International Women's Year.

Major organizations endorsing this bill include: The Women's Lobby, National Organization of Women, National Women's Political Caucus, American Association of University Women, Girl's Clubs of America, Federally Employed Women, League of Women Voters, National Council of Negro Women, Business and Professional Women, and the United Auto Workers.

REPORT OF NATIONAL COMMISSION OF DIABETES

Mr. SCHWEIKER. Mr. President, I was pleased to host a news conference yesterday at which the report of the National Commission on Diabetes was released. The report was transmitted to the Senate and House earlier in the day. Also participating in the conference were Dr. Oscar Crofford, chairman of the National Commission, Senator McGEE, Congressman WILLIAM STEIGER and Congressman VANDER JAGT.

The findings of the National Commission on Diabetes are nothing less than shocking. Between 1965 and 1973, the prevalence of diabetes increased by more than 50 percent in the United States. Last year alone there is strong evidence that perhaps as many as 300,000 died from diabetes and its complications—making diabetes the third-ranking killer behind cancer and heart disease. Diabetes now affects 10 million Americans—5 percent of the population—and the number of diabetics will double every 15 years if we do not act now.

As ranking Republican on the Senate Health Subcommittee and a member of the Labor-HEW Appropriations Committee, I was privileged to sponsor the Diabetes Mellitus Research Education Act of 1974, which set up the National Commission on Diabetes. Mr. President, I am hopeful that through a renewed and expanded Federal commitment we can find the cure to diabetes in our lifetime. Thus in the next few months I intend to introduce legislation to implement the Commission's major recommendations.

Mr. President, I ask unanimous consent that a summary of the findings of the National Commission on Diabetes, along with a statement I issued yesterday and an account of yesterday's conference from the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

(Prepared by the National Commission on Diabetes)

In response to the mandate of Congress, the National Commission on Diabetes has prepared the Long-Range Plan to Combat Diabetes, which represents a major initiative in the effort to control diabetes mellitus. The Commission, under the chairmanship of Dr. Oscar Crofford of Vanderbilt University, has brought to bear the resources of the health profession, research scientists and clinical physicians, Directors of the National Institutes of Health, and representatives of the voluntary health agencies most vitally concerned with diabetes mellitus.

Diabetes is a major health problem directly affecting 10 million Americans. The prevalence of the disease is increasing rapidly. An American born today, living an average life span of 70 years, has a better than one-in-five chance of developing diabetes. Most people suffering from diabetes face a shortened life and serious medical complications—including blindness, kidney and heart disease, and circulatory problems leading to amputation.

Diabetes is also a killer. Last year 38,000 persons died directly from diabetes, and there is strong evidence that perhaps as many as 300,000 deaths could be attributed to diabetes and its complications. This would make diabetes the third-ranking cause of death—after heart disease and cancer.

The economic toll of this disease—exclud-its complications—is estimated to be $5.3 billion per year. Yet Federal expenditures for diabetes research amounted to only $43 million in 1975.

Clearly, it is well past time for the Federal Government to exert leadership in the effort to control and ultimately conquer this disease.

The recommendations of the Commission are comprehensive:

Research must be increased to advance the frontiers of knowledge about both the cause and treatment of diabetes mellitus, leading ultimately to cure and prevention. The plan recommends that funding be increased from $43 million in Fiscal Year 1975 to $126 million in 1979. The recommended level of funding can be characterized as conservative but realistic in terms of the limited manpower available for research. In short, it was felt that more money would not result in more rapid progress.

There is a serious shortfall in both quality and quantity of trained personnel for diabetes research and treatment. Congress recognized this fact when it authorized Research and Training Centers. The Commission has incorporated these Centers into the Long-Range Plan so that they will provide a demonstration of the entire effort against diabetes, including research, education, and model treatment programs. The centers will also conduct basic research and will help translate advances in diabetes research into improved patient care through demonstration units and community outreach programs. Benefitting from new research and from information and education programs, the centers will eventually develop treatment techniques urgently needed by all agencies and systems involved in diabetes health care.

There is a need to translate the advances in research and treatment into local health care delivery. The plan recommends an extensive cooperative effort by Federal, state, private, and voluntary agencies to meet and improve the continuing health care needs of diabetics. Diabetes health care, education, and control programs should be organized and increased. The establishment of state or locally based diabetes research programs, under the direction of the Center for Disease Control in Atlanta, would provide a resource capable of reaching the diabetic population. The participation of Veterans' Administration hospitals, other Federal health facilities, and private and voluntary segments of the diabetic health delivery system, will, through this coordinated effort, ensure that new research findings and improved methods of health care delivery will more rapidly reach the patient with diabetes. A National Diabetes Information and Education Clearinghouse will collect, evaluate, and disseminate information on prevention, diagnosis, and treatment of diabetes.

There is emphasis throughout the plan upon professional and patient education. However, the public is also uninformed about diabetes and unwittingly exerts pressure on those with diabetes through prejudice, fear, and exclusion practices. Thus, education of patients, professionals, and the public is a major goal of the program.

The Commission proposes the creation of a National Diabetes Advisory Board. The Board will provide a necessary focus for the coordination of the related but widely dispersed programs and resources necessary to combat diabetes. The Board will advise in the implementation of components of the plan, review and evaluate activities, and provide an annual report to the Congress and the Administration upon the progress and result of this effort.

The absence of a primary focus for diabetes activities until now, an outgrowth of the lack of recognition of the scope of diabetes as a major health problem, led to the creation of the Commission. It is hoped that Congress and the Administration will see fit to implement the Commission's recommendations and will begin in earnest the task of controlling and ultimately preventing diabetes mellitus.

Washington.—December 10—U.S. Senator **Richard S. Schweiker (R-Pa.)** said "the key to finding a cure for diabetes in our lifetime" is contained in a report presented today to Congress.

He made the prediction in conjunction with public release of the report of the National Commission on Diabetes, created by the Schweiker-sponsored Diabetes Mellitus Research and Education Act of 1974.

Schweiker called the report the most comprehensive and authoritative analysis of diabetes in history. "For the first time the magnitude of diabetes in America has been accurately defined," he said. "This is the necessary first step in the search for a cure.

"To further postpone a massive and coordinated attack against the nation's third-ranking killer would be a tragic waste of lives and resources," said Schweiker, ranking Republican on the Senate Health Subcommittee and a member of the Labor-HEW Appropriations Subcommittee. "Between 1965 and 1973, the prevalence of diabetes increased by more than 50 percent in the United States. Last year alone there is strong evidence that perhaps as many as 300,000 died from diabetes and its complications. The disease now affects 10 million Americans—five percent of the population—and the number of diabetics will double every 15 years if we don't act now," he said.

Schweiker said he is "appalled" that only $43 million was allocated to diabetes research in Fiscal Year 1974 "when the economic toll of diabetes—excluding its complications—is $5.3 billion a year.

"'I support the recommendation of the National Commission that funding be tripled to $126 million by Fiscal Year 1979 and I intend to spearhead Congressional efforts to implement the Commission's major suggestions," Schweiker said.

In addition to increased funding, the Commission recommends creation of nationwide diabetes research and education centers and a National Diabetes Advisory Board, and the coordination of existing federal, state and local programs to combat diabetes.

Schweiker said part of the education effort would center on dispelling the misconception that the advent of insulin brought with it a "cure" to diabetes. "It helps control the disease, but by extending the lives of diabetics it has brought to light new complications such as blindness, kidney disease and heart disease," he said.

Schweiker also emphasized the following major findings of the Commission:

An American born today who lives 70 years has a one-in-five chance of getting diabetes.

Diabetics are 25 times more prone to blindness than nondiabetics, 17 times more prone to kidney disease, over 5 times more prone to gangrene—often leading to amputation—and twice as prone to heart disease. These and other complications result in about 15% of all diabetics being bedridden for 1½ months per year.

The problems are particularly acute for those suffering from juvenile onset diabetes; presently one-half of all such patients die within 25 years of their diagnosis.

Women are 50% more likely than men to have diabetes, non-whites are one-fifth more likely than whites to have diabetes, and poor people (incomes less than $5,000 per year) are three times as likely as middle-income and wealthy people to have diabetes.

The chance of being diabetic more than doubles for every 20% of excess weight and doubles for every decade of life.

DIABETES RATED 3D KILLER; U.S. PANEL CALLS FOR HELP

(By Harold M. Schmeck, Jr.)

Washington, Dec. 10.—Diabetes has become the nation's third-ranking cause of death, is increasing rapidly and should be given broadened and enlarged attention through research and other programs, a national commission reported to the Congress today.

"Strong evidence presented to the commission indicates that diabetes and its complications are responsible for more than 300,000 deaths annually, raising diabetes to the third-ranking cause of death—behind cardiovascular [heart] disease and cancer," said the commission report.

At the current rate of increase, the number of Americans with diabetes will double every 15 years, the commission said. There are an estimated 10 million diabetics at present, about half of whom are unaware that they have the disease.

The cause of diabetes is unknown, nor is it known why the disease appears to be increasing in the United States. Part of the increase may result from more detection, but the specialists seem to doubt that this is the entire story.

In a summary of the facts developed by the commission's work during the last year, the following points were made:

Women are 50 percent more likely than men to have diabetes.

Nonwhites are 20 percent more likely than whites to have it.

The disease is three times as common among the poor as among middle income and wealthy people.

The chance of developing diabetes doubles with every 20 percent of an individual's excess weight and doubles with every decade of increasing age.

The disease is often defined as an inability of the body to dispose of sugar properly, but its widespread influence on the blood vessels and peripheral nerves has never been satisfactorily explained.

The commission said little progress had been made in treating the disease since the discovery of insulin more than 50 years ago. The life expectancy of the diabetic was estimated to be shorter by one-third than that of the nondiabetic. The diabetic's risk of blindness is 25 times that of the person who does not suffer from the disease, and the diabetic's risk of heart disease is twice that of other persons, the report said.

LACK OF ACCURATE DATA

"Mortality statistics do not generally specify underlying or contributing causes of death, resulting in a lack of accurate information on the actual death rate from diabetes," said the report.

It noted that the 38,000 deaths directly attributable to diabetes in the United States last year made it the fifth-leading cause of death by disease ranking behind conditions of heart and circulatory system including stroke, cancer, influenza and pneumonia, and diseases of early infancy.

When diabetes and its complications are considered together, the commission said, it emerges as the third-leading cause and ranks even above accidents.

To cope with the disease and its estimated $5.3 billion drain on the American Economy, the National Commission on Diabetes developed a long-range plan of broadened research, education and control programs.

The plan calls for a tripling of Federal research spending on diabetes in the next four years. The total Federal research spending from the current year through the fiscal year 1980 would be about $548 million under this plan.

Senator Richard S. Schweiker, Republican, Pennsylvania, who presided at a news conference at which the plan was made public, called the report "the most comprehensive and authoritative analysis of diabetes in history."

"To further postpone a massive and coordinated attack against the nation's **third**-ranking killer would be a tragic waste of lives and resources," Senator Schweicker said.

He and Senator Gail W. McGee, Democrat of Wyoming, both members of the Senate Appropriations Committee, said they would make a strong effort to convince their colleagues that a major assault on diabetes was urgently needed. Similar pledges came from Representative William A. Steiger of Wisconsin, and Representative Guy Vander Jagt of Michigan, both Republicans, who are on the House Ways and Means Committee.

Diabetes is thus added to those major disease categories that have been singled out for special political attention in recent years in campaigns aimed at and within the Congress.

Cancer and heart disease both attained special status and substantially increased research funding by this route. A large portion of kidney disease was brought under Medicare by Congressional action, which made the costs of kidney transplantation and artificial kidney treatment reimbursable by the Federal Government.

How the diabetes effort will fare in the Administration's stringent budget policy is not known. The Department of Health, Education and Welfare's Forward Plan, intended as a blueprint for health policy during the next five years, failed to give any special emphasis to diabetes.

SUPPORT FOR RESEARCH

Most of the research spending called for in the commission's proposal would be supported by the National Institutes of Health, a unit of H.E.W. and the Federal Government's main agency for bio-medical scientific work.

Some individuals concerned over diabetes have criticized the commission's plan for allocating relatively little of the proposed spending to those institutes of the N.I.H. most concerned with the main disastrous consequences of diabetes, notably afflictions of the heart, eyes, kidneys, and peripheral nerves.

Dr. Oscar B. Croffoi of Vanderbilt University, chairman of the commission, defended the proposed allocations as being the best that could be made in view of the current state of knowledge and the probable opportunities for research progress.

The plan proposed by the commission consists of four major parts: increased research, increased manpower training, increased diabetes health care, education and control programs, and the establishment of a national diabetes advisory board to evaluate progress and give advice to the Government and a yearly report to Congress and the Administration.

The national commission has 17 members, including scientists, Government officials and laymen.

IVORY COAST

Mr. HARTKE. Mr. President, the Republic of the Ivory Coast celebrated her National Day on December 7.

The Ivory Coast has been blessed with a stable government since December 1958, and with President Felix Houphouet-Boigny at the helm of state received complete independence from France on August 7, 1968.

The economy of the Ivory Coast is based on agriculture and at this time is one of the most prosperous economies in West Africa. This agro-economy allows the Ivory Coast a favorable balance of trade and because of her policy of importing primarily, semifinished products, continues to show improvement in her gross national product.

The 1971–75, 5-year development plan calls for over $900 million in public investment with only about $80 million in foreign investments.

The intrastructure of the Ivory Coast is well developed and because of the facilities both present and planned, the Ivory Coast has become a tourist mecca.

Since independence the Ivory Coast has had a very close relationship with the United States. May we congratulate the President, the people, and the Government of the Ivory Coast on their National Day, December 1, 1975.

PROPOSED AMENDMENTS TO THE INTERNAL REVENUE CODE

Mr. DOMENICI. Mr. President, I am pleased to join in offering amendments to the Internal Revenue Code of 1954 which are designed to give the taxpaying American homeowner an incentive to make those investments that will achieve substantial savings in the cost of heating and cooling his home.

One amendment, an insulation tax credit, will offer a vital stimulant to help individuals take advantage of the substantial savings in fuel costs which a properly insulated home can yield. The FEA estimates that more than 18 million single family homes in the United States are inadequately insulated. And, the FEA estimates that, if an additional 6 inches of ceiling insulation is installed on one of these inadequately insulated homes, the homeowner can save from $180 to $215 each winter, depending on the cost of fuel and severity of the winter, or from 515 to 635 gallons of fuel, and achieve comparable energy savings if the home utilizes electricity or natural gas.

This could have important consequences for the Nation. If the insulation tax credit becomes law, many more Americans will choose to insulate their homes, and as a result, the Nation could save as much as 130,000 barrels per day of oil by 1978, according to recent FEA estimates. While it is true that revenue loss estimates run to $260 million per year if the tax credit for insulation is implemented, the fact is that the revenue effect of this measure is more than compensated for by its energy savings benefits.

Enactment of the insulation incentive amendment can help signal to America's homeowners that the Government is serious about energy conservation, not only because it benefits individuals, but also because it will help the Nation as a whole to become less wasteful of expensive resources.

In this connection, I think it is important that the Federal Government should undertake a massive education effort to support these tax credits so that American homeowners will be fully aware of the savings in fuel and dollars they can achieve for themselves and their country by installing ceiling insulation, storm doors, storm windows and weather stripping, and investing in solar systems.

In further support of this concept, I am cosponsoring a solar tax credit amendment which offers an individual a possible 25 percent of the first $8,000 of solar equipment expenditures on his principal residence, up to a maximum allowable credit of $2,000. Some concern has been expressed that the solar market is not ready for the "artificial" stimulation that would come from massive private purchases of existing solar equipment. I am, however, confident that many thousands of American homeowners are ready to experiment by heating and cooling their homes with solar equipment. This tax credit would encourage investments in solar heating and cooling that will return enormous dividends to the Nation by utilizing technologies that harness an inexhaustible energy source. It will unleash the creative energies of business and individuals and will help produce new solutions to the important long-range challenge of achieving energy independence through the imaginative utilization of new technologies. The revenue loss projected by the Joint Committee on Internal Revenue for the solar tax credit is much less than that for the insulation tax credit—only $20 million for 1979 rising to $30 million for 1980.

Both these amendments are similar to a proposal I introduced last session of Congress. That measure was incorporated in H.R. 2166, the bill that eventually became the Tax Reduction Act of 1975. H.R. 2166 was passed by the Senate last fall, but my amendment was unfortunately dropped from the bill in conference. Evidence of its merits, however, have visibly been demonstrated by my colleagues in the Senate, and urge their support again on the two amendments recently introduced which will accomplish similar goals.

SIX WOMEN WHO COULD BE PRESIDENT

Mr. BAYH. Mr. President, as this Nation quickly approaches its 200th birthday, I think many of us will want to stop and to assess where we stand and what accomplishments have been made. We have much to be proud of. However, in our 200 years we have yet to elect a woman as President of this country.

Liz Carpenter, who has much experience in Washington politics herself and has known and watched our last seven Presidents, has written an excellent article in the November 1975 issue of Redbook magazine on the potential of six very capable women to hold our highest office.

I would like to bring this enlightening article to the attention of my colleagues in Congress. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Redbook Magazine, November 1975]

Six Women Who Could Be President

(By Liz Carpenter)

A year from now we will go to the polls to elect the next President of the United States.

The editors of Redbook believe this country has a number of Americans who could run the office honestly and intelligently, with a strong sense of ethics and moral leadership; who could, in the words of George Washington, "raise a standard to which the wise and honest can repair"; who could, in the words of Woodrow Wilson, make the Presidency "the vital place of action for the system"; who could restore our sense of self, even bring back our old-fashioned neighborliness; who could ignite our imaginations with innovative ideas for the well-being of all 213 million of us.

Consider that it might be a woman.

More women are being elected now than ever before to public office at all levels. Why not to the Presidency? I believe, with the editors of Redbook, that the possibility exists. If ever there was a moment to take stock of our supply of good people, it is now, with Watergate fresh in our memory.

Redbook asked some 700 men and women—members of the Democratic and Republican national committees, officials of the National League of Women Voters, the National Women's Political Caucus and 100 political writers and commentators—to respond to this question: "What five women would you like to see as candidates for President of the United States?"

We questioned people such as Senator Hugh Scott, of Pennsylvania; Representative John J. Rhodes, of Arizona; and Representative Thomas P. O'Neill, Jr., of Massachusetts. We contacted Mary Lou Burg, Vice-Chairman of the Democratic National Committee, and Mary Louise Smith, Chairman of the Republican National Committee. We polled journalist Sarah McLendon, CBS–TV's Walter Cronkite, Howard K. Smith, of ABC–TV, and columnist Jack Anderson.

Six women came to the fore: Congresswoman Barbara C. Jordan; Governor Ella T. Grasso; Congresswoman Shirley A. Chisholm; former Congresswoman Martha W. Griffiths; Frances "Sissy" Farenthold; and Anne L. Armstrong.

Although I have known and have followed the careers of these six women, I set out for a month to see them afresh in the light of the Office of the President, and to explore with them some pertinent questions:

What experiences have helped shape the person you are today? As President, how would you approach foreign affairs? What legacy would you most like to leave to that office?

Along the way, on planes and buses, at dinner tables, among friends and strangers, I repeatedly asked the question: What do you want from the next President of the United States? I got back an array of forceful, angry answers:

"Someone who knows the difference between right and wrong."

"Judgment, for a change. I want someone with judgment."

And in one disarming instance I heard a demand for someone "with absolutely no charisma, a bore on television—ugly—but a real person."

Never once did anyone say, "I want a liberal," or, "What we need is a conservative." People seem willing to move to the right or the left, to adjust, as long as the person leading us can be trusted to move the country toward facing its problems. "Compassion" was urged often.

For my own part, having observed the Office rather closely from both inside and outside the White House over the past 30 years, I consider the following qualifications essential for our next President:

Moral leadership. "The Presidency is not merely an administrative office. . . . It is pre-eminently a place of moral leadership," Franklin D. Roosevelt once said.

Lyndon Johnson felt strongly that "a President must develop a moral underpinning to his power or he has no power at all." Moral leadership, as I see it, is the ability of a President to extract the best from himself—or herself—and from us. We need someone who can give us a new sense of trust, in the Presidency and in ourselves.

Willingness to surround the office with other strong leaders. Presidents need all the talent they can find. And they need staff and Cabinet members who are strong enough to disagree with them and with one another. Our nation has been sorely missing the ferment that comes from occasional strong debate.

A candidate should be required in the course of the compaign to list the 15 or 20 people he or she would be calling on for aid. I want both political parties, both sexes, in a Cabinet of unlike minds.

Brains. A zest for ideas—and the courage to use them. Most Presidents have been too cautious to try dramatic new approaches.

A President with a perspective on press demands. I want a President who is philosophical about press criticism, rather than hypersensitive to it. I want a President who is totally accountable to the public and at the same time has enough detachment to fight hard for his ideas—with good humor. I want a President who will not be intimidated by the press. This might bring some balance to the old battle.

A President who works principally in the White House. The White House is set up for the effective operation of a President. It's a comfortable place. There are 18 acres of walking space, a bowling alley, tennis court, swimming pool and movie theater. More important, the White House is a nerve center, with its Situation Room in constant touch with potential crisis points around the world. And it is only 16 blocks from Congress and the Supreme Court.

If our next President spent more time in the White House, it would save us the money often spent on costly gallivanting. And the American public would find new security, I think, in feeling that their President was on the job.

It is this sense of dedication to the task at hand, this awareness of the need for concentrated effort on behalf of the people they represent—or the voiceless people who want someone to speak for them—that I found among all the woman who were selected in our poll.

All six chosen in our vote are women I would like to have you meet—the kind of individuals to whom I believe we might safely entrust the highest office in the land.

In addition to introducing them to you, I would like to suggest that there is a moral here.

Since this country first came into being, mothers have explained the meaning of democracy in the simplest terms to their children by telling their sons, "You can become President."

If we are to have the full democracy we profess to believe in, the time has surely come to say to our daughters, "You too can become President."

Of the 700 men and women Redbook asked to name those women they would like to see as candidates, 44 per cent chose Barbara C. Jordan, Congresswoman from Texas, as one of their five nominees. The other names most often mentioned were: Ella T. Grasso, Governor of Connecticut, chosen by 33 per cent; Shirley A. Chisholm, Congresswoman from New York, 21 per cent; Martha W. Griffiths, former Congresswoman from Michigan, 16 per cent; Frances "Sissy" Farenthold, former Chairperson of the National Women's Political Caucus, 16 per cent; Anne L. Armstrong, former Co-Chairman of the Republican National Committee, 15 per cent.

So close were the last three women that Redbook has included six in the results.

BARBARA C. JORDAN

Congresswoman, 18th Congressional District, Houston, Texas; 39 years old; Democrat.

Who is this Barbara Jordan to whom 44 per cent would entrust the White House? In the traditional terms of the Presidency she is a very unlikely candidate: new to the national scene, a Black—a woman.

You will find her most often in the well of the House of Representatives, a big Black woman, slouched in a chair on the aisle. She listens intently, even through the long hours when activity on the floor is routine and the House is almost empty. In her simple, straight-forward manner she is doing what the people elected her to do—attend to their interests in Congress.

Barbara Jordan was raised in Houston, in the center-city district whose 466,520 people she now represents. "In my neighborhood all of us were Black and poor, but we didn't sit around and analyze our Blackness or our poverty."

As a child she spent long hours with her face upturned to the pulpit of the Mount Pilgrim Baptist Church. Ben Jordan, her father, was a warehouse laborer on weekdays and a preacher on Sundays.

"My sisters learned to play the piano and sing," she says. "I went in for declamation and public speaking."

Quite naturally, then, the podium became her way of making something of herself, to excel. It has become her most effective tool as a congresswoman. She is a leader in the 24-member House Democratic Steering and Policy Committee, and a voice of conscience for the Constitution, as she proved in last year's impeachment proceedings before the House Judiciary Committee. In short, she is a comer in national politics.

She got her degree in political science at Texas Southern University, *magna cum laude*, and went to Boston University for her law degree. She returned home to practice law and politics in a frame building in downtown Houston—an office she still keeps for meetings with constituents who can't get uptown easily to her Federal Building quarters.

She was defeated twice for the Texas house of representatives, but in 1966, with support from the labor-liberal Harris County Democratic Organization, she won a seat in the Texas senate. She was the first Black woman to go there, and she served six years.

It quickly became obvious to the Texas senate that she could outthink them all. Brain Power, not Black Power or Woman Power, made her so effective that half the measures she submitted were enacted into law.

She is unmarried—"Politics is totally consuming."

She was elected to Congress in 1972, re-elected by a large majority in 1974.

How to handle the press? "Be candid and don't just talk about candor. People understand that a President is not always right, not always sure of the course, not always inviolate. From time to time, the President may misjudge. Well, say so. 'I called that one wrong.' "

Her approach to foreign policy? "The time has come for a realistic appraisal of American power in the world. We must recognize the strength of the underdeveloped nations and try, through a series of conferences, to meet on a plateau of understanding so the propaganda of imperialism will lose all its sting. We must share our wealth in a real sense—a technological sense."

What legacy would she like to leave? "Strong, moral, compassionate leadership from the top. I remain old-fashioned and believe in the simple values, like telling the truth all the time. I don't hedge. I don't lie. I try to figure out what is right for people and do it."

ELLA T. GRASSO: GOVERNOR OF CONNECTICUT; 56 YEARS OLD; DEMOCRAT

Governor Grasso, daughter of an Italian baker, Phi Beta Kappa graduate in economics from Mount Holyoke College, grassroots politican and Eastern intellectual, arrives at her office by 7:15 each morning, often in a pantsuit whose coat may have a button missing. Her chestnut hair is short and cut simply, and there is no time for lipstick except in the evening.

Ella Grasso is not one for trappings. Soon after she was elected, she reduced the number of state troopers assigned to accompany her and insisted they give up their uniforms in favor of civilian clothes. Sometimes she wishes aloud that she could sleep in her own bed back home in Windsor Locks, and use the spacious governor's mansion only for ceremonial occasions.

Her husband, Tom Grasso, a retired schoolteacher with a doctorate in education, remembers that Ella "found dignity in everything about party politics—stuffing envelopes, typing, writing speeches. She helped to bring a little class, an academic dimension," to political life. The Grassos have two children, both school teachers.

To the governorship Ella Grasso brings two terms' experience as a state legislator, serving for part of the time as floor leader—the first woman to hold that position. She also served 12 years as Connecticut's secretary of state and four years as U.S. congresswoman.

"I just couldn't sit in Congress till hell froze over and see nothing happen," she says. So she told the Democratic Party back home that she was going to run for Governor. "Why not Lieutenant Governor?" they suggested. "Governor," she replied firmly, and that was that.

"I had the kind of upbringing and schooling that breathed a sense of responsibility into you for your country and your time. Ours was a warm household where I was cherished and encouraged to achieve."

Has the Presidency become an impossible job? I ask her. "When dealing with future shock and crisis on crisis, one gets despairing. The challenge is to restore faith, and the President is expected to be a miracle worker. The Presidency should be a place where we find not so much a leader as a reflection of ourselves and our ability to achieve executive and legislative changes."

Gloria Schaffer, Connecticut's new secretary of state, says of Ella: "She is very strong in standing up to people. They like the way she gives them a chance to sound off, and she really knows the machinery of government. She talks political action and she encourages it."

Ella Grasso will be doing just that at the Democratic national convention next year, when she and her delegation will have 51 votes to help choose the national ticket. You can be sure her votes will count.

SHIRLEY A. CHISHOLM

Congresswoman, 12th Congressional District, New York, New York; 50 years old; Democrat.

When she ran for President in 1972, Shirley Chisholm knew she was a trail blazer for Black citizens and for women. Although she lost the nomination, when the contest ended Blacks and women stood taller because of this tiny (101-pound) congresswoman. Determined, dignified, she remains "unbossed and unbought"—the title she gave her autobiography.

A political evangelist by happenstance, endearing by nature, she is basically a teacher, happiest around young people. Childless herself after 26 years of marriage, Shirley Chisholm has spent most of her life deeply involved with children. A specialist in early-childhood education and child welfare, she received her degree in education from Brooklyn College, *cum laude*. At Columbia University she took her master's degree in administration and supervision in the Education Division.

For the next 18 years she met, held in her arms and loved the children of New York, first as a nursery-school teacher and child-care-center director and then as educational consultant to the Division of Day Care in New York City. From 1964 to 1968 she served as assemblywoman in the New York legislature.

The New York district she has represented in Congress since 1968 is a frayed patchwork quilt, with all the problems of an ethnic community whose people are struggling for jobs and housing and crying, "help!" in a dozen tongues. The people look to her; she fights for them.

The Chisholm family was poor, her father an unskilled laborer, her mother a domestic and a seamstress. "I had a strict maternal grandmother who looked me straight in the eye and said: 'Be somebody!' " she recalls.

Born in Brooklyn, Shirley Chisholm was raised in the British West Indies, where, she says, "the British system of self-discipline and respect for home and community taught me that you must, as soon as you can, know yourself, behave yourself. There's no room for self-pity if you want to move ahead.

"Then, too, the island environment shielded me from the ugly things racism has bred in our country, like the tendency of so many Blacks to give up along the way."

Her abortive campaign for the Presidency opened her eyes further. "The myth in America is that anyone can grow up to be President. The fact is, you need access to money. But that, as we've seen, has led to corruption and has given a negative image to the highest office in the land. The country is big, so it is important to travel. That in itself, when you have no money, is a roadblock to the office."

Her views on foreign policy are equally strong. "We would be regarded more highly throughout the world if our policy were brotherhood. The United States has been saying one thing and doing another in foreign affairs; there is much hypocrisy in what we do. We can't treat Asia, Africa and the Caribbean differently from the stronger European nations. Third-world nations are coming of age, they're banding together, and we cannot overlook this."

When facing a crisis, what is her pattern? "To isolate myself with all the facts. To check in with every side possible and then again with people who know my philosophy of life. Then I make my decision, and once I make it, I will move. I will not be equivocal. People lose confidence with flip-flops. I have no reservations about going down with a decision that I know is right.

"I'd like to prove that a Black woman can be President. But basically, most important, is that a humanitarian President serve—one who is sensitive to all people, just plain people. I would like people to say that of me."

MARTHA W. GRIFFITHS

Former Congresswoman from Michigan; attorney; 63 years old; Democrat.

"If I were President and wanted a bill passed, I'd go to the Hill myself and appear before the congressional committees handling it," says Martha W. Griffiths, who spent 20 years in Congress listening to everyone from the White House except the President.

More than any other member of the House, Martha Griffiths pushed the Equal Rights Amendment through Congress and followed it on its rocky course, working for its ratification, hammering away at those who misrepresent the amendment as a threat to family life.

After retiring from Congress last yet, Martha Griffiths returned to the Detroit suburb of Farmington Hills and rejoined her old law office with her husband, Hicks Griffiths, who literally "dragged me into law school in the first place." Then the corporate boards began knocking at the door. She now serves on four boards of directors: Chrysler Corporation, Consumers Power Company, National Detroit Corporation and Burroughs Corporation. To the board room she brings a no-nonsense approach to policies affecting employees and customers.

"I've watched the inequities over the years. At present the laws of this country are discriminatory—not just toward women but also toward their children! It's unconscionable! The men who make our laws are still looking at the traditional family of thirty to fifty years ago. This country has changed incredibly since then."

Although all Martha Griffiths' political life has been in Michigan and Washington, her down-to-earth practicality stems from growing up in rural Missouri. Her father was a mail carrier and her mother substituted for him whenever he was ill.

Martha met her future husband in a class at the University of Missouri. They studied together, married, and cut corners to survive through law school on a very low budget.

"Whatever I am I owe to my father and to my husband," Ms. Griffiths told me. "I would never have done any of it if they had not pushed me."

Were she President, her emphasis would be on freedom and justice. "What really made America is the idea that every person has rights. I would want the law to be as fair as possible and every person as free as possible."

FRANCES "SISSY" FARENTHOLD

Former Chairperson, National Women's Political Caucus; 49 years old; Democrat.

"The winds of change are blowing," Sissy Farenthold told Texas voters four years ago. While they were not yet strong enough to sweep her into the governorship, she got 46 per cent of the vote. Young citizens and lots of women supported Sissy, who was the reform candidate.

Frances "Sissy Tarlton went off to Vassar College at 16, took her law degree at the University of Texas and came home to marry the "most sophisticated man in town"—George Farenthold, a Belgian-born businessman who is at home in Paris, Gstaad and Texas. They had five children in four and a half years and settled down to raise them in Sissy's childhood home overlooking Corpus Christi Bay.

Sissy is a patrician from an old family, with roots and access to old money in Texas. "Living for forty-five years in a house five blocks from where I was born helped shape me. After I became a lawyer, working as legal-aid director with the Mexicans in Nueces County and serving for five years on the Corpus Christi Human Relations Committee helped me see things through new eyes.

"Certainly being in the Texas legislature for four years had an impact on me." There, in the house of representatives, she established herself as a fearless reformer. Sissy would see anyone from any part of the state about indifferent welfare workers or a racial grievance or poor housing. The poor of Texas found a friend, someone who would express their anger in public and to hell with them who tried to shush her.

She has made a good many crash decisions in her political career—last-minute efforts undertaken just because she couldn't stand to see something "defaulted." She filed for Governor the first time within two hours of the deadline and ignored friends who warned her against running again in 1974. Despite both defeats she has made political history. At the 1972 Democratic convention in Miami her name was placed in nomination for the Vice-Presidency by Gloria Steinem and former New York Congressman Allard Lowenstein. As the roll was called, it was obvious that the National Women's

Political Caucus, a year old, had established strength in each state delegation.

Women caucus leaders from Tennessee ("the Magnolia Mafia"), from North Carolina, from all the other states rounded up 420 votes for Farenthold against Presidential candidate George McGovern's choice, Senator Thomas Eagleton, of Missouri. At this point Sissy withdrew, making the vote for Eagleton unanimous. But that roll call did three things. It proved that women could make their mark; it showed George McGovern, considered the most pro-feminist of the candidates, that even he was not immune to the challenges of women; and it made Sissy Farenthold a national role model for political women. In February, 1973, the National Women's Political Caucus elected her its first chairperson at its national convention in Houston.

What does Sissy Farenthold think about the Presidency—is it so impossible a job? "I don't think many of us know all that's involved," she says. "Right now I'm writing a book on the CIA and the whole intelligence area. I am appalled at what I am learning—how our intelligence operations are used as alternatives to diplomacy. Do we even know what a President knows of covert operations? Maybe we're going through a kind of charade in this country."

If she became President, what legacy would she like to leave? "To finish the civil rights program Lyndon Johnson started. To restore our natural environment, and with it the human spirit. To establish a Department of Peace."

ANNE L. ARMSTRONG

Former Co-Chairman, Republican National Committee; 47 years old; Republican.

In "the kind of country where the rattlesnakes back out," as folklorist J. Frank Dobie once described it, along the Texas gulf coast, amid unrelieved miles of lacy, thorny mesquite trees, is the small oasis around the century-old ranch house where Anne Armstrong lives.

This is silent land. But inside the house the incessantly ringing telephone breaks the stillness. Here in this remote spot Anne Armstrong is busy. The former Co-Chairman of the Republican National Committee, the former Counselor to President Nixon with Cabinet rank, remains a bright star in the G.O.P. hierarchy. The White House, the Vice-President's office, Cabinet members, newspaper editors, corporate executives, still track her down for speeches, for advice, for service on commissions. She sits on two corporate boards of directors, American Express and Union Carbide.

At 22 Anne Legendre, a pretty girl from New Orleans, arrived in Texas to visit friends and wound up marrying Tobin Armstrong, the best-looking man in the state. The Armstrongs had five children in five years and kept busy running their 50,000-acre ranch.

What has influenced her life? "I became very interested in politics and world events when I attended Vassar, particularly in the United Federalist Movement. Working in the summer for a New Orleans newspaper—I loved that! Then coming here to this ranch. Ranch life has given me something I could have got no other way—a real closeness with family.

"As for politics, I have lived mine on a very local level. There are a handful of Republicans, maybe twenty, in this county. The Republicans in Texas needed every warm body they could get, so it was a good place to move ahead fast."

She did just that—as National Committeewoman from Texas and then up the ladder to become Co-Chairman of the party with Senator Robert Dole of Kansas. In 1973 her efficiency and wide popularity in the Republican party led President Nixon to appoint her to the White House, give her Cabinet status and wide responsibilities for issues relating to women and minorities. When the Watergate story began to unfold, she forthrightly criticized the President for taping conversations but at the time saw no impeachable offense committed. Most Washington reporters credit her with weathering Watergate with clean skirts, but it must have been deeply disappointing to one who had worked so diligently for her party through the years.

She is fascinated by—and knowledgeable about—foreign policy. "There is just no way we can withdraw to Fortress America. There is an unfortunate but natural inclination now just to attend to our business here, but that wouldn't work out. I think we need to understand long-range economics better. We plan for short-range problems but we need long-range answers."

If she were President, what legacy would she most like to leave? "We've been through a period when Americans felt ill at ease with themselves. We do not know quite where our moorings are. I would like to have restored a sense of confidence in ourselves."

SENATOR MONDALE ON REGIONAL PRIMARIES

Mr. HUMPHREY. Mr. President, last week my colleague from Minnesota (Mr. MONDALE) introduced a bill to establish a system of regional presidential primaries to replace what he called our present "chaotic" means of nominating Presidential candidates. Senator MONDALE said that he was introducing his bill "in the interest of contributing to a national debate" on this important question.

I am pleased to report that, in response to his initiative, such a debate already has begun. A number of columnists and editorial writers have commented on Senator MONDALE's proposal, and I would like to share them with my colleagues.

Mr. President, I ask unanimous consent that the following commentaries be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the St. Paul (Minn.) Pioneer Press, Dec 10, 1975]

THE MONDALE PLAN

Sen. Walter Mondale has proposed a plan to bring some order out of the chaotic process of selecting candidates for the American presidency. His proposal for a nationwide regional presidential primary system is unquestionably a first-rate contribution to political science in an area heretofore lamentably neglected.

It is a plan which may have little chance of adoption. It is by no means a perfect plan, and Mondale is the first to admit that. It may not even be a workable plan. But what he proposes is far and away better than the formless, slipshod and basically unfair process by which we now select the delegates to the presidential nominating conventions.

Indeed, to call the way in which these delegates are now chosen a "process" is to dignify anarchy. No other free nation goes about selecting the candidates for its highest office in so haphazard a manner or puts such restraints upon free selection. Every one of the states and the District of Columbia goes its independent way in the free-for-all scramble.

As Mondale said in his Senate speech, "It's often a mindless process from the candidates' perspective, too often a self-defeating one for the parties, and frequently an ineffective one for the nation."

Mondale tells what we ought to have known all along but have scarcely admitted to ourselves, that choosing presidential candidates is a "national process that deserves a national design."

Some of those who have given thought to the problem have suggested a national primary, an all-on-the-same-day nationwide election. But this, in Mondale's view, weakens if it does not destroy the function of the national nominating conventions, which he sees as instruments necessary to reconciliation of regional differences and establishment of party unity. A national primary would, in addition, offer a built-in advantage to those candidates already well-known or with the most extensive organizational and financial backing.

Mondale's answer, embodied in a bill he introduced in the Senate Thursday, is regional primaries. It would divide the country into six regions. In each region those states choosing to hold primaries would all hold them the same day. Each of the six regions would be assigned an election day to be determined by lot. The six election dates would be separated by two-week intercals.

The plan, Mondale says, would meet his six criteria for a rational delegate selection process: It would retain the national conventions; offer the broadest possible range of candidates, including those not blessed with wealth or name recognition; encourage broad party participation but limit the participation to those affiliated with the parties; permit candidates to conduct coherent campaigns in each region; provide a measure of candidates' appeal to all sections, and be of national design, giving undue weight to no one state or area.

In introducing his regional primary plan, Mondale also said he "would like to see" President Ford, "first occupant of the White House whose presidency has not been the product of the existing nominating process," appoint a special commission to analyze that process and evaluate alternatives.

Perhaps Mondale would be satisfied if such a study is all that comes of his proposals. In any case, by placing his regional primary plan before the Congress and the country, he has made an invaluable contribution. He has forced us to take a more serious look at a situation which badly needs, at the very least, clarification.

[From the New York Times, Dec. 5, 1975]

CHEER UP! THINGS ARE TERRIBLE

(By James Reston)

WASHINGTON, December 4—The only happy thought around here these days is that so many things are going wrong that maybe something will finally be done about them. But only maybe.

It's a well-known rule in Washington that nothing compels reform like some imminent disaster, or spectacular stupidity, and we now have so much of both on the national agenda that you have to have some hope.

Each day's horror stories about the past crimes of the F.B.I. and the C.I.A., for example, add to the prospect that the Congress will finally take these secret agencies by the throat.

The news from the political front, with thirty Presidential primary elections, is fast becoming a national joke and actually forcing a little serious thought about fundamental electoral reform.

This may not be the best way to run a democracy, but the record suggests that nothing succeeds like failure. New York City had to go broke before we got fiscal reform. It took Vietnam to bring the military under some kind of control, and Watergate to get rid of Richard Nixon. The price was high but some lessons were learned.

Not many years ago, when Uncle Sam was

the only cop on the block, he didn't hesitate to plunge into the Congo or Lebanon, but he is not intervening now in Angloa or Lebanon, though the situation in both places is a little scary.

So there is a chance that we will make similar progress in other fields. We are gradually getting some fiscal reform, welfare reform, even some, but not much Congressional reform; but election reform will be the slowest and the toughest because it is in the hands of the pols who got where they are under the old system.

Nevertheless, Senator Walter Mondale of Minnesota has come forward with a bill to improve, if not correct, what he calls the present mindless irrational and chaotic Presidential primary system.

He rejects the notions of a single national primary election, on the grounds that it would undermine the national conventions, give the well-known and well-heeled candidates an unfair advantage, and risk too much on a single roll of the dice.

He proposes instead that the states and territories be divided into six regions, each of which would hold its Presidential primaries on one of six designated Tuesdays between late March and mid-June of Presidential years.

The six primary election dates, two weeks apart, would be assigned by lot to the six regions by the Federal Elections Commission five months before the first primary, and Mr. Mondale suggests a few simple rules.

"States," he say, "could retain the right to determine the particular type of primary [they wish] to have, how candidates qualify for inclusion on the ballot. But," he adds, "voters in state Presidential primaries would only be allowed to participate in the party of their register affiliation, and states would be prohibited from listing the names of delegate candidates on the primary ballot without indicating which Presidential candidate, if any, he or she is pledged to support."

Unfortunately, he sees no chance of any reform before next year's primaries. He is urging President Ford to establish an elections commission to study the whole problem, and bring its recommendations to the Congress before the end of the Bicentennial year.

There will obviously be objections to the states he has put in the six regions, some of them strikingly different from others—New York with New England, for example. But he is trying to start a debate, and the chances are that after the confusion of next year's primaries, the disaster level will have risen high enough to force some changes.

No present candidate, with the possible exception of Jimmy Carter of Georgia, defends the present system of cross-voting and selective testing of candidates' popularity. As The New York Times observed recently:

"It is fatuous to describe as participatory democracy a nominating system that involves a wretchedly small proportion of the electorate, that in some states encourages Democrats to help choose Republican candidates and vice vera, that grossly distorts the significance of the first few primary contests in an election year, and rewards with money and inordinate publicity the states that hold them. . . ."

The only hope is that next year's thirty primaries will be such a silly scramble that, as in other fields, they will force the long overdue reforms.

[From the Minneapolis Star, Dec. 8, 1975]

Mondale's Cure for Chaos

Basic political reform is not a pursuit for the short-winded.

In fact, reformers and proponents of structural reforms have, by and large, become frustrated, even cynical, about the slow results of "good government" reform.

Yet here comes Sen. Walter M. Mondale with a bill for a system of six regional presidential primaries that would revolutionize the way we choose delegates to the national conventions that nominate "the people's choice."

The bill would set up six regions (ours: Montana, the Dakotas, Iowa, Minnesota, Wisconsin, Illinois) each to hold a presidential primary on one of six designated Tuesdays between late March and mid-June. The dates, at two-week intervals, would be picked by drawing lots. A state (like Minnesota) wouldn't have to have a presidential primary. But, if it had one, it would have to fit into the grand design.

Mondale, who learned about presidential primaries the hard way during his year of wandering in the primary wilderness, is fully aware that his bill won't be rushed to a vote.

But isn't it time that we restored some faith in the reform approach to politics?

Mondale's proposal ought to be taken seriously even though—indeed, because—a long educational campaign will be needed before the country is ready for so dramatic a change.

The process could be quickened if President Ford grasps an opportunity he could link to the bicentennial. It is the appointment, on his own motion, of a bipartisan White House commission for a stem-to-stern review of the nomination system. Mondale put this in his bill, but Ford could do it on his own. We think Ford would be roundly applauded.

Furthermore, there will be a limited regional experiment next year. This is the result of an agreement among Oregon, Idaho and Nevada to set May 25 as a common primary election date. Even if Mondale's grand design bill dies, the principle could be achieved pragmatically by grassroots interstate cooperation along that line. The Mondale bill could encourage that.

What we have now, as Mondale said, is chaos, disorder and irrationality. In truth, the show biz side of politics at its worst.

With reason, he asked, for instance, why New Hampshire should cast such an inordinate influence just because of the date of its primary. We have a mindless process for candidates, a self-defeating one for parties, and an ineffectual one for the nation, as he put it. We will wait with interest to see what happens, with the optimism of the old-time good government reformers we'd make the judgement that the bill could be a kind of time bomb.

[From the Christian Science Monitor, Dec. 9, 1975]

Has Time Come for Changing the U.S. Primary System?

(By Richard L. Strout)

WASHINGTON.—When the football season is over, when the hockey season is fading, when the days begin to lengthen, the U.S. presidential primary contest starts in earnest.

The race is for the most powerful job on earth. The first test match, in New Hampshire on Feb. 24, is less than three months off, and is already bringing hopefuls through the snow. And William Loeb, the angry publisher of the Manchester Union Leader, is already calling them names.

Sen. Walter F. Mondale (D) of Minnesota, who dropped out of the race after a year's trying, calls the whole system bunk. What a way to pick the President of the United States! he exclaims.

The 30 or so primaries form a trip wire obstacle course for ambitious politicians. Frequently they occur simultaneously in different parts of the country, making it impossible for one candidate to be at all of them.

It's irrational, it's preposterous, says Mr. Mondale.

"The system has evolved over nearly 200 years without design, structure, or purpose into a complex maze of state laws, party regulations, and unwritten traditions.

"No other major nation chooses its leaders in such a chaotic manner and the question is whether we should continue to do so."

Mr. Mondale's answer to his own question is "no." But, in the meantime, he thinks maybe it would help to group primaries by regions into six areas and at least give candidates a chance to roam contiguous territory before going on to the next area, like old-fashioned circuit-riders.

Foreign political science students have scheduled visits to the United States in 1976 for years ahead to see how the extraordinary system works, and many frankly acknowledge that they don't believe any other country could run it. In Canada, for example, elections take about two months or less from start to finish, whereas most members of the U.S. House of Representatives start running the minute they are elected for their two year, fixed term.

Georgia's former Governor Jimmy Carter, who is a Democratic presidential aspirant, acknowledged the other day in Washington that he had been running full-tilt for two years.

In Canada, incidentally, the Prime Minister and the Leader of the Opposition are chosen by fellow members of the Legislature who have seen them in action and know them.

The Founding Fathers expected the American President to be selected by an elite group, banded in the Electoral College.

"In their only serious lack of foresight," Mr. Mondale says sadly, "they rejected political parties; it took less than a decade for the much-feared "factions" to appear.

Theoretically, the U.S. political system has harnessed factions into the two-party political system. Yet "at the very core of our governmental system," says Mr. Mondale, "there is an inexplicable absence of experienced and sophisticated" discussion on how the system works, and its effect on "the kind of Presidents we ultimately elect."

Sen. Mondale doesn't think his six regional primaries would be perfect and certainly couldn't be installed for this election. But the situation is desperate.

"I am at a loss to understand how we can continue to leave it in a continually changing state of chaos, disorder, and irrationality."

The new game of primaries is about to start.

The problems of scheduling simultaneous primaries in widely separated states is seen in this partial listing of the primaries:

The Massachusetts primary comes March 2, a week after New Hampshire, but New York and Wisconsin both come April 6; Alabama, Georgia, Indiana, and the District of Columbia all come May 4; Nebraska and West Virginia May 11; Maryland and Michigan May 13; Idaho, Kentucky, Nevada, and Oregon on May 25. Two other dates comprise the list: June 1 for Mississippi, Montana, Rhode Island, and South Dakota, and June 8 for Arkansas, California, New Jersey, and Ohio. (Arkansas may change its date to something earlier.)

[From the Redwood Falls (Minn.) Gazette, Dec. 9, 1975]

On Regional Primaries

The Nation's 30 Presidential primaries would give way—in large part—to perhaps six regional primaries with similar purpose but presumably much more significant results if a bill before the United States senate should be enacted.

With the New Hampshire primary starting that season in February 1976, it is too late for Senator Walter Mondale's regional scheme to be of much help before 1980, but few better bicentennial projects have been proposed than laying the groundwork for replacing the hodgepodge in which states vie for position and influence, and thereby lengthen the too-long presidential election process. Not only are the candidates spread thin and worn down, the electorate tends to tire of it all, lose some of the significance, and may feel they've been used when national convention delegates do pretty much as they please.

Under Mondale's plan, the six regional primary election dates would be two weeks apart, their order assigned by lot. He would leave most of the ground rules up to the states, except that they must keep a rein on those who would jump party lines to do mischief, and if delegates were to be elected, their choice of candidates would be shown.

Minnesota is not among the 30 presidential primaries, simply because this state's politicians let us try them, and went away with burned fingers. The Mondale plan would restore this right, giving it to voters in all 50 states.

There is no certainty, of course, that any scheme as Mondale's will be enacted for 1980, or even 2000, but if and when one is, the presidential election process will almost certainly be greatly improved.

BAYH COSPONSORS HEALTH SECURITY ACT

Mr. BAYH. Mr. President, today I am joining as a cosponsor of S. 3, the Health Security Act of 1975. I have made the decision to support this legislation only after careful study of the health care needs of the American people, the need to stem the rise in medical costs, and the manner in which the three major pending health insurance bills respond to these needs.

Pending legislation includes a national insurance plan developed and endorsed by the American Medical Association, a catastrophic health insurance plan introduced in the Senate by my able colleagues from Louisiana and Connecticut (Mr. LONG and Mr. RIBICOFF), and S. 3, the Kennedy-Corman Health Security Act, introduced by the Senator from Massachusetts and the Congressman from California.

I have concluded that only the Kennedy-Corman bill meets the minimum criteria essential to solving the acute health care problems of our Nation. While constructive amendments may be offered to S. 3 as it moves through the legislative process, it is clear that this is the proper vehicle for enacting health insurance legislation. This is because it is the only one of the three bills that proceeds from the correct and essential premises that quality health care must be available to all Americans, and that the effective cost control mechanisms are required to bring medical expenses in check.

THE STATUS OF AMERICAN HEALTH CARE

Today, the Nation is spending more than ever before on health care. During fiscal 1975, Americans spent $118.5 billion on health care; that is 8.3 percent of the gross national product. The $118.5 billion breaks down to per capita expenditures of $547 or three times per capita expenditures in 1960.

While health care costs tripled in the past 15 years, the Consumer Price Index increased 85.6 percent, which while too great an increase, does show the disproportionate rise in the cost of medical care.

The cost of health care services has increased at a rate virtually unparalleled among other goods and services. Within just the past 4 years public and private funds spent on health care increased by 50 percent and Federal expenditures increased by 86 percent. In 1965, in response to soaring medical costs we enacted medicare, yet today the elderly are forced to pay more for medical care than they did before medicare became law.

Unfortunately, Mr. President, this spiraling increase has not meant a comparable rise in the quality or quantity of health care available to most Americans. Indeed, the problems of access to medical care, waste, and duplication in medical programs, and inadequate care for many have grown even more critical.

There are many national groups, Mr. President, that have provided useful leadership on the health care problem, helping those of us in the Congress identify the magnitude of the problem and seek constructive solutions. Not surprisingly, among those groups have been many unions who understand the importance of this issue, not only to their members but to all Americans. The Committee for National Health Insurance, under the chairmanship of Leonard Woodcock, has been in the forefront of those looking carefully at the health security problem. Recently, Mr. Woodcock provided valuable testimony on this issue to a House of Representatives subcommittee. His testimony and other sources point to the following failures of national health policy:

Over the last year, millions of American families failed to obtain proper preventive care for their children. Approximately 5.3 million preschool children did not receive immunization against such killing and infectious diseases as polio, measles, rubella, diphtheria, whooping cough, and tetanus, despite the ready availability of easy and inexpensive preventive action.

It has been estimated that last year one-third of all pregnant women failed to receive proper prenatal care, thus endangering not only their own lives, but their babies also.

We have seen doctor strikes, public hospital overcrowding, private hospital and nursing home profiteering. A May 1975 study by the Public Citizen Health Research Group cited $8 billion in waste from excessive bed capacity alone.

Last year doctors' fees escalated at a rate 40 percent faster than other items in the Consumer Price Index. Hospital charges ran an incredible 105 percent faster, or more than double the overall inflation rate.

These problems are not ones that can be solved by a patchwork response. By now, most students of American health care agree that the time has come for a national health insurance program. Where the experts have differed has been over the type of program that would be best suited to solve America's health care problems and at the same time, be affordable.

ESSENTIALS OF HEALTH CARE

The purpose of a national health insurance program is not simply to pay doctors' fees and hospital costs. It encompasses the broader concept of providing quality health care for all Americans without regard to income or to where an individual lives. In studying this goal and the health care proposals now before the Congress, I have determined that there must be three essentials in any national health insurance program. These essentials include: Universal coverage, comprehensive benefits, and very importantly, cost and quality controls. I emphasize the latter point, Mr. President, because it is essential that national health insurance include strong provisions to check the unnecessary and excessive rise in medical costs, while guaranteeing fair and reasonable payments to doctors and other providers of medical services. The bill I am today cosponsoring does that.

I. UNIVERSAL COVERAGE

I firmly believe that any national health insurance program must provide coverage for every American. Quality medical care should not be dependent upon an individual's income or where he or she lives. The right to receive quality health care should be a birth given right in this country—just as individuals have a right to a quality public education.

Only one of the major health proposals before this Congress provides universal coverage for all Americans—that proposal is S. 3, Health Security Act. Under the other health insurance proposals, the coverage afforded is either on a voluntary basis or is offered only after an individual has already incurred up to $2,000 in medical bills or has been hospitalized for 60 days.

II. COMPREHENSIVE BENEFITS

Universal coverage goes hand in hand with another essential part of health care—comprehensive benefits. Under present health insurance systems, the emphasis has been placed on curative treatment rather than preventive care. Routine office visits and most outpatient services usually are not covered. There are economic incentives for expensive hospital visits and treatment, thus exacerbating the inflationary trend of medical costs, while there are economic disincentives for the safest and most cost-effective care—early diagnosis and treatment.

In the early 1930's and 1940's when health insurance plans covered hospital visits almost exclusively, the use of hospital services increased. When the coverage was expanded to include surgery, the number of operations increased. The recent expansion of major medical coverage has diverted health manpower resources into high cost specialized care. Yet today few insurance plans cover immunizations, laboratory and X-ray fees, infant care for healthy babies or general physical examinations, the very preventive care that permits early detection of serious ailments and often avoids costly health care expenditures for more serious treatment at a later date.

Of all the major health insurance legislation before the Congress, once again only S. 3, the Health Security Act provides comprehensive benefits. Under the Kennedy-Corman bill, comprehensive benefits include general hospital inpatient and outpatient services, physicians services, dental services for children up to 15 years of age with eventual coverage of the entire population, optometrists and podiatrists services, ambulance services, home health care services, laboratory costs, certain medical appliances and prescription drugs, skilled nursing home care, and limited coverage of psychiatric services.

III. QUALITY AND COST CONTROLS

The final essential which must be present in any national health insurance program is cost and quality control. As with the other two essentials, effective quality and cost control is only provided under the Kennedy-Corman bill.

It is only under one major health insurance plan, the Health Security Act, that a formalized commission, the Quality Health Control Commission, is charged with insuring that health services are qualitatively sound. The Commission would have the continuing responsibility to develop and to see that national standards for medical care are maintained.

Most important, only the Health Security Act has meaningful cost control. This cost control will be implemented by establishing an annual national medical budget, which would then be allocated to several health regions, and then, in turn, to health service areas.

Quite significantly, this form of rational cost control means health care costs can be held in check without cumbersome, undesirable, or excessive Federal regulations. Those who are understandably concerned over Federal regulation of the private sector must note that the cost control system under the Health Security Act rejects such regulation and leaves health delivery in the hands of private practitioners.

PROGRAM IMPLEMENTATION

The enormous complexity of providing quality health care mandates that there must be national coordination. Because of the need for this coordination, S. 3 establishes a five-member Health Security Board to set overall operating procedures to fulfill the objective of health security for all Americans.

At the second and third level of administration under S. 3 would be 10 regional health officers and 200 health service areas.

Hospitals, skilled nursing homes and other types of institutional providers of medical care would operate on an approved budget basis, rather than being able to charge whatever they decided. Money allocated for the payment of individuals—such as physicians, dentists, podiatrists, and so forth—would be distributed to local areas within each region. The budgeted per capita amount for each type of service would be divided between the categories of providers.

Health security would rely heavily on the developments of new comprehensive care organizations such as health maintenance organizations or other forms of prepaid group practice plans. These organizations would provide for or arrange for all covered services.

Let me emphasize that there is nothing under the provisions of S. 3 that would remove the individual's choice of physicians; nor would the Federal Government undertake to set physicians' fees. Individuals and families will help pay for this comprehensive program by contributing a 1-percent tax on the first $20,000 a year in wages, a 2.5-percent tax on the first $20,000 in self-employed income. The remainder of the cost would be absorbed by a 3.5-percent employer payroll tax and general revenues. In other words, working people would help pay for health security for themselves and their families in accordance with their means. But the opportunity to receive quality care would be equalized, ending the pattern of subjecting low- or middle-class Americans to inferior care.

THE COST OF HEALTH CARE

The greatest fear of national health insurance has been the cost of such a program. The argument is made that in the midst of an economic recession, and with growing awareness of the need to avoid unnecessary spending, the Nation is not in the position to underwrite a new program of this magnitude.

The difficulty with this argument is that it ignores the fact that this Nation is already spending more than $118.5 billion a year for health care. Much of this expenditure has resulted from the waste, duplication and inefficiency of the present system. Much of the $118.5 billion total is a result of this Nation's preoccupation with curative services rather than preventive medicine. An actuarial study completed by the Committee for National Health Insurance has shown that under the Health Security System, this Nation could actually save $21 billion annually in comparison with the catastrophic insurance program; $25.5 billion in comparison with the AMA approach; and $11.6 billion in comparison with the present system of health care. The underlying point is that the Health Security Act does not increase medical costs, but rather shifts the burden for meeting those costs away from those who can least afford it, and couples that step with the cost control provision cited above.

As is not unusual, the American people seem to be way ahead of many officials in their recognition of the need for national health insurance.

A recent poll by the Cambridge Research Associates showed that health care was the one area where 66 percent of the American people favored greater Government spending. Health care has moved from 11th in terms of voter priority in 1972 to first on the list for 1975. The poll went on to show that 57 percent of the American people would favor the establishment of a health insurance program at least as far reaching as S. 3.

Mr. President, I think that we must accept the failure of our present system of health care. After more than 30 years of trying, it is clear that the available health insurance programs have failed to provide adequate coverage for our citizens, nor met our health care needs adequately. Private insurance now pays for less than one-third of the health costs of the Nation. The rest is paid for by the Federal Government or out of the pockets of families, most of whom find proper health care an impossible economic burden.

Currently 40 million Americans have no health insurance protection at all. Millions of additional working people and their families do not have insurance due to the current crisis in unemployment. I do not believe this Nation can afford to wait any longer before it recognizes the need to provide comprehensive health insurance.

Finally, Mr. President, I should note that I reached my decision to cosponsor S. 3 only after the Senators from Louisiana and Connecticut (Mr. LONG and Mr. RIBICOFF) introduced their health insurance bill, so that I would be confident that the Health Security Act was the legislation most worthy of support. Also, I feel that it is important to counter President Ford's abandonment of the goal of national health insurance, previously embraced by the administration, in a narrow and mistaken interpretation of economic restraint. At this juncture it is essential for those of us who believe that quality, affordable medical care must be available to all our citizens to stand up and to speak out on this most pressing of national problems.

THE 92 YEARS OF WISCONSIN AGRICULTURAL RESEARCH

Mr. **PROXMIRE**. Mr. President, the recently released 1975 agriculture yearbook, "That We May Eat," commemorates the 100th anniversary of the State Agricultural Experiment Stations. In 350 pages this book highlights the impressive work done to improve agriculture in the last 100 years. The Agricultural Experiment Station at the University of Wisconsin in Madison was established in 1883. Since then it has made impressive contributions to agricultural research, several of which are noted in the 1975 agriculture yearbook.

One of the most outstanding achievements of the Wisconsin Experiment Station has been its work in the field of vitamins. In 1906, Stephen Moulton Babcock began his experiments to determine the nutritonal value of different grain diets for dairy cows. The results showed that despite comparable levels of protein, carbohydrates, and fat in each of the diets, cows were healthier on a corn diet. This stimulated further research on the nutritional requirements of people as well as animals. In 1907, Elmer C. McCollum and Marguerite Davis isolated what later became known as vitamin A. In 1922, McCollum and coworkers at the Wisconsin Experiment Station separated vitamin A from the rickets curative agent and called the nutrient vitamin D. Recently H. F. DeLuca at Wisconsin, through a series of studies, unraveled the nature of the vitamin's activities. These experiments and those at other stations have accelerated the conquest of vitamin deficiency diseases such as scurvy, rickets, and beri-beri. Such research has encouraged the development of the modern day poultry industry and greatly improved our understanding of the vital role played by vitamins in health and nutrition.

Work by L. R. Jones, D. A. Orton, and J. C. Walker of the Department of Plant Pathology at the University of Wisconsin helped save the kraut industry by the development of a strain of cabbage resistant to the Fusarium disease—yellows—which threatened the entire cabbage crop.

Pathologists Tompkins and Johnson at the University of Wisconsin were involved in research on potato diseases. Their studies led to discoveries of the dependence of virus on plant exposure to air temperatures.

Benjamin Duggar after 40 years' research and teaching at experiment stations in Missouri and Wisconsin discovered the first of those vitally important antibiotics, chlortetracycline—Aureomycin.

H. D. Bruhn, agriculture engineer at the Wisconsin Agricultural Experiment Station, was the motivating force behind the economical packaging of field-cured hay into "cubes" an inch and a half square by 1 or 2 inches long.

The ongoing cooperation between the USDA and the State experiment stations which resulted in the development of the soybean industry was due largely to O.S. Aamodt, head of the agronomy department at the University of Wisconsin before joining USDA staff in 1939.

H. L. Russell of the Wisconsin State Experiment Station worked with commercial pea canneries to reduce spoilage from 5.0 to 0.05 percent.

Studies by investigators at experiment stations in Arizona, Michigan, New York, and Wisconsin led to the use of fluorine in the water supply to reduce significantly the amount of dental caries in the population.

The saga of niacin, one of the water soluble vitamins, portrays the immediate application of information from basic research to the solution of human problems. Work at the Wisconsin Experiment Station, together with that of Goldberger and associates, showed that black tongue in dogs was analogous to pellagra in humans and both could be cured by diet supplements.

More recently farmer coops have provided funds to agricultural experiment stations for research that has proved of great service to members and the public.

A 1969 study at the Wisconsin Experiment Station funded by Cenex—Farmers Union Central Exchange—resulted in programing and computerizing plant analysis results for rapid interpretation and recommendations. Plant analysis is now an integral part of Cenex' crop monitor service to its farmer members.

In 1960, a research team developed a blueprint on the best type organization for the dairy industry which demonstrated that reorganization could yield farmers 10 to 25 cents more per hundredweight of milk sold. This research contributed significantly to the combining of over 100 Wisconsin dairy co-ops, thus improving the income of members and holding down the costs of moving dairy products to consumers.

Mr. President, I am proud of the part Wisconsin scientists have played in substantial achievements of the State agricultural experiment stations. I know they will face the tough problems ahead with the same dedication and ingenuity shown in the past.

ANDREI SAKHAROV

Mr. JACKSON. Mr. President, I ask unanimous consent that Andrei Sakharov's statement accepting the 1975 Nobel Peace Prize be printed in the RECORD. Dr. Sakharov's wife, Yelena Bonner, read the statement on his behalf—because the Soviet Government refused to allow the distinguished human rights advocate to receive the Peace Prize in person.

A New York Times dispatch from Moscow adds this note:

As his Nobel Peace Prize was being presented today in Oslo, Andrei D. Sakharov was standing outside a courtroom in the Lithuanian capital of Vilnius, trying vainly to attend the trial of his good friend and fellow dissident, Sergei A. Kovalev.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE SAKHAROV STATEMENT

(OSLO, NORWAY, December 10.—Following, in translation, is the text of Andrei D. Sakharov's statement today accepting the 1975 Nobel Peace Prize, as read in his absence by his wife, Yelena Bonner:)

I am very grateful and very proud. I am proud to see my name placed together with the names of many outstanding people, among whom is Albert Schweitzer.

Thirty years ago nothing but ruins were left of half of my country and half of Europe. Millions of people mourned and still continue to mourn their dear ones. For all those who went through the experience of the most terrible war in history, World War II, conception of war as the worst catastrophe and evil for all mankind has become not only an abstract idea but a deep personal feeling, the basis for one's entire outlook on the world. To keep one's self-respect one must therefore act in accordance with the general human longing for peace, for true détente, for genuine disarmament. This is the reason why I am so deeply moved by your appreciation of my activity as a contribution to peace.

But what made me particularly happy was to see that the committee's decision stressed the link between defense of peace and defense of human rights, emphasizing that the defense of human rights guarantees a solid ground for genuine long-term international cooperation. Not only did you thus explain the meaning of my activity, but you also granted it a powerful support.

THE PRICE OF FREEDOM

Granting the award to a person who defends political and civil rights against illegal and arbitrary actions means an affirmation of principles which play such an important role in determining the future of mankind. For hundreds of people, known or unknown to me, many of whom pay a high price for the defense of these same principles—the price being loss of freedom, unemployment, poverty, persecution, exile from one's country—your decision was a great personal joy and a gift.

I am aware of all this, but I am also aware of another fact: In the present situation, it is an act of intellectual courage and great equity to grant the award to a man whose ideas do not coincide with official concepts of the leadership for a big and powerful state. This, in fact, is how I value the decision of the Nobel Committee. I also see in it a manifestation of tolerance and of the true spirit of detente. I want to hope that even those who at present view your decision skeptically or with irritation some day will come to share this point of view.

The authorities of my country denied me the right to travel to Oslo on the alleged grounds that I am acquainted with state and military secrets. I think that actually it would not have been difficult to solve this security problem in a way acceptable to our authorities, but unfortunately this was not done.

GUESTS UNABLE TO ATTEND

I was unable to participate personally in today's ceremony. I thank my friends who live abroad and who honored me by being my guests here. I had also invited friends from my country—Valentin Turchin, Yuri Orlov and two of the most noble defenders of the cause of justice, legality, honor and honesty, Sergei Kovalev and Andrei Tverdokhlebov, both of whom are at present in jail awaiting trial. Not only the latter two but none of them could come: In the U.S.S.R. when it comes to obtaining a permit to travel abroad, there is not much difference between their respective situations. Still, I beg you to kindly consider all of them my official guests.

I would like to end my speech expressing the hope in a final victory of the principles of peace and human rights. The best sign that such hopes can come true would be a general political amnesty in all the world, liberation of all prisoners of conscience everywhere. The struggle for a general political amnesty is the struggle for the future of mankind.

I am deeply grateful to the Nobel Committee for awarding me the Nobel Peace Prize for 1975, and I beg you to remember that the honor which was thus granted to me is shared by all prisoners of conscience in the Soviet Union and in other Eastern European countries as well as by all those who fight for their liberation.

ANTIDISCRIMINATION LAWS

Mr. BAYH. Mr. President, yesterday a broad coalition of groups concerned with the lack of effective enforcement of existing antidiscrimination laws sent a report documenting their concern to HEW Secretary David Mathews.

Because of the importance of the issues raised by this coalition of groups, I ask unanimous consent that a copy of the report along with the accompanying letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 10, 1975.

Dr. DAVID MATHEWS,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR SECRETARY MATHEWS: We the undersigned groups call upon you to direct your personal attention to what we regard as a crisis situation—the persistent and continuing failure of the Department of Health, Education, and Welfare (HEW) to protect the rights of racial and ethnic minority groups, women, and handicapped persons. Urgent measures are needed from you to correct the seeming willingness of your Department to tolerate continued discrimination in federally funded programs and activities—discrimination which violates the Constitution and federal law and which your Department has a statutory duty to correct.

The attached paper documents and discusses the highlights of HEW's history of failure to carry out a strong and effective compliance program. Among the most serious deficiencies are the following:

A proposal, the Consolidated Procedural Rules for Administration and Enforcement of Certain Civil Rights Laws and Authorities, under which HEW would abdicate the responsibility to investigate complaints filed by victims of discrimination.

Over two years since enactment, failure to issue regulations under Section 504 of the

Rehabilitation Act of 1973, which prohibits discrimination against handicapped persons.

Failure to act on evidence of discrimination against non-English speaking children in at least 350 specifically identified school districts.

The decision to stop action in the Dallas regional office of the Office for Civil Rights on sex and national origin discrimination complaints against elementary and secondary schools.

Accumulation of a six-year backlog of complaints in higher education accompanied by a recent decision to handle oldest cases first, guaranteeing that few cases will be acted on before it is too late to benefit most effectively the victims of discrimination who filed the complaints.

The decision to divert a large portion of resources into four massive, computerized, but overly broad investigations of big city school systems whose results, if any, will be years in coming.

The fact that HEW's only serious actions against race discrimination since 1970 have come after the filing of lawsuits or the issuance of court orders.

Reduction of the data collection effort for compliance and enforcement purposes.

The practice of passing on what the agency terms "individual" sex discrimination employment cases to an agency with a much larger backlog.

The only public justification offered for many of these deficiencies is a lack of adequate resources, a claim that cannot be accepted in the face of the Department's failure to request more funds, its failure to fill authorized positions and the return of more than 10 percent of the Office for Civil Rights' budget unspent to the Treasury.

The current sorry state of civil rights enforcement in HEW will be reversed only if you exercise firm leadership. In the attached paper we have listed several specific recommendations for correcting shortcomings in HEW compliance efforts. Two actions of greatest concern to all our groups are that HEW investigate and resolve all complaints, and that HEW establish timetables for either securing compliance or initiating formal enforcement action in all complaint investigations and compliance reviews.

We urge you to examine carefully but quickly these crises in the HEW antidiscrimination enforcement program. We call on you to revitalize that program by securing strong leadership for OCR, leadership which is committed to vigorous enforcement of civil rights and which will instill public confidence that the rights of minorities, women, and the handicapped are protected.

Many of our groups have been seeking to meet with you to discuss a number of these issues. We have been subjected to numerous postponements. If the meetings are scheduled and take place we will discuss the concerns raised here in more detail. Whether or not meeings do take place, we want you to know that the undersigned groups feel very strongly that immediate and substantial improvement is needed in the antidiscrimination efforts of HEW, including the withdrawal of the proposed consolidated procedural regulations and its replacement with one setting out HEW's commitment to investigation and resolution of all complaints.

We hope that you respond promptly and affirmatively to the concerns expressed in this letter and the attached paper. We ask that you announce publicly new directions and a firm commitment by HEW to aid individuals and groups victimized by illegal discrimination.

Sincerely,

American Association of University Professors, Committee on Women.
American Association of University Women.
American Civil Liberties Union.
American Coalition of Citizens with Disability.
American Council of the Blind.
American Federation of Teachers.
Americans for Democratic Action.
American Foundation for the Blind.
American Friends Service Committee.
American GI Forum.
American Psychological Association, Committee on Women.
Association for Intercollegiate Athletics for Women.
American Veterans Committee.
B'nai B'rith.
Center for Community Change.
Center for National Policy Review.
Children's Defense Fund of the Washington Research Project.
Council for Exceptional Children.
Education Commission of the States, Equal Rights for Women in Education Project.
Federation of Organizations for Professional Women.
IMAGE.
International Ladies Garment Workers Union.
Japanese-American Citizens League.
League of United Latin American Citizens.
League of Women Voters.
Mental Health Law Project.
Mexican-American Legal Defense and Educational Fund.
Mexican-American Women's National Association.
National Association for the Advancement of Colored People.
NAACP Legal Defense and Educational Fund, Inc.
National Association for Girls and Women In Sport.
National Association of Mexican-American Educators.
National Association of the Deaf.
National Association of the Physically Handicapped.
National Center for Law and the Deaf.
National Committee for Citizens in Education.
National Conference of Catholic Charities.
National Conference of Organizations of the Physically Handicapped.
National Conference of Puerto Rican Women.
National Congress of Hispanic American Citizens.
National Council of Churches.
National Council of Jewish Women.
National Council of La Raza.
National Education Association.
National Organization for Women.
National Rehabilitation Association.
National Rural Housing Coalition.
National Urban Coalition.
National Women's Political Caucus.
NOW Legal Defense and Education Fund.
Puerto Rican Legal Defense and Education Fund, Inc.
United Auto Workers.
United Cerebral Palsy Association, Inc.
Women's Circle.
Women's Equity Action League (WEAL).
Women's Legal Defense Fund.
Church of the Brethren-Brethren Service Commission.

INADEQUACIES IN THE HEW ANTIDISCRIMINATION ENFORCEMENT PROGRAM

The Department of Health, Education, and Welfare (HEW) is charged with both specific statutory as well as Constitutional responsibilities to eliminate discrimination on the basis of race, color, national origin, sex or handicap in federally funded programs and activities administered through the Department. The undersigned organizations—many of which have been seeking to meet with Secretary Mathews on this subject—wish to direct his urgent and sustained attention to the shocking, inexcusable failure and refusal of the Department to carry out its legal obligations.

CONSOLIDATED PROCEDURAL REGULATION

One recent manifestation of the problem was the issuance by the Secretary on June 4, 1975, of a proposed "consolidated procedural regulation" which would totally eliminate any HEW obligation to investigate complaints of unlawful discrimination in programs which the Department funds or administers. ("Consolidated Procedural Rules for Administration and Enforcement of Certain Civil Rights Laws and Authorities," 40 Fed. Reg. 24148.) On July 14, 1975, over 130 groups issued a statement opposing the proposed regulation. A copy of that statement was submitted to Secretary Mathews. Many of these organizations also expressed their views and recommendations in formal comments to the HEW Office for Civil Rights (OCR). On July 31, 1975, a smaller number of representatives of these organizations met, at OCR's invitation, with the then General Counsel of HEW, the Acting Director of OCR, and other agency officials. Strong objection to the proposed regulation was repeated at that meeting.

We reiterate today our continuing strong opposition to the proposed regulation as issued. On September 29, 1975, Secretary Mathews reopened the comment period on the proposed regulation, stating that "many comments reflected misunderstanding of the purpose of the proposal or fundamental disagreement with various important provisions." 40 Fed. Reg. 45442. Such an assertion serves only to divert attention from the important, and illegal, policy modification embodied in the regulation.

The central issue is the adequacy of OCR's enforcement program, not the technical aspects of the proposed procedural regulation—the essence of which is the limitation of complaint investigations. As the statement of July, 1975 said, the proposed regulations proclaim that an agency which is doing a bad job can deal with its problems not by improving its performance but by eliminating many of the requirements of the job. . . . The question is not one of complaint investigation against self-initiated systematic reviews. A well-balanced and well-administered program embodying both approaches is essential to meet the requirements of law.

ENFORCEMENT PROGRAM ADEQUACY

The proposed procedural regulation must be judged against the background of OCR's dismal record in the last few years and its recent maneuvering to weaken or eliminate even its paper commitment to enforce antidiscrimination requirements. Since July 31, smaller discussion meetings with OCR officials have been held separately with national origin and women's groups, and with groups concerned about handicapped persons. In none of these meetings has there been any indication that OCR is intent upon carrying out effectively its obligations to eliminate discrimination as mandated by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Executive Order 11246, Sections 799H and 855 of the Public Health Service Act and Section 504 of the Rehabilitation Act of 1973. On the contrary, the past several months have seen, in testimony and court documents as well as in meetings, OCR officials present conflicting, inconsistent and misleading information about the agency's compliance efforts.

OCR staff have suggested that the Department's inability to improve upon its record of nonenforcement results not from self-imposed restrictions, but from the volume of individual complaints filed by one class of victims of discrimination (women), or from a successful effort through the courts in *Adams* v. *Weinberger* to compel OCR to carry out its duties under Title VI. OCR's solution to this "dilemma" is either the establishment of priorities which favor enforcement of one antidiscrimination measure over another, or the complete abrogation of the complaint mechanism. Furthermore, HEW's formal withdrawal of its appeal of the complaint resolution requirements and timetables in the *Adams* court order is an admission by the Department that these requirements are valid and workable. The proposed procedural regulation is clearly inconsistent with such an interpretation of *Adams* requirements.

We do not quarrel with HEW's perception that its procedures should be improved through the issuance of a consolidated civil rights regulation. Indeed, there are certain recommendations enumerated below that we strongly espouse. It appears, however, that the purpose of the current proposal to eliminate the obligation to investigate all complaints is to legitimize the Department's failure to enforce the law, not to create an efficient enforcement system.

Complaint investigation and resolution is the cornerstone of any effective enforcement program. Comprehensive compliance reviews are also vital. Today OCR's enforcement strategy is bankrupt; OCR and HEW officials have no credibility among those suffering discrimination and those concerned with human rights. We consider many of the Department's actions over the last few years as examples of bad faith and lack of commitment. Some of the most important illustrations follow:

1. Discrimination Against National Origin Minorities.

HEW has failed to follow up seriously on the early 1974 Supreme Court ruling in *Lau* v. *Nichols*, 414 U.S. 563 (1974). Under that decision, in January 1975, OCR notified 26 State departments of education that they have within their States approximately 350 school districts which may not be complying with minimal requirements of *Lau*. To date less than 15 on-site investigations have been conducted in these 350 districts. Commitments to corrective action have been secured from only three of the 350 districts.

Just as alarming, in October, 1975, the Dallas Regional Office of OCR began sending out letters to persons complaining of discrimination on the basis of national origin stating that—

"The federal court order in the case of *Adams* v. *Weinberger* has necessitated allocation of a major portion of Region VI OCR staff resources to the task of resolving problems of race discrimination. Because of the volume of those cases on hand, it will be impossible for us to investigate your complaint at this time."

The plaintiffs in *Adams* requested in June 1974 specific timetables for complaint investigations. Judge Pratt ordered such timetables in March 1975. Yet OCR must have felt it could meet such responsibilities without difficulty for it requested no additional positions for its Education Division in either Fiscal Year 1975 or 1976. These passive and active manifestations of OCR's nonenforcement policy are shocking; it is clear that the law does not allow HEW to enforce selectively antidiscrimination statutes.

2. Sex Discrimination.

In the area of sex discrimination, OCR has been particularly remiss and its public claims especially misleading and inconsistent. HEW's responsibilities to eliminate sex discrimination are spelled out in Executive Order 11246, Title IX, and Sections 799H and 855 of the Public Health Service Act. HEW has not only let hundreds of complaints of sex discrimination go unanswered, but has failed as well to establish any routine compliance program or strategy. It has referred what it calls "individual" sex discrimination cases under Executive Order 11246 to the Equal Employment Opportunity Commission, which already has a backlog of thousands of cases. In an effort to address some higher education complaints of sex discrimination, the Department recently decided to investigate complaints in chronological order with the oldest (six years), and consequently least timely, complaints investigated first and more recent filings allowed to become stale. In elementary and secondary education, three and one-half years after the passage of Title IX, only five OCR-initiated Title IX reviews have been started.

The preamble to the proposed procedural regulation claims that complaints received by HEW are skewed with the heaviest volume involving sex discrimination in higher education academic employment. Yet a month and a half before publication of the proposed regulations, OCR Director Peter Holmes testified before the House Subcommittee on Elementary, Secondary, and Vocational Education:

"In the past or since Title IX was enacted, we have received 254 sex discrimination Title IX complaints in the Higher Education Division—this year in 1975, interestingly, in the higher education areas there have been **only** 17 Title IX complaints filed with the Office for Civil Rights." (Emphasis added.)

(Hearings, April 28, 1975, p. 211.)

As with national origin complaints, the Dallas Regional Office of OCR is refusing to schedule Title IX complaint investigations because of "priorities necessitated by . . . *Adams* v. *Weinberger*." Again, we feel such procedures are totally in violation of the Congressional mandate under the law.

3. Discrimination Against Handicapped.

OCR has been charged with enforcing Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of handicapping conditions. Over two years after passage of the Act, no regulatons have been issued. The Department has gone far beyond its June 30, 1975 target date for their issuance. This delay is especially serious because the vast majority of handicapped persons and institutions or agencies serving them are unaware of HEW's responsibility to eliminate such discrimination by institutions receiving and administering federal funds. Furthermore, for handicapped people, the proposed consolidated procedural regulation alone is meaningless without standards in the form of regulations for Section 504.

4. Student and Faculty Desegregation Under Title VI.

Desegregation under Title VI of student and faculty assignments among elementary and secondary schools and in higher education is OCR's oldest priority area. But OCR's school desegregation activity has declined dramatically since 1970 although we are all painfully aware that illegal school segregation is still a widespread reality. An October 29, 1975 affidavit of OCR Director Holmes, submitted in the case of *Brown* v. *Weinberger* indicates that the agency can move rapidly in this area when impelled to do so. Of 58 northern and western school districts in which OCR had initiated investigations between 1968 and 1975, the agency suddenly made findings of noncompliance in 16 cases after the *Brown* action was filed July 3, 1975. Of the 16 post-suit determinations, 9 cases had been pending for six years and 4 had been pending for three to five years.

With regard to higher education, HEW took no action whatsoever to follow up its 1969 and 1970 determinations that ten States had not eliminated dual, biracial college and university systems until specific activity was required by judicial decree in *Adams* v. *Weinberger*. Since that time the agency has regressed from its announced desegregation standards, accepted totally inadequate plans from eight States, and has failed to undertake enforcement action against states whose performance has not met even their paper promises.

5. Big City Reviews.

HEW is wasting many of its resources on impossibly broad investigations in four of our largest cities. The Department contends that since enormous numbers of minority and handicapped children attend public schools in these areas, correcting problems there will help many more such children than years of visits and negotiations with much smaller districts. But civil rights statutes and Constitutional provisions forbid the agency from intentionally neglecting any groups of individuals who suffer discrimination. We feel benefits from the big-city reviews will be realized only to the extent that HEW manages to focus its efforts and to design specific compliance remedies.

These reviews have been set up as massive, computerized research investigations drawing off an enormous amount of resources—both in dollars and staff—from the regular enforcement program. Virtually the entire New York Regional Office education staff is working on the New York City review, which was started over three years ago and which is not scheduled to produce findings until next summer. In other regional offices, almost 50 percent of the education staffs will be involved in big city reviews this next fiscal year.

Furthermore, by the time the data collected as evidence of discrimination in these cities is assembled, it is likely to be outdated as a tool for judging what school districts are currently doing and of dubious legal value. Much more current data could be obtained and acted upon with carefuly targeted reviews in selected areas, such as discipline, special education, or sex discrimination, than in comprehensive reviews.

Moreover, a few reviews in big cities are no substitute for clear national compliance policies in all areas where discriminatory practices occur, and consistent enforcement in a number of districts regardless of size. School officials throughout the country must be (and deserve to be) given notice of what is expected of them, and advised that they are subject to review on the basis of clearly explicated standards.

6. Civil Rights Survey of Elementary and Secondary Schools.

One of the keys to an effective compliance program is good information. Yet during the summer of 1975, OCR decided (without public announcement) to eliminate, rather than expand, its annual elementary and secondary public school civil rights survey. Since then, OCR apparently has decided to send out survey forms to school systems enrolling 3000 or more students. It will request those school systems to complete the forms and retain them in their files, but will not require that the forms be returned to OCR for analysis and use in compliance follow-up. These forms for the 1975–76 school year are identical to the 1974–75 school year forms, which were inadequate in a number of ways. Their most serious limitation was that they collected little information useful in identifying schools which discriminate against girls and women and handicapped persons. The decision of OCR to collect less, and not more, information further undermines its claims that it is establishing procedures for "identifying and eliminating systematic discrimination" and that such systemic reviews will justify the disregard of complaints.

In addition, other OCR civil rights surveys are even more inadequate in gathering information about discrimination against women and handicapped persons.

EXCUSES OFFERED BY HEW FOR INADEQUATE ENFORCEMENT PROGRAM

These are examples of OCR's failure to carry out an effective and efficient compliance program. There are many more. The elements of a sound enforcement strategy include a process for investigation and resolution of all complaints received, a comprehensive and well-defined program of OCR self-initiated reviews, adoption of timetables for completion and intermediate steps in complaint- and OCR-initiated reviews, and development of a sound information-gathering system. OCR enforcement has been inadequate in all of these areas.

The only excuse offered by OCR for its clearly inadequate enforcement program is a lack of resources. However, given the history of the agency's development and growth, and blatantly inconsistent explanations of its resource needs, this claim is insupportable:

1. As HEW's civil rights responsibilities have grown, its staff has increased correspondingly. In 1966 OCR staff totaled less than 100. In 1970, there were 400 professional and clerical employees and by 1975 the number had increased to 850. For the current 1975 Fiscal Year, Congress has approved 906 employees for OCR. Only once in its history has Congress denied OCR additional staff positions which were requested; the request was reduced—not denied—in that instance because of the excessive number of unfilled positions (see below).

2. In May, 1975 OCR Director Holmes told Congressional appropriation subcommittees that no additional resources for its elementary and secondary education division were needed to meet compliance responsibilities in race and sex discrimination. Less than a month later, on June 3, 1975, he submitted to the court an affidavit claiming that OCR cannot carry out its education complaint resolution requirements under *Adams* v. *Weinberger* because of inadequate resources. Three months later, the OCR Dallas Regional Office began notifying sex and national origin complainants that lack of resources made it impossible to act on their complaints.

3. In Fiscal Year 1975, OCR returned $2.5 million or 10.8 percent of its appropriation to the Treasury.

4. In the summer of 1974, OCR had not filled 98 of 165 new positions authorized by Congress for Fiscal Year 1974. In the summer of 1975, there were 59 unfilled positions—vacancies in 6.8 percent of OCR's authorized positions.

5. Over the past two years OCR has provided conflicting data on average time needed to resolve complaints. In 1974, Director Holmes submitted to a Congressional appropriations subcommittee a written estimate that "three working days were expended on the average, per complaint" about discrimination in elementary and secondary education. OCR's Annual Enforcement Plan for Fiscal Year 1974 estimated a need of six person-days for resolution of an average complaint requiring an on-site investigation. But in Director Holmes' deposition of June 3, 1975 he told the court that resolving a complaint took, on the average, 20 person-days and that 75 percent of such complaints required an on-site investigation. (Affidavits from persons who reviewed OCR Regional Office complaint logs or observed complaint-handling procedures personally indicated that only 10 percent of all complaints required on-site investigation for resolution, and that the determination whether a complaint was meritorious took only about a day in one regional office.)

RECOMMENDATION

These matters urgently demand the attention of Secretary Mathews and his personal redirection of the Office for Civil Rights. The deplorable performance of this agency should no longer be tolerated by the Department of HEW. The recent resignation of the Director provides a needed opportunity to strengthen OCR leadership and to revitalize and restructure the enforcement program. We call upon Secretary Mathews to undertake immediately the following steps to energize HEW's sagging civil rights efforts:

1. Make a highly visible commitment that the Department will carry out all the anti-discrimination laws it administers by emphasizing to the public that each of these laws will be enforced.

2. Place individuals in top positions in OCR who, because of a record of commitment to vigorous civil rights enforcement, will instill public confidence that rights of women, minorities, and the handicapped will be protected.

3. Issue regulations to define protection for handicapped citizens under Section 504 of the Rehabilitation Act of 1973.

4. Enforce the Supreme Court ruling in *Lau* v. *Nichols* which requires that language minority students receive a meaningful education.

5. Withdraw the proposed consolidated procedural regulation and replace it with one setting out HEW's commitment to investigation and resolution of all complaints.

6. Reinstate the *annual* Elementary and Secondary School Civil Rights Survey with additional information on discrimination against handicapped and women.

7. Detail and train staff immediately to investigate and resolve all pending complaints.

8. Initiate a short-term, emergency management review of the civil rights office with input from representatives of the populations whose rights are not being protected in order to:

a. Adopt new management practices which assure efficient complaint resolution, adequate data collection, a systematic plan for self-initiated compliance reviews and timetables for all actions with the promise of achieving substantial results within a one year time period, and

b. Assess the resources available and the way resources are being used, and redirect resources from nonessential activities to vital enforcement work; if any additional resources are needed to carry out an effective enforcement program, present a well-documented request to Congress for adequate positions and budget to meet HEW enforcement needs.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, if someone were to ask me if Americans say what they believe, I would answer yes they do. If someone were to ask me if Americans are a genocidal people, I would just as quickly answer no we are not. And then if someone were to ask me why the United States is not a member of the Genocide Convention, outlawing the hideous destruction of a racial, ethnic, religious, or national group by any person or other group, I would not be able to answer so quickly.

Indeed, Mr. President, I do not understand myself why it has taken so long to ratify the treaty which was first sent to this body in 1949. It has the support of every administration in the past 25 years. It was unanimously accepted by the United Nations General Assembly. And yet it cannot seem to pass through this body.

If we Americans truly do say what we believe, and if we believe that the destruction of one people by another is to be punished and deplored, then we must advise and consent to the treaty.

If we do not take this action in the very near future, Mr. President, it will be as if we, all of us in these United States, condone the practice of genocide.

It should be clear enough to every American that we must ratify the treaty.

FUTURE FOREIGN POLICY: GEORGE MEANY COMMENTS

Mr. SPARKMAN. Mr. President, at the midpoint in the Foreign Relations Committee's examination of the options available to this Nation in formulating future foreign policies, AFL–CIO president, George Meany, provided us with an extensive and forthright exposition of his views. As always, he was witty, provocative, and illuminating.

It is obvious that Mr. Meany gave a great deal of thought to his statement which, I believe, will make for interesting and worthwhile reading for Members of Congress and their staffs. Therefore, I ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF GEORGE MEANY

Mr. Chairman, as President of the AFL–CIO, I am delighted to have this opportunity to present the views of the American labor movement on the foreign policies of our government.

I want to congratulate this committee for deciding to hold this series of hearings. As I understand it, you are trying to stimulate a discussion in this country about our overall, long-term foreign policy options.

I think such a discussion is long overdue. As you may know, Mr. Chairman, it was in the hope of contributing to such a discussion that I appeared before this committee a little over a year ago—October 1, 1974, to be exact.

Our Secretary of State, Dr. Kissinger, at that time had proposed a national debate on our foreign policies. I responded, first, in an address to the National Press Club, and then in my testimony before this committee. But for some reason, the great debate fizzled. The Secretary of State became preoccupied with other matters.

I sincerely hope that this time we will have better luck. Everything that has happened in the last year has underscored our belief that the foreign policies of our government have become incomprehensible to the average citizen. And I do not believe that the fault lies with the average citizen.

I cannot recall any period in my lifetime when there was as much confusion, bewilderment and uncertainty among our people as we see today. Much of this uncertainty stems, of course, from the terrible economic conditions facing so many American families. But much of it also stems from a deep uneasiness about the international scene—and specifically about America's role in the world.

It is not this or that specific tactical problem that has the American people confused. It is a growing sense that this great nation is adrift in the world, that we have no very clear purposes anymore, that we're just marking time. There is an ominous feeling that we may be passing through a transition period in human history—a transition from a world dominated by imperfect democracies to a world dominated by totalitarianisms.

Now, of course, if the United States were not a democracy, however imperfect, we wouldn't have to bother ourselves too much about how the people feel. Mr. Brezhnev and Mr. Mao, I am sure, don't spend too many sleepless nights worrying about whether the average Soviet or Chinese citizen is content with government policy.

We, on the other hand, must worry. We need not conduct a plebiscite on every major foreign policy issue that may arise, but there is a limit to how far we can proceed with an overall policy that does not enjoy the support of an informed public.

I believe we have reached that limit. I think we have gone beyond it. I think the formulators of American foreign policy have insulated themselves from the popular will, from the thinking of the American people.

Mr. Chairman, when I speak of American

foreign policy, I am not being very accurate. For the fundamental problem is that we do not really have a foreign policy.

To be sure, we may have a policy for this country or that country or perhaps a policy for this week or that week. And we certainly have a lot of rhetoric—you know, words like detente, interdependence, new structures of peace, a new era of negotiation, mutual restraint, flexibility, polycentrism and all that. But we don't have a foreign policy geared to clear objectives that are clear to one and all, and around which millions of people—and not just Americans—can be mobilized.

But that's only half of our problem—that we don't know what we're about in the world. The other half is that our enemy—pardon me, our "potential adversary,"—does!

The result is that they create events, and we react. Just look around the globe.

The totalitarians are making events in Portugal. We are reacting.

They are making events in Angola. We are reacting.

They made events in Vietnam and in the Middle East. We merely react.

Oh, here or there, our Secretary of State may come up with a "brilliant initiative" or a "conceptual breakthrough"—I think these are the words the media use. But if you look beneath the surface, even these diplomatic tricks of magic are in reaction to crises provoked and shaped by the other side.

So what we have here is a fundamental imbalance. The Soviet Union has a purpose—it is to impose their political, social, and economic system on the world. They make no secret about it. We, on the other hand, have no purpose, unless it be to maintain the status quo.

Frankly, I do not believe that we hold even to this limited, uninspiring purpose. I read from time to time that Dr. Kissinger is a pessimist about the future of Western civilization, and I wonder whether there is a self-fulfilling prophesy at the heart of his policies. I wonder whether we have, in fact, abandoned even the status quo in favor of an obsequious accommodation to a steadily growing totalitarian imperialism that is changing the face of the earth.

Now, this may be gloomy speculation, Mr. Chairman, but the basic imbalance of which I speak is not a matter of speculation. It is a matter of fact, Communist propaganda notwithstanding, the United States is not attempting to impose its system on the rest of the world.

In the postwar period, we have seen the old colonial empires of Europe crumble—even as we have watched the Soviet empire grow. And surely we have made it clear that we have no intention of liberating the peoples and territories captured by the Soviet Union—even while the Soviet Union encourages and supports wars of national liberation in the West. Are we using our material resources to liberate the captive peoples of Latvia, Lithuania, Estonia, Czechoslovakia, Poland, Hungary, East Germany, and the rest? On the contrary, we have signed an agreement legitimating their captivity. Can we get an agreement from the Soviets and the Cubans to stop trying to "liberate"—boy, how that word has been perverted—Angola, to name but one country?

Now, to some extent, Mr. Chairman, this imbalance is inevitable. A country that wants to conquer the world always has a clearer sense of purpose than a country that just wants to hold on to what it has got.

What is new and dangerous, however, is that something has been added to the ideological imbalance—a shift in the *power* balance.

So long as would-be conquerors are deterred by superior force from implementing their visions, we may not need to worry too much about their vision being clearer than ours. It's when they know where they're going *and* increasingly acquire the means to get there that we have to change our patterns of thinking.

We have got to reassess the premises of our foreign policy. We have got to restore both our strength and our sense of purpose.

The Communists openly proclaim—Brezhnev has said it time and again—that détente does not imply the end of ideological warfare. On the contrary, it implies an acceleration of ideological warfare.

But how can we compete with the Soviets ideologically if we have given up our purposes and our traditional values as inimical to détente.

There is only one basic value, one basic idea, that can form the basis of our American strategy in world affairs. There is only one basic value, one basic idea, that can form the basis of an appeal by Americans to all other peoples of the world—an appeal that will be heard and answered, that basic idea is the defense of freedom and the *extension* of democracy. Not merely the preservation of democracy, but the extension of democracy.

We will never rally the peoples of the world to our side with the slogan "Leave Me Alone!" We ought not to be afraid of shaking up the status quo. We ought not to be afraid of a new world order—a world order in which democracy and decency are on the offensive.

I believe that the adoption of a new world view based on the defense of freedom and the extension of democracy will go far toward restoring the sense of moral purpose that has evaporated from our foreign policy.

It is obvious that the abandonment of our moral purpose abroad is undermining our moral purpose at home—that the democratic ideal is weakened within our own borders whenever we turn our backs on it elsewhere.

What more depressing evidence of this decay could be imagined than the shabby treatment accorded Aleksandr Solzhenitsyn by the President of the United States, acting under the advice of Dr. Kissinger.

On that subject, I have here an interesting document, which some of you may have seen. It is a memorandum from Dr. Kissinger's Executive Secretary, Mr. George Springsteen, to Lieutenant General Brent Scowcroft at the White House. Let me read it to you.

"George Meany has invited the President to attend a June 30 banquet in honor of Solzhenitsyn, which will be an occasion for outspoken anti-Soviet rhetoric. The Soviets would probably take White House participation in the affair as either a deliberate negative signal of a sign of Administration weakness in the face of domestic anti-Soviet pressures. We recommend that the invitation to the President be declined and that no White House officials participate.

"During Solzhenitsyn's Washington visit (June 27–July 1) another problem may arise: Pressure may be generated by Meany, members of Congress or others for the President to receive Solzhenitsyn in the White House. He is a Nobel Prize Winner, he is widely admired in the United States and the Senate has passed a resolution granting him honorary U.S. citizenship (if the House follows suit he would be the only person except Churchill so honored). Advocates of a meeting would argue that the President has received a whole range of Soviet visitors ranging from journalists and trans-polar fliers to the Minister of the Food Industry. They would ask: since the White House doors are open to Soviets of this sort, why not also to Solzhenitsyn, the most admired of all Russians? The arguments against such a meeting are as compelling as those against accepting the banquet invitation, but more difficult to defend publicly.

"Solzhenitsyn is a notable writer, but his political views are an embarrassment even to his fellow dissidents. Not only would a meeting with the President offend the Soviets but it would raise some controversy about Solzhenitsyn's views of the United States and its allies (as expressed, for example, in the attached New York Times article). Further, Solzhenitsyn has never before been received by a Chief of State and such a meeting would lend weight to his political views as opposed to his literary talent.

"We recommend that the President not receive Solzhenitsyn. If significant pressures develop which make it imperative that the White House do something for Solzhenitsyn, we would suggest inviting him to any large social function taking place at the White House while he is in town, or arranging for him to be at a social function attended by the President during that period."

So there it is in black and white. We didn't want to offend the Commissars—so we spit in the face of the man our State Department refers to, perhaps sarcastically, at "the most admired of all Russians."

And—most incredible of all—we must not give the Soviets a sign of weakness. Weakness in standing up to the Soviets? No, weakness in standing up to the anti-Soviets at home.

Not Communism, but anti-Communism is now the enemy to be resisted. And the enemy is right here at home—among the American people.

Mr. Chairman, I submit that this kind of thinking is at the root of everything that is wrong with our foreign policy—and much that is wrong in the relations between the American people and their government. I hope that these hearings will help to set both things right.

Since détente has been the king-pin of the Nixon-Ford-Kissinger policy—not only toward the Soviet Union but all other countries—let's look at the origins of this détente. Let's look at what it means to the Soviet Union—because, after all, it takes two to détente. And then let's look at the practical consequences of this policy. In the course of this examination, maybe we can get rid of some illusions.

The first illusion is that détente was invented by Nixon or Kissinger. Nothing could be further from the truth. Here, as in every thing else, American policy was reactive.

Under the phrase "peaceful coexistence," détente has been an on-again, off-again policy of the Soviet leaders since Lenin's days. Indeed, the Soviets do not use the term détente as much as we do when talking among themselves. They still speak of "peaceful coexistence."

The policy was turned on again, officially, at the 24th Party Congress in 1971. I won't go into all the specific reasons that prompted the new line. The conflict with China was certainly one reason. Another had to do with the failure of Soviet economic policy to overcome the crisis of agricultural production or to modernize and rationalize industrial production.

Last week we had fresh indications of just how badly the Soviet economy is doing. There was a meeting of the Supreme Soviet to discuss economic goals for 1976. The grain shortfall for 1975 was so disastrous that the Chief Commisar for Planning wouldn't even give the figures in his report. As for industrial growth, they project a rate for next year that is half the rate set for this year.

You would think that under these circumstances, the Soviet leaders would feel compelled to reform their economic system or transfer some resources from the military sector to the civilian sector. But no, detente bails them out. We'll sell them American grain. We'll give them American technology. Detente is a very good policy—from the Soviet's point of liew.

It is important to understand, therefore, that the Soviets saw detente not as a step toward international cooperation or the relaxation of tension but as a coherent strategy that would serve their own purposes—domestic and international.

The International purposes were spelled out clearly by Mr. Brezhnev as early as April 1967. In my last appearance before this committee, I quoted from a speech Mr. Brezhnev gave at a conference of select Communist representatives at Karlovy Vary on April 24, 1967—well before the Nixon-Kissinger team came to Washington, let me quote from this speech once again—not only because repetition can be instructive, but because his statement is even more relevant today than it was a year ago.

He said, and I quote:

"Experience teaches, in particular, that the 'cold war' and the confrontation of military blocs, the atmosphere of military threats, seriously hampers the activity of revolutionary democratic forces. In conditions of international tension in bourgeois countries the reactionary elements become active, the military raise their heads, anti-democratic tendencies and anti-Communism are strengthened.

"And, conversely, the past few years have shown quite clearly that, in conditions of slackened international tension, the pointer of the political barometer moves left. Certain changes in relations between communists and social democrats in certain countries, a noticeable falling off in anti-Communist parties is most directly correlated with the reduction in tension which has taken place in Europe."

So Mr. Brezhnev—who is more of an authority on detente than Dr. Kissinger—is saying that there has been no change in Soviet objectives. Detente is a strategy for furthering Soviet objectives. Detente is, moreover, a manifestation of what they like to refer to as "the crisis of capitalism." It is a sign of Western adjustment to what they call the "changing correlation of forces." In other words, it is Western accommodation to rising Soviet power.

As I said before, there is evidence that Secretary Kissinger shares the same analysis.

Let me draw your attention, for example, to the speech Dr. Kissinger gave in Detroit on November 24. This speech, as you know, was given as part of a series of trips to various American cities to explain America's foreign policy to the American people.

In the course of this speech, entitled "Building an Enduring Foreign Policy," Dr. Kissinger said that "At the beginning of this decade, we faced a number of urgent tasks." I'm sure that was true. The first problem he then proceeds to mention—from which we may infer that it is the most important—was, and I quote:

"The military balance was being altered by the growth of the Soviet nuclear arsenal and the accelerations of weapons technology."

In other words, the number one problem we faced was growing Soviet military strength. On that Kissinger and Brezhnev agreed. And, let me say, so do I. And so, I am sure, did Jim Schlesinger.

But then Dr. Kissinger goes on to say, later on in his speech, and I quote:

"Foreign policy must be based on reality, not rhetoric. And today's reality is that we live in a world of nuclear equality. This has been imposed by technology. It could not have been prevented; it cannot be ignored or reversed by unilateral decision."

Now, I think the American people are by now well aware of the Secretary's tendency to create abstractions. But technology is not an abstraction. It's not something over which we have no control.

It is we who agreed in SALT I to let the Soviets have nuclear throw-weight superiority, on the ground that our technological advantage would offset that superiority. And then what do we do? Our businessmen, with government encouragement, start selling sophisticated American technology to the Soviet Union.

What was the Apollo-Soyuz link-up all about? Did we benefit from Soviet space technology? No. We spent a quarter of a billion dollars of the taxpayers' money to put on a phoney show whose only practical effect was to give the Soviet Union access to our sophisticated space technology.

So the forces that are beyond our control, that are leading inevitably to an unfavorable shift in the balance of power—in the opinion of Dr. Kissinger and Comrade Brezhnev—are not beyond our control at all. We *can* reverse this process.

In any case, "peaceful coexistence"—alias détente—became official policy at the 24th party Congress, and the following year—in May—Mr. Nixon and Mr. Brezhnev embraced. They signed an agreement which spelled out, specifically and concretely, the obligation of each side in maintaining détente.

Each side pledged to cooperate in the interest of world peace. The relationship between the two superpowers would be based on mutuality and reciprocity.

The Cold War was now officially over—consigned to the dust-bin of history. Anti-Communism went out of fashion.

Well, that was in May of 1972. What's happened since then?

North Vietnam, armed by the Soviet Union, invaded and conquered South Vietnam.

Egypt and Syria, armed by the Soviet Union, launched a sneak attack against Israel on the High Holy Day of Yom Kippur. And not only did the Soviet Union fail to live up to the May 1972 agreement by warning the U.S. that the attack was coming, but Comrade Brezhnev openly and publicly urged the other Arab states to join in the war against Israel.

At the urging of the Soviet Union, the Arab states slapped an oil boycott on the United States and subsequently quadrupled oil prices.

Aided and abetted by the Soviet Union, the Communists of Portugal launched a bold bid for power against the wishes of an overwhelming majority of the Portuguese people.

The Arab countries and their Third World allies, again with active Soviet support, have launched a vicious campaign against Israel in the United Nations and thereby made a mockery of that organization. The International Labor Organization, the World Health Organization, UNESCO—these and other UN agencies have been outrageously compromised and subverted by Arab blackmail, openly supported by the Soviets.

India, the world's largest democracy, has been turned into a dictatorship by Indira Gandhi, with the active support of the Communist Party.

Thailand has asked America to leave that country, and the Philippines have proclaimed a reassessment of their relations with the United States.

North Korea, with Soviet support, is fomenting guerrilla warfare against South Korea, a nation allied with the United States.

The Soviet Union and Cuba have intervened in Angola with military supplies and manpower, openly boasting that Angola may be "a possible Vietnam."

Now, all of these things violate the spirit or the letter of the May 1972 agreement.

Why, then, was President Ford so eager to enter still another agreement with the Soviet Union at Helsinki? What was the meaning of this Helsinki agreement?

We know what the Soviets got. They got something they have wanted since the end of World War II—Western recognition and legitimation of their conquest of Eastern Europe. They got American recognition of the "inviolability of frontiers"—the real frontier being the Iron Curtain that seals Eastern Europe.

I wish more Americans would read the 10-point "Declaration on Principles" adopted at Helsinki. The hypocrisy is hard to stomach.

Here, for example, are the Soviets—the Soviets!—agreeing to, and I quote:

"The right of every State to juridical equality, to territorial integrity and to freedom and political independence."

They also agree that each state has the—

"Right freely to choose and develop its political social, economic and cultural systems."

At the very least, you would think that our government, before signing this, would ask for a renunciation of the Brezhnev Doctrine, under which Soviet tanks entered Czechoslovakia in 1968.

The Soviets also promised to refrain from the use of force "against the territorial integrity or political independence of any state."

Again, you would have thought Mr. Ford might have asked Mr. Brezhnev whether this provision meant that the Soviets could not threaten to send troops into the Middle East unilaterally, as they did during the Yom Kippur War.

Here's another thing the Soviets agreed to:

"The participatory States will . . . refrain from making each other's territory the object of military occupation."

Get that! On the 30th anniversary of the military occupation of Eastern Europe by the Soviet Union, we are expected to accept this agreement in good faith!

I could go through this agreement, point-by-point. But let me go to the key—principle number 7, entitled "Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief."

This, we were told, is what made the agreement worthwhile. This was the great concession we got from our Soviet partners in détente. In exchange for participating in "the funeral of Eastern Europe"—as Aleksandr Solzhenitsyn rightly described this grim farce—we got a Soviet promise to respect human rights.

Now, of course, many of these same principles had been spelled out nearly thirty years ago—in 1948, to be exact—in the U.N. Universal Declaration of Human Rights, which the Soviet Union finally signed with great fanfare on August 1, 1975.

Considering how the Soviet Union had lived up to that Declaration, some of us, you will understand, were a mite skeptical about the "Final Act" at Helsinki.

What has happened since *that* agreement was signed only four short months ago—on August 1, to be exact—with the purpose of gaining a freer flow of people and information between East and West?

It took only 15 days to get the message from Moscow. Brezhnev told a delegation of American Congressmen that the human rights provisions of the Helsinki accord were not—and I quote—"of a binding nature." They were to be fulfilled only after additional bilateral negotiations among the signatories of the Helsinki agreement.

But even before Brezhnev made himself perfectly clear, we got another message. Erich Honecker, head of the East German Communist Party on August 7 publicly refused to ease his country's travel restrictions. For East Germany, he said, "security is and remains foremost."

On September 22, an official of the Soviet Foreign Ministry declared that his government would not permit the circulation of Western publications with ideas "contradictory to Soviet legislation and to the morality of Soviet society." He went so far as to ask, and again I quote:

"Is there really anyone in the West who seriously hopes that the socialist countries will sometime allow the 'free circulation' of such information in their society?"

I could cite additional violations of the Helsinki agreement. But certainly, the most dramatic and outrageous is the refusal of the Soviet government to let the distinguished physicist and dissident Andre Sakharov leave the country to accept the Nobel Prize.

This act, on the part of the Soviet authorities, deserves universal protest and condemnations. The loudest protests should come from the intellectuals of the West, especially those who hoped to create the illusion that the Helsinki agreement would be a step toward "liberalization" of the Soviet regime.

So, quite simply, Mr. Chairman, we have another example of the double standard. As far as the Soviet Union is concerned, the only part of the Helsinki agreement that is binding is the recognition of the Soviet conquest of Eastern Europe. Everything we thought we were getting is up for grabs—subject to ever more negotiations in which the Soviets dangle before us the carrot of human rights.

We, in the AFL–CIO, know something about collective bargaining. And I can tell you that any union President who brought back a package like the one Mr. Ford signed in Helsinki wouldn't survive the next union election.

A policy is not to be judged by rhetoric alone. We are practical people. We judge any policy—whether domestic or international—by the consequences it produces. By its results. By its actual impact on people.

I submit, Mr. Chairman, that by this test, the foreign policy of our government has been a failure. Detente is a great big flop.

Look at the results of the agreement of May, 1972. Look at the Helsinki agreement of August 1.

What gains have we made since then? Where has democracy been extended? Where have human rights been secured? Where has freedom been strengthened?

Look at the situation at the United Nations. Is this a vindication of the Nixon-Ford-Kissinger policy? Are we winning friends over there? Are we providing effective leadership?

You know the answer to that. The U.N. has become an ugly joke. It has done more damage to itself than all of its detractors put together.

The number of votes on which the United States can depend—even on issues of great principle—diminishes steadily. Does this bleak fact not reflect on our overall foreign policy? Doesn't it say something about this detente? I thought detente was supposed to make us more popular in the world.

The U.N. General Assembly has morally gutted itself. The only thing we have to be proud of in connection with this sorry organization is our Ambassador, Pat Moynihan. He has begun to restore some sense of what this country stands for in world affairs—or sought to stand for.

Imagine? Here's an organization that condemns one of the most dramatic and progressive countries in the world—Israel—but cannot bestir itself to investigate the status of human rights in Eritrea, Kurdistan, Chad, The Yemens, Albania, Bangladesh, and Uganda—to name just a few sore spots.

If there is any useful purpose to be served by remaining in the General Assembly, it can only be to wage the kind of ideological warfare that the Russians wage—defending democracy, exposing the phonies, and letting the world know where we stand.

If the U.N. has rendered itself a debating society—and it certainly has robbed itself of the prestige to be much more—then let us enter the debate, vigorously, or get out.

But this is just the kind of ideological warfare that Dr. Kissenger would have us abandon as uncongenial to the Soviet Union.

And in this, of course, he is supported wholeheartedly by a lot of people who only yesterday were the world's biggest Anti-Communists. I'm talking about our American capitalists.

It seems they were rabid Anti-Communists only so long as they saw Communism as a threat to their business interests—not because they were so concerned with democracy and freedom and all of that. Now that they see they can make a few bucks dealing with the commissars, they've changed their tune. Suddenly, they're against interfering in the internal affairs of other countries.

"After all," I hear some of them say, "you wouldn't want the Soviets interfering in *our* internal affairs." As if the Soviets do not interfere in our internal affairs!

Mr. Chairman, according to FBI estimates, at least 40 percent of the Soviet nationals working here are KGB agents.

The Soviets have 285 nationals at their Embassy here and their consulate-general in San Francisco. And of course they have another 500 or so at the U.N. If the KGB agents among them are not interfering in our internal affairs, they're not earning their pay—and I'm quite sure the commissars have effective means of making people earn their pay.

In any case, Mr. Chairman, for too many of our businessmen, it's the buck that counts and nothing else. Not moral values—not patriotism.

Take just one recent example of some American businessmen in action: The Lykes Steamship Company.

The Maritime Administration contributed over ½ million dollars to the design work and paid more than $57 million in construction subsidies for a new sophisticated barge-carrying cargo vessel—known as the Seabee type—for Lykes. According to a staff study of the Senate Government Operations Committee, Lykes and the Maritime Administration refused to make the working plans available to the U.S. Navy, which wanted to construct a ship of this type for the Military Sealift Command.

When pressed, Lykes offered to SELL the plans for ONE vessel to the Navy for about $1.2 million.

Yet, in 1974, Lykes made an agreement with the Soviet Ministry of Merchant Marine selling the plans, specifications and transfer of a construction license to build TWO Seabee vessels to the Soviet Union for $1,007,000.

This was all profit for Lykes. The government—that is, we taxpayers—received nothing from the proceeds of the Lykes sale to the Soviets. And, the Soviets are engaged in cut-throat competition with our weak American Merchant Marine on every sea.

But this, of course, is just a drop in the bucket. Whenever and wherever money is to be made by transferring American technology and production to the Soviet Union—or other Communist countries—our capitalists jump.

For example:

International Harvester and Control Data have co-production agreements with the Government of Romania—to provide management and technical services for completely working factories.

General Motors has announced co-production of trucks with the government of Poland—for export to other countries.

Dupont has announced an agreement for selling the technology for manufacturing chromium dioxide in the U.S.S.R. for use in audio and video magnetic tape production.

IBM has consistently been reported as seeking a $10 million sale of computers to the Soviet Union to run the Kama River truck factory.

Allis-Chalmers has announced a contract to set up iron-ore pelletizing equipment to be installed in the Soviet Union.

This problem has been so severe that many people who formerly disagreed with us strongly are now coming around. Even an ardent advocate of trade with Communist countries, the international lawyer, Samuel Pisar, has been quoted in the press as saying:

"From time to time, I find myself saddened by the tendency of some American businessmen to go after any profitable deal without regard to the national interest, to carry the philosophy of 'what's good for my company is good for the United States' all the way to Moscow."

In this connection, Mr. Chairman, it seems to me that another observation is in order here. In our dealings with the rest of the world, it's not only what the President says and does, or what the Congress says and does that are important. How American citizens—private individuals and corporations—behave is also important.

When we read in the newspapers about bribes being made by American Corporations to foreign government figures—bribes in the tens of millions of dollars, bribes to advance special interests and to bring fat corporate profits—we can only wonder whether there is any such thing as corporate morality left. We can only conclude that the kind of shabby corporate immorality that led to Watergate is now looking for international markets.

I think there needs to be a thorough investigation of the impact of criminal corporate activity on the foreign relations of the United States. Does corporate bribery make friends for the United States abroad?

Does the man who takes a bribe ever respect the man who offers it?

Perhaps the influence of corporate power in the present administration, in our political institutions and in our international relationships helps to explain the near disappearance of moral purpose from our foreign policy.

Mr. Chairman, I do not wish to imply that our trade problems are confined to dealings with the Communist world. There is a broader problem which we in the AFL–CIO have been talking about for some time now. But the Congress and the White House have turned a deaf ear to our pleas. Increasingly, however, among experts in the field, our views on this problem are gaining adherents, and we are hopeful that effective government action may yet be forthcoming.

We have lately heard a great deal about the need to generate investment capital in the United States—to modernize and expand our productive facilities to meet the challenges of this century. As you well know, much of this talk about investment capital is a euphemism for clamping down on wages. Much of it is a rationalization for fat profits.

But, granting that we need investment capital at home, might we not inquire why so much investment capital is leaving the United States?

I should like to direct your attention to a study with which you are no doubt familiar, since it was prepared for your subcommittee on multinational corporations. The study, authored by Peggy Musgrave of Northeastern University, is entitled "Direct Investment Abroad and the Multinationals: Effects on the United States Economy."

Professor Musgrave points out that U.S. direct investment abroad in 1973 amounted to well over $100 billion, having tripled since the early 1960s. These direct investments involving U.S. ownership and control have accounted for nearly 80 percent of our capital outflow.

Direct foreign investment, Professor Musgrave points out, and I quote:

". . . is very largely the province of a few giant corporations with concentration more pronounced than for domestic corporations. Thus, nearly 90 percent of foreign tax credits were claimed by corporations with assets above $250 million, a group of corporations comprising only 1 percent of the total but obtaining 50 percent of U.S. corporate income."

Professor Musgrave also points out that this foreign investment is largely concentrated in high-technology and research and development-intensive industries.

Finally—and I quote:

"Gross capital formation abroad has roughly tripled over the past decade, whereas domestic capital formation has only doubled. Plant and equipment expenditures by foreign affiliates rose to 16 percent of all such expenditures in the U.S. and to over 20 percent in manufacturing."

In other words, 16% of what our businessmen invest in plant and equipment they invested abroad.

And, of course, capital is not the only thing they have sent abroad. Technology, production lines, and jobs—all exported. As the AFL–CIO has repeatedly warned, we are in danger of losing our industrial base and becoming a service economy—with ramifications not only for the kind of society we will be at home but for the kind of role we can play in the world.

We in the AFL–CIO do not believe that the catchword of "free trade" is an answer to problems emerging from the new patterns of international trade, anymore than we believe that the catchword of "the free market" is the answer to our domestic economic problems.

Increasingly, we live in a world of managed economies—among friends and foes alike. We cannot continue to operate a laissez-faire trade policy. The multinational corporations have amply demonstrated that they have a higher calling than the national interest of the United States. Therefore, the people must turn to their government to protect them in ways that only a government can.

We need to shake off the cliches of the 19th century. We need to develop new trade policies that protect the vital interests of the American people.

We in the AFL–CIO are not insolationists. We are internationalists. We reach out our hands to workers everywhere. We want all workers everywhere to enjoy a standard of living comparable to ours. We want all workers everywhere to enjoy the freedom, imperfect though it may be, that we have struggled to win in this country.

In the final analysis, the workers of the world must fight their own battles. We cannot fight them for them. But to be able to fight, wherever they are, they must have elementary rights. The right to assemble and associate freely. The right to speak. The right to vote. The right to strike—to withhold their labor when the conditions of their employment are not acceptable.

Because these rights are the prerequisites of social and economic progress for the working man, we hold that any system that would deprive the worker of these rights is his worst enemy.

Communist totalitarianism represents such a system in the world today. It takes away the worker's right to struggle—and there is no place on this earth where communism has even taken away those rights and then returned them.

Democracy does not guarantee the worker a larger share of the pie. It just guarantees him the means to struggle—win or lose. But those means are crucial, for I know of no place where workers have advanced their conditions of life without struggle.

As we enter the last quarter of the twentieth century, a shaken but still strong America stands as democracy's best defender and probably last hope. As such, this country is the last best hope of workers everywhere.

We want America to be strong, and we want America to be true to herself, to her noblest ideals. We need a foreign policy and a diplomatic process that reflect these ideals. The diplomacy of secrecy and deceit does not reflect these ideals. It's not what this country is all about. It has nothing in common with our traditions or with the character of our people.

Let us celebrate the bicentennial of the founding of this nation, not with more rhetoric, but with a shift toward a policy of open diplomacy. A diplomacy of truth—so that the American people will know what their government—*their* government—stands for.

Only when they know what their government stands for, can the American people be mobilized to support its foreign policies. If the totalitarians do not understand that this is the only way a democracy can function, that is just too damned bad. For the ultimate goal of our foreign policy must be, not to accommodate ourselves to their values but to make the world safe for ours.

UTILITY RATE INCREASES MUST BE CHECKED

Mr. BAYH. Mr. President, there is an increasing problem in my own State of Indiana and across the country of increasing utility costs to consumers. While several factors are involved, and there are several things that can and should be done to alleviate this problem, there can be no doubt that the main cause of soaring electric rates has been the willingness of the present administration to respond to our national energy problems by seeking higher energy costs.

Not only has the administration accepted the cartel pricing of the Organization of Petroleum Exporting Countries (OPEC), it has actually opened the door for the major oil companies to increase prices even more. The administration logic is that higher energy costs will encourage conservation. This is a terribly short-sighted policy, especially since consumers and small businessmen have very little flexibility in the short term in how much energy they use to run their autos, heat their homes, operate their appliances, and run their businesses.

Ever since energy prices began to soar more than 2 years ago. I have supported the maintenance of Federal price controls on oil and have argued that natural gas prices should remain under Federal regulation. The alternative, which we have witnessed in the case of the oil exempted from Federal price control and the intrastate natural gas prices not subject to Federal regulation, is price rises that parallel the cartel pricing of the OPEC nations. Moreover, the problem is exacerbated by the fundamentally noncompetitive nature of the domestic oil industry which inhibits the operation of a free market system. This is why I have authored legislation, on which I anticipate subcommittee action early next year, to break up the major oil companies.

Our failure to control adequately the price of energy in this country is reflected in the soaring rates encountered by consumers in Indiana and across the country. The price of coal, still the main source of electricity for most Americans, has risen significantly in the past 2 years. And that price increase is reflected directly in the electric bills of American consumers and small businessmen, especially since most utilities are able to automatically pass through the increased cost of fuel through fuel adjustment charges that are not usually subject to review by State utility commissions.

This problem of soaring electric bills works a severe hardship on low and middle income Americans, whose incomes are not rising nearly as quickly as the cost of essential energy. The problem is particularly difficult for retirees who often live on fixed incomes and find that month after month a larger percentage of their barely adequate incomes are going to pay utility bills.

The situation is serious; something must be done. I favor the following specific steps to help alleviate this problem for American consumers:

Maintenance of price controls on oil and natural gas. Not only would the continuance of controls help deal with the problems created by direct users of oil and natural gas; controls would also help with the increase in electric rates since more than 30 percent of electricity consumed in this Nation is generated in powerplants fueled by oil or gas. Also, keeping the lid on oil and gas would help keep the lid on coal, which provides more electricity than oil and gas combined.

An end to utility discounts for large users. At the present time most utilities charge less per unit of energy to their largest industrial customers than to families and small businessmen. This not only encourages energy waste by those large users, it puts a disproportionate burden for our Nation's energy bill on the shoulders of those who can least afford it—low- and middle-income families, including senior citizens. Ending the discounts now available to large energy users would not only encourage energy conservation, something clearly in the national interest, it would also be an effective check on further rate increases for the overburdened consumers of this Nation.

Interest rates must be lowered. While this does not immediately strike one as related to the cost of electricity, it is an acknowledged fact that our utilities must constantly go into the capital market to borrow money to improve and to expand existing facilities and to build new plants. With the Federal Reserve Board persisting in its absurd policy of maintaining excessively high interest rates, utilities must pay higher than reasonable interest rates and then must pass the cost of this overpriced borrowing onto their customers.

The Federal Government must step up its effort to increase coal production. Although it is more than 2 years since the Arab oil embargo, we have made dismal progress in expanding coal production. We can produce coal with greater efficiency and under safer conditions if we will recognize the imperative need to do so and put the weight of the Federal Government behind such efforts. Coal miners should not be asked to work in unsafe mines; strip mining that ravages the landscape without proper reclamation should not allowed. But we have the means to deal positively with both these compelling social needs and still expand coal production. What we lack is the kind of national leadership that understands the necessity for action. Coupled with this must be an increased Federal emphasis on the conversion from laboratory to commercial use of coal burning techniques that will permit us to use our coal more cleanly and efficiently. We can get more energy from a ton of coal than we get today, with less environmental risk, by utilizing such techniques as fluidized bed combustion and magnetohydrodynamics—MHD. But, once again, the requisite national leadership has been lacking.

We must continue to move forward to revitalize America's railroads. As in the case of interest rates, the direct relation to utility costs may not be immediately obvious. But the fact is that most of our electricity comes from coal, and most of our coal is shipped by rail, and our currently inefficient rail system increases the cost of shipping coal—another cost inevitably passed on to the consumer.

Mr. President, we have the capacity to do something more than wring our hands over the very real and very serious problem of soaring utility rates. But unless we care enough to stop the steady climb in the cost to consumers—and one can only conclude the present administration does not care enough—we will not make the necessary progress in this regard.

But I am not content to let the issue rest. The American people demand and deserve action, and I shall continue to do all that I can by pursuing the steps outlined above to deal with this problem in a fashion that may not please the giant energy companies, but which, in the end, is in the public interest.

ADULT PERFORMANCE LEVEL PROJECT

Mr. MONTOYA. Mr. President, I was shocked to discover in a recent HEW report that one out of every five American adults lacks the basic skills and knowledge necessary in the struggle to survive in our modern society. Although we pride ourselves on having one of the best educational systems in the world, if we cannot prepare our citizens to deal effectively with their own society, then we are not fulfilling the educational obligation which we owe each American citizen. I do not believe that the goal of our educational system should be simply to see that everyone receives a certain number of years in school. Our goal should be to see that our educational system equips every adult with the skills he needs to function competently in today's complex world. The HEW study on "adult functional competency" documents the fact that we are far from this goal, and I want to know why.

This report is the product of the 4-year, $1 million adult performance level—APL—project sponsored by the Office of Adult Education and conducted by the University of Texas—funding under section 309—Adult Education Act—1966. The object of the study was: First, to determine what skills and knowledge are required for economic and educational success in today's society; and second, to develop a method for assessing the competency of adults in these skills and knowledge.

The requirements for functional competency are meaningful only in a specific societal context and will vary with each different society. This study was designed to test the functional competency within our own modern society. The project viewed functional competency as a two-dimensional idea, best described as the application of a set of skills to a set of general knowledge areas which result from the requirements imposed on members of our society. Functional competency is a dynamic process and the competencies required will change as the society changes.

The first object of the project was to identify basic requirements for adult living. The project classified the broad range of adult needs into five general knowledge areas: First, consumer economics, second, occupationally related knowledge, third, community resources, fourth, health, and fifth, government and law. In each of these areas it was found that there were 4 primary skills which seemed to account for the vast majority of requirements placed on adults: First, communications skills (reading, writing, speaking and listening), second, computation skills, third, problem solving skills, and fourth, interpersonal relations skills. The project tried to test adults on these four basic skills in all five of the general knowledge areas.

The project, after much research and outside discussion, drew up a list of performance requirements called "objectives" which were then used in testing the adult population. After each round of field tests, the objectives were refined to insure that, as much as possible, the functional competencies of the adults taking the test were being measured. The testing was conducted by the Opinion Research Corp. which drew five independent samples of the adult population, each with a size of not less than 1,500 for a total of over 7,500 adults tested.

In reporting test results, adults were classified as being APL 1—those who function with difficulty, APL 2—those who are functional, or APL 3—those who are proficient. Not surprisingly, those categories were associated with income levels, education levels, and job status. However, there were such large numberrs in the APL 1 category, and so many variables by demographic groups, that I feel we must look more closely for explanations.

As long as "literacy" is conceived to be nothing more than the ability to read and write one's own name, or to score at some low level on a standardized test, then the United States probably does not have a significant problem. On the other hand, if the concern is with the adults who do not possess those skills and knowledge which are requisite to adult competence, then the results of this research indicate that there is a widespread discrepancy in our adult population between what is required of them and what they achieve.

I ask unanimous consent that the chart on competency levels by demographic groupings from the "Adult Functional Competency" report be printed in the Record.

There being no objection, the chart was ordered to be printed in the Record, as follows:

	APL Competency Levels		
Demographic variables:	1	2	3
Education:		*Percent*	
0–3 years	85	10	6
4–5	84	16	0
6–7	49	37	14
8–11	18	55	27
High school completed	11	37	52
Some college	9	27	64
College graduate plus	2	17	80
Family income:			
Under $5,000	40	39	21
$5,000–$6,999	20	44	36
$7,000–$9,999	24	39	37
$10,000–$14,999	14	34	52
$15,000 plus	8	26	66
Job status:			
Unskilled	30	38	32
Semiskilled	29	42	29
Skilled	24	33	43
Clerical-Sales	8	38	54
Professional-Managerial	11	28	61
Age:			
18–29	16	35	49
30–39	11	29	60
40–49	19	32	49
50–59	28	37	35
60–65	35	40	24
Sex:			
Male	17	31	52
Female	23	35	42
Ethnicity:			
White	16	34	50
Black	44	39	17
Spanish-surname	56	26	18
Other	26	41	33
Occupational status:			
Employed	15	28	57
Unemployed	36	30	34
Housewives	27	38	35
Number in household:			
1 person	21	23	56
2–3	20	35	45
4–5	19	31	50
6–7	21	33	46
8 plus	43	22	35
Region:			
Northeast	16	36	48
North Central	15	42	43
South	25	37	38
West	15	35	50
Metropolitan areas:			
1 million plus	21	39	40
Under 1 million	15	38	47
Suburb	21	32	47
Urban	14	29	57

SENATOR BENTSEN OPPOSES OIL PRICING CONFERENCE REPORT

Mr. BENTSEN. Mr. President, shortly, we will be called upon to approve the conference report on S. 622, which is disastrous—not only for the independent oil producer in this country, but for the American consumer as well.

Mr. President, the report contains many good and necessary provisions which I supported in the Senate. The provisions for creating strategic reserves and automobile fuel efficiency standards are two examples.

I also supported an extension of the Allocation Act so that a workable compromise could be worked out between the President and the Congress.

But the pricing provision in the bill offers no compromise, Mr. President, only political hypocrisy.

Texas now supplies over one-third of the Nation's domestic oil and gas.

But in the years ahead, Texas will depend upon coal from Kentucky and Pennsylvania and Wyoming; and on oil and gas from the east coast and Alaska; as well as geothermal and solar energy to provide the fuel for its industry.

Energy is a national problem.

And it is a long-range problem.

We must seek long-range, national solutions. And anyone who tries to set one section of this country against another;

anyone who promises to "roll back" the price of energy until the Presidential election is safely behind him is offering not solutions, but political hypocrisy.

This kind of fraudulent political promise—for blatant political gain—will not roll back the price of energy. It can only roll back the number of jobs. It is not a rollback. It is a throwback.

The American people know we face some hard choices in the fight to meet our energy needs. They are far more willing to face those choices than some of the politicians. And I do not think they will be fooled by election-year promises that cannot be kept.

This country has a serious shortage of natural gas because of unwise Federal regulation. The Senate recognized this in October and faced one of these hard choices when it approved my and Senator PEARSON's natural gas bill.

But now we are about to take a step backward by approving these irresponsible oil pricing provisions that will only worsen the energy shortage.

It will only increase our dependence on foreign sources.

It will only increase energy costs to American consumers.

And by promising the American people to "roll back the price of energy"—even though this is a false promise—the pricing provisions undo all the conservation efforts in other sections of the bill.

We must stop moving from crisis to crisis and take a serious look to the future about our energy needs.

This bill may be good politics, but it is bad economics. It is addressing the wrong oil prices, domestic, not foreign.

How will a domestic price rollback help us produce the marginal wells?

How will it encourage more exploration?

How will it encourage the development of alternate fuels?

It would not. It will do just the opposite. And 6 months from now—in the heat of Presidential politics—we will start seeing the results of this ill-conceived program. By the end of the year it will be more clear.

Domestic drilling activity will be off—wells that would have been drilled will not be drilled.

Domestic production will be off—by 1979, 1.3 million barrels per day less will be produced than would be produced under the present system.

Demand will be up.

Imports will be increased and there will be serious talk of imposing quotas to prevent our becoming even more dangerously dependent on OPEC oil.

If quotas come, so will rationing. And the American voters will start looking for someone to account to them.

It might be, Mr. President, that it will take more than 6 months—maybe more than 12 months—before the results become apparent to the American people. But when they do, they will be looking for the truth—not politics as usual.

And let us not forget who is hurt the most by this legislation. Not the big oil companies, but the independent producers who drill 90 percent of the exploratory wells in this country.

I have been in touch with countless independent producers over the past few months. Their message has always been the same: "Give us certainty."

Without certainty they cannot make commitments for new leases.

Without certainty they cannot borrow to finance the new wells.

Without certainty they cannot and will not reinvest the earnings from present production.

Without certainty they cannot provide the American consumer an adequate supply of energy.

After the adoption of this bill:

It will be months before FEA issues rules.

It will be 1977 before a decision on Alaskan oil is made.

And it will be 1979 before producers know whether they will have market pricing.

That is too long for many of them to wait.

And some of our oil will be lost forever. Over 12 percent of our domestic production comes from stripper wells, many of which will be plugged and abandoned because of this legislation. Once plugged, a well is too costly to ever redrill. The remaining oil will be lost forever.

This is only one example of the shortsightedness of this legislation.

Another is the fact that these producers who own old oil will refrain from seeking new oil. Old oil approximates 60 percent of production today, new oil 40 percent. Should this ratio change to 59 percent–41 percent, new oil prices must drop an average of 16 cents per barrel—and so on, as the ratio shifts to new oil. What this means is that Congress is discouraging the production of new oil. The major oil companies control most of the old oil in this country, and they will continue to profit. Meanwhile, the independent producer who has been drilling 90 percent of the new exploratory wells will watch his prices rolled back if he continues his efforts to make our Nation more energy self-sufficient.

Finally, it will be April of 1977 before a decision is made to exempt any high cost Alaskan oil from the composite price, and it will be April of 1977 before drillers have enough price certainty to take the tremendous risks necessary to drill in unproven areas. For every barrel of Alaskan oil that is included in the composite average and assigned a high price, there must be an offsetting reduction in the price for oil from the lower 48. Again, the independents are penalized. Why not make the decision today to exempt the Alaskan production and avoid this needless uncertainty?

Mr. President, there are many other elements of the pricing provisions of this legislation that I could talk about. The ones I mentioned are just examples of the shortsightedness of this irresponsible action. I will vote against the conference report, and I urge my fellow Senators to do the same. Furthermore, I urge the President to veto it. A continuation of the present system for a while longer would be better than moving ahead with this proposal.

ACTION SPECIAL VOLUNTEER PROGRAMS

Mr. BUMPERS. Mr. President, I would like to direct the attention of my colleagues to the ACTION Agency appropriation for Special Volunteer programs. The budget for Special Volunteer programs has been reduced by 40 percent this fiscal year. There are many worthwhile programs, such as the Special Volunteer programs of ACTION, included in H.R. 8069 which have suffered budget reductions due to the need for fiscal restraint. I understand also that complete evaluation information on the effectiveness and popularity of the Special Volunteer programs was not available to Members at the time the appropriation process for ACTION began.

It is most unfortunate that the same success Arkansas has enjoyed with ACTION Special Volunteer programs, and other States as well, had not been clearly expressed to Members of Congress. Had this been so, I feel sure such a reduction in funding would not have occurred.

The Special Volunteer programs were established by title I, part C, of the Domestic Volunteer Service Act of 1973 to develop new and dynamic ways of providing volunteers to deal with the needs of local communities, particularly in poverty-related programs. These new programs complement the traditional ACTION activities by stimulating larger numbers of volunteers to effective action and by spreading more activities to communities throughout the country.

Arkansas has been a pioneer in utilizing ACTION Special Volunteer programs. A statewide volunteer services coordinator funded under Special Volunteer programs has mobilized volunteers across the State. There are seven minigrants, small nonrenewable awards used as seed money to start worthwhile projects, operating in Arkansas with sponsors such as the Jonesboro Junior Auxiliary, the city of Texarkana, and the Arkansas League of Nursing. Arkansas has a successful "program for local service," part of the Special Volunteer programs, in its second year of service under the manpower council in Little Rock. The PLS program assists the State in reaching needy individuals with information on food stamps, nutrition, and services available through the State.

Although SVP programs have been in operation nationally under 2 years, there are State volunteer coordinators in 24 States. There are 2,000 full-time volunteers in 750 projects across the Nation, and a national minigrant program reaching into all 50 States providing 200 grants. ACTION informs me that it will be impossible to maintain the Special Volunteer programs at its present strength with a 40-percent reduction in its appropriations. When appropriations for ACTION are considered for fiscal year 1977, I hope Congress will substantially increase the funding for Special Volunteer programs.

NEW MEXICO STATEWIDE HOUSING CONFERENCE

Mr. MONTOYA. Mr. President, on Saturday, December 6, I was scheduled to speak at San Miguel, N. Mex., to a statewide housing conference which was sponsored by Tierra del Sol Housing Corp. of Dona Ana County. Unfortunately, because of the legislative business here in the Senate, I was unable to be present to make the speech. A member of my staff, Mrs. Margaret Larragoite, delivered the speech in my absence.

The problems of rural housing are serious and are not being adequately addressed by the Federal Government today. It is important that every one of us become aware of the very serious housing problems which will face rural residents in the next few years unless we can find a better way to solve their housing needs. I ask unanimous consent that the speech, as delivered for me by Mrs. Larragoite, be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech of Senator Joseph M. Montoya

I am delighted to be here today and to have the opportunity to discuss with you the rural housing needs of New Mexico. Certainly, no State in the Union is more ready for action on housing programs—and in greater need of a real coordinated attack on the social blight of substandard housing.

Recently, I heard a definition of democracy which I think is worth repeating to you. George Will, the political columnist, put it this way: "Democracy is government comprehended and controlled by the common man." I agree with that definition—and I think that when we fail to use government successfully in solving problems, it is because there has been a breakdown in understanding or control by the people. Perhaps the most tragic example of that fact is in the housing programs of the last few years.

In 1937—nearly forty years ago!—we first recognized the need for a national housing program. In 1949, the Congress set our goal as a "decent home in a suitable living environment for every American family". Those were brave words!

During the 1960's we provided a whole series of national housing programs in order to upgrade the homes of this Nation, and in 1968 we renewed our goal and passed the National Housing Act. We recognized at that time that there was a need for twenty-six million new homes in this Nation, and we began building those homes.

But since 1968, we have been floundering. We have passed housing legislation—but we haven't succeeded in solving the problem. We appropriated money—and it was impounded. We added programs—and the old ones were neglected. Everything slowed down.

Just last year we passed the Housing and Community Development Act, which included changes and additions to earlier programs. Today we have the law, and the programs, and the need—but no action! Why?

What has gone wrong? It is plain that we need more housing, and better housing. We need those houses in our cities—which are falling into a shambles in many places. Even more important, we need those houses in all the rural areas of the United States, where substandard housing is more often the rule than it is the exception.

Why are we Americans unable to solve this problem? We can send men to the Moon. We can provide the most complicated kind of technical assistance to other nations. Why can't we find the way to build decent homes for our own people?

Three things have been responsible for the present sad state of housing, I believe. First, of course, is the inflation and recession which have forced all of us to slow down our progress in every way. Second, the construction industry itself has been hit harder than most industries by inflation and unemployment—and by capricious economic fiddling by the administration. In an effort to use "tight money" to control inflation, both the Nixon and Ford administrations have managed to send this one industry into real depression, not just recession. For that matter, if you are a construction man out of work or a family which cannot find decent, affordable housing, there is no real difference between depression and recession—the end result is the same.

In New Mexico, the need for real action on housing programs is more acute than it is in other States. We are a rural State—and more than forty percent of our rural homes are substandard today. That figure goes up with every year of neglect. Estimates of housing needs for our Indian population are even more staggering—as high as eighty-seven percent of Indian homes in rural areas are substandard. For the Spanish-surnamed population in rural New Mexico, the substandard figure is thirty-five percent.

These are tragic statistics. They illustrate that the programs we have provided are not working—not in rural New Mexico!

Right here in Dona Ana County, the Tierra Del Sol Housing Corporation can tell you that housing needs are virtually at an emergency point: of the rental units available for middle and low income families in this county, fifty percent are over twenty-six years old. More than 300 are dilapidated or unsound, four hundred lacking plumbing, nearly 150 have no bedrooms—yet there are no vacancies. Most of this housing is overcrowded—with an average of four persons per room! More than three thousand families here are eligible for low cost housing under the rules of the Farm Home Administration housing program—and nearly five thousand families are eligible if we can find a way to utilize section 8 of the new Community Development Act.

What can we do?

I have taken several steps this year to try to help rural housing programs work. I devoted most of my newsletter of last June to a description of the Farm Home Administration programs which were available to New Mexico rural residents for home purchase, repair, self help, rental projects, and housing for farmworkers. I introduced an amendment to the appropriations bill to earmark funds from the Community Services Administration to provide for the implementation of the Perkins amendment. This will mean that $3 million will be available this year for counseling by non-profit groups to assist rural Americans to acquire decent housing.

I have contacted Carla Hills at H.U.D. to ask that section 8 money be used for new construction as well as for existing units. I have still not received a satisfactory explanation from her about the reluctance of the Dallas area office to use this program more flexibly. The Washington office insists that there is no emphasis on existing housing programs—but the Dallas area office seems to be playing a different tune!

Now, we are facing a new battle. The administration has now asked for a rescission on appropriations for self help housing, and for farm labor housing and for water and sewer grant funding for rural areas. I am convinced that we will not accept these requests for Congress to change its mind—but the end result of this kind of request is that programs are delayed and stalled while we are forced to hold hearings again, and make a decision again, about funding levels we have already voted and passed into law.

In this case, the request to cut back is being made on programs which are outstandingly successful. The Farm Home Administration housing programs during this last fiscal year have become the major source of financing for low and moderate income rural families.

The available funds are almost all obligated. For that reason, I am supporting an amendment which will add $500 million to the loan fund in the supplemental appropriations. Rememebr, that's the same program the administration is asking us to cut back!

One program that does have funds not committed on schedule is the section 8 housing assistance program. Although I know that many of you did not expect the section 8 program to be a real help, it is one program that the H.U.D. Administration has decided to implement. Other older and tested programs are being neglected by H.U.D. and the administration but they are projecting that 400,000 units will be provided for under section 8 in the coming year. By law, at least twenty percent of those units should be for rural housing. However, unless rural organizations are able to insist that new units be included, and that more realistic regulations be written for rural areas, very little of that section 8 money will ever reach rural families.

All of these problems really revolve around one problem: The present administration is reluctant to fully implement our housing programs and they are reluctant to help the construction industry because they fear stimulation of the economy. They would much prefer to have private agencies and private developers move in to do the job, slowly! Unfortunately, of course, that is just not going to happen in rural areas—not without some assurance of Federal or State guarantees.

I am encouraged by the efforts which are being made by New Mexico's State and local agencies and organizations like Tierra Del Sol. The State has acted to establish both a State housing authority and a State finance agency. By working with regional housing authorities to help identify available housing and to attack directly the rural housing needs, I think we are going to see some action very soon.

Cooperation between local, State and national groups—both in and out of government—is the key. The first step we must take to understand and control these programs is to coordinate our efforts.

I can continue to press for greater and more intelligent action by H.U.D. for rural housing needs. Section 8 money could be set aside for Farm Home Administration units in rural areas, for instance.

I can continue to insist, as I have in the past, that set asides for public housing for Indians be used for new commitments.

I can continue to press for increased funding for Farm Home Administration programs and for other rural housing programs.

I can continue to resist cuts by the administration in our appropriations.

There are things you can do too—and I know that most members of this audience are already doing those things.

You can support the efforts of the Congress to provide workable programs. That helps.

You can organize citizen groups to work together to use those programs—as Tierra Del Sol has done.

You can publicize the need and the problem—as this conference is doing.

You can keep me—and other members of your congressional delegation informed about problems, so that we can work in Washington to try to solve them.

If there were some way to bring the bureaucrats and administrators from Washington to Dona Ana County, it would be easy to convince them of the need for action on rural housing—not only here but everywhere in rural America. Of course, that is not possible—we can't bring them all here. But we can certainly bring the information and the work there! If you keep me informed, I promise to keep them informed. We can work together to make sure they hear us—and respond.

No one of us can solve housing problems alone. But together, we can begin to make Government work for us—and we can begin to change the housing statistics of rural New Mexico!

That is what George Will meant by understanding and controlling government! That is democracy at its best!

PRESIDENT FORD'S ENERGY PROGRAM

Mr. ABOUREZK. Mr. President, the Senate will soon act on the conference report on S. 622 which, among many other provisions, requires a small rollback in the price of domestic crude oil. In all of the arguments about the effects of this pricing provision—most of which, admittedly, have come from oil company propaganda—no one has made clear what relations a price rollback bears to the performance of the economy.

A revealing column in last month's Washington Post reminds us that we have had the discussion of how rising oil prices will affect economic recovery several times over the past year. After a year of these discussions, we have some empirical evidence on just what high oil prices mean. They mean lower employment, higher prices for industrial commodities like steel and plastics, and higher prices for essentials like electricity and food. Since January of last year, the economy has lost $265 billion in purchasing power as a result of higher prices. In short, increased oil prices mean dragging recovery rates and continued deprivation. We also know what high oil prices do not mean. They do not mean more oil—domestic production has not increased. They do not mean conservation—gasoline prices are up 5 cents over last year's prices, and gasoline consumption this year has been consistently above last year's.

I was surprised to read in Evans and Novak that some of the President's advisers told him this last year. These advisers broke ranks to tell the President that "there is strong reason to believe that" the $2 tariff "would subject our already weak economy to further inflation and unemployment next year—1975."

They were right, of course. The only problem is that they did not tell the President that the effects of any price increase—whether it was in the form of taxes or in the form of decontrol of oil prices—would be detrimental to the economy. Mr. President, I ask unanimous consent that this column be printed in the RECORD, in order to remind my colleagues what happens when we fail to consider the economic impact of oil prices.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 18, 1975]

MR. FORD'S ENERGY PROGRAM

(By Rowland Evans and Robert Novak)

When President Ford triumphantly unveiled his energy program last January, he was acting against the secret advice of career government experts who warned it would endanger the economy without achieving energy independence.

On Dec. 19, 1974, five civil servants in the Office of Management and Budget (OMB) working on energy problems drafted an extraordinary memorandum for energy czar Frank Zarb. Their charge: Mr. Ford was not being told that the oil tax proposals before him might increase unemployment and inflation. Consequently, they urged that Zarb advise the President to ignore demands for an energy plan from "instant experts and press pundits" and reject proposals before him.

Zarb neither relayed this advice nor showed the President the memo. Economic concerns were brushed aside by Mr. Ford's senior economists. What's more, the $2-a-barrel oil tariff vigorously protested by the OMB experts remains to this day the key operative element in the President's energy program.

The political significance of the nearly-year-old confidential memo is its partial vindication of what Democratic critics said when Mr. Ford announced his program last January. It strongly suggests his proposals stemmed more from political necessity than economic reality.

Demands to do something were pervasive last November following the Democratic election landslide and Mr. Ford's "WIN" (whip inflation now) fiasco. By pushing an unattainable reduced oil consumption of one million barrels a day by the end of 1976 (against advice of government oil experts), Secretary of State Henry Kissinger heightened pressure for instant presidential action.

The action was proposed during a Camp David meeting early in December: oil taxes to discourage consumption and a price floor to encourage expensive development of new oil sources.

But five civil servants attending the Camp David meeting, four from OMB and one State Department official assigned to OMB, were deeply concerned by the mood of unreality and haste there. These were no rebellious left-wing bureaucrats harassing a conservative Republican administration, but ardent free marketeers opposed to 0 government controls.

Returning to Washington from Camp David, the five officials defied sacrosanct bureaucratic rules for survival by committting their concern to writing in the memo to Zarb.

The "energy package going to the President," the memo began, does not "explicitly describe for the President how and to what extent" the proposals would achieve goals of bringing down world oil prices and reducing U.S. vulnerability to another oil embargo. In fact, the OMB experts felt the proposals would accomplish none of this.

Then the memo reached its economic climax. The energy policy paper, it said, does not "explain to the President what the economic cost of these short-term import reduction measures would be, although there is strong reason to believe they would subject our already weak enonomy to further inflation and unemployment next year (1975)." Moreover, the experts complained, "No estimate or even mention is made of unemployment effects."

They consequently proposed to Zarb that "despite the public clamor for dramatic action from instant experts and press pundits, you advise the President" to adopt a policy "that avoids worsening current economic conditions" and "seeks the elimination of patently foolish energy policies and restrictions." In short, abandon energy tax proposals and concentrate on price decontrol.

Shortly thereafter, the five officials met with Zarb to press their case. Zarb did not disagree but gave the impression that it was much too late to prevent presidential adoption of the program. The difference between the experts and the politicians was evident. While the technicians saw no need for the President to rush into an energy program, Mr. Ford's lieutenants felt it imperative to put some program—any program—before the public.

At the post-Christmas meeting in Vail, Colo., when Mr. Ford finally accepted the program, economic impact was questioned. The President, however, turned to his chief economic adviser, Alan Greenspan, who reassured him the energy tax would not contribute to either unemployment or inflation. The President received no full presentation of the opposing viewpoint.

In the ten months since, the administration's energy policy has drifted away from energy taxes, price floors and grandiose dream of breaking the oil cartel and toward oil decontrol—the position of the Dec. 19 memo. But congressional opposition has prevented decontrol, and the President's $2-a-barrel import tax remains in effect. The confidential warning by the bureaucrats that such a tax would accomplish little at great risk seems prophetic today.

HOW MUCH DID THE PRESIDENT KNOW AND WHEN DID HE KNOW IT?

Could it be true that President Ford was not told about the economic damage, in terms of inflation, unemployment and increasing budget deficits, that would inevitably occur as a result of sudden double and triple digit price increases for coal, natural gas and refined petroleum products.

Generally, for the past 20 months the Wholesale and Consumer Price Indexes have listed fuel and food as the main contributors to inflation.

OPPOSITION TO S. 961—200-MILE U.S. FISHING JURISDICTION

Mr. GRAVEL. Mr. President, today an editorial appeared in the New York Times which urges Congress not to pass legislation to unilaterally extend U.S. fishing jurisdiction to 200 miles. This position reverses an earlier editorial in which the Times supported such legislation.

The basis for the change lies in the recent breakthroughs achieved in multilateral negotiations on fisheries conservation. The editorial points out that recent agreements in the Northwest Atlantic have brought foreign fishing down to the point where most major fish stocks can begin to rebuild.

The newspaper also notes that passage of S. 961 "would endanger the clerical Law of Sea Conference which is due to reconvene in New York next March." It points out that such vital interests as free passage of vessels and aircraft through and over offshore waters and straits, deep sea mining, and scientific research could be jeopardized by S. 961.

The progress toward fisheries conservation which the Times notes has been considerable in the past year, including a new agreement to protect whales. The Pacific Citizen reported on December 5, 1975, that the International Whaling Commission has, for the first time in its history, brought all world oceans under its quota arrangements. A harvesting moratorium, or total ban, has been placed on species whose populations have fallen below maximum sustainable yield levels.

Japan, for example, has agreed to a reduction of almost 50 percent in whale meat production. This certainly is evidence of progress toward the sound management of the oceans' living resources.

Another example of the promise of continued cooperation in the area of international management of living resources is found in a recent article from the New York Times, which discusses the possibility of establishing a major salmon fishery in the world's southern oceans. Attempts to do so are now underway by American scientists, the Rockefeller Foundation, and Chilean authorities.

The Law of the Sea salmon text could be very helpful in the establishment of such a fishery. U.S. aid to help create a new protein resource might be used as part of a bargain in which a certain proportion of the resource could then be harvested by U.S. fishermen. The LOS text provides that states "participating by agreement with the state of origin in measures to renew anadromous stocks, particularly by expenditures for that purpose, shall be given special consideration by the state of origin in the harvesting of stocks originating in its rivers." It is thus imperative that we do all possible to secure such an agreement, especially in light of the benefits that American consumers might receive.

Finally, I would like to share with my colleagues a letter from Ocean Fisheries, Inc., on S. 961 and the effect passage of this legislation would have on the tuna industry and the Commonwealth of Puerto Rico. I also call to their attention an additional letter indicating the status of California sardine and Pacific mackeral.

Both species, it has been claimed, have been depleted by foreign fishing. However, the available evidence clearly indicates they have been depleted by past U.S. overfishing. Currently, there is a moratorium on the harvesting of these species, and S. 961 would not affect them.

I believe this material raises additional reasons why S. 961 should not pass. It also places in proper perspective the economic consequences of this legislation, as well as the fact that recent negotiations have secured much-needed conservation gains.

I ask unanimous consent that these articles and letters be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 8, 1975]

Fish and the Seas

The Senate is soon to act on a bill that would arbitrarily extend United States fisheries jurisdiction to 200 miles.

This newspaper supported a companion bill last summer, which has already been adopted by the House, because we then believed that such unilateral action offered the last hope of saving rapidly dwindling fish stocks off the coasts of the United States, particularly in the Northwest Atlantic. A recent breakthrough in multilateral efforts to curb overfishing by large foreign fleets off New England and the Middle Atlantic states radically changed that situation.

Prodded no doubt by the threat of Congressional action, seventeen nations, meeting in September at a special session of the International Commission for Northwest Atlantic Fisheries (ICNAF) in Montreal, approved new quotas that will drastically decrease foreign fishing while allowing some increase in the catch of American fishermen. The three largest foreign fishing operations—those of the U.S.S.R., Poland and East Germany—have been cut by mutual consent to about 50 percent of 1974 levels. Most of the productive Georges Bank area has been closed to trawlers capable of catching seriously depleted groundfish. As a result, United States fisheries experts estimate that stocks can rebuild to maximum sustainable yield levels within seven years.

Admittedly, important questions regarding enforcement remain to be ironed out at another ICNAF meeting that is scheduled to be held in Rome next month. And more needs to be done to reduce quotas of endangered species in the Northwest Pacific, where significant but still inadequate progress has been achieved through bilateral and multilateral negotiations during the past year. Nevertheless, the recent thrust has clearly been toward greater cooperation for conservation by those nations which have been the most serious offenders—the Soviet bloc countries and Japan.

Against the risk that this encouraging multilateral trend cannot be sustained must be weighed the larger threat to broader United States interests that could now arise from any unilateral American fisheries action. An arbitrary extension of a 200-mile fisheries jurisdiction would endanger the critical Law of the Sea Conference that is due to reconvene in New York next March; this will try to complete a comprehensive agreement covering not only fisheries but also such vital United States interests as free passage of vessels and aircraft through and over offshore waters and straits, deep sea mining and scientific research. With so much at stake, and with so much already achieved toward attaining the goal of fisheries conservation through multilateral action, we believe it would not at this time be in the national interest for Congress unilaterally to extend American fisheries jurisdiction.

[From the Pacific Citizen, Dec. 5, 1975]

Japan Whalers OK Moratorium

New York.—Japan's whaling industry will fully respect the new resource management formula adopted at the June 1975 meeting of the International Whaling Commission (IWC), according to the Japan Whaling Association.

The new formula imposes a harvesting moratorium, or total ban, on species whose populations have fallen more than 10 per cent below maximum sustainable yield levels. It brings all world oceans under IWC quota systems for the first time, including the North Atlantic, which has never before been regulated.

As a result, there will be a complete halt to all sei whaling in the North Pacific and West Indian Oceans in the southern hemisphere, and to all male sperm whaling in the vicinity of Eastern Australia. Fin whaling will also be banned in all but one region in the Antarctic and in the North Atlantic.

The Association said, "Our decision is based on Japan's commitment to both protection and prudent use of whale resources. The new 10 per cent guideline will protect species long before they even approach endangered levels.

"Implementation of the new formula will require further reorganization and reduction of Japan's whaling industry. However, despite our considerable sacrifice, we are confident it will be possible for us to continue whaling under scientifically justified resource management principles.

"We estimate that new regulations will cut Japan's whale meat production in this whaling year to less than 40,000 tons from last year's 80,000 tons. Considering that Japan's total domestic beef production amounts to less than 300,000 tons, this reduction will directly affect Japanese diets, which include whale meat as an invaluable protein source.

Scientists Study New Salmon Area

(By Victor K. McElheny)

A major salmon fishing ground could be established in the world's southern oceans as a result of explorations begun in southern Chile by American scientists, with the cooperation of the Chilean navy and support from the Rockefeller Foundation.

The explorations are to expand in the year ahead, and could be followed by the introduction of salmon eggs, using floating hatcheries attached to boats. Chilean Government agencies and universities have expressed support for the project.

Such a fishing ground, according to its proponents, would allow different varieties of introduced salmon to feed not only on the rich supplies of marine crustaceans, called krill, that live in the oceans surrounding Antarctica but also on equally rich populations of socalled red crabs in the island-dotted straits of southern Chile.

The crab-eating types of salmon, at least, would be restricted largely to Chilean waters and to exploitation by Chilean fishermen.

The proposed Chilean fishing ground could add considerably to world supplies of high-protein fish. Yields from other fisheries around the world, intensely exploited by wide-ranging ships, have tended to level off in recent years.

NO SALMON IN AREA

Salmon are not found naturally in the Southern Hemisphere because all streambeds for spawning were covered completely by advancing glaciers in recent "ice ages" and because salmon of the Northern Hemisphere find tropical waters too warm to cross.

Sites for a salmon fishery in the Southern Hemisphere are few, according to Dr. Timothy Joyner of Seattle, a retired Government fisheries expert who leads the project, along with Dr. Colin E. Nash of the Oceanic Institute in Waimanalo, Hawaii.

Possibilities exist, Dr. Joyner said, in the French Antarctic islands called Kerguelen, the British-held Falkland Islands and in the portion of Tierra del Fuego belonging to Argentina. But he said that conditions appear to be most favorable in southern Chile.

New Zealand, Dr. Joyner said in a telephone interview, has so far limited its 80-year-old salmon fishery to sportsmen, and currents are unfavorable near the Australian island state of Tasmania.

CURRENT A PROBLEM

Even central Chile, he said, with favorable strains and cold coastal waters rich in anchovies for salmon to eat, has had little success in 50 years of work with salmon hatcheries. The Humboldt Current carries young salmon north toward unsuitably warm waters and offers no means for adults to return to their native streams to spawn.

Only in southern Chile, south of the Taitao peninsula, Dr. Joyner said, do cold currents from the west turn south toward the rich feeding grounds of the oceans near Antarctica, where whales and seals have thrived.

In the coming year, according to plans submitted to the Rockefeller Foundation's agricultural division, the scientists hope to make detailed studies of sites in the chain of islands bordering the western reaches of the Straits of Magellan.

This is an extremely windy and thinly populated region described by Dr. Joyner as "great" for salmon but tough on people." Despite the winds, he said, temperatures remain moderate enough to allow the incubation of salmon eggs all year long.

COLD STREAMS SOUGHT

The scientific team expects to concentrate on places, pinpointed by the Chilean navy, where cold streams spill into the salt-water inlets of a fiordlaced region that resembles Norway and southeastern Alaska. Such sites would allow young salmon a short journey from the fresh water, where they mature, to the seas, where they spend adulthood.

Sites will be sought both for the so-called chum and pink salmon, which roam over thousands of miles of ocean, and for the coho and chinook salmon, which remain longer in fresh water.

Encouraging the program, Dr. Joyner said, is the Soviet Union's success in transplanting salmon from Sakhalin Island in the western Pacific to the White Sea near Murmansk in northern Europe. Some of these salmon have begun ranging the northern Atlantic, Dr. Joyner said.

Dr. Joyner, pointing out that the areas where salmon fisheries can be established in southern Chile have "an obvious hydro-electric potential," described that country as "food-short, energy-short and money-short." Of the plan to establish the fishing ground, he said: "None of it's easy to do, but once done, the yield would be prodigious."

Ocean Fisheries, Inc.,
San Diego, Calif., December 2, 1975.

Re: S. 961 and Puerto Rico

Hon. Mike Gravel,
Washington, D.C.

Dear Senator Gravel: S. 961 will have a tremendously adverse effect upon the tuna industry of Puerto Rico.

Domestic tuna landings in Puerto Rico have made it the most rapidly expanding area of United States fisheries. These landings over the fifteen year period 1960 through 1974 have increased from 21 million to 165 million pounds, an increase of 689% based upon published United States government statistics.

The Commonwealth of Puerto Rico, faced with an exceedingly high rate of unemployment, cannot afford to lose the jobs represented by processing tuna from these domestic landings and those represented by processing imports of foreign caught tuna which will be covered in a following letter. Canned tuna represented 8.2% of the value of all shipments from Puerto Rico to the United States in fiscal year 1974 and the production of canned tuna is one of the leading industrial activities.

It is for this reason that the Economic Development Administration advised us by the attached letter of its opposition to S. 961.

The underlying reason for the adverse effect of S. 961 upon the domestic U.S. tuna fishery delivering to Puerto Rico is that its enactment would eliminate the majority of United States tuna fishing, which includes Puerto Rico, from within 200 miles of most foreign countries. Landings of light meat tuna within such 200 mile areas represented 83% of the total 1974 catch.

Unilateral action by the United States would give a vote of reassurance to those nations which have already extended limits to 200 miles, notably Ecuador and Peru.

Unilateral action by the United States would constitute an endorsement not only of 200 miles, but of the principle of unilateralism as the means to obtain it. This would give great encouragement to those about to go to 200 miles such as Mexico and Costa Rico and would create popular support in countless other small countries to do the same as a nationalistic act.

Unilateral action would damage the extensive overseas fisheries of Japan, an ally, and of Russia, with whom we maintain peaceful relations, as well as other high seas fishing nations.

The loss of 40% of the world's oceans and its consequent shrinking of present tuna fishing areas will reduce the area in which tuna may be freely caught without paying tribute to those nations who wish to control a part of this resource as it appears off its shores in its migratory process.

We will appreciate your considering the effect of all this upon Puerto Rico which packs more than 40% of United States canned tuna production.

Very truly yours,

Harold F. Cary.

Ocean Fisheries, Inc.,
San Diego, Calif., December 3, 1975.

Re: S. 961 and Puerto Rico

Hon Mike Gravel,
Washington, D.C.

Dear Senator Gravel: One of the most powerful factors in the development of the tuna fisheries of the Atlantic Ocean has been the growth in the processing of tuna in Puerto Rico.

As previously stated domestic landings of tuna have increased 689% over the past 15 years (1960–1974). The addition of imported frozen tuna to these domestic landings has made Puerto Rico the second largest tuna canning center in the world.

In this same 15 year period, tuna imports have grown from 38 million to 382 million pounds with the majority of supply originating from transshipments from Japanese, South Korean and Taiwanese vessels.

Puerto Rico's domestic supply would be vitally affected by a uniateral declaration by the United States of a 200 mile fisheries zone as other nations claiming sovereignty would consider that their unilateral actions (which the United States does not recognize) were being strongly supported. In addition, those nations considering a 200 mile claim would find support and encouragement for such U.S. action.

As this would certainly spread to many coastal and island nations, it would reduce the ability of the foreign suppliers of tuna to Puerto Rico to operate freely upon the high seas. The reduced catch would mean less tuna for export. The high seas areas of the world would be redefined and result in a reduction of about 40% in their total area.

In our view this would strongly and adversely affect the position of Puerto Rico as a tuna processing center and be reflected in sharply reduced employment, income and shipments to the United States which, according to the Commonwealth of Puerto Rico, constituted 8.2% of shipments to the United States in fiscal 1974. Puerto Rico's economic position cannot afford such a decline.

Very truly yours,

Harold F. Cary.

Economic Development
Administration,
New York, N.Y. November 18, 1975.

Re: S. 961

Harold F. Cary,
General Manager—Administration,
Ocean Fisheries, Inc.,
San Diego, Calif.

Dear Mr. Cary: Your recent letters, attachments and statement before the U.S. Senate Committee on Commerce on the 200 mile Fishery Limit Bill has been received and perused with great interest by myself and my associates.

The Commonwealth of Puerto Rico has registered its opposition to this legislation both in the U.S. House of Representatives and in the Senate in view of this government's direct interest in the welfare and growth of the U.S. tuna fleet and its ancillary facilities based in Puerto Rico.

Our Congressional representative in Washington D.C., Congressman Jaime Benitez and his staff, are in constant communication with legislative leaders and the various governmental agencies wherein this matter is of concern.

It is the purpose of the Commonwealth government to exert every effort to contribute to the aggregate gain of the tuna industry in Puerto Rico.

We shall continue to monitor the aforementioned legislation and we thank you for providing us with such detailed information on this matter.

Sincerely yours,

Amadeo I. D. Francis,
Deputy Administrator.

Ocean Fisheries, Inc.,
San Diego, Calif., December 6, 1975.

Re: S. 961

Hon. Mike Gravel,
Washington, D.C.

Dear Senator Gravel: By far the majority of tuna fishing by the United States fleet takes place on what are considered the international high seas the area between 12 and 200 miles off the coasts of many nations.

Unilateral declaration of a 200 mile fishery zone by the United States would:

1. Be considered by these countries claiming a 200 mile territorial sea as supporting their claims and sanctifying their actions in enforcement of them.
2. Be considered by those countries making such claims, but not enforcing them, as a clear encouragement to proceed with enforcement against U.S. distant water vessels.
3. Be considered by those countries presently proposing 200 mile zones to move immediately to implement and enforce them.
4. Instigate widespread action which would in time affect the status of 40% of the worlds oceans.

All the foregoing situations as they relate to claims, proposed claims, enforcement and proposed enforcement now exist and are not conjectural.

Such action would largely destroy our domestic tuna fishery and our domestic tuna canning industry because major foreign as well as domestic suppliers of tuna for processing would be severely damaged.

The basic purpose of S. 961 is to protect the domestic fishing industry of which the tuna fishery is a major part. Failure to protect the tuna and other distant water fisheries would fail to carry out one of the implicit purposes of the bill.

The tuna fishery is important because it represents, based on 1974 data published in Fisheries of the United States;

10.8% of the volume of domestic landings of all fish and shellfish.

21.3% of the volume of domestic landings of all edible commercial fish and shell fish (excludes what is termed industrial fish).

17.3% of the value of domestic landings of all commercial fish and shellfish.

18.4% of the value of domestic landings of all edible commercial fish and shellfish.

22.8% of the round weight volume of imports of edible commercial fishery products.

If we eliminate shellfish from the list of edible items and concentrate on finfish only, domestic tuna landings account for 32.6% of all domestic landings of edible finfish.

Domestic processing (production) of canned tuna is of great importance when viewed against total U.S. production. The figures for 1974 are:

Total canned production of canned:
Fish and shellfish, 963,232,300 pounds.
Canned tuna, 660,545,100 pounds.
Canned tuna percent of total, 68.6%.
Value of total U.S. Canned fish and shellfish production for:
Human consumption, $1,127,415,800.
Value of U.S. canned:
Tuna production, $823,892,700.
Tuna percent of total, 73.1%.

Tuna canners also produce about 70% of canned animal food.

The overall domestic tuna fishery has increased by 73% in volume in the 15 years from 1960 to 1974. Puerto Rico landings as a part of this have increased 689% in the same period.

Imports of frozen tuna providing an important international trade base for foreign nations have increased 175% in the same period.

The United States pack of tuna which includes American Samoa and Puerto Rico has increased 108% in the same period.

Employment direct and indirect was estimated at 27,800 persons in 1973.

When we review all the foregoing it is clearly evident that the tuna industry is certainly one of the most important of all United States fisheries. Any fishery legislation should be examined for its effect upon all our fisheries and certainly for its effect upon the tuna fishery and the industrial complex developed from it.

It is our considered judgment that S. 961 would set in motion strong international forces which would eliminate most of its production and destroy its importance to United States fisheries, its fishery economy and the national economy. In so doing it would also tend to increase imports and raise costs to the consumer.

Very truly yours,

Harold F. Cary.

Ocean Fisheries, Inc.,
San Diego, Calif., December 3, 1975.
Re: S. 961 and Overfished Species.
Hon. Mike Gravel,
Washington, D.C.

Dear Senator Gravel: The Committee on Commerce released a memorandum to the Foreign Relations Committee on November 21, 1975 wherein (page 6) Kenneth Sherman, Chief of National Marine Fisheries Service Resources Assessment Division listed overfished fish resources. A quotation from the listing reads:

"These resources are subject to competitive harvesting by foreign and domestic fishermen. . . ." "This situation has led to overfishing of at least 10 major commercial stocks (Alaska pollock, Pacific mackerel, sablefish, yellowfin sole, yellowtail flounder) resulting in serious economic consequences. For example, overexploitation of the California sardine and the haddock off New England has resulted in an accumulated loss to fishermen in excess of half a billion dollars in 1974."

Special attention is given to California sardine. We will consider this species and California mackerel on this letter with particular reference to the expressed thesis that "These resources are subject to competitive harvesting by foreign and domestic fishermen . . ." and that this foreign and domestic effort has led to overfishing of the two species.

CALIFORNIA SARDINE (PACIFIC SARDINE)

The California sardine population was driven down to uneconomic levels by overfishing by U.S. fishermen and by long-term changes in the ocean environment many years ago. It is the subject of as much or more analysis than any other U.S. fishery.

This fishery for the Pacific sardine has been of no economic importance since the early 1960's. It has been subject to a fishing moratorium since 1967.

No foreign nation has participated in the fishing of Pacific sardine off the United States coast.

It should be made clear to those interested in U.S. fisheries that the decline of the Pacific sardine fishery was, therefore, in no way connected with foreign fishing off U.S. shores. The statement that ". . . competitive harvesting by foreign and domestic fishing . . ." led to their decline is in error.

The use of a 200 mile zone would have had no effect whatever on this resource.

PACIFIC MACKEREL

The Pacific mackerel population, subject to considerable fluctuation, was driven down to uneconomic levels by overfishing by U.S. fishermen and by long-term changes in the ocean environment by the mid-1960's and has been of little economic consequence since that time. It has been subject to a fishing moratorium since 1970.

No foreign nation has participated in the fishing of Pacific sardine off the United States coast. At the southern end of the range of the species a fishery is conducted by Mexico off its shores.

The unilateral enactment of a 200 mile zone by the United States would have had no effect whatever on this resource.

Thus when the fish stocks of the United States are discussed and the overfishing by domestic and foreign fishermen on the 10 stocks is listed, the California (Pacific) sardine and Pacific mackerel should be removed from the list as no fishing on these stocks off the U.S. coast has occurred. Further, the economic implications that accompany the list should also be set aside for the same reason.

If management is considered, there are masses of data in possession of the California Department of Fish and Game and the National Marine Fisheries Service which can be used as a base. Both stocks are presently under management control by a moratorium on fishing. A 200 mile limit would not affect either resource.

Very truly yours,

Harold F. Cary.

THE 200-MILE FISHING LIMIT PROPOSAL

Mr. CRANSTON. Mr. President, for the benefit of Senators I ask unanimous consent to have printed in the Record the following material on the 200-mile fishing limit legislation: A written statement by Harold Carey who represents the Tuna Research Foundation and the American Tunaboat Association, and who speaks to the serious ramifications of unilaterally extending our fisheries management zone to 200 miles; two valuable statements submitted to the House International Relations Committee during consideration of H.R. 200, by William Utz of the National Shrimp Congress and George Steele on behalf of the American Tunaboat Association; three articles which further illustrate that unilateral passage of 200-mile legislation at this time would be untimely and shortsighted.

There being no objection, the material was ordered to be printed in the Record, as follows:

Written Testimony of Harold F. Cary, Submitted to the House International Relations Committee, September 24, 1975

IDENTITY

My name is Harold F. Cary. I am appearing before this Committee on behalf of: Tuna Research Foundation, Inc., Terminal Island, California; and American Tunaboat Association, San Diego, California, both of which organizations have testified extensively before this Committee on 20-mile legislation and have identified themselves in previous hearings.

I am active in the industry as General Manager of Ocean Fisheries, Inc., a corporation owning and operating 12 large high seas tuna fishing vessels.

Today my statement also represents the views of the following organizations which previously testified: Fishermen's and Allied Workers Union, Local 33, San Pedro, California; Fishermen's Union of America, Pacific and Caribbean Area, affiliated with the Seafarers' International Union of North America, AFL–CIO; and United Cannery and Industrial Workers of the Pacific, AFL–CIO.

POSITION

The organizations represented oppose a unilateral extension of fisheries jurisdiction to 200 miles, which is a reiteration of our previous position.

There has been voluminous, detailed testimony presented to this Committee with respect to previous bills having the same extension as the objective. As these views are well documented, I will not restate them in detail, but review them briefly to determine whether the validity initially claimed for them has been sustained or diminished.

Additionally, I will bring to the attention of this Committee information not previously presented and information requiring amplification of it as originally presented.

1. International relations

The key statement is:

"(A)ny effort to enforce a unilaterally established 200-mile fisheries zone against non-consenting foreign nations would likely lead to serious confrontations." Secretary of State, September 22, 1974.

This is only one of a number of similar statements.

There does not appear to be any doubt that confrontations would take place. A unilateral declaration will certainly draw protests from nations fishing off our coasts. Enforcement over these protests will bring confrontation.

2. National security

We in the industry are not experts in national security. The Department of Defense, in commenting on unilateral extension, stated there would be "serious impact on national security interest of the United States".

The *Mayaguez* affair is a case in point.

3. International conventions

We are signatory to what are called the Geneva conventions. Of particular applicability is the Convention on Fishing and Conservation of the Living Resources of the High Seas, which provides: All States have the right for their nationals to engage in fishing on the high seas subject (a) to their treaty obligations, (b) to the interests and rights of coastal States as provided in this convention, and (c) to the provisions contained in the following articles.

Another is the Convention on the High Seas, which provides: The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty . . . It comprises, inter alia, both for coastal and non-coastal states: . . . 2. Freedom of fishing.

Article 1 of the Convention defines the term "high seas" as "All parts of the sea that are not included in the territorial sea or in the internal waters of a State".

Another is the Convention on the Territorial Sea and Contiguous Zone, which provides: The contiguous zone may not extend beyond twelve miles from the baseline from which the territorial sea is measured.

There appears to be no doubt that a unilateral declaration would conflict directly with these conventions, to which the United States is signatory.

4. International conservation agreements

A key statement is:

"In our opinion, S. 1988 will destroy the IATTC (Inter-American Tropical Tuna Commission) and ICCAT (International Commission for the Conservation of Atlantic Tuna) and will make the creation of new international fisheries organizations an impossible dream. This opinion is supported by factual information developed during the 25 year history of the IATTC." August Felando, Statement to Senate Committee on Commerce, April 1974.

If the Eastern Pacific is divided into a series of private lakes 200 miles from the coast, a comprehensive research program covering the aggregate of the tuna species would present insurmountable problems and, therefore, bring about the asserted destruction alluded to above. The present regulatory area would be reduced from 5.0 million square miles to 2.1 million square miles, thus reducing the breadth of useful international research.

"It (200-mile legislation) could lead to abrogation by other nations of existing fisheries agreements, one of the most critical being the International Convention for the High Seas Fisheries of the North Pacific Ocean, which provides protection to salmon of U.S. origin." Secretary of Commerce, September 25, 1974.

5. Law of the sea

"For the United States to adopt unilateralism . . . would seriously undercut the credibility of U.S. negotiators not only on the fisheries issue but also on our basic commitment to international agreement." Deputy Secretary of Defense, September 14, 1974.

With respect to fisheries, the question which can logically be asked is: why would we have international negotiations at all if the United States had already decided to settle the matter outside the provisions of the Geneva conventions?

The Fishermen's Union has stated that "passage (of a unilateral 200-mile zone by the United States) will contribute to failure of the . . . Law of the Sea Conference." I.L.W.U., September 19, 1974.

6. Ocean research

"The effect (of U.S. extended jurisdiction) could be to jeopardize other vital American interests at sea . . . such as . . . the opportunity to conduct scientific research off foreign coasts." New York Times, September 21, 1974.

Two recent articles comment on this probable and actual effect.

In an interview, Jean-Michel Cousteau states: "I am against a 200-mile limit. That is no solution to a very difficult problem. Cutting the ocean into pieces just has to be a source of conflict . . ." The full article is attached as Exhibit 1.

Dr. George Shor of Scripps Institute of Oceanography complains that "researchers must plow through huge amounts of red tape to get the clearances which are necessary to carry out research in foreign waters." The article states: "As the nations of the world become increasingly possessive toward their natural resources, they are making it difficult for U.S. oceanographic ships to conduct studies off their coasts." The full article is attached as Exhibit 2.

7. Unilateral action by the United States

"Implementation of this legislation would constitute unilateral action by the United States at the very time the world community is seeking a new regime for international fisheries through international agreement. Such unilateral action, in our opinion, runs counter to international law." Chairman, NSC Interagency Task Force on the Law of the Sea, September 3, 1974.

The International Court of Justice (in the U.K.-F.R.G.-Iceland case) found that the "method for (a) coastal state to implement such preferential rights is (by) bilateral or multilateral agreement with other states concerned", as stated in Exhibit 7, a Department of State telegram.

8. Unilateral action by others

"A unilateral extension of jurisdiction for one purpose will not always be met by a similar extension but rather may encourage broader claims which could have serious implications, for example, with respect to our energy needs . . . our defense and national security interests in the unimpeded movement of vessels and aircraft in the world's ocean and in the protection of marine scientific research rights in the ocean." NSC Interagency Task Force on the Law of the Sea, September 3, 1974.

"If the U.S. abandons its opposition to unilateral claims in the ocean, we will inevitably be faced with an increasing number of competing retaliatory or unrelated claims." Deputy Secretary of Defense, September 14, 1974.

Costa Rica is moving on a 200-mile claim directed against the tuna fishery of the U.S. and, presumably, other nations. Exhibit 3 is a letter to the President detailing this matter. Exhibit 4 is a reply from the Department of State.

The President of Mexico, on September 1, 1975, recommended a 200-mile limit. Exhibit 5 details this.

On July 15, 1975, Iceland extended its fishery limits to 200 miles. The attached Exhibit 6 from National Marine Fisheries Service details this action, which is to become effective October 15, 1975. A summary of the International Court of Justice rulings in the U.K.-F.R.G.-Iceland case on Iceland's earlier claim to 50 miles is enclosed as Exhibit 7.

The validity of the assertion that one unilateral 200-mile declaration begets another is affirmed.

9. Fishermen's Protective Act of 1967

"Our distant water fishing interests, such as the tuna and shrimp industries, would actually be prejudiced by our unilateral action. The United States would be compelled in effect to recognize extended fishery zones of other coastal states, at least to the extent of our own unilateral claim, and, in addition to a direct effect on our distant fishing rights, this would have detrimental implications for the coverage of the Fishermen's Protective Act of 1967." Chairman, NSC Interagency Task Force on the Law of the Sea.

The foregoing quotation says it all with respect to this Act, which is the one tangible evidence of support given our high seas fishermen. A unilateral declaration would remove it.

There is an extended record of seizures of U.S. fishing vessels on the high seas by foreign countries with extended claims to 200 mile sovereignty, which seizures have become the subject of claims under the Act.

10. Effect upon the tuna industry

Previous industry testimony before this Committee has established that the United States tuna fleets represent over 30 percent of all U.S. investment in commercial fishing vessels and have recently represented over 50 percent of all investment in new construction.

These are efficient vessels. Fortune magazine, in an article on U.S. fisheries (September 1973), states: "Today Americans excel in only one segment of the world's fishing industry. The efficient U.S. tuna fleet based in San Diego and Puerto Rico. . . ."

Canned tuna is the largest segment of the domestically produced canned fish market, representing 69 percent of its volume and an equal amount of its value. (Fisheries of the United States 1974 CFS 6700.)

Domestically produced light meat tuna species provide about 40 percent of the volume of raw material, the overwhelming majority of which is caught off foreign countries—88.7 percent in 1974—with the majority of that percentage caught within 200 miles.

Considering the actions on 200-mile sovereignty already taken by some countries in our fishing areas, the interference with our activities that continues to take place (especially off Equador), and the moves under weigh by other nations to increase jurisdiction to 200 miles, any similar unilateral action by the United States will confer a blessing on actions already taken and provide all the basis needed for other nations to follow. Our domestic fishery would be largely, if not entirely, eliminated. The United States' largest over-all fish industry (production and processing) would cease to exist as we know it. The effect on investment and employment would be catastrophic.

11. Effect on U.S. presence on the high seas

If U.S. fisheries were thus confined to our coastal area by our inability to operate within 200 miles of foreign shores, this form of access to the world's oceans would be eliminated. That access lost would in many cases be to areas where the U.S. flag does not otherwise appear.

World fisheries development in many areas has moved ahead because of that presence and because what it produces enables us to work in many world areas.

We would become a nation of home-area fishermen.

This completes a reasonably full, but not necessarily complete, list of reasons why the United States should not unilaterally adopt a 200 mile fisheries limit. Other fisheries—shrimp and salmon—have made their cases. In aggregate, these fisheries make up over half the value of United States fisheries.

So far, then, this presentation has limited itself to most, but not all, the reasons why a 200-mile limit should not become the law of the land.

There are some important additional items to be considered which have either been under-emphasized, understated or overlooked. Let us examine these.

1. *A unilaterally enacted 200-mile limit would largely eliminate the Commonwealth of Puerto Rico as the world's second largest tuna canning center.*

Tuna landings there are made by U.S. flag purse seine tuna vessels, and in 1974 represented 30 percent of all domestic tuna landings.

Canned tuna, by-products and pet food are important products of Puerto Rico, rank second in value of shipments to the United States, and form an important employment base in an area where the official unemployment rate is 17 percent and unofficially runs about 30 percent.

Puerto Rico is an important area for imports of tuna in many cases supplied by nations who would be affected by imposition of 200-mile limits reducing this supply. The domestic supply is affected by the same territorial and jurisdictional decisions which affect our mainland tuna fisheries delivering to California, Oregon, Washington, Hawaii and Maryland.

2. *A unilaterally enacted 200-mile limit could destroy the industrial and employment base of American Samoa.*

The tuna industry is nearly the sole industrial and employment base of this United States possession. If a decision of the United States gives rise to additional 200-mile claims, the vessels which supply American Samoa would be fishing in restricted ocean areas as delineated in the map presented to this Committee by Charles R. Carry at a previous hearing.

If these vessels were restricted in this way, the industrial and employment base of American Samoa would be wiped out.

3. *Based upon data provided in Current Fisheries Statistics No. 6700—Fisheries of the United States, 1974, only 10.1 percent of the landed volume and 18.0 percent of the landed value of fish and shellfish would be protected by a unilaterally declared 200-mile limit.*

* * * * *

4. *The costs of administration, management and enforcement of a 200-mile zone appear to be excessive with respect to the $172,464,000 value of the catch to be protected.*

Department of Commerce costs are given in the broad range from $21 to $40 million for administration and management.

The United States Coast Guard has estimated, with respect to an extension of jurisdiction to 200 miles, that: "We will need to increase our operating facilities . . . To operate these facilities will require an increase in our annual operating funds of $47.2 million. The start-up, acquisition and reactivation costs are estimated at $63.2 million." Commandant, U.S. Coast Guard, March 1975.

A table of four-year procurement/activation, start-up and operating costs provided a combined annual average of $104.6 million.

If we use the mid-point of the Department of Commerce estimate, $30.5 million, and the four-year average of the Coast Guard, we arrive at an annual cost of $135.1 million.

This represents 78 percent of the 1974 value of the catch to be protected, without taking into account the cost of losses in our distant water fisheries.

5. *We need to determine whether we have a national problem or a problem concerning specific species.*

In the time available since being advised that I was to attend these hearings, 15-year tables of landings in some of the leading fishery states were prepared.

Rhode Island shows an increase in landings over the period.

Maine shows a major overall decline attributable primarily to sea herring and ocean perch.

Massachusetts shows a major overall decline attributable primarily to haddock, ocean perch and whiting.

Alaska shows a decline in salmon (which is under management) and halibut, offset by shrimp.

Oregon shows a major increase.

Washington shows no substantial change overall, except for decline in halibut and increase in salmon.

California, with respect to species other than tuna, shows an overall increase.

These are cold, statistical presentations and are offered so that we may have an overview of our areas most active in the 200-mile matter. They show declines in sea herring, ocean perch, haddock, whiting and halibut.

Declaration of a 200-mile zone is not necessary for protection of most United States species. Declaration can damage our tuna, shrimp and salmon fisheries and eliminate our distant water fishing rights in historic areas.

It is logical, therefore, that we approach our problems analytically and operate with a scalpel instead of a meat axe.

Bilateral discussions have been held. These are claimed to be without effect except that testimony has been offered respecting arrangements that have been made with other countries resulting in agreements to lessen fishing pressures. Some are detailed in a statement by the Chairman of the NSC Interagency Task Force on the Law of the Sea (May 9, 1975).

As it is true that we have only a few species threatened by foreign fisheries, why is it not possible and prudent to utilize Article VII of the Convention on Fishing and Conservation of the Living Resources of the High Seas—one of the Geneva conventions? This would permit notice to foreign nations that overfishing of one or more species is taking place or has taken place and, after a period of six months of negotiations, the United States government could institute conservation measures binding upon domestic as well as foreign vessels within the area designated.

This ! eminently preferable to the problems which will certainly ensue should the United States unilaterally establish a 200-mile fisheries zone for its exclusive use except as permission is given to foreign nations to fish therein under specified conditions.

Exhibit 1

[From the San Diego Union, Sept. 13, 1975]

Sea Territory Claims Criticized—Jean-Michel Cousteau Calls Them a Source of Conflict

The current trend to extend offshore territorial claims is rapidly creating a dangerous source of international conflict, marine innovator Jean-Michel Cousteau warned yesterday.

Cousteau, 37, the eldest son of aquatic adventurer Jacques Cousteau, said he believes the only solution is for the economically powerful nations to agree on regulations to keep the high seas a global sanctuary not subject to nationalistic expansion.

SPACE MONITORING

"The earth should be monitored from space, with a cop in the sky appointed by an international commission to enforce the laws of the high seas," Cousteau said in an interview.

A marine architect, an educator, an audiovisual specialist and, like his father, an undersea explorer, young Cousteau is in town for the 11th annual Underwater Film Festival, where he is presenting a film and acting as master of ceremonies.

"I'm against a 200-mile limit," he said. "That is no solution to a very difficult problem. Cutting the ocean into pieces just has to be a source of conflict.

"The oceans of the world should be treated as one thing—an indivisible world ocean for the use of all and abuse of none."

Cousteau said he believes the Law of the Sea Conference has little chance of success and no existing international organization is likely to deal effectively with the problem.

He said the major stumbling blocks to an agreement are exploitation of ocean resources and pollution. He said the majority of the world's countries, because they are nonpolluting and too poor to mount major resource exploitation efforts, have little real interest in these two key problems.

"So, what we need, I think, is to get together all of the countries responsible for the major ocean problems like pollution and resource claims and get them to agree on some rules and regulations," Cousteau said. "The countries that should participate probably number no more than 20."

CITES RESISTANCE

One of Cousteau's current projects is the design of a small floating island to be constructed for a marine museum along the San Francisco waterfront within the next year.

Cousteau said a few places in the world could create valuable new land areas with such floating islands, but it may never happen because of some mysterious, innate resistance to the idea in human nature.

"I think there must be a psychological barrier against the idea of floating islands among people not oriented to the ocean. I think they get scared thinking about it."

Cousteau said he was hired to design such islands for Monaco, where they would have been of enormous benefit because of the inflated land values there, but the scheme was never carried out.

BACKS SCRIPPS PLAN

Cousteau also had good words for the floating breakwater concept developed by scientists at Scripps Institution of Oceanography, agreeing that the idea seems to be the answer to providing deep water ports and storm protection.

He disagreed, however, with the suggestion that the ability to create safe seadromes might return the flying boat to air transportation.

"Land-based airplanes are just too numerous and versatile today," Cousteau said.

Exhibit 2

[From the San Diego Union, Aug. 4, 1975]

Some Nations Curb Studies Off Seacoasts

(By Mark Dumont)

As the nations of the world become increasingly possessive toward their natural resources, they are making it difficult for U.S. oceanographic research ships to conduct studies off their coasts.

Dr. George Shor of Scripps Institution of Oceanography complains that researchers must plow through huge amounts of red tape to get the clearances which are necessary to carry out research in foreign waters.

The problem may get much worse if, as now seems possible, the international Law of the Sea Conference decides to extend national jurisdictions to 200 miles from shore.

At present, scientists from one country who wish to do research less than three miles from another country's coast or at a depth of less than 200 meters (656 feet) on another country's continental shelf must get that country's permission before starting work.

TIME ELEMENT

Researchers at Scripps are finding it increasingly difficult to get this permission. Applications must be submitted months before a cruise begins. Clearances often have to be obtained from five different countries for a single cruise.

Some nations claim their control extends 12 and in some cases 200 miles from shore. The United States refuses to recognize these claims and will not let scientists apply for permission to work more than three miles from foreign coasts.

As a result, Shor says the ships at Scripps frequently must plan their routes to come within three miles of these countries so that the U.S. State Department will help them obtain their clearance.

Efforts are made wherever possible to include in the research teams scientists from the countries whose permission is needed for the cruise. In this way the foreign researchers can try to expedite the bureaucratic procedures of their own countries.

SOME FLAT DENIALS

In some cases, countries flatly deny permission to do research. Occasionally, to the consternation of the oceanographers, permission is granted only after the ship has left the part of the ocean where the research was to be done. "This way they can't count it as an official denial," Shor said.

The South American nations, and especially Brazil are generally acknowledged to be the hardest to deal with. A fear of economic exploitation appears to motivate the developing nations' general reluctance to allow research off their coasts.

Few nations are technologically developed enough to be able to extract resources from the sea on a large scale. The nonindustrial nations do not want ocean resources developed until they are in a position to get their fair share. They fear that oceanographic research will lead to the discovery of resources which will be usurped by the industrial powers.

A different problem has been encountered by Shor in dealings with countries which are trying to lease offshore drilling sites to oil companies. These countries are worried that they will lose the revenue from the leasing if oceanographers discover that they have no oil.

SUSPICIOUS OF U.S.

Some of the problems encountered in obtaining permission to do research off foreign shores stem from pure suspicion of the United States.

"Imagine how we would feel about a Soviet ship doing research in the Great Lakes," Shor points out.

The recent incident in which the CIA reportedly used the Glomar Explorer, an oceanographic research and mining ship, to raise a Russian submarine is thought to have increased the suspicions of U.S. ocean research efforts.

It now seems likely that all coastal nations will take control of a zone extending to 200 miles from shore. Scripps scientists expect that this would greatly increase their problems.

U.S. oceanographic vessels spend about half their time within 200 miles of some coast. Important fisheries and geological research must be done less than 200 miles from land.

OIL INTERESTS

The controversy over the 200-mile limit involves the interests of oil companies, mining companies, and the fishing industry. Complex international legal and economic problems enter the discussion. Oceanographers are afraid that, compared with these other interests, their voices do not carry much weight, even with the U.S. government.

"Even if the State Department were backing us up all the way we would have problems," Shor said, "and they are not."

A basic difference between the point of view of the U.S. and that of the less technologically developed countries is the way they view basic research.

EXHIBIT 3

OCEAN FISHERIES, INC.,
San Diego, Calif., July 25, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am attaching a copy of an embassy dispatch from Costa Rica which gives the details of a new law extending the jurisdictional waters of Costa Rica to a distance of 200 miles. As observed in the dispatch, the law is designed to assist local interest groups. It is clearly designed to eliminate United States flag tuna vessels (which are in the majority) and other foreign flag tuna vessels (which are in the minority) from fishing within the designated new area in order to give complete control of that portion of the international high seas to Costa Rica.

The effect upon United States tuna fishermen will be immediate and drastic in at least three ways:

1. By driving tuna vessels from one of their historic and productive fishing grounds;

2. By interdicting and rendering nearly impossible the travel of tuna fishing vessels to and from the Panama Canal and the supply base in Panama. (The Canal is one of the life lines supporting the tuna canneries in Puerto Rico, the world's second largest processing center); and

3. By encouraging other coastal nations to take similar actions to extend their territorial and/or jurisdictional claims seaward to affect the fishing activities of many participating nations including those of their neighboring states.

Costa Rica's action is an outgrowth of nearly a quarter century of contest since Ecuador seized its first U.S. tuna vessel on the high seas in 1951. While over the years it has appeared from time to time that the differences between the United States and Ecuador over the latter's claim to 200 miles of sovereign territorial waters were capable of resolution, recent events have solidly confirmed that this is now not the case. In 1975 seven United States flag tuna vessels were seized at great distances from the coast of Ecuador, fined, their catches confiscated irrespective of where caught and many days of fishing time lost, all at a cost running into millions of dollars.

It is not the dollars which will embolden other nations to follow a progressively more militant course, but the fact that Ecuador has been able to do what it wants to do with impunity and without regard for the rights of other nations, international law, practice and policy.

It is therefore of the utmost importance that the United States seek resolution of this matter at the source. This should not be accomplished, however, by an acquiescence in international forums to recognitions or extended jurisdiction by other nations which destroy the United States high seas fishing capability, ignore its historic rights or fail to recognize the characteristics of a fishery—in the case of tuna that it is a migratory species not capable of control by any single nation.

Two events in 1975 have given encouragement to those United States citizens who follow the sea and, more broadly stated, those who have been concerned about decline in the assertion, long held by most nations, that the freedom of the seas for peaceful uses should be maintained.

The first encouraging event was the decision of the International Court of Justice in the Iceland-United Kingdom case. This held that: "Iceland's unilateral action thus constitutes an infringement of the principle enshrined in the 1958 Geneva Convention on the High Seas which requires that all states, including coastal states, in exercising their freedom of fishing, pay reasonable regard to the interests of other states." The Court concluded that the Icelandic regulation establishing an exclusive 50 mile fishing zone was "not opposable to the United Kingdom" and therefore, the United Kingdom "is under no obligation to accept the unilateral termination by Iceland of United Kingdom fishery rights in the area." The same ruling applied to West Germany. (It should be noted that in 1955, the United States asked Ecuador to submit the 200 mile matter to the International Court of Justice without agreement by Ecuador.)

The second encouraging event was the case of the Mayaguez seized off Cambodia and its hard-won release through United States military intervention which clearly upheld the right to peaceful use of the sea beyond the limits of sovereignty recognized as the high seas by this nation and a majority of others.

I am writing this letter to respectfully request that as our President you again act appropriately in the matter of this Costa Rica decision by proclaiming the United States position in opposition to any extensions of jurisdiction which pay no reasonable regard to the interests of other states and which exceed the limits of jurisdiction and sovereignty recognized by the United States; taking such steps as are necessary to protect our rights, as well as renewing efforts to settle the long-standing differences with Ecuador.

Anything less will continue to diminish United States rights on the high seas, reduce the area of the international high seas, affect our ability to operate thereon in peaceful pursuits including fishing, subject our particular fishery to harassment and penalty, eliminate our historic rights which have extended forty years or more in the tuna fishery, eliminate, in turn, this same fishery as an American presence on the high seas, diminish our national economic diversification and production of protein food, and ultimately and inexorably affect our military and air rights.

The American tuna industry will greatly appreciate your study and assistance.

Very truly yours,

HAROLD F. CARY.

EXHIBIT 4

DEPARTMENT OF STATE,
Washington, D.C., September 3, 1975.

Mr. HAROLD F. CARY,
Ocean Fisheries Inc.,
San Diego, Calif.

DEAR MR. CARY: Your letter of July 25 to the President regarding the details of a new Costa Rican law extending the jurisdiction of Costa Rica to 200-miles from its coasts has been forwarded to this office for reply.

The issues which you raise are among those currently under consideration by the Third United Nations Conference on the Law of the Sea. Article 53 of the Committee II single negotiating text produced at Geneva, a text drawn up at the request of the Conference President, provides for the establishment of an appropriate international organization which would ensuer conservation and promote optimum utilization of the highly migratory species throughout the region, both within and beyond the exclusive economic zone.

The Department of State strongly supports the establishment of such an international organization and endorses the principles of conservation and optimum utilization.

The Administration greatly appreciates the legitimate concerns which you raise and the constructive comments both you and the American tuna industry have made. I assure you every effort is being made to further all U.S. law of the sea interests, including that of highly migratory species.

Sincerely,

JOHN NORTON MOORE,
Chairman, the NSC Interagency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference.

EXHIBIT 5

OCEAN FISHERIES, INC.,
San Diego, Calif., September 10, 1975.

Hon. LEONOR K. SULLIVAN,
Chairwoman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, D.C.

DEAR MRS. SULLIVAN: Thank you very much for your informative letter of August 25 and for taking the time to prepare it in such detail. We in the tuna industry are engaged in reviewing the final bill as approved by the Committee, as well as the Committee Report—both enclosed with your letter.

As legislation of this nature directly affects us, as you have clearly stated, I think it necessary to the common good (not the tuna industry alone) to examine some of the statements and documentation provided to the Committee and appearing in the report.

On page 23, the idea is expressed by the National Security Council Interagency Task Force that: "2. Such unilateral action runs counter to established fundamental law and would encourage similar jurisdictional claims by other countries. . . ."

The Costa Rican action preceded final Committee approval of H.R. 200. Following the Committee action, the President of Mexico recommended the adoption of a 200-mile limit in his state of the union message on September 1. Two newspaper clippings are attached covering this development.

This lends almost immediate validity to the viewpoint expressed in the report.

There are several critical items in the report that will be examined in following letters which, I believe, will show that some of the data provided for inclusion in the report and instrumental in affecting decisions are subject to question. As soon as examination is complete, I will take the liberty of writing you.

Thank you again for your interest and your efforts on behalf of our industry.

Very truly yours,

HAROLD F. CARY.

Attachments: 2.

[From the San Diego Union, Sept. 2, 1975]

ECHEVERRIA SEEKS NEW SEA LIMITS—200-MILE ZONE LAW OF MEXICO CONGRESS

(By Vi Murphy)

MEXICO CITY.—President Luis Echeverria Alvarez asked the Mexican congress yesterday for legislation extending Mexico's offshore claims 200 miles out to sea.

Echeverria called the claim "an exclusive economic zone extending 200 nautical miles from our (Mexico's) coast."

The economic zone, also called a patrimonial sea concept, would reserve all resources on the surface of the water, in the water, on the ocean floor and subsoil, he said.

However, the offshore 200-mile zone would not interfere with international overflight, navigation or laying of communication cable along the ocean floor, the president said.

ANNUAL MESSAGE

Echeverria called for the legislation in a State of the Union message delivered yesterday at the opening session of the Mexican congress.

The president's speech was four hours and 15 minutes long, was punctuated by frequent applause and ended to four minutes of standing applause and cheers.

Extension of the offshore claim, even in a patrimonial sea concept, would reserve all fish in the reserved area, minerals, petroleum and other resources for Mexico.

A Mexican official said after the speech that there is little likelihood that migratory species of fish, such as tuna, would be excluded from the claim.

VIEWS ON TUNA

"We would consider tuna fish as part of the economic zone resources, I am sure," he said.

The 200-mile zone will include a part of one of the richest yellowfin tuna fishing grounds in the world by cutting into the Pacific Ocean area where the fish migrate each year.

By Mexico's claiming the 200-mile economic zone, the seiners in the American tuna fleet will be forced farther out to sea for their catch.

"With approval of the bill, the nation will assert its sovereignty over the natural resources in a marine area of some 1.5 million square miles," Echeverria said.

"In addition, this measure will establish the nation's right to sovereignty over all the renewable and nonrenewable natural resources in the entire Gulf of California," the president said.

Nonrenewable resources include minerals and petroleum.

The proposed legislation for the 200-mile extension also would nationalize the Gulf of California for Mexico and reserve all its resources for Mexican development.

An official with Petroleos Mexicanos, the government run controlled petroleum industry, said last week that recent geological explorations have shown "good indications" of possible oil deposits both on the Baja California shoreline and the western Mexican mainland coast bordering the Gulf of California.

OTHER NATIONS

In extending her offshore claims, Mexico will join Argentina, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Panama, Peru, Trinidad and Tobago and Uruguay in claiming all offshore resources within 200 miles.

Echeverria told the congress he "soon" would have a bill ready for the members to approve and met with the congressmen in a general session that followed the formal opening, to outline the forthcoming legislation.

The president's proposal of the 200-mile limit was met with applause by the members of the Mexican congress and there is no doubt here that it will pass.

FULL-PAGE AD

A full-page newspaper advertisement recently printed in Mexican newspapers urging the 200-mile extension and nationalization of the Gulf of California was signed by Gov. Milton Castellanos Everardo of the northern state of Baja California; Francisco Santana Peralta, equivalent of lieutenant governor; Fernando Marquez Arce, mayor of Tijuana; the mayors of the state's other cities and officials representing farming, fishing, industrial, tourism interest, chambers of commerce and many of the peninsula's leading private businessmen.

"The growth of our economy calls for a maritime policy that will permit the exploitation of our ocean resources and a dedicated effort to protect our maritime heritage," Echeverria told the congress.

He said "To aid in the task, the Mexican navy has, received seven new patrol vessels which have already been commissioned. Five more will be placed in service during the coming month."

FISHERY SCHOOLS

In preparation for an expanded fishing industry, 30 technological fishery schools have been created during the past five years of Echeverria's six-year administration, which ends Dec. 1, 1976.

In addition, a marine science and technology center has been created along with Mexico's first Technological Fisheries Institute.

The Echeverria administration also has been expanding Mexico's tuna fishing industry and a fleet of more than 30 seiners now operates under the Mexican flag.

PORT DEVELOPMENT

Mexico has also been expanding and improving her port facilities.

More than $1 billion was spent last year in port development and almost $2 billion has been expended in the past five years to deepen harbors and build new port facilities throughout the country.

[From the San Diego Union, Sept. 3, 1975]

MEXICO CONGRESS BACKS ECHEVERRIA 200-MILE LIMIT BID

(By Vi Murphy)

MEXICO CITY.—The Mexican congress is uniting behind President Luis Echeverria Alvarez to extend Mexico's offshore claims to a 200-mile economic zone and nationalize the Gulf of California.

A 25-member bloc of congressmen from the Partido Accion Nacional (PAN), the opposition party to the president's Partido Revolucionaro Institucional (PRI), will vote in favor of the bill if it contains the measures that are expected.

Esrain Gonzalez Morfin, national chairman of the PAN party, said here yesterday in an interview that the presidential proposal is similar to a bill introduced in 1965 by PAN party congressmen.

"The bill was defeated then because the PRI congressmen, who control the Congress, would not support it," said Gonzalez Morfin

"Now, with the president of Mexico proposing the measure and the PRI congressmen behind it we will also support it if it contains the provisions we feel are necessary, because we believe the importance of the measure transcends politics.

"So far as we know of the president's proposal at his time, we are in agreement."

Echeverria announced Monday in his State of the Union Message, that he soon will send a bill to the Congress to extend the off-shore claim and nationalize the Gulf.

Gonzalez Morfin said yesterday his party is most interested in acquiring domination over the 200-mile offshore territory and the Gulf to give Mexico the exclusive right to harvest the marine resources.

He said his party agrees with the economic zone principle of claiming only the marine and sub-soil resources in the 200-mile zone and the Gulf, including the petroleum thought to be in both areas.

"We are in accord with the president that the off-shore claim should not restrict or interfere with international navigation, over flight, or laying of trans-ocean communication cables," he said.

"However, we feel strongly that the resources in the 200-mile zone and the Gulf should be reserved for Mexican exploitation."

The 200-mile extension not only will affect the operation of the American tuna fishing fleet of more than 100 seiners, it also will restrict operations of the U.S. shrimp fishermen based in Texas, Louisiana and other Gulf of Mexico coastal areas.

EXHIBIT 6

[From the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Washington, D.C.]

ICELAND EXTENDS FISHING JURISDICTION

The Icelandic fishery limits were extended to 200 miles on July 15, 1975 and the new law will enter into force on October 15, 1975. Iceland extended its jurisdiction to 50 miles in 1972, and hopes that the latest extension will further protect its major resource: 75 percent of Iceland's foreign exchange comes from the fishery exports. Since the country's imports are equal to about 50 percent of its GNP, the exchange it receives from fish exports is essential to the economy. The Government of Iceland claims that the country's fish stocks can no longer support fishing by foreign fleets, and that the Icelandic fishing fleet is capable of fully utilizing the resource. Iceland must therefore extend its jurisdiction.

The new law specifies the precise limits of the 200-mile boundary, and allows for the areas between Iceland and Greenland and the Faroe Islands, when those countries are separated by less than 400 miles, to be demarcated by an equidistant boundary. Further specific regulations and restrictions to both foreign and Icelandic vessels in certain areas and at specific dates are listed in the new regulations.

The Government of Iceland hopes that extended jurisdiction will help the fishing industry, which continues to be depressed. Having greatly over-extended itself, the industry hopes to improve its position by early 1976. The outlook for 1975, however, is unpromising. During the period January through April, fishery catches declined except for demersal catches by stern trawlers. The total catch was only 1.4 percent higher than during the same period in 1974, and rising fuel costs have dramatically affected profits. In addition, a strike by the stern trawler workers which ended June 13 also affected the industry. The attached tables show total catch from 1972–1974, and list exports by destination and species. (Sources: Ministry of Foreign Affairs, Reykjavik, July 15, 1975 and U.S. Embassy, Reykjavik, May 30, 1975).

Further statistics for the Icelandic fishing industry may be obtained by mailing a pre-addressed envelope to R. V. Arnaudo, International Fisheries Analysis Division, NMFS, NOAA, Washington, D.C. 20235.

SUMMARY

The Icelandic fishery limits were extended to 200 miles on July 15, 1975 and the new law will take effect on October 15, 1975. The industry has shown no signs of recovery from its present depression, and the Gov. ernment hopes that extended jurisdiction will improve the industry.

TABLE 1.—FISH CATCH

[In thousand metric tons]

Species	1972	1973	1974
Ling	7	4	4
Cod	229	236	239
Haddock	30	35	33
Saithe	60	57	65
Ocean perch	33	29	37
Plaice	5	4	4
Greenland halibut	6	3	4
Other demersal	25	21	27
Total demersal	395	389	413
Herring	41	43	40
Capelin	277	442	465
Lobster	4	3	2
Shrimp	5	7	6
Scallop	7	5	3
Other	6	12	9
Total	735	901	938

Source: Statistical Bureau of Iceland.

TABLE 2.—ICELAND—EXPORT OF FISH AND SHELLFISH, 1973–74

[Dollar amounts in thousands]

Product	1973			1974		
	Metric tons	M. Kr.	Amount[1]	Metric tons	M. Kr.	Amount[1]
Salt and dried fish	37,434	3,349	$40,060	41,408	6,695	$66,950
Fresh herring	42,787	1,027	12,284	38,984	1,082	10,820
Fresh fish, other	17,925	572	6,842	17,133	724	7,240
Frozen fillets	63,698	7,013	83,888	59,996	8,141	81,410
Frozen fish, other	24,336	900	10,766	24,812	1,458	14,580
Frozen lobster	665	382	4,570	672	469	4,690
Frozen shrimp	1,421	557	6,663	1,135	542	5,420
Frozen scallops	505	177	2,117	357	115	1,150
Canned fish	1,751	294	$3,516	1,621	491	$4,910
Cod meal	26,316	1,110	13,277	22,613	877	8,770
Capelin meal	63,467	2,376	28,433	58,237	2,348	23,480
Fish meal, other	4,718	217	2,596	2,078	66	660
Fish oils	23,730	467	5,586	28,567	1,078	10,780
Other	17,026	749	8,959	7,350	501	5,010
Total	325,879	19,190	229,557	304,963	24,587	245,870

[1] Rates of exchange: 1973 $1 equals 83.60 Ikr. (this figure varied, e.g. in June $1 equals 91 Ikr.; 1974 $1 = 100 Ikr. (avg. annual rate).

Note: Whale products included.

Source: Statistical Bureau and Embassy estimates.

TABLE 3.—ICELAND: EXPORTS OF FISH AND SHELLFISH TO THE UNITED STATES

[Dollar amounts in thousands]

Product	1973		1974	
	Metric tons	Amount	Metric tons	Amount
Frozen filets and blocks	51,161	$73,409	42,876	$62,700
Frozen lobster, nephrops	356	2,763	499	3,870
Frozen scallops	505	2,105	356	1,150
Other	1,851	1,770	2,593	3,039
Total	53,873	80,047	46,324	70,759

TABLE 4.—ICELAND: EXPORTS OF FISH AND SHELLFISH BY MAJOR DESTINATION

[Dollar amounts in thousands]

Destination	1973				1974			
	1,000 kg	Percent	Amount	Percent	1,000 kg	Percent	Amount	Percent
West Germany	32,780	10	$17,057	8	29,831	9	$13,340	5
EC (6) other	31,030	10	19,509	8	14,157	5	13,770	6
Subtotal	63,810	20	36,566	16	43,988	14	27,110	11
United Kingdom	37,179	11	20,335	9	21,371	7	11,240	5
Denmark	59,699	18	38,696	16	48,998	16	15,850	6
EC (9)[1]	160,688	49	95,598	41	114,357	37	54,200	22
United States	53,873	17	$80,047	35	46,324	15	$70,579	29
Soviet Union	12,144	4	7,846	3	26,678	9	12,160	9
Other	99,174	30	46,016	21	117,605	39	99,761	40
Total	325,879	100	229,507	100	304,964	100	245,880	100

[1] Includes exports to Ireland.

Source: Statistical Bureau and embassy estimates.

EXHIBIT 7

1. ICJ ruled on Iceland's bilateral extension of exclusive fisheries zone on basis of international law that is generally applicable, not on basis of any special agreements applicable to these cases. Although there may be some support for Eliassen's interpretation since court did not directly rule on first UK submission (i.e., that Iceland's action illegal on its face). Reading judgment of the court as a whole we do not consider his interpretation correct.

2. ICJ found that two rules of customary international law had developed in recent years: (1) a state may claim exclusive fisheries jurisdiction up to 12-mile limit from baselines, and, (2) coastal state has preferential rights of fishing in adjacent waters in situation of special dependence on its coastal fisheries. UK case para se; FRG case para 44. Court further found that method for coastal state to implement such preferential rights is bilateral or multilateral agreement with other states concerned, and in case of dispute, through means of peaceful settlement as provided in article 33 of the United Nations charter. UK case para 57; FRG case para 47. Court found that Icelandic regulations constituted claim to exclusive fishing rights in 50-mile zone and thus went beyond concept of preferential rights. UK case para 61; FRG case para 53. "Iceland's unilateral action thus constitutes an infringement of the principle enshrined in article 2 of the 1958 Geneva Convention on the high seas which requires that all states, including coastal states, in exercising their freedom of fishing, pay reasonable regard to the interests of other states. UK case para 67; FRG case 59. ICJ held Iceland could neither assert nor enforce exclusive fisheries jurisdiction as against UK or FRG. Both of which had established fishing rights in the area. UK case paras 67, 71, 79; FRG case paras 59, 63, 77. Court also held that parties under a mutual obligation to undertake negotiations in good faith to arrive at equitable solution taking into account Iceland's preferential rights beyond 12 miles as well as established rights of UK and FRG. UK case paras 73–79; FRG case paras 65–69, 77.

3. Court's ruling on merits has based on principles of customary international law and not on specific agreements between parties. 1761 exchange of notes between Iceland and UK and Iceland and FRG provided basis for jurisdiction of court [see Feb. 1973 jurisdiction cases], but not for substantive judgment. CF. UK case paras 47–48; FRG case paras 39–40. 1973 interim agreement between Iceland and UK found to be provisional in nature [it had 2-year term] and not to prejudice rights of parties; court stated that it was therefore appropriate to pronounce on the rights of the parties under existing international law to guide parties in their actions after termination of the interim agreement. UK case para 40. There was no such interim agreement between Iceland and FRG.

4. While it was clear that court ruled on merits on basis of applicable international law, court used carefully chosen language and avoided making broad general statements with regard to legality of Iceland's action. While court said Iceland's action was an "infringement" of "principle" in article 2 of 1958 convention, it did not explicitly call that principle a rule of customary international law, but rather said the drafters considered the convention generally declaratory of established principles of international law." UK case para 50; FRG case para 42. Nevertheless, since Iceland not a party to 1958 convention on the high seas, the court in order to arrive at its holding, must have also considered the principle in article 2 to be customary international law. Thus, ICJ in substance found Iceland in violation of customary international law. In addition, court indicated assertion or enforcement of exclusive fisheries zone as against UK and FRG illegal, but did not make statements with regard to other states. Despite this, it is clear to us from judgment that coastal state has no right to assert exclusive [as opposed to preferential] fisheries zone beyond 12 miles. It also is clear that actions of coastal states in enforcing such zone as against any other state with established rights are illegal.

STATEMENT BY WILLIAM NELSON UTZ, EXECUTIVE DIRECTOR, NATIONAL SHRIMP CONGRESS, BEFORE THE HOUSE COMMITTEE ON INTERNATIONAL RELATIONS ON H.R. 200

Mr. Chairman and Committee members, I am William Nelson Utz, appearing here today as Executive Director of the National Shrimp Congress. The National Shrimp Congress, Incorporated, is a Delaware Corporation with its principal headquarters in Washington, D.C. This non-profit organization was formed in 1956. It is an organization whose membership is made up primarily of shrimp producers throughout the Gulf Coast States.

Gentlemen, in my judgment, H.R. 200, if

passed into law at this time, would be a severe and damaging blow to the U.S. shrimp industry, the American fishing industry as a whole, and the foreign relations of the United States.

To lend credit to that statement I would like to set forth some facts and figures on the U.S. fishing industry and treaties and agreements involving the U.S. In comparison to the total value of all U.S. catches, the U.S. shrimp catch represents 26.6% and the shrimp, tuna and salmon catches account for roughly 55% of the dollar value of the entire U.S. fishing catch. Over 55% of the dollar value of the U.S. fishery is encompassed by shrimp, tuna and salmon. Gentlemen, those industries are absolutely opposed to unilateral extension of U.S. jurisdiction to 200 miles. They are opposed because a 200 mile contiguous fishing zone would have disastrous and irreversible impact on all three of these industries. I will not attempt to go into detail as to its impact on the tuna or salmon industries—their representatives can best speak for themselves. I will, however, try to point out some specifics wherein H.R. 200 would damage the U.S. shrimp industry.

H.R. 200—would negate the Brazilian-American shrimp treaty;

H.R. 200—would foreclose present possibilities of workable agreements with Mexico;

H.R. 200—would negate all U.S. efforts towards a fisheries agreement in the Law of the Sea Conference and limit U.S. participation to supporting a 200 mile fisheries provision or sitting by while some other form of agreement is reached;

H.R. 200—would have an indirect impact on U.S. coastal shrimp fishermen by forcing upon them excessive competition from those high seas fishermen forced to return to the U.S. Gulf.

First, let's review the American-Brazilian situation. We have in effect today a highly workable treaty with Brazil. This treaty was worked out approximately three to four years ago. For the first two years it worked on a purely voluntary basis, inasmuch as the enabling legislation was not signed into law until the final days of 1973. The treaty was extended by exchange of letters, until March 1, 1975. Then in February, 1975, the treaty was renegotiated for an additional two years.

The basis upon which both the original and present treaty were founded and the leverage which provided the American distant water shrimp fishermen with an opportunity to negotiate were two-fold. First, the U.S. and Brazil enjoy a friendly relationship and both parties wanted to continue that relationship. Second, the U.S. absolutely refused to recognize 200 mile territorial limits. Brazil, however, as you know, claims a 200 mile territorial sea. With these facts upon the table, and the parties agreeing it was in their mutual interest to have a conservation regime which would avoid conflict, the negotiators went to work and put together the existing agreement. The point I am attempting to make is this present agreement came about and continues only because the United States does not recognize a 200 mile territorial sea or contiguous fishing zone.

If this Committee and the Congress should approve this legislation and it be passed into law, I can think of no logical basis upon which we could return to the bargaining table with the Brazilians. You will have removed from the hands of the American shrimp industry the only real lever we have. We will, in effect, be going to the table to talk to the Brazilians not as negotiators, but as purchasers. They will be saying to us "we own the shrimp." With a 200 mile unilateral jurisdiction claim by the U.S. Congress, how could the U.S. negotiators claim otherwise?

H.R. 200 would foreclose present possibilities of workable agreements with Mexico. At present we have no agreement with Mexico. At present Mexico does not claim a 200 mile contiguous fishing zone. Many of her latin neighbors do. They have been exerting great pressures to have Mexico declare a 200 mile contiguous zone. The Mexican President has requested the Mexican legislature to do so. The legislature is resisting, saying "wait until we see what the U.S. does."

Mexico has for some time now shown considerable interest in our arrangement with Brazil. The Mexicans have intimated they would be willing to discuss a similar agreement with the United States. The Gulf shrimp industry, particularly Texas and Florida, are dependent upon those fisheries that would be caught up in a 200 mile confrontation with Mexico.

H.R. 200, in my judgment, would force Mexico to immediately claim a 200 mile fishery zone also, and just like Brazil, claim ownership of the shrimp.

H.R. 200 would damage U.S. efforts towards gaining a fisheries agreement to provide protection to all segments of the U.S. fishing industry in the Law of the Seas Conference.

Since early in 1972 I have attended all the conferences held by the United Nations Conference on the Law of the Sea. I have also participated as an advisor to the Department of State Law of the Sea Advisory Committee, and have been privileged to be designated as one of the four official U.S. representatives in the U.S. Delegation to the Law of the Sea Conference. I will continue to perform in this capacity in New York in 1976.

I can tell you gentleman, candidly and directly, if this measure becomes law the Conference will contend they can unilaterally declare any type of jurisdiction they desire if the U.S. is not bound by earlier multinational agreements and international law, why should they? All our efforts will have been for nought. Any opportunity for us to obtain a multi-national conference with provisions that would permit the entire U.S. fishing industry to continue, without serious damage to any segment of that industry, will have been wiped out.

Further, H.R. 200 has an equally drastic impact on our efforts to negotiate any multinational fishery agreements because of the bad faith posture it creates for the U.S. negotiators. H.R. 200 rejects—unilaterally—multi-national agreements to which we are parties.

In 1958 this country was a party to four conventions that came out of a major conference held in Geneva:

Convention on Fishing and Conservation of the Living Resources of the High Seas;

Convention on the Territorial Sea and the Contiguous Zone;

Convention on the Continental Shelf;

Convention on the High Seas.

All four of those Conventions were ratified by the United States. Therefore, we view them as law, applicable to us as a country, and to each and every citizen of this country. Those Conventions are recognized in varying numbers by other nations. The Fisheries Convention has thirty-three member nations. The Territorial Sea Convention is accepted by forty-two nations. The Continental Shelf Convention by fifty-one nations, and the High Seas Convention by fifty-two nations. Each and every one of these Conventions are recognized to varying degrees, ranging from international legislation to general acceptance as international law by countries throughout the world. The United States, as I stated, has recognized those Conventions, yet H.R. 200 would deny recognition—in fact, it would go directly contrary to certain provisions of those very treaties which the U.S. has ratified.

H.R. 200, in my judgment, is in conflict with the Geneva Convention on Territorial Sea and Contiguous Zone dated April 20, 1958. In Part II, paragraph 3 of that Convention, it clearly spells out and limits the right of a coastal nation to establish a contiguous zone to its territorial sea. That provision states:

"The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured." Not only is this bill in conflict with a multi-national Convention which we have ratified, it is in conflict with generally accepted international law and, by a mere tally of numbers, out of step with the nations of the world. According to the Department of State statistics, ninety-two (92) nations claim only 12 miles or less as their fishing limits.

Contrarily, there are only ten nations which claim a 200-mile fishing zone. Those nations are: Argentina, Brazil, Chile, Ecuador, El Salvador, Nicaragua, Panama, Peru, Sierra Leone and Uruguay.

While those countries that are parties to the Convention on Fishing and Conservation of the Living Resources of the High Seas include few if any of the offenders of the Northwest Pacific and New England fishing grounds, at least that Convention and its provisions is recognized by over three times as many nations as those who would concur with the unilateral action this bill proposes.

A prime example of the disastrous results created by such unilateral disregard of those agreements for parochial interests is the December 1973 unilateral declaration by the United States that the Northern Lobster was a "creature of the shelf" under the definition of the 1958 Convention. The 1958 Convention had specifically decided to the contrary. That unilateral act by the United States was the justification given recently by the Bahama Government when it declared the "Spiney Lobster" to be a creature of the shelf. A recent letter from Mr. Robert Jones, Executive Director of the Southeastern Fisheries Association to the Chairman of the House Merchant Marine and Fisheries Committee can exemplify better than I the destructive impact this unilateral act has brought about.

You cannot blow "hot and cold" at the same time. We either honor our agreements or we don't. We cannot pick and choose which segments of a multinational agreement that we honor—which we will breach—and which we will unilaterally amend. Let's not repeat the lobster error one hundred fold.

When we claim 200 miles of ocean in order to protect the fishery resources—regardless of the justification we state for such unilateral action, we are providing an open invitation for all other declarants to do likewise. But there is no requirement they must adhere to good conservation practices and reasonable access, by other fishermen, to underutilized species which we advocate. No—they will have 200 miles of ocean resources to squander as they please—unrestrained by any law or agreement. Is this to be the trend of international law set in motion by the United States?

Statement of George E. Steele, Tuna Research Foundation and The American Tuna Boat Association, August 20, 1975

Both organizations represented, have vigorously opposed a unilateral extension of fisheries jurisdiction to 200 miles.

We have submitted voluminous, detailed testimony to various committees of the Congress, both the House and the Senate, with respect to this bill and other proposals having the same unilateral extension as their objective. Inasmuch as these views are well documented, we shall not restate them in detail but rather briefly review those points which we believe will be of greatest interest to the Committee on International Relations.

1. INTERNATIONAL RELATIONS

Last year, the Senate Foreign Relations Committee had before it similar legislation

(S. 1988) to unilaterally extend our offshore fishing limit. That committee reported S. 1988 with an unfavorable recommendation.

A distinguished list of our highest government officials concerned with national security and foreign affairs have indicated that such unilateral action extending national jurisdiction in the oceans would be harmful to United States foreign relations, national security and overall oceans interests.

On September 24, 1974, President Ford, speaking of S. 1988, indicated:

"Passage could seriously harm United States oceans and foreign relations interests, including our fishery interests, and could paradoxically destroy the best opportunity we have had to definitely resolve our fishery problems; that is, by a comprehensive new oceans law treaty now being negotiated within the . . . U.N. Conference on the Law of the Seas."

On September 22, 1974, Secretary of State Kissenger also commenting on S. 1988, stated:

". . . (Any) effort to enforce a unilaterally established 200 mile fisheries zone against non-consenting foreign nations would likely lead to a serious confrontation."

The Deputy Secretary of Defense, on September 14, 1974, stated:

"S. 1988 . . . enactment of this legislation would have a serious adverse impact on the national security interest of the United States . . . if the U.S. now abandoned its opposition to unilateral claims in the ocean, we will inevitably be faced with an increasing number of competing, retaliatory or unrelated claims impacting adversely on national security interests . . . to set the nation on this path, toward resolution of oceans policy issues, is, in our view, both dangerous and extremely unwise . . ."

These are only brief excerpts from statements made by many of our nation's leading national security and foreign affairs experts.

There does not appear to be any doubt that such a unilateral extension of United States fisheries jurisdiction to 200 miles could lead to serious confrontations with the Soviet Union, Japan and other nations fishing off the United States coasts.

2. INTERNATIONAL CONVENTIONS

We are signatory to what are called the Geneva conventions. Of particular applicability is the Convention on Fishing and Conservation of the Living Resources of the High Seas, which provides:

"All States have the right for their nationals to engage in fishing on the high seas subject (a) to their treaty obligations, (b) to the interests and rights of coastal States as provided in this convention, and (c) to the provisions contained in the following articles."

Another is the Convention on the High Seas, which provides:

"The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty . . . It comprises, *inter alia*, both for coastal and non-coastal states: . . . 2. Freedom of fishing."

Article 1 of the Convention defines the term "high seas" as "All parts of the sea that are not included in the territorial sea or in the internal waters of a State."

Another is the Convention on the Territorial Sea and Contiguous Zone, which provides:

"The contiguous zone may not extend beyond twelve miles from the baseline from which the territorial sea is measured."

There appears to be no doubt that a unilateral declaration would conflict directly with these conventions, to which the United States is signatory.

3. INTERNATIONAL CONSERVATION AGREEMENTS

In our opinion, enactment of H.R. 200 would destroy the IATTC (Inter-American Tropical Tuna Commission) and ICCAT (International Commission for the Conservation of Atlantic Tunas) and will make the creation of new international fisheries organizations impossible. If the Eastern Pacific were to be divided into a series of private lakes 200 miles from the coast, a comprehensive research program covering the aggregate of the tuna species would present insurmountable problems and, therefore, would bring about the certain destruction of the 25 year international conservation regime of the IATTC.

Additionally, as the Secretary of Commerce, on September 25, 1974 pointed out, such 200 mile legislation, "could lead to abrogation by other nations of existing fisheries agreements, one of the most critical being the International Convention of the High Seas Fisheries of the North Pacific Ocean, which provides protection to salmon of U.S. origin."

4. LAW OF THE SEAS

Most foreign relations experts agree that such a unilateral move by the United States at this time would do violence to the credibility of United States negotiators, not only on the fishery issues but also on our basic commitment to international agreements in achieving a comprehensive oceans policy through the United Nations including such areas as navigational freedom, marine scientific research, deep seabed mining, etc.

Senator Gravel pointed out, in a statement of the floor of the Senate on September 19, 1975:

"Unilateral action will lead us into a decade of bilateral quarrels and high seas fisheries retaliation. But international action will bring about immediate law and order to our fisheries and our oceans—something that has never before been achieved.

"The proper forum for such action is the Law of the Sea Conference. Past unilateral action has resulted in international anarchy and the exacerbation of the very problems we are attempting to solve. The reality of modern international politics is that we are one planet, very much interdependent for our food, energy, and economic well-being. We thus must solve our problems cooperatively and internationally."

Shrimp and the 200-Mile Issue

(By Robert G. Mauermann, executive director, Texas Shrimp Association and Shrimp Association of the Americas, Brownsville, Tex.)

All of us who are concerned with our fishery resources, whether our interests are commercial or recreational, want the same thing—an optimum sustainable yield, although some of us may march to the sound of a different drummer. Many of my colleagues in the Northeast and the Pacific Northwest are sincerely convinced that U.S. fishermen can best be served by an extension of our fishery zone to 200 miles from our shores and that the passage of legislation by the U.S. Congress providing for such action would eliminate the competition from foreign fishing fleets. I will agree that foreign fishing fleets combined with our own are overfishing several important species in what has historically been America's most important fishing areas in both the North Pacific and the North Atlantic. I disagree, however, that the passage of legislation proclaiming U.S. fisheries jurisdiction over a 200-mile area is what is now considered international waters is the solution for several reasons.

First, such a law would be enforceable only if the world's major fishing nations agreed to recognize such a radical departure from the principle of freedom of the seas. Foreign fishermen are not likely to recognize the U.S. claim to an extended fisheries zone into what is now accepted as international waters by the major powers of the world anymore than we have recognized similar claims by several of the Latin American countries.

More importantly, the unilateral extension of our fisheries zone to 200 miles provides no protection, or at least very little, to the salmon or the tunas, both of which range the ocean far beyond the 200-mile zone. The only solution to the maintenance of optimum sustainable yields of these species is through enforceable international agreements. It is my hope, and I should think the hope of fishermen all over the world, that the Law of the Sea Conference will ultimately provide such agreements.

The original U.S. position at the Law of the Sea Conference was based on a species management concept which did not include an extended economic zone. Since the meeting began, however, the official U.S. position, as outlined by Ambassador Stevenson in his address to the Conference on July 11, 1974, indicated that our government would agree to an extended economic zone to 200 miles provided that such a package included provision for the management of anadromous species and the migrating oceanic species, and further, Mr. Stevenson contemplates that it will be the coastal states' duty to permit foreign fishing under a reasonable license and under coastal state regulations to the extent that a fisheries resource is not fully utilized by the coastal state.

There are two points in this position statement which are of great concern to the distant water shrimp fishermen. First, who is to decide whether or not a fishery resource is fully utilized Biologists studying shrimp populations have been unable to agree on this issue in the Gulf of Mexico, although research in this area has covered an expanse of many years. Secondly, the Ambassador's statement does not mention historic fishing rights and yet that is what much of the sound and fury is all about. The 200-mile advocates who are pushing for unilateral U.S. action are trying by this legislation to protect their historic rights to the fishery resources off our coast in waters which have been considered as international by the world community. The U.S. shrimp industry feels that such unilateral action by the U.S. would jeopardize the historic fishing rights of distant water shrimp fishermen who are largely responsible for the development of this fishery throughout Latin America.

In this connection it is important for us to recognize that 18% of the shrimp landed in Gulf ports in 1973 were caught by distant water shrimp fishermen operating off the coast of several Latin American countries. These landings amounted to 37 million pounds worth over 40 million dollars. Therefore, it becomes immediately apparent that the shrimp fishing industry stands to gain nothing from an extended American fisheries jurisdiction. In fact, unilateral action by the U.S. will undoubtedly trigger similar action by Mexico. Legislation now pending in the Congress of the U.S. has already strengthened Mexico's position on the 200-mile issue. I fully expect that our neighbor to the south will unilaterally declare a 200-mile Patrimonial Sea in both the Gulf of Mexico and the Pacific within a matter of days, if the U.S. Congress passes 200-mile legislation.

We do not quarrel with the basic concept of granting coastal states preferential rights over coastal species. We do, however, object to the ultimate elimination of a very important segment of the Gulf shrimp industry by the stroke of a pen. We are willing to cooperate with the Latin American countries in the management of this resource and we are willing to pay our fair share of the management costs in the form of licenses. We feel that our Law of the Sea position should include language that addresses the issue of historic fishing rights.

An extension of fisheries jurisdiction by the Republic of Mexico and other Latin American countries without some consideration for American fishing rights off their coasts would result in the return to American shrimping areas in the Gulf of Mexico off our own coast of a great number of fishing vessels, possibly as many as 600. This increased pressure would certainly further reduce the annual landings per vessel and create further financial problems to vessel owners. The Gulf shrimp industry is already caught in an economic crunch far greater than any it has known in the past because of the enormous increases in the cost of fuel and other production costs.

The U.S. shrimp industry, America's most valuable fishery, could survive through bilateral or multilateral treaties with its neighbors to the South. Such arrangements, however, are of no help to the salmon or tuna fishermen. If America's three most valuable commercial fisheries are to remain viable a combination of enforceable international conventions and regional agreements are going to be necessary, and these can be negotiated only by a Law of the Sea Conference.

[From the Washington Post, November 26, 1975]

BRITAIN LAUNCHES ANOTHER COD WAR

(By Bernard D. Nossiter)

LONDON.—Britain launched another cod war against Iceland today, sending in the Royal Navy to protect fishing trawlers from Iceland's harassing coast guard gunboats.

The Leopard, a fast frigate armed with 4.5-inch guns, was guarding the Yorkshire fishing fleet off Iceland's coast tonight. Two sister ships, the size of U.S. destroyer escorts, will join the Leopard Saturday.

William Rodgers, the deputy defense minister, said that London had moved "regretfully and with reluctance." Iceland, he asserted, had refused to discuss a division of the cod catch off its shores, and left Britain "no alternative."

Iceland's ambassador here, Neils Sigurdsson, protested "most vigorously" over an action taken "against an ally in NATO. This can only prevent meaningful discussions."

In Iceland, a crowd of 400 threw rocks, eggs and bottles at British seamen today as a trawler support ship put a sick deckhand ashore at the eastern port of Naskaupstadurport. The crowd allowed the shore party to reach the hospital but then tried to stop its return. No injuries were reported.

The pitting of 2,300-ton frigates against 1,000-ton gunboats, each armed with a lone 57-mm gun, would have a Gilbert and Sullivan flavor except for one salient fact; Iceland is the home of Keflavik, an American-run NATO base whose planes maintain a 450-mile watch over nuclear-armed submarines streaming from the Soviet port of Murmansk into the North Atlantic. In the last cod war that ended two years ago, Iceland moved to take over the base as part of its bargaining with Britain.

London and Reykjavik have quarrelled seriously over fish three times in the past 20 years. The last struggle—which featured cut nets, shots across the bows and several collisions—ended only after NATO officials and U.S. diplomats put pressure on the British government. Western diplomats expect much the same scenario will unfold again.

The prize is chiefly cod but also haddock, perch and pollack. The cod have been overfished, marine biologists agree, and are in danger of extinction unless limits are imposed.

The last war began in 1972 when Iceland extended its territorial waters from 12 to 50 miles. It ended with an agreement enabling Britons to fish in specified zones inside the 50-mile limit with a maximum allowable catch of 130,000 tons a year. That agreement expired Nov. 13, and Iceland proclaimed a 200-mile limit.

Reykjavik then offered Britain a 65,000-ton catch inside its 200-mile zone. London countered with a demand for 110,000. There, 45,000 tons apart, the talks broke down last week. The difference between the two sides, with cod selling at $520 dollars a ton, is $24 million.

British officials apparently hope that the 37 trawlers now at sea, protected by the Royal Navy, will catch more fish than the 110,000 ton British proposal, compelling Reykjavik to yield.

Iceland's seven gunboats, in turn, are expected to try to harass the trawlers so that their catch will be drastically reduced.

The gunboats have been harassing the trawlers since the talks broke off last week, cutting their nets and making fishing difficult. The fishermen "threatened" to pull out—a threat of grave domestic political consequences for Prime Minister Harold Wilson's government—unless the navy came in.

It is understood the Defense and Agriculture ministries staunchly backed the trawlermen. But the Foreign Office was reluctant to give the world again the spectacle of a major power facing down a tiny country.

Iceland's cod are the main source of livelihood for about 2,300 fishermen in the British ports of Hull, Grimsby and Fleetwood. Another 8,000 shoreside jobs depend on their catch. Their remarkable political clout probably reflects a deep national sentiment about Britain as a maritime nation.

For Iceland, the Cod are a matter of survival. Fish account for nearly 80 per cent of exports, enabling its 210,000 inhabitants to import much of what they consume.

At bottom, the dispute is an effort by Iceland to maintain most of its current catch of about 230,000 tons and force conservation on the British. The British, in turn, want the burden of conservation to be shared.

THE POTENTIAL ECONOMIC IMPACT OF A 200-MILE FISHERY ZONE ON THE UNITED STATES FISHERIES FOR TUNA, SHRIMP AND SALMON

(By Gordon C. Broadhead and Charles J. Peckham)

[Graphs not printed in RECORD]

INTRODUCTION

The United States tuna fleet takes about 90 percent of its catch in waters off foreign shores. It is the industry view that declaration of a 200-mile zone by the United States would terminate these fishing activities as they exist today. Countries off whose shores tuna are found may be expected to follow the United States lead and the result will be the creation of a series of national lakes through which the tuna move indiscriminately. This would seriously disrupt the United States fishing and processing operations and the entire industry infrastructure. The present international conservation and management regimes in the eastern Pacific and Atlantic will be threatened.

The United States distant-water shrimp catch represents about one-sixth of the total value of the United States shrimp landings and about one-quarter of the value of the United States harvest from the Gulf of Mexico and contiguous fishing areas. The shrimp industry believes that declaration of a 200-mile zone by the United States would weaken seriously the present arrangements which permit United States vessels access to these distant water resources. If the distant-water fleet was required to return to the United States Gulf of Mexico grounds, where the shrimp stocks are utilized fully, a serious overexploitation problem could develop rapidly. This would have a direct and disastrous economic impact on the entire industry.

The United States salmon industry is concerned that a declaration of a 200-mile zone by the United States would place the present north Pacific salmon management system in serious jeopardy, endanger the resources and reduce substantially the United States catches of salmon. A 200-mile zone does not protect adequately the United States salmon stocks.

The potential catch of salmon by the present Japanese high seas fleet operating in the Gulf of Alaska beyond 200 miles during April, May and early June, could reach 23.5 million fish, valued at $105.8 million based on 1973 price levels. Two-thirds of these fish would be of United States and the remainder of Canadian origin. Under the present International North Pacific Fisheries Convention, Japanese fishermen take about 3.5 million salmon of North American origin annually.

Thus, the three major United States domestic fisheries, tuna, salmon and shrimp, in the opinion of knowledgeable industry representatives, will be seriously impacted by the extension of United States fisheries jurisdiction to 200 miles. These industries are the perennial leaders in total value among all United States domestic fisheries, and during 1973 returned a combined value of $480 million to United States fishermen; 53 percent of the total value of all United States production. More importantly, tuna and shrimp provide the rare examples among the major world fisheries where the United States has a clear lead in fishing, processing and marketing technology.

United States fisheries have the image of an obsolete group of small vessels manned by an old and fading group of fishermen. In the case of tuna and shrimp nothing could be further from the truth. Our modern fleet of tuna seiners represents an efficient and prestigious element in world fishing circles unmatched by the Soviets, Japan or any of the other major fishing nations and our shrimp vessel designs set world standards for that type of gear.

United States consumers constitute the major world market for tuna, salmon and shrimp products and any major reduction in domestic supplies of these commodities will have a serious secondary impact upon supporting industries and place a heavy cost burden upon the United States consumers.

The following study was prepared to provide an economic yardstick, wherever data was available, of the value of these major fishing industries at three levels: the vessels and their supporting infrastructure, the processors and their allied suppliers and the United States consumer who ultimately provides the economic support for the total system.

TUNA

The United States tuna industry is a large, healthy and growing segment of the United States economy. The general well being of an industry often can be measured by the flow of capital into its various component parts. Tuna vessels presently represent over 30 percent of the total replacement value of the United States fishing fleet. More importantly, tuna represents a major growth industry. A recent study of financing and the United States fisheries indicated that during 1972, 53 percent of all the dollars expended for new fishing vessels went into tuna operations. A similar percentage was indicated for 1973. Thus, during the past two years, the tuna industry has accounted for more than 50 percent of the dollar flow in fishing vessel construction in the United States.

At present construction costs, the United States tuna fleet has a replacement value of just under $500 million, partitioned by area and type of operation as shown in Table 1.

That year, United States shipyards constructed an estimated $72.5 million worth of tuna vessels ($66.1 million domestic and $6.4 million for export). Of this total revenue, about $36.0 million went to direct and indirect labor and social benefits for employees of the yards and their subcontractors. An additional $6.4 million went to suppliers of steel, $4.9 million to main engine manufacturers, $5.1 million to net and fishing gear suppliers and $8.0 million to suppliers of power blocks, winches, hydraulics, refrigeration units, electronics, auxiliary engines and generator equipment.

TABLE 1.—*Replacement value of United States tuna fleet as of December, 1973*

At Present Construction Costs (April, 1974), $499,500,000.

Area:	*Long-Range*	*Short Range*
U.S. west coast	$211,000,000	$140,000,000
Puerto Rico	143,000,000	—
Hawaii	—	3,500,000
U.S. east coast	—	2,000,000

During 1973 alone (Table 2) there were 73 tuna vessels, with a value of $66.1 million added to the fleet.

TABLE 2.—*Number, type and value of United States tuna fleet additions 1973*

Type:	*Number*	*Value*
Purse-Seiners	18	$57,600,000
Baitboats	15	5,300,000
Trollers	40	3,200,000
	73	66,100,000

Based upon the present firm orders in United States yards, this level of tuna vessel construction is forecast to continue through 1976 and will add more than $200 million in modern vessels to the fleet during this period.

In 1973, the United States tuna fleet landed 543 million pounds of tuna (including bonito), woth $135 million at the dock. Some $14 million of this went to the albacore fleet and the remainder to the tropical tuna vessels. These latter vessels fished almost entirely off foreign shores in national and international waters. A major share, about $65 million, of the total dollars went for crew wages and bonuses. Most of these dollars flowed into the economy of southern California, where many of the fishermen and their families reside. In addition, a myriad of manufacturing and supply and service firms shared in the fleet revenue. Many fuel docks in San Diego, San Pedro, Ponce, Mayaguez and San Juan shared most of the $11 million the fleet expended for fuel during 1973. Some ten shipyards shared nearly $10 million in maintenance and repair support to the fleet, in addition to $72.5 million new vessel construction.

Many small provisioners shared the $5.4 million spent by the fleet for food during 1973. In addition, the fleet spent more than $2 million on fishing gear, equipment and supplies during the year. Insurance firms received about $8 million in premiums for hull, protection and indemnity and cargo insurance. This coverage was shared among many agents and reinsurers throughout the country.

Lending institutions: commercial banks, insurance companies, finance companies and leasing companies received an estimated $17.5 million in interest, rentals and service charges from the vessel owners during 1973. In all, an impressive number of people and jobs are directly related to the tuna fleet on their customers who comprise the primary support elements. The industry survey has indicated that the tuna fleet provided direct employment for about 6,800 people with a payroll of about $65 million during 1973. In addition, shore support for the fleet, shipyard employees and their subcontractors provided about 5,000 additional jobs and a payroll of approximately $48 million last year.

Economists project that each dollar of primary industry income results in fivefold impact on our nation's economy. Thus, in 1973 the tuna fleet support of $135 million, combined with the new construction of $72.5 million, a total of $207.5 million, had an impact of over $1 billion (multiple of five) on the United States economy. Obviously, the new construction portion of this figure cannot be expected to continue indefinitely (although a sustained rate through 1976 is anticipated), but the fleet operations, which comprise two-thirds of the total dollar volume represents a rapidly expanding economic base.

During 1973, the United States tuna processing industry packed $714.5 million (at processor level) of canned tuna, in addition to $33.4 million of tuna petfood products and $23.0 million of tuna fish meal, oil and solubles. The mere existence of the tuna industry provides the opportunity for these latter operations as they would otherwise not be viable.

To process this volume, the industry has made major capital investments in tuna processing machinery, equipment and infrastructure. One large new processing plant was constructed in 1971 in Puerto Rico at a cost of $10 million and a total of $30 million is projected for investment in two new facilities at San Diego and American Samoa by 1975. Recent construction and engineering projections for the two new facilities indicate that a tuna cannery and support facilities require about $75,000 of capital investment for each ton of canning capacity per eight hour day of operation.

Currently the tuna industry has plant capacity to process about 3,650 tons of raw material per day on a one-shift basis. Thus, replacement value of all the United States tuna canning and support facilities can be estimated at $274 million ($75,000 x 3,650). During 1973 the tuna processors spent $135 million for domestic-caught raw material. The transportation of import frozen tuna and the transshipment of domestic-caught fish via common carrier added substantially to the processing costs for canned tuna. Many nations share in the tuna export market to the United States. During 1973, 413,000 tons of import tuna and 8,000 tons of transshipment fish were delivered to United States canners at an average shipping cost of about $100 per ton and a total cost of about $42 million.

The tuna processing plants employed a total of about 16,000 people in administrative and factory tasks during 1973. Total payroll was in excess of $90 million and provided economic support for San Diego, San Pedro-Los Angeles harbor areas; Ponce and Mayaguez, Puerto Rico; American Samoa; Honolulu; Astoria, Oregon and Cambridge, Maryland. During 1973, the tuna processing industry spent about $58 million for cans for tuna and petfood and an additional $12 million for labels, cartons and vegetable oil.

Processors in American Samoa depend largely upon supplies of tuna from Korea and Taiwanese longline vessels fishing the south Pacific grounds. Figure 1 indicates that a major portion of the south Pacific tuna grounds would be encompassed by 200-mile zones around the many island areas. Enforcement of the fishing rights could eliminate this fishery or substantially raise operational costs and ultimately prices for raw material. In American Samoa, the tuna industry and support industries provide the major labor base for the area, aside from civil service, so that disruption of fishing in the south Pacific could result in job losses and/or increased costs to be passed along to the United States consumer.

The United States consumed 50 percent of the world supply of tuna during 1973 (Figure 2) and the market has sustained a six percent volume and a 13 percent value growth rate during the past ten years. The retail value of United States canned tuna usage during 1973 was in excess of $1 billion. Projection of the historic rate of annual growth of 15 percent in dollar value results in an estimated retail value of canned tuna in the United States of $1.78 billion by 1978 and $3.66 billion by 1983.

Domestic fishing activities have expanded rapidly (Figure 3) and maintained a 40 percent share of the United States market for canned tuna. The United States is not self-sufficient in raw material for canning, nor can it ever hope to be. However, the flow of domestic fish provides an efficient mechanism to moderate the price demands by foreign producers for frozen tuna. A rough parallel may be drawn between the need to control energy supplies and the need to control our sources of raw tuna. If the United States tuna fishing fleet is crippled economically and/or owners are forced to sell their vessels to foreign interests, raw tuna prices may escalate to multiples recently experienced in the oil industry. Such a rise could result in an additional price tag of one or two billion dollars per year to the American consumer on a continuing basis.

A less drastic outcome than loss of the United States tuna production capability would be a sharp increase in the costs of vessel operation as a result of establishment of 200-mile fishing zones. First, additional running time for United States vessels under a 200-mile concept for Pacific coast countries (see Figure 1) will result in substantial increases in fuel usage and loss of fishing time. Fuel, an $11 million fleet expense item in 1973, will increase to over $20 million during 1974 as the result of fuel price increases. Even more costly, however, could be the loss of fishing time and productivity due to increased travel.

Second, the present operational pattern of fishing, by geographic areas and season is the result of fleet experience concerning the productivity of the fishing grounds. Division of the oceans into a series of private national lakes will disrupt efficient fishing patterns for the United States vessels and many foreign vessels, thus reducing fishing efficiency, while increasing operating costs. Tuna fishing is a highly leveraged enterprise, with major fixed expenses (fuel, food, maintenance, repair, insurance and financing), which are little related to catches. Thus, any reduction in the yearly volume of tuna captured per vessel has a multiple effect upon the cost per ton of production.

Third, if foreign countries license vessels to fish within their 200-mile zone, fees will add sharply to vessel operating costs. In the past, license fees have been a minor cost item as most vessels, on the advice of the United States Department of State, have not purchased licenses to operate in waters beyond 12 miles of foreign shores. The United States fleet operates in international waters off the shores of more than 25 nations bordering the eastern Pacific and Atlantic tuna grounds. A single vessel may enter ten or more of these 200-mile zones yearly. Ecuadorian license fees to fish in the 200-mile zone are about $55,000 per trip for an 1,100 ton seiner. Recognition of the 200-mile zone by the United States could add $100,000–$200,000 in operating costs per vessel, per year and make license fees equal to fuel costs, the *single largest operating expense* aside from crew salaries.

The tuna industry provided direct employment for about 28,000 people and a total payroll in excess of $200 million during 1973 as illustrated in Table 3.

The initial economic impact of a 200-mile zone will be upon vessel crewmen. Although highly skilled, they are specialized and for the most part, cannot adapt readily to shore occupations. Those engaged in fleet support activities will also be affected immediately as there will be a reduction in business volume in these industries.

There is intense competition for the world surface tuna resources. Presently, the United States has a major lead in purse-seine vessel construction and fishing technology. About 90 percent of the United States tuna catches are made off foreign shores. Recently, many of these countries have accelerated their interest in tuna fishing. Mexico, Eucador, Cuba, France, Spain and Japan have publicly announced programs for major expansion of their surface tuna fishing fleets. During 1973, eight United States tuna vessels, valued at about $4 million, were sold to foreign interests. All but one of these vessels were of the smaller and older type which cannot compete, under United States flag, with the new super-seiners.

Loss of the United States domestic fleet could cause broad changes in the flow of raw material to the processing plants. The extent of the resulting economic dislocation cannot be assessed at this time, but certainly the fallout would be unfavorable to the industry and its entire economic and social base.

Limitations in access to straits or free passage for merchant ships, which result from a 200-mile regime, could add substantially to transportation costs. Foreign flag vessels are not permitted to unload in the continental United States, Puerto Rico or Hawaii. Therefore, loss of the United States fleet to foreign interests would increase the tonnage of imported frozen tuna required to meet United States needs, add to processing costs and adversely affect United States foreign exchange.

SHRIMP

The United States shrimp industry has grown steadily for the past two decades and is second only to tuna (in recent years), among all United States fishing elements, in the volume of capital flowing into fishing and processing units.

During 1973, the United States shrimp fleet landed 372 million pounds of raw material valued at $219 million to the fishermen. Thus, the economic impact of the United States shrimp industry exceeds $1 billion annually (multiple of five). Gulf of Mexico and foreign port landings, taken in international waters off foreign shores, totaled 37 million pounds, valued at $41 million.

A 1972 survey estimated the replacement value of United States shrimp fishing vessels at $320 million, with new construction during that year being valued at $25 million. This represented about 30 percent of the value of all fishing vessels added to the United States fleet that year. Vessel construction continued during 1973 at this rapid rate. An additional 100 shrimp vessels, with a value of $15 million were exported in each of these years. The United States shipbuilding industry is competitive on the world market as the result of construction techniques and the production line economies which result from the high volume of domestic and export orders.

During 1969, the most recent year for which official statistics are available, there were 4,478 vessels (over five gross tons) and 11,399 fishermen engaged in the Atlantic, Pacific and Gulf of Mexico shrimp fishery. Since 1969, it is estimated that the net additions to the fleet have been about 500 vessels and 1,250 fishermen, bringing the total vessels to approximately 5,000 and employment to about 12,600 fishermen.

The United States is the major world market for shrimp products. Domestic and import supplies rose steadily until 1972 to meet the growth in demand. Since then, total volume has temporarily leveled off in the 450 to 485 million pound (heads-off weight) range (Figure 4). During 1973, United States supplies of shrimp totaled 450 million pounds, valued at approximately $500 million.

If the upward trend in value during the past ten years continues, the total value of supplies in 1978 and 1983 will total $640 million and $815 million, respectively. Domestic supplies of shrimp provide about 50 percent of market needs (Figure 5). At the retail and institutional levels (most usage is in the latter) the 1972 value was estimated to be $792 million. Despite a modest volume decline in 1973, the sharp price increases raised the 1973 value to over $900 million.

Any major reduction in United States domestic catches are certain to affect consumer costs and to have an adverse impact upon United States foreign exchange.

SALMON

The United States salmon industry, due to resource limitations, has not shown the dynamic growth of either tuna or shrimp. However, salmon fishing, processing and marketing make a substantial contribution to the United States economy.

The static nature of the United States salmon fishing industry is reflected in the modest flow of capital into new fishing craft in recent years. However, the fleet of gill net, seine, set net, tender and troller vessels (22,000 + units in 1969) has a replacement value in excess of $400 million.

In 1973, the United States salmon fleet landed 213 million pounds of fish, which was one of the smallest catches on record. Total value at the dock was $125 million, up substantially from recent years due to the high unit prices paid to the fishermen. The canning industry packed 1.4 million cases, having a value of $117 million at the processor level, fresh and frozen exports totaled 60 million pounds valued at $60 million and United States domestic consumption accounted for about 47 million pounds, valued at $47 million.

The salmon processing industry has major capital investments. An industry survey in late 1973 of 82 plants in Alaska, Washington, Oregon and California indicated a total replacement value of $191 million for cannery facilities and support operations. The cyclical nature of salmon runs result in substantial year-to-year variations in the volume of landings and the number of people engaged in fishing and processing operations. These operations employ about 7,700 people, many of whom depend upon the seasonal salmon operations for a major share of their income. The fleet operations provide seasonal employment for about 48,000 fishermen.

Salmon fishing provides major recreational activity for sportsmen in northern California, the Pacific Northwest and Alaska. In 1971, the catch was estimated at 2,165,000 fish valued at $65 million ($30 per fish).

SUMMARY

The tuna, shrimp and salmon industries represent over half of the total value of all United States domestic seafood production. The economic impact of these fisheries on the United States economy is in excess of three billion dollars annually. The replacement value of these fleets approach 70 percent of the value of all United States fishing vessels. Further, during the past two years, the new vessel construction value in these fisheries represented about 90 percent of the value of all fishing vessel construction in the United States. In addition, tuna and shrimp vessels have a substantial export market and United States is the recognized world leader in the technology of tuna seining and shrimp dragging.

The three fisheries provide employment on a year around and seasonal basis to more than 66,000 fishermen each year. Many of these people are highly skilled at fishing but could not adapt readily to shore occupations. The fleet infrastructure is composed of a network of manufacturing and service businesses.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FINANCIAL INSTITUTIONS ACT OF 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1267, which the clerk will state by title.

A bill (S. 1267) to expand competition, provide improved consumer services, strengthen the ability of financial institutions to adjust to changing economic conditions, and improve the flow of funds for mortgage credit.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing and Urban Affairs, with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Financial Institutions Act of 1975".

TITLE I—PAYMENT OF INTEREST ON DEPOSITORS OR ACCOUNTS

SEC. 101. (a) Section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a), is amended by adding at the end thereof the following new subsections:

"(c) The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings banks as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 401 of the National Housing Act.

"(d) The term 'negotiable order of withdrawal account' means a deposit or account on which payment of interest or dividends may be made and with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

(b) The first section of the Federal Reserve Act, as amended (12 U.S.C. 221), is amended by adding at the end thereof the following new paragraphs:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 401 of the National Housing Act.

"The term 'negotiable order of withdrawal account' means a deposit or account on which payment of interest or dividends may be made and with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

SEC. 102. (a) The matter preceding the colon in the first sentence of section 19(i) of the Federal Reserve Act, as amended (12 U.S.C. 371a), is amended to read as follows: "No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand, and a demand deposit does not include a negotiable order of withdrawal account".

(b) The first sentence of section 19(j) of the Federal Reserve Act, as amended (12 U.S.C. 371b), is amended to read as follows:

"The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, and the Secretary of the Treasury, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on demand, time, and savings deposits.".

Sec. 103. Section 19(j) of the Federal Reserve Act, as amended (12 U.S.C. 371b), is amended by adding at the end thereof the following new sentence: "Authority of the Board to prescribe limitations on the rates of interest, including the authority to prescribe limitations on rates of interest for member banks different from limitations on rates of interest or dividends for other depository institutions, shall expire five years and six months after the effective date of the Financial Institutions Act of 1975.".

Sec. 104. (a) Section 3 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813), is amended by adding at the end thereof the following new subsections:

"(r) The term 'depository institution' means—

"(1) any insured bank as defined in this section;

"(2) any mutual savings bank as defined in this section;

"(3) any savings bank as defined in this section;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union section 401 of the National Housing Act.

"(5) **any member** as defined in section 2 of the Federal Home Loan Bank Act; and

"(s) The term 'negotiable order of with-section e401 of th National Housing Act.

"(6) any insured institution as defind in drawal account' means a deposit or account on which payment of interest or dividends may be made on a deposit or account with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

(b) The first and second sentences of section 18(g) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(g)), are amended to read as follows: "The Board of Directors shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks (including insured mutual savings banks) and for such purpose it may define the term 'demand deposits', except that the term as so defined shall not include negotiable order of withdrawal accounts; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The Board of Directors may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, and the Secretary of the Treasury, prescribe rules governing the payment and advertisement of interest or dividends on deposits, including limitations on the rates of interest or dividends that may be paid by insured nonmember banks (including insured mutual savings banks) on demand, time, and savings deposits.".

(c) Section 18(g) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828 (g)), is amended by adding at the end thereof the following new sentence: "Authority of the Board of Directors to prescribe limitations on the rates of interest or dividends, including the authority to prescribe limitations on rates of interest or dividends for nonmember banks (including insured mutual savings banks) different from limitations on rates of interest or dividends for other depository institutions, shall expire five years and six months after the effective date of the Financial Institutions Act of 1975.".

Sec. 105. (a) Section 2 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1422), is amended by adding at the end thereof the following new paragraphs:

"(10) The term 'depository institution' means—

"(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(D) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(E) any member as defined in this section; and

"(F) any insured institution as defined in section 401 of the National Housing Act.

"(1) The term 'negotiable order of withdrawal account' means an account on which payment of interest or dividends may be made on a deposit or account with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

(b) Section 5B(a) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425 (a)), is amended by striking out the first sentence and inserting in lieu thereof the following: "The Board shall by regulation prohibit the payment of interest or dividends on demand deposits by members, by institutions which are insured institutions as defined in section 401 of the National Housing Act, and by nonmember building and loan, savings and loan, and homestead associations, and cooperative banks, and for such purpose it my define the term 'demand deposits', except that the term as so defined shall not include negotiable order of withdrawal accounts; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The Board may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, and the Secretary of the Treasury, prescribe rules governing the payment and advertisement of interest or dividends on deposits, inclduing demand deposits, shares, or withdrawable accounts, including limitations on the rates of interest or dividends on deposits, shares, or withdrawable accounts that may be paid by members, other than those the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act, by institutions which are insured institutions as defined in section 401 of the National Housing Act, and by nonmember building and loan, savings and loan, and homestead associations, and cooperative banks.".

(c) The last sentence of section 5B(a) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425b(a)), is amended to read as follows: "Authority of the Board to prescribe limitations on the rates of interest or dividends, including the authority to prescribe limitations on rates of interest or dividends for member and nonmember institutions different from the limitations on rates of interest or dividends for other depository institutions, shall expire five years and six months after the effective date of the Financial Institutions Act of 1975.".

Sec. 106. The Secretary of the Treasury, after consulting with the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall transmit to the Congress, not later than five years after the effective date of this Act, a report of findings and recommendations regarding regulatory authority to prescribe limitations on rates of interest or dividends paid by depository institutions.

Sec. 107. Section 117 of the Federal Credit Union Act, as amended (12 U.S.C. 1763), is amended—

(1) by inserting "(a)" after "Sec. 117."; and

(2) by adding at the end thereof the following new subsections:

"(b) The Administrator may from time to time, after consulting with the Federal Home Loan Bank Board, the Board of Directors of the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Secretary of Housing and Urban Development, and the Secretary of the Treasury, prescribe rules governing the payment and advertisement of interest or dividends, including limitations on the rates of interest or dividends that may be paid by insured credit unions on member accounts, including demand deposits. Such rules shall prohibit the payment of interest or dividends on demand deposits, but such prohibition does not apply to negotiable order of withdrawal accounts. Authority of the Administrator to prescribe limitations on the rates of interest or dividends, including the authority to prescribe limitations on rates of interest or dividends for insured credit unions different from the limitations on rates of interest or dividends for other depository institutions, shall expire five years and six months after the effective date of the Financial Institutions Act of 1975.

"(c) As used in this section—

"(1) the term 'depository institution' means—

"(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(D) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(E) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(F) any insured institution as defined in section 401 of the National Housing Act; and

"(2) the term 'negotiable order of withdrawal account' means an account on which payment of interest or dividends may be made on a deposit or account with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

Sec. 108. Prior to the expiration of five years and six months after the effective date of this Act, the authority of the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration to prescribe rules governing the payment of interest or dividends shall be exercised in a manner which prevents disintermediation and maintains appropriate levels of mortgage credit.

Sec. 109. Section 7 of Public Law 89-597, as amended (12 U.S.C. 461 note), is repealed.

Sec. 110. (a) (1) Section 19(i) of the Federal Reserve Act is repealed.

(2) The first sentence of section 18(g) of the Federal Deposit Insurance Act is repealed.

(3) The first sentence of section 5(B) (a) of the Federal Home Loan Bank Act is repealed.

(4) The second sentence of section 117(b) of the Federal Credit Union Act is repealed.

(b) The amendments made by subsection (a) shall take effect on January 1, 1977, or on such later date not later than January 1, 1978, as determined by the Board of Governors of the Federal Reserve System, after consultation with the Secretary of the Treasury, the Comptroller of the Currency, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.

TITLE II—RESERVES AND EXPANDED DEPOSIT LIABILITY POWERS

Sec. 201. (a) Section 19(i) of the Federal Reserve Act, as amended (12 U.S.C. 371a), is amended by adding at the end thereof the following: "Nothing herein contained shall be construed as prohibiting the payment of interest on funds of a corporation operated for profit and deposited in a savings deposit or negotiable order of withdrawal account.".

(b) Section 19(b) of the Federal Reserve Act, as amended (12 U.S.C. 461), is amended by striking out all that precedes paragraph (3) and inserting in lieu thereof the following:

"(b) Every member bank shall maintain reserves against its deposits in such ratios as shall be determined by the affirmative vote of not less than 4 members of the Board, and every member of a Federal Home Loan Bank, every Federal credit union, and every credit union which is a member of the National Credit Union Administration Discount Fund shall maintain reserves against demand deposits and negotiable order of withdrawal accounts in such ratios as shall be determined by the affirmative vote of not less than 4 members of the Board, after consultation with the Federal Home Loan Bank Board and the Administrator of the National Credit Union Administration within the following limitations:

"(1) In the case of any such institution in a reserve city, the minimum reserve ratio for any demand deposit or negotiable order of withdrawal account shall be not less than 10 per centum and not more than 22 per centum. Reserve ratios for negotiable order of withdrawal accounts may be set at a level different from that applicable to demand deposits.

"(2) In the case of any such institution not in a reserve city, the minimum reserve ratio for any demand deposit or negotiable order of withdrawal account shall be not less than 7 per centum and not more than 14 per centum. Reserve ratios for negotiable order of withdrawal accounts may be set at a level different from that applicable to demand deposits."

(c) Section 19(c) of the Federal Reserve Act, as amended (12 U.S.C. 461), is amended—

(1) by striking out "by any member bank";

(2) by striking out "such bank" in paragraph (1) and inserting in lieu thereof "such institution";

(3) by inserting after "member" in paragraph (1) "or at which it maintains an account"; and

(4) by striking out "bank" in paragraph (2) and inserting in lieu thereof "institution".

Sec. 202. (a) Section 2 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1462), is amended by adding at the end thereof the following new subsection:

"(e) The term 'negotiable order of withdrawal account' means an account on which payment of interest or dividends may be made on a deposit or account with respect to which the association may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

(b) Section 5 of the Home Owners' Loan Act of 1933, as amended 12 U.S.C. 1464), is amended by deleting "savings" at each place it appears before "account" or "accounts";

(c) Section 5(b) (1) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (b) (1)), is amended (1) by deleting the first sentence and substituting the following in lieu thereof: "An association may raise capital in the form of such deposits ,shares, demand, or other accounts (all of which are referred to in this section as accounts) as are authorized by its charter or by regulations of the Board, and may issue such passbooks, certificates ,or other evidence of accounts as are so authorized."; (2) by deleting "in the case of savings accounts for fixed or minimum terms of not less than thirty days" in the third sentence; (3) by deleting "The payment" in the fourth sentence and inserting in lieu thereof: "Except as otherwise provided by the Board, the payment"; and (4) by deleting the last sentence thereof and substituting the following: "An association may permit withdrawal or transfer of accounts on negotiable, transferable or nontransferable check, order or authorization, and may grant overdrafts.".

(d) Section 5(b) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (b)), is amended by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Without regard to any other provision of this section, an association is authorized to issue credit cards, extend credit, and otherwise engage in or participate in credit card operations.".

(e) The first sentence of section 13 of the Federal Reserve Act, as amended (12 U.S.C. 342), is amended—

(1) by striking out "and drafts, payable upon presentation" both places it appears and inserting in lieu thereof "drafts, and items drawn on negotiable order of withdrawal accounts";

(2) by striking out "and drafts payable upon presentation" and inserting in lieu thereof a comma and the following: "drafts, and items drawn on negotiable order of withdrawal accounts";

(3) by inserting after "may receive from any nonmember bank or trust company", the following: "or, without limitation by or under any other provision of law, but subject to approval by the Board of Governors and the Federal Home Loan Bank Board by regulation or otherwise, from any Federal Home Loan Bank or member thereof or, without limitation by or under any other provision of law, but subject to approval by the Board of Governors and the Administrator of the National Credit Union Administration by regulation or otherwise, from any Federal credit union or other credit union which is a member of the National Credit Union Administration Discount Fund"; and

(4) by inserting after "Provided, Such nonmember bank or trust company" the following: "or Federal Home Loan Bank".

(f) The fourteenth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 248(o)), is amended by adding at the end thereof the following: "Whenever any such Federal reserve bank exercises any of the functions of a clearing house for its member banks, it shall offer the same services on a nondiscriminatory basis to each Federal Home Loan Bank and any member thereof, to each Federal credit union, and to each member of the National Credit Union Administration Discount Fund.".

(g) Section 5A of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425a), is amended by redesignating subsection (f) as subsection (g) and by inserting before such subsection, as redesignated, the following new subsection:

"(f) Each such institution shall maintain reserves against its demand deposits or accounts and negotiable order of withdrawal accounts, in currency and coin or in balances in a Federal reserve bank in amounts not less than such percentages of its aggregate amounts of such deposits or accounts as may be prescribed under section 19(b) of the Federal Reserve Act by the Board of Governors of the Federal Reserve System after consultation with the Board. For purposes of subsections (d) and (e) and the first sentence of subsection (c) of this section, the terms 'liquidity requirement' and 'liquidity' shall, except to such extent as the Board may otherwise provide, respectively include the requirements and the holdings referred to in this subsection.".

Sec. 203. Section 2 of the Act of August 16, 1973 (Public Law 93-100) (12 U.S.C. 1832) is repealed.

Sec. 204. Section 5(k) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(k)), is amended by adding at the end thereof the following new paragraph:

"When designated for that purpose by the Secretary of the Treasury, each association may be a depository of public funds, except receipts from customs, under such regulations as may be prescribed by the Secretary, and it shall perform all such reasonable duties as a depository of public funds as may be required of it by the Secretary.".

Sec. 205. Section 116 of the Federal Credit Union Act, as amended (12 U.S.C. 1762), is amended by adding at the end thereof the following new subsection:

"(c) Each Federal credit union and each member of the National Credit Union Administration Discount Fund shall maintain reserves against its demand accounts and negotiable order of withdrawal accounts in currency and coin or in balances in a Federal reserve bank in amounts not less than such percentages of its aggregate amounts of such accounts as may be prescribed under section 19(b) of the Federal Reserve Act by the Board of Governors of the Federal Reserve System after consultation with the Administrator.".

Sec. 206. The thirteenth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 360) is amended to read as follows:

"Every Federal reserve bank shall receive on deposit at par, from its depositors or from Federal reserve banks, checks, drafts, and other items drawn on negotiable order of withdrawal accounts, drawn upon any of its depositors, and when remitted by a Federal reserve bank, checks, drafts, and other items drawn on negotiable order of withdrawal accounts drawn by any depositor in any other Federal reserve bank or in an institution maintaining deposits with any

Federal reserve bank. Nothing herein contained shall be construed as prohibiting a depositor in a Federal reserve bank from charging its actual expense incurred in collecting and remitting funds or for exchange sold to its patrons. The Board of Governors of the Federal Reserve System shall by rule fix the charges to be collected by depositors in Federal reserve banks from their patrons whose checks, drafts, or other items drawn on negotiable order of withdrawal accounts are cleared through the Federal reserve bank and the charges which may be imposed for the service of clearing or collection, rendered by the Federal reserve bank.".

SEC. 207. (a) Any person who provides clearing or settlement services involving checks, drafts, or similar items, including items drawn on negotiable order of withdrawal accounts, shall make such services available on a nondiscriminatory basis to all depository institutions. Violation of the provisions of this section is a misdemeanor punishable by a fine of not to exceed $1,000 for each violation.

(b) For the purpose of subsection (a), the term "depository institution" means—

(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

(5) any member of the National Credit Union Administration Discount Fund;

(6) any Federal Home Loan Bank;

(7) any member as defined in section 2 of the Federal Home Loan Bank Act; and

(8) any insured institution as defined in section 401 of the National Housing Act.

TITLE III—LENDING AND INVESTMENT POWERS

SEC. 301. (a) Section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)), with the exception of the fifteenth paragraph thereof, is amended to read as follows:

"(c)(1) In implementing the provisions of this subsection, the Board shall cause associations to be primarily long-term residential mortgage lenders. An association may, to such extent, and subject to such rules, regulations, definitions, and orders, as the Board may prescribe from time to time, invest in, sell, service, or otherwise deal with, the following loans and other investments:

"(A) loans secured by or made with respect to or for the acquisition, improvement, repair, equipping, or aleration of real property which primarily comprises or includes or is to comprise or include one or more homes or other dwelling units (including condominiums, cooperatives, and mobile homes);

"(B) loans to, or other securities or instruments issued by, or having the benefit of any insurance, guaranty, or assistance of, any one or more of the following:

"(i) the United States, a State or political subdivision of a State, including any department or agency of any one or more of the foregoing;

"(ii) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, or any other instrumentality of the United States, a State or political subdivision of a State, created to further any housing program;

"(iii) the National Housing Partnership Corporation and any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of the Housing and Urban Development Act of 1968, as heretofore or hereafter in effect;

"(iv) the President of the United States, as authorized under section 221, 222, or 224 of the Foreign Assistance Act of 1961, as now or hereafter in effect; and

"(v) a Federal reserve bank;

"(C) loans or other investments secured by any type of loan or other investment authorized under the preceding subparagraphs (A) and (B);

"(D) loans secured by accounts in the association;

"(E) real property a substantial portion of which is used or will be used as a home office or other office facility of the association (or securities of a corporation substantially all of whose activities consist of the ownership or operation of such real property); and

"(F) the following additional loans and other investments, but no association may make an investment under this subparagraph (F) if its aggregate outstanding investments under this subparagraph (F) would thereupon exceed 30 per centum of its total investments under this paragraph (c)(1):

"(i) loans for the payment of expenses of college, university, vocational school, or other education;

"(ii) consumer loans;

"(iii) loans secured by or made with respect to or for the development or construction of real property which comprises or includes or is to comprise or include one or more homes or other dwelling units (including condominiums, cooperatives, and mobile homes) and loans secured by or made with respect to other real property;

"(iv) to the extent not referred to in the preceding subparagraph (B), loans to, or other securities or instruments issued by, or having the benefit of any insurance, guaranty, or assistance of, the Student Loan Marketing Association, any other instrumentality of the United States, or any instrumentality of a State or political subdivision of a State;

"(v) loans or other investments for purposes related to community conservation, development, or improvement;

"(vi) loans or other investments secured by loans or other investments authorized under the preceding provisions of this subparagraph (F);

"(vii) loans to, or other securities or instruments issued by, any corporation incorporated under the laws of any State or of the United States, substantially all the activities of which are reasonably related to the activities of associations, but no association may make an investment under this subparagraph (vii) if its aggregate outstanding investments under this subparagraph (vii) would thereupon exceed the greater of one per centum of its assets or 25 per centum of its net worth;

"(viii) commercial paper and other corporate debt securities; and

"(ix) deposits in, or other loans to, and bankers' acceptances of, any financial institution the deposits or accounts of which are insured by an agency or instrumentality of the United States.

"(G) Any institution which has converted to a Federal association pursuant to subsection (i) of this section may, to the extent permitted by the Board and subject to such terms and conditions as may be imposed by the Board:

"(i) make investments of a type permitted under subparagraph (F) of this subsection (c)(1) without regard to the 30 per centum of assets limitation contained in said subparagraph (F) for a period not to exceed five years from the effective date of such conversion;

"(ii) retain, but not increase, investments which were lawful immediately prior to the effective date of such conversion where such investments are not authorized under this subsection (c)(1) and are not included as an authorized investment for the converted association pursuant to subsection (a) of this section 5; and

"(iii) in the case of a mutual savings bank converting to a Federal association, continue and retain those investments included within subsection (a) of this section 5 to the extent permitted by said subsection, except that the Board may include any of such investments which are of a type authorized by subparagraph (F) of this subsection (c)(1) within the 30 per centum of assets limitation contained in said subparagraph.

As used in this subsection, the term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

"(2) To such extent, and subject to such rules, regulations, definitions, and orders, as the Board may prescribe from time to time, an association may be and act as executor, administrator, custodian, testamentary trustee, or trustee of a living trust, or in any other fiduciary capacity, for any estate, trust or assets owned by or created, existing, or organized for the benefit of, any individual or individuals, or as custodian or trustee of any individual of self-employment retirement account or plan, and all funds held in any such capacity by any such association may be commingled for appropriate investment. An association may also act as custodian or trustee with respect to any securities issued or guaranteed by any financial institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or issued or guaranteed by an affiliate of one or more of such institutions. An arrangement which would otherwise be a trust having an association as trustee shall, for the purposes of this paragraph (2), the Internal Revenue Code of 1954, or any other provision of law now or hereafter in effect, be considered to be a trust having an association as trustee without regard to the fact that all or part of such arrangement consists or has consisted of one or more deposits. One or more associations may establish, maintain, or invest in common funds. An association shall not, by reason of any service, activity, or business authorized by this paragraph, be considered not to be entitled to any exemption or favorable treatment, under any tax statute or other statute, it would have or receive in the absence of such service, activity, or business.".

(b) Section 2 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1462), is amended by adding at the end thereof the following new subsections:

"(e) The terms 'real property' and 'real estate' include leaseholds.

"(f) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession (including any trust territory) of the United States. The provisions of this Act shall apply to any State as herein defined.".

(c) Section 7 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1466), is repealed.

(d) The fifteenth paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)), is designated paragraph (3) of such section.

(e) Section 5A(b) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425a(b)), is amended by inserting before "and commercial banks" the following: ", insured institutions as defined in section 401(a) of the National Housing Act,".

(f) Section 408(e)(1)(A)(iii) of the National Housing Act, as amended (12 U.S.C. 1730a(e)(1)(A)(iii)), is amended by inserting "(other than shares representing withdrawable accounts subject to such limitations as the Corporation may prescribe)" after the words "an insured institution not a subsidiary".

(g) Section 10 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1430), is amended (1) by deleting the first two sentences of subsection (b), and (2) by amending subsection (a) to read as follows:

"(a) Each Federal Home Loan Bank is authorized to make secured advances to its members upon such security as the Board may prescribe.".

SEC. 302. (a) The first partial sentence of paragraph Seventh of section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24), is amended to read as follows: "To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange and other evidence of debt; by receiving deposits; by buying and selling exchange, coin, or bullion; by granting overdrafts; by making loans secured by personal property or real estate or on the basis of general creditworthiness; and by issuing capital debentures subject to rules and regulations promulgated by the Comptroller of the Currency.".

(b) Section 24 of the Federal Reserve Act, as amended (12 U.S.C. 371), is repealed.

(c) Paragraph Eighth of section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24), is amended to read as follows:

"Eighth. To make contributions for charitable, philanthropic, or benevolent purposes conducive to public welfare; and to invest in loans for, or in equity or debt securities for, or in real estate for community welfare and development where the project is of a civic, community, or public nature and not exclusively private and entrepreneurial in an amount not to exceed 3 per centum of total assets."

SEC. 303. The last sentence in the first paragraph of section 10(b) of the Federal Reserve Act, as amended (12 U.S.C. 347b), is repealed.

TITLE IV—CHARTERS FOR THRIFT INSTITUTIONS

SEC. 401. (a) Section 2(d) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1462(d)), is amended to read as follows:

"(d) The terms 'association' or 'Federal association' means a Federal savings and loan association or a Federal savings bank chartered by the Board under section 5 of this Act, and any reference in any law to a Federal savings and loan association shall be deemed to be also a reference to a Federal savings bank, but except as otherwise expressly provided by Federal statute or by the Board, no reference to a bank or banks in any statute of the United States shall be deemed to be a reference to a Federal savings and loan association or a Federal savings bank. As used in this Act, references to a 'building and loan association', 'savings and loan association', or 'institution' which is chartered or organized under State laws include any institution organized under such laws and of a type which may be eligible for insurance of accounts under title IV of the National Housing Act, as amended (12 U.S.C. 1724 et seq.); the terms 'Federal mutual association', 'Federal stock association', 'State mutual association', and 'State stock institution' differentiate such associations and institutions on the basis of their capital structure.".

(b) Section 5(a) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(a)), is amended to read as follows:

"SEC. 5. (a) In order to provide thrift institutions in which people may invest their funds and in order to provide for the financing of homes and family and consumer needs, the Board is authorized to provide for the organization, in corporation, conversion, examination, operation, and regulation, under such rules, regulations (including definitions of terms used in this Act), or orders as it may prescribe, of associations which may be known as 'Federal Savings and Loan Associations' or 'Federal Savings Banks', and in issuing charters therefor, the Board shall give primary consideration to the best practices of thrift institutions and the needs of the families, consumers and communities to be served. An association which was formerly organized as a savings bank under State law may, to the extent authorized by the Board, continue and retain its real estate lending authority and its authority to provide life insurance and maintain its equity and corporate bond investments at levels determined by its average ratio of such investments to total assets for the five-year period beginning on January 1, 1970."

(c) Section 402(a) of the National Housing Act, as amended (12 U.S.C. 1725(a)), is amended to read as follows:

"SEC. 402. (a) The Federal Savings and Loan Insurance Corporation is redesignated as the Federal Savings Insurance Corporation (hereinafter referred to as the 'Corporation') and reference in this title and in any other law to the Federal Savings and Loan Insurance Corporation shall be deemed to be references to the Corporation. The Corporation shall insure the accounts of institutions eligible for insurance as hereinafter provided. The Corporation shall be under the direction of the Federal Home Loan Bank Board and is authorized to issue such rules, regulations, and orders as it may deem necessary or appropriate to enable it to administer and carry out the purposes of this title and to require compliance therewith and prevent evasions thereof. The principal office of the Corporation shall be in the District of Columbia.".

(d) Section 403(a) of the National Housing Act, as amended (12 U.S.C. 1726(a)), is amended by deleting the comma after "Federal savings and loan associations" and by adding thereafter "and Federal savings banks.".

(e) Section 5(b)(2) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (b)(2)), is amended by changing "(except capital stock)" to "(including capital stock)".

(f) The first paragraph of section 5(i) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(i)), is amended by inserting "(including a savings bank or credit union)" after the phrase "member of a Federal Home Loan Bank".

TITLE V—CREDIT UNIONS

SEC. 501. (a) Paragraph (1) of section 101 of the Federal Credit Union Act, as amended (12 U.S.C. 1752), is amended to read as follows:

"(1) The term 'Federal credit union' means a cooperative thrift institution incorporated in accordance with the provisions of this title for the purpose of (A) encouraging thrift, (B) creating a source of credit at fair and reasonable rates of interest, (C) meeting the financial needs of its members and its members' families, and (D) providing an opportunity for its members to use and control their own money in order to improve their economic and social condition;".

(b) Section 101 of the Federal Credit Union Act, as amended (12 U.S.C. 1752), is amended by redesignating the last numbered paragraph (4) as paragraph (5) and by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively.

SEC. 502. (a) Paragraph (5) of section 101 of the Federal Credit Union Act, as amended (12 U.S.C. 1752) is amended—

(1) by striking out "The terms";

(2) by striking out "(when referring to the account of a member of a credit union)"; and

(3) by inserting after "mean a share" a comma and the following: "demand deposit, negotiable order of withdrawal account".

(b) Section 201(c)(3) of such Act, as amended (12 U.S.C. 1781(c)(3)), is amended by striking out the last sentence thereof.

SEC. 503. Section 103 of the Federal Credit Union Act, as amended (12 U.S.C. 1753), is amended—

(1) by striking out the words "some officer competent to administer oaths" and inserting "a witness either individually or collectively," in lieu thereof; and

(2) by striking out the words "$5 each" at the end of paragraph (4) thereof and inserting in lieu thereof: "in $5 multiples, not less than $5 and not more than $25 each".

SEC. 504. (a) Paragraph (5) of section 107 of the Federal Credit Union Act, as amended (12 U.S.C. 1757), is amended to read as follows:

"(5) to make loans and extend lines of credit to its members, to other credit unions and to credit union organizations and to participate with other credit unions, credit union corporations, or financial organizations in making loans to credit union members in accordance with the following:

"(A) Loans to members shall be made in conformity with criteria established by the board of directors. In addition to such criteria, loans to members shall be subject to the following terms, conditions, and limitations:

"(i) except as otherwise specifically provided hereafter, the maturity of any such loan may not exceed 12 years;

"(ii) a residential real estate loan may be made only to finance the acquisition of a one-to-four family dwelling for the residence of a credit union member, shall be secured by a first lien upon such dwelling, and shall have a maturity not exceeding 30 years, subject to the rules and regulations of the Administrator;

"(iii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity of not to exceed 15 years unless such loan is insured or guaranteed as provided in subparagraph (iv);

"(iv) a loan secured by the insurance or guarantee of the Federal Government, of a State government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance or guarantee is provided;

"(v) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds $5,000 plus pledged shares, be approved by the board of directors;

"(vi) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser be approved by the board of directors when such loans standing alone or when added to any outstanding loan or loans of the guarantor or endorser exceeds $5,000;

"(vii) loans are approved by the credit committee or a loan officer;

"(viii) the rate of interest not exceed 1 per centum per month on the unpaid balance or such higher rate as is permitted by the Administrator of the National Credit Union Administration;

"(ix) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this paragraph, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back from the credit union taking or receiving the same, in an action in the nature of an action of debt, the entire amount of interest paid; but such action must be commenced within two years from the time the usurious collection was made;

"(x) a borrower may repay his loan, prior to maturity in whole or in part on any business day without penalty;

"(xi) loans shall be paid or amortized in accordance with rules and regulations prescribed by the Administrator after taking into account the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit unions, and such other factors as the Administrator deems relevant.

"(B) A line of credit to a borrower may be established to a stated maximum amount on certain terms and conditions which may be different from the terms and conditions established for another borrower.

"(C) Loans to other credit unions shall be approved by the board of directors.

"(D) Loans to credit union organizations shall be approved by the board of directors and not exceed 1 per centum of the paid-in and unimpaired capital and surplus of the credit union. For purposes of this paragraph, a credit union organization is any organization which primarily serves credit unions, and of which the credit union is a member.

"(E) Participation loans with other credit unions, credit union corporations, or financial organizations shall be in accordance with written policies of the board of directors;".

(b) Paragraph (6) of such section is repealed.

(c) Paragraph (7) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is redesignated paragraph (6) and is amended to read as follows:

"(6) (A) to receive from its members, from other credit unions, from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act and in the manner so prescribed, and from nonmembers in the case of credit unions serving predominantly low-income members (as defined by the Board) payments on—

"(i) shares, share certificates (which may be issued at varying dividend rates and maturities), negotiable order of withdrawal accounts, and share deposits, subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Administrator, and

"(ii) demand deposits, subject to the prior approval of the Administrator, in accordance with rules and regulations prescribed by the Administrator; and

"(B) to permit withdrawals or transfers from accounts by means of negotiable, transferable or nontransferable checks, drafts, orders, or authorizations."

(d) Paragraph (8) of such section is redesignated paragraph (7) and amended to read as follows:

"(7) to invest funds (A) in securities, obligations, certificates, or other instruments of, or issued, or fully guaranteed as to principal and interest by the United States of America, any agency or instrumentality thereof, or any corporation wholly or partially owned or established by the United States of America or any agency or instrumentality thereof, or by any trust or trusts established by the United States of America or any agency or instrumentality thereof; (B) in obligations of any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, the several territories and possessions or any political subdivision thereof; (C) in the shares, stocks, or obligations of any other organization, corporation, or association which strengthens or advances the development of credit unions or credit union organizations, up to 5 per cent of the total paid-in and unimpaired capital and surplus of the credit union with the approval of the Administrator;".

(e) Paragraph (9) of such section is redesignated paragraph (8) and amended to read as follows:

"(8) to place its funds (A) in shares, accounts, or deposits of savings and loan associations and mutual savings banks which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation; (B) in shares, share certificates, share deposits, demand or time deposits of any federally or State insured credit union; (C) in shares or deposits of any central credit union in which such investments are specifically authorized by the board of directors of the Federal credit union making the investment; (D) in demand or time deposits of which are insured by the Federal Deposit Insurance Corporation; (E) for Federal credit unions, or credit unions authorized by the Department of Defense, operating suboffices on American military installations in foreign countries or trust territories of the United States to maintain demand deposit accounts in banks located in those countries or trust territories subject to such regulations as may be issued by the Administrator and provided such banks are correspondents of banks described in clause (D) of this paragraph;".

(f) Such section is amended by redesignating paragraphs (10 through 14) as paragraphs (9) through (13).

(g) Paragraph (12) of such section, as redesignated, is amended by striking out everything after "Administrator," and inserting in lieu thereof the following: "to sell, purchase, or handle any money transfer instrument to or for members;".

(h) Paragraph (13), as redesignated, of such section is amended by inserting after the first comma the following: "to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the Administrator) of its members and".

(i) Paragraph (15) of such section is redesignated paragraph (16) and is amended by inserting "to meet the financial needs of its members and its members' families and" after "to enable it".

(j) Such section is further amended by adding the following new paragraphs after paragraph (13):

"(14) to sell all or a part of its assets to another credit union, to purchase all or part of the assets of another credit union and to assume the liabilities of the selling credit union and those of its members subject to regulations of the Administrator;

"(15) with the approval of the Administrator, to permit its members to transfer money to and from their accounts at such intervals and by such means as may be permitted by regulation of the Administrator;".

SEC. 505. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended to read as follows:

"MANAGEMENT

"SEC. 111. The management of a Federal credit union shall be by a board of directors, a supervisory committee and, when the bylaws so provide, a credit committee.

"The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide. Any vacancy occurring on the board shall be filled until the next annual election by appointment by the remainder of the directors.

"The supervisory committee shall be appointed by the board of directors and shall consist of not less than three members nor more than five members, one of whom may be a director other than the treasurer.

"A record of the names and addresses of the executive officers and the chairperson of the supervisory and, when utilized, the credit committee shall be filed with the Administrator within ten days after their election or appointment.

"No member of the board or of any committee shall, as such, be compensated: *Provided, however,* That reasonable health, accident, and similar insurance protection shall not be considered compensation.".

SEC. 506. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended to read as follows:

"OFFICERS

"SEC. 112. At their organization meeting and within thirty days following each annual meeting of the members thereafter, the directors shall elect from their own number an executive officer who may be designated as chairperson of the board or president, a vice chairperson of the board or one or more vice presidents, a treasurer, and a secretary, of whom the last two may be the same individual, and the persons so elected shall be the executive officers.

"No executive officer, except the treasurer, shall be compensated as such.

"The board of directors may employ a person to be in charge of operations whose title shall be president or general manager; or, in lieu thereof, the board of directors may designate the treasurer to act as general manager or president and be in active charge of the affairs of the Federal credit union.

"The duties of the officers shall be as determined in the bylaws.

"Before the officer in charge of operations acting as general manager or president or the treasurer shall assume the duties of the office, such officer shall give bond with good and sufficient surety, in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Administrator, conditioned upon the faithful performance of such officer's trust.".

SEC. 507. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended to read as follows:

"DIRECTORS

"SEC. 113. The board of directors shall meet at least once a month and shall have the general direction and control of the affairs of the Federal credit union. Minutes of all meetings shall be kept.

"Among other things, the board shall—

"(A) act upon applications for membership or appoint membership officers from among the members, other than the treasurer, an assistant treasurer, or a loan officer, to act on its behalf;

"(B) require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character in compliance with regulations of the Administrator, and authorize the payment of the premium or premiums therefor from the funds of the Federal credit union;

"(C) fill vacancies on the board until successors elected at the next annual meeting have qualified;

"(D) if the bylaws provide for an elected credit committee, fill vacancies on the credit committee until successors elected at the next annual meeting have qualified;

"(E) appoint the members of the supervisory committee and, if the bylaws so provide, appoint the members of the credit committee;

"(F) have charge of investments including the right to designate an investment committee of not less than two to act on its behalf;

"(G) determine the maximum number of shares in member accounts and the classes of shares in member accounts that may be held by members, and in the case of low-income credit union, nonmembers;

"(H) subject to the limitations of this subchapter, determine the interest rates on loans, and the security and the maximum amount which may be loaned or provided in a line of credit;

"(I) authorize interest refunds to members from income earned and received on such classes of loans and under such conditions deemed fair;

"(J) provide for the hiring and compensation of employees, including loan officers in cases where there is no credit committee;

"(K) if the bylaws so provide, appoint an executive committee of not less than three directors to act on its behalf and any other committees to which it can delegate specific functions;

"(L) prescribe conditions and limitations for the investment committee, executive committee, and the appointed credit committee and any other committee which it appoints;

"(M) review at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meetings, together with such other related information as it or the bylaws require;

"(N) make provision for the furnishing of the written reasons for the denial of any membership application upon the written request of the applicant;

"(O) establish the dividend rate to be paid on member accounts;

"(P) do all other things that are necessary and proper to carrying out the purposes and powers of the Federal credit union.".

SEC. 508. Section 114 of the Federal Credit Union Act (12 U.S.C. 1761c) is amended to read as follows:

"CREDIT COMMITTEE

"SEC. 114. The board of directors may appoint or the members may elect a credit committee consisting of an odd number of members of the credit union. The method used shall be set forth in the bylaws. The credit committee shall hold such meetings as the business of the Federal credit union may require, not less frequently than once a month, to consider applications for loans or lines of credit. Approval of an application shall be by a majority of the committee who are present at the meeting at which it is considered: *Provided*, That a majority of the full committee is present. The credit committee may appoint and delegate to loan officers the authority to approve applications.

"If loan officers are utilized, loans or lines of credit not approved by the loan officer shall be reviewed by the credit committee and the approval of a majority of the members who are present at the meeting when such review is undertaken shall be required to reverse the loan officer's decision: *Provided*, That a majority of the full committee is present.

"No loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed 10 per centum of the credit union's paid-in and unimpaired capital and surplus.".

SEC. 509. Section 116 of the Federal Credit Union Act (12 U.S.C. 1762) is amended by striking out all after the colon in subsection (a), by striking out subsection (b), and by inserting in lieu thereof the following:

"(1) A credit union in operation for more than 4 years and having assets of $500,000 or more shall set aside (A) 10 per centum of gross income until the regular reserve shall equal 4 per centum of the total of outstanding loans and risk assets, then (B) 5 per centum of gross income until the regular reserve shall equal 6 per centum of the total of outstanding loans and risk assets.

"(2) A credit union in operation less than 4 years or having assets of less than $500,000 shall set aside (A) 10 per centum of gross income until the regular reserve shall equal 7½ per centum of the total of outstanding loans and risk assets, then (B) 5 per centum of gross income until the regular reserve shall equal 10 per centum of the total of outstanding loans and risk assets.

"(3) Whenever the regular reserve falls below the stated per centum of the total of outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

"(b) The Administrator may decrease the reserve requirement set forth in subsection (a) of this section when in his opinion such a decrease is necessary or desirable. The Administrator may also require special reserves to protect the interests of members either by regulation or for an individual credit union in any special case.".

SEC. 510. Subsection (b)(3)(B) of section 120 of the Federal Credit Union Act, as amended (12 U.S.C. 1766), is amended by striking out "shares" and inserting in lieu thereof "member accounts".

SEC. 511. The Federal Credit Union Act (12 U.S.C. 1751–1790) is amended by adding at the end thereof the following new title:

"TITLE III—NATIONAL CREDIT UNION ADMINISTRATION DISCOUNT FUND

"FINDINGS AND PURPOSE

"SEC. 301. The Congress finds that the stability of credit unions will encourage savings and will be promoted by establishing a National Credit Union Administration Discount Fund to provide funds to meet the temporary liquidity needs of credit unions and for that purpose to provide for the orderly transfer of funds among and between credit unions and other financial institutions. For the purposes of this title, temporary liquidity needs include emergency needs, seasonal needs, and needs arising from local economic dislocations.

"DEFINITIONS

"SEC. 302. As used in this title—

"(1) 'member' means any shareholder of the National Credit Union Administration Discount Fund;

"(2) 'State credit union' means a credit union organized under the laws of the States of the United States or the District of Columbia, the several territories, including the trust territories and possessions of the United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico and which is not prohibited by the laws under which it is organized from becoming a member of the Discount Fund in accordance with the requirements of this title;

"(3) 'federally insured credit union' means any credit union insured by the National Credit Union Administration Share Insurance Fund;

"(4) 'State-insured credit union' means any State credit union that has obtained a certificate of insurance from a corporation authorized and duly licensed to insure member accounts by the State in which the credit union is chartered; and

"(5) 'paid-in and unimpaired capital and surplus' means the balance of the paid-in shares account as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Reserves shall not be considered as part of surplus.

"ESTABLISHMENT OF THE NATIONAL CREDIT UNION ADMINISTRATION DISCOUNT FUND

"SEC. 303. There is hereby created the National Credit Union Administration Discount Fund which shall exist perpetually within the National Credit Union Administration unless and until dissolved or transferred by Act of Congress. The principal office shall be located at the principal office of the National Credit Union Administration but the Administrator may establish such regional, district, or branch offices as it deems necessary and appropriate.

"MANAGEMENT

"SEC. 304. The management of the Discount Fund shall be vested in the Administrator. The Administrator shall administer the affairs of the Discount Fund fairly and impartially and without discrimination in favor of or against any member, and shall, subject to the provisions of this title, extend to each credit union authorized to secure advances such advances as may be made safely and reasonably with due regard to the maintenance of any adequate credit standing for the Discount Fund and its obligations.

"INITIAL EXPENSES

"SEC. 305. In order to facilitate the formation of the Discount Fund, the Secretary of the Treasury is auhorized to advance up to $500,000 to be utilized for the initial organizational and operating expenses of the Discount Fund. Such advance shall bear interest at a rate to be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities and shall be repaid within two years from the date of the advance.

"CAPITALIZATION OF THE DISCOUNT FUND

"SEC. 306. (a) As soon as practicable after the effective date of this title, the Administrator shall open books for subscriptions to the capital stock.

"(b) The capital stock shall be divided into shares having a par value of $50 each. The minimum capital stock shall be issued at par. Stock issued thereafter shall be issued at such price not less than par as may be fixed by the Administrator.

"(c)(1)(A) The original stock subscription of each credit union eligible to become a member under paragraphs (f) and (g) of this section shall be an amount equal to at least one-half of 1 per centum of the subscriber's paid-in and unimpaired capital and surplus, but not less than $50.

"(B) Only one-half of the required subscription amount must be transferred to the Discount Fund. The other one-half may be held by the credit union on call of the Administrator and be invested in such assets as the Administrator may determine.

"(C) The regular reserve requirement, as set forth in section 116, may, pursuant to such terms and conditions as may be precribed by the Administrator, be reduced by any amount equal to the funds transferred to or held on call by the Discount Fund.

"(D) The Discount Fund shall annually adjust, at the close of the calendar year, in such manner and upon such terms and conditions as the Administrator may prescribe, the amount of stock held by each member so that such member shall have invested in the stock of the Discount Fund at least an amount calculated in the manner provided in paragraphs (c)(1) (A) and (B) of this section (but not less than $50).

"(E) If the investment in stock of any member is greater than that required under this section, the Administrator may, in its discretion and upon application of such member, retire the stock of such member in excess of the amount so required.

"(F) The Administrator may provide for adjustment in the amounts of stock to be issued or retired but not in fractional shares.

"(2) Upon the retirement of the stock of any member, the Administrator shall pay such member for the stock retired an amount equal to what the member paid for such stock, or, at the direction of the Administrator, the whole or any part of the payment which would otherwise be so made shall be credited upon the indebtedness of the member to the Discount Fund. In either such event, stock equal in par value to the amount of the payment or credit, or both, as the case may be, shall be canceled.

"(3) The Administrator may require each member to submit such reports and information as the Administrator deems necessary or appropriate to carry out his duties and responsibilities under this title.

"(d) Stock subcriptions shall be paid for in cash or in securities or other assets deemed acceptable by the Administrator and shall be paid for at the time of application therefor, or, at the election of the subscriber, in installments, but not less than one-fourth of the total amount payable shall be paid at the time of filing the applications, and the remaining amounts at such intervals as may be prescribed by the Administrator: *Provided however,* That the last payment shall become due on the one hundred and eightieth day after the date of the application.

"(e) Stock subscribed for shall not be transferred or hypothecated except as provided herein and the certificates therefor shall so state.

"(f) (1) Federal and State credit unions may become members of the Discount Fund at any time.

"(2) Credit unions that become members later than six months from the effective date of this title, cannot borrow or receive advances from the Discount Fund for a period of six months after joining.

"(g) (1) Any member may withdraw from membership in the Discount Fund one hundred and eighty days after filing with the Administrator written notice of its intention to do so.

"(2) The Administrator may, after a hearing under procedures set forth in regulations, remove any member from membership, if in his opinion, the member has failed to comply with any provisions of this title or regulations of the Administrator issued pursuant thereto. In such case, the indebtedness of such member shall be liquidated and the capital stock owned by such member surrendered and canceled. Upon the liquidation of such indebtedness, such member shall be entitled to the return of its collateral, and, upon the surrender and cancellation of such capital stock, the member shall receive a sum equal to what it paid for subscriptions of the capital stock surrendered.

"(h) All stock of the Discount Fund shall share in dividend distributions without preference at rates to be determined by the Administrator.

"POWERS OF THE ADMINISTRATOR IN ADMINISTERING THE NATIONAL CREDIT UNION ADMINISTRATION DISCOUNT FUND

"SEC. 307. The Administrator shall have the authority on behalf of the Disount Fund to:

"(a) Sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Administrator shall be a party shall be deemed to arise under the laws of the United States. The United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy.

"The Administrator may, without bond or security, remove any such action, suit or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect.

"The Administrator may, notwithstanding any other provision of law, retain private counsel to represent him.

"No attachment or execution shall be issued against the Administrator or property of the Discount Fund before final judgment in any suit, action, or proceeding in any State, county, municipal or United States court.

"The Administrator shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any member credit union is located.

"(b) Adopt a seal.

"(c) Pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice.

"(d) Appoint, employ, and dismiss such officers and employees as are not otherwise provided for in this title, define their duties, fix their compensation, require bonds of them and fix the penalty thereof. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Administration of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

"(e) Employ or contract with experts, professionals, and consultants or organizations thereof.

"(f) Prescribe the manner in which general business may be conducted and the privileges granted to him by law may be exercised and enjoyed.

"(g) Require information and reports from member credit unions.

"(h) Delegate to any officer or employee of the Administration such functions as he deems appropriate.

"(i) Prescribe rules and regulations as he may deem necessary or appropriate to carry out the provisions of this title.

"(j) Conduct business, carry on operations, have offices, and exercise the powers granted by this title in any State or territory.

"(k) Lease, purchase, or otherwise acquire and own, hold, improve, use, or otherwise deal in and with property, real, personal, or mixed, or any interest therein, wherever situated.

"(l) Accept gifts or donations of services, or property, real, personal, or mixed, tangible or intangible, in and for the purposes of the Discount Fund.

"(m) Enter into contracts with public or private organizations, corporations, or individuals, at the local, regional, State or National level including, but not exclusive to, credit unions, central credit unions, credit union organizations, and other financial institutions; act as agent for or otherwise assist the Discount Fund in the conduct of its business; contract for services such as, but not limited to, data processing, printing, and communications where time or economics dictate; and, do all things which are necessary or incidental to the proper management of the affairs and the proper conduct of the business of the Discount Fund.

"(n) Issue debentures, bonds, or other obligations to the Secretary of the Treasury upon such terms and conditions as the Administrator, with the advice and consent of the Secretary of the Treasury, may approve and obtain indirect participation by private and other public financial sources by issuing bonds, debentures, and such other certificates of indebtedness having such maturities and bearing such interest as the Administrator may determine after consultation with the Secretary of the Treasury. In no event, however, shall the aggregate of such indirect participation at any one time exceed (1) ten times the paid-in and unimpaired capital and surplus of the Discount Fund, or (2) 1½ per centum of the total assets of all credit unions, whichever is less.

"(o) Make deposits in federally insured commercial banks, mutual savings banks, savings and loan associations, insured credit unions, member credit unions, and financial institutions acting as agents on either a demand or time basis.

"(p) Purchase from any member with its endorsement any note, draft, or other such obligation presented by the member, under limits to be established by the Administrator,

"(q) Invest such part of the assets of the Discount Fund as are not required for advances to members or other purposes specified by this title, and to such extent as the Administrator may deem desirable, in obligations of the United States or any agency thereof and in obligations or participations issued by an agency of the United States in trust for another agency of the United States.

"(r) Subject to rules and regulations of the Administrator, to borrow and to give security therefor and pay interest thereon, including from the National Credit Union Share Insurance Fund.

"(s) Exercise all power specifically granted by the provisions of this title and such incidental powers as shall be necessary to carry out the powers so granted and purposes so stated.

"ADVANCES

"SEC. 308. (a) (1) Any member of the Discount Fund shall be entitled to apply in a form prescribed by regulations for advances. The Administrator may deny any application, or may grant it, upon such terms, conditions, and maturities as he may prescribe by regulations.

"(2) Advances to members shall be upon security as the Administrator may prescribe. Such security may include, but is not necessarily limited to, obligations of the United States, obligations issued in trust by any agency of the United States on behalf of any agency of the United States, notes made by the member in the form of loans to its members or any legal asset of a credit union. Any such advance shall be subject to the following limitations:

"(i) If secured by notes made by the members in the form of loans to its members, the advance may be in an amount not in excess of 80 per centum of the agregate unpaid principal of the notes.

"(ii) If secured by obligations of the United States, obligations fully guaranteed by the United States, or obligations issued in trust by any agency of the United States on behalf of any agency of the United States, the advance shall be for amount not in excess of the face value of such obligations.

"(3) Advances shall be made upon the note or obligation of the member, secured as provided in this section, bearing such rate of interest as the Administrator shall determine, and the Discount Fund shall have a lien on and shall hold the stock of such member as further collateral security for all indebtedness of the member to the Discount Fund.

"(4) The member applying for an advance shall enter into a primary and unconditional obligation to pay off all advances, together with interest and any unpaid costs and expenses in connection therewith according to the terms under which they were made, in such form as shall meet the requirements of the Discount Fund and the approval of the Administrator. The Administrator shall reserve the right to require at any time, when deemed necessary for the protection of the Discount Fund, deposits of additional collateral security or substitutions of security by borrowing institutions, and each borrowing institution shall assign additional or substituted security when and as required.

"(5) The limit on the aggregate amount of outstanding advances to be made to any one member shall be established by the Administrator by regulation.

"(b) The Secretary of the Treasury is authorized and directed to purchase any obligation issued by the Administrator in the event that there are insufficient funds in the Discount Fund to meet obligations arising under subsection (a) of this section. Purchases by the Secretatry of the Treasury under this paragraph outstanding at any time shall be limited to such amounts not in excess of $150,000,000. Such advances shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such advances adjusted to the nearest one-eighth of 1 per centum.

"(c) For the purpose of this subsection and section 305, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(d) The aggregate outstanding amount of obligations purchased under subsection (b) may not exceed such amounts as are approved in appropriations Acts, and in addition, such obligations shall be subject to the limitation set forth in subsection (b). The aggregate amount of obligations issued and outstanding at any time under section 307 (n) may not exceed such amounts as are approved in appropriations Acts.

"ANNUAL REPORT

"SEC. 309. Not later than ninety days after the close of each calendar year the Administrator shall prepare and submit to the President and to the Congress a full report of the activities of the Discount Fund for each previous fiscal year. This report may be a part of the Administrator's annual report to the President and to the Congress, as required by title I.

"REIMBURSEMENT TO NATIONAL CREDIT UNION ADMINISTRATION

"SEC. 310. The Administrator annually shall determine the expenditures under this title incurred in carrying out the responsibilities imposed upon him, and, in conjunction with fees paid for chartering, examination, supervision, and insuring of Federal credit unions, and insured credit unions, shall assess the Discount Fund for its share of such expenses. Receipts derived by the Administrator from the Discount Fund for the above purpose shall be deposited in a special account with the Treasurer of the United States and may be withdrawn therefrom from time to time to defray the general expenses of the Administrator.

"TAX EXEMPTION

"SEC. 311. The Discount Fund, its property, its franchise, capital reserves, surplus holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that any real property and tangible personal property shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed.".

"AUDIT OF FINANCIAL TRANSACTIONS

"SEC. 312. The Administrator shall maintain an integral set of accounts of the Discount Fund which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by section 105 of the Government Corporation Control Act. An annual business-type budget as provided for wholly owned Government corporations by the Government Corporation Control Act shall be prepared.".

AMENDMENT TO THE FEDERAL CREDIT UNION ACT

SEC. 512. Section 107 of the Federal Credit Union Act, as amended (12 U.S.C. 1757), is amended by adding at the end thereof the following:

"(17) notwithstanding any other provisions of law, to subscribe for stock in the National Credit Union Administration Discount Fund if otherwise eligible to do so under the terms of this Act, and to exercise such other functions as may be necessary to participate fully as a member of the Discount Fund."

TITLE VI—GOVERNMENT INSURED AND GUARANTEED MORTGAGE LOANS

SEC. 601. Notwithstanding the provisions of sections 2(b), 203(b)(5), 207(c)(3), 213(d), 220(d)(4), 220(h)(2)(iii), 221(d)(5), 231(c)(6), 232(d)(3)(B), 234(f), 235(j)(2)(C), 236(j)(4)(B), 240(c)(4), 241(b)(3), 242(d)(3)(B), and 1101(c)(4) of the National Housing Act, and any other provision of law interest rates for mortgages and loans insured under the National Housing Act shall be as agreed to by the mortgagee and mortgagor, or lender and borrower, unless the Secretary determines that such rate is excessive in view of the current interest rates in the mortgage or loan market in the areas involved. The Secretary shall prescribe such regulations as may be necessary to assure that mortgagees do not, directly or indirectly, make any changes in the nature of discounts or points in connection with mortgages insured under the National Housing Act.

SEC. 602. Chapter 37 of title 38, United States Code, is amended as follows:

(1) Subsection (c)(1) of section 1803 is amended by putting a period after the phrase "pursuant to this chapter", striking out all that follows thereafter, and inserting in lieu thereof the following: "The interest rate on loans guaranteed under section 1810 or insured under section 1815 of this chapter shall be as agreed to by the lender and borrower, unless the Administrator determines that such rate is excessive in view of the current interest rates in the mortgage or loan market in the areas involved. The Administrator shall prescribe such regulations as may be necessary to assure that lenders do not, directly or indirectly, make any charges in the nature of discounts or points in connection with loans guaranteed under section 1810 or insured under section 1815 of this chapter."

(2) Subsection (a)(5) of section 1810 is amended by deleting the second sentence thereof.

(3) Subsection (c)(1) of section 1811 is amended to read as follows:

"(1) he is unable to obtain from a private lender in such housing credit shortage area a loan for which he is qualified under section 1810 or 1819 of this chapter as may be appropriate; and".

(4) Subsection (d)(1) of section 1811 is amended to read as follows:

"(d)(1) Loans made under this section shall bear interest at a rate determined by the Administrator and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable".

(5) Subsection (f) of section 1819 is amended to read as follows:

"(f) The interest rate on loans guaranteed under this section shall be as agreed to by the lender and the borrower, unless the Administrator determines that such rate is excessive in view of the current interest rates in the mortgage or loan market in the areas involved.".

TITLE VII—TO PROVIDE FOR THE UNIFORM APPLICATION OF THE TAX LAWS TO ALL FINANCIAL INSTITUTIONS AND A CREDIT FOR INTEREST FROM QUALIFYING REAL PROPERTY LOANS

SEC. 701. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Uniform Tax Treatment of Financial Institutions Act".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

SEC. 702. DEFINITION OF BANK.

Section 581 (relating to definition of bank) is amended to read as follows:

"SEC. 581. DEFINITION OF BANK.

"(a) DEFINITION.—For purposes of this subtitle, the term 'bank' means—

"(1) a bank or trust company doing business under the laws of the United States (including laws relating to the District of Columbia), of any State, or of any territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by State, territorial, or Federal authority having supervision over banking institutions,

"(2) a domestic building and loan association,

"(3) a mutual savings bank not having capital stock represented by shares, and

"(4) a cooperative bank without capital stock organized and operated for mutual purposes and without profit.

"(b) SPECIAL RULE FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1979.—Notwithstanding subsection (a) of this section, for purposes of section 585 (relating to reserves for losses on loans of banks) the term 'bank' shall not include a taxpayer described in subsection (a)(2), (3), or (4) for a taxable year beginning before January 1, 1979, unless the taxpayer makes an election in the manner prescribed by the Secretary or his delegate on or before the due date (including extensions of time) for filing its tax return under this chapter for the taxable year to be a bank for such purpose. The election shall be irrevocable and shall apply to the taxable year and each succeeding taxable year."

SEC. 703. RESERVES FOR LOSSES ON LOANS OF BANKS.

Section 585 (relating to reserves for losses on loans of banks) is amended—

(1) by striking out in subsection (a)(1) "other than an organization to which section 593 applies",

(2) by striking out all after subsection (b)(2)(B) and inserting in lieu thereof the following:

"(C) For purposes of this paragraph, the term 'allowable percentage' means 1.8 percent for taxable years beginning before 1976; 1.2 percent for taxable years beginning after 1975 but before 1982; and 0.6 percent for taxable years after 1981.

"(D) The amount determined under this paragraph shall not exceed 0.6 percent of eligible loans outstanding at the cost of the taxable year or an amount sufficient to increase the reserve for losses on loans to 0.6 percent of eligible loans outstanding at the close of the taxable year, whichever is greater.

"(E) For purposes of this paragraph, the term 'base year' means (except as provided in subparagraph (F))—

"(i) for taxable years beginning before 1976, the last taxable year beginning on or before July 11, 1969, for taxable years beginning after 1975 but before 1982, the last taxable year beginning before 1976, and for taxable years beginning after 1981, the last taxable year beginning before 1982;

"(ii) in the case of a bank described in section 581(a) (2), (3), or (4) which did not make an election under section 581(b) and which had adopted or used either method described in section 593(b)(2) or (4) for the last taxable year beginning on or before December 31, 1978, the taxable year provided in clause (i) of this subparagraph or the last taxable year beginning on or before December 31, 1978, whichever is later; or

"(iii) in the case of a bank described in section 581(a) (2), (3), or (4) which made an election under section 581(b) and which had adopted or used either method described in section 593(b) (2) or (4) for the last taxable year before the first taxable year to which such election applies, the taxable year provided in clause (i) of this subparagraph or the last taxable year before the first taxable year to which the election applies, whichever is later.

"(F) For purposes of subparagraph (A) the term 'base year' means the taxable year provided in subparagraph (E) or the last taxable year before the most recent adoption of the percentage method, whichever is later.",

(3) by inserting in subsection (b) (3), immediately following the last sentence, "With respect to a bank described in section 581(a) (2), (3), or (4) the adoption or use of the experience method under section 593(b) (1) (A) prior to January 1, 1979 (or, in the case of a bank described in section 581(a) (2), (3), or (4) making an election under section 581(b), prior to the first taxable year to which an election under section 581(b) applies) shall be disregarded when determining the base year.",

(4) by redesignating paragraph "(4)" in subsection (b) as paragraph "(5)", and inserting immediately after paragraph (3) thereof the following:

"(4) CHARGING OF BAD DEBTS.—Any debts becoming worthless or partially worthless shall be charged to the reserve for losses on loans.", and

(5) by inserting immediately after subsection (b) the following new subsection:

"(c) SPECIAL RULES.—

"(1) In the case of a bank described in section 581(a) (2), (3), or (4) that was in existence on December 31, 1978, and did not make an election under section 581(b), the net amounts, determined as of the close of the last taxable year beginning on or before December 31, 1978, accumulated in the reserve for losses on nonqualifying loans, the reserve for losses on qualifying real property loans, and the supplemental reserve for losses on loans as such reserves were maintained under section 593(c), shall be allocated to and constitute—

"(A) the opening balance of the reserve for losses on loans for the first taxable year beginning after December 31, 1978, and

"(B) the balance of the reserve for losses on loans at the close of the base year, where the base year, as determined under subsection (b) (2) or (3), is the last taxable year beginning on or before December 31, 1978.

"(2) In the case of a bank described in section 581(a) (2) ,(3), or (4) that made an election under section 581(b) and was in existence during the taxable year before the first taxable year to which such election applies, the net amounts, determined as of the close of the taxable year before the first taxable year to which the election under section 581(b) applies, accumulated in the reserve for losses on nonqualifying loans, the reserve for losses on qualifying real property loans, and the supplemental reserve for losses on loans as such reserves were maintained under section 593(c), shall be allocated to and constitute—

"(A) the opening balance of the reserve for losses on loans for the first taxable year to which the election under section 581(b) applies, and

"(B) the balance of the reserve for losses on loans at the close of the base year, where the base year, as determined under subsection (b) (2) or (3), is the last taxable year before the first taxable year to which the election applies."

SEC. 704. RULES OF GENERAL APPLICATION TO BANKING INSTITUTIONS

Part I (relating to Rules of General Application to Banking Institutions) of subchapter H of chapter 1 is amended by adding at the end thereof the following new sections:

"SEC. 587. FORECLOSURE ON PROPERTY SECURING LOANS.

"(a) NONRECOGNITION OF GAIN OR LOSS AS A RESULT OF FORECLOSURE.—In the case of a creditor which is a bank defined in section 581, no gain or loss shall be recognized, and no debt shall be considered as becoming worthless or partially worthless, as the result of such bank having bid in at foreclosure, or having otherwise reduced to ownership or possession by agreement or process of law, any property which was security for the payment of any indebtedness.

"(b) CHARACTER OF PROPERTY.—For purposes of sections 166 and 1221, any property acquired in a transaction with respect to which gain or loss to a bank was not recognized by reason of subsection (a) shall be considered as property having the same characteristics as the indebtedness for which such property was security. Any amount realized by such bank with respect to such property shall be treated for purposes of this chapter as a payment on account of such indebtedness, and any loss with respect thereto shall be treated as a bad debt to which the provisions of section 166 (relating to allowance of a deduction for bad debts) apply.

"(c) BASIS.—The basis of any property to which subsection (a) applies shall be the basis of the indebtedness for which such property was secured (determined as of the date of the acquisition of such property), properly increased for costs of acquisition.

"(d) REGULATORY AUTHORITY.—The Secretary or his delegate shall prescribe such regulations as he may deem necessary to carry out the purposes of this section.

"SEC. 588. DISTRIBUTION TO SHAREHOLDERS.

"(a) IN GENERAL.—For purposes of this chapter, any distribution of property (as defined in section 317(a)) by a bank described in section 581(a)(2) to which section 585 applies to a shareholder with respect to its stock, if such distribution is not allowable as a deduction under section 591, shall be treated as made—

"(1) first out of its earnings and profits accumulated in taxable years beginning after December 31, 1951, to the extent thereof,

"(2) then out of the reserve for losses on loans to the extent total additions to such reserve exceed the maximum additions which would have been allowed under section 585 (b) (3),

"(3) then out of such other accounts as may be proper.

This subsection shall apply in the case of any distribution in redemption of stock or in partial or complete liquidation of the taxpayer, except that any such distribution shall be treated as made first out of the amount referred to in paragraph (2), second out of the amount referred to in paragraph (1), and then out of such other accounts as may be proper. This subsection shall not apply to any transaction to which section 381 (relating to carryovers in certain corporate acquisitions) applies.

"(b) AMOUNTS CHARGED TO RESERVE ACCOUNTS AND INCLUDED IN GROSS INCOME.—If any distribution is treated under subsection (a) as having been made out of the reserves described in paragraph (2) of such subsection, the amount charged against such reserve shall be the amount which, when reduced by the amount of tax imposed under this chapter and attributable to the inclusion of such amount in gross income, is equal to the amount of such distribution; and the amount so charged against such reserve shall be included in gross income of the taxpayer.

"(c) SPECIAL RULES.—

"(1) For purposes of subsection (a)(2), additions to the reserve for losses on loans for the taxable year in which the distribution occurs shall be taken into account.

"(2) For purposes of computing under section 585 the amount of a reasonable addition to the reserve for losses on loans for any taxable year, any amount charged during any year to such reserve pursuant to the provisions of subsection (b) shall not be taken into account.

"SEC. 589. DEDUCTION FOR REPAYMENT OF CERTAIN LOANS

"In the case of a bank described in section 581(a) (2), (3), or (4), there shall be allowed as deductions in computing taxable income amounts paid by the taxpayer during the taxable year in repayment of loans made before September 1, 1951, by—

"(1) the United States or any agency or instrumentality thereof which is wholly owned by the United States, or

"(2) any mutual fund established under the authority of the laws of any State.

"SEC. 590. ALTERNATIVE TAX FOR CERTAIN BANKS CONDUCTING LIFE INSURANCE BUSINESS.

"(a) ALTERNATIVE TAX.—In the case of a bank described in section 581(a)(3), authorized under State law to engage in the business of issuing life insurance contracts, and which conducts a life insurance business in a separate department the accounts of which are maintained separately from the other accounts of the mutual savings bank, there shall be imposed in lieu of the taxes imposed by section 11 or section 1201(a), a tax consisting of the sum of the partial taxes determined under paragraphs (1) and (2):

"(1) a partial tax computed on the taxable income determined without regard to any items of gross income or deductions properly allocable to the business of the life insurance department, at the rates and in the manner as if this section had not been enacted; and

"(2) a partial tax computed on the income of the life insurance department determined without regard to any items of gross income or deductions not properly allocable to such department, at the rates and in the manner provided in subchapter L (section 801 and following) with respect to life insurance companies.

"(b) LIMITATIONS OF SECTION.—Subsection (a) shall apply only if the life insurance department would, if it were treated as a separate corporation, qualify as a life insurance company under section 801.

"SEC. 591. DEDUCTION FOR DIVIDENDS PAID ON DEPOSITS.

"In the case of a bank described in section 581(a) (2), (3), or (4) and other savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, there shall be allowed as deductions in computing taxable income amounts paid to, or credited to the accounts of, depositors or holders of accounts as dividends or interest on their deposits or withdrawable accounts, if such amounts paid or credited are withdrawable on demand subject only to customary notice of intention to withdraw.".

SEC. 705. MUTUAL SAVINGS BANKS, ETC.

(a) APPLICATION OF PART II.—Section 593 (a) (relating to reserves for losses on loans of certain organizations) is amended by inserting at the end thereof, "This part does not apply to a bank (as defined in section 581) to which section 585 applies."

(b) REPEAL.—Section 591 (relating to deduction for dividends paid on deposits), section 592 (relating to deduction for repayment of certain loans), section 594 (relating to alternative tax for mutual savings banks conducting life insurance business), and section 595 (relating to foreclosure on property securing loans) are repealed.

(c) AMENDMENT OF TABLE OF SECTIONS.—The table of sections for part II of subchapter H of chapter 1 is amended to read as follows:

"PART II—MUTUAL SAVINGS BANKS, ETC.

"Sec. 593. Reserves for losses on loans.
"Sec. 596. Limitation on dividends received deduction.".

(d) REDESIGNATION.—Subchapter H (relating to banking institutions) of chapter 1 is amended by striking out part II, thereof, and redesignating "Part III. Bank affiliates." as "Part II. Bank affiliates.".

(e) AMENDMENT OF TABLE OF PARTS.—In

the table of parts for subchapter H of chapter 1 is amended by striking out "Part II. Mutual savings banks, etc." and "Part III. Bank affiliates" and inserting in lieu thereof "Part II. Bank affiliates.".

(f) EFFECTIVE DATE.—The amendments made by subsections (d) and (e) of this section shall be effective December 31, 1979.

SEC. 706. DEFINITIONS OF DOMESTIC BUILDING AND LOAN ASSOCIATION AND COOPERATIVE BANK.

(a) DOMESTIC BUILDING AND LOAN ASSOCIATIONS.—Section 7701(a)(19) (relating to definition of domestic building and loan association) is amended—

(1) by inserting "a Federal savings bank," after "domestic savings and loan association,"; and

(2) by inserting "in the case of a bank (as defined in section 581) to which section 585 does not apply" at the beginning of subparagraph (C).

(b) DOMESTIC BUILDING AND LOAN ASSOCIATIONS FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1978.—Section 7701(a)(19) (relating to definition of domestic building and loan association) is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking out "loans; and" in subparagraph (B) and inserting in lieu thereof "loans."; and

(3) by striking out subparagraph (C).

(c) COOPERATIVE BANKS.—Section 7701(a)(32) (relating to definition of cooperative bank) is amended—

(1) by striking out ", and" at the end of subparagraph (A)(ii) and inserting in lieu thereof ";" ; and

(2) by striking out subparagraph (B) and inserting in lieu thereof:

"(B) in the case of a bank described in section 581(a)(4) to which section 585 does not apply, meets the requirements of subparagraphs (B) and (C) of paragraph (19) of this subsection (relating to definition of domestic building and loan association); or

"(C) in the case of a bank described in section 581(a)(4) to which section 585 applies, engages principally in the business of acquiring the savings of the public and investing in loans.".

(d) COOPERATIVE BANKS FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1978.—Section 7701(a)(32) (relating to definition of cooperative bank) is amended—

(1) by striking out ";" at the end of subparagraph (A)(ii) and inserting in lieu thereof ", and"; and

(2) by striking out all after subparagraph (A) and inserting in lieu thereof:

"(B) engages principally in the business of acquiring the savings of the public and investing in loans.".

(e) EFFECTIVE DATE.—The amendments made by subsections (b) and (d) of this section shall be effective December 31, 1979.

SEC. 707. CREDIT FOR INTEREST FROM QUALIFYING RESIDENTIAL MORTGAGE LOANS.

Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by renumbering section 42 as section 43, and by inserting after section 41 the following new section:

"SEC. 42. INTEREST FROM QUALIFYING RESIDENTIAL MORTGAGE LOANS.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for a taxable year the amount determined under subsection (b).

"(b) DETERMINATION OF AMOUNT.—

"(1) GENERAL RULE.—The amount of credit allowed by subsection (a) for the taxable year shall be equal to the allowable percentage of the interest received or accrued by the taxpayer from a qualifying residential mortgage loan.

"(2) ALLOWABLE PERCENTAGES.—

"(A) INDIVIDUALS.—In the case of an individual, the allowable percentage for purposes of this subsection shall be 1.5 percent.

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than an individual, the allowable percentage for purposes of this subsection shall be 3⅝ percent if, for the taxable year, at least 80 percent of the total assets of such taxpayer are qualifying residential mortgage loans. If, for the taxable year, the percentage of assets of the taxpayer which are qualifying residential mortgage loans is less than 80 percent of the total assets of the taxpayer, the allowable percentage shall be 3⅝ percent reduced by 1/30 of 1 percentage point for each 1 percentage point (or fraction thereof) of such difference; provided however, that the allowable percentage shall be zero if, for the taxable year, less than 10 percent of the total assets of such taxpayer are qualifying residential mortgage loans.

"(c) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter, reduced by the sum of the credits allowable under section 33 (relating to foreign tax credits), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), section 38 (relating to investment in certain depreciable property), section 40 (relating to expenses of work incentive programs), and section 41 (relating to contributions to candidates for public office).

"(2) VERIFICATION.—The credit allowed by subsection (a) shall be allowed, with respect to interest from qualifying residential mortgage loans, only if such interest is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(d) QUALIFYING RESIDENTIAL MORTGAGE LOAN DEFINED.—

"(1) Except as provided in paragraph (2), for purposes of this section, the term 'qualifying residential mortgage loan' means any loan evidenced by an agreement which constitutes a first lien against the real property in the jurisdiction in which such real property is located (provided such property is located in the United States or a possession thereof), which loan is either—

"(A) a loan (including redeemable ground rents, as defined in section 1055) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property, or a loan made for the improvement of residential real property, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis, or

"(B) a loan secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, or a loan made for the improvement of any such real property.

For purposes of subparagraph (A), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a qualifying residential mortgage loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of subparagraph (A), a loan made to finance the acquisition or development of land shall be deemed to be a qualifying residential loan if, under regulations prescribed by the Secretary or his delegate, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property.

"(2) For purposes of this section the term 'qualifying residential mortgage loan' does not include—

"(A) any loan evidenced by a security (as defined in section 165(g)(2)(C));

"(B) any loan, whether or not evidenced by a security (as defined in section 165(g)(2)(C)), the primary obligor on which is—

"(i) a government or political subdivision or instrumentality thereof;

"(ii) a bank (as defined in section 581);

"(iii) another member of the same affiliated group;

"(C) any loan, to the extent secured by a deposit in or share of the taxpayer; or

"(D) any loan which, within a 60-day period beginning in one taxable year of the creditor and ending in its next taxable year, is made or acquired and then repaid or disposed of, unless the transaction by which such loan was made or acquired and then repaid or disposed of are established to be for bona fide business purposes.

For purposes of subparagraph (B)(iii), the term 'affiliated group' has the meaning assigned to such term by section 1504(a); except that the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1504(a), and all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

"(3) For purposes of this section, a qualifying residential mortgage loan shall include an instrument which during its term represents an interest in one or more qualifying residential mortgage loans. The payment terms, yields, maturities and other provisions of such instrument may be different from those of the underlying residential mortgages so long as the terms and provisions of such instrument reasonably reflect anticipated principal and interest payments on the underlying mortgages, including consideration for retirements or prepayments of the underlying mortgages.

"(e) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—

"(1) ALLOWANCE OF CREDIT.—If the amount of the credit determined under subsection (b) for any taxable year exceeds the limitation provided by subsection (c) for such taxable year (hereinafter in this subsection referred to as 'unused credit year') such excess shall be—

"(A) a credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount otherwise allowable as a credit by this section for such years, except that such excess may be a carryback only to a taxable year ending after [effective date]. In the case of a bank described in section 581(a) (2), (3), or (4) which did not make an election under section 581(b), such excess may be a carryback only to a taxable year beginning after December 31, 1978. In the case of a bank described in section 581(a) (2), (3), or (4) which made an election under section 581(b), such excess may be a carryback only to a taxable year beginning with or after the first taxable year to which such election applies. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(2) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (c) for such taxable year exceeds the sum of—

"(A) the amount of credit determined under subsection (b) for such taxable year, and

"(B) the amounts which, by reason of this subsection, were added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

"(f) Estates and Trusts.—In the case of an estate or trust—

"(1) the interest from qualifying residential mortgage loans for a taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allowable to each, and

"(2) any beneficiary to whom interest from qualifying residential mortgage loans has been apportioned under paragraph (1) shall be treated (for purposes of this section) as the taxpayer who received or accrued the interest from qualifying residential mortgage loans, and such interest shall not (by reasons of such apportionment) lose its character as interest from qualifying residential mortgage loans.

"(g) Small Business Corporations.—In the case of an electing small business corporation (as defined in section 1371)—

"(1) the interest from qualifying residential mortgage loans for a taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

"(2) any person to whom any interest from qualifying residential mortgage loans has been apportioned under paragraph (1) shall be treated (for purposes of this section) as the taxpayer who received or accrued such interest, and such interest shall not (by reason of such apportionment) lose its charter as interest from qualifying residential mortgage loans.

"(h) Credit Disallowed.—The credit allowed by subsection (a) shall be denied a taxpayer that—

"(1) is formed or availed of primarily for the purpose of obtaining such credit, or

"(2) issues obligations that are—

"(A) supported by an authority to borrow from the Treasury of the United States, and

"(B) approved, at issuance, by the Department of the Treasury of the United States.

The Secretary or his delegate may prescribe such regulations as he may deem necessary in order to carry out the intent of paragraph (1).

"(i) This section shall not apply to a bank (as defined in section 581) to which section 585 does not apply."

Sec. 708. Conforming and Clerical Amendments.

(a) Section 11(e)(1) (relating to exceptions to tax imposed on corporations) is amended to read as follows:

"(1) section 590 (relating to alternative tax for certain banks conducting life insurance business),".

(b) Section 57(a)(7) (relating to items of tax preference) is amended by striking out "financial institution to which section 585 or 593 applies" and inserting in lieu thereof "bank (as defined in section 581)".

(c) Section 116(c)(1) (relating to special rules for partial exclusion of dividends received by individuals) is amended by striking out "(relating to deduction for dividends paid by mutual savings banks, etc.)" and inserting in lieu thereof "(relating to deduction for dividends paid by certain banks, etc.)".

(d) Section 172(b)(1)(F) (relating to years to which net operating losses may be carried back and carried over) is amended by striking out "financial institution to which section 585, 586, or 593" and inserting in lieu thereof "bank (as defined in section 581) or a financial institution to which section 586".

(e) Section 243(c)(1) (relating to special rules for dividends received by corporations) is amended by striking out "(relating to deduction for dividends paid by mutual savings banks, etc.)" and inserting in lieu thereof "(relating to deduction for dividends paid by certain banks, etc.)".

(f) Section 381(c) (relating to items taken into account in certain corporate acquisitions) is amended by adding at the end thereof the following new paragraph:

"(25) Credit under section 42 for interest from qualifying residential mortgage loans.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 42, and under such regulations as may be prescribed by the Secretary or his delegate) the items required to be taken into account for purposes of section 24 in respect of the distributor or transferor corporation.".

(g) Section 542(c)(2) (relating to exceptions to definition of personal holding company) is amended to read as follows:

"(2) a bank (as defined in section 581);".

(h) Section 582(c)(1) (relating to bad debts, etc., with respect to securities held by financial institutions) is amended by striking out "a financial institution to which section 585, 586, or 593 applies," and inserting in lieu thereof "a bank or a financial institution to which section 586 applies.".

(i) Section 811(b)(1) (relating to deduction for dividends to policyholders) is amended by striking out "a mutual savings bank subject to the tax imposed by section 594," and inserting in lieu thereof "certain banks subject to the tax imposed by section 590,".

(j) Section 992(d)(3) (relating to corporations ineligible to be domestic international sales corporations) is amended to read as follows:

"(3) a bank (as defined in section 581),".

(k) Section 1038(f) (relating to certain reacquisitions of real property) is amended to read as follows:

"(f) Certain Reacquisitions.—This section shall not apply to a reacquisition of real property by a bank described in section 581(a)(2), (3), or (4).".

(l) Section 6096(b) (relating to income tax liability) is amended by striking out "40 and 41" and inserting in lieu thereof "40, 41, and 42".

(m) Section 6323(b)(10) (relating to validity and priority against certain persons) is amended to read as follows:

"(10) Passbook loans.—With respect to a savings deposit, share, or other account, evidenced by a passbook, with a bank (as defined in section 581), to the extent of any loan made by such bank without actual notice or knowledge of the existence of such lien, as against such bank, if such loan is secured by such account and if such bank has been continuously in possession of such passbook from the time the loan is made.".

(n) Statutes of limitations and interest relating to residential mortgage loan credit carrybacks.—

(1) Assessment and collection.—Section 6501 (realting to limitation on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(p) Residential Mortgage Loan Credit Carrybacks.—In the case of a deficiency attributable to the application to the taxpayer of a residential mortgage loan credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused residential mortgage loan credit which results in such carryback may be assessed, or, with respect to any portion of a residential mortgage loan credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed."

(2) Credit of refund.—Section 6511(d) (relating to limitations on credit or refund) is amended by adding at the end thereof the following new paragraph:

"(8) Special period of limitations with respect to residential mortgage loan credit carrybacks.—

"(A) Period of limitations.—If the claim for credit or refund relates to an overpayment attributable to a residential mortgage loan credit carryback, in lieu of the 3-year period limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused residential mortgage loan credit which results in such carryback (or, with respect to any portion of a residential mortgage loan credit carryback from a taxable year attributable to a net operating loss carryback or capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the year of such taxable year) or that period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

"(B) Applicable rules.—If the allowance of a credit or refund of an overpayment of tax attributable is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the residential mortgage loan credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding."

(3) Interest on underpayments.—Section 6601(e) (relating to income tax reduced by carryback or adjustment for certain unused deductions) is amended by adding at the end thereof the following new paragraph:

"(5) Residential mortgage loan credit carryback.—If the credit allowed by section 42 for any taxable year is increased by reason of a residential mortgage loan credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the residential mortgage loan credit carryback arises, or, with respect to any portion of a residential mortgage loan carryback from a taxable year attributable to a net operating loss carryback or a capital carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year."

(4) Interest on overpayment.—Section 6611(f) (relating to refund of income tax caused by carryback or adjustment for certain unused deductions) is amended by adding at the end thereof the following new paragraph:

"(4) Residential mortgage loan credit carryback.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a residential mortgage loan credit carryback, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such residential mortgage loan credit carryback arises, or, with respect to any portion of a residential mortgage loan credit carryback from a taxable year attributable to a net operating loss carryback or capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year."

(o) Tentative Carryback Adjustments.—

(1) Application for Adjustment.—Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(A) by striking out "or unused work incentive program credit" each place it appears in such section and inserting in lieu thereof "unused work incentive program credit, or residential mortgage loan credit",

(B) by inserting after "section 172(b)," in the first sentence of subsection (a) "by a residential mortgage loan carryback provided in section 42(e),", and

(C) by inserting after "investment credit carryback" in the second sentence of subsection (a) "a residential mortgage loan carryback,".

(2) Tentative carryback adjustment assessment period.—Section 6501(m) (relating to tentative carryback adjustment period) is amended—

(A) by striking out "or a work incentive program carryback" and inserting in lieu thereof "a work incentive program carryback, or a residential mortgage loan carryback", and

(B) by striking out "(j) and (o)" each place it appears and inserting in lieu thereof "(j), (o), and (p)".

(p) The table of sections for part I of subchapter H of chapter 1 (relating to rules of general application to banking institutions) is amended by adding immediately after the last item the following:

"Sec. 587. Foreclosure on property securing loans.
"Sec. 588. Distributions to shareholders.
"Sec. 589. Deduction for repayment of certain loans.
"Sec. 590. Alternative tax for certain banks conducting life insurance business.
"Sec. 591. Deduction for dividends paid on deposits.".

(q) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Interest from qualifying residential mortgage loans.
"Sec. 43. Overpayments of tax.".

Sec. 709. Conforming and Clerical Amendments for Taxable Years Beginning After December 31, 1978.

(a) Section 46(d)(1) (relating to limitations on investment credit) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) Section 46(d)(2) is amended by striking out subparagraph (A), redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and striking out "subparagraph (B)" where it appears in the flush material and inserting in lieu thereof "subparagraph (A)".

(c) Section 50(B)(f) (relating to limitations for work incentive programs) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) Section 166(h) (relating to bad debts) is amended by striking out paragraph (3) thereof and by redesignating paragraph "(4)" as paragraph "(3)".

(e) Section 246 (relating to rules applying to deductions for dividends received) is amended by striking out subsection (e) thereof.

(f) The amendments made by subsections (a) through (e) of this section shall be effective December 31, 1979.

Sec. 710. Effective Date.

Except as otherwise expressly provided in this title, the amendments made by this title shall be effective for taxable years beginning after the date of enactment of this Act.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours equally divided and controlled by the majority and minority leaders or their designees, with 1 hour on amendments in the first degree, and 30 minutes on amendments, motions, and appeals.

Mr. MANSFIELD. Mr. President, I yield my time to the distinguished Senator from New Hampshire (Mr. McIntyre).

Mr. McINTYRE. I thank the Senator.

Mr. President, during the consideration of S. 1267, I ask unanimous consent that the following staff members of the Committee on Banking, Housing and Urban Affairs be permitted the privilege of the floor: Kenneth McLean, William Weber, Robert Weintraub, Anthony Cluff, Lamar Smith, Jerry Buckley, Gil Bray, Danny Wall, Rom Parker, Stephen Paradise, Robert Locklin, Stanley Marcuss, Carl Coan, Carolyn Jordan, and Lindy Marinaccio.

Mr. HELMS. Mr. President, with reference to Mr. Parker at least, I would like for his privilege of the floor to include any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

Mr. TOWER. Mr. President, I ask unanimous consent that the time for the quorum call be charged to neither side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I yield myself so much time as I may need to make an opening statement in explanation of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from New Hampshire is recognized.

Mr. McINTYRE. Mr. President, the bill now pending before the Senate, S. 1267, entitled the Financial Institutions Act of 1975, represents the most comprehensive approach toward restructuring the Nation's financial institutions since the 1930's. It is the culmination of more than 2 years of deliberations within the Subcommittee on Financial Institutions, of which I am chairman, and the full Banking Committee itself. Considerable time and effort have been spent in both hearings and executive sessions in developing a comprehensive piece of legislation which we think represents a balanced approach in dealing with a number of difficult issues.

The Financial Institutions Act contains many of the recommendations made by the President's Commission on Financial Structure and Regulation—the so-called Hunt Commission.

The Financial Institutions Act deals with the depository-type institutions covered in the Commission's proposals. Those institutions are: commercial banks, savings and loan associations, savings banks, and credit unions. Not included are other financial institutions such as insurance companies, sales and finance companies, investment companies, or mutual funds, pension funds, and securities brokers and dealers.

The Financial Institutions Act is needed to permit depository institutions to effectively compete for funds and thereby avoid disintermediation when interest rates rise. Disintermediation occurs because interest rates in open market rise above rates that depository institutions are allowed to pay on time and savings deposits. The result is an unstable flow of funds into sectors of the economy, such as housing, that rely on depository institutions to meet their credit needs.

A wide variety of money-market instruments compete with depository institutions for the public's savings. This has made it difficult for depository institutions to attract, and retain, deposits when market rates increase.

The Financial Institutions Act provides for the elimination of interest rate ceilings on time and savings deposits so that depository institutions can compete for funds and continue to meet the credit needs of their customers when market rates increase. In order for thrift institutions to effectively compete for deposits, however, their asset and liability powers must first be expanded so that their earnings can more closely reflect market interest rates and allow them to pay a competitive rate of return on deposits.

With expanded powers, however, thrift institutions will be competing in areas which, until now, have been largely within the purview only of commercial banks. The Financial Institutions Act is needed, therefore, to assure that the expansion of thrift institution powers, both under this act and as a result of emerging market developments, will occur in an environment that maintains the competitive balance between different types of institutions.

Finally, the Financial Institutions Act is needed to assure continued financial support for the housing market.

The removal of interest rate ceilings and expansion of powers provided under this act will help to stabilize the inflow of savings at depository institutions and assure the availability of funds for housing and other purposes over all phases of the business cycle. However, to assure that the housing market will continue to be supported, the Financial Institutions Act is needed to establish a system of tax credits to encourage continued support for housing by all private investors, not just thrift institutions.

Therefore, to repeat, the Financial Institutions Act is a comprehensive, integrated package for financial reform and the provisions in the act have been considered as an interrelated package.

Mr. President, the Financial Institutions Act contains seven titles. While all seven titles comprise an effective package of comprehensive financial reform, the Banking Committee does not have jurisdiction over the tax provisions contained in title 7. Therefore, it was the considered judgment of the Banking Committee, in unanimously reporting this legislation, that a motion to strike title 7 on the floor, for referral to the Finance Committee, would be accepted in exchange for an amendment declaring that the provisions of the first six titles shall not take effect until the eventual enactment of title 7, entitled "The Uniform Tax Treatment of Financial Institutions Act." In this manner, the Senate may today approve the banking provisions of this bill for prompt consideration by the House. The committee also hopes for prompt consideration of title 7 by the tax-writing committees of both the House and the Senate.

An amendment to strike certain provisions of title 6 regarding loans administered by the Veterans' Administration will also be accepted for what is hoped will be prompt consideration by the Committee on Veterans Affairs.

Mr. President, title 1 of this bill deals with payment of interest on deposit accounts in financial institutions.

The term "Regulation Q" refers to the authority by which the various regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions.

The Regulation Q issue is, in reality, two issues. One involves the establishment of deposit rate ceilings; the other involves the establishment of a differential on deposit rates in favor of thrift institutions.

As originally introduced in 1973, the Financial Institutions Act proposed the termination of interest rate ceilings on time and savings deposits 5½ years after enactment. The rate differential permitted to thrift institutions on such deposits would have been phased out over the 5½-year period.

These provisions were subsequently modified by the administration. When reintroduced in 1975, the bill again proposed the termination of deposit rate ceilings 5½ years after enactment, but without phasing out the differential. The bill was also modified to require a report to Congress by the Secretary of the Treasury 6 months prior to termination with recommendations and findings on the termination of deposit rate ceilings in the financial environment then prevailing.

The committee adopted these provisions and added a new section providing that, for the duration of the 5½-year period, the regulatory agencies are to exercise their Regulation Q authority "in a manner which prevents disintermediation and maintains appropriate levels of mortgage credit."

The committee believes that the termination of deposit rate ceilings is in the public interest. Disintermediation occurs whenever market rates rise above interest rate ceilings and thus restricts depository institutions from meeting the credit needs of their customers. Moreover, the committee believes that rate ceilings discriminate against small depositors.

The committee also recognizes the role which the differential currently plays in attracting deposits into institutions which heavily support the housing market. In this regard, the committee believes that the 5½-year extension of Regulation Q prior to termination assures against unanticipated disruptions from implementation of this act in the ability of thrift institutions to attract deposits for investment in housing.

As introduced, the Financial Institutions Act provided for retaining the prohibition against the payment of interest on demand deposits which has been in effect since 1933. The committee rejected this provision and approved an amendment to repeal the prohibition effective January 1, 1977, with the proviso that the Federal Reserve Board, in consultation with the appropriate financial regulatory agencies, may defer the effective date to a date not later than January 1, 1978. If so deferred, the committee expects the Federal Reserve Board to report to the Congress and explain the reasons for such deferral.

The committee believes that the rationale for the prohibition against the payment of interest on demand deposits is no longer justified, if ever it was, and its repeal is in the public interest. The committee also believes that the prohibition against the payment of interest on demand deposits is inconsistent with the provisions of title 2 of this act which repeal all existing prohibitions against NOW accounts.

Similarly, the prohibition against the payment of interest on demand deposits is inconsistent with the development and growing acceptance of electronic funds transfer systems which facilitate third-party payments and transfers into and out of interest-bearing accounts.

The committee is aware that repealing the prohibition may affect the way in which commercial banks and other depository institutions price their services to the public.

In view of this, the committee has agreed to grant the regulatory agencies the authority to delay repeal of the prohibition for up to 1 year, if necessary.

This period may be used by the agencies to assess further the impact which repeal of the long-standing prohibition may have on financial markets and current banking practices. The Committee also stands prepared to engage in further study and to conduct whatever additional inquiry may be appropriate before final repeal of the prohibition.

The committee expects the financial regulatory agencies, pursuant to their authority to set interest rate ceilings on deposits, to set appropriate rate ceilings on demand deposits. These ceilings should be uniform for all depository institutions and be set, at least initially, somewhat below the prevailing rate on passbook savings accounts.

Throughout its deliberations on this act, the committee assessed the potential effect of this act on the housing market.

The committee believes that enactment of title 1, coupled with enactment of the other provisions of this act, will not adversely affect housing. The expanded liability powers for thrift institutions under title 2, including demand deposits, and the expansion of their asset powers under title 3 will enable them to pay rates necessary to attract and retain deposits. The committee expects the demand deposit power alone to increase significantly the total funds available to thrift institutions. The repeal of the prohibition against the payment of interest on demand deposits will contribute further to successful competition by thrift institutions for demand deposits. Furthermore, mortgage lending by other financial intermediaries, including commercial banks, mutual savings banks, and life insurance companies, will be encouraged as a result of the general availability of the mortgage investment tax credit under title 7.

Therefore, the committee believes that enactment of this title will successfully serve its objectives of expanding competition, providing improved consumer services, and strengthening the ability of financial institutions to adjust to changing economic conditions while better serving the Nation's housing needs as well.

Nevertheless, recognizing that only actual experience will determine whether these objectives will be achieved, this title requires the Secretary of the Treasury, after consultation with appropriate regulatory agencies, to submit a report of findings and recommendations to the Congress 6 months prior to the termination of Regulation Q, assessing the experience of financial institutions over the 5-year period following enactment of the act in light of the impending termination of interest rate ceilings in the financial environment then prevailing. This study will necessarily include a general review of the state of the economy as it relates to depository institutions, how thrift institutions have responded to and used their new powers, and needs and interests of depositors.

This title also expands the membership of the informal coordinating committee of regulatory agencies which consult prior to prescribing deposit rate ceilings for financial institutions under their respective jurisdictions. The Secretary of the Treasury was added because of the relationship between such deposit rates and Treasury's borrowing needs.

The Secretary of Housing and Urban Development was added in view of the effect which rate ceilings and deposit flows have on housing. The Administrator of the National Credit Union Administration was added because of the substantially broadened powers granted credit unions under this legislation, particularly checking accounts, which are expected to put credit unions on a more competitive footing vis-a-vis other types of financial institutions.

Title 2 substantially broadens the deposit liability powers of financial institutions. Comparable provisions for credit unions are incorporated in Title Five.

Federal thrift institutions are authorized for the first time to offer checking accounts. In addition, all current restrictions on NOW accounts are removed, thereby allowing all depository institutions in all States to offer NOW accounts to all their customers, individual and corporate. In the case of State-chartered institutions, the authority to offer NOW accounts remains subject to State law. Federally chartered institutions are specifically granted such authority.

In addition, this title authorizes national banks to offer NOW accounts to their individual and corporate customers and to offer corporate savings accounts. In line with the expanded lending powers for thrift institutions contained in title 3, this title also authorizes Federal thrift institutions to offer credit card services.

The grant of checking account powers to Federal thrift institutions is one of the most significant extensions of new authority under this act. Once deposit rate ceilings have been eliminated, thrift institutions will be placed at a considerable disadvantage in competing with commercial banks if they cannot offer demand deposits.

The committee fully anticipates that the grant of authority to offer checking accounts will substantially enhance the competitive position of thrift institutions in attracting and retaining deposits. In turn, thrift institutions will become less dependent on the maintenance of interest rate ceilings on time and savings deposits and will be better equipped to assure a steady flow of funds for mortgage credit.

NOW accounts in Massachusetts and New Hampshire have also blurred the distinction between savings and checking accounts. The committee believes that NOW accounts have successfully met the needs of many depositors and improved competition between depository institutions in those two States. It sees no reason why depositors and depository institutions in other States should not share these same benefits.

The expansion of financial powers under this title of the bill will broaden the depository base for institutions and increase their ability to compete for funds. The end result will be a more stable flow of funds into those sectors of the economy, such as housing, that depend on depository institutions to meet their credit needs.

The committee also approved a policy regarding reserve requirements on demand deposits and NOW accounts which treats all institutions offering these accounts alike.

Because of the relationship which these accounts have on the conduct of monetary policy, the Federal Reserve Board shall have the authority, after consultation with the other financial regulatory agencies, to set reserve requirements and to establish the manner in which such reserves are to be held.

The committee also adopted a policy providing for nondiscriminatory access to clearing or settlement services provided by the Federal Reserve System or by any other party.

Title 3 provides a significant expansion of the lending and investment powers of depository institutions, particularly thrift institutions.

This title establishes two overall investment categories for Federal thrift institutions.

The first category includes primarily residential mortgage loans and liquidity investments and is subject to no percentage of assets limitation. The second category includes primarily nonhousing related investments which may not, in the aggregate, exceed 30 percent of assets. Among the investments authorized in the latter category are education loans, consumer loans, development or construction loans for residential dwellings, commercial real estate loans, loans for purposes relating to community conservation, development or improvement, investments in service corporations, investments in commercial paper and other corporate debt securities, bank deposits, and bankers acceptances.

For descriptive purposes, the two categories are referred to as the 70 percent and 30 percent categories.

The basic objective of this title is to encourage thrift institutions to increase portfolio diversification, thereby providing increased liquidity and increased profitability on shorter-term, nonresidential mortgage-related investments, while, at the same time, encouraging them to remain primarily long-term residential mortgage lenders. This is designed to provide thrift institutions the needed flexibility of investment and income to respond effectively to changing market conditions.

With substantial investments in long-term, fixed-rate residential mortgages, thrift institutions experience very gradual changes in average yield on existing portfolio. This makes it difficult for them to respond effectively to fluctuations in interest rates caused by changing market conditions.

Earnings by thrift institutions on shorter-term investments will be more responsive to these changing conditions and will therefore provide added flexibility both in terms of offsetting less-responsive income on long-term portfolio investment and in terms of increased ability to attract and retain deposits in periods of high interest rates. Thrift institutions will thus be better insulated against the disruptions of disintermediation and better able to provide a more stable flow of residential mortgage credit over the credit cycle.

This title also grants Federal associations personal trustee and fiduciary powers. The committee believes that the grant of trust powers in combination with the other powers contained in this title, together with the authority to offer checking accounts and NOW accounts, will provide Federal thrift institutions the necessary means to become full-service family financial centers.

Title 3 liberalizes the powers of national banks to make real estate loans and provides added authority for investments in community welfare and development.

Current restrictions hinder the flow of funds into the housing markets, and it is the committee's judgment that removal would have a positive effect on mortgage lending activities by national banks.

This title grants the Federal Home Loan Bank Board increased flexibility in defining the types of assets which may be used as collateral in advances made to members. The committee feels that such increased latitude in determining collateral is appropriate in view of the expanded powers being granted thrift institutions under this title.

Similarly, the committee adopted a proposal granting the Federal Reserve System increased flexibility in defining the assets acceptable for discount at the discount rate.

Title 4 broadens the chartering alternatives for thrift institutions. Federal savings and loan associations are authorized, for the first time, to organize as stock associations. Currently, all Federal savings and loan associations are mutual associations. Thrift institutions are authorized to convert freely from State to Federal charter or Federal to State charter, without a change in form of capital structure, that is, mutual to mutual, stock to stock. All conversions of thrift institutions from State to Federal charter are regulated by the Federal Home Loan Bank Board.

Currently, all savings banks, both mutual and stock, are State-chartered. This title thus provides savings banks, for the first time, an opportunity to convert to a Federal charter.

The committee approved conversions between Federal and State charters not involving a change in capital structure in the belief that such chartering alternatives are desirable. The dual banking system, under which depository institutions are primarily subject to either Federal or State regulation, has encouraged competition, innovation, and experimentation in regulation. It has likewise restrained regulatory authorities from overzealously protecting the interests of existing institutions and from restricting entry in established markets by competing institutions.

The dual banking system is, however, incomplete, inasmuch as Federal law explicitly prohibits the Federal chartering of stock savings and loan associations and makes no provisions for Federal chartering of mutual savings banks. This title removes those impediments by authorizing stock thrift institutions at the Federal level, just as stock institutions are now permitted at the State level, and by permitting Federal charters for savings banks.

This title also redesignates the Federal Savings and Loan Insurance Corporation as the Federal Savings Insurance Corporation. This revision reflects the insurance coverage of all Federal thrift institutions, not just savings and loan associations. It also clarifies the language, setting forth the Corporation's regulatory authority.

Title 5 provides for substantial broadening of credit union powers and incorporates a number of amendments proposed in S. 1475, the Credit Union Financing Institutions Act of 1975. Among these are the granting of checking account powers and the establishment of a central discount fund to obtain funds for short-term liquidity purposes by issuing obligations in the capital market.

Also among its principal provisions, it permits credit unions to make mortgage loans, issue share certificates with varying dividend rates and maturities, and make secured and unsecured loans over longer terms and in higher amounts than is currently permitted.

The general purpose of this title is to provide federally chartered credit unions with those powers necessary to enable them to continue operating and effectively competing as unique mutual thrift institutions.

This title changes the definition of "Federal credit union" by specifying that Federal credit unions are cooperative thrift institutions for the purpose of encouraging thrift, creating a source of credit at fair and reasonable rates of interest, meeting the financial needs of its members and members' families, and providing an opportunity for credit union members to use and control their own money in order to improve their economic and social conditions. In acknowledging these purposes, it is not the committee's intention that these changes should in any way be construed as a departure from the narrowly defined principle of the common bond, which requires that credit union members have a similar occupation or association or live within a well-defined neighborhood, community, or rural district.

In addition to providing new flexibility in types of loans which Federal credit unions may offer, this title provides Federal credit unions with greater leeway in establishing rates of interest. At present there is a maximum interest rate on loans of 1 percent per month on unpaid balances, inclusive of all charges incident to making the loan. In order to allow credit unions to charge interest rates that more accurately reflect market conditions during periods of high interest rates, the Administrator of the National Credit Union Administration is authorized to establish a higher interest rate than the current statutory maximum of 1 percent per month.

In order to avoid placing Federal credit unions at a competitive disadvantage with other thrift institutions, this title authorizes credit unions to offer checking account powers with the prior approval of the Administrator of the National Credit Union Administration. Withdrawals or transfers from accounts by means of negotiable, transferable, or nontransferable checks, drafts, orders or authorizations are permitted, including NOW accounts. Numerous changes are made in the methods of operation possible for credit unions.

This title provides for flexibility in revising internal management structure.

This title establishes a National Credit Union Administration Discount Fund within the National Credit Union Administration "to provide funds to meet the temporary liquidity needs of credit unions and for that purpose to provide for the orderly transfer of funds among and between credit unions and other financial institutions." A temporary liquidity need is defined to include emergency needs, seasonal needs, and needs arising from local economic dislocations.

The discount fund offers credit unions a reliable secondary and temporary source of liquidity when the traditional and local liquidity sources are inadequate. The existence of the Fund as a source of liquidity is likely to enhance a credit union's bargaining position in dealing with other lenders. At present, credit unions are the only depository institutions which do not enjoy the protection of some sort of central liquidity or discount facility, and they are particularly sensitive, because of their common bond, to changing economic conditions.

Title 6 abolishes interest rate ceilings on FHA-insured and VA-guaranteed mortgage loans and prohibits the lender from charging discounts or points on such loans.

The purpose of abolishing interest rate ceilings on FHA and VA mortgages is to permit the interest rates on such mortgages to more closely reflect market rates and thereby attract additional funds into the housing market, particularly for low and middle income families. Such ceilings have resulted in the widespread use of points and the general unavailability of funds through these channels. At present, there is no prohibition against charging "points" on Government-insured mortgages. Since the points paid by the seller are generally passed along in the selling price, this practice has rendered interest rate ceilings largely ineffective as a mechanism for protecting borrowers against higher housing costs. In order to avoid distortions in the market and confusion among borrowers, this title directs the Secretary of HUD and the VA Administrator to prevent the charging of "points" on FHA-insured and VA-guaranteed mortgages.

Title 7 is intended to serve two principal objectives. The first is to establish a uniform tax formula for all financial institutions under which a given investment or activity would be subject to the same income tax provisions regardless of the functional type of financial institution. The second is to provide an incentive for mortgage investment by establishing a mortgage investment tax credit. The tax provisions of this title are an integral part of the comprehensive financial restructuring proposals contained in this act. The current bad debt reserve allowance for thrift institutions will be phased out in tandem with broadened new powers provided by this act. At the same time, the mortgage investment tax credit will be enacted to assure a commitment of capital into the residential mortgage market by all financial intermediaries.

This title would promote competitive equality among financial institutions by taxing thrift institutions' income on the same basis as similar income received by other institutions from the same types of activities. It would eliminate the special reserve provisions applying to thrift institutions and would require that reserve additions be computed according to methods similar to those applying to commercial banks.

This title would provide a tax incentive by offering a mortgage interest tax credit to institutions which have at least 10 percent of their assets in qualifying residential mortgage loans.

As originally proposed, the tax credit under this title would be multilevel, with institutions having 70 percent of assets in qualifying residential loans being allowed a credit equal to 3½ percent of residential mortgage interest income. If less than 70 percent of assets is invested in residential mortgages, the credit percentage would be reduced by 1/30th of 1 percentage point below 70 percent down to the minimum level of 10 percent of assets, at which point a 1½ percent credit is available. The committee amended these provisions, raising the tax credit incrementally to 3-5/6 percent for institutions holding 80 percent of their assets in qualifying residential mortgages.

Savings and loan associations and mutual savings banks will be given a one-time option until 1979 to decide when to substitute this tax measure for their current bad debt loss reduction. By 1979, all savings institutions will be required to adjust to this mortgage interest tax credit.

As I indicated earlier, Mr. President, title 7 will have to be referred to the Finance Committee for its consideration.

And so to repeat, Mr. President, the Financial Institutions Act represents a comprehensive, integrated package for financial reform; the most comprehensive approach toward restructuring the Nation's financial institutions in 30 years. This bill, Mr. President, looks to the future; addressing itself not only to the problems recurring in the 1960's and 1970's but to the competitive challenges ahead for our financial institutions in the remaining years of this decade and beyond.

Mr. President, I ask unanimous consent that excerpts from the committee report (No. 94-487) be printed in the RECORD at this point.

There being no objection, the excerpts

from the report were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM SENATE REPORT NO. 94-487 TO ACCOMPANY S. 1267, FINANCIAL INSTITUTIONS ACT OF 1975

* * * * *

HISTORY OF THE LEGISLATION

The Financial Institutions Act was first introduced in the Senate by request of the Administration on October 18, 1973. The bill, S. 2591, was referred to the Committee on Banking, Housing and Urban Affairs and subsequently referred to the Subcommittee on Financial Institutions.

The Subcommittee held its first set of hearings on November 6-8, 1973, receiving testimony from the Department of the Treasury and the Federal agencies responsible for regulating depository institutions. On May 13-17, 1974, the Subcommittee received testimony from the State agencies responsible for regulating State-chartered depository institutions and from the various trade associations representing the depository institutions affected by the proposed legislation.

On July 24-25, 1974, the Subcommittee received testimony from various witnesses on the issue of variable rate securities then being issued by several bank holding companies. These hearings were included in the series of hearings on the Financial Institutions Act, since variable rate securities held the potential for restructuring deposit flows and affecting the financing of housing—issues central to the Financial Institutions Act.

On September 11, 12, and 25, 1974, the Subcommittee received testimony from academics and representatives of public interest groups. On December 11, 1974, the Subcommittee received testimony from the National Association of Home Builders.

On December 3, 1974, the Subcommittee met in executive session and referred the bill to the full Committee for its consideration. The full Committee met in executive session on December 11, 1974, to consider reporting the bill to the Senate. The Committee, however, took no action regarding the bill because adjournment was nearing and the House had not yet taken any action on comparable legislation.

In the weeks following, the Administration consulted with representatives of the various financial groups regarding certain provisions in the bill. As a result, several modifications were made. Among those was the recommendation to delete from the legislation the Administration's statutory timetable for phasing out the differential on deposit rate ceilings between commercial banks and thrift institutions. This was coupled with the requirement of a report to Congress by the Secretary of the Treasury six months prior to the expiration of interest rate ceilings evaluating the impending expiration in light of the experience following enactment of the bill. Other modifications included the addition of mortgage-lending powers for credit unions, and the choice of optional dates for thrift institutions to become subject to the bill's tax provisions. The Financial Institutions Act was introduced in the 94th Congress on March 20, 1975, as S. 1267 and was otherwise essentially the same bill as had been introduced in the 93rd Congress.

The Subcommittee on Financial Institutions held additional hearings on the legislation on May 14-16 and on June 11, 1975. The Subcommittee also considered at that time S. 1475, the Credit Union Financial Institutions Act Amendments of 1975, and S. 1540, the Family Financial Centers Act of 1975. The Subcommittee received testimony from a number of earlier witnesses and concluded hearings on the bill with testimony from witnesses who focused on the relationship between comprehensive financial restructuring and current developments relating to emerging electronic funds transfer systems.

The Full Committee met in executive session on September 30 and October 1-2, 1975, to consider the Financial Institutions Act. The Committee unanimously ordered the bill, as amended, to be reported to the Senate.

NATURE AND SCOPE OF THE LEGISLATION

The Financial Institutions Act represents the most comprehensive approach toward restructuring of the nation's financial system since the 1930's. Its purpose is to eliminate unnecessary and outdated regulation that prevents depository institutions from competing effectively and operating efficiently; it would allow depository institutions to offer new services to the public and permit depositors to earn a rate of return that more clearly reflects prevailing market conditions; it would provide a more stable flow of funds to sectors of the economy that rely on depository institutions to meet their credit needs, particularly housing; and it would provide direct incentives for all institutions to support the residential housing market.

The Financial Institutions Act contains many of the recommendations made by the President's Commission on Financial Structure and Regulation—the so-called Hunt Commission. That Commission was established in 1970 in response to the outflow of funds from depository institutions in 1966 and again in 1969-70, an outflow which occurred because interest rates in the money market rose above interest rates on time and savings deposits at depository institutions and a large number of savers chose to place their funds in money market instruments rather than in deposit accounts. As a consequence, concerns were raised over the ability of depository institutions to compete effectively under such conditions, and the Commission was directed ". . . to review and study the structure, operation and regulation of the private financial institutions in the United States, for the purpose of formulating recommendations that would improve the functioning of the private financial system."

The Hunt Commission submitted its final report in December 1971. That report covered a broad range of recommendations for restructuring the nation's financial system, including the elimination of interest rate ceilings, expanded asset and liability powers for depository institutions, a restructuring of the Federal agencies that supervise depository institutions, and direct incentives for investment in housing.

* * * * *

The Financial Institutions Act deals with the depository-type institutions covered in the Commission's proposals. Those institutions are: commercial banks, savings and loan associations, savings banks, and credit unions. Not included are other financial institutions such as insurance companies, sales and finance companies, investment companies (mutual funds), pension funds, and securities brokers and dealers.

The depository institutions covered under the Act are referred to as financial "intermediaries," in recognition of the important function which they perform in intermediating between borrowers and savers. They transfer funds from surplus units (receipts in excess of expenditures) to units experiencing deficits (expenditures in excess of receipts).

These institutions also transform funds to meet widely divergent credit needs. By aggregating savings, they can meet demands for credit that would otherwise go unmet, since individual savers are not always willing or able to provide funds in the amounts, or on the terms and conditions, which borrowers seek.

The institutions range in size from large, multi-billion dollar, full-service commercial banks, with domestic and international branches, to small, one-office credit unions operated on a part-time basis with volunteers. They differ widely in the types of financial services which they offer the public, but they hold liabilities in the form of deposits or shares and assets in the form of loans and investments. Altogether, they hold nearly $1½ trillion in financial resources. (See Table 1.)

TABLE 1.—*Number of offices and assets of depository institutions, June 30, 1975*

	Number of offices[1]	Assets (in billions)
Commercial banks	14,957	$939.3
Savings and loan associations	5,018	318.0
Mutual savings banks	478	116.8
Credit unions	22,865	35.9
Total	42,958	1,410.0

[1] Main offices only; does not include branches.

Source: Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

* * * * *

THE NEED FOR LEGISLATION

The Financial Institutions Act is needed to permit depository institutions to effectively compete for funds and thereby avoid disintermediation when interest rates rise. Disintermediation occurs because interest rates in the open market rise above rates that depository institutions are allowed to pay on time and savings deposits. The result is an unstable flow of funds into sectors of the economy, such as housing, that rely on depository institutions to meet their credit needs.

A wide variety of money-market instruments compete with depository institutions for the public's savings. These instruments include Treasury bills and notes, obligations of certain U.S. Government and related agencies, and certain types of private obligations. Savers appear to thave become more aware of these instruments in recent years and have become increasingly more sensitive to the disparity which can exist between the rate of return which they can receive on their deposits at depository institutions and those which they can receive in the open market.

* * * * *

Interest rate ceilings on time and savings deposits at commercial banks were imposed for the first time in 1933. At the same time, commercial banks were also prohibited from paying interest on demand deposits. These restrictions were imposed on interest payments in the belief that they would prevent financial crises and encourage commercial banks to adopt sound lending practices.

At the time these restrictions were imposed, it was widely held that the payment of interest on demand deposits encouraged "country" banks to maintain balances with banks in money market centers, primarily New York City, and that these funds were used to speculate in the stock market. These deposits were somewhat volatile, because of seasonal and other demands for credit, and their withdrawal from money center banks was viewed as a major cause of the panics which recurred throughout much of the nation's history.

* * * * *

Interest rate ceilings on time and savings deposits, on the other hand, were viewed as being desirable to encourage banks to adopt sound lending practices. Without any ceilings, it was felt that banks would engage in excessive rate competition to attract funds. These high-costing funds, in turn, were believed to lead banks into making high-yielding, but risky, loans. This, in turn, was alleged to have impaired the liquidity and solvency of the entire banking system and was considered to have been a major reason for bank failures during the 1930's.

Between 1936 and 1957, rate ceilings on time and savings deposits remained virtually unchanged. The ceilings were adjusted downward slightly in 1935, and downward further in 1936, particularly on short-maturity time deposits. But they remained unchanged from then until January 1, 1957, when they were adjusted upward in response to higher market rates.

Until then, market rates were below the ceilings at commercial banks. Rates on three-month Treasury bills, for example, did not rise above 3 percent until 1957. As a result, depository institutions did not experience excessive drains on their deposits from savings being placed in money market instruments.

Rate ceilings were raised again in 1962 as market interest rates continued an upward trend. Minor adjustments to the rate ceiling schedule were made again in 1963 and 1964.

Significant changes were made in the rate ceiling structure in 1966. The system was revised to reflect new types of large-denomination and consumer-type certificates being offered by commercial banks, and interest rate ceilings were imposed on thrift institution deposits for the first time.

Interest rates in the open market began rising in 1965 under the burden of rising demands for credit and a turn toward a more stringent monetary policy by the Federal Reserve. As market rates increased in the face of the existing rate ceilings, commercial banks found it increasingly difficult to attract funds as depositors sought higher yields on alternative open-market investments. As a result, commercial banks experienced a net inflow of only $13 billion during the "credit crunch" of 1966, compared with a net inflow of $20 billion the year before.

Thrift institutions also experienced disintermediation in 1966. The net inflow at savings and loan associations came to only $3½ billion in 1966, compared with $8½ billion the year before. Savings inflows at mutual savings banks totaled only $2½ billion in 1966, compared with a net savings inflow of $3½ billion in 1965. Credit unions also experienced a slowdown in their savings inflow.

* * * * *

Disintermediation at thrift institutions in 1966 occurred for a different reason than at commercial banks. Commercial banks lost deposits because market rates increased above rate ceilings on their time and savings deposits. Thrift institutions, however, were not then subject to interest rate ceilings. They lost funds because they have to rely on short-term funds to make long-term loans. As market rates rose, their heavy investment in long-term mortgages prevented them from paying the rates necessary to attract deposits. The bulk of their mortgages had been made earlier at lower rates of interest than were then being reflected in the open market. New mortgage loans, of course, could be made at higher rates. However, the slow turnover in their portfolios prevented these higher rates from being fully reflected in their earnings, and thrift institutions could not raise deposit rates rapidly enough to permit them to attract deposits without impairing earnings. As a result, they lost deposits in much the same way as if they had been subject to interest rate ceilings.

Rate ceilings were imposed on time and savings deposits at thrift institutions in 1966 in the belief that it would help those institutions to continue attracting the funds necessary to support the housing market. It was widely believed that rate ceilings would prevent excessive and destructive competition for deposits between commercial banks and thrift institutions. In order to encourage the continued inflow of funds into thrift institutions and thereby into housing, the ceilings which applied to thrift institutions were set by regulation at ¾ percentage point higher than those applying to deposits at commercial banks. The differential was justified on the grounds that thrift institutions could not offer the full range of financial services which commercial banks could offer, particularly checking accounts, and that a differential was needed to maintain the competitive balance between "full service" commercial banks on the one hand and specialized mortgage-lending thrift institutions on the other.

(The rate ceiling structure for commercial banks since 1966 is shown in Table 9. The rate ceiling structure applying to savings and loan associations, also since 1966, is shown in Table 10.)

While rate ceilings at all thrift institutions prevented them from engaging in rate wars with commercial banks, they could not prevent interest rates from rising on a wide variety of market instruments. As a result, depositors were faced with a host of investment alternatives offering more attractive rates of return than deposits at these institutions. Consequently, thrift institutions continued to lose funds along with commercial banks when market rates increased.

In 1969, commercial banks actually experienced a net *outflow* of funds totaling nearly $10 billion in response to higher interest rates elsewhere. Savings and loan associations experienced a net inflow of only $4 billion that year, compared with an inflow of $7½ billion the year before. Mutual savings banks registered an inflow of $2½ billion compared with more than $4 billion in 1968. Only credit unions showed a larger inflow of funds in 1969 than in 1968.

Depository institutions experienced serious "disintermediation" again in 1973 and 1974 as market rates rose above ceilings on time and savings deposits once again. These institutions experienced normal or above normal savings inflows once market rates declined.

TABLE 9.—MAXIMUM RATES PAYABLE AT COMMERCIAL BANKS, 1966–74

[Percent per annum]

Rates July 20, 1966–June 30, 1973

Type of deposit	Effective date: July 20, 1966	Sept. 26, 1966	Apr. 19, 1968	Jan. 21, 1970
Savings deposits	4	4	4	4½
Other time deposits.[1]				
Multiple maturity:[2]				
30 to 89 days	4	4	4	4½
90 days to 1 year				5
1 to 2 years	5	5	5	5½
2 years or more				5¾
Single-maturity:				
Less than $100,000:				
30 days to 1 year				5
1 to 2 years	5½	5	5	5½
2 years or more				5¾
$100,000 or more:				
30 to 59 days			5½	(3)
60 to 89 days			5¾	(3)
90 to 179 days	5½	5½	6	(3)
180 days to 1 year			6¼	(3)
1 year or more				(3)

Rates beginning July 1, 1973

Type and size of deposit	Effective date: July 1, 1973	Nov. 1, 1973	Nov. 27, 1974	Dec. 23, 1974
Savings deposits	5	5	5	5
Other time deposits (multiple- and single-maturity):				
Less than $100,000:				
30 to 89 days	5	5	5	5
90 days to 1 year	5½	5½	5½	5½
1 to 2½ years	6	6	6	6
2½ years or more	6½	6½	6½	6½
Minimum denomination of $1,000:				
4 to 6 years	(4)	7¼	7¼	7¼
6 years or more				7½
Government units			7½	7¾
$100,000 or more	(3)	(3)	(3)	(3)

---

[1] For exceptions with respect to certain foreign time deposits, see "Bulletin" for Feb. 1968, p. 167.

[2] Multiple-maturity time deposits include deposits that are automatically renewable at maturity without action by the depositor and deposits that are payable after written notice of withdrawal.

[3] Maximum rates on all single-maturity time deposits in denominations of $100,000 or more have been suspended. Rates that were effective Jan. 21, 1970, and the dates when they were suspended are:

30 to 59 days	6¼ percent	June 24, 1970.
60 to 89 days	6½ percent	
90 to 179 days	6¾ percent	May 16, 1973.
180 days to 1 year	7 percent	
1 year or more	7½ percent	

Rates on multiple-maturity time deposits in denomination of $100,000 or more were suspended July 16, 1973, when the distinction between single- and multiple-maturity deposits was elinimated.

[4] Between July 1 and Oct. 31, 1973, there was no ceiling for 4-year certificates with minimum denomination of $1,000. The amount of such certificates that a bank could issue was limited to 5 percent of its total time and savings deposits. Sales in excess of that amount were subject to the 6½ percent ceiling that applies to time deposits maturing in 2½ years or more.

Effective Nov. 1, 1973, a ceiling rate of 7¼ percent was imposed on certificates maturing in 4 years or more with minimum denomination of $1,000. There is no limitation on the amount of these certificates that banks may issue.

Note: Maximum rates that may be paid by member banks are established by the Board of Governors under provisions of Regulation Q; however, a member bank may not pay a rate in excess of the maximum rate payable by State banks or trust companies on like deposits under the laws of the State in which the member bank is located. Beginning Feb. 1, 1936, maximum rates that may be paid by nonmember insured commercial banks, as established by the FDIC, have been the same as those in effect for member banks.

Source: Federal Reserve Board.

TABLE 10.—MAXIMUM RATES PAYABLE AT SAVINGS AND LOAN ASSOCIATIONS, 1966–74

Type of account	Effective date and percentage rates				
	Sept 26, 1966 [1]	Jan. 21, 1970	July 6, 1973	Nov. 1, 1973	Dec. 23, 1974
Regular	4.75	[2] 5.00	5.25	5.25	5.25
90-day notice (for withdrawals)	([3])	[4] 5.25	5.75	[5] 5.75	[5] 5.75
Certificate with fixed or minimum term or qualifying period:					
Balance less than $100,000:					
Owned by governmental units:					
All terms	([6])	([6])	([6])	([6])	7.75
Owned by others:					
90 days to 6 mo	([7])	5.25	[8] 5.75	5.75	5.75
6 mo to 1 yr	[9] 5.25	[4] [9] 5.25	[8] 5.75	5.75	5.75
1 yr to 2 yr	[9] 5.25	[8] 5.75	[8] 6.50	[8] 6.50	[8] 6.50
2 to 2½ yr	[9] [10] 5.25	[11] 6.00	[8] 6.50	[8] 6.50	[8] 6.50
2½ to 4 yr	[9] [10] 5.25	[11] 6.00	[8] 6.75	[8] 6.75	[8] 6.75
4 to 6 yr	[8] [10] 5.25	[11] 6.00	([12])	[9] 7.50	[9] 7.50
6 yr or more	[9] [10] 5.25	[11] 6.00	([12])	[9] 7.50	[9] 7.50
Balance $100,000 [13] or more: All owners—all terms	([14])	([15])	([16])	([16])	([16])

[1] Associations in certain geographic areas had higher ceilings than those indicated; see this table in the June 1973 Journal for additional information.

[2] 5.25 percent in Massachusetts.

[3] Not permitted before July 22, 1968. Subsequently, the ceiling was 5 percent for associations in areas permitted 5 percent on regular accounts, provided they were not offering 5.25-percent certificates, and 4.75 percent for all other associations through Mar. 30, 1969, and 5 percent for all associations thereafter.

[4] 5.50 percent in Massachusetts.

[5] Beginning Nov. 27, 1974 maximum rate for notice accounts owned by governmental unit was the same as for certificate accounts owned by such units.

[6] Before Nov. 27, 1974, maximum rate was the same as for other types of owners; from Nov. 27 through Dec. 22, 1974, maximum rate was 7.50 percent.

[7] Not permitted.

[8] $1,000 minimum balance required, except in areas where mutual savings banks were permitting lower balance.

[9] $1,000 minimum balance required.

[10] From Dec. 19, 1969, through Jan. 20, 1970, 6 percent was permitted for existing accounts of $10,000 or more only.

[11] $5,000 minimum balance required, except in areas where mutual savings banks were permitting a lower balance.

[12] No maximum rate with $1,000 minimum balance; 6.75 percent maximum with lower minimum balance.

[13] $50,000 fro Puerto Rico only, beginning Sept. 3, 1970.

[14] Same maximum rate as for certificates with smaller balances.

[15] From Jan. 21, 1970, through May 16, 1973, maximum rate was 6.50 percent for accounts with term of 60–89 days, 6.75 percent for 90 to 179 day accounts, 7 percent for 180 to 364 day accounts, and 7.50 percent for longer term accounts; thereafter no maximum rate.

[16] No maximum rate.

Source: Federal Home Loan Bank Board.

During each of these periods of disintermediation, new housing construction has fallen off sharply. This has reflected a combination of factors, including the loss of funds at thrift institutions, which provide the bulk of funds for housing, the higher interest rates on residential mortgages and higher construction costs resulting from inflation.

During each of these periods, the Federal Government has increased its efforts to support the housing market. Federal and federally-related housing agencies, such as the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Farmers Home Administration (FmHA), the Federal Housing Administration (FHA), the Veterans' Administration (VA), and the Federal Home Loan Mortgage Corporation (FHLMC), have increased their purchase of residential mortgages. Borrowing by these agencies to support such efforts, however, have only exerted upward pressure on interest rates and exacerbated the disintermediation problem. Moreover, residential housing construction has continued to decline in spite of such efforts.

A number of important adjustments have been made in the rate ceiling structure in recent years in order to lessen the reliance of depository institutions on them. Rate ceilings were suspended on 30 to 89-day certificates of deposit issued by large commercial banks in response to concerns over a possible road "liquidity crisis" when the Penn Central Railroad filed for reorganization in mid-1970. This action enabled commercial banks to bid more freely for funds in the open market, which funds in turn could be channeled into new business loans.

* * * * *

The regulatory agencies also took action in July 1973 to establish a new ceiling-free category of deposits with a minimum denomination of $1,000 and a 4-year maturity, the so-called "wild card" account. In response to the concern expressed over its possible adverse impact on the ability of thrift institutions to compete for such accounts, and their ability to support housing, ceilings were imposed on such deposits in October 1973. That same year, however, rate ceilings on large certificates of deposit ($100,000 and over) maturing in 90 days or more were eliminated, thereby removing the rate ceiling structure on all large certificates of deposit (rate ceilings on certificates maturing 30 to 89 days having been removed in 1970).

What remains is a system of rate ceilings on deposits that varies widely by denomination and maturity. These ceilings still prevent depository institutions from competing for funds when market rates increase. Moreover, they work to the general disadvantage of the saver with a smaller amount to save, the rate ceiling structure on deposits of $100,000 or more have been eliminated.

* * * * *

Interest rate ceilings cannot be eliminated immediately because the asset portfolios of thrift institutions are comprised heavily of long-term residential mortgages on which the rate of return is not responsive to fluctuations in market rates of interest. Consequently, mortgage-lending institutions, such as savings and loan associations and mutual savings banks, cannot be expected to pay competitive rates of interest on deposits when rates are high. For that reason, the Financial Institutions Act is needed to allow depository institutions to expand their asset and liability powers and offer the types of financial services that will eventually allow them to pay rates of returns on deposits competitive with rates on alternative investments in the open market.

With expanded powers, however, thrift institutions will be competing in areas which, until now, have been largely within the purview only of commercial banks. Thrift institutions and commercial banks are already competing in a number of new economic fronts. Perhaps the most important of these is the offering of electronic funds transfer services. It is this area which holds the greatest promise for converting savings deposits at thrift institutions into transactional deposits, like checking accounts at commercial banks, and blurring the distinction between thrift institutions and commercial banks in the process. The Financial Institutions Act is needed, therefore, to assure that the expansion of thrift institution powers, both under this Act and as a result of emerging market developments, will occur in an environment that maintains the competitive balance between different types of institutions, through a system of uniform taxes and reserves against transactional accounts.

Finally the Financial Institutions Act is needed to assure continued financial support for the housing market. That market has relied largely on thrift institutions to meet its credit needs. The expansion of asset powers provided under the Act for thrift institutions could result in those institutions holding a smaller share of their assets in the form of long-term residential mortgages. In addition, the uniform tax system established under this Act eliminates the present tax subsidy which thrift institutions receive, in the form of a special deduction for loan loss reserves, for investing in housing.

Of course, thrift institutions are expected to continue supporting the housing market on an expanded scale as a result of their increased ability to attract deposits under this Act.

Moreover, the removal of interest rate ceilings and expansion of powers provided under this Act will help to stabilize the inflow of savings at depository institutions and assure the availability of funds for housing and other purposes over all phases of the business cycle. However, to assure that the housing market will continue to be supported, the Financial Institutions Act is needed to establish a system of tax credits to encourage continued support for housing by all private investors, not just thrift institutions.

The Financial Institutions Act is, thus, a comprehensive, integrated package for financial reform and the provisions in the Act have been considered as an interrelated package. Interest rate ceilings need to be eliminated if depository institutions are to effectively compete with alternative investments in the open market. Asset and liability powers need to be expanded if depository institutions are to compete effectively once interest rate ceilings have been removed. A uniform system of reserves against demand deposits and NOW accounts needs to be established if the competitive balance between depository institutions offering similar types of services is to be maintained. A uniform system of taxes is needed to assure that depository institutions compete on an equal basis taxwise and investments in mortgage loans encouraged. The uniform tax system established in Title VII, is particularly important if the other parts of the Act are adopted. Under this title, income from similar types of assets will be taxed on the same basis regardless of the type of institution receiving such income, without this title, the income received on similar types of assets by depository institutions offering similar types of services would not be taxed uniformly, and the goal of maintaining a competitive balance between different types of depository institutions would not be achieved.

EXPLANATION OF THE BILL

Title I. Payment of interest on deposit accounts

Title I deals with some of the most controversial issues in the Financial Institutions Act. Primary among these are "Regulation Q" and the payment of interest on demand deposits (checking accounts).

Regulation Q is the regulation by which the Federal Reserve Board exercises its authority to set interest rates on time and savings deposits. The term "Regulation Q" is used generically to refer to the authority by which the various regulatory agencies set interest rate ceilings on deposits in institutions under their respective jurisdictions.

Under this authority, the financial regulatory agencies currently set interest rate ceilings on time and savings deposits of less than $100,000. Correspondingly, the authority to set rate ceilings permits the agencies to establish a "differential" in the form of a higher rate for thrift institutions than for commercial banks on comparable accounts. Presently, thrift institutions are able to pay a maximum rate ¼ percent higher than commercial banks can pay on most time and savings deposits.

The Regulation Q matter is, in reality, two issues. One involves the establishment of deposit rate ceilings; the other involves the establishment of a differential on deposit rates in favor of thrift institutions.

As originally introduced in 1973, the Financial Institutions Act proposed the termination of interest rate ceilings on time and savings deposits 5½ years after enactment. The rate differential permitted to thrift institutions on such deposits would have been phased out over the 5½ year period.

These provisions were subsequently modified by the Administration as a result of a series of consultations between the Administration and a number of parties affected by this legislation. As introduced in 1975, the bill again proposed the termination of deposit rate ceilings 5½ years after enactment, but without phasing out the differential. At the same time, the bill was modified to require a report to Congress by the Secretary of the Treasury six months prior to termination with recommendations and findings on the termination of deposit rate ceilings in the financial environment then prevailing.

The Committee adopted these provisions, with an amendment adding a new section providing that, for the duration of the 5½ year period, the regulatory agencies are to exercise their Regulation Q authority "in a manner which prevents disintermediation and maintains appropriate levels of mortgage credit."

The Committee believes that the termination of deposit rate ceilings is in the public interest.

In the first place, the Committee believes that the ability of depository institutions to compete effectively for consumer deposits in the future lies not with artificial rate ceilings but with their ability to offer a rate of return which is competitive with rates available on alternative investments in the market-place. Disintermediation occurs whenever market rates rise above interest rate ceilings and thus restricts depository institutions from meeting the credit needs of their customers.

Therefore, in carrying out the policy expressed in Section 103, as conditions permit, the Committee expects the financial regulatory agencies to move interest rate ceilings closer to market rates in an orderly manner in order to protect depository institutions from disintermediation and to assure a fair return to the saver.

Moreover, the Committee believes that rate ceilings discriminate against small depositors. At present, rate ceilings are not imposed on deposits of $100,000 or more and the Committee believes that small depositors, like large depositors, are entitled to earn a rate of return which reflects prevailing market rates.

The Committee is mindful of the need to provide for the orderly implementation of the provisions in this Act. For this reason, the Committee agreed to the provisions in the bill extending Regulation Q for 5½ years prior to termination.

The Committee recognizes that deposit rate ceilings must be increased consistent with the ability of financial institutions to pay higher rates on deposits.

The Committee also recognizes the role which the differential currently plays in attracting deposits into institutions which heavily support the housing market. In this regard, the Committee believes that the 5½ year extension of Regulation Q prior to termination assures against unanticipated disruptions from implementation of this Act in the ability of thrift institutions to attract deposits for investment in housing.

In providing for such extension, the Committee expects the regulatory agencies, in carrying out the policy expressed in Section 108, to maintain appropriate interest rate differentials among different types of depository institutions to the extent needed to achieve the objectives of that section.

Traditionally, thrift institutions have enjoyed a differential in order to compete effectively with commercial banks for deposits. The differential has been adjusted as an offset to the ability of commercial banks to offer a wider range of financial services to the public, particularly checking accounts.

However, in light of the substantial expansion of powers to thrift institutions under this Act, the Committee expects the regulatory agencies to monitor the implementation of this Act closely, and to give consideration to maintaining a competitive balance between institutions offering similar types of financial services consistent with the policy of Section 108.

The second issue of considerable controversy in this Title involves the payment of interest on demand deposits.

As introduced, the Financial Institutions Act provided for the retention of the prohibition against the payment of interest on demand deposits which has been in effect since 1933. The Committee rejected this provision and approved an amendment to repeal the prohibition effective January 1, 1977, with the proviso that the Federal Reserve Board, in consultation with the appropriate financial regulatory agencies, may defer the effective date to a date not later than January 1, 1978. If so deferred, the Committee expects the Federal Reserve Board to report to the Congress and explain the reasons for such deferral.

The Committee believes that the prohibition against the payment of interest on demand deposits is no longer justified and its repeal is in the public interest.

The prohibition was originally adopted in response to concerns that the payment of interest on demand deposits encouraged country banks to maintain balances at money center banks, with the withdrawal of these funds to meet seasonal or other needs likely to result in recurring financial crises. This rationale for the prohibition is no longer justified, if ever it was, in view of the emergence of the Fed funds market in which vast sums of money are transferred daily between commercial banks and other depository institutions inside and outside money market centers. In addition, there is recognition that economic growth is encouraged by the flow of funds from areas with surplus funds to areas of the country that are credit deficient, and recognition that monetary authorities can offset the effect of any seasonal withdrawals of funds from money market centers.

The Committee also believes that the prohibition against the payment of interest on demand deposits is inconsistent with the provisions of Title II of this Act which repeal all existing prohibitions against NOW accounts. NOW accounts are interest-bearing accounts from which funds can be withdrawn by means of a negotiable order of withdrawal, similar to a check being drawn on a checking account. The Committee believes that the experience to date with NOW accounts in Massachusetts and New Hampshire lends considerable support to the desirability and practicability of providing a fair return to depositors on demand deposits without adverse impact on financial institutions.

The Committee also believes that the prohibition against the payment of interest on demand deposits is inconsistent with the development and growing acceptance of electronic funds transfer systems which facilitate third party payments and transfers into and out of interest-bearing accounts.

Thus, in many instances, the Committee's action reflects a recognition there has already been a *de facto* if not a *de jure* repeal of the prohibition in the market place.

The Committee is aware that many commercial banks presently provide compensation to their demand deposit customers in the form of free checking accounts, discounts on other bank services, and premiums. In these cases, repeal of the prohibition against the payment of interest on demand deposits is not expected to raise the costs of demand deposits to commercial banks, but merely provide them with the choice of compensating depositors directly, in the form of an interest payment, or indirectly, in the form of discounts or other bank services.

The other depository institutions given demand deposit powers under Title II of this Act would not be expected to bear any unanticipated costs in offering such services, since, in the absence of repealing the prohibition, they would also be expected to provide compensation indirectly in the form of discounts and other services. In either case, depositors would be able to choose the form in which they wish to receive such compensation.

Nevertheless, the Committee is aware that repealing the prohibition may affect the way in which commercial banks and other depository institutions price their services to the public. This is particularly true in the case of corporate demand deposits, which are frequently held in compensating balances at commercial banks as a precondition for obtaining credit.

In view of this, the Committee has agreed to grant the regulatory agencies the authority to delay repeal of the prohibition for up to one year, if necessary. This period may be used by the agencies to assess further the impact which repeal of the long-standing prohibition may have on financial markets and current banking practices. Although the issue of retaining the prohibition against paying interest on demand deposits has been considered throughout the entire hearing process on the Financial Institutions Act, the Committee also stands prepared to engage in further study and to conduct whatever additional hearings may be appropriate before final repeal of the prohibition.

The Committee believes that the repeal of the prohibition against the payment of interest on demand deposits should take place in an environment which assures the safety of deposits and stability of the institutions involved. For this reason, the Committee expects the financial regulatory agencies, pursuant to their authority to set interest rate ceilings on deposits, to set appropriate rate ceilings on demand deposits. These ceilings should be uniform for all depository institutions and be set, at least initially, somewhat below the prevailing rate on passbook savings accounts.

The Committee is aware of concerns expressed over the impact this Act, particularly the termination of Regulation Q, might have on housing.

Throughout its deliberations on this Act, the Committee assessed the potential effect of this Act on the housing market. In addition to receiving testimony from numerous witnesses, the Committee considered a number of studies and econometric simulations which had been conducted to gauge the effect of this Act on housing, including studies conducted under the auspices of the Federal Reserve Bank of Boston, the Federal Home Loan Bank Board, and the Department of Housing and Urban Deveolpment.

These studies support a finding that the termination of Regulation Q in combination with the granting of demand deposit and broadened lending and investment authority to thrift institutions, and the implementation of the mortgage investment tax credit for all institutions, would, under least favorable assumptions, have no adverse effect on housing and would, under more reasonable assumptions, have a positive effect.

As a consequence, the Committee believes that enactment of Title I, coupled with enactment of the other provisions of this Act, will not adversely affect housing. The expanded liability powers for thrift institutions under Title II, including demand deposits, and the expansion of their asset powers under Title III will enable them to pay rates necessary to attract and retain deposits. The Committee expects the demand deposit power alone to increase significantly the total funds available to thrift institutions. The repeal of the prohibition against the payment of interest on demand deposits will contribute further to successful competition by thrift institutions for demand deposits. Furthermore, mortgage lending by other financial intermediaries, including commercial banks, mutual savings banks, and life insurance companies, will be encouraged as a result of the general availability of the mortgage investment tax credit under Title VII.

Therefore, the Committee believes that enactment of this title will successfully serve its objectives of expanding competition, providing improved consumer services, and strengthening the ability of financial institutions to adjust to changing economic conditions while better serving the nation's housing needs as well.

Nevertheless, recognizing that only actual experience will determine whether these objectives will be achieved, this title requires the Secretary of the Treasury, after consultation with appropriate regulatory agencies, to submit a report of findings and recommendations to the Congress six months prior to the termination of Regulation Q, assessing the experience of financial institutions over the five-year period following enactment of the Act in light of the impending termination of interest rate ceilings in the financial environment then prevailing. This study will necessarily include a general review of the state of the economy as it relates to depository institutions, how thrift institutions have responded to and used their new powers, and the needs and interests of depositors.

As introduced, this title contained a provision requiring the so-called Coordinating Committee of financial regulatory agencies, which consult prior to prescribing deposit rate ceilings and differentials for depository institutions under their respective jurisdictions, to consult with the Secretary of the Treasury prior to making any changes in the rate ceiling structure. At present, this Coordinating Committee is comprised of the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.

The management of Federal borrowing by the Teasury has a significant impact on interest rates in the economy and thus on the flow of funds into and out of depository institutions. As the chief financial officer of the United States, the Secretary of the Treasury is in the best position to assess what the Treasury's borrowing needs will be. The Secretary will thus be able to provide useful insight on the possible impact which such borrowing may have on market interest rates. The Committee believes that decisions regarding the appropriate level of rate ceilings will be facilitated by including the Secretary of the Treasury in the decision-making process.

The Committee also added the Secretary of Housing and Urban Development as a consulting member of this Coordinating Committee. The Committee believes this is desirable in view of the effect which rate ceilings and deposit flows have on housing.

The Committee also added the Administrator of the National Credit Union Administration to this Coordinating Committee. The Administrator presently has authority to set rate ceilings on shares at credit unions which he exercises after informally consulting with this Coordinating Committee. The maximum rate to presently payable on share accounts at credit unions is somewhat higher than rate ceilings at other depository institutions on comparable accounts. The provision adopted by the Committee formalizes the consultation process over rate ceilings between the Administrator and the other financial regulatory agencies. The purpose is to subject credit unions to the same procedures by which rate ceilings are imposed on other depository institutions.

The addition of the Administrator of the National Credit Union Administration is necessitated by the grant of demand deposit authority to credit unions in this Act, coupled with the Committee's decision to repeal the prohibition against the payment of interest on demand deposits. Since the Committee expects that uniform regulatory rate ceilings will be imposed on demand deposits, at least initially, in order to impose such ceilings uniformly on all financial institutions empowered to accept demand deposits, this Coordinating Committee will have to consult on establishing such ceilings under Regulation Q. Thus, the Administrator must be a member of the Coordinating Committee.

There is another equally compelling reason to add the Administrator. In addition to checking accounts, the Committee, in Title V, has approved substantially broadened powers to credit unions and has approved a central discount fund for credit unions with access to private financial markets. This fund provides a source of temporary liquidity to credit unions in order that they may remain competitive with other financial institutions. In view of these measures, the Committee believes the same notion of competitive parity requires that the Administrator be made a member of this Coordinating Committee in order that the rates which credit unions pay on all types of member accounts be established pursuant to the same consultative process by which rates are presently set on comparable types of accounts in other competing financial institutions. Thus, the Administrator is authorized to prescribe rate ceilings for insured credit unions, after consultation with the other members of the Coordinating Committee.

However, in exercising the authority under Section 107, the Committee expects the Administrator to assure that there will be no reduction in the amount of interest or dividends which insured credit unions are presently authorized to pay on existing types of member accounts. As the financial regulatory agencies move deposit rate ceilings closer to market rates, the Committee expects that the Administrator, in setting the rates which credit unions are permitted to pay on member accounts, shall take cognizance of the rates which competing thrift institutions are permitted to pay on comparable accounts.

* * * * *

Title II. Expanded deposit liability powers and reserves

In this title, the Committee adopted provisions substantially broadening the deposit liability powers of depository institutions (comparable provisions for credit unions are incorporated in Title V).

Under present law, Federal savings and loan associations are not authorized to offer checking accounts, although thrift institutions in some States are currently authorized to do so. NOW accounts are permitted only in Massachusetts and New Hampshire, and then primarily only to individuals. National banks are restricted in their ability to offer savings accounts to their corporate customers.

This title changes the present third party payment authority of both thrift institutions and commercial banks.

Federal thrift institutions are authorized for the first time to offer checking accounts. In addition, all current restrictions on NOW accounts are removed, thereby allowing all depository institutions in all States to offer NOW accounts to all their customers, individual and corporate. In the case of State-chartered institutions, the authority to offer NOW accounts remains subject to State law. Federally-chartered institutions are specifically granted such authority.

In addition, this title authorizes national banks to offer NOW accounts to their individual and corporate customers and to offer corporate savings accounts. In line with the expanded lending powers for thrift institutions contained in Title III, this title also authorizes Federal thrift institutions to offer credit card services.

The grant of checking account powers to Federal thrift institutions is one of the most significant extensions of new authority under this Act. Once deposit rate ceilings have been eliminated, thrift institutions will be placed at a considerable disadvantage in competing with commercial banks if they cannot offer demand deposits.

Ease and convenience of withdrawal are essential to meet the needs of an increasingly mobile and sophisticated society of consumer savers. This is underscored by the experience to date with the expanding programs, public and private, or direct deposit. A significant percentage of participants has chosen to have funds deposited in institutions which provide the convenience of withdrawal by check.

The Committee fully anticipates that the grant of authority to offer checking accounts will substantially enhance the competitive position of thrift institutions in attracing and retaining deposits. In turn, thrift institutions will become less dependent on the maintenance of interest rate ceilings on time and savings deposits and will be better equipped to assure a steady flow of funds for mortgage credit.

The Committee believes there is no longer any justification for preventing depository institutions from offering these types of third party payment services to the public. For one thing, the distinction between savings deposits at thrift institutions and demand deposits at commercial banks has already been blurred by electronic funds transfer systems and by preauthorization agreements which permit depositors to make payments out of interest-bearing savings accounts.

NOW accounts in Massachusetts and New Hampshire have also blurred the distinction between savings and checking accounts. The Committee believes that NOW accounts have successfully met the needs of many depositors and improved competition between depository institutions in those two States. It sees no reason why depositors and depository institutions in other States should not share these same benefits.

The Committee is aware that the payment of interest on demand deposits provided for in Title I, as amended, may eliminate the need for NOW accounts. However, it sees no reason to prevent depository institutions from being given the opportunity to offer them to the public. Indeed, the opportunity to offer NOW accounts may encourage some depository institutions to structure the NOW account concept to meet the public's demand for new and unique financial services. Pending repeal of the prohibition against payment of interest on demand deposits, NOW accounts will also provide depository institutions experience with interest-bearing transactional accounts.

The prohibition against commercial banks offering saving accounts to their corporate customers was originally designed for the purpose of fostering thrift. It was felt that corporate accounts were to be held at commercial banks for business purposes rather than for thrift purposes. The Committee no longer sees any justification for such a prohibition. The prohibition is also inconsistent with investments of corporations in large certificates of deposit issued by commercial banks.

The expansion of financial powers under this title of the bill will broaden the depository base for institutions and increase their ability to compete fo funds. The end result will be a more stable flow of funds into those sectors of the economy, such as housing, that depend on depository institutions to meet their credit needs.

Granting checking account authority to Federal thrift instructions and credit unions, coupled with the broadened grant of NOW account authority to all depository institutions, raises the issue of reserve requirements regarding such accounts.

In resolving this issue, the Committee determined that a system of reserves against demand deposits should be established that would treat commercial banks, thrift institutions, and credit unions alike. The Committee also believes that NOW accounts are sufficiently like demand deposits to be treated similarly, although different reserve requirements may be established for demand deposits and NOW accounts.

In recognition of the relationship between demand deposits and NOW accounts and the conduct of monetary policy, this title provides the Federal Reserve Board with the authority to establish reserve requirements on demand deposits and NOW accounts in thrift institutions and credit unions as well as for member banks. Accordingly, the Federal Reserve Board, after consultation with the Federal Home Loan Bank Board and the Administrator of the National Credit Union Administrator, shall establish reserve requirements on demand deposit accounts and NOW accounts for members of the Federal Home Loan Bank System, Federal credit unions, and members of the National Credit Union Administration Discount Fund. These reserves are to be maintained in cash or in balances in a Federal Reserve bank, as established by the Federal Reserve Board after consultation with the appropriate regulatory agency.

The Federal Reserve Board, the Federal Home Loan Bank Board, and the National Credit Union Administration will continue to set reserve and liquidity requirements for institutions under their respective jurisdiction on time, savings, and share accounts.

As introduced, Title II also contained provisions which would expand the Federal Reserve's authority to restructure the existing system of reserves. They would eliminate the distinction between reserve city banks and non-reserve city banks for the purpose of setting reserves, and would reduce the range of reserves on demand time, and savings accounts. The Committee rejected these provisions. The authority to reduce reserve requirements below the current legal minimums could, if used, result in a substantial revenue loss to the Treasury.

Finally, Title II, as proposed, contained a provision that specifically authorized the Federal Home Loan Bank Board to serve as a clearinghouse for member and nonmember thrift institutions offering checking accounts to the public. It also required any private organization or person providing check clearing services to commercial banks to provide equal access to members of the Home Loan Bank System.

The Committee adopted an amendment making it unlawful for any person who provides clearing or settlement services to refuse to make its services available to all depository institutions on a non-discriminatory basis. The Committee deleted the specific grant of authority to the Federal Home Loan Bank Board to establish clearinghouse facilities for its members.

As adopted, this title also provides that Federal thrift institutions, Federal credit unions, and credit union members of the National Credit Union Administration Discount Fund shall have access to the Federal Reserve clearing system on a non-discriminatory basis.

Title III: Lending and investment powers

As introduced, Title II proposed a significant expansion of the lending and investment powers of depository institutions, particularly thrift institutions.

Subsequent to the bill's introduction, the Federal Home Loan Bank Board prepared for the Committee's consideration a comprehensive revision of Section 5(c) of the Home Owners' Loan Act of 1933 regarding the lending and investment powers of Federal savings and loan associations. With the Administration's approval, the Bank Board's proposal was taken up by the Committee as a complete substitute of the bill's original proposals regarding the lending and investment powers of Federal thrift institutions. With amendments, the Committee approved the comprehensive revision of Section 5(c).

Under the original proposals of Title III, many of the expanded liability and investment powers of thrift institutions were subject to separate percentage of asset limitations. In contrast, this title establishes two overall investment categories for Federal thrift institutions.

The first category includes primarily residential mortgage loans and liquidity investments and is subject to no percentage of assets limitation. The second category includes primarily non-housing related investments which may not, in the aggregate, exceed 30 percent of assets. Among the investments authorized in the latter category are education loans, consumer loans, development or construction loans for residential dwellings, commercial real estate loans, loans for purposes relating to community conservation, development or improvement, investments in service corporations, investments in commercial paper and other corporate debt securities, bank deposits and bankers acceptances.

For descriptive purposes, the two categories are referred to as the 70 percent and 30 percent categories.

The basic objective of this title is to encourage thrift institutions to increase portfolio diversification, thereby providing increased liquidity and increased profitability on shorter-term, non-residential mortgage-related investments, while, at the same time, encouraging them to remain primarily long-term residential mortgage lenders. This is designed to provide thrift institutions the needed flexibility of investment and income to respond effectively to changing market conditions.

With substantial investments in long-term, fixed-rate residential mortgages, thrift institutions experience very gradual changes in average yield on existing portfolio. This makes it difficult for them to respond effectively to fluctuations in interest rates caused by changing market conditions.

Earnings by thrift institutions on shorter-term investments will be more responsive to these changing conditions and will therefore provide added flexibility both in terms of offsetting less-responsive income on long-term portfolio investment and in terms of increased ability to attract and retain deposits in periods of high interest rates. Thrift institutions will thus be better insulated against the disruptions of disintermediation and better able to provide a more stable flow of residential mortgage credit over the credit cycle.

* * * * *

With regard to State institutions converting to a Federal charter (as discussed in Title IV), this title provides for flexibility in investment powers during a transition period, subject to regulations by the Federal Home Loan Bank Board. For a period not to exceed five years, converting institutions may invest without restriction in those areas included in the 30 percent of assets category. They may also retain certain other investments which are not authorized by the Act, but they may not increase them. As provided in Title IV, mutual savings banks converting to a Federal charter may retain certain pre-conversion investments, as permitted by the Federal Home Loan Bank Board, but the Board may direct that those similar in type to the investments in the 30 percent of assests category be subject to limitation.

The Committee adopted an amendment adding a new paragraph 5(c) (2) to the Home Owners' Loan Act granting Federal associations personal trustee and fiduciary powers. The Committee believes that the grant of trust powers in combination with the other powers contained in this title, together with the authority to offer checking accounts and NOW accounts, will provide Federal thrift institutions the necessary means to become full-service family financial centers.

As full-service family financial centers, Federal thrift institutions will enjoy greater flexibility in their asset portfolios. Nevertheless, their commitment to shorter-term, non-residential loans and investments is subject to a 30 percent of assets limitation. The Committee believes this amount will substantially enhance their ability to attract and retain deposits which, in turn, will reinforce their ability to maintain their traditional role as primarily long-term residential mortgage lenders.

In this title, the Committee also adopted the bill's proposals to liberalize the powers of national banks to make real estate loans and provide added authority for investments in community welfare and development.

Section 24 of the Federal Reserve Act presently limits the amount and maturity of real estate loans by national banks. This title repeals such limitations and permits national banks to make such loans on the same basis as other types of loans.

Prior to 1913, national banks were prohibited from making real estate loans, not because such loans were regarded as unsound, but because it was felt that banks engaged in receiving deposits principally on a demand basis should not use those funds for loans with long maturities. Since 1913, when national banks were first given authority to make real estate loans, such authority has gradually been liberalized as national banks acquired greater experience and competence in managing liabilities, as the maturity structure of their deposits lengthened and as secondary markets developed for real estate loans. The same rationale applies to the further latitude provided in this title, especially since loans secured by residential mortgages are very low risk loans. Current restrictions hinder the flow of funds into the housing markets, and it is the Committee's judgment that removal would have a positive effect on mortgage lending activities by national banks.

To broaden the asset powers of national banks and encourage investment in community welfare and development to a degree comparable to that provided for thrift institutions under this Act, this title permits national banks to invest in loans for, equity and debt securities for, and real estate for community welfare and development up to 3 percent of total assets. According to the rulings of the Comptroller of the Currency, national banks are currently allowed to invest in community development projects up to a maximum of 5 percent of capital and surplus.

In this title, the Committee also adopted the bill's proposal to grant the Federal Home Loan Bank Board increased flexibility in defining the types of assets which may be used as collateral in advances made to members. * * * The Committee feels that such increased latitude in determining collateral is appropriate in view of the expanded powers being granted thrift institutions under this title.

Similarly, the Committee adopted the proposal granting the Federal Reserve System increased flexibility in defining the assets acceptable for discount at the discount rate.

Title IV: Charters for thrift institutions

As introduced, Title IV proposed broadening the chartering alternatives for thrift institutions. Federal savings and loan associations would be authorized, for the first time, to organize as stock associations, either *de novo* or upon conversion from a mutual to stock association. Currently, all Federal savings and loan associations are mutual associations. Thrift institutions would be authorized to convert freely from State to Federal charter or Federal to State charter. Conversions could be with or without a change in form of capital structure, i.e., mutual to mutual, stock to stock. All conversions of thrift institutions from State to Federal charter would be regulated by the Federal Home Loan Bank Board.

The Committee approved these provisions except for those authorizing conversions of mutual thrift institutions to stock institutions. Conversion from mutual to stock form of organization was authorized on a limited trial basis in Public Law 93-495, enacted October 28, 1974. The Committee believes the experience under these trial conversions should be assessed before again addressing the issue of conversions involving a change in form of capital structure.

Under this title, State-chartered thrift institutions, including savings banks and credit unions, are permitted to convert to a Federal charter. Currently, all savings banks, both mutual and stock, are State-chartered. This title thus provides savings banks, for the first time, an opportunity to convert to a Federal charter.

All conversions of State-chartered thrift institutions to Federal thrift institutions are to be regulated by the Federal Home Loan Bank Board which will have primary regulatory authority over converted institutions.

The Committee approved conversions between Federal and State charters not involving a change in capital structure in the belief that such chartering alternatives are desirable. The dual banking system, under which depository institutions are primarily subject to either Federal or State regulation, has encouraged competition, innovation, and experimentation in regulation. It has likewise restrained regulatory authorities from overzealously protecting the interests of existing institutions and from restricting entry in established markets by competing institutions.

The dual banking system is, however, incomplete, inasmuch as Federal law explictly prohibits the Federal chartering of stock savings and loan associations and make no provision for Federal chartering of mutual savings banks. This title removes these impediments by authorizing stock thrift institutions at the Federal level, just as stock institutions are now permitted at the State level, and by permitting Federal charters for savings banks.

Savings banks currently operate in 17 States and historically their investment authority has been generally broader than that of savings and loan associations. As a consequence, the portfolios of savings banks are not as heavily invested in residential mortgage loans as are those of savings and loan associations.

While the savings bank industry as a whole has about two-thirds of its investment portfolio in mortgage loans, the portfolios of individual savings banks vary. In recognition of these historical differences between savings banks and savings and loan associations, this title contains a grandfather clause which permits State savings banks converting to Federal charters to retain their life insurance authority, their nonresidential mortgage lending authority and their authority to continue to invest in various types of corporate securities notwithstanding the applicable 30 percent of assets limitation on non-residential mortgage and liquidity investments contained in Title III. Nevertheless, the retention of these investment opportunities is subject to rules and regulations which may be imposed by the Federal Home Loan Bank Board. In exercising such authority, the Committee intends that the Board facilitate and make practicable the conversion of savings banks from a State charter to a Federal charter.

Converting savings banks may require somewhat different investment restrictions than those imposed on savings and loan associations. Nevertheless, the Committee intends that all Federal thrift institutions, including savings banks, be encouraged to be primarily long-term residential mortgage lenders.

This title also redesignates the Federal Savings and Loan Insurance Corporation as the Federal Savings Insurance Corporation. This revision reflects the insurance coverage of all Federal thrift institutions, not just savings and loan associations. It also clarifies the language setting forth the Corporation's regulatory authority.

Title V: Credit unions

As introduced, Title V proposed a substantial expansion of the asset and liability powers of Federal credit unions. Among its principal provisions, it would permit credit unions to make mortgage loans, issue share certificates with varying dividend rates and maturities, and make secured and unsecured loans over longer terms and in higher amounts than is currently permitted. It would also establish a central discount fund to deal with emergency liquidity problems of credit unions.

The Committee approved a further broadening of credit union powers and adopted a number of amendments proposed in S. 1475, the Credit Union Financial Institutions Act of 1975. Among these are the granting of checking account powers and the establishment of a central discount fund to obtain funds for short-term liquidity purposes by issuing obligations in the capital market.

The general purpose of this title is to provide federally chartered credit unions with those powers necessary to enable them to continue operating and effectively competing as unique mutual thrift institutions.

* * * * *

Through credit unions pioneered in the consumer financial service market, the laws regulating their operations failed to keep pace with their members' expanding financial needs. In addition, banks, savings and loan associations, finance companies, insurance companies, mutual funds, and other financing entities evolved as sophisticated competitors in the same area.

The very nature of credit unions, which are formed by and for people of basically modest means who have a close occupational or geographic association, precludes operation on a grand scale. However, having proven their value and stability, they stake a legitimate claim for the broader and more flexible authority which will allow them to serve their members better in a highly competitive financial environment.

This title changes the definition of "Federal credit union" by specifying that Federal credit unions are cooperative thrift institutions for the purpose of encouraging thrift, creating a source of credit at fair and reasonable rates of interest, meeting the financial needs of its members and members' families, and providing an opportunity for credit union members to use and control their own money in order to improve their economic and social conditions. In acknowledging these purposes, it is not the Committee's intention that these changes should in any way be construed as a departure from the narrowly defined principle of the common bond, which requires that credit union members have a similar occupation or association or live within a well-defined neighborhood, community, or rural district.

* * * * *

Federal credit unions are also authorized to issue share certificates with varying dividend rates and varying maturities to members, and, in the case of credit unions serving low-income members, to non-members.

Presently, credit unions are not permitted to pay different dividends on different classes of share accounts, so the only instrument for attracting the savings of members is the existing share account. The dividend paid on the share account must be uniform for all members. This title allows credit unions to pay varying rates through the use of share certificates which are comparable to the certificates of deposit which are issued by other financial institutions. The rate is dependent upon the amount and upon the time that the share certificates are left on deposit with the credit union. This provides Federal credit unions with an appropriate savings instrument to meet the competition arising from the various consumer savings instruments that have become a substantial part of the consumer savings market in recent years.

Federal credit unions are granted substantial new lending powers under this title. They are permitted to make consumer loans with a maximum maturity of 12 years, upon such security as the board of directors deems necessary. Unsecured loans are determined by the board of directors but may not exceed 10 percent of the paid-in and unimpaired capital and surplus of the credit union. Credit unions are presently limited to loan maturities of 5 years on unsecured loans and 10 years on secured loans, with exception for longer maturities on mobile home loans. They are also authorized for the first time to make 30-year first lien mortgage loans secured by a residential dwelling and 15-year mobile home and home improvement loans.

Federal credit unions are currently making real estate loans within the existing 10-year loan maturity limit. Last year Congress enacted legislation permitting them to make mobile home loans with maturities up to 20 years for VA-guaranteed loans. In addition, approximately 26 State laws now permit State credit unions to make long-term real estate loans, so credit unions in general have had considerable experience in the mortgage lending field. In view of the pressing social priority for housing, the Committee deems it appropriate to grant Federal credit unions the powers to make long-term first lien mortgage loans to their members for their residences on terms consistent with those of other mortgage lenders.

Other new lending authorizations allow Federal credit unions to make federally guaranteed or insured loans. They may increase the amount of a loan that can be extended to a director or member of the supervisory or credit committee without the approval of the board of directors from $2,500 plus pledged shares to $5,000 plus pledged shares. The same officials would also be permitted to guarantee or endorse up to the same amounts.

The borrower's right to repay a loan prior to maturity without penalty is clarified, and revolving lines of credit are authorized. Although there is no allowance in present law for different credit ratings and circumstances, this title authorizes varying terms and conditions on lines of credit for different borrowers, as established by the board of directors.

Currently, credit unions may set up special loans plans whereby the member completes a single application and note, and then obtains advances without a new note for each disbursement. However, each request for an advance must be approved by the credit committee or a loan office of the credit union, and the maximum amount against which the member may borrow is not automatically replenished. This title allows the borrower to apply continously for and receive advances as long as the total outstanding indebtedness never exceeds the line-of-credit maximum.

In other general lending authorizations, credit unions are permitted to make loans to other credit unions, provided such loans are approved by the board of directors of the credit union making the loan. They are also permitted to make loans to credit union organizations provided One percent of the paid-in and unimpaired capital and surplus of the credit union. A credit union organization is defined as any organization serving credit unions primarily of which the lending credit union is a member. In addition, credit unions are authorized to participate with other credit unions, corporations, or financial organizations in making loans to credit union members, providing such loans are made in accordance with the written policies of the board of directors of the credit union.

In addition to providing new flexibility in types of loans which Federal credit unions may offer, this title provides Federal credit unions with greater leeway in establishing rates of interest. At present there is a maximum interest rate on loans of one percent per month on unpaid balances, inclusive of all charges incident to making the loan. In order to allow credit unions to charge interest rates that more accurately reflect market conditions during periods of high interest rates, the Administrator of the National Credit Union Administration is authorized to establish a higher interest rate than the current statutory maximum of one percent per month.

Federal credit unions are granted expanded investment authority with regard to Federal, State and local obligations. They are also permitted to invest in the shares of other insured credit unions, as well as in accounts or deposits of any federally- or State-insured financial institution. They are authorized to invest up to 5 percent of their paid-in and unimpaired capital and surplus in the shares, stocks, or obligations of any organization, corporation, or association which strengthens or advances the development of credit unions or credit union organizations. Such investments must be approved by the National Credit Union Administration.

In order to avoid placing Federal credit unions at a competitive disadvantage with other thrift institutions, this title authorizes credit unions to offer checking account powers with the prior approval of the Administrator of the National Credit Union Administration. Withdrawals or transfers from accounts by means of negotiable, transferable, or nontransferable checks, drafts, orders or authorizations are permitted, including NOW accounts. In other changes pertaining to deposits, credit unions may deposit funds in banks outside the State where the credit union does business, they may make deposits in demand accounts of other insured credit unions, and they may place funds in federally-insured savings and loan associations and mutual savings banks.

Numerous changes are made in the methods of operations possible for credit unions. They are permitted to sell, purchase, or handle any of the direct and indirect cost incident to providing such service. They are authorized to purchase, sell, pledge, discount, or otherwise receive or dispose of, in whole or in part, any eligible obligations of their members. The term "eligible obligations" are to be defined by the National Credit Union Administration. In the case of involuntary liquidation, the Administrator of the National Credit Union Administration is authorized to receive, examine, and pass upon the claims of members on member accounts.

This title provides for flexibility in revising internal management structure. Changes in the internal management of Federal credit unions are effected by authorizing a credit union to have a board of any odd number of at least 5 directors. The board is permitted to appoint a credit committee in cases where the credit union decides to have a credit committee chosen by means other than election. Application for loans may be approved by a majority of the credit committee present at the meeting at which the application is considered.

This title establishes a National Credit Union Administration Discount Fund within the National Credit Union Administration "to provide funds to meet the temporary liquidity needs of credit unions and for that purpose to provide for the orderly transfer of funds among and between credit unions and other financial institutions." A temporary liquidity need is defined to include emergency needs, seasonal needs, and needs arising from local economic dislocations.

The traditional sources of external liquidity for credit unions have been commercial banks, central credit unions, and other credit unions. For some credit unions, and especially the larger ones, which have established lines of credit at banks, such sources have been adequate during periods of normal market conditions, as was the case during the credit crisis of the 1960's and the early 1970's when the competition for savings funds was especially intense.

The Discount Fund offers credit unions a reliable secondary and temporary source of liquidity when the traditional and local liquidity sources are inadequate. The existence of the Fund as a source of liquidity is likely to enhance a credit union's bargaining position in dealing with other lenders. At present, credit unions are the only depository institutions which do not enjoy the protection of some sort of central liquidity or discount facility, and they are particularly sensitive, because of their common bond, to changing economic conditions.

Membership in the Discount Fund is optional for all credit unions. Those joining must subscribe to stocks in an amount equal to ½ of one percent of their paid-in and unimpaired capital and surplus. Only one-half of that amount must be transferred to the Fund. The rest remains on call and may be invested in such assets as the Administrator may determine.

The Fund may borrow from any source, including the Share Insurance Fund; and the Secretary of the Treasury is authorized and directed to purchase up to $150 million of Fund obligations in the event the Fund has insufficient obligations. In addition, the Discount Fund may issue obligations such as bonds and debentures in the private capital market in an aggregate amount not to exceed ten times its paid-in capital and surplus or 1½ percent of the total assets of all credit unions, whichever is less.

It is not the Committee's intention that the discount facility borrow money in excess of truly essential needs, and its borrowing capacity is therefore expressly limited as follows:

1. The anticipated effect of making participation voluntary rather than mandatory is to reduce the amount of capital supplied by credit union members and, therefore, the additional borrowing or leverage which might be obtained as a result of such capital. This provision calls for a 10 to 1 leveraging ratio, so for every dollar of capital supplied by credit unions, the facility will be able to borrow 10 dollars on the open market.

2. The limit on the maximum amount of the facility's borrowing in the open market to a sum not greater than 1½ percent of total credit union assets provides an additional check on its funding capacity.

The Administrator is authorized to establish limits on advances to members of the Discount Fund. The Discount Fund is to be exempt from Federal income taxes except that its real and tangible personal property would be subject to taxes to the same extent as other property is taxed. The Fund is subject to audit by the General Accounting Office.

Title VI: Government-insured and guaranteed mortgage loans

This title abolishes interest rate ceilings on FHA-insured and VA-guaranteed mortgage loans and prohibits the lender from charging discounts or points on such loans.

The purpose of abolishing interest rate ceilings on FHA and VA mortgages is to permit the interest rates on such mortgages to more closely reflect market rates and thereby attract additional funds into the housing market, particularly for low and middle income families. Such ceilings have resulted in the widespread use of points and the general unavailability of funds through these channels.

However, should the Secretary and the Administrator determine that rates agreed upon by lenders and borrowers are excessive in view of current interest rates in the mortgage market, they are permitted by the Act to apply standby authority in setting rate maximums.

At present, there is no prohibition against charging "points" on government-insured mortgages. A "point" is a percentage of the face amount of a mortgage, which is paid by the seller to the lender as a consideration for the lender's making a loan to the buyer. Since the points paid by the seller are commonly passed along in the selling price, this practice has rendered interest rate ceilings largely ineffective as a mechanism for protecting borrowers against higher housing costs. In order to avoid distortions in the market and confusion among borrowers, this title directs the Secretary of HUD and the VA Administrator to prevent the charging of "points" on FHA-insured and VA-guaranteed mortgages.

Title VII: To provide for the uniform application of the tax laws to all financial institutions and a credit for interest from qualifying real property loans

This title is intended to serve two principal objectives. The first is to establish a uniform tax formula for all financial institutions, under which a given investment or activity would be subject to the same income tax provisions regardless of the functional type of financial institution. The second is to provide an incentive for mortgage investment by establishing a mortgage investment tax credit. The tax provisions of this title are an integral part of the comprehensive financial restructuring proposals contained in this Act. The current bad debt reserve allowance for thrift institutions will be phased out in tandem with broadened new powers provided by this Act. At the same time, the mortgage investment tax credit will be enacted to assure a commitment of capital into the residential mortgage market by all financial intermediaries.

* * * * *

This title would promote competitive equality among financial institutions by taxing thrift institutions' income on the same basis as similar income received by other institutions from the same types of activities. It would eliminate the special reserve provisions applying to thrift institutions and would require that reserve additions be computed according to methods similar to those applying to commercial banks.

* * * * *

This title would provide a tax incentive by offering a mortgage interest tax credit to institutions which have at least 10% of their assets in qualifying residential mortgage loans. A qualifying residential mortgage loan is defined as a loan secured by a first lien against real property, provided such property is located in the United States or a possession thereof, and is either:

1. A loan secured by an interest in real property which is or will become residential—therefore, covering home improvement loans, single or multi-family dwellings, mobile homes not used on a transient basis, and facilities in residential developments; or

2. A loan secured by interest in real property located within an urban renewal area to be developed for predominantly residential use (under an approved urban renewal plan) or located within a so-called "model cities" area.

As originally proposed, the tax credit under this title would be multi-level, with institutions having 70% of assets in qualifying residential loans being allowed a credit equal to 3½ percent of residential mortgage interest income. If less than 70% of assets is invested in residential mortgages, the credit percentage would be reduced by 1/30th of one percentage point for each one percentage point below 70% down to the minimum level of 10% of assets, at which point a 1½ credit is available. The Committee amended these provisions, raising the tax credit incrementally to 3⅝ percent for institutions holding 80% of their assets in qualifying residential mortgages.

Savings and loan associations and mutual savings banks will be given a one-time option until 1979 to decide when to substitute this tax measure for their current bad debt loss reduction. By 1979, all savings institutions will be required to adjust to this mortgage interest tax credit.

* * * * *

Additional Views

We support the Financial Institutions Act as reported and concur generally with the analysis contained in the Committee Report, but not without some reservations and concerns which are outlined in these additional views.

The bill would restructure our system of financial institutions in order to achieve four stated purposes of the legislation:

(1) to expand competition;

(2) to provide improved consumer services;

(3) to strengthen the ability of financial institutions to adjust to changing economic conditions; and

(4) to improve the flow of funds for mortgage credit.

We agree with all of these objectives and we have little doubt that the legislation will help to achieve the first three. However, we are concerned that the act may not achieve its fourth objective of improving the flow of funds for mortgage credit, particularly if this goal is not uppermost in the minds of those who will administer the Act.

The net impact of the legislation on housing is difficult to assess because some of its provisions would have a beneficial effect and some would have an adverse effect. Because of the numerous variables involved, it is impossible to predict with certainty that the Financial Institutions Act will have a favorable effect on the flow of funds for mortgage credit.

The main provisions of the bill which would adversely effect the availability of mortgage credit are those which broaden the powers of savings and loan associations to invest in assets other than residential mortgage loans. The bill gives savings and loan associations new powers to invest in consumer loans, commercial paper, corporate bonds and State and local bonds, and removes certain percentage limitations on investment in non-housing loans. An economic study prepared for the Department of Housing and Urban Development estimates that the combined effect of these new investment powers will be to reduce the percentage of S&L funds invested in residential mortgage loans by about 6 to 8%. This would involve a withdrawal of between $15 and $20 billion from the residential mortgage market.

These negative effects on the availability of mortgage credit must be weighed against the provisions of the bill which would have a positive effect on the availability of mortgage credit. These include increased deposit powers for thrift institutions and a new mortgage tax credit provision.

Increased deposit powers for thrift institutions, and particularly checking account powers, will enable these institutions to compete more effectively with commercial banks and to attract a larger share of consumer deposits. Thus, while savings and loan associations might invest a smaller percentage of their assets in home mortgage loans, they will have a larger volume of loanable funds at their disposal.

In addition, the mortgage tax credit will induce other lenders including commercial banks, life insurance companies, and mutual savings banks to invest a greater percentage of their assets in home mortgage loans. Thus, even if savings and loan associations invest less in home mortgages, there would be an increased level of investment on the part of other lenders.

The available evidence suggests that the positive effects of the Financial Institutions Act on housing might outweigh the negative effects. Nevertheless, no one can be certain of the exact result. To a large extent, then, the legislation will require careful monitoring by the Congress and the regulatory agencies to be sure that it is achieving its intended effect.

The basic policy tool for mediating any adverse effects the bill may have on housing is the authority to set limits on the rates of interest payable on deposit accounts—the so-called "Regulation Q" authority. There are many inequities and economic inefficiencies associated with Regulation Q and we hope that the authority can eventually be terminated. In the meantime, we believe Regulation Q will continue to play a central role in assuring a reasonable supply of mortgage credit. This view is reinforced by Section 108 of the bill which for the first time establishes in specific statutory language that one of the objectives of the Regulation Q authority is to "maintain appropriate levels of mortgage credit".

Setting maximum rates of interest payable on deposit accounts affects the mortgage market in two ways. First, the general level of interest rate ceilings has an impact on the availability of mortgage credit. Second, the differential in interest rate ceilings between commercial banks and mortgage-oriented thrift institutions affects the availability of mortgage credit.

The general level of deposit rate ceilings affects the mortgage market because of the financial structure of savings and loan associations, the nation's principal supplier of home mortgage loans. These institutions now have more than 80 percent of their assets invested in mortgage loans most of which are long term. By way of contrast, commercial banks have the bulk of their assets invested in short term business or consumer loans. When credit is scarce and market interest rates are rising rapidly, commercial banks are in a better position to bid aggressively for funds by offering higher rates on their deposit accounts. The higher cost of money to the bank can be quickly transmitted to the bank's loan customers in the form of higher interest rates. On the other loan, savings and loan associations find themselves locked into their portfolio of long term mortgages with fixed rates of interest. As a result, most savings and loan associations cannot afford to match the rates which could be offered by commercial banks on their deposit accounts during a period of tight money.

The Financial Institutions Act is intended to help ease the problem by providing savings and loan associations with more flexible lending powers, particularly with respect to short term loans and investments. These powers are intended to enable savings and loan associations to increase their earning ability in order that they can bid more aggressively for funds during a credit shortage. Nonetheless, it is expected that savings and loan associations will still continue to invest a major portion of their funds in home mortgages so that the structural imbalances between commercial banks and thrift institutions will not completely disappear. Moreover, any shift in the loan portfolios of savings and loan associations will only occur gradually over time.

Because of these structural factors, the general level of deposit rate ceilings is of critical importance to the availability of mortgage credit. If the level is set beyond the ability of most savings and loan associations to pay, funds will be shifted from savings and loan associations into commercial banks. Savings and loan associations would experience disintermediation while commercial banks would enjoy a deposit inflow. Since commercial banks invest less than 10 percent of their funds in mortgage loans compared to over 80 percent by savings and loan associations, it is obvious that the net availability of mortgage credit would be reduced if deposit rate ceilings are set too high.

Section 108 of the bill is intended to provide guidance to the regulatory agencies in establishing deposit rate ceilings over the next 5½ years. It states that the authority to set rate ceilings "shall be exercised in a manner which prevents disintermediation and maintains appropriate levels of mortgage credit." The disintermediation which Section 108 seeks to prevent is intended to apply to savings and loan associations and mutual savings banks as a class of financial institutions as well as to the aggregate of all depository financial institutions. In other words, the financial regulatory agencies must be concerned not only with the overall level of disintermediation but with the distribution of deposit flows between commercial banks and mortgage-oriented thrift institutions.

The second element of Regulation Q which affects the mortgage market is the differential between deposit rate ceilings for commercial banks and thrift institutions. At the present time, savings and loan associations and mutual savings banks enjoy a ¼-percent advantage over commercial banks. This differential enables thrift institutions to attract funds, thereby increasing the overall availability of mortgage credit. This conclusion is confirmed by econometric studies prepared for the Department of Housing and Urban Development and made available to the Committee.

Section 108 of the bill would reinforce the current differential policy by directing the financial regulatory agencies to exercise their authority to set deposit rate ceilings in a manner which "maintains appropriate levels of mortgage credit." This guidance is further amplified by the Committee Report which states that "The Committee expects the regulatory agencies, in carrying out the policy expressed in Section 108, to maintain appropriate interest rate differentials among different types of depository institutions to the extent needed to achieve the objectives of that section." This specific report language was unanimously agreed to by the Committee during its mark-up of the legislation.

We believe this statutory and report language coupled with the Administration's decision to drop from the bill its earlier proposal for phasing out the differential should be carefully noted by the financial regulatory agencies. We would be strongly opposed to removing the differential unless there were clear evidence that such an action would not adversely impact the availability of mortgage credit.

We further believe that the specific guidance given the regulatory agencies in this legislation and report is vital in order to counter-balance the tendency of some agencies to administer Regulation Q ceilings without regard for the impact of their actions on housing.

The most disturbing example of such disregard of the consequences on housing occurred in July of 1973 with the creation—without prior warning to the Congress or the financial community—of four-year certificates of deposit without rate limitation. This was the so-called "wild card fiasco" which in the course of three months shifted over $4 billion from the housing-specialized thrift institutions to the nation's commercial banks. (Along with inflation and other factors, this drain on the resources of thrift institutions touched off the housing collapse of 1973–74.) The Senate Banking Committee was forced to take remedial action in October, 1973 by initiating S.J. Res. 160 which has since required the agencies to place rate ceilings on all consumer-sized deposit categories.

In following our statutory directive to exercise their powers to prevent disintermediation, it is important that the bank regulatory agencies remember these underlying reasons for the rate control system. They must also be cognizant of the limited ability of the specialized housing lenders to ratchet up their savings rates to meet the occasional competition from the government security markets—given their earnings capabilities. And, they must not forget that any increase in the rates paid to the depositors will eventually be reflected in still higher rates for home buyers, farmers, small businessmen, and other credit-worthy Americans.

William Proxmire.
John Sparkman.
Harrison A. Williams.
Thomas J. McIntyre.
Alan Cranston.
Adlai E. Stevenson.
Joseph R. Biden, Jr.
Robert Morgan.

Additional Views of Senator John Tower

I have supported the Financial Institutions Act because I believe it is the best approach to eliminating unnecessary, unwise, and outdated government regulation of our nation's depository institutions. Overregulation of those depository institutions has prevented them from operating efficiently, competing effectively, and meeting the credit needs of their customers.

A major problem is the system of interest rate ceilings imposed on time and savings deposits. These ceilings cause disintermediation whenever open-market interest rates rise above the ceilings. Disintermediation, in turn, disrupts the flow of funds into sectors of the economy that depend on depository institutions for credit. Especially hard hit is housing. Federal efforts to shore up the housing market not only unwisely involve the Federal Government in the nation's financial markets, but exacerbate the housing market problem by putting upward pressure on interest rates.

I cannot support what I see as the alternatives to the Financial Institutions Act. Among these would be a system of credit allocation designed to force funds into those sectors of the economy adversely affected by disintermediation, ceilings on all interest rates in the economy, and expanded Federal spending in areas of the economy which private depository institutions would be able to support if they were not overregulated.

I also want to make clear that I strongly support the language in the report indicating the Committee's willingness to engage in further study and whatever additional hearings may be appropriate before final repeal of the prohibition against the payment of interest on demand deposits. The provision in the bill repealing this prohibition was not part of the Financial Institutions Act as introduced, but was added by the Committee during its final consideration of the bill. While the Committee studied the payment of interest on transactions balances in the form of NOW accounts, in my opinion it did not address the issue of interest on demand deposits directly or adequately.

The prohibition against interest payments on demand deposits has a long history, and its repeal can be expected to have an impact on bank costs, the pricing of bank services, and financial markets in general. In my opinion, adequate attention has not been given to the impact of the prohibition's repeal on these and other financial variables. I will, therefore, propose when this bill comes to the floor that the repeal of the prohibition against interest payments on demand deposits be delayed beyond the date provided in the bill so that the issue can be thoroughly studied and the net impact of the prohibition's repeal adequately assessed.

Mr. TOWER. I yield myself such time as I may require.

Mr. President, I ask unanimous consent that Thomas Brooks of the committee staff be permitted access to the floor during the debate and voting on S. 1267.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

Mr. TOWER. Mr. President, the distinguished chairman of the Financial Institutions Subcommittee has made a very comprehensive statement. I feel a little bit like the man who was called on to make a few remarks after the Sermon on the Mount. I shall be very brief, and will simply review some of the points that have been so well addressed by my good friend from New Hampshire.

Mr. President, the Financial Institutions Act is designed to eliminate unnecessary, outdated, and unwise Federal regulation of our Nation's depository institutions. It will eliminate regulation that has long outgrown any usefulness it may have had at one time. In my opinion, the Financial Institutions Act is a long-overdue step toward freeing our Nation's financial markets from ever-increasing Federal involvement.

The Financial Institutions Act would do the following:

First. Eliminate interest rate ceilings on time and savings deposits, which prevent depository institutions from effectively competing for funds when interest rates rise in the open market. Savers are facing an ever-growing number of attractive investment alternatives in the unregulated open market, and depository institutions can be expected to lose funds to these open market alternatives whenever market rates rise above deposit rate ceilings.

Second. Expand the asset and liability powers of all depository institutions so they can more effectively compete in a ceiling-free environment. Present restrictions prevent earnings of depository institutions from reflecting current market interest rates, and the financial powers of depository institutions need to be expanded so that those institutions can pay the rates necessary to attract deposits.

Three. Establish a uniform system of taxes and a uniform system of reserves against third-party payment accounts so that all depository institutions offering similar types of financial services will be competing fairly. Thrift institutions are already beginning to offer services similar to those being offered almost exclusively by commercial banks, and, if the Financial Institutions Act were not adopted, there would be a need to establish uniform systems of reserves and taxes so that institutions offering similar types of services will be competing on an equal basis.

Four. Establish a uniform system of direct tax incentives to encourage investment in housing for all depository institutions. Present subsidies for investment in housing are largely confined to thrift institutions, and efforts to subsidize housing will need to be expanded to include other depository institutions if investment in housing is to be encouraged on a broader scale.

In the absence of the Financial Institutions Act, depository institutions will continue finding it difficult to attract funds whenever market interest rates rise above ceilings on time and savings deposits. New and yet unforeseen applications of electronic transfer systems will continue to blur the distinction between different types of depository institutions without, at the same time, requiring them to operate under the same tax burden and reserve requirements. Housing and other sectors of the economy that depend on depository institutions to meet their credit needs will continue to be adversely affected during periods of financial disintermediation. Finally, the Federal Government will continue to step up its borrowing during periods of disintermediation in a self-defeating effort to shore up the housing market and other sectors of the economy during those periods.

There are, of course, other alternatives to the Financial Institutions Act, all of which I consider to be unacceptable. Among these would be the following:

First. The imposition of ceilings on all interest rates in the economy in a futile effort to keep market interest rates artificially low and prevent them from rising above rate ceilings on time and savings deposits. This would possibly help prevent disintermediation, but would be impossible to monitor and would have extremely undesirable consequences on our Nation's financial markets and the economy in general.

Second. Another alternative would be a credit allocation system designed to force funds into those sectors of the economy, such as housing, that are adversely affected by disintermediation. This would place our Nation's depository institutions in an economic straightjacket and severely reduce their ability to respond to the long-run credit needs of our Nation.

Third. A similar alternative would be greatly expanded Federal spending in sectors of the economy, such as housing, which private depository institutions would be able to support if they were not so overregulated. This would greatly expand the Federal Government's involvement in our Nation's financial markets and reduce our reliance on market forces and private financial institutions to meet demands for credit.

In my opinion, the long-run health of our Nation's economy would be better served by less, rather than more, Federal involvement in our Nation's financial system. It is for that reason that I have supported the Financial Institutions Act.

Mr. President, I commend the Senator from New Hampshire for his long and arduous labor on this measure. Being diverted from time to time by other committee responsibilities, I should apologize to him for not having made a greater contribution myself, but he has done a statesmanlike job in getting this bill through its development stages, hearings, through the committee, and reported to the Senate Chamber, and I think that the greatest testimony to this act is the fact that apparently we have very few amendments to be offered to it.

I intend to offer one myself, which I will call up in a few minutes, but for the most part it appears this bill is going to stand as it was reported from the committee with some slight modification.

Mr. McINTYRE. Mr. President, I thank my good friend from Texas for the kind remarks.

I also appreciate the very kind cooperation I had from the distinguished senior Senator from Texas.

I yield 10 minutes to the chairman of the Committee on Banking, Housing and Urban Affairs, Senator PROXMIRE.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin has 10 minutes.

Mr. PROXMIRE. Mr. President, I thank the subcommittee chairman on financial institutions.

The Financial Institutions Act represents a thorough overhaul of our Nation's financial institutions. It is probably the most significant and far-reaching banking legislation since the 1930's. It is the culmination of years of effort and work on the part of many people.

I believe the major credit for bringing this legislation to the floor must go to Senator THOMAS MCINTYRE, the chairman of our Subcommittee on Financial Institutions. He held extensive hearings on the bill starting in 1973. He kept the subject alive when few were interested. And I believe he and other members of the committee have helped to shape and remold the administration's earlier proposals to better serve the public interest.

In spite of that, I am ambivalent about the Financial Institutions Act. I have some concern about its impact on housing. It is not at all certain that the bill will benefit housing, and in fact, it may actually divert funds from the home mortgage market. However, these potentially adverse effects on housing must be weighed against other provisions in the bill which may be of benefit to consumers. These include the authority for NOW accounts, the payment of interest-on-demand accounts, the availability of checking accounts at credit unions and savings and loan associations, Federal charters for mutual savings banks, the availability of consumer loans at savings and loan associations, and provisions to streamline and modernize credit unions.

The bill before the Senate is a delicately constructed package that can become easily unglued. It strikes a precarious balance between competing financial institutions, between savers and borrowers, between different segments of the economy, and frankly between good and bad elements in the bill. Any major change could doom the bill to defeat in the House. Certainly any weakening of the proconsumer provisions would render the bill unacceptable to this Senator and many other Senators and Members of the House as well. I hope the Senate will keep the need for balance in mind as it debates this legislation.

I also hope that Senators will take the time to read the committee's report on the Financial Institution Act and especially the additional views signed by a majority of the committee. These additional views express concern about the impact of the bill on housing and discuss the crucial role which regulation Q plays in helping to maintain an adequate supply of mortgage credit. The views indicate that it is the committee's clear intent that the financial regulatory agencies continue the present differential in deposit rate ceilings between banks and thrift institutions. The removal of this differential could have a disastrous effect on the availability of mortgage credit.

I wish to read briefly from the additional views at this point, Mr. President. These views, incidentally, were signed by every Democratic member of the Committee on Banking, Housing and Urban Affairs, by Senators PROXMIRE, SPARKMAN, WILLIAMS, MCINTYRE, CRANSTON, STEVENSON, BIDEN, and MORGAN, 8 of the 13 members of the committee.

The views read in part as follows:

> The net impact of the legislation on housing is difficult to assess because some of its provisions would have a beneficial effect and some would have an adverse effect. Because of the numerous variables involved, it is impossible to predict with certainty that the Financial Institutions Act will have a favorable effect on the flow of funds for mortgage credit.
>
> The main provisions of the bill which would adversely effect the availability of mortgage credit are those which broaden the powers of savings and loan associations to invest in assets other than residential mortgage loans. The bill gives savings and loan associations new powers to invest in consumer loans, commercial paper, corporate bonds and State and local bonds, and removes certain percentage limitations on investment in non-housing loans. An economic study prepared for the Department of Housing and Urban Development estimates that the combined effect of these new investment powers will be to reduce the percentage of S&L funds invested in residential mortgage loans by about 6 to 8%. This would involve a withdrawal of between $15 and $20 billion from the residential mortgage market.
>
> These negative effects on the availability of mortgage credit must be weighed against the provisions of the bill which would have a positive effect on the availability of mortgage credit. These include increased deposit powers for thrift institutions and a new mortgage tax credit provision.
>
> Increased deposit powers for thrift institutions, and particularly checking account powers, will enable these institutions to compete more effectively with commercial banks and to attract a larger share of consumer deposits. Thus, while savings and loan associations might invest a smaller percentage of their assets in home mortgage loans, they will have a larger volume of loanable funds at their disposal.
>
> In addition, the mortgage tax credit will induce other lenders including commercial banks, life insurance companies, and mutual savings banks to invest a greater percentage of their assets in home mortgage loans. Thus, even if savings and loan associations invest less in home mortgages, there would be an increased level of investment on the part of other lenders.
>
> The available evidence suggests that the positive effects of the Financial Institutions Act on housing might outweigh the negative effects. Nevertheless, no one can be certain of the exact result. To a large extent, then, the legislation will require careful monitoring by the Congress and the regulatory agencies to be sure that it is achieving its intended effect.
>
> The basic policy tool for mediating any adverse effects the bill may have on housing is the authority to set limits on the rates of interest payable on deposit account—the so-called "Regulation Q" authority. There are many inequities and economic inefficiencies associated with Regulation Q and we hope that the authority can eventually be terminated. In the meantime, we believe Regulation Q will continue to play a central role in assuring a reasonable supply of mortgage credit. This view is reinforced by Section 108 of the bill which for the first time establishes in specific statutory language that one of the objectives of the Regulation Q authority is to "maintain appropriate levels of mortgage credit".

Mr. President, once again, I commend the initiative taken by the distinguished Senator from New Hampshire in bringing this important legislation to the floor. Without his efforts, we would not be debating this bill today.

I thank the Chair.

Mr. McINTYRE. Mr. President, I thank the senior Senator from Wisconsin, the chairman of the Committee on Banking, Housing, and Urban Affairs.

I have understood, over the years, some of the misgivings he had as we moved this legislation along and of course, without his cooperation, without his final agreement that we were on the right road, we would have had more difficulty than we had.

I do appreciate the consideration the chairman has given us.

Mr. President, I ask unanimous consent that a member of the staff of the Committee on Banking, Housing and Urban Affairs, Mr. Robert Malakoff, be allowed the privilege of the floor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BROOKE.** Mr. President, S. 1267, the Financial Institutions Act, is one of the most important pieces of legislation to be considered by the Senate in this Congress. FIA will make significant, and in some cases long-overdue, adjustments in the way our Nation's depository institutions do business. The committee report very well describes the conceptual framework for the legislation, which I believe is sound, and I shall not repeat that rationale here. However, because of the extensive debate which continues to surround the subject of interest rate ceilings on time and savings deposits, I would like to take this opportunity to explain my thinking on the subject.

The motivation for the 1966 extension of interest rate ceilings to time and savings deposits in thrift institutions appears to have been a desire to assure an adequate supply of mortgage money for housing. Because thrift institutions must "borrow short and lend long," they are particularly vulnerable to the "credit crunches" which occur from time to time and have occurred with greater severity since 1966. Most thrift institutions have portfolios consisting of mortgages acquired over many years, and they cannot afford to bid aggressively for funds as market interest rates rise. By extending interest rate controls to thrift institutions and by permitting a differential between the interest rates which thrift institutions and commercial banks may pay, the Congress in 1966 sought to protect the solvency of the thrifts and to assure the availability of residential mortgage credit at "reasonable rates." It was also expected that this in turn would moderate the impact of "credit crunches" in the vulnerable homebuilding industry.

As one who is deeply concerned about the health of our Nation's housing industry, I can appreciate the motivation of those who sought to "protect housing" by imposing regulation Q interest rate ceilings on deposits in thrift institutions. However, having reviewed the history of how these ceilings have affected the housing industry, I must conclude that they have been of little, if any, help to housing, and they may over the long run have worked to the detriment not only of thrift institutions, but of the homebuyers and homebuilders whom they are supposed to help. Clearly, they have worked against the interest of the average saver.

Between 1966 and the present, interest rates payable on regular accounts at thrift institutions have not been allowed to exceed 5¼ percent. However, during the same period, the rates payable on Treasury bills and notes and on the safest commercial paper have at times risen much higher than 5¼ percent. Moreover, inflation has proceeded at high rates over this period, reaching into "double digits" during several months in the last year. The saver has, as a result, watched his savings diminish in "real dollars," even after taking interest payments into account.

Of course, in a free market it must be expected that sophisticated savers would seek better yields on their savings. And, during each successive period of "tight money" more and more savers have sought higher yield investments as alternatives for their savings accounts. This trend can be expected to continue, and in my opinion, only the attractiveness of governmental deposit insurance has so far prevented much greater disintermediation than has already occurred—and the resultant insolvency of a number of thrift institutions.

Regulation Q ceilings have not prevented disintermediation and may, in fact, have aggravated mortgage credit crises. Having experienced rapid disintermediation, thrift institutions have been reluctant to resume mortgage lending activities when a money crunch ended. Even after savings inflows resume at normal levels, thrift institutions are now slow to increase mortgage lending activities or to reduce mortgage interest rates. While the interest rates these institutions pay on deposits remains relatively stable, interest rates on the mortgages they originate never seem to return to the rates prevailing prior to a period of disintermediation.

If interest rate ceilings were ineffective, but harmless, it would be one thing, but what concerns me most about these controls is that they work against lower-income savers in order to favor high-income homebuyers. Studies show that savers as a whole have lower incomes than mortgage borrowers, yet regulation Q forces savers to subsidize borrowers by making savers take an artificially low rate of return on their savings. The retired school teacher or the elderly couple who live on a fixed income must watch their life savings erode through inflation while upper middle-income homebuyers enjoy the use of their money at controlled interest rates, at the same time reaping all the tax advantages associated with a large home mortgage. Can anyone seriously argue that this is good public policy?

But while interest rate ceilings are ineffective in aiding housing and unfair to the average saver, they cannot, unfortunately, be removed immediately without having a severe adverse impact on some thrift institutions. Low yield mortgages in the portfolios of these institutions make payment of higher interest rates to depositors a practical impossibility at the present time, and if regulation Q ceilings were abolished immediately, these institutions would likely be faced with insolvency.

The committee in its report on the Financial Institutions Act recognizes this problem. FIA extends regulation Q authority for 5½ years, with provision for a report to the Congress by the Secretary of the Treasury 6 months prior to termination making recommendations and findings regarding the need to continue deposit rate ceilings. The report states that the regulatory agencies are to exercise regulation Q authority during the 5½-year period "in a manner which prevents disintermediation and maintains appropriate levels of mortgage credit." The committee expects the financial regulatory agencies to give careful consideration to the effect of any changes in interest rate ceilings.

However, to say that regulation Q ceilings cannot be abolished immediately and must be adjusted carefully, is not to say that nothing can be done to improve on the present situation. The committee in its markup sessions recognized the ineffectiveness and unfairness of regulation Q ceilings and, on my motion, included the following language in the committee report:

> As conditions permit, the Committee expects the financial regulatory agencies to move interest rate ceilings closer to market rates in an orderely manner in order to protect depository institutions from disintermediation and to assure a fair return to the saver.

I would expect the financial regulatory agencies, as conditions permit, gradually to increase the ceilings on interest rate at both thrift institutions and commercial banks, while maintaining the present differential. This would give thrift institutions time to adjust their portfolios to increase the profitability of their investments. With the expanded powers conferred by the Financial Institutions Act, this task will, it is hoped, be made easier.

The issue of interest rate ceilings on savings accounts is not a widely discussed consumer issue, but it could easily become one. Consumer groups have appeared before our committee advocating reform of regulation Q, and I believe that the potential public support for changes in regulation Q ceilings would be broad-based if the issue were brought to the public. It is apparent that regulation Q is not really helping the home buyer and it is hurting the saver, and I think that Congress and the financial regulatory agencies should move now to correct this situation.

The tax provisions contained in title VII of the bill constitute a more effective and fairer way to provide an indirect subsidy to the homebuyer and the housing industry than does regulation Q, and I hope the Finance Committee will give these provisions early consideration.

Mr. **STONE.** Mr. President, will the Senator yield?

Mr. **McINTYRE.** I am happy to yield to the distinguished junior Senator from Florida.

The **PRESIDING OFFICER.** How much time?

Mr. **McINTYRE.** Five minutes.

The **PRESIDING OFFICER.** The Senator from Florida is recognized for 5 minutes.

Mr. **STONE.** Mr. President, I have an amendment to S. 1267, which I send to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. **STONE.** Mr. President, I ask

unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, line 23, strike out all down through line 9 on page 159.

Mr. STONE. Mr. President, title VI of the Financial Institutions Act of 1975 abolishes interest rate ceilings on FHA-insured and VA-guaranteed mortgage loans and prohibits the lender from charging discounts or points on such loans.

Under chapter 37 of title 38, United States Code, the VA Administrator shall guarantee or insure loans which are payable upon such terms and conditions as may be agreed upon by the parties, except that the Administrator shall establish a maximum interest rate from time to time as the loan market demands. The Administrator is required to consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under chapter 37.

The amendment which I offer for myself, and for the chairman of the full committee, Mr. HARTKE, would eliminate from the proposed bill the provision which would remove the interest establishing authority of the Administrator and leave all parties under conditions which the market may determine. As chairman of the Subcommittee on Housing and Insurance I am not expressing any final view on whether I believe the Administrator or the market can better establish interest rates most productive and beneficial for this Nation's 29 million veterans, but we believe the Committee on Veterans' Affairs has the responsibility to inquire into the many ramifications of this matter. It would be most precipitous to change this procedure which has performed to the satisfaction of most veterans for an extensive period of time without some indication what the changes would be for veteran purchasers.

The Legislative Reorganization Act of 1970, which established the Committee on Veterans' Affairs, entrusted the committee with the responsibility to consider all laws affecting veterans, especially the laws codified within title 38 entitled "Veterans' Benefits." The amendment that I have at the desk would carry out this jurisdictional mandate by striking from the Financial Institutions Act of 1975 any reference to interest rate establishment under chapter 37 of title 38 thereby maintaining the current system. I want to assure Senator MCINTYRE, that the Subcommittee on Housing and Insurance will consider this matter at the earliest opportunity. I appreciate his desire that the relationship between FHA and VA mortgages remain one of coordination and mutual consideration.

Mr. McINTYRE. Will the distinguished chairman of the Subcommittee on Housing and Insurance yield?

Mr. STONE. I am happy to yield to my friend from New Hampshire.

Mr. McINTYRE. The Committee on Banking, Housing and Urban Affairs does not intend to impinge upon the jurisdiction of the Committee on Veterans' Affairs. As has been indicated, we believe it desirable to have a coordinated effort between FHA and VA mortgages. Our purpose in abolishing interest rate ceilings on FHA and VA mortgages is to permit the interest rates to more closely reflect market rates and thereby attract additional funds into the housing market, particularly for low- and middle-income families. Such ceilings have resulted in the widespread use of points and the general unavailability of funds through these channels.

I have no objection to this amendment.

I yield to the Senator from Texas.

Mr. TOWER. Mr. President, for the minority side, I have no objection to the amendment, either, and I am prepared to accept it.

Mr. STONE. I yield back the remainder of my time.

I thank the distinguished floor manager and the ranking member of the committee for accepting the amendment.

The PRESIDING OFFICER. All time has been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McINTYRE. Mr. President, I yield myself 2 minutes and send to the desk an amendment offered by myself and the distinguished Senator from Texas.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

Beginning with page 159, line 10, strike out all through the end of the bill and insert in lieu thereof the following:

TITLE VII—EFFECTIVE DATE

SEC. 701. The provisions of this Act shall become effective upon the enactment of the Uniform Tax Treatment of Financial Institutions Act.

Mr. McINTYRE. Mr. President, as I stated in my opening remarks, title VII of this bill is outside the jurisdiction of the Banking Committee and will have to be taken up by the Finance Committee. This amendment simply strikes all of title VII and provides that enactment of this bill today will depend upon the completion of the tax work by the Committee on Finance.

Mr. TOWER. Mr. President, I concur with the Senator from New Hampshire.

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1199

Mr. TOWER. Mr. President, I call up my amendment No. 1199.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senate from Texas (Mr. TOWER), for himself and Mr. SPARKMAN, proposes an amendment numbered 1199.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 103, line 1, strike out lines 1 through 9 and insert in lieu thereof the following: "effect upon the expiration of five years and six months after the effective date of this Act.

"(c) The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall conduct a study to determine the desirability of repealing the prohibition against the payment of interest on demand deposits. In the course of such study, the Secretary and such other officers and agencies shall take into account—

"(1) the benefit which would be derived by consumers from the payment of interest on demand deposits;

"(2) the impact of the payment of interest on demand deposits on the operating expenses of financial institutions;

"(3) the effect which the payment of interest on demand deposits may have on interest rates and other prices for financial services;

"(4) the effect that the payment of interest on demand deposits may have on the competitive balance among different types and sizes of financial institutions; and

"(5) the impact of the payment of such interest on financial markets in general, and such other matters as the Secretary and such officers and agencies deem to be appropriate.

A full report on the findings and conclusions of such study shall be included in the report transmitted pursuant to section 106.".

Mr. TOWER. Mr. President, the amendment which I am offering for Senator SPARKMAN and myself is designed to do two things:

First, extend the dates in S. 1267 for repealing the prohibition against the payment of interest on demand deposits; and

Second, require the Secretary of the Treasury, after consulting with the financial regulatory agencies, to report to Congress on the impact which repeal of the prohibition would have on depository institutions, their customers, and financial markets in general.

As reported by the Committee on Banking, Housing and Urban Affairs, S. 1267 would repeal the prohibition against the payment of interest on demand deposits as of January 1, 1977. However, the Federal Reserve, after consulting with the Secretary of the Treasury and the financial regulatory agencies, could delay repeal until a date no later than January 1, 1978. This mendment would strike those two dates in the bill and repeal the prohibition 5½ years after enactment. This is the same date as that provided in the bill for terminating the authority of the regulatory agencies to impose interest rate ceilings on time and savings deposits.

The purpose of this amendment is to give Congress and the financial regulatory agencies the opportunity to assess the impact of repealing the prohibition after the other provisions in the Financial Institutions Act have been implemented. Obviously, repeal of the prohibition will have a significant impact on depository institutions and their customers. In my opinion, the impact of repealing the prohibition was not adequately explored by the committee during its deliberations on S. 1267. The provision repealing the prohibition was not part of the Financial Institutions Act as introduced. It was added during the committee's markup session on the legislation. Witnesses appearing before the committee, therefore, did not address the issue of repealing the prohibition. The committee, of course, did have before it a provision in the act, as introduced, authorizing NOW accounts, which are very similar to checking accounts on which interest is paid. However, NOW accounts represent a new type of account at depository institutions. Interest on those accounts can be expected to have a far different impact on those institutions and their customers than will allowing interest to be paid on existing demand deposits, which now total more than $300 billion.

For that reason, the amendment would also require the Secretary of the Treasury, in consultation with the financial regulatory agencies, to assess the impact of repealing the prohibition against interest on demand deposits and make a report to Congress on this matter no later than 6 months prior to final repeal. This would be part of the study already provided for in the bill requiring the Secretary to assess the provision eliminating interest rate ceilings on time and savings deposits.

Among other things, this study would determine the benefits which consumers would derive from receiving interest on demand deposits, and assess the impact which repeal of the prohibition would have on the operating expenses of financial institutions, interest rates and other prices for financial services, the competitive balance between different types and size classes of financial institutions, financial markets in general, and any other financial variables deemed appropriate by the Secretary or the regulatory agencies.

Senator Sparkman and I are not alone in our concern over this matter. I asked Federal Reserve Board Chairman Arthur Burns for his views on this issue when he appeared before the Banking, Housing, and Urban Affairs Committee on November 4. This was after the committee had adopted the provision repealing the prohibition. The question I asked, and the Chairman's response, are as follows:

> Senator Tower. One final question, Chairman Burns.
>
> The Committee voted to repeal the prohibition against the payment of interest on demand deposits in our Financial Institutions Act. I'd be interested in your views on the implications on monetary policy of interest being paid on demand deposits and how it will affect current banking practices.
>
> Dr. Burns. I think before you legislate on that you ought to hold hearings and this matter ought to be deliberated. I think personally that we will, and should, go in that direction. But if I were doing it, I'd go a little more slowly than seems to be the mood of the banking commitees at the present time. I would certainly hold hearings and canvass the opinion of informed financial leaders of the country. Bankers are divided on this issue, as I think you know.

Furthermore, Comptroller of the Currency James E. Smith has also cautioned against moving too quickly to repeal the prohibition. The American Banker reported on November 25 of this year that the Comptroller said—and I am quoting from the American Banker:

> It would be a mistake for the banking industry to move overnight in paying interest on demand deposits . . .

I want to make it clear that I am not necessarily opposed to allowing interest to be paid on demand deposits. It is just that I do not feel the issue has been adequately explored, and not enough information is known about the impact which repeal could have on depository institutions, their customers, or financial markets.

The date of 5½ years after enactment seems appropriate. Repeal of the prohibition against interest on demand deposits, which account for more than one-third of all commercial bank liabilities, can be expected to have an impact on banking practices and financial markets perhaps even exceeding that of eliminating interest rate ceilings on time and savings deposits. Interest rate ceilings will terminate under the bill in 5½ years after enactment. It seems only prudent that repeal of the prohibition against interest on demand deposits also be delayed until them. This will give Congress, the administration, and the financial regulatory agencies ample opportunity to assess the impact of repealing the prohibition once the other provisions of the act have been implemented.

Mr. President, I yield such time as he might require to the distinguished Senator from Alabama.

Mr. SPARKMAN. I thank the Senator from Texas. I have a brief statement.

Mr. President, I am a cosponsor of the amendment offered by the distinguished Senator from Texas. Our amendment deals with the provisions, as he has explained, in S. 1267 which repeals the long-standing prohibition against the payment of interest on demand deposits.

As originally introduced, this legislation did not deal with the prohibition against paying interest on checking accounts. Accordingly, the testimony presented at the committee's hearing did not address itself directly to the merits or demerits of the prohibition. Nevertheless, the committee added the provision in the bill which would repeal the prohibition.

The Senator from Texas and I feel that this is a matter of such long standing and of such importance that it should be more fully explored before action is taken. Accordingly, we have offered this amendment which calls for a delay in repealing the prohibition, for the same length of time as is provided for the removal of interest rate ceilings on savings accounts, which is 5½ years. Our amendment also calls for a thorough study by the Treasury Department and a report to the Congress.

In my opinion, Mr. President, there is a need for more fully exploring all of the ramifications of permitting the payment of interest on demand deposits. I hope that our amendment will prevail in order that this may be done.

Mr. TOWER. Mr. President, it is my understanding that the Senator from Wisconsin (Mr. Proxmire) does have a substitute amendment, and I think that if he will state it we may be in a position to work out an agreement with him on it. Therefore, if the distinguished chairman is prepared to yield back his time on my amendment, I shall yield back mine, and we can proceed with consideration of the substitute to be offered by the Senator from Wisconsin.

The PRESIDING OFFICER (Mr. Ford). Is all time yielded back?

Mr. TOWER. I yield back my time.

Mr. PROXMIRE. Mr. President, I have an amendment in the nature of a substitute to the Tower-Sparkman amendment at the desk, and I ask that it be called up.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In lieu of the language proposed by the Senator from Texas, insert the following: "effect on January 1, 1978, or on such later date not later than January 1, 1980, as determined by the Board of Governors of the Federal Reserve System, after consultation with the Secretary of the Treasury, the Comptroller of the Currency, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board. The Board shall not determine to delay the effective date of the amendments made by subsection (a) beyond January 1, 1978, unless it finds that the benefits to depositors resulting from the payment of interest on demand deposits would be clearly outweighed by any adverse effects that such payments would likely have on the Nation's financial system. The Board shall promptly transmit to the Congress a detailed report of any such finding prior to the effective date of subsection (a) as determined by the Board."

The PRESIDING OFFICER. Each side has 15 minutes.

Mr. PROXMIRE. Mr. President, under the bill reported by the committee, financial institutions would be permitted to pay interest on demand deposits on January 1, 1977, only a little over a year from now, or 1 year later if the Federal Reserve Board determined a delay was necessary.

Under the Tower-Sparkman amendment, consumers would not receive interest on demand deposits until 5½ years after the effective date of the Financial Institutions Act. Assuming the act is passed by June 30 of next year, consumers would not receive interest on their demand deposits until January 1, 1982.

My substitute amendment seeks to strike a compromise between the committee bill and the Tower-Sparkman amendment. My amendment permits financial institutions to pay interest on demand deposits on January 1, 1978. My substitute amendment would also permit the Federal Reserve Board to delay the authority to pay interest on demand deposits for 2 additional years. Thus under my amendment, financial institutions would be permitted to pay interest on demand deposits no later than January 1, 1980, whereas under the Tower-Sparkman amendment, the payment of such interest would not be permitted until January 1, 1982. My amendment splits the difference by going 2 years beyond the committee's bill and 2 years ahead of the Tower-Sparkman amendment.

My amendment would also require the Federal Reserve Board to make a positive finding as to the need for delaying the authority to pay interest on demand deposits. Before the payment of such interest could be delayed beyond January 1, 1978, the Board would have to find that the benefits to depositors would be clearly outweighed by the adverse effect such payments might have on the Nation's financial system. I believe this safeguard is needed to insure that consumers are not deprived of being paid interest on their demand accounts for frivolous or unsubstantiated reasons.

Mr. President, I believe this substitute amendment has two advantages compared to the committee bill and the Tower amendment.

No. 1, it makes it possible for consumers to receive interest on demand deposits only 2 years from now if the Federal Reserve found no adverse economic effects. Under the Tower-Sparkman amendment, consumers would have to wait 6 years to receive interest on their demand accounts even if the Federal Reserve Board were unable to find any adverse effects. There is no reason to make consumers wait this long.

No. 2, my amendment permits the Board to delay the payment of interest on demand deposits until January 1, 1980, if it finds such action to be necessary. This should be ample time to allow financial institutions to adjust to the more competitive climate which would result from the payment of interest on demand deposits. The committee bill may have given financial institutions an insufficient time to adjust whereas, the Tower-Sparkman amendment may err in the opposite direction.

Mr. President, the Financial Institutions Act is a delicately balanced package that should not be lightly undone. Many members of the committee have serious reservations about the impact of the legislation on housing. The bill might very well direct money from housing and the residential mortgage market.

I hope that, nonetheless, these potentially adverse effects on housing are counterbalanced by the procompetitive and proconsumer provisions of the bill. The payment of interest on demand deposits is certainly one of the most significant procompetitive and proconsumer provisions in the entire bill. If this provision is substantially diluted, as it would be without the substitute amendment, I believe the bill itself would be far less attractive to Senators in general. I, therefore, hope that the managers of this bill and the distinguished Senator from Texas will accept my substitute amendment.

Mr. TOWER. Will the Senator yield for some questions? I just want to get these answers in for the RECORD.

Mr. PROXMIRE. I am happy to yield.

Mr. TOWER. The earliest date, under the Proxmire substitute, for repeal of the prohibition would be January 1, 1978. Is that correct?

Mr. PROXMIRE. That is correct.

Mr. TOWER. Then the latest date for repealing the prohibition would be January 1, 1980?

Mr. PROXMIRE. That is right.

Mr. TOWER. Before repeal in either case, would the Federal Reserve provide Congress with a study containing its finding on the impact which repeal could have on the monetary system?

Mr. PROXMIRE. That would be required, absolutely.

Mr. TOWER. I thank the distinguished Senator from Wisconsin. If my chairman is prepared to accept his substitute, and if Senator SPARKMAN is prepared, I am.

Mr. SPARKMAN. Yes, I think it is a very good in-between solution.

Mr. TOWER. I think it is a reasonable compromise, and I am prepared to accept it.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McINTYRE. Mr. President, I yield myself 1 minute.

I am delighted that the differences that existed prior to our coming to the floor this morning on this matter of interest on demand deposits has been so reasonably settled. I can easily support the substitute amendment of the Senator from Wisconsin. I am pleased because the thrust, the policy is being spelled out. It was my original move in committee on interest on demand deposits that brought this matter here to the floor today, so I am happy to yield back my time.

Mr. PROXMIRE. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question now is on agreeing to the amendment of the Senator from Wisconsin, in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Texas as amended by that of the Senator from Wisconsin.

The amendment, as amended, was agreed to.

Mr. McINTYRE. Mr. President, I submit an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Thes second assistant legislative clerk proceeded to read the amendment.

Mr. McINTYRE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 1267

On page 108, strike out lines 6 through 14, and insert in lieu thereof the following:

(f) The fourteenth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 248 (a)), is amended by adding at the end thereof the following: "Whenever any such Federal reserve bank exercises any of the functions of a clearinghouse for its member banks, it shall offer the same services on a nondiscriminatory basis to all depository institutions. For the purpose of the preceding sentence, the term "depository institutions" means—

"(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(C) any savings bank as defined in section 101 of the Federal Credit Union Administration Discount Fund;

"(D) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(E) any member of the National Credit Union Administration Discount Fund;

"(F) any Federal Home Loan Bank;

"(G) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(H) any insured institution as defined in section 401 of the National Housing Act."

Mr. McINTYRE. Mr. President, this amendment is in the nature of a conforming amendment regarding sections 202 and 207 of S. 1267.

Section 202(f) provides that whenever a Federal Reserve Bank exercises any of the functions of a clearinghouse for its members that it shall offer the same services on a nondiscriminatory basis to Federal Home Loan Banks and their members, to Federal Credit Unions and the members of the National Credit Union Administration Discount Fund.

In contrast, section 207(a) provides that any person who provides private clearing or settlement services involving checks, drafts, or similar items, including items drawn on NOW accounts, shall make such services available on a nondiscriminatory basis to all depository institutions.

In this case, the term "all depository institutions" picks up certain classes of State-chartered institutions which are not members of either the Federal Reserve System or the Federal Home Loan Bank system. The purpose of my amendment is to apply the same policy of nondiscrimination imposed on private suppliers of clearing services on the Federal Reserve System to the extent that it provides services for nonmembers.

I urge the adoption of the amendment.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Any amendment to the FIA which allows all State-chartered financial institutions to clear checks and negotiable orders of withdrawal through the Federal Reserve System should also require that any institution that clears such instrument through the Fed should also maintain reserves in the Fed against its checking accounts and NOW accounts.

The PRESIDING OFFICER. Will the

Senator from Texas suspend so I may request him to use the microphone so other Senators may hear him?

Mr. TOWER. Mr. President, I opposed the installation of these evil instruments in this place, and I resist using them. I will speak a little louder.

The PRESIDING OFFICER. The Chair is trying to make it easier for other Senators. If the Senator from Texas does not wish to use the evil instrument, will he please turn around and address the Senator from North Carolina?

Mr. TOWER. I did not realize the Senator from North Carolina was hanging on my every word or I certainly would have enunciated a little more clearly.

Mr. HELMS. If the Senator will yield, the Senator from North Carolina always hangs on every word the distinguished Senator from Texas utters. In this case, I particularly wish to hear and understand the Senator's position.

Mr. TOWER. As the old saying goes, we should all hang together or we will certainly hang separately.

To continue, Mr. President, otherwise, the Fed would not have an account to credit when clearing items. Also, the Fed would not have an account to debit if an item cleared proves to be uncollectable. The estimated cost of such an amendment to the Federal Reserve would be $6 to $7 million per year. According to the Fed, this cost could be greatly reduced if the Fed were allowed to clear such items on a "substantially equal" instead of a "nondiscriminatory" basis. Finally, the Federal Reserve believes that no institution should enjoy the benefits of Federal Reserve membership without bearing burdens of membership such as reserve requirements.

I would find this amendment acceptable if I could be assured by the distinguished chairman that those institutions receiving the benefits of clearing through the Federal Reserve will bear the same burden as all other institutions clearing through the Federal Reserve System, and that the Federal Reserve can determine the terms and conditions under which clearing through the Federal Reserve System will take place.

Mr. McINTYRE. I can assure my good friend from Texas that the purpose of this amendment, the real thrust, is to apply the same nondiscriminatory principles we have on private suppliers in the act to the Federal Reserve. But, of course, they would have to bear their own share, fair share, of the burden. So I think the Senator from Texas can rest easy on that.

Mr. TOWER. I thank my good friend from New Hampshire and, therefore, I have no objection to his amendment.

Mr. McINTYRE. I yield back the remainder of my time.

Mr. TOWER. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Alabama have a question on this amendment?

Mr. SPARKMAN. No.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I have two amendments we can take care of in very brief fashion.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes two amendments.

The amendments are as follows:

Section 301(b) is amended by striking all that appears on page 18 at lines 15 through 16 and inserting in its place the following:

"(e) The terms 'real property' and 'real estate' include leaseholds and mobile homes for purposes of this section."

Section 301(a) is amended by deleting all that appears at lines 16 through 21 and inserting in its place the following:

"(A) loans secured by or made with respect to or for the acquisition, development, construction, improvement, repair, equipping, or alteration of real property which primarily comprises or includes or is to comprise or include one or more homes or other dwelling units (including condominiums, cooperatives, and mobile homes); except that an association must agree to make permanent financing available in connection with any construction or development loan made pursuant to this subparagraph."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. SPARKMAN. Mobile homes would be included within the unlimited category of permissible real property investments by Federal savings and loan associations under section 5(c) of the Home Owners' Loan Act of 1933—HOLA—as it would be amended by S. 1267. However under many State laws, mobile homes are considered personal property. To avoid any ambiguity or misinterpretation of Federal association authority to invest in mobile homes, the definition of "real property" which section 301(b) of S. 1267 places in section 2 of the HOLA would be amended to include mobile homes.

ANALYSIS OF CONSTRUCTION LOAN AMENDMENT

This amendment is intended to tie construction lending of Federal associations, made for primarily residential purposes, to long-term home mortgage lending. Because of the concern that Federal associations not have unlimited authority to invest in temporary construction financing, albeit primarily residential real estate construction, in lieu of permanent long-term home mortgage financing, yet realizing that construction is a necessary component of the housing industry in which thrifts are specialists, the amendment seeks to strike a compromise. Federal associations would be permitted to invest, without limitation, in primarily residential construction financing so long as the associations agreed to make take-out financing available as well. This amendment will insure that Federal associations will continue to concentrate their investments in long-term residential financing.

Both of these amendments, let me say, are recommended by the Home Loan Bank Board. I have a letter from the Home Loan Bank Board, and I ask unanimous consent that it be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., November 13, 1975.

Mr. CARL COAN,
Committee on Banking, and Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. COAN: In accordance with our discussions, enclosed is a draft amendment to the Committee-passed version of S. 1267. This amendment would provide authority, under the unlimited investment category, for Federal savings and loan associations to invest in construction and development loans for primarily residential purposes provided the association agreed to make the take-out financing available as well. An analysis of the amendment is enclosed.

In addition we have included another amendment in the form of a technical amendment to the definition of real property as it would be revised by the FIA. Although included among the permissible real property investments for Federal associations under § 5(c) as it would be amended by the FIA, section (5)(c)(1)(A), mobile homes are considered under many State laws to be personal property. In order to make clear that mobile homes are permissible "real property" investments for Federal associations, we have proposed an amendment to section 301(b) which would state that the terms 'real property' and 'real estate' as defined in section 2 of the Home Owners' Loan Act of 1933 include mobile homes. An analysis of this amendment is also enclosed.

The Board is hopeful that these amendments may be introduced as amendments to the FIA. We sincerely appreciate your assistance in this matter.

Sincerely,

STEPHEN M. EGE,
Assistant General Counsel,
Legislative Division.

Mr. SPARKMAN. One of these simply redefines or, I may say, clears up a definition of mobile homes and the use of the term "real property." It is, in a sense, a technical amendment, and I do not see that there can be any objection to it.

The other would give the savings and loan associations the right to engage in construction loans provided they are linked with takeout financing, in which case, as I understand, it becomes a complete financing of the program.

I think in a few words that expresses it. That amendment, too, is recommended by the Home Loan Bank Board.

Mr. McINTYRE. Mr. President, will the Senator from Alabama yield for a question?

Mr. SPARKMAN. Yes.

Mr. McINTYRE. This matter arose during the executive session; that is, the second matter the Senator spoke of.

Mr. SPARKMAN. Yes.

Mr. McINTYRE. It is my understanding the thrust of the Senator from Alabama's second portion of his amendments would place into the 70-percent category, as we call it, construction loans that had permanent financing in connection with them. In other words, the construction loan was going on then to mature and the mortgage would go on the building or the house.

Mr. SPARKMAN. That is correct. It becomes permanent.

Mr. McINTYRE. It was my feeling at that time in executive session that it would be more appropriate to put this in the 70-percent category so I have no trouble at all accepting this part of the Senator's amendment. The first part, too, is acceptable to us, to the managers of the bill.

Mr. SPARKMAN. I appreciate the remarks of the chairman.

Mr. McINTYRE. I yield back all my time.

Mr. TOWER. I have no objection to the amendments of the Senator from Alabama.

Mr. SPARKMAN. I yield back my time.

The ACTING PRESIDENT pro tempore (Mr. Stone). The question is on agreeing to the amendments of the Senator from Alabama en bloc.

The amendments were agreed to en bloc.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed be charged to neither side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I send to the desk two technical amendments for immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The second assistant legislative clerk read as follows:

> The Senator from New Hampshire (Mr. McIntyre) proposes two amendments.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

> On page 125, strike out line 1.
>
> On page 125, line 2, strike out "(2)" and insert in lieu thereof "(1)".
>
> On page 125, line 4, strike out "(3)" and insert in lieu thereof "(2)".
>
> On page 125, line 25, strike out "credit union corporations" and insert in lieu thereof "credit union organizations".
>
> On page 126, strike out lines 10 through 16, and insert in lieu thereof the following:
>
> "(ii) a residential real estate loan which is made to finance the acquisition of a one-to-four family dwelling for the residence of a credit union member, and which is secured by a first lien upon such dwelling, may have a maturity not exceeding 30 years, subject to the rules and regulations of the Administrator;
>
> On page 129, line 13, strike out "credit union corporations" and insert in lieu thereof "credit union organizations".
>
> On page 141, line 20, after "federally" insert a hyphen.
>
> On page 142, line 22, strike out "it" and insert in lieu thereof "he".
>
> On page 145, line 3, strike out "its" and insert in lieu thereof "his".
>
> On page 154, lines 10 and 18, strike out "subsection" and insert in lieu thereof "section".
>
> On page 155, line 19, strike out "insured" and insert in lieu thereof "federally-insured State".
>
> On page 155, line 25, strike out "Administrator" and insert in lieu thereof "Administration".
>
> On page 157, line 12, after "law" insert a comma.
>
> On page 157, line 19, after "mortgagees" insert "and lenders".
>
> On page 157, line 20, strike out "changes" and insert in lieu thereof "charges".
>
> On page 157, line 21, after "mortgages" insert "and loans".

Mr. McINTYRE. I yield back all my time.

The ACTING PRESIDENT pro tempore. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the amendments of the Senator from New Hampshire en bloc.

The amendments were agreed to en bloc.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

Mr. TOWER. I ask unanimous consent that the time be charged to neither side.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment, proposed by Mr. Helms, for himself, Mr. Morgan, and Mr. Garn, is as follows:

> On page 109, line 9, after the word "repealed" strike the period and insert the following: "effective on January 1, 1978, or on such later date not later than January 1, 1980, as determined by the Board of Governors of the Federal Reserve System, after consultation with the Secretary of the Treasury, the Comptroller of the Currency, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board. The Board shall not determine to delay the effective date of the amendment made by this section beyond January 1, 1978 unless it finds that the benefits to depositors resulting from the payment of interest on demand deposits would be clearly outweighed by any adverse effects that such payments would likely have on the nation's financial system. The Board shall promptly transmit to the Congress a detailed report of any such finding prior to the effective date of this section as determined by the Board."

Mr. HELMS. Mr. President, this amendment is very simple. It would defer the implementation of the so-called NOW accounts, negotiable orders for withdrawal, for a period in conformity with the amendment of the Senator from Texas (Mr. Tower), and the Senator from Alabama (Mr. Sparkman), as amended by the substitute of the distinguished Senator from Wisconsin (Mr. Proxmire).

Of course, in terms of substantive effect, a NOW account is actually a checking account upon which the financial institution is permitted to pay interest.

It has been the policy for 42 years not to permit such payments. Rather, the view has been that if the saver wishes to obtain such interest payments, he could and should place his funds in savings accounts.

This practice has afforded the financial institution some degree of assurance as to the amount of funds the saver intends to leave on deposit for an extended period of time. Of course, this is very important to the institution in determining the amount of funds that will be available for loans.

Mr. President, this issue is not one that simply involves banks, it involves consumers in a very direct way. Therefore, this is a consumer amendment for reasons that I will specify a little bit later on.

I need not talk at length about the importance of loan funds—mortgage money—to the housing market, both for the purchase of homes and for the rehabilitation of existing housing.

We are repeatedly warned about the shortage of capital funds and this warning is very valid. It is one of the major problems in our economy today.

These funds are critically needed for plant expansion and for the upgrading of small business establishments as well.

All of us are aware, Mr. President, that there has been certain experimentation with NOW accounts in Massachusetts and New Hampshire and, as the distinguished Presiding Officer knows, the Senate very recently approved additional experimentation in four other States.

Without attempting to get into the substance of that experiment, it seems to the Senator from North Carolina to be obvious that since it applied to only two States it has been exceedingly limited in scope. We really cannot make a prudent judgment here today on the basis of such limited information. With the addition of four more States, we are now in a position to obtain a larger sampling of the impact of NOW accounts.

This, in the judgment of the Senator from North Carolina, Mr. President, is essential.

We ought not to move too fast on NOW accounts. Rather, we should follow the example just agreed upon in connection with regular checking accounts.

By this amendment, I simply propose to defer the implementation of NOW accounts for the period designated in the previous amendment. This will afford the Congress an opportunity to gain more knowledge of NOW accounts and of the practice of paying interest on checking accounts in general.

I believe that any substantive change in the practices of the financial institutions of this country demands at least this level of prudence.

Mr. President, I am not alone in this view. An article by the well-known columnist, Sylvia Porter, appeared in the Washington Star on December 3, 1975.

Miss Porter pointed out, and I quote:

> Currently NOWs in New England cost the participating institutions about 9 percent—5 percent in interest and 4 percent in han-

dling fees. In response to the intense competition for NOW account customers, those institutions are absorbing the costs out of profits. But once NOWs are commonplace, institutions either will have to charge NOW account customers service charges or hike the rates charged for loans.

Are you, the consumer, willing to pay this price for the extra interest on your checking account funds that NOWs afford? Will NOW accounts cause basic shifts of funds among competing financial institutions? And basic changes in loans and investments?

Until the answers to these questions are clear, restraint in ending the 40-year ban on payment of interest on checking accounts is simple wisdom.

Mr. President, I ask unanimous consent that the aforementioned column by Sylvia Porter be printed in the RECORD in full at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 3, 1975]

WHEN WILL NOW BE NATIONWIDE?

(By Sylvia Porter)

When will all of us be entitled—as banking customers in Massachusetts and New Hampshire now are—to earn interest on our checking accounts? Should we all be so entitled?

Or will the introduction of such accounts nationwide result in higher interest rates on loans when we need money to finance an appliance or home purchase?

Congress isn't sure it has the precise answers to these questions. Because it isn't certain who might gain and who might lose if interest-bearing checking accounts are permitted throughout the nation, the House a short while ago decided to slow down on granting all financial institutions the authority to offer NOW (Negotiable Order of Withdrawal) accounts. This is the formal name for interest-earning checking accounts.

It's generally agreed that NOWs will be permitted nationwide by 1977. Since financial institutions in the two states were given authority to offer them on an experimental basis more than two years ago, their popularity has soared. Between January 1974 and April 1975, total NOW balances in Massachusetts and New Hampshire more than tripled and so did the number of participating institutions.

And despite congressional restraint, institutions in other states have begun—understandably enough—to offer equivalent services. For instance:

1. About 40 credit unions across the U.S. now offer "share draft accounts"—not technically or legally checks but similar to checks in all major respects. The greatest difference to you as user is that you receive computer print-outs of your transactions rather than monthly canceled checks. And you earn in interest on your account—usually 6 percent compounded quarterly as against the maximum of 5 percent continuously compounded permitted on NOWs.

Credit unions are able to offer their members' interest-bearing share draft accounts by taking advantage of the time lag between the writing of a draft and its payment. During this "float" period of between 9 and 12 days, credit unions are able to lend out the account funds at higher interest rates.

2. Banks and savings institutions also are offering disguised NOWs in the form of telephone-transfer accounts. This type of account permits you, the customer, to keep your funds earning interest in a savings account with either a bank or savings and loan until the moment you wish to write a check. You then phone the institution where you have deposited your savings and ask the institution to transfer a certain amount into your checking account. This system enables you to earn interest on the bulk of your funds while maintaining a checking account at a bank which you can enlarge when necessary merely by picking up the phone.

3. Banks have the authority, too, to permit you to obtain drawing rights for certain bills—such as utility charges—against a savings account. Under a recent Federal Reserve Board regulation, you and your participating bank may sign a contract which lists the names of companies or persons to whom funds should be transferred, the amount, and the frequency of payments. Until the bills are paid, the money remains in your savings account and earns interest for you.

With this proliferation of disguised NOWs and the popularity of the accounts in the two northeastern states, why the slowdown?

Because of potential costs. Currently NOWs in New England cost the participating institutions about 9 percent—5 percent in interest and 4 percent in handling fees. In response to the intense competition for NOW account customers, those institutions are absorbing the costs out of profits. But once NOWs are commonplace, institutions either will have to charge NOW account customers service charges or hike the rates charged for loans.

Are you, the consumer, willing to pay this price for the extra interest on your checking account funds that NOWs afford? Will NOW accounts cause basic shifts of funds among competing financial institutions? And basic changes in loans and investments?

Until the answers to these questions are clear, restraint in ending the 40-year ban on payment of interest on checking accounts is simple wisdom.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore (Mr. STONE). The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I strongly oppose the amendment being offered by the distinguished Senator from North Carolina.

NOW accounts—as they have come to be called—have proven their worth as a positive benefit to the consumers of Massachusetts and New Hampshire. Only last Monday, the Senate approved expanding the authorization for NOW accounts into the other four New England States. This bill goes the additional step of providing NOW accounts nationwide.

Mr. President, the provision granting nationwide NOW accounts has been contained in the Financial Institutions Act since it was first introduced in the 93d Congress. In over 2 years of hearings on this bill, witness after witness has supported the NOW account provision, which throughout, has provided for NOW accounts to go nationwide upon enactment.

Even more significant, Mr. President, NOW accounts have stood the test of time in Massachusetts and New Hampshire. The competition which has resulted between the different types of financial institutions over the NOW account has proven to be a healthy development and one to be encouraged. Any increase in competition within the banking community likely results in benefits to the consumer. There is no reason to deny the consumers throughout the United States the same advantage presently enjoyed by the consumers in both Massachusetts and New Hampshire, soon to be expanded throughout New England.

Mr. President, there is absolutely no justification for delaying the effective date of NOW accounts. Any such delay will only further discriminate against consumers in the other 48 States.

Mr. President, in this regard, I have a letter in support of my position from the Consumer Federation of America. I ask unanimous consent that the text of this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., December 8, 1975.

DEAR SENATOR: It is expected that there will soon be a vote on the Financial Institutions Act of 1975. Although many features of this legislation have the support of CFA, we wish to take this opportunity to specifically emphasize the importance of two of its critical provisions.

(1) PAYMENT OF INTEREST ON DEMAND DEPOSIT

CFA is convinced that consumers would be well served by a repeal of the prohibition against the payment of interest on demand deposits. The current Fed funds market system has obviated any potential adverse impact of interest paying demand deposits on the stability of the banking system. It would appear, moreover, that the repeal would reflect the realities of today's marketplace and be entirely consistent with NOW accounts as set forth in Title II of the Act.

(2) NOW ACCOUNTS

In this connection, CFA has consistently supported NOW accounts, as evidenced by a policy resolution favoring NOW accounts which received the overwhelming support of CFA's membership at its last annual meeting.

Particularly in light of the successful state experiences with NOW accounts in Massachusetts and New Hampshire, it is apparent that the prompt enactment of a repeal against the prohibition of NOW accounts is imperative. A sense of fairness dictates that consumer/depositors are entitled to an equitable return on their deposits in all parts of the country.

For these reasons, Consumer Federation of America, the nation's largest consumer organization, seeks your active support in maintaining these provisions in the bill as finally passed, and opposing any efforts to delay the immediate allowance of NOW accounts.

Very Truly Yours,
CAROL TUCKER FOREMAN,
Executive Director.
KATHLEEN F. O'REILLY,
Legislative Director.

Mr. McINTYRE. Mr. President, in my opinion, any agreement in support of such a delay is fallacious. One of the most fallacious is that NOW accounts are too expensive to be affordable by the average financial institution. What makes them expensive in Massachusetts and New Hampshire is the tremendous competitive impetus behind NOW accounts by thrift institutions which are unable to offer checking accounts and are using NOW accounts to provide checking-type services to their customers. Once thrift institutions—as they will in this bill if it becomes law—are given outright checking account power, as is clearly the trend, the competitive impetus behind NOW accounts themselves should diminish substantially.

Mr. President, I urge my colleagues to keep in mind the distinction between a checking account and a NOW account. I say that because when we are talking about providing for the payment of interest on checking accounts, we are talking about a very different thing, paying interest on checking accounts or demand deposits, we are talking about repealing a 40-year-old prohibition. In contrast, NOW accounts are a relatively new phenomenon which while very similar to a checking account must be considered in a completely different perspective.

With all due respect to the distinguished Sylvia Porter, the writer of this article to which my good friend from North Carolina has referred, a close reading of her article reveals that she is confusing the NOW account with the demand deposit account.

In the fourth paragraph of her article she says that it is generally agreed that NOW accounts will be permitted nationwide by 1977.

The bill, as we brought it to the floor, provides that the first time that a demand account would pay interest would be in January, 1977.

So in her article, she has, it seems to me, thrown up a sort of fog over this whole issue.

Remember that a NOW account is a checking type of account on a time deposit. Look at the passbook and one will notice the bank retains the right on that deposit not to honor it within 60 days if they so declare.

NOW accounts which were innovated and became operative in Massachusetts and then New Hampshire are a new phenomenon. They are a checking type of account on a savings deposit.

The lady referred to must be an excellent author because her column appears in the Washington Star and we all know what a great paper that is. It shows the confusion that exists in her mind between the savings deposit and the demand deposit.

With all due respect to my good friend from North Carolina, I urge very strongly that we reject the amendment he has offered.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Using the words of my good friend from New Hampshire, with all due respect to him, his argument that there is a difference between NOW accounts and demand deposit accounts because NOW accounts are not payable on demand, is an artificial argument.

The basis for this argument is FDIC and FHLBB regulations that allow financial institutions to put off paying savings account depositors for 30 days after they request their funds. In Massachusetts a 90-day notice period can be required by State statute.

These regulations are aimed at allowing banks and thrifts to head off a run on financial institutions in times of emergency. In the case of the FDIC, the 30-day provision's secondary function was to clearly distinguish interest-bearing savings accounts from checking accounts on which banks are prohibited from paying interest. Both regulators also require that in order for a financial institution to invoke the 30-day requirement, it must apply to all customers equally. In short, the bank cannot make me wait a month for my money and give you yours when you ask for it. It is also interesting to note that no one at either the FDIC or the FHLBB can remember when any of the institutions they regulate sought to use these delayed payment powers. It is ludicrous to think that this delay would ever be invoked for NOW's.

So while there is a technical difference between NOW's and checking accounts, there is no real difference. NOW's look like and are treated like what, in fact, they really are—interest-bearing checking accounts, and we ought to make no mistake about that, Mr. President.

Perhaps the NOW argument is best summed up in an article written by Boston Federal Reserve Bank Banking Structure Analyst Katherine Gibson, which appeared in the January/February 1975 issue of the New England Economic Review. Referring to FIA's authorization of nationwide NOW's for all financial institutions in the conclusion of her article, Ms. Gibson states that.

> If this proposal were adopted, it would give all consumers the option of opening the equivalent of an interest-paying checking account.

Therefore, I have to say, Mr. President, that if it is considered prudent to defer implementation of the payment of interest on checking accounts, as this Senate has just done by the amendment of the Senator from Texas and the Senator from Alabama, as amended by the Senator from Wisconsin—and I believe it was indeed prudent to take that action in order to more fully evaluate the impact of paying interest on demand deposits on the Nation's consumer financial institutions—it is absolutely prudent to defer action for the same period under the same conditions for NOW accounts.

I yield to my distinguished colleague from North Carolina (Mr. MORGAN).

Mr. MORGAN. Mr. President, I just want to take a minute or two to join with my distinguished colleague from North Carolina in support of this amendment. The proposal to pay interest on NOW accounts may very well in the future prove to be a valid and good one, but I believe at this time I do not think we are in a position to adequately evaluate the effect that such accounts will have on the consumer and in the marketplace. Since we have just recently, as I recall, within the last few days, authorized the expansion of this account to three or four other States, I believe it would be wise and prudent to adopt this amendment to the end that we could have time to evaluate the effect of such accounts on a much broader scale rather than on just two States, New Hampshire and Massachusetts.

I would urge the adoption of this amendment.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I am really sympathetic to my distinguished friend from North Carolina, and I know he has done this in a very thoughtful and statesmanlike way. I will simply say, however, that the NOW account provision has been in the bill from its inception; that hearings have been held on it, and we do have some experience with NOW accounts in New England.

I would further note, and I should make this distinction, that this is not a matter of authorizing interest rates on NOW accounts. NOW accounts are interest accounts. It is a matter of allowing the withdrawals from accounts that pay interest, which is being done anyway under regulations of the bank regulatory agencies—a trend that will accelerate as institutions offer transfers from deposits through electronic and other systems. So it does differ from the business of authorizing the payment of interest on demand deposits. The term NOW stands for negotiable order for withdrawal. It simply means that checks can be drawn on time deposits. We have had experience in this.

Mr. McINTYRE. Will the Senator from Texas yield for a question?

Mr. TOWER. I yield.

Mr. McINTYRE. If the Senator owned a bank in Texas, would he have to put a NOW account in if we passed this bill?

Mr. TOWER. No, he would not have to.

Mr. McINTYRE. Then it is entirely voluntary?

Mr. TOWER. Yes, it is voluntary. I do not know how well that system will really function in Texas. But I know that there is some experience on it in New England. I am perfectly willing to let institutions in the other 48 States, other than New Hampshire and Masachusetts, experiment with NOW accounts if they choose. The market place will ultimately determine whether or not they will be offered and whether or not they will be successful. The thrust of this legislation is to eliminate regulation of our Nation's depository institutions. It is in that spirit that I have supported this provision of the bill.

Mr. McINTYRE. Mr. President, I yield myself 2 minutes.

I would like to repeat what the ranking member of the full Committee on Banking has just said. The NOW account provision was in the administration bill as it was first presented to us. NOW accounts have been testified to over and over again, and the opinion of them has been, in general, very favorable. They have proved their worth in New Hampshire and Massachusetts, so much so that we had to piecemeal the other day—much against my better judgement—to allow the rest of New England to offer NOW accounts to go where the State banks of Maine and the State banks of Connecticut are heading.

Mr. FORD. Will the Senator yield for a question?

Mr. McINTYRE. I yield.

Mr. FORD. Is what the Senator from North Carolina read from an editorial true, that the institutions in the Senator's State are absorbing 4 percent in order to make the accounts more palatable?

Mr. McINTYRE. I think it is perfectly correct for the Senator from North Carolina or anyone who might oppose NOW accounts to point out the cost of NOW accounts to the institutions. In my remarks I have tried to point out how this would happen. The thrift institution suddenly finds itself with what appears to be a checking account. The thrift institution wants to compete with the commercial bank. This is what we want. The NOW account looks good to the thrift institutions so they are out there pushing. The minute this bill is passed and becomes law and all banks can have checking accounts, then we will find a diminution in the cost that will occur in NOW accounts and checking accounts to all banks.

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. HELMS. Mr. President, we have been told that the nationwide implementation of NOW accounts will be a great boom to the consumer, just as we have been told that much of the legislation mandating the ever-increasing redtape that is forced on all Americans by the Federal Government will benefit the consumer. Increasingly, people all across the country are beginning to doubt the merit of that argument. The Real Estate Settlement Procedures Act—RESPA—by its disclosure provisions respecting closing costs for home purchases was supposed to be so-called consumer legislation. Yet, as Senators know, and as members of the Senate Banking Committee are keenly aware, those same consumers complained bitterly about the redtape and delay that legislation forced upon them.

So Mr. President, we have cause to examine more closely the merits of the argument that NOW accounts, or any other legislation, is proconsumer. If NOW accounts increase the cost of operating our Nation's financial institutions, and there is evidence to indicate that they will increase such costs, who will pay the bill? The answer is obvious—the consumers of the institution's services will pay more for those services. The increased cost to the consumer may come in the form of service charges, or it may come in the form of higher interest rates for loans, but there is no free lunch—the burden of any increased costs must be borne by someone. And, in the final analysis, that someone will be the consumer.

Mr. President, in September 1975, when the Senate Banking Committee held hearings on the ramifications of NOW's in New Hampshire and Massachusetts, Joseph T. Benedict, formerly president of the Federal Home Loan Bank of Boston and now chairman of the Freedom Federal Savings and Loan Association, speaking on behalf of the Massachusetts Federal Savings Council, stated:

> Increased use (of NOWs) has developed a clear trend towards smaller average balances and greater activity which will make NOW accounts even more costly. This cost factor in turn exerts upward pressure on the cost of residential mortgage finances. . . .
>
> Support for the NOW account has been strongly urged as a benefit to the savings consumer. We think this claim should be carefully examined. Every savings consumer is also a housing consumer because he has to buy shelter, either by rent or home ownership. The mortgage financing of his shelter is a cost which is unfailingly passed on to him. A dollar of interest paid out to a saver is first a dollar paid toward the mortgage or as rent for the cost of shelter. Since there is a generally constant relationship between savings interest and mortgage rates, if you receive less on your savings than they pay for the interest factor on your cost of shelter, then any increase in your savings return hurts you because it produces an even greater increase in your cost of shelter. The only saver who profits by such an increased return is one whose savings interest is greater than the interest factor in his rental mortgage payments, and he is the affluent saver with every opportunity to improve his yield in alternate forms of investment.
>
> We believe independent permanent legislation of the NOW account is premature at this time and that it should be deferred until the results of the FINE study are available and the development of electronic funds transfer systems is more clearly defined. . . .

During the same set of hearings, William Brunel, chairman of the Massachusetts Bankers Association, stated, despite his general support for the NOW experiment in Massachusetts and New Hampshire:

> My bank, I think, was the third in the state to agree to process the NOW accounts through the thrift institutions who are customers of ours. We are in an area that is very competitive as between the service charge per item of each draft and an absolutely free NOW account. In my discussions, we believe that many of the thrift institutions are not fully aware of their cost. The President of the Federal Reserve Bank of Boston is being quoted as saying that the cost of processing NOW account money comes in at nine percent plus.
>
> Mr. Eisenmenger can comment on this as being a factual quote or not on hearsay, but I know if it costs anything like that to process a NOW account it has got to, in the last analysis, impact on the consumer and the interest he pays on a mortgage.

Illustrative of the unsettling conditions that interest bearing checking accounts could well have on our financial institutions are the projections based on statistics in the "Annual Report on FDIC 1973," the best abstract available for both national and State banks countrywide. The figures do not include possible projections of the effects of nationwide NOW's on savings and loans since interest bearing checking accounts are operating only in New Hampshire and Massachusetts.

As of December 31, 1973, U.S. commercial banks held demand deposits of $232.9 billion. The payment of interest on these deposits at the current rate of 5 percent, the maximum regulated for NOW's, would cost the banks $11.6 billion.

In 1973, commercial banks had net profits of $8.7 billion before taxes. If the payment of interest on demand deposits could not be passed on to borrowers, the cost of such interest would have absorbed all of the net profit of 1973 and produced a net loss of $2.9 billion. The effect of this net loss would have been to reduce the equity capital of all banks by $2.9 billion or 5.6 percent.

In 1973 all commercial banks earned $35.4 billion of interest income and fees on loans totaling $464.2 billion, indicating an average interest rate on loans of 7.6 percent. If the cost of interest on demand deposits were to be recouped through an increase in the interest earned on loans, interest income on $464.2 billion of loans would have to rise from $35.4 billion to $47 billion, increasing the lending rate from 7.6 percent to 10.1 percent for an increase in borrowing cost of 34.1 percent.

In making the above analysis, several important assumptions have been made to demonstrate the full potential of NOW's for commercial banks. To some degree, they should be modified. First, it was postulated that there would be an immediate shift to NOW's throughout the country. This, of course, will not occur. However, the monthly analyses made by the Federal Reserve Bank of Boston, which has been monitoring NOW's in both experimental jurisdictions, show a phenomenal growth from virtually zero in very late 1973 to $210,838,000 by June 1975, a year and a half later. Second, it assumes the maximum rate will be paid. The same Boston Federal Reserve analyses very strongly indicate this would be close to the case. Third, it was assumed that service charges on NOW accounts would not be used to recoup the expenses of running the accounts, that is, that NOW's would be akin to free non-interest-bearing demand accounts so common today, and compensation would come from increased loan interest.

Again, the Boston Federal Reserve's figures show a decisive trend in the direction of free NOW's, although a number of institutions do make charges on a per draft, minimum balance or some other basis. However, even given these considerations and even if one halved the presumption that all demand deposits would become NOW's, the picture does not look favorable for either borrowers or commercial banks, already hard pressed to increase earnings for retention purposes which are needed to support their deposit liabilities. At a minimum, the issues raised by these figures deserve a more thorough airing and study.

On the other hand, NOW accounts may offer some benefit to both financial institutions and the consumer. Consequently, a possible solution would be to continue the experiments in Massachusetts and New Hampshire and to see how NOW accounts work in Connecticut, Vermont, Maine, and Rhode Island. That is what my amendment proposes.

Mr. President, I yield back the remainder of my time.

Mr. McINTYRE. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. Taft) is necessarily absent.

I further announce that the Senator from Kansas (Mr. Dole) is absent to attend the funeral of his father.

I further announce that, if present and voting, the Senator from Kansas (Mr. Dole) would vote "yea."

The result was announced—yeas 37, nays 55, as follows:

[Rollcall Vote No. 576 Leg.]

YEAS—37

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Long
McClellan
McClure
Morgan
Moss
Nunn
Scott, William L.
Stone
Symington
Talmadge
Thurmond
Young

NAYS—55

Abourezk
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Durkin
Eagleton
Glenn
Gravel
Hart, Gary
Haskell
Hathaway
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Tower
Tunney
Weicker
Williams

NOT VOTING—8

Allen
Chiles
Culver
Dole
Hart, Philip A.
Hartke
Stennis
Taft

So Mr. Helms' amendment was rejected.

Mr. McINTYRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McINTYRE. Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Senate is not in order. Senators will kindly withdraw from the Chamber if they wish to converse.

Mr. ROBERT C. BYRD. Mr. President, may we have third reading?

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment, the question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CRANSTON. Mr. President, as you will remember, the Hunt Commission recommended the use of the variable rate mortgage as a tool in times of tight money to provide mortgage credit and to smooth out some of the cyclical ups and downs in the mortgage market. The Federal Home Loan Bank Board earlier this year sent to Congress their proposed regulations to give Federal Savings and Loans the authority to offer this instrument. The Congress did not see fit to approve this new authority because they did not feel that the consumer protections were adequate in the proposed regulations. I felt that the issue should be considered along with the Financial Institutions Act which is before us today.

In California, State-chartered savings and loans are authorized to offer variable mortgages, and some of them have been doing so since early 1975. It is my understanding that 19 other States also offer the variable rate mortgage rate instrument in some form. It appears that use of the variable rate mortgage instrument is becoming more and more prevalent on the State level. Based on these facts, I have the following questions to direct to the distinguished minority floor leader, Mr. Tower.

Would it be helpful for Federal lending institutions to introduce greater flexibility in mortgage payments? For example, might payments on a mortgage be geared to the level of a borrower's income?

Mr. TOWER. HUD regulations are now being developed to provide for experimentation with FHA mortgages which would permit payments of different levels such as allowing a young couple to pay interest only at the beginning and later to increase payments on a mortgage. A number of States, such as your State of California, permit the use of variable rate interest payments for mortgages made by State-chartered institutions. Recently the Federal Home Loan Bank Board issued regulations which make provision for variable rate mortgages by federally chartered savings and loan institutions for commercial properties and for residential properties with more than four units. So the concept is being tried here and there and experience might justify expanding its use later on.

Mr. CRANSTON. Does this suggest that variable rate mortgages might be approved later for Federal savings and loan associations, for example?

Mr. TOWER. This might be possible depending on our experience with flexibility of payments. Provision should be made for a variety of arrangements that will help people who want to become homeowners. It might also be possible to develop plans which permit renegotiation of rates or payment levels every 3 or 5 years on mortgages running for 25 or 30 years or more. The variable rate mortgages could be one approach to flexible mortgage contracts. It is also possible that the open-end mortgage concept could be expanded to permit additions to the mortgages from time to time to finance special family needs.

Mr. CRANSTON. What benefits would result from more flexible payments on mortgages such as the variable rate mortgage?

Mr. TOWER. In addition to the obvious benefits of adjusting to borrowers' income levels, there would be increased possibilities of adjusting to changed money market situations and this could keep thrift institutions in the market with funds available for home buyers even under relatively tight money market conditions. We will soon know how well flexibility works as a result of the experiments with greater flexibility in FHA contracts.

Mr. CRANSTON. Should variable rate mortgages become more prevalent as market instruments, would it not be appropriate to establish a regulatory scheme containing certain consumer protections?

Mr. TOWER. By all means, some general scheme of consumer protection should be set forth in any set of regulations governing variable rate mortgages. Although VRM's are used in several States, generally speaking, only your State of California and Wisconsin have specific consumer protection rules expressed in a statute or in regulatory form.

The following are some examples of types of consumer protections which should be considered in developing any VRM system. Mortgage interest rates can be adjusted by changing the amount of monthly payments, by changing the length of the loan term, or by a combination of these methods. However, the loan term should not be decreased too much below the original loan term and should not, in most instances, be extended to more than 35 or 40 years.

Additionally, increases in mortgage interest rates charged to borrowers would be optional with the lender when the interest rate index moves up; but decreases in the mortgage rate would normally be mandatory when the index moves down. Increases in interest rates would be limited to a certain percentage every 6 months or a year, and there would be an overall ceiling to the increases. There should also be specific rules governing decreases in the mortgage rates and advance notice of any increases would be required. Prepayment should be allowed without penalty, and advance disclosure of contract provisions would be required.

Mr. CRANSTON. Mr. President, I fully agree with your statement, in fact in California, five large State-chartered associations have had substantial success initiating variable rate mortgage programs. The statistics indicate that VRMs now represent 75 percent of the dollar volume loaned by these five associations and 20 percent of all new mortgage moneys or all California associations. This represents a phenomenal consumer acceptance of the flexible mortgage.

The California law incorporates the following consumer safeguards that the Congress should take a close look at upon a needed reconsideration of this issue. It provides:

First. A ceiling on increases of 2½ percent above the initial interest rate;

Second. No limit on rate decreases; and

Third. Borrowers may repay their loans without penalty within 90 days of rate increase.

One of the major advantages of VRM's to both borrowers and lenders is their assumability and that the interest rate offered on the VRM is one-half of 1 percent below fixed rate mortgages in the area. Surely, the Congress needs to take a closer look at something that offers these kinds of advantages to the home buyer in today's market.

Mr. ABOUREZK. Mr. President, I would like to take a few minutes to commend the Banking Committee for the provisions of S. 1267 affecting credit unions. I believe that credit unions are good and important institutions and that title V is good and important legislation. Credit unions represent the cooperatives sector of the financial world and they also represent a basically small business sector of the financial world. As the committee notes in its report, there are more credit unions than there are banks and savings and loans associations, but credit unions account for a relatively small share of the total assets of depository institutions. In my own State of South Dakota there are now more than 100 Federal credit unions with a total membership of more than 70,000 and with combined assets of an estimated $70.4 million. In the last decade, the membership of South Dakota credit unions has increased by 81 percent, their assets have increased by 219 percent, and their loans outstanding have increased by 250 percent. I ask unanimous consent, Mr. President, that at the close of my remarks a table showing the statistics for Federal credit unions in South Dakota be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABOUREZK. Credit unions are mutual financial institutions with a special aspect—that the members have a "common bond" of employment, residence, membership, or the like. This common bond aspect makes credit unions, in my view, the real consumer cooperatives of finance and credit. Small, as they are, therefore, I think they serve an essential yardstick purpose at the same time that they permit groups of people to create, operate, and benefit from their own mutual financial institutions.

I think it is evidence of the important role that credit unions play that membership has more than doubled in the last decade and that their combined assets have more than tripled. They constitute the fastest growing segment of the financial system. This growth is not only evidence of their popularity, it is evidence that credit unions need and are ready for greater flexibility and an expanded role on the financial scene. That flexibility seems to me essential if these consumer co-ops are to continue to meet the needs of their members and if they are to continue to play their modest role as a yardstick in the credit sector. Title V of S. 1267 wil provide that flexibility and expanded role.

It will allow them to operate variable share accounts, similar to and competitive with savings certificates issued by banks and savings and loan associations. It will provide for longer terms on consumer loans and on mortgage loans—and everyone recognizes that providing a more adequate supply of mortgage credit must be a goal of our monetary policy at this time. Title V will permit Federal credit unions to invest surplus finds in State and municipal obligations—another area of credit needs about which we must be concerned. It will permit participation lending by Federal credit unions.

While these and other changes provided for by the bill will give credit unions more operating flexibility, other provisions will give them more organizational flexibility and will adjust the regulatory and supervisory structure. Notably, the bill will authorize a discount fund within the National Credit Union Administration so that the NCUA can meet temporary liquidity needs of credit unions and can provide for orderly transfers of funds among credit unions and between credit unions and between credit unions and other financial institutions.

In short, Mr. President, I am glad to support this legislation and its modernization of the framework within which credit unions, the consumer co-ops of the financial world, can continue to serve their membership and the public interest.

EXHIBIT 1

DATA ON FEDERAL CREDIT UNIONS IN SOUTH DAKOTA, SELECTED YEARS, 1960–75

	1960	1965	1970	1975[1]
Number of Federal credit unions	87	96	112	101
Total membership	29, 193	38, 834	51, 362	70, 200
Average number of members	335	404	459	695
Total assets	$12, 523	$22, 073	$32, 989	$70, 400
Members' savings	$10, 947	$19, 558	$28, 605	$62, 200
Average savings per member	$375	$504	$557	$886
Loans outstanding	$9, 774	$16, 441	$25, 414	$57, 500
Average loan size	$719	$999	$1, 132	$1, 825

[1] Estimated.

Source: National Credit Union Administration.

ORDER FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 466, SECOND CONCURRENT RESOLUTION ON THE BUDGET

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Maine (Mr. MUSKIE)—I think this request has been cleared with his counterpart on the other side of the aisle, Mr. BELLMON—I ask unanimous consent that upon the disposition of S. 988, which bill will follow the now pending bill, the Senate proceed to the consideration of the second concurrent resolution on the budget, House Concurrent Resolution 466.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FINANCIAL INSTITUTIONS ACT OF 1975

The Senate continued with the consideration of the bill (S. 1267) to expand competition, provide improved consumer services, strengthen the ability of financial institutions to adjust to changing economic conditions, and improve the flow of funds for mortgage credit.

Mr. MUSKIE. Mr. President, I hesitate to rise in connection with the pending measure, but I have no choice, because some implications of this bill came to my attention shortly before noon that I think should be brought to the attention of the Senate.

As chairman of the Budget Committee, I am concerned about the relationship of the proposed legislation, which we are about to pass, with the proposed new home mortgage tax credit to which it was connected. I have discussed this with the distinguished floor manager of the bill, Senator MCINTYRE, and with Senator PROXMIRE; and I believe that as a result of the points I raise, some legislative history will be made which will be helpful.

As reported by the Banking Committee, title 7 of the Financial Institutions Act contained the new tax credit. Pursuant to an amendment offered by Senator MCINTYRE, this title was dropped from the bill before the Senate and referred to the Committee on Finance, which has yet to formally consider these provisions.

Mr. President, one of the frustrations of the Budget Committee is that often, as in this case, legislation which has budgetary implications comes up on our blind side. In this case, it originated in the Banking Committee, which properly gave consideration to the subject; but it does not come to our attention as early as it should. I urge chairmen of standing committees to take advantage of the March 15 report each year to bring to the attention of the Budget Committee as many of these potential budget impacting pieces of legislation as possible, so that we will be alerted early on.

With respect to the merits of the tax credit to which I have just referred, the Budget Committee is not in a position to commit the Senate on the merits of that tax credit today. Yet, we must keep its very substantial costs clearly in mind while we consider the new regulatory structure of the financial institutions in the legislation now before us; because, as I understand it, the regulatory provisions are related to subsequent enactment of the related tax legislation.

I would appreciate having the comments of Senator PROXMIRE and Senator MCINTYRE on that point.

The mortgage interest tax credit is intended to replace the current tax law provisions which permit financial institutions deductions for bad debts substantially in excess of their actual bad debt experience.

Under the Tax Reform Act of 1969, the existing bad debt reserve provisions will be phased out completely for commercial banks by 1988 and will be reduced substantially for mutual savings banks and savings and loan associations by 1979.

The net revenue cost of new mortgage tax credit in excess of the current cost of the liberal bad debt reserve provisions is estimated to be between $500 million and $900 million for each of the next 5 years, for a total cost of slightly more than $3.5 billion.

The bad debt reserve provisions now reduce Treasury revenues by approximately $1 billion annually. Thus, the cost of the new credit, apart from the offsetting elimination of the bad debt reserve provisions would be about $1.5 billion in 1976 alone and comparable amounts in subsequent years. Since the bad debt reserve provisions are being substantially phased out under current law, in future years the net cost of the new credit would come much closer to the current gross cost of $1.5 billion than it would in its initial years of operation.

These are extremely substantial sums of money the Federal Government will be foregoing indefinitely if the combined new regulatory rules and tax credit are ultimately enacted. These sums are justified by proponents of the legislation as necessary to insure that adequate funds flow into residential mortgage lending activities.

The Budget Committee will be striving hard to reduce future budget deficits to a minimum. Therefore, the case for enactment of this new credit must be compelling since its adoption will make it that much more difficult to balance the budget or to permit general tax cuts in the future.

Careful consideration must be given to whether the proposed mortgage interest credit is necessary as well as whether it is the most efficient means of assuring adequate home mortgage funds compared with other possible nontax forms of governmental assistance.

I will vote in favor of the bill before the Senate today because it is a step toward making capital market more competitive and is likely to have an expansionary impact on economic activity. However, I will not vote in favor of the costly home mortgage tax credit, unless I become convinced of both its effectiveness and the need for a credit of such great magnitude.

These, Mr. President, are my understanding, based upon my staff's analysis of the potential costs of the new home mortgage tax credit which is covered by title 7 of the act. Title VII has been dropped. It is going to the Committee on Finance for consideration and will, in the course of that consideration also be evaluated by the Budget Committee. But I am concerned at the moment with the extent to which the outcome of the remaining six titles which are now before generate momentum behind the former title VII and thus, to some extent, limit our options in the future.

I should like the reaction of the distinguished chairman of the Committee on Banking, Housing and Urban Affairs and the floor manager of the bill, because I think that information would be useful to me and to the Budget Committee, as well as to Senators as a whole.

The ACTING PRESIDENT pro tempore. The Chair inquires as to which side is yielding time to the distinguished Senator from Maine.

Mr. McINTYRE. I am happy to yield as much time as he may need, on the bill.

Mr. MUSKIE. I yield to the Senator from New Hampshire.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McINTYRE. I yield.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Caroleen Silver, of my staff, have the privilege of the floor for the remainder of this bill and for S. 988.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McINTYRE. I yield myself 3 minutes on the bill.

Mr. President, in answer to one of the questions raised by the distinguished Senator from Maine, there is no doubt that title VII is interrelated to the six titles that we are about to pass today.

The Senator from Maine has said that this comes up on his blind side. We feel the same way. His appearance here at this moment is coming up on our blind side, too. If we are going to have these difficult questions asked of us, we should have time to prepare.

It is true, as the Senator from Maine has said, that title VII would increase the budget deficit; but title VII cannot, as the distinguished Senator from Maine knows, be considered in a vacuum. Because of the phaseout of the special bad debt loss provisions now in progress as a result of the 1969 tax bill, housing will be significantly and adversely impacted—unless this increasing disincentive to investment in housing, as compared to historic standards, is replaced by new incentives.

The new incentives are contained in this bill, S. 1267, including title VII. All of it is designed to do that, create new incentives.

Now, if S. 1267 is defeated, it will be necessary, Mr. President, to increase direct budget outlays for housing if we are to meet the Nation's housing goals as set forth in 1968. So if we try to prevent the loss that the Senator sees occurring to the Treasury as a result of this title VII, if he is going to push it down, then he is going to find that over in the appropriations side, it is going to pop up. If he pushes it down here, it is going to come up there.

In short, the deficit is likely to be higher, not lower, without this bill when we consider the appropriations that will be required to live up to the 1968 Housing Act. But even if there were budgetary costs from title VII, the benefits that will accrue from the first six titles and the need to replace the special loan loss provisions make it imperative, Mr. President, for the Senate to vote for S. 1267.

To implement my answers, I yield now 5 minutes to the chairman of the Committee on Banking.

Mr. PROXMIRE. I say to my good friend from Maine that I concur in what the Senator from New Hampshire has said. It is very, very hard to tell what effect this is going to have on the deficits or on the budget. If the tax incentive works as it should work, it will mean that there will be more housing, more wages paid, more profits, more revenue on those wages and profits. Therefore, revenues would increase, and the deficit would tend to be reduced. Of course, that is all theoretical; we do not know.

We have the word from the Department of the Treasury that the cost of title VII would be, in 1976, $544 million; in 1977, $618 million; in 1978, $699 million; 1979, $790 million; 1980, $172 million. That ignores the benefits which we expect to achieve and we would not enact it if we did not expect to achieve them.

Mr. MUSKIE. It is also accurate, is it not, that as the current law phases out, the budget benefit that is achieved by that phaseout will essentially offset some of the costs the Senator from Wisconsin has just described?

Mr. PROXMIRE. The costs I have described, I believe, would recognize the bad debt reserves and that loss would no longer be a factor.

Mr. MUSKIE. So the figures the Senator has given are net figures.

Mr. PROXMIRE. They are net in that sense. They do not recognize economic impact and the effects that may have.

The Senator has made it very clear in his statement, and was very fair in pointing out that titles I to VI, if they are passed, would not cost anything. That is all we are acting on today because of the McIntyre amendment.

Title VII will be something the Senate can accept or reject. I am very hopeful, on the basis of what I have seen so far, that they will accept it. I say that as one who has opposed tax expenditures generally, opposed tax credits, and recognized that we are far too cavalier in adopting them. We should be careful in considering title VII, if it comes up, if it does pass the House and/or does not come out of the Finance Committee, that in no sense is the Senate bound, by having acted on this bill, to enact a tax credit. We shall have to consider that de novo when it does arise, recognizing that it might provide real benefits for housing.

Mr. MUSKIE. I appreciate that statement. There are important provisions in the six titles in which I am interested, as well as other Senators. I did not want to put myself in a position, by voting for them, of in any way committing myself to this additional cost.

I commend the Senator for his continuing interest in stimulating the housing industry. I think that is an interest that is shared by, probably, every Member of the Senate. When we have had a chance to look at the merits of title VII, with the inputs of the Committee on Finance, it may well be that we will all support them. I simply regard it as the duty of the Committee on the Budget to alert the Senate to these costs.

Let me address myself again to that point which Senator MCINTYRE addressed with some frustration. We do not, in the Committee on the Budget, have a tracking system which enables us to get on top of every piece of legislation that is pending in any committee that might have budgetary implications. It may be that we shall develop mutual habits with other committees that, in due course, will assure us that we will not be taken by surprise and that we will not take legislative committees by surprise.

Mr. PROXMIRE. If the Senator will yield on that point, the Senator makes an excellent point. I have just directed the staff director of the Committee on Banking in the future to notify the Committee on the Budget whenever we have legislation that has budgetary implications—either additional expenditures or reduced expenditures, or additional or reduced revenues. I think that is our obligation, and we shall do it in the future. We neglected to do it this time, when we should have done so.

Mr. MUSKIE. That is very considerate of the Senator. I should say that I do not really relish coming to the floor at the last moment and springing questions like this. I think the budget process works better to the extent that we can alert other committees of what we have. That has been our objective. I raised these questions this morning not to put any roadblock in front of this legislation, but simply to raise the questions and to make a record that Senators may consider when title VII comes back to us in some form.

I thank my good friend from New Hampshire and my good friend from Wisconsin for helping me put this record together.

Mr. McINTYRE. I thank the distinguished Senator from Maine for his observations and for his careful attention to his duties as chairman of the Committee on the Budget.

I am prepared to yield back my time.

Mr. TOWER. I yield back my time.

Mr. McINTYRE. Mr. President, we yield back our time.

The PRESIDING OFFICER. All time has been yielded back. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. STENNIS), the Senator from Indiana (Mr. HARTKE), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I further announce that the Senator from Kansas (Mr. DOLE) is absent to attend the funeral of his father.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), and the Senator from Kansas (Mr. DOLE) would each vote "yea."

The result was announced—yeas 79, nays 14, as follows:

[Rollcall Vote No. 577 Leg.]

YEAS—79

Abourezk
Baker
Bartlett
Bayh
Beall
Bellmon
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Domenici
Durkin
Eagleton
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—14

Bentsen
Brock
Curtis
Eastland
Fannin
Goldwater
Helms
Laxalt
McClellan
McClure
Morgan
Nunn
Scott, William L.
Talmadge

NOT VOTING—7

Allen
Culver
Dole
Hartke
Hatfield
Huddleston
Stennis

So the bill (S. 1267), as amended, was passed, as follows:

S. 1267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Financial Institutions Act of 1975".

TITLE I—PAYMENT OF INTEREST ON DEPOSITS OR ACCOUNTS

SEC. 101. (a) Section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a), is amended by adding at the end thereof the following new subsections:

"(c) The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 401 of the National Housing Act.

"(d) The term 'negotiable order of withdrawal account' means a deposit or account on which payment of interest or dividends may be made and with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

(b) The first section of the Federal Reserve Act, as amended (12 U.S.C. 221), is amended by adding at the end thereof the following new paragraphs:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 to the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 401 of the National Housing Act.

"The term 'negotiable order of withdrawal account' means a deposit or account on which payment of interest or dividends may be made and with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

SEC. 102. (a) The matter preceding the colon in the first sentence of section 19(i) of the Federal Reserve Act, as amended (12 U.S.C. 371a), is amended to read as follows: "No member bank shall, directly or indirectly, by any device whatsoever pay any interest on any deposit which is payable on demand, and a demand deposit does not include a negotiable order of withdrawal account".

(b) The first sentence of section 19(j) of the Federal Reserve Act, as amended (12 U.S.C. 371b), is amended to read as follows: "The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, and the Secretary of the Treasury, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on demand, time, and savings deposits.".

SEC. 103. Section 19(j) of the Federal Reserve Act, as amended (12 U.S.C. 371b), is amended by adding at the end thereof the following new sentence: "Authority of the Board to prescribe limitations on the rates of interest, including the authority to prescribe limitations on rates of interest for member banks different from limitations on rates of interest or dividends for other depository institutions, shall expire five years and six months after the effective date of the Financial Institutions Act of 1975.".

SEC. 104. (a) Section 3 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813), is amended by adding at the end thereof the following new subsections:

"(r) The term 'depository institution' means—

"(1) any insured bank as defined in this section;

"(2) any mutual savings banks as defined in this section;

"(3) any savings bank as defined in this section;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 401 of the National Housing Act.

"(s) The term 'negotiable order of withdrawal account' means a deposit or account on which payment of interest or dividends may be made on a deposit or account with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

(b) The first and second sentence of section 19(g) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(g)), are amended to read as follows: "The Board of Directors shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks (including insured mutual savings banks) and for such purpose it may define the term 'demand deposits', except that the term as so defined shall not include negotiable order of withdrawal accounts; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The Board of Directors may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, and the Secretary of the Treasury, prescribe rules governing the payment and advertisement of interest or dividends on deposits, including limitations on the rates of interest or dividends that may be paid by insured nonmember banks (including insured mutual savings banks) on demand, time, and savings deposits.".

(c) Section 18(g) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828 (g)), is amended by adding at the end thereof the following new sentence: "Authority of the Board of Directors to prescribe limitations on the rates of interest or dividends, including the authority to prescribe limitations on rates of interest or dividends for nonmember banks (including insured mutual savings banks) different from limitations on rates of interest or dividends for other depository institutions, shall expire five years and six months after the effective date of the Financial Institutions Act of 1975.".

SEC. 105. (a) Section 2 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1422), is amended by adding at the end thereof the following new paragraphs:

"(10) The term 'depository institution' means—

"(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(D) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(E) any member as defined in this section; and

"(F) any insured institution as defined in section 401 of the National Housing Act.

"(11) The term 'negotiable order of withdrawal account' means an account on which payment of interest or dividends may be made on a deposit or account with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

(b) Section 5B(a) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425b (a)), is amended by striking out the first sentence and inserting in lieu thereof the following: "The Board shall by regulation prohibit the payment of interest or dividends on demand deposits by members, by institutions which are insured institutions as defined in section 401 of the National Housing Act, and by nonmember building and loan, savings and loan, and homestead associations, and cooperative banks, and for such purpose it may define the term 'demand deposits', except that the term as so defined shall not include negotiable order of withdrawal accounts; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The Board may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, and the Secretary of the Treasury, prescribe rules governing the payment and advertisement of interest or dividends on deposits, including demand deposits, shares, or withdrawable accounts, including limitations on the rates of interest or dividends on deposits, shares, or withdrawable accounts that may be paid by members, other than those the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act, by institutions which are insured institutions as defined in section 401 of the National Housing Act, and by nonmember building and loan, savings and loan, and homestead associations, and cooperative banks.".

(c) The last sentence of section 5B(a) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425b(a)), is amended to read as follows: "Authority of the Board to prescribe limitations on the rates of interest or dividends, including the authority to prescribe limitations on rates of interest or dividends for member and nonmember institutions different from the limitations on rates of interest or dividends for other depository institutions, shall expire five years and six months after the effective date of the Financial Institutions Act of 1975.".

SEC. 106. The Secretary of the Treasury, after consulting with the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall transmit to the Congress, not later than five years after the effective date of this Act, a report of findings and recommendations regarding regulatory authority to prescribe limitations on rates of interest or dividends paid by depository institutions.

SEC. 107. Section 117 of the Federal Credit Union Act, as amended (12 U.S.C. 1763), is amended—

(1) by inserting "(a)" after "SEC. 117."; and

"(2) by adding at the end thereof the following new subsections:

"(b) The Administrator may from time to time, after consulting with the Federal Home Loan Bank Board, the Board of Directors of the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Secretary of Housing and Urban Development, and the Secretary of the Treasury, prescribe rules governing the payment and advertisement of interest or dividends, including limitations on the rates of interest or dividends that may be paid by insured credit unions or member accounts, including demand deposits. Such rules shall prohibit the payment of interest or dividends on demand deposits, but such prohibition does not apply to negotiable order of withdrawal accounts. Authority of the Administrator to prescribe limitations on the rates of interest or dividends, including the authority to prescribe limitations on rates of interest or dividends for insured credit unions different from the limitations on rates of interest or dividends for other depository institutions, shall expire five years and six months after the effective date of the Financial Institutions Act of 1975.

"(c) As used in this section—

"(1) the term 'depository institution' means—

"(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(D) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(E) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(F) any insured institution as defined in section 401 of the National Housing Act; and

"(2) the term 'negotiable order of withdrawal account' means an account on which payment of interest or dividends may be made on a deposit or account with respect to which the depository institution may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

SEC. 108. Prior to the expiration of five years and six months after the effective date of this Act, the authority of the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration to prescribe rules governing the payment of interest or dividends shall be exercised in a manner which prevents disintermediation and maintains appropriate levels of mortgage credit.

SEC. 109. Section 7 of Public Law 89-597, as amended (12 U.S.C. 461 note), is repealed.

SEC. 110. (a) (1) Section 19(i) of the Federal Reserve Act is repealed.

(2) The first sentence of section 18(g) of the Federal Deposit Insurance Act is repealed.

(3) The first sentence of section 5(B) (a) of the Federal Home Loan Bank Act is repealed.

(4) The second sentence of section 117(b) of the Federal Credit Union Act is repealed.

(b) The amendments made by subsection (a) shall take effect on January 1, or on such later date not later than January 1, 1980, as determined by the Board of Governors of the Federal Reserve System, after consultation with the Secretary of the Treasury, the Comptroller of the Currency, the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board. The Board shall not determine to delay the effective date of the amendments made by subsection (a) beyond January 1, 1978 unless it finds that the benefits to depositors resulting from the payment of interest on demand deposits would be clearly outweighed by any adverse effects that such payments would likely have on the nation's financial system. The Board shall promptly transmit to the Congress a detailed report of any such finding: Prior to the effective date of subsection (a) as determined by the Board.

TITLE II—RESERVES AND EXPANDED DEPOSIT LIABILITY POWERS

SEC. 201. (a) Section 19(i) of the Federal Reserve Act, as amended (12 U.S.C. 371a), is amended by adding at the end thereof the following: "Nothing herein contained shall be construed as prohibiting the payment of interest on funds of a corporation operated for profit and deposited in a savings deposit or negotiable order of withdrawal account.".

(b) Section 19(b) of the Federal Reserve Act, as amended (12 U.S.C. 461), is amended by striking out all that precedes paragraph (3) and inserting in lieu thereof the following:

"(b) Every member bank shall maintain reserves against its deposits in such ratios as shall be determined by the affirmative vote of not less than 4 members of the Board, and every member of a Federal Home Loan Bank, every Federal credit union, and every credit union which is a member of the National Credit Union Administration Discount Fund shall maintain reserves against demand deposits and negotiable order of withdrawal accounts in such ratios as shall be determined by the affirmative vote of not less than 4 members of the Board, after consultation with the Federal Home Loan Bank Board and the Administrator of the National Credit Union Administration within the following limitations:

"(1) In the case of any such institution in a reserve city, the minimum reserve ratio for any demand deposit or negotiable order of withdrawal account shall be not less than 10 per centum and not more than 22 per centum. Reserve ratios for negotiable order of withdrawal accounts may be set at a level different from that applicable to demand deposits.

"(2) In the case of any such institution not in a reserve city, the minimum reserve ratio for any demand deposit or negotiable order of withdrawal account shall be not less than 7 per centum and not more than 14 per centum. Reserve ratios for negotiable order of withdrawal accounts may be set at a level different from that applicable to demand deposits."

(c) Section 19(c) of the Federal Reserve Act, as amended (12 U.S.C. 461), is amended—

(1) by striking out "by any member bank";

(2) by striking out "such bank" in paragraph (1) and inserting in lieu thereof "such institution";

(3) by inserting after "member" in paragraph (1) "or at which it maintains an account"; and

(4) by striking out "bank" in paragraph (2) and inserting in lieu thereof "institution".

Sec. 202. (a) Section 2 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1462), is amended by adding at the end thereof the following new subsection:

"(e) The term 'negotiable order of withdrawal account' means an account on which payment of interest or dividends may be made on a deposit or account with respect to which the association may require the depositor or account holder to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise.".

(b) Section 5 of the Home Owner's Loan Act of 1933, as amended (12 U.S.C. 1464), is amended by deleting "savings" at each place it appears before "account" or "accounts".

(c) Section 5(b)(1) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(b)(1)), is amended (1) by deleting the first sentence and substituting the following in lieu thereof: "An association may raise capital in the form of such deposits, shares, demand, or other accounts (all of which are referred to in this section as accounts) as are authorized by its charter or by regulations of the Board, and may issue such passbooks, certificates, or other evidence of accounts as are so authorized."; (2) by deleting "in the case of savings accounts for fixed or minimum terms of not less than thirty days" in the third sentence; (3) by deleting "The payment" in the fourth sentence and inserting in lieu thereof: "Except as otherwise provided by the Board, the payment"; and (4) by deleting the last sentence thereof and substituting the following: "An association may permit withdrawal or transfer of accounts on negotiable, transferable or nontransferable check, order or authorization, and may grant overdrafts.".

(d) Section 5(b) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(b)), is amended by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Without regard to any other provision of this section, an association is authorized to issue credit cards, extend credit, and otherwise engage in or participate in credit card operations.".

(e) The first sentence of section 13 of the Federal Reserve Act, as amended (12 U.S.C. 342), is amended—

(1) by striking out "and drafts, payable upon presentation" both places it appears and inserting in lieu thereof "drafts, and items drawn on negotiable order of withdrawal accounts";

(2) by striking out "and drafts payable upon presentation" and inserting in lieu thereof a comma and the following: "drafts, and items drawn on negotiable order of withdrawal accounts";

(3) by inserting after "may receive from any nonmember bank or trust company", the following: "or, without limitation by or under any other provision of law, but subject to approval by the Board of Governors and the Federal Home Loan Bank Board by regulation or otherwise, from any Federal Home Loan Bank or member thereof or, without limitation by or under any other provision of law, but subject to approval by the Board of Governors and the Administrator of the National Credit Union Administration by regulation or otherwise, from any Federal credit union or other credit union which is a member of the National Credit Union Administration Discount Fund"; and

(4) by inserting after "Provided, Such nonmember bank or trust company" the following: "or Federal Home Loan Bank".

(f) The fourteenth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 248(o)), is amended by adding at the end thereof the following: "Whenever any such Federal reserve bank exercises any of the functions of a clearing house for its member banks, it shall offer the same services on a nondiscriminatory basis to all depository institutions. For the purpose of the preceding sentence, the term "depository institutions' means—

"(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(D) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(E) any member of the National Credit Union Administration Discount Fund;

"(F) any Federal Home Loan Bank;

"(G) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(H) any insured institution as defined in section 401 of the National Housing Act.".

(g) Section 5A of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425a), is amended by redesignating subsection (f) as subsection (g) and by inserting before such subsection, as redesignated, the following new subsection:

"(f) Each such institution shall maintain reserves against its demand deposits or accounts and negotiable order of withdrawal accounts, in currency and coin or in balances in a Federal reserve bank in amounts not less than such percentages of its aggregate amounts of such deposits or accounts as may be prescribed under section 19(b) of the Federal Reserve Act by the Board of Governors of the Federal Reserve System after consultation with the Board. For purposes of subsections (d) and (e) and the first sentence of subsection (c) of this section, the terms 'liquidity requirement' and 'liquidity' shall, except to such extent as the Board may otherwise provide, respectively include the requirements and the holdings referred to in this subsection.".

Sec. 203. Section 2 of the Act of August 16, 1973 (Public Law 93–100) (12 U.S.C. 1832) is repealed.

Sec. 204. Section 5(k) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1465(k)), is amended by adding at the end thereof the following new paragraph:

"When designated for that purpose by the Secretary of the Treasury, each association may be a depository of public funds, except receipts from customs, under such regulations as may be prescribed by the Secretary, and it shall perform all such reasonable duties as a depository of public funds as may be required of it by the Secretary.".

Sec. 205. Section 116 of the Federal Credit Union Act, as amended (12 U.S.C. 1762), is amended by adding at the end thereof the following new subsection:

"(c) Each Federal credit union and each member of the National Credit Union Administration Discount Fund shall maintain reserves against its demand accounts and negotiable order of withdrawal accounts in currency and coin or in balances in a Federal reserve bank in amounts not less than such percentages of its aggregate amounts of such accounts as may be prescribed under section 19(b) of the Federal Reserve Act by the Board of Governors of the Federal Reserve System after consultation with the Administrator.".

Sec. 206. The thirteenth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 360), is amended to read as follows:

"Every Federal reserve bank shall receive on deposit at par, from its depositors or from Federal reserve banks, checks, drafts, and other items drawn on negotiable order of withdrawal accounts, drawn upon any of its depositors, and when remitted by a Federal reserve bank, checks, drafts, and other items drawn on negotiable order of withdrawal accounts drawn by any depositor in any other Federal reserve bank or in an institution maintaining deposits with any Federal reserve bank. Nothing herein contained shall be construed as prohibiting a depositor in a Federal reserve bank from charging its actual expense incurred in collecting and remitting funds or for exchange sold to its patrons. The Board of Governors of the Federal Reserve System shall by rule fix the charges to be collected by depositors in Federal reserve banks from their patrons whose checks, drafts, or other items drawn on negotiable order of withdrawal accounts are cleared through the Federal reserve bank and the charges which may be imposed for the service of clearing or collection, rendered by the Federal reserve bank.".

Sec. 207. (a) Any person who provides clearing or settlement services involving checks, drafts, or similar items, including items drawn on negotiable order of withdrawal accounts shall make such services available on a nondiscriminatory basis to all depository institutions. Violation of the provisions of this section is a misdemeanor punishable by a fine of not to exceed $1,000 for each violation.

(b) For the purpose of subsection (a), the term "depository institution" means—

(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

(5) any member of the National Credit Union Administration Discount Fund;

(6) any Federal Home Loan Bank;

(7) any member as defined in section 2 of the Federal Home Loan Bank Act; and

(8) any insured institution as defined in section 401 of the National Housing Act.

TITLE III—LENDING AND INVESTMENT POWERS

SEC. 301. (a) Section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)), with the exception of the fifteenth paragraph thereof, is amended to read as follows:

"(c)(1) In implementing the provisions of this subsection, the Board shall cause such associations to be primarily long-term residential mortgage lenders. An association may, to such extent, and subject to such rules, regulations, definitions, and orders, as the Board may prescribe from time to time, invest in, sell, service, or otherwise deal with, the following loans and other investments:

"(A) loans secured by or made with respect to or for the acquisition, development, construction, improvement, repair, equipping, or alteration of real property which primarily comprises or includes or is to comprise or include one or more homes or other dwelling units (including condominiums, cooperatives, and mobile homes); except that an association must agree to make permanent financing available in connection with any construction or development loan made pursuant to this subparagraph;

"(B) loans to, or other securities or instruments issued by, or having the benefit of any insurance, guaranty, or assistance of, any one or more of the following:

"(i) the United States, a State or political subdivision of a State, including any department or agency of any one or more of the foregoing;

"(ii) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, or any other instrumentality of the United States, a State or political subdivision of a State, created to further any house program;

"(iii) the National Housing Partnership Corporation and any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of the Housing and Urban Development Act of 1968, as heretofore or hereafter in effect;

"(iv) the President of the United States, as authorized under sections 221, 222, or 224 of the Foreign Assistance Act of 1961, as now or hereafter in effect; and

"(v) a Federal reserve bank;

"(C) loans or other investments secured by any type of loan or other investment authorized under the preceding subparagraphs (A) and (B);

"(D) loans secured by accounts in the association;

"(E) real property a substantial portion of which is used or will be used as a home office or other office facility of the association (or securities of a corporation substantially all of whose activities consist of the ownership or operation of such real property); and

"(F) the following additional loans and other investments, but no association may make an investment under this subparagraph (F) if its aggregate outstanding investments under this subparagraph (F) would thereupon exceed 30 per centum of its total investments under this paragraph (c)(1):

"(i) loans for the payment of expenses of college, university, vocation school, or other education;

"(ii) consumer loans;

"(iii) loans secured by or made with respect to or for the development or construction of real property which comprises or includes or is to comprise or include one or more homes or other dwelling units (including condominiums, cooperatives, and mobile homes) and loans secured by or made with respect to other real property;

"(iv) to the extent not referred to in the preceding subparagraph (B), loans to, or other securities or instruments issued by, or having the benefit of any insurance, guaranty, or assistance of, the Student Loan Marketing Association, any other instrumentality of the United States, or any instrumentality of a State or political subdivision of a State;

"(v) loans or other investments for purposes related to community conservation, development, or improvement;

"(vi) loans or other investments secured by loans or other investments authorized under the preceding provisions of this subparagraph (F);

"(vii) loans to, or other securities or instruments issued by, any corporation incorporated under the laws of any State or of the United States, substantially all the activities of which are reasonably related to the activities of the association, but no association may make an investment under this subparagraph (vii) if its aggregate outstanding investments under this subparagraph (vii) would thereupon exceed the greater of one per centum of its assets or 25 per centum of its net worth;

"(viii) commercial paper and other corporate debt securities; and

"(ix) deposits in, or other loans to, and bankers' acceptances of, any financial institution the deposits or accounts of which are insured by an agency or instrumentality of the United States.

"(G) Any institution which has converted to a Federal association pursuant to subsection (i) of this section may, to the extent permitted by the Board and subject to such terms and conditions as may be imposed by the Board:

"(i) make investments of a type permitted under subparagraph (F) of this subsection (c)(1) without regard to the 30 per centum of assets limitation contained in said paragraph (F) for a period not to exceed five years from the effective date of such conversion;

"(ii) retain, but not increase, investments which were lawful immediately prior to the effective date of such conversion where such investments are not authorized under this subsection (c)(1) and are not included as an authorized investment for the converted association pursuant to subsection (a) of this section 5; and

"(iii) in the case of a mutual savings bank converting to a Federal association, continue and retain those investments included within subsection (a) of this section 5 to the extent permitted by said subsection, except that the Board may include any of such investments which are of a type authorized by subparagraph (F) of this subsection (c)(1) within the 30 per centum of assets limitation contained in said subparagraph.

As used in this subsection, the term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

"(2) To such extent, and subject to such rules, regulations, definitions, and orders, as the Board may prescribe from time to time, an association may be and act as executor, administrator, custodian, testamentary trustee, or trustee of a living trust, or in any other fiduciary capacity, for any estate, trust or assets owned by or created, existing, or organized for the benefit of, any individual or individuals, or as custodian or trustee of any individual or self-employment retirement account or plan, and all funds held in any such capacity by any such association may be commingled for appropriate investment. An association may also act as custodian or trustee with respect to any securities issued or guaranteed by any financial institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or issued or guaranteed by an affiliate of one or more of such institutions. An arrangement which would otherwise be a trust having an association as trustee shall, for the purposes of this paragraph (2), the Internal Revenue Code of 1954, or any other provision of law now or hereafter in effect, be considered to be a trust having an association as trustee without regard to the fact that all or part of such arrangement consists or has consisted of one or more deposits. One or more associations may establish, maintain, or invest in common funds. An association shall not, by reason of any service, activity, or business authorized by this paragraph, be considered not to be entitled to any exemption or favorable treatment, under any tax statute or other statute, it would have or receive in the absence of such service, activity, or business.".

(b) Section 2 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1462), is amended by adding at the end thereof the following new subsections:

"(e) The terms 'real property' and 'real estate' include leaseholds and mobile homes for purposes of this section.

"(f) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession (including any trust territory) of the United States. The provisions of this Act shall apply to any State as herein defined.".

(c) Section 7 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1466), is repealed.

(d) The fifteenth paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)), is designated paragraph (3) of such section.

(e) Section 5A(b) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425a (b)), is amended by inserting before "and commercial banks" the following: ", insured institutions as defined in section 401(a) of the National Housing Act,".

(f) Section 408(e)(1)(A)(iii) of the National Housing Act, as amended (12 U.S.C. 1730a(e)(1)(A)(iii)), is amended by inserting "(other than shares representing withdrawable accounts subject to such limitations as the Corporation may prescribe)" after the words "an insured institution not a subsidiary".

(g) Section 10 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1430), is amended (1) by deleting the first two sentences of subsection (b), and (2) by amending subsection (a) to read as follows:

"(a) Each Federal Home Loan Bank is authorized to make secured advances to its members upon such security as the Board may prescribe.".

SEC. 302. (a) The first partial sentence of paragraph Seventh of section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24), is amended to read as follows: "To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange and other evidence of debt; by receiving deposits; by buying and selling exchange, coin, or bullion; by granting overdrafts; by making loans secured by personal property or real estate or on the basis of general creditworthiness; and by issuing capital debentures subject to rules and regulations promulgated by the Comptroller of the Currency.".

(b) Section 24 of the Federal Reserve Act, as amended (12 U.S.C. 371), is repealed.

(c) Paragraph Eighth of section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24), is amended to read as follows:

"Eighth. To make contributions for charitable, philanthropic, or benevolent purposes conducive to public welfare; and to invest in loans for, or in equity or debt securities for, or in real estate for community welfare and development where the project is of a civic, community, or public nature and not exclusively private and entrepreneurial in an amount not to exceed 3 per centum of total assets.".

Sec. 303. The last sentence in the first paragraph of section 10(b) of the Federal Reserve Act, as amended (12 U.S.C. 347b), is repealed.

TITLE IV—CHARTERS FOR THRIFT INSTITUTIONS

Sec. 401. (a) Section 2(d) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1462(d)), is amended to read as follows:

"(d) The terms 'association' or 'Federal association' mean a Federal savings and loan association or a Federal savings bank chartered by the Board under section 5 of this Act, and any reference in any law to a Federal savings and loan association shall be deemed to be also a reference to a Federal savings bank, but except as otherwise expressly provided by Federal statute or by the Board, no reference to a bank or banks in any statute of the United States shall be deemed to be a reference to a Federal savings and loan asociation or a Federal savings bank. As used in this Act, references to a 'building and loan association', 'savings and loan association', or 'institution' which is chartered or organized under State laws include any institution organized under such laws and of a type which may be eligible for insurance of accounts under title IV of the National Housing Act, as amended (12 U.S.C. 1724 et seq.); the terms 'Federal mutual association', 'Federal stock association', 'State mutual association', and 'State stock institution' differentiate such associations and institutions on the basis of their capital structure.".

(b) Section 5(a) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(a)), is amended to read as follows:

"Sec. 5. (a) In order to provide thrift institutions in which people may invest their funds and in order to provide for the financing of homes and family and consumer needs, the Board is authorized to provide for the organization, incorporation, conversion, examination, operation, and regulation, under such rules, regulations (including definitions of terms used in this Act), or orders as it may prescribe, of associations which may be known as 'Federal Savings and Loan Associations' or 'Federal Savings Banks', and in issuing charters therefor, the Board shall give primary consideration to the best practices of thrift institutions and the needs of the families, consumers and communities to be served. An association which was formerly organized as a savings bank under State law may, to the extent authorized by the Board, continue and retain its real estate lending authority and its authority to provide life insurance and maintain its equity and corporate bond investments at levels determined by its average ratio of such investments to total assets for the five-year period beginning on January 1, 1970."

(c) Section 402(a) of the National Housing Act, as amended (12 U.S.C. 1725(a)), is amended to read as follows:

"Sec. 402. (a) The Federal Savings and Loan Insurance Corporation is redesignated as the Federal Savings Insurance Corporation (hereinafter referred to as the 'Corporation') and reference in this title and in any other law to the Federal Savings and Loan Insurance Corporation shall be deemed to be references to the Corporation. The Corporation shall insure the accounts of institutions eligible for insurance as hereinafter provided. The Corporation shall be under the direction of the Federal Home Loan Bank Board and is authorized to issue such rules, regulations, and orders as it may deem necessary or appropriate to enable it to administer and carry out the purposes of this title and to require compliance therewith and prevent evasions thereof. The principal office of the Corporation shall be in the District of Columbia.".

(d) Section 403(a) of the National Housing Act, as amended (12 U.S.C. 1726(a)), is amended by deleting the comma after "Federal savings and loan associations" and by adding thereafter "and Federal savings banks,".

(e) Section 5(b)(2) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(b)(2)), is amended by changing "(except capital stock)" to "(including capital stock)".

(f) The first paragraph of section 5(i) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (i)), is amended by inserting "(including a savings bank or credit union)" after the phrase "member of a Federal Home Loan Bank".

TITLE V—CREDIT UNIONS

Sec. 501. (a) Paragraph (1) of section 101 of the Federal Credit Union Act, as amended (12 U.S.C. 1752), is amended to read as follows:

"(1) The term 'Federal credit union' means a cooperative thrift institution incorporated in accordance with the provisions of this title for the purpose of (A) encouraging thrift, (B) creating a source of credit at fair and reasonable rates of interest, (C) meeting the financial needs of its members and its members' families, and (D) providing an opportunity for its members to use and control their own money in order to improve their economic and social condition;".

(b) Section 101 of the Federal Credit Union Act, as amended (12 U.S.C. 1752), is amended by redesignating the last numbered paragraph (4) as paragraph (5) and by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively.

Sec. 502. (a) Paragraph (5) of section 101 of the Federal Credit Union Act, as amended (12 U.S.C. 1752) is amended—

(1) by striking out "The Terms";

(1) by striking out "(when referring to the account of a member of a credit union)"; and

(2) by inserting after "mean a share" a comma and the following: "demand deposit, negotiable order of withdrawal account".

(b) Section 201(c)(3) of such Act, as amended (12 U.S.C. 1781(c)(3)), is amended by striking out the last sentence thereof.

Sec. 503. Section 103 of the Federal Credit Union Act, as amended (12 U.S.C. 1753), is amended—

(1) by striking out the words "some officer competent to administer oaths" and inserting "a witness either individually or collectively," in lieu thereof; and

(2) by striking out the words "$5 each" at the end of paragraph (4) thereof and inserting in lieu thereof: "in $5 multiples, not less than $5 and not more than $25 each".

Sec. 504. (a) Paragraph (5) of section 107 of the Federal Credit Union Act, as amended (12 U.S.C. 1757), is amended to read as follows:

"(5) to make loans and extend lines of credit to its members, to other credit unions and to credit union organizations and to participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

"(A) Loans to members shall be made in conformity with criteria established by the board of directors. In addition to such criteria, loans to members shall be subject to the following terms, conditions, and limitations:

"(i) except as otherwise specifically provided hereafter, the maturity of any such loan may not exceed 12 years;

"(ii) a residential real estate loan which is made to finance the acquisition of a one-to-four family dwelling for the residence of a credit union member, and which is secured by a first lien upon such dwelling, may have a maturity not exceeding 30 years, subject to the rules and regulations of the Administrator;

"(iii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity of not to exceed 15 years unless such loan is insured or guaranteed as provided in subparagraph (iv);

"(iv) a loan secured by the insurance or guarantee of the Federal Government, of a State government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance or guarantee is provided;

"(v) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds $5,000 plus pledged shares, be approved by the board of directors;

"(vi) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser be approved by the board of directors when such loans standing alone or when added to any outstanding loan or loans of the guarantor or endorser exceed $5,000;

"(vii) loans are approved by the credit committee or a loan officer;

"(viii) the rate of interest not exceed 1 per centum per month on the unpaid balance or such higher rate as is permitted by the Administrator of the National Credit Union Administration;

"(ix) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this paragraph, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back from the credit union taking or receiving the same, in an action in the nature of an action of debt, the entire amount of interest paid; but such action must be commenced within two years from the time the usurious collection was made;

"(x) a borrower may repay his loan, prior to maturity in whole or in part on any business day without penalty;

"(xi) loans shall *be paid or* amortized in accordance with rules and regulations prescribed by the Administrator after taking into account the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit unions, and such other factors as the Administrator deems relevant.

"(B) A line of credit to a borrower may be established to a stated maximum amount on certain terms and conditions which may be different from the terms and conditions established for another borrower.

"(C) Loans to other credit unions shall be approved by the board of directors.

"(D) Loans to credit union organizations shall be approved by the board of directors and not exceed 1 per centum of the paid-in and unimpaired capital and surplus of the credit union. For purposes of this paragraph, a credit union organization is any organization which primarily serves credit unions, and of which the credit union is a member.

"(E) Participation loans with other credit unions, credit union organizations, or financial organizations shall be in accordance with written policies of the board of directors;".

(b) Paragraph (6) of such section is repealed.

(c) Paragraph (7) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is redesignated paragraph (6) and is amended to read as follows:

"(6) (A) to receive from its members, from other credit unions, from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act and in the manner so prescribed, and from nonmembers in the case of credit unions serving predominantly low-income members (as defined by the Board) payments on—

"(i) shares, share certificates (which may be issued at varying dividend rates and maturities), negotiable order of withdrawal accounts, and share deposits, subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Administrator, and

"(ii) demand deposits, subject to the prior approval of the Administrator, in accordance with rules and regulations prescribed by the Administrator; and

"(B) to permit withdrawals or transfers from accounts by means of negotiable, transferable or nontransferable checks, drafts, orders, or authorizations."

(d) Paragraph (8) of such section is redesignated paragraph (7) and amended to read as follows:

"(7) to invest funds (A) in securities, obligations, certificates, or other instruments of, or issued, or fully guaranteed as to principal and interest by the United States of America, any agency or instrumentality thereof, or any corporation wholly or partially owned or established by the United States of America or any agency or instrumentality thereof, or by any trust or trusts established by the United States of America or any agency or instrumentality thereof; (B) in obligations of any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, the several territories and possessions or any political subdivision thereof; (C) in the shares, stocks, or obligations of any other organization, corporation, or association which strengthens or advances the development of credit unions or credit union organizations, up to 5 per centum of the total paid-in and unimpaired capital and surplus of the credit union with the approval of the Administrator;".

(e) Paragraph (9) of such section is redesignated paragraph (8) and amended to read as follows:

"(8) to place its funds (A) in shares, accounts, or deposits of savings and loan associations and mutual savings banks which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation; (B) in shares, share certificates, share deposits, demand or time deposits of any federally or State insured credit union; (C) in shares or deposits of any central credit union in which such investments are specifically authorized by the board of directors of the Federal credit union making the investment; (D) in demand or time deposits of any bank or trust company the deposits of which are insured by the Federal Deposit Insurance Corporation; (E) for Federal credit unions, or credit unions authorized by the Department of Defense, operating suboffices on American military installations in foreign countries or trust territories of the United States to maintain demand deposit accounts in banks located in those countries or trust territories subject to such regulations as may be issued by the Administrator and provide such banks are correspondents of banks described in clause (D) of this paragraph;".

(f) Such section is amended by redesignating paragraphs (10) through (14) as paragraphs (9) through (13).

(g) Paragraph (12) of such section, as redesignated, is amended by striking out everything after "Administrator," and inserting in lieu thereof the following: "to sell, purchase, or handle any money transfer instrument to or for members;".

(h) Paragraph (13), as redesignated, of such section is amended by inserting after the first comma the following: "to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the Administrator) of its members and".

(i) Paragraph (15) of such section is redesignated paragraph (16) and is amended by inserting "to meet the financial needs of its members and its members' families and" after "to enable it".

(j) Such section is further amended by adding the following new paragraphs after paragraph (13):

"(14) to sell all or a part of its assets to another credit union, to purchase all or part of the assets of another credit union and to assume the liabilities of the selling credit union and those of its members subject to regulations of the Administrator;

"(15) with the approval of the Administrator, to permit its members to transfer money to and from their accounts at such intervals and by such means as may be permitted by regulation of the Administrator;".

Sec. 505. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended to read as follows:

"MANAGEMENT

"Sec. 111. The management of a Federal credit union shall be by a board of directors, a supervisory committee and, when the bylaws so provide, a credit committee.

"The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide. Any vacancy occurring on the board shall be filled until the next annual election by appointment by the remainder of the directors.

"The supervisory committee shall be appointed by the board of directors and shall consist of not less than three members nor more than five members, one of whom may be a director other than the treasurer.

"A record of the names and addresses of the executive officers and the chairperson of the supervisory and, when utilized, the credit committee shall be filed with the Administrator within ten days after their election or appointment.

"No member of the board or of any committee shall, as such, be compensated: *Provided, however,* That reasonable health, accident, and similar insurance protection shall not be considered compensation.".

Sec 506. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended to read as follows:

"OFFICERS

"Sec. 112. At their organization meeting and within thirty days following each annual meeting of the members thereafter, the directors shall elect from their own number an executive officer who may be designated as chairperson of the board or president, a vice chairperson of the board or one or more vice presidents, a treasurer, and a secretary, of whom the last two may be the same individual, and the persons so elected shall be the executive officers.

"No executive officer, except the treasurer, shall be compensated as such.

"The board of directors may employ a person to be in charge of operations whose title shall be president or general manager; or, in lieu thereof, the board of directors may designate the treasurer to act as general manager or president and be in active charge of the affairs of the Federal credit union.

"The duties of the officers shall be as determined in the bylaws.

"Before the officer in charge of operations acting as general manager or president or the treasurer shall assume the duties of the office, such officer shall give bond with good and sufficient surety, in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Administrator, conditioned upon the faithful performance of such officer's trust.".

Sec. 507. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended to read as follows:

"DIRECTORS

"Sec. 113. The board of directors shall meet at least once a month and shall have the general direction and control of the affairs of the Federal credit union. Minutes of all meetings shall be kept.

"Among other things, the board shall—

"(A) act upon applications for membership or appoint membership officers from among the members, other than the treasurer, an assistant treasurer, or a loan officer, to act on its behalf;

"(B) require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character in compliance with regulations of the Administrator, and authorize the payment of the premium or premiums therefor from the funds of the Federal credit union;

"(C) fill vacancies on the board until successors elected at the next annual meeting have qualified;

"(D) if the bylaws provide for an elected credit committee, fill vacancies on the credit committee until successors elected at the next annual meeting have qualified;

"(E) appoint the members of the supervisory committee and, if the bylaws so provide, appoint the members of the credit committee;

"(F) have charge of investments including the right to designate an investment committee of not less than two to act on its behalf;

"(G) determine the maximum number of shares in member accounts and the classes of shares in member accounts that may be held by members, and in the case of low-income credit unions, nonmembers;

"(H) subject to the limitations of this subchapter, determine the interest rates on loans, and the security and the maximum amount which may be loaned or provided in a line of credit;

"(I) authorize interest refunds to members from income earned and received on such classes of loans and under such conditions deemed fair;

"(J) provide for the hiring and compensation of employees, including loan officers in cases where there is no credit committee;

"(K) if the bylaws so provide, appoint an executive committee of not less than three directors to act on its behalf and any other committees to which it can delegate specific functions;

"(L) prescribe conditions and limitations for the investment committee, executive committee, and the appointed credit committee and any other committee which it appoints;

"(M) review at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meetings, together with such other related information as it or the bylaws require;

"(N) make provision for the furnishing of the written reasons for the denial of any membership application upon the written request of the applicant;

"(O) establish the dividend rate to be paid on member accounts;

"(P) do all other things that are necessary and proper to carrying out the purposes and powers of the Federal credit union.".

Sec. 508. Section 114 of the Federal Credit Union Act (12 U.S.C. 1761c) is amended to read as follows:

"CREDIT COMMITTEE

"Sec. 114. The board of directors may appoint or the members may elect a credit committee consisting of an odd number of members of the credit union. The method used shall be set forth in the bylaws. The credit committee shall hold such meetings as the business of the Federal credit union may require, not less frequently than once a month, to consider applications for loans or lines of credit. Approval of an application shall be by a majority of the committee who are present at the meeting at which it is considered: Provided, That a majority of the full committee is present. The credit committee may appoint and delegate to loan officers the authority to approve applications.

"If loan officers are utilized, loans or lines of credit not approved by the loan officer shall be reviewed by the credit committee and the approval of a majority of the members who are present at the meeting when such review is undertaken shall be required to reverse the loan officer's decision: Provided, That a majority of the full committee is present.

"No loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed 10 per centum of the credit union's paid-in and unimpaired capital and surplus.".

Sec. 509. Section 116 of the Federal Credit Union Act (12 U.S.C. 1762) is amended by striking out all after the colon in subsection (a), by striking out subsection (b), and by inserting in lieu thereof the following:

"(1) A credit union in operation for more than 4 years and having assets of $500,000 or more shall set aside (A) 10 per centum of gross income until the regular reserve shall equal 4 per centum of the total of outstanding loans and risks assets, then (B) 5 per centum of gross income until the regular reserve shall equal 6 per centum of the total of outstanding loans and risk assets.

"(2) A credit union in operation less than 4 years or having assets of less than $500,000 shall set aside (A) 10 per centum of gross income until the regular reserve shall equal 7½ per centum of the total of outstanding loans and risk assets, then (B) 5 per centum of gross income until the regular reserve shall equal 10 per centum of the total of outstanding loans and risk assets.

"(3) Whenever the regular reserve falls below the stated per centum of the total of outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

"(b) The Administrator may decrease the reserve requirement set forth in subsection (a) of this section when in his opinion such a decrease is necessary or desirable. The Administrator may also require special reserves to protect the interests of members either by regulation or for an individual credit union in any special case.".

Sec. 510. Subsection (b)(3)(B) of section 120 of the Federal Credit Union Act, as amended (12 U.S.C. 1766), is amended by striking out "shares" and inserting in lieu thereof "member accounts".

Sec. 511. The Federal Credit Union Act (12 U.S.C. 1751–1790) is amended by adding at the end thereof the following new title:

"TITLE III—NATIONAL CREDIT UNION ADMINISTRATION DISCOUNT FUND

"FINDINGS AND PURPOSE

"Sec. 301. The Congress finds that the stability of credit unions will encourage savings and will be promoted by establishing a National Credit Union Administration Discount Fund to provide funds to meet the temporary liquidity needs of credit unions and for that purpose to provide for the orderly transfer of funds among and between credit unions and other financial institutions. For the purposes of this title, temporary liquidity needs include emergency needs, seasonal needs, and needs arising from local economic dislocations.

"DEFINITIONS

"Sec. 302. As used in this title—

"(1) 'member' means any shareholder of the National Credit Union Administration Discount Fund;

"(2) 'State credit union' means a credit union organized under the laws of the States of the United States or the District of Columbia, the several territories, including the trust territories and possessions of the United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico and which is not prohibited by the laws under which it is organized from becoming a member of the Discount Fund in accordance with the requirements of this title;

"(3) 'federally-insured credit union' means any credit union insured by the National Credit Union Administration Share Insurance Fund;

"(4) 'State-insured credit union' means any State credit union that has obtained a certificate of insurance from a corporation authorized and duly licensed to insure member accounts by the State in which the credit union is chartered; and

"(5) 'paid-in and unimpaired capital and surplus' means the balance of the paid-in shares account as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Reserves shall not be considered as part of surplus.

"ESTABLISHMENT OF THE NATIONAL CREDIT UNION ADMINISTRATION DISCOUNT FUND

"Sec. 303. There is hereby created the National Credit Union Administration Discount Fund which shall exist perpetually within the National Credit Union Administration unless and until dissolved or transferred by Act of Congress. The principal office shall be located at the principal office of the National Credit Union Administration but the Administrator may establish such regional, district, or branch offices as he deems necessary and appropriate.

"MANAGEMENT

"Sec. 304. The management of the Discount Fund shall be vested in the Administrator. The Administrator shall administer the affairs of the Discount Fund fairly and impartially and without discrimination in favor of or against any member, and shall, subject to the provisions of this title, extend to each credit union authorized to secure advances such advances as may be made safely and reasonably with due regard to the maintenance of an adequate credit standing for the Discount Fund and its obligations.

"INITIAL EXPENSES

"Sec. 305. In order to facilitate the formation of the Discount Fund, the Secretary of the Treasury is authorized to advance up to $500,000 to be utilized for the initial organizational and operating expenses of the Discount Fund. Such advance shall bear interest at a rate to be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities and shall be repaid within two years from the date of the advance.

"CAPITALIZATION OF THE DISCOUNT FUND

"Sec. 306. (a) As soon as practicable after the effective date of this title, the Administrator shall open books for subscriptions to the capital stock.

"(b) The capital stock shall be divided into shares having a par value of $50 each. The minimum capital stock shall be issued at par. Stock issued thereafter shall be issued at such price not less than par as may be fixed by the Administrator.

"(c)(1)(A) The original stock subscription of each credit union eligible to become a member under paragraphs (f) and (g) of this section shall be an amount equal to at least one-half of 1 per centum of the subscriber's paid-in and unimpaired capital and surplus, but not less than $50.

"(B) Only one-half of the required subscription amount must be transferred to the Discount Fund. The other one-half may be held by the credit union on call of the Administrator and be invested in such assets as the Administrator may determine.

"(C) The regular reserve requirement, as set forth in section 116, may, pursuant to such terms and conditions as may be prescribed by the Administrator, be reduced by an amount equal to the funds transferred to or held on call by the Discount Fund.

"(D) The Discount Fund shall annually adjust, at the close of the calendar year, in such manner and upon such terms and conditions as the Administrator may prescribe, the amount of stock held by each member so that such member shall have invested in the stock of the Discount Fund at least an amount calculated in the manner provided in paragraphs (c)(1) (A) and (B) of this section (but not less than $50).

"(E) If the investment in stock of any member is greater than that required under this section, the Administrator may, in his discretion and upon application of such member, retire the stock of such member in excess of the amount so required.

"(F) The Administrator may provide for adjustment in the amounts of stock to be issued or retired but not in fractional shares.

"(2) Upon the retirement of the stock of any member, the Administrator shall pay such member for the stock retired an amount equal to what the member paid for such stock, or, at the direction of the Administrator, the whole or any part of the payment which would otherwise be so made shall be credited upon the indebtedness of the member to the Discount Fund. In either such event, stock equal in par value to the amount of the payment or credit, or both, as the case may be, shall be canceled.

"(3) The Administrator may require each member to submit such reports and information as the Administrator deems necessary or appropriate to carry out his duties and responsibilities under this title.

"(d) Stock subscriptions shall be paid for in cash or in securities or other assets deemed acceptable by the Administrator and shall be paid for at the time of application therefor, or, at the election of the subscriber, in installments, but not less than one-fourth of the total amount payable shall be paid at the time of filing the applications, and the remaining amounts at such intervals as may be prescribed by the Administrator: *Provided, however,* That the last payment shall become

due on the one hundred and eightieth day after the date of the application.

"(e) Stock subscribed for shall not be transferred or hypothecated except as provided herein and the certificates therefor shall so state.

"(f) (1) Federal and State credit unions may become members of the Discount Fund at any time.

"(2) Credit unions that become members later than six months from the effective date of this title, cannot borrow or receive advances from the Discount Fund for a period of six months after joining.

"(g) (1) Any member may withdraw from membership in the Discount Fund one hundred and eighty days after filing with the Administrator written notice of its intention to do so.

"(2) The Administrator may, after a hearing, under procedures set forth in regulations, remove any member from membership, if in his opinion, the member has failed to comply with any provisions of this title or regulations of the Administrator issued pursuant thereto. In such case, the indebtedness of such member shall be liquidated and the capital stock owned by such member surrendered and canceled. Upon the liquidation of such indebtedness, such member shall be entitled to the return of its collateral, and, upon the surrender and cancellation of such capital stock, the member shall receive a sum equal to what it paid for subscriptions of the capital stock surrendered.

"(h) All stock of the Discount Fund shall share in dividend distributions without preference at rates to be determined by the Adminstrator.

"POWERS OF THE ADMINISTRATOR IN ADMINISTERING THE NATIONAL CREDIT UNION ADMINISTRATION DISCOUNT FUND

"SEC. 307. The Administrator shall have the authority on behalf of the Discount Fund to:

"(a) Sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Administrator shall be a party shall be deemed to arise under the laws of the United States. The United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy.

"The Administrator may, without bond or security, remove any such action, suit or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect.

"The Administrator may, notwithstanding any other provision of law, retain private counsel to represent him.

"No attachment or execution shall be issued against the Administrator or property of the Discount Fund before final judgment in any suit, action, or proceeding in any State, county, municipal or United States court.

"The Administrator shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any member credit union is located.

"(b) Adopt a seal.

"(c) Pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice.

"(d) Appoint, employ, and dismiss such officers and employees as are not otherwise provided for in this title, define their duties, fix their compensation, require bonds of them, and fix the penalty thereof. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Administration of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

"(e) Employ or contract with experts, professionals, and consultants or organizations thereof.

"(f) Prescribe the manner in which general business may be conducted and the privileges granted to him by law may be exercised and enjoyed.

"(g) Require information and reports from member credit unions.

"(h) Delegate to any officer or employee of the Administration such functions as he deems appropriate.

"(i) Prescribe rules and regulations as he may deem necessary or appropriate to carry out the provisions of this title.

"(j) Conduct business, carry on operations, have offices, and exercise the powers granted by this title in any State or territory.

"(k) Lease, purchase, or otherwise acquire and own, hold, improve, use, or otherwise deal in and with property, real, personal, or mixed, or any interest therein, wherever situated.

"(l) Accept gifts or donations of services, or property, real, personal, or mixed, tangible or intangible, in and for the purposes of the Discount Fund.

"(m) Enter into contracts with public or private organizations, corporations, or individuals, at the local, regional, State or National level including, but not exclusive to, credit unions, central credit unions, credit union organizations, and other financial institutions; act as agent for or otherwise assist the Discount Fund in the conduct of its business; contract for services such as, but not limited to, data processing, printing, and communications where time or economics dictate; and, do all things which are necessary or incidental to the proper management of the affairs and the proper conduct of the business of the Discount Fund.

"(n) Issue debentures, bonds, or other obligations to the Secretary of the Treasury upon such terms and conditions as the Administrator, with the advice and consent of the Secretary of the Treasury, may approve and obtain indirect participation by private and other public financial sources by issuing bonds, debentures, and such other certificates of indebtedness having such maturities and bearing such interest as the Administrator may determine after consultation with the Secretary of the Treasury. In no event, however, shall the aggregate of such indirect participation at any one time exceed (1) ten times the paid-in and unimpaired capital and surplus of the Discount Fund, or (2) 1½ per centum of the total assets of all credit unions, whichever is less.

"(o) Make deposits in federally insured commercial banks, mutual savings banks, savings and loan associations, insured credit unions, member credit unions, and financial institutions acting as agents on either a demand or time basis.

"(p) Purchase from any member with its endorsement any note, draft, or other such obligation presented by the member, under limits to be established by the Administrator.

"(q) Invest such part of the assets of the Discount Fund as are not required for advances to members or other purposes specified by this title, and to such extent as the Administrator may deem desirable, in obligations of the United States or any agency thereof and in obligations or partcipations issued by an agency of the United States in trust for another agency of the United States.

"(r) Subject to rules and regulations of the Administrator, to borrow and to give security therefor and pay interest thereon, including from the National Credit Union Share Insurance Fund.

"(s) Exercise all powers specifically granted by the provisions of this title and such incidental powers as shall be necessary to carry out the powers so granted and purposes so stated.

"ADVANCES

"SEC. 308. (a) (1) Any member of the Discount Fund shall be entitled to apply in a form prescribed by regulations for advances. The Administrator may deny any application, or may grant it, upon such terms, conditions, and maturities as he may prescribe by regulations.

"(2) Advances to members shall be upon such security as the Administrator may prescribe. Such security may include, but is not necessarily limited to, obligations of the United States, obligations issued in trust by any agency of the United States on behalf of any agency of the United States, notes made by the member in the form of loans to its members or any other legal asset of a credit union. Any such advance shall be subject to the following limitations:

"(i) If secured by notes made by the member in the form of loans to its members, the advance may be in an amount not in excess of 80 per centum of the aggregate unpaid principal of the notes.

"(ii) If secured by obligations of the United States, obligations fully guaranteed by the United States, or obligations issued in trust by any agency of the United States on behalf of any agency of the United States, the advance shall be for an amount not in excess of the face value of such obligations.

"(3) Advances shall be made upon the note or obligation of the member, secured as provided in this section, bearing such rate of interest as the Administrator shall determine, and the Discount Fund shall have a lien on and shall hold the stock of such member as further collateral security for all indebtedness of the member to the Discount Fund.

"(4) The member applying for an advance shall enter into a primary and unconditional obligation to pay off all advances, together with interest and any unpaid costs and expenses in connection therewith according to the terms under which they were made, in such form as shall meet the requirements of the Discount Fund and the approval of the Administrator. The Administrator shall reserve the right to require at any time, when deemed necessary for the protection of the Discount Fund, deposits of additional collateral security or substitutions of security by borrowing institutions, and each borrowing institution shall assign additional or substituted security when and as required.

"(5) The limit on the aggregate amount of outstanding advances to be made to any one member shall be established by the Administrator by regulation.

"(b) The Secretary of the Treasury is authorized and directed to purchase any obligation issued by the Administrator in the event that there are insufficient funds in the Discount Fund to meet obligations arising under subsection (a) of this section. Purchases by the Secretary of the Treasury under this paragraph outstanding at any time shall be limited to such amounts not in excess of $150,000,000. Such advances shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such advances adjusted to the nearest one-eighth of 1 per centum.

"(c) For the purpose of this section and section 305, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(d) The aggregate outstanding amount of obligations purchased under subsection (b) may not exceed such amounts as are approved in appropriations Acts, and in addition, such obligations shall be subject to the limitation set forth in subsection (b). The aggregate amount of obligations issued and outstanding at any time under section 307(n) may not exceed such amounts as are approved in appropriations Acts.

"ANNUAL REPORT

"SEC. 309. Not later than ninety days after the close of each calendar year the Administrator shall prepare and submit to the President and to the Congress a full report of the activities of the Discount Fund for each previous fiscal year. This report may be a part of the Administrator's annual report to the President and to the Congress, as required by title I.

"REIMBURSEMENT TO NATIONAL CREDIT UNION ADMINISTRATION

"SEC. 310. The Administrator annually shall determine the expenditures under this title incurred in carrying out the responsibilities imposed upon him, and, in conjunction with fees paid for chartering, examination, supervision, and insuring of Federal credit unions, and federally-insured State credit unions, shall assess the Discount Fund for its share of such expenses. Receipts derived by the Administrator from the Discount Fund for the above purpose shall be deposited in a special deposit account with the Treasurer of the United States and may be withdrawn therefrom from time to time to defray the general expenses of the Administration.

"TAX EXEMPTION

"SEC. 311. The Discount Fund, its property, its franchise, capital reserves, surplus holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that any real property and tangible personal property shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed.".

"AUDIT OF FINANCIAL TRANSACTIONS

"SEC. 312. The Administrator shall maintain an integral set of accounts of the Discount Fund which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by section 105 of the Government Corporation Control Act. An annual business-type budget as provided for wholly owned Government corporations by the Government Corporation Control Act shall be prepared.".

AMENDMENT TO THE FEDERAL CREDIT UNION ACT

SEC. 512. Section 107 of the Federal Credit Union Act, as amended (12 U.S.C. 1757), is amended by adding at the end thereof the following:

"(17) notwithstanding any other provisions of law, to subscribe for stock in the National Credit Union Administration Discount Fund if otherwise eligible to do so under the terms of this Act, and to exercise such other functions as may be necessary to participate fully as a member of the Discount Fund.".

TITLE VI—GOVERNMENT INSURED AND GUARANTEED MORTGAGE LOANS

SEC. 601. Notwithstanding the provisions of sections 2(b), 203(b)(5), 207(c)(3), 213(d), 220(d)(4), 220(h)(2)(iii), 221(d)(5), 231(c)(6), 232(d)(3)(B), 234(f), 235(j)(2)(C), 236(j)(4)(B), 240(c)(4), 241(b)(3), 242(d)(3)(B), and 1101(c)(4) of the National Housing Act, and any other provision of law, interest rates for mortgages and loans insured under the National Housing Act shall be as agreed to by the mortgagee and mortgagor, or lender and borrower, unless the Secretary determines that such rate is excessive in view of the current interest rates in the mortgage or loan market in the areas involved. The Secretary shall prescribe such regulations as may be necessary to assure that mortgagees and lenders do not, directly or indirectly, make any charges in the nature of discounts or points in connection with mortgages and loans insured under the National Housing Act.

TITLE VII—EFFECTIVE DATE

SEC. 701. The provisions of this Act shall become effective upon the enactment of the Uniform Tax Treatment of Financial Institutions Act.

Mr. McINTYRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McINTYRE. Mr. President, I ask unanimous consent that in the engrossment of the bill, S. 1267, the Secretary of the Senate be authorized to make appropriate technical and clerical corrections, and that the bill be printed as it passed the Senate, with 500 copies sent to the Committee on Banking, Housing and Urban Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, this bill has been in committee and subcommittee for a period of 3 years. It is only proper and fair I should commend the fine work done by present members of the staff and former members of the staff: Tony Cluff, Bob Weintraub, Ken McLean, T. J. Oden, Rose Marie Fried, Florence Barr, Howard Beasley, Lindy Marinaccio, Lamar Smith, Jerry Buckley, and Ellen Oberdorf.

And of course, a real applaud to the member of the staff, Bill Weber, who personally helped me so much.

Mr. BAYH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. MANSFIELD. Mr. President, just a moment.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MANSFIELD. Under the agreement, a bill should be laid down.

NATIONAL BIOMEDICAL HEART, BLOOD VESSEL, LUNG, BLOOD, AND RESEARCH TRAINING ACT OF 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 988, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 988) to amend the Public Health Service Act to revise and extend programs of the National Heart and Lung Institute and National Research Service Awards.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "National Biomedical Heart, Blood Vessel, Lung, Blood, and Research Training Act of 1975".

TITLE I—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. (a) Congress finds and declares that—

(1) diseases of the heart, blood, and blood vessels collectively cause more than half of all the deaths each year in the United States and the combined effect of the disabilities and deaths from such diseases is having a major social and economic impact on the Nation;

(2) elimination of heart, blood, and blood vessel diseases as significant causes of disability and death could increase the average American's life expectancy by about eleven years and could provide for annual savings to the economy in lost wages, productivity, and cost of medical care of more than $30,000,000,000 per year;

(3) chronic lung diseases have been gaining steadily in recent years as important causes of disability and death, with emphysema alone being the fastest rising cause of death in the United States;

(4) chronic respiratory diseases affect an estimated ten million Americans, emphysema an estimated one million, chronic bronchitis an estimated four million, and asthma an estimated five million;

(5) thrombosis (the formation of blood clots in the vessels) may cause, directly or in combination with other problems, many deaths and disabilities from heart disease and stroke which can now be prevented;

(6) blood and blood products are essential human resources whose value in saving life and promoting health cannot be assessed in terms of dollars;

(7) the provision of prompt and effective emergency medical services utilizing to the fullest extent possible advances in transportation and communications and other electronic systems and specially trained professional and paraprofessional health care personnel can reduce substantially the number of fatalities and severe disabilities due to critical illnesses in connection with heart, blood vessel, lung, and blood diseases;

(8) blood diseases, including nutritional anemia, anemia due to inherited abnormalities (such as sickle cell disease and Cooley's anemia (thalassemia)), anemias resulting from failure of the bone marrow, hemorrhagic defects (a common cause of death in patients with leukemia and other malignancies, and of disability in inherited diseases such as hemophilia) and malignancies of the lymph nodes and bone marrow, such as leukemia, have a devastating impact in spite of recent advances. These diseases constitute an important category of illness that requires major attention; and

(9) the greatest potential for advancement against heart, blood vessel, lung, and blood diseases lies in the National Heart, Lung, and Blood Institute, but advancement against such diseases depends not only on the research programs of that Institute but also on the research programs of other research institutes of the National Institutes of Health.

(b) It is the purpose of this Act to enlarge the authority of the National Heart, Lung, and Blood Institute in order to advance the national attack upon heart, blood vessel, lung, and blood diseases and blood resources.

REPORT AND PLAN OF THE DIRECTOR OF THE INSTITUTE

Sec. 102. (a) Paragraph (2) of subsection (b) of section 413 of the Public Health Service Act is amended to read as follows:

"(2) The Director of the Institute shall, as soon as possible after the end of each fiscal year, prepare in consultation with the Council and submit to the Secretary of Health, Education, and Welfare for transmittal to the President and the Congress simultaneously a report on the activities, progress, and accomplishments under the program during the preceding fiscal year and a plan for the program during the next five years. The plan shall also project the staff required by the Institute to carry out the program and recommendations for appropriations for the program.".

(b) For purposes of paragraph (2) of subsection (b) of section 413 of the Public Health Service Act (as amended by this Act), the period beginning January 1, 1975, and ending December 31, 1975, and the period beginning January 1, 1976, and ending September 30, 1976, shall each be considered a fiscal year.

Sec. 103. The heading of title IV, part B, of the Public Health Service Act (42 U.S.C. 287) is amended by striking "and" and by inserting "AND BLOOD" after "LUNG".

Sec. 104. Section 411 of such Act is amended by striking "and" and by inserting "AND BLOOD" after "LUNG".

Sec. 105. (a) Subsection (a) of section 413 of such Act is amended by—

(1) striking "Disease" in the first sentence and by inserting in lieu thereof "Diseases and Blood Resources";

(2) inserting "and blood resources" after "diseases" in the first sentence; and

(3) inserting "and resources" after "diseases" in the second sentence.

(b) Subsection (a)(7) of such section is amended by inserting before the semicolon at the end thereof "and blood resources".

(c) Subsection (c)(2) of such section is amended by—

(1) striking "operate," and by inserting in lieu thereof "operate, alter, renovate,"; and

(2) striking "disease" and by inserting in lieu thereof "diseases and blood resources".

(d) Subsection (d) of such section is amended by—

(1) striking "Assistant Director for Health Information Programs" each place it appears and inserting in lieu thereof "Assistant Director for Prevention and Education";

(2) inserting "and blood" after the word "pulmonary" the first time it appears; and

(3) inserting "and blood resources" after the word "diseases" the first time it appears.

(e) The heading of section 413 of such Act is amended by striking "DISEASE" and by inserting in lieu thereof "DISEASES AND BLOOD RESOURCES".

Sec. 106. Subsection (b) of section 414 of such Act is amended by striking "and $45,000,000 for the fiscal year ending June 30, 1975" and by inserting in lieu thereof "and $10,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977".

Sec. 107. (a) Subsection (a)(1)(A) of section 415 of such Act is amended by—

(1) striking "fifteen" and by inserting in lieu thereof "ten"; and

(2) striking ", blood vessel, and blood diseases" and by inserting in lieu thereof "diseases".

(b) Subsection (a)(1)(B) of such section is amended by striking "fifteen" and by inserting in lieu thereof "ten".

(c) Subsection (a)(1) of such subsection is amended by adding the following new subsection (C) at the end thereof:

"(C) Ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood, blood vessel diseases, research in the use of blood products, and research in the management of blood resources.".

(d) Subsection (a)(2) of such section is amended by—

(1) inserting "(B) and (C)" after "(A)"; and

(2) inserting ", lung and blood" after the word "cardiovascular".

(e) Subsection (a)(2)(A) of such section is amended by striking "cardiovascular disease" and by inserting in lieu thereof "these diseases".

(f) Subsection (a)(2)(B) of such section is amended by striking "such disease" and by inserting in lieu thereof "these diseases".

(g) Subsection (a)(2)(C) of such section is amended by striking "disease" and by inserting in lieu thereof "diseases".

(h) Subsection (a)(2)(D) of such section is amended by striking "disease" and by inserting in lieu thereof "diseases".

(i) Subsection (b) of such section is amended by—

(1) inserting "or research in the management of blood resources" after "diseases"; and

(2) striking the first sentence following paragraph (4) and by inserting in lieu thereof: "The aggregate of payments (other than payments for construction) made to any center under such an agreement may not exceed $5,000,000 (excluding indirect costs) in any year, except that such aggregate may exceed such sum in any year to the extent that any excess amount is attributable to increases in appropriate costs as reflected in the cost of living index published by the Department of Labor for such year.".

Sec. 108. Paragraph (1) of subsection (a) of section 417 of such Act is amended by striking out "Director of the Office of Science and Technology" and inserting in lieu thereof "Director of the National Science Foundation".

Sec. 109. (a) Paragraph (2) of subsection (b) of section 418 of such Act is amended to read as follows:

"The Council shall submit a report to the Secretary of Health, Education, and Welfare for transmittal to the President and to the Congress simultaneously not later than November 30 of each year on the progress of the program toward the accomplishment of its objectives during the preceding fiscal year.".

(b) For purposes of paragraph (2) of subsection (b) of section 418 of the Public Health Service Act, the period beginning July 1, 1975, and ending September 30, 1976, shall be considered a fiscal year.

(c) This section shall take effect on January 1, 1976.

Sec. 110. Subsection (a) of section 418 of such Act is amended by—

(a) renumbering paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7) respectively;

(b) inserting after paragraph (3) the following new paragraph (4):

"(4) approve areas of research in heart, blood vessel, lung, blood diseases, and the use of blood and blood products and research in the management of blood resources to be supported by the awarding of contracts and approve the percentage of the budget of the Institute which may be expended for such contracts;";

(c) inserting "diseases" after "heart" each time it appears; and

(d) inserting ", the use of blood and blood products and research in the management of blood resources" after "blood diseases" each time it appears.

Sec. 111. Subsection (c) of section 419A of such Act is amended by—

(a) striking "$35,000" each place it appears and inserting in lieu thereof "$35,000 (excluding indirect costs)".

(b) inserting ", the use of blood and blood products and research in the management of blood resources" after the word "diseases".

Sec. 112. Section 419B of such Act is amended by—

(a) striking "and $475,000,000 for the fiscal year ending June 30, 1975" and inserting in lieu thereof "and $338,000,000 for the fiscal year ending June 30, 1976 and $372,000,000 for the fiscal year ending June 30, 1977;"

(b) inserting "blood" before "diseases" the second time it appears; and

(c) striking "of the blood" and by inserting in lieu thereof "and blood resources."

Sec. 113. Sections 301(d) and 301(i) of such Act are each amended by striking out "heart diseases" and by inserting in lieu thereof "heart, blood vessel, lung, and blood diseases and blood resources".

TITLE II—NATIONAL RESEARCH SERVICE AWARDS

Sec. 201. Section 472(a)(1)(A)(iii) of the Public Health Service Act is amended by striking "non-Federal".

Sec. 202. Section 472(a)(1)(B) of such Act is amended by (a) striking "non-Federal"; and (b) inserting at the end thereof before the period ", and also to include the related programs administered by the Division of Nursing, Health Resources Administration".

Sec. 203. Section 472(b)(2) of such Act is amended by inserting "and the National Advisory Council on Nurse Training" after "Administration".

Sec. 204. (a) Section 472(c)(1)(A)(i) of such Act is amended by striking "health research or teaching" and inserting in lieu thereof "health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment"; and

(b) Section 472(c)(2)(A) of such Act is amended by striking "health research or teaching" and inserting in lieu thereof "health research or teaching or any combination thereof, which is in accordance with the usual patterns of academic employment,".

Sec. 205. Subsection (d) of section 472 of such Act is amended by striking "$207,947,000 for the fiscal year ending June 30, 1975" and inserting in lieu thereof "$160,000,000 for the fiscal year ending June 30, 1976, and $176,000,000 for the fiscal year ending June 30, 1977".

Sec. 206. Subsection (c) of section 473 of such Act is amended by striking "March 31" and inserting in lieu thereof "September 30".

Sec. 207. All references to section 472 of the "National Research Act" shall be followed by "Public Law 93-348—National Research Act".

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Subsection (b) of section 1631 of the Public Health Service Act is amended by striking the last sentence therein.

Sec. 302. Section 212 of the Public Health Service Act is amended by adding after subsection (d) the following new subsection:

"(e) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 App. U.S.C. 501 et seq.).".

Sec. 303. Section 507 of the Public Health Service Act is amended by striking out "hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital, except that grants to such" and inserting instead "Federal institutions, except that grants to".

Sec. 304. Section 786 of the Public Health Service Act is amended by inserting before the period at the end of the first sentence "and $3,500,000 for the fiscal year ending June 30, 1975 and $2,000,000 for the fiscal year ending June 30, 1976".

Sec. 305. (a) Section 742(a) of the Public Health Service Act is amended by striking out "and" after "1974," and by inserting after "1975" the following: ", and $60,000,000 for the fiscal year ending June 30, 1976".

(b) Section 740(b)(4) of such Act is amended by striking out "1975" and inserting in lieu thereof "1976".

(c) Section 824 of such Act is amended by striking out "and" after "1974" and by inserting after "1975" the first time it appears the following: "and $35,000,000 for the fiscal year ending June 30, 1976,".

(d) Section 822(b)(4) of such Act is amended by striking out "1975" and inserting in lieu thereof "1976".

STIPENDS

Sec. 306. Title IV of the Public Health Service Act is amended by adding after section 473 the following new sections:

"STIPENDS

"Sec. 474. (a) The Secretary is authorized to grant stipends, in amounts not to exceed $25,000 per annum, to visiting scientists (as defined in subsection (b)) who enter into agreements with the Secretary to assist minority schools in developing programs in biomedical sciences. In the event a recipient of a stipend under this section does not complete the requirements of his agreement with the Secretary, the United States shall be entitled to recover an amount determined under section 472(c)(4).

"(b) For the purposes of this section the term—

"(1) 'visiting scientist' means a person who by his accomplishments and reputation has distinguished himself in the fields of biomedical science and has entered into an agreement with the Secretary under subsection (a);

"(2) 'minority school' means a school of postsecondary education which has enrolled a substantial number of minority students, as determined in accordance with regulations of the Secretary; and

"(3) 'biomedical sciences' means all the health related sciences and requisite related courses.

"(c) There are authorized to be appropriated to carry out the purposes of this section, such sums as may be necessary."

"UNDERGRADUATE TRAINING IN BIOMEDICAL SCIENCES IN MINORITY SCHOOLS

"Sec. 475. (a) The Secretary may make grants to minority schools to initiate the development of undergraduate programs relating to biomedical sciences.

"(b) Each minority school (as defined in subsection (c)(1)) may apply for a grant under subsection (a) to establish an undergraduate program in the biomedical sciences (as defined in subsection (c)(2)) in accordance with regulations established by the Secretary.

"(c) For the purposes of this section the term—

"(1) 'minority school' means a school of postsecondary education which has enrolled a substantial number of minority students, as determined in accordance with regulations of the Secretary; and

"(2) 'biomedical sciences' means all the health related sciences and requisite related courses.

"(d) There are authorized to be appropriated to carry out the purposes of this section, such sums as may be necessary.".

TITLE IV—FOOD, DRUG, AND COSMETIC ACT AMENDMENTS

Sec. 401. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 410 (21 U.S.C. 349) the following new section:

"VITAMINS AND MINERALS

"Sec. 411. (a)(1) Except as provided in paragraph (2)—

"(A) the Secretary may not establish maximum limits on the potency of any synthetic or natural vitamin or mineral within a food to which this section applies;

"(B) The Secretary may not classify any natural or synthetic vitamin or mineral (or combination thereof) as a drug solely because it exceeds the level of potency which the Secretary determines is nutritionally rational or useful.

"(C) the Secretary may not limit the combination or number of any synthetic or natural—

"(i) vitamin,

"(ii) mineral, or

"(iii) other ingredient of food,

within a food to which this section applies.

"(2)(A) Paragraph (1) does not limit the Secretary in the exercise of his authority under and in accordance with—

"(i) this chapter (other than this section) or chapter V, or

"(ii) any other provision of this Act except to the extent that the authority under other provision is to be exercised to taken an action specifically prohibited by subparagraph (A), (B), or (C) of such paragraph.

"(B) Paragraph (1) shall not apply in the case of a vitamin, mineral, or other ingredient of food which the Secretary determines by regulation is represented for use by children or pregnant or lactating women. For purposes of this subparagraph, the term 'children' means individuals who are under the age of twelve years.

"(b)(1) A food to which this section applies shall not be deemed under section 403 to be misbranded solely because its label bears, in accordance with section 403(i)(2), all the ingredients in the food or its advertising contains references to ingredients in the food which are not vitamins or minerals.

"(2)(A) The labeling for any food to which this section applies may not list its ingredients which are not vitamins or minerals (i) except as a part of a list of all the ingredients of such food, and (ii) unless such ingredients are listed in accordance with an applicable regulation promulgated under section 403(j). To the extent that compliance with clause (i) of this subparagraph is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary.

"(B) Notwithstanding the provisions of subparagraph (b)(2)(A), the labeling and advertising for any food to which this section applies may not give prominence to or emphasize ingredients which are not—

"(i) vitamins,

"(ii) minerals, or

"(iii) represented as a source of vitamins or minerals.

"(c)(1) For purposes of subsections (a) and (b) of this section, the term 'food to which this section applies' means a food for humans which is a food for special dietary use—

"(A) which is or contains any natural or synthetic vitamin or mineral, and

"(B) which—

"is intended for ingestion in tablet, capsule, or liquid form, or

"(ii) if not intended for ingestion in such a form, does not simulate or is not represented as conventional food.

"(2) For purposes of paragraph (1)(B)(i), a food shall be considered as intended for ingestion in liquid form only if it is formulated in a fluid carrier and it is intended for ingestion in daily quantities measured in drops or similar small units of measure.".

Sec. 402. (a) Section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)) is amended (A) by inserting "(1)" after "(f)", (B) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively, and (C) by adding immediately after such section the following:

"(2) The term 'special dietary use' as applied to food used by man means a particular use for which a food purports or is represented to be used, including but not limited to the following:

"(A) Supplying a special dietary need that exists by reason of a physical, physiological, pathologicial, or other condition, including but not limited to the condition of disease, convalescence, pregnancy, lactation, infancy, allergic hypersensitivity to food, underweight, overweight, or the need to control the intake of sodium.

"(B) Supplying a vitamin, mineral, or other ingredient for use by man to supplement his diet by increasing the total dietary intake.

"(C) Supplyling a special dietary need by reason of being a food for use as the sole item of the diet.".

(b) The Secretary of Health, Education, and Welfare shall amend any regulation promulgated under the Federal Food, Drug, and Cosmetic Act which is inconsistent with section 411 of such Act (as added by subsection (a)) and such amendments shall be promulgated in accordance with section 553 of title 5, United States Code.

ADVERTISING

Sec. 403. (a)(1) Section 403(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(a)) is amended (A) by inserting "(1)" after "If", and (B) by inserting before the period at the end a comma and the following: "or (2) in the case of a food to which section 411 applies, its advertising is false or misleading in a material respect or its labeling is in violation of section 411(b)(2)".

(2)(A) Section 201(n) of such Act is amended by inserting "or advertising" after "labeling" each time it occurs.

(B) Section 303 of such Act is amended by adding at the end the following new subsection:

"(d) No person shall be subject to the penalties of subsection (a) of this section for a violation of section 301 involving misbranded food if the violation exists solely because the food is misbranded under section 403(a)(2) because of its advertising, and no person shall be subject to the penalties of subsection (b) of this section for such a violation unless the violation is committed with the intent to defraud or mislead.".

(C) Section 304(a) of such Act (21 U.S.C. 334(a)) is amended by adding after paragraph (2) the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), no libel for condemnation may be instituted under paragraph (1) or (2) against any food which—

"(i) is misbranded under section 403(a)(2) because of its advertising, and

"(ii) is being held for sale to the ultimate consumer in an establishment other than an establishment owned or operated by a manufacturer, packer, or distributor of the food.

"(B) A libel for condemnation may be instituted under paragraph (1) or (2) against a food described in subparagraph (A) if—

"(i)(I) the food's advertising which resulted in the food being misbranded under section 403(a)(2) was disseminated in the establishment in which the food is being held for sale to the ultimate consumer,

"(II) such advertising was disseminated by, or under the direction of, the owner or operator of such establishment, or

"(III) all or part of the cost of such advertising was paid by such owner or operator; and

"(ii) the owner or operator of such establishment used such advertising in the establishment to promote the sale of the food.".

(b) Chapter VII of such Act is amended by adding after section 706 (21 U.S.C. 376) the following new section:

"ADVERTISING OF CERTAIN FOODS

"SEC. 707. Before initiating any action under chapter III with respect to any food to which section 411 applies and which is deemed to be misbranded under section 403 (a)(2) because of its advertising, the Secretary shall consult with the Federal Trade Commission and, for the purpose of avoiding unnecessary duplication, coordinate such action with any action taken or proposed to be taken by the Commission under the Federal Trade Commission Act.".

(c) The amendments made by subsection (a) shall take effect one hundred and eighty days after the date of the enactment of this Act.

TITLE V—ARTHRITIS ACT AMENDMENTS

SEC. 501. This title may be cited as the "National Arthritis Act Technical Amendments of 1975".

SEC. 502. (a) Section 2 of Public Law 93-640 is amended by—

(1) inserting "(a)" after "SEC. 2.";

(2) inserting "(hereinafter in this Act collectively referred to as 'arthritis')" after "diseases" in clause (1);

(3) inserting a comma and "including $2,500,000,000 in medical expenses," after "$9,200,000,000" in clause (3); and

(4) inserting a new subsection (b) at the end thereof as follows:

"(b) It is therefore the purpose of this Act to provide for—

"(1) the formulation of a long-range plan—

"(A) to expand and coordinate the national research, treatment, and control effort against arthritis;

"(B) to advance educational activities for patients, professional and allied health personnel, and the public which will alert the citizens of the United States to the early indications of arthritis; and

"(C) to emphasize the significance of early detection and proper control of these diseases and of the complications which may evolve from them;

"(2) the establishment and support of programs to develop new and improved methods of arthritis screening, detection, prevention, and referral;

"(3) the establishment of a central arthritis screening and detection data bank; and

"(4) the development, modernization, and operation of centers for arthritis screening, detection, diagnosis, prevention, control, treatment, education, rehabilitation, and research and training programs.".

(b) Section 3 of Public Law 93-640 is amended by—

(1) striking out "chief medical officer" and inserting in lieu thereof "Chief Medical Director" in clause (4) of subsection (b); and

(2) striking out "$2,000,000" and inserting in lieu thereof "$1,500,000" in subsection (k).

(c) The section heading above section 4 of Public Law 93-640 is amended by striking out 'DEMONSTRATION" after "COMMITTEE,".

SEC. 503. (a) Subsection (c) of section 431 of the Public Health Service Act (as added by section 5(b) of Public Law 93-640) is amended by striking out "and related musculoskeletal diseases".

(b) Subsection (b) of section 434 of such Act (as amended by section 5(c) of Public Law 93-640) is amended by striking out "and related musculoskeletal diseases" in the fourth sentence.

(c) Subsection (e) of section 434 of such Act (as added by section 5(a) of Public Law 93-640) is amended by striking out "hereinafter" the first time it appears and by striking out "hereinafter in" the second time it appears and inserting in lieu thereof "in."

(d) Section 438 of such Act (as added by section 4 of Public Law 93-640) is amended by—

(1) inserting "the" before "health" in the first sentence the first time it appears in subsection (a);

(2) inserting "established" after "bank" in the second sentence of subsection (a); and

(3) striking out "$2,000,000" and inserting in lieu thereof "$1,500,000", and by striking out "$3,000,000" and inserting in lieu thereof "$4,000,000" in subsection (d).

(e) Section 439 of such Act (as added by section 4 of Public Law 93-640) is amended by—

(1) inserting "new and existing" before "centers" in the first sentence of subsection (a);

(2) striking out the comma and inserting in lieu thereof a semicolon in each place at the end of clauses (1) and (2) of subsection (c); and

(3) striking out "$11,000,000" and inserting in lieu thereof "$5,000,000", and striking out "$15,000,000" and inserting in lieu thereof "$21,000,000" in subsection (h).

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. KENNEDY. Mr. President, do we not have a time agreement on the legislation and on each of the amendments?

Mr. MANSFIELD. That is correct.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Time for debate on this bill is limited to 30 minutes, to be equally divided and controlled between the majority and minority sides or their designees, with 30 minutes on amendments in the first degree and 20 minutes in the second degree.

Mr. MANSFIELD. Mr. President, I yield my time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on final passage.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I appreciate the courtesy of my colleague from Massachusetts.

NATIONAL WOMEN'S CONFERENCE

Mr. BAYH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9924.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRIFFIN. Reserving the right to object——

Mr. President, I withdraw that.

The ACTING PRESIDENT pro tempore laid before the Senate H.R. 9924, an act to direct the National Commission on the observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes, which was read twice by its title.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The Senator from Indiana.

Mr. BAYH. Mr. President, with two minor exceptions, this measure is identical to a bill which I, as well as several other of our colleagues, introduced on July 30, S. 2229.

It provides for the implementation of the Executive order signed by the President commemorating International Women's Year by providing for the calling of an American Women's Conference. This legislation was passed yesterday in the House.

I suggest that we move immediately to its implementation here in the Senate.

Mr. CLARK. Mr. President, the Senate today has taken an important action for women by approving legislation that authorizes the National Commission on the Observance of International Women's Year to organize and convene a National Women's Conference next year. This action follows a similar vote in the House yesterday.

The Senator from Indiana (Mr. BAYH) has sponsored several legislative efforts in the past to further the cause of women's rights, and this is certainly no less important. I was pleased to have been a cosponsor.

It is very appropriate that this conference will be convened in our Bicentennial year. The celebration of our 200th birthday should be a time when we reflect on our Nation's past—not only on the accomplishments, which are numerous, but on the failings as well.

Certainly our failure for so many years to assure equal rights to all the people of this Nation is a serious flaw that cannot be overlooked. It is sad indeed that 200 years after our Founding Fathers declared independence to escape tyranny, we still have not fully accepted the premise that every individual has certain inalienable rights.

In the area of women's rights, there is no question that progress is being made. The equal rights amendment was approved by Congress; Title IX and the Equal Credit Act are on the lawbooks; women are getting better jobs and better salaries.

But much remains undone. Despite the work of the Senator from Minnesota (Mr. MONDALE) we still have a serious shortage of good child care facilities; job and salary discrimination, although diminished, continue to prevent many women from achieving their full potential; the social security system is filled with inequities that work against women and their dependents; and women are seriously under-represented in elective and appointive Government positions.

We do not expect the National Women's Conference to simply be a talking session that produces few tangible results. We expect that the people who come to this conference will, first of all, focus attention on the status of women and their problems and will expand interest in the campaign for women's equality. Second, the people who come to this conference will be setting out goals that will become a yardstick for those of us in Congress and for others in determining priorities and in measuring gains.

It is very important that Congress provide leadership in this area, and today's action represents a further commitment by Congress to equal rights. I commend my colleagues for this action.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Elliot L. Richardson to be Secretary of Commerce, which was reported earlier today.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination wil be stated.

DEPARTMENT OF COMMERCE

The assistant legislative clerk read the nomination of Elliot L. Richardson, of Massachusetts, to be Secretary of Commerce.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. I move that the Senate resumed the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from South Dakota.

CHANGE IN DESIGNATION OF THE J. EDGAR HOOVER FBI BUILDING—S. 2773

Mr. ABOUREZK. Mr. President, I introduce a bill and I ask unanimous consent that it be considered as having been read twice.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Chair inquires, on whose time?

Mr. MANSFIELD. On nobody's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that a bill I have sent to the desk be placed on the calendar.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

NATIONAL BIOMEDICAL HEART, BLOOD VESSEL, LUNG, BLOOD, AND RESEARCH TRAINING ACT OF 1975

The Senate continued with the consideration of the bill (S. 988) to amend the Public Health Service Act to revise and extend programs of the National Heart and Lung Institute and National Research Service Awards.

Mr. KENNEDY. Mr. President, I yield myself such time as I may need.

Mr. President, this is a very straightforward proposal that is made by the Health Subcommittee and the Labor and Public Welfare Committee. It is to provide for the extension for 2 years of the National Heart and Lung Act for 1976 and 1977. It was recommended unanimously by both the Health Subcommittee and by the Labor and Public Welfare Committee. I am confident it will be accepted virtually unanimously by the body here this afternoon. There will be a few technical amendments that I have had an opportunity to examine which I will be glad to accept, which reach important measures, which are not inconsistent with the central thrust of the legislation, and I think, in instances, strengthen the legislation which we are considering.

This bill, Mr. President, runs just about $1,100,000,000 for a 2-year period. It is actually reduced about $400 million over the previous legislation. So the authorization for the next 2 years will be a significant reduction from the authorization for the past 2 years. But, nonetheless, it will carry forward the very important, I think, valuable work that is being done.

Mr. President, hearings were held in March of this year. Witnesses included the administration, the American Lung Association, the American Heart Association, the National Kidney Association, the AAMC, the American College of Cardiology and the American College of Chest Physicians. All the witnesses supported this bill.

The only significant amendment is the addition of the authority for the Heart and Lung Institute to conduct programs concerning blood products and the management of blood resources. The word "blood" is added to the title of the Heart and Lung Institute. I think the record will indicate the very important justification for that particular provision.

I have a very extensive statement that goes into very considerable detail and explanation of the various titles. I am extremely hopeful that this vital measure, which can mean so much to the future in terms of heart and lung, not only the disease but also in the area of research and training programs which are, I think, really essential in providing good, decent, quality health care to all Americans, will be passed by the Senate.

I am delighted to have this opportunity to present this with my distinguished colleague, the Senator from Pennsylvania, who, along with the other members of the committee, has really done an extraordinary amount of work in the development and fashioning of the legislation, and whose imprint is established on this legislation as in our other health measures.

I reserve the remainder of my time.

Mr. President, I am pleased to bring before the Senate today the committee's bill to extend for an additional 2 years two vital health programs—The National Heart and Lung Act and the National Research Service Awards Act. The Heart and Lung Act is the basic authority for the biomedical research programs of the Heart and Lung Institute at NIH. The Research Service Awards Act is the basic authority under which the NIH supports the training of future generations of America's research scientists.

These authorities expired June 30, 1975. The committee's bill extends these programs, without major modification, for an additional 2 years. During the next 2 years the committee will have the benefit of the report of the President's biomedical research panel, which in all probability, will lead to systematic reevaluation of the entirety of the NIH's mission and programs.

Heart and blood vessel diseases are the No. 1 health problem in the United States. Twenty-eight million Americans suffer from these diseases. And more Americans die from the tragic consequences of these diseases than any other. The long-term solution to this national problem lies in continued strong support for basic and applied research into the causes of heart disease. In addition, there continues to be the need for vigorous programs aimed at the prevention and control of heart, lung, blood, and blood vessel diseases.

The committee's bill is designed to accomplish this purpose. It builds upon the act which was first enacted in 1972. It proposes to make available a total of $35 million over the next 2 years for the urgently needed prevention and control program. And it proposes to authorize a total of $710 million for the basic research program in the heart, lung, and blood program. These are modest amounts when measured against the magnitude of the problem and the expenditures required to treat the unfortunate victims of these diseases. And these proposed dollar levels are substantially less than previously authorized levels for the program, as well as being $20 million less than the comparable levels in the House-passed bill.

As I mentioned a moment ago, the bill also extends for 2 years the national reasearch service awards program through 1977. And again, the committee's bill proposes funding levels which are less than expired authority and less than comparable figures in the House-passed bill.

Since the National Research Service Awards Act was initially enacted in 1974, the committee's bill proposes to make no significant substantive changes in the authority.

Respecting substantive changes in the Heart and Lung Act, for the most part they are of a technical and conforming nature. Perhaps the most significant is the addition of the word "blood" to the title of the National Heart and Lung Institute, as well as the provision for explicit authority for the Institute to conduct programs with respect to the use of blood products and the management of blood resources.

Title III of the committee's bill contains a number of miscellaneous provisions. These provisions include technical and conforming amendments to sections 212, 507, 786, 740, 742, and 1631 of the Public Health Service Act respecting respectively the Soldiers and Sailors Civil Relief Act, the grants to Federal Institutions Authority, the physician area shortage scholarship program, the health manpower student loan program, and the recovery provisions of title XVI of the act.

In addition, title III of the bill provides the authority to encourage the Secretary of HEW to increase efforts aimed toward the training of more biomedical scientists in minority schools and to assist such schools in developing programs in the biomedical sciences.

Title IV of the committee's bill amends the Food, Drug, and Cosmetic Act respecting vitamins and minerals.

And finally, Mr. President, title V of the committee's bill makes a number of technical and perfecting amendments to Public Law 93-640, the National Arthritis Act.

Mr. President, this bill was unanimously approved by the committee. It is a good bill. It is a fiscally responsible bill. It will assist the NIH in the furtherance of its vital biomedical research effort. It will guarantee the training of more competent young biomedical researchers. It is a bill which is supported by the administration. It is a product of bipartisan cooperation in the committee and with the President.

I urge my colleagues to support S. 988.

Mr. SCHWEIKER. Mr. President, I yield myself such time as I may consume.

Mr. President, I want to join with the chairman of the Health Subcommittee to say that this bill, the heart and lung amendments bill, came out unanimously in our committee. It has unanimous bipartisan support. I will not spend much time discussing it since we are in complete agreement on that bill.

In addition, title IV of this bill relates to vitamins. I have an extensive statement on that, but I would like to say briefly that Senator PROXMIRE, of Wisconsin, deserves much credit for this section. I had joined with him previously in introducing S. 1107. That, in substance, is incorporated in this bill in title III. That is a very key part of this particular proposal.

In addition, I intend to offer at the appropriate time an amendment that would extend the life of the Diabetes Commission until next September in order to give them entity until we have a chance to act on the National Diabetes Commission recommendations which came out only yesterday.

I have an amendment that I will call up a little bit later.

I ask unanimous consent that Senator WILLIAMS and Senator MONDALE be listed as cosponsors of my Diabetes Commission extension amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHWEIKER. The other amendments I have are very technical in nature. They have been cleared and I will bring them up at the appropriate time.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. What is the will of the Senate?

Mr. JAVITS. Will one of my colleagues yield?

Mr. KENNEDY. I yield such time as the Senator from New York desires.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. JAVITS. Mr. President, I commend to my colleagues support of the National Biomedical Heart, Blood Vessel, Lung, Blood, and Research Training Act of 1975 (S. 988).

The tragic consequences of cardiovascular, pulmonary, and blood diseases—pain, suffering, and death—have long been of deep concern. Twenty-eight years ago, in 1947, I introduced with Senator, now Congressman, PEPPER of Florida a bill which became law to establish a National Heart Institute, and which I believe was the first to focus attention on the issue.

I am, therefore, particularly gratified to support this legislation which would extend for 2 years existing authority to continue to combat these dread diseases through an expanded, intensified and better coordinated program under the auspices of the National Heart and Lung Institute.

The need for high quality, ongoing research in diseases of the heart, lung and vascular system is self-evident. Heart disease is our No. 1 killer, and its various manifestations account for an enormous burden of chronic disease, with untold human suffering and economic loss and medical cost. When you add strokes, with their toll of death and disability, and the enormously prevalent condition of hypertension—the precursor of strokes and other fatal diseases, as well as being a health problem that interferes with the daily lives of millions of Americans—it is obvious that we must continue and redouble our efforts to prevent, diagnose, and treat these conditions.

It is estimated that more than 54 percent of all deaths in 1972 were due to heart and blood vessel diseases. The potential contribution of biomedical research, in which our Nation has a proud record of accomplishment, must be supported.

The major provisions of the bill, in essence, are as follows:

First, a 2-year extension of the authority of HEW to conduct research, experiments and demonstration programs with regard to blood and blood vessel diseases, as well as diseases of the heart and lung; provisions for prevention and control programs are also included. For these purposes $745 million is authorized over 2 years.

Second, a two-year extension of HEW's authority to provide biomedical and behavioral research training awards to individuals and institutions. And $336 million is authorized over 2 years for such purposes.

Third, among the miscellaneous provisions of title III are included the authority to achieve equality of rights and benefits for officers of the Public Health Service Corps to conform to those provided to other members of the military services, which is identical to a measure I authorized, S. 1500, in this Congress.

To assure the continuity of student health professions loans, the relevant programs under title VII of the Public Health Service Act are extended so as not to interrupt the the loan support for students who have been previous recipients of such loans.

Also, I offered the amendment, authored by Senator BROOKE, which would continue and strengthen the National Research Service Awards program to recruit and train members of minority groups, who are seriously underrepresented in biomedical research careers. Section 475, newly added to this bill, would excuse these students from a payback of support via service, since such a requirement would constitute a particular hardship for these minority students; also, it would provide grants to institutions that are successful in achieving large minority group enrollments and in improving the quality of undergraduate level programs for these students.

Section 474 authorizes awards for visiting scientists of high scientific accomplishment who assist schools with high minority enrollment in developing programs in biomedical sciences.

The Kennedy-Javits-Williams amendment with respect to genetically transmitted anemias—such as sickle cell and Cooley's anemia, which afflict certain ethnic groups in our Nation—and other genetic diseases—such as Tay-Sachs disease, is a compromise between Senator KENNEDY's separate sickle cell bill (S. 1619) and Senator WILLIAMS' and my "National Genetics Diseases Act" (S. 1715) and "National Tay-Sachs Diseases Screening and Counseling Act" (S. 1714) bills.

The amendment we shall propose is essential in view of the provisions in the House-passed bill (title IV thereof) regarding genetic diseases.

When a person is seen in a single disease program, such as Tay-Sachs, Cooley's anemia, or sickle cell anemia, we neglect other potential health problems which might have a genetic component.

I share the concern of those in sickle cell screening and detection programs that if we turn to a generic diseases approach, we might possibly overlook this tragic genetic problem afflicting black Americans. As that was not my intention, the proposed amendment favors the generic genetic diseases bill, but provides funding on a priority basis to ongoing quality sickle cell screening, detection and counseling programs, as well as separate authorizations for such purposes.

The amendment also recognizes the need to fund research into Cooley's anemia. The amendment earmarks a percent of appropriations for research into this life-threatening disease.

The amendment would substitute for the existing programs of research, services and information relating to sickle cell anemia and Cooley's anemia, a new part A title XI of the Public Health Service Act directing the Secretary of Health, Education, and Welfare to support research in genetic diseases and to establish an identifiable administrative unit charged with administering new, non-categorical authorities for testing, counseling and information program with respect to genetic diseases, primarily through existing programs. Priority is given to qualified sickle cell anemia projects.

The hereditary character of many of the most serious chronic and acute diseases has been known, if imperfectly understood, for many years. As more knowledge is made available each year, it is becoming increasingly obvious that the extent of genetic diseases is far greater than has been previously estimated.

When considered as a group, genetic disorders constitute a highly visible and growing problem, resulting in significant individual and social burdens. It has been estimated that 12 million Americans carry true genetic diseases; 36 percent of all spontaneous abortions are caused by chromosomal defects; 40 percent of all infant mortality results from genetic factors; 80 percent of the incidence of mental retardation in this country is genetically related. These estimates do not take into account many of the conditions that have recently either been demonstrated to have genetic involvements or are strongly suspected to have such involvements. These conditions include heart disease, certain forms of arthritis, diabetes, cancer, and the most devastating and prevalent of mental illnesses—schizophrenia and depressive illness.

The costs—both social and economic—of genetic diseases are enormous. The cost to society of caring for those suffering from down's syndrome, for example, which results in mental retardation and has an estimated frequency of 1 in 600 births, is approximately $1.7 billion annually. The estimated medical bill in the case of a child with Tay-Sachs disease ranges from $20,000 to $40,000 per year for the 3 to 5 years average life span of an affected child. Treatment for hemophilia can cost as much as $12,000 per year. Regardless of the financial costs of treating genetic disease, the emotional pressure on the family of an affected individual is staggering.

The Kennedy/Javits/Williams amendment seeks to maintain and enhance the Federal effort in genetic diseases and to provide a more appropriate setting for that effort.

The funding priority provisions, earmarking of research appropriations and line item authorizations, seeks to insure that the broad-spectrum genetic disease approach does not vitiate the existing research or service programs respecting sickle cell anemia or Cooley's anemia.

I urge my colleagues to support this vitally needed and most worthwhile piece of health legislation.

Also, Mr. President, I shall have a technical amendment, which will come up in its place, because one of the aspects of this bill we have already taken care of in another measure, the Nurse Training, Health Revenue Sharing, and Health Services Act of 1975, when we overrode the President's veto. That covers the amendment which I had inserted into this measure relating to nursing education, and may now be deleted.

On the whole, Mr. President, this is a very marked step forward, and I am very pleased that we have brought it to the Senate at this time. I trust that the Senate will pass it.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, we are prepared at this time to entertain amendments. Before we do, I ask unanimous consent that Dr. Arthur Silverstein, an AAAS fellow, who is currently assisting the Senate Health Subcommittee in its ongoing review of the Nation's biomedical research policy, be accorded the privilege of the floor during the consideration of this measure.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I am pleased to be able to join with my colleagues in support of S. 988, the National Biomedical Heart, Blood Vessel, Lung, Blood, and Research Training Act of 1975.

Just a little over 3 years ago the Congress enacted legislation to significantly expand the efforts of the National Heart and Lung Institute in its work to overcome the ravages of cardiovascular and lung diseases. These diseases continue to be the primary health problem in the United States with an estimated 28 million Americans afflicted with some form of heart or blood vessel disease and an estimated 10 million suffering from emphysema, chronic bronchitis, asthma, and other respiratory diseases. We have made significant progress over the past several years in stepping up our research through the National Heart and Lung Institute and to establish prevention and control programs, but we must continue our commitment in these areas and that is what this bill is designed to do.

The legislation before us today extends for 2 fiscal years the authority of HEW to conduct research, experiments, and demonstration programs with respect to heart, lung, blood and blood vessel diseases. The major substantive revisions are provisions that change the title of the National Heart and Lung Institute to the National Heart, Lung and Blood Institute and which provide explicit authority for the Institute to conduct programs with respect to the use of blood products and the management of blood resources. These latter provisions are of great importance in insuring that the problems of blood be given necessary emphasis by the institute and the need for this specific authority grew out of investigations and hearings which I conducted to develop legislation—recently enacted into law—for the treatment of hemophilia. Authorizations for the work of the institute are extended for 2 additional years—through fiscal year 1977—totaling $745 million.

The second major provision of this bill is a simple extension of the authority of the Secretary of Health, Education, and Welfare to provide awards to individuals and institutions for biomedical and behavioral research training. Federal support for such research training is crucial to the continuing vitality of biomedical and behavioral research which in turn serves as an important buttress to health care in the United States. Because of Federal support over the past 10 years, this Nation can now claim more than 47,000 biomedical and behavioral researchers. Seventy percent of these conduct research in the basic biomedical sciences, 14 percent in the behavioral sciences, 14 percent in the clinical sciences, and 2 percent in health services studies. Yet, while we have a good supply of research professionals to date, we are also encouraging, through substantial increases in the funding for the National Institutes of Health and other research activities in both the public and private sectors, an even greater need for the future. Thus, the Federal commitment to research also requires a Federal commitment to training the manpower to make that research effort a success.

The enactment of the National Research Act in July of 1974 was designed to put most of our biomedical research training support under a single and comprehensive authority. I am concerned, however, that this program has been and continues to be misconstrued by the administration and that there is a clear unwillingness to commit the necessary resources to support the training activities mandated in the law. This bill will extend the authority to continue this program through fiscal year 1977 and would allow a total of $336 million for training activities over that 2-year period. I hope that the administration will understand that we in the Congress feel strongly that this program must be vigorously supported so that the supply of highly qualified researchers can be maintained and so that we can attract bright young persons to careers as research scientists through programs of support for predoctoral training.

I am also delighted to join with Senator Kennedy and Senator Javits in amending this bill to provide new and vitally necessary authority for the establishment of a single, comprehensive program of basic and applied research, research training, testing, counseling, information and education programs with respect to the whole range of genetic diseases. This amendment grows out of legislation introduced earlier this year by Senator Javits and myself. During the past 5 years the Congress has addressed itself to the specific problems of sickle cell anemia, Cooley's anemia, and hemophilia and has enacted specific authorities designed to assure the development of testing, counseling, and treatment programs for the victims of these ravaging diseases. But the time has come—in our judgment and in the view of the scientific community—to go beyond the disease-by-disease approach.

When considered as a group, genetic disorders constitute a highly visible and growing problem, resulting in significant individual and social burdens. It has been estimated that 12 million Americans carry true genetic diseases; 36 percent of of all spontaneous abortions are caused by chromosomal defects; 40 percent of all infant mortality results from genetic factors; 80 percent of the incidence of mental retardation in this country is genetically related. These estimates do not take into account many of the conditions that have either recently been demonstrated to have genetic involvements or are strongly suspected to have such involvements. These conditions include heart disease, certain forms of arthritis, diabetes, cancer, and the most devastating and prevalent mental illnesses—schizophrenia and depressive illness.

The costs—both social and economic—of genetic diseases are enormous. The cost to society of caring for those suffering from Down's syndrome, for example, which results in mental retardation and has an estimated frequency of one in 600 births, is approximately $1.7 billion annually. The estimated medical bill in the case of a child with Tay-Sachs disease ranges from $20,000 to $40,000 per year for the 3- to 5-year average life span of an affected child. Treatment for hemophilia can cost as much as $12,000 per year. Regardless of the financial costs of treating genetic disease, the emotional pressure on the family of an affected individual is staggering.

The amendment we are proposing seeks to maintain and enhance the Federal effort in genetic diseases and to provide a more appropriate setting for that effort.

The funding priority provisions, earmarking of research appropriations and line item authorizations, seeks to insure that the broad spectrum genetic disease approach does not vitiate the existing research or service programs respecting sickle cell anemia or Cooley's anemia.

I share the concern of those in sickle cell screening and detection programs that if we turn to a generic diseases approach, we might possibly overlook this tragic genetic problem afflicting black Americans. That is not my intention. Thus, the proposed amendment favors the generic genetic diseases bill, but provides funding on a priority basis to ongoing quality sickle cell screening, detection and counseling programs, as well as separate authorizations for such purposes.

The amendment also recognizes the need to fund research into Cooley's anemia and earmarks a percent of appropriations for research into this life-threatening disease. This is not only appropriate but vitally necessary.

The amendment would substitute for the existing programs of research, services and information relating to sickle cell anemia and Cooley's anemia, a new part A of title XI of the Public Health Service Act directing the Secretary of Health, Education, and Welfare to support research in genetic diseases and to establish an identifiable administrative unit charged with administering new, noncategorical authorities for testing, counseling and information programs with respect to genetic diseases, primarily through existing programs.

I urge my colleagues to vote in support of this vitally needed and most worthwhile piece of health legislation.

WHY TITLE IV—THE VITAMIN TITLE—OF S. 988 SHOULD BE PASSED

Mr. PROXMIRE. Mr. President, title IV of S. 988 is the so-called vitamin title. Its purpose is to prevent the Food and Drug Administration from regulating safe vitamins and minerals as dangerous drugs.

I rise today to support that provision of the bill and to chronicle the circumstances and legislative history associated with it.

WHAT THE FDA HAS DONE

More than 10 years ago the Food and Drug Administration began its proceedings to regulate safe vitamins and minerals as dangerous drugs.

Ultimately they proposed in regulations that any vitamin or mineral sold in excess of 150 percent of the so-called U.S. recommended daily allowance be treated as a drug, either prescription or over the counter—OTC—as circumstances might provide.

The Food and Drug Administration's so-called recommended daily allowance—RDA—was based on—and there are dozens of quotations in the regulations indicating this—the National Academy of Science's Food and Nutrition Boards so-called recommended dietary allowances—RDA's.

WHAT'S WRONG WITH THAT?

Well, one may ask, "What is wrong with that?" What is wrong with calling them drugs if they are in excess of 150 percent of the RDA's? There are two basic answers.

First, the so-called RDA's are an arbitrary, unscientific, capricious, and even tainted standard. If one wishes to use them as general guidelines or standards, one might not object too much, although they are obviously too low in most cases and the product of the food industry's lobby, on the other.

They are at best an arbitrary view of a group of orthodox nutritionists backed by the food industry of what the vitamin needs of the American people are.

But their view is widely disputed.

Second, the FDA intended to use this group of capricious and arbitrary guidelines to enforce the criminal law. They wanted to throw people in jail if they sold vitamins and minerals in quantities in excess of 150 percent of these very low RDA's. And believe me, throw them in jail is exactly what the FDA wanted to do.

If vitamins and minerals are defined as "drugs," then the FDA can require their manufacturers to prove that they are both safe and efficacious before they can be sold, either as prescription or over-the-counter drugs.

But the FDA has already proclaimed its view—time and time again—that vitamins in excess of the RDA's are not efficacious. There was no way the vitamin people could win against a stacked deck like the FDA.

Unless this bill is passed, consumers will pay tens of millions of dollars a year more to buy useful vitamins and minerals than is now the case. What they ordinarily buy as vitamins would be sold as drugs. They would be more costly because they were "drugs" and because they would have to be sold in smaller quantities.

RDA'S A CAPRICIOUS STANDARD

Let me say why the RDA's are a subjective and capricious standard.

The FDA's U.S. RDA's and the Food and Nutrition Board's so-called RDA's have varied widely, are highly unstable, and represent a subjective and capricious standard. And it is the Food and Nutrition Board's recommended daily dietary allowances, published every 4 or 5 years, upon which the FDA's U.S. RDA's are based. They are very unreliable standards upon which to base the law. Here is why.

First. The 1968 RDA's had 55 changes in values, which varied from 20 to 700 percent, from the 1964 RDA's.

Second. Dr. W. H. Sebrell, Jr., who was chairman of the committee which established the 1968 RDA's, gave testimony before the FDA's vitamin hearings in 1970 which indicated that he, at least, recommended quite different and generally higher levels of nutrients than his 1968 Committee or the latest 1973–74 recommendations. Here are some examples.

	Dr. Sebrell	1973–4 RDA's	Dr. Sebrell's proposal as a percent of 1973–74 RDA's
Pregnant women:			
Vitamin A, I.U	8,000	5,000.0	160
Vitamin E, I.U	30	15.0	200
Vitamin B–12, mcg	8	4.0	200
Child under 4: Vitamin B–12, mcg	5	1.5	333

Here we have a former Chairman of the Food and Nutrition Board's Committee on the Recommended Daily Dietary Allowance who in testimony before the FDA recommended daily values which in the examples I have cited are more than 150 percent of the Food and Nutrition Board's RDA.

Under the FDA regulations, Dr. Sebrell's values would be treated as "drugs" and regulated as "drugs." If the experts disagree that much, how can such an arbitrary standard be used?

There are other differences among the experts as well.

Third, Dr. Paul Gyorgy, the discoverer of vitamin B–6 recommended in 1971 that the general RDA for vitamin B–6 should be set at 25 milligrams a day. This is 12.5 times the 2 milligram level the Food and Nutrition Board established for 23 to 50 years old females—"The American Journal of Clinical Nutrition," October 24, 1971, pages 1250 to 1256.

Fourth. Dr. Linus Pauling recommended daily levels of vitamin C which are over 100 times the 45 milligrams recommended by the Food and Nutrition Board. The Canadian study by Professors Anderson, Reid, and Beaton of the University of Toronto reported in the Canadian Medical Association Journal for September 23, 1972, set out to disapprove Dr. Pauling but ended up in substantial support of his theory.

But in the House hearings on the vitamin bill the FDA labelled it a "fraud" to use vitamin C for the prevention or treatment of a cold. There is no way the FDA under their proposed regulations are going to permit the sale of vitamin C in 500 milligram tablets. And that will mean a consumer rip-off as well as questionable scientific activity.

Fifth. In 1974 the Committee on Dietary Allowances of the Food and Nutrition Board of the National Academy of Sciences reduced the recommended dietary allowance for vitamin E from the 25 to 30 I.U. range for adult categories by half, or to the 12 to 15 I.U. range. Until 1968 the committee did not even recognize an RDA for vitamin E.

However, there is an abundance of evidence that the RDA for vitamin E is too low even at the 30 I.U. level. Work done by Dr. M. K. Horwitt and Dr. David Menzel indicates that a far higher RDA is suggested. Dr. Menzel proposed a daily vitamin E supplementation of up to 200 milligrams of d,1-alpha-tocopherl acetate a day and warned that—

> The present dietary intake of Vitamin E is inadequate to provide maximal protection against ozonides.

But the chairman of the Committee on Dietary Allowances, which sets the RDA's, Dr. Alfred Harper, testified only recently before the FDA hearings on RDA's that the committee did not take this into account in setting the RDA's for vitamin E. On page 33397 of the transcript of those hearings Dr. Harper states:

> The subsequent work, if I read the title correct (sic) (of Dr. Menzel's papers), relates to work that was done where large doses of Vitamin E were used as an antioxidant to counteract some environmental effect, not as a nutrient. So the Committee did not deal with that in setting the allowance.

The point is that the RDA's are often set on the narrowest possible grounds, excluding important considerations which the committee may construe to be outside its narrow area. This is yet another reason why the RDA's are low and an unfit standard upon which to base the criminal law.

I ask unanimous consent that an article appearing in the Medical Tribune for Wednesday, December 3, 1975, setting forth the views of Drs. Menzel and Horwitt on vitamin E, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VITAMIN E SAID TO ENHANCE RESISTANCE TO AIR POLLUTANTS

(By Michael Herring)

CHICAGO.—Vitamin E can prevent the loss of the polyunsaturated fatty acids such as linoleic acid from the lung lining of animals exposed to ozone or nitrogen oxide, according to recent laboratory experiments.

In experiments with human red cells, a supplement of up to 200 mg of vitamin E acetate also produced "much greater resistance to cellular damage" (i.e., Heinz bodies) produced from exposure to fatty acid ozonides.

Based on these findings, Dr. Daniel B. Menzel of Duke University Medical School in Durham, N.C., recommended a daily vitamin E supplementation of up to 200 mg of d,1-alpha-tocopheryl acetate. Dr. Menzel, who is Director of Pharmacology in the Departments of Physiology and Pharmacology and of Medicine at Duke, presented his report to the Vitamin Information Bureau Seminar, held here recently.

In studying vitamin E and air pollution, Dr. Menzel exposed rats to ozone and nitrogen dioxide (two by-products of engine fumes). "Animals deficient in vitamin E died on an average 11.1 days after exposure to one ppm of ozone, while vitamin E supplemented animals died at 17 days," he said. Deficient animals exposed to 33 ppm nitrogen dioxide died after 8.2 days; supplemented animals averaged 18.5 days, he added.

PATHOLOGIC CONDITIONS

He attributed these results to the vitamin's ability to interfere with the "autocatalytic autoxidation," caused by pollutants, of natural unsaturated fatty acids in the lungs.

On the cellular level, lipid peroxidation, caused primarily by ozone, can cause cell membranes to become more viscous, Dr. Menzel said. "These changes can be manifest in such pathologic conditions as emphysema in the lung or neoplasia in other tissues." Vitamin E, his data suggested, would act to inhibit the cellular process as well.

In human studies, 11 patients were given diets containing 9 mg tocopherols per day (1974 R.D.A.). Their red blood cells were then tested for resistance to ozonides. The appearance of Heinz bodies, Dr. Menzel explained, indicated degree of damage. After one week of supplementation with 100 mg of vitamin E, however, their resistance to damage was greatly increased, he said, and continued to improve on dosages up to 200 mg vitamin E per day.

"The present dietary intake of vitamin E is inadequate to provide maximal protection against ozonides," Dr. Menzel warned.

Dr. Menzel also mentioned possible benefits of vitamin E supplementation in pulmonary hypertension, vascular disease, pulmonary embolism, and disseminating vascular coagulation.

ANTITHROMBIC AGENT

In a related report at the same meeting, M. K. Horwitt, Ph.D., Professor of Biochemistry at St. Louis University School of Medicine, presented evidence "for supporting the use of vitamin E as an antithrombic agent," and suggested that as much as 800 I.U. daily would be "perfectly safe." As an antithrombic, he said, the vitamin may prove better than aspirin.

Citing studies of his own and others involving both animals and humans, Dr. Horwitt also urged more research into the effects of ingesting the various components of the E vitamin, a reevaluation of the R.D.A. for vitamin E, and a reinvestigation of the "clinical and biochemical aspects of vitamin E . . . in terms of the effects of the oxidation products of alpha-tocopherol."

The main oxidation product of d-alpha-tocopherol, Dr. Horwitt explained, is d-alpha-tocopheryl-quinone, which has anti-vitamin-K activity and decreases the rate of blood clotting.

He cited a Swedish study of nine male myocardial infarction patients, in whom "an apparent prolongation of plasma clotting time started after six weeks of treatment" with 300 mg d,1 alpha-tocopheryl acetate. While similar results at such low dosage levels have been difficult to reproduce, Dr. Horwitt said, "support for the reports from Sweden have recently appeared from a coagulation research group in this country."

In a patient receiving warfarin and clofibrate therapy, vitamin E supplementation depressed the vitamin K-dependent coagulation factors, prolonging prothrombin time, the group found. "There was a drop in prothrombin time when the vitamin E ingestation was stopped for seven days," Dr. Horwitt added.

Experiments in rats underscored these findings, he reported. Animals given warfarin showed potentiation of its anticoagulant effect when given supplements of vitamin A, D, and E, he said.

As a result of these and other studies, Dr. Horwitt also recommended a decrease in dosage of therapeutic anticoagulants if vitamin E is also given, or vice-versa, and "where large amounts of tocopherols are considered necessary for their antioxidant effects during pregnancy, a supplement of vitamin K might be indicated."

As an antithrombic agent, "tocopherylquinone, slowly released from vitamin E, may be more desirable than aspirin and offer a physiological means of decreasing the formation of undesirable blood clots," he said.

RECONSIDER R.D.A.

He also suggested that the R.D.A. for vitamin E be reconsidered in the light of findings that in minor vitamin E deficiencies for a prolonged period of time, erythrocyte turnover is 8 to 10 per cent faster than normal and is not usually clinically detectable.

If this is true for blood cells, Dr. Horwitt asked, what about other cells in the body that are not so easily tested? Without sufficient vitamin E, the body may not be getting enough antioxidant to protect its phospholipids, he suggested.

He also noted that vitamin E is lost in freezer storage through the action of hydroperoxides, and again urged increased supplementation of the vitamin, since toxicity is as yet unreported.

SCIENTIFIC DISPUTE

Mr. PROXMIRE. Mr. President, the point is this. There is a major difference of opinion in the scientific community—between the views of the FDA and the Food and Nutrition Board, on the one hand, and those like Dr. Pauling and Dr. Gyorgy and Dr. Sebrell, the former Chairman of the Food and Nutrition Board, on the other.

What the FDA wants to do is to strike the views of its stable of orthodox nutritionists into "tablets," and bring them down from Mount Sinai where they will be used to regulate the rights of millions of Americans, who believe they are getting a lousy diet, to take vitamins and minerals.

The real issue is whether the FDA is going to play "God."

EVIDENCE

As evidence of the charge that the RDA's are suspect and that they have fluctuated capriciously from year to year, I will introduce a table comparing the various RDA values—both the FDA's, RDA's, and the Food and Nutrition

Board's RDA's—since 1964 for children and for pregnant women.

Columns A, C, and F represent the Food and Nutrition Board's recommended dietary allowances for 1964, 1968, and 1974. Columns B and E represent the Food and Drug Administration's recommended daily allowances proposed in their 1966 regulations and in their final regulations in 1973.

As was pointed out by the FDA in its 1966 stayed regulations—page 15, 734:

> These nutrient levels have been adapted by the Food and Drug Administration from information in a report of the Food and Nutrition Board, National Academy of Sciences—National Research Council (Publication 1146 (1964) titled "Recommended Dietary Allowances"). The recommended dietary allowances established by the Food and Nutrition Board are intended to serve as goals toward which to aim in planning food supplies and as guides for the interpretation of food consumption records of groups of people . . . the nutrient levels in this paragraph have been established for calculating the proportion or percentage of the recommended dietary allowances contained in such foods.

And on page 20709, column 1 of its August 3, 1973 order the Commissioner of the Food and Drug Administration made the following statement:

> The Commissioner again notes his reliance upon the information contained in "Recommended Dietary Allowances" (Seventh Revised Ed., 1968), published by the Food and Nutrition Board of the National Academy of Sciences—National Research Council, as being authoritative for the development of the U.S. RDA's.

The point is that the FDA made no independent survey or scientific analysis of nutritional needs and throughout its hearings and regulations has relied on the Food and Nutrition Board's RDA's as the scientific basis for its proposed RDA's.

Column D are the RDA's which Dr. Sebrell, then Chairman of the Food and Nutrition Board's Committee on Dietary Allowances introduced in 1970 into the FDA's hearings on this subject.

What the table indicates is the wide variation of the so-called RDA's on which the FDA wishes to base "criminal" proceedings.

I ask unanimous consent that the table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—RDA VALUES SINCE 1964 FOR 16 SELECTED NUTRIENTS

Nutrient and individual	A	B	C	D	E	F	Minimum to maximum variation of RDA (percent)	Latest variation and direction (percent)
Vitamin A, I.U.:								
Child of 4	2,500.0	3,500.0	2,500.0	3,500.0	5,000.0	2,500.0	100	−50
Pregnancy	6,000.0	8,000.0	6,000.0	8,000.0	8,000.0	5,000.0	60	−38
Vitamin E, I.U.:								
Child	None	15.0	10.0	15.0	30.0	9.0	230	−70
Pregnancy	None	30.0	30.0	30.0	30.0	15.0	100	−50
Vitamin C, mg.:								
Child	50.0	60.0	40.0	40.0	60.0	40.0	50	−33
Pregnancy	100.0	100.0	60.0	60.0	60.0	60.0	67	----------
Folate/folacin, mcg.:								
Child	None	50.0	200.0	300.0	400.0	200.0	700	−50
Pregnancy	None	100.0	800.0	800.0	800.0	800.0	700	----------
Vitamin B_1, mg.:								
Child	.6	.8	.8	1.1	1.5	.9	150	−40
Pregnancy	1.0	1.2	1.1	1.7	1.7	1.4	70	−18
Vitamin B_2, mg.:								
Child	1.0	1.3	.9	1.2	1.7	1.1	67	−35
Pregnancy	1.5	1.9	1.8	2.0	2.0	1.5	33	−25
Niacin, m.g.:								
Child	11.0	14.0	11.0	15.0	20.0	12.0	82	−40
Pregnancy	16.0	21.0	15.0	20.0	20.0	16.0	25	−20
Vitamin B_6, mg.:								
Child	None	1.0	0.9	1.2	2.0	0.9	122	−55
Pregnancy	None	2.0	2.5	2.5	2.5	2.5	25	----------
Vitamin B_{12}, mcg.:								
Child	None	2.5	5.0	4.0	6.0	1.5	300	−75
Pregnancy	None	5.0	8.0	8.0	8.0	4.0	100	−50
Pantothenic acid, mg.: Child	None	5.0	None	5.0	10.0	None	100	0
Biotin, mg.: Child	None	None	None	None	.3	None	0	0
Iodine, m.c.g.:								
Child	None	80.0	80.0	100.0	150.0	80.0	87	−47
Pregnancy	None	150.0	125.0	150.0	150.0	125.0	20	−17
Magnesium, mg.:								
Child	None	200.0	200.0	250.0	400.0	200.0	100	−50
Pregnancy	None	300.0	450.0	450.0	450.0	450.0	50	----------
Iron, mg.: Child	10.0	12.0	10.0	10.0	18.0	10.0	80	−45
Copper, mg.:								
child	None	1.0	None	2.0	2.0	None	100	0
Zinc, mg.: Child	None	None	None	None	15.0	10.0	50	−33

A: 1964 FNB's RDA's Exh. 0-14-1863.
B: 1966 FDA's RDA's in stayed regulations.
C: 1968 FNB's RDA's Exh. P-651.
D: 1970 FNB's RDA's introduced by Sebrell Exh. 0-391-3A.
E: 1973 FDA's RDA's in final regulations.
F: 1973/74 FNB's RDA's, published 1974.

CAPRICIOUS VALUES

Mr. PROXMIRE. Mr. President, to indicate how capriciously these values have fluctuated over the years take the example of the recommendations for pantothenic acid, a B complex vitamin, in the period 1964–74.

In 1964 it was not on the list. It was listed at 5 milligrams by the FDA in 1966. It was not on the 1968 FNB's list. It was doubled to 10 milligrams by the FDA in its final regulations. And the Food and Nutrition Board did not include it in 1974.

Is it a drug or not a drug? Under the FDA's own order the recommended FDA of 10 milligrams in their 1974 regulations would have been treated as a drug under their own 1966 regulations.

The RDA's are arbitrary and capricious and should never have been selected as a standard upon which to base a criminal regulation.

ARBITRARY AND LOW

Not only are they arbitrary but they are almost always set at very low levels—levels designed to prevent disease like scurvy, but not at levels designed for maximum or optimum health. The example of vitamin C is only one example in this category.

But why are they set so low? One answer—not the only answer—but one answer is that it is in the interests of the food industry to have low RDA's so they can print on the side of their breakfast food packages that the breakfast food—which may in fact be almost entirely lacking in vitamins and minerals in quantities to provide for optimum health—contains 100 percent of the so-called RDA's.

Mr. President, I ask unanimous consent that a list of the 1973–74 industry liaison panels with the Food and Nutrition Board be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

1973–74 LIAISON PANELS

A. REPRESENTATIVES OF CONTRIBUTING INDUSTRIES AND CONSULTANTS

The Industry Liaison Panel:

Duane A. Benton, Abbott Laboratories (Ross Laboratories).

S. E. Berger, Allied Chemical Corporation.

Paul F. Cundy, American Can Company.

R. L. Holland, American Potato Company.

Victor L. Johnson, Amstar Corporation.

F. E. Horan, Archer-Daniels-Midland Foundation.

E. F. Binkerd, Armour & Co.

Peter P. Noznick, Beatrice Foods Co.

Charles Livingston, Borden, Inc.

Charles D. Trumbold, Campbell Soup Company.

Leon J. Rubin, Canada Packers Ltd.

J. M. McIntire, Carnation Co.

W. W. Cravens, Central Soya.

Frank L. Lyman, CIBA-GEIGY Corporation.

E. E. Lockhart, The Coca-Cola Co.

C. J. Spiegl, Continental Can Company, Inc.

Charles Feldberg, CPC International, Inc.

George Muck, Dean Foods Company.

Arthur W. Hansen, Del Monte Corporation.

R. V. Johnston, The Dow Chemical Co.

Joseph R. Radzius, Dow Corning Corporation.

C. J. Krister, E. I. duPont de Nemours & Company, Inc.

Robert E. Eckardt, Esso Research and Engineering Co.

Robert L. Gates, FMC Corporation.

Bernard L. Oser, Food & Drug Research Laboratories.

Arthur T. Schramm, Food Materials Corporation.

Claude W. Bice, The R. T. French Co.

Robert J. Eiserle, Fritzche, Dodge & Olcott Inc.

Paul F. Hopper, General Foods Corporation.

Dan McPherson, General Mills, Inc.

Ray C. Frodey, Gerber Products Co.

C. W. Hoerr, Glidden-Durkee.

C. B. Way, Green Giant Company.

L. Sair, Griffith Laboratories, Inc.

Dr. Frank L. Gunderson.

Carl G. Baker, TRW Hazelton Laboratories.

I. J. Hutchings, H. J. Heinz Company.
Robert M. Miller, Hercules Inc.
Lee Nutting, Hills Bros. Coffee, Inc.
B. Borenstein, Hoffman-La Roche Inc.
Robert P. Dudley, Geo. A. Hormel & Co.
Raymond J. Moshy, Hunt-Wesson Foods, Inc.
Gary Sunshine, ICI America Inc.
Paul Khan, ITT Continental Baking Co., Inc.
J. C. Calandra, Industrial BIO-TEST Laboratories, Inc.
Charles H. Grimm, International Flavors & Fragrances, Inc.
A. W. Pine, International Multifoods.
John H. Hopper, Kellogg Company.
J. Bryan Stine, Kraftco Corporation.
D. A. M. MacKay, Life Savers, Inc.
James Scala, Thomas J. Lipton, Inc.
David A. Kendall, Arthur D. Little, Inc.
Charles A. Becker, Mallinckrodt Chemical Works.
Alan Thomas, M&M/Mars.
Richard L. Hall, McCormick & Co., Inc.
John C. Bard, Oscar Mayer & Co.
Eugene H. Stevenson, Mead Johnson & Co.
Paul A. Hammes, Merck and Co., Inc.
R. B. Kocher, Miles Laboratories, Inc.
E. K. Daniels, Mobil Oil Corporation.
Elmer P. Wheeler, Monsanto Company.
Ronald C. Morck, Nabisco, Inc.
W. W. Sederlund, National Starch & Chemical Corporation.
Carlos Caridad, The Nestle Company.
Richard Henderson, Olin Corporation.
L. F. Marnett, C. J. Patterson Co.
A. B. Porter, PepsiCo.
Verner L Stromberg, Pet Incorporated.
Fred Sauer, Chas. Pfizer & Co., Inc.
Howard E. Bauman, The Pillsbury Company.
W. H. Meyer, The Procter & Gamble Company.
R. E. Smith, Quarter Oats Company.
W. B. Brew, Ralston Purina Company.
Gordon W. Newell, Stanford Research Institute.
William A. Brittin, Stange Company.
A. B. Lindquist, Stauffer Chemical Company.
Max Goldfrank, Stein, Hall & Co., Inc.
Richard C. Bruner, Sunkist Growers, Inc.
Richard A. Greenberg, Swift & Company.
Robert E. Wing, Tasty Baking Company.
T. R. Aalto, Tenneco Chemicals, Inc.
C. H. Benton, Tennessee Eastman Company.
S. W. F. Hanson, Uncle Ben's Inc.
R. A. Seelig, United Fresh Fruit & Vegetable Association.
Thomas E. Pinkerton, The Upjohn Company.
Louis E. Kovacs, Vitamins, Inc.
Theodore Cayle, Wallerstein Company.
John J. Birdsall, WARF Institute, Inc.
Richard C. Brogle, Warner-Lambert Company.
M. M. Gladstone, Witco Chemical Corporation.
David Sloane, Wm. Wrigley Jr. Company.
R. Tomarelli, Wyeth Laboratories.

Mr. PROXMIRE. Mr. President, I now ask unanimous consent that the members of the Food and Nutrition Board and its Committee on Dietary Allowances, which set the 1974 recommended dietary allowances, be printed at this point in the RECORD.

There being no objection, the members of the Board and its committee were ordered to be printed in the RECORD, as follows:

FOOD AND NUTRITION BOARD

Lloyd J. Filer, Jr., *Chairman.*
H. N. Munro, *Vice-Chairman.*
Richard H. Barnes, Myrtle L. Brown, David L. Call, Doris H. Calloway, David Baird Coursin, E. M. Foster, Lavell M. Henderson, Robert M. Kark, Gilbert A. Leveille, Jean Mayer, Robert O. Nesheim, Nevin S. Scrimshaw, Theodore B. Van Itallie.

COMMITTEE ON DIETARY ALLOWANCES

Alfred E. Harper, *Chairman.*
Roslyn B. Alfin-Slater, John G. Bierl, Doris H. Calloway, Lloyd J. Filer, Jr., Stanley N. Gershoff, Howard N. Jacobson, Walter Mertz, John F. Mueller.

CONFLICTS OF INTEREST

Mr. PROXMIRE. Mr. President, I wish to point out that the Chairman and some members of the Committee on Dietary Allowances have occupied chairs funded by major food firms, have accepted research grants from them, have been given consulting fees by some of these companies, and in general have had scandalous conflicts of interest within the industry. Let me give two examples.

The Chairman of the Food and Nutrition Board in 1974, Dr. Filer, occupied an academic chair funded by the Mead-Johnson baby food company. He appeared at the FDA vitamin hearings not only as an FDA-Government witness, but on behalf of such firms and groups as Mead-Johnson and Abbott Laboratories.

He was also scheduled to appear on behalf of the Pet Milk Co. and Distillation Products. His research was funded to the tune of about $40,000 by the FDA and he had additional Government grants of about $99,000 in the year he appeared for the FDA.

Dr. Alfred Harper, the current chairman of the Committee on Dietary Allowances, has testified before the FDA hearings that about 20 percent of his income comes from consultant fees.

He admitted on cross-examination by Dr. Miles Robinson that he had received fees from Procter & Gamble, Pillsbury Co., McGaw Labs, and the Searle drug firm.

Both Procter & Gamble and Pillsbury have representatives on the liaison panels for the Food and Nutrition Board's Committee on Dietary Allowances, which he chairs. He represented Searle in the matter of the sugar substitute Aspartame, which the FDA has finally—December 1975—stopped from being put on the market after I brought to the attention of the FDA and the public the serious scientific criticism that it could potentially cause brain damage to children.

I ask unanimous consent that a statement I made about Aspartame on October 20, 1974, calling for the FDA to reverse itself and disapprove of Aspartame, be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ASPARTAME—POTENTIALLY BRAIN DAMAGING SWEETENER—REMOVE FROM MARKET

Sen. William Proxmire (D-Wis.) Sunday charged Dr. Alexander M. Schmidt, Commissioner of the Food and Drug Administration with "misfeasance in office by allowing a potential brain damaging sugar sweetener named Aspartame to be manufactured and sold even before a hearing into its dangers is held."

Proxmire said in a statement from his Washington office that "Aspartame is a sweetener and sugar substitute 180 times sweeter than sugar. The FDA has approved its use in cold cereals, chewing gum, beverages, instant coffee and teas, gelatins, puddings, fillings, and as a free flowing sugar substitute for dinner table use. In view of the present skyrocketing price of sugar, the economic pressures on the FDA to approve it and the potential profits from its use are tremendous.

"But a number of highly competent scientists, principally Dr. John W. Olney, M.D., Associate Professor of Psychiatry at Washington University School of Medicine in St. Louis, believe that Aspartame, when combined with monosodium glutamate (MSG), will cause Aspartame to become highly toxic and cause brain damage in children. MSG is found almost universally in foods—in soups, processed meats, potato chips, wieners, fish sticks, vegetable mixtures, and even in Colonel Sander's chickens.

"Dr. Olney warned in a memorandum to the FDA that 'If packages of Aspartame are available for free-flowing use in the home, infants and children will have at their finger-tips an instant brain damaging powder which tastes like candy.'

"While the general use of Aspartame can bring a financial killing to the manufacturer, it may also kill the brain cells of countless children. The chronology of the sad, sad story of FDA irresponsibility is as follows:

"On March 5th, 1973 the FDA noted in the Federal Register that a petition had been filed to approve Aspartame as a safe food additive. On July 26, 1974, some 16 months later, the FDA approved Aspartame as a safe food additive. Those who were 'adversely affected' by the order were given only 30 days to file their objections.

"It was not until July 26, 1974 that the manufacturer's supporting data, so voluminous that it took four large whisky case-like boxes to contain it, was made available to the public. On August 16, Dr. Olney filed a letter and memorandum of objection and asked for a hearing.

"Yet on October 15, 1974, in a conversation with my office, the FDA acknowledged that no hearing date had been set (and indeed may not even be held) and that meantime the company was completely free to manufacture, sell, and distribute Aspartame for use in cereals, candy, and as a free flowing sugar substitute.

"I charge Commissioner Schmidt with 'misfeasance' in office for while he has technically not broken the law, what he has done is wrongful and potentially injurious to millions of children.

"I charge 'misfeasance' also for stacking the deck in favor of the manufacturer and against the public. Here's how.

"The company has obviously spent tens of thousands of dollars preparing its submission to the FDA. But it is only fortuitous that some concerned public interest citizen like Dr. Olney could or would come forward to dispute the company's claim. There is no systematic procedure for public analysis and criticism. The procedure is loaded against the public and in favor of the company.

"Thirty days is not long enough even to catalog the documents let alone evaluate the mass of data. The data should either be made available to the public when the FDA gets it, or the public should have equal time to assess it. In this case the FDA is giving the public only 1/16th the time to object to the material that it took them to approve it.

"Commissioner Schmidt should automatically set a public hearing date when serious charges by competent critics are made. Instead the FDA has not only not set a date but may not even hold a hearing. Thus the Commissioner has established procedures which allow a manufacturer to distribute a potentially brain damaging common substance without any public criticism.

"The FDA should stop distribution now and set an early hearing. Failing this every box of breakfast food, bottle of soft drink, and basket of fried chicken which includes Aspartame or MSG should be labelled 'Danger. This Product Can Cause Brain Damage.'"

Mr. PROXMIRE. Mr. President, in addition, Dr. Harper, when he was at MIT, occupied a chair sponsored by General Foods. When he transferred to the University of Wisconsin this $50,000 chair was also transferred.

These are the men who tell us they know best, that the RDA's are gifts from heaven, and that the criminal law should be based on them. And they have the gall to charge that anyone who disagrees with them is a quack or worse.

Dr. Harper should be apprised of the old adage, "Physician, heal thyself."

CAPRICIOUS AND BIASED STANDARD

The proposal to subject safe vitamins and minerals to regulation as drugs by the FDA if they are sold in quantities of 150 percent or more of the so-called RDA's is a biased, unscientific, and capricious standard.

At best, the RDA's are only a recommended allowance at antediluvian levels designed to prevent some terrible disease.

At worst, they are based on the conflicts of interest and self-serving views of certain portions of the food industry and their paid scientists. Almost never are they provided at levels to provide for optimum health and nutrition.

HISTORY OF THE BILL

In order to prevent the FDA from carrying out its proposals, I introduced a vitamin bill, similar but not identical to title IV before us, on December 12, 1973.

That bill was ultimately sponsored by 46 Senators and passed the Senate on September 24, 1974, by the smashing vote of 81 to 10.

In 1975 Senator SCHWEIKER and I introduced the bill again, in a slightly modified version, and it had a total of 39 sponsors.

The House, however, was unwilling to take our bill unless it was modified to provide for stiffer regulations with respect to advertising. It was argued, and I believe correctly, that if vitamins and minerals were not to be limited in either potency or combination, unless they were toxic, they should be truthfully advertised.

Starting very early in the year the staffs of the House and Senate committees and members sponsoring the bill met intensively over many weeks. They finally hammered out the provisions which are now in title IV of this bill.

WHAT THE BILL DOES

The remedy we have worked out against the FDA's and the orthodox nutritionists' efforts to ruin the vitamin industry is relatively simple.

First, the FDA may not limit the combinations of vitamins and minerals, or second, the FDA may not limit the potency of vitamins and minerals, and third, the FDA may not classify a vitamin as a drug solely because it exceeds the level of potency which the Secretary determines is nutritionally rational or useful.

However, these provisions do not apply to vitamins and minerals which are toxic or adulterated, or in any way harmful, or which must be given under a doctor's care.

Further, they do not apply to vitamins and minerals represented for use by pregnant or lactating women or children under the age of 12 years.

However, this does not mean that the FDA can merely, once again, arbitrarily set limits on vitamin RDA's for pregnant or lactating women or children and proclaim that an otherwise safe vitamin or mineral is a drug because it is 150 percent of the RDA or meets some other arbitrary standard. It is our view that under the recent appellate court decision the FDA would have to have some objective standard on which to base its limitations of vitamins or minerals for use by these groups.

DEFINITION PUT IN LAW

The amendment also puts into law a definition of food for special dietary use. Such a definition has been in the regulations for several decades, but it has not been a part of the law. This new definition has been taken in large part from the old regulations.

Finally, the amendment provides for tighter regulation of vitamin and mineral advertising.

I wish to stress here, and to make it a part of the legislative history of this bill, that the seizure provisions should be administered with the greatest care and not arbitrarily or capriciously by the FDA.

Seizure was put in the food and drug laws in order to protect the public against dangerous or poisonous foods. When a food is safe, but mislabeled or advertised, the FDA should first attempt to correct the misadvertising or mislabeling rather than to seize the product, which, in many ways, is the wrong remedy for misadvertising what is otherwise a safe product.

Both in the report on the bill and in my statement as one of its original authors, we want to warn the FDA against using this seizure section arbitrarily.

CONCLUSION

I hope the history of this bill is a lesson to the FDA, the FTC, the orthodox nutritionists, and some sections of the food industry.

Thousands of Americans and countless groups of people do not get an adequate diet. These include the poor, the elderly, and many in such classes as pregnant women, women on the pill, and those who consume even moderate amounts of alcohol.

In addition, the modern food fads—sweet drinks, junk foods, heavy sugar diets—mean that thousands more who have the means to get a nutritious diet do not do so. Further, the food industry with wheat germ-free bread and nutritionally inadequate breakfast foods also has reduced the adequacy of the American diet.

When those who are concerned about this matter urged citizens to supplement their poor diets by taking safe vitamins and minerals, the FDA and the orthodox nutritionists, heavily subsidized by the food industry, tried to stop them.

They tried to stop them by making vitamins and minerals "drugs," which they are not, and by a systematic campaign of denigration both of the vitamins and minerals and those who advocated them.

But the FDA and the orthodox nutritionists have failed. They have failed because they are wrong. Not only has there been a vast array of scientific literature to indicate they are wrong—work done by those like Dr. Pauling, Dr. Gyorgy, Dr. Williams, and Dr. Robison—but the public knows they are wrong and is determined to get something better than junk food full of sugar.

This bill will help them succeed, and it will also help the American people to become healthier and to live longer and better.

Mr. BEALL. Mr. President, as a member of the Health Subcommittee, and as a cosponsor of S. 988, I rise in support of this important measure.

Cardiovascular diseases are the No. 1 killer of our citizens. In 1972, 54 percent of deaths from all causes, or 1,060,000 Americans died from such diseases. This means that every minute, two deaths occur as the result of heart and blood vessel diseases.

The total economic costs to society of these diseases are staggering, over $40 billion annually. And, of course, we all know of the human dimensions of the problem. All of us know of the human suffering, disability, and family financial disasters that lie behind the statistics.

Much progress in research and treatment has resulted since the 1972 act. In fact, these gains provide us with reasons for being optimistic with respect to the future. Of course, this progress did not only occur during this period, but there is little question but that the 1972 act has accelerated such progress. However, gains result from the work in basic biological sciences that preceded the 1972 act.

Evidence presented to the Health Subcommittee indicates that at long last, death rates for some of these diseases are going down and leveling. For example, the death rate for coronary heart diseases have been going down recently. While statistics showing such reductions look small, we must keep in mind that even small statistical changes represent thousands of lives saved.

Title I of the pending bill would extend the 1972 act and the authority of NIH to conduct research, experiments, and demonstration programs for heart, lung, blood and blood vessel diseases. The bill also changes the title of the National Heart and Lung Institute to the National Heart, Lung, and Blood Vessel Institute. Approximately $750 million is authorized over a 2-year period of the bill, of which $35 million would be available for prevention and control programs.

Title II of the bill continues Federal support of research training by providing awards to individuals and institutions for biomedical and behavioral research. Obviously research is dependent upon a continuous flow of bright young scientists. On March 26, 1974, I reported to the full Senate an inspection I made at NIH following reports that I had been receiving regarding problems and morale at that great institute. One of the major concerns at that time was the research training program. There was unanimity that this program was essential to a healthy biomedical research national effort.

About $336 million would be provided during fiscal year 1976 and fiscal year

1977 for continuation of these important training programs.

Title III contains various miscellaneous provisions and title V provides technical amendments to the National Arthritis Act.

I am pleased that the committee included a 1-year extension of the physician shortage scholarship program, which was enacted in 1972. This program was authorized by me and provides scholarships to individuals who agree to practice in shortage areas. Priority in awarding these grants is given to persons from shortage areas because the evidence suggests that such individuals are not only more likely to return but remain in their "home" areas. Funded for the first time in school year 1974–75—because of vetoes on the overall HEW appropriations bills—this program expired because the Congress has not enacted the health manpower legislation.

During 1974–75, over 1,000 individuals applied for these scholarships and 300 were awarded; $2 million has been appropriated and is available but because Congress has failed to pass the overall health manpower program, the new awards without this legislation would not be possible. The extension of this program would result in another 300 students being committed to serving in shortage areas.

Mr. President, I ask unanimous consent that the May 28, 1974, letter that I received from Secretary Weinberger be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BEALL. Title IV involves the regulation of vitamin and mineral supplements by the Food and Drug Administration.

Mr. President, as I previously indicated, considerable progress has been made in the cardiovascular area and I am confident that with the enactment of this measure that we will see further inroads against these diseases.

Exhibit 1

Washington, *D.C., May 23, 1974.*

Hon. J. Glenn Beall, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Beall: Thank you for your letters of April 19 and May 1 about the Physician Shortage Areas Scholarship Program. I have reviewed the copy of your House Floor Statement, enclosed with your April 19 letter, and I understand some of the concerns you express regarding the delays in implementing this Program.

I am pleased to report to you that our current actions within this Department are directed toward implementation of this Program prior to June 30.

Notice of Proposed Rulemaking for the Physician Shortage Areas Scholarship Program was published in the *Federal Register* on May 13. Enclosed for your information is a copy of that Notice. You will note that the public has until May 28 to submit written comments before the regulations will become final.

Other necessary materials for implementation of a new program, such as a program announcement, application forms, and instructions, have also been prepared. These are in the clearance channels and are being expedited.

The funding procedure suggested in your Senate Floor Statement will be followed, i.e., fiscal year 1974 funds which have no carry-over provision will be awarded during the current fiscal year and fiscal year 1973 funds which do have a carry-over provision will be available for the student class entering in the fall of 1975.

I hope this assures you that we have every intention of making student awards prior to June 30, 1974.

Sincerely,

Caspar W. Weinberger,
Secretary.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> On Page 18, delete lines 20 through 25.

Mr. JAVITS. Mr. President, this is the amendment to which I referred relating to nursing education.

The purpose of this amendment is technical and conforming. It deletes section 305(c) in title III of the bill, which authorizes $35 million for fiscal year 1976 for loans for nursing students.

That provision, which I authored, is redundant and no longer required. On July 26, 1975—subsequent to the committee's adoption of my amendment—the Senate overrode the veto of S. 66, the Nurse Training and Health Revenue Sharing and Health Services Act of 1975, and authorized such funding for nurse training. This measure was enacted into Public Law 94–63.

Mr. KENNEDY. Mr. President, I accept the amendment. When the bill was first considered, prior to the time of S. 66, there was justification for it; but Congress has acted and overridden the President's veto, and there are moneys for it in the supplemental appropriation enacted yesterday.

So I am glad to accept the amendment of the distinguished Senator from New York.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. SCHWEIKER. Mr. President, I am pleased the Senate is, today, considering S. 988, the heart and lung authorization bill. When the full Labor and Public Welfare Committee approved this bill, it adopted my amendment designed to prevent the Food and Drug Administration from arbitrarily controlling the sale of safe vitamin and mineral supplements solely on the basis of their potency. This provision conforms with the 1974 decision of the U.S. Court of Appeals for the Second Circuit in National Nutritional Foods Associations versus Food and Drug Administration. Furthermore, it permits the sale of safe vitamin and mineral combinations which do not contain all FDA mandated nutrients. This amendment is virtually identical to S. 2107, which my distinguished colleague from Wisconsin (Mr. Proxmire) and I introduced July 15, 1975.

As the result of regulations proposed by the Food and Drug Administration on August 2, 1973, which placed under Federal drug laws all vitamin and mineral supplements exceeding 150 percent of the FDA established recommended daily allowance, it became obvious Congress must enact legislation to permit the sale of these safe food supplements. During the 93d Congress, I cosponsored S. 2801, which prohibited this FDA action. This bill was subsequently adopted in the Senate by an 81 to 10 margin as an amendment to the Health Manpower Act last year. Unfortunately, the conference committee did not complete its work on the bill, and it died with the adjournment of the 93d Congress.

Earlier this year, I joined with Senator Proxmire in introducing S. 548, similar to S. 2801. In addition, Senator Proxmire, Congressman Rogers, and I, and our staffs met on numerous occasions to develop a bill which would be acceptable to both sides of the Hill. The end product is this amendment to S. 988.

The scope of this amendment is greatly expanded over our previous proposals. Not only does it restrict the FDA's powers to control the sale of vitamins and minerals, but it expand's FDA's jurisdiction to include authority to control advertising, which up to this time has been within the province of the Federal Trade Commission. It is with great reluctance that I agreed to support a proposal which in any way expands FDA's authority over an industry which it has so strongly opposed in the past. However, in order to make it abundantly clear that the FDA does not have authority to arbitrarily regulate or control the sale of vitamin and mineral supplements, I have agreed to give FDA authority over advertising material. I hope the proposed advertising regulations will be implemented fairly and carefully so that they will be in the best interest of the consuming public.

Mr. President, I want to set the record straight on what this amendment does and does not do. I received a letter from a physician who stated:

> Real hazards to the public could develop in toxicity of vitamins and minerals should government regulatory authority on potency and labeling be compromised or eliminated.

This amendment does not restrict the FDA from controlling any vitamin or mineral preparation which is shown to be toxic. Chapter V of the Food, Drug, and Cosmetic Act, which states that a product is a drug if it is toxic, habit forming, or must be administered by a physician, is not changed by this amendment. It simply adds a new section to chapter IV, the food section of the act. The FDA already restricts the potency of vitamins A and D, because they have been shown to be toxic in high doses. This amendment does not rescind this authority.

Furthermore, Mr. President, this amendment does not prevent the FDA at some future date from placing additional vitamin and mineral preparations under stringent controls if they satisfy the drug provisions of the act.

As ranking Republican on the Health Subcommittee and a member of the Select Committee on Nutrition and Human Needs, I recognize the need for more and better health information among our doctors and dentists and the general public. In the past, I have sponsored bills to establish departments of nutrition in medical and dental schools and to require mandatory nutritional labels on all food products. Furthermore, I am currently cosponsoring a bill to improve nutritional education in elementary and secondary schools, where its impact will have the greatest overall effect. To deny the public the right to purchase a product, not because it is shown to be unsafe, but because a Federal agency feels this is the way things should be, is wrong, and this amendment corrects that situation.

Mr. President, if there be no objection, I ask unanimous consent to have the full text of the Senate report language clarifying this amendment inserted following my remarks.

I commend Senator Proxmire and Congressman Rogers for their tireless efforts in writing this measure. I recommend to my colleagues and hope it will be swiftly forwarded to the President for signature.

There being no objection, the material was ordered to be printed in the Record, as follows:

SENATE REPORT LANGUAGE—VITAMIN BILL

S. 988

This amendment is designed to clarify Congress' position on the vitamin controversy which has existed for the past decade. On August 2, 1973, the Food and Drug Administration (FDA), after lengthy deliberations, promulgated regulations which would have placed most vitamins and minerals exceeding 150 percent of the U.S. RDA (United States Recommended Daily Allowance) under the jurisdiction of Chapter V of the Federal Food, Drug, and Cosmetic Act. Where the potency of vitamin or mineral products exceeded 150 percent of the RDA, those products would generally have become over-the-counter drugs. The regulations would have restricted combinations of vitamins and minerals that did not contain all FDA approved vitamins and minerals.

In a concurrent action, the FDA limited high dosages of vitamins A and D (dosages exceeding 100 percent of the U.S. RDA of vitamin D or 200 percent of the U.S. RDA of Vitamin A) to sale by prescription because of evidence that high levels of these fat soluble vitamins could cause serious harm.

On August 15, 1974, the U.S. Court of Appeals for the Second Circuit issued a decision upholding most of FDA's requirements but ordering reconsideration of others (*National Nutritional Foods Association vs. FDA*, 504 F. 2d 761 (2nd Cir., 1974), cert. denied, 95 S. Ct. 1326 (1975). The Court decided that FDA could properly restrict the variety of combinations of vitamins and minerals offered to consumers, but should consider permitting the marketing of certain additional combination products. The Court also held that FDA could not deem vitamin or mineral products to be drugs solely on the basis of their potency, but had to consider as well the use for which they are marketed.

Title IV of S. 988 reaffirms and positively states the position of the Senate in this matter. This section prohibits the FDA from regulating the composition of oral preparations of vitamins and minerals and combinations thereof, unless they are toxic, habit forming, or must be administered by the direction of a physician or where they are marketed for drug use. Last year, the Senate accepted an amendment, of similar purpose, offered by Senator Proxmire, by the vote 81–10 to the Health Manpower Bill. Subsequently, this bill died with the adjournment of the 93rd Congress.

Title IV does contain one major, new provision, not contained in last year's bill. It gives, for the first time, the FDA authority to regulate advertising for vitamin and mineral products. When advertising is found to be deceptive or misleading in a material respect, the FDA can seize the offending advertiser's product, at the manufacturing, distributional, or retail levels. In exercising his authority with respect to seizures, the Committee calls to the attention of the Secretary section 306 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 336. The Committee believes that seizure need not be instituted for minor violations of the Act whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.

On May 8, 1975, Senators Proxmire and Schweiker introduced S. 1692, which is identical in many respects to Title IV. The original version of the bill (S. 1692) included several specific references to the Secretary's obligation or authority to act by regulation. It is not intended that the omission of these repetitive references should be understood as in any way restricting the Food and Drug Administration's present authority to adopt regulations defining and enforcing the provisions of the Federal Food, Drug and Cosmetic Act, as amended. The FDA in recent years has relied increasingly on administrative rulemaking to enforce the requirements of the law. Rulemaking affords opportunity for broader participation in the formulation of agency policy, promotes clarity of legal requirements, and assures equitable application of the law, while at the same time reduces the cost to the taxpayer of case-by-case enforcement. The FDA's legal authority, under section 701(a) of the Act, 21, U.S.C. 371(a), to adopt binding regulations has been recognized by the Supreme Court, see *Weinberger v. Hynson, Westcott & Dunning*, 412 U.S. (1973); *Abbott Laboratories, Inc. v. Gardner*, 387 U.S. 136 (1967), and has recently been upheld by the United States Court of Appeals for the Second Circuit. *National Nutritional Foods Ass'n v. Schmidt*, 512 F.2d 688 (2d Cir. 1975.).

Furthermore, as originally introduced, S. 1692 stated specifically that the restrictions imposed by section 411 (a) (1) did not limit the authority of the Food and Drug Administration to regulate vitamins and minerals, or other food ingredients, under section 402 (the food adulteration provision) 406 (the emergency permit provision), and 409 (the food additives provision of the present Act. The deletion of these references to specific provisions of the statute does not imply any limitation on the FDA's present authority to assure that such food constituents are safe for consumption. It is recognized that consumers must be protected against potentially toxic food ingredients, as well as constituents that are acknowledged to be hazardous. It is intended that the FDA should retain its present authority to deal with these matters of public health.

Because of suggestions that the Food and Drug Administration, having failed to regulate safe vitamins as dangerous drugs, might attempt to regulate them as food additives, the authors of the vitamin amendment considered language to prohibit the Food and Drug Administration from regulating safe vitamins, minerals, and associated ingredients of foods as food additives.

This was not done for two reasons. First of all, it is unnecessary. It would be inappropriate and contrary to the intention of this Title for the FDA to treat vitamins, minerals, and their associated ingredients about whose safety there currently is no doubt, as food additives. There are those who considered vitamins and minerals essentially foods with a long history of safe use. The authors rejected that course of action on grounds that there was insufficient evidence to support such a course of action at this time.

Second, there are some nutrients and ingredients or natural chemicals which are tangentially a part of vitamins or minerals which currently may be considered food additives because of their potential toxicity. We did not wish to prevent the FDA from acting in these circumstances. For the agency to do so based on the policies on potency and combinations which this amendment endorses, however, would be inappropriate.

Section 411 (b) (2) (A) of the bill requires the listing of ingredients which are not vitamins or minerals in the labeling of the food product in a list of all ingredients of the product and in accordance with applicable regulations promulgated under section 403 (j) This provision should not be construed as allowing the Secretary, by action or inaction, to prevent or render impracticable the Committee's intent to permit the listing of all ingredients which are not vitamins or minerals. When applicable regulations under section 403 (j) of the Food, Drug, and Cosmetics Act are in effect, ingredients which are not vitamins or minerals must be listed in accordance with these regulations.

Considerable and continuing concern has been expressed by consumers and by various members of the food supplement industry and related publishers about the impact of the advertising provisions in this bill upon freedom of the press under the First Amendment. Obviously, nothing in this bill is intended to contravene such rights in any way.

It is intended that the term "advertising", whenever used in this bill, should be so interpreted as to be confined to overt advertising, as that term is generally understood in the advertising industry.

Furthermore, the Committee wishes to make clear that the conferring of regulatory authority over vitamin and mineral supplement advertising, being in the nature of a *quid pro quo* to counterbalance the limitations placed upon FDA's authority over these products, is in no sense a precedent for extending the agency's regulatory power over other types of advertising.

In any action initiated or prosecuted under these advertising provisions, with respect to, or against, any food supplement because of, or based upon, the allegedly deceptive advertising thereof, the editorial content or policy of any independently owned and circulated publication or periodical (or of any particular or single issue thereof) in which such advertising appears, should not be considered as part of, or contributing or auxiliary to, the content, substance, meaning or interpretation of the advertising which is the basis of such action.

However, it is recognized that at some point a publication supported by advertising can become a cloak for deceptive advertisements of a product if its editorial content is prepared, controlled, or financed by the advertiser of such product or if there is a commercial scheme to sell and position advertising in exchange for editorial comment on the product of the advertiser. The publication, sale, and distribution of false or misleading matter concerning an article of trade by a person engaged or financially interested in commerce in that trade could be treated as false or misleading advertising under certain circumstances, see *Scientific Mfg. Co.* v. *FTC*, 124 F. 2d 640, 644 (3d Cir. 1941) and *Perma-Maid Co.* v. *FTC*, 121 F. 2d 282 (6th Cir. 1941). In such cases the editorial content or policy of the publication might be considered as a basis for an action by the FDA. Certainly, for example, the dressing up of an advertisement in the format and style of a news article or editorial in the publication (commonly referred to as a "reader ad") could be, in certain circumstances, a deceptive advertisement rather than speech protected by the First Amendment. In cases of this category, only the courts can ultimately articulate the difficult distinction between commercial advertising masquerading as protected speech and protected speech bearing a superficial resemblance to commercial advertising.

We recognize that it is a well-accepted marketplace fact that manufacturers of particular types of products will normally place their advertising in publications or periodicals, the editorial content of which normally deals with the categories of products being advertised, and which are addressed to a readership which is interested in such subjects and products. Thus, a manufacturer of motorboats or marine accessories or products could be expected to place advertising in magazines or other publications which deal with motorboating and related subjects.

This bill does not contemplate that any nexus should be implied from the fact that an otherwise acceptable advertisement for a particular food supplement appears in a magazine, the editorial content of which may deal with that specific type of product and which contains matter which, if contained in the paid advertising in question, might be deemed to make such paid advertising unacceptable under this bill.

The simple existence of any publication which has not been singled out by the owner or operator of a retail establishment to advertise a particular product within the establishment does not constitute advertising for that product. What does constitute advertising of a product is the specific use or prominent display of the publication to encourage or convince consumers that they should purchase the product. The owner or operator of the establishment must affirmatively link the publication to the product.

This bill does not take away the regulatory authority of FDA with regard to vitamin and mineral preparations intended for use by pregnant or lactating women and children under 12. However, the Committee is concerned that attention must also be given to those vitamin and mineral products not intended for use by this special group but inadvertently taken by or administered to them. Just as the fetus may be affected by excessive doses of some food supplements, excessive doses of vitamins and minerals taken by children during the period of growth and hormonal development (up to 18 years of age) can interfere with their normal development. Because of the possibility of unrecognized or unanticipated harm which might come from the administration of large doses of vitamins and minerals, the Committee recommends that FDA consider promulgating regulations with respect to vitamin and mineral products designed to assure that such preparations are not inadvertently administered to children.

Mr. SCHWEIKER. Mr. President, I send certain technical amendments to the desk.

The ACTING PRESIDENT pro tempore. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER), for himself and Senator KENNEDY, proposes technical amendments.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the reading of these technical amendments be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHWEIKER's amendments are as follows:

On page 21, line 9, insert ", under section 201(n), 401, or 403," after "establish".

On page 21, line 17, insert ", under section 201(n), 401, or 403," after "limit".

On page 21, strike line 23 and all that follows through line 6 on page 22.

On page 22, line 7, strike "(B)" and insert in lieu thereof "(2)".

On page 22, lines 23 and 24 strike "an applicable regulation promulgated under section 403(j)" and insert in lieu thereof "applicable regulations under section 403".

On page 23, line 21, strike "or" and insert in lieu thereof "and".

On page 24, line 3, strike out the close quotation marks and the period following such marks

On page 24, strike out lines 4 through 10 and insert in lieu thereof the following:

"(3) For purposes of paragraph (1) and of section 403(j) insofar as that section is applicable to food to which this section applies, the term 'special dietary use' as applied to food

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. SCHWEIKER. Mr. President, I just wish to say these are technical amendments relating to title IV. I believe we have cleared them with the majority side.

Mr. KENNEDY. Mr. President, they are acceptable and necessary. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, the technical amendments are agreed to en bloc.

Mr. SCHWEIKER. Mr. President, I call up my amendment No. 1251.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an amendment (No. 1251) as follows:

On page 7, after line 12 add the following:

TITLE III—DIABETES PLAN

SEC. 301. Section 3(i)(2) of the National Diabetes Mellitus Research and Education Act (42 U.S.C. 289c–2) is amended to read as follows:

"(2) The Commission shall cease to exist after September 30, 1976.".

Mr. SCHWEIKER: Mr. President, this is the amendment I referred to earlier. It simply extends the life of the Diabetes Commission through September 30.

The reason for this is that in the final diabetes report, which came out yesterday, they recommend a new National Advisory Council on Diabetes, and since that will not be operative until enabling legislation passes, this is a way of making the transition without losing the expertise that we have.

I believe the chairman of the committee is agreeable to this amendment.

As I say, this amendment would extend the life of the National Diabetes Commission, authorized by the National Diabetes Mellitus Research and Education Act, until September 30, 1976. The Commission is presently authorized through January 9, 1976.

The purpose of the Commission is to formulate a long-range plan for our national attack on diabetes. Included in the Commission's final report, submitted to the Congress this week, is a recommendation for a new followup organization with specific oversight responsibilities. Implementation of the Commission's recommendations, including the proposal for a new organization, cannot be completed within the 30 days remaining following submission of the report. Therefore, Mr. President, I feel the Commission should remain in existence for a limited period of time in order to insure the necessary implementation steps are begun. This amendment does not authorize any new funds, but simply continues the Commission's existence.

Mr. President, diabetes is the third leading killer and one of the leading causes of blindness among Americans today. Congress has gone on record in support of the acceleration of our national attack against this disease by enacting the National Diabetes Mellitus Research and Education Act last year. In order to insure that the provisions of the act are carried out effectively, I urge passage of my amendment.

Mr. KENNEDY. Mr. President, before we act on the amendment of the Senator from Pennsylvania, let me say I welcome this amendment. The Senator from Pennsylvania has been a real leader in the Senate in this area of diabetes.

I also ask unanimous consent to have printed in the RECORD the story on page A–3 of the Washington Post, which indicates both the leadership of the Senator from Pennsylvania and the importance of dealing with this disease.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DIABETES UNIT ASKS NEW DRIVE

Diabetes affects 10 million Americans and claims enough victims annually to make it the nation's third-ranking cause of death after heart disease and cancer, a study commission said yesterday.

In its first report to Congress, the National Commission on Diabetes recommended that the federal government triple research spending to $126 million by fiscal 1979.

Sen. Richard S. Schweiker (R-Pa.) praised the report for accurately defining the magnitude of diabetes in America for the first time. "This is the necessary first step in the search for a cure," he said.

Congress ordered the study in the National Diabetes Mellitus Research and Education Act of 1974, which created the 17-member commission chaired by Dr. Oscar Crofford of Vanderbilt University.

Among the commission findings were:

An American born today who lives 70 years has a one-in-five chance of getting diabetes.

Women are 50 per cent more likely than men to have diabetes, nonwhites one-fifth more likely than whites, and persons with incomes of less than $5,000 a year three times more likely than higher-income persons.

Diabetes is rapidly increasing, up more than 50 per cent between 1965 and 1973, the report said. Last year 38,000 persons died directly from the disease and evidence indicates as many as 300,000 persons died from its complications.

The commission also recommended creation of nationwide diabetes research and education centers.

Schweiker said the educational effort would be directed in part to dispelling a misconception that insulin brought about a cure for diabetes.

Mr. KENNEDY. The work that has been done by the Commission to date has been important and valuable. I agree completely with the approach taken by the Senator from Pennsylvania. As I say, I welcome the amendment.

I yield back the remainder of my time.

Mr. JAVITS. Mr. President, will the Senator yield to me before yielding back his time?

I just wish to join with the Senator from Massachusetts in commending the outstandingly fine work the Senator from Pennsylvania (Mr. SCHWEIKER) has done on this matter, and his persistence, which is so critical, until he is finally able, now, to incorporate it in this bill.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I call up an amendment which I have at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> At the end of the bill add the following:
>
> TITLE VI—APPOINTMENT OF ADVISORY COMMITTEES
>
> SEC. 601. All appointments to advisory committees established to assist in implementing the Public Health Service Act, the Mental Retardation Facilities, and Community Mental Health Centers Construction Act of 1963, and Public Law 93-282 shall be made without regard to political affiliation.

Mr. MATHIAS. The purpose of this amendment, briefly stated, is to prohibit the Secretary of Health, Education, and Welfare or any person designated by him from appointing any individual to any NIH Policy Advisory Committee on the basis of partisan or political affiliation.

At the present time, political appointees at the Department of Health, Education, and Welfare are clearing candidates for appointments to certain advisary committees established under the Public Health Services Act.

According to the October 31, 1975, issue of Science magazine:

> Donald S. Fredrickson, who has been director of the National Institutes of Health (NIH) since July, has yet to meet with his advisory committee. It is not that Fredrickson has been dilatory. The problem is that, for all practical purposes, he has no committee with which to meet. The NIH director's advisory committee, which reviews all policy issues, is supposed to have 16 members—scientists and lay persons. At the moment, it has only five. One position on the committee has been vacant since 1972. For 3 years, NIH has been sending the names of likely candidates to the Secretary of Health, Education, and Welfare (HEW) who must make the appointments. For 3 years, politically appointed staffers in the Secretary's office have been sending those nominations back—rejected.
>
> The problem has been the same with respect to nominations to committees that advise the directors of the individual institutes on policy, also appointed by the Secretary, and, reportedly, exists throughout HEW agencies. As of this writing, there are a total of 36 vacancies on directors' advisory committees, out of a total of about 160 positions, leaving the committees to the director and four institutes operating at half steam or not at all. Until recently, there were nearly twice as many vacancies.

More disturbing than the high number of vacancies is the fact that the individual responsible for clearing appointments stated in the Science magazine article that NIH Advisory Committees are "an adjunct to the administration and there has to be some feeling that appointees will not be an embarrassment to the Secretary or to the White House."

Mr. President, the Congress did not, in my judgment, establish the advisory committees at NIH for the purpose of supporting, defending, or encouraging the interests of the President, the Secretary of Health, Education, and Welfare or any other political figure. These committees are expected to provide the best possible advice they can, based on their experience and knowledge.

The public should expect that any appointment to an NIH advisory committee should be based upon the qualifications and ability of the candidate and the particular duties which the committee shall perform. At a time when public confidence in Government is at an all time low, and the need for high performance by Government is at an all time high, the area of science and health should not be brought into pork barrel politics.

I am aware that from time to time public officials including Members of Congress will recommend individuals to serve on advisory committees. These recommendations, however, are offered with the understanding that the appointing authority will measure the candidate's qualifications against the requirements of the position and make his or her decision based on the merits.

I understand that the chairman of the Health Subcommittee, Mr. KENNEDY, and the ranking minority member of the Labor and Public Welfare Committee share my concern about this issue. I further understand that the General Accounting Office is also taking an interest in this aspect of HEW's activities.

Mr. President, I ask unanimous consent that the senior Senator from New York (Mr. JAVITS), and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) be added as cosponsors with the Senator from Massachusetts and myself of this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, we do not have to detain the Senate long on this amendment. It is very simple. It speaks for itself. It looks to what could be a potential abuse in regrouping of the very important advice which comes to a Secretary of Health, Education and Welfare and to an administration in the area of health care, and it simply takes politics out of HEW.

That is really all that needs to be said at this point.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. KENNEDY. Mr. President, I am glad to join in this amendment.

My only regret about the amendment is how we are going to be able to enforce it. But I wish to give assurance to our able colleague from Maryland that the Health Committee will do everything in its power to insure that any of the appointments that we have any influence over are going to meet the standards which have been established by the Senator from Maryland. It is a very valuable and useful amendment and we will do the best we can to insure that it is lived up to.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. KENNEDY. I will certainly yield to the Senator.

Mr. JAVITS. Mr. President, Senator KENNEDY and I have already joined within the last month in calling strongly to the attention of the Secretary of HEW how we feel about these appointments, exactly along the lines of this amendment.

I welcome it and consider it a very constructive affirmation by the Senate of our view, and I know that Senator KENNEDY and Senator SCHWEIKER will do everything they can to keep it in the legislation as it finally emerges.

Mr. MATHIAS. I thank the Senator from New York.

Mr. President, I ask unanimous consent that an article from the October 31, 1975, issue of Science magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NIH ADVISORY COMMITTEES: THE POLITICS OF FILLING VACANCIES

Donald S. Fredrickson, who has been director of the National Institutes of Health (NIH) since July, has yet to meet with his advisory committee. It is not that Fredrickson has been dilatory. The problem is that, for all practical purposes, he has no committee with which to meet. The NIH director's advisory committee, which reviews all policy issues, is supposed to have 16 members—scientists and lay persons. At the moment, it has only five. One position on the committee has been vacant since 1972. For 3 years, NIH has been sending the names of likely candidates to the Secretary of Health, Education, and Welfare (HEW) who must make the appointments. For 3 years, politically appointed staffers in the Secretary's office have been sending those nominations back—rejected.

The problem has been the same with respect to nominations to committees [1] that advise the directors of the individual institutes on policy, also appointed by the Secretary, and, reportedly, exists throughout HEW agencies. As of this writing, there are a total of 36 vacancies on directors' advisory committees, out of a total of about 160 positions, leaving the committees to the director and four institutes [2] operating at half steam or not at all. Until recently, there were nearly twice as many vacancies.

The influence wielded by the NIH policy advisory committees varies from institute to institute and depends in large part on the strengths of their individual members. However, their potential for power is considerable inasmuch as they have final authority over the approval of all grants and contracts supported by the institutes.

---

[1] Strictly scientific review committees that only judge the scientific merits of grant or contract applications are appointed by the NIH director, not the Secretary. Of more than 300 HEW committees, the Secretary is responsible for only 75 or so.

[2] Vacancies exist in the Eye, Child Health, and Heart and Lung institutes and in the National Library of Medicine.

One of the most powerful and consistently functional of NIH advisory bodies is the National Cancer Advisory Board which, ironically, is out of the purview of the HEW Secretary. Nominations to that board are channeled directly to Benno Schmidt, chairman of the President's Cancer Panel, who passes his choices on to the White House where appointments are made. Cancer institute officials are frank to admit that because of Schmidt, they have not had the troubles other institutes have had in keeping their advisory board full.

The theme of this story is familiar. Do politicians have any business interfering in seemingly scientific affairs? Or, when scientists choose other scientists for positions of scientific responsibility, why won't the nonscientists in government just go along with it? The answer, of course, is that the appointment of both lay and scientific advisers to NIH is very much a political affair. A prestigious appointment to NIH is vulnerable to the demands of patronage.

The man in charge of the politics of appointments at HEW is William S. Ballenger, a former Republican Michigan state senator, who now works directly for HEW Secretary Mathews. Ballenger says that the vacancy issue is greatly exaggerated and that, although there may have been a crisis a year ago, that isn't his fault. But he readily acknowledges that appointments are governed in the final analysis by political, not scientific, considerations.

It is true that, although there is still a long way to go, some progress has been made since Ballenger began work on 6 January. "When I came here, there were scores of vacancies in HEW advisory committees, perhaps as many as 100. I'm not sure," says Ballenger who optimistically predicts that "we will be up to date by the end of the year."

Nevertheless, dissatisfaction over the whole process remains. As vacancies on NIH committees come up, the staff prepares a slate of nominees for the Secretary's staff, offering a primary and alternate candidate for each position. In selecting nominees, a number of criteria are taken into account: the committee's need for certain specialists, sex—NIH is striving to fill one-third of its policy committees with women—and geography. The NIH staff tries to achieve geographic balance and, as part of the package of material accompanying every nomination, includes a map of the United States showing what the makeup of the committee would be were that person to be appointed. Furthermore while not taking candidates' political affiliations specifically into account, NIH tries to avoid nominating anyone who is too vocal and conspicuous about his political views. And so, NIH, thinking it has done its homework well, sends its lists downtown to HEW where they are screened, and usually approved by Theodore Cooper, a former NIHer who is assistant secretary for health. As far as NIH is concerned, changes in scientific appointments should not be made beyond Cooper's office. There is reason to think that Cooper agrees.

It is after the lists move from Cooper's office to Ballenger's that the trouble begins. One after another, prominent scientists are turned down with no explanation given. Recent rejects include Edmund Pellegrino of Yale, Sol Spiegelman of Columbia, Ivan Bennett of New York University, and Daniel Koshland of Stanford. There have been dozens. And, sometimes, NIH gets an adviser it did not ask for. A case in point, from pre-Ballenger days, is the appointment of Houston heart surgeon Micheal F. DeBakey to the heart and lung institute council. NIH nominees were passed over by former Secretary Caspar W. Weinberger in favor of DeBakey.

Ballenger declares that, while he is not about to be a rubber stamp for NIH, he is willing to "negotiate" appointments to get individuals everyone can live with. He insists, quite credibly, that you do not have to be a staunch Republican to get on an advisory committee. On the other hand, he notes that "these committees are an adjunct to the Administration and there has to be some feeling that appointees will not be an embarrassment to the Secretary or the White House." And there is the question of geography and women and minorities. In Ballenger's view, "The agencies may be doing better in these areas than they used to, but they're not doing good enough." If NIH sends in a slate of nominees that does not include women, for example, it must also send a written justification that includes the names of specific individuals whom it considered but declined to nominate and why. Usually, problems occur when an institute is looking for an adviser with some particular scientific expertise in a field that may not have many specialists of either sex.

Two things can happen when NIH nominees are turned down. One is that NIH can submit more names, as it often does. The other is that HEW will suggest persons drawn from its own extensive lists. The latter solution is particularly irksome to NIH officials when they are dealing with scientific rather than lay candidates. As one staffer said, "We'll concede their right to appoint lay people if they'll let us make judgments about qualified scientists."

Ballenger, however, is not about to make any concession. He sees the initiation of nominees from his office as a "positive" rather than "reactionary" action, even though he realizes that agency people are "insulted when we send them names." But he says he has his own problems with respect to drawing up slates of nominees, problems agencies do not share. Suggestions for advisory committee members come pouring in to his office from members of Congress, from special interest groups, from state legislatures, from the White House. He listens to them all and says that, in the general scheme of things, NIH has more clout than any of the rest. But, he declares, the scientific community can be "incestuous and inbred" at times and that his office, searching more broadly for qualified people, finds individuals that are first-rate that the scientific establishment never heard of—just as he has never heard of some of science's establishment, including Pellegrino, Bennett, and others. It would appear that they were rejected more because Ballenger's office wishes to put its own candidates in place than because of any Machiavellian plot against the scientists as individuals.

Furthermore, Ballenger notes that HEW Secretary David Mathews does not necessarily share the scientists' opinion that a vacancy must be filled with an individual of some particular scientific expertise. Mathews, for instance, recently wanted to put a coal miner on a committee of HEW's Center for Communicable Diseases on coal miners' health and safety. CDC scientists apparently said no coal miner could understand the issues. Ballenger claims there was a compromise: no coal miner was appointed this round but one will be when other vacancies occur.

While Ballenger is unwilling to concede any of his and the Secretary's authority, he told *Science* he can promise there will be no more "Sinatra incidents." A few years ago, heart institute officials woke up one day to learn that Spiro Agnew's buddy Frank Sinatra had been appointed to the heart council. They had not been asked, or even told. And it was never quite clear whether Sinatra personally had accepted the invitation to fill an unexpired term. Nevertheless, for a year, a seat was kept waiting for him at council meetings. Ballenger states he will not "force" anyone onto a scientific advisory commitee against an agency will but he sums up his position by saying, "Secretarial committees are not the private preserve of the agencies." Now, if someone would just fill those 36 vacancies. . . .

—BARBARA J. CULLITON.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

Mr. KENNEDY. Mr. President, there is an amendment of the Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

AMENDMENT NO. 1250

Mr. FANNIN. Mr. President, I call up my amendment No. 1250, which is at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 7, after line 12, add the following:

TITLE III—HEALTH SERVICES

AMBULATORY SURGICAL SERVICES

SEC. 301. (a) Section 319(a) (7) of the Public Health Services Act (42 U.S. 247d), is amended by—

(1) inserting after subparagraph (K) the following new subparagraph:

"(L) ambulatory surgical services;" and

(2) redesignating subparagraphs "(L)" and "(M)" as "(M)" and "(N)", respectively.

(b) Section 330(a) (2) of the Public Health Service Act (42 U.S.C. 254c) is amended by—

(1) inserting after subparagraph (K) the following new subparagraph:

"(L) ambulatory surgical services;" and

(2) redesignating subparagraphs "(L)" and "(M)" as "(M)" and "(N)", respectively.

Mr. FANNIN. Mr. President, I shall be brief. This amendment is not a controversial one and is fully acceptable to the managers of the bill, the distinguished senior Senator from Massachusetts and the distinguished Senator from Pennsylvania.

Mr. President, this amendment is designed to correct an oversight in Public Law 94–63, the Special Health Revenue Sharing Act of 1975. This act, in addition to other provisions, provides funds to support both migrant and community health centers. In this connection, the act specifies a number of primary health services which each center must provide. These services include the services of physicians, diagnostic laboratory and radiologic services, preventive health services, emergency medical services, transportation services as needed, and preventive dental services.

In addition, the act stipulates a number of supplemental health services which can be made available to support the primary health services. Regrettably, there is no mention among the 13 supplemental services spelled out in the act of ambulatory surgical services. My amendment would correct this oversight by simply including this service among the supplemental health services available under the program.

My interest in ambulatory surgical services was developed through my work to obtain reimbursement for costs associated with free-standing ambulatory surgical facilities under the medicare program. Such reimbursement was ultimately authorized under Public Law 92–603, the Social Security Amendments of 1972.

The effectiveness of free-standing ambulatory surgical facilities has been clearly proven. My experience with Surgicenter of Phoenix, for example, has indicated that ambulatory surgical services can eliminate the need for utilizing expensive hospital services for minor surgical techniques involving general anesthesia. But more importantly, the costs for such procedures performed at the surgicenter are considerably less than similar procedures performed in a hospital. This is not to suggest that hospitals are not involved in outpatient surgical services, as many have developed outpatient clinics.

In the face of the increasing costs of health care it would seem appropriate to utilize such services whenever and wherever we can. Whether these services are provided in outpatient hospital clinics or a surgicenter-type operation, it is important that such an approach to health care delivery be utilized.

Certainly, as a major purchaser of health care the Federal Government has a responsibility to encourage and emphasize the use of ambulatory surgical services as a major component in health care delivery. In this context, we should not ignore the opportunity to include this service among the supplemental services being offered under the migrant and community health centers program.

I ask, therefore, that this amendment be adopted to insure that ambulatory surgical services not be overlooked in the operation of these vital health centers.

Mr. President, I understand the distinguished Senator from Massachusetts has had a chance to look at this amendment. I shall appreciate his observation.

Mr. KENNEDY. Mr. President, I welcome this amendment and endorse it.

One of the key contributing factors in the growth and escalation in health costs is the fact that we are distributing these health benefits in a very high-cost atmosphere such as in the hospitals, and the average hospital room today is $110. It is a good deal more in many different parts of the country. But that is the standard rate.

The amendment of the Senator from Arizona would permit some of the simple surgery to be done in neighborhood health centers in a much less costly service area.

So I would think that this would be useful and helpful in trying to at least impact for the purposes of cost let alone the purposes of convenience.

It seems to me that it is extremely valuable. It will be offered as a supplemental service. That is all the amendment is intended to do, to offer it as a supplemental service.

It seems to me to be worthwhile.

I can understand that neighborhood health centers were not only to provide services in many of the urban areas but also in rural communities in some of the distant areas.

So this kind of simple surgery would provide a convenient service in a number of rural communities which otherwise may be denied those services to individuals who need it or put them to great inconvenience and a good deal more expense to the Federal Government.

So I am glad to urge our colleagues to accept this amendment.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Massachusetts. He has very capably explained the benefits of the amendment.

As I say we have had experience in various areas of the country proving the great need for this particular service and the need for utilizing inexpensive equipment whereby they would not then have to have the hospital for minor surgical techniques involving general anesthesia.

So I do feel it is, as stated, a very valuable amendment.

Mr. SCHWEIKER. Mr. President, I yield myself 1 minute.

I commend the distinguished Senator from Arizona. I think it is a very important step we need to take in other areas also.

I commend him for his leadership and I strongly support it.

Mr. FANNIN. I thank the distinguished Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. FANNIN. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FANNIN. I thank the Chair and the distinguished Senators from Massachusetts and Pennsylvania.

Mr. KENNEDY. Mr. President, I call up my amendment which is at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 30, line 23, insert the following:

TITLE VI—SICKLE CELL ANEMIA, COOLEY'S ANEMIA, TAY-SACHS DISEASE AND GENETIC DISEASES AMENDMENTS OF 1975

SEC. 601. This title may be cited as the "National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs and Genetic Diseases Act".

SEC. 602. In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program to provide for basic and applied research, research training, testing, counseling, information, and education programs with respect to genetic diseases, including, but not limited to sickle cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis, pigmentosa, Huntington's chorea, and muscular dystrophy.

SEC. 603. Effective July 1, 1975, title XI is amended by striking out parts A and B and inserting in lieu thereof the following:

"PART A—GENETIC DISEASES

"TESTING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a) (1) The Secretary through an identifiable administrative unit within the Department of Health, Education, and Welfare may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects to establish and operate voluntary genetic testing and counseling programs primarily in conjunction with other existing health programs, with a priority given to applications for grants and contracts for projects which are recipients of sickle cell anemia grants or contracts on the date of enactment of this Act.

"(2) The Secretary shall carry out, through an identifiable administrative unit within the Department of Health, Education, and Welfare, a program to develop information and educational materials relating to genetic diseases and to disseminate such information and materials to persons providing health care, to teachers and students, and to the public generally in order to most rapidly make available the latest advances in the testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. The Secretary may, under such programs, make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the development and dissemination of such materials.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1976; $25,000,000 for the fiscal year ending June 30, 1977, and $30,000,000 for the fiscal year ending June 30, 1978.

"(c) For the purpose of making payments pursuant to grants and contracts for Sickle Cell Anemia testing and counseling programs under this Section, there are authorized to be appropriated $15 million for each of the Fiscal Years 1976, 1977, 1978.

"RESEARCH PROJECT GRANTS AND CONTRACTS"

"SEC. 1102(a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) basic research, including lower organisms, applied research, and research training leading to the understanding, diagnosis, treatment, and control of genetic diseases, (2) planning, establishing, demonstrating, or developing special programs related to training genetic counselors, social and behavioral scientists, and other health professionals, (3) the development of programs to educate practicing physicians, other health professionals, and the public regarding the nature of genetic processes, the inheritance patterns, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic diseases, and (4) the development of counseling and testing programs and other programs for the diagnosis, control, and treatment of genetic diseases.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $80,000,000 for the fiscal year ending June 30, 1976, $100,000,000 for the fiscal year ending June 30, 1977, and $120,000,000 for the fiscal year ending June 30, 1978.

"(c) For the purpose of making payments pursuant to grants and contracts for Sickle

Cell Anemia research programs under this Section, there are authorized to be appropriated $10 million for each of the Fiscal Years 1976, 1977, and 1978.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANTS AND CONTRACT PROGRAMS

"SEC. 1104(a) A grant or contract under this part may be made upon application submitted to the Secretary at such time, in such manner, and containing and accompanied by such information, as the Secretary may require necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding testing, diagnosis, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) gives informed consent to be released, or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for community representation where appropriate in the development and operation of voluntary genetic testing or counseling programs funded by a grant under this part;

"(4) in the case of an applicant for a grant or contract for the delivery of services under section 1101(a)(1), provide assurances satisfactory to the Secretary that (A) the services for community-wide testing and counseling to be provided under the program for which the application is made (i) will take into consideration widely prevalent diseases with a genetic component and high-risk population groups in which certain genetic diseases occur, and (ii) where appropriate will be directed especially but not exclusively to persons who are entering their child-producing years, and (B) appropriate arrangements will be made to provide counseling to persons found to have a genetic disease and to persons found to carry a gene or chromosome which may cause a deleterious effect in their offspring; and

"(5) establish fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of Federal funds paid to the applicant under this part.

"(b) In making any grant or entering into any contract for testing and counselor programs under section 1101, the Secretary shall (1) provide a priority to those applicants which at the time of the submission of their applications are recipients of grants or contracts under parts A and B of this Act, as in effect the day prior to the effective date of this section, and which otherwise meet the application requirements of this part; and (2) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (3) give priority to programs operating in areas which the Secretary determines have the greatest number of persons who will benefit from and are in need of the services provided under such programs.

"(c) Of the sums appropriated under section 1102(b) for any fiscal year, not less than 10 per centum shall be made available for grants and contracts under this title for such fiscal year for projects which serve or will serve the greatest number of persons in need of the services provided under part B of this Act, as in effect prior to the effective date of this section, and which otherwise meet the application requirements of this part.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Service to provide voluntary testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. Services under such program shall be made available through facilities of the Service to persons requesting such services, and the program shall provide appropriate publicity of the availability and voluntary nature of such services.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

(b)(1) Section 1121(b)(5) of such title is amended by striking out "ending June 30", each place it occurs.

(2) Part C of such title is redesignated as part B.

(3) The heading of such title is amended by deleting "Blood Disorders" and inserting "Diseases".

Mr. KENNEDY. Mr. President, along with Senators WILLIAMS, TUNNEY, SCHWEIKER, and JAVITS, I am pleased to introduce legislation to extend Federal support for programs to battle sickle cell anemia, Cooley's anemia, Tay-Sachs disease, and other genetic disorders.

Mr. JAVITS. Mr. President, will the Senator yield a minute?

Mr. KENNEDY. Yes.

Mr. JAVITS. I believe both Senator PELL of Rhode Island and Senator STONE of Florida wish to be added as cosponsors.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator PELL and Senator STONE be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this, in effect, is a compromise amendment authorizing grant for the testing and counseling and information and education of all genetic diseases, with a priority given for those grants and projects existing on the date of enactment and separate funding authorized for sickle cell programs.

What we are talking about here are generally the complete range of genetic diseases which include Cooley's anemia, and Tay-Sachs disease, and other different genetic diseases which afflict many different groups in our society.

There has been separate legislation over the years. This is an effort to coordinate and consolidate and to bring together the various research efforts, knowledge and understanding, because the bottom line is this. They are all genetic-based diseases, and this will, for the first time, deal with Tay-Sachs disease which is a disease which afflicts many in our society and has caused such enormous suffering and distress to many in our Nation.

So I hope this amendment will be accepted by our colleagues.

I have a rather detailed statement in support of it, giving the number of Americans which are affected by each of these genetic diseases, giving a report about what progress has been made in these various programs, what has been done in the sickle cell testing programs, the research that has been done, the various screening programs that have been done, and the need and justification for this kind of amendment.

The purpose for legislation has been clear to everyone who has followed the problems of combatting genetic diseases. Not until 1971, was legislation introduced to establish programs for screening, testing, and conducting sickle cell disease research.

Over 500,000 Americans have subsequently been tested through the help of federally supported sickle cell screening centers. Both the effectiveness and the efficiency of these projects led the way for increased interest in developing similar programs for other diseases. Thus, Cooley's anemia and Tay-Sachs disease were soon included in legislative proposals designed to address the problems of those maladies. And eventually, proposals were developed to establish one overall program to encompass testing, treatment, and research for all genetic diseases.

Last July, in hearings before the Health Subcommittee, medical experts delivered testimony about their interest in the need for new sweeping legislation to address the problems of all genetic diseases. Their attention focused upon legislation proposed by Senator JAVITS to enact a National Genetic Diseases Act, that would include not only the existing programs on sickle cell anemia, Tay-Sachs disease, and Cooley's anemia, but it would also authorize the Department of Health, Education, and Welfare to develop projects for probing the problems posed by the broad range of all genetic diseases that affect so many people in this country.

The measure offered today is specially tailored to include priorities to retain the integrity of existing projects for sickle cell anemia, Tay-Sachs disease, and Cooley's anemia, while also authorizing funds for programs in the other areas of genetic disorders.

Sickle cell anemia is a blood disorder known to primarily affect blacks. For over 50 years patients were diagnosed as suffering with the pain and debilitation caused by this disease—but not until 1972 was there a Federal effort to assist in the battle against sickle cell anemia.

Since that time the Department of Health, Education, and Welfare has funded 31 sickle cell anemia projects to conduct programs in testing, counseling, and public education as well as programs in research and research training.

Similar programs were launched in 1974 to address the problems of two other important genetic diseases, Cooley's anemia and Tay-Sachs disease.

All three of these maladies mysteriously affect only specific ethnic groups in our society—and the fledgling Federal effort to support programs for combatting these diseases clearly deserves to be sustained. Medical experts, patients, and others, continue to urge that the existing projects be maintained.

Therefore, the amendment offered by

Senators JAVITS, WILLIAMS, and myself has a twofold purpose.

First, it establishes a national program in the Department of Health, Education, and Welfare to provide for basic and applied research, research training, testing, counseling, information, and education programs for all genetic diseases.

At the same time, this amendment enforces the intent of the Congress to insure the award of funds to programs on sickle cell anemia, Tay-Sachs disease and Cooley's anemia, with existing grants and contracts in effect upon enactment of this measure.

In addition, separate funding authority is provided for sickle cell anemia programs to further insure the continuation of programs already in full operation under the National Sickle Cell Anemia Control Act.

The details of this amendment are in no way unique from existing legislation in this area. Indeed, this measure simply extends authority for the Department of Health, Education, and Welfare to begin doing for other genetic diseases, some of the things that have already been initiated in the assault on sickle cell anemia.

Sickle cell centers have been developed around the Nation to counsel potential victims; to provide useful information on the effects of the disease, and to search out those people who might be carriers of the sickle cell trait.

Under this new amendment, it is expected that similar centers will be established in appropriate areas of our country to provide similar services for victims and potential victims of other genetic diseases identified by HEW officials.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. KENNEDY. I yield whatever time the Senator wishes.

Mr. JAVITS. Mr. President, I wish to point out to the Senate that this amendment avoids a very serious difference of view within our own committee on the one hand represented by Senator KENNEDY, who has fought so long and so effectively for dealing with sickle cell disease and Cooley's anemia, and Senator WILLIAMS and I who were very interested in a generic program respecting genetic diseases generally, which includes Tay-Sachs, by the way. By this resolution, which gives a priority to the earlier programs, those to which Senator KENNEDY has been so devoted, and at the same time accommodates these other programs in which Senator WILLIAMS and I were interested, as well as Senator KENNEDY, we have avoided a difference of view respecting a generic research effort and a categorical genetic disease-by-disease effort.

The House has looked with favor upon what is done in this amendment, in that we have at the desk a bill which incorporates measures which I have sponsored with Senator WILLIAMS, and I think this is a splendid resolution of the problem. It illustrates the high degree of public responsibility which we seek to exercise in the Committee on Labor and Public Welfare.

I am very gratified to commend it to the Senate as working out something which could have caused us endless difficulties and seeming differences between Senators such as Senator KENNEDY and I, who have as much a common view as Senators can have on these health problems.

I hope the amendment will be adopted by the Senate.

Mr. TUNNEY. Mr. President, I would like to address myself to the Kennedy-Javits amendment to the National Heart and Lung Institute research funding bill; it concerns a subject that I am very much involved with.

I was very pleased to have been the original author of the Sickle Cell Anemia Control Act of 1972; however, over the past 3 years, I have been very displeased that this very good law—which would have centralized all funding and sickle cell activities under one roof—has been ignored by the two administrations. Although we have experienced many positive results from the act, none of the $115 million authorized for the National Sickle Cell Anemia Control Act have been appropriated for the sickle cell disease or any related problem. The funding for the various sickle cell programs has resulted in great confusion and uncertainty, and has made it very difficult for communities to have any kind of confidence in their local programs.

When I testified before Senator KENNEDY's Subcommittee on Health concerning the reauthorization of the Sickle Cell Act, I mentioned my great concern and fear that we might possibly renege on yet another promise to our black communities if we did not reauthorize the act. I also feared that the great communication which has opened up for the first time between the health community and the black neighborhoods would cease with the termination of this act. At no time have I, or the distinguished spokesmen for sickle cell in my State, been against an umbrella-type genetics disease bill. We all agree on its great importance. Our only concern was that the great strides we have made for the cause of sickle cell would be further hidden and obscured within such a bill at this time.

However, I have been assured by the distinguished chairman of the Subcommittee on Health and its distinguished minority leader that sickle cell will remain, through this amendment, a line item with a specific budgetary authorization. Although the amounts specified are not as high as I would like, I am hopeful that the administration will now make specific provision for sickle cell services in its budget proposal. I would like to add my name as a cosponsor to this amendment which I hope will not only centralize the research and activities of all genetic diseases—but will keep very special our commitment to sickle cell anemia, the genetic disease which still affects more people who are susceptible, than any other disease through blood.

The PRESIDING OFFICER (Mr. LAXALT). Do Senators yield back the remainder of their time?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

UNANIMOUS-CONSENT AGREEMENT—H.R. 9852, INCREASED LOANS FOR PURCHASE OF MOBILE HOMES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Calendar No. 500, H.R. 9852, there be a time limitation of 1 hour on the bill, 2 hours on the Eagleton amendment, 2 hours on the Brooke amendment, 1 hour on other amendments, 30 minutes on amendments in the second degree, motions, and appeals; and the leadership would like to take up this bill next Tuesday, under the regular rule.

The PRESIDING OFFICER. Does the Senator want the agreement in the usual form?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the consideration of H.R. 9852 (Order No. 500) an act to amend sec. 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes, and for other purposes, debate on any amendment in the first degree (except an amendment to be offered by the Senator from Missouri (Mr. Eagleton), on which there shall be 2 hours, and an amendment to be offered by the Senator from Massachusetts (Mr. Brooke), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment, debatable motion, or appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively by the Majority and Minority Leaders, or their designees: *Provided,* That the said Leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

UNANIMOUS-CONSENT AGREEMENT S. 2498, NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Calendar No. 488, S. 2498, National Commission on Small Business in America, there be a limitation of 1 hour on the bill, 2 hours on the Javits amendment, 30 minutes on all other amendments, 10 minutes on amendments in the second degree as well as motions and appeals, and that it be in the regular order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the consideration of S. 2498 (Order No. 488), a bill to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes, debate on any amendment in the first degree (except an amendment to be offered by the Senator from New York (Mr. JAVITS), on which there shall be 2 hours) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, or appeal shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Majority and Minority Leaders, or their designees: *Provided*, That the said Leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

Mr. JAVITS. Mr. President, if the Senator will yield, I did not want to interrupt him when he was propounding the unanimous-consent request.

I am not sure that I need this, but is it understood that my amendment will be considered in order?

Mr. MANSFIELD. Two hours.

Mr. JAVITS. It will be considered in order. That is on the germaneness.

Mr. MANSFIELD. Yes.

It is the leadership's hope that this bill can be taken up tomorrow.

The PRESIDING OFFICER. The Chair states to the Senator from New York that when there is a specific agreement on an amendment, it is in order.

Mr. JAVITS. I thank the Chair.

NATIONAL BIOMEDICAL HEART, BLOOD VESSEL, LUNG, BLOOD, AND RESEARCH TRAINING ACT OF 1975

The Senate continued with the consideration of the bill (S. 988) to amend the Public Health Service Act to revise and extend programs of the National Heart and Lung Institute and National Research Service Awards.

Mr. CURTIS. Mr. President, I wish to ask a question or two of the manager of the bill about the pending bill.

Do I correctly understand that this is a continuation of an existing program?

Mr. KENNEDY. The Senator is correct.

Mr. CURTIS. Can the Senator give us an estimation as to the costs of the extension compared to the existing program?

Mr. KENNEDY. I will be glad to give such an estimation to the Senator.

On the bill itself, there will be a $1.1 billion authorization for 2 years, which is about $350 million less than the previous authorization.

Mr. CURTIS. The Senator is not comparing it to the amount appropriated?

Mr. KENNEDY. I am not comparing it to the amount appropriated.

Mr. CURTIS. But we are not enlarging the program dollarwise by this expansion?

Mr. KENNEDY. No, not the program specifically. Some amendments have been included which are going to move into some new areas, but the basic, fundamental legislation itself is about $350 million less.

There are other provisions—I want to make that clear, as I did in my opening statement—dealing with genetic diseases which do add funding authority to S. 988. In consideration of those, we have reduced some other existing legislation and tried to coordinate and consolidate some of the existing programs.

Mr. CURTIS. In other words, in the overall, it is less; but it is distributed for different medical problems?

Mr. KENNEDY. In general, the Senator is correct.

Mr. CURTIS. I thank my distinguished friend.

Mr. KENNEDY. Mr. President, I offer an amendment on behalf of the Senator from Arizona (Mr. FANNIN), the Senator from Washington (Mr. JACKSON), and the Senator from South Dakota (Mr. ABOUREZK).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill add:

Section 225 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(J) further, notwithstanding any other provision of law, the Secretary may, where he deems advisable, allow the Indian Health Service to utilize non-profit recruitment agencies to assist in obtaining personnel for the Public Health Service."

Mr. KENNEDY. Mr. President, it has been called to our attention that particularly in the areas affecting Indians, there is difficult time in gathering sufficient health manpower and the types of manpower which are necessary to make the Indian health service program a program of quality health. There has been the desire of some who are familiar with this program to permit the opportunity for private corporations to undertake some contracting agreements to attempt to provide the needed medical manpower. This amendment would permit the opportunity for the Indian health service program to develop such contracts.

Although I regret that we have to go this kind of route and although I am extremely hopeful that with the development of our health manpower program, which has the support, I believe, of the overwhelming majority of the Members of the Health Committee as well as the administration, it seems to me that this kind of legislation will not be needed in the future. But it appears to me that it can provide some additional health manpower in the area of Indian health services. So I do not object to the inclusion of this amendment.

I give assurance to those who have sponsored this program, who are concerned about the adequacy of health manpower, that we do believe that the Health Service Corps, which I find to be one of the very important and imaginative programs, to try to deal with supplying health manpower in areas of critical shortages, may in the future be able to provide the kinds of relief in terms of manpower that the Indian Health Service program needs. It is not of that dimension at the present time.

The sponsors of the amendment feel that this kind of arrangement can be helpful and useful in supplying manpower, and I do not object to it. I am willing to see that we give it a try for a short period of time. I am sure the Senators will review this matter because it will impact and affect their States.

I am glad to accept this amendment, and I am willing to work with those Senators to try in the future to help meet this particular need.

Mr. FANNIN. Mr. President, I express my appreciation to the distinguished Senator from Massachusetts for this very lucid explanation of this amendment.

It is needed. It does give flexibility. I agree with the distinguished Senator that we should have a continuing program, one that will take care of the need. It is regrettable that we have had a lack of services over the years. The Indian Health Service probably has been affected more by lack of appropriations than most any of the health services. This will assist greatly.

I feel that we are very fortunate to have the support of the Senator from Massachusetts and the Senator from Pennsylvania on this very needed amendment.

Mr. ABOUREZK. During the hearings on the Indian Health Service recruitment problems held by our committee, a great deal of testimony revealed that the Indian Health Service was experiencing problems in their efforts to recruit physicians, especially for the Aberdeen area.

These hearings were held in 1973 and since that time they are still having difficulty in recruiting personnel for the Aberdeen area.

While the National Health Service Corps and its cooperative recruitment program is doing a very good job with regard to the mass attraction of health personnel, they have been unable to recruit for the isolated communities, like Aberdeen. At best, this recruitment effort is extremely difficult in the private sector, however, for government service, given the end of the doctors draft, it is near impossible.

The Indian Health Service has indicated that they feel there may be other avenues to follow in the recruitment area in the nongovernmental area, however, due to restrictions placed on recruitment assistance from without the government by the Federal personnel system, they are unable to avail themselves of this help.

In order to aid the IHS and the Indians to obtain physician services, an amendment is needed to the Public Health Service Act which would allow the IHS to utilize outside help or assistance for this critical problem.

Since time is of the essence in this matter, the change is needed as soon as possible so that the Indian Health Service may be about the business of filling these much needed slots within the Service.

Therefore, the amendment is offered to deal with this problem. The amendment is technical in nature in that it would only permit the Indian Health Service to obtain assistance in this area if they felt it might help solve this problem.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. KENNEDY. I yield back my time.

Mr. SCHWEIKER. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. I am prepared to yield back all our time.

Mr. SCHWEIKER. I yield back all our time on this side.

The PRESIDING OFFICER. If there be no further amendments, the question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment as amended, in the nature of a substitute, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7988.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7988) to amend the Public Health Service Act to revise and extend the program under the National Heart and Lung Institute, to revise and extend the program of National Research Service Awards, and to establish a national program with respect to genetic diseases; and to require a study and report on the release of research information.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and without objection, the Senate will now proceed to its immediate consideration.

Mr. KENNEDY. Mr. President, I ask unanimous consent to strike all after the enacting clause and to insert in lieu thereof the text of S. 988, as amended by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator also include in his unanimous-consent request agreeing to transfer the yeas and nays on the House bill?

Mr. KENNEDY. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time

Mr. KENNEDY. Mr. President, I ask unanimous consent to indefinitely postpone S. 988.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. STENNIS), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Louisiana (Mr. LONG), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE) is absent to attend the funeral of his father.

The result was announced—yeas 90, nays 2, as follows:

[Rollcall Vote No. 578 Leg.]

YEAS—90

Abourezk
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—2

Goldwater
McClure

NOT VOTING—8

Allen
Bayh
Bumpers
Culver
Dole
Long
Metcalf
Stennis

So the bill (H.R. 7988), as amended, was passed, as follows:

That this Act may be cited as the "National Biomedical Heart, Blood Vessel, Lung, Blood, and Research Training Act of 1975".

TITLE I—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. (a) Congress finds and declares that—

(1) diseases of the heart, blood, and blood vessels collectively cause more than half of all the deaths each year in the United States and the combined effect of the disabilities and deaths from such diseases is having a major social and economic impact on the Nation;

(2) elimination of heart, blood, and blood vessel diseases as significant causes of disability and death could increase the average American's life expectancy by about eleven years and could provide for annual savings to the economy in lost wages, productivity, and cost of medical care of more than $30,000,000,000 per year;

(3) chronic lung diseases have been gaining steadily in recent years as important causes of disability and death, with emphysema alone being the fastest rising cause of death in the United States;

(4) chronic respiratory diseases affect an estimated ten million Americans, emphysema an estimated one million, chronic bronchitis an estimated four million, and asthma an estimated five million;

(5) thrombosis (the formation of blood clots in the vessels) may cause, directly or in combination with other problems, many deaths and disabilities from heart disease and stroke which can now be prevented;

(6) blood and blood products are essential human resources whose value in saving life and promoting health cannot be assessed in terms of dollars;

(7) the provision of prompt and effective emergency medical services utilizing to the fullest extent possible advances in transportation and communications and other electronic systems and specially trained professional and paraprofessional health care personnel can reduce substantially the number of fatalities and severe disabilities due to critical illnesses in connection with heart, blood vessel, lung, and blood diseases;

(8) blood diseases, including nutritional anemia, anemia due to inherited abnormalities (such as sickle cell disease and Cooley's anemia (thalassemia), anemias resulting from failure of the bone marrow, hemorrhagic defects (a common cause of death in patients with leukemia and other malignancies, and of disability in inherited diseases such as hemophilia) and malignancies of the lymph nodes and bone marrow, such as leukemia, have a devastating impact in spite of recent advances. These diseases constitute an important category of illness that requires major attention; and

(9) the greatest potential for advancement against heart, blood vessel, lung, and blood diseases lies in the National Heart, Lung, and Blood Institute, but advancement against such diseases depends not only on the research programs of that Institute but also on the research programs of other research institutes of the National Institutes of Health.

(b) It is the purpose of this Act to enlarge the authority of the National Heart, Lung, and Blood Institute in order to advance the national attack upon heart, blood vessel, lung, and blood diseases and blood resources.

REPORT AND PLAN OF THE DIRECTOR OF THE INSTITUTE

SEC. 102. (a) Paragraph (2) of subsection (b) of section 413 of the Public Health Service Act is amended to read as follows:

"(2) The Director of the Institute shall, as soon as possible after the end of each fiscal year, prepare in consultation with the Council and submit to the Secretary of Health, Education, and Welfare for transmittal to the President and the Congress simultaneously a report on the activities, progress, and accomplishments under the program during the preceding fiscal year and a plan for the program during the next five years. The plan shall also project the staff required by the Institute to carry out the program and recommendations for appropriations for the program.".

(b) For purposes of paragraph (2) of subsection (b) of section 413 of the Public Health Service Act (as amended by this Act), the period beginning January 1, 1975, and ending December 31, 1975, and the period beginning January 1, 1976, and ending September 30, 1976, shall each be considered a fiscal year.

Sec. 103. The heading of title IV, part B, of the Public Health Service Act (42 U.S.C. 287) is amended by striking "and" and by inserting "AND BLOOD" after "LUNG".

Sec. 104. Section 411 of such Act is amended by striking "and" and by inserting "AND BLOOD" after "LUNG".

Sec. 105. (a) Subsection (a) of section 413 of such Act is amended by—

(1) striking "Disease" in the first sentence and by inserting in lieu thereof "Diseases and Blood Resources";

(2) inserting "and blood resources" after "diseases" in the first sentence; and

(3) inserting "and resources" after "diseases" in the second sentence.

(b) Subsection (a)(7) of such section is amended by inserting before the semicolon at the end thereof "and blood resources".

(c) Subsection (c)(2) of such section is amended by—

(1) striking "operate," and by inserting in lieu thereof "operate, alter, renovate,"; and

(2) striking "disease" and by inserting in lieu thereof "diseases and blood resources".

(d) Subsection (d) of such section is amended by—

(1) striking "Assistant Director for Health Information Programs" each place it appears and inserting in lieu thereof "Assistant Director for Prevention and Education";

(2) inserting "and blood" after the word "pulmonary" the first time it appears; and

(3) inserting "and blood resources" after the word "diseases" the first time it appears.

(e) The heading of section 413 of such Act is amended by striking "Disease" and by inserting in lieu thereof "Diseases and Blood Resources".

Sec. 106. Subsection (b) of section 414 of such Act is amended by striking "and $45,000,000 for the fiscal year ending June 30, 1975" and by inserting in lieu thereof "and $10,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977".

Sec. 107. (a) Subsection (a)(1)(A) of section 415 of such Act is amended by—

(1) striking "fifteen" and by inserting in lieu thereof "ten"; and

(2) striking ", blood vessel, and blood diseases" and by inserting in lieu thereof "diseases".

(b) Subsection (a)(1)(B) of such section is amended by striking "fifteen" and by inserting in lieu thereof "ten".

(c) Subsection (a)(1) of such subsection is amended by adding the following new subsection (C) at the end thereof:

"(C) Ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood, blood vessel diseases, research in the use of blood products, and research in the management of blood resources.".

(d) Subsection (a)(2) of such section is amended by—

(1) inserting "(B) and (C)" after "(A)"; and

(2) inserting ", lung and blood" after the word "cardiovascular".

(e) Subsection (a)(2)(A) of such section is amended by striking "cardiovascular disease" and by inserting in lieu thereof "these diseases".

(f) Subsection (a)(2)(B) of such section is amended by striking "such disease" and by inserting in lieu thereof "these diseases".

(g) Subsection (a)(2)(C) of such section is amended by striking "disease" and by inserting in lieu thereof "diseases".

(h) Subsection (a)(2)(D) of such section is amended by striking "disease" and by inserting in lieu thereof "diseases".

(i) Subsection (b) of such section is amended by—

(1) inserting "or research in the management of blood resources" after "diseases"; and

(2) striking the first sentence following paragraph (4) and by inserting in lieu thereof: "The aggregate of payments (other than payments for construction) made to any center under such an agreement may not exceed $5,000,000 (excluding indirect costs) in any year, except that such aggregate may exceed such sum in any year to the extent that any excess amount is attributable to increases in appropriate costs as reflected in the cost of living index published by the Department of Labor for such year.".

Sec. 108. Paragraph (1) of subsection (a) of section 417 of such Act is amended by striking out "Director of the Office of Science and Technology" and inserting in lieu thereof "Director of the National Science Foundation".

Sec. 109. (a) Paragraph (2) of subsection (b) of section 418 of such Act as amended to read as follows:

"The Council shall submit a report to the Secretary of Health, Education, and Welfare for transmittal to the President and to the Congress simultaneously not later than November 30 of each year on the progress of the program toward the accomplishment of its objectives during the preceding fiscal year.".

(b) For purposes of paragraph (2) of subsection (b) of section 418 of the Public Health Service Act, the period beginning July 1, 1975, and ending September 30, 1976, shall be considered a fiscal year.

(c) This section shall take effect on January 1, 1976.

Sec. 110. Subsection (a) of section 418 of such Act is amended by—

(a) renumbering paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7) respectively;

(b) inserting after paragraph (3) the following new paragraph (4):

"(4) approve areas of research in heart, blood vessel, lung, blood diseases, and the use of blood and blood products and research in the management of blood resources to be supported by the awarding of contracts and approve the percentage of the budget of the Institute which may be expended for such contracts;";

(c) inserting "diseases" after "heart" each time it appears; and

(d) inserting ", the use of blood and blood products and research in the management of blood resources" after "blood diseases" each time it appears.

Sec. 111. Subsection (c) of section 419A of such Act is amended by—

(a) striking "$35,000" each place it appears and inserting in lieu thereof "$35,000 (excluding indirect costs)".

(b) inserting ", the use of blood and blood products and research in the management of blood resources" after the word "diseases".

Sec. 112. Section 419B of such Act is amended by—

(a) striking "and $475,000,000 for the fiscal year ending June 30, 1975" and inserting in lieu thereof "and $338,000,000 for the fiscal year ending June 30, 1976 and $372,000,000 for the fiscal year ending June 30, 1977;"

(b) inserting "blood" before "diseases" the second time it appears; and

(c) striking "of the blood" and by inserting in lieu thereof "and blood resources."

Sec. 113. Sections 301(d) and 301(i) of such Act are each amended by striking out "heart diseases" and by inserting in lieu thereof "heart, blood vessel, lung, and blood diseases and blood resources".

TITLE II—NATIONAL RESEARCH SERVICE AWARDS

Sec. 201. Section 472(a)(1)(A)(iii) of the Public Health Service Act is amended by striking "non-Federal".

Sec. 202. Section 472(a)(1)(B) of such Act is amended by (a) striking "non-Federal"; and (b) inserting at the end thereof before the period ", and also to include the related programs administered by the Division of Nursing, Health Resources Administration".

Sec. 203. Section 472(b)(2) of such Act is amended by inserting "and the National Advisory Council on Nurse Training" after "Administration".

Sec. 204. (a) Section 472(c)(1)(A)(i) of such Act is amended by striking "health research or teaching" and inserting in lieu thereof "health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment"; and

(b) Section 472(c)(2)(A) of such Act is amended by striking "health research or teaching" and inserting in lieu thereof "health research or teaching or any combination thereof, which is in accordance with the usual patterns of academic employment,".

Sec. 205. Subsection (d) of section 472 of such Act is amended by striking "$207,947,000 for the fiscal year ending June 30, 1975" and inserting in lieu thereof "$160,000,000 for the fiscal year ending June 30, 1976, and $176,000,000 for the fiscal year ending June 30, 1977".

Sec. 206. Subsection (c) of section 473 of such Act is amended by striking "March 31" and inserting in lieu thereof "September 30".

Sec. 207. All references to section 472 of the "National Reserch Act" shall be followed by "Public Law 93–348—National Research Act".

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Subsection (b) of section 1631 of the Public Health Service Act is amended by striking the last sentence therein.

Sec. 302. Section 212 of the Public Health Service Act is amended by adding after subsection (d) the following new subsection:

"(e) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 App. U.S.C. 501 et seq.).".

Sec. 303. Section 507 of the Public Health Service Act is amended by striking out "hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital, except that grants to such" and inserting instead "Federal institutions, except that grants to".

Sec. 304. Section 786 of the Public Health Service Act is amended by inserting before the period at the end of the first sentence "and $3,500,000 for the fiscal year ending June 30, 1975 and $2,000,000 for the fiscal year ending June 30, 1976".

Sec. 305. (a) Section 742(a) of the Public Health Service Act is amended by striking out "and" after "1974," and by inserting after "1975" the following: ", and $60,000,000 for the fiscal year ending June 30, 1976".

(b) Section 740(b)(4) of such Act is amended by striking out "1975" and inserting in lieu thereof "1976".

STIPENDS

Sec. 306. Title IV of the Public Health Service Act is amended by adding after section 473 the following new sections:

"STIPENDS

"Sec. 474. (a) The Secretary is authorized to grant stipends, in amounts not to exceed $25,000 per annum, to visiting scientists (as defined in subsection (b)) who enter into agreements with the Secretary to assist minority schools in developing programs in biomedical sciences. In the event a recipient of a stipend under this section does not complete the requirements of his agreement with the Secretary, the United States shall be entitled to recover an amount determined under section 472(c)(4).

"(b) For the purposes of this section the term—

"(1) 'visiting scientist' means a person who by his accomplishments and reputation has distinguished himself in the fields of biomedical science and has entered into an agreement with the Secretary under subsection (a);

"(2) 'minority school' means a school of postsecondary education which has enrolled a substantial number of minority students, as determined in accordance with regulations of the Secretary; and

"(3) 'biomedical sciences' means all the health related sciences and requisite related courses.

"(c) There are authorized to be appropriated to carry out the purposes of this section, such sums as may be necessary."

"UNDERGRADUATE TRAINING IN BIOMEDICAL SCIENCES IN MINORITY SCHOOLS

"Sec. 475. (a) The Secretary may make grants to minority schools to initiate the development of undergraduate programs relating to biomedical sciences.

"(b) Each minority school (as defined in subsection (c)(1)) may apply for a grant under subsection (a) to establish an undergraduate program in the biomedical sciences (as defined in subsection (c)(2)) in accordance with regulations established by the Secretary.

"(c) For the purposes of this section the term—

"(1) 'minority school' means a school of postsecondary education which has enrolled a substantial number of minority students, as determined in accordance with regulations of the Secretary; and

"(2) 'biomedical sciences' means all the health related sciences and requisite related courses.

"(d) There are authorized to be appropriated to carry out the purposes of this section, such sums as may be necessary.".

TITLE IV—FOOD, DRUG, AND COSMETIC ACT AMENDMENTS

Sec. 401. (a) Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 410 (21 U.S.C. 349) the following new section:

"VITAMINS AND MINERALS

"Sec. 411. (a)(1) Except as provided in paragraph (2)—

"(A) the Secretary may not establish, under section 201(n), 401, or 403, maximum limits on the potency of any synthetic or natural vitamin or mineral within a food to which this section applies;

"(B) The Secretary may not classify any natural or synthetic vitamin or mineral (or combination thereof) as a drug solely because it exceeds the level of potency which the Secretary determines is nutritionally rational or useful.

"(C) the Secretary may not limit, under section 201(n), 401, or 403, the combination or number of any synthetic or natural—

"(i) vitamin,

"(ii) mineral, or

"(iii) other ingredient of food,

within a food to which this section applies.

"(2) Paragraph (1) shall not apply in the case of a vitamin, mineral, or other ingredient of food which the Secretary determines by regulation is represented for use by children or pregnant or lactating women. For purposes of this subparagraph, the term 'children' means individuals who are under the age of twelve years.

"(b)(1) A food to which this section applies shall not be deemed under section 403 to be misbranded solely because its label bears, in accordance with section 403(i)(2), all the ingredients in the food or its advertising contains references to ingredients in the food which are not vitamins or minerals.

"(2)(A) The labeling for any food to which this section applies may not list its ingredients which are not vitamins or minerals (i) except as a part of a list of all the ingredients of such food, and (ii) unless such ingredients are listed in accordance with applicable regulations under section 4030. To the extent that compliance with clause (i) of this subparagraph is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary.

"(B) Notwithstanding the provisions of subparagraph (b)(2)(A), the labeling and advertising for any food to which this section applies may not give prominence to or emphasize ingredients which are not—

"(i) vitamins,

"(ii) minerals, or

"(iii) represented as a source of vitamins or minerals.

"(c)(1) For purposes of subsections (a) and (b) of this section, the term 'food to which this section applies' means a food for humans which is a food for special dietary use—

"(A) which is or contains any natural or synthetic vitamin or mineral, and

"(B) which—

"(i) is intended for ingestion in tablet, capsule, or liquid form, or

"(ii) if not intended for ingestion in such a form, does not simulate and is not represented as conventional food.

"(2) For purposes of paragraph (1)(B)(i), a food shall be considered as intended for ingestion in liquid form only if it is formulated in a fluid carrier and it is intended for ingestion in daily quantities measured in drops or similar small units of measure.

"(3) For purposes of paragraph (1) and of section 403(j) insofar as that section is applicable to food to which this section applies, the term 'special dietary use' as applied to food used by man means a particular use for which a food purports or is represented to be used, including but not limited to the following:

"(A) Supplying a special dietary need that exists by reason of a physical, physiological, pathological, or other condition, including but not limited to the condition of disease, convalescence, pregnancy, lactation, infancy, allergic hypersensitivity to food, underweight, overweight, or the need to control the intake of sodium.

"(B) Supplying a vitamin, mineral, or other ingredient for use by man to supplement his diet by increasing the total dietary intake.

"(C) Supplying a special dietary need by reason of being a food for use as the sole item of the diet.".

(b) The Secretary of Health, Education, and Welfare shall amend any regulation promulgated under the Federal Food, Drug, and Cosmetic Act which is inconsistent with section 411 of such Act (as added by subsection (a)) and such amendments shall be promulgated in accordance with section 553 of title 5, United States Code.

ADVERTISING

Sec. 402. (a)(1) Section 403(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(a)) is amended (A) by inserting "(1)" after "If", and (B) by inserting before the period at the end a comma and the following: "or (2) in the case of a food to which section 411 applies, its advertising is false or misleading in a material respect or its labeling is in violation of section 411(b)(2)".

(2)(A) Section 201(n) of such Act is amended by inserting "or advertising" after "labeling" each time it occurs.

(B) Section 303 of such Act is amended by adding at the end the following new subsection:

"(d) No person shall be subject to the penalties of subsection (a) of this section for a violation of section 301 involving misbranded food if the violation exists solely because the food is misbranded under section 403(a)(2) because of its advertising, and no person shall be subject to the penalties of subsection (b) of this section for such a violation unless the violation is committed with the intent to defraud or mislead.".

(C) Section 304(a) of such Act (21 U.S.C. 334(a)) is amended by adding after paragraph (2) the following new paragraph:

"(3)(A) except as provided in subparagraph (B), no libel for condemnation may be instituted under paragraph (1) or (2) against any food which—

"(i) is misbranded under section 403(a)(2) because of its advertising, and

"(ii) is being held for sale to the ultimate consumer in an establishment other than an establishment owned or operated by a manufacturer, packer, or distributor of the food.

"(B) A libel for condemnation may be instituted under paragraph (1) or (2) against a food described in subparagraph (A) if—

"(i)(I) the food's advertising which resulted in the food being misbranded under section 403(a)(2) was disseminated in the establishment in which the food is being held for sale to the ultimate consumer,

"(II) such advertising was disseminated by, or under the direction of, the owner or operator of such establishment, or

"(III) all or part of the cost of such advertising was paid by such owner or operator; and

"(ii) the owner or operator of such establishment used such advertising in the establishment to promote the sale of the food.".

(b) Chapter VII of such Act is amended by adding after section 706 (21 U.S.C. 376) the following new section:

"ADVERTISING OF CERTAIN FOODS

"Sec. 707. Before initiating any action under chapter III with respect to any food to which section 411 applies and which is deemed to be misbranded under section 403(a)(2) because of its advertising, the Secretary shall consult with the Federal Trade Commission and, for the purpose of avoiding unnecessary duplication, coordniate such action with any action taken or proposed to be taken by the Commission under the Federal Trade Commission Act.".

(c) The amendments made by subsection (a) shall take effect one hundred and eighty days after the date of the enactment of this Act.

TITLE V—ARTHRITIS ACT AMENDMENTS

Sec. 501. This title may be cited as the "National Arthritis Act Technical Amendments of 1975".

Sec. 502. (a) Section 2 of Public Law 93-640 is amended by—

(1) inserting "(a)" after "Sec. 2.";

(2) inserting "(hereinafter in this Act collectively referred to as 'arthritis')" after "diseases" in clause (1);

(3) inserting a comma and "including $2,500,000,000 in medical expenses," after "$9,200,000,000" in clause (3); and

(4) inserting a new subsection (b) at the end thereof as follows:

"(b) It is therefore the purpose of this Act to provide for—

"(1) the formulation of a long-range plan—

"(A) to expand and coordinate the national research, treatment, and control effort against arthritis;

"(B) to advance educational activities for patients, professional and allied health personnel, and the public which will alert the citizens of the United States to the early indications of arthritis; and

"(C) to emphasize the significance of early detection and proper control of these diseases and of the complications which may evolve from them;

"(2) the establishment and support of programs to develop new and improved methods of arthritis screening, detection, prevention, and referral;

"(3) the establishment of a central arthritis screening and detection data bank; and

"(4) the development, modernization, and operation of centers for arthritis screening, detection, diagnosis, prevention, control, treatment, education, rehabilitation, and research and training programs.".

(b) Section 3 of Public Law 93–640 is amended by—

(1) striking out "chief medical officer" and inserting in lieu thereof "Chief Medical Director" in clause (4) of subsection (b); and

(2) striking out "$2,000,000" and inserting in lieu thereof "$1,500,000" in subsection (k).

(c) The section heading above section 4 of Public Law 93–640 is amended by striking out "DEMONSTRATION" after "COMMITTEE,".

SEC. 503. (a) Subsection (c) of section 431 of the Public Health Service Act (as added by section 5(b) of Public Law 93–640) is amended by striking out "and related musculoskeletal diseases".

(b) Subsection (b) of section 434 of such Act (as amended by section 5 (c) of Public Law 93–640) is amended by striking out "and related musculoskeletal diseases" in the fourth sentence.

(c) Subsection (e) of section 434 of such Act (as added by section 5(a) of Public Law 93–640) is amended by striking out "hereinafter" the first time it appears and by striking out "hereinafter in" the second time it appears and inserting in lieu thereof "in."

(d) Section 438 of such Act (as added by section 4 of Public Law 93–640) is amended by—

(1) inserting "the" before "health" in the first sentence the first time it appears in subsection (a);

(2) inserting "established" after "bank" in the second sentence of subsection (a); and

(3) striking out "$2,000,000" and inserting in lieu thereof "$1,500,000", and by striking out "$3,000,000" and inserting in lieu thereof "$4,000,000" in subsection (d).

(e) Section 439 of such Act (as added by section 4 of Public Law 93–640) is amended by—

(1) inserting "new and existing" before "centers" in the first sentence of subsection (a);

(2) striking out the comma and inserting in lieu thereof a semicolon in each place at the end of clauses (1) and (2) of subsection (c); and

(3) striking out "$11,000,000" and inserting in lieu thereof "$5,000,000", and striking out "$15,000,000" and inserting in lieu thereof "$21,000,000" in subsection (h).

TITLE VI—SICKLE CELL ANEMIA, COOLEY'S ANEMIA, TAY-SACHS DISEASE AND GENETIC DISEASES AMENDMENTS OF 1975

SEC. 601. This title may be cited as the "National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs and Genetic Diseases Act".

SEC. 602. In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program to provide for basic and applied research, research training, testing, counseling, information, and education programs with respect to genetic diseases, including, but not limited to sickle cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, and muscular dystrophy.

SEC. 603. (a) Effective July 1, 1975 title XI is amended by striking out parts A and B and inserting in lieu thereof the following:

"PART A—GENETIC DISEASES

"TESTING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a) (1) The Secretary through an identifiable administrative unit within the Department of Health, Education, and Welfare may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects to establish and operate voluntary genetic testing and counseling programs primarily in conjunction with other existing health programs, with a priority given to applications for grants and contracts for projects which are recipients of sickle cell anemia grants or contracts on the date of enactment of this Act.

"(2) The Secretary shall carry out, through an identifiable administrative unit within the Department of Health, Education, and Welfare, a program to develop information and educational materials relating to genetic diseases and to disseminate such information and materials to persons providing health care, to teachers and students, and to the public generally in order to most rapidly make available the latest advances in the testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. The Secretary may, under such programs, make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the development and dissemination of such materials.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1976; $25,000,000 for the fiscal year ending June 30, 1977, and $30,000,000 for the fiscal year ending June 30, 1978.

'(c) For the purpose of making payments pursuant to grants and contracts for Sickle Cell Anemia testing and counseling programs under this Section, there are authorized to be appropriated $15 million dollars for each of the Fiscal Years 1976, 1977, 1978.

"RESEARCH PROJECT GRANTS AND CONTRACTS"

"SEC. 1102. (a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) basic research, including lower organisms, applied research, and research training leading to the understanding, diagnosis, treatment, and control of genetic diseases, (2) planning, establishing, demonstrating, or developing special programs related to training genetic counselors, social and behavioral scientists, and other health professionals, (3) the development of programs to educate practicing physicians, other health professionals, and the public regarding the nature of genetic processes, the inheritance patterns, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic diseases, and (4) the development of counseling and testing programs and other programs for the diagnosis, control, and treatment of genetic diseases.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $80,000,000 for the fiscal year ending June 30, 1976, $100,000,000 for the fiscal year ending June 30, 1977, and $120,000,000 for the fiscal year ending June 30, 1978.

"(c) For the purpose of making payments pursuant to grants and contracts for Sickle Cell Anemia research programs under this Section, there are authorized to be appropriated $10 million dollars for each of the Fiscal Years 1976, 1977, and 1978.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANTS AND CONTRACT PROGRAMS

"SEC. 1104. (a) A grant or contract under this part may be made upon application submitted to the Secretary at such time, in such manner, and containing and accompanied by such information, as the Secretary may require necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding testing, diagnosis, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) gives informed consent to be released, or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for community representation where appropriate in the development and operation of voluntary genetic testing or counseling programs funded by a grant under this part;

"(4) in the case of an applicant for a grant or contract for the delivery of services under section 1101(a)(1), provide assurances satisfactory to the Secretary that (A) the services for community-wide testing and counseling to be provided under the program for which the application is made (i) will take into consideration widely prevalent diseases with a genetic component and high-risk population groups in which certain genetic diseases occur, and (ii) where appropriate will be directed especially but not exclusively to persons who are entering their child-producing years, and (B) appropriate arrangements will be made to provide counseling to persons found to have a genetic disease and to persons found to carry a gene or chromosome which may cause a deleterious effect in their offspring; and

"(5) establish fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of Federal funds paid to the applicant under this part.

"(b) In making any grant or entering into any contract for testing and counselor programs under section 1101, the Secretary shall (1) provide a priority to those applicants which at the time of the submission of their applications are recipients of grants or contracts under parts A and B of this Act, as in effect the day prior to the effective date of this section, and which otherwise meet the application requirements of this part; and (2) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (3) give priority to programs operating in areas which the Secretary determines have the greatest number of persons who will benefit from and are in need of the services provided under such programs.

"(c) Of the sums appropriated under section 1102(b) for any fiscal year, not less than 10 per centum shall be made available for grants and contracts under this title for such fiscal year for projects which serve or will serve the greatest number of persons in need of the services provided under part B of this Act, as in effect prior to the effective date of this section, and which otherwise meet the application requirements of this part.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Service to provide voluntary testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. Services under such program shall be made available through facilities of the Service to persons requesting such services, and the program shall provide appropriate publicity of the availability and voluntary nature of such services.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.".

(b) (1) Section 1121(b) (5) of such title is amended by striking out "ending June 30", each place it occurs.

(2) Part C of such title is redesignated as part B.

(3) The heading of such title is amended by deleting "Blood Disorders" and inserting "Diseases".

TITLE VII—DIABETES PLAN

Sec. 701. Section 3(i) (2) of the National Diabetes Mellitus Research and Education Act (42 U.S.C. 289c-2) is amended to read as follows:

"(2) The Commission shall cease to exist after September 30, 1976.".

TITLE VIII—HEALTH SERVICES

AMBULATORY SURGICAL SERVICES

Sec. 801. (a) Section 319(a) (7) of the Public Health Services Act (42 U.S.C. 247d), is amended by—

(1) inserting after subparagraph (K) the following new subparagraph:

"(L) ambulatory surgical services;" and

(2) redesignating subparagraphs "(L)" and "(M)" as "(M)" and "(N)", respectively.

(b) Section 330(a) (2) of the Public Health Service Act (42 U.S.C. 254c) is amended by—

(1) inserting after subparagraph (K) the following new subparagraph:

"(L) ambulatory surgical services;" and

(2) redesignating subparagraphs "(L)" and "(M)" as "(M)" and "(N)", respectively.

TITLE IX—PUBLIC HEALTH SERVICE ACT AMENDMENT

Sec. 901. Section 225 of the Public Health Service Act is amended by adding at the end thereof the following new subsection—

"(J) further, notwithstanding any other provision of law, the Secretary may, where he deems advisable, allow the Indian Health Service to utilize non-profit recruitment agencies to assist in obtaining personnel for the public Health Service.".

TITLE X—APPOINTMENT OF ADVISORY COMMITTEES

Sec. 1001. All appointments to advisory committees established to assist in implementing the Public Health Service Act, the Mental Retardation Facilities and Community mental Health Centers Construction Act of 1963, and Public Law 93-282, shall be made without regard to political affiliation.

Mr. MUSKIE. Mr. President, I move that the Senate insist on its amendments to H.R. 7988, request a conference with the House thereon, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. Williams, Mr. Pell, Mr. Kennedy, Mr. Mondale, Mr. Cranston, Mr. Hathaway, Mr. Durkin, Mr. Eagleton, Mr. Nelson, Mr. Javits, Mr. Schweiker, Mr. Taft, Mr. Beall, Mr. Stafford, and Mr. Laxalt.

Mr. KENNEDY. I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of H.R. 7988.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1976—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. Beall). Under the previous order, the Senate will proceed to the consideration of the conference report on House Concurrent Resolution 466, which the clerk will state by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the resolution (H. Con. Res. 466) revising the congressional budget of the United States Government for the fiscal year 1976, and directing certain reconciliation action, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the Record of December 8, 1975, at a 39146.)

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

The Senate will be in order.

Mr. MUSKIE. Mr. President, there is some desire to set a timetable for action.

I would have no objection, but I have not had a chance to consult with Senator Bellmon, the ranking Republican. I have no objection, personally, to a time agreement to vote at 3:30 on the second concurrent resolution in order to give Members notice of what they might expect.

I know of no controversy at this point. If I did, I would not make the suggestion.

Mr. INOUYE. In the meantime, Mr. President, will the Senator from Maine yield for 3 minutes?

Mr. MUSKIE. Yes, for 3 minutes, to the Senator from Hawaii.

DOMESTIC SATELLITES

Mr. INOUYE. Mr. President, from the Committee on Commerce, I report Senate Resolution 318, and I ask unanimous consent for the immediate consideration of the resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The second assistant legislative clerk read as follows:

> A resolution (S. Res. 318) expressing the sense of the Senate with respect to authorizing domestic satellites pursuant to the Communications Act of 1934.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Hawaii?

There being no objection, the Senate proceeded to consider the resolution.

Mr. INOUYE. Mr. President, this measure was duly considered by the Committee on Commerce. Hearings were held. Witnesses were heard from and no opposition to the resolution was expressed. It was unanimously reported by the committee. The resolution expresses the sense of the Senate that in accordance with the policy the FCC expressed in 1972, that agency proceed to assure that the advent of domestic communications satellite service will be accompanied by the integration of all interstate services between the mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate pattern.

As you may know, Mr. President, at the present time there are 48 States in the integrated system: Alaska, Hawaii, and Puerto Rico are not. As a result, we are victims of discrimination in telecommunications rates and services, at a time when the reasons for that discrimination have ceased to exist.

Mr. President, I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Alaska is pleased to join with the Senator from Hawaii to try to insist that the Federal Communications Commission follow its own policies with regard to integration of the service for telecommunications to Alaska, Hawaii, and Puerto Rico.

Mr. President, the terrestrial difference between our States and the contiguous 48 States is eliminated with the advent of satellite communications because that distance on the Earth's surface is immaterial in the handling of telecommunications by satellite. We are urging that the FCC stand by its guns and do what it told the Commerce Committee it would do in 1972, that which it has reaffirmed repeatedly since that time. That is, that with the advent of satellites which will serve Hawaii, Alaska, and Puerto Rico, there will be a total integration of all interstate services and that our three areas will be placed into the enlarged domestic rate pattern without discrimination.

I am grateful to the Senator from Hawaii for his support. We hope that this will be the outcome, Mr. President. It is not an isolated matter. The RCA satellite is to provide the first domestic service to my State and it will be launched before the end of the year.

It is highly important, now that the FCC has approved that launching, on an interim basis without integration, that it not proceed to any firm, permanent relation for the RCA satellite until and unless there is complete nondiscriminatory integration of interest rates and services.

I thank the Senator from Hawaii.

Mr. INOUYE. I thank the Senator very much.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

> Whereas the Communications Act of 1934, as amended, directs the Federal Communications Commission to regulate communications by wire and radio so as "to make available, so far as possible, to all of the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges . . . ."; and
>
> Whereas in its Second Report and Order (docket numbered 16495 (1972)) establishing the Nation's basic domestic communications satellite policy, the Federal Communications Commission stated that "With the availability of domestic satellites for communications between the mainland and Alaska, Hawaii, and Puerto Rico, distance should dramatically diminish as an excuse or justification for the historic high-rate treatment

that has been accorded to these services"; and

Whereas in that same report and order the Federal Communications Commission found that, "with the inauguration of satellite systems to serve the domestic communications requirements of all of the United States, there will be justification for integrating Alaska, Hawaii, and Puerto Rico into the established rate scheme for communications service applicable to the mainland"; and

Whereas in that report and order the Federal Communications Commission determined that it would be its policy to condition grant of an application for a domestic communications satellite system which would include service to Alaska, Hawaii, and Puerto Rico upon integration of these three points into the established rate scheme for communications applicable to the contiguous forty-eight States, and that no later than six months from the issuance of the authorization for such service, the authorized carrier must submit a specific proposal for revised rates for review and approval of the Commission prior to authorization for the commercial of service; and

Whereas in its Memorandum Opinion and Order (docket numbered 16495) reaffirming the above enunciated policy determination the Federal Communications Commission again stated that "the advent of domestic satellite service will be accompanied by the integration of all interstate services between the mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate proposed tariffs reflecting the rates and pattern"; and

Whereas the said applicants have not filed regulations governing service to Hawaii, statements of how those rates and regulations comply with the Commission's policies, and economic data supporting such rates and regulations: Now, therefore, be it

Resolved, That it is the sense of the Senate that in accordance with such previously announced policies the Federal Communications Commission should take such action pursuant to law as is necessary in order to provide that the advent of domestic communications satellite service will be accompanied by the integration of all interstate services between the mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate pattern.

SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the concurrent resolution (H. Con. Res. 466) revising the congressional budget for the U.S. Government for the fiscal year 1976, and directing certain reconciliation action.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the vote on the conference report on the second concurrent budget resolution take place at not later than 3:30.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask that the conference report on the second concurrent resolution of the budget be printed in the Record.

There being no objection, the conference report was ordered to be printed in the Record, as follows:

Conference Report

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 466) revising the congressional budget for the United States Government for the fiscal year 1976, and directing certain reconciliation action, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on July 1, 1975—

(1) The appropriate level of total budget outlays is $374,900,000,000;

(2) The appropriate level of total new budget authority is $408,000,000,000;

(3) The amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $74,100,000,000;

(4) The recommended level of Federal revenues is $300,800,000,000, and the House Committee on Ways and Means and the Senate Committee on Finance shall submit to their respective Houses legislation to decrease Federal revenues by approximately $6,400,000,000; and

(5) The appropriate level of the public debt is $622,600,000,000.

Sec. 2. The Congress hereby determines and declares, in the manner provided in section 301(a) of the Congressional Budget Act of 1974, that for the transition quarter beginning on July 1, 1976—

(1) The appropriate level of total budget outlays is $101,700,000,000;

(2) The appropriate level of total new budget authority is $91,100,000,000;

(3) The amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $15,700,000,000;

(4) The recommended level of Federal revenues is $86,000,000,000; and

(5) The appropriate level of the public debt is $641,000,000,000. And the Senate agree to the same.

Edmund S. Muskie,
Warren G. Magnuson,
Frank E. Moss,
Walter F. Mondale,
Alan Cranston,
Henry Bellmon,
Robert Dole,
J. Glenn Beall,
Pete V. Domenici,
Managers on the Part of the Senate.
Brock Adams,
Jim Wright,
Robert N. Giaimo,
J. G. O'Hara,
Robert L. Leggett,
Parren J. Mitchell,
Phil M. Landrum,
Sam M. Gibbons,
Butler Derrick,
Managers on the Part of the House.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 466) revising the congressional budget for the United States Government for the fiscal year 1976, and directing certain reconciliation action, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SECOND CONCURRENT RESOLUTION ON THE BUDGET

Outlays

The House resolution provided for total outlays in the amount of $373.891 billion. The Senate amendment provided for total outlays in the amount of $375.6 billion.

The conference report provides for total outlays in the amount of $374.9 billion. Estimates of outlays by functional category of the budget is set forth below.

Budget authority

The House resolution provided for total new budget authority in the amount of $408.004 billion. The Senate amendment provided for total new budget authority in the amount of $406.2 billion.

The conference report provides for total new budget authority in the amount of $408.0 billion. Estimates of new budget authority by functional category of the budget is set forth below.

Deficit

The House resolution provided for a budget deficit in the amount of $72.091 billion. The Senate amendment provided for a deficit in the amount of $74.8 billion. The conference report provides for a deficit of $74.1 billion.

Revenues

The House resolution provided for Federal revenues in the amount of $301.8 billion; and to achieve that level, it directed the House Ways and Means and Senate Finance Committees to reduce revenues by $5.4 billion. The Senate amendment provided for revenues in the amount of $300.8 billion; and to achieve that level it directed the Ways and Means and Finance Committees to reduce revenues by $6.4 billion.

The conference report provides for revenues in the amount of $300.8 billion; and directs the Ways and Means and Finance Committees to reduce revenues by $6.4 billion. The $6.4 billion reduction of revenues is necessary to maintain the personal income tax withholding rates and extend the temporary corporate tax reductions in the 1975 Tax Reduction Act.

The managers accept the Senate position that it is unrealistic to expect this required reduction in revenues to be partially offset by $1.0 billion to be received through tax reform during the remainder of Fiscal Year 1976, as contemplated in the House resolution.

Public debt

The House resolution provided for a public debt level of $620.5 billion. The Senate amendment provided for a public debt level of $623.2 billion. The conference report provides for a public debt level of $622.6 billion.

Transition quarter

The House resolution did not set budget limits on the transition quarter, July 1–September 30, 1976. The Senate amendment provided limits as follows: revenues $84.8 billion; budget authority $92.2 billion; outlays $100.1 billion; deficit $15.3 billion; and public debt $639.5 billion.

The conference report establishes the following targets for the transition quarter;

(1) The appropriate level of total budget outlays is $101.7 billion;

(2) The appropriate level of total new budget authority is $91.1 billion;

(3) The amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $15.7 billion;

(4) The recommended level of Federal revenues is $86.0 billion; and

(5) The appropriate level of the public debt is $641.0 billion.

Purpose and Effect of Section 1 of the Second Concurrent Resolution on the Budget

The purpose of Section 1 of the Second Concurrent Resolution on the Budget for fiscal year 1976 is to revise the First Concurrent Resolution on the Budget adopted on May 14, 1975. It is required by Section 310(a) of the Congressional Budget Act of 1974 as implemented by the Budget Committees for Fiscal Year 1976.

Adoption of Section 1 of this conference report will limit Congressional actions on spending and revenue for the balance of this fiscal year. The amount specified for revenues represents a floor: after adoption of this conference report, it will not be in order for either House to consider legislation which would have the effect of lowering revenues for fiscal year 1976 below the floor. The amounts specified for total new budget authority and total outlays represent ceilings: after adoption of the conference report, it will not be in order for either House to consider legislation which would have the effect of increasing budget authority or outlays for fiscal year 1976 above the ceilings.

The amounts specified for the deficit and the public debt are not ceilings; these amounts represent mathematical derivations from the revenue floor and spending ceilings. The estimates below for various functional categories do not represent ceilings. They do represent the Congress's budget priorities for fiscal year 1976.

After adoption of the conference report, the House and Senate Budget Committees will inform their respective Houses, periodically, of the relationship between the revenue floor and spending ceilings set in the conference report and estimated revenues and spending under existing law. With respect to budget authority and outlays, this information will be based on estimated spending pursuant to mandatory authorities and enacted budget authority and revenue legislation.

Purpose and effect of the transition quarter provisions

These targets are intended to have the same purpose and effect as the targets established in the First Concurrent Resolution on the Budget for fiscal year 1976. The managers agree that these targets will be established as ceilings, with such revisions as necessary, for the transition quarter, as part of a Third Concurrent Resolution on the Budget for fiscal year 1976 or as part of the First Concurrent Resolution on the Budget for fiscal year 1977, to be adopted in the Spring of 1976, whichever occurs earlier. Thereafter, it will not be in order in either House to consider legislation which breaches the budget authority or outlay ceilings or which reduces revenues below the floor.

Estimates of fiscal year 1976 budget authority and outlays for functional categories

The following estimates of budget authority and outlays for the various functional categories of the budget are intended to explain to the House and Senate the basis on which the managers arrived at the total new budget authority and outlay ceilings contained in the conference report. As stated above, the conference report sets ceilings only for total new budget authority and total outlays; it does not set ceilings for functional categories of the budget.

050: National defense

The House resolution provided budget authority of $100.356 billion and outlays of $91.575 billion. The Senate amendment provided budget authority of $101.5 billion and outlays of $92.1 billion.

The conference report provides budget authority of $101.0 billion and outlays of $91.9 billion.

The managers assume that:

(1) Anticipated congressional action on Defense appropriations will be accommodated within the levels set for this function;

(2) Outlays from prior year balances will be $0.4 billion lower than assumed in the House resolution;

(3) Administration requests for military assistance other than the Middle East will be reduced by $0.2 billion in budget authority and $0.1 billion in outlays; and

(4) At least 10 percent of the cost-of-living pay increase for active duty military and civilian personnel will be absorbed.

The managers have assumed $1.3 billion in budget authority and $0.5 billion in outlays in this function for security assistance programs, a reduction of $0.2 billion in budget authority and $0.1 billion in outlays from the President's request. The managers note, however, that due to the lateness of the submission of the worldwide security assistance legislative package, which falls within both the National Defense and International Affairs functions, neither body has fully considered the details of the program requests. The managers have set a spending ceiling high enough so that the bulk of the request can be accommodated, should this be deemed desirable by the Congress in subsequent authorization and appropriation action. However, the managers agree that should the amounts assumed for security assistance programs be reduced by legislative action, the reductions should be applied to reducing the deficit rather than providing additional funding for other programs.

The managers emphasize the uniqueness of this situation. The Administration request was not received until after the Committees had completed all preliminary work on the Second Budget Resolution. It is the managers' expectation that requests will be submitted in more timely fashion in the future. This action by the managers should not be considered a precedent for future budget resolutions.

150: International affairs

The House resolution provided budget authority of $5.986 billion and outlays of $4.978 billion. The Senate amendment provided budget authority of $6.0 billion and outlays of $4.8 billion.

The conference report provides budget authority of $6.0 billion and outlays of $4.9 billion, which assumes a reduction of $0.2 billion in budget authority and $0.1 billion in outlays in the President's request for security supporting assistance programs other than the Middle East.

With respect to the $1.7 billion in budget authority and $0.7 billion in outlays assumed in this function for security assistance programs, any reductions as a result of subsequent authorization or appropriation action should be applied to reducing the deficit rather than providing additional funding for other programs. This unique treatment of possible reductions is explained in the statement of managers on the Defense function.

250: General science, space, and technology

Both the House resolution and Senate amendment provided budget authority of $4.7 billion and outlays of $4.6 billion. The conference report provides these amounts.

300: Natural resources, environment, and energy

The House resolution provided budget authority of $18.617 billion and outlays of $11.190 billion. The Senate amendment provided budget authority of $18.8 billion and outlays of $11.5 billion.

The conference report provides budget authority of $18.7 billion and outlays of $11.4 billion.

The managers assume that:

(1) Amounts provided for the Public Works and Interior Appropriations bills will be consistent with the amounts provided in the House resolution;

(2) Outlays provided for pending authorizations, primarily for energy-related programs, will be $0.1 billion above the House resolution; and

(3) Budget authority and outlays for an anticipated Forest Service supplemental are provided for.

350: Agriculture

The House resolution provided budget authority of $4.120 billion and outlays of $2.550 billion. The Senate amendment provided budget authority of $4.1 billion and outlays of $2.6 billion.

The conference report provides budget authority of $4.1 billion and outlays of $2.6 billion.

400: Commerce and transportation

The House resolution provided budget authority of $17.300 billion and outlays of $18,600 billion. The Senate amendment provided budget authority of $19.1 billion and outlays of $18.3 billion.

The conference report provides budget authority of $19.0 billion and outlays of $18.3 billion.

The managers assume that:

(1) An additional $1.6 billion in budget authority over the House resolution is provided for advance apportionment of contract authority for highway programs for the transition quarter;

(2) Estimated outlays for highway programs will be $0.3 billion below the House resolution, reflecting the effect of actual first quarter fiscal year 1976 obligations within the $7.2 billion obligation limitation for the fiscal year; and

(3) The transfer of highway funds for D.C. METRO construction results in an increase of budget authority in the House resolution of $0.1 billion.

450: Community and regional development

The House resolution provided budget authority of $10.600 billion and outlays of $7.000 billion. The Senate amendment provided budget authority of $8.5 billion and outlays of $7.1 billion.

The conference report provides budget authority of $9.5 billion and outlays of $7.0 billion.

The managers assume that:

(1) Budget authority of $3.9 billion and outlays of $1.0 billion are provided for public works and anti-recession assistance legislation now pending before the Congress; and

(2) Outlays for the Rural Water and Waste Disposal Grant program in Fiscal Year 1976 will be consistent with the House resolution.

500: Education, manpower, and social services

The House resolution provided budget authority of $23.848 billion and outlays of $21.288 billion. The Senate amendment provided budget authority of $19.6 billion and outlays of $20.9 billion.

The conference report provides budget authority of $21.3 billion and outlays of $20.9 billion.

The managers assume that:

(1) Budget authority and outlays for a Department of Labor supplemental for administering unemployment benefits will be $0.4 billion and $0.2 billion, respectively, below the House resolution;

(2) Amounts provided for education and social services will be consistent with the House resolution, however, fiscal year 1976 budget authority for summer youth employment programs will be $0.1 billion lower than the House with the understanding that such amount will be provided for the transition quarter;

(3) Budget authority and outlays for public service employment will be $2.0 billion and $0.3 billion, respectively, below the House resolution; and

(4) Outlays for the CETA Title I program and other pending legislation will be $0.1 billion above the House resolution.

550: Health

The House resolution provided budget authority of $33.550 billion and outlays of $32.870 billion. The Senate amendment provided budget authority of $33.5 billion and outlays of $33.0 billion.

The conference report provides budget authority of $33.6 billion and outlays of $32.9 billion. The managers assume that amounts for the Labor-HEW Appropriation bill will be consistent with the Senate resolution and that the amounts for an anticipated medicaid supplemental and various programs requiring reauthorization will be consistent with the House resolution.

600: Income security

The House resolution provided budget authority of $137.587 billion and outlays of $128.461 billion. The Senate amendment provided budget authority of $137.3 billion and outlays of $128.1 billion.

The conference report provides budget authority of $137.5 billion and outlays of $128.2 billion.

The managers assume that:

(1) Legislative and/or administrative reform in the food stamp program are essential and that such reforms will be implemented in Fiscal Year 1976 to achieve a reduction of program costs of $0.1 billion in budget authority and outlays;

(2) Outlays for Social Security Disability benefits will be reduced below the House resolution by $0.2 billion because of reestimates; and

(3) Amounts provided for civil service retirement and life insurance programs will be consistent with the House resolution.

700: Veterans benefits and services

The House resolution provided budget authority of $19.852 billion and outlays of $19.064 billion. The Senate amendment provided $19.9 billion in budget authority and $19.1 billion in outlays.

The conference report provides budget authority of $19.9 billion and outlays of $19.1 billion.

750: Law enforcement and justice

Both the House resolution and Senate amendment provided budget authority of $3.3 billion and outlays of $3.4 billion. The conference report provides these amounts.

800: General government

The House resolution provided budget authority of $3.300 billion and outlays of $3.300 billion. The Senate amendment provided budget authority of $3.4 billion and outlays of $3.3 billion.

The conference report provides budget authority of $3.3 billion and outlays of $3.3 billion.

850: Revenue sharing and general purpose fiscal assistance

Both the House resolution and Senate amendment provided budget authority and outlays of $7.3 billion. The conference report provides these amounts.

Funds have not been included in the resolution for pending legislation providing seasonal loans to New York. The managers are aware that this legislation would result in budget authority for Fiscal Year 1976, although it would produce no net outlays. At the present time, budget authority for the New York legislation could be accommodated without giving rise to a point of order for breaching the budget aggregate ceilings. However, if funds are appropriated for this purpose and other major items assumed in this resolution are also enacted, a revision of budget authority total would be necessary during the next session of Congress.

900: Interest

The House resolution provided budget authority and outlays of $35.400 billion. The Senate amendment provided budget authority and outlays of $35.2 billion.

The conference report provides budget authority of $35.4 billion and outlays of $35.4 billion.

Allowances

The House resolution provided budget authority of $0.788 billion and outlays of $0.915 billion. The Senate amendment provided budget authority of $0.6 billion and outlays of $0.9 billion.

The conference report provided budget authority of $0.5 billion and outlays of $0.8 billion.

The managers assume that:

(1) At least 10 percent of the cost-of-living pay increase for civilian agencies will be absorbed; and

(2) In addition to the funds included for legislation already enacted, no contingency allowance is provided to cover unforeseen requirements during the remainder of Fiscal Year 1976.

950: Undistributed offsetting receipts

The House resolution provided budget authority and outlays of—$18.6 billion. The Senate amendment provided budget authority and outlays of −$16.6 billion. The function for undistributed offsetting receipts involves financial transactions that are deducted from budget authority and outlays of the Government as a whole.

The conference report provides budget authority and outlays of −$17.1 billion based on the assumption that rents and royalties from the Outer Continental Shelf will be $4.5 billion. The managers wish to emphasize the great uncertainty involved in estimating rents and royalties from the Outer Continental Shelf. Such receipts, historically, have been highly speculative due to differing valuations of the tracts involved and environmental law suits. The estimate of receipts agreed to by the managers represents a substantially reduced level from that assumed in the House resolution.

Conference agreement H. Con. Res. 466 budget authority

[In millions of dollars]

Function	House	Senate	Conference
050 National defense	100, 356	101, 500	101, 000
150 International affairs	5, 986	6, 000	6, 000
250 General science, space, and technology	4, 700	4, 700	4, 700
300 Natural resources, environment, and energy	18, 617	18, 800	18, 700
350 Agriculture	4, 120	4, 100	4, 100
400 Commerce and transportation	17, 300	19, 100	19, 000
450 Community and regional development	10, 600	8, 500	9, 500
500 Education, manpower, and social services	23, 848	19, 600	21, 300
550 Health	33, 550	33, 500	33, 600
600 Income security	137, 587	137, 300	137, 500
700 Veterans benefits and services	19, 852	19, 900	19, 900
750 Law enforcement and justice	3, 300	3, 300	3, 300
800 General Government	3, 300	3, 400	3, 300
850 Revenue sharing and general purpose fiscal assistance	7, 300	7, 300	7, 300
900 Interest	35, 400	35, 200	35, 400
Allowances	788	600	500
950 Undistributed offsetting receipts	−18, 600	−16, 600	−17, 100
Total	408, 004	406, 200	408, 000

Conference agreement H. Con. Res. 466 outlays

[In millions of dollars]

Function	House	Senate	Conference
050 National defense	91, 575	92, 100	91, 900
150 International affairs	4, 978	4, 800	4, 900
250 General science, space, and technology	4, 600	4, 600	4, 600
300 Natural resources, environment, and energy	11, 190	11, 500	11, 400
350 Agriculture	2, 550	2, 600	2, 600
400 Commerce and transportation	18, 600	18, 300	18, 300
450 Community and regional development	7, 000	7, 100	7, 000
500 Education, manpower, and social services	21, 288	20, 900	20, 900
550 Health	32, 870	33, 000	32, 900
600 Income security	128, 461	128, 100	128, 200
700 Veterans benefits and services	19, 064	19, 100	19, 100
750 Law enforcement and justice	3, 400	3, 400	3, 400
800 General government	3, 300	3, 300	3, 300
850 Revenue sharing and general purpose fiscal assistance	7, 300	7, 300	7, 300
900 Interest	35, 400	35, 200	35, 400
Allowances	915	900	800
950 Undistributed offsetting receipts	−18, 600	−16, 600	−17, 100
Total	373, 891	375, 600	374, 900

Estimates of transition quarter budget authority and outlays for functional categories

The following table sets forth the estimates for the functional categories considered by the managers in arriving at the aggregate targets contained in section 2 of the resolution, which relates to the Transition Quarter.

[In billions of dollars]

	Budget Authority	*Outlays*
050 National Defense	24.0	24.8
150 International affairs	1.0	1.4
250 General Science, Space, and Technology	1.2	1.3
300 Natural Resources, Environment, and Energy	2.4	3.2
350 Agriculture	0.3	0.8
400 Commerce and Transportation	2.6	5.4
450 Community and regional development	1.0	2.1
500 Education, manpower, and social services	7.0	5.4
550 Health	8.6	8.6
600 Income security	28.9	34.3
700 Veterans benefits and services	4.7	4.8
750 Law enforcement and justice	0.8	0.9
800 General government	0.9	0.9
850 Revenue sharing and general purpose fiscal assistance	2.0	2.1
900 Interest	10.0	10.0
Allowances	0.1	0.1
950 Undistributed offsetting receipts	−4.4	−4.4
Total	91.1	101.7

Brock Adams,
Jim Wright,
Robert N. Giaimo,
J. G. O'Hara,
Robert L. Leggett,
Parren J. Mitchell,
Phil M. Landrum,
Sam M. Gibbons,
Butler Derrick,
Managers on the Part of the House.
Edmund S. Muskie,
Warren G. Magnuson,
Frank E. Moss,
Walter F. Mondale,
Alan Cranston,
Henry Bellmon,
Robert Dole,
J. Glenn Beall,
Pete V. Domenici,
Managers on the Part of the Senate.

Mr. MUSKIE. Mr. President, I wish to indicate that the distinguished Senator from South Carolina (Mr. Hollings), who was in travel status at the time the report was signed, would have signed the report if he had been physically present. I express my appreciation for his support in the conference and signing the report.

Mr. President, presenting the congressional budget conference agreement to the Senate today, I take some satisfaction in that the new congressional budget process has, so far, succeeded beyond, I think, our expectations of last spring.

This conference report on the second concurrent resolution on the budget provides spending ceilings and a revenue floor for the current fiscal year—A first of historic significance for the Federal budget process.

This congressional budget control is in force a full year earlier than contemplated when the Budget Act was enacted in July of 1974. What was intended as a trial year has turned out to be a meaningful implementation of the Budget Act. The wholehearted cooperation of the Members of Congress, the leadership, committees, and committee staffs has made this historic leap forward by the Congress possible.

The Federal budget provided by this conference report includes a spending plan adequate to continue the basic services of the Federal Government expected by our citizens, States, and localities, plus a limited program of temporary spending to move the economy toward full employment without substantial risk of renewed inflation.

This is a very tight budget. It allows no surplus for late-blooming incidentals.

This Federal budget also provides a revenue floor. No tax cuts can be enacted which would reduce revenues beneath it. The conference report provides for extension of the antirecession tax cuts of 1975 until June, and mandates the Finance and Ways and Means Committees to report such legislation. The Finance Committee yesterday reported the reconciliation bill necessary to achieve the approximate $6.4 billion reduction in revenues for the balance of 1976 required by this budget resolution. It is important to note that reconciliation bills on either the spending or tax side are required by the Budget Act to fully carry out the reconciliation instructions given, and amendments which would have the effect of changing the amounts contained in those instructions are not in order. The bill reported by the Senate Finance Committee meets that standard.

One measure of our success with the new congressional budget process is the limitation in the Federal deficit achieved this year, despite the heavy tax loss and unemployment costs which have accompanied the recession. Last spring the administration was predicting a $100 billion deficit for this year. Spending proposals presented to the Budget Committee by the President and congressional committees could have taken that total even higher.

The deficit in the Federal budget established by this conference report is the lowest possible under the circumstances. It is $74.1 billion—more than $25 billion less than the administration feared last spring. The deficit figure is $5.3 billion larger than contemplated in the congressional budget adopted last May. This entire increase and more results, however, from Presidential reestimates of the cost of the programs contained in the President's budget. It does not result from congressional initiatives which were not contemplated in the original congressional budget.

In short, Mr. President, the congressional budget process achieved encouraging success in its first year.

Against this background, I must call your attention to the President's threat to veto the essential tax extension provided by this congressional budget. The President threatens to veto the tax bill unless Congress makes much deeper tax cuts now, for both fiscal years 1976 and 1977, and agrees today on a spending ceiling for fiscal year 1977 which does not begin until next October, and for which we have yet to see the President's own budget. This high-handed attitude represents nothing less than an effort by the President to abort the congressional budget process which has so far been so singularly successful.

The new Budget Act provides a system for the Congress and the President to formulate the Federal budget. President Nixon signed that law; President Ford is bound by it. There is no exception in the Budget Act for election year politics.

The President wants a ceiling. Well, the Congress wants a ceiling, too. This conference report provides a spending ceiling for the current fiscal year which is $20 billion less than the President says he wants for next fiscal year. We have set a spending target for the transition quarter, and we will set a ceiling for next fiscal year, in accordance with the budget act, when we have the President's budget and the economic and program data necessary to make that judgment. The budget law wisely prescribes that the Congress wait until these facts are known before setting a spending ceiling. We will be setting that ceiling for next fiscal year just 4 months from now in May of 1976. This orderly plan of the Budget Act for setting spending ceilings is based on the simple proposition that no one can predict a year in advance what tax collecting and spending needs the Federal Government will face. We cannot ignore the fact that this administration, which urges us to cut taxes by $28 billion and to set a spending ceiling to be effective a full year from now, is the same administration that urged us to raise taxes just a year ago and advised the country there would be no recession.

We must repudiate this assault on the congressional budget process. The Budget Act binds not just the Congress, but the President as well. He may ignore it, but we dare not, unless the country is to sink once more into the quagmire of unregulated budgets, runaway spending, inflation, and recession.

The Federal budget provided by this conference report gives the President what he asked for. It sets a spending ceiling for the entire Federal Government. It provides for the minimum temporary extension of tax cuts necessary to avoid a return to recession. It leaves, as the law requires it must, the question of agreeing to the President's spending and tax proposals for the next year until we formulate the budget for that year this coming spring.

Mr. President, the statement of managers accompanying the conference report indicates the allocation of the dollars provided in the overall budget between the various broad budget priorities. It also describes a number of the budget priority decisions discussed in the conference. It is by no means exhaustive on that subject. Maximum discretion has been left to the line-item committees to determine how the funds provided by this budget will actually be spent within each priority area.

Questions will nonetheless inevitably arise as to whether a particular bill or program amount is "within the congressional budget." A short answer would be that an amount is within the budget until the spending ceilings have been reached. That is to say, a point of order will not lie against a spending bill which does not breach the overall spending ceiling or a revenue bill which does not breach the floor. However, the Budget Committee will continue to give the Senate guidance as to where we stand on overall spending and spending in each priority category. We are confident the Senate will continue to observe these priorities as instructive as to how the Federal budget should be allocated. It will not do to have vital spending legislation crowded out by less important spending which uses up the available funds within the ceiling.

Mr. President, while all conferences involve compromise, I am pleased to report that the conference on the budget resolution sustained the major Senate positions in most cases. The major decisions of the conference are as follows:

First, the revenue floor has been set at a level which will permit an extension of the 1975 tax reductions into the first half of 1976. The question of an appropriate level of revenues for fiscal year 1977 must be reserved, under the Budget Act, until the formulation of the first concurrent resolution on the budget for fiscal year 1977 4 months from now. The conference agreed that failure to provide for an extension of the 1975 tax cuts would result in an increase in withholding and tax rates in 1976 which would threaten the present economic recovery from the worst recession since the 1930's.

The House receded from its estimate that $1 billion worth of revenues might be raised through tax reform between now and next July. The Senate, acting on the advice of its Finance Committee and Budget Committee, did not believe it realistic to expect that any reform in the revenue laws could produce such receipts during the next 6 months of 1976. Therefore, the conference report does not anticipate the receipt of significant revenues from tax reform in 1976. The Budget Committees believe, however, that efforts to make the tax laws more equitable should be vigorously pursued. Our reduction in the estimate of the receipts from tax reform in fiscal year 1976 simply reflects a judgment that there is no expectation that any degree of reform can be enacted soon enough to raise significant revenue before July.

Second, the spending ceiling contained in the conference report is adequate to provide funding for anticipated appropriations, including known supplemental requests including those not yet submitted by the President. The ceiling does not include any surplus to be allocated to unforeseeable programs yet to be originated in the Congress or by the administration. This is a tight budget, and all Members of Congress must recognize that funding of unforeseen initiatives may crowd out funding of other needed programs which have been provided for under the budget resolution.

Third, the statement of managers allocates budget authority and outlays for the national defense function adequate to accommodate anticipated congressional action on defense spending legislation. Regarding pay raise absorption, the conference assumed the 10-percent figure of the Senate rather than the much higher figure of the House which simply would have meant that something else would have had to be cut.

Fourth, the conference agreed to the Senate proposal that any reductions in the amounts assumed in the budget resolution for foreign security assistance programs, including the Middle East, should be reserved to reduce the deficit rather than used for any other purpose. Let me emphasize the unique character of the security assistance program situation. The President did not submit any reasonable basis on which to estimate the cost of this program until after the budget resolution markup in both Houses was complete. The statement of managers expressly indicates that the accommodation to the President's late proposal should not be taken as a precedent, and that Congress must insist on a more timely submission of such programs in the future. Were it not for the urgency specifically expressed by the President and the Secretary of State for the accommodation of some funds in the budget resolution for this program, it would not have been included.

Fifth, the conference agreed to the Senate proposal to allow funds in fiscal year 1976 for advance highway apportionments for the transition quarter.

Sixth, the managers assume $3.9 billion in budget authority and $1 billion in outlays for the public works/antirecession assistance legislation on which conference action has just been concluded. The budget authority assumption is a compromise between the House and Senate figures.

Seventh, the managers assume higher levels for public service jobs and education programs than the Senate and lower levels than the House. The conference also provided some forward funding for public service jobs and summer youth programs, which had not been assumed in the Senate resolution.

Eighth, the managers support the Senate belief that legislative and administrative reforms in the food stamp program are essential, and assume $100 million of savings through such reforms in fiscal year 1976. While the initial savings are small, the need for reform which can be contemplated during the next 6 months has been clearly recognized.

Ninth, budget authority is not expressly included in the resolution for the New York aid legislation recently authorized by the Congress. Agreement between the administration and the Congress to enact such legislation was achieved after both Houses had adopted budget resolutions. However, budget authority is available within the ceilings set by this budget resolution to fund the New York aid bill which has been enacted. The managers note that, if appropriations are made for that purpose, and other major legislation assumed in the budget resolution is also enacted, a revision of the budget authority total may be necessary during the next session of Congress.

Tenth, the managers assume $4.5 billion in Outer Continental Shelf oil lease receipts, which is $500 million above the Senate assumption and $1.5 billion below the House assumption. The misestimation by the administration of the amount of deficit reduction which can be achieved by the Federal leasing of the Outer Continental Shelf for oil exploration purposes resulted in significant public misunderstanding of the deficit contemplated by the congressional budget this year. The President's January budget estimated 1976 receipts from OCS leases to be $8 billion. The Budget Committees of each House found this figure incredible, based on the experience of such leasing so far this year, and reduced this estimate to $4 billion in the first budget resolution last May. Since then, the administration revised its estimate of such receipts downward to $6 billion, thus admitting that its original deficit was understated by $2 billion, since these oil leasing receipts are a direct tradeoff against the deficit.

The managers did not accept the administration's $6 billion estimate. We discussed the question of an appropriate estimate and conducted extensive staff research during the conference as to the most current expectations of such revenues. The managers agreed that a realistic estimate of such revenue is $4.5 billion, $1.5 billion less than the administration's current estimate.

Mr. President, other matters considered by the conferees are set forth in the statement of managers which I ask to have printed, together with the conference report, at the conclusion of these remarks. That statement of managers also summarizes the effect of the adoption of the concurrent resolution regarding points of order against legislation which would exceed the spending and revenue limits set therein.

The conference report also establishes spending, revenue, deficit, and public debt targets for the transition quarter, a fiscal period provided by the budget act to make possible a change in the beginning of the fiscal year from July 1 to October 1. The transition quarter is a one-time phenomenon. It will never occur again. Once the initial date for the fiscal year has moved to october 1 next year, the fiscal year will always begin on that date.

It would, of course, have made no sense for the Congress to adopt spending and revenue limits for fiscal year 1976 and for fiscal year 1977 without providing comparable limits for the transition quarter. Thus, the Senate-passed resolution provided a specific ceiling on spending and a specific floor under revenues for the transition quarter. The House version contained no provision regarding the transition quarter. This was the most difficult issue in the conference. The Senate managers were adamant in their insistence on the need to provide guidance to Congress on spending and taxing in the transition quarter, consistent with the budget policy adopted in the budget resolution for 1976. The House managers were equally adamant in their position that, since the House had not considered spending ceilings for the transition quarter, it would be inappropriate to take them back to the House in the conference report. The ultimate agreement in the conference was that the conference report would include spending and revenue targets for the transition quarter. The next budget resolution, be it a third concurrent resolution for 1976 or the first resolution for 1977, will reappraise those targets and convert them into ceilings after which, under the Budget Act, a point of order will lie against legislation which exceeds the limits agreed to.

The statement of managers divides the transition quarter aggregate spending target into separate totals for each functional category of the budget. As in the case of this year's first concurrent resolution on the budget, the Budget Committees will scorekeep legislation for the transition quarter against these functional and aggregate totals and urge their respective Houses to stay within them.

Mr. President, this conference report on the second concurrent resolution on the budget is more than a landmark in the new congressional budget process. It represents a positive action by the Congress to assert control over runaway Federal spending and move deliberately toward a balanced budget as soon as the condition of the economy permits. It begins the long and difficult process of appraising the relative priority of competing demands on the Federal budget.

The lessons of this first year's operation of the budget process should be very clear:

First, the budget process works.

Second, it has saved billions of dollars which otherwise would have been spent under the old system in which there was no overall control of the Federal budget.

Third, Congress has begun to make hard decisions on competing priorities. No longer is the door to the Federal Treasury wide open. Funding for programs must now be based on both the basic need addressed and on the relative availability of funds to meet that need compared to other national needs.

Fourth, administration officials who administer Federal programs are on notice that Congress, through the budget process, is going to insist that economies must be made wherever possible without sacrifice of program purposes.

Fifth, the taxpayers of the United States can have greater confidence that the Budget Committee and the Congress itself are committed to weeding out those projects which never had relative merit compared to other national needs, or which have lost the priority they originally possessed.

Mr. President, the congressional budget process has been initiated at a very difficult time—a time of staggering recession-caused deficit. Yet this first year of the budget process has been one in which the Congress can take pride—pride in creating a new budget system which works, and pride in making it work.

I urge the adoption of the conference report on this budget resolution.

Mr. President, I am prepared to go into further detail if Members of the Senate should desire, but in the light of the time limitation on consideration of the conference report, I should like at this point to yield to my good friend the distinguished ranking Republican member of the Budget Committee (Mr. BELLMON).

Mr. BELLMON. I thank the distinguished chairman of the committee.

Mr. President, I join the distinguished chairman of the Budget Committee, Senator MUSKIE, in urging my colleagues to adopt the conference report of House Conference Resolution 466, the second concurrent resolution on the budget for fiscal year 1976. This is an historic occasion in that with the adoption of this report, Congress will have imposed upon itself the establishment of binding spending ceilings for this fiscal year. I emphasize the word binding. For the rest of this year, any legislation which would have the effect of increasing total budget authority or total outlays in this fiscal year above the ceiling or which would have the effect of lowering total revenue below the floor will be subject to a point of order. With the adoption of this report, Congress will have taken another big step in our collective efforts to both control total spending and give priorities to those needs which Congress deems most important.

Our chairman has already presented the totals that this resolution encompasses. I simply wish to say, as he has, that these numbers do not necessarily please any of us, but they are the best we would do under the circumstances and under the laws with which we are now working.

These large numbers do not represent a spendthrift budget—none of us sought or want a deficit of the levels suggested here. Rather, much of the spending and most of the deficit is a product of current economic conditions and current law. On other occasions we have talked of the so called "uncontrollables"—the existing mandatory entitlement programs which demand under existing law outlays to those activities meeting the requirements established by law. On other occasions we have talked about current economic conditions causing reduced tax revenues from individuals and corporate profits. These are the primary reasons for our deficit. It is obvious to those of us on the Budget Committee that next year, the second year of the budget process, closer attention must be given the entitlement programs. This is especially true of the payment levels and eligibility requirements which are part of the current law in those programs. For if these programs do not receive our close attention, we could find ourselves in the same position next year—facing a large deficit despite our expectations that economic conditions will be improved.

My colleagues will also find in this report spending targets for the transition quarter, the period July 1, 1976 through September 30, 1976. These targets have been set for each of the functional areas. These targets will assist the Congress in its guidance of spending during the unique once only period between the end of fiscal year 1976 and the beginning of fiscal 1977. The Senate Budget Committee is convinced that these target levels are required by law and by the realities of sound fiscal management.

Mr. President, the Senate has come a long way in this first year of the new budget process. While there is a long way to go before any of us will be totally pleased with the results, an important beginning has been made. I congratulate Chairman MUSKIE, the other members of the Budget Committee and the entire staff for the effort that has brought us this far. While there is more to be done, I believe we can take satisfaction in the progress to date.

I also wish to express my appreciation to the full membership of the Senate for the support this body has given to our newly established budget process; especially the understanding and support of committee chairmen and members of the Appropriations Committee who have contributed substantially to the progress which has been made. The continued support and understanding of the full Senate is essential to continued movement toward sound fiscal policies for the Federal Government, which is the goal we all seek.

Mr. MUSKIE. Mr. President, I yield to my good friend the distinguished Senator from Utah (Mr. MOSS), who has been such a strong support in the whole process of the committee.

Mr. MOSS. Mr. President, I rise in support of the conference report on the second concurrent budget resolution.

I wish to pay tribute to our chairman, the ranking Republican member, and the other members of the Budget Committee, who have worked so diligently this year on this budget process, which we are now completing for the very first time in this body. The leadership exhibited by our chairman, the Senator from Maine (Mr. MUSKIE) and our ranking Republican member, the Senator from Oklahoma (Mr. BELLMON) has been outstanding. We have been supported by excellent staff, who have worked diligently and long.

I pay tribute also to the members of the House committee, with whom we met in conference at some length and had considerable difference of opinion and many matters to work out. They, on their side, have exhibited great vision and firmness, and they have produced for the House of Representatives the budget on that side, which now comes together with the Senate budget in this conference report on the concurrent resolution.

I should also mention the new Congressional Budget Office, CBO, which in 1 year's time has grown into a great and effective organization, with tremendous expertise, and one that Congress can use as its point of reference and storehouse of knowledge and information.

I believe that this is one of the most important pieces of legislation that the 94th Congress will be asked to vote on. Adoption of this resolution will mark another key step in affirming congressional control over the Federal budget, which is long overdue. The resolution will establish binding ceilings on spending and a floor on revenues which become applicable to all subsequent legislation affecting the fiscal year.

This resolution results from executive hearings, studies, and consideration of views of Government officials and various experts. In developing this resolution, the committee adopted priorities which differ from those of the administration. The committte rejected administration proposals for major cutbacks in social programs, and included full cost of living increases for recipients of Federal programs below the level of current services. Additionally, a key element of this resolution is a recommendation that the 1975 tax reduction be extended in a manner that does not raise withholding rates next January, when most of the provisions of the 1975 tax reduction are scheduled to expire. If the tax bill expires, the average worker will pay about $160 more in taxes each year. That means people will have less money to buy the things they choose. It means more people will be out of work. It means another blow to an economy which is already struggling to get back on its feet. Extension of the tax cut will increase consumer income and offset the loss of purchasing power, stimulate business activity and reduce unemployment. The tax policy inherent in this resolution, expenditures of about $374 billion, the fiscal policy implicit herein, together with a monetary policy that would keep short-term interest rates near current levels will enable the economy to move on an 8 percent growth path which is the committee target.

I believe that the strategy in this resolution is the best for the Nation's economic needs at this time. The deficit could easily have been $25 billion more this year but for the new budget process and the discipline shown by members of this committee and the Congress. It is important to point out that this resolution aims to reduce the deficit in subsequent years by maintaining and strengthening the economic recovery that is now underway, and by better management of the Nation's financial affairs. This resolution cannot correct in 1 year budget problems which have accumulated over many previous years. But it is a beginning. Living within these ceilings will not be easy, but it is necessary.

Some of our colleagues have advocated a higher level of budget expenditures and deficit spending. Others, including myself, have argued in favor of greater fiscal restraint and holding the deficit down. The resolution represents a compromise between many differing points of view. In my own case, I would have preferred a lower spending level and a smaller deficit. But despite my personal preferences, I support this conference report as the best result attainable. I urge my colleagues to support it. I believe this resolution offers the means to meet the Nation's current needs, continue the economic recovery, and to bring the economy back to something closer to full employment. These actions together with increased fiscal responsibility will enable us to begin moving toward a balanced budget. As a member of the Committee on the Budget, that is also a personal goal of mine.

The new budget system manifests the foresight and wisdom of Congress in enacting budget reform last year. Although not slated to be implemented until fiscal 1977, I, for one, am pleased that we decided to start this year—fiscal 1976—in light of the prevailing economic situation. Although, belatedly, the new system also eliminates the longstanding and somewhat irresponsible practice of piecemeal congressional budgeting; and enables Congress to consider income and expenses together, in total; and to know in advance the cost impact on the budget of existing programs and new proposals.

This was by no means an easy year for budgetmaking, but we have taken a big step toward improved control of the budget.

However, it is apparent that we are going to have to do better to bring the Federal budget under the type of control I believe is required. For example, a recent survey of my constituents—which elicited an overwhelming response over 85,000 of 228,000 questionnaires—Utahans reaffirmed their concern about "heavy Government spending." Accordingly, I intend to work even harder to achieve another of my objectives as a Committee on the Budget member; that is to get the Federal Government to exercise greater fiscal responsibility and restraint in Federal spending.

Let me suggest some actions which emanate from this year's budget experience, which I believe will help us to do that. Although not a complete list, these initiatives are illustrative of actions which if implemented would enable us to better realize the full potential of the new budget system, and restore the public's confidence in Government's ability to deal with today's economic realities.

First, Congress should focus its efforts on the time period further out—further up the budget stream—in order to more effectively establish the budget priorities and to achieve greater budget control. Priorities cannot be shaped by decisions on each year's budget alone.

Second is the need for Congress to review the so-called uncontrollable programs which now comprise over 70 percent of the Federal budget. This seriously limits the scope of budget control and restricts flexibility for recognizing new programs or setting national priorities. In the aggregate, the organization needed to administer such programs constitutes a large part of the Federal bureaucracy. Even improved management of existing programs could save billions. While certain programs are uncontrollable under present laws, it is Congress who made the laws and Congress can change them. Accordingly, such programs should be reviewed as a basis for determining whether they are in accord with current priorities and national needs and whether savings can be achieved on those essential programs which are continuing.

Third, there is a need to improve the Federal budget estimates. Studies show that over the last 12 years, the administration's budget normally submitted to Congress in January has misestimated expenditures about 7 percent annually. A smaller deficit might make news, but one that is only an illusion does not make sense. Some uncertainties in estimating are recognized but they can be reduced. Unrealistic or poor estimates are not conducive to achieving tight budget control, which the Nation needs and for which we are striving under the new process.

Fourth, is the significant amount of budget authority which is carried forward for spending in periods beyond the current fiscal year. In many cases, advanced funding is necessary, but the existing pattern would appear to have serious implications for congressional efforts to establish firmer control over spending priorities in the future. Accordingly, I think it is important that this committee work with other committees and especially the Committee on Appropriations as a basis for expanding congressional understanding of the "prior year" authority. These are but some of the actions that I think would enable us to fully exploit the benefits of the new budget process.

I especially commend the committee leadership, Chairman MUSKIE and Senator BELLMON, the ranking minority member. Their extraordinary performance has been an inspiration to all of us. I also express appreciation to the other committee members for their cooperation and bipartisan spirit and to the staff for their superb performance. I believe the committee has made a noteworthy contribution to what, in my view, history will record as an important step in budgetary reform.

Finally, I believe that this resolution offers a long needed step for Congress to exert effectively its influence over the Nation's financial affairs and to lay the groundwork for recovery and long-term stability. Accordingly, I urge our colleagues to support this conference report.

I yield the floor.

Mr. BELLMON and Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER (Mr. DOMENICI). Who yields time

Mr. BELLMON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. Yes, I yield.

Mr. BELLMON. Mr. President, I ask unanimous consent that Mr. Donald V. Moorehead, chief minority counsel of the Committee on Finance, and Janet Bollen of the staff of the Committee on the Budget be granted privileges of the floor during the remainder of the debate on this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MUSKIE. Take it out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MUSKIE. The time to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASE). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I am greatly obliged to the Senator from Maine for calling me in. I should like to talk a minute about a statement in the conference report relating to the New York situation. This was explained, also, in the debate on the so-called New York bill, but I think we should have it very clear.

I note that the statement which is found at page 9 says:

> Funds have not been included in the resolution specifically for seasonal loans to New York.

The PRESIDING OFFICER. Will the Senator yield for an inquiry as to the time situation?

Is the Senator from Maine yielding time to the Senator from New York?

Mr. MUSKIE. Yes. I yield 2 minutes to the Senator.

Mr. JAVITS. The managers are aware, they say, that the legislation which is agreed to in the conference report would result in budget authority for fiscal 1976, "although it would produce no net outlays." I assume that what that means is that, as the revolving credit is to be fully repaid before the end of fiscal year 1976, that is the reason for it.

Mr. MUSKIE. Precisely.

Mr. JAVITS. And that if for any reason—one never knows what can happen to these things—there is a problem, it can be accommodated under the general item which would cover this kind of outlay in the budget resolution, that the law would permit us to deal with the revision of budgetary authority during the next session of Congress.

Mr. MUSKIE. That is right. We can do it in a third concurrent resolution, before the end of the fiscal year.

Mr. JAVITS. So the Senator is satisfied and the Budget Committee is satisfied that accommodation has been met fully with the policy and the appropriation as adopted by the Senate.

Mr. MUSKIE. The Senator is correct. The House and Senate Budget Committees discussed it at length and reached clear-cut agreement on that point.

Mr. JAVITS. I am very much obliged to the Senator.

Mr. HOLLINGS. Mr. President, the conferees on the second concurrent budget resolution, after four difficult meetings, have agreed to fiscal 1976 revenues of $300.8 billion, outlays of $374.9 billion, a deficit of $74.1 billion, new budget authority of $408 billion, and a public debt of $622.6 billion.

For the transition quarter beginning July 1, 1976, and ending September 30, 1976, the recommended level of revenues is $86 billion with outlays of $101.7 billion and a deficit of $15.7 billion. New budget authority for the transition quarter is $91.1 billion and the public debt increases to $641 billion.

Mr. President, this is a record deficit. However, the size of the deficit is directly traceable to the recession. The recession creates large demands for unemployment insurance and other income support benefits. It puts taxpayers on the welfare rolls. At the same time, it reduces the national income and Federal tax receipts. Consequently, an effort to balance the budget in today's economy would create economic chaos and immeasurable personal hardships. Moreover, at the employment levels which we enjoyed 8 years ago, Federal costs today would be lower, revenues would be higher, and this budget would be in balance.

With this budget we will begin to move out of the recession and return toward the high plateau of full employment which this Nation enjoyed under our last Democratic President. But the recovery will be slow and we can predict deficits again next year and in the future until we completely emerge from the recession. Mr. President, I intend to do everything in my power to see that these deficits are as small as they can be consistent with a steady economic recovery. In this time of budgetary stringency, I will oppose all unnecessary additions to permanent Federal programs.

I will also continue to strive for truth in budgeting, so that the Federal Government's budget is as reliable a forecast as we can make it of probable actual spending.

As one of the Senate conferees on the budget, I am concerned that this legislation probable overestimates Outer Continental Shelf receipts—and consequently underestimates Federal budget authority, outlays, the size of the deficit, and the size of the public debt—by as much as $1.6 billion.

Last February the President predicted Outer Continental Shelf receipts of $8 billion in fiscal 1976. We took a close look at that prediction and concluded that the President's figures were wildly inflated. The first concurrent resolution agreed to our OCS receipts estimate of $4 billion.

Subsequently, the administration reduced its estimate to $6 billion. The House, in the second concurrent resolution, accepted this figure. But the Senate stood by its earlier estimate of $4 billion. After the second concurrent resolution passed the Senate, we received information indicating that even the $4 billion level is unlikely to be reached.

However, the House conferees were extremely reluctant to abandon the $6 billion estimate. The best we could obtain from them was a concession in which they came down to an estimate of $4.5 billion. This is the figure carried in the conference report.

While this compromise figure is considerably more realistic than the figure being used by the President's spokesmen, in my view it is still well over the mark. There is, admittedly, at least a remote chance that we could achieve $4.5 billion in receipts if the Alaska sales proceed on schedule—while I strongly doubt—and if the highly optimistic figures being used by the administration for the California sale materialize—while I strongly doubt. In recognition of this fact, the conferees adopted language in the conference report on House Concurrent Resolution 466 to emphasize "the great uncertainty involved in estimating rents and royalties in the Outer Continental Shelf." In my view, we are unlikely to obtain more than $2.9 billion in OCS receipts.

Mr. President, I ask unanimous consent to include in the RECORD at this point a table showing actual, probable, and further possible Outer Continental Shelf receipts of fiscal year 1976.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ACTUAL	
Release of funds in escrow	$800,000,000
Sale held 7-29-75 in Gulf of Mexico	163,000,000
Subtotal actual	963,000,000
PROBABLE	
Rents and royalties through June 30, 1976	622,000,000
California lease sale (if not blocked by court)—estimate	996,000,000
Gulf of Mexico sale	300,000,000
Subtotal actual and probable	2,881,000,000
POSSIBLE	
Higher receipts, California sale (estimate range)	500,000,000 to 1,000,000,000
Mid-Atlantic sale	1,200,000,000
Total including possible	4,581,000,000 to 5,081,000,000

Mr. HOLLINGS. As I have said, it is my view that we are likely to miss the second concurrent resolution target for OCS receipts by as much as $1.6 billion. The practical effect of such a short-fall is that the budget ceilings on budget authority and outlays will be reached before we have passed all the legislation contemplated under the second concurrent resolution. All spending legislation brought to the floor after the ceilings have been reached is subject to a point of order. As a practical matter, then, we will have to pass a third concurrent resolution or require reductions in spending legislation already enacted. Either approach will be time-consuming and to some extent disruptive of the budget process.

Mr. President, in spite of my misgivings about the Outer Continental Shelf issue, I support the second concurrent resolution on the budget because it is the vehicle for achieving overall fiscal responsibility in the Congress.

Mr. MUSKIE. Mr. President, if there is no further discussion, we are ready for the vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MUSKIE. I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. STENNIS), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), is absent on official business.

I further announce that the Senator from Kansas (Mr. DOLE), is absent to attend the funeral of his father.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE), would vote "yea."

The yeas and nays resulted—yeas 74, nays 19, as follows:

[Rollcall Vote No. 579 Leg.]

YEAS—74

Abourezk
Baker
Beall
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Tunney
Weicker
Young

NAYS—19

Bartlett
Brock
Buckley
Byrd, Harry F., Jr.
Curtis
Fannin
Garn
Hansen
Helms
Laxalt
McClure
Nunn
Packwood
Proxmire
Roth
Scott, William L.
Talmadge
Thurmond
Tower

NOT VOTING—7

Allen
Bayh
Culver
Dole
Goldwater
Stennis
Williams

So the conference report was agreed to.

Mr. PASTORE. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for.

On the vote the yeas are 74 and the nays are 19.

The conference report was agreed to.

FEDERAL-AID HIGHWAY ACT OF 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2711.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title XXIII of the United States Code, and for other purposes.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. BENTSEN. Mr. President, will the Chair advise the Senate as to the time limitations on this bill.

The PRESIDING OFFICER. The Chair will be happy to do so. The agreement provides for 2 hours of debate on the bill——

Mr. BENTSEN. May we have order in the Senate so the membership can hear the Chair.

The PRESIDING OFFICER. The Senate will be in order, please.

The agreement provides for 2 hours on the bill, half an hour on each amendment except the amendment to be offered by the Senator from Connecticut (Mr. WEICKER) on which there will be 1 hour.

Who yields time?

Mr. BENTSEN. Mr. President, I yield myself such time as I may need.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. MUSKIE. I understood, if I may say so, that the first order of business would be consideration of the Highway Act itself, consideration of the waiver resolution that applies to the Highway Act.

Mr. BENTSEN. I quite agree.

Mr. BAKER. Mr. President, will the Senator yield for a unanimous-consent request before we proceed to the consideration of the resolution?

Mr. BENTSEN. I yield to the Senator from Maine on his time.

Mr. MUSKIE. The resolution is at the desk.

Mr. BAKER. Mr. President, will the Senator from Maine yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

Mr. BAKER. Mr. President, I ask unanimous consent that during the consideration of this measure and of the highway bill that the following staff people be allowed the privilege of the floor: Bailey Guard, Barry Meyer, Katherine Cudlipp, Richard Harris, Rick Kenton, John Yago, Steve Swain, Hal Brayman, Ron Katz, and Vic Maerki.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY. Will the Senator add Mark Schneider?

Mr. BAKER. And Mark Schneider.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

Mr. BEALL. I ask unanimous consent that Neil Messick, and Warren Brown from Senator MATHIAS' staff be granted privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENSTEN. Mr. President, this time is not being charged to the highway bill.

The PRESIDING OFFICER. If there is a unanimous-consent agreement to that effect it will not be so charged.

WAIVER UNDER SECTION 303(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 2711

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 314 and, upon disposition of that resolution, the highway bill be taken up.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

> Senate Resolution 314, waiving section 303 (a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of S. 2711.

The PRESIDING OFFICER. There is 1 hour of debate under the resolution, equally divided.

Who yields time?

Mr. MUSKIE. Mr. President, I yield to the Senator from Iowa.

Mr. CLARK. Mr. President, I ask unanimous consent that Mr. Richard Onslow be granted the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MUSKIE. Mr. President, if I might have the attention of the Senators, and especially the distinguished Senator from Texas, the floor manager of the highway bill we are considering, Mr. President, I am going to discuss a new procedure under the Budget Act, one which was specifically provided to cover legislation at the state of legislative consideration in which we find the Highway Act, and since there are some implications and precedent-setting features to this procedure, it is important that Senators understand it.

Section 303(a) of the Congressional Budget Act of 1974, Mr. President, provides it shall not be in order in either the House or the Senate to consider any bill or resolution or any amendment thereto providing new budget authority, new spending authority, or changes in revenues or public debt for a fiscal year until the first concurrent resolution on the budget for such fiscal year has been adopted.

Since S. 2711 provides for advance contract authority from the Highway Trust Fund for fiscal years 1977 and 1978, a resolution waiving section 303(a) of the Budget Act with respect to consideration of the bill must be adopted before S. 2711 can be considered by the Senate.

The Public Works Committee reported a waiver resolution for that purpose. It was referred, as required by the Budget Act, to the Budget Committee.

The Budget Committee this morning considered the waiver resolution and reported it to the Senate for its action.

Now the Senate will take final action on whether or not the highway bill should be considered at this time. The Budget Committee felt that since this was the first implementation of section 303(a) and because the discussion of the Budget Committee raised so many relevant questions about the application of that section, not only to this bill but to those which we may be asked to consider, that it was important for the Senate to understand the limitations which the Budget Committee would feel constrained to recommend as applying to the use of this waiver provision.

The Budget Committee, may I say, is extremely reluctant to recommend the adoption of resolutions waiving section 303(a) of the Budget Act.

One of the major purposes of that act was to bring the Federal budget under better control. Through the adoption each year of the first and second concurrent resolutions on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

If legislation affecting spending or revenues for a future fiscal year is considered prior to the adoption of a first concurrent resolution on the budget for that year, to that extent, Mr. President, Congress loses control of spending and priority decisions for that year prior to adoption of a congressional budget for that year.

But, Mr. President, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the first concurrent resolution.

The questions the Budget Committee considered this morning and the Senate will consider this afternoon are the circumstances that ought to govern action on waiver resolutions for such legislation.

The committee does not intend that this waiver resolution should be interpreted in any fashion as a waiving of the clear prohibition of section 303(a) against any amendment to S. 2711 which would be out of order under section 303(a).

I emphasize that point with respect to any amendment that may be offered on the floor of the Senate this afternoon to expand the budget authority total already in the bill.

Under section 303(a) of the Budget Act, any amendment would be out of order if it provides, and I read from the language of the act:

> (1) new budget authority for a fiscal year;
>
> (2) an increase or decrease in revenues to become effective during a fiscal year;
>
> (3) an increase or decrease in the public debt limit to become effective during a fiscal year; or
>
> (4) new spending authority described in section 401(c)(2)(C) to become effective during a fiscal year; before the first concurrent resolution on the budget for such years has been agreed to pursuant to section 301 of the Budget Act.

Thus, Mr. President, any amendment to the pending highway bill which will increase the budget authority or spending authority or increase or decrease revenues or the public debt in fiscal year 1977, or any fiscal year thereafter, is not in order, notwithstanding the waiver which is being reported to the Senate in connection with the highway bill itself.

The purpose of the prohibition against any such amendment to legislation upon which a waiver has been granted is to assure that, in adopting such waivers, the Senate does not open the door to amendments which would increase the levels of budget authority or new spending authority beyond those levels contained in the bill upon which a waiver was granted, nor permit the use of such legislation as a vehicle for amendments to increase or decrease revenues or the public debt, other than as provided in the bill upon which the waiver is granted.

The purpose of the Budget Act, Mr. President, is to permit the Congress to gain control of Federal spending and revenues by controlling spending in each fiscal year and to preclude, except in very limited cases, the enactment of legislation which provides budget authority or tax changes in future fiscal years for which Congress has not yet made a congressional budget determination.

To the extent that Congress permits the encumbrance of future years' budgets by the provision of budget authority or changes in the revenues prior to the adoption of the budget resolution for that future fiscal year, the Congress loses control of spending and its ability to make priority judgments among competing programs, most of which will not be funded until the fiscal year in question.

Provisions in the Budget Act which permit forward funding of certain programs in fiscal years for which a congressional budget has not yet been adopted were intended to accommodate the need for effective planning in programs such as the highway program where multiyear planning and projects require a reasonable assurance as to the level of future funding.

Section 303(a) was intended to provide a control, exercised through the Budget Committees, on the consideration of such legislation and amendments thereto, so that, in providing essential forward funding for this limited class of programs, Congress would not open up a Pandora's box of amendments which exceed the cost contemplated by the specific bill for which the waiver was granted.

In reporting this waiver resolution, Mr. President, the committee nonetheless views as out of order any amendments to S. 2711 which, if offered separately, would be out of order under section 303(a).

We have discussed that interpretation, Mr. President, with the Parliamentarian and he concurs with the committee's interpretation.

S. 2711 is spending legislation providing contract authority for the Federal-aid highway program. It provides $1.7 billion for the Interstate and non-Interstate Systems in the transition quarter, $3.9 billion for the non-Interstate system in fiscal year 1977, and $4.0 billion for the non-Interstate System in fiscal year 1978.

S. 2711 provides funding authorization for the fiscal year 1977 and fiscal year 1978 non-Interstate highway program consistent with the traditional congressional position that advance authorizations are desirable in order to provide adequate assurance of funding for multiyear construction programs.

The authorization levels contained in S. 2711 do not increase program levels but rather maintain continuity in the highway program and allow the States to continue highway construction at reasonable levels. Compared with actual non-Interstate authorizations for fiscal year 1975 of $3.7 billion and fiscal year 1976 of $3.9 billion, S. 2711 would provide fiscal year 1977 and fiscal year 1978 authorizations of $3.9 billion and $4.0 billion, respectively. Of these latter amounts, approximately $3.5 billion in each year would be financed from the trust fund. The total authorizations expected to be funded from the trust fund resulting from passage of this bill are not out of line with projected revenues to the trust fund for fiscal year 1977 and fiscal year 1978.

Projected taxes and interest earnings expected to accrue to the highway trust fund in these two fiscal years are expected to total more than $7 billion.

In favorably recommending this waiver resolution, the committee also notes its serious concern and reservations over the proposed Great River Road authorization contained in S. 2711. Although a comparatively small authorization for this project is provided in S. 2711, the committee understands that if this is funded it would eventually lead to Federal expenditures in excess of $1 billion. Therefore, the authorization for this program represents a significant budget "wedge" that, if funded, would result in major Federal outlays in future fiscal years. Such major budget priorities should be debated in the context of the first concurrent resolution for a particular fiscal year. Therefore, the committee emphasizes that its favorable recommendation on Senate Resolution 314 does not extend to an endorsement of the Great River Road project, which the committee believes should be debated by the Congress within the normal budget and appropriations processes.

The committee also notes that under existing law, the highway trust fund will expire on September 30, 1977. Section 209 of the Federal Aid Highway Act of 1956 provides that no trust fund highway authorizations can be apportioned to the States in excess of the amount of receipts projected to accrue to the fund as of its scheduled termination date. Following apportionment of the already authorized $3.3 billion of FY 1977 Interstate funds on January 1, only $1.6 billion can be further apportioned in compliance with existing law. This is exactly the amount of funding for the transition quarter now provided in the FY 1976 second concurrent resolution on the budget, which the Senate agreed to today.

In order to bring financing for the highway program into line with the new budget calendar, S. 2711 provides that all apportionments of highway funds to the States from now on will occur on October 1. For the noninterstate highway program, this change will insure that no funds are apportioned prior to the beginning of the fiscal year for which they are authorized. The committee believes this change will enhance the Congress' ability to consider and debate the full range of budget priorities as it considers the first and second concurrent resolutions on the budget each year. Senate Resolution 314 as reported by the Public Works Committee states that the waiver of section 303(a) is necessary since this legislation was not reported to the Senate on or before last May 15. In fact, this waiver of section 303(a) is necessary because S. 2711 provides for spending in fiscal 1977, prior to the passage of the first concurrent resolution for fiscal year 1977.

Mr. President, I think that is a sufficient description of the Budget Committee's views with respect to its responsibilities under section 303(a). The committee has resolved all questions relating to those responsibilities in a way to support waiver of section 303(a) with respect to the pending legislation, with the reservations I have indicated.

With that I am prepared to yield the floor unless some of my colleagues on the committee, whom I see in the Chamber, are interested in making a comment.

If not, I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, I would like to get the floor in my own right, if I may.

The PRESIDING OFFICER. Does the Senator yield time to the Senator from Alaska?

Mr. MUSKIE. Mr. President, I understand the Senator wants to speak to the highway bill rather than to the waiver resolution.

I am ready for a vote on the waiver resolution at any time, unless there are other Senators who wish to speak.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. MUSKIE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 314) was agreed to, as follows:

S. RES. 314

Resolved, That the prohibition of section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 as to the consideration by the Senate of legislation authorizing new budget authority for a fiscal year if such legislation is not reported to the Senate on or before May 15 preceding the beginning of such fiscal year be waived with respect to the "Federal-Aid Highway Act of 1975" (S. 2711) reported to the Senate by the Committee on Public Works on November 20 (legislative day, November 18), 1975. The waiver is necessary for the Senate to complete action on legislation which provides authorizations for the Federal-aid highway program for the transition quarter ending September 30, 1976, and fiscal years 1977 and 1978. The authorization of funds in S. 2711 does not increase program levels but maintains continuity in the highway program and allows the States to continue highway construction at reasonable levels.

The waiver is also necessary since legislative requirements in other programs under the jurisdiction of the Committee on Public Works will occupy the time of the committee during the second session of the Ninety-fourth Congress.

FEDERAL AID HIGHWAY ACT OF 1975

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the highway bill, S. 2711, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield myself such time as I may require.

Mr. DOMENICI. Will the Senator yield for a parliamentary inquiry?

Mr. BENTSEN. Yes.

Mr. DOMENICI. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Is there a time agreement on this bill?

The PRESIDING OFFICER. There is a time limitation of 2 hours on the bill and a half hour on any amendment or motion directed thereto, except an amendment by the Senator from Connecticut, which will have 1 hour.

Mr. DOMENICI. I thank the Chair.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the following staff members of the Committee on Public Works be granted the privilege of the floor during the discussion and debate on this legislation: Barry Meyer, Ron Katz, Ric Fenton, John Yago, Dick Harris, Phil Cummings, Bailey Guard, Kathy Cudlipp, and Hal Brayman of the Senate Committee on Public Works be allowed the privileges of the floor during the discussion and debate of S. 2711.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield myself such time as I may need.

Today the Senate begins its consideration of S. 2711, the Federal Aid Highway Act of 1975. This measure comes to the floor following many days of hearings over several months, after the testimony of over 100 witnesses and after a thorough discussion in my Subcommittee on Transportation and the full Committee on Public Works.

It is an interim highway bill. It follows the 1973 landmark highway legislation, which authorized the use of urban highway funds for mass transit, and the 1974 Highway Act Amendments, which responded to several issues arising out of the energy crisis.

This is a 2-year bill, which is aimed at moving the Nation through a period of uncertainty in the highway program and laying the groundwork for a more comprehensive measure to be passed in the next Congress.

Earlier this year, when we were waiting for an administration highway bill, the committee had hoped to move on a long-range measure during this session. However, the administration bill did not arrive until July, and by that time we were well into our hearings.

In the meantime, the revenue committees of the Congress, Ways and Means and Finance, were deeply into energy and tax questions which monopolized their time for the better part of a year. As one member of the Finance Committee, I want to assure my colleagues that I have no objection to a thorough review of the structure and the future of the highway trust fund; however, I believe that we have to be practical and recognize that we cannot complete action on that matter this year.

In the meantime, the highway program must be allowed to proceed. The financial situation in several of the States has reached the critical stage. As of November 1, 36 States were far enough into their interstate highway funds to have them exhausted on or around the first of 1976; 34 States were in a similar position on their primary and secondary funds.

We simply cannot allow the States to live in a state of uncertainty while the revenue committees debate the future of the highway trust fund. What we are proposing is an interim bill, a modest 2-year extension, which will pave the way for a review of the trust fund by the revenue committees next year and for a comprehensive highway measure in the next Congress.

Let me say that this interim bill does not prejudge the outcome of the debate on the trust fund. I am aware that several alternatives will be advanced. Some of my colleagues in the Senate have advocated the abolition of the trust fund; the administration has called for a retention of only 1 cent of the gasoline tax in the fund to complete the interstate; still others want the funds to continue with no change in structrue.

I do not make judgments on these proposals now, and I am certainly open to ideas. But, while that debate proceeds, we cannot stop the highway program in its tracks, particularly at a time of severe unemployment in the hard-pressed construction industry.

It should be clear to my colleagues that even in this interim bill, the committee has not been content to rest with the status quo. In fact, there are several significant modifications in this bill, which should make the highway program more efficient, more realistic, and more responsive to the needs of an energy conscious society. In short, we view this measure as something more than just a holding action.

One of our most significant accomplishments has been to consolidate existing categorical programs either by terminating them or folding them into broad programs.

The consolidation of categories follows suggestions by the administration, by the Governors, and by nearly every witness to appear before the committee this year. These witnesses have told us that with over 35 special purpose programs, the highway program has become administratively unwieldy and inefficient. We believe that our efforts to consolidate will allow the State and local highway officials to have a stronger voice in choosing their own transportation priorities. This has been a constant effort by this committee over the last several years, and we are hopeful we can retain much of these efforts in our conference with the House.

As part of the consolidation, the committee has realined the five major highway systems. The interstate will remain a separate program, since it is a nationwide network serving interstate transportation of goods and people. The Federal aid primary system, as of June 30, 1976, will consist of the old primary system plus the urban extension program and the priority primary system, and will therefore, consist of routes important to statewide and regional travel.

The secondary and urban systems will fall under a new general category, the community service system, which will consist of a nonurbanized and urbanized system respectively. In addition to changing the names of these systems, the committee has directed urban funds to go only to urbanized areas of over 50,000 while the nonurbanized funds will go for those routes formerly on the secondary system and to those communities falling between 5,000 and 50,000. Under the present laws, these smaller communities have to compete with the larger urban areas for available funds, and they frequently are shortchanged in the final distribution.

In addition, State and local officials, after July 1, 1976, may designate as part of the nonurbanized system any public road which is considered to be of local importance and which is not on another Federal aid system. Since this bill repeals the old program of Federal aid for off-system roads, the committee felt that broadening the nonurbanized system to include these roads would allow State and local officials to fund projects on these roads if they desire to do so.

This bill also substantially expands the definition of "construction" in section 101(a) of title 23, to include the terms "rehabilitation" and "restoration." Critics of the highway program in recent years have charged that it makes little sense to construct more highways in a time of energy shortages. What they fail to recognize is that the thrust of the highway program in recent years has been toward repairing the roads we now have. It has been estimated by the Department of Transportation that 85 percent of the available highway funds go into reconstruction rather than new construction. It has further been estimated that the funds needed for reconstruction now exceed $7 billion a year.

I do not believe that this committee envisions any massive roadbuilding program to grow out of this bill, but it does intend that we maintain our present highways in usable condition. The statutory change in the definition of construction should clarify existing policy on the use of Federal aid funds for resurfacing and other improvements on roads already in place.

The present bill also modifies the existing relationship between local and State officials concerning the selection of projects and routes in urbanized areas. Under present law, State concurrence is required for both route selection and project selection in urbanized areas. The bill amends that to require State concurrence where the State puts up more than 50 percent of the funds for a program of projects in an urbanized area. In instances where the local share exceeds 50 percent, route and project selection can be made by local officials without State concurrence. This provision does not affect the requirement for consultation and cooperation in the section 134 planning process.

I should note that there is an error in the committee report on this subject: What we are referring to in this bill is 50 percent or more for an entire program of projects in an urbanized area; we are not referring to a single project.

In 1973, a provision was added to the highway bill allowing for the withdrawal of controversial interstate segments in urban areas upon the request of State and local officials. Under the provision, the funds required for construction of the withdrawn segment could be used for a mass transit project within the same urban area. The present bill changes that to allow for the substitution of either a highway project or a transit project for a withdrawn interstate. Some urbanized areas which do not want interstates may find transit projects to be prohibitively expensive, and the committee felt it desirable to give them the flexibility to substitute either a highway or a transit project in place of their unwanted interstates.

To expedite completion of the interstate, the committee adopted a new apportionment formula, which will distribute interest funds 50 percent on the basis of "routes of national significance" within a State and 50 percent on the basis of the existing interstate apportionment formula. Routes of national significance will generally be deemed to be those intercity routes providing essential connections on the interstate. The determination of which routes qualify will lie with the Secretary of Transportation, after consultation with State highway departments. The committee expects this new formula to allow us to concentrate on those routes relatively free of controversy and to assign a lower priority to routes primarily serving local areas which are frequently the target of court suits and which may be subject to other delays.

The committee bill also changes the date of apportioning highway funds to conform with the provisions of the Congressional Budget and Impoundment Control Act. After a transition quarter, all noninterstate funds will be apportioned on October 1 of the fiscal year for which they are authorized. With respect to the Interstate System, the apportionment date is changed to October 1 of the year preceding the fiscal year for which funds are authorized.

On highway safety, the committee made several substantive changes. It has combined programs for high hazard locations, roadside obstacles, and rail road highway grade crossings into a single category, with the States being able to choose their own priorities for funding. It has also allowed the States to come up with alternatives for the Federal safety standards established by section 402 of title 23. If the State demonstrates a reasonable alternative, the Secretary has the burden of demonstrating that the alternative does not have the potential for reducing deaths or injuries equal to the Federal standard. The bill, however, does not require the Secretary to waive the Federal standards when dealing with the gathering and collection of data on accident investigation and with the alcohol safety standards.

A final word should be mentioned about the funding levels in this bill. We have attempted to be prudent and realistic, to pass a bill with reasonable funding levels that can be signed into law without a battle over a possible veto. Our bill, which contains some $7.1 billion a year, is approximately $500 million under last year's authorization and only about $200 to $300 million over the administration's request. We believe we have acted responsibly and we urge the administration to heed our efforts to keep the program within manageable levels.

In conclusion, let me thank my many colleagues on the Subcommittee on Transportation and on the Public Works Committee for their assistance in bringing this measure to the floor. Senator RANDOLPH has been a strong leader and a valuable resource of information, calling upon his long experience with the highway program.

Senator STAFFORD, the ranking minority member of my subcommittee, has sat in on most of the hearings and gave unstintingly of his time and effort to move the committee's work along. And other members of the committee, Senators BAKER, CULVER, HART, BURDICK, GRAVEL, DOMENICI, MONTOYA, MUSKIE, BUCKLEY, and MCCLURE, have contributed valuable work.

I believe we have a responsible bill which the Senate should approve. I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. Mr. President, I am glad to yield to the Senator from West Virginia.

TIME-LIMITATION AGREEMENT ON COMMON SITUS PICKETING CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and this request has been cleared with the minority leadership and with Mr. TOWER, Mr. HELMS, Mr. LAXALT, and others, that the common situs picketing conference report be called up on Monday morning at 10 a.m., that there be 2 hours for debate thereon, to be divided between Mr. HELMS and Mr. WILLIAMS, that upon expiration of the 2 hours the conference report be set aside, and that a vote occur on that conference report at 4 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL-AID HIGHWAY ACT OF 1975

The Senate continued with the consideration of the bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. HELMS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. STAFFORD. Mr. President, I am glad to yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that a member of my staff, Dr. James McClellan, be granted privileges of the floor during discussion of the pending measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the Senator yield for an additional unanimous-consent request?

Mr. STAFFORD. I yield.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Alan Yuspeh of my staff be granted privileges of the floor during the discussion of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. STAFFORD. Mr. President, S. 2711, the Federal-Aid Highway Act of 1975 is, in the opinion of this Senator, a responsible, constructive piece of legislation. It does not represent a major departure from existing law, as did certain provisions in the 1973 Highway Act. It is, however, the result of careful and thorough consideration by the Transportation Subcommittee and the full Committee on Public Works.

The bill addresses problems brought to the subcommittee's attention during 10 days of hearings last spring and summer. It provides for orderly continuation of the Federal-aid program for the next 2 years during which time several committees of Congress must answer perplexing questions on future national transportation policy.

The distinguished chairman of the Transportation Subcommittee, our colleague (Mr. BENTSEN), has ably outlined major provisions of the bill and objectives sought by the committee.

This Senator particularly wishes to associate himself with the view that our future highway program will primarily involve improvement of existing roads. Some new roads will, of course, be needed. The major emphasis, however, should be to insure continued acceptable levels of performance from the Nation's already extensive highway network.

With respect to specific provisions, several deserve mention. The Senator from Texas has already called attention to an inaccuracy on page 9 of the committee report. At the outset of my remarks I wish to agree unconditionally with the distinguished Senator from Texas (Mr. BENTSEN), the subcommittee chairman.

The standard for determining that State concurrence is required for route and project selection on urbanized systems is a State's contribution to the required matching share for programs of projects on an urbanized system, not its contribution to each individual project.

Wherever a State provides 50 percent or more of the non-Federal matching share for a program of projects in an urbanized area, State concurrence on route and project selection is required.

The change from existing law, which requires State concurrence in all cases, was deemed desirable in order to give larger urbanized areas, which provide a substantial portion of the non-Federal costs of projects, the decisive voice in ordering local priorities. A State must still participate in transportation planning in all urbanized areas, as required by section 134 of title 23, United States Code.

S. 2711 makes modest changes in existing Federal-aid system definitions and consolidates all funding for elements of the primary system into one apportionment.

Numerous witnesses urged that the number of categories be reduced in order to streamline procedures and allow a State to spend money where it determines needs are greatest. Combining three separate primary funding categories was one committee response to the proliferation of programs.

The bill creates a new conceptual framework for the old urban and secondary systems. It combines the two under the heading of "community service system" but retains separate definitions and funding for each.

The urban system is renamed the urbanized system and is located in urbanized areas within a State. The secondary system is now called the nonurbanized system and is located outside urbanized areas. Each State is guaranteed a minimum one-half of 1 percent of the apportionment for each of these local service systems.

The urbanized system is by definition confined to areas of 50,000 or more population. Thirteen of fourteen States which will receive the minimum one-half percent apportionment for urbanized routes have two or fewer such areas. The committee bill permits these States to use urbanized system funds in other urban centers important to the State. These funds will be available for highway and transit projects.

The bill makes substantial changes in the method of apportionment of Interstate funds and changes the apportionment date for noninterstate systems. The chairman of the subcommittee has described these changes. I wish only to say that both measures are constructive. The first should hasten completion of obvious gaps in the Interstate System, which the second measure promises to bring future discussions of highway funding more closely in keeping with the work of the Budget Committees.

The committee bill permits funds transferred from an unbuilt interstate route to be used both for road and transit projects. Existing law allows a transfer only for transit projects.

In addition, where two urbanized areas in close proximity within a State decide not to construct segments of an interstate route, leaving a short, unconnected segment to be built, funds for the segment in the nonurbanized area may also be transferred to other transportation projects.

The committee bill provides that funds authorized for the rural highway public transportation demonstration program in the 1973 and 1974 highway acts remain available for 2 years after the year for which authorized. This means some funds could be appropriated through fiscal year 1978.

The chairman of the Public Works Committee, Mr. RANDOLPH, and I worked to have this rural program included in earlier legislation. Appropriations to date total $24.65 million, while authorizations are $75 million. The Federal Highway Administration in a recent press release stated that it had received many more applications for innovative and potentially productive projects than it could fund under appropriations existing at that time.

The committee extended the period of availability of funds in order to include more projects and allow time for more thorough assessment of those already at least partially funded.

To conclude my remarks, Mr. President, I would like briefly to mention changes made in the safety provisions of title 23.

Two separate agencies within the Department of Transportation are responsible for two separable elements of the Federal highway safety program. During subcommittee hearings State representatives and others criticized joint administration of the State and community safety grant program—the so-called 402 program—by the Federal Highway Administration and the National Highway Traffic Safety Administration, or NHTSA. These witnesses said that regulations and procedures adopted by the two agencies are at times contradictory and confusing.

In S. 2711, the committee recognized that responsibility for highway-related elements of the safety program in general, rests with different State agencies from the driver-related elements. The bill separates administration of the two aspects of highway safety and ties sanctions for failure to implement each aspect to that particular program.

Thus, systematic failure of a State to comply with requirements that new highways incorporate the latest safest features or that existing hazards be identified and scheduled for correction will result in suspension of approval of all Federal-aid construction projects in the State. The penalty for continued failure to correct such deficiencies is a 10-percent loss of highway construction apportionments.

Mr. President, the committee intends that the State highway or transportation departments will continue to work with and rely on local officials in identifying and correcting highway hazards. We hope that funds will be made available to communities to insure that local needs are included in schedules for correction.

Failure of a State to implement an acceptable program related to driver behavior or to generate information needed to develop effective safety programs will cause withholding and eventual loss of Federal funds authorized for these activities.

Under existing law, a State will lose 10 percent of its highway construction funds if it does not have an acceptable driver-related safety program. As I have mentioned, in most States different agencies administer different elements of the safety program. It seemed to the committee somewhat unfair to penalize one agency's program for deficiencies in another.

Advocates of the existing penalty system point out that loss of safety grants by itself may not be a big enough threat to convince States to comply with Federal standards related to data collection and driver behavior.

The committee understood this concern. But there is disagreement as to the value of several of the Federal standards. And Federal funds make up only 1 to 3 percent of the money going into State programs. We felt that until there is more evidence that certain Federal requirements produce safety benefits and until the Federal contribution is substantially higher, the proposed penalties are fair.

Mr. President, although this is in many respects an interim bill, it is a good bill. It was carefully developed and responds to many of the suggestions made during extensive hearings.

At the outset of the work on the bill the distinguished chairman of the subcommittee laid out the broad goals he wished to achieve and was supported by all members of the subcommittee. He solicited the views of other members and worked to see that the bill incorporated their suggestions.

Contributions by Senator BAKER, the ranking member of the full committee, and Senator DOMENICI, both during subcommittee and full committee sessions, were noteworthy.

And, of course, the experience and guidance of Senator RANDOLPH throughout the development of the bill, was invaluable.

S. 2711 is a responsible piece of legislation and I urge its adoption.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. How much time have I consumed?

The PRESIDING OFFICER. The Senator has used 14 minutes of 60 minutes available.

Mr. STAFFORD. I yield to the distinguished ranking member of the full committee, Senator BAKER.

Mr. BAKER. I thank my colleague for yielding.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAKER. I yield.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Franklin Jones, of the Budget Committee staff, be granted the privilege of the floor during the remainder of the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that during the course of the debate on this bill, Miss Jan Bollen, of the Budget Committee staff, and Mr. Jim Borland, of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr President, the Senator from Vermont is not only the ranking Republican on the Transportation Subcommittee and has done outstanding work in the construction of the measure now before the Senate, but also has been diligent in his attendance and participation in the general affairs of the Committee on Public Works and is one of its most valuable members.

The Public Works Committee has reported a modest but constructive highway bill. S. 2711, the Federal-Aid Highway Act of 1975, makes no major change in the structure or funding of the highway program. It does, however, modify and consolidate several existing programs in response to constructive criticism and changing circumstances.

The distinguished chairman of the Transportation Subcommittee and the able ranking minority member have already described in some detail major provisions in the bill. I would like at this time only to characterize very briefly what I believe to be the approach taken by the committee and advert to what I think we face in highway legislation during the next 2 years and beyond.

Recently there has been much discussion of the need for a national transportation policy. The Secretary of Transportation released his statement of policy on September 17. The American Association of State Highway and Transportation Officials adopted a policy statement at their recent convention in St. Louis.

In all these discussions there is an attempt to define the proper Federal role. And to do this it is necessary to identify which functions are best performed by which level of government or by private industry.

Within the framework of an interim highway bill, the Public Works Committee has modified existing programs to concentrate authority at the most appropriate governmental level.

Consolidations effected in the bill give State officials greater latitude in deciding which projects deserve earliest attention. This reduction in the number of separate categorical programs returns to States greater control over the highway program.

Increased emphasis on State and local decisionmaking is also evident in the provision which allows State and local officials in nonurbanized areas to select for inclusion on the local Federal-aid system any route determined to be of importance to the community. Previously, criteria for route selection were set by Congress.

Still further evidence of the committee's reliance on State capabilities are modifications of the Federal-State relationship in the highway safety program. The bill recognizes the predominant State role in implementing Federal standards by allowing State officials greater voice in selecting standards.

While the committee saw that many facets of the highway program are amenable to greater State control, the need to retain certain Federal priorities was also recognized.

In this regard, the Secretary of Transportation is given final authority to determine which unfinished interstate routes are of national significance and, hence, will be given more weight in determining how to distribute funds needed to complete the system. The Secretary is directed to consult with individual States and to give considerable attention to their recommendations. In the final analysis, however, it is the national interest in particular routes which is paramount.

The undeniable need to improve highway safety requires that Federal authority be brought to bear wherever States might fail to implement measures having recognized safety benefits. S. 2711 retains sanctions against States which do not incorporate the latest safety features in new federally assisted highway construction or which fail to devote sufficient efforts to correcting existing hazards.

Also, the need for national uniform safety statistics as tools to develop and evaluate effective programs is undeniable. S. 2711 requires States to comply with Federal standards relating to generation and collection of safety data.

In one additional area, Federal interest required that a particular program receive special emphasis. I refer to the Economic Growth Center Development Highway program. S. 2711 achieves the desired emphasis by continuing to provide separate funding for Economic Growth Center highways.

Under this program, a Governor designates specific areas in his State which he finds have potential for economic growth. Special highway funds are then made available to construct or upgrade roads which will serve these areas.

As stated in the committee report, the purpose of the Economic Growth Center category is to provide a better road system in regions which at present are not able to compete with more developed areas for regular highway funds. The report states the committee's view that a major goal of future Federal transportation programs may well be to serve orderly economic development in rural and smaller urban areas. Continuation of the Economic Growth Center program, the committee believes, affords an opportunity to evaluate this goal as an element of Federal transportation policy.

Several weeks ago I made a statement on the floor of the Senate concerning the future of the highway program. I said at that time that, whatever form future Federal assistance to highways takes, we should strive for the same simplicity of concept and widespread appeal which has characterized construction of the Interstate System.

It is my belief that, through the Economic Growth Center program and other Federal programs to improve transportation in underdeveloped areas, we can clearly demonstrate the utility of economic development as one basis for Federal transportation assistance.

I am gratified that S. 2711 incorporates what I believe is the beginning of a major new approach to national transportation policy.

Mr. President, as I noted earlier, S. 2711 is a modest bill. It builds, however, on major changes embodied in the Federal-Aid Highway Act of 1973.

That legislation, for the first time, made urban highway funds available for public transportation projects. The provision which effected that change was cosponsored by the senior Senator from Maine (Mr. MUSKIE) and myself. It was nearly identical to the measure passed by the Senate in 1972 under the leadership of my colleague from Maine and the former ranking minority member of the Public Works Committee, our former colleague Senator John Sherman Cooper of Kentucky.

The moving force behind the change was recognition that transportation problems in cities cannot be solved without regard to a combination of public and private, highway and nonhighway modes.

Problems in nonurban areas are different. Alternatives to highway transportation are few. Those which do exist—primarily railroads—are largely beyond control of local and State governments.

We are still only beginning to explore how public transportation can be made to work in these areas. What we do know with utmost certainty is that highway needs in rural areas are great.

The next major step in highway legislation, I believe, will have to be taken in the context of changes in other Federal transportation programs. Modifications of the highway program alone would be cosmetic only. They may disrupt a successful operation without promoting better overall transportation.

Before time for the next highway bill, I personally hope we will explore the potential of a general transportation trust fund. I hope we will look at which modes should be included and at how revenues should be raised. I hope we will arrive at a rational basis for distributing funds with our objectives firmly in mind.

Mr. President, S. 2711 is a good bill which extends Federal highway asistance for 2 years. It makes improvements in the existing program but forecloses no major change which may be proposed during the next year and a half.

I congratulate the chairman of the Transportation Subcommittee for his firm but flexible leadership, and I reiterate my praise for the ranking minority member of the subcommittee for his efforts in this respect, and, of course, for the valuable contribution and the insightful wisdom of the chairman of the full committee as we brought this bill to the floor.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER (Mr. BELLMON). Who yields time?

Mr. BENTSEN. Mr. President, I yield time to the distinguished Senator from West Virginia, the chairman of the full committee.

Mr. RANDOLPH. Mr. President, the measure before the Senate focuses attention on the continuing development of the Federal-aid highway program. This process began more than half a century ago when the Federal Government first committed itself to a program of cooperation with the States to provide highways. The Federal-aid program has undergone regular revision to maintain its effectiveness in a growing and changing society.

This bill was initially developed by our Subcommittee on Transportation under the able leadership of the Senator from Texas (Mr. BENTSEN). Early this year, the subcommittee began extensive hearings to lay the groundwork for this bill. There was active participation by Senator STAFFORD, the ranking minority member, and other members of the subcommittee, Senators MONTOYA, GRAVEL, MUSKIE, BURDICK, CULVER, BUCKLEY, DOMENICI, and MCCLURE. Their inquiries took the subcommittee to several cities in addition to comprehensive hearings in Washington.

Their work was thorough and the measure reported by the subcommittee required only 2 days of additional consideration by the full Committee on Public Works. At that time, important contributions were made to the measure by Senators MORGAN, HART, and BAKER. I appreciate the attention and the concern of all members of the committee which enabled us to bring to the Senate a bill that responds to contemporary needs.

The Senator from Texas (Mr. BENTSEN) has described our bill as an interim measure. It qualifies for that description in that it is intended to bridge the gap between the general thrust of highway construction over the past 20 years and a substantial redirection of the program which we expect to take place in the 95th Congress.

This bill, however, is not a holding action. It makes important modifications in the highway program which are needed at this time. For the past two decades, the Interstate System has been this country's principal road-building effort. For a variety of reasons, the original goal of simultaneous completion in all States will not be achieved. We have sought to permit those States with the desire and ability to move forward in construction of essential segments of the Interstate System. To accomplish this aim, we have revised the formula for Interstate funds apportioned to the States.

Mr. President, even with this change in the formula, we recognize that completion of the Interstate System is several years in the future. Since 1967, the cost-price index for highway construction has more than doubled. The funds available for road work have not increased accordingly. In recent years, in fact, authorized funds for the Interstate System have remained relatively static. Funds for interstate construction in fiscal years 1977 and 1978, the 2 years covered by this bill, are $3.25 billion annually. These funds were authorized in the Federal-Aid Highway Act of 1973. Together with the funds authorized the total program will function at a level slightly above $7 billion a year.

Committee members recognize that these are inadequate amounts to meet our highway needs in a time of continuing inflation. We were limited, however, by the expected income of the highway trust fund which provides approximately 90 percent of the revenues for the highway program. A reappraisal of highway financing is a major objective for the next 2 years. It was an important factor in our decision to limit this bill to a 2-year period.

We considered the need to accelerate completion of the Interstate System. On October 28, the diligent Senators from Florida (Mr. STONE and Mr. CHILES) and I introduced a bill (S. 2576) which would authorize States to issue bonds for Interstate construction. These bonds would be retired with Federal interstate funds which would be available over the ensuing 20 years. This approach would provide the necessary money within a short period of time and the interest rates on the bonds would be substantially lower than the rate of inflation.

Committee members discussed the bond proposal but felt that a more thorough examination was required. This bill, therefore, includes a provision directing the Secretary of Transportation to study alternative means of paying for interstate construction. These findings will be helpful in our search for ways to complete the Interstate System as expeditiously as possible.

The elimination and consolidation of program categories will contribute to increased flexibility. In many cases, the narrow definition of some of the highway programs has impaired the ability of the States to meet pressing needs. This measure does not carry consolidation as far as proposed by the administration but I believe that we have acted to remove some serious roadblocks.

The realinement of the principal programs, as described by Senator BENTSEN, makes the highway program conform with reality. Primary, secondary, and urban designations under existing law often do not adequately reflect the true use of highways. The realined systems also will enhance the ability of the State to carry out realistic highway development.

The realinement of major highway systems will give the States increased flexibility in meeting transportation needs. It eliminates the artificial separation of urban system and urban extension highways by redefining the primary system and including in it the urban estimations. The more precise definition of urban and rural highway systems will better reflect urban and rural highway needs.

Increased flexibility also is afforded by provisions modifying the procedures by which interstate funds can be shifted for other uses. The 1973 act permitted the withdrawal of segments of Interstate highway from the system and the use of funds allocated for their construction for public mass transportation purposes. This bill recognizes that some communities may have greater need to use these transferred funds for non-Interstate highway purposes. The bill grants this authority.

One of the more important features of this legislation is that which redefines the relationship of States and cities in the conduct of urban highway activities. It provides that States must concur in the approval of programs of projects in urban areas when the States provide more than half of the non-Federal share. State concurrence is not recognized in the traditional State participation in urban programs. It is retained, however, through State involvement in the planning process conducted under Section 134 of title 23.

Mr. President, last year, the Congressional Budget Act became law establishing a procedure intended to improve the ability of Congress to control Federal spending. At the same time, the fiscal year of the Federal Government was changed so that it will be on October 1 starting in 1977. This action requires that all Federal programs be adjusted accordingly. This bill revises the Federal-aid highway program so that it conforms with the new fiscal year calendar and the requirements of the Budget Control Act.

For the past decade, progress has been made in reducing deaths and accidents on our country's highways. The impetus for this effort was the Highway Safety Act of 1966. Highway safety is a matter of particular concern to the distinguished Senator from Vermont (Mr. STAFFORD) who is the ranking Republican member of the Subcommittee on Transportation. Developed initially under his guidance, our provisions in this bill would refine the highway safety program. I believe that these provisions will make the program more workable so that we can continue to move forward in making our roads and streets safer.

Mr. President, I single out for particular attention the special bridge replacement program for which funds are authorized in this bill. This measure provides $125 million for bridge replacement in each of the next 2 fiscal years. This is the same amount available in the current fiscal year.

The bridge replacement program was established under provisions I authored which were included in the Federal-Aid Highway Act of 1970. This program was created in recognition of the large number of defective and inadequate bridges which exist in our country. Since its inception, the bridge replacement program has never been properly funded. I make no pretense that the financing authorized in this bill is adequate. Substantially larger amounts should be committed because the construction of bridges is very expensive and the needs are unevenly distributed among the States. This effort, however, was hampered by the same fiscal limitations that are reflected in the rest of this bill. I hope the day will come when we can realistically expect proper funding to replace the thousands of highway bridges that are no longer adequate to meet the demands made on them.

Mr. President, proposals have been made to restructure the Federal-aid highway program and the method by which it is financed. These deserve thorough examination. The passage of this bill will permit the orderly continuation of the program over the next 2 years while important questions of the future are debated in the Congress. Our Subcommittee on Transportation plans inquiries into several areas next year and it is my understanding that the Finance Committee will begin its own examination of the highway funding mechanism. The Federal-aid highway program is vital to the maintenance of a national transportation system which relies heavily on motor vehicles. I urge, therefore, that Members of the Senate give their approval of this bill.

Mr. President, the work involved in developing a bill took place with important contributions of the committee staff. On behalf of members of the committee, I express thanks to the staff members involved in the preparation of this bill: Barry Meyer, Katherine Cudlipp, Ron Katz, John Yago, Phil Cummings, Bailey Guard, Dick Harris, Ric Fenton, Paul Chimes, Kay Demary, Polly Medlin, and Maggie Meyer.

I thank those within the committee again, those within the Senate, who are intensely interested in doing what is best for America for the continued reasoned program of highway development.

Mr. BENTSEN. Mr. President, I congratulate the distinguished chairman for his contribution to our information and the level of debate on this bill.

Mr. NUNN. Mr. President, over the past 2½ years, I have worked with Senators TALMADGE, HOLLINGS, and THURMOND in an effort to obtain assistance for the city of Augusta, Ga., in solving the city's severe railroad location problem.

Augusta is now suffering from a bisection of its central business district by two mainline railroads. The average daily volume of all railroad traffic in the vicinity of Augusta is about 4,500 cars. As a result of the present bisection, the downtown business district is often cut off completely from the remainder of the city. Because all rail line-street intersections in downtown Augusta are grade crossings, severe tieups in traffic occur whenever a train moves through the city.

A 1972 study estimated that the railroad tieup problem in Augusta costs local citizens an average of $250,000 per year. The proposed relocation project would provide a more economic freight traffic flow for the railroad system and would enable transportation service to continue to be provided for Augusta's growing industrial community.

In addition to the economic condition, the relocation is needed because of the safety hazards. Police and fire protection have been virtually cut off from half the city when trains are traveling through the downtown business district. Ambulance and emergency medical services have been delayed from reaching the vast medical complex located on the west side of the railroad line.

All of this points to the critical need for a demonstration railroad relocation project in the city of Augusta.

While I respect the Senate Public Works Committee's decision to hold down spending by not including any demonstration projects in the highway bill we are debating today, I feel that an investment in the Augusta project now would, in effect, save the city, the local citizens, the business community, and the surrounding area in Georgia and South Carolina hundreds of thousands of dollars.

For this reason, I am pleased that the bill being marked up over on the House side includes funds for a railroad relocation demonstration project in Augusta.

Mr. President, in light of the pressing need of the city and the area, I am hopeful that the conference committee, which will work out the differences between the two highway bills, will elect to include funds for the Augusta project.

Mr. BENTSEN. I now yield to the distinguished Senator from Colorado (Mr. HASKELL) for the purposes of offering an amendment.

Mr. HASKELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an amendment.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 43 after line 17, add the following new section:

"GLENWOOD CANYON HIGHWAY CONSTRUCTION

SEC. 139. Notwithstanding section 109(b) of title 23 of the United States Code, the Secretary of Transportation is authorized, upon application of the Governor of the State, to approve construction of that section of portions thereof of Interstate Route 70 from a point 3 miles east of Dotsero, Colorado, westerly to No-Name Interchange, approximately 2.3 miles east of Glenwood Springs, Colorado, approximately 17.5 miles in length, to provide for variations from the number of lanes and other requirements of said section 109(b) in accordance with geometric and construction standards (whether or not in conformance with said section 109(b)) which the Secretary determines are necessary for the safety of the traveling public, for the protection of the environment, and for preservation of the scenic and historic values of the Glenwood Canyon".

Mr. HASKELL. This amendment is sent to the desk and asked for consideration on behalf of my colleague, Mr. GARY HART, and myself. It has been discussed with the distinguished floor manager of the bill, the Senator from Texas, and also the distinguished minority ranking member, Mr. STAFFORD.

Very briefly what the amendment would do would give the Secretary of

Transportation discretion to vary a segment of a section of I–70 going through Glenwood Springs from the normal standards of the low provided, of course, he found it in the interest of safety of the traveling public and for the protection of the environment.

I ask that my statement of October 2, 1975, which I introduced with the bill, be reproduced and printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Statement by Mr. Haskell

Mr. HASKELL. Mr. President, today I introduce, for myself and my distinguished colleague, Mr. GARY HART, a bill which is brief and simple but very significant in its impact for the people of Colorado—particularly those who live, work, and travel in the western part of the State.

This legislation would authorize the Secretary of Transportation to approve construction of a section of Interstate 70 through the Colorado mountains as a parkway. The section involved would total 17.5 miles through one of America's most spectacular scenic attractions, Glenwood Canyon. My bill would exempt from strict interstate highway design standards that short section.

The canyon now is the route for U.S. Highway 6 and 24 which connects at both ends of the canyon with completed four-lane segments of Interstate 70, the main auto route between the western part of the State and Denver on the eastern slope. Both the routing of the interstate through Glenwood Canyon and its design have been very controversial. There is no right or wrong in this case, Mr. President, just genuinely conflicting needs. The people of Colorado can resolve the conflicts, but only with the legislation I introduce today.

First, let me describe the canyon for you: The canyon is narrow, accommodating through much of its lentgh only the Colorado River which carved it and the present highway on one side and railroad tracks on the other. Its depth ranges between 3,000 and 4,000 feet with sheer walls in some places, steep slopes and flat areas of vegetation in others.

Because of its depth, intersecting side canyons and the ever-changing light patterns depending on time of day and season, Glenwood Canyon is—without exaggeration—a kaleidoscope. In addition to the gorgeous scenery, the lucky traveler may see wild turkeys, mule deer, or bighorn sheep. In any event, even regular travelers are not apt to see the same scene twice as they round one of the many sharp curves in the road as it follows the course of the river.

And that is the other side of the problem, Mr. President. Western slope residents are forced to rely upon the present highway through Glenwood Canyon to get to Denver to conduct their business.

They are not insensitive to the beauty, of the canyon, but that appreciation is tempered with the knowledge that the narrow, winding road which is such a delight on a sunny afternoon can become a real hazard at night or when it is covered with rain or snow.

For these western Colorado residents, the accident rate in the canyon is unacceptably high. It has been pointed out that the accident ratio for the completed four-lane segment just east of the canyon is actually higher than in the canyon itself. But that does not alter the fact that there are too many accidents in the canyon and too many plunges into the Colorado River. The canyon is not very forgiving: With sheer walls rising on one side of the highway, there is nowhere left to go but the river for a car which has swerved out of control.

It is a rare western Coloradoan who has not either known someone who encountered that kind of difficulty in Glenwood Canyon or seen rescue groups searching the river for crash victims.

That is the conflict, Mr. President. The road through the canyon must be improved to link sections of the interstate. But present interstate design specifications will not permit that upgrading without destroying much of the canyon's natural beauty.

What I ask with this legislation is that the Secretary of Transportation grant the people of Colorado the widest possible latitude in selecting a design for the interstate through the canyon. This will accommodate both the scenic and the safety needs which exist. A scant 17 or 18 miles of the more than 2,000 along Interstate 70 are at stake—and I think it is safe to say they are among the most spectacular along the route.

The Governor of Colorado has met with Transportation Secretary Coleman and gained his assurance that the State will have full flexibility to examine alternative designs during that phase of the project. Furthermore, the Governor has promised the people of Colorado—both those who know the canyon best for its scenic values and those for whom it is a daily link with Denver—full participation in designing the highway through the canyon. So allowing an exemption from strict interstate standards locks no one into a two-, three-, or four-lane design; it merely assures them the flexibility to develop the best design for the circumstances.

There is ample precedent for relaxing interstate standards to take into account special natural and scenic values. Such exemptions have been made for the Franconia Notch in New Hampshire and Overton Park in Tennessee. Similar provisions were made near San Antonio, Tex., and in parts of West Virginia, indicating that Congress understands it cannot develop standards which will be workable throughout the Interstate System. What works in Kansas will not work in Glenwood Canyon, Colo. The legislation I introduce today is consistent with that understanding.

Mr. HASKELL. I yield to my distinguished colleague from Colorado.

Mr. GARY HART. I thank my colleague. I want the RECORD to reflect that I am in wholehearted support of this. This will solve a very difficult problem in our State. We appreciate the cooperation of the Senator from Texas.

Mr. President, I urge the Members of this body to accept a very reasonable solution to a problem which has long plagued a beautiful area of my State and has delayed completion of one of the final links to Interstate 70. The area I am referring to is the section of the highway which would pass through the spectacular Glenwood Canyon.

The American Automobile Association has called the canyon "the most beautiful of the western gorges." Its high walls, carved millions of years ago by the forces of a mighty, prehistoric river, are among the most spectacular of this Nation's awesome natural heritage. To destroy this gorge because of the rigid rules of the Interstate System would be a loss not only to the people of Colorado, but to the people of our Nation—millions of whom have made an often slow but always emotionally moving trip through this breathtaking scenic corridor.

An exemption from the Interstate Highway standards, will allow a plan to be completed which recognizes the unique problems presented by travel through the narrow canyon floor. Instead of the four-lane, extensively wide standards of normal interstate roads which would destroy the canyon, this amendment permits the Secretary of Transportation to approve the construction of a road that will not sacrifice the canyon or the safety of its travelers. An extra 5 minutes might be added to travel by a two-lane highway, but the time will be well spent reflecting on the majesty of nature's creation.

This amendment will satisfy the safety and transportation needs of this area, while allowing the preservation of the scenic environment. For the few miles that would be exempted from the thousands and thousands of miles of our highway system, it is a very small request to make.

Mr. BENTSEN. Mr. President, this amendment is comparable to the Franconia Notch amendment we passed for New Hampshire, in which there is an area of great environmental concern and a feeling there should not be a conventional four-lane highway built there.

I have had the pleasure of going through Glenwood Canyon and knowing what a magnificent area that is. I would imagine the problems you would have if you had to blast out from the side of those mountains a four-lane highway in an Interstate System.

I think it is a wise proposal to try to give the Secretary of Transportation some discretion there to find a way to accomplish the objectives that you seek where it will not be offensive and will not violate the environment of that area, to the extent that can be avoided.

Mr. HASKELL. I appreciate the sympathetic view of the situation of the Senator from Texas and his perception of the real problem.

Mr. BENTSEN. I say as chairman of the subcommittee I am prepared to accept the amendment.

I yield to the distinguished minority member.

Mr. STAFFORD. Mr. President, I also appreciate sometimes the difficulties of building the interstate type road in a very scenic mountainous part of our country. We have that problem in Vermont from time to time and, as the chairman said, we had it in New Hampshire. So, for the minority, we are prepared to accept this amendment, also.

Mr. HASKELL. I thank the distinguished Senator from Vermont and again also the distinguished chairman of the subcommittee, the Senator from Texas.

I yield back the remainder of my time, and ask that the amendment be adopted.

Mr. BENTSEN. The two distinguished Senators from Colorado have long been known for their concern for the environment, and have been in the forefront of the fight for the preservation of the quality of life in this country, and I am glad to see them taking this kind of leadership.

Mr. RANDOLPH. Also, it is recognized, I say to the able Senators from Colorado, that in doing this, from the standpoint of terrain we actually reduce the cost of the project.

Mr. HASKELL. The distinguished

Senator from West Virginia perceives the problem exactly.

Mr. RANDOLPH. So the Senators are doing a double job, very frankly. I commend both of them.

Mr. BENTSEN. Mr. President, unless further time is requested, I yield back the remainder of my time and move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from Kentucky (Mr. HUDDLESTON) for the purpose of offering his amendment.

Mr. HUDDLESTON. I thank the distinguished Senator.

AMENDMENT NO. 1211

Mr. HUDDLESTON. Mr. President, I call up my amendment No. 1211 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

STUDY OF HIGHWAY NEEDS TO SOLVE ENERGY PROBLEMS

SEC. 139. (a) The Secretary of Transportation shall make an investigation and study for the purpose of determining the need for special Federal assistance in the construction or reconstruction of highways on the Federal-aid system necessary for the transportation of coal or other uses in order to promote the solution of the Nation's energy problems. Such study shall include appropriate consultations with the Secretary of the Interior, the Administrator of the Federal Energy Administration and other appropriate Federal officials.

(b) The Secretary shall report the results of such investigation and study, together with his recommendations, to the Congress not later than one year after the date of enactment of this Act.

(c) There is authorized to be appropriated such amount as is necessary to carry out the provisions of this section.

Mr. HUDDLESTON. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 43, between lines 17 and 18, insert the following:

STUDY OF HIGHWAY NEEDS TO SOLVE ENERGY PROBLEMS

SEC. 139. (a) The Secretary of Transportation shall make an investigation and study for the purpose of determining the need for special Federal assistance in the construction or reconstruction of highways on the Federal-aid system necessary for the transportation of coal or other uses in order to promote the solution of the Nation's energy problems. Such study shall include appropriate consultations with the Secretary of the Interior, the Administrator of the Federal Energy Administration and other appropriate Federal and State officials.

(b) The Secretary shall report the results of such investigation and study, together with his recommendations, to the Congress not later than one year after the date of enactment of this Act.

(c) In order to carry out the study, the Secretary is authorized to use such funds as available to him such purposes under section 104(a) of title 23 U.S.C.

Mr. HUDDLESTON. Mr. President, the purpose of the modification is to make absolutely certain that there is no violation of the waiver agreement that has just been discussed on the floor and that no additional funds are to be authorized or appropriated for the purposes of this amendment.

I believe that will make it conform with the waiver requirements.

The amendment, Mr. President, is simply to require that the Secretary of Transportation shall make an investigation and study for the purpose of determining the need for special Federal assistance in the construction or reconstruction of highways on the Federal aid system necessary for the transportation of coal or other uses in order to permit the solution of the Nation's energy problems.

We all know our interest in solving our energy problems and reaching self-sufficiency in this country. Certainly, our great resource of coal has to be utilized to a great extent in order to accomplish this purpose.

In order for coal to be utilized, in addition to getting it out of the ground it has to be transported to the places of its usage. Because of this, a great strain has been placed on certain highways in areas of coal production, between production and marketing areas, as has occurred in Kentucky and other coal-producing States and is about to occur out West.

I think it is time we take a look at this situation to see whether or not it is proper that we have some assistance in maintaining these roads so that coal can be fully utilized.

Mr. President, I yield back the remainder of my time.

I have checked with the managers of this bill. It is acceptable to them, and I think it is an appropriate way to move.

Mr. BAKER. Will the Senator yield briefly?

Mr. HUDDLESTON. I will yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I commend the Senator from Kentucky for offering this amendment. I am delighted the managers of the bill are going to accept it.

In my own State of Tennessee, we have a similar problem. I have seen firsthand the extraordinary wear and tear that occurs on the highway system as the necessary result of transportation of coal in greatly increased quantities to meet our energy requirements and other purposes in the country.

I think this is an appropriate amendment and I am happy the Senator from Kentucky has offered it.

Mr. RANDOLPH. Mr. President, with the agreement of the managers of the bill, I would like to emphasize what the able Senator from Kentucky (Mr. HUDDLESTON) is saying.

Energy production has, in the past 2 years, taken on new importance in the United States. We now realize that we must make greater use of our domestic energy resources to reduce dependence on increasingly expensive and scarce fuels. This requirement leads us logically to coal, this country's most abundant fuel source. But if we are to take advantage of this underground wealth, we must have the means to transport it from the mine to the point of use.

As in most activities in our country, roads are required to tap our vast coal reserves. Much of our coal lies in areas where the access is difficult and which are undeveloped. New and improved roads, therefore, are urgently needed. Both Kentucky and West Virginia produce large quantities. They are, in fact, the largest producers in the country. Additional reserves are located in the Western States such as Montana and will be increasingly mined in the years ahead.

The Senator from Kentucky has proposed a study to determine the extent of the need for road improvements to facilitate the production of coal. This is a timely proposal, for it can provide the information needed on which to form a realistic response to the need for these highways.

A workable national energy policy—a goal which I have pursued for more than 15 years—must take into account all facets of energy production. I commend the Senator for his foresight in bringing this matter to the Senate as he did informally to members of the Committee on Public Works. We have discussed his amendment and I believe it to be a desirable addition to the bill.

It is certainly appropriate and timely and I commend the Senator.

Mr. HUDDLESTON. I thank the Senator.

Mr. President, I ask unanimous consent that my colleague from Kentucky be added as a cosponsor of this bill along with Senator MANSFIELD and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, may I simply add at this point, because of this mention of colleagues, the Senator's colleague has discussed from time to time with us when we brought the Appalachian regional development legislation to the floor the need in the programs to give an added emphasis to energy development.

Certainly, the work the Senator is doing with him is very worthwhile.

Mr. HUDDLESTON. I thank the Senator.

Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator for his proposal and note it is one that will be of concern shared by many States.

I, for one, as chairman of the subcommittee, am pleased to accept the amendment.

I yield back the remainder of my time subject to the distinguished leader of the minority.

Mr. STAFFORD. Mr. President, on behalf of the minority, we also are prepared to accept this amendment.

Mr. BENTSEN. Mr. President, I yield

back the remainder of my time and move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment, as modified, was agreed to.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 1220

Mr. KENNEDY. Mr. President, I call up my amendment No. 1220 and send to the desk a modification.

The PRESIDING OFFICER. The amendment is so modified.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 13, line 12, delete after "thereof," through the comma on line 19 and insert "as that cost is included in the latest cost estimate approved by the Congress, subject to increase or decrease, as determined by the Secretary, based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal-Aid Highway Act of 1975 or the date of approval of each substitute project, whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate,".

On page 15, line 6 after "that" delete all through line 13 and insert in lieu thereof the following:

"the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. In the event a withdrawal is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System as long as said sums were applied to a transpotration project permissible under this title. The provisions of this paragraph, as amended by the Federal Aid Highway Act of 1975, shall be effective as of August 13, 1973.".

Mr. KENNEDY. Mr. President, first of all, I want to commend the chairman of the Transportation Subcommittee and the chairman of the Public Works Committee for their consistent readiness to listen, accommodate and respond to the concerns of those with differing views on this matter.

As the distinguished chairman of this committee, and the Senator from West Virginia has mentioned this during the previous exchange on the floor, I do want to say that I have not found either a chairman of a full committee or a subcommittee who have been more willing to provide an opportunity for any of us who have had differing views on these matters, to be able to express them and, to have them given thoughtful consideration than these two Senators. I think all of us who may have some differing views on the central thrust of a trust fund in the area of highways have to recognize their very significant leadership in this area.

I thank the chairman of the full committee (Mr. RANDOLPH). And how important this has been for his own State and for the general area of Appalachia, and how important that really is to our whole success as a nation. There are so many people, not only in West Virginia and Appalachia, but I think also in my own State of Massachusetts, who have benefitted from the Senator's tireless leadership in the development of the highway program. Any comments I would have must be put in that context.

Mr. President, I believe the current measure by consolidating many of the diverse categories of the highway program provides greater flexibility to the States in their highway planning. Also by repealing or consolidating some 11 categories, I believe that the bill furthers administrative efficiency.

Also, in altering the formula for interstate construction by establishing a new essential link concept, I too share the committee's view that the construction of noncontroversial but essential links be expedited.

I appreciate the action taken by the committee in its interstate transfer provision to provide for the proportional reduction of a State's interstate apportionment rather than one lump-sum reduction in the year of withdrawal.

That has great meaning to many States, and particularly to my own State.

Also, just as I have indicated in the past I do not oppose the highway construction, but I am concerned about a balanced transportation system. So I do support today the committee's inclusion of language to make permissible the use of moneys under the transfer provision for noninterstate highways as well as mass transit in the urban area.

This once again incorporates a flexibility that I support in permitting the planners to come up with the best solution to a community's transportation needs.

I think the committee has moved in an important way in recognizing the importance of maintaining the integrity of the Interstate System but also building in some degree of flexibility for the particular States that have special transportation problems. I believe the committee has been sensitive to this particular issue which, again, has significance in New England and in the State of Massachusetts.

However, I believe that the intent of the committee and of the Congress which 2 years ago established this transfer provision can be furthered. For that reason I am offering this amendment which is a technical amendment in many ways. It does not alter the basic concept of the program but merely promotes the purpose by removing the obstacles to its implementation.

It would simply modify the existing language in the bill to reinclude certain provisions that are already in existing law. These provisions prohibit penalizing a community for using the provision by lowering its UMTA funding or by recognizing repayments or invested funds. It also does this through treating mass transit projects being carried out under the transfer provision as if they were interstate projects in terms of recognizing the increasing cost of production. It also provides that all States, whether they previously have had their apportionments reduced, shall be treated as the committee recommends with a proportional rather than a lump-sum reduction in their apportionments.

We think that this will mean that in those communities affected there will be fast realization of the replacements transfer project. This basically follows the approach that has been included in the legislation. It does not alter or change the basic, sound policy decisions that have been made by the committee, but it does, at least in those particular areas, improve the functioning of the mechanism.

The Congress took an historic step in the 1973 Federal Highway Act by enacting the interstate transfer provision. Through this new law, Congress sought to permit State and local officials to withdraw interstate highway segments and to obtain for substitute transit projects an amount in general funds which is equivalent to the Federal cost to complete the withdrawn routes.

The key objective was to find a way for States to settle long-standing and often bitterly divisive disputes over interstate highways. The method chosen was to enable urban areas to get the controversial segments that they did not want to build off the interstate system and off the interstate cost estimate, with the beneficial effect of redirecting interstate apportionments to those rural and other States with interstate routes which they do want to build. At the same time, the law provides general funds so that urban areas have genuine fiscal alternatives for substitute projects.

Three urban areas, Boston, Philadelphia, and the District of Columbia, including the Maryland portion, have moved formally to undertake transfer of funds to transit projects. Moreover, several other urban areas, including, for example, Minneapolis-St. Paul, Minn.; Portland, Oreg.; Hartford, Conn.; Seattle, Wash.; New Orleans, La.; Denver, Colo.; and Phoenix, Ariz., are seriously considering transfer of funds from controversial, urban interstate projects. However, as recognized by the Senate Public Works Committee in section 106(d) of S. 2711, experience has shown that there are certain, very serious problems with the existing transfer provision. If we fail to correct these in the 1975 Federal Highway Act, we will substantially undermine the intent of Congress to provide financing for alternative highway and transit projects, and we will seriously jeopardize the availability of interstate highway apportionments for the interstate projects which are planned for construction in the States.

The Public Works Committee has sent to the Senate an amended interstate transfer provision which makes certain, substantial modifications designed to improve the transfer procedure. These are explained in the Senate committee report, No. 94-485, at page 9. I wish, therefore, to highlight only certain of these changes, and to describe the future amendments that we are offering on the floor today.

First, the committee bill has expanded the transfer provision to enable urban highway projects as well as mass transit projects to be substituted for the canceled Interstate segments. We wholeheartedly endorse this change, which will benefit many areas that do not want to build a controversial interstate route, but may want to implement a substitute busway or urban arterial street rather than a rail transit alternative.

The interstate transfer amendment contains language reported by the Public Works Committee which would expand the type of eligible substitute projects to include highway projects. Concern has been expressed that such language would limit the use of public transportation as the substitute project. A closer perusal of the interstate transfer mechanism shows that this should not happen.

First and foremost it must be realized that the entire interstate transfer mechanism rests upon the assumption that construction of a new highway in the affected urban corridor is inappropriate. Patently, those factors which led the community to reject the interstate highway would lead them to reject a "highway" substitute which requires the type of construction normally required for interstates.

Second, what is called a "highway" project in title 23, often entails construction of mass transit related highway facilities such as preferential bus lanes, and fringe and corridor parking facilities to serve mass transit facilities.

In other cases, many interstate highways now "dead end" near urbanized area borders because the extensions of those interstates through the urbanized area is controversial. Should that interstate segment be transferred there would undoubtedly need to be an alteration of existing street facilities to alleviate any traffic flow problems that arise. Furthermore it should be noted that substitute projects are processed in the same manner as other public transportation and highway projects. Thus the substitute projects must be subjected to close scrutiny to determine that they are the appropriate answer to the given transportation problem.

Finally, in urbanized areas, substitute projects, both highway type and public transportation, must be developed in accordance with the Department of Transportation's "Major Urban Mass Transportation Investments," policy regulation (Fed. Reg. vol. 40 No. 149 pt III). In part that regulation provides that:

> An analysis of alternatives should be undertaken in the development of the long-range plan and in the determination of the increment of the plan to be implemented. This analysis should include an assessment of the alternatives' impact on local and regional accessibility, air quality, energy consumption, neighborhood environment, community and regional development patterns, corridor traffic flows and modal choice, and other factors considered important by the area's residents.

Second, one of the most significant changes in the committee bill is to call for a proportional reduction in interstate apportionments when a State withdraws interstate segments. Under current law, the State receives general funds for substitute projects, but also suffers a reduction in its interstate apportionments each time it programs a substitute project. Moreover, the reduction is in the full amount of the approved substitute.

This dollar-for-dollar reduction in interstate apportionments can cause great hardships for States which want to withdraw certain segments but which also want to construct other, quite acceptable interstate projects as rapidly as possible. Indeed, as indicated in the committee report, the drain on apportionments can be so serious as to prevent a State from having apportionments sufficient to undertake either the substitute projects or remaining interstate segments.

The committee has quite laudably moved to correct this problem by requiring a proportional reduction in interstate apportionments for States which transfer following enactment of the 1975 Federal Highway Act. The amendment which I am proposing today clarifies that this procedure also applies to States such as Massachusetts, Pennsylvania, as well as the District of Columbia, which undertook transfers and suffered the dollar-for-dollar reductions called for under the old law.

Specifically, the amendment clarifies the intent of Congress in the eighth sentence of section 103(e)(4) of title 23, United States Code, as found in section 106(d), that pre-1975 act withdrawing State shall suffer a proportional reduction comparable to that applied to post-1975 act States, but that the pre-1975 act States should not be penalized by suffering both the dollar-for-dollar reductions under the old rules, and then a proportional reduction under the new rules.

To this end, it is specified in the amendment that after calculating the proportional reduction in the unobligated balance of interstate apportionments on the date of enactment of the 1975 act, these States would receive a credit against that reduction for the dollar amount of reductions in apportionments already taken as a result of substitute projects approved prior to the act.

Third, there is an urgent need to correct a basic problem with the transfer statute which is preventing many areas from using the new procedure. The problem is the toll that inflation is taking on the real value of transfer funds made available for substitute transportation projects.

Last year, the Congress recognized this problem to the extent that increases in the amount of the sum transferred were permitted, in accordance with the rate of inflation in construction costs of the withdrawn segments, up to the date of withdrawal. Nevertheless, there remains a strong fiscal incentive for States to try, even though they are experiencing serious controversies over the merits of a particular interstate segment, to keep that segment on the Interstate System. The reason that States play this game of going forward with the disputed segments is that escalation in the sum transferred due to inflation stops the minute that the withdrawal of segments is approved by the Secretary of Transportation. The result is that States are tying up Interstate Highway funds for segments that will likely never be built, which only serves to delay the implementation of more suitable transportation substitute projects and to distort the flow of interstate apportionments to those States that could well use them.

To correct this problem, we are today offering, as part of our overall amendment, a provision which permits the sum transferred under the statute to be increased or decreased in accordance with changes in construction costs of the withdrawn segments from the date of the relevant cost estimate to the date of enactment of the 1975 Federal Highway Act, or to the date of approval of each substitute project, whichever is later for a given State. This provision also means that for those States which seek to implement more than one substitute urban highway or transit project with transferred funds, the balance of the transfer account after approval of a substitute will continue to be subject to cost escalation under the amendment until such time as the account is fully utilized.

A key benefit for all States under our amended provision is that they may use the transfer procedure to delete controversial segments from the system without facing drastic cuts in the real value of their transfer account while substitute projects are reviewed and approved by the DOT. I would note in this regard that Massachusetts, which withdrew its interstate segments in May of 1974, has faced substantial delays in the processing of substitute transit projects and can testify to the need for an inflation provision which mitigates the impact of gross delays on the real value of the transferred funds. The corollary of the provision that we are offering here is that the DOT will have an incentive with us to move quickly on the approval of substitute projects, lest delays cost them substantial Federal funds which otherwise would be made available under the inflation provision.

Fourth, and related to the amendment which we have just described, are provisions in the second sentence of section 103(e)(4), as amended here, which base the transfer sum on the "latest cost estimate approved by Congress" prior to the withdrawal of segments.

This amendment seeks to implement

fully the original intent of Congress, which was that all urban area segments on the Interstate System should be eligible for withdrawal and transfer of funds if the State Governor and concerned local governments joined together to use the transfer provision. To place arbitrary restrictions on the applicable cost estimate would be to countervene the effort of Congress to eliminate from the system bogus interstate segments that are tying up much needed interstate apportionments while thwarting the effort of officials in urban areas to implement substitute projects more suitable to their needs.

Fifth, a major stumbling block to the use of interstate transfer has been the threat of the U.S. DOT to require a substantial repayment of Federal funds earlier received in good faith by a State for interstate segments which are withdrawn under interstate transfer. This threat has recently been made tangible in the form of proposed DOT regulations which call for substantial repayment by transferring States. The effect of this is to apply a Federal administrative policy which only serves to thwart the Federal policy, articulated by Congress in interstate transfer statute, to enable States to settle their divisive and costly disputes over interstate highways without Federal financial penalties in the form of lost Federal transportation aid. The new, 10th sentence of the transfer provision, as shown in the amendment we are offering today, would make clear the intent of Congress that no such penalty should be exacted and that withdrawing States should suffer no repayment demands by the executive branch.

Sixth, the existing interstate transfer law contains a provision which states that transit transfer funds shall be supplementary to and not in substitution for transit funds which might otherwise be received under the 1964 Urban Mass Transportation Act, as amended. The intent of Congress in 1973 was to mandate that the U.S. Secretary of Transportation not cause a reduction in an urban area's funding under the regular UMTA capital grant program after a transfer is approved in that area. If such a reduction were countenanced by Congress, the transfer policy and the options which we have worked to create would effectively be destroyed.

Consequently, the amendment offered here today restores this provision, with the effect of retaining the congressional mandate that no such reduction in UMTA grant allocations shall be made because of the use of the transfer provision.

Finally, included in the last sentence of the transfer amendment is a provision which clarifies the intent of Congress that the benefits of the amended transfer statute shall apply equally to States which have already undertaken transfers, such as Massachusetts and Pennsylvania, as well as to States which transfer following enactment of the 1975 Federal Highway Act.

When viewed together, the amendments which we offer today, if enacted as part of a modified interstate transfer provision, will serve to promote the implementation of urban highway and mass transit projects that truly serve the transportation needs of our urban areas, while also aiding in the redistribution of interstate highway apportionments to urban and rural areas which can use the funds to build needed interstate highway projects.

I had a chance to talk this over with the manager of the bill, and the ranking minority members. I hope this amendment will be accepted.

Mr. BENTSEN. Mr. President, I have examined the proposal of the distinguished Senator from Massachusetts, and it is a meritorious one.

What he is really doing is updating the transfer payments that would be provided for, given the most recent cost estimates that might be available.

Another provision of the amendment is that a State receiving the transfer would not have to pay back the money if it already received money on the interstate before the transfer became valid.

They have a similar provision in the bill as it came over from the House. I would be pleased, as the floor manager of the bill, to accept the amendment and yield back the remainder of my time, subject to the distinguished leader of the minority on the committee.

Mr. STAFFORD. Mr. President, the minority is also prepared to accept the amendment of the distinguished Senator from Massachusetts.

Mr. RANDOLPH. Mr. President, I rise only to thank the Senator from Massachusetts for his earlier comment and to say that here I think he gives an orderly opportunity to move forward. He, in a sense, is adjusting for the rampant inflation that is present. I believe the amendment is merited. I need not repeat what has been said in the agreement of Senator BENTSEN and Senator STAFFORD.

I appreciate what the Senator has said, that we need to counsel together constantly. Changes do occur and problems do arise. This is one which the Senator well calls to our attention. We are gratified for the privilege of cooperating with the Senator.

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time and move the acceptance of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BENTSEN. I recognize the distinguished Senator from Louisiana, Mr. President, for the purpose of offering an amendment.

Mr. KENNEDY. Mr. President I move to reconsider the vote by which my amendment No. 1220 was agreed to.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) offers the following amendment:

On Page 18, delete lines 19 through 24 and insert in lieu thereof the following:

"(6) For the Interstate System for the fiscal year 1978 through 1980: (A) three-fourths in the ratio which the estimated Federal share of the cost of completing the Interstate System in each State bears to the sum of the estimated Federal share of the cost of completing the Interstate System in all of the States; and (B) one-fourth in the ratio which

Mr. JOHNSTON. Mr. President, under the present law interstate highway funds are distributed on the basis of the proportion of the uncompleted work in dollar amounts that your State has compared to the total of all States.

Under this bill, 50 percent of the funds would be apportioned as in the prior law. That is, on the basis of proportion of uncompleted work. The other 50 percent under this bill is apportioned by what is a new term in the law, that is, routes of national significance. A route of national significance is an interstate route connecting two parts of the system. That is, parts of the system which are deemed by the Secretary, after consultation with the States, to be of importance to the Nation as a whole, as opposed to certain circumferentials around certain cities.

Mr. President, just today in investigating what the Department of Transportation had to estimate about the effect of this amendment, we found that it made very serious and deep cuts in the allocations to several States. These are only estimates, of course, but based on those estimates they cut some States, such as Louisiana and Maryland, by a tremendous amount. They cut Louisiana by some $39 million and Maryland by some $54 million a year.

Based on these estimates the cuts were so deep that we simply had to appeal for help.

Mr. President, we brought our case up to the distinguished Senator from Texas (Mr. BENTSEN) and the distinguished chairman of the committee (Mr. RANDOLPH).

We frankly appealed for help because those States which were getting the cuts recognized that we were in a minority. I have been around this Senate long enough to know that when we are dealing in dollars and apportionment on highways, the amount of votes one will get will be the number of States that are helped and hurt. Virtually every time we vote on a question like this, that is the way it shakes out. We did not have the votes, but I think out of a feeling of reasonableness, out of a feeling of compromise, you might say generosity, the Senator from Texas and the distinguished chairman, I believe, are prepared to accept this amendment.

What this does, Mr. President, is instead of dividing 50 percent of the funds according to this new concept of route of national significance, it simply reduces that amount to 25 percent so that 75 percent of the funds allocated under this bill, if this amendment is agreed to, will be allocated as under the prior law. That is, based on a percentage of your roads and costs, that percentage that they bear to the interstate system as a whole.

To say I am pleased with this amendment, Mr. President, pleased to offer it, would not be a correct statement because it still cuts my State, under my own amendment, by some $19 million or $20 million, if the Department of Transportation preliminary estimate is correct. I hope that preliminary estimate is not correct. But it at least saves half of a disastrous situation. We think it improves the bill considerably.

I want to express my appreciation to the distinguished Senator from Texas and the distinguished chairman from West Virginia for their usual compassion and understanding of the problems of States such as Louisiana.

Mr. BENTSEN. Mr. President, let me say that the distinguished Senator from Louisiana has presented his case to the chairman of the full committee and the floor manager in a very forceful, persuasive, and eloquent way.

What we are trying to offer is not compassion. What we are trying to give is speed. The objective of the committee and the objective of the administration was to try to complete the system as expeditiously as we can, and particularly to connect the cities. But what we have been faced with is the problem of lawsuits in many of the cities in the Senator's own State and many others, perhaps for very good and sufficient reasons, but lawsuits that have tied up the expenditure of interstate funds. We are trying to see that interstate funds are put to work in a fair way and one which will move this system along more rapidly.

But after listening to the distinguished Senator from Louisiana and some of the others who were concerned, and seeing that perhaps we had gone too far, and that we should give them some more time to accommodate to this kind of change, I for one, as the manager of the bill, am quite willing to accept this kind of compromise.

I have found long ago that in the Senate democracy is a consensus of conflicting interests, and that is what we have tried to bring about, a consensus that would provide as much equity as we can and still achieve the objective of the early conclusion of this interstate system.

I yield to the distinguished ranking minority member.

Mr. STAFFORD. I thank my chairman for yielding.

Mr. President, I can understand the concern of the Senator from Louisiana over the impact of this bill on his State, and that of the Senator from Maryland over the impact of the bill on his State; but I would have to say that the determination would in the final analysis have to be made by the Secretary of Transportation, after consultation with the States, and that has not been done at this time.

But out of concern for equity in the treatment of all of the States of the Union, I am prepared to join the manager of the bill on the majority side in accepting the distinguished Senator's amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. McCLURE. Mr. President, will the Senator from Texas yield for a question with regard to the pending amendment?

Mr. BENTSEN. I yield.

Mr. McCLURE. I know the Senator from Louisiana points to an obvious defect in the language adopted in the committee bill, but is it not also true that the apportionment of the interstate money has shifted between the States on a year-to-year basis as the proportion of the uncompleted Interstate System has changed from year to year, so that simply to say that this reduces the amount which they would have gotten under the old formula in no way necessarily relates to the amounts which they received in prior years? Is that not correct?

Mr. BENTSEN. The Senator is absolutely correct on that.

Mr. McCLURE. So that when we moved away from the allocation on the old formula basis, it was with the recognition that some States have done a better job of getting their interstate systems completed and some States have fallen behind in that process.

The old formula rewards the States in the distribution of the money. Maybe "rewards the States" is the wrong term. At least it increases the apportionment to the States that lagged in the construction of their interstate programs. Is that not correct?

Mr. BENTSEN. Yes, that is correct.

Mr. McCLURE. That is one of the problems that many of the States are finding under the old formula, that the ones that moved very rapidly in the construction of the Interstate System now find that the rest of their systems were neglected during that time, because they had to underfund some of their so-called A, B, and C systems and had to spend a higher proportion of their funds on the Interstate System, and as the proportion of the money to States with incomplete systems rises, it imposes an ever greater burden on those that have moved ahead very expeditiously in completing their interstate systems.

So, on the surface, it looks as though the Senator from Louisiana is entirely correct in pointing to an unfairness to a group of States, and that there is really a balance being drawn in which there is also unfairness to the States that moved very quickly and completed their systems on or ahead of schedule.

Mr. BAKER. Mr. President, will the Senator from Texas yield to me very briefly?

Mr. BENTSEN. I yield to the Senator from Tennessee.

Mr. BAKER. The Senator from Idaho, of course, is correct in his evaluation of the situation. I would only add that when the Senator from Maryland (Mr. BEALL) brought this matter to my attention and that of the manager of the bill on behalf of the minority (Mr. STAFFORD), he pointed out then that he understood that in the readjustment of the formula, you always have a variation in the relationships of the States.

In this particular case, I believe I am correct in saying that there are 13 States under the 50-50 formula that get less money than they would have under the old formula unchanged.

We are then confronted with this question: Are 13 States too many or too few to receive less money as the price of adjusting the formula to a situation that is more current and equitable?

I think there is no definitive answer to that, and in deference to the urgings of the Senator from Maryland and the eloquence of the Senator from Louisiana, I think all of us agree that rather than 50-50, a 75-25 formula would at least reduce the impact of reallocation for this time.

I do not disagree with what the Senator from Idaho has said, and I do not disagree with the positions stated by the Senator from Louisiana or the Senator from Maryland. It is just that we have got to meet these circumstances; we have to find the numbers that will do the most equity under the circumstances; and I think that is followed by this amendment, which I support.

Mr. McCLURE. Mr. President, will the Senator from Texas yield further?

Mr. BENTSEN. I yield.

Mr. McCLURE. I think it ought to be pointed out as well that some of the States that will benefit from the change in formula now being suggested in the amendment of the Senator from Louisiana are States that have not used all of their prior apportionments. Some of these States have not completed the expenditure of all of their 1974 apportionments, and have used none of their 1975 apportionments, and yet are receiving a major apportionment as a result of this amendment, which they will not spend.

The reason I mention this is that I think we should not just walk by the implications of this amendment without addressing ourselves to the fact, as we approach the end of the construction of the Interstate State System, that there are going to be several different adjustments that have to be made, and that we should never approach the adjustments simply on the basis that some States are going to get a little less money than under the old formula, because we are going to be constantly shifting the application of the old formula to adjust to the conditions created by the completion of the Interstate System, and the States do not complete the system at the same proportion or percentage of completion year by year.

I do not resist the amendment at this time. I think the Senator from Louisiana has obviously done something which will benefit his State. The Senator from Maryland ought to get some plaudits from the people of his State for having assisted in getting more money for his State.

But it does obscure the fact that there is going to have to be an adjustment as we get to the end of the Interstate System, and that that adjustment cannot, every year, be measured on the basis of who gets more or on the basis of who gets less on the basis of last year's formula.

I thank the Senator from Texas for yielding.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. BENTSEN. I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BUMPERS). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from Florida for the purpose of offering an amendment.

Mr. STONE. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, between lines 19 and 20, insert the following:

SEC. 115. (a) Title 23 of the United States Code is amended by inserting after section 118 a new section as follows:

"COMPLETION OF THE INTERSTATE SYSTEM

"SEC. 119. (a) Any State may submit to the Secretary a program for the expeditious completion of the Interstate System in such State, including a proposal for the issuance of bonds or other obligations of such State to obtain the necessary funds to cover the cost of such completion based on the estimate of the cost to complete the National System of Interstate and Defense Highways submitted to the Congress by the Secretary on January 15, 1977, subject to increase or decrease, as determined by the Secretary based on changes in construction costs for the interstate routes to be completed as of the date of such proposal. The proposal should include provisions for the payment of any necessary costs in excess of such estimates. The Secretary is authorized to approve such program in accordance with provisions of this title relating to approval of programs on the Interstate System, and as part of such approval shall enter into a contractual arrangement on behalf of the United States to pay, over a twenty-year period, the principal and interest on such bonds or other obligations. No project may be approved under this subsection after September 30, 1984, and all projects must be under contract no later than September 30, 1985.

"(b) The provisions of sections 120 and 122 shall not apply to program approvals entered into pursuant to subsection (a).

"(c) No State including the State of Alaska shall receive in any one fiscal year less than one-half of 1 per centum of the aggregate payments to all States for the liquidation of obligations under subsection (a). Funds paid to any State under this subsection shall be available for use on any Federal-aid system if a State has repaid all obligations incurred under subsection (a).

"(d) After September 30, 1979, no apportionments shall be made pursuant to section 104(b)(5) of this title. Any State not completing the portion of the Interstate System within such State under a program pursuant to subsection (a) may use amounts apportioned to it under section 104(b)(1) subject to Federal share requirements with respect to amounts allotted under such section, for the completion of the Interstate System within such State.

"(e) The Secretary shall make an annual report to Congress with respect to all activities pursuant to this section.

"(f) There are authorized to be appropriated such amounts as are necessary to make payments contracted for under subsection (a) and pursuant to subsection (c).

"(g) Any funds apportioned prior to September 30, 1977, under section 104(b)(5), and not otherwise obligated, shall be used to liquidate obligations incurred under subsection (a).".

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by striking out:

"119. (Repealed Public Law 86-70.)

and inserting in lieu thereof:

"119. Completion of the Interstate System.".

On page 25, line 21, strike out "Sec. 115" and insert in lieu thereof "Sec. 116", and redesignate the remaining sections in the bill accordingly.

Mr. STONE. Mr. President, this amendment is identical to S. 2576, the bill which I introduced together with the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH) and also my distinguished senior colleague from Florida (Mr. CHILES).

The bill has received extremely fair treatment at the hands of the distinguished subcommittee chairman, the Senator from Texas (Mr. BENTSEN).

What it would do is to allow the bonding of these revenues by the States in order to accelerate completion of the Interstate System by a number of years, and when compared with the inflation rate, accelerated in the cost of building the Interstate System year after year, a rate which exceeds 10 percent a year most years, and when that is compared with the cost of servicing the bonds that would accelerate the completion of this system, the savings are immense, together with the convenience of having an Interstate System to ride on many years, even a decade or more in advance of the completion date that now we have to contemplate.

This bill was considered at the markup thanks to the consideration of the subcommittee chairman and the full committee chairman, even though hearings had not yet been held.

Mr. President, today I am offering an amendment to S. 2711 which would accelerate the completion of the Interstate Highway System by providing States with the opportunity to bond the costs for completing the remaining segments of the Interstate Highway System. In addition to the bonding program, this amendment would establish a final date terminating the Federal funding commitment for the Interstate Highway System.

The amendment I am offering is identical to S. 2576, a bill which I introduced on October 28 with the distinguished chairman of the Public Works Committee and my distinguished senior colleague from Florida. I congratulate both Chairman RANDOLPH and the distinguished chairman of the Transportation Subcommittee (Mr. BENTSEN) for considering this legislation during their final markup session despite the fact that no hearings had been held. While I am pleased that the full committee acknowledged the potential benefits of a bonding proposal which would accelerate the completion of the Interstate System by authorizing the Department of Transportation to conduct a 9-month study, I am disappointed that S. 2576 was not included in S. 2711.

I believe that the benefits of reducing the total amount of Federal funds necessary to complete the Interstate System as well as providing our citizens with safe and efficient highways warrants the immeditae enactment of this legislation.

The Federal Highway Administration has estimated that as of January 1, 1974 about $34.7 billion—which is 38.8 percent of the total estimate cost to complete the Interstate Highway System of $89.2 billion—remained to be obligated by the State and Federal Governments. This estimate was made without any reference to the impact of future inflation which historically has been 10 percent annually. Given the present level of funding and the present rate of inflation, the General Accounting Office has recently estimated that the construction of the Interstate Highway System will not be finished until the year 2009. Even if the level of funding is increased from the current level of $3.25 billion per year to $3.7 per year, the system will not be completed until 1996. The effects of the extended period of time necessary to complete the Interstate System are greatly increased construction costs, increased highway accidents, fatalities, and the increased inconvenience to our citizens.

The Federal Highway Administration's estimate of the cost of the Interstate Highway System has increased by $62.3 billion between the 1958 estimate of $37.6 billion and the present estimates of $99.9 billion. Unfortunately, there are no indications that the inflation rate of construction costs, which are heavily dependent upon petroleum and natural gas costs, will level off in the near future. The General Accounting Office has reported that between the calendar years 1973 and 1974 the Highway Administration's composite construction price index rose by 32.4 percent.

In a recent study the Comptroller General has illustrated the effect various rates of inflation will have upon the total cost of completing the Interstate System. This study indicates that using the present level of funding and the current inflation rate of 10 percent, the estimated completion cost would increase to a total of $123.4 billion. Even if the present level of funding is increased to $3.7 billion, as proposed by the administration, the total cost to complete the system would still exceed $81 billion. If the States were permitted to undertake the bonding proposal included in S. 2576, the total cost to complete the Interstate System would be approximately $72.8 billion—a savings to the Federal Government of almost $10 billion. Furthermore, under the present method of funding the last section of the Interstate System will not go to the contract until the year 1977 and will probably not be completed during this century. Under the bonding proposal contained in S. 2576 the last section would gc to contract in 1983 and the entire system should be completed by 1986.

In addition to reducing Federal expenditures by $10 billion and providing our citizens with a completed Interstate System 15 years earlier than presently contemplated by the administration, the adoption of this amendment would also provide a much needed stimulus to our construction industry.

The problems caused by the increased cost of construction and the delays in completing the interstate system have been particularly severe in my State of Florida. The Florida State Department of Transportation has estimated that under the present level of funding, millions of our citizens traveling in Florida will be subjected to the hazards of overcrowded and unsafe highways until after the year 2000. Recent studies highlighting the safety benefits associated with the Interstate Highway System indicate that the rates of traffic fatalities and injuries per vehicle mile traveled on the Interstate System were about one-half or less of the injuries sustained on all other roads and streets combined. By adopting legislation which would accelerate the completion of the system by 15 years, Congress can prevent thousands of needless traffic fatalities.

The amendment I am introducing today provides States with the opportunity to issue bonds based upon a binding contractual obligation of the United States to pay the principal and interest over a 20-year period. This amendment would reduce the cost effects of inflation by permitting States to complete immediately the Interstate Highway System without waiting for their apportionment. This amendment also requires that any State wishing to participate in this bond program submit their projects to the Secretary of Transportation and issue their bonds by September 30, 1984. Furthermore, all projects funded under this program must be let for construction by December 31, 1984. Any State that does not choose to participate in this program or that has not completed the construction of its interstate segments prior to December 31, 1984, will be required to fund remaining construction of the interstate segments out of the general highway funds. In essence, this program will insure that all States wanting to take advantage of the 90/10 matching funds available under the Interstate Highway System will either complete or bond the costs of completing their segments of the system by December 31, 1984. Should this amendment be enacted the longstanding and seemingly endless commitment to the Interstate System will be ended by 1985 and thereby allow the Federal Government to adequately address other needs for improving transportation.

Mr. President, at the time I introduced S. 2576, the Transportation Subcommittee was in the process of completing the markup of the Federal Highway Act of 1975. Because of the far-reaching effects and potential benefits associated with my proposal, the distinguished chairman of the subcommittee (Mr. BENTSEN) agreed to place this bill on the full committee agenda despite the fact that time constraints had prevented formal hearings. In deferring the formal consideration of S. 2576 until the full committee markup session, Senator BENTSEN requested that the Federal Department of Transportation conduct an analysis of the effects of S. 2576.

Unfortunately, the pressing time constraints prevented the Department of Transportation from undertaking a careful and well-formulated analysis. The informal analysis which the Department of Transportation presented to the full committee on the day of the final markup session opposed the enactment of S. 2576. It was for this reason the committee decided to authorize the Department of Transportation to conduct a complete study analyzing the financing methods included in S. 2576.

Upon receiving a copy of the the Department of Transportation's report, I requested the Florida Department of Transportation and the Georgia State Department of Transportation to conduct a thorough analysis of S. 2576. The results of both State Departments of Transportation raise serious questions with respect to the cash-flow analysis used by the Federal Department of Transportation and fully reject the conclusion reached by the Department. According to the Georgia study, which used the same assumption as the Federal Department of Transportation's analysis, the enactment of S. 2576 would reduce Federal expenditures by $9.4 billion, open the entire Interstate System for traffic by 1985, and fully retire all bonds by 1991.

Mr. President, it is for these reasons I urge the Senate to adopt this amendment.

I appreciate the remarks of the distinguished Senator from West Virginia and the distinguished Senator from Texas. Upon receiving their assurances that timely hearings will be scheduled to consider the results of the Department of Transportation's study, I respectfully withdraw my amendment.

Mr. President, I ask the distinguished Senator from Texas if he feels that this proposal can be considered on its merits at an early time by the committee.

Mr. BENTSEN. I say to the distinguished Senator from Florida that we have looked on his proposal. It is a very serious and innovative proposal. We sent that proposal to the Department of Transportation, and after 2 or 3 days looking at it on their part and only then they decided to recommend against the proposal.

I frankly think it deserves more study than that. It is a far-reaching amendment and can have considerable economic impact.

We are not sure of its ramifications and that is one of the reasons we have authorized a study of the proposal, but I wish to also assure the Senator that this is not just a study we will have and then forget. I wish to have some early hearings after that study is made, and I will look forward to the testimony from the Senator from Florida.

Both Senators from Florida were deeply interested in this as well as some other Members of this Senate.

But I wish to have the availability of that study before we do it. We shall be pushing to that end.

Mr. STONE. I thank the distinguished Senator from Texas.

I say to the distinguished Senator from Texas that when the Department of Transportation, the Federal DOT, had made its preliminary analysis and an adverse recommendation, the State Departments of Transportation of both Florida and Georgia analyzed their analysis and found their cash flow approach to be wanting, not accurate, and not appropriate to the proper analysis of this condition.

But I do anticipate that, with further study by the U.S. Department of Transportation, we will come to see that when they compare the inflation rate of building these roads stretched out over years compared with the servicing of bonds and early completion the soundness, both in terms of having a system to ride on much earlier and actually in terms of the savings, will indicate that this would be something the committee could look with favor on.

Mr. RANDOLPH. Mr. President, the Senator from Florida (Mr. STONE) has raised an issue which should be thoughtfully considered by every Member of this body.

The Interstate Highway System has been called the world's greatest public works project, a description that reflects not only its scope and impact, but also its cost. It is now estimated that the completed system will cost more than three times the amount originally foreseen in 1956. For a variety of reasons, it also will require considerably more than the original 16 years of construction time, a deadline that if met would have seen the last interstate finished 3 years ago.

While 87 percent of the system is open to traffic, the remaining portion will surely be the most costly on a per-mile basis. At least $39 billion will be required to complete the remaining interstate highways, and the cost certainly will go higher because of continuing inflation.

Rapid, unchecked price rises are a major cause of the situation in which we find ourselves today. The cost-price index for highway construction has risen by 203.6 percent since 1967, meaning that roadbuilding costs more than twice what it did then.

Mr. President, many States can actually progress very little when today's costs are measured against the relatively stable apportionments for the Interstate System. At the present authorization level it could be the next century before the system is finally finished.

On October 28 I joined with Senator STONE and Senator CHILES to introduce a bill intended to help resolve the interstate financing dilemma and permit the States to accelerate the building of this important highway network. It would allow States to issue bonds for interstate work and to have them retired over a 20-year period by Federal interstate authorizations.

This approach, I believe, would speed completion of the system at a reduced cost. The provisions of this bill were discussed by the Committee on Public Works when it was writing the Federal-Aid Highway Act of 1975. I recognize that it is a unique approach, even though the original plans for the Interstate System were based on bond financing.

Members of the committee share my desire to see the Interstate System completed. They felt, however, that the bond proposal required extensive study, more than we could give it in this short time. The bill before the Senate, therefore, contains provisions for a study of alternative means of financing the Interstate System. The Secretary of Transportation is required to conduct the study and report to the Congress on his findings and recommendations within 9 months.

The Secretary's report will give us additional information on which to base decisions on how best to complete the Interstate System. It will be received in time to be useful in our examination of the general future of the highway program.

The Senator from Florida (Mr. STONE) is fully aware of the vital importance of the Interstate System and its timely completion. I am glad that he provided us with the opportunity to discuss our thoughts on this subject at this time.

Mr. STONE. In light of the distinguished subcommittee chairman's commitment to hold early hearings and seriously consider this proposal, I at this time ask for the withdrawal of my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from Alaska for the purpose of offering an amendment.

Mr. GRAVEL. I thank our colleague from Texas.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

ESTABLISHMENT OF COMMISSION

SEC. 139. (a) (1) There is hereby established a National Transportation Policy Study Commission (hereinafter referred to as the "Commission") which shall be composed of twenty-five members appointed as follows:

(A) six appointed from the membership of the Committee on Public Works, Committee on Commerce, and Committee on Banking, Housing and Urban Affairs of the United States Senate by the President of the Senate;

(B) six appointed from the membership of the Committee on Public Works and Transportation and the Committee on Interstate and Foreign Commerce of the House of Representatives by the Speaker of the House;

(C) five appointed by the President, one each to represent the Federal Highway Administration, Federal Railroad Administration, United States Army Corps of Engineers, Federal Aviation Administration, and Interstate Commerce Commission;

(D) four appointed by the President, one each to represent the waterways operators, the trucking industry, the airline and air freight industry, the railroads; and

(E) four from among members of the public who have particular knowledge and expertise with respect to transportation appointed by the President.

(2) Any vacancy in the Commission shall not affect its powers, and shall be filled in the same manner as the original appointment.

(3) The Chairman of such Commission shall be elected from among its members.

DUTIES OF THE COMMISSION

The Commission shall make a full and complete

(b) (1) The Commission shall make a full and complete investigation and study of the transportation demands and of the resources, requirements, and policies of the United States to meet the expected demand. It shall evaluate the relative merits of all modes of transportation in meeting our transportation needs. Based on such study, it shall recommend those programs and policies which are most likely to insure that adequate transportation system is in place which will meet the needs for movement of goods and people in our industrial society.

(2) The Commission shall submit to the President and to the Congress a report with respect to its findings and recommendations not later than two years after the enactment of this Act.

(3) Such report shall include the Commission determinations with respect to—

(A) the Nation's projected transportation needs, broken down into regional areas, for the remainder of this century;

(B) the ability of our current transportation network to meet the projected needs;

(C) the proper mix of highway, rail, waterway, and air transportation systems to meet anticipated demands;

(D) the existing policies and programs of the Federal Government and of State and local governments, which impact the development of our national transportation systems; and

(E) the new policies and programs required to develop a balanced national transportation system which will meet established demand.

POWERS AND ADMINISTRATIVE PROVISIONS

(c) (1) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable.

(2) Each department, agency, or instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(3) Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

(A) to appoint and fix the compensation of such staff personnel as he deems necessary, and

(B) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

(d) (1) Any member of the Commission who is appointed from the executive or legislative branch of the Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for traveltime, per diem in lieu of subsistence and other necessary expenses incurred by him in performance of duties while serving as a Commission member.

(2) Members of the Commission, other than those referred to in subsection (b), shall receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in lieu of subsistence and other necessary expenses incurred by him in performance of duties while serving as a Commission member.

COMMISSION EXPENSES

(e) There is authorized to be appropriated, for use in carrying out this Act, not to exceed $10,000,000.

EXPIRATION OF THE COMMISSION

(f) The Commission shall cease to exist ninety days after the submission of its final report.

Mr. GRAVEL. Mr. President, the amendment that I propose will create a commission to study national transportation policy and to recommend programs and policies to meet our future transportation needs.

Our transportation system has many facets, all vital to the Nation as a whole and all instrumental in the growth of the United States.

Waterways are liquid highways for the economical transportation of food, energy, and industrial supplies, and other commodities. Harbors are terminals which both receive goods from beyond our shores and supplies shipped from within our boundaries. Railroads played a major role in opening up the West and remain essential carriers of necessary materials. Highways have made us, on an individual basis, the most mobile Nation in the world. Mass transit has prevented our cities from choking. And aviation has opened up horizons undreamed of by our Founding Fathers.

All of these modes of transportation have been the subject of numerous studies and extensive research. But there has never been a national effort to take all these facets and tie them together.

We have no idea of the relative costs of, or the interrelationship between water, air, rail, and highway transportation. All of them have grown on an individual basis at different periods in our development.

We do not know, in precise terms, what the effect of improving one transportation mode would be on another, competing mode, in the same geographical area.

We do not know the effect on the ulitimate consumer of the cost associated with transportation programs that are currently being developed and implemented.

Several months ago the Secretary of Transportation issued a preliminary statement of national transportation policy. I applaud this effort, which we have been waiting for since the creation of the Department nearly 10 years ago.

I believe, however, that an adequate national transportation policy cannot be formulated at this time.

In transportation, the fragmented responsibilities among congressional committees and Federal agencies has complicated the development of coordinated policy. There has been no attempt to achieve a balance among competing transportation modes that would produce the most efficient system for the Nation as a whole.

I believe it is time for the Federal Government to take a positive leadership role in the development of a national transportation policy. Such a policy must be based on a compendium of knowledge which has not yet been developed and on the aggregate of knowledge that we presently have but has not been brought together. We need a joint effort of qualified people representing the Congress, Federal agencies, the transportation industry, and the public.

The amendment that I am offering today will establish a 25-member commission. The membership will come from the appropriate congressional committees, Federal agencies, transportation industry, and the public.

I would hope that with respect to the membership that would come from the public the President would call upon, be nominating and appointing these people members of academia, consumers and, of course, environmentalists.

The Commission is directed to make a full and complete investigation and study of our transportation demands and the resources and policies which presently exist to meet these demands. The Commission will evaluate the relative merits of all mode of transportation in meeting our needs. At the conclusion of the study, which is to take 1 year, the Commission will recommend the programs and policies most likely to insure that an adequate transportation system will succeed in meeting the needs for the movement of goods and people in our society.

I believe this bill is the appropriate context in which to establish a commission to study transportation policy. This highway bill is designed to facilitate the consideration of various highway funding alternatives by the House Ways and Means Committee and Senate Finance Committee. These committees should have before them recommendations on future transportation policy as they address the question of continuation of the Highway Trust Fund.

This amendment provides the mechanism to recommend transportation policies and put them before Congress at a time when critical transportation legislation is being debated. I recommend this amendment to our colleagues and hope that the Manager of the bill will accept it.

Mr. BENTSEN. Mr. President, I commend the Senator from Alaska for proposing the Commission on Transportation.

I have long talked about trying to develop a balanced transportation system in this country, whereby we give full consideration to water transportation and rail transportation and highway transportation and the other modes. I envision this to be along the lines of the National Water Quality Commission, of which I am a member.

What the Senator has stated is quite true, that we must have the advantage of this kind of study before we decide what the ultimate objectives of the Highway Trust Fund should be. That is one of the reasons why I moved in the Committee on Finance the other day for a simple extension of the Highway Trust Fund, for a couple of years, so that we could have the advantage of the Senator's study at the time we decide what changes, if any, should be made in the Highway Trust Fund.

I am going to introduce a measure calling for a single transportation committee in the Senate. Today, we have six committees in the Senate that consider transportation. Certainly, it is fragmented. Our committee has a difficult time keeping up with what the other five committees are doing with their particular parts of the transportation system. We should try to bring it all together in one committee with that responsibility. Hopefully, before too many years, the Senate will act on that proposal and try to bring it all together.

As the floor manager of the bill, I am delighted to support and accept the amendment of the distinguished Senator from Alaska.

I yield to the ranking minority member of the committee.

Mr. STAFFORD. I thank the Senator for yielding to me.

For the minority, unless some Member wishes to speak, we are prepared to accept the amendment.

Mr. GRAVEL. I thank the managers of the bill for their graciousness.

The **PRESIDING OFFICER.** Is all time yielded back?

Mr. BENTSEN. I yield back the remainder of my time.

Mr. GRAVEL. Mr. President, I note that the Senator from West Virginia, the chairman of our committee, is in the Chamber. I got the idea for this as a result of seeing the action and leadership he has shown with respect to Senate Resolution 45, and after that I had the benefit of the knowledge that was available with respect to the Water Act.

I yield back the remainder of my time.

The **ACTING PRESIDENT** pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, I call up my amendment which is at the desk.

The **ACTING PRESIDENT** pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Nevada (Mr. CANNON), for himself and Mr. LAXALT, proposes an amendment:
>
> On page 43, line 15, after "amended" insert the following: "(1) by inserting after '1976,' the following: '$12,500,000 for the transitional quarter ending September 30, 1976, and $50,000,000 for the fiscal year ending September 30, 1977,', and (2)".

Mr. CANNON. I yield myself 4 minutes.

Mr. President, the purpose of this amendment is to extend the authorization for the railroad-highway crossing demonstration projects which were begun with such promise several years ago and provide additional funds for the transition quarter and for fiscal year 1977. One of these projects in my State at Elko has proceeded with dispatch. The environmental impact statement has been approved and construction can begin in late 1976.

The authorization for this program expires at the end of the present fiscal year and the committee bill provides that presently authorized funds remain available until expended. Those funds are insufficient to complete the projects. To continue to progress, then, the projects will have to compete with other highway projects for a share of State allocated urban system or trust funds. That will be difficult for many of these projects and particularly so for Elko.

Elko, Nev., has a population of less than 10,000. It is not eligible for urban system funds which can only mean the project will be left high and dry under this bill with the project in some degree of semicompletion. To begin projects and then abandon them is shortsighted and doubly wasteful, Mr. President. The benefits of the project are lost and the money already expended is unavailable for other useful purposes.

I believe these specific projects, once begun, should be funded to completion. I am very much concerned that they will never be completed under the urban systems program and will remain as monuments to congressional temporizing and uncertainty. These projects, representing the most urgent and worthy in the Nation, were designed as demonstrations and I question how conclusions can be drawn about them until they are completed under the program as originally intended and passed by the Congress. The dangers arising from the historical development of railroads passing through the center of towns and urban areas has been amply documented through the years. The problem will not go away because the Senate abandons these demonstration projects. I hope the Senate will adopt this amendment.

Mr. BENTSEN. I say to the distinguished Senator from Nevada that we have put the provision for railroad-highway demonstration programs in the 1973 act. We included one for Elko, Nev., and two for the State of Texas. I share the Senator's concern for these projects. As I recall, we authorized some \$90 million over 3 years. Unfortunately, the appropriations have only been about \$6.6 million. We had certainly expected that more would be appropriated.

In our bill, we have recommended that the remaining authorized funds be available until they are expended. Frankly, it is my opinion that that is all that could be expended on these projects over the next 2 years, in that short period of time.

We have tried to bring out a barebones bill, trying to hold down expenses as much as we could in this time of deficit financing.

I understand the Senator's concern, and I share his concern; but I must also say, in line with the Budget Committee's waiver, that his amendment would be subject to a point of order.

Mr. CANNON. Mr. President, I am aware of that situation. I am told by the staff that the bill as it is now drafted would permit these projects to be funded under the State's allocation, whether it is primary, secondary, trust funds, or what have you, if the State desires to make that allocation.

Mr. BENTSEN. That is correct. The Senator correctly states it, and he well understands the provision.

Mr. CANNON. So that an area such as this, which would not qualify for urban assistance funds, still would be able to go to the State and try to get an allocation to proceed with the project, if it were high enough on the State's priority.

Mr. BENTSEN. The Senator from Nevada is correct.

Mr. CANNON. I thank the distinguish Senator.

Mr. President, I recognize that this would be subject to a point of order under the rules, and I withdraw my amendment.

The ACTING PRESIDENT pro tempore. The amendment is withdrawn.

Mr. BEALL. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL), for himself and Mr. MATHIAS, proposes an amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 4, after the word "States." insert the following:

"For the purposes of this Act, in designating 'routes of national significance and essential for connectivity of the system' the Secretary shall consider the connectivity of the Interstate Highway System with other major transportation networks, including port facilities."

Mr. BEALL. Mr. President, this amendment addresses the question of national significance and the essentiality for connectivity of the Interstate Highway System under the conditions laid down in the new section of the bill.

The Secretary of Transportation is required, in the apportionment of funds, to establish that the routes for which the funds would be used are indeed the routes of national significance and that they will lead to further connecting of the Interstate System into an integrated highway system. I think this is laudable and objective.

What concerns me, however, is that the Secretary of Transportation is given a great deal of discretion in making this determination. As a matter of fact, there are no guidelines for the Secretary; and although I have great confidence in the present Secretary, I do not have confidence in Secretaries of Transportation to make the kind of delineations that I think are in the national interest. Therefore, I believe some condition should be laid out for the Secretary, some guidance for the Secretary, in this instance.

This amendment suggests that for purposes of this fact, in designating routes of national significance and essential for connectivity, the Secretary shall consider the connectivity of the Interstate Highway System with other major transportation networks, including port facilities.

I believe it is important, as we complete our highway system, that we do not lose sight of the fact that we wanted, at the time of its inception, to connect other modes of transportation with the highway transportation system.

Therefore, the purpose of this amendment is to make sure that the Secretary, in making the determination as to the national significance and as to the connectivity of the Interstate Highway System, does not lose sight of the fact that there is an obligation on him to make sure that the highways do connect with the ports and the other systems, so that we would, in fact, have an integrated transportation system in this country.

I have discussed this amendment with the managers of the bill on both the minority and majority sides. I understand that it is agreeable to them, and I hope the amendment will be adopted by the Senate.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. BEALL. I am happy to yield to the distinguished Senator from Tennessee.

Mr. BAKER. Mr. President, the Senator from Maryland did bring this matter to the attention of the managers of the bill, the Senator from Vermont and the Senator from Texas, and he discussed it with the distinguished chairman of the committee, I believe, and with me. In any event, I think that his point is well taken.

While I personally favor a maximum of flexibility for the Secretary of Transportation and constructing guidelines and refining the definition of this term, I think the point made by the Senator from Maryland is appropriate. I think it is useful to the implementation of the bill, and I commend him for offering it. I hope that the managers of the bill will accept it.

Mr. BEALL. I thank the Senator from Tennessee for his support in this matter.

Mr. RANDOLPH. Will my colleague yield?

Mr. BEALL. I am happy to yield to the chairman.

Mr. RANDOLPH. I endorse the statement just made by the able Senator from Tennessee (Mr. BAKER). We have tried, year by year, through the development of the highway program, to build in, as the Senator can understand, as much flexibility as possible—realizing that we do need guidelines and goals.

In connection with the subject which has been discussed earlier and that, now, the Senator addresses, we feel that there is validity in what he has said. I shall not go into the details except to say that I personally am, and I hope the managers of the bill (Mr. BENTSEN and Mr. STAFFORD), can be in agreement with the position the Senator has taken.

Mr. BEALL. I thank the Senator from West Virginia very much for his support.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. BENTSEN. Mr. President, I am pleased to accept the amendment, as floor manager of the bill, subject to the consideration of the distinguished ranking minority member of the subcommittee.

Mr. STAFFORD. Mr. President, I, too, am prepared, on behalf of the minority, to accept the amendment and to congratulate the distinguished Senator from Maryland on his facility for such words as "connectivity," which appears in the amendment.

Mr. BEALL. I thank the Senator for his support. I thank him for his admiration for my facility in using such words to get his support.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished manager of the bill yield me 1 minute?

Mr. BENTSEN. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, may we get an agreement, in view of the fact that some Senators on both sides of the aisle have to go down to the White House to talk to the President, that any rollcall votes ordered during the remainder of today will be backed up until the morning, to occur, say, beginning at 9:30 a.m.?

Mr. KENNEDY. Reserving the right to object, I have two amendments with the Senator from Connecticut (Mr. WEICKER). We have been here for, I think, close to 3 hours, following the procedures which have been outlined to permit the noncontroversial items first. If I had known this, we probably could have voted on ours first and go to the noncontroversial items at this time.

Quite frankly, I do not think it is of much value, the acceptance of this agreement. I do not think we are going to have any of the Senators here. I would much rather take the time, a shorter time period, and go over to the morning to debate it and try to get the Members here and be able to contact the Senators here about it rather than debating it to an empty Chamber tonight.

I have been trying to comply with the leadership and I thought the procedure which had been outlined by the manager of the bill was a satisfactory one. I thought the way they had outlined it made some sense, but it is rather an empty exercise for us, once everybody knows that we are not going to be voting here tonight, to be talking about it. I would rather take my chances in the morning, if something can be worked out.

Mr. BENTSEN. As floor manager, I say I certainly have no objection to that, if the ranking minority member of the subcommittee and the committee will agree. We can therefore start at 9:30 in the morning and perhaps consider some other amendments tonight.

Mr. President, I suggest the absence of a quorum.

Mr. BEALL. If the Senator will yield, could we adopt my amendment before we call for a quorum?

Mr. BENTSEN. Mr. President, I reserve the remainder of my time. I move the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. STAFFORD. On my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. I ask unanimous consent that John Wells and Jim King of my staff have the privileges of the floor during consideration and votes on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe that the following requests will conform with the consensus that has been reached.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that after the two leaders have been recognized on tomorrow, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF CONSIDERATION OF S. 2711 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the remarks by Mr. PROXMIRE tomorrow, which would be at about 9:15 a.m., the Senate resume consideration of the pending measure, the highway bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2711

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if any rollcall votes are ordered later today on amendments to the highway bill or on any other matter, excluding, of course, a rollcall vote on adjournment—and I would not anticipate that—any rollcall votes ordered tonight occur back-to-back immediately tomorrow morning upon the resumption of consideration of the pending highway bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of such rollcall votes, the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Connecticut (Mr. WEICKER) be recognized to call up their amendment on which there will be a time limitation of 30 minutes equally divided between Mr. KENNEDY and Mr. BENTSEN; that upon the disposition of the highway bill tomorrow, the Senate proceed to the consideration of S. 1136.

Mr. HUGH SCOTT. Reserving the right to object——

Mr. ROBERT C. BYRD. Let me remove the last bit of that request so it will not confuse the matter.

Let me modify my request to the extent that Mr. KENNEDY be recognized for two amendments in succession.

Mr. HUGH SCOTT. Reserving the right to object, and I will not, at what approximate time is the first rollcall vote likely to occur tomorrow?

Mr. ROBERT C. BYRD. The first rollcall, if it is agreed to, would be about 9:15 a.m.

Mr. HUGH SCOTT. Tomorrow?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. Does the Senator plan to suggest that the Senate remain in session on Saturday?

Mr. ROBERT C. BYRD. I doubt that the Senate will be in session on Saturday. I would not like to make a direct commitment at this time, but the way things are going, the progress the Senate is making, I doubt that.

I believe by having a vote early tomorrow, may I say to the distinguished Republican leader, the chances of not having to stay in too late will be enhanced.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BUCKLEY. I came in in the middle of the request. I have an amendment. I would not be precluded from calling up my amendment?

Mr. ROBERT C. BYRD. The Senator would not be precluded. Is he speaking of tomorrow or tonight?

Mr. BUCKLEY. Tomorrow.

Mr. ROBERT C. BYRD. He would not be precluded from calling up the amendment.

The ACTING PRESIDENT pro temport. Is there objection? The Chair hears none, and it is so ordered.

FEDERAL-AID HIGHWAY ACT OF 1975

The Senate continued with the consideration of the bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk and ask the clerk to report.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 9, insert the following:

Section 131(i) of title 23, United States Code, is amended to read as follows:

"(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such information centers and travel information systems shall be 75 per centum."

Mr. DOMENICI. Mr. President, before proceeding with the amendment, I have pending at the desk a printed amendment, No. 1182, and I ask, pursuant to the unanimous-consent request, for the yeas and nays—I ask that it be in order to ask for the yeas and nays on my printed amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is further recognized.

Mr. DOMENICI. Mr. President, so there is no misunderstanding, that is on the printed amendment No. 1182. I am now calling up my unprinted amendment which I send to the desk.

The ACTING PRESIDENT pro tempore. The clerk has already reported the amendment.

Mr. DOMENICI. Mr. President, I have discussed this amendment with both the majority manager and the minority manager. This amendment, I honestly believe, by oversight we failed to include in our bill.

The distinguished majority manager of the bill has cosponsored this before with the Senator from New Mexico.

This unprinted amendment merely grants the right to the States to fund tourist information, in particular mapping and highway sign type centers.

Mr. BENTSEN. Mr. President, may we have order. The distinguished Senator from New Mexico deserves the attention of the Senate.

Mr. DOMENICI. I thank the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. This amendment provides the authority to use existing trust fund moneys to share with the States the cost of establishing tourist information centers that have as their principal thrust the giving of information that might be denied because we are taking down signs along our highways. This is the tourist information center at the option of the States and they would be using up some of their funds if they desire to establish the federally funded roads tourist information centers to have mapping information and highway sign and city information.

As I indicated, both the distinguished majority manager of this bill and the distinguished minority manager, the Senator from Vermont, have cosponsored this with the Senator from New Mexico heretofore, and I really believe that by oversight in our markup we did not include it.

I have nothing further to say about it. It costs no additional money but leaves it up to the respective States to use some of their 75 to 25 matching funds to establish this kind of information center to counteract some of the economic difficulties that our smaller communities are having because of the diminution of road signs, signs that have been part of the system for so long.

Mr. BENTSEN. The Senator from New Mexico correctly states the position of the Senator from Texas. As a cosponsor, I think it is a good amendment, and I would be delighted to accept it, subject to the views of our minority floor manager.

Mr. STAFFORD. For the minority, I am prepared also, Mr. President, to accept this amendment. I was also a cosponsor.

The sort of visitor center the Senator is describing is the sort of center we have already built on some of our superhighways in Vermont because most all of our signs have already been taken down.

Mr. DOMENICI. The Senator is to be commended. Some States have not been able to, and I hope we would be able to do it if this amendment becomes law.

I thank the Senator from Vermont and the Senator from Texas, and I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I yield 2 minutes to the distinguished Senator from Kentucky and the distinguished Senator from Michigan.

SENATE RESOLUTION 327—A RESOLUTION COMMENDING NORTHERN MICHIGAN UNIVERSITY AND KENTUCKY UNIVERSITY

Mr. FORD. Mr. President, on behalf of the Senator from Michigan (Mr. GRIFFIN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Michigan (Mr. PHILIP A. HART), I send a resolution to the desk and I ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 327) commending Northern Michigan University and Western Kentucky University upon their participation in the Camellia Bowl for the NCAA small college championships.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Kentucky?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I think a resolution of this moment and involving, I would say, the seeds of controversy that it involves, I hesitate not to object to the immediate consideration at this time, but I reluctantly will not object. [Laughter.]

Mr. STAFFORD. Mr. President, will the distinguished Senator yield?

Mr. FORD. Yes.

Mr. STAFFORD. I certainly do not intend to object to the resolution but, on behalf of my neighbor, New Hampshire, whose team was run over last Saturday by Western Kentucky in the semifinals, I am sure if they were here they might object, but since they are not here, I will simply mention their chagrin at what happened, and hope the two teams will meet again with a different result at some future time.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FORD. Mr. President, may I have the remainder of my 2 minutes? Mr. President, I am very pleased with the distinguished Senator from Texas (Mr. BENTSEN) and the distinguished Senator from Vermont (Mr. STAFFORD) for their reluctantly not objecting to the immediate consideration. It is not often that a Senator from a small State like Kentucky can stand in the Senate Chamber and brag about its athletic ability, particularly in football.

But the distinguished Senator from Michigan (Mr. GRIFFIN), the distinguished Senator from my State and my colleague (Mr. HUDDLESTON), and the distinguished Senator from Michigan (Mr. PHILIP A. HART) have found we can get together here and say to these two teams that we wish them good luck and hope that the best team will win.

There is one little ceremony that is left after this resolution which will occur on Monday. The Senator from Kentucky will expect some fish from the cool water of Michigan and if Kentucky, by some stretch of the imagination, should lose, the distinguished minority whip of the Senate will receive what is known as the best ham in the world—a Kentucky ham.

I appreciate the cooperation of the Chair, the other Senators, and if the Senator from Michigan wants a little part, about 2 minutes, he can have it.

The ACTING PRESIDENT pro tempore (Mr. STONE). The Senator's 2 minutes have expired.

Mr. BENTSEN. Mr. President, I would say that the subject of ham is not foreign to this body.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the Northern Michigan University Wildcats and Coach Gil Krueger have come back from a winless football season in 1974 to compile a 12–1, won-lost record and a victory in the Pioneer Bowl Game;

Whereas the Western Kentucky University Hilltoppers and Coach Jimmy Feix possess an 11–1 record, in winning the Ohio Valley Conference football championship and the Grantland Rice Bowl Game for the second time in three years;

Whereas these two outstanding college football teams meet Saturday in the Camellia Bowl at Sacramento, California, in the National Collegiate Athletic Association Division II championship final;

Now, therefore, be it resolved, that the Senate of the United States recognizes the excellence and good sportsmanship displayed by both of these teams, commends them on the credit which they brought to their schools and states, and wishes both teams well in the national championship game.

FEDERAL AID HIGHWAY ACT OF 1975

The Senate continued with the consideration of the bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from New Mexico.

Is all time yielded back?

Mr. DOMENICI. Has my amendment been adopted?

The ACTING PRESIDENT pro tempore. The Chair is considering the unprinted amendment at this moment.

The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

AMENDMENT NO. 1182

Mr. DOMENICI. Mr. President, I call up my printed amendment No. 1182 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an amendment numbered 1182.

The amendment is as follows:

On page 22, strike out all in lines 5 and 6 and insert in lieu thereof the following:

PROJECT SELECTION FOR URBANIZED SYSTEM AND CONSTRUCTION ESTIMATES

SEC. 109. (a) Section 106(a) of title 23 of the United States Code is amended by inserting after the first sentence the following: "In the event the State highway department fails to make such submission for any project on the Federal-aid urbanized system within an urbanized area of two hundred thousand population or more within one year after program approval, the submission may be made by appropriate local officials that selected such project pursuant to section 105(d), except that such officials shall not submit a project, approval of which would incur obligations in excess of the amount allocated to such urbanized area for the fiscal year for which such program approval has been given.".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a request?

Mr. DOMENICI. I am delighted to yield to the Senator.

ORDER FOR CONSIDERATION OF AN AMENDMENT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the two amendments by Senator KENNEDY tomorrow, the Cranston-Helms-Abourezk-Buckley motorcycle helmet amendment be called up by Mr. CRANSTON.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. DOMENICI. Mr. President, at the outset, let me state that I believe all Senators have received a letter from the National League of Cities and U.S. Conference of Mayors dated December 10 with reference to my amendment, signed by the distinguished executive director of the Conference of Mayors, Mr. John Gunther, and Alan Beals, who is the executive director of the National League of Cities.

Mr. President, both the majority manager and the minority manager of this bill have in their opening remarks directed a significant amount of attention to a problem which is not only developing but is serious and concerns itself with the Federal aid urban system.

Mr. President, what I propose to do concerns itself only with cities over 200,000 in population as they are affected by the Federal aid urban system.

Basically, Mr. President, what has happened is that the Senate of the United States, and the House concurring, have amended the Highway Act in years past to recognize a serious need within the major cities of America to have assistance from the Federal highway trust fund for roadways within these major cities. That aid has been called the Federal aid urban system.

As a former mayor I am quick to admit that this was long sought and when it finally arrived it was welcome. But what we did in the furtherance of our process of funneling this money through the State is that we hoped the moneys that we allowed would quickly get into the major cities of our country and help them with the ever-growing and almost inconceivable roadway problems.

But to our chagrin, what we have found is that of all the funds we have set up for special purposes in our country, this one finds itself with, in many instances, only 30 percent of the moneys that we have allocated actually getting into the urban problems. And having spent for the streets and roadway needs of our cities, for instance, as of September of this year only 30 percent, or $449 million of over $1.4 billion which was available for this system, has been obligated.

I understand that the States are trying very hard to work with the cities to quickly approve these applications. I understand that there is a desire not to totally disrupt the funneling of this kind of money to the States.

But my amendment will simply do this, for cities over 200,000 which elect—and I stress elect, for my amendment is purely optional—which elect after 1 year, 1 year that they have had an application pending for direct funding, they may go directly to the Secretary of Transportation and ask for that funding that we have allocated under this bill.

So in summary, what my amendment does is to expand upon the efforts in the bill to expedite this funding to our major urban centers by saying that cities over 200,000 which have pending an application for Federal aid urban system funding and have submitted them to their State, if they choose, if that city chooses of its own volition after 1 year that it has been pending, they may ask the Secretary of the Department of Transportation to fund that application directly.

Mr. President, I know that there will be objection to this, but I honestly believe that my amendment will do nothing more than cause the States that have this kind of backlog to find some way to work out the differences with our major cities so that we will not have next year and the year after a situation which I honestly believe is disgraceful, where the most needed entity in this governmental system, the major American cities, will have a road program, which we have allocated 100 percent, where only 30 percent of the funds allocated are reaching the cities to be used in the roadway problems.

Our distinguished minority manager of this bill in his opening remarks indicated that the States were working on this program and in some instances paying 50 percent match, and that we were trying to encourage that. I would say to him I am not trying to discourage that, nor am I trying to prevent major cities who receive this kind of match from States to go around the States. I only have in mind those cities who are seeking only Federal money where there is no State match to elect to apply on their own.

Mr. BENTSEN. I understand the Senator wants a rollcall vote on this tomorrow morning.

Mr. DOMENICI. We have already received the order for the yeas and nays.

Mr. President, I know the Senator from Texas and the Senator from Vermont are sympathetic with the goal that I seek. I know they might have a dispute with me as to whether I go too far. They have gone halfway in their bill and I just want to put the finishing touches on a little bit more coercion directed at our States so they will quickly and expeditiously approve the applications of the major cities of America for funding under the Federal aid urban system.

Mr. President, my amendment to S. 2711 that would allow urbanized areas with populations of 200,000 or more to unilaterally submit highway projects as the Federal aid urban system to the Secretary of Transportation where States have failed to submit them within 1 year after program approval.

This amendment is designed to supplement several provisions already in S. 2711. Section 106(c)(3) and section 108 of the bill contain amendments that place route and project selection under the urban system more fully under local control. My amendment would take the process one step further. Under present law, final obligation of Federal dollars for the urban system program are dependent on State approval of plans, specifications, and estimates—P, S, & E's. My amendment would provide that in those instances where a State fails to discharge its responsibilities within a year, that it effectively waives its powers of concurrence and a locality may submit the project to the Secretary of the Department of Transportation on its own.

Since the projects are being selected from an annual program, a year is more than a reasonable period of time for the States to discharge their review responsibilities.

By way of background, the origin of my amendment lies in my concern over the disappointing rate of obligation for the Federal-aid urbanized system. As of September of this year, only 30 percent, or $449 million of the over $1.4 billion available under the urban system program has been obligated. This is in marked contrast to the primary and secondary systems which have been obligating funds as rapidly as they are apportioned. Needless to say, the rate of obligation for the urban systems falls far short of what Congress expected when it established the urban system program in 1970 and expanded it in 1973.

My amendment also seeks to respond to reports received by the Public Works Committee that States were using their concurrence powers as a veto. In particular, claims were made by the cities that States had used their leverage to require cities to use urban funds to finance State projects.

My amendment seeks to remedy this situation by giving cities direct access to the Department of Transportation in cases where a State is obviously delinquent in performing its duties. I would like to stress, however, that the power given to the cities is purely discretionary. In cases where a city receives State matching funds and has a good working relationship with the State, a city could elect not to exercise the option of unilaterally submitting a project to the Department of Transportation.

Mr. President, I consider my amendment an important step in delegating additional responsibility to local units of government. I would hope my colleagues would see fit to support it.

I ask unanimous consent that a letter on this subject that I received from the National League of Cities and the U.S. Conference of Mayors be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
December 10, 1975.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMENICI: During the forthcoming Senate floor debate on S. 2711, the Federal-Aid Highway Act of 1975, the National League of Cities and U.S. Conference of Mayors urge you to support an amendment to be offered by Senator Pete V. Domenici, strengthening the role of local government in the implementation of the Federal-Aid Urban System (FAUS) highway program.

At the outset, we would like to commend the Senate Public Works Committee for two major improvements in the legislation as reported. First, the Interstate Highway Transfer provision has been further amended to enhance the major breakthrough which took place in the 1973 Highway Act. Specifically, this section expands the eligibility for transferred funds to all Title 23 projects, reimburses monies utilized for transit projects to the locality in a manner consistent with existing Urban Mass Transportation Administration policy, and develops a two-tiered apportionment system allowing for a more expeditious completion of the remaining essential miles in the Interstate System. Secondly, the Committee has improved the FAUS program by allowing local governments in urbanized areas of over 200,000 population to design the system as well as the annual program of projects selected for funding without the concurrence of state highway officials. It must be noted that this additional responsibility only takes place when cities pay more than 50% of the non-federal match. This has been further strengthened by language which prevents monies authorized and apportioned to the states for the FAUS program to be transferred to other highway programs.

The National League of Cities and U.S. Conference of Mayors supported major improvements in the FAUS program because of the failure of states to obligate monies to urbanized areas to date. The national record is at best a bleak one. Only 35% of the monies available during the three years of the program has in fact been obligated. In dollar terms, only $803 million of a national total of $2.3 billion has been obligated as of the end of FY '75. Attached as an addendum is the record of your state in this program as of June 30, 1975, according to an official Department of Transportation report. The major cause for this record of failure has, for the most part, been a strong use by the states of their veto power over approval of projects selected as local priorities as well as their approval over obligation of monies. In the final analysis, states, by controlling the program, have circumvented the intent of the FAUS program as designed and set forth by the Senate and the Congress in the 1973 Highway Act.

The improvements in the bill as reported are major steps toward correcting this situation. The National League of Cities and U.S. Conference of Mayors strongly believe that the adoption of the Domenici amendment—which would allow local governments to develop and carry out the plans, surveys, specifications and estimates directly with the Federal Highway Administration when state officials fail to carry out this responsibility in one year's time—would further give local governments a proper role in a program designed to assist them in meeting their priorities for a balanced transportation system.

We appreciate your full consideration of this position and urge your support.

Sincerely,

JOHN J. GUNTHER,
U.S. Conference of Mayors.
ALAN BEALS,
National League of Cities.

STATE OF NEW MEXICO

Urbanized area	Total apportionment	Obligations thru FY 75	Unobligated balance*
Albuquerque	$5, 198, 987	$3, 500, 890	$1, 698, 096
Areas under 200,000 pop.	6, 584, 400	1, 040, 780	5, 524, 316
Total urban system	11, 783, 387	4, 541, 670	7, 222, 413

*As of July 31, 1975.

Source: U.S. Department of Transportation.

Mr. BENTSEN. Mr. President, I have listened to the Senator from New Mexico and I would like to make a few comments about his amendment.

In this bill, as the Senator knows, we substantially expanded the authority of the cities in the highway program by allowing them to make route and project selection without Federal approval in instances in which they put up more than 50 percent of the funds. We felt we could go that far, since that provision affects, for the most part, the larger cities of over 200,000, the ones the Senator addresses in his amendment.

What the Senator now wants to do is add to what the committee did by allowing local officials to submit projects for approval directly to the Secretary in cases in which the State has not acted on those projects within a year.

Let me say that I do not necessarily believe this is a bad idea, but I do have some questions about it. This committee, in acting as it did, recognized the interest of the cities in projects affecting their citizens. At the same time, it was not our wish to create sources of friction between cities and States. The Senator's amendment may work out in practice, but this is something we do not know.

The States frequently prepare the so-called P, S, and E's, the plans, specifications, and estimates. If the cities have to take over this task, they will have to perhaps hire some outside consultants to do it, which may drive up the cost of the project. It may also encourage conflict between the locals and the States, and we want to avoid that as much as possible.

I am frankly unsure of how smoothly the amendment would work. The committee received no testimony on it; we do not know the administrative problems; we do not know the additional costs and possible conflicts.

I would encourage the Senator to let us give this matter some further attention early next year. I do believe we would be better served if we studied some of the ramifications of what this amendment proposes to do.

As I said earlier, we have already given the cities some measure of responsibility in this bill. I would suggest we see how that works out before proceeding on this other matter, which really adds a new dimension, in a floor amendment, to a problem which I believe is highly complex and deserves a closer look.

I reserve the balance of my time.

Mr. STAFFORD. Will the distinguished Senator yield to me at this point?

Mr. BENTSEN. I am pleased to yield to the distinguished minority floor manager of the bill.

Mr. STAFFORD. Mr. President, I am particularly reluctant to find myself opposing an amendment offered by the distinguished Senator from New Mexico. I know of his concern for cities in the 200,000-and-up class, and his expertise in the area of Federal highway systems.

Mr. President, I am afraid that the amendment proposed by the Senator from New Mexico may create more problems than it will solve.

In most States the State highway or transportation departments carry out major road projects in cities as well as rural areas. The State may be the agent for cities in planning and constructing roads or may take the lead in such projects.

Few cities have departments capable of fully implementing a road program. In most instances it is simply not economical to establish numerous fully equipped road agencies in one State.

The amendment proposed by the distinguished Senator from New Mexico could have the effect of encouraging cities to create costly road-building capabilities without the safeguards imposed in current law on State highway departments.

Under current law the Secretary must be satisfied that State highway departments are suitably equipped and possess adequate powers to carry out the Federal-aid highway program. No similar safeguard is mandated for cities by the proposed amendment.

Nor does the pending amendment address who will contract with the Federal Government for reimbursement nor how the State, which may put up part of the matching funds, will be bound by an agreement between the city and the Federal Government.

S. 2711 has already provided greatly enhanced control over local road programs to cities which contribute more than 50 percent of the non-Federal share as the chairman of the subcommittee said. I believe we should determine whether these provisions remove most of the problems complained of by cities before we should determine whether these provisions remove most of the problems complained of by cities before we seek to implement a potentially far-reaching and complicated measure the cost of which could be high.

I would, therefore, hope that the distinguished Senator from New Mexico would consent to having this matter carefully considered in the Subcommittee on Transportation next year.

I thank the chairman for yielding.

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I shall not take long, but I am compelled to respond to a few of the contentions by those who oppose my amendment.

First of all, there should be no concern that where we have a State matching this urban system's money, that this amendment is going to coerce the State to have its match follow what the cities seek directly if they ever get to my direct application to the Secretary. I have made the point that that objection was raised in markup and I have covered it by making it purely optional on the part of the city.

That means that a State has complete control over its match, whether it be 10 or 50. They do not have to give it if a city seeks to go the direct route.

I am talking about those cities which are only going to use Federal money, which are entitled to it, and which are finding an extreme hangup by having to wait for the State to finish all the details and render their application filed.

With reference to the other argument, yes, it is true we have not had detailed hearings, but the representatives of the major American cities have testified. They have testified that they need this so that we do not have only 30 percent of this fund spent in any given year for any reason. The major cities of our country are in the worst financial condition of any institutions around that serve people, and we have a major funding program that in the last year only spent 30 percent of what we decided we would give to them.

I contend it is because the States drag their feet.

The committee has cured one of the problems, for they will no longer, under this bill, let the States change the designation of roadways within a city so they have to fund under this program roadways that were not even contemplated. The States have done that to the chagrin of our major cities. Our committee has cured that one. They cannot do that any more. But I do not think that is going to get 100 percent of these dollars into our cities.

With reference to the other argument that we are going to spend a lot of money creating new planning agencies in our major cities or coercing our State highway departments to allocate planning and design money to our cities when they do not want to, or have other priorities, I believe, as the mayor of a city of only 350,000 before I came here, I can adequately describe this situation.

There are few cities in America over 200,000 population that do not already have traffic departments that have the capability of applying for this money. They use consultants, and so do the States, for final design. It is not going to be a matter of hiring a lot of people. They would not have come to us with this amendment, the major cities of America, if they did not have the capacity to do this kind of work for themselves.

If the States delay a full year—I am still giving the States a full year under my amendment—and if it happened that the States were dragging their feet and allocating their money for planning and design for other purposes, and we were pushing them by this amendment to make some changes in the priorities of their beneficial use, then I regret to say, if that is the case, that I disagree with the managers of the bill, and say I cannot think of any place that we ought to push them to reorient their priorities that would do more for America's urban problems, where the people are, than to push them in this direction and let them expedite the planning and design for the larger urban cities of America.

In conclusion, let me say that this Senator has only one city that fits the amendment. They have no problems with their State government. They think the program is tremendous. They have received their money, and there has been no hangup. So I am not here fighting for my State.

I am concerned that while major American cities suffer financial chaos, of the fund which we set up and obligate for the roadway system, whatever they want within their city, only 30 percent got spent last year because of the relationships of the major cities to the States.

I think 12 months is enough for the States to approve of it and get it up here to the Secretary of Transportation to get funding. If they cannot do that, I am saying to those cities, "Relax." Let them apply direct. They know their burden and their capacity. I think they ought to get funded, and then maybe the States will learn to do it expeditiously and quickly, and maybe our money would go where it should go, since we have adopted the urban system in our growing concern for the roadway needs of our people.

I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President, for the record, I wish to take just a moment to offer my support for the bill as reported by the committee, and to oppose the amendment offered by my friend, the distinguished Senator from New Mexico.

I can understand and follow the logic, and maybe the merits, of his amendment; but we have a number of cities in my State that might be affected, and we have a good system of State highways in North Carolina that interconnects with those of municipalities, and I am afraid that if we should adopt the Senator's amendment it might provide an opportunity for one or more of the cities, at some time in the future, to move on its own.

I hope we will pass the bill as reported by the committee, and then later, if the distinguished Senator, during the course of future appropriations by the committee, will make his case, it may very well be that I can agree to it or could vote for it. But I am afraid of it at the present time.

Mr. DOMENICI. Mr. President, may I ask the distinguished Senator a question?

Mr. MORGAN. Yes.

Mr. DOMENICI. Am I correct in assuming that the relationship between his cities and his State under this program is principally one where the State puts up a considerable amount of the total fund in a matching manner for the cities?

Mr. MORGAN. Yes, that is generally true.

Mr. DOMENICI. And as a result of that, the State is involved in actually planning and prioritizing for the cities, in what they consider to be an orderly approach to the use of funds?

Mr. MORGAN. Yes, that is true.

Mr. DOMENICI. I do not know if the distinguished Senator was here when I explained my amendment. I am totally aware of that situation. I have put a specific provision in this amendment which makes it totally up to the city, which makes its election. And for legislative history, I do not think it is needed, but I certainly do not intend that they can carry State money along with their application to the Secretary.

I am concerned about those cities that have no moneys and are held up by the State government, for whatever reason, in acquiring their allocated funds. I recognize the Senator's concerns, and that they are legitimate, but I do want the Senator to know I do not intend this amendment to apply to his city-State relationships.

Mr. MORGAN. I am sure that is true. The Senator and I had a colloquy before. But the amendment raises some question in my mind as to whether a given city might decide they would forgo the State contribution and come directly to the Federal Government.

That may not be feasible under the Senator's amendment; but, on the other hand, it might be, and that is one of the reasons why I feel that further study would be warranted and justified.

I thank the Senator for yielding.

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time, if the ranking minority manager is.

Mr. STAFFORD. We are agreeable to that.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. DOMENICI. I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BENTSEN. Let half of it be charged to each side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I send to the desk technical amendments to S. 2711 and ask for their immediate consideration en bloc.

The ACTING PRESIDENT pro tempore. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes technical amendments.

The amendments are as follows:

On page 4, line 9, strike the period and insert a comma and the following: "subject to such limitations as to funds as are provided in appropriations Act."

(b) On page 4, line 14, strike the period and insert a comma and the following: "subject to such limitations as to funds as are provided in appropriations Acts.".

(c) On page 4, line 18, strike the period and insert a comma and the following: "subject to such limitations as to funds as are provided in appropriations Acts.".

(d) On page 5, line 24, insert the following after "1978,": "subject to such limitations as to funds as are provided in appropriations Acts,".

(e) On page 14, strike lines 9 through 13 and insert the following: "and shall be administered in accordance with chapter 1 of Title 23, except that in the case of mass transportation projects, the Federal share shall be that specified in section 4 of the Urban Mass Transportation Act of 1964, as amended, and shall become part of, and be administered through the Urban Mass Transportation Fund. Sums available under this paragraph".

(f) On page 47, line 17, strike the period and insert a comma and the following: "subject to such limitations as to funds as are provided in appropriations Acts.".

(g) On page 47, line 24, strike the period and insert a comma and the following: "subject to such limitations to funds as are provided in appropriations Acts.".

(h) On page 56, line 8, insert a comma and the following: "subject to such limitations to funds as are provided in appropriations Acts.".

The ACTING PRESIDENT pro tempore. Without objection, they will be considered en bloc.

Mr. BENTSEN. Mr. President, the technical amendments are necessary to conform the authorizations for forest development roads and trails, public lands development roads and trails, park roads and trails, Great River Road, and highway safety to section 401(a) of the Congressional Budget Act. This provision requires that contract authority other than from a trust fund be subject to appropriations Acts.

The amendment on page 14, line 9, corrects the Interstate transfer provisions in section 103(e)(4) of title 23, United States Code, to provide that highway funds shall be administered in accordance with Chapter 1 of title 23.

The ACTING PRESIDENT pro tempore. Will the Senators yield back the remainder of their time?

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. STAFFORD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Time has been yielded back.

The technical amendments were agreed to en bloc.

Mr. HATHAWAY. I am concerned about the effect which the waiver provision in title II of this bill could have on the direction of the highway safety standards and programs under section 402. While I recognize that many highway safety programs may need to be responsive to varying priorities and needs within the individual States and localities, I think it is important to recognize that many highway safety problems are national in scope and can most appropriately be addressed at the national level. I am aware that standards and portions of standards which relate to alcohol and to data collection and generation are not subject to the waiver provision and will continue to be requirements of the States' 402 programs.

I also understand that the committee intended that the provision relating to data collection be broadly construed to ensure that a successful and useful data collection program can be carried on. Only with such an effort can the waiver provision fulfill its intended purpose of ensuring that the section 402 programs which will have the most substantial safety benefits will be carried out.

A review and revision in approach to the section 402 standards is presently underway in the National Highway Traffic Safety Administration, and I understand that preliminary results of this review should be available within the next few months. In light of this work being done in NHTSA, I feel that the changes being made in the 402 program may be untimely. However, I understand that the Public Works Committee intends to do further extensive work in the area of highway safety programs in the coming year. I would like to inquire as to the committee's specific plans in this regard.

Mr. BENTSEN. I agree with my colleague from Maine that we need to take a comprehensive look at our highway safety programs and to follow carefully the revisions which are presently taking place within NHTSA. I expect the committee to hold hearings on our national highway safety programs as early in the next year as is possible, and I intend to coordinate our review with the work which is currently underway within the administration.

Mr. HATHAWAY. I appreciate having the assurances of my colleague from Texas in that regard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no further time charged against the pending measure today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF TIME FOR COMMITTEE ON FINANCE TO FILE A REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance may have until midnight tonight to file a report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending measure be set aside temporarily until the close of business today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1976—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 8773, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8773) making appropriations for the Department of Interior and related agencies for the fiscal year ending June 30, 1976, and for the period ending September 30, 1976, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of December 9, 1975, at pages 39515–39522.)

Mr. ROBERT C. BYRD. Mr. President, the bill making appropriations for the Department of the Interior and related agencies, as it passed the Senate, provided $4,304,340,000 in new budget authority and $223,256,000 in appropriations to liquidate contract authority. That made a fiscal year 1976 grand total of $4,527,596,000 for the Interior Department agencies in this bill and the related agencies including the Forest Service, Energy Research and Development Administration, fossil fuel and related activities, Federal Energy Administration, Indian Health Service, Indian education, Smithsonian Institution, National Foundation on the Arts and Humanities, and others.

For the July–September transition period, the total appropriation provided by the Senate was $1,215,991,900.

The conference committee report provides $4,234,621,000 in new budget authority and $225,360,000 in appropriations to liquidate contract authority for fiscal year 1976. That is a grand total of $4,459,981,000 for the fiscal year and represents a reduction of $67,615,000 in the Senate allowance and an increase of $120,179,000 in the original House allowance.

Mr. President, in view of the fact the Senate considered some $272.2 million in budget requests that were not before the House when it acted, the final agreement represents a fair and reasonable resolution of the differences between the Houses. The significant differences between the House and the Senate were resolved amicably, I believe, in a just manner and in a spirit of give-and-take that has resulted in a good bill.

Most important, Mr. President, the final bill is a reduction of $72,537,000 in the budget estimates for new budget authority for fiscal 1976. Together with an increase of $3,927,000 in appropriations to liquidate contract authority, the final bill provides a grand reduction of $68,610,000 in the budget request. For the transition quarter, the total appropriation in the final bill is $31,809,000 under the President's budget.

Mr. President, this reinforces the determination of both the House and the Senate to keep spending under this bill well within the amounts proposed by the President and well within the limits established under the congressional budget resolution in the first exercise of the budget reform process.

I want at this time to commend my colleagues on the Appropriation Committee and our colleagues on the House Appropriations Committee for the hard work and dedication that made this final bill possible. Let me also commend the Senate itself for the restraint it demonstrated when we first brought this bill to the floor. Senators responded to the need to curb spending and did not press any amendments for additional funds. Although this spirit did not prevail entirely in our vote yesterday on the supplemental appropriations bill—and I think I have already made my position clear on that point—the Senate otherwise displayed restraint and responsibility in this first application of budget reform.

Mr. President, I ask unanimous consent that a tabulation of the fiscal year 1975 appropriations and the budget, House, Senate, and conference committee allowances for fiscal year 1976 and the transition quarter, with comparisons, be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1976 AND THE PERIOD ENDING SEPTEMBER 30, 1976 (H.R. 8773)

		1976/transition				Conference compared with—			
	New BA enacted fiscal year 1975	New BA estimates	New BA House	New BA Senate	New BA conference	Fiscal year 1975 enacted	New BA estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF THE INTERIOR LAND AND WATER RESOURCES									
Bureau of Land Management									
Management of lands and resources	175, 886, 000	186, 989, 000	193, 939, 000	188, 832, 000	189, 582, 000	+13, 696, 000	+2, 593, 000	+4, 257, 000	+750, 000
Transition period		57, 380, 000	59, 092, 000	58, 042, 000	58, 192, 000		+812, 000	−900, 000	+150, 000
Construction and maintenance	6, 725, 000	9, 061, 000	9, 061, 000	9, 361, 000	8, 911, 000	+2, 186, 000	−150, 000	−150, 000	−450, 000
Transition period		2, 238, 000	2, 238, 000	2, 238, 000	2, 238, 000				
Public lands development roads and trails (appropriation to liquidate contract authority)	(4, 070, 000)	(4, 683, 000)	(4, 683, 000)	(3, 183, 000)	(3, 183, 000)	(−887, 000)	(−1, 500, 000)	(−1, 500, 000)	( )
Transition period	( )	(1, 121, 000)	(1, 121, 000)	(1, 121, 000)	(1, 121, 000)	( )	( )	( )	( )
Oregon and California grant lands (indefinite, appropriation of receipts)	38, 200, 000	38, 200, 000	38, 200, 000	38, 200, 000	38, 200, 000				
Transition period		10, 200, 000	10, 200, 000	10, 200, 000	10, 200, 000				
Range improvements (indefinite, appropriation of receipts)	4, 187, 000	5, 450, 000	5, 450, 000	5, 450, 000	5, 450, 000	+1, 263, 000			
Transition period		600, 000	600, 000	600, 000	600, 000				
Recreation development and operation of recreation facilities (indefinite, special fund)	242, 000	300, 000	300, 000	300, 000	300, 000	+58, 000			
Transition period		100, 000	100, 000	100, 000	100, 000				
Total, Bureau of Land Management	225, 240, 000	240, 000, 000	246, 850, 000	242, 143, 000	242, 443, 000	+17, 203, 000	+2, 443, 000	−4, 407, 000	+300, 000
Transition period		70, 518, 000	72, 230, 000	71, 180, 000	71, 330, 000		+812, 000	−900, 000	+150, 000
Office of Water Research and Technology									
Salaries and expenses	19, 792, 000	18, 327, 000	18, 905, 000	17, 715, 000	18, 180, 000	−1, 612, 000	−147, 000	−725, 000	+465, 000
Transition period		4, 516, 000	4, 411, 000	4, 411, 000	4, 411, 000		−105, 000		
Total, Land and Water Resources	245, 032, 000	258, 327, 000	265, 755, 000	259, 858, 000	260, 623, 000	+15, 591, 000	+2, 296, 000	−5, 132, 000	+765, 000
Transition period		75, 034, 000	76, 641, 000	75, 591, 000	75, 741, 000		+707, 000	−900, 000	+150, 000
FISH AND WILDLIFE AND PARKS									
Bureau of Outdoor Recreation									
Salaries and expenses	5, 380, 000	5, 645, 000	5, 912, 000	5, 562, 000	5, 737, 000	+357, 000	+92, 000	−175, 000	+175, 000
Transition period		1, 411, 000	1, 478, 000	1, 411, 000	1, 444, 000		+33, 000	−34, 000	+33, 000
Land and Water Conservation Fund									
Appropriation of receipts (indefinite)	307, 492, 000	300, 000, 000	309, 761, 000	307, 886, 000	308, 086, 000	+594, 000	+8, 086, 000	−1, 675, 000	+200, 000
Transition period		75, 000, 000	75, 488, 000	76, 488, 000	75, 988, 000		+988, 000	+500, 000	−500, 000
United States Fish and Wildlife Service									
Resource management	103, 798, 000	112, 433, 000	115, 984, 000	117, 787, 000	117, 746, 000	+13, 948, 000	+5, 313, 000	+1, 762, 000	−41, 000
Transition period		27, 038, 000	27, 389, 000	28, 639, 000	28, 639, 000		+1, 601, 000	+1, 250, 000	
Construction and anadromous fish	14, 397, 000	6, 727, 000	14, 229, 000	14, 981, 000	17, 706, 000	+3, 309, 000	+10, 979, 000	+3, 477, 000	+2, 725, 000
Transition period		1, 600, 000	1, 060, 000	1, 060, 000	1, 060, 000				
Migratory bird conservation account (definite, repayable advance)	1, 000, 000		10, 000, 000	7, 500, 000	7, 500, 000	+6, 500, 000	+7, 500, 000	−2, 500, 000	
Transition period									
Total United States Fish and Wildlife Service	119, 195, 000	119, 160, 000	140, 213, 000	140, 268, 000	142, 952, 000	+23, 757, 000	+23, 792, 000	+2, 739, 000	+2, 684, 000
Transiton period		28, 098, 000	28, 449, 000	29, 699, 000	29, 699, 000		+1, 601, 000	+1, 250, 000	
National Park Service									
Operation of the national park system	220, 139, 000	240, 121, 000	240, 413, 000	245, 595, 000	243, 588, 000	+23, 450, 000	+3, 467, 000	+3, 175, 000	−2, 007, 000
Transition period		74, 485, 000	74, 022, 000	75, 968, 000	75, 722, 000		+1, 287, 000	+1, 750, 000	−196, 000
Planning and construction	60, 412, 000	22, 800, 000	26, 255, 000	26, 494, 000	27, 215, 000	−33, 197, 000	+4, 415, 000	+960, 000	+721, 000
Transition period		6, 000, 000	7, 100, 000	71, 25, 000	7, 100, 000		+1, 100, 000		−25, 000
Road construction (appropriation to liquidate contract authority)	(26, 026, 000)	(38, 820, 000)	(46, 093, 000)	(38, 011, 000)	(40, 115, 000)	(+14, 089, 000)	(+1, 295, 000)	(−5, 978, 000)	(+2, 104, 000)
Transition period	( )	(9, 400, 000)	(9, 900, 000)	(11, 000, 000)	(9, 900, 000)	( )	(+500, 000)	( )	(−1, 100, 000)
Preservation of historic properties	24, 476, 000	24, 516, 000	24, 666, 000	24, 516, 000	24, 666, 000	+196, 000	+150, 000		+150, 000
Transition period		6, 040, 000	6, 040, 000	6, 040, 000	6, 040, 000				
Planning development and operation of recreation facilities (indefinite, special fund)	11, 900, 000	14, 000, 000	16, 000, 000	14, 000, 000	14, 000, 000	+2, 000, 000		−2, 000, 000	
Transition period		5, 000, 000	4, 000, 000	5, 000, 000	5, 000, 000			+1, 000, 000	
John F. Kennedy Center for the Performing Arts	2, 500, 000	2, 575, 000	2, 575, 000	2, 500, 000	2, 575, 000	+75, 000			+75, 000
Transition period		741, 000	741, 000	741, 000	741, 000				
Total, National Park Service	319, 426, 000	304, 012, 000	309, 909, 000	313, 105, 000	312, 044, 000	−7, 382, 000	+8, 032, 000	+2, 135, 000	−1, 061, 000
Transition period		92, 266, 000	91, 903, 000	94, 874, 000	94, 652, 000		+2, 387, 000	+2, 750, 000	−221, 000
Total Fish and Wildlife and Parks	751, 493, 000	728, 817, 000	765, 795, 000	766, 821, 000	768, 819, 000	+17, 326, 000	+40, 002, 000	+3, 024, 000	+1, 998, 000
Transition period		196, 775, 000	197, 318, 000	202, 472, 000	201, 784, 000		+5, 009, 000	+4, 466, 000	−688, 000
ENERGY AND MINERALS									
Geological Survey									
Surveys, investigations, and research	254, 146, 000	268, 259, 000	265, 065, 000	268, 544, 000	267, 247, 000	13, 101, 000	−1, 012, 000	2, 182, 000	−1, 297, 000
Transition period		67, 200, 000	66, 425, 000	67, 495, 000	67, 400, 000		200, 000	975, 000	−295, 000

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1976 AND THE PERIOD ENDING SEPTEMBER 30, 1976 (8773)—Continued

		1976/transition				Conference compared with—			
	New BA enacted fiscal year 1975	New BA estimates	New BA House	New BA Senate	New BA conference	Fiscal year 1975 enacted	New BA estimate	House bill	Senate bill
Mining Enforcement and Safety Administration									
Salaries and expenses	67, 913, 000	79, 500, 000	76, 136, 000	82, 698, 000	79, 473, 000	+11, 560, 000	−27, 000	+3, 337, 000	−3, 225, 000
Transition period		20, 600, 000	20, 035, 000	20, 736, 000	20, 205, 000		−395, 000	+170, 000	−531, 000
Bureau of Mines									
Mines and minerals	133, 807, 000	158, 387, 000	146, 608, 000	157, 584, 000	157, 387, 000	+23, 580, 000	−1, 000, 000	+10, 779, 000	−197, 000
Transition period		39, 450, 000	36, 505, 000	39, 186, 000	39, 005, 000		−445, 000	+2, 500, 000	−181, 000
Total, Energy and Minerals	455, 866, 000	506, 146, 000	487, 809, 000	508, 826, 000	504, 107, 000	+48, 241, 000	−2, 039, 000	+16, 298, 000	−4, 719, 000
Transition period		127, 250, 000	122, 965, 000	127, 617, 000	126, 610, 000		−640, 000	+3, 645, 000	−1, 007, 000
INDIAN AFFAIRS									
Bureau of Indian Affairs									
Operation of Indian Programs	485, 932, 000	544, 249, 000	543, 031, 000	539, 765, 000	542, 918, 000	+56, 986, 000	−1, 331, 000	−113, 000	+3, 153, 000
Transition period		173, 186, 000	174, 474, 000	173, 246, 000	174, 167, 000		+981, 000	−307, 000	+921, 000
Construction	64, 804, 000	61, 400, 000	63, 556, 000	86, 534, 000	73, 922, 000	+9, 118, 000	+12, 522, 000	+10, 366, 000	−12, 612, 000
Transition period		13, 550, 000	13, 550, 000	13, 550, 000	13, 550, 000				
Road construction (appropriation to liquidate contract authority)	(59, 500, 000)	(66, 705, 000)	(66, 705, 000)	(66, 705, 000)	(66, 705, 000)	(+7, 205, 000)	( )	( )	( )
Transition period	( )	(28, 000, 000)	(28, 000, 000)	(28, 000, 000)	(28, 000, 000)	( )	( )	( )	( )
Indian loan guaranty and insurance fund	20, 000, 000	20, 000, 000	10, 000, 000	15, 000, 000	10, 000, 000	−10, 000, 000	−10, 000, 000		−5, 000, 000
Transition period									
Revolving fund for loans	38, 000, 000	12, 000, 000	7, 000, 000	3, 000, 000	3, 000, 000	−35, 000, 000	−9, 000, 000	−4, 000, 000	
Transition period									
Alaska native fund	70, 000, 000	70, 000, 000	70, 000, 000	70, 000, 000	70, 000, 000				
Transition period		40, 000, 000	40, 000, 000	40, 000, 000	40, 000, 000				
Trust funds (definite)	3, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000				
Transition period		750, 000	750, 000	750, 000	750, 000				
Trust funds (indefinite)	19, 500, 000	31, 200, 000	31, 200, 000	31, 200, 000	31, 200, 000	+11, 700, 000			
Transition period		8, 298, 900	8, 298, 900	8, 298, 900	8, 298, 900				
Total, Bureau of Indian Affairs	701, 236, 000	741, 849, 000	727, 787, 000	748, 499, 000	734, 040, 000	+32, 804, 000	−7, 809, 000	+6, 243, 000	−14, 459, 000
Transition period		235, 784, 900	237, 072, 900	235, 844, 900	236, 765, 000		+981, 000	−307, 000	+921, 000
TERRITORIAL AFFAIRS									
Administration of territories	15, 350, 000	15, 000, 000	16, 000, 000	22, 000, 000	+22, 000, 000	+6, 650, 000	+7, 000, 000	+6, 000, 000	
Transition period		3, 800, 000	3, 800, 000	3, 800, 000	+3, 800, 000				
Payments to the U.S. Virgin Islands and Puerto Rico (indefinite)	4, 452, 000					−4, 452, 000			
Transition period									
Permanent appropriation (special fund)	(625, 000)	(600, 000)	(600, 000)	(600, 000)	(+600, 000)	(−25, 000)	( )	( )	( )
Transition period	( )	(185, 000	(185, 000)	(185, 000)	(+185, 000)	( )	( )	( )	( )
Transferred from other accounts (special fund)	(875, 000)	(975, 000)	(975, 000)	(975, 000)	(+975, 000)	(+100, 000)	( )	( )	( )
Transition period	( )	(253, 000)	(253, 000)	(253, 000)	(+253, 000)	( )	( )	( )	( )
Trust Territory of the Pacific Islands	69, 750, 000	81, 000, 000	81, 000, 000	77, 196, 000	+77, 196, 000	+7, 446, 000	−3, 804, 000	−3, 804, 000	
Transition period		15, 100, 000	15, 100, 000	15, 100, 000	+15, 100, 000				
Micronesian claims fund, Trust Territory of the Pacific Islands	1, 400, 000	10, 000, 000	10, 000, 000	10, 000, 000	+10, 000, 000	+8, 600, 000			
Transition period		8, 600, 000	8, 600, 000	8, 600, 000	+8, 600, 000				
Ex gratia payment, Bikini		3, 000, 000	2, 270, 000	3, 000, 000	+3, 000, 000	+3 000, 000		+730, 000	
Transition period									
Total, Territorial Affairs	90, 952, 000	109, 000, 000	109, 270, 000	112, 196, 000	+112, 196, 000	+21, 244, 000	+3, 196, 000	+2, 926, 000	
Transition period		27, 500, 000	27, 500, 000	27, 500, 000	+27, 500, 000				
SECRETARIAL OFFICES									
Office of the Solicitor									
Salaries and expenses	11, 082, 000	12, 014, 000	11, 143, 000	11, 382, 000	11, 263, 000	+181, 000	−751, 000	+120, 000	−119, 000
Transition period		2, 727, 000	2, 626, 000	2, 703, 000	2, 665, 000		−62, 000	+39, 000	−38, 000
Office of the Secretary									
Salaries and expenses	19, 839, 000	21, 343, 000	18, 599, 000	19, 732, 000	18, 734, 000	−1, 105, 000	−2, 609, 000	+135, 000	−998, 000
Transition period		4, 850, 000	4, 171, 000	4, 408, 000	4, 203, 000		−647, 000	+32, 000	−205, 000
Departmental operations	10, 618, 000	14, 278, 000	12, 381, 000	12, 278, 000	12, 153, 000	+1, 535, 000	−2, 125, 000	−228, 000	−125, 000
Transition period		2, 920, 000	2, 445, 000	2, 515, 000	2, 480, 000		−440, 000	+35, 000	−35, 000
Salaries and expenses (special foreign currency program)	192, 000	1, 714, 000		1, 494, 000	1, 494, 000	+1, 302, 000	−220, 000	1, 494, 000	
Transition period		100, 000		75, 000	75, 000		−25, 000	+75, 000	
Total, Office of the Secretary	30, 649, 000	37, 335, 000	30, 980, 000	33, 504, 000	32, 381, 000	+1, 732, 000	−4, 954, 000	+1, 401, 000	−1, 123, 000
Transition period		7, 870, 000	6, 616, 000	6, 998, 000	6, 758, 000		−1, 112, 000	+142, 000	−240, 000
Total, Secretarial Offices	41, 731, 000	49, 349, 000	42, 123, 000	44, 886, 000	43, 644, 000	+1, 913, 000	−5, 705, 000	+1, 521, 000	−1, 242, 000
Transition period		10, 597, 000	9, 242, 000	9, 701, 000	9, 423, 000		−1, 174, 000	+181, 000	−278, 000
Total, new budget (obligational) authority, Department of the Interior	2, 286, 310, 000	2, 393, 488, 000	2, 398, 539, 000	2, 441, 086, 000	2, 423, 429, 000	+137, 119, 000	+29, 941, 000	+24, 890, 000	−17, 657, 000
Transition period		672, 940, 900	670, 738, 900	678, 725, 900	677, 823, 900		+4, 883, 000	+7, 085, 000	−902, 000
Consisting of—									
Appropriations	2, 286, 310, 000	2, 393, 488, 000	2, 398, 539, 000	2, 441, 086, 000	2, 423, 429, 000	+137, 119, 000	+29, 941, 000	+24, 890, 000	−17, 657, 000
Transition period		672, 940, 900	670, 738, 900	678, 725, 900	677, 823, 900		+4, 883, 000	+7, 085, 000	−902, 000
Definite Appropriations	1, 900, 337, 000	2, 004, 338, 000	1, 997, 628, 000	2, 004, 050, 000	2, 026, 193, 000	+125, 856, 000	+21, 855, 000	+28, 565, 000	−17, 857, 000
Transition period		573, 742, 000	572, 052, 000	578, 039, 000	577, 637, 000		+3, 895, 000	+5, 585, 000	−402, 000
Indefinite Appropriations	385, 973, 000	389, 150, 000	400, 911, 000	397, 036, 000	397, 236, 000	+11, 263, 000	+8, 086, 000	−3, 675, 000	+200, 000
Transition period		99, 198, 900	98, 686, 900	100, 686, 900	100, 186, 900		+988, 000	+1, 500, 000	−500, 000
Memoranda—									
Appropriations to liquidate contract authority	89, 596, 000	10, 208, 000	117, 481, 000	107, 899, 000	110, 003, 000	+20, 407, 000	−205, 000	−7, 478, 000	+2, 104, 000
Transition period		38, 521, 000	39, 021, 000	40, 121, 000	39, 021, 000		+500, 000		−1, 100, 000
Total, new budget (obligational) authority and appropriations to liquidate contract authority	2, 375, 906, 000	2, 503, 696, 000	2, 516, 020, 000	2, 548, 985, 000	2, 533, 432, 000	+157, 526, 000	+29, 736, 000	+17, 412, 000	−15, 553, 000
Transition period		711, 461, 900	709, 759, 900	718, 846, 900	716, 844, 900		+5, 383, 000	+7, 085, 000	−2, 002, 000

	New BA enacted fiscal year 1975	1976/transition				Conference compared with—			
		New BA estimates	New BA House	New BA Senate	New BA conference	Fiscal year 1975 enacted	New BA estimate	House bill	Senate bill
TITLE II—RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
Forest Service									
Forest protection and utilization:									
Forest land management	419, 362, 000	338, 297, 000	358, 746, 000	363, 012, 000	365, 821, 000	−53, 541, 000	+27, 524, 000	+7, 075, 000	+2, 809, 00
Transition period		111, 388, 000	116, 759, 000	118, 388, 000	117, 000, 000		+5, 612, 000	+241, 000	−1, 388, 00
Forest research	77, 612, 000	79, 211, 000	81, 955, 000	82, 005, 000	80, 355, 000	+2, 743, 000	+1, 144, 000	−1, 600, 000	−1, 650, 000
Transition period		21, 550, 000	22, 277, 000	21, 550, 000	21, 737, 000		+187, 000	−540, 000	+187, 000
State and private forestry cooperation	34, 784, 000	30, 222, 000	33, 594, 000	32, 994, 000	32, 994, 000	−1, 790, 000	+2, 772, 000	−600, 000	
Transition period		9, 202, 000	10, 052, 000	9, 802, 000	9, 802, 000		+600, 000	−250, 000	
Total, Forest Protection and utilization	531, 758, 000	447, 730, 000	474, 295, 000	478, 011, 000	479, 170, 000	−52, 588, 000	+31, 440, 000	+4, 875, 000	+1, 159, 000
Transition period		142, 140, 000	149, 088, 000	149, 740, 000	148, 539, 000		+6, 399, 000	−549, 000	−1, 201, 000
Construction and land acquisition	31, 337, 000	14, 475, 000	16, 618, 000	17, 607, 000	18, 134, 000	−13, 203, 000	+3, 659, 000	+1, 516, 000	+527, 000
Transition period		11, 074, 000	11, 074, 000	11, 074, 000	11, 074, 000				
Youth conservation corps	10, 392, 000	10, 400, 000	20, 000, 000	30, 000, 000	25, 000, 000	+14, 608, 000	+14, 600, 000	+5, 000, 000	−5, 000, 000
Transition period		8, 054, 000		10, 000, 000			−8, 054, 000		−10, 000, 000
Forest roads and trails (appropriation to liquidate contract authority)	(124, 578, 000)	(108, 225, 000)	(117, 859, 000)	(112, 857, 000)	(112, 857, 000)	(−11, 721, 000)	(+4, 632, 000)	(−5, 002, 000)	( )
Transition period	( )	( )	( )	( )	( )	( )	( )	( )	( )
Acquisition of lands for national forests:									
Special acts (special fund, indefinite)	161, 000	161, 000	161, 000	161, 000	161, 000				
Transition period									
Acquisition of lands to complete land exchanges	39, 310	35, 000	35, 000	35, 000	35, 000	−4, 310			
Transition period									
Acquisition of lands, Klamath Indians	49, 000, 000					−49, 000, 000			
Transition period									
Cooperative range improvements (special fund, indefinite)	700, 000	700, 000	700, 000	700, 000	700, 000				
Transition period									
Assistance to States for tree planting	1, 355, 000	1, 359, 000	1, 359, 000	1, 359, 000	1, 359, 000	+4, 000			
Transition period		829, 000	829, 000	829, 000	829, 000				
Construction and operation of recreation facilities (indefinite, special fund)	1, 260, 000	3, 674, 000	3, 674, 000	3, 674, 000	3, 674, 000	+2, 414, 000			
Transition period		2, 212, 000	2, 212, 000	2, 212, 000	2, 212, 000				
Total, Forest Service	626, 002, 310	478, 534, 000	516, 842, 000	531, 547, 000	528, 233, 000	−97, 769, 310	+49, 699, 000	+11, 391, 000	−3, 314, 000
Transition period		164, 309, 000	163, 203, 000	173, 855, 000	162, 654, 000		−1, 655, 000	−549, 000	−11, 201, 000
Energy Research and Development Administration									
Operating expenses, fossil fuels	330, 936, 000	463, 400, 000	406, 594, 000	454, 850, 000	426, 994, 000	+96, 058, 000	−36, 406, 000	+20, 040, 000	−27, 856, 000
Transition period		117, 460, 000	104, 568, 000	114, 656, 000	108, 956, 000		−8, 504, 000	+4, 388, 000	−5, 700, 000
Plant and capital equipment, fossil fuels	13, 260, 000	21, 025, 000	20, 425, 000	21, 025, 000	21, 025, 000	+7, 765, 000		+600, 000	
Transition period		8, 240, 000	8, 200, 000	8, 240, 000	8, 240, 000			+40, 000	
Special foreign currency program, fossil fuel		6, 650, 000	6, 650, 000	6, 650, 000	6, 650, 000	+6, 650, 000			
Transition period									
Total, Energy Research and Development Administration	344, 196, 000	491, 075, 000	433, 669, 000	482, 525, 000	454, 669, 000	+110, 473, 000	−36, 406, 000	+21, 000, 000	−27, 856, 000
Transition period		125, 700, 000	112, 768, 000	122, 896, 000	117, 196, 000		−8, 504, 000	+4, 428, 000	−5, 700, 000
Federal Energy Administration									
Salaries and expenses	130, 035, 000	260, 095, 000	98, 388, 000	158, 245, 000	142, 992, 000	+12, 957, 000	−117, 103, 000	+44, 604, 000	−15, 253, 000
Transition period		50, 825, 000	25, 439, 000	27, 000, 000	25, 283, 000		−25, 542, 000	−156, 000	−1, 717, 000
Federal Metal and Nonmetallic Mine Safety Board of Review									
Salaries and expenses	60, 000	60, 000				−60, 000	−60, 000		
Transition period		15, 000					−15, 000		
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Health Services Administration									
Indian health services	235, 672, 000	269, 541, 000	273, 017, 000	272, 662, 000	274, 835, 000	+39, 163, 000	+5, 294, 000	+1, 818, 000	+2, 173, 000
Transition period		73, 028, 000	73, 580, 000	74, 197, 000	73, 780, 000		+752, 000	+200, 000	−417, 000
Indian health facilities	57, 431, 000	41, 458, 000	43, 758, 000	56, 466, 000	55, 366, 000	−2, 065, 000	+13, 908, 000	+11, 608, 000	−1, 100, 000
Transition period		11, 084, 000	11, 084, 000	11, 084, 000	11, 084, 000				
Total, Indian health	293, 103, 000	310, 999, 000	316, 775, 000	329, 128, 000	330, 201, 000	+37, 098, 000	+19, 202, 000	+13, 426, 000	+1, 073, 000
Transition period		84, 112, 000	84, 664, 000	85, 281, 000	84, 864, 000		+752, 000	+200, 000	−417, 000
Office of Education									
Indian education	42, 034, 000	42, 055, 000	57, 055, 000	57, 055, 000	57, 005, 000	+15, 021, 000	+15, 000, 000		
Transition period		516, 000	516, 000	516, 000	516, 000				
INDIAN CLAIMS COMMISSION									
Salaries and expenses	1, 324, 000	1, 420, 000	1, 411, 000	1, 411, 000	1, 411, 000	+87, 000	−9, 000		
Transition period		355, 000	352, 000	352, 000	352, 000		−3, 000		
NAVAJO AND HOPI RELOCATION COMMISSION									
Salaries and expenses		37, 500, 000		16, 500, 000	12, 700, 000	+12, 700, 000	−24, 800, 000	+12, 700, 000	−3, 800, 000
Transition period		125, 000		125, 000	100, 000		−25, 000	+100, 000	−25, 000
SMITHSONIAN INSTITUTION									
Salaries and expenses	70, 706, 000	79, 408, 000	77, 908, 000	77, 752, 000	77, 832, 000	+7, 126, 000	−1, 576, 000	−76, 000	+80, 000
Transition period		22, 010, 000	21, 634, 000	21, 712, 000	21, 740, 000		−270, 000	+106, 000	+28, 000
Museum programs and related research (special foreign currency program)	2, 000, 000	2, 000, 000		500, 000	500, 000	−1, 500, 000	−1, 500, 000	+500, 000	
Transition period		750, 000					−750, 000		

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1976 AND THE PERIOD ENDING SEPTEMBER 30, 1976 (8773)—Continued

	New BA enacted fiscal year 1975	1976/transition				Conference compared with—			
		New BA estimates	New BA House	New BA Senate	New BA conference	Fiscal year 1975 enacted	New BA estimate	House bill	Senate bill
Science information exchange	1,805,000	1,875,000	1,500,000	1,875,000	1,875,000	+70,000		+375,000	
Transition period		500,000	406,000	500,000	500,000			+94,000	
Construction and improvements, National Zoological Park	9,420,000	9,550,000	8,390,000	8,390,000	8,390,000	−1,030,000	−1,160,000		
Transition period		1,440,000	1,440,000	1,440,000	1,440,000				
Restoration and renovation of buildings	1,490,000	1,467,000	1,192,000	1,192,000	1,192,000	−298,000	−275,000		
Transition period		400,000	400,000	400,000	400,000				
Construction (appropriation to liquidate contract authority)	(7,000,000)	(3,000,000)	(2,500,000)	(2,500,000)	(2,500,000)	(−4,500,000)	(−500,000)	( )	( )
Transition period	( )	( )	( )	( )	( )	( )	( )	( )	( )
Salaries and expenses, National Gallery of Art	7,015,000	7,598,000	7,564,000	7,431,000	7,531,000	+516,000	−67,000	−33,000	+100,000
Transition period		1,946,000	1,937,000	1,904,000	1,937,000		−9,000		+33,000
Salaries and expenses, Woodrow Wilson International Center for Scholars	954,000	975,000	962,000	962,000	962,000	+8,000	−13,000		
Transition period		244,000	238,000	238,000	238,000		−6,000		
Total, Smithsonian Institution	93,390,000	102,873,000	97,516,000	98,102,000	98,282,000	+4,892,000	−4,591,000	+766,000	+180,000
Transition period		27,290,000	26,055,000	26,194,000	26,255,000		−1,035,000	+200,000	+61,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES									
Salaries and Expenses									
Endowment for the arts	67,250,000	74,500,000	72,000,000	77,000,000	74,500,000	+7,250,000		+2,500,000	−2,500,000
Transition period		33,750,000	33,125,000	33,750,000	33,437,000		−313,000	+312,000	−313,000
Endowment for the humanities	67,250,000	74,500,000	72,000,000	72,000,000	72,000,000	+4,750,000	−2,500,000		
Transition period		21,375,000	20,750,000	20,750,000	20,750,000		−625,000		
Administrative expenses	10,783,000	11,000,000	10,910,000	10,910,000	10,910,000	+127,000	−90,000		
Transition period		2,750,000	2,727,000	2,727,000	2,727,000		−23,000		
Total Salaries and Expenses	145,283,000	160,000,000	154,910,000	159,910,000	157,410,000	+12,127,000	−2,590,000	+2,500,000	−2,500,000
Transition period		57,875,000	56,602,000	57,227,000	56,914,000		−961,000	+312,000	−313,000
Matching Grants									
Endowment for the arts (indefinite)	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000				
Transition period		500,000	500,000	500,000	500,000				
Endowment for the humanities (indefinite)	6,500,000	7,500,000	7,500,000	7,500,000	7,500,000	+1,000,000			
Transition period		500,000	500,000	500,000	500,000				
Total, Matching Grants	14,000,000	15,000,000	15,000,000	15,000,000	15,000,000	+1,000,000			
Transition period		1,000,000	1,000,000	1,000,000	1,000,000				
Total, National Foundation on the Arts and the Humanities	159,283,000	175,000,000	163,910,000	174,910,000	172,410,000	+13,127,000	−2,590,000	+2,500,000	−2,500,000
Transition period		58,875,000	57,602,000	58,227,000	57,914,000		−961,000	+312,000	−313,000
COMMISSION OF FINE ARTS									
Salaries and expenses	176,000	200,000	198,000	198,000	198,000	+22,000	−2,000		
Transition period		45,000	45,000	45,000	45,000				
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and expenses	1,777,000	1,895,000	1,876,000	1,871,000	1,871,000	+94,000	−24,000	−5,000	
Transition period		424,000	419,000	419,000	419,000		−5,000		
AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION									
Salaries and expenses	9,686,000	10,000,000	9,000,000	9,962,000	9,462,000	−224,000	−538,000	+462,000	−500,000
Transition period		1,876,000	1,626,000	1,861,000	1,743,000		−133,000	+117,000	−118,000
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and expenses									
Transition period		6,000	6,000	6,000	6,000				
LOWELL HISTORIC CANAL DISTRICT COMMISSION									
Salaries and expenses			75,000	120,000	120,000	+120,000	+120,000	+45,000	
Transition period			19,000	30,000	30,000		+30,000	+11,000	
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA									
Salaries and expenses	693,000	708,000	708,000	764,000	764,000	+71,000	+56,000	+56,000	
Transition period		120,000	120,000	120,000	120,000				
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and expenses	824,000	1,256,000		916,000	824,000		−432,000	+824,000	−92,000
Transition period		314,000		218,000	218,000		−96,000	+218,000	
Total, new budget (obligational) authority, Related Agencies	1,702,583,310	1,913,670,000	1,703,423,000	1,863,254,000	1,811,192,000	+108,608,690	−102,478,000	+107,769,000	−52,062,000
Transition period		514,907,000	472,834,000	497,145,000	477,715,000		−37,192,000	+4,881,000	−19,430,000
Consisting of—									
Appropriations	1,702,583,310	1,913,670,000	1,703,423,000	1,863,254,000	1,811,192,000	+108,608,690	−102,478,000	+107,769,000	−52,062,000
Transition period		514,907,000	472,834,000	497,145,000	477,715,000		−37,192,000	+4,881,000	−19,430,000
Definite appropriations	1,686,462,310	1,894,135,000	1,683,888,000	1,843,719,000	1,791,657,000	+105,194,690	−102,478,000	+107,769,000	−52,062,000
Transition period		511,695,000	469,622,000	493,933,000	474,503,000		−37,192,000	+4,881,000	−19,430,000
Indefinite appropriations	16,121,000	19,535,000	19,535,000	19,535,000	19,535,000	+3,414,000			
Transition period		3,212,000	3,212,000	3,212,000	3,212,000				
Memoranda—									
Appropriations to liquidate contract authority	131,578,000	111,225,000	120,359,000	115,357,000	115,357,000	−16,221,000	+4,132,000	−5,002,000	
Transition period									
Total, new budget (obligational) authority and appropriations to liquidate contract authority	1,834,161,310	2,024,895,000	1,823,782,000	1,978,611,000	1,926,549,000	+92,387,690	−98,346,000	+102,767,000	−52,062,000
Transition period		514,907,000	472,834,000	497,145,000	477,715,000		−37,192,000	+4,881,000	−19,430,000

	New BA enacted fiscal year 1975	1976/transition				Conference compared with—			
		New BA estimates	New BA House	New BA Senate	New BA conference	Fiscal year 1975 enacted	New BA estimate	House bill	Senate bill
RECAPITULATION									
Total, new budget (obligational) authority, all titles	3, 988, 893, 310	4, 307, 158, 000	4, 101, 962, 000	4, 304, 340, 000	4, 234, 621, 000	+245, 727, 690	−72, 537, 000	+132, 659, 000	−69, 719, 000
Transition period		1, 187, 847, 900	1, 143, 572, 900	1, 175, 870, 900	1, 155, 538, 900	--------------	−32, 309, 000	+11, 966, 000	−20, 332, 000
Consisting of—									
Appropriations	3, 988, 893, 310	4, 307, 158, 000	4, 101, 962, 000	4, 304, 340, 000	4, 234, 621, 000	+245, 727, 690	−72, 537, 000	+132, 659, 000	−69, 719, 000
Transition period		1, 187, 847, 900	1, 143, 572, 900	1, 175, 870, 900	1, 155, 538, 900	--------------	−32, 309, 000	+11, 966, 000	−20, 332, 000
Definite appropriations	3, 586, 799, 310	3, 898, 473, 000	3, 681, 516, 000	3, 887, 769, 000	3, 817, 850, 000	+231, 050, 690	−80, 623, 000	+136, 334, 000	−69, 919, 000
Transition period		1, 085, 437, 000	1, 041, 674, 000	1, 071, 972, 000	1, 052, 140, 000	--------------	−33, 297, 000	+10, 466, 000	−19, 832, 000
Indefinite appropriations	402, 094, 000	408, 685, 000	420, 446, 000	416, 571, 000	416, 771, 000	+14, 677, 000	+8, 086, 000	−3, 675, 000	+200, 000
Transition period		102, 410, 900	101, 898, 900	103, 898, 900	103, 398, 900	--------------	+988, 000	+1, 500, 000	−500, 000
Memoranda—									
Appropriations to liquidate contract authority	221, 174, 000	221, 433, 000	237, 840, 000	223, 256, 000	225, 360, 000	+4, 186, 000	+3, 927, 000	−12, 480, 000	+2, 104, 000
Transition period		38, 521, 000	39, 021, 000	40, 121, 000	39, 021, 000	--------------	+500, 000	--------------	−1, 100, 000
Grand total, new budget (obligational) authority and appropriations to liquidate contract authority	4, 210, 067, 310	4, 528, 591, 000	4, 339, 802, 000	4, 527, 596, 000	4, 459, 981, 000	+249, 913, 690	−68, 610, 000	+120, 179, 000	−67, 615, 000
Transition period		1, 226, 368, 900	1, 182, 593, 900	1, 215, 991, 900	1, 194, 559, 900	--------------	−31, 809, 000	+11, 966, 000	−21, 432, 000

Mr. ROBERT C. BYRD. Mr. President, rather than attempt a summary of the changes in the Senate-passed bill, I propose to yield at this point to the Senator from Alaska (Mr. STEVENS) for any remarks he might care to make as ranking minority member of the subcommittee. After that, we stand ready to answer any questions. I should note before yielding that the conference report was printed in the RECORD in full on Tuesday under the House proceedings. The report itself has been available for Senators to examine since about noon yesterday.

With that, Mr. President, I yield to the Senator from Alaska (Mr. STEVENS) and stand ready to answer any questions on the conference report.

Mr. STEVENS. Mr. President, I commend the distinguished chairman of the Appropriations Subcommittee on Interior for the excellent job he has done on this bill. He has been very fair to me and to the other Members who have an interest in this bill. And he has been tenacious, and, it should be noted, successful, in trying to keep this bill under the administration's budget request. The conference agreement allowed $4,234,631,000 in the fiscal year and $1,155,538,900 for the transition quarter. This is $72.5 million below the budget request for the fiscal year and over $32 million below the transition quarter budget request.

I believe a fair compromise was reached by the House and Senate conferees. The total agreed to by the conferees represents an increase of $132,659,000 above the amount provided by the House and a decrease of $20,332,000 below the Senate amount.

There is great diversity in the Federal programs included in the bill. Funds provided here will enable this country to husband its natural resources better, to increase recreational opportunities, to provide assistance to Native Americans, to enrich our cultural life, and to celebrate the Nation's Bicentennial.

I believe the conference agreement is a good one. Once again I congratulate the chairman of the subcommittee for his fine work, and I join him in urging the Senate to support the conference agreement.

Mr. McGEE. Mr. President, I support adoption of this conference report. This measure not only responds to the needs of our Nation in very critical areas, but also is responsible in its attention to congressional budgetary limitations. In addition, I would like to state that those appropriations specifically earmarked for my State of Wyoming are very timely and will be of great benefit to a State which is singularly important as our Nation faces increasing demands on domestic agricultural, energy, and fiber resources. The State of Wyoming stands ready to provide whatever resources are needed to meet our country's needs. Indeed, Wyomingites are proud to be able to provide such an important contribution. This appropriation's measure will not only enable the Department of the Interior and our State to better support the Nation, but will also insure that the way of life so important to our Wyoming citizens will also be protected. I wish to compliment the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Arkansas (Mr. McCLELLAN) on their very able management of this measure.

Mr. BAKER. Mr. President, I will not take much of the Senate's time, but I would like to comment briefly on one provision in the conference report that accompanies H.R. 8773.

That is language on page 13 of House Report 94–701. That language directs the National Park Service to spend $369,000 out of the funds provided for roads and trails to initiate planning on section 1–D of the Natchez Trace Parkway in Tennessee. The resumption of work on the parkway in Tennessee is both a necessary and important step forward.

I wish to express my thanks to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and to the distinguished Senator from Alaska (Mr. STEVENS) for their efforts and help on this problem. Their assistance, as well as that of the other Senate conferees, is highly valued and appreciated by me and by the people of Tennessee.

In addition, I want to thank the members of the conference committee representing the House, and in particular Chairman YATES of the subcommittee, Chairman MAHON of the full Appropriations Committee, and Representative McDADE, the ranking Republican among the conferees. Their recognition of our problems with moving this project forward is highly valued.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFENSE PRODUCTION ACT AMENDMENTS, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11027.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11027) to amend the effective date of the Defense Production Act Amendments of 1975.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to the immediate consideration of H.R. 11027.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 11027) was read the third time, and passed.

ORDER FOR RECOGNITION OF MR. STEVENS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the completion of the order by Mr. PROXMIRE tomorrow morning, Mr. STEVENS be recognized for not to exceed 15 minutes, prior to the resumption of consideration by the Senate of the highway bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 8773, Department of the Interior and related agencies appropriations, 1976.

Mr. JAVITS. Mr. President, I wish to call attention to a brief statement in the report of the Appropriations Committee on the Department of the Interior and related agencies appropriation bill, H.R. 8773, which concerns me. That statement, found on page 19 of the report, expresses the committee's belief that the Mine Enforcement and Safety Administration should remain in the Interior Department and not be transferred to the Department of Labor.

Without debating the merits of such a transfer at this time, I wish to point out that I and a number of other Senators are already on record in favor of transferring MESA to the Labor Department. Last March, Senator WILLIAMS, the chairman of the Labor and Public Welfare Committee, and I, along with 38 other Senators, cosponsored the Federal Mine Safety and Health Act of 1975, S. 1302. This bill, which contains a number of improvements in our mine safety laws, also includes a provision transferring these functions to the Department of Labor. We consider that this is necessary to centralize programs designed to protect the safety and health of American workers in one agency, the Labor Department. We also believe that this transfer should be made because of the inherent conflict within the Department of the Interior because of its dual mandate to maximize mineral and fuel production and, at the same time, to regulate the mining industry with respect to the safety and health of its workers.

This conflict is certainly exacerbated by the current need to increase coal production. We believe that the Labor Department will be more responsive to the workers' needs. It should also be noted that the organization representing the mine workers, the United Mine Workers, has expressed the same view.

I raise this at this time, Mr. President, simply to note that there is a strong opinion in the Senate contrary to the statement contained in the committee report.

Mr. President, there is no germaneness of any decision to be made at this time as to the pending measure. But, this occurred in the report and does represent a view—certainly an important part of the Appropriations Committee, I thought it was best to call it to the attention of my colleague and to invite study and consultation, if that would seem appropriate to Senator ROBERT C. BYRD and Senator STEVENS, with the chairman and the ranking minority member of the Labor Committee.

One other point: I also hope that Senators BYRD and STEVENS will have a look at our bill, S. 1302, because it may very well be that the provisions in our bill may have some effect upon their thinking concerning the proper administrative placement of the Mine Safety Administration.

S. 1302 has an impressive number of cosponsors. My purpose, then, is simply for information, because, although the report language is influential and important, it is not a binding decision. I hope my colleagues will, therefore, look into the question a little further in view of our opinion.

Mr. ROBERT C. BYRD. Mr. President, I am familiar with the bill to which the distinguished Senator from New York has referred. I have discussed this matter with Mr. WILLIAMS on a previous occasion. I certainly, at this point, feel that MESA should remain within the Department of the Interior, where the mine health and safety programs have been placed for a long, long time. MESA, of course, is now a separate agency within the Department of the Interior. It has been separated from the Bureau of Mines.

I must say that the subcommittee carefully considered the matter. The conference report language reflects the same position as did the language in the report of the Senate Committee on Appropriations, as recommended by the Interior Subcommittee. I shall read that language at this time:

> The managers believe very strongly that the mine health and safety programs of the Mining Enforcement and Safety Administration should remain in the Department of the Interior. The managers are convinced that mine health and safety enforcement programs have been and should continue to be most effectively administered in coordination with other established mining safety programs now in the Department.

The chairman of the subcommittee has been very interested in the improvement of mine health and safety programs over a long period of time. At the present time, a National Academy for Training of Mine Health and Safety Inspectors is being established in my home county of Raleigh at Beckley, the county seat of that county, in West Virgina. This $20 million facility will be the West Point of the coal industry insofar as the training of mine health and safety inspectors is concerned. I would not only hope, but expect that, as a result of that academy and its programs in the coming years, we would see a decided improvement in the mine health and safety programs within not only the coal mining industry, but in other mining areas of the national industry.

I would, however, be glad to study the bill further, as the distinguished Senator from New York has suggested and to consult further with the Senator from New York and with Mr. WILLIAMS about the matter. Perhaps some meeting of the minds can be reached.

I do want to say, in all candor, that at this point, the committee report language reflects my feeling in the matter. That does not mean to say that I have a closed mind or that I will not be amenable to further discussions and consultations in accordance with the suggestion of the Senator from New York.

Mr. STEVENS. Mr. President, I state to the Senator from New York as a result of my background in the Department of Interior, going back to the days of the beginning of the great interest of the Department of the Interior in mine safety and enforcement of mine safety laws, I have to inform my good friend that I have the same feeling that the chairman of our committee does. It is not a question of jurisdiction of our committee; it comes from a deep feeling that had Congress intended to remove this from the Department of the Interior at the time the OSHA bill was passed, it could have done so. I think we have recognized, through a series of actions going back into the fifties when I was in the Department of the Interior, that this whole program must be administered by those people who understand mining and understand the problems and not only the normal OSHA-type safety procedures, but also the total safety that is required in the mining industry, particularly the coal mining industry.

I tell my friend that it surprises me that there is a question being raised at this time, because I know of no program that has had the emphasis that has been given to this, not only by Congress but also by the Department of the Interior. It seems to be proceeding in a very good manner. I have, in my time on both the Committee on the Interior and now on the Interior Appropriations Committee, not heard any criticism of what we are trying to do. I do remember one hearing where there were groups of union members that raised questions as to procedures. I was informed they were fairly well worked out.

My friend from New York has raised a subject that I would be more than willing to sit down, as he suggests, to discuss with the Senator from New Jersey, the Senator from New York, and the Senator from West Virginia to determine if the conflict can be eliminated.

This language represents the feeling of those who appeared before the committee, and it certainly reflects my personal feeling that the mine health and safety enforcement programs have been effectively administered and coordinated with the other mine safety programs. I think they should stay there until we have some good reason to take them out.

I point out to my friend from New York that if we put it over into the Department of Labor, we are either going to have to duplicate the expertise that exists in the Bureau of Mines and other areas of the Department of the Interior, or we are going to have to shift those people with experience over to Labor. As it is now they perform other functions beyond this in the Department of the Interior. So I do think that, in the interest of economy, this is in the right place at this time.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. Mr. President, I do want to note that the jurisdiction for the black lung program has recently been shifted to the Department of Labor from the Social Security Administration. I must say, however, as a Senator from a coal mining State, and a Senator in whose office thousands of letters dealing with black lung applications have been processed, that the record of the Department of Labor to date in this area is miserable and frankly, absolutely disgusting.

MESA has been separated from the Bureau of Mines, and has been established as an independent agency within the Department of the Interior. It is now independent of other mining agencies and it is now concerned entirely with health and safety matters. Although there is no conflict with other mining programs, MESA does work closely with the Bureau of Mines in certain research areas dealing with health and safety. I am presently of the opinion that MESA can operate most effectively within the Department of the Interior.

I hope that we would at least let the matter rest where it is until such time as a track record can be established and we can judge how effectively that agency operates. Let us see what comes of this operation of MESA, an independent agency within the Department of the Interior before we start down another road and make what I would consider to be a rather traumatic change by transferring MESA programs to the Department of Labor.

I should like to see a longer history of experience under the current program of operations within the Department of the Interior before Congress takes what might be precipitous action in transferring mesa programs to the Department of Labor.

Mr. JAVITS. Mr. President, I shall not detain the Senate long. One thing that I think everybody should know is that fatalities in the coal mines have gone up, not down. We have tragic figures for 1973 and 1974. This was one of the things which attracted the attention of Senator Williams, myself and 38 other Senators to the problem of mine safety.

In order to complete the record I ask unanimous consent that there be included in the RECORD the excerpt of the cosponsors of the bill, which appears at page 8165 of the CONGRESSIONAL RECORD of March 22, 1975, plus the introductory statement of Senator WILLIAMS which describes our purposes in introducing the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

By Mr. WILLIAMS (for himself, Mr. Randolph, Mr. Kennedy, Mr. Hartke, Mr. McGee, Mr. Schweiker, Mr. McGovern, Mr. Humphrey, Mr. Metcalf, Mr. Hathaway, Mr. Pell, Mr. Eagleton, Mr. Ribicoff, Mr. Tunney, Mr. Jackson, Mr. Abourezk, Mr. Stafford, Mr. Gravel, Mr. Stevenson, Mr. Mondale, Mr. Philip A. Hart, Mr. Muskie, Mr. Gary W. Hart, Mr. Mansfield, Mr. Bayh, Mr. Case, Mr. Nelson, Mr. Church, Mr. Cranston, Mr. Javits, Mr. Brooke, Mr. Clark, Mr. Bentsen, Mr. Magnuson, Mr. Moss, Mr. Glenn, Mr. Haskell, Mr. Bumpers, Mr. Montoya, and Mr. Biden):

S. 1302. A bill to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes. Referred to the Committee on Labor and Public Welfare.

FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1975

Mr. WILLIAMS. Mr. President, I am introducing for myself and other Senators, legislation designed to provide for increased efficiency and better management of our mine safety regulatory agencies. The cosponsors of this bill represent a national and bipartisan constituency. We serve on the committees concerned with our Nation's most pressing human and economic problems—Labor and Public Welfare, Public Works, and Interior. While we represent both mining and nonmining States, States with a wide divergence of economic and social problems, we have a unified concern for protecting the safety and health of our working miners. The tragic number of mine accidents in recent years has shown that the effectiveness of our mine safety programs has fallen drastically short of their anticipated goals. We in Congress have long recognized mining as one of the most dangerous occupations in this country, and over the years we have attempted to reduce its occupational hazards by passing major mine safety legislation. Unfortunately, our efforts have been largely frustrated by the tepid administration and enforcement of these laws by the Department of the Interior. Therefore, it again becomes our responsibility to alleviate the suffering of the Nation's miners and their families by providing the legislative machinery to reduce mine fatalities and injuries to an absolute minimum. The vehicle by which we hope to achieve this end is S. 1302, the Federal Mine Safety and Health Amendments of 1975.

The proposed legislation has three principal features: First, the bill will take the long overdue action of combining all mine workers under a single, strong piece of legislation. Mine safety and health is now regulated under two separate laws—the Federal Coal Mine Health and Safety Act of 1969 and the Metal and Nonmetallic Mine Safety Act of 1966.

Second, the functions of the Secretary of the Interior under the present Coal Mine and Metal Mine Acts will be transferred to the Secretary of Labor in a separate mine-safety and health administration, with an administrator, subject to Senate confirmation.

Third, the bill provides for standard setting and enforcement procedures which would conform to the Administrative Procedure Act and provide for appellate court review.

One of the major features of our proposed legislation is to transfer all responsibility for mine safety regulation and enforcement from the Department of the Interior to the Department of Labor. We consider this absolutely imperative if our nation's miners are to receive maximum benefit from the efficient administration of mine safety regulations. We deem this transfer necessary because of the inherent conflict imposed on the Department of the Interior by virtue of its dual mandate to maximize mineral and fuel production and to enforce mine safety regulations. Historically, the Interior Department's primary function has been the development of the Nation's natural resources. The protection of persons who must produce those resources often has been perceived as one of the Department's secondary functions. At best, maximizing mine production and enforcing mine safety are certainly conflicting roles for the Department. This dual mandate, compounded for energy, really puts the Department between "a rock and a hard spot" in determining its policy priorities.

The Secretary of the Interior recognized this conflict in principle when he reorganized his Department in May, 1973, to separate responsibility for mine safety and health from the other functions of the Bureau of Mines. To this end, he created the Mining Enforcement and Safety Administration (MESA). However, while this has resulted in some improvement over the prior situation, the fact remains that the responsibility for the miners' health and safety continues to reside in a Department whose first concern is production. We recognize that MESA has many people who are dedicated to mine safety and that their corps of inspectors is well qualified. We simply maintain that MESA cannot be primarily responsible to the working miner's needs if it continues to be housed within the Department of the Interior.

One provision of our bill will transfer MESA's qualified and dedicated personnel resources to the Department of Labor, a Department which has no inherent conflict in its duty to American workers, a Department that has long been recognized as the advocate of the American worker with the Federal Government, one which has the interest and well being of workers at the top of its priority list. This bill will transfer those personnel now administering mine health and safety. We admit that transferring the administrative agency from one department of government to another does not represent an ultimate resolution of the mine safety problem. Rather, it represents the first step toward insuring vigorous enforcement of the law. It is a means toward the ultimate goal of reducing the present rate of death and disabling injuries that eats at the vitals of this important industry.

Let us pause for a minute on the matter of maximization of energy resources. I would like to bring to your attention the problems we will face in increasing coal production to meet the Nation's demands. We have vast coal resources, and when extracted, these can satisfy our energy needs for many years in the future. To some extent, coal can replace petroleum products as energy fuel and hence lessen our dependence on foreign oil. It may seem to some that we can immediately curtail our oil imports by producing more coal. While it is recognized that strippable coal production can be increased almost immediately, the same is not true for underground coal production. This is because we do not have a ready stock of high production mining machinery, nor do we have an excess of skilled coal miners. Modern mining equipment is very sophisticated and if a coal operator were to order new machinery tomorrow, his anticipated delivery date may be 2 or more years in the future. Should he advertise for skilled coal miners, he may not get enough response to begin a single shift.

Therefore, any immediate increase in coal production by underground mining would require an increase in output of existing mines by using on-hand equipment and by training more miners. If we attempt to increase production by operating around the clock, inexperienced miners will have to be utilized. As a matter of fact, some coal companies do now operate on a 24-hour basis, but they have the necessary equipment, expertise, and personnel to comply with the safety regulations. Some others do not. Therefore, we need a comprehensive and an effective mine safety program to insure the health and safety of those who are already employed and those who choose to enter mining occupations in the future. We think S. 1302 will fill that need.

A major defect in our present mine-safety legislation is that we have two separate Federal laws in existence: the 1966 Metal and Nonmetallic Mine Safety Act, which regulates mine safety in metal and nonmetallic coal mines, and the 1969 Coal Mine Health and Safety Act for the regulation of safety in coal mines. This has resulted in two separate enforcement divisions under MESA, which perform approximately the same regulatory functions for these two broad classes of mining operations. S. 1302 would place all mine-safety enforcement under one law administered by a single agency, thus ending the tremendous duplication of effort and disparity in operations between the two divisions. I will predict that before the ink is dry on today's CONGRESSIONAL RECORD, we will be hearing from those who oppose the single-manager concept and will uncategorically state that it is impossible to administer metal mining and coal mining under a single law. This is like saying that the manufacturing and construction industries cannot be regulated under a single statute by one agency. I would only mention that this is already being done by the Occupational Safety and Health Administration (OSHA) under the Department of Labor.

While OSHA may not be perfect, considerable progress has been made since the act was passed in 1970, and continuing improvement is expected. Again, by transferring mine safety to the Labor Department, a close relationship between OSHA's functions and mine safety regulatory functions will be effected. The opportunity to further reduce Federal expenditures, due to current duplication of efforts or facilities, is apparent. It is also expected that OSHA will benefit from the accumulated technical expertise of the mine-safety regulatory agency, once MESA is transferred to the Department of Labor.

Because I seem to have emphasized the increased efficiency of mine safety enforcement in my introduction of S. 1302, I do not want to convey the impression that our concern with operational efficiency is more important than humanitarian considerations. On the contrary, our primary objective is to minimize the suffering of miners and their families, and we view any improvement in operational efficiency as a means to that end.

While there have been no major mine disasters in the past 2 years, we should not allow the passage of time to dim our memory of two of the most calamitous disasters in American mining history that took place in 1972. On May 4, 1972, 91 men were killed in a mine fire at the Sunshine Silver Mine near Kellogg, Idaho. On February 26, 1972, the collapse of a coal mine refuse dam at Buffalo Creek, W. Va., took the lives of 125 inhabitants of the valley, including 14 coal miners. A total of 392 miners were killed in 1972—more than in any year since 1968, when 460 miners were killed while working. We contend that such a large number of deaths in any single year is a direct result of inadequate safety standards, standards which have been further diluted and made ineffective by questionable interpretations of the two existing laws covering mine safety.

The need for improvement in mine safety continues to be evident when the death rates for 1973 and 1974 are reviewed. During 1973, 132 coal miners were killed while pursuing their occupation. In 1974, 130 coal miners were killed while mining, and although this is two fewer than in the preceding year, it must be remembered that the mines were completely closed for almost 4 weeks during the 1974 contract negotiations and were operating at only 50 percent of capacity for another 2 weeks beyond that. We estimate that, had the mines not been shut down either completely or partially for a month and a half, the total number of fatalities for 1974 woulld have been greater than in 1973.

Obviously, the enforcement of the regulations pursuant to the 1969 Coal Mine Health and Safety Act is not having the desired result, despite the increase in the number of Federal coal mine inspectors from 1,226 in 1973 to 1,275 in 1974 and despite an increase in notices of violations issued against coal mine operators between the 2 years—from 71,155 in 1973 to 81,463 in 1974. In our view, there should have been a marked decrease in fatalities between 1973 and 1974, especially since MESA has been given ample resources to carry out its responsibilities.

As I mentioned earlier, there are two separate divisions in the Mining Enforcement and Safety Administration, one for coal mines and the other for metal and nonmetallic mines. The statistics for the metal and nonmetal mines are slightly better but still leave much room for improvement. The number of fatalities in metal and nonmetallic mines in 1974 was 151, compared to 175 in 1973, or a decrease of 24.

Whey there should be such a marked difference in the results of the two divisions of the same organization is hard to understand, and it would seem logical that, since the same training and technical facilities are available both, the results should be somewhat equal. I would also mention that 36 of the fatalities charged to metal and nonmetal mining occurred in sand and gravel operations. Under the proposed legislation, sand and gravel operations would be placed under the jurisdiction of OSHA, where they could be more appropriately handled.

To those who might oppose new legislation, particularly that calling for the transfer of the Mining Enforcement and Safety Administration to the Department of Labor, I can only say that the record indicates a change is drastically needed. The effective enforcement of mine safety regulations is going to be critical in the coming months in view of the increased demand for energy fuels. There are those who will say that mine accidents, injuries, and fatalities are a normal part of the mining business and a part of the price we must pay for our energy needs. I cannot endorse the view that we must sacrifice human lives in order to further our existence—or even worse—our personal comfort and well being.

So far, I have directed my introductory remarks to the need for this legislation and, before closing, I should briefly explain some of the other provisions of the bill.

These are: a general duty provision to cover unique but dangerous circumstances for which no standards have been set; exclusion of the construction-oriented sand and gravel operations from mine safety regulations, which will allow the mine safety enforcement agency to concentrate its efforts on the more dangerous underground mining; provision for standard setting and enforcement procedures which would conform to the Administrative Procedure Act and provide for appellate court review; elimination of advisory health and safety standards, either by making them mandatory or by eliminating them completely. The new legislation would also provide for assessment of penalties for violations in metal and nonmetallic mines, a feature that presently applies only to coal mines. Health research matters are transferred to the Secretary of Health, Education, and Welfare under the National Institute of Occupational Safety and Health. Some particular provisions of the 1969 Coal Mine Health and Safety Act to be retained in the new legislation are the requirement that all underground mines be inspected at least four times a year and that especially hazardous mines be given a spot inspection at least once every 5 working days. In addition, the Secretary of Labor would retain the sanction to close a mine for certain violations, and this provision is, in fact, strengthened under our proposed legislation.

Most of all, the new legislation will contain a number of streamlined enforcement and review procedures which should reduce excessive delays in assessing fines. There still exists a disturbing gap between the amounts of penalties proposed by MESA for mine safety violations and the amounts actually collected in fines. This gap can largely be attributed to the delay between the time of citation for a violation by the mine inspector and the issuance of a proposed assessment order. A July 1972 GAO report on MESA's penalty assessment system showed that the average time between the citation for a violation by the mine inspector and the issuance of a proposed assessment order was 129 days, with some delays ranging upward to 279 days. That same report revealed that of approximately $12 million in proposed penalties only $1.4 million had actually been collected.

In March 1973, a Federal judge ruled that the Interior Department's regulations and procedures for assessing fines were illegal, further complicating the collection of the full amount of penalties from coal companies who have violated the law. In April 1973, the Secretary of the Interior suspended the procedures for informal assessment of civil penalties and in October 1973, decentralized the assessment process by placing it in the district offices rather than in Washington. While some 70 coal mine inspectors were assigned to duty as assessment officers in an effort to clear up the backlog, MESA attorneys began compromising the penalties in an effort to further expedite the reduction of the backlog.

In June 1973, the Solicitor of the Department of the Interior issued Solicitor's Regulation 31 which gave solicitors within MESA the authority to dismiss Federal Mine Safety Acts of 1966 and 1969 and also gave regional and field solicitors and attorneys within a region the authority to dismiss and compromise litigation before the Office of Hearings and Appeals. This regulation was implemented immediately, and outstanding penalties compromised at an average of only 30 cents on the dollar. In one instance, an assessed penalty of $3,325 was settled for $1.

Our latest records show that the total amount assessed for all cases as of January 31, 1975 was about $48 million, of which only about $11.6 million has been collected, leaving an approximate difference of $36.4 million in unpaid assessments. Between April 24, 1973 and February 1, 1975, of some 20,546 new cases assessed for a total of $19,449,400 million, 6,203 cases were settled for a total of $4,681,782 million. We should emphasize that these figures are taken from data furnished by MESA itself. By contrast, OSHA's records show that of approximately $6.5 million in assessments for calendar year 1974, over $5 million has been collected.

It is difficult to estimate exactly how much of the $36 million in total unpaid assessments has been collected by the Department since the end of January 1975. But the Department has acknowledged that it is currently compromising the penalties for 30 to 40 cents on the dollar. This continued practice of compromising the penalties will hardly permit the Department to collect outstanding assessed penalties in full, let alone encourage compliance with the law.

I think these figures speak for themselves. We are not convinced that Interior's present system of processing and collecting penalties serves as an effective deterrent against mine safety violations. More to the point, the relationhip between the violation itself and the amount of the fine is lost in a process whereby the adverse action between the coal operator and the government becomes more important than the safety or health violation. Let me emphasize that we are not concerned with collecting fines as an end in itself, but rather with the maintenance of an efficient but fair system of fines that will command respect from both the mine operators and the workers and serve as an incentive for voluntary compliance with the law.

To conclude, we are confident that our proposed legislation will resolve the conflict between the mandate to maximize mine production and to regulate mine safety that necessarily exists within the Department of the Interior by placing all mine safety regulatory functions under a single law administered by a single agency within the Department of Labor. It will allow further for the ready exchange of ideas, expert information, and experienced personnel between mine safety and occupational safety regulatory agencies within the same Department. I believe that this legislation is fair, that it will not impose an excessive burden on the mine operators, and that it will serve both the interests of the workers and of the business community.

Mr. JAVITS. I hope my colleagues will understand that I was not trying in any way to tempt them into a debate.

Obviously, we have the burden of proof if our bill is going to be successful. We understand that. And, when necessary, we will bear that burden.

I thank my colleagues very much.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New York.

Mr. President, if there be no further questions, I ask that the conference report be agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk state the amendments in disagreement.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments in disagreement.

The assistant legislative clerk read as follows:

The House concurs and recedes from amendments numbered 3, 18, 23, 35, 47, 48, 58, 62, 64, 70, 84, 85, 92, and 107.

The amendments in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by the said amendment, insert: $8,911,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert $17,706,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $27,215,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,500,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $200,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $2,229,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $12,153,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $12,153,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $80,355,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concurr therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $18,134,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$25,283,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 85 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$274,835,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$21,174,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17 of Public Law 92-578 as amended, $824,000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, $218,000.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur en bloc in the amendments of the House to the amendments of the Senate, numbered 3, 18, 23, 35, 47, 48, 58, 62, 64, 70, 84, 85, 92, and 107.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished friend from Alaska (Mr. STEVENS) for the fine cooperation and the great and valuable input into this whole bill that he has been responsible for from the beginning, through the hearings, through the markup on the bill, and through the conduct of the conference with the other body, and the adoption of the conference report to this body.

His services were invaluable, and his cooperation was greatly appreciated.

I also want to thank the members of the staff for the invaluable assistance they have been to me and to all Senators on the committee.

DINO MENDOZA PASCUA

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 55.

The assistant legislative clerk laid before the Senate the amendment of the House of Representatives to the bill (S. 55) for the relief of Dino Mendoza Pascua, as follows:

Line 9, before "brothers", insert "parents and".

Mr. ROBERT C. BYRD. On June 26, 1975, the Senate passed S. 55, a bill to facilitate the entry of a child into the United States as an immediate relative of adoptive U.S. citizen parents.

On November 18, 1975, the House of Representatives passed S. 55 with an amendment to exclude the natural parents from future benefits by virtue of such relationship.

While the House amendment appears to be unnecessary, since the definition of an adopted child in the Immigration and Nationality Act contains the same language precluding future benefits to the natural parents, this surplusage does no harm.

I move that the Senate concur in the House amendment to S. 55.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

JESUS CORTEZ PINEDA

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 447.

The assistant legislature clerk laid before the Senate the amendments of the House of Representatives to the bill (S. 447) for the relief of Jesus Cortez Pineda, as follows:

Line 7, strike out "citizens of the United States", and insert: "a citizen of the United States and a lawfully resident alien, respectively,".

Line 8, before "brothers", insert: "natural parents or".

Mr. ROBERT C. BYRD. On June 26, 1975, the Senate passed S. 447, a bill to facilitate the adjustment of status of an adopted son as an immediate relative of a U.S. citizen and his lawfully permanent resident spouse.

On November 18, 1975, the House of Representatives passed S. 447 with amendments to indicate that the adoptive mother is a lawfully permanent resident alien. A further amendment excludes the natural parents from future benefits by virtue of such relationship.

I move that the Senate concur in the House amendments to S. 447.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

HEUNG SOON KIM

Mr.ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 605.

The assistant legislative clerk laid before the Senate the amendment of the House of Representatives to the bill (S. 605) for the relief of Heung Soon Kim, as follows:

Page 2, line 1, before "brothers", insert "parents and".

Mr. ROBERT C. BYRD. On September 29, 1975, the Senate passed S. 605, a bill to facilitate the entry of a child into the United States as an immediate relative of adoptive U.S. citizen parents.

On November 18, 1975, the House of Representatives passed S. 605 with an amendment to exclude the natural parents from future benefits by virtue of such relationship.

While the House amendment appears to be unnecessary, since the definition of an adopted child in the Immigration and Nationality Act contains the same language precluding future benefits to the natural parents, this surplusage does no harm.

I move that the Senate concur in the House amendment to S. 605.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

SUN YANG KIM AND SUN MI KIM

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1653.

The assistant legislative clerk laid before the Senate the amendment of the House of Representatives to the bill (S. 1653) for the relief of Sun Yang Kim and Sun Mi Kim, as follows:

Line 9, after "natural", insert "parents and".

Mr. ROBERT C. BYRD. On September 29, 1975, the Senate passed S. 1653, a bill to facilitate the entry of two children into the United States as immediate relatives of adoptive U.S. citizen parents.

On November 18, 1975, the House of Representatives passed S. 1653 with an amendment to exclude the natural parents from future benefits by virtue of such relationship.

While the House amendment appears to be unnecessary, since the definition of an adopted child in the Immigration and Nationality Act contains the same language precluding future benefits to the natural parents, this surplusage does no harm.

I move that the Senate concur in the House amendment to S. 1653.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

PRIVILEGE OF THE FLOOR

Mr. SYMINGTON. Mr. President, I ask unanimous consent that when the Price-Anderson bill, S. 2568, providing for public remuneration in the event of a nuclear incident, comes to the floor, a member of my staff, Col. Ben George, be accorded the privilege of the floor.

The ACTING PRESIDENT pro temport. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 9 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, Mr. PROXMIRE will be recognized for not to exceed 15 minutes, after which Mr. STEVENS will be recognized for not to exceed 15 minutes, at which time then, upon the conclusion of Mr. STEVENS' remarks, the Senate will resume consideration of the Federal highway bill.

The question pending at that time will be on the adoption of the amendment by Mr. DOMENICI, amendment No. 1182. The yeas and nays have been ordered on that amendment, and the rollcall vote will occur at about 9:30 a.m. tomorrow.

Upon the disposition of the amendment by Mr. DOMENICI, it is my understanding that no rollcall vote beyond that vote is immediately pending.

The ACTING PRESIDENT pro tempore. That is correct. The only rollcall ordered is the rollcall on the amendment of the Senator from New Mexico (Mr. DOMENICI).

Mr. ROBERT C. BYRD. I thank the Chair.

Under the order entered into earlier today, upon the disposition of the amendment by Mr. DOMENICI, Mr. KENNEDY will be recognized to call up two amendments in succession. There is a time limitation on each of those amendments.

Upon the disposition of the amendments by Mr. KENNEDY, the amendment by Mr. CRANSTON and others has been ordered to be considered. Rollcall votes will occur on these and other amendments and on final passage of the highway bill tomorrow.

Mr. President, upon the disposition of the highway bill tomorrow, under the order previously entered, the Senate will proceed to the consideration of S. 1136 by Mr. PHILIP A. HART of Michigan and others, a bill to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes.

The ACTING PRESIDENT pro tempore. The Chair is advised that that particular order was withdrawn at the request of the Senator from West Virginia when the unanimous consent was pending. At the moment there is no order to that effect.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The Chair is correct. I did delete that from the requests which I made with respect to the highway bill.

I have been asked by the distinguished majority leader to state that it is the intention of the leadership to proceed to the consideration of the bill S. 1136, upon the disposition of the highway bill tomorrow.

Mr. GRIFFIN. Mr. President, will the distinguished acting majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. It is the understanding, however, that there has been no time agreement reached on that bill.

Mr. ROBERT C. BYRD. The Senator is correct. There is no time agreement.

If the Senator would not have any objection, I could get consent at this time that that bill be made the pending business upon the disposition of the highway bill so that all Senators would be alerted to the program to that extent tomorrow in view of the fact that there is no agreement on the bill and also in view of the fact that it has been on the calendar since November 26. Mr. PHILIP A. HART has been very desirous of having the Senate act on this bill at the earliest moment.

Mr. GRIFFIN. I assume that if the leadership wants to bring it up, it is their prerogative. I do not know of any inclination to debate the motion to take up.

Mr. ROBERT C. BYRD. Mr. President, let me just withdraw the request that it be clocked in and rest with the statement that it is the desire of the leadership on tomorrow to make that the pending business following the final action on the highway bill.

It may be that other circumstances at that time will dictate differently.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order be for an adjournment rather than a recess.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m., tomorrow.

The motion was agreed to; and at 7:10 p.m., the Senate adjourned until tomorrow, Friday, December 12, 1975, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 11, 1975:

DEPARTMENT OF DEFENSE

Robert Ellsworth, of New York, to be a Deputy Secretary of Defense. (New position.)

IN THE ARMY

The following-named officer for appointment as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, section 593(a) and 3392 (Army National Guard of the United States):

To be brigadier general

Col. Wayne Walter Bridges, [redacted], Adjutant General Corps.

IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Abell, John B., [redacted].
Albertson, Robert L., [redacted].
Alexander, James W., [redacted].
Allen, Benny J., [redacted].
Allen, Ernest G., Jr., [redacted].
Allsman, Gerald F., [redacted].
Ammon, Glendon L., [redacted].
Anderson, Allen L., Jr., [redacted].
Anderson, Edwin M., Jr., [redacted].
Anderson, Marcus A., [redacted].
Anderson, Robert D., [redacted].
Anderson, Warren L., [redacted].
Anderson, Wayne C., Jr., [redacted].
Anderson, William H., [redacted].
Ando, Joe K., [redacted].
Arata, Harold J., [redacted].
Arcari, Paul W., [redacted].
Ashcraft, Robert G., [redacted].
Atchley, Jimmie O., [redacted].
Austin, George A., [redacted].
Aycock, James W., Jr., [redacted].
Babin, Shirly A., [redacted].
Baechle, William, [redacted].
Bagwell, William L., [redacted].
Bailey, Donald R., [redacted].
Baird, Sidney A., [redacted].
Baker, Ward J., [redacted].
Balcom, Ralph C., [redacted].
Baldasari, Paul, [redacted].
Bandarrae, Frederick J., II, [redacted].
Banks, George G., [redacted].
Barbero, Albert L., [redacted].
Bargery, Basil L., [redacted].
Barlow, William J., [redacted].
Barnicoat, William J., Jr., [redacted].
Barras, Gregory I., [redacted].
Barrett, William R., [redacted].
Barrows, Ralph E., [redacted].
Bartholomew, Charles W., [redacted].
Bartholomew, David B., [redacted].
Bartholomew, Richard A., [redacted].
Bartlett, Ronald A., [redacted].
Barton, Larry K., [redacted].
Bassett, James R., [redacted].
Bateman, Thomas S., [redacted].
Bathke, Robert K., [redacted].
Baxter, Robert H., [redacted].
Bay, Jerry L., [redacted].
Baxly, Philip A., [redacted].
Bear, Howard J., [redacted].
Beck, Douglass D., [redacted].
Beckman, Rodney B., [redacted].
Bedsworth, Bobby D., [redacted].
Beer, Carl N., [redacted].
Bell, Lowell L., [redacted].
Bennett, Clyde E., [redacted].
Bennett, James B., [redacted].
Berry, Kay L., [redacted].
Berryhill, James V., [redacted].
Beuke, Theodore R., [redacted].
Biggs, Robert L., [redacted].
Billings, John H., [redacted].
Binford, Richard L., [redacted].
Binish, Robert H., [redacted].
Birkett, Robert C., [redacted].
Bishop, Marvin L., [redacted].
Blackwell, John W., [redacted].
Blake, Gerald A., [redacted].
Blanton, Harvey B., Jr., [redacted].
Bobko, Karol J., [redacted].
Bohlen, George A., [redacted].
Bond, Charles W., [redacted].
Bond, Gerald E., [redacted].
Bonnette, John C., [redacted].
Bouchard, Philippe O., [redacted].
Bowden, Charles K., [redacted].
Boyland, John S., [redacted].
Brackett, Donald F., [redacted].
Bradley, Charles W., [redacted].
Brakebill, Dale L., [redacted].
Bramwell, Stanley K., [redacted].
Brand, Thomas E., [redacted].
Brandon, Francis E., Jr., [redacted].
Brandt, Joseph P., [redacted].
Brehm, Lawrence R., [redacted].
Brewer, Alton P. H., Jr., [redacted].
Bristow, John L., [redacted].
Brittain, Douglas B., [redacted].
Brocks, James H., [redacted].
Brooks, Jerrell W., [redacted].
Brooks, William L., [redacted].
Brotherston, Joseph H., [redacted].
Brown, Charles D., [redacted].
Brown, Floyd W., Jr., [redacted].
Brown, Gerald T., [redacted].
Brown, Marvin R., [redacted].
Brown, Paul, [redacted].
Bull, Ernest R., Jr., [redacted].
Burggrabe, Donald E., [redacted].
Burkhart, Charles W., Jr., [redacted].
Burns, Lindo L., [redacted].
Busch, Warren L., [redacted].
Butera, James L., [redacted].
Butler, Dennis L., [redacted].
Butt, Lucious C., [redacted].
Butterfield, Robert L., [redacted].
Butts, Clinton E., [redacted].
Buys, Earl, M., Jr., [redacted].
Cabell, Charles P., Jr., [redacted].
Cade, David J., [redacted].
Caine, Philip D., [redacted].
Caldwell, Bruce T., [redacted].
Campbell, Gerald E., [redacted].
Cannon, Jerald D., [redacted].
Cantrell, Edwin B., III, [redacted].
Capling, Elwyn R., [redacted].
Capper, Dennis L., [redacted].
Carr, Benny M., [redacted].
Carroll, Gary K., [redacted].
Carroll, Robert P., [redacted].
Caulfield, John J., Jr., [redacted].
Chambers, Everett A., [redacted].
Chapman, George E., [redacted].
Chase, Paul N., [redacted].
Cherrington, John R., Jr., [redacted].
Chestnut, Joseph L., [redacted].
Christensen, Robert B., [redacted].
Christison, Wayne L., [redacted].
Cirillo, Eugene E., [redacted].
Claiborn, Edward L., [redacted].
Clarke, Robert N., [redacted].
Clemens, Donny D., [redacted].
Clements, Douglas M., [redacted].
Clements, Gerald H., [redacted].
Cleveland, Raymond H., [redacted].
Cobb, Jerry D., [redacted].
Cohen, Edward D., [redacted].
Cole, Victor P., [redacted].
Collier, Edward M., [redacted].
Collins, David, [redacted].
Combs, Charles D., [redacted].
Compton, Jack B., [redacted].
Conlin, Robert A., [redacted].
Connally, Glen R., [redacted].
Connelly, Thomas L., [redacted].
Conover, Charles B., [redacted].
Conover, John A., [redacted].
Coogan, Charles O., [redacted].
Coogan, Edward R., [redacted].
Cook, James, [redacted].
Cooney, Wilson C., [redacted].
Copp, Arthur J., [redacted].
Cordle, Robert L., [redacted].
Cormier, Johnny E., [redacted].
Cormier, Roy L., [redacted].
Cornell, David M., [redacted].
Corrigan, William J., [redacted].
Corzilius, David S., [redacted].
Courington, George D., [redacted].
Coursen, Franklin H., [redacted].
Cox, Gene A., [redacted].
Coyle, Harold S., Jr., [redacted].
Craig, William P., [redacted].
Crawford, Cyril J., [redacted].
Crawford, Gerald P., [redacted].
Cromer, Donald L., [redacted].
Crouch, James L., [redacted].
Cupfender, Norman M., [redacted].
Currie, Brian H., [redacted].
Dahmen, Gerald K., [redacted].
Dailey, Robert R., [redacted].
Daleski, Richard J., [redacted].
Daley, Robert J., [redacted].
Daniel, Henry L., Jr., [redacted].
Darcy, Gerald P., [redacted].
Daugherty, Tim T., [redacted].
Davidson, Alexander K., [redacted].
Davis, James, [redacted].
Dean, John H., [redacted].
Deans, William R., [redacted].
Debus, David L., [redacted].
DeCarlo, Anthony J., [redacted].
Denman, Howard R., [redacted].
Depriest, Van A., [redacted].
Desroches, Paul J., [redacted].
Dewey, William T., [redacted].
Dewilde, David A., [redacted].
Dickson, Marshall W., Jr., [redacted].
Dickson, Thomas P., [redacted].
Dille, Roy B., Jr., [redacted].
Dillingham, Larry D., [redacted].
Dimski, Jack C., [redacted].
Dockery, George E., [redacted].
Doderer, Earl S., [redacted].
Doggette, James C., Jr., [redacted].
Donaldson, Robert D., [redacted].
Donath, Harold M., Jr., [redacted].
Donelson, Nicholas J., [redacted].
Doole, William H. E., [redacted].
Doren, Anthony J., [redacted].
Dowell, Richard P., [redacted].
Dramesi, John A., [redacted].
Drane, Leslie R., Jr., [redacted].
Drobot, John J., [redacted].
Duart, David H., [redacted].
DuBois, James W., [redacted].
Duckworth, Richard D., [redacted].
Dudgeon, Cecil E., [redacted].
Dunbar, James R., [redacted].
Durazo, Charles G., [redacted].
Durdin, Thomas N., [redacted].
Dussftschleger, William F., [redacted].

Dyer, Richard E., [redacted].
Edgar, Norman R., [redacted].
Edgell, Robert E., [redacted].
Edgerly, Robert, [redacted].
Egbert, James F., [redacted].
Elliff, John J., [redacted].
Ellington, Jerald W., [redacted].
Elliott, John E., [redacted].
Ellis, Donald E., [redacted].
Elrod, Watt D., [redacted].
Elwood, Niles T., [redacted].
Emerson, Delbert A., Jr., [redacted].
Englebrecht, Maynard L., [redacted].
Englund, David B., [redacted].
Erickson, Paul E., [redacted].
Ernst, William H., [redacted].
Ernst, William L., [redacted].
Eubanks, Robert E., [redacted].
Evans, Richard P., [redacted].
Evans, Wilfred E., [redacted].
Evelan, Gerald S., [redacted].
Everett, James D., [redacted].
Fagan, Willis F., [redacted].
Faha, Frank T., [redacted].
Fair, Roy V., [redacted].
Farris, Jack K., [redacted].
Feather, George K., [redacted].
Felciano, Franklyn M., [redacted].
Ferguson, Charles L., [redacted].
Ferguson, Harold B., [redacted].
Ferrata, John B., Jr., [redacted].
Field, Kenneth W., [redacted].
Fink, Richard B., [redacted].
Finn, William V., [redacted].
Finnegan, John L., [redacted].
Fleming, Leon P., [redacted].
Flood, Donald A., [redacted].
Flood, James L., [redacted].
Forry, Willis E., [redacted].
Forstner, George C., [redacted].
Fortenberry, Lawrence T., [redacted].
Fortner, Larry D., [redacted].
Fosse, James M., [redacted].
Fowler, Bruce L., [redacted].
Fowler, Samuel R., Jr., [redacted].
Fox, Charles R., [redacted].
France, John B., [redacted].
Francis, George F., [redacted].
Francis, James R., [redacted].
Franklin, Charles F., [redacted].
Franklin, John M., [redacted].
Frazier, Therman E., [redacted].
Frederick, David L., [redacted].
French, Lawrence R., [redacted].
Freund, Richard M., [redacted].
Frey, Roger A., [redacted].
Frey, Russell B., [redacted].
Fulgham, George S., [redacted].
Fults, Jim, [redacted].
Funderburk, Elmer, Jr., [redacted].
Funkhauser, John L., [redacted].
Gabby, Harold H., [redacted].
Gardner, Richard A., [redacted].
Grawler, William C., [redacted].
Gazzola, Robert A., [redacted].
Gehrig, George T., [redacted].
Gennaci, Ignatius J., [redacted].
Gentry, Jerauld R., [redacted].
George, Thomas R., [redacted].
Gerbing, Frederick B., [redacted].
Gergen, Thomas F., [redacted].
Germani, Joseph G., [redacted].
Germscheid, Thomas C., [redacted].
Gerzina, Anthony W., [redacted].
Giannangeli, Anthony R., [redacted].
Gibler, James C., [redacted].
Giddings, Glenn G., Jr., [redacted].
Gilbert, Kenneth L., [redacted].
Gilbert, Richard L., [redacted].
Gillespie, Wallace D., [redacted].
Gilliland, James E., [redacted].
Gilroy, Kevin A., [redacted].
Gioia, John, [redacted].
Givant, Ernest E., [redacted].
Glenn, Bobby W., [redacted].
Glenn, James M., [redacted].
Glogowski, Richard M., [redacted].
Godman, Eugene D., [redacted].
Goetze, Richard B., Jr., [redacted].
Golberg, Lawrence H., [redacted].
Goldfarb, Levi, [redacted].
Gomas, Roger A., [redacted].
Gomez, Ben I., [redacted].
Gomez, Jose F., [redacted].
Good, Paul R., [redacted].
Goodson, Wilfred L., [redacted].
Goodwin, Philip A., [redacted].
Goodwin, Roy M., [redacted].
Grarler, Ronald V., [redacted].
Graham, William W., [redacted].
Grainger, Wayne F., [redacted].
Grassan, George D., [redacted].
Green, Henry W. Jr., [redacted].
Green, Wade L., [redacted].
Greenberg, Lester, [redacted].
Greenblatt, Owen L., [redacted].
Gregory, Gerald D., [redacted].
Griesbach, Duane M., [redacted].
Griffin, William C., [redacted].
Grimes, Jerry S., [redacted].
Grimes, Keith R., [redacted].
Gruer, Allan L., [redacted].
Gruver, Neill R., [redacted].
Gubler, Brian T., [redacted].
Gulley, Charles R., [redacted].
Gurkin, David C., Jr., [redacted].
Hablas, Louis J., Jr., [redacted].
Hahn, Robert A., [redacted].
Haight, Lawrence D., [redacted].
Halac, Harry E., [redacted].
Hall, Bud T., [redacted].
Hall, Donald J., [redacted].
Halter, Vincent F., Jr., [redacted].
Hansell, Haywood S., III, [redacted].
Hanson, Stanley C., [redacted].
Harding, James R., [redacted].
Hargrove, Donald R., [redacted].
Harlan, Maurice R., [redacted].
Harlin, William F., Jr., [redacted].
Harris, Gerald A., [redacted].
Harris, Peter W., [redacted].
Harrison, John W., [redacted].
Harvill, Preston S., Jr., [redacted].
Hausmann, Frank W., [redacted].
Havens, Ralph E., [redacted].
Haverland, Bobby H., [redacted].
Hawkins, Clifton J., [redacted].
Hays, Leo P., [redacted].
Heard, Allan P., [redacted].
Heathcote, James A., [redacted].
Heckman, Robert A., [redacted].
Hedge, Richard W., [redacted].
Heifner, Charles T., [redacted].
Henderson, Donald W., [redacted].
Hendricks, Roy J., [redacted].
Henninger, Howard W., [redacted].
Herning, Charles A., [redacted].
Heske, William J., [redacted].
Hess, Robert C., [redacted].
Hibarger, Robert W., [redacted].
Hicks, James N., Jr., [redacted].
High, John M., III, [redacted].
Hill, Claude C., [redacted].
Hilland, Richard W., [redacted].
Himebaugh, Rodric J., [redacted].
Hinely, Raymond F., [redacted].
Hines, Frank T., [redacted].
Hinnant, James M., Jr., [redacted].
Hinterthan, Winfried W., [redacted].
Hivner, James O., [redacted].
Hoag, Peter C., [redacted].
Holcombe, Kenneth E., [redacted].
Hollis, Donald R., [redacted].
Holmes, Douglas J., [redacted].
Holmes, Jerry D., [redacted].
Holtzclaw, Harold W., [redacted].
Horton, Joseph R., [redacted].
Houck, Fern L., [redacted].
Houlihan, William H., [redacted].
Howe, Bruce H., [redacted].
Hudson, Charles L., [redacted].
Hudson, Edwin C., [redacted].
Hughes, Jerome E., [redacted].
Hughes, Vincent C., Jr., [redacted].
Hull, Chad T., [redacted].
Hull, Wendell R., [redacted].
Hunsucker, Coley A., [redacted].
Hunt, David A., [redacted].
Igelman, David D., [redacted].
Israelitt, Lewis M., [redacted].
James, Charles L., Jr., [redacted].
James, Lewis E., [redacted].
Jameson, Randolph C., [redacted].
Jatras, George, [redacted].
Jayroe, Julius S., [redacted].
Jean, James N., [redacted].
Jefferson, James D., [redacted].
Jefferson, Wayne O., Jr., [redacted].
Jenkins, Frank R., [redacted].
Jenkins, Frank W., [redacted].
Jewett, Douglas A., [redacted].
Johns, Paul F., [redacted].
Johnson, James D., [redacted].
Johnson, Kenneth R., [redacted].
Johnston, Robert L., [redacted].
Jones, Charles L., [redacted].
Jones, Raymond L., [redacted].
Jones, Richard C., [redacted].
Julian, Robert E., [redacted].
Kamhoot, Norman B., [redacted].
Karolczyk, Edward, [redacted].
Kay, Wayne G., [redacted].
Keck, Charles H., [redacted].
Keddington, Neil H., [redacted].
Kehoe, Peter P., [redacted].
Keith, Alton P., [redacted].
Kelley, Carl S., [redacted].
Kelly, James S., [redacted].
Kelsey, Loyal L., [redacted].
Kelty, Vincent T., Jr., [redacted].
Kennebeck, George R., Jr., [redacted].
Kennedy, Leland T., [redacted].
Kent, Richard B., [redacted].
Kerr, John B., Jr., [redacted].
Kershaw, John P., [redacted].
King, Donald L., [redacted].
King, George W., [redacted].
Kinney, James S., [redacted].
Kirkpatrick, Kenneth A., [redacted].
Kirste, Milton R., [redacted].
Kirtley, Robert L., [redacted].
Kjar, Robert H., [redacted].
Kleperis, John V., [redacted].
Klimek, Robert A., Jr., [redacted].
Kline, Gerald D., [redacted].
Knight, John A., [redacted].
Knutson, Don R., [redacted].
Knutson, Duane E., [redacted].
Kopsick, John, Jr., [redacted].
Koretz, Donald, [redacted].
Korzep, David A., [redacted].
Kraus, Jon P., [redacted].
Kressin, Wolfgang K., [redacted].
Krim, John W., [redacted].
Kroese, Coe J., Jr., [redacted].
Krueger, Earl L., [redacted].
Kryszak, Theodore E., [redacted].
Lackey, Henry F., [redacted].
Lafave, Kenneth E., [redacted].
Lang, Henry S., Jr., [redacted].
Langendorf, Earl E., [redacted].
Lanier, Lawrence H., [redacted].
Lankford, Ralph P., [redacted].
Larsen, Richard N., [redacted].
Lawhon, Gerald L., [redacted].
Lawter, Owen R., [redacted].
Lawyer, Richard E., [redacted].
Leal, Richard E., [redacted].
Leaptrot, Brinson N., [redacted].
Leclercq, Francis K., [redacted].
Lee, James L., Jr., [redacted].
Lee, John P., [redacted].
Leeka, Richard B., [redacted].
Leombruno, Salvatore J., Jr., [redacted].
Leroy, Ronald S., [redacted].
Lewis, James W., [redacted].
Lilly, Ira B., Jr., [redacted].
Lipsey, Victor H., [redacted].
Lockwood, Edward J., Jr., [redacted].
Long, Joseph T., Jr., [redacted].
Lopez, Antonio, [redacted].
Lopina, Robert F., [redacted].
Loit, James S., [redacted].
Lowry, Stanley M., [redacted].
Lucero, Antonio H., [redacted].
Lukens, Kenneth W., [redacted].
Lurie, Alan P., [redacted].
Lynch, George P., Jr., [redacted].
Lynn, Roy H., Jr., [redacted].
Lyons, Billy S., [redacted].
Mahew, James H., [redacted].

Mahoney, George F., [redacted].
Mahrt, Martin H., [redacted].
Malley, James E., [redacted].
Manning, John F., [redacted].
Mannion, James J., [redacted].
Mansperger, Carl A., Jr., [redacted].
Maratos, Stanley G., [redacted].
Marcellino, Michael R., [redacted].
Marks, Donald L., [redacted].
Marsh, Mary A., [redacted].
Marshall, Jerry E., [redacted].
Marshall, William F., Jr., [redacted].
Martin, Bobby J., [redacted].
Martin, Bobby L., [redacted].
Martin, Jimmy G., [redacted].
Martin, Paul H., [redacted].
Martin, William C., [redacted].
Marts, Morton P., [redacted].
Mason, Kenneth J., [redacted].
Mason, Robert C., [redacted].
Masson, Richard W., [redacted].
Mathis, James R., [redacted].
Matters, Duane H., [redacted].
Matthew, Robert F., [redacted].
Matthews, Richard D., [redacted].
Mauger, Harold A., Jr., [redacted].
Maxwell, Samuel C., [redacted].
McCartney, Robert R., [redacted].
McChristian, Lester S., Jr., [redacted].
McClelland, Lester C., [redacted].
McClintock, Russel, Jr., [redacted].
McConnell, Anderson G., [redacted].
McCormick, William W., Jr., [redacted].
McDonald, Charles C., [redacted].
McElhanon, Michael D., [redacted].
McFarlane, Raymond E., [redacted].
McGee, Edward V., [redacted].
McGlinchey, Joseph J., [redacted].
McGowan, Patrick T., [redacted].
McGuire, John J., Jr., [redacted].
McKfan, Joel M., [redacted].
McKelvey, Robert D., [redacted].
McKone, John R., [redacted].
McLamb, Estel W., [redacted].
McNally, Ray F., [redacted].
McNeil, Charles T., [redacted].
McNfil, Lawrence F., [redacted].
McNiff, Frank L., [redacted].
McPherson, James K., [redacted].
McWhorter, Howard H., Jr., [redacted].
Mehserle, Henry J., [redacted].
Meiners, Herman P., Jr., [redacted].
Mellerski, Robert A., [redacted].
Merkle, Edward P., [redacted].
Metz, Donald C., [redacted].
Meyer, Albert D., [redacted].
Meyers, Thomas R., [redacted].
Mickelson, William F., [redacted].
Miears, James R., [redacted].
Milanovich, Nicholas G., [redacted].
Milburn, Richard A., [redacted].
Miles, Percy W., Jr., [redacted].
Miller, Donald L., [redacted].
Miller, Edward P., [redacted].
Miller, Gene A., [redacted].
Miller, Gerald S., [redacted].
Miller, Jerry D., [redacted].
Miller, John B., Jr., [redacted].
Miller, Robert J., [redacted].
Miller, Ronald M., [redacted].
Miller, William R., [redacted].
Millhaem, Robert N., [redacted].
Milton, Hugh M., III, [redacted].
Miner, Norman E., Jr., [redacted].
Mitchell, James R., [redacted].
Mitchell, Jarrell S., [redacted].
Monk, James G., [redacted].
Montgomery, Monte D., [redacted].
Moore, Charlie B., [redacted].
Moore, David R., [redacted].
Moore, Donald L., [redacted].
Moore, Richard E., [redacted].
Moore, Thomas L., [redacted].
Morgan, Herschel S., [redacted].
Morris, Earl J., Jr., [redacted].
Morris, John H., Jr., [redacted].
Morris, Quentin J., [redacted].
Moser, John T., [redacted].
Moses, Kenneth H., [redacted].
Motal, Delbert R., [redacted].
Motley, Albert F., Jr., [redacted].
Mrak, Steve V., [redacted].
Murray, James R., [redacted].
Myers, Dewitt H., [redacted].
Myers, Gene O., [redacted].
Myers, George F., [redacted].
Nagel, Richard A., Jr., [redacted].
Needham, Richard C., [redacted].
Neely, Joseph A., [redacted].
Neilson, Herbert E., [redacted].
Nelson, Charles C., Jr., [redacted].
Nelson, James W., [redacted].
Nelson, Michael A., [redacted].
Nelson, Richard L., [redacted].
Nevins, Joseph K., [redacted].
Newton, Tyree H., [redacted].
Nichols, William P. J., [redacted].
Nicolos, Peter K., [redacted].
Nielsen, Wallace A., [redacted].
Nikulla, Paul E., [redacted].
Nizko, Henry S., [redacted].
Noble, Richard J., [redacted].
Nordlie, Roland L., [redacted].
Norman, Robert A., [redacted].
Norman, Warren E., [redacted].
Norton, Fred I., Jr., [redacted].
Norton, Robert A., [redacted].
Nouss, James A., [redacted].
Nowland, Benoni, IV., [redacted].
Nunenkamp, Max T., [redacted].
Nunley, Billy F., [redacted].
Oberg, Duane C., [redacted].
O'Connor, James B., [redacted].
O'Connor, Robert K., [redacted].
Oehme, Chester G., Jr., [redacted].
Offill, Phillip W., [redacted].
O'Hara, Thomas A., Jr., [redacted].
Oldroyd, David A., [redacted].
Oliphant, John E., [redacted].
Oliver, Alan F., Jr., [redacted].
Olson, Arthur W., II, [redacted].
Olson, Donald C., [redacted].
Opitz, Stephen J., Jr., [redacted].
Oppel, Albert F., [redacted].
Orean, Richard E., [redacted].
Orme, Gordon R., [redacted].
Osborne, William R., [redacted].
O'Toole, Patrick J., [redacted].
Overall, Douglas, [redacted].
Oyler, Duane E., [redacted].
Paquette, Eugene F., [redacted].
Parker, Elbert C., [redacted].
Parker, Robert E., [redacted].
Partridge, James D., [redacted].
Paskoski, John J., [redacted].
Passi, Henry R., [redacted].
Patterson, Robert E., [redacted].
Paul, Herbert D., [redacted].
Peach, Matthew H., [redacted].
Pearman, John D., [redacted].
Peat, Randall D., [redacted].
Peck, Victor H., [redacted].
Pedroff, Peter S., [redacted].
Penn, Bernard C., [redacted].
Penney, Ralph S., [redacted].
Perkins, John E., [redacted].
Perry, Johnny L., [redacted].
Perry, Joseph J.. [redacted].
Peschel, Franklin D., [redacted].
Pestrichella, Alexander A., [redacted].
Peterson, Donald C., [redacted].
Peterson, Vernon C., [redacted].
Peterson, Wilbur D., [redacted].
Petrak, Herbert G., [redacted].
Petrich, Paul J., [redacted].
Pettyjohn, Jimmy C., [redacted].
Pfeiffer, Charles A., [redacted].
Phares, Norman R., [redacted].
Phillips, Robert S., [redacted].
Pickett, Thomas J., Jr., [redacted].
Pierson, Richard A., [redacted].
Pinard, Robert N., [redacted].
Piper, Mahlon L., [redacted].
Pitt, Robert W., [redacted].
Plummer, Robert H., Jr., [redacted].
Plutt, Phillip E., [redacted].
Poirier, John T., [redacted].
Pope, Dallas H., [redacted].
Pope, Joe D., [redacted].
Porter, William E., [redacted].
Potfft, Bobby S., [redacted].
Pound, Merritt B., Jr., [redacted].
Powell, Jack H., [redacted].
Prater, Richard H., [redacted].
Pritchett, Larry W., [redacted].
Pruden, Albert L., Jr., [redacted].
Pugnale, Ovidio, [redacted].
Purdum, Richard L. [redacted].
Purvine, Bruce M., [redacted].
Putney, Robert F., [redacted].
Pyatt, Robert C., [redacted].
Quast, Emil T., [redacted].
Radel, Andrew A., [redacted].
Raley, David E., [redacted].
Ralph, Thurlow H., [redacted].
Rankine, Robert R., Jr., [redacted].
Rans, Donald L., [redacted].
Rapuand, Joseph M., [redacted].
Rardin, Theodore A., [redacted].
Ratledge Bobby J., [redacted].
Rausch, Russell R., [redacted].
Ravetti, Louis R., [redacted].
Rawie, Carl W., [redacted].
Ray, Robert G., [redacted].
Rayfield, Robert S., [redacted].
Rayment, Donald W., [redacted].
Rea, Chalmers F., [redacted].
Reding, John J., [redacted].
Reed, Lester W., Jr., [redacted].
Reed, Norman E., [redacted].
Reed, Thomas B., [redacted].
Reeder, Johnnie R., [redacted].
Reese, Clyde H., [redacted].
Regenhardt, John D., [redacted].
Reid, James E., [redacted].
Reilly, James J., [redacted].
Reiner, David H., [redacted].
Reynolds, James W., [redacted].
Rice, Ronnie C., [redacted].
Rice, Tommy E., [redacted].
Richards, Jerry W., [redacted].
Riddlebarger, Samuel E., [redacted].
Rider, James G., [redacted].
Ridolfi, Richard R., [redacted].
Riley, Joseph D., Jr., [redacted].
Ring, Richard E., [redacted].
Ritenour, John D., [redacted].
Ritter, Jack L., [redacted].
Roades, Charles W., [redacted].
Roberts, Lionel W., [redacted].
Robertson, James E., [redacted].
Robinson, Lynn F., [redacted].
Roe, Roland H., [redacted].
Rogers, Sidney D., [redacted].
Rogers, William C., [redacted].
Rohrlick, Myles A., [redacted].
Roth, Charles A., [redacted].
Rowin, Lonnie J., [redacted].
Rowley, Dale D., [redacted].
Rudolph, Harry G., Jr., [redacted].
Rufty, Franklin G., Jr., [redacted].
Runge, Larry J., [redacted].
Rush, Thomas J., [redacted].
Russell, Howland S., [redacted].
Russell, Jerry W., [redacted].
Ruth, Alfred E., Jr., [redacted].
Rutland, George L., Jr., [redacted].
Sachs, Sumner S., [redacted].
Samos, Gerald J., [redacted].
Sanborn, Morgan W., [redacted].
Sanders, James D.., [redacted].
Sanders, Joe E., [redacted].
Sandler, Donald T., [redacted].
Sandstrom, Jack H., [redacted].
Saunders, Thomas H., [redacted].
Savage, Walter E., [redacted].
Scheidel, Paul N., [redacted].
Scheideman, Elton D., [redacted].
Scheidt, John C., Jr., [redacted].
Schmidt, Richard H., [redacted].
Scholz, Joachim E., [redacted].
Schoolfield, Scott M., [redacted].
Schoonmaker, Richard W., [redacted].
Schumann, Albert W., [redacted].
Schwankl, Gerald C., [redacted].
Scott, Martin R., [redacted].
Scrafford, Richard E., [redacted].
Seals, Billy R., [redacted].
Seborg, Earnest H., [redacted].
Senn, Charles H., [redacted].
Setlow, Andrew D., [redacted].

Sey, James, [redacted].
Shackelford, Billy F., [redacted].
Shalfski, Reginald W., [redacted].
Shaw, William M., Jr., [redacted].
Sheehan, Led E., Jr., [redacted].
Sheldon, Lyndon L., [redacted].
Sherrier, Richard J., [redacted].
Shields, Edward R., II, [redacted].
Shockey, Samuel H., Jr., [redacted].
Shumway, Allen L., Jr., [redacted].
Sikes, Jackie E., [redacted].
Simm, Robert K., [redacted].
Simpson, Paul L., [redacted].
Skelton, Charles B., [redacted].
Skinner, Owen G., [redacted].
Sleater, Joseph K., Jr., [redacted].
Slider, Joseph H., [redacted].
Small, John W., [redacted].
Small, Leland F., [redacted].
Smathers, Edwin D., Jr., [redacted].
Smith, Bealus A., Jr., [redacted].
Smith, Clark R., [redacted].
Smith, Donald C., [redacted].
Smith, Donald F., [redacted].
Smith, Harold V., [redacted].
Smith, Lee E., [redacted].
Smith Leo W., II, [redacted].
Smith, Mark F., III, [redacted].
Smith, Merlin C., Jr., [redacted].
Smith, Ronald C., [redacted].
Smith, Stanley O., [redacted].
Smith, Thomas W., [redacted].
Smith, William P., [redacted].
Smuck, Barre E., [redacted].
Snelling, John H., [redacted].
Sniegowski, John W., [redacted].
Snyder, Donald, [redacted].
Solomon, Howard N., [redacted].
Spegal, Donn A., [redacted].
Sperling, Daniel P., [redacted].
Sprague, Russell K., [redacted].
Springston, Theodore, Jr., [redacted].
Stackhouse, George B., III, [redacted].
Stanford, Jesse F., [redacted].
Stanislav, Rudolph J., [redacted].
Stanton, Joseph S., Jr., [redacted].
Staton, William D., [redacted].
Steen, Joe R., [redacted].
Stevens, Jerry E., [redacted].
Steves, John R., Jr., [redacted].
Stewart, Sam P., [redacted].
Stinson, James E., [redacted].
Stokes, Elbert R., [redacted].
Stone, Joseph L., Jr., [redacted].
Storz, Forrest E., [redacted].
Strain, Robert B., [redacted].
Strait, Ernest D., [redacted].
Strand, Roger F., [redacted].
Strasser, Jack C., [redacted].
Stratford, John J., Jr., [redacted].
Strayer, Jay M., [redacted].
Strebel, Clarence E., [redacted].
Stricker, Richard J., [redacted].
Strotman, Bruce D., [redacted].
Sturk, Robert L., [redacted].
Summers, Clarence S., Jr., [redacted].
Suther, John A., [redacted].
Swett, Ben H., [redacted].
Sylvester, David N., [redacted].
Talley, Dorsey J., [redacted].
Talley, William H., [redacted].
Tamura, Thomas T., [redacted].
Tanner, James L., [redacted].
Tate, George R., [redacted].
Tauzel, William R., Jr., [redacted].
Taylor, Claret D., [redacted].
Taylor, Donald M., [redacted].
Taylor, Henry L., [redacted].
Teague, Randolph M., [redacted].
Tefft, Howard E., [redacted].
Terry, Andrew G., Jr., [redacted].
Terry, James D., [redacted].
Tholen, Lloyd A., [redacted].
Thomas, Charles D., Jr., [redacted].
Thomas, Floyd L., [redacted].
Thomas, George J., Jr., [redacted].
Thomas, James A., [redacted].
Thomas, Oscar L., [redacted].
Thompson, Robert I., Jr., [redacted].
Thornton, William L., [redacted].
Timothy, Thomas E., [redacted].
Tindall, Ira F., [redacted].
Tingley, Ronald D., [redacted].
Tobin, Thomas G., [redacted].
Tokita, Shokichi, [redacted].
Tomes, Jack H., [redacted].
Toney, Robert L., [redacted].
Trottier, William B., [redacted].
Tucker, Sidney L., [redacted].
Tuttle, George G., [redacted].
Tyler, Charles R., [redacted].
Tyler, Joseph R., [redacted].
Utley, Russel K., [redacted].
Vandriel, Charles E., [redacted].
Vanmeter, Thomas R., [redacted].
Vanref, Harold G., [redacted].
Varvi, Charles J., Jr., [redacted].
Vernon, Roland M., [redacted].
Vickery, John D., [redacted].
Vitori, Theodore E., [redacted].
Vosika, Eugene L., [redacted].
Waddill, Rober G., [redacted].
Waddle, Bobby G., [redacted].
Walden, Charles E., [redacted].
Waldman, James H., [redacted].
Walker, Frederick T., [redacted].
Walker, Norman B., [redacted].
Wallace, Richard S., [redacted].
Walters, Merrill B., [redacted].
Waltman, Donald G., [redacted].
Ward, Donald T., [redacted].
Ward, Ronald, J., [redacted].
Wargowsky, Richard G., [redacted].
Warloe, Roger O., [redacted].
Warrell, Edwin S., Jr., [redacted].
Watson, John T., [redacted].
Watson, Robert J., [redacted].
Weaver, Thomas G., [redacted].
Weigel, Robert D. P., [redacted].
Wejroch, Joseph L., Jr., [redacted].
West, David A., [redacted].
Westcott, Russel G., Jr., [redacted].
Wetzel, Richard W., [redacted].
Weyant, Terry P., [redacted].
White, Edward B., [redacted].
White, Richard T., [redacted].
Whitney, Jay A., [redacted].
Whitt, Joe B., [redacted].
Whitten, William E., [redacted].
Wicker, Thomas J., [redacted].
Wiley, Thomas S., [redacted].
Wilkerson, Clarence Y., Jr., [redacted].
Will, Jimmy D., [redacted].
Willftt, aJmes G., [redacted].
Williams, Bob F., [redacted].
Williams, Clark E., [redacted].
Williams, David H., Jr., [redacted].
Williams, Rodney P., [redacted].
Williamson, John W., [redacted].
Williamson, William R., [redacted].
Wilma, Douglas C., [redacted].
Wilson, Harold D., [redacted].
Wilson, Kenneth V., [redacted].
Winkler, John L., Sr., [redacted].
Wolcott, Johi J., [redacted].
Wolf, Donald K., [redacted].
Wolf, Richard H., [redacted].
Wolford, Leland, [redacted].
Wood, Barry D., [redacted].
Wood, Don C., [redacted].
Wood, Floyd D., [redacted].
Woodhull, Richard G., Jr., [redacted].
Woodruff, Rubin M., [redacted].
Wootton, Wayne F., [redacted].
Worden, Roy F., Jr., [redacted].
Wright, James R., [redacted].
Wright, Richard D., [redacted].
Wright, Sidney J., [redacted].
Wyse, David L., [redacted].
Yager, Donald E., [redacted].
Yamada, Hisao, [redacted].
Yamamoto, Turu, [redacted].
Yancey, Kenneth E., Jr., [redacted].
Yates, Donald R., [redacted].
Yee, Edmund C. H., [redacted].
Yoder, Robert D., [redacted].
Yousf, Ronald B., [redacted].
Yow, Bobby G., [redacted].
Zakrzeski, Alexander, Jr., [redacted].
Zulauf, Elmer J., [redacted].

CHAPLAIN CORPS

Bergeron, Robert E., [redacted].
Brown, Preston C., Jr., [redacted].
Chapman, James W., [redacted].
Flinn, James E., [redacted].
Francis, Donald K., [redacted].
Rasberry, John E., [redacted].

JUDGE ADVOCATE

Arnts, Donald F., [redacted].
Early, William N., [redacted].
Finch, Mark T., [redacted].
Goodall, Sim W., [redacted].
Keenan, Thomas P., Jr., [redacted].
Peyser, Daniel B., [redacted].
Phillips, B. Ellis, [redacted].
Reimer, Gary B., [redacted].
Steenstra, Henry J., Jr., [redacted].
Stirk, John J., [redacted].
Thorpe, Norman R., [redacted].

NURSE CORPS

Carey, Eleanor M., [redacted].
Clementi, Mary F., [redacted].
Giniewski, Mary T., [redacted].
Greene, Mary B., [redacted].
Hale, Diann A., [redacted].
Kopczynski, Helen D., [redacted].
Liebeck, Maye L., [redacted].
Morgan, Lois J., [redacted].
Moyer, Donald S., [redacted].
Reid, Mary L., [redacted].
Richardson, Evelyn G., [redacted].
Staudenmaier, Herbert V., [redacted].
Watson, Herbert T., [redacted].

MEDICAL SERVICE CORPS

Blakeney, Joe F., [redacted].
Collom, James D., [redacted].
Gildner, John L., [redacted].
Mansfield, William P., Jr., [redacted].
Mugford, Frank M., [redacted].
Seal, Daniel H., [redacted].
Williams, Walter H., [redacted].

VETERINARY CORPS

Barker, Russell B., [redacted].
Cable, John W., [redacted].
Carter, Vernon L., Jr., [redacted].
Jensen, James P., [redacted].
Parker, Cleveland L., [redacted].
Springs, John M., Jr., [redacted].
Taylor, Gale D., [redacted].

BIOMEDICAL SCIENCE

Buchwald, Frank C., [redacted].
Choisser, Donald C., [redacted].
Johnson, Jordan D., Jr., [redacted].
Mabson, William E., [redacted].
Noe, Edward R., [redacted].
Smith, Billy S., [redacted].

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Thomas K. Aanstoos
Roger S. Ackerman
Daniel W. Adams
Gregory D. Adams
James E. Adams
James R. Adams
Ronald D. Affolter
Daniel Aguilar
Robert B. Alderman
George M. Alexander
Robert A. Aliobelli
Donald B. Allergo
Craig L. Allen
David F. Allen
Randolph D. Alles
Thomas Amabile
Keith F. Amacker
Gayla J. Ambrose
Michael R. Ambrose
Anthony A. Ambrosetti
Michael D. Andersen
Keith R. Anderson
Kristian W. Anderson
Richard T. Anderson
Robert C. Andes, Jr
Eric R. Andres
Daniel A. Andrist
James C. Andrus
Walter Andrus
Jeffrey M. Anners
Edward L. Archer
David H. Arms
Bertel K. E. Arnberg
Michael W. Arnold
Jeffrey S. Ashby

Sherman F. Ashby
Richard A. Atkisson
Leroy Auston
Gregory N. Bailey
Robert W. Bailey
Clifford C. Baker
Jeffrey W. Baker
Carlton M. Baldwin IV
Frank A. Baleskie
Gregg M. Ballard
Robert C. Ballard
Henry E. Baltar, Jr.
Rebecca A. Banasiak
Peter L. Bann
James R. Barbour
Terry L. Barger
Jeffrey L. Barker
William C. Barker
Brian J. Barnes
Bruce L. Barnes
James A. Barnett, Jr.
Dennis J. Barr
Ronald J. Barrett
Mark P. Barthel
Timothy C. Bashore
Kenneth M. Bates, Jr.
Ronald L. Battle
Dan O. Bausch
Gordon W. Beale
Ronald D. Bean
Jeffrey A. Beckman
Michael K. Beebe
Richard R. Beeson
Patrick J. Behnke
Paul A. Behrens
Robert B. Bell
John P. Bender
Tod D. Benedict
Anthony J. Benn
Stephen H. Bennett
Blanche I. Berg
Robert E. Berger
Francis X. Bergmeister
Charles L. Bergson
Joseph M. Bernat
Howard F. Bernstein
Stuart L. Besnoff
Raymond L. Betros
Brent J. Beverly
Eddie Bickham
Dennis Biddick
Robert L. Biely
Paul E. Billips
Richard B. Birch, IV
Jon W. Bischetsrieder
Bryan L. Bishop
Clude E. Blackman
Michael J. Blair
Herbert E. Bland
Leonard A. Blasiol
Charles C. Bloom
Patrick M. Bloomfield
Keith A. Boardman
William G. Boddy
Willie Boggan, Jr.
Samuel P. Bohannan
Stephen P. Bohlmann
Ralph B. Bolger, Jr.
James J. Bolon
Edward B. Boncek
David S. Borden
Mark J. Borris
Stephen M. Bosch
John P. Boska
Steven C. Bott
Terry R. Bower
Michael E. Bowles
James B. Bowling, Jr.
Patrick L. Boyd
Calvin C. Boykin, III
Miles S. Bozarth
William A. Bracken
Cecil D. Bradley
Jeffrey D. Brady
Robert E. Brady, Jr.
Thomas I. Branch
Kenneth S. Brandenburg
Edward A. Brandi, Jr.
Ronald S. Brashear
Robert D. Bremm
Thomas J. Brennan
Michael K. Brenny
Richard A. Brewer
Wayne E. Briggs
Richard N. Britnell
Steven W. Broadbent
Jeffrey A. Broso
David M. Brown
Larry K. Brown
Terence H. Brown
Terrence D. Brown
Russell J. Brubaker
Richard C. Bruce
Mark A. Bruder
Russell E. Bryant
Timothy R. Buell
Kim S. Buike
Guy M. Buisseau
Geoffrey J. Bulliung
Robert J. Bump
David W. Buntin
Steven N. Burchard
Frederick W. Burgess
Paul A. Burkholder
Douglas E. Burns
Richard B. Burrell
James A. Burrious
Robert E. Burtt, Jr.
Steven Busch
James M. Bushee
George K. Busse
Christopher T. Butler
Roy R. Byrd
Robert G. Byron
Francis C. Dachille
Thomas E. Caldwell
Dugald B. Campbell
Douglas E. Campbell
Mitsunori M. Campbell
Robert I. Campbell
William O. Campbell, III
Gregory T. Candy
Mark E. Capron
John E. Carey
Leonard S. Carita, Jr.
James J. Carlo
Andrew J. Carravus
Joseph P. Carson
David W. Case
Mark E. Casey
Michael J. Casey
Michael W. Caslin
James L. Cass
Paul C. Cassani
Stephen R. Caughey
George L. Cava
David M. Cebulski
Timothy J. Cepak
Mark G. Cesarotti
Bruce C. Chadbourne
William T. Chamberlain
Thomas S. Charis
Kevin R. Cheesebrough
Sidney E. Chillcott
Wellner L. Christian
Daniel F. Chwalisz
Mark A. Clark
Scott W. Clarke
Richard L. Brummitt
Scott D. Clay
William S. Clement
Clay T. Clinesmith
Michael S. Clinton
Thomas L. Cochenour
Donnie L. Cochran
Douglas H. Coe
William W. Collier
Robert O. Collyer
James W. Colton
Phillip J. Combest
Bruce M. Combs
Gary C. Conary
Christopher J. Conlan
Donald P. Conners
Timothy J. Conoanon
Vincent W. Converse
Thomas M. Coomes
Douglas G. Cooper
Gene J. Corini
George R. Cornelius
Steve A. Correll
Sean G. Corrigan
Michael S. Corry
Lawrence C. Cotton, Jr.
Steven E. Crime
Craig A. Covic
Robert F. Coyle
Todd F. Coyle
Constant P. Craig
Ralph D. Craig
Steven D. Craig
James M. Crites
Gary P. Crone
Bruce J. Cross
Wayne H. Crow
Henry E. Crump, Jr.
John P. Cryer, III
Matthew F. Culen
Gary R. Cullop
Craig T. Cuninghame
Robert D. Cunningham
John T. Curran
Stuart D. Currier, III
John P. Curry
Philip E. Curry, Jr.
Thomas W. Cutsforth
Roger T. Cuva
Gregoria A. Dacosta
Dennis W. Daigle
Timothy P. Dalton
Michael L. Dammer
James J. Dargan
Donny T. Davenport
Robert G. David, Jr.
Michael F. Davidson
Thomas A. Davidson
Willard S. Davidson
Clint A. Davis
Daniel W. Davis
Eugene A. Davis
Kirk E. Davis
Larry H. Davis
Lester B. Davis
Lester D. Davis
Ricky A. Davis
Russell J. Davis
Thomas M. Davis
Michael T. Daw
Ralph D. Dawson
John C. Decker
Terin M. De Dach
Robert L. Deen
Ronald A. Defibaugh
David R. Demming
John W. Deneale
Edwin W. Dennard
Juanito M. Destajo
Bruce D. Devers
John C. Devitt
Lyndol L. Dew
Michael Scott Dial
Joe W. Dickerson, Jr.
Michael R. Dicks
David M. Dillon
David R. Dillon
Jeffrey E. Dixon
Carl E. Dirks
Stephen M. Dlugos
Dennis D. Dobbs
Gary S. Dobson
Francis X. Doelp
Mark A. Doernhoefer
Martin F. Doherty
John R. Dohse
Robert P. Dolan
John E. Dolenti
Giuseppe Donadio
Stanley M. Donham, II
Thomas P. Donnelly
Peter M. Donovan
Thomas G. Dooley
Gary E. Dorfler
Stephen C. Dorsett
Gordon O. Dorsey
William A. Dossantos
James A. Dougherty
Kevin P. Dowling
Richard D. Dowling
Christopher B. Drake
Thomas F. Dreyer
David E. Driver
Michael Dugan
James P. Dullea
Frank Dumbille, Jr.
Michael J. Dumler
David B. Dunmore
Donald L. Duplessis
Daniel D. Dvorak
Thomas J. Dwyer, Jr.
Roger C. Easton, Jr.
Robert J. Eberly
Michael D. Edmonds
James H. Edwins
Steven M. Ehrler
Don S. Elkins
Stephen L. Ellis
William M. Elvey
Mark T. Emerson
Oregon Emerson III
Thomas W. Emmett
Douglas R. Enderle
Byron R. Engh
William E. Erdmann
Timothy K. Equels
Michael S. Etheridge
Mark C. Evans
Welch C. Fair, Jr.
Craig R. Fajnor
Douglas S. Fankell
William R. Farawell
John R. Farris, Jr.
James S. Fasoli, Jr.
David P. Faust
William F. Feay
Douglas A. Ferguson
Richard C. Ferrara
Scott M. Ferris
Laten S. Fetters
Paul C. Fields
Wayne C. Fields
Veronica Fininen
Brian G. Finlay
William B. Finley
John M. Fiorych
William P. Fischer
Douglas A. Fisher
Sara L. Fitzgerald
Bernard L. Flank
Larry G. Flores
Lloyd A. Florow
Edwin G. Folkerson
Michael R. Fonteno
Michael F. Forrester
Bruce E. Forshay
Jon R. Foshee
George T. Foster
Preston H. Foster
Charles L. Foust, Jr.
Christopher A. Fowles
Richard J. Frainier
Bruce E. France
George D. Frasier
Robert W. Frech
William F. Fredericks
Kent R. Freeland
John G. Freeman
William H. Freeman
Thomas M. Freshwater
William M. Freund
Daniel L. Freye
Michael L. Friday
Mark L. Friedman
John R. Friend
Steve A. Fris
Dominique F. Frizzell
Fred O. Frodesen
Carl T. Froehlich
Peter F. Frost
Robert A. Frost
William F. Furdon, Jr.
Myles W. Furlong
David J. Futch
David W. Galatioto
Christopher J. Gallagher
Russell C. Gallagher
James R. Gallman III
Richard M. Galvez
William V. Gamble
Kurt D. Garbow
Albury Gardner
Robert P. Garrett
Stephen F. Garrison
Thomas S. Gehring
David A. Gelenter
Joseph A. Gelsomino
David G. Geoffrion
Rodney J. Gerdes
Neil F. Gibbs
Mark J. Gibson
John S. Gillette
James O. Gilpatrick
Kevin M. Gilpin
Kenneth L. Ginader
William O. Glass, Jr.
David W. Glye
William J. Glynn
Donald E. Goddard
Mark E. Goehring
Richard L. Golson, Jr.
Paul E. Gonzales
Michael S. Gonzalez
Wallace C. Goodloe
William L. Goodman
Giles G. Gooldsmith II
Graham H. Gordon
Thomas E. Gorsuch
Robert W. Gose
Glenn F. Grahl, Jr.
Richard B. Grahlman
Paul C. Gray III
William E. Gray, Jr.
David R. Graybill
Cornelius Green, Jr.
James E. Green, Jr.
Johny W. Green
Thomas R. Greene
Steven M. Gregonis
N. Andrew Greig
Brian R. Gritte
Thomas W. Grossman, Jr.
Edward M. Grube
Steven P. Grube
Leon D. Guenzler
Edward G. Gummer
Charles M. Gurganus
James R. Gwyn
Robert D. Haas
David L. Hackemeyer
Ronald W. Hadley
Gary D. Hagen
Gary N. Hall
Marshal A. Hall
John J. Halloran
Steven E. Halupnik
Dennis W. Hamilton
Larry K. Hamilton
Philip P. Hamilton
John J. Hammerer, Jr.
Mark Y. Hancock
Ralph E. Haney
Robert S. Hansel
Allen C. Hansen
Sharon L. Hansen
Christopher L. Hanson
Paul D. Hanson
Steven L. Hanson
Robert C. Hardee
Guy B. Hardesty
Michael D. Harding
Keith E. Hardman
James D. Harnett
Clifford M. Harrington
Charles R. Harris
Jack F. Harris
Rodney A. Harris
Thomas S. Hartmann
James R. Hartmeyer
Richard Hascup
Duane B. Hatch
Robert S. Hayman
Jeffrey P. Hazell
Holly Hazlett
Don A. Heidbrier
John S. Heide
Roy W. Heidicker
Martin R. Heilstedt
Terrence A. Hejay
Darvin S. Helvy
John F. Hemleben
Mark L. Hendricks
Don C. Hendrickson
Thomas J. Hennessey
Terry L. Henry
Francis X. Herbes
George T. Hertig
Barry C. Hertsgaard
Dennis L. Hess
John A. Hess
Charles L. Hewell
Peter J. Hickey
Alan B. Hicks
James D. Hicks
James M. Higgins
Richard J. Higgins
William G. Higgins
Carl C. Hill
Frederick A. Hill IV
Timothy K. Hill
Jerrold M. Hillard
Jeffry A. Hillendahl
Kenneth R. Hindersinn
Francis C. Hinds III
Philip W. Hinrichs
John S. Hippel
Harvey H. Hirata
Jeffrey W. Hitchcock
John L. Hodges
Edward Hoeffner
Steven E. Hoerner
Craig A. Hoffert
William M. Hoffman
Brian N. Hogan
Michael E. Hogan
Richard T. Holdcroft
Robert K. Holland
Frederick R. Hollinger
James W. Hollrith
Christopher C. Holman
Gary L. Holmes
Jay W. Hommer
Rene R. Hooper
Brad L. Hopy
Lawrence J. Howe
Michael A. Hoy
Frederick F. Huber, Jr.
Leo H. Hubert
Richard H. Huebner
Michael C. Huete
Robert D. Hunter
Harry L. Hutch, Jr.
Maurice B. Hutchinson
Arthur W. Hutson
David M. Ihnat
Paul G. Jackel
Elmo T. Jackson
Marvel T. Jackson
David D. Jacobs
Bruce C. James
Richard L. Jamison
Richard E. Jannell
Robert K. Jefferies, III
Martin E. Jenkins
Nathan J. Jenson
Paul A. Jensen
Renee L. Jeremiah
Wayne E. Jewell
William E. Jezierski
Sguard A. Johansen, Jr.
Michael W. John
Bobby R. Johnson

Cornell L. Johnson
Gary Johnson
Michael A. Johnson
Michael T. Johnson
Robert T. Johnson
William L. Johnson, III
Jere J. Johnston
Debra S. Jones
John P. Jones, III
Kenneth W. Jones, Jr.
Ritchie K. Jones
Steven E. Jones
Susie K. Jones
Jacob Jordal
Joseph E. Joutras
Charles T. Joyner
Timothy P. Jurek
Joe M. Kaczmarski
George D. Kahnk
Gary M. Kaleita
Carl Kalota
Louis G. Kalmar
Kenneth G. Kaolbach
Paul T. Karschnia
Georg R. Kast
John E. Kasza
Howard T. Kauderer
Coleman A. Kavanagh
Dean H. Kayes
Richard L. Kazunas
Peter J. Keenan
John P. Keilty
Gregory J. Keller
Eric R. Kemmerer
Peter A. Kennedy
Gregory Kerr
Jerry K. Kersey
Christopher T. Kibler
Lee A. Kidd
Robert S. Kidd
Michael D. Kierum
Douglas S. Kinsey
Glenn T. Kirven
Edward J. Kitchen
Steven A. Klein
Keith Klesk
Kenneth R. Kmiec
Samuel B. Knight
Donald J. Knize
Philip E. Knobel
Melvin R. Knock
Theodore J. Koch
Michael A. Koerber
Nicolas A. Koreisha
Kurt O. Kosack
Joseph W. Kosewicz
Chris R. Koury
Gary R. Kozlusky
Paul J. Kovalchik
Dennis A. Kranyak
Mark L. Krigbaum
Paul F. Kreuger
Leonard A. Kubin
Kurt R. Kummer
Michael G. Kunz
Dennis J. Laflam
Joseph A. Lanahan
John H. Lane, III
Randall W. Larsen
William C. Larson
Robert W. Larue
Roc A. Lastinger
John J. Lauder
Edward G. Laughlin
Harrison C. Laut, II
William R. Lavender
Norman G. Laws, Jr.
John M. Lawson
Franklin E. Leaven
Marc D. Lederman
Gene A. Leduc
Peter M. Leenhouts
Kevin M. Lees
David S. Lenhart
Stanley J. Levanduski
Michael J. Leveskas
Dewey T. Lewis, Jr.
Ronald A. Lewis
Sircedrick L. W. Liggens
Joseph A. Liguori
James E. Lindsey
Richard M. Linton
Bruce A. Lloyd
George J. Lockbaum
Eric A. Lofquist
Harold L. Lomax, Jr.
Joseph F. Long
Woodrow W. Long, Jr.
James M. Lowe
Robert E. Lowe
Danny L. Lowenberg
John F. Loye, III
Michael J. Lozar
Craig B. Luigart
Vitas J. Lukas
Edward H. Lundquist
Scott E. Lustig
Dale E. Lyle
Matthew E. Lynch
David C. Lyon
John T. Lyons
Lowell C. McAdam
R. William McAllister
Kelley J. McAvoy
David T. McBride
Robert L. McBride
WilliamP. McBride
Donald T. McBurney
Barry E. McCabe
Thomas M. McCaffrey
Joseph E. McCarthy, Jr.
Thomas P. McCarthy
William J. McCarthy
Charles B. McClain
Tommy B. McClelland, Jr.
Howell G. McCleskey
Michael P. McCloskey
James M. McClure, Jr.
Marc McConahy
Michael J. McCue
Timothy V. McCully
Elijah L. McDavid, Jr.
Harry F. McDole, Jr.
Daniel W. McDonald
Douglas D. McDonald
Thomas D. McDougall
Samuel McGill
Randy J. McGory
Christopher M. McGrath
Michael J. McGraw
Daniel B. McGregor
Peter S. McGuire
David T. McHenry
Joseph V. McIlhinney
William C. McIntyre, III
Keith D. McKain
Chris R. McKelvey
Geoffrey M. McLean
Jonathan P. McMack
Michael D. McMillan
Robert J. McNey
James D. MacDonald
James R. MacDonald
Theodore O. Macklin, Jr.
James A. Mackowski
Edward M. Macomber, Jr.
Gary J. Magnuson
Martin J. Mahon
John G. Mahoney
David W. Malbuam
David F. Maier
Steven A. Maitland
Daniel M. Makucevich
David L. Maloney
Peter M. Maloney, II
Charles L. Mamzic, Jr.
Dennis Manko
Gregory E. Mansfield
Robert A. Mansfield
Antonio E. Manzi
Randy V. Marburger
Jean P. Marchand
Joel R. Mariani
Thomas C. Marksbury
Andrew J. Maroney, III
John Marschilok
Kevin B. Marsh
Joseph B. Marshall, Jr.
Tom S. Marshall
William E. Marshall
Larry K. Marske
Charles W. Martin
Kent B. Martin
Richard W. Martin, Jr.
David A. Masse
David C. Matherly, Jr.
Gregory D. Mathis
Randy J. Matkowski
Richard J. Matteson
Paul J. Matthews
John Wheaton Mayers, Jr.
Eric M. Mead
Thomas R. Meadows, Jr.
Denis H. Meanor
Kim Mehalko
Larry J. Melancon
Donald R. Melick
John M. Melink
Daniel T. Mellett, Jr.
Gregory P. Melnyk
Robert M. Menard
James W. Meritt
Steven R. Merrick
Lee J. Metcalf
Karl P. Metzger
Edward R. Meyo
Curtis E. Middlebrook
William K. Midgette
Robert C. Milbery
Christian T. Miles
John R. Miles
Ronald J. Miller
Dale A. Milton
Elliott D. Minor, III
John M. Mislewicz
Patrick J. Miskell
Dale C. Mitchell
David M. Mitchell
Ricky W. Moccia
David J. Modeen
Theodore J. Monaco
Alexander B. Montgomery, Jr.
David E. Montoya
Daniel L. Moon
Michael J. Moon
Clifton W. Moore, Jr.
David C. Moore
Peter A. Moore
Robert B. Moore
Benjamin W. Morgan
Mark L. Morgan
Robert Morgan, Jr.
Michael J. Morgante
Michael T. Moriarty
Carl A. Morris
Gary W. Morris
James R. Morris
Phillip A. Morris
Thomas E. Morris
Comer C. Morrison
Richard L. Morrissey
Joel S. Morrow
John J. Morrow
Michael K. Mortagh
Robert E. Morton
Robert E. Mozo, Jr.
Leon A. Muller
Nathaniel T. Mullins
Alan K. Murakami
Kevin J. Murphy
Michael A. Murphy
Brian A. Murray
Robert B. Murray
Scott M. Murray
Neil N. Nacchio
Charles E. Nangle
Clayton F. Nans
Gerard R. Nash
John A. Nash
Ronald E. Nasman
Patric Y. Nassaux
James R. Nehez, III
Charles W. Neighbors
Bruce K. Nelson
Steven E. Nelson
Joseph S. Nesteroff
Jenneth E. Neu, Jr.
John W. Neumeister
Richard H. Nevers
Jeffrey L. Newman
Stuart T. Newman
Christopher J. Nicklaw
Ronald O. Nielsen
Drury C. Nimmich, Jr.
Richard J. Norcross
David B. Norris
John D. Norseen
Kerry J. Northrup
Richard J. Norton, Jr.
Robert E. Nystrom
William D. Nystrom
David W. O'Brien
Steven M. O'Brien
Michael J. Obuchowski
John P. O'Connor, Jr.
Michael O'Donnell
Joseph P. O'Hara, III
Glen D. Ohlemacher
Brian R. Ohler
John J. O'Keefe, II
Patrick B. O'Keefe
Michael A. Olenick
Allen E. Oliver
Dennis L. Oliver
William F. Oliver
Mark A. Olsberg, Jr.
Nancy J. Olson
Peter W. Olson
Sean P. O'Neil
Charles A. Orbell, III
Johnny R. Osborn
Richard J. Ostrander, Jr.
James T. Ostrich
Ronald K. Oswalt
Michael J. Owens
Israel Pacheco, Jr.
Roy F. Page
Laurence F. Palazzolo
David J. Palenshus
David A. Palmer
James A. T. Palmer
Donald S. Parcher
Gary B. Parker
Robert R. Parker, Jr.
Kenneth P. Parks
Ronald J. Parry
Samuel J. Parsons
Daniel J. Paterson
Craig F. Pearson
Mark A. Peery
Michael L. Pellegrini
John W. Perlich
Ronald C. Perry
David E. Pendleton
Edward J. Perkins, III
Will H. Perry
James M. Peters
Stuart E. Petersen
Michael R. Peterson
Mark M. Petzinger
Larry D. Phegley
David M. Phelps
John R. Philip
Michael L. Philips
Bruce G. Pike
Douglas M. Pinion
Daniel J. Plebani
John V. Plehal
William D. Plummer
James P. Poe
George F. Poelker, II
William A. Pokorny
Richard R. Polehn
John C. Pontius
Richard J. Poppe
David L. Porter
William N. Post, II
Jonathan W. Praet
Dennis C. Pratt
Elmer C. Prenzlow
David E. Preston
Earl A. Proetzel
Robert G. Quirk
John R. Rabaioli
Mario T. Rabustin
William A. Radtke, III
Curtin G. Raetz
John F. Raffels, Jr.
Mark R. Raley
Edward J. Ramik
Bryan J. Ramsay
Harman F. Ramsey
John L. Rand, Jr.
Stephen W. Randall
Michael J. Randolph
Mark H. Rataczak
Edwin M. Rau
Tony Ray
Franklin V. Reagan
Lawrence J. Reccoppa
Kenneth J. Recla
David B. Redman
Dean N. Reed
Michael R. Regner
John D. Reilley
John E. Reiss
William C. Reuter
Scott C. Reynolds
Steven A. Reynolds
Andrea E. Rice
Reginald Rice
Thomas R. Richards, Jr.
Michael S. Rickard
Robert J. Riebling
Dale C. Rieck, Jr.
John S. Rief
Jacob F. Ringwald
Daniel J. Rippinger
Kevin K. Ritter
Steven A. Ritz
Ronald D. Rivard
Dean W. Roberts
David J. Robinson
Fred O. Robinson, Jr.
Harold G. Roecker
James G. Roelant
Gary L. Roemmich
Stephen J. Roesener
Janet L. Rollings
Bernard L. Roper
Jon M. Rosinus
Douglas A. Ross
Andrew J. Roth, Jr.
Michael P. Roth
Gary S. Roup
Edward L. Rowe
Robert B. Rowe
John L. Rowley
Joseph J. Rowley
Jack M. Ruben
David G. Ruff
Michael G. Ruflin
Joseph F. Ruh, Jr.
Timothy J. Rushing
Richard T. Rushton
Jeffrey D. Rusinko
Kenneth P. Russell
Eugene P. Rutledge, III
Brendan P. Ryan
Patrick T. Ryan
Thomas G. Ryan, Jr.
Peter L. Rybacki
Christopher M. Ryder
David R. Safford
Stephen M. Saia
Philip D. Saladen
Michael J. Salisbury
Charles P. Salsman
David A. Salzman
Dennis R. Sander
William A. Sanderson
Kevin G. Sandri
Francis J. Santoro
Michael W. Sarnes
William T. Sawyer
Robert J. Sawyers, Jr.
John M. Scepurek
Douglas E. Schaefer
Duane R. Schattle
Louis W. Schelekau III
Edward G. Scheumann
Andrew J. Schilling
David R. Schladenhauffen
Emmett P. Schlumbrecht, Jr.
Paul A. Schneider
Robert F. Schniedwind, Jr.
Michael H. Schoelwer
Robert J. Scholes
Ronald R. Schowe
Thomas T. Schreiber
Lee K. Schultz
Jerry M. Schupler
Gerald A. Schwarting
Stephen M. Schweitzer
Michael S. Sears
John M. Seaton
Thomas M. Seifert
Charles E. Seiler
David A. Selecman
Jose E. Serrano
Thomas R. Serrin
Albert E. Settle II
Carl V. Sexton
David J. Shaw, Jr.
Michael T. Shaw
Ronald R. Shea
Paul S. Sherbo
Robert S. Sherlock
Thomas B. Sherman
Karim Shihata
Norman K. Shimabukuro
Kip J. Shimeall
Charles W. Shockley, Jr.
Patrick K. Shy
Thomas A. Sieg
Mitchell A. Sim
Jon A. Simmons
Richard L. Simons
William E. Simpkins
Edward L. Simpson
Lea V. Sims, Jr.
Steven O. Singleton
Harold M. Sinnett
Julius J. Sisco, Jr.
Harry E. Skirm
Norman L. Skordal
Don E. Slaton
Michael A. Slezak
Alfred M. Smith
Dale M. Smith
Donald W. Smith
Frank J. Smith
Frederick M. Smith
George J. Smith, Jr.
Gregory L. Smith
Kevin R. Smith
Michael L. Smith
Randell C. Smith
Theodore D. Smith

Daniel R. Smoak
Douglas L. Smythe
John A. Snader
John R. Snyder
Jonathan W. Snyder
Michael A. Solvie
Lee L. Sorenson
Thomas H. Soulsby
Paul F. Souza
Bruce A. Sowers
Jack K. Sparks, Jr.
Timothy L. Sparks
Kenneth F. Spaulding
William J. Spears
James H. Spencer
Melvin G. Spiese
Edward J. Spooner
Ricardo D. Spraglin
James A. Squatrito
Bruce D. L. Stabler
Edward J. Stack
Robert Stafford
James H. Stamper
Felix J. Stankiewicz
Paul T. Stanley
Gary G. Starr
George P. Staubin
Arthur J. Stefanelli
Randall L. Stegner
Alan R. Steichen
Dale V. Steinmann
Richard A. Stello
Neil B. Stephenson
Lawrence J. Steuber, Jr.
James Warren Stevenson
James A. Stewart
John P. Stewart
Joseph D. Stewart
Ray H. Stieffel III
Stewart F. Stiling
Gerald A. Stoll
Brian J. Storey
Scott A. Strain
Joseph J. Stranen
Robert W. Strong II
Richard E. Strotner
Wayne S. Strouse
Daniel H. Struble
Michael P. Strunk
Derrick J. Suehs
Stephen M. Sullivan
John E. Surash
James A. Sutton
Herbert L. Swain, Jr.
Charles C. Swensen, Jr.
Andrey P. Swystun
James W. Tahler
Edward M. Taicsich
Russell W. Talbot
Robert G. Tallent
Wesley P. Taylor
Bradford L. Tammaro
Jonathan M. Taylor
Michael E. Taylor
William N. Taylor, Jr.
Paul A. Teehan, Jr.
Joseph A. Tenaglia
Eugene A. Thies
Robert H. Thim
Michael P. Thomas
Alan S. Thompson
Dennis C. Thompson
Edward K. Thompson
Jay M. Thompson
Larry R. Thompson
Earl J. Thomson III
Cameron M. Thornton
Michael D. Thornton
Thomas J. Tilden
Theodore R. Timmerman, III
Thomas J. Tinsley
Jim W. Tisher
Russell P. Tjepkema
Michael L. Todd
Peter B. Todsen II
John J. Tomaselli
Dennis Allan Toombs
Scot L. Tornow
Randall G. Torris
Gino M. Tosi
Forrest L. Touchberry
James S. Town
George N. S. Townsend
Edward A. Trainer, Jr.
Lynn E. Trenda
Danny K. Trout
Robert P. Troy, Jr.
Henry M. Trust
Robert J. Trzeciak
Rodney W. Turk
Robert J. Tuttell
Michael R. Tyner
Paul R. Umberger III
Randy L. Unger
Mitchell A. Union
Dana L. Upton
Robert L. Urban
James P. Usbeck
Steven F. Ussery
John J. Vanore
John E. VanVoorhis
Robert W. VanWert
Robert B. Vassian
Eugene C. Vaughn
Joseph H. Vaughn
Jeffery D. Vick
Michael E. Viola II
William F. Vokoun
Thomas A. Vonnegut
Clifford L. J. Wade
Derrell E. Wade
Michael T. Wagner
Lawrence G. Walker
Gorge L. Wallace
Joseph A. Wallace
Joseph B. Wallace III
David B. Walls
David W. Walls
Michael F. Walsh
Terry L. Walstrom
Charles E. Walter
Kenneth F. Walter
David C. Warner
Bruce C. Warren
Donald C. Warren, Jr.
Kevin L. Warrentin
Charles P. Warrick
Henry E. Washington III
Raymond F. Waters III
Rory C. Waters
Steven T. Waters
Gary E. Watkins
Marvin J. Watson
Paul W. Watson
Phillip W. Watson
William H. Watson, Jr.
Robert J. Watters
Frank H. Weaver
Robert L. Weeks
Richard E. Weiss
David M. Welch
Jeffrey W. Welch
Scott E. Welch
Gary A. Wells
Karl D. Wells
Walter C. Wells
Lewis A. Welzel, Jr.
Michael P. Wendt
Bruce B. Wentland
Jeffrey F. Weppler
Raymond W. Wersel
Gregory H. Westerwick
Steven L. Wetzel
Richard Weyrick
Edward M. Whalon
Wallace T. Wheelis
Peter K. Whitby
David M. White
David R. White
Johathan C. White
Stephen C. White
Stephen M. White
Steven E. White
Paul L. Whitehouse
Peter B. Whitney
Thomas H. Whitney
Robert R. Whittle
Grady L. Wilkerson, Jr.
David L. Wilkins
John M. Wilkinson
Robert J. Wilkinson, Jr.
Michael R. Will
Calvin D. G. Willard
Charles S. Williams
David M. Williams
Harry B. Williams
Keith M. Williams
Warren W. Williams
Charles F. Williamson III
James C. Williamson
Deborah A. Wilson
Dennis A. Wilson
Fred E. Wilson, Jr.
Russell E. Wilson
Scott E. Wilson
William T. Wilson
Frank E. Wiltraut III
Byron G. Winbush
Robert J. Winkler
Duane T. Winn
Robert A. Winter, Jr.
Kevin H. Winters
David L. Wirt
Mark E. Wisniewski
Darrell S. Witkowski
Edward W. Witte
Ronald J. Wojdyla
James T. Wojciechoski
Alexander S. Wokman, Jr.
Michael A. Woodcock
Kenneth L. Woodfin, Jr.
George R. Woodward
Paul F. Woolston
Dale D. Worden
Benjamin G. Wyatt
Stanley J. Yelito, Jr.
Sandra A. Yerkes
Wade Yoffee
Lucy B. Young
Patti A. Young
Robert W. Young, Jr.
James S. Zamorski
Paul J. Zerafa
David M. Ziebell
Joseph W. Ziegler
Joseph W. Zorica
Paul D. Zulak
David J. Zyskowski

The following-named (Naval Reserve officers) to be appointed permanent lieutenants in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Patrick M. J. Hutton
Raymond L. Lilly, Jr.

The following-named (Naval Reserve officers) to be appointed permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

John W. Aldis
John T. Collins
John H. Dalton
Richard H. Higgs
Rowland E. Ochia
Edward C. Rainey, II
John C. Roberts

James A. Mittag (Naval Reserve officer) to be appointed a permanent lieutenant commander and a temporary commander in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law.

Lloyd R. Martin (U.S. Navy officer) to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Lt. Donald D. Fuss (USN (Ret.)) to be reappointed from the temporary disability retired list as a temporary lieutenant, limited duty, in the classification (Administration), in the U.S. Navy, subject to the qualifications therefor as provided by law.

John M. Messner, Navy enlisted candidate, to be appointed a chief warrant officer, W-2, in the classification (Ordnance Technician), for temporary service, in the line of the U.S. Navy, subject to the qualifications therefor as provided by law.

CONFIRMATIONS

Executive nominations confirmed by the Senate, December 11, 1975:

DEPARTMENT OF TRANSPORTATION

Roger W. Hooker, Jr., of New York, to be an Assistant Secretary of Transportation.

DEPARTMENT OF COMMERCE

Elliot L. Richardson, of Massachusetts, to be Secretary of Commerce.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before a duly constituted committee of the Senate.)

IN THE COAST GUARD

Coast Guard nominations beginning Jerome P. Foley, to be commander, and ending Gregg W. Sutton, to be lieutenant (jg), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 20, 1975.

HOUSE OF REPRESENTATIVES—*Thursday, December 11, 1975*

The House met at 10 o'clock a.m.

The Reverend George E. Parkinson, Christ United Presbyterian Church, West Canton, Ohio, offered the following prayer:

Almighty God, we invoke Thy blessing upon this gathering of the House of Representatives, as they meet today to conduct the business of government for the people of this country.

We pray, our Father, as we think of our Bicentennial as a nation, that we may be less concerned about leadership and more concerned about whom we are to follow. There is little doubt that these men and women are capable leaders. Our prayer and hope is, that they may have the mind to follow Thee; that they may have a legitimate base from which to lead the rest of us.

We beseech Thee, in their behalf, that they may always be given courage to act wisely; to deliberate fairly; so they may be free in conscience to live with the decisions they have made.

We do not pray that our leaders may be great men and women, but we do pray that they may be good men and women, guided by the wise counsels.

In Thy holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6461) entitled "An act to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (S. 2327) entitled "An act to suspend sections 4, 6, and 7 of the Real Estate Settlement Procedures Act of 1974," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. PACKWOOD, and Mr. GARN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a resolution of the following title, in which the concurrence of the House is requested:

S. Res. 324. Resolution disapproving the proposed deferral of budget authority for the Fleming Key Animal Import Center, which deferral (D76-69) was set forth in the special message transmitted by the President to the Congress on November 29, 1975, under section 1013 of the Impoundment Control Act of 1974.

REV. GEORGE E. PARKINSON

(Mr. **REGULA** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, this Nation was blessed in its beginning by men whose lives were divinely inspired. In every age, our Nation's destiny has been shaped by God working through men.

Dr. George Parkinson is such a man in our time and in the 16th District of Ohio. Each Sunday, the thoughtful words of this inspired individual go forth from the pulpit of Christ United Presbyterian Church in Canton, Ohio, not only to his parishioners, but also to a large radio audience to challenge the conscience of our community.

The "Cathedral Hour" is a highlight of each week for many thousands who seek the spiritual counsel of Dr. George Parkinson. My wife and I count the friendship and counsel of Dr. George as one of the treasures in our lives, and my predecessor, Frank Bow, who faithfully served the 16th District for 22 years, was a devoted member of his church.

The wisdom of today's chaplain in the House of Representatives has served as an inspiration to many in our community to follow in their lives a philosophy so well expressed by Daniel Webster, in the words carved in marble above the Speaker's chair:

> Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in our day and generation may not perform something worthy to be remembered.

Dr. Parkinson graduated from Otterbein College in Ohio and Pittsburgh Theological Seminary. His church service started in Worthington, Ohio, where he served 4½ years, and since then, 33 years in Christ United Presbyterian Church of Canton, Ohio. His service to his community has included the United Fund, Rotary, 33d Degree in Masonry, chamber of commerce, a trustee of Malone College, and many other boards and committees too numerous to mention.

H.R. 3035, PROVIDING FOR COLLECTION OF INTEREST ON FEDERAL FUNDS

(Mr. **MOTTL** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOTTL. Mr. Speaker, less than a year ago, as a freshman Representative, I made my first speech on the floor of this House.

I had discovered what I considered an outrageous shortchange of the American taxpayer.

This was the amazing custom of the Treasury Department keeping billions of dollars of public funds on deposit in banks throughout the Nation—mostly in the biggest banks—without collecting a penny of interest for the American taxpayer.

This custom, which no prudent private business would tolerate for a day, was costing the taxpayers an estimated loss of at least $200 million a year.

During the half-century that this interest was lost, the taxpayers were deprived of literally billions of dollars.

Next Monday, this House of Representatives will have an opportunity to end this intolerable outrage which has enriched the banks at the expense of the public.

I urge each of my colleagues to vote affirmatively next Monday for H.R. 3035 which will authorize and instruct the Secretary of the Treasury to obtain interest on bank deposits of Federal funds.

I commend our colleagues, WRIGHT PATMAN, of Texas; HENRY REUSS, of Wisconsin; and JOHN SEIBERLING, of Ohio, for their outstanding roles in perfecting this legislation.

The passage of this bill will be a victory for the public interest—a triumph for every taxpayer.

CONGRESSMAN NATCHER EXTENDS PERFECT VOTING RECORD

(Mr. **RICHMOND** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHMOND. Mr. Speaker, Chairman WILLIAM H. NATCHER, Democrat, of Kentucky, who began his distinguished career as a Member of the House of Representatives on January 6, 1954, has today completed his 8,018th rollcall vote. Chairman NATCHER has created a unique congressional record of 100 percent attendance.

No Member of the House since the beginning of Congress has ever served in the House of Representatives or in the Senate for 17 consecutive years without missing one or more votes. Chairman NATCHER is presently about to begin his 22d year and clearly this display of dedication and perseverance is to be highly commended.

Each Member of Congress is well aware of the many other demands placed upon them. Being present for votes is not the sole criteria for Members and often it is difficult to be present this consistently. The chairman's dedication and service to his constituency is unfaltering and in addition to his impressive voting record, the projects he has undertaken in Kentucky are equally as impressive. He has taken the lead in programs concerning agriculture, education, health, pollution, recreation, new industry for Kentucky, and the list continues. This type of creativity is well recognized by those who work with him and the fine residents of Kentucky he represents.

As chairman of the Subcommittee on the District of Columbia of the Committee on Appropriations, the gentleman from Kentucky (Mr. NATCHER), is unquestionably the most knowledgeable man in Washington on the affairs of our Nation's Capital.

The problems and tasks his subcommittee undertakes are often very complex and always controversial. The solutions and many decisions his committee must make, although disputed, are always fair.

As my favorite presiding chairman of the Committee of the Whole, Chairman NATCHER does more to keep order in the House with the small tapping of his gavel than other presiding Chairmen do with a very heavy hand. This is reflective of the effectiveness and character of this fine gentleman. It is an honor for me to participate as a Member of this great body with such a man.

MAKING IN ORDER ON DECEMBER 12, 1975, OR ANY TIME THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 8122

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent that it be in order, on December 12, 1975, or any time thereafter, to consider in the House the conference report on the bill (H.R. 8122) making appropriations for public works for water and power development and energy research for 1976 and the period ending September 30, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 10647, SUPPLEMENTAL APPROPRIATIONS, 1976

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, at least two other Members on the minority side have indicated to me a desire to make a motion to instruct the conferees regarding the New York funds in this bill. I do not see any of them on the floor.

I am, therefore, constrained to make a point of order that a quorum is not present, and I do still reserve the right to object.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 765]

Andrews, N.C.
Ashbrook
Ashley
Badillo
Bedell
Bolling
Brown, Calif.
Burke, Fla.
Burton, John
Butler
Casey
Chisholm
Clancy
Clay
Conyers
Coughlin
Davis
Dellums
Diggs
Dingell
Drinan
Eckhardt
Edwards, Calif.
Eshleman
Fraser
Gaydos
Gibbons
Harrington
Harsha
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jarman
Jenrette
Kindness
LaFalce
Leggett
McCollister
McDonald
McEwen
McKinney
Matsunaga
Melcher
Mollohan
Neal
Nichols
O'Hara
Pattison, N.Y.
Pike
Poage
Risenhoover
Satterfield
Scheuer
Seiberling
Teague
Udall
Ullman
Vander Jagt
Whitten
Wilson, Tex.
Young, Alaska

The SPEAKER. On this rollcall 371 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF CONFEREES ON H.R. 10647, MAKING SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING JUNE 30, 1976, AND PERIOD ENDING SEPTEMBER 30, 1976

The SPEAKER. The gentleman from Maryland has reserved the right to object.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the request that was made by the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON) was to send the supplemental appropriations bill to conference. A motion to instruct the conferees regarding the funding of loans for New York City certainly would be appropriate at this point.

Several Members have indicated to me their desire to make such a motion. As we know, the other body added $2.3 billion in this bill for appropriations for loans to New York City, which was not acted upon at the time the supplemental was before the House.

I would hope that if such a motion were made that the gentleman from Texas would allow a clear vote on the motion to instruct the conferees, rather than moving to table, which in some respects would not be as clear a vote on the issue. The vote in the House was 213 to 203, a very narrow vote on the authorization legislation.

Since that time there have been considerable questions raised whether the House had before it at that time the full statistics as to what New York actually needed in the way of loans.

Earlier today I was informed by some of the members of the Committee on Appropriations that New York may not need more than $1 billion a year, rather than $2.3 billion, based on information they have just received today.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, of course.

Mr. MAHON. Mr. Speaker, we have considered previously aid to New York. Some of us strongly opposed the New York assistance bill. We lost. The Congress has passed the legislation. It has been signed by the President and now the question is what do we do about the appropriation? The money has been put in the supplemental appropriations bill in the other body and it will be in conference. The House conferees will undertake to do whatever seems to be appropriate under the circumstances. We have not met, of course; we have not been appointed.

Mr. Speaker, I would say to the gentleman that this is not the time to debate the issue of aid to New York and if the gentleman makes a motion to instruct the conferees, which I hope the gentleman will not, it will be my duty as chairman of the committee to move to lay that motion on the table, because we do not feel it will be appropriate to instruct the conferees before they have gone to conference on this issue.

Mr. BAUMAN. Mr. Speaker, in response to the gentleman, I would say, as I just indicated, some Members received from the administration only today indications that New York City does not need more than $1.3 billion in loans at a given point during the coming year. The Vice President 2 days ago made a speech in which he said New York City needed much more and if revenue sharing was not passed in 2 weeks, New York would collapse, anyway.

There is a substantial question here and the House should have, not the luxury, but the right of an hour's discussion whether or not we have had before us the full information and whether or not we should instruct the conferees.

The rules permit this, the gentleman will admit. This is a perfectly legitimate parliamentary prodcedure.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, if I could address a question to our distinguished chairman of the Committee on Appropriations, who I know opposed the concept of an authorization of $2.3 billion for New York and the gentleman is correct, we lost that by a very narrow vote in the House; however, as the gentleman well knows, appropriations bills do not necessarily need to be funded at the exact authorization figure.

Mr. Speaker, I would especially like to point out to the gentleman that the strongest advocates of either a guarantee or a direct loan to New York City stated that during the first year New York at no point would need much more than $1 billion to recycle their monthly obligations.

So, I hope that it is made clear in this discussion that if the gentleman decides that he will table a motion which my colleague from Maryland proposes, that it is made clear in the conference on this supplemental appropriation that even the strongest advocates of the $2.3 billion guarantee and/or direct loan stated that during the first year of operation, at no time would more than $1 billion be required. The conferees should be aware that the requested funding shortages that New York City will need in its monthly budget is much less for the next year than the $2.3 billion the Senate inserted and our Budget Committee has not made allowances for the $2.3 billion.

Will the gentleman from Texas fight hard to make sure that in the conference the House does not allow, under this back door spending amendment that has been added on by the Senate, more than $1 billion to be appropriated?

Mr. MAHON. If the gentleman from Maryland will yield further, I will say that the conferees have not been appointed and we have not had any discussion with the prospective appointees. We will, of course, undertake not to provide funds that are unnecessary to be provided. That is a matter for the conferees to consider and, of course, we will consider the validity of all the additional funds for New York and for many other governmental purposes that have been put in the supplemental bill.

We will explore all the needs and issues in the conference, and we do not feel that we should be preempted from having a free hand to give consideration to various issues that will arise in the conference between the House and the Senate.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman from Maryland will yield further, the House can be much assured, though, that the gentleman from Texas will be a conferee to this conference as the chairman of the Appropriations Committee. Can we have his assurance that he will fight hard to make sure that the supplemental appropriation does not include any more dollars than are absolutely essential to fulfill the monthly obligations of the city of New York?

Mr. MAHON. If the gentleman will yield further, I want to say that I will fight hard to do whatever seems to be appropriate and proper under the circumstances, and I will oppose funds that are not required. I do not know what may develop in the conference as to the various charges and claims that are being made as to the exact amount of money that may be required, but I cannot say at this moment what may be the decision of the conferees or whether or not the full $2.3 billion appropriation is required at this time. That is a matter we will have to look into.

Mr. ROUSSELOT. Since the gentleman from Texas is committed, as he has just stated, to not appropriating any more dollars to New York City in supplemental bill than are absolutely essential, and on the basis of the New York City schedules of monthly funding that were presented to us during the New York City debate, that the dollar amounts that would be needed by the city of New York do not exceed $1 billion, then we can be assured that the chairman will fight to make sure that it does not exceed the $1 billion. Is that correct?

Mr. MAHON. If the gentleman will yield further, I would like to say that I have already undertaken to make my position clear, and I would hope that the gentleman from California will not undertake to put words in my mouth, so to speak. We will undertake to do whatever is proper and right in providing funds, and we will undertake not to provide unnecessary funds for programs, but what may come out of the conference, I cannot say.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois (Mr. Michel).

Mr. MICHEL. Mr. Speaker, I might say to the gentleman that one of the conditions for my supporting this authorizing bill was closing the back door financing from Treasury and bringing the appropriation process into play. That is the only reason this Member and a number of others supported it, and that is the only way it passed this House. Otherwise, we would not have any New York aid.

Now, we are at that point in the upcoming conference where the House Appropriations Committee members will have had no hearing. All the testimony on this $2.3 billion item was heard by the Committee on Banking and Currency, but our Appropriation Committee members will be sitting as conferees with the Senate.

I hope the gentleman from Illinois will be a member of the conference. It is my intention in that conference to offer a motion to cut that New York assistance by $1 billion because if all they need next year is $1.3 billion, not $2.3 billion, we can have a hearing in April of next year, after that peak period to see how well they have done. Then if it is required we can give them the additional $1 billion that is in the authorizing legislation. But to do otherwise is to subvert the appropriation process. It demeans our committee, and I am not going to stand for just blanketly going along because the Senate gave in so quickly. One-third of them are running for the Presidency and they simply do not give the time to it that we do here on the House side.

I will say to the gentleman from Maryland, who would seek to instruct the conferees, that it has been a principle around here for the senior members of our committees or subcommittees to refrain from voting to instruct conferees before we go the first time. For that reason, I am afraid many Members, senior Members, who would be in support of the position I hold and which I will fight for in that conference would vote against instructing the conferees just on a matter of principle.

As a matter of fact, given the opportunity to work our will in a free conference, I would like to assure the gentleman that I will be offering a motion in the conference to cut this controversial item by a billion dollars and hope we would be able to prevail upon our colleagues to support that position and come back here with a conference the gentleman can support.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Michigan (Mr. Cederberg).

Mr. CEDERBERG. Mr. Speaker, I expect to be a conferee on this, and I, as chairman, voted in opposition to the authorizing legislation. However, as a member of that conference, as a ranking member of the Committee on Appropriations, I would feel constrained to vote in opposition to instructing the conferees before we went to conference.

I think, however, when we get into conference, if it is very clear to me that the requirement is only $1 or $1.3 billion, then, of course, that is the position I am going to support in the conference. Whether or not that will be the position we will sustain, I do not know; but that will be my position.

Mr. Speaker, I want to make it very clear that I voted in opposition to this. It is a matter of principle with me of not instructing conferees, and it has nothing to do with the basic issue here as to what we are going to consider in the conference. If a motion to table is moved, then of course I would have the support for the motion to table.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas (Mr. Mahon).

Mr. MAHON. Mr. Speaker, it must be evident from the colloquies that have taken place that the issue involved in the conference with respect to New York will be thoroughly explored, and there is no doubt the gentleman from Illinois, the gentleman from Michigan, and other senior members of the Committee on Appropriations on both sides of the aisle who have taken various positions on this question, will be present. So I think the House can be assured the matter will be considered thoroughly and in depth.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I will yield to the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, while I would not want to see the conferees instructed prior to having an opportunity, in the first instance, to confer with managers of the other body, I think it is very important and I would hope that the distinguished chairman of the Committee on Appropriations would explore a question of very serious concern that has come to my attention and to the attention of the House.

Mr. Speaker, on yesterday the New York Times quoted Vice President Rockefeller, who is very knowledgeable on the matter of the financial aid package to New York City and is also very knowledgeable upon the subject of general revenue sharing, and he was quoted as saying that unless Congress acts within 2 weeks to approve general revenue sharing, the efforts to save New York from default will collapse. "Collapse" is the word that was used in the article. He was directly quoted as saying: "If Congress doesn't act, the whole thing will be thrown into a cocked hat. The whole thing will blow."

The Committee on Government Operations of the House, which has jurisdiction of general revenue sharing, has not reported out a bill on general revenue sharing.

The subcommittee which has jurisdiction over general revenue sharing has not reported out a bill on general revenue sharing, and it is unlikely, to say the least, that Congress will act on general revenue sharing prior to the end of this session of Congress.

I think it is extremely important for the conferees to get to the bottom of this, because if Vice President Rockefeller is in fact correct in saying that in order for the New York bailout loan to work it will require that general revenue sharing be passed before the end of this session, I think it raises very serious questions as to the appropriateness of any appropriation for New York City.

Mr. Speaker, I would hope this matter would be explored fully by the conferees, and then either we could let Vice President Rockefeller correct his statement or, if his statement is correct, then the conferees will have to ask, "What use is it in appropriating funds for a bailout program that won't result in a bailout?"

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, it appears very obvious to me that even though nearly a majority of the Members of the House opposed the authorization bill a motion to instruct the conferees, would be met with the gentleman's motion to table. Of course, any member can offer a motion to recommit at the appropriate time when the conference report comes back to us if we are dissatisfied with the product of that conference. However, I would hope that we could hold the gentleman from Texas (Mr. Mahon) and the other Members who have spoken to their expressed desire to reduce this amount to the lowest possible figure, which the gentleman from Maryland would suggest is zero.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I think the Record ought to show, in view of the question raised by the gentleman from Georgia (Mr. Levitas), that revenue sharing does not expire until December of 1976, and that it is absurd to argue that Congress within the next 2 weeks has to reenact a revenue sharing bill to take effect in January 1977. That is not the issue at all in this matter.

I just felt the Record ought to show that fact with respect to this matter.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I may comment in answer to the distinguished chairman of the Committee on Appropriations that it is also absurd to suggest that New York City now needs $2.3 billion between now and June when they are supposed to recycle any loans that they have from us anyway under the authorizing legislation.

So I hope that the committee will be very mindful and the conferees will be very mindful of the fact that we are really only talking about 6 months, plus a few days, before New York City ends its fiscal year. From the normal exercise of the Senate, apparently what it intends to do is to add all kinds of extra goodies in the supplemental bill and to ask for $2.3 billion in the appropriation when the recycling period ends in June for New York City anyway.

I hope that the conferees will be very mindful of the close vote in the House that originally occurred in the enabling legislation and of the absolute lack of proof that they need the $2.3 billion that the Senate has stuck in the bill.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I would just like to ask the gentleman from Texas one last question.

The gentleman said that the conferees will meet this afternoon. Has the gentleman any estimate as to when the conference report might return to the House for action?

Mr. MAHON. Mr. Speaker, if the gentleman will yield, I had planned to ask unanimous consent that the managers on the part of the House might have until midnight to file a conference report. However, of course, it may be next week before we reach an agreement; nobody knows. It is routine to take this kind of action under the circumstances, especially since we are approaching the end of this session.

Mr. BAUMAN. Mr. Speaker, I appreciate the gentleman's position.

Mr. MAHON. If we could file it tonight, it would be eligible for consideration next Tuesday.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. MAHON, WHITTEN, BOLAND, FLOOD, STEED, SLACK, MCFALL, YATES, CASEY, CEDERBERG, MICHEL, EDWARDS of Alabama, and COUGHLIN.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 10647, SUPPLEMENTAL APPROPRIATIONS, 1976

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 10647, a bill making supplemental appropriations for the fiscal year ending June 30, 1976, and the period during September 30, 1976, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 5900, ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY

Mr. THOMPSON. Mr. Speaker, I call up the conference report on the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 8, 1975.)

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 30 minutes.

Mr. THOMPSON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the basic purpose of H.R. 5900 is to overrule the decision in the Denver Building Trades Council case and thereby establish the principle that the general contractor and the subcontractors who are engaged in a common venture on a common construction site are in fact a single entity for purposes of the secondary boycott provisions of the National Labor Relations Act.

This is a basic truth. Witnesses before our committee, both labor and management, agreed that the general contractor on a job is like the football coach. He selects the players, and sends in the plays. He picks his subcontractors with care, and if they do not measure up to his expected standards, he does not hesitate in throwing them off the job. The contractor and subcontractors on a construction job may well be "separate legal entities" for some purposes of the law, but they are not the "innocent neutrals" insofar as the so-called secondary boycott provisions of section 8(b)(4)(B) are concerned.

The very facts of the Denver Building Trades Council case bear this out.

There, the general contractor subcontracted a portion of his construction work to an electrical contractor with full knowledge that the subcontractor had a history of labor disputes and would likely be picketed on the common job site. But the nonunion subcontractor submitted a much lower bid than did his union competitors, and got the job. In the words of the late Senator Taft, the contractor and the subcontractor selected by him, were "in cahoots"; and the "secondary boycott provisions" of the act were entirely misapplied in that early Labor Board decision.

H.R. 5900 attempts to remedy the wrong imposed on the building trades unions some 25 years ago; and to give them the same rights extended to the garment industry in the 1959 Landrum-Griffin amendments section 8(e); and to organized workers in industry generally by the Supreme Court decision in the so-called G.E. Gate case.

H.R. 5900 allows unions in the construction industry to picket, persuade, and use their other legitimate weapons to preserve their union standards and their union organizations.

H.R. 5900 achieves this result, but with limitations. We do not mind these limitations, as most of them are discrete and not at all inconsistent with the basic thrust of H.R. 5900. Some, in fact, we welcome.

Let me briefly review H.R. 5900 as it passed the House, and then review H.R. 5900 as it came back from conference.

H.R. 5900 AS IT PASSED THE HOUSE

H.R. 5900 as it passed the House on July 25 was not the same H.R. 5900 which I introduced on April 10. A number of qualifications, limitations, and exemptions had been added.

First. The Ashbrook Amendment: The Ashbrook amendment limits the right of construction unions to picket and induce only the "employees of employers primarily engaged in the construction industry." The upshot of all this is that utilities, department stores, transit companies, manufacturers, et cetera are not within the terms of H.R. 5900 when they paint or make repairs or alterations, et cetera in existing structures; or even when extending existing facilities within his general premises when he acts as his own general contractor and use his own complement of employees. Ii these circumstances, the employer is not "primarily engaged in the construction industry." But when he engages in new construction, or when he utlizes a general contractor, corporate subsidiary, et cetera to oversee the construction, then he is "primarily engaged in the construction industry" on the site and H.R. 5900 is applicable.

Second. Discrimination against employees denied union membership: The House adopted an amendment proposed by Mr. ESCH which specifies that the permission to engage in common-situs picketing is not to be construed to permit picketing whose object is to cause an employer to discriminate against an employee with respect to whom membership in a labor organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

Third. Discrimination against independent unions: The House also adopted an amendment which specifies that the permission to engage in common-situs picketing is not to be construed to permit picketing whose object is to exclude a labor organization from the job site because it is not affiliated with a national or international labor organization.

Fourth. Product boycotts: The House adopted another amendment offered by Mr. ESCH. which specifies that the permission to engage in common-situs picketing is not to be construed to permit picketing whose object is a "product boycott"; that is, to force the employer on the job site to refrain from purchasing products or services from whomever the construction employer chooses to patronize.

Fifth. State separate bid laws: The House adopted yet another amendment offered by Mr. ESCH which precludes common-situs picketing in the situation where State law requires separate bids on separate parts of the total job.

Sixth. Ten-day notice requirements: At the suggestion of Secretary of Labor John Dunlop, the committee amended H.R. 5900 to require that the union on the job site give 10-day written advance notice to all other unions on the job, to all employers on the job, to the general contractor, to the parent international union, and to the construction industry collective bargaining committee. Hopefully, one or more of these persons will persuade the disgruntled union from precipitous and unwise action.

Seventh. Written authorization of the parent union: Again at the suggestion of Secretary Dunlop the committee amended H.R. 5900 so as to prohibit common-situs picketing unless the local union obtains written authorization from the parent organization. As Secretary Dunlop commented, this gives the parent organization "a handle on the situation."

Eighth. The bill as introduced has further limitations and qualifications: Common situs picketing was not permitted to exclude an employee from the job because of sex, race, creed, color, or national origin; and when military or defense installations are involved, a special 10-day advance notice is required. These are some of the limitations and qualifications as H.R. 5900 passed the House. Additional limitations were added in conference.

H.R. 5900 AS IT RETURNS FROM CONFERENCE

Additional limitations, qualification, and exemptions were added by the Senate, and accepted in conference.

First. The residential construction limitation: The Senate and the conference accepted a "residential construction" amendment earlier rejected in the House. Under the revised H.R. 5900 all construction of "three residential levels" is excluded from the bill provided only that the contractors involved have not, within the past tax year either directly or through corporations, et cetera, engaged in a gross value of construction of $9,500,000.

Second. Work under construction: The Senate, and the conference agreed to add further limitations which were not in the House bill. All construction work which was begun on November 15 is exempt from common-situs for various periods of time: for 1 year if the construction work has a gross value of less than $5 million; for 2 years if the construction has a gross value of more than $5 million.

Third. Recognitional picketing: The Senate and the conference agreed to yet another limitation not in the House bill. If the common-situs picketing is for an object prohibited by section 8(b)(7); that is, for "recognition." The Labor Board is required to hold an election within 14 calendar days of the time the employer files a petition for an election and a charge of unfair labor practices. Once this election is held, and if the union loses the election, further picketing is prohibited.

Fourth. Injunction relief for breach-of-contract picketing: The Senate and the conference agreed to another remedial provision not in the House bill. The House bill prohibits common-situs picketing in breach of a collective bargaining agreement. The conference bill goes further and authorizes injunctive relief to enjoin a strike at a common situs in breach of a no strike clause relating to an issue which is subject to final and binding arbitration or other method of final settlement.

On July 16 I was one of those who met with President Ford at the White House to discuss the bill as it was reported from committee. At that time the President assured us that he would sign the bill if it arrived at his desk with the Dunlop Construction Industry Bill, H.R. 9500.

We have passed H.R. 9500, as has the Senate. It is now title 11 to H.R. 5900. Both bills will reach the President at the same time.

But the common situs bill now contains all the amendments to the bill since it was reported from committee—the "residential construction amendment," the "State separate bid" amendment, and all the others which I have discussed.

If the President was satisfied with H.R. 5900 as it was reported from committee, he cannot help but be satisfied with H.R. 5900 as it was reported from the conference.

I would like to add that President Ford joins every President since Harry Truman in his endorsement of congressional effort to override the unfortunate decision in the Denver Building Trades Council case.

I think it is high time we voted to do so.

This is a piece of legislation with a 25-year history, and I would like to emphasize, with the details, that on the afternoon of July 16, 1975, at a meeting at the White House attended by myself, by the gentleman from Minnesota (Mr. QUIE), by the gentleman from Ohio (Mr. ASHBROOK), by Secretary Dunlop, and by Senators WILLIAMS, JAVITS, and others, the President had the following colloquy with me:

I said:

> If the Senate reports before August, then they could take Dunlop's proposal in September, but we need some sign of action before we can think of agreements.

The President said:

> You see my position. Let's say the Senate reports out 5900 before the recess. You could hold it until September, then there could be simultaneous action. Or the Senate could act first. There could be one bill or two bills.

I said:

> Mr. President, would you accept one bill or two bills?

The President said:

> Either way does not matter. As long as I receive them at the same time, I will sign both bills.

Subsequently, in one of three press conferences, this particular one being on August 25, 1975, with John McCullough of WTMS–TV, Ron Scott of WISN–TV, and Carl Zimmerman of WITI–TV, broadcast live, the President said this:

> About three months ago, Secretary of Labor Dunlop appeared before the House and Senate Committees on Education and Welfare, and he testified that if the original so-called situs picketing bill were modified with three amendments—at least two amendments—it would be acceptable.
>
> One of those amendments would provide that before you could have on-site picketing, it would require a 10-day cooling off period.

That, Members of the House and colleagues, is in this legislation.

Continuing the quote of the President:

> The second provision that would be mandatory as a part of the bill would be that no local could go on strike under those conditions without having gotten prior approval from the international.

That, my colleagues, is in the conference report.

Further quoting the President:

> Now, in my opinion, those two added amendments would make that bill acceptable, plus one other factor: There is also a bill that the Secretary of Labor is working on with both management and labor, which in effect provides that there shall be greater responsibility for both labor and management on strikes and lockouts.

That is in the bill, H.R. 9500, which is title 2 of the conference report.

> If that second bill comes to the White House with the original bill, plus those two amendments, then I think we have put together, working with management and labor and the Congress, an acceptable solution to this longstanding conflict.

Not only, my colleagues, are the conditions which the President set forth, and which I read, a part of this conference report but we went even further in terms of accepting the Ashbrook amendment and the residential construction amendment.

In addition, the following interchange between the President and the press took place on September 12, 1975:

COMMON SITUS PICKETING

> Q. Mr. President, I am Earl Dille, president of Associated Industries of Missouri, and I would like your position on the issue of the legalization of common situs picketing at construction projects.
>
> The PRESIDENT. I believe that the legislation originally introduced should be vetoed. I believe that there are amendments that have been added, that will be added, if they are added to force local union responsibility, then the legislation ought to be approved. I know the arguments that the building trades have gotten wage hikes of too high or too great an amount, and people say, "Don't change the law."
>
> My answer to that is they have gotten them under the present law. If they are inflationary, they came under the present circumstances. What we are trying to do with the amendments that we have advocated is to get some responsibility at the local level, and if they don't achieve local responsibility the international unions have the right to veto it. I think that is a better way to achieve wage stability in the construction field, and if those amendments are approved, I will support it; if they are not approved, I will veto it.
>
> Q. Thank you, sir.

The SPEAKER. The time of the gentleman has expired.

Mr. THOMPSON. Mr. Speaker, I yield myself 5 additional minutes.

The residential amendment, put in by the gentleman from Illinois (Mr. ANDERSON) was defeated by two votes here. There was much talk about home construction and small home builders.

Notwithstanding, the House rejected it, and it did so narrowly, the Senate added the language and sought to compromise and it is in the conference report before us.

Residential construction by contractors doing up to $9,500,000 gross in all construction are not subject to situs picketing under this legislation. I do not think that anyone can reasonably call $9,500,000 as in any way being restrictive.

Mr. FORD of Michigan. Mr. Speaker, if the gentleman will yield, is it not also true that in working out this compromise that you took out the elevator and put in an escalator?

Mr. THOMPSON. Yes, we did add an escalator, and we did say with or without an elevator.

Mr. FORD of Michigan. But we did add an escalator in the bill?

Mr. THOMPSON. Yes, we did add a cost escalator in the bill.

Mr. FORD of Michigan. That is the $9,500,000.

Mr. THOMPSON. The $9½ million will allow that little homebuilder, who is considered to be a small homebuilder, to become indeed and in fact, without coming under this act, a very large homebuilder.

Mr. FORD of Michigan. That little homebuilder is probably on the stock market already, selling $9½ million worth of houses.

Mr. THOMPSON. He will probably be on the small board.

Mr. FORD of Michigan. But it is true that in the spirit of compromise with the more timorous members on the conference we did remove the elevator that bothered them and substituted the escalator that they wanted so badly.

Mr. THOMPSON. We did indeed.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, will the gentleman yield?

Mr. Speaker, in considering the conference report on H.R. 5900, the so-called common situs picketing bill, as chairman of the Committee on Veterans' Affairs, I wish to clarify for the RECORD congressional intent with regard to the effect of renovation on existing VA medical facilities.

When the legislation originally passed the House, I voted against it. I am still opposed to it. Nevertheless, it appears that passage by the Congress is certain, and with that in mind, I wish to state my understanding as to the effect of certain provisions of the conference-reported bill on labor disputes involving construction projects being carried out or which will be carried out in the future at existing VA medical facilities.

The problem did not arise when the bill originally passed the House. However, when it emerged from the other body some provisions were apparently unclear as to the impact of the legislation on the operation of existing medical facilities which are undergoing construction changes or are being remodeled, refurbished, and updated.

When the bill was under debate in the Senate, a colloquy took place on November 19, 1975, between Senator CRANSTON speaking for himself, Senator THURMOND, and Senator HANSEN with Senator WILLIAMS, the floor manager of the legislation in the Senate.

In response to a hypothetical situation set forth by Senator CRANSTON concerning the effect of this legislation on the operation of existing VA medical facilities, Senator WILLIAMS made it clear that a union having a dispute with the contractor making alterations on an existing facility would not be permitted to appeal to hospital employees who are not involved in the construction projects.

Senator WILLIAMS further stated:

> The hospital can establish a separate gate for the employees of the struck contractor and all other employees working on construction or making deliveries to that area.

The hospital can instruct its own employees not to enter that gate.

Mr. Speaker, inasmuch as this bill has been to conference since that colloquy in the Senate occurred, I want to be certain that no changes were made which would alter the interpretation offered by Senator WILLIAMS on November 19 during the debate with Senator CRANSTON. In reviewing the joint explanatory statement of the managers of the committee of conference, as it appears on page 39122 in the CONGRESSIONAL RECORD of December 8, paragraph 6, the area of concern I have with regard to Veterans' Administration medical facilities seems to be covered. However, to make the RECORD absolutely clear on this, I would like to ask the distinguished floor manager of the amended bill to confirm that it is the intent of Congress with respect to existing veterans medical facilities that it would be unlawful for construction workers to picket all gates to existing VA medical facilities and thereby preventing delivery of nonconstruction materials and supplies to those facilities and barring access to it by employees of employers engaged in making deliveries or providing services to that building other than those services or deliveries related directly to the construction work at that site. It is my further understanding that the Veterans' Administration may, by reserving a separate gate at that building for the construction employees, confine picketing to that gate. I understand further that it is the intent of Congress that, once such a separate construction gate is reserved for construction employees, picketing at any other gate to that hospital building would be unlawful. Thus, picketing at the construction gate would be directed at only employees engaged in the work related to the construction and no others and the hospital can direct its own employees and others not engaged in the construction projects not to enter the designated construction gate.

Mr. Speaker, I would like to ask the distinguished floor manager of H.R. 5900 to confirm my understanding of the legislative intent as I have stated as it relates to the operation of existing Veterans' Administration medical care facilities.

Mr. THOMPSON. The gentleman is precisely correct.

Senator WILLIAMS in his response made it clear that in all health facility situations, all health facilities including the veterans' hospitals, a union having a dispute with a contractor making major alterations, or repairs, or upkeep or maintenance, would not be permitted to appeal to hospital employees who are not involved in the construction. The hospital then, as the gentleman has stated, can establish a separate gate for the employees of the struck contractor, and all other employees working on the construction project or making deliveries. The hospital can direct its own employees and others not to enter that gate.

Under the General Electric decision, a union can picket only the construction gate but could not picket to induce hospital employees to cease work for the hospital or delivery employees to not deliver any hospital supplies, because their work is totally unconnected with construction work of a struck contractor. That is the legislative intent. That is the legislative history.

I would briefly like to raise another issue. In discussing the notice provisions which will be contained in section 8(g) (2) of the act the Senate sponsors of the hospital bill enacted in 1974 criticized the NLRB's implementation of the notice provisions for the hospital industry with regard to construction taking place at a hospital site. I agree entirely with those criticisms and it is my hope that the Board will be more responsive to congressional intent in implementing the additional notice provisions we are adding here.

I managed the hospital bill on the House side and regard that amendment to the Taft-Hartley Act as one of the major recent accomplishments of the Congress. I wish to add my voice to that of the distinguished Senators from New Jersey (Mr. WILLIAMS) and Ohio (Mr. TAFT) in stating that the Board has misconstrued the hospital notice provisions:

> *In United Ass'n of Journeymen, etc (Lein-Steenberg)*, 219 NLRB No. 153, 89 LRRM 1770, and a companion case, *Laborers' International Union, etc. (Mercy Hospital of Laredo)*, 219 NLRB 154, 89 LRRM 1777, the Board decided by a 3-2 vote that the 10-day notice requirement applies not only to strikes and picketing where the dispute is with a hospital which became a covered employer by virtue of the 1974 amendments, but with respect to any strikes and picketing at the premises of such an employer.
>
> Thus, picketing of a construction project at a hospital was held to be illegal in the balance of such a notice, even though the same picketing would have been lawful before the 1974 amendments.
>
> This interpretation is entirely incorrect since it was not the intention of the 1974 amendments to change the law with respect to the relationship between employers who were previously covered by the act and their employees and unions representing or seeking to represent those employees.

Against this background it is necessary to state explicitly that the notice provisions which we are adding to section 8(g) by the present bill are intended to apply only with respect to picketing which is presently unlawful under the Denver Building Trades case and which is made lawful by this bill.

Mr. ROBERTS. Mr. Speaker, I thank the distinguished gentleman. I appreciate the statement very much. I think none of us want to give anybody a leeway that can shut down VA medical facilities in this country, and I do appreciate the statement of the distinguished floor manager.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to my distinguished chairman, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I just want to say to the House that we have taken every precaution in the world that we could, and we have leaned over backward to make sure that this bill will not punish anyone, and not damage anyone.

In the conference, we accepted the exemption concerning residential construction. The construction of residential structures of up to three levels of building contractors who do less than $9½ million worth of housing construction a year will be exempted from this act.

In effect, we accepted the Beall amendment, with the $9½ million exemption. This is similar to the John Anderson amendment.

The heart of the Ashbrook amendment was also kept intact, and that means that it will be harder for unions to strike a site, because they will only be able to picket if the employer at the site is primarily engaged in the construction industry.

The Esch amendments were kept, and they prohibit situs picketing when State laws require separate bids on public construction contracts. They also prohibit picketing when the objective of the pickets is a product boycott. The Esch amendments also will not allow picketing just to get a worker removed who does not belong to a union.

The conferees accepted the Taft amendment, giving employers injunctive relief against picketing when there is a collective bargaining contract.

Mr. RAY ROBERTS, the distinguished chairman of the Committee on Veterans' Affairs, reminded me of the colloquy which took place on the Senate floor concerning the impact of H.R. 5900 on construction at a veterans' hospital.

Senator CRANSTON, chairman of the Subcommittee on Health and Hospitals of the Committee on Veterans' Affairs, on behalf of himself and Senators HANSEN and THURMOND, ranking minority members of the Subcommittee on Veterans' Affairs, respectively, discussed with the floor manager of the bill on labor disputes at construction projects being carried out at existing VA hospital facilities.

Senator WILLIAMS in his response made clear that in all health facilities situations, including VA hospitals, a union having a dispute with a contractor making major alterations or repairs would not be permitted to appeal to hospital employees who are not involved in the construction there. The hospital can establish a sparate gate for the employees of the struck contractor and all other employees working on the construction project or making deliveries thereto. The hospital can direct its own employees and others not to enter at that gate. Under the General Electric decision, the union could picket only the construction gate; and it could not picket to induce hospital employees to cease work for the hospital, or delivery employees not to deliver hospital supplies, because their work is unconnected to the construction work of the struck contractor.

I agree with this interpretation.

Mr. THOMPSON. Mr. Speaker, I would like to express my gratitude to the distinguished chairman for his long-time support and advocacy of this and for the gentleman's consistency.

Also, I would like to express my gratitude to the ranking minority member, the gentleman from Minnesota (Mr. QUIE); to my friend, the gentleman from Ohio (Mr. ASHBROOK), with whom I do not agree on this measure, but whose reasonableness is evident in the arrival at the compromise language that we accepted.

Mr. Speaker, in conclusion, I would like to emphasize that anything else to the contrary notwithstanding that we may hear, the President of the United States, with whom we served for so many years, promised absolutely and without equivocation to sign this piece of legislation, if the conditions he set forth were met. They were not only met, but we went beyond those conditions. After careful consideration and consultation with the Secretary of Labor, Secretary Dunlop, we were in constant touch with the White House on this matter.

The Senate joined us, and put the two pieces of legislation together, and the House yielded to the President's request. I am fully confident that if this conference report, which should be adopted, is adopted, that it will be signed by President Ford.

Mr. QUIE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I doubt that there is any piece of legislation that is going to have a greater impact on our folks back home and the way they contact us than this piece of legislation. Anyway, that is my experience since the House passed the situs picketing bill. Each one will have to make his own decision on how he is finally going to vote on this matter. It has a great deal more to it than just the merits of the bill. There is a great deal of politics involved, as anyone can tell; so I am not telling anyone how to vote. Each one is going to have to figure that out for himself.

I just want to say, I voted for this bill when it came to the House. When it went to conference it was my point of view, that every amendment that was adopted in the House and the Senate indicated that a majority favored a change in the original situs picketing bill that was introduced. So it was my point of view that if I could get all those adopted in the conference report, that then I ought to sign the conference report and support the legislation, because in doing that we then could have a better piece of legislation when it becomes law than otherwise would be the case. If I would not go with the conference report under any circumstances, I would have felt in duty bound to say so. In that case I would have had little influence on the outcome. Many of us have seen in the past where legislation goes to conference and we lost what was adopted on the House floor. We did not lose what was adopted on the House floor here. In fact, every part of the House bill was accepted and every amendment that was added by a majority, naturally, in the Senate was accepted. Some were changed slightly, but not significantly from my point of view, as the conference report indicates.

Also, I might point out at this time that I talked to the gentleman from New Jersey beforehand and since the gentleman does not plan to yield to those who are opposed to the bill and since I always have felt I want to treat all pieces of legislation as fairly as possible, as I have indicated through the years, that I am going to yield primarily to those who are opposed to the bill, in order that they have an equal opportunity.

Lastly, let me say that I intend to follow what is said in debate very closely. Because it is a confusing piece of legislation to most people and a great deal is going to be determined by litigation in years to come, the legislative history probably will play a greater role than most any other piece of legislation. So to those who are reading the CONGRESSIONAL RECORD, I will say the next day after it has been adopted by this body or the other body and if there is anything I disagree with as a conferee who signed the conference report in the legislation voted, I will express myself in the time permitted, in the usual 5 days permitted to revise and extend my remarks.

The debates will soon be over. The debates have not always been calm, but I believe they have been reasoned. The technical interpretations of the law in the so-called secondary boycott area have always been difficult. They will continue to be so, with or without situs picketing.

The conference between the House and Senate was a reasoned accommodation to a long sought after change by the building trades to what they considered an inequity in court interpretation of the secondary boycott provision of the National Labor Relations Act. The building trades claimed that under the Denver Building Trades case, they are precluded from picketing a common construction site.

The Denver case—involving construction employers—held that employers—general contractor and its subcontractors—are each independent contractors or employers. The effect of this holding was that a labor organization engages in a secondary boycott prohibited by section 8(b) (4) (B)—that is, that the picketing had the object of forcing or requiring one person to cease doing business with another person—when it pickets a whole construction site.

Thereafter picketing at construction sites was allowed, but limited to the Moore Dry Dock criteria.

Later the Supreme Court held in the General Electric case that an industrial employer could be picketed by its employees with whom GE had a dispute at all gates used by employers with whom it did business, unless the business of the secondary employer was unrelated to the normal operations of the industrial employer. Usually, where an industrial employer has a construction project on its premises, any dispute involving the construction employer can be isolated—by separate gates—from the employer's business.

A later case called Carrier involved primary picketing of an industrial employer. Some mention of this case has been made in the debates, so I believe an explanation is in order. The strikers there picketed a railroad that ran through and did business with an industrial employer. A railroad is not an "employer" within the meaning of the NLRA, but is a "person" within the NLRA. This case held that where primary picketing is taking place, a "person" is not protected from the effects of that picketing for if "persons" were protected, they would be in a more favorable position than other employers doing business with the primary employer. Therefore, the Carrier case was nothing other than a restatement of the GE case.

In effect, the GE case and related cases hold that there are "secondary" effects to "primary" picketing which are not made illegal by section 8(b)(4)(B), when primary picketing is taking place.

Prior to the conference, there were all sorts of claims as to the effects of the bill and what it would do. The arguments against the bill as originally written had some validity, and the rhetoric was inflamed. But, after the House bill passed committee, the House, very responsibly, acted to amend the bill in a manner that was compatible to overruling the Denver case. The House-passed bill limited the original version by allowing inducements on a construction site to "any individual employed by any employer primarily engaged in the construction industry." Nothing in the present act now prohibits strikes at construction sites, but court interpretation of 8(b)(4)(B) has limited those strikes to only inducements of the employees and suppliers of the one primary employer with whom the union has a dispute. Under the House bill, those unions which have a dispute with one employer on the construction site can now appeal to the employees of other employers primarily engaged in construction who are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction.

This type of inducement is permitted since the employees of contractors and subcontractors are working side by side on a day-to-day basis. Usually a general contractor is responsible for handling a certain work project and knows the subcontractors labor relations policy when he subcontracts to him, and the opposite is true—a subcontractor knows a general contractor's labor relations policy when he makes a bid. Therefore it can be said that in most situations the several employers engaged in a single construction project are not wholly neutral with respect to each other and appeal to employees of all those employers primarily engaged in construction is proper.

The conferees did not adopt the language of the Senate version which was similar to the original version in the House. However, the conferees added the words "on the site" to the House version. By doing so, the conference did not basically change the House version. Those words "on the site," were added to make it clear that in certain instances an employer not primarily engaged in construction could be primarily engaged in construction at construction sites outside his general premises if he is there primarily engaged in construction, and in that case would fall under the effects of this bill. The conference agreement continues to protect manufacturing or industrial employers from disputes involving the construction contractors who are doing work at a manufacturer's premises.

Also it is not intended to permit industrial or retail employers to become little more than a normal general contractor on a project-by-project basis. The factor which has always been recognized as distinguishing the construction industry from the utility, manufacturing, and retail industries is that the former is characterized by casual project-by-project employment patterns and the latter are not. When an employer resorts to the normal construction industry pool of craftsmen to the extent of the work of these craftsmen, it is appropriate to state that he is primarily engaged in construction on the site of the construction.

I will point out that the statement of the managers provides "If the same employer engages an outside general contractor, or a corporate subsidiary, for the construction project, the general contractor or corporate subsidiary is primarily engaged in the construction industry and H.R. 5900 would apply at the construction gates." It is my understanding that we use the term corporate subsidiary in the general and not a technical sense to mean that distinct portion of a corporate enterprise mainly devoted to construction work. This is not an invitation to employers to evade our plain intent by creating a separate construction entity within a corporation otherwise devoted to other tasks and, to claim that the entity is not a "subsidiary."

There has been much written and much said about the effects of the bill. Most of that discussion can now be laid to rest. The proponents wanted to overrule the Denver case and that is what the conferees agreed to do.

What should be made clear is that this bill only amends section 8(b)(4)(B) of the act. It does not amend any other section of the act. It is my understanding that 8(b)(4)(A) is not affected nor is section 8(e) or 8(g). All this bill does is to allow picketing which was not allowed under the Denver case. It gives the building trades no more, and no less. It does not change a "secondary" employer into a "primary" employer. It does not prohibit a union's basic primary rights, and it does not expand those rights other than to allow the members of the building trades unions to appeal to their fellow workers on a common construction site. It preserves the "primary-secondary" dichotomy in other respects.

Let me clarify what I have just said, Mr. Speaker. Section 8(b)(4)(B) prohibits a union from engaging in certain activity with particular objectives. The first proviso of H.R. 5900 allows that picketing which was not allowed in Denver. All the following provisions make sure that that which is allowed in the first proviso is not to be permitted for reasons expressed in the later provisos. By explicitly prohibiting in certain instances, there is no intent to allow situs picketing in areas where primary picketing would otherwise have been unlawful.

The Construction Industry Collective Bargaining Act, title II of the conference report, is a concept that will, hopefully, bring some reform to the relative unstable conditions of collective bargaining in the construction industry. I do not consider this a "trade-off" for situs picketing, nor do I advocate that such an Act should make situs picketing more acceptable to opponents of such picketing. But, I do believe that the Construction Industry Collective Bargaining Act can achieve substantial reform in construction industry labor relations.

Briefly, the Construction Industry Collective Bargaining Act creates a Construction Industry Collective Bargaining Committee—CICBC—within the Department of Labor composed of up to 25 members, including 10 representing the viewpoint of management, 10 representing the viewpoint of labor and up to 3 public members. Besides certain other functions of the committee, the bill allows this committee to take jurisdiction over disputes regarding termination and modification of contracts for up to a 90-day period—60 days before and 30 days after the time for termination or modification—with a view towards settling any dispute. During the 60-day period, no strike or lockout is allowed. If the committee takes jurisdiction, no strike or lockout is allowed and the committee may request participation by the national unions and national employer associations in the negotiations. Once the national parties are called in, no new contract will have any effect unless approved by the national labor organization involved.

The conference made one substantial change from the House-passed bill (H.R. 9500). The House bill left dangling the jurisdiction of the committee after 30 days when a national or international refused to approve a local bargaining contract. The conference report provides that the committee may suspend the national's or international's authority at any time.

The operation of the Construction Industry Collective Bargaining Act does not go as far as some would like in resolving construction industry collective bargaining problems, but it is a worthy beginning. I continue to support it.

I believe an area of accommodation has been reached in a reasonable manner with the retention of the House language in the situs picketing bill. That area of accommodation and reasonableness is enlarged with the additional Construction Industry Collective Bargaining Act.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, today the Members of this body have perhaps their last chance to defeat a very bad piece of legislation. The bill I am referring to is H.R. 5900, which would legalize secondary boycotts in the construction industry.

As the ranking minority member of the Subcommittee on Labor-Management Relations, I have had an opportunity to thoroughly investigate the merits of H.R. 5900. Frankly, I can find little justification for this measure. It seems to be just a power grab by union officials who are seeking to secure monopoly control over construction workers.

Grassroots sentiment against H.R. 5900 is overwhelming. A poll has shown that more than two-thirds of the American people oppose common situs picketing. In addition, newspapers all over the country have expressed their opposition to the bill. These include the Chicago Tribune, the New York Times, the San Francisco Examiner, the Seattle Times, the Cincinnati Enquirer, the Wall Street Journal, the Indianapolis News, the Washington Star, and the Denver Post.

About the only people who want to see this bill enacted are the union leaders. Tragically, that may be enough. The debate today is on the conference report. In reality, the issue is not the work of the conferees and their product before us today. It is the fundamental issue whether or not situs picketing is desirable. It is not and I reiterate everything written in my original minority views.

Perhaps it would be useful to take one more look at what H.R. 5900 would do. Under current law, when a construction union has a dispute with a contractor on a construction site the union may establish a picket line and shut down the work of that contractor until the dispute is settled. Since there are usually many contractors and subcontractors on a construction site who are not involved in the dispute, most of the work at that site can continue.

Once H.R. 5900 is enacted, however, union workers striking against a subcontractor could shut down the entire construction project. Even those contractors and subcontractors not a party to the dispute would become embroiled in the controversy. The unions would have the right to involve neutral contractors in a dispute not their own and to close down the whole project until the contractor with whom they have a dispute is driven off the job or comes to terms.

What will this mean in practice? First, unions would be in a position to force all contractors and subcontractors working at a construction site to employ only union labor. Contractors would of necessity hire only union workers in order to avert labor difficulties instigated by the unions.

Backers of H.R. 5900 make no bones about this. The stated purpose of those witnesses who supported enactment of H.R. 5900 was that it would assist labor organizations in organizing. Furthermore, the chief sponsor of this bill in the House has said publicly:

> Reduced to its simplest terms, no employer with a brain in his head is going to try to mix union and nonunion subcontractors once this bill is enacted.

In short, passage of H.R. 5900 would make it virtually impossible for anyone not wishing to join a labor union to work at a construction site unless all of the employees at the site were nonunion. In fact, construction workers would be compelled to join labor unions whether they wanted to or not as a matter of practice even though an effort has been made to make such union actions illegal.

The heart of the issue, then, is free choice for employers and workers in the construction industry. That is not the only issue, however. There are also strong economic reasons for opposing H.R. 5900.

Passage of this bill would cause labor rates in construction to skyrocket. Legalization of secondary boycotts will lead to an increased number of strikes in the construction industry. And each strike will be more expensive since it will shut down the entire site rather than isolated operations.

Armed with their new picketing power, unions will be able to bludgeon contractors into granting larger wage hikes and more costly fringe benefits. This, of course, translates into higher construction costs.

Given our current national problems of inflation and unemployment, we simply do not need H.R. 5900. The construction industry—an industry vital to America's economy—is already reeling from the recession. Let us not add the further economic burdens that H.R. 5900 would impose.

As for the conference report, my amendment was the cause of some concern in the conference. The report language describes this resolution of the Ashbrook amendment:

> Both the House bill and the Senate amendment modify section 8(b)(4) of the National Labor Relations Act to permit picketing at the common site of a construction project, overruling the case of *NLRB v. Denver Building Trades Council*, 342 U.S. 675 (1951).
>
> EMPLOYERS IN THE CONSTRUCTION INDUSTRY
>
> The House bill confines the right to engage in common situs picketing, with respect to the inducement of employees at a construction site to strike or refuse to perform services, to "any individual employed by any employer primarily engaged in the construction industry."
>
> The Senate amendment permits inducements of "any individual employed by any person." The Senate recedes with an amendment permitting the "inducement of any individual employed by any employer primarily engaged in the construction industry on the site."
>
> Utility companies, manufacturers, department stores, petroleum companies, transit companies, and so on are not *primarily engaged* in the construction industry, although they do a lot of construction both within their own premises and elsewhere.
>
> The intent of the Conference Amendment is to make it clear that if the employer is primarily engaged in the construction industry on the site of the construction, H.R. 5900 is applicable. The following examples make this clear.
>
> 1. If an employer, primarily engaged in the utility, merchandising, manufacturing, or other business elsewhere engages in the construction of a new facility, he is primarily engaged in the construction industry on the site and the construction project is within the terms of H.R. 5900.
>
> 2. If the same employer uses his own employees to paint or make alterations or repairs in his existing structures, he is not primarily engaged in the construction industry on the site of construction; rather, he is primarily engaged in his regular business, whatever it may be, and H.R. 5900 would not apply in this situation.
>
> 3. If the same employer engages an outside general contractor, or utilizes a corporate subsidiary, for the construction project the general contractor, or corporate subsidiary is primarily engaged in the construction industry and H.R. 5900 would apply at the construction gates.
>
> 4. If the same employer extends his existing facilities within his general premises acting as his own general contractor and using his own employees, he is not primarily engaged in the construction industry on the site, and H.R. 5900 would not apply.
>
> 5. The Conference amendment is not intended to preclude a union at a construction site from exercising its right to primary picket or otherwise induce the employees of employers not in the construction industry when making deliveries, etc., to the construction employer or employers with whom the union has a primary dispute.
>
> 6. The Conference amendment does not prohibit separate gates, but does prohibit common situs picketing of employees of employers not in the construction industry when making deliveries, etc., to the construction employer or employers with whom the union does not have a primary dispute.

I was very pleased to see the harmonizing of the Senate and House reported versions reported satisfactorily by the conference committee. These provisions pertain to the proscription of common site picketing on a job site where an object is to force the removal or exclusion from that site of any employee because of his membership or nonmembership in any labor organization. The House passed a provision which basically recites the current Taft-Hartley law with respect to protecting an employee against employer discrimination because that employee has been denied membership in a labor organization or terminated from membership on some ground other than his failure to pay required dues and initiation fees (Secs. 8(a)(3) and 8(b)(2)).

The Senate passed a separate harmonizing version.

It is clear by the language of the conference bill which deals with this issue and the joint explanatory statement that the conferees intended to specifically adopt both versions.

The Senate version, in unmistakable terms, prohibits the use of common situs picketing for the purpose of forcing any employee off any job site because of the nonunion status of that employee. It also protects him because he belongs to a union with which the picketing labor organization competes or resents. Conceptually, the two provisions differ substantially: The Senate version, which is now in the conference report, granting an absolute protection to any individual to remain on a job site uninterfered with by another labor organization seeking to oust him because of his nonunion status. The other provision, which the House passed and which is in the bill, prohibits picketing for the purpose of causing an employer to discriminate against any employee because membership in a labor organization, to which he is required to belong, is denied him for reasons other than failure to pay dues and initiation fees uniformly required as a condition of continued employment.

The Senate provision is surely unrefutable in its import. It is much broader than that which the House originally passed. The Senate version does not merely speak to an employer discrimination against any employee on the basis of his membership or nonmembership in any union, but absolutely forbids without exception the use of common situs picketing where an object is to force the removal of that employee for reasons of union affiliation or lack thereof. As such, it is a congressional mandate that employees shall not be deemed to be caught in the middle of a common situs labor dispute and their presence on a job site shall not be interfered with, even by peaceful common site picketing, where an object is to force them off the site because they are nonunion. Again, this provision must be distinguished from later provisions in the Taft-Hartley Act which prohibit picketing for organizational and recognitional purposes where prohibited by the current section 8(b)(7), and which also add a proviso requiring that an expedited election and certification must take place within 14 days of the filing of a petition and a charge in organizational and recognitional picketing under section 8(b)(7). Thus all these provisions harmonize and make it crystal clear that if the object of the union is to force recognition of a labor organization or organization of any employees, then there is a ceiling with regard to how long this picketing can legitimately take place without action by the Board to resolve the dispute.

However, as stated, an employee will not be forced off a job site in the interim because he is nonunion. This provision then balances the rights of the labor organization to engage in common situs picketing for certain purposes while maintaining the right of an employee who choses to be nonunion to continue on with his job while the labor organization, which is picketing, avails itself of statutory organizational and recognitional rights. Because this is a far sweeping provision, in the public interest, I trust that the Board will strictly construe the literal language of this section, which pertains to the prohibition of removing an employee from the job site, and to resolve any doubts as to a union's object in favor of preserving his continuing presence on the site. This provision is totally supportive of the premise upon which the NLRA is founded: The promotion of labor relations stability and the peaceful settlement of disputes.

I would make one pertinent observation. The bill and the report contains this heading: "Economic Rights of Labor in the Construction Industry." The report of the House committee which accompanied H.R. 5900 contained this heading: "Protecting Economic Rights of Labor." We are talking about all labor, not union labor or organized labor alone, but all labor in the construction industry. This point should be remembered.

Mr. Speaker, H.R. 5900 is a very bad bill. It deserves to be defeated in the House today. If passed, it should be vetoed by the President. We must not legalize secondary boycotts in the construction industry. As a footnote, the so-called Construction Industry Collective Bargaining Act as title II of the bill is a farce, a mere political expedient, and adds not one whit to the bill nor is it any improvement of this bad bill.

Mr. QUIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I rise in opposition to the conference report on H.R. 5900, the common situs picketing bill. I am strongly opposed to this bill and urge my colleagues to vote against it. We should defeat this ill-advised bill here and now. But, should this House be so unwise as to approve the conference report, and this bill reaches the President's desk, I will again advise him to exercise his veto power in order to prevent this mischievous legislation from becoming law. And if it comes to that, I am confident that there are many more than a sufficient number of votes in this Chamber to sustain a Presidential veto.

H.R. 5900 is a shocking example of congressional capitulation to the political influence of some big labor union bosses. This pressure did not originate from the union working men and women of this country. As far as I am aware, from personal contact and from opinion polls, they are not even in support of this bill. This pressure originated with the leaders of some of the big building trade unions, who have practically priced themselves out of the market for much of the construction work done in this country.

Big labor would like nothing more than to force and to coerce small and independent building trade unions to cease their operations and to force their membership to join the giant unions. H.R. 5900 provides just the means to achieve this unsavory end. This bill represents a straightforward power grab by certain union bosses, and let us have done with any denials to the contrary.

This bill would legalize secondary boycotts. It would allow any union engaged in a dispute with a subcontractor at a construction site to picket and to close down all work at the site. This would, in my judgment, inflict a crippling blow to an important industry in this country which is already in a weak and depressed condition.

This bill will force contractors to use only union labor. This not only means the demise of any free choice among contractors and subcontractors, but it also means the end of free choice for the craftsmen and workers in the building trades to choose for themselves whether or not they wish to join a union.

This bill will certainly deal a death blow to thousands of small, specialized subcontractors in the construction industry. These businessmen are always faced with severe cash-flow problems, and I am absolutely convinced that H.R. 5900 will drive many of them out of business. A subcontractor commits his money to a project, and if a secondary boycott shuts down the site, he is unable to pay his suppliers, and is, within a very short period of time, out of business.

Mr. Speaker, big union pressure has been exerted to overturn the secondary boycott prohibitions of the Taft-Hartley Act for over a generation. Always, the Congress has stood firm in upholding the principle written into law by the great statesman from Ohio. The late Senator Taft sought to protect the innocent party who is unconcerned and uninvolved in labor disputes from the injurious results of those disputes. H.R. 5900 would destroy that principle. I will have no part in this senseless destruction of sound principle.

H.R. 5900 should be voted down because it contributes nothing to either union democracy or to union responsibility to extend governmental assistance to the big unions by increasing their power to coerce union and nonunion construction workers into obeying their dictates on when they can and cannot work.

I am not opposed to labor. I came up the hard way myself. But I believe in a free choice for the working men and women of this country. I believe they should freely decide whether or not to join a union, and that they should freely decide when they will work and when they will not work. And they should not have these important personal decisions made for them by anyone else, including the big labor union bosses.

Mr. Speaker, I implore my colleagues to join with me to defeat the common situs picketing bill.

Mr. QUIE. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, this is a conference report which should not be adopted. It is a report which, in my opinion, is bad for labor, bad for management, bad for the consumer, and it is bad for the country.

Mr. Speaker, in the first place, I think it is bad for labor because it will not result in labor peace, but in more strife in the building trades. It will polarize organized labor against unorganized labor, and it will polarize the contractors. In fact, it will be absolutely necessary, I think, for each job to be either nonunion or union, and I cannot believe it is a good thing for the building trades to have a polarization of that kind occur.

It is not needed by labor, because anyone knowledgeable about the wage scales for the building trades is well aware of the fact that they are the highest wage scales in any organized labor segment in the country. It is not a downtrodden segment of organized labor. They have done very well. They do not need this, and I do not think it is well for the Congress to go along with this type of legislation.

Mr. Speaker, there has been some conversation on the floor as to just what the President promised to do or did not promise to do.

I was at a meeting with the gentleman from New Jersey, and several others, in the White House, and at that time the President made several points very clear. One, he said that he would veto a common situs picketing bill if it came to his desk. Two, he said that if it were possible for a bill to be brought simultaneously with a common situs picketing bill, which would have the effect of bringing labor peace to the building trades area, and if it had the support of both labor and management, then he would sign both bills.

This bill does not have the support of management. Quite to the contrary. I am told by people who were at that meeting at the White House that they never saw H.R. 9500 prior to its introduction and, consequently, had no input on the bill.

So the mandate which the President gave to the people who were supposed to work this out was not fulfilled. The President is not in my opinion either morally or legally or in any other way obligated to sign any piece of legislation which might come up looking like the one we have now before us. So let us not have anybody misunderstand the President's position. He did not and he has not said he would sign this bill.

Mr. Speaker, it would be my hope that the Congress of the United States would recognize that at this time, when we are trying to work out of a recession, when only 30 percent of our people can afford a medium-priced home, which is really the problem that building trades have now—because they have priced themselves in many instances right out of the market—and when these situations occur, to pass this bill to make an already bad situation worse is certainly about as counterproductive as anything can be.

In this Christmas season I think we should give the building trades and the housing industry a present by defeating this conference report and letting them go about their business of building better houses for America.

Mr. THOMPSON. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, first I feel constrained to state my disagreement with much of the interpretation of my very good friend, the gentleman from Ohio (Mr. ASHBROOK), concerning the conference report. At this point I will not go into detail, but suffice it to say that the conference report and the statement of the managers are clear and speak for themselves, notwithstanding attempts to rewrite the conference report and the legislation here in the well of the House.

Secondly, I dislike having to comment on the words just spoken by my friend, the distinguished minority leader, the gentleman from Arizona (Mr. RHODES). They just seem to me to be words which are uncharacteristic of him. The argument or the attempt to say that this does not meet the conditions asked for by the President is sheer unadulterated sophistry.

It is absolutely true that at the July 16 meeting in the White House the parameters of what became the bill, H.R. 9500, were discussed, and there were no details except within those parameters. The bill was drafted by the administration, it was sent down in the name of the administration by the Secretary of Labor after consultation at the White House, and it did satisfy every request of the President.

Earlier I quoted two verbatim colloquies between the President and three reporters.

Any amount of sophistry or fuzzing on Earth notwithstanding, it is a fact that the President of the United States, in the presence of the gentleman from Minnesota, Mr. QUIE, Senator JAVITS, Senator WILLIAMS, myself, and a number of others, stated without equivocation that if those two amendments to H.R. 9500 were adopted—and they were—and if H.R. 9500 passed in the form generally as sent by the Secretary of Labor, and if it were enacted by both bodies and added to the conference report, every single bit of which has been done, without equivocation, the President said, "I will sign it." I have quoted from the President of the United States. He said, "If these conditions are met, I will sign it."

They have been met. The President of the United States is a man of his word. I have no doubt whatsoever that he will sign this despite the attempts to fuzz it.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I think it is about time we rose to defend our former colleague from Michigan. I do not do this very often, but I am surprised to hear the minority leader, who followed in his footsteps, join the company of people who across this country have been saying that just because Jerry Ford is from Grand Rapids, people cannot understand what he means, and that when he speaks, he equivocates and has difficulty expressing himself.

He has spoken on this issue not just once or just in private meetings. He is on the public record repeatedly. He has at press conferences answered direct questions in a direct fashion with, as the gentleman from New Jersey (Mr. THOMPSON) says, no qualification or equivocation at all.

Those statements included statements made to the Senate and the House to take action on the bill and indicated that he knew the specifics of the bill.

The SPEAKER pro tempore (Mr. O'NEILL). The time of the gentleman from New Jersey (Mr. THOMPSON) has expired.

Mr. THOMPSON. Mr. Speaker, I yield myself 1 additional minute.

Mr. FORD of Michigan. Mr. Speaker, if the gentleman will yield further, I think it is wholly wrong for the minority leader to make this unwarranted attack on the integrity of the President.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, I just want to take these minutes to clear one thing up.

It appears that most of the opposition to this bill is based upon what people say will be the greatly increased cost for building homes.

In 1948 when I was in the construction business and building homes, we had a labor cost of 50 percent of the cost of the home. About 10 years ago, the labor cost was around 30 percent of the building cost. Today it is about 15 percent. Lots that we used to pay $1,500 for are now costing from $7,000 to $12,000 and as high as $15,000.

Actually, 3 years' interest on a normal mortgage today on any home from $20,000 up costs more to the buyer of that home than all the labor that goes into the house, from the time it starts at the foundation right up to the roof.

Let us not kid ourselves that this is going to make homes impossible to buy. The thing that makes homes impossible to buy is the interest rate. A $36,000 home with a 10-percent downpayment on a 30-year mortgage at 7.5 percent interest, which one can hardly get today, costs an individual $90,000 plus before he is through paying for that home. Labor gets paid once. The interest seems to go on forever.

Therefore, Mr. Speaker, if we want to save the small home buyer and the middle-income home buyer who are absolutely out of the home market, let us do something about interest rates. We will never have a recovery in the building business until interest rates are brought down to where they reasonably belong.

Mr. Speaker, I am very serious about this. We could give the labor for nothing in a home if the neighbors would get together as they did in the old days. Even so without labor cost the home, $36,000 less $5,400 labor cost, would *still* cost a home buyer approximately $82,000.

If people got together in a community and contributed the labor and left the interest rates at the present levels costs would only be reduced by 15 percent, but the cost of workmen's compensation and welfare for jobless workers would be more than the savings in labor. Therefore, let us not salve our own conscience by saying we want to vote against this so-called labor bill because of the fact that it is going to cost more, and individuals cannot buy homes. It is just not true.

There are so many things in the home today that are premanufactured or precast. In the old days, from the time you laid the first concrete block or put the footing into the house, all of the construction was by hand labor. Everything had to be made by hand, nailed by hand, sawed by hand, measured by hand, and installed by hand, but not today. Even your mortar mix comes already mixed today. You do not use anywhere near the labor used years ago. That is all gone. You do not need the workers and the facts are clear and vivid, the buyer is being gouged by land costs and interest rates.

Therefore, the individual's dollar that goes into a home for labor is the minor part of the cost of production of that home.

This legislation as it is now before us with the companion bill agreed to by the Secretary of Labor and the President will do more for cutting down on work stoppages in construction than any other proposal ever made in this area of situs picketing laws.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Speaker, the conference report we are faced with today is an ominous one.

Will we permit construction unions to engage in secondary boycotts—or—will we stand up for the rights of all workers both union and non-union workers and innocent third parties? Will we give a few leaders the stick with which they can beat the Nation's construction industry to death—or—will we stop this power grab and keep people working?

We voted on this measure once, and by a small margin, we sent it to the Senate. In the months since, I would like to point out that not one newspaper in the Nation has editorialized in favor of H.R. 5900. Not one. Not the New York Times and not even the Washington Post. Supporters will search high and low and not find a complimentary word about this legislation from anyone but a few labor leaders mostly at the national level.

Since supporters have no glowing endorsements to dazzle us with—they are left to their own devices. And so they have elected to confuse us with semantics. They are attempting to lure us into believing that the central debate over common situs is one of definitions.

They know the law prohibits a work stoppage with the goal of forcing any person to cease doing business with any other person.

They are trying to convince us that any person and any other person are the same person.

The Supreme Court in 1949 held that any person was a contractor and any other person was a subcontractor. And that a union could strike one or the other but not one with the intention of shutting down the business of the other.

The Court held that secondary boycotting was illegal.

But supporters tell us today that they are the same. Are they?

Let us look at the industry. It is our single largest industry. The construction industry accounts for 11 percent of the GNP in this Nation. In my own State, the construction industry is three times more important to the economy than in any other State. And about one out of three workers are drawing unemployment. We need work—not labor disputes.

Let us look at the unions. Fifty-five percent of the construction industry is unionized. Eighteen different construction unions within the AFL–CIO account for 1.4 million members. But the housing industry is the least organized; and 4 out of 5 construction workers are employed by a concern having 100 employees or less.

So we are looking at the largest industry we have—and industry labor has had great success with—except for the housing segment—which, in turn, is the largest chunk of the industry.

Will this legislation help them organize the housing industry? You bet it will. Take for example, the union plumber working for a subcontractor along with five other nonunion men working for different subcontractors. It will make that one union member among the six workers a powerful force. It will give him the power of David over Goliath. He will be armed with the law—and the law will say that he can keep those other five from working. He can close down the project.

Meanwhile, he will collect his union check—if you were one of the other five would you not join pretty quick? Will it help employment and jobs? You bet it will not. The last thing we need is more trauma in an industry that is already hurting. Let us put the interests of this country and the workers first. Let us get the industry back on its feet and not stop the recovery that is just beginning. We should vote down the conference report.

Mr. QUIE. Mr. Speaker, I yield two minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise in opposition to this conference report.

One of the most tragic consequences of legalized secondary boycotts in the construction industry will be the impact on jobs manned by both union and nonunion contractors. In the opinion of Secretary of Labor Dunlop, passage of H.R. 5900 will lead to a polarization in the industry—contracts will be performed totally union or nonunion. I am of the opinion, Mr. Speaker, that such a fundamental change will do great harm to the industry and serve only to excite emotions and inflame labor relations at a time when stability and harmony are of paramount importance. This conference report only confirms that trend.

Over the last 10 to 15 years there has been a substantial growth in mixed union and nonunion construction jobs. These jobs are performed on the basis of efficiency and economy where the user gets the best construction for his dollar. It has been estimated that more than 50 percent of all construction performed in this country today is done under such an arrangement. Passage of H.R. 5900 will force a dramatic and immediate threat to the continuation of this practice and this is not in the best interests of the industry and this country.

I ask my colleagues to consider the consequences of a construction industry where all work is performed totally union or nonunion—an industry where union or nonunion dominance in a geographic area will dictate how construction in that area will be performed. Eventually, such a system will concentrate all construction in large firms either union or nonunion. Small construction businesses will be destroyed and their loss will be genuinely tragic. In my own district this could cause great economic hardship.

There is no question that a polarization will lead to increased costs and reduced efficiency as larger construction interests begin to monopolize the industry. And in the absence of small business compensation, these larger interests will demand and get whatever price they seek for their services. This is the real tyranny of H.R. 5900—it will stifle competition driving up costs and increasing unemployment.

In my candid observation, Mr. Speaker, H.R. 5900 creates more problems of the same nature that presently riddle the construction industry, and it should be defeated. If it does pass, the President should veto it.

Mr. QUIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, it is clear that two of the most important issues on the minds of the people we represent are inflation and unemployment. Are we listening to their views? I think not. Congress today is continuing to proceed down the road of double-digit inflation and higher unemployment if it approves the conference report on the common situs picketing bill.

Every Member of this body knows that passage of this bill will mean increased construction costs, and longer construction site shut downs. These factors must lead to more inflation, more unemployment, and less productivity.

I voted against this bill when it first passed the House, and I shall vote against this conference report. Every Member of the House who is truly more concerned with the best interests of America than the size of the COPE contribution to their next campaign, will join me.

Mr. QUIE. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. PRESSLER).

Mr. QUIE. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I enjoyed listening to my colleague the gentleman from Florida (Mr. FREY) who spoke in the well just a moment or so ago. I think the gentleman makes a very valid point and it is one that I would like to emphasize.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield for a correction?

Mr. ERLENBORN. I will yield to the gentleman from New Jersey but just for a very brief moment.

Mr. THOMPSON. Mr. Speaker, my friend the gentleman from Florida (Mr. FREY) happened to make a mistake, the gentleman said New York, I am from New Jersey and not New York.

Mr. ERLENBORN. I thank the gentleman for that correction. I have never had any doubt as to where the gentleman was from or where he stood.

As I say, I enjoyed the comments of my friend and colleague the gentleman from Florida (Mr. FREY) and I would like to emphasize one of the observations that that gentleman made, and that is that those who are in the construction unions, the rank and file, would rather work than not work and would rather be drawing their pay checks. Particularly at this time immediately before Christmas. I think that is an important factor.

Just a few weeks ago an official of one of the construction labor unions in my district thanked me for my vote on situs picketing and I interrupted him and I said, "Thanks much, but I think you may have been misinformed, you may not know that I voted against the bill."

"Oh," he said, "I am fully aware that you voted against the bill and that is why I am thanking you. It would be a hard vote to cast, but it was the right vote."

I said to him, "I thank you, and I agree, but I would like to know how you came to that conclusion."

He said, "When I want to work I want to be able to work and I don't want to be laid off because somebody else has a dispute with his employer."

I think that is good, solid thinking.

The Opinion Research Corp. in January of this year in a survey found somewhere in the neighborhood of 60 to 65 percent of union families agreed that they do not want situs picketing. They want to work when they are able to work and not go out because somebody else has a dispute.

Mr. Speaker, we are hearing some rhetoric today about the President's intentions concerning the signing of this bill, but I think only the President knows what he is going to do. What the President has said in the past, I think, is very interesting and what he said was followed very closely by all those interested in the bill.

The President said he did not favor the situs picketing bill standing alone, and he did say in the presence of a number of our colleagues who are present today that he would not favor the bill unless accompanied by a bill which was not in existence at that time, but that was necessary in order to resolve the issue.

I recall that before the Committee on Rules I asked that a rule not be granted, because I said, and many of my colleagues agreed on this, that we have got to be able to have one package that involves and includes all details. Why should we take up just the one issue? Many of the Members agreed with that, and many of the members of the Committee on Rules agreed, that it would be better to take up the agreed package where the controversy will be gone.

Mr. Speaker, the President did not get the kind of package that he was talking about.

Mr. Speaker, this legislation is still being promoted with the explanation that it is meant to bring equality in treatment between industrial and construction unions. If this were true, it would simply apply the General Electric separate-gate picketing rules to the construction industry, rather than the presently applicable Denver Building Trades rule. Then the legislation would allow a union which had a legitimate dispute with a construction general contractor to strike and picket not only that general contractor but all of his construction subcontractors whose work is related to the general's day-to-day work at the job site.

Should this legislation be enacted, it would allow the following activities by construction unions which are denied to industrial unions:

Entering into a hot cargo agreement with a construction employer and the use of a strike and picketing to obtain and enforce such an agreement;

The use of a strike or picketing a construction employer to pressure him to remove a nonunion subcontractor from the job site.

They are differing interpretations, but certainly that is the interpretation that the manager of the bill is trying to put on this conference report. This is clearly a secondary boycott. It is denied to industrial unions, and that is why this bill does not give equal treatment. It allows a secondary boycott in construction union activity where it is denied in industrial union activity.

This would allow the use of picketing the entire job site by the employees of a subcontractor.

Picketing the industrial gates by construction employees working at the site of the construction of an addition to such industrial facility.

Despite the claims of the proponents that they are seeking equality, all of the above activities may well be authorized for construction unions though they are not allowed to industrial unions.

Proponents of common situs picketing claim that extension of picketing to secondary employers on a job site is not an interference of the business relationship between neutral employers and their employees because all contractors and subcontractors are joint venturers.

That argument has been the only justification offered for passage of this legislation.

That argument should be enough reason to defeat the bill.

In plain terms, Mr. Speaker, there is no joint-venture relationship between the general contractor and his subs or between the subcontractors.

What are the criteria for establishing a joint venture? The three chief ones are:

First. Unity of business purpose;

Second. Control over each other's employees; and

Third. Sharing of capital contribution, profits and losses.

While all the business entities on a construction site may share a common goal, erection of a building, say, they do not share a unity of business purpose. The electrical contractor has no unity of purpose in the work done by the plumbing contractor.

It seems so elementary as to be ridiculous to point out that a foreman for the bricklayers has no control over the carpenters.

But most importantly, the various business enterprises at the jobsite do not share in capital contributions, profits, or losses. How many times have you heard of the plumbing subcontractor sharing some of his profits with the subcontractor who installed elevators when the latter lost money?

For my colleagues who have practiced law: How many times have you represented a general contractor being sued by a subcontractor or vice versa?

Why, then, should one subcontractor suffer financial loss because the employees of another sub have an argument with their boss?

Even the Secretary of Labor recognizes the separateness of contractors and subs. At pages 1–14 of the transcript of the House subcommittee hearings, Mr. Dunlop is reported to have said:

> As with notice provisions, a limit upon the duration of picketing of the entire site strikes a reasonable balance between the right of labor organizations to take appropriate action and the need to recognize the separate identities of the employing contractors and subcontractors, as well as the potential for disruption flowing from picketing which is unlimited as to duration.

Since the only basis for passage of this bill is an erroneous assumption I urge my colleagues to vote down the conference report.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in opposition to the conference report, and would like to cite conditions that have prevailed out in our district, particularly affecting a very large company I made reference to yesterday on the voting rights bill, the Caterpillar Tractor Co.

As I understand it, as it presently stands, this bill could shut down existing plants which are being expanded. This one plant in my district expects to spend a half billion dollars on new and improved plants and equipment involving 50 to 75 different contractors and 20 different unions. A dispute between any set of these contractors and unions would affect all others working on the project, regardless of their total lack of connection.

Earlier in this so-called confinement-to-separate-gates problem, we consider this to be an artificial issue, for at the Mossville site just north of Peoria, for example, there were 9 completely distinct construction projects under way at one time. A host of factors—State permits, site security, logistics, convenience—resulted in a requirement that they have only three gates for the nine separate projects. The result was that two glaziers installing glass in one building—the only members of their union on any one of the nine jobs—walked off and shut down four of the nine projects. This totaled 750 workers, 50 contractors, and 20-some unions which were affected by these 2 men.

The argument that the pickets' being confined to separate gates has prevented their having an impact on the others involved in the same job has not been the case in the experience of folks out at Caterpillar.

I wonder if the chairman of the committee can give a better explanation of specifically how this thing would apply to this kind of situation.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUIE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, even though the conference compromise would exempt from situs picketing light residential construction projects of firms whose gross construction volume in the previous year was $9.5 million or less, a large percentage of the single-family homes and garden apartments built each year would be subject to the situs picketing authorized by H.R. 5900. This is because as much as 50 percent of the housing units built each year are constructed by firms which build 150 to 200 or more units per year. When nonresidential construction work is added to the residential work performed by these and other firms, a large part of the residential construction industry, meant to be excluded by the Senate amendment and failing to be excluded by only two votes in the House, would be subject to the threat of situs picketing. At a time when housing is being constructed at a level close to 50 percent below 2 years ago and is just beginning to recover from its worst depression since World War II, the disruptions caused by situs picketing would be disastrous.

Firm to which exemption applies: The conference language is unclear as to whether the $9.5 million volume measure will be applied to the builder who is erecting the housing and to that firm only or whether it will be applied to any employer on the site. Since subcontractors of varying size work on residential construction projects, it is not unusual to have a large subcontractor such as in the electrical or plumbing trades and whose volume exceeds $9.5 million, work on a residential project. At the same time, the builder may be quite small in his total construction volume, as compared to the subcontractor. At a minimum it should be clarified that the construction volume determination is to be applied only to the builder who is erecting the housing. Additionally, it is not unusual to have the builder employ very few workers on the site. In some cases he may only have a construction superintendent. The term "employer" in such a case may not apply to the builder under the National Labor Relations Act. Such an interpretation, while strained, is not inconceivable and it should be made clear that this was not the intention of the conferees.

Calculation of gross construction volume: The conference report states that the $9.5 million determination applies to the preceding taxable year's volume of an employer "in his own capacity or with or through any other person." It is totally unclear how this is meant to be applied. It is not uncommon for a builder to associate with other building firms in joint ventures. The interests of the individual venturers may be on an unequal basis. As the conference report now stands, it is uncertain whether the total volume of the joint venture should be counted in the determination of one of the individual venturer's gross volume. For instance, would a 10 percent interest in a joint venture on a project valued at $1 million count as $100,000 or $1 million toward calculating the volume of the builder with the 10 percent interest? Of course, as a minimum the only fair thing would be to count the $100,000, as that is the full interest that that firm has in the project.

Furthermore, it is not clear as to how the situation is to be handled where a builder participates in the mixed ownership of several construction firms, either on a corporate or partnership basis. Such is quite common in the construction industry, especially in homebuilding. Nor is there any indication as to what aspects of the cost of constructing a home or apartment building should be considered construction costs and what should be considered nonconstruction costs. Nor is it clear whether it should be the cost of construction or the value of the units upon completion of construction. While a certain degree of ambiguity may be useful in helping to avoid excessive limitations under the exemption, the amount of ambiguity present in the conference version is such as to raise too much confusion and do nothing but inspire extensive future litigation. On the other hand, the Senate amendment avoided all such ambiguity.

Mr. THOMPSON. I yield 1 minute to my distinguished colleague, the gentleman from New York (Mr. Biaggi), a member of the subcommittee.

Mr. BIAGGI. Mr. Speaker, as a member of the conference committee on H.R. 5900, I rise to urge the adoption of the conference report by the House today. I feel our long hours of deliberation, and our decision to combine H.R. 5900 with H.R. 9500, the Construction Industry Collective Bargaining Act, have resulted in an excellent compromise. In many ways this legislation is a landmark for millions of construction workers in this Nation.

In general terms, the conference report follows the provisions of the House-passed versions of these two bills. We have made some improvements, several of which I shall focus on.

The report will effectively prevent small businesses, those defined as having a gross volume of $9.5 million, from being crippled by the effects of common situs picketing. Specifically, the report provides an exemption from common situs picketing against those employers who are engaged in the construction of residential structures of no more than three residential levels, and if in the preceding year, their gross volume did not exceed $9.5 million.

The report also adds important language to prohibit common situs picketing when the goal is the removal or exclusion of an employee from a site, because of their sex, race, creed, color, or national origin. Another potential stumbling block to the passage of this legislation was addressed by the provision preventing common situs picketing in retaliation to a person's membership or nonmembership in a union. This will insure the equal protection of independent or nonaffiliated union members.

The report also provides for a more gradual implementation of this legislation to allow all parties concerned to gain a full understanding of its provisions. The bill's effective date would be delayed for 1 year for construction projects valued at less than $5 million on which work had been started on November 15, 1975. For those projects valued in excess of $5 million, the bill's effective date would be postponed for 2 years.

Throughout the consideration of this legislation there have been a number of misconceptions on the actual effects of this bill on the construction industry. Simply speaking, the bill grants to construction workers the same rights enjoyed by other workers in all other job pursuits to picket effectively in support of lawful goals in a labor dispute. The bill is not designed to cripple the construction industry and in fact we have been very explicit in our limitation of picketing to only those sites where an actual dispute is taking place. This will prevent the proliferation of picketing which could have the effect of shutting down entire construction projects.

This bill seeks to make long overdue changes in existing regulations pertaining to common situs picketing. Courts have consistently ruled that in areas of labor disputes, contractors and subcontractors were to be considered as separate entities despite their interrelation in other aspects of a given construction project. This bill seeks to change this outdated philosophy and instead treat contractors and subcontractors as the integrated enterprise that they are in all areas of construction work.

The report seeks to prevent the disintegration of picketing by providing that all affected parties receive notice 10 days prior to the action, that they will be picketed, so that they may study the issue and seek remedies. This will prevent unnecessary violence.

I was pleased to see us include the provisions of H.R. 9500 in this conference report. It is consistent, as on the one hand we are extending to construction workers, the opportunity to effectively organize and engage in appropriate job actions to support a given bargaining position. We also seek to assure individual workers the opportunity to express their views as to how and whether they would like to be represented in their dealings in areas of collective bargaining with a contractor or subcontractor.

Mr. Speaker, after more than 20 years, it appears that this legislation is about to receive final congressional approval. The bill is critically important and widely supported among the millions of Americans employed in the construction industry. They are finally having their full employee rights recognized. They are being given new power, but it is not without certain checks. The individual workers as well as the entire construction industry will benefit from this bill.

I have been privileged to serve with my illustrious chairman, the gentleman from New Jersey (Mr. Thompson), who has been the leader and the spokesman in the advocacy of this legislation. I hope his efforts will be recognized and rewarded by the Congress passing, and the President signing H.R. 5900 into law.

Mr. QUIE. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. Esch).

Mr. ESCH. Mr. Speaker, in the time allotted to me I would like to provide the committee with several areas of discussion and interest.

First of all I would like to commend the chairman of our subcommittee, even though I have come out in disagreement with him, for his work and reasoned approach to the legislation.

Second, I would like to say it seems we are discussing this legislation not only for legislative history but also for the President's enlightenment in trying to direct his attention one way or another on the legislation.

Mr. Speaker, in the matter of legislative history, there was a previous dialog between the gentleman from New Jersey and the gentlemen from Ohio (Messrs. Thompson and Ashbrook). In reference to one provision regarding discrimination, the gentleman from Ohio (Mr. Ashbrook) tried to clarify the legislative history and the gentleman from New Jersey (Mr. Thompson) disagreed with the gentleman from Ohio in regard to what the House and the Senate did in respect to the so-called discrimination amendment.

I would just point out, in reinforcing and quoting from the conference report:

> The conferees agreed to include the language of both the House bill and Senate amendment with the understanding that the House provision is to be given the meaning as expressed by the House and the Senate provision is to be given the meaning as expressed by the Senate.

That is the way that issue was resolved and it is clear from the report language that that is the method in which it was resolved.

Now, let us get into the question of the conference report itself and the legislation itself. Discussion was made as to the intent of the legislation and the intent of the President to sign or not sign the bill. As one who has been involved in those discussions, it was my understanding that the President said he would veto H.R. 5900, unless it was accompanied by another bill that was suitable.

This was reinforced by the gentleman from New York (Mr. PEYSER) in the debate, when Secretary Dunlop was quoted as saying that unless that something he will work out—meaning the Secretary of Labor—between management and labor, we would not have a compromise position.

Perhaps the gentleman from New York (Mr. PEYSER) expressed it most succinctly (from the CONGRESSIONAL RECORD of July 24, 1975, 24542):

> I want to state at this time that, to the best of my knowledge, the administration, and the Secretary of Labor still support HR 5900 except a proviso has been added to this, and the proviso has been a request by the administration of working out some further reforms in the collective bargaining system which the Secretary of Labor is presently working on, and is very confident that he will have *an agreement between management and labor* at the time that this bill will finally go down to the White House (emphasis supplied).

And

> The other bill is some reform of the collective bargaining system which is still being considered. I cannot give the gentleman the language. I cannot give the gentleman anything about it. I have spoken to the Secretary of Labor and he is supposed to be drafting legislation, and it is supposed to be *something he will work out between management and labor,* but is something that the Congress will have to act on (emphasis supplied).

The plain fact is, Mr. Speaker, the story we learned in July never came to pass in two significant respects:

First. The collective bargaining bill—H.R. 9500 does not address itself to the major issues confronting the industry, and, in effect, offers no solution; and

Second. It is not "an agreement between management and labor."

Let there be no mistake about the facts: Management never saw the bill until September 5, the day it was released to the press. On September 11, management representatives were testifying before the House Education and Labor Committee when copies of the bill were not yet available from the House document room. Markup and House passage occurred so quickly thereafter that many of us did not realize industry's opposition, which today is unanimous against H.R. 5900 as reported by the conference committee.

Now, the original intent for the President was to try to bring together labor and management, both on the common situs bill and on the collective bargaining bill, and then have a package on his desk to sign. It is clear we are not at that point now. I do not know what the President will do, but I think the Members ought to express their individual judgment on the legislation before us. After a great deal of consideration, my individual judgment, which I have expressed for the Members, is that we should not vote for the conference report.

First, in terms of national policies, there is no question but what this legislation will have an adverse effect upon the housing industry specifically and the construction industry generally as we try to bring that industry out of a recessionary period. There is no question as to that.

The amendment finally brought forth by the conference committee exempting only up to $9.5 million raises serious doubts as to its impact upon or its lack of impact upon the housing and construction industries. So I call attention of the Members to that fact.

It is conceivable that a large percentage of single family homes and garden apartments built each year would be subject to the picketing permitted by H.R. 5900, since at least one-half of the housing units built each year are constructed by firms building 150 to 200 units or more each year. By further combining residential work with nonresidential construction work, a large part of the residential construction industry will be subject to a threat of situs picketing, undermining the intent of the Senate amendment, which followed a similar amendment to the House bill that failed by only two votes.

Furthermore, the conference language is unclear as to which firms the $9.5 million volume measure applies, or whether the total volume of a joint venture or only one of the individual ventures' gross volume should be considered in the determination. It is common in the homebuilding industry for a builder to participate in the mixed ownership of several construction firms, either on a corporate or partnership basis, and it is not clear how this is to be handled. Principally confusing in application and impact is the fact that it is not clear whether the $9.5 million applies to the cost of construction or the value of the units upon completion. While a certain degree of ambiguity may be useful in helping to avoid excessive limitations under the exemption, the amount of ambiguity present in the conference version is such as to raise too much confusion and do nothing but inspire extensive future litigation. On the other hand, the Senate amendment avoided all such ambiguity.

Mr. Speaker, there is a more significant fact as to why we should vote against the conference report and this bill, and that is this: Is there a fundamental right that an individual labor union member shall be able to work if he is not involved in a direct labor dispute? This legislation would prohibit an employee, even though he may be a member of a labor union, from working at a construction site, even though he is not involved in a labor dispute. I would point out to the Membership that that is an important factor that should be considered in our vote.

Apart from any other matter, it is a fundamental question as to whether or not an individual citizen of the United States should be denied a right to work if he is not involved in a labor dispute. This matter goes far beyond the right to work concept as to whether he belongs to a labor union.

So I would urge the membership to balance their vote against the conference report, recognizing that our judgment should be independent from that of the President and the President then will work his will.

Mr. THOMPSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, if there is one word that I think would describe this legislation, it would have to be "reasonable," this legislation is a far cry from what labor, really wanted. What we have here is a piece of legislation that responds to the basic needs and fairness for the men and women who are working in the building trades. It is nothing more nor less than that.

I also think that what has to be established is that the Secretary of Labor clearly enunciated the point of view of himself and of the administration in his testimony before the Senate, particularly, of the support of the administration and the President for this combined legislation.

Mr. THOMPSON. Mr. Speaker, I would simply like to conclude by saying that attempts have been made to make some very interesting legislative history, but I remind the Members that they are voting on the conference report and on the statement of the managers. I am really dismayed by the attempts to obfuscate what the President has said or has not said.

With all due respect to my friend and colleague from Michigan (Mr. ESCH) there is absolutely no question but that every condition asked for by the President has been met—namely, H.R. 5900, with the amendments which have been described a number of times by me and by others and the subsequent action on the administration drafted bill, H.R. 9500, and the President's request that he would prefer—to quote him—"a package."

But, in his direct statement to me, he said that if these two bills reached him as two bills simultaneously, he would sign both. There is absolutely no question but that he said that to me. I say that on my word of honor. There were a number of my distinguished colleagues and others present when that pledge was made. I have no doubt that the President will keep that pledge, and I urge my colleagues to support the conference report.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I would like to commend our colleague and the conference committee for their efforts. I think it should be clear to one and all that if this legislation was worthy of the votes of any of us when it left this House, it certainly is worthy of our support now that it comes back in even more moderate form.

Mr. ROUSSELOT. Mr. Speaker, once again, the House is being asked to consider divisive legislation. H.R. 5900 would legalize the presently unlawful secondary boycotts in the construction industry and would permit the picketing of all employers on a construction site even though the union may have a dispute with just one employer on a given job.

During the House debate on H.R. 5900 in July, many Members, including myself, warned this body of the detrimental effects the enactment of this legislation would have on the already ailing construction industry. To allow certain groups to conduct secondary boycotts would place a further burden on an industry which is presently saddled with many federally mandated labor costs through such laws as the Davis-Bacon—costs which inevitably was passed on to consumers. Not only will costs rise because secondary boycott picketing will put additional pressures on the primary employer involved in the dispute to settle and meet unwarranted demands, but also the time needed to complete the whole project will be lengthened. In addition, I believe that to allow the picketing of neutral third party contractors through the use of common situs picketing, is unfair not only to these contractors but also to their employees as well.

H.R. 5900 would also allow contractors to be forced into using only union labor and, in my opinion, this type of coercion is completely unacceptable in a free society, and infringes on a very basic right of freedom of choice. It not only inhibits the free choice of contractors and subcontractors, but also infringes on the rights of the individual workers in the construction trades to choose for themselves whether or not they want to join a union. For government to condone and legalize secondary boycotts at construction sites, as proposed in H.R. 5900, is totally intolerable.

The Wall Street Journal, in their editorial of July 14, 1975, put the issue of common situs picketing in its proper perspective. I urge my colleagues to read the following editorial and consider the many valid points which are made.

H.R. 5900 has moved too far along the legislative path as it is and to allow the bill to reach the President's desk would be to perform a grave injustice to the more than two-thirds of the general public who oppose the concept and the 57 percent of union members who oppose H.R. 5900—results of a survey conducted by Opinion Research Corp. of Princeton, N.J. This legislation must be defeated and the Members of this House must face their responsibility to protect the interests of all Americans.

Mr. Speaker, the Wall Street Journal editorial follows:

WHO NEEDS COMMON SITUS?

Year after year the construction unions drag it out of the closet, frayed at the edges, mildewed and moth-eaten, and trail it up and down the corridors of Capitol Hill. Even the legislators whose highest priority is a 100% scorecard with labor finger the thing with embarrassment, professing admiration and support with the same enthusiasm they reserve for the Free Lithuania Lobby. The other AFL–CIO chieftains dutifully sign statements of support, but usually call in sick when time comes to testify.

It's the "common situs" bill, otherwise known as the bill to amend Section 8(b) (4) (B) of the National Labor Relations Act, otherwise known as the bill to legalize the secondary boycott, this year dressed up and dry-cleaned as the measure to provide "equal treatment of craft and industrial workers." The equal-treatment business goes something like this: If the United Auto Workers has a legitimate beef with General Motors, it can throw up a picket line and close down the plant. Why shouldn't the roofers union, if it had a beef with the contractor repairing the roof on a GM plant, be allowed to throw up a picket line and shut everything down?

The law now prohibits on-site picketing by one union where several employers and unions are at work, precisely because such picketing usually shuts down everything. The prohibition was written into the Taft-Hartley Law in 1947, enacted because the public and Congress were shocked in the first post-war years at the number of strikes and man-hours lost as the result of the freedom individual unions had to pull everyone into their grievances.

We normally don't waste space in commenting on this annual hard-hat effort to return to those days of power and glory. Even when Congress has been swollen with people elected with labor support, the legislators have found an excuse to kill common situs and fumigate their offices. The last big chance for the hard hats was in 1966, during the wild and woolly 89th Congress when there were liberals in the strangest places. But the late Adam Clayton Powel, who then chaired the Labor committee, saved the country from common situs by attaching a provision that said secondary boycotts couldn't be used to discriminate against blacks, and the hard hats quickly put common situs back in the closet.

Now, Congress is once again bulging with Democrats that labor figures owes something to labor, and the crafts have not only dusted off common situs as an "equal treatment" measure, but also inserted a Powell-type antidiscrimination clause. About 100 House members have so far signed on, including three Republicans, and a bill is ready for markup. Senate hearings will be held this week. And Secretary of Labor John Dunlop, an old friend of the hard hats, has given qualified approval to common situs. The qualifications include a cooling-off period and a 30-day limit on common-site picketing. And the House Labor Committee last week voted, 31 to 7, for the bill, accepting some of the Dunlop qualifications.

All of which has succeeded in making us a bit nervous. The chances are still fairly small that the legislation could pass and be signed into law by President Ford. But common situs would produce so much economic disruption that any chance of its return is worrisome. The Democratic majority might hold its nose and put it through, figuring Mr. Ford would veto it, in which case he would earn the enmity of the hard hats.

For the same reason, Mr. Ford might just sign it, figuring recent Supreme Court decisions would keep the hard hats from using common situs. The unions would chiefly like to use the secondary boycott to force general contractors to use only union subcontractor. But the Supreme Court holds that if this is done outside the context of a collective-bargaining agreement, the union is subject to the antitrust laws. Such would be the case if a union picketed an open-shop subcontractor in restraint of trade on the part of the contractor.

Although this scenario seems far-fetched, stranger things have happened in Washington, D.C. Better to take no chances. Politicians should be advised that the only way to deal with common situs is to spray it, swat it, stamp on it.

Mr. McCLORY. Mr. Speaker, since the enactment of the National Labor Relations Act and related statutes, both the Supreme Court of the United States and the National Labor Relations Board have fashioned a rational and logical body of law governing labor-management relations by means of a case-by-case resolution of extremely complex disputes in this area. While no one party is completely satisfied with the current state of the law, it is well recognized that the courts and the National Labor Relations Board have done an admirable job in interpreting a balance of interests between management and labor as envisioned by the NLRA and related legislation. What this conference report on H.R. 5900 will accomplish, in no uncertain terms, is a complete destruction of a reasonable balance of interests in the construction industry. Enactment of this legislation will surely have disastrous effects upon this country's construction industry and consequently, upon the Nation's economy as a whole. Accordingly, I urge my Colleagues to reject this conference report—and maintain the reasonable balance of interests which has been so painstakingly arrived at on a case-by-case basis over the years.

Mr. Speaker, if one takes the time to understand the sound reasoning which underlies the current common situs picketing rule, it becomes obvious that the sole reason why this bill has already gotten this far in the legislative process is because of the awesome political muscle of certain elements of organized labor. We should not seek to deceive ourselves or the American people about that.

The present common situs picketing rule, as refined by numerous Supreme Court decisions, allows the contractor who faces a strike by one of the unions working on a building site to designate one entrance to the site for that union's exclusive entrance and egress. The striking union may picket that entrance and effectively stop all work on the site on the jobs in which it has a legitimate interest, while other union workers in other areas of specialization can use another entrance to go about their work unimpeded. For example, if the plumbers go on strike, they can effectively prevent the contractor from continuing work on any of the plumbing jobs to be done on the construction site; but the bricklayers, masons, carpenters and other union laborers with whom the general contractor and subcontractors have no dispute, are not prevented by the plumbers' picket line from continuing their unrelated work on the premises.

In terms of both economic reality and fundamental fairness, the common situs rule sets a most reasonable balance between the interests of the striking union and the contractor. Under the current rule, neither side of the dispute can wield coercive power over the other, and experience shows that negotiated settlements are almost always reached.

Mr. Speaker, the Members ought to know that if they vote for this conference report, they will be voting for the destruction of the reasonable balancing of interests which is represented in the common situs picketing rule. If this bill is enacted into law, a single striking union, be it the electrician's or the plumber's or whomever, will be able to picket and, in all probability, will be able to shut down vast construction projects such as the New York Trade Center, the Chicago Sears Tower, or Washington's Metro Subway system. This bill will upset the balance which currently exists, and put tremendous coercive power in the hands of a small trade union which, in many cases, may be performing an infinitesimally small portion of the work on a large construction project. This is certainly not a healthy development in the finely tuned area of labor-management relations.

More importantly, Mr. Speaker, the end result of enactment of this bill would sanction by the United States Statutes actions which are inimical to the interests of American consumers. The taxpayer, in the case of Government-financed construction projects, and the American people generally, in the case of all others, will pay dearly in hidden and unhidden costs if this Congress puts such coercive power in the hands of a single striking union at a large construction site. It hardly needs mention that delay in the construction industry today always translates into serious and often ruinous inflation in building costs. To put this coercive power for delay in the hands of every individual local union working at most substantial building sites would have the inevitable effect of fueling the fires of inflation in the construction industry, and therefore, in the economy as a whole. This legislation is not only anticonsumer, it is also, I believe, definitely not in the best long-term interests of skilled union workers themselves—as it becomes obvious that the effect of this legislation will certainly put yet another damper on the slowly reviving construction industry and would certainly cost them jobs and income.

Mr. Speaker, I strongly urge this House to reject this shortsighted legislation.

Mr. McCOLLISTER. Mr. Speaker, the House in its passage of the common situs legislation H.R. 5900 has dealt an economic blow of unknown proportions to the already depressed construction industry. Our post-World War II experience with common situs picketing dramatically forecasts what will happen again when this Taft-Hartley protection is repealed. Entire construction projects will be closed down, millions of man-hours lost.

Even unions will be significant losers if and when this bill becomes law. Many contractors may decide to avoid possible labor difficulties by using only nonunion subcontractors, costing the union workers their jobs.

Including the Construction Industry Collective Bargaining Act as title II of the measure does not make it any more acceptable. The two are not even related. The proposed committee has no enforcement authority, making it almost worthless.

Supporters of this legislation claim that it will provide "equal treatment" of craft and industrial workers. In fact, it permits these unions to conduct secondary boycotts although they are still unlawful in all other industries.

H.R. 5900 adopts a double standard in business relationships. It lumps together separate construction employers as a single employer when it comes to picketing. But these employers are all treated independently when it comes to profits, losses, and taxes.

I urge President Ford, as I have done previously in my letters to him, to veto this measure that will promote labor strife, not lessen it and will further cripple our goals of increased competition and productivity in the American economy.

Mr. GOLDWATER. Mr. Speaker, I rise to express my support for the conference report on the common situs picketing bill, H.R. 5900.

The conference report represents a substantial improvement over the original legislation. The conferees have exempted construction consisting of three residential levels or less. They have agreed to exempt small businessmen engaged in residential construction when the annual gross volume of that business is $9,500,000 or less. The conference has agreed to exempt construction begun within 1 year of the date or enactment and which is valued at less than $5 million. They have similarly grandfathered-in for 2 years all existing construction which is valued at more than $5 million.

Further, and this is a very important addition, the bill now provides for injunctive relief against picketing in breach of strikes and picketing in breach of contracts. In addition, the conference bill restricts common situs picketing to an employer that is primarily engaged in construction "on the site" of the construction. If the employer is primarily engaged in manufacturing or merchandising, onsite picketing of the construction is not permitted.

Retained from the original House bill is the amending language which prohibits common situs picketing in three specific circumstances:

First. When State laws require separate bids;

Second. When the object is a product boycott; and

Third. When the object is to remove an employee because of membership or nonmembership in a union.

Further, the legislation contains 10-day notice requirements, a prohibition against striking because of sex, race, creed, color, or national origin, and a prohibition against common situs picketing where a non-AFL–CIO union is working on the job.

Private enterprise has an undeniable right to be treated fairly. The construction industry, if it is to regain its health and vitality, cannot become the pawn of either big labor or capricious or arbitrary local unions. The nonunion worker must have his freedom of choice equitably protected. He deserves nothing less. I believe this legislation accomplishes these things; while at the same time, it sensibly restores to the organized construction worker equality with his union colleagues.

While no legislation is perfect, this legislation definitely balances the rights and interests of business, union, and nonunion working men and women. In its present form, I find it acceptable and will consequently support its passage.

Mr. KEMP. Mr. Speaker, this is a very difficult vote for me to cast as I have good friends on both sides of this issue. A vote either way is going to be unpopular with persons I respect and admire very much, but, I must in all good conscience oppose this conference report, as it just is not in the interests of either labor or management.

I would like to say at this point in the debate that I do not believe it is clear what the President is going to do in regard to this conference report. But the President's intentions should not influence us here today. We have all been party to intensive debate on this issue since at least last July when H.R. 5900 first came before the full House. We have had an opportunity to debate the promised "companion bill," H.R. 9500, and now we must exercise our independent judgment on the merits of the final H.R. 5900/9500 package contained in this conference report.

I voted originally for H.R. 5900 in July because I was convinced it was aimed at trying to correct an inequity in our law and because I felt the bill would benefit the many workers in the building crafts I represent without doing damage to the fundamental principles of collective bargaining conducted in this country. At the time, the argument was made that any aspects of H.R. 5900 which could be construed to be negative to productive labor-management relations would be balanced out by another bill, yet to be drafted, that is, H.R. 9500.

This promised companion bill, H.R. 9500, came before the House in October. Its goal is one with which I agree, that is the promotion of stability and harmony in the fragmented collective bargaining structure of the construction industry.

But H.R. 9500 would not achieve its stated purpose and indeed would be counterproductive. It is a bad bill at a bad time and it would not bring the needed improvements to the collective bargaining climate. On the contrary, I am convinced it would undermine the interests of local labor unions by centralizing power at the national level. It is noteworthy that most national unions already have some of the power granted them in H.R. 9500, but are reluctant to utilize it in good part because of opposition from local unions.

I also believe that H.R. 9500 could well be the first step toward federally imposed wage and price controls in the construction industry—something I totally oppose and something I know the construction workers oppose as well. It has been effectively argued that common situs picketing would lead to wage settlements that could, in turn, lead to using the mechanism established under H.R. 9500 with a few alterations to set wage controls.

Mr. Speaker, unemployment in the construction industry increased 100 percent in the last fiscal year. It stood at more than 20 percent in June—reaching over 40 percent in some areas of the country such as western New York. It makes no economic sense to saddle the construction trade workers with legislation which will only exacerbate the depression in their industry, which will lead to more job losses, which would erode the power of local unions, and which could set the stage for wage-price controls down the road.

Although I originally voted for common situs and although I continue to believe that the legal framework for organizing and collective bargaining in the construction industry is in need of serious congressional review, I cannot in good conscience endorse this conference report. Enactment of these provisions would result in a disruption of the construction industry just at the time when the industry cannot absorb further setbacks. We need full production and incentives for increased savings such as in the Job Creation Act, which would do more to bolster construction and create job opportunities than all the bills in the hopper today.

Mr. FORD of Michigan. Mr. Speaker, H.R. 5900 has roots going back to 1949 when Congressman Lesinski, at the request of President Truman, introduced legislation to overrule the National Labor Relations Board Denver Building Trades Council decision.

A second effort was made in 1953 when Senator Alexander Smith, at the request of President Eisenhower, introduced legislation to overrule the Supreme Court decision—affirming the labor board—in Denver Building Trades Council.

Subsequent legislation to overrule the Denver Building Trades Council decision was introduced periodically over the years. Unfortunately, each time a new bill was introduced, new provisions were added in light of new problems; and nothing was ever deleted. This year was no exception. We added four amendments in committee. Four additional amendments were added on the House floor, and five additional major amendments were added in conference.

What started out in 1949 as a simple bill over the decades evolved into an extremely complex and complicated piece of legislation, with proviso upon proviso.

I intend to explain as well as I can what this bill is now all about, but first it is appropriate to go back to basic premises.

1. THE REASON AND NEED FOR H.R. 5900: THE DENVER CASE

The reason and need for a common situs picketing bill go back to the 1947 Taft-Hartley amendments to the National Labor Relations Act, and to an overly technical interpretation of those amendments by the National Labor Relations Board.

The so-called "secondary boycott" amendments of the Taft-Hartley law make it unlawful for a labor union "to induce or encourage" any worker to strike or refuse to work where an object is to force "any person" to cease doing business "with any other person." For example, it would be unlawful for a carpenters' local at a construction site to refuse to work on wood because a faraway sawmill that produces the wood is on strike. This would "induce or encourage" their construction employer—"any person"—to cease doing business with the sawmill owner—"any other person."

The announced purpose of this amendment was to protect an "innocent neutral," such as the contractor at the building site, from labor disputes such as that at the sawmill in which he is "totally unconcerned." The labor dispute between the sawmill workers and their employer is "primary"—and lawful—but when the dispute moves to the construction site it becomes "secondary"—and unlawful—if, in the words of the late Senator Robert Taft, the employer at the construction site is "not in cahoots with" the employer at the sawmill.

The common situs picketing bill has no quarrel with a true secondary boycott. What H.R. 5900 seeks to override is a totally unforeseen application of this Taft-Hartley provision by the National Labor Relations Board in an early decision involving the Denver Building Trades Council. In that case, a large general contractor in Denver was retained to construct a building, and he bid the electrical work to a subcontractor who employed nonunion workers at wages considerably below the union scale. When the nonunion electricians came on the job the Denver Building Trades Council picketed the construction site and all the union employees—plumbers, carpenters, and so on—walked off in protest. After a week or so, the contractor discharged the electrical subcontractor, bid the electrical work to a union subcontractor, and construction on the project continued.

The discharged subcontractor then filed charges alleging that the trades council, by picketing the job, had coerced the general contractor—"any person"—to cease doing business with him—"any other person". In 1949, the National Labor Relations Board agreed that the general contractor and the subcontractor were "separate legal entities" and therefore the union engaged in a "secondary boycott" when it picketed the general contractor as part of the labor dispute with the subcontractor.

The Denver Building Trades Council appealed to the U.S. Court of Appeals for the District of Columbia, and that Court unanimously reversed the Labor Board, because the Labor Board had completely ignored the spirit and purpose of the Taft-Hartley amendments, that is, to protect the "innocent neutral." That court reasoned that the general contractor was not "neutral" when he bid out the job to a subcontractor who hired nonunion employees for less than union wages. Part of the savings in wage rates undoubtedly went back to the general contractor.

The Labor Board then appealed to the Supreme Court, which ruled for the Labor Board by vote of six to three. The majority reasoned that the Labor Board members were expert in this area and undoubtedly knew what they were doing. The three dissenters wrote that the Labor Board had sacrificed substance from form: If the general contractor had done the electrical work himself with nonunion employees the rest of his employees could have gone on strike; and the economic realities did not change "one whit" because the general contractor had subcontracted the work to a "separate legal entity." This decision came down in 1951, and the "common situs" pot has been boiling ever since.

The Denver Building Trades Council decision was clearly wrong. The separate subcontractors on a given job may be "separate legal entities" for many purposes, but none of them are "neutral" or "wholly unconcerned" with the labor disputes of the other. The testimony before our committee clearly indicates that the total job is a "team effort". The general contractor calls the plays, and selects the players. All individual employers know well in advance what to expect when they go on the job. They are interrelated allies and, in the words of Senator Taft, act "in cahoots" with one another.

The essence of H.R. 5900 lies in its opening proviso, that nothing in section 8(b) (4)—the so-called secondary boycott provision of the act—"shall be construed to prohibit any strike or refusal to perform services or any inducement of any individual employed by any employer primarily engaged in the construction industry on the site to strike or refuse to perform services at the site of the construction, alteration, painting, or repair of a building, structure, or other work, and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting or repair at such site."

The purpose of the above proviso is to provide unions in the construction industry the same rights at the site of construction which are now enjoyed by employees in the Garment Industry under section 8(e) of the Labor Act, and by employees in industry generally under the Supreme Court decision in *Local 761, International Union of Electrical, Radio & Machine Workers* v. *Labor Board*, 366 U.S. 667—the G.E. Reserved gate case.

2. INDIVIDUAL EMPLOYED BE ANY EMPLOYER PRIMARILY ENGAGED IN THE CONSTRUCTION INDUSTRY

H.R. 5900 as introduced permitted the building trades unions to picket at the construction site in order to induce "any individual employed by any person" to refuse to cross their picket lines. The House voted an amendment offered by JOHN ASHBROOK which substitutes the words "employed by any employer primarily engaged in the construction industry" for the words "employed by any person".

The amendment had two unintended consequences. First, utility companies, manufacturers, department stores, petroleum companies, transit companies, and so forth are not "primarily engaged in the construction industry" although they engage in a lot of construction. One interpretation of the ASHBROOK amendment would exclude them entirely from the provisions of H.R. 5900 when they engage in construction. This was not intended, and the conference committee makes that clear by adding the following underlined words to the ASHBROOK amendment: "Inducement of any individual employed by any employer primarily engaged in the construction industry on the site". The conferees intend by these additional words to make it clear that H.R. 5900 does apply if the employer is primarily engaged in construction at the time and place of construction, no matter what his primary activity may be elsewhere.

A second unintended consequence of the Ashbrook amendment was to prohibit the construction unions from picketing at the construction site to induce the employees of suppliers, and so forth not to cross the picket lines as the suppliers are not "primarily engaged in the construction industry". The conference statement makes it clear that the Ashbrook amendment is not intended to preclude a union at construction sites from exercising its traditional right to primary picket the employees of employers not primarily engaged in the construction industry when making deliveries, and so forth to the construction employers with whom the union has a primary dispute.

3. LABOR DISPUTES UNLAWFUL UNDER THIS ACT

A second proviso in H.R. 5900 prohibits common-situs picketing "in furtherance of a labor dispute, unlawful under this act". This is a general provision, added in one of the earlier common-situs bills, to assure one and all that the right to common-situs picket would not be abused. As will be noted hereinafter, additional unlawful labor disputes have been singled out for separate treatment.

4. LABOR DISPUTES IN VIOLATION OF AN EXISTING COLLECTIVE BARGAINING CONTRACT

The second proviso in H.R. 5900 also prohibits common-situs picketing in furtherance of a labor dispute "in violation of an existing collective bargaining contract". This general provision was added in earlier years to assure once again that the right to common-situs picket would not be abused.

The Senate, and the conference, added to H.R. 5900 a new section 8(i) to provide remedial injunctive relief if the union violates the prohibition against common-situs picketing in breach of a collective bargaining contract. It provides that "any employer at a common construction site may bring an action for injunctive relief—to enjoin any strike or picketing at a common situs in breach of a no-strike clause—relating to an issue which is subject to final and binding arbitration or other method of final settlement of disputes as provided in the agreement".

5. LABOR DISPUTES INVOLVING EMPLOYEES OF AN EMPLOYER AT THE SITE NOT ENGAGED PRIMARILY IN THE CONSTRUCTION INDUSTRY

The second proviso in H.R. 5900 additionally prohibits common-situs picketing when the issues in the dispute "involve a labor organization which is representing employees of an employer at the site who is not engaged primarily in the construction industry."

Often, a manufacturer will be retained to go onto a construction site with his own crew to install some complicated piece of machinery. The purpose of the proviso is to make it clear that the construction unions are not permitted to common-situs picket because they are unhappy about the hours, wages or other working conditions negotiated by the union which represents the crew members employed by the outside manufacturer.

6. LABOR DISPUTES CONSTITUTING UNFAIR LABOR PRACTICES

Although the second proviso of H.R. 5900 prohibits in general terms any common-situs picketing in furtherance of a labor dispute "unlawful under this Act"—see No. 2 above—a third proviso was added in committee that "except as provided in the above provisos nothing herein shall be construed to permit any act or conduct which was or may have been an unfair labor practice under this subsection". This was introduced by Mr. Esch as a "clarifying amendment".

7. PRESERVATION OF EXISTING RIGHTS

A fourth proviso in H.R. 5900 is designed to insure that the rights created by H.R. 5900 are to be constructed as "expansive" of existing rights, and in no way to detract from rights which presently exist. It provides that "nothing in the above provisos shall be construed to prohibit any act which was not an unfair labor practice—prior to the enactment of such provisos".

8. DISCRIMINATION BECAUSE OF SEX, RACE, CREED, COLOR, OR NATIONAL ORIGIN

Past common-situs bills contained a prohibition against common-situs picketing where an object was the removal or exclusion from the site of any employee on the ground of race, creed, color, or national origin. These provisions were thought necessary prior to the enactment of across the board "equal employment laws", and continued to be included in the subsequent "common-situs" bills even after the enactment of laws dealing specifically with the subject of equal employment.

The prohibition against discrimination because of "sex" was an amendment offered by Mr. THOMPSON, and accepted in committee, to round out the picture.

9. DISCRIMINATION AGAINST EMPLOYEES TO WHOM UNION MEMBERSHIP IS DENIED

The fifth proviso prohibits common-situs picketing where an object is the removal from the site of any employee because of "membership or non-membership—in any labor organization". The sixth proviso prohibits common situs picketing where an object is to cause an employer to discriminate against any employee with respect to whom membership in a labor organization has been denied or terminated "on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership".

The two provisions are seemingly different, but are intended to achieve the identical result.

Congressman ESCH introduced the language of the sixth proviso above as an amendment on the House floor. He then stated that it was intended to track the prohibition and limitation of section 8(a)(3) of the Act, and in that sense was redundant. The amendment was passed.

When the amended bill went to the Senate, the bill was amended by substituting the language in the fifth proviso alone for the Esch amendment language. The Senate report, however, states that the Senate language was intended to paraphrase, and not change, the language of the Esch amendment.

The Conferees agreed to keep both the language of the Senate and the language of the House "with the understanding that the House provision is to be given the meaning as expressed by the House and the Senate provision is to be given the meaning as expressed by the Senate".

10. DISCRIMINATION AGAINST "INDEPENDENT UNIONS".

The sixth proviso makes it unlawful for a union to "common situs" picket where an object is to exclude any labor organization from the construction site "on the ground that such labor organization is not affiliated with a national or international labor organization which represents employees of an employer at the common site". The purpose of this amendment is to protect the legitimate "independent union" from unlawful harassment.

11. PICKETING FOR UNLAWFUL PURPOSES OF RECOGNITION

Section 8(b)(7) of the Labor Act makes it unlawful for a union to picket when an object is to force the employer to recognize or bargain with the union in certain specified situations. A seventh provisio in H.R. 5900 makes it unlawful to engage in any conduct prohibited by section 8(b)(7). This language was offered as an amendment by Senator HATHAWAY, and accepted by the Senate and the conference committee.

The Hathaway amendment further requires the Labor Board to conduct an election within 14 days of the time of the filing of a charge—alleging a violation of section 8(b)(7) and a petition for an election. However the conference statement makes it clear that the Labor Board is to follow "its present procedure" in handling petitions for elections; and that the Labor Board is to investigate the charge and make a finding "based upon the preponderance of the evidence" as to whether or not there has been a violation of section 8(b)(7) in fact. But in all situations, "this process of investigation, and of an election and certification (where appropriate)—must take place within 14 days". (emphasis supplied)

12. PRODUCT BOYCOTTS

Section 8(b)(4) of the Labor Act makes it unlawful for a Labor Union to force or require any persons "to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any person." This is the so-called "product boycott" provision.

Mr. ESCH proposed an amendment to H.R. 5900 which parallels the prohibitions of section 8(b)(4). It was adopted, and is found in the ninth proviso.

13. DEFINITION OF "SITE"

The ninth proviso of H.R. 5900 contains a definition of the word "site" insofar as it provides that "in determining whether several employers who are in the construction industry are jointly engaged as joint venturers at any site, ownership or control of such site by a single person shall not be controlling."

14. STATE "SEPARATE BID" LAWS

Mr. ESCH introduced an amendment to H.R. 5900 which excludes from common-*situs* picketing all construction "where a State law requires separate bids and direct awards to employers for constructions." This was passed by the House, the Senate, and the conference. It is found in section 101(b) of H.R. 5900 and is intended as an additional section 8(h) of the Labor Act.

15. RESIDENTIAL CONSTRUCTION

The conference agreed to a Senate amendment excluding "residential construction" from the purview of H.R. 5900 with certain qualifications. H.R. 5900 does not apply at construction "involving residential structures of three residential levels or less" if constructed by contractors who directly or indirectly engaged in the last taxable year in a gross volume of construction of $9,500,000 or less.

16. NOTICE REQUIREMENTS OF 10 DAYS

At the suggestion of Secretary of Labor John Dunlop the committee amended H.R. 5900 to require a 10-day "intent to strike" notice. The notice must be given to all unions on the construction site, to all employers on the construction site, to the general contractor on the site, to any national or international labor organization of which the labor organization involved is an affiliate, and to the construction industry collective bargaining committee.

17. AUTHORIZATION OF THE PARENT LABOR ORGANIZATION

Also at the suggestion of Secretary of Labor John Dunlop, the local union is prohibited from common-situs picketing until the 10 days have expired and then the national or international organiza- only with the written authorization by tion with which the local labor organization is affiliated.

18. LIMITED LIABILITY OF PARENT LABOR ORGANIZATION

The final suggestion of Secretary of Labor John Dunlop was that the international organization that gives the required written authorization be given limited liability. The committee, the House, the Senate and the conference all agreed that that authorization by the parent organization "shall not render it subject to criminal or civil liability" arising from the subsequent common-situs picketing "unless such authorization is given with actual knowledge that the picketing is to be willfully used to achieve an unlawful purpose".

19. NOTICE OF CONTEMPLATED PICKETING AT A DEFENSE FACILITY

A much earlier "common situs picketing bill" required a 10-day written notice to the Federal Mediation and Conciliation Service, to any State or Territorial agency established to mediate and conciliate, to the several employers at the site, to the military or other departments concerned, and to the national or international labor organizations when the picketing was to take place at a facility or installation of the military or of any other department or agency of the Government involved in the development, production, testing, et cetera of missiles, space vehicles, et cetera.

This proviso is retained in H.R. 5900 and the notice requirement is concurrent with the other notice requirements of the bill.

20. A GRANDFATHER CLAUSE

The House bill contained no "grandfather clause". The Senate bill did. The conference report agrees that insofar as construction work begun on or before November 15, 1975 is concerned, the act shall take effect 1 year after the effective date of enactment with respect to construction having a gross value of $5,000,000 or less; and 2 years after the effective date of enactment with respect to construction having a gross value of more than $5,000,000.

This recitation of the various provisions of H.R. 5900 has been long, and possibly tedious. But as I commented at the outset, the thrust of H.R. 5900 remains a simple one: to correct the erroneous interpretation placed upon section 8(b)(4)(B) by the Labor Board in the Denver Building Trades Council case, an interpretation affirmed by the Supreme Court in deference to the supposed "expertise" of the administrative agency. This mistaken interpretation has been onerously borne by the 4 million union construction employees for a quarter of a century, and the time for righting this wrong is here and now.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 229, nays 189, not voting 16, as follows:

[Roll No. 766]

YEAS—229

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clausen, Don H.
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Giaimo
Gilman
Goldwater
Gonzalez
Gude
Hall
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hicks
Hillis
Holtzman
Horton
Howard
Howe
Hungate
Ichord
Jacobs
Johnson, Calif.
Jones, Ala.
Jordan
Karth
Kastenmeier
Keys
Koch
LaFalce
Lagomarsino
Leggett
Lehman
Litton
Lloyd, Calif.
Long, La.
McCloskey
McCormack
McDade
McFall
McHugh
McKinney
Macdonald
Madden
Maguire
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Peyser
Pike
Price
Pritchard
Quie
Randall
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Stanton, James V.
Stark
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—189

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bevill
Bowen
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clancy
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Fenwick
Findley
Flowers
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gibbons
Ginn
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Harkin
Harsha
Hastings
Hefner
Henderson
Hightower
Holland
Holt
Hubbard
Hughes
Hutchinson
Hyde
Jarman

Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
Latta
Lent
Levitas
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCollister
McDonald
McEwen
McKay
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Neal
Nichols
O'Brien
Passman
Patman, Tex.
Pattison, N.Y.
Pettis
Pickle
Pressler
Preyer
Quillen
Railsback
Regula
Rhodes
Roberts
Robinson
Rogers
Rousselot
Runnels
Ruppe
Satterfield
Schneebeli
Schulze
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wright
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—16

Bedell
Burke, Fla.
Davis
Gaydos
Green
Hébert
Heinz
Helstoski
Hinshaw
Jenrette
Landrum
Mikva
Poage
Rose
Sebelius
Staggers

The Clerk announced the following pairs:

On this vote:

Mr. Helstoski for, with Mr. Bedell against.
Mr. Staggers for, Mr. Rose against.
Mr. Heinz for, Mr. Landrum against.
Mr. Mikva for, Mr. Sebelius against.
Mr. Green of Pennsylvania for, Mr. Hébert against.
Mr. Davis for, Mr. Burke of Florida against.

Until further notice:

Mr. Jenrette with Mr. Hinshaw.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. GREEN. Mr. Speaker, I missed the last vote on the conference report. I was delayed momentarily and got on the floor just a minute late for the vote. I would like to have the statement placed in the RECORD that had I been able to be present on the vote, I would have voted "yea."

CONFERENCE REPORT ON H.R. 8773, MAKING APPROPRIATIONS FOR DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES, FISCAL YEAR 1976

Mr. YATES. Mr. Speaker, I call up the conference report on the bill (H.R. 8773) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 9, 1975.)

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois is recognized for 1 hour.

(Mr. YATES asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield such time as he may consume, for the purpose of debate only, to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, on December 9 the conference report on H.R. 8773—appropriations for the Department of the Interior and related agencies—was submitted to the House. In addition to appropriating funds for the operation of the Mining Enforcement and Safety Administration, the conference managers recommended retaining MESA in the Department of the Interior. This matter is within the province of the Committee on Education and Labor. As a matter of fact, my colleague, Dominick Daniels, has held subcommittee hearings on several proposals to transfer to the Secretary of Labor the functions of the Secretary of the Interior under the Metal and Nonmetallic Mine Safety Act. It is my strong belief that administration of the Federal Coal Mine Health and Safety Act, which is under the jurisdiction of my Subcommittee on Labor Standards, should be transferred to the Secretary of Labor.

While I concur in the recommended appropriations for the Department of the Interior, I want to emphasize that retention or transfer of MESA functions is a matter to be determined by the Committee on Education and Labor.

Mr. YATES. Mr. Speaker, the gentleman from Pennsylvania correctly states that this was the statement of the managers but it was a recommendation that had no legislative impact.

Mr. DENT. Then I would inquire of the gentleman from Illinois, why was it made?

Mr. YATES. It was made because the managers on the part of both the House and the Senate believed that it might be of interest to the gentleman's committee to have the recommendation of the managers.

Mr. DENT. If that is the meaning, from the course of action around here, then every committee that has some thought about some other committee's actions, or its jurisdiction, can, in a conference report, put something extraneous in that deals with the jurisdiction of another committee. We do not need this confusion, we have enough of our own.

Mr. DOMINICK V. DANIELS. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield such time as he may consume to the gentleman from New Jersey, for the purpose of debate only.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I want to bring to my colleagues' attention the work of the Manpower, Compensation, and Health and Safety Subcommittee, which I chair, regarding the safety and health of miners. I have introduced H.R. 9318, the Federal Metal and Nonmetallic Mine Safety Act amendments, which transfers jurisdiction over the safety and health of noncoal miners to the Department of Labor from the Department of the Interior. My subcommittee has concluded 7 days of hearings on this measure and related legislation. We will mark up H.R. 9318 early in the next session.

Regardless of the final subcommittee vote on H.R. 9318, the decision on which Government agency shall administer mine safety and health laws properly rests with the legislative committee. We have heard very convincing testimony in support of a transfer to the Labor Department of jurisdiction over both coal and noncoal miners' safety and health.

While I will not vote against the conference report and the language of amendment No. 36, I want to reiterate that the administration of safety and health laws covering workers in this Nation's mines will be determined by the Education and Labor Committee as the legislative committee with jurisdiction over this area.

Mr. YATES. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I am pleased to present to the House the conference report on the bill H.R. 8773, a bill which makes appropriations for the Department of the Interior and related agencies for fiscal year 1976 and the transition period ending September 30, 1976. It is a unanimous report, Mr. Speaker. All conferees, both of the House and the Senate, agreed it is a good conference report.

It provides for a total of $4,234,621,000 in new obligational authority for fiscal year 1976, and $1,155,538,900 for the transition period. This amount, Mr. Speaker, is $132,659,000 above the House bill for fiscal year 1976 and $11,966,000 above the House bill for the transition period. The bill is $69,719,000 below the amount of the Senate bill for fiscal year 1976 and $20,332,000 below the Senate bill for the transition period.

May I say, Mr. Speaker, that the bill is also $72,537,000 below the President's budget request for fiscal year 1976, and $32,309,000 below that request for the transition period. Why the increase over the House bill? The principal reason is that the Senate considered about $271 million in fiscal year 1976 budget estimates that were not a part of consideration during the time that the bill was considered by the House. The conferees reduced those programs affected by the budget amendments by about $184 million. The items that were not included when we approved the bill in the House were appropriations for the Pennsylvania Avenue Development Corporation; budget amendments for the National Park Service; the Bureau of Mines; the Bureau of Indian Affairs; Ex Gratia Payment, Bikini Atoll; ERDA; FEA; and the Navajo and Hopi Relocation Commission. All of these items totaled $272,216,000.

The conference report does contain increases over the budget for several agencies. These include: U.S. Forest Service, $49,699,000; the Fish and Wildlife Service, $23,792,000; the Indian Health Service, $19,202,000; the Office of Indian Education, $15 million; the National Park Service, $8,032,000; the Office of Territorial Affairs, $3,196,000; and the Bureau of Land Management, $2,443,000.

May I say in passing, Mr. Speaker, that the California delegation requested that the House conferees stand by the $1 million the House Members had approved in the bill for fiscal year 1976 for fuel breaks in southern California, which was taken out by the Senate. The conferees were able to persuade the Senate to restore that money, and that sum is now in the conference agreement.

The major reductions under the budget request include the following: Federal Energy Administration, $117,103,000; ERDA, $36,406,000; the Navajo and Hopi Relocation Commission, $24,800,000; Bureau of Indian Affairs, $7,809,000; the Office of the Secretary of the Interior, $4,954,000; the Smithsonian Institution, $4,591,000; the National Foundation on the Arts and the Humanities, $2,590,000; the U.S. Geological Survey $1,012,000; and the Bureau of Mines, $1 million.

There are several important changes that were made in the bill since the House considered it last July. The conference appropriated $454,669,000 for the Energy Research and Development Administration. While this figure is below the budget request by $36,406,000, the conferees believe it will provide ERDA with the funds necessary to initiate an effective energy research and development program. The major reason for the decrease is a cut in funds for the coal program because of a large carryover in funds from fiscal year 1975. The conferees have agreed to large increases over the House bill for oil and gas extraction research, $8,506,000; oil shale, $6 million; magnetohydrodynamics, $16 million; fuel cells, $2.5 million; and conservation, $10 million.

The conferees agreed to a decrease below the budget of $117,103,000 for the Federal Energy Administration. This decrease reflects a very careful examination of the Federal Energy Administration's budget by the House and Senate Appropriations Committees. The major reduction below the budget request was for energy conservation and environment programs.

May I say in passing the conferees were very much aware of the importance of the energy conservation activities. The reason for the reduction was in great measure the fact that $55 million of the request was for a program that had not been authorized by the Congress, and the remaining cuts were made because the conferees felt sufficient justification had not been made by the agency.

The conference report contains an additional $10 million over the House bill for the Bureau of Mines to accelerate coal mining technology to meet our expanding energy and mineral requirements. The conferees also agreed to an increase for the U.S. Geological Survey for a hydrology study in the Madison limestone formation in Wyoming. This study is an essential prelude to the development of the coal resources of this region in attempting to find out whether there is an untapped source of water in the limestone formation. This research also bears very importantly on the question of whether the Congress should approve the conveyance of coal from that area through the use of slurry pipelines.

The conferees have agreed to concur in the Senate amendment increasing funds for the operation, and maintenance of the national park system. This increase over the budget of $2,000,000 for personnel will add 395 badly needed positions to the National Park Service. The parks are undermanned. New parks are being added. New responsibilities have been given to the Service and these additional funds will help correct that situation.

The conferees increased the budget request for wildlife resources by $2.5 million to correct the deteriorating conditions in the national wildlife refuge system. These funds will be used to meet high priority needs throughout the refuge system. The conferees also approved $7.5 million for the purpose of acquiring additional wetlands.

The conference bill includes an increase in moneys for a contingency fund for forest insect and disease control. The contingency fund will total $10 million. The conferees believe this action will improve the ability to program funds and better plan the control of insects and diseases on State and private lands. The conferees directed, however, that the Federal share of the expense for insect control on these lands should not exceed 50 percent. In addition, the conferees directed the Forest Service to report back to the committees on how the contingency fund will be operated.

There is growing evidence that recreation facilities on Forest Service lands are in poor condition. Accordingly, the conferees directed the Forest Service to provide the committees with a comprehensive report on the recreation use of the national forests.

The conference agreement includes an addition of $14.8 million in an attempt to implement the solution of the longstanding controversy between the Navajo and Hopi Indian Tribes. The bill includes $2.1 million to the Bureau of Indian Affairs to undertake a livestock reduction program and fencing and provide for legal fees; and $12.7 million for relocation expenses, incentive payments, and expenses for the Navajo and Hopi Relocation Commission.

The deteriorating condition of the Indian health facilities was a major concern to the conferees. The conference agreement before the House today includes an increase of about $11,608,000 for construction of urgently needed facilities in Montana, Minnesota, Wisconsin, New Mexico, and Alaska.

Mr. Speaker, the conference also added $1.8 million over the House bill to improve operation of Indian health services throughout the Nation.

Mr. Speaker, this is a good conference report. It makes important improvements in our land and water resources, continues preservation and protection of our parks and wildlife resources, lays the foundation for expanded production of energy and mineral resources, improves the health and welfare of all Indian people, and expands the cultural resources of the Nation.

Mr. Speaker, I strongly urge adoption of the conference report by the House.

Mr. Speaker, I include at this point in the RECORD a table comparing new obligational authority recommended in the bill for fiscal year 1976 and the period ending September 30, 1976, and respective recommendations contained in the House and Senate bills:

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES—APPROPRIATION BILL, FISCAL YEAR 1976 (H.R. 8773)

Agency and item	New budget (obligational) authority appropriated, 1975 (enacted to date)	Budget estimates of new (obligational) authority 1976 and the transition period[1]	Allowances			Conference allowance compared with—			
			House	Senate	Conference	Budget estimates of new (obligational) authority, 1975	Budget estimates of new (obligational) authority 1976 and the transition period	House Allowance	Senate Allowance
TITLE I—DEPARTMENT OF THE INTERIOR LAND AND WATER RESOURCES									
Bureau of Land Management									
Management of lands and resources	$175,886,000	$186,989,000	$193,839,000	$188,832,000	$189,582,000	+$13,696,000	+$2,593,000	−$4,257,000	+$750,000
Transition period		57,380,000	59,092,000	58,042,000	58,192,000		+812,000	−900,000	+150,000
Construction and maintenance	6,725,000	9,061,000	9,061,000	9,361,000	8,911,000	+2,186,000	−150,000	−150,000	−450,000
Transition period		2,238,000	2,238,000	2,238,000	2,238,000				

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES—APPROPRIATION BILL, FISCAL YEAR 1976 (H.R. 8773)—Continued

			Allowances			Conference allowance compared with—			
Agency and item	New budget (obligational) authority appropriated, 1975 (enacted to date)	Budget estimates of new (obligational) authority 1976 and the transition period[1]	House	Senate	Conference	Budget estimates of new (obligational) authority, 1975	Budget estimates of new (obligational) authority 1976 and the transition period	House Allowance	Senate Allowance
Bureau of Land Management—Cont.									
Public lands development roads and trails (appropriation to liquidate contract authority)	($4,070,000)	($4,683,000)	($4,683,000)	($3,183,000)	($3,183,000)	(−$887,000)	(−$1,500,000)	(−$1,500,000)	( )
Transition period	( )	(1,121,000)	(1,121,000)	(1,121,000)	(1,121,000)	( )	( )	( )	( )
Oregon and California grant lands (indefinite, appropriation of receipts)	38,200,000	38,200,000	38,200,000	38,200,000	38,200,000				
Transition period		10,200,000	10,200,000	10,200,000	10,200,000				
Range improvements (indefinite, appropriation of receipts)	4,187,000	5,450,000	5,450,000	5,450,000	5,450,000	+1,263,000			
Transition period		600,000	600,000	600,000	600,000				
Recreation development and operation of recreation facilities (indefinite, special fund)	242,000	300,000	300,000	300,000	300,000	+58,000			
Transition period		100,000	100,000	100,000	100,000				
Total, Bureau of Land Management	225,240,000	240,000,000	246,850,000	242,443,000	242,443,000	+17,203,000	+2,443,000	−4,407,000	+$300,000
Transition period		70,518,000	72,230,000	71,180,000	71,330,000		+812,000	−900,000	+150,000
Office of Water Research and Technology									
Salaries and expenses	19,792,000	18,327,000	18,905,000	17,715,000	18,180,000	−1,612,000	−147,000	−725,000	+465,000
Transition period		4,516,000	4,411,000	4,411,000	4,411,000		−105,000		
Total, Land and Water Resources	245,032,000	258,327,000	265,755,000	259,858,000	260,623,000	+15,591,000	+2,296,000	−5,132,000	+765,000
Transition period		75,034,000	76,641,000	75,591,000	75,741,000		+707,000	−900,000	+150,000
FISH AND WILDLIFE AND PARKS									
Bureau of Outdoor Recreation									
Salaries and expenses	5,380,000	5,645,000	5,912,000	5,562,000	5,737,000	+357,000	+92,000	−175,000	+175,000
Transition period		1,411,000	1,478,000	1,411,000	1,444,000		+33,000	−34,000	+33,000
Land and Water Conservation Fund									
Appropriation of receipts (indefinite)	307,492,000	300,000,000	309,761,000	307,886,000	308,086,000	+594,000	+8,086,000	−1,675,000	+200,000
Transition period		75,000,000	75,488,000	76,488,000	75,988,000		+988,000	+500,000	−500,000
United States Fish and Wildlife Services									
Resource management	103,798,000	112,433,000	115,984,000	117,787,000	117,746,000	+13,948,000	+5,313,000	+1,762,000	−41,000
Transition period		27,038,000	27,389,000	28,639,000	28,639,000		+1,601,000	+1,250,000	
Construction and anadromous fish	14,397,000	6,727,000	14,229,000	14,981,000	17,706,000	+3,309,000	+10,979,000	+3,477,000	+2,725,000
Transition period		1,060,000	1,060,000	1,060,000	1,060,000				
Migratory bird conservation account (definite, repayable advance)	1,000,000		10,000,000	7,500,000	7,500,000	+6,500,000	+7,500,000	−2,500,000	
Transition period									
Total, United States Fish and Wildlife Service	119,195,000	119,160,000	140,213,000	140,268,000	142,952,000	+23,757,000	+23,792,000	+2,739,000	+2,684,000
Transition period		28,098,000	28,449,000	29,699,000	29,699,000		+1,601,000	+1,250,000	
National Park Service									
Operation of the national park system	220,138,000	240,121,000	240,413,000	245,595,000	243,588,000	+23,450,000	+3,467,000	+3,175,000	−2,007,000
Transition period		74,485,000	74,022,000	75,968,000	75,772,000		+1,287,000	+1,750,000	−196,000
Planning and construction	60,412,000	22,800,000	26,255,000	26,494,000	27,215,000	−33,197,000	+4,415,000	+960,000	+721,000
Transition period		6,000,000	7,100,000	7,125,000	7,100,000		+1,100,000		−25,000
Road construction (appropriation to liquidate contract authority)	(26,026,000)	(38,820,000)	(46,093,000)	(38,011,000)	(40,115,000)	(+14,089,000)	(+1,295,000)	(−5,978,000)	(+2,104,000)
Transition period	( )	(9,400,000)	(9,900,000)	(11,000,000)	(9,900,000)	( )	(+500,000)	( )	(−1,100,000)
Preservation of historic properties	24,476,000	24,516,000	24,666,000	24,516,000	24,666,000	+190,000	+150,000		+150,000
Transition period		6,040,000	6,040,000	6,040,000	6,040,000				
Planning, development and operation of recreation facilities (indefinite, special fund)	11,900,000	14,000,000	16,000,000	14,000,000	14,000,000	+2,100,000		−2,000,000	
Transition period		5,000,000	4,000,000	5,000,000	5,000,000			+1,000,000	
John F. Kennedy Center for the Performing Arts	2,500,000	2,575,000	2,575,000	2,500,000	2,575,000	+75,000			+$75,000
Transition period		741,000	741,000	741,000	741,000				
Total, National Park Service	319,426,000	304,012,000	309,909,000	313,105,000	312,044,000	−7,382,000	+8,032,000	+2,135,000	−1,061,000
Transition period		92,266,000	91,903,000	94,874,000	94,653,000		+2,387,000	+2,750,000	−221,000
Total, Fish and Wildlife and Parks	751,493,000	728,817,000	765,795,000	766,821,000	768,819,000	+17,326,000	+40,002,000	+3,024,000	+1,998,000
Transition period		196,775,000	197,318,000	202,472,000	201,784,000		+5,009,000	+4,466,000	−688,000
ENERGY AND MINERALS									
Geological Survey									
Surveys, investigations, and research	254,146,000	268,259,000	265,065,000	268,544,000	267,247,000	+13,101,000	−1,012,000	+2,182,000	−1,297,000
Transition period		67,200,000	66,425,000	67,695,000	67,400,000		+200,000	+975,000	−295,000
Mining Enforcement and Safety Administration Salaries and expenses	67,913,000	79,500,000	76,136,000	82,698,000	79,473,000	+11,560,000	−27,000	+3,337,000	−3,225,000
Transition period		20,600,000	20,035,000	20,736,000	20,205,000		−395,000	+170,000	−531,000
Bureau of Mines									
Mines and minerals	133,807,000	158,387,000	146,608,000	157,584,000	157,387,000	+23,580,000	−1,000,000	+10,779,000	−197,000
Transition period		39,450,000	36,505,000	39,186,000	39,005,000		−445,000	+2,500,000	−181,000
Total, Energy and Minerals	455,866,000	506,146,000	487,809,000	508,826,000	504,107,000	+48,241,000	−2,039,000	+16,298,000	−4,719,000
Transition period		127,250,000	122,965,000	127,617,000	126,610,000		−640,000	+3,645,000	−1,007,000

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES—APPROPRIATION BILL, FISCAL YEAR 1976 (H.R. 8773)—Continued

Agency and item	New budget (obligational) authority appropriated, 1975 (enacted to date)	Budget estimates of new (obligational) authority 1976 and the transition period[1]	Allowances			Conference allowance compared with—			
			House	Senate	Conference	Budget estimates of new (obligational) authority, 1975	Budget estimates of new (obligational) authority 1976 and the transition period	House Allowance	Senate Allowance
INDIAN AFFAIRS									
Bureau of Indian Affairs									
Operation of Indian Programs	$485, 932, 000	$544, 249, 000	$543, 031, 000	$539, 765, 000	$542, 918, 000	+$56, 986, 000	−$1, 331, 000	−$113, 000	+$3, 153, 000
Transition period		173, 186, 000	174, 474, 000	173, 246, 000	174, 167, 000		+981, 000	−307, 000	+921, 000
Construction	64, 804, 000	61, 400, 000	63, 556, 000	86, 534, 000	73, 922, 000	+9, 118, 000	+12, 522, 000	+10, 366, 000	−12, 612, 000
Transition period		13, 550, 000	13, 550, 000	13, 550, 000	13, 550, 000				
Road construction (appropriation to liquidate contract authority)	(59, 500, 000)	(66, 705, 000)	(66, 705, 000)	(66, 705, 000)	(66, 705, 000)	(+7, 205, 000)	( )	( )	( )
Transition period	( )	(28, 000, 000)	(28, 000, 000)	(28, 000, 000)	(28, 000, 000)	( )	( )	( )	( )
Indian loan guaranty and insurance fund	20, 000, 000	20, 000, 000	10, 000, 000	15, 000, 000	10, 000, 000	−10, 000, 000	−10, 000, 000		−5, 000, 000
Transition period									
Revolving fund for loans	38, 000, 000	12, 000, 000	7, 000, 000	3, 000, 000	3, 000, 000	−35, 000, 000	−9, 000, 000	−4, 000, 000	
Transition period									
Alaska native fund	70, 000, 000	70, 000, 000	70, 000, 000	70, 000, 000	70, 000, 000				
Transition period		40, 000, 000	40, 000, 000	40, 000, 000	40, 000, 000				
Trust funds (definite)	3, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000				
Transition period		750, 000	750, 000	750, 000	750, 000				
Trust funds (indefinite)	19, 500, 000	31, 200, 000	31, 200, 000	31, 200, 000	31, 200, 000	+11, 700, 000			
Transition period		8, 298, 900	8, 298, 900	8, 298, 900	8, 298, 900				
Total, Bureau of Indian Affairs	701, 236, 000	741, 849, 000	727, 787, 000	748, 499, 000	734, 040, 000	+32, 804, 000	−7, 809, 000	+6, 253, 000	−14, 459, 000
Transition period		235, 784, 900	237, 072, 900	235, 844, 900	236, 765, 900		+981, 000	−307, 000	+921, 000
TERRITORIAL AFFAIRS									
Office of Territorial Affairs									
Administration of territories	15, 350, 000	15, 000, 000	16, 000, 000	22, 000, 000	22, 000, 000	+6, 650, 000	+7, 000, 000	+6, 000, 000	
Transition period		3, 800, 000	3, 800, 000	3, 800, 000	3, 800, 000				
Payments to the U.S. Virgin Islands and Puerto Rico (indefinite)	4, 452, 000					−4, 452, 000			
Transition period									
Permanent appropriation (special fund)	(625, 000)	(600, 000)	(600, 000)	(600, 000)	(600, 000)	(−25, 000)	( )	( )	( )
Transition period	( )	(185, 000)	(185, 000)	(185, 000)	(185, 000)	( )	( )	( )	( )
Transferred from other accounts (special fund)	(875, 000)	(975, 000)	(975, 000)	(975, 000)	(975, 000)	(+100, 000)	( )	( )	( )
Transition period	( )	(253, 000)	(253, 000)	(253, 000)	(253, 000)	( )	( )	( )	( )
Trust Territory of the Pacific Islands	69, 750, 000	81, 000, 000	81, 000, 000	77, 196, 000	77, 196, 000	+7, 446, 000	−3, 804, 000	−3, 840, 000	
Transition period		15, 100, 000	15, 100, 000	15, 100, 000	15, 100, 000				
Micronesian claims fund, Trust Territory of the Pacific Islands	1, 400, 000	10, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000	+8, 600, 000			
Transition period		8, 600, 000	8, 600, 000	8, 600, 000	8, 600, 000				
Ex gratia payment, Bikini Atoll		3, 000, 000	2, 270, 000	3, 000, 000	3, 000, 000	+3, 000, 000		+730, 000	
Transition period									
Total, Office of Territorial Affairs	90, 952, 000	109, 000, 000	109, 270, 000	112, 196, 000	112, 196, 000	+21, 244, 000	+3, 196, 000	+2, 926, 000	
Transition period		27, 500, 000	27, 500, 000	27, 500, 000	27, 500, 000				
SECRETARIAL OFFICES									
Office of the Solicitor									
Salaries and expenses	11, 082, 000	12, 014, 000	11, 143, 000	11, 382, 000	11, 263, 000	+181, 000	−751, 000	+120, 000	−119, 000
Transition period		2, 727, 000	2, 626, 000	2, 703, 000	2, 665, 000		−62, 000	+39, 000	−38, 000
Office of the Secretary									
Salaries and expenses	19, 839, 000	21, 343, 000	18, 599, 000	19, 732, 000	18, 734, 000	−1, 105, 000	−2, 609, 000	+135, 000	−998, 000
Transition period		4, 850, 000	4, 171, 000	4, 408, 000	4, 203, 000		−647, 000	+32, 000	−205, 000
Departmental operations	10, 618, 000	14, 278, 000	12, 381, 000	12, 278, 000	12, 153, 000	+1, 535, 000	−2, 125, 000	−228, 000	−125, 000
Transition period		2, 920, 000	2, 445, 000	2, 515, 000	2, 480, 000		−440, 000	+35, 000	−35, 0000
Salaries and expenses (special foreign currency program)	192, 000	1, 714, 000		1, 494, 000	1, 494, 000	+1, 302, 000	−220, 000	+1, 494, 000	
Transition period		100, 000		75, 000	75, 000		−25, 000	+75, 000	
Total, Office of the Secretary	30, 649, 000	37, 335, 000	30, 980, 000	33, 504, 000	32, 381, 000	+1, 732, 000	−4, 954, 000	+1, 401, 000	−1, 123, 000
Transition period		7, 870, 000	6, 616, 000	6, 998, 000	6, 758, 000		−1, 112, 000	+142, 000	−240, 000
Total, Secretarial offices	41, 731, 000	49, 349, 000	42, 123, 000	44, 886, 000	43, 644, 000	+1, 913, 000	−5, 705, 000	+1, 521, 000	−1, 242, 000
Transition period		10, 597, 000	9, 242, 000	9, 701, 000	9, 423, 000		−1, 174, 000	+181, 000	−278, 000
Total, new budget (obligational) authority, Department of the Interior	2, 286, 310, 000	2, 393, 488, 000	2, 398, 539, 000	2, 441, 086, 000	2, 423, 429, 000	+137, 119, 000	+29, 941, 000	+24, 890, 000	−17, 657, 000
Transition period		672, 940, 900	670, 738, 900	678, 725, 900	677, 823, 900		+4, 883, 000	+7, 085, 000	−902, 000
Consisting of—									
Appropriations	2, 286, 310, 000	2, 393, 488, 000	2, 398, 539, 000	2, 441, 086, 000	2, 423, 429, 000	+137, 119, 000	+29, 941, 000	+24, 890, 000	−17, 657, 000
Transition period		672, 940, 900	670, 738, 900	678, 725, 900	677, 823, 900		+4, 883, 000	+7, 085, 000	−902, 000
Definite Appropriations	1, 900, 337, 000	2, 004, 338, 000	1, 997, 628, 000	2, 044, 050, 000	2, 026, 193, 000	+125, 856, 000	+21, 855, 000	+28, 565, 000	−17, 857, 000
Transition period		573, 742, 000	572, 052, 000	578, 039, 000	577, 637, 000		+3, 895, 000	+5, 585, 000	−402, 000
Indefinite Appropriations	385, 973, 000	389, 150, 000	400, 911, 000	397, 036, 000	397, 236, 000	+11, 263, 000	+8, 086, 000	−3, 675, 000	+200, 000
Transition period		99, 198, 900	98, 686, 900	100, 686, 900	100, 186, 900		+988, 000	+1, 500, 000	−500, 000
Memoranda—									
Appropriations to liquidate contract authority	(89, 596, 000)	(110, 208, 000)	(117, 481, 000)	(107, 899, 000)	(110, 003, 000)	(+20, 407, 000)	(−205, 000)	(−7, 478, 000)	(+2, 104, 000)
Transition period		(38, 521, 000)	(39, 021, 000)	(40, 121, 000)	(39, 021, 000)		(+500, 000)		(−1, 100, 000)
Total, new budget (obligational) authority and appropriations to liquidate contract authority	(2, 375, 906, 000)	(2, 503, 696, 000)	(2, 516, 020, 000)	(2, 548, 985, 000)	(2, 533, 432, 000)	(+157, 526, 000)	(+29, 736, 000)	(+17, 412, 000)	(−15, 553, 000
Transition period		(711, 461, 900)	(709, 759, 900)	(718, 846, 900)	(716, 844, 900)		(+5, 383, 000)	(+7, 085, 000)	(−2, 002, 000
TITLE II—RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
Forest Service									
Forest protection and utilization:									
Forest land management	419, 362, 000	338, 297, 000	358, 746, 000	363, 012, 000	365, 821, 000	−53, 541, 000	+27, 524, 000	+7, 075, 000	+2, 809, 000
Transition period		111, 388, 000	116, 759, 000	118, 388, 000	117, 000, 000		+5, 612, 000	+241, 000	−1, 388, 000

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES—APPROPRIATION BILL, FISCAL YEAR 1976 (H.R. 8773)—Continued

			Allowances			Conference allowance compared with—			
Agency and item	New budget (obligational) authority appropriated, 1957(enacted to date)	Budget estimates of new (obligational) authority 1976 and the transition period ¹	House	Senate	Conference	Budget estimates of new (obligational) authority, 1975	Budget estimates of new (obligational) authority 1976 and the transition period	House Allowance	Senate Allowance
Forest Service—Cont.									
Forest research	$77, 612, 000	$79, 211, 000	$81, 955, 000	$82, 005, 000	$80, 355, 000	$+2, 743, 000	$+1, 144, 000	$−1, 600, 000	$−1, 650, 000
Transition period		21, 550, 000	22, 277, 000	21, 550, 000	21, 737, 000		+187, 000	−540, 000	+187, 000
State and private forestry cooperation	34, 784, 000	30, 222, 000	33, 594, 000	32, 994, 000	32, 994, 000	−1, 790, 000	+2, 772, 000	−600, 000	
Transition period		9, 202, 000	10, 052, 000	9, 802, 000	9, 802, 000		+600, 000	−250, 000	
Total, forest protection and utilization	531, 758, 000	447, 730, 000	474, 295, 000	478, 011, 000	479, 170, 000	−52, 588, 000	+31, 440, 000	+4, 875, 000	+1, 159, 000
Transition period		142, 140, 000	149, 088, 000	149, 740, 000	148, 539, 000		+6, 399, 000	−549, 000	−1, 201, 000
Construction and land acquisition	31, 337, 000	14, 475, 000	16, 618, 000	17, 607, 000	18, 134, 000	−13, 203, 000	+3, 659, 000	+1, 516, 000	+527, 000
Transition period		11, 074, 000	11, 074, 000	11, 074, 000	11, 074, 000				
Youth conservation corps	10, 392, 000	10, 400, 000	20, 000, 000	30, 000, 000	25, 000, 000	+14, 608, 000	+14, 600, 000	+5, 000, 000	−5, 000, 000
Transition period		8, 054, 000		10, 000, 000			−8, 054, 000		−10, 000, 000
Forest roads and trails (appropriation to liquidate contract authority)	(124, 578, 000)	(108, 225, 000)	(117, 859, 000)	(112, 857, 000)	(112, 857, 000)	(−11, 721, 000)	(+4, 632, 000)	(−5, 002, 000)	( )
Transition period	( )	( )	( )	( )	( )	( )	( )	( )	( )
Acquisition of lands for national forests: Special acts (special fund, indefinite)	161, 000	161, 000	161, 000	161, 000	161, 000				
Transition period									
Acquisition of lands to complete land exchanges	39, 310	35, 000	35, 000	35, 000	35, 000	−4, 310			
Transition period									
Acquisition of lands, Klamath Indians	49, 000, 000					−49, 000, 000			
Transition period									
Cooperative range improvements (special fund, indefinite)	700, 000	700, 000	700, 000	700, 000	700, 000				
Transition period									
Assistance to States for tree planting	1, 355, 000	1, 359, 000	1, 359, 000	1, 359, 000	1, 359, 000	+4, 000			
Transition period		829, 000	829, 000	829, 000	829, 000				
Construction and operation of recreation facilities (indefinite, special fund)	1, 260, 000	3, 674, 000	3, 674, 000	3, 674, 000	3, 674, 000	+2, 414, 000			
Transition period		2, 212, 000	2, 212, 000	2, 212, 000	2, 212, 000				
Total, Forest Service	626, 002, 310	478, 534, 000	516, 842, 000	531, 547, 000	528, 233, 000	−97, 769, 310	+49, 699, 000	+11, 391, 000	−3, 314, 000
Transition period		164, 309, 000	163, 203, 000	173, 855, 000	162, 654, 000		−1, 655, 000	−549, 000	−11, 201, 000
Energy Research and Development Administration									
Operating expenses, fossil fuels	330, 936, 000	463, 400, 000	406, 594, 000	454, 850, 000	426, 994, 000	+96, 058, 000	−36, 406, 000	+20, 400, 000	−27, 856, 000
Transition period		117, 460, 000	104, 568, 000	114, 656, 000	108, 956, 000		−8, 504, 000	+4, 388, 000	−5, 700, 000
Plant and capital equipment, fossil fuels	13, 260, 000	21, 025, 000	20, 425, 000	21, 025, 000	21, 025, 000	+7, 765, 000		+600, 000	
Transition period		8, 240, 000	8, 200, 000	8, 240, 000	8, 240, 000			+40, 000	
Special foreign currency program, fossil fuels		6, 650, 000	6, 650, 000	6, 650, 000	6, 650, 000	+6, 650, 000			
Transition period									
Total, Energy Research and Development Administration	344, 196, 000	491, 075, 000	433, 669, 000	482, 525, 000	454, 669, 000	+110, 473, 000	−36, 406, 000	+21, 000, 000	−27, 856, 000
Transition period		125, 700, 000	112, 768, 000	122, 896, 000	117, 196 000		−8, 504, 000	+4, 428, 000	−5, 700, 000
Federal Energy Administration									
Salaries and expenses	130, 035, 000	260, 095, 000	98, 388, 000	158, 245, 000	142, 992, 000	+12, 957, 000	−117, 103, 000	+44, 604, 000	−15, 253, 000
Transition period		50, 825, 000	25, 439, C00	27, 000, 000	25, 283, 000		−25, 542, 000	−156, 000	−1, 717, 000
Federal Metal and Nonmetallic Mine Safety Board of Review									
Salaries and expenses	60, 000	60, 000				−60, 000	−60, 000		
Transition period		15, 000					−15, 000		
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Health Services Administration									
Indian health services	235, 672, 000	269, 541, 000	273, 017, 000	272, 662, 000	274, 835, 000	+39, 163, 000	+5, 294, 000	+1, 818, 000	+2, 173, 000
Transition period		73, 028, 000	73, 580, 000	74, 197, 000	73, 780, 000		+752, 000	+200, 000	−417, 000
Indian health facilities	57, 431, 000	41, 458, 000	43, 758, 000	56, 466, 000	55, 366, 000	−2, 065, 000	+13, 908, 000	+11, 608, 000	−1, 100, 000
Transition period		11, 084, 000	11, 084, 000	11, 084, 000	11, 084, 000				
Total, Indian Health Service	293, 103, 000	310, 999, 000	316, 775, 000	329, 128, 000	330, 201, 000	+37, 098, 000	+19, 202, 000	+13, 426, 000	+1, 073, 000
Transition period		84, 112, 000	84, 664, 000	85, 281, 000	84, 864, 000		+752, 000	+200, 000	−417, 000
Office of Education									
Indian education	42, 034, 000	42, 055, 000	57, 055, 000	57, 055, 000	57, 055, 000	+15, 021, 000	+15, 000, 000		
Transition period		516, 000	516, 000	516, 000	516, 000				
INDIAN CLAIMS COMMISSION									
Salaries and expenses	1, 324, 000	1, 420, 000	1, 411, 000	1, 411, 000	1, 411, 000	+87, 000	−9, 000		
Transition period		355, 000	352, 000	352, 000	352, 000		−3, 000		
NAVAJO AND HOPI RELOCATION COMMISSION									
Salaries and expenses		37, 500, 000		16, 500, 000	12, 700, 000	+12, 700, 000	−24, 800, 000	+12, 700, 000	− , 800, 000
Transition period		125, 000		125, 000	100, 000		−25, 000	+100, 000	−25, 000
SMITHSONIAN INSTITUTION									
Salaries and expenses	70, 706, 000	79, 408, 000	77, 908, 000	77, 752, 000	77, 832, 000	+7, 126, 000	−1, 576, 000	−76, 000	+80, 000
Transition period		22, 010, 000	21, 634, 000	21, 712, 000	21, 740, 000		−270, 000	+106, 000	+28, 000
Museum programs and related research (special foreign currency program)	2, 000, 000	2, 000, 000		500, 000	500, 000	−1, 500, 000	−1, 500, 000	+500, 000	
Transition period		750, 000					−750, 000		
Science information exchange	1, 805, 000	1, 875, 000	1, 500, 000	1, 875, 000	1, 875, 000	+70, 000		+375, 000	
Transition period		500, 000	406, 000	500, 000	500, 000			+94, 000	
Construction and improvements, National Zoological Park	9, 420, 000	9, 550, 000	8, 390, 000	8, 390, 000	8, 390, 000	−1, 030, 000	−1, 160, 000		
Transition period		1, 440, 000	1, 440, 000	1, 440, 000	1, 440, 000				

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES—APPROPRIATION BILL, FISCAL YEAR 1976 (H.R. 8773)—Continued

Agency and item	New budget (obligational) authority appropriated, 1975 (enacted to date)	Budget estimates of new (obligational) authority 1976 and the transition period[1]	Allowances			Conference allowance compared with—			
			House	Senate	Conference	Budget estimates of new (obligational) authority, 1975	Budget estimates of new (obligational) authority 1976 and the transition period	House Allowance	Senate Allowance
SMITHSONIAN INSTITUTION—Cont.									
Restoration and renovation of buildings	$1, 490, 000	$1, 467, 000	$1, 192, 000	$1, 192, 000	$1, 192, 000	−$298, 000	−$275, 000		
Transition period		400, 000	400, 000	400, 000	400, 000				
Construction (appropriation to liquidate contract authority)	(7, 000, 000)	(3, 000, 000)	(2, 500, 000)	(2, 500, 000)	(2, 500, 000)	(−4, 500, 000)	(−500, 000)	( )	( )
Transition period	( )	( )	( )	( )	( )	( )	( )	( )	( )
Salaries and expenses, National Gallery of Art	7, 015, 000	7, 598, 000	7, 564, 000	7, 431, 000	7, 531, 000	+516, 000	−67, 000	−$33, 000	+$100, 000
Transition period		1, 946, 000	1, 937, 000	1, 904, 000	1, 937, 000		−9, 000		+33, 000
Salaries and expenses, Woodrow Wilson International Center for Scholars	954, 000	975, 000	962, 000	962, 000	962, 000	+8, 000	−13, 000		
Transition period		244, 000	238, 000	238, 000	238, 000		−6, 000		
Total, Smithsonian Institution	93, 390, 000	102, 873, 000	97, 516, 000	98, 102, 000	98, 282, 000	+4, 892, 000	−4, 591, 000	+766, 000	+180, 000
Transition period		27, 290, 000	26, 055, 000	26, 194, 000	26, 255, 000		−1, 035, 000	+200, 000	+61, 000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES									
Salaries and Expenses									
Endowment for the arts	67, 250, 000	74, 500, 000	72, 000, 000	77, 000, 000	74, 500, 000	+7, 250, 000		+2, 500, 000	−2, 500, 000
Transition period		33, 750, 000	33, 125, 000	33, 750, 000	33, 437, 000		−313, 000	+312, 000	−313, 000
Endowment for the humanities	67, 250, 000	74, 500, 000	72, 000, 000	72, 000, 000	72, 000, 000	+4, 750, 000	−2, 500, 000		
Transition period		21, 375, 000	20, 750, 000	20, 750, 000	20, 750, 000		−625, 000		
Administrative expenses	10, 783, 000	11, 000, 000	10, 910, 000	10, 910, 000	10, 910, 000	+127, 000	−90, 000		
Transition period		2, 750, 000	2, 727, 000	2, 727, 000	2, 727, 000		−23, 000		
Total, Salaries and Expenses	145, 283, 000	160, 000, 000	154, 910, 000	159, 910, 000	157, 410, 000	+12, 127, 000	−2, 590, 000	+2, 500, 000	−2, 500, 000
Transition period		57, 875, 000	56, 602, 000	57, 227, 000	56, 914, 000		−961, 000	+312, 000	−313, 000
Matching Grants									
Endowment for the arts (indefinite)	7, 500, 000	7, 500, 000	7, 500, 000	7, 500, 000	7, 500, 000				
Transition period		500, 000	500, 000	500, 000	500, 000				
Endowment for the humanities (indefinite)	6, 500, 000	7, 500, 000	7, 500, 000	7, 500, 000	7, 500, 000	+1, 000, 000			
Transition period		500, 000	500, 000	500, 000	500, 000				
Total, Matching Grants	14, 000, 000	15, 000, 000	15, 000, 000	15, 000, 000	15, 000, 000	+1, 000, 000			
Transition period		1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000				
Total, National Foundation on the Arts and the Humanities	159, 283, 000	175, 000, 000	169, 910, 000	174, 910, 000	172, 410, 000	+13, 127, 000	−2, 590, 000	+2, 500, 000	−2, 500, 000
Transition period		58, 875, 000	57, 602, 000	58, 227, 000	57, 914, 000		−961, 000	+312, 000	−313, 000
COMMISSION OF FINE ARTS									
Salaries and expenses	176, 000	200, 000	198, 000	198, 000	198, 000	+22, 000	−2, 000		
Transition period		45, 000	45, 000	45, 000	45, 000				
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and expenses	1, 777, 000	1, 895, 000	1, 876, 000	1, 871, 000	1, 871, 000	+94, 000	−24, 000	−5, 000	
Transition period		424, 000	419, 000	419, 000	419, 000		−5, 000		
AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION									
Salaries and expenses	9, 686, 000	10, 000, 000	9, 000, 000	9, 962, 000	9, 462, 000	−224, 000	−538, 000	+462, 000	−500, 000
Transition period		1, 876, 000	1, 626, 000	1, 861, 000	1, 743, 000		−133, 000	+117, 000	−118, 000
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and expenses									
Transition period		6, 000	6, 000	6, 000	6, 000				
LOWELL HISTORIC CANAL DISTRICT COMMISSION									
Salaries and expenses			75, 000	120, 000	120, 000	+120, 000	+120, 000	+45, 000	
Transition period			19, 000	30, 000	30, 000		+30, 000	+11, 000	
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA									
Salaries and expenses	693, 000	708, 000	708, 000	764, 000	764, 000	+71, 000	+56, 000	+56, 000	
Transition period		120, 000	120, 000	120, 000	120, 000				
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and expenses	824, 000	1, 256, 000		916, 000	824, 000		−432, 000	+824, 000	−92, 0000
Transition period		314, 000		218, 000	218, 000		−96, 000	+218, 000	
Total, new budget (obligational) authority, Related Agencies	1, 702, 583, 310	1, 913, 670, 000	1, 703, 423, 000	1, 863, 254, 000	1, 811, 192, 000	+108, 608, 690	−102, 478, 000	+107, 769, 000	−52, 062, 000
Transition period		514, 907, 000	472, 834, 000	497, 145, 000	477, 715, 000		−37, 192, 000	+4, 881, 000	−19, 430, 000
Consisting of—									
Appropriations	1, 702, 583, 310	1, 913, 670, 000	1, 703, 423, 000	1, 863 254, 000	1, 811, 192, 000	+108, 608, 690	−102, 478, 000	+107, 769, 000	−52, 062, 000
Transition period		514, 907, 000	472, 834, 000	497, 145, 000	477, 715, 000		−37, 192, 000	+4, 881, 000	−19, 430, 000
Definite appropriations	1, 686, 462, 310	1, 894, 135, 000	1, 683, 888, 000	1, 843, 719, 000	1, 791, 657, 000	+105, 194, 690	−102, 478, 000	+107, 769, 000	−52, 062, 000
Transition period		511, 695, 000	469, 622, 000	493, 933, 000	474, 503, 000		−37, 192, 000	+4, 881, 000	−19, 430, 000
Indefinite appropriations	16, 121, 000	19, 535, 000	19, 535, 000	19, 535, 000	19, 535, 000	+3, 414, 000			
Transition period		3, 212, 000	3, 212, 000	3, 212, 000	3, 212, 000				
Memoranda—									
Appropriations to liquidate contract authority	(131, 578, 000)	(111, 225, 000)	(120, 359, 000)	(115, 357, 000)	(115, 357, 000)	(−16, 221, 000)	(+4, 132, 000)	(−5, 002, 000)	( )
Transition period									

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES—APPROPRIATION BILL, FISCAL YEAR 1976 (H.R. 8773)—Continued

Agency and item	New budget (obligational) authority appropriated, 1975 (enacted to date)	Budget estimates of new (obligational) authority1976 and the transition period[1]	Allowances: House	Allowances: Senate	Allowances: Conference	Conference allowance compared with: Budget estimates of new (obligational) authority, 1975	Conference allowance compared with: Budget estimates of new (obligational) authority 1976 and the transition period	Conference allowance compared with: House Allowance	Conference allowance compared with: Senate Allowance
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION—Cont.									
					(Dollars)				
Total, new budget (obligational) authority and appropriations to liquidate contract authority	$(1, 834, 161, 310)	(2, 024, 895, 000)	(1, 823, 782, 000)	(1, 978, 611, 000)	(1, 926, 549, 000)	(+92, 387, 690)	(−98, 346, 000)	(+102, 767, 000)	(−52, 062, 000)
Transition period		(514, 907, 000)	(472, 834, 000)	(497, 145, 000)	(477, 715, 000)		(−37, 192, 000)	(+4, 881, 000)	(−19, 430, 000)
RECAP									
Total, new budget (obligational) authority, all titles	3, 988, 893, 310	4, 307, 158, 000	4, 101, 962, 000	4, 304, 340, 000	4, 234, 621, 000	+245, 727, 690	−72, 537, 000	+132, 659, 000	−69, 719, 000
Transition period		1, 187, 847, 900	1, 143, 572, 900	1, 175, 870, 900	1, 155, 538, 900		−32, 309, 000	+11, 966, 000	−20, 332, 000
Consisting of—									
Appropriations	3, 988, 893, 310	4, 307, 158, 000	4, 101, 962, 000	4, 304, 340, 000	4, 234, 621, 000	+245, 727, 690	−72, 537, 000	+132, 659, 000	−69, 719, 000
Transition period		1, 187, 847, 900	1, 143, 572, 900	1, 175, 870, 900	1, 155, 538, 900		−32, 309, 000	+11, 966, 000	−20, 332, 000
Definite appropriations	3, 586, 799, 310	3, 898, 473, 000	3, 681, 516, 000	3, 887, 769, 000	3, 817, 850, 000	+231, 050, 690	−80, 623, 000	+136, 334, 000	−69, 919, 000
Transition period		1, 085, 437, 000	1, 041, 674, 000	1, 071, 972, 000	1, 052, 140, 000		−33, 297, 000	+10, 466, 000	−19, 832, 000
Indefinite appropriations	402, 094, 000	408, 685, 000	420, 446, 000	416, 571, 000	416, 771, 000	+14, 677, 000	+8, 086, 000	−3, 675, 000	+200, 000
Transition period		102, 410, 900	101, 898, 900	103, 898, 900	103, 398, 900		+988, 000	+1, 500, 000	−500, 000
Memoranda—									
Appropriations to liquidate contract authority	(221, 174, 000)	(221, 433, 000)	(237, 840, 000)	(223, 256, 000)	(225, 360, 000)	(+4, 186, 000)	(+3, 927, 000)	(−12, 480, 000)	(+2, 104, 000)
Transition period		(38, 521, 000)	(39, 021, 000)	(40, 121, 000)	(39, 021, 000)		(+500, 000)		(−1, 100, 000)
Grand total, new budget (obligational) authority and appropriations to liquidate contract authority	(4, 210, 067, 310)	(4, 528, 591, 000)	(4, 339, 802, 000)	(4, 527, 596, 000)	(4, 459, 981, 000)	(+249, 913, 690)	(−68, 610, 000)	(+120, 179, 000)	(−67, 615, 000)
Transition period		(1, 226, 368, 900)	(1, 182, 593, 900)	(1, 215, 991, 900)	(1, 194, 559, 900)		(−31, 809, 000)	(+11, 966, 000)	(−21, 432, 000)

---

[1] Includes budget amendments as follows:

	Fiscal year 1976	Transition period
National Park Service: Planning, development and operation of recreation facilities (indefinite, special fund) (S. Doc. 94-98)	−$4, 000, 000	
Bureau of Mines: Mines and minerals (S. Doc. 94-114)	15, 000, 000	$3, 750, 000
Bureau of Indian Affairs: Operation of Indian programs (S. Doc. 94-98)	6, 400, 000	
Office of Territorial Affairs: Ex gratia payment, Bikini Atoll (S. Doc. 94-90)	3, 000, 000	
Energy Research and Development Administration:		
Operating expenses, fossil fuels (S. Doc. 94-84)	$64, 800, 000	$14, 890, 000
Plant and Capital equipment, fossil fuels (S. Doc. 94-84)	600, 000	40, 000
Federal Energy Administration: Salaries and expenses (S. Doc. 94-113)	147, 660, 000	2, 825, 000
Navajo/Hopi Relocation Commission: Salaries and expenses (S. Doc. 94-98)	37, 500, 000	125, 000
Total	270, 960, 000	21, 630, 000

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I would like to commend the members of the subcommittee for the fine bill they have brought before us.

I would like to specifically commend the gentleman from Illinois for helping the people in western Marin County and the Point Reyes National Seashore that has long been a problem maintained by the Park Service. With the money provided in this bill, they will be able to provide an ambulance and emergency services for the people that have operated the park, the people who have heretofore had to rely upon volunteer fire departments.

Mr. YATES. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I want to thank the conferees for their effort to maintain the special funding for the fuel modification program, which is important to our forest program in various parts of the country, to anticipate firefighting activities, especially in California.

The California delegation is clearly grateful for the extra effort as a result of the recent three major fires in our Angeles National Forest. There are two specific areas in these recent California fires where the fuel modification program provided a fighting line break, so that the firefighters and other equipment could stop the fire on those lines. Even though in one other area the wild fire jumped the fire break, the fuel modification funding, which the gentleman and the conferees made sure that the adequate money was included, the past fuel modification work can clearly be shown to have been beneficial in containing these fires. I am sure in the future as a result of this extra funding we will be able to control fires to a greater degree, so we do appreciate that effort.

Mr. YATES. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, in addition to the overall provisions of the legislation, I would like to emphatically commend our colleagues for their recognition of the problems of the American Samoa, the Trust Territories, and even more particularly, the long overdue recognition of the plight of the natives of the Bikini Atoll, who will now receive some minimum measure of recognition for their plight.

Mr. YATES. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I want to tell the House of my sincere and great appreciation for the fine cooperation that we received from all the conferees, particularly from the Members of the minority, the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from Ohio (Mr. REGULA).

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my able colleague, the chairman of the subcommittee, for these able remarks.

Mr. Speaker, may I say to the House, we have had a cooperative subcommittee that has worked in a nonpartisan fashion.

Mr. Speaker, I rise in support of this conference report.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, I, too, rise in support of this conference report. I think it is unusual and a tribute to the leadership of the chairman, the gentleman from Illinois (Mr. YATES), and the ranking member, the gentleman from Pennsylvania (Mr. McDADE), that legislation of this type, which could easily exceed the budget is, in fact, under the budget.

This is a conference report that funds attractive projects that are very beneficial to the people of this Nation. Yet, restraint was exercised by both the Members of the House and the Senate in recognizing that, despite the fact that many of the proposed projects were extremely attractive, we have to recognize the constraints of prudent fiscal management.

I particularly appreciate the fact that included in this report will be money for the Cuyahoga Valley National Park in the amount of $5,100,000. This money will truly result in putting parks where the people are in terms of Ohio, and will be the beginning of funding for Ohio's first national park. Also included is money for natural gas exploration that could include Devonian shale, another program that is very vital to the economy of the Midwestern States.

Approval of this conference report is important to the Nation and especially to meet the recreation and economic needs of Ohio's 16th District.

Mr. McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I would like to commend the conference committee in recognizing the importance the State of Alaska is going to play in the future of this Nation, in putting moneys in the bill for geological surveys for minerals, and also for the Bureau of Mines. Through the recognition of this conference committee, the State of Alaska is well aware that it needs identification of these minerals so that it can make wise decisions for the future.

Mr. McDADE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I too support the conference report, but I do want to express my concern about the section which provides $800,000 for the Pennsylvania Avenue Development Plan.

While it is desirable to beautify our Nation's Capital by renovating Pennsylvania Avenue, it would be unwise and unnecessary to implement this goal by further commitment of Federal funds. The Pennsylvania Avenue Development Corporation, for whose salaries and administrative expenses this money would be used, has fulfilled its legislative charter by drafting a plan for redevelopment of the blighted area. Involving Federal funds in that effort, however, would be fiscally irresponsible in light of a shocking projected Federal deficit of $72 billion for fiscal year 1976 according to U.S. Treasury Department figures. American taxpayers will pay over $37 billion in interest alone this year on the immense national debt. Furthermore, it would be simply poor timing to add more Federal funds to inflationary fires for a corporation which has already fulfilled its function.

In addition, there is no assurance that any major financial commitment to this project will not create another bottomless pit into which we pour taxpayers' dollars. We need not look too far to see examples of budget-breaking construction overruns in our Capital. The Kennedy Center for the Performing Arts was estimated to cost $46 million before construction in 1964; today expenditures have already soared to $73 million—double the original amount and the books still are not closed. The National Visitors Center was originally estimated to cost only $16 million. The most recent figures reveal $48.3 million as the current estimate to complete the Center—three times the initial sum and in this case there have been cut-backs in the original design. So for three times the money, the taxpayers will get less than they first bargained for. This program would like to start with $154 million. Where would it end? The faintest whisper could cause another funding landslide.

Let me reiterate that I do not oppose beautifying our Nation's Capital, but the private sector should be allowed to accomplish this. These improvements could be financed by private investment under the time-tested market system. And there are already in existence authorities which could oversee these improvements to insure that they remain faithful to the dignity which should characterize our Capital, such as the National Capital Planning Commission and National Capital Parks Service.

The taxpaying American public does not now need to spend more money to perpetuate another Federal agency overseeing the sound development of our Nation's Capital.

Mr. Speaker, I would like to ask some questions of the chairman in regard to this.

Following approval of this appropriation, if the Congress should vote not to continue the Pennsylvania Avenue Development Corporation, then would these funds revert to the U.S. Treasury?

Mr. YATES. The answer to that question is "Yes."

Mrs. SMITH of Nebraska. I thank the gentleman very much. The second question is, Could this Pennsylvania Avenue Development Corporation spend these funds at the present time, since there is no authorization?

Mr. YATES. The answer to that is that these funds are primarily for the payment of salaries for the people who are on the payroll. In the event that the President does not sign the bill, the money will then not be available.

Mrs. SMITH of Nebraska. I am thinking, in the event that the Interior Committee should come out with a recommendation that we discontinue this program——

Mr. YATES. May I say to the gentlewoman the authorization is before each of the appropriate committees, but has not passed either the House or the Senate. I would say that, in my judgment, the funds could be spent only to maintain the present force for keeping this corporation operating until the Congress has an opportunity to consider the authorization.

Mrs. SMITH of Nebraska. Then I would be correct in understanding that they could not make any commitments of this money for the future?

Mr. YATES. Mr. Speaker, the gentlewoman is correct. It is the intention of the conferees that no additional commitments be made until the further life of this corporation be approved by the Congress and by the President.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of the conference report, and I commend the committee.

Mr. Speaker, I am happy to lend my full support and vote to the conference committee's report on H.R. 8772, the Interior and related agencies appropriations. At the same time, I would like to commend the conference committee on a job well done.

Two provisions adopted by the committee will yield significant benefits for the Northeast region and Vermont in particular. One includes an appropriation for further funding of the study of the environmental impact that construction of a proposed dam on the Richelieu River in Canada would have. There is a tremendous potential for environmental damage along the New York and Vermont shoreline as well as to the fish population of Lake Champlain, the largest and most important lake east of the Great Lakes. But with this appropriation we are assured that the International Joint Commission will be able to fully assess the impacts.

The other provision which directly impacts upon Vermont and the Northeast is the $200,000 appropriated to continue construction of the Bethel Fish Hatchery in Bethel, Vt. This hatchery is a key part of our overall effort to return anadromous fish to the Connecticut River Valley. An effort which will ultimately bring substantial economic benefits to the region as well as restore the historical environmental balance to the region.

It was largely because of the untiring efforts of our senior Senator that these items, which are of great importance to Vermont and our entire region, were included in the final version of the bill. As always, the senior Senator has shown both skill and wisdom in representing the legitimate needs of his constituents.

These two appropriations are small compared to other line items in this bill, but their beneficial economic and environmental impacts on the Northeast are immeasurable. Again, I thank the conference committee for its farsightedness and urge passage of this important legislation.

Mr. YATES. Mr. Speaker, I yield myself 4 additional minutes.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding.

Mr. Speaker, I want to say that I think the committee has done an excellent job, and I want to commend the committee for its work. I know how hard they have worked.

Mr. Speaker, I would like to ask a couple of questions. Several years ago, the Department of the Interior, at the urging of several Members, including this one, embarked on a program to try to control the blackbird menace throughout the country. As I understand it, there was an attempt being made in the Department of the Interior to transfer some of the funds from this program to some other program, and the name of the program escapes me.

Mr. YATES. If the gentleman will yield, may I say to the gentleman that the reprograming has been denied, and those funds will remain available for the blackbird control project in Ohio.

Mr. LATTA. Mr. Speaker, I want to thank the gentleman for his interest in this and I want to thank the committee for the action it has taken.

If the gentleman will yield further, I would like to ask one more question.

Mr. YATES. I will yield to the gentleman from Ohio.

Mr. LATTA. A couple of years ago, the House approved a plan to save one of the most historical monuments, I think, that we have in the country. I have reference to the international Commodore Perry Victory Monument. It is an international monument marking not only that battle of Lake Erie, but the many, many years of peace we have had between Canada and the United States.

Mr. Speaker, I have consistently pointed out to the Department of the Interior over the past several years that Lake Erie is washing away the foundation of this monument, and that the House, the Senate, and the White House concurred that something should be done to save it and we had embarked on a program to do something about it. But to date, needed construction has not begun to protect it.

I know that there is no money in this bill for construction. There has been some money appropriated for planning. I would like to say to the good chairman, the gentleman from Illinois (Mr. YATES), and to this House, that unless the Department of the Interior gets busy and does something about it, this tremendous monument is going to be toppling into Lake Erie.

Mr. YATES. Mr. Speaker, may I say to the gentleman from Ohio (Mr. LATTA) that it was the intention of the members of the House subcommittee who originally provided the funds for maintaining and preserving this monument that funds be expended for the purpose of placing that monument in the condition where it will not be subjected to the deterioration that the gentleman has described.

I want to assure the gentleman from Ohio (Mr. LATTA) that I will take it upon myself to call the Park Service about the monument.

Mr. LATTA. I thank the gentleman.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I wish to use this time to express my appreciation to all members of the conference for what I think was an excellent return and to thank them for the work that has gone into the Appropriation Act for this year.

The Interior Subcommittee handles appropriations for 8 or 10 functions of the Federal establishment, the value of which is incalculable to the well-being of all of Wyoming's people. I think the continuation of the excellent work that the chairman, the gentleman from Illinois (Mr. YATES), the gentleman from Pennsylvania (Mr. MCDADE), the gentleman from Colorado (Mr. EVANS), the gentleman from Utah (Mr. MCKAY), and all of the other Members, is very important. I want to express my appreciation for the work they have done this past year.

Mr. YATES. Mr. Speaker, I thank the gentleman from Wyoming (Mr. RONCALIO).

Mr. CONTE. Mr. Speaker, I rise to express my dissatisfaction with two aspects of this conference report. I should first like to address my remarks to the funding for the White River Fish Hatchery in Bethel, Vt. It appears that House and Senate conferees agreed to reduce the House level for this program from $500,000 to $300,000. I am sorry to say that this is basically useless. The hatchery is now in the midst of contracting to build rearing pools to be used to actually cultivate the small fingerlings. Naturally this is the most integral part of any fish hatchery. The cost of the rearing pool is $700,000. The funds provided effectively set the whole program back another year. I should like to note that this fish hatchery is obviously an integral part of the whole Atlantic salmon restoration program. The conferees decision to cut these funds not only renders the hatchery useless for another year, but places the whole Atlantic salmon restoration program in limbo. We have come so far toward taking positive steps to placing salmon back in the Connecticut River where they once thrived—now we must suffer this most untimely setback.

I should like to note that the original House level included $500,000 for this project. That could not have occurred without the support of the most capable gentlemen from Illinois and Pennsylvania (Mr. YATES and Mr. MCDADE) who serve as chairman and ranking minority of the Appropriations Subcommittee on the Interior.

It is so disheartening that their counterparts in the other Chamber as well as Senators from Vermont did not rise to meet the needs of this most essential conservation facility.

I should now like to address my remarks to the conference report $7.5 million figure for the migratory bird conservation account. The House made its support clear for this program by passage of the Dingell amendment to provide $10 million for this account. As a member of the Migratory Bird Commission, I should like to advise that $7.5 million will not continue our wetland acquisition program at an effective level. Although $12 million in receipts from the sale of duck stamps appears to be a substantial sum, we must realize that the wetland acquisition program in Minnesota and the Dakotas alone will almost consume the entire amount raised through the sale of duck stamps.

As of this date, there is more than an 88,000 acre/$32 million backlog of tracts that the Migratory Bird Commission has approved, but cannot afford to purchase. Further, there is a need to acquire 250,000 additional acres that have not even been presented to the Commission for review as yet. Land values are constantly increasing—reducing the purchasing power will only result in more Federal dollars purchasing less acreage in the future. I only hope that appropriations for this account in the future will be able to speed up the pace of the wetland acquisition program which is critically behind schedule.

As a final note I should like to commend the conferees for their support of the Springfield Armory National Historic Site in Springfield, Mass. The House provided $270,000 in support funds for the ground work to put a museum together on the site. The Senate had no funds because hearings were not held on the subject. I am so pleased that Congressman BOLAND and I were able to contact the House-Senate conferees on this particular problem and get their help to accept the House figures.

The Springfield Armory was the first facility of its type to be established in the United States. Begun in 1777, it was the first of this country's arsenals, and the only one to be called an armory. The presence of a large number of skilled gunsmiths, blacksmiths, and craftsmen located in the Springfield area prompted Gen. Henry Knox, George Washington's top artillary officer in the Continental Army, to recommend the site as most suitable to the Army's needs. From 1777 to 1780 the armory prepared musket cartridges for distribution to colonial troops.

Mr. Speaker, the rich and proud tradition of the armory in the service of the Nation's defense more than qualifies its preservation in the public ownership. It is more than an inspiration to the people of the United States—it is a monument to the heritage of the traditions it has helped to defend.

With the exception of the reservations I have mentioned, I would like to express satisfaction with this most important piece of legislation. I would like to commend Chairman YATES for an excellent job on his first bill after becoming chairman. I urge my colleagues to support the conference report.

Mr. YATES. Mr. Speaker, I have no further requests for time.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I want to commend the committee for the outstanding job it has done with respect to this legislation. This committee has been a very serious committee, a very considerate committee, and a very responsible committee.

However, there is one point that does disturb me somewhat. The gentlewoman from Nebraska (Mrs. SMITH) who is a valuable, conscientious member of the Interior Committee who does her homework, has brought up. I think it bad policy to appropriate funds before an authorization bill has been passed. This practice could serve as a source of embarrassment to the committee and to Congress.

Although I introduced the Pennsylvania Avenue plan, I still feel our committee ought to act before appropriations are allocated.

Mr. YATES. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I applaud the conference committee for its efforts, and I support the conference report.

Mr. Speaker, I would like to take this opportunity to commend the members of the Subcommittee on Interior Appropriations for recognizing the value of the Springfield Armory Museum. The inclusion of the funds for operating the museum in the Interior appropriations bill (H.R. 8773) conference report is a welcome sight for the people of western Massachusetts and myself.

My distinguished colleague from the First Congressional District of Massachusetts, Mr. CONTE, and I worked hard for the establishment of this fine museum as a national historic site. That goal was accomplished in October of 1974, when the President signed the Springfield Armory Museum National Historic Site bill into law. The conferees inclusion of $272,000 to cover operating costs for the museum is another step forward in the preservation and maintenance of this historic place. The armory museum is one of the most valuable historic sites in Springfield and this money will serve to maintain and increase its worth.

Mr. CONTE and myself are very grateful to the members of the subcommittee and also to Senator EDWARD M. KENNEDY and Senator EDWARD W. BROOKE for their efforts in behalf of the Springfield Armory Museum. On behalf of the people of western Massachusetts, I thank you all.

Mr. McDADE. Mr. Speaker, I yield back the balance of my time.

Mr. YATES. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WYLIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 407, nays 5, not voting 22, as follows:

[Roll No. 767]

YEAS—407

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derwinski
Devine
Dickinson
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Melcher
Metcalfe
Meyner
Mazzoli
Mezvinsky
Michel
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—5

Collins, Tex.
Conyers
Crane
McDonald
Miller, Ohio

NOT VOTING—22

Bedell
Burke, Fla.
Davis
Derrick
Dingell
Gaydos
Hébert
Heinz
Helstoski
Hinshaw
Jenrette
LaFalce
Long, La.
Meeds
Mikva
Murphy, N.Y.
O'Hara
Sebelius
Steed
Stuckey
Walsh
Young, Ga.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Burke of Florida.

Mr. Helstoski with Mr. Heinz.

Mr. Bedell with Mr. Jenrette.

Mr. Davis with Mr. Derrick.

Mr. LaFalce with Mr. Mikva.

Mr. Steed with Mr. O'Hara.

Mr. Stuckey with Mr. Dingell.

Mr. Long of Louisiana with Mr. Hinshaw.

Mr. Meeds with Mr. Sebelius.

Mr. Murphy of New York with Mr. Young of Georgia.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows :

Senate amendment No. 3: Page 2, line 17, strike out "$9,061,000" and insert: "$9,361,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$8,911,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 16: Page 9, line 15, after, "$115,984,000" insert: ", of which not to exceed $2,000,000 shall remain available until expended".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 10, lines 1 and 2, strike out: "$14,229,000" and insert: "$14,981,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$17,706,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: Page 12, line 15, strike out: "$26,255,000" and insert: "$26,494,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$27,215,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 17, line 17, insert: "of which not to exceed $2,800,000 shall remain available until expended for the construction of facilities".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$1,500,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 43: Page 20, line 24, insert: ": *Provided*, That the amount made available to each State from sums appropriated for fiscal year 1976 for assistance to public schools shall not be less than the amount made available for comparable purposes for fiscal year 1975".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 47: Page 21, line 18, insert: ": *Provided further*, That not to exceed $2,148,000 shall be available to assist the Pyramid Lake Paiute Tribe of Indians in the construction of facilities for the restoration of the Pyramid Lake fishery pursuant to the Washoe Act (43 U.S.C. 614)".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$200,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 21, line 22, insert: *Provided further*, That not to exceed $6,000,000 shall be available for assistance to the Ramah Navajo School Board, Incorporated, New Mexico, for the construction of school facilities".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$2,229,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 50: Page 23, line 4, strike out: "$7,000,000" and insert: "$3,000,000".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 58: Page 30, line 5, strike out: "$12,381,000" and insert: "$12,278,000".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein with an amendment, as follows: In lieu of the sum propsed by said amendment, insert "$12,153,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: Page 30, after line 10, insert:

"SALARIES AND EXPENSES (SPECIAL FOREIGN CURRENCY PROGRAM)

"For payment in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses of the Office of the Secretary, as authorized by law, $1,494,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations, to such office for payments in the foregoing currencies (7 U.S.C. 1704).

"For 'Salaries and Expenses (Special Foreign Currency Program)' for the period July 1, 1976, through September 30, 1976, $75,000, to remain available until expended."

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 61: Page 33, after line 11, insert:

"SEC. 108. Notwithstanding any other provision of law, persons have heretofore and may hereafter be employed or otherwise contracted with by the Secretary of the Interior to perform work occasioned by emergencies such as fire, flood, storm, or any other unavoidable cause and may be compensated at regular rates of pay without regard to Sundays, Federal holidays, and the regular workweek."

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 62: Page 34, line 10, strike out "$358,746,000" and insert $363,012,000".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$365,821,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 64: Page 35, line 1, strike out "$81,955,000" and insert "$82,005,000".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$80,355,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 70: Page 36, line 1, strike out "$16,618,000" and insert: "$17,607,000".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$18,134,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 76: Page 37, line 9, insert: "during the period July 1, 1976, through September 30, 1976,".

MOTION OFFERED BY MR. YATES

Mr. **YATES**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 77: Page 41, line 25, insert: "The period July 1, 1976, through September 30, 1976, inclusive, shall be treated as a fiscal year for the purpose of computing and making payments provided under provisions of the Acts of May 23, 1908, as amended, March 1, 1911, as amended (16 U.S.C. 500); March 4, 1913, as amended (16 U.S.C. 501); June 20, 1910 (36 Stat. 562, 573); and June 22, 1948, as amended (16 U.S.C. 577c–577h), except the percent used shall be one-quarter of the three-fourths of 1 percent specified in this Act and the period

July 1 through September 30, 1976, shall not be counted as a year in computing the ten-year interval between determination of the fair appraised value of the National Forest lands involved."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 83: Page 45, line 20, insert ": *Provided further*, That no part of this appropriation shall be available for utility rate restructuring studies unless such studies provide for direct consumer representation in the planning and implementation of such studies."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 84: Page 46, line 3, strike out "$25,439,000" and insert "$27,000,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert: "$25,283,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 85: Page 46, line 14, strike out "$273,017,000" and insert "$272,662,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 85 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$274,835,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 92: Page 50, line 5, strike out "$21,634,000" and insert "$21,712,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$21,740,000".

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 95: Page 50, line 13, insert:

"MUSEUM PROGRAMS AND RELATED RESEARCH
(SPECIAL FOREIGN CURRENCY PROGRAM)

"For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, $500,000, to remain available until expended and to be available only to United States institutions: *Provided*, That this appropriation shall be available, in addition to other appropriations to the Smithsonian Institution, for payments in the foregoing currencies."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 107: Page 57, after line 6, insert:

"PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

"SALARIES AND EXPENSES

"For necessary expenses, as authorized by section 17 of Public Law 92–578 as amended, $916,000.

"For 'Salaries and expenses' for the period July 1, 1976, through September 30, 1976, $218,000."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

"SALARIES AND EXPENSES

"For necessary expenses, as authorized by section 17 of Public Law 92–578 as amended, $824,000.

"For 'salaries and expenses' for the period July 1, 1976, through September 30, 1976, $218,000."

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 6461, PUBLIC BROADCASTING FINANCING ACT OF 1975

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 6461) Public Broadcasting Financing Act of 1975:

CONFERENCE REPORT (H. REPT. No. 94–713)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Broadcasting Financing Act of 1975".

SEC. 2. Subsection 396(k) of the Communications Act of 1934 is amended by inserting after paragraph (2), the following paragraphs:

"(3) There is hereby established in the Treasury a fund which shall be known as the 'Public Broadcasting Fund' administered by the Secretary of the Treasury. There are authorized to be appropriated to such fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976, through September 30, 1976, an amount equal to 10 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1975; except that the amount so appropriated shall not exceed $88,000,000 for the fiscal year ending June 30, 1976; $22,000,000 for the period July 1, 1976, through September 30, 1976; $103,000,000 for the fiscal year ending September 30, 1977; $121,000,000 for the fiscal year ending September 30, 1978; $140,000,000 for the fiscal year ending September 30, 1979; and $160,000,000 for the fiscal year ending September 30, 1980.

"(4) The funds authorized by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation, from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years and for the period July 1, 1976, through September 30, 1976, pursuant to the provisions of this subsection.

"(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on-the-air an amount equal to not less than 40 per centum of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is $88,000,000 or more, but less than $121,000,000; not less than 45 per centum in each fiscal year in which the amount disbursed is $121,000,000 or more, but less than $160,000,000; and not less than 50 per centum in each fiscal year in which the amount disbursed is $160,000,000.

"(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on-the-air, establish, and review annually, criteria and conditions regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

"(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

"(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

"(iii) assure that each eligible licensee and permittee of a noncommercial educational radio station receives a basic grant.

"(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

"(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programming, including but not limited to the following: producing, acquiring, broadcasting, or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programing purposes.".

Sec. 3. Subsection 396(g)(2)(H) of the Communications Act of 1934 is amended by deleting the period after "broadcasting" and inserting the following: "and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs.".

Sec. 4. Subsection 396(i) of the Communications Act of 1934 is amended by adding at the end thereof the following sentence: "The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection 396(l), or any other matter which any such committee may determine.".

Sec. 5. Section 397 of the Communications Act of 1934 is amended by inserting, after paragraph (9), the following paragraphs:

"(10) The term 'non-Federal financial support' means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

"(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or

"(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

"(11) The term 'public broadcasting entity" means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television or radio programs.".

And the Senate agree to the same.

Harley O. Staggers,
Torbert H. Macdonald,
John M. Murphy,
Charles J. Carney,
Goodloe E. Byron,
Louis Frey,
Edward R. Madigan,
Managers on the Part of the House.

Warren Magnuson,
John O. Pastore,
Vance Hartke,
Howard Baker,
J. Glenn Beall,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The House bill and the Senate amendment thereto differed from one another in the following three significant substantive respects: (1) matching requirements for Federal funding, (2) a provision relating to instructional programming, and (3) a provision affecting the status of the Corporation for Public Broadcasting (CPB) under the Civil Rights Act of 1964. There follows a discussion of these differences and the action taken by the committee of conference with repect to each of them.

MATCHING REQUIREMENTS FOR FEDERAL FUNDING

Both the House bill and the Senate amendment thereto provided that authorizations of appropriations for each fiscal year in the period from July 1, 1975, through September 30, 1980, would be based on the total amount of non-Federal financial support received by all public broadcasting entities during the fiscal year second preceding each such fiscal year. Of course, both versions and the conference substitute would impose a ceiling on the maximum amount authorized to be appropriated for each such fiscal year.

The Senate amendment provided that for any such fiscal year, $1 would be authorized to be appropriated for every $2.50 in non-Federal financial support received by all public broadcasting entities during the second preceding fiscal year.

The House bill contained the same $1 to $2.50 matching provisions for the first three fiscal years covered by the legislation (1976, 1977, and 1978). For fiscal year 1979 and 1980, however, the House bill would have authorized $1 to be appropriated for every $3 in non-Federal financial support received by public broadcasting entities during fiscal years 1977 and 1978, respectively.

The Managers on the part of the Senate voiced serious concern about the impact of this provision on public broadcasters generally and smaller public broadcasting stations in particular. It was their fear that the higher House bill formula would make it difficult, if not impossible, for public broadcasting to achieve the maximum amount authorized for each of the last two fiscal years.

In adopting the matching provisions of the Senate version, the conferees from each House wish to make clear that it is their intention to closely monitor non-Federal financial support received by public broadcasting entities in the future for the purpose of determining if it would be feasible and in the public interest to increase the matching requirement to the ratio provided for in the House bill.

INSTRUCTIONAL PROGRAMMING

Proposed section 396(k)(4) of the House bill would have required that a significant portion of the funds disbursed to CPB and a significant portion of the funds distributed by CPB to noncommercial educational radio and television broadcast stations pursuant to the proposed section 396(k)(5) of the Act be utilized for the development and dissemination of instructional programming.

The Senate amendment had no comparable provisions. The conference substitute contains no provisions relating to instructional programming.

The omission of the provisions in the House bill relating to instructional programming does not reflect a lack of commitment on the part of the Managers from either House to the principle that instructional programming must be an important part of public broadcasting. Educational instruction was the primary purpose of the original non-commercial educational broadcast stations and the Midwest Program on Airborne Television Instruction (MPATI) experiment. It also was a basic thrust of the Carnegie Report on which the Public Broadcasting Act of 1967 was based. Indeed, it is the sense of the Managers from both Houses that this policy is already embodied in the Act as section 396(a)(1). That provision was enacted as a part of the Public Broadcasting Act of 1967. It provides as follows:

Sec. 396. (a) The Congress hereby finds and declares—

(1) that it is in the public interest to encourage the growth and development of non-

commercial educational radio and television broadcasting, *including the use of such media for instructional purposes;* (italics supplied)

It is the expectation of the conferees that CPB will, in keeping with this clear policy, ensure that a significant portion of the funds it distributes for programming purposes will be used for the development of instructional programming. There should be no drift by CPB away from this mandate of the Congress.

CIVIL RIGHTS ACT LANGUAGE

The Civil Rights Act language contained in the House bill was as follows:

SEC. 3. Subsection 396(b) of the Communications Act of 1934 is amended by adding at the end thereof the following: "The Corporation shall be subject to the provisions of titles VI, VII, and IX of the Civil Rights Act of 1964, in the same manner and to the same extent as Federal departments and agencies".

The conferees on the part of the Senate strongly objected to the inclusion of this language. Their objections were based on a technical problem in the amendment and on a concern that the House language would place the Corporation for Public Broadcasting in the posture of a Federal department or agency responsible for the promulgation and enforcement of civil rights regulations. The Senate conferees stated that placing CPB in such a posture would be in clear conflict with the intent of the Congress to establish CPB as a private corporation as set forth in section 396(b) of the Act.

Moreover, the Senate conferees were of the view that existing Federal agencies mandated to enforce the civil rights laws should be required to implement those laws with regard to public broadcasting, rather than placing this responsibility on the CPB.

The conferees on the part of the House also expressed concern about the technical problem in the language and about the effect of the language, since it had been raised for the first time during debate in the House with no opportunity for considering it during hearings on the legislation.

The House conferees committed themselves to hold hearings as soon as practicable on the questions raised by this language in the House version and to explore fully the underlying problems of discrimination against minorities and women in public broadcasting. The Senate conferees made a commitment to hold similar oversight hearings.

It is the intention of the conferees that these hearings focus on (1) identifying and documenting precisely where problems of discrimination exist; (2) determining whether the appropriate Federal departments or agencies (including, but not limited to, the Federal Communications Commission; the Department of Health, Education and Welfare; the Justice Department; and the Equal Employment Opportunity Commission) are effectively carrying out their existing antidiscrimination enforcement responsibilities; (3) identifying the appropriate responsibilities of the various public broadcasting entities with respect to non-discrimination in employment opportunity and the provision of services; and (4) considering, if necessary, legislative initiatives to deal with any continuing problems.

The conferees stated their concern that, despite some improvement, discrimination in the employment practices of CPB, PBS, and the public television and radio stations appears to be continuing. They further agree that the Congress should press for an immediate end to such discrimination.

On the basis of this agreement and of the commitment to hearings, the conferees agreed not to include the House language in the conference substitute.

TESTIMONY OF CPB BEFORE CONGRESSIONAL COMMITTEES

Both versions of the legislation contained provisions clarifying the duty of officers and directors of CPB to be available to testify before appropriate Committees of the Congress. The Senate amendment provided that the officers and directors would be available to testify "annually". The House version contained no such limitation and left the determinations to the committees as to how often such testimony would be required.

The conference substitute is the same in this respect as the House bill.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN M. MURPHY,
CHARLES J. CARNEY,
GOODLOE E. BYRON,
LOUIS FREY,
EDWARD R. MADIGAN,
Managers on the Part of the House.

WARREN MAGNUSON,
JOHN O. PASTORE,
VANCE HARTKE,
HOWARD BAKER,
J. GLENN BEALL,
Managers on the Part of the Senate.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Heiting, one of his secretaries, who also informed the House that on December 9, 1975, the President approved and signed bills of the House of the following titles:

H.R. 6692. An act to authorize appropriations for the period July 1, 1976, through September 30, 1976; and

H.R. 10481. An act to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

CONFERENCE REPORT ON H.R. 3474, AUTHORIZING APPROPRIATIONS FOR THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 919 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 919

Resolved, That immediately upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report on the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, and all points of order against said conference report are hereby waived. Debate on said conference report shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology and the chairman and the ranking minority member of the Joint Committee on Atomic Energy. At the conclusion of said debate, it shall be in order for the Chair to entertain separate motions to strike out sections 102 and 103 of said conference report. It shall be in order to debate each such motion, if offered, for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion. At the conclusion of votes on any motion to strike offered under this procedure, and if neither of the motions to strike have been adopted, the previous question shall be considered as ordered on agreeing to the conference report.

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a most unusual rule on a conference report. It provides for 2 hours of general debate on the conference report instead of the ordinary amount of time, and also provides for waiving all points of order against the conference report.

It provides for two specific motions to strike two sections of the conference report, sections 102 and 103. On those two sections, debate is permitted of 40 minutes, 20 minutes on a side; 20 minutes for the proponents and 20 minutes for the opponents. Thus there will be two 40-minute debates on two different motions to strike.

The rule seems to have been worked out rather well before the various members of the several committees came before the Rules Committee. Everybody appearing, with one exception, supported the rule. Therefore, the Rules Committee by a substantial vote reported this rule to the House.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in enthusiastic support of the rule and of the conference report on H.R. 3474, authorizing appropriations for the Energy Research and Development Administration. This bill provides funding authorization for all energy research, development and demonstration, including that for solar, geothermal, fossil, nuclear, and synthetic fuels and energy sources. This authorization bill is a significant step forward in our efforts to achieve national self-sufficiency in energy and to reduce our costly and dangerous dependence on unreliable foreign sources of fossil fuel.

At the present time, the United States is importing almost 40 percent of the oil we consume. The exorbitant price increases decreed by OPEC over the past several years have had a very serious and damaging effect on our national economy, and have been greatly responsible for much of the ruinous inflation and high unemployment afflicting the American people.

About 75 percent of all U.S. energy requirements are now met by burning oil and natural gas, the Earth's most limited fossil energy resources. Eventually, of course, the Earth's fossil fuel resources will be deleted and exhausted, for they are not renewable. Already, crude oil and natural gas production in the United States has peaked and is now declining.

In our national effort to achieve self-sufficiency in energy, our policies must provide the incentives whereby domestic fossil fuel production is encouraged and increased, and sound conservation measures are put in place to reduce domestic consumption.

We must also, however, begin to increase our commitments and our efforts in the field of alternative, nonfossil sources of energy. Such fuels and sources of energy will have to provide the long-term solutions to America's and the world's future energy needs and requirements.

By approval of this authorization bill, the House will be taking an important step in implementing a part of a wise and sound national energy policy.

As a part of our national energy policy, H.R. 3474 places much-needed emphasis on a program of synthetic fuel research, development and demonstration. The purpose of this program is to gain the essential knowledge on the technical problems associated with synthetic fuel production and its desirability as an alternative source of energy.

The program is directly aimed at an initial effort to build 12 to 14 synthetic fuel plants which would produce a total of approximately 350,000 barrels per day of oil-equivalent capacity. It is assumed that this effort will provide the essential information and data necessary to clarify the uncertainties surrounding synthetic fuels as a viable energy option for the United States, while also reducing our dependence on imported crude oil.

It is now apparent that there can be no assurance of adequate industry involvement to build these initial plants without governmental incentives. One major aspect of governmental incentive envisioned in this program is the loan guarantee authority which will provide the required financial incentives for private industry to proceed with a minimum cost and risk to the American taxpayers. The loan guarantee authority is limited to a maximum of 75 percent of the cost, and industry will be required to invest very large amounts of capital and share the risks. The maximum expected cost to the Federal Government over the projected 30-year life of the program is $1.5 billion, and if all the plants prove successful, there will be no cost whatever to the Federal Treasury.

Under the provisions of H.R. 3474, a wide-ranging and sensible package of State and local coordination and assistance is in place for the impacted communities affected by the new synthetic fuel plants. Perhaps more importantly, this bill provides for close coordination, review, and comment among Federal Government, industry, State and local government, and other officials regarding all plant development proposals.

The legitimate environmental concerns associated with the program are, in my judgment, very satisfactorily addressed by other provisions of H.R. 3474. The protection and integrity of the environment is included as an integral part of the program. This protection includes advance planning and consultation with the State and local governments which will continue through plant completion and operation, strict compliance with all applicable laws and regulations, environmental impact statements, and an extensive monitoring of plant construction and operation by the Federal Government.

Finally, Mr. Speaker, the program provides for full and complete review and oversight by the Congress. H.R. 3474 mandates that ERDA regulations and a report for implementing the program will be submitted to the Congress within 180 days after the enactment of the bill. Prior to issuing any guarantee or commitment, ERDA must submit to the Congress a full and complete report on the proposed facility, and the guarantee cannot be finalized for 90 days. In addition, prior to issuing any guarantee or commitment where the cost exceeds $350,000,000, the guarantee cannot be finalized if within the 90 days of the congressional review period, either House passes a resolution against the guarantee or project. I am satisfied that these procedures provide for thorough and complete congressional oversight and control of the entire program.

Mr. Speaker, we have before us for consideration today a bill which I support without reservations because I believe it provides for the American people an energy program which is in the national interest. Let us press ahead with all deliberate speed toward achieving a national energy policy which will achieve for this country national self-sufficiency in energy. H.R. 3474 is an important part of that policy

Mr. Speaker, I urge adoption of the rule, and approval of the bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, the procedure under which sections 102 and 103 of this conference report are before us is really outrageous. It has been used on rare occasions in the House before, but it is seldom that we have swallowed whole a major program that was introduced in the other body without opportunity for House consideration; then there was real urgency involved in the matter, the timing was such that we did not have opportunity to consider it. That certainly is not the case today.

Mr. Speaker, section 102 and section 103 were added on to the ERDA authorization in the Senate without any hearings in the Senate. There will not be any opportunity for us to offer amendments to these sections, even though they formulate a program which could well be far larger than the ERDA authorization itself. They involve loan guarantees of $6 billion to the major energy companies of this country for the development of uneconomic and environmentally hazardous oil shale and synthetic fuels.

The administration has already testified and sent up legislation that in order to make this program viable there has to be another $4½ billion in price supports, $600 million in construction grants and another $400 million in aid to the communities that are going to be devastated and taken apart with the programs that we are encouraging here—and this all without an opportunity for the House to work its will in an orderly manner.

Mr. Speaker, I would be here opposing the rule—and indeed the gentleman from Michigan (Mr. DINGELL) who cannot be here with us did oppose the rule—were it not for the great fairness of our chairman, the gentleman from Texas (Mr. TEAGUE), in assuring us that we could have a separate vote and a separate opportunity to debate on these matters.

But I do think that the House ought to reject these additions. They are the tail that wags the dog. I do think that we should be given this kind of restricted consideration on this huge and important program. It would be a big mistake.

Mr. Speaker, I have talked with people about this, and they say, "Well, we have to do something on the development of synthetic fuels," and therefore they are inclined to support this.

Mr. Speaker, I would like to point out that in the ERDA authorization we are doing something very significant about pushing ahead on synthetic fuels.

If the Members will look at the beginning of the conference report, starting on the front page, they will see that we have provided for research, development, and demonstration of coal liquefaction $96,897,000; we provided for high Btu gasification, coal, $37,838,000; low Btu gasification, coal, $54,671,000.

For oil shale in situ processing, which is the subject of section 102, it is $16 million; for oil shale composition and characterization, it is $1,113,000. There is an additional amount for coal Btu gasification in connection with pipelines of some $55 million, and that is on page 4 of the conference report.

So we have in our committee done, I think, a good and responsible job, providing very substantial amounts for proceeding in an orderly way with the research, development, and demonstration of synthetic fuels.

What we are being asked to do here in sections 102 and 103, however, go far beyond the scope of research, development, and demonstration. We are asked to launch into a $6 billion loan guarantee with another $5½ billion coming behind that for various other related requirements of this program for the commercialization of synthetic fuels.

This means in effect that what we are being asked to do is to subsidize the major energy companies in this country. That is what we are talking about. Those companies are going to get this assistance in what is basically an uneconomic program.

Mr. Speaker, I hope we defeat this add-on provided by the Senate.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE. Mr. Speaker, every item the gentleman from New York (Mr. OTTINGER) mentioned, except two, were passed by this House in June by a vote of 317 to 9. That part of it was disposed of in June.

We are back now with a conference report on this legislation, which was first discussed in the President's Materials Policy Commission in 1952. It was recommended at that time that we do almost exactly what we are doing in this bill today. If we had done it at that time, we would not even be talking about an energy shortage today.

The Paley Commission report completed in 1952 is available for everybody to see. It made practically the recommendations we are making today. President Kennedy in 1963 asked nine department heads: The Director of the Office of Science and Technology, the Council of Economic Advisers, the Bureau of the Budget, the Office of Emergency Training, the Secretary of the Interior, the Secretary of Commerce, the Atomic Energy Commission, the Federal Power Commission, and the National Science Foundation to make a study of the question of energy. But we were fat and happy and had all the fuel we needed; so we did nothing. Again, if we had gone ahead and done something, we would not have an energy problem today.

So, Mr. Speaker, what we are trying to do is to bring out an energy program by this Government that would make us independent and free as far as energy is concerned.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I want to make it clear that I support what we did in research and development on these synthetic fuels, and that we should proceed with it.

Mr. TEAGUE. The gentleman is exactly correct.

Mr. OTTINGER. What I object to is the commercialization feature that was added afterwards. That, I think, was not included in the previous programs, the Truman and Kennedy programs to which the gentleman referred. They supported going ahead with research and development of synthetic fuels, but not on the basis of a $6 billion loan guarantee.

Mr. TEAGUE. Mr. Speaker, sections 102 and 103 were included in the Senate bill and a separate vote is being provided on those sections. I want to remind the gentleman the House has already passed on those other items.

Mr. OTTINGER. Mr. Speaker, I want to commend the gentleman for the fair way he has treated the opponents of these measures.

Mr. TEAGUE. Mr. Speaker, I also offer my commendations to the gentleman from New York. He has worked hard on the bill. We just happen to disagree on certain portions of it.

The gentleman from New York, however, did support the loan guarantee for New York City; is that not correct?

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield further, I would have were I given the opportunity. However, we were not given that opportunity.

The President said the loan guarantee left us no adequate control, so he proposed direct loans instead. I think the issue would be drawn a little bit more clearly if we were talking about money that had to be appropriated for the oil companies instead of this loan guarantee, which seems as though it does not cost anything.

But I think that other matter was a situation where we were trying to help out a municipality with 8 million people who are in dire straits, and that is something that is quite different from guaranteeing $6 billion in order to subsidize the major energy companies of this country.

Mr. Speaker, in closing, I would merely like to say that ERDA is a new organization. At the time we first considered the budget, an Administrator of ERDA had not been appointed. Therefore, for that reason, there were some changes during this year in the budget amounts for various energy research and development.

Mr. MOSHER. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Ohio.

Mr. MOSHER. Mr. Speaker, I thank the chairman for yielding.

I think this is a good point for me to pay personal tribute to the chairman. I have been amazed, pleased, and impressed by the way the gentleman from Texas (Mr. TEAGUE), our chairman of the Committee on Science and Technology, has handled this extremely difficult problem that arose from the fact that the Senate added sections 102 and 103.

Mr. Speaker, I have been so pleased with the chairman of the Committee on Science and Technology because of his patience and his fairness. As the gentleman from New York (Mr. OTTINGER) has just said, the gentleman from Texas (Mr. TEAGUE) has been patient and fair with all of us, the proponents and opponents alike.

Mr. Speaker, I just want to attest that I have seldom seen, in 15 years in this Congress, a controversial issue given more careful, responsible, detailed attention than it has received by the conferees on this bill and by our committee under the leadership of the gentleman from Texas.

I do not think anyone should get the impression that we in the House have not given a lot of attention and thoroughly responsible attention to these two sections.

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent to reserve the balance of my time. A moment ago I did not know that I would have any further requests, and I yielded back the balance of my time; but I now ask unanimous consent to reserve the balance of my time.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. BELL).

Mr. BELL. Mr. Speaker, I rise in support of this legislation.

I would like to commend the chairman of the committee, the gentleman from Texas (Mr. TEAGUE), for the outstanding work that he has done on this bill, and I want to commend the ranking member, the gentleman from Ohio (Mr. MOSHER), for the great job he has done, too.

Mr. Speaker, I wish to rise in support of the conference report on the ERDA authorization bill (H.R. 3474). I urge you to consider this bill and to pass on it favorably so that ERDA may begin its work toward solutions for our future energy shortages.

I invite my colleagues to especially note two sections of the bill which will help our Nation in the short-term and the long-term.

For our short-term needs, I wish to note the authorization for natural gas and oil extraction of $41.5 million. I believe that this amount represents a good compromise between the House authorization of $35 million and the Senate authorization of $58 million. There is no reason for the Federal Government to fund replication of experiments in different formations, as the Senate increases would provide, when the petroleum industry already has the financial incentive to increase its production by utilizing secondary and tertiary recovery techniques.

For our long-term needs, I wish to urge your support for the loan guarantee program for the demonstration of new or unproven energy technologies on a commercial scale. As I have stated before, I have severe reservations about including oil shale at this time, but I also note that the overwhelming majority of ths program is needed now. Also included in this program are authorizations for coal gasification, urban waste conversion, solar energy, geothermal energy, conservation equipment, and others.

In conclusion, even though I find myself unable to support certain sections of this bill, on the whole it is a good piece of legislation and is needed by our country.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, back on March 1, 1951, I introduced H.R. 3022, a bill to construct some coal liquefaction plants in this country because the demonstration program that we were conducting at that time in Louisiana and Missouri had proved to be very effective. In other words, gasoline could be made within 2 cents as cheaply from coal as it could from crude oil, back in 1951.

In 1953, when we had the Interior appropriation bill on the floor here, the big oil companies decided that they did not want this coal liquefaction program to go forward. They had the votes, through their influence, to knock the appropriation out of the bill, and so the demonstration plants were dismantled.

I came before the Chamber today to state that I hope that we do not make the same mistake today that we made back in 1953. This coal liquefaction and gasification program should have been inaugurated years and years ago, and it saddens me to think that after the emergency in 1973, we kept dillydallying and delaying and doing nothing about coal liquefaction and coal gasification.

Mr. Speaker, if we ever expect to be independent and not have to bow down to the OPEC countries, we have to go into coal liquefaction and coal gasification.

We have the technological know-how

and through coal liquefaction we can have energy independence. But we are not going to get companies to construct a commercial scale liquefaction plant unless we give some assurance we will not hold them responsible beyond the plant that they are building, and in exchange they must foster competition. If we do not do it that way there is only one other way to do it and that is let the Government turn it over to the scientists and lease it out to the oil companies or whoever may want to lease the byproducts, lease it to someone to operate at a reasonable profit.

I would hope that we would go ahead and approve the ERDA conference report because I cannot foresee this Congress turning this over to the scientists to do as they did when they built the synthetic rubber plants during World War II, unless we have a much greater emergency.

But, Mr. Speaker, we are hurting ourselves every day we delay in not going forward with these liquefaction and gasification plants.

Adequate hearings have already been held. I went before two science and technology subcommittees about a year ago and testified at length about these plants which have been proposed at different times in the United States. In 1951 one was proposed in Illinois. At that time one would have thought the roof had blown off of the Department of the Interior because the oil companies opposed it and they knocked it in the head.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I am very interested in the gentleman's remarks about the synthetic rubber industry with which I have more than a passing familiarity. Let me point out a couple of important distinctions, however. It is true that the Government underwrote the cost of developing a synthetic rubber industry during the war while the various private companies, oil and tire companies, managed the plants.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield 1 additional minute to the gentleman from Kentucky.

Mr. SEIBERLING. If the gentleman will yield I will continue.

But one of the things that the Government did was to require all the synthetic plant operators to pool all of their technology and all of their know-how and their patents, so that when the plants after the war were sold to private enterprise everyone got rights under all of the patents and know-how. In other words, the public benefited from the competition that resulted from the Government having the right to license the technology that resulted from the Government-financed synthetic rubber program. But in this bill, the Government puts $6 billion of its full faith and credit on the line and the beneficiaries do not even have to report the technology to the Government.

Mr. PERKINS. Mr. Speaker, if I may answer the gentleman from Ohio, only those companies will be authorized to borrow money that foster competition, if I understand this report correctly.

Also, we have no environmental problem. Coal liquefaction has been going on in South Africa for 25 years. If we want to send someone down there to find out if they have an environmental problem, then that should be done forthwith. These plants can be constructed where we have the necessary water and other facilities, and I would urge the House not only to adopt the rule, but to support this amendment and vote against sending the conference report back.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Speaker, I strongly support this rule. I think there were only one or two Members of the House who opposed this rule before the Committee on Rules yesterday. I appreciate the Committee on Rules allowing a separate vote on sections 102 and 103 which are, indeed, controversial sections of this legislation. I hope that no Member of the House will overlook the fact that there are very much more important sections of this legislation which authorize close to $5 billion in research and development for the development of both nonnuclear and nuclear energy. Personally, I feel that the nuclear side has been overemphasized. Had we spent in the years that the gentleman from Texas (Mr. TEAGUE) talked about since the Paley report and the Kennedy request, one-tenth of the amount that we spend on nuclear development for R. & D. in nonnuclear areas, we would not have to come in with this crazy package of a $6 billion loan guarantee and a giveaway of public lands in sections 102 and 103. I regret very much by hindsight that a substantial investment was not made earlier in coal gasification and liquefaction.

This brings us to the point that we are going to be considering two very extraneous sections of this conference report which were written in by the Senate at the last minute. The rest of the legislation is excellent. As the chairman pointed out, the original ERDA bill was passed by an overwhelming vote in the House on the 20th of June, 1975. The bill went over to the Senate where at the last minute the Senate Interior Committee, without any specific hearings on loan guarantees—measure those words carefully: no specific hearings on synthetic fuels loan guarantees—wrote in the $6 billion loan guarantee.

It is very easy, as Members are going to do, to come in here and say that the Senate has held hearings over 4 years on synthetic fuels development. But they held no hearings on loan guarantees, and then the day before the Congress recessed on its August recess, the 31st of July, at the 11th hour the Senate passed this legislation with the addition of sections 102 and 103.

The very next day, August 1, I wrote a letter to the ERDA Administrator, Dr. Seamans, asking his reactions to sections 102 and 103. As the chairman knows, we did not get a response and so I wrote a second letter early in September. Not until September 9 did Dr. Seamans respond to that letter. It was not until early September that the administration woke up and decided that it would get on the bandwagon on what had been passed in the Senate for loan guarantees and for this public lands giveaway. It was at this point that our chairman, the gentleman from Texas (Mr. TEAGUE) performed a very statesmanlike action. He insisted that there be some hearings on sections 102 and 103.

I would like to add to the many words of commendation that have been expressed here on the floor for the best chairman in this House, the gentleman from Texas (Mr. TEAGUE). He has done what has been said about him and far more in preserving equity and exercising real leadership, and in bringing this bill to the point where it now is. I am grateful for the opportunity to serve on the great Committee on Science and Technology so ably chaired by TIGER TEAGUE.

I would like further to commend the gentleman from Washington (Mr. McCORMACK) who heads the Subcommittee on Energy Research, Development, and Demonstration of the Committee on Science and Technology, who held several days of hearings in developing the facts concerning sections 102 and 103. But most particularly, in addition, I would like to commend the gentleman from Arkansas (Mr. THORNTON) who possesses one of the finest legal minds in this body. He and I differ on section 103; yet he conducted hearings on this section with great thoroughness and fairness and came out with some very complete analysis which raised certain questions about this section. Mr. THORNTON was the author of legislation which he introduced last February to establish a National Power Resources Authority designed to fill the Nation's energy needs. Mr. THORNTON also assisted in the drafting of legislation which he, Mr. WIRTH and I introduced on September 19 as a framework for discussion.

I would like to add my further commendation to our colleague, the gentleman from Colorado, Mr. TIM WIRTH, who did a yeoman job in presiding over hearings both here in Washington and in the field hearings in Colorado.

Mr. Speaker, 2 weeks from today is Christmas. We are all hoping that the legislative session might end so we might get home for Christmas. But I think it would be stretching the Christmas spirit a little far for this body to give a $6 billion Christmas present to the big energy companies and a Christmas present of public lands as are provided in section 102.

At the appropriate time I hope the House will sustain a motion to strike these two sections which were introduced at the last minute in the Senate, which have not gone through the usual legislative process with an opportunity for the House to work its will on them. The House had no opportunity to amend and perfect, despite the many improvements which were written in during the conference, thanks to the leadership of the gentleman from Texas, Chairman TIGER TEAGUE.

Mr. QUILLEN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. Mosher).

Mr. MOSHER. Mr. Speaker, I welcome this time to add to the comments I made a few moment ago in which I paid my personal tribute to what the gentleman from West Virginia (Mr. Hechler) has just called, and I agree with him, the statesmanlike procedures which the gentleman from Texas, Chairman Teague, insisted upon in the handling of sections 102 and 103.

I repeat again my agreement with the gentleman from New York (Mr. Ottinger) that the gentleman from Texas (Mr. Teague) was very fair. I think the procedures by which—and they were unusual, there is no question about it—we have considered these two sections have been excellent.

I want to comment just a bit on the surprising comment of the gentleman from New York (Mr. Ottinger). If I understood him correctly, he indicated he did not see the urgent need for considering sections 102 and 103 today. I usually have a great regard for the judgment of the gentleman from New York (Mr. Ottinger), but I simply cannot agree with his minimizing the urgency of the need for this type of legislation. It seems to me that the leadtime involved, the fact that in the 1980's this Nation is going to have a tremendous need for a successfully developed commercial industry in these fields, in the synthetic energy fields, that very fact that in the 1980's we are going to have that urgent need, certainly means that today thus far we have done too little and we are too late, as the gentleman from Kentucky suggested. We have been too little and too late in getting going in a practical way.

I suggest that the principal reason for sections 102 and 103 is experience to develop the information for which we have an imperative need before the Nation and private industry can accomplish the initiation of the industrial development for the 1980's.

We need that information as rapidly as we can get it. It must be responsible. It cannot be hurried. If we wait several years, as I think the opponents are suggesting, we will face an emergency situation then when we cannot responsibly handle the environmental concerns. We need that information developed on an orderly, responsible basis as rapidly as we can get it.

That, as I see it, is the genuine urgency for passage of this legislation. I think the only alternative we have, if we do not pass this legislation, is to wait until it will be too late and too little.

We will then fail to give the social economic impacts adequate consideration. We will fail to give environmental matters adequate consideration. This is the way to do it responsibly.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. Yes, of course.

Mr. OTTINGER. Mr. Speaker, I have a tremendous amount of admiration for the gentleman; he has done a great job as the ranking member of our committee.

I agree with him on the need for developing synthetic fuels as one of the tools that may work out to be feasible for making us energy independent; but I think using the energy crisis to promote a really bad program of subsidizing the major energy companies in the way provided in sections 102 and 103 is not wise. There are other alternatives. We could go into a TVA kind of operation. We could go into a Government partnership like COMSAT. But to load the capital market with a $6 billion guarantee and another $4.5 billion needed for sure support to make it feasible—and $100 billion for the Rockefeller-Ford independent corporation coming down the road it is a bad way for us to operate. It is particularly bad for us to do this in a way in which the House does not have a full opportunity for consideration—by accepting a Senate add-on to the conference report.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. QUILLEN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. MOSHER. Mr. Speaker, I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I support the 300 millions of dollars in the ERDA bill for synthetic fuel research and development, but I cannot endorse this $6 billion loan guarantee. I agree with the Wall Street Journal that has a blistering editorial today against this program on the basis it is Government intrusion into the capital market for the benefit of the big oil companies.

Mr. Speaker, I ask unanimous consent to include the article from the Wall Street Journal at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The editorial follows:

Burp!

The cover of the current issue of Newsweek is suitable for framing and would make a nice Christmas present for every member of Congress. Under a headline that reads, simply, Big Government, sits an illustrated Uncle Sam weighing several hundred pounds, bloated and ready to burst.

How does he get so fat? Even though he knows he should slim down, Sam cannot resist eating tempting morsels. This week it's a $6 billion loan-guarantee program of the Energy Resources Development Administration to develop synthetic fuels. The bureaucrats says "synfuel." When this bold new program hit the Senate floor Tuesday, it was gobbled up by an 80-to-10 vote. No hearings. Almost no debate. About the only opposition came from the liberal Democrats, not because another $6 billion is fattening, but because it doesn't suit their environmental tastes.

Why should the federal government be getting into the business of developing synthetic fuels? Well, er, there's an energy crisis, isn't there? Can't we invent our way out of it? Like the Manhattan Project? Turn our scientists loose and have them find ways to turn coal into gas or coal into oil or squeeze the petroleum out of shale. Private enterprise, not Uncle Sam, really does the job. The government only puts up the cash, indirectly, by guaranteeing loans that banks would otherwise deem too risky. Jobs will be created, won't they? And because Uncle Sam doesn't do any of the actual work, it doesn't make the government bigger, does it?

It is this kind of rationalization that tempts even the congressional conservatives, who would decry the scheme if it meant setting up a Federal Synfuel Corporation. But there is no significant difference in handling the scheme one way or the other. ERDA bureaucrats, not the marketplace, will decide which synfuel projects get the priorities. ERDA bureaucrats, not the marketplace, will decide which companies get the loan guarantees. ERDA bureaucrats, after heavy lobbying from the politicians, will decide which regions of the nation will be favored with demonstration projects.

To their credit, the great majority of the petroleum companies oppose this scheme because they know how damaging it will be to the national economy. Instead of applying their financial and technical resources to research projects that seem to be the most economically promising, the industry will be wagged by Washington. To remain competitive, companies will be forced to focus their efforts on politically pet projects, engaging in energy grantsmanship in the same way that city and state officials fought for federal matching funds in "solving" the urban crisis. Cities abandoned their own priorities, for which no free money was available, and adopted the federal priorities. The $6 billion ERDA scheme is conceptually the same as an urban renewal scheme, and might as well be called Energy Renewal.

The fact that the $6 billion would not be a direct expenditure of tax money, and would not show up as an item in the federal budget, is only fiscal gimmickry. The economic effect is the same as if the government squeezed $6 billion in taxes out of the private economy where it would be spent economically, and shoveled it into projects that are, by definition, uneconomic.

There is business support for the ERDA scheme, mostly from the natural gas producing and pipeline companies, which have become uneconomic because of previous meals Uncle Sam has made of them through price controls. They apparently figure they might as well blend uneconomically low-priced gas with uneconomically high-cost gasified coal and somehow come out even. Thus, the solution to problems caused by government interference is more government interference.

Although they might hate to admit it, those conservatives who so easily swallowed the ERDA bill helped move Uncle Sam toward nationalization of the energy industry. The synfuel project will inevitably become more costly, wasteful, corrupt and politicized, and as a "solution" to these problems Uncle Sam will be asked to step in and do the job right. That's how he gets so fat.

Mr. MOSHER. Mr. Speaker, I appreciate the personal remarks the gentleman from New York (Mr. Ottinger) made concerning me; however, the gentleman and I are going to have to agree to disagree on this matter.

Certainly I disagree with the Wall Street editorial today. It indicates that the Journal has a serious misunderstanding of what this is all about.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, let me state to my distinguished colleague from New York that I can appreciate everything the gentleman has stated, but it appears to me we cannot expect any company to participate that would be under the impression that when they invested their own money, if they did not have a guarantee, that the rug could be pulled out from under them by the OPEC countries by lowering the price of crude oil to the extent of bringing about great losses on the finished product.

This is the only sensible approach, to my way of thinking, that we can go about this thing. I would hope we could move in this direction and not dillydally any longer and not let other countries run our affairs and take over our business in this country and cause 10 or 15 percent additional inflation every year.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I rise in support of this rule and commend the chairman of the committee, the gentleman from Texas (Mr. TEAGUE) and the gentleman from Ohio (Mr. MOSHER) for bringing this bill before us. I also rise in support of the bill, and particularly in support of sections 102 and 103.

With the uncertainty of our energy program in America today, with an apparent deadlock about what we the Congress might or might not do, the passage of sections 102 and 103 may well be one of the few meaningful accomplishments we could achieve in the energy field in this session.

I think it is vitally important that we pass this measure, especially with regard to oil shale and the coal gasification program.

Mr. Speaker, when I served on the House Science Committee in the last Congress we made detailed studies of proposed in situ oil shale processes, then in the very early stages of development. They seemed like dreams come true—a method to make use of our vast oil shale deposits without all the extensive aboveground impact of other methods—a method to use these resources without draining valuable water resources of our Western States.

I have kept up with the progress of experiments with in situ oil shale development, and so far everything seems to be living up to earlier promises. What is needed now is a full-scale demonstration in shale rich enough to be commercially and economically feasible. But getting hold of a good rich deposit for a promising but not yet fully proven technique has not proved an easy matter. In fact it has been a major roadblock to the final research on in situ development.

Section 102 breaks that roadblock in a sound and speedy manner. I hope that all Members will consider the vast resource that could be opened up by successful—and environmentally acceptable—oil shale development and vote for section 102.

Mr. Speaker, I also rise in support of section 103 of the ERDA conference report.

I am aware that this is the first opportunity the House has had to vote on this section. However, the important thing is a separate vote is being provided now. Over the past 3 months 23 House hearings have been held on sections 102 and 103—more than the number of hearings held on the rest of the bill. Moreover, the synthetic fuels proposal has been aired and reviewed repeatedly in the public media and in communications within the House. Quite frankly, although this section was not included in the original House bill, I think it is fair to say that seldom has a legislative proposal received more special attention in the House than has this one.

I think it is clear that section 103 embodies a needed program. Without it we can expect a slow, disjointed development of alternative fuel resources. This will mean concentration of the development in the hands of only the very largest concerns—for they will be the only ones who could afford the risks involved or secure the necessary financing. It would mean helter-skelter environmental and development effects. And it would slow down the development of alternative fuels considerably. Care has been taken to see that this program acts as a supplement to and does not disrupt Federal energy research and development now underway.

We are simply at the point now where development of synthetic fuels will either go the way of the Roman steam engine—a device for toys only—or will become a valuable addition to our national energy supplies. I vote for the latter and I hope that the House will do likewise today.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I support this bill wholeheartedly. It clearly represents the most positive advance the Congress has made this year to develop new energy supplies for the Nation.

Last February, the Democratic leadership of the House and Senate issued a joint report calling for a wide range of vigorous actions to move our country rapidly and resolutely in the direction of energy sufficiency.

A few but by no means all of the initiatives mandated in that call for action have been accomplished in this session of the Congress.

In total candor, I must say as chairman of the House Task Force which helped put together that comprehensive program that what began as a thrilling and dramatic enterprise has degenerated at times into a farcical comedy of frustrations.

Too often the Congress has been simply unwilling to make the hard decisions and take the difficult steps necessary to achieve energy sufficiency for the United States.

Too frequently a majority of our Members has appeared so preoccupied with the next election as to forget about the next generation.

We have frittered away much of the year in quibbling and quarreling and petty bickering about little things.

This is the only bill to come before us that carries out the basic mandate to get something moving and impel this country significantly forward toward energy independence.

In February the Democratic leadership of the House and Senate published a document in which we made promises to the American public that this Democratic Congress was going to move forcefully to reduce our reliance upon foreign energy resources.

We have not done those things, my colleagues. Let me just recite to the Members some of the things that were mandated in that report.

"Strong measures,"—we said so boldly—"Strong measures are needed to encourage the conversion to environmentally sound coal use."

That report speaks of "tax credits, loan programs" and other incentives to industry to invest in the necessary facilities. It goes on to say, "A commercial demonstration of new synthetic fuels from coal should be undertaken with an ultimate production goal reaching the equivalent of 500,000 barrels of oil per day."

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I will yield to my friend from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, I was proud to serve along with my colleague, the gentleman from Washington (Mr. MCCORMACK) on that task force.

Mr. WRIGHT. That is what surprises me so much, I say to the gentleman. Why is he now opposing those very things the task force recommended?

Mr. HECHLER of West Virginia. Is it not correct that this task force recommended an organization similar to the War Production Board in World War II—a National Energy Production Board for the commercial production of these synthetics, rather than turning the money over to private companies through a loan guarantee?

Mr. WRIGHT. It did recommend such a Board as that, among other things, but not exclusively. And it did not make its other recommendations contingent upon the creation of such a Board. It also recommended loans, and it recommended tax credits, and it recommended "joint ventures with industry" and it recommended "sufficient Federal financial support to proceed immediately." I emphasize the word "immediately."

We have had all year, I say to my colleague. We have not done one truly substantial thing to increase energy supplies.

The gentleman from New York, I think, said, where is the urgency? That is the essential question. I think we desperately need a since of urgency.

In 1952, the Policy Commission said that we should do these very things. There was no sense of urgency then, and we did not do them. What must we do, wait until the crisis has us by the throat?

An energy crisis is approaching. It is as inevitable as tomorrow's sunset. Unless we prepare for it, its impact could be positively crippling to the American economy and to our accustomed living standards.

That crisis will arrive not in the wake of some new Arab oil embargo but 12 or 15 or 20 years from now when in our voracious thirst for power we shall have eaten our way through the world's finite resources of petroleum.

When that time comes, the quality of our statesmanship will be judged by the extent to which we shall have exhibited the vision to have brought into being the actual production of synthetic energy replacements in sufficient quantity to meet our needs.

In the intermediate run, that means coal. In the longer run, it means power from solar and geothermal and other exotic sources.

This bill presently before us is the first bold step in hastening the day when we shall have power from those sources.

We have enough coal in this country to last us for several hundred years. By known technology, in conversion plants of sufficient size, we already could be producing synthetic fuel oil for somewhere in the range of $9 a barrel.

The only roadblock is that any plant of the required capacity will cost several hundred million dollars. Without some encouragement and some assurance from Government, private investors simply do not exist who can commit such massive capital outlays.

What in Heaven's name are we waiting for?

Throughout the 1960's this Nation arose to a far more audacious challenge and invested far vaster expenditures of public funds in space exploration. Bold enough to venture, we accomplished our goal.

Which is more important to us? Outer space, or the future economic independence of the United States?

As I have said, the Paley Commission appointed by President Truman warned us of the coming energy shortage in 1952 or 1953 and recommended the very things this bill provides. But Congress could muster no sense of urgency. Now it is 22 years later, and a sense of urgency is imperative.

Other less wealthy nations are moving ahead. South Africa has already invested more than $1 billion in coal liquefaction facilities expected to produce more than 70,000 barrels of synthetic crude oil daily. Our gross national product is 44 times theirs. An equivalent effort on our part would be $44 billion, enough to cut our national deficiency and our level of imports roughly in half.

Yet we quibble and quarrel today about $6 billion in Government loan guarantees to stimulate American industry to an effort which, compared to our financial means, is less than one-seventh as bold.

This bill which Chairman Teague and his committee have brought to us from conference builds upon our own successful example during World War II. With our sources of rubber cut off by the Japanese, we wasted no time in timid equivocation. We moved quickly and forcefully to build a synthetic rubber industry.

Must we wait until crisis has us by the throat?

The bill before us is in the best American tradition of government and industry working together to meet the Nation's needs.

It is the one approach on which the Congress and the President can agree.

It is our one remaining chance to produce a truly meaningful national energy initiative before this year expires.

May future historians not have to lament that we were too timid to attack the problem, too quarrelsome to get together, and too petty to act.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I want to associate myself explicitly and in every detail with the remarks of the gentleman from Texas (Mr. Wright).

Mr. Speaker, I want to say that, while the gentleman from West Virginia (Mr. Hechler) is correct, that our committee did recommend an Energy Production Board, it did not do so exclusively. As the gentleman in the well (Mr. Wright) has so succinctly stated, it recommended a whole series of options, one of which we are considering today.

Mr. Speaker, the gentleman has said that we have taken no action.

If we enact this legislation today, we will be enacting the most important energy bill this Congress has ever undertaken, and this will be the first major step forward out of the energy crisis.

Mr. WRIGHT. I agree with the gentleman emphatically.

Mr. BOLLING. Mr. Speaker, I urge a vote on the rule, so that we may proceed with the two hours of consideration on general debate of the conference report.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks, and include extraneous material, on the conference report on the bill H.R. 3474.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 8, 1975.)

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

The **SPEAKER.** The gentleman from Texas (Mr. Teague) is recognized for 30 minutes, and the gentleman from Ohio (Mr. Mosher) is recognized for 30 minutes.

Mr. TEAGUE. Mr. Speaker, I will only take a couple of minutes. I would like to express my appreciation for the kind words that have been said about me. But what I would like to say is that this committee and this staff has done the best job I have ever seen on a bill since I have been in Congress. I think the gentleman from Washington (Mr. McCormack) set the pace last January when he began hearings at 8 o'clock in the morning and he continued them through the day and on through the months until this bill was completed.

Mr. Speaker, H.R. 3474 authorizes appropriations for the Energy Research and Development Administration for fiscal year 1976 and the transition period. In the House, this bill has been handled jointly by the Joint Committee on Atomic Energy and the Committee on Science and Technology. The Joint Committee handled the nuclear programs and the Science Committee handled the nonnuclear ones.

Since a number of the budget elements are relevant to both nuclear and nonnuclear activities, programs such as basic research and environment and safety were considered by both committees. In the conference, managers appointed from the membership of these two committees restricted themselves to items in conference that were within the jurisdictions of their respective committees.

The conference report recommends $4,992,483,000 for fiscal year 1976 and $1,270,983,000 for the transition period. These fiscal year 1976 totals are $408,802,000 above the House bill, while the corresponding difference for the transition period is $95863,000.

The major ERDA nonnuclear programs are fossil, solar, geothermal, and conservation research, development, and demonstration. The increases above the original ERDA request for these, as well as the nonnuclear portions of those programs which are jointly authorized by the Science Committee and the Joint Committee, total $440,471,000 for fiscal year 1976 and $108,652,000 for the transition period. These are $118,561,000 and $31,402,000 above the House-passed figures for these periods, and $15,882,000 and $3,733,000, respectively, below the Senate-passed figures.

These significant increases represent the effects of an amended ERDA budget request, which the Senate had before it but the House did not, and the strong feeling of our conferees that funding for these nonnuclear programs, together with the associated environmental controls, must be a high national priority.

Mr. Speaker, at this point I would like to insert summary tables in the Record which show the budget changes:

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SUMMARY—FISCAL YEAR 1976 CONFERENCE COMMITTEE RECOMMENDATION

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
Fossil energy development:						
Senate authorization	398,733	77,274	73,000	425	549,432	
House authorization	337,040	54,620	20,000	425	412,085	434,485
Conference recommendation	357,373	72,023	68,000	425	497,821	
Original ERDA request	325,040	47,620	20,000	425	393,085	
Amount recommended exceeds original ERDA request	32,333	24,403	48,000	0	104,736	----------
Solar energy development:						
Senate authorization	97,100	26,248	10,000	0	133,348	
House authorization	96,223	98,577	0	3,000	197,800	89,200
Conference recommendation	97,100	62,425	10,000	3,000	172,525	
Original ERDA request	57,100	13,200	0	0	70,300	
Amount recommended exceeds original ERDA request	40,000	49,225	10,000	3,000	102,225	----------
Geothermal energy development:						
Senate authorization	33,870	−3,757	10,000	620	40,733	
House authorization	37,650	15,620	0	3,120	56,390	31,390
Conference recommendation	34,750	8,520	10,000	3,120	56,390	
Original ERDA request	28,370	−5,600	0	620	23,390	
Amount recommended exceeds original ERDA request	6,380	14,120	10,000	2,500	33,000	----------
Conservation research and development:						
Senate authorization	131,280	36,055	0	2,450	169,785	
House authorization	85,862	37,918	0	11,500	135,280	71,820
Conference recommendation	107,555	37,150	0	11,500	156,205	
Original ERDA request	35,020	4,000	0	2,450	41,470	
Amount recommended exceeds original ERDA request	72,535	33,150	0	9,050	114,735	----------
Physical research (increment only:						
Senate authorization	18,000	6,000	0	5,000	29,000	----------
House authorization	13,450	2,450	0	4,100	20,000	----------
Conference recommendation	15,725	3,750	0	4,600	24,075	----------
Environment and safety (increment only):						
Senate authorization	26,500	8,000	6,800	0	42,100	----------
House authorization	10,800	2,700	0	2,000	15,500	----------
Conference recommendation	26,500	8,800	6,800	2,000	44,100	----------
Advanced energy systems supporting activities:						
Senate authorization	6,550	2,600	0	0	9,150	
House authorization	6,550	2,600	0	0	9,150	11,350
Conference recommendation	6,550	2,600	0	0	9,150	
Scientific and technical education:						
Senate authorization	5,000	1,700	0	0	6,700	
House authorization	4,000	1,000	0	0	5,000	0
Conference recommendation	4,500	1,350	0	0	5,850	
CEQ, WRC, NBS:						
Senate authorization	3,200	0	0	0	3,200	
House authorization	1,500	0	0	0	1,500	2,750
Conference recommendation	2,750	0	0	0	2,750	
Program support (increment only):						
Senate authorization	10,300	0	0	0	10,300	----------
House authorization	6,600	0	0	0	6,600	----------
Conference recommendation	9,000	0	0	0	9,000	----------
Total Senate authorization	730,533	154,920	99,800	8,495	993,748	----------
Total House authorization	599,675	215,485	20,000	24,145	859,305	----------
Total conference recommendation	661,803	196,618	94,800	24,645	977,866	----------
Total original ERDA request	452,080	61,820	20,000	3,495	537,395	----------
Total amount recommended exceeds original ERDA request	209,723	134,798	74,800	21,150	440,471	----------

SUMMARY—TRANSITION PERIOD CONFERENCE COMMITTEE RECOMMENDATION

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
Fossil energy development:						
Senate authorization	76,425	46,625	21,250	200	144,500	
House authorization	61,230	40,850	8,000	200	110,280	113,130
Conference recommendation	69,071	43,279	20,000	200	132,550	
Original ERDA request	58,030	39,300	8,000	200	105,530	
Amount recommended exceeds original ERDA request	11,041	3,979	12,000	0	27,020	----------
Solar energy development:						
Senate authorization	24,550	9,170	2,500	0	36,220	
House authorization	34,075	14,625	0	0	48,700	26,100
Conference recommendation	24,500	19,203	2,500	0	46,203	
Original ERDA request	14,500	5,900	0	0	20,400	
Amount recommended exceeds original ERDA request	10,000	13,303	2,500	0	25,803	----------
Geothermal energy development:						
Senate authorization	4,425	2,460	2,500	200	9,585	
House authorization	10,100	3,350	0	200	13,650	7,650
Conference recommendation	10,100	850	2,500	200	13,650	
Original ERDA request	3,050	2,000	0	200	5,250	
Amount recommended exceeds original ERDA request	7,050	−1,150	2,500	0	8,400	----------
Conservation research and development:						
Senate authorization	32,148	7,795	0	500	40,443	
House authorization	20,873	8,160	0	2,900	31,933	17,740
Conference recommendation	26,798	6,210	0	2,900	35,908	
Original ERDA request	8,083	−250	0	500	8,333	
Amount recommended exceeds original ERDA request	18,715	6,460	0	2,400	27,575	----------
Physical research (increment only):						
Senate authorization	4,500	1,500	0	1,250	7,250	----------
House authorization	3,500	900	0	600	5,000	----------
Conference recommendation	3,391	1,168	0	1,037	6,136	----------
Environment and safety (increment only):						
Senate authorization	6,625	2,200	0	0	8,825	----------
House authorization	2,700	675	0	500	3,875	----------
Conference recommendation	6,625	2,194	0	500	9,319	----------
Advanced energy systems supporting activities:						
Senate authorization	1,480	300	0	0	1,780	
House authorization	1,480	300	0	0	1,780	2,780
Conference recommendation	1,480	300	0	0	1,780	
Scientific and technical education:						
Senate authorization	1,250	425	0	0	1,675	
House authorization	1,000	250	0	0	1,250	0
Conference recommendation	1,125	337	0	0	1,462	
CEQ, NRC, NBS:						
Senate authorization	800	0	0	0	800	
House authorization	375	0	0	0	375	450
Conference recommendation	687	0	0	0	687	
Program support (increment only):						
Senate authorization	2,600	0	0	0	2,600	----------
House authorization	1,700	0	0	0	1,700	----------
Conference recommendation	2,250	0	0	0	2,250	----------
Total Senate authorization	154,803	70,475	26,250	2,150	253,678	----------
Total House authorization	137,033	69,110	8,000	4,400	218,543	----------
Total conference recommendation	146,567	73,541	25,000	4,837	249,945	----------
Total original ERDA request	85,143	47,250	8,000	900	141,293	----------
Total amount recommended exceeds original ERDA request	61,424	26,291	17,000	3,937	108,652	----------

Please notice that they cover both costs which were included in the Senate bill and obligations—found in the House bill. Obligations are the sum of costs and "Changes in Selected Resources."

The cost budget used by ERDA has been adopted from AEC practice in the past. The budget consists of costs which are actually incurred within the fiscal year and "changes in selected resources." The sum of these is the agency request for authorization and appropriation.

The Selected Resources account consists of three elements:

First. Goods and Services on Order.—Obligations outstanding at the end of a fiscal year (in this case fiscal year 1975) for materials and services on order but not yet delivered or costed to programs. With respect to former AEC programs, it also includes prefinancing requirements associated with the Government-owned contractor-operated (GOCO) laboratories which were transferred to ERDA.

Second. Inventories.—Unissued supplies, materials, spare parts, heavy water, precious metals, isotopes, and fuel for research reactors. All charged to program costs when actually issued.

Third. Collateral Funds and Other Deposits.—Insurance collateral funds, termination trust funds, annuity funds and other deposits, principally related to GOCO operations.

Changes in Selected Resources is defined as the changes in the Selected Resources account during the fiscal year.

With respect to the nonnuclear energy programs, the selected resources account consists principally of outstanding contracts and undelivered orders.

Mr. Speaker, there is no controversy, as far as I can determine, on any part of the conference report other than section 102, which authorizes an in situ oil shale demonstration and section 103, which authorizes a loan guarantee program for the commercial demonstration of new energy technologies.

Section 103 authorizes up to $6 billion in guaranteed loans. It is designed to make possible the commercial demonstration of full scale facilities in a number of new energy technologies. This is not a subsidy for the participating companies, but rather a sharing of the financial risk of the construction of these first-of-a-kind facilities.

The alternative to this approach is clearly total Government funding of these projects—a much more expensive, time-consuming approach.

The loan guarantee program covers a wide variety of nonnuclear energy technologies. They include coal gasification, coal liquefaction, oil shale, all types of solar energy, tidal energy, and energy efficient industrial equipment and facilities. Section 103 also provides for certain Energy Research, Development, and changes in the geothermal loan guarantee program enacted last year under Public Law 93-410, the Geothermal Demonstration Act of 1974, in order to bring the two programs into closer conformity with regard to financial details.

As approved by the conferees, adequate safeguards for the environment and people in the impacted areas are contained in this bill.

It is critical that we act now to demonstrate, wherever possible, the commercial viability of new energy technologies. This is especially important for coal liquefaction, coal gasification, and oil shale. The importance of this was emphasized in the recent Office of Technology Assessment Analysis of the ERDA plan and program. The OTA report stated that commercial-scale demonstration plants should be the keystone of the ERDA fossil program, and further stated that the Federal Government should consider incentives such as loan guarantees, if these plants are to be built expeditiously.

I want to emphasize that similar loan guarantee programs have been approved by Congress in the past. Last year we enacted a law, Public Law 93-410, which provides for geothermal loan guarantees.

Earlier this year a similar provision for electric vehicles passed the House in H.R. 8800. More recently, the House conferees on S. 622, the oil pricing bill, approved a loan guarantee program for coal mine development.

The committee has given careful scrutiny to this loan guarantee program. We have not legislated in a vacuum. We have heard over 75 witnesses on this subject since September, and developed a wealth of information which led to the many revisions in the Senate language.

Mr. Speaker, in 1952 the Paley Commission laid out a comprehensive program for energy technology development. In 1964, the Federal report on energy R. & D. and national progress also called for the rapid development of new energy technologies. Again in 1972, the report of the House task force on energy presented a new call for action in its report on energy R. & D. I am including relevant portions of these reports in the Record at this point:

Resources for Freedom

The Commission: William S. Paley, Chairman; George R. Brown, Arthur H. Bunker, Eric Hodgins, Edward S. Mason).

Summary of Volume I

PRESIDENT'S MATERIALS POLICY COMMISSION REPORT

The question, "Has the United States of America the material means to sustain its civilization?" would never have occurred to the men who brought this nation into greatness as the twentieth century dawned. But with the twentieth century now half gone by, the question presses and the honest answers are not glib.

The United States, once criticized as the creator of a crassly materialistic order of things, is today throwing its might into the task of keeping alive the spirit of Man, and helping beat back from the frontiers of the free world everywhere the threats of force and of a new Dark Age which rise from the Communist nations. In defeating this barbarian violence, moral values will count most, but an ample materials base must support them. Indeed, the interdependence of moral and material values has never been so completely demonstrated as today, when all the world has seen the narrowness of its escape from the now dead Nazi tyranny, and has yet to know the breadth by which it will escape the live Communist one—both materialistic threats aimed to destroy moral and spiritual man. The use of materials to destroy or to preserve is the very choice over which the world struggle today rages.

The full report of the President's Materials Policy Commission, Resources for Freedom, has as its central task an examination of the adequacy of materials to meet the needs of the free world in the years ahead. Even a casual assessment of these years shows many causes for concern. In area after area we encounter soaring demands, shrinking resources, the consequent pressure toward rising real costs, the risk of wartime shortages, the strong possibility of an arrest or decline in the standard of living we cherish and hope to share. As a Nation, we are threatened, but not alert. The Materials Problem now demands that we give new and deep consideration to the fundamental upon which all employment, all daily activity, eventually rests: the contents of the earth and its physical environment.

None of us in the United States, whether in civilian or military life, is easily accustomed to the idea that raw materials can be a problem. Indeed, America's problem today is precisely the reverse of the problem to which all our tradition has accustomed us. A hundred years ago resources seemed limitless and the struggle upward from meager conditions of life was the struggle to create the means and methods of getting these materials into use. In this struggle we have by now succeeded all too well: so efficiently have we built our high output factories and opened the lines of distribution to our remotest consumers that our sources are faltering under the constantly increasing strain of demand. As a Nation, we have always been more interested in sawmills than seedlings; we have put much more engineering thought into the layout of factories to cut up metals than into mining processes to produce them. We think about raw materials last, not first.

The Converging Forces

Today, throughout the industrial world, but centering inevitably in the heavily industrialized United States, the resulting Materials Problem bears down with considerable severity. The nature of the problem can perhaps be successfully over-simplified by saying that the consumption of almost all materials is expending at compound rates and is thus pressing harder and harder against resources which, whatever else they may be doing, are not similarly expanding. This Materials Problem is thus not the sort of "shortage" problem, local and transient, which in the past has found its solution in price changes which have brought supply and demand back into balance. The terms of the Materials Problem we face today are larger and more pervasive.

Powerful historical streams have converged to make the problem uniquely intense today. First, there has been a profound shift in the basic *materials position* of the United States—a worsening relationship between our requirements and our means of satisfying them. Second, other high-consuming nations, primarily in Western Europe, are in difficulties which stem from the serious depletion of their own domestic resources coupled with the weakening or severing of their former colonial ties. Third, many resource-rich but less-developed nations, especially of former colonial status, now focus on industrialization rather than materials exports. Fourth, there lingers from the Great Depression a worldwide fear of the possible collapse of markets, which dampens the willingness of private investors and resource-rich countries to develop new free world resources. Finally, a great schism divides the world between the totalitarian and democratic nations, disrupting normal trade patterns and making necessary costly measures of armed preparedness.

The Task of the Commission

The task assigned the President's Materials Policy Commission was to explore the Materials Problem and suggest ways by which private actions and public policies in the years ahead can help avert or overcome materials shortages which might threaten the long-run economic growth and security of the United States and other free nations. This undertaking implies a survey of a multitude of raw materials and the resources from which they come. It implies consideration of the productive forces of technology and energy by which iron ore becomes an automobile, or air an explosive—and the obstacles that tend to hold these forces back. It implies thought directed at political and economic instruments—by no means confined to tariffs and taxes—which bear upon materials in domestic and world trade. Such a study must necessarily focus on the needs and problems of the United States, but it would be meaningless if it left out of consideration the needs and problems of other free nations.

The Nation's economic life calls for a vast and delicate balancing of multitudinous resources against continually changing needs and demands. The American pioneers had first to destroy trees so that they could plant corn. In a more complex world, minerals, fuels, forest and agricultural products, the land on which these grow and the water that nourishes the land must be variously dug, burned, felled, cropped, and constrained in interactions that reach further than we are aware of when we induce them. We grow and we destroy. We concentrate and we disperse. We nurture and we abandon. A chemist makes a crucial discovery, and the resource base for the production of women's stockings shifts from mulberry leaves in Japan to bituminous coal underlying West Virginia. A war occurs, and the material for tires and teething rings no longer comes from *Hevea brasiliensis* in Malaya but from Texas petroleum, natural gas, or ethyl alcohol made from molasses.

But these colossal interplays between resources more often take place in less dramatic ways; more often entirely within our own domestic economy and so slowly that we may be unaware of their significance for a decade. Energy for farming operations, once supplied almost entirely by draft animals, now comes chiefly from tractors, stationary gasoline engines, and electric motors. This considerable fact carries with it another, even wider ranging: in this process of change, the petroleum industry releases for other use no less than 60 million acres that would be necessary to feed draft horses to do the same work.

(The nitrogen cycle is upset in the same process, and the loss of manure fertilizer must be compensated.) *Per contra,* farm land can be made to return the compliment by growing sugar to supply molasses to produce alcohol as a raw material for rubber—or for solvents having so many industrial uses they cannot be listed. Or it may be asked to supply corn products to be turned into glycerin for lacquers or explosives, or into fibers which bypass the sheep as a producer of wool. Farm and forest residues may combine into plastics, which petroleum products will also supply, and these plastics may supplant metals drawn from mineral deposits. The land itself may balance off in its uses in a variety of ways; the same acres can produce timber, a wide variety of crops, or pasture; decisions are made every day which affect the land; these decisions can affect the supplies of water available for nearby industry. As prices rise and fall, the resultant of thousands of forces, steel replaces wood in housing construction, or vice versa, or concrete replaces both. Glass increases while brass diminishes; plastics from coke ovens supersede porcelain enamels; paint pigments begin to come from sands in Florida instead of from galena deposits in Missouri. The rise and fall of materials streams constitutes the great fugue of our industrial times.

To anticipate such moves in detail is beyond the capacity of even the most electronic intelligence; to attempt to plan them in detail would be like planning the fingerprints of one's great-grandchildren, and would fail for the same reason: too many accidents and unforeseeable forces would intervene. But because we cannot plan fingerprints we do not disregard the laws of genetics; and our inability to plan in detail does not mean that we can withdraw our intelligence from contemplating the future. If we are to have increasing material needs in the future we cannot escape the burden of contriving how to satisfy them.

Clearly, the task of examining such matters cannot be completed in one attempt. Nor can it ever be safely regarded as complete. A major important conclusion presented by the President's Materials Policy Commission is thus that the job of materials problem study must be carried on, cooperatively by Government and private citizens, not periodically at wide-spaced intervals, but hereafter day by day and year by year.

In contemplating the future, a prudent man can only base his actions on the best estimates he can make: commissions weighing policies can do no better. This report attempts no prophecies. But if our current generation is responsible for passing on to the next as best it can the prospects for continued well-being, then the first requisite is that we plan to meet successfully those requirements and challenges that now can be foreseen. Therefore, the Commission has chosen, as the period to review, the quarter century stretching from the present to the year 1975*—a date which seems sufficiently distant as not to be strongly affected by our current (1952) defense production problems, yet not so far off as to be dominated by technological and other developments now wholly unforeseeable.

The greatest uncertainty that confronts us all as we attempt to pierce the fog of the next quarter century lies in the unanswerable question, Will there be war? No matter how we pray that war will not come, we cannot know. Yet this uncertainty may have less effect upon the Materials Problem than might at first be supposed. The eruption of war would alter the pattern of materials demand, and the adequacy of supplies in swift and drastic ways. Yet if complete peace, confidence, and prosperity were to descend upon the world tomorrow, the Materials Problem would not vanish. Nor might it become less severe. If all the nations of the world should achieve the same standard of living as our own the resulting world need for materials would increase to six times present consumption. Today's rearmament emergency may best serve us as a set of binoculars which brings apparently closer to us circumstances which would in any event confront us were we to take no action to avert them; in this sense it can be of great usefulness to us in emphasizing the problem we shall face and the actions we must pursue, *war or no war.*

The Fundamental Concepts

This Report can have significance only as the convictions held by members of the President's Material Policy Commission are clearly stated:

First, we share the belief of the American people in the principle of Growth. Granting that we cannot find any absolute reason for this belief we admit that to our Western minds it seems preferable to any opposite, which to us implies stagnation and decay. Whether there may be any unbreakable upper limits to the continuing growth of our economy we do not pretend to know, but it must be part of our task to examine such apparent limits as present themselves.

Second, we believe in private enterprise as the most efficacious way of performing industrial tasks in the United States. With this belief, a belief in the spur of the profit motive and what is called "the price system" obviously go hand in hand. This method, motive, and system have served uniquely well in America. We believe in a minimum of interference with these patterns of private enterprise. But to believe this is not to believe that this minimum must be set at zero.

Private enterprise itself has from time to time asked for helps, or restraints, or counterpoises from Government to keep the system working at its best; for this reason, among others, we have experienced for a long time a mixture of private and public influences on our economy. The Commission sees no reason either to blink this fact or to decry it; as we see the future, the coexistence of great private and public strength is not only desirable but essential to our preservation.

Third, we believe that the destinies of the United States and the rest of the free non-Communist world are inextricably bound together. This belief we hope will color everything we have to say about the Materials Problem. It implies, for example, that if the United States is to increase its imports of raw materials—as we believe it must—it must return in other forms strength for strength to match what it receives. It is this Commission's belief that if we fail to work for a rise in the standard of living of the rest of the free world, we thereby hamper and impede the further rise of our own, and equally lessen the chances of democracy to prosper and peace to reign the world over.

Security and economic growth for the United States and the rest of the free world must be the essential aim of any policy worth the name. Materials strength is a prime ingredient of general economic strength and growth. This Commission is convinced that if the United States and other free nations are to have such strength they must coordinate their resources to the ends of common growth, common safety, and common welfare. In turn, this means that the United States must reject self-sufficiency as a policy and instead adopt the policy of the lowest cost acquisition of materials wherever secure supplies may be found: self-sufficiency, when closely viewed, amounts to a self-imposed blockade and nothing more.

It is by these avenues of thought that the Commission arrives at the formulation of the major premise upon which all the rest of its report is based.

The over-all objective of a national Materials Policy for the United States should be to insure an adequate and dependable flow of materials at the lowest cost consistent with national security and with the welfare of friendly nations.

---

*Projections ascribed to the "year 1975" throughout this study should not be regarded as applying to that literal point in time, but as "a plausible shape of things in the decade 1970–80."

ENERGY

The drama of the Industrial Revolution and a century of increase in United States living standards can be written in terms of constantly increasing use of energy in factories, farms and homes. With a labor force little more than twice as big as in 1900 the United States economy in 1950 used a four-and-one-half-fold growth in energy to turn out five times the 1900 total of goods and services (in constant dollars).

To sustain its expanding economy and preserve the national security, the United States must now make another huge addition to the amount of energy available. Between now and 1975 it must increase its primary energy supply—whether drawn from coal mines, oil and gas wells, hydropower sites or imported fuels—from a level equivalent to 1,300 million tons of bituminous coal annually to something like 2,600 million tons.* The smaller requirements of other free nations can be expected to increase at about the same rates.

This huge expansion must take place in the face of limitations upon the free world energy resource base, and under the threat of war. If all-out war should come, the energy demands of all the free nations would move upward with terrific speed. The sharpest disparity between demand and supply would occur in liquid fuels, not only because modern military forces travel and fight on their fuel tanks but because, if western Europe were cut off from Middle East oil, Western Hemisphere sources would have to assume the extra burden. In no materials domain are security problems more closely linked to resources than in the field of energy.

On the horizon stand two tremendous possibilities. One is atomic energy; the other is solar energy directly utilized. The time will come, perhaps well beyond 1975, when civilization's needs for energy will outrun the declining store of nature's "fossil fuels" like petroleum and natural gas, and even coal. Before this time comes, ways must be found to harness for everyday purposes such presently unconventional sources as the atom and the sun, at costs competitive with the sources we use today. The "breeder" reactor, which some day may generate atomic fuel more rapidly than it is consumed in the process, is the presumable recourse for atomic energy, since the known supply of natural uranium probably is not enough to sustain foreseeable energy needs. As to solar energy, the means of collecting and storing it (except as water backed up behind dams) is not yet at hand. Despite some encouraging progress, our chief dependence for the next quarter century must probably remain on the fossil fuels and hydropower.

The shifting energy mix

Over the next quarter century in the United States residential and commercial users may about double their demands; transportation uses may rise somewhat less than this; industrial consumption may more than double the 1950 level. In all these groups, a greater percentage of demand is expected for the so-called secondary forms of energy—electrical, gasoline, coke—in contrast to that for primary fuels, especially coal.

Whereas in 1947 secondary forms accounted for less than half of total energy end use, by 1975 they may account for two-thirds; to such established conversions as gasoline from crude oil, electric generation from waterpower or coal, and coke from coal, may be added the conversion of coal into high B.t.u. gas or into synthetic liquid fuel. This shift will take place largely because the secondary forms are more convenient to use, but sometimes because nothing else will "do"—as at present with liquid fuels for aircraft or coke for blast furnaces. Thus, while total demand for all energy doubles, demand for liquid fuels may more than double, and electrical demand reach three or four times 1947 levels. Conversion itself uses up energy. Despite improvements to be effected in engineering efficiency the amount used in conversion may increase from under 17 percent of total primary fuels in 1947 to about 20 percent of a much greater total for 1975.

The actual amount thus lost may increase from 214 million tons BCE in 1947 to some 520 million tons by 1975. For this and other reasons the total use of primary fuels will increase more than the energy reaching the consumer, not only because of transportation and conversion losses but because some primary fuel will be diverted to nonenergy uses—a small fraction at present, but growing—like chemicals production.

Coal provides the big safety factor in the Nation's energy outlook. At the turn of the century coal supplied more than nine-tenths of the Nation's total energy (measured at the resource level); oil and natural gas together made up less than one-tenth. By 1950, coal supplied only two-fifths, whereas gas and oil supplied well over half. Further shifts in the energy mix can be expected as the Nation's consumers constantly adjust to the lowest cost combination of energy supplies. But sooner or later the Nation will have to return to heavier reliance upon abundant coal. The change will happen gradually as we encounter increasing difficulties in meeting energy needs from other sources.

Petroleum

Petroleum is the great enigma of future energy supplies. For years it has been predicted that the Nation's crude oil supply would be exhausted within one or two decades, yet discoveries and output have continued to rise. The United States is currently consuming about two-thirds of the free world's total annual petroleum production, although its proved reserves of crude oil are only about one-third the total, and its potential may be less than one-fifth. In the last 5 years a new warning signal has appeared; United States demand for oil has begun to outstrip domestic production, and for the first time the Nation has become a heavy net importer.

Domestic crude oil production is still far from the end of the road, but even under fairly optimistic assumptions it probably cannot keep pace with rising domestic needs up to 1975. Experts generally agree that the real costs of its discovery and development may rise considerably: the Independent Petroleum Association of America recently asserted "an immutable long-term trend toward higher crude oil replacement costs," which may be temporarily, but not permanently reversed. Within the last fifteen years the average depth of all new oil wells drilled has increased 38 percent; an increase in the ratio of dry holes to strikes and a decrease in the average size of pools discovered point toward rising costs of discovery per barrel. Domestic crude prices undoubtedly could be expected to rise quite high as the result of such pressures, were it not for the competition of two highly expansible sources of liquid fuels; imports of crude, and "synthetic oil" from domestic shales and coal.

Importance of imports

Faced with an approximate doubling of oil demand by 1975, the United States may find it economic to turn increasingly to these two sources, even if we are able to maintain a high rate of domestic discovery and production at real costs not far above the present. How domestic crudes, imports, and synthetics will in the future divide the total liquid fuels market will be decided by the behavior of their relative costs, provided competitive market forces are allowed reasonable free rein. Thus, although domestic petroleum prices may trend upward relative to the general price level, the increase can probably be limited to 15 to 30 percent if imports are allowed to expand without hindrance, and if synthetic oil production is not discouraged by shortages of capital, monopolistic restraints, or the like. All in all, liquid fuels from all sources may rise to better than two-fifths of the Nation's primary energy supply by 1975, compared to one-third in 1917.

The Commission believes that present knowledge of the Nation's future oil position does not warrant discrimination against imports of crude oil from any quarter of the world. Every encouragement should be given to establishing greater oil reserves and production capacity in relatively safe areas, particularly in the Western Hemisphere, but not by placing penalties on oil production elsewhere. In view of our future needs and limited resources, tariffs on crude oil imports should be held down, reduced, or eliminated. (See P.M.P.C. vol. I, p. 109)

Synthetic oil

Meanwhile production of oil products from shales and from coal is making progress. Shale deposits near Rifle, Colo., of a grade sufficient to yield 30 gallons per ton are believed large enough to provide 80 billion barrels of liquid fuels. Additional deposits analyzed to date could produce, in spite of lower yields and somewhat higher costs, an estimated 420 billion barrels—many times proved domestic crude reserves. It is possible that additional shale resources yet to be found might substantially increase the total. The National Petroleum Council's Committee on Synthetic Liquid Fuels Production Costs has estimated that gasoline made from shale on the basis of a 200,000- barrel-per-day operation could be sold in the Los Angeles market at 14.7 cents a gallon after allowing a 6 percent return on invested capital, after including the revenue from other products. This may be compared with a contemporaneous Los Angeles price of 12.7 cents on gasoline from crude in October 1951. Cost cutting may continue as technology advances.

Whether synthetic gasoline from coal is close to becoming competitive is still a matter of controversy, but there is promise that it will become increasingly so as technology here, too, improves. There is particular promise in possible joint production, from coal and lignite, of liquid fuels, chemicals, and electric energy at lower costs than would be possible if each were produced separately.

The tasks of policy in meeting expanding peacetime demands for liquid fuels do not appear formidable. Imports and domestic synthetic oil over the years could supplement our liquid fuel supplies and impose a competitive ceiling on costs not far above present levels.

But there is need for action on the side of oil *use*, so that all available supplies can be made to go further. The Commission's studies indicate many points at which the Nation could reduce consumption and physical waste of liquid fuels with little or no inconvenience. The oil and automobile industries in particular carry a heavy obligation, in the Commission's judgment, to lead the Nation toward a more efficient use of its liquid fuel supplies; consumers themselves can contribute strongly if they are kept properly informed of conservation measures.

---

* The "Bituminous Coal Equivalent," or BCE, is a convenience for reducing various different units of energy measurement all to the same terms.

The security problem in oil is a more troublesome matter, and must be viewed in terms of total free world demand and supply.

Security and Oil

The outbreak of all-out war would create a sudden, and possibly wide, gap between requirements and current supply for the United States and other free nations alike. Rationing of nonmilitary use, even if much more severe than in the last war, would fall far short of diverting enough to close the gap. Since there can be no conventional stockpile of oil, it is imperative to have an emergency cushion of oil production and refining capacity in the Western Hemisphere which can quickly increase supply. The most effective form this could take would be an "underground stockpile" of semiproved oil deposits which as required could be drilled up with maximum speed and at minimum expenditure of materials and manpower. Fortunately, a large area lends itself to such treatment—the Continental Shelf, particularly that section off the Gulf Coast. Geologists agree that prospects for finding large pools of oil in this off-shore area are excellent. The technical problems of exploring and producing underwater oil are, however, difficult and expensive.

The Commission believes the private oil industry can solve these technical problems if given access to the Continental Shelf. Government leases permitting private oil exploration and development can provide access and incentive. The Nation can help to establish a security cushion of crude oil if leases are so written as to require wide spacing of wells or limited withdrawals, or both, and by setting royalty provisions which allow for adequate financial incentive. By keeping withdrawals below the rate usual in normal practice, the life of off-shore pools might be prolonged, and an emergency reserve thus maintained for many years.

Whatever resolution Congress may make of the long controversy over Federal or State title to the oil resources of the Continental Shelf, provision should be made for the application of these security measures.

"The Commission therefore recommends that the Federal Government encourage immediate exploration for oil on publicly owned off-shore lands; that leases to private companies, whether by the Federal Government or the States, contain provisions requiring well-spacing or withdrawal rates calculated to prolong the normal life of the pools." (See P.M.P.C. vol. I, p. 110.)

The ratio of national oil reserves to production can likewise be improved, if the Department of the Interior in its administration of all Federal oil lands, and State regulatory agencies in their control of production from private lands, will give heavy weight to security needs in setting rules for well spacing and withdrawal rates.

The development of large-scale synthetic oil production from domestic coal or shale may also some day add to security in petroleum, but that day is still some years off. To build immediately a huge synthetic oil development based on today's technology would be uneconomic; it might involve an investment of dollars, materials, and manpower approximating that required for the atomic energy program in the last war. In all probability lower-cost methods of production would be found soon after operation began.

It would seem wiser, in the interest of long-run national security, to learn these same engineering lessons more quickly and cheaply. The Commission recognizes the importance of "stockpiling" such technical knowledge in advance of need. Some private companies are evidently prepared to construct small-scale commercial plants for this purpose if they can overcome financial problems.

"The Commission recommends that the Federal Government give limited financial help to qualified private companies that will undertake the production of oil from shale, in order to encourage as soon as possible the construction of small-scale commercial plants and thus accelerate the gaining of technical knowledge necessary for later economical expansion. For the present, one promising form of such assistance is for the Government to absorb a portion of the transportation costs from plant to market.

"The Commission further recommends that the National Security Resources Board, with the aid of the Department of the Interior, undertake a continuing study of the economic aspects of producing synthetic liquid fuels from shale and from coal in relation to security needs and the outlook for future petroleum supplies." (See P.M.P.C. vol. I, p. 111.)

Natural gas

Natural Gas' meteoric rise among fuels is continuing and its place in energy supply is still undergoing dynamic adjustment. More than five times as much natural gas was marketed in 1950 as in 1925. If the supply were available, use of natural gas by 1975 could readily be two and one-half to three times as high as in 1950, even at somewhat higher prices.

The hard fact with which public policy must reckon is that probably before the century is out, conceivably sooner, United States supplies of natural gas will decline. The United States cannot now supplement domestic supplies with large imports, although modest imports from western Canada to the Pacific Northwest seem assured, and it may later become economical to pipe gas from Mexico. A synthetic equivalent of natural gas, derived from abundant solid fuel reserves, is not yet here, but future economic and technical developments may alter this outlook.

In contrast to petroleum, therefore, there is no such present limiting factor on the price of natural gas as large and expanding supplies of an exact substitute, or significant imports. Since demand and supply are expected to remain unbalanced, a substantial long-term price increase is a strong possibility.

Policies for gas

Since the early thirties, State and Federal Governments have promoted oil and gas conservation by controlling production; protected consumers by regulating interstate sales and pipeline transmission charges (Federal Power Commission) and consumer rates (State governments); have protected consumer and investor interests by controlling extension of pipelines, and requiring establishment of dedicated reserves for a considerable period of operation, usually 20 years. Despite these advances in public policy, there is room for further progress in three areas:

Conservation at the Field. Great strides have been made in reducing the percentage of "flaring" and other losses of gas in the last 15 years. The main forces have been the spread of pipelines and the use of gas in repressuring oil fields—but conservation laws by gas-producing States, particularly Texas, have forced earlier and more drastic curtailment of flaring than might have resulted from market incentives alone. Some producing States still have no such laws, and there could be more vigorous application in those that do. It is not always economic to avoid "flaring," but what is uneconomic under today's conditions may become economic tomorrow. The natural gas currently flared represents a tremendous waste of fuel which would have great value in future years, and this is properly a matter of serious concern to the State governments involved.

"The Commission is convinced that there is substantial room for further progress toward conservation on public and private lands alike, particularly in older fields. In curtailing flaring, encouraging unit operation and the like, heavy weight should be given by both private producers and Government administrators to the prospects that improved market and technological conditions may later pay off in situations where increased conservation now appears uneconomic." (See P.M.P.C. vol. 1, p. 114.)

Encouraging the Highest Economic Uses. For "special advantage" uses—household and commercial heating, cooking, specialized industrial uses like heat-treating, and organic chemicals production—the unique qualities of natural gas enable it to command a premium price, compared with its price as a general fuel for industries or utilities. As of 1950 about three-quarters of the 6.3 trillion cubic feet of gas marketed was consumed by industry, a considerable portion for economically "inferior" use. Only one-fourth went to special advantage household and commercial customers. Industry and Government experts agree that natural gas consumption should be shifted as rapidly and fully as possible toward special advantage uses. Some observers believe that Government should impose direct curbs on economically inferior uses of natural gas. The Commission strongly doubts the efficacy of meeting the problem by detailed regulation. Other reasons aside, there appears no economic basis for designing curbs which would be more suitable and more valid than the normal pressures of price relationships.

The chief exception, perhaps, is the carbon black industry which makes notoriously inefficient use of the virtues of natural gas and which is already under partial State regulation. But these users are responding to market pressures by changing to nonmarketable residual heavy products left after petroleum refining. Higher gas prices are also encouraging the development of substitutes for carbon black.

In addition to the efforts of private gas producers and carriers, the shift to higher uses of gas can be encouraged: (*a*) by State utility commissions and the Federal Power Commission which in their regulation of rates can narrow the price gap between inferior and special advantage uses; (*b*) by Government advisory help to private pipeline operators in developing off-season storage facilities where, for example, geological conditions make underground storage possible; (*c*) by judicious authorization of further pipeline capacity.

Eventually, less economic uses of natural gas will be squeezed out by unfavorable prices. The aim of private industry and Government alike should be to achieve this as rapidly as possible, taking into account equally the problems of pipeline operators and of consumers.

Regulating Extension of Pipelines. With most major consuming areas of the Nation served by natural gas pipelines, emphasis from now on will be upon enlarging capacity to markets already partly served. Considering the Nation's limited reserves of natural gas, there is no economic virtue simply in further expanding pipelines, but a clear advantage exists in extending or enlarging access of "high advantage" users.

The Federal Power Commission, in evaluating applications for certificates to operate new pipelines, now gives consideration to the types of customers to be served. This is appropriate and perhaps should be given even heavier weight in the future. It would seem particularly inadvisable, for example, to authorize increased pipeline capacity to a market where a high proportion of natural gas supply already is going to inferior uses. Similarly, the Federal Power Commission should discourage the overexpansion of pipelines against the limited reserves of any producing area which will simply result in more rapid exhaustion, premature obsolescence of existing pipelines, and costly dislocations for consumers when reserves are exhausted.

Preparing for Eventual Transition

A change-over from natural gas to an alternate nongaseous fuel, under present economic and technological conditions, would be difficult and costly for many customers. An economic method of producing a high heat-content gas from coal by gasification, either underground or at the pit-head, could extend the life of natural gas pipelines that pass through coal-bearing areas and avert problems for their customers. Technology of this kind is still in the future; in view of the difficulties involved it is not too soon for Government and private industry to begin more intensive work.

Coal

United States reserves of coal and lower quality solid fuels are more than 90 percent of the Nation's total mineral fuel reserves and about 40 percent of the world's total coal reserves. Only about two and one-half percent of recoverable United States reserves have been mined to date. Reserves of coking coal are less favorable; they make up 2 percent of the total United States reserves but represent 15 to 20 percent of annual coal production.

Coal has played a declining role in the Nation's total energy supply, falling from 92 percent in 1900 to between 40 and 45 percent in recent years. Use of coal by the steel industry rose one-third between 1925 and 1950 and by electric utilities three-fold, but sharp losses in residential, industrial, and railroad markets caused an absolute decline in total consumption from roughly 600 million tons per year in the mid-twenties to just over 500 million tons more recently.

The long downward trend of the percentage coal provides of total energy supply may continue for the next 25 years, unless war intervenes, but the past decline in volume is expected to reverse from here on. By 1975 coal demand seems likely to rise to volumes at least 50 to 60 percent above the 1950 level, with the possibility of an even greater rise if large cost-reducing gains are made in coal technology. In the event of war, demand for coal would rise sharply to support forced-draft economic activity and help relieve petroleum.

In achieving better technology the coal industry is at a disadvantage; with few exceptions it is made up of small companies financially unable to invest heavily in research and development. In 1951 industry and Government together spent less than one dollar on coal research for every five dollars so spent on petroleum.

Eventually coal will have to carry the major burden of making further additions to the Nation's energy supply—at least until economic ways are found for tapping solar and nuclear sources of energy on a huge scale. It is clearly in the national interest for the coal industry to start moving vigorously now toward its long-range mission.

Coal not only is a major source of fuel but, as carbon, is a raw material for a wide variety of industries. Sooner or later several major industries will have to sink their tap roots deeply into the Nation's coal reserves. The railroads did so earlier, but now prefer oil. Steel will continue to need coal in increasing amounts. The electric power industry, long a major customer for coal now has the incentive to become a major force in cooperation with other users toward putting coal to larger use in a combination of ways. The fast-growing chemicals industry, long tied indirectly to coal through coke, may become a major direct customer, as may the oil industry which, when the need and technology are ripe, can convert coal to help provide the Nation's liquid fuel supply. Such electro-process industries as aluminum have the opportunity, by turning to coal and lignite, to break loose from their long dependence on being close to cheap hydro-electric power sources for low-cost energy, and should be encouraged to do so. Natural gas pipelines may some day be filled with gas made from coal.

Technology Must Be Improved

Coal technology needs improvement in the three major areas of production, transportation, and utilization.

Man-hour output in underground coal mining in the United States rose 53 percent from 1925 to 1950, but the large expansion of strip-mining, in which labor productivity is about three times as great as underground, lifted the industry average to 72 percent above 1925 levels. Strip-mining, now one-quarter of the total, cannot be expected to increase its share very much; hence further gains in productivity must be in underground mining.

Much can be accomplished by fuller mechanization of existing mines, greater application of "continuous mining" methods, and laying out newly opened mines to give full scope to these improved methods. Lifting coal from the mine through pipelines under suction is a possibility. There are opportunities for further gains in low-cost mechanical cleaning and preparation of coal to raise its value.

Cheaper ways of transporting coal could benefit the industry enormously since costs of hauling are a major part of consumer prices. Devices now in the experimental stage, such as long-distance conveyor belts and pipelines to carry a slurry of powdered coal deserve full attention.

Great technological gains have been made in coal utilization. In electrical generation, the coal-to-kilowatt-hour ratio has dropped from 7 pounds in 1899 to 1.2 pounds in 1950. Further increases in thermal efficiency in electric generation are still possible and the coal-burning gas turbine holds interest as a prime mover of the future. Particularly attractive is the multipurpose approach of converting coal and lignite for the combined production of electric energy, liquid fuels, and important chemical co-products. This process, now in the development stage, involves low temperature carbonization to take off volatile ingredients, with the remaining char used as a boiler fuel for electrical or generating energy.

Experiments with the underground gasification of coal, although still apparently a long way from success by commercial standards, provide another possibility of revolutionary improvement in coal's competitive position.

"In the Commission's view the experimental work of the Bureau of Mines in underground gasification merits strong and continuing support. Improvements in aboveground methods of coal gasification should likewise be sought, for reasons discussed in the previous section on natural gas." (See P.M.P.C. vol. I, p. 116.)

Although the promise is great on paper, any major improvement in the use of the Nation's rich coal reserves will require much greater efforts to advance technology; large-scale investment in its application, with a close interrelation between the coal industry and major coal users; and more stable management-labor relations to ensure continuity of supply to consumers.

"The Commission recommends that the Federal Government, acting through the Bureau of Mines, undertake, with the cooperation of private industry, labor, and private research organizations, a thorough appraisal of present research and development work relating to coal and the formulation of a strong program to advance coal technology to be carried out by a combination of private and public effort. Ample funds should be provided by the Congress to carry out the Government's share of the program." (See P.M.P.C., vol. I, p. 117.)

In the Commission's opinion, this positive approach to putting the Nation's coal resources more fully to work through aggressive improvements in productivity and use is the one that should be followed to achieve the necessary expansion of our economy. The negative approach which seeks to cure the coal industry's past ills by imposing artificial restrictions upon competing fuels is unacceptable.

Electricity

The central problem of electric energy is how to increase the Nation's supply from 389 billion kilowatt-hours in 1950 to something like 1,400 billion in 1975 without running into considerably higher costs.

So far, the trends of real costs and real prices for electricity have been downward. From 1925 to 1950, the average price of electricity to residential consumers, corrected for changes in the purchasing power of the dollar, fell 70 percent reflecting, partly, larger quantity purchases. These downward trends could be reversed by enforced shifts toward a larger percentage from high-cost sources.

Today, the pattern of generating sources is 26 percent hydropower and 74 percent thermal, the latter divided into oil, 11 percent; natural gas, 14 percent; coal, 49 percent. Except for coal, all these sources are subject to upward pressures on real costs. The Nationwide average cost of electricity from water power is less than for thermal generation, but the advantage of these lower costs is concentrated in special areas. A few large water power sites remain to be developed which will produce low-cost power, but the remaining sites will require too much capital outlay, or be otherwise too expensive, to deliver electricity at the same low cost.

Hydropower

Water power is the one major source of electricity that does not cause a drain on mineral fuel resources. Hydroelectric output multiplied almost fourfold from 1925 to 1950, but because other electrical production increased even more, the fraction it contributed to total electrical output fell from one-third to about one-quarter of the total.

There is no completely satisfactory measure of the remaining hydropower that could be developed. The Federal Power Commission has estimated that a total of 105 million kilowatts capacity could perhaps be developed economically at known sites in the United States. Although this estimate is subject to qualifications, it establishes an upper limit.

As of January 1950, according to the Federal Power Commission, only 16 percent of this 105 million kilowatt capacity potential had been developed and another 5 percent was under construction—altogether 21 percent of the potential capacity. Federal water development agencies were well advanced in preconstruction planning for another 12 percent, but had no funds for construction .The remaining 67 percent of potential capacity presents a wide variety of sites and ranges from relatively promising projects that private utilities are prepared to undertake, or in which Federal or State agencies are interested, to sites which no one considers worth present consideration.

Opinions differ as to how much of the undeveloped potential it would be economical to establish before 1975, but it is quite possible that our supply of hydroelectric energy could economically be doubled, or conceivably increased to 350 percent of 1950 levels. Further study of each river basin and individual site would be necessary for a more exact appraisal.

Even if the top figure were reached, hydroelectric energy will be hard pressed to continue supplying one-quarter of the Nation's probable total needs for electricity by 1975, so great appear our energy needs. After that date, if not before, thermal generation will have to carry most of the burden of further expansion. To ease this burden as much as possible the Federal Government and private industry should continue development of hydro sites.

"The Commission recommends that the Nation's hydroelectric potential be developed as fully and as rapidly as is economically feasible. Priority should be given to projects that promise to contribute most economically to meeting the energy needs of particular regions, in the light of their present and prospective energy costs and supplies. Specifically, early action is important in the St. Lawrence, Niagara, and Columbia River areas where major projects already have been planned and which are among the Nation's most advantageous remaining hydropower opportunities." (See P.M.P.C. vol. I, p. 121.)

Thermal Power

If thermal sources must bear three-quarters of the task of producing electrical energy in 1975, this will mean an output of around 1,100 billion kilowatt-hours in that year. For expansion beyond 1975, thermal sources will have to carry an even heavier share of the load—unless solar or atomic sources can take over a sizable part of the burden. So far, in a tense world whose emphasis is on weapons of war, the atomic energy program is consuming much energy from other sources, and adding nothing to the Nation's supply. But power production from nuclear fuels already is technically possible and may some day prove to be a valuable supplement to other sources of energy, particularly in regions remote from other fuel sources.

"The Commission recommends that the present cooperative arrangements between the Atomic Energy Commission and privately owned electric utility companies and other interested companies and groups for developing economical ways to obtain electric power from atomic sources be continued, and that the tempo of developmental work in this field be kept as high as permitted by security demands." (See P. M. P. C. vol. I, p. 122.)

The question in thermal generation is not whether we have the fuel. It is what the costs will be to extract and deliver the fuel, and how much of its contained energy can economically be utilized, transmitted and delivered. The question applies particularly to coal and lignite. Coal has always carried the bulk of the fuel load for thermal generation, and although oil and gas have cut into its share during the last 25 years, in 1950 it supplied 113 million tons to generating stations—which accounted for about 25 percent of total coal production.

The largest opportunity for cutting the costs of *fuel transportation* is provided by coal, as discussed in the last section. Great improvement has already been made in *generating efficiency*. Steam generating plants in 1950 averaged 1.2 pounds per kilowatt-hour, but the most efficient plants were down to 0.7 and 0.9 pounds. New types of gas turbines using coal might have not only the advantages of greater efficiency and lower capital investment, but also of not requiring large quantities of cooling water—a tightening commodity.

Increased economy of long-line *transmission* and local *distribution* provides another point for attack on costs. Experience to date with high voltage transmission is encouraging; for example, the Bonneville Power Administration contemplates a 600-mile transmission line. The combination of pit-head thermal generation and highly efficient transmission could eventually reduce costs in areas along the Atlantic Coast where distant fuel sources result in electric rates well above the national average.

Transmission Systems

Another important opportunity for holding down future costs lies in fuller integration of plants and systems. Power needs over large areas can be met at lower cost through interchange of off-peak surpluses among systems. Lowest cost combinations of generating and transmission facilities to serve large areas can be achieved over the long run by planning generating facilities in advance of construction—between private utilities and industrial plants operating in related areas, and especially between public power agencies concerned primarily with hydro development, and private utilities engaged mainly in expanding thermal generating capacity. This reduces the capital costs of building and maintaining capacity to meet peak loads of short duration and permits maximum utilization of lower cost energy over a large area.

Important economies have been achieved by these methods over the last 30 years as private utilities, industrial firms with generating facilities, and public power agencies have interconnected transmission lines to form broad grid systems. There is still considerable room for progress—as in New England, where the State of Maine has restricted export of low-cost hydropower to other States, and Connecticut, where the utility companies have not interconnected across State lines because of their reluctance to come under Federal jurisdiction.

The outbreak of war would impose a sharply increased burden upon the electric power industry. Moreover, if enemy air attacks knocked out power plants, it would be necessary to draw electricity from other areas.

Since electric plant construction takes time, the Commission believes that wartime dangers can best be minimized by expanding generating capacity and establishing interconnecting transmission lines in peacetime, and expanding generating capacity sufficiently rapidly in relation to demand as to provide a substantial cushion. (See P.M.P.C., vol. I, p. 121.)

(A chapter on Energy for Other Free Nations has not been summarized. See P.M.P.C. vol. I, chapter 21, pp. 122–124.)

Policy for energy

In order to take advantage of its energy opportunities the Nation must find new reserves; hold down costs of extraction and increase recovery rates; cut energy transportation costs; bring into practical use vast low-grade resources not presently economic; broaden and increase the efficiency of the conversion of primary fuels into more convenient secondary forms; cut physical wastes by economical means at every step from extraction to final use. The greatest opportunity lies in the fact that the main primary sources of energy—coal and lignite, petroleum, natural gas, and water power—can, within wide limits, each do the work of the other, thanks to the technical possibilities of energy conversion.

Sooner or later—no one knows just when—supplies of domestic petroleum and natural gas will be unable to meet the rising demands against them, and undeveloped economical hydroelectric sites will become scarce. As these shortages develop, the vast reserves of coal, lignite, and oil shale can move in progressively to fill the gap. Hopefully, atomic and solar energy will some day provide a still broader energy base.

There can be no compartmentalization of any phase of Government policy concerning energy. Regulation of gas prices for different classes of customers can influence the consumption of petroleum; the technology of coal transportation and its efficiency in use can affect the requirements for hydropower—and the cost averages of electricity; the leasing of underwater oil lands on the Continental Shelf is related to the fueling of aircraft and naval vessels—and the efficient operation of the total economy in the event of war.

"The Commission believes that an appropriate Federal agency should be designated to undertake, in cooperation with all other Government agencies and with private and research organizations concerned with energy, a continuing broad appraisal of the Nation's long-range energy outlook. Such appraisal should cover not only demand prospects and the availability of resources, but an evaluation of the adequacy of technological effort in the energy field. It is important that these activities be closely coordinated with similar efforts in the formation of policy for all materials, and with the operation of all programs for materials." (See P.M.P.C. vol. I, p. 130.)

TECHNOLOGY

TECHNOLOGY, that complex accumulation of knowledge, techniques, processes, and skills whereby we maintain a working control over our physical world, has had so enormous a growth during the twentieth century as to dwarf all the previous accomplishments of its history. This growth, pervading every level of human activity, has had two opposite effects on materials: it has greatly increased the efficiency of their use, and it has also greatly increased the total drain upon the resources from which they come.

Evidence of the first effect lies in the increasing quantities of useful energy we have been able, over the years, to extract from a pound of coal, in savings of steel and copper used in an electrical generator per unit of its output, or in the transformation of previously wasted natural gas into fuels and hundreds of chemicals.

ENERGY R. & D. NATIONAL PROGRESS: FINDINGS AND CONCLUSIONS

PREFACE

In a memorandum dated February 15, 1963, President Kennedy requested the following nine heads of Federal departments and agencies to undertake a comprehensive study of "the development and utilization of our total energy resources to aid in determining the most effective allocation of our research and development resources."

Director, Office of Science and Technology
Chairman, Council of Economic Advisers
Director, Bureau of the Budget
Director, Office of Emergency Planning

The Secretary of the Interior
The Secretary of Commerce
Chairman, Atomic Energy Commission
Chairman, Federal Power Commission
Director, National Science Foundation

The President designated the Director of the Office of Science and Technology and the Chairman of the Council of Economic Advisers as chairman and vice chairman of the steering committee to carry out the study. Subsequently the Secretary of Defense was added to the group because of the Defense Department's varied interests in energy questions. Valuable assistance was also provided by the Departments of Health, Education, and Welfare; State; Labor; and the National Aeronautics and Space Administration.

The steering committee formed an Energy Study Group under the direction of Dr. Ali Bulent Cambel. The Energy Study Group performed a comprehensive, detailed, and thorough analysis, involving more than 500 people both inside and outside the Federal Government and resulting in a report—*Energy R&D and National Progress.*[1]

The report has been exposed to detailed scrutiny by all governmental agencies involved in the study, although it should be noted that Dr. Cambel and his staff bear the ultimate responsibility for its content and publication of the report does not imply acceptance or rejection by any of the participating agencies.

The Cambel study, issued concurrently with this statement, is a major source of the data and analysis on which the findings, conclusions, and recommendations in this statement are based. It also provides a more detailed analysis of the many specialized problems associated with the development of particular energy resources. The present statement by the steering committee is directed at principal policy issues of a more general nature, although it does not deal with a number of important issues of concern to the Federal Government which influence the use of research and development resources, such as regulatory, patent, and foreign trade policies. The committee did not give detailed, specific consideration to potential emergency situations, being aware that other studies of this class of problems have been made and that still others are in progress.

INTRODUCTION

The problem

Advanced industrial societies have developed a high standard of living by utilizing energy on a large scale and replacing human and animal energy with mechanized energy for both industry and personal consumption.

Annual energy consumption in the United States has increased rapidly in the past and is expected to rise from 250 million (2.5×10^8) Btu's per capita in 1960—45 quadrillion (4.5×10^{16}) Btu's in total—to about 400 million Btu's per capita or 135 quadrillion Btu's in total in the year 2000 (see fig. 1). The total estimated cumulative consumption of 3 quintillion (3×10^{18}) Btu's over the 40-year span from 1960 to 2000 is much less than the known recoverable domestic reserves—estimates of which range from about 5 to nearly 25 quintillion Btu's of energy depending on the utilization factors assumed for uranium and thorium. For the projected increase to take place, however, energy must be available at reasonable costs.

From the most reliable information, it seems fairly clear that presently foreseeable total resources will indeed be adequate to meet total energy needs without major cost increases for the remainder of this century, and for a considerable time thereafter. The committee has confined its detailed considerations to the period ending in the year 2000. It has done so with awareness that this is a short period on the scale of human history, but with confidence that critical problems are far enough removed in time so that human ingenuity and imagination can cope with later circumstances as newer information develops. The main problem is how to meet the growing need in the most effective and least costly way, both in the immediate future and for the long run.

Secondly, problems arise in matching energy sources for particular purposes and in assuring competitive availability. Coal was once the principal energy source for household heating, industrial use, transportation, and electrical power. Today it has been replaced widely by petroleum and natural gas in household heating and industrial uses, and by petroleum for transportation—truck, rail, ship, air, and automobile. It also now shares the market for electric generation with natural gas, oil, nuclear fuel, and waterpower. The economy should retain and expand its flexibility to choose among energy sources for particular application.

In addition, Americans wish to minimize environmental pollution and preserve natural beauty in the course of developing and using energy resources.

The focus of the Energy Study has been on the role of research and development activity in contributing to the solution of these problems, and in particular on the future role of the Federal Government. For most fuels, the private sector has borne an important if not the major part of the cost of R&D in the past, and this pattern is expected to continue. Concurrently the Government has sponsored important R&D such as that involved in the development and utilization of atomic energy. In the future the Government will need to assist when the development is too large or risky for the private sector, when the benefits of development are too diffused, when they are required for national security and welfare, or when necessary to maintain effective competition among and between energy sources.

Supply and demand

The principal foreseeable sources of energy during the next few decades are fossil fuels—coal, oil, shale oil, tar sands, and natural gas—and the fissionable or fertile materials—uranium and thorium. These energy sources occur naturally in the crust of the earth in deposits of widely varying accessibility, depth, size, and quality. As a result of past exploration and research, the nature and extent of some of these deposits are well known. The existence of other similar deposits, discoverable through further exploration, can be inferred from favorable geological conditions known or believed to prevail in those portions of the earth's crust not yet thoroughly explored. In addition to the size of natural deposits, the long-run adequacy of energy resources depends on other factors such as accessibility, quality gradations, processing and extraction techniques, and, importantly, on the particular needs of each consumer. A substantial part of the energy sources contained in both known and unappraised deposits is of submarginal quality, not economically exploitable with present technology, but it is reasonable to assume that technological gains will bring such deposits within economic reach in the future.

The long-run adequacy of our energy resources, therefore, will depend not only on the extent of presently known minable deposits but on R&D that:

Improves knowledge of geology and exploration capability;

Improves processes for extraction from grades now considered marginal and submarginal;

Reduces transportation costs;

Improves efficiency in use; and

Develops substitutes for resources which are being depleted or are increasing in cost.

Also, some energy resources are available abroad at less cost than in the United States. America can benefit from foreign supplies of energy resources, giving in exchange goods in which the United States holds a comparative advantage. Ideally, the appraisal of a nation's total energy resources should reflect its ability to share in the use and production of world energy resources. In order to keep its scope manageable, however, the appraisal here is confined largely to domestic resources, and the conclusions reached are accordingly conservative.

Energy resources of the United States

Domestic energy resources and requirements are projected by source from 1960 to 2000 in table I. The projection must be qualified because estimates from various competent authorities differ substantially, and also are quickly outdated by new or improved information. It is evident nonetheless that the Nation's known energy resources are large, and that even greater supply is undiscovered or cannot now be exploited economically. Anticipated requirements exceed "known recoverable resources" from liquid hydrocarbons and natural gas; but "total resources" far exceed anticipated requirements for any and all energy sources. Undoubtedly, the fruits of research and development programs can assure economical and physically exploitable energy resources throughout the 20th century. The well-being of the Nation in the 21st century, however, may well depend on the advances made in the efficiency of utilization of resources and discovery of new resources.

Energy resources of the world

Energy resource estimates for the United States and the world are shown in table II. The data indicate that the U.S. proportion of known recoverable reserves is 25 percent for coal, 15 percent for oil and natural gas, and 43 percent for uranium. In terms of all resources, the United States is endowed with approximately one-fourth of the coal, one-seventh of the oil, possibly one-tenth of the natural gas, one-twelfth of shale oil, and one-seventeenth of the uranium and thorium.

While the United States is relatively well endowed with energy resources, it is also a relatively large consumer of energy, especially energy from oil and natural gas—the fuels for which world supplies are the smallest.

Implications

The foregoing comparison of the U.S. energy resources and projected requirements has the following implications:

1. In the light of present day technology, the Nation's total energy resources seem adequate to satisfy expected energy requirements through the remainder of this century at costs near present levels, but technological advances will be required to reduce costs and extend the supply base into the more distant future.

2. Future sources of electric power, especially coal and nuclear fuels, are abundant. All of the estimates indicate that *either* coal or uranium resources *alone* are adequate to take us through the year 2000 and longer.

3. Oil and gas, which now supply 73 percent of our total requirements for energy, are the fuels for which there are the smallest known and potential resources, even on a world basis.

4. In addition to domestic resources, the energy resources of other countries offer increased potential supplies for the United States in exchange for other products of the U.S. economy.

---

[1] Cambel, A. B., et al, *Energy R&D and National Progress.* U.S. Government Printing Office, Washington, D.C. 1966. Available from the Superintendent of Documents at $1.50.

TABLE I.—COMPARISON OF U.S. ENERGY RESOURCES WITH PROJECTED REQUIREMENTS, 1960-2000 [1]

[Expressed in terms of energy content, where the unit is 1 Q=1 quintillion (10^{18}) Btu.]

	Coal [a]	Conventional liquid hydrocarbons [b]	Shale oil [c]	Oil in bituminous rocks [d]	Natural gas [e]	Uranium [f]	Thorium [g]
1. Known reserves recoverable under present economic and technologic conditions	4.6	0.3			0.3	0.3	
2. Undiscovered deposits recoverable (when found) under present technologic conditions		1.3			1.2	.8	
3. Additional known and undiscovered resources possibly recoverable in the future	84	2.3	945	0.07	.9-25	[i] 224,000	[i] 336,000
4. Total resources (sum of lines 1, 2, and 3)	88.6	3.9	945	.07	2.4-26	[i] 224,000	[i] 336,000
5. Cumulative projections of energy requirements 1960-2000, by source [h]	.6	1.4			1.0	[j] 0.2	
5.a. As percent of known recoverable resources, assuming present conditions (line 5 divided by line 1)	13	470			333	67	
5.b. As a percent of total recoverable resources (line 5 divided by the sum of lines 1 and 2)	13	87			67	18	
5.c. As percent of total resources (line 5 divided by line 4)	1	36	0.1	2,000	42-3.8		

[1] Derived primarily from Cambel, Energy P. & D. and National Progress, with some modifications in assumptions as to recovery of energy from uranium. Other estimates from competent sources may differ from those used here.

[a] Known recoverable reserves are limited to coal in beds at least 3.5 feet thick and less than 1,000 feet below surface; 50 percent of coal in ground or 220 billion tons is assumed to be recoverable. Undiscovered similar deposits may be assumed to exist but have not been estimated. The additional resources include known and undiscovered beds of 1 foot or more thick largely above a depth of 6,000 feet: 100 percent of coal in ground is assumed to be recoverable.

[b] Known recoverable reserves include 48 billion barrels of crude oil, considered recoverable by primary and secondary recovery methods by Interstate Oil Compact Commission; and 7 billion barrels of natural gas liquids reported as proved reserves by API and AGA. The additional resources in producible accumulations, assuming recovery obtainable with present production techniques-eventually 70 to 80 percent recovery of total liquid hydrocarbons in place may be possible.

[c] Shale oil is currently not being produced and hence none is shown as recoverable under present conditions; beds 25 fet or more in thickness and containing 30 gallons or more of oil per ton are considered marginal under present costs and prices, and the more accessible beds of this character contain about 50 billion barrels or 0.3 Q energy equivalent, assuming 50 percent recovery. The additional resources include oil technically extractable from less accessible or lower grade deposits that are capable of yielding 5 gallons or more oil per ton of rock. The estimate includes 170 trillion barrels of oil in known and undiscovered resources. It assumes that about 50 percent of the energy potential of the shale technically could be transformed into hydrocarbon fluid.

[d] Although preparations are being made to recover oil from tar sands in Canada, no oil is currently produced from such deposits in the United States, and hence none is shown here as recoverable under present conditions. Known and accessible deposits contain about 1.3 billion barrels, assuming 50 percent recovery of the rock in place.

[e] Known recoverable reserves (in 1962) represent 268 trillion cubic feet estimated as proved reserves by API and AGA. Undiscovered reservoirs that can be found and produced under present conditions are estimated to contain about 1,200 trillion cubic feet of recoverable gas, or 1.2 Q. The low estimate of additional resources represents undiscovered recoverable and marginal and submarginal natural gas in producible reservoirs as presently recognized. The high figure also includes 24 Q in submarginal known and undiscovered resources of porespace gas in shale and coal; such resources are mostly unappraised as to producibility.

[f] Known recoverable reserves include 142,000 tons of uranium in known producible deposits and 181,000 tons that have already been delivered to the AEC. With present methods about 1.5 percent of potential energy of the uranium can be converted to heat for commercial use; the currently recoverable energy of the 323,000 tons is 0.34 Q. The total theoretical energy of the same material is about 23 Q. If economic methods are developed, e.g., through breeder reactors, to convert about 80 percent of uranium into energy producing fissionable material the recoverable energy would be 18 Q. Undiscovered deposits (recoverable when found) are estimated to contain about 770,000 tons of uranium with a presently recoverable energy equivalent of about 0.81 Q. The total theoretical energy of the same material is about 53 Q. and at 80 percent utilization is 42 Q. The estimate of additional resources includes known lower grade deposits, and unappraised and undiscovered resources in the United States which are estimated to total about 4 billion tons of uranium in deposits containing a few thousandths of a percent or more uranium; the estimate of energy equivalent assumes a theoretical 80 percent recovery.

[g] Technology has not yet been developed which will allow use of thorium in commercial reactors and hence none is shown as presently recoverable. Thorium, by itself, is not a substitute for other fuels. However, it can be converted into uranium-233 when used in conjunction with fissile material originally provided from natural uranium. Uranium-233 is fissile, and thus can contribute to the overall supply of fuels, when suitable technology is developed. Known deposits of thorium minable at present prices contain about 100,000 tons of thorium with a theoretical energy potential of 5.6 Q, assuming 80 percent energy recovery. Unappraised and undiscovered thorium resources of the same or lower grade are estimated to contain about 6 billion tons of thorium with a theoretical energy potential of 336,000 Q. assuming 80 percent recovery.

[h] Derived from Landsberg et al., Resources in America's Future, pp. 856-57 (Medium Projection).

[i] Atomic Energy Commission estimates for these quantities are 96,000 Q for uranium and 152,000 Q for thorium.

[j] The estimated uranium requirements in table I are based on makeup requirements if the overall fuel utilization averaged 1.5 percent of the potential energy content of this fuel (including both uranium-235 and uranium-238). Inventory requirements (in the reactors and the supporting manufacturing operations) are not included, although they are large. This is a relatively low utilization factor which assumes reuse of plutonium created in nuclear reactors of essentially today's technology. It does not take into account the potential gains from advanced converters and reactors of the future with substantially higher conversion ratios.

TABLE II.—ESTIMATED ENERGY RESOURCES OF THE UNITED STATES AND THE WORLD (AS OF 1962)

[Expressed in terms of energy content, where the unit is 1 Q=1 quintillion (10^{18}) Btu]

	Known recoverable resources		United States as percent of World	Additional potential resources [1]		United States as percent of World
	United States	World		United States	World	
Coal	4.6	18.0	26	84	320	26.0
Liquid hydrocarbons	.3	1.9	16	3.6	26	14.0
Natural gas	.3	1.9	16	2.1-26	20	10.0
Shale oil				945	12,000	8.0
Oil in bituminous rocks		.2	0	0.07	6.1	0.1
Uranium	.3	.9-1.2	33-25	224,000	4,000,000	6.0
Thorium				336,000	5,600,000	6.0

[1] Includes undiscovered resources assumed to be recoverable under present economic and technologic conditions, together with additional known and undiscovered resources possibly recoverable in the future.

Source: Derived from Cambel, "Energy P. & D. and National Progress," except the larger world resources of uranium and thorium which are extrapolated from U.S. resources. Pore space gas in coal and shale not included in estimates of world resources. Assumptions as to recovery are the same as those used in table I.

OPPORTUNITIES AND INCENTIVES IN RESEARCH AND DEVELOPMENT

The objectives of energy research and development programs are to provide adequate and diverse sources of energy at low cost. The incentives for research and development vary among different fuels, but opportunities for improving technology and extending suppplies exist for all of them.

Oil

As previously shown, potential domestic resources are ample for increased production for many years; the question therefore, is whether exploration and development costs can be reduced sufficiently to attract enough investment to generate this production domestically, or whether needs are to be met from lower cost foreign or synthetic sources. Increased R&D might yield cost-cutting benefits in each of the principal fields related to production—exploration and drilling technology, subsurface geologic mapping and analysis, and secondary recovery.

Gas

What is said for oil generally applies to natural gas, which is often associated with oil. In addition, some formations not favorable for oil—such as shales and coaly rocks that contain occluded gas—may be favorable for gas. Some of these formations are already yielding gas under artificial fracturing.

Oil shales and bituminous rocks

Industrial research on the enormous domestic oil shale deposits is increasing with some prospect for competitive production within a few years. Since shale oil is a likely substitute for both gas and oil in some applications, its development is of great importance in extending the supplies of these fuels. Since large-scale production from oil shale faces serious obstacles due to its impact on the natural environment, it is desirable to explore mining and recovery systems that will be compatible with sound principles of environmental management and that might reduce costs as well. *In situ* extraction methods and advanced mining systems offer the most promise.

Further exploration of bituminous rocks, similar to the tar sands of Canada, may also lead to significant discoveries. Some R&D on recovery processes applying to such deposits is in progress and more would appear to be rewarding.

Coal

Until recently, coal R&D proceeded at low tempo; but the pressure of competition from oil, gas, and most recently nuclear energy, has led to increased expenditures. There has been progress in nearly every phase of the industry, mining, processing, transportation, and utilization—resulting in an overall decrease in the average price of coal. Opportunities for continued advance in extraction and transport technology are still great, and there are gains to be made also from studies of the distribution and quality of coal resources. Also, research and development on processes for extracting substitutes for crude oil and natural gas from coal have progressed in recent years.

Uranium and Thorium

Uranium constitutes a major energy resource for the United States and the world, even with the relatively low fuel efficiency in present reactors. Current commercial types of nuclear reactors are capable of utilizing only about 1.5 percent of the fission energy contained in uranium, principally because little use is made of uranium-238. This fraction can be vastly increased, perhaps by as much as 50 times, when "breeder" reactors are developed in which more fissionable material is produced from uranium-238 or thorium than is consumed (up to the limits of available uranium-238 or thorium). Such a potential improvement in efficiency and cost constitutes a strong incentive for research and development. In particular, as the efficiency of use is increased, fuel cost would become much less important in determining energy cost, so that more expensive ores would become more economic.

Although the development of reactors to use thorium is not as far along as the development of uranium fueled reactors, thorium nonetheless constitutes another major potential long-range nuclear fuel resource. Development of thorium energy sources will ultimately become important because of the desirability of extending the supply of low-cost nuclear fuel. In addition, research on exploration method, recovery technology, and general knowledge of the geology of uranium and thorium ores would also be rewarding.

Controlled nuclear fusion

Development of controlled fusion of deuterium, which is abundantly available in the oceans, appears as an attractive means for removing virtually all limitations on the long-run availability of energy. Fusion also produces much less radioactive waste than the fission process. Unfortunately, the feasibility of physical control or economic utilization of this theoretical energy resource has not been determined and requires additional basic research. There is very small economic incentive for private research, although some is being done. Although practical payoffs are not now in sight, the enormous potential for the future justifies a continuing Federal research effort. Federal programs are pursuing a number of the most promising new ideas as they are generated.

Other potential resources

Energy can be extracted from sources arising from local features of topography, geology or climate—falling water, tides, wind, heat of the earth, and sun. R & D on these sources has proceeded at relatively low rates, and probably will continue to receive far less emphasis than the more significant fossil and fissile fuels. There are many opportunities, however, for lowering the costs and enlarging the magnitude of these usable sources. The possibility of using "bulb" type hydroelectric turbines in tidal estuaries and major rivers is an example.

Utilization efficiency

Research and development which improves the efficiency with which energy is converted and consumed extends existing inventories of resources and may reduce total costs. Some improvements that show promise in this direction include fuel cells, storage batteries, central station components, thermoelectric devices, as well as those already mentioned in discussing particular resources.

The magnetohydrodynamic (MHD) generator—in which ionized gas at high temperature replaces the conventional rotating copper coil—combines the functions of prime mover and generator in a device with no moving parts, and may offer efficiency gains as high as 10 to 15 percent in converting the energy of burning fuel directly into electricity. Progress has been slow because of uncertainties in computing both cost and benefits, because of severe material limitations and because even experimental devices are relatively large and expensive. Another new device which may hold promise, but is now in the speculative stage, is the coal-fired electrogasdynamic (EGD) process, in which a high-temperature ionized gas operates in an electrostatic field to generate electricity with no moving parts.

Development of high-voltage, long-distance electrical transmission lines is important to realize the benefits of lower costs associated with large unit size in many types of powerplants. Steady progress toward increasingly high voltages has occurred with existing research and development programs. The greater efficiencies of large-scale central stations interconnected by extra-high voltage transmission systems can be realized from research and development in such areas as computer-control dispatching and improved control reliability. Private incentives seem to be adequate to insure satisfactory progress where alternating-current transmission systems are concerned. Direct-current transmission systems may require Government encouragement of R&D. Underground high voltage lines which replace unattractive surface powerlines may become increasingly important. It is not yet technically feasible to transmit electricity underground at very high voltages, and even at lower voltages underground transmission is much more expensive than overhead transmission. Government encouragement or support of R&D may be required.

Abatement of damage to health and environment

In the future, development and use of fuel resources will be strongly influenced by the urgent necessity to control critical increases of environmental pollution—such as automobile exhaust gases, SO_2 and other products of fossil fuel burning; excessive heating of rivers and estuaries by powerplant water cooling; acid mine drainage; radioactive wastes; and damage to scenic and land values through mining. Research and development programs aimed at both the assessment of hazards to health and environment and the economical abatement of damages are urgently needed. Atmospheric carbon dioxide is not poisonous but in the long run may affect the temperature of the earth and the weather; research directed toward understanding thoroughly the implications of atmospheric carbon dioxide buildup is particularly necessary to determine with greater certainty the effects that can be anticipated if we continue our present usage of fossil fuels for the next several decades.[2]

Automobile exhaust gas pollution may ultimately limit the use of conventional automotive engines unless a sharp improvement in control is developed. Present technology for limiting pollution, developed in response to official regulation, is inadequate to keep pace with the rate of increase in the number of automobiles. The fuel cell or improved storage batteries may, with sufficient development, provide an alternative power source, even if continuing vigorous research on control of present sources should not be successful.

Nuclear reactors, which do not produce carbon dioxide or other combustion products, provide a potential means of decreasing future air pollution. However, they produce other kinds of deleterious wastes; and continued care will have to be exercised to avoid radioactive contamination in reactor operation, waste product handling, and fuel processing.

PRINCIPAL GOVERNMENT R. & D. ISSUES AND RECOMMENDATIONS

Nuclear power

The major energy issue is the size and direction of the atomic power program, both in magnitude of Government involvement and in overall national significance. The most economical program should be pursued which will insure flexibility and reap the benefits of lower energy costs. Past Government encouragement and participation was necessary to develop light-water reactors. Now, private industry is investing additional R&D in further improvements which will undoubtedly lower energy costs.

In the long run R&D should be directed toward improving reactor fuel utilization (e.g., higher conversion ratios and power densities), or providing additional supplies of low-cost fissile fuel. Even with the expected advent of breeder reactors (with conversion ratios greater than one) which would produce more fissile material than that consumed, the continued growth of nuclear power will probably be faster than the production rate of bred fissile material; therefore some fissile material will have to be supplied from natural resources. Ultimately, breeding will provide most of the fissile material for system requirements.

While private industry will probably concentrate on improving existing commercial reactors, the Government should play a key role in developing more advanced reactors with better fuel utilization. Present development schedules should be maintained so as to accomplish development and final commercial application within the normally expected 15-year time period. Concurrently, the Government should encourage development of more than one breeder or near-breeder concept as a hedge against possible failure of any one approach.

Crude oil and natural gas substitutes

Domestic reserves of gas and petroleum are relatively small enough to warrant governmental interest in the timely availability of additional resources and economical substitutes. Imports from other countries with large reserves and lower production costs, or substitutes in the form of fuel cells or storage batteries, will tend to offset the impact of declining domestic reserves; but it is still desirable to retain the flexibility which domestic liquid and gaseous fuels provide.

The vast supply of shale oil represents one domestic substitute for petroleum. Both private and Government R&D have decreased processing costs. The Government should encourage R&D in extraction techniques, basic geology, and processing and utilization. Advanced mining systems deserve emphasis—particularly *in situ* and other extraction methods which might reduce both costs and damage to environment.

Government support of research in the conversion of coal to petroleum products is desirable as a feasible future substitute. Also, R&D should be encouraged to lower production and other costs of coal processing in general.

---

[2] At our projected world rate of fossil fuel consumption, the Panel on Environmental Pollution of the President's Science Advisory Committee, in its report: *Restoring the Quality of Our Environment,* estimates an increase in carbon dioxide content of the atmosphere of 25 percent by the year 2000. It is not yet known whether this would have undesirable consequences. (Tukey, John W., et al., *Restoring the Quality of Our Environment,* U.S. Government Printing Office, Washington, D.C. 1965. Available from Superintendent of Documents, U.S. Government Printing Office, at $1.25.)

Environmental pollution abatement

An important energy issue lies in the extent to which the increasing atmospheric pollution from fossil fuel combustion may require imposition of further regulations on the use of these fuels. Although such a development does not appear imminent, present understanding of environmental pollution problems is rudimentary. Consideration is being given to the research recommendations contained in the report of the Environmental Pollution Panel of the President's Science Advisory Committee (October 1965), and many of these are being implemented. It is entirely possible that our overall R&D program may have to be substantially altered to control pollution.

The trend of pollution regulatory policy will stimulate substantial private research and development directed at cleansing conventional pollution sources, but unfortunately practical and economical results through this approach may not reduce pollution quickly enough. Therefore, the Government should accept its share of responsibility for increasing R&D aimed at reducing damage from ongoing activities as well as developing substitute energy sources and processes that do not pose environmental problems.

The long-run pollution problems—such as heating of streams by powerplants, acid mine drainage, and radioactive and other contamination of water and air—require continuing Government research and surveillance. Existing programs in these areas should be strongly supported.

The aesthetic "pollution" caused by open wire electric transmission in many localities is a special area for Government concern. Except for encouragement via regulation or direct Government purchase, there appears to be sparse private incentive for R&D in overhead direct current or advanced underground high-voltage transmission. Support for R&D in this technology may have to come from the Government.

Effective coordination of energy research and development programs, within the larger framework of national energy policy, will require continued attention. The committee has considered various suggestions for new coordinating mechanisms, but makes no specific recommendations at this time in the belief that questions related to research and development can either be handled by existing mechanisms, such as the Federal Council for Science and Technology, or should be looked at in a broader national context than energy alone.

ENERGY RESEARCH AND DEVELOPMENT

(From the Report of the Task Force on Energy of the Subcommittee on Science, Research, and Development of the Committee on Science and Astronautics, U.S. House of Representatives, 92d Congress, 2d session)

CONCLUSIONS AND RECOMMENDATIONS

SUMMARY

During its year and one-half of intensive investigation on Energy Research and Development, the Task Force has become aware of the many complexities and interrelationships affecting present and future energy uses. Although recognizing the need for further careful study, the Task Force makes the following recommendations:

1. Now is the time to implement a greatly increased national energy research and development effort. Studies alone are not enough. Adequate funds and technical manpower must also be committed.

It is clear that a short-term energy crisis is upon us. But there is a long-term energy crisis which is just as real, and now is the time for making those decisions for action necessary for the long-term. Report-writing, discussion, and debate have gone far enough to identify where additional emphasis is needed. Research and development will have a great effect in solving these long-range problems, and adequate R & D programs must get underway now.

An appropriate agenda for research was developed in 1964 by the Interdepartmental Energy Study commissioned by President Kennedy. Most of the excellent recommendations from that report relative to such topics as nuclear power, substitutes for crude oil and natural gas, and environmental pollution abatement are still valid today—valid because so little action has been taken to implement them.

The total government and private funding for Energy R & D has remained at 0.15% of the GNP (about $1.5 billion now) during the nine years since the Interdepartmental report was written. This is inadequate to meet future energy needs and should be significantly increased. An additional one billion dollars annually for Energy Research and Development is needed now.

2. Organizational reforms are needed in the executive branch of Government in order to effectively coordinate and direct a greatly increased national energy R & D effort within the context of an overall national energy policy.

(a) A focal point for energy policy must exist in the White House.

This policy group should constantly review the energy situation—both short- and long-range problems—taking account of both international and domestic developments. It must take the responsibility for making policy recommendations to the President, and then overseeing the implementation of those policies (including research and development) which are promulgated. In addition to its responsibility for setting Energy R&D policy within the executive branch, if it is to be effective it must also be responsive to the Congress.

(b) An operating agency with responsibility for managing Government supported energy R. & D. should be established as soon as practicable.

This will require centralizing within a single organization the management of many energy R &D programs which now reside in various departments, commissions, and independent agencies. This operating agency would carry out, along with other executive agencies, the policies enunciated by the President acting upon the advice of the policy organization recommended above. The agency would answer to the Congress and its various legislative and appropriations committees in developing its specific responsibilities and in budgetary matters.

3. The issues of environmental protection and energy conservation must be paramount in any national energy policy and should receive greatly increased research and development support.

Energy consumption cannot continue to increase indefinitely into the future at its present rate, since our planet cannot cope with the vast amounts of thermal and material pollution which this would produce. Research programs directed toward more rational and efficient utilization of energy, health and safety of our people, and protection of the natural environment should have the highest priority.

Concomitant with the need for conserving energy and protecting the environment is the necessity for more careful utilization of our limited natural resources. Research and development offer great opportunities in accomplishing these goals through more effective resource recovery, and more efficient energy conversion, transmission, and utilization. Recycling of materials and the use of solid wastes as energy sources deserve substantial R & D support.

4. The Nation must set priorities among technological opportunities for investment in research and development. We cannot support all energy research and development alternatives at the levels which are suggested by their proponents. Evaluation of current data indicates the following areas of activity should have the highest priority.

(a) Basic research

Since basic research is inherently cheap compared to applied research and development, and the basic knowledge obtained from its undergrids all advances in energy technology, the progress of basic research should be limited by scientific and technical barriers rather than financial ones. Scientifically sound research in unconventional as well as conventional fields of Energy R & D must be pursued at a vigorous pace.

(b) Materials research

Materials Research and Development including materials testing, should receive special emphasis since almost all technological progress related to energy is limited by the properties of available materials.

(c) Solar energy

Because of its continuous and virtually inexhaustible nature Solar Energy R & D should receive greatly increased funding. Near term applications of solar power for household uses seem likely, and central station terrestrial solar power and satellite solar power are attractive long-term possibilities.

(d) Geothermal energy

Because of the vast reservoirs of thermal energy located in the earth's underground water and rocks, and its widespread distribution, geothermal energy should have greatly increased R & D emphasis.

(e) Nuclear breeders

The present effort to develop a safe, dependable Liquid Metal Fast Breeder Reactor (LMFBR) must be continued with its high priority. Breeder concepts alternative to the LMFBR must be pursued in parallel and have the same priority. Methods for safe, secure handling of nuclear fuels and safe, long-term disposal of radioactive wastes must be developed and implemented.

(f) Coal

Technologies to obtain clean energy from coal must be brought to commercial demonstration as rapidly as possible. Development of clean, economic coal gasification, liquefaction and solid coal combustion techniques would greatly reduce our dependence on oil and natural gas. Such R & D should be financed by both the public and private sectors at greatly increased levels.

(g) Fusion

Controlled thermonuclear fusion presents an exciting challenge to mankind. The enormous payoff from taming this virtually inexhaustible energy resource makes it mandatory to make the investment needed to overcome huge scientific and materials problems.

We failed to follow this advice in the past. If we had done so, we would not be at the mercy of the oil-exporting countries today. We cannot refuse to act now. We must approve sections 102 and 103.

Mr. Speaker, some opponents of sections 102 and 103 have charged that they received inadequate study by the Committee on Science and Technology. This is not true, and facts clearly show otherwise. To set the record clear on this matter, I should like to point out that our two energy subcommittees held 28 hearing sessions and heard from 94 witnesses on loan guarantees since September 25. Hearings were also held on two other bills with loan guarantee provisions: H.R. 8800 and H.R. 8494. Hearings on these two bills, which took place between early June and mid-September, included an additional 8 hearing sessions and 27 witnesses.

A breakdown of the 94 principal witnesses which appeared since the 25th of September according to type follows:

Federal agency witnesses	22
Industry	21
State and local government	11
Environmentalists	10
Citizens and citizen groups	9
Academic institutions	6
Governors	5
State and national associations	4
Unions	3
Financial institutions	2
Senators	1
Total	94

Further information concerning the distribution of witnesses and time between the Energy Research, Development and Demonstration Subcommittee, ERDD, and the Energy Research, Development and Demonstration (Fossil Fuels) Subcommittee (ERDD) (FF) is given below:

Days at hearings:	
ERDD	5
ERDD(FF)	10
Total	15
Number of witnesses:	
ERDD	18
ERDD(FF)	76
Total	94
Number of hours:	
ERDD	9.05
ERDD(FF)	49.77
Total	58.82

The Hearings before the ERDD-Fossil Fuels Subcommittee were directed toward synthetic fuels, coal and oil shale as reflected in the provisions of H.R. 9723.

Following is a listing of the hearing schedule and witnesses that appeared before that subcommittee:

DATE AND SUBJECT

September 29, 1975: H.R. 9723, Synthetic fuels demonstration for coal technologies, loan guarantees.

Witnesses

Mr. Robert W. Fri, Deputy Administrator, U.S. Energy Research and Development Administration.

Mr. Harry Johnson, Director of Programs, Planning and Analysis, Office of the Assistant Administrator for Fossil Energy, Energy Research and Development Administration.

Mr. Leonard Rawicz, Deputy General Counsel, Energy Research and Development Administration.

October 7, 1975: H.R. 9723, Oil shale R&D and synthetic fossil (2 Sessions) fuel incentives, loan guarantees.

Witnesses

Mr. Jack Horton, Assistant Secretary for Land and Water Resources, Interior Department.

Dr. Philip C. White, Assistant Administrator for Fossil Energy, Energy Research and Development Administration.

Mr. Robert W. Long, Assistant Secretary for Conservation, Research and Education, Department of Agriculture.

Mr. H. Tyler Marcy, Assistant Secretary for Navy (R&D), Department of the Navy.

October 8, 1975: H.R. 9723, Synthetic fuels demonstration for (2 Sessions) coal technologies; oil shale R&D and synthetic fossil fuel incentives, loan guarantees.

Witnesses

Charles H. Brown, Senior Vice President, The Oil Shale Corporation.

Mr. Harry Pforzheimer, Program Director, Paraho Oil Shale Demonstration, Inc., Grand Junction, Colorado.

Mr. Russell Cameron, Cameron Engineering, Denver, Colorado.

John M. Hopkins, Acting President, Union Synthetic Fuels Division, Union Oil of California.

Dr. Richard D. Ridley, Manager of Operations and Executive Vice President, Occidental Oil Shale, Inc.

October 9, 1975: H.R. 9723, Oil shale R&D and synthetic fossil (2 Sessions) fuel incentives, loan guarantees.

Witnesses

Mr. William C. Rogers, Chairman, Oil Shale Environmental Advisory Panel, Interior Department.

Mr. John S. Gilmore, Senior Research Economist, Industrial Economics Division, Denver Research Institute.

Dr. James L. Liverman, Assistant Administrator for Environment and Safety, Energy Research and Development Administration.

Dr. Steven J. Gage, Acting Deputy Assistant Administrator, Office of Energy, Minerals and Industry, Environmental Protection Agency.

October 20, 1975: H.R. 9723, Synthetic fuels demonstration for coal technologies, loan guarantees.

Witnesses

Dr. Barry Bosworth, Brookings Institution, Washington, D.C.

Mr. Arthur B. Treman, Jr., Managing Director, Dillon, Read, and Company, Inc., New York, New York.

Dr. Jerome E. Hass, Graduate School in Business and Public Administration, Cornell University, and co-author of Ford Foundation publication, "Financing the Energy Industry."

October 21, 1975: H.R. 9723, Synthetic fuels demonstration for (2 Sessions) coal technologies, loan guarantees.

Witnesses

Dr. Henry Linden, President, Institute of Gas Technology, Chicago, Illinois.

Mr. Arthur R. Seder, Jr., President, American Natural Gas Service Company, Detroit, Michigan.

Mr. James Lambrix, M. W. Kellogg Company, Washington, D.C.

Mr. Edward L. Strohbehn, Staff Attorney, Natural Resources Defense Counsel, Washington, D.C.

Mr. Clarence Ditlow, Congress Watch, Washington, D.C.

Mr. Willard C. Bull, Vice President, Gulf Mineral Resources Company.

Mr. Robert H. Lindquist, Assistant to the President, Chevron Research Company.

October 22, 1975: H.R. 9723, Synthetic fuels demonstration for (2 Sessions) coal technologies, loan guarantees.

Witnesses

Dr. Russell W. Peterson, Council on Environmental Quality, Washington, D.C.

Commissioner Don Smith, Vice Chairman, Federal Power Commission.

Dr. Robert W. Fri, Deputy Administrator, Energy Research and Development Administrator.

Mr. Gerald L. Parsky, Assistant Secretary for Trade, Energy and Financial Resources Policy Coordination, Department of the Treasury.

Mr. John Quarles, Acting Deputy Administrator, Environmental Protection Agency.

Mr. James L. Mitchell, Associate Director for Natural Resources, Energy and Science, Office of Management and Budget.

October 23, 1975: H.R. 9723, Synthetic fuels demonstration for coal technologies, loan guarantees.

Witnesses

The Honorable Thomas Salmon, Governor of Vermont.

The Honorable Richard Lamm, Governor of Colorado.

The Honorable Arthur Link, Governor of North Dakota.

The Honorable Ed Herschler, Governor of Wyoming.

Mr. Richard Jones, Director, Energy Policy Project, National Conference of State Legislators.

October 25, 1975: H.R. 9723, Oil shale R&D and synthetic fossil fuel incentives, loan guarantees (Rifle, Colorado).

Witnesses

The Honorable A. W. Van Arsdale, Mayor of the City of Rifle, Colorado.

The Honorable John D. Vanderhoof, Executive Director, Club 20, Grand Junction, Colorado.

Mr. Lawrence Aubert, Chairman, Board of County Commissioners, Mesa County, Colorado.

Mr. Bill Brown, Board of County Commissioners, Rio Blanco County, Meeker, Colorado.

Mr. Bill Brown, Colorado West Area Council of Governments, Rifle, Colorado.

The Honorable Russel McDaniel, Mayor of the City of Meeker, Meeker, Colorado.

Mr. Dan Giltz, Town Administrator, Rangely, Colorado.

The Honorable James O. Sinclair, Mayor of the City of Rangely, Rangely, Colorado.

Mr. Roland C. Fischer, Secretary-Engineer, Colorado River Water Conservation District, Glenwood Springs, Colorado.

Mr. Nick Theos, President of National Public Lands Council, Meeker, Colorado.

Mr. Joseph Sullivan, Rocky Mountain Farmers Union, Meeker, Colorado.

Mr. Ross Talbot, Vice President, Talbot Farms, Inc., and Chairman of School District R.E. 2 Building Committee, New Castle, Colorado.

Mr. Felix Selkovic, Rancher, Grand Valley, Colorado.

Mr. James Smith, Resident and Rancher in Western Colorado, Director, Rock School Corporation.

Mr. Bob McKoewn, Sopris Mental Health Clinic, Glenwood Springs, Colorado.

Mr. Ed Dobson, Friends of the Earth, Billings, Montana.

Mr. Frank Cooley, Attorney General for the Meeker Fire Department, Meeker, Colorado.

October 27, 1975: H.R. 9723, Oil shale R&D and synthetic fossil fuel incentives, loan guarantees (Boulder, Colorado).

Witnesses

The Honorable Nancy Dick, Colorado State Assembly.

Mr. Thomas J. Vogenthaler, Colorado Energy Research Institute.

Dr. A. Keith Turner, Colorado School of Mines.

Dr. Daniel M. Coffman, Environmental Consultants, Inc., Dallas, Texas.

Ms. Kathy Fletcher, Environmental Defense Fund.

Ms. Carolyn Johnson, Colorado Open Space Council.

Mr. Kevin Markey, Friends of the Earth.

Ms. V. Crane Wright, National Audobon Society.

Ms. Purnee McCourt, Colorado Open Space Council.

The Honorable Richard C. Lamm, Governor of the State of Colorado.

Mr. Myron Schober, Rocky Mountain Farmers' Union.

Mr. Curt Sorteberg, National Farmers' Union.

Mr. Bob Burghart, Colorado Cattlemen's Association.

Mr. William Mitchell, Northern Plains Resource Council.

Mr. Robert McClements, Sunoco, Dallas, Texas.

Mr. Douglas Henderson, Colorado Petroleum Association.

Mr. Blaine Miller, Rio Blanco Oil Shale Project.

Ms. Hester McNulty, Colorado League of Women Voters.

Mr. Trevor Berrington, Sierra Club.

Mr. Robert Weaver, Colorado Council of Trout Unlimited.

Dr. Michael March, University of Colorado.

Dr. James J. Hester, American Archaeological Society, National Archaeological Society.

Hearings before the Energy Research, Development and Demonstration Subcommittee on H.R. 3474 were directed at loan guarantees as they would apply to solar energy, geothermal energy, and energy conservation facilities. The schedule and witnesses are as follows:

October 1, 1975: H.R. 3474, Loan Guarantees for Geothermal Development.

Witnesses

Honorable Paul J. Fannin, United States Senate.

Mr. Robert W. Fri, Deputy Administrator, Energy Research and Development Administration.

Dr. Eric Willis, Director, Division of Geothermal Energy, Energy Research and Development Administration.

October 6, 1975: H.R. 3474, Geothermal Research and Commercial Development, Loan Guarantees.

Witnesses

Mr. Carthrae M. Laffoon, Senior Vice President, San Diego Gas and Electric Company.

Dr. Robert W. Rex, Republic Geothermal, Inc.

Mr. Paul Eggers, President, Geothermal Kinetics/McCulloch Oil.

Mr. Willis E. Burnside, Chairman of the Board, Willis E. Burnside and Company.

October 7, 1975: H.R. 3474, Loan Guarantees for Solar Energy Development.

Witnesses

Mr. Sheldon Butt, President, Solar Energy Industries Association.

Mr. Keith Turley, President Arizona Public Service Commission.

Mr. Joseph S. Ives, Environmental Counsel, National Rural Electric Cooperative Assn.

October 9, 1975: H.R. 3474, Energy Conserving Technologies, Loan Guarantees.

Witnesses

Mr. Bruce Wiesley, Senior Vice President, American Can Company.

Mr. F. David Lorey, Director, Melting Technology, Corning Glass Works.

Mr. William R. Ralls, Commissioner, Michigan Public Service Commission.

October 30, 1975: H.R. 3474, Loan Guarantees for New Energy Facilities.

Witnesses

Dr. Stanley Lewand, Vice President, Utility Division, Chase Manhattan Bank, New York, New York.

Mr. James Mitchell, Associate Director/Natural Resources, Energy & Science, Office of Management and Budget.

Mr. Gerald Parsky, Assist. Secretary/Trade, Energy & Financial Resources Policy, Department of the Treasury.

Mr. Robert W. Fri, Deputy Administrator, Energy Research and Development Administration.

Mr. John Hill, Deputy Administrator, Federal Energy Administration.

The remaining two sets of hearings addressed H.R. 8800, the Eelectric Vehicle Research, Development and Demonstration Act of 1975 and H.R. 8494, the Industrial Energy Conservation Act of 1975, both of which include loan guaranty provisions. A summary of effort and time expended by the Energy Research, Development and Demonstration Subcommittee in these hearings is shown in the following table:

	H.R. 8800	*H.R. 8494*
Number of Sessions	5	3
Number of witnesses	17	10
Total number of hours	9	8

Hearings for H.R. 8800 were held in early June. The schedule and witnesses were as follows:

June 3, 1975:

Witnesses

Dr. Ernest H. Wakefield, President, Linear Alpha, Inc.

Hon. Claude Pepper, Member of Congress from Florida.

Dr. James S. Kane, Deputy Assistant Administrator for Conservation Energy Research and Development Administration.

June 4, 1975:

Witnesses

Dr. Edward David, Vice Presdent, Gould, Inc.

Mr. James R. Braughtpn, Division of Delivery Services, U.S. Postal Service.

Mr. Cruse W. Moss, President, A. M. General Corporation.

Mr A. Forbes Crawford, President, Jet Industries, Ltd.

June 5, 1975 (2 sessions):

Witnesses

Mr. Leon G. Shahnasarian, President, Elcar Corporation.

Professor Richard Thornton, Massachusetts Institute of Technology.

Mr. Edward A. Campbell, Executive Secretary, Electric Vehicle Council.

Mr. Robert G. Beaumont, President, Sebring-Vanguard, Inc.

Mr. Robert Aronson, President, Electric Fuel Propulsion Corp.

Mr. Domenic Borello, President, Die Mesh Corporation.

June 6, 1975:

Witnesses

Mr. James Holzwarth, Technical Director, General Motors Technical Center.

Mr. Frederick Sanborn, Director, Ecotec Foundation.

Mr. Warren Harhay, President, Electric Vehicle Associates, Inc.

Mr. Harry Yoder, President, Battronic Truck Corporation.

Loan guaranties as related to energy conservation was examined during the second week of September. Testimony was presented by government, industry, and academic representatives on means to achieve early acceptance of energy conserving technologies by the private sector. Scheduled hearings and witnesses for H.R. 8494 follow:

September 9, 1975:

Witnesses

The Honorable Robert F. Drinan, Congressman from Massachusetts.

Dr. George N. Hatsopoulous, President, Thermo Electron Corporation.

Mr. Robert F. McCartney, Manager, Chemical Engineering Consulting, E. I. duPont De Nemours and Company.

Mr. Stanley M. Berman, Director, Energy/Resources Development and Conservation, National Association of Manufacturers.

September 10, 1975:

Witnesses

Dr. Betsy Ancker-Johnson, Assistant Secretary for Science & Technology, Department of Commerce.

Mr. Roger W. Sant, Assistant Administrator for Conservation, Federal Energy Administration.

Dr. Maxine Savitz, Director, Division of Buildings and Industry, Energy Research and Development Administration.

September 11, 1975:

Witnesses

Professor Lewis D. Conta, Dean, College of Engineering, University of Rhode Island.

Representing the Committee on Energy Resources—Development and Conservation, American Society of Mechanical Engineers.

Professor William T. Snyder, Chairman, Department of Engineering Science & Mechanics, University of Tennessee at Knoxville.

Dr. Ronald Slinn, The American Paper Institute.

Mr. Speaker, earlier I referred to the fact that the Office of Technology Assessment, in October 1975, published a detailed analysis of the ERDA plan and program. The ERDA document, entitled "Creating Energy Choices for the Future" was submitted on June 30, 1975, pursuant to requirements of Public Law 93-577, the Federal Nonnuclear Energy Research and Development Act of 1974.

The plan sets forth the goals for national energy R. & D. policy and identifies priorties for the near-time—to 1985—mid-term—to 2000—and long-term—after the year 2000. Specific programs to achieve these goals are included in volume II of the plan.

I am proud of the quality of this OTA report and would like to summarize relevant portions that impinge on synthetic fuels commercialization.

NONTECHNOLOGICAL ISSUES

The OTA review was made by an eminent group of experts drawn from the academic community, industry, environmental groups, professional societies and other groups. It found many shortcomings in the ERDA plan and program, and identified many important issues for further congressional attention. For example, it noted that the energy crisis—

> . . . involves decisions from individual householders to entire blocs of nations. Its "solution" depends on natural resources and human values, new sources of fuel, public perceptions, and government and industry responses.
>
> As a consequence, ERDA's narrow approach to the national energy policy goals might well fulfill a mission—developing new technology—without providing an answer—a secure energy future. Unresolved "nontechnological" issues—from inadequate incentives for commercialization, through environmental demands, competitive use of resources, to community resistance—could block the most sophisticated engineering achievement."

Almost all of these "nontechnological" issues identified by OTA are present in the question of commercialization of potential synthetic fuel technologies. The OTA report states—

> (g) The development of effective commercialization policies is not adequately addressed in the ERDA Plan: Bringing a new energy technology to the point of commercial feasibility is a risky process, especially when it involves diffuse markets the uncertainty of global energy and economic circumstances, the competition for capital. ERDA's Plan outlines a philosophy for commercialization, but clearly needs a more detailed explanation and careful definition of plans for developing a mechanism for coordination with industry.

ERDA FOSSIL PROGRAM

Commercialization, of course, is a problem for energy technologies other than those related to production of synthetic fuels. In its discussion of possible remedies for defects in the ERDA fossil energy plan, the OTA report says:

> The ERDA fossil energy program should emphasize the demonstration of technologies on a scale sufficient to provide reliable information for evaluating their technical, economic, and environmental feasibility.

The report goes on to say—

> Techniques for the production of synthetic oil and gas from coal and oil shale are available now and should be vigorously pursued. Although the economic feasibility of many of these technologies is highly uncertain at present, the promise of second generation technologies may not be much brighter. In the meantime there is a need for better information about the impacts, economics, and operating experience of commercial-scale operations. It must be recognized that the era of abundant cheap energy is over—especially in the cases of liquid and gas fuels.
>
> Because of the urgency of the national energy situation, the ERDA fossil-fuel program should emphasize the demonstration of available technologies at a scale appropriate to their stage of development: near-commercial scale for cases where no serious technical obstacles exist (such as high-Btu gas and possible oil shale with surface retrotting), and pilot scale for cases where technical problems still need to be solved (such as tertiary recovery oil, stimulation of tight gas formations, coal liquefaction, and low-Btu gas, combined cycle power plants). Better and more universally credible information can only be obtained through demonstration.

FEDERAL AGENCY COOPERATION

The institutional issue of competing Federal agencies was cited by the OTA experts as inhibiting a comprehensive and balanced coal program:

> Uncertainty concerning the roles of ERDA and FEA in providing incentives for commercialization of new technologies poses problems. Incentives may range from provision of capital for commercial demonstration plants to loan guarantees to insuring floor prices for fuels produced from pioneer commercial plants. If the various types of incentives are divided between ERDA and FEA, orchestration of the most appropriate incentive package for commercialization of a given technology will be difficult.

EMPHASIS ON COMMERCIALIZATION

This mention of loan guarantees is followed by a discussion of commercialization:

> Because of the long lead times and high capital costs involved, special attention should be given to commercialization of new technologies. The energy market is complex, ranging from the individual consumer to large industrial facilities. The market for energy R.D. & D. is different from that supported by DOD and NASA, both of which provided the markets for their own R.D. & D. Similarly, the R.D. & D. of the AEC was aimed at a specific market consisting of the large-scale electric power industry.
>
> The broad responsibilities inherent in ERDA's programs call for an approach that involves both producers and consumers from the initiation of program planning. R.D. & D. should reflect ultimate consumer preference and conditions of use (e.g., convenience, acceptable environmental impacts). The phasing from R.D. & D. to commercialization (usually by private enterprise) must take such issues as proprietary rights, patent rights, and licensing into careful consideration.

A clear understanding of the complexities ERDA faces is evident in the detailed OTA discussion of the commercialization issue. The report states:

> . . . in those programs where the market is clearly defined, the ERDA Plan implies that commercialization will occur when the risks involved in introducing a new energy technology are reduced to the point where private industry will be willing to invest in it. However, corporate investment decisions are based not olly on the risk of investment loss versus potential profit, but also on the size of the investment required, the compatibility of the technology with the overall company structure, the breadth and continuity of the market, the long-term availability of raw materials and other necessary resources, and many other factors.
>
> The Federal Government may therefore seek to tilt corporate decisions in a desired direction by offering special incentives, such as tax credits, loan guarantees, and direct subsidies.

COMMERCIAL DEMONSTRATION OF SYNTHETIC FUELS

The OTA Fossil Energy Task Group cited the need for full-scale commercial demonstration facilities:

> Demonstration plants should be the keystone of the fossil fuel technology R, D&D program—Because of the urgency of the national energy situation, the ERDA fossil fuel program should emphasize the demonstration of available technologies at a scale appropriate to their stage of development: near-commercial scale for cases where no serious technical obstacles exist (such as high-Btu gas and possibly oil shale with surface retorting), pilot scale for cases where technical problems still need to be solved (such as tertiary recovery of oil, stimulation of tight gas formations, coal liquefaction, and low-Btu gas-combined cycle power-plants). Although the opinion that emphasis should be placed on demonstration plants for several technologies is not universally espoused, it is not just an industry view. Environmental specialists and university representatives join in the call for better, and more universally credible information about alternatives.
>
> An unresolved question is the possible impact of the proposed national synthetic fuels commercialization program. If this is approved and implemented, its impact on the development of fossil fuels would be substantial. As part of the review of the ERDA programs in fossil energy, Congress may wish to clarify the status and effects of the proposed program in synthetic fuels commercialization.

OIL SHALE

The need for a commercial oil shale facility is specifically identified—

> Presently, no commercial above ground oil shale is processed in the United States. It appears that private sector investment sources are unwilling to accept the risks associated with a pioneer commercial facility. The several private projects which currently exist are still at the pilot retort stage. The critical problems associated with shale oil include mining techology for shale extraction, the economics of the total activity, and the management of waste in the form of spent shale. No commerical activity has had to cope with the mining and waste management problems at the level which would be created by a commercially viable shale oil plant. A commercial-scale facility can provide a broad range of opportunities to test procedures, prove technology, and train manpower in the special skills which must be developed. This is an appropriate subject for ERDA involvement at the demonstration level.

COAL LIQUEFACTION

Justification of the coal liquefaction program rests primarily on the decline in U.S. oil production and on the need for supplies for these uses of liquid fuels for which there is no ready substitute. A successful commerialization program in the 1980's depends on the results of pilot projects. The existing and proposed development programs of ERDA are judged to be of the proper magnitude and in the correct direction. However, the constraints to commercialization, such as the capital investment, construction time, and development of associated mine facilities imply that the projection by ERDA of 5 quads per year cannot be overcome by 1985. Thus, ERDA's projection that coal liquefaction will significantly affect fuel supplies by 1985 is unrealistic.

COAL GASIFICATION

The OTA report heavily emphasized the need for commercial scale demonstration plants:

> The construction and operation of a first generation, commercial-sized, high-Btu coal gasification plant is a prerequisite to any decision on a coal-based synthetic natural gas industry.

A pioneer commercial plant, producing 250 million cubic feet per day of high-Btu gas from coal, can be constructed immediately using current technology. Through its construction and operation, the economic, technical, and operating data necessary to assess the desirability of a coal-based synthetic natural gas industry can be determined. The objective of this construction is to determine whether or not high-Btu synthetic natural gas from coal is economically justifiable as a means of using the Nation's coal reserves to replace the declining supplies of natural gas and oil.

While several companies have shown a strong desire to build a commercial plant, they have not done so because of difficulties in financing such a plant, which will cost at least $1 billion. Incentives of some form, such as loan guarantees or regulatory changes, may have to be provided by the Government if the natural gas industry is to build one of these plants.

Mr. Speaker, the OTA analysis of the ERDA plan and program strongly supports immediate commercial demonstration of synthetic fuel plants. It also points out the need for ERDA to consider various incentives such as loan guarantees.

Section 103 implements important aspects of the OTA report.

Mr. Speaker, I should now like to expand on my earlier brief discussion of sections 102 and 103.

Section 102 of the conference report establishes an in situ oil shale demonstration program and provides for the transfer to ERDA of the administrative jurisdiction of an oil shale lease, with the lease administration reverting to the Department of the Interior at the end of the demonstration phase.

The original Senate version of this section intended to expedite the development of the in situ process for oil shale. Many Senators had expressed concern that the Department of the Interior's oil shale leasing program had not resulted in sufficient advances. They cited the fact that only four oil shale leases had been awarded in 55 years under the Mineral Leasing Act. The Senate then added the original version of section 102 to provide specific direction to ERDA to identify and lease, pursuant to Public Law 93-577, a tract of public land for demonstration of in situ oil shale production. ERDA was then authorized to select and enter into a cooperative arrangement with a non-Federal entity to ultimately demonstrate commercial production of at least 30,000 barrels per day of oil from shale for at least 1 year.

The conference agreed to keep some form of section 102, noting the inherent advantages of the in situ process for developing oil shale. In situ, or underground processing, of oil shale offers many potential advantages over the technologies that will be employed on the public lands leased under the Department of the Interior's prototype oil shale leasing program. As compared to mining and surface processing of oil shale, for example, it is estimated that in situ production of shale oil would bring:

Two-thirds fewer people to operate the process;

One-half the amount of water; and

One-third or less disposal of waste oil shale.

In situ processing also offers the possibility of application to lowgrade oil shales. This advantage is important in that some 1.2 trillion of the total resource of 1.8 trillion barrels of shale oil is in low-grade deposits that may never be recovered by conventional mining techniques.

Therefore if we can initiate such a joint program with industry, the country would be making great progress toward the development of our oil shale resources in an environmentally acceptable manner.

However, many managers on the part of the House noted several problems they felt needed to be addressed in the legislation establishing such a program.

For example, the conference version of section 102 contains provisions for State and local governmental consultation, approval of the Governor, and social impact aid assistance similar to those of section 103. Also, the 30,000 barrels per day target was dropped in favor of a requirement that the goal of the project be a plant which is sufficiently large to demonstrate the commercial viability of the process. Thus, the target is to be designed along technical guidelines taking into account water usage, profitability levels, environmental effects, waste disposal and social and economic impacts on local communities.

The basic thrust of the section, putting the responsibility on ERDA, has not been changed. Briefly stated, the Administrator will invite proposals from non-Federal participants to enter into a cooperative arrangement for the demonstration. As a part of the agreement, the Federal Government shall lease the oil shale tract to the non-Federal participant without payment of any bonus and without payment of any rents or royalties during the demonstration period. However, any profits accruing from the sale of oil produced during the demonstration phase shall be divided between the Federal Government and the participant in proportion to the value of the contribution of each to the demonstration. The Federal Government's share will be deposited into miscellaneous receipts of the Treasury. During the demonstation, ERDA will administer the lease.

Also, the lease administered by ERDA during the demonstration program is now required to provide for diligent development and termination in the event of failure to develop. Frequent criticisms heard by the conferees during consideration of this section were that Interior's present lease provisions requiring diligence through the use of credits and development plans were not adequate to avoid speculation and encourage early production. Under Interior's prototype oil shale leasing program, the lessee can delay submission of an acceptable development plan for more than 5 years after the lease is issued and even then the delay is only "ground" for termination if Interior "so elects."

The conference version also changed the Senate's version by having Interior administer the lease at the conclusion of the demonstration period. At the conclusion of the demonstration, as determined by ERDA, should the non-Federal participant choose to continue commercial production on the tract, a lease would be issued by the Secretary of the Interior under the Mineral Leasing Act, except that the lease will provide for profit sharing to the extent that the value of the Federal contribution to the demonstration, including bonus payments and royalties foregone, warrants such payments in excess of usual royalties. Such payments are to be treated as royalties for the purposes of 30 U.S.C. 191.

Mr. Speaker, I urge my colleagues to support section 102. It represents a much improved version of the Senate version, and promises to yield an environmentally acceptable method for processing oil shale.

I also wish to urge your support for section 103, which authorizes a loan guarantee program for the demonstration of new energy technologies which have not been proved on a commercial scale. I feel that this program is a logical extension of existing Federal participation in energy research and demonstration projects. At present the Federal Government completely finances laboratory scale projects. When the technology advances to the pilot plant stage, the Government assumes 50 percent of the cost and when it goes to the demonstration plant size, the Government share drops to one-third. Now, with the implementation of this program, the Federal Government will guarantee up to 75 percent of the loan to prove the commercial viability of new or unproven technologies in coal, oil shale, solar energy, conserving facilities and equipment, and other areas. It also further implements the geothermal loan guarantee established by Public Law 93-410. This is a responsible step-by-step method for the government to encourage energy research from the inception of the idea to the commercial plant, while insuring industry support and participation in the project.

Section 103 establishes a new section 17 for the Federal Nonnuclear Energy Research and Development Act (Public Law 93-577). Subsection 17(a) states the purpose of assuring Federal support through authorization of loan guarantees for the construction and startup costs of commercial demonstration facilities for synthetic fuels, and other desirable energy forms, from renewable and other sources and energy-efficient industrial facilities. A further purpose is to gather information on the costs, benefits and impacts of such projects.

The Administrator is authorized explicitly to guarantee interest and principal payments for financing construction and startup costs of commercial demonstrations for the conversion of fossil fuels to synthetic fuels; for other desirable energy forms in commercial quantities from solar or other renewable sources; and for energy-efficient industrial facilities; and for further implementing the Geothermal Energy Act. Three limitations are: First, $6 billion in aggregate guarantees for all technologies except geothermal; second, an oil shale plant shall be no larger than necessary to demonstrate commercial viability; and third, augmentation rather than supplanting of the Geothermal Energy Act.

I wish to note here the expanded scope of this program as compared to the administration's synthetic fuels commercialization program. That program considered only the use of coal, oil shale, biomass and other domestic resources for conversion to synthetic fuels. The conference report includes many other forms of energy resources. Therefore, while the House considered the administration's proposal in extensive hearings, it specifically went beyond it. I fully expect that the program report which ERDA is required to present to us within 6 months will be significantly different as to the types of projects expected to receive loan guarantees.

Subsection (d) requires the Administrator to consult with the Attorney General and the Federal Trade Commission rgarding the impact on competition. An undesirable byproduct of this loan guarantee program which we do not want is an adverse impact on competition. By injecting the expertise of the Federal Trade Commission and the Attorney General into the Administrator's decisionmaking process, we will be able to prevent anyone who receives a loan guarantee from obtaining an unearned advantage. Finally as a last safeguard, both Houses of Congress will be able to express their disapproval of any major guarantee on this or any other issue, before the guarantee is finalized.

In paragraph (e)(1) the Administrator is required to consult with State and local officials and give them an opportunity to advise on planned activities in their jurisdictions at an early stage. If the Governor objects to the Administrator's decision, then the Administrator may override the objection if he determines that the project is in the national interest. This is then subject to judicial review. Paragraph (e)(2) calls explicitly for review of borrower plans including costs for monitoring potential impacts of facilities.

Projects of such magnitude will necessarily require numerous State permits. Clearly, the Governor of the host State could effectively tie up any project indefinitely. The better part of wisdom seems to be to include the Governor and the appropriate local officials in the decisionmaking process as soon as possible. Thus we will have established, with this subsection, a balance between Federal and State needs. With this opportunity we can establish a positive partnership with the host communities and States.

Subsection (k) provides the Administrator with a portfolio of impact assistance programs. Our concern was to give him the ability to tailor an impact assistance program to the particular needs of the community.

First, the subsection authorizes ERDA to extend guarantees up to a maximum of 100 percent of a local community's obligations for financing such essential public facilities, or of the tax revenue stream which is expected from the new commercial demonstration facility. In the former case, the Administrator would guarantee the obligation issued by State, local jurisdictions, or Indian tribes to finance essential public facilities. In the second situation, the Administrator would guarantee to the community the amounts of anticipated tax revenues from the energy demonstration facility. Such revenues could then become a reliable basis for municipal borrowing.

A provision has been included in subsection(s) to make clear that interest paid to a holder of a community's obligations which are guaranteed under the provisions of this measure not be exempt from income taxes. This provision is also designed to make it clear that the conferees are not changing, or requiring a community to change, the status or type of obligation it issues, but that the holder of the obligation must include the interest arising from the obligation as taxable income.

Because such a provision may result in a higher interest rate upon municipal securities issued by a community, the bill provides that ERDA will pay an interest differential to the community. The amount of the differential will be determined by Treasury. The conferees intend that Treasury have discretion respecting the amount of the differential, the terms and timing of payments, and as to such other conditions as Treasury deems appropriate. An estimate of any such differential payments should be included in the report to Congress required under subsection (m) concerning each guarantee.

The bill establishes a ceiling of $350 million as the maximum outstanding obligation due to guarantees of financing for community development. This amount would be included within the total authorization of $6 billion established for outstanding obligations to guarantee financing of energy demonstration facilities under this measure.

As a further alternative form of community assistance, the entity financing an energy demonstration facility with assistance under this measure could be required by the Administrator to include capital costs for essential public community facilities within the project costs. The funds would then be made available to appropriate public entities under terms and agreements prescribed by the Administrator. Such payments should be treated as advances on taxes, and tax credits would be provided by the public entities to the project to return the amounts over the life of the project.

Additionally, and only if circumstances make the previous approaches impractical or inadequate, the Administrator would be authorized to make direct loans to communities to cover the costs of essential public facilities and to forgive all or part of the repayment of such loans if changes in circumstances, such as failure or partial failure of the demonstration, make repayment by the community from revenues impossible.

The least favored approach that is provided, to be used only where there is a lack of public capability to administer the construction of community facilities, would necessitate direct construction of community facilities as ancillary facilities of the demonstration itself. The costs of the community facilities would be included within the total costs of the demonstration facility, and the entity proposing the demonstration would arrange for construction of community facilities under the Administrator's direction and with the greatest possible local public participation.

The Administrator is also authorized to provide planning grants to impacted communities to finance up to 100% of the planning of essential public facilities.

This was one issue that we felt very strongly about. Although the Senate had provided for assistance to local communities, the House became convinced that the problems involved were much more complex and necessitated a broader approach. After examining these problems through the extensive hearings of our committee, I am convinced that we have provided for ample assistance.

No better method could be provided than to have the Administrator tailor each program to the particular problems generated by each project. We in the Congress will have subsequent opportunity to review these tailormade plans, because the loan and grant authority must be authorized annually. I also wish to point out it may be appropriate to hold further hearings on this plan at the time we have more concrete facts to look at. Further hearings now on what would be needed for community impact assistance could only produce long-term speculation.

Subsection (1) requires an extensive report to the Congress regarding how the Administrator proposes to implement the loan guarantee program. As I mentioned earlier, the scope of this report will be much larger than the administration's synfuels commercialization program because of the expanded scope of the bill. Also, we found in our hearings that several areas were of special importance and should be expanded upon in this report. Specifically:

First. Information about potential commercial demonstration facilities proposed in the program under this section;

Second. Any significant adverse impacts which may result from any activity included in the program;

Third. Proposed regulations required to carry out the purposes of this section;

Fourth. A list of Federal agenices, governmental entities, and other persons that will be consulted or utilized to implement the program; and

Fifth. Methods and procedures by which the information gathered under the program will be analyzed and disseminated.

I wish to note again here that the report could and should be the basis of any subsequent hearings. We have had sufficient hearings to implement the authority for this program. Without a programmatic response to specific legislation from ERDA, any witnesses at future hearings would only be speculating. Obviously we have gone as far as we should to give ERDA the authority. Now we must wait for ERDA to respond to the loan guarantee legislation.

Subsection (m) provides for further reporting and for congressional oversight. ERDA is required to present a detailed report on each project to the Congress for a period of 90 days before it is finalized. If the cost of the commercial demonstration facility is more than $350 million, then either House of Congress may disapprove the project.

This provides the ultimate check on this program. We know that no major project will be undertaken against the will of Congress. Whatever reservations anyone had about this loan guarantee program should vanish with the inclusion of this section.

Subsection (q) provides that the title and waiver provisions of the patent policy of the Federal Nonnuclear Act apply to this program.

This compromise provision reflects the intention that all of the patent policy provisions, except subsection (b), of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 be applicable to the loan guarantee program.

The concern here was about the possible impact of subsection 9(b) on trade secrets and other proprietary rights, because of the reports required by the subsection. The concern existed that subsection 9(b) might adversely affect a project participant's background trade secrets and other proprietary rights if such information was made public. Rather than risk discouraging potential project participants from cooperating in the synthetic fuel program because of possible uncertainty with respect to their background rights, the conferees believe that the limited application of section 9, together with the positive protection contained in section 17(v) and 18, will adequately protect the holders of trade secrets and proprietary rights.

I also wish to note that this compromise was worked out with the full participation of the House and Senate Judiciary Committee staffs.

In conclusion, I would like to try to clear up some misinformation which has been circulated about section 103. First of all, it is not the administration's synthetic fuel commercialization program, the administration plan was considered by the committee in its hearings, but there are numerous differences between section 103 and the administration's plan. Second, it is not a step toward the President's $100 billion Energy Independence Authority: Section 103(q) specifically prohibits the transfer of any part of the programs authorized to any other agency or authority without a specific act of Congress. Finally, this program does not involve price supports or construction grants; the conference report specifically states:

> Approval of Section 103 in no way constitutes an expression of approval of approaches for assistance beyond loan guarantees.

Section 103 is, in fact, a program to guarantee loans for the commercial demonstration of a variety of new untested energy technologies.

Thus, this loan guarantee authority establishes the final step in the demonstration of energy technologies. It provides the last bit of help necessary to overcome the reluctance of bankers and investors to invest in unproven or uncertain energy technologies. With this help, we will see many new technologies translated into commercial plants so that we may derive more energy from our fossil fuels, solar energy, geothermal energy, and other domestic resources.

Mr. Speaker, I urge the approval of sections 102 and 103, and the adoption of the conference report on H.R. 3474.

Mr. Speaker, I am not going to say more so that I have some time to yield to my colleagues, and I would first like to yield 7 minutes to the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Speaker, I want to start my remarks by offering my congratulations to Chairman "Tiger" Teague for the truly outstanding job that he has done in providing the leadership for our committee during the initial consideration of the ERDA authorization bill, but more importantly during the last 3 months in which we have been in conference with the Senate. We were faced with two major and controversial provisions which were included by the Senate in their version of the ERDA authorization bill. Chairman Teague's leadership and fairminded guidance during the consideration of the provisions by the House conferees is highly laudatory.

I also want to commend my colleagues on the Committee on Science and Technology for all of the work that has gone into this very difficult job of putting together this excellent bill. In particular, I wish to congratulate the gentleman from Ohio (Mr. Mosher) the ranking minority member, and the gentleman from California (Mr. Goldwater), the ranking minority member of my subcommittee; the gentleman from West Virginia (Mr. Hechler), and the gentleman from California (Mr. Brown). I also wish to congratulate all the rest of the team who have worked so long and hard on this bill.

Mr. Speaker, I am not going to take a lot of time on this portion of the bill at this time. I want to make some fundamental points, however, that apply not just to the bill as a whole but also to sections 102 and 103. I want to reiterate some of the points that were made a few minutes ago in debate by the gentleman from Texas (Mr. Teague).

Most of the Members of the House may not be aware of the fact that today this country is importing 41 percent of its petroleum. When the Arab embargo struck 2 years ago, we were importing 35 percent. The air has been filled with rhetoric of all sorts ever since about energy independence for this country. Yet in 2 years our imports have not gone down at all; they have gone up, from 35 percent to 41 percent. This is primarily because this country, this administration, and this Congress until today have yet to establish what might be considered a balanced program to develop alternate energy sources to our traditional sources of petroleum and natural gas and other petroleum products that we import.

Today our domestic oil production is down 10 percent over the last 3 years. Today our natural gas production is down 10 percent over the last 3 years. In spite of all the rhetoric since the oil embargo about becoming independent, our coal production has scarcely changed. Here we are, running out of petroleum and natural gas. As far as a significant supply of petroleum is concerned, we will be out by the end of the century, and people are still objecting to developing programs for alternate sources of energy.

A great deal of this rhetoric we have heard is on the subject of conservation, about how we can solve our problems through conservation. A number of studies have been made to determine how we can conserve energy and how much we can cut down. I would like to make a point about this business of conservation. Our traditional energy growth rate over the last decade has been about 3.6 percent per year. There have been a lot of studies made about reducing our traditional growth rate to some other manageable level.

Some of the most conservative suggestions have been to reduce the growth rate to 2 percent per year between now and the end of the century. However, I would like to point out that if we were to establish a 2 percent growth rate even today, if we could get that in place today, it would still mean we will be doubling our energy consumption within 35 years. That would be true even if we could get a 2 percent rate, which we cannot.

This is on the assumption we could get a 2 percent growth rate and only double consumption within 35 years, and we must do that or we will run out of petroleum and natural gas much sooner. This is what the energy crisis is fundamentally about.

Within that context is the fact that if we run out of petroleum and natural gas, if we use up one type of fuel, we must replace that with another type of fuel, with coal or with nuclear fission, and that is what we address ourselves to in this conference report. This is what we are confronted with.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, the gentleman is exactly right about the production of coal. I could not agree with him more. But we can rip off the taxpayers for $6 billion or $60 billion, and that is not going to solve the problem.

I have nearly all the coal in Ohio in my district, and 10 years ago they could buy a mining machine which could mine coal—and this was one of those things that dig it out of the ground and put it on a belt—for $60,000. The man running the machine was producing 20 tons a shift.

Now that same machine, only better, which will produce more coal costs $250,000, and the guy running it is producing 7 tons a shift. That is where the problem is.

We are not going to solve the problem by ripping off the Treasury. We have got to find some way to raise productivity. That is where our problem is with respect to coal.

Mr. McCORMACK. Mr. Speaker, I thank the gentleman for his comments, and I want to say that there is absolutely no ripoff of any Treasury anywhere in this bill or any part of it. If we produce coal at the same rate and at the same price as has been suggested by Members in the past, it will scarcely have any effect at all on the energy situation today.

I have the unique pleasure of being a member of both the Committee on Science and Technology and the Joint Committee on Atomic Energy. As the chairman of the Subcommittee on Energy Research, Development, and Demonstration of the Committee on Science and Technology, I have responsibility for all nonfossil, nonnuclear energy research, development and demonstration. The major programs which this subcommittee has cognizance over are solar energy, geothermal energy, conservation, and physical research—the last being the basic research program of ERDA.

Mr. Speaker, I strongly support H.R. 3474, authorizing appropriations to the Energy Research and Development Administration for the fiscal year 1976 and the transition period. It deserves the support of every Member of the House of Representatives. This bill represents the product of almost a year's work by the House Committee on Science and Technology, the Joint Committee on Atomic Energy, and the Senate Interior Committee. The bill provides dramatic increases for energy research, development and demonstration programs in a number of important fields.

H.R. 3474 authorizes the funds for the Energy Research and Development Administration for fiscal year 1976 and the transition period. This new agency has the responsibility for the energy R. & D. programs formerly carried out by the Atomic Energy Commission, the National Science Foundation, the Department of the Interior, and the Environmental Protection Agency. Within the Federal Government, it is the single focal point for energy research, development, and demonstration activities. We depend on ERDA to fund research programs today that will give us new energy technologies tomorrow.

H.R. 3474 authorizes $4,992,433,000 for fiscal year 1976. The compromises in conference bring the recommendation of $1,270,983,000 for the transition period. These totals include, of course, both nuclear and nonnuclear programs.

The bulk of these increases were associated with the programs for which my subcommittee has responsibility. The total increase for the nonfossil, nonnuclear R. & D. programs for fiscal year 1976 is $335,735,000 and the corresponding increase for the transition period is $81,632,000. These changes are truly dramatic. They represent doubling and in one case more than tripling the administration request.

Members of Congress can be proud of this congressional initiative to maintain our ongoing programs, and to develop alternative energy sources and new technologies for synthetic fuels. I want to tell the Members just what we have done in this subcommittee with respect to the building of an energy program. There has been a lot of talk about an unbalanced program. These statements are misleading and I would like to try to correct them. I want to tell the Members what we have done in this regard. I am also inserting tables in the RECORD which provide a graphic description of how rapidly Congress has moved to develop a balanced energy program.

TOTAL FEDERAL ENERGY RESEARCH AND DEVELOPMENT BUDGET AUTHORITY

[Approximate, in millions]

	Fiscal year 1974 [1]	Fiscal year 1975 [1]	Fiscal year 1976 [2]	Percent increase fiscal year 1975 1976/
	(Total Government)		(ERDA only)	
Fossil energy	$149	$386	$498	29
Solar energy	23	50	173	246
Geothermal energy	13	34	56	65
Conservation	20	33	156	373
Environment and safety	144	178	258	45
Nuclear energy:				
Breeder	396	538	546	1
Other fission	25	37	76	105
Fusion	112	189	301	59

[1] Total Government expenditures and obligations.

[2] H.R. 3474, conference committee. ERDA authorization.

The total fiscal year 1976 ERDA authorization for energy research and development is $2,636 million. This number does not include military-related programs, isotope separation, or high-energy physical research. The following percentages indicate the relative efforts in major programs:

[In percent]

Solar	6.6
Geothermal	2.1
Conservation	5.9
Environment and safety	9.8
Breeder	20.7
Other fission	2.9
Fusion	11.4
Fossil [1]	18.9

[1] Categories not shown include all Physical Research and Program Support.

I should like to point out first of all that our actions to increase the authorization for the ERDA research, development, and demonstration programs were not taken blindly. My subcommittee held 7 days of hearings on this authorization bill. In addition a joint hearing on environment and safety was held with Mr. HECHLER's subcommittee. We gave careful consideration to the testimony we heard from witnesses from ERDA and other Federal agencies, as well as representatives from private industry, universities, and other organizations. Subcommittee members and staff subsequently forwarded to ERDA over 250 questions to be answered for the record. The answers to these questions were received and carefully analyzed in order to reach the decisions in the original House bill. This carefully constructed record fills six volumes of hearings.

Clearly, we have a carefully documented record. This record was further buttressed by a well-done analysis of the ERDA budget and programs by the Office of Technology Assessment—OTA. Utilizing an ad hoc panel, expert consultants, and OTA staff members, a volume of issue papers addressing the fundamental questions raised by the ERDA budget was prepared for the Committee on Science and Technology and the Joint Committee on Atomic Energy, as well as the Senate Committee on Interior and Insular Affairs. This 84-page document was published for the benefit of all Members of Congress.

Meetings with the committee members and committee staff were conducted by participants in the OTA budget assessment during the 3 days before the subcommittee hearings began. Other review sessions were held before markup, and OTA staff experts collaborated with the committee staff in analyzing policy issues for the committee members.

The Senate Interior Committee held extensive hearings as well during its consideration of the bill. Since they completed committee action later in the year the generally larger increases for the ERDA programs, which they proposed, were based on the then most current information available regarding the amounts which ERDA could profitably spend this year.

In the conference committee consideration of the authorization levels to be recommended, we considered the best available information on the obligational amounts that ERDA projected it could probably spend this year based on their activities to date under the resolution for continued operations in lieu of passage of the authorization and appropriations bills. The compromises between the House and Senate figures were struck with this evaluation in mind.

I should now like to review the increases recommended by the conference committee in the nonnuclear, nonfossil research areas. The conference report in its discussion of the programs shows projected costs for moneys to be spent this year. The obligation figures are merely the sum of these costs and other categories labeled "changes in selected resources, construction obligations, and capital equipment obligations." The changes in selected resources are mainly the differences from year to year between committed but uncosted obligations, often those associated with research contracts that extend for a year or more into the future. The construction obligations are for construction of or modifications to permanent facilities. The capital equipment obligations are primarily for laboratory equipment.

I should point out that the selected resources account contains not only these and other goods and services on order, but also inventories and collateral funds and other deposits such as annuity funds and insurance collateral funds. The result of the conference committee's action in specifying both obligations and costs by program means, I believe, that we and the Congress as a whole will have a better ability to track the expenditure of Federal funds in the future.

In no way do we intend to interfere with ERDA's efficient financial management system. The ERDA comptroller has done an excellent job in the past of providing financial management for the Administration's far flung activities. On the other hand we are confident that this additional control will permit the Congress to become and remain better informed about the status and evolution of specific program elements in ERDA.

I am submitting for the RECORD at this point in my statement detailed tables showing the conference committee recommendations for the ERDA authorization levels in fiscal year 1976 and the transition period for the nonfossil, nonnuclear programs.

DETAILED FISCAL YEAR 1976 CONFERENCE COMMITTEE RECOMMENDATION

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
SOLAR ENERGY DEVELOPMENT						
Solar energy buildings and facilities:						
Senate authorization	31,600	7,780	0	0	39,380	--------
House authorization	30,855	24,357	0	500	55,742	28,500
Conference recommendation	31,600	16,070	0	500	48,170	--------
Solar thermal:						
Senate authorization	11,000	2,200	10,000	0	23,200	--------
House authorization	19,392	19,028	0	750	39,170	17,000
Conference recommendation	11,000	10,610	10,000	750	32,360	--------
Photovoltaic:						
Senate authorization	21,000	6,460	0	0	27,460	--------
House authorization	17,239	22,219	0	1,000	40,458	19,000
Conference recommendation	21,000	14,340	0	1,000	36,340	--------
Wind energy conversion:						
Senate authorization	15,000	4,500	0	0	19,500	--------
House authorization	12,442	11,925	0	500	24,867	11,500
Conference recommendation	13,720	8,210	0	500	22,430	--------
Bioconversion to fuels:						
Senate authorization	6,000	1,600	0	0	7,600	--------
House authorization	4,825	4,174	0	0	8,999	6,000
Conference recommendation	5,780	2,890	0	0	8,67[illegible]	--------
Ocean thermal energy conversion:						
Senate authorization	6,000	1,558	0	0	7,558	--------
House authorization	5,977	9,529	0	0	15,506	3,200
Conference recommendation	6,000	5,545	0	0	11,545	--------
Resource analysis:						
Senate authorization	1,500	500	0	0	2,000	--------
House authorization	1,788	2,366	0	0	4,154	3,800
Conference recommendation	1,500	1,660	0	0	3,160	--------
Solar storage:						
Senate authorization	0	0	0	0	0	--------
House authorization	1,788	2,366	0	0	4,154	0
Conference recommendation	1,500	1,600	0	0	3,100	--------
Solar institute:						
Senate authorization	5,000	1,650	0	0	6,650	--------
House authorization	1,887	2,613	0	250	4,750	200
Conference recommendation	5,000	1,500	0	250	6,750	--------
Capital equipment not identified to program	--------					
Total solar energy:						
Senate authorization	97,100	26,248	10,000	0	133,348	--------
House authorization	96,223	98,577	0	3,000	197,800	89,200
Conference recommendation	97,100	62,425	10,000	3,000	172,525	--------
GEOTHERMAL ENERGY DEVELOPMENT						
Geothermal energy demonstration:						
Senate authorization	0	0	10,000	0	10,000	--------
House authorization	7,200	15,800	0	0	23,000	0
Conference recommendation	0	0	10,000	0	10,000	--------
Resource utilization:						
Senate authorization	17,870	—3,070	0	0	14,800	--------
House authorization	18,750	—1,450	0	500	17,800	12,600
Conference recommendation	18,750	5,200	0	500	24,450	--------
Supporting research and development:						
Senate authorization	16,000	—687	0	620	15,933	--------
House authorization	11,700	1,270	0	2,620	15,590	18,790
Conference recommendation	16,000	3,320	0	2,620	21,940	--------
Total geothermal energy:						
Senate authorization	33,870	—3,757	10,000	620	40,733	--------
House authorization	37,650	15,620	0	3,120	56,390	31,390
Conference recommendation	34,750	8,520	10,000	3,120	56,390	--------
Electric power transmission:						
Senate authorization	11,830	300	0	1,700	13,830	--------
House authorization	11,830	300	0	1,700	13,830	21,130
Conference recommendation	11,830	300	0	1,700	13,830	--------
CONSERVATION RESEARCH AND DEVELOPMENT—Continued						
Energy storage systems:						
Senate authorization	23,100	5,700	0	750	29,550	--------
House authorization	22,932	5,318	0	2,600	30,850	14,850
Conference recommendation	23,100	5,700	0	2,600	31,400	--------
Advanced transportation power systems:						
Senate authorization	18,000	4,420	0	0	22,420	--------
House authorization	19,000	4,500	0	1,500	25,000	12,940
Conference recommendation	19,000	4,500	0	1,500	25,000	--------
End-use conservation:						
Senate authorization	31,000	11,300	0	0	42,300	--------
House authorization	27,000	26,000	0	5,000	58,000	18,100
Conference recommendation	31,000	18,650	0	5,000	54,650	--------
Improved conversion efficiency:[1]						
Senate authorization	17,350	4,335	0	0	21,685	--------
House authorization	5,100	1,800	0	700	7,600	4,800
Conference recommendation	12,625	3,000	--------	700	16,325	--------
Fuel cells:						
Senate authorization	(10,000)	(3,235)	--------	--------	(13,235)	--------
House authorization	(2)	(2)	--------	--------	(2)	(600)
Conference recommendation	(9,000)	(1,000)	--------	--------	(10,000)	--------
Urban Waste conversion:						
Senate authorization	30,000	10,000	0	0	40,000	--------
House authorization	0	0	0	0	0	0
Conference recommendation	10,000	5,000	0	0	15,000	--------
Total conservation:						
Senate authorization	131,280	36,055	0	2,450	169,785	--------
House authorization	85,862	37,918	0	11,500	135,280	71,820
Conference recommendation	107,555	37,150	0	11,500	156,205	--------
PHYSICAL RESEARCH (INCREMENT ONLY)						
Materials sciences:						
Senate authorization	8,500	2,850	0	2,500	13,850	--------
House authorization	8,500	1,900	0	2,600	13,000	--------
Conference recommendation	8,500	1,900	0	2,600	13,000	--------
Molecular sciences:						
Senate authorization	9,500	3,150	0	2,500	15,150	--------
House authorization	4,950	550	0	1,500	7,000	--------
Conference recommendation	7,225	1,850	0	2,000	11,075	--------
Total physical research:						
Senate authorization	18,000	6,000	0	5,000	29,000	--------
House authorization	13,450	2,450	0	4,100	20,000	--------
Conference recommendation	15,725	3,750	0	4,600	24,075	--------
ENVIRONMENT & SAFETY (INCREMENT ONLY)						
Health studies:						
Senate authorization	4,660	1,540	6,800	--------	13,000	--------
House authorization	1,120	280	0	--------	1,400	--------
Conference recommendation	4,660	1,540	6,800	--------	13,000	--------
Environmental studies:						
Senate authorization	12,672	4,203	0	--------	16,875	--------
House authorization	5,520	1,380	0	--------	6,900	--------
Conference recommendation	12,672	4,203	0	--------	16,875	--------
Biological studies:						
Senate authorization	2,240	760	0	--------	3,000	--------
House authorization	1,140	285	0	--------	1,425	--------
Conference recommendation	2,240	760	0	--------	3,000	--------
Physical and analytical:						
Senate authorization	6,928	2,297	0	--------	9,225	--------
House authorization	3,020	755	0	--------	3,775	--------
Conference recommendation	6,928	2,297	0	--------	9,225	--------
General program capital equipment:						
Senate authorization	--------			0	0	--------
House authorization	--------			2,000	2,000	--------
Conference recommendation	--------			2,000	2,000	--------
Total environment and safety:						
Senate authorization	26,500	8,800	6,800	0	42,100	--------
House authorization	10,800	2,700	0	2,000	15,500	--------
Conference recommendation	26,500	8,800	6,800	2,000	44,100	--------
OTHER PROGRAMS						
Advanced energy systems research supporting activities:						
Senate authorization	6,500	2,600	0	0	9,150	--------
House authorization	6,550	2,600	0	0	9,150	11,350
Conference recommendation	6,550	2,600	0	0	9,150	--------
Scientific and technical education:						
Senate authorization	5,000	1,700	0	0	6,700	--------
House authorization	4,000	1,000	0	0	5,000	0
Conference recommendation	4,500	1,350	0	0	5,850	--------
CEQ, WRC, NBS:						
Senate authorization	3,200	0	0	0	3,200	--------
House authorization	1,500	0	0	0	1,500	2,750
Conference recommendation	2,750	0	0	0	2,750	--------
Program support (increment only):						
Senate authorization	10,300	0	0	0	10,300	--------
House authorization	6,600	0	0	0	6,600	--------
Conference recommendation	9,000	0	0	0	9,000	--------

---

[1] Includes fuel cells.

[2] House authorization for fuel cells included in improved conversion efficiency total.

DETAILED TRANSITION PERIOD CONFERENCE COMMITTEE RECOMMENDATION

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
SOLAR ENERGY DEVELOPMENT						
Solar energy buildings and facilities:						
Senate authorization	7,400	3,535	0	0	10,935	
House authorization	9,102	4,905	0	0	14,007	8,400
Conference recommendation	7,400	6,617	0	0	14,017	
Solar thermal:						
Senate authorization	3,200	600	2,500	0	6,300	5,300
House authorization	6,888	2,664	0	0	9,552	
Conference recommendation	3,200	2,702	2,500	0	8,402	
Photovoltaic:						
Senate authorization	5,650	1,710	0	0	7,360	5,200
House authorization	6,901	3,004	0	0	9,905	
Conference recommendation	5,650	3,685	0	0	9,335	
Wind energy:						
Senate authorization	4,000	1,400	0	0	5,400	3,400
House authorization	4,509	1,729	0	0	6,238	
Conference recommendation	3,680	2,327	0	0	6,007	
Bioconversion to fuels:						
Senate authorization	1,150	850	0	0	2,000	1,700
House authorization	1,915	244	0	0	2,159	
Conference recommendation	1,095	1,172	0	0	2,267	
Ocean thermal:						
Senate authorization	1,500	520	0	0	2,020	900
House authorization	2,797	891	0	0	3,688	
Conference recommendation	1,475	1,511	0	0	2,986	
Resource analysis:						
Senate authorization	400	135	0	0	535	1,000
House authorization	553	458	0	0	1,011	
Conference recommendation	375	432	0	0	807	
Solar storage:						
Senate authorization	0	0	0	0	0	0
House authorization	653	358	0	0	1,011	
Conference recommendation	375	425	0	0	800	
Solar institute:						
Senate authorization	1,250	420	0	0	1,670	200
House authorization	757	372	0	0	1,129	
Conference recommendation	1,250	332	0	0	1,582	
Total solar energy:						
Senate authorization	24,550	9,170	2,500	0	36,220	26,100
House authorization	34,075	14,625	0	0	48,700	
Conference recommendation	24,500	19,203	2,500	0	46,203	
GEOTHERMAL ENERGY DEVELOPMENT						
Geothermal energy demonstration:						
Senate authorization	0	0	2,500	0	2,500	
House authorization	5,500	300	0	0	5,800	0
Conference recommendation	0	0	2,500	0	2,500	
Resource utilization:						
Senate authorization	1,500	1,800	0	0	3,300	
House authorization	2,100	2,000	0	0	4,100	3,300
Conference recommendation	4,500	400	0	0	4,900	
Supporting research and development:						
Senate authorization	2,925	660	0	200	3,785	
House authorization	2,500	1,050	0	200	3,750	4,350
Conference recommendation	5,600	450	0	200	6,250	
Total geothermal energy:						
Senate authorization	4,425	2,460	2,500	200	9,585	7,650
House authorization	10,100	3,350	0	200	13,650	
Conference recommendation	10,100	850	2,500	200	13,650	
CONSERVATION RESEARCH AND DEVELOPMENT						
Electric power transmission:						
Senate authorization	2,673	−100	0	200	2,773	
House authorization	2,673	−100	0	200	2,773	5,180
Conference recommendation	2,673	−100	0	200	2,773	
Energy storage systems:						
Senate authorization	5,500	980	0	300	6,780	
House authorization	5,400	900	0	800	7,100	3,220
Conference recommendation	5,400	900	0	800	7,100	
Advanced transportation power systems:						
Senate authorization	4,500	1,060	0	0	5,560	
House authorization	4,800	1,010	0	400	6,210	3,240
Conference recommendation	4,750	1,060	0	400	6,210	
End-use conservation:						
Senate authorization	8,000	2,320	0	0	10,320	
House authorization	7,100	6,000	0	1,300	14,400	4,900
Conference recommendation	8,000	2,000	0	1,300	11,300	
Improved conversion efficiency:[1]						
Senate authorization	3,975	1,035	0	0	5,010	
House authorization	900	350	0	200	1,450	1,200
Conference recommendation	3,475	1,100	----------	200	4,775	
Fuels cells:						
Senate authorization	(2,575)	(615)	(0)	0	(3,190)	
House authorization	(2)	(2)	(0)	0	(2)	0
Conference recommendation	(2,575)	(615)	----------	----------	(3,190)	
Urban waste conversion:						
Senate authorization	7,500	2,500	0	0	10,000	
House authorization	0	0	0	0	0	0
Conference recommendation	2,500	1,250	0	0	3,750	
Total conservation:						
Senate authorization	32,148	7,795	0	500	40,443	
House authorization	20,873	8,160	0	2,900	31,933	17,740
Conference recommendation	26,798	6,210	0	2,900	35,908	
PHYSICAL RESEARCH (INCREMENT ONLY)						
Materials sciences:						
Senate authorization	2,125	705	0	625	3,455	--------
House authorization	2,200	600	0	400	3,200	--------
Conference recommendation	2,125	705	0	625	3,455	--------
Molecular sciences:						
Senate authorization	2,375	795	0	625	3,795	--------
House authorization	1,300	300	0	200	1,800	--------
Conference recommendation	1,806	463	0	412	2,681	--------
Total physical research:						
Senate authorization	4,500	1,500	0	1,250	7,250	--------
House authorization	3,500	900	0	600	5,000	--------
Conference recommendation	3,931	1,168	0	1,037	6,136	--------
ENVIRONMENT AND SAFETY (INCREMENT ONLY)						
Health studies:						
Senate authorization	1,165	385	0	----------	1,550	--------
House authorization	280	70	0	----------	350	--------
Conference recommendation	1,165	385	0	----------	1,550	--------
Environmental studies:						
Senate authorization	3,168	1,057	0	----------	4,225	--------
House authorization	1,380	345	0	----------	1,725	--------
Conference recommendation	3,168	1,051	0	----------	4,219	--------
Biological studies:						
Senate authorization	560	185	0	----------	745	--------
House authorization	285	71	0	----------	356	--------
Conference recommendation	560	185	0	----------	745	--------
Physical and analytical:						
Senate authorization	1,732	573	0	----------	2,305	--------
House authorization	755	189	0	----------	944	--------
Conference recommendation	1,732	573	0	----------	2,305	--------
General program capital equipment:						
Senate authorization	----------	----------	----------	0	0	--------
House authorization	----------	----------	----------	500	500	--------
Conference recommendation	----------	----------	----------	500	500	--------
Total environment and safety:						
Senate authorization	6,625	2,200	0	0	8,825	--------
House authorization	2,700	675	0	500	3,875	--------
Conference recommendation	6,625	2,194	0	500	9,319	--------
OTHER PROGRAMS						
Advanced energy systems research supporting activities:						
Senate authorization	1,480	300	0	0	1,780	--------
House authorization	1,480	300	0	0	1,780	2,780
Conference recommendation	1,480	300	0	0	1,780	--------
Scientific and technical education:						
Senate authorization	1,250	425	0	0	1,675	--------
House authorization	1,000	250	0	0	1,250	0
Conference recommendation	1,125	337	0	0	1,462	--------
CEQ, WRC, NBS:						
Senate authorization	800	0	0	0	800	--------
House authorization	375	0	0	0	375	450
Conference recommendation	687	0	0	0	687	--------
Program support (increment only):						
Senate authorization	2,600	0	0	0	2,600	--------
House authorization	1,700	0	0	0	1,700	--------
Conference recommendation	2,250	0	0	0	2,250	--------

---

[1] Includes fuel cells.

[2] House authorization for fuel cells included in improved conversion efficiency total.

SOLAR ENERGY

In fiscal year 1971, all this country was spending on solar energy research and development was about $1.2 million. Last year, we spent about $50 million. The administration requested $70 million for 1976, and the conference committee has authorized $173 million for 1976 and $46 million for the transition period. This means that in 5 years we have increased the funding for solar energy research and development more than one hundredfold.

In recommending these amounts, the conference committee followed the guidelines set out by Public Laws 93-409 and 93-473, the Solar Heating and Cooling Demonstration Act of 1974 and the Solar Energy Research, Development and Demonstration Act of 1974, respectively. The recommended budget clearly reflects the prior expression of congressional desire to make possible the utilization of solar energy technologies as soon as possible.

The major components of the ERDA solar energy program are: heating and cooling of buildings, solar thermal generation of electricity, photovoltaic conversion, wind energy conversion, bioconversion, ocean thermal energy conversion, solar energy resource analysis, solar energy storage, and the Solar Energy Research Institute. In addition to funding the operating expenses for these direct and indirect solar energy technologies, the committee also recommends the provision of plant and capital equipment to be used in these research, development, and demonstration activities.

Perhaps the ERDA solar program which is most visible to the Congress is the program for solar heating and cooling of buildings. This program for buildings and facilities has the overall objective of substituting as much solar energy for this purpose as possible, in the shortest time frame. To accomplish this objective, both a heating and cooling demonstration program and a supporting research effort have been established. The conference committee recommends substantial increases for solar heating and cooling. The increases bring the total obligation levels to $48.1 million and $14 million for 1976 and the transition period, respectively. This increase in funds will permit a broader demonstration program, one which we hope will include full participation by the public in order to demonstrate solar energy technology on as broad a geographical base as possible.

GEOTHERMAL ENERGY

Last year Congress enacted the Geothermal Energy, Research, Development and Demonstration Act of 1974, Public Law 93-410. That law laid out specific goals for developing presently unused geothermal resources such as hot dry rock, geopressured zones, and hydrothermal systems. It specifically set the goal of producing electricity from 1 to 10 megawatts per plant, in 6 to 10 pilot or demonstration plants by the end of fiscal year 1980. The conference committee recommends increases of $33 million for fiscal year 1976 and $8.4 million for the transition period aimed at carrying out the requirements of this act. With these increases the total ERDA budget will reach $56.4 million for fiscal year 1976 and $13.7 million for the transition period. The increase will permit initiation of construction and funding most of the total costs of two geothermal demonstration plants using presently unexploited types of geothermal resources. These funds will also undergird the resource utilization and supporting research activities necessary for the future development of geothermal energy technology.

According to ERDA, with the funding level made available in this bill, construction on two demonstration plants should begin in fiscal years 1976 and 1977. In carrying out this aggressive geothermal development program, ERDA will not only coordinate its activities with but utilize the resources of the Geological Survey of the Department of the Interior and the National Science Foundation.

ENVIRONMENT AND SAFETY

For the Science and Technology Committee, Mr. HECHLER's subcommittee and mine have joint responsibility for ERDA's environment and safety program, along with Mr. BROWN's Subcommittee on Environment and the Atmosphere.

The conference committee increased the administration request for environment and safety research for non-nuclear purposes by $44.1 million for fiscal year 1976 and $9.3 million for the transition period. This increase in the biomedical and environmental research budget will permit expansion of health, environmental, biological, physical, and analytical studies for nonnuclear energy technologies.

This across-the-board increase will permit a number of new research initiatives concerned with the problems associated with utilizing coal, geothermal, and other new energy sources. The studies undertaken as a result of this increase will better prepare us for making rational determinations of environmentally acceptable ways of utilizing present and future sources of energy.

Many of our citizens are aware of environmental problems as well as health problems associated with fossil fuels such as coal and oil and nuclear fuels. Although geothermal seems attractive environmentally, there are also potential problems. These increased funds will permit studies to be undertaken early in the development cycle for this new energy source. Specifically, the increase will support environmental studies of geothermal sources covering surface and ground water, soil, geology and associated ego systems in likely geothermal sites. Questions of brine depletion and reinjection on geological stability in ground water reservoirs must be determined before widespread use of these geothermal sources can be allowed.

PHYSICAL RESEARCH

We all know that basic knowledge is fundamental to advances in all energy technologies. To overlook basic research while generously funding demonstration activities would be the most shortsighted policy that I can imagine. The ERDA physical research program represents a significant part of our national basic research effort.

Without adequate support, for the physical research subprograms of materials and molecular sciences, a sufficient corps of scientific expertise will not be available to be brought to bear on major technical problems which are bound to occur when major demonstration plants are built on an accelerated time scale. The costs for retrofitting and lengthy delays in the construction of nonnuclear demonstration built with borrowed moneys can quickly exceed the cost of several years of research in real terms and can in indirect terms cause public discontent with the programs due to costly overruns and delays.

The conference committee approved an increase of $24 million for fiscal year 1976 and $6.1 million for the transition period to permit moderate increases in the materials sciences and molecular sciences programs. It is these basic research areas which are most closely related to the nonnuclear energy technologies supported by ERDA.

CONSERVATION

The part of the ERDA budget which received the most dramatic recommended increase is energy conservation research development, and demonstration. The ERDA request of $40.9 million for fiscal year 1976 was increased to $156.2 million. The ERDA request for $8.3 million for the transition was increased by $27.6 million to a total of $35.9 million. These increases are recommended because of the conference committee's firm conviction that although various studies of the potential for research and development to contribute to energy conservation may differ in detail, they do indicate that major research, development and demonstration efforts can and should be undertaken immediately. The ERDA conservation research and development programs provide one of the major areas for potential contributions in the short term—before 1985—to reducing the domestic energy shortfall. This increased funding will permit ERDA, for the first time, to initiate a significant energy conservation program in order to develop the new energy conservation technologies which we need today and in the future.

The major components of the ERDA energy conservation program are electric power transmission, energy storage, advanced transportation power systems, end use conservation, and improved conversion efficiency. As is self-evident from these titles, energy conservation includes not only the development of technologies that will permit us to use less energy, but finding ways to produce and use the available energy in a more efficient manner. In particular, the ERDA programs will be aimed at the more efficient conversion of energy from one form into another.

The largest increase approved by the conference committee in energy conservation is for end use conservation. This is probably the most highly leveraged sector of our energy economy, and is aimed at reducing the consumption of energy in commercial, industrial, and residential buildings. It will permit ERDA to carry out a significant program aimed at reducing the energy consumption of our appliances and lighting, our industrial infrastructure including agriculture, and our utility system. Recognizing that all energy saving technologies may not be easily categorized, and noting that some are almost certain to cross the boundaries of specific energy use sectors, additional funding is also made available for cross-sector end use research and development.

Mr. Chairman, this recommended budget is large. The increases which we recommend are large. The magnitude of the budget and the increases reflect the seriousness of the energy challenge which all of us face as a Nation. It is imperative that we develop new technologies to provide the energy our Nation needs in the future. We need this energy, in a manner which is compatible with a clean environment, to provide the jobs and the standard of living which our country has become accustomed to in the past and which we owe our children in the future.

However, research and development will not immediately solve our energy problems. Historically, it has taken 20 to 30 years for new energy technology to have a significant commercial impact on our energy economy. I would be surprised if this pattern dramatically changes in the future. On the other hand, it is the only solution to the energy problem of tomorrow. It is not too early to make plans for the year 2000.

With the future clearly in mind, I want to address my remaining remarks to the more controversial parts of this conference report—the $6-billion loan guarantee program in section 103 and the in situ oil shale demonstration program in section 102.

Mr. Speaker, it has been more than 2 years since the Arab oil embargo shocked this country into the realization that we were becoming increasingly dependent on interruptible, and progressively more expensive, foreign oil. In the same interval, serious questions about the future supply of domestic natural gas have become prominent in the minds of the American people. One thing is clear; it is not a matter of if we will exhaust our domestic supplies of oil and natural gas, but when we will. With regard to the latter question there is still uncertainty in how long we can continue to use these irreplaceable resources for general purposes rather than selective purposes such as petrochemical and fertilizer feedstocks.

The timing for developing alternative energy sources, including synthetic fuels, is inexorably tied to our supply of domestic oil and natural gas. The fundamental question to be addressed is whether this Nation before the end of this century must achieve an alternative energy capacity of significant proportions. If the answer to that question is affirmative, and I resolutely believe that it is, then the time to begin is now. If we start promptly, we will be able to proceed in an orderly and effective way to examine the options, the problems, and the benefits associated with each of a whole raft of energy technologies. We can then choose wisely among them, minimizing the adverse impacts on our environment and communities while maximizing the benefits of increased domestic energy self-sufficiency and increased competition in the energy industry. This course is far superior to waiting until our energy dilemma becomes so acute that crash programs or hasty actions are the only path to meet a crisis.

In the Geothermal Energy Research, Development, and Demonstration Act of 1974, we included in title II a geothermal loan guarantee program which was the first such program enacted for the construction of facilities using alternative energy sources. Earlier this year the House passed the Electric Vehicle Research, Development, and Demonstration Act of 1975, which also contained a loan guarantee program. Other loan guarantee provisions which were based on extensive hearings were contained in a bill amending the Resource Recovery Act of 1970, passed by the Senate in the 93d Congress, and the Automobile Fuel Economy and Research and Development Act of 1975 passed earlier this year by the Senate and included in the conference committee on S. 622. The Senate Interior Committee, during open committee markup, included a loan guarantee authority for synthetic fuels and renewable resources in the ERDA authorization bill for fiscal year 1976. The provision was patterned after these earlier loan guarantee provisions without specific hearings on the provision although it should be pointed out that the Senate Interior Committee has held extensive hearings over the past 5 years in examining the alternative energy supply question.

The House conferees were faced in the ERDA authorization conference committee with rejecting or accepting the loan guarantee provision without the normal procedures for consideration. In fact the House conferees' request to delete the provision was rejected by their Senate counterparts. At this juncture, the House conferees agreed for the two Energy Subcommittees of the House Committee on Science and Technology to hold extensive hearings on the adequacy and appropriateness of the loan guarantee provision.

At about this time the President's Task Force on Synthetic Fuels Commercialization released to the committee its report which included a loan guarantee program among its recommendations. The scope of this report was not in conformity with the $6 billion program approved by the Senate. However, the administration decided to support the acceptance of the Senate provision in conference. While the Presidential report recommends seeking authority for additional financial incentives in commercial demonstration of new energy technologies, these incentives were never considered for inclusion in the conference report. Any actions on the additional incentives will require consideration through the normal procedures in both Houses of the Congress.

In a period of 1 month, the two Energy Subcommittees received testimony from more than 90 witnesses on 16 hearing dates. The witnesses included Governors, administration officials from several agencies, industrial experts, environmentalists, and representatives from the financial community. Testimony addressed synthetic fuels, solar energy, geothermal energy, urban waste conversion, and energy-efficient industrial equipment. Several major concerns were raised in these hearings including State and local participation in decisions on large commercial demonstration facilities, community impact assistance to ameliorate adverse effects due to rapid growth, and anticompetitive impacts in the energy industry. All of these concerns as well as many others were addressed by the House conferees in preparing to meet with the Senate conferees. It seems fair to say that this provision received a very thorough review. The legislative scrutiny of the version finally adopted in the conference report matches or exceeds that generally received by other important legislation.

The loan guarantee program described in the conference report insures that through Federal participation there will be a carefully developed methodology established for the siting, construction, and operation of commercial demonstration facilities for synthetic fuels, solar energy, geothermal energy, urban waste conversion, and energy-efficient industrial equipment. The key point is that this is a demonstration program under which only one or two of a kind will be built to provide the informational base that we will need to evaluate the technical, economic, environmental, and social aspects of these large commercial demonstration facilities which will frequently be located in remote areas of the country. If the problems associated with any energy technology during the commercial demonstration phase seem insuperable, then those technologies can be ruled out as future energy options. The constant attention to environmental and community impacts associated with the successful facilities will provide the information to guide the future expansion by private industry of each technology into a major source of energy supply.

In my view, the potential problems have been highlighted by the very effective hearings that were held. I think they are significant, but not insurmountable. I believe we focused on the problem areas and dealt with the subsidiary problems while maintaining the basic thrust of this legislation. Section 103 is not now an impetuous act; as modified in conference it is a constructive provision with proper safeguards.

We cannot allow the unknown to frighten us into not acting to solve the energy problem. There will be problems in technical, economic, environmental, antitrust and water availability areas. We cannot solve every problem before we begin; therefore, we must start and monitor the problems as we learn. These are problems that ERDA is required to handle under the law today. There are adequate provisions in this conference report to prevent ERDA from running roughshod over any State and local government. There are also dozens of other programs which are available to augment the loan guarantee program as far as the various impacts are concerned. The decisions we make in the 1980's as to how commercial we would go or exactly what technologies we follow, that this will flow from the information we get now.

I would like to quote from the report of the Energy Task Force of the Democratic Steering and Policy Committee:

> ... a commercial demonstration of new synthetic fuels from coal should be undertaken with an ultimate production goal reaching the equivalent of 500,000 barrels of oil per day. These technologies, together with oil shale, geothermal, MDH, solar and others, would be developed on a contract or joint venture basis with industry. Sufficient Federal financial support is recommended to proceed immediately. From this initial experience, a better assessment could be made of environmental and social as well as economic costs.

I think the program set forth in section 103 is entirely consistent with that recommendation.

There is another new provision which the Senate included in its version of the ERDA authorization bill. In section 102 of the Senate bill the Energy Research and Development Administration was authorized to invite proposals for a demonstration program of the in situ extraction of oil from oil shale. Upon reviewing this proposed program the House conferees agreed to accept it.

In situ extraction of oil shale appears to be extremely attractive, eliminating the most serious environmental problems associated with the mining and retorting of shale and the subsequent disposal of the huge volumes of the waste. The in situ process has worked well in several small scale tests using low grade shale. The conferees believe that further administrative delays should be eliminated and that a demonstration of this process using a small tract of Federal land with high-quality shale should be conducted as quickly as possible.

Mr. Speaker, there has been a great deal of criticism of the Government and particularly the Congress for inaction. Much of this criticism is unfair. The Committee on Science and Technology has provided a great deal of leadership for the entire country and for the administration also in the Solar Energy, Geothermal Energy and Non-nuclear Acts of 1974 as well as through research and development and the ERDA authorization bill. Now, the criticism would be fair if we had dropped the ball on the $6 billion loan guarantee program.

Our Nation's energy options for the future will depend on the outcome of the programs like the one to be initiated by this measure. The American people fully expect that when they turn on a lightswitch or a gas burner their energy needs will be met. Without major Federal initiatives, such as the loan guarantee program, the leadtime that we now have to develop our energy alternatives will evaporate along with the promise of continuing a prosperous way of life. For these reasons I ask the Members of the House to support the conference report including the two new provisions in section 102 and section 103.

Mr. Speaker, we are balancing off a new integrated energy program. Of this we can all be very proud. This has been a congressional initiative, especially of the Committee on Science and Technology working with the other committees, the subcommittees, and the Office of Technology Assessment.

Mr. Speaker, I think we are in good position if we get going in this energy legislation.

Mr. MOSHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think I will not actually use much time at this point.

I made the principal point I wanted to in the debate under the rule, and the gentleman from Texas (Mr. WRIGHT) himself made that point much more articulately and effectively. I speak now of the person who is occupying the Chair.

I do want to urge again, however, the urgency of this matter, as I see it.

I have for so many years been saying to the people of my district that, as a matter of national policy, there is desperate need that we begin to divorce ourselves as quickly as possible from our present reliance on oil and natural gas as important sources of energy.

There is a desperate national need that we bring in, on a commercial scale, alternative source of energy Certainly one of the most available is coal, in the form of environmentally acceptable coal gasification and coal liquefaction. I hope that is also true of shale, and that we can tap that source on a commercial basis.

I think the only way we can find out and find out in a timely fashion, instead of again being confronted with too little too late, is to get the information that we seek in the programs outlined here in sections 102 and 103, so that private industry itself, and risk capital sources, will know what they are getting into when the time comes to expand this industry.

It is utterly impossible at this point for private capital to take these risks, and yet the national need is such that the risks must be taken. Therefore, it is completely appropriate, I think, that we as a Government, guarantee these loans that will allow private capital to invest on a sensible, responsible basis the capital needed for demonstration projects that will be of use to all of us.

There is a most crucial need, right now, to begin this responsible, effective government-industry partnership.

Mr. Speaker, there also are other important aspects of this ERDA authorization conference bill. It contains a well-balanced program of energy research and development initiatives which I strongly believe every Member should support.

The nonnuclear portions of H.R. 3474 span a wide range of alternative energy sources. This is based on a recognition that there is no one, single answer to satisfying our energy demands. Rather, the sound approach lies in fostering the development of many diverse energy sources which can then be marshalled to meet our needs. H.R. 3474 bolsters our programs in fossil, solar, and geothermal energy as well as providing for an expanded effort in conservation, environmental and advanced energy areas.

The conference bill authorizes $977.9 million for nonnuclear programs in fiscal year 1976 and $249.9 million for the transition quarter. These amounts represent an increase of $118.6 million and $31.4 million respectively over the House passed bill. While these increases may appear large at first sight, we should remember that the House passed H.R. 3474 in July. Since that time programmatic changes within ERDA have justified an upward adjustment in their original budget estimates. In many cases, the increases reflect ERDA's positive response to congressional encouragement to expand programs in conservation and clean energy—solar and geothermal—and to accelerate work on our domestic fossil fuels—coal and petroleum.

It seems imperative that an important element of our future energy arsenal must be synthetic fuels—synfuels. Synthetic fuels have received considerable attention and favorable comment as a means of capitalizing on our abundant reserves of coal and oil shale. In recent years American private enterprise has shown great leadership in trying to demonstrate the viability of synthetic fuels.

However, the initial hurdles to be overcome in harnessing synthetic fuels have been as formidable as the gains to be realized. Any large development project normally encounters problems which must be met and overcome.

It is a crucial act that in synthetic fuel development these threshold problems require the investment of very costly talent and very costly equipment. An investment that private industry on its own cannot risk under today's circumstances, and yet the need is here and now, today.

Thus, despite the general optimism regarding synthetic fuels as a future energy source, no full scale commercial synthetic fuel demonstration has ever been conducted in the United States. It is imperative that private industry have proof of whether or not the concept of synthetic fuels can be turned into a reality.

While synthetic fuel projects have taken place at the small, laboratory scale, no one has the factual data necessary to assure the successful scaleup to a commercial-size facility. This is the crucial data we currently lack and which we must obtain.

Unfortunately this information can only be obtained by actually constructing and operating commercial-scale synthetic fuel plants.

And therein, I repeat, lies the problem: The cost of a commercial synthetic fuel demonstration presents an unusually high degree of risk to the private sector. Until a successful commercial demonstration of synthetic fuel occurs, private enterprise naturally will be reluctant to proceed on a vigorous synthetic fuel program.

The conferees recognized the great potential of synthetic fuels but also appreciated the awkward position facing private industry in developing synthetic fuels.

So, in order to break the current stalemate position, the House conferees adopted a modified version of two Senate amendments. These two amendments authorize ERDA: First, to guarantee loans for synthetic fuel development, as well as for solar, geothermal, and other renewable energy sources, and second, to lease some Federal lands for oil shale demonstration projects.

The House conferees undertook an extensive, indepth analysis of the Senate amendments and significantly improved them. After nearly 6 months of conference, and very active investigation and consideration by our Science and Technology Committee, the House conferees were able to tailor a loan guarantee program which meets the concerns of all interested parties.

The conference bill provides for socioeconomic impact assistance to local communities, to prevent the boom town-ghost town cycle which a large project can bring to an area.

It provides for consultation with State and local officials before a project site is selected, and permits the State's Governor to disagree with the decision to place a demonstration project in a particular location. ERDA can override the Governor's disapproval only if it finds that the project is in the national interest.

It provides that demonstration projects will be subject to all applicable State and local law, and also recognizes the fact that these laws may also evolve further in the future. This will assure that local environmental standards will not be violated.

Mr. Speaker, I also wish to point out that this conference report contains additional funding amounting to $6.5 million for the two additional gas stimulation projects in the Devonian shale of the east, which lies under the States of Pennsylvania, Ohio, Indiana, and Michigan.

When this is added to the $3.5 million already budgeted for gas stimulation research in these shale formations we will have $10 million in funding.

Mr. Speaker, this is urgently needed research and therefore a very responsible budget figure. I urge your support for these vital research programs.

At this time, I would like to directly address the concerns about the loan guarantee program which have been expressed by several of the Members. At the outset, I want to stress that we are talking about the program which is contained in the conference report dated December 8, 1975.

Our conference version is very different from the original Senate version. We have made tremendous improvements. It does include, I believe, the better parts of at least half a dozen versions prepared by various House conferees, the administration, and untold numbers of specific recommendations from other organizations.

For example, the community impact assistance section in this bill is the ninth or tenth revision of the original Senate concept and the final one incorporates inputs from a host of different groups and has been generally endorsed by the impacted states, the National Governors Conference, the Western Governors, OMB, Treasury and all of the conferees. We believe it will serve as a model for future community impact assistance programs.

Because of just this type of progress throughout the bill, for clarity in this debate we must on our December 8th bill, that which is really before us here, and not be sidetracked by any discussion of early versions.

Similarly, we must not be confused by other legislative proposals. Notwithstanding the surplusage of misinformation which has pervaded propaganda against this program, we are only talking here about loan guarantees.

It is true that the administration has another legislative proposal for price supports and construction grants for synthetic fuel facilities, as was recommended by the President's Synthetic Fuel Task Force. It is also true that the administration has proposed a $100 billion Energy Independence Authority to assist in the financing of new energy facilities.

But those proposals are separate from this. They are not before our committee. They are included in our report. In fact, in recognition of this concern, the conferees adopted section 103(q) at page 17 in the report, clearly stating that no part of the program before us now can be transferred to another agency without an act of Congress. Further, the conferees at page 68 clearly state:

> The Conferees especially emphasize that the approval of Section 103 in no way constitutes an expression of approval of approaches for assistance beyond loan guarantees. Nothing in Section 103 authorizes construction grants, price supports or price guarantees for the products from demonstration projects nor does the approval of Section 103 constitute any expression of Congressional commitment to other proposals which are pending or may be advanced in the future.
>
> The Conferees, furthermore do not view Section 103 as the initial part of a more ambitious program. The program authorized by this measure is viewed as an independent and complete program as it now stands. Any further energy facility financing arrangements will be considered by the Congress on their merits.

So, here we must focus on the loan guarantee program as it actually stands now, not as others have been misinformed about it.

Now, concerning procedure, I appreciate that this provision has not been through the full legislative process in the House. While I am not a proponent of the addition of such provisions in the other body, I must note that there are situations when time is truly of the essence in our legislative process.

Right now, I sincerely believe, is such a time for energy research. No clearer evidence of the need for timely and expeditious action in energy research could be presented than that in ERDA's national energy R. & D. plan, most appropriately titled "Creating Energy Choices for the Future." That plan demonstrated conclusively that the United States must begin today to develop aggressively our energy supply-and-demand options for the future.

That plan makes very clear that to have the option of synthetic fuels in the 1985–95 time frame we must start right now to address the full spectrum of problems inherent in any full-scale development of a synthetics industry. In fact, the report categorically states that synthetics and other new domestic supply-source technologies simply must be available 15 years from now.

In short, this is the moment to act. We do not dare again be "too little and too late." We cannot allow procedural inflexibility to deter us from this obviously imperative course of action. Moving with all deliberate speed, as we should, does not mean that we deliberately must not move at all.

But that essentially is what opponents of sections 102 and 103 now propose, a delaying tactic right when I truly believe such delay would be most harmful to the best interests of all of us.

Certainly, the procedural criticism might seem to me more merited, if I did not believe this is an excellent piece of legislation. The efforts of our Science and Technology Committee and of your conferees to achieve that excellence far exceed most legislative consideration by this body.

I believe it also is significant that the Senate passed this conference report, including the loan guarantee program, by an overwhelming vote of 80 to 10 on Tuesday.

I believe that the comments of Mr. BROWN of California, our fine colleague in the conference and the chairman of our Environment and Atmosphere Subcommittee on the quality of this bill in his December 8 "Dear Colleague" are most appropriate. He stated:

> I have decided, on the basis of thorough consideration of the Conference Report on its merits, that I will vote in favor of accepting Section 102 and Section 103. I especially believe Section 103, the loan guarantee provision, *is as good or better than any legislation passed by the Congress this year*. This provision, with good administration and effective Congressional oversight, could encourage several desirable energy technologies, such as bio-mass, geothermal, solar and energy conservation. I further believe the Report adds the proper safeguards against adverse social, economic and environmental impacts." (Emphasis added)

I would emphasize as Mr. BROWN stated in his letter. that he originally opposed the provisions and felt that the Senate provisions were "bad legislation". I suggest his comments are of great significance in demonstrating the strong legislation we have here because of the innovative procedures by which it was perfected. We must review it on that basis, on its merits, today.

I would also point out that this is not a coincidence. Your conferees and those of the Senate had the benefit not only of the recent hearings and inputs, but also literally years of relevant investigation on these subjects. The Senate's activities were thoroughly documented in a letter to Chairman Teague from Senators Church, Jackson, Johnston, Randolph, Fannin, Hansen, and Hatfield dated October 24, 1975. The letter was published in the December 9 Record at page 39259 and it describes the extensive consideration which these programs have received in the past several Congresses.

On the House side, our own Science and Technology Committee through its Energy Subcommittee under the able leadership of Mr. McCormack of Washington has spent years reviewing these technologies and their financing and their environmental impact. In fact, just 1 year ago that subcommittee held hearings on synthetic fuel R. & D. The Science and Technology Committee of course, as your technological and R. & D. expertise and thus basically is a technology scale-up problem.

In addition, your conferees held hearings for some 6 weeks on every aspect of the program and subsequently staff had a continuing series of meetings with representatives of all interested parties including other committees up to and including the final draft of the bill in front of you today.

Every single provision was subjected to intensive scrutiny by all parties, particularly other committees. For example, at Chairman Teague's wise insistence, language on tax exempt bonds was coordinated with Ways and Means; the funding mechanism was coordinated with the Budget and Appropriations committees and a specific provision, 103 (w), was added to meet their concerns; the patent provisions represent a compromise agreement between the conference committee and the House and Senate Judiciary Committees; the provision on information handling was coordinated with the Government Operations Committee and so on.

To my knowledge, this has been the most open and most receptive conference committee in the whole history of Congress.

Let me turn to another concern which has understandably been the subject of much debate—the environmental impact. None of your conferees ignores the probability that this program will have important environmental impacts. On the contrary, all of us are quite aware that these facilities, particularly coal gasification and oil shale, could have immense environmental impacts, if, and I emphasize if, they are not done responsibly, and if they are not managed by the Federal Government responsibly, and if they are not provided with full environmental monitoring and protection.

I emphasize those ifs because this bill does all three. We provide for environmental monitoring and protection, for responsible Federal management, including EPA, and for responsible project environmental management. So let it be clear that these projects will absolutely be done in an environmentally responsible way. Congressman Brown stated:

> I further believe the report adds the proper safeguards against adverse social, economic and environmental impacts.

I think the support of the Governor of Colorado and many other concerned groups is based on just that conclusion.

In a broad, policy oriented sense, we have really only two options for development of these resources. We can start now under this program with the proper safeguards and in a controlled manner identify, investigate and attempt to solve the environmental problems resulting from scaleup and replication of these technologies in an orderly and well-paced manner.

The only alternative is to sit back and wait for market demand and economics to precipitate too late, a wholly private sector rush to build the facilities. In such a later crisis atmosphere, environmental concerns would too easily be lost in the rush, and their regulatory effectiveness, short of simply stopping the projects, could be only marginal at best, because there would be insufficient prior knowledge about the projected impacts.

Our plan is designed to get that prior knowledge in a timely, responsible way.

I am incredulous that so many of the environmental critics of this provision have overlooked this simple, but immensely important choice. Perhaps these critics honestly believe they will be successful in preventing any development of these resources at any time in the future.

If so, not only do I believe they are wrong, I also believe that option, no development, is simply no longer a viable option for the United States.

And, unfortunately, this self-delusion will wreak an inevitable and environmentally worst case result—rapid, uncontrolled development when market forces provide the greatest incentives to ignore environmental impacts and citizens and regulators are least capable and prepared to impose proper considertions of those impacts.

Last, let me turn to some specifics on the loan guarantee program. In doing so, perhaps the most useful approach for review is to address 14 specific problems which our good friend from Michigan (Mr. Dingell) raised in this Chamber on November 11 during the debate on the budget resolution.

I believe the following remarks, which I enter here for the record, will solidify for all of us an understanding of breadth and depth of the conferees' consideration of this program. I would hope that all of the Members would scan the report sections I will cite in order that you can be completely satisfied that our bill positively does address these issues.

I list here Congressman Dingell's 14 points, and my own responses:

> (Dingell)—ERDA already has broad authority to build synthetic fuels demonstration plants that are entirely financed by ERDA, jointly financed by ERDA and industry, or financed by loans.

Mr. Dingell is correct, but none of those forms of assistance employ the capital formation advantages of loan guarantees, and they minimize the direct involvement in the commercialization aspect of these projects; but that is the key to successful scale-up of these technologies. The Federal Government has no direct role in the commercialization scale-up, other than in the environmental and socioeconomic impact areas. The other forms, therefore, are less attractive. ERDA's organic authority does not presently include loan guarantees for commercial demonstration facilities. That is why this program is in the form of an amendment to the Federal Non-nuclear R. & D. Act.

> (Dingell 2)—Section 103 is being considered in a piecemeal fashion when it is only a part of a total incentive package of more than $11 billion (loan guarantees, $6 billion; price supports, $4.5 billion; construction grants for regulated utilities, $600 million.)

I have addressed this issue earlier. The conferees firmly believe that the program in this bill is complete in and of itself and have disclaimed any endorsement of the other proposals.

> (Dingell 3)—It gives ERDA a blank check to build as many as 3 high BTU gas plants, 2 oil shale plants, 2 utility/industrial (unregulated) fuel plants, and 5 biomass plants and no meaningful congressional review of these commercial sized plants.

Not so. Our bill provides for complete congressional review. All, I repeat all, projects are subject to a report to Congress with a 90-day layover, and any project over $350 million is subject to a one-house veto—see subsection (m) at page 15. Also, Congress will be receiving a continuing flow of reports on the program plan, environmental aspects, competitive aspects, community assistance, et cetera. We clearly will be in an excellent position to exercise strong review and oversight. So much so, in fact, that this is the aspect of the program to which OMB most strenuously objected. I am sure for some Members that strenuous objection is the best endorsement of our review.

> (Dingell 4)—In reality it provides no money for renewable resources like solar or for energy conservation.

Again, not so. The bill does not earmark money for any one technology, other than a ceiling of $2.5 billion for Hi-Btu gasification with encouragement to seek proposals for gasification. But ERDA has assured the conferees that all technologies would be included in the program. Also, Mike McCormack's Energy R. & D. Subcommittee had extensive testimony on the high potential of projects in solar, geothermal, and industrial energy conservation. That is exactly why those technologies were included by the Senate, eventually endorsed by the Administration, and adopted here by the conferees.

> (Dingell 5.)—Term renewable resources could be interpreted as allowing loan guarantees in nuclear area, according to ERDA section 103 substitute.

That is no longer possible because the program is an amendment to the Non-Nuclear Energy R. & D. Act.

> (Dingell 6.)—No provision for State participation in program planning.

Subsection (e) on pages 10 and 11, provides one of the most extensive provisions for both State and local participation ever enacted into law. It provides for a Governor's veto, with override only when in the national interest and that is subject to judicial review. This provision has been unanimously endorsed by representatives of the State and local governments and by officials in the potential impacted States.

(Dingell 7.)—No provision for providing adequate financial assistance to States and local communities impacted by the plants. (Hearings show that loan guarantees for communities will be insufficient.)

Subsection (k) on pages 12 to 14 establishes a community impact assistance program which, as mentioned previously, will probably serve as a model for all future impact assistance programs. It represents a major breakthrough in Federal assistance for essential services by making maximum use of normal community financing procedures with minimum direct Federal participation. The provision was perfected with the active participation of the States, the local governments, their associations, the experts in this area from ERDA, OMB, and Treasury, as well as many others.

ERDA directly has authority to use on a prioritized basis any one of six different forms of assistance, with top priority given to least Federal involvement. Also, the Administrator will assist in coordinating assistance under existing Federal programs, and in any event, before approving a project, must find that the aggregate of available assistance from this and other Federal programs is adequate.

(Dingell 8.)—House Judiciary Committee Chairman Peter W. Rodino, Jr., wrote on October 23 that section 103 fails: To deal with questions of ownership of patents arising during course of projects; to provide for Federal ownership of patents and know-how in case of default; and to deal with the problem of competitive impact.

The competitive impact procedures of subsection (c) and subsection (d) on pages 9 and 10, the default procedures of subsection (g) on page 11, and the patent procedures of subsection (r) on page 17, all were agreed to by both the House and Senate Judiciary Committee staffs on behalf of their respective chairmen. The conferees strongly believe that in each case the provisions represent a sensitive balance of the public policies raised by Chairman Rodino and the national interest in commercially demonstrating these technologies in an effective and timely way as discussed in detail beginning on page 58.

(Dingell 9)—No provision that Federal and State environmental, land use, water, and health and safety laws be complied with.

Subsection (U) on page 18 provides exactly that protection, balancing appropriate Federal interests on Federal lands as discussed in detail in the report at page 66.

(Dingell 10)—It allows loan guarantees for commercial sized plants for oil shale (50,000 bpd) when testimony clearly showed that only modular sized plants (5,000–10,000 bpd) should be tried.

Subsection (b)(1) on page 9 in the proviso in line 8 states that no oil shale project shall be larger than necessary to effectively demonstrate the project. The exact wording of the provision, in fact, was taken from a "bottom line" recommendation from the Governor of Colorado. Report language at page 49 makes clear that the conferees do not favor unjustifiably large oil shale projects.

(Dingell 11)—No provision for EPA monitoring.

Subsection (1) on page 14 requires ERDA to include EPA directly in the planning and implementation of the program, including provision for all environmental monitoring and analysis.

(Dingell 12).—Allows up to 100 percent loan guarantee during construction.

Subsection (c)(2) on page 10 states that an overall 75 percent guarantee is the maximum, with a minimum 25 percent equity participation in the project. Because of obvious cash flow considerations during construction, the equity position at any one time can drop to a minimum of 10 percent. But the conferees make clear in the report at page 52, that the 25 percent equity position overall is mandatory and ERDA must act to preserve that requirement.

(Dingell 13).—Allows foreign export of products of plants.

The conferees took no position on product export, leaving product distribution to normal market operations in each product market. Importantly, however, the conferees in subsection (p) on page 16 require that participants in the program are U.S. citizens in a manner that ensures that there will be 51 percent U.S. majority ownership in any project. The conferees expressed obvious concern about the potential threat of exporting loan guarantee accelerated American technology, particularly to the OPEC nations. The export of that technology then is the thrust of the conference restriction.

(Dingell 14).—ERDA proposal provides that in case of default Government would not have recourse to parent corporation but only to project assets.

Subsection (g)(3) on page 12 does not, in fact, require recourse to parent corporations, but rather provides for recourse to project assets, including new technology, and "any other security included in the terms of the guarantee." Other portions of subsections (g) and (h) give the ERDA full authority to continue the guarantee and/or the project with the original borrower or another party. These provisions ensure that the Government's financial interests are fully covered and ERDA has complete flexibility to finish the demonstration, while at the same time not making the risk so great that participation would be completely deterred and the program effectively emasculated. Again, the conferees have balanced a series of specific public interests in responsibly legislating this program.

Mr. Speaker, I have two additional points to make at this time.

First, Senator Fannin mentioned in the Senate debate on Tuesday that the Governor of a State in which a project will be located has no time limit on his review and concurrence or nonconcurrence.

I must modify that statement. I want to make clear that the conferees intend the Governor to have all necessary information at the earliest possible time in order that he can make an informed decision on concurrence or nonconcurrence.

But at the same time, I want to make clear that the Governor cannot stop the project by not making the decision, by refusing to submit a concur or nonconcur to ERDA. Certainly, he can have all reasonable time, but, in the end, he must act in a timely manner.

We, in Congress, have mandated a major program and we intend that it proceed with all deliberate speed. We expect ERDA to go forward accordingly.

Second, there were four major issues in section 103 on which the conferees made decisions that were contrary to the recommendations or requests of the administration. The administration accordingly requested that the conferees reconsider one decision, a restriction on the nationality to U.S. citizens, which the Secretary of State strongly urged would undercut ongoing negotiations under the international energy agreement. The House conferees were persuaded to support the Secretary's position, but the Senate rejected it and the House acceded. Because I strongly supported the requested amendment, I hope it will be considered again in the next authorization for ERDA.

To document each of these administration concerns, I am placing the administration's letters in the Record at this time:

Department of State,
Washington, D.C.

Hon. Olin E. Teague,
Chairman, Conference Committee on ERDA Authoriaztion, House of Representatives.

Dear Mr. Chairman: We have just learned that the Conference Committee is considering a provision in Section 103(p) of the ERDA Authorization bill which would have the effect of prohibiting ERDA from extending loan guarantees to foreign-owned firms for commercial demonstration facilities, including the Synthetic Fuels Program. We are very concerned about the implications of this proposal for our current efforts in the International Energy Agency to promote long-term consumer cooperation in the development of new sources of energy. Since we do not believe that these specific implications have been brought to your attention we would appreciate your consideration of the attached proposed draft language.

Our objective in the IEA is the creation of a detailed framework for industrialized country cooperation to overcome the common threat to our economic well-being and security caused by excessive dependence on imported oil. Some of the larger industrialized countries have substantial capital potential but only limited indigenous energy resources. Therefore, we have a strong mutual interest in creating the possibility for them to participate directly in energy development programs in the U.S. and other IEA consumer countries which have large undeveloped energy resources. The U.S. Synthetic Fuels Program provides an important opportunity to expand consumer country cooperation in this critical area.

The participation of firms from other industrialized nations, through the investment of capital and/or technology, can make a major contribution to the development of a U.S. synthetic fuels industry which will require large amounts of new investment. The bulk of this investment must come from domestic sources. But it is clearly in our interest to supplement domestic capital as much as possible with IEA investment. In addition, the success of the Synthetic Fuels Program will depend importantly on the development of new technology. The U.S. research and development effort, both public and private, will be a primary source of new, advanced technology. But it would be contrary to our own interest to deny ourselves the advantages of new technology which might be developed abroad. In this connection, it is worthy of note that Germany and Britain are ahead of us in some aspects of synthetic fuel technology.

Investment in the U.S. synthetic fuels industry by firms from IEA countries will be subject to the same uncertainties of cost and technology as U.S. domestic investment. Therefore, if we want to retain the option of attracting this participation in U.S. energy development and if we are to solidify long-term cooperative efforts in the IEA in this area, the statute should provide discretionary authority to allow loan guarantees and other investment incentives available to U.S. firms to be extended to firms controlled by citizens of IEA countries desiring to participate in the program on a selective basis. We would appreciate your consideration of the attached proposal which would achieve this objective.

Sincerely,

ROBERT S. INGERSOLL,
Acting Secretary.

DRAFT LANGUAGE

Proposed Draft Language to be Added at End of Section 103(p): The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm or association the controlling interest in which is owned by citizens of countries which are parties to the International Energy Agreement.

Effect of Proposed Draft Language: The proposed draft language would permit the Administrator, in consultation with the Secretary of State, to permit enterprises controlled by citizens of IEA countries to participate in the loan guaranty program. It draws on the language of the Shipping Act so that an enterprise getting the benefit of this waiver provision would have to be ultimately controlled by citizens of IEA countries. i.e., citizens of other counties such as OPEC members could not use "dummy" corporations in an IEA country to circumvent the intent of the provision.

INTERNATIONAL ENERGY AGENCY

The International Energy Agency (IEA) * was created in November, 1974 to carry out the International Energy Program (IEP). The IEP agreement grew out of the February 1974 Washington Energy Conference and represents a determined effort by the major industrialized countries to mount a coordinated response to the world energy crisis.

As a first step, the IEP established an emergency program to meet any future interruption in the supply of imported oil. We have all agreed to build emergency oil stocks, to develop standby demand restraint programs, and to share available oil among ourselves in the event that any one or more of us are the target of an embargo.

As a major part of our overall cooperative effort, the IEP also provided for the establishment of a long-term cooperative program to reduce our collective dependence on imported oil. We are now in the final stages of elaborating this long-term program. Under this program, we will coordinate our national energy efforts on a continuing basis. Moreover, we will establish cooperative activities in energy conservation, the accelerated production of new energy supplies and research and development.

One of the major elements in this program will be a framework for cooperation on individual energy production projects. Many of the IEA countries have few, if any, domestic energy production opportunities. Yet these countries can make major contributions in the form of capital and, in some cases, technology to projects in the U.S. and other IEA countries which have undeveloped domestic energy resources. Therefore, it is in the U.S. interest, in terms of both our national energy objectives and our effort to strengthen consumer country cooperation in energy, to retain the option of attracting energy investments from other IEA countries.

The provision in Section 103(p) of the ERDA authorization bill, which the Conference Committee is now considering, would prohibit ERDA from extending loan guarantees to foreign-owned firms for commercial demonstration facilities, including the Synthetic Fuels Program. Such a prohibition would discourage firms from IEA countries from participating in energy projects in the U.S. This would seriously jeopardize the successful completion of the long-term IEA program and would deny the U.S. the benefits of participation by firms from other industrialized countries in our effort to develop a synthetic fuels industry.

We urge that the statute provide discretionary authority to allow loan guarantees and other incentives available to U.S. firms to be extended to companies from other IEA countries desiring to participate in the program on a selective basis.

Department of State, December 2, 1975.

SECRETARY OF THE TREASURY,
Washington, D.C., December 2, 1975.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Conference for H.R. 3474, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that your Conference Committee is expected to take final action very soon on H.R. 3474, a section of which (Section 103) would authorize the establishment of a loan guaranty program to encourage construction of commercial demonstration plants for synthetic fuels. Although the Administration has supported this proposal, I believe that insufficient attention has been given to one provision of it which I consider to be contradictory to official U.S. policy and potentially harmful to our national interests. I am therefore taking the opportunity to inform you of my objections to this provision and to urge you and your fellow conferees to eliminate it from H.R. 2374.

The provision of H.R. 3474 that I am concerned about is subsection 103(p), which would prohibit any foreign persons, or domestic concerns controlled by foreign persons, from receiving loan guaranties under the program. More specifically, this subsection provides that "persons applying for a guarantee under this section must be citizens or nationals of the United States." In order to qualify as a "citizen of the United States" for the purposes of this provision, a corporation, partnership, firm, or association must meet the requirements for citizenship contained in 46 U.S.C. Section 802 (the Jones Act of 1920) which relates to registration of vessels engaged in coastal and fresh water shipping. These requirements effectively prohibit foreign investors from engaging in such activity.

The major objection I have to this provision is that it is contradictory to our traditional policy of non-discrimination against foreign investors in this country. We follow an open-door policy toward foreign investment in the United States, and once foreign investors are established here they are afforded national treatment, i.e., treated equally with domestic investors. This policy is based on the premise that the benefits of investment to our economy are not dependent on the nationality of the investors. We should maximize our opportunities for obtaining capital investment, new technology and managerial ability from whatever source rather than making discriminations on the basis of nationality which serve no economic or political purpose. This is particularly important in the energy sector, where we are also striving to promote cooperation among the oil-consuming countries.

Another important consideration is that U.S. investments abroad are, of course, quite substantial and it is important for our investors to receive national treatment in other countries. National treatment for U.S. investors in foreign countries has been a continuing policy objective of the United States for many years, and currently most countries accept and abide by this principle. Legislation by the United States which specifically discriminated against foreign investors in the United States would compromise our position vis-a-vis other countries.

This restriction is also contrary to the overall purpose of the loan guarantee program, as Assistant Secretary Parsky noted in his answer to a question posed to him by a subcommittee of your Committee on Science and Technology. The program is intended to encourage the development of plants to demonstrate the commercial viability of synthetic fuels technologies at least cost to the taxpayers. Consequently, it follows that we should seek out the most promising technologies and those firms that are most capable and willing to undertake such projects. To prohibit foreign investors from taking advantage of the program would be to deny the United States the benefits of their technologies, without obtaining any compensating benefits and with additional costs for American taxpayers.

In sum, I am convinced that this restriction is not in the best interests of the country, and I again strongly urge you and your colleagues on the Conference Committee not to approve it.

Sincerely yours,

WILLIAM E. SIMON.

[Energy Research and Development Administration]

QUESTIONS AND ANSWERS FOR SYNTHETIC FUEL HEARINGS

(House Science and Technology Committee, October 22, 1975)

B.11. The Office of Management and Budget recently said in connection with this loan guarantee proposal:

"With respect to the question of foreign control of companies seeking guaranties under the proposed program, we would not limit participation strictly to United States controlled companies. If a foreign company has synthetic fuels technology which is appropriate and desirable for demonstration on the commercial scale in the U.S., we believe that company should be eligible for the loan guaranty provided that the plant is built in the U.S., uses domestic resources and sells the product primarily for U.S. consumption.

"We would suggest rather than providing specific limitations relating to foreign ownership in legislation that these matters be handled through the administrative regulations which would be promulgated by the Administrator of ERDA pursuant to Section 103 in the event it is adopted."

Q. 11a. Please indicate your reasons for agreeing or disagreeing with OMB's comments.

A. We agree with the OMB position on the availability of Federal loan guarantees to foreign companies if the facility in question is to be built in the U.S. and uses domestic source material to make synthetic fuels for sale to the U.S. public. We do not believe it to be prudent to limit the participants in this program to domestic firms especially where a number of existing synthetic fuel processes have been developed outside the U.S. Restrictions should not be placed on this program at the outset which may impact availability of technology, financing or the competition for the available guarantees.

---

*United States, Canada, Japan, New Zealand, Norway, Sweden, Denmark, Belgium, Netherlands, West Germany, United Kingdom, Spain, Turkey, Austria, Switzerland, Luxembourg, and Ireland.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., December 1, 1975.
Hon. OLIN M. TEAGUE,
Chairman, Committe on Conference on H.R. 3474, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to extend my deep appreciation to you and the other members of the Conference Committee for your extensive efforts in connection with the ERDA Authorization Bill for FY 1976, particularly the careful consideration the Committee has given to Section 103 dealing with the loan guarantee program for synthetic fuels and other commercial demonstration projects. The Conference Committee has done an outstanding job in integrating the numerous and varied provisions of this loan guaranty legislation into a workable and practical program.

Although ERDA will be discussing one other issue with you, there are two provisions—of substantial concern to the Administration—that I would like to call to your attention for further consideration.

First, subsection (m) of the proposed Section 103 of the ERDA FY 1976 authorization bill provides for a veto by either House of Congress of any project costing over $350,000,000. Several Attorneys General have expressed the view that such provisions are unconstitutional since they do not comport with requirements for enactment of legislation (Art. I, Sec. 7). In addition, on programmatic grounds we do not believe a "one House veto" is in the interest of either the legislative or executive branch in this instance. The selection of a project for a loan guaranty will be a competitive procedure incorporating a number of complex criteria including technical, environmental, economic and other factors. We believe such a competitive procedure should be conducted in the most careful, analytic and objective manner in order that the country may receive the best results from its investments. The "one House veto" procedure will impede this process by inviting unwarranted lobbying campaigns by the sponsors of competing projects. Furthermore, this procedure is likely to introduce significant delays in program implementation (in excess of 90 days) causing slippage in meeting an already tight time schedule for the synthetic fuels commercialization program.

The second concern relates to the provision of subsection (q) which would preclude transfer of any part of the loan guaranty program to another agency or authority. As you know, the Congress has before it the President's proposal for an Energy Independence Authority (EIA) which, when enacted, will become the principal entity for assisting the private sector in financing energy projects, some of which will incorporate emerging technologies for the production of synthetic fuels. We therefore believe that pending Congressional consideration of the EIA, it is inappropriate to insert in the bill before you a provision which would create a barrier to the eventual transfer of the synthetic fuels program to the EIA—a barrier which is undesirable if the broad objective of the EIA is to be effectively met. Moreover, as a matter of sound organizational principle, it tends to place undue restrictions on the President in the discharge of his responsibilites to manage the executive branch in an efficient manner.

I urge the conferees to reconsider these provisions in view of their importance before taking final action on the Conference report.

Sincerely yours,
JAMES T. LYNN,
Director.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., December 1, 1975.
Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, House of Representatives.

DEAR MR. CHAIRMAN: I am writing you to express the serious concern with which the Administration regards the provisions in the ERDA Authorization Bill which would provide for judicial review of a decision of the Administrator to authorize a loan guarantee for a synthetic fuels project or select a site for an in situ oil shale demonstration project notwithstanding an objection by a State Governor. These provisions were added by the Conference Committee, and accordingly this is the first opportunity we have to express formal objections. We recommend elimination of the language in Sections 102 and 103 pertaining to judicial review.

Proposed subsection 17(e)(1), which Section 103 would add to the Nonnuclear Energy Research and Development Act of 1974, would provide that the ERDA Administrator shall not guarantee a loan "if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of the section." The subsection goes on to provide that the Administrator's decision to proceed notwithstanding the Governor's recommendations is "final unless determined in a judicial review to be arbitrary and capricious."

We agree that the Governors of potentially affected States should be fully consulted during the formulation and selection of projects seeking Federal assistance in the form of loan guarantees. Any recommendation of a Governor clearly must be given the closest possible attention, and any decision not to conform to a Governor's recommendation should be made only for reasons of substantial character clearly overriding purely local concerns.

However, the Administration vigorously opposes the judicial review concept presently set forth in the ERDA Authorization Bill. First, subsection 17(e)(1) would give new authority to any person to seek judicial review of the Administrator's decision not to accept a Governor's recommendation. This automatically will build in a substantial delay of between 12 to 24 months for any project which is not unanimously approved by every party which may claim an interest. Delay of this extent would, as a practical matter, terminate fully meritorious projects which meet every other applicable Federal and State law and regulation. We believe Federal law should not provide a mechanism of this kind for any party to halt or substantially delay an important energy project which would otherwise go forward. In effect, the judicial review procedure set forth in the Bill would add a new restraint—possibly a fatal one—to a project in which Federal loan guarantee is involved. We strongly believe that halting an acceptable and sound energy project by encouraging court action of this kind by any party is not in the best interests of achieving energy independence in the future.

Moreover, we are seriously concerned that authorizing court review of decisions of this kind could encourage a court to substitute its view of the merits for those of the Administrator. Before the Administrator may approve any project under Section 103, he must accomplish the following, among other things:

1. obtain the concurrence of the Secretary of the Treasury as to timing and conditions of loan guarantees;

2. provide opportunity to the Attorney General and the Chairman of the Federal Trade Commission to comment on the project and abide by their comments unless he makes a formal determination in writing that the national interest requires otherwise;

3. provide for review and comment by State and local governments and the general public on the project;

4. obtain comments of the Governor and appropriate officials of each political subdivision and Indian tribes on the project;

5. prepare both programmatic and site-specific environmental impact statements (which are already subject to judicial review); and

6. submit a full report to the Congress and await 90 days of Congressional scrutiny.

Under these circumstances, and after all this review, it is hard to see how the Administrator's decision could be "arbitrary and capricious." Hence, a court might read into the additional authorization of judicial review an intent that it go further than review procedure. We believe that this would encourage an inappropriate and undesirable judicial intrusion into the decision-making process and into areas properly committed to administrative discretion.

We recommend that the Conference Committee consider and adopt the substitute language which is enclosed herewith. Our objections to the judicial review procedure under Section 103 also apply to the provision in Section 102 providing comparable judicial review of the site selection for an in situ oil shale demonstration project. We recommend a corresponding revision of Section 102, which is also enclosed herewith.

Sincerely,
ROBERT C. SEAMANS, Jr.,
Administrator.

REVISION TO SECTION 102, ERDA AUTHORIZATION BILL

(b) As soon as the Administrator knows the geographic location of a proposed tract, he shall inform the Governor of the State and the officials of the political subdivision in which the facility would be located. The Administrator shall not select such tract if the Governor of the State in which the proposed tract would be located recommends that the selection not take place, unless the Administrator, *in his discretion, determines* [finds] that there is an overriding national intrest in selecting such tract. If the Administrator decides to select a tract despite a Governor's recommendation not to take such action, he shall communicate, in writing, to the Governor his reasons for not accepting such recommendation. The Administrator's decisions, pursuant to this subsection, shall be final [unless determined by judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located]. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed demonstration by State and local political subdivisions which may be impacted by such facility and the general public.

REVISION TO SECTION 103, ERDA AUTHORIZATION BILL

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee is sought under this sec-

> tion; he shall inform the Governor of the State, and appropriate officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee under section (b) if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator, *in his discretion, determines* [finds] that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee despite a Governor's recommendation not to take such action, he shall communicate, in writing, to the Governor his reasons for not accepting such recommendation. The Administrator's decision, pursuant to this subsection, shall be final [unless determined in a judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located]. The Administrator shall, by regulation, establish procedures for review of and comment on the proposed facility by State and local governments and the general public which may be impacted by such facility."

Mr. SPEAKER, I believe the ERDA authorization conference bill is one which every Member can support. As a conferee, it is a bill in which I, and every other conferee, can take genuine pride.

I profoundly believe that H.R. 3474 will be one of the few very constructive and positive legacies for our Nation's benefit from this first session of the 94th Congress.

It is on that basis that I support sections 102 and 103.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I wish to compliment the distinguished gentleman from Ohio on the statement he has made. I think we all realize that nuclear energy and solar energy are way down the road sometime in the future. I likewise want to see all of our shale used as an alternative on a commercial scale as well as coal. That is the only alternative we have today.

These companies owning their own coal are not going to go out there and take those risks without the loans being guaranteed. No businessman in this country would do that.

I would like to ask the members of this committee if any businessman in this country would go on his own, without a Government loan guarantee, and undertake to put up a commercial liquefaction plant with the OPEC countries holding a hammer over his head or over a company's head? It is just not reasonable. It will never be done unless we do guarantee these loans. And it is so simple not only for liquefaction and gasification from coal but from oil shale on a commercial basis. We have the know-how now. We can go on a commercial basis now.

Where this Congress has been derelict in the last 2 years is in not moving more rapidly than we have moved in view of the energy situation in the world and in view of the treatment that we have received from the OPEC countries. I do not believe we should continue that kind of stupidity any longer in the future.

Mr. MOSHER. Mr. Speaker, I very much welcome the remarks made by the gentleman from Kentucky.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Florida.

Mr. HALEY. Mr. Speaker, we have heard much criticism about the lack of progress in this particular field. Of course, these bills that we have here may not intrude too much on the responsibility of the Committee on Interior and Insular Affairs, nevertheless, Mr. Speaker, I think that we must, and I repeat, we must create a committee here that is responsible for the overall oil production insofar as energy is concerned. Being split up between five, six, or seven committees it will never get anywhere.

So I am just tossing that out to my friends here. Let us seriously consider getting into this field and putting the responsibility where it should be and moving forward through some one committee, not splitting it up among half a dozen other committees.

Mr. MOSHER. I thank the gentleman for his remarks.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. I yield briefly to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, I want to thank the gentleman from Ohio for yielding me this time. I also wish to commend both him and the chairman of the full committee for the fine work they have done in trying to present all sides to this very controversial bill. I rise in support of the conference report.

Mr. Speaker, the concern which many Members have regarding the impact of patent policy on fostering the participation of private enterprise is shared by other respected groups. In October 1975, the Office of Technology Assessment submitted a detailed analysis of the comprehensive energy plan which ERDA had forwarded to Congress in July. In addressing the effect of ERDA's patent policy on the commercialization of new energy technology, OTA concluded that—

> The success of ERDA's commercialization program will depend in large measure on its patent and proprietary rights policies.

I believe this independent corroboration of our position reinforces the need to proceed with great care in any changes of the existing patent policy.

Patents, trade secrets and other proprietary rights are a very complex area of intellectual property law. Over the past years both government and the private sector have evolved a set of patent policies and procedures which are fair to both sides. No one has seriously challenged these long-established rules as resulting in a "giveaway" policy or in failing to adequately protect the public interest. In addition, they have achieved a sense of stability and predictability with respect to the applicable patent policy and its implementation.

Any major changes in the established pattern could inject serious uncertainties into the process. These uncertainties in turn would have a negative impact on the willingness of the private sector to cooperate in Federal research and development projects. This negative impact would be the greatest for those private entities with the best existing technology, because they would have the most to lose. This situation leads to a result completely opposite to that which we should seek to foster. That is, private groups with the best technology should be encouraged to participate in Federal programs rather than be discouraged by an elusive and uncertain patent policy.

The need for continued administrative flexibility and discretion is underscored by an appreciation of some of the practical problems faced in this area. For example, a private party participating in a Federal project is likely to utilize some of its own existing patents and technology as well as utilizing patents and technology of which it is only a licensee. Private groups must retain some measure of viable control over their technology. The owner of a trade secret is under a continuity duty to protect its confidentiality or else risk losing it. If a new patent policy were to impede the owner of a trade secret from adequately meeting this duty, it would have a doubly negative effect. First, the owner of a trade secret would be reluctant to license his technology to groups likely to utilize it in a Federal project.

I include the following:

Washington, D.C.
December 9, 1975.

Hon. Olin E. Teague,
Chairman, Committee on Science and Technology, Rayburn House Office Building, Washington, D.C.

Dear Mr. Chairman: As Members of Congress who, respectively, authored the House patent policy language and served as conferees on last year's Federal Nonnuclear Energy Research and Development Act (P.L. 93-577), we are concerned that some are seeking to expand the purview of that Act beyond that intended by the conferees.

At no time when the patent policy of Section 9 was being drafted did the conferees address the issue of loan guarantees. The tone of last year's work on Section 9 patent policy was that it was not a major departure from then existing NASA and AEC patent practice. In fact, the Conference Report on P.L. 93-577 speaks favorably of how these agencies' patent policies have worked and sanctions the past interpretations of NASA and AEC patent regulations. It was our understanding that the conferees intended to endorse the approach of those regulations in the subsequent interpretation of Section 9.

NASA patent regulations contain a definition of contract almost identical to Section 9(m) (See 14 C.F.R. 1245.102). Yet under the accepted interpretations of NASA regulations, loan guarantees would not be included within the ambit of Section 9 of P.L. 93-577, despite the sweeping definition of contract contained in Section 9(m). Similar analysis demonstrates that Section 9 does not apply to price supports.

Despite the nonapplicability of Section 9 as such to loan guarantees, we do strongly urge that ERDA promulgate regulations which protect the interests of the United States, the public and all interested parties. The proposed policies and procedures published on October, 1975, (Wednesday, October 15; Federal Register pages 48363–48380) are a good start.

Sincerely,

Don Fuqua.
Mike McCormack.
Charles A. Mosher.

Mr. MOSHER. Mr. Speaker, I yield back the balance of my time.

Mr. TEAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from West Virginia (Mr. Hechler).

Mr. HECHLER of West Virginia. Mr. Speaker, I would like to suggest that this loan guarantee program extends free enterprise for profits for the big energy companies and socializes the losses.

In other words, it puts the Federal Government in the business of preventing the private companies from losing but insofar as profits are concerned, the sky is the limit.

Mr. Speaker, my good and esteemed colleague, the gentleman from Ohio (Mr. Mosher) for whom I have the highest regard, indicated that we needed to develop coal gasification in an environmentally sound way.

Several weeks ago I received a very strange telephone call. The caller would not identify himself. He said:

> I cannot give you my name, but I have something here called a Draft Environmental Impact Statement, October, 1975, which I will drop off at your office.

This draft environmental impact statement, which has not been publicly released, and in fact will not be released until the 19th of December after completion of this debate, contains some horrendous examples of the environmental effects on air, water, and people in those areas where these commercial synthetics plants are being developed.

I would further point out, Mr. Speaker, that the final environmental impact statement will not be published by ERDA until a year from now. In the meanwhile, we are going ahead willy-nilly toward enacting this legislation with this $6 billion Christmas present which is growing daily.

Mr. Speaker, the administration has told us, and Mr. Frank Zarb indicated personally before our committee, that this program is inextricably linked with the $100 billion Energy Independence Authority which Vice President Rockefeller proposed and which the President embraced.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to my able colleague from across the Big Sandy, the gentleman from Kentucky.

Mr. PERKINS. I want to thank my neighbor and colleague for yielding.

I know that the gentleman is one of the able members of this committee and one of the able Members of this Chamber. Of course, his district has a tremendous amount of coal, and I know that he is very sincere about the environmental statement that he is making. But when we made studies of this back in the 1950's there were no environmental problems, and there would not be any difficulty today to send a team of experts to South Africa where a plant is in operation, commercial operation, making some 300,000 barrels of oil annually from synthetic fuel, to see if there just happens to be any impact.

Our scientists who have all of the know-how are prepared tomorrow to tell us about what side effects from an environmental point of view surrounds this fuel.

Mr. HECHLER of West Virginia. May I have a little of my time back?

Mr. PERKINS. All right, but that is why I say I do not think the gentleman's point from an environmental viewpoint is well taken. That can be eliminated, if the gentleman desires to help with some suggestions in the construction of these plants. We have got the know-how now to do that. We are not going to endanger anybody's lives or construction of plants. All we need is to build where we have coal and water.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Texas.

Mr. TEAGUE. I thank the gentleman for yielding.

Just so I understand the gentleman, did I understand the gentleman to say that there is something in this bill that protects the borrower? I thought the gentleman said that there was protection for the borrower. As I understand, there is protection for the lenders only that we have in this bill.

Mr. HECHLER of West Virginia. That is essentially what I am talking about. It seems to me, though, that if we have a program that takes the risks out of production and uses the taxpayers' funds to the tune of $6 billion to take those risks out, we also ought to consider the risk to human beings, the risk to consumers, the risk to taxpayers, and the risk to those who live in the areas that are being impacted by this tremendous program.

Mr. TEAGUE. What if the risks turn out to be beneficial on the money we are putting into the program? Who gets the benefit?

Mr. HECHLER of West Virginia. Certainly the gentleman is right that people would benefit, but I think that we ought to do this with our eyes open, and not simply to turn the money over on a silver platter to the big energy corporations.

What we should do is pursue the very course we did in the synthetic rubber program in World War II, where Government in partnership with industry could develop these great resources of the Nation for the benefit of everyone with full knowledge of how it was being done in the public interest.

I would say, Mr. Speaker, gazing down on us is the Father of our Country, the first President of the United States. One of the great marks of George Washington's place in history is the fact that he kept in his Cabinet as Secretary of the Treasury Alexander Hamilton and as Secretary of State Thomas Jefferson, two divergent personalities. We also honor Thomas Jefferson right here in this Chamber, above the Speaker's rostrum. But this program distorts the balance between Jeffersonian and Hamiltonian concepts. This program is 100 percent of an Alexander Hamilton program to force feed the big energy companies.

Mr. TEAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Speaker, we have before us a most curious proposal under a most curious rule. I called it a funny rule in the Rules Committee the other day.

My good friend, the gentleman from Texas, for whom I have long and deep affection and great friendship, has done a good job of getting a piece of legislation to the floor. It is regrettable it is not a good piece of legislation. It is even more regrettable that he has chosen to disregard the orderly processes of the House.

What are the facts? We have here a $6 billion giveaway. It is going to be followed by $4 billion more. It has got $400 million in it for loans and grants to communities, and it probably is going to amount to $100 billion before we get done.

It is touted as being a research and demonstration program. At this time, it is going to be $6 billion in guarantees. In my view that is one whale of a demonstration.

Interestingly enough, there were no hearings held on the program in the gentleman's committee before it was brought to the House. The House has never had an opportunity to consider sections 102 and 103, which were inserted by the conferees without consideration in their Committee on Science and Technology, and which were never considered in the House under the regular processes.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. Yes. I mentioned my good friend, the gentleman from Texas, and I am delighted to yield to him.

Mr. TEAGUE. Mr. Speaker, I would tell the gentleman from Michigan we had almost 100 witnesses before our committee.

Mr. DINGELL. That is right, the gentleman did, and I will tell the gentleman when he had them. He had them in while the conference was going on. His committee never amended this bill in the gentleman's committee at all and the matter was never considered in the House under the orderly procedures of this body and the gentleman cannot deny that fact.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield for one second more?

Mr. DINGELL. Certainly, I yield to my friend, the gentleman from Texas.

Mr. TEAGUE. The gentleman from Colorado (Mr. Wirth) went to Denver and there were 42 witnesses heard, and after the conference took place, we did not listen to a witness after the conference started meeting.

Mr. DINGELL. There were no hearings in the House committee before this was brought to the floor under the orderly processes. These hearings could have been held or not have been held and the matter would be precisely the same, the matter woud be before us for a vote. This is like "Through the Looking Glass": First we will find them guilty and then we will hear the evidence. That is where we are.

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Speaker, does the gentleman have a copy of those hearings? Has he seen those hearings?

Mr. DINGELL. I have not seen them.

Mr. HARKIN. Does the gentleman know where they are?

Mr. DINGELL. I have not the vaguest idea. I would be willing to wager they have not been printed.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, we have tried and tried to have them printed by the Government Printing Office since last January. Other committees cannot get them.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, the gentleman is totally misrepresenting the truth.

Mr. DINGELL. I do not yield.

Mr. McCORMACK. Let me continue and explain.

Mr. DINGELL. I disagree with the gentleman.

I do not yield.

The orderly processes of the House have been totally disregarded by the committee.

Mr. McCORMACK. Mr. Speaker, does the gentleman refuse to yield to have the facts made clear?

Mr. DINGELL. I do not yield further.

Mr. McCORMACK. The gentleman does not yield for the truth?

Mr. DINGELL. I do not yield further.

The hard fact of the matter is we are expected to have a potential of $2.5 billion in defaults. It is essentially a guaranteed program for donation to the greatest and richest American oil companies. The bill insulates this vast donation to American industry from all the requirements of the Securities and Exchange Commission Act. It also isolates them from all risk. The taxpayers get the risk. The companies get the profit.

Let us take a look at who are the beneficiaries. In one oil shale project the beneficiaries are the biggest oil companies in the world. Eight out of the top 10 oil companies in this country with reported assets of over $100 billion. With regard to one oil shale proposal, the net income of the consortiums of beneficiaries was over $8 billion in 1973; and $11 billion this last year, and their cash flow was about $18 billion this last year.

In the case of another set of potential beneficiaries of the oil shale guarantee, their net income in 1973 was about $700 million which swelled 70 percent to $1.2 billion in 1974. Their cash flow went from $1.6 billion in 1973 to $2.3 billion in 1974. Do these groups require the public support of their investments, at a level of $30 for each citizen in this country?

The Federal Government is going to assume the risk and these folks are going to make the profit, guaranteed exempt from the requirements of the Securities and Exchange Commission Act that is in section 103.

In section 102, they propose to give the same kind of support for the free interest in the public land or nearly free of cost in vast tracts of land in the western United States, to another large oil company in direct contravention to the mineral laws of the United States.

I say this is outrageous. We ought to handle this within the orderly process of the House. Let us hold hearings and consider the matter properly and then consider whether or not we want to benefit these monstrously large corporations who now control much, if not most, of the energy used in this country.

I would further add that as much as we desire new sources of gaseous fuels there is serious doubt that going the high Btu gas route is desirable or wise. This high Btu gas is expected to cost about $4 per million Btu's. Low Btu gas can be generated and delivered for half this price per million Btu's. If we wish to convert our industry and large commercial users of oil and natural gas to a coal-based fuel, low Btu gas offers us an alternative that may well be less costly, less risky and faster. Gentlemen, we have an abundance of coal within our domestic boundary. Let us examine this low Btu gas alternative to reduce our rate of consumption of the precious methane molecule that constitutes natural gas.

Now on the point of equity. It has been a tradition in this country that those who take a risk are entitled to some share of the benefits that develop. Here the American taxpayer is being asked to put at risk $6 billion. This comes to approximately $30 for each of our 200 million citizens. Do they benefit if these schemes are successful. Not to the extent those controlling the companies do. At best they get their money back. We have proven techniques of financing large ventures like these where the public would participate in the profits of success. These should have been thoroughly examined. I refer to TVA, COMSAT. Government partnerships or perhaps competitive contracts to be let by the Government by which the risk and rewards of the financing public could be brought in line.

The fact sheet is as follows:

FACT SHEET

The following points argue for the *rejection* of Sections 102 and 103 of the ERDA Authorization Bill (H.R. 3474).

1. These sections were added in Conference by the Senate and were not part of the original House bill. This is the only opportunity for the House to consider a 6+ billion dollar program.

2. The 6+ billion dollar subsidy is not needed for oil shale and a questionable investment in high BTU coal gassification. The National Petroleum Council and Bureau of Mines estimate the cost of shale oil at $5.15 to $6.15/Bbl. This is well below the current market price. The major promoters of shale oil put their cost at about $4/Bbl. The cost of high BTU gas is estimated at about $4/Mcf, which is equivalent to $22/Bbl oil.

3. The major investors in shale oil include 8 of the top 10 domestic oil companies. Their assets are well in excess of $100 billion. They do not need subsidy!!!

4. The $6 billion loan guarantee program will distort the capital markets and give these synthetic fuel projects preference over others seeking capital.

5. Loan guarantees will remove these securities from SEC control and constrain the development and dissemination of the information the program is intended to develop. There are no provisions for independent public audits of the projects' costs and operations.

6. Those who are being asked to take the risk—the U.S. taxpayer—will not share in the profits of success. Alternative public financing techniques, where the public would share in the benefits of success, have not been fully explored. (TVA, Comsat, Governmental Partnership, Incentive Fee Contracts, etc.).

7. A cost-benefit analysis, prepared for ERDA, estimates a $1.6 billion difference of costs over benefits.

The following Members have signed a "Dear Colleague" letter in opposition to the $6 billion loan guarantee provision for synthetic fuels and oil shale leasing:

Schroeder (Colo.), Ottinger (N.Y.), Moffett (Conn.), Rousselot (Calif.), Fithian (Ind.), Ashbrook (Ohio), Eckhardt (Texas), Vanik (Ohio), Lagomarsino (Calif.), Studds (Mass.), Seiberling (Ohio), Mineta (Calif.), Mink (Hawaii), Moss (Calif.), Baucus (Mont.), and Coughlin (Pa.).

Reuss (Wisc.), Obey (Wisc.), Hayes (Ind.), Blouin (Iowa), Dingell (Mich.), Burton, P. (Calif.), Staggers (W. Va.), Scheuer (N.Y.), Armstrong (Colo.), Aspin (Wisc.), Kastenmeier (Wisc.), Melcher (Mont.), Frenzel (Minn.), Fraser (Minn.), Steelman (Texas), and Roncalio (Wyo.).

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, this is the first authorization bill under the Energy Research and Development Act which was passed last year. The ERDA Act was developed by the Government Operations Committee on which I serve as ranking minority member. Our objective in developing the ERDA legislation was to assure that priority attention would be given to the broad spectrum of energy options we must concentrate on to solve the critical national energy dilemma we face.

As a result of the treatment of all energy development authorizations in one act, we have for the first time the complete picture in one place of what our national efforts are in this critical field.

I wish to commend the conferees of all of the committees involved in their successful efforts to reach agreement on our energy development program. Legislative frontiers were advanced in this effort. I am sure we have all learned a lot in this pioneering endeavor and in succeeding years we will even do better in consumating our legislative work in this critically important field. A great deal of important work is dependent on the enactment of this legislation and the accompanying appropriations legislation. It behooves all of us to act as expeditiously as possible to complete our consideration of this matter.

Mr. MOSHER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I rise in support of the bill, the conference report in question. I do so, however, with certain reservations on sections 102 and 103, to which I will address myself at a later date.

However, in addressing myself to the conference report, I would like to recognize the chairman of the Committee on Science and Technology for the way the chairman conducted the conference, as well as the chairman's fairness in all these matters under consideration. They were very difficult. They tested, I am sure, most Members who are on the committee; but through the conflict and through the debate, the chairman allowed for free expression by all Members from the most senior to the most junior, with the chairman allowing the chips to fall where they may.

Personally speaking, I appreciate that, inasmuch as I had several matters which I considered important, certain matters such as the protection of proprietary information, other matters involving data banks and their use and matters involving privacy of potential employees for ERDA. In all these very sensitive areas, the chairman, as well as those on the committee in the conference, I thought were quite fair.

Mr. Speaker, I will support the ERDA conference report with reservations, however, on sections 102 and 103, to which I will speak later.

I think as it is written it is about as good as we can do at the moment, but that is not to say that we cannot do better. Obviously, time is wasting. There is a need to provide the necessary funds for ERDA to produce the energy independence which we all feel is necessary. Therefore, this bill at this point in time is about as good as we can expect. Hopefully, next year when we can pursue it again, we will refine it further; but it does represent an honest and I think sincere effort on the part of all that were involved in the committee and in the conference.

With the exception of sections 102 and 103, which raise questions other than the mere funding and authorization of ERDA, I think the bill is worthy of support.

Mr. Speaker, the distinguished chairman of our Science and Technology Committee, Mr. TEAGUE, and the distinguished chairman of my own Energy, Research, and Development Subcommittee, Mr. MCCORMACK, have summarized the conference bill in front of us today in detail. I would like to turn now and make specific aspects of this conference bill which are of real importance.

POSITIVE AND PREDICTABLE PROTECTION FOR PROPRIETARY INFORMATION

The first area of importance is the positive and predictable protection of proprietary information which this bill incorporates. I personally am very proud to have been a principal author of the two sections giving ERDA full authority to provide such protection, Sections 103 (v) and 312. Importantly, both sections are in the nature of amendments to the basic Nonnuclear Energy Research, and Development Act, so that this protection will be fully effective in the future.

A great deal of legal research and analysis and painstaking negotiations led to adoption of the language in those two sections. I want to commend my colleague, Representative KEN HECHLER, for his continuing contribution and effective participation in this effort. I believe we have perfected an excellent solution to an otherwise serious impediment to success in the ERDA programs.

Sections 103(v) and 312 both incorporate the same statutory scheme and almost identical language:

> The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman.

The statement of the managers in the conference report does not contain any amplification of the statutory language. It was the conclusion of the conferees associated with the preparation of the provision that the statutory language was clear and unambiguous. If information is shown to include either trade secrets or other proprietary information, ERDA shall not disclose it and any disclosure shall be punishable under the existing provisions of the Criminal Code. Since detailed discussion of this direct and simple scheme could only serve to create interpretive risks in any Freedom of Information Act court challenge under these sections, the report is intentionally silent.

As a primary author of these sections, I do wish to associate myself with and strongly endorse the restatement of the conferees intentions in adopting these provisions which is contained in the following colloquy between Senator JACKSON and Senator FANNIN, chairman and ranking minority member, respectively, of the Senate conferees, during the Senate debate Tuesday on the conference report.

> Mr. FANNIN. Mr. President, one of the many positive steps taken in the conference on H.R. 3474 was the adoption by the conferees of two provisions which give ERDA authority to provide positive and predictable protection for trade secrets and other proprietary information. Mr. Chairman, because of the importance of the two sections, 103(V) and 312, to our ERDA programs, I want to insure that our actions are understood. Would you agree with the following summary of our actions and their effect on those two sections?
>
> The conferees adopted two provisions which provide positive and predictable protection for trade secrets and other proprietary information. Sections 103(V) and 312 provide such positive and predictable protection for the information acquired by ERDA in the loan guarantee program and in its central source of information or data bank, respectively.
>
> The two sections include a simple and straightforward statutory scheme. Where any individual has information which ERDA is going to acquire under either program, the individual can make a showing to ERDA that the information is either a trade secret or is other proprietary information. In both cases, there is an existing body of case law to help ERDA in defining these two categories of information. Once the individual makes a satisfactory showing that his information falls into one or the other of the two categories, ERDA shall not disclose the information. Procedures are included for ERDA to make the information available to its own employees and to other agencies to carry out their responsibilities. Neither the employees nor other agencies are authorized to disclose the information, however, and so the protection is not avoided. ERDA cannot under these provisions withhold the information from Congress.
>
> The conferees took this action because of a very serious problem which is developing in ERDA and which could have been exacerbated by the loan guarantee program and the data bank. Or conversely, the problem could seriously have inhibited the progress and success of the programs. Basically, the problem is that under existing law, primarily the Freedom of Information Act, court holdings have made Government protection of trade secrets and other proprietary information completely unpredictable. One recent case even held that a prior Government pledge of confidentiality or nondisclosure could not be honored, but rather the nondisclosure had to—be "tested" under another court holding.
>
> As a result, industry is icreasingly reluctant to share the results of its research and development cooperatively with the Government.
>
> Our action here is intended to remedy that situation for ERDA so that this problem will not serve as an impediment to getting the full cooperation of industry in formulating programs and in getting the full participation of industry in conducting these programs. Our national energy research and development efforts are far too important to allow such an impediment to exist. That there could be a problem was well demonstrated in a letter of September 18, 1975, from the ERDA Administrator, Bob Seamans, to Chairman TEAGUE of the House Science and Technology Committee, Bob stated:
>
> "Recent cases indicate that a court might under the Freedom of Information Act require disclosure of information considered to be proprietary by a company donating or otherwise providing such information to the Government. . . . This has led to a growing reluctance on the part of industry to provide proprietary information to the Govern-

ment even under a pledge of confidentiality, because it is not clear that the Government will be permitted to honor the pledge."

He added, in discussing a data bank provision in the House bill which did not have the current protection added by the conferees:

"We are seriously concerned that the obscure and contradictory language of (the provision) may be construed to apply to, and thus impact, all of ERDA's activities relating to the receipt, evaluation and utilization of privately generated information. Under these circumstances, we foresee a grave loss of confidence on the part of the entire energy industry in ERDA's ability to deal with private companies fairly and honorably."

We believe we have acted responsibly to give ERDA full authority to provide positive and predictable protection for industry's trade secrets and other proprietary information in order that, as Bob Seamans stated so well, ERDA will have the "ability to deal with private companies fairly and honorably." We have done so by using a procedure which is an integral part of the Freedom of Information Act. That act includes a series of exemptions from the otherwise mandatory disclosure requirements of the law. One of these exemptions, exemption No. 3 (5 U.S.C. 552(b)(3)), simply covers "matters that are specifically exempted from disclosure by statute," meaning another statute. This exemption is intended to incorporate all other exemptions from disclosure in laws nondisclosure of particular information is specifically necessary for a particular program, notwithstanding the more generalized exemptions in the Freedom of Information Act—or in laws enacted prior to the act. There are over 100 such exemptions for specific programs in status today.

A June 1975 Supreme Court case, F.A.A. against Robertson, upheld a broad interpretation of this exemption. The court clearly stated that Congress must balance the public interests in disclosure under the Freedom of Information Act with the public interest in nondisclosure for a particular program. Once Congress has done so, the Supreme Court said, the courts cannot scrutinize the wisdom of that balance and in effect, there is predictable protection for that information. The program in the Robertson case was a special aircraft accident reporting system, including candid comments from pilots, airlines, and aircraft manufacturers. Protection of the information was necessary to insure full accident-related information outside of accident litigation, for safety purposes. We have now provided just that type of exemption for ERDA and we have done it in the way which the Supreme Court sanctioned—by striking a balance of information and nondisclosure in the national interest of insuring the cooperation and participation of American industry in ERDA's energy R. & D. program.

Mr. JACKSON. That is in accord with my understanding of the agreement.

I want to thank those two distinguished gentlemen for their strong bipartisan support of our efforts in this important area. I also appreciate the strong support which Messers. TEAGUE, McCORMACK, and MOSHER on the House side gave to our efforts.

In order to provide a complete legislative history for these two important provisions amending the Federal Nonnuclear Energy Research and Development Act of 1974, I want to briefly review the sequence of events which led to their adoption in the H.R. 3474 conference. The House passed version of H.R. 3474 contained a provision, section 307, establishing a new "central source of information" or data bank for energy resource and technology information. Another provision, section 308, added ERDA to the list of agencies eligible to receive energy information, including subpoenaed and proprietary data obtained by the Federal Energy Administration under the Energy Supply and Environmental Coordination Act, ESECA. The two sections stated:

SEC. 307. The Federal Nonnuclear Energy Research and Development Act of 1974 (88 Stat. 1878; 42 U.S.C. 5901) is amended by adding at the end thereof the following new section:

"SEC. 17. The Administrator shall establish, develop, acquire, and maintain a central source of information on all energy resources and technology, including proved and other reserves, for research and development purposes. This responsibility shall include the acquisition of proprietary information, by purchase, donation, or from another Federal agency, when such information will carry out the purposes of this Act. In addition the Administrator shall undertake to correlate, review, and utilize any information available to any other Government agency to further carry out the purposes of this Act. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination."

Sec. 308. The Federal Nonnuclear Energy Research and Development Act of 1974 (88 Stat. 1878; 42 U.S.C. 5901) is amended by adding at the end thereof (after the new section added by section 307 of this Act) the following new section:

"Sec. 18. The Administration is, upon request, authorized to obtain energy information under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d))."

As a result of a House floor amendment, section 307 was expressly made applicable to all nonnuclear energy technologies and programs in ERDA. My very grave concern about the potential impact on predictable protection of proprietary information was expressed in my remarks on the House floor during the debate on H.R. 3474 in June:

PROPRIETARY INFORMATION

Section 307 states that "the responsibility of the Administration, ERDA, to implement the data bank shall include the acquisition of proprietary information, by purchase, donation, or from another Federal agency, when such information will carry out the purposes of this act—the Federal Nonnuclear Energy R. & D. Act." The section continues, "the information maintained by the Administrator shall be made available to the public, subject to the provisions of 5 U.S.C. 552 and 18 U.S.C. 1905." Both the direction to acquire proprietary information and the restriction on disclosure imposed by the cited statutes were well intentioned in their original concept. The committee report states that ERDA is not directed nor allowed to acquire proprietary information which is "closely held and not for sale." Unfortunately, however, the current language of the section creates the very real possibility that ERDA might be required by court action to divulge and thereby compromise proprietary information in an action under the Freedom of Information Act, 5 U.S.C. 552. The situation is materially worsened by section 308, which would have the effect of allowing ERDA to obtain and place in the data bank confidential and proprietary information from the Federal Energy Administration which had been acquired by subpena.

The committee staff explored this possibility in individual discussions with the ERDA General Counsel and with representatives of the Freedom of Information Committee in the Justice Department's Office of Legal Counsel, and finally a meeting including the committee staff. Member staffs and attorneys from ERDA and Justice. It was apparent that ERDA's General Counsel was unable to interpret the legal intention of the committee regarding acquisition and protection of proprietary information because of the section's language. The General Counsel specifically was unclear as to the intended meaning of "proprietary" and suggested that the committee define it in its memorandum suggested a definition based on the court test in National Parks and Conservation Association against Morton discussed below.

In suggesting the possible definition, however, the memorandum reaffirmed ERDA's concern by concluding—

"Our furnishing of this definition does not indicate the Administration's concurrence in the language of Section 307. . . . In our opinion, the purpose of this sentence as currently worded remains obscure."

Equally apparent was the Justice Department's analysis that there was no predictable protection of any legitimately confidential or proprietary information, because of the current state of the law under 5 U.S.C. 552.

The thrust of the basic legal analysis supporting this concern was conducted with the assistance of the Justice Department and is reasonably straightforward. The Freedom of Information Act (5 U.S.C. 552) generally requires disclosure of all Government records upon request. There are a number of exemptions to the required disclosure. One of the exemptions, section 552(b)(4), exempts trade secrets and commercial or financial information which is privileged or confidential. Current Justice Department guidelines require disclosure of information even if within an exempt category; unless there is a strong justification for withholding—and Justice agrees. In the most recent case on point, *Charles River Park* v. *HUD,* Civil No. 73–1930, the District of Columbia Circuit Court of Appeals on March 10, 1975, indicates that there should be withholding if an exemption applies—citing 18 U.S.C. 1905—thus potentially altering the Justice guidelines.

Even so, qualification for exemption (b)(4) can be difficult. In *National Parks and Conservation Association* v. *Morton,* 498 F2d 765 (1974), D.C. Circuit Court stated that (b)(4) applied if it could be shown that disclosure was either likely, first, to impair government's ability to obtain necessary information; or second, to cause substantial harm to competitive position of person providing the information. The Court toughened the qualification in *Petkas* v. *Staats,* 501 F2d 887 (1974) by refusing to accept a government assurance of nondisclosure in a regulation requiring information, where filing the information was conditioned on confidentiality. The Cost Accounting Standards Board regulation in the case required defense contractors to submit disclosure statements setting forth their accounting procedures, and the suit was to obtain public disclosure of the statements filed by Lockheed, ITT and General Motors. The court held that the government assurance and the corporations' respective filings conditioned on confidentiality were not determinative, and remanded the case for testing by the national parks tests above. The Office of Legal Counsel, Justice Department advises that, as a result of the above cases, government protection of proprietary R. & D. information and its withholding under exemption (b)(4). In a Freedom of Information Act, FOIA suit is very unpredictable, at best.

Further, 18 U.S.C. 1905 does not appear to have any effect in a FOIA suit. The statute, if applicable, would impose criminal penalties on government officials who disclosed confidential information in the possession of the government. At best, then it is a deterrent to unauthorized disclosure, but it only takes effect after the disclosure and the damage to the business concern. 18 U.S.C. 1905 has been virtually ignored by the courts in FOIA suits, except in the recent Charles River Park case above, because of a general exemption contained in the statute, "unless otherwise provided by law." Courts generally have interpreted the quoted passage as exempting disclosure under the Freedom of Information Act. Section 1905's penalties, therefore, would not be applied to an official who discloses proprietary information in response to a freedom or information suit.

The resulting possibility of divulging proprietary information should not be taken lightly. Dr. Seamans, ERDA Administrator, communicated his very real concern regarding the same possibility in a discussion of another section of the bill dealing with information dissemination, which was subsequently stricken in markup. He stated we are concerned that the language of the section may be construed in such a way as to prevent ERDA from accepting and utilizing proprietary information from industry which may be related to our programs. Equally as important is the possible interpretation of this section in such a way as to make industry reluctant to share proprietary information with us.

A recent Harvard Business Review article by Mr. Roger M. Milgrim, "Get the Most Out of Your Trade Secrets," volume 52, No. 6, November-December 1974 at page 105, reinforced the importance of trade secrets from the perspective of American industry. Mr. Milgrim, a New York attorney who had specialized in trade secret law and authored the standard legal text in the field, forcefully argues the need to protect our Nation's trade secrets. As he states:

"The cornerstone of many an enterprise's success, trade secrets often represent significant investment and confer important competitive advantage. Failing to understand or adequately protect them is playing Russian roulette with five loaded chambers. The odds are discouraging."

Mr. Milgrim goes on to argue that trade secrets, as a result of a May 1974 Supreme Court decision, are an increasingly attractive alternative to patents. He also documents their importance for licensing to foreign technology licensees and the resulting contribution to U.S. balance of payments, a contribution which he suggests may be as high as $1 billion per year. Mr. Milgrim offers one particularly relevant example of such licensing which is germane to our consideration of energy research, when he suggests at page 106 that recent events to world energy may heighten interest in U.S. technology.

"New notions of cost justification to ensure scrupulous use of limited energy. . . . For example, a new type of valve that precisely regulates liquid flow can improve fuel metering so much that it saves tons of fuel on a jet's takeoff and landing. Results in other applications are equally dramatic. But as recently as two years ago, potential users of the valve showed little enthusiasm for an innovation that required even slight changeover effort and expense. Not surprisingly, the valve manufacturer has recently experienced a new-found interest in both purchasing its product and becoming licensed under the manufacturing trade secret."

The message is clear. Trade secrets—technical proprietary information—are of crucial importance to many American businesses. Dr. Seamans' concern that the threat of disclosure might serve to make industry reluctant to share its proprietary information is obviously well founded.

Despite the obvious seriousness of the concern over this issue, we are asked to legislate without any formal review of these arguments. There were no hearings, and however inadvertent or well intentioned, we are left with no adequate vehicle for legislating from a knowledgeable foundation on this issue at this point. Lest the Congress continue to legislate in a vacuum in this regard, and thereby enact a provision with all the potential or unclear direction which the ERDA General Counsel raised, for possible mandatory disclosure of proprietary information which Justice raised, and for resulting serious impact of ERDA's entire energy research program which Dr. Seamans raised, I strongly urge that the House, at a minimum, amend or strike the proprietary information portion of the section. If we must have a data bank, I urge that we insure that it will not serve to harm the ERDA relationship with industry.

I am not alone in suggesting that we in Congress act in such Freedom of Information issues. A June 13, 1975, article in the Washington Post, entitled "Freedom of Information," by Mr. Robert Blanchard, chairman of the communication department at American University, concluded that Congress must act to apply FOIA. He stated:

"The legislative and oversight powers of Congress provide the best means of balancing the dilemmas of secrecy and publicity. Congress, after all, is the creator of most agencies whose information is sought by the press and public. It has the powers of subpoena and the purse. Its procedures and publicity powers are quicker, more efficient, and relatively more flexible than the courts. It is the most representative branch.

"This means, of course, that appropriate committees of Congress must deal with freedom of information, and such related issues as privacy, on a continuing basis."

I agree with Mr. Blanchard. We should act now.

Let me summarize these points for you. I remain particularly concerned about the section 307 proprietary issue. The best legal advice available to us, that of the ERDA General Counsel and the Justice Department's Legal Counsel, strongly suggests that the current language in the section could result in mandatory disclosure by ERDA of legitimate proprietary information. At a minimum, the section results in a complete lack of predictability regarding ERDA's handling of such information. Such a result could seriously inhibit industry's willingness to share the fruits of its own independent energy research with ERDA. Others may disagree with the details of this legal analysis, but I feel strongly that we in Congress should positively act to resolve this issue and not throw it unresolved into ERDA's hands, and ultimately to the courts. ERDA's energy research must be done cooperatively with industry, just as we have always done in the space program with NASA. I am afraid that the current section 307 seriously threatens that cooperation.

Mr. Speaker, Dr. Seamans, Administrator of ERDA, echoed these very same concerns in a letter to Chairman Teague on September 18. He stated, in part:

The Energy Research and Development Administration (ERDA) is seriously concerned over the inclusion of Section 307 in the version of the ERDA Authorization Bill for FY 1976 passed by the House of Representatives. This Section requires ERDA to establish and implement an Energy Resources Data Bank on all energy resources and technology. The establishment of this Data Bank was not discussed at the hearings for this Bill, but was introduced in the markup by the Committee. For the reasons noted below, we recommend that this Section not be included in the ERDA Authorization Act and instead that the requirements for this Data Bank be submitted for consideration through the Congressional hearing process during which time ERDA and other Government agencies concerned with such data banks may present detailed recommendations. . . .

As a separate matter, we are also disturbed over the treatment accorded to "proprietary data" by Section 307. This Section provides that the Administrator is to acquire "proprietary information, by purchase, donation, or from another Federal agency." Proprietary information is generally understood to encompass privately developed information, which is maintained in confidence by its possessor because of the competitive advantage it confers. The open publication of such information destroys its proprietary character. Generally speaking, proprietary information is closely held and not available for sale or for open publication. When proprietary information is provided to the Government for regulatory or other purposes, the owner of the information generally obtains an agreement, either express or implied, that the Government will maintain it in confidence.

The Administrator is directed by Section 307 to make all the information in the Data Bank (including the proprietary information) available to the public, subject to the Freedom of Information Act (FOIA) and 18 U.S.C. 1905. These provisions are both obscure and contradictory. The FOIA requires disclosure of information acquired by the Government, whereas 18 U.S.C. 1905 imposes criminal penalties on Government employees for disclosing information submitted in confidence.

Further, the courts have not clearly delineated how the FOIA and 18 U.S.C. 1905 interact, but recent cases indicate that a court might under the FOIA require disclosure of information considered to be proprietary by a company donating or otherwise providing such information to the Government, notwithstanding 18 U.S.C. 1905. *This has led to a growing reluctance on the part of industry to provide proprietary information to the Government even under a pledge of confidentiality, because it is not clear that the Government will be permitted to honor the pledge.*

The House Report on H.R. 3474 (No. 94–294) states that ERDA is not directed or allowed to acquire proprietary information which is closely held and not for sale. While this language may be intended to clarify these contradictions, it appears contrary to the statutory language, and the talent of Congress therefore becomes even more unclear. We do not know exactly what we are being asked to do.

We are seriously concerned that the obscure and contradictory language of Section 307 may be construed to apply to, and thus impact, all of ERDA's activities relating to the receipt, evaluation and utilization of privately generated information. *Under these circumstances, we foresee a grave loss of confidence on the part of the entire energy industry in ERDA's ability to deal with private companies fairly and honorably.*

Because of these complexities, and the need to delineate carefully and precisely how the public and private interests are to be balanced so that we may properly carry out the intention of Congess, we suggest that Section 307 be stricken at this time and the whole subject matter be considered in subsequent hearings. If this is not acceptable, we urge that modifications be made to H.R. 3474 which will clarify that ERDA is authorized to protect from disclosure any genuinely proprietary information which it accepts under a pledge of confidence." (emphasis added)

Dr. Seaman's concern regarding industry's "growing reluctance" to share proprietary information with the Government can only be expected to become increasingly serious as more and more corporate counsels become aware of this problem. Based on recent legal statements on the subject, that is fast occurring. An address by a Washington attorney, James H. Wallace, before the Federal Bar Association conference on "Openness in Governments: A New Era," in May 1975, was entitled appropriately "Proper Disclosure and Indecent Exposure: Protection of Trade Secrets and Confidential Commercial Information Supplied to the Government." Mr. Wallace stated the problem quite succinctly as follows:

> Allowing the public to monitor governmental decisionmaking does not necessarily require that the government facilitate competitive snooping. But, with increasing governmental activity and information gathering, the risk that valuable commercial information will fall into the hands of competitors is rapidly increasing. Businesses are alarmed at the prospect of federal proceedings—not only out of concern over government remedies, but also out of fear that valuable proprietary data will be lost. As the Attorney General candidly admitted, despite the Congressionally provided safeguards, [t]he risk that the confidentiality of information may be breached is "ever present."
>
> (Address by the Honorable Edward H. Levi, Attorney General of the United States before the Association of the Bar of the City of New York, New York, N.Y. at 15, Apr. 28, 1975.)

An extremely detailed legal analysis of this problem appeared in the July 1975 volume of the Business Lawyer in an article entitled "Government Disclosure of Private Secrets Under the Freedom of Information Act" by James T. O'Reilly. In summation the author stated:

> No confidentiality for proprietary information—and no confidence—may be the result.

He also pointed out an important factor regarding industrial research:

> When a large investment in research cannot be brought to commercial fruition, because Government has disclosed its once-confidential innovation to competitors, the consumer pays for the loss in higher prices without a corresponding benefit—and *further research is deterred since Government may jeopardize its economic returns by premature disclosure*." (Emphasis added)

The seriousness of this problem from the viewpoint of Government officials was expressed quite candidly by Normal J. Latker, Patent Counsel of the Department of Health, Education, and Welfare. While not officially representing a departmental view, Mr. Latker made the following comments in an address to the Academy of Pharmaceutical Sciences on November 19, 1975, entitled "The Protection of Intellectual Property Under the Fourth Exemption of the Freedom of Information Act." Mr. Latker summarized the current status of the law as follows:

> The FOIA generally requires disclosure of all Government records upon request. There are a number of exemptions to the required disclosure. Of these exemptions, we are primarily interested today in number 4 which *appears* to exempt "trade secrets and commercial or financial information which is privileged or confidential." The leading case on the fourth exemption, National Parks and Conservation Association v. Morton, 498 Fed. 765 (1974), D.C. Circuit Court, states that the fourth exemption applies if it could be shown that disclosure was either likely, first, to impair the Government's ability to obtain necessary information or second, to cause *substantial* harm to a competitive position of a person providing the information. The Court toughened the qualification in Petkas v. Staats, 501 F. 2d 887 (1974) by refusing to accept a government assurance of nondisclosure in a regulation requiring information where filing the information was conditioned on confidentiality. The Cost Accounting Standards Board regulation in the case required defense contractors to submit disclosure statements setting forth their accounting procedures, and the suit was to obtain public disclosure of the statements filed by Lockheed, ITT, and General Motors. The court held that the Government assurance and the Corporations' respective filings conditioned on confidentiality were not determinative, and remanded the case for disposition in accordance with the test of the National Parks case noted above. Thus, a promise of confidentiality by the Government in and of itself may not prevent disclosure.
>
> The Office of Legal Counsel of the Justice Department has advised that as a result of the above cases, *government protection of intellectual property and its withholding under the fourth exemption under a FOIA suit is very unpredictable, at best.*
>
> Further, 18 U.S.C. 1905 does not appear to have any effect in a FOIA suit. This statute, if applicable, would impose criminal penalties on Government officials who disclose proprietary information in the possession of the Government. At best, then, it is a deterrent to unauthorized disclosure, but it only takes effect after the disclosure and the damage to the owner. 18 U.S.C. 1905 has been virtually ignored by the courts in FOIA suits because of a general exemption contained in the states, "unless otherwise provided by law." Courts generally have interpreted the quoted passage as exempting disclosure under the FOIA. Section 1905's penalties, therefore, would not be applied to an official who disclosed properietary information in response to a freedom of information suit. (emphasis added.)

Mr. Latker concluded in a particularly pessimistic note in light of the conferees subsequent action in adopting our provisions for ERDA:

> Now when one compares the highly speculative benefits to be derived from permitting random access of research proposals to a few self-designated public interest groups against the measurable loss of intellectual property, investigator privacy, candor in decision making, effective evaluations and incentives for continued innovation, it is difficult to justify the present state of the law.
>
> Although I and others in the Government believe this to be one of the more serious problems confronting our society, it has virtually had to beg for a forum. Both NASA and ERDA have brought this problem to Congress in the context of their research and as far as I can determine have made little progress toward resolution. The Association of American Medical Colleges has explained the problem to Congress in the context of NIH research in a much more comprehensive and articulate fashion than I have here, and have been equally unsuccessful. As far as I can determine, these organizations have been unable to separate to the satisfaction of Congress the issue of the need to protect most intellectual property in the hands of the Executive branch from Congress's preoccupation with opening the Executive's policy development process.
>
> Admittedly there is an overlap, but not to the extent that the baby needs to be thrown out with the bath water.

At this point, it must be undeniably obvious to anyone who had the interest to pay attention to me this far that we do, in fact, have a problem. We had extensive testimony leading to this same conclusion in hearings on industrial energy conservation and on section 103 this fall. In short, industry is very well informed and very concerned, so there is no doubt about impact on ERDA programs in the absence of some congressional action.

Our next question was how to remedy this problem for ERDA, since the business of the Science and Technology Committee is not the Freedom From Information Act. Our business is energy research, and in fact, urgently accelerated energy research under ERDA to end our crippling dependence on foreign oil and achieve energy independence. To achieve that objective, ERDA must have the full cooperation and participation of American industry. Our concern, then, is that this proprietary information problem will inhibit that cooperation and participation and thereby seriously hinder our energy research efforts. In the end, energy independence could be made far more difficult to achieve and require far greater direct Government action.

The Freedom of Information Act includes exemption of interest, exemption No. 3. No. 3 is for all other exemptions from disclosure contained in other laws, where Congress determines that nondisclosure of particular information was specifically necessary for a particular program, notwithstanding the more generalized exemptions, such as No. 4, for all other information. There are over 100 exemptions for specific programs.

A June 1975 Supreme Court case on exemption No. 3, FAA against Robertson, upheld a broad interpretation of this exemption. The Court clearly stated that Congress must balance the public interests in disclosure under freedom of information against the need for confidentiality. Once Congress has done so, the Supreme Court said the courts cannot scrutinize the wisdom of the balance and, in effect, that there is predictable protection for that information. The program in that case was a special information system for the FAA in aircraft accident investigations, including candid comments from pilots, airlines, and aircraft manufacturers. Protection of the information was to insure complete information for aircraft safety, apart from court litigation.

The key paragraph in FAA against Robertson summarized the balancing requirement.

> The discretion vested by Congress in the FAA, in both its nature and scope, is broad. There is not, however, any inevitable inconsistency between the general congressional intent to replace the broad standard of the former regarding withholding Administrative Procedure Act and its intent to preserve, for air transport regulation, a broad degree of discretion on what information is to be protected in the public interest in order to insure continuing access to the sources of sensitive information necessary to the regulation of air transport. Congress could not reasonably anticipate every situation in

> which the balance must tip in favor of nondisclosure as a means of insuring that the primary, or indeed sole-source of essential information, would continue to volunteer information needed to develop and maintain safety standards. The public interest is served by assuring a free flow of relevant information to the regulatory authorities from the airlines. *Congress could appropriately conclude that the public interest was better served by guaranteeing confidentiality in order to secure the maximum amount of information relevant to safety. The wisdom of the balance struck by Congress is not open to judicial scrutiny.* (Emphasis added.)

So what we can do is specifically exempt information from disclosure where it is clear that it is in the national interest to do so for a specific program because it is important that the information be available to the Government. That is exactly what the conferees have done in adopting our statutory language in sections 103(v) and 312. Our next action was to consider various alternatives for such language.

One strongly endorsed alternative is the provision appearing in section 11(d) of ESECA and also in the Clean Air Act and the Federal Water Pollution Act. While such endorsement was obviously well-intentioned, careful legal analyses led to the conclusion that such a provision would not provide authority for positive and predictable protection. This is the result of a number of factors best explained in the following discussion keyed to the ESECA provision:

> (d) Upon a showing satisfactory to the Federal Energy Administrator by any person that any energy information obtained under this section from such person would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such information, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18, United States Code; except that such information, or part thereof, shall not be deemed confidential for purposes of disclosure, upon request, to (1) any delegate of the Federal Energy Administrator for the purpose of carrying out this Act and the Emergency Petroleum Allocation Act of 1973, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office, when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress, or any committee of Congress upon request of the Chairman.

First. "Methods or processes" are only two of several categories of information defined as trade secrets, as is clear from the following discussion by Roger M. Milgrin in an article entitled "Get the Most Out of Your Trade Secrets" from the November–December 1974 Harvard Business Review:

> ### What Is a Trade Secret?
>
> A trade secret is defined within the context of its use. Such matter must lend a competitive advantage, must be kept secret within an enterprise, and must not be generally known within an industry. A trade secret can, however, be known by a selective few within an industry and remain a protectable trade secret.
>
> This is a capsulization of the definition of trade secrets given by the American Law Institute's influential *Restatement of the Law of Torts*, § 757, comment b (1939), which has been recognized in almost every major U.S. commercial jurisdiction.
>
> In the past, trade secrets were developed in single proprietorship enterprises, where only the owner and one or two trusted employees knew the enterprise's trade secrets. Developing apace with industrial scale, modern law permits widespread dissemination and use of trade secret information without sacrifice of legal protection.
>
> Frequently dozens and often hundreds of employees in an enterprise may know its trade secrets. Similarly, the enterprise may divulge some of its important trade secrets to independent contractors such as those who manufacture components for it and to suppliers of special products needed to apply the trade secrets.
>
> Despite the recognized right to use secret information broadly in connection with a business enterprise, a clear burden is on the owner of a trade secret to use and maintain it in as much secrecy as is reasonable under the circumstances. Secrecy remains a key element of a legally enforceable trade secret. Failure to reasonably and adequately protect a trade secret's secrecy is the first and surest step to losing it.
>
> The best way to define a trade secret is with examples of matter found protectable by the courts. The examples of judicially recognized trade secrets listed here are by no means exclusive. They are merely suggestive of the wide array of matter regularly used in business that may be entitled to trade secret protection.[*]
>
> #### PROCESSES
>
> For manufacturing chemicals, plastics, alloys, food stuffs. For refining and cracking petroleum and other minerals.
>
> #### FORMULAS
>
> For manufacturing medicines, cosmetics, food stuffs. For manufacturing industrial products such as inks, dyes, emulsions, coatings, and industrial cleaning compounds.
>
> #### METHODS AND TECHNIQUES (KNOW-HOW)
>
> For manufacturing industrial goods such as automotive, aerospace, and electronic equipment. For establishing, operating, and maintaining mass production lines. For making highly complex instruments and apparatus in which tolerances and specifications are not readily discernible.
>
> Products.
>
> Computer software.
>
> Complex products that may not be readily reverse engineered or that may be leased only and not disassembled without breaching the terms of the lease.
>
> Plans, designs, and patterns.
>
> For aerospace equipment.
>
> For industrial products.
>
> Business information.
>
> Customer lists, including special customer requirements and characteristics.
>
> Cost and pricing data.
>
> Market research.
>
> New product plans.
>
> Sources of supply.
>
> Systems and methods.
>
> Geophysical information such as mineral finds.

"Entitled to protection," how defined, what standard?

Second. "Shall be confidential in accordance"—section 1905. Section 1905 is not a withholding statute in a freedom of information suit, according to most reviewing courts, because it includes the phrase, "except as provided by law"; 1905 therefore cannot be used as authority to withhold. If 1905 is not authority to withhold, what is the meaning of "confidential in accordance with" it?

Third. "Shall not be confidential"—indicates that any protection that may exist is lost when the information is given to an official of the agency—ERDA— or to another agency.

Fourth. The above language does not contain any express indication of the congressional balancing of the competing policies of freedom of information and the protection of proprietary information—by ERDA—to insure cooperation and participation of the private sector in ERDA's energy research, development, and demonstration efforts. Such a statement of balancing is necessitated by the D.C. Circuit Court of Appeals and the June 1975 U.S. Supreme Court holdings in F.F.A. against Robertson.

The difficulties posed by that statutory scheme have been recognized by agencies attempting to implement it. Discussion of the ESECA provision in an FEA ruling on treatment of confidential information received during the oil and gas reserves survey clearly demonstrates the difficulty of interpreting the statutory intent—See FEA ruling 1975–5, 40 F.R. 89, Wednesday, May 7, 1975, page 19800. Not surprisingly, FEA has been sued on the very issue of its ability to provide protection for such information.

EPA must also deal with this statutory scheme. In a recent proposed rulemaking, EPA commented as follows on the scheme.

> Another important provision of the Clean Air Act is the language in sections 114 and 203 which requires the information gathered thereunder be available to the public unless its disclosure would divulge "methods or processes entitled to protection as trade secrets." and the similar language in section 307 concerning divulgence of "trade secrets or secret processes." EPA has given considerable attention to the question of whether the quoted phrases were intended to restrict confidential treatment to only such information as would disclose details of manufacturing methods or physical or chemical processes carried on by a business, or whether instead the phrase is a term of art encompassing other types of data which in many cases businesses regard as confidential, such as operating costs, profits and losses, details of transactions with others, plans for capital investment, marketing information, proposed new products, input and output rates, and similar information. In the proposed rule, the latter approach would be taken. EPA has noted that the meager legislative history concerning these provisions (like that concerning the similar language in section 308 of the Federal Water Pollution Control Act (FWPCA)) tends to indicate that Congress contemplated confidential treatment of all "trade secrets" or "proprietary data" except emission data. EPA has not been able to conclude that Congress intended either the Clean Air Act or the FWPCA to compel automatic disclosure of the vast amount of closely-held business information, production of which EPA may require under those statutes. Certainly the legislative histories give no indication that the drafters considered this possibility. Moreover, it is not apparent how automatic public availability of this information would further the overall purposes of either Act. (When such information is relevant to a matter in controversy in a proceeding under either Act, it could be made available, as

---

[*] For a complete listing of all decided cases attributing trade secret status to specific instances, see Roger M. Milgrim, *Trade Secrets* (New York, Matthew Bender & Co., 1967), § 2.09.

explained below.) Finally, many businesses would oppose EPA requests for information if they knew that EPA would immediately make it available to the public; this could seriously hamper EPA programs by requiring diversion of the Agency's resources to time-consuming and expensive efforts to compel the firms to provide the information, by use of court process. EPA is especially interested in comments on this issue. (40 F.R. 98, Tuesday, May 20, 1975, p. 21990.)

As noted, endorsement of the ESECA-type provision was well intentioned. The conferees did not adopt it, however, because these potential interpretation problems might jeopardize the positive and predictable nature of the protection which was the ultimate objective of acting to give ERDA exemption (3) authority.

The provision eventually adopted by the conferees is a revision of another alternative, which utilized the more direct and simple scheme embodied in the current "the administration shall not disclose such information" clause. That revision was the subject of a meeting with Representative John Moss, Democrat, of California, who was one of the primary authors of the Freedom of Information Act. The following statement summarizes that meeting:

Summary of Meeting of Representative John E. Moss With Representative Barry M. Goldwater, Jr., on the Freedom of Information Act, Nov. 10, 1975

1. We agreed that it is extremely important and in the national interest that ERDA have the full cooperation and participation of the private sector, particularly American industry, in the conduct of the national energy R&D effort. This cooperation and participation is essential to ensure the success of the national effort, by providing ERDA access to existing technology and access to past, present and future successes and failures in the private sector's energy R&D activities in order to most effectively manage the national effort.

2. We agreed that any lack of predictable protection of the private sector's proprietary information under the existing Freedom of Information Act exemption from mandatory disclosure for such information (5 U.S.C. 552 (b)(4)) could seriously inhibit private sector cooperation and participation with ERDA to the detriment of the national energy research and demonstration program.

3. Mr. Moss acknowledged Mr. Goldwater's conclusion, based on an independent staff legal analysis, that protection under exemption (b)(4) is neither predictable nor adequate because of recent court interpretations of the exemption.

4. Mr. Moss indicated that, as an original author of the Freedom of Information Act, it was his intent and understanding that exemption (b)(4) would authorize the withholding from disclosure under that Act of all "confidential information" protected by 18 U.S.C. 1905 in the criminal code. He further indicated that 18 U.S.C. 1905 was not intended as the authority to withhold such information under the Freedom of Information Act, but rather it was to be the test for what information was authorized to be withheld under the authority in exemption (b)(4). He expressed disappointment that recent court holdings have not correctly interpreted this connection and often have held to the contrary that 18 U.S.C. 1905 information is not necessarily protected under (b)(4), based on the adoption by the courts of various other tests for exemption (b)(4) coverage.

5. Mr. Moss indicated that exemption (b)(3), "specifically exempted from disclosure by statute" could be utilized to create a narrow statutory exemption in other statutes where Congress concluded that there was a legitimate national interest to be effectuated by withholding a class of information. In so concluding, Congress must strike a reasonable and acceptable balance between that national interest and the national interest in public access to Federal government information effectuated by the Freedom of Information Act.

6. We agreed that, in light of the apparent state of unpredictability of protection for proprietary information under exemption (b)(4) and the need for ERDA to provide such predictable protection in order to ensure the full cooperation and participation of the private sector, Congress could conclude that there was a legitimate national interest in ERDA's having the specific authority to predictably protect proprietary information. Further, Congress could strike a reasonable and acceptable balance of that national interest and the national interest in freedom of information and create a (b)(3) exemption for ERDA for that purpose.

7. Finally, we reviewed a draft of a provision to authorize such a (b)(3) exemption for ERDA. Mr. Moss did not comment on the specific language, but did indicate that in concept the approach of the provision was acceptable and in accordance with the preceding discussion and, further, that he did not object to it. Subsequently, he indicated that the specific language could be improved, but again, that he had no fundamental objection to the approach represented by the draft provision. The statutory test for the class of information, consistent with basic FOIA principles, would, of course, be subject to judicial review under current FOIA procedure.

8. Mr. Moss emphasized that the proposed statutory language provides no authority to withhold information from Congress, or any committee or subcommittee of Congress. He also stated his belief that any Member of Congress should be able to have access to such information.

9. We agree that the above summary accurately reflects the substance of our meeting.

Signed,

John E. Moss,
Barry M. Goldwater, Jr.

Comments on the draft language were also requested from ERDA and the Justice Department. ERDA responded as follows in a letter of November 18, 1975, also commenting on the ESECA alternative:

Dear Mr. Chairman: Section 307 of H.R. 3474, the ERDA Authorization Bill for Fiscal Year 1976, requires ERDA to establish an Energy Resources Data Bank which would contain, to some extent, private energy resources and technology information. The ability of ERDA to protect proprietary rights in this information in view of the public disclosure requirements of this section and the impact of this section on the overall ERDA program led to Dr. Seamans' letter of September 18 which requested a modification to this provision. We are now aware that a similar problem exists in the proposed revision of section 103 of S. 598, the loan guarantee program for commercial demonstration facilities, and that alternative language which would clearly provide predictable protection for trade secrets and other proprietary information has been suggested. This alternative language (see enclosure) would provide the Administrator with specific authority to withhold from public release any information received under this section upon a satisfactory showing that public release would divulge trade secrets or other proprietary information. Further, the alternative language would permit access to such information by other Federal agencies and delegates of the Administrator for the purpose of carrying out the program authorized by section 103.

This alternative language would, in my opinion, alleviate the problems identified in the September 18 letter.

From discussion with members of your Committee's staff, it now appears that another possible solution being suggested for the protection of proprietary information would be to adopt the language of section 11 of the Energy Supply and Environment Coordination Act of 1974 (P.L. 93-319). However, this would not be satisfactory in my view as it utilizes 18 U.S.C. 1905 as its test for establishing the information entitled to be withheld from public release. As noted in Dr. Seamans' September 18 letter reliance on 18 U.S.C. 1905 for such a test has led to a growing concern on the part of industry over the possible public release of their proprietary information. Further, section 11 of P.L. 93-319 provides that the confidential status of proprietary information may be lost if such information must be provided to other Federal agencies. This provision, if applicable to the synthetic fuel commercial demonstration program, would place all the proprietary information received by ERDA under this program in jeopardy since such information may from time to time be required by other agencies.

For the above reasons, ERDA strongly supports the enclosed alternative language for the protection of proprietary information, instead of a number of other suggested provisions, for both the loan guarantee program of section 103 and the data bank of section 307 of H.R. 3474. We urge the adoption of this language if the conferees retain the requirement that ERDA obtain proprietary information under these sections.

Sincerely,

for R. Tenney Johnson,
General Counsel.

Enclosure: Draft Provision on Protection of Proprietary Information for Senate Section 103 and House Section 307 of H.R. 3474

The information obtained by the Administrator under this section shall be made available in a manner which will facilitate its dissemination to other government agencies and to the public, subject to the provisions of section 552 of title 5, United States Code and section 1905 of title 18, United States Code; except that, in the national interest in the close cooperation and participation of the private sector in the successful conduct of energy research, development, and demonstration and the resulting need to provide predictable protection for proprietary information, the Administrator shall, under such regulations as he shall issue, withhold any information obtained under this section from public release upon a showing satisfactory to the Administrator that public release of such information would divulge trade secrets or other proprietary information of any person. Any delegate of the Administrator, for the purpose of carrying out this section, and any agency, when necessary to carry out that agency's duties and responsibilities, is authorized, upon request, to have access to any such withheld information; provided that such access does not constitute authority for public release of such information. This section is not authority to withhold information from Congress or any committee of Congress upon request of the Chairman.

The Justice Department responded as follows in a letter of November 18, 1975:

Dear Mr. Chairman: This is in response to your request for the views of the Department of Justice on a proposed provision of H.R. 3474, a bill "To authorize appropriations to

> the Energy Research and Development Administration in accordance with Section 261 of the Atomic Energy Act of 1954, as amended, Section 305 of the Energy Reorganization Act of 1974, and Section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974."
>
> Specifically, you desire our comments on the November 17, 1975 draft provision on protection of proprietary information. In this connection this Department has worked informally with members of the staff of the House Science and Technology's Subcommittee on Energy Research, Development, and Demonstration.
>
> The draft provision under consideration is an attempt to avoid the legal uncertainties involved in protecting from public disclosure proprietary information by creating a statutory exemption which would be within the scope of Exemption 3 of the Freedom of Information Act (5 U.S.C. § 552(b)(3)). This exemption was recently considered by the Supreme Court in *F.A.A.* v. *Robertson*, — U.S. —, 95 S. Ct. 2140 (1975). In our view, the draft provision would be helpful in obviating these uncertainties. It clearly states that the Administrator of ERDA and any other agencies involved may not release such proprietary information after a showing satisfactory to the Administrator that the information is indeed proprietary in character. Although there may be occasional questions as to what constitutes "proprietary information" in specific instances, this term reflects a concept familiar in federal law.
>
> Therefore, although the draft provision may not avoid all uncertainties regarding the availability of the information involved, it nonetheless represents a significant progress. The creation of a statutory exemption that meshes with Exemption 3 of the Freedom of Information Act (5 U.S.C. § 552(b)(3)) avoids the need for ERDA to determine the often difficult questions as to whether the proprietary information sought to be protected falls within either Exemption 4 (5 U.S.C. § 552(b)(4)) or 18 U.S.C. § 1905. As long as the information to be withheld qualifies under the terms of the proposed statutory exemption, it would be covered by Exemption 3 of the Freedom of Information Act and thus would not be subject to mandatory disclosure.
>
> The Department of Justice defers to the Energy Research and Development Administration, the agency primarily concerned with the subject matter, as to whether as a matter of policy this provision should be enacted.
>
> Sincerely,
>
> MICHAEL M. UHLMANN,
> *Assistant Attorney General,*
> *Office of Legislative Affairs.*

In summary, I believe that the conferees have acted effectively and responsibly to strike the required balance and give ERDA full authority to provide positive and predictable protection for trade secrets and other proprietary information. That authority will insure the full cooperation and participation of American industry in ERDA's critical energy R. & D. programs. I sincerely believe that all of the conferees can take great pride in this action. Our Nation's energy future and eventual energy independence will be well served by the result.

DATA BANK DUPLICATION

The original House provision, section 307, establishing a data bank was significantly modified by the conferees. The original House language is quoted above. That language was a source of concern to me because of the many existing Federal energy data banks. I summarized my difficulties with that aspect of the section in June as follows:

> Section 307 mandates a data bank of either fossil or all nonnuclear energy resources and technology, as discussed above. Under either interpretation, ERDA would be required to duplicate the existing data bank activities of many Federal agencies, particularly those in the Interior Department and the Federal Energy Administration. Then Secretary of the Interior Morton communicated his concern that the Section would result in duplication of the efforts of several agencies. Since there were no formal hearings on the need for a new data bank within ERDA, it is difficult to refute Secretary Morton's assertion, as well as those of other informed energy officials who have supported the view. In the absence of a clear need for an ERDA data bank, as supported in appropriate hearings, I cannot justify the basic concept of a data bank. regardless of scope. I urge my colleagues to support my efforts to preclude any duplication of existing capabilities, facilities or organizations.
>
> Let me cite some figures for you on the existing data banks. Each of these was established and is being maintained in response to statutory direction to the agency to do so. The Interagency Task Force on Energy Information in its July 1974 report identified and described 46 separate agencies conducting one or more activities relating to or using energy related data. Those agencies were conducting over 257 separate programs which make direct reference to energy related data. Forty-three separate computerized data bases or data files containing some form of energy related data were identified. The task force recommended that there be a significant effort to coordinate and link the existing systems. A report on the progress of the task force is due this month.
>
> Some of those existing systems are truly massive. For example, the Bureau of Mines has 109 people and a fiscal year 1975 budget of $2.34 million for fuels data collection and analysis. Duplicating the data bank would cost an estimated $8 to $10 million. The Federal Energy Administration has some 200 people working on energy data and the Federal Power Commission has 75 people starting up its gas and electrical power data bank at a cost of $2 million and a projected annual operating budget of $1.5 to $2 million. All of these efforts are in the fossil fuel-related information area.
>
> To require or allow ERDA to duplicate these efforts is not only sheer folly, it is clearly irresponsible. Putting ERDA in the same business would undoubtedly result in hiring away those in the existing energy information organizations. The duplication would not only be fiscally wasteful, but it would also degrade the current capability.
>
> Now, if there are problems with the adequacy or validity of the data, the more reasonable approach is to make those agencies do their job. ERDA should not duplicate those efforts. ERDA already is required by the Solar and Geothermal Research, Development and Demonstration Acts, Public Law 93-473 and Public Law 93-410, to establish information data banks in those two areas, where none now exist. ERDA originally projected a cost of $1 million in fiscal year 1976 to start up these data banks. ERDA now has advised that the cost will be revised upward in its June 30 plan. Clearly, expanding the requirement would result in greatly increased costs and a wholly unjustified drain on the resources required to implement the solar and geothermal plans. Duplication of other existing capabilities simply cannot be accepted. I urge your support for my amendment to preclude duplication.

Dr. Seamans, in his letter of September 18 to Chairman TEAGUE on the data bank section, stated the problem as follows:

> Two distinct types of energy information—resources and technology—are contemplated for the Energy Resources Data Bank. As to energy technology information, ERDA is presently required by various provisions of the Energy Reorganization Act of 1974 and the Federal Nonnuclear Energy Research and Development Act of 1974 to collect and disseminate energy technology information to the public. We have established the ERDA Technical Information Center at Oak Ridge, Tennessee, as the central data bank for the energy information required for both ERDA use and public dissemination. We do not see the need for the establishment of an additional collection of energy technology information.
>
> The second type of information for the Energy Resources Data Bank concerns energy resources including "proved and other reserves." The purpose of assigning to ERDA the requirement to collect and maintain such information, which is basically used for regulatory or administrative action rather than for research and development, is unclear. Further, similar data banks already exist within the Government and the new Data Bank contemplated by Section 307 would be duplicative and costly. For example, the Department of the Interior collects data on coal reserves; the Geological Survey and other agencies are required to inventory geothermal resources by the Geothermal Energy Research, Development and Demonstration Act of 1974; the National Oceanic and Atmospheric Administration, and other agencies are required to inventory solar energy resources by the Solar Energy Research, Development and Demonstration Act of 1974; and the Federal Energy Administration has collected oil and gas reserves information as required by the Energy Supply and Environment Coordination Act of 1974. While the latter Act expired on June 30, 1975, it is our understanding that its special provisions for acquiring energy resources information are being proposed for renewal. When specific energy resource information is necessary for our research, development or demonstration mission, such information is available to us from other Government agencies which have the existing capability and need for acquiring and maintaining such information. Therefore, we consider the requirement for ERDA to collect and maintain its own independent Energy Resources Data Bank as both unnecessary for our mission and duplicative of other similar extensive Federal efforts.

It appears that this problem is not getting any better with time. The interagency task force published an update of its 1974 report in November. The report, entitled "Energy Information in the Federal Government," included a new Federal energy information locator system. Probably most indicative of the magnitude of the current Federal effort in energy information is the fact that the report itself is 1,000 pages long.

Fortunately, I hope, the Senate conferees have forced adoption of a compromise version of the section which should alleviate some potential for duplication. The conferees language reads as follows:

> The Administrator shall promptly establish, develop, acquire, and maintain a central source of information on all energy resources and technology *in furtherance of the Administrator's research, development, and demonstration mission* carried out directly or indirectly under this Act. When the Administrator determines that such information is

> needed to carry out the purposes of this Act, he may acquire proprietary and other information (a) by purchase through negotiation or by donation from any person, or (b) from another Federal agency. (emphasis added).

The emphasized language is intended to limit the Administrator to nonduplicative energy information collection and analysis. I firmly believe that nonduplication is the intent of the Committee on Science and Technology, based on the discussions in the committee on April 28, 1975. On that date, as the transcript clearly shows, the committee without objection accepted a unanimous consent request by Mr. Esch to the effect that "it was the intention of the committee that to the maximum extent feasible there be a coordination of the data bank—among the various agencies—so there would not be duplication with those of Interior and others."

I also believe that it was the sense of the conference committee that there be no duplication of existing energy information activities. Section 309 of the conference bill clearly states that the Administrator "shall coordinate nonnuclear programs of the administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities." The data bank is such a project and, based on the task force reports and ERDA comments, I would find, as I am sure the majority of the conferees would agree, that very little, if any, duplication of existing energy information activities can be justified as necessary. I hope that ERDA will adhere to these respective intents in its implementation of the now-narrowed statutory mandate to establish the data bank.

FISCAL RESPONSIBILITY

The Science and Technology Committee report on H.R. 3474 included a strong statement supporting the principle of fiscal responsibility in ERDA's accelerating energy R. & D. program

(I) BALANCING AN ACCELERATED R&D PROGRAM WITH FISCAL RESPONSIBILITY

Our Nation's energy shortcomings will not be solved by a single, spectacular breakthrough. Rather the solution lies in marshalling many smaller, individual achievements into a comprehensive energy package. Some elements of this package are already well underway; e.g. fossil energy and nuclear power. The Science and Technology Committee has undertaken to foster the development of other promising energy sources, such as solar and geothermal, which have long been known but also long neglected. To so foster these other sources and significantly accelerate their development and commercial availability, the Committee has substantially increased authorizations in associated program areas, to totals in some nonnuclear R&D areas as much as two to three times ERDA requests. Such authorizations specifically were made in the solar, geothermal and conservation programs. In each of these program areas, the Committee strongly believes that these substantially increased authorizations can be effectively and productively utilized within administrative, managerial and technical constraints for R&D of the technologies in FY 76 and the Transition Period.

Additionally, the Committee views the funds devoted to energy R&D as a national investment. Our original energy R&D investment will return generous dividends. For example, each R&D dollar spent returns more than seven dollars in the economy over an 18-year period. This statistic is based on the runout effect of aerospace technology. The runout effect of energy R&D should be even more dramatic. Thus, the money that leaves the Treasury in the coming few years for these programs should stimulate continued prosperity and constructive growth. And eventually the initial cost will be recouped through the taxes on the increased productivity which it generates.

The Committee, however, is aware of the perennial problems faced in any accelerated R&D program; e.g., additional money alone does not guarantee success. While money can spur progress, there is a limiting point beyond which additional funds cannot be spent effectively. After that limiting point, money is wasted rather than invested. Overfunding, in fact, can be counterproductive to the extent that a finite R&D management pool in ERDA is taxed to manage marginally effective or potentially non-productive R&D and senior management attention and focus on truly promising programs is reduced. The Committee, of course, is also aware that energy R&D funding must reflect overall national priorities and budget constraints. The Committee, therefore, recognizes that the funding for the significantly increased nonnuclear energy R&D programs must reflect a careful balancing of an accelerated R&D program and fiscal responsibility.

While the additional funds authorized by the Committee in the significantly increased program areas were based on the belief that they could be used effectively, supporting information and testimony for such substantial R&D acceleration is necessarily limited and, to a degree, speculative. The Committee therefore relies on the judgment of ERDA in expending this money, in the significantly increased program areas. If further scrutiny reveals that a particular topic in those program areas does not warrant continued pursuit, then the Members expect ERDA to exercise restraint and not feel bound to expend the full amount authorized and appropriated. Various provisions of the authorization bill and existing procedures provide for reprogramming within program areas and for retention of appropriated funds without fiscal year limitation until expended. The Committee expects ERDA to utilize these provisions fully in the exercise of such fiscal responsibility in those program areas. ERDA, of course, must satisfy all requirements for notification to the Committee in any exercise of restraint and utilization of reprogramming procedures.

The Committee believes the nonnuclear portions of the ERDA authorization enables us to begin an accelerated but sensible energy R&D program. The cumulative effect of many small and diverse achievements will be an American economy free from foreign manipulation and capricious perturbation. In the end we will be a stronger and more independent Nation because of it.

Because the Fossil Fuel Subcommittee voiced concern over the fiscal responsibility comments as applied to ERDA's fossil fuel research program, the committee view was limited to nonfossil programs. I addressed their concerns in an additional view.

FISCAL RESPONSIBILITY

The Committee report contains an express view on the need to balance the accelerated energy R&D program with fiscal responsibility. The view was adopted in the Energy Research, Development, and Demonstration Subcommittee in response to total increases of two and three times the ERDA request which were finally authorized for solar, geothermal and conservation. The Subcommittee action was a recognition that there is an inherent and unavoidable degree of speculation regarding the exact totals and the specific program accelerations which can effectively be employed in so substantially accelerating any R&D program. Dependence on ERDA's judgment as the acceleration evolves to proceed in a fiscally responsible manner in obligating these authorized (and appropriated) funds, therefore, is the only available mechanism for balancing fiscal responsibility with this R&D acceleration. The Subcommittee specifically charged ERDA with that responsibility.

The Committee view in the report reflects that charge of responsibility and, further, directs ERDA to utilize available reprogramming and retention procedures in exercising fiscal restraint where accelerated research can no longer be justified. The Committee, however, does not intend that this guidance be used to negate the clear and obvious mandate that ERDA accelerate its program in *each* of the specified program areas. Its single and only intention in the view is that the acceleration in each area be affected in a fiscally responsible way.

The specific language in the view refers only to "significantly increased program areas," which is defined for purposes of the discussion as solar, geothermal, and conservation areas. I am advised that this language and reference are intended to limit the Committee's view to the non-fossil programs under the Committees nonnuclear authorization jurisdiction, thereby excluding the fossil energy R&D programs from its application. I understand that opponents of the view's application to fossil research are concerned that the view could be used by ERDA or the Office of Management and Budget to justify arbitrarily reducing expenditures in fossil research. Such misuse of the Committee's clear direction is not the effect of the view and would not be tolerated by the Committee in its oversight of ERDA.

I also understand that opponents believe that the fossil programs do not include the acceleration which the Committee has authorized in the nonfossil programs. Although the Committee did not substantially increase the ERDA fossil request, the fossil research programs do, in fact, equate to significantly accelerated R&D programs. Fossil programs have increased from approximately $73 million in FY 74 to $195 million in FY 75 to the $435 million in FY 76 which this Committee authorized, and which the Senate will probably increase another $75 million more. Opponents respond to these facts by arguing that the fossil programs are far better defined and therefore not subject to considerations of fiscal restraint discussed above. I am unable to agree. The fossil programs have clearly been significantly accelerated in the past 12 months, and just as clearly, ERDA should be directed to incorporate the ethic of fiscal responsibility and, where appropriate, fiscal restraint in its implementation of the fossil programs.

I urge my colleagues in the House to support the view that fiscal responsibility and the guidance included in the Committee view should apply equally to all nonnuclear programs. In light of the current economic conditions in the nation and the severely limited Federal budget, the Congress must insure that those funds which are authorized are used effectively. Although I strongly endorse the need for an accelerated research effort to aggressively pursue technical alternatives to continued dependence on foreign oil, I cannot justify any attempt to ignore the coextensive requirement for fiscal responsibility in all of our budget actions. The balance must be struck on a continuing basis in ERDA's energy R&D program. I intend to establish this view in the Floor debate on H.R. 3474 and I urge your support. I would also urge ERDA to fully consider fiscal responsibility in all of its nonnuclear research because I have no doubt the majority of the Committee supports this view. Unjustified and wasteful expenditures will be tolerated no less by the committee than arbitrary reductions in authorized programs.

It is exactly 6 months later and the fiscal year is now almost half over. That fact notwithstanding, the conference committee has adopted a total authorization which is $408,802,000 above the amount approved by the House. I believe the total does represent a reasonable compromise between the two Houses and, on behalf of the House, I joined my fellow House conferees in accepting the House figures.

Nevertheless, I am seriously concerned that ERDA will be pressured into the very overacceleration and insufficient fiscal responsibility discussed in the above views, with all the negative results which undoubtedly will occur. I would remind ERDA that section 309 of the conference bill makes these authorized amounts "no year funds," authority for which remains available until expended. I expect ERDA to use that authority to maximum advantage in avoiding overacceleration and in achieving fiscal responsibility.

ALLOCATION OF APPROPRIATED FUNDS

I am particularly pleased that the conferees adopted my House amendment requiring ERDA to submit a report on the justification of ERDA's allocation of appropriated funds in terms of the various nonnuclear program definitions and plans. This is an important element of congressional oversight. Congress must know how our national energy research dollars are being spent in support of these plans. Where there are variances, we must also be fully informed. The House conferees considered amending the Federal Non-Nuclear Energy R. & D. Act—Public Law 93–577—to incorporate the allocation explanation in the annual report required by section 15(a)(3). The conferees, however, decided to keep the requirement as a one-time report for this fiscal year and then review it as an amendment during consideration of the fiscal year 1977 authorization.

The explanation of this requirement in the House report further clarifies the intent of the Congress:

> *(iv) Explanation of allocation of appropriated funds*
>
> The Committee on Science and Technology amended H.R. 3474, as originally introduced, by adding new Sections 101(c) and 210(c), which require a one time report on ERDA's allocation of appropriated funds for nonnuclear programs for FY 76 and the Transition Period. The sections direct ERDA to provide the Committee on Science and Technology in the House and the Committee on Interior and Insular Affairs in the Senate a detailed explanation of how appropriated funds are allocated among the various nonnuclear programs set forth in the specified line items of Sections 101 and 201, and the subprograms identified in Table B of sec. III, C of this report. The ERDA report shall reflect the relationship, consistencies, and dissimilarities between the allocations and the comprehensive solar energy program definition required by Section 15 of Public Law 93–473 and the comprehensive nonnuclear program submitted pursuant to Section 6 of Public Law 93–577.
>
> The required explanation is intended to provide the Congress with detailed delineation and justification of ERDA's plans to utilize the funds in a manner which is consistent with the long range national energy R&D plan and the implementing nonnuclear energy R&D program, as well as with relevant intent of prior legislation.
>
> The report will facilitate close oversight by providing a detailed, program definition which incorporates the results of the appropriations act, with identified relationships to the plan and program. The Committee recognized a specific need for such a detailed program definition in areas such as solar, geothermal and conservation, in which the Committee authorized funding levels two to three times the ERDA request. In those areas, the program definition will provide a benchmark for measuring the effectiveness and cost-benefit of the greatly increased ERDA programs and thereby provide a mechanism for balancing significantly accelerated energy R&D with a real sense of fiscal responsibility.
>
> The Committee on Science and Technology appreciates that the explanation required by Sections 101(c) and 201(c) will supplement the existing explanation and change notification (construction of base table and reprogramming) procedures used by the Joint Committee. At the same time, however, the Committee strongly believes that, at a minimum, ERDA's nonnuclear program for FY 76 and the Transition Period also must be related to the long range nonnuclear plan and program and will be reviewed in the context of that relationship to the plan and program.
>
> In its implementation of Sections 101(c) and 201(c), ERDA should submit the required explanation to the Committees as soon as possible after the ERDA appropriation has been enacted into law, but not later than 45 days thereafter. The explanation should be at a level of detail sufficient to address each of the subprogram elements included in the budget tables in sec. III, C of this report. Additionally, construction funds and plant and capital equipment funds should be addressed, respectively, on a project by project basis and on a subprogram basis.
>
> The Committee's view of ERDA's responsibility to keep the Committee fully and currently informed in the nonnuclear program area is discussed in the Committee views section. *The Committee intends that one aspect of that responsibility for FY 1976 and the Transition Period, in addition to the existing Joint Committee change notification procedures, will be prior notification of any changes in the basic program definitions submitted in satisfaction of the Sections 101 (c) and 201(c) requirements. The prior change notification should include an explanation of the new relationships of the changed program element to the national plan and program. The discussion of the changes should be at a level of detail equivalent to that of the original explanation submission.*
>
> It should be noted that the explanation and notification procedures under Sections 101 (c) and 201 (c) and under the "fully and currently informed" requirements apply to all nonnuclear programs.
>
> Additional notification requirements relating to certain specific changes in fossil energy development programs are included in the provisions of Title III, Part B as explained to the section by section analysis. Consequently, for those fossil energy changes, ERDA will submit notification and explanatory documentation sufficient to satisfy all requirements: Section 101(c) or 201(c); fully and currently informed; and Title III, Part B.
>
> The Committee on Science and Technology will evaluate the annual report required by Section 15 of P.L. 93–577 from the Administrator with revisions of the national energy R&D plan and the nonnuclear program, reflecting progress made during the year and changing conditions or circumstances, which may provide a convenient and satisfactory administrative vehicle for explanations of Section 101(c) and 201(c) relationships for future fiscal year programs. The Committee intends to work closely with the Joint Committee and ERDA to develop consolidated and streamlined procedures which will still facilitate close and effective oversight of ERDA's nonnuclear programs. (Emphasis added.)

I do want to make it absolutely clear that the committee intends for ERDA to keep us fully and currently informed making changes in the allocation explanation, as well as other procedures.

CONFLICT-OF-INTEREST ARGUMENTS

I want to address the conflict-of-interest provision, section 103(t).

I have reviewed section 103(t). I have also reviewed existing ERDA practice under existing statutes, Executive orders, and regulations. In the course of this review, I and staff met personally with the Assistant General Counsel of ERDA who administers conflict-of-interest regulations for ERDA. I also contacted our Judiciary Committee which has Government-wide responsibility for conflict-of-interest statutes and practices.

The following handout summarizes the results of my review and also compares existing ERDA practice with the proposed section 103(t):

REVIEW OF SUBSECTION 103(t) CONFLICT OF INTEREST

Comparison with existing ERDA practice under 18 U.S.C. 208 (Conflict of Interest Criminal Statute), Executive Order 11222 (President Johnson, Feb. 29, 1968), Civil Service Commission Regulations on Employee Conduct (Federal Personnel Manual 735), ERDA Conduct of Employee Regulations (Chapter 4124, Formerly AEC Regulations, 10 C.F.R. 700):

a. Who must report?

CURRENT ERDA PRACTICE

Anyone GS13 and above in any policy-making/contract position, and others specifically designated. (Currently 800 people)

103(t)

Anyone in policy making position (who is associated with the 103 program) who has known financial interest in applicant/participant in 103 program or in resource property connected with 103 project.

b. What must be reported?

CURRENT ERDA PRACTICE

All financial interests with de minimis exceptions.

103(t)

Known financial interests in applicants, participants, or connected resource property.

c. How often?

CURRENT ERDA PRACTICE

Annually.

103(t)

Annually.

d. Penalties.

CURRENT ERDA PRACTICE

(1) Disciplinary action including dismissal which may be in addition to any penalty prescribed by law.

(2) 18 U.S.C. 1001—Criminal penalty for false statements: Maximum $10,000 fine or 5 yrs. imprisonment, or both.

103(t)

(1) Regulations to enforce requirements.

(2) Maximum $2,500 fine or one year imprisonment, or both.

e. Review:

CURRENT ERDA PRACTICE

(1) Through Administrative to Asst. Administrator.

(2) By General Counsel.

(3) Where appropriate, refer to Justice Dept. for review and required action, i.e. criminal prosecution.

103 (t)

(1) Regulations for monitoring reports.

(2) Public Disclosure?

f. Disclosure:

CURRENT ERDA PRACTICE

Confidential, except for internal reviews and where ERDA or Civil Service Commission determines for good cause shown (e.g. Justice Dept. action, Congressional inquiry, or G.A.O. audit).

103 (t)

Public Disclosure.

Conclusion: Current ERDA practice (which is ERDA-wide) is generally broader and more demanding than 103(t). Only fundamental difference is Public Disclosure.

Senator JACKSON expressed concern about GS–14's and 15's in policy positions during the conference. You will note that all GS–13's in policy positions and even some lower grades must report under current ERDA regulations.

As the handout clearly shows and the conclusion indicated, current ERDA practice under existing law is generally broader and more demanding than 103 (t) with one fundamental difference—103(t) requires public disclosure of financial statements. Also, ERDA is right now conducting an ERDA-wide study of all ERDA conflict of interest requirements and procedures. The study is in direct response to Senator JACKSON's comments at Bob Fri's confirmation hearings. Bob in good faith has his General Counsel studying the question right now. I met with the Assistant General Counsel conducting the study, and I am convinced they are conscientiously and effectively addressing Senator JACKSON's concerns.

Also, I have contacted our House Judiciary Committee, which has Government-wide responsibility for conflict of interest statutes and procedures.

Specifically, the committee has four major pieces of legislation that deal directly with the problem this proposed conflict of interest section is trying to address. Hearings and markup before the full committee that deal with lobbying and reporting of financial interests by Federal employees of GS–13 level and above—the so-called Kastenmeier-Steelman bill, H.R. 3249—will get underway this month or early next session.

We should not disrupt a legitimate, well-functioning jurisdiction of another committee where it is not necessary. The Judiciary Committee is acting and in a timely manner.

Further, it is clear that the jurisdiction for this issue lies with the Judiciary Committee. The Science and Technology Committee has never originated conflict of interest legislation—although it did acquiesce to two such provisions in Senate bills in the early 1960's, which covered employees loaned to NASA.

As a result, I do not believe we should enact a special, new provision just for section 103, because—

We should defer to the ERD study and ERDA-wide regulations currently in effect.

We should defer to Judiciary Committee review of Government-wide regulations currently in effect.

We should not be moved just because the other conference did it for FEA, which, of course, is a regulatory agency.

There is no indication of a problem now in ERDA—let's not legislate on the basis of speculation.

If we must have special provisions for 103, however innocuous and administratively duplicative—strike the public disclosure requirement.

What does it buy? There is no indication of a problem with existing procedures in ERDA.

Why use press and public interest groups to enforce the requirements when existing procedures do so without violating privacy?

Both the Privacy Act and Freedom of Information Act exemption 6 for, "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy"—which has been interpreted to include Government employees.

RESPECT PRIVACY OF SUCH INFORMATION

Why disclose finnacial statements for ERDA personnel associated with section 103, when the rest of ERDA with equally sensitive responsibilities do not have reports disclosed?

Let me add the comments of ERDA on this subject to mine. In a letter of November 17, the General Counsel responded to a request by the conference committee for comments:

DEAR MR. CHAIRMAN: The staff of the Conference Committee considering the ERDA Authorization Bill has requested our comments with regard to alternative drafts of language requiring publication of financial interests of ERDA employees engaging in loan guarantee activities that would be authorized by section 103 of the Bill.

As we understand it, one alternative is to insert a clause similar to that in section 709 of the "Energy Conservation and Oil Policy Act of 1975." This would require a report from every employee in ERDA who has any function under section 103 and who has a direct financial interest in any company engaged in the business of exploring, developing, producing, refining, transporting by pipeline or selling coal, natural gas, or petroleum products, or has any interest in property from which coal, natural gas, or petroleum is commercially produced to file with the Administrator an annual written statement concerning all such interests. Such statement would be available to the public. Criminal penalties would be provided for knowing violations. The Administrator would publish regulations within 90 days of enactment for carrying out the section and would report to the Congress every year on June 1 regarding actions taken during the preceding calendar year under this provision of law. The Administrator could exempt employees engaged in work of a nonpolicymaking nature from the requirements of the section.

The other alternative is to require each ERDA employee who has any financial interest in any company applying for financial assistance or has any financial interest in property from which energy resources are commercially produced to file a statement of such interests, which shall be made available to the public. The Administrator would have administrative authority to enforce and exempt comparable to that provided in the first alternative.

ERDA opposes both alternative provisions. First, either version would duplicate existing reporting requirements established under Executive Order 11222 and ERDA regulations, which provide that employees must report financial interests of any kind in any company over a level deemed inconsequential. There is no reason to believe that either alternative would assure more adequate reporting than the present requirements. Furthermore, the alternative provisions are unnecessary, since existing law, 18 U.S.C. 208, provides criminal penalties for Federal employees who knowingly participate in governmental actions affecting private companies in which they have financial interests unless they have received in advance formal written exemption. In contrast, both alternative provisions require merely a report.

In this connection, making public an employee's financial interests appears to be contrary to the policy of the Privacy Act, which protects the legitimate rights of employees in their private affairs. In many cases, the financial interests which would have to be made public have no relationship to the actual duties of the employee. For example, an employee may have an interest in a company which has nothing to do with activities under section 103 but nevertheless that employee would be required to make that information available to the public. Such a provision is not necessary to assure public confidence in the integrity of Government employees. Existing procedures do uncover such conflicts of interest as may exist and deal with them appropriately.

Lastly, both provisions enlarge upon existing law for dealing with conflicts of interest, 18 U.S.C. 201–209, but only for certain categories of employees and only in certain areas. ERDA believes that if changes are necessary, they should be made uniform as to all Federal employees. No reason is known for singling out loan guarantee activities under section 103.

If, notwithstanding the foregoing, a provision on reporting financial interests is desired, the following is suggested: require the reports to be filed "as of June 30 of each year," and provide for the Administrator's report to Congress to be submitted on September 30, in phase with existing reporting requirements; limit the availability of the reports to committees of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or the Senate with respect to activities authorized under section 103; restrict the application of the section to activities authorized under section 103; and require, in addition, reporting of interests in financial institutions providing loans which would be guaranteed under section 103.

Time has not permitted obtaining the advice of the Office of Management and Budget with respect to this report. However, it is believed to be consistent with policies established by the Administration.

Sincerely,

R. TENNEY JOHNSON,
General Counsel.

I would hope that we can address these conflict of interest concerns in the fiscal year 1977 ERDA authorization. While I understand that the Senate conferees and supporting House conferees had good intentions in adopting 103(t) despite my grave reservations, I firmly believe we should review the ERDA study and seriously reconsider the advisability of this section, partciularly the public disclosure requirement.

Mr. MOSHER. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, I rise in support of the ERDA authorization conference bill for fiscal year 1976. The conference bill contains a well-balanced program of energy research and development initiatives.

Most of the important features of the conference report were fully debated when the authorization bill was originally passed by the House. I will limit my comments to several new provisions which were added in conference.

In particular I am concerned about the $6 billion loan guarantee program for synthetic fuel development. Mr. Speaker, although I have never been known as a big spender in this House, and although I do have serious reservations about the appropriateness of the Federal role in such a program, I have reluctantly decided to support the provisions added in conference as well as the whole bill.

America's energy game plan for the next generation will require a wide mix of energy sources. Synthetic fuels could be a very important element of our future energy package. However, no full scale commercial synfuel demonstration has ever been conducted in the United States. It is imperative that private industry have proof of whether or not we actually can capitalize on the potential which synthetic fuels appear to offer. America needs to know whether synthetic fuels are a viable option in the future.

Because of the reasons above, I believe that on balance we must proceed forward now and not delay any more in obtaining the factual data we need. However, as the synthetic fuel loan guarantee program evolves in the coming months and years, the Congress must maintain close oversight of this effort to assure that the public obtains the most benefits.

Mr. Speaker, I support the passage of the conference bill.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, I rise in support of H.R. 3474 which authorizes appropriations for the Energy Research and Development Administration.

In my survey of constituents this year, they told me that they wanted cuts in spending in many Federal programs. The one program on which they were most united for an increase in Federal investment was in the area of developing new forms of energy. Other members of this body have received similar returns from their questionnaires.

The American people realize that there is no way the United States can become less reliant for energy on other nations if we remain a petroleum-based society. Americans believe that if our Nation can develop the know-how to put men on the Moon we can perfect techniques to obtain large amounts of energy from sources that are now largely untouched.

Thoughtful citizens in Nebraska and throughout the land are particularly enthusiastic about research and development of solar energy. The Sun is a source of power that is virtually inexhaustible. Solar power offers no dangers to our society. It is absolutely pollution free. If we could perfect devices that are efficient in capturing the energy from the Sun we would have power cheaper than ever before.

H.R. 3474 authorizes funds for a Solar Energy Research Institute. This Institute was specifically prescribed in the legislation creating the Energy Research and Development Administration—legislation drafted in the House Government Operations Committee on which I serve. We envisioned an institute that would not only coordinate all Federal research catalyst for rapid utilization by private enterprise of solar energy knowledge.

As Administrator of ERDA, Dr. Robert Seamans has moved both swiftly and carefully to create a very important new agency. I commend him for both his sense of urgency and his dedication to well-planned advances.

In January, ERDA plans to ask for proposals as to where the Solar Energy Research Institute should be located. Mr. Speaker, I am confident that Nebraska is peculiarly well suited to be the site for this Institute.

Nebraska is a microcosm of America and of the national pattern of energy use. The Cornhusker State has the widest variety of types of farming, ranching, commerce, and light and heavy industry. Our State is among the leaders in the number of days in which the Sun shines, while at the same time offering one of the widest variety of climates to be found in America.

Nebraska is the only State in the Union where all electricity is supplied by citizen-governed public power districts, municipalities or rural electric cooperatives. These public electric utilities are united in seeking new means of creating energy. They are eager to apply solar research findings and to participate in development.

Last July, Nebraska Lt. Gov. Gerald Whalen and University of Nebraska President D. B. Varner met in Washington with members of the Nebraska congressional delegation. As a result of that meeting, a joint State of Nebraska-University of Nebraska proposal for the Institute is being prepared. I am very appreciative for the leadership and personnel that President Varner has devoted to this task force. The work on this State plan is being directed with zeal and wisdom by Dr. Donald Edwards, associate dean of the university's excellent college of engineering.

The task force has recommended a Mead-Wahoo, Nebr., location for the Institute. This location will offer ERDA ample land and facilities both for a headquarters and a field experiment station. Its location will provide easy access to the educational, scientific, business, and transportation facilities of both Omaha and Lincoln. It is an ideal location.

Mr. Speaker, the competition will be intense for the Institute. I predict, however, that the application from the State of Nebraska-University of Nebraska will be among the best submitted to ERDA. I further predict that regardless of where the Institute is located, Nebraska will benefit and prosper from the thorough research, factfinding, planning, cooperation, and coordination that has gone into preparation for the Institute application.

Mr. Speaker, I urge adoption of H.R. 3474, which will make possible great advances in energy development.

Mr. MOSHER. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I have some problems with sections 102 and 103 which I would like to express to the Members of the House because all of this oil shale land in Colorado lies within my district. There are some problems which I have not seen verbalized or expressed yet which I think should be brought to the attention of the whole membership of this body. I do not want to imply by my remarks that I do not recognize that this bill has many fine features in it with respect to protection of the area that is involved. I think the committee members, by and large, have done a good job in dealing with it in so far as they can, but I think that the bill ignores some of the developments which are taking place and which I would like to address myself to.

With respect to section 102, this is essentially a private bill for Occidental Petroleum. That company has for years advocated the in situ process. Others have looked at it, but nobody else has thought that the in situ process was worth continuing or developing.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, I hate for the gentleman to say that this is for one company. In fact that company—and I do not know who they are; they are not from Texas, I know—put a large amount of money in the research on this project, and certainly they have got an advantage because they have done that. In other fields other companies have done the same thing. It was mentioned by the gentleman from Michigan (Mr. DINGELL) that they are supposed to have 2½ trillion barrels of oil up there. A lot of companies put money in it, but the gentleman should not single out one company and say it is for its benefit, because it is not.

Mr. JOHNSON of Colorado. I do not have the time to get involved in an extended debate on that one subject because my time is limited, but as a matter of fact, Occidental Petroleum is the only one which has continually expressed an interest in developing the in situ process. They had the opportunity to bid on tracts A and B, and they made a ridiculously low bid on the last one. I think the winning bid was in excess of $100 million, and they bid something like $16 million.

Mr. TEAGUE. But it is competitive, is it not?

Mr. JOHNSON of Colorado. We do not know. None of the other companies have been particularly interested, and the bill does provide for $16,000,000 in section (j), page 2, of the report "oil shale, in situ process."

I just point out that section 102 does create real problems in not having competitive bidding because they had their chance to bid on tracts A and B, and they did not participate. They were severely outbid.

Tracts A and B which are presently in the process of work being done on them, if the Members are not familiar with them, are two 5,000-acre leased blocks in western Colorado. The lease bids ran to a total in excess of $300 million, $314 million to $315 million I think.

Mr. MOSHER. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield to the gentleman from Ohio.

Mr. MOSHER. I thank the gentleman for yielding.

Mr. Speaker, I do want to make the comment that we have definite information that at least one other very responsible company is interested, the Superior Oil Co., and will be bidding if this legislation goes through.

Mr. JOHNSON of Colorado. My point is that these two leases are presently being developed in western Colorado, two 5,000-acre leased blocks, at a cost to these companies, just the leases alone, of a little over $300 million. They are supposed to make reports back in April of next year as to what their plans will be with respect to the environment, with respect to the development, with respect to transportation, and with respect to the impact on the communities that are involved.

Mr. Speaker, the Mineral Leasing Act amendments that are being brought up perhaps sometime in January, as I understand it from the committee of the gentlewoman from Hawaii (Mrs. Mink), will provide for impact aid to those communities which will really take care of the problems that are arising under that.

Why are we in the process of guaranteeing two 50,000 barrels-a-day plants in western Colorado when we already have these two leasing programs that are pending, when the reports will be made in April, and when one of the combinations of companies, that leases Colorado Tract A, Standard Oil Co. of Indiana and Gulf Oil Co., have indicated to the committee, it is my understanding, that they are willing to go ahead without the Government guarantee and without the Government loan?

The SPEAKER. The time of the gentleman from Colorado has expired.

Mr. MOSHER. Mr. Speaker, I yield 3 additional minutes to the gentleman from Colorado (Mr. Johnson).

Mr. JOHNSON of Colorado. Mr. Speaker, it is my understanding that the participants in the second lease, and that is Colorado tract B, the Atlantic Richfield Co. and Shell Oil Co., Tooco and Ashland, have indicated to the committee they do not want to go ahead without a Government loan or without this Government program.

Why is it we want to make the guarantee when one of these lease developers has already said they are going to go ahead? Why not wait and see what both of them will report back next April? If it is economically feasible for one company to develop its lease, why is it not economically feasible for the other one?

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

First of all, I appreciate the gentleman's concern. There are several points to which I would like to address. We have had the various corporations before our committees to discuss oil shale technologies, and over and over again the people from Occidental, for instance, have told us that they did not have the money that was needed to bid on these tracts where the bids were won by other companies. The corporations that have the money to bid on this land are not interested in in situ oil shale development.

Mr. JOHNSON of Colorado. The reason is not because they did not look into it originally They looked into it and rejected it.

Mr. McCORMACK. If the gentleman will yield further, our committee has looked at this particular question and came to the conclusion that the in situ oil shale technology is particularly attractive. Occidental held bids on technology. It does not appear that we will get a demonstration on in situ unless we make it as an ERDA demonstration. It is not just the Occidental Oil Co. There are other companies that will be bidding other than Occidental. I am confident there will be.

I can cite four instances in the bill before us where we have in some provision of the legislation provided a direct program that must go to one company or site or another:

To KMS for laser fusion;

To United Technologies in Connecticut for solar cells;

To the University of Montana and Associates for MHD; and

To the University of Rochester for fusion research.

These are spelled out in fact, if not literally, in the bill simply because they are the only agencies operating on a specific point in a specific technology. It is oftentimes necessary to get a technology developed, and the rationale behind section 102 is simply this: That we believe, in spite of the fact that the large corporations were not going to go into an in situ technology, it appears to be a good process, and it is in the interest of the country to go ahead. This is the best way we can do it.

Mr. TEAGUE. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. Wirth).

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, the gentleman from Colorado (Mr. Wirth) went to Denver and heard 42 witnesses. He has been our liaison with 11 Western Governors. If the gentleman from Colorado does not know what this is all about, I do not know who does.

Mr. WIRTH. Mr. Speaker, I thank the gentleman, and I thank the committee for giving me the opportunity to become so deeply involved in this legislation.

Mr. Speaker, I rise in support of the conference report.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, let me make an observation. We all revere the beloved gentleman from Texas, Tiger Teague, for whom no man has any greater respect than I. I also have great respect for the fine young man in the well, the gentleman from Colorado (Mr. Wirth).

However, if 2 days of hearings in Denver makes a man an expert in this field, God help the Nation on the issue of energy.

Mr. WIRTH. However, Mr. Speaker, perhaps hearings held on the western slope do add to one's expertise, I will say to my colleague, the gentleman from Wyoming (Mr. Roncalio).

Mr. Speaker, I rise in support of section 102 and section 103 of the conference report.

As the gentleman from Michigan (Mr. Dingell) pointed out, there were initially tremendous problems with this piece of legislation. When it came to our attention in late July and again early in September, there were loads of problems, both substantively and procedurally.

In the area of substantive problems there was no involvement in the bill by governments in impacted areas; there was no reference to social or economic impact; there was no requirement for competition in the industry, no assessment of water needs, no reference to patent rights, no definition of the size and scope of the project.

This set of problems was recognized by Chairman Teague and by members of the committee. As a consequence, an extensive set of hearings was held in Washington and in Colorado, both on the Western slope and in the Denver metropolitan area.

In my opinion, the substantive problems faced in the legislation have in the greatest part been solved. For example, a careful reading of the bill will now point out that there are a number of features incorporated in this bill which provide the precise safeguards which the gentleman from Michigan (Mr. Dingell) and others have been requesting.

For example, in the bill now there are provisions which make the loan guarantee authority of ERDA subject to the provisions of the Non-Nuclear Research and Development Act. There are requirements for due consideration to be given to the need for competition in the industry when applications for guarantees are considered. Required prior assurance that local costs resulting from the impact of development have been assessed and provided for. Requirements for input from State and local governments have been provided for, and requirements for the veto of the Governors in impacted States and requirements for advance assessments have been provided for.

All of these features have now been built into the legislation in a very precedent-setting and sound fashion.

We were not alone, as the gentleman from Texas (Mr. TEAGUE) has pointed out, in being concerned about the problems within this legislation. We were joined by the Governors of the 10 Western States, who telegraphed the committee requesting hearings and saying they could not support this legislation unless the problems which I have referred to were solved. Since then we have heard from many Governors.

For example, we have received support from Governor Salmon of Vermont, who is chairman of the Commission on Natural Resources and Environmental Management of the National Governors Conference.

From the Rocky Mountain area we have gotten telegrams and letters of support from Governor Judge of Montana, Governor Lamm of Colorado, Governor Link of North Dakota, and Governor Apodaca of New Mexico.

We have also received telegrams of support from Governor Moore of West Virginia and Governor Carroll of Kentucky, as well as from Governors of other States which are going to be deeply impacted by this program.

It is my opinion, Mr. Speaker, that having started with a bill that was in great need of help, due to hearings and the very good help we have received from the chairman of the committee, from the gentleman from Ohio (Mr. MOSHER), the gentleman from West Virginia (Mr. HECHLER), the gentleman from Washington (Mr. MCCORMACK), and many others on our committee, we have put together a bill which now makes a great deal of sense.

In summary, Mr. Speaker, I think we should also say that we have provided in this bill the kind of safeguards that are necessary for Colorado and for the Rocky Mountain region. Many of us from that area of the country stand in great fear that we will be literally rolled over by the need to do something about energy. If we do not pass this bill, I believe that at a time of another crisis, were there to be another Arab oil boycott or were there to be another crisis in energy all over the world, there would be great pressure on the floor to pass a synthetic fuels bill, but that would not have the kind of safeguards for Colorado and for the Rocky Mountains which this bill contains.

Mr. Speaker, it has been a great privilege to work on this bill. I am greatly in support of it.

Mr. Speaker, I include the following telegrams and statements in support of the conference report:

TELEGRAM

Hon. OLIN E. TEAGUE,
House Science and Technology Committee, Rayburn House Office Building, Capitol One, D.C.

I commend the House and Senate conferees on the ERDA authorization bill (HR 3474) for adopting the essential recommendations of the National Governor's Conference to provide adequate State and local participation in the synthetic fuel loan guarantee program and to assure financing for impacted communities with these safeguards the loan guarantee program represents a limited but necessary step to demonstrate the commercial feasibility and environmental viability of existing synthetic fuels technology. I urge the Congress to enact the loan guarantee program so that synthetic fuels can make the earliest possible contribution to our national energy self sufficiency.

I am sending copies of this message to Senator Henry M. Jackson and Governor Jerry Apodaca of New Mexico.

THOMAS P. SALMON,
Chairman, Committee on Natural Resources and Environmental Management, National Governor's Conference.

Hon. OLIN TEAGUE,
Chairman, House Committee on Science and Technology, Rayburn House Office Building, Washington, D.C.:

During the past several months all Governors of the Western Governors' Regional Energy Policy Office have been attempting to have incorporated into Federal legislation recognition of States rights and responsibilities in the implementation of this Nation's energy program. More specifically we have sought changes in section 103–SB–598 so that State laws and policies are assigned a high priority in the development of synthetic fuel demonstration plans. To date, we have been pleased with the cooperation received from all Members of Congress involved and believe the language incorporated into what is now H.R. 3474 is a significant step forward in meeting our concerns. Therefore, in lieu of other alternatives, I request that the House act favorably on H.R. 3474 as it comes to the floor this week as long as any amendments weakening the assurances given in section 103 are resisted.

THOMAS L. JUDGE,
Governor of Montana.

STATEMENT BY GOV. RICHARD D. LAMM, STATE OF COLORADO

For the past two months the Energy Research and Development Administration's (ERDA) appropriation and authorization bill, S. 598 has been under review by a House/Senate Conference Committee.

At the urging of the nation's governors the House Science and Technology Committee conducted a series of hearings on the synthetic fuels program during which we presented a number of very specific recommendations. I am delighted to report that because of a very receptive Conference Committee as well as the dedication of numerous congressional staff members, we were successful in literally restructuring the synthetic fuels section of the bill to reflect our concerns.

Importantly, Congress has established a formal process by which a governor's concurrence must be given prior to the approval of a synthetic fuels project. This action by a governor may be overriden by the Administrator only if he finds that it conflicts with the national interest. Such an override, however, is subject to judicial review.

Secondly, the Conference Committee report states that if a state's reclamation and energy facility siting requirements are more stringent than federal standards, then Congress expects the state laws to apply and be enforced.

The final amendment that I would highlight would be the provisions for impact assistance. When we first saw S. 598, it contained no provision for dealing with the socio-economic impacts that were sure to result from the synfuels program, Congress replied to our concerns for community aid by constructing a system that would provide loan guarantees to communities, 100% grants for investigating the impact, as well as a provision for non-recourse loans when necessary.

In short, each demand registered by the governors seems to have been dealt with in a satisfactory manner. Our most important demands appear to be met (although a number of questions still remain concerning the implementation of our recommendations). Given the changes that have been granted in S. 598, I, as one governor, find those section dealing with the testing and demonstration of synthetic fuels to be acceptable.

The inclusion by Congress of important points raised by the governors demonstrates very clearly that the states will be asked to play a major role in finding solutions to the present energy crisis. We clearly understand that challenge and stand ready to meet it.

In reflecting upon our successful negotiations on this important synfuels section, Colorado should be grateful to Senator Floyd Haskell, the conferee who introduced our recommendations as well as Congressman Wirth, who with his staff spent many hours working on this section. In addition, I would like to personally thank Chairman Teague, Senator Scoop Jackson and Congressman Hechler for their responsiveness.

TELEGRAMS

To OLIN E. TEAGUE and MARK ANDREWS:

During the last several months North Dakota, along with 12 other States has worked aggressively to reword the language in Section 103 H.R. 3474. We are pleased with the cooperation of the Conference Committee and their efforts to take into consideration the desires of the states as it relates to this legislation.

Consequently I urge that in the absence of any other alternative that the House act favorably on HR 3474 and section 103 as it comes to the Floor this week.

ARTHUR A. LINK,
Governor of N. Dakota.

To OLIN E. TEAGUE:

My thanks to the House and Senate Conferees on the ERDA Authorization Bill for adopting so many of the recommendations of the Governors to provide a meaningful state role in the synthetic fuels program. The safeguards will help governors and potentially effected states such as West Virginia while at the same time assuring reasonable developments of coal. Your constructive stewardship is appreciated.

I urge the Congress to enact the bill as agreed upon by the House and Senate Conferees.

ARCH A. MOORE,
Governor of West Virginia.

STATE OF NEW MEXICO,
Sante Fe, N. Mex., December 1, 1975.

Hon. HAROLD RUNNELS.
U.S. House of Representatives,
Washington, D.C.

DEAR HAROLD: I am happy to learn that the House and Senate Conference Committee has completed action on the ERDA authorization bill for fiscal 1974.

After reviewing the conference report, I am convinced that those sections of the ERDA legislation which deal with the commercial synthetic fuel program are consistent with the best interests of New Mexico. I urge your support of the conference report on the floor of the House.

As you may know, there are several coal gasification plants proposed for the northwest corner of New Mexico. This state is committed to help the nation meet its energy needs. At the same time, we are determined that this national commitment will not result in the destruction of the quality of our environment or the deterioration of our way of life. I believe the language adopted by the conferees adequately meets these goals.

The synfuel plants currently planned for New Mexico could augment a rapidly depleting natural gas supply free from foreign control. At the same time, with sound resource management and planning, these projects will bring many social and economic benefits to all of New Mexico's people.

New Mexico is intrested in seeing such energy projects become economically viable. We realize that financial incentives will be necessary for industries to undertake these high capital and risk ventures, and therefore, we support the federal loan guarantee program for commercial synfuel development contained in the legislation before you. I am very pleased that funds for communities affected by synfuel development are included in this program, as well as assurances that the states' authority in various administrative and environmental matters are not to be preempted. This provision meets the objectives and eases the concerns of the western states previously expressed on the synfuels program. A synfuel program which takes these concerns into account will surely prove the most equitable for the energy-producing states and the most beneficial for the country as a whole.

I appreciate your serious consideration of these views, and again I urge you and your colleagues in the Congress to meet the challenge before you and start this nation on the road toward energy independence.

Sincerely,

Jerry Apodaca,
Governor.

Congressman Olin Teague,
Chairman, Committee on Science and Technology,
Capitol One D.C.

I urge the passage of H.R. 3474, the ERDA authorization bill, as reported from the conference committee. This bill as reported meets the essential needs of the states to protect communities and the environment. It also will expedite a fuller usage of coal, which is required if we are to meet the nation's energy needs.

Julian M. Carroll,
Governor, Commonwealth of Kentucky.

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Speaker, I would just like to ask the gentleman in the well one question.

The gentleman from Washington previously said there is going to be money for all of these different things like solar cells, shale development, and all these other things.

The SPEAKER pro tempore. The time of the gentleman from Colorado (Mr. Wirth) has expired.

Mr. TEAGUE. Mr. Speaker, I yield 1 additional minute to the gentleman from Colorado (Mr. Wirth).

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Iowa.

Mr. HARKIN. I just want to know what the gentleman's feelings are about the apportionment of these moneys with respect to shale plants and coal gasification plants. The estimates are being made that they will be up to $5 or $6 billion, with only $600 million left for solar, biomass, wind, ocean thermal conversion and everything else. I wonder what the gentleman's feelings are with respect to that balance.

Mr. WIRTH. Mr. Speaker, I do not know where the gentleman got those estimates. If the gentleman will read the legislation, it provides that there shall be the smallest possible demonstration projects for commercial purposes.

Second, the Congress has to approve any project over 35 million.

Third, any project recommended by ERDA can be disapproved by the vote of one body of the Congress. Consequently, I think that we have great controls over how and in what kind of manner this money is going to be spent.

Mr. MOSHER. Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. Armstrong).

Mr. ARMSTRONG. Mr. Speaker, I am grateful for having been yielded to.

I can scarcely believe what I am hearing. Can this really be the same deliberative body which agonized for so many days and insisted that officials of New York City and State come down here on hands and knees to testify before we would consider the possibility of bailing them out with loan guarantees of only $2.7 billion? Are we now going to agree to an amendment added by the Senate without any hearings and without any serious consideration for $6 billion?

Surely not. I trust the House will delete this provision from the bill.

Mr. MOSHER. Mr. Speaker, I yield myself sufficient time merely to say that we are not bailing out the oil companies. As I see it, we are bailing out the Nation, which is in desperate need of this huge commercial program.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I rise only to ask a question of my distinguished colleagues, the gentleman from Ohio (Mr. Mosher) and the distinguished chairman of this committee, the gentleman from Texas (Mr. Teague), for both of whom I have a great personal affection and respect. However, I am a little confused.

The House, in its wisdom, has passed H.R. 7014 and will soon consider the conference on that bill with S. 622, in the form of S. 622, which rolls back the price of oil.

We will consider next week, if we are given the opportunity by the chairman of the Committee on Interstate and Foreign Commerce, legislation which will either lift the frozen price of natural gas or will continue to freeze the price of natural gas on into the future with only temporary relief given.

Both of those things have discouraged the production in this country of those fuels. These price freezes were undertaken ostensibly, to help save the consumer and the taxpayer. In this bill we are appropriating or authorizing $6 billion to bring into production other fuels which will be more expensive than oil and gas, and therefore, not quite so competitive as those we have available to us naturally if we let the market take care of itself.

Can the gentleman explain to me the rationale so that I can go home and tell the folks why we should discourage the production of oil and discourage the production of natural gas and at the same time encourage the development of synthetic fuels that are more expensive?

Mr. TEAGUE. If the gentleman will yield, if I might go back to 1952 when a panel was appointed to make a study of energy so that our country would be independent in the production of our energy, that panel made recommendations and those recommendations were not accepted and nothing was done about it.

In 1966 a similar thing happened and nothing was done about it.

Then we had the oil embargo and we became a little excited about energy.

So we now have another policy and we have created ERDA. This bill is to make our country by the mid-1980's, somewhere in those years, independent completely of any foreign country so far as energy in this country is concerned.

That is my understanding of it.

Mr. BROWN of Ohio. Are we supposed to do this by creating fuels that are more expensive than the fuels we now have available? That is the thing that I have difficulty understanding because it seems so illogical, even though it sounds nice because we may get some of the Federal grant money in Ohio because of the fact that coal is mined there.

Mr. TEAGUE. Almost anything that one would do is going to cost more in the research phase than it is when we start it into production. We are hoping that the cost of all of these fuels will be down so that they will be good for the country. They are saying at the moment that it will cost $15 to $17 a barrel for making oil from oil shales but we certainly would not expect that price to be that high later on.

Mr. BROWN of Ohio. But we are spending $6 billion to develop a synthetic fuel while we are discouraging production of available natural fuels. That may sound logical to some people, but I find I am having some difficulty with it.

The SPEAKER pro tempore (Mr. Wright). The time of the gentleman has again expired.

Mr. MOSHER. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio in hope that the gentleman will yield to me so that I may try to make a comment on this subject.

Mr. BROWN of Ohio. I yield to my distinguished colleague from Ohio.

Mr. MOSHER. I would suggest that the description of the gentleman from Ohio as to this situation that it is utterly illogical is not the case because I find that it is completely logical.

I think it is extremely important that we discourage the use of oil and the consumption of natural gas at whatever prices they may be at by 1985 or 1990. I think it is desperately important in terms of our national policy that we have alternative sources available to us at that time for the very reason that we will need to discourage the use of oil. And if we have to pay somewhat higher prices for oil I am all for it.

Mr. BROWN of Ohio. I think that one of the problems here springs from the fact that we have this issue in two different committees. In the Committee on Interstate and Foreign Commerce we have the oil and natural gas pricing issues before us and yet in this committee we are creating more high priced fuels by Federal subsidy.

Mr. MOSHER. If the gentleman will yield further, we certainly hope we will create more fuels and that ultimately the prices of those fuels will take care of themselves on the market.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. TEAGUE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee (Mrs. Lloyd).

Mrs. LLOYD of Tennessee. Mr. Speaker, I certainly rise in support of this conference report on these bills. One of the most rewarding experiences that I have had as a freshman Member of the Congress has been to serve on the Committee on Science and Technology under the able leadership of the chairman, the gentleman from Texas (Mr. Teague), the chairman, the gentleman from West Virginia (Mr. Hechler), and the chairman, the gentleman from Washington (Mr. McCormack).

I appreciate the hard work that they have done.

Mr. Speaker, as a member of the Committee on Science and Technology, and as freshman Member of this Congress, it was a great challenge to being my service in this distinguished body by participating in the consideration of the Energy Research and Development Administration's fiscal year 1976 authorization request.

Under the experienced leadership of Chairman Olin Teague of Texas, subcommittee Chairmen Mike McCormack of Washington and Ken Hechler of West Virginia, the Science and Technology Committee has brought before the Congress a piece of legislation which will positively and substantively improve the energy resources and technologies of our country. This is the only bill considered by the Congress to date which is aimed at increasing the sources of domestic energy.

It is certainly an undeniable fact that America must take immediate steps to reduce energy consumption, to lessen our dependence on foreign energy sources, and to become more efficient in our use of all energy supplies. It is however, equally imperative that this Nation begin to develop all alternative energy sources if we are to remain a free and powerful country. I can think of no greater threat to the security and sovereignty of the United States, than the failure of the Congress, the elected representatives of the people, to set our country on the path of energy independence.

I must also call to the attention of my colleagues a more parochial interest to the people of Tennessee, and particularly of the Third Congressional District. I am referring to the adoption by the Senate and the conference committe of my amendment to restore the traditional name of the historic Oak Ridge National Laboratory.

For all of these reasons, Mr. Speaker, I urge the adoption of the conference report on H.R. 3474, the Energy Research and Development Administration 1976 Authorization Act.

Mr. MOSHER. Mr Speaker, I yield 3 minutes to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Speaker, I think that we all feel a sense of regret that such a matter of this magnitude is being brought up without the usual care and consideration that the Congress gives a large spending item, plus something as important as this.

Mr. MOSHER. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Ohio.

Mr. MOSHER. I thank the gentleman for yielding.

Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

As we have said and reiterated many times during this debate, I really have never seen any matter—I am referring to sections 102 and 103—given such complete consideration and such thorough and responsible consideration as in this case. At least, I have never seen matters given such thorough consideration by our committee over weeks of time and after listening to over 100 witnesses. So I must disagree with the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I just want to make it clear that we never had a chance to mark this up in our committee. We never had a chance to offer amendments in our committee. The Members of the House who are not on the committee are never going to get a chance to offer amendments on the floor.

Mr. FISH. My point is simply that I do not think that we should look upon the section before us this afternoon as an argument between proponents of energy in the United States and those who are opposed to energy. What concerns me, as one who is not on the committee and who has been occupied with my own committee responsibilities, is that I find serious reservations to the measure before us raised by the very people whom I have looked to in the Congress of the United States throughout this year as the proponents of an energy policy for the United States. I am talking about the gentleman from West Virginia (Mr. Staggers), the gentleman from Michigan (Mr. Dingell), the gentleman from Texas (Mr. Eckhardt), and the gentleman from Ohio (Mr. Brown) who just expressed his doubts and reservations in the well of this House. These gentlemen have raised serious questions, and I would like to address either the gentleman from Washington (Mr. McCormack), or the chairman, or the distinguished minority leader, about these questions.

It is said by the committee that the program provides a minimum amount of Federal support to build commercial demonstration facilities in three important areas: One, synthetic fuel; two, solar energy and geothermal energy. However, the gentlemen whose names I have just enumerated have informed the House that the authorization to use the guarantees for solar energy and geothermal development was added at the last minute by the conferees. Further, they state:

> Based on past ERDA experience, it is clear that no more than a pittance of the authorization would be used for the development of these clean, renewable energy resources.

I can remember that in June we had this ERDA authorization before us. In June we were told we were giving ERDA all it could spend. Now we are told it could spend this money on solar and geothermal energy, and yet the authorities on energy in the House tell us it is not going to happen. Could I have an answer to this?

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the Chairman, the gentleman from Texas.

Mr. TEAGUE. I thank the gentleman for yielding.

The conferees are not permitted to add one thing unless it is either in the Senate bill or in the House bill. That was in the bill on the Senate side, and solar energy has been in the House bill.

Mr. FISH. What does the gentleman say in response to this:

> Based on past ERDA experience, it is clear that no more than a pittance of the authorization would be used?

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

Would the gentleman care to quote what letter he is reading from?

Mr. FISH. This is a "Dear Colleague" letter dated December 4 that we all received, signed by some 30 Members of the House.

Mr. McCORMACK. Was it not written by Consumer Action, signed by Suzanna Norris?

Mr. FISH. No. It was signed by 32 Members of the House.

Mr. McCORMACK. They were quoting from her. All I can say is that the statement is categorically untrue.

The Energy Research and Development Administration, which was created about a year ago, had as its new assignment for this Government developing solar energy and geothermal energy programs. They have been doing a spectacularly good job. As I related on the floor a few minutes ago, we have increased the funding in this area for solar energy alone about 300 percent this year.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. OTTINGER. Mr. Speaker, will the gentleman from Ohio yield 30 seconds to the gentleman from New York?

Mr. MOSHER. I yield 1 additional minute to the gentleman from New York.

Mr. FISH. Mr. Speaker, I have two questions I wanted to ask. The gentleman from Washington (Mr. McCormack) responded to one of them.

The second thing that bothered me in this "Dear Colleague" letter from the people I mentioned is that it says:

> The Administration has requested as vital for the success of the program over and above the $6 billion loan guarantees, $4.5 bil-

> lion in price supports, $600 million in construction grants and $450 million in aid to impacted communities.

Are those figures in dispute or are they accepted?

Mr. McCORMACK. No. It has been submitted to other committees by the administration. However, these programs stand on their own. The additional legislation will be considered on its own. The loan guarantee stands on its own, and it will succeed without the additional legislation, although that would help.

Mr. FISH. The administration has not indicated that vital to the loan guarantee program's success are these other matters?

Mr. McCORMACK. I do not know what statements the administration has made, but when I tell the gentleman what our position is, it is that this program before our committee stands by itself.

Mr. OTTINGER. Mr. Speaker, the letter referred to was written by me, edited by Mr. Hechler and signed by 30 Members. The gentleman from Washington makes a highly unfair characterization.

Mr. MOSHER. Mr. Speaker, I would use my 1 minute merely to comment that, as the gentleman from New York (Mr. Ottinger) said, it is true that the committee did not have markup of sections 102 and 103. Of course we did not, because this was a matter for the conference to consider, but in our backup hearings in the committee in order to educate ourselves in the committee's concern over sections 102 and 103, and in order to give information and responsible support for our conferees, we did consider carefully every concern of opposition that was raised. I think we did an adequate job in this unusual procedure, which I recognize, and we did an adequate job as an alternative to what would normally be a markup session.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Speaker, I thank the chairman for yielding this time to me.

Mr. Speaker, in 3 minutes I cannot deal with all the matters which need to be discussed here.

However, I would like to deal very briefly with three items that have just developed during the colloquy.

First, the amount of consideration given to sections 102 and 103 by the House and its committees: I know this is a point of great interest to the Members of the House and I inserted in yesterday's Record on page 39780 two tables showing the exact amount of time, the number of hearings, the number of witnesses, devoted to sections 102 and 103, as compared to the entire rest of the bill. That is in the Congressional Record, beneath the seats of the Members, and I invite the Members to examine those tables so they may see for themselves that more time was devoted to these sections than was devoted to the entire remainder of the bill.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I congratulate the gentleman from California. It is important that the facts be known in this case, to know that the Committee on Science and Technology spent a tremendous amount of time on these proposals. We held hearings on geothermal energy and oil shale and synthetic fuels, all these questions have been thoroughly heard before my committee.

I thank the gentleman.

Mr. BROWN of California. Mr. Speaker, there was reference made also as to whether or not this was a part of a $100 billion or an $11 billion program.

The gentleman from Washington (Mr. McCormack) has commented on this. I merely want to point out that on page 68 of the report—and I hope each Member will get it and read it, the report is very clear on this. Under the heading "No Endorsement of Further Programs," the report says this, and I will read it briefly:

> The Conferees especially emphasize that the approval of Section 103 in no way constitutes an expression of approval of approaches for assistance beyond loan guarantees. Nothing in Section 103 authorizes construction grants, price supports or, price guarantees for the products from demonstration projects nor does the approval of Section 103 constitute any expression of Congressional commitment to other proposals which are pending or may be advanced in the future.
>
> The conferees, furthermore, do not view Section 103 as the initial part of a more ambitious program.

Now, that is as clear-cut as we can make it. It represented the very strong views of all the conferees. While I know it is nice to be able to point to this as the camel's nose under the tent, that it is a dreadful $100 million giveaway, I think reading the conference report clearly shows that is not true.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. TEAGUE. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. BROWN of California. Mr. Speaker, the third point I wanted to make, and I hesitate to bring this out, but there has been a serious question raised about the fact that there are many portions of this bill which I think legitimately could have been separately considered by another committee. I hesitate to say this, but some of the objections to sections 102 and 103 might have been motivated by this consideration. I think the facts speak for themselves. There is no concealment of this fact.

There are portions of this bill which taken separately could have been in the Committee on Banking, or Commerce, or several other committees; the Committee on Ways and Means, possibly; yet, we cannot put together an energy package, an energy program, which does not by its nature cut across the lines of several committees.

Some of those who are opposing section 103, at least partially on these grounds, I think are to be complimented for their own astuteness for bringing into their committees legislation which properly could have been in the Committee on Science and Technology, with the change of a few words. I would hope that considerations of this sort would not endanger the passage of this vitally important legislation.

Mr. TEAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. Thornton).

Mr. THORNTON. Mr. Speaker, I deeply appreciate the privilege of addressing the House for a moment on this subject. Obviously, it will be impossible to go into any detail concerning the many issues that have been raised; however, it can be fairly said that they divide themselves into two areas of concern, those that are substantive and those that are procedural.

It has been reported that Abraham Lincoln on one occasion said:

> If you want to stop the construction of a church, don't attack the religion, but rather start an argument about the location of the building.

I think it is very vital that we consider the merits of the bill before us on substantive issues. I am proud to have been a part of this committee which has handled this very difficult procedural matter in an excellent way under the leadership of the gentleman from Texas (Mr. Teague), the gentleman from Washington (Mr. McCormack), and the gentleman from West Virginia (Mr. Hechler). Issues have been raised and resolved. I think the conference committee has done an excellent job of bringing to this House for its consideration in a fair way the issues which we must now decide.

With regard to those substantive issues, I think it is vital to consider the one basic question whether it is necessary for this Nation, in view of the finite resources of oil and gas which exist in the world, to develop alternative fuel supplies. If that is necessary, then it is time that we begin. Should we delay, we will only require greater haste in meeting that obligation.

Mr. Speaker, I strongly urge support for this bill and sections 102 and 103.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I oppose section 103 of the conference report and urge that it be deleted from the report.

This provision, which authorizes $6 billion in loan guarantees to finance the commercial development of synthetic fuels, was added in the conference committee. The House has not had an opportunity to thoroughly examine the economic merits of a synthetic fuels program, nor to air conflicting points of view in House debate.

Mr. Speaker, the House should reject this attempt to shape the direction of U.S. energy policy through a vote on a conference report that bears little resemblance to the House-passed bill. The synthetic fuels development program is an important component of the administration's energy strategy—and it is as controversial as it is costly.

The commercialization of synthetic fuels will involve significant environmental alteration, including possible diversion of water supplies normally used for agricultural and ranching purposes. Important questions remain to be answered about mineral rights, water use, land reclamation, social impact, and adverse effects upon the general public health.

Why have we been denied the opportunity to review these issues in thoughtful House debate?

I submit that the issues surrounding commercialization of synthetic fuels are too important to be dealt with in this fashion.

I also wonder how many of my colleagues have had an opportunity to review a draft analysis of the commercialization of synfuels prepared by the Congressional Budget Office. Although not specifically addressed to the merits of section 103, the draft report provides a valuable insight into the true costs of a synfuels program.

The report states that:

> Postponement of the beginning of commercialization—for example, for 3 months to allow full congressional hearings and debate—could actually improve its economics. Regardless of when it reaches a decision, the Congress should consider synfuels in the context of a larger policy with respect to the continuum of energy research, development, demonstration and commercialization. ERDA is developing several advanced synfuels processes which offer the potential of improvements in economics, reliability and environmental impact when compared with those currently available processes which would be supported by the synfuels program.

Mr. Speaker, I believe it is also important to review the companies that would benefit from this program, and from section 103 specifically:

The Colony Oil Shale Group, composed of the Atlantic Richfield Co., Ashland Oil, Shell Oil, and Tosco.

The Parahoe Oil Shale project, which includes Arco, Carter Oil-Exxon, Chevron Research-Standard Oil of California, Gulf Oil, Mobil Research, Phillips Petroleum, Shell Development Co., Sohio Petroleum, Southern California Edison, Standard Oil of Indiana, Sun Oil, and Texaco.

I might also note that these joint ventures are structured in such a way that, if the projects fail, the parent companies will not be liable for the debt—a debt which would then be assumed by the taxpayers of this country.

Mr. Speaker, my research convinces me that the companies I have listed possess significant resources, including the managerial talent to make wise investment decisions. Why does the U.S. Government have to subsidize their synthetic fuels programs? Some of these companies have been accused of making unconscionable profits in the last year or so. Why in the world do we now have to step in and guarantee their investments?

Members of the conference committee may counter that the loan guarantee program is designed solely to remove capital formation obstacles to the development of a commercial fuels program, and if it succeeds, will not cost the taxpayers anything. However, we have no assurances that the projects will be successful, and that the companies will not fail—causing the burden of financial risk to fall squarely upon the shoulders of the taxpayers of this country.

Also, I am troubled by the fact that in addition to the $6 billion loan guarantee program established in section 103 of the conference report, ERDA has sent draft legislation to the House asking for authority to provide up to $4.5 billion in price supports and $600 million in construction grants for "a commercial demonstration program—in conjunction with the loan incentives in section 103."

Mr. Speaker, if adopted this combination would commit the Government to $11 billion for a commercialization program with questionable merit.

And even if the program were to be successful, it would provide less than 1 percent of our total energy needs at a capital investment equal to over 25 percent of what it cost us to import oil last year.

Mr. Speaker, I do not pretend to be an economist—but the cost/benefit ratio that I can see is considerably lopsided—and not leaning toward the side of national interest.

It is easy to proclaim that a commercial synfuels program could help close our energy gap and be an important component of "project independence" energy goals. It is not easy, however, to casually dismiss the problems associated with this technology, some of which I would like to quote from the President's report on synthetic fuels:

> (1) Degradation of local air quality in all regions;
>
> (2) Adverse human health effects, including cancer resulting from long-term exposure to aromatic hydrocarbons and effluent emitted from synthetic fuel plants:
>
> (3) Increases in sulfur dioxide, nitrogen oxides, trace elements, hydrocarbons and respirable particulates, even though emission controls are employed and air quality standards are enforced;
>
> (4) Reduction in water quality resulting from increased erosion, sedimentation, overtaxed sewage facilities, release of toxic wastes into streams and return of production water to stream channels.
>
> (5) Adverse socioeconomic effects, including rapid population growth in previously underpopulated areas with heavy demands placed upon the delivery of vital social services.
>
> (6) The growth of inter-regional friction, with citizens living in energy production regions growing increasingly hostile to energy consumption regions.

Mr. Speaker, these serious issues deserve the full and thoughtful consideration of the House. I believe we cannot commit our Nation to an energy policy direction in the absence of such consideration. For this reason, I cannot vote in favor of the conference report with section 103 included, despite my support for other sections of the bill. I strongly urge my colleagues to vote for the elimination of this section, along with the similarly objectionable section 102.

Mr. EDWARDS of California. Mr. Speaker, I wish to voice my opposition to section 102 and 103 of the conference report on the energy research and development authorization. These two sections provide for a $6 billion guaranteed loan program for the development of synthetic fuels and an accompanying in-situ oil shale leasing provision. The procedural manner in which these provisions appear before us is in itself quite unusual. We are asked to vote on a massive loan guarantee program for the development of synthetic fuel when the Senate has not even held hearings on the matter. Such a move inevitably leaves unanswered a great number of questions.

One rather basic question is why we are being asked to commit such huge amounts of money to an industry which has not yet proven that it can provide large amounts of economical energy. While the function of ERDA is to encourage the development of new energy producing technologies, this should not translate into a wholesale commitment of resources toward an unproven process. The costs of the synthetic fuels program is staggering. In addition to the $6 billion authorized by the measure before us, the administration has already proposed an additional $5.5 billion more in Government aid for marketing and further developing synthetic fuels. This means that enormous amounts of capital will be diverted from the development of alternative fuel sources such as solar and geothermal. It also ignores the fact that money plowed into energy conservation is far more cost effective than a comparable amount devoted to developing more fuel.

Another question which must be answered is why the private companies developing synthetic fuels should receive $6 billion of the Government's credit while not being required to share information with the Government. Under this bill, the Government takes all the risks while the developers receive all the benefits. In other words, while the taxpayer is asked to subsidize and underwrite this multibillion-dollar experiment, he or she is not entitled to even the bare information which any other investor receives.

We might also ask what effect this vast development scheme will have on our health and environment. Based on studies of long-established synthetic fuels industries in other countries, the Scientist's Institute for Public Information has found that "a worker exposed to shale oil is 50 times more liable to get skin cancer than a worker in contact with oil from a Pennsylvania well." The millions of gallons of water required in the oil shale process have been found to contain large quantities of cancer-linked compounds and carcinogenic materials.

Since many of the proposed synthetic fuel plants will be located in water-short regions, the requirements of the fuel plants will seriously affect water supplies. These areas may face water shortages, and degradation in water quality. The share size of the operations makes a series of air pollution and waste disposal problems inevitable. The Department of Interior Synfuels Task Force has warned:

> Reduction of soil productivity, permeability and infiltration rates would be unavoidable. Increase in erosion and sedimentation rates would occur . . . fifty years or more of plant succession would be required for parts of the western region to return to their present state.

Mr. Speaker, I feel that the enormous cost of this program, the uncertainty of its sucess, and vast impact it would have on the environment require that we delete the synthetic fuels program from the ERDA authorization.

The SPEAKER pro tempore. The time of the gentleman has expired.

All time controlled by the Committee on Science and Technology has expired.

Under the rule, 1 additional hour of debate is permitted to the Joint Committee on Atomic Energy; 30 minutes of which are allotted to the gentleman from Illinois (Mr. Price) and 30 minutes to the gentleman from Illinois (Mr. Anderson).

The Chair will now recognize the gentleman from Illinois (Mr. Price).

CALL OF THE HOUSE

Mr. HALEY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. Wright). Evidently a quorum is not present.

Mr. PRICE. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 768]

Annunzio
Badillo
Barrett
Bedell
Buchanan
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Chisholm
Conyers
Davis
Dellums
Diggs
Drinan
Edwards, Calif.
Esch
Eshleman
Ford, Mich.
Forsythe
Fraser
Gaydos
Giaimo
Harsha
Hébert
Heinz
Helstoski
Hinshaw
Horton
Hungate
Jenrette
Kastenmeier
Kindness
Landrum
Leggett
Lloyd, Calif.
Long, Md.
Lujan
McClory
McCollister
Mikva
Murphy, N.Y.
O'Neill
Passman
Peyser
Pike
Risenhoover
Rosenthal
Rousselot
Runnels
St Germain
Scheuer
Sebelius
Shuster
Stanton, James V.
Sullivan
Thompson
Udall
Vigorito
Weaver
Wilson, C. H.
Yatron

The SPEAKER. On this rollcall 372 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 3474, AUTHORIZING APPROPRIATIONS FOR THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, I would like to express my appreciation to the Committee on Atomic Energy and especially to the gentleman from Illinois (Mr. Price). This was a case of two committees involved in a bill which required some cooperation. We could not have had better cooperation than we received from the gentleman from Illinois and his subcommittee.

Mr. PRICE. Mr. Speaker, I thank the gentleman from Texas (Mr. Teague). Of course, that worked both ways. We had a very harmonious conference. The two committees worked together, and there was no problem in trying to coordinate the efforts of two separate House committees in one conference.

Mr. Speaker, the legislation would authorize appropriations for fiscal year 1976 and the transition quarter. The conferees decided to accept all of the Senate amendments to the House bill. The Senate amendments increase the operation expenses portion of the ERDA budget for fiscal year 1976 by $114,616,000 and by $13,106,000 for the transition quarter. The increases essentially resulted from a formal amendment to the ERDA budget which was submitted to the Congress on July 25, 1975. That amendment was, in part, anticipated by the House in its acceptance of the McCormack amendment which had the effect of reprograming $71.2 million from the originally proposed ERDA budget for the liquid metal fast breeder reactor program. The substance of that amendment was preserved in the Senate amendment and accepted by the conferees. The increases are primarily in the areas of: first, $99.5 million for increased electric power cost for the operation of the gaseous diffusion plants; second, $1.9 million for upgrading the safeguards for the protection of special nuclear materials; and third, $91.9 million for an expanded research and development program, particularly as related to the nuclear fuel cycle and light water reactor technology.

The administration's July 25 budget amendment also included a new construction project for safeguarding for the protection of special nuclear materials in the amount of $32.8 million.

The Senate version also included an amendment which would authorize the design and construction planning for adding on to Government-owned enrichment facilities—$25 million. This authorization is needed to provide for the contingency in the event the Government itself must provide the next segment of additional uranium enrichment capacity. This entire subject is now being considered in the administration's proposed Nuclear Fuel Assurance Act (H.R. 8401), which itself recognizes the need for such a contingency plan.

The Senate added a new title to the bill which would impose restrictions on the air transportation of plutonium by ERDA until ERDA has certified to the Joint Committee on Atomic Energy that a safe container has been developed and tested. Exemptions are provided for shipments of plutonium involving the national security as well as situations in which there is a need for rapid transport. The Senate included a new title which would authorize the Administrator of ERDA to provide assistance to Roane and Anderson Counties, Tennessee, under the Atomic Energy Community Act of 1955.

Related actions: None.

Mr. PRICE. Mr. Speaker, I yield 10 minutes to the gentleman from Wyoming (Mr. Roncalio).

Mr. RONCALIO. Mr. Speaker, I want to express my appreciation to you, sir, first for having been named to this conference, from which I deliberately resigned. This is an unprecedented piece of legislation. As our colleague the gentleman from California (Mr. Brown) said earlier, it involved a good bit of pushing and shoving and encroachment on the jurisdiction of many committees of the House. I believe it denied the Committee on Interior and Insular Affairs of what was its jurisdiction heretofore specifically, dominion over shale. I agree with the gentleman from Florida (Mr. Haley) that this institution does a disservice to its good name when we continue to diffuse jurisdiction from committee to committee and subcommittee to subcommittee. It seems we are now a proliferation of 535 subcommittees. We are not doing our job well. We have a fracturing of functions that demeans each and every one of us. Until we can sit down and decide whether it is to be a new Julia Butler Hansen concept, or whether it will be the Carl Albert plan, in short until somebody reorganizes this House, and abolishes half of its committees, and consolidates the remainder, we will have this problem.

What good is it to have a Committee on Interior and Insular Affairs and a Committee on Interstate and Foreign Commerce and a Committee on Science and Technology all vying with each other on substantive, tough, hard issues that need good clear thought, and so splitting the time and the efforts of the Members that they run exhausted from one subcommittee to another day after day? Isn't it time that we recognize our duty to serve on one truly great committee, and limit ourselves to but one basic legislative committee?

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I want to commend the gentleman in the well for the statement he has made. I believe that it is an extremely perceptive statement. I believe that the House has handicapped itself by not organizing itself properly to deal with some of these complex problems.

I know that the Bolling committee last year wrestled with this matter, and had before it a recommendation to create one energy committee but for some reason it was not able in its wisdom to do that, and its recommendations were not adopted.

But I believe that the gentleman from Wyoming (Mr. Roncalio) has put his finger on an extremely important point.

Mr. RONCALIO. I thank you. Mr. Speaker, I hope Members who have some regard for this body to which we have dedicated our lives and who would like to make it a little more responsive to the Nation and the people we serve, notice these words today.

Second, Mr. Speaker, I think it ill behooves any Member of this body to cause more division than we really would like to deal with when he wears one hat, thence with pomposity demeans the role of his colleague of another joint committee in this body.

We could have a conference on this unprecedented legislation on energy, and have left every member of this joint panel—managers we were called by the Speaker—to determine the energy policy of this Nation without this arbitrary division between what is nuclear and what is not.

There are townships of land in the area of the district represented by the gentleman from Nevada (Mr. SANTINI) and his colleague, the gentleman from Montana (Mr. MELCHER) and in Colorado as well as land in Wyoming, townships of Federal land which contain uranium through which pass pipelines to carry natural gas, through which undulate vast coal fields or other energy sources.

The energy sources are not separated in nature. Why do we separate these functions in law? Where was the separation of this function for the last 10 years when tens of millions of dollars of public money went to develop the atomic device, which was made in a long form and sent down a gas well to detonate tight natural gas sandstone to produce natural gas for the people of this Nation? Tell me how one divides that function of a nonnuclear well to decide its portion? How can those members on a subcommittee on which they now serve come back in here and say how they are going to vote on this subject matter?

If the House wishes conferees to decide certain titles, the Speaker for decades has designated those Members to pass as managers on specific titles. When managers are named without designation to titles, they should be permitted to sit on the entire legislation with our colleagues in the other body.

Another observation that I have, Mr. Speaker, is that I suppose since the beginning of this great Nation we have found many in these two bodies vying for the nomination of the Presidency of this Nation, as they have a right to do and, perhaps, even a duty to do if they feel they can run this country. Indeed, one of the Members of the other body engaged in great debates with a one-term Member of this body about 120 years ago, and I have no doubt but what each neglected his work while they sought the nomination. But I submit when we can come back to this body with a request for $6 billion worth of expenditures in this near-election year, for programs and processes largely innovative, we again reflect upon the legislative process.

I would have liked to have had an opportunity to have been told, "We are planning a grant of billions of dollars for the liquefaction or the gasification of the coal industry of Wyoming, Mr. Congressman. Would you like to be heard?" No one made possible for me or for you an opportunity to be heard. Now from the Senate comes a request for $6 billion. It is almost unreal.

There are over 10 plants planned for the State of Wyoming alone all requiring water for the gasification or for the liquefaction of coal. There is nothing new about this process. We called it hydrogenation in the Senate in 1940 when I first worked around here. And in 1946 the late great Joseph C. O'Mahoney helped get the money for the first plant which went to Louisiana, Mo. It was called hydrogenation. It is virtually the same thing we are talking about wasting $6 billion for now.

What if the Lurgi process becomes obsolete within a year or two? Thanks to the generous service of K. M. Siegel who died in front of me about a year ago in the Atomic Energy Committee hearing room while testifying about his beloved KMS Industries—what if his laser beam fusion technique renders obsolete the requirement for water to take methane from coal? Where is the $6 billion then? It becomes a loss. And the Federal Treasury will be called upon to honor the bank loans.

Have we allowed ourselves a chance to even meditate on this? There are not five Members in this body who have had a chance to give some genuine thought to this $6 billion program and what is involved. I cannot think of a worse thing we are doing to ourselves, to our reputation, and to thoughtful legislating than to approve title 103. I have rarely had the Wall Street Journal agree with me, but they surely do today, and the editorial will appear later.

I would like an opportunity to consider a few of these loan programs, because I think there ought to be grants for in situ development of oil shale. I did spend a very educational week in Colorado recently on visits to the plants, including Occidental. I have been to the Parahoe operation. I should like to see them devote their efforts to in situ. They would not need to be given 6,000 acres of public land over which to spill the black residue of retort development. Nor should Colony have help until they embrace in situ reduction only then we will have a West in which we can live 50 or 100 years from now. We will still have the canyons, and we will still have the valleys and the wadis to roam in, rather than have them packed with black stuff. That is what it means.

In conclusion, Mr. Speaker, I remind Members that Dr. Seamans of ERDA testified before the Joint Commitee on Atomic Energy last week regarding exclusive uranium enrichment rights for three companies. He said it is necessary for the chemical companies of America to have a return of 20 to 23 percent per year after taxes on their invested capital, in order to succeed. In Wyoming our utilities do well to earn 8 percent before taxes. Are we ready now to give to companies the right by franchise and by monopoly to make such a massive return, and yet give them the money guarantees to build the plants? This is in effect destroying the free enterprise system and creating a corporate state instead.

The free enterprise system must, if it is going to stay alive, carry with it the risk to lose a dollar as well as the right to make $10. If we destroy that we destroy free enterprise. Sections 103 should be deleted. We should vote to support the motion of our friend from West Virginia (Mr. HECHLER) to so do.

Mr. PRICE. Mr. Speaker, I yield 15 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, let me assure the Members of the House that despite the generosity of my friend and colleague, the gentleman from Illinois (Mr. PRICE), I do not intend to speak for 15 minutes.

Mr. Speaker, it was my privilege to serve as a conferee on this legislation insofar as it related to the nuclear energy portion of the ERDA budget. I am pleased to endorse not only those sections of the conference report that deal with my responsibility in that regard but also as one who was a signatory to the joint statement on the part of the managers of the House I am pleased to endorse all of the legislation that is embraced within this conference report. I think it is a premier piece of energy legislation and I think it will rank as one of the truly historic accomplishments of this 1st Session of the 94th Congress.

I do want to reassure those Members who, if they read the portion of the conference report that begins at page 73 and note that the Senate amended the House bill to increase the operating expense portion of the ERDA budget for fiscal year 1976 by $114,616,000 and by $13,160,000, the other body was not simply earning its sobriquet of being the "upper" body because if we understand the sequence in which this legislation has been acted on, we will note it was in the second week of July that the House passed this bill and the bill did not pass the Senate until the 31st of July, and in that intervening period, I believe on the 25th of July, ERDA did submit a budget amendment. Very largely what we are talking about in these increased amounts, increased over the figures authorized by the House, we are talking about budget amendments that were submitted by ERDA. Unless there are specific questions about those figures and about the budget amendment I shall not repeat what my friend, the gentleman from Illinois (Mr. PRICE), has already told us.

I do want to comment briefly on an amendment that was authorized by the senior Senator from Tennessee on the floor of the Senate and which was accepted by the conferees, which adds an additional $25 million to the bill for a line item construction project for a new Government-owned uranium enrichment production facility. I call attention of the Members to the fact that under date of September 19, 1975, a letter had been addressed to the chairman of the Committee on Science and Technology, the gentleman from Texas (Mr. TEAGUE), a copy of which he was kind enough to forward to me. In that letter Dr. Seamans, the Administrator of ERDA, indicated that the administration in its amended budget request had included $7.5 million in funds earmarked for the conceptual design of a Government uranium enrichment plant. It frankly seemed to me that was an adequate amount and that the amount the Senate added was in excess of what was needed at this time, but because we have included the specific language in the conference report, and I direct the attention of Members to that language as it appears on page 74, that—

> The purpose of this amendment is simply to provide for the contingency in the event the Government has to build the next increment of uranium enrichment capacity. The authorization does not in any way mean that such a contingency will in fact become a reality.

Mr. Speaker, as one who has introduced, along with the gentleman from Illinois, the Nuclear Fuel Assurances Act of 1975, a piece of legislation that would make it possible for the next increment of our uranium enrichment industry to be constructed by private industry to spur its development in which the approximately $2.1 billion in budgetary authorization that would be required for a fourth diffusion plant, I hope we will be able to see the private development of the enrichment capacity.

Mr. Speaker, the committee has conducted hearings, hopefully looking to the attainment of that objective.

Before I conclude my remarks, if there are no questions on the nuclear portion of the bill, Mr. Speaker, I should like to address myself, however, to two sections of the bill. Although I was not a conferee on sections 102 and 103, as a signatory to the joint statement on the part of the managers of the House, I stand behind those sections. I think they ought to be supported by the Members of this House. We have heard time and time again today the charge that somehow these sections came out of thin air and that we are aborting the legislative process in the manner in which they were engrafted on this legislation.

I know of no more conscientious Member of this House than the ranking member of the Committee on Science and Technology, my friend, the gentleman from Ohio (Mr. MOSHER), who told this House when fewer perhaps were on this floor that over 14 days of hearings and over 100 witnesses that came before the Committee on Science and Technology under the able leadership of the gentleman from Texas (Mr. TEAGUE), who undertook to consider these highly controversial sections.

I think, therefore, the committee in recommending its adoption today as a part of this conference report has fully discharged its duty to this House.

Mr. Speaker, I want to reply to a couple things that were said by my friend and colleague on the Joint Committee on Atomic Energy, the gentleman from Wyoming (Mr. RONCALIO), who suggested that in this year of fiscal crisis when we are confronted and will be shortly with a conference report on the budget resolution which has upped the deficit $2 billion to $74 billion, that this is no time to enter into a program which would involve $6 billion in outlays.

I think the gentleman misapprehends the whole fundamental nature and purpose of the loan guarantee program, because the information that I have is that the maximum expected cost to the Government over the 30-year life of the program is $1.5 billion over 30 years. We are not talking about $6 billion in outlays in fiscal year 1976 or in fiscal year 1977. We are talking about if this program is successful, $1.5 billion over 30 years. I suggest that would be a very small price to pay to achieve the goal of Project Independence. We are not talking about $6 billion in fiscal year 1976. Now, true, that is based on the assumption that these plants go on stream over the period I have indicated.

Mr. Speaker, there is one other point that I think should be made, that even that amount that I mentioned, $1.5 billion, would not be necessary if these plants are successful. The program cost would be zero, because there would be no defaults under the loan guarantees. The program cost to the Federal Government would be nothing if these plants prove to be successful.

I think, as I have been informed, we have been trying since 1969 to get these plants built and industry has been planning them and talking about them, but none have been built because of the high degree of financial risk that does exist. I think it would be a small price, I repeat, to pay to assure the goals of Project Independence.

Mr. Speaker, let me also address myself to the argument that has been made that these are riskless enterprises, that this is a giveway, that this is a transfer of technology at no cost. I see my genial friend, the gentleman from New York, nodding, I would hope in approbation of the remarks which I make.

He who stood on the floor of this House a few days ago and wanted us to guarantee $7 billion—not just $6 billion—he wanted $7 billion in loan guarantees for the city of New York to subsidize the fiscal mismanagement, if not downright corruption, that has gone on in that city over a number of years. Now when we come to this House with a program of $6 billion in loan guarantees that would make this country independent in energy, that would relieve us, as my friend from Washington (Mr. MCCORMACK) has said, of the fact that we today see ourselves steadily growing more dependent on Middle Eastern oil, he is in opposition. We are eating up the finite resources of our precious fossil fuels in this country that we need to preserve for petrochemical uses, it is unfortunate but true, and we need to take action now to meet our future energy needs.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I am sure my friend from Illinois is not condemning my friend from New York for being right on this issue, is he? The gentleman may be right once in a while, let us praise him for it.

Mr. ANDERSON of Illinois. Let us be candid. I was prepared to support a program of loan guarantees for New York City. I was prepared to help my friend from New York City with that problem he faced in New York, but I would suggest that it comes with very poor grace for those who would guarantee that kind of loan to say now that the Federal Government, by seeking to enter into what is really a joint venture with private capital and private industry in this country, that we are not serving the interests of our country.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, this is an usurpation of private capital. Indeed, the major oil companies say they do not want it for that reason. It is an undue intrusion of the Federal Government into the private capital market.

Mr. ANDERSON of Illinois. Mr. Speaker, I am not going to listen to that kind of argument because the gentleman is saying what my dear friend from Wyoming tried to say, or some other Member said, a moment ago, that we are socializing losses. We are not socializing losses.

In this legislation—and correct me if I am wrong—the loan guarantee authority is limited to a maximum of 75 percent of the cost. Industry will be required to invest very substantial amounts of its capital and share the risks. If these plants go broke, they are going to lose their portion of the financing and the equity capital that they have furnished. These simply are not riskless enterprises, and we ought to be glad after all these years that we have finally got going on an energy program. We can be proud in this House if we leave this floor today having adopted this conference report and having sent this bill to the President's desk for signature. I know it is going to be signed; I am sure it will be. We can be proud that this Congress has finally, after more than 11 long months, done something.

Mr. OTTINGER. Mr. Speaker, the gentleman asked if anyone thought his facts were wrong; I think the gentleman from Illinois is wrong.

Mr. ANDERSON of Illinois. I was not really anticipating that the gentleman would agree.

Mr. OTTINGER. Under the actual conditions of this legislation, during the construction period the Government guarantees 90 percent, which means that if these things go sour, and the evidence that was given to our committee showed that these highly uneconomic processes are likely to go sour, the taxpayers are likely to have to pick up 90 percent of the loss. The Government takes 75 to 90 percent of the risk while the companies make 100 percent of the profits.

Mr. ANDERSON of Illinois. Let me ask the gentleman one question: Does he want these plants or not? Does he want these synthetic fuel plants constructed in this country? Does he want to do something, or does he not, because if he does, then he had better vote for this conference report and see that this legislation becomes law, or those plants are not going to be built.

I admire people who have the ability to change their minds. I do not know whether he is on the floor now, but the gentleman from California (Mr. BROWN) and the gentleman from Colorado (Mr. WIRTH) had the courage to come before the Committee on Rules and say that they had many of the very same fears the gentleman had originally, but after thoughtfully considering the work of the committee, after going through the hearings, after attending the hearings, they had decided that this was good legislation.

Before I yield further, I want to address myself to one more point, because we had heard the ugly charge of monopoly raised by my friend from Wyoming (Mr. RONCALIO); that we are somehow going to foster in this country a monopolistic enterprise if we adopt the financing or loan guarantee provisions of this legislation. I wonder if he is aware of the congressional monitoring that must go on under the specific language of the legislation, that all of the regulations and the report for implementing the program must be submitted to Congress within 180 days after the bill has been enacted; and that prior to issuing any guarantee or commitment ERDA must submit to Congress a full and complete report on the proposed facility. The guarantee cannot be finalized before that has been done, or prior to the expiration of 90 days.

Hear this: Prior to issuing any guarantee or commitment where the cost exceeds $350 million, the guarantee cannot be finalized if within that 90-day period, that review period when the matter lies before the Congress, either House, either the House or the Senate, passes a resolution against the guarantee or project.

This House would be derelict in its duty, I would suggest, if we permit a situation to develop in this country where we approve projects of the magnitude that I have described without looking very closely and very carefully into whether or not they would preserve a competitive situation within the industry.

Mr. Speaker, let me make one final point on this matter of monopoly. There is a further specific provision that ERDA must consult with the Secretary of the Treasury and request written comments from the Attorney General and the Chairman of the Federal Trade Commission prior to the issuance of any guarantee or commitment.

The Antitrust Division of the Department of Justice will have ample opportunity, with written comments, to pass on any loan guarantee proposal that is made in excess of $350 million.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I will yield to the distinguished chairman of the committee, the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I congratulate the gentleman on his statement.

As I understand the situation, this loan feature was proposed by a Democratic candidate for President, and then after careful study it was approved by a Republican President. It seems to me that should be a message loud and clear to this question.

Mr. ANDERSON of Illinois. Mr. Speaker, I think the gentleman from Texas (Mr. TEAGUE) makes an excellent point. This is a bipartisan measure. We do not have the liberal-conservative dichotomy represented on this issue. There are liberals who are for it; there are conservatives who are for it. There are Democrats who are for it and there are Republicans who are for it, united in the conviction that we need an energy policy, we need to get started, and this program is the best program we have.

Ms. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I will yield to the gentlewoman from Colorado.

Ms. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding.

I am delighted to hear how presidential candidates might vote, but that does not exempt us from acting properly as a legislative body. The gentleman mentioned he felt there have been adequate hearings on this, and I am wondering where the hearings are printed.

Mr. ANDERSON of Illinois. Perhaps the gentlewoman was not on the floor.

I will yield to the distinguished chairman of the committee, the gentleman from Texas (Mr. TEAGUE), to answer that.

Mr. TEAGUE. Mr. Speaker, I would like to ask the gentlewoman if she knows there were hearings in Denver, Colo.?

Ms. SCHROEDER. There were hearings in Denver, Colo.

Mr. TEAGUE. Did the gentlewoman attend the hearings?

Ms. SCHROEDER. No. They were scheduled during the time Congress was in session.

Mr. TEAGUE. Did not the gentlewoman attend the hearings in her hometown?

Ms. SCHROEDER. I did not attend any hearings in my hometown because I was elected to serve my constituents in Washington, D.C., when the House is in session.

I would like to know where the hearings were printed up, so I can read them.

Mr. TEAGUE. If the gentlewoman will check, she will find out from the Government Printing Office that there were no committee hearings printed. We can get the conference report printed, but there were no committee hearings printed.

Ms. SCHROEDER. The only way I can find out about these sections would be to attend the hearings in Denver, Colo., held when Congress was in session?

Mr. TEAGUE. The hearings have not been printed, but there are public copies available to anyone to read.

Ms. SCHROEDER. Did the committee mark up anything that looked like the loan amendment bill?

Mr. TEAGUE. As the gentlewoman well knows, any bill that goes to conference may have items that are not considered in the other body or items in the other body that are not considered over here.

I said to the Committee on Rules yesterday that the House had not voted on this, and certainly they should have a chance to hear the debate and vote on it. That is what we are doing here today.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. Since I mentioned the gentleman's name, I think I should yield to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for yielding. I do not mind the gentleman mentioning my name at all. At this time I will yield to my colleagues who have questions to be answered, and then I will ask for time.

Mr. HAYES of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I will yield to the gentleman from Indiana (Mr. HAYES).

Mr. HAYES of Indiana. Mr. Speaker, I thank the gentleman for yielding.

How in any way has the gentleman resolved the economic problem that in the event these loan guarantees are granted and the commitment of the U.S. Government's full faith and credit, backed up against the shale projects and the gasification projects, and the prices of the end product still remain at the 1½ to 1 ratio that they may, in the case of shale, or even 2 to 1, and in the case of gas that the marketable gas would be perhaps $3 or $3.50 per cubic foot?

While the regulated interstate market is 50 cents and the unregulated intrastate market is around $1.50, what will happen in the economic nonviability of the end product of those synfuel demonstrations? Will we then support those with price supports, or will we allow defaults on the loans, or what will happen?

Mr. ANDERSON of Illinois. Mr. Speaker, I do not suppose any of us can pretend to have a complete answer to the gentleman's question.

Anyone who supports projects of this kind, which are essentially demonstration projects, must realize there is no simple answer.

The gentleman is simply trying to make light of the fact that we go on with this program of demonstration projects in the area of synthetic fuels, and I do not agree that we should make light of it. Certainly there are risks involved. That is the reason why we have set up a very elaborate monitoring system, the one I just pointed out, whereby the Congress will have ample opportunity to scrutinize every one of those projects and make a decision at that time whether or not it is the kind of venture in which the Federal Government should participate with a loan guarantee.

I trust the Members of this House and the members of the committee who will have these proposals before them will use discretion and judgment with respect to the decisions they make.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, in pursuit of what the gentleman has been saying so eloquently and so well, I would simply like to share with him and the Members of the House the experience of the Committee on the Budget recently in taking testimony from a group that has been engaged since 1964 in coal liquefaction research.

This is not a big oil company; it is not one of the major oil companies; in fact, it is not even an oil company. The gentleman I refer to is the chairman of the board of the Dynalectron Corp., and he was testifying.

I have on my desk in my office a little vial of crude oil that was produced in one of these pilot plants that this company perfected in 1967. It has been going on that long. We asked this man what by known technology could be done in the way of producing a high-grade, low-sulfur-content fuel oil out of coal.

He replied that by the H-coal process, which now has been developed, in a plant of sufficient capacity to turn out approximately 50,000 barrels of oil a day we already could produce high-grade fuel oil from coal at approximately $9 a barrel.

Of course, though, the roadblock is that although that would be a competitive price on today's world market, to build a plant of that capacity will cost several hundred million dollars. The estimates range, depending on whether it is from bituminous or subbituminous coal, from somewhere between $470 to $750 million. The difficulty is that private capital simply cannot be discovered in today's circumstances. It does not exist to put that kind of a massive commitment into building one of these plants when they would be vulnerable to a sudden fluctuation brought on by the Arabs because their product might be rendered obsolete.

The Arabs could at their whim suddenly reduce the price of international oil and render their product noncompetitive.

Therefore, it seems only natural that if we want to have replacements before we run out of oil and gas, the Government must do something to make it possible for private investors to go in and take those risks. The Government has taken risks of this kind before. The little country of South Africa has invested more than a billion dollars in this field.

Mr. Speaker, our gross national product is 40 times theirs, and here we are quibbling about $6 billion in loan guarantees to make this country energy self-sufficient.

Mr. ANDERSON of Illinois. Mr. Speaker, I want to thank the gentleman from Texas for his usual very able explanation and for the fashion in which he has demonstrated the very point I was trying to make.

I know we live in a day and in an age when energy companies are not popular, particularly the large oil companies, which seem to be the target for all kinds of venom.

Some of it is not altogether misdirected, but I do not think that our emotional feelings in that regard should deflect us from what ought to be our purpose here today, and that is to try to get on with a balanced energy program.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from Illinois (Mr. ANDERSON) made reference to my testimony yesterday before the Committee on Rules supporting sections 102 and 103.

I think it is important at this point to point out that when I was in deep opposition to the bill last July and September, it was a very different bill from what we are considering today.

I would commend to my colleagues that they read the committee report, pages 48 to 60, which clearly outline all of the very good safeguards and precedents that have been built into the legislation to make sure that most of the concerns we have related to the environment, social and economic impact, size and scope of the impact, and intergovernmental relationships are very, very carefully covered.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Colorado (Mr. WIRTH) for making his contribution. I know that he had drafted legislation of his own that he planned to introduce; and he stated, as I recall it, that he felt the committee product was in some respect perhaps superior even to his original idea of what this bill should be.

Mr. WIRTH. Mr. Speaker, if the gentleman will yield further, we had developed and prepared a piece of legislation based on the very extensive hearings in which the gentleman from Arkansas (Mr. THORNTON) and I had the privilege to share, before the Committee on Science and Technology.

That separate piece of legislation which I had introduced included a great number of provisions, about 95 percent of which are now included in this piece of legislation. I happen to believe that this redraft of sections 102 and 103 is a very good one and protects the interests of the State of Colorado and of the Rocky Mountain region, and that is very, very important to us.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, I want to associate myself with the statements that the gentleman from Illinois (Mr. ANDERSON) has made.

If anyone wants to go back to the record, he will note that almost 3 years ago I made the very statement on this floor saying that until we found a way to help in the financing of the gasification and liquefaction of coal, we would never get it done.

We have perfected plants in business in seven countries, made by a company out in western Pennsylvania. They could not sell it to U.S. operators because its cost is $300 million. Add to that even a reasonable rate of interest on the bonds, and we have a plant costing something like $600 million to $700 million.

The South Africans just bought one. They put it into production. I was there right when the gas was coming off on its first full run. They are producing gas with plants we have developed, but it is the money that is needed. It is the finances. That is the very thing which is destroying much of our industry in this country today. We just cannot build with borrowed money, especially in this field.

Ever since that 3 years ago which I mentioned, I pointed to the weakness of our attempts to build an energy program. If this bill had been in existence for the last 3 years, we would be well on the road to having 16 more new energy-giving plants in this country and we would be at least $3 a barrel away from the price we have to pay for oil today.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. DENT) for his support, and I urge the adoption of the conference report.

Mr. PRICE. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I will be very brief.

I want to congratulate the gentleman from Wyoming for his excellent statement.

We really ought to look at the energy picture as a whole. We should not segregate it or parcel it out.

I would be against the conference report even if it did not have sections 102 and 103 in it. I think that somebody certainly ought to make this point because this ERDA authorization so disproportionately emphasizes the nuclear options and so grievously deemphasizes conservation, solar energy, geothermal energy, and other renewable sources of energy.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I would like to complete my remarks and then I will yield to the gentleman.

Mr. Speaker, all the evidence we received in our committee indicates that a barrel of oil saved through conservation would cost a small fraction of what a barrel of oil produced through any of the exotic methods that are provided for in this legislation which is where the majority of the money goes. We are talking about billions for nuclear energy and we are talking about billions for synthetic fuels but the bill provides only a comparative pittance for solar and conservation. I believe that this is an upside down emphasis for this House to be taking in our efforts to become energy independent.

I think the energy package should be considered as a whole. The whole picture ought to be before us so that amendments can be made. That procedure is not available with respect to questions on sections 102 and 103. They should be defeated.

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman will yield, I would point out to the gentleman that section 103 does provide for an energy project. I do not see how the gentleman can say that it does not support their goal. It provides for a gasification program.

Mr. OTTINGER. I decline to yield further until I reply to the gentleman from Illinois.

The gentleman from Illinois indicates this program is available for solar and geothermal guarantees. However, the testimony by ERDA shows that it was designed for commercially sized demonstrations of oil shale and coal gasification plants. When we look at the figures given by ERDA for the two oil shale projects that ERDA contemplated plus the four gasification projects that ERDA contemplated, this would more than account for the $6 billion guarantee. There would be no money left for solar options. This was added as a sweetener, but it is just a sop.

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman will yield further. second, the other point I want to make was with reference to the argument that the authorization is disproportionately scheduled in favor of nuclear power. This is because this is an established and an ongoing program. Since 1954 we have had a demonstration power reactor program, for example, for 20 years. In contrast to that, these other programs such as solar energy, which I support, are just getting started, they are not in an operational phase, they are in a preliminary phase. But, as the gentleman from Washington (Mr. Mc-

CORMACK) pointed out, there is a 300-percent increase in the authorization for solar energy.

Mr. OTTINGER. Well, 300 percent of virtually nothing is still virtually nothing.

The fact of the matter is that we have not put in anything like the effort that we did into the development of nuclear energy into solar energy, windpower, ocean power and the other options we have been exploring; we have done some, but only to a miniscule amount. If we were to put anything like the money behind solar and conservation that has been devoted to nuclear development, then we would get the same kind of growth in these sources of clear, renewable energy.

Mr. HAYES of Indiana. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Indiana.

Mr. HAYES of Indiana. Mr. Speaker, from the remarks made by the gentleman from Illinois (Mr. ANDERSON) it is possible, I am convinced, that not many of us understand what a loan guarantee is and what the Government is getting itself involved in as a loan guarantor.

The gentleman mentioned a moment ago, I think, that he thought that this was a joint venture. That is not true. There is no joint venturism at all. But, instead, we are doing what the banks are doing, as described by Chairman Burns of the Federal Reserve. When they are pushed up against the limits of their capability all they do is issue a little device of standby letters of credit. This does not appear on their loan capabilities or statistics at the end of the year for the bank, yet they are indeed laden down with these and we as the Government would indeed be laden down by them. My point to the gentleman is that these are not commercial certificates at all, they are billed as commercial certificates, but they are not, and for the purpose of loans in the marketplace they are out of funds.

Mr. OTTINGER. If we guarantee the $6 billion proposed here for synthetic fuels, it will raise the prices that have to be paid for other Government securities.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, when I first came to this body more than 20 years ago, there was a project up in Maine to generate electricity in Passamaquoddy Bay from the oceantides, and they had been trying for years to get this project going, but the oil companies and some of the coal companies, and the oil companies now own practically all of the coal companies, killed that project.

They do not want solar power. They do not want any kind of hydroelectric power. They just want the power on which they will make a lot of money.

Mr. OTTINGER. I have often said if we could only get Standard Oil to own the sun, we would have no trouble getting approval of solar energy.

The SPEAKER. The time of the gentleman has expired.

Mr. PRICE. Mr. Speaker, I yield the remainder of my time to the gentleman from Washington (Mr. MCCORMACK).

Mr. McCORMACK. Mr. Speaker, there are several points I want to review with the Members with respect to that portion of the ERDA authorization bill that is before us having to do with the nuclear energy program, because that really is what we are considering. I want to point out, first of all, that the major programs in nuclear energy are already well under way, and this is why they are quite large.

The breeder program for fiscal year 1975 was set at $538 million. It will be at $546 million under this bill, an increase of 1 percent. It is a large ongoing program. Other fission work, having primarily to do with midlife maintenance of light water reactors including the fuel cycle goes from $37 to $76 million. That is an increase of 105 percent. Fusion research, both magnetic confinement, and laser fusion, goes from $189 to $301 million. This is still in the research stage. That is an increase of 59 prceent.

We are talking about spending money, I think it would be interesting for us to recognize when we talk about billions of dollars that, in all likelihood, we will spend $10 billion of Federal money on fusion research between now and the year 2000 before we ever even expect to get our first economic kilowatt of electricity back, a program that will run for 35 years and cost $10 billion before we even think about getting power from it. I think it important to recognize that we are dealing with long-range benefits in research, and development and demonstration. These are the sort of benefits that are accrued, not as magic panaceas in today's world, but which we can hope to derive in the future when these technologies become truly practical.

I want to talk to the Members just a minute about this continual argument that is made by some that if we dumped a lot of money into solar energy, it would somehow solve all of our problems. I want to suggest to the Members that if we were to dedicate the entire Defense budget this year, some $90 billion, and put it all—every penny of it—into solar energy heating and cooling, this would provide between 1 and 2 percent of this Nation's energy requirements.

That is not a matter of imagination or speculation; it just simply is mathematics on what it costs to establish solar energy units for private homes. It is just a silly fantasy to pretend that we are going to solve this Nation's energy problems with solar or geothermal energy, or that they are going to have any significant impact until late in this century, any more than nuclear fusion. So we are talking about here research and development whose benefits are long-range benefits.

Additionally, I want to point out to the Members that I mention these increases in nonnuclear areas, the 246-percent increase in solar energy, which is still in the research stage, and the 373 percent increase in energy conservation, which is essentially in a new program, because these are the areas that are growing now. We have just started these programs, along with the geothermal, where we have the 65-percent increase.

I want to point out to the Members what I said earlier. This Nation not only is running out of petroleum and natural gas, but our imports of petroleum have now increased from about 35 percent 2 years ago to 41 percent today. Our domestic oil production is down about 10 percent. Our domestic gas production is down 10 percent. Our coal production has scarcely changed. Here we are in the midst of the greatest threat to this country that we have experienced since the Second World War, and we are arguing about details and procedures and committee jurisdiction.

What we need to be doing is solving the energy crisis. I want to point out to the Members we could establish extraordinarily successful, spartan conservation programs for the balance of this century, and develop aggressive programs for oil and gas exploration and drilling onshore and off, and do everything we could to double or triple our coal production, and get all the 240 nuclear plants that are on the line or under construction or on order in the next 10 years, and get all our hydroelectric sites developed, and we would still have to import as much oil as we are importing today, because if we did not we would be causing massive unemployment in this country.

That is what we are talking about. We are talking about maintaining this country's economic stability. There is a direct relationship between the gross national product, energy consumption and employment in this country.

Every time we talk about cutting 1 million barrels of oil from this country's energy production, we are talking about losing 900,000 jobs. That is what we are talking about.

This entire bill that the House passed and the part the Senate added later on is an energy research, development, and demonstration program to obtain information. The argument that this loan guarantee program will not produce vast quantities of oil is totally specious. It has almost nothing to do with the intent of these loan guarantee programs. They are designed to provide information about the technical and economic feasibility of these systems in coal gasification and coal liquefaction, both in situ and out of the ground, on oil shale, urban waste recovery, solar energy, geothermal energy—this entire spectrum of energy options.

To the extent we get actually some 300,000 barrels of oil a day out of these sysems or the equivalent in gas or the equivalent in other benefits, this is all to the good. But the fundamental program is to gain information and give this Nation the time that it needs to make intelligent decisions after these programs have been evaluated.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Speaker, I want to say the gentleman in the well is making one of the most statesmanlike utterances I have heard in this or any other discussion. He is talking sense the American people need to hear.

My concern is not about the $6 billion.

I want to know whether that is enough or not, because this country has got to have this energy. I would like the gentleman to comment on that.

Mr. McCORMACK. I thank the gentleman from Florida for his remarks.

I do not think it is possible for us to answer the gentleman's question today. We simply will have to go ahead with the start we have made and get the information and evaluate it. I do not think we can answer his question today any more than we can answer what our water requirements will be or what the environmental and social impacts will be or what effect the energy demands will have on our copper and steel production in this country. All these questions must be answered before we can make intelligent decisions. As far as the question whether or not the program is big enough, I do not think we will know that for a while.

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Speaker, I appreciate the gentleman yielding.

This reminds me of some history I thought about when the automobile came into use when the people who had horseshoe shops and blacksmith shops and the carriage makers' shops said the automobile was going to put all these people out of work. What they did not realize was it was going to start a whole new industry which would put people to work.

That is what we mean with the energy program and the solar cell development. I think we will put people to work and create more than 900,000 jobs the gentleman says we might destroy. It is much like the computer industry in the 1950's which replaced the vacuum tubes, and the integrated circuits were very expensive at first but once they were mass produced the price came down and more and more people went to work in the computer industry.

I believe the same thing will be held true for the development of solar energy in this country. I do not think we have to raise the spectacle of a strawman, so to speak, of losing jobs. Rather, I think we can show that we are going to create jobs by going in the area of mass producing solar energy in this country.

Mr. McCORMACK. Mr. Speaker, I thank the gentleman for his remarks and I hope we can do what the gentleman hopes.

I want to point out that the subcommittee which I chair, and on which the gentleman sits included $36 million for 1976 for solar cells development, along with similar funds for thermal conversion, wind energy, bioconversion to fuels, ocean thermal, solar storage, and related programs.

Mr. HARKIN. Mr. Speaker, if the gentleman will yield further, $36 million compared to $6 billion is a drop in the bucket.

Mr. McCORMACK. True, it is a small amount compared to $6 billion but it is in the best judgment of all the scientists and engineers in this field a totally proper amount for this stage of development. It is for this year for one type of solar technology. The $6 billion is for 30 years for all technologies.

The one thing we have to realize is that we cannot wish ourselves overnight into success on some attractive idea.

Mr. HARKIN. If I can refer the gentleman to the report that came out of the Atomic Energy Commission not too long ago, they stated that by 1980 we could have a substantial resource.

A recent National Academy of Science's report on mineral resources and the environment and the AEG Subpanel IX Report stated:

> Large scale photovoltaic systems should be technologically ready by the early 1980's and available in huge amounts by 1990. Useful lifetime of a system should be between 20 and 30 years and maintenance should be as minimal as the use of hydro-electric power.

So we can go ahead with it.

Mr. McCORMACK. Mr. Speaker, I thank the gentleman for his remarks. That is the very reason we put the money in it and, as the gentleman knows, we are putting more in in the fiscal year 1977.

Mr. HARKIN. But if we do this artificially, as the Wall Street Journal pointed out this morning, people may use the marketplace to push it into one sphere, as opposed to another sphere and we are going to create an artificial situation.

Mr. McCORMACK. I think this last argument is not valid. The amount of money required for energy capitalization far exceeds $6 billion, and this Congress can easily provide what is required for all legitimate research and development.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent to insert an editorial from the Wall Street Journal called, "Review and Outlook."

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The editorial follows:

[From the Wall Street Journal, Dec. 11, 1975]

BURP!

The cover of the current issue of Newsweek is suitable for framing and would make a nice Christmas present for every member of Congress. Under a heading that reads, simply, BIG GOVERNMENT, sits an illustrated Uncle Sam weighing several hundred pounds, bloated and ready to burst.

How does he get so fat? Even though he knows he should slim down, Sam cannot resist eating tempting morsels. This week it's a $6 billion loan-guarantee program of the Energy Resources Development Administration to develop synthetic fuels. The bureaucrats say "synfuel." When this bold new program hit the Senate floor Tuesday, it was gobbled up by an 80-to-10 vote. No hearings. Almost no debate. About the only opposition came from the liberal Democrats, not because another $6 billion is fattening, but because it doesn't suit their environmental tastes.

Why should the federal government be getting into the business of developing synthetic fuels? Well, er, there's an energy crisis, isn't there? Can't we invent our way out of it? Like the Manhattan Project? Turn our scientists loose and have them find ways to turn coal into gas or coal into oil or squeeze the petroleum out of shale. Private enterprise, not Uncle Sam, really does the job. The government only puts up the cash, indirectly, by guaranteeing loans that banks would otherwise deem too risky. Jobs will be created, won't they? And because Uncle Sam doesn't do any of the actual work, it doesn't make the government bigger, does it?

It is this kind of rationalization that tempts even the congressional conservatives, who would decry the scheme if it meant setting up a Federal Synfuel Corporation. But there is no significant difference in handling the scheme one way or the other. ERDA bureaucrats, not the marketplace, will decide which synfuel projects get the priorities. ERDA bureaucrats, not the marketplace, will decide which companies get the loan guarantees. ERDA bureaucrats, after heavy lobbying from the politicians, will decide which regions of the nation will be favored with demonstration projects.

To their credit, the great majority of the petroleum companies oppose this scheme because they know how damaging it will be to the national economy. Instead of applying their financial and technical resources to research projects that seem to be the most economically promising, the industry will be wagged by Washington. To remain competitive, companies will be forced to focus their efforts on politically pet projects, engaging in energy grantsmanship in the same way that city and state officials fought for federal matching funds in "solving" the urban crisis. Cities abandoned their own priorities, for which no free money was available, and adopted the federal priorities. The $6 billion ERDA scheme is conceptually the same as an urban renewal scheme, and might as well be called Energy Renewal.

The fact that the $6 billion would not be a direct expenditure of tax money, and would not show up as an item in the federal budget, is only fiscal gimmickry. The economic effect is the same as if the government squeezed $6 billion in taxes out of the private economy where it would be spent economically, and shoveled it into projects that are, by definition, uneconomic.

There is business support for the ERDA scheme, mostly from the natural gas producing and pipeline companies, which have become uneconomic because of previous meals Uncle Sam has made of them through price controls. They apparently figure they might as well blend uneconomically low-priced gas with uneconomically high-cost gasified coal and somehow come out even. Thus, the solution to problems caused by government interference is more government interference.

Although they might hate to admit it, those conservatives who so easily swallowed the ERDA bill helped move Uncle Sam toward nationalization of the energy industry. The synfuel project will inevitably become more costly, wasteful, corrupt and politicized, and as a "solution" to these problems Uncle Sam will be asked to step in and do the job right. That's how he gets so fat.

Mr. RONCALIO. Mr. Speaker, the gentleman from Illinois (Mr. ANDERSON) said we could review these programs. Perhaps we could review how foolish it was for ERDA to grant to ETSI, a $400,000 cash outlay to study how coal should be removed from Wyoming by railroad or slurry. It happens to plan a slurry line to move coal from Wyoming to Arkansas. That is what their answer was, by coal slurry pipeline, of course.

Now, I submit in good conscience they should return the check to the Treasury and say, "Tell the people of the country, tell the lawmakers that we are embarrassed, we are sorry. We should never have taken it. This is a reflection upon Federal grant programs, as well as upon our Bechtel people."

How many millions of dollars are wasted annually like this, Mr. Speaker?

Let me answer the gentleman from Illinois (Mr. ANDERSON).

As the Wall Street Journal pointed out:

> The fact that the $6 billion would not be a direct expenditure of tax money, and would not show up as an item in the Federal budget, is only fiscal gimmickry. The economic effect is the same as if the Government squeezed $6 billion in taxes out of the private economy where it would be spent economically, and shovelled into projects that are, by definition, uneconomic.

That is the objection I raise. I think everyone, including the gentleman from Texas (Mr. TEAGUE), the gentleman from Washington (Mr. MCCORMACK), and the gentleman from Illinois (Mr. PRICE) have done a heroic job in a very, very difficult, hopelessly complex field.

I think we ought to reject sections 102 and 103.

Mr. DRINAN. Mr. Speaker, I rise in opposition to sections 102 and 103 of the ERDA authorization bill, H.R. 3474. These sections would provide for a $6 billion loan guarantee and demonstration program, and while I believe that this program was well-intentioned, I think it is doubtful that the provisions will lead to a balanced and well thought out energy policy for this country.

I would like to state from the outset, Mr. Speaker, that I am not a disinterested participant in this debate. I have filed two major pieces of legislation which are directly affected by the loan guarantees in H.R. 3474. The Industrial Energy Conservation Act, H.R. 8494, which has received hearings in both the House and the Senate, and the Solid Waste Energy and Resource Recovery Act, H.R. 9438, both contain loan guarantee provisions similar to section 103. Should the ERDA authorization bill be enacted then, parts of legislation which I have introduced would in all likelihood become law. In spite of this outcome, however, I still feel that it is necessary to oppose sections 102 and 103 as an unwise energy expenditure at this time.

Up until recently the Ford administration has opposed a major incentive program in the energy field, except in the area of nuclear power. The President has consistently refused to accelerate Federal research, development and demonstration programs in energy conservation, solar power, and other alternative energy sources. But then in early September, the administration changed its position by announcing its urgent support for the Senate loan guarantee program as a vital step toward energy independence.

Mr. Speaker, I fear that the President's sudden change of heart might very well lead to the enactment of a hastily conceived program whose provisions were not adequately investigated by the Congress. The loan guarantee and demonstration sections of the ERDA authorization were passed by the Senate without hearings or debate. The House never considered sections 102 and 103 in the original authorization bill, and focused hearings held in the House Science and Technology Committee formed the only basis for a congressional legislative history. Although I feel that the Science and Technology Committee performed a commendable task in reviewing sections 102 and 103, greater scrutiny is certainly warranted. In the hopes of saving a few months, we may, in fact, be committing ourselves to costly and inefficient technologies whose benefits do not justify the Federal moneys which we are committing.

Mr. Speaker, I think that it is quite apparent that the oil shale and coal gasification systems will receive by far and away the greatest share of loan guarantees. From that standpoint, I am concerned that these systems could be premature for commercialization even with massive Government funding. In view of the fact that the current estimate for shale oil is $17 per barrel, and the process of producing gas from coal costs the equivalent of $23 per barrel, I question whether this synthetic fuels program is a good investment for the taxpayer. I am also troubled by figures which indicate that the Federal Government might request many millions of dollars more for community impact assistance, price supports, and construction grants.

Apart from the huge economic cost, the possible environmental and health dangers must be considered as well. Air and water pollution, the disposal of waste products, strip mining, and massive construction projects will severely impact many towns and States whose coal and oil shale deposits are mined and reprocessed. The difficulty of obtaining scarce water resources and the possible incidence of increasing cancer are additional environmental and health factors which cause me to question the need for such a loan guarantee and demonstration program without further study.

Mr. Speaker, in addition to providing loan guarantees for synthetic fuels, section 103 will extend Federal help for geothermal, biomass, and industrial energy conservation demonstrations. The House conferees were responsible for inserting these energy conservation and alternative energy source provisions into H.R. 3474, for which they should be commended. These insertions improve the impact of section 103 considerably. However, in spite of the Congress' good intentions, I sincerely question whether these provisions will amount to little more than tokenism when ERDA implements the legislation. ERDA opposed the inclusion of renewable energy sources and conservation in section 103's loan guarantees, and I think that it is quite likely that no meaningful progress would be taken in these areas. This conclusion is buttressed by analyzing section 103, where we see that the Administrator's authority to make guarantee commitments for energy conservation, biomass or geothermal demonstrations is discretionary.

We are presently debating a section of the ERDA authorization which would bring about a total of $6 billion in loan guarantees. I would like to emphasize the enormity of that figure, Mr. Speaker, when the Congress considers the cost effectiveness of this legislation. Energy conservation has been shown to be far more cost effective than the development of synthetic fuels, but we find ourselves giving the lion's share of these guarantees to a technology which has not sufficiently proven itself. It would seem that in enacting sections 102 and 103, we will be draining capital away from other promising energy alternatives and focusing our resources on an area that does not deserve such a large commitment.

In conclusion, I doubt the wisdom of attaching sections 102 and 103 to the ERDA authorization bill. I am afraid that much of the synthetic fuel program would not prove to justify such a large amount of loan guarantees. This expenditure would in all probability become part of an unwise energy policy which does not give proper emphasis to alternative sources and other cost effective energy strategies. Thus, I think it incumbent upon the House to oppose this part of the ERDA authorization legislation.

Mr. VANIK. Mr. Speaker, I rise in opposition to section 103 of the ERDA Authorization Conference Report. Section 103 is particularly disturbing to me for two reasons.

I am just as concerned about the implications that this bill has on the environment, investment practices, Government interference and control, and on how coal liquefaction and gasification fit into our national energy goals. However, I have been dealing with two other areas for some time now—the development of legislation by conference committee and the implications of section 103 for the energy industry.

In essence, we are here considering the work of a third legislative body, the conference committee. As I have pointed out on previous occasions, the House can pass a bill, and the Senate can pass another version of the bill, but by the time the conference committee finishes with the combined proposals, the final product can look like a legislative Frankenstein. No one recognizes the final product and no one wants to claim it.

In the closing days of a session of a Congress especially, the Members of the parent chambers have little or no opportunity to examine and thoroughly determine what they are voting on in approving the conference report. The confusion that often accompanies a conference committee and the approval of its work leaves the system open to abuse—to the last-minute insertion of new language that has not been thoroughly aired to the full House or Senate.

This is the case with sections 102 and 103 of the ERDA authorization conference report. I am aware that the House Committee on Science and Technology conducted many hours of hearings on section 103. However, the House originally passed this legislation without section 103 on June 20. The hearings by the Committee on Science and Technology on section 103 were not held until October, in order that the conferees might be familiarized with the Senate proposal for guaranteed loans. In addition, these hearings have not yet been printed, so that only the handful of Members or conferees have had access to this background on guaranteed loans.

Mr. Speaker, I am opposed to the railroading of this or any legislation through

Congress simply because we are in the closing days of the session. I am, however, encouraged by the decision to give Members a chance to voice their concern and opposition or support for sections 102 and 103 through the special rule that has been adopted for this bill. Nevertheless, it is in such times that some of the worst mistakes have been made by Congress.

In addition, the treatment of this legislation by the conference committee points out once again the need for open and fully recorded conference committee meetings. I am also encouraged by the openess of the conference with regard to the addition of sections 102 and 103. Too much vital legislation has been agreed to behind closed doors with millions and billions of dollars at stake. Here, however, we have a chance to challenge what the conference committee has done. Closed doors could have clouded the issue even more than it already is with respect to the feasibility of section 103.

The second point that I wish to address is who will benefit from this legislation and how they will do so. Much issue has already been made on this point. The oil and gas companies who already have a stranglehold on the supply and development of our Nation's energy would once again be subsidized by Congress. We are here underwriting an industry that persists in a policy of noncooperation with the public and their elected representatives. Claims were made 10 years ago that synfuels were economically practical when oil and energy prices were less than a third of what they are now. If these synfuels are going to be produced, then they should prove that they can do so on their own, without Government underwriting such as this guarantee program. We are dealing with established industries who merely do not want to risk their profits in investing in shale and coal treatment facilities. Once again, the Government appears to be playing into the industries' hands.

As a result of the inadequate hearings that have thus far been held on this bill, we have not been able to consider the guaranteed loan program for synfuels in light of national energy goals. We also seem to be setting a major precedent here that requires more study.

Finally, this appears to be an imbalanced proposal. I must confess that I was drawn to it initially because of its promise of help for increased solar energy demonstration projects. However, after further study, it appears that after the three high Btu coal gasification plants and the two oil shale conversion plants that are contemplated are constructed, there will be very little if any of the $6 billion authorization left over for solar, geothermal, and other clean technologies. Solar energy has the potential of supplying 25 percent of our energy needs by the year 2025. It is economical and infinite. However, we insist on pouring billions of dollars into questionable programs such as this one.

Mr. Speaker, the questions of orderly process and national energy goals need much more consideration and fair and open treatment than have thus far been provided for in this bill. While I commend the committee for its efforts to investigate the implications of sections 102 and 103, I hope that my colleagues will join me in voting against these two sections, so that more thorough study may be given them that all the members of the House may avail themselves of.

Mr. MINISH. Mr. Speaker, I rise in support of the conference report on H.R. 3474 authorizing funds for the Energy Research and Development Administration for fiscal 1976. The conference report provides for a much-needed substantial acceleration of research, development, and demonstration in a number of important energy fields.

The following figures illustrate the dramatic increases contained in this measure—increases which are absolutely essential if we are to achieve energy independence in the 1980's.

TOTAL ENERGY R. & D. BUDGET

[In millions]

Fossil energy:	
Fiscal 1974	$149
Fiscal 1975	386
H.R. 3474: Fiscal 1976	498
Solar Energy:	
Fiscal 1974	23
Fiscal 1975	50
H.R. 3474; Fiscal 1976	173
Geothermal energy:	
Fiscal 1974	13
Fiscal 1975	34
H.R. 3474; Fiscal 1976	56

Congress has clearly taken the initiative in pressing for a greater Federal effort to develop alternative sources of energy. This significant effort must continue if our Nation is to be free of foreign intimidation.

I urge approval of this pending conference report by the House.

Mr. MOFFETT. Mr. Speaker, I opposed this bill when it was considered by the House in June. In my statement during that debate, I took issue with the priorities of the bill, pointing out that it contained more funds for certain highly questionable nuclear projects than for all the nonnuclear research and development programs combined. Along with a number of other Members, I suggested that funding for the development of solar technologies was especially lacking, in light of considerable evidence that this may very well prove to be our safest, cheapest, and most reliable energy source in the long run. We joined in urging that the priorities of the bill be reversed.

Instead, the House went on that day to pass a bill which contained nearly 15 times more money for the development of the breeder reactor than for solar research and development, in spite of the many disconcerting questions of cost, reliability, and safety which surround the breeder. When Congress first authorized the breeder program, it was promised an opportunity to review the research program in full before any production took place. This review has not happened, and yet if the conference report is agreed to today, we will be funding the purchase of very expensive capital items for the Clinch River breeder reactor. Even worse was the inclusion of $897 million for nuclear weapons, which have absolutely no place in this bill.

For these reasons, I opposed H.R. 3474 in June. Now, 6 months later, the conference report has been submitted, and I discover that, if anything, the bill is even worse than before. I refer of course to the addition of a multibillion-dollar subsidy program for the synthetic fuels industry, a massive bailout for less than a handful of large corporations. No public hearings have been held on either the House or Senate side, and, indeed, the House has not even had an opportunity to consider it at all. The cost to taxpayers promises to be many times more than the initial $6 billion contained in this bill, and the cost to consumers through higher energy prices is sure to exceed even that.

Mr. Chairman, we should not be subsidizing the development of expensive energy-inefficient technologies when even the administration agrees that the contribution of these technologies will be negligible. And we certainly do not need to subsidize the giant energy companies which will benefit from this program. In my district, we have several firms working to develop alternative energy technologies such as solar heating and cooling, wind power, and the fuel cell—technologies which are safer, simpler, cheaper, more reliable, less environmentally destructive, and more likely to provide the country with a long-term energy supply. They are pioneering these fields, I should add, with little or no help from the Federal agencies charged with supporting these alternatives, because those agencies consistently pass over the small firms with the genuine innovations in favor of big businesses intent on depleting our nonrenewable sources of energy as rapidly as possible and at as high a profit as possible.

I find it impossible to decide just which aspect of this bill is the worst. I urge my colleagues to vote against the incredibly irresponsible give-away program for synthetic fuels. And I hope that they will join me, as well, in opposing the entire bill until we have had a full review of the breeder program and an opportunity to reorder the energy priorities of the bill in light of such a review.

Mr. HOWE. Mr. Speaker, I am firmly convinced that adoption of the conference report to the ERDA authorization bill is essential to achieve our goal of energy independence. For over 2 years Congress has debated the issues of the energy problem and now before us is a proposal that could unlock the enormous potential of our domestic energy resources. This bill provides dramatic increases for energy research, development, and demonstration programs in a number of important areas—fossil, nuclear, solar, geothermal, biomass, and solid waste conversion. Accordingly, we have the opportunity, in this legislation, to mark our commitment to a viable program for the development of our national energy resources.

As we know, some have criticized the loan guarantee provisions of this bill, and therefore we are engaged in the debate critics requested. It is my belief that the loan guarantee provisions of this legislation are a vital component of any national energy plan that could prove to be the most important piece of energy legislation we pass this century. Its purpose is clear—to speed the timely development of our Nation's tremendous coal and oil-shale resources.

Preliminary ERDA plans call for providing loan guarantees for two shale-oil plants, each producing 50,000 barrels a day; three plants making high quality gas from coal, each producing the energy equivalent of 40,000 barrels of oil a day; four plants, each with a capacity equivalent of 25,000 barrels of oil, making lower quality gas from coal; and five plants making fuel from solid waste.

Federal loan guarantees will make private capital available for these commercial ventures and lay the basis for an orderly expansion of the industry later in this century. The Nation is already behind schedule in launching the commercialization of first generation synthetic fuel technology, largely because private capital is simply not available for pioneering these projects. Estimates indicate that a commercial-size plant producing the equivalent of 50,000 barrels of oil a day may cost $1 billion. These enormous capital development costs mandate the loan guarantee approach—without the guarantees commercialization of synthetic fuels will simply not occur.

In my opinion, this Nation cannot afford to delay the development of synthetic fuel technology another day. Can we overlook the significance of our coal and oil shale resources when we are importing nearly 40 percent of our crude oil? No, we cannot. It has been estimated that recoverable oil from oil shale in the States of Utah, Colorado, and Wyoming is three times the amount of proven oil reserves of the Arab nations. Our coal reserves are more than double the Arab oil equivalent.

Many have expressed concern over the impact of this legislation on the environment. I fully share this concern, and after studying the synthetic fuel provisions of this bill, I am convinced that we have included the proper precautions in this legislation. This program permits only limited synthetic fuel plant construction, to be built under controlled conditions.

The Environmental Protection Agency believes the loan guarantee program is an "environmentally sound course of action that will facilitate the assessment of the environmental impacts of synthetic fuels development with a minimum of danger to the environment." Additionally, this bill earmarks $350 million for planning grants and loan guarantees for community energy-impact assistance. These funds would cover bonding obligations, guarantee anticipated tax revenues, and generally enable energy-impacted communities to absorb the problems of rapid growth. The provisions of this assistance have been carefully coordinated with State and local officials.

Section 102, authorizing the Secretary of Interior to select an appropriate tract of public land for an in-situ oil shale demonstration project, presents us with one of the most environmentally-sound energy development methods available. The in-situ method offers the possibility of eliminating the visual impact of mined materials by allowing on-site, unground removal of oil and gases. This method also substantially reduces the amount of water needed in oil shale production. Accordingly, I was pleased to see conferees adopt this provision.

The issue we are debating is whether we are willing to act now to develop our domestic energy reserves. Are we not today measuring our commitment to a national plan for an energy-independent America? Without this legislation significant quantities of synthetic fuels will not be available in 1985 and probably for some time after. Clearly, we must act now to move from the pilot-plant stage to full scale demonstration. I urge my colleagues to join me in the enactment of this bill.

Mr. BEDELL. Mr. Speaker, no one in this body can seriously dispute the importance of energy R. & D. The events of the past several years have clearly demonstrated the urgent need to construct a comprehensive national energy program that will enable us to gain control of our energy future. The stakes are high, and time is short.

Congressional debate over the ERDA authorization bill does not question the need for securing greater energy self-sufficiency. It is concerned with the means for achieving that end.

It is of paramount importance that we mobilize our energy R. & D. effort quickly and efficiently. It is equally important, however, that this effort be comprehensive in nature and structurally sound. In my view, H.R. 3474 does not adequately meet this criteria.

Last year, the Congress specifically directed ERDA "to increase the efficiency and reliability of the use of all energy sources" and "to support the broadest range of energy policy options through conservation and the use of domestic resources by socially and environmentally sound means." It envisioned a comprehensive and well-balanced R. & D. effort. It now appears Congress will not get it. ERDA's first annual appropriations request proposes to place primary emphasis on nuclear development at the expense of other options. And it does so before the relative merits and demerits of all the choices are fully known.

The ERDA authorization bill which we are considering today commits us irreversibly to the dangerous and expensive liquid metal fast breeder reactor program. This single project will now account for over 20 percent of this country's energy R. & D. expenditures. Yet, its practicability and potential cost remain in doubt.

To date, what we are getting for our massive investment in this program are cost overruns and schedule delays. Six years ago, we were told that the anticipated cost of the program would be $3.9 billion. It is now $10.7 billion and rising.

The initial projected date for the commercialization of the breeder reactor was the 1980's. We are now told that we will have to wait for the 1990's, or beyond.

And, even more disconcerting is the fact that we have no clear idea of the potential safety and environmental dangers involved in the breeder reactor program. Certainly the social costs of a program of this magnitude cannot be lightly dismissed.

H.R. 3474 in effect represents an all-out commitment to nuclear power—without adequate information about the feasibility and safety of nuclear reactors. To rush headlong down the nuclear road at this time would, in my view, be a very serious mistake.

I believe that the energy priorities established by this legislation are ill-advised. I am also disturbed by the policy implications of the bill.

H.R. 3474 is an integral part of the administration's high price energy strategy. The Ford program attempts to raise U.S. fuel prices to artificially high levels in order to discourage consumption, and to exploit fossil fuel reserves and vastly expand nuclear power and synthetic fuel production, with minimal regard for the impact on the environment, the economy, or public health and safety. Alternatives such as energy conservation or the development of "renewable" sources such as solar and geothermal energy have been given low priority in the administration's energy scheme.

H.R. 3474 is the logical extension of the program that includes increased oil tariffs, the veto of the strip mining bill, and proposals for the negotiation of a minimum floor price for foreign oil, the decontrol of domestic oil, and the immediate deregulation of natural gas. It is an unnecessarily risky policy that holds ominous implications for the American people and the American economy.

One need only look to the content of the ERDA budget for substantiation of these concerns. Although the Congress has made significant improvements in the ERDA budget, its basic premises remain essentially unchanged. Consider the following:

The conference report on H.R. 3474 authorizes $5.86 billion for ERDA for further development and conservation of energy resources for fiscal year 1976 and the transition quarter. Over $5 billion of this total is designated for nuclear purposes.

In addition, over 40 percent of the authorized funding for actual research development and demonstration for fiscal year 1976 is earmarked for nuclear purposes, and 18.7 percent for fossil fuels, as compared with 6.6 percent for solar and 2.1 percent for geothermal. And, while it is generally agreed that, for the short run, energy conservation is necessary to reduce our dependence on foreign oil, H.R. 3474 directs only 5.9 percent of its fiscal year 1976 direct R. & D. funding for conservation programs.

It is also highly significant that ERDA has already approved long-term, high-cost and high-risk projects in nuclear power, while deferring decisions on non-nuclear, nonfossil technologies.

Mr. Chairman, the energy priorities and policy implications inherent in this bill are as disturbing as they are clear. I do not support the general energy philosophy reflected in this bill or the national energy priorities established by it.

And further, I am opposed to the provisions of this bill which provide $897 million for nuclear weapons research and development. There is no reason to include such funding in an energy research and development bill.

During floor consideration of the ERDA authorization bill last June, we heard considerable debate on the pros and cons of our nuclear weapons policy. In my view, that policy is not the primary issue here. The more relevant question is why funding for the nuclear weapons program was included in this particular bill in the first place.

I do not believe that the ERDA budget is the appropriate vehicle for the authorization of nuclear weapons development. ERDA was established to solve our Nation's energy problems. Its funds should be used to help meet our country's energy needs, not to fuel the international arms race.

In conclusion, let me reemphasize my concern about ERDA's preoccupation with nuclear development. I would prefer a more balanced approach to energy R. & D., a stronger commitment to R. & D. on new sources of nonnuclear energy, on improving energy productivity, and on new programs aimed at immediate and short-term energy needs. Such a program would include continued study of the feasibility of nuclear power and it would continue to search for long-term solutions to our pressing energy problems. It would constitute the type of comprehensive energy R. & D. effort which our Nation needs.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 9883. An act to amend the Joint Resolution approved December 28, 1973, providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac, and for other purposes; and

H.R. 9924. An act to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the House Concurrent Resolution 446 entitled "a concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1976, and directing certain reconciliation action."

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10624. An act to revise chapter IX of the Bankruptcy Act.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10624) entitled "An act to revise chapter IX of the Bankruptcy Act," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Burdick, Mr. Abourezk, Mr. Hart of Michigan, Mr. Long, and Mr. Hruska to be the conferees on the part of the Senate.

The message also announced that Mr. Robert C. Byrd was excused as a conferee on the bill (H.R. 10647) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes."

CONFERENCE REPORT ON H.R. 3474, AUTHORIZING APPROPRIATIONS FOR THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

MOTION OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Hechler of West Virgina moves to strike section 103 from the conference report on the bill H.R. 3474.

The SPEAKER pro tempore (Mr. McFall). The gentleman from West Virginia (Mr. Hechler) will be recognized for 20 minutes, and the gentleman from Texas (Mr. Teague) will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. TEAGUE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TEAGUE. Would the Chair state what the time situation is?

The SPEAKER pro tempore. The Chair would repeat for the benefit of the gentleman from Texas that the gentleman from West Virginia (Mr. Hechler) is recognized for 20 minutes, and the gentleman from Texas (Mr. Teague) is recognized for 20 minutes.

Mr. TEAGUE. I thank the Chair.

The SPEAKER pro tempore. The Chair recognizes the gentleman from West Virginia (Mr. Hechler).

Mr. HECHLER of West Virginia. Mr. Speaker, I yield myself 30 seconds.

Ten years ago, we embarked on what developed into a national tragedy known as Vietnam, a disaster for the American people. I have a feeling that the $6 billion loan guarantee program, which may lead to an $11 billion program including price supports and construction grants, and a $100 billion program which is waiting in the wings, that America may be embarking on an energy Vietnam—a bottomless pit.

Mr. Speaker, I am pleased to report that the authorization contained in this conference report for nonnuclear energy is substantially above the request of the administration. At the time the original budget request was submitted by the new Energy Research and Development Administration which came into existence in January 1975, we received a compilation of previous programs for funding which have been placed in the one agency for the first time. In the months that have passed since then, much information and program direction have occurred on the part of the agency. Our committee has had an opportunity to evaluate the agency's programs and it has also had the expertise of outside groups such as the Office of Technology Assessment.

H.R. 3474, as agreed to by the conferees:

First. Authorizes appropriations of $4,028,700,000 for the Energy Research and Development Administration (ERDA) for fiscal year 1976 and the transition period:

Second. Creates an in situ—underground—oil shale demonstration leasing program on Federal lands in section 102, and

Third. Creates a $6 billion loan guarantee program for the construction of commercial size demonstrations facilities for all forms of energy such as synthetics from fossil fuels, solar, geothermal, biomass, and for energy efficient industrial equipment.

The ERDA request for fiscal year 1976 and the actions of the committee were:

Obligations

[In thousands of dollars]

ERDA authorization totals:	
Original ERDA request	4,287
House authorization	4,735.6
Senate authorization	5,044.6
Conference recommendation	5,028.7

A breakdown of the total conference figure is as follows:

Nuclear	3,588
Nonnuclear	897,941
Joint programs	542,841

The next chart I would like to place in the Record at this point is a description of the fossil energy programs which shows the increase from the original ERDA request that was recommended by the conference committee:

Obligations

[In thousands of dollars]

Fossil energy development:	
Original ERDA request	393,332
Conference recommendation	497,821
Coal:	
Original ERDA request	343,941
Conference recommendation	399,405
Natural gas and oil extraction:	
Original ERDA request	26,766
Conference recommendation	43,326
Oil shale:	
Original ERDA request	8,985
Conference recommendation	20,590
MHD:	
Original ERDA request	13,644
Conference recommendation	34,500

There are three subprograms contained under the fossil energy heading that are further explained in the conference report 94–696 on pages 44–46.

NATURAL GAS AND OIL EXTRACTION

The first is for natural gas and oil extraction which is an increase above the House figure of $6.5 million and a decrease in the Senate figure of $16.8 million. The conference recommendation will provide sufficient funding for additional resource appraisal work and one additional massive hydraulic fracturing test in Devonian shale, and represents additional funding above the $6 million already available for natural gas stimulation in both Devonian shale and Rocky Mountain formations.

ERDA has recently signed a 3-year $4.3 million cost-sharing contract with Columbia Gas Systems to conduct field tests on the Devonian shale using massive hydraulic fracturing. In addition Columbia Gas Co., has applied to the Federal Power Commission for approval to initiate a 3-year $8.5 million research program on the eastern gas shale. This program will essentially consist of drilling 50 test wells in Ohio, West Virginia, and Virginia. Thirty of the wells will be completed using experimental techniques including novel explosive and hydraulic fracturing materials and designs.

FOSSIL FUEL DEMONSTRATION PLANTS

The conference report contains the authorization for capital expenditures for four fossil energy demonstration plants: First, a clean boiler fuel demonstration plant, $20,000,000; second, high Btu synthetic pipeline gas demonstration plant, $20,000,000; third, low Btu fuel gas demonstration plant, $15,000,000; and, fourth, fluidized bed direct combustion demonstration plant, $13,000,000. The House contained funding for the clean boiler fuel demonstration plant commonly referred to as Coalcon which is a joint venture of Union Carbide and the Chemical Construction Corp.

This program is aimed at demonstrating on a commercial scale the conversion of high sulfur coal to clean burning liquid and gaseous hydrocarbons. The program is to be jointly funded through a consortium of private industry and government at a level of $237 million.

The conferees accepted the Senate language for the demonstration of high Btu gasification; of low Btu gasification, and for fluidized bed. In addition, the conference committee emphasized that work on a low Btu combined cycle demonstration plant should continue in the preliminary design phase but is not yet ready for capital expenditure.

MAGNETOHYDRODYNAMICS (MHD)

A corporation of MHD generators into the topping stage of binary power cycles offers a technical approach to utilize coal directly and achieve high overall thermal efficiency with low pollution levels.

The original ERDA request of $15,844,000 for work in MHD was subsequently revised by ERDA and a request for $35,344,000 was submitted. The House authorized $15,844,000 and the Senate amendment authorized $76,243,000. The committee of conference agreed to recommend a fiscal year 1976 authorization of $34,500,000 and a transition period authorization of $8,400,000, for a total of $42,900,000. This amount represents a total increase of $7,556,000 over the amended ERDA request.

Mr. Speaker, at this point I take the opportunity to analyze the various nonnuclear sections of the conference report (H. Rept. 94–696) on H.R. 3474, as one of the conferees concerning this report, the chairman of the subcommittee where many of the provisions of title III of H.R. 3474 originated, and as the sponsor of several provisions in section 103 of the conference report.

Sections 101 (a) and (b) of the conference report authorize appropriations for fiscal year 1976 for operating expenses and capital equipment for various nonnuclear programs, including fossil fuels. The House bill stated the amounts in obligational authority and provided a rather detailed line item approach in the area of fossil fuels. The Senate amendment used the cost method and a less detailed line item approach.

The conference report adopts the detailed line item approach recommended by our subcommittee in order that our subcommittee and committee will be able to exercise greater oversight over these programs. It corresponds to the program and subprogram categories submitted by ERDA in response to our request for a breakout of all significant programs. The report also adopts a compromise on stating the dollar amounts by stating the cost amount and the selected resources amount. This latter term is defined in the House committee's report on H.R. 3474 (see H. Rept. 94–294, p. 15). At this point, I insert our subcommittee's correspondence with the General Accounting Office on this matter. The pertinent letters follow:

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C. September 19, 1975.

Hon. KEN HECHLER,
Chairman, Subcommittee on Energy Research, Development and Demonstration (Fossil Fuels), Committee on Science and Technology, House of Representatives.

DEAR MR. CHAIRMAN: In your letter of April 18, 1975, you asked us to provide you our views, comments and recommendations as to the most appropriate method of agency budget presentations for use in making congressional funding decisions. In particular, you asked us to consider whether the cost-based budgeting approach used by the Energy Research and Development Administration (ERDA) or the obligation, outlay or some other approach is the best from the standpoint of providing adequate congressional control and direction, without unduly limiting agency management flexibility. You also requested that we comment on the advantages and disadvantages of the cost-based budget approach versus the other approaches—from the congressional perspective. You further requested us to examine the advantages and disadvantages of the line item budget authorization approach adopted by your Subcommittee for Fossil Energy for the fiscal year 1976 authorization.

This report has been developed based on our knowledge of the cost-based budget presentation developed by ERDA and the obligation budget approach used by other agencies, an analysis of a number of agency budget presentations provided to the Congress and discussions with staff members of various congressional committees. In developing this report we have made a distinction between the desirability and need for cost-based budgeting for agency management purposes and the Congress' need for information to support its key budgetary decisions.

COST-BASED BUDGETING

The use of cost-based budgeting on a Government-wide basis was first advocated by the First Hoover Commission in February 1949. The Commission's report stated—

"The important thing in budgeting is the work and services to be accomplished and what that work or service will cost."

The work of the First Hoover Commission led to enactment of the Budget and Accounting Procedure Act of 1950 (64 Stat. 832). However, the use of cost-based budgeting was not mandated until after the Second Hoover Commission issued its report in June 1955. Concerning cost-based budgeting the Commission said

"* * * The most useful accounting data in formulating and controlling agency budgets is that which reflects the costs of goods and services to be consumed or used in carrying out programs—the estimated costs incurred. Budgets which include information concerning costs incurred are designated as cost-based budgets."

Some agencies were using cost-based budgeting at the time the Second Hoover Commission conducted its study. The legislative mandate for cost-based budgeting was contained in Public Law 84–863 (70 Stat. 782), enacted August 1, 1956, which amended section 216 of the Budget and Accounting Act of 1921, 31 U.S.C. 24, to provide among other things that

"The requests of the departments and establishments for appropriations shall, in such manner and at such times as may be determined by the President, be developed from cost-based budgets.

"For purposes of administrative and operation, such cost-based budgets shall be used by all departments and establishments and their subordinate units."

The Executive Branch has advocated the use of cost-based budgeting even prior to the 1956 amendment to the 1921 Act. Further, over the years since this amendment was enacted, the Executive Branch has gradually expanded their interest in cost-based budgeting to the point that it is now prescribed as a general requirement. However, as will be discussed in more detail later in this report, the budget justifications provided to the Congress by the executive departments and agencies have been presented in terms of obligations rather than cost, with the exception of the Atomic Energy Commission (AEC) and now ERDA. The Committees on Appropriations have requested that the agency budget justifications be presented in terms of budget authority based on obligations.

In basic terms, a cost budget is one which is expressed in terms of costs to be incurred rather than in funds to be obligated or spent. Cost, in this context, is the value of goods and services used or consumed by an agency of the Government within a given period, regardless of when ordered, received, or paid for. Thus, in any one year, the obligations incurred may be less, equal to, or greater than the costs recognized for that period. This difference is due to such things as increases or decreases in inventories, undelivered orders or other changes in certain resources. Over the total life of a program, however, obligations and costs are identical. The difference lies in the distribution of these different measures of activity over time.

If used properly, cost-based budgeting offers several advantages for management purposes.

Cost-based budgets provide management with a complete financial picture of proposed operations.

Cost-based budgets provide management with the information it needs to evaluate financial plans, the real cost of activities, and the use being made of all available resources.

Cost-based budgets provide a basis for using an operating plan and a standard in measuring actual performance and further in determining unit costs.

Cost-based budgets provide a time-phased basis for the control of expenses and disclose unfunded costs of programs.

In theory, the advantages of cost-based budgeting to department and agency management should also benefit the congressional budget review process. Congressional decisionmaking should be aided by the information on the real cost of programs and the uses being made of all resources. However, costs are not the measure of activity generally used by the Congress for the control of funding. Because the budget process is keyed to budget authority and outlays, with budget authority based on obligations rather than costs, the cost presentations that are included in the *Budget of the United States Government* are converted to obligations at the appropriation account level. Budget authority, in turn, in concept is based on obligations, not costs.

The budget justifications from the individual departments and agencies which are provided to the Committees on Appropriations and to various authorization committees are in the vast majority of the cases presented in terms of obligations. Further, with the exception of AEC and ERDA, in those few cases where cost information has been provided, it has generally been presented in the form of supplemental information rather than as the primary presentation. As mentioned earlier in this report, the AEC has in the past presented its budget request in terms of costs. To the best of our knowledge, this has been the only instance in which an agency has presented its budget request predominately on a cost basis. ERDA followed the same approach, as used by AEC in the past, for its fiscal year 1976 budget request. However, the House Committee on Appropriations, in July 1976, requested that ERDA, beginning with the fiscal year 1977 budget request, present its budget in terms of obligations in addition to the cost presentation used in the past.

According to the Office of Management and Budget's instructions for preparing the annual budget submission, each agency is to provide cost information as used in the agency's accounting system. In those instances where costs are presented in the *Budget of the United States Government*, the "Program and Financing" schedules in the *Budget Appendix* provide a presentation of costs in the "Program by Activities" section with an entry called "Change in Selected Resources" being used to adjust costs either upward or downward to obligations. The Program by Activities section sometimes presents costs in accordance with a program classification; however, the amounts shown as Change in Selected Resources are rarely broken down to program or subprogram levels.

We analyzed the FY 1976 budget presentations of the five largest accounts (excluding revolving funds) in each of 11 agencies in order to ascertain the extent to which cost appears in budget presentations and the significance of costs versus obligations. In the *Budget Appendix*, 13 of the 55 accounts we reviewed appeared to be expressed in terms of costs. The presentations for the remaining 42 accounts showed either costs and obligations as being equal or did not use the word cost in the schedule. None of the 55 accounts were presented in terms of cost in the agency justifications.

We also calculated the percentage of cost represented by the amounts reported as Change in Selected Resources for each of the 13 accounts which appeared to be on a cost-basis in order to ascertain the significance of the differences between cost and obligations. We found that the Change in Selected Resources was less than 7 percent of the total in all but four accounts (range .02 to 96.2 percent). We also found some apparent misapplications of the cost concept. For example, the account which reported a change in selected resources amount which was 96.2 percent of cost was not, in our view, an expression of program costs. There were also other cases in which the cost concept appeared to be incorrectly applied.

We discussed the use of cost-based budgets with staff members of various congressional committees and found that, in general, the Congress uses obligations, budget authority and outlays, not costs, as the basis for decisionmaking. The Committees on Appropriations, as noted earlier, as they have requested, receive detailed budget justification material which is expressed in terms of budget authority and outlays, with budget authority being based on obligations. The Committees on Appropriations act upon obligations and budget authority. As mentioned earlier, the Subcommittee on Public Works, House Committee on Appropriations, has recently requested that ERDA present its budget request to the Subcommittee in terms of obligations beginning with the budget request for fiscal year 1977, in addition to the cost presentation used in the past.

The Joint Committee on Atomic Energy has used costs for authorization purposes. In using costs it has established a control over program level costs and "change in selected resources" through the use of detailed reprogramming guidelines and required agency reporting. The net effect of this approach has been to control *both* costs and obligations.

We believe that cost-based budgeting and associated cost-accounting systems can provide significant advantages to agency and program management. We continue to urge that all departments and agencies use cost accounting and cost-based budgeting for internal management for those programs and operations where it is appropriate. However, we do not believe that annual budget requests need to be presented to the Congress in terms of cost.

We believe that all congressional budget and program-financing actions—authorizing and appropriating legislation—should utilize a common base. Because obligations and budget authority are key elements in the congressional budget process, it would appear appropriate that authorizing and appropriating legislation be expressed in terms of budget authority based on obligations.

Because the congressional budget actions (authorizations, budget targets and appropriations), are expressed in terms of budget authority and outlays, with budget authority being based on obligations, we believe that budget presentations to the Congress should be principally in those terms rather than in terms of costs. However, this is not to say that those congressional committees which need and want appropriate cost information should not have access to it. There are programs about which the Congress needs and can use cost information; and this information should be provided by the agencies. However, the primary terms for expressing the budget request in the *Budget of the United States Government*, the Appendix, and the budget justifications should be obligations, budget authority and outlays. Costs, when needed, should be provided in supplementary presentations.

In our opinion the Budget and Accounting Act of 1921, as amended, does not specifically require the Executive Branch to present its budget in terms of costs. Rather, the basic purpose of the 1956 amendment to the 1921 Act was to require the use of realistic program cost estimates in the development and support of appropriation requests. Accordingly, in our view the requirement for cost-based budgeting was intended for internal budget formulation and management use within the Executive Branch, rather than requiring that budget requests be presented in terms of costs.

LINE ITEM AUTHORIZATION

Line item authorizations as now used by many committees are one method of establishing congressional influence over the execution of a program (or programs). It also provides a basis against which performance can be evaluated. However, to be most effective and efficient, this approach requires the close cooperation of the authorization and appropriations committees. These committees could have different views as to how the program should be conducted and the level of detail at which congressional control should be exercised.

Line item authorizations can be established and are established at varying levels (account, program, subprogram, etc.). From the executive point-of-view, line item authorizations at excessively detailed levels could restrict the exercise of managerial responsibilties and limit the agency's ability to react to changing conditions.

The Joint Committee on Atomic Energy currently uses a line item authorization for ERDA which is coupled with, in effect, "reprogramming" guidelines and periodic reporting. A similar approach is employed for several defense programs. A less formal method of expressing congressional views on the way a program is to be conducted would be to establish a detailed, program oriented classification structure which would be used as the basis for budget requests and for regular reports on budget execution. Through the budget execution reports, the committee would be apprised of changes in program emphasis (as indicated by changes in levels of obligations), shortly after they occur.

Line item authorizations are one of several ways of exercising congressional control over the activities of an agency. If it is used, consideration should be given to the need for operational flexibility within the agency, such as through giving the agency some reasonable use of some type of "reprogramming" authority. However, we are not in a position to recommend to you the level at which you should provide authorizations to ERDA, since this must be a judgment as to the degree of detailed financial control which the Congress wishes to exercise with respect to the programs of the agency.

The last part of your request concerned your interest in ongoing and planned GAO examinations on matters under the Subcommittee's jurisdiction. In this regard, arrangements have been made whereby my staff will periodically brief the Subcommittee staff on our ongoing and planned work that may be of interest to your Subcommittee.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

U.S. ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION,
Washington, D.C., October 28, 1975.

Hon. KEN HECHLER,
House of Representatives.

DEAR MR. HECHLER: Thank you for your letter of October 9, 1975, requesting comments on a report from the Comptroller General dated September 19, 1975, regarding the use of program costs in our budget presentations to the Congress. Dr. Seamans has asked me to respond to your request.

Before proceeding with detailed comments regarding the GAO report, I would like to put the key issues in perspective.

First, we are of the opinion that the GAO misconstrued the action by the House Appropriations Public Works Subcommittee with respect to our budget presentations. As your letter points out, this Subcommittee handles the bulk of the ERDA appropriations. Mr. Evins' letter of July 21, 1975 reads, in appropriate part:

"There are now several Congressional Committees involved in the consideration of the authorization and appropriation process for the Energy Research and Development Administration. Numerous problems arose this year because different committees used different base data in the consideration of your programs for 1976.

"For the fiscal year 1977 and subsequent years budget justification material presented for consideration of the Public Works Subcommittee on Appropriations *should reflect both cost and new budget (obligational) authority* for each program and subprogram." (emphasis added)

We have confirmed with the Subcommittee staff that it was not their intention for us to change our basic cost-based budget presentation; rather, their request was that we augment our budget presentation with data to reflect new budget authority for each program and subprogram to avoid confusion over funding levels.

Secondly, the alternative suggested by GAO is that we formulate and execute our budget on one basis, but present it to the Congress on an entirely different basis. We think this alternative is not practical because of the high potential for misunderstanding and misinterpretation which would be inherent in this process. Moreover, as explained below, we believe that this alternative would work to the disadvantage of the Congress in performing its legislative and oversight functions.

As you know, the budget for FY 1976 and the Transition Quarter is ERDA's first. It was prepared before Committee cognizance over ERDA programs was established. As a result, we were not able to anticipate the specific desires of all the Committees now cognizant of our programs. Well over 80 percent of our budget request was related to military R&D and production programs, uranium enriching activities, and R&D programs previously carried out under the cognizance of the Joint Committee on Atomic Energy and the Public Works Subcommittees of the House and Senate Appropriations Committees. Therefore, we decided to continue the cost-based method of budget presentation used for those programs over many years in the past. We thought this method of presentation would be generally acceptable to other Committees since it followed basic guidance of OMB, GAO, and Congress which have for many years encouraged the use of accrued costs and cost-based budgets by Federal agencies.

The chief difference between the ERDA budget and that of some other Federal agencies is the method of presenting narrative justification material for ongoing operating programs. Many Federal agencies present their justifications on the basis of obligations to be incurred, even though these obligations might not be costed, or spent, for several years. Thus, it is not always possible for the Congress to know when the effort being funded will actually take place, or to see agency progress in actually carrying out these programs, particularly when outlay estimates reflect a continuing operation with funds from prior year appropriations. The ERDA operating budget includes summary data on obligations (which can, of course, be expanded) but presents justification material for ongoing operating programs primarily in terms of the costs to be incurred or work to be carried out in a given fiscal year, with a separate presentation of obligations which will be outstanding or uncosted at the end of a fiscal year. This method of presentation provides for Congressional review of both the obligations to be incurred and the costs of work to be carried out each fiscal year and is generally considered to permit more meaningful program reviews than an obligation budget.

The ERDA budget buildup is summarized as follows:

Program Costs plus Changes in Selected Resources (principally Uncosted Obligations and Inventories) equals Total Obligations.

Total Obligations less Receipts, Reimbursements, and Appropriation Adjustments equals Budget Authority.

As can be seen by the above buildup, there is not a one-to-one correlation between obligations and budget authority as implied by the GAO report. On the other hand, both a cost-based budget and an obligations budget can build logically to budget authority in the budget presentation.

The advantages generally claimed for a cost-based budget such as that used by ERDA and some other Federal agencies include those listed on page 3 of the GAO report, namely:

"Cost-based budgets provide management [and the Congress] with a [more] complete financial picture of proposed operations.

"Cost-based budgets provide management [and the Congress] with the information it needs to evaluate financial plans, the real cost of activities, and the use being made of all available resources.

"Cost-based budgets provide a basis for using an operating plan and a standard in measuring actual performance and further in determining unit costs.

"Cost-based budgets provide a time-phased basis for the control of expenses and disclose unfunded costs of programs."

In addition, the increased visibility accorded to selected resources permits increased management attention and Congressional oversight in optimization of these resources, which may result in a lower overall appropriation requirement for the same size program in a given fiscal year.

As stated in the GAO report, when combined with reprogramming procedures such as have been used by the Joint Committee on based budget system used by ERDA is to permit Congressional authorization, oversight and control of both obligations and costs at an agreed-upon level of activity. Since costs and outlays are closely related, it also provides Congress with data as to the approximate outlay impact of specific program decisions.

We appreciate the Committee's desire for additional data on obligational authority below the program level of detail and have, as you know, provided several detailed breakdowns for your hearings on the 1976 budget. Based on discussions with the staff of your Committee and that of the House and Senate Appropriations Committees, it is our intention to present both Budget Authority (Obligations) and Budget Outlays (Costs) at the subprogram level of detail in our 1977 budget to Congress. We believe this method of presentation will be more consistent with the needs of the several principal committees and subcommittees cognizant of our programs. We will, of course, provide any additional information that the individual Committees may desire or need for their purposes.

With regard to the specific comments in the GAO report, we regret very much that the report was not discussed or coordinated with this agency during its preparation. Some of the GAO comments seem to indicate a misunderstanding or inadequate understanding of our budget data and what it does and does not present. We interpret several other comments as misleading; for example, the implication that a cost-based budget is incompatible with the use of budget authority as a common basis for authorizing and appropriations actions. Other comments seem to us inconsistent with previous GAO and Congressional recommendations and guidance for development and implementation of cost-based budget and accounting systems (which may or may not indicate a policy shift by the Comptroller General). For example, the following is cited from the GAO's "Accounting Principles and Standards for Federal Agencies" (Revised 1972):

Page 2-2 under *Authority:*

"Further amendment was made in 1956 by Public Law 84-863, which specifically provided for use of accrual accounting, *cost-based budgeting for internal operations and appropriation requests,* and consistent classifications. . . ."

Page 2-4 under *Objectives:*

"(3) Integration of planning, programming, and budgeting practices with the accounts to provide adequate support for budget formulation and *review of annual cost-based appropriation requests."* (emphasis added)

Senate Document 92-50 (December 13, 1971) includes an earlier analysis of financial management in the Federal Government by the staff of the Senate Government Operations Committee:

"ADVANTAGES OF A COST-BASED BUDGET

"The advantage of budgeting on a cost basis is that management and the Congress are able to review the total resources on hand, on order, and to be procured rather than limiting the budget review process to new money in the form of obligating authority. A cost-type budget has been defined as one which identifies, in terms of the goods and services consumed by each activity, the costs of the program planned by the agency. It discloses the balances of the goods and services on hand that have been obtained through use of prior appropriations, and the extent to which such available resources are planned to be used in the proposed program. Such resources generally consist of inventories of supplies and materials, and orders recorded as obligations for goals and services not yet received. A cost-type budget shows the obligating authority required to place orders for additional goods and services needed to accomplish the planned program and maintain the resources on hand at a level appropriate to the agency's operating requirements." (emphasis added)

Page 257:

"COST-BASED BUDGET PRESENTATIONS

"One of the most significant developments that began with the adoption of performance budgeting was the movement toward cost-based budget presentations. Ten years ago the Federal Government was just venturing into this field with cost budgets for the Atomic Energy Commission and the Bureau of the Mint. For the first few years there were only a handful of appropriations for which the accounting systems would allow production of a cost-based budget. Then came the recommendations of the second Hoover Commission which resulted in the passage of Public Law 863 (an act to improve governmental budgeting and accounting methods and procedures, and for other purposes, approved August 1, 1956) calling for the establishment of accrual accounting and cost-based budgeting in all executive agencies; the synchronization of budget, accounting, and organization classifications; and the simplification of allotment structures." (emphasis added)

"COST-BASED BUDGETING

"Public Law 84-863 provides for (1) the use of cost-based budgets as the basis of appropriation requests and (2) the use of cost-based budgets by the agencies for the purposes of administration and operations and as the basis of administrative subdivisions of appropriations or funds." (emphasis added)

In summary, we agree with GAO that Congressional authorizing and appropriating actions should be expressed basically in terms of budget authority. Budget authority, however, represents the net of several elements: program costs, selected resources, revenues and reimbursements, and appropriation adjustments. In our view, a cost-based budget builds logically from program costs to budget authority and has significant advantages to the Congress since it provides more detail, not less, than an obligations budget. We consider it would be a serious mistake to eliminate the cost-based budget narrative from mainline budget justifications in order to focus more narrowly on program obligations. In this regard, the GAO conclusion regarding the basic purpose of the 1956 Amendment to the Budget and Accounting Act of 1921 seems inconsistent with that Amendment and its legislative history. We plan to meet with the GAO to discuss their report and we will let you know of any changes that may result from that meeting.

I would be pleased to discuss this matter further with you or your staff, at your convenience, or to provide any additional information you may need.

Sincerely,

M. C. Greer,
Controller.

Comptroller General
of the United States,
Washington, D.C., November 19, 1975.

Hon. Ken Hechler,
Chairman, Subcommittee on Energy Research, Development and Demonstration (Fossil Fuels), Committee on Science and Technology, House of Representatives.

Dear Mr. Chairman: In accordance with an oral request of your staff we have reviewed the October 28, 1975, letter from the Controller of the Energy Research and Development Administration (ERDA) which provided their comments to you on our September 19, 1975, report.

On October 31, 1975, members of my staff met with officials of ERDA and discussed both our report and the October 28, 1975, ERDA letter. In its letter, ERDA stated that we had misconstrued the action by the House Appropriations Public Works Subcommittee with respect to their budget. We have subsequently discussed this matter with staff of the Subcommittee and believe that we properly expressed the intent of the Subcommittee's action.

The GAO has been a strong supporter of the concept of cost-based budgeting. We believe that cost-based budgeting and associated cost-accounting systems can provide significant advantages to agency and program management. We continue to urge that all departments and agencies use cost accounting and cost-based budgeting for internal management for those programs and operations where it is appropriate.

As we stated in our September 19, 1975, report, it is our opinion that the Budget and Accounting Act of 1921, as amended, does not require the Executive Branch to present its budget in terms of costs. Rather, the basic purpose of the 1956 amendment to the 1921 Act was to require the use of realistic program cost estimates in the development and support of appropriation requests.

Even though the Office of Management and Budget has requested the agencies to submit their budget justifications to them in terms of costs, we believe that over the years the Congress has clearly indicated, through its actions, its preference for budget presentations in terms of obligations and budget authority. Most recently, this preference was expressed through enactment of the Congressional Budget Act of 1974 which, in establishing the new budget process, continues to emphasize the focus on budget authority based on obligations. We firmly believe that the Congress should be provided budgets which are presented in the terms needed to support its basic decisionmaking framework and that it is the prerogative of the congressional committees to decide the terms in which the budget justifications should be presented to them.

ERDA has indicated that it can provide detailed budgetary data in terms of obligations as well as costs. If committees handling ERDA's appropriations, or any other committee, wish a dual presentation in terms of both costs and obligations, we believe the agency should comply and furnish such information to the committee.

I hope these comments will prove helpful. Please do not hesitate to call on us if we can be of further assistance.

Sincerely,

Robert F. Keller,
Acting Comptroller General of the United States.

Mr. Speaker, section 102(a) directs that ERDA in consultation with Interior select up to 5,120 acres of public land for the demonstration of production of oil from shale by in situ methods. Once the proposed tract is known geographically, ERDA must inform the Governor of the State or States and local officials who would be impacted by the demonstration, as well as the Governor and local officials of the State where it will be located. The latter Governor will then have an opportunity to recommend against such selection for any reason or reasons that Governor believes appropriate. It should be emphasized that the Governor need not detail his or her reasons for disapproval, but obviously such a statement will be useful to our committee in any subsequent review and, of course, to any court. If the Governor opposes the selection, ERDA is precluded from acting on it unless the ERDA Administrator makes a written finding setting forth his reasons that despite the Governor's objections, that particular tract is in the national interest. As the Conference Committee report notes for a similar provision under section 103 of this bill, "the burden is in ERDA to show" that this particular tract and related development thereof under this section "is indeed in the national interest" (p. 54).

The ERDA decision overriding the Governor is subject to judicial review upon application by the Governor or any other interested person. The test is whether ERDA acted in an arbitrary or capricious manner and, of course, whether ERDA complied with the law. This review is in addition to any other right of judicial review the Governor and other persons may have under the National Environmental Policy Act of 1969 or other State or Federal laws of this decision and/or the entire project.

As also noted by the conferees (supra, p. 57):

> For the Governor to act effectively and in a timely manner, ERDA and the applicant will have to provide to the States sufficient data on which the Governor can make an informed judgment.

Provision is also made for ERDA regulations concerning review by States and communities which may be impacted by the facility in any way and by the general public. These regulations should be published promptly and in accordance with 5 U.S.C. 553 and they should give some indication of the criteria ERDA will use to determine "national interest."

Section 102(b) relates to the demonstration itself. It directs that ERDA solicit proposals competitively and enter into cooperative contractual arrangements pursuant to all of the requirements and limitations of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), including, but not limited to, those in sections 8, 9, and 10 of that act.

The Federal share of the demonstration includes the free lease of the selected tract during the demonstration period, but any amounts received by the lessee during the demonstration over costs will go to the Treasury.

Section 102(c) describes the purposes of the demonstration and explicitly states that all of the community impact assistance available under the loan guarantee provisions of section 103 of this legislation will be available to the same extent and with the same limitations for this demonstration.

Section 102(d) indicates the terms of the lease in addition to those normally required for mineral leases under the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181, et seq.). In this regard, the conference report states (p. 48):

> The Conferees want to emphasize the need for diligent development during and after the demonstration period. Section 102 requires that the lease contain effective provisions toward that end, including provisions for termination of the lease whenever the Secretary of the Interior determines that the lessee is not acting diligently. Frequent criticisms heard by the Conferees during consideration of this section were that Interior's present lease provisions requiring diligence through the use of credits and development plans were not adequate to avoid speculation and encourage early production. Under Interior's prototype oil shale leasing program, the lessee can delay submission of an acceptable development plan for over five years after the lease is issued and even then delay is only 'ground' for termination if Interior 'so elects.'
>
> The Conferees expect that the lease, in the case of Section 102, will require an effective development plan as part of the cooperative agreement with ERDA for the demonstration period and another one for commercial development at the end of the demonstration. If the plans are not acceptable, the lessee should be given a brief period to try to meet objections, but not a year or more as is the case in the prototype program. If a plan is still unacceptable to Interior and ERDA, then the lease should be terminated consistent with existing administrative review procedures.

This is a very important statement. Indeed, it and the provisions of this section are a result of our subcommittee's hearings in Colorado where we found that the present provisions for development under Interior's prototype oil shale leasing program are very weak. They are contained in section 10 of the several prototype leases and are as follows:

> SECTION 10. DEVELOPMENT PLAN AND DILIGENCE REQUIREMENTS
>
> (a) The Lessee shall file with the Mining Supervisor on or before the third Anniversary Date a detailed development plan. This plan shall include: (1) a schedule of the planning, exploratory, development, production, processing, and reclamation operations and all other activities to be conducted under this lease; (2) a detailed description pursuant to 30 CFR Part 231 and 43 CFR Part 23 of the procedures to be followed to assure that the development plan, and lease operations thereunder, will meet and conform to the environmental criteria and controls incorporated in the lease; and (3) a requirement that the Lessee use all due diligence in the orderly development of the Leased Deposits, and, in particular, to attain, at as early a time as is consistent with compliance with all the provisions of this lease, production at a rate at least equal to the rate on which minimum royalty is computed under section 7(e)(1).
>
> Prior to commencing any of the operations under the development plan in the Leased Lands, the Lessee shall obtain the Mining Supervisor's approval of the development plan. The Mining Supervisor shall not delay unnecessarily in the consideration of a development plan, but he shall take time to

consider both technical and environmental provisions of the plan thoroughly prior to approval, and shall hold public hearings on the environmental provisions to assist him in his consideration of the detailed development plan. If the development plan submitted by the Lessee is unacceptable, the Mining Supervisor shall inform the Lessee by written notice of the reasons why the development plan is unacceptable and shall give him an opportunity to amend the plan. If an acceptable development plan is not submitted to the Mining Supervisor by the Lessee within one year after the Lessee's receipt of that notice, the Mining Supervisor shall send a second written notice to the Lessee concerning the unacceptability of the development plan. A failure by the Lessee to submit an acceptable plan within one year after his receipt of the second written notice, without reasonable justification for delay, shall be grounds for termination of the lease, if the lessor so elects.

Upon approval of the plan, the Lessee shall proceed to develop the Leased Deposits in accordance with the approved plan. After the date of approval of the development plan, the Lessee shall conduct no activities upon the Leased Lands except pursuant to that development plan, or except for necessary activities following a relinquishment under section 28 of this lease or for the disposition of property after termination pursuant to section 32 of this lease.

(b) The Lessee must obtain the written approval of the Mining Supervisor of any change in the plan approved under subsection (a).

(c) The Lessee shall file with the Mining Supervisor annual progress reports describing the operations conducted under the development plan required under subsection (a).

(d) Prior to undertaking any exploratory work on the Leased Lands between the Effective Date and the date of approval of the detailed development plan required by subsection (a) of this section, the Lessee shall file with the Mining Supervisor a plan showing the exploratory work which he proposes to undertake and he shall not commence that work until the Mining Supervisor has approved the plan. Exploratory work, as used in this subsection, shall include, but not be limited to, seismic work, drilling, blasting, research operations, cross-country travel, the construction of roads and trails and other necessary facilities, and the accumulation of baseline data required under section 1(C) of the Oil Shale Lease Environmental Stipulations. Prior to approval of the detailed development plan under subsection (a) of this section, all exploratory work on the Leased Lands shall be conducted pursuant to a plan approved under this subsection.

Clearly, such provisions are of little value, particularly when substantive changes in a plan can be made after initial approval with no public participation of the type required for the initial plan.

This section also indicates that ERDA will administer the lease during the demonstration, but once ERDA finds that the demonstration is completed, ERDA must turn over the lease to Interior and the lessee will begin to pay royalties. The value of the leased lands should, of course, be determined competitively at the time of selection for purposes of this section.

Section 102(e) provides for congressional oversight of the project. It requires a detail report to our respective committees in both bodies, which would include, among other things, the proposed lease and agreement, the final environmental impact statement, a description of the impact assistance and cost thereof and a discussion of the cost-sharing arrangements, the patent provisions, and the royalty. It will also include the actions taken under section 101(a).

Section 102(f) is a disclaimer.

Section 103 of the report adds a new section 17 to the Federal Nonnuclear Energy Research and Development Act. At the outset of our hearings on this program, Congressmen THORNTON and WIRTH and myself introduced H.R. 9723 which recommended this approach. Congressmen HAYES and WIRTH and myself repeated this recommendation in a revision of H.R. 9723 which we made available to the conferees on November 1, 1975, and which was introduced on November 4, 1975, as H.R. 10559. Thus, this new program is subject to all of the provisions of the 1974 act, except with some modification as to section 9 of that act. It is, of course, also subject to ERDA's basic statute, the Energy Reorganization Act of 1974 (42 U.S.C. 5801, et seq.).

The new section 17 establishes the purpose of the section. Of particular importance, is that it is "to gather information" and to disseminate that information widely to industry and the public through, for example, the new section 18 which is added to the 1974 act by H.R. 3474.

If a viable and competitive synthetic fuels industry is going to be developed, then ERDA must take steps through this program to insure wide dissemination of data in a timely fashion.

Section 17(b) authorizes the guarantees. But, I caution that it is subject to section 17(w) which makes it clear that ERDA cannot seriously negotiate any guarantee until Congress, through the appropriations process, has provided borrowing authority and other funds to make guarantees or commitments thereof. In this regard, I note that there is no requirement that the Appropriations Committees provide borrowing authority and appropriations initially to the level of $6 billion authorized by H.R. 3474. ERDA has indicated that $1.5 billion in borrowing authority will be needed. In light of the recent Congressional Budget Office study and report on this program, it may be that the Appropriations Committee will want to recommend less to the full House, as it is quite obvious that ERDA will not be able, nor should it, commit the entire $6 billion within the next fiscal year or even in fiscal year 1978.

But as the report notes, ERDA has much to do initially by way of preparing and proposing needed regulations and preparing the 180-day report required later in this new section.

At this point I want to note that the OMB Task Force recommended that this "program be managed as a distinct entity under a new Assistant Administrator so that it can be conducted in a financial/commercial rather than R. & D. environment." The conferees never formally considered this recommendation because it was not before us. A new Assistant Administrator position cannot be established without new legislation. ERDA proposed such legislation on October 22, but withdrew it. We assume that we will see it again if section 103 is adopted by Congress and approved by the President.

However, several of the conferees have reservations about this recommendation, as does, I understand, the Appropriations Committee. Our subcommittee will want to consider this in greater detail later and we have so informed ERDA in the following letter:

COMMITTEE ON SCIENCE
AND TECHNOLOGY,
Washington, D.C., December 9, 1975.

Dr. ROBERT C. SEAMANS,
Administrator, Energy Research and Development Administration, Washington, D.C.

DEAR DR. SEAMANS: In your October 22, 1975 letter to the Speaker transmitting proposed price support and construction grant legislation to Congress, you said (p. 3) that the "creation of a synthetic fuels program assisted" by various incentives "would require the establishment of a new organizational component to conduct the program." Thus, your legislative proposal included an amendment to the Energy Reorganization Act of 1974 authorizing another Assistant Administrator in ERDA at Executive Level IV "who would be responsible for the synthetic fuels commercial demonstration program, and authorize the Administrator to appoint an additional officer at Executive Level V as a deputy."

The Synfuels Task Force report also recommended that the "program be managed as a distinct entity under a new Assistant Administrator so that it can be conducted in a financial/commercial rather than R&D environment."

ERDA apparently withdrew the above legislative proposal until Section 103 is finally resolved. Thus, Congress, and particularly our Committee, has not had an opportunity to consider your organizational proposals for this program or their budgetary impact.

On October 22, Dr. Fri testified before our Subcommittee that ERDA's "internal capability to manage" this program was still "being analyzed by an internal task force."

Despite this, we understand that within the last two weeks ERDA has begun to carry out the Task Force's organizational recommendations. We understand that the former Chairman of the Interagency Task Force, Mr. William T. McCormick, Jr., has transferred to ERDA from OMB and that he is slated to be the new deputy Assistant Administrator if Congress enacts your proposal. We also understand that a new position in the ERDA Office of Congressional Relations has been established and filled concerning the Synfuels program. Thus, it appears that ERDA has accepted the Task Force recommendation completely.

We think this reorganization within ERDA is premature. Section 103 has not yet been enacted by Congress. Even if it is enacted, it requires a comprehensive report to Congress within 180 days after enactment concerning its implementation. That report should consider, among other things, the relationship of the program to ERDA's existing R&D effort.

Moreover, Section 103 makes it clear that this program is more than a financial assistance program and that it is to be administered under the Federal Nonnuclear Energy Research and Development Act of 1974. From the standpoint of fossil fuels, which encompasses a major part of this $6 billion program, we have serious doubts about the wisdom of the Task Force recommendation that this program be administered as a separate entity within ERDA "in a financial/commercial rather than R&D environment." The

> financial aspects of this program will largely be governed by the Treasury Department, not ERDA. The review of the proposed projects themselves, including the technology to be employed and the social and environmental impacts, will require the expertise of persons already working in the fossil fuel, energy conservation, and environment and safety areas. ERDA should not duplicate that expertise in a separate synfuels organization. The geothermal aspects will continue to be administered by the Project established by Public Law 93-410.
>
> Section 308 of Public Law 93-438 requires that ERDA "keep the appropriate Congressional committees fully and currently informed with respect to all" of ERDA's activities. Our Subcommittee has not received any formal communication from ERDA informing us of these organizational activities within ERDA and indicating where the personnel for the new organization would come from or the costs thereof. The Task Force report, which is not an ERDA document, provides no convincing reasons why it is necessary or desirable to establish a new organizational hierarchy within ERDA to implement this program with all its attendant costs, including the possible leasing of additional office space, and why the existing ERDA organization is not capable, with possibly some additional specialized personnel, of administering this program economically and efficiently.
>
> When ERDA re-submits its legislative proposal for a new Assistant Administrator and Deputy after Section 103 is disposed of by Congress, our Subcommittee will undoubtedly operate within the existing organizational structure.
>
> Sincerely,
>
> Ken Hechler,
> *Chairman, Subcommitee on Energy Research, Development and Demonstration (Fossil Fuels).*

I understand that several members of the Senate Interior and Insular Committee will be expressing similar views to ERDA.

Another matter of concern to me as a conferee is that ERDA has repeatedly indicated through all types of public statements, including its famous December 4 and 5 memorandums "To All Members of Congress"—which Congressman Dingell has quite rightly questioned (see Congressional Record of December 8, 1975, page 39190)—that the entire $6 billion will go for two oil shale, three high Btu, four low-Btu, and five biomass plants, with none earmarked for renewable resources or energy conservation as required by section 17(b). The conference report clearly and unmistakably states our unanimous view that such a mix of technologies is unwarranted and unacceptable (see page 51). I only hope that ERDA gets the message.

Section 17(c) requires certain findings by ERDA before making any guarantee. Of particular importance are paragraphs (2) and (5).

Paragraph (2) relates to the percentage of the guarantee. The conference report states (pages 52-53):

> The Senate amendment authorized ERDA to make guarantees for up to 75% of the total project cost of each facility. It added that during the period of construction this guaranteed amount could exceed this percentage limit until construction is completed as determined by ERDA. Thus, the guarantee could be as high as 100% during construction.
>
> The Conference recommendation is to retain the 75% limitation and to authorize a higher percentage during construction and the start up period but limit this to a maximum of 90%. The conferees emphasize that ERDA must require in the regulations or each guarantee agreement that the total guarantee of the facility when construction and start up ends and commercial operation begins as determined by ERDA does not exceed 75%. The conferees want to make it clear that at all times the borrower will have a substantial and meaningful equity in the facility so that the risk will be shared. ERDA will have to examine the form of equity to insure compliance with this intention of the conferees.

By this we mean a cash equity. We also intend that "start up" not be prolonged.

Paragraph (5) relates to community impact and is intended to require ERDA to take positive and effective actions to avoid or minimize adverse impacts on communities and it is discussed in some detail in the conference report (pages 55-58).

Section 17(d) is a provision which I recommended together with Congressmen Wirth and Hayes after receiving a letter from the chairman of the Judiciary Committee, Representative Peter W. Rodino, Jr. The letter follows:

> Washington, D.C.
> *October 23, 1975.*
>
> Hon. Kenneth Hechler,
> *Chairman, Subcommittee on Energy Research, Development and Demonstration (Fossil Fuels), Cannon Office Building, Washington, D.C.*
>
> Dear Ken: As Chairman of the House Judiciary Subcommittee on Monopolies and Commercial Law, I am deeply concerned with the absence of competitive safeguards in the Senate bill (S. 598) creating a federal loan guarantee program for synthetic fuel plants. This bill is currently the subject of hearings before your Subcommittee.
>
> I urge your Subcommittee to adopt Section 2 of its own version of the loan guarantee program, H.R. 9723. This section clarifies the rights of the government to any patent invented or conceived in the course of any project receiving a government loan guarantee. I also present for your consideration additional antitrust safeguards to prevent the federal loan guarantee program from being used as a means to subsidize concentration in the future energy market.
>
> Unlike previous energy research programs enacted by Congress, particularly the Federal Nonnuclear Energy Research and Development Act of 1974, S. 598 arguably does not vest in the government patents to any invention conceived in the course of or under any project guaranteed by the government. Thus, the owners of commercial synthetic fuel plants, sheltered from substantial risk of loss by federal loan guarantees, need not even share with the public any of the technological improvements underwritten by the public treasury. Section 2 of your bill, H.R. 9723, properly vests in the government any patent conceived in the course of a synthetic fuels project subsidized by a federal loan guarantee.
>
> Neither bill, as currently drafted, provides for the disposition of patents or know-how used in a defaulted project. Thus, in the event of default, the government may own and operate a synthetic fuel plant but not necessarily possess the project's most valuable asset—patents and know-how. I strongly urge your Subcommittee to require a synthetic fuel operator to surrender patents and know-how to the government in the event of default.
>
> I offer for your consideration two additional antitrust safeguards.
>
> First, there is the serious possibility that the federal government may inadvertently subsidize concentration in the energy market. The competitive problems inherent in government subsidies to construct new energy facilities are analogous to the problems faced by the federal government after World War II in disposing of surplus government aluminum and steel plants. Great care was taken so as not to increase concentration in these industries and every effort was made to sell these facilities to new or small entrants in the respective industries. The synthetic fuel guarantee program, it seems to me, should face this same problem at an earlier stage. The issue becomes whether the federal government should favor the country's largest energy producers with loan guarantees, thereby further increasing concentration in the energy market. To prevent the abuse of the loan guarantee program, and to foster increased competition in the energy market, H.R. 9723 could be improved by interjecting the Department of Justice or Federal Trade Commission in the approval process for loan guarantees. For each loan guarantee proposal either or both of these agencies should be required to issue a competitive impact statement to the effect that concentration in the energy market will not be substantially lessened.
>
> Second, it may be appropriate for your Subcommittee to consider compulsory licensing with reasonable royalty provision for any patents in projects certified for loan guarantees. The policy justifying the patent monopoly is that the monopoly will be sufficient to entice an innovator to market his product. But, when the government, and not the patent monopoly, serves as the impetus for the innovator to enter the market, the fruits of the patent monopoly should not be fully retained by the patent holder. Reasonable royalty compulsory licensing, in this situation, protects both the public and the patent holder, and should be required as a condition for a loan guarantee.
>
> My Subcommittee has held hearings on concentration (market power) in the total energy market. While concentration in the energy market is not inordinately high, it is increasing at an ever faster rate. Your Subcommittee can create a positive, procompetitive energy research policy.
>
> I hope you will seize this unique opportunity to ensure competition for the future by adopting the recommendations presented for your consideration.
>
> Sincerely yours,
>
> Peter W. Rodino, Jr.,
> *Chairman.*

The conference report discusses this section as follows (p. 53):

> Noting concern about the competitive impact of each commercial demonstration facility, the Conferees included in the new section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974 provisions for consideration of this problem.
>
> In subsection (c) ERDA must consider the need for competition in making loan guarantees.
>
> In subsection (d), ERDA is required to solicit from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of each proposed loan guarantee on competition and concentration in the energy supply industry. ERDA must do this in a timely fashion, but at least 60 days before ERDA sends its report on the proposed guarantee to Congress under subsection (m).
>
> The Conferees expect that Justice and the FTC will act in timely fashion and provide their comments, etc., to ERDA so that ERDA can act upon them and the two Congressional committees can consider them also. In this regard, the Conferees intend that the FTC act expeditiously using its Bureau of Com-

> petition in reviewing each guarantee. It is expected, however, that each agency will give serious and meaningful attention and provide a comprehensive and adequate response, including, where appropriate, recommendations. The Conferees note that such recommendations could possibly include suggestions for improving a guarantee contract to overcome any anti-competitive or other problem that may exist.

Here again ERDA can override a recommendation of Justice or FTC where he finds it in the "national interest" to do so. No criteria for determining what is the "national interest" is provided in the section or conference report. But since ERDA has no expertise or experience in this area of competition, such an override should not occur except in the most unusual of circumstances. I predict such an override will receive great public and congressional attention. The reasons best be sound.

Section 17(e)(1) relates to State review. My comments on section 102(a) apply here as well.

Section 17(e)(2) directs that ERDA review and actually approve all plans of the proposed borrower and builder of a facility. This provision also stems from our bill.

It also provides for environmental monitoring and data gathering during construction, the costs of which shall be borne by the borrower.

Finally, it requires ERDA to identify all costs associated with the facility and who is responsible for those costs. This includes all direct and indirect costs to the United States.

Section 17(f) concerns the guarantee contract. The last sentence of this section was proposed by the Office of Management and Budget on November 17, 1975, during the conference, as follows:

> The Administration has reservations about the present language as it would appear to require payment to a holder even if the holder had committed fraud or made a material misrepresentation and limit the United States to bringing action only subsequently against the holder for the fraud or misrepresentation. This result might give rise to substantial losses by the Government and would put the holder in an unjustifiably favored position. The Administration believes that the United States should be in a position to contest a payment on the grounds of fraud or material misrepresentation. Accordingly, the Administration would prefer returning to the following language proposed by the Administration:
>
> "Subject to the conditions of the guaranty contract, such a guaranty shall be incontestable in the hands of the holder of the guarantied obligation except as to fraud, or material misrepresentation on the part of the lender."

A few days later, Treasury commented further, as follows:

> WASHINGTON, D.C., *November 26, 1975.*
>
> Hon. OLIN E. TEAGUE,
> *Chairman, Committee on Conference for H.R. 3474, Washington, D.C.*
>
> DEAR CHAIRMAN TEAGUE: On page 25 of the November 24, 1975, proposed staff conference committee print of H.R. 3474, the last sentence of section 17(f) reads as follows:
>
> "Subject to the conditions of the guarantee or commitment to guarantee, such a guaranty shall be incontestable in the hands of the holder of the guaranteed obligation except as to fraud, or material misrepresentation on the part of the lender."
>
> This language is very similar to language for this sentence which was suggested in paragraph two of the letter to you from the Office of Management and Budget of November 17, 1975, and which reads as follows:
>
> "Subject to the conditions of the guaranty contract, such a guaranty shall be incontestable in the hands of the holder of the guarantied obligation except as to fraud, or material misrepresentation on the part of the lender."
>
> Treasury strongly believes that the phrase "of the lender" at the end of the sentence should be changed to "of the holder".
>
> If the phrase "of the lender" is retained, Treasury believes that the financing of guarantied projects by means of public debt issues would be severely hampered, and perhaps completely precluded. In a situation where a project is financed by means of a bond issue, the initial bondholder could be said to be a lender and thus the guaranty on a bond which he holds could be contested. However, it is doubtful that subsequent holders of the bonds could be termed "lenders". Therefore under the present language a subsequent holder might find himself unable to collect on a guaranty, solely because of the fraud or material misrepresentation of the original holder, of which he was totally unaware. This possibility would likely foreclose the development of a secondary market for guarantied bonds, and this foreclosure, in turn, would make it virtually impossible to find buyers for the bonds in any initial offering.
>
> In any event, an initial lender, who seeks payment on a guaranty, would also be a holder so that, under the language which we are suggesting, the Government could contest on grounds of fraud or material misrepresentation, any payment otherwise required to be made to him under the guaranty.
>
> In a number of existing laws, there are provisions with the same purpose as the sentence in question, and all of these have referred to fraud or material misrepresentation on the part of the holder, not on the part of the lender. For example, Section 5(b) of the Emergency Rail Services Act of 1970, P.L. 91–663, provides:
>
> "Any guarantee made . . . under this Act . . . shall be valid and incontestable in the hands of a holder of a guaranteed certificate except for fraud or material misrepresentation on the part of such holder."
>
> (*See also,* Amtrak Improvement Act of 1975, P.L. 94–25; National Capital Transportation Act of 1972, P.L. 92–349; Amendments to the Rural Electrification Act of 1936, P.L. 93–32; Emergency Livestock Credit Act of 1974, P.L. 93–357; Section 237(g) of the Foreign Assistance Act of 1961, as amended (Overseas Private Investment Corporation), P.L. 87–195.)
>
> For the above reasons, we strongly urge that "of the lender" be replaced with "of the holder" in the sentence.
>
> Sincerely yours,
> JOHN M. NIEHUSS,
> *Deputy Assistant Secretary, Energy Policy.*

The conferees adopted Treasury's suggestion.

Section 17(g) relates to default and includes a provision which is supported by the House and Senate Judiciary Committees aimed at protecting the assets of the project, particularly patents and know-how, which, as Chairman RODINO noted, supra, may be the most valuable assets of the project.

Section 17(h) relates to payments to avoid default.

Section 17(i) relates to the issuance of regulations.

Section 17(j) relates to the collection of fees for use in case of default, not to run the program. These fees are subject to congressional action through appropriations. I had urged that the percentage limit be 5 percent, because I did not think a 1-percent limit would be adequate. That suggestion was rejected. I hope that these fees will be adequate.

Section 17(k) relates to community impact aid and is fully discussed in the conference report.

I am concerned that this section does not include provisions for the relocation of persons who may be forced to move because of a project, particularly tenants residing in heavily populated areas of Appalachia. As I noted in the hearings, this is a severe problem in West Virginia in the case of coal mine operations. I feel certain that it will be a problem in the case of these projects, wherever they may be located. I hope that ERDA considers this and suggests solutions later if this section is enacted.

Section 17(l) relates to the 180 report to Congress which will certainly be reviewed, probably through hearings, by our committee.

Section 17(m) provides for congressional oversight of each project.

The conference report discusses our intent. It deserves repeating here:

> Each report should be quite detailed. For example, it should include a description of the proposed facility, the expected total costs and benefits, the expected impact, a finding that effective actions have been taken or will be taken to deal with these impacts, the views of the appropriate non-Federal governmental officials and others, a detailed discussion of the extent of Federal financial commitment to the borrower for the facility and to local governmental entities, the terms and conditions of the agreement, a copy of the final environmental impact statement, and other pertinent data. Where the action is taken over the objection of the Governor, the ERDA findings and reasons shall be included. Similarly, the report of the Justice Department and the Federal Trade Commission concerning the impact of such guarantee or commitment on competition and concentration in the production of energy shall be included, together with ERDA's written determination, if any, that despite any objection by such agency the demonstration should proceed from the standpoint of the national interest.
>
> Such report on each proposed guarantee or commitment will lay before the Committees for 90 calendar days, exclusive of days either House adjourns for more than 3 days.
>
> If the estimated cost of proposed commercial demonstration facility will exceed $350 million. ERDA shall not finalize the guarantee or commitment for that facility if either House passes a resolution of disapproval within the 90 day period. These commercial demonstration facilities will often be quite large, have significant environmental and social impacts, and may be controversial. Such projects should require some degree of Congressional scrutiny, short of actual authorization. Those exceeding $350 million in costs require an opportunity for either House to express its disapproval. On these sizeable projects, the Conferees are concerned that they not be built without this opportunity for careful scrutiny by Congress.

Section 17(n) establishes a fund which also is subject to future congressional appropriation action.

Section 17(o) defines certain terms. The term borrower or applicant is intended to include municipalities or other publicly owned non-Federal entities.

Section 17(p) includes a provision on citizenship of the applicant for a loan guarantee which we recommended in H.R. 9723.

This is an important provision. One of the objectives of this section 17 is energy independence. Foreign ownership or control of these demonstration facilities would hinder this objective. Thus, this provision was adopted.

Section 17(q) precludes transfer of this program to any other agency without congressional approval.

Section 17(r) relates to patents. The conference report discusses this section in some detail. It also includes a letter from ERDA concerning the application of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 to loan guarantees. As the conference report notes, some conferees disagree with the ERDA letter and memorandum, including myself. A November 4, 1975, memorandum of the Judiciary Committee and letter from three of our colleagues to our committee also indicates other disagreement with the ERDA letter and memorandum. Those documents follow:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 20, 1975.

HON. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As conferees who helped write the Federal Nonnuclear Energy Research and Development Act (P.L. 93–577), we are disturbed to learn that ERDA's General Counsel is taking the position that the patent section of that Act does not apply to loans, loan guarantees, and price supports. We believe that this interpretation is clearly erroneous and cannot be supported by the Act's language, legislative history or intent.

You will recall that the patent section was discussed extensively and the section 9 patent provisions reflected a compromise between the different points of view. The thrust of the compromise related to the provisions concerning waiver of title and granting of exclusive licenses with respect to government-sponsored technology. The conferees understood—and the language of section 9 and of the Conference Report supports the view—that the scope of section 9 was as broad as possible, covering *all government-funded technology*. The term "contract" was used in section 9 because it was all encompassing.

Section 9(m) defines the term "contract" as meaning "any contract, grant, agreement, understanding, or other arrangement." The Conference Report states (at page 26) that section 9 "is intended to apply to all nonnuclear contracts" of ERDA and (at page 28) that "Subsection (m)(2) which defines contract as including 'other arrangement,' is intended to encompass *any and all other arrangements*" (emphasis added).

Public Law 93–577 is intended to govern government-funded non-nuclear R. & D., and we respectfully suggest that the House conferees on H.R. 3474 specifically reject (either in the bill or in the conference report) ERDA's interpretation that Public Law 93–577 does not apply to loans, loan guarantees, and price supports. We believe that each of these is clearly a contract within the meaning of Public Law 93–577 and we do not believe that ERDA should be permitted to avoid the Congressional mandate and intent.

Sincerely,

JOHN F. SEIBERLING,
MO UDALL,
JONATHAN B. BINGHAM.

MEMORANDUM

WASHINGTON, D.C.,
November 4, 1975.

To Earl C. Dudley, Jr., General Counsel.

From Alan A. Ransom, Counsel, Subcommittee on Monopolies and Commercial Law.

Re Application of section 9 of the Federal Nonnuclear Research and Development Act of 1974 to section 7, forms of Federal Assistance.

For the following reasons, it is clear that all forms of Federal Assistance mentioned in subsection 7 of the Federal Nonnuclear Research and Development Act of 1974 are subject to the patent policy as set out in subsection 9(a) thereof.

The Conference Report defines "contract" as including "other arrangements" and continues on to note that this is "intended to encompass any and all other arrangements."

The specific reference to Federal-Industry corporations is not exclusive—it is simply to point out that they are to be included, as there was some question as to this issue.

This being the case, arguments directed to whether a loan guarantee is included within the term "contract" as defined in § 9(m)(2) are irrelevant, as are analogies to the NAS Act of 1958 and *Fitch & Braun* v. *AEC*, 181 U.S.P.Q. 41 (CCPA 1974). Argument by analogy is meaningful only in the face of legislative ambiguity. There is none here.

It is my hope that ERDA will reverse itself and comply with the law.

Section 17(s) relates to the matter of guarantees and tax exempt bonds.

The first part of the proposed language—up to the proviso—would let ERDA guarantee a bond issue by a State or political subdivision on a State or Indian tribe for the cost of a public facility—for example, school—needed as a result for the demonstration facility or for a biomass or geothermal plant, and to specify that the interest on the bond in the hands of the holder will be taxable under the IRS Code. It also applies to the guarantee of the tax stream. This provision is not intended to change the status of the local community's bond. It merely means that the holder of the bond cannot claim that the interest on municipal bonds is tax exempt.

Similar language was enacted by Congress in section 727(g) of the Urban Growth and New Community Development Act of December 31, 1970—Public Law 91–609.

Such a provision standing alone might mean a higher interest rate for the community—even with the Federal guarantee—particularly if it is a small community with a poor bond rating or no rating at all. The proviso to alleviate that problem provides that ERDA, with Treasury approval, shall pay an interest differential subsidy to the community issuing a bond for the difference in interest between a taxable bond and a tax exempt bond, if one exists as determined by the Treasury. This proviso is what our conferees agreed to.

The American Public Power Association, in a November 26, 1975, letter to the committee, indicated a strong disagreement with this provision. The APPA letter follows:

AMERICAN PUBLIC
POWER ASSOCIATION,
Washington, D.C., November 26, 1975.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, Rayburn House Office Building, Washington, D.C.

DEAR MR. TEAGUE: By letter of November 24, you asked me to comment on the following language which House and Senate conferees are considering including in Section 103 of the ERDA authorization bill:

"With respect to any obligation issued by, or in behalf of, any State, political subdivision, or Indian Tribe which is either guaranteed under, or supported *by* taxes levied by said issuer which is guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954 as amended: *Provided*, That the Administration shall pay to such issuer out of the Fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields on obligations of said issuer, if any, or other obligations, with similar terms and conditions the interest of which is not so included in gross income for purposes of chapter 1 of said Code and in accordance with such terms and conditions as the Secretary of the Treasury shall require."

Basically, the proposal is to provide a Federal guarantee for a new form of municipal financing—a "taxable" bond—with the additional borrowing costs to be eased by a Federal subsidy, the amount, terms, and conditions of which will be left to the discretion of the Secretary of the Treasury.

It seems to me that this approach to stimulating energy demonstration projects and dealing with associated community impact problems is undesirable for three reasons:

1. It represents a "back door" attempt to alter traditional bond financing by units of local governments.

2. It quite probably would not achieve the purpose of encouraging or aiding cities to participate in the programs contemplated by Section 103.

3. It would discriminate against one group of potential participants in ERDA-sanctioned projects.

The question of making interest on municipal securities subject to Federal income tax and supplying issuers with a Federal subsidy geared to the difference in interest rates between tax-exempt and taxable bonds has been before Congress for many years in the form of bills introduced in the House and Senate. The issue was given active consideration during action on tax legislation in 1969, and the Congress declined to enact legislation incorporating such a proposal, following hearings before the Ways and Means Committee and the Finance Committee. It is my understanding that the matter may be the subject of further study by the Ways and Means Committee in 1976.

In any event, it is clear that the merits of taxable municipal bonds are controversial, that policy implications of such a change are broad, and that the basic jurisdiction over the issue lies with the Ways and Means Committee. Despite the fact that Congress chose to provide a somewhat similar provision in the Urban Growth and New Community Development Act of 1970 relative to State land development agencies, it is not, in my view, good public policy to bury basic changes of this type in legislation aimed at other purposes. The effect can only be to erode an existing principle, upon which municipalities currently depend, without facing fundamental questions which are involved. Clearly, proponents of taxable municipal bonds would seek to use Congressional approval of the language you sent me as an argument in support of their position, asserting that it is a meaningful precedent.

American Public Power Association, which represents about 1,400 local public power systems, mainly municipally-owned electric utilities, in 48 States, Puerto Rico, the Virgin Islands, and Guam, is opposed to any attempt to terminate the tax exempt status of bonds issued by state and local governments to finance essential public services, including electric power. APPA does not favor the substitution of a Federal tax subsidy for the Constitutional and legislative immunity from Federal income tax on municipal bonds. I am enclosing for your information a brief by APPA's General Counsel laying out the reasons for these APPA positions.

If the language which the conferees are considering is enacted into law, it is quite possible that it will not perform the function intended, i.e., to help municipalities take part in energy demonstration projects or protect themselves against the economic impact of such projects.

Municipal electric systems usually finance energy projects through issuance of tax-exempt revenue bonds which are backed by revenues which accrue from the sale of power and energy by the utility. A Federal guarantee of these bonds could help insure their marketability and might improve the interest rate. However, the municipality would also have to consider the cost of borrowing for the project if it were financed by taxable bonds. There is not now an established market for taxable municipal securities. Added to this uncertainty is the wide discretion granted the Secretary of the Treasury in determining the subsidy to be granted the issuer. The Secretary is to set the sum at a level he finds "appropriate" after taking into account current market yields on obligations of the issuer, if any, or other obligations "with similar terms and conditions" on which interest is taxable. The decision by the Secretary could result in an effective cost to the municipality higher than with use of tax-exempt bonds.

Furthermore, the language provides that the subsidy will be granted "in accordance with such terms and conditions as the Secretary of the Treasury shall require." The scope of such "terms and conditions" is not defined, leaving the Secretary broad authority to impose restrictions and limitations which could not only diminish the value of the subsidy, but also affect the availability and use of the funds. Thus, among other things, the Secretary could condition the subsidy in such a fashion that it could alter or even countermand the aims of ERDA and the municipality in implementing the program. Evidence exists to suggest that action of this type by the Treasury Department is a distinct possibility. APPA members have found that the Department is giving active consideration to regulations which would restrict the ability of groups of publicly-owned electric utilities to use tax-exempt bonds for financing jointly large-scale economic generating facilities, the output of which they will share. If promulgated, the regulations would be contrary to past revenue rulings and public policy which encourages development of the most efficient energy production facilities.

The language states that the subsidy payments will be made by the Secretary out of a fund established by Section 103. If that fund is dependent on appropriations, then presumably annual action will be required by Congress to insure availability of money required to make the payments and the total sum in the fund will be affected by overall budgetary restraints imposed by the Administration or the Congress. This would add to the uncertainty which permeates the scheme.

Section 103 of the ERDA authorization bill as approved by the Senate authorized ERDA to guarantee the payment of interest and principal of bonds, debentures, notes, and other obligations of any person for the purpose of financing synthetic fuel facilities and energy production projects involving renewable resources. We understand the Senate language to include guarantees for the obligations of local public power systems. Subsequently, the Administration recommended in House hearings that municipalities be excluded from the program. APPA objected to this recommendation, as indicated in the enclosed letter sent to Representatives McCormack and Hechler. It appears that the Administration is now seeking to block APPA members from participation by supporting language which would force municipalities to go to a new and dubious form of financing, fraught with uncertainties, although no similar requirement is imposed on other potential participants. This position is discriminatory.

The Administration has adopted a similar position with respect to other pieces of legislation it has recommended to Congress in the field of energy. For instance, while the President this year proposed new tax breaks for private power companies to aid them in meeting alleged financial difficulties, no assistance for consumer-owned electric utilities was offered. In another example, the Administration has proposed creation of an Energy Independence Authority authorized to extend up to $100 billion in financial assistance to "business concerns", including private power companies, but local public power systems are not eligible for aid.

It is interesting to note that when I pointed out this latter discrimination to FEA Administrator Zarb at the White House briefing, he indicated that the rationale for exclusion of local public power systems from the EIA proposal was that these systems have "other vehicles to get the job done." Now the Administration is seeking to limit that "vehicle" in the ERDA authorization bill.

For the reasons I have cited, I urge that the conferees reject the language you sent me.

Sincerely,

ALEX RADIN.

I share the APPA's concern. This provision was hastily devised with help from Mr. John Harper of the Treasury Department. No hearings were held on it, nor was ample time available to consider its impact fully or to consider the very valid points raised by the APPA. Indeed, the provision is outside our jurisdictional area.

It is my expectation that the 180 day report by ERDA under section 17(1) covers this matter in great detail, and particularly reveals the details of administration of this section by ERDA and Treasury.

Section 17(t) relates to conflicts of interest. It was one of our recommendations. ERDA is directed by regulation pursuant to 5 U.S.C. 553 issued within 60 days after enactment to define: First, the financial interests which must be disclosed; and any "known financial interest" instead of any "direct financial interest". The disclosure requirements apply to any officer or employee of ERDA who is in a policy mailing area. This does not mean necessarily persons heading offices or division. It includes others. Nor should this be limited by a GS level.

Section 17(u) is a disclaimer and is discussed in the report—pages 66–67.

Section 17(v) is a provision recommended in our proposal of November 2 with some revision worked out in it with Representative GOLDWATER. Under section 17(v) the data collected shall be available to the public as required by the Freedom of Information Act and subject to the exemptions of that act and 18 U.S.C. 1905. The provision also includes a procedure by which a person may have trade secret or other proprietary information declared confidential by ERDA on a case-by-case basis. Confidentiality based on anything other than a case-by-case determination is not authorized.

The burden is on that person to show that the data meets the statutory test and the Administrator's determination is subject, of course, to any available judicial review. Once determined to be confidential by ERDA, the data must be kept confidential by ERDA and any disclosure by a Federal official or employee will be a crime punishable under 18 U.S.C. 1905. However, such confidential data shall, upon request, be made available to ERDA employees, and to all other Federal agencies, including those specifically named in the section, where needed for their statutory purposes. The prohibition against disclosure and the sanctions therefore applies to such agencies.

The conferees stress that if Congress or a congressional committee wants such confidential data, ERDA shall supply it.

Section 17(w) relates to appropriations.

Sections 301, 302, and 303 do not apply to fossil fuels.

During the next authorization bill, our subcommittee will want to consider a new provision for the disposition of revenues received by ERDA in connection with fossil activities. I feel certain we will want to work closely with the Appropriations Committee in this regard.

Section 305 relates to reprograming and stems from our subcommittee.

Section 309 is designed to be helpful to ERDA and not be used as a means of restricting ERDA from carrying out nonnuclear R. & D. programs effectively, economically, and efficiently. It does not preclude duplication, but tries to minimize that which is unnecessary.

Section 312 is discussed in the report.

The data collected shall be available to the public as required by the Freedom of Information Act and subject to the exemption of that act and 18 U.S.C. 1905. The provision also includes a procedure by which a person may have trade secret or other proprietary information declared confidential by ERDA on a case-by-case basis. Confidentiality based on anything other than a case-by-case determination is not authorized.

The burden is on that person to show that the data meets the statutory test and the Administrator's determination is subject, of course, to any available judicial review. Once determined to be confidential by ERDA, the data must be kept confidential by ERDA and any disclosure by a Federal official or employee will be a crime punishable under 18 U.S.C. 1905. However, such confidential data shall, upon request, be made available to ERDA employees and to all other Federal agencies, including those specifically named in the section, where needed for their statutory purposes. The prohibition against disclosure and the sanctions therefor applies to such agencies.

The conferees stress that if Congress or a congressional committee wants such confidential data, ERDA shall supply it.

Section 316 is our subcommittee's old provision numbered section 102—see House Report 94–294, page 197—it is critical that the Energy Research and Development Administration perform the necessary environmental and safety research and development for all aspects of the fossil fuel cycle—from extraction to burning or conversion. The bill points the emphasis necessary to start an accelerated program and do the work that has been ignored for years by other Government agencies.

I am very pleased that Mr. TEAGUE recognized the importance of this new program and that the Department of the Interior agreed with the conclusion that ERDA has broad authority. The exchange of letters on this subject follow:

COMMITTEE ON
SCIENCE AND TECHNOLOGY,
Washington, D.C., April 21, 1975.

HON. ROGERS C. B. MORTON,
Secretary of Interior,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for your April 16, 1975 letter concerning sections 102 and 317 of the Committee Print of H.R. 3474. It is helpful to the Committee to hear your views. I very much appreciate your bringing them to our attention.

Your letter implies that ERDA, which is under this Committee's jurisdiction, now lacks statutory authority to conduct R&D work in the area of mining extraction. Without debating the merits of section 102, I think it is clear that ERDA currently has broad authority to conduct R&D work in this area.

First, section 2(b) of the Energy Reorganization Act of 1974 (Public Law 93–438) includes a congressional finding that in order to achieve the "objectives" of the Act, "it is necessary to establish" ERDA "to bring together and direct Federal activities relating to research and development on the various sources of energy".

This section is important because, for the first time, it directs a Federal agency, namely ERDA, to be involved with research and development for all aspects of the fuel cycle for fossil fuels.

Second, another section of the same Act, section 103, directs ERDA to exercise "central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources".

The legislative history of the ERDA Act supports this view. The 1973 report of the House Committee on Government Operations (H. Report 93–707) makes it clear (p. 18) that "some" but not all, of "the mining technology-research activities" will remain in the Bureau of Mines. Moreover, Public Law 93–438 transferred to ERDA the functions of the former Office of Coal Research under Public Law 86–599 (16 U.S.C. 661–668) which directs that ERDA shall "develop through research, new and more efficient methods of mining, preparing, and utilizing coal." The ERDA law also transferred to ERDA from the Bureau of Mines the function of "improving methods of managing energy-related wastes and pollutants".

Third, the Federal Nonnuclear Energy Research and Demonstration Act of 1974 (Public Law 93–577) directs that ERDA "formulate and carry out a comprehensive Federal nonnuclear" R&D program, to develop "energy policy options" and to "conduct a comprehensive, national program of basic and applied research . . . of all potentially beneficial energy sources and utilization technologies".

In reviewing your letter I note, that it does not specifically address a very important issue, namely whether or not the Bureau of Mines is currently conducting all of the research, development, and demonstration work contemplated by section 102 and at what funding level. At our recent Subcommittee hearings, the Director of the Bureau of Mines, Dr. Thomas V. Falkie, stated that most of the Bureau's "effort" is on stabilizing waste embankments. Section 102 appears to be aimed at finding ways through research, development, and demonstration to eliminate or substantially reduce these hazardous waste banks.

In the information area, your letter also implies that Interior is principally responsible for maintaining an energy data system. There are many agencies with responsibility to collect and disseminate energy data, including the Federal Energy Administration pursuant to Public Law 93–319 and ERDA pursuant to Public Law 93–438. This responsibility is not unique to Interior.

I appreciate your providing to us your views.

Sincerely,

OLIN E. TEAGUE,
Chairman.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 20, 1975.

HON. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of April 21, 1975, concerning our views on Sections 102 and 317 of the Committee Print of H.R. 3474 and the opportunity it provided for us to further clarify their relationship to the responsibilities and programs of the Department of the Interior.

We agree with your conclusion that the Energy Reorganization Act of 1974 gives ERDA broad authority to conduct research and development work and does not exclude the areas of extraction. We believe, however, that both the House and the Senate Committees on Government Operations, during consideration of the bill, became aware that without some clarification of intent the Act would authorize research and development work that would duplicate work being done in the Bureau of Mines. Clarifying language was added to each Committee report. The report of the Senate Committee on Government Operations says:

"Research on coal mining technology, including coal analysis and preparation, as well as the use of coal for metallurgical processes will be continued by the Bureau of Mines, especially as such research relates to mining and metallurgical technology or mine health and safety. . . . These include responsibility for mining metals and minerals, mine health and safety, mined area reclamation . . ."

The report of the House Committee on Government Operations says:

"Energy-related work which will remain in the Bureau includes some of the mining technology research activities. Expertise in this area is essential for mining health and safety research and provides support required to avoid disruption of the Bureau's remaining program. This work will not be transferred because of its intimate relationship to other mining technologies."

We do not believe that it is a question of whether or not ERDA has legal authority to conduct research in the area of mineral extraction but it is a question of whether or not the Nation can afford to have two agencies doing the same work. Congress appeared to agree, and we think rightly so, with the mandate expressed in the Committee's reports and determined that mining research should be continued in the Bureau of Mines because of its close relationship to other work the Bureau is doing and the expertise existing in the Bureau of Mines to perform such work.

You asked if the Bureau of Mines is conducting all of the research, development and demonstration work contemplated by Section 102. As we read that Section, it provides for an all-inclusive program related to energy resource extraction with certain specific areas of work named for added emphasis. The mining research program of the Bureau of Mines is of the comprehensive type contemplated by Section 102. We will describe our efforts in the particular areas named in the proposed section.

In the area of mine waste disposal, we are using coal mine waste bank material in our work to control surface subsidence. We grind a variety of coal mine waste-bank material, mix it with water and hydraulically pump it by a Bureau-developed process through boreholes to fill underground mine voids to control surface subsidence. This provides a side benefit of removing the unsightly surface piles which could become ignited and cause air pollution and permit the land on which they were situated to be reclaimed for more valuable purposes. We are also studying the possible use of oil shale wastes as raw materials for ceramic or other industries. We are studying the problems associated with the storage and disposal of mineral and fuel waste materials. A significant amount of work is being done to repair damages from past mining practices such as control of underground and outcrop mine fires and the extinguishment or removal of mine waste piles near abandoned surface and underground mines. Funding $6.0 MM.

In the area of mine water drainage and control, we monitor mine waters and study methods for reducing the harmful effects of mine waste water. Under joint funding with the State of Pennsylvania, we administer grants under the Anthracite Mine Water Control Act of 1955, as amended. Funding $.2 MM.

In the area of coal waste impoundments and embankments, we are conducting research on the stabilization of tailing dams from the structural standpoint. The Bureau of Mines provides analytical support and technical expertise in support of MESA enforcement activities and studies to prevent a recurrence of a "Buffalo Creek" type disaster. Funding $.3 MM.

In the area of in-mine disposal of mine wastes, the Bureau of Mines has a program in which it is using electrokinetic densification of mill tailings deposited in the mined-out areas of the mine concurrent with the mining operation. Additional research is being done on the backfilling of worked-out mine areas. Funding $.6 MM.

In the area of solid waste disposal, we are conducting research on chemical and vegetative methods for stabilizing mine waste piles, recovering and reusing waste products, developing commercial uses for fly ash and using it for conditioning mine spoils banks and recovering usable fuel materials from coal mine waste bank material before it is used or disposed of for other reasons. The Bureau of Mines is conducting major research programs in recovery of minerals and materials and heat values from raw and incinerated urban waste and this research is quite likely to yield results that can be adapted to this area. Funding $.8 MM.

In the area of trace elements in streams and in the combustion of coal, we are developing processes for removing noxious gases from powerplant emissions. A major field of research is in flue gas cleanup. The Bureau of Mines-developed citrate process for removing sulfur oxides from nonferrous smalter stack gases is being tested in a pilot plant, and we intend to demonstrate the process for desulfurizing flue gas from steam generating plants burning high sulfur coal. Funding $1.4 MM.

We feel very strongly that every effort should be made to prevent duplication in data collection activities. Such duplication is not only economically wasteful but it is a source of irritation to respondents and that could well reduce the quantity and quality of the information we receive from them. Also, to be effective, a data bank needs to have historical information gathered on a continuing and consistent basis for comparative purposes and by an organization that has the technical expertise to interpret the data.

We believe that emergency agencies such as the FEA should be authorized (and FEA is) to collect the additional information required for their special assignments but to the extent that such data are available from established data banks such as are in the Bureau of Mines, existing data should be utilized. This type of approach is especially important in the case of FEA which has a limited existence as specified in its enabling Act.

The enclosed statement by the Assistant Secretary—Energy and Minerals before the Interior Subcommittee of the House Committee on Appropriations on May 5, 1975, provides a good summary of the Department's position in this matter.

If we can provide additional information that would be helpful, please let us know.

Sincerely yours,

Jack W. Carlson,
Assistant Secretary of the Interior.

Testimony by Assistant Secretary Jack W. Carlson

Mr. Chairman, Members of the Subcommittee, thank you for giving me this opportunity to present my views on the mission of the Bureau of Mines, which comes under my jurisdiction as Assistant Secretary of the Interior for Energy and Minerals.

Within the Interior Department, we look at the various operations that supply the Nation with minerals and fuels as parts of a system. The system begins with the geologic definition of mineral or fuel occurrences, and ends, not with use of a mineral or fuel product, but with its recycling for further use and with the restoration of the land from which it came.

The first parts of this system, from geologic definition, through reconnaissance, exploration, and, in many instances, into development, are the realm of the United States Geological Survey. The province of the Bureau of Mines begins with development and extends through mining, mineral benefication, extractive metallurgy, materials development, fabrication, manufacturing, and into the use and recycling of materials and the restoration of mined land. The regulatory, training, and technical support functions of the Mining Enforcement and Safety Administration (MESA) come into play at many points in the mineral cycle, wherever the health and safety of mineral industry workers are involved.

The programs of the Interior Department for which I have responsibility cover every aspect of the domestic industrial operations on which America depends for adequate supplies of minerals and fuels. These programs are completely interdependent. Research on mining interfaces with research on mineral exploration; extractive metallurgy with materials development, with fabrication, and even with recycling; and safety enforcement and safety training with all of the others.

Federal responsibilities in the mineral and fuel extraction industries are in one Department—the Department of the Interior. This has allowed us to retain a flexibility and rapidity of response capability which enables us to meet crisis situations. During last fall's prolonged coal strike, we were able to quickly marshal the expertise of the Bureau of Mines and the special knowledge available in MESA to continuously monitor the impact of the work stoppage on miners and fuel supplies in every corner of the country.

The Department of the Interior's Bureau of Mines has a distinct advantage over the many newly created Federal agencies. It has been in existence long enough to have developed an "in-depth" expertise in its field unmatched by any similar organization, government or private.

The Bureau's field is mineral resources, a field that embraces many scientific and engineering disciplines. A mineral "resource" may be defined by the geology of its occurrence, the chemical structure of its ore, the economics of its recovery and transportation, or a host of other factors that must be taken into account and integrated to obtain reliable knowledge.

This integrative function is the Bureau's specialty. Within this single agency are some of the Nation's outstanding professionals in mining engineering, extractive metallurgy, mineral economics, rock physics, chemical engineering, and international mineral trade. Their combined experience and judgment makes the Bureau America's number one mineral resource organization. In a time of increasing concern over the adequacy of mineral and material supplies, the Bureau is itself an invaluable resource.

The Bureau of Mines pursues its mission in two basic ways: Research, and data collection and analysis. The two are closely related. Research aimed at solving specific resource problems—a decline in the availability of conventional iron ores, for instance—may be initiated and guided by an analysis of production statistics, or by a sophisticated economic study of supply-demand patterns. Reflecting the close working relationship between these two halves of the Bureau, there is a frequent interchange of personnel between them. For example, a Bureau mining engineer or metallurgist whose work has made him particularly familiar with a single mineral commodity or commodity group may move from research to the data gathering and analysis organization to become a "commodity specialist."

It is just this kind of "cross-fertilization" within the agency that gives the Bureau its unique authority. On a broader scale, this same kind of interchange and cross-fertilization typifies and strengthens the solidly integrated structure of the closely related Interior agencies reporting to the Assistant Secretary—Energy and Minerals.

During the past year, we have succeeded in increasing the Bureau's capabilities. We have strengthened its Research and Development program in many ways. One of the most significant is in the field of Data Collection and Analysis. We have swung heavily into Economic Modeling as a tool to predict changes in demand and in supply, which is very important to guide us in determining our nations vulnerability to interruptions in the supply of minerals coming from outside our borders. We have developed a world-wide information system to improve our know-how in this respect. In cooperation with the State Department, we have doubled the number of Mineral Attaches in foreign nations, which greatly improves our data collection quality.

During the past year, we have begun monthly publication of Mineral Surveys, which are up to the minute statements of the situation this nation finds itself in with regard to the supplies of vital commodities in the minerals field.

The Bureau's accomplishments have been many and varied. Recent metallurgical research, for example, has yielded a technique for unlocking the iron in domestic ores that, though abundant, were not amendable to conventional processing. Bureau mineral processing experts have found that techniques and equipment widely used to upgrade mineral ores can also be used on urban wastes—ordinary trash and garbage—to recover recyclable metals and nonmetallics. Mining research experts have improved many of the conventional mining methods and are working on whole new mining systems. The Bureau's explosives research laboratory is acknowledged as the outstanding civilian facility of its kind in the Nation. The Bureau's annual *Mineral Yearbook* in the single most authoritative source of statistics on mineral production, consumption, prices, trade, and other important factors. Special studies conducted by the experts who compiled the Yearbook are in constant demand by other agencies of the Executive Branch and by the Congress itself, as a guide to Federal policy-making in mineral resource matters.

The Bureau of Mines speaks with unique authority on mineral resources. No other agency can match its depth of coverage, and no agency could hope to attain the Bureau's level of expertise within actually duplicating its functions. Its years of experience have given the Bureau skills and a capacity for judgments that could not possibly be reproduced without a similar long-term investment.

The proposed increases in appropriations for the Bureau of Mines indicate our continuing determination that mining will become an inherently safer and more healthful occupation, and our awareness that the United States must strengthen its ability to satisfy its mineral and fuel needs from its own resources. The increases requested represent three major thrusts of the Bureau's total effort. We will step up research on health and safety problems in all kinds of mining operations—research that already is yielding important new developments. We intend to advance the Bureau's cooperative efforts with industry to develop new technology that will improve our ability to meet our requirements with our own resources. Bureau research to improve coal mine productivity, for example, will help assure that coal is available in quantity as the Nation turns to it to meet energy requirements. Finally, we intend to strengthen the Bureau's factfinding programs so we can better anticipate future developments in the minerals and fuels area. Dr. Falkie, Director of the Bureau of Mines, will discuss that facet of our budget request more fully.

Mr. Chairman, before asking you to hear the presentation of the distinguished Director of the Bureau of Mines, Dr. Tom Falkie, I want to stress the importance of maintaining a cohesive and coherent minerals program. We need to improve the program; we need to expand the program in some ways; we need to strengthen it—but we should not fragment it.

As the Committee will recall, when functions of the Department of the Interior were transferred to the newly created ERDA, Extraction Research was specifically retained in the Bureau of Mines. We are developing good working relationships with Administrator Robert Seamans of ERDA on other problems of mutual interest. But we must retain extraction research where it belongs—and it belongs in the Department of the Interior. It belongs in the Bureau of Mines.

You gentlemen know that there has been legislation introduced for the consideration of the Congress which would transfer MESA out of Interior and into the Labor Department. This would be a tragic mistake. MESA is closely associated with mining—and it belongs in the Department of the Interior, the focal agency for mining matters.

We have accomplished much in our own internal reorganizations, making the close working cooperation between our minerals-associated agencies even closer. We have developed a greatly improved information gathering and disseminating ability. That information ability serves all of the component agencies which make up the Department of the Interior. It would be tragic to separate that information gathering and disseminating ability from the agencies it serves.

The Bureau of Mines, the Geological Survey, and MESA are integral parts of a functioning entity. We have made great progress in making our operations more integrated, more efficient, and more capable. We will make even greater progress. To separate any part of this organization would seriously weaken the whole at a time in history when America's reliance on this organization is truly critical.

Mr. Chairman, the nation can continue to rely on the experience and the seasoned capabilities that have been developed in the Department of the Interior's Bureau of Mines over decades of diligent and productive effort on the public's behalf.

The SPEAKER pro tempore. The time of the gentleman from West Virginia has expired.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. SCHROEDER).

Ms. SCHROEDER. Mr. Speaker, I rise for several minutes to get my 2 cents worth in on the $6 billion guaranteed loan project, and also on section 102.

Let me briefly say concerning section 102 that while I support in situ, my great concern is that the Interior Department has been leasing some of our Federal lands for oil shale purposes, and I think for the companies who have already leased oil shale lands and have invested in processing them this legislation is unfair.

With regard to the $6 billion loan guarantee, it seems to me that there is no question that one can do anything or almost anything, if money is no object. I think Howard Hughes proved that with his Spruce Goose. But, so what. It does not mean that it is needed or recommended or beneficial. The American taxpayer is being asked to run the financial risk with no guarantees that we are going to end up with an economical source of fuel.

We have heard much about self-sufficiency discussed here, but no one in this room believes that the passage of this section of the bill guarantees self-sufficiency. What we should be talking about to guarantee self-sufficiency is some nondepletable sources of energy. Earlier it was said if the total defense budget were put into solar energy this year, it would do very little this year.

Let me tell the Members the reason why. Part of the reason is because we do not have any off-the-shelf hardware to install solar furnaces. Mass production is the thing that makes this country great and brings energy to people at affordable costs. If I want to put a solar furnace in my home, I have to hire someone to handtool all the things that go with that furnace, which makes it incredibly expensive. That is one of the main reasons solar energy cannot become one of our major sources of energy overnight. That is not such a mystery. Many other countries are ahead of us in solar energy and using it on vast scales.

I just think this is a very dangerous legislative process precedent. There have been hearings, but we do not have a printed record. I was delighted to find that the hearings were not held in my district, in Boulder, Colo. Being told to attend them if I want to know what is going on is not satisfactory. I hope the Members will vote against sections 102 and 103. There is a much better way to legislate than this.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for yielding to me. During general debate I made a point, which was never responded to by the gentleman from Washington (Mr. McCORMACK), concerning section 103. I was talking about the shale developments and the shale program in this section 103.

I pointed out that there are three companies, Superior, Standard Oil of Indiana, and Gulf Oil which have all indicated a willingness to go ahead with their own shale development programs. It does not make a lot of sense to me to say that we should go ahead and provide other companies with a loan guarantee program when these companies have indicated willingness to go ahead on their own. Why should they go ahead and spend their own money if the Government is, in effect, financing their competitors?

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, first of all there is nothing which obligates ERDA or the Congress to approve any programs for oil shale. That is simply permissive. If a program costs $350 million it must come to the Congress for our specific approval. I think ERDA can be discouraged from granting any loans for any programs if they are being carried out concurrently by private industry. As a matter of fact, I would personally oppose any such program on this floor.

Mr. JOHNSON of Colorado. When the report comes back in April, we will then know whether these companies are going to go ahead with their own development.

I do not know why the gentleman would say we should just ignore the fact that they have indicated they would spend their own money.

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. I thank the gentleman for yielding. The gentleman never said they have to come here for specific approval. But as I read the bill, it is automatically approved unless we disapprove it; is that not correct?

Mr. McCORMACK. If the gentleman will yield, that is correct. We must disapprove.

I will ask the gentleman from Colorado (Mr. JOHNSON) what his question was. I was distracted by this question from this side.

Mr. JOHNSON of Colorado. I said: Are we not discouraging the companies from spending their own money when we are financing their competitors?

Mr. McCORMACK. If the gentleman will yield, it depends on what the odds would be with or without the loan guarantee program. There are a large number of liabilities that go with the loan guarantee program, including the patent provisions, delays, reviews, and so forth.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, it is difficult to know which handle to grab in this rather complicated debate. I am definitely opposed to the motion to strike offered by the gentleman from West Virginia. This is a very sound proposal contained in section 103. It is a loan guarantee program. I have heard it referred to here on the floor as a loan program, as a giveaway program, as a subsidy program. It is none of those things. It is a loan guarantee program.

Does it take all of the risk out of this for private enterprise? No. The maximum you can get, except for the special provision during the course of construction, is a 75-percent loan guarantee. If you want to build a $100 million plant, you have to be willing to invest and risk $25 million at the minimum. And it could be more if ERDA decides that there is capital available without the guarantee. So this is not a giveaway, this is not a loan, this is not a subsidy. This is a guarantee.

Is this something new? No. the Congress by action last year in both the Nonnuclear Energy Research and Development Act and the Geothermal Energy Research and Development Act authorized this kind of aid to develop new energy technology.

As a matter of fact, this House will have before it tomorrow S. 622, to be handled by the distinguished gentleman from Michigan (Mr. DINGELL), which has $750 million in loan guarantees in it, not for research and development but for the production of coal. In addition, it will have a multimillion-dollar loan guarantee program in it for advanced automotive research and development.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I will yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding. I might point out that Congress, long before this, has taken the position in other programs. The Small Business Administration makes guaranteed loans. We do it in housing and many other programs. This is not a new precedent we are establishing here today.

Mr. BROWN of California. The gentleman makes a sound point.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I will yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding. The electric car bill that we passed earlier in this House had a loan guarantee provision in it, and we passed it overwhelmingly.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I will yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding. This is not a new idea. There are $161 billion that are in loan guarantees today that the American people are on the hook for.

Mr. BROWN of California. I think the gentleman makes a telling point, and I am sure there are far less worthy types of programs than we have in this section 103, the conference report that we have before us.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Speaker, I think we should knock out section 103, because it deals with huge grants of billions of dollars for coal gasification, without, mind you, any national strip mining bill and without a national coal policy.

I do not believe we can develop a national coal policy without first of all having a national strip mine bill to set reclamation standards for Federal and Indian reservation lands with authority for States to meet or exceed the standards and regulate the enforcement of the reclamation program for private, State, and Federal lands.

In addition, section 103 would encourage, by granting billions of dollars, the most costly of all methods of arriving at production of natural gas by coal gasification. I do not think the consumers of this country can afford to pay the price that the gas would cost and that is $4 per thousand cubic feet if the coal gasification plants encouraged by section 103 were built. I have asked the American Gas Association to provide me with the ultimate cost figure based on current costs and that is the figure I was given.

The coal for the gasification plants would be strip mined in the West and the gas produced would cost the consumers an excessive amount. We need prudent development with protection of the land, the water, and the rights of people in the area. Section 103 does not supply these needs.

Mr. Speaker, regarding oil shale conversion, section 102 is a different matter and I would like to quote Senator METCALF:

> In situ recovery is potentially more economical, requires less water, and should result in greatly reduced environmental effects. For example, it is estimated that in situ production of shale oil would require ⅔ fewer people to operate the process, ½ the amount of water and ⅓ or less disposal of waste oil shale.
>
> The in situ recovery process would seem to be preferred over other alternative processes, especially strip mining.
>
> Section 102 of the ERDA authorization bill, as approved by the Senate-House conferees, does assure that we will have such a demonstration. As chairman of the subcommittee which exercises the Senate's oversight function of the Mineral Leasing Act of 1920, I can assure the Senate that section 102 is entirely consistent with the porvisions of this act. It guarantees the public that there will be, under carefully controlled conditions and with full disclosure of the results, a serious effort to demonstrate the commercial feasibility of the most environmentally sound way of developing the vast publicly-owned oil shale resources. It provides that during the demonstration period, the federally-owned resource, which will be leased to the non-Federal participant in the demonstration under the Mineral Leasing Act, will constitute a portion of the government's contribution to the demonstration. If the demonstration is successful and the non-Federal participant chooses to continue with commercial development of this tract, the government will receive payments which may well be higher than any royalty required under the Mineral Leasing Act. It should be noted that the Mineral Leasing Act does not require competitive bidding for oil shale leases and does not specify any particular level of royalties.
>
> This is a one-time, one-shot process. A special research endeavor whereby the Federal government puts up its oil shale properties (not more than 5,120 acres) as its share of a research program. The lease issued to the non-Federal participant in the project is subject to all the other provisions of the Mineral Leasing Act.

In my judgment, section 103 is not in the public interest while section 102 on its own has merit and I shall support it.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, in my opinion section 103 is nothing more than the Federal Government interjecting itself once again into the free market system that has served us so well over the years. In the name of national interest to solve the energy crisis, we rationalize that only Government can do it, that only Government guarantees, direction, control, regulation, and Government management can solve this national dilemma.

May I suggest we have arrived at this point precisely because of Government interference in the past. Price controls, wage controls, product refinement, and distribution controls have weakened the industries that are under consideration.

It is Federal spending that has caused rampant inflation. It is Federal deficits and the need to finance them that have driven up interest rates and dried up the potential debt capital that could underwrite a synthetic fuel research and development program.

Given the record of the Federal Government in managing projects traditionally done well by private enterprise, there is no reason to believe that the large role reserved to the Federal Government in this program will bring anything but needless waste and delay.

Loan guarantees amount to Federal allocation of credit. They involve the heavy hand of Government in extremely complicated areas that require quick decisions, cost-effective administration, and an understanding of what competitive enterprise is all about.

Mr. Speaker, to adopt section 103 assures us that we will continue the same wrong-headed Federal fiscal and regulatory policies that have brought us to the current energy crisis. Furthermore, this position tacitly endorses the idea that an increasing Federal role in private enterprise is healthy, desirable, and unavoidable. I cannot accept those assumptions, and I cannot accept the synthetic energy loan approach that is built on them. Loan guarantees will only serve to reinforce the very policies that have created this problem. I cannot support them.

I therefore, Mr. Speaker, suggest that we vote to strike section 103.

Mr. Speaker, I do not believe the facts prove the case that pledging the full faith and credit of the United States to $6 billion in loan guarantees for synthetic fuels demonstration projects, is needed or advisable.

My difficulties with sections 102 and 103 lie outside the factors that have had major emphasis placed on them by the conference. There is no doubt the United States must become energy independent, if not self-sufficient. President Ford, in his state of the Union message, called on the Nation and the Congress to undertake such an objective. He targeted 1985 as the year in which America should achieve such energy independence. Not long afterward, President Ford initiated an Inter-Agency Task Force on synthetic Fuels Commercialization. That task force was to make known its findings last month. They have not yet done so. Despite this, the Senate accepted the President's call and added sections 102 and 103 to the ERDA authorization. The Senate opted for a loan guarantee approach to encourage private enterprise to develop and demonstrate several synthetic energy technologies and their respective commercial viabilities. The House conferees agreed to this approach.

The rationale being advanced is rather straightforward. Recognizing that oversimplification carries many risks with it, I believe the arguments go something like this.

The United States gets 75 percent of its energy from depleting oil and natural gas reserves. By the year 2000, the United States will be deficient in its energy needs by some 10 million barrels per day. Based on the lessons of history, we know the United States cannot become energy dependent on foreign sources. And, we know our current level of energy dependence on foreign sources leaves America weakened and vulnerable.

Atomic energy cannot hope to offset the energy deficiencies we will face; and unless something is done to lick the waste disposal problem and further reduce the risk of nuclear accident, it may have to be abandoned all together.

Thus, the only alternatives are synthetic fuels and energy development. In order that these technologies may be tested out in an orderly and complete manner, this should begin immediately and be accomplished by 1985. That means, all of the environmental, social, economic, and technical problems must be resolved by that date if the United States is to have the 10 million barrels per day it will need.

The proponents of the loan guarantee approach claim that private research, development, and demonstration of currently known synthetic technologies will not occur without Government help because of price uncertainties, cost uncertainties, and the resultant refusal of the investment community to underwrite such ventures. And, given our "objective" energy needs in the next quarter of a century, the only way to meet them is to minimize the risks investors must take by securing their loans with the full faith and credit of the U.S. Government.

The proponents go on to argue that the loan guarantee approach will permit the United States to acquire in a timely manner the necessary technological information, begin supplementing our basic energy needs, and improve our international energy position. They further argue there will be little or no risk to the taxpayer, because the project selection process will be so carefully and diligently carried out that there will be little chance of default on the loans. With the basic stability and independence of the United States at stake, such a minimal risk is well worth taking.

If one ignores some equally valid and important considerations, it sounds convincing. And that is just the problem, it sounds more convincing than it really is.

Mr. Speaker, to adopt section 102–103 assures we will continue the same wrong-headed Federal fiscal and regulatory policies that have brought us to the current energy crisis. Furthermore, this position tacitly endorses the idea that an increasing Federal role in private enterprise is healthy, desirable, and unavoidable.

I cannot accept those assumptions, and I cannot accept the synthetic energy loan approach that is built on them.

It is Federal deficit spending that has undermined the integrity and value of the dollar. It is Federal spending that has caused rampant inflation. It is Federal deficit spending that has dried up all of the potential debt capital that could underwrite a private industry synthetic energy research and demonstration program.

Twenty-five years ago Federal, State, and local governments were taking only 20 percent of all available debt capital, and our inflation rate was less than 5 percent. By 1976, our Bicentennial year, Federal, State, and local governments will be taking from the hands of both industry and private citizens 80 percent of all available debt capital.

It is no wonder industry cannot find investors to underwrite the development of alternate energy technologies. It is no wonder that private citizens and industries cannot respond in a timely manner to our changing and challenging energy needs. They simply do not have the money with which to do it—and the culprit is a spendthrift Federal Government.

The Federal deficit for this fiscal year may well reach $80 billion. Is it any wonder that there is not $6 billion available at a reasonable interest rate for private enterprise to borrow so that the Nation can be energy independent?

The solution is not to treat the symptom by resorting to loan guarantees. Get the Federal Government out of the debt capital market. Were that to occur within the next 3 years, there will be no need for loan guarantees. The money would be available through tried and true means.

Given the record of the Federal Government in managing projects traditionally done well by private enterprise—and I cite the Postal Service as an example—there is no reasonable reason to believe that the large role reserved to the Federal Government in this loan guarantee proposal will bring anything but needless waste and delay.

Time is not money to the Federal Government, since it is not their money they are spending. It has no cost conscious management or stockholders to answer to. True, careful congressional oversight is provided for in this bill. But, try as hard as we will, I do not believe even the most conscientious congressional committee can overcome the built-in deficiencies of Federal management.

Finally, we must consider the question of whether our current fossil energy mess has been caused by wrong-headed Federal regulation. The prices of natural gas and oil have been controlled to the point that they bear no relation to what they would be if demand were establishing price. This is particularly true of natural gas where there is almost $2 difference between regulated prices and the prices of unregulated gas.

Current estimates on the potential prices of synthetic fuels show that they are commercially uncompetitive, with the possible exception of geothermally produced electricity. Congress is showing no inclination to face facts and let prices seek their natural level. Were this to happen, the risk that is presently scaring off investment capital would be eliminated.

Coal gasification projects and geothermal projects, to name but two, would not be in doubt. Their prices would be comparable and competitive. And further, even if there were some doubt, given the unavoidable growth in our energy appetite, I am certain the investment community would be willing to take reasonable risks and back legitimate research and demonstration projects.

In addition, it is Federal regulation and constantly changing Federal tax policy that has discouraged new exploration and development of fossil energy deposits. The Federal Government has changed its mind on energy and tax matters so many times in the last 10 years that no one can plan and invest for the future, not even the private citizen who wants to retire in 5 or 10 years.

If we cannot be certain of the basic policies of the U.S. Government, how can we expect a business that has payrolls to meet, debts to liquidate, and competition to face to be confident that it can plan for the future? We cannot. Because of this Federal and congressional fickleness and changeability, we are frustrating and discouraging the very spirit and initiative that has made this Nation the most blessed and fortunate in history.

By adopting the loan guarantee approach, we are treating the symptom and not the illness. The symptom is the apparent inability of the private sector to meet our basic energy needs in the future. The illness is the confused and counterproductive fiscal and energy policies that have gotten us into the mess in the first place.

Loan guarantees amount to Federal allocation of credit. They involve the heavy hand of the Federal Government in extremely complicated areas that require quick decision, cost-effective administration, and an understanding of what competitive enterprise is all about.

Private enterprise can solve our energy crisis. It can do it in time and with reasonable cost to consumers. And, it can do it in a way that is compatible with being good stewards of our environment and our basic, proven national values.

All we have to do is give them a reasonable opportunity. Loan guarantees will only serve to reinforce the very policies that have created the problem.

I cannot support them.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, as we pointed out earlier, there was a great deal of opposition to this piece of legislation in July and in early September on the ground that the legislation did not include many of the pieces that many of us, particularly from the Rocky Mountain region, felt were important to include in the bill in order to protect that region from the kind of exploitation we feared at the time of an energy crisis.

There were a number of very specific pieces pointed out to the committee, and those are included in a telegram from Governor Lamm on behalf of the Western State Governors. There were five specific pieces which the Governors asked for and which are now included in the legislation. I would refer my colleagues to the committee report, at pages 48 to 60, which covers in great detail those pieces which are in the legislation and which provide the necessary protection.

For example, the Governors asked for veto by the Governors of projects which did not fit in with the plans of those particular States. That veto power is now included in the bill, with the potential of an override by he ERDA Administrator in times of national interest.

Second, the Governors asked for the involvement of State and local governments. State and local governments are written into the bill in the process of the development of any of these projects.

Third, the Governors asked that projects would be no larger than is necessary to demonstrate the commercial feasibility of oil shale or coal gasification development.

That is also built into the legislation.

Fourth, the Governors ask for loan guarantees being subject to all State and local laws. That is also in the legislation.

Fifth, and perhaps most important, the Governors ask for assurance that social and economic impacts be covered and be paid for by the companies and by the governments and that these costs not be absorbed by local county and State governments. This is also, in great detail, covered in the committee report.

These were built in, Mr. Speaker, at the behest of the Governors and through the very good work of the Committee on Science and Technology and through the many hearings which we held.

Mr. Speaker, having started as a great skeptic about this program, I now believe the necessary safeguards are built into section 103 and that it would behoove this committee and this Congress to approve that section.

Attached is the telegram from Governor Lamm, dated November 5, outlining the five major points requested by the Governors:

DENVER, COLO., *November 5, 1975.*

Mr. OLIN E. TEAGUE,
Chairman, House Science and Technology Committee, Rayburn House Office Building, Washington, D.C.

DEAR REPRESENTATIVE TEAGUE: In light of the continued debate on the provisions of section 103 of S. 598, the ERDA authorization legislation, I wish to clarify precisely the changes which are necessary before this section would be acceptable to the State of Colorado.

While the following are not all of the changes, we felt desirable that they represent our bottom line:

1. The State concurrence of a project should be required subject only to over-ride if the ERDA administrator determines that the national interest requires the project.

2. No project should be approved without the assurance that Federal funds by loan, grant, or otherwise will be available for the State and local government to take care of all direct and indirect impact associated with the project.

3. No project should be larger than is necessary to demonstrate the commercial viability of the process.

4. The State and local governments should be actively involved in the planning process associated with the selection and evaluation and review and monitoring of any project.

5. All loan guarantee projects will be subject to all State and local laws.

If so amended, section 103 would be acceptable, and also it would be the position of the State that oil shale development should remain included in the section.

Sincerely,

RICHARD D. LAMM,
Governor.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the amendment, which will strike the section, which provides a bailout of the bunch of companies which want to get into the oil shale business.

As my colleague from the district in which most of this shale is located has pointed out, there are companies already proceeding to develop oil shale. If it is viable, if it makes economic sense, if we really need it, it will be developed by these companies. Therefore, why would we want to step in and finance their competitors?

We all ought to be against this provision, both on procedural and substantive grounds. It has not been considered seriously by this body. There have never been hearings to which we have had access. This is a $6 billion program and a forerunner of a large and vastly more expensive program.

Mr. Speaker, I hope the amendment will be adopted to strike this section from the bill.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, if we do not strike section 103 in the conference report, we will have permitted a Federal administrator to determine the order in which businesses stand in line awaiting bank approval. The ordinary risks and enticements involved in the ordinary enterprise will not determine what business endeavors will be financed and what will not. What we will create is a topsy-turvy system.

In the past, we have ordinarily given loan guarantees to the smallest companies, the ones which are the most risky. Here we would give a loan guarantee to some of the very largest businesses in the country.

If a lending institution can lend to a giant oil company with a 75-percent Federal guarantee, why should it lend to a small but productive wildcatter engaged in a speculative enterprise, whose security is only his own credit?

Yet, more oil is brought in by these smaller operators, who are also large risk takers, than is likely to be produced from shale or coal, in a very long time.

This is not the main thing. It is this: that the Government is not a very good judge of the comparative value of various industrial technologies and enterprises.

Mr. TEAGUE. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Speaker, I am in favor of deleting section 103.

Mr. Speaker, the inclusion of $6 billion in loan guarantees into this ERDA authorization is absolutely unacceptable. It is bad policy made possible by bad governmental practices, and it should be rejected by the House.

The House has been deprived of the opportunity to consider a major energy program. If one would accept this morning's editorial of the Wall Street Journal, the Senate consideration of this bill was rather sparse:

> When this bold new program hit the Senate floor Tuesday, it was gobbled up by an 80–10 vote. No hearings, almost no debate.

The Wall Street Journal opposes this bill on a big-government basis. I oppose it on additional bases. But neither of our sides even had an opportunity to discuss this program, and to present our considered judgments on the bill. Perhaps there are other viewpoints that should be considered. We will never know them if we pass this bill now. We should at the very least send this section back for the consideration it deserves.

The bill itself had some major problems before the inclusion of this new item by the Senate. I voted against the authorization originally because of the inclusion of $1 billion for the testing and production of nuclear weapons in what was ostensibly an energy bill, as well as the monetary assistance the bill granted to the Clinch River breeder reactor, which is a needless and dangerous project. The $6 billion in loan guarantees makes this bill only more unacceptable.

Even though we need new sources of energy, synthetic fuels are extremely inefficient and will yield little energy. The administration's own synfuels task force report concluded that the energy supply from the synthetic fuels program would be negligible.

Synthetic fuels do much to perpetuate the already wasteful methods of energy usage we now have. They encourage waste, not energy conservation. They do not encourage the move away from fossil fuels and toward solar energy, the clean energy alternative, nor geothermal energy, or energy from the sea, or any of the many other research programs that are now in progress.

Synthetic fuels are expensive. They cannot compete at current price levels even with OPEC oil. The cost of development will be far more than $6 billion. If we adopt this measure we will have invested $11 billion in this inefficient fuel program—if you add in the $4.5 billion in price support and $600 million in construction grants also requested by the administration. This program is one big boondoggle, whose beneficiaries will be the giant oil companies, already so greatly the beneficiary of the rise in oil prices of the past years.

In addition there will be difficulty attracting investment capital, already scarce, into such a program. The synthetic fuels program we now consider may become a Federal nightmare, uneconomic, inefficient, an orphan that no one wants or needs.

This is, as I said, a bad policy brought to us by bad governmental processes. I urge you to reject this program.

Mr. TEAGUE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I thank the chairman for yielding.

I rise in opposition to the motion of the gentleman from West Virginia to strike section 103.

The conferees worked long and hard in trying to develop a piece of legislation that was worthy of being brought to the floor of this House, and I think we have done that.

Many of the concerns raised in the conference I think have been resolved.

There was concern over patent rights. We have included a policy that was adopted in this House last year in the Federal Nonnuclear Energy Act relating to patent rights in section 103.

Mr. Speaker, I think we must move in this area in order to bring about new fuel that we can badly use and which is so vital to keep the wheels of this country moving.

The technology that can be developed in connection with this $6 billion loan, which will be spread over a number of years, through the loan guarantees, can be very useful in solving many of the energy problems that we have.

I urge the rejection of the motion to strike.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, ERDA has research and development projects ongoing, which may provide some of the technologies for converting urban wastes into fuel—one of the more promising near-term alternatives—sunlight into energy and projects to improve efficiency in generating electricity. These programs offer direct benefits to the Nation, whereas oil shale, due to tremendous capital costs, offers the Nation $17 per barrel oil, which is the industry's own estimates.

What of costs? One oil shale plant is estimated by ERDA to cost up to $1.5 billion and produce only 50,000 barrels of oil a day. More than $40 billion would be required, therefore, in shale technology to reach a production of 2 million barrels per day forecast from the Alaska pipeline, the cost of which is between $6 and $9 billion.

The fact that the White House has sent us a bill which would have the Treasury provide up to $4.5 billion in price supports to insure the success of this program tells me that the cost of the synthetic fuel these plants produce will cost more than the market price.

Mr. Speaker, I am not one who says we should not develop new energy sources. On the contrary, much of my time during the past 6 months has been devoted to the work of the Select Committee on the Outer Continental Shelf, and we have high hopes of vastly increasing the oil production of our Nation. I am as aware as anyone that our population increases demand that we explore and develop new oil and gas fields, and that we increase our coal production. But I am not going to support legislation that we cannot amend, legislation which would start programs to develop energy at any price, expressed in dollars, or in environmental damage. The synthetic fuel program should be separated from the ERDA authorization.

Now that the House has been given an opportunity to vote on this loan program, I urge my colleagues to strike this section so that the program will receive a thorough study under separate legislation according to established legislative procedure.

Mr. Speaker, this is the view urged upon the House by our colleagues, who have the most prominent energy committee assignments—namely, the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Michigan (Mr. DINGELL).

Mr. TEAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, a conflict has developed in the House over the provision authorizing $6 billion for synthetic fuel development in the ERDA authorization, and unless the House takes a close look at some of the issues creating the conflict, we are liable to make the same mistake this House did 22 years ago, when we foolishly let the World War II synthetic fuels program die.

The current controversy centers on a few disputed items—environmental and social impact where synthetic fuel plants would be built is one issue in dispute, and another is whether the program would be a gigantic giveaway to multinational energy companies capable of funding their own synthetic fuel development program.

Mr. Speaker, there is absolutely no reason for any problem involving the environment or any problem involving social considerations to exist, if the Energy Research and Development Administration runs synthetic fuel projects properly.

Some Members have told us that certain areas of the country would be ravaged and impossible to reclaim because while they have ample coal, they are very short of water, and water is essential to synthetic fuel production, such as coal liquefaction and coal gasification.

Well, other areas of the country are just as amply endowed with coal reserves, and those areas also have great water resources, so all ERDA has to do is make sure that the synthetic fuel plants using coal are located where the reserves of both water and coal are adequate.

We have also heard about possible environmental considerations from the production plants themselves, but apparently some of the members do not know that synthetic fuel production is an ancient technique as techniques go, and production has been going on for years and years, in other countries than ours, unfortunately.

South Africa has been making gasoline and other liquid fuels out of coal for better than 25 years, and right now is expanding its production facility. We have never heard of any special health hazard because of it.

So far as the social and community problems, they are a blessing in disguise. These plants will not be put up overnight. During the planning and construction of the plant, comparable planning and construction—involving the local people—could be going on, so that now small and medium sized towns could be developed into fine small cities, with all of the public facilities people need for a decent existence as a community.

If this is done right, we might find out that the planning techniques for community development through ERDA programs are as important to the future of the country as development of synthetic fuel, and I want to emphasize that I think there is no program more important than synthetic fuel development. Once we have it, we are insured of adequate energy sources for our people, and freedom from the extortion of the oil exporting nations, which knifed our economy in the back 2 years ago, and which still throttles us.

The so-called gigantic giveaway question can be resolved and resolved simply, right here on the floor of this House, by stipulating, without doubt or equivocation, that these loan guarantees shall go only to entities which will help foster competition within the energy business. I included language to do that in legislation which I have sponsored to bring about a synthetic fuel industry in our country.

Let us make it as plain as we can that the multinational energy giants are not to be the recipients of guaranteed loans, and when it comes time to appropriate the money we can make sure again that only those entities which would foster competition in the energy business would receive a loan.

In my legislation I stipulated that the plants were to be located in areas of high unemployment, and I do not think it would be a mistake for the House to advise ERDA to follow that course also.

But the problem of a rip-off by the energy multinational companies can be headed off and nipped before it ever arises, simply by what we agree to on this floor.

Mr. Speaker, we know there are risks involved in the investments that smaller corporations would be carrying when they involve themselves in a synthetic fuel project, and so the legislation was written to insure that smaller companies would involve themselves. That is why there are loan guarantees in the first place. I am sure that the legislation would not call for an entity which involved itself in a synthetic fuel project to be liable beyond the value of the project assets and the project company. The parent company or parent-affiliated companies would not be jeopardized, if for some reason ERDA should close out an operation. With the smaller companies, you could not expect parent companies to reimburse ERDA for losses above the value of the project company and its assets, because it would break them, but we want the smaller companies getting into synethetic fuel production, or we will have what in effect is practically an energy monopoly.

Mr. Speaker, there is also some question about the costs of the product. Well, we know that when the Middle East oil exporters decided to, they raised the cost of oil from a couple of dollars a barrel to six times that and more. The price of synethetic fuel from coal will, of course, be based largely on the price of coal.

There is plenty of impartial evidence showing the product will be economically acceptable but to my way of thinking the mai npoint is that it is cheaper to spend $6 billion and get us started with commercial scale synthetic fuel production, than to continue letting the oil exporters drag $25 or $30 billion a year in extra profits for oil out of the pockets of American workers, and farmers, and businessmen.

Mr. Speaker, as I mentioned earlier, back in 1953, some of us lost a floor fight to get $2 million included in an Interior Department Appropriations bill, which would have continued the World War II synethetic fuels research program. At that time, down in Alabama they were moving along well on underground coal gasification, and in Missouri two coal liquefaction plants were about 2 cents a gallon away from making liquid fuel out of coal as it cost to make it out of petroleum.

There were not enough people in the House who understood what this was all about then, and we lost that fight. Today, it is costing us billions to make up for a lost $2 million appropriation 22 years ago.

Mr. Speaker, I hope the House does not repeat its mistake of 1953.

I doubt that many oil companies are going to plunge into the business of extracting oil from shale when the economic viability of the industry is heavily dependent upon the world price of oil. I think we need the option that section 103 gives us.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, I have a copy of a letter, or a memorandum to the gentleman from Texas (Mr. TEAGUE) our chairman, from some of the staff that says that three of the oil companies, Standard Oil, Gulf Oil, and Superior, have indicated a willingness to proceed without loan guarantees.

Mr. PERKINS. Many companies will not participate without the loan guarantee, and the loans will only be made to foster competition with the companies putting up the first 25 percent. Naturally the ones that participate are afraid of OPEC countries, if they do get a finished product, they will never be able to put it on the market. This is the reason for the loan guarantee.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, in further reply to the gentleman from Colorado (Mr. Johnson), the statement he made is exactly correct, except insofar as the other side of it where we have the names, and they will be in the record, of about 36 companies who say they cannot do anything without a loan program. But what the gentleman said was correct.

The SPEAKER. The time of the gentleman has expired.

Mr. TEAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Mosher).

Mr. MOSHER. Mr. Speaker, I would like to address my remarks to this side of the House lest there be any misunderstanding at all as to where the President himself stands or his administration stands on this legislation and on this amendment.

President Ford personally told the chairman, myself, and other members of the committee, and especially both the gentlemen from Arizona (Mr. Rhodes) and the Republican leadership, as recently as yesterday morning, that he very urgently supported the conference report and specifically supported sections 103 and 102.

In other words, the President's personal position on the amendment before us is in opposition to that amendment which strikes section 103. All Republicans have on their desks a letter signed by our minority leader, the gentleman from Arizona (Mr. Rhodes) in strong support of section 103 which this amendment would strike. Of course, I urge the Members on the Republican side to support the President, to support all aspects of the present administration who are involved in this energy matter and who recognize the extremely urgent need in the Nation's interest that we follow this program.

Moreover, while I am talking about the administration's position, it is fascinating for all of us who know the presidential policy on this situation, to realize that the gentleman from Washington, Senator Jackson, and President Ford are completely allied in support of this legislation, because both of them put partisan politics aside, recognizing the need for it.

I want to make a second point, and this will be very brief. Many of the Members may have been impressed by the number of Members from Colorado who are involved here. I think it is important to recognize that probably no more than one project would be located in Colorado, if any at all are approved for the Colorado area. The fact is that the great bulk of the $6 billion loan guarantee program would support badly needed commercialization projects in coal gasification and coal liquefaction in other parts of the country, including Ohio, Pennsylvania, West Virginia, and other places.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the gentleman from Idaho (Mr. Symms).

Mr. SYMMS. Mr. Speaker, I think this problem could be summed up in one word: decontrol. There is no disagreement in goals on both sides of this issue. Everyone would like to see new and better kinds of synthetic fuels developed, and so on, and so forth, but all we have to do in this particular case is just decontrol.

We do not need the Vice President's $100 billion energy company to interfere in the energy business. This is a job private enterprise can take care of. It is a question of whether we want ERDA bureaucrats to decide the priorities, or who is going to get the loan guarantees. It is going to open up a whole Pandora's box to put a few bureaucrats down here with all of the power, with billions and billions of dollars, to go out and get loan guarantees. It will open up a whole new area for government corruption, remember the Watergate. It is the ERDA bureaucrats who are going to be able to decide which region of the country gets money, and so forth. The answer is decontrol, decontrol, decontrol.

I support the gentleman's motion to strike the section 103 from the conference report as well as section 102.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I would like to compliment the gentleman on his statement and to associate myself with his remarks and with those of the gentleman from California (Mr. Goldwater).

Mr. Speaker, I rise in strong opposition to this subsidy for synfuel and ask that we support the motion.

Mr. SYMMS. I thank the gentleman for his comments.

I say that if the Congress and the Government would simply get out of the way, we could allow the marketplace to do the same thing to the petroleum industry that it did to the whale oil industry some 100 years ago. If we could have a little faith in the future and faith in free men working through free institutions, I think it could accomplish the task that is before us.

Mr. Speaker, I am also concerned about the amount of water and where it is coming from for these propositions of oil shale development—which I would say my friend from Wyoming (Mr. Roncalio) explained very explicitly.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. TEAGUE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. Frey).

Mr. FREY. Mr. Speaker, I rise in opposition to this motion. Everybody agrees we need more energy. Twenty-five billion dollars is going overseas now for buying oil. If we had developed alternate sources of energy some years ago, as some of us had urged, we would be in a lot better shape than we are today.

I do not agree with everything in the bill, but we do have the ability within the Congress to change the priorities.

There is one further fact. Economic studies have shown that the best investment we can make is in high technology. For every dollar invested in high technology, for instance, the space program, we will receive back $7 over a period of 18 years.

It is the best economic investment we can make, so we are not only doing good for the country but we are doing it well. We are stimulating industry, we are getting jobs in energy, and developing resources that we do not have today. We cannot go wrong. I think it is a commonsense approach to a tough problem we have to solve. The alternatives are no other sources of energy or grants instead of loans.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, let me say I think the House conferees have made this a much better bill than the form it was in when it first passed the Senate, but I believe it would be an even better bill if it went through the normal procedures in the House.

I am not going to say that the Federal Government should not in times of emergency or crisis put up the money to create a new industry. It did that in the case of the synthetic rubber industry in the Second World War. But the Government owned the technology that was developed by the program. As a result the public got the benefit of the technology, and when they finally sold the industry, every company got a license under the patents and know how, so we had a competitive industry from the outset. But section 103 of this bill does an end run on the protections incorporated in last year's Non-Nuclear Research and Development Act. The beneficiaries of the $6 billion of guarantees under this section are not required by this bill even to report on the technology they develop under the guarantees. Without mandatory reporting, ERDA will have no way of knowing what technology is developed, let alone what to do with it.

Mr. TEAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. McCormack).

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, I might point out to the gentleman who just preceded the gentleman in the well that the provisions of the Non-Nuclear Act which passed the House last year are contained in this bill. That argument is not true in this particular case. We are certainly protecting the patent rights of the people.

Mr. McCORMACK. Mr. Speaker, I thank the gentleman from Florida.

First of all I would like to comment that any money spent by the Federal Government under this program must first be appropriated by the ordinary appropriation procedures. There must be the appropriation of all moneys which are required. It is not a subsidy. It is not a rip-off. It is not a program for big companies. It is a loan guarantee program. Either House may disapprove any program over $350 million.

The major problems in the original bill as it came from the Senate have been, as far as I know, corrected. There will be projects of various sizes. This is not a single large program. It will include many programs. It will cover low Btu or high Btu gas from coal, either in situ or on the surface. It will apply to shale oil, but certainly they will apply also to urban waste conversion. This may give us the quickest payoff of significance. The programs can apply to solar energy demonstration projects. We have already had one such program suggested. It can apply to energy conservation programs. This is not just an oil bill. It includes all forms of energy conversion, including solar energy.

Section 103 and this entire bill passed the Senate the day before yesterday by a vote of 80 to 10.

It provides the information we must have if we are going to solve the energy crisis. We will not get it without section 103. We cannot solve the energy crisis in a timely fashion without this information.

This is a matter of jobs and economic stability for this country.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, it has been written by an historian that when Stanley and Livingstone met it was like the confluence of the Blue and the White Nile. Their coming together created an impressive force for good that opened a continent. I hope today the union of conservatives and liberals on this issue might have the same beneficial impact.

Frankly, I am surprised to hear on my side of the aisle the words I heard a few moments ago from the lips of our leaders about free enterprise. This $6 billion subsidy can hardly be called free enterprise. Our leaders are apparently going to assist free enterprise even if they have to impose socialism to do so. Frankly, I do not excoriate any liberal Members who have voted millions for the Women's Conference bill or the New York loan subsidies or anything else, if they have had the good judgment to convert to commonsense on this pending issue. I believe in redemption.

I welcome the heathens to the fold of free enterprise. If enough missionary work is done, we may convert the liberal heathen, but I am greatly disturbed when the missionaries join the heathen as my party's leaders do today. I am afraid that is what is happening on too many issues.

If the gentleman from New York (Mr. OTTINGER) was wrong on the New York question the other day, the gentleman is right today. We should applaud his late conversion.

The President is wrong on this. He was wrong the other day on New York. He is at least consistent. Six billion dollars of loan guarantees is still a bailout for whatever purpose.

Let free enterprise do its own job. Let it finance its own way. Let it stay out of the public trough. If my party stood for anything, I thought it was for truly free enterprise. I therefore urge the House to strike this section from the conference report.

The SPEAKER pro tempore (Mr. McFALL). The time of the gentleman has expired.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I yield to my distinguished colleague and friend, the gentleman from Maryland (Mr. GUDE), but if the gentleman says that he agrees with me on this or anything else, I may have to change my position.

Mr. GUDE. Mr. Speaker, in the yuletide spirit, I support the gentleman's remarks.

Mr. Speaker, I oppose the passage of this section of the Energy Research and Development Administration for two basic reasons: First, the $6 billion provided herein is simply the "tip of the iceberg" concerning the financial ramifications of this program. Second, the House of Representatives has not had the opportunity to adequately study this section because it was added to the authorization after the House completed action on it earlier in this session.

I have been advised that the House Science and Technology Committee is planning to begin review of the administration's synthetic fuels proposal. This review is scheduled to begin in January and will cover all aspects of the synthetic fuels program, especially including study of the financial ramifications of the program.

This section calls for $6 billion in loan guarantees which will be granted to only a very few companies to encourage them to invest in coal gasification and oil shale development. In addition, and not included in this section, approximately $5.1 billion will be required in price supports once the plans are operational because the synthetic fuels cannot be produced at prices that will be competitive with existing fuel sources. Finally, construction grants of millions of dollars are proposed to assist companies interested in developing these resources.

However, this section only covers one of these items and, if passed, the other aspects of this pessimistic financial picture will have to follow. Without price supports, the companies would become bankrupt because they could not compete. With bankruptcy, the loan guarantees would be called. Without construction grants, these plants may not be able to obtain adequate financing and, again, the loan guarantees would be called.

Some of you may question the economic noncompetitiveness of the synthetic fuels program in light of steadily increasing costs of oil. The current estimate is that synthetic fuels will cost nearly twice the current price of oil and will rise nearly proportionally as oil prices rise. At this rate, synthetic fuels will never be able to catch up with the price of natural oil supplies.

I believe the House has a right to be able to study the entire ramification and range of the financial aspects of any legislation before it is proposed for passage. Voting against this section of the authorization will enable the Science and Technology Committee to study the administration's synthetic fuels program without the onus of a $6 billion commitment hanging over their heads.

I urge my colleagues to join me in opposing this section of the authorization so that a proper review can be conducted starting next months as planned.

Mr. TEAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. THORNTON).

Mr. THORNTON. Mr. Speaker, the free enterprise system has great capability; but great challenges are before us right now. We have to make a change from conventional fossil fuels, which are finite in supply, to fuels which are not yet available, within a period of 15 to 20 years, rather than the 50 or 60 years which have historically been available to make the transition from one major fuel source to another. If there are some who think that it is difficult to explain why the United States should put in place a synthetic fuel capability, then they should try to explain to consumers of natural gas why their appliances in which they have invested collectively many millions of dollars can no longer be used. They will want to know why their homes have run out of fuel. And the supply of these natural fuels is limited and exhaustible. That is the reason that the synthetic natural gas proposal is needed. Consumers using these fuels have an investment many times that which would be required to produce synthetic fuels. The people of this country, the consumers of energy, are depending upon the Congress to make sure that our Nation has the capability to continue to supply necessary fuels for providing employment, heat for our homes, transportation, raw material for chemical products, and for our basic needs for food and fiber.

I think that section 103 has been perfected by the conferees so as to meet the objections of environmental concerns. It meets the concerns of the Western States. It will be a good beginning for the development of a positive program of alternate energy sources.

Mr. Speaker, I urge defeat of the motion to strike this section.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, the president of one of the major energy companies in the United States came into my office the other day and he said, "We need to use this money to build a natural gas production facility."

Look at the roster of beneficiaries of this legislation. It is going to produce 350,000 barrels of oil a day; an equivalent guarantee is equal to a $30 obligation per person of our American citizens.

ERDA the other day finally, after considerable prodding, released a publication entitled, "Synthetic Fuels Commercialization Program," which relates to this. They tell us it is going to cost between $1.5 billion and $11 billion for this part of the program, and I had to pull teeth to get this from ERDA. Listen to the roster of benficiaries; these are beneficiaries, the bloated energy companies that will get the benefit:

Arco, Exxon, Socal, Gulf, Mobil, Phillips, Shell, Sohio, Amoco, Sunoco, and Texaco on one.

The program drips antitrust questions. It drips patent questions.

These people are getting together to get a subsidy or coming to control the information that should come to the people.

Mr. Speaker, I cannot emphasize too strongly the fact that this conference report includes two items that were never considered by this House. Chairman TEAGUE has done a masterful job of improving what was clearly a very bad product from the other body. The Teague committee and the House conferees deserve great credit for not rolling over and accepting the other body's product. But to do this they had to greatly exceed the rules.

Let me illustrate this.

H.R. 3474 is a line item authorization bill for the Energy Research and Development Administration covering the nuclear energy and weapons R. & D. program and the nonnuclear energy R. & D. program. The bill passed the House on June 20, 1975.

It did include a line item, section 101 (a)(1)(J), for oil shale in situ processing as an R. & D. item. It did not include any provision for in situ oil shale development on public lands.

The House-passed bill also did not include any financial assistance provisions for private industry or municipalities, such as a loan guarantee program.

On July 24, 1975, the Senate Committee on Interior and Insular Affairs reported a companion version (S. 598) of H.R. 3474. It too was a line item authorization bill. But it included two new sections:

Section 102. "In Situ Oil Shale Development" which directed that ERDA invite proposals from non-Federal entities to conduct a demonstration program of in situ production of oil from shale on public lands without payment of any bonuses, rents, or royalties.

Section 103. "Loan Guarantee Program for Synthetic Fuels" which authorized ERDA to make up to $6 billion in loan guarantees to private industry to build commercial facilities to convert coal and oil into synthetic fuels.

On July 31, 1975, the Senate passed S. 598 with the above sections 102 and 103, then took from the desk H.R. 3474 as it passed the House, struck everything after the enactment clause and inserted therein S. 598 as an amendment to H.R. 3474 and passed that bill.

The conference report on H.R. 3474 provides that "the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment."

Sections 102 probably would not have been germane if offered on the House floor to H.R. 3474.

H.R. 3474 is a line item authorization bill and does not establish any new programs. Section 102 is a new program in ERDA. It specifically gives to the Administrator of ERDA a new statutory role in selecting with the Secretary of the Interior public lands for lease under the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181, et seq.) which is now under the jurisdiction of Interior, section 102 (a). It also gives ERDA administrative jurisdiction over the leased lands during the demonstration period, section 102 (d). It directs that ERDA enter into a new cost sharing program with private entities to conduct a demonstration on such public lands, section 102(b).

Section 102, as it passed the Senate, authorized ERDA to select public lands for an in situ demonstration and lease them to ERDA for use by a private entity without payment of bonus, rental, or royalty. It also provided for disposal of the lands to the private entity after the demonstration period.

As recommended by the conferees, section 102 adds several new features not in the Senate version.

First. It amends the Mineral Lands Leasing Act of 1920, subsection (a) and (d).

Second. It provides for a Governor's veto over the selection of a tract for in situ demonstration, with ERDA having power to override in the national interest, and judicial review of that override decision, subsection (a).

Third. It provides that profits received by the private entity during the demonstration will be shared with the United States, subsection (b).

Fourth. It provides that the community impact financial assistance authorized in section 103 will also apply to this in situ program, subsection (c).

Fifth. It provides that at the end of the demonstration period, the lease will revert to Interior and the private entity will pay for the Federal share of the demonstration as an offset against royalties, subsection (d).

Section 103 is a program of financial aid to private industry primarily for the purpose of producing petroleum and natural gas.

A similar bill, H.R. 10559, was introduced on November 14, 1975, and was referred to both Banking and Science Committees, but it included the following provision, on page 19 of that bill that—

> Nothing in the bill shall be construed as authorizing a program of financial assistance to any person for the commercialization of synthetic fuels . . . , except for research and demonstration purposes.

That provision is not in the conference recommendation.

Section 103 exceeds the scope of the Senate amendment which was committed to conference in the following ways:

Authorizes loan guarantees to finance the purchase, construction, installation, and start-up costs of energy-efficient industrial equipment and facilities for commercial demonstrations, subsection (b)(1)(C). This was not in the Senate amendment.

Amends the Geothermal Energy Research, Development and Demonstration Act—Public Law 93-410—by making subsections (g)(2), (h), (j), (n), and (v) of section 103 applicable to loan guarantees under that act, subsection (b)(1). This was not in the Senate amendment.

Amends Public Law 93-410 by removing the dollar limitations in section 201(e) of that act on loan guarantees made on that act, subsection (b)(1). This was not in the Senate amendment.

Pledges the full faith and credit of the United States, subsection (b)(4). This was not in the Senate amendment.

The Senate amendment authorized up to 100 percent guarantees during construction. However, the Senate amendment authorizes up to 90 percent guarantees during construction and start-up, subsection (c)(2).

Provides for Governor veto and override of that veto by ERDA, subsection (e)(1). This was not in the Senate amendment.

Provides for payment of principal and interest on behalf of borrower in lieu of default, subsection (h). This was not in the Senate amendment.

Directs ERDA to charge and collect fees to cover administrative costs and probable losses on guarantees, subsection (j). This was not in the Senate amendment.

The Senate committee report on section 103 said that the term "project costs" could include community development. Thus, an ERDA guarantee to a borrower could include those costs. But the Senate amendment did not so provide.

The conference committee recommendation specifically provides that the guarantee shall cover such community costs, subsection (k)(5)(B).

Section 103 provides additional community impact assistance directly to States, local political subdivisions, and Indian tribes in the form of 100 percent guarantees, planning grants, and direct loans, subsection (k)(1), (5)(A), and (10). These were not in the Senate amendment.

Section 103 requires a new annual report to Congress, subsection (1). This was not in the Senate amendment.

Section 103 establishes a new revolving fund, subsection (n). This was not in the Senate amendment.

Section 103 gives Treasury authority to purchase ERDA notes and to use proceeds from the sale of securities issued under the Second Liberty Bond Act, subsection (n)(4). This was not in the Senate amendment.

Section 103 changes the patent provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974, Public Law 93-577, subsection (r). This was not in the Senate amendment.

Section 103 amends Internal Revenue Code of 1954 by making interest paid on obligations guaranteed by ERDA taxable to holder, subsection (s). This was not in the Senate amendment.

Section 103 authorizes payment of interest differential between taxable and tax-exempt obligations, subsection (s). This was not in the Senate amendment.

Section 103 provides for conflict of interest statements, subsection (t). This was not in the Senate amendment.

Section 103 provides for public disclosure of information and a confidentiality procedure, subsection (v). This was not in the Senate amendment.

Many of these provisions are good. Many of them I could support. But a blank check of $6 billion for energy companies is clearly not in the public interest.

I urge support for the Hechler motion to strike section 103.

Let me say that I strongly favor enactment of the remainder of this bill. The conferees have done a fine job in providing much needed funds for fossil energy R. & D., energy conservation, solar and geothermal R. & D.

The nonnuclear energy R. & D. is over $1.4 billion. It is an important giant step in providing energy alternatives for present and future generations.

The Teague committee is to be commended for pushing ERDA in this area. I am also in strong suport of the control source of information provision in the bill and commend the committee for this section.

Lastly, I want to commend my good friend and colleague KEN HECHLER who has worked tirelessly for the public interest—the little people, the American taxpayer and consumer—in leading the fight to exercise sections 102 and 103 from this bill. He is a good legislator, a fine Congressman for his district, and a fine person.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. HAYES).

Mr. HAYES of Indiana. Mr. Speaker, I just want to thank the chairman of the full committee for allowing the hearings, and point out that among those who have not changed their minds is this Member, who spent full time in the hearings in Colorado.

And I still think sections 103 and 102 must be stricken in order to have a clean bill, a good bill, a sound energy policy for this country.

CALL OF THE HOUSE

Mr. DINGELL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. FUQUA. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 769]

Archer
Bedell
Bell
Burke, Fla.
Burton, John
Burton, Phillip
Chisholm
Cochran
Conyers
Davis
Esch
Eshleman
Evins, Tenn.
Flynt
Ford, Mich.
Fraser
Gaydos
Harsha
Hastings
Hébert
Heinz
Helstoski
Hinshaw
Horton
Ichord
Jarman
Jenrette
Karth
Kelly
Ketchum
Krueger
Landrum
Melcher
Metcalfe
Mikva
Peyser
Riegle
Roberts
Runnels
Satterfield
Scheuer
Sebelius
Shuster
Stanton, James V.
Steelman
Thompson
Udall
Ullman
Vander Jagt
Weaver
Wilson, C. H.
Zablocki

The SPEAKER. On this rollcall 382 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 3474 AUTHORIZING APPROPRIATIONS FOR THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. TEAGUE. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, I rise in opposition to the motion of the gentleman from West Virginia (Mr. HECHLER) and in support of the committee provision which would provide much-needed encouragement for the development of those processes and facilities which would enable us to convert our abundant supplies of coal into the more convenient forms of liquid and gaseous fuels.

We know very well from much testimony and from ample evidence that our supplies of petroleum are going to be dwindling over the next few years, that our oil supplies will last us only 30 or 40 years, while our supplies of coal will last us hundreds of years.

Mr. Speaker, it seems to me abundantly clears that we need to go on with the business of developing the processes and the facilities by which to convert that abundant supply of solid coal into the more convenient and cleaner liquid and gaseous fuels. Since we have acted in other bills to decrease tax incentives as well as profit incentives, this is all we can do.

Mr. Speaker, I thank the gentleman from Texas (Mr. TEAGUE) for yielding.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, we ask your support and an "aye" vote to strike section 103.

Section 103 is an outrage procedurally because it was adopted by the Senate without hearings; we did not have any opportunity to amend it in committee; and we have no opportunity to amend it in the House.

There are many things in section 103 that we ought to amend. This provision is an outrage in terms of distortion of energy priorities. It places environmentally hazardous, uneconomic synthetic fuel development way above development of clean renewable energy resources.

Section 103 is an outrage environmentally. The environmental impact statement has not yet been completed. The evidence presented shows that contact with shale oil, its byproducts, and plant effluents has been linked to cancer of the lung, scrotum, and skin. Coal gas workers have an incidence of 1,239 cancers of the scrotum per million, 295 times higher than the mortality rate in the general population.

The SPEAKER. The time of the gentleman has expired.

Mr. TEAGUE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker and colleagues in the House, some of the criticisms of this section are valid but my fear is that we are waiting for perfection and in the process spinning our wheels and are just right on dead center, not getting anything done.

I think we have to move ahead. We cannot wait for a perfectly written section.

I am going to vote against the motion to strike this section.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield the balance of the time in favor of striking section 103 to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. Mr. Speaker, the spirit of Christmas is upon us and this is the biggest Christmas gift to the biggest corporations in the country that I have ever seen since I have been around Washington.

If this is not a ripoff then I never saw one. My friend the gentleman from Texas (Mr. TEAGUE) says it is for the little companies. He said to me, "It is for one in your State which begins with S."

I said, "Would that be Sohio?"

He said, "Yes."

I said, "That just happens to be Standard Oil of Ohio, and that ain't no little company."

My good friend the gentleman from Ohio (Mr. MOSHER) made one point, he said that Senator JACKSON and the President are unanimous on this $6 billion gift.

You know something, if the people find that out that may be the reason neither one of them are going to be standing out on the East Portico taking the oath of office as President a year from now.

I just want to tell the Members something: If they want to vote for this $6 billion you can bet that the big oil companies will come in and get it. If the Members want to vote for this just before Christmas and go home and tell their people that as little as this Congress has done for the people, we found time, without any hearings, without any testimony, without any chance to amend it in the House, we found time to give those big companies this gift, they can do so.

Well, you go home and tell them, I am not going to, and I have got about all the coal in Ohio.

I will say to the gentleman from Washington, who is sitting here making a few aside remarks, that I know about some of the coal development plants that are being built. We just had a big scramble for one called CoalCon. Ohio did not get it. Illinois did get it—$250 million worth. How many development processes are we going to have? Under this law, I will say to the gentleman from Washington, he got out of it what little protection the taxpayers had. If they get the guarantee, and if they do discover a process, they do not even have to tell the U.S. Government, who guaranteed the loan, what they found out. It is all theirs. They can exploit it. If the Members do not believe that these companies have got money, turn on your television sets any evening and if they can get anything on them besides Exxon ads, you have got a better make of television set than I have.

I can tell the Members that they have got the market and what they have not got they can go into the marketplace and get.

I think we ought to pass the Hechler motion to strike.

Mr. TEAGUE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, it is Christmas, and there is no joke. This legislation was started about 25 years ago, and it is time that Congress gave the American people a Christmas present of assuring them that they do not have to depend on the Arabs for energy in this country.

Mr. Speaker, four companies told us that they were not interested in this loan provision: Superior Oil Co., Standard Oil of Indiana, and Gulf Oil Co. Exxon said they were not interested in a program of any kind. The companies who said they were interested and said they could not participate unless there was a loan guarantee were: the Texas Eastern Transmission Co., the Pacific Lighting Co., the Peabody Coal Co. in Wyoming, the El Paso Natural Gas Co. in New Mexico, the American Natural Gas Co. up in North Dakota, Michigan, and Wisconsin, and the Natural Gas and Pipeline Co. in North Dakota.

Mr. Speaker, I ask for a "no" vote.

Mr. GUDE. Mr. Speaker, I cannot bring myself to vote for this section of the Energy Research and Development authorization, even though I fully agree with the goals of the in situ oil shale processing. I cannot abide by the idea that one private company will be given competition-free bidding rights on thousands of acres of Federal lands in order to carry out this process.

I was of the understanding, during hearings of my Conservation, Energy and Natural Resources subcommittee of the Government Operations Committee, that there was private industry already interested in and willing to invest in in situ oil shale processing without Federal subsidy or interference. The Columbia Gas Co. testified that they are drilling wells into potential oil shale deposits as a first phase of exploration and development of this resource. I also had the impressions that they were not alone in their interest in this worthwhile, though expensive, effort.

Occidental Petroleum should not get preferential treatment in its efforts to develop in situ oil shale wells. Open bidding must be allowed for any Federal lands so developed.

I request that my colleagues join in defeating this section so that it can be reviewed, as was not the case, by the House to determine the economic justification for sole source bidding or open bidding on such lands. I heartily recommend that the House Science and Technology Committee be instructed to review the proposals of this section during its debate next month on the administration's synthetic fuels progam.

PARLIAMENTARY INQUIRY

Mr. HECHLER of West Virginia. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HECHLER of West Virginia. Is it correct that an "aye" vote will be in opposition to section 103 and will strike section 103 of the pending legislation?

The SPEAKER. An "aye" vote is to strike section 103.

Mr. HECHLER of West Virginia. I thank the Speaker.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. HECHLER).

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. HECHLER of West Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 263, noes 140, answered "present" 1, not voting 30, as follows:

[Roll No. 770]

AYES—263

Abdnor
Abzug
Addabbo
Allen
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Bedell
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Butler
Byron
Carney
Carr
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cornell
Coughlin
Crane
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Derrick
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Ford, Tenn.
Fountain
Frenzel
Gibbons
Goldwater
Gonzalez
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hanley
Hansen
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Holland
Holt
Holtzman
Howard
Hughes
Hungate
Hutchinson
Jacobs
Jeffords
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kelly
Kemp
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Long, La.
Long, Md.
Lott
McCloskey
McCollister
McDonald
McEwen
McHugh
Macdonald
Madden
Madigan
Maguire
Mann
Matsunaga
Melcher
Meyner
Mezvinsky
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, N.Y.
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
Ottinger
Patman, Tex.
Pike
Pressler
Pritchard
Quie
Rangel
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Whalen
Whitehurst
Wiggins
Wilson, Tex.
Wolff
Wydler
Wylie
Yates
Young, Fla.
Young, Ga.
Zeferetti

NOES—140

Adams
Alexander
Ambro
Anderson, Ill.
Annunzio
Beard, Tenn.
Bennett
Bergland
Bevill
Bolling
Bonker
Bowen
Breckinridge
Brinkley
Brown, Calif.
Brown, Mich.
Buchanan
Burleson, Tex.
Burlison, Mo.
Carter
Casey
Cederberg
Chappell
Cleveland
Collins, Tex.
Conlan
Corman
Cotter
Daniel, Dan
Dent
Derwinski
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Esch
Evans, Colo.
Evins, Tenn.
Fary
Flood
Flowers
Foley
Forsythe
Frey
Fuqua
Giaimo
Gilman
Ginn
Goodling
Hammerschmidt
Hannaford
Hicks
Hightower
Hillis
Howe
Hubbard
Hyde
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Kazen
Levitas
Lloyd, Tenn.
Lujan
McClory
McCormack
McDade
McFall
McKay
McKinney
Mahon
Martin
Mathis
Mazzoli
Meeds
Michel
Milford
Miller, Ohio
Mills
Mollohan
Montgomery
Morgan
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nichols
Nix
O'Brien
O'Neill
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Poage
Preyer
Price
Quillen
Railsback
Randall
Rees
Rhodes
Risenhoover
Rostenkowski
Runnels
Sarasin
Shipley
Simon
Sisk
Slack
Smith, Iowa
Stanton, J. William
Steed
Stephens
Stratton
Stuckey
Teague
Thornton
Walsh
Wampler
White
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wright
Yatron
Young, Alaska
Young, Tex.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—30

Bell
Burke, Fla.
Burton, John
Burton, Phillip
Davis
Flynt
Ford, Mich.
Fraser
Gaydos
Hébert
Heinz
Helstoski
Hinshaw
Horton
Ichord
Jenrette
Ketchum
Krueger
Landrum
Metcalfe
Mikva
Peyser
Riegle
Roberts
Sebelius
Sikes
Udall
Vander Jagt
Weaver
Zablocki

The Clerk announced the following pairs:

On this vote:

Mr. Weaver for, with Mr. Zablocki against.

Mr. Helstoski for, with Mr. Landrum against.

Mr. Udall for, with Mr. Flynt against.

Mr. Ford of Michigan for, with Mr. Sikes against.

Mr. Metcalfe for, with Mr. Roberts against.

Until further notice:

Mr. Hébert with Mr. Riegle.

Mr. Mikva with Mr. Davis.

Mr. John L. Burton with Mr. Fraser.

Mr. Jenrette with Mr. Ichord.

Mr. Phillip Burton with Mr. Krueger.

Messrs. COCHRAN, FINDLEY, VAN DEERLIN, and RUPPE changed their votes from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HECHLER of West Virginia moves to strike section 102 of the conference report on the bill H.R. 3474.

The SPEAKER. The gentleman from West Virginia (Mr. HECHLER) is recognized for 20 minutes, and the gentleman from Texas (Mr. TEAGUE) is recognized for 20 minutes.

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the debate be limited to 10 minutes, with 5 minutes for each side.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I rise in support of section 102 and in opposition to the motion made by the gentleman from West Virginia (Mr. HECHLER).

As the Members of the House probably know, there are in the development of oil shale two separate kinds of processes. One is the above-ground process, which requires the mining and the so-called surface retorting of oil shale, in which you mine the oil shale, bring it to the surface, heat the rock, the oil comes out, and you are left with a great deal of waste. That waste has to be somehow disposed of and is a very significant problem both in itself and in the fact that it requires a great deal of water.

Mr. Speaker, the section before us is focused on the other way that is currently known as developing oil shale, the so-called in situ process, by which the oil shale is heated within the ground, the oil comes out of the oil shale, and there is not really as much waste remaining.

Mr. Speaker, the purpose of this section is to grant a demonstration program between the Federal Government and a company to be chosen by the Administrator of ERDA, in competition, for a demonstration project on the in situ development of oil shale.

This has great environmental advantages, probably, in the State of Colorado, where we are very concerned about the environmental impact of oil shale development. It requires probably somewhere from one-third to one-half manpower for this kind of oil shale development.

This is very important because it will bring fewer people to the State of Colorado and to those sparsely populated areas.

Second, it will require much less water, probably between a third and a quarter less water. This is very, very important in an area where water is a very scarce commodity and where there is a great deal of debate as to how much water might be used.

Third, this kind of in situ development will require much less waste of the used and spent shale on the surface land, because of the fact this is done underground.

Mr. Speaker, the purpose of this amendment is to develop this demonstration project so that we can move at higher speed with the in situ process and, from my perspective, it is an environmentally safer process for the development of oil shale. That is why I am in favor of section 102 and opposed to the motion made by the gentleman from West Virginia (Mr. HECHLER).

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I thank the gentleman from Colorado for yielding.

I would like to join with the gentleman in support of section 102. It has been emphasized that this is not a loan guarantee program and that it is only a joint venture between ERDA and private industry to either prove or disprove the in situ process for developing energy. I think this is a good program. It has been well thought out. The protections are there, and I believe the conference committee took care of all the considerations they had to work with.

Mr. Speaker, I support section 102 and urge the Members to give their support to this section.

Mr. WIRTH. Mr. Speaker, the gentleman is correct. There are no loan guarantees associated with this. Any profits that might come out of it would be jointly shared between the venture that receives the bid on a competitive basis and the Federal Government.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Speaker, I wish to congratulate the gentleman from Colorado on his statement. I associate myself with his remarks.

If we are going to have massive development of oil shale in the State of Colorado, this is the only way to do it. In this way we can preserve our water and our environment.

Mr. Speaker, I urge the Members to vote down this motion.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from California.

Mr. RYAN. Mr. Speaker, I understand what the gentleman is saying, but I wonder under the circumstances why this was not put in the legislation during the regular committee process. I do not understand why anything that is as important as this should be slipped in here during consideration of the conference report rather than put in by the committee during consideration in committee and done through the normal process.

This sounds very much like the last one we had in here for consideration when we had an important issue coming in like this during the last 2 days of the session and during the legislative process. We have been here long enough to know that those things that are slipped in at the last minute have something in them that are not always what they seem to be.

Mr. WIRTH. Mr. Speaker, as the gentleman knows, this amendment was initially added on the Senate side, and it went to conference. On the House side we had approximately 2 months of hearings on the whole oil shale and synthetic fuels question. We heard more witnesses on sections 102 and 103 than we did on the rest of the bill put together.

So, Mr. Speaker, this was a very carefully considered matter.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield myself 30 seconds.

The gentleman from Colorado (Mr. WIRTH) is correct in saying that the in situ process is a more environmentally sound process. But there is an established procedure through the Department of the Interior under its prototype leasing program, which is well underway. We do not have to accept an entirely new procedure as section 102 provides.

I still see no reason why the House should lie down and accept something that was thrown in at the last minute by the other body without full hearings.

Mr. TEAGUE. Mr. Speaker, if the gentleman will yield, I am sure the gentleman from West Virginia would not say that the conferees rolled over and played dead on this issue. I think we put up a pretty good fight.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman.

I am not sure whether the Members realize this, but this entire territory lies within the bounds of my district. As has been pointed out in the debate and in the colloquy between the chairman of the committee, the gentleman from Texas (Mr. TEAGUE), and myself, there are several companies that are interested in developing the in situ process. However, there is one company that is way ahead.

It is the one company that has been arguing for and pushing the in situ process for many years. That company has been experimenting and working in western Colorado for a long, long time. They had the opportunity to bid on the two tracts which were leased earlier, with the idea, under the Interior Department program, to develop oil shale. This particular company chose to make a bid of about $16 million when other companies were bidding in excess of $100 million for each of the leases.

This company is the only one that is still in the oil shale field in a major way that has stuck with the in situ process. There have been other companies that have examined the in situ process.

Everybody else with a major interest has come to the conclusion that they cannot make it work.

If this company thinks that it can make the in-situ process work, then why can it not demonstrate that need to the other companies and form a combine, as has been formed in very many of the other processes that have been developed?

Paroho has a company that has about 17 oil companies that participate in it. Tosco has a combine of several other oil companies. All have different processes.

They have examined the in-situ process. They have rejected it.

This sounds wonderful, does it not? Would it not be nice if we could develop billions of barrels of oil through this process? However, no company that has to put up its own money is willing to follow this process.

Mr. Speaker, I think this does not make any economic sense.

Mr. HECHLER of West Virginia. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Speaker, the last amendment gave away money. This gives away public lands. They can bid for this land and give leases on this land right now, and there are mineral leasing laws available.

This is Christmas time, but there is no reason, at this time of year, that we should pass a private bill for Occidental petroleum and Occidental oil shale.

Mr. Speaker, the motion of the gentleman from West Virginia (Mr. Hechler) should be agreed to by the House, and this kind of giveaway should be sternly rejected.

Mr. HECHLER of West Virginia. Mr. Speaker, to close debate, I yield the balance of the time to the gentlewoman from Hawaii (Mrs. Mink).

Mrs. MINK. Mr. Speaker, my subcommittee, the Subcommittee on Mines and Mining, has held 9 days of extensive hearings on the whole subject of oil shale. We are, I think, convinced that the process known as insitu is a legitimate process.

I would like to emphasize that there is not only one particular technology involved in the insitu method, but that there are many companies—I hate to disagree with the distinguished gentleman from Colorado (Mr. Johnson)—but there are many companies that are investigating this process.

It is actually no secret that Occidental Petroleum Co. is the one likely to be the beneficiary of section 102, nor that Occidental Petroleum Co.'s Island Creek Coal Co. has made in excess of $10 per ton profit in the first 9 months of this year.

The issue here is not the question of in situ. I happen to support it as probably the best and least environmentally harmful method to develop oil shale. The question is, Are we going to completely nullify existing laws, the mineral leasing law, and the orderly process under which the Department of Interior issues leases of our public lands?

Are we going to deny that competitive bidding is the proper method by which the public and the businessmen in our country are to acquire our assets?

Mr. Speaker, we have a procedure established by law that they must follow. This section will completely do away with competitive bidding. It will do away with the necessity of paying royalties. We will simply grant 5,000 acres of land to one company as a preferred company.

Mr. Speaker, I think that this is not right. What it will do is discourage legitimate research by other private businesses in discovering the best process for oil shale development. It will discourage the seven or eight other companies from ever getting into a very necessary scientific endeavor.

If the Government and the Congress agree that one company should have this privilege, one company should have a free grant of public lands, then I think this whole method will go down the drain.

PARLIAMENTARY INQUIRY

Mr. HECHLER of West Virginia. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HECHLER of West Virginia. Would an "aye" vote on the pending motion strike section 102 of the conference report?

The SPEAKER. The gentleman is correct.

Mr. HECHLER of West Virginia. I thank the Speaker.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. Hechler).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. HECHLER of West Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 283, nays 117, answered "present" 1, not voting 33, as follows:

[Roll No. 771]

YEAS—283

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Badillo
Baldus
Bauman
Beard, R.I.
Bedell
Bennett
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
Daniel, R. W.
Daniels, N.J.
Danielson
Delaney
Dellums
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flood
Florio
Ford, Tenn.
Fountain
Frenzel
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hightower
Holt
Holtzman
Howard
Hubbard
Hungate
Hutchinson
Jacobs
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kelly
Kemp
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Lehman
Levitas
Litton
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McHugh
McKinney
Macdonald
Madden
Madigan
Maguire
Martin
Matsunaga
Mazzoli
Meeds
Meyner
Mezvinsky
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Patman, Tex.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shriver
Simon
Skubitz
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Whalen
Whitehurst
Wolff
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Ga.
Zeferetti

NAYS—117

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Ashley
AuCoin
Barrett
Baucus
Beard, Tenn.
Bergland
Bevill
Bowen
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burleson, Tex.
Casey
Cederberg
Cleveland
D'Amours
Daniel, Dan
de la Garza
Dent
Derrick
Derwinski
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fenwick
Flowers
Foley
Forsythe
Frey
Fuqua
Ginn
Gradison
Hansen
Hicks
Hillis
Holland
Howe
Hughes
Hyde
Jarman
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Kazen
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Lujan
McCormack
McFall
McKay
Mahon
Mann
Mathis
Melcher
Michel
Milford
Mollohan
Montgomery
Morgan
Mosher
Murtha
Myers, Pa.
Nichols
Nix
O'Neill
Passman
Patten, N.J.
Pepper
Pickle
Poage
Quillen
Randall
Rees
Regula
Rhodes
Risenhoover
Rogers
Runnels
Santini
Schneebeli
Shipley
Shuster
Sisk
Slack
Smith, Iowa
Stanton, J. William
Steed
Steiger, Ariz.
Stephens
Stratton
Stuckey
Teague
Ullman
Waggonner
Wampler
White
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wright
Yatron
Young, Tex.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—33

Bell
Burke, Fla.
Burton, John
Burton, Phillip
Davis
Flynt
Ford, Mich.
Fraser
Gaydos
Giaimo
Hébert
Heinz
Helstoski
Hinshaw
Horton
Ichord
Jenrette
Ketchum
Krueger
Landrum
Metcalfe
Mikva
Peyser
Riegle
Roberts
Sebelius
Sikes
Udall
Vander Jagt
Weaver
Whitten
Wilson, C. H.
Zablocki

The Clerk announced the following pairs:

On this vote:

Mr. Helstoski for, with Mr. Zablocki against.

Mr. Udall for, with Mr. Sikes against.

Mr. Metcalfe for, with Mr. Landrum against.

Mr. Mikva for, with Mr. Flynt against.

Mr. Giaimo for, with Mr. Whitten against.

Until further notice:

Mr. Phillip Burton with Mr. Ichord.

Mr. Hébert with Mr. Roberts.

Mr. John L. Burton with Mr. Riegle.

Mr. Davis with Mr. Krueger.

Mr. Fraser with Mr. Jenrette.

Mr. Charles H. Wilson of California with Mr. Ford of Michigan.

Mr. WAMPLER changed his vote from "yea" to "nay."

Messrs. GILMAN and BEARD of Rhode Island changed their vote from "nay" to "yea."

So the motion was agreed to.

So the conference report was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. TEAGUE

Mr. TEAGUE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Teague moves that the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 3474), and concur therein with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1976

Sec. 101. There is hereby authorized to be appropriated to the Energy Research and Development Administration in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915):

(a) For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(1) Fossil energy development.—

(A) Coal liquefaction:

Costs, $96,897,000.

Changes in selected resources, $665,000.

(B) High Btu gasification (coal):

Costs, $37,838,000.

Changes in selected resources, $20,526,000.

(C) Low Btu gasification (coal):

Costs, $54,671,000.

Changes in selected resources, (minus) $4,282,000.

Provided, That not less than 20 per centum of the funds appropriated pursuant to this subparagraph (C) shall be used for in situ processes.

(D) Advanced power systems (coal):

Costs, $8,261,000.

Changes in selected resources, $2,340,000.

(E) Direct combustion (coal):

Costs, $32,645,000.

Changes in selected resources, $5,451,000.

(F) Advanced research and supporting technology (coal), for the following:

(i) Advanced coal conversion process:

Costs, $13,000,000.

Changes in selected resources, $1,000,000.

(ii) Advanced direct coal utilization process:

Costs, $4,600,000.

Changes in selected resources, $400,000.

(iii) Advanced supporting research:

Costs, $8,374,000.

Changes in selected resources, $119,000.

(iv) System studies:

Costs, $9,078,000.

Changes in selected resources, $2,813,000.

(G) Demonstration plants (coal):

Costs, $18,100,000.

Changes in selected resources, $18,900,000.

(H) Natural gas and oil extraction:

Costs, $32,865,000.

Changes in selected resources, $8,564,000.

(I) Natural gas and oil utilization:

Costs, $1,582,000.

Changes in selected resources, $215,000.

(J) Oil shale in situ processing:

Costs, $16,000,000.

Changes in selected resources, $3,000,000.

(K) Oil shale composition and characterization:

Costs, $1,113,000.

Changes in selected resources, $152,000.

(L) Magnetohydrodynamics:

Costs, $22,340,000.

Changes in selected resources, $12,160,000.

(2) Solar energy development:

Costs, $97,100,000.

Changes in selected resources, $62,425,000.

(3) Geothermal energy development:

Cost, $34,750,000.

Changes in selected resources, $8,520,000.

(4) Conservation research and development.—

(A) Electric Power Transmission:

Costs, $11,830,000.

Changes in selected resources, $300,000.

(B) Advanced Transportation Power Systems: Cost, $19,000,000.

Changes in selected resources, $4,500,000.

(C) Energy Storage Systems:

Costs, $23,100,000.

Changes in selected resources, $5,700,000.

(D) End-use Conservation:

Costs, $31,000,000.

Changes in selected resources, $18,650,000.

(E) Improved Conservation Efficiency:

Costs, $12,625,000.

Changes in selected resources, $3,000,000.

(F) Urban Waste Conversion:

Costs, $10,000,000.

Changes in selected resources, $5,000,000.

(5) Nuclear energy and other programs.—$3,158,970,000, of which a sum of dollars for the following programs equal to the total of the following amounts is included:

(A) Scientific and technical education in support of Nonnuclear Energy Technologies:

Costs, $4,500,000.

Changes in selected resources, $1,350,000.

(B) General new programs in Environmental and Safety Research in support of nonnuclear energy technology:

Costs, $22,100,000.

Changes in selected resources, $7,700,000.

(C) For use as provided in section 316 of this Act:

Costs, $4,000,000.

Changes in selected resources, $1,000,000.

(D) Nonpulmonary health studies on miners and people living in areas subjected to a high incidence of sulphur oxides and trace elements:

Costs, $400,000.

Changes in selected resources, $100,000.

(E) New programs of physical research in molecular and materials sciences in support of nonnuclear technologies:

Costs, $15,725,000.

Changes in selected resources, $3,750,000.

(F) $2,750,000 shall be available pursuant to sections 14 and 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5813 and 5915) as follows:

(i) $1,250,000 for the National Bureau of Standards;

(ii) $500,000 for the Council on Environmental Quality; and

(iii) $1,000,000 for the Water Resources Council.

(b) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

Fossil Energy Development

(1) Coal.—

Project 76-1-a, clean boiler fuel demonstration plant (A-E and long-lead procurement), $20,000,000.

Project 76-1-b. High Btu synthetic pipeline gas demonstration plant (A-E and long-lead procurement), $20,000,000.

Project 76-1-c, Low Btu fuel gas demonstration plant, (A-E and long-lead procurement), $15,000,000.

Project 76-1-d, Fluidized bed direct combustion demonstration plant, $13,000,000.

Solar, Geothermal, and Advanced Energy Systems Development

(2) Solar Energy Development.—

Project 76-2-a, Five megawatt solar thermal test facility, $5,000,000.

Project 76-2-b, Ten megawatt central receiver solar thermal powerplant, (A-E and long-lead procurement), $5,000,000.

(3) Geothermal Energy Development.—

Project 76-3-a, Geothermal powerplant (steam) (A-E and long-lead procurement), $5,000,000.

Project 76-3-b, Geothermal powerplant (A-E and long-lead procurement), $5,000,000.

(4) Physical research.—

Project 76-4-a, accelerator and reactor improvements and modifications, $4,000,000.

Nuclear Energy Development

(5) Fusion power research and development.—

Project 76-5-a, Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $23,000,000.

Project 76-5-b, 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico, $22,100,000.

Project 76-5-c, 14 Mev high intensity neutron facility, Lawrence Livermore Laboratory, California, $5,000,000.

(6) Fission power reactor development.—

Project 76-6-a, modifications to reactors, $4,000,000.

Project 76-6-b, sodium components test installation steam and feedwater system modification, Liquid Metal Engineering Center, Santa Susana, California, $7,700,000.

(7) Fission power reactor development.—

Project 76-7-a, test reactor area fire main replacement, Idaho National Engineering Laboratory, Idaho, $2,200,000.

(8) Nuclear materials.—

Project 76-8-a, additional facilities, high level waste storage, Savannah River, South Carolina, $68,000,000.

Project 76-8-b, additional high level waste storage facilities, Richland, Washington, $35,000,000

Project 76-8-c, supplemental N reactor irradiated fuel storage, Richland, Washington, $2,500,000.

Project 76-8-d, uprate electrical switchyards for Roane substation, Oak Ridge, Tennessee, $8,100,000.

Project 76-8-e, conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio, $12,200,000.

Project 76-8-f, radioactive liquid waste system improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $5,800,000.

Project 76-8-g, additional facilities, enriched uranium production, locations undetermined, $25,000,000.

National Security

(9) Weapons.—

Project 76-9-a, MK-12A MINUTEMAN III production facilities, various locations, $3,000,000.

Project 76-9-b, plutonium metallurgy building modifications, Lawrence Livermore Laboratory, California, $1,000,000.

Project 76-9-c, limited life component exchange facility, Charleston, South Carolina, $13,900,000.

Project 76-9-d, water control and recycle project, Rocky Flats, Colorado, $3,100,000.

(10) Weapons.—

Project 76-10-a, fire wall construction, Bendix Plant, Kansas City, Missouri, $2,000,000.

Project 76-10-b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, $4,450,000.

Project 76-10-c, PHERMEX enhancement, Los Alamos Scientific Laboratory, New Mexico, $6,150,000.

Environmental and Safety Research

(11) Biomedical and environmental research.—

Project 76-11-a, modifications and additions to biomedical and environmental research facilities, $3,200,000.

Project 76-11-b, inhalation toxicology research facilities, $6,800,000.

(12) General plant projects.—$64,670,000.

(13) Construction planning and design.—$6,000,000.

(14) Safeguards and facility upgrading.—

Project 76-14, safeguard and security upgrading, various locations, $32,800,000.

Capital Equipment Not Related to Construction

(15) Capital equipment.—Acquisition and fabrication of capital equipment not related to construction, for the following programs, a sum of dollars equal to the total of the following amounts:

(A) Fossil energy development, $425,000.

(B) Solar energy development, $3,000,000.

(C) Geothermal energy development, $3,120,000.

(D) Conservation research and development including improved conversion efficiency, $11,500,000.

(E) Physical research in molecular and materials sciences in support of nonnuclear energy technology, $4,600,000.

(F) Environmental and safety research in support of nonnuclear energy technology, $2,000,000.

(G) Nuclear energy and other programs, $237,502,000.

Sec. 102. Limitations.—(a) The Administration is authorized to start any project set forth in subsections 101(b) (4), (5), (6), (8), (9), (11), and (14) only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for that project.

(b) The Administration is authorized to start any project set forth in subsection 101 (b)(7) and (10) only if the currently estimated cost of that project does not exceed by more than 10 per centum the estimated cost set forth for that project.

(c) The Administration is authorized to start any project under subsection 101(b) (12) only if it is in accordance with the following:

(1) The maximum currently estimated cost of any project shall be $750,000 and the maximum currently estimated cost of any building included in such project shall be $300,000: *Provided* That the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency and economy.

(2) The total cost of all projects undertaken under subsection 101(b)(12) shall not exceed the estimated cost set forth in that section by more than 10 per centum.

(d) The total cost of any project undertaken under subsections 101(b) (4), (5), (6), (8), (11), and (14) shall not exceed the estimated cost set forth for that project by more than 25 per centum unless and until additional appropriatons are authorized under section 261 of the Atomic Energy Act of 1954, as amended: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

(e) The total cost of any project undertaken under subsection 101(b) (7) and (10) shall not exceed the estimated cost set forth for that project by more than 10 per centum, unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

Sec. 103. Amendment of Prior Year Acts.—(a) Section 101 of Public Law 91-273, as amended, is further amended by (1) striking from subsection (b)(1), project 71-1-f, process equipment modifications, gaseous diffusion plants, the figure "$295,100,000" and substituting therefor the figure "$478,100,000"; and (2) striking from subsection (b) (9), project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, the figure "$193,000,000" and substituting therefor the figure "$240,000,000".

(b) Section 101 of Public Law 93-60, as amended, is further amended by (1) striking from subsection (b)(1), project 74-1-g, cascade uprating program, gaseous diffusion plants, the figure "$183,100,000" and substituting therefor the figure $259,600,000"; and (2) striking from subsection (b)(2), project 74-2-c, high energy laser facility, Lawrence Livermore Laboratory, California, the figure "$20,000,000" and substituting therefor the figure "$25,000,000".

(c) Section 101 of Public Law 93-276 is amended by (1) striking from subsection (b)(1), project 75-1-a, additional facilities, high level waste handling and storage, Savannah River, South Carolina, the figure "$30,000,000" and substituting therefor the figure : "$33,000,000"; (2) striking from subsection (b)(1), project 75-1-c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, the figure "$20,000,000" and substituting therefor the figure "$27,500,000"; (3) striking from subsection (b)(3), project 75-3-e, addition to building 350 for safeguards analytical laboratory, Argonne National Laboratory, Illinois, the figure "$3,500,000" and substituting therefor the figure "$4,300,000"; (4) striking from subsection (b)(6), project 75-6-c, positron-electron joint project. Lawrence Berkely Laboratory and Stanford Linear Accelerator Center, the figure "$900,000" and substituting therefor the figure "$11,900,000"; and (5) striking from subsection (b)(7), project 75-7-c, intermediate-level waste management facilities, Oak Ridge National Laboratory, Tennessee, the figure "$9,500,000" and substituting therefor the figure "$10,500,000".

(d) Section 106 of Public Law 91-273, as amended, is further amended by deleting the present text thereof and substituting therefor the following:

"Sec. 106 Liquid Metal Fast Breeder Reactor Demonstration Program—Fourth Round.—(a) The Energy Research and Development Administration (ERDA) is hereby authorized to enter into cooperative arrangements with reactor manufacturers and others for participation in the research and development, design, construction, and operation of a Liquid Metal Fast Breeder Reactor powerplant, in accordance with criteria approved by the Joint Commission on Atomic Energy, without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended. Appropriations are hereby authorized for the period consisting of the fiscal year ending June 30, 1976, and the interim period following that fiscal year ending September 30, 1976, for the aforementioned cooperative arrangements as shown in the basis for arrangements as submitted in accordance with subsection (b) hereof. In addition, ERDA may agree to provide assistance in the form of waiver of use charges during the term of the cooperative arrangements without regard to the provisions of section 53 of the Atomic Energy Act, as amended, by waiving use charges in an amount not to exceed $10,000,000.

"(b) Before ERDA enters into any arrangement or amendment thereto under the authority of subsection (a) of this section, the basis for the arrangement or amendment thereto which ERDA proposes to execute (including the name of the proposed participating party or parties with which the arrangement is to be made, a general description of the proposed powerplant, the estimated amount of cost to be incurred by ERDA and by the participating parties, and the general features of the proposed arrangement or amendment) shall be submitted to the Joint Committee on Atomic Energy, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided, however*, That the Joint Committee, after having received the basis for a proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of all, or any portion of, such forty-five-day period: *Provided, further*, That such arrangement or amendment shall be entered into in accordance with the basis for the arrangement or amendment submitted as provided herein: *And provided further*, That no basis for arrangement need be resubmitted to the Joint Committee for the sole reason that the estimated amount of the cost to be incurred by ERDA exceeds the estimated cost previously submitted to the Joint Committee by not more than 15 per centum. Notwithstanding the foregoing, ERDA, in each of its annual budget submissions, shall submit for the information and review of the Joint Committee in the exercise of its oversight responsibility, the anticipated obligations and costs for the ensuing fiscal year for the project authorized under subsection (a) of this section.

"(c) The ERDA is hereby authorized to agree, by modification to the definitive cooperative arrangement reflecting such changes therein as it deems appropriate for such purpose, to the following: (1) to execute and deliver to the other parties to the definitive contract, the special undertakings of indemnification specified in said contract, which undertakings shall be subject to availability of appropriations to ERDA and to the provisions of section 3679 of the Revised Statutes, as amended; and (2) to acquire ownership and custody of the property constituting the Liquid Metal Fast Breeder Reactor powerplant or parts thereof, and to use, decommission, and dispose of said property, as provided for in the definitive contract."

Sec. 104. Rescissions.—(a) Public Law 92-314, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 73-5-d, modifications to TREAT facility, National Reactor Testing Station, Idaho, $1,500,000.

(b) Public Law 93-60, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 74-3-c, modifications to TREAT facility, National Reactor Testing Station, Idaho, $2,500,000.

(c) Public Law 93-276, as amended, is further amended by rescinding therefrom authorization for projects, except for funds heretofore obligated, as follows:

Project 75-13-a, hydrothermal pilot plant, $1,000,000.

Project 75-5-e, high temperature gas reactor fuel reprocessing facility, National Reactor Testing Station, Idaho, $10,100,000.

Project 75-5-f, high temperature gas reactor fuel refabrication pilot plant, Oak Ridge National Laboratory, Tennessee, $3,000,000.

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE PERIOD JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Sec. 201. There is hereby authorized to be appropriated to the Energy Research and Development Administration in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915):

(a) For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(1) FOSSIL ENERGY DEVELOPMENT.—

(A) Coal liquefaction:

Costs, $16,000,000.

Changes in selected resources, $12,750,000.

(B) High Btu gasification (coal):

Costs, $7,450,000.

Changes in selected resources, $1,800,000.

(C) Low Btu gasification (coal):

Costs, $7,300,000.

Changes in selected resources, $5,350,000. *Provided*, That not less than 20 per centum of the funds appropriated pursuant to this subparagraph (C) shall be used for in situ processes.

(D) Advanced power systems (coal):

Costs, $2,050,000.

Changes in selected resources, $1,450,000.

(E) Direct combustion (coal):

Costs, $5,100,000.

Changes in selected resources, $9,800,000.

(F) Advanced research and supporting technology (coal), for the following:

(i) Advanced coal conversion process:

Costs, $2,100,000.

Changes in selected resources, $1,900,000.

(ii) Advanced direct coal utilization process:

Costs, $500,000.

Changes in selected resources, $500,000.

(iii) Advanced supporting research:

Costs, $1,400,000.

Changes in selected resources, $450,000.

(iv) Systems studies:

Costs, $1,400,000.

Changes in selected resources, $1,600,000.

(G) Demonstration plants (coal):

Costs, $4,100,000.

Changes in selected resources, $4,900,000.

(H) Natural gas and oil extraction:

Costs $9,930,000.

Changes in selected resources, $600,000.

(I) Natural gas and oil utilization:

Costs, $500,000.

Changes in selected resources (minus) $50,000.

(J) Oil shale in situ processing:

Costs, $4,241,000.

Changes in selected resources, $529,000.

(K) Oil shale composition and characterization:

Costs, $300,000.

Changes in selected resources, $0.

(L) Magnetohydrodynamics.

Costs, $6,700,000.

Changes in selected resources, $1,700,000.

(2) SOLAR ENERGY DEVELOPMENT.—

Costs, $24,500,000.

Changes in selected resources, $19,203,000.

(3) GEOTHERMAL ENERGY DEVELOPMENT.—

Costs, $10,100,000.

Changes in selected resources, $850,000.

(4) CONSERVATION RESEARCH AND DEVELOPMENT.—

(A) Electric Power Transmission:

Costs, $2,673,000.

Changes in selected resources (minus) $100,000.

(B) Advanced Transportation Power Systems:

Costs, $4,750,000.

Changes in selected resources, $1,060,000.

(C) Energy Storage Systems:

Costs, $5,400,000.

Changes in selected resources, $900,000.

(D) End-use Conservation:

Costs, $8,000,000.

Changes in selected resources, $2,000,000.

(E) Improved Conversion Efficiency:

Costs, $3,475,000.

Changes in selected resources, $1,100,000.

(F) Urban Waste Conversion:

Costs, $2,500,000.

Changes in selected resources, $1,250,000.

(5) NUCLEAR ENERGY AND OTHER PROGRAMS.—$914,849,000, of which a sum of dollars for the following programs equal to the total of the following amounts is included:

(A) Scientific and technical education in support of Nonnuclear Energy Technologies:

Costs, $1,125,000.

Changes in selected resources $337,000.

(B) General new programs in Environmental and Safety Research in support of nonnuclear energy technology:

Costs, $5,525,000.

Changes in selected resources, $1,919,000.

(C) For use as provided in section 316 of this Act:

Costs, $1,000,000.

Changes in selected resources, $250,000.

(D) Nonpulmonary health studies on miners and people living in areas subjected to a high incidence of sulphur oxides and trace elements:

Costs, $100,000.

Changes in selected resources, $25,000.

(E) New programs of physical research in molecular and materials sciences in support of nonnuclear technologies:

Costs, $3,931,000.

Changes in selected resources, $1,168,000.

(F) $687,000 shall be available pursuant to sections 14 and 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913 and 5915) as follows:

(i) $312,000 for the National Bureau of Standards;

(ii) $125,000 for the Council on Environmental Quality; and

(iii) $250,000 for the Water Resources Council.

(b) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the incremental amounts of the following:

FOSSIL ENERGY DEVELOPMENT

(1) COAL.—

Project 76–1–a, clean boiler fuel demonstration plant (A–E and long-lead procurement), $8,000,000.

Project 76–1–b, High Btu synthetic pipeline gas demonstration plant (A–E and long-lead procurement), $5,000,000.

Project 76–1–c, Low Btu fuel gas demonstration plant (A–E and long-end procurement), $3,750,000.

Project 76–1–d, Fluidized bed direct combustion demonstration plant, $3,250,000.

SOLAR, GEOTHERMAL, AND ADVANCED ENERGY SYSTEMS DEVELOPMENT

(2) SOLAR ENERGY DEVELOPMENT.—

Project 76–2–a, Five megawatt solar thermal test facility, $1,250,000.

Project 76–2–b, Ten megawatt central receiver solar thermal powerplant (A–E and long-lead procurement), $1,250,000.

(3) GEOTHERMAL ENERGY DEVELOPMENT.—

Project 76–3–a, Geothermal powerplant (steam) (A–E and long-lead procurement), $1,250,000.

Project 76–3–b, Geothermal powerplant (A–E and long-lead procurement), $1,250,000.

(4) PHYSICAL RESEARCH.—

Project 76–4–a, accelerator and reactor improvements and modifications, $1,000,000.

(F) Nuclear energy and other programs,

NUCLEAR ENERGY DEVELOPMENT

(5) FUSION POWER RESEARCH AND DEVELOPMENT.—

Project 76–5–a, tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $7,000,000.

(6) GENERAL PLANT PROJECTS.—$15,900,000.

(7) CONSTRUCTION PLANNING AND DESIGN.—$1,500,000.

CAPITAL EQUIPMENT NOT RELATED TO CONSTRUCTION

(8) CAPITAL EQUIPMENT.—

Acquisition and fabrication of capital equipment not related to construction, for the following programs, a sum of dollars equal to the total of the following amounts:

(A) Fossil energy development, $200,000.

(B) Geothermal energy development, $200,000.

(C) Conservation research and development including improved conversion efficiency, $2,900,000.

(D) Physical research in molecular and materials sciences in support of nonnuclear energy technology, $1,037,000.

(E) Environmental and safety research in support of nonnuclear energy technologies, $500,000.

(F) Nuclear energy and other programs, $58,086,000.

SEC. 202. LIMITATIONS.—(a) The Administration is authorized to start any project set forth in subsections 201(b) (4) and (5) only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for that project.

(b) The Administration is authorized to start any project under subsection 201(b) (6) only if it is in accordance with the following:

(1) The maximum currently estimated cost of any project shall be $750,000 and the maximum currently estimated cost of any building included in such project shall be $300,000: *Provided*, That the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency and economy.

(2) The total cost of all projects undertaken under subsection 201(b) (6) shall not exceed the estimated cost set forth in that subsection by more than 10 per centum.

(c) The total cost of any project undertaken under subsection 201(b) (4) and (5) shall not exceed the estimated cost set forth for that project by more than 25 per centum, unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

SEC. 203. AMENDMENT OF PRIOR YEAR ACTS.—(a) Section 101 of Public Law 91–273, as amended, is further amended by striking from subsection (b) (1), project 71–1–f, process equipment modifications, gaseous diffusion plants, the figure $478,100,000" and substituting theerfor the figure "$510,100,000".

(b) Section 101 of Public Law 93–60, as amended, is further amended by striking from subsection (b) (1), project 74–1–g, cascade uprating program, gaseous diffusion plants, the figure "$259,600,000" and substituting therefor the figure "$270,400,000".

TITLE III—GENERAL PROVISIONS

PART A—PROVISIONS RELATING TO PROGRAMS OTHER THAN FOSSIL ENERGY DEVELOPMENT

SEC. 301. The Administrator is authorized to perform construction design services for any Administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administrator, and (2) the Administrator determines that the project is of such urgency that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 302. Any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 16, 1910 as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (3)

U.S.C. 484), and may remain available until expended.

SEC. 303. Transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred, may be merged with the appropriation to which transferred.

SEC. 304. Sections 301, 302, and 303 of this Act do not apply to fossil energy development programs of the Administration.

PART B—PROVISIONS RELATING TO NONNUCLEAR ENERGY DEVELOPMENT

SEC. 305. REPROGRAMING AUTHORITY.—Except as provided in part C of this title—

(1) no amount appropriated pursuant to this Act may be used for any nonnuclear program in excess of the amount actually authorized for that particular program by this Act,

(2) no amount appropriated pursuant to this Act may be used for any nonnuclear program which has not been presented to, or requested of, the Congress,

unless (A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate of notice given by the Administrator containing full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objecion to the proposed action: *Provided*, That the following categories may not, as a result of reprograming, be decreased by more than 10 per centum of the sums appropriated pursuant to this Act for such categories: Coal, petroleum and natural gas, oil shale, solar, geothermal, and conservation.

SEC. 306. The Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a detailed explanation of the allocation of the funds appropriated pursuant to section 101(a) and 201(a) of this Act for nonnuclear energy programs and subprograms, reflecting the relationships, consistencies, and dissimilarities between those allocations and (a) the comprehensive program definition transmitted pursuant to section 102 of the Geothermal Energy Research, Development, and Demonstration Act, (b) the comprehensive program definition transmitted pursuant to section 15 of the Solar Energy Research, Development, and Demonstration Act of 1974 (42 U.S.C. 5564), (c) the comprehensive nonnuclear energy research development, and (d) demonstrations transmitted pursuant to section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905).

SEC. 307. When so specified in an appropriation pursuant to this Act for "Operating expenses" or for "Plant and capital equipment" for nonnuclear energy may remain available until expended.

SEC. 308. The Administrator shall, by June 30, 1976, and by the end of each fiscal year thereafter, submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate detailing the extent to which small business and nonprofit organizations are being funded by the nonnuclear research, development, and demonstration programs of the Administrator, and the extent to which small business involvement pursuant to section 2(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5801(d)) is being encouraged by the Administrator.

SEC. 309. The Administrator shall coordinate nonnuclear programs of the Administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

SEC. 310. The Administrator shall, as soon as practicable and consistent with design, economic, and feasibility studies, include in an annual authorization proposal a recommendation on construction of at least one demonstration offshore wind-electric generating facility.

SEC. 311. As a part of the annual report required by section 15(a)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914(a)(1)), the Administrator shall:

(a) detail the Solar Energy Division personnel level recommended for the current fiscal year by the Administrator and submitted to the Office of Management and Budget, and the personnel level authorized upon review by that Office; and

(b) detail progress toward completion by January 1, 1980, of the objectives of the Solar Energy Research Development, and Demonstration Act of 1974 (42 U.S.C. 5551, et seq.).

SEC. 312. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901) is amended by adding at the end thereof the following new section:

"CENTRAL SOURCE OF NONNUCLEAR ENERGY INFORMATION

"SEC. 17. The Administrator shall promptly establish, develop, acquire, and maintain a central source of information on all energy resources and technology in furtherance of the Administrator's research, development, and demonstration mission carried out directly or indirectly under this Act. When the Administrator determines that such information is needed to carry out the purposes of this Act, he may acquire proprietary and other information (a) by purchase through negotiation or by donation from any person, or (b) from another Federal agency. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person, would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress or any committee of Congress upon request of the chairman.".

SEC. 313. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901) is amended by adding at the end thereof (after the new section added by section 312 of this Act) the following new section:

"ENERGY INFORMATION

"SEC. 18. The Administrator is, upon request, authorized to obtain energy information under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, as amended (15 U.S.C. 796(d)).".

PART C—PROVISIONS RELATING TO FOSSIL ENERGY DEVELOPMENT

SEC. 314. Funds appropriated pursuant to this Act for "Operating expenses" for fossil energy purposes may be used for (1) any facilities which may be required at locations, other than installations of the Administration, for the performance of research and development contracts, and (2) grants to any organization for purchase or construction of research facilities. No such funds shall be used for the acquisition of land. Fee title to all such facilities shall be vested in the United States, unless the Administrator determines in writing that the programs of research and development authorized by this Act shall best be implemented by vesting fee title in an entity other than the United States: *Provided*, That, before approving the vesting of title in such entity, the Administrator shall (A) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate, and (B) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. Each grant shall be made under such conditions as the Administrator deems necessary to insure that the United States will receive therefrom benefits adequate to justify the making of the grant. No such funds shall be used under clause (1) of the first sentence of this section for the construction of any major facility the estimated cost of which, including collateral equipment, exceeds $250,000 unless the Administrator shall (i) transmit a report on such major facility showing the nature, purpose, location, and estimated cost of such facility to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate, and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 315. Not to exceed three per centum of all funds appropriated pursuant to this Act for "Operating expenses" for fossil energy purposes may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (1) such action would be necessary because of changes in the national programs authorized to be funded by this Act or because of new scientific or engineering developments, and (2) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration. No portion of such sums may be obligated for expenditure or expended for such activities, unless (A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the Committee on Science and Technology, of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a written report containing a full and complete statement concerning (i) the nature of construction, expansion, or modification, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 316. The Administrator shall conduct an environmental and safety research, development, and demonstration program related to fossil fuels.

TITLE IV—OAK RIDGE HOLIFIELD NATIONAL LABORATORY

Sec. 401. The Holifield National Laboratory at Oak Ridge, Tennessee, shall hereafter be known and designated as the "Oak Ridge National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Holifield National Laboratory or to the Oak Ridge National Laboratory shall be held to be a reference to the "Oak Ridge National Laboratory".

Sec. 402. The Heavy Ion Research Facility under construction at Oak Ridge, Tennessee, is hereby designated as the "Holifield Heavy Ion Research Facility". Any reference in any law, regulation, map, record, or other document of the United States to the Heavy Ion Research Facility shall be considered a reference to the "Holifield Heavy Ion Research Facility".

TITLE V—AIR TRANSPORTATION OF PLUTONIUM

Sec. 501. The Energy Research and Development Administration shall not ship plutonium in any form by aircraft whether exports, imports, or domestic shipment: *Provided,* That any exempt shipments of plutonium, as defined by section 502, are not subject to this restriction. This restriction shall be in force until the Energy Research and Development Administration has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

Sec. 502. For the purposes of this title, the term "exempt shipments of plutonium" shall include the following:

(1) Plutonium shipments in any form designed for medical application.

(2) Plutonium shipments which pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration are determined to be made for purposes of national security, public health and safety, or emergency maintenance operations.

(3) Shipments of small amounts of plutonium deemed by the Administrator of the Energy Research and Development Administration to require rapid shipment by air in order to preserve the chemical, physical, or isotopic properties of the transported item or material.

TITLE VI—ASSISTANCE PAYMENTS AMENDMENTS

Sec. 601. Chapter 9 of the Atomic Energy Communist Act of 1955 (42 U.S.C. 2391 et. seq.) is amended—

(1) by striking out "Commission" each time it appears in sections 91 and 94, the first time it appears in section 92, and where it appears in section 93, and inserting in each instance in lieu thereof the following: "Administrator";

(2) by striking out "atomic energy" in section 91a(2) and inserting "Energy Research and Development Administration" in lieu thereof:

(3) by striking out "its" in section 91d:

(4) by striking out "itself" in section 91e;

(5) by striking out the period at the end of the first sentence of section 91a, and inserting in lieu thereof the following: ": *Provided further,* That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee.":

(6) by inserting immediately after "Richland School District" in section 91d, but before the closing of parentheses, the following: "; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee";

(7) by striking out "Commission" in the catchlines of sections 92 and 94:

(8) by striking out "Commission" the second time it appears in section 92, and inserting "Energy Research and Development Administration" in lieu thereof; and

(9) by striking out the final period in section 93 and inserting in lieu thereof the following: "; and in the case of Anderson County and Roane County, Tennessee, shall not extend beyond June 30, 1986.".

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MOSHER. Mr. Speaker, reserving the right to object, may I ask, will the gentleman state what his motion contains?

Mr TEAGUE. Mr. Speaker, this motion sends this bill back to the other body without the sections 102 and 103 in the form it was voted on back in June. The vote was about 317 to 9. That is all the amendment does.

Mr. MOSHER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Teague).

The motion was agreed to.

A motion to reconsider was laid on the table.

METRIC CONVERSION ACT OF 1975

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8674) to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a U.S. Metric Board to coordinate the voluntary conversion to the metric system, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Metric Conversion Act of 1975".

Sec. 2. The Congress finds as follows:

(1) The United States was an original signatory party to the 1875 Treaty of the Meter (20 Stat. 709), which established the General Conference of Weights and Measures, the International Committee of Weights and Measures and the International Bureau of Weights and Measures.

(2) Although the use of metric measurement standards in the United States has been authorized by law since 1866 (Act of July 28, 1866; 14 Stat. 339), this Nation today is the only industrially developed nation which has not established a national policy of committing itself and taking steps to facilitate conversion to the metric system.

Sec. 3. It is therefore declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system.

Sec. 4. As used in this Act, the term—

(1) "Board" means the United States Metric Board, established under section 5 of this Act;

(2) "engineering standard" means a standard which prescribes (A) a concise set of conditions and requirements that must be satisfied by a material, product, process, procedure, convention, or test method; and (B) the physical, functional, performance and/or conformance characteristics thereof;

(3) "international standard or recommendation" means an engineering standard or recommendation which is (A) formulated and promulgated by an international organization and (B) recommended for adoption by individual nations as a national standard; and

(4) "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and as interpreted or modified for the United States by the Secretary of Commerce.

Sec. 5. (a) There is established, in accordance with this section, an independent instrumentality to be known as a United States Metric Board.

(b) The Board shall consist of 17 individuals, as follows:

(1) the Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;

(2) sixteen members who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(A) one to be selected from lists of qualified individuals recommended by engineers and organizations representative of engineering interests;

(B) one to be selected from lists of qualified individuals recommended by scientists, the scientific and technical community, and organizations representative of scientists and technicians;

(C) one to be selected from a list of qualified individuals recommended by the National Association of Manufacturers or its successor;

(D) one to be selected from lists of qualified individuals recommended by the United States Chamber of Commerce, or its successor, retailers, and other commercial organizations;

(E) two to be selected from lists of qualified individuals recommended by the American Federation of Labor and Congress of Industrial organizations or its successor, who are representative of workers directly affected by metic conversion, and by other organizations representing labor;

(F) one to be selected from a list of qualified individuals recommended by the National Governors Conference, the National Council of State Legislatures, and organizations representative of State and local government;

(G) two to be selected from lists of qualified individuals recommended by organizations representative of small business;

(H) one to be selected from lists of qualified individuals representative of the construction industry;

(I) one to be selected from a list of qualified individuals recommended by the National Conference on Weights and Measures and standards making organizations;

(J) one to be selected from lists of qualified individuals recommended by educators, the educational community, and organizations representative of educational interests; and

(K) four at-large members to represent consumers and other interests deemed suitable by the President and who shall be qualified individuals.

As used in this subsection, each "list" shall include the names of at least three individuals for each applicable vacancy. The terms of office of the members of the Board first taking office shall expire as designated by the President at the time of nomination; five at the end of the 2d year; five at the end of the 4th year; and six at the end of the 6th year. The term of office of the Chairman of such Board shall be 6 years. Members, including the Chairman, may be appointed to an additional term of 6 years, in the same manner as the original appointment. Successors to members of such Board shall be appointed in the same manner as the original members and shall have terms of office expiring 6 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Beginning 45 days after the date of incorporation of the Board, six members of such Board shall constitute a quorum for the transaction of any function of the Board.

(c) Unless otherwise provided by the Congress, the Board shall have no compulsory powers.

(d) The Board shall cease to exist when the Congress, by law, determines that its mission has been accomplished.

SEC. 6. It shall be the function of the Board to devise and carry out a broad program of planning, coordination, and public education, consistent with other national policy and interests, with the aim of implementing the policy set forth in this Act. In carrying out this program, the Board shall—

(1) consult with and take into account the interests, views, and conversion costs of United States commerce and industry, including small business; science; engineering; labor; education; consumers; government agencies at the Federal, State, and local level; nationally recognized standards developing and coordinating organizations; metric conversion planning and coordinating groups; and such other individuals or groups as are considered appropriate by the Board to the carrying out of the purposes of this Act. The Board shall take into account activities underway in the private and public sectors, so as not to duplicate unnecessarily such activities;

(2) provide for appropriate procedures whereby various groups, under the auspices of the Board, may formulate, and recommend or suggest, to the Board specific programs for coordinating conversion in each industry and segment thereof and specific dimensions and configurations in the metric system and in other measurements for general use. Such programs, dimensions, and configurations shall be consistent with (A) the needs, interests, and capabilities of manufacturers (large and small), suppliers, labor, consumers, educators, and other interested groups, and (B) the national interest;

(3) publicize, in an appropriate manner, proposed programs and provide an opportunity for interested groups or individuals to submit comments on such programs. At the request of interested parties, the Board, in its discretion, may hold hearings with regard to such programs. Such comments and hearings may be considered by the Board;

(4) encourage activities of standardization organizations to develop or revise, as rapidly as practicable, engineering standards on a metric measurement basis, and to take advantage of opportunities to promote (A) rationalization or simplification of relationships, (B) improvements of design, (C) reduction of size variations, (D) increases in economy, and (E) where feasible, the efficient use of energy and the conservation of natural resources;

(5) encourage the retention, in new metric language standards, of those United States engineering designs, practices, and conventions that are internationally accepted or that embody superior technology;

(6) consult and cooperate with foreign governments, and intergovernmental organizations, in collaboration with the Department of State, and, through appropriate member bodies, with private international organizations, which are or become concerned with the encouragement and coordination of increased use of metric measurement units or engineering standards based on such units, or both. Such consultation shall include efforts, where appropriate, to gain international recognition for metric standards proposed by the United States, and, during the United States conversion, to encourage retention of equivalent customary units, usually by way of dual dimensions, in international standards or recommendations;

(7) assist the public through information and education programs, to become familiar with the meaning and applicability of metric terms and measures in daily life. Such programs shall include—

(A) public information programs conducted by the Board, through the use of newspapers, magazines, radio, television, and other media, and through talks before appropriate citizens' groups, and trade and public organizations;

(B) counseling and consultation by the Secretary of Health, Education, and Welfare; the Secretary of Labor; the Administrator of the Small Business Administration; and the Director of the National Science Foundation, with educational associations, State and local educational agencies, labor education committees, apprentice training committees, and other interested groups, in order to assure (i) that the metric system of measurement is included in the curriculum of the Nation's educational institutions, and (ii) that teachers and other appropriate personnel are properly trained to teach the metric system of measurement;

(C) consultation by the Secretary of Commerce with the National Conference of Weights and Measures in order to assure that State and local weights and measures officials are (i) appropriately involved in metric conversion activities and (ii) assisted in their efforts to bring about timely amendments to weights and measures laws; and

(D) such other public information activities, by any Federal agency in support of this Act, as relate to the mission of such agency;

(8) collect, analyze, and publish information about the extent of usage of metric measurements; evaluate the costs and benefits of metric usage; and make efforts to minimize any adverse effects resulting from increasing metric usage;

(9) conduct research, including appropriate surveys; publish the results of such research; and recommend to the Congress and to the President such action as may be appropriate to deal with any unresolved problems, issues, and questions associated with metric conversion, or usage, such problems, issues, and questions may include, but are not limited to, the impact on workers (such as costs of tools and training) and on different occupations and industries, possible increased costs to consumers, the impact on society and the economy, effects on small business, the impact on the international trade position of the United States, the appropriateness of and methods for using procurement by the Federal Government as a means to effect conversion to the metric system, the proper conversion or transition period in particular sectors of society, and consequences for national defense;

(10) submit annually to the Congress and to the President a report on its activities. Each such report shall include a status report on the conversion process as well as projections for the conversion process. Such report may include recommendations covering any legislation or executive action needed to implement the programs of conversion accepted by the Board. The Board may also submit such other reports and recommendations as it deems necessary; and

(11) submit to the Congress and to the President, not later than 1 year after the date of enactment of the Act making appropriations for carrying out this Act, a report on the need to provide an effective structural mechanism for converting customary units to metric units in statutes, regulations, and other laws at all levels of government, on a coordinated and timely basis, in response to voluntary conversion programs adopted and implemented by various sectors of society under the auspices and with the approval of the Board. If the Board determines that such a need exists, such a report shall include recommendations as to appropriate and effective means for establishing and implementing such a mechanism.

SEC. 7. In carrying out its duties under this Act, the Board may—

(1) establish an Executive Committee, and such other committees as it deems desirable;

(2) establish such committees and advisory panels as it deems necessary to work with the various sectors of the Nation's economy and with Federal and State governmental agencies in the development and implementation of detailed conversion plans for those sectors. The Board may reimburse, to the extent authorized by law, the members of such committees;

(3) conduct hearings at such times and places as it deems appropriate;

(4) enter into contracts, in accordance with the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties;

(5) delegate to the Executive Director such authority as it deems advisable; and

(6) perform such other acts as may be necessary to carry out the duties prescribed by this Act.

SEC. 8. (a) The Board may accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, and personal services, for the purpose of aiding or facilitating the work of the Board. Gifts and bequests of money, and the proceeds from the sale of any other property received as gifts or bequests, shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Board.

(b) For purpose of Federal income, estate, and gift taxation, property accepted under subsection (a) of this section shall be considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Board, the Secretary of the Treasury may invest and reinvest, in securities of the United States, any moneys contained in the fund authorized in subsection (a) of this section. Income accruing from such securities, and from any other property accepted to the credit of such fund, shall be disbursed upon the order of the Board.

(d) Funds not expended by the Board as

of the date when it ceases to exist, in accordance with section 5(d) of this Act, shall revert to the Treasury of the United States as of such date.

SEC. 9. Members of the Board who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate not to exceed the daily rate currently being paid grade 18 of the General Schedule (under section 5332 of title 5, United States Code), including traveltime. While so serving, on the business of the Board away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service. Payments under this section shall not render members of the Board employees or officials of the United States for any purpose. Members of the Board who are in the employ of the United States shall be entitled to travel expenses when traveling on the business of the Board.

SEC. 10. (a) The Board shall appoint a qualified individual to serve as the Executive Director of the Board at the pleasure of the Board. The Executive Director, subject to the direction of the Board, shall be responsible to the Board and shall carry out the metric conversion program, pursuant to the provisions of this Act and the policies established by the Board.

(b) The Executive Director of the Board shall serve full time and be subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code. The annual salary of the Executive Director shall not exceed level III of the Executive Schedule under section 5314 of such title.

(c) The Board may appoint and fix the compensation of such staff personnel as may be necessary to carry out the provisions of this Act in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(d) The Board may (1) employ experts and consultants or organizations thereof, as authorized by section 3109 of title 5, United States Code; (2) compensate individuals so employed at rates not in excess of the rate currently being paid grade 18 of the General Schedule under section 5332 of such title, including traveltime; and (3) may allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently: *Provided, however,* That contracts for such temporary employment may be renewed annually.

SEC. 11. Financial and administrative services, including those related to budgeting, accounting, financial reporting, personnel, and procurement, and such other staff services as may be needed by the Board, may be obtained by the Board from the Secretary of Commerce or other appropriate sources in the Federal Government. Payment for such services shall be made by the Board, in advance or by reimbursement, from funds of the Board in such amounts as may be agreed upon by the Chairman of the Board and by the source of the services being rendered.

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Appropriations to carry out the provisions of this Act may remain available for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. McCLORY. Mr. Speaker, this is a historic day, indeed, when the Congress finally passes the Metric Conversion Act.

This measure will enable our Federal Government to render substantial assistance in carrying out an orderly and coordinated conversion to the metric system of weights and measures throughout our country.

Mr. Speaker, I have labored long on this subject, and I commend our colleagues from Texas (Mr. TEAGUE) and from Ohio (Mr. MOSHER) on their leadership and persistence in getting this measure passed. I am proud to have worked with them to bring about this result.

A motion to reconsider was laid on the table.

MAKING IN ORDER ON TOMORROW CONSIDERATION OF CONFERENCE REPORT ON H.R. 9861

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order in the House on tomorrow to consider the conference report on H.R. 9861, making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I rise to announce the program for tomorrow. We have completed business for the day.

Normally, the next item of business would have been the budget conference report, and so that conference report will be the first item when we meet at 10 o'clock tomorrow morning. That will be followed by the public works appropriations conference report, followed by the rice bill. We will conclude consideration of that bill.

We will come in at 10 o'clock, and it is the expectation of the Speaker that we will complete our business by 4:30 tomorrow afternoon.

THE 1974 ANNUAL REPORT ON FEDERAL OCEAN PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–321)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed with illustrations:

To the Congress of the United States:

Pursuant to P.L. 89–454, I am herewith transmitting to you the 1974 Annual Report on the Federal Ocean Program. The report presents a summary of national efforts to comprehend, conserve and use the sea, and lists significant activities of the Federal Government related to the marine sciences.

GERALD R. FORD.

THE WHITE HOUSE, *December 11, 1975.*

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT, DECEMBER 12, 1975 TO FILE CERTAIN REPORTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight Friday, December 12, 1975, to file certain reports.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

IN OPPOSITION TO CONFERENCE REPORT ON OIL PRICING POLICY

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, within the next few days we shall vote on the conference committee report on oil pricing policy. I must oppose this conference committee report. In its predictable long-range effect upon national energy supplies, it is worse than no bill at all.

At a time when the imperative national goal must be to encourage more domestic exploration for petroleum, this bill would move in precisely the opposite direction. It would discourage exploratory ventures in the United States.

At a moment when we should be seeking to reduce our dangerous and growing national reliance upon Arab oil, this bill would do the exact reverse. It would increase our reliance upon Arab oil.

This is deeply disappointing to those of us who early this session attempted to put together a set of workable and effective alternatives to the President's proposals.

Those proposals were wrong in my opinion because they began with the premise that the only way to conserve energy was deliberately to increase the price of all petroleum products to every American consumer.

The present bill goes too far in the opposite direction. It overcompensates by attempting to reduce the price of domestic petroleum.

This no doubt sounds good superficially to many American consumers. But it is at best a short-term benefit and a long-term illusion.

By reducing the price an independent wildcatter can get for any new domestic oil he is lucky enough to find, this bill will serve as an unwitting disincentive to new exploratory activity.

The inevitable result will be that less oil will be discovered in the United States. Crude oil production in this country already is 900,000 barrels per day lower than it was 2 years ago.

As the volume of domestic discovery is driven even lower, the only real beneficiaries will be the foreign producers of costly crude oil who already command some 40 percent of our American market.

Oil imports this year are costing our consuming public some $25 billion. And they are costing our country that much in currency drain.

As domestic discovery declines and foreign imports usurp more and more of our markets, what long-range good will the American public derive from the temporary illusion of cheaper prices?

Does it make any sense to say that domestic oil is worth only $7.66 a barrel while we are paying $12 a barrel for Arabian oil and setting in motion a deterioration of the American independent which will put us ever increasingly at the mercy of the Arabs?

Are we not indulging the age old folly of Esau and trading our birthright for a mess to pottage?

Certainly we seem to be repeating a 20-year-old mistake that has produced disastrous results in natural gas production. Twenty years ago, we set out to control the wellhead price a driller can receive for gas. The number of gas wells drilled annually has declined by 1975 to less than half the number drilled in 1955, the price of gas is higher as a result, and we are facing the very real prospect of a natural gas shortage.

Have we learned nothing from the demonstrable failure of that shortsighted policy?

As bad as it was, the bill which emerged from the House a few weeks ago at least included some incentives for the small independents in the industry to stay in business. The conference committee report, for some inexplicable reason, has eliminated even these.

The Long amendment, adopted on the House floor, would have exempted producers of less than 3,000 barrels a day. The conference eliminated it.

The Wright amendment, also adopted on the House floor, would have allowed marginal wells to recover their cost of production. It too was eliminated.

These wells, while individually small, are so numerous that they produce in all some 1,100,000 barrels of oil per day. If their operators are forced to lose money, they will have no alternative but to pull out the pipe and abandon the wells. As results, literally billions of barrels of reserves could be lost to the Nation forever.

In short, the bill represented in this conference committee report does absolutely nothing to encourage finding additional oil reserves.

It does nothing to keep in business the independent operators who historically have accounted for some 75 percent of our discoveries.

It does nothing to promote maximum recovery from known reserves and existing wells.

It seems designed to decrease exploration, lower production, increase imports—and that ultimately will increase the price the consumer will pay and hasten the day when we shall run out of domestic petroleum.

The existing two-price program, with all its flaws, was better than this because it did at least preserve some incentives for new discovery.

We should be doing everything possible to expand production. We should be speeding up development of the Outer Continental Shelf. We should be encouraging secondary and tertiary recovery. We should be moving ahead rapidly with large scale coal conversion plants.

In that direction lies energy self-sufficiency. This bill moves in the opposite direction, and it should be defeated.

A VOTE OF CONFIDENCE

(Mr. FLYNT asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, in recent weeks we have seen a number of "revelations" regarding alleged impropriety on the part of the FBI. If one's knowledge of the FBI were restricted to the accounts recently available through the Washington area news media, some very inaccurate conclusions might be reached. Charges against the FBI have been given wide publicity while the factual responses to many of these charges have gone virtually unrecorded by the news media.

I, for one, consider it very unfortunate that the various congressional committees currently inquiring into the FBI's operations have chosen to spend virtually all of their time and the money allotted to them to focus on alleged abuses by the FBI with little or no recognition or credit being given for the many outstanding achievements of this law enforcement organization.

None can deny that the FBI has made mistakes in the past—even J. Edgar Hoover knew and admitted mistakes had been made. Let the record show that it was Hoover, acting on his own volition, who discontinued the counter intelligence program—the COINTELPRO which we read about so much today. I think the record should also show that a very small percentage of the Bureau's entire personnel had anything to do with COINTELPRO or were even aware of it. Hoover, as head of the FBI, is being personally accountable for all of the alleged misdeeds, although in all probability, he was not aware of many of the events for which he is being blamed.

I continue to have great confidence in the FBI, and I know I am not alone in this position. In this regard, Mr. Speaker, I would like to include an editorial entitled, "A Vote of Confidence," by the Honorable Richard C. Clement, president of the International Association of the Chiefs of Police, which appeared in the December 1975 issue of the Police Chief magazine:

A VOTE OF CONFIDENCE

(By Richard C. Clement)

Because I am concerned about the actions and conduct of law enforcement agencies in this nation, I have been following with a great deal of interest the hearings of the various congressional committees and subcommittees on the alleged misdeeds and indiscretions of the Federal Bureau of Investigation and the Central Intelligence Agency. My main feeling, after several months of these hearings, is one of dismay about the conduct and direction of the current investigations.

Certainly, many of the congressmen on these committees are genuinely concerned about what they feel have been abuses of power on the part of the FBI and CIA. Equally certain is that others have taken a measurement of the post-Watergate political winds and come to the conclusion that the voters have become cynical and distrustful of government, and that hearings directed against two organizations that of necessity have been operating out of the public limelight would produce favorable voter response and widespread news media coverage.

The feeling that there has been more heat than light generated by the current investigations is borne out by the actual content of the hearings. Past agency officials and employees have been called to testify about problems and abuses that have long since been corrected. The sessions have degenerated into little more than historical exercises. It is ironic that many of the past abuses occurred when some of the congressmen who are now so concerned about these problems were too busy elsewhere to conscientiously exercise their overseer responsibilities.

It is especially disturbing to see this happen to the FBI and to its late director, J. Edgar Hoover. The accomplishments of the FBI are myriad, and the fact that Hoover made a monumental contribution to American law enforcement is something that no historian can deny. Yet Hoover is pictured by some as a rather unbalanced person who was interested primarily in acquiring personal power. The fact that it was Hoover himself who put a stop to some of the more unconstitutional schemes of past administrations has been ignored—either purposefully or inadvertently—but the late director's critics.

There is certainly no danger that our legislators will attempt to dismantle the FBI and the CIA. They surely realize that these agencies are dedicated to protecting our safety and liberty, and that the American people as a whole support them. But it is possible that these hearings will result in legislation that will cripple both agencies and prevent them from fully accomplishing their purposes. And, when that happens, the impairment of local law enforcement will surely follow.

I cannot help but suspect that some of these legislative efforts are more the result of a desire to gain political advantage than a sincere conviction that these agencies should be refined and strengthened.

That there have been problems and abuses in the FBI and the CIA is indisputable. And there is no question that Congress should exercise a continuing overview of federal agencies. But that overview must be exercised in a responsible way, and must be a continuing effort and not simply an attempt to please certain limited segments of the voting public.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, earlier this week the House voted on two measures involving U.S. assistance to foreign countries; namely, H.R. 9005, the foreign aid authorization bill, and H.R. 9721, to provide for a capital replenishment by the United States of the Inter-American Development Bank. As one who has voted against foreign aid legislation for the past 8 years, I would like to take this opportunity to set forth my reasons for voting against H.R. 9005 and for H.R. 9721 and the distinctions I see between the two measures.

First of all, by opposition to the foreign aid program over the past several years has stemmed largely from the fact that I do not believe there is sufficient evidence that this assistance is actually getting down to the truly needy people whom it is intended to help. Furthermore, in view of our domestic economic situation, I cannot justify committing such a large amount of my constituents' tax dollars to a program that in spite of its merits and past successes, today rates a lowered priority.

I do not want my vote against foreign aid to be misinterpreted. The United States has played and must continue to play a vital role in the world in which we live. Our Government must assist less developed nations but this must be done realistically and not wantonly. It should be done not only to serve our enlightened self-interest, but in a commonsense manner that will be meaningful for the long term.

I do, however, feel that the legislation to authorize participation in a capital replenishment of the Inter-American Development Bank has merit. The funding of the Inter-American Development Bank represents a departure from the traditional foreign aid program in that it is a sound banking institution operating on efficient and productive business principles which has been successful in meeting development needs of the poorest countries in Latin America.

In addition, there is evidence that expenditures under this replenishment will be of direct benefit to the United States through increased procurement of U.S. goods and services by Latin America, expanded future export markets for U.S. products and increased employment opportunities, greater access to needed raw materials and a better climate for U.S. private investment in Latin America.

Also, although the bill authorizes $2.3 billion for the U.S. share of replenishment, it is expected that only $745 million will be a cash outlay with the remaining $1.5 billion as callable capital which would probably not be required.

The legislation also reduces the U.S. share from 48 to 30 percent because of expanded membership and increased contributions from Latin American countries, and authorizes U.S. membership in the African Development Fund.

In essence, Mr. Speaker, while I oppose so-called foreign aid giveaways, I do feel that it is in our interests to support this multinational regional financing institution with mutual benefits for its members.

THE NEED FOR CONFIDENTIALITY IN MEDICAL RECORDS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Crane) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, the passage of the Privacy Act of 1974 underlined the congressional concern for the confidentiality of various types of personal records. But, thanks to loopholes in that legislation, some Government agencies retain the authority to inspect the medical records of patients not receiving Federal assistance for the purpose of formulating standards or norms of health care. Since medical records are perhaps the most personal and sensitive of all records, I feel these loopholes should be closed.

Section 2(b)(1) of the Privacy Act states:

> The purpose of this Act is to provide certain safeguards against an invasion of personal privacy by requiring Federal agencies, *except as otherwise provided by law*, to permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies.

Section (3)(a)(7) then provides that—

> Each agency that maintains a system of records shall—maintain in its records only such information about an individual *as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President*. [Emphasis added.]

Juxtaposed against this language, the PSRO section of the Social Security Amendments Act of 1972—Public Law 9–603, 1156(a)—provides that—

> Each Professional Standards Review Organization shall apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice in its regions (including typical lengths-of-stay for institutional care by age and diagnosis) as principal points of evaluation and review. . . .

Section 1155(f)(1)(B) further provides that such organization will:

> Collect such data relevant to its function and such information and keep and maintain such records in such form as the Secretary may require to carry out the purposes of this part and to permit access to and use of any such records as the Secretary may require for such purposes.

Moreover, section 1155(b)(3) authorizes PSRO's to "examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under subsection (a)(1)." As a result, in assisting the Secretary in the development of these norms, the employees of the regional PSRO's are permitted to enter physicians' offices and inspect the private medical records of all patients. Given the aforementioned loophole in the Privacy Act, I feel this is a real threat to the confidentiality of these medical records.

Before going further, let me point out that many others share this fear. For instance, a survey of 951 doctors and osteopaths was conducted by a professional research team. The results of this survey, published in the October 25, 1974, issue of Medical World News, showed that 70.1 percent felt PSRO will have the effect of compromising the confidentiality of medical records, while only 10.4 percent felt it would not have such an effect.

In addition, our distinguished colleague from Georgia, Congressman Larry McDonald, himself a physician, testified to the Committee on Ways and Means that—

> The patient records are open to inspection by the PSRO, its clerks and agents. As an example, hospitals are already sending reams of paper to intermediaries. Mostly these are copies of patient's charts. Office records of all patients will be open to the review of PSRO agents under the guise of checking for discrimination in care. That means that the confidential doctor-patient relationship no longer exists. Under this provision, everything you and I, as patients, tell our doctors—about our personal problems, our financial problems, our private martial activities, our professional or business anxieties—will no longer be kept confidential, to help the doctor in treating us, but will become HEW records at best and political weapons at worst.

Dr. Robert M. Sade, staff member at Children's Hospital Medical Center in Boston, added perspective in his article:

> National Health Insurance: Rx for Disaster. The PSRO is authorized to examine the records of any practitioner or provider of services; this will utterly, yet legally, destroy the confidentiality of all transactions between patient and doctor and make available to the federal bureaucracy the confidential medical and psychiatric histories of everyone subject to PSRO's—and this will soon include everyone in the country. Hospitals, private doctors' offices and other facilities are also subject to arbitrary inspection by employees of PSRO.

This danger was underscored by John P. Perrin, Director of American Osteopathic Association, who wrote me a few weeks ago as follows:

> Through Section 1155(b)(3), the Secretary of Health, Education, and Welfare will have the authority to "examine the pertinent records of any practitioner or provider of health care services". The osteopathic profession is of the opinion that the aforementioned statutory language could be construed to allow the Secretary to demand access to all patient records of the physician and not just those records or cases being reviewed by the local PSRO.

I should hasten to add that the problem of access to medical records of patients not receiving medical aid is not exclusively the result of PSRO legislation. As John H. Tovey, J.D., L.L.M., assistant dean of Delaware Law School, pointed out in his article "Physician-Patient Privilege," published in the June 1975 issue of Private Practice:

> There's nothing new about this problem (regarding PSRO). For many years, the IRS has demanded and received access to physicians' office records in income-tax audits. In the process, of course, they obtained patients' complete medical histories. While the U.S. Court of Appeals for the 2nd Circuit (Vermont, Connecticut, and New York) has ruled that an IRS agent has the right to look at a patient's hospital record to determine the tax liability of either the patient or the physician—Albert Lindley Lee Memorial Hospital (CA–2), 54–1 USTC, 103, 209 F. 2d 122 (1953).

The potential for abuse cannot be overlooked.

For example, it seems to me that, unless a greater degree of confidentiality is extended to private medical records, an "Ellsberg break-in" would no longer be necessary if an official of the IRS or HEW wanted to examine sensitive psychiatric records for unauthorized reasons. The records will be available. Barring corrective action, the only check on abuses of confidentiality will be the goodwill of the bureaucrats.

Since not all Federal bureaucrats are known for their goodwill, I have introduced a bill which protects the confidentiality of medical records of those patients whose medical care was not, or will not be, provided or paid for in any way by the Federal Government. Specifically, this bill provides that no officer, employee, or agent of the United States, or any agency or department thereof, may inspect, acquire or otherwise require any part of these medical records unless given express written authorization of a specified nature by the patient. Thus, the integrity of the doctor-patient relationship is maintained without curtailing the right of the patient to disclose medical records for the purpose of making a contribution to medical science.

Enactment of such legislation would not only be a great relief to all those patients not receiving any type of Federal medical assistance but it would signal the need for evaluating the much more difficult matter of medical records confidentiality for the patients receiving Veterans benefits, social security disability payments, or medicare assistance. The basic question then becomes, how do we balance: First, the patient's desire for medical records confidentiality with; second, his interest in receiving Federal benefits; and third, the right of the taxpayer to expect verification for any such benefits paid out. The answers may not come easily, but if the spirit of the Privacy Act is to be lived up to, the effort should be made.

For the benefit of my colleagues I ask unanimous consent that the text of the bill be included at the conclusion of my remarks:

H.R. 12446

A bill to provide for the confidentiality of medical and/or dental records of patients not receiving assistance from the Federal Government and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no officer, employee, or agent of the United States, or any agency or department thereof, may inspect, acquire, or otherwise require for any reason whatsoever, any part of medical and/or dental records of patients whose medical and/or dental care was not, or will not be, provided directly by the Federal Government, or was not, or will not be, paid for (in whole or in part) under a Federal program or any other program receiving Federal financial assistance, unless such patient has authorized such disclosure in accordance with Sec. 2.

SEC. 2. A patient may authorize disclosure under Sec. 1 if he furnishes a signed and dated statement in which he

(1) authorizes such disclosure for a specific period of time;

(2) identifies the patient records which are authorized to be disclosed; and

(3) specifies the purposes for which, and the agencies to which, such records may be disclosed.

SEC. 3. Any person who violates Sec. 1, upon conviction, be fined not more than $10,000 or imprisoned for not more than five years, or both.

SEC. 4. In addition to any other remedy contained in this chapter or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this title.

SEC. 5. Should any other law of the United States grant, or appear to grant, power or authority to any person to violate Sec. 1 of this Act, the provisions thereof shall supersede and pro tanto override and annul such law, except those statutes hereinafter enacted which specifically refer to this title.

SEC. 6. The provisions of this title shall become effective upon the expiration of ninety days following the date of enactment.

WHY THE CONFERENCE REPORT ON THE ENERGY BILL OUGHT TO BE DEFEATED. IF IT PASSES, IT OUGHT TO BE VETOED BY THE PRESIDENT IN THE INTEREST OF THE AMERICAN CONSUMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, the House will consider tomorrow the joint House-Senate conference committee-reported bill, S. 622. This bill is the most recent attempt by the majority in Congress to set forth a national energy policy.

I said "most recent" because there have been so many versions of this legislation, so many attempts to set forth a policy, so many efforts to devise a workable energy program. These attempts have failed—once again—and the bill which will be before us is testament to that failure. It is counterproductive to every goal we ought to be pursuing. It is not only a disincentive to conservation efforts—it is a disincentive to production.

There are probably only a handful of points regarding energy policy on which almost everyone would agree. There are at least four of these points.

We should reduce oil and gas consumption. But, the bill would increase and actually stimulate consumption.

We should drill more wells and recondition more existing wells in the United States in order to obtain more domestic production. But, the bill would cause fewer to be drilled and reconditioned thus lowering production.

We should reduce our costly dependency on foreign oil. But, the bill would increase that dependency—both as to volume and cost.

We should base whatever energy policy we adopt on economic principles. But, the bill, in all candor, places election-year gimmickry at the helm and misleads the American people. I will not be a party to this blatant disregard for the economic facts of life.

There are other points—not relating solely to energy—on which there is broad agreement too. The bill is deficient with respect to these points also.

We should not enlarge the already too big Federal bureaucracy. But, the bill would require hiring thousands of more Federal employees.

We should not impose another layer of redtape—regulations and controls—on top of an economy already struggling to work itself free from too much redtape. But, the bill would do just that.

We should not run up higher costs to the Government—costs which have to be borne by the taxpayers. But, the bill would result in substantially higher Federal expenditures which can be met only by more taxes now or more inflation later.

This bill ought to be rejected in the Congress.

If it is not rejected here, it ought to be vetoed by the President, and that veto sustained.

These and other points were made in an editorial, entitled "Energy Bill Politics," in the Wall Street Journal of last Friday. That editorial follows, and I commend it to the attention of all my colleagues.

ENERGY BILL POLITICS

A number of President Ford's friends and advisers are advising him to veto the energy bill that is soon to land on his desk on the grounds that by signing it he would anger Republicans and perhaps lose the GOP presidential nomination to Ronald Reagan.

Supporters of the bill, which features an election-year price rollback of domestic crude oil, warn the President that if he doesn't sign it, and price controls end abruptly, the cost of heating fuel at retail will shoot up in snowy New Hampshire. Angry New Hampshire Republicans will blame the President for allowing this to happen, vote for Ronald Reagan in the GOP primary, and begin a snowballing effect that will end with a Reagan nomination next summer.

These are the most shallow and cynical arguments that can be used for and against the energy bill, for they must assume that Gerald R. Ford makes public policy in terms of his personal political fortunes, giving only a casual glance at the national interest and his own philosophical convictions. We assume that only if Mr. Ford genuinely thinks the nation would be better off with the energy bill than without it will he sign it, and vice versa. He will then have to make a political defense of his decision, but at least he would be able to do so out of conviction.

In these terms, we don't see how the President can do anything but veto the bill. The best and only argument to the contrary is that Congress has been struggling to write an energy bill for two years, and Federal Energy Administrator Frank Zarb says this is the best legislation we can expect out of the 94th Congress. If some bill, any bill, isn't passed soon, the American people will lose confidence in their government.

It is not yet precisely clear what is in the bill Mr. Zarb has recommended to the President. Senate-House conferees have been drafting and re-drafting it on the backs of envelopes and in matchbook covers even as we go to press. It would, though, extend the price controls that are due to expire December 15 for another 40 months. And it would, for the first time, make new oil subject to control, giving the FEA bureaucrats a lot more to do.

At first, the Democrats who wrote the bill thought it would force down the price of gasoline and fuel oil by 3½ cents per gallon next year. Refiners now pay an average of roughly $8.75 for a barrel of crude, buying $14 imported crude, $12 new domestic crude and $5.25 old domestic crude in amounts more or less determined by FEA so that the average is the same for everyone. The Democrats want the average price to come down to $7.66, which means FEA would have to force producers of new oil to sell at a lower price than they can get in the market.

But the Democrats overlooked the fact that refiners have accumulated some $1.4 billion in "banked costs," costs FEA would permit them to recover by raising prices of the market would support the higher prices. Unless the bill can effectively nullify these banked costs, refiners would simply benefit at the expense of oil producers and there would be no effect at retail.

On the other hand, if the Democrats could force down the price at retail, demand for gasoline and fuel oil would rise. The OPEC oil cartel would either sell more crude to us, or it would discover that it could raise the price by the equivalent of 3½ cents a gallon. The net effect of the energy bill, as far as we can tell, would be to make it easier for the cartel to hold or increase its price for crude.

If this mechanism were made law, every time the cartel hiked the price the FEA would have to order domestic producers to

> cut their price in order to keep the average price of crude to the targeted $7.66. Theoretically, this can go on only until domestic producers are being ordered to give their crude away for nothing.
>
> We have long ago given up trying to understand how this Congress can be so dense on these matters. But we would be stunned if President Ford could find in this legislation the semblance of either good economics or good politics. If after two years Congress can still only produce energy bills written in Arabic, President Ford need not feel that he didn't try hard enough to work out a sane compromise. He should veto the bill, name Mr. Zarb ambassador to Qatar, and welcome decontrol of the petroleum industry. Such steps would be good for the nation and good for the economy and ultimately good for Gerald Ford.

The point I would like to emphasize is that this is not "phased decontrol." Any resemblance between the oil pricing provisions of this bill and the 30 and 39 month phased decontrol programs the President attempted to sell to Congress this summer is purely coincidental. Under the President's programs a producer would know exactly where price ceilings were going to be at any given point in time, as well as when final decontrol would come about. There was incentive to stay in the business of oil exploration and production. There was incentive for energy users to conserve as well as to convert to more abundant energy sources. On the other hand, the conference bill is a step backward. It is a complete disincentive for exploration, conservation, and conversion. The aggregate price provision works in such a way that the more new oil is found the lower its price must be.

The initial rollback on new oil prices—assuming old oil is left at $5.25 per barrel—will be between $1.75 and $2 per barrel. Even if the $7.66 per barrel composite price is raised the maximum of 10 percent per year, it will take at least 2 to 3 years to get the price of new oil back to where it is today—in constant dollars. We do not have 2 to 3 years to waste on a political "time out."

With either House of Congress having the power by a simple majority vote to reject any increase in the aggregate price, one must be very skeptical about getting the price of oil back to current levels even after 40 months. Similarly, one must doubt controls would be allowed to revert to standby after 40 months because the oil situation will deteriorate so badly under this legislation, Congress and the President will have even less incentive to permit decontrol than now.

All energy producing industries—not just the oil industry—will continue to face paralyzing uncertainties about the direction this country is going to take on energy, and Congress solution will be more regulation, more disruption of the market forces, and more control over American business. Since energy conversion cannot be planned rationally by industry, it will be mandated (S. 1777); since there is little incentive to conserve, it will be accomplished by Government edict—as per other sections of this bill—since production will be retarded and demand encouraged, we will have rationing—also in the bill—and Government takeover of resource control (S. 740). Since imports will soar, quotas become necessary (H.R. 6860). It is not a pleasant prognosis, but I believe it is accurate. Mr. Speaker, this bill is a sure recipe for shortages and ultimately gas rationing.

LEGISLATION FOR STUDY OF HAZARDOUS SEA CONDITIONS IN SAN DIEGO'S MISSION BAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

Mr. BOB WILSON. Mr. Speaker, I am today introducing a bill that would require the Army Corps of Engineers to conduct a study of the hazardous sea conditions that exist in and around the entrance channel to San Diego's Mission Bay.

To emphasize the dangers to pleasure boaters that use the channel, I must point out that there have been 52 separate boating accidents and incidents in the area since 1970. One resulted in the death of a man. Others caused injuries to six people. Eighteen vessels have gone on the rocks, 11 have capsized and three have broached.

The cause of these accidents is directly attributable to the physical characteristics of the channel and the weather conditions that occur, particularly in the wintertime. A few years back, the channel was partially dredged, but with the passing of time, much of that work has been lost due to the channel's filling in. At present, the depth of water at the mouth of the channel is 20 feet, while immediately outside the channel, the depth drops off to 30 feet.

When the seas break at the channel's mouth, they break straight across—parallel to the shoreline and perpendicular to the channel's axis. They also break right at the channel's entrance, not a distance offshore. When the breaking waves meet the sharply shallowing mouth of the channel and are compressed by the channel's two arms, they cause swells big enough to capsize all but the largest craft—and most pleasure boats are not that big.

There are about 4,000 boats moored in Mission Bay and this number is augmented during the week and especially on weekends by individuals who visit Mission Bay and use the launching facilities. Other boats come around Point Loma from San Diego Bay. Given this number of possible users of the bay and the boating conditions that exist makes boating in the channel an accident looking to happen.

My bill would request the Army Corps of Engineers to make detailed studies of the existing surge conditions and consider alternatives, including an offshore breakwater for modification of the harbor entrance.

Such a breakwater would run parallel to the coast and would break the waves up before they can reach the channel. The breakwater would also serve as a natural reef, thereby being of an ecologically advantageous nature.

Mr. Speaker, pleasure boating in and around Mission Bay is a vital part of San Diego's tourist appeal, not to mention that it is a favorite pastime of many San Diegans. We cannot allow these hazardous conditions to exist in one of San Diego's main pleasure boating centers. I therefore urge the passage of this legislation. It is certain to be a constructive step forward in providing for the safety of those participating in recreational boating in San Diego.

A NATIONAL HEALTH POLICY PAPER: THE GROWTH OF HEALTH RESOURCES AND THEIR IMPACT ON THE COST AND PERFORMANCE OF OUR HEALTH INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HASTINGS) is recognized for 20 minutes.

Mr. HASTINGS. Mr. Speaker, health care experts are almost unanimous in their opinion that health care costs will consume an increasing amount of the gross national product. None have attempted to estimate how much of the gross national product that health care will eventually consume. Some have facetiously suggested it might be able to use all of it. Earlier this week I discussed the effect that group health insurance purchased by business and labor has had on the cost of health care and the performance of our health industry. I noted that the effects were both beneficial by, among other benefits, providing more and better health coverage for workers and their families, and harmful, among other reasons, by inflating medical care prices. At that time I pointed out that business and labor, alone, have not been solely responsible for rising medical care prices. I noted that government, through both medicare and medicaid, were major contributors to inflation by putting more than enough money into the medical care system. I also noted that major determinants of cost escalation were increases in new technology and the numbers of health workers. This last point is what I would like to talk about today.

The number of persons employed in the health industry increased from 2.5 million persons in 1960 to over 5 million today, which means that the numbers of personnel have doubled in 15 years. In 1960, we spent $25.8 billion for health; today the cost is $18.5 billion, almost a fivefold increase. The most striking increases in health resources have occurred in hospitals. The numbers of beds in community hospitals increased from 639,000 in 1960 to 931,000 in 1974. The number of full-time equivalent employees increased from 1.1 million to 2.3 million in the same period and total expenses increased from $5.6 billion to $32.8 billion. According to HEW figures, the total personnel employed in the health industry, exclusive of those employed in health insurance, and the producers of pharmaceuticals, equipment, and supplies, increased from 2.5 million in 1960 to 4 million in 1970. Two-thirds of that increase was accounted for through hospital employment.

Despite the enormous growth of resources devoted to providing health services, there has been little change in the nature and size of the health problems we face today. Indices of mortality, disability, and morbidity have shown little improvement over the past 25 years—a period when our health care expenditures increased twelvefold.

Overspecialization, particularly among the surgical specialties, and the geographical maldistribution of doctors and dentists, have become more acute during the same period. There is a great deal of evidence that we are overhospitalizing patients that could be treated as well or better at a less expensive location.

REASONS FOR THE INCREASE OF HEALTH RESOURCES

Why have resources grown so fast? Why has the allocation of such resources become distorted?

The overriding reason why health resources have increased so sharply is the increased public demand for the services they provide. As a Nation we have a strong commitment to almost any approach for better care which the health industry sanctions. In effect, we have told the health industry that we will pay for what they produce—delegating to them the role of determining how health resources shall be used for maintaining and improving our health. I recognize that we have taken some steps for greater public involvement in the performance of the health industry, including the enactment of health planning legislation, PSRO's, HMO development, and drug and device legislation. Although I hope our efforts will prove effective, we have seen a relatively minor impact to date, so far as dampening cost pressures and improving outcomes. Today, I would like to describe the forces I think are at work within the health care industry which contribute to the sharp increases in the resources devoted to health care in this country.

THE CHANGING NATURE OF DISEASE

Historical changes in the incidence of disease have had a marked effect upon the growth of health resources. Between 1900 and 1940, there was a shift in the causes of disease and death from infectious diseases to diseases of aging: heart, cancer, and stroke. Increased longevity in this country resulted in hospitals devoting a larger share of their resources to "degenerative" diseases: heart disease, cancer, stroke, arthritis, and emphysema. These diseases proved far more difficult to treat—frequently requiring hospitalization and the application of expensive technology and manpower.

SOCIETAL VALUES, MEDICAL ADVANCES, AND OPEN-ENDED REIMBURSEMENT

Changes in disease patterns were accompanied by an acceleration of new health discoveries and new technology. Because of our commitment in health improvement, our belief that progress was being made, and because of the nature of provider reimbursement, hospitals and physicians are allowed to substitute a more expensive service for a less expensive service in the interest of providing better medical care. They are also allowed to provide the best possible service with little, if any, cost constraints. Walter McClure, an associate of Paul Elwood at Interstudy in Minneapolis recently commented on the incentives at work in the health system to introduce improved diagnostic techniques with little thought for their cost. Dr. McClure noted in discussing such substitution:

> For example, why perform $50 of laboratory tests to be 95 percent sure of a diagnosis, if $250 of tests will provide 97 percent of certainty . . . or if an annual physical is good, why isn't a semi-annual physical better.

The question that Dr. McClure raises is part of a larger issue which will be one of the most critical we will face in the next decade. Achieving balanced improvements in the quality of life of the American people is going to require looking at alleged medical advances more critically—to determine whether they are always in our best interests, or whether there might be better uses of our resources.

TECHNOLOGY

The health industry has demonstrated unique behavior relative to other industries so far as technology and new information is concerned. Whereas new technology in many other industries frequently has the effect of reducing the number of personnel required, new technology in the health industry has frequently been labor using. This can readily be seen, for example, in the case of a new diagnostic procedure, which requires processing, interpretation, and followup by health professionals. A recent article by Victor Cohn in the Washington Post regarding a new brain scanner machine vividly illustrates the impact of new technology on the cost of health services. Such scanners allegedly are an improved diagnostic aid for certain illnesses. According to Cohn, there are now three such machines in the Washington area, and providers, mostly hospitals, are considering purchasing 20 more.

Their cost is approximately $500,000 each. One physician group, according to Cohn, estimates that the scanner which they purchased will generate $500,000 in income a year. If each machine that might be purchased generates one-half million dollars a year, the added annual cost in the Washington area would be $10 million. Under our present system of determining what third parties will pay for, the only test is efficacy, that is, does it do what it says it will. Under some State laws, and under the Social Security Act Amendments of 1972, there are attempts to limit the purchases of large pieces of equipment. It will be useful to see how the State and local planning agencies react to this particular piece of equipment. Although such laws to provide some protection, there is not similar protection for such purchases by physicians in their offices. For example, in the instance of the brain scanner, planning agencies might have some control over the purchase of such equipment by hospitals but not by private physicians.

THE INFLUENCE OF PROVIDER BEHAVIOR ON RESOURCE USE

The growth of health resources, in addition to being responsive to changes in disease patterns and new technology, is also determined by provider behavior. Experts argue that because of the highly complex nature of health care, with its peculiar language, and because of the nature of the relationship between patients and physicians, choices in the use of medical services are made predominantly by the physician. I doubt, for example, that many of us would question our physician about the need for additional visits, for hospitalization, or for surgery. Without attaching any value judgment to the following, there have been remarkable differences observed in the amount of surgery performed between this country and England, between health maintenance organization physicians and fee-for-service physicians in our country, and even from county to county within a State. There have been remarkable variations in the use of hospitals again between countries—Canada uses hospitals to a far greater extent than the United States—and between health maintenance organizations, and our fee-for-service system. The implications regarding the demand for health resources are enormous, considering that both surgery and hospitalization consume a large part of the health resources we use in this country.

There were over 18 million surgeries performed in 1974, and over 35 million hospital admissions. Although there are a wide variety of explanations given as to why surgical and hospitalization rates vary as I have described, most of the evidence supports the relationship between the availability of resources to perform a function, for example, a laboratory, an X-ray machine, a surgeon, or a hospital, and the performance of procedures. This thesis has been supported regarding hospital use in studies done by Roemer and Shain, and for surgery in studies done by Bunker, and by numerous others.

The overall impact of the demand generated by surgeons and hospitals is increasing rapidly. Between 1963 and 1972, the number of surgeons increased from 67,000 to 90,400, and hospital beds increased from 698,000 beds to 884,000 during the same period.

In addition to the impact that the supply of surgeons and hospital beds appear to have on surgery and hospitalization, there appears to be a strong relation between the type of practice a physician engages in and the use of the hospital—again keeping in mind that hospitals are where most of our health workers and technology are concentrated. Studies by the American Medical Association in 1973 showed, for example, that pediatricians used hospitals 20 percent of their work hours, general practitioners 25 percent, internists 33 percent, OB–GYN 40 percent, and surgeons and anesthesiologists over 50 percent. The phrase physicians workshop, which is used to describe hospitals, has become increasingly true over the last several decades as specialization has increased.

THE CHANGING CHARACTER OF HEALTH CARE

Another important dimension of the growth in resources has been the nature of the services we are demanding and the health care providers are delivering. It is far different for a variety of reasons. For example, no one predicted the enormous numbers of abortions that are being performed today, nor the drop in the birth rate. We will probably be surprised because of other technological and social developments in the future, as well. New discoveries, new drugs, new surgical procedures, all could have a substantial impact on the quality, accessibility, and cost of medical care.

FORECASTING THE GROWTH OF HEALTH RESOURCES

Recognizing the limitations of predicting what is likely to happen to the costs of health care, it is useful nevertheless to discuss some of the manpower forecasts that have been made to determine what their likely impact will be on the cost of health services in this country.

Last year, the Health Resources Administration within the Department of Health, Education, and Welfare prepared health manpower estimates for most of the health professions through 1990. In its report, HRA noted:

> For health professions, the overall supply of active workers is projected to increase from 1.3 million in 1970 to 1.9 million in 1980 and to 2.5 million in 1990. The gain in the 1970's is projected to be somewhat faster than in the 1980's, for health professions as a group, as well as for individual fields.

These estimates do not include allied health workers nor other workers employed in the health field, which I shall discuss later.

HRA estimates that by 1980, there will be approximately 120,000 more physicians than there were in 1970, almost a 40-percent increase. The supply of physicians are important because of the incomes they earn but also because of the costs they generate. Some estimate that physicians generate, through hospital admissions, prescribing, treatment, and referrals, about 85 percent of all health-care costs.

Based primarily on trend data, HRA has projected an increase in the number of surgeons at almost 60 percent, from slightly over 85,000 in 1970 to slightly over 133,000 in 1980. As I mentioned earlier, surgeons are the major determinants of hospital use. Because of recent studies by the American College of Surgeons and the American Surgical Association and some of the findings cited earlier, there can be expected to be pressures to limit the supply of surgeons. It is nevertheless disturbing that there has not been as sharp a downturn in surgical residencies as the evidence warrants.

Again, based on the data projections by HRA, the number of primary care physicians, as a percentage of all physicians, will decline between 1970 and 1980. Again, given the existence of a serious shortage in the numbers of primary care physicians, this finding is of great concern.

We must keep in mind that a 40-percent increase in the numbers of physicians does not portend a 40-percent increase in the cost of medical care. Between 1960 and 1970, the number of physicians increased by roughly 28 percent, and costs increased by roughly 170 percent. Although we cannot attribute all of the increases to increases in the numbers of physicians, the physicians' impact on cost goes well beyond their increase in numbers. There are several factors which lead me to this conclusion. One, the numbers of specialists, including surgeons, which are dependent upon the hospital, increased far faster than the total numbers of active physicians. Hospital costs increased over 200 percent between 1960 and 1970. Two, physicians have consistently increased the numbers of personnel working for them. According to the AMA, the average number of physician employees now exceeds three. The incomes of individual physicians have increased by over 60 percent. Finally, as I noted earlier, physicians generate as much as 85 percent of all medical care costs. It is easy enough to conclude that the increased activity of 40 percent more physicians by 1980 is going to increase the use of other health resources and the cost of these resources sharply.

Allied health workers, which include such categories as licensed practical nurses, physicians assistants, and medical technologists, numbered 2,743,200 in 1970. HRA did not attempt to estimate the increase in the total number of workers in the allied health field by 1980. It did, however, make certain projections regarding the increases for those who receive formal training. For example, for the period from 1970 to 1980, the following percentage increases were projected: licensed practical nurses, 41.9 percent; medical technologists, 79.2 percent; physical therapists, 99.4 percent; and, radiologic technologists, 128.2 percent.

Between 1970 and 1980, the allied health workers increased from 1.5 million to 2.7 million, an increase of 80 percent. For health manpower, other than allied health workers, the HRA estimated that their numbers would increase faster between 1970 and 1980 than for the previous decade. If only an equal rate of increase occurred among the allied health professions, an increase of 80 percent would increase the supply of allied health manpower roughly 4.8 million by 1980.

Combining both estimates for the health professions and allied health workers, the increase in their numbers would be from 4.1 million workers in 1970 to 6.6 million workers in 1980, an increase of roughly 50 percent. Please keep in mind that the HRA estimates do not include the thousands of persons employed in the health insurance industry, or the administrative, clerical, and other support workers employed in the health industry.

I started this discussion of health manpower with a caveat, that there are a number of variables which make estimating very hazardous. New discoveries, new technologies, economic conditions, and changes in public attitudes all can have an impact on health resources, including health manpower. Nevertheless, all of us we must be aware of the profound cost impact that past increases in health manpower have had on the cost of medical care. Roughly 60 percent of all health care costs are personnel costs.

THE IMPACT OF GOVERNMENT POLICIES ON HEALTH RESOURCES

We must also be aware of the impact of Government policies on the growth of Federal resources. Most of us are familiar with the impact medicare and medicaid have had on the cost of medical care and the growth of health resources.

Between 1965, when medicare and medicaid were enacted, and today, hospital employment increased from approximately 2,000,000 to over 3,000,000 and hospital costs from $13 billion to over $46 billion. Nursing homes, principally because of long-term benefits provided by medicaid grew from a relatively small industry to one employing over 750,000 people today. Long-term care costs have grown faster than any other costs in 1975.

In addition, however, training and research have spurred the growth of health resources more directly by training new people and creating new information and technology. In 1975, the Federal Government spent over $1.4 billion on the training of health manpower and $2.9 billion on medical research.

We have heard a great deal recently concerning the cost of Federal regulations. We are now beginning to develop PSRO "standards," in cooperation with the health professions. I understand the purpose of these standards would be both quality assurance and cost containment. But I think we must be careful that these standards, by covering every contingency, and bringing medical center care to doctors' offices, do not aggravate the cost problem with far less return than expected in terms of better quality care.

Financing the production of health resources, coupled with our open-ended system of paying for medical care and certain other health policies, makes current Federal health policies inflationary. Although we should be proud of our accomplishments as a country in increasing resources, we must also be aware that increases are having minimal impact on our health, while consuming a greater and greater share of our gross national product, and of our brightest people. We should also be aware that our efforts to increase resources have had little impact on the problems of overspecialization and geographical maldistribution. It should not go unnoticed that the major health breakthrough in recent years was the recent energy shortage, which saved thousands of lives, as well as reducing disability and health care costs to a substantial degree because of the reduction in automobile travel and accidents.

From the data we have now, it is clear that we cannot continue to support the current growth rate of the health industry without sacrificing other more effective efforts to improve the quality of our lives. It is also clear that the health resources we now have must be put to better use to make them more effective. Federal health policies need to be examined in light of both.

NEW YORK LOTTERY GOES DOWN THE DRAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 45 minutes.

Mr. PATMAN. Mr. Speaker, as my colleagues know, I have always opposed the idea that gambling could be an efficient or proper means of raising revenues for public purposes.

Unfortunately, many States have seized on lotteries and other forms of gambling to extract money from their citizens under the guise of raising money for education and other purposes. Invariably these schemes have carried with them fantastically high overhead costs and the returns have, in most cases, been highly disappointing.

Of course, the States and localities have rather broad powers to raise revenues, but it is discouraging that the Congress and the Federal Government have been such willing participants in these gambling efforts. Last June, the Congress passed legislation which further loosened Federal laws restricting lotteries and their promotion. This was unfortunate.

This fact has been brought home in dramatic fashion in recent weeks as we have seen the granddaddy of the State lottery schemes—the New York State lottery—go down the drain in what is apparent mismanagement on a grandiose scale. So bad that Gov. Hugh Carey ordered the entire lottery suspended on October 22.

In a report on the New York lottery, Arthur D. Little, Inc., an independent management consultant, cited "needless opportunities for fraud, lax security, and a variety of problems of a very serious nature," in the New York lottery operation. Among other things, apparently hundreds of duplicate tickets were printed and for many weeks, it is obvious that there were no winners in the New York lottery despite all of the fanfare and propaganda designed to lure ticket buyers. It is obvious now that the New York State lottery was hoodwinking its own citizens about weekly winnings when no such winnings existed.

Now the New York State lottery lies dormant and my guess is that other States will eventually give up these outlandish gambling schemes which only milk the public and enable the fat cats to avoid measures which would require them to pay their full share of taxes.

Mr. Speaker, it is significant that the New York Times for Saturday, November 29, reports that the New York State Lottery when it went into effect in 1967 was designed to produce $300 million a year for education needs. Instead of the $300 million, the New York Times reports that the lottery has never produced more than $53.3 million and, even more startling, is the newspaper's statement that these funds have been channeled into the State's general fund and not directy to the school accounts.

Mr. Speaker, New York State is not alone. Just a few days before the demise of the New York lottery, an audit was released on the Maryland lottery agency indicating sloppy bookkeeping and inaccurate reports of the lottery's financial condition. Among other things, the audit described a shortage of more than $183,000 in a lottery bank account.

Mr. Speaker, I sincerely regret that the Congress has not taken a harder look at these gambling schemes being operated in the various States. I question whether the House would have been so quick to loosen the Federal laws in June had it been aware that the New York State lottery was in such disarray. Before any other Federal action is taken to promote these State lotteries, I hope that we will have a full airing—a full audit—of the things that we are trying to promote.

Mr. Speaker, I want to place in the RECORD at this point an article from the Saturday New York Times, and from the Washington Post of November 26:

[From the New York Times, Nov. 29, 1975]

CAREY TO OVERHAUL LOTTERY AND DISMISS ENTIRE STAFF

(By Frank J. Prial)

Governor Carey yesterday announced a sweeping overhaul of the State Lottery, including the dismissal of Jerry Bruno, the Lottery Director, and the entire Lottery Commission staff.

The Governor said his drastic actions had been prompted by a report by Arthur D. Little Inc., an independent management consulting company, which recommended a total reorganization of the lottery operation.

The Little report, which had been commissioned by the Governor, uncovered "needless opportunities of fraud," lax security and "a variety of problems of a very serious nature" in the lottery operation. The report emphasized, however, that there was no indication that any fraud had been committed.

Officially, the revamping of the problem-plagued lottery is scheduled to take two months. But privately, state aides said it could take four months or more. All State Lottery activity has been suspended since Oct. 22, when irregularities in a number of drawings were first disclosed.

The dismissals—or, in some cases, reassignments to other state jobs—will affect 324 Lottery Commission employees. A spokesman for the Governor said 224 had already received dismissal notices. He said the remaining 100 employees would be notified next week.

"In light of the current fiscal situation facing state government," Mr. Carey said, "we had no alternative other than layoffs or reassignment, once the lottery failed to produce its own revenues. In good conscience, I could not transfer funds from other hard-pressed programs of government while we made the major revisions."

The suspension of the lottery came in the wake of disclosures that a programming error had caused hundreds of duplicate tickets to be printed for a special $1.4 million jackpot drawing, which was originally scheduled for Oct. 31.

The revelations about the duplicate tickets followed earlier disclosures that there had been weeks in which no winners were picked for the supposedly weekly $250,000 "Colossus" drawings. Lottery officials said at the time that unused prize money had been held over for jackpot prizes, but critics said that publicity about the lottery had specified weekly winnings.

Governor Carey said that a special project team, headed by a "nationally recognized expert in lottery operations" and made up of specialists from state agencies, would prepare plans for a new lottery for New York. Some state aides predicted that the new system would closely resemble the successful Massachusetts lottery, which was devised by the Little Corporation.

ORGANIZATION IS CRITICIZED

The primary area of concern of the Little Corporation report was "organizational fragmentation, whereby a number of key functions are not under the immediate supervision of the Lottery Division." The functions, the report said, include computer programming, where the duplicate-ticket error had first occurred.

"It is essential that the lottery have all the resources necessary to discharge its responsibilities," the Little report said. "As it is structured today, it is not clear who is responsible for what."

In a telephone interview following his dismissal yesterday, Mr. Bruno, a one-time advance man for President John F. Kennedy, characterized himself as "a sacrificial lamb" and the victim of "lies and misstatements" in several newspapers.

BRUNO SCORES HIS SUPERIOR

Mr. Bruno was critical not only of Governor Carey but also of his immediate superior, Bertram D. Sarafan, chairman of the State Racing and Wagering Board, the parent organization of the Lottery Commission.

"It was all an orchestrated maneuver," Mr. Bruno said. "He'd call me when the stories about me were appearing and he'd say, How's your bloody chin?' but he wouldn't let me tell my side to the press."

Mr. Bruno insisted that many of the recommendations made by the Little study had been made by him earlier, and, he said, neither the Little study nor a separate report on the lottery by State Comptroller Arthur Levitt had recommended specifically that he be dismissed.

"I get mail calling me a gyp, a thief, a racketeer," he said. "I've never done anything wrong in my life. I've worked hard for six months to cure the ills of the lottery that have existed for seven years."

ANDERSON CHIDES CAREY

Employing an obvious play on words, the State Senate's majority leader, Warren M. Anderson, Republican of Binghamton, called Governor Carey's lottery overhaul "a belated concession to the fact that he allowed an inept, over-politicized jerry-built apparatus to take over a relatively successful operation and smother it with political patronage."

About 200 of the Lottery Commission's 324 employees are political appointees, some of whom replaced holdovers from the administrations of Govs. Nelson A. Rockefeller and Malcolm Wilson. Others are Democrats who replaced Rockefeller-Wilson appointees.

Mr. Anderson said that failure by the Governor to act quickly on his planned overhaul "will mean the continued loss of modest revenue for education" and "might also serve as an embarrassing sign to the rest of the people of this country that New York is not doing everything it can to project a proper fiscal image."

The 324 lottery employees may have to be paid out of the state's general fund. The Comptroller pointed out in his report that, because there had been no drawings, the lottery fund was depleted. By law, the lottery's overhead, including staff salaries, must be carried by the lottery itself and must not exceed 15 percent of lottery income.

One legislative aide in Albany said it was possible that a taxpayer's suit would be filed to prevent the state from paying the Lottery Commission employees out of the general fund.

The State Lottery went into operation in 1967 amid reports that it would produce $300 million a year for education needs.

It has never produced more than $53.3 million, and critics say lottery profits are channeled into the state's general fund—not directly to school accounts.

[From the Washington Post, Nov. 26, 1975]

LOTTERY AGENCY SCORED—CONTROLS BLAMED FOR $183,000 SHORTAGE

(By Harold J. Logan)

"Major procedural weaknesses . . . and a serious lack of adequate financial controls" within the Maryland state lottery agency are in part responsible for a shortage of more than $183,000 in a lottery bank account, according to a state auditor's report.

The audit covers the agency's first 23 months of operation. The report said that as a result of lottery officials' failure to check monthly bank statements or to compare weekly lottery receipts with the amount of money credited to lottery accounts, money that was erroneously credited to a lottery ticket sales agent's private bank account went undetected for 15 months.

For a period of 67 weeks that ended late last year, according to the audit report lottery funds collected by 20 Baltimore ticket salesmen were deposited in the private bank account of Lester Posner, a Baltimore grocery store owner who sold lottery tickets at his store.

The money was intended for a lottery account in an Equitable Trust Co. bank branch where Posner maintained a private account. As a result of circumstances that "have not been clarified," the report states, $183,477.91 was instead put into Posner's account.

In February, a federal grand jury in Baltimore indicted Posner on charges of bank larceny, alleging that he withdrew the money for his own use. He is scheduled to come to trial in a U.S. District Court on Dec. 15.

Lottery commission chairman George P. Mahoney yesterday defended his agency's handling of its accounts, saying a bank error rather than lottery negligence, was responsible for the misrouting of the money.

"The bank itself made an error whereby it sent this money to Posner," Mahoney said. "The bank did that itself. We had nothing to do with it."

Asked why lottery officials had not reconciled the commission's bank records, Mahoney replied, "It was one of those things . . . Our computer tells us what's going on. If the computer tells us, we're all right. If it doesn't tell us, we're not all right.

Mahoney said the lottery commission is now negotiating with Equitable Trust in an effort to have the $183,000 credited to the commission's bank account.

The audit report was sharply critical of the lottery commission's internal financial records as well as its financial controls procedures, citing a total of 15 problem areas.

LEGISLATION TO SOLVE THE PROBLEM OF SICK LEAVE ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I am introducing a bill that is favored by many civil servants and which will also help the Government with the problem of sick leave abuse.

Sick leave is credited to an employee at the rate of 13 days each year, and under present law when an employee becomes eligible to retire his unused sick leave is counted in computing the amount of his or her annuity. However, in most cases crediting such leave toward total service at the time of retirement makes little if any difference in the retirees total annuity.

My bill calls for dividing up unused sick leave. One third of unused sick leave would be redeemed in cash, one-third would be credited to annuity computation and one-third would be lost.

I feel that this method would not only cut down on sick leave abuse but in a small way would reward the conscientious civil servant who through the years displayed a strong sense of responsibility toward his job.

The approach I am suggesting in my bill for unused sick leave has the support of many civil servants and I believe has merit. I hope that the Post Office and Civil Service Commission will give this bill serious consideration so that perhaps before this Congress is over the House will have a chance to consider my measure.

CONFERENCE ON SECURITY AND COOPERATION IN EUROPE AND THE CAPTIVE NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in the current issue of the Ukrainian Quarterly is a lengthy and penetrating article on "CSCE and the Captive Nations," written by Dr. Lev E. Dobriansky of Georgetown University.

The Quarterly is an internationally renowned periodical devoted to East European and Asian problems and is carefully perused in "think-tanks" in not only Western nations, but also in almost every Communist government. I include excerpted highlights from this documented analysis which, I am certain, will lead many Members to read the full text:

CSCE AND THE CAPTIVE NATIONS

(By Lev E. Dobriansky)

Symbolically or otherwise, the Captive Nations Week of 1975 was the most outstanding ever. If anything, it provided the best possible context for the conveyance of seemingly unconnected events and developments that citizens witnessed separately and analysts treated also with unrelated attention and in piecemeal fashion. In this one week, Congress observed the continuing reality of the captive nations; Governors and Mayors followed the President in issuing proclamations on the event; in a variety of ways citizens in all sections of the country honored the captive peoples; Solzhenitsyn highlighted the Week with an address to Senators and Congressmen on the shortcomings of detente as presently pursued; the White House virtually admitted its blunder in not inviting the Russian writer on the inept advice of the Secretary of State; Dr. Kissinger compounded the error by misrepresenting the Russian's message and was on the road defending detente with some afterthoughts on the morality of foreign policy; in space American astronauts and Russian cosmonauts shook hands in an orbital detente; and the final preparatory session was concluded with the announcement of a Conference on the Security and Cooperation of Europe, which Moscow has pressed for over a period of 21 years and Brezhnev has personally pushed with intensity for the past year. All this in the span of one week—the '75 Captive Nations Week.

A more appropriate occasion or context for all of these events and more could not be hoped for in view of their basic interrelationship. A number of legislators perceived this and spoke at length on the interrelated nature of these events.[1] As Congresswoman Holt of Maryland pointed out with reference to the Week and the CSCE, "While seemingly unconnected, these two events have a strong inner affinity. In a fast-moving, cynical era this point can be lost all too easily."[2] Her analysis and those of others developing this basic direction of thought are most refreshing and serve as an adequate basis for Kissinger's supposed challenge "What is the alternative that they propose?"[3] and a fair assessment of the nature and significance of CSCE. Clearly as a response to Solzhenitsyn's ringing address at the AFL–CIO banquet last June, Kissinger rather belatedly chose to discuss the moral bases of our foreign policy in an address that is overflowing with generalities, grave omissions, conceptual errors, and gross exaggerations.

Since much of this led to further developments on the eve of CSCE, several pointed comments on the Kissinger address are pertinent here. For example, since when can we "no longer expect that moral judgments expressed in absolute terms will command broad acceptance."[4] Especially directed at our prime enemy, judgments of national independence and self-determination for the nations in the USSR, of justice and charity for those seeking to emigrate from this massive concentration camp, of hope and concern for those lingering in psychiatric wards and so-called labor camps, of human rights for those denied the most fundamental freedoms—these judgments and more cannot be stated in "absolute terms" and "command broad acceptance?" The Secretary's own absolute statement is in itself indicative of the little value he places on the power of politico-moral ideas, the subtle propagation of these ideas, and their unique applicability to the one area of deepest concern for our national security. Yet, this is what Captive Nations Week is all about; this is in large part the core of Solzhenitsyn's message.

Also, primarily responsible for the debacle in Southeast Asia and the addition of the latest two captive nations to the long list of captive nations, the Secretary is mute on the shortcomings of the Vietnamization policy, the leash placed on the South Vietnamese forces, and the damaging treaty of 1973. In this and other output, Kissinger sees us as trying to "survive in a world of sovereign nations and competing wills," as though the USSR is a sovereign nation.[5] Nowhere does he disclose any vivid, working conception of the USSR as a land-empire, the largest and one of the last remaining. And when he crassly declares—"As a consequence of improved foreign policy relationships, we have successfully used our influence to promote human rights. But we have done so quietly, keeping in mind the delicacy of the problem and stressing results rather than public confrontation"—the very opposite is true in terms of the Khrushchev era, the repressions under Brezhnev, and the whole trade issue.[6]

Kissinger's inaccuracies and bad judgment were crystallized by his unfounded interpretation of Solzhenitsyn and the no-visit advice given to the President. In declaring that the Russian writer's message "is not only that detente is a threat but that the United States should pursue an aggressive policy to overthrow the Soviet system," the Secretary really overreached himself.[7] Referring to the barbarities and strategems of Moscow, the Russian writer expressed his message cogently when in Congress he stated, "I am not certain that in my addresses here I have succeeded in conveying the breath of that terrible reality to American society which is complacent in its prosperity."[8] This was the essence of his message and mission, and nothing more.

Most observers recognized it as such, and writer's posture was offered by Senator Buckley of New York. As the Senator put it, "If the report is accurate, we can only conclude that either he has never bothered to listen to the greatest spokesman for freedom in the world today, or he has deliberately chosen to misunderstand his clearly and eloquently stated message."[9] The subsequent post-rationalization that the advice given by Kissinger flowed from an agreement with Moscow at the time of the writer's release from the Soviet Union borders on fantasy. World opinion, the advantages of detente for Moscow, and the stature of the writer determined the release, and the President's statements on the incident as well as the explicit reopening of the invitation are

---

Footnotes at end of article.

scarcely conformable with the rationalization.

THE CSCE

In the context of the '75 Captive Nations Week and the described events, the final announcement was made for the convening of the Conference on Security and Cooperation of Europe. Along with the Apollo-Soyuz spectacular, was this timed to heavily overshadow the annual observance and perhaps bury it forever? From the Russian viewpoint, drenched as it is in propaganda and ideo-warfare, there can be no doubt of this. From the Western viewpoint, there is scarcely an awareness of the timing factor. Nevertheless, as indicated earlier, Moscow waited 21 years for the CSCE, and what better time to have the working sessions concluded and the announcement made than during Captive Nations Week.

It should also be noted that almost to the very end of the working sessions little was disclosed as to the specific provisions and content of the final document to be signed. For the past year criticisms and apprehensions were registered by interested groups and individuals as some press reports gave intimations of points of contention between the negotiating sides. But these criticisms went unnoticed for the simple reason that nothing definite had been arrived at. . . .

One need only scan the *Congressional Record* for July to see that even our legislators were in the dark about the contents of the forthcoming document. For example, Senator McClure, joining with Senator Buckley, called for "a full and complete disclosure in public hearings of all proceedings and agreements reached during the conference on security and cooperation in Europe prior to the President's participation in the Helsinki summit." . . .[10]

In addition, more about the four baskets was disclosed. The first basket dwells on security in Europe, entailing ten principles of interstate relations that emphasize respect for sovereignty. Moscow's prime gem of "nonintervention in internal affairs" is stressed along with provisions for non-use of force, the inviolability of frontiers, peaceful settlement of disputes, equal rights and self-determination of peoples and fulfillment of international obligations. . . .

It is the third basket on cooperation in humanitarian and other fields that the West is placing its hopes on most. It calls for freer movement of people, ideas and information across the Iron Curtain, better working conditions for journalists, access to printed, broadcast and filmed information, family reunification and visits, and further emphasis on cultural and educational exchange. In short, this basket capsulates what the West has been striving for in the past twenty-five years. . . .

RANKING CRITICISMS

The above embraces the essentials of CSCE. As discussion on them intensified during Captive Nations Week, they were subjected to sharp criticism, some valid, others not. Taking the chief, ranking criticisms that led to an unprecedented meeting with the President, the foremost is the adverse psycho-political impact that "the spirit of Helsinki" would produce on the captive nations in Eastern Europe and elsewhere. . . .

One would have to be grossly naive to reduce a twenty-one year motivation of Moscow to zero by not recognizing this manifest effect. Without question, Moscow will capitalize on this heavy gain through its various media. The burning question is, as usual, how will we react? As a State Department release has itself admitted, the CSCE document "will, however, carry considerable moral and political weight since it is to be signed at the highest level." [11]

Another major criticism centers on the inviolability of frontiers, implying that we would be sanctifying the territorial conquests and rearrangements of Moscow and thus legitimizing in effect a Russian hegemony in Eastern Europe. As part and parcel of the first criticism, this one also carries considerable validity in the sense of an implicit stamp of approval being placed on what is obviously an accomplished fact. But here, too, the weight of this criticism depends on our action regarding the thrust of the document. . . .

Related to the above criticism is that focused on the Baltic countries, which were forcibly incorporated by the USSR at the beginning of World War II. Our Senatorial critic raised the question "Are we implicitly recognizing the Soviet conquest of the Baltic states?" [12] A number of Baltic spokesmen and others have answered in the affirmative. The frontier inviolability provision, that of non-interference in internal affairs would make it appear so, but in the light of historical fact and the provisions for self-determination and peaceful change of borders, legalistic as these are, it appears differently, particularly as the captive nation emphasis is invoked. . . .

In a broader sense more important than the Baltic issue on frontiers is the issue of the non-participation of a number of European nations in the conference. This critical point was raised by the Ukrainian Congress Committee of America. In a released memorandum it states, "Specifically, 48 million Ukrainians, 12 million Byelorussians, 8 million Estonians, Latvians and Lithuanians, and over 12 million Armenians, Azerbaijanis, Georgians and others will not be heard at the conference, for they are coerced into political silence by the oppressive regime of Communist Russia . . ." [13] The Soviet Union supposedly represented them. In truth, the glaring discrepancy between the state componency of the conference and the stark reality of the nations of Europe—where the largest non-Russian nation, Ukraine, isn't directly represented, though it is a member of the U.N.—is sufficient to show the unrealistic basis upon which the conference was held. . . .

Other paramount criticisms included tactical matters hinging on Moscow's interferences in the Portuguese revolution and leverage concerning SALT II talks and MBFR negotiations. Columnist C. L. Sulzberger wrote, "The U.S. would be insane not to oppose a European security conference and block the scheduled summit . . . unless it is preceded by a Soviet pledge not to interfere by any means in Portugal. . . ." [14]

As to the MBFR negotiations, this, too, is on the agenda for future action, though, as was pointed out earlier, the progress of these negotiations in Vienna predicated the conference itself. There is validity in the position that leverage should have been built up for the acceleration of these talks as well as SALT II negotiations. . . .

THE PRESIDENTIAL MEETING WITH ETHNIC LEADERS

In terms of domestic effect the escalating criticisms resulted in what most observers and analysts overlooked, namely an unprecedented meeting between the President and some fifteen ethnic leaders concerned with our policy toward Eastern Europe. On record, no other President had called in such leaders for a review of his position on the eve of a summit.

The President's statement to the group was forthright and unequivocal. In his four-page presentation he pointed out the spectrum of criticisms that had developed and immediately proceeded to give his observations on the conference. Considering the main ones, his first point bore on the nature of the document—"I would emphasize that the document I will sign is neither a treaty nor is it legally binding on any participating State." [15] The document is then viewed as involving "political and moral commitments aimed at lessening tensions and opening further the lines of communication between the peoples of East and West."

As to the Baltic issue, the President was quite emphatic in saying "I can assure you as one who has long been interested in this question that the United States has never recognized the Soviet incorporation of Lithuania, Latvia and Estonia and is not doing so now. Our official policy of nonrecognition is not affected by the results of the European Security Conference."

Finally, the President concentrated on the humanitarian contents of the third basket. Regarding the totalitarian states, he viewed CSCE as "establishing a yardstick by which the world can measure how well they live up to these stated intentions" as concerns the freer movement of peoples, ideas and information.

GUIDELINES OF INTERPRETATION

It would be difficult for any fair-minded person to find flaws in this presidential statement. The fears expressed at the meeting centered on the reaction of the captive peoples and the need for wide publicity for the statement over VOA, RFE and RL. As a participant in the meeting, this writer went beyond this in advocating the setting of guidelines of interpretation by the President so that our own people as well as those of Western Europe would know the position of the United States at the conference. Bearing in mind the doubtless psychopolitical exploitation of the conference by Moscow in the period ahead, I suggested that the President could begin by restating at least two of the above essentials on his departure from Andrews Air Force Base, more in Bonn and again in Helsinki so that there would be no mistake as to where we stood and that the guidelines of interpretation would be a structure for unavoidable future use.

Apparently, this was to be the course of implementation of the meeting, but the President in his departure statement at Andrews omitted from his prepared text the essentials on "aspirations of freedom" and the Baltic countries.[16] This was widely noted by the media which explained it on grounds of not irritating the Soviet Union. . . .

Indeed, history will judge the conference and its two chief participants. While the President emphasized "the freer movement of people, ideas and information," Brezhnev in his address viewed the agreement in terms of its non-interference in internal affairs provision, which, of course, could negate the former. This alone should indicate the course of development in the future and the shape the conference's significance will assume. . . .

A second lesson concerns the timing of the fanfare about CSCE, during the period of Captive Nations Week. This was by no means the first time of such "coincidence," and the cumulative evidence is overwhelming as to Moscow's sensitivity to the Week and all of its implications, which most Americans are unaware of. Thirdly, really caught in this situation, the President accomplished a genuine "first" meeting with ethnic leaders and did set up CSCE as a yardstick for the period ahead. This writer was prone to advise, in addition, the President's reference to the absence of Byelorussian and Ukrainian participants in Helsinki on the basis of their U.N. status, but the situation was already a complicated and muddied one. And the final lesson is that with their moral victory Moscow and its minions will feel secure to intensify their political warfare activities in all parts of the Free World, including Western Europe, Canada and the U.S. The paramount question is whether in recognizing the dangerous shortcomings of detente as pursued by the Secretary of State, we will be able to cope with these expected

---

Footnotes at end of article.

assaults, to be honest enough to inform the public of the nature and extent of these subverting and aggressive operations, and to have the courage and vision to counter them freely without any fearful pangs of nuclearitis, a disease that evidently doesn't affect the global policies of Moscow.

FOOTNOTES

[1] E.g., "The European Security Conference," *Congressional Record,* July 25, 1975, pp. 24864–24871.

[2] *Ibid.*, p. 24864.

[3] Secretary Henry A. Kissinger. "The Moral Foundations of Foreign Policy." Department of State, July 15, 1975, p. 6.

[4] *Ibid.*, p. 3.

[5] *Ibid.*, p. 4.

[6] *Ibid.*, p. 5.

[7] "Kissinger Explains Writer Snub," *The Washington Post,* July 17, 1975.

[8] *Congressional Record,* July 15, 1975, p. 22888.

[9] *Congressional Record,* July 16, 1975, p. 23009.

[10] *Congressional Record,* August 1, 1975, p. 26600.

[11] "Conference On Security and Cooperation in Europe," *GIST,* July, 1975, p. 1.

[12] Senator Helms. *Congressional Record,* July 29, 1975, p. 25646.

[13] *Conference on Security and Cooperation In Europe: Endorsement of Russian Slave Empire.* New York, July, 1975.

[14] *The New York Times,* July 13, 1975.

[15] *Statement by the President.* The White House, July 25, 1975, p. 1.

[16] *The Washington Post,* July 27, 1975.

GROWING GAP BETWEEN FEDERAL WHITE-COLLAR AND BLUE-COLLAR PAY RAISES CREATES MANAGEMENT PROBLEMS IN GOVERNMENT

The **SPEAKER pro tempore.** Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

Mr. WHITE. Mr. Speaker, I would like to call to the attention of the House a column by Joseph Young which was published in the November 30 edition of the Washington Star. This column deals with a problem within the Federal work force which has been developing over several years, and with which the Congress is going to have to deal in the very near future if we are to preserve an equitable system of Federal employment. I am requesting that this excellent evaluation of the situation by Mr. Young be published in the RECORD since it appeared during the Thanksgiving recess, and I fear not too many Members saw it. Mr. Young's column:

COLUMN BY JOSEPH YOUNG

The growing gap between federal white-collar and blue-collar pay raises is creating serious management problems in government.

A study made at the Puget Sound Naval Shipyard in Washington state shows, for example, that plain laborers under the blue-collar pay system make 61 cents an hour more than GS–5 white-collar employes, among whom are recent college graduates in engineering and science.

For years, the federal white-collar pay system covering professional, managerial and clerical jobs has paid far more than the blue-collar pay system.

But in recent years, as white-collar pay raises were held down by the complicated pay system adopted for them in 1970, blue-collar workers, whose pay is linked to comparable industrial salary scales in localities where they work, continued to get pay raises reflecting the cost of living and the going rate in the private sector.

The result, according to the Puget Sound study, is that "The disproportionate increases have destroyed the historical alignments between positions in the Wage Grade (blue collar) and General Schedules (white collar)."

The report continues: "This destruction of alignment has: (1) caused mass exodus from vital General Schedule positions back to the trades; (2) created inequitable pay relationships between employes engaged in similar type work; (3) adversely affected employes' reduction-in-force 'retreat' rights; and (4) virtually dried up historical internal sources for certain types of General Schedule positions at this activity."

What has happened is that journeyman jobs under the blue-collar pay schedule now pay more than GS–7 white-collar jobs at Puget Sound.

For example, a WG–10 journeyman earns $1.10 an hour more than a GS–7 engineer or scientist.

Another example cited is the case of an engineer with a college degree and with two years of shipyard service who is promoted to grade GS–9 and still finds himself earning 18 cents an hour less than the apprentice who receives a journeyman's rate of $6.66 an hour.

All this plays havoc with the program to promote journeymen to the white-collar pay system and train them to become engineering technicians.

Because these journeymen would take a cut in salary they balk at talking such "promotions." The result is a serious management problem in filling these key jobs.

Another factor causing journeymen in the various trades to balk at switching over to the lower paying white-collar jobs is that in any reductions-in-force, they would have fewer job retention rights as "bumpings" occur, because they would be in lower-paying positions.

As the pay disparity between the two systems becomes greater, many former journeymen who had switched over to the white-collar pay system have been switching back or seeking to return to their former jobs.

The report, in which Local 12 of the International Federation of Professional and Technical Engineers was involved, notes: "Clearly the activity is in a dilemma. It must maintain a complement of technicians in order to meet work load and mission support requirements, and it must hire these employes as GS–7s although they will lose their retreat rights and suffer a very real loss in wages."

The report states that a number of electronics, nuclear and other technical employes are investigating the possibility of returning to their former jobs.

The union notes: "Obviously, shipyard management cannot allow a mass flow from vital General Schedule positions to Wage Grade occupations. Such movement could have a serious impact on meeting the activities workload commitments."

It's becoming increasingly apparent that Congress next year has to tackle the problem of changing the present pay systems to make them more equitable and responsive to comparability principles. The solution isn't to cut back on blue-collar pay, but to take the white-collar pay system out of the political arena and into the arena of responsible employe-management relations."

THE INSTITUTE FOR CONGRESS OFFICIALLY ORGANIZED: MARTHA W. GRIFFITHS AND WILLIAM D. RUCKELSHAUS TO HEAD TRUSTEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 10 minutes.

Mr. BRADEMAS. Mr. Speaker, I take this time to draw to the attention of my colleagues the announcement last weekend of the formation of the Institute for Congress, a nonpartisan research organization devoted exclusively to providing both Houses of Congress with timely and independent policy analysis of major policy issues confronting the United States.

Named as chairman and vice chairman, respectively, of the 15-person Board of Trustees of the Institute were our distinguished former colleague in the House of Representatives, the Honorable Martha W. Griffiths, who served in Congress for 10 years as a Representative from Michigan, and William D. Ruckelshaus of Indiana, the distinguished formed Administrator of the U.S. Environmental Protection Agency and subsequently Deputy Attorney General of the United States.

In a joint statement, Mrs. Griffiths and Mr. Ruckelshaus said:

> Congress and the entire American society stand at a critical juncture. We have exhausted our "margins of error" in dealing with complex and increasingly technical national policy choices. It is not sufficient for Congress to wait for Executive Branch initiatives, or to entrust analysis of vital national policy choices to its fragmented committee system alone.
>
> We fully believe that Congress cannot hope to become a full, equal partner of the Executive in formulating national policy unless it has available to it superior policy analysis, cutting across committee jurisdictional lines, that lays the factual groundwork, names the options for action, and presents a clear case for alternative policies.

INITIAL FUNDING

Mr. Speaker, the Institute for Congress trustees will begin an immediate search for initial funding—$11.5 million for the first 3 years—to establish an interdisciplinary policy analysis staff. In addition to experienced professionals from the legislative and executive branches, the Institute will seek to recruit from the academic and private research community individuals of outstanding intellectual achievement and ability. A 5-year experimental phase is envisaged, building to a professional staff of 80 persons with $22.5 million funding over the 5 years.

Initial funding, Mrs. Griffiths and Mr. Ruckelshaus said, would be sought from private philanthropic sources to provide the Institute with a significant measure of independence in its formative period. If the experiment is successful, it is anticipated that future funding for the Institute would come primarily from research contracts made with the Congress.

Mr. Speaker, preceding official establishment of the Institute for Congress with its board of trustees this autumn, a bipartisan organizing committee had been at work for 3 years, testing the idea and possible implementation with the Democratic and Republican leaders of both the Senate and House and a broad range of senior and junior Members of both Houses and parties.

While the Institute's trustees are all in nongovernmental positions, the majority and minority leaders of both the

Senate and House will be invited to serve as ex officio members of the board.

CONGRESSIONAL ADVISORY GROUP

Mr. Speaker, in addition, a Congressional Advisory Council will be established to enable most of the key legislative committees to take an active role in shaping the Institute's research agenda. Subject to the advice of the Congressional Advisory Council, the Institute expects to place its early emphasis on problems of national security, environment and resources, health and welfare, and the social and economic implications of new technology.

Mr. Speaker, in addition to Mrs. Griffiths and Mr. Ruckelshaus, the members of the Institute's board of trustees are: Lucy Wilson Benson of Massachusetts, presently Secretary of Human Services for the Commonwealth and former president of the League of Women Voters of the United States.

William D. Eberle of Idaho, president of the Motor Vehicle Manufacturers Association and former Special Trade Representative for the President.

Alton Frye of Tennessee, Senior Fellow of the Council on Foreign Relations, and former administrative assistant to Senator Edward W. Brooke.

Ben W. Heineman of Illinois, president and chief executive officer of Northwest Industries, Inc.

Craig Hosmer of California, former U.S. Representative—1953–75—ranking minority member of the Joint Committee on Atomic Energy, and presently president of the American Nuclear Energy Council.

Leon Jaworski of Texas, Houston attorney and former Special Prosecutor and head of the Watergate Special Prosecution Force.

Gordon J. F. MacDonald of New Hampshire, director of the environmental studies program at Dartmouth College and former member of the President's Council on Environmental Quality.

Harry C. McPherson, Jr., Washington attorney and former general counsel of the Senate Democratic Policy Committee and Special Counsel to President Johnson.

Clarence Mitchell of Maryland, director of the Washington Bureau of the NAACP since 1950 and member of the Maryland Bar.

Richard B. Ogilvie of Illinois, Chicago attorney and former Governor of Illinois.

William B. Spong, Jr., of Virginia, former U.S. Senator, presently Portsmouth attorney and president of the Virginia Bar Association.

Cyrus R. Vance of New York, former Deputy Secretary of Defense, Secretary of the Army, and Special Counsel for the Senate Armed Services Preparedness Investigation Subcommittee, presently president of the New York City Bar Association.

An additional board member, presently on leave for Government service, is William T. Coleman, Jr., of Pennsylvania, now U.S. Secretary of Transportation.

Mr. Speaker, the members of the organizing committee for the Institute for Congress, who laid the groundwork for the Institute betwen 1972 and the fall of 1975, were Messrs. Frye, MacDonald, McPherson, Vance, and James R. Killian, former Science Adviser to President Eisenhower and chairman of the MIT Corp.

The Institute for Congress has been incorporated under the laws of the District of Columbia and application made for Federal income tax exemption under section 501(c)(3) of the Internal Revenue Code.

Mr. Speaker, I here list the major facts about the Institute for Congress:

The Institute for Congress—A 5-Year Experiment

The Institute for Congress will be a nonpartisan private organization devoted exclusively to providing Congress with independent, objective and systematic analysis of public issues and programs.

The Institute would assemble an expert staff of a type and caliber not now available to Congress and, as its central and unique function, would integrate analytically issues which are now splintered in the congressional committee system.

The Institute would not study Congress; it would assist congressional operations through the existing structure.

The research mandate of the Institute would be comprehensive. Initially, it would address problems of national security, environment and resources, public health, and social and economic implications of new technologies.

It would seek both to assess questions of broad concern to the legislature and to anticipate issues which will require congressional deliberation.

The Institute will function under a Board of Trustees composed of a broad cross-section of private citizens; the Majority and Minority Leaders of the House and Senate will be invited to serve on the Board ex officio.

The research agenda of the Institute will be negotiated through a Congressional Advisory Council composed of chairmen and ranking members of most congressional committees or their designees.

To test the concept the organizers contemplate a five-year experimental operation of the Institute funded by private philanthropy.

The plan calls for a professional staff of approximately 30 by the end of the first year, 60 by the following year, and an average professional staff of 80 thereafter.

The total five-year budget is approximately $22.5 million and the initial fund-raising target is $11.5 million for the first three years.

The independence and flexibility of private financing at the outset offer the greatest promise of creating an environment capable of attracting an exceptional professional staff.

If the Institute demonstrates its utility, its continued existence would eventually depend on contractual support by the Congress.

Mr. Speaker, I enclose at this point in the Record an article written by Mrs. Griffiths and Mr. Ruckelshaus, from the Washington Star of October 12, 1975:

Why Congress Needs Even More Help

(By Martha Griffiths and William Ruckelshaus)

The problem with Congress is that it has too much staff—and too little.

Staff added over the last few years now fills up extra office buildings on both the House and Senate sides, and is overflowing into nearby buildings. Yet Congress still lacks the resources it needs to deal effectively with the executive branch in formulating the public policies that will determine our national future.

The time has passed when the United States could afford to try one program after another, one budget policy after another, one weapons system after another—all on a fragmented and disjointed basis, hoping that some may work.

And Congress, if it is ever to be the equal of the executive, has to find ways to overcome its own fragmentation of committees dealing with little pieces of broad problems. It needs to have some of the best minds in America working exclusively for it, seeing serious national problems in their totality, and naming the options for national policy.

To do that job, we are working with a bipartisan group to create an independent, not-for-profit Institute for Congress.

What, one may ask, another "think tank?" Another addition to the plethora of policy institutes, government agencies, and gargantuan congressional staffs that should be doing that job already?

Our answer to that question is "yes"—and for what we consider to be compelling reasons.

First, consider the limitations in what Congress has available to it now.

The superabundance and sometimes abuse of staff on Capitol Hill have been amply reported of late. In the last 20 years, congressional employment and budgets have grown 15 times faster than the national population growth. In 1954 there were 4,500 staff persons on the Hill; now there are 16,000. In 1954 the budget for Congress' own operations was $42 million; today it is $328 million.

Obviously, there's a lot of empire building going on. Congress, using the same methods it asks the General Accounting Office to turn on the executive bureaucracy, might ask for a hard-headed business-efficiency evaluation of its own bureaucracy—on the theory that what's good for the goose is good for the gander.

There's a limit to how much could be cut, though. Part of the problem lies in the cascading level of citizen service demands on Congress. Then there's the burden of answering constituent letters on issues: On a particularly "hot" issue, a large-state senator may receive literally hundreds of thousands of letters. Moreover, the federal government is into hundreds of areas of American life where it never intruded before. Congress needs substantial committee staffs to hold hearings, to hear and ward off lobbyists and executive branch opportunings, to monitor laws already on the books, and to consider the immense number of bills introduced.

But even if congressional staffs were trimmed appropriately, and even if the taxpayer was asked to shell out less for duplicating functions and political promotion activities on the Hill, the result would not necessarily be better policy formulation.

Senators' and representatives' personal staffs, for instance, would still be preoccupied with the daily demands of their offices—constituent service, case work, mail and speech writing. The pressures on any congressional office mitigate against serious policy work there. Worry about the member's re-election will always take precedence.

Committee staffs are also immersed in the intensely political atmosphere which surrounds the senators and representatives who sit on the committee. These staffs are not designed to look beyond the interests of their particular committees and of their chairmen and ranking members.

Furthermore, fragmentation of responsibility among the committees is an endemic limitation on congressional policy-making. Problems simply refuse to divide themselves into neat committee pigeonholes.

Consider health legislation, just in the House. The Ways and Means Committee has jurisdiction over Medicare and any proposed national health insurance program involving employer and employe contributions. But if national health insurance were to be financed through general Treasury appropriations, responsibility for writing the legislation falls to the Commerce Committee, and more specifically, its subcommittee on public health and environment. A number of individual health programs, including Medicaid, were transferred to the Commerce subcommittee under the committee reorganization of 1974. But there are still overlappings and potential conflicts. The Agriculture Committee is involved with Farmers Home Loan Administration grants for rural health care projects. The Education and Labor Committee asserts a role in health education in the schools and in regard to developmental disabilities. Armed Services decrees compensation of physicians and dentists in the Public Health Service. The Science and Astronautics Committee is involved in providing authorization for burn treatment centers, which Commerce claims it should control under the emergency medical services program. To top it all off, the Commerce public health and environment subcommittee has control of clean drinking water legislation—while water pollution in general falls under the Public Works Committee.

There would be no difficulty in finding other such examples on either side of the Capitol. Thus, the question arises: How will congressional committees and individual senators and representatives be able to pull all the pieces of policy together into a coherent whole, so that when Congress acts in a field, it knows the real implications of what it's doing?

To this one must add the sad fact that Congress, despite its enlarged staffs, is all too often outgunned and outmanned by the executive department. The Senate Armed Services subcommittee on research and development has generally deployed a single staff man to deal with a part of the defense budget that is expected to exceed $9 billion in fiscal 1976. Yet row upon row of aides accompany the secretary of defense when he testifies before a thin line of congressional committee members and their staffs.

There is another problem, shared by personal and committee staffs alike. They are all too often obliged to react to the crises or problems of the moment. So are the special oversight groups such as the General Accounting Office, which now employs over 5,000 persons at an annual cost which will approach $140 million in 1976. Its primary function is to audit existing government programs, to oversee how federal money is being spent, and to see how well programs are meeting their stated objectives. Under Comptroller General Elmer Staats, the GAO has diversified and ungraded its staff in recent years in order to evaluate current federal programs.

Yet there remains a yawning gap between auditing of existing programs and the quite different task of policy analysis for the future. Indeed, it may be too much to expect any single agency to look backward and forward with equal competence. That appears to be the consensus in Congress, and we share it. Congress is too pluralistic an institution to rely on any one consolidated staff for its multiple needs.

The Congressional Research Service continues to provide support to members and staffs requiring immediate reference aid in drafting speeches, reports and responses to constituent queries. (In 1974 alone, it responded to more than 200,000 such requests!) Moreover, CRS has begun to expand its efforts to perform long-range studies of significant policy problems. In half a decade it has doubled in size and budget, up to 860 people and $17.8 million in the next fiscal year.

It is questionable, however, whether expanding present Hill staffs will fill the gap. These staffs really have 535 bosses, and it's difficult if not impossible to refuse assistance to members or their aides when they ask for it. Policy problems of greater scope tend to get shifted to the back burner.

In our judgment a private institute could protect its professionals against unmanageable loads and target them most effectively on a carefully selected set of issues of concern to Congress.

Another major reason why we believe a private Institute for Congress should be considered relates to its potential for recruiting an exceptional group of professsionals. An independent institute could enlist people of outstanding intellectual achievement and capacity, provide them with a base of prestige, and make their work available to Congress on an ongoing basis. Indeed, there is now a changing mood in the nation's intellectual community—a new skepticism about the efficacy of the executive branch, and a new eagerness to help Congress. That talent could be harnessed if suitable institutional arrangements were made.

Those arrangements will have to include a research community of sufficient stature to permit its members to move back and forth among the great universities and research organizations, as well as devoting some years to public policy studies in the institute.

A logical question is whether the more outstanding university and research organizations already in existence couldn't fill that role, without yet another institution. The top universities and organizations like Brookings, RAND and the American Enterprise Institute do perform policy analysis of very high quality.

From the congressional perspective, however, there is a growing demand for research oriented to the specific requirements and mores of Congress. For each of the existing organizations, other missions and other loyalties are primary. In the eyes of many members of Congress, some private institutions are associated with particular ideologies—an often unfair accusation, but still a problem such groups face in having their work considered seriously by all factions in Congress.

A private Institute for Congress, in our judgment, could overcome these shortcomings.

It could provide integrated studies of multi-faceted problems which span many committee jurisdictions, putting teams of outstanding experts, themselves of varying specialties and backgrounds, to work on selected issues. Legislators would be able to see the relationship of their work to that of others dealing with a common problem. This would be a natural counterbalance to the problem of committee fragmentation.

The institute's technical skills could be used, on a contract basis, by the emerging Congressional Budget Office and the new Office of Technology Assessment.

The institute could also protect Congress from one-sided or misleading research work by including experts of contrasting backgrounds and viewpoints on the "team" to address any major policy area. The resulting analyses would include a base of facts on which all of the research team can agree, followed by various recommendations of policy options, each argued vigorously by institute personnel.

Thus the members and committees of Congress could be assured of research that leaves no stone unturned, hides no facts contradicting some favored conclusion, and gives each major point of view its "day in court."

The realism of institute work would also be advanced by a mix of professional disciplines and backgrounds in its staff. There would be outstanding figures from the American academic and research community, especially those with technical skills rarely found in congressional staffs (physics, engineering, systems analysis, etc.). There would be individuals with executive branch experience and current knowledge of pending problems. And there would be people with congressional staff backgrounds, men and women who have demonstrated a capacity for objective policy analysis.

Apart from its own original work, the institute could provide an invaluable filter for the larger output of policy analysis already under way in private and public institutions across the country, and the mass of frequently valuable research done by organizations with a stake in the resolution of any policy problem.

Another value of this approach is that Congress would be able to learn about the scope of problems, and refine its own judgments, before the executive branch—which has far more policy analysis resources at its command—gets locked into a position. The fact is that rigid executive branch policy positions can be as grave an obstacle to rational demands as the well-known flaws in the legislative process.

If the Institute for Congress is to establish its independent character from the start, we consider it highly desirable that its initial operations be funded privately—through foundations and the like. Then an able and distinguished staff will have to be recruited. This means the institute will need an assured life of 3–5 years to prove its worth.

An organizing committee began work on the Institute for Congress plan two years ago. This bipartisan group checked the institute concept carefully with the leadership of both parties in the Senate and House, and subsequently with a broad number of members of both houses. At the suggestion of the Senate Democratic and Republican leaders, Mike Mansfield and Hugh Scott, the majority and minority leaders of the House and Senate will be invited to serve as *ex officio* members of the board. In addition, a congressional advisory council will enable most of the key legislative committees to take an active role in shaping the institute's research agenda.

We would stress that the institute is intended as an experiment. Without burdening itself with a permanent bureaucracy, Congress can use the institute to test whether it is possible to recruit a staff of the caliber and type we propose. If, after three to five years, Congress finds the institute a valuable auxiliary, the legislators can choose to keep the institute in being on a contractual basis.

If it fails, the institute will be disbanded after the trial period. Our society has more than enough walking ghosts among its institutions. It would be refreshing to have one that self-destructs if it doesn't perform its mission.

STATEMENT OF CHAIRMAN AL ULLMAN WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF TITLE III OF HR. 8235

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

Mr. ULLMAN. Mr. Speaker, on December 11, 1975, the Committee on Ways and Means favorably acted with respect to adding a title III to H.R. 8235, a highway authorization bill. The subject matter involved in the proposed title III is within the jurisdiction of the Committee on Ways and Means.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which I will request for the consideration of the proposed title III of H.R. 8235 on the floor of the House.

The committee instructed me to request the Committee on Rules to grant a closed rule for the consideration of such title III of H.R. 8235, which would provide for committee amendments which would not be subject to amendment.

It is our intention to request a hearing before the Committee on Rules concurrently with the Committee on Public Works and Transportation, as soon as possible.

CONGRESSWOMAN GLADYS SPELLMAN HAILS BOWIE KNIGHTS OF COLUMBUS ON THEIR 50TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. SPELLMAN) is recognized for 5 minutes.

Mrs. SPELLMAN. Mr. Speaker, this year the Sacred Heart Council No. 2577 observed its golden anniversary of service to the Bowie area; a record which has enriched the lives of everyone in Bowie and its environs. For, while the Knights of Columbus is an organization of Catholic men, its service activities have gone far beyond sectarian or sexual boundaries. Indeed, there is no area of civic concern in which the brothers of Sacred Heart Council and, of course, their ladies auxiliary, have not volunteered their time, effort, and money.

A half century ago, on Sunday, June 21, 1925, the Sacred Heart Council had its beginning on the grounds of the historic Sacred Heart Chapel: an ancient shrine of American Catholicism where John Carroll, a Prince Georgian born on the site of the county courthouse in Upper Marlboro, was consecrated a bishop of the Catholic faith; the first American to be so named. On that day, the first and second degrees were conferred on 85 candidates by District Deputy A. A. Callahan, and that same afternoon the third degree was conferred by past State Deputy, Isaac George.

The Council's membership reflected the Bowie area as it existed a half century ago. Most of the members were drawn from the ranks of the farmers who worked on local tobacco farms in what was then an almost exclusively agricultural part of Prince Georges County. The members wished to put Catholic action into practice and also to make a stand against the Klu Klux Klan whose ugly tentacles were reaching north into rural Maryland in the mid 1920's.

During those early days, membership remained small reflecting, in large measure, the effect of the Great Depression upon activities of all kinds. Despite the depressed economy, followed almost immediately by 4 long years of World War II, a small but dedicated group of men kept Sacred Heart Council alive and functioning. They did not allow the difficulties of the time to deter their efforts.

Of the founding fathers of Sacred Heart Council, three charter members survive: Henry Beck, Harry Baumann, and Bernard Maenner. These three men alone can tell firsthand of the effort that went into making Sacred Heart Council a model of Columbianism for all Maryland Knights to emulate.

Following World War II, Sacred Heart Council; which had come so close to extinction, began once again to grow. In 1952, Lawrence Maenner donated land for a new Council Hall which was dedicated on March 7, 1956, and which seemed more than adequate for the Council's forseeable needs. Then in 1961, the firm of Levitt & Sons began constructing homes on what was once the Woodward Estate. In little more than 3 short years, membership soared more than 200 percent, and this was merely a prologue to what was to come.

With the growth in the Bowie area, membership in the Sacred Heart Council has continued to climb and its influence has extended to every segment of community life in the city of Bowie. Sacred Heart Council has sponsored athletic teams which compete in almost every sports activity. These teams provide recreational activities for boys and girls of every race, creed, and color, cutting across narrow sectarian lines. To summarize, there is hardly a civic activity which has not been enriched by the Knights and their ladies.

Mr. Speaker, I have been in the Knights of Columbus Hall in Bowie many times and I certainly admire this beautiful building. The amount of effort which went into its construction is plain for anyone to see. Recently, I noticed that this building has been renamed in honor of a very distinguished Prince Georgian, the late Charles C. Boswell, a past Grand Knight to Sacred Heart Council, whose tragic death last May shocked everyone who knew and admired this fine man. Surely there is no person who more richly deserves the honor which so appropriately was bestowed upon him. He had done so much to make the new Council home a reality.

Mr. Speaker, as the Sacred Heart Council begins its 51st year of service, I extend to Grand Knight Joseph Thiel and all the officers and brother Knights of Sacred Heart Council my best wishes for another 50 years of even greater service to God and country.

EL MONTE SUPPORTS REVENUE SHARING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, as our general revenue sharing program approaches its final year, many of our States, counties and municipalities have expressed their opinions as to whether it should be continued in the future.

On Monday, December 8, I was pleased to be visited by Councilman Murray Cluff, of El Monte, Calif., who presented me with a well-reasoned resolution of the El Monte City Council supporting a congressional reenactment of the general revenue sharing law at the earliest possible date. I wish to bring it to the attention of the Members. It reads as follows:

GENERAL REVENUE SHARING RESOLUTION

Whereas, General Revenue Sharing is an essential element in the funding of municipal services, and

Whereas, General Revenue Sharing is one of the best examples of federal assistance to local government with a minimum of bureaucratic problems, and

Whereas, General Revenue Sharing fosters closer cooperation between federal and local levels of government, and

Whereas, our city, like other cities across the country, requires advance knowledge of income expenditures in order to intelligently prepare the municipal budget for upcoming years, and

Whereas, the failure of Congress to reenact the General Revenue Sharing program at an early date will have a disastrous effect on the provision of municipal services to the citizens of our community and the local economy in general;

Now therefore be it resolved, that the City Council of the City of El Monte does urge the Congress of the United States to reenact the General Revenue Sharing program at the earliest possible date, and

Be it further resolved, that the City Council extends its wholehearted encouragement and support of the President and his Administration in the position they have taken in regard to this vital program, and

Be it further resolved, that copies of this resolution be submitted to the National League of Cities and to the Congressional Representatives of the City of El Monte, to be delivered personally by a member of the City Council.

A COMMISSION ON THE HUMANE TREATMENT OF ANIMALS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, because Congressman EDWARD W. PATTISON and I are concerned that each year millions of animals in this country suffer needless pain and death at the hands of humans who control their lives, we are today introducing legislation to establish a Commission on the Humane Treatment of Animals.

The mistreatment of animals spans a variety of areas. But, most often, the animals, birds, fish, and wildlife that are inhumanely treated are those raised on our farms for consumption—those used for biomedical research and scientific experiments in our laboratories—those raised for showing, wagering, exhibition, racing, and other recreational sports—those raised for pets, and those shipped in commerce. In addition, wildlife faces extinction from human and other animal predators and from environmental conditions often caused by humans.

It is not our intention now to spell out in detail examples of the unnecessary inhumane treatment accorded some of these animals. There are those who would end all animal experimentation of any kind no matter how important that research may be for the legitimate benefit of mankind. We are not among them, but we believe we must look at the merits of basic research vis-a-vis the treatment of animals used in that research and weigh whether the experimentation is conducted under the most humane procedures possible. Even where it is, we should ascertain whether the experiment, if it involves suffering and death, is for a legitimate cause and is in fact warranted. We have to look into the raising of animals for human consumption to see whether their treatment is consonant with humane practices. We should look at the explosive growth of the domestic pet population with the accompanying dangers to the public health arising from normally domesticated animals returning to the wild to the possible spread of rabies. There is concern about the treatment of animals used in sports, wagering, and entertainment. We know of concerns relating to the way wild animals are trapped involving prolonged pain. Our newspapers have been filled year after year with editorials concerning the near extinction of the whale and the unnecessary deaths of dolphins as well as graphically showing the gruesome clubbing of baby white seals on what is euphemistically referred to as harvest day.

The areas that readily come to mind which should be the subject of hearings by a commission are:

Experiments on primates which appear to cause pain and appear to have no beneficial scientific purpose;

The use of purse seine nets to catch tuna which also unintentionally catch porpoises who die and are not used for food;

The use of leghold steel traps to catch animals with marketable furs;

The clubbing of baby seals;

The soring of Tennessee walking horses;

The massive killing of whales;

The inadequate care provided animals in zoos;

The use of toxic substances in the control of wild predator animals;

Poor conditions in the interstate shipment of pets;

The blinding of bunny rabbits by putting bubble baths, detergents, mascara, nail polish, deodorants and zipper oil in their eyes;

And many, many more.

Notwithstanding this gruesome litany, we cannot definitively state that inhumane acts occur in each case. Although we suspect high incidences of mistreatment, a commission should define which conditions fall within that category. Every office in this Congress must have at some time or other received mail on these abuses.

In 1964, the British Minister of Agriculture set up the Brambell Committee to investigate new factory farming methods. Their findings and recommendations were published in December 1965. No comparable study has been made in the United States.

What we are proposing today by legislation is the establishment of a Commission on the Human Treatment of Animals. This would be a broader commission in that it would investigate all of the areas relating to the humane treatment of animals, both domestic and wild.

This 11-member Commission on the Humane Treatment of Animals would study the treatment of animals including—

First, whether current farming practices cause needless infliction of pain on animals;

Second, whether laboratory research experimentation—including biomedical and military research—causes needless infliction of pain or unnecessary suffering of animals;

Third, whether there exists any adequate substitute for the use of animals with respect to laboratory research experimentation;

Fourth, the treatment of animals in the domestic pet industry;

Fifth, domestic pet growth rates, especially in urban areas, and whether such growth results in dangers to the public health;

Sixth, the treatment of animals while being transported in interstate commerce;

Seventh, the treatment of animals in zoos, wildlife preserves, and other similar establishments;

Eighth, the need for wildlife preservation programs;

Ninth, whether methods which cause unnecessary pain are being used in the trapping and slaughter of animals; and

Tenth, the effectiveness of existing law with respect to the treatment of animals.

The Commission members would be experts in these areas and representative of animal welfare and humane societies, medical schools, persons engaged in the professions of zoology and wildlife biology and in the practice of veterinary medicine and animal husbandry. The Commission will submit a final report to the Congress and the President within 2 years after the last member is appointed to the Commission. This report shall include its findings, conclusions, and recommendations for any legislative action.

STATEMENT OF CHAIRMAN AL ULLMAN WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF TITLE III OF H.R. 9771

(Mr. BURKE of Massachusetts asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, I include in the Record at this point a statement of Chairman Al Ullman with respect to the rule to be requested for consideration of title III of H.R. 9771, as follows:

Mr. Ullman. On December 9, 1975, the Committee on Ways and Means favorably acted with respect to adding a Title III to H.R. 9771, a bill reported by the Committee on Public Works and Transportation. The subject matter involved in the proposed Title III is within the jurisdiction of the Committee on Ways and Means.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which I will request for the consideration of the proposed Title III of H.R. 9771 on the floor of the House.

The Committee instructed me to request the Committee on Rules to grant a modified closed rule for the consideration of such Title III of H.R. 9771 which would provide (1) for Ways and Means Committee amendments, which would not be subject to amendment, and (2) for an amendment that would provide project eligibility for certain airport terminal development, as provided in Title I of H.R. 9771.

It is our intention to request a hearing before the Committee on Rules concurrently with the Committee on Public Works and Transportation, as soon as possible.

LET US STOP AND THINK BEFORE COMMANDEERING THE MADISON LIBRARY BUILDING

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, the House should stop and think some before agreeing to the commandeering of the Madison Library Building.

If the House needs additional space, and I believe it does, we ought to design and construct an office building. What we do not need is another Early Mussolini Mausoleum to further enhance and support the image which too many Americans already have of us.

It makes no sense at all to me to compound the bad planning decisions of the past with more mistakes. There is no law which states that the House cannot design and build a modern, efficient office building. Behind the Longworth and Rayburn buildings, there are two massive, underground parking bunkers. On top of these structures are gardens, walks, and fountains, which might make a Babylonian feel at home.

Certainly, it should be possible to develop plans for an extensive, efficient, and modern office building on top of the garages.

Some critics have suggested that the Library of Congress should have the Madison Building, because the Library is a far more important institution than the House. I do not agree at all with this contention, nor do I see why the House has to act in a way to reinforce it.

We really have a chance here to do something positive for the image of the House. Let us forget about the Madison Building and start work on plans for a facility, suited to what we really need and not what we have constructed in the past.

The American people need the Library more than we need office space. This is the basic reason for abandoning the effort to steal the new building.

HEALTH LEGISLATION

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I am today introducing an emergency piece of legislation.

Three years ago this Congress established professional standards review organizations to help attack the problems of rising health care costs and the high incidence of medically inappropriate services rendered to medicare and medicaid patients by assuring proper utilization of health care services paid for by Federal funds.

Today with 63 PSRO's in operation and 57 in the planning stages, review activities from Vermont to California are seriously threatening to cease activities due to the lack of liability protection.

I am therefore introducing a simple bill to take out the original "due care" test by providing that in any civil suit, PSRO's or individual members shall not be held liable for negligent performance or defamation and further provide for expenses of legal counsel actually and necessarily incurred as determined by the Secretary in connection with the defense of PSRO activities. The bill does not protect such organizations and individuals from liability in cases where they acted with malice or gross negligence.

In a recent survey, 99 of 105 PSRO's around the country expressed a strong belief that the issue of liability is in fact one of the most important issues facing them—meaning perhaps the very existence of the PSRO's themselves.

The PSRO unit in my district, the Montgomery County Medical Care Foundation, is scheduled to cease its review activities as of December 31, 1975 if some statutory action is not taken. The foundation has not been able to secure insurance protection after a year-long search.

In addition, HEW was only able to promise reimbursement for defense "under certain conditions" and "subject to the availability of funds."

Those dedicated physicians who have undertaken review responsibilities at the direction of this Congress ought to be provided with sufficient protection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Helstoski (at the request of Mr. O'Neill), for December 11 and 12, on account of official business.

Mr. Flynt (at the request of Mr. O'Neill), after 5 p.m. today and Friday, December 12, 1975, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of Alaska) to revise and extend their remarks and include extraneous material:)

Mr. Cleveland, for 5 minutes, today.
Mr. Crane, for 5 minutes, today.
Mr. Miller of Ohio, for 10 minutes, today.
Mr. Kemp, for 60 minutes, today.
Mr. Bell, for 30 minutes, December 17, 1975.
Mr. Bob Wilson, for 5 minutes, today.
Mr. Hastings, for 20 minutes, today.

(The following Members (at the request of Mr. Hightower) to revise and extend their remarks and include extraneous material:)

Mr. Patman, for 45 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Flood, for 5 minutes, today.
Mr. White, for 5 minutes, today.
Mr. Vanik, for 30 minutes, today.
Mr. Brademas, for 10 minutes, today.
Mr. Ullman, for 5 minutes, today.
Ms. Holtzman, for 15 minutes, today.
Ms. Spellman, for 5 minutes, today.
Mr. Danielson, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Conte, to revise and extend his remarks on the conference report on H.R. 8773 prior to the vote.

Mr. McClory, immediately before the passage of H.R. 8674, the Metric Conversion Act of 1975.

Mr. Hechler of West Virginia, to revise and extend his remarks made during debate on the conference report on H.R. 3474 today.

Mr. Gude, to revise and extend his remarks prior to vote on striking section 102.

(The following Members (at the request of Mr. Young of Alaska) and to include extraneous matter:)

Mr. Crane.
Mr. Bell in two instances.
Mr. Findley.
Mr. Rousselot.
Mr. Madigan in two instances.
Mr. Grassley.
Mr. Kasten in two instances.
Mr. Derwinski.
Mr. Armstrong in two instances.
Mr. Gude.

(The following Members (at the request of Mr. Hightower) and to include extraneous matter):

Mr. Russo in two instances.
Mr. Rangel.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Nowak in five instances.
Mr. Lloyd of California in two instances.
Mr. Scheuer.
Mr. McDonald of Georgia in five instances.
Mr. Mazzoli.
Mrs. Schroeder.
Mr. de Lugo.
Mr. Levitas in two instances.
Mr. Florio.
Mr. Long of Maryland.
Mr. Baucus.
Mr. Won Pat.
Mr. Teague in two instances.
Mr. Simon.
Mr. Leggett.
Mr. Bonker.
Mr. Harrington.
Mr. Litton.
Mr. Mezvinsky.
Mr. Solarz.
Mr. Zeferetti.
Mr. Hungate.

ADJOURNMENT

Mr. HIGHTOWER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, December 12, 1975, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2190. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during October 1975, to Communist countries; to the Committee on Banking, Currency and Housing.

2191. A letter from the District of Columbia Auditor, transmitting a report on the need for copies of birth certificates, pursuant to section 455 of Public Law 93-198; to the Committee on the District of Columbia.

2192. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate William J. Porter and his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

2193. A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation to amend the Investment Advisers Act of 1940 to provide for qualifications and financial responsibility of investment advisers and for other purposes; to the Committee on Interstate and Foreign Commerce.

2194. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of the proposed transfer of "Construction of facilities" funds authorized and appropriated for fiscal year 1975 for the project "Construction of Orbiter landing facilities, John F. Kennedy Space Center," to the project "Construction of Orbiter processing facility, John F. Kennedy Space Center," pursuant to section 3 of Public Law 93-316; to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 4016. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes; with amendment (Rept. No. 94-712). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 6461 (Rept. No. 94-713). Ordered to be printed.

Mr EDWARDS of California: Committee on the Judiciary. House Joint Resolution 280. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; with amendment (Rept. No. 94-714). Referred to the House Calendar.

Mr. NEDZI: Committee on House Administration. H.R. 6397. A bill to amend the National Portrait Gallery Act to redefine "portraiture" (Rept. No. 94-715). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 8235. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes; with amendment (Rept. No. 94-716). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRANE:

H.R. 11105. A bill to provide for the confidentiality of medical and/or dental records of patients not receiving assistance from the Federal Government and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DANIELSON:

H.R. 11106. A bill to amend titles 18 and 28 of the United States Code to provide for the use of unsworn declarations under penalty of perjury in Federal proceedings, in lieu of affidavits under oath; to the Committee on the Judiciary.

By Mr. DENT (for himself and Mr. Erlenborn):

H.R. 11107. A bill to amend the Walsh-Healey Act to exempt transportation employees of private carriers of property by motor vehicle from the provisions of such act relating to maximum and overtime hours of labor; jointly, to the Committees on Education and Labor, and the Judiciary.

By Mr. GUDE (for himself, Mr. Charles H. Wilson of California, Mr. Hechler of West Virginia, Mr. Whitehurst, Mr. Mitchell of Maryland, Mr. du Pont, Mr. Lagomarsino, Mr. Jenrette, Mr. Harris, Mr. Fisher, and Mrs. Spellman):

H.R. 11108. A bill to require the payment of interest by Federal agencies on overdue contract payments, to amend the Office of Federal Procurement Policy Act, and for other purposes; to the Committee on Government Operations.

By Mr. GUDE (for himself and Mr. Ottinger):

H.R. 11109. A bill to amend the Federal employee health insurance provisions of title 5, United States Code, to require that notice and hearing be provided before the effective date of any reduction of health benefits or any exclusion of any type of provider of health services; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself, Ms. Abzug, Mr. Badillo, Mr. Brown of California, Ms. Burke of California, Ms. Chisholm, Mr. Eilberg, Mr. Hawkins, Mr. Hechler of West Virginia, Ms. Holtzman, Mr. Jacobs, Mr. Maguire, Mr. Mikva, Mr. Ottinger, and Mr. Stark):

H.R. 11110. A bill to amend section 8 of the Clayton Act to prohibit certain corporate management interlocking relationships, and for other purposes; to the Committee on the Judiciary.

By Mr. HAYES of Indiana (for himself, Mr. Ambro, Mr. Hawkins, Mr. Hechler of West Virginia, Mrs. Mink, Mr. Stark, and Mr. Wirth):

H.R. 11111. A bill to authorize and direct the establishment of a coordinated national program relating to climate, to require an annual report of the program to Congress, and for other purposes; to the Committee on Science and Technology.

By Mr. KOCH (for himself and Mr. Pattison of New York):

H.R. 11112. A bill to establish a Commission on the Humane Treatment of Animals; to the Committee on Agriculture.

By Mr. LENT:

H.R. 11113. A bill to suspend until the close of January 3, 1979, the rate of duty on menadione dimethylpyrimidinol bisulphite (MPB); to the Committee on Ways and Means.

By Mr. NOWAK (for himself and Mr. Kemp):

H.R. 11114. A bill to amend the Internal Revenue Code of 1954 to encourage investments in certain economically depressed areas by providing an increased tax credit for investments in certain depreciable property used in such areas; to the Committee on Ways and Means.

By Mr. PATTEN:

H.R. 11115. A bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution, and for other purposes; jointly to the Committees on Public Works and Transportation, and Merchant Marine and Fisheries.

By Mr. PRICHARD (for himself, Mr. Anderson of Illinois, Mr. Bonker, Mr. Cohen, Mr. Drinan, Mr. du Pont, Mr. Eckhardt, Mrs. Fenwick, Mr. Hall, Mr. Harris, Mr. Hechler of West Virginia, Mr. Jeffords, Mr. Koch, Mr. Lagomarsino, Mr. Leggett, Mr. Mann, Mr. McClory, Mr. McCloskey, Mrs. Meyner, Mr. Rees, Mr. Slack, Mrs. Spellman, Mr. Steiger of Wisconsin, Mr. Van Deerlin, and Mr. Vander Veen):

H.R. 11116. A bill to amend Public Law 89–260 to authorize additional funds for the Library of Congress James Madison Memorial Building; to the Committee on Public Works and Transportation.

By Mr. QUIE:

H.R. 11117. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption for a taxpayer, his spouse, or his dependent, who is disabled, and for other purposes; to the Committee on Ways and Means.

By Mr. SCHNEEBELI:

H.R. 11118. A bill to amend section 101 (1)(2) of the Tax Reform Act of 1969; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. Devine):

H.R. 11119. A bill to revise title VII of the Public Health Service Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STUCKEY:

H.R. 11120. A bill to provide for additional sentences for commission of a felony with use of a firearm; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 11121. A bill to provide a study to be made of certain conditions hazardous to boating safety at the entrance to Mission Bay Harbor, San Diego, Calif.; to the Committee on Public Works and Transportation.

By Mr. WYDLER (for himself, Mr. Ambro, Mr. Downey of New York, Mr. Lent, Mr. Pike, and Mr. Wolff):

H.R. 11122. A bill to amend section 112 of title 28 of the United States Code to divide the Eastern Judicial District of New York into two divisions; to the Committee on the Judiciary.

By Mrs. MINK (for herself, Mr. Anderson of California, Mr. Barrett, Mr. Bennett, Mr. Burgener, Mr. D'Amours, Mr. Davis, Mr. Flood, Mr. Hannaford, Mr. Hayes of Indiana, Mr. Hicks, Mr. Johnson of California, Mr. Leggett, Mr. Lloyd of California, Mr. Macdonald of Massachusetts, Mr. McClory, Mr. Nix, Mr. Thompson, and Mr. Whitehurst):

H.R. 11123. A bill to provide for the exclusion of industrially funded personnel in computing the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year; to the Committee on Armed Services.

By Mr. ROGERS (for himself, Mr. Satterfield, Mr. Preyer, Mr. Symington, Mr. Scheuer, Mr. Waxman, Mr. Hefner, Mr. Florio, Mr. Carney, Mr. Maguire, Mr. Carter, Mr. Broyhill, Mr. Hastings, and Mr. Heinz):

H.R. 11124. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the safety and effectiveness of medical devices intended for human use, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BOWEN:

H.R. 11125. A bill to facilitate the sale of U.S. agricultural commodities to be stored in the United States not subject to export control and restricted from resale into the U.S. markets; to the Committee on International Relations.

By Mr. BRECKINRIDGE:

H.R. 11126. A bill to amend the Agricultural Adjustment Act of 1938 relating to farm poundage quotas for burley tobacco; to the Committee on Agriculture.

By Mr. ESCH:

H.R. 11127. A bill to amend title 23, United States Code, relating to the carriage of certain materials on Federal-aid highways; to the Committee on Public Works and Transportation.

By Mr. GONZALEZ:

H.R. 11128. A bill to amend title 5, United States Code, to provide that any Federal employee retiring with accrued sick leave shall be entitled to a lump-sum payment for one-third of such days, and the amount of such sick leave such employee is entitled to have included in years of service for computing his retirement annuity shall be limited to one-third of such sick leave, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KASTENMEIER:

H.R. 11129. A bill to extend for 3 months the authority of the National Commission for the Review of Federal and State Laws relating to wiretapping and electronic surveillance, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Iowa (for himself, and Mr. Bergland):

H.R. 11130. A bill to assist in the marketing and handling of the 1975, 1976, and 1977 crops of feed grains, wheat, cotton, and soybeans; to the Committee on Agriculture.

By Mr. ZEFERETTI (for himself, Mr. Biaggi, Mr. Phillip Burton, Mr. Murphy of New York, Mr. Scheuer, and Mr. Yates):

H.R. 11131. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 and other acts to adjust the salary and other benefits received by the U.S. Park Police and others under those acts, and to establish a U.S. Park Police Retirement and Relief Board; to the Committee on the District of Columbia.

By Mr. SCHULZE (for himself and Mr. Sarasin):

H.J. Res. 745. Joint resolution directing the Attorney General to conduct an investigation of the finances of New York City to determine whether any violations of Federal laws have contributed to that city's financial crisis; to the Committee on the Judiciary.

By Mr. STUCKEY (for himself, Mr. Dan Daniels, Mr. Eshleman, Mrs. Boggs, Mr. Santini, Mr. Pressler, Mr. Martin, Mr. Regula, Mr. Howe, Mr. Downing of Virginia, Mr. Burleson of Texas, and Mr. Jeffords):

H. Con. Res. 508. Concurrent resolution relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. SYMINGTON (for himself and Mr. Fraser):

H. Con. Res. 509. Concurrent resolution to request that the President review present programs rendering foreign assistance to governments which have supported actions in the United Nations, which are contrary to basic principles and interests of the United States, and for other purposes; to the Committee on International Relations.

By Mr. BOLAND:

H. Res. 920. Resolution disapproving the deferral of certain budget authority (D76–79) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 921. Resolution disapproving the deferral of certain budget authority (D76–80) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment

Control Act of 1974; to the Committee on Appropriations.

H. Res. 922. Resolution disapproving the deferral of certain budget authority (D76-81) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 923. Resolution disapproving the deferral of certain budget authority (D76-82) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 924. Resolution disapproving the deferral of certain budget authority (D76-83) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. JACOBS:

H. Res. 925. Resolution relative to printing deficit budgets in red ink; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McKAY:

H.R. 11132. A bill for the relief of Fresia Pizzaro Cornejo; to the Committee on the Judiciary.

By Mr. RIEGLE:

H.R. 11133. A bill for the relief of Velika Michailoff; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

342. The SPEAKER presented a petition of the Joint Baltic American Committee, Rockville, Md., relative to Soviet control of Estonia, Latvia, and Lithuania; to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6721

By Mr. SIMON:

Page 20, line 8, after "(2)" insert "(A)".

Page 20, after line 20, insert:

"(B) Any lease which permits surface coal mining which the Secretary proposes to issue under this Act shall be submitted to the Governor of each State within which the coal deposits subject to such lease are located. No such lease may be issued under this Act before the expiration of the 60-day period beginning on the date of such submission. If any Governor to whom a proposed lease was submitted under this subparagraph objects to the issuance of such lease, such lease shall not be issued before the expiration of the one-year period beginning on the date the Secretary is notified by the Governor of such objection. During such one-year period, the Governor may submit to the Secretary a statement of reasons why such lease should not be issued and the Secretary shall, on the basis of such statement, reconsider the issuance of such lease."

EXTENSIONS OF REMARKS

MIKE HALBOUTY RIDES AGAIN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. TEAGUE. Mr. Speaker, recently the Dallas Times Herald's editor, Mr. Felix R. McKnight, wrote an excellent article on Michel T. Halbouty. It gives some candid views of a very fine man and a friend. I hope every Member of Congress has constituents like Mike Halbouty.

The article follows:

MIKE HALBOUTY RIDES AGAIN

(By Felix R. McKnight)

My uninhibited college mate Michel T. Halbouty, he of international renown as geologist and petroleum engineer and slammer of federal bureaucracies, has delivered himself of another flaming speech.

It was Mike Halbouty's same song, twentieth verse down in hometown Houston the other day.

This one, dropped upon the American Gas Association, was entitled "It Could Have Been Different." It ripped a lot of hides and got to the core of what he mildly terms "the horrendous natural gas supply mess in which this nation is involved."

Long a free market man who 20 years ago warned of the oil and gas crisis now upon us, Halbouty took characteristic swipes at Washington and accused it of moving towards nationalization of the petroleum industry.

Halbouty, a tall and fierce-eyed man who places respect for country clouds above the millions he has amassed, periodically takes on Congress, and this time has, in championship form.

"The Wee-Willie-Wet-Legs we have in Congress have stymied every effort to produce oil and gas sources and by doing so they put their personal political expediency ahead of the public welfare. I find that Congressmen, federal economists and other federal bureaucrats, plus some segments of the media, seemingly want to tear down, rip asunder and punish the oil and gas companies—large and small—that provided the energy foundation on which this country built itself into a nation once envied by all."

Not even drawing a deep breath, Halbouty assured the packed hall that even after recent price increases, U.S. consumers pay less than half as much for energy from gas and oil, including secondary energy made from them, than any major nation in the world.

The ivory tower sniping at American busines, notably the petroleum industry, cuts Halbouty three inches below the flesh. He is quick to point out that:

No other nation has a network of gas pipelines and connected distribution systems even half the size of ours.

No other nation has so many petroleum products so readily and economically available.

No other nation in history has utilized its naturally occurring oil and gas resource base for the benefit of the full spectrum of its population.

So, Halbouty furiously asks, why pick on the industry that provides these services and attempt to steer us into nationalization of a business that would bring chaos?

Free spirited individualists and risk-takers of the petroleum industry have been smothered by government decree and incentive-killing law, he argues.

"Bureaucracy and an uninformed public have swung the desires the other way," he seethed. "Goals for individuals have been rearranged. Security is pursued, without regard for achievement; stifling controls are rampant in every sector of our economy, individuality is smothered and stereotyped and the profit incentive scorned in favor of will-of-the-wisp sociological scenarios . . ."

Halbouty even turned on his hosts and accused some of them of endorsing "scurrilous attacks on producers by publicity hungry political hacks and other oil and gas industry dilettantes and gadflies."

Object of Mike Halbouty's less than subtle comments was governmental efforts to install "artificial, below true market value, wellhead prices for natural gas destined for interstate commerce."

Shortage of gas?

"Predictions of gas reserves is an imprecise exercise in any case and estimations of undiscovered recoverable reserves are very dicey.

"But there is a consensus that we do have a reasonably adequate gas resource base to work with provided the government that gave us Pearl Harbor, Social Welfare, Unemployment Compensation, the Federal Power Commission and Watergate, does not prevent us from going out and exploring for and finding it . . ."

That's Mike Halbouty . . . at top speed.

SECURITY RIGHTS ARE IMPORTANT TO GUN OWNERS

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. RUSSO. Mr. Speaker, the third article in the Chicago Tribune series on gun control examines the attitudes of gun owners in metropolitan Chicago. The first two articles in this excellent study of gun control attitudes I have placed in the RECORD previously.

The article follows:

SECURITY, RIGHTS ARE IMPORTANT TO GUN OWNERS

(By Wesley Hartzell)

(*I love guns. I clean and polish them. I would like to bring down an animal with one. I admire them. I have owned guns, and I feel secure that I have them. I feel it's my right to own them.*)

That's the voice of a suburban homeowner, about 40 years old, with a comfortable family income of more than $20,000 a year—characteristics of the most common group of gun owners found in the Chicago Tribune's survey of metropolitan Chicago's attitudes toward guns and controls.

Like 6 of every 10 gun owners surveyed, he owns more than one [a pistol and two rifles], and like most other gun owners he is for more stringent controls on gun ownership "but within limits." The limits he sets are the ones also set by most gun owners surveyed:

He would give support for "strict control and registration of handguns," for requiring a police permit to buy a gun, for "licensing of all gun owners" and "registration of all handguns," but he and other gun owners flatly reject a proposal a majority of those who do not own guns approve: Outlawing private ownership of handguns.

Three of every 10 of those surveyed by the Tribune said there are guns in their homes. The heaviest ownership is in the suburbs of the six-county metropolitan area: 4 of every 10 households said they own guns. In the city, 2 of every 10 admitted to owning a gun.

Other surveys across the country have found similar patterns of ownership in the suburbs of major cities, but some have found more city dwellers admitting to ownership of guns—typically about 3 of 10. It is possible some Chicago respondents declined to admit owning guns because they have not registered them, a requirement in the city but not in the suburbs.

The Tribune survey's 509 respondents were selected randomly to provide a cross-section of the six-county area's 2,367,900 households and their 7,153,800 residents. If 30 per cent of these households have guns, as the survey indicates, then it can be estimated that 710,370 homes in the Chicago area are armed, 488,488 in the suburbs and at least 221,882 in the city.

Since more than 6 of every 10 of the gun-owning households were found to own at least two guns, it can be assumed that the number of guns in the hands of private citizens in the metropolitan area easily reaches into the millions.

Gun owners were asked if they keep guns for recreational uses such as hunting, collecting, and target shooting or for protection, or for both reasons. In the city, nearly 6 of every 10 said their guns are for protection, while in the suburbs more than 6 of every 10 said their guns are for recreation.

James D. Wright, a University of Massachusetts sociologist who is studying previous surveys on gun controls and ownership, has estimated from the data that about 60 million adult Americans live in homes that hold firearms. About 47 per cent of all households surveyed were armed—including a majority of 59 per cent of homes in the South. Among gun owners, says Wright, less than half—42 per cent—own handguns.

The Tribune survey found that more than half of the gun-owning households in metropolitan Chicago have handguns—or about 12 per cent of all Chicago households and 21 per cent of all suburban households.

The persons who have handguns don't keep them for the fun of it—nearly 9 of every 10 surveyed said their pistols are for protection. Less than 1 of every 10 rifle and shotgun owners said their weapon's principal purpose is protection.

The handgun poses a special problem for gun control, according to Franklin E. Zimring, a University of Chicago law professor and co-author of a 1969 report, Firearms and Violence in American Life, prepared for the National Commission on the Causes and Prevention of Violence.

Zimring estimates that while only one of every four privately owned firearms is a handgun, three of every four gun killings involve a handgun.

As reported Monday, women are significantly more opposed to gun ownership than men. Thirty-nine per cent of the households represented by men in the survey have guns, but only 22 per cent of the households reported by women have guns. One question this raises is whether some men, sensitive to the criticism and concern, simply don't tell women that there are guns in the household.

Five per cent of all those surveyed said that at least one member of their households is a member of the National Rifle Association [NRA], the powerful and vocal organization of gun owners frequently cited as the most influential lobbyist against stringent federal controls on gun ownership.

Although their number is too small to allow meaningful examination of their attitudes, the Chicago-area NRA households surveyed are firmly behind four of the five gun controls proposed, although not as strongly as other citizens. On the fifth proposal—outlawing private ownership of handguns—they are united in their opposition, in sharp contrast to those who do not own guns, who support the proposal, and the general public, who divide 50 per cent against to 45 per cent for.

Among the handful of gun owners whose attitudes mirror those of most persons without guns are some whose gun ownership is not by choice—the gun had been left behind, was a gift or war souvenir, or, as in the case of one Chicago woman, was her husband's passing fancy.

"I wouldn't know how to use it," she said, "and it's dangerous to have around the house. I don't even want a gun."

Her husband, a truck driver, had bought the gun, a rifle, but then lost interest. He has never used it. But it's still there, "way up on a shelf, out of sight."

Tomorrow: Illinois congressmen invert public views on gun controls.

EXPERIMENT MAY SHOW WAY FOR JOBLESS TO FIND JOBS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. SIMON. Mr. Speaker, in a period of unemployment an experiment in southern Illinois which could have national significance I bring to the attention of my colleagues.

An enterprising reporter for the Associated Press, Dennis Montgomery, heard about a program that Dr. N. H. Azrin is running in southern Illinois. Dr. Azrin works for the Anna Mental Health Center there.

The result of his experiment may show the way for some who are now jobless to find jobs.

The article follows.

JOB CLUB . . .

(By Dennis Montgomery)

Out of work? Looking for a job? Need something quickly? Join the club.

Clubs, job clubs, could prove a potent weapon in the unemployment battle, according to a Southern Illinois scientist.

Dr. N. H. Azrin, nationally known for his behavior modification studies at Anna State Mental Health Center, has spent four years developing a job club idea that seems to pay off. A psychologist, he gathered 120 unemployed but employable people from the Carbondale area and divided them into two closely matched groups.

Sixty were directed to look for work in the usual manner—individually—while the others enrolled in a job club.

Club members gathered each day in a small office for counseling in job-hunting techniques and skills, role playing, job-lead swapping and mutual assistance. A buddy system was established and family support enlisted.

"Within two months 90 percent of the counseled job seekers had obtained employment versus 55 percent of the non-counseled job seekers," Azrin said. "All clients who attended the program regularly obtained employment. After three months 40 percent of the non-counseled job seeker were still unemployed. The average starting salary was about a third higher for the counseled job seekers."

On the average, Azrin said in an interview, it took job club members two weeks to secure employment while the average for non-members was two months.

"That difference is still holding up and that club is still being run," he said.

"The central idea was that job finding, as I see it, is the central key to a vast array of major social problems. Whether people have a job not only affects their state of mind and mental health but also their status in society—being alcoholic, having marital disruptions, turning to crime and that sort of thing," he said. "The most important thing in the world is to find yourself a job that makes you independent and give you self respect.

Azrin, officially titled director of the Anna Mental Health Center Treatment Development Program, said the club has attracted the interest of the U.S. Department of Labor. Officials have asked him to submit a detailed report for study.

Meanwhile he's trying the experiment on long-term unemployed and finding it worked for them too.

PERU: WILL THE COMMUNISTS GET OZ?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. McDONALD of Georgia. Mr. Speaker, Mr. Dan Doherty has written a very descriptive report on the present situation in Peru which appeared in National Review for December 19, 1975. His article on the Marxist dictatorship of Peru should be read and contrasted with our treatment of Chile. Mr. Doherty points out that at one point we cut off military assistance for Peru, but now the administration proposes $20 million of military sales credits to Peru in competition with the flow of Soviet tanks and other material. Mr. Doherty also mentions the new port at Paita with Peruvian submarines tied up there. Soviet submarines can obviously also use this same base. The United States plans to send two more submarines to Peru. What is the purpose of this large arms buildup in Peru? Obviously, there is only one answer and that is to attack the long time enemy of Peru—Chile. But, you might say Chile is free and friendly to the United States. True, but we send her no military assistance and we have even stopped all training programs. But training funds are provided for the Marxists in Peru. A strange and inconsistent foreign policy indeed. Read Mr. Doherty's article which follows and weep over the illogic of our Nation's foreign policy which rewards our enemies and punishes our friends:

PERU: WILL THE COMMUNISTS GET OZ?

(By Dan Doherty)

In the high Andes mountains of Peru, on feast days, the Indians dress up in gorgon masks to exorcise demons. A number of these masks are painted white and decorated with black mustachios and beards. They do not just stir subliminal memories of the *Conquistadores*; they also stand for the contemporary rulers of Peru, a group of Marxist generals.

In late August of this year, there was a coup d'état in which Peru's President, Juan Velasco Alvarado, was deposed and a new President, General Francisco Morales Bermudez, set up in his place. Velasco had been a strongman, a super-nationalist, a man of grudges and of sudden violence. In the eight years of his rule no popular support for the Marxist revolution that he led had ever developed. President Morales Bermudez, on the other hand, is described by most journalists as a moderate man in politics, a pragmatist, and a man of intelligence. He may be all of these things but, for the Indians of the *alto plano*, there will be no need to fabricate new masks. The old ones will do very nicely.

To a Gringo, Peru is like the Land of Oz: it has a mythical beauty, a climate of eternal spring, the great and mysterious ruins of the past, the soaring, snow-capped Andes, and a jungle filled with butterflies and parrots. It is populated by quaint and colorful Indians, easy-going mestizos, and arrogant grandees. Its governments always presented a blend of the naive and the picaresque, earning Peru the title: The World's Biggest Banana Republic.

Since the revolution of 1968 (a polite, bloodless affair, which replaced one of Peru's infrequent constitutional governments), there has been a change: not an obvious change but a fundamental one, which could have a serious effect on the future of the entire South American continent.

The government established by Velasco in 1968 had a predictable Wizard of Oz flavor, a system of carnival grifts—misdirections, hyperboles, and lies—designed to keep the rubes docile, diverted, and broke. It was proclaimed to be "humanist, nationalist, and pluralist," deriving from the aspirations of Western culture, preserving individual liberties, sovereign within its own borders, pledged not to interfere with its neighbors, and treating equally with all other nations in the world, whatever their ideological stamp. Agrarian reform was instituted and Yankee properties were expropriated as Velasco announced the peruvianization of Peru.

CUBAN KNOW-HOW

But behind the leftist, liberal facade a far more intelligent band of swindlers was at work. Swarms of Cuban advisors arrived in Lima and, from their posh embassy opposite the San Isidro Golf Course, they wore paths to the various ministries where the Generals were sweating over unfamiliar problems of social organization and welfare. The Cubans instructed Peru in how to achieve revolutionary justice by packing the bench with judges of tested political sensitivity. They taught the Peruvian sugar industry how to set up "cooperatives" that were really "collectives" in order to prevent the workers from squandering the profits on consumer goods. Following the Cuban handbook of statecraft, the General learned how to set up and run a political police department complete with block-spies. They learned how to guarantee a good "press" by donating the newspapers to reliable committees. They learned how to disseminate political education by making job security a function of correct political thought. This double-time to the left, however, did not fool everyone. Military aid from the United States was cut off and foreign investments dwindled. To reestablish credibility and credit and to convince the free world that Peru was not a Cuban-style Communist state but a Third World version of social democracy, new grifts were needed. The Generals set out to prove that each expropriated industry was in some way anti-Peruvian and anti-revolutionary. Draconian laws to prevent the flight of capital stopped the import of beef; fixed low prices on locally raised mutton and swine discouraged farmers from bringing their animals to market. Blame for the subsequent meat shortages was put on the backs of the slaughterhouses, and the whole meat packing industry was nationalized. The same laws swept supermarket shelves bare, and they were taken over for hoarding. Gulf Oil was charged with paying bribes in Bolivia, so it was said to be "immoral" and was nationalized. Marcona Mining was accused of polluting the sea. The seizure of Marcona came within a month of Peru's first anti-pollution law. Similar excuses brought cotton, steel, copper, communications, banking, power, shipbuilding, and fishing under government control.

The oil grift, however, was central. The International Petroleum Company (IPC) discovered Peru's first significant trans-Andean pool shortly before the revolution. The IPC was the first industry nationalized; it was charged with conspiring with the previous regime to rob Peru of the profits. At that time it appeared that there were immense oil reserves in the Amazon basin, an estimate which gained substance from extensive discoveries in Ecuador to the north. The IPC was snug against the Ecuadorean border. It was the only tract nationalized.

PROPAGANDA DRUMBEAT

In a burst of enlightened exploitation, other tracts were let to foreign oil companies and the military drum beat out promises to the population and to the world banks that Peru was about to become as wealthy as the Arabs. The propaganda drum continued to resound long after the negative, discouraging reports of seismic and drilling crews had filled the libraries at Petroperu. Oil-starved Japan put up the money to build a pipeline over the Andes (to be repaid in oil or in cash). To some extent, the con worked. Early this year Peru went to Paris seeking $9 billion in credit from the World Bank. It came away with $3.5 billion. But about one billion of that will have to be paid to the Japanese since, it has become evident, there is not enough oil.

By the beginning of this year, it also became evident that the revolution was coming apart. Corruption was rife, shortages persisted in all goods, inflation was accelerating, conspicuous consumption on the part of the military was irritating the people, and the erosion of liberty, particularly the destruction of the free press, was provoking a mood of rebellion. There was also deep concern that the army, now well-equipped with modern Soviet arms, was thinking aggressively about Chile.

Since losing the Pacific War to Chile nearly a hundred years ago, Peru's military has cherished an all-but-religious thirst for revenge. With military assistance from the United States suspended last year, Chile had never been weaker. President Velasco, a strong nationalist above all, may well have harbored such a plan. When the Associated Press correspondent wrote in a dispatch last July that Peruvian Air Force maneuvers could be taken as a warning to Chile, she was promptly expelled from the country—always a sure sign in Peru that a journalist has touched a live nerve.

OPAQUE ARMY

Another indisputable sign that Velasco was leading the revolution in the wrong direction came during the police strike in February of this year. Like any strike by police it presented the government with an intolerable situation but, although a large military force was near Lima and able to take over police duties, there was no attempt to do so for more than 48 hours. Then, after bloodily suppressing the strikers, the army hesitated again and for more than seven hours did nothing to hamper the swarms of looters who picked clean the shops of downtown Lima. When the army did move, more than a hundred people were shot to death and many hundreds more were wounded.

The Peruvian military form a closed and opaque society. But one of the most persistent rumors regarding the police strike has been that elements within the army demanded, as the price of restoring order, that Velasco's government move against the forces of the extreme Left. It is significant that later, when officially fixing the blame for the disturbances, Velasco cited the unlikely coalition of the Socialists, the Maoists, and the CIA. It is also significant that within weeks a number of Maoist editors in the Peruvian newspapers were demoted or lost their jobs.

The defeat of the Maoists, however, cannot be understood as a triumph for capitalism. In Peru, as in Portugal, the political struggle takes place far to the left of center. The beneficiaries in these maneuvers are only the Soviet Left and the Soviet Union itself.

Earlier this year, a private communication between the Ecuadorian Communist Party and some of his lieutenants was intercepted and published by a newspaper in Quito. The letter told the party members of Ecuador that, while awaiting the world revolution led by the Soviet Union, their task was to support and infiltrate the military regime, to encourage nationalism and xenophobia, to support membership in OPEC and other anti-imperialist cartels, and to support the claim of a two-hundred-mile territorial limit. An identical program forms the ideological spine of the revolution in Peru.

The Soviet Union, moreover, is a palpable presence in Peru. It is engaged in several mighty public works and has lavishly supplied the Generals with the latest war matériel. Technicians and advisors are everywhere, so much so that the Chinese who run almost every *bodega*, or corner grocery store, are complaining that their expensive lessons in English were wasted. They must learn Russian instead.

The Soviet geopolitical eye has long since looked on Peru and found it good. Situated like a keystone in the continent's western arch, Peru borders on five other states where guerrilla efforts have been under way for a long time but suffer from the lack of a secure base of supply: Ecuador, Colombia, Brazil, Bolivia, and Chile. A thousand Ho Chi Minh trails could wriggle out of Peru exporting terror and destruction on the scale needed to wreck the neighboring regimes. Peru also has a thousand miles of storm-free coast fronting the South Pacific, the largest body of water on earth and, for a missile-launching submarine, the most secure.

It is an interesting sidebar that, when the Soviet project to build the world's largest fishing port at Paita, on Peru's north coast, was announced, rumors that it was to be a sub base for the U.S.S.R. immediately began to circulate. To suppress these unwelcome bolas, as they are called, Velasco rounded up every journalist he could find and flew them north to prove that he had nothing to hide. At that stage of the project he had nothing to show, either. This past May, when the first stage of construction was completed, journalists were again trundled north to witness the dedication ceremonies. Lolling comfortably at the quayside were two Peruvian submarines in berths where far larger boats could be easily accommodated. Much of the public-relations benefit of the day perished in knowing snickers.

REVOLUTION CONTINUES

It was becoming obvious that the crude carnival deceits of Velasco's revolution were wearing thin. The Soviet Union, for one, was not likely to enjoy the threat to its considerable investments from reactionary forces of the far Left or the Right. It was less likely to want to have the carefully orchestrated campaign against Chile wrecked by an aggressive act on the part of the Peruvian Army. The coup d'état that brought Morales Bermudez to power came not a moment too soon.

Morales Bermudez, the moderate, the practical, the wise, has stated emphatically that the revolution will continue. His amnesty has allowed some Peruvians to return from exile, but the laws which drove them out are not rescinded, particularly the notorious Law of the Press. Many convictions and sentences rendered in absentia remain in force and prevent the return of notable opponents of Communism.

The new cabinet, moreover, reflects less a change toward moderation than a lessening of chauvinistic nationalism—and of the threat of precipitous action by the Peruvian Army. The leftward trek continues as before, and Lima still looks like an incipient Havana with Soviet technicians and advisors shoulder to shoulder in the restaurants and bars. As for General Morales Bermudez, his credibility may be capable of translating the carnival frauds of the revolution's first phase into something with the appearance of rational policy. Perhaps he can sell them to the Indians in the high country.

GOSHEN (IND.) NEWS SALUTES GOSHEN COLLEGE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. BRADEMAS, Mr. Speaker, located in my congressional district are eight institutions providing postsecondary educational opportunities.

One of those, in Goshen, Ind., is Goshen College, the president of which, Dr. J. Lawrence Burkholder, a distinguished theologian, leads an institution committed to a tradition of scholarship and Christian values.

And, Mr. Speaker, I take particular pride in noting that my mother is a graduate of Goshen College.

Recently the Goshen News editorially saluted Goshen College for its contributions to the local community and I would like to share this editorial with my colleagues:

Goshen College Contributions to Us

Many of us are very aware that Goshen College is a fine institution of higher learning here in our community but we don't really know much about the impact the college has on our economy.

We may be aware that the college brings cultural offerings such as art exhibits, lectures, concerts and recitals to our community. Some of us have tickets to the lecture-music series. The college offers courses during the day and evening for persons wishing to continue their education, library privileges to the serious user, student volunteers in a host of community helping agencies, and student labor for occasional peak work periods of local business and manufacturing firms.

But many of us aren't aware that the greater part of Goshen College's $4.76 million budget is spent in Elkhart County for goods and services. And we may not know that 70 per cent of this money to support this budget comes from outside our geographic region. We also may not know that the college employs 350 people.

This expenditure of this large sum of money may not seem to mean much if you're not in business, but it does. The money the college spends for goods of many kinds to build and operate its facilities is spent with firms that pay a big share of county property taxes each year. Students spend lots of dollars here in buying clothes, keeping their cars on the road and in our restaurants. These businesses are all an important part of our community.

William W. Jellema, in The Study of Independent Higher Education in Indiana, states, "A college reaps many practical business benefits for its community. It creates jobs by employing people to teach and administer. It purchases goods of many kinds to build and operate its facilities. It attracts students and visitors from near and far. These people spend money in the college community—money that might not otherwise have been spent there.

"Furthermore, the ultimate economic consequences of spending are greater than the original impetus. Recipients of the first-round expenditures also spend part of the money. Each successive round of receipts and expenditures creates an added impact—it generates new incomes and job opportunities that would not otherwise have materialized."

Based on Jellema's research formula and the college's $4.76 million 1975 budget, GC's "first-round" figure for outlays in this community this year total $3.2 million. This represents expenditures for day-to-day operations and money spent by faculty, staff, students and visitors.

In terms of economic impact on the community, the local "multiplier" indicates an aggregate effect of $4.48 million because some of the money is spent here twice.

The 350 persons employed by Goshen College support about 660 jobs in the community.

Based on budget formula, the college supporting staff spends $1,010,000, the faculty staff spends $1,360,000, students spend $770,000 and visitors spend $440,000. Of these totals, 90 per cent is spent in this community.

Many of us are more economy minded now that so much mention is made of inflation, recession, cost of living figures, unemployment, etc. This statistical report on real expenditures here by the Goshen College community may help us realize that the college is very important to all of us in an economic way, to say nothing of the cultural offering to the area.

And we might also say that most of the staff and students at GC are solid citizens who contribute a great deal simply by being themselves and participating in the everyday life of our community. There's no monetary index on this factor but we're convinced they make our community a better place in which to live.

ROLLCALL VOTE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. MAZZOLI. Mr. Speaker, on Tuesday, December 9, I was unavoidably absent from the House.

Had I been present, I would have voted on matters coming before the House as follows:

"No" on rollcall No. 752, motion to recommit H.R. 9721, Inter-American Development Bank, to Committee on Banking and Currency;

"Yea" on rollcall No. 753, final passage of H.R. 9721;

"Yea" on rollcall No 754, agreeing to the conference report on H.R. 9005, Foreign Assistance Act;

"No" on roll call No. 756, amending H.R. 10624, to add a new chapter XVI, to the Bankruptcy Act;

"Yea" on rollcall No. 757, final passage of H.R. 10624, to revise chapter IX of the Bankruptcy Act.

COMMENDATION FOR GUAMANIAN NAVY DOCTOR

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. WON PAT. Mr. Speaker, I am very pleased today to bring to the attention of my colleagues a personal accomplishment of a constituent which would pass largely unnoticed in one of the 50 States but is a matter of significance in my district of Guam.

Comdr. Ralph G. Sablan of Guam, a Navy doctor, has been selected for promotion to captain, the first Guamanian to attain such a military rank.

Dr. Sablan, a 16-year Navy veteran, was one of the first graduates of local schools to become a physician. Shortly after World War II he entered the Oklahoma University Medical Center. Since, several Guamanians have followed in his footsteps.

His uncle, the late Dr. Ramon Sablan, was the first person of Guamanian descent to practice medicine in Guam. He returned to Guam from the mainland in the 1930's and ministered to the island's residents until 1951, having remained in Guam throughout the Japanese occupation.

Exemplifying his dedication to the betterment of mankind, Captain Sablan has spent much of his medical career as a dermatologist in becoming an expert in the treatment of leprosy, which is found in Guam, Korea, China and southern North America. He was instrumental in establishing Guam's program of detection, treatment and registration of sufferers of this disease and has worked 1 day each week of his own time for public health on the island.

As reported by his superior, the commanding officer of the Navy Regional Medical Center, Guam, "He is the only dermatologist on Guam and in the entire Trust Territory of the Pacific Islands, an area of more than 3 million square miles. He has provided a very high quality of medical care both to the Military Establishment and their dependents, but also in the service to the civilian community, by his activities in training others in the care of skin diseases. He organized the leprosy clinic for the Government of Guam Public Health Service. This clinic deals with the diagnosis, treatment, registry of active cases, and the disposition of household contacts. He is the dermatology consultant to the Guam Memorial Hospital—the island's civilian hospital—the Public Health Service, various private clinics, the local medical practitioners and to the Government of the Trust Territories of the Pacific Islands."

"He has written articles for publication in the local newspaper on a number of subjects including leprosy and sunlight effects on the skin, and has been interviewed by the local radio station regarding the management of common skin conditions. He is a past member of the Government of Guam Comprehensive Health Planning Agency and is currently serving on the Cosmetology Advisory Board. On February 21, 1975, he was appointed to the Guam Health Commission by the Governor."

For this outstanding work, Captain Sablan has been nominated for the James Clark White Award of the Association of Military Surgeons of the United States.

Until the 1940's, Guam was a sleepy, lightly populated tropical island, far from the mainstreams of the world. Despite a devastating enemy occupation, in slightly more than 30 years it has progressed to become an integral part of the United States, a key element of our Nation's Pacific defense posture, a crossroads of the Pacific Basin, and the site of modern social, economic and political developments.

As everywhere, Guam's strength and future depend upon the increasing capabilities and accomplishments of its successive generations. At a young 42, Captain Sablan is a fine example of Guam's strength and future. It is his achievements, and those of his contemporaries and other post-World War II Guamanians which are contributing so much to creating what is today's and tomorrow's modern Guam.

I congratulate and commend Captain Sablan for his military and medical achievements, for his work in behalf of the people of Guam and for establishing higher standards and goals for Guamanians who follow him.

SOUTHERN CALIFORNIA'S OIL LEASE SALE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. ANDERSON of California. Mr. Speaker, today 1.25 million acres of land off the coast of southern California is scheduled to go on sale for oil and natural gas leasing. This is the largest single lease sale of Outer Continental Shelf land ever held. It is also among the most controversial.

The Department of the Interior has decided to hold the lease sale on schedule, despite the requests for a delay by many State and local officials in southern California. For months, we have been told that the leasing area had been thoroughly studied, and that all necessary precautions had been taken.

However, on December 9, 2 days before bidding was scheduled to take place, four tracts were withdrawn from the sale because they presented potential geological hazards. One of the deleted areas lies only 5 miles offshore from the town of San Pedro, which is in the congressional district I represent.

I was pleased to learn that at least some of our land would be held back. But if oil development off our coast is so safe—and if the leasing area was so well studied—why were these tracts withdrawn only 48 hours before they were to be offered for development?

I believe this lease should have been postponed until new guidelines were passed, and until a more thorough study was made. I only hope that there are no unpleasant surprises in store for those of us who live near the Pacific coast.

STATEMENT ON NATIONAL TRANSPORTATION POLICY

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. BAUCUS. Mr. Speaker, on September 17, 1975, the Secretary of Transportation, William Coleman, issued a statement on national transportation policy. Secretary Coleman's statement sought to identify broad policies reflecting transportation desires of the American people. The Secretary asked for criticisms and comments in his report. Accordingly, I would like to offer my views.

First, I commend Secretary Coleman and his staff for the fine work that went into compiling this statement. The comprehensive analysis of such diverse areas as railroad, mass transit, bicycle, airline, and international transportation goals provides an excellent base upon which to build an understanding of national transportation priorities and of future transportation needs.

Yet, despite this excellent analysis, I am disturbed by the limited space and emphasis given to rural transportation needs. Only three paragraphs in a statement of more than 50 pages are devoted to rural transportation. While this is a three paragraph improvement over the Department of Transportation's 1974 8th annual report, the new report, at best, inadequately addresses the problems of rural transportation systems. In short, I do not believe the rural section in the 1975 report accurately reflects the transportation needs of all American people, especially those who live beyond our metropolitan areas.

The Federal Government must realize that our country is vast but interdependent. Cities rely on rural areas to provide farm goods and raw materials for industrial and domestic use. We all take for granted that food will be available in the supermarkets tomorrow without thinking about where it comes from and how it gets there. Commercial trucks, railroad cars, and private vehicles are all used to bring food to our tables.

Agriculture is America's number one industry, employing more labor than any other trade and requiring the use of many different transportation modes. In my home State of Montana, farmers and ranchers produce over $1.25 billion in agricultural commodities a year, much of which is shipped to urban areas. Moving agricultural goods from the rural areas to the cities is the life-line of urban living.

Because of the growing demand for food by people in America and abroad, more pressure will be placed on our agricultural system to produce. Our rural transportation systems will have to be greatly improved to meet the increased use of our railways, roadways, airways, and waterways to carry these essential agricultural products. Improved rural roads, better upkeep of rural railroad facilities—with an emphasis on a sufficient number of railroad cars to move grain after harvest—additional modes of rural mass transportation, fuel for farmers and ranchers, and increased use of ships to move goods to foreign markets must be weighed in any comprehensive transportation policy. Transportation needs are changing rapidly in America's transportation system and an increased emphasis on rural needs will be mandatory in the future. We must look at rural transportation now before it reaches a crisis state.

In Montana, every harvest is slowed by poor rural roads. The scarcity of elevators to store grain and slow, inefficient truck and railroad car loading facilities add to the delays in moving crops to market. Nationwide rural roads are horrendous. Fewer than 15 percent of our roads can carry 10-ton trucks without severe damage much less the 40-ton trucks which are being used with increasing frequency.

In Montana, rural roads are deficient. Large grain trucks often slide off the side of the road when meeting other trucks. They must frequently reduce their loads to climb steep embankments or use smaller trucks. This results in additional costs and wasteful use of fuel. The inefficiency of transporting modes causes the loss of tons of grain every year through destruction because the grain lies on the ground until trucks or railroad cars come to haul it to the factories. We cannot waste our food and still maintain our standard of living or our influence in the world.

I once had a history professor who said,

> If you want to experience America 50 years from now visit Europe today.

Countries like Luxembourg, France, Belgium, Norway and the Netherlands anticipated the urgent need for rural transportation development and undertook massive road and railway building projects into rural areas. Today Europe's per capita production of agricultural goods has surpassed the United States and they are still building rural transportation systems. Excellent rural transportation is accepted as a way of life for European people, as it will soon be for Americans.

A related area of critical importance to rural residents is the trucking industry. The report treats air, railway, and water transportation as separate categories but does not comment on truck transportation—the primary mover of agricultural commodities. Trucking is second only to agriculture itself in importance to our Nation's economy.

Trucks carry 50 percent of all food; 72 percent of all meat; 70 percent of all dairy products; 51 percent of all canned and preserved fruit, vegetables and seafood; and 69 percent of all beverages. Trucks are also the primary mover of grain. Trucks are an important, but somewhat invisible, segment of our everyday lives and should be included into any total transportation plan.

Abandonment of railroad track is not mentioned in the report. The Nation has already lost 46,000 miles of railroad through abandonment, most of which has occurred in the countryside areas. There are 205,202 miles of railroad left but even now I am working in my district on problems of abandonment which have serious economic and social consequences on many small communities in western Montana.

Montana has 5,084 miles of railroad track serving more than five railroad lines. These railroads employ over 6,000 people who are residents of Montana with an annual payroll of over $89 million. The health of the railroad system affects the servicing of producers in Montana and other rural States. Abandonment should be discussed in our national transportation policy.

There is a direct relationship between the quality of life and the ability to be mobile. The past trend of people moving to cities and away from rural areas is changing. For the first time this century, our rural areas are growing faster than our urban centers. All indications suggest this trend will continue. Yet our Federal transportation policy does not address these changing patterns by improving rural mobility.

Living in rural areas presents a community of transportation and mobility problems encountered by all people living in the countryside. Two groups, however, are especially affected.

The Federal Aid Highway Act of 1974, section 105(a), states that elderly and handicapped people have the same right as other persons to utilize mass transportation facilities and services. But this statute is clearly not enforced.

Senior citizens in my State are seriously affected by the poor transportation system. They cannot travel vast distances to see friends or relatives or to visit medical facilities. In fact, more than half of our senior citizens are not licensed drivers. They rely on friends or relatives to take them to their destinations.

We are losing valuable services offered by our handicapped citizens, not because they do not have talent, but because they cannot get to a job. The handicapped citizens have numerous mobility problems in the city but living in the country exasperates their difficulties. A person confined to a wheelchair cannot roll 30 miles down the highway to catch a bus. And even if he could, the buses are not designed to carry him.

The sheer distances between towns in my State not only hamper the lives of senior citizens and the handicapped, but it unnecessarily jeopardizes the lives of many people in rural families because of the amount of time it takes to transport an injured victim to the hospital in the family grain truck. I know this is the case in many other rural States. A comprehensive rural transportation emergency health system must be provided.

Our Federal Government must take a look at what is in store for the future and plan our rural transportation policies accordingly. The three paragraphs in the report do not adequately emphasize the importance of the countryside. A balanced national transportation policy must include an understanding of the interdependency of the countryside and the cities. The development and adherence to a balanced national transportation program with consideration of rural transportation needs, will result in a stronger America and will meet the demands of the future.

FUELING INFLATION IN THE CONSTRUCTION INDUSTRY

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. KASTEN. Mr. Speaker, today, the House is voting on the Conference Report of H.R. 5900, commonly known as the common situs picketing bill. Although the conference bill is an improvement over the bill as passed by the House, the underlying principle is so objectionable that the bill ought to be defeated.

Yesterday, the President met with the Republican leadership of Congress who urged him to veto this legislation. I hope that the President will heed their advice.

Mr. Speaker, on Thursday, November 20, the Milwaukee Journal published an editorial entitled "Tilting Toward Labor." I insert the editorial in the RECORD at this point so that I might share it with my colleagues.

TILTING TOWARD LABOR

If there has been a sector of the economy that has been especially subject to wage induced, cost-push inflation, it has been the construction industry. Congress unfortunately has passed a bill that would further that tendency.

This so-called common situs picketing bill would allow striking employers of a construction subcontractor to close down a whole project by picketing. The courts in the past have ruled such picketing—against firms with which strikers have no grievance—illegal under provisions of the Taft-Hartley Act that forbid secondary boycotts. In effect, this new bill would overturn those court decisions.

Until now, Congress has been the folly in permitting such picketing and has defeated organized labor's efforts to make it legal.

Legalizing such picketing would only encourage the "whipsaw" tactics that the construction trades use against contractors. One small union would be able to paralyze a large project to win its demands, thus encouraging the next union to do the same.

This would not foster equitable bargaining in the construction industry. And the costs resulting from these tactics, of course, come out of the consumer's hide in the form of higher construction costs or in product prices that must reflect the higher expense of building a factory.

What is particularly disturbing is that President Ford seems willing to accept this measure in return for legislation, backed by Labor Secretary John Dunlop, to give national construction unions more authority to intervene in outrageous local settlements that set precedents that hurt the whole industry. The Senate tacked Dunlop's legislation onto the common situs bill.

Dunlop is trying to diminish the ability of small locals to muscle through unwarranted wage agreements. His efforts should be supported. But Ford should clearly see that accepting common situs picketing as the price for Dunlop's plan would be self-defeating. Ford ought to demand that the common situs measure and the Dunlop bill be separated. The common situs picketing legislation should be vetoed.

POLLUTION FIGHT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. FLORIO. Mr. Speaker, for many years there has been an ongoing controversy about environmental protection as to whether pollution control is purely for aesthetic and health purposes and does not contribute to a productive economy. My contention is that environmental protection efforts are indeed compatible with economic efforts and need not be mutually exclusive of one another.

I am most pleased to bring to the attention of my colleagues the remarks offered by Mr. Russell W. Peterson, Chairman of the White House Council on Environmental Quality, as quoted in a recent New York Times article:

SOME $15 BILLION SEEN GOING TO POLLUTION FIGHT

(By E. W. Kenworthy)

WASHINGTON, December 10.—Russell W. Peterson, chairman of the White House Council on Environmental Quality, said today that the 1975 expenditures by government and private industry for pollution control would total $15.7 billion and generate a million jobs.

These were the key figures in a statistics-laden address that he made to a conference of manufacturers of pollution control equipment, they were based on estimates by the Labor Department's Bureau of Labor Statistics that each $1 billion in Federal expenditures on pollution control creates 66,900 jobs.

This year, Mr. Peterson said, Federal spending for pollution control will run about $4.2 billion, that of state and local governments $1.5 billion and that by private industry $10 billion.

ARGUMENT DISPUTED

The theme of the conference, arranged by the Council on Environmental Quality, was one that Mr. Peterson has been sounding for a year, that the American people and Government do not have to make a "a choice" between environmental protection and the economy, but rather Federal pollution legislation is a spur to the economy and a net producer of jobs.

Mr. Peterson said that there was no truth in the oft-repeated argument of some industrialists that "investments in environmental protection are nonproductive; that they are pure cost; that they drain funds badly needed for productive investments in other parts of the economy."

Vice President Rockefeller, in an advance text of a luncheon address given out to the press but which he did not use, gave what appeared to be only a passing nod of support to Mr. Peterson's thesis.

He said that the American people "are still deeply committed to the environment," but added, "They want balanced environmental protection that does not paralyze economic growth and future job opportunities."

SIMPLIFIED VERSION

In his prepared speech, Mr. Rockefeller also said that "in the present tight budgetary climate," it was necessary to make sure "that environmental laws, rules and regulations are reasonable, that they are formulated with a clear awareness of their potential impact on the economy."

Mr. Rockefeller threw away the prepared speech, and in brief informal remarks took a softer line, saying that he believed environmental protection and continued economic growth were "not incompatible goals."

Mr. Peterson's presentation of the economic impact of environmental controls was essentially a simplified version of a 138-page report prepared for the environmental organization by two Wall Street brokers—Kenneth Ch'uan-kai Leung of F. Eberstadt and Company and Jeffrey A. Klein of Kidder Peabody and Company—entitled. "The Environmental Control Industry." Their report, in turn, was a distillation of various studies by the Council on Environmental Quality, the Environmental Protection Agency, the Department of Commerce, the Bureau of Labor Statistics and private analysts.

The Wall Street analysts said that, with the 13 percent increase in spending by industry to curb pollution in 1975 and the projected 60 per cent increase in 1975 and 1976 in Federal outlays for sewage plants, "environmental control related employment has been one of the relatively few areas of job strength during the recent recession."

As for the fear that cost for pollution control will result in large scale closing of plants and unemployment, Mr. Peterson said that the E.P.A., which monitors such closings, has found that since 1971 there have been 75 plant closings partly attributable to environmental regulations. These closings involved 15,700 jobs. However, many of these plants, he said, were old, marginally productive and on the brink of being phased out anyway.

U.S. SHIPMENTS OF GRAIN

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. MADIGAN. Mr. Speaker, because the district I represent, the 21st District of Illinois, is a largely agricultural district to which international trade is very important, in October of this year I made a trip to Europe to gather first-hand information concerning the growing complaints about the quality of U.S. grain being shipped to foreign markets.

During this 10-day fact-finding trip, I met with officials of the European Common Market, the London Port Authority, the British Ministry of Agriculture, the Netherlands Komite, and the Rotterdam Grain Exchange. I also met with officials of the Grain and Feed Trade Association, which arbitrates disputes between buyers and sellers of grain on the international market. In addition, I visited the port facilities in Rotterdam, and in Tilbury, England.

Upon my return I filed the following report with Chairman STAGGERS, of the House Interstate and Foreign Commerce Committee. I would like to have this report entered into the official record for the information and interest of my colleagues.

Anyone attempting to determine whether or not complaints are justified about the quality of U.S. grain being shipped to foreign countries begins the process realizing several things.

Most important among the realizations is the fact that officials and employees of several private domestic companies are under indictment for alleged irregularities.

Perhaps even more important is the fact that a majority of those thus far indicted have entered pleas of guilty.

Additionally, U.S. farm leaders visiting other countries are frequently confronted with complaints about, and samples of, inferior U.S. grain shipments.

Also, there have been instances where foreign buyers of U.S. grain, when visiting U.S. farms, have wondered aloud about the difference in the quality of the grain seen on the farm, as opposed to that which they receive in foreign shipments.

Certainly it is important to distinguish between charges of short weighting and complaints about quality.

I have made no attempt to investigate short-weighting complaints as this is being done by a Federal grand jury.

People concerned with the credibility of the United States as a shipper of quality grain tend to think in terms of accepting that all the complaints are justified, rather than in terms of verifying that the problem exists to a serious and continuing degree.

Many producers also react sharply suggesting that grain exporters are blending someone's poor quality grain with their high quality grain, thereby damaging the reputation of the high quality grain producer.

The producer is prone to overlook the fact that the inferior grain was produced by a farmer and not by a grain company, and that during a given harvest period poorer quality grain may represent some farmers only stock in trade. It is sometimes also overlooked that because of rain, or early frosts, or other conditions that situation can occur with any farmer. Witness the Midwest experience in 1974.

Also noteworthy is the fact that of all of the indictment thus far returned only one was for a violation of the Grain Standards Act. Most other indictments relate to soliciting or accepting bribes, most frequently of or from ship's captains, stealing of grain, shortweighting, and tax evasion.

One former prosecutor argues that indictments were not brought under the Grain Standards Act, because the penalties are less severe than those imposed for bribery.

Another former prosecutor argues back that bribery is a most difficult offense to prove, and that one would not pursue the bribery offense if he had anything else to go on.

Recognizing the impact that all of this has in a competitive market, it seems desirable to go to the source of the complaints.

Accordingly, I visited Western Europe and during the course of that visit met with:

A. Officials of the European Common Market, which will import another 12 million tons of U.S. grain this year, who told me that complaints about the quality of U.S. grain are overstated and come mostly from speculators who have paid too much for the grain.

B. Officials of GAFTA, a leading source of complaints to U.S. visitors who want the U.S. grain certificate system eliminated so that U.S. grain quality will be subject to GAFTA arbitration. A system presently avoided only by the United States because of our system of certification.

C. Officials of the Port of London Authority, who told me that complaints about U.S. grain quality have diminished considerably over the past 2 years. These people also told me that complaints were high when the United States was unloading the CCC bins a few years ago.

D. The Netherlands Komite, their equivalent of our U.S. Department of Agriculture. The Netherlands is a processing country, buying both cattle and feed and selling the finished product. The members of the Komite advised that they had no complaints about grain quality from the United States—that they believed the breakage occurred as a result of loading, off loading, and transshipping.

The Netherlands Government advised me that they were much more concerned about our reliability as a steady supplier than with concerns about quality.

E. The British Ministry of Agriculture, who had no complaints about quality of United States grain, but were concerned that we would sell too much hard winter wheat to Russia and Poland, thus increasing the price and decreasing the supply of that which they wish to buy.

F. The Rotterdam Grain Exchange, where in a meeting with representatives of 40 European grain firms, I heard that the:

One. Brazilian soybean has a higher oil content than the United States soybean.

Two. The protein content of U.S. wheat should be higher—the gentleman complaining refused to pay 6 cents a bushel more for wheat with a guaranteed and much higher protein content than that which his company was buying.

Three. That there had been receipts of shipments of U.S. corn, certified to be No. 3 corn, which were actually sample grade. However, the most recent event that could be recalled was in 1972.

G. I also visited port facilities in Rotterdam and photographed a Caterpillar tractor moving around the hold of a ship which still contained some 300 tons of grain. The tractor was driven back and forth across the grain pushing it over to a hose which sucked the grain up to the elevator. Additionally, I photographed grain being blown down from the top of a conveyor to the floor of a barge. The funnel through which the grain was blown was 100 feet long, and the grain was shattering as it hit the barge floor. This is the same procedure that I witnessed in Tilbury, England, and is a standard operating procedure in port facilities.

In each place that I visited, I asked for suggestions as to how grain quality could be improved. I received none.

I also asked the Agriculture officials of these other countries if they thought new research to develop more break-resistent grain would be productive. They were unanimous in their endorsement of that prospect.

Earlier in the article, mention was made of GAFTA. This Grain and Feed Trade Association in an organization of international buyers and sellers of grain. A primary function of GAFTA is to arbitrate disputes between buyers and sellers over the quality or grade of grain sold in international commerce.

U.S. grain is exempt from this process because of our system of certifying grain. If this system was destroyed, and our grain was subject to GAFTA arbitration, they would gain not only in prestige, but also in business volume. Thus, complaints received by the General Accounting Office and others from GAFTA need to be kept in perspective.

Additionally, it is worthwhile to bear in mind that the European Common Market has, thus far, operated to the benefit of some countries more than others.

For example, Great Britain has agreed to accept substantial wheat exports from France that are not the best quality for baking purposes. It is necessary to blend amounts of American wheat with the French wheat to have a satisfactory product. The degree to which complaints about quality can improve price from the buyer's standpoint is the extent to which we subsidize the disposal of French wheat.

The point is that economic considerations are just as operative at one point as at another.

Nevertheless, to conclude that there is no serious problem and, thus, no action is required is to ignore a premise which has long been valuable to its adherents. Simply stated, that is to not only avoid improprieties, but also to avoid the appearance of improprieties.

The present system of inspecting and certifying grain in the United States, invites the appearance of impropriety, if not the act itself.

Grain is inspected and certified by competing private companies who have as their only potential customers the very limited number of U.S. grain exporting companies.

The issuance of a U.S. certificate attesting to the quality of grain under these circumstances begs for proper supervision.

In addition, it seems both appropriate and desirable to establish serious criminal penalties for fraudulent certifying of grain shipments.

Further, serious questions should be raised above the 50-year-old standards that are used to determine the quality of grain.

Taking the Netherlands as an example, their corn imports go mainly for cattle feed. Thus, broken corn often is as valuable as whole corn. Yet, the American farmer accepts a discount and, in effect, receives nothing for his broken corn.

Hopefully, the House Agriculture Committee will authorize a revisionary study of grading standards in the grain inspection bill presently under their consideration.

COURT DECISION FAVORING EPA THREATENS KENNECOTT OPERATION IN NORTHEASTERN NEVADA

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. SANTINI. Mr. Speaker, in my judgment some very pertinent questions have been raised in the following editorial observations. Richard Parker is an editor concerned with the issue of Government regulation and the economic life or death of his community.

White Pine County, Nev., is a county with a small population and a large land area. Since the early 1900's the county and its people have relied upon the copper pit at Ruth and the plant and smelter at McGill to sustain the economic vitality of this unique eastern Nevada county. There are presently almost 1,200 people employed there by the Kennecott Copper Corp. The copper industry is confronted with the realities of a depressd copper market and spiraling costs. In addition to and compounding these serious concerns, Kennecott has the significant burden of complying with EPA ambient air standards. At McGill, Kennecott has made a good faith effort to conform with the regulatory demands. It has already invested several millions of dollars in adapting compliance techniques. The plant is presently meeting the air emission standards, but they are told that they cannot rely upon the supplementary control systems. This demand added to the other aggravating economic circumstances may topple a very large percentage of the employment community into the jobless pit.

It is understandably difficult for these working men, women, and their families to understand how their health and welfare are being improved by the destruction of the sole base of their economy. I believe their plight deserves recognition and understanding by all the reasonable and openminded Members of this House. For your information and consideration, I offer the following editorial:

[From the Ely Daily Times, (Ely, Nev.) December 3, 1975]

CONSIDER THIS AREA ON ITS OWN MERITS

Uniformity isn't the answer.

Commenting on the recent decision by the Ninth Circuit Court of Appeals decision favoring the Environmental Protection Agency (EPA) over Kennecott Copper Corp., Sen. Paul Laxalt said, "This is a classic case where uniform federal regulations just don't work. This may be needed in Los Angeles or New York, but it surely isn't needed in Ely."

The question is: How does this community and this state get this point across to a nonelected, unresponsive bureaucracy such as the EPA?

Common sense tells us White Pine County does not need the same stringent measures of emissions control as do major metropolitan centers.

We have just one smelter here—while the industrialized cities are faced with untold numbers of smokestacks sending emissions into the air.

The Clean Air Act—which the EPA is to administer—is designed to prevent the pollution in the air from reaching levels which would endanger the health and welfare of the populace.

In order to do this, primary and secondary ambient air standards were set.

If there are a dozen polluters in the area, this means each must design a system of control, which when combined with the rest, will keep the air pollution from reaching dangerous levels or violating the federal standards.

If there is just one polluter—such as the McGill smelter—then their degree of control may be less, but the final result would be the same—keeping the level of pollution under the federal ambient air standards.

Kennecott has submitted a plan which they say will adequately assure the health and welfare of this area and will keep them from violating the federal ambient air standards.

The state concurred with their proposal and endorsed it.

But the EPA did not agree.

First, they said Kennecott could install their Supplemental Control System (SCS—a monitoring and computer setup which gives advance warning and gives the appropriate actions necessary to prevent violation), but in order to continue in operation—Kennecott would have to agree to support continuing technology research and install future pollution abatement techniques as they become available—regardless of the cost.

In addition, the EPA has reverted from the initial intent of the Clean Air Act, and now is trying to get the same level of emission control on all polluters regardless of how pure or dirty the air might be in different areas.

Or put another way, they are demanding uniform federal regulations without any consideration to the locale and individual conditions.

If Kennecott has a method to protect the air to assure the health and welfare of this community—why must it do more?

We believe the people of this community deserve an explanation from our federal bureaucracy.

We question what they are trying to protect us from—if our health and welfare is already guaranteed.

Nowhere in the Clean Air Act does it state the solution to air quality control is the destruction of a community's economy by destroying its source of livelihood and in turning it into a ghost town.

OUR NATIONAL SCIENCE POLICY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. TEAGUE. Mr. Speaker, an excellent article by Cristine Russell appeared in the Washington Star on November 14, 1975, regarding the reestablishment of a Science Adviser to the President.

I would like to add a comment regarding the article. Often the "real" authors of legislation are overlooked and do not receive proper accolades. In this case a former Member of Congress, the Honorable Emilio Daddario, now Director of the Office of Technology Assessment, and Mr. Phil Yeager, Counsel to the House Committee on Science and Astronautics, were the real architects and prime movers of the legislation. Their long hours, hard work, and fine expertise regarding this legislation made it all possible. I am glad to have this opportunity to set the record straight.

Ms. Russell's fine article follows:

A RECONCILIATION FOR THAT FADED WHITE HOUSE ROMANCE

(By Cristine Russell)

The courtship began in the crisis of World War II. The marriage was consummated as a result of the Soviet Sputnik launch in 1957. The relationship began to deteriorate in the mid-1960s, reaching an uncommunicative standoff in the early years of this decade. Finally, divorce proceedings were initiated in 1973.

However, Gerald Ford is now ready for a reconciliation between the presidency and the scientific and technical community, as plans go forward to reinstate a science advisory mechanism in the White House two years after Richard Nixon sent science advice into political exile at the National Science Foundation.

The marriage counselor is Vice President Nelson A. Rockefeller, whose longstanding ties with the scientific community have facilitated the move to re-establish a stronger science advisory office. His support has given "high priority" status to a proposal that might otherwise have been obscured by other Ford administration concerns, according to sources involved in the year-old planning process. And the proposal may be one of the few concrete accomplishments of his tenure as vice president.

Ford assigned the task of examining the science advisory apparatus to Rockefeller in response to a growing clamor from the leadership of the scientific community as well as four congressional committees which were disgruntled at the removal of the science adviser from the president's inner councils.

The result of joint efforts between the administration and the House Science and Technology Committee is a bill which would give a White House science advisory office a statutory base for the first time. It easily passed the House on November 6. Three Senate committees with overlapping jurisdiction concluded hearings this week on the proposed legislation. Passage is expected later this year.

Basically, the legislation outlines a national policy and establishes an Office of Science and Technology Policy in the executive office. The director of the office is to advise the president of scientific and technological considerations in areas such as the economy, national security, health, foreign relations, the environment, and the technological recovery and use of resources. He is expected to evaluate and generally coordinate the $22 billion federal research and development effort and assist in annual budget reviews.

The bill also sets up a two-year survey committee, as part of the office, to analyze and make recommendations for possible future changes in the science advisory apparatus. This is a concession to congressional proponents of a Cabinet-level department of science and technology.

But rather than wait until the legislation actually reaches the President's desk, the White House has also announced the formation of two interim task forces which will begin meeting next month to get a head start on issues expected to be of some concern to the new office.

An advisory group under Dr. William O. Baker, Bell Laboratories president who once chaired "Scientists for Nixon," will consider anticipated advances in science and technology which may affect national policies in the decade ahead.

A 16-member panel chaired by Dr. Simon Ramo will examine the contribution of technology to economic strength, looking at how productivity can be improved, the environmental and safety aspects of technological development, the role of government in fostering U.S. technology, and sharing technology with other countries.

Ramo, a prominent 62-year-old aerospace engineer who founded an electronic systems company called TRW, Inc., has been closely involved with Rockefeller over the past year in soliciting advice from prominent scientists around the country. With his ties to industry, academia, and government (he has been a key adviser on many committees and once led the Air Force missile development program), he is considered a leading candidate for the new science advisory spot.

Ramo has found "overwhelming sentiment that there should be a strong influence on science and technology matters right there in the White House." But, he emphasized in an interview, "the science adviser isn't there to speak for science. It is the interaction of science and technology with nontechnological issues that matters."

In the economy, for example, "clearly if the nation increases productivity, with the best application of science and technology it would make an enormous difference."

Ramo's sentiments echo those of administration aides who have been involved in setting up the new science advisory structure. Anxious to avoid the mistakes of the past, they underline the necessity of team spirit embracing the basic philosophy that science and technology is only a means to an end and not an end in itself.

"The President needs people who can look at problems from the same point of view he has to look at them. If he has someone advocating a particular cause, the adviser becomes a problem himself rather than an asset," said a White House source. "A lot of people remember the old science advisory office as excessively an advocate and not enough of a participant in looking at problems from a presidential perspective."

Such intangibles will likely be more important in assuring the success of the new office rather than the formal structure itself.

David Beckler, an experienced science policy watcher who served for two decades as the senior assistant to all six of the previous science advisers, observes that specialized inputs into the White House decision-making structure naturally tend to be rejected by the generalists in charge. Using the analogy of the heart transplant, Beckler concludes that the " 'alien' science and technology mechanism functions effectively only as long as the forces of rejection are continually suppressed. In the end, if the environment does not become more favorable to the acceptance of specialized advice, the transplant fails," as it did in the Nixon administration.

The health of the science advisory office is likely to be most affected by the following forces, says Beckler:

The president's perception of science and technology as instruments of national policy that can contribute to the solution of critical problems.

The effectiveness of channels of communication between the President and the science adviser.

The credibility and confidentiality of the science and technology mechanism in terms of its members and institutional loyalties, as perceived by the President and his staff.

The potential threat posed by the science and technology office to other sources of advice and decisionmaking in a Executive Office, such as the National Security Council and the Domestic Council.

The effect of politically oriented short-term programs on longer-range scientific programs competing for funds.

Traditionally the prominence of science and technology has risen in response to national crises. It was the service of scientists and engineers, and the importance of atomic energy in winning World War II which initiated the golden period of confidence in the "technological fix."

"Science can be effective in the national welfare only as a member of a team, whether the conditions be peace or war," wrote Dr. Vannevar Bush, who led the wartime research and development effort for Franklin D. Roosevelt's team. In influence, if not in title, he was the first Presidential science adviser.

A full-time science adviser was not installed until 1957, however, when the Soviets launched their Sputnik satellite, startling the American pubic and stirring a competitive race to be first in space.

In a radio and television announcement, Dwight Eisenhower assured the Nation that close-hand advice would be provided by Dr. James R. Killian Jr., then president of Massachusetts Institute of Technology. And a President's Science Advisory Committee was soon set up in the White House.

Both Killian and his successor, Harvard chemist Dr. George Kistiakowsky, enjoyed "remarkable access" to the President, providing leadership on space and military research and development issues, recalls Beckler, who calls this the "honeymoon period" for science advice in the White House.

Eisenhower's personal fondness for his advisers was demonstrated many years later, when Killian visited him a month before he died. As he was leaving, Killian recalls that Eisenhower said, "Jim, tell me about my scientists'. And then he ran down the names of the whole group that he had come to know as individuals and wanted to know where they were and how they were, and finally he said, 'Jim, you know in my experience in Washington that group seemed, more than any other with which I worked, to be there more for the good of the country than for themselves."

John Kennedy's appointment of a friend and campaign supporter, MIT electrical engineer Dr. Jerome Weisner, provided an even more informal environment for science in the White House. "He was regarded as one of the political family," says Beckler. "He could walk over, stand outside the President's door and just pop in."

Under Kennedy, the science adviser's staff grew into an institutionalized Office of Science and Technology which allowed the science adviser, as director of the office, to appear before congressional committees.

Kennedy perceived the science adviser's role as one of keeping the government from "going all one way," freeing the president from total dependence on individual departments, recalled Weisner in congressional testimony. And, he said, "the president frequently was in need of expertise to help him resolve conflicts which arose between different agencies of the government."

But despite the respected status of the science adviser, in the later Kennedy years Weisner found it more difficult to reach the president on military questions because of the emergence of a stronger National Security Council staff under special assistant McGeorge Bundy.

"The science adviser's lack of direct communication with the president in these areas greatly weakened his ability to bring other issues to the president," says Beckler. The problem of access became more insurmountable in subsequent administrations.

During Johnson's presidency, the science advisory position suffered on two levels. Princeton chemist Donald Hornig was not really his choice for the job. The appointment was announced shortly before Kennedy's assassination. Hornig was later quoted as saying that "there's always been a certain gap in attitude and approach between a Texas rancher and an Ivy League professor. I was on much easier terms with Kennedy, who asked me to serve in the first place."

And as Johnson became more preoccupied with the Vietnam War, he increasingly perceived the academic critics, including the scientists, as his personal opponents.

With a decreased role in national security, OST increasingly turned its attention to varied domestic problems, from environmental pollution to energy policy, housing, transportation, and food supply. But the broadened role diluted the focus of the office and the myriad reports produced often got "sidetracked in White House staff coordination procedures," says Beckler.

The stature of science advice in the White House suffered its greatest decline in the Nixon years. Advisers Dr. Lee DuBridge, former president of California Institute of Technology, and Dr. Edward David, a Bell Laboratories research director, were frozen out of direct access to the president.

The communication gap widened considerably after two controversial incidents. Former presidential science advisers testified against the antiballistic missile system that the administration was supporting. And in the debate over the SST a presidential science panel questioned the aircraft's desirability and the chairman of the panel personally campaigned against the SST.

Reorganization plan No. 1 of 1973 officially severed the White House setup, assigning science advisory functions to the director of the National Science Foundation, Dr. Guyford Stever.

While no one questioned Stever's credentials (he is mentioned as a candidate for the new spot), the move stimulated an almost unanimous movement within the scientific community to gain re-entry to the White House. The concern was that Stever would be hampered was a lack of proximity and the potential conflict of attempting to provide advice while serving as an agency head.

Acknowledging the fruitlessness of pushing advice where advise is not wanted, the National Academy of Sciences, the Federation of American Scientists, numerous scientific societies, and the former science advisers first took their case to Congress. But the scientists also found Ford to be a willing listener, first as vice president and then as president.

Ford pledged last May that he would recreate the post that his predecessor had abolished. An administration bill was drawn up in June and Rockefeller even made the friendly gesture of appearing before House and Senate committees on the legislation.

Although far more ambitious plans had been proposed, the House science committee under the leadership of Rep. Olin (Tiger) Teague, D-Tex., and ranking Republican Charles Mosher of Ohio tailored legislation to a form acceptable to both sides.

Although it's difficult to say in hindsight what effect the two-year haitus of science advice in the White House has had, one staff member said that in facing complex and controversial issues like whether or not to delay deadlines for meeting auto emission standards, "there were a number of times it would have been helpful to have an adviser close at hand who did not have institutional interests."

But several Administration sources admitted that the move for reinstatement was partially a political response to the spurned scientists and their congressional allies. "There is no reason not to," said one insider, "and once we get a science adviser back here we will make good use of him."

BIG GOVERNMENT

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. GRASSLEY. Mr. Speaker, I recently sent out a questionnaire to survey my district regarding tax cuts. The majority of those responding, 96 percent, said they would only favor a tax cut if Congress agreed to cut spending to an equal degree.

After watching the demise of New York City, most people realize that we must stop running up a Federal budget deficit. But, and I think this is the most important, people are just plain fed up with huge Government bureaucracy, Government redtape and the rules and regulations that the Federal Government uses to run our lives.

I would like to share with my colleagues a recent editorial from the Waterloo Courier that well explains a taxpayer's disgust with big government:

LIMITING FREEDOMS

The self-styled liberals who control the U.S. Congress pay a good deal of lip service to the rights of individuals to pursue their destiny unmolested.

Yet these same liberals have passed one law after another creating new agencies that are constantly infringing on an individual's once cherished right to exercise a freedom of choice.

By the latest count there were at least 47 federal bureaucracies making rules and regulations that meddle in the private affairs of individuals, businesses and corporations.

The philosophy that a chosen few know what is good for us has even filtered into state and local governments.

Don't ride a motorcycle without a helmet or you may go to jail.

Government mandated buzzers warning us to fasten our seat belts intrude on our serenity every time we get in our cars.

Don't burn the leaves and twigs you rake up on your own lawn without the approval of a bureaucrat in city hall.

And so on, ad nauseum.

Nearly 50 years ago Associate Justice Louis D. Brandeis, regarded as a liberal member of the Supreme Court, warned us against the threat to our liberties posed by "men of zeal, well-meaning but without understanding."

What he said was:

"Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachments by men of zeal, well-meaning but without understanding."

At another time the same Associate Justice said about the same thing in another way:

"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness . . . They conferred, as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

In these days, when government at one level or another seems to intrude itself into every aspect of our lives, we should begin to realize just how important "the right to be let alone" really is.

SCHEDULE OF CONGRESSIONAL ALLOWANCES AND OUTLAYS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. LONG of Maryland. Mr. Speaker, in May 1975, I presented a statement of my personal financial position together with information on my income and income tax.

Today, I am submitting a schedule of my congressional allowances and outlays for 1975.

With these various reports, I have gone well beyond my legal obligation, in order to present to my constituents a brief record of my net worth, my taxes, and my disposition of congressional allowances.

In general, this statement of congressional allowances and outlays shows that in 1975, $11,968.69 was received in stationery allowance, office allowance, travel allowance, and telephone reimbursements; that $7,445.27 was spent on these items; and that the balance of $4,523.42 remains on deposit in the stationery and office accounts.

The statement follows:

SCHEDULE OF CONGRESSIONAL ALLOWANCES AND OUTLAYS

I. STATIONERY ALLOWANCE

Allowance	$6,500.00
Outlays:	
For Newsletters	2,071.25
For flags, souvenirs, personal items	2,479.75
Reimbursements for flags, souvenirs, personal items	2,479.75
Net unreimbursed outlays for flags, souvenirs, personal items	0
Scheduled Balance on deposit in Stationery Account on December 31, 1975	4,428.75

II. OFFICE ACCOUNT

Allowance ($500 per quarter)	2,000.00
Outlays for supplies, miscellaneous	1,905.33
Scheduled balance on deposit in office account on December 31, 1975	94.67

III. TELEPHONE EXPENSES

Reimbursements (from the House of Representatives)	1,195.49
Telephone bills paid	1,195.49
Balance	0

IV. TRAVEL ALLOWANCE

The entire 1975 Travel Allowance was used up by October 1, 1975, for daily travel from Washington to Baltimore as follows:

Travel allowance for 1975	$2,273.20
Travel through October 1, 1975:	
131 round trips at 116 miles per trip equals:	
15,196 miles at .15¢ per mile	2,279.40
Balance	0

The telephone expenses are the only true expense item, in that all expenditures on telephone service for the District Office are reimbursed dollar-for-dollar and that telephone reimbursements cannot exceed telephone expenses.

The remainder of the allowances—for travel, stationery, and office—are flat allowances which become the personal income of the Congressman.

There is no provision for returning any balance to the Treasury, and the balances on deposit in the Stationery and Office Accounts at year's end are subject to personal income tax.

TRIBUTE TO PHILIP HORWITH

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. BELL. Mr. Speaker, this is an appropriate occasion to commend Mr. Philip Horwith for his many years of outstanding community leadership in southern California.

Phil Horwith is a native of Wisconsin. He is married and the father of two girls and three boys.

Educated at Taft College, Utah State University, University of Nebraska, and American University, Mr. Horwith also holds LL.B. and J.D. degrees from Washington College, Washington, D.C.

His military career in the U.S. Army 104th Infantry Division during World War II was distinguished by the award of the Bronze Star and the Purple Heart.

He is currently president of American Publishing Co., Inc., and publisher of four community newspapers, including the Record-Ledger.

Extremely active in the Sunland-Tujunga Chamber of Commerce, Mr. Horwith has been president of that chamber for the past 3 years and member of the board of directors for 4 years. He is also a member of the board of directors of the Touluca Lake Chamber of Commerce.

Community service activities have also included being a member of the board of managers of the Sunland-Tujunga YMCA; member of the board of directors of the Sunland-Tujunga YMCA; member of the board of directors of the Sunland-Tujunga Coordinating Council; member of P.A.L.S., Los Angeles Police Department; and member of the Clipper Club, La Canada Presbyterian Church. He is, in short, one of our most active and respected community leaders.

Last month, after 3 years of distinguished leadership as president of the Sunland-Tujunga Chamber of Commerce, Philip Horwith retired. Fortunately, he will continue as a member of the executive committee. But he will be hard to replace as president. And all of us who have had the pleasure of working with him applaud his performance and thank him for a job well done.

HOUSE OF REPRESENTATIVES—*Friday, December 12, 1975*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let the peace of God rule in your hearts; and be ye thankful.—Colossians 3: 15.

O God, our Father, we come to Thee in the midst of the troubles and trials of the world to open our hearts to the quiet peace of Thy presence. Strong in Thy strength we would greet the sunrise of another day.

May the spirit of Advent be truly ours, keeping us steady in our work, firm in our faith, courageous in our conduct, active in all good attitudes, and constantly renewed by our response to Thee.

Send Thy grace into the hearts of all who labor under the dome of the Capitol that they may have joy in work well done. Come Thou into the hearts of our people, lifting our Nation to the higher ground of love and truth and peace.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2724. An act to provide for establishment of the Father Marquette National Memorial near St. Ignace, Mich., and for other purposes; and

H.R. 11027. An act to amend the effective date of the Defense Production Act Amendments of 1975.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8773) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6673. An act to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes; and

H.R. 7988. An act to amend the Public Health Service Act to revise and extend the program under the National Heart and Lung Institute, to revise and extend the program of National Research Service Awards, and to establish a national program with respect to genetic diseases; and to require a study and report on the release of research information.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7988) entitled "An act to amend the Public Health Service Act to revise and extend the program under the National Heart and Lung Institute, to revise and extend the program of National Research Service Awards, and to establish a national program with respect to genetic diseases; and to require a study and report on the release of research information," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Williams, Mr. Pell, Mr. Kennedy, Mr. Mondale, Mr. Cranston, Mr. Hathaway, Mr. Durkin, Mr. Eagleton, Mr. Nelson, Mr. Javits, Mr. Schweiker, Mr. Taft, Mr. Beall, Mr. Stafford, and Mr. Laxalt to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 55. An act for the relief of Dino Mendoza Pascua;

S. 447. An act for the relief of Jesus Cortez Pineda;

S. 605. An act to amend the Act of June 30, 1944, an act "To provide for the establishment of the Harpers Ferry National Monument," and for other purposes; and

S. 1653. An act for the relief of Sun Yang Kim and Sun Mi Kim.

PERMISSION FOR SUBCOMMITTEE ON AVIATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO MEET ON TUESDAY, DECEMBER 16, 1975

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Public Works and Transportation be permitted to meet for the purpose of conducting business on Tuesday, December 16, 1975.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MAJORITY LEADER TO APPEAR ON "MEET THE PRESS"

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I take this opportunity to advise Members of the House that the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill), will be appearing on the television program "Meet the Press" next Sunday, December 14, 1975, at 12 noon on channel 4, NBC, in Washington, D.C.

I am confident that Members of the House will listen with great interest to the views of the majority leader on the important issues facing our country.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 466, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1976

Mr. **ADAMS.** Mr. Speaker, I call up the conference report on House Concurrent Resolution 466, revising the congressional budget for the U.S. Government for the fiscal year 1976, and directing certain reconciliation action.

CALL OF THE HOUSE

Mr. **CEDERBERG.** Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER.** Evidently a quorum is not present.

Mr. **O'NEILL.** Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 772]

Ambro
Anderson, Ill.
Andrews, N.C.
Archer
AuCoin
Badillo
Bell
Boggs
Bolling
Brooks
Buchanan
Burke, Fla.
Burton, John
Burton, Phillip
Butler
Byron
Casey
Chappell
Chisholm
Clay
Conyers
Corman
Crane
Davis
Delaney
Dellums
Diggs
Dingell
Drinan
du Pont
Edwards, Calif.
Esch
Eshleman
Fish
Flynt
Foley
Ford, Mich.
Fraser
Gaydos
Giaimo
Hagedorn
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Heckler, Mass.
Hefner
Heinz
Helstoski
Hinshaw
Holland
Horton
Howard
Hughes
Hutchinson
Jarman
Jenrette
Jordan
Ketchum
Kindness
Krueger
Landrum
Long, La.
McClory
McDade
McDonald
McEwen
Matsunaga
Mazzoli
Metcalfe
Meyner
Mezvinsky
Moakley
Moffett
Mosher
Murphy, N.Y.
O'Hara
Patten, N.J.
Peyser
Pike
Quie
Railsback
Rangel
Roberts
Rodino
Rose
Rousselot
Ruppe
Scheuer
Sebelius
Seiberling
Shuster
Sikes
Snyder
Spellman
Stanton, James V.
Stephens
Stokes
Stuckey
Symington
Teague
Thompson
Udall
Ullman
Van Deerlin
Vander Jagt
Waxman
Weaver
Whitehurst
Wilson, C. H.
Wilson, Tex.
Wright
Yates
Young, Tex.
Zeferetti

The **SPEAKER.** On this rollcall 318 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REFERRAL OF H.R. 9872 TO THE COMMITTEE ON THE JUDICIARY

Mr. **HENDERSON.** Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill, H.R. 9872, and that the bill be referred to the Committee on the Judiciary.

The **SPEAKER.** Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 466, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1976

The **SPEAKER.** The Clerk will read.

The Clerk read the title of the concurrent resolution.

Mr. **ADAMS.** Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. **ADAMS.** Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

(For conference report and statement, see proceedings of the House of December 8, 1975.)

The **SPEAKER.** The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. **ADAMS.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on the second budget resolution for fiscal year 1976. The report is a reasonable compromise between the positions of the House and Senate.

The conferees agreed to the following budget aggregates for fiscal year 1976:

Outlays: $374.9 billion, approximately $1 billion above the House resolution and $700 million below the Senate resolution.

Budget authority: $408 billion, approximately the same as the House resolution and $1.8 billion above the Senate resolution.

Deficit: $74.1 billion, approximately $2 billion above the House resolution and $700 million below the Senate resolution.

Revenues: $300.8 billion, $1 billion below the House resolution and the same as the Senate resolution.

Public debt: $622.6 billion, $2.1 billion above the House resolution and $600 million below the Senate resolution.

Of these amounts, the budget authority and outlay figures represent ceilings. The revenue figure represents a floor. After adoption of the conference report, it will not be in order in either House to consider legislation which would exceed the spending ceilings or reduce revenues below the floor.

The conference report also deals with the transition quarter, the 3-month period—July 1, 1976, to September 30, 1976—between fiscal years 1976 and 1977. As Members know, the Senate resolution established spending ceilings and a revenue floor for the transition quarter as well as for fiscal year 1976. In addition, the Senate Budget Committee report on the resolution had established estimates for each functional category of the budget.

The House resolution did neither. The Budget Committee felt that the transition quarter was a one-time occurrence which did not lend itself to treatment through a concurrent resolution on the budget.

The conferees considered the transition quarter at great length, and finally resolved the issue as follows: The conference report establishes targets for the five budget aggregates: Revenues, budget authority, outlays, deficit, and public debt; these targets are to be treated the same as the first budget resolution targets set this spring; that is, they are to guide both Houses in providing budget authority for the transition quarter; in addition, the statement of managers on the conference report states that next spring these targets will be revised, as necessary, and ceilings set in the same manner as they are now being set for fiscal year 1976. Also, the statement of managers contains estimates for functional categories for the transition quarter.

We believe this agreement is a reasonable resolution of the transition quarter issue. No legislation for the quarter can be subjected to a point of order for breaching the targets; yet all committees are notified that ceilings will be set next spring, either in a third budget resolution for fiscal year 1976 or as part of the first resolution for fiscal year 1977.

I would like at this point to inform Members of the resolution of other major issues in conference.

First. Absorption of the cost-of-living pay increase. The House resolution had assumed a 50-percent across-the-board absorption of the 5-percent cost-of-living increase for all Federal military and civilian employees. The Senate had assumed a 10-percent absorption only. The conference report assumes that at least 10 percent of the pay increase will be absorbed.

Second. Neither the House nor the Senate resolution contained funds for the New York City legislation, which will result in budget authority, but no outlays, in fiscal year 1976. Budget authority for this legislation can be accommodated within the spending ceilings set in the conference report. However, if funds are appropriated by the Congress and other major items assumed in the conference report are also enacted, it will be necessary to revise the ceilings set in the conference report through a third budget resolution next spring.

Third. Receipts from the sale of offshore oil leases. The House resolution had assumed receipts of $6 billion from these sales, which are deducted from other Government spending. The Senate resolution assumed receipts of only $4 billion. The conference report assumes receipts of $4.5 billion during the fiscal year. These estimates are highly uncertain due to differing valuations of the tracts involved and various environmental lawsuits. The $4.5 billion estimate of receipts is the most realistic estimate the managers could agree upon in this area.

Fourth. Revenues from tax reform. The House resolution assumed that $1 billion in additional revenues would be raised in fiscal year 1976 through tax reform. The Senate resolution made no such assumption. The conference report accepts the Senate resolution assumption that it is unrealistic to expect this $1 billion in receipts to be realized during fiscal year 1976.

Fifth. Reconciliation on revenues. Both the House and Senate resolutions directed the House Ways and Means and Senate Finance Committees to reduce revenues by $6.4 billion in fiscal year 1976. This reduction is necessary to maintain the personal income tax withholding rates and extend the temporary corporate tax reductions in the 1975 Tax Reduction Act. The conference report retains this reconciliation direction.

Finally, the House resolution, through adoption of the O'Neill amendment, had provided approximately $1.4 billion in budget authority and $235 million in outlays for various public service jobs, manpower training, and education programs. The Senate resolution contained only a small portion of these funds primarily for the impact aid program. The conference report contains nearly $1 billion of the amounts contained in the O'Neill amendment for these programs.

Adoption of the conference report will complete the first year implementation of the new budget process. I believe all Members are to be congratulated for their role in making this new process work so well.

Mr. Speaker, I urge adoption of the conference report.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for yielding to me. I think it is well to advise my colleagues in the House of the kind of leadership that our chairman demonstrated in the conference. At one point, it appeared that we were so deadlocked that the resolution would come back in disagreement, and there was a strong feeling that if that happened, it would begin to unravel the budget process which, believe me, is beginning to work—there is no doubt about it, it is beginning to work.

Thanks to the leadership of our chairman, a satisfactory compromise was arrived at and we are able to bring the resolution before the House. I would urge support of the resolution.

A tremendous job was done, not only in terms of protecting the positions taken by the House, but also in terms of protecting the jurisdiction and the integrity of the various committees of the House.

Mr. Speaker, I would urge full support of the resolution, and I thank the gentleman for yielding to me.

Mr. ADAMS. I thank the gentleman from Maryland.

Mr. FOUNTAIN. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from North Carolina.

(By unanimous consent Mr. FOUNTAIN was allowed to speak out of order.)

STATUS OF GENERAL REVENUE SHARING LEGISLATION

Mr. FOUNTAIN. Mr. Speaker, I want to make a brief status report for the benefit of those colleagues who are being contacted by local and State government officials concerning pending legislation to extend the State and Local Fiscal Assistance Act of 1972. Judging by the numerous inquiries received by the Intergovernmental Relations and Human Resources Subcommittee from the Members and their staffs, I know this is a matter of considerable current interest.

Over the past 3 months of this year the subcommittee has held 16 days of hearings and took testimony from 87 witnesses on the subject of general revenue sharing. Many of these witnesses represented and spoke on behalf of local, State, and national organizations and political subdivisions. In addition, we have received written statements and letters from a great many organizations and individuals that did not have an opportunity to testify.

Prior to these hearings, the subcommittee spent most of July holding background hearings on "Fiscal Relations in the American Federal System." Those hearings are intimately related to the basic issues in revenue sharing, and provide valuable background information for our subcommittee which was given legislative responsibility for revenue sharing only this year.

I am satisfied that the subcommittee has compiled an excellent hearing record which will enable us to go forward in the consideration of this important legislation with confidence that all parties at interest and all points of view have been heard.

It is our intention to proceed to markup sessions just as soon as the necessary preparatory work has been completed. The subcommittee staff is now engaged in summarizing and analyzing the testimony of the witnesses as a basis for developing a document that will bring together the policy issues and alternatives for the subcommittee's consideration. It should be noted that the subcommittee has before it more than 30 revenue sharing bills proposing a wide range of legislative approaches.

It appears at this time that the subcommittee will be prepared to begin markup very early in the next session, possibly during the latter part of January, depending upon when we return from the Christmas recess.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding to me. I would like to direct a few questions about the transition quarter provisions of the budget conference report to the distinguished chairman.

As I understand it, from the gentleman's explanation, these figures in the transition quarter portion of the conference report are no more than targets that will be reassessed early in the next year and possibly subjected to changes by a third concurrent resolution or a first concurrent resolution, depending upon which fiscal year. Is that correct?

Mr. ADAMS The gentleman is correct. We are treating the transition quarter exactly as though it were a fiscal year; in other words, we are subjecting it to a first resolution and a second resolution.

This portion of the resolution is being treated as though it were the first concurrent resolution for a fiscal year.

When we have the next budget resolution, be it the statutory one required to be reported by April 15, or a third concurrent resolution reported by the Budget Committees, whichever is the earlier, we will treat the transition quarter provisions as in a second concurrent resolution setting ceilings.

Mr. BAUMAN. If the gentleman will yield further, after that explanation, I think it is proper to observe that the House as a whole and the gentleman's committee never really had an occasion to study this transitional quarter and all of the aggregate figures for that quarter before us today in this conference report are before us for the first time.

These figures are totally creatures of the other body and we had no deliberations except in the conference. Really this is the first time we have voted on these increased levels, is it not?

Mr. ADAMS. This is the first time that the House has voted on it, and it is why we established targets. The Senate was insisting that these be ceilings, and we said that it was not proper to do that. We had considered—and the gentleman well knows from his attendance on the floor and from following the appropriations bills—that the appropriations for the 3-month period have been wrapped in the appropriations bill. They have, for the most part, already been established as ceilings. The House has considered all of them piece by piece as they have gone through. Frankly, we felt that this procedure should simply continue, but there were at least two bills that have not yet been enacted that the Senate was concerned about that involved potential advance funding. That is why we acceded to the Senate request to place targets in the conference report. However, the House had not considered them and we refused to make them ceilings.

Mr. BAUMAN. If the gentleman will yield further, the thing that concerns the gentleman from Maryland is that these transition figures provide for hefty increases in the public debt and in the deficit projected beyond the quarter. If these targets are followed we face greatly increased spending, outlays, national debt, and deficits in 1976. It seems to me that we are making a substantial change from what we had originally considered in the House of Representatives in October. What I thought was going to be a very orderly procedure seems to be anything but orderly. It seems to me that we are being asked today to swallow whole something we really have had no chance to consider fully, with many serious economic consequences.

Mr. ADAMS. I might state to the gentleman from Maryland that the figures that are there is something that was not created by the Committee on the Budget. They bring before the House what the House and the Senate have done to date on the transition quarter, including estimates of certain mandatory spending not yet enacted. That is the basis on which we are doing it. Then in the spring, the Members will have had 2 or 3 months to decide whether or not they want these figures to remain permanent figures.

Mr. BAUMAN. If the gentleman will yield further, I thank the gentleman for his explanation. I only observe that those who vote for this conference report put themselves on record for even greater increases in the deficit next year and another major increase in the national debt next year. I, for one, will not support that.

Mr. ADAMS. I might state to the gentleman that those are already in place in the appropriations bills, they have been placed in the 15-month appropriations. That is one of the things I think the Members should understand about the Committee on the Budget and ceilings, that really we reflect what the House and the Senate have done.

We do not create these figures. By the time the ceilings come into the second resolution we are at a point where we are basically reflecting House and Senate action.

In some cases, it has not been possible to do this. I can anticipate—and the gentleman asked me about this repeatedly while we were going through this process—when the supplemental comes up in the spring, if every program in here is included, plus the amount for New York, it may well be subject to a point of order. I have informed the chairman of the Committee on Appropriations of that.

Mr. Speaker, I think what the gentleman has been asking for during the course of the year has happened; the ceiling on spending has been put on.

Mr. BAUMAN. Mr. Speaker, I certainly appreciate the gentleman's explanation. I want the gentleman to know that I do not hold him personally responsible for the collective lack of wisdom of either body on these matters but it seems clear to me that this entire new budgetary process, which was supposed to hold down spending and deficits, is to be perverted into a method to cause and sanction still more of the same irresponsible spending policies we have had in Congress for years.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I wonder if the gentleman has any information for us concerning evidence from witnesses, or others, as to the effect of these continuing large deficits. Are they considered to be absorbable by the economy? Is the committee alarmed or comforted by the evidence of witnesses?

Mr. ADAMS. We have been comforted by the testimony of the witnesses, but, of course, there is reason for alarm. One of the reasons the Budget Act was passed was because the country was running continuing deficits, and it seemed that this was going to be our way of life. Certainly the gentleman in the well does not believe that is the way we should proceed.

Mr. Speaker, the witnesses before us indicated that with a deficit in the range of $70 to $75 billion we would not achieve any crowding out in the money market. Some economists disagreed with that, and there was a debate about it. However, the majority of the members of the committee, both in the House and the Senate, were satisfied that the country could finance and move with this deficit level, with the caveat that these amounts not continue. All the economists who testified before us were in agreement that we could not continue the course of the past 4 years and continue adding on to the deficit each year, and we do not intend to do so.

Mrs. FENWICK. Mr. Speaker, I thank the gentleman.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Speaker, I hope the gentleman will excuse me for asking this, but as a new Member I am not thoroughly familiar with what has gone on before.

As a point of inquiry and information to me, does this resolution call for less money or more money than is in the President's budget?

Mr. ADAMS. Mr. Speaker, the President's budget at the present time is approximately between 1 and 2 percent lower than the resolution that is here. I say "approximately," because one of the things we found in working with the Budget Act is that there are certain categories which in the opinion of the gentleman in the well will be corrected that produce a swing between the two sets of figures used.

The key figure in these categories is the one for offshore oil receipts. Offshore oil receipts are treated in the budget as negative expenditures. We tried to arrive at an agreement with the administration to use the figure of $6 billion as negative expenditures.

The Senate, after days of conference, absolutely refused to accept that figure, so we have a figure now of $4.5 billion. Therefore, there is a swing of $1.5 billion between the administration's budget and the amount in the concurrent resolution here, and that is based on two different assumptions on negative expenditures.

Mr. ALLEN. Then taking the point of view of the House on this offshore proposal, actually this is less than that contained in the President's proposal?

Mr. ADAMS. The gentleman is correct.

Mr. ALLEN. Mr. Speaker, I thank the gentleman.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset just let me say that I find it a real pleasure to work with the gentleman from the State of Washington (Mr. ADAMS), the chairman of this committee, and the members of this committee. Even though we cannot agree and do not agree on the resolution, it is a pleasure to work with the members of the committee.

First, let me say that House Concurrent Resolution 466 as reported by the Committee on the Budget and approved by the House on November 12, 1975, was unacceptable to me and the final vote indicated it was almost unacceptable to the majority of the Members of this House.

We have emerged from conference with a report which is even more unacceptable. I could not and did not support the conference committee report and my signature does not appear thereon.

As I stated to the House when House Concurrent Resolution 466 was being considered, the resolution accepts the policy of deficit spending, agrees to huge and growing transfer payments, and Government involvement in the economy that I firmly believe is detrimental to the Nation.

The conferees made the resolution more unpalatable, agreeing to a boost in spending and a deficit figure above the House figures.

The aggregate budget figures as approved by the House and Senate conferees are as follows:

[In billions]

	House totals	Senate totals	Conference agreement
Revenue	$301. 8	$300. 8	$300. 8
Budget authority	408. 0	406. 2	408. 0
Outlays	373. 9	375. 6	374. 9
Deficit	72. 1	74. 8	74. 1
Public debt	620. 5	623. 2	+622. 6

I might say it is regrettable that the House conferees generally agreed on more—rather than less—Federal spending when the choices had to be made to accept either the House or Senate totals.

For example, this budget resolution increases the public debt figure from $620.5 billion House figure to $622.6 billion. It increases that deficit by exactly $2 billion. The House provided $408 billion in budget authority as compared to the lower $406.2 billion in the Senate version. The higher House figure was accepted in full.

On the other hand, the Senate proposed a larger outlay figure, $375.6 billion, as compared with $373.9 billion for the House. The figure agreed to was $374.9 billion, which is nearer the higher Senate figure.

Coupling that high outlay figure with the low revenue amount that was agreed upon places the deficit at the staggering amount of $74.1 billion, or $2 billion over what the House resolution provided.

The second concurrent resolution establishes a floor on budget receipts of $300.8 billion. Setting such a floor on receipts is unfortunate and undesirable. The American people want the Congress to cut Federal spending and the taxes that support such spending. Placing a floor on receipts eliminates this most important option that the Congress should continue to consider.

I might say that when we discuss the amount of the deficit contemplated for fiscal year 1976, we are talking about $203 million of additional deficit each and every day—$203 million each and every day—in fiscal year 1976. This is what we are talking about, when we talk about a $74.1 billion deficit for the fiscal year.

CALL OF THE HOUSE

Mr. DEL CLAWSON. Mr. Speaker, I make the point of order that a quorum is not present.

I think it is very important that we get this message across to the Members.

The SPEAKER. Evidently a quorum is not present.

Mr. GIBBONS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 773]

Abzug
Anderson, Ill.
Andrews, N.C.
Badillo
Bell
Brooks
Burke, Fla.
Burton, John
Burton, Phillip
Casey
Chisholm
Conyers
Corman
Coughlin
Davis
Dellums
Diggs
Dingell
Dodd
Drinan
Edwards, Calif.
Erlenborn
Esch
Eshleman
Flynt
Foley
Ford, Mich.
Gaydos
Harrington
Harsha
Hastings
Hays, Ohio
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Horton
Howard
Jarman
Jeffords
Jenrette
Johnson, Colo.
Jones, Okla.
Kemp
Ketchum
Kindness
Landrum
Litton
Long, La.
McClory
McKinney
Matsunaga
Melcher
Metcalfe
Meyner
Moffett
O'Hara
Peyser
Pickle
Pike
Randall
Rees
Risenhoover
Roberts
Roncalio
Rose
Runnels
Ruppe
St Germain
Satterfield
Scheuer
Sebelius
Seiberling
Shuster
Sikes
Sisk
Snyder
Stanton, James V.
Stark
Steiger, Ariz.
Stokes
Symington
Teague
Thompson
Udall
Ullman
Van Deerlin
Vander Jagt
Weaver
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Yates
Zeferetti

The SPEAKER. On this rollcall 335 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 466, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1976

The SPEAKER. The gentleman from Ohio (Mr. LATTA) has the floor.

Mr. LATTA. Mr. Speaker, let me say, just prior to the quorum call I had mentioned a figure which I believe I should mention again, because I believe that the Members of the House and the American people ought to keep this figure in mind. We really do not comprehend what a billion dollars is, and I certainly do not understand what $74.1 billion is, which is the amount of the deficit programed in this resolution. If you take your pencils and figure out how much this deficit programing will be per day during the fiscal year 1976, you will come up with a figure of $203 million every single day in fiscal year 1976. This is what we are talking about when we are talking about the deficit being programed under this resolution.

This resolution establishes a floor on budget receipts of $300.8 billion. Setting such a floor on receipts, in my humble judgment, is both unfortunate and undesirable. The American people want the Congress to cut Federal spending and the taxes that support such spending. Placing a floor on receipts eliminates this most important option that the Congress should continue to consider.

The deficit I have already mentioned could even go higher; if, for example, costs of a variety of programs go up or the programs are expanded or new ones are added.

Additionally, the amounts in the resolution do not include funding for the New York aid program. The resolution as agreed to in conference does little, if anything, to cut back on the frightening increases in Federal spending, due in large part to increases in so-called transfer payments. To the contrary, the budget figures agreed to by the majority of the conferees mostly accommodate what a host of separate programs will consume if we permit them to run their projected courses. The conference report represents a commitment to the various beneficiaries of these swollen Federal spending programs; it definitely is not a commitment to the benefit of the taxpayer and the public interest.

Taxpayers across the Nation know that the President has called for a sizable tax cut accompanied by a firm limit on spending the following fiscal year. So far, he has been rebuffed by a majority in the Congress. The taxpayers should also know that it is the very kind of legislation we are considering today, calling for outrageously high levels of Federal spending, which can prevent a tax cut proposal of the size recommended by the President from becoming a reality.

The American taxpayer and our free enterprise system certainly deserve more consideration than is given under this budget resolution. In fiscal year 1976, approximately $170 billion will be spent in income transfer payments. The private sector of the economy bears the major burden of producing the goods and services necessary to support such transfers. To continue to strap the taxpayer and to stifle the private sector with Government regulations can do immense harm to the individual initiatives which have developed this Nation to the preeminence it enjoys today.

The action taken on this budget resolution is certainly not, in my opinion, symbolic of how the new budget process should work. I believe it must be used to place needed discipline and restraints on our runaway Federal spending. Unfortunately, we have done little more than talk about budget control and we hear it in this resolution in name only.

When I accepted an assignment to this Budget Control Committee, I firmly believed that we would really bite the bullet, so to speak, and cut back on Federal spending. I must admit, I have seen very little evidence of such an effort in this committee to date.

The conferees have brought back to the House figures which will apply to the July-through-September transition quarter next year. House Concurrent Resolution 466, as approved by the House, did not contain such figures. While the amount for fiscal year 1976 in the resolution will amount to ceilings, the transition quarter aggregate as approved by the conference will serve as targets.

The intention is to convert these into ceilings in the next resolution, which should be either a third resolution for this fiscal year or the first resolution for fiscal year 1977, next spring.

Though I approve of the concept of including amounts for the transition period, the figures adopted simply provide for spending to continue at about the fiscal year 1976 level. This again is simply the old approach of budget accommodation. It certainly does not deserve the name of budget control.

Mr. Speaker, as was pointed out in our minority dissent on House Concurrent Resolution 466, the country desperately needs evidence that the Congress is at least preparing to bring mounting Federal spending under control. This resolution does nothing to provide such evidence. It once again postpones the time when this Congress must accept such responsibility and get down to the necessary task of meaningful budget control.

Mr. FRENZEL. Mr. Speaker, I intend to vote against this unnecessarily extravagant resolution. I do so with some regret because I strongly support the budget process and I appreciate the efforts of the committee and of its distinguished chairman, the gentleman from Washington (Mr. ADAMS).

This year, Republicans have increasingly been forced to vote negatively on budget and spending matters. The role of nay-sayer is not a pleasant one, but given our soaring deficits, and given our Democrat leadership's adamant refusal to set a spending ceiling, it is the only responsible role.

The new procedures under the Budget Reform Act are good. The committee has worked hard. It may even have saved a few dollars. It surely will save more dollars in the future. I encourage the committee and congratulate it, but I give it no prizes for effectiveness so far.

The committee's work has been lavishly praised on this floor. If the praise applies only to work expended, I concur. If the praise is intended to apply to the committee's product, I vigorously disagree.

Why do we praise a resolution which confirms a $75 billion deficit for this fiscal year? Why do we praise the result of a simple amalgation process by which the committee merely assembled the "want lists" of all the other authorizing committees? Whoopee. The committee has brought us $75 billion worth of red ink. What a triumph.

The 1 year budget practice session in which this House has indulged, has proved conclusively that Congress is totally unwilling to limit its wild spending. It has proved that the only way to control congressional profligacy is to vote a spending ceiling.

I shall vote against this resolution, not only because it is irresponsibly extravagant, but also because it seems to confuse some people into the belief that there is some congressional control of spending, when, in fact, our spending is still fully out of control.

Mr. FISHER. Mr. Speaker, the work done by the Budget Committee and its distinguished chairman in bringing this concurrent resolution forward and in carrying out the new congressional budget procedures has been outstanding. For the first time a good measure of order, even sanity, has characterized the way the Congress deals with the budget. As one who before coming to this House strongly advocated the new process in speeches and writing, I have to say I am proud now to be a participant in this reform.

The sterner test of our new budget procedures will come next year as the Congress develops budget ceilings and guidelines for fiscal year 1977, this time with the budget legislation in full operation. I am optimistic that the House and the Congress as a whole will perform so as to gain the confidence of the American people that sensible budgeting can be achieved. I pledge that I will work toward that goal.

Looking ahead to next year's budget I sincerely hope the Budget Committee will work out guidelines that will give the Nation a conservative budget, bring the mounting expenditures under control, and if possible reduce the deficit. This past year, 1975, the widespread economic recession, the worst for several decades, has made such a budget difficult to achieve. But with a continuing improvement in employment, business, and the economy generally it should be possible to turn this around. The economic pickup, especially if its momentum increases, will automatically bring lower outlays for unemployment and welfare compensation plus higher tax revenues as employment and incomes rise and business makes more profit. In addition, the return of better times means that other Government programs can be restrained and many actually cut. These measures will also help to check further inflation. The time to take these steps is during the early months of 1976 as a planned part of the new budget process in preparation for fiscal year 1977 and not, as the President has proposed, before the whole 1977 budget—revenues, detailed outlays both to be authorized and actually spent, deficit, debt—has been developed by the administration and presented to the Congress next January in the regular course of action.

This is the road the Government must travel if America is to break loose from the financial trap it is caught in. The challenge is to make use of the new, more orderely budget procedures to help restrain Government outlays, reduce the deficit, and restore full financial soundness to the operation of our Government. Unless these things are done, beginning next year, our troubles will only mount and become increasingly difficult to deal with.

Mr. AMBRO. Mr. Speaker, I rise in opposition to the conference report to accompany House Concurrent Resolution 466, the second concurrent resolution on the fiscal year 1976 budget. I would like to take this opportunity to make it clear to you and to the Members of this House just why I am taking this action.

First of all, I wish to state unequivocally that I strongly favor the concept of a congressional budget which sets parameters for congressional action on all spending and revenue-raising legislation. I think that the philosophy behind and the procedures surrounding the Budget and Impoundment Control Act (P.L. 94-344) are most laudable. As such, I have cast affirmative votes on all of the legislative actions brought to the Floor dealing with the fiscal year 1976 budget, thus far.

However, I find that now, in spite of my approval of the congressional budget-making process, I must record a dissenting vote as a protest against what seems to have become a "creeping deficit." The first concurrent budget resolution that we enacted last spring contained a deficit level of $68.8 billion, considerably higher than the $60 billion that President Ford dramatically indicated—by drawing a line with a flourish—he would not exceed. Then, in this second budget resolution, we were presented with a deficit limit of $72.0 billion based on a continuing failure of the economy to improve, and some new authorizations enacted by Congress in the interim. Frankly, I was concerned and alarmed at this $4 billion increase, but I was persuaded by the importance of the "principle" of a congressional budget to vote in favor of House Concurrent Resolution when it was considered by the House in November.

Now, with this conference report, we are again being asked to approve yet a larger deficit: $74.1 billion. This is a $6 billion increase over our own original deficit level—an increase of almost 10 percent!

Mr. Speaker, I feel very strongly that the citizens of this Nation are imploring us to take a very hard-nosed approach to Government spending so that the "business-as-usual" spiraling of the deficit can be curtailed. It is in this spirit, that I vote against the conference report on House Concurrent Resolution 466.

Mr. DANIELS of New Jersey. Mr. Speaker, I rise in strong support for the conference report on the second congressional budget resolution, House Concurrent Resolution 466.

Passage of the conference report will complete the first-year implementation of the new budget control system, which is designed to provide for a strong congressional role in the annual budget process and for a greater congressional responsibility in the formulation of national economic goals.

This new congressional budget process is intended to give Congress better control over spending, enable it to set priorities within the budget and relate spending to revenues. This is an historic step we have taken, and I urge my colleagues to commit themselves to sustaining its momentum. The need for a rational and effective budget process has never been more apparent. The economy is just emerging from both double-digit inflation and a deep recession. Even with a strong recovery, we can expect that unemployment will remain unacceptably high for some time to come. At the same time, we are still grappling with the problem of inflation, which erodes the earning power of American citizens and forces some to make great sacrifices in order to survive.

Mr. Speaker, improved budgetary procedures alone cannot solve all of the Nation's economic problems. We will need to coordinate this effort with a wide range of policy measures, including efforts to strengthen competition and productivity and assure an adequate volume of capital investment. But it is clear to me that an effective and proper use of the budget process will be essential for reconciling high unemployment and reasonable price stability.

To a large extent, long-term prospects for containing inflation will depend upon our commitment and resolve to keep Federal expenditures under control and to make budgetary decisions that result in more rational and productive allocations of fiscal resources.

Admittedly, this will not be an easy task: but it is essential that we face it squarely.

As my colleagues are aware, the Congressional Budget Control and Impoundment Act of 1974—Public Law 93-344—provides that after adoption of this second resolution, it is not in order for either the House or the Senate to consider legislation which would either reduce revenues below the specified level—which is $300.8 billion—or increase spending above the budgeted level—which is set at $374.9 billion in this report. If the House or Senate believes it necessary to reduce revenues or increase spending, an emergency waiver must be obtained or a new budget resolution adopted.

Mr. Speaker, I commend my colleagues who have worked so hard on this report, and I urge all of my colleagues to join with me in supporting this landmark legislation.

Mr. ADAMS. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 189, nays 187, not voting 58, as follows:

[Roll No. 774]

YEAS—189

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Bingham

Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Carney
Casey
Clay
Collins, Ill.
Conte
Cornell

Cotter
D'Amours
Daniels, N.J.
Danielson
Delaney
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fary

Fascell
Fisher
Flood
Florio
Flowers
Foley
Fraser
Giaimo
Gibbons
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harris
Hayes, Ind.
Hicks
Hightower
Holland
Holtzman
Howe
Hungate
Jacobs
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Litton
Lloyd, Calif.
Long, La.
McCormack
McFall
McKay
Macdonald
Madden
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Nedzi
Nix
Nolan
Nowak
Oberstar
O'Neill
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Preyer
Price
Rangel
Rees
Reuss
Richmond
Riegle
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Sarbanes
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Steed
Stephens
Stratton
Studds
Thornton
Traxler
Tsongas
Vander Veen
Vanik
Vigorito
Waxman
Whalen
White
Wilson, Tex.
Wirth
Wolff
Yatron
Young, Ga.
Young, Tex.
Zablocki
Taylor, N.C.
Thone
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whitten
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NAYS—187

Abdnor
Ambro
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Biester
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Dellums
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Esch
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Harkin
Hastings
Hawkins
Hechler, W. Va.
Hefner
Henderson
Hillis
Holt
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Kasten
Kastenmeier
Kelly
Kemp
Kindness
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mann
Martin
Mathis
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Obey
O'Brien
Ottinger
Passman
Pettis
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Rinaldo
Robinson
Rogers
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Shriver
Shuster
Skubitz
Smith, Nebr.
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.

NOT VOTING—58

Anderson, Ill.
Badillo
Bell
Brooks
Burke, Fla.
Burton, John
Burton, Phillip
Chisholm
Conyers
Corman
Davis
Diggs
Erlenborn
Eshleman
Flynt
Ford, Mich.
Gaydos
Harrington
Harsha
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Horton
Howard
Jenrette
Ketchum
Landrum
McHugh
Metcalfe
Meyner
Michel
Moffett
O'Hara
Patman, Tex.
Peyser
Roberts
Scheuer
Sebelius
Sikes
Snyder
Stanton, James V.
Stark
Stokes
Symington
Teague
Thompson
Udall
Ullman
Van Deerlin
Weaver
Whitehurst
Wilson, C. H.
Wright
Yates
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Zeferetti for, with Mr. Hébert against.

Mr. Horton for, with Mr. Badillo against.

Mrs. Chisholm for, with Mr. Charles H. Wilson of California against.

Mr. Patman for, with Mr. Flynt against.

Mr. Weaver for, with Mr. Michel against.

Mr. Thompson for, with Mr. Heinz against.

Mr. Brooks for, with Mr. Anderson of Illinois against.

Mr. Hays of Ohio for, with Mr. Erlenborn against.

Mr. Stack for, with Mr. Snyder against.

Mr. Wright for, with Mr. Burke of Florida against.

Mr. Yates for, with Mr. Whitehurst against.

Mr. Teague for, with Mr. Conyers against.

Mr. Stokes for, with Mr. Sikes against.

Mr. Diggs for, with Mr. Harrington against.

Until further notice:

Mr. Metcalfe with Mr. John L. Burton.

Mr. Davis with Mr. Ford of Michigan.

Mr. Corman with Mr. Jenrette.

Mr. Phillip Burton with Mr. O'Hara.

Mr. Helstoski with Mr. Scheuer.

Mr. Howard with Mr. Roberts.

Mr. Landrum with Mr. James V. Stanton.

Mrs. Meyner with Mr. Udall.

Mr. Moffett with Mr. Van Deerlin.

Mr. Symington with Mr. McHugh.

Messrs. LUJAN and RINALDO changed their vote from "yea" to "nay."

Mr. ALLEN changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 8122, MAKING APPROPRIATION FOR PUBLIC WORKS, FISCAL YEAR 1976

Mr. EVINS of Tennessee. Mr. Speaker, I call up the conference report on the bill (H.R. 8122) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 10, 1975.)

Mr. EVINS of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER. The gentleman from Tennessee is recognized.

Mr. EVINS of Tennessee. Mr. Speaker, we bring you today the conference report on the bill (H.R. 8122) making appropriations for public works for water and power development and energy research for fiscal year 1976 and the transition quarter.

The report represents a reasonable compromise between the provisions adopted by the House and the Senate.

As I stated when this bill was passed by the House on June 24, this is a significant bill—an important bill—a bill that touches the lives of virtually all Americans.

The bill represents a substantial investment in the future of America and in the future needs of our country.

The public works appropriations bill has been described as an "all-American bill," because this bill helps build America.

This bill constitutes a strong and continuing response to the energy crisis.

Let me briefly summarize the action to date on this appropriation measure. When this bill passed the House on June 24, 1975, it was passed by a vote of 377 to 28. The bill passed the Senate on December 5, 1975, by a vote of 81 to 5. The bill has languished in the Senate and been delayed pending completion of ERDA authorization legislation.

The conference report which we bring to you today is a good one, a balanced conference report. Balanced between energy research and public works.

This report provides capital assets for the Nation—jobs in this period of recession and high unemployment—and power on-the-line to assist in relieving the energy crisis.

We had a good conference—an extensive conference.

Following House action on the measure the Senate considered a supplemental budget request—an amended budget request—which added substantially to the bill.

I want to emphasize that this supplemental budget request was in the amount of $242,700,000, and a substantial part of this request was for energy research and development.

The conferees agreed on an increase of $140,750,000 over the total budget recommendation of the administration—the original request and the amended or supplemental request.

For the transition quarter the conferees agreed on a budget of $74,403,000 over the total budget request.

I want to point out further that the conference report is $48,748,000 under the Senate bill, again including the supplemental budget requests.

The conference report carries an appropriation of $215,511,000 over the House bill because of the Senate action with the amended budget.

I repeat, however, that the conference action is $48,748,000 under the Senate bill, with the amended budget. Overall, we are recommending a total of $7,440,912,500 for fiscal year 1976 and $2,115,033,000 for the transition quarter.

This figure is only 2 percent over the budget requests—original and amended—of the administration.

I want to insert at this point in the RECORD a table outlining the conference action by appropriation item compared with 1975 appropriations, the 1976 budget request and the actions of the House and Senate.

CONFERENCE SUMMARY—PUBLIC WORKS-ERDA APPROPRIATION BILL, 1976

	New BA enacted fiscal year 1975	New BA estimates 1976/transition	New BA House 1976/transition	New BA Senate 1976/transition	New BA conference 1976/transition	Conference compared with fiscal year 1975 enacted	Conference compared with new BA estimate	Conference compared with House bill	Conference compared with Senate bill
TITLE I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (EXCEPT FOSSIL FUELS RESEARCH DEVELOPMENT)									
Operating expenses	$2,446,487,000	$3,190,837,000	$3,049,120,000	$3,131,892,000	$3,130,765,000	$684,278,000	−$60,072,000	$81,645,000	−$1,127,000
Transition period		963,941,000	941,439,000	942,252,000	941,507,000		−22,434,000	68,000	−745,000
Plant and capital equipment	788,452,000	931,542,000	872,022,000	941,292,000	907,642,000	119,190,000	−23,900,000	35,620,000	−33,650,000
Transition period		183,536,000	183,286,000	186,686,000	185,776,000		2,240,000	2,490,000	−910,000
Total, title I	3,234,939,000	4,122,379,000	3,921,142,000	4,073,184,000	4,038,507,000	803,468,000	−83,972,000	117,265,000	−34,777,000
Transition period		1,147,477,000	1,124,725,000	1,128,938,000	1,127,283,000		−20,194,000	2,558,000	−1,655,000
TITLE II—DEPARTMENT OF DEFENSE—CIVIL									
Department of the Army									
Corps of Engineers—Civil									
General investigations	65,284,000	62,200,000	63,924,000	66,952,000	66,836,000	1,552,000	4,636,000	2,912,000	−116,000
Transition period		15,550,000	17,182,000	16,811,000	17,110,000		1,560,000	−72,000	299,000
Construction, general	974,841,000	1,092,700,000	1,157,015,000	1,255,663,000	1,228,648,000	253,807,000	135,948,000	71,633,000	−27,015,000
Transition period		360,000,000	408,883,000	401,578,000	408,741,000		48,741,000	−142,000	7,163,000
Flood control, Mississippi River and tributaries	161,948,000	153,600,000	160,000,000	163,250,000	163,250,000	1,302,000	9,650,000	3,250,000	
Transition period		53,000,000	59,000,000	60,300,000	60,300,000		7,300,000	1,300,000	
Operation and maintenance, general	494,577,000	547,700,000	576,073,000	582,073,000	582,073,000	87,496,000	34,373,000	6,000,000	
Transition period		136,900,000	153,116,000	153,116,000	153,116,000		16,216,000		
Revolving fund				700,000	700,000	700,000	700,000	700,000	
Transition period				950,000	950,000		950,000	950,000	
Flood control and coastal emergencies	15,000,000	40,400,000	40,400,000	40,400,000	40,400,000	25,400,000			
Transition period		3,750,000	3,750,000	3,750,000	3,750,000				
General expenses	40,100,000	42,700,000	42,500,000	42,500,000	42,500,000	2,400,000	−200,000		
Transition period		10,675,000	10,650,000	10,650,000	10,650,000		−25,000		
Special recreation use fees	700,000	1,900,000	1,200,000	1,200,000	1,200,000	500,000	−700,000		
Transition period									
Total, title II	1,752,450,000	1,941,200,000	2,041,112,000	2,152,738,000	2,125,607,000	373,157,000	184,407,000	84,495,000	−27,131,000
Transition period		579,875,000	652,581,000	647,155,000	654,617,000		74,742,000	2,036,000	7,462,000
TITLE III—DEPARTMENT OF THE INTERIOR									
Bureau of Reclamation									
General Investigations	19,427,000	20,485,000	20,892,000	20,892,000	20,892,000	1,465,000	407,000		
Transition period		6,660,000	6,794,000	6,794,000	6,794,000		134,000		
Construction and Rehabilitation	244,123,000	298,681,000	324,268,000	327,158,000	327,308,000	83,185,000	28,627,000	3,040,000	150,000
Transition period		91,050,000	97,884,000	98,584,000	98,834,000		7,784,000	950,000	250,000
Upper Colorado River Storage Project	24,621,000	40,160,000	41,557,000	41,867,000	41,152,000	16,531,000	992,000	−405,000	−715,000
Transition period		15,590,000	16,399,000	16,399,000	16,399,000		809,000		
Colorado River Basin project	23,000,000	29,240,000	29,205,000	29,205,000	29,205,000	6,205,000	−35,000		
Transition period		8,810,000	8,810,000	8,810,000	8,810,000				
Colorado River Basin project (appropriation to liquidate contract authorization)	(32,800,000)	(17,440,000)	(17,440,000)	(17,440,000)	(17,440,000)	(−15,360,000)	( )	( )	( )
Transition period	( )	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	( )	( )	( )	( )
Colorado River Basin Salinity Control project	27,650,000	19,670,000	19,670,000	19,670,000	19,670,000	−7,980,000			
Transition period		7,130,000	7,130,000	7,130,000	7,130,000				
Operation and maintenance	100,800,000	131,810,000	132,162,000	132,162,000	132,162,000	31,362,000	352,000		
Transition period		33,665,000	34,017,000	34,017,000	34,017,000		352,000		
Loan program	13,825,000	15,515,000	23,315,000	22,665,000	22,665,000	8,840,000	7,150,000	−650,000	
Transition period		3,355,000	6,155,000	9,205,000	9,205,000		5,850,000	3,050,000	
Emergency fund	600,000	1,000,000	400,000	1,000,000	1,000,000	400,000		600,000	
Transition period		200,000	200,000	200,000	200,000				
General Administrative Expenses	20,920,000	21,420,000	21,290,000	21,290,000	21,290,000	370,000	−130,000		
Transition period		5,600,000	5,600,000	5,600,000	5,600,000				
Total	474,966,000	577,981,000	612,759,000	615,909,000	615,344,000	140,378,000	37,363,000	2,585,000	−565,000
Transition period		172,060,000	182,989,000	186,739,000	186,989,000		14,929,000	4,000,000	250,000
Alaska Power Administration									
General Investigations	540,000	660,000	652,000	652,000	652,000	112,000	−8,000		
Transition period		200,000	198,000	198,000	198,000		−2,000		
Operation and Maintenance	760,000	840,000	837,500	837,500	837,500	77,500	−2,500		
Transition period		210,000	209,000	209,000	209,000		−1,000		
Total	1,300,000	1,500,000	1,489,500	1,489,500	1,489,500	189,500	−10,500		
Transition period		410,000	407,000	407,000	407,000		−3,000		
Bonneville Power Administration Fund									
Construction	133,500,000					−133,500,000			
Transition period									

CONFERENCE SUMMARY—PUBLIC WORKS-ERDA APPROPRIATION BILL, 1976—Continued

	New BA enacted fiscal year 1975	New BA estimates 1976/ transition	New BA House 1976/ transition	New BA Senate 1976/ transition	New BA conference 1976/ transition	Conference compared with fiscal year 1975 enacted	Conference compared with new BA estimate	Conference compared with House bill	Conference compared with Senate bill
Bonneville PowerAdministration Fund—Cont.									
Operation and maintenance	$38, 500, 000					—$38, 500, 000			
Transition period									
Total	172, 000, 000					—172, 000, 000			
Transition period									
Southeastern Power Administration									
Operation and maintenance	946, 000	$1, 024, 000	$1, 000, 000	$1, 000, 000	$1, 000, 000	54, 000	—$24, 000		
Transition period		263, 000	257, 000	257, 000	257, 000		—6, 000		
Southwestern Power Administration									
Construction	620, 000	700, 000	680, 000	680, 000	680, 000	60, 000	—20, 000		
Transition period		125, 000	125, 000	125, 000	125, 000				
Operation and maintenance	5, 795, 000	6, 136, 000	6, 000, 000	6, 000, 000	6, 000, 000	205, 000	—136, 000		
Transition period		1, 870, 000	1, 850, 000	1, 850, 000	1, 850, 000		—20, 000		
Total	6, 415, 000	6, 836, 000	6, 680, 000	6, 630, 000	6, 680, 000	265, 000	—156, 000		
Transition period		1, 995, 000	1, 975, 000	1, 975, 000	1, 975, 000		—20, 000		
Total, title III	655, 627, 000	587, 341, 000	631, 928, 500	625, 078, 500	624, 513, 500	—31, 113, 500	37, 172, 500	$2, 585, 000	—$565, 000
Transition period		174, 728, 000	185, 628, 000	189, 378, 000	189, 628, 000		14, 900, 000	4, 000, 000	250, 000
TITLE IV—INDEPENDENT OFFICES (EXCLUDING ERDA)									
Appalachian Region Commission: Salaries and expenses	1, 747, 000	1, 852, 000	1, 830, 000	1, 830, 000	1, 830, 000	83, 000	—22, 000		
Transition period		480, 000	480, 000	480, 000	480, 000				
Appalachian regional development programs (funds Appropriated to the President)	293, 500, 000	293, 500, 000	293, 200, 000	283, 500, 000	288, 200, 000	—5, 300, 000	—5, 300, 000	—5, 000, 000	4, 700, 000
Transition period		47, 500, 000	50, 000, 000	47, 500, 000	50, 000, 000		2, 500, 000		2, 500, 000
Delaware River Basin Commission: Salaries and expenses	77, 500	79, 000	79, 000	79, 000	79, 000	1, 500			
Transition period		19, 000	19, 000	19, 000	19, 000				
Contribution to Delaware River Basin Commission	238, 000	215, 000	215, 000	215, 000	215, 000	—23, 000			
Transition period		53, 000	53, 000	53, 000	53, 000				
Total	315, 500	294, 000	294, 000	294, 000	294, 000	—21, 500			
Transition period		72, 000	72, 000	72, 000	72, 000				
Federal Power Commission	33, 097, 000	35, 910, 000	35, 610, 000	35, 610, 000	35, 610, 000	2, 513, 000	—300, 000		
Transition period		8, 558, 000	8, 558, 000	8, 558, 000	8, 558, 000				
Interstate Commission on the Potomac River Basin: Contribution to Interstate Commission on the Potomac River Basin	52, 000	52, 000	52, 000	52, 000	52, 000				
Transition period		13, 000	13, 000	13, 000	13, 000				
Nuclear Regulatory Commission: Salaries and expenses	135, 165, 000	219, 935, 000	202, 500, 000	215, 423, 000	215, 423, 000	80, 258, 000	—4, 512, 000	12, 923, 000	
Transition period		52, 000, 000	49, 230, 000	51, 425, 000	51, 425, 000		—575, 000	2, 195, 000	
Susquehanna River Basin Commission: Salaries and expenses	77, 500	79, 000	79, 000	79, 000	79, 000	1, 500			
Transition period		19, 000	19, 000	19, 000	19, 000				
Contribution to Susquehanna River Basin Commission	150, 000	150, 000	150, 000	150, 000	150, 000				
Transition period		38, 000	38, 000	38, 000	38, 000				
Total	227, 500	229, 000	229, 000	229, 000	229, 000	1, 500			
Transition period		57, 000	57, 000	57, 000	57, 000				
Tennessee Valley Authority: Payment to Tennessee Valley Authority fund	77, 400, 000	87, 800, 000	99, 754, 000	91, 000, 000	100, 025, 000	22, 625, 000	12, 225, 000	271, 000	9, 025, 000
Transition period		27, 500, 000	27, 984, 000	28, 200, 000	30, 550, 000		3, 050, 000	2, 566, 000	2, 350, 000
Water Resources Council: Water resources planning	9, 775, 000	9, 670, 000	7, 750, 000	10, 722, 000	10, 722, 000	947, 000	1, 052, 000	2, 972, 000	
Transition period		2, 370, 000	1, 400, 000	2, 350, 000	2, 350, 000		—20, 000	950, 000	
Total, title IV	551, 279, 000	649, 242, 000	641, 219, 000	638, 660, 000	652, 385, 000	101, 106, 000	3, 143, 000	11, 166, 000	13, 725, 000
Transition period		138, 550, 000	137, 794, 000	138, 655, 000	143, 505, 000		4, 955, 000	5, 711, 000	4, 850, 000
Total, NB(O)A	6, 194, 295, 000	7, 300, 162, 000	7, 225, 401, 500	7, 489, 660, 500	7, 440, 912, 500	1, 246, 617, 500	140, 750, 500	215, 511, 000	—48, 748, 000
Transition period		2, 040, 630, 000	2, 100, 728, 000	2, 104, 126, 000	2, 115, 033, 000		74, 403, 000	14, 305, 000	10, 907, 000
Total, new budget (obligational) authority titles II, III, and IV (excluding ERDA)	2, 959, 356, 000	3, 177, 783, 000	3, 304, 259, 500	3, 416, 476, 500	3, 402, 505, 500	443, 149, 500	224, 722, 500	98, 246, 000	—13, 971, 000
Transition period		893, 153, 000	976, 003, 000	975, 188, 000	987, 750, 000		94, 597, 000	11, 747, 000	12, 562, 000
Total, new budget (obligational) authority, titles I, II, III, and IV	6, 194, 295, 000	7, 300, 162, 000	7, 225, 401, 500	7, 489, 660, 500	7, 440, 912, 500	1, 246, 617, 500	140, 750, 500	215, 511, 000	—48, 748, 000
Transition period		2, 040, 630, 000	2, 100, 728, 000	2, 104, 126, 000	2, 115, 033, 000		74, 403, 000	14, , 305, 000	10, 907, 000
Memoranda:									
Appropriations to liquidate contract authorizations	32, 800, 000	17, 440, 000	17, 440, 000	17, 440, 000	17, 440, 000	—15, 360, 000			
Transition period		1, 500, 000	1, 500, 000	1, 500, 000	1, 500, 000				
Total appropriations, including appropriations to liquidate contract authorizations	6, 227, 095, 000	7, 317, 602, 000	7, 242, 841, 500	7, 507, 100, 500	7, 458, 352, 500	1, 231, 257, 500	140, 750, 500	215, 511, 000	—48, 748, 000
Transition period		2, 042, 130, 000	2, 102, 228, 000	2, 105, 626, 000	2, 116, 533, 000		74, 403, 000	14, 305, 000	10, 907, 000

Mr. Speaker, the largest amount in the conference report is for the Energy Research and Development Administration. The ERDA total is $4,038,407,000 for fiscal year 1976 and $1,127,283,000 for the transition quarter.

The amount agreed to by the conferees for ERDA represents—as I said—a vigorous response to the energy crisis by the Subcommittee on Public Works Appropriations in both the House and the Senate.

The energy crisis confronting America is one of the greatest challenges in the Nation's history.

We must plan for the future.

This conference report represents both an immediate and long-term effort to solve the problems of the energy crisis and unemployment.

And we have taken steps in conference toward the goal of achieving American self-sufficiency in energy by speeding up and increasing research and development programs for new and abundant sources of energy.

I realize that it is difficult to reconcile all points of view.

I realize that some want more funding

for certain programs and projects while others want less funding.

In the conference report we struck a balance.

We have made some reductions because of slippages and the lateness in the year. One-half of the year passed.

Yet there were substantial increases provided over last year.

The report contains $82,700,000 in fiscal year 1976 for solar energy research and development expenditures—an increase of $73,,930,000 over the fiscal year 1975 funding level of $8,770,000 for solar energy.

A total of $31,170,000 is provided for geothermal expenditures—an increase of $17,370,000 over the $13,800,000 for fiscal year 1975.

Fusion offers the Nation one of the most promising source of abundant energy ever conceived, and the bill contains $120,000,000 in expenditures for research and development of fusion power—an increase of $34,970,000 over last year's funding level of $85,030,000.

A total of $11,830,000 is provided for expenditures of electrical power transmission research and development—a significant increase over the $6,372,000 for last year.

Conference action provides $14,000,000 in expenditures for development of energy storage technology—$8,200,000 over last year's appropriation.

Funding for these programs in the transition quarter has also been significantly increased.

So it is clear the conferees recognize the severity of the energy crisis and were determined to push ahead to energy self-sufficiency through sound policies and programs and the allocation of the necessary resources to solve this problem in the public interest.

Mr. Speaker, the conference report also represents a continuing effort by my subcommittee to develop the Nation's water resources in a sound and orderly manner.

Water is one of our Nation's most valuable resources. Its availability is essential to the very existence of communities and the operation and expansion of industry and economic development—to the growth of crops and the provision of power by hydropower facilities.

The conferees agreed to $2,125,607,000 in fiscal year 1976 and $654,617,000 in the transition quarter for the U.S. Corps of Engineers.

The report provides $675,344,000 in fiscal year 1976 and $186,989,000 in the transition quarter for the Bureau of Reclamation.

The projects funded by these appropriations will serve the Nation in many ways—communities and businesses will receive water supplies, communities will be protected with flood control, energy will be generated by hydropower facilities, commerce will be increased along inland waterways, food will be grown on irrigated acreage, and widespread recreation benefits will be made available to millions of Americans. Jobs will be provided and capital assets will be assured.

In addition, these projects of the Corps of Engineers and the Bureau of Reclamation will provide jobs in this period of high unemployment and economic recession.

Further, these projects provide power-on-the-line to assist in relieving the energy crisis.

I want to point out that of the 15 new planning starts added by the House for the Corps of Engineers, the Senate deleted 10. Five were restored in conference action.

Of the 19 new construction starts added by the House for the Corps, 10 were deleted by the Senate and 5 were restored by the conference action.

Overall the conference report provides for 497 planning or construction projects of the Corps of Engineers and the Bureau of Reclamation.

There are a few minor typographical errors in the joint statement which I will address at this point:

On page 8, amendment No. 6. The amount proposed by the Senate should be $941,292,000.

On page 10, amendment No. 10. The appropriation should be $66,836,000.

On page 44, delete "land acquisition" for the Applegate Lake, Oregon project.

On pages 58 and 59 the figures for Southern Nevada water projects, Nevada should be minus $250,000 in each instance.

On page 61 under Tennessee Valley Authority. The amendment number should be 51.

On page 63 the amount for conference agreement compared with budget estimates of new (obligational) authority, fiscal year 1976 should be $147,750,000.

The $250,000 approved for the Southern Nevada water project in 1976 and the $250,000 provided in the transition period is for planning.

In summary, Mr. Speaker, I repeat, this is a good bill—a vital and important conference action that will provide for jobs and employment, power on the line, and capital assets for the Nation—In addition, an extensive and accelerated program of energy research and development, that is needed, is provided.

I urge adoption of the conference report.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the distinguished gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my distinguished chairman for yielding.

I congratulate the gentleman from Tennessee on this splendid conference report.

I have only one question which concerns page 38 of the report, where it is shown, at the bottom of that list, that there are plans for the Passaic River, referred to as the Passaic River plan. It is to be under the Corps of Engineers and the plan is very strenuously objected to by municipalities in my district. On two of the three counties involved, in fact, in the river basin of the Passaic, the freeholders have issued resolutions against this plan.

I would like to register here my earnest hope—that the plan has been modified—that this plan with whatever modifications are found necessary, will be submitted according to law to the communities of those counties so that they can pass upon the plans before any action is taken.

Mr. EVINS of Tennessee. I thank the gentlewoman for her comment.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank my distinguished colleague and friend from Tennessee and the dean of our delegation.

I ask the gentleman, does this bill include funds for cleaning up the Cumberland River so Nashville and the other communities in the area will have clean waters?

Mr. EVINS of Tennessee. I would like to say to the gentleman that we have in this conference report $150,000 for the metropolitan region of Nashville for studies of water needs and for industrial and community needs and other purposes.

Mr. ALLEN. I thank the gentleman.

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the distinguished gentleman from West Virginia, a valued member of the Public Works and Appropriations Subcommittee (Mr. SLACK).

Mr. SLACK. Mr. Speaker, I thank the gentleman for yielding.

My question, Mr. Speaker, is this. Under the construction account for section 32, streambank erosion control, the House earmarked certain projects.

Am I correct in stating that, as the result of this conference, the funds earmarked in the House report are still earmarked as provided in the House report.

Mr. EVINS of Tennessee. The gentleman is correct in his interpretation.

Mr. SLACK. Mr. Speaker, I thank the gentleman.

Mr. ROUSH. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from Indiana.

Mr. ROUSH. Mr. Speaker, I shall vote "no" on this conference report. I recognize and appreciate the long hours and hard work which went into this bill by the distinguished gentleman from Tennessee, the chairman of the subcommittee. I also readily recognize that the great majority of the projects included in this bill are worthy projects. They are projects which not only meet the legal requirements of feasibility but also serve a public need. My "no" vote is a vote of protest. There are projects included which are doubtful insofar as feasibility is concerned and which are detrimental to the public welfare. I would single out two projects in particular which have been funded for my own home State of Indiana which should be cast aside as not feasible and unsound. I am particularly referring to the Big Pine Lake project for which construction money in the sum of $550,000 for fiscal year 1976 and $1,300,000 for the transition period has been approved; and the Wabash River navigation project investigation with the sum of $325,000 for fiscal year 1976 and $75,000 for the transition period being approved.

To fund these projects is a waste of

taxpayers' money. Again, Mr. Speaker, I would point out that the bill meets my general approval, and I vote "no" to show my disapproval of the inclusion of the projects referred to. I shall at a later time detail my objections to these projects.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Speaker, I want to commend the chairman of the subcommittee and the members of the Committee on Appropriations and Public Works and the conferees on a splendid conference report. It shows that the members of the Public Works Appropriations Subcommittee are thoroughly and totally familiar with the great needs and requirements of our country and they have dedicated their knowledge and their usefulness to bring forward a splendid, worthwhile and usable instrument, for the future building of our Republic.

Mr. EVINS of Tennessee. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the committee, the gentleman from Indiana (Mr. Myers).

Mr. MYERS of Indiana. Mr. Speaker, the chairman of the committee has given his usual outstanding job in presenting the contents of this conference report. Frequently conferences have difficulty in resolving some of the hard differences between the other body and this body, particularly in the area of public works and the very much needed energy research areas. This conference was one of the most successful and the number of differences between the House and Senate were worked out easier than any conference I have ever had the privilege of serving on.

As the chairman said, we have some extremely high priority items in this conference report, dealing with needed energy, water resources, transportation and control of floods and so on. Every Member of this House can easily support this conference report. It is one that is a compromise between the other body's version, which was much higher than ours, and ours, which came in below the budget.

I do not suppose any Member can say we all got completely what we asked for or would like to have had; but it is a compromise and a very fine one.

I hope every Member can see fit to support this public works appropriation bill for this year.

As the chairman has said, it has come on rather late in this session, but this certainly was no fault of this committee. We have been ready since June to go to conference and resolve this, so at this time I do not think we can afford to delay any longer these much-needed appropriations programs—for public works, for water and power development and energy research.

At this time, Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. McDade).

Mr. McDADE. Mr. Speaker, I take this time to offer my congratulations first to the able gentleman from Tennessee (Mr. Evins) for the fine job he has done with this bill, and to the ranking minority member, the gentleman from Indiana (Mr. Myers), and to the other members of the subcommittee. I see on the floor the gentleman from Mississippi (Mr. Whitten), the gentleman from Massachusetts (Mr. Boland), and the gentleman from California (Mr. Burgener). They have done with this bill, as they have in the past, outstanding work on behaf of the Nation, and I must say specifically that they have assisted the people of my State with a tremendously complex and difficult problem, the bottom line of which is whether or not we can get on to remedying what is perhaps the most dangerous highway situation that exists in my State.

I serve with the gentleman from Tennessee on the HUD, Science Subcommittee, under the able chairmanship of the gentleman from Massachusetts. I serve with him on the Small Business Committee and as a member of the full Committee on Appropriations. I think he has done an outstanding job, and I am grateful to him and the people of the State of Pennsylvania are grateful to him.

I would, if I may for purposes of legislative history, simply like to direct a question to my able colleague with respect to the language which appears on page 16 of the conference report. On page 16, with respect to the Tocks Island item, the following sentence appears:

> The use of the remaining funds is subject to action by the authorizing committees.

My purpose in directing this inquiry is just to determine that the conferees on this bill use that word advisedly, and seek to get a positive expression from the Public Works Committees of both Houses, not necessarily rising and it need not rise to the level of the committee authorization, but positive action and concurrence on these funds.

Mr. EVINS of Tennessee. The gentleman is correct in his interpretation. The committee of conference meant any action by the Committees on Public Works of both the House and the Senate. This could be legislative action; this could be direction by the committee in a resolution, or it could be other action which the committee might take to release the funds.

Mr. McDADE. May I say to the gentleman from Tennessee again that I express to him and to the other members of the committee, including my colleague from Indiana, my gratitude. I know the committee faced an incredibly difficult situation with our friends on the other side of the Capitol Building, and I think the work the subcommittee has done to try to resolve this particular problem represents an outstanding job, a skillful job on a situation which represents a very difficult problem for the people of my State. I want to reiterate my gratitude and express my appreciation to the members of the committee for the fine work they have done in trying to resolve this situation.

CALL OF THE HOUSE

Mr. TAYLOR of Missouri. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 775]

Addabbo
Anderson, Ill.
Andrews, N.C.
Archer
Ashley
Badillo
Beard, R.I.
Bell
Brooks
Burke, Fla.
Burton, John
Burton, Phillip
Butler
Byron
Cederberg
Chisholm
Cochran
Collins, Ill.
Conyers
Corman
Davis
Dellums
Derwinski
Diggs
Dodd
Drinan
Eckhardt
Edwards, Calif.
Erlenborn
Eshleman
Fish
Flynt
Ford, Mich.
Forsythe
Fraser
Gaydos
Gibbons
Goldwater
Harrington
Harsha
Hastings
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Horton
Howard
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Kastenmeier
Ketchum
Keys
Kindness
LaFalce
Landrum
Leggett
Melcher
Metcalfe
Meyner
Mikva
Moffett
Montgomery
Mosher
O'Hara
Patman, Tex.
Peyser
Pike
Randall
Rhodes
Riegle
Risenhoover
Roberts
Rosenthal
Santini
Scheuer
Schneebeli
Sebelius
Seiberling
Shuster
Sikes
Snyder
Stanton, James V.
Stark
Steiger, Ariz.
Symington
Teague
Thompson
Udall
Ullman
Van Deerlin
Waxman
Weaver
Whitehurst
Wilson, C. H.
Wilson, Tex.
Wright
Yates
Young, Ga.
Zeferetti

The SPEAKER. On this rollcall 330 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 8122, MAKING APPROPRIATION FOR PUBLIC WORKS, FISCAL YEAR 1976

Mr. MYERS of Indiana. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. Esch).

Mr. ESCH. Mr. Speaker, one of the most important areas that the conference report addressed itself to was the question of laser fusion. The Senate Appropriations Committee, in its committee report, recognized the contribution that private industry could make to this area when it said in its report: "Extensive work at non-governmental facilities is proposed in the budgeted program. The committee concurs with and encourages the expanded effort involving private industry and the universities."

Mr. Speaker, the only private industrial enterprise involved in this program at the present time is KMS Fusion which has invested $25 million in research and development. I would want to be assured that it was not the intent of the conferees by cutting the overall laser fusion appropriation to reduce the amount needed by ERDA to support the $10.5 million KMS fusion program for fiscal year 1976.

I am especially concerned with the

question of laser fusion and what the committee did on that and the relationship of the private industry sector to that area. I would like to ask the ranking member, the gentleman from Indiana (Mr. MYERS), a question.

It is my understanding that while the conferees split the difference between the House and Senate versions, that the conferees still believe and ERDA still believes that laser fusion still should be a matter of continuing research and development.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield, that is a correct statement. We felt there was a continuing effort necessary here for concern and interest in the laser fusion research both insofar as weapons research is concerned as well as electric energy production.

Mr. ESCH. It was also my understanding that the conferees believe it is important to support the private industrial enterprises in this effort, such as the one in our own area, that are involved in this program.

Mr. MYERS of Indiana. That is correct.

Mr. ESCH. Also that while the amounts in the House and Senate versions on overall support for this program were split that that should not be interpreted by ERDA to mean that there is any intention to reduce support for the private industrial enterprise sector in this field?

Mr. MYERS of Indiana. That is correct. It is the understanding of the conferees that laser fusion is a fusion process which will utilize almost inexhaustible energy source, sea water, that needs to be considered as an alternative to those processes already underway and being conducted by ERDA. But just because the funds were reduced, we by no means meant to deemphasize the efforts of the private industrial sector in this field while at the same time still considering other alternative areas.

Mr. ESCH. I think it is important to include all areas of research if we are going to move ahead in this vital area.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield still further, I commend the gentleman from Michigan (Mr. ESCH). The gentleman has been deeply concerned about this particular issue. The gentleman has talked to me and to other members of this subcommittee a number of times about the importance of involving the private industrial sector in areas where ERDA might not have the expertise and where there is some research already being conducted by that industrial capability. The gentleman from Michigan has performed a unique service and has done an outstanding job in seeing that there was a compromise worked out between the Senate language and the language in the House version as well as the needed funds to expand this research.

Mr. ESCH. I thank the gentleman.

Mr. EVINS of Tennessee. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I feel highly privileged to serve on the Committee on Appropriations, where I am ranking member, and particularly on this subcommittee under the chairmanship of my friend, the gentleman from Tennessee (Mr. EVINS), and the gentleman from Indiana (Mr. MYERS), as well as other members of this committee. This assignment, along with being chairman of the Appropriations Subcommittee for Agriculture, which provides funds for housing, sewer and water funds, that for research and extension, rural electricity, soil conservation, and the Farmers Home Administration, gives me a wonderful opportunity to serve my district, State, and Nation.

OUR COUNTRY—BASIS FOR EVERYTHING

Mr. Speaker, the more we owe, the greater our problems, the more imperative it is that we look after our country, on which all else depends.

If we leave our children a rich land, then they can make a fine future for themselves. On the other hand, we could leave them all the money in the world and a worn-out land, and they would have nothing on which to build.

My colleagues have discussed the national aspects of this bill. Here I would like to point out what we have provided for my section.

NORTH MISSISSIPPI AND THE MEMPHIS, TENN., AREA

The sums of $150,000 and $70,000 for the transition period—July 1–October 1—have been included for attention to the flood problems in the Horn Lake and Southaven areas of north Mississippi. The Corps of Engineers has completed its study on Nonconnah Creek, Tennessee and Mississippi, and submitted it to the Office of Management and Budget for approval as a project. We hope to get this soon.

RESERVOIRS

Recreation was not included in the original construction funds for Arkabutla, Enid, Sardis, and Grenada Reservoirs. However, since this activity is an economic asset to the area, $2,480,000 was approved for further recreation development and maintenance.

Some years ago I was able to get the law changed where 75 percent of the land rentals go back to the counties for roads and schools. In this connection, last year we amended the law so as to allow for the construction of roads and bridges to recreation areas throughout the country on a 70/30 division of costs basis. Funds have been provided for the construction of bridges in Tate County from Senatobia to Arkabutla.

FOOTHILL AREA

For streambank erosion control evaluation and demonstration, $1 million is provided for work in the Hill and adjacent Delta areas of the Yazoo Basin from Memphis to Yazoo City, Tillatoba and Hunter Creeks for which in addition a special project of $250,000 is included. This streambank erosion control evaluation project is to benefit the entire country and is one of four included.

For further development of the Yazoo Basin, development funds are provided for Enid Lake, Grenada Lake, Arkabutla Lake, and Sardis Lake.

DELTA AREA DRAINAGE

Upper Auxiliary Channels, $1 million with $400,000 for the transition period under tributaries; the Ascalmore-Tippo and Opossum Bayous, $850,000 with $360,000 for the transition period; all other tributaries' projects, $2,980,000 with $300,000 for transition. Operation funds continue to be available for dredging. Had this been completed, flood waters would have been 6 to 8 feet lower at Swan Lake and Greenwood.

TENNESSEE-TOMBIGBEE NAVIGATION

For construction, including the divide cut, we have provided a total of $101,000,000. Along with this, it is further stated that the corps should acquire only such land as is essential to the project and should make every effort to make payments for land acquired in an expeditious manner.

APPALACHIAN REGION

Funds providing for the continuation of the Appalachian Regional Commission programs are included, pending the signing of the authorization bill. These amount to $293,500,000 with $47,500,000 for the transition period. Included herein are funds continuing the corridor highway program from the Alabama line to Interstate 55 at Batesville by way of Pontotoc and Oxford, which our committee directed 2 years ago. Funds are provided for the northwest extension of the Tupelo, Miss. access road, directed by the committee, along with regular projects under the Appalachian program, of which there are a number of special benefits to a variety of interests.

TOMBIGBEE RIVER FLOOD CONTROL PROJECT

The conferees further agreed on $700,000 for the Tombigbee River flood control project and $800,000 for the transition quarter; $200,000 is provided for the East Fork of the Tombigbee River for operation and maintenance. For the Bear Creek water control system, Alabama and northeast Mississippi, $10,645,000 and $5,700,000.

Mr. Speaker, in addition to the foregoing, our Appropriations Subcommittee for Agriculture met today to restore funds for watershed protecton and flood prevention, for sewer and water grants and loans, for rural housing and reforestation, including personnel, for emergency programs resulting from flood and disaster which the Secretary of Agriculture had recommended to be eliminated and the President had directed to be held up.

Mr. Speaker, I repeat, the more serious our problems, the greater our fiscal situation, the more imperative it is that we take care of the land for it is on this that all else depends. We could leave our children all the money in the world and a wornout land, and we would in effect leave them nothing. On the other hand, if we leave them a rich land with soil erosion stopped, with rivers and harbors free of pollution and our hillsides once again in trees, they will make it whatever our financial plight, for if necessary they could establish their own financial system.

Mr. OTTINGER. Mr. Speaker, while I intend to vote favorably on the conference report on Public Works appropriations, I must state some concerns related to the fact that there is very little indication of any change in priorities for the kinds of public works projects this Nation plans to undertake.

The Garrison diversion project—an expensive, wasteful and environmentally disastrous project—is still being pushed forward by the Bureau of Reclamation. I spoke against this project when it was considered by the House a few months ago and I continue to oppose it. I had hoped for deletion of appropriated funds for this unwarranted project.

The Dickey-Lincoln Dam in Maine, for which the corps has been pushing since before some Members were even born, is still being promoted, even though it has been shown to be an economic lemon.

On the other hand, the conference report decreased some appropriations to levels lower than those approved by both the House and the Senate. One cut bothers me particularly: The decreased appropriation for FRDA's solar energy development program. After a great deal of work in both the Science and Technology and Appropriations Committees of the House, we approved $140 million in authority and $82 million in outlays for solar energy development. The Senate approved $119 million in authority, and $97 million in outlays. Unfortunately, the conferees have provided for only $108 million and $82 million, respectively. In authority, this is an astounding decrease of $32 million.

As I have said, I will vote for this conference report, but I sincerely hope that next year we will begin to see a shifting of priorities. We can increase our efforts in solar energy development. We can put people to work—millions of them—on positive public projects without destroying the Earth. We can rebuild our cities; we can repair our railroads. In our Bicentennial year we can do better, and we can repair the mistakes of the past.

Mr. MILLER of Ohio. Mr. Speaker, I want to take this opportunity to express my deep concern over a severe limitation in funding in what I consider to be the most important flood control investigation being conducted by the Corps of Engineers in the State of Ohio. The survey to which I am referring is the vital central Ohio survey under which the corps is conducting an evaluation of several Ohio localities for the purpose of determining the economic feasibility of pursuing flood control projects in such areas.

Following House passage of the public works-energy resources appropriations bill (H.R. 8122) for fiscal year 1976—and transition period—on June 24, we were joined by several organizations and agencies who share our interest in this legislation in seeking from Senate action on H.R. 8122 a funding level enabling the corps to complete the central Ohio survey as intended. Despite our efforts for more funds, the House version of H.R. 8122 provided only $65,000 for the fiscal year 1976—and transition period—for the survey. The corps indicated that approximately $150,000 was necessary for the work, and in a letter to the chairman of the Senate Appropriations Subcommittee on Public Works we clearly documented the need for greater attention to this matter.

In subsequent contact with the Senate subcommittee, we learned that a funding level greater than the House had provided was likely.

Ultimately, the subcommittee provided a total of $180,000—fiscal year 1976 and transition—completion for the survey, and this figure was accepted by the full Senate.

We attempted to convince the conference committee of the importance of accepting the Senate's appropriation for the central Ohio survey. However, I see that the conference report on H.R. 8122 has instead accepted the House level and has, according to the corps, thus dealt a very serious blow to the corps capability for completing this survey.

Among the programs affected by this action is the important Logan and Nelsonsville, Ohio, flood control projects. In contacting the Huntington, W. Va., district office of the corps after learning that the conference report on H.R. 8122 included only $65,000 for the Central Ohio Survey, we were told that "without additional funds from some other source, the final feasibility report on Logan and Nelsonville's flood control projects could be delayed." One can appreciate the true adverse impact of this situation only after fully understanding the importance of adequate flood protection for these communities.

In March 1963, and again in March 1964, and in May 1968, this region experienced flooding that left industries closed, homes destroyed, public facilities ruined, businesses crippled, and land disrupted. The memories of that flooding and its impact are not easily forgotten while the threat of another equally severe flood comes each spring.

Permit me to underscore the fact, Mr. Speaker, that we will continue to work closely with the corps to seek the additional funding necessary to keep the Logan-Nelsonville feasibility study on schedule. I will not hesitate to commit the full resources of our office to see that adequate flood protection is brought to this area of the Hocking Valley.

The current status of the project finds that a draft feasibility study is scheduled for submission to the corps Ohio River division—Cincinnati—office in January 1976. Upon its review, a final report will then be submitted to the division office and to the Chief of Engineers and the Board of Engineers for Rivers and Harbors in Washington. Clearance at this level means that the Logan-Nelsonville report goes through an interagency review—taking approximately 90 days—and then to the Secretary of the Army. Pending approval from the Office of Management and Budget, the Secretary then submits the project for authorization to the Public Works Committees of both the House and Senate.

There are two alternatives to this procedure: The first involving having the projects authorized by the Chief of Engineers—acting through the Secretary of the Army—under section 201 of the 1965 Flood Control Act and the second involving action by the House Public Works and Transportation Committee on our bill, H.R. 1613, which authorizes the Logan and Nelsonville projects.

In the case of both alternatives, we have encouraged those who are responsible for initiating alternative action to do so in the interest of moving ahead with these projects before additional flood damage and hardships are experienced all along the Hocking River.

Our involvement in this matter stretches over a 4-year period during which we have testified on Capitol Hill and at local public hearings as to the importance of flood control at Logan and Nelsonville. Our bill to cut redtape has gained widespread support. We have met with concerned local officials, business representatives, State and Federal officials and corps personnel at every level regarding this matter. In each case, we have looked for the means to get the projects off center and moving toward actual construction. The people along this reach of the Hocking River deserve adequate flood protection and they should expect nothing less than a full measure of assistance from the Congress and the Federal Government.

Compared to the scope of this appropriations bill, these projects and the funding tied to their completion might appear minor. However, they are vitally important and represent the plight of many similar communities across the Nation.

Mr. Speaker, there is another provision to which I must direct my comments. My concerns focus on funding in H.R. 8122 for carrying out the provisions of section 32 of the Water Resources Development Act of 1974. The conference report includes $4 million for fiscal year 1976—and transition period—for section 32, known as the streambank erosion control, evaluation, and demonstration program. The act authorizes a total of $25 million for section 32 for a 5-fiscal-year period ending in fiscal year 1978. While the $4 million now being appropriated for section 32 is far from adequate as a first step investment in the correction of streambank erosion problems, it nevertheless represents an important step forward in solving a very serious problem. It is my intent to see that the assistance of section 32 is applied to that reach of the Ohio River from Lawrence to Washington County, Ohio.

Having discussed southeastern Ohio's situation with the corps on numerous occasions, and having met with private property owners and local officials all along the Ohio River, it is imperative, I feel, that an erosion evaluation and control problem as designated under section 32 of the act be undertaken along this particular section of the river.

We followed the development of the Water Resources Act carefully, with my primary concern being that language in the act which would broaden the corps' erosion control authority and provide some measure of relief to those southeastern Ohio communities and private property owners which have had to contend with the impact of severe shoreline erosion for years. The steady erosion by river forces has washed valuable farmland away, ruptured highway foundations, presented economic and environmental hardships and endangered homes and public facilities. Believe me, there is nothing more discouraging to a property owner than to see a river eat away his land and threaten his physical safety.

I believe that the comparatively high concentration of homes, business, and industry along this section of the Ohio, coupled with the unusually steep riverbanks, heavy river traffic, particularly dramatic fluctuation in water level prompted by the lock and dam systems now in place, all combine to warrant corps attention and action as authorized under the act. The positive results from soil stability and bank protection methods developed along this shoreline could be of tremendous importance to similar erosions throughout the Nation.

It is imperative that I underscore at this point the fact that the language of section 32(c) be upheld first by the corps in its selection of project sites. There were attempts previously to divert the corps attention under this section to waterways other than those specifically mentioned in section 32(c)—which includes the statement that—

> At a minimum, demonstration projects shall be conducted at multiple sites on the Ohio River.

We will again emphasize with the corps and those directly involved in this matter that the directives and waterways noted in section 32 of the act be given first priority.

Mr. HILLIS. Mr. Speaker, today, during our consideration of the conference report on H.R. 8122, public works appropriations for fiscal year 1976, I took a stand against the passage of this measure. I would like to take this opportunity to express the reasoning behind my negative vote.

Since 1968, the Congress has continued to appropriate funds to conduct feasibility studies for a canal system involving Indiana. This system is known as the Cross Wabash Valley Waterway and would encompass the Wabash River in routes to Lakes Michigan and Erie. To date, the Federal Government has expended approximately $500,000 to this end. Yet, studies conducted by the Corps of Engineers and the Fish and Wildlife Services have proven unfavorable. In fact, all available information shows that the construction of the Cross Wabash Valley Waterway would be economically unsound, have an adverse effect on some of Indiana's richest farm lands and most important fish and wildlife areas, and provide unnecessary competition in the transportation of grain and coal.

Much to my dismay, the Public Works Appropriations Act for fiscal year 1976 again contains funding for further navigation feasibility studies as well as funding for a comprehensive basin survey of the Cross Wabash Valley Waterway. All of the facts lead us to the conclusion that this project will never become a reality, therefore, I see no purpose in appropriating an additional $475,000 for fiscal year 1976 and $110,000 for the transition period to the Cross Wabash Valley Waterway. To continue to utilize the taxpayer's money in this manner is not justifiable. For this reason, this bill did not receive my support.

Ms. HOLTZMAN. Mr. Speaker, I oppose the public works appropriations conference report to accompany H.R. 8122. Although it is called a "public works" bill, H.R. 8122 is in large part a defense and nuclear weapons bill in disguise.

Three and one-half billion dollars of the $9½ billion authorized by this bill are for military projects and nuclear weapons, $1¼ billion are allocated for defense items including the Minuteman III and the B61 bomb. I oppose adding even more money to the swollen defense budget when education, health care, and the needs of the elderly remain so pitifully underfunded. Moreover, the need for additional nuclear weapons—in our already enormous arsenal—is highly questionable.

Funds are provided by this bill for the dangerous liquid metal fast breeder reactor project. It runs on plutonium which produces dangerous radioactive waste. The cost of the project has tripled from an estimated $3.3 billion to $10.7 billion. It is still not clear that the breeder reactor will ever be of use in solving our energy problems.

This bill makes only $19 million available to New York State for genuine public works projects. Although this money is certainly needed in New York, that amounts to less than one-fifth of 1 percent of the authorization level of this bill.

This country needs a reordering of priorities—not more of the same misallocations. Dubious nuclear weapons and defense spending and grandiose technological schemes of questionable value cannot constantly take precedence over the human needs of our country.

I regret I have to oppose this bill.

Mr. EVINS of Tennessee. Mr. Speaker, I have no further requests for time.

I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STEIGER of Wisconsin. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 339, nays 31, not voting 64, as follows:

[Roll No. 776]

YEAS—339

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Green
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Holland
Holt
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
O'Brien
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Ruppe
Russo
St Germain
Sarasin
Sarbanes
Scheuer
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steelman
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—31

Archer
Baldus
Broomfield
Broyhill
Collins, Tex.
Conable
Conlan
Conte
Crane
Daniel, Dan
Devine
Frenzel
Gradison
Gude
Hillis
Holtzman
Kelly
Latta
McDonald
McKinney
Mann
Martin
Obey
Roush
Santini
Satterfield
Schneebeli
Schroeder
Steiger, Ariz.
Steiger, Wis.
Wydler

NOT VOTING—64

Anderson, Ill.
Badillo
Bell
Brooks
Burke, Fla.
Burton, John
Burton, Phillip
Chisholm
Collins, Ill.
Conyers
Corman
Davis
Diggs
Erlenborn
Eshleman
Flynt
Ford, Mich.
Gaydos
Harrington
Harsha
Hastings
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Horton
Howard
Jacobs
Jenrette
Johnson, Pa.
Ketchum
Keys
Landrum
Macdonald
Metcalfe
Meyner
Moffett
O'Hara
Peyser
Randall
Rangel
Richmond
Roberts
Ryan
Sebelius
Sikes
Simon
Snyder
Stanton, James V.
Stark
Symington
Udall
Ullman
Van Deerlin
Waxman
Weaver
Whitehurst
Wilson, C. H.
Wright
Yates
Zeferetti

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Harrington.

Mr. Hébert with Mr. Helstoski.

Mr. Moffett with Mr. Henderson.

Mr. Hays of Ohio with Mr. Diggs.

Mr. Sikes with Mr. Jacobs.

Mr. Flynt with Mr. Landrum.

Mrs. Chisholm with Mrs. Keys.

Mr. Brooks with Mr. Hastings.

Mr. Stark with Mr. Conyers.

Mr. Wright with Mr. Erlenborn.

Mr. Yates with Mr. Eshleman.

Mr. Badillo with Mr. Bell.

Mr. Charles H. Wilson of California with Mr. Anderson of Illinois.

Mr. Metcalfe with Mr. Macdonald of Massachusetts.

Mr. Symington with Mr. Hinshaw.

Mr. Davis with Mr. Burke of Florida.

Mr. Phillip Burton with Mrs. Meyner.

Mr. Howard with Mr. Johnson of Pennsylvania.

Mr. John L. Burton with Mr. O'Hara.

Mr. Corman with Mr. Horton.

Mr. Jenrette with Mr. Peyser.

Mr. Ford of Michigan with Mr. Randall.

Mr. James V. Stanton with Mr. Roberts.

Mrs. Collins of Illinois with Mr. Ryan.

Mr. Sebelius with Mr. Simon.

Mr. Rangel with Mr. Udall.

Mr. Hawkins with Mr. Ullman.

Mr. Waxman with Mr. Whitehurst.

Mr. Weaver with Mr. Van Deerlin.

Mr. Richmond with Mr. Snyder.

Mr. **REES** changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The **SPEAKER**. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 7, line 8, insert: "That not to exceed $8,000,000 of this appropriation or from any previous appropriation under this head shall be for construction or improvement of recreation facilities at full Federal expense at projects which were completed or which received an appropriation for project construction prior to the approval of Public Law 89-72:".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. **EVINS** of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 9, line 12, insert:

"REVOLVING FUND

"For the design of hopper dredges, $700,000, to remain available until expended.

"For 'Revolving Fund' for the period July 1, 1976, through September 30, 1976, for the design and construction of hopper dredges, $950,000, to remain available until expended."

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. **EVINS** of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 11, line 10, insert: "not to exceed $10,000 for official reception and representation expenses;".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. **EVINS** of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 12, line 7, insert:

"GENERAL PROVISION

"SEC. 201. To enable payment of any valid claims on the Federal Government for the construction of an airport facility at Kelley Flats, Montana, Section 502 of the Supplemental Appropriation Act, 1968 (81 Stat. 773) is amended by deleting the amount '$140,000' contained therein and inserting in lieu thereof the amount '$240,000': *Provided*, That this amendment shall not be construed to change any obligations which have been undertaken, in agreement with the Federal Government, by non-Federal sponsors of the airport facility to contribute to the payment of the construction costs of the facility."

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. **EVINS** of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 25: Page 14, line 5, strike out "$324,268,000," and insert "$327,158,000".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. **EVINS** of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$327,308,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 14, line 18, insert: "That, not to exceed $600,000 of the funds appropriated herein shall be made available for restoration of the Scoggins Valley Road from Oregon Highway No. 47 to Henry Hagg Lake (Scoggins Dam), which shall be nonreimbursable:".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. **EVINS** of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: page 15, line 5, insert: ": *Provided further*, That funds appropriated herein for the repairs to the Savage Rapids Dam, of the Rogue River Basin Project, Grants Pass Division, may be transferred to the Oregon Fish and Game Commission on a reimbursable basis for such work on the south fishway facilities as determined desirable by the Secretary of the Interior."

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. **EVINS** of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Page 15, line 13, strike out "$97,884,000" and insert "$98,584,000,".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. **EVINS** of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Evins of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$98,834,000".

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 29: Page 15, line 15, insert "*: Provided further*, That not to exceed $1,400,000 of the funds appropriated herein shall be made available for restoration of the Scoggins Valley Road from Oregon Highway No. 47 to Henry Hagg Lake (Scoggins Dam), which shall be nonreimbursable."

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. EVINS of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EVINS of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 30: Page 15, line 23, strike out "$41,557,000" and insert "$41,867,000".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. EVINS of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EVINS of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$41,152,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 18, line 5, insert: ": *Provided further*, That the amount appropriated herein includes $15,394.83 for Colorado River Front Work and Levee System due the Cocopah Indian Tribe because of a revision of the reservation boundary provided for in a decision of the Department of the Interior and a final judgment of the United States District Court.

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. EVINS of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EVINS of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 38: Page 27, line 18, insert "as specified in section 105 of the Appalachian Regional Development Act of 1965, as amended (40 App U.S.C. 105), which activities are hereby authorized pending the enactment of H.R. 4073 or similar authorizing legislation, $1,830,000."

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. EVINS of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EVINS of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 41: Page 28, line 9, insert: "which activities are hereby authorized pending the enactment of H.R. 4073 or similar authorizing legislation,".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. EVINS of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EVINS of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 51: Page 32, line 15, strike out "$99,754,000" and insert "$91,000,000,".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. EVINS of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EVINS of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$100,025,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 52: Page 32, line 24, strike out "$27,984,000" and insert "$28,200,000,".

MOTION OFFERED BY MR. EVINS OF TENNESSEE

Mr. EVINS of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EVINS of Tennessee moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$30,550,000".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 8122 just agreed to and the items in disagreement, and to include extraneous matter and tables.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT DECEMBER 16, 1975, TO FILE REPORT ON H.R. 10210, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1975

Mr. BURLESON of Texas. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Tuesday, December 16, 1975, to file a report, along with any separate or minority views, on H.R. 10210, the Unemployment Compensation Amendments of 1975.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURLESON of Texas. Mr. Speaker, on behalf of the gentleman from California (Mr. CORMAN) I submit herewitn the following statement with respect to the rule that is to be requested.

On December 11, 1975, the Committee on Ways and Means ordered favorably reported H.R. 10210, the Unemployment Compensation Amendments of 1975.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which will be requested for the consideration of H.R. 10210 on the floor of the House.

The committee instructed me to request the Committee on Rules to grant a closed rule, providing for committee amendments only, which would not be subject to amendment, providing for 3 hours of general debate to be equally divided, and for one motion to recommit.

We expect to file the report on the bill not later than midnight, Tuesday, December 16, 1975.

It is our intention to request a hearing before the Committee on Rules as soon as possible.

RECOMMITTAL OF SENATE JOINT RESOLUTION 121 TO THE COMMITTEE ON CONFERENCE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it be in order to recommit the Senate joint resolution (S.J. Res. 121) to the committee on conference.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may we have an explanation of what the legislation is or why the gentleman has made the request?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, the conference report contained some technical errors which were inadvertent but which do not fairly state the intention of the conferees. That is the reason for the request.

Mr. BAUMAN. Mr. Speaker, I think the gentleman from Washington for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT DECEMBER 20, 1975, TO FILE A REPORT

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tomorrow night, December 20, 1975, to file a report on H.R. 9464, the emergency gas legislation.

The SPEAKER. Is there objection to

the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 10647, SUPPLEMENTAL APPROPRIATIONS, 1976

Mr. MAHON submitted the following conference report on H.R. 10647, a bill making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes:

Conference Report (H. Rept. No. 94–718)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10647) "making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 8, 9, 10, 22, 25, 26, 43, 45, 55, 75, 80, and 81.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 12, 23, 51, 57, 58, 61, 66, 67, 68, 69, 70, 71, 72, and 74, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$2,050,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"Chapter II"

And the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"DEPARTMENT OF THE TREASURY"

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

New York City Seasonal Financing Fund

For the revolving fund established pursuant to section 8(a) of Public Law 94–143, $2,300,000,000.

And the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

New York City Seasonal Financing Fund, Administrative Expenses

For necessary expenses in carrying out the administration of Public Law 94–143, $1,000,000.

For "New York City Seasonal Financing Fund, Administrative Expenses" for the period July 1, 1976, through September 30, 1976, $315,000.

And the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"III"

And the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$437,013,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$89,662,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$13,100,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$56,500,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$85,000,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$13,942,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"IV"

And the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

Office of Superintendent of Documents

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $800,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, $200,000.

And the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"V"

And the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$200,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendent of the Senate numbered 60, and agree to the same with amendment, as follows: In lieu of the matter proposed by said amendment insert:

"VI"

And the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"VII"

And the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,500,000"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,375,000"; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

Office of Management and Budget

SALARIES AND EXPENSES

(Transfer of Funds)

For an additional amount for "Salaries and expenses", $500,000 to be derived by transfer from the appropriation for "Federal Supply Service, operating expenses, General Services Administration", fiscal year 1976.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, $120,000 to be derived by transfer from the appropriation for "Federal Supply Service, operating expenses, General Services Administration", fiscal year 1976.

And the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"VIII"

And the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "and Senate Document Numbered 94–133, Ninety-fourth Congress, $43,472,009"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 5, 6, 28, 29, 30, 31, 32, 33, 34, 35a, 35b, 36, 37, 38, 39, 40, 41, 42, 44, 46, 47, 48, 49, 52, 54, 59, 65, 76, 77, and 82.

George Mahon,
Jamie L. Whitten,
Edward P. Boland,
Daniel J. Flood,
Tom Steed,
John M. Slack,
John J. McFall,
Sidney R. Yates,
Bob Casey,
E. A. Cederberg,
Robert H. Michel
(with violent exception to amendment No. 14),
Jack Edwards
(except as to amendment No. 14),
Lawrence Coughlin,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
JOHN O. PASTORE,
GALE W. MCGEE,
WILLIAM PROXMIRE,
JOSEPH M. MONTOYA,
BIRCH BAYH,
LAWTON CHILES,
ROMAN L. HRUSKA,
CLIFFORD B. CASE,
HIRAM L. FONG,
EDWARD W. BROOKE,
TED STEVENS,
CHARLES MCC. MATHIAS, Jr.,
RICHARD S. SCHWEIKER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

CHAPTER I—DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Rural Housing Insurance Fund

Amendment No. 1: Provides an additional $500,000,000 for insured loans as proposed by the Senate.

The conferees are concerned over the current financial practices of the Farmers Home Administration. Reports have been received that some offices have already committed most of their fiscal year 1976 loan funds. In agreeing to the additional $500,000,000 in loan authority, the conferees direct that this additional authority, including the acceptance of applications, be prorated in approximately equal monthly increments over the remaining six months of the fiscal year.

The conferees also direct the Department of Agriculture to conduct a full evaluation of credit needs in rural America and of its own administrative capabilities to deal with those needs. This report shall be submitted not later than February 1, 1976, to the appropriate Committees of Congress.

The conferees are aware of a need for emergency loans in several parts of the country and emphasize that the annual bill provides for ". . . emergency loans in amounts necessary to meet the needs resulting from natural disasters." Therefore, no additional funds are required for inclusion in this supplemental bill.

Rural Electrification Administration

The conferees are aware of a proposal to move the headquarters of the Rural Electrification Administration from the Department of Agriculture buildings to a suburban location. The Department is directed not to proceed with such a move until specifically approved by the Appropriations Committees of both the House and the Senate.

Soil Conservation Service

Watershed and Flood Prevention Operations

Amendment No. 2: Appropriates $26,432,000 for emergency measures for runoff retardation and soil-erosion prevention, as provided by section 216 of the Flood Control Act of 1950 and as proposed by the Senate, instead of $21,702,000 as proposed by the House.

The conferees agree that not to exceed the following amounts shall be provided:

Alabama	$ 748,000
Arkansas	67,000
California	3,400,000
Connecticut	987,000
Kentucky	239,000
Montana	7,763,000
New Mexico	104,000
New York	4,621,000
Oregon	1,808,000
Pennsylvania	3,000,000
Tennessee	2,430,000
Washington	106,000
Wisconsin	1,159,000
Total	$26,432,000

If funding requirements are determined to be less than the amount provided in connection with the above mentioned emergencies, then such carry-over funds shall be available to fund other section 216 work when justified.

The conferees are concerned with the ability of the Department of Agriculture to adequately and effectively respond to emergency soil erosion and flood situations resulting from natural disasters. The Department is directed to study this matter and to report to the appropriate Committees of Congress with respect to the coordination of disaster assistance programs in watershed areas, and to make recommendations on how such assistance can be more expeditiously and effectively provided.

Food and Nutrition Service

Special Milk Program

Amendment No. 3: Appropriates $60,000,000 for the Special Milk Program as proposed by the Senate.

Child Nutrition Programs

Amendment No. 4: Appropriates $2,050,000 for state administrative expenses instead of $4,100,000 as proposed by the Senate.

General provisions

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

"General Provisions

"Section 610 under this head in the Agriculture and Related Agencies Appropriations Act, 1976, Public Law 94–122, is amended by striking '$37,452,000' and substituting in lieu thereof '$42,400,000' and by striking '$9,363,000' and substituting in lieu thereof '$10,650,000'."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The effect of the amendment is to increase the limitation on the Working Capital Fund in fiscal year 1976 by $4,948,000 and by $1,287,000 for the transition period.

The conferees direct the Department of Agriculture to justify obligations financed through the Working Capital Fund in future years on the same basis as requests for appropriated funds.

Related agencies

Commodities Futures Trading Commission

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

"RELATED AGENCIES

"Commodity Futures Trading Commission

"The limitation of $200,000 for employment under 5 U.S.C. 3109 under this head in the Agriculture and Related Agencies Appropriation Act, 1976 (Public Law 94–122) is increased to $265,000."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The effect of the amendment is to limit the amount available in fiscal year 1976 for the hire of consultants to $265,000. The conferees are in agreement that the increase in the limitation on consultants is not an increase in the total authorized staff of the Commission.

CHAPTER II—DEPARTMENT OF DEFENSE

Liquidation of Obligations—Army

Amendment No. 7: The conferees agreed to delete the Senate language that would have provided for the transfer of $165,000,000 in fiscal year 1975 and 1976 Army procurement appropriations for the liquidation of over-obligations in four procurement appropriations for the fiscal years 1971, 1972, and 1973. The conference agreement is without prejudice to those contractors with valid claims against the Government.

The Anti-Deficiency Act (R.S. 3679) (31 USC 665) requires a formal report to Congress in a timely manner setting forth the amount of the deficiency, the official or officials responsible, the disciplinary action taken, and what steps have been taken to prevent a recurrence.

The Joint Explanatory Statement of the Committee of Conference on the fiscal year 1976 Defense Appropriations dated December 10, 1975, stated in part, "The conferees are greatly concerned about the Army's inability to maintain adequate records and controls over funds for which the Army has statutory accounting responsibility. It therefore directs that a complete and full report of all violations of the Anti-Deficiency Act be made as soon as possible and the corrective actions be taken to reestablish required records and controls. The Secretary of Defense is directed to monitor and assure that the correcitve actions taken by the Army are adequate and timely."

The conferees are in agreement that the relief sought by the Army at this time, in the absence of the report required by law, would violate the spirit and intent of the Anti-Deficiency Act. In view of this violation, which may very well have criminal implications and the admitted inadequate and faulty accounting and procurement management practices on the part of the Army, the conferees feel that relief should be withheld until a full review of this matter can be made by the Congress before funds are made available to restore those accounts that are in a deficiency status.

At the same time, the conferees are most sympathetic to those contractors who must suffer hardships while awaiting payment of valid claims against the Army. The conferees strongly urge, therefore, that the appropriate Army finance and contracting officers expeditiously take the necessary steps to validate those outstanding claims and so notify in writing the contractors involved. This certification would serve to formally validate in writing each contractor's claim, or portion thereof, and such certification can then be used by the contractor to obtain a loan or other financial relief in order to offset any cash flow problem he might incur as a direct result of the Army's over-obligation of certain prior year procurement appropriations.

The conferees further agreed to address this problem and to give it special attention in the second supplemental appropriation bill early next year if, in the meantime, the Army complies with the reporting procedures in accordance with the statutory requirements of the Anti-Deficiency Act.

CHAPTER III—DISTRICT OF COLUMBIA

District of Columbia Funds

Amendments 8, 9 and 10: Delete chapter number, headings, and appropriation of $59,000 out of the general fund of the District of Columbia for "Settlement of claims and suits" proposed by the Senate.

CHAPTER IV

Amendment No. 11: Changes chapter number.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 12: Inserts language to appropriate $100,000,000 to the Special Risk Insurance Fund and $42,500,000 to the General Insurance Fund as proposed by the Senate.

DEPARTMENT OF THE TREASURY

Amendment No. 13: Deletes the Independent Agency heading proposed by the Senate, but inserts the heading for the Department of the Treasury as proposed by the Senate.

Amendment No. 14: Appropriates $2,300,000,000 for the New York City Seasonal Financing Fund as proposed by the Senate, with an amendment to change the citation in said amendment to Public Law 94–143.

The committee of conference agrees that operations of the New York City Seasonal Financing Fund will be the subject of thorough review by the Committees on Appropriations of the House of Representatives and the Senate in connection with consideration of necessary administrative expenses to operate the fund in fiscal year 1977. This review will take place following the initial peak requirements, estimated at $1,275,000,000 in March of 1976.

The conferees have concurred in the full $2,300,000,000 authorized with reluctance and only because agreements between New York City and its creditors are based on the anticipated provision of such amount by the Federal government. To make any reduction at this time could be harmful to the constructive efforts of New York City to resolve its current financial difficulties.

Amendment No. 15: Inserts language to appropriate $1,000,000 for administrative expenses of the New York City Seasonal Financing Fund in fiscal year 1976 and $315,000 in the transition period as proposed by the Senate, with an amendment to change the citation in said amendment to Public Law 94–143.

CHAPTER V

Amendment No. 16: Changes chapter number.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

Health Services

Amendment No. 17: Appropriates $437,013,000, instead of $432,013,000, as proposed by the House, and $440,763,000, as proposed by the Senate. The increase over the amount proposed by the House includes $3,750,000 for the hypertension screening and treatment program, and $1,250,000 for the migrant health program.

Amendment No. 18: Appropriates $89,662,000 for the transition period, instead of $87,517,000, as proposed by the House, and $112,000,000, as proposed by the Senate. The increase over the amount proposed by the House will support 75 National Health Service Corps personnel, in addition to the 626 provided by the House bill.

Center for Disease Control

Preventive Health Services

Amendment No. 19: Appropriates $13,100,000 for rodent control, instead of $10,410,000 as proposed by the House, and $13,710,000, as proposed by the Senate.

Alcohol, Drug Abuse, and Mental Health Administration

Alcohol, Drug Abuse, and Mental Health

Amendment No. 20: Appropriates $56,500,000, instead of $50,500,000, as proposed by the House, and $64,500,000, as proposed by the Senate. The changes from the amounts proposed by the House include an increase of $6,000,000 for initial operations of community mental health centers, an increase of $1,000,000 for consultation and education, an increase of $1,000,000 for rape prevention and control, and a decrease of $2,000,000 for financial distress grants.

Health Resources Administration

Health Resources

Amendment No. 21: Appropriates $85,000,000, instead of $77,000,000 as proposed by the House, and $89,000,000 as proposed by the Senate. The increase over the amount proposed by the House consists of $1,000,000 for advanced nurse training, $1,000,000 for the nurse practitioner program, in which special emphasis should be placed on care of the elderly, and $6,000,000 for nursing student loans.

National Institute of Education

Amendment No. 22: Deletes appropriation of $3,250,000 proposed by the Senate.

The conferees have deleted this item without prejudice. The Director of the National Institute of Education is hereby instructed to submit a report on the Institute's plans with respect to educational satellite technology. The report should be submitted to the Committees on Appropriations prior to consideration of the Second Supplemental Appropriations bill. The report should set forth: the Institute's long-range plans in this area; a summary of past and future costs of the development and operation of the Applications Technology Satellite (ATS–6); and a detailed estimate of costs (long- and short-range) associated with the Communications Technology Satellite.

Assistant Secretary for Human Development

Human Development

Amendment No. 23: Appropriates $1,370,000 for the White House Conference on Handicapped Individuals, as proposed by the Senate, instead of $2,955,000, as proposed by the House.

Amendment No. 24: Appropriates $13,942,000 for the transition period, instead of $13,793,000, as proposed by the House, and $14,135,000, as proposed by the Senate.

RELATED AGENCIES

Community Services Administration

Community Services Program

Amendment No. 25: Appropriates $2,500,000, as proposed by the House, instead of $2,000,000, as proposed by the Senate. The Conferees are agreed that the entire amount is to be used for support of basic skills learning centers, as proposed by the House, rather than for additional assistance to Puerto Rico, as proposed by the Senate.

Amendment No. 26: Deletes language proposed by the Senate which would have extended the availability of funds appropriated in the Second Supplemental Appropriation Act, 1975.

CHAPTER VI—LEGISLATIVE BRANCH

Amendment No. 27: Change chapter number.

Senate

Amendments Nos. 28 through 36: Reported in technical disagreement. Inasmuch as these amendments relate soley to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements, and the other concurs without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 28 through 36.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing the Secretary of the Senate and the Clerk of the House, the latter with the approval of the Committee on House Administration, to promulgate rules and regulations for carrying out the provisions of law authorizing sending of checks to financial institutions on behalf of employees. This provision also exempts the Secretary of the Senate and the Clerk of the House from the requirement for reimbursement for a second or third check sent on behalf of a Senate or House employee.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate changing job titles of positions in the Senate Recording Studio.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amedment of the Senate authorizing the same salaries now in effect for top Senate committee personnel for the staff of any joint committee having authority to originate legislation.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing the Sergeant at Arms of the Senate, subject to Senate approval, to lease, for use by the United States Senate and for such other purposes as the Senate may approve, all or any part of the property located at 400 North Capitol Street, Washington, District of Columbia, known as the "North Capitol Plaza Building".

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that the provisions of sections 491(c) and 491(d) of the Legislative Reorganization Act of 1970, as amended (2 U.S.C. 88b–1), shall not apply to the pay of pages of the Senate and House of Representatives during the period between the recess or adjournment of the first session of the 94th Congress and the convening of the second session of the 94th Congress. The pay of Senate and House pages shall continue during such period of recess or adjournment.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing an increase from $9,060 to $9,063 in the gross annual maximum pay rate of Senate pages.

Congressional Budget Office

Amendment No. 43: Appropriates $4,736,340 for "Salaries and expenses" as proposed by the House instead of $4,900,000 as proposed by the Senate.

The conferees believe the principal mission of the Congressional Budget Office should be to provide support for the implementation of the Congressional Budget Act of 1974, particularly to the Budget Committees in their work. Other members should also be able to receive information already prepared concerning the fiscal or budgetary impact of legislative proposals. In the legislative branch, debate over public policy must be conducted by elected officials. Neither the Congressional Budget Office, nor any of its employees, should initiate, or take positions, on individual policy recommendations. While the Congressional Budget Office must respond to inquiries about its operations, and about individual reports, its public information function should be strictly informational in nature, and not promote the Congressional Budget Office or take a position on any particular policy.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to read as follows: "*Provided further*, That none of the funds in this bill shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 193 staff employees:

Provided further, That the Congressional Budget Office shall have the authority to contract without regard to section 5 of title 41 of the United States Code (section 3709 of the Revised Statutes, as amended)."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action restores the limitation of 193 employees proposed by the House and stricken by the Senate, and inserts language exempting the Congressional Budget Office from the competitive bidding requirement of section 3709 of the Revised Statutes, as amended, as proposed by the Senate.

Amendment No. 45: Appropriates $1,184,085 for the transition period as proposed by the House instead of $1,600,000 as proposed by the Senate.

Architect of the Capitol

Capitol Buildings and Grounds

Capitol buildings

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $65,000 for "Capitol buildings" for relocation within the United States Capitol of statues contributed by States to the National Statuary Hall Collection.

Senate Office Building

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating an additional $696,000 for 1976, of which $200,000 shall remain available until expended, and $29,000 for the transition period.

Administrative Provision

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to enable the Architect to raise the salary of the administrative assistant in the Office of the Architect of the Capitol.

Library of Congress

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting an administrative provision authorizing the Library of Congress to disburse the funds of the Congressional Budget Office as well as providing certain financial management support.

Government Printing Office

Amendment No. 50: Appropriates an additional $800,000 for 1976 and $200,000 for the transition period for "Salaries and expenses, Office of Superintendent of Documents" instead of $900,000 for 1976 and $225,000 for the transition period as proposed by the House and stricken by the Senate.

The conferees have allowed $800,000 to distribute consumer information. The conferees are agreed that centralized distribution of publications should be made by the Government Printing Office and that such distribution shall be effected by appropriations specifically approved in the Legislative Branch appropriations. Any other distributions shall be made by the Government Printing Office and that agency shall be reimbursed in full by the sponsoring agency or department.

General Accounting Office

Amendment No. 51: Appropriates an additional $1,292,000 for "Salaries and expenses" as proposed by the Senate.

General Provisions

Amendment No. 52: Inserts language authorizing the Joint Committee on Congressional Operations to utilize foreign currencies when making official trips abroad.

CHAPTER VII

Amendment No. 53: Changes chapter number.

DEPARTMENT OF STATE

International Organizations and Conferences

Contributions for International Peacekeeping Activities

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $35,000,000 for the United States share of maintaining United Nations peacekeeping forces in the Middle East.

American Consulate, Gothenburg, Sweden

Amendment No. 55: Deletes proposal of the Senate to appropriate $300,000 for the re-opening of a consulate in Gothenburg, Sweden. The Department of State has agreed to re-open the Consulate and has indicated that $300,000 of resources presently available to the Department are to be utilized for that purpose.

DEPARTMENT OF JUSTICE

Legal Activities

Salaries and Expenses, General Legal Activities

Amendment No. 56: Appropriates $200,000 instead of $230,000 as proposed by the Senate.

DEPARTMENT OF COMMERCE

Bureau of the Census

Periodic Censuses and Programs

Amendment No. 57: Appropriates $4,940,000 as proposed by the Senate.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

Salaries and Expenses of United States Magistrates

Amendment No. 58: Appropriates $404,000 for fiscal year 1976 and $151,000 for the transition period, as proposed by the Senate.

RELATED AGENCIES

Japan-United States Friendship Commission

Japan-United States Friendship Trust Fund

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

"JAPAN-UNITED STATES FRIENDSHIP COMMISSION

"Japan-United States Friendship Trust Fund

"For the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118), there is appropriated to the Japan-United States Friendship Trust Fund, to remain available until expended, $18,000,000 of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971. Funds appropriated under title I of Public Law 94–121 for United States-Japan Friendship Activities are transferred to the Japan-United States Friendship Trust Fund for the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118) and are to remain available until expended."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CHAPTER VIII

Amendment No. 60: Changes chapter number.

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Amendment No. 61: Appropriates $300,000,000 for fiscal year 1976 and $50,000,000 for the transition period for Urban Mass Transportation Fund (liquidation of contract authorization) as proposed by the Senate.

CHAPTER IX

Amendment No. 62: Changes Chapter number.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Amendment No. 63: Appropriates $5,500,000 for salaries and expenses for fiscal year 1976 instead of $7,211,000 as proposed by the Senate and $3,100,000 as proposed by the House.

The Conferees are agreed that these funds are to be used to conduct a test of the proposed Concentrated Urban Enforcement program (CUE) concept in three geographically separated cities.

The Conferees direct that Washington, D.C. be one of the three test cities. The Conferees further direct that the results of this test program be reported to the Congress not later than December 31, 1976.

Amendment No. 64: Appropriates $1,375,000 for salaries and expenses for the transition period instead of $1,825,000 as proposed by the Senate and $980,000 as proposed by the House.

Bureau of Public Debt

Administering the Public Debt

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment increases the limitation on travel by $100,000. No additional funding will be required.

Internal Revenue Service

Amendment No. 66: Deletes the appropriation for compliance for fiscal year 1976 and the transition period as proposed by the Senate.

U.S. Secret Service

Amendment Nos. 67 and 68: Provide for the purchase of 329 motor vehicles as proposed by the Senate instead of 100 vehicles as proposed by the House.

Amendment No. 69: Appropriates $10,500,000 for salaries and expenses for fiscal year 1976 as proposed by the Senate instead of $3,000,000 as proposed by the House.

Amendment No. 70: Appropriates $2,500,000 for salaries and expenses for the transition period as proposed by the Senate instead of $500,000 as proposed by the House.

Executive Office of the President

Amendment No. 71: Inserts center heading.

Domestic Council

Amendment No. 72: Appropriates $300,000 for salaries and expenses for fiscal year 1976 and $75,000 for the transition period as proposed by the Senate.

Office of Management and Budget

Amendment No. 73: Provides $500,000 for salaries and expenses for fiscal year 1976 and $120,000 for the transition period to be derived by transfer from the appropriation "Federal Supply Service, operating expenses" in the General Services Administration as proposed by the Senate. The conferees, in providing funding and manpower to OMB to support the transfer of certain government-wide management and financial policy functions from the General Services Administration, are emphasizing the sense of the Congress that these policy activities should be continued. Representatives of state and local governments have demonstrated a need for continuation of these activities which are designed to simplify and provide improved government-wide guidance and coordination of federal assistance programs. Further, these actions are not intended to negate the authority of the Administrator for Federal Procurement Policy, OMB, to effect non-policy delegations to the General Services Administration, pursuant to Section 12, Public Law 93-400.

The conferees are agreed that 25 personnel will be transferred from the Office of Federal Management Policy (GSA) to the Office of Management and Budget with these functions. The personnel and funds transferred from the General Services Administration are not to be used for other activities of the Office of Management and Budget.

INDEPENDENT AGENCIES

Commission on Federal Paperwork

Amendment No. 74: Deletes language proposed by the House allowing funds to remain available until expended.

Amendment No. 75: Appropriates $2,000,000 to remain available until expended for salaries and expenses for the transition period as proposed by the House instead of $1,000,000 as proposed by the Senate.

GENERAL SERVICES ADMINISTRATION

Refunds Under Renegotiation Act

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $1,000,000 for refunds under the Renegotiation Act. This appropriation would provide funds for the General Services Administration to make rebate and refund payments to World War II contractors as authorized by the Renegotiation Act.

TEMPORARY STUDY COMMISSIONS

National Commission on Supplies and Shortages

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment appropriates $622,500 for salaries and expenses for fiscal year 1976 and $295,000 for the transition period to enable the Commission to report on the possible need for institutional adjustments for the Government in order to deal with future materials shortages.

This amendment also makes available until October 1, 1976, funds appropriated under the Supplemental Appropriations Act, 1975.

CHAPTER X—CLAIMS AND JUDGMENTS

Amendment No. 78. Changes chapter number.

Amendment No. 79: Adds "and Senate Document Numbered 94-133, Ninety-fourth Congress" and appropriates $43,472,009 as proposed by the Senate instead of $24,946,893 as proposed by the House.

CHAPTER XI—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Amendment No. 80: Deletes language proposed by the Senate which appropriated $6,900,000 for Energy Research and Development Administration, operating expenses, for fuel cell research.

TITLE II—GENERAL PROVISIONS

Amendment No. 81: Section 204—The Senate inserted language which provides that none of the funds in this or any other Act can be used for the operation or dismantlement of the Missile Site Radar at Grand Forks, North Dakota, until July 1, 1976. The House had no similar language. The Senate receded.

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which follows:

"SEC. 205. (a) It is the sense of the Congress that the President, through the Director of the Office of Management and Budget, shall take immediate steps to restrain the inflationary impact of Federal expenditures and to conserve the use of energy by ordering a reduction of Federal travel expenditures not to exceed 10 percent.

"(b) These steps shall include such provisions as are necessary to insure that such reductions are allocated so as not to disrupt the provision of vital governmental services or the organized troop movement of military personnel.

"(c) The President is requested to submit to Congress, within 30 days of adoption of this section by the Senate and the House of Representatives a report outlining his actions."

The conferees are in agreement with the general intent of this amendment but point out that it should apply to the remaining period of this fiscal year compared to the comparable period of the preceding year. The conferees also note that the increase in per diem costs will make it difficult to accomplish a 10 per cent reduction in actual travel costs but are hopeful that this resolution will cause a reduction in the actual amount of travel.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1976 and the transition period recommended by the committee of conference, with comparisons to the 1976 budget estimates, and the House and Senate bills for 1976 follows:

Budget estimates of new (obligational) authority (as amended), fiscal year 1976	[1] $11, 303, 560, 377
Transition period	[1] 904, 409, 360
House bill, fiscal year 1976	7, 820, 306, 201
Transition period	127, 654, 795
Senate bill, fiscal year 1976	10, 334, 347, 777
Transition period	156, 010, 610
Conference agreement	10, 298, 883, 117
Transition period	133, 813, 695
Conference agreement compared with:	
Budget estimates of new (obligational) authority (as amended), fiscal year 1976	−1, 004, 677, 260
Transition period	−770, 595, 665
House bill, fiscal year 1976	+2, 478, 576, 916
Transition period	+6, 158, 900
Senate bill, fiscal year 1976	−35, 464, 660
Transition period	−22, 196, 915

[1] Includes $2,375,333,516 in budget estimates for fiscal year 1976 and $2,644,900 for the transition period not considered by the House.

George Mahon,
Jamie L. Whitten,
Edward P. Boland,
Daniel J. Flood,
Tom Steed,
John M. Slack,
John J. McFall,
Sidney R. Yates,
Bob Casey,
E. A. Cederberg,
Robert H. Michel
(with violent exception to amendment 14),
Jack Edwards
(except as to amendment 14),
Lawrence Coughlin,
Managers on the Part of the House.

John L. McClellan,
Warren G. Magnuson,
John O. Pastore,
Gale W. McGee,
William Proxmire,
Joseph M. Montoya,
Birch Bayh,
Lawton Chiles,
Roman L. Hruska,
Clifford P. Case,
Hiram L. Fong,
Edward W. Brooke,
Ted Stevens,
Charles McC. Mathias, Jr.,
Richard S. Schweiker,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 9861, DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

Mr. MAHON. Mr. Speaker, pursuant to unanimous consent granted on yesterday, I call up the conference report on the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 10, 1975.)

Mr. MAHON (during the reading). Mr. Speaker, this is a rather voluminous statement of the managers, and, therefore, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. Mahon) is recognized for 30 minutes.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are finally completing action on the Defense appropriation bill for the fiscal year 1976 and for the transition period which extends from July 1, 1976, to September 30, 1976.

CONFERENCE TOTALS

The bill as agreed to by the conferees provides an appropriation of about $113 billion. As I said in presenting this bill to the House some time ago, this is no doubt the largest single appropriation bill ever presented to any legislative body in the history of the world. However, there are many who say that it is inadequate, and it could be alleged with some degree of validity that in some respects it is inadequate. But it is the best bill that we were able to contrive in conference . . . after months and months of effort reviewing the entire request.

It is my judgment, Mr. Speaker, that if the $113 billion in this bill is managed wisely and spent wisely, the bill will be adequate for the period which this appropriation covers.

Therefore, Mr. Speaker, I think this is the best that can be done under the circumstances. We reduced the President's budget for the 15-month period $8.6 billion.

Of course, since the budget was presented many months ago, there have been changes in many matters, and we feel that the readjustments that we have made, will improve our defense posture. We think this is, on the whole, a good bill.

What did we do with respect to settling the differences between the House and Senate bills? The Senate was over the House by about $500 million. It turns out, upon recapitulation, that we split the difference between the House and Senate almost evenly, about $250 million over the original figures in the House and about a $250 million decrease under the Senate version of the bill.

Mr. Speaker, I do not know to what extent I should undertake to discuss the details of this conference report at this time, but the bill generally is about the same bill that we passed earlier in the year. In any event, the conference report is before the Members, a report of 64 pages; and it would be impossible for the members of the Committee on Appropriations to discuss the details of all of the provisions in the bill. However, the information is available to Members through the reports of the House and the Senate and, of course, through the hearings on the bill, which are very voluminous, 10 volumes in all, and all Members will be able to get whatever information they need.

Moreover, in my remarks, having received permission to revise and extend, at the proper time I will insert certain information which I think will be of assistance.

Under permission granted to extend my remarks I would say that it is difficult to make reductions in Defense spending requests. We want to be sure that we adequately maintain our military forces. We know that we live in a world in which some are hostile to our best interests and that a strong military capability is essential for the Nation. We know that military spending could be considered as being wasteful in that it does not add to the productivity of the Nation and we know that any establishment as huge as the Department of Defense, with the almost numberless programs and projects of the Department of Defense, makes management mistakes and that reductions can in instances be made without impairing national defense.

Mr. Speaker, the Congress can be proud of the job we did on the Defense appropriation bill. We made a sizable reduction, but we did not impair the essential military strength of our Nation. The reductions are specific and were made with great care.

We provided for an increase in our military strength with new aircraft, new ships and new tanks and other modern implements of war.

COMMISSARIES

There are items in the bill which are of special interest to the Members of the House. One of the more controversial issues dealt with is the funding of military commissaries. The administration proposed that we reduce the amount of subsidies for commissaries by one-half and that we make further reductions next year. The House and Senate both rejected that proposal. However, the Senate made a reduction in commissary support and directed a phaseout of the commissaries over a 5-year period. The House managers opposed the Senate amendment in the conference, the Senate receded, and the conference report before the House today provides for full funding for the commissaries. We provide $110 million more than was requested in the budget for commissary support and we do not require any phasedown or any termination of commissary benefits.

B-1 STRATEGIC BOMBER

Possibly, the most controversial military hardware item in conference involves funding of advance procurement items for B-1 strategic manned bombers. The House provided $64 million in fiscal year 1976 for the advance procurement of items which would make it possible to make a decision to procure B-1 aircraft for the Air Force inventory in fiscal year 1977. The Senate deleted these funds. In the conference we were able to persuade the Senate to permit the appropriation of advance procurement funds so that an orderly B-1 program could proceed if next year Congress decides to procure operational aircraft. No production commitment is made at this time. We understand that either three or four B-1 aircraft will be included in the fiscal year 1977 Defense budget. In considering the fiscal year 1977 budget Congress must decide whether or not to go into production on this major strategic weapon system. We thought that until this decision is made the program should proceed in an orderly way. In order to persuade the Senate managers to agree with our position, we had to agree to a reduction in development funds for the B-1. The conferees agreed to the $597.2 million for research and development on the B-1 in fiscal year 1976 instead of $642 million as had been proposed by the House. The B-1 R. & D. program can absorb this reduction, we are told, without serious impact.

F-16 AIR COMBAT FIGHTER

The Senate proposed a $75 million reduction in the funding of research and development associated with the new F-16 air combat fighter of the Air Force. Information which we received indicates that such a reduction would have had a disastrous impact on the program and that existing contracts would have had to be cancelled. The F-16 is the new lightweight fighter. Thus far its development has been highly successful. As the Members know, four NATO nations have decided to procure the F-16 aircraft. The Senate reductions would have jeopardized the NATO buy. We were able to persuade the Senate to restore $70 million of the $75 million reduction proposed and provide $216,050,000 for the F-16 program for fiscal year 1976.

AIRBORNE WARNING AND CONTROL SYSTEM

Another controversial Air Force aircraft is the airborne warning and control system, known as AWACS. The House had funded two additional AWACS aircraft in fiscal year 1976. The Senate had provided the full budgeted number of six. We compromised at four. We are very hopeful that the NATO countries will become interested in the AWACS and will procure the AWACS aircraft which are wanted for the air defense of Western Europe. This is under consideration and will probably be resolved next spring. Until we know what the NATO attitude is, we do not want to proceed too rapidly.

FEDERAL CONTRACT RESEARCH CENTERS

The Senate made a general reduction of $24.0 million in a broad category of research and development organizations known as Federal Contract Research Centers. In the conference we were able to persuade the Senate to restore one-half of the sum deleted. The conference also agreed that the Department can reprogram funds for FCRC's in order to minimize the impact of the reduction on FCRC personnel.

XM-1 TANK PROGRAM

Members of the committee had been disturbed about the management of the XM-1 tank program of the Army and had made a reduction of $35 million in funds for research and development associated with the tank. The House provided $5,953,000 for the XM-1 program. The Senate provided $38,953,000. After reviewing the program, the House managers agreed to the Senate position in order to prevent a delay in this high-priority program.

AIR LAUNCHED CRUISE MISSILE

The House had deleted all of the funds requested for development of the Air Force air-launched cruise missile. The Senate restored these funds and the House agreed to the restoration in conference. The conference agreement provides $51 million in fiscal year 1976 for the continuation of this program. The House Members had been somewhat skeptical of the need for an additional strategic nuclear weapon at this time.

INTELLIGENCE PROGRAMS

Funding for intelligence programs was one of the major items of interest during the House debate on this bill. The House bill reduced intelligence funding by $263.2 million in 1976 and by $81.4 million in the transition quarter. The Senate bill reduced intelligence activities $123.6 million in 1976 and $31.0 million in the transition quarter. The conference agreement includes reductions of $168.0 million in 1976 and $53.8 million in the transition quarter. The conference agreement is $95.2 million above the House amount in 1976 and $27.6 million above the House amount the transition quarter. The conference agreement is $44.1 million below the Senate amount in 1976 and $22.8 million below the Senate amount in the transition quarter.

The reductions are considered to be serious by some members of the intelligence community but we strongly believe that the reductions are proper and will serve to strengthen congressional control in this important area.

SAFEGUARD ABM SYSTEM

With regard to the Safeguard antiballistic missile system, I wish to first emphasize that both the House and the Senate agreed that the Safeguard system, except for the perimeter acquisition radar, is to be terminated and deactivated.

In approving the Defense appropriation bill on the House floor, this body agreed to the complete deactivation and dismantling of the entire Safeguard system, including the perimeter acquisition radar. All of the funds requested for Safeguard were deleted in the 3-month transition period.

The Senate adopted the Kennedy

amendment which concurs in the House action, except for the deactivation and dismantling of the PAR radar. The House conferees agreed with the Senate amendment with respect to the continued operation of the PAR. It is clear that both bodies agreed to deactivate Safeguard system except for the PAR radar.

The basis for closing the Safeguard facility were clearly identified in the House committee report. The primary reason, of course, relates to the ABM Treaty limitation that we can only have 100 ABM interceptors. One hundred ABM interceptors are simply not enough to provide any significant protection to our Minuteman force. The Soviet Union is placing multiple independently targeted reentry vehicles on their new ICBM's. As a result, they will have sufficient numbers of warheads to attack all of our ICBM's and our ABM interceptors. The ABM system would be quickly overwhelmed and could not protect our ICBM's. In other words, it cannot perform its mission.

The Army planned to mothball the system next year. We feel that since it is of almost no military value and is expensive to operate, it should be closed this year rather than next.

ARMY AMMUNITION PLANTS

The Senate provided $110 million for construction of a new 105-millimeter artillery projectile metal parts facility at the Lone Star Army Ammunition Plant in Texarkana. The House had deleted funds for the project. The Army's ammunition production program has been heavily impacted by the termination of the war in Southeast Asia. Ammunition requirements suddenly were sharply reduced. Because of this, the House doubted the requirement for the new metal parts facility at Lone Star.

In the conference, the $110 million amount was approved but not provided for any specific facility. The Army is called on to restudy ammunition plant requirements and to certify to Congress the essentiality of any requirement for new metal parts facilities for 105-millimeter artillery shells. Further, the concurrence of the Appropriations and Armed Services Committees of the House and Senate are required before construction of such facilities can proceed.

We have provided the funds so that the Army can proceed in this fiscal year if a requirement is established and the required approval is obtained.

RECRUITING COSTS

In its original action, the House had reduced the $530 million requested by the Active Forces for recruiting by $29.6 million in the personnel accounts, $22.6 million in the operation accounts and $37.0 million for recruit advertising—making a total reduction of $82.2 million. The Senate bill in general agreed with the House bill with respect to recruiting reductions, although the Senate did suggest that some of the recruiter personnel—people—reduction should be restored. Thus, in conference we agreed to restore $12.0 million to the military personnel accounts to keep more recruiters out in the field, and $8.1 million to the operating accounts. The conferees agreed not to restore any funds to the advertising request. Thus, the total reduction in the recruiting request is approximately $69 million instead of $89 million as originally proposed by the House.

COUNSELORS

The original House bill contained a reduction of $10.5 million for in-house counselor positions. The House bill also proposed to delete payments for pastoral, family, marital, and child counseling from the CHAMPUS—civilian health and medical program of the uniformed services. These services are not covered by any of the other Federal health insurance programs or by any of the private plans. The Department of Defense strongly supported the House position in that such services do not represent medical treatment of a medically diagnosed mental illness.

In conference a reduction of $7.0 million for in-house counselors was agreed to. We also agreed to restore coverage of counseling services under the CHAMPUS program with the proviso that recipients of these services must obtain a certification that the counseling services are not available on the military base to which the member is assigned or within 40 miles of his home. Thus, counseling services would be subject to the same requirements with respect to certification of nonavailability as is inpatient care.

COMMITTEE MEMBERS AND STAFF

I want to commend the members of the Defense Subcommittee of the House Committee on Appropriations—the gentleman from Florida (Mr. Sikes), the gentleman from Pennsylvania (Mr. Flood), the gentleman from New York (Mr. Addabbo), the gentleman from California (Mr. McFall), the gentleman from Georgia (Mr. Flynt), the gentleman from Connecticut (Mr. Giaimo), the gentleman from Florida (Mr. Chappell), the gentleman from Missouri (Mr. Burlison), the gentleman from Alabama (Mr. Edwards), the ranking minority member of the Defense Subcommittee; the gentleman from Virginia (Mr. Robinson), and the gentleman from New York (Mr. Kemp). These gentlemen have worked long hours for almost 12 months on this bill. Without their keen insight, diligence, devotion to duty, patience, clear thinking and assistance, it would not have been possible for me to stand before you today with a bill of this complexity and recommend to you its adoption. The Congress and the country owe them a debt of gratitude and I deeply appreciate their efforts in behalf of national defense.

And, of course, the Defense Subcommittee and its members must have the support of a competent staff. We on the Defense Subcommittee are fortunate in having a superb, experienced, objective, and dedicated staff. The members of the staff have worked long hours every working day, including many nights and weekends, delving into this massive Defense budget. Without their loyal support we could not have managed a bill of this size in the time frame available to us. I want to commend them to the Members of the House. They are Mr. Ralph Preston, Mr. John M. Garrity, Mr. Peter J. Murphy, Mr. Derek J. Vander Schaaf, Mr. Gordon E. Casey, Mr. Charles W. Snodgrass, Mr. Donald P. Smith, Mr. Austin G. Smith, Miss Marcia L. Matts, and Ms. Sandra A. Gilbert. We owe them a debt of gratitude for the service they have rendered to the Nation.

SUMMARY TABLES

Under permission granted, I place in the Record a detailed tabulation showing congressional action on the pending bill:

SUMMARY OF BILL BY MAJOR CATEGORIES

	New BA enacted fiscal year 1975	New BA estimates 1976/transition	New BA House 1976/transition	New BA Senate 1976/transition	New BA conference 1976/transition	Conference compared with—			
						Fiscal year 1975 enacted	New BA estimate	House bill	Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel, Army	$8,072,021,000	$8,264,400,000	$8,162,738,000	$8,185,666,000	$8,180,347,000	+$108,326,000	−$84,053,000	+$17,609,000	−$5,319,000
Transition period		2,100,000,000	2,062,994,000	2,064,644,000	2,064,635,000		−35,365,000	+1,641,000	−9,000
Transfer from other accounts	(10,100,000)	(..........)	(..........)	(..........)	(..........)	(−10,100,000)	(..........)	(..........)	(..........)
Military personnel, Navy	5,835,560,000	5,784,900,000	5,721,114,000	5,722,484,000	5,722,300,000	−113,260,000	−62,600,000	+1,186,000	−184,000
Transition period		1,476,900,000	1,451,568,000	1,451,878,000	1,451,668,000		−25,232,000	+100,000	−210,000
Transfer from other accounts	(10,100,000)	(..........)	(..........)	(..........)	(..........)	(−10,100,000)	(..........)	(..........)	(..........)
Military personnel, Navy 1969, 1971 (liquidation of deficiencies)	43,356,000					−43,356,000			
Military personnel, Marine Corps	1,757,256,000	1,828,300,000	1,802,843,000	1,810,335,000	1,806,377,000	+49,121,000	−21,923,000	+3,534,000	−3,958,000
Transition period		467,900,000	459,863,000	460,190,000	460,117,000		−7,783,000	+254,000	−73,000
Transfer from other accounts	(3,200,000)	(..........)	(..........)	(..........)	(..........)	(−3,200,000)	(..........)	(..........)	(..........)
Military personnel, Air Force	7,441,031,000	7,400,600,000	7,262,661,000	7,244,884,000	7,251,524,000	−189,507,000	−149,076,000	−11,137,000	+6,640,000
Transition period		1,816,300,000	1,777,928,000	1,764,481,000	1,776,677,000		−39,623,000	−1,251,000	+12,196,000
Transfer from other accounts	(55,500,000)	(..........)	(..........)	(..........)	(..........)	(−55,500,000)	(..........)	(..........)	(..........)
Reserve personnel, Army	493,800,000	464,600,000	468,700,000	469,357,000	468,879,000	−24,921,000	+4,279,000	+179,000	−478,000
Transition period		168,900,000	168,120,000	164,527,000	165,299,000		−3,601,000	−2,821,000	+772,000
Reserve personnel, Navy	215,400,000	191,000,000	204,390,000	189,450,000	200,035,000	−15,365,000	+9,035,000	−4,355,000	+10,585,000
Transition period		56,300,000	61,935,000	54,715,000	59,525,000		+3,225,000	−2,410,000	+4,810,000
Reserve personnel, Marine Corps	66,800,000	72,700,000	69,320,000	71,983,000	70,652,000	+3,852,000	−2,048,000	+1,332,000	−1,331,000
Transition period		28,900,000	27,850,000	28,313,000	28,082,000		−818,000	+232,000	−231,000
Reserve personnel, Air Force	147,865,000	160,700,000	157,500,000	152,700,000	157,500,000	+9,635,000	−3,200,000		+4,800,000
Transition period		51,100,000	48,260,000	47,160,000	48,260,000		−2,840,000		+1,100,000

SUMMARY OF BILL BY MAJOR CATEGORIES—Continued

	New BA enacted fiscal year 1975	New BA estimates 1976/transition	New BA House 1976/transition	New BA Senate 1976/transition	New BA conference 1976/transition	Conference compared with—			
						Fiscal year 1975 enacted	New BA estimate	House bill	Senate bill
TITLE I—MILITARY PERSONNEL—Cont.									
National Guard personnel, Army	$660,800,000	$697,300,000	$696,900,000	$696,900,000	$696,900,000	+$36,100,000	−$400,000		
Transition period		225,300,000	209,050,000	209,050,000	209,050,000		−16,250,000		
National Guard personnel, Air Force	205,227,000	213,200,000	211,318,000	212,318,000	212,318,000	+7,091,000	−882,000	+$1,000,000	
Transition period		61,100,000	60,924,000	60,924,000	60,924,000		−176,000		
Total, Title I	24,939,116,000	25,077,700,000	24,757,484,000	24,756,077,000	24,766,832,000	−172,284,000	−310,868,000	+9,348,000	+$10,755,000
Transition period		6,452,700,000	6,328,492,000	6,305,882,000	6,324,237,000		−128,463,000	−4,255,000	+18,355,000
Total, transfer from other accounts	(78,900,000)	( )	( )	( )	( )	(−78,900,000)	( )	( )	(
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, Defense	6,250,900,000	6,885,200,000	6,885,200,000	6,885,200,000	6,885,200,000	+634,300,000			
Transition period		1,775,100,000	1,775,100,000	1,775,100,000	1,775,100,000				
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance, Army	6,350,167,000	7,352,000,000	6,984,830,000	7,052,000,000	7,052,000,000	+701,833,000	−300,000,000	+67,170,000	
Transition period		1,883,700,000	1,752,542,000	1,781,442,000	1,779,000,000		−104,700,000	+26,458,000	−2,442,000
Transfer from other accounts	(23,221,000)	( )	( )	( )	( )	(−23,221,000)	( )	( )	( )
Operation and maintenance, Army, 1972 (liquidation of contract authority)		42,214,000					−42,214,000		
Army stock fund		94,000,000	94,000,000		20,000,000	+20,000,000	−74,000,000	−74,000,000	+20,000,000
Operation and maintenance, Navy	7,290,525,000	8,320,000,000	7,974,615,000	8,108,615,000	8,069,400,000	+778,875,000	−250,600,000	+94,785,000	−39,215,000
Transition period		2,234,500,000	2,121,157,000	2,133,557,000	2,133,557,000		−100,943,000	+12,400,000	
Transfer from other accounts	(6,700,000)	( )	( )	( )	( )	(−6,700,000)	( )	( )	( )
Operation and maintenance, Navy, 1972 (liquidation of contract authority)		54,000,000					−54,000,000		
Navy stock fund		42,000,000	42,000,000		10,000,000	+10,000,000	−32,000,000	−32,000,000	+10,000,000
Operation and maintenance, Marine Corps	459,384,000	507,300,000	492,910,000	499,210,000	497,110,000	+37,726,000	−10,190,000	+4,200,000	−2,100,000
Transition period		129,400,000	125,506,000	125,856,000	125,506,000		−3,894,000		−350,000
Transfer from other accounts	(1,600,000)	( )	( )	( )	( )	(−1,600,000)	( )	( )	( )
Marine Corps stock fund		8,700,000	8,700,000		2,000,000	+2,000,000	−6,700,000	−6,700,000	+2,000,000
Operation and maintenance, Air Force	7,141,450,000	7,956,300,000	7,437,079,000	7,586,479,000	7,498,679,000	+357,229,000	−457,621,000	+61,600,000	−87,800,000
Transition period		2,020,300,000	1,906,245,000	1,897,495,000	1,897,495,000		−122,805,000	−8,750,000	
Transfer from other accounts	(24,780,000)	( )	( )	( )	( )	(−24,780,000)	( )	( )	( )
Operation and maintenance, Air Force, 1972 (liquidation of contract authority)		67,000,000					−67,000,000		
Air Force stock fund		82,100,000	82,100,000		15,000,000	+15,000,000	−67,100,000	−67,100,000	+15,000,000
Operation and maintenance, Defense agencies	2,400,097,000	2,569,800,000	2,460,631,000	2,497,876,000	2,475,431,000	+75,334,000	−94,369,000	+14,800,000	−22,445,000
Transition period		653,600,000	623,925,000	631,855,000	627,725,000		−25,875,000	+3,800,000	−4,130,000
Defense stock fund		250,000,000	250,000,000	88,000,000	88,000,000	+88,000,000	−162,000,000	−162,000,000	
Operation and maintenance, Army Reserve	283,993,000	332,300,000	305,760,000	311,460,000	310,710,000	+26,717,000	−21,590,000	+4,950,000	−750,000
Transition period		98,200,000	91,400,000	91,100,000	91,100,000		−7,100,000	−300,000	
Operation and maintenance, Navy Reserve	246,738,000	308,600,000	281,525,000	288,125,000	284,425,000	+37,687,000	−24,175,000	+2,900,000	−3,700,000
Transition period		80,700,000	73,550,000	73,250,000	73,250,000		−7,450,000	−300,000	
Operation and maintenance, Marine Corps Reserve	11,728,000	12,100,000	11,900,000	12,000,000	12,000,000	+272,000	−100,000	+100,000	
Transition period		3,500,000	3,400,000	3,400,000	3,400,000		−100,000		
Operation and maintenance, Air Force Reserve	293,680,000	343,800,000	327,330,000	318,530,000	322,430,000	+28,750,000	−21,370,000	−4,900,000	+3,900,000
Transition period		87,700,000	83,190,000	79,590,000	81,190,000		−6,510,000	−2,000,000	+1,600,000
Operation and maintenance, Army National Guard	607,528,000	678,200,000	649,930,000	650,330,000	649,930,000	+42,402,000	−28,270,000		−400,000
Transition period		183,400,000	174,385,000	173,285,000	173,285,000		−10,115,000	−1,100,000	
Operation and maintenance, Air National Guard	648,350,000	723,500,000	690,100,000	703,400,000	697,100,000	+48,750,000	−26,400,000	+7,000,000	−6,300,000
Transition period		189,200,000	181,500,000	181,200,000	181,200,000		−8,000,000	−300,000	
National Board for the Promotion of Rifle Practice, Army	183,000	233,000		233,000	233,000	+50,000		+233,000	
Transition period		73,000	93,000	93,000	93,000		+20,000		
Naval petroleum reserve	69,400,000	117,700,000	117,700,000	117,700,000	117,700,000	+48,300,000			
Transition period		47,500,000	47,500,000	47,500,000	47,500,000				
Claims, Defense	54,600,000	71,600,000	71,600,000	71,600,000	71,600,000	+17,000,000			
Transition period		15,500,000	15,500,000	15,500,000	15,500,000				
Contingencies, Defense	2,500,000	5,000,000	2,500,000	2,500,000	2,500,000		−2,500,000		
Transition period		1,250,000	725,000	725,000	725,000		−525,000		
Court of Military Appeals	1,065,000	1,134,000	1,134,000	1,134,000	1,134,000	+69,000			
Transition period		285,000	285,000	285,000	285,000				
Total, Title III	25,861,388,000	29,939,581,000	28,286,344,000	28,309,192,000	28,197,382,000	+2,335,994,000	−1,742,199,000	−88,962,000	−111,810,000
Transition period		7,628,808,000	7,200,903,000	7,236,133,000	7,230,811,000		−397,997,000	+29,908,000	−5,322,000
Total, transfer from other accounts	(56,301,000)	( )	( )	( )	( )	(−56,301,000)	( )	( )	( )
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	242,800,000	362,300,000	333,500,000	333,500,000	333,500,000	+90,700,000	−28,800,000		
Transition period		59,400,000	59,400,000	59,400,000	59,400,000				
Transfer from other accounts	(7,000,000)	( )	( )	( )	( )	(−7,000,000)	( )	( )	( )
Missile procurement, Army	416,500,000	460,800,000	385,100,000	422,600,000	422,600,000	+6,100,000	−38,200,000	+37,500,000	
Transition period		56,500,000	41,600,000	42,600,000	42,600,000		−13,900,000	+1,000,000	
Transfer from other accounts	(15,000,000)	( )	( )	( )	( )	(−15,000,000)	( )	( )	( )
Procurement of weapons and tracked combat vehicles, Army	344,800,000	989,300,000	881,400,000	918,700,000	881,400,000	+536,600,000	−107,900,000		−37,300,000
Transition period		282,300,000	255,000,000	255,000,000	255,000,000		−27,300,000		
Transfer from other accounts	(3,000,000)	( )	( )	( )	( )	(−3,000,000)	( )	( )	( )
Procurement of ammunition, Army	720,200,000	751,400,000	615,500,000	637,200,000	637,200,000	−83,000,000	−114,200,000	+21,700,000	
Transition period		271,200,000	164,100,000	252,800,000	252,800,000		−18,400,000	+88,700,000	
Transfer from other accounts	(170,000,000)	( )	( )	( )	( )	(−170,000,000)	( )	( )	( )
Other procurement, Army	681,100,000	1,002,800,000	898,400,000	930,500,000	912,300,000	+231,200,000	−90,500,000	+13,900,000	−18,20,0000
Transition period		197,700,000	197,700,000	197,700,000	197,700,000				

SUMMARY OF BILL BY MAJOR CATEGORIES—Continued

	New BA enacted fiscal year 1975	New BA estimates 1976/transition	New BA House 1976/transition	New BA Senate 1976/transition	New BA conference 1976/transition	Conference compared with— Fiscal year 1975 enacted	New BA estimate	House bill	Senate bill
TITLE IV—PROCUREMENT—Cont.									
Transfer from other accounts	($3,000,000)	( )	( )	( )	( )	(−$3,000,000)	( )	( )	( )
Aircraft procurement, Navy	2,775,400,000	$3,077,000,000	$2,972,800,000	$2,972,800,000	$2,972,800,000	+197,400,000	−$104,200,000		
Transition period		600,100,000	605,500,000	605,500,000	605,500,000		+5,400,000		
Weapons procurement, Navy	729,500,000	1,224,200,000	1,155,100,000	1,190,100,000	1,172,600,000	+443,100,000	- 51,600,000	+$17,500,000	−$17,500,000
Transition period		332,700,000	314,200,000	329,200,000	321,700,000		−11,000,000	+7,500,000	−7,500,000
Transfer from other accounts	(10,000,000)	( )	( )	( )	( )	(−10,000,000)	( )	( )	( )
Shipbuilding and conversion, Navy	3,059,000,000	5,506,000,000	3,832,700,000	3,853,000,000	3,853,000,000	+794,000,000	−1,653,000,000	+20,300,000	
Transition period		474,200,000	471,200,000	471,200,000	471,200,000		−3,000,000		
Transfer from other accounts	(70,000,000)	( )	(84,500,000)	(75,000,000)	(75,000,000)	(+5,000,000)	(+75,000,000)	(−9,500,000)	( )
Other procurement, Navy	1,582,600,000	1,981,900,000	1,810,100,000	1,872,700,000	1,829,700,000	+247,100,000	−152,200,000	+19,600,000	−43,000,000
Transition period		491,200,000	460,100,000	469,900,000	464,500,000		−26,700,000	+4,400,000	−5,400,000
Transfer from other accounts	(20,800,000)	( )	( )	( )	( )	(−20,800,000)	( )	( )	( )
Procurement, Marine Corps	207,800,000	285,800,000	275,900,000	281,000,000	281,000,000	+73,200,000	−4,800,000	+5,100,000	
Transition period		43,800,000	40,400,000	40,400,000	40,400,000		−3,400,000		
Transfer from other accounts	(10,000,000)	( )	( )	( )	( )	(−10,000,000)	( )	( )	( )
Aircraft procurement, Air Force	2,939,900,000	4,575,500,000	3,933,200,000	3,933,700,000	3,933,700,000	+993,800,000	−641,800,000	+500,000	
Transition period		1,087,100,000	818,400,000	803,100,000	818,400,000		−268,700,000		+15,300,000
Transfer from other accounts	(153,600,000)	( )	(24,300,000)	(24,300,000)	(24,300,000)	(−129,300,000)	+24,300,000)	( )	( )
Missile procurement, Air Force	1,533,700,000	1,791,400,000	1,694,600,000	1,739,500,000	1,723,900,000	+190,200,000	−67,500,000	+29,300,000	−15,600,000
Transition period		277,400,000	232,000,000	245,900,000	233,000,000		−44,400,000	+1,000,000	−12,900,000
Transfer from other accounts	(5,000,000)	( )	( )	( )	( )	(−5,000,000)	( )	( )	( )
Other procurement, Air Force	1,776,500,000	2,342,800,000	2,010,400,000	2,133,800,000	2,046,400,000	+269,900,000	−296,400,000	+36,000,000	−87,400,000
Transition period		383,600,000	345,700,000	358,000,000	353,000,000		−30,600,000	+7,300,000	−5,000,000
Transfer from other accounts	(12,600,000)	( )	( )	( )	( )	(−12,600,000)	( )	( )	( )
Procurement, Defense agencies	98,416,000	128,300,000	203,100,000	120,100,000	205,600,000	+107,184,000	+77,300,000	+2,500,000	+85,500,000
Transition period		20,900,000	39,600,000	20,900,000	39,600,000		+18,700,000		+18,700,000
Total, Title IV	17,108,216,000	24,479,500,000	21,001,800,000	21,339,200,000	21,205,700,000	+4,097,484,000	−3,273,800,000	+203,900,000	−133,500,000
Transition period		4,578,100,000	4,044,900,000	4,151,600,000	4,154,800,000		−423,300,000	+109,900,000	+3,200,000
Total, transfer from other accounts	(480,000,000)	( )	(108,800,000)	(99,300,000)	(99,300,000)	(−380,700,000)	(+99,300,000)	(−9,500,000)	( )
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, development, test, and evaluation, Army	1,779,339,000	2,181,700,000	1,922,833,000	1,995,596,000	1,948,823,000	+169,484,000	−232,877,000	+25,990,000	−46,773,000
Transition period		585,600,000	464,774,000	512,451,000	504,452,000		−81,148,000	+39,678,000	7,999,000
Research, development, test, and evaluation, Navy	3,006,914,000	3,467,700,000	3,146,050,000	3,265,950,000	3,238,390,000	+231,476,000	−229,310,000	+92,340,000	−27,560,000
Transition period		903,800,000	801,419,000	824,899,000	818,722,000		−85,078,000	+17,303,000	−6,177,000
Transfer from other accounts	(17,000,000)	( )	( )	( )	( )	(−17,000,000)	( )	( )	( )
Research, development, test, and evaluation, Air Force	3,274,360,000	3,903,200,000	3,591,266,000	3,584,406,000	3,591,266,000	+316,906,000	−311,934,000		+6,860,000
Transition period		1,034,000,000	906,946,000	900,014,000	901,014,000		−132,986,000	−5,932,000	+1,000,000
Transfer from other accounts	(16,493,000)	( )	( )	( )	( )	(−16,493,000)	( )	( )	( )
Research, development, test, and evaluation, Defense Agencies	491,057,000	597,800,000	599,100,000	557,200,000	604,400,000	+113,343,000	+6,600,000	+5,300,000	+47,200,000
Transition period		152,700,000	147,000,000	138,700,000	146,550,000		−6,150,000	−450,000	+7,850,000
Director of Test and Evaluation, Defense	25,000,000	28,500,000	25,000,000	25,000,000	25,000,000		−3,500,000		
Transition period		6,800,000	5,000,000	5,000,000	5,000,000		−1,800,000		
Total, Title V	8,576,670,000	10,178,900,000	9,284,249,000	9,428,152,000	9,407,879,000	+831,209,000	−771,021,000	+123,630,000	−20,273,000
Transition period		2,682,900,000	2,325,139,000	2,381,064,000	2,375,738,000		−307,162,000	+50,599,000	−5,326,000
Total, transfer from other accounts	(33,493,000)	( )	( )	( )	( )	(−33,493,000)	( )	( )	( )
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	1,945,000	2,668,000	2,668,000	2,668,000	2,668,000	+723,000			
Transition period		37,000	37,000	37,000	37,000				
TITLE VII—GENERAL PROVISIONS									
Additional transfer authority, sec. 733	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	( )	( )	( )	( )
Transition period	( )	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	( )	( )	( )	( )
TITLE VIII—RELATED AGENCIES									
Defense Manpower Commission	800,000	1,300,000	1,300,000	1,300,000	1,300,000	+500,000			
MILITARY ASSISTANCE—SOUTH VIETNAMESE FORCES									
Military assistance, South Vietnamese forces	700,000,000	1,293,000,000				−700,000,000	−1,293,000,000		
Grand total, NOA	83,439,035,000	97,857,849,000	90,219,045,000	90,721,789,000	90,466,961,000	+7,027,926,000	−7,390,888,000	+247,916,000	−254,828,000
Transition period		23,117,645,000	21,674,571,000	21,849,816,000	21,860,723,000		−1,256,922,000	+186,152,000	+10,907,000
Transfer from other accounts	(648,694,000)	( )	(108,800,000)	(99,300,000)	(99,300,000)	(−549,394,000)	(+99,300,000)	(−9,500,000)	( )
Tota funding available	84,087,729,000	97,857,849,000	90,327,845,000	90,821,089,000	90,566,261,000	+6,478,532,000	−7,291,588,000	+238,416,000	−254,828,000
Transition period		23,117,645,000	21,674,571,000	21,849,816,000	21,860,723,000		−1,256,922,000	+186,152,000	−10,907,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	( )	( )	( )	( )
Transition period	( )	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	( )	( )	( )	( )

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to my colleague, the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I thank the chairman for yielding to me.

I have a couple of questions on civilian personnel strength and on what the conference report contains.

On page 34 of the report, Mr. Speaker, I notice that the committee says that the House reduced civilian personnel by 1,080, and the Senate made reductions of 2,439, but the conferees agreed to a total reduction of 2,450.

Are those figures correct, and if they are, where did the conferees get the authority to go beyond what the House and Senate original provisions were?

Mr. MAHON. In a conference on a bill of this nature, on each appropriation item we wanted to avoid going above the highest figure of the House and Senate.

Mr. KAZEN. That is right, in the conference, as I understand it.

Mr. MAHON. Or the lowest figure of the House and Senate.

Mr. KAZEN. That is correct.

Mr. MAHON. However, we can go above in certain items and below in other items within a single appropriation, or we can eliminate items, just so long as the total dollar appropriation is between the two bills. Therefore, we could provide for more or less personnel than were contained in the original of either of the bills so long as we remained between the dollar levels of the two versions of the bill.

Mr. KAZEN. The only thing is this, in this instance the conferees provided less civilian personnel slots than either the House or the Senate had provided in their original bills.

This does make a tremendous difference down in my district, Mr. Speaker. Just this last week we were notified that 1,250 civilians were being let out.

Mr. MAHON. It should be understood, I would say to my colleagues, that the new budget is in the making and we have heard that sharper reductions are to be submitted to the Congress in January for the forthcoming fiscal year. I should also advise the gentlemen that the announcement made by the Air Force a few days ago has nothing to do with the actions taken by the Congress regarding reductions in civilian personnel. The action to which you are referred was taken by the Air Force on its own initiative.

Mr. KAZEN. I understand, but I am wondering about this appropriation for fiscal year 1976 and the interim.

Mr. MAHON. These were the figures that were arrived at in conference for the numbers of people and not dollars. There is no parliamentary problem here because this is all within the framework of the appropriation bill.

Mr. KAZEN. If there is an exception, I would like to understand it so I do not make this type of an inquiry in future years. All of us learn every single day that we serve in this body. My understanding is that the House authorized a certain number of reductions in their original bill and the Senate authorized a certain number of reductions but that the conferees have gone and authorized a reduction over and above the highest figure in either of those two bills.

My question is, does the conference have this type of authority?

Mr. MAHON. Does the gentleman from Texas have before him a copy of the conference report?

Mr KAZEN. Yes; I do.

Mr. MAHON. I would ask that the gentleman refer to page 24 of the conference report. I would like to read a few lines. I would like to point out that the House and Senate bill language did not deal with the number of personnel, they dealt with dollars only associated with civilian personnel reductions and, therefore, there is no problem with respect to the numbers of personnel. It is a dollar figure that is involved.

If the gentleman from Texas will permit me to read from page 24, near the bottom of the page in the penultimate paragraph:

> The budget requested $2,389,213,000 for Army civilian personnel. The House reduced this amount by $87,250,000.
>
> The Senate restored $48,700,000 on the basis of an adjustment made to the Army's overall personnel strength and a repricing of average civilian personnel salary cost. The conferees agreed that a restoration of $30,000,000 is adequate based upon the Senate adjustments.

Then in the next paragraph:

> The total civilian personnel end strength requested by the Department of Defense for the fifteen month period ending September 30, 1976, was 1,087,937. The Defense Appropriation Authorization Act for fiscal year 1976 and the transition period reduced the budget request by 23,537 positions, establishing an authorized strength of 1,064,400. The House applied the total reduction of 23,537 to specific activities or operations of the Department. The Senate applied specific reductions of 19,629 and the remaining 3,908 were unallocated and were to be applied by the Secretary of Defense as he desired. The conferees have agreed to specific reductions of 20,334 to the various Service requests and the remaining 3,203 are unallocated and are to be applied by the Secretary of Defense.

That is the situation that was before us and that represents the action which we took.

Mr. KAZEN. I understand. If the gentleman would yield further, this was the reason for my question. The other body and the House specifically undertook in their bills to tell the Department of Defense where they were going to cut as far as the Air Force and the Army and the Navy were concerned and left only a certain number of unallocated cuts but we did attempt to specify where these cuts are going to be made. Yet we come back on page 34 and apparently there is a discrepancy in what the conference committee did as far as cutting additional people, specified additional people. I do not think that this was within the prerogative or the jurisdiction of the conference committee to do because it was not an item in disagreement.

Mr. MAHON. The Committee on Armed Services deals in personnel positions, not dollars. We had to apply overall reductions in civilian personnel to the services and Defense agencies in order to arrive at a dollar reduction associated with the total number of civilian personnel disallowed by the authorizing committees.

Mr. KAZEN. This is correct. Mr. Speaker, if the conferees on this bill, the appropriation conferees, had followed that, but they did not. The conferees attempted to designate the slots where the cuts would come.

Mr. MAHON. We have to designate the dollars, and when we designate the dollars, that is where the reductions would have to be made. So in each paragraph we had no alternative other than to designate the dollars, and those dollars would, of course, affect the number of personnel.

Mr. KAZEN. I want to commend the chairman and the conferees for doing a good job under very difficult circumstances. I also wish to thank the chairman for the commissary funds that our House conferees kept in this bill, and some of the other programs that the House conferees sustained the House position on. I think they did a wonderful job.

However, this particular Member is very unhappy with the civilian cuts because, frankly, it has affected my district. I think that in the long run it is going to affect the national defense of this country.

I thank the gentleman for yielding.

Mr. MAHON. I thank the gentleman for his remarks.

Of course, the matter of civilian personnel is important. We are employing more than 1 million civilians in the Defense Department, and I would hope that within the framework of the bill they will be able to carry out the necessary functions.

Mr. Speaker, within the time allotted, it would not be possible to go into all the items in the conference report. I will undertake to provide some general information in the RECORD.

Mr. EDWARDS of Alabama. Mr. Speaker, the brief summary just presented by the very distinguished chairman of the Defense Subcommittee and the chairman of the full Committee on Appropriations, the gentleman from Texas, has covered the most controversial aspects of what I feel was a very successful conference. The bill before the House is a good one, and I support it.

The final product up for your consideration represents a true compromise that was hammered out in what was for me a long and difficult conference. There was give and take all the way down the line, and nowhere is this more evident than in the figures themselves. For fiscal year 1976 the conference agreement is $247.9 million over the House bill, but $254.8 million under the Senate bill. As you all know, a compromise, by its very nature, will not and cannot satisfy everyone. There are some elements in this bill that I feel would have been better left out, while I would have preferred to see the funding for other programs restored to the levels requested. All things considered, however, I think we did the best we could under the circumstances.

Overall, I think that the action by the conference committee has strengthed the defense bill as it passed the House. To say that there was some sentiment that we in the House had cut too deep is an understatement. Yet I am willing to say that we did make some mistakes, and in several instances I feel we did in fact cut too deep, but I am satisfied that a number of these errors have now been rectified.

Mr. Speaker, I am a firm believer in maintaining a strong national defense posture. The cuts made in arriving at the $90.5 billion provided in this bill will not adversely affect essential military operations and programs. We have provided for some very substantial increases in several key areas such as operation and maintenance, research and development, and procurement—areas that insure readiness today and strength tomorrow.

In arriving at what we consider to be adequate funding levels for the Defense Department in the future, I think we will have to be ever mindful of the increasing threat posed to the security of our Nation. This means that we will have to find ways to buy more military power for each dollar spent. I can assure you that this is no easy task. Excluding annual allowances for inflation, the military is going to have to learn to live with a relatively fixed budget in the near future. That seems to be a fact of life. Under these circumstances, the only way to squeeze out more strength will be to sweep the budget clean of all marginal and unnecessary activities and expenditures. Toward this end I plan to dig deeper into this budget next year in an effort to eliminate waste and duplication as between the services, to insist on better management procedures within the Department, and above all to find ways to foster competition in the development of new weapons systems.

I would like to thank Chairman Mahon for the able leadership he has provided throughout our deliberations over this bill. I would also like to praise the committee staff for the highly professional manner in which they handled a most demanding task.

Mr. Speaker, I urge the House to accept this conference report.

Mr. MAHON. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Addabbo), a member of the committee.

Mr. ADDABBO. Mr. Speaker, under normal circumstances, it is generally agreed that when a Conference Committee returns with a bill that about splits additional costs at the end of the Conference after the meeting with the Senate, that the House members of the conference did an adequate job.

In the conference between the House and Senate on the military appropriations bill, the House conferees, of which I was one, tried to accomplish the best task they set out to do. I am proud of that, for it is no easy task in dealing with Senators who can be very persistent when arguing for favored programs.

But, I am far from totally happy with this conference report as my colleagues from the conference committee would attest. My objections are with those increases in programs that the Senate insisted upon, and of which few have any merit whatsoever, at least in my eyes.

As an example, the conference agreed to retain in the bill $110 million for a new munitions facility in a brand new plant at a time when the Pentagon is closing down other munitions plants for lack of use.

Under this conference, we not only increase our buy of AWAC program planes, but eliminate the provision insisted to by the House to stop further buys. There is serious doubt, we must remember, of the ability of the program to work at all. Under any circumstance, the program is not for the defense of the United States but for use by the NATO nations in Europe who have not shown any great affection for the program at all.

Under amendment No. 69 in the conference, the House restored advance procurement funds for the B-1 bomber, a plane that is estimated to cost $100 million each.

That agreement with the Senate came against my opposition. I am relieved to inform the House, however, that the conferees did limit the funds to nonprocurement without congressional approval.

Amendment No. 79 is a House deferral to the Senate's insistence for inclusion of funds for a new surface ship, a multimillion-dollar program that to this day has no designated purpose. I remind the Members that the House eliminated the funds for this program—properly, I believe—and ordered a full completion of research into an already existing surface effect ship.

That same amendment also contains money for an F-401 engine, a program which, again, had been eliminated by the House because it will serve no designated purpose.

The House accepted under amendment No. 81 an add-on of $51 million insisted upon by the Senate for an air-launched cruise missile. It is my concern that this program can easily become a multimillion-dollar program which eventually will have to be dropped entirely. The missile program has experienced great problems in the research performed so far. We have in existing Navy inventory a similar weapon which has already been proven.

When the bill was before the House, the program was dropped because of its lack of need, its operational problems, potential vulnerability and the obvious limited use to which it could be put.

These, Mr. Speaker, are a few of the very unwise dollar compromises which have been made in this conference, and they are among the reasons I have cited exceptions to the conference report when I signed it.

We will have the opportunity to act again on these programs in the next defense budget, and I would urge all House Members to consider terminating them when that bill is before us. With defense dollars at a premium today, we simply cannot afford to waste them in unnecessary or frivolous programs.

The points in the conference, on which I am happiest, included the House's acceding to the Senate on the Champus program, and insisting upon the Senate's deferral to the House on the commissary issue.

I am pleased that both the Senate and House have agreed to end the needless expenditure of funds for the continued operation of the Safeguard program at the Grand Forks, N. Dak., site. I believe the funds retained for the perimeter acquisition radar are of limited value and should be carefully reviewed next year.

Mr. Speaker, I will vote for this conference for I feel that we may lose more than we have gained if it is returned to conference, and many of the questionable programs can be directly voted on next year.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Kemp).

Mr. KEMP. Mr. Speaker, no function of Government has a higher priority than assuring the survival of freedom and our Nation.

Honest and sincere people can differ as to how much we should spend on defense, but very few Americans want the Congress to allow our defense capability to be second to any other nation in the world, especially not second to our potential adversaries. We live in a world of rather harsh realities. Burying our heads in the sand, and hoping those realities would go away, will not make them go away. There simply is no alternative to being first—other than that of being last.

The joint House-Senate conference committee reported defense appropriations bill, now before us, is the product of more than a year's work—by members, by staff, by representatives of the departments and agencies. That work has not been without disagreement, and it has not been without controversy. It took the well-reasoned and convincingly argued position of the former Secretary of Defense, Dr. James Schlesinger, to show many in Congress some of the inadequacies of prior decisions within this legislation. I applaud him for bringing to our—and to the Nation's—attention the components of this year's defense budget vital to assuring a strong negotiating posture for the United States in strategic arms limitation—SALT—talks, but which were increasingly in jeopardy as the bill wound its way through the process.

I am pleased that the conference report basically agrees that maintaining the U.S. strategic triad—our primary deterrent to nuclear aggression—will be a challenge in the 1970's and 1980's. Uncertainties in arms control agreements, changing political and economic alinements, and improving technology dictate more, strategic flexibility, not less.

The strategic triad consists of manned bombers, ICBM's and submarine-launched ballistic missiles—SLBM's. No single element possesses all the necessary characteristics for deterrence; each force has inherent advantages and disadvantages. The Triad is designed so that the strengths of each system offset the weaknesses of the others.

This diversity in our nuclear forces provides a credible deterrent to nuclear warfare by creating uncertainty in the minds of Soviet planners, and by denying them the opportunity to gain military advantage by initiating a first-strike attack. In the past, our deterrence policy involved massive response of our strategic forces. Today we realize that even greater flexibility will be required to give the President a broad choice of options for responding to a wide range of confrontations and crises.

Although the U.S. presently holds a slight strategic advantage over the Soviets, it must be kept in mind that this balance may be transitory. SALT II discussions are attempting to fix ICBM levels at those agreed to at Vladivostok, thus making technological advantages the only solution to maintaining our advantage. The current unprecedented level of Soviet activity in strategic weapon R. & D. is further evidence that the Soviets have assigned a high priority to developing the technology which will ultimately result in a Soviet strategic superiority. There is no evidence to support a contention that the Soviets consider strategic parity as an objective.

In view of this situation, it seems imprudent for the United States to do less than what has been proposed. The B-1 and Trident programs assure the continued viability of a portion of the strategic Triad.

I think the conference-reported bill is a better bill than either the original House-passed or the Senate-passed measures. There are still some matters on which I believe we should have moved more quickly, and others where I think we ought to have taken the initiative, especially in the R.D.T. & E. phases of arms progress, but, on the whole, we have moved a long way in recent weeks from the too severe gutting of the defense bill which was at one time possible.

This is particularly true with regards to those matters having to do with SALT, and I would like to spend a moment on that point.

We are all aware of the problems associated with SALT II negotiations, and we are all aware of the often pointed debate both over known and alleged Soviet violations of SALT I terms and over future U.S. capabilities to stay abreast of the Soviets in arms research, development, and deployment within the terms of existing or future SALT agreements.

I think the conference-reported bill by strengthening our commitments to proceed with the air launched cruise missile, ALCM, shores up our SALT posture on the whole. Only in one area—the abandoning of our Safeguard ABM commitment—have we gone, in my opinion, in the wrong direction.

Let me be more specific.

It is known that the anticipated SALT agreement will permit all four of the Soviet new ICBM programs to continue and that this will have serious long-term implications for the survivability of the U.S. silo-based ICBM force. Even of more serious consequence is the fact that the Soviet Union has implemented a civil defense program which reduces the deterrent strength of our sea-based missile force to a level lower than could have been achieved by a massive ABM deployment to defend Soviet cities.

The most logical and feasible U.S. response to these Soviet actions which degrade both our ICBM and SLBM forces would be to upgrade and increase our reliance on our bomber force. If the Soviet Union could, in the negotiation, eliminate air-launched cruise missiles, they could eliminate the most effective options for upgrading the capability of the U.S. bomber force. Hence, the cruise missile could be the last remaining step in what appears to be a comprehensive Soviet strategy to negate or weaken all three elements of the U.S. deterrent force; our "strategic Triad."

The MK-500 Evader is an area where the conference bill was improved. The House bill had deleted all funding for the MK-500 Evader—a Trident missile guidance system allowing for a trajectory of such irregular movement as to increase dramatically the survivability of the missile against antimissile defense devices and systems—citing the ABM treaty and the Air Force ABRES precision guided reentry vehicle—PGRV—program as the rationale. Yet, the ABM treaty does not preclude R. & D. which the Soviets have been pursuing at an accelerated pace since ratification. The ongoing Evader R. & D. program will reduce the advantage which might be gained by further Soviet ABM deployment; shorten our time to deploy, as a counter, should it be necessary; and hence will tend to insure the viability of the treaty, since this capability will remove any incentive for abrogations. The objective of the Evader program is not that of the precision guided reentry vehicle—PGRV. The PGRV objective is to achieve precision accuracy by terminal position update and maneuver. The PGRV does not, however, offer a timely alternative for the evasion function, since its deployment would probably run about 7 years behind the Evader. Funds have been restored in the conference bill for the MK-500 and that is a wise decision, again helping us maintain an adequate defense posture. I am pleased that the SES "Surface Effect Ship" program is maintained as it is an outstanding antisubmarine warfare technological breakthrough.

Mr. Speaker, costs are forever present in my considerations of Government programs. The cost of Government is too high today, and the failure of the Government to level with the people and show them the true costs has meant too-high inflation. Higher taxes and/or higher inflation are the consequences of too much spending by the Federal Government. But I talk here of total spending. It never ceases to amaze me about how some who argued so very intensely against the defense budget—on the basis that we have to control spending—will turn around and vote billions for this, that, and the other nondefense program.

Every nondefense program ever funded by the Federal Government will be of little consequence if we are not here to enjoy the benefits of those programs. The only way to assure that is through assuring an adequate national defense, and unfortunately that costs money.

In reflecting upon the merits of this conference report and upon the merits of the spending entailed here, I think it is important to take into account several points which are frequently lost at the popular level of defense debates: Our real level of defense expenditures is lower than at any time since before the Korean war, and the size of our Armed Forces is lower than any time since the Korean war. The Soviet Union has more than twice the number of persons in the armed forces than we do—and the Soviets have more major surface combatant vessels than we do. Soviet military personnel far outnumber ours in Europe and Soviet production rates for military equipment generally exceed ours. Right now we benefit from the discord between the Soviet Union and Red China. But what would happen if China decides we are not able or willing to stand up to the Soviet Union?

U.S. prominence across the world is lessening. Obviously, the scope of the defense programs contained in this conference report is an indication of our willingness and ability to do something about our global responsibilities and our global interests.

I would like, in conclusion, to reiterate the warning of our Secretary of State, that détente is not a condition which permits us to enjoy the luxury of weakness. I agree, and I am pleased this bill reflects this warning.

Mr. MAHON. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Moss).

(By unanimous consent, Mr. Moss was allowed to proceed out of order.)

SECRETARY OF COMMERCE COMPLIES WITH SUBPENA

Mr. MOSS. Mr. Speaker, I am pleased to announce to the Members of the House that the Secretary of Commerce has complied fully with the conditions of the subpena issued on July 28, 1975. The material sought has been delivered to the committee.

It will be taken into the committee's files under the provisions of rule XI(k)5 and XI(k)7. The conditions required by those rules govern the use or disposition of the material in the committee's custody.

Mr. MAHON. Mr. Speaker, I yield 5 minutes to the senior member of the committee and member of the subcommittee, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, it is with a sense of unhappiness that I speak here today in opposition to the conference report. I say it is unhappiness because I have supported and will continue to support a strong defense for the United States. I think it is necessary; I think it is essential. However, because it costs so many billions of dollars and because I strongly object to waste and to gamesmanship on the part of some conferees, I feel that we are wasting many on useless projects therefore we are being deprived of moneys which could be better spent. The only way for me to register my objection is to vote against the conference report and I shall do so today.

I am unhappy and disappointed with the armed services, which continue to play fast and loose with figures in the conference report. What do I mean by that? The House originally appropriated $260 million for two AWACS planes. The Senate appropriated $335 million for six. In conference, we agreed on four airplanes that we are going to get for $251 million.

Just think of what I just said. The Air Force originally told us that it would cost $260 million to get two planes. We are now going to get four planes for $251 million. Either someone is playing games with figures or we are tailoring figures to fit the facts. So, I am disappointed in these changing figures which are coming from the Armed Forces of the United States in order to get their way. Their way obviously is to get an appropriation for as many AWACS as they can and then come in later in a supplemental appropriation for the additional moneys they know now that they will need.

I am also very unhappy with conference committees and the way in which they operate—and if this be heresy, make the most of it. I believe—and perhaps I am naive—that the conferees ought to represent and fight for the positions which the Members of this body voted for. I tell you that does not happen in a defense appropriation conference. That does not happen. The old buddy system goes to work, and I am tired of it. It costs the citizens and taxpayers of this Nation additional and wasted money. I am sure the Members understand the term "the old buddy system."

There is $110 million in here for a new ammunition plant in Texarkana, called the Lone Star Ammunition Plant, to build 105-millimeter shells. We have a plant in St. Louis fully ready and operational and on a standby capacity, capable of building these shells. If we need it to begin production of 105 shells, it can be operational in 3 months, but we are going to build a new plant in Texarkana to make these shells, the Lone Star Ammunition Plant.

The House said to the Army, "You have not justified the need for an additional plant so we are taking the money out," and we did take the money out. But, the old buddy system went to work in the conference, and what did we do? We put the money back in for this plant with language which says, in effect, "You cannot proceed with construction until you justify your case."

Now, is that not a novel way to appropriate money? It used to be that we would say, "Justify your case before we give you the money," but now we say, "We are giving you the money before you justify the case," and then the Army will come up and justify the case to the appropriate committee. I assure the Members, the Armed Forces will come up and justify the necessity for this, just as they will and did in the AWACS program. The buddy system will assure us of that action.

When we took this bill up in the House, the chairman and others made representations to us that there were substantial cuts made in the intelligence community budget.

Mr. Speaker, I submit to the Members that substantial restorations have been made in the secret intelligence budget in the conference, again in direct contradiction to what happened in the House.

Mr. Speaker, we have money in here for an air-launched cruise missile. The Air Force did not want to push this very hard originally because they were pushing for a B–1 bomber; therefore, if we are going to have a new B–1 bomber, which is a strategic weapon, to go in and drop a nuclear weapon over a prospective enemy, why do we need an air-launched standoff cruise missile? This means in effect that you are not going to send your planes in, you are going to stand off and send the cruise missile in. Now they want both. No real case has been made for it. The House put no money in. The conference put in $64 million at the request of the Senate. We are building two other missiles for the Navy. There is justification for them. The House saw no need to go to another cruise missile; but the conferees did, and so we waste another $64 million.

The SPEAKER. The time of the gentleman from Connecticut has expired.

Mr. MAHON. Mr. Speaker, I yield 1 additional minute to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, these are just some of the things in a massive bill. They cost perhaps $350 to $450 million. Some will say, "Well, we must compromise." The difference between the House and the other body was about $600 million. We did come out in between so that one can say it is a compromise. But I happen to believe that, if one can save $300 to $400 million in waste, one ought to do it. I also think we ought to stop this business of voting for programs which cannot stand on their own merit, but, because we have to do something for A or for B or for C, as mandated under the old buddy system.

Mr. Speaker, there is another program which I have not mentioned but which I think is outrageous, and that is money which we are putting in for the old Safeguard ABM system. I believe that will be discussed later, and at that time I will give reasons why I think we are wasting another $100 million in that area. The only way in which we can voice our objection to this kind of maneuvering and to this kind of activity is to vote against this conference report. Mr. Speaker, I suggest that, if more of us do so, we will correct these types of abuses. The Armed Forces will respect Congress more, and we will be able to appropriate these vast sums on the merits.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Speaker, I rise in opposition to the conference report. I would like to associate myself with the fine remarks of the gentleman from Connecticut (Mr. GIAIMO).

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Connecticut (Mr. GIAIMO), an able member of the committee, is not wholly pleased and happy with the conference report. I do not know of any other member of the committee or any other Member of Congress who agrees totally and completely with the bill that passed the House some time ago or with the conference report. None of us here is a dictator when it comes to matters of legislation. We work to present our views and have an impact on legislation. Sometimes we win, sometimes we lose. That is the way it works.

Mr. Speaker, I am very much opposed to some provisions in this bill and fought hard against some of them. But on the whole, in view of the fact that I am not allwise or omnipotent or all powerful. I must agree that this is the best that could be achieved under the circumstances.

Mr. Speaker, I have stated earlier in the discussion that I would get permission to revise and extend my remarks in the beginning of the consideration of this conference report. Earlier in my remarks I made reference to the AWACS and to the ammunition plant problem, as well as to the air-launched cruise missile which I very strongly opposed.

Mr. Speaker, there are only 2 or 3 minutes left, I believe, for discussion of the conference report. I yield to the gentleman from Mississippi (Mr. MONTGOMERY) for a question or a comment.

Mr. MONTGOMERY. Mr. Speaker, I thank the chairman of the committee for yielding to me.

I would like to point out, Mr. Speaker, that about 50 percent of the Army's total military force is made up of Reserve forces, and about 40 percent for the Air Force is reservists. I certainly think there should be some comment by the chairman of the committee concerning whether there are enough funds here to see that we have a strong Reserve and a strong National Guard in this country. I would appreciate the chairman making some comments on this matter.

Mr. MAHON. Mr. Speaker, my view is that we have done very well for the Guard and for the Reserve.

We do agree that the Guard and the Reserve are very essential to defense. They are close to our hearts. They are close to the hearts of the Members of Congress, and I think we have done a reasonably adequate job. The bill and the conference report will speak for themselves, I believe, on this subject.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield further, there was action taken by the Senate to cut the number of Naval Reserve construction battalions in the Naval Reserve, I understand.

Mr. MAHON. The Seabees were not cut. We opposed that very strongly.

Mr. MONTGOMERY. Will the chairman of the committee comment on the cut from 48 drills to 24 drills affecting some of the Reserve units?

Mr. MAHON. We agreed to an overall reduction of about 5 percent from pay category A to B instead of 10 percent as proposed by the Senate. I think we have done the best we could under the circumstances.

Mr. MONTGOMERY. Mr. Speaker, I will take the word of the chairman of the committee on that. Certainly we are vitally interested, as the gentleman said, in the Reserve programs, and I think that is really important for the future, and that is one way that we can cut back on Federal spending in defense. We could cut back on spending if we look more toward the Reserve and give them more support and more equipment.

Mrs. SCHROEDER. Mr. Speaker, when the House considered the Defense appropriations bill, H.R. 9861, it deleted a number of services from the civilian health and medical program of the uniformed services—CHAMPUS. The Senate rejected this action, however, and approved services by pastoral counselors, family and child counselors, and marriage counselors, as well as for perceptual and visual training by optometrists.

I am happy that the House and Senate conferees have basically adopted the Senate position with the proviso that services will not be paid by CHAMPUS if available in military facilities. I think that this proviso is consistent with CHAMPUS policy. In rejecting the House position the conferees have reaffirmed the congressional intent to cover the services of these counselors under the CHAMPUS program.

After the CHAMPUS cutbacks were announced February 28, 1975, 11 colleagues on the House Armed Services Committee joined me in writing the Department of Defense requesting an explanation of these changes in policy. I agree that expenditures must be held down as much as possible, but not at the expense of ignoring the needs of our Armed Forces families. Yet, officials of the Department of Defense have sworn under oath that these proposed CHAMPUS cuts in counseling services would be likely to have opposite effect.

Mr. PATMAN. Mr. Speaker, in connection with the vote on amendment No. 49 reported in technical disagreement, I want to point out to my colleagues the importance of the new projectile line proposed for the Lone Star Army Ammunition Plant in Texarkana, Tex. This defense facility has been one of our most efficient and reliable for many years, and the new projectile line provided for in this amendment would make possible further cost efficiencies by locating a projectile manufacturing line adjacent to existing load, assembly, and pack facilities. The Army has invested more than 2 years of onsight engineering work on this new projectile line and Army officials are enthusiastic in their support of the new project.

Needless to say, I was disappointed that the conferees added restrictive language to the appropriations bill requiring further studies of the new facility, but I am so confident of the need for this project that I am willing to accept the compromise language recommended by the conference.

Mr. Speaker, I prepared a brief fact sheet earlier this year setting forth the many advantages of the Texarkana site for the new projectile line, and include this statement at this point in the RECORD for the information of Members:

[Army Project 5762532]

105-MILLIMETER PROJECTILE FACILITY AT LONE STAR AMMUNITION PLANT, TEXARKANA, TEX.

I. PROJECT BACKGROUND

(1) Army has long planned the Lone Star projectile line—has invested 2 years of onsite engineering work.

(2) Army requested $110.4 million for Lone Star construction ($21.7 million for FY 1976 and $88.7 million for the transition quarter).

(3) House deferred funds failing to recognize that:

(a) Sources of 105mm projectiles are inadequate. The 1.4 million round per month requirement cited by the House Committee, while accurate as of the time of budget submissions (after subtracting ARVN and Thai requirements), is now outdated. In addition, there is no current base for 105mm high fragmentation and XM710 rounds to be produced at Lone Star.

(b) St. Louis AAP would require $90 million in improvements to manufacture projectiles—a bad investment in an outdated, layaway facility.

(c) Efficiencies at Lone Star would amortize the $20 million capital investment differential in one year of production at mobilization rates.

(d) Equipment stored at St. Louis AAP would be installed at Lone Star AAP—no waste of this $19 million in equipment.

II. COST EFFICIENCIES AT LONE STAR AAP

Once in operation, the Lone Star facility would save $25 million per year through:

(1) Transportation savings possible at Lone Star by combining projectile line with existing load, assembly, pack lines (LAP).

(2) Lower labor and utility costs at Lone Star AAP than in St. Louis.

III. FLEXIBILITY OF LONE STAR AAP PROJECTILE FACILITY

In addition to the 105mm conventional round, the Lone Star plant could manufacture:

(1) 105mm improved conventional round, XM710.

(2) 105mm high fragmentation round.

(3) Metal parts for 4.2 inch (107mm) mortar round. Only the conventional 105mm round can be produced at National Presto or St. Louis.

IV. SPACE AVAILABLE

(1) Lone Star has adequate space to meet requirements for health, safety and pollution abatement (68 acres at Lone Star allotted to the projectile facility).

(2) St. Louis AAP is located in a crowded industrial area with only 21 acres of land available—clearly inadequate.

(3) Lone Star has a total of about 15,000 acres of land providing virtually unlimited space for future expansion.

V. ADDITIONAL CONSIDERATIONS

(1) Lone Star has a long record of reliable, quality production while St. Louis AAP has often failed to meet production schedules and standards.

(2) Projectile line at Lone Star adjacent to LAP reduces logistical problems and permits rapid adjustment of production rates to changing requirements.

(3) Lone Star facility designed to be easily and quickly expandable if increased production is required.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. GIAIMO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 314, nays 57, not voting 63, as follows:

[Roll No. 777]

YEAS—314

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Bafalis
Baldus
Barrett
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harris
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kazen
Kelly
Kemp
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McKay
McKinney
Madden
Madigan
Mahon
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Michel
Milford
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Nix
Nowak
O'Brien
O'Hara
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Quillen
Regula
Rhodes
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schulze
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.

NAYS—57

Abzug
Aspin
AuCoin
Baucus
Bedell
Bingham
Blouin
Brodhead
Burke, Calif.
Carr
Clay
Cornell
Dellums
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Fraser
Giaimo
Harkin
Hawkins
Hayes, Ind.
Hechler, W. Va.
Holtzman
Kastenmeier

McHugh
Maguire
Mezvinsky
Mikva
Miller, Calif.
Mitchell, Md.
Mosher
Mottl
Nedzi
Nolan
Oberstar
Obey
Ottinger
Pattison, N.Y.
Pressler
Rees
Reuss
Richmond
Rosenthal
Roybal
Ryan
Schneebeli
Schroeder
Seiberling
Solarz
Stokes
Studds
Thompson
Tsongas
Vanik

NOT VOTING—63

Anderson, Ill.
Badillo
Bell
Brooks
Burke, Fla.
Burton, John
Burton, Phillip
Chisholm
Collins, Ill.
Conyers
Corman
Cotter
Davis
Dent
Diggs
Eshleman
Flynt
Ford, Mich.
Gaydos
Gude
Harrington
Harsha
Hastings
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Horton
Howard
Jacobs
Jenrette
Johnson, Pa.
Ketchum
Keys
Landrum
Macdonald
Mann
Metcalfe
Meyner
Moffett
O'Neill
Peyser
Railsback
Randall
Rangel
Roberts
Sebelius
Sikes
Snyder
Stanton, James V.
Stark
Symington
Udall
Ullman
Van Deerlin
Weaver
Whitehurst
Wilson, C. H.
Wright
Yates
Zablocki
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Yates against.

Mr. Flynt for, with Mr. Moffett against.

Mr. Zeferetti for, with Mr. Badillo against.

Mr. Symington for, with Mrs. Chisholm against.

Mr. Charles H. Wilson of California for, with Mrs. Meyner against.

Mr. Hays of Ohio for, with Mr. Stark against.

Mr. O'Neill for, with Mr. Conyers against.

Mr. Sikes for, with Mr. Harrington against.

Mr. Brooks for, with Mr. Rangel against.

Mr. Cotter for with Mr. Weaver against.

Mr. Dent for, with Mrs. Collins of Illinois against.

Mr. Howard for, with Mr. Helstoski against.

Mr. James V. Stanton for, with Mr. Metcalfe against.

Mr. Wright for, with Mr. Phillip Burton against.

Mr. Zablocki for, with Mr. John L. Burton against.

Until further notice:

Mr. Corman with Mr. Jenrette.

Mr. Landrum with Mr. Macdonald of Massachusetts.

Mr. Davis with Mr. Anderson of Illinois.

Mr. Burke of Florida with Mr. Bell.

Mr. Hastings with Mr. Diggs.

Mr. Horton with Mr. Eshleman.

Mr. Mann with Mr. Ford of Michigan.

Mr. Sebelius with Mr. Gude.

Mr. Railsback with Mr. Heinz.

Mr. Jacobs with Mr. Hinshaw.

Mr. Snyder with Mr. Johnson of Pennsylvania.

Mr. Randall with Mrs. Keys.

Mr. Roberts with Mr. Peyser.

Mr. Ullman with Mr. Udall.

Mr. Van Deerlin with Mr. Whitehurst.

Messrs. PERKINS, BAFALIS, and GONZALEZ changed their votes from "nay" to "yea."

Mr. OBERSTAR changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 8, line 7, after "1972" insert ": *Provided further*, That funds provided in this Act for the operation and the maintenance of the anti-ballistic-missile facility (other than funds provided for operation and maintenance of the Perimeter Acquisition Radar) may be used only for the purpose of the expeditious termination and deactivation of all operations of that facility".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein.

Mr MAHON. Mr. Speaker, I seek recognition on this amendment, and I yield 5 minutes to the gentleman from Connecticut (Mr. Giaimo).

Mr. GIAIMO. Mr. Speaker, this is the Safeguard ABM system. There is no point in voting against this amendment, because if we vote against it in effect what we will be doing will be adding more money for the ABM system. So, I am not going to ask for a vote against it because this language, the Senate language, limits the money which can be spent for the Safeguard ABM.

But, Mr. Speaker, this is a good example of how we waste money. For the Safeguard ABM system, the House put in $45 million and told the Army to close it down. We felt that money was needed for the expenses of closing it down. The Senate raised that to $85.3 million to continue part of the program, and in conference we acceded to the will of the Senate, because even though everyone agrees that the Safeguard ABM system is obsolete and should be closed down, we are going to keep part of it going.

So what do we do in conference? We put in $85 million and $19 million for the 3-month period, a total of $104 million.

What do we get for this? We get to close down the ABM missile system. All the missiles will be taken away so there will be no more ABM system in North Dakota. But they will continue to operate the perimeter acquisition radar minus the missiles.

So we find ourselves falsely reassuring the American people how we have spent moneys in defense. We have spent well over $5 billion on this antiballistic missile system throughout the years. It has never really been operational. It is being closed down and terminated now, but we are going to spend another $104 million in this budget. What are we going to get for it? Part of that is going to go to take away the missiles and fill up the holes. The other part is to operate this radar system.

I ask the Members: Radar for what? To see the missiles coming in just so we know about them when we do not have any missiles to intercept them? It makes no sense at all.

Why, I must ask then is it in the bill? Because obviously it would dislocate the economy of a particular area of the United States if we closed it down totally. So remonstrances were made by those in the other body who have a vital geographical interest in this area to keep it going.

We could use the $104 million in my district. We could use it in the district of other Members, and we could use it in the district of everyone in this Chamber. But that is not the way we are supposed to spend money for defense. We are supposed to spend money for necessary defense purposes to make America strong, and not to use it as a community action program or an economic development program or some other kind of relief organization. I submit to the Members that is what this is, only it is worse. It is a shabby and terrible waste of the taxpayers' money.

We cannot oppose this amendment because if we do vote down this amendment it would then free up the situation to not only keep the perimeter acquisition radar going but also to keep the ABM system going, which of course no one, including the military, says they want to run anyway.

So, I submit this is the best we can do with our hands tied, as they are, because under the rules we cannot get a separate vote on whether to close down the entire ABM system. The conference has made certain that the House cannot work its will.

I think we ought to recognize this is another one of the reasons why I say we should stand firm for the House position, which refused money for all ABM activities, including the perimeter acquisition radar. Our conferees did not go along with the House position; they deny us a separate vote, and our only recourse is to oppose the entire conference report which I did.

I think it is an example of where we waste money and why we should vote against appropriation bills of this kind.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota (Mr. Andrews).

Mr. ANDREWS of North Dakota. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, let me speak as one from that area. At the time this bill came before the House, I did not differ with the committee. I caught same heat from back home, because I felt, as the committee pointed out, that the ABM site was, indeed, not militarily viable, particularly in the part-time standby posture DOD was recommending. In his reference that we are saddling the military with unjustfiable costs to benefit the local community I think my good friend the gentleman from Connecticut (Mr. Giaimo) goes a little too far, because at the time the bill was considered in the House, I asked the gentleman from Texas (Mr. Mahon) and the gentleman from Alabama (Mr. Edwards), if they would not look at the possibility of using these radars, not for community benefit—the community impact will be alleviated by reciprocal funding which they also agreed to and the conference allowed but because it so happens that in Canada we have had a DEW or BMEW line of radar that we are spending millions of dollars on each year. They were built 20 or 25 years ago. Now part of the ABM complex, the radar component, became available—it is already there—already constructed. This is a more sophisticated system of radar that will do the same mission as the Canadian radar, and I hope eventully that it can supplant the Canadian radar, and when that mission is taken over the out-of-country radars can be shut down and we will save not only dollars, but dollars that are going overseas and affecting our balance of payments. That is the reason for operating this type of ABM radar to take over the mission of the northern BMEW line.

There is then not only a military basis that justifies it, but a dollar basis as well.

Mr. GIAIMO. Mr. Speaker, if the gentleman will yield, the gentleman may have a good point as far as the DEW system is concerned; but there was no military reason given to us why we should continue this perimeter acquisition radar system. In fact, our committee was overwhelmingly in support of closing this entire ABM system down, as many well know, and as we did in the House earlier this year. It was based upon—and I must be very frank—the representation of what would happen to the economy up there if we closed it down totally and it was a compromise by the conference acceding to the wishes of the other body. It was not based on military reasons.

Mr. MAHON. Mr. Speaker, this is a controversial item. There are members of the Committee on Appropriations and Members of the House generally and members of the Committee on Armed Services who had different views as to the moment when this system should be phased out.

Now, it is true that this perimeter acquisition radar system is of questionable value, but it may be of some value. In my judgment, it would not be of such value to warrant the expenditures which would have to be made.

What we did in the conference was work out the best agreement we could. We supported the House position; but we were not able to prevail. We made a compromise with the other body, which is the typical way to proceed in these matters.

Under permission to revise and extend I will insert some additional information on this subject.

The conferees agreed to provide the entire amount requested for Safeguard, $85 million in fiscal year 1976 and $19 million in the transition period, because the funds are required to pay for the cost of operating the entire system through December 1975; the cost of continuing the operation of the perimeter acquisition radar—PAR—from January 1975, through September 30, 1976; and the cost of terminating, dismantling, transporting, and disposing of the other facilities.

The perimeter acquisition radar is to be retained because it can provide additional warning on an ICBM attack, including the character of the attack. Other warning systems do not provide all of this data.

While it is true that over $5 billion has been expended to develop and operate the Safeguard system, the ABM treaty signed between the United States and Russia has made it ineffective because of the limited number of interceptors that can be deployed. One hundred interceptors, as authorized by the treaty, are simply too few to protect our Minuteman ICBM's—the mission of the Safeguard system. The continued use of the PAR will enable us to exact a limited benefit from the investment in Safeguard.

The SPEAKER pro tempore (Mr. BOLLING). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: On page 23, line 21, strike out: "$615,500,000" and insert "$637,200,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "*Provided*, That none of the funds provided in this Act may be obligated for construction or modernization of Government-owned contractor-operated Army Ammunition Plants for the production of 105mm artillery projectile metal parts until a new study is made of such requirements by the Department of the Army; the Secretary of the Army certifies to Congress that such obligations are essential to national defense; and until approval is received from the Appropriations and Armed Services Committees of the House and the Senate, $637,200,000".

Mr. MAHON. Mr. Speaker, reference has been made in my remarks and those of others during the discussion of the conference report in regard to this problem associated with an Army ammunition proposal. It is a problem which gave the conferees a great deal of concern and which was thoroughly considered.

Under permission granted to extend my remarks in the RECORD, I would add that the agreement that the conferees reached concerning funding for the addition of a 105-mm metal projectile parts manufacturing facility to the Lone Star Army ammunition plant is not inconsistent with the original decision of the House that rejected the funding requested for the new facility. The House originally determined that there was not a requirement for a new facility at Lone Star to manufacture 105-millimeter projectiles, because existing 105mm. production capability already existed at St. Louis and Eau Claire, Wis.

Based on additional information provided by the Army subsequent to the submission of the budget, it appears that additional manufacturing facilities for a new type of mortar projectile may have to be established by the Army and that certain cost savings could be realized if both the 105-millimeter projectile and the new mortar projectile production capability were consolidated at a single location. The conferees directed the Army to restudy their requirements and certify the need for a new manufacturing facility. No funds can be spent until this certification is made and the Appropriations and Armed Services Committees of both Houses agree that a valid requirement exists. This is a reasonable position that avoids unnecessary expenditures while recognizing that there may be a serious need that requires action before fiscal 1977 or 1978.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Speaker, notwithstanding the high regard in which I hold the chairman of the committee, I must rise to comment on behalf of my district, which also has a manufacturing facility for the production of 105-millimeter shells. When I see our Congress appropriating money for a new facility conditioned only on followup approval, it seems to me that its action is taken under fundamentally unsound policy. In my opinion it encourages the Army to pat us on the head and then do as it pleases.

When enormously expensive plants such as those in Joliet, St. Louis, and elsewhere, are already in existence as good manufacturing facilities and are being closed down despite high unemployment rates, there is no excuse for the military to go beyond such locations and build newer and more costly facilities as it pleases them.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 53: Page 26, line 5, insert: "of which no more than $10,000,000 shall be available for the Condor missile program until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the matter proposed, insert: "of which no more than $15,000,000 shall be available for the Condor missile program until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production,".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 75: Page 33, line 15, strike out "$203,100,000" and insert "$120,100,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 75 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$205,600,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 83: Page 35, line 24, strike out "$599,100,000" and insert "$557,200,000."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein with an amendment, as follows: in lieu of the sum proposed, insert "$604,400,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 98: Page 60, strike out line 18 to line 10, page 61, inclusive and insert:

"Sec. 750. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis, (b) therapy or counseling for sexual dysfunctions or sexual inadequacies, (c) treatment of obesity when obesity is the sole or major condition treated, (d) reconstructive surgery justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts, and sex gender changes, or (e) any other service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted, insert:

"Sec. 751. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors, except when these service are certified as not being available on the military base to which the member is assigned, or when the recipient resides within 40 miles of a military medical facility which certifies that these services are not available; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basic; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts, and sex gender changes; or (f) any other service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist."

Mr. MAHON (during the reading). Mr. Speaker, this language is quoted in the conference report which is available to the Members, and I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Leggett).

Mr. LEGGETT. Mr. Speaker, in October when we first passed this appropriation I called attention to section 751, which prohibited payments by CHAMPUS of claims for the services of pastoral counselors, family and child counselors, and marital counselors. I pointed out at that time that I felt that this prohibition had been insufficiently considered, and that I hoped that the Senate would take a closer look at this problem.

I am pleased to note that the conferees, based on a full exploration of the facts of the matter, have seen fit to reinstate benefits payable to recipients of the services of such counselors. This is certainly a cost-effective decision, and one which will continue to benefit from the help these professionals can offer.

I want to commend the conferees for the enlightened position they have taken on this question.

Mr. MAHON. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 101: Page 62, after line 15, insert: "Sec. 752. Unless otherwise specified and during the current fiscal year, and the period July 1, 1976, through September 30, 1976, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 101 and concur therein with an amendment, as follows: In lieu of the matter inserted, insert the following:

"Sec. 753. Unless otherwise specified and during the current fiscal year, and the period July 1, 1976, through September 30, 1976, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies."

Mr. MAHON (during the reading). Mr. Speaker, this amendment deals with permitting the U.S. Government to employ Vietnamese refugees who are in this country, particularly doctors.

Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days in which to revise and extend their remarks, and include extraneous materials and tabulations, on the conference report on the bill, H.R. 9861, making appropriations for the Department of Defense for the fiscal year 1976 and for the transition period, just agreed to.

The **SPEAKER**. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER ON MONDAY NEXT OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 10647

Mr. MAHON. Mr. Speaker, the conference agreement was achieved yesterday on the supplemental appropriations bill, and I ask unanimous consent that it may be in order in the House on next Monday, or any day thereafter, to consider the conference report on H.R. 10647, a bill making supplemental appropriations for the fiscal year ending June 30, 1976, and for the period ending September 30, 1976, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, is my understanding correct, I will ask the gentleman from Texas (Mr. Mahon) that despite the fact that many of us here would have liked to have seen some reduction in the appropriation for the loans to New York City, that the conferees, despite amendments offered by the gentleman from Illinois (Mr. Michel) to reduce the amount, voted to fund the full $2.3 million level?

Mr. MAHON. If the gentleman will yield, the situation is as follows:

Mr. Speaker, I and many other Members of the House opposed a bill which provided special assistance to New York City. The other body placed the $2.3 billion in the appropriation bill and it was in conference. The President had signed the authorization bill. The gentleman from Illinois (Mr. Michel) and myself, and others, argued that the total sum of $2.3 billion was not required at this time.

Mr. Speaker, I advocated, as well as some of the other conferees, that we make a reduction. It was argued, on the other hand, that this would tend to disrupt the conference, disrupt the agreement which had been made by the various parties in New York and by the banks and others.

Strong representation was made to the effect that this might defeat the purpose of Congress in approving the aid to New York, so the proposal that the amount be reduced was not acceptable to the conferees and it was agreed to bring back the bill that would appropriate the amount.

There will be time to conduct hearings and studies of this proposal as the program moves along. The Committee on Appropriations proposes to do just that. Then there is the possibility of rescission, if rescission should prove to be necessary.

We have not had the opportunity to have the Committee on Appropriations conduct extensive hearings on the validity of the premise amount of money requested. Agreement on $2.3 billion was the best we could achieve under the circumstances, and so that would be the content of the supplemental appropriation bill, insofar as New York is concerned.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I would just like to inform the chairman of the committee, if he does not already know it, that based on the statement the gentleman from Illinois (Mr. Michel) made the other day that he felt strongly that $1.3 billion was all that was needed based on the proof provided by New York City, it is my understanding he intends to offer a motion to recommit, with instructions to limit it to $1.3 billion, when the conference report is brought up.

Mr. Speaker, I reserved the right to object at this point largely to inform the House of that plan, and that will be pursued on Monday.

Mr. MAHON. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, the conferees took the position that no unnecessary funds should be provided in the bill, but it was impossible to reach an agreement other than by providing the funds which the bill contains, $2.3 billion. So it is up to the House, of course, to work its will, and we will see what will transpire on Monday or thereafter.

Mr. BAUMAN. Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 49, AUTHORIZING SECRETARY OF THE INTERIOR TO ESTABLISH NATIONAL PETROLEUM RESERVES

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint three additional conferees on the bill (H.R. 49) to authorize the Secretary of the Interior to establish, on certain public lands of the United States, national petroleum reserves, the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Montana? The Chair hears none, and appoints the following additional conferees: Messrs. Hébert, Seiberling, and Young of Alaska.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE CONFERENCE REPORT ON SENATE JOINT RESOLUTION 121

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a conference report on Senate Joint Resolution 121.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only because after the gentleman from Washington made this same request earlier today concerning this Senate joint resolution another member of the committee came to me and expressed concern that he had not been consulted. I wonder if this request has been cleared with all the members concerned with this legislation, including the gentleman from Illinois (Mr. Findley).

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I have asked the gentleman from Illinois (Mr. Findley) about this since the last request was made, and I think he is satisfied that the request was appropriate and not designed to change in any way the orderly processing of the conference report.

Mr. BAUMAN. And the gentleman has agreed to the request?

Mr. FOLEY. The gentleman offered no opposition to it.

What we are doing is merely correcting the conference report and filing it again so it is in proper order. The gentleman from Illinois was concerned that perhaps the conference report would not come before the House in the usual way. It will be brought before the House next Wednesday in the usual way, and the gentleman from Illinois may make any comment he wishes on the conference report, and any Member may do that if he so desires.

Mr. BAUMAN. The conference report will be brought before the House and the other body?

Mr. FOLEY. It will be brought before the House; I cannot speak for the other body. There will be no effort to prevent the matter from coming before the House in the usual way.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

LEGISLATION PROGRAM

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, I take this time for the purpose of asking the majority leader what the program for next week will be.

Mr. O'NEILL. If the acting minority leader will be kind enough to yield, I will be glad to announce the program.

Mr. EDWARDS of Alabama. Mr. Speaker, I am happy to yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, the program for the House of Representatives for the week of December 15, 1975, is as follows.

On Monday we will have the Consent

Calendar and consider the following suspensions, but votes on suspensions will be postponed until the end of all suspensions:

1. H.R. 10394, Care of Veterans in State Homes.
2. H.R. 2735, Administrative Investigation of Veterans' Travel Costs.
3. H.R. 10268, Release of Veterans' Names and Addresses.
4. H.R. 11045, Vocational Rehabilitation Amendments.
5. H.R. 8304, National Reading Improvement Act Amendments.
6. H.R. 11016, Renegotiation Act Extension.
7. H.R. 3035, Earnings on Tax and Loan Accounts.
8. H.R. 6644, Alaska Native Claims Settlements Act Amendments.
9. H.R. 11070, Sports Blackout.

Then we will have H.R. 10647, supplemental appropriations conference report.

Next we will consider S. 622, energy conservation and oil policy conference report.

Following that, we will consider H.R. 7656, Beef Research and Information Act conference report.

We also hope to take up tax reform and send it to the President.

Of course, there is great speculation as to whether the President would veto it. I understand that if he decides to veto it, he would send it back to the House immediately, and we would have a vote on the veto.

Mr. EDWARDS of Alabama. May I assume or take it that the Senate really is going to send back a tax cut extension, perhaps, and does not have some other action in view?

Mr. O'NEILL. The gentleman is correct; yes.

Mr. Speaker, for Tuesday and the balance of the week, we will consider the following:

H.R. 12, Executive Protective Service, consideration of veto message. We will have the Private Calendar, and there will be one suspension, S. 2672, State Taxation of Depositories Act extension.

Then we will consider the following:

H.R. 8529, rice production, conclude consideration;

H.R. 6461, public broadcasting, conference report;

H.R. 10979, railroad revitalization and regulatory reform, subject to a rule being granted;

H.R. 8235, Federal-Aid Highway Act, subject to a rule being granted;

H.R. 9771, Airport and Airways Development Act, subject to a rule being granted;

H.R. 9464, natural gas emergency, subject to a rule being granted;

H.R. 7897, Indochinese education, subject to a rule being granted; and

S.J. Res. 121, quarterly adjustments in the support price for milk, conference report.

Other conference reports may be brought up at any time and any further program would be announced later.

ADJOURNMENT OVER TO MONDAY, DECEMBER 15, 1975

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOURS OF MEETING ON TUESDAY, WEDNESDAY, THURSDAY, AND FRIDAY, DECEMBER 16, 17, 18, AND 19, 1975

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House meets next week on Tuesday we meet at 11 a.m., and that we meet at 10 a.m. on Wednesday, Thursday and Friday.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. EDWARDS of Alabama. Mr. Speaker, I would ask this question of the majority leader:

It appears from looking at the program for next week that there are a great number of bills on this program subject to a rule being granted. I was under the impression that the Committee on Rules cut off business generally about the early part of November. Is the Committee on Rules still granting rules?

Mr. O'NEILL. If the gentleman will yield further, may I say that it is my understanding that it is only in cases of emergency and that the committee has granted Monday and Tuesday hearings on these matters.

May I say further that it is our intention to work nights to a reasonable hour next week.

Mr. EDWARDS of Alabama. May I ask what the gentleman means by "reasonable"?

Mr. O'NEILL. I would hope by 9 or 9:30 p.m. at the latest.

Mr. EDWARDS of Alabama. The gentleman from Massachusetts is suggesting that we can expect to be here late most every evening next week, is that what the gentleman is saying?

Mr. O'NEILL. Exactly. I thank the gentleman for yielding.

Mr. EDWARDS of Alabama. Mr. Speaker, before I conclude, I must say to the majority leader that I hope he will make an exception for the President's ball on Wednesday night.

Mr. O'NEILL. I have that in mind.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE, AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED BY THE TWO HOUSES AND FOUND TRULY ENROLLED, NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until noon on Monday, the Clerk be authorized to receive messages from the Senate, and the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO FILE CONFERENCE REPORT ON H.R. 5541

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Committee on Small Business may have until midnight tonight to file a conference report on the bill H.R. 5541.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERSONAL EXPLANATION

Mr. MANN. Mr. Speaker, I would like the record to show that during the vote on the conference report on the defense appropriation bill this afternoon I was not in the House Chamber, being involved with work with my constituents, and I overlooked voting. If I had been present I would have voted "yea."

STANDING JOINT COMMITTEE OF CONGRESS NEEDED TO OVERSEE ONGOING INTELLIGENCE ACTIVITIES OF GOVERNMENT

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COHEN. Mr. Speaker, November and December have been bleak months for the United Nations. First the General Assembly endorsed a reprehensible resolution equating Zionism with racism. Now it is considering a one-sided resolution that would condemn South Africa for its intervention in the civil war in Angola without any mention of the rapidly expanding role of the Soviet Union in that troubled country. Both nations are guilty of interference in what should be strictly an Angolan matter.

The Soviet Union, which already is militarily involved on the African continent by virtue of its military base in Somalia, is now attempting to tip the scales in Angola in favor of the pro-Soviet Popular Movement for the Liberation of Angola, MPLA. The Soviets have, according to best reports, airlifted and sealifted significant quantities of Russian-made armaments, including heavy rockets, into Angola, and Cuban fighting forces and Russian "advisors" have joined MPLA forces.

Angola's neighbors, Zaire and Zambia, have both protested the Russian and South African intervention, but the United Nations seems insensitive to their appeals. For their part, the Soviet Government is attempting to justify this armed and unlawful intrusion into the internal affairs of another country by contending that support of so-called "national liberation struggles" are not "incompatible" with détente.

Mr. Speaker, U.S. Ambassador Daniel P. Moynihan was right when he described as a "big lie" the Soviets two-faced policy in Angola. But too many other American officials seem all too reluctant to break the spell of détente with the truth. The Congress and the public are forced to rely on press reports of a shadowy civil war in Angola in which, it is said, the United States and the Soviets are actively and secretly supporting opposing factions there. It is my understanding that the House Intelligence Committee has been apprised of our involvement in the Angolan civil war but cannot release any classified information. If, indeed, the United States is conducting clandestine activities in Angola targeted against Soviet intervention, one is most hard put to consider détente anything more than a sham, a crumbling Janus-head of public appeasement and secret hostilities.

This brings me, Mr. Speaker, to a concern I have shared with you since last January: The urgent need to create a permanent institution whereby the representatives of the American people can properly oversee the ongoing intelligence activities of our Government. Such an institution does not now exist, and the murky reports of our involvement in the Angolan tragedy serve to underline the need for the Congress to create a standing joint committee to accomplish this vital task. Only with an adequate knowledge of the reality of détente can the Congress fulfill its responsibility to the people who sent us here. The revelations of recent months concerning our activities in other countries have, if nothing else, proven that this is a responsibility we must not shirk.

CHAMPION OF THE PEOPLE

The SPEAKER pro tempore. (Mr. Danielson). Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, the Honorable Wright Patman, of Texas, has been a champion of the people for many years. He began his crusade long before many of us in the House even thought of coming to Washington.

Today I am inserting in the Record a speech he gave before the Sales Management Conference in New York, in which he discusses the Robinson-Patman Act, a bill he cosponsored in 1936 and which is currently under attack. I commend this fine statement to my colleagues:

Speech by Hon. Wright Patman

Thank you very much for inviting me to discuss antitrust issues. This is a subject dear to my heart and it is something which has received far too little attention in recent years.

Of course, I realize that the primary interest of your group is the Robinson-Patman Act, and its administration. When I co-sponsored this legislation in 1936 with Senator Robinson, I described it as the Magna Carta of small business—and I think it has lived up to its name despite many efforts to sabotage its effectiveness through the years.

While we can have lots of nit-picking legal arguments over individual applications of the Act, I am convinced that the only basic problem with Robinson-Patman has been lax enforcement. Its enforcement seems to me in the hands of people today who do not want to see the Act work, and when the bureaucrats take this attitude they can sabotage any law.

Just in the past few weeks, a key staff member of the Federal Trade Commission has been quoted as describing the Robinson-Patman Act as a "monstrosity" and, in effect, bragging about the Commission's decision to ignore thousands of violations. I find this attitude appalling on the part of an agency charged with enforcing the law.

The numbers indicate clearly what's happening—or more correctly what's not happening in enforcement. Back in 1960, the F.T.C. issued some 130 complaints under Robinson-Patman and topped this off with 45 orders enforcing the Act.

Twelve years later the number of complaints had dropped to five and the orders enforcing the Act numbered exactly two. There may be some year to year fluctuations, but the basic trend at the F.T.C. is away from vigorous enforcement.

My colleague in the House—J. J. (Jake) Pickle, the Congressman who represents Austin and a lot of central Texas—was a key figure in the Commerce Committee's investigation of the F.T.C.'s enforcement of Robinson-Patman, and this is the way he describes the situation:

"The record borders on a blatant administrative repeal of the Robinson-Patman Act by the F.T.C. . . . There can only be a conclusion that the Commission has downgraded the Act."

But, the problems extend well beyond the bureaucracy of the Federal Trade Commission. Through the years, the Robinson-Patman Act has been assaulted by many big business groups—some masquerading behind high-sounding study committees.

Today, the Ford Administration, spearheaded by the Justice Department, is putting its weight behind the moves for repeal or sharp modification of Robinson-Patman. I find these moves by the Republican Administration to be highly unfortunate since this Act had broad bi-partisan support when it became law in 1936 as a bulwark for small business.

However, I do not want to paint an overly dark picture here today. The Robinson-Patman Act has withstood lots of onslaughts—lots of blockbuster attacks and it survived. It will continue to survive and, I predict, with even more vigor.

One of the big encouragements has been the establishment of a Special Ad-Hoc Subcommittee on Anti-Trust and Robinson-Patman in the House of Representatives. This was formed at the instigation of Representative Joe Evins of Tennessee, Chairman of the House Small Business Committee.

Joe Evins is to be commended for this forthright action. I am highly pleased with the make-up of the Subcommittee and particularly with the selection of Representative Henry B. Gonzalez of San Antonio as Chairman. I have known Henry Gonzalez ever since he came to Congress and small business and the consumer has no better friend anywhere on Capitol Hill. The key staff job on the Subcommittee has gone to Everette MacIntyre, who many of you will remember served so ably as an F.T.C. Commissioner until his retirement in 1973. He is an outstanding expert in this field.

The Gonzalez Subcommittee is making a thorough study of Robinson-Patman and related anti-trust matters, the F.T.C. enforcement, and the recent proposals, to repeal the Act. I have great confidence that this study is going to put Robinson-Patman back on the front burner—back in the forefront as a major anti-trust bulwark for small business.

Just as I was convinced in the 1930's, the full implementation of Robinson-Patman is necessary to afford relief to the small businessman from the ravages of price discrimination as practiced by many large corporations and conglomerates—groups with substantial power and considerable influence in the marketplace.

As you remember, the Depression of the 1930's had resulted in the bankruptcy of many small businessmen and challenged the survival of the small entrepreneur. These businessmen were further jeopardized by their inability to compete with large companies who were receiving unjustified preferential treatment. Chain stores, for example, were able to negotiate lower but discriminatory prices and obtain other concessions from suppliers while smaller businesses, without sufficient market power, could not obtain similar benefits. The Robinson-Patman Act amended the Clayton Antitrust Act to prohibit certain price discriminatory practices. Thus, the policy of the Robinson-Patman Act is rooted in a justifiable ethic; namely, that it is unfair to competitors and injurious to competition for large buyers to use their power to obtain discriminatory price concessions not available to smaller and weaker businessmen.

In that connection, it should be made clear that the Robinson-Patman Act and all other sections of the Clayton Act which it amended constitute an integral part of our anti-trust laws. The Robinson-Patman Act, as an amendment to the Clayton Antitrust Act, is one of the strongest pillars supporting the American anti-trust policy.

Today there is a tendency to forget the importance of these anti-trust laws and the evils which spawned their enactment. In fact, there are many who accept bigness, concentration of economic power, and wealth as necessary by-products of the American way of life. I do not believe this. The strength of this country has always been in its diversity, its competitive enterprise system, its ability to provide freedom of choice in the market place. Anything which takes this way—or modifies it sharply—tears at the fabric of this nation.

Some years ago, the Supreme Court, in deciding a Sherman anti-trust case, stated:

"The competitive enterprise will yield the best allocation of our economic resources . . . While at the same time providing an environment conducive to the preservation of our democratic political and social institutions."

In my opinion, neither the Congress nor recent Administrations have done much to make this concept live. Succeeding Administrations—both Republican and Domocratic—pay lip service to the problems of economic concentration, and occasionally bring a highly publicized anti-trust action which drags on for years. Efforts to strengthen anti-trust laws by the Congress are few and far between and these infrequent stirrings are invariably greeted by bitter and effective lobbying campaigns by big business. In fact, a limited improvement in anti-trust attempted this session has been bottled up and apparently killed in the Rules Committee of this "reform" 94th Congress.

Frankly, I think it is time for our political leaders—as well as the rest of America—to review just why anti-trust laws were placed on the books . . . The problems—the dangers—which prompted their passage have not gone away. If anything, they have intensified.

Back in the Kennedy Administration, William Orrick, then Assistant Attorney General for Anti-Trust, reviewed some of this economic history and what he said bears repeating today. Here's the way he described the impetus behind the anti-trust laws:

"Congress and the American people have always been concerned about the dangers to our society presented by the accumulation of economic power in a few hands. The passage of the anti-trust laws . . . reflected Congress' fear of the political power that might be wielded by our largest corporations; fear of the inability of the small businessman to survive and prosper in an economy dominated by huge corporate structures; fear of the absence of shareholder democracy in the big corporations; fear of local concerns being acquired by national companies and operated by absentee management unresponsive to local problems; fear of the tendency of big business, as it grows bigger, to produce countervailing bigness in labor organizations and government bureaucracy; fear of the tendency of the very large business units to respond only to mass consumer demand, thus reducing choices in a society which has traditionally valued diversity; fear of corporate bigness destroying individual initiative and substituting in its stead the motivations of the 'organization man'; and fear of the inability, as corporate concentration becomes more pronounced, for the individual American to enter the competitive fray. Finally, and perhaps most important of all, Congress' dedication to anti-trust goals as a means of preserving our way of life has always rested on its recognition that concentration of industrial power may lead to the police state. Can anyone doubt that the prewar experiences of Germany, Japan and Italy have proven the wisdom of this nation's concern over concentration of economic power?"

Some of the more alarming concentrations are in the banking industry—and here the situation is getting decidedly worse. Utilizing the bank holding company device, banks have made boardinghouse reaches in all directions, bringing about an unhealthy meshing of banking and business interests. In other cases, the holding company powers have been used to swallow up smaller banks—often in contradiction of state anti-branching laws.

Today, the 50 largest commercial banks—out of more than 14,500—hold about 50 per cent of the deposits in the United States. And just 25 banks hold more than half of all the trust department assets in the nation—half of about $400 billion.

In 19 states and the District of Columbia, the largest banking organization in each of these entities contains more than 20% of the deposits. At the start of this year, the ten largest banks in each state had almost two-thirds of the nation's total deposits—more than $478 billion. Right here in the state of New York, the ten largest banking organizations hold 85% of the deposits in the state—just ten out of 182.

A glance through the Fortune 500 list gives a good indication of the accumulation of economic power in the hands of a few. The top 11 corporations account for 26.5% of the sales of the 500 largest corporations around the nation. Of course, the levels of concentration vary greatly from industry to industry with the automobile industry sticking out like a sore thumb—four domestic producers accounting for just about 80% of all sales.

A random look through the most recent census figures indicates that just four firms account for 65% of the shipments of aircraft engines and engine parts. Moving over to farm machinery, we find the four largest corporations in that category accounting for 40%. In the photographic equipment and supplies listing, almost three-fourths of the value of the shipments are accounted for by just four firms. Back in 1947, the four largest breweries had only 21%, but the latest figures indicate that the four largest now have almost half. Just about half of the value of shipments of motors and generators were in the hands of the four largest corporations in that category according to the census data.

These figures are cited as just indicators of a continuing—and often growing—problem of concentration. I recognize that these figures must be analyzed carefully and that aggregate percentages cannot and do not paint the entire picture.

Many of these problems of concentration are intensified by other factors. The banking community is often a three-headed monster—with interlocking directorates and its holding company device combined with the all-pervasive power of its loan-making functions. The bank's trust departments give the financial institutions still another tool of control and manipulation.

Economists may argue about the trend of concentration in particular industries and there are short-range factors—such as the recession—which may temporarily dampen some merger drives. But I think the situation is best described by Willard F. Mueller and Larry G. Hamm, writing in a recent issue of the Review of Economics and Statistics:

"High market concentration pervades much of American manufacturing. Some may quibble over the precise level and trend of concentration. But the indisputable fact of life is that in many industries production is concentrated in a few hands, has been concentrated in a few hands for many decades, and will in all probability remain so unless some explicit public policy initiatives are taken to change things."

The startling thing is that we lack a lot of basic information about how the American economy works. Through many years on the Banking and Currency Committee, I have tried desperately to pull back the blanket of secrecy which covers the banking community and its control of large segments of the American economy. I have been opposed at each step of the way as I have attempted to reveal who owned the banks, and in turn, what the banks owned and controlled through trust departments and holding companies. We took giant steps in providing this kind of information to the Congress and the American public.

But, much more needs to be done not only in the banking area but across the entire economy,

Back when Nelson Rockefeller was nominated as Vice-President, many of us in the Congress were deeply concerned about the formal consummation of the marriage between Government and wealth—big business and big banking.

Some of these concerns found their way into the brief debate over the nomination, but it became quickly apparent that the Congress had little information on which to base its opinions about corporate power and control. Few really understood just what part of America was owned and controlled by the Rockefeller family and the appropriate Committees could shed little light. As a result, appointment of Rockefeller and his wealth took place with the Congress blissfully ignorant about the implications.

Frankly, I was appalled by this and I suggested that the Congress make an effort to repair this deficiency. At that time, I suggested that three Committees of the House of Representatives launch a joint effort to provide the American public with information about who owned and controlled corporate America and the nation's wealth. Specifically, I suggested that the Judiciary Committee explore the question from the vantage point of its jurisdiction over antitrust laws; the Commerce Committee, from its position of primary jurisdiction over much of the business community; and the Banking and Currency Committee from its vantage point over jurisdiction over the financial community.

In my opinion, such a study—undertaken with expert staff—could give the Congress and the American public the kind of information necessary to properly judge the problem of concentration of economic power and wealth and to provide remedies where needed. Surely, this is a basic starting point if we are to deal intelligently with the growing complexities of our economy and its relationship to the rest of the world. Too much of our legislative efforts in the economic area are based on misinformation and partial information—sometimes we just simply legislate in the dark because the Congress is too timid to reach out and demand the information from the big boys in the economy.

This could be such a wonderful landmark study and I am convinced it would do the country tremendous good. We might understand better how we can develop an economy which provides full employment without the ravages of inflation. Concentration of economic power inevitably results in the waste of resources—human, economic and natural.

This kind of information would make the administration of our anti-trust laws a lot more sensible and I suspect a lot more vigorous. I hope that the efforts in Congress will put an end to the half-baked schemes to do away with Robinson-Patman or any other law designed to help small business complete with the giants in the economy.

The Robinson-Patman Act should and must be preserved, its integrity maintained, and its viability supported in order to fully demonstrate that this Nation of ours will always be the land of freedom and opportunity for the American small businessman to grow and prosper.

DISCUSSION DRAFT OF LEGISLATION AWARDING ATTORNEY'S FEES TO PARTIES THAT PREVAIL AGAINST THE FEDERAL GOVERNMENT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. Speaker, for quite some time I have been interested in the issue of providing attorney's fees for prevailing parties in Federal cases. Originally, a series of "political" trials—such as Chicago 7 and Gainesville 8—prompted me to introduce H.R. 6296, which would provide attorney's fees to acquitted defendants in criminal trials. While these defendants had been acquitted of the substantive charges brought against them, the Government had driven them into debt through the high cost of a legal defense. At that time, my intent was to provide a person an opportunity for adequate legal counsel—whether that individual was the subject of a harassing prosecution or simply was wrongly caught up in the criminal process.

As I have studied this issue, I have come to the conclusion that it is a much broader problem, and requires a much broader solution. The Federal Government is so big, its resources so vast, that only a few individuals or businesses can afford to take on the Federal Government in any legal case. When the Government errs, citizens should not be fearful or inhibited, for financial reasons, to assert their rights. We need a mechanism for compensating parties that prevail against the Government in criminal, civil, and public interest cases and in agency proceedings for reasonable attorney's fees and other legitimate attendant costs. Therefore, I am offering a draft of legislation for discussion purposes which, in addition to covering the area of criminal cases, would provide attorney's fees to prevailing parties against the Federal Government in civil cases and agency proceedings. This legislation would cover public interest groups, which were denied fees in the Alyeska case, and also other civil plaintiffs and defendants who prevail against the Government.

My intention in this draft is to provide a more equitable access to the courts. The examples of people effectively denied legal recourse against the Federal Government by the prohibitive cost are many and varied: The veteran who feels he is owed benefits by the VA but does not have the resources to contest the decision; the small businessman who feels he cannot afford to fight what he believes to be an unfair agency ruling; the individual who would contest an IRS decision on his taxes except for the fact that the legal fees may wipe out whatever tax benefit might accrue; and the public interest group challenging the Government's illegal issuance of an off-shore drilling permit.

I have attempted, however, to place adequate limits on this legislation so that the law will be less prone to abuse. Under this bill, a prevailing party is entitled to attorney's fees, but the amount of the award is discretionary with the judge, who must apply certain standards in his written decision. The judge may reduce the award if the prevailing party will receive a substantial pecuniary benefit by having won the case.

In all events, I have placed a maximum on attorney's fees to each defendant paid by the Government of $100,000 in order to keep the cost of this legislation within reasonable budgetary limits and to provide those benefits to the broadest class of individuals.

I am appending the discussion draft of my legislation in the RECORD to solicit comments and criticisms from those interested in the proposed legislation.

H.R. —

A bill to provide for payment by the United States of reasonable fees for attorneys and other expenses with respect to certain arrests or prosecutions for Federal criminal offenses, civil actions brought by or against the United States, and agency proceedings

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 201 of title 18 of the United States Code is amended by adding at the end thereof the following:

"§ 3013. Fees and costs for certain criminal defendants.

"(a) Except as provided in subsection (b), the United States shall pay reasonable fees for attorneys and other reasonable costs incurred by any person with respect to any arrest or prosecution for any Federal criminal offense if such person—

"(1)(A) is not found guilty of such offense, or

"(B) is found guilty of such offense and the court having jurisdiction of such prosecution determines that payment under this subsection is in the interests of justice; and

"(2) does not plead nolo contendere with respect to such offense.

"(b) The United States shall not be required to pay any amount under subsection (a) if—

"(1) such amount is in excess of $100,000, or

"(2) the court determines that payment of such amount is not in the interests of justice.

"(c) The appropriate United States attorney is authorized to make, in connection with any proceeding relating to the award of fees or other costs under this section, such reports and motions to the court as that attorney deems appropriate, and shall be entitled to adequate notice from the court before the entry of any final order awarding such fees and other costs.

"(d) In any proceeding relating to a determination under subsection (a)(1)(B) or (b)(2) of this section—

"(1) a record of the proceeding, which record shall be available to each of the parties during the proceeding, shall be maintained by the court, and that record shall include the motions and other materials presented by the parties and associated with the determination; and

"(2) the court shall consider the following factors in making the determination:

"(A) the cost of the litigation for the defendant;

"(B) the strength of the Government's case;

"(C) whether either party engaged in dilatory tactics;

"(D) whether either party engaged in conduct that unnecessarily increased the cost of the litigation to the other party;

"(E) whether the Government was justified in seeking an indictment, taking into account the evidence it was able to produce at trial;

"(F) whether the acquittal or dismissal was the result of a determination on the merits or of a technical rule of law; and

"(G) any other factor the court determines is relevant;

"(3) the court shall state on the record the reasons for its determination; and

"(4) the determination of the court shall be subject to review in the same manner as other judgments of the court."

(b) The table of contents of chapter 201 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3013. Fees and costs for certain criminal defendants."

(c) The amendments made by this section shall take effect on October 1, 1976, but shall not apply to any prosecution begun or arrest made before such date.

SEC. 2. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Fees for attorneys and witnesses and costs.

"(a) Except as otherwise specifically provided by statute or by subsections (b) or (c) of this section, any party, other than the United States or any agency or official of the United States acting in his official capacity, in any civil action brought by or against the United States, such agency, or such official, shall be awarded by any court having jurisdiction of such action an amount for recovery of reasonable fees for attorneys and expert witnesses and of other reasonable expenses incurred by such party with respect to such action, including costs as enumerated in section 1920 of this title, if the court determines that the relief afforded such party by such court or by any compromise or settlement of such action is in substantial measure the relief sought by such party.

"(b)(1) Any court making any award under subsection (a) to any party may reduce the amount of such award if such court determines that—

"(A) such party derives any substantial pecuniary benefit (other than such award) from the civil action with respect to which such award is made, and

"(B) such reduction is appropriate because—

"(i) such pecuniary benefit was a sufficient incentive for such party to participate in or bring such action;

"(ii) such party unnecessarily delayed the completion of such proceeding;

"(iii) such party unreasonably failed to accept any settlement offer with respect to such proceeding; or

"(iv) such action was not in the interests" of justice.

"(2) The court shall state its reasons for any reduction under this subsection.

"(3) Any award made by any court under this subsection shall be subject to judicial review in the same manner as judgments of such court.

"(c)(1) Any award made under this section shall, in an amount established by statute or court rule or order, be limited to reimbursing in whole or in part, the party to whom such award is made for the costs, fees, and expenses incurred by him in the litigation.

"(2) Payment of any award under this section shall be as provided in section 2414 and 2517 of this title for the payment of judgments against the United States, except that no amount for such award shall be paid under this section in excess of $100,000.

"(d) For purposes of this section, the term 'reasonable fees for attorneys' means the reasonable charge for services provided to any party by any attorney based upon—

"(1) the actual time expended by such attorney and the staff of such attorney in advising and representing such party,

"(2) the prevailing rates for such services, including any reasonable risk factor component, and

"(3) the need for any attorney to provide such services."

(b) The table of sections of chapter 161 of title 28, United States Code, is amended by striking out "2412. Costs." and inserting in lieu thereof "2412. Fees for attorneys and witnesses and costs."

SEC. 3. The first paragraph of section 2414 of title 28, United States Code, is amended by inserting "and any award made under section 2412 of this title" immediately after "final judgments rendered" each time it appears therein.

SEC. 4. Section 2517 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "and every award made under section 2412 of this title" immediately after "Every final judgment rendered"; and

(2) in subsection (b) by inserting "and of any award under section 2412 of this title" immediately after "Payment of any such judgment and of interest thereon".

SEC. 5. The first paragraph of section 2678 of title 28, United States Code, is amended to read as follows:

"No attorney shall charge, demand, receive, or collect for services rendered any fee, other than any fee awarded under section 2412, with respect to any judgment rendered pursuant to section 1346(b) of this title or any settlement made pursuant to section 2677 of this title, or any award, compromise, or settlement made pursuant to section 2672 of this title."

SEC. 6. The amendments made by sections 2, 3, 4, and 5 of this Act shall apply with respect to any civil action in which the complaint is filed with any court on or after October 1, 1976.

SEC. 7. (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 560. Fees for attorney and expert witnesses.

"(a) Except as provided in subsection (b), any party, other than the United States or any agency or official of the United States acting in his official capacity, in any agency proceeding shall be awarded by such agency an amount for recovery of reasonable fees for attorneys and expert witnesses and of other reasonable expenses incurred by such party with respect to such proceeding if such agency determines the relief afforded such party by such agency is in substantial measure the relief sought by such party.

"(b) (1) Any agency making any award under subsection (a) to any party may reduce the amount of such award if such agency determines that—

"(A) such party derives any substantial pecuniary benefit (other than such award) from the agency proceeding with respect to which such award is made, and

"(B) such reduction is appropriate because—

"(i) such pecuniary benefit was a sufficient incentive for such party to participate in or bring such proceeding;

"(ii) such party unnecessarily delayed the completion of such proceeding;

"(iii) such party unreasonably failed to accept any settlement offer with respect to such proceeding,

"(iv) such proceeding was not in the interests of justice.

"(2) The agency shall state its reasons for any reduction under this subsection.

"(3) No amount shall be awarded under subsection (a) in excess of $100,000.

"(c) Any agency determination under this section shall not be subject to judicial review except if such determination is—

"(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(2) contrary to constitutional right, power, privilege, or immunity, or

"(3) without observance of procedure required by law.

"(d) For purposes of this section, the term 'reasonable fees for attorneys' means the reasonable charge for services provided to any party by any attorney based upon—

"(1) the actual time expended by such attorney and the staff of such attorney in advising and representing such party,

"(2) the prevailing rates for such services, including any reasonable risk factor component, and

"(3) the need for any attorney to provide such services."

(b) The analysis of subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"560. Fees for attorneys and expert witnesses."

(c) The amendments made by this section shall take effect on October 1, 1976, but shall not apply to any agency proceeding pending on such date.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I was unable to attend the end of the session of the House of Representatives on Thursday, December 11, 1975 because I was speaking to a business seminar in New York City. Had I been present, I would have voted "aye" on acceptance of the conference reports on both H.R. 5900, and on H.R. 8773. I also would have voted "aye" on the two amendments offered by Congressman Hechler to H.R. 3474, the ERDA authorization, to strike sections 102 and 103 from the authorization.

TRIBUTE TO DR. MALCOLM SHARP

Mrs. MINK. Mr. Speaker, it is with great pleasure that I place into the Record a recent tribute to Dr. Malcolm Sharp, a truly distinguished professor of law and a most remarkable man. This deep-felt and affectionate tribute to Dr. Sharp comes from his long-time friend and associate, George Anastaplo.

The occasion for Mr. Anastaplo's remarks was Malcolm Sharp's 77th birthday this summer. Reflecting at that moment on Professor Sharp's long and prestigeous career at the University of Chicago and the University of New Mexico Schools of Law, Mr. Anastaplo draws a warm, intimate portrait of a man whose inquiring, independent mind and "ethical toughness" have been legendary among those who have worked or studied with him.

Dr. Malcolm Sharp is presently a professor and chairman of political science at Rosary College in River Forest, Ill. Professor Sharp is still challenging students, as he did me, to discard prejudices and stereotypes and to think and explore. I heartily join with George Anastaplo in honoring our truly great teacher. I call my colleagues' attention to the following well-deserved tribute:

[From the Law Alumni Journal, the University of Chicago Law School, summer 1975]

Malcolm P. Sharp and the Spirit of '76

(By George Anastaplo)

PROLOGUE

Malcolm P. Sharp retired from the University of Chicago Law School faculty in 1965 at the age of 67. He had come to Chicago in 1933 from the University of Wisconsin Law School faculty, having been trained at Amherst, Wisconsin and Harvard. After leaving Chicago, Mr. Sharp taught at the University of New Mexico Law School until 1970. During the two following years he continued to live in Albuquerque, working both as an associate with a local law firm and as a part-time teacher at the law school. Since the summer of 1972, he has been Professor and Chairman of Political Science at Rosary College, in River Forest, Illinois.

I was asked to contribute something to the *Journal* about Mr. Sharp on the occasion of his seventy-sixth year. It seemed to me appropriate for this purpose that I should first share with my fellow alumni of the University of Chicago Law School the talk I made about Mr. Sharp in Albuquerque in 1970 upon his retirement as a full-time member of the University of New Mexico faculty. With the addition of some more recent observations, I can try to bring up to date the record left by the Winter 1966 issue of the *University of Chicago Law Review*, which had been dedicated to him. (That issue, which Mr. Sharp calls his "memorial issue," included personal tributes by Harry Kalven, Jr., Wilber C. Katz, Abe Krash and Edmund Wilson.)

Although Mr. Sharp did not disavow my Albuquerque remarks about him, he can be assumed to have received them with the self-deprecating attitude (long familiar to his associates) evident in a recent telephone conversation we had in which I tried to prevail upon him to come in from River Forest to Hyde Park for lunch. Our exchange went something like this:

G.A. You appreciate, I know, the incomparable Anastaplo cuisine.

M.P.S. I do, indeed, but I can get something out of a can today.

G.A. It is not fitting that someone of your status, dignity and years should eat out of a can.

M.P.S. Ah yes, but think of what it does for the can.

SOME REMARKS IN ALBUQUERQUE (MAY 5, 1970)

I have been asked to speak this evening about Malcolm Sharp, with special emphasis (I have been instructed) upon our association over the past quarter century, an intimate association testified to by one of the names my son bears. Permit me to pay Mr. Sharp the tribute of imitation by proceeding to my subject in the roundabout manner which he has no doubt made as familiar here in New Mexico as it was in Chicago.

I have been most impressed during my current visit here (as one born in St. Louis and raised in Illinois) by the distinctive character of this region of our country, a character which is reflected in the manners and outlook of the students of this law school. That is, this character has survived the pervasive influences both of professional training and of the national communications industry.

This distinctive regional character, which may be more apparent to the visitor than it is to you, is no doubt largely due to the special history and resulting traditions of New Mexico and the Southwest, traditions which include traces both of the thousands of years of Indian life and of the decisive decades of the conquistadores, to say nothing of something so earth-shattering as the assembling and testing here of the first atomic bomb.

Underlying all this, both as a contributing cause to and as a constant reinforcement of the distinctive character of this region is the influence of nature. This was richly evident in the flight I enjoyed this morning up to Santa Fe (with one of your law students as pilot) and my drive back this afternoon across the "desert." I was reminded this morning, as we ambled along at only 2,000 feet, what flying can mean, how much fun it can be.

I have been reminded the last few days of how much I enjoyed this landscape, especially at sunset, during those months in 1945 when my bomber crew trained out here in preparation for its overseas assignment. I have been reminded as well, by the Sandia Range as it looms over Albuquerque, of something I had thought unique, the awesome Parnassus Range looming over Delphi, Greece.

This, then, is the New Mexico in which Mr. Sharp has thrived the past five years. There is, on the other hand, the Chicago in which he lived and taught the preceding thirty-two years of his always busy life. One would be hard put to find settings as diverse (despite their joint contributions to the historic harnessing in the 1940s of nuclear power) as New Mexico and Chicago—as diverse as this flat dry land punctuated by impressive mountains and that inland city crowded up against the great inland sea which permits it to breathe.

What need I say about Chicago? You know the reputation of its great university and of the law school from which Mr. Sharp came to you. And you have been reminded as well, in the course of our discussions this week, of the Democratic National Convention of 1968, of the recent Conspiracy Trial and of gun battles between the police and the Black Panthers—you have been reminded, that is, of the excesses for which Chicago is notorious. And yet Chicago continues to appeal to some of us as the distinctively American city, as perhaps our most vital city. New York, San Francisco and New Orleans—each with its distinctive attractions—look out to the world across the seas. It is Chicago which, if any city does, exhibits the soul of America—energetic, self-righteous, perhaps even bigoted, and yet relaxed, livable, challenging and above all hopeful.

It is one of Mr. Sharp's accomplishments that he has been so much himself in physical and cultural settings as diverse as Chicago and Albuquerque. This has been evident in the way he has conducted the discussions, both formal and informal, which I have enjoyed here this week. His character may be seen in how people—faculty, students, local attorneys and judges alike—respond to him. It would be difficult to find anyone who has anything but a kind word to say about him—and we suspect that the rare detractor would expose his own shortcomings rather than Mr. Sharp's. He is in this respect, as well as in various intellectual qualities and interests, very much like one of his heroes, Charles Darwin, of whom it has been said that he was the only member of the *Beagle's* crew to go through its historic, yet aggravating, voyage of several years without exchanging a cross word with anyone.

Perhaps most revealing of what Mr. Sharp is like is what students, in particular, say about him—about his rich store of information and speculations, about the way he develops his courses. Thus, I have heard again here what we knew as a tradition at Chicago, that a course with Malcolm Sharp is an exercise in disintegration and despair, until suddenly, somehow, order emerges from chaos. I think Mrs. Sharp was most perceptive when she observed to me a couple days ago that "confusion" was her husband's favorite word. It is the confusion characteristic of the pedagogical midwife who would relieve us of our prejudices and preconceptions so that we may begin to give birth to a properly examined life.

The constancy of Mr. Sharp and of student response to him is seen also in the kind of declarations that the young are moved to make about him. Thus, there is the petition of February 10, 1970 addressed to their dean by the students of this law school:

"Inasmuch as Professor Malcolm P. Sharp is perhaps the most highly respected member of the Law School faculty at the University of New Mexico, who has contributed a broad intellectually unfettered approach to the study of law, and who, perhaps more than anyone else in our educational career, has forced us to re-examine and discard our prejudices and narrow perspectives, in favor of a critical overall approach to the function of law in our society.

We the undersigned strongly recommend that every possible measure be taken to retain Professor Sharp on the faculty of the Law School for as long as he is willing to remain."

Then there is the bookplate, prepared for the "Malcolm P. Sharp Collection," established May 26, 1965 by the students of the University of Chicago Law School upon his retirement there—a collection of books selected by him which ranges unashamedly across three thousand years of Western thought:

"This is one of the books Malcolm P. Sharp thought law students and lawyers should also read sometime during their careers. Given by his students and friends, who are certain that Professor Sharp's influence—his ability to induce students to explore the values and foundations of the law they are studying—will continue in the Law School after his retirement."

The students having said it so well—both in Albuquerque and in Chicago—there may not seem much more to say. But since my license to speak tonight has been conferred by the students organizing this celebration of Mr. Sharp's second retirement, who am I to question their judgment or their desires, especially at a time when their power seems to be growing on campuses across the land? I therefore ask Mr. Sharp's pardon as well as your indulgence for a few more minutes, while I attempt to say what I believe may lie behind the universal esteem for Malcolm Sharp.

Characteristic of him are his good will, his care for others and his gentleness—traits which are sensed and appreciated by both the intelligent and the unintelligent, by both the calm and the impassioned, by both the confident and the fearful. These traits are evident both in periods of prosperity and in periods of tribulation. But however evident all this is, it is not all. Not everyone may appreciate that this gentleness conceals (and, indeed, is made both possible and responsible by) a core of ethical toughness. This ethical toughness—or, if you prefer a gentler term, integrity—means that it is possible for Mr. Sharp to have and to exhibit on rare occasions what is called in *King Lear* "noble anger." However tolerant he may be of much that is weak and questionable, he can be clear and firm about what is proper and good.

Mr. Sharp's self-discipline is reflected in the fact that even his "noble anger" is kept in check, perhaps even a little too much so for his own good. Thus, I have never heard anyone speak of him as angry—aside from the "flashing indignation" one may occasionally exhibit in dealing either with one's children or with one's sometimes childish colleagues. For a variety of reasons—not the least of which is my longstanding interest in doing what I can to raise the quality of the American bar and hence contribute to American republicanism—I believe it useful to recall for your instruction a couple of occasions on which I have known Mr. Sharp to be truly angry.

I should hasten to add that I am *not* referring to what he once told me of his experiences as a trainer of naval pilots during the First World War. He discovered then that no cadet could really be shaped into a pilot until he had been thoroughly "chewed out" by his flying instructor—and Mr. Sharp was not above manufacturing opportunities for such necessary outbursts.

The first episode to be recalled came in the course of my bar admission controversy, a controversy which I have been induced to say much more about in seminars here this week than I have in almost a decade. Mr. Sharp was not, I should at once observe, angry about what happened to me between 1950 and 1961, but he *was* concerned—and he was most helpful in those troubled days. Thus, I was moved to say about him on May 26, 1958, in the course of identifying my character references to the Committee on Character and Fitness:

"Malcolm Sharp you have all heard of, both as a professor of law and as a conscientious and responsible advocate at the bar. Those of you who have had dealings with him, either as students in his Contracts Course or as colleagues in the law, will know what I mean when I say he is a gentleman in the old-fashioned sense. . . . I should acknowledge that Mr. Sharp has been my most thoughtful and consequently most valuable supporter throughout all these years, even though he began by disagreeing with the position I was taking before this Committee [in 1950] and urging me to abandon it. This early advice was based, in part, upon his sense of duty as a teacher toward a young student about to be deprived of his career at the bar."

(I add, parenthetically, that I learned from Mr. Sharp always to discourage those law students who have seen fit to ask me for advice from challenging as I did the character committee, figuring that no one could have dissuaded me in my circumstances then from doing what I did. I also figured that anyone who *could* be discouraged by what I might say probably should leave well enough alone and become a lawyer as soon as possible.)

What stirred the anger I have referred to was not the folly or the ignorance of the committee—that sort of thing (which Mr. Sharp would not describe as pointedly as I do) he is usually prepared to put up with in mankind—but rather its callous lack of fair play on one critical occasion. I had finally managed, several years after my application for admission had been originally denied (in 1951), to force from the committee (in 1954) a statement of facts and reasons in support of its decision. I showed the committee's statement to Mr. Sharp—I believe it was over lunch at the faculty club of the University of Chicago—and he became incensed. It was, he immediately saw and said, "simply dishonest." This was a dishonesty made even worse by the fact that he knew that I always tried to play fair with the committee in the documents I prepared. A young applicant had been seriously damaged professionally and financially while the seventeen lawyers on the committee continued in their established and prosperous careers—and yet they had resorted in this document to evasions and even deliberate misstatements more appropriate to shysters, not to character commissioners of a state supreme court. It was difficult for us to take seriously thereafter the integrity of the Committee on Character and Fitness for Admission to the Illinois Bar.

It was indicative of the frightened callousness of those times, I should add, that Mr. Sharp stood virtually alone among his colleagues at our law school in recognizing from the beginning, and publicly, what the real problem was in that bar admission controversy, the problem of the quality of the bar we are to have in this country. Indeed, Mr. Sharp used to tease his remarkably timid colleagues by observing that I was surely one of their most successful graduates, if only because my bar admission case (which has always seemed to make them uncomfortable and which has led to what Mr. Sharp calls my academic "black-listing") has been the greatest contribution to American legal education since the Second World War. He has even said these things a couple times this week in public, which only goes to show that he is incorrigible as well as confusing.

Far more important, both in itself and as indicative of what the 1950s were like, is the second episode of Sharpean anger I have promised you. I turn now to something far more serious than my adventures at the bar were ever permitted to become either by him or by me—to a subject which may seem somewhat too somber to bring up on this festive occasion, but which it is necessary to at least touch upon if we are to recognize more than the genial side of this remarkable man.

The second episode to be recalled took place immediately after the execution of Julius and Ethel Rosenberg in June 1953, the only peacetime executions for espionage ever exacted by our civil courts. The general public opinion, then as well as now, about that disgraceful chapter in our history is indicated in a comment in the current issue of *Time* magazine:

"The Rosenbergs were convicted on March 29, 1951, of conspiracy to commit espionage in connection with supplying atomic-bomb data to the Russians. In the next 26 months, there were at least 14 appeals and reviews of their case. Justice may be blind once. It is not likely to be blind that often."

The fact remains, even though it is not generally recognized, that the *Rosenberg* case was never reviewed on its merits by the Supreme Court of the United States. It did seem in June 1953, however, that a review by the Supreme Court might finally come. Justice Douglas had gallantly granted, after the Court had recessed for the term, a last-minute stay of execution. Certainly it seemed, whatever else might happen, that the defendants and their counsel (among whom, in their final days, someone as conservative as Mr. Sharp was numbered) would have a summer's respite.

But Attorney General Brownell prevailed upon Chief Justice Vinson immediately to reconvene the Court in order to hear the Government's motion that Justice Douglas' stay be vacated. It was only the third time in the history of the Republic that the Court was called back into such extraordinary session, and this time primarily for the purpose of killing a man and his wife who had been convicted only twenty-seven months before of having passed atomic bomb secrets in wartime to an allied country.

What made this bloodthirsty haste even worse was that defense counsel (and, no doubt, the defendants and their families as well) were celebrating the temporary victory provided by Justice Douglas' stay of execution when news came over the radio of what the Attorney General and the Chief Justice had done. The rest you know—or should know.

When Mr. Sharp returned to Chicago from the East a few days after the execution of the Rosenbergs, he was still incensed, but not so much as to render him unable to assess properly what had happened. Since I had long been the advocate in our conversations of what I understood to be certain Platonic teachings, he was moved to tell me that he had never really appreciated before how right Socrates had been to insist that it was far better to be unjustly treated than to act unjustly oneself—an insistence which only the truly tough can recognize and accept in moments of deep distress.

Anger and concern were put to good use by him on this as on other occasions—as was seen in the efforts he made for years thereafter on behalf both of the orphaned Rosenberg children and of the imprisoned codefendant of the Rosenbergs, Morton Sobell. Mr. Sharp has indeed been a man who knows how to be useful, a man who can be depended upon to put to good use even casual encounters and the social amenities. This has been, I believe, because he is a man who both cares to know and, even more important in understanding him, knows what it is to care. Thus, he has been heard to say that anyone who would not teach for nothing should not be teaching at all.

I should not conclude this tribute without saying something about that which is most evident in Mr. Sharp, that which is usually called "style" today. This is seen not only in his manner and manners but also in such things as language. To this day, for instance, I dare not use "contact" (nor "contract") as a verb. And such phrases as "written contract," I have learned from him, have to be used with the greatest caution, if at all.

These injunctions were impressed upon me about the same time as another injunction, that one should (especially if one is engaged in sedentary pursuits) prefer the staircase to elevators for any ascent or descent of less than five floors. I am reminded by what I have just said that I have learned as well from him what he has learned from Edmund Wilson, how to use "one" as a pronoun when we three go, *that* art will be lost on this side of the Atlantic. (But then, what else can one expect of a people who use "hopefully" as Americans do these days?) Mr. Sharp's self-confident competence with respect to these things is evident in his disconcerning ability to dictate to a secretary page after page of complete, well-polished sentences.

When I speak of "style" I return to what I have already said this evening about Mr. Sharp as a gentleman, in the old-fashioned sense of that term—the citizen who is open to the best in his community, even as he insists upon a healthy respect for facts and a lively skepticism about impassioned crusades (whether at home or abroad).

It has seemed to me particularly salutary to stress this evening, after the demoralizing events yesterday at Kent State University, two of the several academic careers of Malcolm Sharp, careers in which the cause of the unpopular, the just and the oppressed has never been far from his heart. That is, is it not reassuring that we are able to say of the United States that it can produce such men as Malcolm Sharp, that it not only can produce and tolerate but can even recognize and love such men, despite their evident dissent from orthdox opinions?

When communities as diverse as Albuquerque and Chicago can cherish as they have this respectful rebel, it should assure us, even in these troubled days, that the soul of America remains basically sound.

EPILOGUE (SPRING 1975)

Mr. Sharp has been heard to say that his legal education really began only a few years ago upon his association, down in Albuquerque, with the law firm established by several of his former students at the University of New Mexico Law School.

The death of Mrs. Sharp in October 1971, however, after years of incapacitating illness, obliged Mr. Sharp to consider moving from Albuquerque. When an appointment was offered him at Rosary College by the President of that coeducational school (herself a University of Chicago doctor in political science), Mr. Sharp began still another academic career—and his first experiment as a department chairman. He lives in Elmwood Park, a half-mile walk from the campus. His extracurricular activities have included trips to Switzerland in the summers of 1973 and 1974 and service as an arbitrator in a five-million dollar contracts controversy in which the United States is involved.

His courses at Rosary College explore the wide-ranging interests which continue to challenge and frustrate students: Aristotle on Justice; Order and Disorder in International Relations (he will not use the conventional rubric, International Law, insisting there is no such thing); The Limits of Deterrents; Problems in the Proof of Facts and Events; Crosskey and the Constitution; Public Administration and Law; and St. Thomas on Law. The tenor of his well-documented courses is indicated by the final examination in one of them:

"How, if at all, may a study of human history contribute to efforts to establish international order?

"What are the prospects of peace and what are the means of promoting these prospects?

"Some of you may well be able to give adequate answers in an hour; but you may use the two hour period alloted if you wish.

"Think before you write."

The Malcolm P. Sharp issue of the *University of Chicago Law Review*, to which I have referred, included an extended bibliography of his publications. One can, by continuing the bibliography compiled by the law review editors in 1966, give Mr. Sharp's former students and colleagues still another indication of his interests of the past decade:

(1) "Reflections on Conscientious Objections to War," 25 *National Lawyers Guild Practitioner* 115 (1966);

(2) "Charles Gregory," 53 *Virginia Law Review* (770 (1967) (on torts and labor law);

(3) "Introduction: The Relevance of Contract Theory," 1967 *Wisconsin Law Review* 803 (1967);

(4) "Unmaking History: The Warren Report and Its Critics," 34 *University of Chicago Law Review* 453 (1967);

(5) "The Master," 35 *University of Chicago Law Review* 238 (1968) (on William W. Crosskey's Constitution);

(6) Review: Davies, *The Rosenbluth Case, 2 New Mexico Law Review* 122 (1972) (on probabilities and the burden of proof);

(7) "Crosskey, Anastaplo and Meiklejohn on the United States Constitution," 20 *University of Chicago Law School Record* 1 (1973);

(8) Review: Nizer, *The Implosion Conspiracy, Panorama/Chicago Daily News*, January 27–28, 1973, p. 8 (on the *Rosenberg-Sobell case*);

(9) "Concessions for Survival," 29 *Science and Public Affairs* (*Bulletin of the Atomic Scientists*) 48 (1973);

(10) Review: Fromm, *The Anatomy of Human Destructiveness*, and Milgram, *Obedience to Authority*, 32 *The Critic* 68 (1974).

In addition, Mr. Sharp and I prepared for newspaper publication, in April 1975, an article on the treaty power under the Constitution, "The Promises That Presidents Make."

I conclude this progress report on Mr. Sharp by drawing on the *University of Chicago Law School Record* for Winter 1972, where there is printed a letter from him describing the everyday practice of law in New Mexico. This kind of legal practice was a world apart from that to which he had been introduced on Wall Street in 1924—and he was fascinated.

A modest commercial case had come into the small Albuquerque office with which he was associated (his letter relates)—but not so modest as to fail to provoke opinions familiar (in both style and content) to generations of law students who have been privileged to study with Mr. Sharp (emphasis added):

"Our case itself is in my judgment not too complicated, but it suggests an extraordinary range of problems about the Code's Stature of Frauds applicable to contracts of sale. The case itself has some interest on a variety of grounds involving the law of contracts, and if it is not settled, it may be tried in a few months.

"Reflections on the case have confirmed my impression that we waste a considerable amount of time, which if one adds up the hours over thirty years of teaching becomes startling, on teaching systematic but inadequate justifications for welching, including the law of consideration and the Statute of Frauds. *On the other hand*, we deal unsystematically and inadequately with the psychological problems involved in legitimate excuses for not doing what the words of an undertaking by themselves lead a hearer or reader to expect."

There is always for Malcolm Sharp something to be said "on the other hand." That is, he is never content to leave bad enough alone.

CONFERENCE REPORT ON SENATE JOINT RESOLUTION 121

Mr. JONES of Tennessee submitted the following conference report and statement on the joint resolution (S.J. Res. 121), to provide for quarterly adjustments in the support price for milk:

CONFERENCE REPORT (H. REPT. No. 94–723)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S.J. Res. 121), to provide for quarterly adjustments in the support price for milk, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same.

Ed Jones,
Joseph P. Vigorito,
David R. Bowen,
Richard Nolan,
Alvin Baldus,
John Krebs,
Matthew McHugh,
Bob Bergland,
William C. Wampler,
James M. Jeffords,
Richard Kelly,
Managers on the Part of the House.

Herman E. Talmadge,
Hubert H. Humphrey,
George McGovern,
Walter D. Huddleston,
Patrick J. Leahy,
Bob Dole,
Milton R. Young,
Carl T. Curtis,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee on Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price for milk, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

AMENDMENT NO. 1—TERMINATION DATE

The Senate resolution provided that the quarterly adjustment authority in the resolution shall terminate on March 31, 1979. The House amendment changed this termination date to March 31, 1978, in order that this legislation would again be considered when new farm legislation involving other major commodities is considered.

The Senate receded.

AMENDMENT NO. 2—MILK SUPPORT PRICE

The Senate resolution provided only for quarterly adjustments in the support price for milk. The House amendment added a requirement that the support price for milk shall be established at 85 per centum of the parity price therefor.

The Senate receded.

TITLE OF THE RESOLUTION

The House amendment also changed the title of the resolution to reflect the provision added by House amendment numbered 2.

The Senate receded.

Ed Jones,
Joseph P. Vigorito,
David R. Bowen,
Richard Nolan,
Alvin Baldus,
John Krebs,
Matthew McHugh,
Bob Bergland,
William C. Wampler,
James M. Jeffords,
Richard Kelly,
Managers on the Part of the House.

Herman E. Talmadge,
Hubert H. Humphrey,
George McGovern,
Walter D. Huddleston,
Patrick J. Leahy,
Bob Dole,
Milton R. Young,
Carl T. Curtis,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 5541

Mr. EVINS of Tennessee submitted the following conference report and statement on the bill (H. R. 5541) to provide for emergency relief for small business concerns in connection with fixed-price Government contracts:

Conference Report (H. Rept. No. 94–724)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5541) to provide for emergency relief for small business concerns in connection with fixed-price Government contracts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

Section 1. This Act may be cited as the "Small Business Emergency Relief Act".

POLICY

Sec. 2. It is the policy of Congress to provide relief to small business concerns which have fixed-price Government contracts in cases where such concerns have suffered or can be expected to suffer serious financial loss because of significant and unavoidable difficulties during performance because of the energy crisis or rapid and unexpected escalations of contract costs.

DEFINITIONS

Sec. 3. As used in this Act—

(1) the term "executive agency" means an executive department, a military department, and an independent establishment within the meaning of sections 101, 102, and 104(1), respectively, of title 5, United States Code, and also a wholly owned Government corporation within the meaning of section 101 of the Government Corporation Control Act; and

(2) the term "small business concern" means any concern which falls under the size limitations of the "Small Business Administrator's Definitions of Small Business for Government Procurement."

AUTHORITY

Sec. 4. (a) Pursuant to an application by a small business concern, the head of any executive agency may terminate for the convenience of the Government any fixed-price contract between that agency and such small business concern, upon a finding that—

(1) during the performance of the contract, the concern has suffered or can be expected to suffer serious financial loss due to significant unanticipated cost increases directly affecting the cost of contract compliance; and

(2) the conditions which have caused or are causing such cost increases were, or are being, experienced generally by other small business concerns in the market at the same time and are not caused by negligence, underbidding, or other special management factors peculiar to that small business concern.

(b) Upon application under subsection (a) by a small business concern to terminate a fixed-price contract between an executive agency and such small business concern, the head of the executive agency may modify the terms of the contract in lieu of termination for the convenience of the Government only if he finds after review of the application that—

(1) (a) the agency would reprocure the supplies or services in the event that the contract was terminated for the convenience of the Government; and

(b) the cost of terminating the contract for the convenience of the Government plus the cost of reprocurement would exceed the amount of the contract as modified; and

(2) Any such modification shall be made in compliance with cost comparison and compensation guidelines to be issued by the Administrator of the Office of Federal Procurement Policy. Such cost comparison and compensation guidelines shall be promulgated by the Administrator not later than 10 days after enactment of this Act.

(c) If a small business concern in performance of a fixed-price Government contract experiences or has experienced shortages of energy, petroleum products, or products or components manufactured or derived therefrom or impacted thereby, and such shortages result in a delay in the performance of a contract, the head of the agency, or his designee, shall provide by modification to the contract for an appropriate extension of the contract delivery date or period of performance.

(d) A small business concern requesting relief under subsection (a) shall support that request with the following documentation and certification:

(1) a brief description of the contract, indicating the date of execution and of any amendment thereto, the items being procured, the price and delivery schedule, and any revision thereof, and any other special contractural provision as may be relevant to the request;

(2) a history of performance indicating when work under the contract or commitment was begun, the progress made as of the date of the application, an exact statement of the contractor's remaining obligations, and the contractor's expectations regarding completion thereof;

(3) a statement of the factors which have caused the loss under the contract;

(4) a statement as to the course of events anticipated if the request is denied;

(5) a statement of payments received, payments due and payments yet to be received or to become due, including advance and progress payments, and amounts withheld by the Government, and information as to other obligations of the Government, if any, which are yet to be performed under the contract;

(6) a statement and evidence of the contractor's original breakdown of estimated costs, including contingency allowances and profit;

(7) a statement and evidence of the contractor's present estimate of total costs under the contract if enabled to complete, broken down between costs accrued to date of request, and runout costs, and as between costs for which the contractor has made payment and those for which he is indebted at the time of the request;

(8) a statement and evidence of the contractor's estimate of the final price of the contract, giving effect to all escalation, changes, extras, and other comparable factors known or contemplated by the contractor;

(9) a statement of any claims known or contemplated by the contractor against the Government involving the contract in question, other than those referred to under (8) above;

(10) an estimate of the contractor's total profit or loss under the contract if required to complete at the original contract price;

(11) an estimate of the total profits from other Government business, and all other sources, during the period from the date of the first contract involved to the latest estimated date of completion of any other contracts involved;

(12) balance sheets, certified by a certified public accountant, as of the end of the contractor's fiscal year first preceding the date of the first contract, as of the end of each subsequent fiscal year, and as of the date of the request together with income statements for annual periods subsequent to the date of the first balance sheet; and

(13) a list of all salaries, bonuses, and all other forms of compensation of the principal officers or partners and of all dividends and other withdrawals, and all payments to stockholders in any form since the date of the first contract involved.

DELEGATION

Sec. 5. The head of each executive agency shall delegate authority conferred by this Act, to the extent practicable, to an appropriate level that will permit the expeditious processing of applications under this Act and to insure the uniformity of its application.

LIMITATIONS

Sec. 6. (a) The authority prescribed in section 4(a) shall apply only to contracts which have not been completely performed or otherwise terminated and which were entered into during the period from August 15, 1971, through October 31, 1974.

(b) The authority conferred by section 4(a) of this Act shall terminate September 30, 1976.

And the House agree to the same.

Joe L. Evins,
Neal Smith,
Bob Bergland,
H. B. Gonzalez,
James C. Corman,
Jim Hanley,
Gus Yatron,
John Breckinridge,
William L. Hungate,
Silvio O. Conte,
J. William Stanton,
Millicent Fenwick,
William F. Goodling,
Managers on the Part of the House.

Lawton Chiles,
Sam Nunn,
John Glenn,
L. P. Weicker, Jr.
Bill Brock,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5541) to provide for emergency relief for small business concerns in connection with fixed-price Government contracts, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, and the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) SERIOUS FINANCIAL LOSS

The Senate amendment states that it is Congressional policy to provide relief to small businesses which "have suffered or can be expected to suffer" serious financial loss because of the energy crisis or rapid and unexpected escalation of contract costs.

The House bill does not contain any comparable provision requiring serious financial loss.

The Conference substitute adopts the Senate amendment.

The Conference substitute also imposes a similar requirement in section 4 of the bill which authorizes the relief.

(2) DEFINITION OF SMALL BUSINESS CONCERN

The House bill defines a "small business concern as having the same meaning as such term is given under Section 3 of the Small Business Act.

The Senate amendment defines a small business concern as any concern which falls under the size limitations of the small business Administrator's definitions of small business for Government procurement or for SBA loans.

The Conference substitute adopts the Senate amendment but deletes the reference to SBA loans.

(3) TERMINATION AND MODIFICATION

The House bill authorizes the head of any executive agency to terminate for the convenience of the Government "or make appropriate modification in the terms of" any fixed-price contract if certain specified conditions are found to exist.

The Senate Amendment authorizes termination but does not contain any provision authorizing modification.

The Conference substitute adopts the Senate termination authority but provides for limited application of modification to contracts which have not been fully performed or terminated only when the amount of the modification plus the original contract amount would be less that the expense incurred by the Government in reprocuring the item from another source.

The Conferees intend that the authority to modify a contract be used only to save the Government money. Such a savings would result by limiting the amount of the modification plus the original contract amount to a figure not to exceed the cost of terminating the contract for the convenience of the Government plus the cost of reprocurement.

In order to insure consistency and equity in determining which contracts are eligible for modification and compensation thereunder, the Administrator of the Office of Federal Procurement Policy is required to issue appropriate government-wide guidelines not later than 10 days after enactment.

(4) ENERGY SHORTAGE AS AN EXCUSABLE DELAY

The House bill provides that if a small business concern in the performance of a fixed-price Government contract experiences shortages of energy or energy products which result in a delay in the performance of the contract, the delay may be deemed to be an excusable delay.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision except that in the event of such a delay the head of the agency is specifically directed to modify the contract by extending the contract delivery date or period of performance.

(5) EFFECTIVE DATES

The House bill limits the application of the provisions authorizing modification or termination to contracts entered into during the period from August 15, 1971 through October 31, 1974. The House bill also provides that the authority of the agency to grant relief expires December 31, 1975.

The Senate amendment cuts off the date of the contracts to those entered through April 30, 1974 and provides that the authority of the agency to grant relief expires December 31, 1975.

The Conference substitute adopts the House provision applying the authority to contracts entered through October 31, 1974 but terminates the authority of the agency to grant relief on September 30, 1976.

Joe L. Evins,
Neal Smith,
Bob Bergland,
H. B. Gonzalez,
James C. Corman,
Jim Hanley,
Gus Yatron,
John Breckinridge,
William L. Hungate,
Silvio O. Conte,
J. William Stanton,
Millicent Fenwick,
William F. Goodling,
Managers on the Part of the House.

Lawton Chiles,
Sam Nunn,
John Glenn,
L. P. Weicker, Jr.,
Bill Brock,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Zeferetti (at the request of Mr. O'Neill), for today, on account of official business.

Mrs. Chisholm (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Corman (at the request of Mr. McFall), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Pattison of New York) and to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.

Ms. Holtzman, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. Pettis) and to include extraneous matter:

Mr. Treen in two instances.
Mr. Young of Florida.
Mr. J. William Stanton in two instances.
Mr. Steelman.
Mr. Hyde.
Mr. Crane.
Mr. Bell.
Mr. Symms.
Mr. Kasten.
Mr. Gradison.
Mr. Hillis.

(The following Members (at the request of Mr. Pattison of New York) and to include extraneous matter:)

Mr. de Lugo in two instances.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Zeferetti.
Mr. Diggs.
Mr. Hawkins in two instances.
Mr. McDonald of Georgia in four instances.
Mr. Harris.
Mr Waxman.
Mr. Ottinger.
Mr. Delaney.
Mr. Russo.
Mr. Staggers.
Mr. Jones of Oklahoma.
Mr. Rangel.
Mr. Rose.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 55. An act for the relief of Dino Mendoza Pascua;

S. 447. An act for the relief of Jesus Cortez Pineda;

S. 605. An act for the relief of Heung Soon Kim; and

S. 1653. An act for the relief of Sun Yang Kim and Sun Mi Kim.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2724. An act to provide for establishment of the Father Marquette National Memorial near St. Ignace, Mich., and for other purposes;

H.R. 8773. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and for the period ending September 30, 1976, and for other purposes;

H.R. 9883. An act to amend the Joint Resolution approved December 28, 1973, providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac, and for other purposes;

H.R. 9924. An act to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes; and

H.R. 11027. An act to amend the effective date of the Defense Production Act Amendments of 1975.

ADJOURNMENT

Mr. PATTISON of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 13 minutes p.m.) under its previous order the House adjourned until Monday, December 15, 1975, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2195. A letter from the Chairman, Migratory Bird Conservation Commission, transmitting the annual report of the Commission for fiscal year 1975, pursuant to section 3 of the act of February 18, 1929 (45 Stat. 1222; 16 U.S.C. 715b); to the Committee on Merchant Marine and Fisheries.

RECEIVED FROM THE COMPTROLLER GENERAL

2196. A letter from the Comptroller General of the United States, transmitting a report on thhe State Department's system of administrative support services to other agencies operating overseas; jointly, to the Committees on Government Operations, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAYS of Ohio: Committee on International Relations, House Joint Resolution 406. Joint resolution to provide for the presentation by the United States to Israel of a statue of Abraham Lincoln to be donated by Leon Gildesgame, of Mount Kisco, N.Y.; with amendment (Rept. No. 94-717). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAHON: Committee of conference. Conference report on H.R. 10647 (Rept. No. 94-718). Ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. H.R. 7897. A bill to authorize funds for assistance to local educational agencies for the education of Cambodian and Vietnamese refugees, and for other purposes; with amendment (Rept. No. 94-719). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 8304. A bill to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes; with amendment (Rept. No. 94-720). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 11045. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act (Rept. No. 94-721). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11070. A bill to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games; with amendment (Rept. No. 94-722). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Tennessee: Committee of conference. Conference report on Senate Joint Resolution 121 (Rept. No. 94-723). Ordered to be printed.

Mr. EVINS of Tennessee: Committee of conference. Conference report on H.R. 5541 (Rept. No. 94-724). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 10979. A bill to improve the adequacy, efficiency, and financial viability of the rail system of the United States by reforming the regulatory process under which such rail system operates, by providing long-term financial assistance for such rail system, and by amending the Regional Rail Reorganization Act of 1973 to enhance and insure the private enterprise character of the Consolidated Rail Corporation; with amendment (Rept. No. 94-725). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STEIGER of Wisconsin:

H.R. 11134. A bill to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera; to the Committee on Ways and Means.

By Mr. CLEVELAND:

H.R. 11135. A bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes; to the Committee on Veterans' Affairs.

By Mr. ENGLISH:

H.R. 11136. A bill to provide economic safeguards to American farmers when the movement of certain agricultural commodities in export markets are affected by Federal Government interference; to the Committee on Agriculture.

By Mr. GUDE (for himself, Mr. Rangel, Mrs. Schroeder, Mr. Scheuer, Mr. Badillo, Mr. Brown of California, Mrs. Chisholm, Mr. Conyers, Mr. Dellums, Mr. de Lugo, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Fauntroy, Mr. Fraser, Mr. Harrington, Mr. Hawkins, Mr. Krebs, Mr. McCloskey, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, Mr. Reuss, Mr. Rosenthal, Mr. Stark, and Mr. Vander Veen):

H.R. 11137. A bill to amend the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act; to the Committee on Public Works and Transportation.

By Mr. GUDE (for himself, Mr. Koch, Mr. Waxman, and Mr. Weaver):

H.R. 11138. A bill to amend the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act; to the Committee on Public Works and Transportation.

By Mr. GUDE:

H.R. 11139. A bill to amend the Social Security Act to change the standard of liability and to provide for expenses of legal counsel in certain civil suits, actions, and proceedings against professional standards review organizations, and members, directors, trustees, employees, officials, and consultants thereto; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. HARRIS (for himself, Mr. Danielson, and Mr. Hillis):

H.R. 11140. A bill to require that a national cemetery be established at Quantico, Va.; to the Committee on Veterans' Affairs.

By Ms. KEYS:

H.R. 11141. A bill to establish a Department of Education; to the Committee on Government Operations.

H.R. 11142. A bill to amend the Clayton Act to provide for additional regulation of certain anticompetitive developments in the agricultural industry; to the Committee on the Judiciary.

By Mr. LLOYD of California (for himself, Mr. Ottinger, Mr. Stark, Mr. Badillo, Mr. Hawkins, Mr. Bedell and Mr. Gude):

H.R. 11143. A bill to study certain lands in the Angeles and San Bernardino National Forests, Calif., for possible inclusion in the National Wilderness Preservation System; to the Committee on Interior and Insular Affairs.

By Mr. MOSHER (for himself and Mr. Matsunaga):

H.R. 11144. A bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. OBEY (for himself and Mr. Litton):

H.R. 11145. A bill to protect the public health and welfare by providing for the inspection of imported dairy products and by requiring that such products comply with certain minimum standards for sanitation and that the dairy farms on which milk is produced and the plants in which such products are produced meet certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mr. TREEN (for himself, Mr. Beard of Tennessee, Mr. Dickinson, Mr. Symms, Mr. Martin, Mr. Moore, Mr. Bowen, Mr. Passman, Mr. Bafalis, Mr. Archer, and Mr. Hansen):

H.R. 11146. A bill to extend from February 1, 1976, to October 1, 1977, the period during which payment may be made for certain child day care services under titles IV and XX of the Social Security Act without regard to certain new staffing standards imposed by or under such title XX; to the Committee on Ways and Means.

By Mr. YOUNG of Florida (for himself and Mrs. Schroeder):

H.R. 11147. A bill to amend part A of title XVIII of the Social Security Act to freeze the inpatient hospital deductible under the medicare program at its 1975 level; to the Committee on Ways and Means.

By Ms. ABZUG (for herself, Mr. Aspin, Mr. Clay, Mr. Dellums, Mr. Drinan, Mr. Gilman, Mr. Hanley, Ms. Holtzman, Mr. Maguire, and Mr. Udall):

H.R. 11148. A bill to amend titles IV, XI, and XIX of the Social Security Act to increase the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By BOB WILSON:

H.R. 11149. A bill to amend section 2 of the act entitled "An act to incorporate the National Society of the Daughters of the American Revolution"; to the Committee on the Judiciary.

By Mr. MAHON:

H.J. Res. 746. Joint resolution to rescind certain budget authority recommended in the message of the President of November 29, 1975 (H. Doc. 94–311), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally refered as follows:

By Mr. DAN DANIEL:

H.R. 11150. A bill for the relief of Rodolfo Morelos; to the Committee on the Judiciary.

By Mr. DUNCAN of Oregon:

H.R. 11151. A bill for the relief of Mary Christine Hull; to the Committee on the Judiciary.

By Mr. EILBERG:

H. Res. 926. Resolution opposing the granting of permanent residence in the United States to certain aliens; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

343. The SPEAKER presented a petition of David W. Bowerski, Atlanta, Ga., relative to redress of grievances, which was referred to the Committee on the Judiciary.

SENATE—*Friday, December 12, 1975*

The Senate met at 9 a.m. and was called to order by Hon. Richard Stone, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, for such a world as this, a world that remembers the story of Bethlehem after all the years, a world which echoes the angel song in hymns of every tongue, in greetings at every door, in gifts of the open hand, in myriad lights pointing to the Light of the World—for such a world as this, we give Thee thanks.

Yet we covet a better world for our children. We are stirred by poem and prayer, by sermon and play and soon forget who we are and what we ought to do. Deliver us from callousness and indifference. Send us to our daily tasks like shepherds and sages of old to be better men and women, making better homes, better cities, a better nation, a better world, because we have acknowledged Him who is King of Kings and Lord of Lords. May the light spread, and Thy kingdom come and Thy will be done beginning in us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., December 12, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Richard Stone, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, December 11, 1975, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Patrick E. Higginbotham, of Texas, to be U.S. district judge for the northern district of Texas.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Richard J. Arcara, of New York, to be U.S. attorney for the western district of New York for the term of 4 years, and Richard N. Moore, of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed.

Mr. MANSFIELD. Mr. President, I request the President to be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, did the nominations just confirmed only include the judiciary and the Department of Justice?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MANSFIELD. But not for the Supreme Court of the United States.

The ACTING PRESIDENT pro tempore. The Senator is correct.

CONSIDERATION OF NOMINATION OF JUDGE JOHN PAUL STEVENS

Mr. MANSFIELD. Mr. President, it is anticipated by the leadership that the nomination of Judge John Paul Stevens will be taken up on either Wednesday or Thursday of this coming week.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

CLOSING RURAL POST OFFICES

Mr. MANSFIELD. Mr. President, there seems to be a determined effort on the part of the Postal Service to do away with the smaller post offices stretched hither and yon across the Nation. I think this is a step in the wrong direction because what it is helping to do is to erode the agricultural face of this Nation.

An excellent commentary by Richard E. Hansen, Jr., of Joplin, Mont., a columnist for the Great Falls, Mont., Tribune, entitled "Closing Rural Post Offices, Another Step Toward Closing Rural America," deals with this situation.

I ask unanimous consent that this commentary be printed at this point in the Record. I would hope that my colleagues will take the time to read this because what the Postal Service is contemplating doing affects every State in the Union.

There being no objection, the commentary was ordered to be printed in the Record, as follows:

Closing Rural Post Offices Another Step Toward Closing Rural America

Joplin, Mont.—Never before in our 200 year history of independence has citizen faith in their government—and their leaders—been so low. Countless national polls bear this out. Almost every action our leaders take, almost every statement they utter, is regarded with cynicism, skepticism, or outright disbelief.

Over the past quarter-century or so—ever since the great migration from rural America to the cities began, the federal government has poured countless billions of dollars into studies, projects, research, and other actions designed to halt—or reverse this trend. Yet, this vast, sprawling, uncoordinated mess of bureaucracies—which has come to be known collectively as our federal government, seems often to be creating on one hand, while the other works equally hard to destroy the creation. Rural development is a good example.

Despite all that has gone into trying to keep people in rural areas, to make them more attractive and better places in which to live, others are doing their best to do just the opposite, by closing or curtailing vital services—such as our rural post offices. Perhaps it might be well to examine just one small stretch of Montana—the Hi-line area, stretching about one hundred miles, for some idea of what has transpired during the past 25 years, and to see how one builds, while another destroys.

Twenty-five years ago, we had at least two passenger trains a day that made regular stops at each Hi-line town. We had regular daily bus service. We had a Western Union Telegraph office in each town. We each had our own school—elementary and high school. We each had our own post office—with two or three daily mail deliveries, in and out. And, according to our government, we were prime candidates for 'rural development'.

Today, a quarter-century or so later, we have no passenger trains that stop. If we want to take a train—and who does with the surly personnel, dirty, often undependable trains—we must travel 50 miles or so to where one stops. (No, I haven't ridden Amtrak lately, but I hear constant, bitter reports from those who have.)

We have no bus service. Citizens who do not drive, or do not have an automobile or other means of transportation, are simply stranded. This, like most of the west, is a vast sparsely-populated area. Traveling great distances for goods and services, for the most part, is simply an accepted fact of life.

But, for some services—which our hard-earned tax dollars go to finance and support—and which we were led to believe our forefathers intended us to enjoy as privileges of a democratic, tax-paying society, such as schools, transportation, and especially postal service—all at the local level, this to me is to a large extent what our Independence is all about.

We no longer have a Western Union office, or an express office. We have one mail delivery—in and out—each day. The railroad is in the process of closing down all local depots and freight offices, and rail freight in most towns is already a thing of the past. Soon, the local depot agent will also pass into history. Instead, we are told, such things as the boxcars—necessary to ship our grain and other products to market, will be checked, billed invoiced, and otherwise handled by traveling "computerized offices" from the nearest rail hub, some 50 miles away. Freight and express, so we are told, will come by truck from the same center—when roads and other factors make it possible.

Our schools are under constant threat and pressure to consolidate by both state and federal government regulations—some have already gone this route. So, it seems only a matter of time when these too will no longer be a part of our towns.

Now, we are being told, our postoffices are next in line to go. How we will get our mail, send a letter, or even buy a stamp, we have yet to learn. But, one of our big Bicentennial projects is a Pony Express ride across the United States. Perhaps this is a pilot project for things to come.

So, all this in the short space of about a quarter-century of "rural development". Unquestionably, we were far better off back in the horse-and-buggy days as far as services were concerned than today.

But, with the current cynicism, one wonders if this threat to our small postoffices is real, or yet another cry of "Wolf!" designed only to force more billions of subsidy dollars into the already wobbly operation; similar to Amtrak's threat to shut down, which resulted in massive tax money transfusions?

It seems almost incomprehensible that our vote-concious politicians, or the federal bureaucrats who feed off the nation's taxpayers, or the millions of local postal patrons—not to mention the unions, and the multi-billion dollar businesses whose foundations are built on our local mail system—would really stand idly by and watch this most basic and necessary of our national services go down the drain.

Certainly, closing the small rural postoffices contributes nothing to rural development. In fact, the opposite is true. If any rural community can be said to have a central heart—a hub, then it must be the local postoffice. They are the nerve-center, the most vital part of our small communities. And, besides the essential services they provide, the additional jobs they create in our always job-depressed rural areas, are an important consideration as well.

Closing our small, rural postoffices, is another large step toward closing rural America.

Once a small area—such as the Hi-line—bonds itself and future generations into debt for many years—with the help and blessing of one hand of the government—to build sewer, water, and other facilities to attract people and businesses to the area, and then finds the other hand busy taking away all the local services and other necessities, development must crumble in the face of fighting for mere survival.

So, if our postoffices do go, only a countryside of ghost towns could be left standing across our countryside, a mute testimony to our great experiment in "rural development."

Ironically, in dealing with rural Americans, our leaders and bureaucrats today seem determined to follow the precedent set some 200 years ago, which was to strip the Indians of all their land, rights, and even their pride and dignity.

In only about 25 years, through bungling, mismanagement, waste, stupidity, and just plain corruption and rip-off, rural America finds itself gradually losing its rights, privileges, and services—just as the Indians. We are managing to travel backward in the nation's countryside to almost the same point in time when it all began. We seem—those of us who live on the land—to have nearly reached the full circle.

LOSS OF THE LAOTIAN SHANGRI-LA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a column by Ambassador Charles W. Yost, entitled "Loss of the Laotian Shangri-la," be printed at this point in the Record.

Before the Chair rules, I would like to say that Ambassador Yost speaks from experience. He served as our representative in Vientiane 20 years or so ago, and he knows whereof he speaks.

This article appeared in the Christian Science Monitor under date of Thursday, December 11, 1975.

There being no objection, the article was ordered to be printed in the Record, as follows:

Loss of the Laotian Shangri-la

(By Charles W. Yost)

The Kingdom of the Million Elephants, which had endured for 600 years, came to an end on Dec. 3, 1975, and was succeeded by the People's Democratic Republic of Laos.

It is no novelty in the 20th century for thrones to topple and republics, "democratic" or otherwise, to be born. What is sad about this particular finale is, first, that it represents at least a temporary subjection of the Laotians to their traditional enemies, the Vietnamese, and second, that it marks another triumph of imported ideology over an ancient culture well suited to the land and people.

When I lived in Laos 20 years ago, most of its people led a very simple, even primitive life, but food was abundant, shelter sufficient, clothing handwoven and exquisite, and manners civilized. The women were beautiful, the men graceful, and both were irrepressibly gay and kind.

They were for the most part zealous Buddhists to whom all life was sacred. Each man spent some months of his youth as a bonze or priest, with shaven head and clad in a yellow robe, meditating and worshipping, collecting his daily rice from door to door.

It is true that the government, what there was of it, was run by a few families of notables. Indeed they were the only Laotians with any education, since Laos had been endowed by the French with no university and only one high school. However, these families lived almost as simply as the peasants, whom they certainly did not exploit.

Laos was rather halfheartedly involved in the war of liberation against the French and was twice invaded by Vietnamese armies, but everyone was correctly confident that they would not reach the lovely mountain capital of Luang Prabang because the blind bonze, famed for second sight, had said they would not.

In 1954, after the first Geneva Accords, the so-called Pathet Lao, who had been recruited and trained by the Viet Cong, numbered at most a few hundred and secluded themselves in two northern provinces adjacent to the Vietnam border. Among them were two unknown figures, Kaysone and Nouhak, who have emerged 20 years later as Prime Minister and Finance Minister.

Of course, the causes of the overrunning of the Laotian Shangri-la, the dissolution of the ancient monarchy and the rise from obscurity to power of Kaysone and Nouhak were the resumption of the Vietnamese civil war in 1960, the seizure by the Viet Cong of the corridor through the Laotian panhandle to supply and reinforce their forces in the South, and the gradual spread of the war to the whole of Laos. For this latter development the United States must share the blame.

Of any other country one would read with astonishment and disbelief that the deposed king had been appointed "Supreme Adviser" to the new president, who is a prince and a half brother of the deposed prime minister; that the latter had been named adviser to the new "democratic" government, and that the former crown prince had been appointed a member of the new National Assembly.

This curious conservation of vestiges of the past reflects no doubt both the new leaders' awareness of the popularity of the king and of former Prime Minister Souvanna Phouma and the characteristically Laotian inclination to moderation and compromise. No doubt this particular compromise will not long endure.

Souvanna will fade into exile or obscurity, leaving power to the Kaysones and the Nouhaks.

But the elephants will remain, and so will the two or three million Laotians with memories almost as long. They will not forget that their ancestors for hundreds of years have resisted being ruled by Vietnamese.

It is unlikely that they will commence another "war of national liberation," because that is not the Laotian style and because the odds against them are too great. But as the years pass, nationality and history are likely to prove stronger than ideology—particularly one so alien, so ill-adapted to this Buddhist mountain people, no doubt so superficially accepted and so little understood.

As time goes on, either Kaysone and Nouhak and their comrades will become more Laotian than Vietnamese and gently loose the reins that guide the people, or others who succeed them will. It is doubtful indeed that the 20th century Hanoi can build a lasting empire, even if it should wish, outside the lands where the Vietnamese language and its quite separate culture prevail.

CHRISTMAS AND PEACE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an article in Commonweal magazine entitled "Christmas and Peace," under date of December 19, 1975, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Christmas and Peace

Good news for Christmas in a recent *New York Times* headline: "Experts Doubt View That Atom Blast Could End All Life." (One bomb set off in the atmosphere and producing a cataclysmic chain reaction, that is; the superpowers have more than enough to kill off everyone on the face of the globe.) That such a headline could be considered even faintly reassuring is a good indication of the basic insanity of the present worldwide arms race, especially in the area of nuclear weapons, which Pope Pius XII rightly called "infernal creations."

The use of nuclear weapons would be the ultimate human madness, but even their maintenance on the present scale and their continuous expansion constitute a crime against humanity. The same thing can be said of the ever-mushrooming national and international explosion of expenditures for non-nuclear armaments. The solution to many of the worst problems that plague the world depends primarily on an end to the terrible burden imposed by the arms race and on the use of the money saved for vitally necessary steps toward world justice—the only foundation for a true and lasting peace. As the Council Fathers of Vatican II noted, "the arms race is an utterly treacherous trap for humanity, and one which injures the poor to an intolerable degree." An article by Ruth Leger Sivard in the April 1975 issue of the *Bulletin of the Atomic Scientists* provides some illustrations of the power and fearful appetite of the armaments monster we have created.

In nuclear weapons the United States has a stockpile of 8,000 megatons, equivalent to 615,385 Hiroshimas. What this means in practice: the U.S. nuclear stockpile by itself translates into a potential kill-power of 12 times the present world population. Adding the inventory of other major powers would double the total nuclear stockpile, amounting to tons of high explosives for every man, woman and child on the globe. The cost of maintaining the world's armament staggers the imagination. In 1973, the latest year for which global figures are available, the world total of expenditures for military purposes was $240 billion.

Another way to put it: every hour of every day the nations of the world were spending $30 million on their armed forces and armaments. The U.S. alone had already spent $400 billion on its strategic nuclear force, and each year spent another $20 billion for maintenance and expansion. By the end of this decade, it is estimated, total world military outlays in the '60s and '70s will have exceeded the incredible sum of $4,329 billion.

Given facts like these, it is obvious that the arms race has become a process that is almost out of human control; the war machine has gone berserk. In what started as a defensible search for security, mankind is in danger of losing all contact with reality. And every dollar that is now spent on arms represents the theft of food from the mouths of the earth's poor.

What does the world's expenditure of $240 billion a year for armaments mean? That sum is larger than the entire gross national product of the populations of Africa, the Middle East and South Asia put together. The U.S. and the USSR alone spend more for military purposes than the combined annual incomes of over one billion people in 33 of the world's poorest nations. The world's annual military spending is more than is spent altogether for the education of over one billion children; it is twice the public expenditure for health care for the total world population; it is almost twenty times the value of the foreign economic assistance of all nations put together. Worldwide medical research gets $4 billion a year; military research and development takes a grand total of $25 billion.

In a hungry world, such profligate military spending has tragic consequences. Every dollar spent on arms means less food somewhere else. In 1973 it is estimated that 460 million people were suffering from severe malnutrition. Just a portion of the amount we spend on arms each year would meet crisis needs at home and abroad and provide long-term assistance to improve food production. For only $4 billion annually, 200 million children would be provided special feeding programs. Even less than that amount would treble present aid for agricultural development. Out of the present world population, more than 700 million are unable to read or write; at a cost of only $1.5 billion a year, it is calculated that illiteracy could be virtually eliminated in five years.

In short, for a fraction of what we now spend on arms every year, we could change the face of the earth. Is it not time to make a start? And what better time for a new beginning than at the birthday of him we call the Prince of Peace?

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I wonder if the majority leader will allow me to ask unanimous consent that I reserve the time allotted to the minority leadership until after the Senator from Wisconsin speaks under his special order, the reason being that the Senator from Oklahoma (Mr. Bartlett) was going to use that time and he has not arrived in the Chamber.

Mr. MANSFIELD. If the Senator wants to put my time under the same category, it is agreeable.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 9:30 A.M., MONDAY, DECEMBER 15, 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 9:30, on Monday morning next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. Proxmire) is recognized for not to exceed 15 minutes.

ALLEGED SALT VIOLATIONS BY SOVIETS MUST BE TREATED SERIOUSLY

Mr. PROXMIRE. Mr. President, by not answering charges that the Soviet Union has violated the SALT agreements, the Defense Department and this administration are seriously undermining their own credibility and are running the risk of losing the confidence of the American people.

Whether or not the charges are true, the American public deserves to know the details and have a full explanation of the facts. What could be more critical than the issue of Soviet cheating on the most important arms control agreement of the country?

Simple assertions by administration spokesmen that the Soviets have not violated the SALT agreements are inadequate. They do not respond to the facts put forth by those concerned about Soviet perfidy. One-line statements will never be satisfactory under these conditions. The issues are far too complex to be disregarded cavalierly.

OFFICIAL STATEMENTS

Consider the changing statements from U.S. spokesmen on this subject. On October 10, 1974, Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, said he could "state categorically that we have no information that the Soviet Union is failing to abide by those agreements."

By early November 1974, however, unidentified Defense Department officials were telling the New York Times that Soviet actions involving camouflaging were raising questions about Soviet violations.

The same theme was reiterated in late November when a State Department official said there was no evidence of Soviet violations yet certain questions needed to be clarified in joint discussions.

Then in December of 1974, the President stated that:

> We don't think there have been any violations but there were some ambiguities.

The Secretary of Defense followed up by admitting to numerous ambiguities but "no conclusive evidence" of violations.

After a former Secretary of Defense, Melvin Laird, charged the Soviets with cheating on the agreements in six major areas, the President stated in June 1975, that:

> I have found they have not violated the SALT agreement . . . They have not used any loopholes.

In late November of this year, Secretary Schlesinger said that the Soviets had "failed to meet our expectations" in a number of areas involving SALT.

Then in December just this month, new Soviet ABM activity on the Kamchatka peninsula again brought forth behind the scenes statements by defense officials about possible Soviet violations. The former Chief of Naval Operations, Elmo Zumwalt testified before the House Intelligence Committee that these new Soviet activities were a "clear and precise" violation by the Soviets.

And then Secretary Schlesinger stated this month that:

> There are some ambiguities and that suggests that there are developments that must be further reviewed.

The President, in a news conference on December 2, said he did not think there had been any violations but "I have a responsibility to find out and we intend to follow through."

The statement by the President admitting to "some ambiguities" and Secretary Schlesinger's speech citing "no conclusive evidence" of violations, are halfhearted, even tantalizing, explanations.

When presented with the evidence in comparison with the SALT agreements, the American people are more than capable of sorting out the truth. Our people are more intelligent, perceptive, and practical than many of those in high places would lead us to believe. Unfortunately, the administration has refrained from making the necessary information public.

This attitude of one line disclaimers actually encourages more talk of suspicious Soviet activities or even of a cover-up by Defense officials. Thus the situation deteriorates week by week.

NO CAUSE FOR ALARM?

It may be that there is absolutely no cause for alarm—that all Soviet action can be reasonably explained and justified under the SALT provisions. If this is the case, and I earnestly hope it is, then the Pentagon should spell out the facts and make the case. The old phrase of "ambiguities" is wearing a little thin. What are these ambiguities? Why are they ambiguous? Is this term "ambiguity" simply another way of saying we don't know, or that we do know but we don't want to say anything about it in public?

In the absence of a forthcoming attitude by defense officials, there can be only doubt and suspicion. Why all the mystery? It is time to get down to the facts. The Executive Department does not have a monopoly on intelligence. There are others in the legislative branch and throughout our populations who can analyze Soviet actions. Therefore, let us have the facts so a rational debate can be held.

VIOLATION ISSUES

Mr. President, the alleged violations have been reported in a number of magazine and newspaper articles. They seem to distill down to the following:

Are the Soviets deliberately interfering with U.S. efforts to verify compliance with the Interim Agreement by national technical means? Examples: covering mobile ICBM launchers; concealing missile silos and submarine construction; building fake submarines; tests of equipment designed to interfere with U.S. satellites.

Did the Soviets violate the Interim Agreement by replacing the S-11 "light" ICBM with the much larger SS-19, or is this action technically correct?

Have the Russians tested air defense missiles and radar systems in an ABM mode in violation of the ABM Treaty, or is this interpretation based solely on non-binding U.S. unilateral statements? Has the Soviet Union interfered with U.S. monitoring of ABM developments, thus violating Article XII of the Treaty?

Have the Soviets made use of "ambiguous" activities to subtly violate the agreements or treaty such as constructing dual purpose ICBM silos/command and control centers; deploying mobile ICBM's contrary to a U.S. unilateral statement; judging new AMB radars to be mobile and thus permissible rather than fixed site types and denied.

If the answer to these questions is that there is no technical violation of the agreements and treaty, then one must ask why they are so poorly worded and full of loopholes? Were our negotiators not tough enough? Were our technical experts allowed to assist in the negotiating? Were time pressures so severe for political and diplomatic reasons that we did not get the best agreements possible?

Mr. President, I do not know the answers to these questions. And they are not the only questions that should be asked. The point is the questions are here but the answers are not.

Today I wrote the Secretary of Defense urging him to clear the air of the conflicting charges and asking that he thoroughly discuss these issues with the American people. At the same time, I have sent a letter to the chairman of the Senate Appropriations Committee, apprising him of my views on this matter and requesting that the Defense Subcommittee staff be asked to look into the alleged violations.

Mr. President. I yield the floor.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. Bartlett) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, will the Senator from Oklahoma yield for a moment?

Mr. BARTLETT. I yield.

Mr. GRIFFIN. I understand he will require only about 4 minutes; is that correct?

Mr. BARTLETT. That is correct.

Mr. GRIFFIN. I thank the Senator, and I also thank the Senator from Alaska for his cooperation.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. BARTLETT. I thank the Senator from Michigan and also the Senator from Alaska.

THE FINANCIAL CONDITION OF THE DISTRICT OF COLUMBIA

Mr. BARTLETT. Mr. President, recently the Senate joined the House in a stampede to bail New York City out of its financial problems. Approval of the bailout legislation was certainly discouraging to the millions of Americans who have demanded an end to reckless spending, and believe the only mechanism that will permit a solution—a balanced budget—is reorganization in bankruptcy with support of the courts.

However, another action by Congress may be just as disappointing to those who would apply some financial commonsense to the operations of city governments and Federal Government. A few days ago the Senate passed and sent to the House a resolution to disapprove the issuance of $50 million general obligation bonds by the District of Columbia, but the House promptly turned down the Senate's responsible action, thus giving a "green light" to what could be a big step toward municipal bankruptcy. The disapproval by the Senate of the right of Washington, D.C., to issue $50 million of bonds in the private market is based on obvious problems in the present financial condition of the District. Problems which should be resolved before the District enters the public market for financing of its capital improvements. These problems are evidenced by a number of warning signs which were also apparent in the case of New York City.

During the past 8 years, employment has increased 70 percent on a per capita basis compared with a national average of 24 percent for all non-Federal employees. There are approximately 76 employees per 1,000 residents in Washington, D.C., as compared with New York's 62. District of Columbia municipal payroll per capita is $957 as compared with New York's $845. The expected fiscal gap in 1980 will be $509 million which would require a 64-percent increase in revenues to close—taxes or Federal assistance. The amounts of money required to fill the unfunded pensions funds, which were also inherited, are mind staggering.

Another parallel to the New York situation can be found in the gross giveaway of the District's college system. The District's budget for schools increased 22 percent in 1 year alone and the increase was due in a large part to the college system. This system charges a semester rate of $52.50 for a full time student, or $840 for 4 years. To put this in a frame of reference, the cost of attending one of Oklahoma's regional universities is $10.50 per hour, or approximately $2,520 for 4 years.

Therefore, it costs $1,680 less than in a State which is considered relatively inexpensive for higher education in the District of Columbia to complete 4 years of college. This is only one of many items from the District's budget which demonstrates unsound financial policies.

Evidence presented to the Committee on the District of Columbia indicates that the books of the District have not been kept in accordance with generally accepted accounting principles. Although a thorough analysis of the District's financial condition is unavailable, the warning signs of a municipal government that is dangerously outgrowing its population and revenue base are unmistakable.

Ironically, many of these same criteria for financial disaster could be applied to the Federal Government. Thus, if a lesson is to be learned from the District's financial problems, surely it is a lesson for the Federal Government as well as the District government.

In demanding financial stability for the District of Columbia as a precondition to the issuance of bonds, the Senate was certainly exercising its responsibility over the finances of the District. However, the House has now refused to face up to this responsibility. In refusing to disapprove the issuance of bonds, the House has invited the District of Columbia to follow the lead of the Federal Government in building a bureaucracy on the foundation of fiscal irresponsibility.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Alaska (Mr. STEVENS) is recognized for not to exceed 15 minutes.

INTRODUCTION OF S. 2778 RELATING TO TRANSPORTATION OF ALASKAN GAS

Mr. STEVENS. Mr. President, in my State of Alaska, the Alaska oil pipeline is more than halfway completed and it is time now to think of what will be the transportation mechanism for the gas from Prudhoe Bay. Prudhoe Bay contains 26 trillion cubic feet of known natural gas and it is associated gas that must be transported at the time the oil is produced in great quantity.

We know that for about the first 2 years of production of oil from the North Slope of Alaska gas will be reinjected into the structure. There will be no necessity for a transportation mechanism until 2 years after the oil pipeline production has reached 2 million barrels per day. We estimate now that approximately October 1979, a gas pipeline would have to be in place.

As a consequence, there are two proposals to transport Alaska's North Slope gas to what we call the South 48. One is the Arctic route which would be a pipeline through Canada, through the Canadian Mackenzie River Delta down through the midwest of Canada and into our country approximately into Montana.

The other proposal is the proposal of the El Paso Natural Gas Co. to build a gas pipeline through Alaska roughly paralleling the oil pipeline to be connected to a liquefied natural gas plant, and the liquefied gas would be transported with LNG tankers to the west coast of the United States.

The FPC is currently hearing arguments on the applications for those two competing pipeline systems.

Recently I went to Canada to discuss with Canadians the attitue of their people and their government with regard to these two conflicting schemes. At that time I was impressed with the fact that Canadian political leaders and the heads of the Canadian energy industry want Canadian natural gas carried in all-Canada pipelines to serve Canadian needs first.

I was also impressed with the fact that there are pending in Canada the Canadian native land claims quite similar to our Alaskan Native land claims which our Congress solved with the enactment of the Alaskan Native Land Claims Act in 1971. But the Canadian native land claims are much more complex and at a very difficult stage at the present time.

The net impact of my visit to Canada was that I am convinced that the Canadians are not going to act through their normal governmental procedures to meet an arbitrary time frame established in the interest of the United States. That arbitrary time frame is, in fact, related to our need for North Slope oil, and as the North Slope oil is produced, as I have stated, there must be a gas pipeline mechanism ready to transport the gas because, with this associated gas, to the extent that the gas is not transported it must be reinjected or production of oil must be curtailed.

Furthermore, an interesting fact is that if the pipeline mechanism is in place and for any reason it is disturbed or any governmental entity orders a slowdown in the transportation of gas through that pipeline a similar slowdown would have to be ordered in the production of oil.

So we come to the point as to what really is the situation in Canada. In Canada there are two pipeline proposals. One is the Foothills Pipeline which some people call the Maple Leaf line. It is a line which is designed to carry the Mackenzie River Delta gas to the existing pipeline system in the Midwest and West of Canada and to enable that gas to be transported to Canadian customers through existing Canadian distribution systems.

A second pipeline proposal is called the Polar proposal, which is the Pan-Arctic Pipeline to bring gas from the Arctic Islands in northern Canada down to the Winnipeg area where it would be injected into the existing gas pipeline system that serves Canadian needs.

These two pipeline proposals which now apparently have the support not only of substantial portions of the gas industry in Canada but also of the Liberal Party in Canada are in direct opposition to the Arctic gasline proposal to take Alaska gas through Canada.

The net impact on me of everything that I have been able to discover about the Canadian attitudes toward the Arctic pipeline proposal to take Alaska gas to Canada is that we have nothing to look forward to but a very cold long delay if we wait for our Canadian neighbors to act. They must act on the proposal for the Arctic gas pipeline before our Federal Power Commission can decide between the two competing applications that currently are pending before the FPC.

The FPC cannot decide on the Arctic proposal on its own because it involves a right-of-way and a permission to build a pipeline through a foreign country and until Canada has delivered their consent to build that pipeline approval of the Arctic proposal by the FPC would be a foolish act.

So we all know that the FPC will wait for the National Energy Board of Canada to make its decision and the NEB is investigating the matter.

However, my friends in Canada and people upon whom I rely in the political field have told me that it will be at least 1½ to 3 years before the National Energy Board of Canada makes its decision as to whether or not the Arctic pipeline can come through Canada.

Mr. President, we cannot wait even a year for such a decision.

The problem with the National Energy Board and with the Canadian energy industry is that the Arctic proposal involves the building of at least 1,000 miles of pipeline through Canada which would duplicate their existing system but which would be built to serve only the United States and no Canadian needs. This 1,000 miles refers to that portion of the proposed Arctic gas pipeline through Canada which is north of the Mackenzie gas and that portion south of Caroline, Alberta, where the Arctic pipeline would leave Mackenzie River gas for transfer to Canadian gas lines.

I think also we must take a good long look at what happened in Saskatchewan Province where that Province, in effect, seized the potash operation and has now nationalized the potash industry in that Province.

The Alaska gas pipeline if it goes through Canada must go through Saskatchewan. It is, I think, a known fact that the Canadian national government does not have the national powers vis-a-vis their Provinces as does our Nation have vis-a-vis our States.

In the next instance let me point out that Justice Burger, who is the head of the commission that is investigating the Canadian native claims, has, I am informed, recently stated that even his preliminary proposal for settlement of those claims is months away.

Finally, I think it is very unfortunate, and I was surprised to learn that the proponents of the Arctic gas pipeline recently challenged the impartiality of Marshall Crowe, a distinguished Canadian citizen who was given the task of making the initial recommendations to the National Energy Board concerning the conflicting proposals that were presented to it, and their conflicting proposals are between their own gas pipelines that I mentioned, the Foothills Pipeline, and the Polar Line, in the one instance, and the Arctic Gas Pipeline through Canada to carry Alaska gas, in the other instance.

Having challenged the impartiality of Marshall Crowe, the matter now has been referred to the Federal Court of Canada to determine if Mr. Crowe is free of bias. But as one of my good friends in Canada remarked after having Americans challenge the integrity of a leader such as Marshall Crowe, it is going to be a long, cold wait before we will get a decision affecting an application which means so much to the future of this country in terms of using Alaska's gas.

I have come to the conclusion that, considering the procedures that must be followed in Canada and the procedures that must be followed in this country following the decision in Canada, there is no chance that that decision can be made between these conflicting applications within the time frame that is absolutely essential so that Alaska's oil and gas will get to our energy-hungry Nation in the shortest time frame, at the least possible cost to our citizens.

The delay in the Federal Power Commission is such that there is no way to resolve it so long as the FPC must wait on the action of the Canadian Energy Board, the National Energy Board; the Burger Commission dealing with Canadian native land claims; and the Federal court reviewing the question of the bias of Marshall Crowe.

I point out that a resolution passed by the National Liberal Party Convention in Ottawa on November 9 stated that the Federal Government should Canadianize the petroleum industry and "give first priority to northern Canadian pipeline schemes that are all-Canadian in ownership and which are designed to serve adequately the Canadian public first."

To me, that is the party that is determining the future of Canada at the present time. It is saying to us: "We are going to take care of our problems first. You take care of your problems first."

I would say that we have similar problems, but they are not common problems. There are similar solutions, but there are not common solutions to the energy problems of our two nations.

Unfortunately, we are waiting for our Canadian neighbors to make up their minds, and they have told us that they must solve their problems before they will face our problems.

Mr. President, there is no way that this Nation can wait for a decision of the FPC on the Arctic gas pipeline. For that reason, I am introducing today a bill which would provide that with regard to Alaska's North Slope gas, the FPC can consider only an application that would cross only U.S. territory and be completely under the jurisdiction of the United States.

Eminent legal authorities tell me that this is entirely consistent with the FPC procedure; that Congress has delegated the authority to the FPC, and Congress can limit their authority; that Congress can tell the FPC it need not wait for the action of our neighboring foreign country before it acts on a matter of such great interest to this country.

I point out that the bill I am introducing does not say to the FPC that it must approve the El Paso application. It says that the FPC cannot grant an application which does not involve total U.S. control.

The recent position of the Defense Department, incidentally, before the Federal Power Commission and in the Report on Alaska Natural Gas Transportation Systems just issued by the Interior Department, points out that only an all-American route would be subject to the security considerations that we must have in time of war.

Mr. President, I ask unanimous consent to have the following material printed in the RECORD: The bill I am introducing; the resolution adopted by the National Liberal Party convention; a statement showing that the Westcoast Transmission Co. wants to use Delta gas to make up unfilled export contracts; an article published in the Vancouver Sun, and an editorial published in the Globe and Mail, Canada's national newspaper.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2778

Be it enacted by the Senate and House of Rpresentatives of the United States of America in Congress assembled, That the Federal Power Commission, the Secretary of the Interior, and other officers and employees of any Federal department, agency, commission, independent establishment, or any other instrumentality, shall, with respect to any application or request for any right-of-way, including an easement, permit, or license, certificate of convenience and necessity, or other document or paper, necessary to the construction, operation, or maintenance of a pipeline for the transportation of natural gas from Alaska's Prudhoe Bay area to markets in the other States of the United States, approve only such application or request which provides for such pipeline to be constructed or otherwise located in its entirety above, on, or under land areas in a State or States of the United States.

SEC. 2. (a) Due to the shortage of natural gas within the United States and for the purpose of protecting the public health, safety, and welfare and the national defense, the Federal Power Commission shall—

(1) allocate natural gas produced in the Prudhoe Bay area of Alaska and exported from Alaska among the regions of the United States to be established by the Federal Power Commission to carry out the purposes of the Natural Gas Act, particularly the public convenience and necessity standards of 15 U.S.C. 717(f), and the States within such regions, in such manner as will supply each such region and State with an equal per centum of the per centum decline in natural gas supplies from all sources to such region or State between the calendar year 1973 and the date transmission of Prudhoe Bay gas commences; and

(2) establish priority uses for such gas within such States on the basis of the Commission's order number 467, as modified by order number 467–B and such further orders as the Commission may issue.

(b) Allocations and priorities pursuant to subsection (a) shall (1) be in accordance with standards established by the Commission, and (2) include the authority to revise such allocations and priorities as necessary to best carry out the purpose of this section.

(c) For purposes of this Act the Commission shall have the authority to collect such data from whatever source they deem necessary and appropriate.

Growth and Nonrenewable Resources

Resolution passed at policy plenary session of National Liberal[*] Party Convention, Ottawa, 9 November 1975:

Be it resolved that the Federal Government:

(a) Canadianize the petroleum industry.

(b) give first priority to northern Canadian pipeline schemes that are all-Canadian in ownership and which are designed to serve adequately the Canadian public first.

Resolution was initially introduced at a workshop on "Growth and Non-renewable Resources" on Saturday, November 8th. The resolution was presented by the Fort William riding delegation. There were considerable discussions on the intent of the word "Canadianize" with speakers' interpretations varying between "nationalization" and continued "laissez-faire". Representatives from the Alberta delegations spoke in favour of the generality, but were against the resolution because of insufficient detail.

Discussion on the northern Canadian pipeline was directed mainly against Arctic Gas as being "too big" and "non-Canadian".

Speakers on the resolution included Herb Gray of Windsor, Lou Lebel of Calgary, and Dick Hill of Inuvik. Ministers Alastair Gillespie and Jean Sauve were in attendance but did not speak on the resolution.

When called to a vote, there was discussion to split the motion into two separate parts, but this did not happen. The vote in the workshop was 35 for and 9 against, with around 20 abstentions.

The resolution was then presented to a policy plenary session on Sunday morning, November 9th. At this session, a minimum of 25 delegates had to call for discussion or the resolutions were accepted as presented. For this resolution, less than 25 delegates asked for discussion and the resolution stands as Liberal party policy.

November 14, 1975.

[From the Oilweek, Nov. 24, 1975]

NEB Pipeline Hearing—Westcoast Wants To Use Delta Gas To Make Up Unfulfilled Export Contracts

Canadian Arctic Gas Pipeline Ltd., has announced its intention to change the northern part of its pipeline route. Instead of having two legs, one from Alaska skirting the Mackenzie Delta and another from Canadian Reserves, joining at Travaillant Lake, about 140 miles south of the Arctic coast line, CAGPL now proposes to adopt its alternate "cross Delta" route, in which the line from Alaska would cross the Mackenzie Delta and join the main pipeline at Parsons Lake, only 43 miles south of the Arctic coast. The change is expected to reduce the length of the $7-billion pipeline by some 103 miles, saving some $190-million in construction costs.

HEARINGS BEHIND SCHEDULE

Despite the fact the first phase of the six-phase hearings are already behind schedule, in part as a result of legal challenge to chairman Marshall Crowe and in part as a result of the NEB's decision to have the Mackenzie Delta producers testify about their gas reserve estimates, the participants are already preparing their evidence for the third phase, expected to start early in January. The longer CAGPL delayed its decision on the cross Delta alternate—the most controversial of a number of possible changes—the more difficult it would have been for intervenors and the more likely it would have been for a delay in the proceedings.

When the cross Delta route was first mentioned as a possible alternate, CAGPL said that "all things being equal" it preferred the shorter and therefore cheaper route across the Delta to the "prime" route originally filed. One major advantage of the cross Delta route cited then was that two major river crossings would be eliminated.

Goldie said the company's formal route application would be officially changed as soon as the appropriate paperwork could be completed.

Meanwhile, in evidence filed in advance by Canadian Arctic Gas for the second phase of the hearings expected to start early in December, vice-president William Brackett said that so far no shippers of either Alaskan or Canadian gas have entered into contractual agreements with Canadian Arctic Gas to transport northern gas. He suggested such contracts could not be signed until the pipeline project and ancillary facilities have been approved by government. Brackett, who is also vice-chairman of Alaskan Arctic Gas Pipeline Co., noted the company proposes to operate as a transporter of gas, not a buyer or seller. Even compressor fuel will be provided by gas shippers. He also said that so far, letters of intent to use the pipeline have been signed by more than a dozen prospective shippers, assuming appropriate government approvals and other conditions are met. Alberta and Southern Gas Co. Ltd. is the latest Canadian-based company to sign a letter of intent.

In perhaps the most spirited session yet, Westcoast Transmission Co. Ltd. president E. C. Phillips defended his company's decision to honor outstanding and unfulfilled export commitments before adding any new contractual commitments for domestic customers in British Columbia. He confirmed Westcoast's intention to use most of any Mackenzie Delta gas to make-up shortfalls in export deliveries first, before using the frontier gas to meet growing domestic use in its system. And later he said Westcoast would like to extend its exports beyond 1989, when the export licenses terminate, so that its customers receive gas they had not received previously under their contracts with Westcoast.

---

[*] The Federal party which is currently in power in Ottawa with Pierre Elliott Trudeau as its leader.

Westcoast, which has been facing a shortage of gas in recent years due to production problems in BC, has had to cutback export deliveries to maintain domestic deliveries. This year, export cutbacks during peak days will exceed the previous average of 300 mmcf/d.

THREAT OF LAWSUIT

Faced with the threat of law suits from both domestic and export customers, Westcoast feels it is in the strongest legal position if it invokes "force majeur" on export contracts, while at the same time refusing to enter into any new contracts with domestic customers, according to Phillips.

Westcoast's two other customers, Pacific Northern Gas Ltd. and Inland Natural Gas Co. Ltd., still are not taking as much gas as they could under their contracts and therefore could obtain as much as 62 mmcf/d more at the expense of export deliveries.

48 INCH PIPE NOT FEASIBLE

Phillips criticized the Canadian Arctic Gas proposal, claiming that Westcoast's earlier experience with a project planning to build a cross-Canada pipeline carrying only Alaskan gas to California markets had proven that a 48-inch diameter pipeline wasn't feasible.

He said Westcoast left the Mountain Pacific Pipeline group when it became clear Canada was running into its own gas supply problems and that a new Canadian-oriented solution was required. The Foothills proposal fit Westcoast's requirements almost perfectly and Westcoast joined.

Phillips said Westcoast has promised to provide up to 20% equity investment in the Foothills scheme, roughly equal to Alberta Gas Trunk Line Co. But Westcoast would prefer a smaller participation if broad spectrum of other Canadian investors could be attracted.

He criticized the Canadian Arctic scheme on the grounds that Canadian investors, who are supposed to hold a minimum 50% equity investment, will have to finance some 700 miles of pipe designed to carry only Alaskan gas for USA customers and will have to continue to increase their investment everytime the pipeline is expanded to carry more and more Alaskan gas. He suggested that the pipeline would be "looped" more often to carry more Alaskan gas than to carry more Canadian gas.

He said Foothills would be willing to carry some Alaskan gas, but on an incremental basis, with primary plans oriented to Canadian gas needs.

[From the Vancouver Sun, Oct. 15, 1975]

Energy Board Gets Power To Cut Natural Gas Exports

(By Jeff Carruthers)

Ottawa.—The federal government has given the National Energy Board the power to arbitrarily lower the volumes of natural gas exports to the United States in the event of an imminent domestic gas shortage.

Under changes to the National Energy Board Act regulations, any limitation on gas exports proposed by the NEB and approved by the federal government would supercede the previously-authorized volumes for export contained in long-term NEB gas export licenses.

In related changes in the NEB's rules of practice and procedure, the government also gives the board the power to recommend cutbacks in any or all gas exports without having to hold a public hearing or even receive written or oral evidence.

These changes also require the board to periodically review the Canadian natural gas supply and demand situation, including the licensed export demands.

In the event a review shows there will be "insufficient gas from Canadian sources to meet Canadian requirements and authorized exports" during the 12-month period following the end of the latest review, then the board must advise the federal cabinet on what export cutbacks are required and where the reductions should take place.

In recommending export cutbacks, the board has broad powers to reduce exports across-the-board or to reduce exports only in specific export markets or even to modify exports in a different manner in different areas of the U.S. markets.

According to the modified rules of practice and procedure, the board in forming an opinion on export reductions is required to consider "the requirements for gas of each major gas pipeline system in the United States through which gas, the export of which is authorized under licenses for the exportation of gas, is transmitted."

A board spokesman refused to disclose how the board or the government would decide the manner in which exports would be reduced or even the manner in which domestic use would be curtailed in the event of a predicted or actual gas shortage.

The spokesman noted that the original "25-A-4" formula used to determine the availability of "surplus" gas for export has been abandoned.

[From the Globe and Mail, Oct. 25, 1975]

Long Way to Half Facts

Canadians cannot heat their homes or fuel their industries on the natural gas of words. But the steady ffow of it may cripple their access to natural gas of the other sort.

On Monday the National Energy Board begins, as its notice of hearing states, "to hear together the several applications" of a number of groups for "certificates to construct natural gas pipelines for the movement of gas from the State of Alaska and the Mackenzie River Delta and Beaufort Basin in Canada to markets in Southern Canada and the United States."

The hearings are expected to take at least a year. Not only will the companies directly concerned present their technological, financial, environmental, political and supply cases, but some 80 to 90 intervenors will be heard.

After the hearings conclude the NEB will have to prepare its report—a work of six months or so—the Cabinet will have to assess it—another six months or so—and the House of Commons will have to process the legislation based on it—a task likely to consume around a year. Three years from now a start could be made on a pipeline.

In the meantime Mr. Justice Thomas Berger has for more than a year been conducting hearings into the impact a Mackenzie area area pipeline would have on the native peoples and environment of the North. At one point it was contended that his injury would create intolerable delay in the construction of a pipeline necessary to carry gas to the South. But his report is now expected next spring, long before the NEB will have completed its work.

Much of that work, moreover, will duplicate the work of Mr. Justice Berger. Yet the NEB cannot legally consider his report in its own deliberations. It might call the judge as a witness, but that is considered inappropriate, because by that time he would be returned to the bench, and he might refuse to attend. This means that the NEB will make its report in isolation from the findings and recommendations of the Berger report.

Neither the Berger nor the NEB report will have considered other aspects of bringing natural gas from the North which are vital to the issue. The proposal has been made that a railway, transporting liquefied gas, would serve the North better than a pipeline. An extensive examination of this idea has been made and a multi-volume report is believed to repose on a Government shelf somewhere.

There is also the Polar Gas Project, in which Ottawa is considering having Petro-Canada invest. This would bring gas from the high Arctic islands—where the promise of reserves is much greater than in the Mackenzie-Beaufort area—to central and eastern Canada by a pipeline skirting Hudson's Bay, lying on rock not tundra and avoiding most or all northern settlements. It is possible that both pipelines can be justified, but not at the same time. A Mackenzie pipeline could cost as much as $10-billion; the Polar Gas Project could cost about the same. Financing either would put great strain on Canada's capital market and balance of payments; financing both together would probably be impossible. Surely the two should be assessed in tandem so that the most necessary can be selected to proceed first.

Then there are alternative sources of energy and conservation. No hearings are being held into either conservation or alternative sources; yet, since natural gas is a finite resource, knowledge about both these subjects is essential to a wise spending of energy money.

It looks, in fact, as though it might be three years before the NEB hearings which open Monday produce decision, and even then the decision will have been made in a massive absence of highly pertinent information. In the meantime we may be facing shortages of natural gas.

It is a very strange way to run a country.

Mr. HANSEN. Mr. President, I ask unanimous consent that I may be permitted to speak for not more than 1 minute on this matter.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. HANSEN. Mr. President, I agree with the distinguished Senator from Alaska in the measure he has introduced. It seems to me to make good sense.

We all must remember that there was a similar argument—not an identical argument—going on when we were talking about how to bring oil from the North Slope of Alaska down to the continental United States.

I have to agree that if the first line comes as has been recommended by the distinguished Senator from Alaska, we are going to get gas down here much more quickly than we could any other way. I do not object to a subsequent line being built that might go through Canada. I am fully cognizant of the great need and the great use for gas in the north central region of the United States, but let us not further complicate and delay a situation that can be resolved if we are to adopt the proposal by the Senator from Alaska.

FEDERAL-AID HIGHWAY ACT OF 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2711, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to vote on the amendment by the Senator from New Mexico (Mr. DOMENICI), No. 1182. The yeas and nays have been ordered.

Mr. HANSEN. Mr. President, before the vote begins, I ask unanimous consent that Nolan McKean may have the privilege of the floor during votes on all issues today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that when the amendments of the distinguished Senator from Massachusetts (Mr. KENNEDY) come up for a vote—amendments 1221 and 1222—the votes occur back to back. I have checked this with everybody who I think is associated with it. There does not seem to be any opposition to it.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Florida (Mr. CHILES) are absent on official business.

The Senator from Alabama (Mr. ALLEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "nay."

The result was announced—yeas 17, nays 66, as follows:

[Rollcall Vote No. 580 Leg.]

YEAS—17

Baker
Bellmon
Brooke
Buckley
Cranston
Domenici
Fong
Garn
Hart, Philip A.
Hatfield
Helms
Kennedy
Percy
Schweiker
Taft
Tower
Tunney

NAYS—66

Abourezk
Bartlett
Beall
Bentsen
Brock
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Culver
Curtis
Durkin
Eagleton
Fannin
Ford
Glenn
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hathaway
Hollings
Hruska
Huddleston
Inouye
Jackson
Laxalt
Leahy
Magnuson
Mansfield
McClellan
McClure
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Weicker
Young

NOT VOTING—17

Allen
Bayh
Biden
Chiles
Church
Dole
Eastland
Goldwater
Gravel
Humphrey
Javits
Johnston
Long
Mathias
McGovern
Pearson
Williams

So Mr. DOMENICI's amendment was rejected.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts (Mr. KENNEDY) is now recognized to call up two amendments.

Mr. KENNEDY. May we have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. STAFFORD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I will yield to the Senator when we have order.

The ACTING PRESIDENT pro tempore. Will the Senator kindly suspend so the Chair can obtain order?

The Chair is still seeking order. Will the Senators kindly withdraw from the aisles and withdraw to the cloakroom if they wish to converse?

Mr. KENNEDY. Mr. President, I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Mark Gorman of Senator PACKWOOD's staff and Kirk Betts of Senator ROTH's staff be allowed the privileges of the floor during consideration of the pending business, amendments thereto, and votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, will the Senator from Massachusetts yield for a similar request?

Mr. KENNEDY. Yes.

Mr. GRIFFIN. I make a similar request with respect to James Hill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I make a similar request on behalf of John Steer of my staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. If the Senator will withhold just momentarily, although the Senators are in their seats the noise level is so high that the Senator from Massachusetts can barely be heard. The Chair requests if Senators wish to converse that they withdraw to the cloakrooms so that the Senate can be in order.

Time for debate on these amendments is limited to 30 minutes to be equally divided and controlled by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Texas (Mr. BENTSEN).

AMENDMENT NO. 1222

Mr. KENNEDY. Mr. President, under the request made by myself and my cosponsor, the distinguished Senator from Connecticut, we intend to debate these two amendments and then to vote seriatim. I do not think it will take a long time or even the full utilization of the time we have been allocated for these amendments.

I would say that these two amendments are introduced and proposed by myself and Senator WEICKER of Connecticut.

I would, first of all, like to address amendment No. 1222.

The ACTING PRESIDENT pro tempore. Does the Senator call up that amendment?

Mr. KENNEDY. I call that amendment up.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for himself and Mr. WEICKER proposes amendment No. 1222.

Mr. KENNEDY. Mr. President, I ask that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 30, between lines 21 and 22, insert the following:

"(b) Section 142(a)(2) of title 23, United States Code, is amended to read as follows:

"'(2) In addition to the projects under paragraphs (1), the Secretary may approve as a project on the Federal-aid primary system, or community service system, for payment from sums apportioned under section 104(b)(1) or 104(b)(2), respectively, of this title, the purchase of buses, or the construction, reconstruction, and improvement of fixed rail facilities, including the purchase of rolling stock for fixed rail.'".

On page 30, line 22, strike out "(b)" where it appears initially and insert in lieu thereof "(c)".

On page 30, line 25, strike out "(c)" and insert in lieu thereof "(d)".

On page 31, line 3, strike out "(d)" and insert in lieu thereof "(e)".

Mr. KENNEDY. In the 1973 Federal Highway Act, Congress approved the principle that local and State officials ought to be given an option to provide mass transportation facilities with money allocated under urban system program or as a result of a transfer of interstate highway route. At that time, I offered an amendment with my colleague from Connecticut, Mr. WEICKER, to provide rural communities with that same option. That amendment was not accepted at the time. We are offering a substantially similar one today.

Mr. President, the committee bill before us today implicitly recognizes the principle that communities should be allowed to explore and fund a full range of options and projects with money authorized under the highway program. The committee bill contains an amendment to the interstate transfer provision which increases the flexibility of local decisionmaking to a wide range of alternatives to interstate highway projects, far broader than the original options of the 1973 act.

I believe, however, that these same

options available to all urbanized areas, and through the committee action, to a number of rural communities, should be provided for all the noninterstate Federal systems, that is, the primary system and the nonurbanized community service system. This amendment would do nothing more than provide local and State officials with the option of funding any capital public transportation program allowed under this act. We have not altered the amount of funding available to any Federal system, nor have we altered the mechanisms by which projects are selected and funded. We merely seek to provide those officials responsible for transportation in small urban and rural areas with the same choice as their counterparts in urbanized areas.

In the past, we have put blinders on our transportation planners. They knew that highways commanded the lion's share of the Federal transportation dollar and so they planned for highways.

That nonsystem has produced highways that we need; but it has produced highways that we do not need as well.

It has insured a society built around the automobile and its demands for maintenance, for storage, for disposal, for replacement, and for energy.

Some 40 to 50 percent of our central cities now are given over to streets and parking areas for the automobile. Urban development for the past two decades has been twisted by a transportation system focused on thrusting highways into the very hearts of our cities without much regard for the consequences of that action.

When we have 210 million people and 125 million automobiles and motor trucks; when we use 52 percent of our petroleum and 24 percent of our total energy for transportation; when we produce nearly 10 million automobiles and junk another 7 million each year; when we find our railroads going bankrupt and when we carried 19 billion mass transit fares in 1945 but only 5.5 billion in 1975—when we find these facts—then it is time to redesign our transportation system.

This amendment will make a strong beginning toward that task. It will insure that States and localities will make decisions on how to meet their transportation needs solely on which mode of travel works best.

Let me state then what this does and what it does not do.

Mr. President, what we are talking about here is extending flexibility in the use of the noninterstate funds, including primary and nonurbanized systems, which now are limited only to highway construction. This amendment permits, at the discretion of the State, that the funds be used for bus or rail mass transit as well as highways.

As to what this amendment would not do, first of all, it would not affect the interstate system in any way; it would not affect any of the planning provisions; it would not affect players in the decisionmaking process and the State would still have to decide how to spend its funds; and it would not affect the definition of eligiblity presented in the committee bill.

What this amendment would do is permit the State to decide to use some of its funds under the primary system allocation or the nonurbanized system allocation for a bus system or for rail mass transit.

Thus, it would extend the concept established in the use of urban system funds in the 1973 act to permit States to determine on their own whether any of its primary or nonurbanized system funds should be used or could be used for mass transit.

Today, if the State finds a rural area where it believes a mass transportation project or bus system is necessary, it cannot use its primary or nonurbanized system funds for that purpose. This amendment gives them that option, and that is really what this amendment does.

There is nothing mandatory in the amendment that would require the go ahead and develop a mass transit system in the nonurbanized areas. There is nothing in it that mandates they go ahead with bus transportation. But what we are saying is that in 1975, with the understanding that we have of the need to develop balanced transportation system—which has been an issue which the Senator from Connecticut and I have been debating on this floor for a number of years—and that need has been underscored by the energy crisis, what we are trying to do is provide some degree of additional flexibility for the State to utilize those resources in the way they see fit, whether it be development of a bus transportation system or perhaps even some extension into rail mass transit.

We are trying to follow the pattern that has been accepted by the legislation in the case for the urban systems and to permit the flexibility which this bill provides in that area to be available with regard to nonurbanized system funds, and also with regard to primary funds.

I am very hopeful that this amendment can be accepted. It will enhance the States' responsibility. If the States understand their particular needs, I do not believe they should be cast into a formula that limits them to only highway solutions except for large urban areas.

I commend the committee for the flexibility they have shown in providing the ability to the States to make this decision with urbanized system funds. But I do feel we ought to extend that concept to include the primary, which involves rural highways and urban extensions, and also for the nonurbanized funds.

I yield whatever time the Senator from Connecticut wants.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Connecticut.

Mr. WEICKER. I rise to commend the distinguished Senator from Massachusetts who has well stated the case.

Certainly, neither he nor I are insisting that transportation problems be resolved through the means of mass transit and neither do we want to have thrust upon us a highway solution to our transportation problems. It is as simple as that.

We are not in any way mandating funding for any particular mode of transportation. We want maximum flexibility in order that the government of our States can deal with their particular needs.

Mr. President, in 1973, Congress adopted the principal that local and State officials ought to be allowed to fund a wide range of highway and mass transportation projects from a portion of trust fund moneys allocated under the Federal highway program. At that time, we allowed such a local option on only "urban system" projects and as a result of a transfer of interstate highways. When that legislation was on the floor, Senator KENNEDY and I offered an amendment to allow that principal to exist for all major categories of highway funding.

It is important to note that the administration's bill now endorses the concept of flexible use of funds.

This amendment seeks to provide State and local officials with a choice to select the mode of transportation that will best meet their particular needs. It does not mandate that public transportation projects be undertaken.

The highway program was designed with the limited purpose of building highways. As such, it contains elements which bias the choices of State and local decisionmakers. Except for "urbanized system" funds States and localities have little say in how to use the money they receive.

The transportation dollar is so earmarked as to actually dictate the very transportation priorities that the planning mechanisms are designed to formulate. Because local officials see money in one specific category of an existing program, and none in another, they quite naturally go where the money is, and in the past that meant highway construction.

If the Congress expects States to implement transportation systems which reflect national concerns such as energy consumption and clean air, we must give them the tools to do so. By continuing to place artificial restraints on the use of the money, we deny them the most useful and basic tool to transportation decisionmaking—the ability to choose plans on their merits rather than on the size of their Federal bankroll.

The amendment Senator KENNEDY and I are offering would provide a wide range of choices to State and local officials by allowing capital public transportation projects to be funded from both the primary system and the nonurbanized system. Our amendment changes no apportionments, nor does it alter existing planning or project processing and selection mechanisms.

Mr. President, our current distorted and fragmented approach to transportation funding has helped make us an auto-dependent society short of fuel, and a nation choked by polluted air. We need to change directions to have national mobility, rather than a national parking lot.

Old and traditional solutions to transportation problems will no longer work. Innovative approaches are needed. However, such innovation is stifled by a public policy that is responsive to the needs of 1956, rather than the 1970's.

With those comments, I yield the floor, Mr. President.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment by my distinguished colleagues.

This amendment that has been offered here today is very similar to an amendment that was offered in 1972 and 1973 by my two distinguished colleagues. That amendment was defeated by approximately 2 to 1.

What we are talking about in this present amendment is opening up about $1.3 billion of primary funds and $475 million in nonurbanized funds at local option for the funding of transit projects.

More than 75 percent of these funds we are talking about affect the rural areas. Let us see what is happening to the rural area of America. Earlier this year, we had a bill sponsored by Senator WILLIAMS of New Jersey, S. 662, that passed the Senate with my support. It provided for up to $500 million for mass transit subsidies in the rural areas.

That bill is now proceeding in the House. It may well be ready for conference within a short time. So the Senate has already moved to aid rural mass transit.

But this committee has not neglected the needs of rural mass transit, even in the bill before us now.

We extended the program of rural bus demonstration for $60 million. That program was sponsored by the distinguished chairman of the full committee.

But one of the things we have learned, hopefully, is that we should not have massive capital expenditures without some study, without some demonstration, without finding out which projects work and which projects do not.

Here, we would have the demonstration to try to prove the feasibility of these projects.

In addition to that, in past highway legislation we have given further flexibility in the distribution of highway funds. We have called for the building of special bus lanes, bus facilities, parking facilities, out of the highway funds.

In 1973, we made urban highway funds flexible, as the two Senators have discussed, to be available for bus and rail mass transit capital equipment.

This committee, then, has recognized that transit needs in the urban areas need attention, and we have responded to those needs. But the problem in the rural areas is not the same problem we have in the urban areas.

The problem in the rural areas is a problem of deteriorating bridges and deteriorating highways. We had hearings across this country talking about rural transportation. We went to the State of New York, the State that is thought of as a great urban State, but which has one of the largest rural populations in the country. We talked about the abandonment of rail lines in New York, about the necessity of doing something about the deterioration of the highways and the bridges, seeing that the farmers can get their goods to market. We studied this problem in great detail.

The Committee on Agriculture and Forestry tells us the problem of just taking care of the repair of rural roads is estimated to cost as much as $53 billion between now and 1990.

There is no way we are going to have those kinds of funds and we know that.

And the sums we have appropriated here are not great sums, considering the magnitude of the problem that is involved. It is my belief that opening up the small amount that we now have for transit purposes would really be counterproductive to the rural areas.

It is also my belief that in the mass transit bill passed by this body and being considered by the other body, with up to $500 million available for rural mass transit subsidies, we have attacked that problem in a very visible and a very realistic way.

The hard fact is that while we have concentrated on the interstate system in this country for several years, we have neglected the rural road systems of this country. I must oppose the Senator's amendment.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. BENTSEN. I yield.

Mr. BUMPERS. I want to say that I supported the last diversion of funds from the highway trust fund to mass transit for reasons that I will not go into here. But one of the things that causes me to be sympathetic, though I am not saying I will vote for the amendment of the Senator from Massachusetts, is, one, I am essentially in favor of abolishing the highway trust fund and letting the States pick up the tax and do what they want to with it. Given that, what is the difference in that, if that is a viable position, and the argument the Senator from Massachusetts makes that the States can continue to take care of the problems that the floor manager has just articulated, the bridges and the farm-to-market roads? That is a problem in my State as we are a rural State. As I understand his amendment, my State Legislature will have the right to do whatever they want to. They do not have to use this money for any kind of a mass transit system. It is not practical in my State. We still have a lot of dirt roads. We are still trying to get out of the dust and mud.

But I do not see the flaw in the argument of allowing the States to use this money for whatever they want to.

We have one manufacturer in my State, who happens to be a bus manufacturer—incidentally, one of the people in my State who is for busing—who has implemented his own transit system by running his bus through the countryside and charging his workers who commute from their small farms to the plant 50 cents a day for transportation.

I do not know whether it is working or not. But I do think innovative ideas such as that may be a practical solution in the years ahead as energy becomes more critical.

I am asking the floor manager what is the objection to allowing the States to make these decisions? We are not forcing them to divert these moneys from bridges and rural roads, but in some instances where it might be a viable possibility to create some rural mass transit system, why should they not be allowed to do it?

Mr. BENTSEN. I think the argument is that there is such a shortage of funds compared to the magnitude of the problem on rural roads and rural bridges, that we should preserve the minimal amount in this bill for that purpose. I do not recall any witness other than the Senators from Massachusetts and Connecticut testifying that they wanted to divert these funds for that purpose.

Let me further say that on S. 662, which is the mass transit bill that we passed in the Senate, and which I supported, which was sponsored by Senator WILLIAMS of New Jersey, we have up to $500 million in subsidies that could be available, which we think is far and away enough to take care of any possible rural mass transit needs.

Therefore, we feel that any infringement on these funds for rural areas would be counterproductive.

On the question of the highway trust fund, we agreed yesterday to set up a transportation commission to do the same kind of a study that we are doing on the Water Quality Commission, to determine the full impact and the cost, some of the things that ought to be done in the way of studies, before Government goes charging off in one direction or the other, which would waste the taxpayers' money.

We are calling for that kind of a Transportation Commission to be set up, to study a balanced transportation system in this country, so we can arrive at an informed judgment as to what to do with the highway trust fund. Some want to do away with it entirely and some want to give it back to the States and let them allocate the funds. We think it should be an informed decision and, therefore, we have set up a commission to accomplish that purpose.

Again, the basic point is that what we have seen in our hearings across the country is that this is a minimal figure that should be available for the caring for the rural road system in this country. We have neglected it. We have paid so much attention to the interstate.

Mr. BUMPERS. I will say that the argument is persuasive. I feel one of the reasons we have had urban problems in the past two decades is because of the very strong antirural bias throughout the country. I thought the Commission would be a viable move in the opposite direction, to try to keep people from migrating to the cities.

I feel strongly about farm to market roads and good rural roads where people can build and will stay. I still cannot understand why there is anything wrong with giving the local officials the option of deciding what is best within their jurisdiction.

Mr. BENTSEN. Let me talk about a practical thing. I recall the fight we had in 1973 on opening up the urban funds which resulted in 3 months of conference with the House.

Mr. BUMPERS. And only $50 million has been diverted through that program.

Mr. BAKER. Will the Senator yield?

Mr. BENTSEN. I am delighted to yield.

Mr. BAKER. Mr. President, speaking of the fight in 1973 and looking around the Chamber, I believe I am one of the few in this Chamber who was directly involved as a proponent of that measure. I remember well that effort in the 1972 highway bill to create flexibility in the highway trust fund—to enable cities to elect to build mass transit facilities instead of highways with the urban system funds. It was first proposed, I believe, at least in the committee, by the Senator from Maine (Mr. MUSKIE) and our former colleague, Senator John Sherman Cooper from Kentucky. It was known as the Cooper-Muskie proposal and not adopted in the Public Works Committee at that time.

It was my privilege and pleasure to become a cosponsor of that first flexibility provision in the year following and to introduce, with Senator MUSKIE, Senator BUCKLEY, and others, a renewal of that proposal, which finally was adopted as part of the 1973 Highway Act and became law. It created for the first time a flexibility in the trust fund that all of us felt was the harbinger of a needed new flexibility to meet the requirements of a unified transportation policy for the United States.

I still think of that effort as a landmark in our forward progress toward a unified transportation trust fund, which I will support; toward a unified system of taxes for transportation, be it the gasoline tax or a fare box tax or the like; toward other innovations, including the structural innovations in legislative technique alluded to yesterday, or perhaps the creation of a single transportation committee in the Senate, as suggested by the distinguished Senator from Texas. I think all of these things are movements in the right direction.

From that view, I commend my distinguished colleague from Connecticut (Mr. WEICKER) and our colleague from Massachusetts (Mr. KENNEDY) for their continuing efforts in this respect. That view makes it particularly burdensome for me to say that I must reluctantly oppose this amendment at this time—not because it is without merit, for it is not without merit, but because I do not believe this is the right time to take the next step in changing our national transportation policy. This is not the time for innovation or a continuing debate. The bill before us today is, after all, a relatively simple bill. It is a 2-year extension. Two years is essential to the orderly progress of transportation in this country.

While I am sympathetic to and largely in agreement with the purposes of the Senator from Connecticut and the Senator from Massachusetts, it is with reluctance that I will oppose the amendment on this bill at this time.

Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. How much time does the Senator want?

Mr. BUCKLEY. Two or three minutes.

Mr. STAFFORD. I yield 3 minutes to the Senator from New York, Mr. President.

The PRESIDING OFFICER. There is only 1 minute remaining on the amendment.

Mr. BENTSEN. Is the Senator speaking for or against the amendment?

Mr. BUCKLEY. I shall be speaking against the amendment.

Mr. BENTSEN. I am delighted to yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute on the amendment.

Mr. BUCKLEY. Mr. President, I speak most reluctantly against the amendment, because I echo the sentiments of the Senator from Tennessee.

I believe that we have to move to a concept of unified transportation, both in terms of committee jurisdictions in the Senate and also in terms of planning.

We are talking about how best and most effectively to move people and goods from one place to another. If we are locked into highways, rail, air, or any other single mode, we end up doing wasteful things in unnecessarily expensive ways in terms of money and energy.

I do believe that this particular amendment at this time would not achieve these goals, and would prove disruptive.

I might add that a year ago I introduced legislation to create a single Transportation Trust Board and a mechanism for a single strategy, but obviously that would require the effort of the entire Congress and of all of the relevant committees until we emerge with a single committee to handle these matters.

However, whereas reluctantly I must vote against the amendment, I commend the efforts of the Senator from Connecticut and the Senator from Massachusetts for focusing our attention on what must be our ultimate goals, and I will gladly work with them to achieve those goals.

Mr. KENNEDY. Mr. President, I thank the Senator from New York and the Senator from Tennessee for their comments and their support for the general direction we are moving in.

As Senators understand, the Senator from Connecticut and I introduced a single transportation fund measure in 1970, some 5 years ago. We have been unable to move in that particular direction. Just about every year since that time we have been trying to build into the transportation fund the kind of flexibility which the Senator from Arkansas has spoken to so eloquently, to permit the States and the Governors of the States, who understand the States' needs, to be able to address those needs in the rural parts of their States with the resources which are provided in this legislation.

Let me point out, Mr. President, that this amendment is very similar to the recommendations that have been made under a statement of mass transportation policy by the Secretary of Transportation. In his recommendations on rail transportation assistance, reading directly from that report, he said:

> The Rural Transportation Assistance Program flexibility to use funds for (a) highway bill, which would consolidate several Federal-Aid highway categories, and give State and local governments increased program flexibility to use funds for (a) highway construction on or off the Federal systems, (b) highway public transportation investments, (c) safety improvements and (d) operating and acquisition assistance for rural public transportation.

I think the Senator from Arkansas has made a compelling case. The Governors ought to be able to make the decisions. Where they find that the state of particular roads in their respective communities requires the resources to be allocated, or where they may make a decision that there are a sufficient number of people living in their rural communities who do not have the funds to purchase automobiles, and ought to be afforded the kind of public transportation, they should make that decision and this amendment gives them that opportunity.

We have tried to fashion an amendment which would afford maximum flexibility. There is nothing in the amendment to mandate the Governors of the States to do anything. And unless they do exercise the kind of flexibility we are talking about in this amendment, the funds will be allocated as specified under the terms of the bill.

Mr. President, on the question of how we have allocated Federal transportation funds. Over the period since 1956 some $37 billion has been put in the interstate system. It is interesting that close to $30 billion has actually been spent on the primary, secondary, and urban highway systems. There are many areas, I am sure in my own State and, I am confident, in many rural communities, which do not have the kind of road structure all of us would like to see. But there has been pretty close to an even balance in terms of what has been put into the Interstate System and what has been put into the primary system, and there is nothing in our amendment which will prohibit States from utilizing funds to continue those programs.

But we wish to maximize the flexibility which the Senator from Arkansas and others have commented on as being valuable and useful, and to permit the States to develop the kind of transportation policy which is important to the needs of their people.

Mr. President, if I may have the attention of the Senator from Texas, unless there is further debate or comment on this amendment, we could commence the debate on the second amendment, and then hopefully move to a vote before too long.

Mr. BENTSEN. Mr. President, I would like first to yield 5 minutes to the chairman of the full committee.

The PRESIDING OFFICER. Is this 5 minutes on the bill?

Mr. BENTSEN. It will have to be on the bill. Have we not used up our time on the amendment?

Mr. KENNEDY. I yield 5 minutes to the Senator from West Virginia.

Mr. RANDOLPH. On whose time am I speaking, Mr. President?

Mr. KENNEDY. I yield the Senator 5 minutes.

Mr. RANDOLPH. I thank the Senator. I am appreciative of the concern of the Senator from Massachusetts, for whom I have great admiration and affection, but I think he is wrong in his premise in connection with the pending amendment.

Mr. President, the measure we have before us is a bare bones measure, but there are many provisions to revise the highway program.

We felt, however, that broad revision should not be undertaken until questions are resolved as to the future funding of the highway program in this country. These issues cannot be addressed in detail next year; but we must resolve them when we meet in the 95th Congress.

This is not the time for a far-reaching change such as is indicated in the pending amendment.

I think it is important to emphasize that the bill before us does adjust the urban-rural relationship by realining our major highway systems. Authorizations, as has been mentioned by the able Senator from Texas (Mr. BENTSEN), for rural and urban purposes are approximately equal, reflecting the nearly even split in the estimated needs. I think that is important for our colleagues to remember. Any change such as that proposed by the Senator from Massachusetts (Mr. KENNEDY) and endorsed by the Senator from Connecticut (Mr. WEICKER) would disrupt the balance which we have built into this measure, to the detriment of rural transportation. I must say it would not materially assist in aiding urban transit.

Mr. President, the amendment proposes modification in the program, and we must remember that we did not have the opportunity to consider these matters within the committee.

The capital grants program of the Urban Mass Transit Administration is the principal source of our Federal assistance for public transportation. I underscore the fact to my colleague from Massachusetts that we have substantially increased that funding over recent years. There was a time when planning was not far advanced, and the cities could not utilize the available funds. I am very happy that that situation has changed, and the urban highway funds are now being fully allocated. But even though they are fully allocated, we do know that the 1973 Highway Act has not encouraged a rush to transfer highway money to mass transit.

I underscore that in the 17 months past, since urban highway funds have been available for mass transit, I say, especially to the Senator from Massachusetts, only 15 projects in 6 States have been approved. The value of these projects total $51.3 million, and a very small part of the potential.

I think that we can question the impact of the availability of primary highway funds and what the mass transportation program would receive under this amendment.

I reemphasize that the bill authorizes $1.325 billion for primary highways in each of the next 2 fiscal years. These funds are apportioned to all States, so that no State would receive enough to have any significant impact on mass transit needs, especially when we remember that our highway needs are very real and that the money is needed in that sector.

The Federal-Aid Highway Act of 1973 authorized the Rural Highway Public Transportation Demonstration program. I authored this provision for I felt that our knowledge of rural transportation problems was inadequate. We knew neither the type of needs nor the proper ways of meeting them. Mr. President, additional funds were provided for the demonstration program in the Federal-aid highway amendments of 1974. In recent months, first grants were awarded under this program. The results of the demonstration program will be extremely helpful in fashioning a permanent program to provide public transportation services in rural and lightly populated areas. At this time, we simply do not know how best to make the services available to the people who need them. When our knowledge is complete, I am sure that the Public Works Committee will properly respond.

We have had informal contacts with the Secretary of Transportation for the Commonwealth of Massachusetts. At no time, has he or any other State transportation director, requested the type of authority to transfer funds as is proposed in the amendment. I am not trying to draw the lines between the Secretary of Transportation in Massachusetts and the Senator except to say that I did specifically ask him and he did not endorse the amendment which is pending.

I recognize and I think the Senate recognizes that urban areas need to improve their transit systems. I have tried to help in that matter. There has not been a single measure presented by Senator WILLIAMS of New Jersey that I have not attempted in every administration, regardless of those who were in charge and party not considered, to have funds released for mass transit. There was a time when needed transit funds were impounded by the administration instead of put to use. One time we appealed by a very strong telegram.

The 1974 highway needs study of the Department of Transportation reported that existing needs on non-Interstate Federal-aid roads amounts to $227 billion.

So, I reemphasize that the needs are there for the programs that are addressed in this bill.

I hope that the letter which is on every Senator's desk which has been signed by Senator BAKER, Senator STAFFORD, Senator BENTSEN, and myself will be read by Members in connection with this and the other amendment to be offered.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on the two Kennedy-Weicker amendments at the conclusion of debate on the two amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1221

Mr. KENNEDY. Mr. President, I call up amendment No. 1221, an amendment introduced by myself and the Senator from Connecticut (Mr. WEICKER) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, beginning with line 8, strike out all through line 6 on page 2 and insert in lieu thereof the following:

"SEC. 102. The Secretary of Transportation shall apportion for the fiscal year 1977 the sums authorized to be appropriated for such year for expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in table 5, Housing Committee Print 94–14.".

On page 3, line 2, beginning with the comma following "1977" strike out all to the period in line 3.

On page 3, line 6, beginning with the comma following "1977" strike out all through "1978" in line 7.

On page 3, line 9, beginning with the comma following "1977" strike out all through "1978" in line 10.

On page 3, line 13, beginning with the comma following "1977" strike out all through "1978" in line 14.

On page 3, line 18, beginning with the comma following "1977" strike out all to the period in line 19.

On page 3, line 22, after "1976," insert "and", and in line 23 beginning with "and" strike out all to the period in line 24.

On page 4, line 2, after "1976," insert "and", and in line 3 beginning with the comma following "1977" strike out all to the period in line 4.

On page 4, line 7, after "1976," insert "and", and in line 8 beginning with the comma following "1977" strike out all to the period in line 9.

On page 4, line 12, after "1976," insert "and", and in line 13 beginning with the comma following "1977" strike out all to the period in line 14.

On page 4, line 16, after "1976," insert "and", and in line 17 beginning with the comma following "1977" strike out all to the period in line 18.

On page 4, line 21, after "1976," insert "and", and in line 22 beginning with the comma following "1977" strike out all to the period in line 23.

On page 5, line 1, after "1976," insert "and", and in line 2 beginning with the comma following "1977" strike out all to the period in line 3.

On page 5, line 7, after "1976," insert "and", and in line 8 beginning with the comma following "1977" strike out all to the period in line 9.

On page 5, line 13, after "1976," insert "and", and in line 14 beginning with the comma following "1977" strike out all to the period in line 15.

On page 5, line 19, beginning with the comma following "1977" strike out all to the period in line 20.

On page 5, line 22, after "1976," insert "and", and in line 23 beginning with the comma following "1977" strike all through "1978" in line 24.

On page 6, line 3, after "1976," insert "and", and in line 4 beginning with the comma following "1977" strike out all through "1978" in line 5.

On page 6, line 10, after "1976," insert "and", and in line 12 beginning with the comma following "1977" strike out all through "1978" in line 13.

On page 6, line 15, after "1976," insert "and". and in line 16 beginning with the comma following "1977" strike out all through "1978" in line 18.

On page 6, line 20, after "1976," insert "and", and in line 22 beginning with the comma following "1977" strike out all to the period in line 23.

On page 6, line 24, strike out "For each of the fiscal years 1977 and 1978" and insert in lieu thereof "For the fiscal year 1977".

On page 7, line 12, beginning with the comma following "1977" strike out all to the period in line 13.

On page 7, line 15, beginning with the comma following "1977" strike out all through "1978" in line 16.

On page 31, line 13, after "1976," insert "and", and in line 14 beginning with the comma following "1977" strike out all through "1978" in line 15.

On page 47, line 9, strike out "1978" and insert in lieu thereof "1977".

On page 47, line 16, beginning with the comma following "1977" strike out all to the period in line 17.

On page 47, line 22, after "1976", insert "and" and in line 23 beginning with the comma following "1977" strike out all to the period in line 24.

Mr. KENNEDY. Mr. President, this is a very simple amendment. What this amendment does is to change the legislation from a 2-year bill to a 1-year bill. We have heard a good deal of discussion in the Chamber that there are certain Members who could not support this particular amendment, or that particular amendment because they wanted a total review of the concept of the trust fund. And there are a number of Members in here who feel that we either ought to have a single national transportation trust fund to be able to develop a balanced transportation system or we ought to eliminate the trust fund and be able to allocate resources in the areas of transportation on the basis of national priority and national need.

We are not attempting to resolve that particular issue with this particular amendment. What we are trying to do is to insure that at least there will be the earliest possible time for the examination of that concept and that there will be committee action and legislation reported that will reflect these alternatives.

What would our amendment not do? It would not affect the immediate needs of States for allocations of funds to permit highway projects to be continued. Their allocations would be made since our amendment would provide for a 1-year extension through fiscal year 1977, and it would not predetermine the future of the highway trust fund, the abolition of the trust fund, or alteration of the trust fund in a national transportation fund. It would not do any of those things.

What we would do is we would limit the extension of the highway program through fiscal year 1977 and delete the additional extension of highway programs through fiscal year 1978 by limiting the extension to 1 year, we also could avoid any necessity of extending the highway trust fund itself as now is proposed in the Ways and Means and Finance Committees and it would require that Congress resolve the future of the trust fund next year instead of putting off that issue once more. It would thus carry through on the commitment of Congress in the 1973 Highway Act, and resolve this matter in the interest of a balanced national transportation system.

I am very hopeful, Mr. President, having listened to a variety of different comments here in the Chamber from a wide different spectrum of opinion and party designation, that we can find acceptance of this particular amendment which would permit the committee itself to give the earliest consideration to the various possible alternatives which have been suggested in a number of pieces of legislation, including legislation introduced by the Senator from Connecticut and myself. We then could move expeditiously to what I think all of us understand to be an essential national need, and that is the development of a balanced transportation system that is going to insure quick and expeditious movements of the people and cargo in ways which are safe and energy efficient and that reflect the reality for this Nation's transportation needs in the 1970's.

I yield such time as the Senator from Connecticut may want.

Mr. WEICKER. I thank the distinguished Senator from Massachusetts. Mr. President, I associate myself with the comments of the distinguished Senator from Massachusetts.

Mr. President, the amendment we offer is designed to forestall a drive to extend the highway trust fund. While labeled as an "interim" bill, the net effect of adopting S. 2711 in its present form is to maintain the status quo of the highway program almost to the end of the decade. I note for example that 10 members of the Committee on Public Works last week sponsored legislation, pending before the Finance Committee, to extend the highway trust fund until October 1, 1979.

I agree that an interim bill is necessary to alleviate the problems of a number of States faced with the approaching end of authorized money. A bill authorizing only 1 year's expenditures from the highway trust fund would alleviate the short range funding problem while still requiring that disposition of the trust fund issues not be delayed past next year. Allowing such a delay would insure that further needed change in the highway program could not be legislated and implemented until the very end of the decade and perhaps beyond.

In essence, our amendment, by eliminating the authorization for fiscal year 1978 funding, would require this Congress to face the critical issues of transportation reform that for far too long have been placed on the back burner.

For the past 19 years, ever since the enactment of the highway trust fund in 1956, we have relied on this self-perpetuating mechanism and have paid the price for disregarding other modes of transportation.

In 1974, $7 billion was spent on transportation development in the United States. A full 61.6 percent of it went to highways; 17.2 percent was spent on air transportation; 8.1 percent on mass transit and 3.1 percent on rails. These statistics tell the story. We are getting what we have paid for—a fine road system, but little else.

For the past 5 years—ever since I came to the Senate, Senator KENNEDY and myself have worked to reform our transportation funding mechanisms. In the past, we have suggested that a national transportation trust fund might be the answer to our problems.

However, in light of Congress' declared intention to live up to its responsibilities to provide for a rational and responsible method of handling the Federal budget, this year Senator KENNEDY and I introduced legislation S. 1300, which would abolish the highway trust fund.

The concept of a trust fund has outlived its usefulness. Transportation programs should face the same budgetary review and analysis as other social programs. It should not be isolated from congressional scrutiny.

Mr. President, I point out that in 1970, a report and recommendation of the Joint Economic Committee came to substantially the same conclusion. The committee stated that:

> Transportation expenditures should be subjected to all the usual procedures of budgetary review. In keeping with the previous recommendation of this subcommittee, subsequently endorsed by the full Joint Economic Committee, that the trust fund should be abolished as an instrument for financing Federal programs involving investment, construction, or the provision of facilities or services, Congress should take such legislative action as is required to provide for the orderly but expeditious phasing out of the highway trust fund and the return to the financing of transportation expenditures out of general revenues.

Mr. President, the Senate has been neither orderly nor expeditious in confronting this problem.

The trust fund has, in the past, allowed the highway program to operate on a budgetary "automatic" pilot where vast expenditures went unquestioned as to purpose and unevaluated as to effect.

Funding priorities for transportation must be made in the context of other pressing social needs.

The Senator from Massachusetts (Mr. KENNEDY) and I have suggested abolition of the trust fund. Other Senators have introduced legislation to alter the present trust fund mechanisms and the administration has suggested maintaining the trust fund for the purpose of finishing the Interstate System with a return of some of the taxes to the States, and the transfer of other funds to general revenues.

Thus, while there is no clear agreement on what the future financing mechanism for highway programs should be, I believe it is fair to say that a substantial number of Senators believe that some change is necessary.

What the committee presents to us today, however, will postpone until the next Congress any consideration of the issues surrounding the trust fund. We have already delayed this issue for 5 years. What we are offered today is more procrastination.

Our amendment will require that this Congress and this Senate face the issue of the highway trust fund and resolve the questions of its reform.

I shall only say that I am not one who feels we should postpone the solution for national problems until the next Congress.

Let us face up to them now. Let us have some sort of record to go on, come the next election. It certainly is an area of critical importance to the Nation—a balanced transportation system. I believe it is a goal that we all wish to achieve. Let us get to accomplishing it at the earliest possible time.

Mr. BENTSEN. Mr. President, I oppose the amendment offered by the Senator from Massachusetts and the Senator from Connecticut. I share with both Senators the desire to build a balanced transportation system in this country. That is one of the reasons why I was discussing yesterday the idea of trying to pull all these committees together into a simple transportation committee in the Senate. We have six committees now, all fragmented, one dealing with highways, another with railroads, another with airplanes, another with canal systems. I believe we should have one committee only to aid us in developing a balanced transportation system.

In the meantime, we are trying to give it some certainty. Thirty-six States are running out of interstate funds. Thirty-four States are running out of their primary system funds, running out near the end of this year.

For weeks we sat around here, waiting for the administration to present us with a highway bill. We did not get it until July, and it called for a comprehensive change in highway funding and apportionments.

We have offered a barebones bill, a 2-year extension of the highway program, with a consolidation of some of the categories, to give greater flexibility to the States and localities.

But we need this 2-year bill. Next year the Finance Committee will have before it a tax reform bill, and that is going to tie them up for a long time.

In addition, 1976 will be an election year, and the Congress probably will adjourn early. In addition, I assume that the distinguished Senator from Massachusetts will be moving on his national health insurance bill, and hopefully that will be before the Finance Committee and consideration will be given to that. If that is the case, obviously that is going to take a substantial amount of time.

So let us see that we do this but do this properly and that we have an informed Congress and an informed Finance Committee and an informed Public Works Committee to determine what happens.

Highway planning is long range. It cannot be turned on and off. A 1-year bill provides momentary relief, and uncertainty would be hitting us again next year.

I can tell the Senator that we will undoubtedly have some hearings on this matter next year in the Finance Committee, in which we will ask a full range of opinions—opinions from the Senator from Massachusetts, the Senator from Connecticut, the Senator from Arkansas, and the others who are concerned. We are not prejudging the outcome of that debate. It may well be that we will make some substantial changes in the highway trust fund, but let us do it after the studies are made.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield back the remainder of my time, subject to the proponents of the amendment yielding back theirs.

Mr. KENNEDY. Mr. President, there is a great deal of controversy about what should be done with the highway trust fund, Senator WEICKER and I have introduced legislation (S. 1300) which would abolish it and fund our highway program from general revenues. Other Senators have introduced legislation to expand the highway trust fund into a transportation trust fund, and the administration has sent this Congress legislation to expand the highway trust fund so that it would fund only the Interstate highway program. Yet, despite the varying proposals for change which indicate that a majority of the Senate does want change, we find ourselves being asked to extend the existing highway trust fund.

The committee report notes that the legislation before the Senate is designed as "interim" legislation which would allow the next Congress to deal with the issues involving the trust fund. I recognize that many States will shortly be running out of authorized highway funding. Yet we can take action on that real interim need without a postponement of the critical issue of reforming the highway trust fund.

In 1973, we in the Senate began legislating needed reforms of the highway program when we allowed, for the first time, money authorized in highway legislation to be used for public transportation purposes. Since that time we have been faced with the realities of the energy shortage. We have seen how great a part in the development of that energy shortage has been played by our past biases in funding highways to the virtual exclusion of intercity or urban mass transportation programs. Despite the clear need to continue the reforms of the last Congress, we are instead being asked to ignore the energy crisis, ignore the needed reform and continue for another 3 years, the programs which contributed to our predicament.

In addition, last year Congress began, with the enactment of the Budget Reform Act, to develop realistic mechanisms to deal with the Federal budget and its impact on the economy. The highway trust fund has long allowed highway construction programs to proceed unimpeded which allowed us to neither examine the effectiveness of our highway construction program nor to place it in proper perspective with the rest of the country's domestic needs. We cannot allow this to continue without question until the end of this decade.

This amendment would, by providing only for the authorization of money for fiscal year 1977, solve the short-term interim needs of those States which are running out of money, while at the same time insuring that this Congress will address itself to the very basic question of the reform of the highway trust fund.

Some have alleged that to only fund 1 year of the highway program will be disruptive of the planning and project processing because of uncertainty about the availability and amount of funds.

The process by which highways and public transportation projects are approved more often than not takes a number of years. At any given date, such projects are at different stages of the process. States are paid as work progresses and vouchers presented to the Federal Government for repayment to the State of moneys utilized. The Federal Government funds are "earmarked" according to the distinct phase of the project; that is, authorization to proceed to work on engineering will continue an "earmarking" of funds available to proceed. So long as funds themselves are available projects may proceed.

If it were true that uncertainty of funds into the future inhibits project development then how can projects taking more than 2 or 3 years, the traditional authorization period in highway legislation, be successfully completed. In fact, were that true, then the program would regularly be "disrupted" every time the Senate considered highway legislation.

Finally, the committee itself set a precedent for short-term extensions of the highway program when money began to run out and issues remained to be confronted. Such was the case in 1973 when the Congress passed S. 1808 which contained approximately 4 months worth of funds to allow construction to proceed while the conference committee on the 1973 Highway Act worked to resolve differences. That is precisely the intent of our 1 year authorization.

Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HANSEN. I yield 1 minute to the distinguished chairman of the full committee.

Mr. RANDOLPH. Mr. President, I understand the zeal with which this amendment is offered. I have to emphasize that we considered carefully the matter of a 4-year bill. Senator BENTSEN was very insistent that we have a 2-year bill. The House of Representatives originally thought in terms of a 4-year bill. Finally, they reported a 2-year bill.

Mr. President, the limitation of authorizations in the Federal-Aid Highway Act of 1975 to only 1 year, as proposed in good purpose by the Senators from Massachusetts and Connecticut, would be a pointless exercise. Such an action would require the Congress to enact another 1-year extension next year.

When the Committee on Public Works developed this bill, it did so mindful of the numerous proposals to change both the highway program and its financing mechanism. It was obvious, however, that these proposals could not receive the careful consideration they require. The future of the Highway Trust Fund, in particular, should be determined only after the most deliberate examination of the alternatives.

We agreed to a 2-year authorization bill, and Senator Bentsen introduced companion legislation (S. 2729) to continue the trust fund intact for 2 years. This will provide the time needed to write legislation that will probably determine the direction and scope of the highway program for the remainder of this century.

Mr. President, it is unrealistic to believe that this task can be completed during 1976. Both the Senate Finance Committee and the House Ways and Means Committee will be considering major tax legislation next year and will be unable to devote the necessary time to highway financing. Furthermore, 1976 is an election year bringing with it great demands on the time of Members in addition to the legislative schedule.

The adoption of this amendment would hold out the hope that fundamental questions of highway policy could be resolved in the next year. This is a goal impossible for achievement and one that should not be attempted.

I simply say that this matter was given careful attention by Senator Bentsen, Senator Stafford, and Senator Baker—all members of our committee—and I reemphasize the barebone aspects of the measure. That, I think, will appeal to the Members at this time.

Mr. BENTSEN. Mr. President, in order to try to expedite this matter, I ask unanimous consent that the second rollcall vote, since all Members will be here, be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Do Senators yield back the remainder of their time?

Mr. BENTSEN. I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, a parliamentary inquiry. As I understand it, we will vote first on amendment No. 1222.

The PRESIDING OFFICER. Yes.

The question is on agreeing to amendment No. 1222. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Florida (Mr. Chiles), the Senator from Minnesota (Mr. Humphrey), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), the Senator from Kansas (Mr. Pearson), and the Senator from Virginia (Mr. Scott) are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mr. Dole) would vote "nay."

On this vote, the Senator from New York (Mr. Javits) is paired with the Senator from New Mexico (Mr. Domenici).

If present and voting, the Senator from New York would vote "yea" and the Senator from New Mexico would vote "nay."

The result was announced—yeas 26, nays 61, as follows:

[Rollcall Vote No. 581 Leg.]

YEAS—26

Abourezk
Biden
Brooke
Case
Cranston
Culver
Fong
Hart, Philip A.
Hatfield
Inouye
Jackson
Kennedy
McGovern
Moss
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Ribicoff
Roth
Scott, Hugh
Tunney
Weicker
Williams

NAYS—61

Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Clark
Curtis
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McIntyre
Metcalf
Mondale
Morgan
Muskie
Nunn
Randolph
Schweiker
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—13

Allen
Bayh
Brock
Chiles
Dole
Domenici
Goldwater
Humphrey
Javits
Mathias
Montoya
Pearson
Scott, William L.

So Mr. Kennedy's amendment (No. 1222) was rejected.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, may we have order.

The ACTING PRESIDENT pro tempore. The question occurs on agreeing to amendment No. 1221 of the Senator from Massachusetts.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Florida (Mr. Chiles), the Senator from Minnesota (Mr. Humphrey), the Senator from New Mexico (Mr. Montoya), and the Senator from Rhode Island (Mr. Pell) are necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), the Senator from Kansas (Mr. Pearson), and the Senator from Virginia (Mr. Scott) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. Javits) would vote "yea."

The result was announced—yeas 22, nays 65, as follows:

[Rollcall Vote No. 582 Leg.]

YEAS—22

Abourezk
Biden
Brooke
Bumpers
Case
Durkin
Hart, Gary
Hart, Philip A.
Hathaway
Kennedy
McClellan
McGovern
Nelson
Pastore
Percy
Proxmire
Ribicoff
Scott, Hugh
Taft
Tunney
Weicker
Williams

NAYS—65

Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Clark
Cranston
Culver
Curtis
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
McClure
McGee
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nunn
Packwood
Randolph
Roth
Schweiker
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Young

NOT VOTING—13

Allen
Bayh
Brock
Chiles
Dole
Goldwater
Humphrey
Javits
Mathias
Montoya
Pearson
Pell
Scott, William L.

So Mr. Kennedy's amendment (No. 1221) was rejected.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which that amendment was rejected.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the Domenici amendment (No. 1182) was rejected earlier.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1198

Mr. CRANSTON. Mr. President, I send to the desk, with rather a unique combination of sponsors, an amendment presently known as the Cranston-Helms, Abourezk-Buckley amendment, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. Cranston), for himself and others, offers the following amendment:

On page 46, line 8, strike "determination."." and insert the following: "determination. For the purposes of the preceding four sentences of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.".

Mr. CRANSTON. Mr. President, the fact that Senators HELMS, ABOUREZK, and BUCKLEY, along with others, who have very diverse views on general issues, have joined with me on this amendment indicates, I believe, that we are dealing with a matter that should appeal to a broad spectrum of the Senate.

The issue is whether or not there should be absolutely mandatory requirements, with penalties, by the Federal Government on the States that motorcycle helmets be worn at all times by motorcycle riders, with denial of Federal funds if the States fail to pass laws to comply with these Federally imposed standards.

We believe that the threat to terminate Federal financial assistance because of noncompliance with federally imposed standards is a very severe sanction. If the sanction is to be used at all, it should be used only in behalf of overriding considerations, such as the protection of constitutional rights, to guarantee the integrity of Federal funds and programs, and in behalf of other paramount interests, such as the public health, safety and welfare in situations when reliance on individual initiatives by States, localities and individuals is likely to prove fruitless or self-defeating. The motorcycle helmet standard simply does not meet this test. The Federal Government, in a sort of big brother-big sister approach, is threatening to withhold from California $50 million in highway funds because the State refuses to force motorcycle riders to wear helmets, whether they like it or not. This is an outrageous example of an overbearing, overprotective bureaucracy, gratuitously trying to restrict the freedom of choice of the individual and using the clout of Federal money to try to impose its views on a State government.

My State government, by the way, for 8 years running has turned down any such legislation as unnecessary and undesirable governmental intrusion into personal conduct.

This amendment to the Federal Aid Highway Act of 1975 is for the purpose of establishing that the Secretary of Transportation, in the exercise of his powers under section 402 of title 23, shall not terminate Federal highway safety funds and Federal aid highway money to a State because of that State's refusal to enact or enforce a mandatory motorcycle helmet law. I want to make it clear that our amendment restricts the Secretary's authority only with respect to motorcycle safety helmets. It does not affect the authority of the Secretary to promulgate other motorcycle safety standards under section 402. To require States to enact mandatory motorcycle helmet laws has little to do with protecting the public against accidents caused by traffic hazards and vehicle defects.

Let me simply summarize my views on this particular point. A helmet may or may not protect its wearer. It depends on the type of helmet and the circumstances. But there is no evidence that a helmet alone will prevent accidents involving others, and it may actually work, under some circumstances, considering some types of helmets, in the opposite way. Some experienced riders suggest that the wrong type of helmet can reduce the rider's ability to hear and see; that heat and fatigue from its use create a greater risk of accident.

Mr. FORD. Mr. President, may we have order in the Senate? I would like to hear the Senator from California. Senators are carrying on conversations in the Chamber. I want to hear what the Senator has to say. It has been like this all morning.

The PRESIDING OFFICER. The Senator's point is well taken. Senators who wish to converse will please go to the cloakroom.

Mr. CRANSTON. Mr. President, I make no judgment personally about how much protection a motorcycle helmet provides the wearer. The proper helmet obviously serves a valid protective purpose.

But, let me cite one absurdity of the current situation. The California Highway Patrol and other California law enforcement agencies require motorcycle officers to wear helmets. But I am informed that the helmets used by the California Highway Patrol, and which are designed to allow the wearer to see and hear, would be illegal under the Federal Motorcycle Helmet Standards. Since maximum ability to see and hear plainly relates to ability to avoid accidents, should we not consider this point ?

Before yielding to Senator HELMS, my principal cosponsor, I yield to Senator ABOUREZK for 2 minutes, as he has to return to a hearing he is conducting.

Mr. ABOUREZK. I thank the Senator.

Mr. President, I support this amendment for one major reason. While I believe that the State and the Federal Government have the right to protect the safety of people from the acts of someone else, I think it is highly questionable that they have the right to protect an individual from himself. I think it is an invasion and an intrusion upon that person's privacy and his right to decide for himself what he wants to do. I would urge the Senate to adopt this amendment.

Mr. CRANSTON. If I may say a little bit more—and I thank my colleague very much for staying with us in order to make those brief remarks—the Secretary of Transportation, Secretary Coleman, has said of the motorcycle helmet law requirement: "I think that provision does not make much sense."

The California Office of Traffic Safety, instead of seeking mandatory helmet legislation, has channeled its efforts in the direction of accident reduction through motorcycle safety education, licensing operators and upgrading equipment standards. Motorcycle safety is included in driver education programs, and each motorcycle operator must take a written and driving test before being granted a license.

Mr. PASTORE. Will the Senator yield?

Mr. CRANSTON. I yield.

Mr. PASTORE. Do I understand the Senator's amendment goes only to those States that do not require by law the wearing of the helmet? Is that correct?

Mr. CRANSTON. That is correct.

Mr. PASTORE. In other words, if a State does not pass any law one way or the other, then the Federal provision applies. Is that correct?

Mr. CRANSTON. That is not quite correct. My amendment leaves the question up to the State's legislature.

Mr. PASTORE. In other words, are we saying here now all helmets off, or are we saying only in those State where the State itself has passed a law saying that the helmet is not required? Do I make myself clear?

Mr. CRANSTON. Any State, of course, which has a helmet law, first of all, can keep that helmet law. It can have the same law.

Mr. PASTORE. Or it can pass a helmet law?

Mr. CRANSTON. Yes.

Mr. PASTORE. All the Senator is saying here is that this is a responsibility of the State, and if a State decides that this is not necessary, then, of course, the State prevails over the Federal bureaucracy?

Mr. CRANSTON. Right.

Mr. PASTORE. Is that correct?

Mr. CRANSTON. That is what we are saying.

Mr. PASTORE. The reason I ask that is that I have had quite a number of these motorcyclists come to my office. I do not know much about it. I have never been on a motorcycle, I do not want to be on a motorcycle, and I hope I never have to be on a motorcycle.

In fact, I have a son who is a doctor who tells me nobody ever ought to ride on a motorcycle. But that is neither here nor there. I have been told that sometimes a helmet is more dangerous than not to wear a helmet, because in case of accident, they can choke themselves.

Mr. CRANSTON. Either that, or you break your neck.

Mr. PASTORE. Well, I do not want to break anyone's neck.

Mr. CRANSTON. I yield to my good friend and cosponsor, the Senator from North Carolina (Mr. HELMS).

Mr. HELMS. Mr. President, I commend the distinguished Senator from California (Mr. CRANSTON) for his interest in this effort to change the present policy of the Federal Government of penalizing the several States for their refusal to enact compulsory helmet laws for motorcyclists.

Three months ago, on September 4, I introduced S. 2293, a bill to amend section 402 of the Highway Safety Act of 1966. Under the provisions of this statute, the Secretary of Transportation is authorized to establish highway safety program standards. In pursuance of this authority, the Secretary issued, on June 27, 1967, the motorcycle safety program standard, requiring every State in the Union to establish a motorcycle safety program. In meeting the standards of this program, the States are required, among other things, to enact a compulsory helmet law, whereby every motorcycle operator and passenger is required to wear an approved safety helmet when the motorcycle is being operated on streets and highways. State compliance through the enactment of compulsory helmet laws is practically guaranteed, by virtue of the fact the Secretary of Transportation has ruled that any State which refuses to follow the Secretary's orders is subject to severe economic penalties.

The bill that I introduced would amend section 402 of title 23 of the United States Code, and provide that any highway safety program approved by the Secretary of Transportation shall not include any requirement that a State adopt a law requiring motorcycle operators or passengers 18 years of age or over to wear a safety helmet while riding on the streets and highways.

This bill has now been submitted in the form of an amendment to S. 2711, the Federal-Aid Highway Act of 1975. Let me also call to the attention of my colleagues, Mr. President, that this amendment has already been made a part of H.R. 8235, the House companion bill to S. 2711. On December 3, the Surface Transportation Subcommittee of the House Public Works Committee adopted this amendment with the support of Representative JAMES J. HOWARD, the subcommittee chairman, and Representative BUD SHUSTER, the subcommittee's ranking minority member. Senate adoption of the amendment would simply ratify action that has already been taken by the House Public Works Committee.

As I stated on September 4, at the time I introduced S. 2293, the Highway Safety Act of 1966 is, in my judgment, another example of Federal legislation encroaching upon the freedom of the American citizen and the reserved powers of the States. These compulsory helmet laws, which are forced upon the several States, are a violation of our constitutional liberties. There are others who share this view. The American Motorcycle Association, representing approximately 140,000 members, has challenged these laws since their very inception. The State of California has gallantly refused to sacrifice the liberty of its citizens for the sake of a Federal handout, and is one of two States having no compulsory helmet law. The other is the State of Illinois, whose legislature repealed the State's compulsory helmet law after the Illinois Supreme Court ruled that it was an unconstitutional denial of due process. Last year, bills or resolutions were introduced in 15 States—Alaska, Arizona, Connecticut, Hawaii, Kansas, Louisiana, Maine, Massachusetts, Mississippi, New Mexico, South Dakota, Utah, Virginia, Washington, and Wyoming—to repeal or amend their mandatory helmet legislation.

The widespread opposition to these laws is further indicated by the fact that there were 43 separate court challenges to State and municipal headgear legislation by January 1, 1970. In 31 instances, such legislation was upheld; but in 12 it was declared unconstitutional. More specifically, headgear legislation has been declared unconstitutional by one State supreme court—Illinois; by three appellate courts—Idaho, Arizona, Michigan; and eight trial courts—two in New York, and one each in Ohio, Florida, Missouri, Kentucky, Colorado, and Michigan. In addition, the attorney general of Oklahoma has issued an opinion that the State's compulsory headgear law is unconstitutional, and the attorney general of New Mexico has determined that a proposed city ordinance would be invalid if it applied to citizens over 18 years of age.

Mr. President, these compulsory helmet laws are an unnecessary and unconstitutional encroachment upon individual liberty and the reserved powers of the States. I urge my colleagues to join me in support of this amendment to reverse the present policy of the Federal Government of authorizing the Secretary of Transportation to penalize the several States for their refusal to enact mandatory headgear legislation for motorcyclists.

Again I commend the distinguished Senator from California, and I urge the approval of this amendment. Has the Senator, may I inquire, asked for the yeas and nays?

Mr. CRANSTON. No; would the Senator like to request the yeas and nays?

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I want to thank my colleague from North Carolina, and to note that he introduced the original legislation in the form of a bill. I want to note that the Senator from South Dakota (Mr. ABOUREZK) also introduced identical legislation. We are now following through on those proposals with this amendment.

Mr. FORD. Mr. President, will the Senator from California yield for one question?

Mr. CRANSTON. I yield.

Mr. FORD. How many States do not have this so-called helmet law?

Mr. CRANSTON. There are presently three: California, Illinois, and Utah.

Mr. FORD. I thank the Senator.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment. We have tried to cut through the bureaucracy, and we have changed the requirement, in this law, to say that it is necessary for the Secretary to prove that the State law is not as safe as the Federal standard. If California comes up with a better way, that is fine. But when the Senator said he did not want to testify as to the specifics as to how many lives are saved, I can understand that, because the numbers are very much in favor of riding a motorcycle with a helmet rather than without.

I have statistics here, from the Insurance Institute for Highway Safety, showing the number of lives that are saved by wearing helmets. It says that where otherwise you have 10 fatalities per 10,000 registered motorcycles per year, by wearing a helmet they have been able to cut the fatalities down from 10 per 10,000 to 7 per 10,000 a year, a substantial saving in lives.

Let us talk about another point: The question about a person's right not to wear a helmet, because it is just his life that is involved. That is not true. There are too many lives involved, and the question of whether a person is killed or ends up as a living vegetable, supported by the State, supported by the taxpayers, or supported by grieving relatives is a legitimate question.

What we are talking about here is a standard to try to save lives. I think it is a reasonable standard. If the State can come up with a better way, under this bill they will be able to use it. We have put the burden on the Secretary of Transportation to prove they did not do so.

Also, it is well to note that formerly the penalty we imposed for noncompliance was 10 percent of the highway construction funds. We thought that penalty was too severe. We now provide that if a State is found not to be making a reasonable effort to build appropriate standards of safety, then, under those conditions, we penalize them only in their safety money, and that runs to about $400 million nationwide. That, in comparison with the rest of the money appropriated for highways, is a relatively small amount.

So we have substantially cut the penalty for noncompliance. We have substantially increased the flexibility, and the judgment allowed to individual States.

If we are going to pick and choose on these standards, let us do away with all of them, not just one here or there.

Mr. President, I reserve the remainder of my time.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BENTSEN. Yes.

Mr. PASTORE. The thing that concerns me with reference to all this is how far the Federal bureaucracy is going to go in telling the States just what to do in order to protect their own citizens. It reminds me that from time to time we are falling into the habit of thinking that, while the Governors are impotent in knowing the consensus of the people, and the Mayors are impotent, for some reason some fellow who comes out of nowhere and is made Secretary of Transportation is the overlord, who can tell the States exactly what to do.

If it is true that a helmet will protect the lives of motorcyclists, why should not the States be conscious of the fact, and do it? Why do we have to say we will take away money from the highway programs, only because one of them decided to judge for itself what to do? That is the thing that bothers me, and I would like to get an answer to it.

Mr. BENTSEN. I would say to the distinguished Senator again that if we are going to pick and choose, that one we keep and this one we do not, then we might as well not have standards set across the Nation.

I think the standard is a good one, which contributes to the saving of human lives. By setting standards, whether we are talking about helmets or seatbelts, we have reduced the losses in human lives. I think that is reflected in the insurance rates on automobiles. I believe that we have helped the consumers of this country.

Mr. STAFFORD. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Senator from Vermont.

Mr. STAFFORD. I thank the Senator for yielding.

Mr. President, I also rise in opposition to the amendment to S. 2711 proposed by the Senator from California and the Senator from North Carolina.

I confess at the outset that this Senator owns and occasionally rides a motorcycle. Before anyone suggests I apparently do it too often without a helmet I want to say that I always put the helmet on before I start the motorcycle.

The amendment proposed by the distinguished Senator from California and his colleague from North Carolina would prevent the Secretary of Transportation from requiring a State to have a law requiring the use of motorcycle helmets by motorcyclists 18 years of age or over.

The committee considered a similar amendment and passed over it without prejudice because there was no opportunity to consider fully its merits. For this reason alone, I urge this question to be deferred until hearings can be held. There are three additional reasons for rejecting the amendment.

First, there appears to be a basis in the data for finding that motorcycle helmets are effective safety devices.

Mr. President, as did the chairman of the subcommittee, I have data here with me to substantiate that statement.

A recent study by the Department of Transportation indicated that helmet users had two-thirds fewer fatal or serious head injury than nonusers. A comparison of several States recently conducted by the Insurance Institute for Highway Safety indicated persuasively that the helmet is the cause of the drop in the motorcyclist death rate that has been commonly observed in States after enactment of helmet use laws. This basis is strong enough that we should avoid any action that appears calculated to read motorcycle helmet use laws summarily out of the highway safety program.

Second, I recognize that there is honest concern today about the Government's infringement of personal liberties. However, the question of constitutionality has been settled in favor of helmet laws as the result of the Supreme Court's decision in *Simon* v. *Sargent*, 409 U.S. 1020, aff'ing. 346 F. Supp. 277 (D Mass. 1972). In Simon, the Federal district court weighed the effect of helmet laws on personal liberties against the benefits to society resulting from helmet use. The court concluded that the State's interest in reducing the public costs of accidents was sufficient to justify a helmet use law and accordingly ruled that the State had not infringed the plaintiff's rights under the 14th amendment. The Supreme Court affirmed without opinion, thereby adopting the District Court's opinion as its own. In my view, this represents a second ground for rejecting the proposed amendment.

Finally, I point to a provision in S. 2711 which would make the proposed helmet law amendment largely unnecessary, even if otherwise desirable. Section 202 (b) of the bill before us would liberalize the process whereby a State can secure a waiver from the requirements of a standard in order to undertake alternative safety measures. If California, for example, were to seek a waiver of the helmet law requirement under this section, the burden would fall on the Secretary of Transportation to establish that the requirement is superior to the alternative measure, in terms of saving lives. If the Secretary could not meet this burden, the State would be entitled to a waiver. In my view, this constructive avenue, which would preserve the overall level of highway safety, should be explored before any consideration is given to the radical, piecemeal remedy in amendment No. 1198 pending before this body.

Since 47 of the 50 States do have helmet safety laws for motorcyclists, the action which the Senator from California is asking this body to take today would, in the opinion of this Senator, reverse a policy which the Senate adopted in 1966.

I therefore urge the defeat of the pending amendment.

Mr. FORD. Mr. President, will the Senator yield?

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Kentucky.

Mr. FORD. I thank the floor leader of this measure.

As we know, there are 47 States that have complied with these regulations.

The inference here is give the States the right to do whatever they wish to do and select their own method whenever they wish to.

What about the other three States?

As Governor I held hearings. We had our committees. We set our standards. We passed the law to comply so we would not lose Federal funds.

What have we been doing for those States that have complied? Do they get extra money? Do they get the money that is taken away from California, Illinois, or Utah, to give us credit for complying with the laws that this Chamber passed?

Now we have only three States that are not complying.

The distinguished Senator from Rhode Island, who I respect very much, made a statement that a member of his family, who is a doctor, would say stay off motorcycles.

We are not only protecting these people from themselves but from others. I have seen those who have been fatally injured without a helmet. I think that experience would be sufficient to vote against this amendment of the Senator that created a strange coalition.

What is so special about motorcycles that they have to be excluded? And as to no-fault insurance they wish to be excluded, and probably will be, but I think they ought to be included. Why exclude one and not cover another?

It has been proven that it saves lives, and what is wrong? We have the constitutional right to ask for this.

Now when we are down to the end with 47, with only 3 left, we are going to say, "None of you have to now, none of you have to now."

This Chamber will be making a mistake if they do not continue with the approach for safety that this country needs. We made wise decisions in this Chamber. We are saving human lives, and it is the wrong time to turn around.

I urge our colleagues to vote against this amendment.

Mr. CRANSTON. Mr. President, I say this very briefly in rebuttal to the various remarks made concerning this amendment.

First of all, 15 States have been considering repealing their present motorcycle helmet laws. Second, the only legitimate Federal interest is, as an example, whether California's refusal to enact a motorcycle helmet law is endangering irresponsibly the lives and safety of highway users of California and the Nation. And there is concrete evidence that is not the fact.

The Senator from Texas mentioned the national average, 7 for 10,000 fatalities per licensed rider.

In 1973, California was under the national average without a law. Last year California was exactly on the national average without a helmet law. That is because we have another program that is more effective, a driver education program and separate licensing tests for motorcycle riders.

Traffic Safety magazine in its November issue states "most motorcyclists involved in accidents have not had much riding experience." It is a matter of experience and adequate training.

California has a pretty good program. It is working better, we believe, than any Federal interference requiring helmets to be worn.

Mr. President, Senators HELMS, ABOUREZK, BUCKLEY, and I have joined to offer an amendment to the Federal-Aid Highway Act of 1975 for the purpose of establishing that the Secretary of Transportation, in the exercise of his powers under section 402 of title 23, shall not terminate Federal highway safety funds and Federal-aid highway money to a State because of that State's refusal to enact or enforce a mandatory motorcycle helmet law.

I want to make it clear that our amendment restricts the Secretary's authority only with respect to motorcycle safety helmets. It does not affect the authority of the Secretary to promulgate other motorcycle safety standards under section 402.

Under section 402(c) of title 23, the Secretary of Transportation is authorized to withhold all Federal highway safety funds and up to 10 percent of Federal-aid highway money if a State fails to comply with Federal highway safety standards, including the requirement that a State enact and enforce a mandatory motorcycle helmet law. I recognize that S. 2711 does reduce the severity of the sanction by limiting the fund cutoff to 50 percent of safety funds and eliminates the power to reduce Federal-aid highway funds by any amount.

The threat to terminate Federal financial assistance because of noncompliance with federally imposed standards is a severe sanction. If the sanction is to be used at all, it should be used only on behalf of overriding considerations, such as the protection of constitutional rights, to guarantee the integrity of Federal funds and programs, and other paramount interests, such as the public health, safety and welfare, in situations when reliance on individual initiatives by States and localities and individuals is likely to prove fruitless or self-defeating. The motorcycle helmet standard does not meet this test.

To require States to enact mandatory motorcycle helmet laws has little to do with protecting the public against accidents caused by traffic hazards and vehicle defects.

A helmet may or may not protect its wearer—it depends on the type of helmet and the circumstances—but there is no evidence that a helmet alone will prevent accidents involving others. Some experienced riders suggest the contrary—that the wrong type of helmet can reduce the rider's ability to hear and see; that heat and fatigue from its use create a greater risk of accident.

I make no judgment about how much protection a motorcycle helmet provides the wearer though a proper helmet obviously serves a valid protective purpose.

The California Highway Patrol and other California law enforcement agencies require motorcycle officers to wear helmets. But I am informed that the helmets used by the California Highway Patrol and which are designed to allow the wearer to see and hear, would be illegal under the Federal motorcycle helmet standards. Since maximum ability to see and hear plainly relates to ability to avoid accidents, S. 2711 also purports to meet objections to Federal highway safety standards by permitting States to apply for a waiver of any standard. This is not an adequate response to the objections raised against the motorcycle helmet requirement.

Under long-established rules of administrative law, the Secretary's decision to insist upon a motorcycle helmet standard will be virtually immune from reversal under existing review procedures in Federal courts.

I do not think it is an appropriate remedy to force States to come to Washington to petition the Secretary of Transportation for a waiver of a requirement which the Department obviously feels to be correct in the first instance.

It is not an adequate response to the infringement of the constitutional rights of the people of California. For each of the past 8 years, the California legislature has refused consistently to enact a mandatory motorcycle helmet law. This September, the Department of Transportation held hearings on the question of terminating $6.5 million in highway safety funds and $43.5 million or 10 percent of California's Federal-aid highway funds because the State has refused to enact a motorcycle helmet law.

Secretary of Transportation Coleman has been quoted as saying about the motorcycle helmet standard:

> I think that provision doesn't make much sense, but I do have to follow the law.

I agree with Secretary Coleman—it doesn't make much sense.

Californians are capable of judging for themselves whether or not to mandate motorcycle helmets.

Most California motorcycle operators do wear helmets. A highway patrol survey this summer revealed that 60 percent of motorcycle riders on California highways wear helmets. Many cyclists who have written to me opposing the federally-imposed helmet standard say that as a matter of personal preference they wear a helmet.

The only legitimate Federal interest is whether California's refusal to enact a motorcycle helmet law is endangering irresponsibly the lives and safety of the highway users of California and the Nation. This is not the case.

The California Office of Traffic Safety, instead of seeking mandatory helmet legislation, has channeled its efforts in the direction of accident reduction through motorcycle safety education, licensing operators, and upgrading equipment standards. Motorcycle safety is included in driver education programs and each motorcycle operator must take a written and a driving test before being granted a license.

I would like to list the five points of California's motorcycle safety program:

First. Active law enforcement.

Second. Driver's license testing, including a special test for motorcycle drivers.

Third. Motorcycle driver education in the public schools.

Fourth. Motorcycle training by the California Highway Patrol.

Fifth. Public information programs, including TV spots encouraging wearing of helmets.

Under the California program, the public is protected and the purposes of the Federal highway safety standards program are being carried out. The safety of the general public is not enhanced by a mandatory motorcycle helmet law. The public safety is far better served by the State's strong licensing program for motorcyclists, motorcycle driver education courses, the continuing safety programs of motorcycle clubs, and enforcement of State and local traffic regulations. This program is effective. Our accident rate is below the national average and so is the death rate.

This program currently is receiving financial support from the Department of Transportation. The State has been awarded $862,523 for a program to demonstrate that requiring higher entry skills for novice motorcyclists will significantly reduce accidents during the first year of a driver's career. Under this program some 18,000 novice cyclists selected at random will undergo additional licensing and training requirements designed to improve their skills as motorcycle operators.

It is ironic that with one hand, the Department of Transportation will provide California with significant funding to cut down on motorcycle accidents, while with the other it threatens to terminate those same funds for failure to enact a helmet law which has little to do with accident prevention.

There has been too much emphasis by the Federal bureaucracy on forcing States to enact motorcycle helmet laws and not enough on the very real problem of motorcycle safety. The answer, as California demonstrates, is to train cyclists in the proper operation of their machines and to make the general driving public aware of the special problems encountered by motorcyclists in traffic.

To penalize California or any other State in this way makes no sense to me. Therefore, I have joined with Senators HELMS, ABOUREZK, and BUCKLEY to repeal the Federal Highway Traffic Safety Administration's mandatory helmet standard by denying the Secretary the authority to terminate Federal funds for failure to comply with such a standard.

Mr. BENTSEN. Mr. President, average fatalities per mile traveled for motorcycle riders in 1973 was about 16 per 100,000 miles of travel; on other motor vehicles, it was 4.3 per 100,000 miles. Almost two-thirds of the motorcycle fatalities resulted from injuries to the skull, to the head. A 1970 analysis of fatal motorcycle crashes found that for the years 1967 to 1970 the States with helmet laws showed a consistently lower fatal crash rate than did the States without a helmet law.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished Senator from Tennessee.

Mr. BAKER. Mr. President, I am sympathetic to the purpose of this amendment, but I will oppose it.

I think the time has come in many fields when we have to consider how far we should go as a Federal legislative group, in trying to protect people from accidental events, from the machine age, and from each other. That, clearly, is not the entire problem here, but it is one of the problems.

I recognize the seriousness and sensitivity of the situation. It is also clear to me, as I have listened to the able debate on both sides of the issue, that the problem is not simple. It is complex, to say nothing of the philosophical overtones I have referred to.

I give assurance to the extent that I can as ranking member of the full committee, that next year we will look further into this matter. We may have made a mistake in not taking full testimony before now on these proposals. It is true that a great many proposals were before us, and that we owed a primary responsibility to report a highway bill. Even though it is late in the year, we now have a bill before the Senate, and it is about to be acted on.

I believe we should have hearings on the subject, and take a fresh look at it. If the chairman of the committee, the chairman of the subcommittee, and the ranking member of the subcommittee agree with me, we will take a good look at this entire issue and see where we should go from there. At this point, however, I will oppose the amendment and support the committee bill.

Mr. BENTSEN. Mr. President, we will take a good look at it. We will provide the mechanism in this new piece of legislation to let the State of California or the State of North Carolina or any other State prove that they have a better method of saving lives and protecting people. If they do that, that is fine. The burden is on the Secretary of Transportation to prove that they have not done so.

Mr. BARTLETT. Mr. President, I am pleased to cosponsor the Helms-Cranston amendment to the highway bill, S. 2711. The amendment would prohibit the Department of Transportation from withholding Federal highway funds to States which do not enact mandatory motorcycle helmet laws.

My support for this amendment is based solely on the belief that the Department's current policy represents unfair and coercive Federal interference in the legislative affairs of the individual States.

The issue at stake in the Helms-Cranston amendment is not an issue of safety and protection for motorcycle riders. It is an issue of freeing State legislatures from Federal intrusion. This amendment would mark a reversal of the unsound practice of using Federal sanctions to force State legislatures to bend to the will of Washington.

HELMET LAW SANCTION REPEAL

Mr. ABOUREZK. I am very pleased to join with the Senator from California (Mr. CRANSTON) and the Senator from North Carolina (Mr. HELMS) and several other colleagues in sponsoring amendment No. 1198 to the highway bill. As the sponsor of S. 2252, which has the same goal as this amendment, I urge all Senators to support it.

The purpose of this amendment is to free States from heavy monetary sanctions which force them to pass mandatory helmet laws for motorcyclists. While I would encourage the voluntary use of helmets, I believe that a motorcycle operator or passenger should make that decision in the interests of safety, not just because there is a law.

The Transportation Subcommittee, headed by the Senator from Texas (Mr. BENTSEN) and the Public Works Committee, under the leadership of the Senator from West Virginia (Mr. RANDOLPH) have proposed a constructive change in the highway safety program. The committee bill, S. 2711 allows States to submit alternate safety programs and have Department of Transportation standards waived. The bill also changes the sanction from 10 percent of total highway payments to the State to 50 percent or more of highway safety payments, a much smaller and more relevant sum.

While I commend the committee for their attention and action on this matter, I believe that the change they propose does not go far enough. For one thing, a great deal of discretion is left in the hands of DOT. In the past, for better or worse, DOT has been inflexible in many areas of safety. I question whether they would waive the standards they themselves developed, and whether the uncertainty of Federal response would leave the States in the same dilemma they now face with the 10 percent sanction.

It is also true that the mandatory helmet law requirement, like the seatbelt interlock requirement which Congress overturned last year, rests on a questionable foundation. Failure to wear a motorcycle helmet is not a crime against society or against an innocent bystander. The only "victim" is the rider who has made a conscious decision to wear a helmet or not to wear one. I do not believe that laws which only protect an individual against himself or herself are well conceived.

One aspect of this controversy which has not been so greatly discussed is what I believe to be capricious enforcement by the Department of Transportation of section 402(a) which mandates highway safety programs. Testimony presented by Gene Wirwahn and Robert Rasor, representing the American Motorcycle Association before the House Public Works Committee earlier this year describes clearly some of the curious ways the Department of Transportation implemented the highway safety program in the area of motorcycle safety. I ask unanimous consent that a portion of the testimony of Mr. Wirwahn and Mr. Rasor be inserted in the RECORD at the conclusion of my remarks.

Mr. Wirwahn and Mr. Rasor also point out that available figures show that only one-third of 1 percent of money made available to States for highway safety was spent for programs of motorcycle safety during the years 1967–74. In fact only two States, Maine and Minnesota, have statewide motorcycle drivers' education programs. There has been no initiative from the Department of Transportation that would encourage States or individual drivers to promote education programs which would prompt drivers on their own to take safety precautions such as wearing a helmet.

It is not surprising to me that this overwhelmingly negative approach to safety has been controversial and in some ways unsuccessful. I hope that by supporting the Cranston amendment, the Senate will speak clearly on behalf of true highway safety promotion and against arbitrary prohibitions and restrictions on individual liberties.

I urge all Senators to vote in favor of the pending amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from the testimony of the American Motorcycle Association in support of H.R. 3689.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM TESTIMONY OF AMERICAN MOTORCYCLE ASSOCIATION IN SUPPORT OF H.R. 3689

In Section 402(a) Congress instructed the Secretary of the DOT to promulgate certain standards for the states to meet so as to insure a uniform highway safety program as follows:

Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform standards promulgated by the Secretary. Such uniform standards shall be expressed in terms of performance criteria. Such uniform standards shall be promulgated by the Secretary so as to improve driver performance (including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance. In addition such uniform standards shall include, but not be limited to, provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services.

In response, 16 highway safety standards were promulgated on June 7, 1967.

Highway Safety Program Standard 4.4.3. "Motorcycle Safety" (herein the Motorcycle Standard") is as follows:

PURPOSE

To assure that motorcycles, motorcycle operators and their passengers meet standards which contribute to safe operation and protection from injuries.

STANDARD

For the purposes of this Standard a motorcycle is defined as any motor-driven vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride within an enclosed cab.

Each state shall have a motorcycle safety program to ensure that only persons physically and mentally qualified will be licensed to operate a motorcycle; that protective safety equipment for drivers and passengers will be worn; and that the motorcycle meets standards for safety equipment.

I. The program shall provide as a minimum that:

A. Each person who operates a motorcycle;

1. Passes an examination or reexamination designed especially for motorcycle operation.

2. Holds a license issued specifically for motorcycle use or a regular license endorsed for each purpose.

B. Each motorcycle operator wears an approved safety helmet and eye protection when he is operating his vehicle on streets and highways.

C. Each motorcycle passenger wears an approved safety helmet, and is provided with a seat and footrest.

D. Each motorcycle is equipped with a rearview mirror.

E. Each motorcycle is inspected at the time it is initially registered and at least annually thereafter, or in accordance with the State's inspection requirements.

II. The program shall be periodically evaluated by the State for its effectiveness in terms of reduction in accidents and their end results, and the National Highway Safety Bureau shall be provided with an evaluation summary.

It should be noted that the Motorcycle Standard requires more than just a helmet law. However, the DOT's efforts as regards the implementation of the motorcycle standard gives the distinct impression that it is solely a helmet law standard. At the present time, 47 states have enacted a helmet law under threat of highway safety funds being withheld. Only last week the first sanction hearings held on the Motorcycle Standard were begun by the DOT because Utah and California had not enacted a helmet law. A similar hearing is scheduled for Illinois on September 30, 1975.

At the present time eight states have not enacted legislation requiring a special driver's license or an endorsement for motorcyclists. Thirteen states are still without eye protection laws. Five do not require passenger seats and seven states have not enacted legislation making passenger footrests mandatory. In seven states it is not necessary to have a rear-view mirror on a motorcycle and nineteen states do not require any inspection of the motorcycle. Yet these states are not being sanctioned.

If the DOT believes in helmets as strongly as its enforcement efforts indicate, it would follow that it would have spent considerable time investigating helmet quality standards, acceptance of use of helmets and the effects of their use prior to, or immediately following, the promulgation of the Motorcycle Standard. Such has not been the case, as revealed by the Department's own actions.

The Motorcycle Standard was issued June 27, 1967. Immediately, federal pressure began to be applied to the states to enact helmet laws. Yet it was not until August 20, 1973, that the DOT issued any standard for motorcycle helmet construction. Six years had passed and 43 states had enacted legislation in accordance with the Motorcycle Standard's dictate for helmet laws. Yet the citizens of those states were without any federally issued criteria for quality of the helmets which they were forced to wear.

Even today there is only one headform size available to test helmets to the federal standard. Thus, while the average size helmets can be tested, about one-half of the helmets manufactured, those larger and smaller, for example children's helmets, go untested.

Only recently has the DOT begun to test helmets to its standards. However, it does not distribute the results of those tests. Thus, the motorcyclist has absolutely no guarantee that the helmet he purchases with the "DOT Standard" sticker attached actually complies with that standard.

Mr. RANDOLPH. Mr. President, there has been considerable controversy to regulations promulgated under authority of the Highway Safety Act which require State laws mandating motorcyclists to wear helmets. The committee received communications from numerous individuals and organizations endorsing the repeal of this requirement, one of 18 standards issued by the National Highway Traffic Safety Administration.

The bill as reported by the committee modifies the highway safety program. It provides that States can propose alternative safety measures different from the Federal standards. The Secretary of Transportation must grant a waiver from the Federal standard unless he can demonstrate that the alternative does not have potential for reducing deaths, injuries, and damage equal to that which would result from using the Federal standard.

Mr. President, this provision grants to the States considerable flexibility to adjust highway safety programs to local needs. It also provides initiative for developing new and innovative approaches to highway safety.

Finally, while there is a considerable difference of opinion as to the value of motorcycle helmets, I personally am convinced that they can be useful. The provisions recommended by the committee permit adjustment in the present approach to helmets, but adoption of this amendment would amount to a congressional declaration that helmets are of no value. I am not prepared to make such a declaration.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Florida (Mr. Chiles), and the Senator from New Mexico (Mr. Montoya), are necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

Mr. GRIFFIN. I annnounce that the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), the Senator from Kansas (Mr. Scott), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Weicker), would vote "yea."

The result was announced—yeas 52, nays 37, as follows:

[Rollcall Vote No. 583 Leg.]

YEAS—52

Abourezk
Bartlett
Beall
Bellmon
Buckley
Byrd,
Harry F., Jr.
Cannon
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Fannin
Garn
Glenn
Hansen
Hart, Gary
Haskell
Hatfield
Helms
Hollings
Hruska
Jackson
Johnston
Laxalt
Leahy
Mansfield
McClure
McGee
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Roth
Stevens
Stevenson
Talmadge
Thurmond
Tower
Tunney
Williams

NAYS—37

Baker
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Dole
Eastland
Fong
Ford
Gravel
Griffin
Hart, Philip A.
Hartke
Hathaway
Huddleston
Humphrey
Inouye
Kennedy
Long
Magnuson
McClellan
Mondale
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stone
Symington
Taft
Young

NOT VOTING—11

Allen
Bayh
Brock
Chiles
Goldwater
Javits
Mathias
Montoya
Pearson
Scott,
William L.
Weicker

So Mr. Cranston's amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senate will be in order. Will the Senators kindly clear the aisles and clear the well?

Mr. McCLELLAN. Mr. President, I have two amendments at the desk and I call up either of them and ask that the clerk report.

The ACTING PRESIDENT pro tempore. Will the Senators kindly clear the well? The Senate is not in order.

The clerk will report the first amendment.

The legislative clerk read as follows:

On page 43, after line 17, insert the following:

To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in annual appropriation Acts.

(At this point Mr. Mansfield assumed the chair.)

Mr. McCLELLAN. Mr. President, this amendment, together with the next one that I shall call up, which is at the desk, is of a technical nature. It is designed to make it clear that all programs financed in the committee bill and floor amendments from the general fund shall only be made available to the extent provided in annual appropriation acts.

This amendment, together with the next one, Mr. President, that I shall call up are fully consistent with the requirements of section 401(a) of the new Budget Control Act.

I have discussed these amendments with the floor manager of the bill. They are technical amendments. These provisions are in the House bill, and this would just avoid their being in conference, if accepted.

Mr. BENTSEN. Mr. President, the floor manager of the bill has no objection to the amendment.

Mr. BAKER. Mr. President, will the Senator yield briefly? It is my understanding that this proposed amendment applies to general funds, not highway trust fund obligations.

Mr. McCLELLAN. That is right.

Mr. BAKER. And it has to do with the requirement that contract authority, that is obligational authority, for future years be subject to appropriations limitations when those amounts are——

Mr. McCLELLAN. Out of general funds.

Mr. BAKER. Not out of the highway trust funds.

It seems to me that all this amendment does in any event is conform to the requirements of the Budget Act. That is my understanding; is it correct?

Mr. McCLELLAN. It does that, and it conforms to the same provisions as are in the House bill.

Mr. BAKER. I have no objection.

Mr. STAFFORD. Mr. President, I have no objection, and I am prepared to accept the amendment.

The PRESIDING OFFICER (Mr. Burdick). Is all time yielded back?

Mr. McCLELLAN. I yield my time.

Mr. BENTSEN. I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I call up my next amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. McClellan) proposes an amendment.

On page 47, after line 24, insert the following:

To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in annual appropriation Acts.

Mr. McCLELLAN. Mr. President, everything I said about the amendment I previously offered on page 43 of the bill applies to this amendment. It is necessary in two places of the bill, two separate chapters of the bill.

Mr. BENTSEN. Mr. President, the floor manager of the bill has no objection to the amendment. He discussed it with the distinguished chairman of the Appropriations Committee.

Mr. STAFFORD. I understand funds in the trust fund are not affected by this amendment.

Mr. McCLELLAN. They are not affected.

Mr. STAFFORD. For the minority we are prepared to accept the amendment.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. STEVENSON. I want to commend the committee and the distinguished managers of the bill for moving again, as they did in 1973, to expand the scope and role of the cities.

The PRESIDING OFFICER. Is the Senator calling up an amendment?

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from Illinois on the bill.

Mr. STEVENSON. I want to commend the managers for continuing to expand the scope of city planning and construction with respect to both interstate funds and urban system funds.

In this bill a city can go ahead on route and project selection without the concurrence of the State if it puts up 50 percent or more of the local match; and the 1973 act provided that urban segments of the Interstate System shall be built where a municipality enters into an agreement with the Secretary of Transportation to pay 100 percent of the non-Federal matching funds—in that case, 10 percent of the total project cost.

(At this point Mr. Stone assumed the chair.)

My question to the distinguished managers of this bill is, What happens if, notwithstanding the intent of Congress in such situations, the States simply do not cooperate?

What happens if, for example, with respect to interstate systems, the State simply fails to construct the urban segment notwithstanding the fact that the city has entered into the appropriate agreement with the Department of Transportation, including a commitment to pay the 100 percent of the State-local match? What happens under the new provisions with respect to the urban system funds if the State simply refuses to participate in the comprehensive planning process that is envisioned by this act? Is it intended that this effort to enlarge the ability of the cities to govern their own transportation futures be negated by uncooperative States and, if that is not the intent, what can be done about it?

What, more particularly, should the Department of Transportation be doing in order to carry out this intent? What is the intent of Congress?

Mr. BENTSEN. I would say to the distinguished Senator that although there is no program of final arbitration that has been provided in this or any other specific piece of legislation, this committee intends that the Secretary do all within his power within the law to move the State and the cities to agreement on stymied projects.

Mr. STEVENSON. I appreciate that, and ask the Senator is it the intention of the committee to permit a State to negate what, on the face of it, would appear to be the clear intent of Congress, namely, to permit a city to go ahead with the construction of a segment of the Interstate System if it comes up with the local match? That is not the intent, is it, to provide for such local initiative, on the one hand, and take it away on the other?

Mr. BENTSEN. There is no question but what Congress showed its intention in the 1973 act and in this bill to move these projects to completion.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. STEVENSON. Will the Senator yield 1 more minute?

Mr. BENTSEN. I have run almost out of time.

Mr. STAFFORD. Mr. President, I am glad to yield a minute off the bill to the Senator from Illinois.

Mr. STEVENSON. I thank the Senator.

Would the managers then say that the intent of the legislation is clear in expanding the cities' decisionmaking role, and that the Department of Transportation, and the courts, if necessary, ought to do all they can to assure that this intent is carried out?

Mr. BENTSEN. I think that is correct, and that the Secretary has an obligation to do all within his power under the law to help move these projects ahead.

The ACTING PRESIDENT pro tempore. The Senator's 1 minute has expired.

Mr. STEVENSON. I thank the Senators.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum charged to my time on the bill.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the Senator from New York (Mr. Buckley).

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, we are now working on some language that will only take about 3 more minutes.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. Buckley) proposes an amendment.

The amendment is as follows:

On page 5, line 25, strike the words "construction or".

On page 6, line 5, strike the words "construction or".

Mr. BUCKLEY. Mr. President, the effect of this amendment, which I have discussed with the Senator from Iowa (Mr. Culver), who originally introduced the language that this would affect, would be to limit the use of the funds authorized for the Great River Road project to that of reconstructing existing roads. I offer this as a substitution for language that I had earlier introduced which would have stricken the entire provision for the Great River Road.

I had urged striking the entire provision because the current understanding, as reflected among other things by a summary of that provision prepared by the Budget Committee staff, was that we are establishing the opening wedge for a huge highway program that would cost in excess of $1.6 billion, one that many people were projecting as a dual highway system, with highways on each side of the Mississippi River having four lanes, and so on.

After conversations with Senator Culver who, while in the House of Representatives, introduced the initial legislation back in 1973, I understand that these fears are not based on fact and are not based on his intentions. We are prepared to reaffirm what the intention is with respect to the Great River Road through colloquy at this time.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. CULVER. Mr. President, I commend the Senator from New York on his amendment. I believe the introduction of his proposal affords a most appropriate and necessary occasion for the Senate to clarify the current ambiguity surrounding the congressional intent in originally authorizing the Great River Road Project.

The Senator from New York shares, as I do, the concern that this proposal may be interpreted to invite the development and the construction of a massive new traffic corridor of 3,000 miles from the Canadian border to the Gulf of Mexico.

This is clearly undesirable in the national interest, and it flies fundamentally in the face of the clear congressional intent at the time of the original authorization for this project.

Mr. President, what was originally envisioned in the initial enactment of this proposal, what is certainly the strong intention of the Senator from Iowa who has continued his interest in this project, is that we should have anything but such a traffic and highway development in this region of America.

Rather, what is envisioned here is to afford an opportunity for the Federal Government, which is uniquely positioned, to bring about a cooperative effort which the 10 States that border the Mississippi River desperately seek so that we might preserve the very unique historical and environmental aspects of this great part of our country.

It is hoped that these funds, these relatively modest funds, can go a long way toward the development of a project using the existing roadbeds, where these now unsafe roads can be upgraded in their current right-of-way areas, additional funds can be used for the purchase of scenic easements along the road, and the acquisition of areas of scenic, historic, or scientific importance; and modest amounts can be made available for the construction of rest facilities and scenic outlooks in those areas.

Mr. President, this is the original intent of this legislation.

I would also say, Mr. President, that it seems to me the step we are taking this afternoon is essential if we are going to preserve this region in its present relatively primitive state and to guard against unsightly blights being introduced in the form of indiscriminate development such as hotdog stands, filling stations, and so forth, which will fail to protect for future generations the very unique historical and scenic advantages of the region today.

I again express my appreciation to the Senator from New York who I feel has provided an extremely useful service in bringing a greater degree of clarity so far as what the congressional intent is, and putting to rest any false notions that this Congress or this Member of the Congress, and those who have joined with me on previous occasions in support of this proposal, has ever contemplated or would ever support a development of a more ambitious character with all the attendant adverse consequences contrary to the purposes which were originally envisioned in this proposal.

I again thank the Senator from New York.

I would hope, Mr. President, following adoption of this amendment we could give this concept further clarification in the conference so there is no longer this misunderstanding within the Department of Transportation and the Congress as to the modest but crucially valuable objectives which are at the heart of this proposal.

The idea of the Great River Road is not a new one and has been discussed since the 1930's. Former Secretary of the Interior Harold Ickes originated it in 1938 as a parkway from Lake Itasca, Minn., to the Gulf of Mexico. A study published in 1951 by the National Park Service and the Bureau of Public Roads stated that:

> The development of the Great River Road would directly benefit the ten States which comprise a large section of the country, but the Mississippi River possesses national interest and a parkway along it would have national significance.

Construction funds for the Great River Road in the amount of $90 million were first authorized in the 1973 Federal-Aid Highway Act. Since that time there has been a serious misunderstanding about the purpose and scope of the Great River Road program, and as a result of this misunderstanding none of these funds have ever been obligated by the administration. I want to emphasize that the Great River Road is not to become a super highway. This would deface the essential environmental and esthetic values we are trying to preserve along the banks of the Mississippi River. Frankly, most of the road is already in place. These sections will be improved and the new sections will eventually be built regardless of the funds provided in the 1975 Federal Aid Highway Act and those previously authorized. The Great River Road will utilize existing roadbeds but these right-of-ways will be improved in order to prevent unsightly development.

Specifically, the Mississippi Valley is one of America's most beautiful areas and is rich with history and cultural significance. The Mississippi River Valley includes the Superior and Chippewa National Forests, Mammouth Cave National Park, the Effigy Mounds, and numerous national monuments. These attractions within easy driving distance of millions of Americans on weekend trips, and the Great River Road will provide easy and safe access to these sights for the American traveler. In this regard, a 1972 study by the Department of Transportation reveals that in 1969 almost 11.6 billion automobile trips were made for recreation.

The original intent of Congress in authorizing this Great River Road program in 1973 was to provide incentives for an orderly development of the mileage, with emphasis on historic and scenic values. Otherwise, these miles will be developed indiscriminately. As the 1951 report by the National Park Service and the bureau of public roads concluded, it is doubtful that such preservation will be undertaken unless strong Federal interest is shown. It was never intended that this program would provide for the development of a road on both sides of the river or that it was to be a transportation corridor comparable to an Interstate Highway. Rather, it is to be a two- or four-lane country road criss-crossing the river many times. Its purpose is to provide for the acquisition of areas of historic, archeological, or scientific importance and the construction or reconstruction of roadside rest areas, recreational facilities, and scenic viewing areas, and the upgrading of existing roadbed.

After repeated delays, we can now move forward with the Great River Road and begin to make it a reality.

Mr. BUCKLEY. I thank my friend from Iowa.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. BUCKLEY. Yes.

Mr. RANDOLPH. Mr. President, I am gratified that the Senator from Iowa (Mr. Culver) and the Senator from New York (Mr. Buckley) have arrived at a mutually satisfactory agreement with respect to provisions of the bill concerning the Great River Road. I believe that the modification of Senator Buckley's amendment will permit the continued orderly development of the Great River Road while alleviating some of the concerns he has expressed.

The funds authorized in this bill for the Great River Road will be utilized to improve existing highways in a manner consistent with the overall objectives of that road system. This highway system extends along our greatest inland waterway. This route has been used for hundreds of years to transport people and to facilitate commerce and it was important to the interior of our Nation. It is proper, therefore, that the Great River Road be constructed in this valley that is both historic and scenic.

Mr. President, I am a strong supporter of scenic and recreational highways. I believe it is essential that the people of our country, particularly those who live in congested urban areas, have the opportunity to enjoy the scenic beauty of the countryside. In my own State, there is now under development the Highland Scenic Highway which will open up heretofore inaccessible areas of the Monongahela National Forest. Both this highway and the Great River Road are recreational roads of that type that I believe should be further developed in our country. This highway along the Mississippi carries with it a sense of history and it permits the enjoyment of the beauty of that region.

It has been nearly 40 years since the idea of the Great River Road was conceived. In that time, progress has been made in the 10 States bordering the Mississippi River where it is designated. The committee included funds in the bill to continue this work and the agreement of Senator Culver and Senator Buckley will facilitates their use in a proper manner.

I would like to ask both the Senator from New York (Mr. Buckley) and the Senator from Iowa (Mr. Culver), if they are saying that there is a need for a scenic road, not a large highway, through the area of beauty and strength that this road would traverse? Is that correct.

Mr. CULVER. Mr. President, if the Senator will yield, that is certainly the understanding of the Senator from Iowa.

Mr. RANDOLPH. He does feel that there are times when the scenic area of that section need to be made available to people from cities, people from metropolitan areas, to have an opportunity to see the grandeur of such a section? Is he thinking that in doing that, we must be very careful not to destroy the very purpose that he has, and that I think all Senators would have with reference to this matter?

Mr. CULVER. I think the distinguished chairman of the committee has expressed the purpose in this proposal most accurately and eloquently.

This is an idea that was originally proposed in 1938 by Harold Ickes. It has been an effort, I think, ideally to preserve a very rich cultural area of America, which today is remarkably unique in the extent to which it has not suffered a great deal of blight and disfiguration, and which I think also has a very rich heritage that can be shared by more Americans more safely and more fully if Congress, in its wisdom, determines to support this project.

I thank the chairman.

Mr. RANDOLPH. I commend the Senator from New York (Mr. BUCKLEY) and the Senator from Iowa (Mr. CULVER), the Senator from Texas (Mr. BENTSEN), and the Senator from Vermont (Mr. STAFFORD) for working for what I am sure is realistic, and will be very much in the interests of this project.

Mr. BUCKLEY. Mr. President, I thank the chairman of the committee. I would say at this stage that I frankly do not know enough about the thinking in terms of scenic and other similar considerations to cast any final judgment on that. I understand, however, that there will be ample opportunity to focus on those aspects, because current authorizations and appropriations would not, as described by the Senator from Iowa, enable the entire system to be achieved. But at least we know that the funds we are talking about now would be limited to these particular uses: as I recall, former Representative Blatnik, at the time of his original introduction, spoke in terms of two-lane highways or four-lane country roads.

Therefore, we are not talking about something ambitious at all in terms of modern highway construction.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BUCKLEY. Yes.

Mr. McCLURE. I think perhaps one of the reasons for the colloquy lies in restating the purposes, because the Public Works Committee and the highway bill would ordinarily be thought of in terms of providing transportation.

I think probably the people who conceived this project and have brought it this far are thinking less in terms of the transportation aspects and more in terms of the preservation of the area than of transportation. So the presence of this roadway within the transportation bill is perceived by many to be something of an anomaly.

It was not long ago that we were finding ways around the restrictions on the ability of the Federal Government to build highways for a special purpose within a State. We conceived of the idea of parkways, and we built parkways which were really transportation corridors, using the parkways as an excuse to do something we could not otherwise do. I think we are now doing in reverse something similar, where we are building what is really, in essence, a preservation plan under the guise of transportation.

I think when we do that, we must carefully limit the scope of the project, or else it will be converted from its original plan of the preservation of the area with the provision of a scenic roadway or access for the people to see that area into something that might be conceived by others as this parallel four-lane throughway down both sides of the Mississippi which the Senator from Iowa has so rightfully said is exactly the opposite direction from that in which we seek to go.

I would hope that perhaps having thus limited but kept alive the progress in doing this, the Public Works Committee may wish to take a further look at it in authorizations for next year, in terms of the scope and the plan, and to set out a little bit further exactly what is intended and what the ultimate involvement of the Federal Government will be. The Senator from New York very rightfully pointed out that the Budget Committee, in looking at this matter in the context of the transportation bill, readily conceived it as being a transportation plan, and the estimates then ballooned to $1.6 billion of highway construction.

It may be that if we get into the scenic easements on what are essentially private properties for an extended distance up and down the Mississippi River, we may indeed get into costs of that kind, without really having intended to do so. I think the scenic easement is a very useful device, but it is a troublesome one in application, in which the costs are very difficult to estimate in advance. All of our history and experience, as limited as it has been, would tell us that we should proceed with a great deal of caution when we embark upon a plan of massive acquisition of scenic easements, because the cost does have a way of getting far out of line with the original estimates.

I would hope that perhaps before we make a future authorization for the appropriations of money from this highway trust fund for this purpose, we will at least attempt to set the scope of the plan, with some examination of the cost to the taxpayers of this country of what the ultimate development might be.

I thank the Senator from New York for his initiative in bringing this matter to the floor, and I thank the Senator from Iowa for his understanding and his contribution in an attempt to reach a solution to the problem which I think we would all seek.

Mr. BUCKLEY. Mr. President, I thank the Senator from Idaho, and also I wish to express my appreciation to the Senator from Iowa for his ability to work together on this proposal, to come up with, I think, a mutually satisfactory solution.

The ACTING PRESIDENT pro tempore. The 15 minutes of the proponents have expired. The Senator from Texas has 15 minutes.

Mr. BENTSEN. Mr. President, I am willing to accept the amendment. I yield back the remainder of my time.

Mr. STAFFORD. Mr. President, we are prepared to accept the amendment also.

The ACTING PRESIDENT pro tempore. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

AMENDMENT NO. 1203

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1203, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from New York (Mr. BUCKLEY) proposes an amendment numbered 1203.

Mr. Buckley's amendment (No. 1203) is as follows:

> On page 6, line 24, insert the following in lieu of the present section 104(b)(1):
>
> (b)(1) For each of the fiscal years 1977 and 1978, any State, including the State of Alaska, which has not completed Federal funding of the Interstate System within its boundaries shall receive at least one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5) but not more than that amount which is required to complete funding of the Interstate System in that State. In order to carry out this subsection, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978.

Mr. BENTSEN. Mr. President, may I interrupt for a unanimous-consent request?

Mr. BUCKLEY. I yield.

Mr. BENTSEN. I ask unanimous consent that it be in order to order the yeas and nays at this time on passage of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Is there a sufficient second?

Mr. BENTSEN. Is the Senator from New York also requesting the yeas and nays on this amendment?

Mr. BUCKLEY. Yes.

Mr. BENTSEN. I include that in the request.

The ACTING PRESIDENT pro tempore. Without objection, the yeas and nays may be ordered with a single show of hands.

Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered on the amendment of the Senator from New York and on passage of the bill.

Mr. BUCKLEY. Mr. President, the effect of this amendment may be stated briefly as follows: It would give the minimum one-half percent apportionments for interstate highway construction to only those States that are constructing interstate highways.

As the law is now and as it is continued in the Highway Act before us now, the minimum apportionments for interstate construction are to be given to States even after they finish construction of their interstate systems.

This is a use of Highway Trust Fund moneys that has an adverse effect on the amount of funds available for interstate highway construction.

Let me stress that my amendment will not in any way alter the making of minimum apportionments to States that are still constructing interstate highways. They will continue to receive their minimum apportionments as before, up to the time they finish their interstate highway construction funding.

May I explain for a moment how the present system of Federal interstate funding operates and how the minimum apportionments fit into the operation.

Periodically, as required by law, the Federal Highway Administration comes up with an estimate of the cost of completion of all designated interstate highway segments in the United States and an estimate of the cost to complete the interstate segments in each State. Then a ratio is taken of the State cost to the national cost and the result is a decimal factor. The table of costs and factors is approved by Congress and Congress mandates that the cost estimates and apportionment factors in the table be used for specified fiscal years to determine State shares of interstate funds.

Applying the approved apportionment factor for each State to the total amount of funds authorized by Congress for interstate funding yields the amount of money available to each State for interstate construction obligations.

That amount available is credited to each State as soon as the annual apportionments are made—usually 6 months in advance of the fiscal year for which funds are apportioned. This credit amount is available immediately to the State for obligation for interstate construction projects and remains available for obligation during the interval before the beginning of the relevant fiscal year, during the fiscal year, and for 2 years thereafter. Any credited funds which remain unobligated at the end of that 3-year period lapse and are no longer available to a State.

The minimum apportionment of one-half percent of national interstate funding to each State guarantees that at least $16,250,000 will be credited to each State each year for interstate construction obligation.

Crediting a State with $16,250,000 per year when otherwise, because the State is near completion of its interstate construction and thus would receive a smaller apportionment through the apportionment-factor method, puts a greater amount of money at the hands of the State sooner. Thus construction which might have taken, say, 5 years can be finished at a higher level of construction activity and funding in, say, 2 years.

The rationale for this is the economics of scale. The State uses its labor and equipment resources intensively for a shorter period. It is thought that a shorter program is less costly to administer than a longer program which produces the same net output of constructed highways.

The problem attacked in my amendment is: What do you do under the one-half-percent apportionment provision as presently stated in the law and continued in the bill when a State accumulates credits for interstate construction which exceed the Federal share of the cost of the State's uncompleted interstate mileage?

At present and under S. 2711 that credit excess becomes available after completion of interstate funding in a State for expenditure on noninterstate projects. The funds must be used, however, only on highways that are part of the primary or community service systems. Funds are transferred from a State's interstate account to its primary community service highway accounts to be obligated for construction under the usual procedures for obligation.

Furthermore, not only can States transfer credited amounts out of their interstate accounts after their interstate construction has been completed but they also get a new source of funding credits for their primary and community service systems accounts. The $16,250,000 that States would have had apportioned annually for interstate construction funding will continue to be apportioned but it will be paid directly into the accounts for primary and community service construction in addition to those amounts which under present law and the bill would be apportioned to those States for those same programs. In brief, States will continue to receive their interstate apportionments after interstate construction has ceased in those States and this funding will be a bonus to be added to the usual apportionments for primary and community service highways made to all States.

During the deliberations of the Committee on Public Works Transportation subcommittee, I brought up the issue of the one-half percent minimum interstate apportionment provision of the present law due to be continued under this bill. By that provision an additional sum is authorized to supplement the apportionment to States under the usual formula. That usual formula is based on the ratio of each State's cost to complete its interstate system compared with the cost to complete the whole system, nationwide.

The reason advanced in the past for the minimum apportionment formula has been that under the normal apportionment rule, each State's share of interstate funds would gradually diminish as it neared completion of its interstate mileage. This would mean that annual State funding levels would decrease near completion to such low levels that it would not be feasible to carry out a construction program at commensurately reduced levels of construction activity.

It has been argued that the more sensible approach would be to allow each State to fund its interstate program at a sustained higher rate of construction up to completion, at which time construction funding for interstates would be terminated.

This reasoning begs the point of my criticism; namely, that the one-half percent minimum apportionment provision in the law and in S. 2711 continues interstate funding to some States which no longer have interstate mileage to construct.

It makes sense to apportion interstate funds to maintain programs at feasible levels of construction activity and expenditure. It does not make sense to continue funding after the reason for funding no longer exists.

I raised this issue in 1973 when we last considered the highway act. I noted at that time that the Interstate System was established as a national system of highways designated pursuant to established criteria and having a definite limit in terms of mileage. The interstate program was not established so that it could be perpetuated or supplanted by a Federal-to-State pipeline of funds after interstate construction had ceased.

I would also say that this provision penalizes and slows down interstate construction in those 48 States which still have interstate mileage to complete.

Furthermore, as more and more States complete their systems, the amount of money required to fund the minimum apportionments will grow—thus taking more money out of the Highway Trust Fund and leaving even less for those States still finishing their systems.

Some States which have had to overcome local environmental, social, and planning difficulties have had a relatively harder time using their Federal funds than other States. Under the minimum apportionment formula, the States which have had the easiest time building interstate highways will be among those that will benefit under this provision at the expense of all other States.

Two years ago on the floor I cosponsored an amendment which would have limited the one-half percent minimum interstate apportionments to those States that still had interstate mileage to complete. The Senate agreed to a substitute amendment incorporated into Public Law 93–87 expressing the sense of the Congress that the minimum apportionments for interstate highway construction are "an interim provision to be reconsidered at the expiration of this authorization."

I would ask our colleagues to reconsider now this inequitable and unwise provision insofar as it apportions funds to States that have completed their interstate systems or have no interstate mileage to construct.

This provision serves no national policy objective, nor does it apportion funds on the basis of proven local needs. It apportions then according to the arbitrary fact that a State has no more interstate mileage to complete. This is not a relevant funding criterion.

There is no consideration expressed in the provision for the equities of the various States' competing claims for Federal highway funding.

Ostensibly the provision apportions funds for interstate programs; but in reality, in the case of States without interstates to construct, it provides windfall funding for projects having no systematic connection with the Interstate System.

This provision penalizes States trying to complete their interstate programs by decreasing the funds in the Highway Trust Fund and thus decreasing the funds available to those States.

Finally, this provision diverts funds away from any programs which this and every future Congress should consider in response to proven needs, needs answerable only by increased expenditure on noninterstate modes of transportation.

For these reasons I ask support for my amendment to the Federal Aid Highway Act, an amendment that will restrict the operation of the minimum apportionment provision to those States that have not completed their interstate funding.

Mr. President, I reserve the remainder of my time.

Mr. BURDICK. Mr. President, in its General Statement on the Federal-Aid Highway Act of 1975, the Committee on Public Works outlined the purpose of the bill now before us. The committee proposal is a 2-year extension of the highway program which "will carry the country through a period of uncertainty without disrupting highway programs in the States and contributing to additional unemployment in the hard-pressed construction industry."

The amendment offered by Senator BUCKLEY strikes at this very purpose.

Further, the committee bill, although an interim measure, "concentrates on giving added flexibility to the States." Senator BUCKLEY's amendment would reduce that flexibility for some States while retaining it for others.

Finally, the committee bill seeks to expedite completion of the Interstate System. Mr. BUCKLEY's amendment, while ostensibly in furtherance of that goal, actually does nothing to speed interstate construction and does everything to penalize those States which are moving toward completion of their segments. How does Senator BUCKLEY propose to do all this?

Present law provides that no State shall receive less than one-half of 1 percent of all interstate funds apportioned. If the apportionment exceeds interstate needs, as it will in Alaska, Delaware, Massachusetts, Nebraska and North Dakota, during years covered by the committee bill, the money can be used to help fund other needed road projects. Senator BUCLEY has suggested that this is unfair and has offered an amendment which would restrict the minimum interstate apportionment to those States which have completed interstate mileage or are about to complete them. As the State moves toward completion of its interstate, under the Buckley approach, the funds it receives will diminish until it finally receives no money at all.

In support of his amendment, the Senator from New York suggests that the minimum apportionment provision penalizes States striving to complete their Interstate programs by decreasing their share of interstate funding. This just is not so. The Federal-Aid Highway Act of 1973 authorizes the interstate program at a level not to exceed $3.25 billion. The apportionment formula in the proposed act of 1975 uses this base amount. The minimum apportionment language which causes Senator BUCKLEY concern has a separate authorization, of $75 million in fiscal year 1977, and $125 million in fiscal year 1978.

Therefore, unless Senator BUCKLEY wishes to increase the interstate authorization set by the 1973 law, he will not aid States striving to complete their interstate component. He will certainly not do so by limiting the minimum apportionment.

Second, Senator BUCKLEY suggests that there is some sort of subterfuge involved in the present program. In a letter he sent to his colleagues he writes:

> This provision apportions funds ostensibly for Interstate construction but in reality to be expended on projects having no systematic connection with the Interstate program.

I personally have difficulty in understanding this argument—unless the Senator is suggesting that sponsors of the 1973 language did not make it clear that the minimum apportionment could be used for other transportation needs. But this point was made clear on the Senate floor during the course of debate on the act of 1973 when I said:

> The provision in question is intended to serve as a logical transition step to insure that the . . . states which complete their Interstate mileage within the life of this bill are not penalized for early completion. It is also intended to provide needed funds for urban, primary and secondary road projects which were put on the "back burner" during the Interstate construction period.

My colleague from New York has also suggested that the minimum apportionment formula serves no national policy objective. Again, this is not accurate. In 1956, the year marking the beginning of the interstate program, it was contemplated that all States would complete their interstate mileage simultaneously. If every State completed at the same time, Congress reasoned, there would be a smooth transition from the interstate construction period to post-interstate highway programs. Unfortunately, several years ago it became apparent that the goal of simultaneous completion would not be attained. This disruption was caused partially by the addition of extra mileage to the interstate system, Presidential impoundments, and other difficulties in the States. When the goal of simultaneous completion was lost, the need for some sort of transition program for completing States became vital.

Public Law 91–605, the Federal-Aid Highway Act of 1970, asked the Secretary of Transportation for a report on his recommendations for the apportionment of funds and matching requirements for work on Federal-aid highways in States which have completed, or are nearing completion, of construction on interstate system mileage located in their State, and for all States after completion of the interstate system. This report, which was due January 1, 1972, never addressed the problem.

Again, in 1972, the Senate recognized the need to establish a transitional highway program. The committee report for the proposed Federal-Aid Highway Act of 1972 read:

> Because several states have nearly completed their Interstate System construction, they soon will begin to receive negligible Interstate apportionments. The reduction of Interstate authorizations and the companion increase of authorizations for other programs should facilitate transition to the post-Interstate period and enable those states to continue a meaningful highway program.

No State would have actually completed their Interstate System within the life of the 1972 proposal which only provided authorizations through fiscal year 1975. Thus, the Senate Public Works Committee certainly did not view the proposed act of 1972 as providing a final answer, but rather a first step toward helping the States switch to post-interstate construction.

In 1973, the Senate had before it a 3-year bill. It was apparent that three States, North Dakota, Nebraska, and Delaware, would be completing their mileage within its authorization period. The minimum apportionment formula, which Senator BUCKLEY now wishes to strike, assured a transition program for the completing States. It was accepted, subject to restudy during the formulation of the next highway bill.

This bill, S. 2711, is the next highway bill. The need for a transition program is now more apparent than ever. Another State, Massachusetts, will be completing its interstate mileage in the course of the bill's life. Other States, like South Dakota, will be moving very close to completion. The quotation from the Senate report at the beginning of my statement indicates that Congress has not yet decided how to approach the highway program in the coming years. The bill before us is an interim measure, like the one enacted in 1973. In recognition of the need for a longer transition program for completing states, the Department of Transportation recommended that the minimum apportionment language, with the flexibility to transfer the funds to other highway programs, be retained. It was in the bill sent to Congress by the President and is in S. 2711 now before us. Surely this history demonstrates that national policy is being served by the minimum apportionment provision.

Finally, Senator BUCKLEY suggests that the apportionment formula is arbitrary, having no relation to proven local need or to the needs of various States claiming money from the highway fund. I think that it should suffice to say that local road projects are literally starving for funds. Hearings held by the Subcommittee on Transportation in my own State of North Dakota this spring gave the committee ample evidence of the proven highway needs in several States. This evidence was bolstered by hearings in Washington, and further, if the point needs further support, by the report on "Transportation in Rural America" issued this year by the Senate Committee on Agriculture and Forestry.

But even more relevant to Senator BUCKLEY's charge, the need for road money, is particularly acute in States which have put everything they could into completion of the Interstate System, and at the same time ignored the A and B roads, which they could have done had they known this was going to happen.

Since the interstate program was authorized in 1956, State Highway Department officials have been told by Congress and by the various administrations that completion of the system was to be their highest priority—this in order to bring the benefits of these roads to the traveling public; to avoid the increased costs which are the result of delay; and to insure that the system would be completed within the life of the legislation established to fund it. For example, Mr. Rex M. Whitton, Federal Highway Administrator of the Bureau of Public Roads, told a meeting of the American Association of State Highway Officials in 1962:

> During the past few months, on several occasions, I have stressed to all state highway departments the importance of completing usable segments of the Interstate System . . . I have also asked that each state analyze its position with respect to its progress on the Interstate System and determine what action was needed to bring the program on schedule . . . I am concerned about those states that have not yet started to move at a rate which will keep them abreast of the program time . . . The rate of increase needed to accomplish the task in these states is obviously great and immediate attention to the problem is mandatory.

The administration told the States, "Make this a priority." We did so in North Dakota and the other States, and we made our other A and B roads the least priority, to our detriment.

The mandate was clear—to move swiftly toward early completion of the Interstate System.

To achieve this goal some of the States, now to be affected by Senator BUCKLEY's amendment, obligated far more money to interstate construction than they did for other highway programs. I noted in the debate on the 1973 highway bill that—

> Delaware has obligated 81 percent of its apportionment for Interstate, but only 34 percent of its urban, primary, and secondary money. Nebraska has obligated 39 percent of its Interstate funds, which is still above the national average of 21 percent, but has only obligated 11 percent of its urban-rural money. For North Dakota the figures are 57 percent and 41 percent respectively.

The situation has not changed.

Now it appears, at least if Senator BUCKLEY's amendment is adopted, that some States have moved too fast for their own good. North Dakota, a State that has every reason to be proud of its work on the Interstate System, will have worked its way out of about 40 percent of its highway budget. Looking at the problem from the point of view of Senator BUCKLEY's amendment, if North Dakota had procrastinated for 3 or 4 years or until Congress comes up with the necessary decisions as to the future of the Federal highway program, my State could now be assured of a continuous source of Federal funds to provide jobs for its citizens. My State and others did not procrastinate. We procedeed as the Highway Commission requested us to do, and now we should not be penalized.

Also, it is important to note that the funds received under the minimum apportionment, if not needed for interstate, are apportioned to other highway programs in a ratio which reflects how much the State is receiving from its other Federal-aid programs. So the formula for use of this money is not as arbitrary as Senator BUCKLEY wants us to believe.

But most important, I think that we must remember what we are really doing here. We are not trying to set up a new program which meets highway needs in the way a categorical program would. What we are trying to do with the minimum apportionment language is to set up a transition program so that States which have been successful in their building plans will not have the rug pulled out from under them.

Beyond all this, there are other reasons why Senator BUCKLEY's amendment should be defeated.

First, the flexibility which the apportionment formula gives States completing their Interstate System, is reflected in other portions of the bill before us, which may benefit New York, but which Senator BUCKLEY does not propose to strike. As the Senator knows, the Federal-Aid Highway Act of 1973 provides for the withdrawal of interstate segments in urban areas upon the request of State and local officials. The funds made available by the withdrawal could be used for a mass transit project in the same area. The committee bill before us gives even greater flexibility for the use of funds made available to a State which, for whatever reason, cannot complete a segment of its interstate. The bill would allow the money to be used for road projects as well as mass transit projects. This is an example of the same kind of flexibility in urban areas that Senator BUCKLEY wants to eliminate for States which have completed or are moving toward completion of their interstate. I support both provisions, because they make the Federal highway program more responsive to local needs. I cannot see why Senator BUCKLEY feels that one is more invidious than the other.

Second, the minimum apportionment formula is not unique to the interstate program. It appears in the other major highway "categories" as well. In a vote taken by the American Association of State Highway Transportation Officials earlier this year, 32 States were recorded as supporting the continuation of the minimum apportionment formulas as contained in present law.

In short, Mr. President, the provision Senator BUCKLEY is trying to delete is a vital one—fulfilling a vital national need. It is a simple, straightforward provision, which has a long history of support in the Public Works Committee, and in the Department of Transportation and in the States.

The only way I can characterize this amendment is as cruel to those States which went ahead and built roads, not only for their own States but for the country as well.

I urge the defeat of this amendment.

Mr. STAFFORD. I yield myself 1 minute on the bill.

Mr. President I oppose amendment No. 1203. The concept of Interstate System financing has changed in recent years. No one disputes that a primary objective of the current interstate program is to complete essential links in the national system. S. 2711 provides funds and a mechanism for this purpose.

The 1973 Federal-Aid Highway Act provided a mechanism whereby States and cities could decide not to build an approved interstate route and instead could receive Federal funds to improve transit systems. The justification for this measure was to let State and local officials make decisions on how best to meet local transportation demands which would have been served by the interstate route.

S. 2711 makes that provision even more flexible and would provide, in lieu of interstate money, funds for transit or for other road projects in the area.

This exchange provision does not slow down work on the Interstate System in other States, because funds for alternative projects are not taken from interstate apportionments.

Similarly, minimum one-half percent apportionments are not deducted from regular interstate apportionments. A separate authorization is made to cover those needs.

Mr. President, my own State of Vermont would not be affected by the proposal of the Senator from New York. Because we have sufficient interstate work yet to be finished, we would be entitled to the one-half percent minimum for each of the 2 years covered by the bill.

Five States will apparently suffer a cutoff of funds, however. I must agree with my colleague from New York that we should begin now to develop an equitable basis for distributing Federal-aid highway moneys as more States finish funding the interstate.

I do not think it desirable, however, to suddenly decrease substantially Federal-aid funds supporting highway programs in a handful of States.

If it is argued that the Interstate System should not be an excuse for distributing to States funds which will not be used for interstate construction, that argument applies to interstate transfer arrangements as well as to the one-half per cent apportionments.

Congress has determined that certain transportation needs related to the interstate program justify Federal assistance. Interstate transfer provisions are one example.

States which have moved quickly to complete interstate construction may have had to defer needed work on other roads. The minimum apportionment will let these States turn their attention to such needs.

Many States which are furthest behind in obligating interstate funds will "complete" their portion of the interstate by deciding not to build certain segments. They will then receive large sums of Federal money for use on noninterstate projects. I see no inequity in also providing minimal Federal assistance to road programs in those States which have conscientiously worked to complete their portions of the Interstate System as originally designated.

I must reluctantly oppose the amendment offered by my friend from New York.

Mr. President, I congratulate the distinguished Senator from North Dakota upon his excellent speech in opposition to the amendment.

I am inclined to agree with the distinguished Senator from New York that the points in difference here have been argued and debated at some length.

Mr. President, I yield to the Senator from Nebraska, on the bill, whatever time he desires.

Mr. CURTIS. Five minutes.

Mr. STAFFORD. I yield 5 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I oppose the amendment offered by my distinguished friend.

The interstate highway program is paid for by a tax levied in every State for the purpose of building an interstate highway system. I submit that if there is no interstate highway system being built in a State, that State should be exempted from the tax.

The State of Nebraska was cheated when they devised the interstate highway system. It is the only State in the Union that does not have a north and south interstate highway. We have one strip of interstate highway running from East to West, and that is it. We proceed efficiently and economically out there, so it does not take us so long to build the one strip of highway that the Federal Government gave us.

I submit that if we are to receive none of the specially earmarked funds, this special tax should not apply to the State of Nebraska. I again remind Senators that it was the Federal Government that shortchanged us in the allocation of interstate highway mileage. There is no place in Nebraska that one can drive North and South on an interstate highway. We were allotted none. We have one interstate highway, and that is all, running from East to West.

Frankly, I realize that it is not possible to apply a tax to part of the States and not all. Therefore, as a matter of equity, there is this minimum amount in here.

I remind the Senate that there is nothing new about this. There is a thing or two or three that the distinguished Senator has overlooked in his analysis of the half of 1-percent provision that has been in the law since 1971 with reference to the minimum apportionment of Federal interstate highway funds to any State. I am happy to have the opportunity to enumerate.

First, Mr. President, there is nothing new or startling about either a minimum apportionment of Federal highway funds to each State or, for that matter, about the half of 1-percent minimum.

For many years there has been in the Federal-Aid Highway Act a minimum half of 1-percent apportionment to each State for types of highway construction other than interstate. Indeed, in this very bill, there is provision to continue the half of 1-percent minimum for the apportionment of what we have known through the years as the Federal-aid primary and secondary highway systems, including the so-called rural secondary and urban highways.

This bill reduces the number of categories of highway construction from 30 or so to three or four, but it very wisely retains the half of 1-percent minimum for each State in each category.

This minimum apportionment guarantee is very important, Mr. President, to States that are either small in population or large in geographical area. I respectfully submit that it is not going to bail any States or cities out of any financial difficulties they may be having, but it is very important to the continued stability of highway construction in the less populous regions.

Take the State of Alaska, for example. In all of Alaska there is not a city that can qualify for urban highway funds under the formula that apportions urban funds to States like New York, California, Illinois, or Nebraska. The law makes a city eligible if it has 50,000 or more population. But the half of 1-percent provision has enabled Alaska through the years to continue to receive a small, minimum amount of so-called "urban" money which it can use on highway problems that are peculiar to its area and people. And this year, in this bill, we are going one step farther by establishing a "small city" category of communities of 5,000 or more population that can qualify to receive these funds.

Does Congress want to get rid of the half of 1-percent provision for primary and secondary highway funds as well as interstate funds? I am sure it does not. This is sort of a safety, final provision that makes up for the error that can accrue when a Federal bureaucracy attempts to allocate funds among States. It says, in effect, that bureaucrats cannot become so tangled in the fine points of their formula that they leave out certain States or discriminate grossly against them. There is a minimum requirement.

Mr. President, I believe that to remove this one-half of 1 percent would hurt the wrong people. If a State did not get a fair shake in the allocation of interstate highway funds, the adoption of this amendment would penalize it. If a State had an efficient operation and completed what it did have in a hurry—not in a hurry, but in good time—the adoption of this amendment would penalize such a State.

It rewards the wrong people. It rewards those who, by one way or another, got a very generous share of the Interstate Highway System, so we let them have more money. It rewards those whose costs are high, rather than if they operate economically. It rewards those who never get a job done.

It punishes the wrong people, it rewards the wrong people. It is basically unfair. It was put in here for a special purpose, and I suggest that we ought to keep it there.

I do not see anything in the New York Senator's amendment that would strike this longstanding provision from the Federal-Aid Highway Act. Indeed, the amendment ignores it, and in a letter to me and the other Members of this body under date of December 5, the Senator makes an erroneous statement with reference to the same provision for interstate highway funds. He states in his letter that—

> This provision serves no national policy objective neither does it apportion funds on the basis of proven local needs but according to an arbitrary formula having no basis in relevant funding criteria.

I call attention to the final words: "Having no basis in relevant funding criteria."

Mr. President, I submit that the half-of-1-percent provision now under debate is about as relevant as you can get to the half-of-1-percent provision for primary and secondary highways. It is a matter of public policy that was decided by the Congress many years ago and that has been reviewed, tested by time, and in fact made a part of the permanent law in title 23 of the Federal-Aid Highway Act. Instead of talking about striking the interstate apportionment minimum from the law, Mr. President, I submit that we should be talking about making this minimum a part of the permanent law by writing it into title 23 so that it no longer comes up for review and challenge every 2 years in the extension of the act. We should give it the same status as the half of one-percent minimum which pertains to primary and secondary including urban highways. As for my good friend's amendment, I am sure he is so preoccupied with the financial problems of New York that he did not have time to unearth the financial and other difficulties his amendment would cause many other States like Alaska and Nebraska.

Second, I wish to take issue with the statement made by the Senator from New York in his letter that the half of 1-percent provision "penalizes States striving to complete their interstate program by giving them a decreased share of interstate funding." It does no such thing, Mr. President.

The bill reported by the committee authorizes and appropriates $3.25 billion annually for fiscal 1977 and 1978 for the Interstate Highway System. It authorizes and appropriates in addition to that amount the relatively small sums of $75 million the first year and $125 million the second year to implement the half of 1-percent provision. All of this comes out of the Federal Highway Trust Fund, which gets its revenues from highway-use taxes, but the committee in its wisdom has made certain that no State will have to give up a portion of its interstate highway funds in order to fulfill the minimum commitment to any other State. Moreover, I would point out that we are dealing with such a small portion of the total Federal highway funds apportioned from the trust fund that the result will be inconsequential in comparison with the financing problems, highway and otherwise, of States like New York.

There is a third point that my good friend from New York seems to overlook in offering his amendment. It is the importance of maintaining some reasonable semblance of participation by every State in the use of money apportioned from the Highway Trust Fund to meet highway needs peculiar to its geographical area and population. In short, we should not require the people of any one State to pay a heavy share of the highway costs of other States without getting some reasonable amount back in return for the taxes paid by the citizens of the States. I am not arguing for a full 100-percent return, because I know that is impractical. Every State cannot get back 100 percent of what it pays to the Federal Government in taxes for every program or there would be no need for the program and nothing to be gained nationally by having it. But I submit, Mr. President, that no one State or group of 8 or 10 States should be required to carry an exceedingly heavy burden of financing of a particular type of highway construction in other States. This could produce a form of taxation without return comparable to conditions that led to the taxation-without-representation revolt in the early history of our country.

I wish to point out that Nebraskans, since the inception of the interstate highway program, have paid $529 million in taxes toward construction of the Interstate Highway System while receiving $344 million in apportionments from the Federal Government for constructing Nebraska's share of the system. I am not complaining about this disparity, Mr. President, although there are some persons within my State who have told me I should be objecting strenuously, to the point of shouting loud enough to shake the dome on the Capitol, until I get back every dollar in taxes paid by Nebraskans to Washington. What I cannot stand still for, Mr. President, is the much worse disparity between taxes paid and benefits received if the half of 1-percent provision is repealed for interstate highway construction. And at least nine other States would be similarly affected within a relatively short period of time—Delaware, Massachusetts, Maine, Vermont, Idaho, North Dakota, South Dakota, Wyoming, and Oklahoma.

I will describe the disparity in terms I hope will be clear to everyone.

If the Buckley amendment is adopted, Nebraskans will pay $30,045,000 annually for the next 20 years—based on the $3.25 billion national apportionment provided annually for the Interstate System under the bill pending before us—into the trust fund for interstate construction. After the first year, during which Nebraska would complete the construction funding for its portion of the interstate, the State will get nothing back from its $30,045,000 annual contribution.

The disparity would be even greater for the people of Massachusetts, who would pour $70.3 million annually into interstate construction without getting anything back after the first year. North Dakota would pay $11.4 million a year into the program and get nothing back after the first year.

The people of Delaware, where funding for construction of the Interstate already is completed, would pay $9.2 million annually for interstate construction and get back a goose egg every year for 20 years.

Within 3 to 4 years, Oklahoma would complete its share of the interstate. For the remainder of the 20-year period, the people of Oklahoma would pay $52.2 million annually in taxes to support the interstate program without getting anything back.

I can go on, Mr. President—this amendment within a few years would be delivering goose eggs in lieu of highways right and left to States that will have completed their portions of the interstate while their citizens are still paying sizable amounts of taxes to finance its construction in other States. The cost per year to the taxpayers of Idaho, for example, would be $15.4 million; Maine, $16.8 million; South Dakota, $13.5 million; Vermont, $7.8 million; Wyoming, $10.3 million.

The half of 1-percent provision will guarantee every State a minimum of $16,250,000 annually for completion of the interstate and, thereafter, for use in lieu of interstate construction to meet other highway needs which that particular State deems essential. It will enable all States to continue their highway construction programs on a reasonably stable course, without subjecting them to abrupt cutbacks that could cause serious unemployment and resulting economic distress.

This provision by no means would bring a highway revenue windfall to any State. On the contrary, it means a reduction for most States. It is simply a cushion to prevent the bottom from dropping out. It is a bare minimum. Since the inception of the interstate program, 67 percent of all apportionments of Federal-aid highway funds to the States has been for the interstate program. If the half of 1-percent provision is retained, the average for the 10 States I have named will drop to 37 percent. Removal of the half of 1-percent minimum would cut interstate funding in those same States to 21 percent within the 2 years covered by the pending bill.

It is my duty to point out, Mr. President, that the pending legislation as recommended by the Public Works Committee is important not only because it extends the Federal-Aid Highway Act for 2 more years but also because it does this in a way that recognizes the highway problems and interests of all the States, be they large or small, industrial or agricultural, rural or urban in their predominant makeup. The bill without the Buckley amendment is the most equitable plan we can work out for the Nation as a whole. I am supporting the committee, and I commend the very able chairman, Mr. RANDOLPH, and all of the Members for the excellent work they have done in devising and developing solutions to the very difficult problems we face in surface transportation today.

I yield back the remainder of my time.

Mr. BUCKLEY. Mr. President, I yield to the Senator from Nebraska.

Mr. HRUSKA. I thank the Senator. May I have 2 minutes?

Mr. BURDICK. The Senator may have two minutes.

Mr. HRUSKA. Mr. President, a matter of great importance for the future of the Nation's highway program is before us today. The amendment offered by the Senator from New York, which would delete the one-half of 1 percent apportionment for each State in Interstate System funds, would seriously affect the country's road building program.

In 1956, Congress wisely decided that our Nation needed a safe, efficient system of highways. Since that time, 37,125 miles, or 87.3 percent of the Interstate System has been completed. One of the original goals of the program was to complete the entire system simultaneously. Delays in funding, budgetary impoundments, and inflation made this goal impossible.

The emphasis placed on completion of the Interstate System, however, led several States, Nebraska among them, to push ahead with their Interstate construction in accordance with the priority Congress had placed on the system. Federal officials joined in urging the States to assign the highest priority to completion of Interstate roads.

In 1962, Rex M. Whitton, Federal Highway Administrator of the Bureau of Public Roads, made the following statement at a meeting of the American Association of State Highway Transportation Officials—AASHTO:

> During the past few months, on several occasions, I have stressed to all state highway departments the importance of completing usable segments of the Interstate System. . . . I have also asked that each state analyze its position with respect to its progress on the Interstate System and determine what action was needed to bring the program on schedule . . . I am concerned about those states that have not yet started to move at a rate which will keep them abreast of the program time. . . . The rate of increase needed to accomplish the task in these states is obviously great and immediate attention to the problem is mandatory.

As a result of such urgings, Nebraska, Delaware, North Dakota, among other States funded their interstate program at the highest level. Yet now, the junior Senator from New York proposes, Mr. President, that these States be penalized for their conviction that completion of the Interstate System was a goal of utmost national importance. These States were leaders in achieving an important national goal. Is is equitable that because of this they should be penalized? It is not, Mr. President. It is not equitable at all.

The inequity of the amendment proposed by my distinguished colleague from New York is further compounded placed a lower priority on other highway projects in the State in order to complete its portion of the Interstate System. Now it is proposed that Nebraska and the other States be prevented from fulfilling its deferred primary and rural highway obligations because it gave highest priority to the national interest in early completion of the Interstate System.

Taxes that go into the Highway Trust Fund, from which interstate construction is financed, are collected from all States. Nebraska will contribute around $37 million in such taxes for interstate purposes over each of the next 12 years. If the minimum apportionment is deleted from the 1975 Federal-Aid Highway Act, Nebraska would receive back approximately $1.7 million in interstate construction funds a year. This represents a return of only 5 cents on each dollar Nebraska contributes. Even with the minimum apportionment, Nebraska would receive only about $16 million a year for interstate construction, a figure still far below the amount it contributes.

Nebraska, of course, is not the only State which my colleague's amendment would effect. The other states that would feel adverse impacts are: Alaska, Delaware, Massachusetts, and North Dakota. In rounded figures, Alaska would lose $16 million; Delaware $16 million; Massachusetts $14 million; Nebraska $14 million; and North Dakota $16 million.

These States are only the beginning. Each Senator should understand that his State if it has been vigilant in completing the Interstate System will be directly affected by this amendment. More States will fall under the provisions of the amendment each year—and as this happens those States which have delayed interstate construction will gain, while those which have not will lose. No Senator should be misled as to the nature of this amendment. It redistributes interstate funds in a manner that is inequitable, unfair.

The five States immediately affected are, as I noted earlier, Alaska, Delaware, Massachusetts, Nebraska and North Dakota.

Seven more States soon will join these ranks, beginning in fiscal year 1977. They are: Idaho, Maine, Nevada, New Hampshire, Oklahoma, South Dakota, and Vermont.

Others to be added within several years include: Iowa, Mississippi, Montana, New Mexico, North Carolina, South Carolina, Utah, Wisconsin, and Wyoming.

Due to the new apportionment factors contained in the bill, further and more definite calculation is difficult at this time, but it appears that the list will become even larger in short order.

The bill, as it stands, treats all States equally and provides that no State will receive money at the expense of the rest. As this is the case, the only fair and equitable way to respond to the proposal before us is to pass the bill without it. The amendment offered by my distinguished colleague from New York should be rejected.

I yield back the remainder of my time, if any.

Mr. BUCKLEY. Mr. President, I shall admit that receiving money is always a desirable thing and that there are always good uses to which money can be put. Every State has on its planning board far more road projects and highway projects than it can accommodate at any one time. But I think we are letting ourselves be diverted from what it is that interstate apportionments out of the highway trust fund are all about; and from an important purpose of that fund, which is to complete, as the first priority an Interstate System.

Under this one-half of 1 percent formula, as more and more States complete their interstate programs, we find an increasing drain on the funds that otherwise could be utilized to accelerate completion of the Interstate System. We are talking, in the next 2 years, under my amendment, of a saving of over $140 million. If we adhere to the principle contained in S. 2711, that diversion of funds from the Interstate System in future years will be even larger.

It seems to me that we have to recognize what the purpose of the original legislation was. There was a national need for an Interstate System; a sensible device was created for its financing.

In the original legislation we did not talk about matching the precise contributions into that fund against receipts from that fund. The original concept was considered to be equitable in terms of meeting national needs. Certainly, if anyone has reason to complain, it would be the people who live in urbanized areas, who, over the years, have contributed, I am told, approximately 50 percent of the total moneys going into the highway trust fund, and certainly have realized a very small fraction thereof.

It has been suggested that various States may have been shortchanged in the designation of interstate highways. The complaint in that regard should have been lodged with the people drawing up the plan for the Interstate System. The suggestion does not, in my judgment, create any compensatory right to receive money from the highway trust fund for discretionary purposes.

One concern expressed by some has to do with the fact that some States managed to complete their segments faster than others. The problem, of course, is that in a country as diverse as ours, environmental legislation—the legislation I have specific reference to being the need for detailed environmental impact statements—has been a far greater delaying factor in the more highly developed States than in others. All of these and other concerns have created delays.

Much has been said about the fact that one State or another has had a specific need for rural roads, secondary roads, primary roads, and so on, and that the funds capable of being diverted in the future under the one-half of 1 percent formula would prove highly useful toward meeting those needs. To that, I state simply that we have in our highway legislation a variety of programs designed to meet a variety of needs, with specific approaches to the financing of the Federal share of those programs in meeting those needs.

If there are any complaints that there is an insufficiency of funds going to the States of Nebraska or North Dakota under these other programs, then let us, by all means, reexamine the formulas by which those distributions are made. But let us not, in effect, destroy the original purpose of the Highway Trust Fund. Let us not, by increasingly diverting funds out of the Highway Trust Fund for investment in purposes other than the completion of the Interstate System, delay the completion of the Interstate System.

Mr. President, I believe the arguments have been stated on both sides. I am prepared to yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. BENTSEN. Mr. President, unless the Senator from Idaho has something to say, I am prepared to yield back.

Mr. McCLURE. Will the Senator yield me 2 minutes?

Mr. BENTSEN. I yield 2 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator.

Mr. President, I hesitate to take this time, but I think one thing might be said which has not been added to the colloquy. The dispute over this transition, whether it be one-half of 1 percent or, as the Senator from New York has suggested, only the amount that is necessary to complete in the final year, the dispute must highlight the fact that we are running into a problem of transition from the interstate beyond the completion of the Interstate System. The one-half of 1 percent minimum may not be a rational formulation for that transition, but I submit that it is at least as rational as saying that there will be none.

I hope that the Committee on Public Works can take this colloquy as being evidence of the necessity to write a policy for the follow-on program, to follow after the interstate is completed, and to bridge over this gap of the unequal completion dates that really cause the apparent inequality because of this transition, as is highlighted by the Senator from New York in his amendment.

I think that is vitally needed. I think it is a matter of high priority for the committee, and I hope that the committee will get into that in some depth next year. Then we can, at length, expose all of the arguments, pro and con, on what kind of transition and what kind of follow-on program we ought to have.

I thank the Senator from Texas for yielding.

Mr. BENTSEN. Mr. President, the floor manager of the bill associates himself with the remarks of the distinguished Senator from North Dakota in opposition to this amendment and, with that, I yield back the remainder of my time.

Mr. GRAVEL. Mr. President, I must oppose the amendment of my distinguished colleague from New York to eliminate the one-half of 1 percent interstate program as it applies to those States which have zero interstate mileage.

Alaska has no designated interstate mileage and, therefore, has not received any apportionments for construction on the Interstate System. Because the highway needs of Alaska were so great, the Congress enacted in the Federal Aid Highway Act of 1966 a program of special assistance for Alaskan highways. The Alaska assistance category provides funds that can be used in lieu of interstate apportionments to construct the required highway network for the State.

During consideration of this highway legislation, the Subcommittee on Transportation attempted to consolidate categories in the Federal aid program to provide a more manageable program. The subcommittee felt that the Alaska assistance could be folded into the one-half of 1 percent interstate program since the existing authorization was in lieu of an Interstate System program in the State of Alaska.

Alaska's highway needs remain great as we attempt to provide a meaningful transportation system for a State that is just beginning to sustain economic growth. We must have this Federal aid system to continue our highway program as currently being implemented.

For these reasons, Mr. President, I must oppose the elimination of one-half of 1 percent funds to those States having no interstate mileage to complete.

Mr. RANDOLPH. Mr. President, the Senator from New York (Mr. Buckley) is a careful and perceptive legislator on policy affecting the highway program. I cannot agree, however, with this amendment to limit the one-half of 1 percent program to only those States which have Interstate mileage to complete.

It was the policy of the interstate program to bring the construction of the system to as nearly a simultaneous conclusion as possible. Some States moved forward with their construction faster than others. To compensate those States receiving lower apportionments as their cost to complete was reduced, the committee provided the one-half of 1 percent program which makes sufficient funds available to carry on construction programs in the States at meaningful levels.

The Interstate System was originally intended to be completed simultaneously in all States. There are several reasons why this goal will not be met. In 1968 the Congress added 1,500 miles to the original 41,000-mile system and the uneveness of their distribution gave some States an additional construction burden. The previous practice of withholding highway funds by the administration also impaired the abilities of some States to move ahead with Interstate development. And controversy surrounding some Interstate segments has delayed their construction.

Consequently, we are unable to plan a post-Interstate program for all States to begin at the same time. There is a continuing need for financial assistance to meet many transportation needs.

Those States that moved ahead more quickly allocated monetary resources which could have been used to complete other projects meeting State highway needs. Rural highway needs are greater now than ever before as testimony before the Transportation Subcommittee indicated. If we delete this program, a penalty will be incurred by those States which have completed their Interstate System. These funds which can be used on the primary or community service system if the Interstate is completed will not be available to them for meeting their rural needs. They are thus being deprived of funds even though they allocated scarce resources to meet a national transportation need.

By continuing this program we are not reducing the apportionment of other States as the Senator argues. An additional $75 million is authorized for providing this minimum one-half of 1 percent.

The ACTING PRESIDENT pro tempore. All time is yielded back. The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered on the amendment, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Florida (Mr. Chiles), the Senator from New Mexico (Mr. Montoya), the Senator from Idaho (Mr. Church), the Senator from Rhode Island (Mr. Pastore), and the Senator from Rhode Island (Mr. Pell) are necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

I further announce that, if present and voting, the Senator from Idaho (Mr. Church), the Senator from Rhode Island (Mr. Pell), and the Senator from Rhode Island (Mr. Pastore) would each vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Maryland (Mr. Mathias), the Senator from Kansas (Mr. Pearson), the Senator from Virginia (Mr. Scott), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 10, nays 76, as follows:

[Rollcall Vote No. 584 Leg.]

YEAS—10

Buckley
Dole
Eagleton
Glenn
Helms
Javits
Morgan
Packwood
Percy
Ribicoff

NAYS—76

Abourezk
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eastland
Fannin
Fong
Ford
Garn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NOT VOTING—14

Allen
Bayh
Brock
Chiles
Church
Goldwater
Griffin
Mathias
Montoya
Pastore
Pearson
Pell
Scott, William L.
Weicker

So Mr. Buckley's amendment was rejected.

Mr. BENTSEN. Mr. President, prior to third reading let me make a few concluding remarks. I want to commend my colleagues in the Senate for exercising restraint on this measure. This committee brought a bare bones highway bill to the floor, and I know it is always tempting to try to add a few million dollars to a program which has such a direct impact on the people in the various States. If we were free of major fiscal restraints, I would have liked a more generous bill myself.

But in difficult economic times, I believe the Senate has shown a commendable and statesmanlike approach to the problems we face. The bill we have passed today is a lean bill, which gives strong impetus to improved administration of the highway program and maintains a level of spending consistent with fiscal responsibility.

Let me commend my colleagues on the Public Works Committee for cooperating with me in these efforts. The chairman, Senator Randolph, attended many of the subcommittee meetings and provided strong leadership in bringing this bill to the floor. The ranking minority member, Senator Baker, counseled us wisely during our full committee sessions. Senator Stafford, my friend and colleague from Vermont, worked in a full partnership with me to expedite final passage; he is always willing to devote his time and energy to this legislation. Other Senators on the committee also contributed valuable work.

The Senators were aided in their efforts by a competent and hard-working staff, and I give special thanks to Barry Meyer, Bailey Guard, Ron Katz, Ric Fenton, John Yago, Dick Harris, Phil Cummings, Kathy Cudlipp, and Hal Brayman.

I pledge to my colleagues that in conference with the House we will try to retain the essence of the Senate bill.

I yield back the remainder of my time.

Mr. BAKER. Mr. President, I thank my colleague for yielding.

It is my pleasure as ranking minority member of the full committee to express my admiration for and thanks to the distinguished Senator from Texas, for his leadership as chairman of the Subcommittee on Transportation of the Public Works Committee, and to the distinguished Senator from Vermont, Mr. Stafford, for his excellent work and perseverance in preparing this bill for presentation, first to the full Committee on Public Works and, of course, to the Senate. It was a workmanlike job done with diligence and dispatch. The debate has been meaningful and significant. The Highway Act of 1975 moves us measurably forward in evolving new and innovative techniques for the unification of a transportation policy for the United States.

The amendments which were offered were significant. I assure my colleagues that whether they were adopted or rejected, we appreciate their concern and the expression of their interest in this subject. It is an ongoing subject, and for that reason it is fitting that we also pledge to the Senate that we will continue to explore other, different and still better ways to serve the transportation requirements of this country.

In conclusion, Mr. President, I again wish to pay special tribute and express my deep appreciation to the distinguished chairman of the full committee, Jennings Randolph. There is not another ranking minority member of any committee in the Senate, I daresay, who has the privilege of serving with a more cooperative chairman than do I. I am pleased to have that privilege, and to express my admiration for his depth of knowledge and dedication in this particular field.

Mr. President, I urge my colleagues on the vote on final passage to adopt this bill.

Mr. BENTSEN. Mr. President, I yield to the distinguished chairman of the full committee.

Mr. RANDOLPH. Mr. President, the measure on which we will very shortly vote is a well-reasoned legislative approach to important issues that affect the mobility of the American people as they move from one point to another, for recreation, to their jobs, and the many varied reasons why the people of the United States of America go from one place to another.

Also, for the transport of products of the farm, factory, and mine. All of these must move to the marketplaces so that people can be served.

This is a bill with a sense of proportion. This bill contains the necessary balances to which we addressed ourselves in the committee, not in any hurried fashion but in very deliberate consideration.

I commend, as I have often done, the membership of our Public Works Committee and the members of the subcommittee, especially Senators BENTSEN and STAFFORD, and, of course, my colleague who stands so loyally at my side, the Senator from Tennessee (Mr. BAKER).

What I am saying now applies to all members of our committee. It is not necessary to say it, but I would like the RECORD to indicate that we feel in matters of this kind we are not swayed by partisan political considerations. There is a minimum of partisanship, if it exists at all, in the Public Works Committee.

Mr. President, we have sought to do a workmanlike job, to do it for the Senate, and to work with the House, of course, in the passage of a measure which will receive the approval of both bodies and the signature of the President.

We hope we shall have, as the Senator from Tennessee (Mr. BAKER) emphasized, the continuing responsibility which we know we must address, of working constantly, innovatively, with creativity, with resourcefulness to serve the Senate, the Congress, and the people of this country so that we may remain strong, that we may be even better united for the crucial days ahead.

I again congratulate those especially who have borne the burden of the guidance of this measure through this body.

It is my belief that the legislation before us will strengthen America and add to the well-being of its people.

MODERN ROAD TRANSPORTATION SYSTEMS A KEY TO PROGRESS

Mr. HUMPHREY. Mr. President, in 1973 Congress passed landmark highway legislation, extending the highway program for 3 years and allowing, for the first time, urban highway funds to be used, at local option, for transit purposes. The following year, the Federal-aid highway amendments responded to issues raised by the energy crisis and resolved outstanding issues relating to highway beautification.

The bill which we are considering today, while interim in scope, is nevertheless an important one. It is my understanding that the Federal-Aid Highway Act of 1975 will lay the groundwork for the development of a comprehensive long-range bill during the 95th Congress.

Enactment of this bill will give State and local highway officials a stronger voice in choosing and implementing their own transportation priorities. Federal funds previously limited to highway construction projects may now be used for rehabilitation and restoration of existing highways. The highway needs of smaller urban areas are acknowledged by creating a special category for them.

In an effort to give States added flexibility in their expenditure of Federal highway funds, the Federal-Aid Highway Act of 1975 consolidates narrow categorical programs into broader programs with fewer Federal restrictions on use of the funds. Although this may reduce much of the paperwork associated with highway assistance programs, I am concerned that it should not also dilute funds previously earmarked for our rural road needs.

It is my understanding that the off-systems road program has been absorbed in the nonurbanized category. In Minnesota, the $5,000,000 under this program has been used by various counties for badly needed bridge repair. It is my understanding, however, that this program has been absorbed in the nonurbanized category. I hope that this does not, in effect, dilute the funding available for our farm-to-market roads.

I would like to take this opportunity to again bring to the attention of the Senate some of the pressing and unanswered questions related to moving people and goods from place to place in rural America.

A balanced, integrated growth and economic development of rural America is vital to our Nation as a whole. We are, according to some experts, experiencing a "rural renaissance." Recent trends indicate that rural areas are growing while urban areas are losing population. In Minnesota, the metropolitan areas lost 80,000 people in the last few years while rural areas gained 92,000 people. Nationwide, the nonmetropolitan population grew 4.3 percent while the metropolitan areas increased by only 2.8 percent.

Notwithstanding its obvious effects on agriculture, transportation affects 9 out of 10 nonmetropolitan families who do not depend on farming as their chief source of livelihood.

Yet, the condition of our Nation's rural transportation system—if one can call it that—is a national disgrace. Too little has gone into the roads that are the lifeline of rural America—the secondary roads, the farm-to-market roads, that link America's consumers with its producers.

We are the greatest agricultural nation on earth, but we are not very good at moving these commodities—or our other natural resources—especially from countryside areas.

At the root of this problem is the fact that our rural roads are not capable of carrying frequent heavy loads at safe speeds. Many roads have seasonal load restrictions. Many bridges have weight and size limitations for trucks.

In some regions of our Nation, nine-tenths of the principal roads, other than interstates, and 86 percent of minor roads have been rated deficient in their ability to carry frequent heavy loads at normal speeds. As late as 1970, over half the rural collector roads remained unpaved or only slightly improved.

How many times have all of us driven a greater number of interstate miles to reach our destination just to avoid bad roads?

We will go to great lengths to avoid a bad road—but the farmer cannot. He must use the only available road to receive his seed and fertilizer, to transport his crop, and for the myriad of other tasks associated with farm life.

In Minnesota alone over 30,000 miles or 60 percent of the roads are not capable of carrying a 9-ton truck during all kinds of weather.

Larry Anderson, director of the Minnesota Department of Public Service, estimates that grain elevator operators in Minnesota lost $5 million in 1973 because of inadequate transportation facilities. According to a special Transportation Study Task Force of which he is a member, two of the major contributing factors to this loss were abandonment of railroad branch lines and the lack of secondary roads that will stand up to heavy truck traffic.

Although inadequate transportation facilities create an artificial shortage, it has the same net result—prices go up. Unfortunately, higher prices are not artificial and must be paid by the consumer if he is to continue eating. Thus, the poor transportation system, including the inadequacy of our rural roads, is forcing the price of grain upward, especially after the more easily moved grains are exported.

The number of deficient bridges on rural roads poses another serious restriction on the continuing flow of traffic along farm-to-market routes. In 1971 the Department of Transportation reported that 16 percent of the 563,500 bridges in the United States were critically deficient either structurally or functionally.

Let us look again at Minnesota. About 95 percent of Minnesota's bridges were built before 1935—that's 40 years ago. An extensive bridge inspection program over the past few years has identified the needs for a statewide bridge replacement and reconstruction program.

In 1974, 3,672 bridges were considered to be deficient. At that time, the estimated cost of replacement was about $419 million. This year, an estimated 4,403 are deficient, necessitating an expenditure of over $611 million—excluding design and approach grading costs—to replace the structures. To compare this figure with the total authorization level in this year's Federal Aid Highway Act of $125 million nationwide for the special bridge replacement program demonstrates more vividly than words the magnitude of the need.

Let us use a hypothetical example to show what one low-weight-limit bridge of 12-ton capacity can do to transportation costs and, in turn, costs to the consumer. Assume there are two elevator operators who are shipping soybeans via piggyback to the railhead.

One operator is served by good roads and bridges and is able to truck his products out in 45,000 pound net loads. To fill the buyer's order for 1,170,000 pounds of soybeans, only 26 trips are required.

The other operator is restricted by a low-weight-limit bridge to maximum net truck loadings of only 16,000 pounds. To move 1,170,000 pounds of soybeans to the same destination will require 73 trips—almost three times as many as his competition at substantial additional costs. This same drastic price differential would under similar circumstances, apply to manufacturers or other businesses shipping containerized or piggyback products.

Mr. President, most of the roads and bridges serving our rural areas were built in the 1920's and 1930's. Sooner or later, we are going to have to face facts.

We are going to have to increase Federal funding for the secondary rural road system and, above all, bridge improvements. Increased truck weights and the greater reliance on trucks as more rail lines are abandoned in rural areas make added help essential. I hope that the comprehensive long-range bill which the Committee on Public Works plans to develop during the 95th Congress will, at last, come to grips with these needs and that our Budget Committee will take this into account as we determine our future budget guidelines.

We need a comprehensive national transportation policy—one that clearly reflects the ever-increasing interdependence of our cities and our countrysides. We cannot afford to treat our rural and urban transportation needs as separate and distinct. Provisions in the Rail Services Act which the Senate recently passed are a good start in this direction.

Public officials who understand the importance of the rural transportation crisis must do a better job of conveying the urgent need to act on it to the American people. We have to convince leaders from urban areas that transportation does not begin and end with getting the commuter to work. They must be told that transportation begins at the commuter's breakfast table, and if we do not improve our rural system his cereal bowl could be empty and certainly will be much more expensive to fill.

And, finally, the requirements of national security demand an immediate and long-term improvement of our rural transportation system. Our Nation cannot afford the costs in dollars, lives, productivity, and national disgrace.

Mr. President, the importance of a balanced national transportation system cannot be overstated. Agricultural producers and rural industries question whether they will receive adequate and reasonably priced transportation services in the coming years. They see inadequate transportation as a possible continuing constraint on production and marketing.

Our Nation is now faced with many important transportation decisions. What happens in the next few years will set the stage for coming decades and generations. It is time that the Administration and the Congress recognize that rural America faces a transportation crisis and prepare to address it accordingly. We cannot afford further delay.

Mr. MUSKIE. Mr. President, I rise in support of S. 2711, the Federal-Aid Highway Act of 1975. I am a member of the Committee on Public Works which reported this bill, but I want the Senate to know that I am speaking now not as a member of the authorizing committee, but as chairman of the Committee on the Budget. I point this out because I want there to be no confusion in the minds of the Members of this body as to my motivation in supporting this bill. I speak not as a loyal member of an authorizing committee, but as a Budget Committee chairman who is pleased to be able to support a bill so well designed to further the continuing objectives of the highway program while enhancing the Senate's new budget process.

Before I comment on S. 2711's consistency with the second fiscal year 1976 budget resolution, however, allow me to say a few words about the funding the bill provides for the fiscal years 1977 and 1978.

Yesterday I supported the passage of Senate Resolution 314, providing a budget waiver to allow this bill to come to the floor. Since I outlined at that time the reasons for the Budget Committee's favorable recommendation I will not repeat the explanation in detail now. Suffice it to say only that the committee found that the bill's 2-year advance authorization of contract authority for the noninterstate highway program represents an appropriate form of financing to provide an adequate assurance of Federal funding for what are, by their nature, multiyear construction programs. Further, the committee felt that the amounts proposed for the fiscal years 1977 and 1978 are reasonable in view of both recent funding levels and projected highway-related revenues. In short, the Budget Committee accepted the general funding levels proposed by S. 2711 for future years.

With regard to authorizations and apportionments for fiscal year 1976 and the transition quarter that follows, S. 2711 is not only consistent with, but also supportive of, the implicit assumptions behind the second concurrent resolution. It would authorize a total of $1.6 billion for the Interstate and non-Interstate Systems, to be apportioned immediately. This is contract authority necessary in order to fund the highway program through the remainder of this fiscal year and the summer's transition budget period. It would assure the uninterrupted continuation of the highway program in every State. The $1.6 billion figure is precisely the fiscal year 1976 contract authority amount assumed for the legislation in the second concurrent resolution.

Under the approach proposed by S. 2711, no further apportionment of highway funds is required during the transition quarter, and the bill provides for none. Again, this is consistent with the second concurrent resolution, which assumed no additional budget authority for highways in the 3-month transition period between fiscal years.

Underlying the figures of $1.6 billion budget authority in fiscal year 1976 and zero budget authority for the transition quarter, is a simple but very significant alteration to the current apportionment process. Section 107 of the bill provides henceforth that apportionments of highway funds will take place each year on October 1, the first day of the new fiscal year. The $1.6 billion provided in S. 2711 and assumed by the second concurrent resolution represents the "bridging finance" necessary to get to that new apportionment date without disrupting the continuity of the highway program.

The Public Works Committee has recommended this change in order that highway funding will be consistent with the new fiscal year and the new budget process. Unlike the past when highway funds could be apportioned and thereby made available to the States for obligation from 6 to as many as 18 months prior to the beginning of the fiscal year for which authorized, under S. 2711 the apportionment would take place on October 1—non-Interstate funds would be apportioned on October 1 of the year for which authorized, and Interstate funds would be apportioned on October 1 of the year preceding the year for which authorized.

Thus, the timetable of highway funding and related decisionmaking would now be generally in step with the budget timetable for other programs. When the Congress considers the total budget in the first and second concurrent resolutions, it would be able to do so with full knowledge and awareness of the amount and the timing of highway financing proposed by public works for that year's highway programs. Although this would not change the highway program's "favored" status as a program with earmarked revenues and the advance assurance of continued funding, it would nonetheless enhance immeasurably the Congress' ability to include consideration of the proper level of highway spending in its budget priorities debate. It will enable the Congress clearly to focus its attention on the absolute and comparative need for Federal assistance to highways in a manner similar to that for other programs.

I do not suggest that this means that the Congress would now come to control highway spending in the same sense and manner that it does programs subject to the annual appropriations process. The characteristics of the program do not permit the kind of uncertainty that that could embody. The nature of highway construction is such that there must be an accommodation of the budget process to the needs of multiyear construction programs that need some assurance of continued financing assistance to promote orderly planning and construction efficiency. As one who has been a long-time observer and supporter of this program I can tell you that the needs it has for such assured continued support are very real and very necessary. I want to advise those in the Congress who have not had much exposure to highway financing that they are mistaken if they believe that sizable year-to-year shifts in the level of highway spending are either financially feasible or economically efficient. The practical realities of highway construction suggest clearly that changes in program levels can only occur at the margin.

Finally, Mr. President, let me say that I have on a number of occasions found it necessary in the cause of fiscal discipline to oppose spending proposals for desirable programs or to warn that new authorizing legislation that would help satisfy societal needs might prove excessive in the context of an ever-expanding Federal budget. That is the nature of the job for the chairman of a committee charged with oversight of the Federal budget, and I do not for an instant regret that I am expected to offer that perspective. But I freely state that I experience a feeling of relief when a spending bill such as this one comes along and allows me to step out of the role of "nay sayer" and into the role of advocate.

I want to express my gratitude to the chairman of Public Works and to the chairman of the Transportation Subcommittee, Senator RANDOLPH and Senator BENTSEN, and to the rest of the committee members and also the fine Public Works Committee staff who supported them in their efforts to design this legislation. S. 2711 skillfully satisfies the legitimate and continuing needs of the Federal-aid highway program while at the same time accommodating the needs of the new congressional budget process. I realize that the significance of this is likely to escape the notice of those outside this chamber, but it should not be lost to the Members of the Senate. This bill represents a rare example of the kind of legislative statesmanship that we must experience much more frequently if the Senate is to deal satisfactorily with the difficult economic and financial conditions that confront us.

I might add that the quality of this bill from a budget perspective stands in sharp contrast to its counterpart bill now moving in the House. This was brought home clearly to the Senate conferees during the conference on the second concurrent resolution. We had a strenuous debate with the House budget conferees over both the nature and extent of highway financing. It threatened to deadlock the conference itself, for the House conferees felt obligated to represent the position of their Public Works Committee in this matter. And that position in our opinion is one that is in direct conflict with the basic purpose of the new budget process. Rather than accommodating both the financing needs of the highway program and the needs of the congressional budget process, the House Public Works approach seeks loopholes in the budget act that would allow the highway program to be exempt from the budget process.

The conference concluded with no final resolution of this particular issue. But the Senate conferees made it unmistakably clear that we intended to defend vigorously the Senate position when the 1975 highway bill came to the floor, and if necessary, when it returned from conference. I urge you by your vote today to endorse this exceptional and statesmanlike effort produced by the Committee on Public Works, and in so doing to indicate that S. 2711 represents the position not only of the Senate Public Works and Budget Committees, but of the full U.S. Senate as well.

There are a number of amendments proposed for this legislation that deal with substantive matters unrelated to the major budget issue I have discussed. As an individual Senator with my own views of these issues, I may vote for a few of the amendments. Whether these win or lose, however, I strongly support the bill for final passage.

Mr. DOLE. Mr. President, I am pleased to add my support this morning to this 2-year extension of the Federal-Aid Highway Amendments. In approving this temporary extension of the Federal highway program, Congress is in effect laying the groundwork for development of a more comprehensive and restructured Highway Act during the 95th Congress. At this time, we are authorizing appropriations for continued construction of the Interstate Highway System and the Federal-aid community service system, consisting of both urbanized and rural highway programs.

This bill, S. 2711, reorganizes and consolidates the highway programs already initiated by earlier Federal-Aid Highway Acts. These consolidations, which follow suggestions by the administration and testimony by a number of qualified witnesses, promise to make the Federal-aid highway programs much more manageable and efficient. Furthermore, we are hopeful that the reorganization will enable State and local highway officials to take a larger role in selecting their own transportation priorities.

In addition, this measure does expand the definition of "construction" to include both "rehabilitation" and "restoration" of existing roadways in order to insure that these Federal-aid funds may be used for making improvements on highways already in use. There are also various changes in existing law dealing with highway safety.

KANSAS HIGHWAY SYSTEM

Generally speaking, this measure promises to be beneficial to Kansas. Nevertheless, despite its positive features, I do have some reservations about certain provisions in the bill.

In particular, I share concern with the Kansas State Department of Transportation about revised provisions which dilute the role of State officials in selecting routes on the urbanized Federal-aid highway system within the State. Under the provisions of section 106(c) (3) and (4), and section 108, local officials are given nearly complete discretion over selection of such routes, with the participation of State officials only in those instances where the State highway department provides 50 percent or more of matching funds used to construct the route. These provisions would seem to have some negative implications for a comprehensive planned program within the individual States. Previously, the Federal-Aid Highway Act has provided for cooperative planning between State and local officials in the selection of such routes for urbanized construction. I believe it might have been more useful to continue this "cooperative" provision to insure coordinated planning in the future. However, this matter in itself is not obstructive of the general beneficial character of S. 2711, in my opinion.

HIGHWAY TRUST FUND

This measure, S. 2711, does not in itself extend the highway trust fund, which has come under fire in recent months. However, Congress is at this time working on the extension of the trust fund in separate legislation. Earlier this week, the Senate Finance Committee, of which I am a member, approved a temporary 2-year extension of the highway trust fund in anticipation of similar action by the House Ways and Means Committee. I do know of the widespread interest among the construction industry in my State with regard to this important fund, and I am optimistic that both Houses of Congress will expeditiously approve this temporary extension of the highway trust fund so that a more thorough analysis can be made of its merits during 1976 and 1977. The measure at hand, S. 2711, does, in effect, anticipate extension of the fund.

HOPE FOR EARLY ENACTMENT

In conclusion, I feel that the action the Senate is taking today on S. 2711 is commendable in that it will provide a renewed incentive and boost to our State and Federal highway programs. It is hoped that the President will see fit to approve this legislation at an early date, to insure the continued progress of our highway program at an uninterrupted and more efficient pace in the future. I also look forward to participating actively in a complete and thorough review and analysis of the entire Federal-aid highway program and Federal highway trust fund during the next 2 years, with a view toward completing and effectively maintaining a good quality Interstate Highway System and local highways throughout the country.

Mr. MATHIAS. Mr. President, the Federal Air Highway Act of 1975, S. 2711, proposes to establish a new formula for the apportionment of Interstate Highway funds among the States. There is no question that we should give priority in funding to those elements of the Interstate Highway System that are of national significance. However, the criteria for determination of routes that are of national significance must be carefully developed.

The language in the committee report emphasizes the need to complete segments of the system that are required to connect major population centers. These segments are certainly important, but there may be an equally significant national interest in constructing segments within urban areas that serve major port facilities.

Links between our highway system and port facilities are essential to the national interest in the fast and efficient movement of goods. Provision of Interstate Highway access to meet the needs of a growing port facility is not simply a matter of local or regional concern. For example, the port of Baltimore is the closest deep water port to the Midwest. As a major transportation and distribution center in the national economy, Baltimore's port requires access to a modern and efficient system of highways.

In 1974 the port of Baltimore handled 43.4 million tons of freight valued at more than $7 billion. Movement of much of this traffic to and from the port was by way of the Interstate Highway System. Completion of interstate segments within the city of Baltimore that relate to access for the port can clearly be considered in the national interest. Our exports through Baltimore are important elements in our national economy and our foreign policy. Imports through Baltimore's port travel over the Interstate Highway System to the major Midwestern markets.

I am very pleased that the managers of the bill recognized the national interest in assuring adequate access to major port facilities by accepting the amendment offered by Senator BEALL and myself. I am now assured that the Secretary of Transportation will have a clear guideline in designating "routes of national significance and essential for connectivity of the system." This guideline should make certain that the Secretary gives full consideration to the national interest in completing links of the Interstate System within an urban area where those links provide transportation services that meet the needs of a port or other major transportation facilities.

Mr. GRIFFIN. Mr. President, as the Senate continues its consideration today of S. 2711, the Federal highway bill, I think it is important that the effect of this legislation on existing law be clarified. In particular, I believe that questions and concerns raised by the American Association of State Highway and Transportation Officials and the National Associations of Counties should be addressed.

Under present law, routes and projects in the urban highway system are selected by "responsible local officials" with the "concurrence of the State highway department." It is my understanding that the bill before us now would amend existing law by allowing local officials to select such routes and projects without State concurrence when the local area puts up 50 percent or more of the total State-local funds required in order to obtain Federal funding. In most cases, the ratio of Federal funding to State-local funding is 70–30 percent. Therefore, a local area would have to put up at least half of the 30-percent State-local share before State concurrence could be avoided.

This 50-percent local funding provision was a compromise amendment worked out in the Public Works Committee. I have noticed the overwhelming defeat of an amendment which would have further altered the provision, and the obvious reluctance of the Committee and Senate to tamper with it. Nevertheless, there are important questions posed by State and county organizations that should not be overlooked.

Concern has been expressed that this legislation will sever the existing cooperative relationship between State and local officials with regard to highway projects. There is fear that a State can be placed in the untenable position of allowing local officials to commit State funds for projects as to which the State has had no role.

The States currently play a very vital role in highway development by providing matching funds and absorbing administrative expenses. The State highway department provides the technical assistance necessary in long-range planning and development of highway projects in local communities.

I am pleased that the Public Works Committee at least has made clear in its report that there is no intention to alter the cooperative planning process currently in effect under present law. I wish to read from the committee report:

> The Committee emphasizes that the language of this bill does not in any way affect the requirements of Section 134 that "a continuing comprehensive transportation planning process (be carried on cooperatively by States and local communities." The Committee will monitor the process carefully to assure that broad goal of an integrated Federal-aid system is maintained.

There is also the concern that this legislation could lead to further delays by expanding decisionmaking to new, untried regional planning organizations, resulting in a duplication of the State role and unnecessary local administrative costs. Again, it is helpful, I hope, to refer to the Committee's report which reads in part as follows:

> Aside from the continuing requirements of Section 134 for cooperation between local and State officials, the States will retain the control of funds to be distributed to urbanized areas of fewer than 200,000 persons. The principal effect of this amendment will lie within the larger urbanized areas, which will have the capability and the expertise to make these local decisions for themselves.

The committee's intention appears to be to allow urbanized areas which are capable of making these decisions to do so without the necessity of State assistance. However, it should be noted that the majority of the urbanized areas have less than 200,000 people and will require State assistance.

Let me conclude with this observation. Federal highway laws were revised as recently as 1973, although full implementation has been only recently achieved. I believe the committee report language helps to make clear that the additional changes included in this bill are not intended to result in a wholesale shelving of State involvement, but they represent merely a limited alternative in highway planning for large, urban areas which are capable, both financially and administratively, of handling a highway project without State assistance.

I have reservations about the impact of this limited legislation. However, I wish to emphasize that any further attempts to alter the existing State-local relationship in the development of urbanized highway systems should not be undertaken without extensive hearings and the most careful consideration.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make such clerical and technical corrections as are necessary in the engrossment of S. 2711.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, in my previous remarks I meant to say, and neglected to say, that all of us owe a deep debt of gratitude to the staff of the committee. I would like to pay special tribute to Katherine Cudlipp, of the professional staff of the Transportation Subcommittee, who has been the good right hand to Senator STAFFORD; to Barry Meyer, the chief clerk, who has long experience in highway legislation and has served this committee well for a long time; Ron Katz, who is staff director for Senator BENTSEN's subcommittee; to Richard Harris and Rick Fenton of the Transportation Subcommittee staff; to Harold Brayman, Phil Cummings, and Bailey Guard, minority staff director, and to the other staff members who have participated in the preparation of this measure.

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. Does the Senator from Vermont yield back the remainder of his time?

Mr. BAKER. Mr. President, the Senator does yield back the remainder of his time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN), is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLD-

Water), the Senator from Maryland (Mr. Mathias), the Senator from Kansas (Mr. Pearson), the Senator from Virginia (Mr. Scott), the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. Stafford) would vote "yea."

The result was announced—yeas 86, nays 1, as follows:

[Rollcall Vote No. 585 Leg.]

YEAS—86

Abourezk
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NAYS—1

Proxmire

NOT VOTING—13

Allen
Bayh
Brock
Chiles
Goldwater
Mathias
Montoya
Pastore
Pearson
Pell
Scott, William L.
Stafford
Weicker

So the bill (S. 2711) was passed.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The move to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the bill, S. 2711, as passed, be held at the desk pending a message from the House of Representatives relative to highway authorizations.

The PRESIDING OFFICER (Mr. Curtis). Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar Order No. 499, House Joint Resolution 733, making further continuing appropriations for the fiscal year, 1976, and for other purposes.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A resolution (H.J. Res. 733) making further continuing appropriations for fiscal year 1976, and for other purposes.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HUGH SCOTT. Mr. President, will the Senator from Arkansas yield, so that I may direct a question to the distinguished majority leader?

Mr. McCLELLAN. I yield to the distinguished Senator from Pennsylvania.

LEGISLATIVE PROGRAM

Mr. HUGH SCOTT. Mr. President, I rise for the purpose of asking the distinguished majority leader to tell us what the order of business is for the remainder of today; for tomorrow, if we are in session; and for Monday.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished Republican leader, after the continuing resolution which is now pending is disposed of, it is quite possible that we will proceed to consideration of the conference report on the public works appropriation bill. That will be followed by consideration of Calendar No. 485, S. 1136, which will take some time, I understand.

The Senate can anticipate staying in session to a reasonably late hour tonight, at the least.

ORDER FOR CONSIDERATION OF S. 1136, ANTITRUST ENFORCEMENT AUTHORIZATION ACT OF 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the disposition of House Joint Resolution 733, the pending business, the Senate proceed to the consideration of Calendar No. 485, S. 1136, the Antitrust Enforcement Act of 1975.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Tomorrow, it is anticipated that the Senate will proceed to the consideration of Calendar No. 498, S. 961, the Fisheries Management and Conservation Act.

There is a possibility, also, that tomorrow we will proceed to the consideration of Calendar No. 488, S. 2498, a bill to amend the Small Business Act, and so forth. If not tomorrow, then Monday; but tomorrow, possibly.

Mr. President, I point out to the Senate that Congress is endeavoring to adjourn sine die, ending the 1st session of the 94th Congress a week from today, on December 19.

EXTENSION OF TIME FOR THE COMMITTEE ON FINANCE TO FILE REPORTS

Mr. President, I ask unanimous consent that the Committee on Finance be allowed until midnight tonight to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I have talked to the chairman of that committee, Senator Long, and the ranking Republican member, Senator Curtis, now presiding, and indicated to them—and I believe with their approval—that the tax bill will be taken up on Monday. Undoubtedly there will be some difficulties attached to that measure, because in the meeting last night of the four ranking Senators on the Budget and Finance Committees with the President, there was evidently no give.

So it may well be that after this bill is passed, goes to conference, and differences are reconciled, it will be sent to the President; and he has indicated that he would veto that bill. If that is the case—and I anticipate that it will be—I hope he will listen to the plea of the leadership that that veto be undertaken while Congress is in session, so that it will not be necessary for a call-back to consider this most important matter.

Mr. HUGH SCOTT. Mr. President, will the Senator yield on that point?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT. As the Senator knows, I would like very much to see a concurrent resolution whereby Congress indicates its general concurrence with the objectives of the President.

I believe some people are still working on some forms of resolution. I hope that still can be done, because, while in accordance with the President's views that we must have expenditure cuts in Congress, I still would like to see a tax-cut extension, if we could get one in that framework.

What time does the Senator plan to come in tomorrow morning?

Mr. MANSFIELD. Nine-thirty is the hour.

Mr. President, I concur with the statement just made by the distinguished Republican leader. I am under the impression that some Senators on both sides of the aisle are working on such a proposition at the moment.

However, as the distinguished Senator from Oklahoma (Mr. Bellmon) stated at the White House last evening, if the press reports are correct, something such as this will have to be done. Otherwise, Congress will be in the position of breaking a law. Some way must be found to avoid that at all costs and to see if, even yet, some reasonable arrangement can be arrived at.

In addition, we have the conference reports on the energy, situs picketing, and tax bills next week. So we have a very heavy schedule.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. With respect to the small business bill, I have amendments. I would appreciate it greatly if the leadership could let us know sometime today whether it will or will not be called up on Saturday.

Mr. MANSFIELD. I indicated the possibility yesterday, but I will try to be more definite later in the afternoon.

Mr. JAVITS. I thank the Senator.

Mr. MANSFIELD. I thank the Senator from Arkansas for yielding.

FURTHER CONTINUING APPROPRIATIONS, 1976

The Senate continued with the consideration of the joint resolution (H.J. Res. 733) making further continuing appropriations for fiscal year 1976, and for other purposes.

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. Senators will take their seats and will refrain from talking in the Chamber.

Mr. McCLELLAN. Mr. President, extension of the current continuing resolution which expires with the sine die adjournment of the first session of the 94th Congress is necessary to continue certain governmental functions for which appropriations will not or may not be enacted by adjournment. This resolution simply extends the current resolution until March 31, 1976. No other changes are made.

The Senate has passed 12 of the 14 regular appropriations bills for fiscal year 1976, but only 8 have become law. The other four are pending at some stage of conference action.

Two appropriations bills—foreign assistance and District of Columbia—have not yet been considered by the House. As yet there is no authorization for the foreign assistance programs. The District of Columbia budget was not submitted until November 5—and consequently hearings are not yet complete. It appears that neither bill will be reported to the House before adjournment.

Mr. President, the continuing resolution extension will provide further interim authority and appropriations until March 31, 1976, for programs funded under the foreign assistance and District of Columbia bills. Depending on the outcome of conference and Presidential action, the continuing resolution could also be the vehicle to provide interim continuing appropriations for programs and activities under four other major bills including Labor-Health, Education, and Welfare; Defense; Public Works; and Interior. It appears that the Defense, Interior, Labor-HEW, and Public Works bills will be sent to the President before adjournment.

Additionally, the continuing resolution will provide for certain programs especially in the health field which still lack legislative authorization and which, therefore, have not yet received appropriations for the current fiscal year.

As has been the practice over a number of years, the continuing resolution provides an appropriate rate of funding for the departments and agencies until the respective regular appropriation bills can be enacted by Congress. The extension of the effective date of the resolution continues the rates established by the original continuing resolution (Public Law 94-41 of June 27, 1975) which are based on the status of each particular bill as of July 1, 1975.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I support the position taken by the distinguished chairman of the Committee on Appropriations, Senator McClellan with respect to this continuing resolution.

I see no alternative but to pass it, because at least two bills—the District of Columbia and foreign assistance bills—cannot be passed during this session of Congress.

There is also a possibility that we may not have a Labor-HEW appropriation bill, should it be vetoed, which is approximately a billion dollars over the budget. Of course, that would be nothing new with respect to Labor-HEW. We have been operating on continuing resolutions for most of each year for the last 3 years without an appropriation.

I would like to have seen an earlier ending date than March 31 for this continuing resolution, but I believe that an earlier date would not be as practical as March 31. We would save ourselves a great deal of trouble and useless effort by trying to have an earlier date and then have to extend it again.

So I hope the Senate will approve the resolution as reported by the committee.

Mr. McCLELLAN. Mr. President, I know of no amendments to the resolution. If there are none—I yield to the distinguished Senator from Hawaii.

Mr. INOUYE. Mr. President, the distinguished Senator from Massachusetts (Mr. Kennedy) wanted very much to be here to ask a question of the subcommittee. However, because of a very important hearing, he is not able to be here. He has asked me to insert his question and my response.

Senator Kennedy's question is as follows:

> Mr. Kennedy. I want to raise with the distinguished chairman of the Foreign Operations Subcommittee and the ranking member of that subcommittee one issue. The prohibition contained within Public Law 93-559 barring any military assistance of any kind, including grants, credit sales, cash sales, guarantees or transfers to the Government of Chile is in no way affected by this Continuing Resolution. And I would hope that during the period of this continuing resolution, it would be the committee's understanding and the subcommittee's understanding that the prohibition should remain in effect. I would note that the Administration has not submitted any request for military aid to Chile this year and the Foreign Relations Committee is currently considering the Foreign Military Aid authorization legislation. Until that legislation is enacted, I would hope that it would be the Committee's assumption that no funds under the continuing resolution be used in any way to reverse the policy of prohibiting such assistance established in PL 93-559 and also expressed in the Appropriations Committee Report 94-30 of a year ago. As you know there continue to be arrests, torture and repression in that country.

Mr. President, my response to that inquiry is as follows:

> Mr. Inouye. It is my understanding that this resolution will in no way alter last year's prohibition of military aid to Chile.

I thank the Senator.

Mr. JAVITS. Mr. President, this section requires the Agency for International Development, the Department of Defense, and certain other agencies specifically to notify the Appropriations Committee 15 days in advance of the obligation of funds for all projects, activities, programs or other operations. The conference report on section 113 of Public Law 94-11 and the Appropriations Committee report state that this notification requirement is met by inclusion of any such project or activities in the detailed congressional presentation submitted annually to the Congress. The report accompanying the CR, however, indicates that the Senate Appropriations Committee is not satisfied with this form of notification during the CR period, and expects individual, duplicatory notifications for each new project or activity, no matter how small, funded during the CR.

In fairness to the agency a few points regarding section 113 shall be voted. First, section 113 of Public Law 94-11 appears to require notification only; and second, section 113 does not appear to require approval by the committee before a project or activity may be implemented. The legislative history on these points seems clear. I am advised that last March, when the committee reported out the regular foreign aid appropriation bill, it contained an express approval requirement under section 113; but, that requirement was stricken from the bill on a point of order.

Now the Appropriations Committee has filed a report that says, in essence, that notification through congressional presentation documents is not sufficient, and that separate—and duplicatory—documents must be submitted for committee consideration and, presumably, its approval. I raise the question because obviously the plain meaning of a statute cannot be altered by a subsequent committee report as to what type of notification the Subcommittee on Foreign Operations expects to receive under section 113.

The Congress enacted section 113 last year I understand with the assurance of the Committee on Appropriations that including projects or activities in the congressional presentation documents satisfied the requirements of that section. See page 46 of Senate Report 94-39. If section 113 is to be amended this should be done by the legislative route. I hope that the affected agencies will recognize that the legal requirements for notification remain those which are contained in last year's conference report on Public Law 94-11.

No reason is advanced why the Foreign Operations Subcommittee requires two duplicatory notifications before the agencies affected can proceed with projects or activities under the CR. The subcommittee has had I understand at least a month, and in most cases over 8 months, to review the budget proposals of these agencies.

Finally, the report language chooses only a handfull of agencies to submit duplicatory information to the Congress and wait 15 days before proceeding with projects or activities under the CR. If this requirement is to be applied at all, why should it not apply to all agencies and departments operating under the CR.

I ask unanimous consent that a copy of section 113 of the law, the Statement of Managers on the section in the 1975 appropriation bill and the floor discussion on the point be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

> Sec. 113. None of the funds made available under this Act for "Food and Nutrition, De-

velopment Assistance," "Population Planning and Health, Development Assistance," "Education and Human Resources Development, Development Assistance," "Selected Development Problems, Development Assistance," "Selected Countries and Organizations, Development Assistance," "International Organizations and Programs," "United Nations Environmental Fund," "American Schools and Hospitals Abroad," "Indus Basin Development Fund," "International Narcotics Control," "Assistance to Portugal and Portuguese colonies in Africa gaining independence," "Administrative expenses, Agency for International Development," "Indochina postwar reconstruction assistance," "Security supporting assistance," "Middle East special requirements fund," "Military assistance," "Inter-American Foundation," "Peace Corps," "Migration and refugee assistance," "Assistance to Refugees From the Soviet Union," or "Assistance to Palestinian Refugees" shall be available for obligation for activities, programs, projects, countries, or other operations unless the Committees on Appropriations of the Senate and House of Representatives are previously notified fifteen days in advance.

STATEMENT OF MANAGERS ON THE SECTION 113 IN 1975 APPROPRIATION BILL

The conferees agree that any activity, project, or other operation specifically set forth by amount to be obligated in fiscal year 1975 and by country in the fiscal year 1975 Congressional Presentation Document shall be deemed to have been justified and the Committees on Appropriations informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1975 shall be deemed to have been justified and the Committees on Appropriations informed.

Any activity, project or other operation not specifically set forth by amount to be obligated in fiscal year 1975 and by country in the fiscal year 1975 Congressional Presentation Document shall be deemed not to have been justified and the Committees on Appropriations not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1975 shall be deemed not to have been justified and the Committees on Appropriations not informed.

[From the Congressional Record,
Mar. 19, 1975]

The Presiding Officer. Without objection, it is so ordered.

Mr. Javits. Mr. President, I ask unanimous consent that the amendment on page 14, lines 10 to 19, inclusive, be called up.

The Presiding Officer. The amendment will be stated.

The legislative clerk read as follows:

"On page 14, at the end of line 12, strike out 'unless the Committee on Appropriations of the Senate and House of Representatives are previously notified five days in advance' and insert:

" 'Not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year without the express approval of the Appropriations Committees of both Houses of the Congress.' "

Mr. Javits. Mr. President, may I take most of my 5 minutes to pay a tribute which is really a boundless admiration for the work of Senator Inouye and Senator Brooke and their colleagues in this report, which is just the way a report should be. It really gives one the story. Senator Harry F. Byrd, Jr., has mentioned that already. It is an extraordinary job. The more the American people realize how much we are doing, in my judgment, the better informed and the more convinced they will be as to the desirability of doing what we are. The country owes them a great debt for this undertaking, and I have been at this, man and boy, for almost 30 years.

As to this particular provision, it is a procedural matter, but a very important one, because the provision, if it were permitted to stand, would give to the Appropriations Committees of both Houses of Congress the express right to approve what may not have been justified before them on a whole series of programs referred to in this bill, from line 18 on page 13, to line 12 on page 14.

In the first place, the word "justified" is a word which is extremely difficult to define. The committee would have to define it as it chose. It is a conclusory word. It does not give one a criterion. If they believe it was justified, then they say, "OK, we won't stop you from doing what you want to do." If they do not believe it is justified, they say, "You have to get our approval."

These are servants, not masters, of the House and Senate. Yet, they are the ones who are going to approve, whereas the House and the Senate should.

The provision which this provision displaced required notice, and I thoroughly agree with that. That is as it should be. But to take over the authority of both the House and the Senate, I do not think we can agree to that.

Mr. President, this provision undoubtedly is subject to a point of order. I hope it will not be necessary to make that point of order, because I have such admiration for the job that has been done. I would like to show the greatest respect and regard for the committee. Therefore, I hope that the manager of the bill will allow this amendment to be rejected, perhaps on a voice vote, which would mean that we would go back to the House language.

In that connection, I ask Senator Inouye whether he will agree, as the staff of the Committee on Foreign Relations feels, that this is the very kind of thing we should be notified about—if the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs were written into what would then be the remaining provision, so that they, too, would get notice.

Mr. Inouye. Mr. President, will the Senator yield, on my time?

Mr. Javits. I yield.

Mr. Inouye. Would the Senator be willing to take an amendment to the committee amendment, by putting a period after "fiscal year" and deleting the remainder?

Mr. Javits. Mr. President, the difficulty is that that is a question of judgment, too. In other words, will any action of theirs be illegal, and how are they ever going to ascertain that it is legal or illegal?

I am told by the Agency that they have never—and that is a very strong word to use—run counter to what Senator Inouye, as chairman of that subcommittee, has wanted of them. I believe, as I think Senator Inouye knows, that we would back him to the hilt. If the Senator feels that 5 days is not adequate notice, we can make it 10 or 15 days. But it seems to me that if we left it the way he has it—that is, to omit the express approval but make it as a matter of law that they cannot make an obligation with the criterion so absolutely indefinite that it was not justified before the Appropriations Committee—they could not do anything. They would be completely immobilized pro or con. I say this as a lawyer.

So perhaps Senator Inouye would consider lengthening the time—10 days, 15 days—so that he would have plenty of time to come back to us, if they were recalcitrant about what the Appropriations Subcommittee wanted, and say, "Look, we have to act on this affirmatively and either nullify the appropriation or in some way deal with withdrawing the authority." I am sure there will be no such occasion. The AID has made this representation to me respecting the way in which they have sought to comply with the wishes of the subcommittee.

In any case, when we act, we should act in a legal, intelligent way. It seems to me that the best way is to require notice and enough time to react.

Mr. Inouye. Mr. President, I agree that we should act in a legal, intelligent way.

All this amendment attempts to do is to give the Congress of the United States an opportunity to carry out its responsible oversight function. All we are saying is that at any time an agency wishes to spend more than what has been justified before the committee, they must receive approval from both Houses of Congress. I do not think this is too much to ask of them.

I point this out: For fiscal year 1975, in the authorization request submitted to Congress, the amount justified for Cambodia, for military assistance, contains an item called "military assistance program supply operations," and the amount requested before Congress was $27.5 million. This is what Congress approved.

As of February 12, 1975, under that account, the Department of Defense has already spent $53.8 million. If we are just seeking notification, all they will have to do is to give us notice of 5 or 10 days to tell us, "We have violated our justification. We did not tell you honestly what we really intended to spend, and this is what we spent." They asked for $27.5 million; they have already spent $53.8 million.

Friday afternoon, at 5 o'clock, the few Members of Congress who remained in the city of Washington received notification that, somehow, "We came across $21.5 million to be used for military assistance programs." That is all they did—notify us.

I think the least we should be able to do, as Senators and as Members of Congress, would be to exercise this oversight responsibility and have them come before us and seek justification and argue, if they wish to spend more than they requested originally. This is very current.

For fiscal 1975, under the MAP program, a request was made for the $27.5 million for the supply operations. As of February 12, 1975—this is in this fiscal year—they have already spent $53.8 million. This is the type of transfer of funds reprograming which we hope to control under this section.

If the Senator does not wish to delegate the approval or disapproval power to the Appropriations Committee, I will not mind having this—with the express approval of Congress.

Mr. Javits. If we do that, we are really undoing the bill. If the Senator is right, then where do we stop? How can we possibly appropriate anything, if we assume the executive department is going to be illegal in what they use the money for. We simply would nullify the whole bill.

Mr. Inouye. Will the Senator yield?

Mr. Javits. If I may explain that to the Senator, the words "justify" or "not justify" are words that have no beginning and no end. How does one define "justify"? The fact that they testified before the Senator and he thinks they did or did not justify is a matter in his own mind. It has no criterion or standard whatsoever.

Mr. Inouye. It is not "justify" in the sense that the Senator expresses, sir. Under the appropriations process, if a witness comes before us and says, "Mr. Chairman, we are requesting $100 million, of which $75 million will be spent for the purchase of trucks, $10 million for rifles, and $15 million for mortar shells," this is what has been justified. When we appropriate $100 million, we expect $75 million to be spent for trucks, $10 million for rifles, and $15 million for mortar shells. But if they come forth and spend $10 million for trucks and $75 million for rifles, then something is wrong.

I think we should have some say over this, sir.

Mr. McGovern. Will the Senator yield just for a request for the yeas and nays on an earlier matter?

Mr. Javits. Certainly.

Mr. McGovern. Mr. President, I ask for the yeas and nays on the committee amendment at the top of the page, page 8, line 5, on Indochina.

The Presiding Officer. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. Javits. Mr. President, if I may, I point out that if authority vested—and Senator Inouye already agrees that it should not be vested in the Committee on Appropriations—if vested in Congress would relate to obligation for activities, programs, projects, countries, or other operations. It seems to me that that really involves vast amounts of administrative discretion, with no deviation whatever unless we come back, in this case to Congress if we concede that, and then we pass this bill all over again.

The idea of oversight is that we see what they are doing and we can move to stop them. But we should not give to committees of Congress the powers of Congress, which is what this does if it stands—if I ever saw legislation that does that, this is it—on an appropriation bill, or to double back on ourselves and say that what we have approved, we are going to approve every time again in individual situations.

We have found, and I am also a ranking member of an important committee, that legislative oversight is very effective if we know what is being done, and if we call a hearing and put our foot down, it is not done. If any effort is made to muscle a thing through, we can always come back to the body with which we are connected in order to address it. No department that I know of has ever tried to do this.

It seems to me if we do this, we will give one subcommittee or one committee or one House the opportunity to undo all the work which has been done in passing the law.

Mr. President, as I said, at the very least, this is a matter that should have hearing and discussion and consideration in a legislative way by the Committee on Armed Services. There is no question about the fact that it is legislation on an appropriations bill. As I said, I hesitate to make the point of order, but I shall have to make it because, in conscience, it should be made if I am compelled to. But I hope that we can agree on a longer period of time and also to give notice to the Committees on Foreign Relations and Foreign Affairs, thus giving a higher barrier to any capricious conduct in respect to this appropriation.

Mr. Inouye. Will the Senator yield for a question?

Mr. Javits. Yes.

Mr. Inouye. I believe the Department notified the Committee on Foreign Relations of the $21.5 million on Cambodia.

Mr. Javits. It just did.

Mr. Inouye. I further believe that the committee disapproved of the spending of this amount.

Mr. Javits. Well, now, we are going to write that in our report. I believe that that is the present disposition. I cannot say that absolutely. I am just unable to say.

Mr. Inouye. I believe I am correct that the committee decided that the Department of Defense should not spend that amount.

Mr. Javits. Yes, I think that is correct.

Mr. Inouye. I believe I should notify the Senator that most of that amount has already been spent. What would he do now?

Mr. Javits. Mr. President, we have a lot of business with the Department of Defense. We can approach them in this program or another program. We have made plenty of rescissions and cancellations. We have a way of punishing departments here if we want to.

The Presiding Officer. All of the time on the amendment has expired. The question is on agreeing to the amendment.

Mr. Javits. Mr. President, I make the point of order that this is legislation on an appropriations bill.

The Presiding Officer. The point of order is well taken.

Mr. Javits. Mr. President, I send an amendment to the desk and ask that it be reported.

The Presiding Officer. Until the committee amendments have been disposed of, floor amendments are not in order.

Mr. Javits. Mr. President, I ask unanimous consent that this amendment, which deals solely with the matter of giving more time to the committees and including two other committees, may be considered at this time.

The Presiding Officer. Is there objection? Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

"On page 14, line 16, after the word 'committees', insert the following: 'and the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs', and on line 19, insert before the period 'and the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs'; and on line 15, strike out '5' and insert '15'."

The Presiding Officer. The Chair is informed that line 16 on page 14 is no longer in the bill. It was stricken on a point of order.

Mr. Javits. Mr. President, with all due respect, it was lines 15 to 19 that were stricken on a point of order.

The Presiding Officer. Lines 15 to 19 include line 16.

Mr. Javits. The amendment I sent to the desk relates to—Mr. President, I suggest the absence of a quorum on my time.

The Presiding Officer. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. Pell. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. Inouye. Mr. President, I ask unanimous consent that the Senator from Rhode Island be given 5 minutes.

The Presiding Officer. A quorum is in progress.

Mr. Inouye. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The Presiding Officer. Without objection, it is so ordered.

Mr. Inouye. Mr. President, I ask unanimous consent that I be recognized for 5 minutes.

The Presiding Officer. The Senator from Hawaii is recognized for 5 minutes.

Mr. Inouye. I yield to the Senator from Rhode Island.

Mr. Pell. I thank the Senator very much and congratulate him on the work he has done on this bill. There is one detail here. That is that in Public Law 93-312, last year, Congress increased the annual authorization to the International Committee of the Red Cross from $50,000 a year to $500,000 a year. We all know, without going into length, the wonderful job the International Committee of the Red Cross has done for our own and other prisoners of war and has done for victims of war all over the world. I am sure there was no intention on the part of the committee to reduce the amount of our annual contribution to the International Committee of the Red Cross. I wish to ask the chairman of the subcommittee if I was correct in that assumption.

Mr. Inouye. This bill has no intention of changing the legislative intent of the Congress of the United States.

Mr. Pell. That would apply to this commitment to the International Committee of the Red Cross as well as to any other item?

Mr. Inouye. The budget actions submitted by the administration called for $50,000. I am certain that the administration will take note of the legislative intent of Congress.

Mr. Pell. That is right, and I trust the administration will take note of the intent of Congress in its passage of the public law contributing $500,000 annually to the International Committee of the Red Cross.

I yield the floor.

Mr. Javits. Mr. President, I modify my amendment and send it to the desk.

The Presiding Officer. The amendment as modified will be stated.

The assistant legislative clerk read as follows:

"On page 14, line 13, after the word 'Committees' insert the following: 'Foreign Relations and Foreign Affairs.'"

"On line 14, strike out '5' and insert '15'."

Mr. Javits. Mr. President, the purpose of the amendment is to give more notice and to include the Foreign Relations and Foreign Affairs Committees in the notice for all the reasons explained, and I hope very much that at least for this moment, while hereafter the committees may decide to go some other way in an appropriate bill, the managers of the bill will consider this an improvement and allow the amendment to be adopted.

Mr. Inouye. Mr. President, we accept the amendment.

The Presiding Officer. The question is on agreeing to the amendment of the Senator from New York, as modified.

The amendment, as modified, was agreed to.

Mr. Javits. I thank the chairman very much.

Mr. CRANSTON. Would the chairman of the Foreign Operations Subcommittee of the Appropriations Committee indicate how this continuing resolution would affect the funding for security assistance programs in fiscal year 1976?

To be more specific, what is the impact of section 113 of the Foreign Assistance and Related Programs Appropriation Act of 1975, which reads:

> None of the funds made available under this act for . . . security supporting assistance, Middle East special requirements fund, military assistance . . . shall be available for obligation for activities, programs, projects, countries, or other operations unless the Committees on Appropriations of the Senate and House of Representatives are previously notified fifteen days in advance?

Mr. INOUYE. It is true that over the past several years the Department of Defense has sometimes operated the military assistance program in a rather high-handed manner indicating an indifference to congressional concerns and responsibilities.

I hope that I can see some evidence that the Department is in the process of becoming more cooperative with the Congress and congressional committees concerned with the authorization and appropriation of funds for the program. In all candor, however, I must say that there are some in the Department who maintain that the Department itself is the best and final authority in interpreting the intent of Congress.

Several weeks ago I learned that the Department had decided that the reporting requirements of the fiscal year 1975 appropriation bill were not applicable under the continuing resolution. This question was put to the Comptroller General who on December 3 issued ruling B–159451 which should settle this question. I ask unanimous consent that this decision be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Comptroller General of the
United States,
Washington, D.C., December 3, 1975.

B–159451.
Hon. Daniel K. Inouye,
Chairman, Subcommittee on Foreign Operations, Washington, D.C.

Dear Mr. Chairman: Your letter of November 21, 1975, requests our advice as to the applicability of section 113 of the Foreign Assistance and Related Programs Appropriations Act, 1975, approved March 26, 1975, Pub. L. No. 94–11, 89 Stat. 17, 21–22 as exemplified by H.R. Rep. No. 94–108 (1975), to current new operations of the Military Assistance Program (MAP).

Section 113 of Pub. L. No. 94–11 reads in pertinent part as follows:

"None of the funds made available under this Act for * * * 'Military assistance' * * * shall be available for obligation for activities, programs, projects, countries, or other operations unless the Committees on Appropriations of the Senate and House of Representatives are previously notified fifteen days in advance."

The significance and intended application of this provision are explained in the conference report on the legislation enacted as Pub. L. No. 94–11 H.R. Rep. No. 94–108, *supra,* at 6, as follows:

"The conferees agree that any activity, project, or other operation specifically set forth by amount to be obligated in fiscal year 1975 and by country in the fiscal year 1975 Congressional Presentation Document shall be deemed to have been justified and the Committees on Appropriations informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1975 shall be deemed to have been justified and the Committees on Appropriations informed.

"Any activity, project or other operation not specifically set forth by amount to be obligated in fiscal year 1975 and by country in the fiscal year 1975 Congressional Presentation Document shall be deemed not to have been justified and the Committees on Appropriations not informed. Similarly, amounts in excess of the amount proposed therein for obligation in fiscal year 1975 shall be deemed not to have been justified and the Committees on Appropriations not informed."

It is clear that section 113 of Pub. L. No. 94–11, which is specifically limited to funds made available under that Act, does not by its own terms apply to funds made available for MAP under other statutory authority. However, the question as to the applicability of the notification requirement in section 113 to proposed obligations for the funding of "current new operations" of MAP arises by reason of section 101(b) of the joint resolution making continuing appropriations for the fiscal year 1976, approved June 27, 1975, Pub. L. No. 94–41, 89 Stat. 225, 226. Section 101(b) of Pub. L. No. 94–41 reads in pertinent part as follows:

"Such amounts [are appropriated] as may be necessary for continuing projects or activities (not otherwise provided for in this joint resolution) which were conducted in the fiscal year 1975 and are listed in this subsection at a rate for operations not in excess of the current rate or the rate provided for in the budget estimate, whichever is lower, *and under the more restrictive authority—*

*   *   *   *   *

"activities for which provision was made in the Foreign Assistant and Related Programs Appropriation Act, 1975 * * *" (Emphasis added.)

We must determine whether the language of section 101(b), specifically the phrase "and under the more restrictive authority," incorporates the notification provision in section 113 by implication, thereby requiring that appropriate notification be transmitted to the Committees on Appropriations of the Senate and House of Representatives prior to the obligation of funds made available under the terms of the continuing resolution.

The Senate Committee on Appropriation stated its view on this question in its report on the continuing resolution, S. Rep. No. 94–201, 5 (1975), as follows:

"It is the opinion of the Committee that the affirmative grant of authority contained in section 101(b)

" 'Such amounts as may be necessary for continuing projects or activities * * * which were conducted in the fiscal year 1975 and are listed in this subsection at a rate for operations not in excess of the current rate or the rate provided for the budget estimate, whichever is lower, and under the more restrictive authority'

and the restriction in section 106

" 'No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1975.'

limit obligations under the Continuing Resolution to those operations carried on in fiscal year 1975 and at an annual rate for operations not in excess of the fiscal year rate *unless the Congress is advised fifteen days in advance, pursuant to Section 113 of Public Law 94–11"* (*Emphasis added.*)

Apart from the other matters discussed in this passage, it is clear that the Committee considered the section 113 notification requirement to be applicable under the continuing resolution, presumably by virtue of the "more restrictive authority" language of section 101(b) of the resolution. We find nothing in the legislative history of Pub. L. No. 94–41 which is inconsistent with the interpretation in the Senate report.

Moreover, this interpretation seems consistent with the general background and purport of the language of section 101(b). Pub. L. No. 88–55, approved June 29, 1963, 77 Stat. 74, was the first continuing resolution of which we are aware that appropriated funds in "Such amounts as may be necessary * * * at a rate for operations not in excess of the current rate or the rate provided for in the budget estimate, whichever is lower, *and under the more restrictive authority* * * *." (Emphasis added.) Prior to that time, the corresponding language of section 101(b) referred only to the lower of the current rate or the rate provided for in the budget estimate, without mentioning "the more restrictive authority as an additional requirement. See Pub. L. No. 87–513, approved July 1, 1962, 76 Stat. 125.

Our examination of the legislative history of Pub. L. 88–55 concerning the intended meaning of the language in question when it was first employed revealed nothing of relevance. However, it is reasonable to conclude that the language in question was intended to effectuate a dual limitation on funds made available under the continuing resolution. Thus the allowable rate of expenditures under section 101(b) of a continuing resolution is the lesser of the current rate or the rate provided for in the budget estimate, and all such obligations and expenditures are to be made under the more restrictive limitations as set forth in either the appropriations act for the prior year or the budget estimate for the new fiscal year. Since the word "restriction" is most commonly defined as a "limitation" or "qualification," we believe that the notice requirement in section 113 of Pub. L. 94–11 does, in fact, constitute such a limitation or qualification on the executive departments in their use of appropriated funds made available under either the annual appropriations act or the continuing resolution.

In sum, we believe that the statement in the Senate report, *supra,* concerning the applicability of section 113 under the continuing resolution represents a controlling interpretation of section 101(b) of Pub. L. No. 94–41 for purposes of legislative history, and is consistent with both the language of section 101(b) and the general derivation of that provision. Accordingly, it is our opinion that the requirement in section 113 of Pub. L. No. 94–11 that the appropriate committees be notified in advance of proposed obligations for MAP and other specified categories is applicable to the use of funds made available under the authority of the continuing resolution.

We trust that the foregoing has been responsive to your inquiry.

Sincerely yours,
Robert F. Keller,
Comptroller General
of the United States.

Mr. INOUYE. In his opinion the Comptroller General concurred with the committee to the effect that the reporting and notification requirements were still applicable under the continuing resolution.

Therefore, the status of this matter at the present time is that under the continuing resolution all departments providing foreign assistance are required to notify the Congress 15 days in advance of initiating any new project, program, activity or operation not carried on in fiscal year 1975 or in excess of the 1975 level.

The committee report on the extension of the continuing resolution further makes clear that this notification must be specific and that the fiscal year 1976 congressional presentation is not acceptable as such.

Mr. CRANSTON. Obviously, Mr. President, I am bothered by the fact that Congress exercises so little control—by failing through both the authorization and appropriations processes to designate specific countries to be recipients of security assistance. Further, we always act on these matters—if at all—halfway into the fiscal year.

I commend the Senator from Hawaii for the good work he and his committee are doing in trying to maintain congressional prerogatives and the power of the purse. Only the taxpayers benefit.

Mr. McCLELLAN. Mr. President, if there are no amendments to the resolution, I ask for third reading.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendments to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resoution (H.J. Res. 733) was passed.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. YOUNG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, in line with the previous agreement, I ask unanimous consent that the Senate turn to consideration of Calendar Nos. 502, 503, 505, and 522.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL LAW CLERKS FOR JUDGES OF THE DISTRICT OF COLUMBIA COURT OF APPEALS

The Senate proceeded to consider the bill (H.R. 4287) to provide for additional law clerks for the judges of the District of Columbia Court of Appeals, which had been reported from the Committee on the District of Columbia with an amendment on page 2, beginning with line 3, insert:

SEC. 2. That the District of Columbia Law Revision Commission Act, approved August 21, 1974, is amended as follows:

Section 2(i) of such Act (D.C. Code, sec. 49–401 (i)), is amended to read as follows:

"The Commission may appoint and fix the compensation of such personnel as it deems advisable. Such personnel shall be appointed without regard to the provision of title 5 of the United States Code, governing appointments in the competitive service. The Commission may appoint a Director. Such appointment shall be made without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service. The Director shall serve at the pleasure of the Commission and shall be entitled to receive compensation at the maximum rate as may be established from time to time for grade 16 of the General Schedule in section 5332 of title 5 of the United States Code. The Commission may also appoint a General Counsel without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, to serve at the pleasure of the Commission. The General Counsel shall be entitled to receive compensation at the same rate as the Director and shall be responsible solely to the Commission.

"Persons appointed to the staff of the Commission shall be appointed solely on the basis of their ability to perform the duties of the Commission without regard to political party affiliation. Employees of the Commission shall be regarded as employees of the District of Columbia government.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

JUDICIAL CONFERENCE OF THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the bill (H.R. 10035) to establish the Judicial Conference of the District of Columbia, which had been reported from the Committee on the District of Columbia with an amendment on page 2, beginning with line 15, insert:

(c) The portion of section 801 of the Elementary and Secondary Education Act of 1965 which precedes subsection (a), is amended by striking out "As used in titles II, III, V, VI, and VII," and inserting in lieu thereof, "As used in titles II, III, IV, V, VI, and VII".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

INTERNATIONAL SAFEGUARDS OF NUCLEAR MATERIALS

The resolution (S. Res. 221) urging the President of the United States to take the leadership in seeking international cooperation in strengthening safeguards of nuclear materials, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Resolved, That the President seek the immediate international consideration of strengthening the effectiveness of the International Atomic Energy Agency's safeguards on peaceful nuclear activities and seek intensified cooperation with other nuclear suppliers to insure that most stringent safeguard conditions are applied to the transfer of nuclear equipment and technology to prevent the proliferation of nuclear explosive capability.

Whereas the Senate of the United States ratified the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in recognition of the devastation associated with a nuclear war and of the need to make every effort to avert the danger of such a war;

Whereas the parties to the treaty expressed a common belief that the proliferation of nuclear weapons would seriously increase the danger of nuclear war;

Whereas the United States and other parties to the treaty pledged to accept specified safeguards regarding the transfer to nonnuclear-weapon states of special nuclear materials and facilities for the processing, use, or production of such materials;

Whereas recent events, including the explosion of nuclear devices, the development of uranium enrichment facilities, and the proposed transfer of nuclear enrichment and reprocessing facilities to nonnuclear-weapon states, emphasize the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards on peaceful nuclear activities so that there will be no further proliferation of nuclear weapons capability;

Whereas the Senate of the United States is particularly concerned about the consequences of transactions without effective safeguards that could lead to the production of plutonium and other special nuclear materials by nonnuclear-weapon states throughout the world; and

Whereas the Senate is particularly concerned about the proliferation threat posed by the possibility of the development in the near future of a large number of independent national enrichment and reprocessing facilities and therefore believes that the United States should take the lead in securing agreement for the development of regional multinational, rather than national, centers to undertake enrichment and reprocessing activities in order to minimize the spread of technology which could be used to develop nuclear explosives: Now, therefore, be it

Resolved, That the Senate of the United States strongly requests and urges the President to seek through the highest level of consultation in the United Nations and with the other leaders of the world community, an intensive cooperative international effort to strengthen and improve both the scope, comprehensiveness, and effectiveness of the international safeguards on peaceful nuclear activities so that there will be a substantial and immediate reduction in the risk of diversion or theft of plutonium and other special nuclear materials to military or other uses that would jeopardize world peace and security; be it further

Resolved, That the President seek, through consultation with suppliers of nuclear equipment and technology, their restraint in the transfer of nuclear technology and their cooperation in assuring that such equipment and technology only is transferred to other nations under the most rigorous, prudent, and safeguarded conditions designed to assure that the technology itself is not employed for the production of nuclear explosives; and be it further

Resolved, That the Secretary of the Senate is directed to transmit copies of this resolution to the President of the United States and to the Secretary of State.

WAIVER UNDER SECTION 303(a) OF CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 2635

The resolution (S. Res. 322) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2635 was considered and agreed to, as follows:

Resolved, That pursuant to section 303(a) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 2635. Such waiver is necessary because on January 1, 1976, solely as a result of this year's social security increases, one million three hundred twenty-seven thousand one hundred and thirty-six veterans and survivors will sustain pension reductions and another forty-one thousand eight hundred and forty will lose entitlement to pension altogether unless amendments increasing rates and the maximum annual income limitations contained in titles II and IV of S. 2635, become law effective January 1, 1976. As an integral part of the approach to this problem, titles I and III of S. 2635 are designed to restructure totally the current need-based pension program for wartime veterans and survivors effective October 1, 1976, to achieve equitable program objectives more fully and to avoid further problems occasioned by subsequent periodic automatic social security increases. Congress should consider the provisions effective January 1, and October 1, 1976, together to assure uniformity, continuity, and a coordinated effort with respect to the Veterans' Administration pension program. The deferred October 1, 1976, effective date for the new pension program is intended to permit the Veterans' Administration adequate time to implement the provisions of S. 2635.

Such waiver is also necessary to provide veterans, survivors and their families an opportunity for prudent fiscal planning in consideration of the amount of pension they will be entitled to receive during the entire calendar year 1976.

Further, such waiver is necessary to allow the Congress to complete in a timely and logical manner the work regarding veterans and survivors pension reform which the Committee on Veterans' Affairs has carried on throughout the preceding past two years in good faith and without any intent to circumvent the congressional budget process.

ANTITRUST ENFORCEMENT AUTHORIZATION ACT OF 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 485, S. 1136, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1136) to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committees on the Judiciary and Commerce, jointly, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Antitrust Enforcement Authorization Act of 1975".

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) This Nation is founded upon and committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents the undue concentration of economic, social, and political power, and preserves a free democratic society.

(2) The decline of competition in industries in which oligopoly or monopoly power exists, and the decline of competition caused by State and Federal regulatory policies, have contributed significantly to unemployment, inflation, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments.

(3) Diminished competition and increased concentration in the marketplace have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment.

(4) The near record rates of inflation and unemployment have caused extreme hardship and dislocation to the American consumer, worker, farmer, and businessman.

(5) Investigations by the Federal Trade Commission, the Department of Justice, and the National Commission on Food Marketing, as well as other independent studies, have identified conditions of excessive concentration and other anticompetitive behavior in various industries.

(6) Vigorous and effective enforcement of the antitrust laws, and reduction of monopoly and oligopoly power in the economy, can contribute significantly to reducing prices, unemployment, and inflation, and to preservation of our democratic institutions and personal freedoms.

(7) The lack of adequate antitrust resources has prevented vigorous and effective enforcement of the antitrust laws.

(b) It is the purpose of the Congress in this Act to authorize sufficient appropriations to the Federal Trade Commission and the Department of Justice to support and invigorate effective and expeditious enforcement of the antitrust laws, to facilitate the restoration and maintenance of competition in the marketplace, to prevent and eliminate monopoly and oligopoly power in the economy, and to improve the antitrust enforcement capability of the States.

FEDERAL TRADE COMMISSION

SEC. 3. (a) Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by inserting between the second and third paragraphs of such section the following new paragraph:

"In addition to the other authority ferered by this section, the Commission is authorized to establish and fix the compensation for not more than twenty-five attorney, economist, special expert, and outside counsel positions for its maintaining competition responsibilities. Individuals may be appointed to positions established under this paragraph with out regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the maximum rate for GS–18, but not less than the minimum rate for GS–16, of the General Schedule under section 5332 of such title.".

(b) Section 20 of the Federal Trade Commission Act is amended by inserting "(a)" immediately before the first sentence, and by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated to the Commission in addition to such sums as are authorized by any other provision of law, not to exceed $25,000,000 for the fiscal year ending June 30, 1976; not to exceed $6,250,000 for the transition period ending September 30, 1976; not to exceed $35,000,000 for the fiscal year ending September 30, 1977; and not to exceed $45,000,000 for the fiscal year ending September 30, 1978; such sums to remain available until expended for the purposes authorized by the Antitrust Enforcement Authorization Act of 1975.".

DEPARTMENT OF JUSTICE

SEC. 4. (a) Chapter 31 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 527. Authorization of appropriations for antitrust enforcement

"(a) There are authorized to be appropriated to the Department of Justice in addition to such sums as are authorized by any other provision of law, not to exceed $25,000,000 for the fiscal year ending June 30, 1976; not to exceed $6,250,000 for the transition period ending September 30, 1976; not to exceed $35,000,000 for the fiscal year ending September 30, 1977; and not to exceed $45,000,000 for the fiscal year ending September 30, 1978; such sums to remain available until expended for the purposes authorized by the Antitrust Enforcement Authorization Act of 1975.

"(b) The Assistant Attorney General in charge of the Antitrust Division is authorized to establish and fix the compensation for not more than twenty-five attorney, economist, special expert, and outside counsel positions for the Antitrust Division. Individuals may be appointed to positions established under this subsection without regard to the provisions of title 5, governing appointments in the competitive serve, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the maximum rate for GS–18, but not less than the minimum rate for GS–16, of the General Schedule under section 5332 of such title.".

(b) The analysis of chapter 31 of title 28, United States Code, is amended by adding immediately below the item relating to section 526 the following new item:

"527. Authorization of appropriations for antitrust enforcement.".

GRANTS TO STATES FOR ANTITRUST ENFORCEMENT

SEC. 5. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

(1) provide for the administration of such plan by the attorney general of such State;

(2) set forth a program for training of State officers and employees to improve the antitrust enforcement capability of such State;

(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

(4) provide for making such reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his functions under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

(d) As soon as practicable after the date of enactment of this section the Attorney-General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

(f) The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section.

(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section; or

(2) that in the operation of the program there is failure to comply substantially with any such provision; the Attorney General shall notify such State of his findings and no further payments may be made to such State by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any progam pursuant to this Act which is being carried out by such State and which is not involved in the noncompliance.

(h) As used in this section the term—

(1) "State" includes each of the several States of the United States, the District of

Columbia, and the Commonwealth of Puerto Rico;

(2) "attorney general" means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

(3) "State officers and employees" includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

(i) There are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending June 30, 1976; not to exceed $2,500,000 for the transition period ending September 30, 1976; not to exceed $10,000,000 for the fiscal year ending September 30, 1977; and not to exceed $10,000,000 for the fiscal year ending September 30, 1978.

The PRESIDING OFFICER. On this bill, there is 1 hour of debate.

Who yields time?

Mr. PHILIP A. HART. I yield to the Senator from North Dakota.

CECIL HOLLAND

Mr. GRIFFIN. Mr. President, today marks a milestone in the career of a man who has loved the Senate a long time and who has worked with and for the Senate over a long period of years.

I refer to Cecil Holland who is retiring, and who, when the Senate adjourns this evening, will complete his final day of active service as my good right arm in the office of minority whip.

Many in this Chamber will recall that before he joined our staff in 1968, Cecil Holland was one of the most highly respected and productive newsmen on Capitol Hill. For more than a quarter century, he served as a reporter for one newspaper, the Washington Star, and during most of that period his assignment was to cover the U.S. Senate.

It would be an understatement to say that Cecil Holland over the years has learned more about the Senate, its history and its workings, than many who enjoyed the honor of serving as Senators.

Cecil Holland was a newspaperman before he began working for the Washington Star. For a while he was with the Capitol Bureau of the Chicago Sun-Times, and before coming to Washington he was with the Chattanooga News, in his native and beloved State of Tennessee.

At an early point in his career, Cecil Holland even found time to write a book. He is the author of a volume entitled, "Morgan and His Raiders," regarded as one of the better books about the Civil War.

During the years that Cecil Holland has served with me, I have come to know him, not only as a very knowledgeable, dedicated and hard-working partner, but also as a person with a virtue that is rare in the environs of the Senate—I refer to his ability and willingness to listen.

This quality of his reminds me of a quotation attributed to President "Silent Cal" Coolidge, who at one time was asked for the secret of his success. He replied, "I just listened my way along."

Cecil Holland has listened his way along through more than three decades of service in and close to the U.S. Senate. When he does speak, I notice that others listen—a measure of the enormous respect he has earned for his wisdom, his dedication, and his integrity.

To be sure, Cecil Holland will be sorely missed by the minority whip who will have to struggle along without this most valued assistant.

But I know also that every one who works in this Chamber will suffer a loss and will find the place a little different without the warmth and counsel of this friend who is a true gentleman in every sense of the word.

As he retires, I know he leaves with the deep appreciation and hearty best wishes of all who serve in this body, with which he has been associated so long. May he and his wonderful wife, Alice, enjoy many happy retirement years.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRIFFIN. Yes, I am glad to yield.

Mr. MANSFIELD. I notice that the distinguished assistant Republican leader indicated he would have to struggle along without the assistance of Cecil Holland. I have an idea that when he needs Cecil, Cecil will be there.

Mr. GRIFFIN. I thank the distinguished majority leader.

Mr. YOUNG. Mr. President, I understand that today, Cecil Holland, administrative assistant to the assistant minority leader, Senator ROBERT P. GRIFFIN, will be retiring.

Cecil Holland has spent most of his life as a journalist and was with the Washington Star for many years. He enjoys an enviable record, not only as a great journalist, but one of the most able and decent persons I have ever known. He is admired and respected by every Member of the Senate.

I can understand Cecil Holland's desire to retire. He deserves rest and relief from a very busy and useful life. No one will miss Cecil more than I will. He has helped me day after day, year after year, in quickly analyzing the purport of amendments and bills just before they are being voted upon by the Senate. He has the great capability of analyzing the most difficult provisions in legislation quickly and in an understandable way.

I, like every Member of the Senate, feel a great sense of loss at Cecil Holland's retirement. Both my wife, Pat, and I will especially miss him as we had breakfast together in the Senate dining room for many years.

Mr. MANSFIELD. Will the Senator yield?

Mr. PHILIP A. HART. Yes, I yield.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished Senator from North Dakota, the ranking Republican in the Chamber, in what he had to say about the departure of Cecil Holland. Cecil Holland has been a good, able, effective, efficient official of the Senate. While he has his reasons which we all understand, I, too, am sorry to see him go. I think we both speak for the entire Senate.

Mr. PHILIP A. HART. Mr. President, I am delighted that I happened to be on the floor at the time that Senator YOUNG called to our attention the retirement of Cecil Holland. I want with complete sincerity to join in the expression voiced by Senator YOUNG and by Senator MANSFIELD. I remember Cece Holland, when I first came here, as a working newspaperman. I was impressed at that time by his objectivity, and in the years that he has been associated with us here in the Senate, especially during that period when he was closely associated with my colleague (Mr. GRIFFIN), I have come to know him well. He is a thoroughly gentle, decent person and the world does not have too many of those, nor the Senate, either. We shall miss him greatly.

ANTITRUST ENFORCEMENT AUTHORIZATION ACT OF 1975

The Senate continued with the consideration of the bill (S. 1136) to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes.

Mr. HRUSKA. Mr. President, I ask unanimous consent that Peter Chumbris be allowed the privileges of the floor during debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PHILIP A. HART. I make a similar request with respect to Mr. Bernard Nash.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that the Senate proceed to consider Calendar No. 485 and that the bill, as reported by the Committees on the Judiciary and Commerce, with an amendment in the nature of a substitute, be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PHILIP A. HART. Mr. President, I yield myself an additional 5 minutes. I indicate to those who are interested that the likelihood is great that by no means will the full hour be consumed, and perhaps not even a rollcall will be required.

Mr. President, I am gratified that 45 Members of this body cosponsored a measure designed to provide the resources necessary to accomplish President Ford' call for a "return to the vigorous enforcement of the antitrust laws."

The purpose of S. 1136 is to authorize substantially increased appropriations to the Department of Justice and Federal Trade Commission for antitrust enforcement activities. Its three main provisions may be summarized as follows:

A. AUTHORIZATIONS OF ADDITIONAL APPROPRIATIONS

S. 1136 provides a 3-year specific annual authorization for the antitrust responsibilities of the Antitrust Division of the Department of Justice and of the Federal Trade Commission not to exceed the following amounts:

	Antitrust Division	*Federal Trade Commission*
Fiscal year 1976	$25,000,000	$25,000,000
Fiscal year 1976T	6,250,000	6,250,000
Fiscal year 1977	35,000,000	35,000,000
Fiscal year 1978	45,000,000	45,000,000

B. SUPERGRADE POSITIONS

To remedy the severe staffing shortage of experienced antitrust litigators, the bill authorizes the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice to establish and fix the compensation for not more than an additional 25 antitrust positions each, without regard to the supergrade limitations of title 5, United States Code, but at rates not in excess of the maximum rate for GS–18 of the General Schedule.

C. ASSISTANCE TO STATES

To supplement the Federal antitrust enforcement effort, the bill authorizes a 3-year program of assistance and grants to States to improve their antitrust capabilities. S. 1136 would authorize to be appropriated not to exceed $10 million annually for fiscal years 1976, 1977, and 1978, and not to exceed $2.5 million for the transition period ending September 30, 1976. These funds are intended as seed money, and the program will terminate at the expiration of fiscal year 1978 (i.e., September 30, 1978).

Our present economic conditions, today, are to some extent the result of inadequate enforcement of the antitrust laws. For too many years, the allocation of antitrust resources has been swallowed up by other priorities of Democratic and Republican administrations alike. Without adequate funding and staffing, it is unrealistic to expect effective enforcement of the antitrust laws. Continued neglect will inexorably lead to ever-increasing economic regulation, and possibly nationalization, of vast segments of the economy. Or, worse yet, to private combinations of businessmen ordering our economic way of life:

During fiscal year 1974, the Division had less staff than in 1950. Today, it employs 712 people—only 80 more than in 1950—and in constant dollars, its budget is roughly the same.

Antitrust Division
Budget and personnel

Year:	*Personnel*	*Appropriation*
1950	632	$3,799,900
1951	614	3,750,000
1952	541	3,469,500
1953	480	3,500,000
1954	455	3,500,000
1955	488	3,100,000
1956	482	3,464,000
1957	482	3,593,650
1958	479	3,785,000
1959	479	4,138,000
1960	516	4,500,000
1961	535	5,074,000
1962	602	5,875,000
1963	612	6,218,850
1964	608	6,600,000
1965	613	7,072,000
1966	614	7,175,000
1967	614	7,495,000
1968	614	7,820,000
1969	614	8,352,000
1970	595	9,761,000
1971	610	11,079,000
1972	630	12,340,000
1973	629	12,836,000
1974	629	14,029,000
1975	712	18,253,000

In the first 6 months of 1975 alone, the Division has engaged in 19 litigated cases compared to the preceding 10-year average of 11 per year. Its 1975 man-years in court has already tripled the previous 10-year average, and Assistant Attorney General Kauper expects this mounting case load to increase, not diminish. Moreover, Acting Assistant Attorney General Bruce B. Wilson advised that the cost to the Division of litigating just one case—the giant IBM monopolization case—has thus far cost the Antitrust Division "slightly less than $4 million." Transcripts and travel in fiscal 1975 for the IBM case alone amounted to $500,000. As to the A.T. & T. monopolization case, he stated that "our best estimate today is that we will expend about $1.6 million for the employment of experts and at least $2 million for the computerization of documents and other materials." A further indication of the high cost of antitrust cases is reflected in Control Data Corporation's expenditure of $12 million, plus another $3 million for computerization of documents, *before* trial of its private antitrust case against IBM. Because of inadequate resources, in the IBM litigation the Division had to use FBI agents to cover depositions.

For almost 15 years, the Division used only one attorney to litigate the complex *El Paso* case which went before the Supreme Court six times and took 17 years to resolve. Its energy unit consists of only seven attorneys—two with experience and five part time; and the unit chief spent most of the past 12 months preparing and litigating a major wallboard price-fixing case. The investigation ordered by the President of the alleged Arab boycott of certain U.S. firms is being staffed by only two antitrust lawyers—one using 20 percent of his time and the other 50 percent. Except for several cases in the tetracycline industry almost a decade ago, the Division has done virtually nothing to prevent and deter fraudulently procured patent monopolies. Its prosecutorial resources devoted to other patent abuses, such as restrictive licensing practices, are insufficient considering the costly burden such practices impose on the consumer and the economy. The Division's regulatory section of less than 30 people has been simultaneously conducting six grand jury investigations and four court cases, and trying to monitor the electric power, nuclear, natural gas, communication, railroad, airline, water transportation, truck, pipeline, and several other regulated industries.

Hearings on S. 1136 brought forth candid projections of continued antitrust inadequacies, unless substantially increased resources are made available to the Antitrust Division. Acting Assistant Attorney General Wilson advised that if another significant antitrust case were filed, "it clearly would require curtailment of other, largely investigatory, law enforcement activities to some unpredictable extent." Assistant Attorney General Kauper testified that if the merger pace picked up with the economy in the next year or two:

> * * * We would have to pull resources off a number of other matters. * * * The thing which is mist likely to give when you get a sudden demand on your resources are ongoing investigations. I think we have been able to devote as many resources as we have, for example, to price fixing in the past year-and-a-half because there has not been a very high level of merger activity.

Contrary to the concern expressed by my distinguished colleague from Nebraska, S. 1136 is not intended as a precedent for a separate authorization for each Division in the Department of Justice or for each important Government function. Nor is it intended to create a permanent separate antitrust authorization. That is a decision for the Congress to make in 1979, when the bill's 3-year antitrust authorization expires, based upon experience under this measure and the adequacy of antitrust resources at that time. In essence, S. 1136 is necessary to elevate antitrust enforcement to a high national priority to insure its effectiveness.

The antitrust division's final 1976 appropriation is $21,595,000 for approximately 856 people. This substantial increase over fiscal 1975 is directly attributable to hearings on S. 1136 which revealed that although the division requested an increase of approximately $3.8 million over fiscal 1975, the President's budget request provided an increase of less than $500,000. The Appropriations Committee and the Senate provided $22,529,000 upon the request of 41 Senators, but the full amount could not be sustained in conference.

As to fiscal 1977, Assistant Attorney General Kauper has requested more than 100 additional positions over fiscal 1976. Although the President has not made a final decision, I am advised that the Office of Management and Budget has authorized less positions for the antitrust division than appropriated in fiscal 1976.

Mr. President, if Congress does not provide appropriate input through the authorization process, it is clear to me that adequate appropriations for antitrust enforcement will remain an illusionary dream. All the speeches, all the resolutions, all the recognition that the division should be filing more cases and that the antitrust laws should be more vigorously enforced will not be fulfilled without providing the necessary resources.

This past Sunday, the National Association of State Attorneys General had its annual meeting in Arizona. Without dissent, each chief law enforcement official of each of our 50 sovereign States voted for the following resolution of support urging prompt enactment of the measure now before this body. Their resolution No. 11 reads as follows:

RESOLUTION XI. S. 1136

Whereas, the National Association of Attorneys General recognizes the vital importance of vigorous enforcement of the antitrust laws to a freely competitive economy and the consumers' interests therein; and

Whereas, this Association believes that enforcement of the antitrust laws on the state level is a significant and emerging force toward this end; and

Whereas, this Association recognizes that antitrust enforcement requires substantial resources because of the highly technical nature thereof; and

Whereas, this Association believes that Federal financial assistance to state enforcement is appropriate in light of the direct impact on the national economy of intensified enforcement; and

Whereas, S. 1136, pending in the United States Senate, would authorize appropriation of $10,000,000 to state attorneys general offices for assistance in antitrust enforcement; Now therefore, be it

Resolved That:

1. This Association strongly endorses passage of S. 1136, and

2. This Association urges the Congress to act promptly on this legislation; and

3. This Resolution be communicated to the appropriate committees and Members of Congress; and

4. The Association's Washington Counsel is authorized and directed to take all rea-

sonable and appropriate steps to communicate this Association's strong support for passage of S. 1136 and to inform members of this Association of the progress and results thereof; and

5. The Special Subcommittee on Legislation of this Association's Antitrust Committee shall monitor and coordinate efforts of the Washington Counsel and members of the Association in regard to said legislation.

The distinguished Senator from Nebraska (Mr. HRUSKA) contends that the amounts authorized in this measure are excessive. On page 19 of the minority views of the committee report, it is stated that the proposed authorization levels in S. 1136 would exceed the combined fiscal year 1976 appropriations by: 129 percent in fiscal 1976; 180 percent in fiscal year 1977; and 232 percent in fiscal year 1978.

These figures are in error. But first, it should be made clear that this is an authorization bill, not an appropriation bill. As time passes, if the amounts authorized by this bill seem excessive under future prevailing circumstances, then obviously these precise amounts will not and should not be appropriated.

In my judgment, however, the amounts authorized are not excessive. Using fiscal year 1976 actual appropriations as a base, as my distinguished colleague did, the amounts authorized for fiscal year 1976 would exceed actual appropriations by only 28.8 percent The amount authorized for fiscal 1977 would exceed actual 1976 appropriations by 80.3 percent. Fiscal 1977's authorization, however, would exceed fiscal 1976's authorization by only 40 percent. As to fiscal 1978, that authorization would exceed fiscal 1976's actual appropriation by 131.8 percent. Comparing fiscal 1978's authorization with fiscal 1977's authorization, however, would result in an increase of only 28.6 percent.

It is true that Assistant Attorney General Thomas Kauper testified at the hearings that—

> In my view, to try to triple the size of the Division over a two or three year period would create severe managerial problems.

Mr. Kauper also stated, however, that—

> S. 1136 is an expression of Senate interest in, and support for, increased emphasis on antitrust enforcement activities in the future.
>
> I certainly find no disagreement with that concept within the administration, which is on record as committed to a strong and vigorous antitrust program.
>
> If there are any differences beyond this basic concept, they involve judgments as to the proper amount of increased funding, how those additional funds should be allocated, and how effectively increases over a certain size, can be absorbed into our ongoing activities. These are questions on which reasonable men can and will differ, but the differences are ones of degree and not of kind. The administration's recent budget requests for antitrust enforcement activities evidence its strong commitment to competition policy and we reaffirm that commitment here today.

He further stated:

> Perhaps they [the severe managerial problems] could be overcome; perhaps the organization could be operated differently; perhaps I am unduly pessimistic. In any event, these are, as I said earlier, judgments about which reasonable men could differ, and as to which the uncertainties of the proposed legislation and other Government programs make precise calculation impossible.

It is important to remember that authorizing substantially increased funding for the Antitrust Division does not necessarily mean that its staff would be doubled or tripled in size. We all know that antitrust cases are extremely complex and costly. A portion of the additional funds authorized are necessary for increasing the computer capability of the Division so that it can compete on equal terms in the courts with the giant law firms against whom the Division is litigating. A portion of the funds can and should appropriately be used to hire special experts and special consultants and, yes, even special counsel to try to equalize the odds between the Government and the private sector in antitrust litigation.

As to possible managerial problems from significantly increasing Antitrust Division staff, it should be pointed out that the Antitrust Division effectively and efficiently absorbed 83 new positions in fiscal 1975 over fiscal 1974. On top of this, Assistant Attorney General Kauper requested OMB to provide the Division with 172 new positions in fiscal 1976 over fiscal 1975. For fiscal 1977 Mr. Kauper asked for more than 100 positions over the positions authorized for fiscal 1976. Unfortunately, OMB authorized only an additional 33 positions for the Antitrust Division for fiscal 1976 over fiscal 1975. As I have mentioned, when this came to light in hearings on this measure, the Congress appropriated funds for an additional 144 positions. Also, as I have previously mentioned, notwithstanding Mr. Kauper's request for fiscal 1977, I have been advised that OMB has approved less positions for fiscal 1977 than authorized for fiscal 1976.

I find it difficult to agree that the severe managerial problems referred to are realistic. The facts as I understand them show the problem to be the unwillingness of the administration to honor the requests of the Assistant Attorney General in charge of the Antitrust Division for significant additional resources to properly discharge the Division's antitrust enforcement responsibilities.

The Appropriations Committee, in its report on the Division's fiscal 1976 appropriation, has noted that:

> Additional funds expended for antitrust activities is returned to consumers and business manyfold. The Committee is in agreement with the Administration that antitrust is one of the more powerful weapons to lessen inflation and unemployment and has provided what it considers a minimum amount necessary for an effective antitrust effort in fiscal 1976.

I urge my colleagues to support S. 1136 as a useful step in the direction of greater freedom of competition and enterprise in the United States.

Mr. HRUSKA. Mr. President, we have here a bill which undertakes to establish fixed authorization levels for the Department of Justice Antitrust Division and also the Federal Trade Commission and, especially, with reference to its mission for maintaining competition.

Mr. President, it has been suggested this bill is not intended as a precedent. The plain unvarnished fact is that it is a precedent. There is no need for any bill containing the provisions of section 3 and section 4 of this bill insofar as appropriations are concerned, and insofar as authorizations for appropriations are concerned. No dollars will come to the Department of Justice or to its antitrust division or to the Federal Trade Commission as a result of this bill, if it becomes law. It is from appropriations that they get dollars.

There is no need for any appropriations. For 188 years the regular functionings and procedures of activities such as the Department of Justice here in this enforcement of the antitrust law and generally matters of that kind have been covered by the requests for the budget; they have been covered by the hearings and the justifications before the Judiciary Committees, and there the past record of the activities is reviewed and the present needs are studied. Priorities are then established and moneys are allowed. The program proceeds on that basis. It has always been that way and it can continue to be that way.

No, this action is not necessary. Beyond that, Mr. President, this bill, in sections 3 and 4, would be positively harmful. It would be harmful because it strains the doctrine of separation-of-powers principle by undermining reasonable executive discretion in the allocation of appropriated funds. It strains the established division of responsibilities between the authorizing committees and the appropriations committees of Congress by setting maximum funding levels years in advance for relatively small components of larger appropriations.

The legislature is treading on dangerous ground in the direction of seeking to operate and to manage parts of the executive department when it says, in effect, there shall be so much money spent for a designated program of law enforcement. Congress is supposed to decide policy, it is supposed to furnish the funds that will go towards executing that policy and implementing it.

It puts not only appropriations in the hands of those agencies but also manpower and other resources and, of course, the executive branch then goes through its part of the work and tries to carry those things out.

But there is an even more major limitation, Mr. President, and that is these sections 3 and 4 are directed to and are related to an area of law enforcement.

There is nothing more fundamental, nothing more elementary, than the proposition that in the field of law enforcement there must necessarily exist, and there must necessarily be abided by, that prosecutorial discretion which is inherent in the law enforcement program. Yet here we are trying to take the stance, we are trying to take the position, that we know more about the volume and the priority of law enforcement than the Department of Justice does. That is the sum and substance of these sections 3 and 4 of the bill.

The requirements in statute form are far too inflexible. They are without regard for other considerations. They mandate a heavy emphasis on a single aspect, a very small part percentagewise, of the overall programs involved and without regard, Mr. President, for changing conditions and for urgencies which arise, for necessities of the moment or of the fiscal year or of a part of a fiscal year, which might be involved. These matters are better left to the executive branch pursuant to general law and pursuant to appropriations and other limitations which come along the way and which prevail.

Now, so much, Mr. President, for the time being for sections 3 and 4.

There is a section 5 to this bill, which is a highly vulnerable program and highly undesirable. In fact, it is so much out of currency with the time, I marvel at the fact that there would be as many as 45 of our colleagues who repeatedly get up on the floor of this Senate and enunciate and proclaim themselves for it and who advocate principles which are being denied and which are being abrogated by the attempted enactment of section 5.

Earlier this week, we had a debate on the budget, budget control and all the restraints that are going to be implemented, all to the good of the Nation. And the price we are paying is a deficit of $74 billion, as I remember it. The President has the figure at $70 billion. Whichever it is, it is a good round number.

But along comes this idea, Mr. President, of creating in section 5 of this bill another new grant program of U.S. money and currency which we do not have and which would have to be added to the $74 billion deficit which we have already set out in our resolution under the Budget Control Act.

A brand new aid program, cash aid, Mr. President, to States for the designated process in this bill to train attorneys, to make investigation, prosecute antitrust suits. By whom? And in what realm of the government? In the State governments.

The State governments will submit a plan for the enforcement of antitrust and monopoly statutes within their State and they will say to the Attorney General, "Here are the things we want to do to help this program and make this Nation much more pure, make this Nation much more consumer oriented, with the hope that we will get a lot of votes for our vigilance and for our concern for all these things."

The Attorney General will then approve that plan or require it be changed so that it will meet his approval. Thereafter, he will have the sole discretion, Mr. President, to distribute the moneys that are appropriated for this purpose among whichever States he wants to. And under what criteria is there then in a form of government where we are supposed to have some principles of accounting, some principle of law to go by, and not the fancy or not the decision of one man with that much discretion and that much independence of judgment.

Now, Mr. President, not much is involved, only $10 million. No fear about it, it will not be another year or two before it will be doubled or tripled, or maybe even more. But whatever the amount is, it is an amount, Mr. President, that is being asked for in view of a number of programs that are now available to the States, if they really want to get to the problem at hand, and accord the high priority this bill seeks.

The first is general revenue sharing. We have these billions distributed every year. This year we come to the necessity for extending the general revenue sharing. There is one source that the States can have recourse to, if they wish to get into this antitrust law enforcement program.

Second, the Law EnEforcement Assistance Administration, some $850 million, and 75 percent of that is distributed among the States for law enforcement purposes. They are required to function pursuant to a plan developed by the State planning agency that covers, in comprehensive nature and in balanced form, all law enforcement activity of that State.

Another source for the States if they want to get into this program and really feel the urgency that they are supposed to and which they seem impotent to do and, therefore, the reason for this bill supposedly, we are going to pass this bill and appropriate money for it and they will have greater incentive to engage in this program.

Mr. President, they already have assets available if they want to use them. I have already mentioned the debate early this week on budget control and restraint in spending. This is a poor way to prove the good faith of those who debated on this floor and who voted on this floor for budget restraint.

Another new way, another new categorical program, in a high degree, is the spending of money and with the proliferation of the already too numerous programs of this kind.

It is an ill-conceived piece of legislation. It is harmful, beside not being necessary, not being desirable.

We have enough Federal troubles of our own in regard to section 5 to take the time for the purpose of helping the States in the program when we already have made other assets available.

Mr. President, this opposition to the bill, I state in all good faith, and I believe it to be justly and firmly founded.

S. 1136 IS INCONSISTENT WITH SOUND LEGISLATIVE PRACTICE AND BUDGET REFORM

The proposal to establish fixed authorization levels for the Justice Department's Antitrust Division and the Trade Commission's Maintaining Competition Mission is a sharp departure from the established practice of appropriating each year amounts consonant with expected workloads.

To encourage authorizations for subunits of major departments and agencies would be inappropriate on several grounds:

It strains the separation of powers principle by undermining reasonable executive discretion in the allocation of appropriated funds.

It strains the established division of responsibilities between the authorizing and appropriations committees of the Congress by setting maximum funding levels years in advance for relatively small components of larger appropriations.

It is at cross-purpose with assuring efficient performance by the Congressional Budget Office under section 403 of Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974.

Does the Senate intend to encourage the authorizing committees to set authorization levels at will—and to appearances at random—for department and agency subunits? There are hundreds of potential candidates for this selective legislative attention. Numerous and unnecessary constraints would be imposed on budget preparation and execution by the executive and on the efficient handling of appropriation bills in the Congress.

It is well known that authorization levels tend to become performance goals for congressional and executive advocates. Whether funds are actually needed can easily become subordinated to the question of whether an activity can be fully funded.

Section 403 of the Budget Reform Act of 1974 requires that the Congressional Budget Office:

> Shall, to the extent practicable, prepare for each bill or resolution of a public character reported to any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—
>
> (1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate; and
>
> (2) a comparison of the estimate of costs described in paragraph (1) with any available estimate of costs made by such committee or by any Federal agency.
>
> The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.

Does the Senate intend that the Congressional Budget Office should be concerned with costs estimates for the activities of subunits of departments and agencies? It would appear more in keeping with the intent of section 403 for the legislative committees to aim for authorizations which consolidate rather than fragment the business of government.

S. 1136 IGNORES THE PUBLIC OUTCRY AGAINST EXCESSIVE FEDERAL REGULATION

During the past decade, the Federal Government has overcommitted itself in many budgetary areas.

Recently, the outstanding weekly magazine—U.S. News & World Report, November 10, 1975 issue, on its cover page had this headline:

> MESSAGE FROM HOME—CURB THE BUREAUCRATS

From page 39 of that issue the following statement is pertinent to the issue:

> People are getting angry, jumping on Congress for redtape, fuzzy laws, mushrooming agencies. Lawmakers say they're listening.

Of particular interest to S. 1136, are the recent laws passed by the Congress giving the FTC increased authority for rulemaking. The bills were passed over the objections of several Senators signing this minority report. Hence, the statement from the magazine—

> Lawmakers are finding that Americans are fed up with the seemingly free rein Congress has given bureaucrats—elected by no one—to lay down and enforce rules affecting millions.

is most pertinent and revealing.

The following statement from that story is welcomed because it shows a change in political-economic philosophies:

> Conservatives—traditionally skeptical of Government programs—are not the only ones getting behind the drive for big changes. At least as large a role is being taken by liberals, and particularly younger Democrats.

We urge each Member of Congress to weigh carefully the mood of the American people as expressed above, and to weigh carefully our arguments against establishing new bureaucratic procedures in the authorization.

CONCLUSION

In view of the arguments and citations given in this minority report, we, the undersigned, respectfully urge the defeat of S. 1136 on the grounds that the majority report has not sustained its burden in this matter, nor could the record in the hearings on the bill and the debate in the Senate, overcome the defects of altering the authorization and appropriation procedures, as requested by the proponents of S. 1136.

Another respect in which the instant bill is particularly obnoxious and very difficult to understand, is the roughshod way in which it overrides, disregards, and tramples upon authorities and established policies of the several States.

The plan for antitrust law enforcement within the State is to be drawn by its Attorney General. Upon approval by the U.S. Attorney-General, Federal money grants are paid out pursuant to the discretion of the latter. So we will be a party—as Members of Congress, if we vote for this measure—to the severe impairment of the prerogatives of the Governor of the State as its Chief Executive, and therefore in charge of the State Attorney General's activities and conduct of his office. It is the Govnor who is the one in first control. It is a combination of the Governor and the legislature which determines policy of the State and its performance.

But that line of constitutional and governmental command is completely frustrated and disregarded by this ill-conceived bill. A single, individual State officeholder is thus set in a position which can be in direct opposition and contrary to the deliberately adopted policy and program of his State. And perhaps working at odds with it, funded by moneys originating from outside of the State.

Such an arrangement should draw objection and rejection by all students and believers of sound governmental concepts and practice; not only those who profess belief and conviction of States rights, but of any one who sees in a system of government the necessity of accountability and responsibility on the part of its officers to citizens of that system.

Mr. PHILIP A. HART. I would like to repeat, because I know my colleague from Nebraska, Senator HRUSKA, has expressed great concern about this, that the bill is not intended as a precedent for a separate authorization for each division in the Department of Justice or for each it intended to create a permanent and important Government function, nor is separate antitrust authorization. That is a decision for Congress to make in 1979 when this bill's 3-year antitrust authorization expires, and that judgment can be made on the experience we develop under this measure and the adequacy of antitrust resources at that time.

This bill would elevate antitrust enforcement to a high national priority to insure its effectiveness.

As the table indicates, there has been very little, until the very recent past, increase in the resources available to the Justice Department, and the enormous costs of the really big antitrust cases are such that one does not have to be a mathematical genius to know that not very many really big antitrust cases could be undertaken within the budget restraints we have imposed on the Department.

It would provide additionally, Mr. President, seed money for a 3-year program to assist the States to improve their own antitrust enforcement capabilities.

The States represent an untapped source of substantial potential in the antitrust area. State interest is high, and a number of States have formed special antitrust units. Others are utilizing existing State personnel. Presently, however, the overall number of personnel committed is inadequate due to budgetary constraints and lack of training, although most States desire to increase their antitrust efforts. Section 5 of S. 1136 would provide seed money and is designed to get State antitrust efforts off the ground. The funds could be used for training, for clinical programs in cooperation with law schools, for additional personnel, for cases, or for whatever approach a State wishes to take to enhance its antitrust capability provided it is in compliance with the section 5(b) plan and section 5(d) regulations. Its efforts could be carried out under Federal or State antitrust statutes, and could be criminal or civil in nature.

After 3 years the seed money will cease. It is hoped that the States will then have a viable antitrust program to supplement the Federal effort. This can be especially useful to combat local price fixing, local customer or territory allocations, local boycotts, and other local anticompetitive conduct effectively beyond the reach of the Federal Government. It can also serve to supplement the Federal effort against nationwide conspiracies and monopolies.

The Assistant Attorney General, a very able professor of law from the University of Michigan Law School before he undertook the assignment, the Assistant Attorney General in charge of the Antitrust Division, Thomas E. Kauper, has requested more than 100 additional positions for fiscal 1977 over 1976. Although the President has not made a final decision, I am advised as of now that OMB has authorized fewer positions for the Division than appropriated in fiscal 1976.

All the speeches and all the resolutions, all the recognition that the Antitrust Division should be filing more cases and that the antitrust laws should be more vigorously enforced will not be fulfilled without providing the necessary resources. That is the reason, Mr. President, that S. 1136 is necessary. Without it, the administration simply will not provide adequate funds.

The desirability of authorizing seed money for enforcement efforts at the State level, I think, is pretty generally understood. I recognize it is reflected by the very substantial cosponsorship of the bill we are considering.

I believe the amounts authorized are not excessive, and can usefully and efficiently be employed.

I hope, Mr. President, the Senate will support what a majority of the committees strongly believes to be essential before we can point a finger at either the Justice Department or the Federal Trade Commission and ask them, "Why are you not doing more to restrain monopolistic practices and the growth of concentration," and all the other questions we address to them. Unless we give them the muscle, we are almost estopped from asking the question.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. At this time, Mr. President, reserving the balance of my time on the bill, I would like to call up an amendment.

Mr. TUNNEY. Mr. President, will the Senator from Nebraska yield for just a brief statement on this?

Mr. HRUSKA. By all means.

Mr. PHILIP A. HART. I will yield the Senator from California such time as he needs.

Mr. TUNNEY. Mr. President, I want to thank my distinguished friend and colleague, the chairman, for yielding to me.

I would like to speak in support of S. 1136 which provides for an increased number of lawyers in the Antitrust Division of the Justice Department and more lawyers in the Bureau of Competition of the Federal Trade Commission.

As our colleagues know, this bill would increase the appropriations of the Antitrust Division and the Bureau of Competition of the FTC so that each would receive $25 million for fiscal year 1976, $35 million for fiscal year 1977, $45 million for fiscal year 1978.

It would also include a fund of $10 million to be used to encourage the States to pursue their own antitrust activities.

This measure is an expanded version of S. 449 which I introduced earlier this year.

I have been very interested in this problem of more money for the Antitrust Division for some time and I think all of our colleagues know, those of us that are on the Judiciary Committee certainly know, that we have totally inadequate funds today in the Antitrust Division to be able to handle anticompetitive action by major corporations in a national economy the size of ours.

It is clear that there is no better example of the inadequate enforcement of our antitrust laws than yesterday's unfortunate leasing of new offshore oil fields in southern California.

The Interior Department has expressed disappointment at the $438 million bid for 1,200,000 acres of land, available for development on the southern California Outer Continental Shelf. The lease sale bids fell far short of the $1.5 billion that Interior said was expected.

The oil company officials, however, were not surprised and we do not have to look any further than the front page of this morning's Los Angeles Times to discover why.

This is what the Times was told by Robert H. Nanz, vice president of exploration and production for Shell Oil Co.'s Western region. Mr. Nanz said in reference to the $438 million in bonus bids submitted yesterday by the major oil companies:

> We had a consensus among ourselves that it would be in that range.

There was joint exploration of that offshore area in advance of the bids. With all of that, the companies are expected to pay the Government no more than 16⅔ percent in royalties. The people of the United States who own the oil on Federal lands are being taken for a ride that virtually no other country in the world would tolerate.

In Indonesia, one of the world's most promising new oil regions, the government participates with the oil companies in exploration, in drilling, and in production costs. The government pays up to 40 percent of those costs and the companies 60 percent. What does the government get in return?

Sixty-five percent of the oil for the National Pertamina Oil Co., and 70 percent of production in any field where production goes above 200,000 barrels per day.

In Great Britain, busily developing its new North Sea oilfields, the total government share through royalties and taxes comes to between 60 and 80 percent, averaging about 68 percent.

In my own State of California, just a few miles away from the offshore Federal lands, there has been a leasing of the offshore State lands for approximately 30 years. I think the State officials are vastly more enlightened in their policies for leasing than we are at the Federal level.

In the Long Beach-East Wilmington area, the State has maintained ownership of the fields and contracted with private oil companies to do the exploration and development. The State retains over 94 percent of the net profits of that oil. That return far exceeds the bonus bidding and royalty system employed yesterday for the nearby oil fields on Federal lands.

The State system also provides better control of the environmental factors. This control is particularly noteworthy in the ecologically fragile coastal region.

Is it any wonder, then, with yesterday's example of how the unholy alliance between big oil and big Government operates to the detriment of the American people, that we should be asking for a little bit of additional money to strengthen the antitrust arm of the Justice Department and the Federal Trade Commission?

One of the things that bothers me tremendously as it relates to the oil companies and to the way that they are operating not only in this country but overseas, is the fact that it is being done with the willing compliance of the Federal Government and with the Congress. I just cannot help but feel that some day we who are currently Members of Congress are going to have to answer to the American people for our willingness to be truly aggressive in developing antitrust legislation and then making sure that it is enforced.

I cannot help but ask the question if those oil lands were not owned by the American people but, in fact, were owned by the private companies, owned by Exxon or Standard Oil of California, Mobil or Shell, would they, in turn, sell those lands to other private companies or to the United States with as little attention given to the nature of the resource? Yet, this is the case when the Federal Government decides to sell the land to the oil companies?

No one knows how much oil is off that coast. No one knows how great a reserve there is in that 1,200,000 acres that is the subject of the present leasing. Some estimates range as high as 200 million. Other estimates are much smaller. But the fact is that we have been unwilling as a nation to evaluate what those resources are before we sell them. Not only that, but we are perfectly prepared to allow our Government in its implementation of antitrust laws to go begging when it comes to enforcing the competitive features of the Clayton Act and the Sherman Antitrust Act.

I ask my colleagues to think of Mr. Nanz' statement, which, as I say, was quoted today in the Los Angeles Times.

> We had a concensus among ourselves that it would be in that range.

I ask my colleagues how that squares with the anticompetitive provisions of the Sherman Act. Is this just the kind of problem that the drafters of that act were trying to get at when they passed that law so many decades ago? And yet, I think all of us realize in our hearts that even if the Antitrust Division of the Justice Department wanted to do something about it, they do not have the resources to be successful. They cannot go into court against IBM, against the major utilities, the Bell Telephone System, and, at the same time, take on a major antitrust action against the oil companies.

I would just hope and pray that the legislation which we have before us today is going to be passed, and that the Appropriations Committee makes the money available so that the Justice Department can do what they are supposed to do with respect to monitoring the antitrust laws and making sure that actions are brought when they are needed and when there are anticompetitive features in any industry.

I want to thank my distinguished chairman for yielding me this time.

I ask unanimous consent that the article from the Los Angeles Times of today reporting on the acceptance of the bids by the Department of the Interior be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OIL LEASE BIDS FALL FAR SHORT OF U.S. ESTIMATE: INTERIOR DEPARTMENT'S $1.5 BILLION PREDICTION DIPS TO A "DISAPPOINTING" $438 MILLION

(By Dan Fisher)

The nation's big oil companies and one Southland citizens group submitted high bids totaling a "disappointing" $438.2 million Thursday for the right to find and produce oil off the Southern California coast.

The total fell far short of Interior Secretary Thomas S. Kleppe's prediction earlier this week that the controversial sale of federal leases would net between $1.5 billion and $2 billion. Even the total of 166 bids submitted—including overlapping bids—was only $902 million.

The companies putting up the most money and apparently winning the choicest leases were Standard Oil of California, Shell, Exxon and Texaco. All but Exxon bid in partnership with smaller firms.

"Pending litigation certainly may have been a deterrent" to higher bids, commented Asst. Interior Secretary Royston Hughes. While "disappointed" by the bidding, Hughes said the sale was important because "now we have additional acreage under lease to produce additional oil for the nation."

Irate city and state officials blamed the federal government for the size of the bids. "The low front-end bids demonstrate a serious inadequacy in the leasing procedure," said City Attorney Burt Pines.

"It shows their leasing methods are screwy," added an official in the state attorney general's office. "What's the rush (to lease offshore tracts) if this is all they can muster?"

Thursday's offers were also well below the $603 million in high bids that were offered nearly eight years ago for the right to drill in federal waters off the Santa Barbara coast. The outer continental shelf record is $2.1 billion in high bids offered in March, 1974, for tracts in the Gulf of Mexico off Louisiana.

While the total here failed to meet some expectations, several oil company executives among an estimated 700 persons who witnessed the opening of the sealed bids at the downtown Hyatt Regency said they were not particularly surprised. "We had a consensus among ourselves it would be in that range," said Robert H. Nanz, vice president of exploration and production for Shell Oil Co.'s western region.

Willard Gere, Los Angeles regional conservation manager for the Interior Department's U.S. Geological Survey, added that the bids were "close to the survey's figures" estimating the value of the 70 tracts which attracted interest.

"You have to recognize that is a frontier area," he said. "Not one barrel of oil has been found except in the state areas in San Pedro Bay. Everybody is groping their way."

Kleppe will use the USGS evaluations in determining—probably within the next two weeks—which of the high bids to accept and which to reject.

In all, the federal government offered a total of 231 tracts covering nearly 1.3 million acres beneath Southland coastal waters. The first clue that the sale would fail to meet

Interior Department expectations came when William E. Grant, manager of the Los Angeles office of the department's Bureau of Land Management, announced that bids had been submitted on only 70 of the tracts, or about 30% of the tracts offered. Normally, about 60% of the tracts receive at least one bid.

Ironically, the first bid opened was on a tiny tract south of Santa Rosa Island and it was submitted by California Citizens for Political Action. The environmental group dumped $1,800 in coins and one dollar bills—the 20% deposit required with all bids—into the hands of BLM officials to call attention to its opposition to the sale. It was the only bid offered for the tract.

The big money bids centered on two areas—one in the San Pedro Bay area, about a half-dozen miles west of Huntington Beach, and the other about 40 miles south and west of San Clemente Island, nearly 100 miles off the coast.

Tract 254 in the San Pedro Bay area brought the day's high bid—$105.2 million—by a coalition of oil companies headed by Standard Oil of California. Standard backed 30% of the bid, Union Oil Co. of California had 26% and Skelly Oil Co. and Getty Oil Co. and 22% each. The bid was $70 million higher than the second place offer by a coalition headed by Shell and evoked a gasp of astonishment from the crowd.

"We felt coming into the sale that it would be successful if we took that tract," commented John Silcox, vice president and manager of Standard's exploration department. "And we based our strategy on that."

Silcox said the partners hope to begin drilling for oil on the tract "within six to eight months." In light of the amount of money they have tied up there, "we'd like to get on with it as early as possible," he stressed.

Actual production is about five years away, assuming the partners find oil and are allowed to develop the discovery, Silcox indicated.

Significantly, the three San Pedro Bay tracts which attracted Thursday's most frenzied bidding are also the three which the Interior Department ruled earlier will be subject to a 33⅓% royalty payment for any oil produced. The royalty on all the other tracts is 16⅔%.

The more distant tracts winning attention Thursday lie at the southern end of what the geologists call the Santa Rosa-Cortez Bank. While they are a long way from the coast, the most popular tracts are in water only 150 to 300 feet deep.

A coalition of Texaco (67%) and Champlin Petroleum Co. (33%) made the day's third highest bid of $33.4 million for one nine-square-mile tract in this area and offered a high bid of $21.5 million for another. A third tract in the area was apparently won by a Shell coalition with a bid of $20.6 million.

Of the total $902 million bid Thursday, two-thirds was risked on those six most popular tracts (the three in the San Pedro Bay area and three in the Santa Rosa-Cortez Bank). The total high bids on those six tracts—$251.9 million—were equal to 57% of the total high bids on all 70 tracts.

Exxon, the nation's largest oil company, risked more money than any of its competitors Thursday, bidding a total of $118 million on 28 tracts. It was high bidder on only 12, however, and will actually pay out no more than $28.8 million.

Depending on how many of their high bids are accepted by the Interior Department, either Shell or Texaco will wind up as the day's biggest spender. Their share of high bids offered by the coalitions in which they were a part totaled $62 million apiece.

Tract 254 attracted the largest number of bids Thursday—five, totaling $153.6 million. The second and third most popular tracts were immediately south of No. 254. A total of $122.1 million was bid for Tract 261 and $89.6 million for Tract 262. High bids for both—a total of $71.3 million—were submitted by a coalition headed by Shell (50%) and including Occidental Petroleum Inc. (17%), American Independent Oil Co. (16.5%), Chanslor-Western Oil & Development Co. (12%), and Hamilton Bros. Oil Co. (4.5%).

What the winning companies will actually get is a lease giving them exclusive rights to explore for oil in specific tracts. The leases are good for five years or, if oil is discovered, for as long as their wells produce. In addition to the bonus money offered Thursday, the companies must pay an annual rent of $3 per acre and royalties on any oil they produce from the lease.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Delete all of section 2 which starts on page 5, line 9 and concludes on page 6, line 26.

Renumber subsequent sections to conform to deletion of section 2.

Mr. HRUSKA. Mr. President, this amendment is designed to delete from the bill all of the text of section 2. It has been a matter of discussion between the manager of the bill and myself. It is my hope that he would see his way clear to assent to the approval of the amendment for the reasons that I have gone over with him, and some of which are included at greater length in the minority views report on S. 1136.

Mr. PHILIP A. HART. Mr. President, I yield myself such time as I may need.

This is the most unhappy acceptance that will occur in the course of this calendar year. I do accede, I think it is the word the Senator from Nebraska used, to the amendment he proposes. I have a strong feeling that every recital in that declaration would find majority support in the Senate, but in order that we get to the more substantial element of this bill, namely, the authorization money, prudence suggests to me that I accede to the amendment offered by the Senator from Nebraska.

This is not an agreement with the position of the Senator from Nebraska; it is in recognition of the fact that next week will be the end of the period the Senate will be sitting here. If we want this authorization before it is too late, I had better accede. So I accept the amendment.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

The Senator from Michigan need have no fear that I would try to ascribe to him agreement with the theory that this section should be deleted. Nor would he want to ascribe to me, if I acceded to its remaining in the bill, that I agreed with the text.

Mr. President, this subject has been thoroughly discussed in print for the last 10 years, and I think the subject is so firmly fixed in terms of black characters on white paper that no protestations on the Senator's part or mine will change the tenor of that print, nor of our convictions.

I appreciate the Senator's accepting the amendment, because it will facilitate our proceedings on this measure.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. HRUSKA. I yield back the remainder of my time.

Mr. PHILIP A. HART. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. PHILIP A. HART. Mr. President, I yield such time as he may require to the Senator from North Carolina.

Mr. MORGAN. Mr. President, I ask unanimous consent that Bob Jackson, Henry Poole, and Rick Wahlstrom of my staff be allowed to be present on the floor for this bill and the small business bill, which will be coming up next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I am pleased to join with the distinguished Senator from Michigan in support of this measure.

In doing so, I wish to pay special tribute to the distinguished Senator for the work that he has done through the years as chairman of the Subcommittee on Antitrust Legislation. As attorney general of my State for many years, and as one vitally interested in the free enterprise system and realizing the dangers of monopolistic practices, I have followed the work of his committee very closely through the years; and I think he and that committee have rendered a real service to the people of America.

Mr. President, I take second place to no one in my belief in the free enterprise system, and also my belief in the rights of individual States. But we learned a long time ago that the free enterprise system can survive and flourish in this Nation or any nation only as long as there is free competition in the marketplace. The recognition of this fact, of course, brought on legislation in the late 19th century, and it was brought on in my State. As a matter of fact, the antitrust laws of my State precede the enactment of the Clayton antitrust laws by Congress. But until I became attorney general in 1969, no action had ever been undertaken by any State attorney general on behalf of the people of the State, because of the feeling that seems to exist in the minds of many well-meaning individuals that antitrust legislation and antitrust litigation are antifree enterprise.

Nothing could be further from the truth. I believe, Mr. President, that during the past year, during the recession, we observed in this country what can happen when too much economic power is concentrated in the hands of a few monopolistic corporations or monopolistic labor unions, or any other group. We saw this because during the recession we saw that prices and wages in those concentrated areas of the economy continued to inflate, contrary to the fundamental laws of economics.

For that reason, Mr. President, I believe it is vital that we increase the resources of the Antitrust Division of the U.S. Department of Justice. I also worked with that Department, Mr. President, for a number of years, and observed at first-hand the lack of manpower and resources that they have to deal with the tremendous concentration of resources and power that are available to those industries that tend to engage in monopolistic practices. So I urge the support of this measure.

I also am pleased, Mr. President, that seed money has been included in the bill to encourage the State attorneys general to become more active in the antitrust field. I think the argument of my distinguished friend from Nebraska, a very able argument but one with which I do not agree, clearly illustrates the need for this money. Time and time again, as I went to my legislature seeking funds to create within my department of justice an antitrust division, I was confronted by legislatures who felt that antitrust laws and antitrust litigation meant antibusiness; and all of the money that I ever got for that department came grudgingly.

Yet, Mr. President, there are many monopolistic practices being carried on in States today that simply cannot be dealt with by the Federal Government, and yet ought to be dealt with. For instance, until I became Attorney General, the bids submitted to the schools throughout North Carolina to supply milk to the various schools were identical, even down to the third and fourth decimal places. It was only after we created an antitrust division in the Attorney General's office and began to investigate and bring lawsuits that we began to get competitive bidding to furnish milk to our schools. In one county alone, the superintendent of schools told me sometime ago that he had saved something like $18,000 on one bid. But that was because there was no enforcement of the antitrust laws.

As another illustration, Mr. President, the automobile dealers got together in one part of my State at a local restaurant, in what they called an Automobile Dealers' Association. It was a very pleasant evening.

They talked about the problems of their business, and during that evening they also agreed they would all charge a set fee—I believe it was $6.50 an hour at that time—for labor to repair automobiles. So in all that area, no matter which automobile dealer you went to, you were charged the same amount, or at least that amount of money. There was no competition in it.

But it did not take a lawsuit on our part to restore competition in that area. It simply took an investigation. It took the investigation to put those people on notice that there were antitrust laws.

This is something that the Federal Government could not get involved with. It affected only a small region. I could give many other examples, but time is of the essence here.

I think it is important that we encourage the States to carry out this responsibility; and if we do that, then there will be less need to appropriate more money and strengthen the antitrust division in the U.S. Department of Justice.

My distinguished friend from Nebraska alluded in his argument to the fact that some of us have been talking about holding down Federal spending.

I dare say, Mr. President, that there is hardly a Member in this Senate who has voted against more spending bills than I have and certainly I will say on my side of the aisle. I voted against the tax cut bill last year because I believe in balancing the budget. But that does not mean that I am against every spending program.

I realize that there are many things that we must continue, not only to spend what we have been spending, but we must increase those expenditures if those programs are going to remain viable and effective.

I think, Mr. President, that this is one of the better bills that has come through this Congress during the time that I have had the privilege of serving. I hope we will pass it, and I hope the House will accept our bill, and that it will become law and also that in years to come we will see the States assuming the rightful role that belongs to them.

I am a very strong believer in States rights. But I also happen to believe that States rights are for responsible States and this bill will help those States become responsible.

I thank the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. **CRANSTON.** Mr. President, will the Senator yield to me for a unanimous-consent agreement?

Mr. **PHILIP A. HART.** Yes, surely.

ORDER FOR FILING OF REPORT OF CONFERENCE COMMITTEE ON S. 1281 UNTIL MIDNIGHT TONIGHT

Mr. **CRANSTON.** Mr. President, on behalf of Senator PROXMIRE, I ask unanimous consent that the Conference Committee on S. 1281 have until midnight tonight to file its report.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ANTITRUST ENFORCEMENT AUTHORIZATION ACT OF 1975

The Senate continued with the consideration of the bill (S. 1136) to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes.

Mr. **PHILIP A. HART.** Mr. President, I appreciate very much the remarks of the Senator from North Carolina, thanking him, of course, for the personal reference. But more importantly, he speaks against a background of relatively recent years, and he came to this Senate following his reputation. The Antitrust Subcommittee had the benefit of his counsel before he ever got here.

I hope that the comment he made in connection with this bill will be fresh in the minds of our colleagues when, as I hope later we shall, we consider S. 1284—the Hart-Scott Antitrust Improvements Act of 1975.

One title of that bill would extend the opportunity to attorneys general of the States to undertake civil treble damage action on behalf of consumers of their State.

This, we believe, would increase even more the discipline that the antitrust laws should impose on business practices but which too often has had very little meaning because of the inadequacy of resources allocated for their enforcement.

Senator MORGAN has reminded us there are a great many regional anticompetitive practices which no matter how fully funded the United States Department of Justice could be, never would be reached. The meeting in the restaurant by the auto dealers, as unexciting an arrangement as an agreement among barbers, these are the things that impose burdens on the American consumer which the Federal Government shall never be able to reach. But, given a State attorney general with the concern and understanding of the economics reflected during the period that Senator MORGAN served as attorney general of North Carolina, these are restraints that can be reached, and, if reached, would lessen substantially the cost of living of every American.

The remarks that Senator MORGAN made I believe are all that need be voiced now as we approach the decision with respect to the adoption of the bill before us.

I urge again that the Senate agree to this bill and, as Senator MORGAN has voiced, I hope that the House promptly will respond and that we will increase the likelihood that additional moneys will be made available to the Antitrust Division and to the Bureau of Competition of the Federal Trade Commission.

I reserve the remainder of my time.

Mr. **HRUSKA.** I yield back the remainder of my time.

Mr. **LONG.** Mr. President, I call up my amendment which is at the desk.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. LONG) proposes an amendment.

The amendment is as follows:

> On page 9, strike all after line 15.

Mr. **LONG.** Mr. President, in due course I shall promptly withdraw the amendment.

I do wish to speak briefly on the matter which is very much in the news this day, the so-called confrontation between the President and Congress.

Mr. President, there appears in this afternoon's Washington Star an editorial in the very finest tradition of American journalism which discusses the issue and I really think it helps to point toward a solution to the impasse in which we find ourselves.

Let me read the last two paragraphs of the editorial:

> It may be recalled that neither the White House nor Congress distinguished itself dur-

ing the past year in economic foresight. Only a year ago, with the recession visibly deepening, the menace of double-digit inflation was seen as the number-one target, and tax increases (believe it or not) the remedy talked of. After the President's famous "179-degree turn," all that changed in a twinkling.

Again, despite that failure of foresight, both parties are pretending to foresee the unforeseeable and are entrenching themselves in redoubts that a sharp turn in the economy could blow up overnight. Why? Why do both the President and the congressional Democrats take unbending positions on such sandy ground? The taxpayers deserve a more statesmanlike treatment of their economic affairs than they're getting, though we must apologize for so indelicate a sentiment in an election year.

Mr. President, I ask unanimous consent that the editorial entitled "Adversary Budgeteering" appearing in the Washington Star, December 12, 1975, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Adversary Budgeteering

"Confrontation" has been all the rage in Washington this autumn. It is the buzz word of the season. We have had the Pike-Kissinger confrontation, the Moss-Morton confrontation, and now we are approaching a Ford-Congress confrontation.

Of the three, only the latter may seriously pinch the pocketbook nerve of the citizenry. If Mr. Ford wins the confrontation by making a tax bill veto stick, his victory could pinch by raising income tax rates in the new year, shrinking private purchasing power by over a billion dollars a month. If Congress wins, by passing a tax bill without a budget ceiling, over Mr. Ford's veto, that could pinch by igniting another round of price inflation.

As between these two millstones, our guess is that the ordinary American taxpayer is not choosy but would as soon be ground by neither.

The confrontation is over the pending tax bill. The congressional Democrats want to extend current tax-cut rates. But President Ford, despite some unrest among congressional Republicans, has pledged to veto any tax cut extension that omits a $395-billion spending limit for fiscal 1977.

The issue, to be sure, is suffused with election-year politics. The President hopes to win the favor of taxpayers by budget-cutting—he hasn't made clear just where. The Democrats in Congress pin their competing hopes on tax-cutting.

The issue does have a more serious side. The Democrats view the President's insistence on a spending ceiling as premature, since he hasn't yet presented his 1977 budget; and they also see it as an assault on the new congressional budget system, which binds them by law to set their own ceiling on the budget.

Here, it strikes us that the congressional position is reasonable, and less likely, if sustained, to set back the recuperating economy. The inflationary fear, though real, is necessarily speculative. We don't really know whether a tax bill without a ceiling will generate inflation. We do know that a big drain-off of private purchasing power can sedate the economic recovery. Presumably that is why two knowledgeable political observers reported the other day that "even some White House aides cross their fingers in hopes Congress will override the veto"—that is, the veto of a ceilingless tax bill Mr. Ford has promised.

But merits are mixed in both positions, and what accordingly worries us is that both the White House and Congress insist on an adversary style of budgeteering. Perhaps it is a consequence of divided government, but it isn't an unavoidable one. If both parties recognized that their calculations may be upset by economic events just around the corner but now unseen, and worked towards reasonable compromise, we suspect the difficulties would vanish.

Congress is rightly determined to pursue its attempt through the new budgetary process to be master of its own house. But are there not sufficient spending and revenue estimates for the new year already at hand so that Mr. Ford and Congress could agree on a budget ceiling figure? It would almost surely have to be revised anyway, whatever it turned out to be. Mr. Ford's $395 billion figure is arbitrary; it ought to be negotiable.

It may be recalled that neither the White House nor Congress distinguished itself during the past year in economic foresight. Only a year ago, with the recession visibly deepening, the menace of double-digit inflation was seen as the number one target, and tax increases (believe it or not) the remedy talked of. After the President's famous "179-degree turn," all that changed in a twinkling.

Again, despite that failure of foresight, both parties are pretending to foresee the unforeseeable and are entrenching themselves in redoubts that a sharp turn in the economy could blow up overnight. Why? Why do both the President and the congressional Democrats take unbending positions on such sandy ground? The taxpayers deserve a more statesmanlike treatment of their economic affairs than they're getting, though we must apologize for so indelicate a sentiment in an election year.

Mr. LONG. Mr. President, it seems to me that the President is demanding that we commit ourselves to two things.

He wants us to agree to what he has decided he is going to do, and that is to pick a figure and to cut the cloth to fit the pattern.

The response of the distinguished Senator from Maine (Mr. Muskie) and all those on the Budget Committee could only be that we have spelled out by law the procedure whereby Congress would arrive at its spending figure, and Congress is in no position to do what the President has requested, because it does not have the information. Nor has Congress had the time to study the information that causes the President to fix his figure of $395 billion after a tax cut or $423 billion before the tax cut.

The Senate has every right to insist that it should follow its budgetary procedure and arrive at its figure after it has studied the President's budget.

Now the President wants us also to commit ourselves to the principle that we will agree to a dollar-for-dollar tradeoff, that for every dollar of tax cut in 1977 fiscal year we will have a $1 reduction in expenditures.

In my judgment, Mr. President, it is a compromise to me to say we would meet the President halfway and make that commitment; so long as he is President that we will do business in that fashion, barring unforeseeable circumstances.

When I say barring unforeseeable circumstances, I note that the President has had to change his budget figures several times in the past year anyway. Our Budget Committee has changed its budget figures. In fact, the law is drawn so as to allow our Budget Committees to change their figures, because the law anticipates that circumstances will change.

But I would think, Mr. President, that the logical basis to honorably resolve the difference between the President and Congress would be merely to say that we will try to come to an agreement with the President on a budget figure as soon as we have his figures. We do not have them now and will not have them until some time next year, when we can achieve this in the orderly process. Having done that, we will try to hold ourselves to those figures except that, as both he and our committee members and other Senators understand, circumstances could change all this.

What we agreed to might not be appropriate at some future point at all. I think we could make a commitment to the President—which I really do not think is giving a great deal, from our point of view—that once we have arrived at a figure, we will endeavor to stay by the principle that a $1 cut in taxes should be accompanied by a $1 reduction in projected Federal spending.

Again I stress that if you look at the President's record on budgetary matters and you look at our own record in the Congress on budgetary matters you can see how things change, and they have to change as the circumstances change. It would be irresponsible to do it any other way.

But the President is seeking to come to agreement with Congress on an objective, and I think there is not enough difference between us to quarrel about or to reach an impasse about something that we can all agree is desirable. The President thinks we should have a tax cut of at least $17 billion, in fact he thinks it should be more than $17 billion. We agree that we should have a tax cut which would equate to that figure on a full calendar-year basis. In view of the fact that we really are not at odds in our objective, it seems to me that we should try to join each other in reaching that objective.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. LONG. I yield.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, I have a few announcements.

From 10 a.m. to 12 noon on Monday next, we will have consideration of the conference report on the common situs picketing act, which will then be laid aside until 4 p.m., at which time a vote will then occur thereon.

At 12 o'clock the Senate will then proceed to the consideration of the conference report on the defense appropriations conference report.

ORDER FOR CONSIDERATION OF H.R. 5559 ON MONDAY

After that, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the tax bill, H.R. 5559, that it be laid before the Senate and made the pending business at that time.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, could we have an agreement that all amendments to that bill must be germane?

Mr. MANSFIELD. I make that request.

The PRESIDING OFFICER. On the tax bill, that is?

Mr. MANSFIELD. That is correct.

Mr. GRIFFIN. Mr. President, reserving the right to object——

Mr. LONG. With this one exception: That an amendment dealing with a spending ceiling would be in order.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HRUSKA. Is that the program for Monday, or is there expectation that we will consider the confirmation of the nominee for the Supreme Court on Monday?

Mr. MANSFIELD. We will consider that on Wednesday or Thursday.

Mr. LONG. Mr. President, if we can limit ourselves to germaneness on the tax cut bill, I think we can dispose of it in fairly short order.

The PRESIDING OFFICER. As modified, is there objection to the unanimous-consent request?

Mr. GRIFFIN. Has that been agreed to as yet?

The PRESIDING OFFICER. It has not been agreed to as yet.

Mr. GRIFFIN. Further reserving the right to object, I really hesitate to give that kind of agreement without any opportunity to check with anybody. Personally, I would be in favor of it.

Mr. LONG. I say to the Senator that it is all right with me to request it later.

Mr. GRIFFIN. Let us try it again a little later.

The PRESIDING OFFICER. Without objection, it is agreed to.

Mr. MANSFIELD. Mr. President, in the meantime, we do have unanimous consent on the part of the Senate to take up the tax bill, H.R. 5559, immediately after the conference report on the defense appropriations bill?

The PRESIDING OFFICER. It is the Chair's understanding that all the majority leader's requests have been agreed to, except with respect to the germaneness issue.

Mr. MANSFIELD. Mr. President, because of the excellent progress we are making today, the Senate will not be in session tomorrow.

At an appropriate time next week, the Senate will proceed to the consideration of S. 961, by Mr. MAGNUSON, a bill to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes—the so-called 200-mile-limit bill.

I hope that the attachés of the Senate will immediately notify all Senators of this, because some may have canceled their plans. Others may not have made plans, but they should have this notice. There will be no meeting of the Senate tomorrow.

Mr. LONG. Mr. President, has the Senator gained unanimous consent that reports on the tax bill can be submitted until midnight tonight?

Mr. MANSFIELD. Yes.

The tax bill will be laid before the Senate after the conference report on the defense appropriations bill has been enacted. For the information of the Senate, following the disposal of this bill, which I hope will occur in less than 2 minutes, we will then proceed to the consideration of the conference report on public works appropriations.

Following that, Calendar No. 488, S. 2498, will be laid before the Senate and made the pending business.

Later this evening, I intend to call up a noncontroversial treaty on the calendar, ask that it go through final reading, and it will be voted on on Monday next.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. ON MONDAY, DECEMBER 15, 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HATFIELD ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the two leaders are recognized on Monday next, the distinguished Senator from Oregon (Mr. HATFIELD) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX LEGISLATION

Mr. LONG. Mr. President, for the benefit of the distinguished acting minority leader, I point out that it has been agreed by the Democrats, in their caucus, that they are not going to offer controversial tax reform amendments on this tax cut bill. Having agreed to impose that kind of restraint on ourselves—it is not binding on Senators, but that is our intention—we would feel compelled to resist amendments of any controversial nature whatever that might be offered on the bill. It is impossible to say what someone might offer that might be a unanimous-consent type of amendment. That, of course, will be no problem with regard to germaneness, anyway.

Mr. GRIFFIN. I appreciate what the Senator from Louisiana is saying. Obviously, if we tack a lot of amendments on this measure, it will create a great deal of trouble, and we will be around here longer.

Several Senators have laid down the word with our leadership: "Don't make any unanimous-consent agreement with respect to the tax bill without consulting us."

Mr. LONG. We have two other revenue bills. We have one on the calendar. If the Virgin Islands bill is not on the calendar, it has been reported. So we will have two other vehicles that can be used for riders, in the event Senators want to offer amendments. We will try to advance those other measures, and Senators will have an opportunity to offer amendments, if they can be agreed to. The probability is that amendments which could not find their way onto the statute books as amendments to these other bills would not find their way there as amendments to the tax cut bill, either.

Mr. MANSFIELD. I am sure this can be worked out later this afternoon.

ANTITRUST ENFORCEMENT AUTHORIZATION ACT OF 1975

The Senate continued with the consideration of the bill (S. 1136) to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes.

Mr. HRUSKA. Mr. President, I am prepared to yield back the remainder of my time.

Mr. LONG. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PHILIP A. HART. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time on the bill?

Mr. HRUSKA. I yield back the remainder of my time.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. PHILIP A. HART. I yield.

Mr. MOSS. Mr. President, the Antitrust Enforcement Authorization Act which we have before us today is an important step forward in demonstrating our commitment to a free and competitive marketplace. It is imperative that we provide the resources necessary to invigorate effective and expeditious enforcement of the antitrust laws and facilitate the restoration and maintenance of competition in the marketplace.

While my distinguished colleague from Michigan, who shared with me the responsibility of chairing the hearings on this legislation has eloquently addressed the problems faced by our antitrust enforcement agencies in the absence of increased resources, I would like to point to another important facet of this legislation.

The increase in antitrust enforcement authorizations will provide the Federal Trade Commission and the Department of Justice with the resources necessary to prosecute not only monopolistic practices in violation of the FTC Act, the Sherman Act, and the Clayton Act, but also the magna carta of small business, the Robinson-Patman Act.

Without Robinson-Patman, the major battle for small business would be one of survival.

Thousands would be driven from the marketplace. There would be a disastrous impact on our economy, tax revenues, and jobs.

It is in the public interest to prohibit predatory practices that would destroy both competition and competitors.

To paraphrase Justice Holmes:

> The life of competition is not price; the life of competition is numbers (of competitors).

The greatest bulwark against monopoly is a strong small business community. To insure that small business remains strong in numbers and in economic health, it needs fair rules of competition as typified by Robinson-Patman.

But the mere existence of a statute on the books is not enough. It must be enforced. The Federal Trade Commission has in effect abandoned the Robinson-Patman Act.

The House Small Business Committee recently created a special Ad Hoc Subcommittee on Antitrust, Robinson-Patman, and Related Matters.

John Lewis, the executive vice president of National Small Business Association, in testimony before this ad hoc committee, said the small business community was never so unified on a single issue as on Robinson-Patman and the need for its enforcement. He presented a petition to Congress endorsed by 59 associations and representing more than 3½ million businesses urging that Congress take appropriate action to improve enforcement of Robinson-Patman in all respects so that violations of the Robinson-Patman Act may be swiftly discovered and prosecuted.

Shocking and disturbing testimony about the Federal Trade Commission was presented to this ad hoc committee by Congressman JAKE PICKLE who chaired hearings in the House of Representatives on the enforcement of the Robinson-Patman Act.

In testimony last November 5, before the ad hoc committee of the House Small Business Committee, Representative PICKLE said:

> As ranking majority member of the Special Subcommittee on Investigations of the House Committee on Interstate and Foreign Commerce, I chaired a number of both open and closed hearings examining the FTC's work in enforcing the Act. Part of this work necessitated participating with the subcommittee staff in preliminary and follow up investigations.
>
> My special interest in the whole area, however, goes back at least six years when I first started following the FTC beer case. So I feel personally involved in the issues facing your Subcommittee. I am also very grateful to you Mr. Chairman for providing the leadership in bringing the importance of the Robinson-Patman Act to the forefront.
>
> But just as my bold amigo is blunt about his feelings, I want to be frank about my feelings on how the FTC is enforcing the Robinson-Patman Act—the record borders on a blatant, administrative repeal of the Robinson-Patman Act by the FTC. Mr. Chairman, five years ago your committee issued a report which called for the Federal Trade Commission, among other things, to study the Robinson-Patman Act and to report back to the appropriate committees of Congress. The Commission never completed its study and never reported back. During my hearings, I could never get a satisfactory answer as to why the report was never made.
>
> Furthermore, during the period the study was to be taking place, the Commission was to "vigorously enforce all sections of the Robinson-Patman Act as enacted by Congress." My study indicated the Commission failed to do so. For example, in 1960 the Commission issued 130 Robinson-Patman complaints and 45 orders enforcing the Act. In 1972, 2½ years after the report by your Committee, the number of complaints had dropped to 5 and the number of orders to 2. Five complaints in a year can hardly be called vigorous enforcement. Nor can such a small number be explained as a matter of chance—it must be a matter of design.

The record of the Department of Justice with respect to Robinson-Patman is equally unbelievable. The Department of Justice has responsibility for enforcement of section 3 of this act which is directed to predatory pricing and price discrimination for the purpose of destroying competition. Since enactment of Robinson-Patman in 1936—almost 40 years—the Department of Justice has not yet successfully prosecuted a litigated case under section 3.

This concern about the lack of enforcement is universally shared by the small business community.

National Food Brokers Association:

> Today more than ever I see the need for a strong and effective Robinson-Patman Act. We now have an entirely different food industry. With the small margins in the industry it would mean destruction of competition if even a small price discrimination is given. We saw how disastrous it was in the early days before the Robinson-Patman Act. It would be far worse now.
>
> The Members of the National Food Brokers Association, from close personal observation, have seen that the Robinson-Patman Act for many years has done more than any other law to make competition in the food industry free and fair to all competitors. Even with poor enforcement in recent years the Act still serves as a deterrent to widespread destructive price discriminations. Imagine how effective this law would be today with proper and vigorous enforcement.

National Association of Retail Druggists:

> Now the (Federal Trade) Commission not only refuses to enforce this statute, but actively seeks repeal of a statute it is obligated to enforce. Vigorous efforts by this Subcommittee to stop this bureaucratic mockery of federal law will certainly be appreciated by the small businessmen of this country. But more importantly the public will not face victimization by the monopolies that are to result if the FTC is allowed to remain in this supine position of doing nothing to protect the consumer.

Menswear Retailers of America:

> Small business is all too aware that RP enforcement has been weak and wanting. Still, its presence has undoubtedly tempered the ability of large firms to extract more favorable price, payment and delivery terms. Without it, bigs would have a free rein to dictate their wholesale prices and terms. RP has been our first—and only—line of defense in preventing flagrant abuses.

National Small Business Association:

> If the FTC, or any other agency, on the basis of internal and totally undisclosed prejudice, decides to refrain from enforcing some laws, this operates in the real world as a virtual repeal. Yet, at the same time, it is elementary that it is the Congress and the President, working together, that establishes the law of the Nation, including articulations of ideals, value choices and enforcement techniques, especially in reference to economic matters.
>
> Thus, at the outset we do not understand why and how in a constitutional framework an administrative agency, such as the FTC, a subordinate creature of Congress, can in effect usurp the functions of Congress and, without public fanfare or discussions of the matter, effectively repeal one of the most important of our antitrust laws.

National Independent Dairies Association:

> The most recent U.S. Department of Commerce Census of Manufacturers shows that in the 17 years since National Independent Dairies Association was formed in 1958, the number of fluid milk dairies in the United States has been reduced by about one-third. Some of these dairies went out of business for normal business reasons, but I can assure you that many of these dairies were forced out of business by predatory actions by huge national conglomerates and by the monopolistic actions of producer dairy super-co-ops. We independent dairymen need help from the Federal governmental agencies in maintaining a healthy dairy marketplace through curbing of predatory pricing actions and other unfair trade practices which result in a continuous reduction of competitors. Not only are we not getting that help, but we are now confronted with proposals to repeal, or to cripple by amendment, one of the few laws that help us—the Robinson-Patman Act.

National Home Furnishings Association:

> The rather sorry enforcement record of the Federal Trade Commission in recent years requires an explanation from that agency. Non-enforcement breeds contempt for the law, and the FTC should be asked to account for its stewardship. If it is simply a matter of funds and human resources then the agency should forthrightly address that issue.

S. 1136 answers the excuse of the FTC and the Department of Justice that "no funds are available" to enforce the antitrust acts.

Each of these antitrusts acts—based on experience—complements, supplements, and fortifies the other as chronologically enacted by Congress.

The breakdown of congressional mandates comes when enforcement of any one of these acts is abandoned by the FTC and the Department of Justice.

Robinson-Patman is designed to stop monopoly at its incipiency. If this act is not enforced, then only the Sherman Act is left. But until there is a Sherman crackdown, everyone pays. The record of the Department of Justice is that for everyone except the monopolist this will be a long-term debt.

Small business has too long been the recipient of kind words and no action.

Mr. President, it is my hope that the FTC and the Department of Justice separately will allocate a portion of the increased resources under the Antitrust Enforcement Authorization Act to enforcement of the Robinson-Patman Act. While some commentators have charged that the act should be repealed, until Congress takes such a step it is the duty of the agencies to enforce the law. Certainly the Federal enforcement agencies cannot be expected to enforce every violation of the act, but they can do something to bring cases in those instances in which the evidence clearly indicates that the public, and the small businessman, are being discriminated against by predatory practices which are in violation of the act.

Mr. President, I ask unanimous consent that certain statements and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF J. J. PICKLE BEFORE SMALL BUSINESS COMMITTEE, NOVEMBER 5, 1975

Mr. Chairman, I want to thank you and the members of your committee for asking me to be one of your first witnesses in your investigation into the Robinson-Patman Act, the way the Federal Trade Commission enforces it, and recent proposals to repeal the Act.

I hope I can help you in this study because during the 93rd Congress I reviewed these matters in great detail. As ranking majority member of the Special Subcommittee on Investigations of the House Committee on Interstate and Foreign Commerce, I chaired a number of both open and closed hearings examining the FTC's work in enforcing the Act. Part of this work necessitated participating with the subcommittee staff in preliminary and follow up investigations.

My special interest in the whole area, however, goes back at least six years when I first started following the FTC beer case. So I feel personally involved in the issues facing your Subcommittee. I am also very grateful to you Mr. Chairman for providing the leadership in bringing the importance of the Robinson-Patman Act to the forefront.

But just as my bold amigo is blunt about his feelings, I want to be frank about my feelings on how the FTC is enforcing the Robinson-Patman Act—the record borders on a blatant, administrative repeal of the Robinson-Patman Act by the FTC. Mr. Chairman, five years ago your committee issued a report which called for the Federal Trade Commission, among other things, to study the Robinson-Patman Act and to report back to the appropriate committees of Congress. The Commission never completed its study and never reported back. During my hearings, I could never get a satisfactory answer as to why the report was never made.

Furthermore, during the period the study was to be taking place, the Commission was to "vigorously enforce all sections of the Robinson-Patman Act as enacted by Congress." My study indicated the Commission failed to do so. For example, in 1960 the Commission issued 130 Robinson-Patman complaints and 45 orders enforcing the Act. In 1972, two and ½ years after the report by your Committee, the number of complaints had dropped to 5 and the number of orders to 2. Five complaints in a year can hardly be called vigorous enforcement. Nor can such a small number be explained as a matter of chance—it must be a matter of design.

Our subcommittee looked at a number of Robinson-Patman cases in close detail, and found a pattern where Robinson-Patman violations were consistently downgraded, or pushed into the hidden corners of the FTC building. There can only be a conclusion that the Commission has downgraded the Act.

It is not my purpose to declare what the FTC should do, or should have done, in any specific case. The Commerce Subcommittee did not do this in our investigations, and I will not begin today. FTC cases begin as complaints, and are definitively determined in the adjudicative process, not in Congressional hearings. At the same time, individual cases provide histories which are examples of what the FTC is doing, or not doing in following the Congressional mandate to enforce the Robinson-Patman Act.

My testimony today is a short report on those cases. The recitation of the cases will paint a big picture—one that does not present a pleasant future for the small businesses of America.

Before turning to the specific, I want to clue the Committee in on one major point. The Commission, in order to placate critics, both the "legal eagles and big business moguls", likes to hold back from the dull, unnoticed Robinson-Patman cases. Instead the FTC likes to grab the headlines with tough talking press releases proclaiming the advent of another FTC trust-busting structure case—or the Sherman Anti-Trust Act case. But Mr. Chairman, that's all the FTC gets, as the big cases are very hard to complete.

Meanwhile the FTC has at its disposal a tool to prevent monopolies from forming—that is the Robinson-Patman Act. The message is simple—the Robinson-Patman Act to prevent monopolies, and the Sherman to bust them up.

Another good example that the Commission is not getting the message is the *Borden* case.

In July 1974 the Commission issued a monopolization complaint, or a Sherman complaint, in this case alleging domination of the lemon juice industry by Borden with its Real Lemon brand. According to the complaint, since at least 1965 Borden has used the following unfair practices in maintaining a monopoly power in a noncompetitive marketing situation: (1) granting selective price reductions; (2) selling Real Lemon below its cost or at unreasonably low prices; (3) granting selective promotional allowances or concessions; (4) including selective customers to reduce their retail prices on Real Lemon by granting special price reductions or special promotional allowances or concessions.

I cannot say one way or the other whether these allegations are true in law. But if they are, these very actions Borden allegedly committed to create a monopoly are also a violation of the Robinson-Patman Act. Would it not have made more sense to stop the process of monopolization with an R-P action instead of waiting for the monopoly to become finalized?

THE BEER CASE

For the past 6 to 7 years, I have attempted to follow the progress of the FTC investigation of the beer industry. Before the hearings, I had the general impression that one word could describe the FTC's handling of the beer case—ineptness. After the hearings, I would use one word—ineptness—and I would throw in a touch of bias against R-P cases. Our Committee records will give an idea of the time spent on this case since 1965, but in early spring 1972, after four years of RP investigation, the decision was made to make the beer investigative lead into a structure case, or a Sherman case. So obviously we see an example of years of misdirected investigation give way to further delay by seeking a structure case.

My own research since the hearings one year ago indicates the atmosphere of snail's pace has not changed. The investigation still struggles, and I assume it struggles in an attempt to make a structure case.

Meanwhile, another Director of the Bureau of Competition has left the FTC, and if past experience holds, the beer case investigation will be further delayed. I am advised that the case will be actively pursued. I will also note that I have read in the press that the Securities and Exchange Commission has started an informal investigation of Schlitz Brewing Company. The SEC is interested in rumors that the Company paid retail accounts money to handle Schlitz products.

In all probability, a RP action could have been brought three years ago and predatory pricing might have been checked.

This is not just an opinion. In February, 1972, a Federal District Court in Houston (Pearl Brewing Company v. Anheuser-Busch, Inc. 339 FS 945 (Eastern District Texas)) stated *indictum* that evidence did exist proving Anheuser-Busch, Inc. had violated the Robinson-Patman Act by predatory pricing practices.

Instead, and despite the observations of a Federal Court, the FTC decided after years of work to seek a structure case. By the time one is developed, the RP violations may have driven all the regional brewers out of business. The printed transcripts of our hearings will give a full record of the delays.

But let me say that the action of the FTC in this case has been one of continuous personnel changes, stops, starts, and restarts, sloppy files, and delay, delay.

KROGER CASE

One of the most popular views in American thinking is that high food prices are the fault of the huge supermarket chains. I do not know whether this is true or not.

I do know that the FTC received a great deal of mileage out of press releases that were issued almost simultaneously with my Subcommittee hearings, with big talk on investigating possible Sherman Act violations by the supermarkets.

The hearing record shows that the truth is the FTC staff had sought RP actions against a large supermarket chain before the widely publicized press releases.

In fact, in July, 1972, a 46-page memorandum was submitted to the Director of the Bureau of Competition recommending RP action against the chain.

Again, it is not necessary to go into the details, as the hearing record will provide a full review. The highlights are: The Bureau Director held the memo for several months and then instructed that FTC staff attorneys discuss a consent agreement.

When FTC staff attorneys reported that the supermarket chain would not accept a meaningful consent agreement, the Bureau Director indicated his disapproval of the 46-page memorandum recommending RP action.

Discouraged, the staff attorneys changed the proposed complaint and ended up with a mild slap on the wrist for what seemed to be substantial violations. I have attached as an exhibit to my testimony an outline of what the staff proposed and of what the FTC finally accepted.

To me, this is an indication of the anti-RP bias at the FTC.

Mr. Chairman, I want to point out to you and the media how Robinson-Patman violations hurt the consumers.

All of us are aware of how high food is in the Washington, D.C. area. In fact, the FTC made headlines in our local papers, and received good TV coverage, when the FTC told the world it was going to bust up an alleged supermarket monopoly in the D.C. area. How?—By seeing if a structure case was justified.

The D.C. market is very concentrated with two firms holding over 60 percent of the sales, with the 60 percent increasing. No other firm has more than 7 percent of the market.

There are no wholesale grocers in the D.C. area.

Now back in 1966, eight years before the FTC grabbed the headlines on how it was going to investigate the D.C. supermarket monopoly, it seems that a rather strong case could have been made that Giant and Safeway foiled the entry of another chain to the D.C. market with actions looking like Robinson-Patman violations.

The chain was a New Jersey operation called Shop Rite.

Shop Rite acquired two locations, one in Langley Park and the other in College Park.

About 4 weeks before Shop Rite opened, Safeway and Giant lowered their prices in their stores surrounding the Shop Rite locations.

When Shop Rite opened, Safeway and Giant continued the big sales, but mind you, only in their stores surrounding the Shop Rite locations.

Within two months, Shop Rite closed down and left the D.C. area.

There is a footnote to this which is humorous, but also typical of predatory business practices. Giant was the landlord of one of the Shop Rite locations. On opening day, Giant decided to black top the Shop Rite parking area. The mess did not make a very successful opening day.

So, the shopper received for 3 months low prices at Safeway and Giant in the Langley Park and College Park area. But when the competition folded, the shopper was back on the meat hook of a noncompetitive situation.

Instead of big talk about the FTC investigating supermarkets for Sherman Act violations, the American consumer would probably welcome some RP cases that might prevent supermarket monopolies from being formed.

ITT-CONTINENTAL BAKING

If there was ever an example of what the Robinson-Patman Act tries to prevent, it is certainly evident in *Old Homestead and Interstate Brands v. ITT*. This case, involving an independent bakery in Denver, Colorado, shows that by predatory pricing tactics, Old Homestead was forced out of business by ITT-Continental Baking. Two days after Old Homestead people went out of business, ITT raised its prices by 12% and did away with all discounts. Despite the fact that this case became final in March of 1973 and the FTC had the necessary evidence, it did not issue its complaint until a year and a half later. I might add that the FTC had evidence that such action by ITT was occurring elsewhere since it had been investigating the matter since at least 1971.

In conclusion, I must note that the former Bureau of Competition Director, Alan Ward, denied strongly that there was a policy at the FTC to ignore Robinson-Patman cases, He stated firmly that his attitude was to investigate vigorously and let the chips fall where they might.

His stated view was to enforce both the RP cases and structure cases.

In my opinion, the lack of RP cases brought in the early 70's has to be compared to the stated position of Mr. Ward. The admonition of a former cabinet member might be in order here—"Don't judge us by what we say, but what we do."

Before summing up on all of this Mr. Chairman, I want to make some observations based more on what my sniffer tells me than anything directly printed in the hearing records.

The drop off of the Robinson-Patman Act cases occurred with the advent of the Nixon Administration. Now the Ford Administration is talking about out and out repeal of Robinson-Patman.

Also in the early 70's, a lot of thinkers in the ivy-covered towers lead the growing consumer advocates down the primrose path of specious thought. This path leads to the conclusion that consumers would benefit by the repeal of Robinson-Patman coupled with greater enforcement of the Sherman Anti-Trust Act.

The unknowing, unwitting, coalescing of big business and consumer advocate resulted in the silent repeal of Robinson-Patman over at the FTC.

And, Mr. Chairman, our Subcommittee hearings of March 13, July 18 and 23, 1974, raises some even darker suspicions. As you and your staff read over the hearings I chaired, the combination of pressures to drop R-P cases, or to weaken them, and possible non-FTC interests, conflicts and pressures occurs too frequently for comfort.

I'm not saying this to darken the Republicans, as it has been my experience that Congressional Republicans are good friends of Robinson-Patman. And besides, the darlings—the famous consumer advocates—of the Democratic left have been a foe of Robinson-Patman.

During our questioning, I'll be more than glad to go over these cases in more detail, and reveal some of the problem areas as I see them.

SUMMATION

In sum, I have the opinion that the Robinson-Patman Act has been effectively repealed by the Federal Trade Commission.

The reasons for this is that the so-called consumer experts, Ph. D. economists, and legal eagles feel the RP Act is old-fashioned and harms the consumer when enforced. This outside attitude towards RP cases has taken hold in the FTC.

I recognize that structure cases, of the so-called monopoly-busting cases, grab the headlines and keep Congress at bay. I also recognize that superficial arguments can be made that predatory pricing practices benefit consumers.

But the fact remains that until Congress repeals the Robinson-Patman Act, the FTC should enforce it, regardless of what non-elected experts think.

I don't think any savings are passed on to the consumer in most instances of predatory pricing and when the lower prices are passed on, it is temporary until the market monopoly is established.

Finally, the lesson here is that the Congress should either force the FTC to enforce Robinson-Patman, or just repeal the law.

Paying lip service to RP results in charades that create false hopes among the small businesses in America, and in turn, those who do not want to see the market place monopolized.

Hopeful, we will not allow the discoveries of the FTC oversight hearings to fade away.

ATTACHMENT I

Proposed order

I. Kroger to cease and desist *forever* violating Clayton and Federal Trade Commission Acts by:

(1) inducing *or* receiving from supplier anything of value not available on proportionately equal terms to other buyers;

(2) inducing *or* receiving agency compensation rates, discounts, rebates and allowances not available on proportionately equal terms to other buyers;

(3) inducing *or* receiving net price below that provided by supplier to other buyers.

II. A. For 5 years, Kroger not to accept any discount, etc., unless supplier *in writing* (1) advises has made identical offer to each competitor, or (2) states names of each competitor receiving proportionately equal offer and its terms.

B. Keep file of all accepted offers in alphabetical and chronological order by supplier for FTC inspection on 10 days notice.

III. For 5 years, each division to operate autonomously in purchasing for resale within division (centralized price bargaining prohibited).

IV. Refund $549,212,365.

Final order

I. *For 5 years*, Kroger to cease and desist from violating Federal Trade Commission Act (only) by inducing and receiving promotional allowances, etc., solicited by Kroger in connection with special promotions originating with or sponsored by Kroger.

II. For 5 years, keep file on above.

III. Refund $22,000.

NATIONAL INDEPENDENT DAIRIES
ASSOCIATION,
Washington, D.C., December 4, 1975.

Hon. FRANK E. MOSS,
U.S. Senate, Washington, D.C.

DEAR SENATOR: Your vote for S. 1136 to increase appropriations for the antitrust regulatory agencies of the government is a vote in support of the independent dairies in your state.

The lack of antitrust law enforcement in the dairy industry has resulted in an ever-increasing concentration of economic power in the hands of the oligopoly of national dairy conglomerates and of the monopoly activities of the superco-ops who manipulate local fluid milk supply. These activities have contributed to the steady decline of independent dairies, a loss of about 80% since World War II, and the deliverance of many consumers to monopoly controlled milk markets.

The repeated reports of independent dairies on predatory activities to the Department of Justice and the Federal Trade Commission are usually met with a bland response that because of limitations of budget and personnel, these agencies are unable to take action in the individual case.

The record of these agencies of enforcement of the Robinson-Patman Act is particularly dismal. The enforcement of this anti-predatory price discrimination law is of great concern among independent dairymen. This past fiscal year the FTC issued only two complaints and three orders throughout the entire country. Such performance in the light of widespread illegal practices is ludicrous.

We urge that you support S. 1136 and an amendment that a minimum of one-third of the additional funds to be appropriated for the Bureau of Competition of the FTC and the Antitrust Division of the Department of Justice be earmarked for enforcement of the Robinson-Patman Act, together with annual reports to Congress on how the earmarked funds have been spent.

The "bigs" are getting bigger, and the independents are becoming fewer. We feel it is time to call a halt to this trend. We support S. 1136 as a step in that direction.

Sincerely,

H. LEE RICHARDS,
President.

JUSTICE DEPARTMENT OFFICIALS ACCUSED OF TRYING TO REPEAL ANTITRUST LAWS UNDER A COVER-UP DESCRIBED AS DEREGULATION

Representative Henry B. Gonzalez (D-Texas), Chairman of the Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters of the House Committee on Small Business, in a statement today to the House of Representatives accused Justice Department officials of trying to repeal antitrust laws under a cover-up described as deregulation. He said that testimony he has received clearly shows that some of the officials are not merely endeavoring to arrange for deregulation, but they are for dismantling the structure of our antitrust laws.

Attached is a copy of the text of his remarks to the House of Representatives:

Mr. GONZALEZ. Mr. Speaker, for a period of several months a group of attorneys in the Antitrust Division of the U.S. Department of Justice in Washington, D.C., under the guise of proposing deregulation of business, are moving to repeal portions of the antitrust laws.

President Ford has suggested that he wishes steps to be taken to reduce and eliminate some U.S. Government regulations and, in that connection, reduce Government bureaucracy. Some officials in the Antitrust

Division of the U.S. Department of Justice have taken advantage of those suggestions by President Ford and are attempting to have considered proposals for repeal of vital provisions of our antitrust laws. In doing this, they have covered over and attempted to cover up their efforts by moving to have their efforts labeled as efforts to deregulate business.

As the truth about these efforts to repeal portions of our antitrust laws become known, they concern and disturb all of us who are for our public policy of antitrust and the laws enacted by the Congress to implement that policy. One of those laws is the Robinson-Patman Act, which prohibits monopolistic price discrimination practices destructive to competition.

These matters became of great concern to the Honorable Joe L. Evins, Chairman of the House Small Business Committee, and others who are interested in our National public policy to protect, counsel, and assist small business. Therefore, on September 23, 1975, Chairman Evins and the Members of the House Small Business Committee created an Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters to investigate, study, hold hearings and report on these moves and proposals by officials in the Antitrust Division of the U.S. Department of Justice to repeal those portions of the antitrust laws which include the Robinson-Patman Act.

In that connection, it must be kept in mind that the antitrust laws, including the Robinson-Patman Act, are not Government and private regulations of business; they were designed to avoid Government and private regulation of free and competitive enterprises. The Robinson-Patman Act, therefore, is not an exemption from the antitrust laws, but on the contrary is an amendment and an addition to such laws for the purpose of strengthening and making them more effective.

In announcing the creation of the Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters, Chairman Evins named the following to serve on the Subcommittee: Rep. Henry B. Gonzalez, Chairman; Rep. James M. Hanley, Vice Chairman; Rep. William L. Hungate, Rep. John Breckinridge, Rep. John J. LaFalce, Rep. Frederick W. Richmond, Rep. Martin A. Russo, Rep. M. Caldwell Butler, Rep. Thomas N. Kindness, and Rep. William F. Goodling. At that time, he stated that the Robinson-Patman Act should not be repealed, but should be retained and strengthened.

The Ad Hoc Subcommitte commenced hearings on the subject on November 5, 1975, which continued at intervals through November 19, 1975. A large number of witnesses have appeared and testified. These include representatives of hundreds of thousands of small business firms. The small businessmen and their representatives who testified bitterly opposed the suggestions which have come out of the Antitrust Division of the Department of Justice for repeal of the Robinson-Patman Act. They testified at length on the reasons why it promotes competition, and is not anticompetitive as is claimed by some of the officials from the Antitrust Division of the Department of Justice. Indeed, one of those officials from the Antitrust Division of the Department of Justice. Indeed, one of those officials from the Antitrust Division has admitted that his views in that respect are based upon his bias against that portion of our antitrust laws.

On October 22, 1975, as Chairman of the Ad Hoc Subcommittee I directed letters to the Antitrust Division requesting that they submit the evidence they had before them and which supported them when they were out publicly propagandizing that the Robinson-Patman Act was anticompetitive. To this date, they have not responded by providing such information. In other words, it is becoming increasingly clear that these officials who would like to persuade President Ford to propose repeal of some of our antitrust laws, including the Robinson-Patman Act, have nothing on which to base their proposals except their personal bias. There are indications that this personal bias has been developed after such officials have had contacts with persons who had represented violators of our antitrust laws, including the Robinson-Patman Act.

These officials not only failed to respond to requests made by the Ad Hoc Subcommittee with information which would have supported the views that they have expressed in propagandizing against the Robinson-Patman Act, but now they are obviously undertaking efforts to build an argumentative basis for their further propaganda in that regard.

For example, the said officials of the Antitrust Division of the Department of Justice have arranged with members of the staff of the Domestic Council to hold some "hearings" to commence on December 8, 1975, for the purpose of attempting to secure support for their proposals. In that connection, reference is made to one of the Fairchild Business Newspapers published December 1, 1975, from which the following is quoted:

"The Justice Department will host three days of hearings—beginning next Monday—Designed to produce evidence to document its claim that the Act [Robinson-Patman Act] is anticompetitive."

That news item continues by referring to the appearance of some of the officials of the Antitrust Division of the Department of Justice who appeared as witnesses before the Ad Hoc Subcommittee and in that connection stated:

"Justice Department officials, given a sound thrashing on Capitol Hill for proposing that the Robinson-Patman Act be repealed, will try to get their side of the story told at the hearings."

The "hearings" thus referred to are the ones which the Department of Justice will host commencing December 8 in collaboration with the Domestic Council. Notice of this so-called "Domestic Council Review Group hearing" was published in the Federal Register at page 54855 on Wednesday, November 26, 1975, in the following words:

"Notice is hereby given that the Domestic Council Review Group on Regulatory Reform will hold public hearings on the Robinson-Patman Act, 15 U.S.C. §§ 13, 13a, 13b and 21a, on December 8, 9, and 10, 1975."

Mr. Speaker, it seems strange indeed that officials of an important Government agency who have not seen fit to extend the courtesy of responding to the Ad Hoc Subcommittee's request of October 22, 1975, for factual information are now attempting to conjure up some sort of a record which they apparently believe would support them in the propaganda they have heretofore spread around against provisions of our antitrust laws, including the Robinson-Patman Act.

Mr. Speaker, the history of antitrust legislation shows that the Sherman Antitrust Act was passed many years ago, specifically on July 2, 1890. The inadequacy of that law to deal with many monopoly problems became apparent with the growth of large corporations and the continuing trend toward mergers and other conglomerates as a result of price discrimination and other practices. Consequently, the Congress, in its wisdom, enacted the Clayton Act for the very purpose of halting monopolization in its incipiency. The principal difference between the Sherman Act and the Clayton Act is that the Sherman Act deals with consummated restraints whereas the Clayton Act seeks to reach monopolistic evils at their inception.

Today, we are confronted with strong and powerful attempts to emasculate, weaken and even repeal the Robinson-Patman Act. As I stated, we are concerned over the fact that the officials referred to have allowed more than six weeks to elapse without taking pen in hand and acknowledging that they received from me a request for such factual evidence as they had before them when they made statements condemning the Robinson-Patman Act and which supported such statements of theirs. Moreover, it is of concern to this Committee of the Congress that, according to reports, efforts are being made to withhold replies to that request for information until those to whom the requests were directed, with the assistance of the officials of the Office of Management and Budget and the Domestic Council, have made and effectuated a plan for hearings on the Robinson-Patman Act at the Executive Offices, commencing December 8, 1975.

It appears to this Member of the House of Representatives that such decisions and planning have not only resulted in ignoring requests from a Chairman of a Subcommittee of the House of Representatives, but also have the earmarks of thoughts that perhaps such a course of action may frustrate the hearing process of this Subcommittee. In that connection, it has been reported that one of the movers in such decisions and planning has expressed his view that such course of action would be the expression of the adversary position to the points of view thereon thought by such person to be held by this Subcommittee.

Let me advise those who hold such views that they should understand the truth. This Subcommittee does not regard the bureaucrats in the Antitrust Division of the U.S. Department of Justice as adversaries and it does not behoove them to regard this Subcommittee as an adversary of theirs

Testimony received by the Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters indicates some of the strong bias held by officials against our antitrust laws. For example, Mr. Alan Greenspan of the Council of Economic Advisors, so it was testified, has stated that:

"The Sherman Act may be understandable when viewed as a projection of the nineteenth century's fear and economic ignorance. But it is utter nonsense in the context of today's economic knowledge. The seventy additional years of observing industrial development should have taught us something.

"If the attempts to justify our antitrust statutes on historical grounds are erroneous and rest on a misinterpretation of history, the attempts to justify them on theoretical grounds come from a still more fundamental misconception. * * *

"To sum up: The entire structure of antitrust statutes in this country is a jumble of economic irrationality and ignorance. It is the product: (a) of a gross misinterpretation of history, and (b) of rather naive, and certainly unrealistic, economic theories." (See "Antitrust" by Alan Greenspan, as compiled by Ayn Rand for publication in a volume entitled "Capitalism, the Unknown Ideal.")

In conclusion, it is seen that some of the officials are not merely endeavoring to arrange for deregulation, but they are for dismantling the structure of our antitrust laws.

THE NATIONAL ASSOCIATION
OF RETAIL DRUGGISTS,
Washington, D.C., December 5, 1975.

To: Members of the U.S. Senate.
From: National Association of Retail Druggists.
Subject: S. 1136.

We represent some of the "little guys", the American small businessmen—the independent retail pharmacists. It seems these days that everyone, but everyone, wants to help us, except the people who could help us the most: the antitrust officials at the Department of Justice and the Federal Trade Commission.

In 1935, Congress passed one of the most potentially effective antitrust statutes in history: the Robinson-Patman Act. In its forty years, R–P has received less and less attention from its guardians, almost to the point where their lack of enforcement amounts to "unofficial repeal".

In 1960, the FTC filed over 130 Robinson-Patman complaints and 45 orders. More recent enforcement amounts to two complaints and three orders in the year ending June 30, 1975. More importantly, the heart of Robinson-Patman is Section 3 which prohibits predatory pricing and price discrimination, and since its enactment, the Justice Department has yet to successfully prosecute one litigated case under Section 3.

This record is inexcusable! Yet, Justice and FTC always counter that they do not have sufficient funding to properly enforce the antitrust laws on the books. The answer to this problem is simple!

We strongly urge you to support S. 1136 which would increase appropriations for the antitrust regulatory agencies, and we urge that S. 1136 be amended so that at least one-third of these additional funds be earmarked for the FTC's Bureau of Competition and Antitrust Division to enforce the Robinson-Patman Act alone! We urge that you also require these agencies to explain to the Appropriations Committees of Congress their enforcement intentions with respect to this statute.

If you are unwilling to earmark one-third of the additional funds for Robinson-Patman enforcement, then vote "no" on S. 1136, because we fear the bureaucrats will only use these extra funds to further harass the small businessman with more paperwork and needless regulations aimed to preempt state laws.

If small business is to succeed at all, and if we are not to become a nation of predatory and monopolistic chains and giantism, endorse S. 1136 with amendments. In this manner you can really help give the independent retail pharmacists a chance to provide to the public pharmaceutical products with convenient and courteous service.

NATIONAL SMALL BUSINESS ASSOCIATION,
Washington, D.C., December 8, 1975.

Hon. FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: We are writing about the need to preserve a basic antitrust statute, the Robinson-Patman Act, and the need to have this Act enforced by the Federal Trade Commission and the Department of Justice.

The small business community has never been so unified on a single issue.

Enclosed is a petition to Congress endorsed by 59 Associations representing more than 3½ million businesses.

Also enclosed is a background statement entitled the Robinson-Patman Act: Equal Opportunity or Price Discrimination—which will it be? This statement is endorsed by 31 national associations.

Robinson-Patman is essential for small business survival. However, enforcement of this Act of Congress has largely been abandoned by the FTC and the Department of Justice.

We ask for your support of Robinson-Patman and for your help in obtaining enforcement of it.

Sincerely,

JOHN LEWIS,
Executive Vice President.

NATIONAL SMALL BUSINESS ASSOCIATION,
Washington, D.C.

PETITION TO CONGRESS

The following named Associations announce their support of the Robinson-Patman Act.

We join in this statement as a Petition to Congress to preserve in all respects the Robinson-Patman Act in its present form, without weakening amendments.

We also urge the Congress to take appropriate action to improve the enforcement of this basic statute in all respects so that violations of the Robinson-Patman Act may be swiftly discovered and prosecuted.

Association and number of small business units represented:

Affiliated Dress Manufacturers Inc., 1440 Broadway, New York City, N.Y. 10018; 100.

Allied Underwear Association, 1450 Broadway, New York, N.Y. 10018; 70.

Arkansas Wholesale Grocers and Wholesale Tobacco Distributors Association, 300 Spring Building, Little Rock, Ark. 72201; 250.

Associated Retail Bakers of America, 731–735 West Sheridan Road, Chicago, Ill. 60613; 4,000.

Automotive Warehouse Distributors Association, 633 E. 63rd Street, Kansas City, Mo. 64110; 500–1,000.

Christian Booksellers Association, 2031 West Cheyenne Road, Colorado Springs, Colo. 80906; 1,820 member stores and approximately 200 small businessmen who are in the categories of suppliers and manufacturers to the industry.

Council of Smaller Enterprises, 690 Union Commerce Building, Cleveland, Ohio 44115; 858.

Eastern Meat Packers Association, 743–15th Street, N.W., Washington, D.C. 20005; 26.

Food Merchandisers of America, 1511 K Street, N.W., Washington, D.C. 20005; 20 members serve over 900 independent grocers.

Georgia Wholesale Grovers' Association, 909 Georgia Power Building, Macon, Georgia 31202; 80.

Independent Shoemen Inc., 14 Clover Road, West Yarmouth, Mass 02673; 960.

Infants' and Children's Coat Association Inc., 450 Seventh Avenue, New York City, N.Y. 10001; 70.

Louisiana Wholesale Grocers' Association Inc., 9181 Interline Avenue, Baton Rouge, La. 70809; 185.

Menswear Retailers of America, 390 National Press Building, Washington, D.C. 20045; 4,900 merchants (9,600 store units).

National Appliance & Radio-Electronic Dealers Association, 318 West Randolph Street, Chicago, Ill. 60606; 3,000 representing approximately 6,000 outlets.

National Art Materials Trade Association, 182 A Boulevard, Hasbrouck Heights, N.J. 07604; 1,200 small business member firms.

National Association of Blouse Manufacturers, 450 Seventh Avenue, New York City, N.Y. 10001; 90.

National Association of Music Merchants, 222 West Adams Street, Chicago, Ill. 60606; 6,500.

National Association of Retail Dealers of America, 318 West Randolph Street, Chicago, Ill. 60606; 3,000 representing approximately 6,000 outlets.

National Association of Retail Druggists, 1 East Wacker Drive, Chicago, Ill. 60601; 35,000.

National Association of Retail Grocers of the U.S. Inc., 2000 Spring Road, Oak Brook, Ill. 60521; 40,000.

National Association of Tobacco Distributors Inc., 58 E. 79th Street, New York, N.Y. 10021; 2,200 members of NATD serve 1,100,000 retail outlets, the overwhelming majority of which are "Mom and Pop" stores.

National Beer Wholesalers' Association of America Inc., 6310 North Cicero Avenue, Chicago, Ill. 60646; 1,800.

National Bicycle Dealers Association, 29025 Euclid Avenue, Wickliffe, Ohio 44092; 1,600.

National Business League, 4324 Georgia Avenue, N.W., Washington, D.C. 20011; 15,000.

National Candy Wholesalers Association, 1430 K Street, N.W., Washington, D.C., 20006; 1,300.

National Congress of Petroleum Retailers, 2021 K Street, N.W., Washington, D.C. 20006; 70,000 (Federation of petroleum retailers in 47 States, P.R. and D.C.)

National Council of Farmer Cooperatives, 1129 20th Street, N.W., Washington, D.C. 20036; NCFC is a nationwide organization of 118 farmer-owned and controlled regional cooperative business organizations and 31 state councils of farmer cooperatives. It represents several thousand small, local affiliates of members which serve approximately 1.5 million farmers throughout the United States.

National Dress Manufacturers Association, 570 Seventh Avenue, New York City, N.Y. 10018; 100.

National Economic Development Association, 3807 Wilshire Boulevard, Los Angeles, Calif. 90010. Represents minority businesses in 20 cities located in 11 States and P.R.

National Economic Development Association Inc., 7315 Wisconsin Avenue, Washington, D.C. 20014; 5,600.

National Electronic Distributors Association, 3525 W. Peterson Avenue, Chicago, Ill. 60659; 475.

National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403; 430,000.

National Food Brokers Association, 1916 M Street, N.W., Washington, D.C. 20036; 2,300.

National Frozen Food Association Inc., One Chocolate Avenue, Hershey, Pa. 17033; 1,300.

National Home Furnishings Association, 1150 Merchandise Mart Plaza, Chicago, Ill. 60654; 10,000.

National Independent Dairies Association, 1225 19th Street, N.W., Washington, D.C. 20036; 164.

National Independent Meat Packers Association, 743 15th Street, N.W., Washington, D.C., 20005; 250.

National Knitted Outerwear Association, 51 Madison Avenue, New York City, N.Y. 10010; 800.

National Liquor Stores Association, 339 Main Street, Worcester, Mass. 01608; 40,000.

National Lumber and Building Material Dealers Association, 1990 M Street, NW., Washington, D.C. 20036; NLBMD is composed of 30 metropolitan, state and regional federations with a membership of 15,000.

National Newspaper Association, 491 National Press Building, Washington, D.C. 20004; Approximately 6,000 hometown community newspapers from every State.

National Retail Hardware Association, 964 North Pennsylvania Street, Indianapolis, Ind. 46204; 20,000.

National Screw Machine Products Association, 2860 East 130th Street, Cleveland, Ohio 44120; 380.

National Skirt and Sportswear Association Inc., 225 West 34th Street, New York City, N.Y. 10001; 170.

National Small Business Association, 1225–19th Street, N.W., Washington, D.C. 20036; 40,000.

National Tire Dealers and Retreaders Association Inc., 1343 L Street, NW., Washington, D.C. 20005; 9,500.

New York Coat and Suit Association Inc., 225 W. 34th Street, New York City, N.Y. 10001; 105.

Photo Marketing Association, 603 Lansing Avenue, Jackson, Mich. 49202; 3,500.

Retail Floorcovering Institute, 405 Merchandise Mart, Chicago, Ill. 60654; 1,000.

Retail Jewelers of America Inc., 10 Rooney Circle, West Orange, N.J. 07052; 8,500.

Retail Tobacco Dealers of America Inc., Statler-Hilton, Seventh Avenue & 33rd Street, New York City, N.Y. 10001; 5,000.

Society of American Florists and Ornamental Horticulturists, 901 North Washington Street, Alexandria, Va. 22314; 6,000.

Sons of Bosses International, 1040 Broadway, Westville, N.J. 08093; 300.

Southwestern Frozen Food Association, 317

Perry-Brooks Building, Austin, Tex. 78701; 150.

Texas Wholesale Grocers' Association Inc., 317 Perry-Brooks Building, Austin, Tex. 78701; 300.

The Belt Association Inc., 300 West 40th Street, New York City, N.Y. 10018; 95.

United Infants' and Children's Wear Association Inc., 520 Eighth Avenue, New York City, N.Y. 10018; 70.

Wine and Spirits Wholesalers of America, 7750 Clayton Road, St. Louis, Mo. 63117; 808.

The Following Named National Associations Join In Support of This Statement Entitled: The Robinson-Patman Act, Equal Opportunity or Price Discrimination—Which Will It Be?

Associated Retail Bakers of America, 731–735 West Sheridan Road, Chicago, Ill. 60613.

Automotive Warehouse Distributors Assoc., 633 E. 63rd Street, Kansas City, Mo. 64110.

Christian Booksellers Association, 2031 West Cheyenne Road, Colorado Springs, Colo. 80906.

Independent Shoemen Inc., 14 Clover Road, West Yarmouth, Mass. 02673.

Infants' and Children's Coat Assoc. Inc., 450 Seventh Avenue, New York City, N.Y. 10001.

Menswear Retailers of America, 390 National Press Building, Washington, D.C. 20045.

National Assoc. of Music Merchants, 222 West Adams Street, Chicago, Ill. 60606.

National Assoc. of Retail Druggists, 1 East Wacker Drive, Chicago, Ill. 60601.

National Assoc. of Retail Grocers of the U.S. Inc., 2000 Spring Road, Oak Brook, Ill. 60521.

National Assoc. of Tobacco Distributors Inc., 58 E. 79th Street, New York City, N.Y. 10021.

National Beer Wholesalers' Assoc. of America Inc., 6310 North Cicero Avenue, Chicago, Ill. 60646.

National Candy Wholesalers Assoc., 1430 K Street, N.W., Washington, D.C. 20006.

National Congress of Petroleum Retailers, 2021 K. Street, N.W., Washington, D.C. 20006.

National Electronic Distributors Assoc., 3525 W. Peterson Avenue, Chicago, Ill. 60659.

National Food Brokers Assoc., 1916 M Street, N.W., Washington, D.C. 20036.

National Home Furnishings Assoc., 1150 Merchandise Mart Plaza, Chicago, Ill. 60654.

National Independent Dairies Assoc., 1225 19th Street, N.W., Washington, D.C. 20036.

National Independent Meat Packers Assoc., 743 15th Street, N.W., Washington, D.C. 20005.

National Liquor Stores Assoc., 339 Main Street, Worcester, Mass. 01608.

National Newspaper Assoc., 491 National Press Building, Washington, D.C. 20004.

National Retail Hardware Assoc., 964 North Pennsylvania Street, Indianapolis, Ind. 46204.

National Screw Machine Products Assoc., 2860 East 130th Street, Cleveland, Ohio 44120.

National Small Business Assoc., 1225 19th Street, N.W., Washington, D.C. 20036.

National Tire Dealers and Retreaders Assoc. Inc., 1343 L Street, N.W., Washington, D.C. 20005.

Photo Marketing Assoc., 603 Lansing Avenue, Jackson, Mich. 49202.

Retail Floorcovering Institute, 405 Merchandise Mart, Chicago, Ill. 60654.

Retail Jewelers of America Inc., 10 Rooney Circle, West Orange, N.J. 07052.

Society of American Florists and Ornamental Horticulturists, 901 North Washington Street, Alexandria, Va. 22314.

Sons of Bosses International, 1040 Broadway, Westville, N.J. 08093.

United Infants' and Children's Wear Assoc. Inc., 520 Eighth Avenue, New York City, N.Y. 10018.

Wine and Spirits Wholesalers of America, 7750 Clayton Road, St. Louis, Mo. 63117.

The Robinson-Patman Act: Equal Opportunity or Price Discrimination—Which Will It Be?

Introduction. From time to time in its 40 year history the Robinson-Patman Act has come under criticism. Recently officials of the Department of Justice have issued statements attacking the need for the law to protect the competitive system.

This statement is a response to such criticisms for the purpose of presenting a reasoned case showing that a strong public policy against price discriminations serves the public interest.

Background. On June 19, 1936, Congress approved the Robinson-Patman Act by an overwhelming vote. Earlier investigations had shown that equality of opportunity in business was being denied small business by large competitors gaining discriminatory price advantages from manufacturers.

In March 1936, the House Judiciary Committee reported to the Congress—

"Your committee is of the opinion that the evidence is overwhelming that price discriminatory practices exist to such an extent that the survival of independent merchants, manufacturers, and other businessmen is seriously imperiled and that remedial legislation is necessary."[1]

After investigation, the Federal Trade Commission found that the ability of a few large distributors to purchase merchandise at a lower cost than their smaller competitors was an outstanding feature of the growth and development of excessively powerful merchandise at a lower cost than their smaller competitors was an outstanding feature of the growth and development of excessively powerful merchandisers. The Commission's report stated—

"These lower costs have frequently found expression in the form of special discounts, concessions, or collateral privileges which were not available to smaller purchasers."[2]

Frequently preferences were granted by suppliers only after powerful buyers pressured them into such action. In 1934, the Commission reported—

"There were interviews with 129 manufacturers in the grocery group, 76 of which admitted that preferential treatment in some form was given. Thirty-three of the manufacturers interviewed stated positively that threats and coercion had been used by chain-store companies to obtain preferential treatment . . . There were 88 manufacturers interviewed in the drug group, 36 of which admitted price preferences were given to chains . . . Of the 26 tobacco manufacturers interviewed, 16 admitted that price preferences are given by means of extra discounts, rebates, or other allowances. Where threats or coercive measures to force discounts and allowances were employed, some of the manufacturers yielded rather than risk the consequences of their failure to meet the demands of these powerful buying organizations."[3]

Actually the beginning of Congress' efforts to ban harmful discrimination in commerce predated the Robinson-Patman Act by almost fifty years. In 1887, the Interstate Commerce Act was passed to ban the practice of railroads giving preferential freight rates to favored shippers by means of rebates and similar means. Three years later the Sherman Act was passed to prohibit contracts, combinations, or conspiracies in restraint of trade, and monopolization and attempts to monopolize. The overall aim was to remove roadblocks in competitive trade channels.

But the country and Congress soon learned that the Sherman Act was inadequate to deal with the evil effects of price discrimination on competition. In 1914, the Clayton Act was passed, section 2 of which attempted to prevent harmful price discriminations. This statute soon proved so weak as to render it "inadequate, if not almost a nullity."[4] The need for stronger legislation became apparent and the stage was set for the Robinson-Patman Act. Years later, the Supreme Court found—

"Enforcement of the Clayton Act's original declaration against price discrimination was so frustrated by inadequacies in the statutory language that Congress in 1936 enacted the sweeping amendments to that Act contained in what is known as the Robinson-Patman Act . . . Chief among the inadequacies had been express exemption of price discrimination in the sales of different quantities of like goods, an exemption that was interpreted as leaving quantity-discount sellers free to grant discounts to quantity buyers that exceeded any cost savings in selling to such buyers. . . . In an effort to tighten the restriction against price discrimination inimical to the public interest, Congress enacted two provisions bearing on the issues in this case. It made price discrimination in the sale of like goods unlawful without regard to quantity, although quantity discounts, like other price differentials, could still be justified if they made "no more than due allowance" for cost differences in sales to different buyers. Congress in addition sought to reach the large buyer, capable of exerting pressure on smaller seller, by making it unlawful 'knowingly to induce or receive a discrimination in price which is prohibited by this section.' "[5]

The Robinson-Patman Act was born out of earlier unsuccessful efforts by Congress to deal with the evils of price discriminations. Its purpose, as stated in the words of its Congressional creators, was "to restore, so far as possible, equality of opportunity in business by strengthening antitrust laws and by protecting trade and commerce against unfair trade practices and unlawful price discriminations and also against restraint and monopoly for the protection of consumers, workers, and independent producers, manufacturers, merchants, and other businessmen."[6]

Behind this legislation was an overriding fear that unless powerful enterprises were prevented from abusing their superior economic power in such a way as to injure the competitive capabilities of smaller competitors, irreparable harm may be done to the competitive system.

Attacks on the Law. Critics of the Act contend sellers should be given a free hand to give price-cuts, rebates or discounts on a discriminatory basis to favored purchasers. Some opponents of the law would draw the line where the evidence clearly establishes an illicit intent to destroy competitors on a scale sufficient to create a substantial restraint of trade. Others who advocate repealing the Robinson-Patman Act contend that in no event should predatory pricing be a public concern, even when used by a seller holding monopoly power.[7]

All manner of accusations are made against the law. Some opponents of the Act distort its terms by asserting that the statute requires all prices for the same commodity be identical and that any difference in price is automatically illegal unless the seller can prove that the price variation reflects a difference in cost.[8]

The general theme accepted by those who want to do away with the Robinson-Patman Act is that discriminatory price reductions given to favored purchasers should be encouraged regardless of what form they take, or how long they have been in effect, and irrespective of the amount involved. Critics of the Act theorize that eventually some of the price reductions may filter down to smaller disfavored distributors.

Response to Attacks. The answer to these charges is first that they constitute no more than unsubstantiated allegations. Based on untested assumptions, the accusations against the Act lack any foundation in fact.

The Robinson-Patman Act has been law

Footnotes at end of article.

for almost 40 years. During this long time the Act has been applied throughout the economy. If the Act inflates prices and is so flagrantly anti-competitive, as its critics contend, it should not be difficult to prove such adverse effects by the convincing empirical data. Nevertheless opponents of the law have consistently failed to adduce any market experience in support of their allegations. The logical inference is that they have no proof and cannot substantiate their charges.

It has not been demonstrated that the Robinson-Patman Act is responsible for sellers maintaining higher price levels. Despite the long period the law has existed, no case history has been developed showing the Act has led to the preservation of anti-competitive prices. The criticism of the law by some economists lacks any semblance of extrinsic support.

The fact of the matter is that in several important respects it has become much more difficult to prove an illegal price discrimination under the Act. The jurisdiction of the law has been narrowed, and statutory defenses have been broadened allowing a wider and more extensive range of discriminatory conduct by sellers. For example, under a recent Supreme Court decision, the reach of the Robinson-Patman Act was confined strictly to persons and activities in interstate commerce so that in the case of price discrimination, at least one or two or more sales transactions must cross a state line.[9]

The Act also contains several statutory defenses to a charge of price discrimination, including that of meeting competition, which provides an absolute defense for a discriminatory practice which would otherwise be unlawful.[10] Even where an injurious price discrimination has been shown to have occurred, the Act provides that the discriminator may not be held accountable for a violation of the Act if "his lower price . . . was made in good faith to meet an equally lower price of a competitor . . ."[11] Furthermore, the Federal Trade Commission has held that the meeting competition defense is available to a seller which beats the price of a competitor rather than merely meets it.[12] To say that the Act has been rigidly and strictly applied, that it forces price uniformity, ignores four decades of experience.

Effects of Price Discrimination. In judging the public need for the Robinson-Patman Act, one central fact stands out. Special allowances, discounts, rebates, and other forms of price discriminations are invariably received by buyers with superior market power. Small firms, including those entering a market for the first time, are rarely the recipients of discriminatory price reductions. Price discriminations confer greater advantage on firms already advantaged by superior market power and tend to harm the competitive system by causing further concentration of economic power.

Price discrimination favoring larger concerns in a market have the effect of handicapping new and smaller competitors. Size and power, rather than services and efficiency, become determinants of economic success.

In highly competitive markets where profit is frequently only a small fraction of the selling price, firms compelled to pay higher discriminatory prices for their merchandise have a severe competitive disadvantage. When price discriminations are permitted to prevail under these circumstances, smaller firms must either develope their market power to the point where they can obtain advantageous price reductions from suppliers, or face the prospect of eventual elimination from the market.

The Robinson-Patman Act and the Consumer. Is the giving of discriminatory price reductions to a few favored purchasers of benefit to consumers? The best answer was provided by Erma Angevine, former executive director of the Consumer Federation of America in these words:

"I have heard it said by the champions of emasculation that the real effect of the Robinson-Patman Act is to effect price rigidity and to preclude aggressive competition. Taken literally, there is a measure of truth in these assertions. Without the Robinson-Patman Act, I can readily envision an abbreviated period of aggressive price wars. I said abbreviated, because the competition will last only so long as it takes the corporate giants to free themselves of competition, who will be left without alternative sources."[13]

The consumer is best served by having numerous competing businesses in a market none of which is permitted to gain an unfair competitive advantage because of superior market power. Effective competition depands on many firms sufficiently strong to compete vigorously with each other on equal or near equal terms. Discriminatory competitive advantages unfairly strengthen powerful firms and debilitate their smaller rivals. Consumers gain no advantage by according unfair competitive protection to the large and the powerful while depriving small enterprises a fair chance to compete.

How To Kill a Law. An interesting aspect of current efforts to repeal or emasculate the Robinson-Patman Act is that critics of the law have already succeeded in substantially undermining its public enforcement.

The best evidence of this is the sharp decline in the number of Robinson-Patman Act cases brought by the Federal Trade Commission.

In 1960, the Commission filed 130 Robinson-Patman complaints and 45 orders. The number of complaints dropped to 100 in 1961, and to 41 in 1962. In 1963, Robinson-Patman complaints increased to 219. This was followed in 1965 with 13 complaints and 21 orders. In 1969, the Commission filed 8 Robinson-Patman complaints and 9 orders. In 1972, 5 complaints and 2 orders were issued. More recently, Robinson-Patman Act enforcement by the Commission has declined further with only 2 complaints and 3 orders entered in the year ending June 30, 1975.

Section 3 of the Robinson-Patman Act which is directed to predatory pricing and price discrimination for the purpose of destroying competition has fared even worse at the Department of Justice. In the forty years since this provision has been in effect, the Department has yet to successfully prosecute a litigated case under Section 3.

Public enforcement of the Robinson-Patman Act by the Federal Trade Commission and by the Department of Justice has seriously declined. It must also be expected that voluntary compliance has suffered. Meaningful efforts to bring about compliance with the law are especially needed now.

The Robinson-Patman Act needs no legislative overhaul, repeal, or amendments. It simply needs to be enforced by the agencies of government charged with that responsibility.

FOOTNOTES

[1] H.R. Rep. 2287, 74th Cong., 2d Sess. 3 (1936).

[2] S. Doc. No. 4, 74th Cong., 1st Sess. 24 (1934).

[3] Id. at 24 and 26.

[4] H.R. Rep. No. 2287, 74th Cong., 2d Sess. 7 (1936).

[5] *Automatic Canteen Co. of America* v. *FTC* 346 U.S. 61, 64 (1953).

[6] H.R. Rep. No. 2287, 74th Cong., 2d Sess. 7 (1936).

[7] Task Force Report on Productivity and Competition (Stigler Report) BNA ATRR No. 412 (June 10, 1969).

[8] Testimony by Joe Sims, Special Assistant to the Attorney General Before the Subcommittee on Activities of Regulatory Agencies Committee on Small Business, House of Representatives, July 10, 1975.

[9] *Gulf Oil Corp.* v. *Copp Paving Co.* 419 U.S. 186 (1974).

[10] *Standard Oil Co.* v. *FTC* 340 U.S. 231, 251 (1951).

[11] 15 U.S.C. § 13(b) (1973).

[12] *Matter of Beatrice Foods Co.*, 76 F.T.C. 719 (1969).

[13] H.R. Rep. No. 1617, 91st Cong., 2d Sess. 44 (1970).

Mr. HUGH SCOTT. Mr. President, I want to add my support to the statement made by the distinguished Senator from Michigan (Mr. PHILIP A. HART) on behalf of S. 1136, the Antitrust Enforcement Authorization Act of 1975. The antitrust laws help keep our economy lean and dynamic, and I believe we should allocate sufficient resources to insure that they are properly enforced.

By proper enforcement I do not mean increasing any perceived harassment of the honest businessman—I mean the quick and just resolution of all issues without unnecessary delay. This legislation will greatly aid corporate management. Right now, the Antitrust Division and the FTC are woefully undermanned. In fiscal 1973, the Antitrust Division's budget was lower, in constant dollars, than it was in 1950. Also in 1973, the Division had less people than it had in 1950. As a result, in many instances the Division cannot give the timely answers that sound business considerations would dictate. If I may give an example, I invite your attention to a recent investigation undertaken by the Department of Justice that involved a major acquisition. Because of limited resources, the Justice Department could assign only three attorneys to this major case, and they could work on it only part time. As a result, the acquiring firm has been locked into a very difficult situation for almost a year and a half. They are reluctant to pump needed capital into the acquired firm, because the Justice Department might still challenge the acquisition under section 7 of the Clayton Act.

They are also bound by their promise not to change the acquired firm's management. Thus, the Division's shortage of funds has worked a very real injustice on these conscientious executives who must answer to their stockholders, and it has introduced an unnecessary inefficiency into the Nation's economy. Whatever the merits, they deserve to know one way or the other without having to bide their time for 2 years. S. 1136, I believe, will enable the Antitrust Division and the FTC to enforce the laws in a timely fashion, without delays that help no one. The familiar rubric that justice delayed is justice denied also applies to the American businessman and businesswoman.

Mr. PHILIP A. HART. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1136) was passed, as follows:

S. 1136

An act to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Enforcement Authorization Act of 1975".

FEDERAL TRADE COMMISSION

SEC. 2. (a) Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by inserting between the second and third paragraphs of such section the following new paragraph:

"In addition to the other authority conferred by this section, the Commission is authorized to establish and fix the compensation for not more than twenty-five attorney, economist, special expert, and outside counsel positions for its maintaining competition responsibilities. Individuals may be appointed to positions established under this paragraph without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the maximum rate for GS–18, but not less than the minimum rate for GS–16, of the General Schedule under section 5332 of such title.".

(b) Section 20 of the Federal Trade Commission Act is amended by inserting "(a)" immediately before the first sentence, and by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated to the Commission in addition to such sums as are authorized by any other provision of law, not to exceed $25,000,000 for the fiscal year ending June 30, 1976; not to exceed $6,250,000 for the transition period ending September 30, 1976; not to exceed $35,000,000 for the fiscal year ending September 30, 1977; and not to exceed $45,000,000 for the fiscal year ending September 30, 1978; such sums to remain available until expended for the purposes authorized by the Antitrust Enforcement Authorization Act of 1975.".

DEPARTMENT OF JUSTICE

SEC. 3. (a) Chapter 31 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 527. Authorization of appropriations for antitrust enforcement

"(a) There are authorized to be appropriated to the Department of Justice in addition to such sums as are authorized by any other provision of law, not to exceed $25,000,000 for the fiscal year ending June 30, 1976; not to exceed $6,250,000 for the transition period ending September 30, 1976; not to exceed $35,000,000 for the fiscal year ending September 30, 1977; and not to exceed $45,000,000 for the fiscal year ending September 30, 1978; such sums to remain available until expended for the purposes authorized by the Antitrust Enforcement Authorization Act of 1975.

"(b) The Assistant Attorney General in charge of the Antitrust Division is authorized to establish and fix the compensation for not more than twenty-five attorney, economist, special expert, and outside counsel positions for the Antitrust Division. Individuals may be appointed to positions established under this subsection without regard to the provisions of title 5, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the maximum rate for GS–18, but not less than the minimum rate for GS–16, of the General Schedule under section 5332 of such title.".

(b) The analysis of chapter 31 of title 28, United States Code, is amended by adding immediately below the item relating to section 526 the following new item:

"527. Authorization of appropriations for antitrust enforcement.".

GRANTS TO STATES FOR ANTITRUST ENFORCEMENT

SEC. 4. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

(1) provide for the administration of such plan by the attorney general of such State;

(2) set forth a program for training of State officers and employees to improve the antitrust enforcement capability of such State;

(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

(4) provide for making such reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his functions under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

(d) As soon as practicable after the date of enactment of this section the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

(f) The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section.

(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section; or

(2) that in the operation of the program there is failure to comply substantially with any such provision;

the Attorney General shall notify such State of his findings and no further payments may be made to such State by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any program pursuant to this Act which is being carried out by such State and which is not involved in the noncompliance.

(h) As used in this section the term—

(1) "State" includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(2) "attorney general" means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

(3) "State officers and employees" includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

(i) There are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending June 30, 1976; not to exceed $2,500,000 for the transition period ending September 30, 1976; not to exceed $10,000,000 for the fiscal year ending September 30, 1977; and not to exceed $10,000,000 for the fiscal year ending September 30, 1978.

Mr. PHILIP A. HART. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HRUSKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC WORKS APPROPRIATIONS, 1976—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on H.R. 8122, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8122) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bueru of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of December 10, 1975, at page 39803.)

Mr. STENNIS. Mr. President, the conference report appeared in the CONGRESSIONAL RECORD of December 10 and, of course, the report itself, House Document No. 94–711 has been printed and is available also. Therefore, I do not intend to go into the details in explaining the conference action. The conference total of new budget obligational authority for fiscal year 1976 is $7,440,912,500, and for the transition period, the conference total is $2,115,033,000. This is an increase of $140,750,500 over the budget estimates for fiscal year 1976 and $74,403,000 over the estimates for the transition period. The conference agreement is $215.5 million more than the House-passed bill and $48.7 million below the amount passed by the Senate.

Mr. President, the conferees representing the Senate believe this is a good bill. It reflects long hours of hard work, and the input of nearly every member of this body. Naturally, there were several items that had to be reduced, deleted or changed as a result of the normal give and take process of a conference. The membership, of course, knows that every item cannot be brought back in the same form as passed by the Senate. However, your conferees did the best we could to represent the action of the Senate, just as we did, as we endeavored throughout the entire processing of this bill to insure that every proposal received fair consideration under our guidelines and criteria for funding the many hundreds of items and projects contained in this very important bill.

Mr. President, the funds provided by this measure will carry out highly important energy research and development programs and activities under the Energy Research and Development Administration, activities and projects under the Civil Works program of the U.S. Army Corps of Engineers, projects and programs of the Bureau of Reclamation and power agencies of the Department of the Interior, and a number of related independent agencies and commissions, including, among others, the Appalachian regional program, the Tennessee Valley Authority, the Nuclear Regulatory Commission, and the Federal Power Commission.

Mr. President, I say again, that this is a good bill—one which I am specially pleased to have a hand and responsibility in working on. Many of the programs and projects carried in this bill will provide enduring benefits for our Nation. These are constructive programs and projects which create jobs and wealth. These appropriations are an investment which will return rich dividends.

Before concluding, I want to say a special word about our distinguished colleague and chairman of the House Appropriations Subcommittee on Public Works, Representative EVINS of Tennessee. The chairman of the House subcommittee is a real stalwart and a highly able and valuable Member of the Congress. I extend my thanks and commendation to him and to all of his able colleagues on the subcommittee in representing the House in the conference. Also, Mr. President, I want to express my warm thanks and appreciation to Senator HATFIELD, our very valuable ranking member of the subcommittee, who did so much work to bring this important bill to this point. I also want to call attention of the membership to the excellent cooperation and leadership provided by our distinguished chairman of the Appropriations Committee, the senior Senator from Arkansas (Mr. McCLELLAN), and the dean of the committee and its ranking minority member, the distinguished senior Senator from North Dakota (Mr. YOUNG).

For the convenience of any Senator, I shall be glad to try to answer any questions that any Member may have.

This report was signed, Mr. President, by all the conferees of the Senate and all the conferees of the House, after excellent staff work and conferences that we held and worked out the differences that were in the bill. There was a great number of differences, but, really, no fundamental policy or anything like that that contradicted each other. The differences were in the money allowances. This is within the guidelines for the conference, being not below the lowest figure nor above the highest figure of the two bills. It is in keeping and in line with the resolution on the budget which was recommended by our Senate Budget Committee.

Again, I ask if there are any questions.

Mr. President, while the Members are getting here, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 2498 IMMEDIATELY FOLLOWING DISPOSITION OF PENDING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the pending business, the conference report on the public works appropriation, is disposed of, the Senate proceed to consider Calendar No. 488, S. 2498, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

CONVENTION WITH THE U.S.S.R. ON MATTER OF TAXATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at this time the Senate go into executive session to consider a convention and that the convention be carried through to final reading.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in committee of the whole, proceeded to consider Executive T, 93d Congress, 1st session, the convention wth the Union of Soviet Socialist Republic on matters of taxation, which was read the second time, as follows:

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON MATTERS OF TAXATION

The President of the United States of America and the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics, desiring to avoid double taxation and to promote the development of economic, scientific, technical and cultural cooperation between both States, have appointed for this purpose as their respective plenipotentiaries:

The President of the United States of America:

George P. Shultz, Secretary of the Treasury of the USA; and

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics;

Nikolai Semenovich Patolichev, Minister of Foreign Trade of the USSR;

Who have agreed as follows:

ARTICLE I

1. The taxes which are the subject of this Convention are:

(*a*) In the case of the Union of Soviet Socialist Republics, taxes and dues provided for by the All-Union legislation;

(*b*) In the case of the United States of America, taxes and dues provided for by the Internal Revenue Code.

2. This Convention shall also apply to taxes and dues substantially similar to those covered by paragraph 1, which are imposed in addition to, or in place of, existing taxes and dues after the signature of this Convention.

ARTICLE II

In this Convention, the terms listed below shall have the following meaning:

1. "Soviet Union" or "USSR" means the Union of Soviet Socialist Republics and, when used in a geographical sense, means the territories of all the Union Republics. Such term also includes:

(*a*) The territorial sea thereof, and

(*b*) The seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which the Soviet Union exercises sovereign rights, in accordance with international law, for the purpose of exploration for and exploitation of the natural resources of such areas. However, it is understood that such term includes such areas only to the extent that the person, property or activity with respect to which questions of taxation arise is connected with such exploration or exploitation.

2. "United States" or "USA" means the United States of America and, when used in a geographical sense, means the territories of all the states and of the District of Columbia. Such term also includes:

(*a*) The territorial sea thereof, and

(*b*) The seabed and subsoil of the submarine areas adjacent to the coast thereof, and beyond the territorial sea, over which the United States exercises sovereign rights, in accordance with international law, for the purpose of exploration for and exploitation of the natural resources of such areas. However, it is understood that such term includes such areas only to the extent that the person, property or activity with respect to which questions of taxation arise is connected with such exploration or exploitation.

3. "Resident of the Soviet Union" means:

(*a*) a legal entity or any other organization treated in the USSR as a legal entity for tax purposes which is created under the laws of the Soviet Union or any Union Republic and

(*b*) an individual resident in the Soviet Union for purposes of its tax.

4. "Resident of the United States" means:

(*a*) a corporation or any other organization treated in the United States as a corporation for tax purposes which is created or organized under the laws of the United States or any state thereof or of the District of Columbia and

(*b*) an individual resident in the United States for purposes of its tax.

5. "Contracting State" means the United States or the Soviet Union, as the context requires.

6. The term "competent authorities" means:

(*a*) in the case of the Soviet Union, the Ministry of Finance

(*b*) in the case of the United States, the Secretary of the Treasury or his delegate.

ARTICLE III

1. The following categories of income derived from sources within one Contracting State by a resident of the other Contracting State shall be subject to tax only in that other Contracting State:

(*a*) rentals, royalties, or other amounts paid as consideration for the use of or right of such works, as well as the rights to inventions (patents, author's certificates), industrial designs, processes or formulae, computer programs, trademarks, service marks, and other similar property or rights, or for industrial, commercial, or scientific equipment, or for knowledge, experience, or skill (know-how);

(*b*) gains derived from the sale or exchange of any such rights or property, whether or not the amounts realized on sale or exchange are contingent in whole or in part, on the extent and nature of use or disposition of such rights or property;

(*c*) gains from the sale or other disposition of property received as a result of inheritance or gift;

(*d*) income from the furnishing of engineering, architectural, designing, and other technical services in connection with an installation contract with a resident of the first Contracting State which are carried out in a period not exceeding 36 months at one location;

(*e*) income from the sale of goods or the supplying of services through a broker, general commission agent or other agent of independent status, where such broker, general commission agent or other agent is acting in the ordinary course of his business;

(*f*) reinsurance premiums; and

(*g*) interest on credits, loans and other forms of indebtedness connected with the financing of trade between the USA and the USSR except where received by a resident of the other Contracting State from the conduct of a general banking business in the first Contracting State.

2. A Contracting State shall not attribute taxable income to the following activities conducted within that Contracting State by a resident of the other Contracting State:

(*a*) the purchase of goods or merchandise;

(*b*) the use of facilities for the purpose of storage or delivery of goods or merchandise belonging to the resident of the other Contracting State;

(*c*) the display of goods or merchandise belonging to the resident of the other Contracting State, and also the sale of such items on termination of their display;

(*d*) advertising by a resident of the other Contracting State, the collection or dissemination of information, or the conducting of scientific research, or similar activities, which have a preparatory or auxiliary character for the resident.

ARTICLE IV

1. Income from commercial activity derived in one Contracting State by a resident of the other Contracting State, shall be taxable in the first Contracting State only if it is derived by a representation.

2. The term "representation" means:

(*a*) with regard to income derived within the USSR, an office or representative bureau established in the USSR by a resident of the United States in accordance with the laws and regulations in force in the Soviet Union;

(*b*) with regard to income derived within the USA, an office or other place of business established in the USA by a resident of the Soviet Union in accordance with the laws and regulations in force in the United States.

3. In the determination of the profits of a representation, there shall be allowed as deductions from total income the expenses that are connected with the performance of its activity, including executive and general administrative expenses.

4. This article applies to income, other than income of an individual dealt with in Article VI, from the furnishing of tour performances and other public appearances.

5. The provisions of this article shall not affect the exemptions from taxes provided for by Articles III and V.

ARTICLE V

1. Income which a resident of the Soviet Union derives from the operation in international traffic of ships or aircraft registered in the USSR and gains which a resident of the USSR derives from the sale, exchange, or other disposition of ships or aircraft operated in international traffic by such resident and registered in the USSR shall be exempt from tax in the United States.

2. Income which a resident of the United States derives from the operation in international traffic of ships or aircraft registered in the USA and gains which a resident of the USA derives from the sale, exchange, or other disposition of ships or aircraft operated in international traffic by such resident and registered in the USA shall be exempt from tax in the Soviet Union.

3. Remuneration derived by an individual from the performance of labor or personal services as an employee aboard ships or aircraft operated by one of the Contracting States or a resident thereof in international traffic shall be exempt from tax in the other Contracting State if such individual is a member of the regular complement of the ship or aircraft.

ARTICLE VI

1. Special exemptions

Income derived by an individual who is a resident of one of the Contracting States shall be exempt from tax in the other Contracting State as provided in subparagraphs (a) through (f).

(a) Governmental employees

(1) An individual receiving remuneration from government funds of the Contracting State of which the individual is a citizen for labor or personal services performed as an employee of governmental agencies or institutions of that Contracting State in the discharge of governmental functions shall not be subject to tax on such remuneration in that other Contracting State.

(2) Labor or personal services performed by a citizen of one of the Contracting States shall be treated by the other Contracting State as performed in the discharge of governmental functions if such labor or personal services would be treated under the internal laws of the first Contracting State as so performed. However, it is understood that prsons engaged in commercial activity, such as employees or representatives of commercial organizations of the USA and employees or representatives of the foreign trade organizations of the USSR, shall not be considered in the USSR and USA respectively as engaged in the discharge of governmental functions.

(3) The provisions of this Convention shall not affect the fiscal privileges of diplomatic and consular officials under the general rules of international law or under special agreements.

(b) Participants in Programs of Intergovernmental Cooperation

An individual who is a resident of one of the Contracting States and who is temporarily present in the other Contracting State under an exchange program provided for by agreements betwen the governments of the Contracting States on cooperation in various fields of science and technology shall not be subject to tax in that other Contracting State on remuneration received from sources within either Contracting State.

(c) Teachers and Researchers

(1) An individual who is a resident of one of the Contracting States and who is temporarily present in the other Contracting State at the invitation of a governmental agency or institution or an educational or scientific research institution in that other Contracting State for the primary purpose of teaching, engaging in research, or participating in scientific, technical or professional conferences shall not be subject to tax in that other Contracting State on his income from teaching or research or participating in such conferences.

(2) Subparagraph (1) shall not apply to income from research if such research is undertaken primarily for the benefit of a private person or commercial enterprise of the USA or a foreign trade organization of the USSR. However, subparagraph (1) shall apply in all cases where research is conducted on the basis of intergovernmental agreements on cooperation.

(d) Students

An individual who is a resident of one of the Contracting States and who is temporarily present in the other Contracting State for the primary purpose of studying at an educational or scientific research institution or for the purpose of acquiring a profession or a specialty shall be exempt from taxes in the other Contracting State on a stipend, scholarship, or other substitute type of allowance, necessary to provide for ordinary living expenses.

(e) Trainees and specialists

An individual who is a resident of one of the Contracting States, who is temporarily present in the other Contracting State for the primary purpose of acquiring technical, professional, or commercial experience or performing technical services, and who is an employee of, or under contract with, a resident of the first mentioned Contracting State, shall not be subject to tax in that other Contracting State on remuneration received from abroad. Also, such individual shall not be subject to tax in that other Contracting State on amounts received from sources within that other Contracting State which are necessary to provide for ordinary living expenses.

(f) Duration of exemptions

The exemptions provided for under subparagraphs (b), (c), (d), and (e) of this article shall extend only for such period of time as is required to effectuate the purpose of the visit, but in no case shall such period of time exceed:

(1) One year in the case of subparagraphs (b) (Participants in programs of intergovernmental cooperation) and (e) (Trainees and specialists);

(2) Two years in the case of subparagraph (c) (Teachers and researchers); and

(3) Five years in the case of subparagraph (d) (Students). If an individual qualifies for exemption under more than one of subparagraphs (b), (c), (d), and (e), the provisions of that subparagraph which is most favorable to him shall apply. However, in no case shall an individual have the cumulative benefits of subparagraphs (b), (c), (d), and (e) for more than five taxable years from the date of his arrival in the other Contracting State.

2. General exemptions

Income derived by an individual who is a resident of one of the Contracting States, from the performance of personal services in the other Contracting State, which is not exempt from tax in accordance with paragraph 1 of this article, may be taxed in that other Contracting State, but only if the individual is present in that other Contracting State for a period aggregating more than 183 days in the taxable year.

ARTICLE VII

This Convention shall not restrict the right of a Contracting State to tax a citizen of that Contracting State.

ARTICLE VIII

This Convention shall apply only to the taxation of income from activity conducted in a Contracting State in accordance with the laws and regulations in force in such Contracting State.

ARTICLE IX

If the income of a resident of one of the Contracting States is exempt from tax in the other Contracting State, in accordance with this Convention, such resident shall also be exempt from any tax which is at present imposed or which may be imposed subsequently in that Contracting State on the transaction giving rise to such income.

ARTICLE X

1. A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a citizen of that other Contracting State who is a resident thereof carrying on the same activities.

2. A citizen of one of the Contracting States who is a resident of the other Contracting State or a representation established by a resident of the first Contracting State in the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than are generally imposed in that State on citizens or representations of residents of third States carrying on the same activities. However, this provision shall not require a Contracting State to grant to citizens or representations of residents of the other Contracting State tax benefits granted by special agreements to citizens or representations of a third State.

3. The provisions of paragraphs 1. and 2. of this article shall apply to taxes of any kind imposed on the Federal or All-Union level, the state or Republic level, and on the local level.

ARTICLE XI

1. If a resident of one of the Contracting States considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the laws of the Contracting States, present his case to the competent authorities of the Contracting State of which he is a resident or citizen. Should the claim be considered to have merit by the competent authorities of the Contracting State of which he is a resident or citizen. Should the claim be considered to have merit by the competent authorities of the Contracting State to which the claim is made, they shall endeavor to come to an agreement with the competent authorities of the other Contracting State with a view to the avoidance of taxation not in accordance with the provisions of this Convention.

2. In the event that such an agreement is reached the competent authorities of the Contracting States shall, as necessary refund the excess amounts paid, allow tax exemptions, or levy taxes.

ARTICLE XII

The competent authorities of the Contracting States shall notify each other annually of amendments of the tax legislation referred to in paragraph 1. of Article I and of the adoption of taxes referred to in paragraph 2 of Article I by transmitting the texts of amendments or new statutes and notify each other of any material concerning the application of this Convention.

ARTICLE XIII

This Convention shall be subject to ratification and shall enter into force on the thirtieth day after the exchange of instruments of ratification. The instruments of ratification shall be exchanged at Moscow as soon as possible.

The provisions of this Convention shall, however, have effect for income derived on or after January 1 of the year following the year in which the instruments of ratification are exchanged.

ARTICLE XIV

1. This Convention shall remain in force for a period of three years after it takes effect and shall remain in force thereafter for an indefinite period. Either of the Contracting States may terminate this Convention at any time after three years from the date on which the Convention enters into force by giving notice of termination through diplomatic channels at least six months before the end of any calendar year. In such event, the Convention shall cease to have effect beginning on January 1 of the year following the year in which notice is given.

2. Notwithstanding the provisions of paragraph 1. of this article, upon prior notice to be given through diplomatic channels, the provisions of subparagraphs (e), (f), or (g) of paragraph 1. of Article III and the provisions of Article IX may be terminated separately by either Contracting State at any time after three years from the date on which this Convention enters into force. In such event such provisions shall cease to have effect beginning on January 1 of the year following the year in which notice is given.

IN WITNESS WHEREOF, the plenipotentiaries of the two Contracting States have signed the present Convention and have affixed their seals thereto.

DONE at Washington, this 20th day of June, 1973, in duplicate in the English and Russian languages, both texts being equally authentic.

For the President of the United States of America:

GEORGE P. SHULTZ

For the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics:

NIKOLAI S. PATOLICHEV

[Translation]

WASHINGTON, *June 20, 1973.*

MR. GEORGE P. SHULTZ,
Secretary of the Treasury,
United States of America.

DEAR MR. SECRETARY: In connection with the Income Tax Convention signed today, I should like to state our understanding of the agreement reached by the delegations of the United States of America and of the Union of Soviet Socialist Republics concerning the application of certain provisions of the Convention.

1. In connection with Article III, subparagraph 1.(e), it is our understanding that Soviet foreign trading organizations perform the functions of a broker or general commission agent for various Soviet industrial and other organizations in the purchase of goods and services from foreign suppliers. Accordingly, a representation of a United States commercial organization in the Soviet Union making sales to a Soviet foreign trading organization will be regarded as making sales through a broker or general commission agent.

It is understood that a firm acting in the USA as a broker, general commission agent or other agent for a Soviet foreign trade organization will not be considered to be of independent status if it is owned or otherwise controlled by an authorized organization of the Soviet Union.

It is also understood that if such a broker, general commission agent or other agent has no income other than commission income, such broker, general commission agent or other agent will be taxable only on such commission income.

2. In Article VI, subparagraphs 1.(d) and (e) provide exemption under certain circumstances of an amount "necessary to provide for ordinary living expenses." It is agreed that the exemption under subparagraph 1.(e) in any taxable year will not apply to any amount in excess of $10,000 or its equivalent in rubles, and that the exemption under subparagraph 1.(d) will generally apply to a lesser amount, to be determined in each specific case.

3. With respect to income mentioned in Article V, it is understood that each of the Contracting States will, if necessary, endeavor to secure exemption from taxes which may be imposed in Republics, states, or at the local level.

4. It is understood that both Contracting States continue to exercise tax jurisdiction over journalists and press, television, and radio correspondents on foreign assignment. Accordingly, it is agreed on the basis of reciprocity that subparagraph 1.(c)(1) of Article VI shall apply to such journalists and correspondents for a two-year period whether or not they are present in the other Contracting State at the invitation of a governmental agency or institution. It is understood that the exemption granted by the host country will apply only to compensation received from abroad.

5. It is understood that customs duties are not considered taxes for purposes of Article IX and paragraph 3 of Article X.

Please accept, Mr. Secretary, assurances of my highest consideration.

Sincerely yours,

N. PATOLICHEV.

THE SECRETARY OF THE TREASURY,
Washington, D.C., June 20, 1973.

MR. NIKOLAI S. PATOLICHEV,
Ministry of Foreign Trade,
Union of Soviet Socialist Republics.

DEAR MR. MINISTER: In connection with the Income Tax Convention signed today, I should like to state our understanding of the agreement reached by the delegations of the United States of America and of the Union of Soviet Socialist Republics concerning the application of certain provisions of the Convention.

1. In connection with Article III, subparagraph 1. (e), it is our understanding that Soviet foreign trading organizations perform the functions of a broker or general commission agent for various Soviet industrial and other organizations in the purchase of goods and supplies from foreign suppliers. Accordingly, a representation of a United States commercial organization in the Soviet Union making sales to a Soviet foreign trading organization will be regarded as making sales through a broker or general commission agent.

It is understood that a firm acting in the USA as a broker, general commission agent or other agent for a Soviet foreign trade organization will not be considered to be of independent status if it is owned or otherwise controlled by an authorized organization of the Soviet Union.

It is also understood that if such a broker, general commission agent or other agent has no income other than commission income, such broker, general commission agent or other agent will be taxable only on such commission income.

2. In Article VI, subparagraphs 1. (d) and (e) provide exemption under certain circumstances of an amount "necessary to provide for ordinary living expenses." It is agreed that the exemption under subparagraph 1. (e) in any taxable year will not apply to any amount in excess of $10,000 or its equivalent in rubles, and that the exemption under subparagraph 1. (d) will generally apply to a lesser amount, to be determined in each specific case.

3. With respect to income mentioned in Article V, it is understood that each of the Contracting States will, if necessary, en-

deavor to secure exemption from taxes which may be imposed in Republics, states, or at the local level.

4. It is understood that both Contracting States continue to exercise tax jurisdiction over journalists and press, television, and radio correspondents on foreign assignment. Accordingly, it is agreed on the basis of reciprocity that subparagraph 1. (c) (1) of Article VI shall apply to such journalists and correspondents for a two-year period whether or not they are present in the other Contracting State at the invitation of a governmental agency or institution. It is understood that the exemption granted by the host country will apply only to compensation received from abroad.

5. It is understood that customs duties are not considered taxes for purposes of Article IX and paragraph 3 of Article X.

Please accept, Mr. Minister, assurances of my highest consideration.

Sincerely yours,

GEORGE P. SHULTZ.

Mr. MANSFIELD. I ask unanimous consent to have printed in the RECORD the Summary of Major Provisions and other pertinent parts of the conventions, which were reported out of the Committee on Foreign Relations unanimously.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS

At the request of the Committee on Foreign Relations, the staff of the Joint Committee on Internal Revenue Taxation prepared an explanation and analysis of the convention with the Soviet Union. Set forth below is a summary of the more important features of the convention which was submitted by the Joint Committee staff:

There is presently no income tax convention between the United States and the Union of Soviet Socialist Republics (U.S.S.R.). Adoption of the proposed U.S.S.R. income tax convention is desirable for a number of reasons. Over the years, there has been limited contact between the United States and the U.S.S.R. with the result that the citizens and businesses of each country have had little contact with the tax system of the other country. However, it appears that there will be an increasing amount of economic and cultural contact between the two countries which could generate an increasing number of tax problems.

Recently there has been a trend toward modernization and standardization in international tax relationships. The model income tax convention of the Organization for Economic Cooperation and Development (OECD) and the recent revision of many U.S. income tax treaties (for example, the Japanese and Norwegian Conventions) are examples of this trend. However, the proposed U.S.–U.S.S.R. Income Tax Convention does not conform to this pattern and does not deal with many of the matters which are normally covered in United States income tax conventions. It is probable that this difference is attributable to the contrasting political and economic systems of the two countries. U.S.S.R. nationals are not permitted to hold investments in foreign countries and foreign entities are required to deal through State trading companies. Moreover, business with a State trading economy is done on a significantly different basis than with a free market economy. Additionally, the U.S.S.R. has had relatively like experience in dealing with market economy countries and their tax laws, in contrast to some of the other non-market economy countries which have in the not too distant past had experience with free market economies.

As a result, the Soviet tax structure is less developed in respect to foreign entities and persons than is the tax structure of other non-market countries. Therefore, many of the articles which are contained in the more recently negotiated income tax conventions between the United States and other countries have been either substantially modified or excluded from the proposed treaty.

Because of this lack of experience in dealing with types of economies of the other country, either the U.S.S.R. or the United States may terminate the proposed convention at any time after 3 years from its entry into force (rather than 5 years as is provided in the usual treaty). Otherwise the treaty will remain in force indefinitely. This rather short three-year period of time will give the two countries an opportunity to adjust the rules contained in the proposed convention as their experience dictates, after the initial 3-year period ends.

One of the more significant features of the proposed convention is that income which a resident of one country derives from commercial activities in the country will be exempt from tax in the source country unless it is attributable to an office or other place of business that the resident has in the source country. This feature of the proposed convention is similar to provisions contained in other U.S. tax conventions to the effect that industrial or commercial profits derived in a source country are exempt from tax unless the resident has a permanent establishment in the source country with which the income is effectively connected.

The proposed convention also provides that certain types of income are to be exempt from taxation in the source country even where the income is attributable to an office, or a representation, in the source country.

These exempt items of income are (a) rentals or royalties for the use of patents, copyrights, equipment and know-know; (b) payments for engineering, architectural and other technical services; (c) interest on indebtedness in connection with the financing of trade between the two countries; (d) reinsurance premiums; and (e) income from the sale of goods or services through a commission agent of independent status. While the method of dealing with these items is different from that found in other U.S. tax treaties, the results obtained are consistent with those found in the other treaties.

The other more important features of the proposed convention are the following:

(1) The United States and the Soviet Union are defined to include their respective continental shelves insofar as income arising from the exploration and exploitation of natural resources on the continental shelf is concerned. The effect of this provision is to recognize a country's jurisdiction to tax income arising in connection with natural resource activities on that country's continental shelf.

(2) A reciprocal exemption is provided for income and gains from shipping and air transportation.

(3) A reciprocal exemption is provided on income from personal services if the individual is present in the host country for 183 days or less and will be exempt for longer periods if the individual falls into a specified category such as a teacher or student.

(4) A specific prohibition is provided against one of the countries subjecting a citizen of the other country who is residing in the host country to more burdensome taxes than a citizen and resident of the host country. Also a business or office established by a resident of one country in the other country is not to be subjected in that other country to more burdensome taxes than are generally imposed in that other country on businesses or offices of residents of third countries carrying on the same activities.

The Committee on Foreign Relations held a public hearing on the Tax Convention with the Soviet Union on November 7, 1975. At that time Mr. Charles M. Walker, Assistant Secretary of the Treasury for Tax Policy, testified in support of the convention. Pertinent portions of his prepared statement, as well as a technical memorandum on the convention, are reprinted in the appendix to this report. Mr. Howard Silverstone, International Tax Counsel, testified on behalf of the staff of the Joint Committee on Internal Revenue Taxation. In addition, he submitted an explanation and analysis of the Soviet convention which is also incorporated in the appendix.

During the course of the Committee's hearing, it was pointed out that Article VIII of the Soviet convention contains language which does not appear in any other tax treaty to which the United States is a party. Article VIII provides that the convention "shall apply only to the taxation of income from activity conducted in a Contracting State in accordance with the laws and regulations in force in such Contracting State." Since the Committee was concerned about the interpretation and application of this provision, the Treasury and State Departments were asked for clarification. Letters from both Departments appear in the appendix to this report.

In the Committee's opinion, as a matter of tax policy, this type of provision should not be included in tax treaties. Nevertheless, in view of the Treasury Department's assurances that the provision will be narrowly construed, and the State Department's belief that favorable action would have a positive effect on United States-Soviet bilateral relations, the Committee decided to recommend approval of the treaty. The Committee wishes to emphasize, however, that it does not regard the provision as a precedent for future treaties and urges the Executive Branch to make every effort to bring about its removal at the appropriate time.

On December 9, 1975, by a voice vote, the Committee ordered the Tax Convention with the Soviet Union reported favorably to the Senate for advice and consent to ratification.

The PRESIDING OFFICER. Without objection the Convention will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification which the clerk will state.

The assistant legislative clerk read as follows:

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Union of Soviet Socialist Republics on Matters of Taxation, with related Letters, signed at Washintgon on June 20, 1973.

ORDER FOR VOTE ON CONVENTION WITH U.S.S.R. ON MONDAY, DECEMBER 15, 1975

Mr. MANSFIELD. Mr. President, so that the membership will have the opportunity to study the contents of this Convention which, I repeat, was reported unanimously by the Committee on Foreign Relations, I ask unanimous consent that the vote occur on Monday immediately after the debate on the conference report on the Situs Picketing Act and before the Department of Defense conference report is laid before the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a

sufficient second? There is a sufficient second.

The yeas and nays were ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC WORKS APPROPRIATIONS, 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 8122) making appropriations for public works for water and power development and energy research, and so forth, and for other purposes.

Mr. STENNIS. Mr. President, returning to the Public Works Appropriation Conference Report, the Senator from Missouri had an inquiry, as I understand, that he wanted to make. I yield to the Senator from Missouri.

Mr. SYMINGTON. Mr. President, I appreciate very much the courtesy of the distinguished Senator from Mississippi.

My question is with respect to the laser fusion reduction as a result of the conference committee action. The conferees reduced the amount from $62 million, which was the original decision by the Senate Appropriations Committee and the Senate and in itself a reduction from the authorization, they reduced it to $59.5 million.

Because of my interest in private enterprise doing its best in fields where people are willing to risk their capital, as so well exemplified by one company I know in the laser field, I ask the distinguished chairman is it not the understanding of the conferees that ERDA considers laser fusion important in the development of new energy sources?

Mr. STENNIS. The Senator is correct. It is very important and so considered by the conferees as well.

Mr. SYMINGTON. I thank my able friend.

May I ask also is it not a fact that KMS Fusion is the only private industrial enterprise involved in this program and that as a measure of its own confidence in its program it has invested $25 million of its own money in research and development?

Mr. STENNIS. Yes; that is correct, according to the information we have.

Mr. SYMINGTON. Mr. President, I would then ask the able chairman, under the circumstances would it not be fair to state that it was not the intent of the conferees, by cutting the overall laser fusion appropriation, to reduce the $10.5 million needed by ERDA to maintain the KMS fusion program for fiscal year 1976?

Mr. STENNIS. Yes, I think that is a fair statement. The conference report does not say they had any such intent, and in the absence of any specific direction in the conference report, the compromise amount of $59.5 million for this program will be available for the entire program. The reduction which was made by our original committee recommendation was due to half the fiscal year having passed. Then the conferees reduced it further, but the reduction will not apply solely to any one program.

In addition, the Senate report language which stated the committee's views as to the bringing in of the private industrial efforts in the program also obtains, no exception being made to it in conference. Our committee encourages ERDA to make these funds available in accordance with the agreements and contracts which have been entered into by ERDA and the private industry cited by the Senator, and which is still valid today, as we understand it.

Mr. SYMINGTON. Mr. President, I am very grateful to the able chairman for making it possible to establish this legislative history on a matter which could be as important as any other matter which comes before the Senate in future years.

Mr. STENNIS. I thank the Senator, and I appreciate his interest in this matter and, as he emphasizes here, in his questions.

Mr. President, I am glad to yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I want to thank my friend from Mississippi for handling a very delicate and difficult situation that we had in Wisconsin. We had a difference between the two Senators from Wisconsin on a project at LaFarge, Wis., a dam project, and between another position, entirely different position, taken by the Congressman from this district.

I am very grateful to the distinguished chairman of the subcommittee and to the subcommittee itself and the conferees on both sides for having settled this matter in what I think was the most sensible and logical way. I know it was difficult for the subcommittee, having the various Members of Congress, who are most concerned with the project, differing so widely. But I think they did come to the right conclusion and, from the standpoint of taxpayers all over the country, they saved the most possible money by just cutting the proposal out entirely. You have also provided for a study—in fact, directed a study of alternatives—within available funds, and I stress that the study would cost no additional money. But the study would examine the alternatives to see if another solution might be found to the problem of flooding and the need for recreation and preservation of the environmental advantages of the Kickapoo River.

Mr. STENNIS. Well, that is entirely all right. We thank the Senator from Wisconsin for his attitude about this matter. It is a very important matter, and there already have been some funds expended on the project, the money has been deleted from the bill, but usually there are funds which become available that they can use to make a study, as I understand it.

All right, Mr. President, are there any other questions?

Mr. President, I yield to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I just want to comment briefly. I am pleased to have had the privilege again of working on this bill with the distinguished chairman of the Appropriations Subcommittee on Public Works and Energy Research. He has been most fair and courteous to me and to other members who have had an interest in this bill.

I am also pleased that we are bringing to the floor a conference report which I believe represents fair compromise with the House and which is fiscally responsible while taking care of some of our country's essential needs. The conference agreement provides for $7,440,912,500 in fiscal year 1976 and $2,115,033,000 in the transition quarter, for the four titles in this bill. The bill exceeds the amounts in the administration's budget request by $140,750,000 and $74,403,500 in the fiscal year and transition quarter, respectively.

Title I, which provides funds for the Energy Research and Development Administration, represents well over 50 percent of the total funds in the bill. Of the increases above the budget request, more than half were for the purpose of maintaining work on ongoing projects that could not have proceeded in an orderly fashion without increased funding at this time. Other goals against which proposed items in the public works portion of the bill were measured were flood control, rapid utilization of our hydropower potential, increasing supplies of municipal and industrial water, and maintenance of our ports and waterways for navigation purposes, including reversing the decline in the Nation's hopper-dredge fleet.

Naturally there were some requests that could not be met within our fiscal constraints. And some requests that the Senate allowed could not be held in conference. But I believe the most essential needs have been taken care of and that the conference agreement is a good one.

Again, I commend the very able chairman of the Public Works Subcommittee, the gentleman from Mississippi (Mr. STENNIS), and I join with him in recommending passage of the conference report.

Mr. STENNIS. Mr. President, I made some remarks thanking the Senator earlier but again I want to especially thank the Senator from Oregon for his very fine work in the preparation of the bill, the holding of the hearings, and in the conference. Also, again I want to thank Mr. Evins of the House Appropriations Subcommittee, its chairman, and their ranking minority member, as well as the other members, who are very well-versed indeed in this very broad and highly important bill, and I think they ought to be commended highly for their work on the bill.

I will be glad to yield to the Senator from Wisconsin (Mr. NELSON) if he has some inquiry. This is on the public works appropriation bill, the conference report.

Mr. NELSON. I thank the chairman. I might say I am taken totally by surprise. Senator ROBERT C. BYRD promised me that the issue would not be before us until Monday. The conference report inadvertently turns out to be just a disaster for the LaFarge project. I do not believe that this was the intent of the conference committee.

I was relying upon Senator BYRD's agreement that the matter would not be up before Monday. I needed to do some further checking with the Corps of Engineers before we engaged in a colloquy. I hope we can clarify the conference report because though the conferees agreed that there would be study with available funds in the conference report in order to study the alternatives to this project, it turns out, however, that under the law, there is no money available. All earmarked moneys for this project has been exhausted, there is no surplus.

Here is a project, in the midst of construction of a dam, a project that has been underway for years and suddenly it is totally stopped and the money for the study of alternatives, as far as I can find out thus far, could not be available until sometime next spring.

I think this is a disastrous result, a result that was unintended by the conferees.

I was hoping that we would not have to take this up until Monday, until I was prepared to discuss it at some length with the distinguished chairman (Mr. STENNIS) because I do not now have all the material available I need.

I am wondering if the chairman would be willing to allow this to lay over until tomorrow.

Mr. MANSFIELD. We are not coming in tomorrow.

Mr. NELSON. Would there be any objection from the Senator from Mississippi to laying over until Monday?

I have no intention of delaying it. I would like to have a chance to talk with and discuss the problem with the chairman. In addition, I would like to have a colloquy on it to see if we can get some clarification of where we are going, because I am satisfied it was the intent of the conference, to provide this study money. Maybe there is some way that we can provide this $500,000 so the study can be underway and completed. Otherwise, it will be delayed until next year, which I think would be costly as well as unfortunate.

I think we could settle it in a colloquy in 15 or 20 minutes tomorow, if that is all right with the chairman of the committee—or on Monday. I understand we are not meeting tomorrow.

Mr. STENNIS. Mr. President, if I may respond in this way, I really think that there will be funds, and within the language of the conference report, which goes along with the bill that will be adopted if it meets the approval of the Senate, funds that become available can be used to take care of a study.

Very frequently we find that language covering studies, whether there is a supplementary compromise, state "within available funds."

That does not mean within available funds of that project, but it means within available funds being appropriated by the bill for the purpose of studies and planning generally. Within this, there are sometimes called savings and slippages. Or, the money, for one reason or another, is not spent as fast at various projects. There are time slippages, bad weather will stop and delay work, strikes, litigation, and other delays for various reasons. It is a recognized part of the program—slippages and cancelizations sometimes—and it is within that money that this study can be made.

This is not an independent study. I think at one time the Senator from Wisconsin said something to me about an independent study. Well, we did not get that. It is a study by the United States Army Engineers for an alternative, what alternative could be considered, and environmental assessments.

Further studies of alternatives was the term we used here, I think, in debate.

I feel that the money will come available for this matter.

If the Chair will indulge me for just a minute.

Well, the Senator from Wisconsin is correct. There is no money left in this project. But the idea was, as is usually the idea of having it "within funds available," meaning these slippages and all these cancelizations that accumulate, that they accumulate and no one can say how fast or just when. But it was the purpose to permit the carrying out of a study, as I said, financed in this way.

I will be glad to have a further colloquy with the Senator. I really think the matter could go on and be approved, if I may submit this to the Senator from Wisconsin, because the matter has already been agreed on and sealed, it has passed the House, and we could work something out here in a colloquy and, if necessary, write a letter.

I have just been handed a letter here. I have not had this, I do not know, but we could get at the Senator's matter a little better by colloquy here after the bill is passed, or with letters, if this——

Mr. MANSFIELD. Will the Senator yield?

Mr. STENNIS. Yes, I yield.

Mr. MANSFIELD. Would the Senator go as far as to say that it would be almost a near certainty that what the Senator from Wisconsin desires would be forthcoming?

Mr. STENNIS. I think so, but I cannot guarantee it.

I could not guarantee it, no. But I believe that in the course of events I would certainly urge the engineers to use some money that they had rather than defer to some other object, with this available money.

Mr. NELSON. Let me say, one reason I had asked Senator BYRD to hold the conference report up until Monday was to insure that I had a clarification on the point of the availability of moneys. Major General Graves, Chief of Civil Works for the corps, advised my staff that they cannot, under the law, use any money for this study which is authorized by the conference report, excepting moneys available from this project.

They cannot use moneys not obligated from other projects. Since this project is some $3 million in deficit, he advises my staff that there is no money under the law, even if from other projects, that could be used to fund such a study.

So we are in the legal situation where the corps informs my office that they would be happy to do such a study and, in fact, the corps has said they want to do the study, but they have no money. There is no money left in this particular project.

Mr. STENNIS. It is an unspoken custom for several years, according to my recollection, that goes back beyond my service, that letters and requests come in from the Army Engineers to use these funds made available for a specific project or projects that accumulate to make various studies, changes, engineering, and so forth.

We already have the conference report covering this point now, so if they have the money they would be compelled to give it a preference, as I said, for a study.

Mr. NELSON. Yes, that is all I am talking about.

Mr. STENNIS. That is all that is involved in our discussion.

Mr. MANSFIELD. Will the Senator yield?

Mr. President, as chairman of the Military Construction Subcommittee, I get letters by the tens every year.

Mr. STENNIS. Yes.

Mr. MANSFIELD. By means of which allocations are transferred from one area to another and that includes, as far as my subcommittee is concerned, investigations.

Mr. STENNIS. I thank the Senator.

Now I yield to the Senator from Oregon.

Mr. HATFIELD. I thank the chairman.

I would like to say to the Senator from Wisconsin, he and I have been discussing this matter since the conference committee meeting, that the point I think we really have in controversy here at this time is on the interpretation by General Graves of what authority they have to act in utilizing money for studies "within available funds."

As I recall our discussions off the floor, the Senator had been informed by General Graves they could only use such monies as were remaining for that specific project.

Mr. NELSON. Yes, that is all we were advised.

Mr. HATFIELD. I have rechecked with staff and, as the chairman just indicated, this is not an accurate interpretation. The corps can use money that was unused elsewhere, because of slippages and other events the chairman has already outlined for this particular project even though they would come from other projects.

The additional evidence of this is that the corps frequently requests of the committee authorization to transfer or reprogram funds appropriated in one category for unmet problems in still another category. Consequently, we can utilize funds that are, for example, from planning for projects other than the La Farge project to make funds available for the La Farge study.

I would also make one additional point with the Senator. That is that I think it ought to be clearly understood the Senator is not asking for an engineering study. The Senator, as I understand it, is asking for a study of the environmental, recreational, and other potentials; a comprehensive study, but not just another engineering study. Is this correct?

Mr. NELSON. It would be both. The corps may already have enough engineering information that it would not require much study. The question is: Is there an alternative flood control program that could be instituted in the valley, other than the one that creates a dam and a lake? That would mean, for example, a dry dam, which would only hold the water in time of flood.

I cannot assert here that the corps may not have to do some additional engineering studies because there would be some difference in one dam from the other. We have talked to the corps and the corps is prepared to do that.

There is one additional thing to which I would like to address the attention of the Senator from Mississippi.

I think it is very important that they have some independent study or independent consultation, not on engineering of the dry dam or any other aspect, but on the recreation values, biological and economic effects used in determining their cost-benefit ratio. The Park Service of the Department of Interior has been out there and looked over the area. I have discussed this with the corps previously, that it would be important not on the engineering side, as they have all of that expertise, but in determining the recreation, biological and economic values which would go into the cost-benefit ratio, that they contract these parts independently. I would assume the Senator from Mississippi would have no objection to that if the corps was agreeable to that.

Mr. STENNIS. No objection at all. The Senator is correct.

Mr. NELSON. I am speaking secondhand from what I understood Major General Graves to say. It may be that what he was saying, is that we need approval of the committee to reprogram funds. I do not know. It was my understanding that he did not think that there were moneys available. Is it the normal practice that the corps writes to the committee and states, "We have some moneys unused over here, could we use them for this particular project at this time?"

Mr. STENNIS. The Senator has stated the general practice and the general pattern. We have made a quick check here and it shows that over 70 transfers and transfer requests were made during the last year and a half meaning fiscal year 1975. There were over 70 in the course of the year, some within their authority and others as approved by the committee. They come into the committees and the committees usually approve them as a matter of course if there is money available as a result of slippage and other reasons, or from any legal source. Major General Graves is correct that it is not available from this project, but there is bound to be some money as there always is during the course of the year.

The conference report says:

> The conferees are in agreement that within available funds the Corps may continue further studies on alternatives and environmental matters on the LaFarge Lake and Channel Project in Wisconsin.

Of course, the Senator knows they have been doing studies on this matter for some time now.

Mr. NELSON. Does the Senator interpret "within available funds" not to be limited solely to the funds that are in the bill for this specific project?

Mr. STENNIS. There is no limitation on "within available funds" as used here to this project alone. It is within available funds from the entire funds that are in the bill to carry out similar studies and projects. This one is particularized already as being one that would be approved in advance. That is what it is equivalent to. This is an advance approval, we might say, from the committee.

Mr. NELSON. Given this dialog which gives me a better understanding about the project's legal status, I have no objection to proceeding. However, if in the meantime we get additional information, I would appreciate it if the Senator from Mississippi and the Senator from Oregon, if necessary, could engage in a further discussion.

Mr. STENNIS. We will go over it again in conference with the interested parties, if necessary. This language would not have been put here if the conference was not agreeing in advance if the funds were available anywhere.

Mr. NELSON. I thank the Senator.

Mr. STENNIS. Before moving the question, Mr. President, I would like to bring to the attention of the Senate, several typographical and printing errors in the conference report accompanying the public works appropriations bill—House Report No. 94–711. These corrections were noted and made in the House of Representatives earlier today when the conference report was considered and passed by that body. As chairman of the Senate conferees, I would like to note those same corrections at this time:

> On page 8, amendment No. 6: The figure $941,292 should read "$941,292,000."
>
> Page 10, amendment No. 10: The figure $66,856,000 should read "$66,836,000."
>
> Page 44, under Oregon: The Land Acquisition notation following the Applegate Lake project should be deleted.
>
> Page 58, under miscellaneous project programs: The figure following the Southern Nevada Water project, Nevada, should be changed from +250,000 to −250,000.
>
> Page 59, under miscellaneous project programs: The figure following the Southern Nevada water project, Nevada should be changed from +250,000 to −250,000.
>
> Page 61, under the Tennessee Valley Authority: Amendment No. 1 should read amendment No. 51.
>
> Page 63, the conference agreement compared with Budget estimates of new—obligational—authority, fiscal year 1976 should read +140,750,500 instead of +140,750,000.

Mr. HARTKE. Mr. President, I rise today to add my approval for the appropriations bill before us, H.R. 8122, for public works and energy development for fiscal year 1976.

I wish to address my remarks at this time to items in title II of this bill that provides assistance to deal with the monumental task of conserving and developing our water resources. This broad category of public works includes such critical needs for the Nation as flood control, navigation, generation of hydroelectric power, recreational areas and facilities, enhancement of fish and wildlife resources, water shortage for irrigation and industrial and municipal uses, water quality control, and conducting comprehensive studies of river basins. I am especially pleased that the conference committee has recommended $30 million for such projects in the State of Indiana.

My compliments on putting together this legislation go to the distinguished chairmen and members of the Senate and House Appropriations Committees, particularly those gentlemen who served on the Subcommittees on Public Works. This bill was the result of months of diligent and meticulous work, demanding the stamina of Hercules and the wisdom of Solomon.

Last May, I had the privilege to personally appear before the Senate Appropriations Subcommittee on Public Works. With me were hundreds of concerned residents of the Wabash River Valley. Some of these same individuals have stood with me for over 20 years as we came annually to the Senate to plead our case and to ask for assistance from the Government in protecting our homes and property from the disastrous floods of the mighty Wabash and providing new sources of pure, clean water for our growing metropolitan areas.

Much has been accomplished in those years. The Wabash Valley Association, which now numbers over 5,000 members, was organized to link together all who were concerned about these conditions and who wished to take positive, corrective measures. The great blueprint of our goal, the Wabash River Basin comprehensive study, was written. This massive document took 7 years to complete. It carefully details how some 20 major multipurpose reservoirs, 149 watershed plans, and 382 small lakes and dams can be constructed to control flooding and satisfy the water supply needs of over 300 Indiana communities through the year 2020.

Some of the major components of this plan are provided for in this bill. I would like to specifically mention a few of these projects.

For the Patoka Lake, the conference committee has provided $5 million for continued construction for 1976 and $1,865,000 for the transition quarter. This project will not only provide flood control, recreational facilities, and fish and wildlife recreational activities, but it will also contribute a vast supply of water for southern Indiana.

The committee has also recommended my request of $830,000 for the fiscal year and $400,000 for the transition quarter for the Big Walnut in Putnam County, a project that happens to meet environmental standards. One of the significant benefits of Big Walnut is the water supply it will provide to the Greater Indianapolis area, which has a population of well over a million.

Third, the recommendation for planning for the Big Blue Lake is $150,000 for the fiscal year 1976 and $50,000 for the quarter. This project will provide both recreational facilities and water supplies for Hancock, Rush, and Shelby Counties and will not disrupt surrounding environmental conditions.

Next $400,000 is provided for planning for the Lafayette Lake in Tippecanoe County. This project was authorized by Congress in 1965 for flood control and recreational and water supply benefits. Numerous studies have been completed on its economic and environmental impact, proving its value to the entire Basin. Most recently the hardworking Congressman from that area, the Honorable FLOYD FITHIAN, conducted exhaustive hearings on this project which concluded that the Lafayette Lake was cost beneficial and had the support of the majority of the surrounding communities.

And as for the single-purpose projects, I am pleased that $1,846,000 has been included for the Mason J. Niblack Levee and $780,000 for the island levee to protect thousands of acres of land in Sullivan and Knox Counties.

Mr. President, I must at this time refer to the appropriation of $400,000 for the Wabash River navigation project to study the feasibility of navigation on the Wabash from the Ohio River as far north as Terre Haute. The Wabash Valley contains an untold wealth in minerals—some 60 billion tons of coal alone. Also the region is abundant in grain and food production, our Nation's number 1 export. Low cost water transportation would make it possible for these items to easily reach markets worldwide. That is the purpose of this study: To determine whether such a transportation system could be implemented. I consider this item in the bill to be extremely important to all of southern Indiana and Illinois. It could turn an economically depressed region into one of the most prosperous areas in the country.

Mr. President, in conclusion, I believe that this bill is a step in the right direction toward meeting the energy needs of America in the coming years as well as aiding our own communities. I urge my colleagues to join with me in casting their vote for this measure.

Mr. BAKER. Mr. President, I wish to express my support for the conference agreement on H.R. 8122. I commend the conference committee for its diligence in working out this agreement.

This legislation contains funds to accelerate work on many important projects across this Nation. Because of the great significance of many of these decisions for the people of Tennessee, I ask unanimous consent that a chart on some of these projects be printed at this point in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

H.R. 8122: A SAMPLE OF TENNESSEE PROJECTS

[In thousands]

	1976	Transition quarter
CORPS OF ENGINEERS		
Big South Fork National River	$500	$200
West Tennessee tributaries	2,470	1,220
Concrete Mat program	40,500	15,000
Reelfoot Lake—Lake No. 9	415	690
Cordell Hull Dam	1,300	520
Memphis Metro study	150	70
Nashville Metro study	150	40
TENNESSEE VALLEY AUTHORITY		
Orphan mine reclamation	2,600	350
Normandy Dam	8,417	211
Columbia Dam	10,400	2,550
South Chickamauga Creek	750	250
Elkmont Village	1,000	1,000
Fertilizer program	14,416	3,515

Mr. BAKER. Mr. President, while the conference committee reduced the figure approved by the Senate for the Big South Fork National River and Recreation Area, I believe the addition of $350,000 above the budget request should enable the Corps of Engineers to move forward in planning and preparation for land acquisition for the project. This additional money will maintain the momentum that is necessary to the effective development of the project.

I am also very pleased that the conference agreement includes sufficient funds to initiate the TVA orphan mine reclamation effort in fiscal 1976. The bill now includes $2,600,000 for fiscal year 1976, plus $350,000 in the transition quarter. These sums will enable TVA to initiate a 5-year program to recover 86,700 acres of strip-mine land in Alabama, Kentucky, Tennessee, and Virginia.

And I am particularly pleased that the conference was able to include a number of other TVA provisions from the House bill, with added funds for the Normandy and Columbia Dams, plus money to initiate work on the South Chickamauga and Elkmont Village projects.

Mr. President, in closing, I want to commend the committee for its work on this bill. In particular, I commend the chairman of the Public Works Appropriation Subcommittee, Mr. STENNIS, and its ranking member, Mr. HATFIELD, as well as the chairman of the full committee, Mr. MCCLELLAN, and the ranking Republican, Mr. YOUNG, for their leadership and understanding in the development of this important bill. Further, I want to add a particular word of appreciation to the distinguished gentleman from Tennessee (Mr. EVINS) for his leadership as chairman of the Public Works Subcommittee, and to the gentleman from Indiana (Mr. MYERS) who was the ranking Republican among the House conferees.

Mr. President, I urge the Senate to adopt the conference report.

Mr. DOLE. Mr. President, I rise to express my view of the public works appropriation bill for fiscal year 1976, which is before the Senate for consideration today. The bill, H.R. 8122, has already received initial approval by the Senate and is before us in only a slightly revised form with some changes recommended by the conference committee.

In general, I think this is a good bill, combining as it does the necessary funding for continuation of our national public works program along with the fiscal restraints necessary during this period of economic uncertainty.

The conservation of land and water resources in the State of Kansas, and the implementation of flood control measures, have long been matters of primary importance to the people of my State. With the encouragement and assistance of the Federal Government, we have seen tremendous accomplishments in these areas in the past. We look forward to continued cooperation, and to further resource improvement in years ahead.

Earlier this year, requests were made before the Senate Appropriations Committee for adequate funding to enable the Army Corps of Engineers and the Bureau of Reclamation to begin or to continue several resource projects throughout the State of Kansas. Variable extremes of weather conditions make adequate preparation necessary to both the lives and livelihoods of our residents. As testimony by local residents indicated last spring, seasonal flooding in many areas of Kansas make it particularly important to proceed with levee and channel improvements at an uninterrupted pace. The well-considered plans for flood control prepared by these communities in conjunction with the Corps of Engineers must achieve realization if dramatic losses in life and property are to be avoided in the future.

At the same time, efforts should continue toward insuring the adequate supply of water for both private and industrial use. Significant strides have already been made in the planning and construction of State reservoirs and irrigation units in Kansas. In an area which experiences severe droughts and heavy usage of natural water resources, such projects have proven themselves to be of immeasurable aid at present and valuable insurance for the future. Similarly, those projects designed to implement road improvements, river navigation, and protection against streambank erosion will reflect the wisdom of the investment both now and in the years to come.

The importance of all these public works projects to the economic and the civic growth of Kansas communities needs little further comment. As inducements to greater employment opportunity, and as attractions for business and families, these projects are, without questions, good investments for local dollars. As a means for reducing a portion of the national unemployment situation, and of preserving our precious natural resources, the Kansas projects are sound capital investments for Federal dollars as well. Implementation of the flood control programs, furthermore, promises to save the Government millions of dollars in disaster relief funds in the future. During October of this year, the president of the Missouri-Arkansas Basins Flood Control Association, Mr. J. B. Dillingham, pointed out in remarks before representatives of the Office of Management and Budget here in Washington that projects in the Kansas City District of the Army Corps of Engineers have saved much more money than they cost to construct. Thus, Federal public works expenditures have already proved their thrifty and profitable nature in the State of Kansas.

I am particularly pleased to note that the conference committee has recommended an equal or greater amount of funding for construction and planning of nearly all Kansas projects contained in the bill as approved last summer by the House of Representatives. The House bill did itself, in many cases, provide greater funding for Kansas projects than had been originally recommended by the administration. Although not every single reservoir project desired by residents of the State could be included in this year's appropriation bill, it nevertheless is a very favorable piece of legislation for Kansas.

Furthermore, it is particularly encouraging to see that the committee has added approximately $3 million to the administration's request for section 205 flood control projects. These small flood control projects have tremendous potential for saving even greater sums of money which could otherwise be foregone through natural disaster. It is my understanding that the Army Corps of Engineers considers the Gypsum, Kans. flood control proposal to be a commendable project of primary consideration for section 205 funding. Only last spring, representatives of Gypsum testified before the committee here in Washington with respect to the dire need for flood control protection in the town, and I have subsequently expressed concern on numerous occasions to the chairman of the Public Works Subcommittee regarding the special need for a levee system in Gypsum.

I am also pleased to see that an adequate level of funding has been maintained for continuing construction already underway on the Clinton and El Dorado lakes, as well as the Big Hill and Hillsdale reservoirs. The use of those funds will have a valuable impact on the development of these lakes and on the economies of these communities. They will certainly serve to promote the interests of water conservation and flood protection in the areas of El Dorado, Lawrence, Coffeyville, and Paola.

Mr. President, I appreciate the many efforts on behalf of Kansans who have worked hard to advance these projects. Many traveled personally to Washington to present testimony in support of public works projects. The fruits of their efforts are apparent in the appropriations bill we have before us today. I hope that the Senate will give prompt and overwhelming support to passage of H.R. 8122, so that it may next go to the President for his signature.

Mr. STENNIS. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. GARN). The question is on agreeing to the adoption of the conference report.

The conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote whereby the conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I ask the Chair to lay before the Senate certain amendments which are in disagreement.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $327,308,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $98,834,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $41,152,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $100,025,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $30,550,000

Mr. STENNIS. Mr. President, I move that the Senate concur in the amendments as numbered and read by the clerk.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi.

The motion was agreed to.

NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2498 which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 2498) to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with amendments.

The PRESIDING OFFICER. The time on this bill is limited to 1 hour, with one-half hour on each amendment, with the exception of the amendment of the Senator from New York, which is limited to 2 hours.

Mr. MORGAN. Mr. President, I ask unanimous consent that the Senator from Utah (Mr. GARN) be added as a cosponsor to this bill. He was one of the original sponsors, but, through error, his name was deleted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask unanimous consent that Mr. Rob Locklin, of the committee staff; Mr. Mark Dayton and Mrs. Ellen Heath, of Senator MONDALE's staff; Mr. Dan Wall, of Senator GARN's staff; and Mr. Pete Wentz, of Senator BIDEN's staff, be granted the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER (Mr. MANSFIELD). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Judy Parente, of the Committee on Public Works, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Judah Sommer be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Mr. Richard Arnold be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Tony Cluff and Gil Bray, of the committee staff, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, S. 2498, the Small Business and Small Business Investment Act Amendments of 1975, is an effort on the part of the Banking, Housing and Urban Affairs Committee of the Senate to help small businesses adapt to the changing economic, competitive, and social conditions that will be influencing their decisionmaking in the years ahead.

There is little doubt that the major function of business management in the years to come will be that of managing change. While these changes will continue to create many new problems and new combinations of old problems, they will also create many new and exciting opportunities. If the Small Business Administration is going to respond effectively to the future needs of the small businessman, I feel it must have the kinds of programs that will give the small businessman the best chance of realizing the opportunities these changes present.

I believe the provisions contained in S. 2498 were written with this in mind.

The bill has four main focal points. First, it would establish within the Small Business Administration—SBA—an Office of Export Development, to be headed by an assistant administrator, with adequate staff, to help provide, assist, encourage, and further the interests of small business in the export market. Second, the bill would provide an alternative and more economical means of helping small business enterprises to obtain the equipment needed to meet Government pollution control standards. Third, the bill would establish a National Commission on Small Business. The Commission would have the charge of making a comprehensive and coordinated study of all factors affecting small business, and to make a report to the Congress on its findings and legislative recommendations. And, fourth, the committee bill would amend and perfect several provisions of the Small Business and Small Business Investment Company Acts to make these acts more useful and viable into today's economy and marketplace.

After 11 months as chairman of the Small Business Subcommittee, I am convinced of the importance of the survival of the small businessman to the national economy. I firmly believe that this bill could be very helpful in promoting the long-term growth and development of small businesses throughout the country.

Mr. President, I ask unanimous consent that a section-by-section analysis of S. 2498 we printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF BILL

SHORT TITLE

Section 101. Cites title I as the Small Business Export Development Act.

Small business export development program

Section 102(a). Amends Sec. 8 of the Small Business Act by adding a new subsection (f)(1) to establish an Office of Export Development in the SBA to provide information and assistance to small businesses which have an export potential.

Section 102(b). Amends Sec. 5316(11) of Title V, USC, to provide an additional Association Administrator position in the SBA.

Transfer of disaster relief authority

Section 103. Transfers all functions and authority of SBA with respect to disaster loans under Sec. 7(b) of Small Business Act for repair, rehabilitation, or replacement of real or personal property (other than real or personal property owned by busness concerns) to the Department of HUD.

Pollution control

Section 104(a). Amends Sec. 403 of Small Business Investment Act of 1958 to increase the funds available for the lease guarantee program from $10 million to $25 million.

(b). Add a new Sec. 404 to Part A of Title IV of the SBIC Act to establish a program to make it possible for small business to finance the leasing of pollution control equipment through the sale of tax-exempt industrial revenue bonds.

Small business investment company leverage

Section 105(a)(b)(c). Amends Sec. 303(b)(1) and (2) of the SBIC Act of 1958 to increase the amount which regular SBIC's may borrow from government from 200 to 300 percent of private capital and to increase the amount "venture capital" SBIC's may borrow from government from 300 to 400 percent of private capital. Also extends leverage increase to 301(d) SBIC's and eliminates the maximum leverage ceilings for all SBIC's.

Small business investment company guarantees

Section 106. Repeals the last sentences of Sec. 305(b) of the SBIC Act to permit SBIC's to guarantee 100 percent of the borrowings of small business concerns.

Licensing on noncorporate small business investment companies

Section 107 (a) and (b). Amends Sec. 301 (a) and (b) of the SBIC Act to permit SBIC's to be unincorporated entities.

Repeal of 50 percent limitation on bank investment

Section 108. Amends Sec. 302(b) of the SBIC Act to permit banks to own 100 percent of an SBIC's voting common stock.

Loans for plant requisition

Section 109(a). Amends Sec. 502 of the SBIC Act to provide SBA loans to local development companies for the acquisition of existing plant facilities.

(b) Amends Sec. 7(a)(4)(c) of the Small Business Act to increase the maturity from 15 to 20 years on SBA loans for acquisition and construction of plant facilities.

Economic opportunity loans

Section 110. Amends Sec. 7(i)(1) of the Small Business Act to increase the maximum amount of economic opportunity loans from $50,000 to $100,000.

Local development company loan limit

Section 111. Amends Sec. 502(3) of the SBIC Act to increase the maximum amount of local development company loans from $350,000 to $500,000.

Regular business loan limit

Section 112. Amends Sec. 7(a)(4)(A) of the Small Business Act to increase the maximum amount of regular SBA loans from $350,000 to $500,000.

TITLE II

National Commission on Small Business in America

Short Title

Section 201. Cites Title II as the "National Commission on Small Business in America Act."

Section 202–209. Establishes a National Commission on Small Business in America to make a comprehensive and coordinated study of all the factors affecting small businesses and to make reports and legislative recommendations to the Congress. Authorizes the President to appoint an eleven member Commission; 4 individuals affiliated with small business, 3 individuals affiliated with venture capital firms, SBIC's, commercial banks, investment banking firms, 3 individuals who have expertise in taxes, regulatory, legal and economic matters, at least one of whom is from the academic community, and one individual from the public at large. Requires the Commission Chairperson and Executive Director to be advised and consented upon by the Senate. Authorizes the employment of such staff as necessary and prescribes compensation for such Commission members and staff. Authorizes sum to be appropriated to carry out Commission's functions and duties.

Mr. MORGAN. Mr. President, I wish to recognize the contribution that my distinguished colleague, the Senator from Utah (Mr. GARN), has made in bringing this bill to the floor and in sponsoring the bill. He is the ranking minority member of the Small Business Subcommittee, and has sat through many long hours of testimony and discussion concerning this measure. I extend to him my appreciation for it, and I yield to the Senator from Utah at this time for some remarks in addition to those I have already made.

Mr. GARN. Mr. President, I yield to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I am pleased to take the opportunity to express support for S. 2498, a small business bill amending both the Small Business Act and the Small Business Investment Act.

Among other things, the bill provides for the establishment of the National Commission on Small Business in America. I am happy that the Senate Banking Committee chose to include in its omnibus legislation the idea of the commission as originally conceived in my bill, S. 2104.

The purpose of the Commission is to make a comprehensive study and furnish substantive legislative recommendations with respect to the economic environment of small business. It will analyze the enormous contribution small business has made to the high standard of living in America and assess the difficulties it has had to deal with, from inequitable taxation to oppressive Federal regulations. It will examine the Federal subsidy and assistance programs and the achievement of financial institutions in meeting small business credit needs. In short, it will examine all the influences, both good and bad, which affect small business today and will determine a coherent direction for its development in the future.

There has been no lack of scattered and fitful concern over the welfare of the small business community. Every jurisdictional committee in Congress has held hearings this year on small business difficulties from fixed price Government contracts to the shortage in home canning equipment. In addition, almost every department and agency in the Government makes some attempt to deal with the small businessman's special problems. Nevertheless, statistics show that there has been a steady rise in bankruptcies and a steady decline in new business incorporations in the last few years. The oft-repeated statement among small businessmen is that they are not thinking in terms of growth in the present economy, but in terms of survival.

There is obviously a need for a major review of the economic climate affecting small business. There has been no study as comprehensive as that proposed for the Commission for more than 20 years. It is necesary to assess the progress of the small business community since that time and examine ways in which all small businesses can feel the benefits of Federal efforts to provide an environment in which they can compete and survive.

The PRESIDING OFFICER (Mr. BURDICK). Who yields time?

Mr. JAVITS. Mr. President, I call up my amendment No. 1018.

The PRESIDING OFFICER. The amendment is not in order until the committee amendments are acted on.

Mr. JAVITS. Mr. President, may I be recognized just to inform the Senator that we have no objection to the adoption of the committee amendments?

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. How much time is allotted on these amendments? I note that the Senator from New York has been granted 2 hours.

The PRESIDING OFFICER. Thirty minutes on amendments in the first degree, 10 minutes in the second, further provided that the Senator from New York has 2 hours on his amendment.

There are committee amendments of the Committee on Commerce. The clerk will state the first committee amendment.

The second assistant legislative clerk read as follows:

On page 1, line 3, strike "export development" and insert in lieu thereof "small business development".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Is time yielded back?

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 1, beginning in line 3, strike out the following:

EXPORT DEVELOPMENT

SHORT TITLE

SEC. 101. This title may be cited as the "Small Business Export Development Act".

SMALL BUSINESS EXPORT DEVELOPMENT PROGRAM

SEC. 102. (a) Section 8 of the Small Business Act is amended by adding at the end thereof the following:

"(f) (1) There is hereby established in the Administration an office to be known as the Office of Export Development (hereinafter referred to as the 'Office'). The Office shall be headed by an Associate Administrator for Export Development who shall be appointed by the Administrator.

"(2) The Office shall assist and counsel small business concerns which are interested in undertaking or expanding export activities by—

"(A) providing such technical assistance and advice as may be appropriate to such concerns to assist them in carrying out export activities;

"(B) surveying and identifying small businesses which possess undeveloped export potential and which are interested in joining with other small businesses in United States export associations;

"(C) obtaining operating and other business information from such businesses, from export management concerns, export groups, and from any other person engaged in exporting in order to provide assistance and advice to such small businesses, export groups, or persons engaged in exporting, with respect to the identification of products which have export potential, the combination of products for efficient exportation, and the development of export markets; and

"(D) establishing and conducting programs for the development of technical, professional, and managerial skills necessary to the establishment and operation of associations and necessary to successful operations by persons engaged in export activities, and for the development of liaison between the Office, United States export associations, and international financial, investment, and marketing institutions.

"(3) The Office may obtain from any other department or agency of the Federal Government such information as it may deem necessary to carry out its other functions under this section. Upon the request of the Office, each department or agency of the United States is authorized to furnish such information to the Office as may be requested, except to the extent that the provision of such information is prohibited by law. The provision of section 1905 of title 18, United States Code, shall apply to the Office, and its officers and employees, with respect to any information described in such section.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.".

(b) Section 5316(11) of title 5, United States Code, is amended by striking out "(3)" and inserting in lieu thereof "(4)".

On page 4, line 4, strike "103" and insert "101";

On page 4, line 12, strike "104" and insert "102";

On page 6, line 18, strike "105" and insert "103";

On page 7, line 9, strike "106" and insert "104";

On page 7, line 13, strike "107" and insert "105";

On page 8, line 8, strike "108" and insert "106";

On page 8, line 15, strike "109" and insert "107";

On page 9, line 3, strike "110" and insert "108";

On page 9, line 6, strike "111" and insert "109";

On page 9, line 10, strike "112" and insert "110";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BUSINESS DEVELOPMENT

TRANSFER OF DISASTER RELIEF ANTHORITY

SEC. 101. All authorities and functions of the Small Business Administration with respect to disaster loans under section 7(b) of the Small Business Act for the repair, rehabilitation, or replacement of real or personal property (other than real or personal property owned by business concerns) are transferred to the Secretary of Housing and Urban Development.

POLLUTION CONTROL

SEC. 102. (a) Section 403 of the Small Business Investment Act of 1958 is amended by striking out "$10,000,000" and inserting in lieu thereof "$25,000,000".

(b) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"POLLUTION CONTROL

"SEC. 404. (a) For purposes of this section, the term—

"(1) 'pollution control facilities' means such property (both real and personal) as the Administration in its discretion determines is likely to help reduce, abate, or control air or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

"(2) 'qualified contract' mans a lease, sublease, loan agreement, entered into between a small business concern and any person.

"(b) Whenever the Administration determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of private financing thereof (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), it may guarantee, upon such terms and conditions as the Administration may prescribe, either directly or in cooperation with a qualified surety company or other qualified company through a participation agreement with such company, the payment of rentals or other amounts due under qualified contracts, and any such guarantee shall be for the full amount of the payments due under such qualified contract. Any guarantee made by the Administration pursuant to this section shall be a full faith and credit obligation of the United States.

"(c) The Administration shall fix a uniform fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. The Administration may require that an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, be placed in escrow upon such terms and conditions as the Administration may prescribe.

"(d) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom the payments under qualified contracts are due.".

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

SEC. 103. (a) Section 303(b)(1) of the Small Business Investment Act of 1958 is amended:

(1) by striking out "200" and inserting in lieu thereof "300"; and

(2) by striking out the second sentence thereof.

(b) Section 303(b)(2) of such Act is amended:

(1) by striking out "300" and inserting in lieu thereof "400"; and

(2) by striking out the second sentence thereof.

(c) Section 303(c) of such Act is amended—

(1) by striking out "300" in clause (2)(iii) and inserting in lieu thereof "400"; and

(2) by striking out "200" where it appears in clauses (2)(iii) and (4) and inserting in lieu thereof "300".

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

SEC. 104. The last sentence of section 305 (b) of the Small Business Investment Act of 1958 is repealed.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

SEC. 105. (a) Section 301(a) of the Small Business Investment Act of 1958 is amended—

(1) by inserting after 'incorporated body" a comma and the following: "or a partnership, association, or other generally recognized business organization";

(2) by inserting "or otherwise existing" after "chartered";

(3) by inserting after "shareholders" a comma and the following: "partners, owners, or members,"; and

(4) by inserting "or by law" after "articles of incorporation".

(b) Subsection (b) of such section is amended by inserting after the phrase "articles of incorporation" the first time it appears the following: "(or the functionally equivalent or other similar documents specified by the Administration for other forms of business organizations (hereinafter referred to collectively as 'articles' or 'articles of incorporation'))".

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

SEC. 106. Section 302(b) of the Small Business Investment Act of 1958 is amended by striking out all that follows "upon the making of that acquisition", and inserting in lieu thereof the following: "the aggregate amount of shares in small business investment companies then held by the Bank would exceed 5 percent of its capital and surplus.".

LOANS FOR PLANT ACQUISITION

SEC. 107. (a) Section 502 of the Small Business Investment Act of 1958 is amended by inserting "acquisition," after "plant".

(b) Section 7(a)(4)(C) of the Small Business Act is amended to read as follows: "(C) no such loans including renewals and extensions thereof may be made for a period or periods exceeding ten years except that such portion of a loan made for the purpose of acquiring real property or constructing facilities may have a maturity of twenty years plus such additional period as is estimated may be required to complete such construction.".

ECONOMIC OPPORTUNITY LOAN LIMIT

SEC. 108. Section 7(i)(1) of the Small Business Act is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

LOCAL DEVELOPMENT COMPANY LOAN LIMIT

SEC. 109. Section 502(3) of the Small Business Investment Act of 1958 is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

REGULAR BUSINESS LOAN LIMIT

SEC. 110. Section 7(a)(4)(A) of the Small Business Act is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

TITLE II—NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

SHORT TITLE

SEC. 201. This title may be cited as the "National Commission on Small Business in America Act".

FINDING AND PURPOSE

SEC. 202. (a) On the eve of the Bicentennial anniversary of the American Revolution, the Congress recognizes the enormous contribution which small business has made toward improving the economic well-being of all Americans for over two hundred years.

(b) The Congress also recognizes that small business has the potential for making an equally large or larger contribution toward improving economic well-being both at home and abroad in years ahead.

(c) To insure that small business continues to have the opportunity to realize its full potential, it is the purpose of this title to establish a National Commission on Small Business in America to make a study and furnish recommendations to the President and the Congress with respect to small business.

ESTABLISHMENT; MEMBERSHIP

SEC. 203. There is estabilshed the National Commission on Small Business in America (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States. The Commission shall be composed of eleven members appointed by the President as follows:

(1) four individuals who are affiliated with small business concerns or who represent the interests of small business;

(2) three individuals who are affiliated with or who represent venture capital firms, small business investment companies, commercial banks, insurance companies, investment banking firms, or other comparable financial institutions involved in the financing of business;

(3) three individuals who have expertise in tax, regulatory, legal, economic, or financial matters, at least one of whom is a member of the academic community; and

(4) one individual from the public at large who shall be appointed by and with the advice and consent of the Senate and who shall be the Chairman of the Commission.
In addition, the Administrator of the Small Business Administration and the Director of the Office of Minority Business Enterprise shall be advisory members of the Commission, without a vote in any determination or decision of the Commission.

FUNCTIONS

SEC. 204. The functions of the Commission shall be—

(1) to examine the role of small business in the American economy and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) to assess the effectiveness of existing Federal subsidy and assistance programs for small businesses and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) to measure the direct costs and other effects of government regulation on small businesses; and make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulation of small businesses;

(4) to determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

(5) to study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) to recommend specific measures for creating an environment in which all businesses will have the opportunity to compete effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures; and

(7) to determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

STAFF AND POWERS

SEC. 205. Subject to such rules and regulations as it may adopt, the Commission may—

(1) appoint, by and with the advice and consent of the Senate, and fix the compensation of an Executive Director at the rate provided for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the lowest rate for GS–15 of the General Schedule;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code; and

(3) hold hearings and sit and act at such times and places, as it may deem advisable.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 206. Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission such reports and other information as the Commission deems necessary to carry out its functions under this Act.

COMPENSATION

SEC. 207. (a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) a member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate equal to the per diem equivalent of the rate for GS–18 of the General Schedule for each day he is engaged in the performance of his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

REPORTS

SEC. 208. The Commission may from time to time prepare and publish such reports as it deems appropriate. Not later than two years after the date of enactment of this title, the Commission shall transmit to the Congress and the President a full report containing its findings and specific recommendations with respect to each of the functions referred to in section 203, including specific legislative proposals and recommendations for administration or other action. Upon the submission of its final report, the Commission shall cease to exist.

AUTHORIZATION

SEC. 209. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Any sums so appropriated shall remain available until expended.

AMENDMENT NO. 1018

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I call up my amendment No. 1018, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an amendment numbered 1018.

Mr. JAVITS' amendment (No. 1018) is as follows:

On page 9, line 12, insert the following:

SEC. 113. (a) Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) and (c) as (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) It is the declared policy of the Congress that the Government, through the Small Business Administration, should aid and assist small business concerns which are engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and the financial assistance programs authorized by this Act are also to be used to assist such concerns.".

(b) The first sentence of section 3 of the Small Business Act (15 U.S.C. 632) is amended by inserting after "concern" the following: ", including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries,".

(c) Section 7(a)(1) of the Small Business Act (15 U.S.C. 636(a)(1)) is amended by inserting "from non-Federal sources" immediately before the period at the end thereof.

(d) Section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)(4)) is amended by striking out the proviso.

(e) Section 18 of the Small Business Act (15 U.S.C. 647) is amended by inserting after "Federal Government" the following: ", except those enterprises engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries,".

SEC. 114. That section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is hereby amended by inserting immediately at the end of paragraph (8) the following new paragraphs:

"(9) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in reestablishing or continuing its business if the Administration determines that such concern has suffered substantial economic injury as a result of the disruption of operations and services of public utilities to such small business concern, providing the disruption was of substantial scope and duration and occurred on or after January 1, 1975: *Provided, however,* That such loans shall be made at the rate of interest and for the period of time provided in section 7(a)(4) of the Small Business Act.

"For the purpose of paragraph (9) the term 'public utility' shall mean monopoly licensed or franchised by the Government to provide telephone, telegraph, water, natural gas, or electric service to the consuming public on a continuing basis.

"For the purpose of paragraph (9) a disruption of operation and services of public utilities shall be deemed to be of substantial scope and duration if such disruption occurs within a specifically definable area, and adversely affects a majority of business concerns in that area for a period of at least three consecutive days: *Provided,* That no loans authorized by this paragraph shall be made to any small business concern failing to demonstrate that such loan is necessary for the preservation or reestablishment of such small business concern.".

Section 4(c) of the Small Business Act is amended by inserting "7(b)(9)," in paragraphs (1) and (2) thereof after "7(b)(8),".

The PRESIDING OFFICER. May the Chair inquire, is this the amendment on which there is a 2-hour time limitation?

Mr. JAVITS. It is, Mr. President. I yield myself 5 minutes.

Mr. President, the Senator from Wisconsin (Mr. NELSON) and I submitted this amendment as long ago as October 22, and a description of the amendment is on every Senator's desk. It was submitted then, and has since acquired 22 cosponsors.

The amendment has two sections, Mr. President, both of which have passed the other body, one as a separate bill—and I shall identify that—and the other as a part of another bill. One passed by unanimous vote, and the other under a suspension of the rules.

The amendments relate to the eligibility of farmers, ranchers, and others, to borrow from the Small Business Administration.

The other part of the amendment relates to the ability to get loans, or other assistance, from the SBA when a small business is in distress or suffers serious economic injury as a result of the disruption of its operations due to an interruption of service of telephone, telegraph, natural gas, water, or electric utilities within a definable area, as long as the majority of the businesses within that area were also similarly adversely affected.

The second part of the amendment which relates to public utilities, et cetera, was adopted under a suspension of the rules and the first relating to farmers and ranchers, et cetera, was adopted on the consent calendar in the other body.

Mr. President, Senator NELSON and I feel that the administrative exclusion of farmers from the programs of the Small Business Administration is an arbitrary policy that discriminates against a critical segment of the small business community, and Senator NELSON, the chairman of the Small Business Committee, and myself, as its ranking minority member, have felt it our duty to submit this question to the Senate. It does not represent any particular foray of mine or of his. It simply represents a situation which we believe to be unwise in the interest of small business and, therefore, that it was our duty to submit it to the Senate.

Despite the absence of any statutory language authorizing the SBA to discriminate against any particular type of small business by denying it the same assistance which is given to other types of small business, the Small Business Administration by administrative action and internal memorandum, which confirm that administrative action, has determined that food and fiber producers should not receive assistance from the SBA. One of the reasons given for refusing assistance to small agriculture concerns is that they might be entitled to some form of price support and, therefore, be getting the benefit of other Government programs.

Our amendment rejects this type of argument as we demonstrate that it has nothing to do with whether or not loan assistance under SBA should be provided. Many of these small concerns who are in the farming and ranching business do not receive price supports; some do. But in some cases Federal price supports are given to manufacturers and marketers of other products, such as minerals; and yet they also are eligible to receive small business financial assistance. Let it be remembered that in determining whether a small business firm is entitled to such assistance, all factors of its financial situation are cranked in, including whether that business is getting any Federal Government price supports.

Another reason given by the SBA for excluding this type of small business is that they may be eligible for similar assistance from the Farmers Home Administration.

The loan programs offered by the Farmers Home Administration, however, are not comparable to the type of assistance available to small business through the SBA. The terms of the loan are shorter, the interest rates are higher, and the maximum amount of the loan or the type of security required tends to be different and adverse to the interest of that element of small business which is in the farm and ranching community.

It is the position of the Small Business Administration that, if it provides assistance to agriculture small business, it would be duplicating assistance programs offered by the Department of Agriculture through the Farmers Home Administration.

An examination of the Farmers Home Administration programs, however, shows that the quality of financial assistance which SBA offers is not provided by the Farmers Home Administration to agricultural small business. A very clear indication of that is that the Farmers Home Administration has a $100,000 limit, and the Small Business Administration has a $350,000 limit.

I yield myself another 5 minutes.

That alone indicates the situation.

Senator NELSON and I feel that financial assistance should be made available to any type of small business whether the small businessman is producing an edible product or whether he is producing durable goods, such as clothes or appliances, and without any distinction being made as to the type of processing, whether it be in the production in the case of livestock, or processing in the case of slaughtering or marketing in the case of direct sales by the farmer or rancher to the grocer or consumer.

Our colleague from Wisconsin is very skilled in the agricultural field, and he will develop further the argument on the agricutural part of this amendment.

I turn my attention to the second section of the amendment, and I wish to make it clear to our colleagues that I have modified the amendment, and the modification which I made in the amendment is at the desk, to make it prospective only in application rather than in any way retroactive. As originally drafted, and we have 22 cosponsors for that, it was retroactive and would have included a grave disaster which we suffered in the city of New York, which immobilized the whole community because of the fact that a great fire occurred in a telephone center. But that example, Mr. President, did sharply bring to Senator NELSON's attention and mine, and to the attention of many House Members, the fact that we needed relief for such a catastrophe and that catastrophes could occur. When we turned our attention to it, we found that they had occurred in many areas and that small business had no way of getting relief in such a catastrophic situation.

This amendment would create a new category of nonphysical disaster assistance. There are already a number of such categories, and I will detail them to the Senate. There are eight such categories right now.

A new category of nonphysical disaster assistance for small business which has suffered or sustained economic injury as a result of the disruption of operations and services of telephone, telegraph, natural gas, water, or electric utilities within a definable area which economic injury has persisted for 3 days or more and which has affected in this same way a majority of the businesses within that area.

In addition, the burden would be on the small businessman to show that the loan was necessary for the preservation or reestablishment of his business. That would be the burden of proof would be on him.

Let me detail, Mr. President, certain of the nonphysical catastrophic situations affecting small business which are now eligible for a loan.

First, being displaced by a federally-aided urban renewal program or a highway project or any other construction built with Federal funds;

Second, the inability of a small business to process or market a product for human consumption because of disease or toxicity occurring in such product through natural or undetermined causes;

Third, the inability to meet standards established by the Agriculture Products Inspection Act of 1970, the Wholesome Poultry Products Act of 1967;

Fourth, inability to meet the standards by the Federal Coal Mine Health and Safety Act of 1969;

Fifth, economic injury caused by the requirements of the Occupational Health and Safety Act of 1970;

Sixth, the potential economic injury as a result of international strategic arms limitations treaties;

Seventh, economic injury due to armed forces base closings or severe reductions in Armed Forces bases in a given area; and

Eighth, a small business concern suffering economic injury as a result of the energy crises and to which we wish to add a ninth, to wit, a small business suffering injury by a catastrophic disruption of public utility service.

Mr. President, these eight programs that I have detailed are specific and responsive original amendments like my own.

I will yield myself another 3 minutes.

They were all enacted into law as the needs arose on the part of the small business community, and as our technological society grows more dependent and reliant on public utilities, the risk of a cessation of operations due to the disruption of these utilities becomes greater.

I will give the Senator a few examples.

In Ohio, a municipally owned electric company exploded, forcing businesses to close for a 4-day period.

In Kentucky and New Jersey, manufacturers dependent on natural gas were severely injured when their supply was either reduced or discontinued.

I have already mentioned the disastrous New York fire in which a main telephone switching installation was knocked out of service for 6 weeks, thus very materially impacting on some 8,400 businesses.

A water supply pump in Trenton, N.J., was out of commission for 8 days this past summer.

These instances demonstrate the cumulative reason for proposing this amendment.

We are also adding another qualification to the definitions in our amendment which is not found in the other eight nonphysical disaster programs, and that is that we would allow regular SBA business loan terms, 10 years at a current 6⅝ percent interest rate instead of the disaster loans of 30 years at 6⅝ percent interest.

With this further restriction on the program we propose that what we are doing is simply making money which is to be found in the nonphysical disaster loan revolving fund more readily accessible to the businessman who meets the criteria of this amendment but who would have his access to the fund limited by the application of the stricter terms of the regular business loan revolving fund.

Mr. President, Congress has always been prepared to meet emergency situations which have arisen and therefore has provided these nonphysical loan programs.

Also, it is important to note that the nonphysical disaster loan fund for fiscal year 1975 contained $100 million, but Congress appropriated $15 million as a supplementary item to the revolving fund to meet the needs of a vast mushroom crop disaster caused by toxicity.

The same people, of course, would be eligible for regular SBA loans, but the difficulty is that that loan pool is constantly pushing against the ceiling of authorizations and appropriations; whereas, these nonphysical disaster loans have a revolving fund, and the history of Congress is that it has never let that fund run dry so long as there was a catastrophe for which the SBA found eligible borrowers, that fund was replenished.

So, Mr. President, we believe that it is a perfectly fitting and proper action in respect of adding to the list of nonphysical disaster amendments which I have described, eight in number, this ninth, by virtue of the fact that we simply learned that in this modern technological society, a new type of nonphysical disaster catastrophe can hit a small business and that, therefore, it should have the same access to the Small Business Administration.

For all those reasons, Mr. President, I hope the Senate will act favorably on our amendment.

I yield such time as he may require to the Senator from Wisconsin (Mr. NELSON).

Mr. MORGAN. Mr. President, will the Senator yield momentarily to the Senator from Hawaii?

Mr. NELSON. I yield.

Mr. INOUYE. Mr. President, the measure now before the Senate was referred to the Committee on Commerce for its consideration, especially as it relates to export activities. The Commerce Committee did study this measure and made certain recommendations, to which I have been told the Banking Committee is unwilling to accede.

However, the Commerce Committe is not adamant. We do not insist upon our amendments. So, in lieu thereof, without objection, I ask unanimous consent that the letter addressed to the chairman of the committee and our committee report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *December 2, 1975.*

Hon. WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you in further reference to S. 2498, which was referred to the Committee on Commerce. It was the view of the Committee that those sections pertaining to small business export development should be deleted and the bill retitled accordingly to reflect these deletions.

The members of the Committee are in full agreement about the need to increase assistance to small businesses which are interested in exporting or in increasing the level of their exports. This interest is reflected in legislation which the Committee has considered in the past and in pending legislation, particularly S. 511, which was introduced by Senator Pearson and me and on which S. 1952, the predecessor to S. 2498, was based.

While we are in accord on the objective of S. 2498, we nevertheless had reservations about the manner in which this legislation would be implemented. Under a 1967 agreement, the Department of Commerce and the Small Business Administration cooperate on a program to promote exporting by small businesses. The SBA provides basic counseling services to potential exporters, while the Department of Commerce provides more detailed marketing services. Apparently this arrangement is satisfactory since hearings on S. 1952 uncovered no dissatisfaction within the small business community about this division of responsibility. Commerce Department programs are already heavily inclined towards small business according to figures provided to us at our request.

Enactment of Section 102 would compel the SBA to duplicate facilities already existing within the Department of Commerce at the cost of approximately $500,000 to $700,000, according to your Committee's estimates. In the absence of substantive complaints by the small business community about Commerce's performance, such an expenditure would appear to be unnecessary.

There also appears to be a technical problem in the language used in S. 2498. Specifically, the term "United States Export Association" was defined in S. 511 and hence was used as a word of art in that bill but, as used in line 18 of page 2 of S. 2498, it was not otherwise defined.

Because of the foregoing reasons, it was our view that sections 101 and 102 should be rejected. As Chairman of the Subcommittee on Foreign Commerce and Tourism, I would be pleased to work further with Senator Morgan to improve the exporting capability of small businesses in a manner to maximize efficiency and to minimize unnecessary expenditures.

Sincerely yours,
DANIEL K. INOUYE,
Chairman, Foreign Commerce and Tourism Committee.

PURPOSE AND DESCRIPTION OF COMMITTEE ACTION

The committee proposes to amend S. 2498 by deleting sections 101 and 102, retitling title I and renumbering sections 103 through 112 as sections 101 through 110.

The amendments would remove all provisions concerning Small Business Administration (SBA) export assistance to small business from the current bill.

BACKGROUND

The bill was referred to the Committee on Commerce with instructions to report back not later than December 1, 1975.

Section 102 of the bill would amend section 8 of the Small Business Act by establishing an Office of Export Development within the Small Business Administration. The Office would be headed by an Assistant Administrator for Export Development and would have the broad responsibility for assisting small business concerns which are interested in undertaking or expanding export activities. The program would specifically attempt to do the following: (1) provide export-related technical assistance; (2) survey and identify small businesses that possess underdeveloped export potential and that are interested in participating in joint export association activities; (3) obtain export related information from the private sector; and (4) conduct programs for the development of technical, professional, and managerial skills necessary for successful export activities.

Export activity in the United States has been concentrated primarily in large corporations. It has been estimated that only 4 percent of American business firms export. There are probably many more businesses which have the capacity to export or would like to expand the level of their current exports.

On November 13, 1967, the Small Business Administration and the Department of Commerce signed an agreement to cooperate on export promotion programs for small business. Under that agreement, which is still operative, the SBA provides basic export counseling services to small exporters and refers them to the Department of Commerce for continuing detailed, substantive marketing assistance.

The SBA and Commerce Department jointly sponsored a majority of the 96 export training programs conducted by the SBA in fiscal year 1975. A representative of the SBA sits on the President's Export Award Council, which is chaired by the Commerce Department. Finally, the SBA field offices use current Commerce Department publications to counsel small businesses interested in exporting.

The large majority of the firms participating in Commerce Department export promotion programs are small businessses. The Commerce Department estimates that only one of every four firms assisted by the Bureau of International Commerce is a big business. Commerce Department programs are already clearly oriented toward small and medium-sized businesses and new exporters. The hearings conducted by the Banking Committee did not reflect any complaints by small businessmen that the Commerce Department was too "big business" oriented or any suggestions that the Small Business Administration would be a more appropriate or more effective location for this function. Both agencies continue to support the 1967 agreement and oppose sections 101–102 of the subject bill.

Enactment of these sections would further require establishment of new facilities in the SBA which would duplicate existing Commerce Department programs. The Small Business Administration, in its comments to the Banking Committee, stated that it does not now have the expertise to conduct a full export program and that it believes this function is more properly performed by the Commerce Department.

Section 102 reflects, in part, legislation currently pending before the Commerce Committee. Section 102 utilizes terms which appear to require further defintion since similar terms are used as words of art in S. 511, as introduced and referred to the Commerce Committee.

For the reasons stated herein, the committee believes that sections 101–102 should be deleted as proposed in its amendments.

TEXT OF S. 2498, AS REPORTED

A bill to amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

TITLE I—SMALL BUSINESS DEVELOPMENT

TRANSFER OF DISASTER RELIEF AUTHORITY

SEC. 101. All authorities and functions of the Small Business Administration with respect to disaster loans under section 7(b) of the Small Business Act for the repair, rehabilitation, or replacement of real or personal property (other than real or personal property owned by business concerns) are transferred to the Secretary of Housing and Urban Development.

POLLUTION CONTROL

SEC. 102. (a) Section 403 of the Small Business Investment Act of 1958 is amended by striking out "$10,000,000" and inserting in lieu thereof "$25,000,000".

(b) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"POLLUTION CONTROL

"SEC. 404. (a) For purposes of this section, the term—

"(1) 'pollution control facilities' means such property (both real and personal) as the Administration in its discretion determines is likely to help reduce, abate, or control air or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

"(2) 'qualified contract' means a lease, sublease, loan agreement, entered into between a small business concern and any person.

"(b) Whenever the Administration determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of private financing thereof (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies) it may guarantee, upon such terms and conditions as the Administration may prescribe, either directly or in cooperation with a qualified surety company or other qualified company through a participation agreement with such company, the payment of rentals or other amounts due under qualified contracts, and any such guarantee shall be for the full amount of the payments due under such qualified contract. Any guarantee made by the Administration pursuant to this section shall be a full faith and credit obligation of the United States.

"(c) The Administration shall fix a uniform fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. The Administration may require that an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, be placed in escrow upon such terms and conditions as the Administration may prescribe.

"(d) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom the payments under qualified contracts are due.".

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

SEC. 103. (a) Section 303(b)(1) of the Small Business Investment Act of 1958 is amended:

(1) by striking out "200" and inserting in lieu thereof "300"; and

(2) by striking out the second sentence thereof.

(b) Section 303(b)(2) of such Act is amended—

(1) by striking out "300" and inserting in lieu thereof "400'; and

(2) by striking out the second sentence thereof.

(c) Section 303(c) of such Act is amended—

(1) by striking out "300" in clause (2)(iii) and inserting in lieu thereof "400"; and

(2) by striking out "200" where it appears in clauses (2)(iii) and (4) and inserting in lieu thereof "300".

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

SEC. 104. The last sentence of section 305(b) of the Small Business Investment Act of 1958 is repealed.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

SEC. 105. (a) Section 301(a) of the Small Business Investment Act of 1958 is amended—

(1) by inserting after "incorporated body" a comma and the following: "or a partnership, association, or other generally recognized business organization";

(2) by inserting "or otherwise existing" after "chartered";

(3) by inserting after "shareholders" a comma and the following: "partners, owners, or members,"; and

(4) by inserting "or by law" after "articles of incorporation",

(b) Subsection (b) of such section is amended by inserting after the phrase "articles of incorporation" the first time it appears the following: "(or the functionally equivalent or other similar documents specified by the Administration for other forms of business organizations (hereinafter referred to collectively as 'articles' or 'articles of incorporation'))".

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

SEC. 106. Section 302(b) of the Small Business Investment Act of 1958 is amended by striking out all that follows "upon the making of the acquisition", and inserting in lieu thereof the following: "the aggregate amount of shares in small business investment companies then held by the Bank would exceed 5 percent of its capital and surplus.".

LOANS FOR PLANT ACQUISITION

SEC. 107. (a) Section 502 of the Small Business Investment Act of 1958 is amended by inserting "acquisition," after "plant".

(b) Section 7(a)(4)(C) of the Small Business Act is amended to read as follows: "(C) no such loans including renewals and extensions thereof may be made for a period or periods exceeding ten years except that such portion of a loan made for the purpose of acquiring real property or constructing facilities may have a maturity of twenty years plus such additional period as is estimated may be required to complete such construction.".

ECONOMIC OPPORTUNITY LOAN LIMIT

Sec. 108. Section 7(i)(1) of the Small Business Act is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

LOCAL DEVELOPMENT COMPANY LOAN LIMIT

Sec. 109. Section 502(3) of the Small Business Investment Act of 1958 is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

REGULAR BUSINESS LOAN LIMIT

Sec. 110. Section 7(a)(4)(A) of the Small Business Act is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

TITLE II—NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

SHORT TITLE

Sec. 201. This title may be cited as the "National Commission on Small Business in America Act".

FINDING AND PURPOSE

Sec. 202. (a) On the eve of the Bicentennial anniversary of the American Revolution, the Congress recognizes the enormous contribution which small business has made toward improving the economic well-being of all Americans for over two hundred years.

(b) The Congress also recognizes that small business has the potential for making an equally large or larger contribution toward improving economic well-being both at home and abroad in years ahead.

(c) To insure that small business continues to have the opportunity to realize its full potential, it is the purpose of this title to establish a National Commission on Small Business in America to make a study and furnish recommendations to the President and the Congress with respect to small business.

ESTABLISHMENT; MEMBERSHIP

Sec. 203. There is established the National Commission on Small Business in America (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States. The Commission shall be composed of eleven members appointed by the President as follows:

(1) four individuals who are affiliated with small business concerns or who represent the interests of small business;

(2) three individuals who are affiliated with or who represent venture capital firms, small business investment companies, commercial banks, insurance companies, investment banking firms, or other comparable financial institutions involved in the financing of business;

(3) three individuals who have expertise in tax, regulatory, legal, economic, or financial matters, at least one of whom is a member of the academic community; and

(4) one individual from the public at large who shall be appointed by and with the advice and consent of the Senate and who shall be the Chairman of the Commission.

In addition, the Administrator of the Small Business Administration and the Director of the Office of Minority Business Enterprise shall be advisory members of the Commission, without a vote in any determination or decision of the Commission.

FUNCTIONS

Sec. 204. The functions of the Commission shall be—

(1) to examine the role of small business in the American economy and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) to assess the effectiveness of existing Federal subsidy and assistance programs for small businesses and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) to measure the direct costs and other effects of government regulation on small businesses; and make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulation of small businesses;

(4) to determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

(5) to study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) to recommend specific measures for creating an environment in which all businesses will have the opportunity to compete effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failure; and

(7) to determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

STAFF AND POWERS

Sec. 205. Subject to such rules and regulations as it may adopt, the Commission may——

(1) appoint, by and with the advice and consent of the Senate, and fix the compensation of an Executive Director at the rate provided for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the lowest rate for GS-15 of the General Schedule;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code; and

(3) hold hearings and sit and act at such times and places, as it may deem advisable.

ASSISTANCE OF GOVERNMENT AGENCIES

Sec. 206. Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission such reports and other information as the Commission deems necessary to carry out its functions under this Act.

COMPENSATION

Sec. 207. (a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) A member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate equal to the per diem equivalent of the rate for GS-18 of the General Schedule for each day he is engaged in the performance of his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

REPORTS

Sec. 208. The Commission may from time to time prepare and publish such reports as it deems appropriate. Not later than two years after the date of enactment of this title, the Commission shall transmit to the Congress and the President a full report containing its findings and specific recommendations with respect to each of the functions referred to in section 203, including specific legislative proposals and recommendations for administration or other action. Upon the submission of its final report, the Commission shall cease to exist.

AUTHORIZATION

Sec. 209. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Any sums so appropriated shall remain available until expended.

AGENCY COMMENTS

General Counsel of the
Department of Commerce,
Washington, D.C., November 18, 1975.

Hon. Warren G. Magnuson,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: This is in response to your request for the views of this Department on S. 2498, a bill to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

Title I, section 102 of S. 2498 would amend section 8 of the Small Business Act by establishing an Office of Export Development within the Small Business Administration. The Office would assist small business concerns which are interested in undertaking or expanding export activities, and would be directed to (1) provide export-related technical assistance, (2) survey and identify small businesses that possess underdeveloped export potential and are interested in participating in joint export association activities, (3) obtain export-related information from the private sector in order to identify products with export potential and for the development of export markets, and (4) conduct programs for the development of technical, professional, and managerial skills necessary for successful export activities.

Although the Department of Commerce supports the general goal of increasing the participation of small business concerns in exports from the United States, it opposes the enactment of title I, section 102 of S. 2498 in that the functions proposed for the Export Development Office would constitute an unnecessary duplication of many of the activities and programs of this Department's Office of Export Development in the Bureau of International Commerce (BIC). For example, such services as counseling small business concerns interested in exporting, providing technical assistance, and surveying and identifying firms having export potential are now part of BIC's export promotion programs.

Although BIC's programs are open to firms of all sizes, a great percentage of the users and beneficiaries of such programs are in fact, small and medium sized companies. For example, in fiscal year 1974, slightly over 7 percent of the U.S. firms which participated in the Bureau's overseas trade promotion programs, trade centers, trade fairs, and trade missions were in this category, and these firms received approximately 65 percent of all sales leads generated by such activities. It is estimated that only one out of every four firms served by BIC is really big business (i.e., over $50 million annual sales), and it is probable that the large majority of firms using BIC services are within the standard definition of small business in that they have less than 500 employees. The Bureau employs a variety of techniques designed to make small and medium sized firms aware of the potential for sales overseas and the services available to assist them. In fiscal year 1975, it undertook, through the Advertising Council, a national campaign which involved placing a series of advertisements in a wide variety of business publications. These ads focused on the theme that exports increased sales and jobs. BIC also directs an E and E Star Award program which affords recognition of an individual firm's efforts to increase its exports. Additionally, BIC maintains an extensive publication program to alert firms to the value of exporting and to provide them with valuable information ranging from the very general on how to export, to the specifics of the export market for particular commodities in markets throughout the world. These publications are particularly useful to small and medium sized firms. The Bureau's seminar program provides an opportunity for U.S. firms to obtain up-to-date information of foreign markets rich in export potential. During early fiscal year 1975, our series of nine seminars on "Doing Business in the Near East and North Africa" attracted over 2,000 participants. Many of these participating firms were small or medium sized.

BIC also has a variety of information and other assistance programs which are of benefit to small- and medium-sized firms in expanding their export efforts. Among these are counseling services; a data bank which contains information on the identity and product lines of potential customers abroad; reports which provide data on individual foreign firms (WTDR's); a program which assists U.S. firms in finding agents or distributors abroad (ADS), and a computerized system for rapid dissemination of export trade leads (TOP). In addition to these services, BIC conducts market research in a variety of product/market areas, the results of which are made available to businesses of all sizes.

Since the provisions of sections 103 through 112 of title I of S. 2498 would not significantly affect programs administered by this Department, we defer to the views of other Federal agencies more directly concerned with those sections of the bill.

The Department opposes title II of S. 2498, which would establish a National Commission on Small Business in America, as unnecessary and costly legislation which would basically serve to increase the number of Government study commissions.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the administration's program.

Sincerely,

RICHARD E. HULL,
(For General Counsel).

U.S. SMALL
BUSINESS ADMINISTRATION,
Washington, D.C., July 28, 1975.
Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Small Business Administration with respect to S. 1952, a bill to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, and for other purposes. The following comments on S. 1952 are structured on a sequential, section-by-section analysis.

Section 2 of the bill, entitled "The Small Business Export Development Program," amends section 8 of the Small Business Act by establishing an Office of Export Development to be headed by a separate Associate Administrator for Export Development. The Office is designed to assist and counsel all small businesses interested in developing their export activities by providing technical assistance and advice, by surveying and identifying small businesses which possess undeveloped export potential and by obtaining operating and other business information from all facets of the industry in order to develop a more effective small business export trade. The amendment proposes the establishment of programs which will assist small businesses to develop or improve the skills required in exporting and provides authority for the Small Business Administration to obtain from any other department or agency of the Federal Government all necessary information which would enable it to develop a more successful Office of Export Development.

Since the Department of Commerce already maintains programs which are available to assist all businesses interested in developing their export activities, we see no reason to establish a small business export development program or to create the position of Associate Administrator for Export Development. The activities described in the bill have always been included among the general responsibilities of SBA's Office of Management Assistance.

We are continuing to work with the U.S. Department of Commerce within the framework of the agreement signed by the two agencies on November 13, 1967. For example, we have jointly sponsored a majority of the 96 export training programs conducted by SBA during fiscal year 1975. We continue to receive export trade information and publications from the Commerce Department which are used by SBA's Central Office and field staff to counsel current and potential small business exporters. A representative of SBA is a member of the President's Export Award Committee, chaired by the Department of Commerce. SBA provides basic export counseling services to small exporters and refers them to the Department of Commerce for continuing in-depth, substantive assistance.

The agency will continue to provide assistance in this area, primarily through our volunteer counseling and training programs, and we will continue to direct small businesses to the other sources of Federal assistance. We do not hold ourselves out as having the expertise to conduct a full export program. This function is more properly performed by the Commerce Department.

Section 3 entitled "Eximbank Credit for Small Business," amends section 7(a) of the Export-Import Bank Act of 1945 by providing that not less than $5 million in loans guarantees, or insurances shall be provided to finance exports by small business concerns. While the temptation is great to endorse any proposal which will provide additional resources to small business, we believe that SBA has sufficient funds to meet the financial needs of small exporters.

Section 4, "Transfer of Disaster Relief Authority," would, in section 4(1), amend section 7(b) of the Small Business Act to transfer any SBA authority or function which relates to disaster loans to business concerns other than small-business concerns to the Secretary of Commerce. Section 4(2) of the proposed bill would transfer any SBA authority or function which relates to disaster loans to persons other than business concerns to the Secretary of Housing and Urban Development. Any such authority or function with respect to such loans (A) in the areas subject to the authority of the Secretary of Agriculure under title V of the Housing Act of 1949, or (B) to owners of farms, is transferred to the Secretary of Agriculture. SBA would maintain the authority to administer disaster loans to small business concerns.

We are opposed to this section. The SBA has supported legislation which would consolidate responsibility authority and accountability for all disaster programs in one agency. S. 1952 would in contrast add two new agencies—Commerce and HUD—to the two agencies already responsible for disaster loan activities—SBA (business loans) and the Department of Agriculture (farm loans). This would further fragment and complicate responsibility for Federal disaster assistance.

In light of the Committee's interest, the Administration will be studying alternatives for improving the coordination of disaster loan programs, including consideration of the need for any statutory changes. We will be participating in this review.

Section 5, "Pollution Control," incorporates H.R. 16279, 93d Congress, second session, with a minor deletion and H.R. 78 of the present session of Congress.

Section 5 would authorize SBA to guarantee, either directly or in cooperation with a qualified surety company or other qualified company through a participation agreement with such company, the full payment of rentals or other amounts (e.g., purchase price) due under "qualified contracts," where SBA determines that small business concerns are, or are likely to be, at an operating or financing disadvantage with other business concerns with respect to the planning, design or installation of "pollution control facilities," or the obtaining of private financing therefor.

Section 5 further provides that SBA shall fix a uniform fee which it deems reasonable and necessary for any guarantee issued, to be payable at such time and under such conditions as may be determined by SBA. The fee would be subject to periodic review in order that the lowest fee that experience of the program showed to be justified would be placed in effect. SBA would also be permitted a uniform fee for processing applications. Further SBA may require that an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued, be placed in escrow upon such terms and conditions as SBA may prescribe.

Acting in our role as the small business advocate, we are obliged to point out the favorable views on section 5 of a concerned segment of the small business community.

Forty-eight States have enacted legislation to accommodate pollution control financing through the issuance of industrial revenue bonds (IRB's) which are tax exempt as to interest received by the holders of the bonds. Considerable use has been made of this type of financing by large corporations and utilities. A small segment of the business community has expressed a need for this type of financing. The present State and local government legislation providing industrial revenue bond financing do not exclude participation by small business. In fact, the State of Illinois Industrial Pollution Control Financing Authority has a fiscal year 1976 bonding authorization of $250 million, of which $75 million is specifically allocated to finance pollution control facilities for small business.

However, small businesses lack both market and credit recognition, which effectively bars them from obtaining tax-exempt pollution control bonds in the central marketplace. This increases the competitive disadvantage under which small business operates by putting the large, well-known firm in a position to receive low-interest, long-term financing, while the small operator is restricted to short-term bank loans and higher interest rates. Thus, the affected segment of the small business community favorably views section 5 as a method to provide needed financing to small firms that is presently unavailable to them.

The administration has consistently maintained a Federal credit policy which opposes the Federal guarantee or support of tax-exempt financing. The administration policy on this method of financing is firm for the following reasons:

First, the subsidy provided by the guarantee of tax-exempt financing is highly inefficient and costly for Federal, State and local governments. Federal taxes on interest income are forgone when tax-exempt bonds are used instead of taxable securities. State and local taxes are forgone because of the exemption of such bonds from many of the States' income, personal property, and certain other property taxes. These lost tax revenues exceed the benefits to the borrowers obtained through lower interest rates on tax-exempt borrowing; the difference represents subsidies to the high-income investors who are clearly unintended beneficiaries.

Second, this type of financing would contribute to the erosion of the value of tax exemption for State and local governments. Federal guarantees, as proposed under section 5, will make these issues preferred to any other issues using tax-exempt financing. Failure to constrain such use of the guarantee may threaten the structure of the tax-exempt market. For example, an increased supply of Federal guaranteed tax-exempt bonds would certainly increase the borrowing costs to issuers of traditional nonguaranteed State and local bonds which are essential to finance basic public works and schools. Congress has shared this concern with this type of financing, as is evidenced by the recent passage of at least 12 statutes to preclude such guarantees of tax-exempt financing.

The administration is opposed to legislation which would authorize the guarantee of tax-exempt financing for private purposes. The administration has held to this policy in at least eight new programs in the last 5 years, and the policy is being implemented administratively in agency programs where the issues have been raised. It is suggested that both the Congress and the administration should explore other less costly and more efficient ways to provide pollution control financing to small businesses.

Section 6 through 9 of S. 1952, which contain the SBIC portion of the bill, attempts to carry out several objectives which SBA supports. However, we feel that there is a need for other changes in the SBIC authorities. It is recommended that the Congress defer action on these changes until we have had an opportunity to propose some specific changes.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

THOMAS S. KLEPPE,
Administrator.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. NELSON. I yield to the Senator from Maryland.

Mr. BEALL. Mr. President, I ask unanimous consent that Maurice White, of my staff, have the privilege of the floor during the debate on this measure.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. NELSON. Mr. President, the amendment offered by the Senator from New York (Mr. JAVITS), and myself, is of enormous importance to the Nation's farmers and also to every small business concern that has suffered economic injury as the result of utility curtailments.

The first part of the amendment would add to the pending bill (S. 2498) a new section 113, which is the provision vital to the Nation's agricultural small businesses. This provision, incidentally, has already passed the House, on October 6, as title I of H.R. 9056.

The new section is badly needed because small farmers are currently excluded from SBA's assistance programs and they find that the financial assistance available to them under various farm credit programs is inadequate in a number of respects. SBA loans, on the other hand, with their more favorable rates, terms and limits would be of significant value in maintaining the competitive position of the beleagured family farmer, particularly when he is faced with such heavy burdens as complying with the Water Pollution Control Act.

The second part of the amendment would add to the bill a new section 114, which is the provision that would give much-needed assistance to those members of the small business community who have suffered economic injury as a result of the curtailment of essential utility services. This provision has also passed the House, on June 17, as H.R. 4888.

While I support both provisions, as they have been modified by the Senator from New York to remove the retroactivity feature in section 114 (H.R. 4888), I am especially interested in the first provision, section 113 (H.R. 9056, title I). It is to that provision that these remarks are addressed.

REVERSING SBA'S ADMINISTRATIVE DECISION

Proposed new section 113 would make it the policy of the Congress that the Small Business Administration make all of its programs, and especially its financial assistance programs, available to the Nation's producers of food and fiber who are otherwise eligible as small business concerns. This would require the SBA to change its present regulations which, by administrative action, deny to almost all small business concerns that are farmers or are in most other agricultural occupations the benefits available to other small businesses.

The Small Business Act, as amended by Congress, does not exclude farmers. Logically, there seems to be no reason why they should be excluded. However, the SBA, by administrative action, has refused assistance to farmers, ranchers, and virtually all other agriculture-related industries.

This amendment is needed also because small farmers find that loan programs available to them under farm credit programs are inadequate in a number of respects. SBA loans, with their more favorable rates, terms and limits on the other hand, would be of significant value in maintaining the competitive position of the small farmers, particularly when he is faced with meeting the heavy burden of complying with such Federal regulations as the Water Pollution Control Act.

The Small Business Act defines a small business as one which "is independently owned and operated and which is not dominant in its field of operation." There is no sector of the American economy in which businesses fitting this definition play as vital and important a role as in agriculture.

It is ironic therefore, that this crucial segment of the small business community is denied financial assistance from the Small Business Administration that may be critically necessary, at a minimum, to meet Federal regulations and in some cases, for the survival of such farms.

The exclusion of small farms is not found in the Small Business Act (15 U.S.C. 631). Congress did not act to preclude such assistance. Rather, the SBA administratively, in its Regulations on Business Loan Policy, has declared this policy. (13 CFR part 120.2(d)(9); part 123.2(a)(2); and part 123.2(b)).

ROLE OF THE FMHA

Although the Farmers Home Administration exists as a part of the Department of Agriculture, the small farmer often cannot qualify for the loans made by this agency, and even if he does, the loan limits may be so restrictive that an FmHA loan would not do him any good.

About 95 percent of our almost 3 million farms are owned and operated by families. This system has been the basis for the most productive agriculture in the world. Housewives in America must spend a smaller proportion of family income on food than anywhere else in the world. Family agriculture is the most efficient unit of food production. Other nations are trying to learn our secret and to imitate it. The secret is the free private enterprise system.

Moreover, a system of small farms provides the basis for thriving rural communities, themselves based on small businesses. When small farms disappear, small businesses dependent on them close. When the small farmer must leave the farm for the city, the quality of life in both small and big cities further declines, as the towns become depleted and the cities become even more overcrowded.

Therefore, it has become a national problem that the small farmer is in trouble. Over the past 25 years, the number of farms has been cut in half, from 5.6 million in 1950 to 2.8 million in 1974. The remaining farms have gotten larger—from an average of 213 acres in 1950 to 385 acres in 1974. Now, the biggest 4 percent of the farms accounts for over one-third of all agricultural production.

By 1980, it has been estimated that this group will account for over half of all production. If these trends were solely a product of the open market, and promised a more efficient system of agriculture, they would not be quite so disturbing. The fact is, however, that the small farmer, who can be equally, or even more efficient, than his larger competitor, has been the victim of numerous Government policies that place him at a serious competitive disadvantage with respect to the large farmer. It is unconscionable that we should perpetuate such disadvantages.

This amendment would therefore take

a step toward correcting one aspect of this situation by allowing the small farmer to qualify for SBA loans when his alternatives are either absent or unrealistic.

It is the SBA's contention, however, that the problems of small farmers do not come within its jurisdiction, but rather should be handled by the Agriculture Department. The Agriculture Department was established over 100 years ago, and when the SBA was created in 1953, several farm loan programs were already operating. The SBA's reluctance to undertake agricultural lending is understandable in this context.

However, an analysis of Farmers Home Administration programs reveals that they do not constitute a reasonable alternative to SBA loans, especially in the area of complying with pollution requirements.

Let us then take a close look at the current farm loan programs:

Farm ownership loans usually needed for the enlargement or improvement of farms provide low rates, but present a number of problems. First, these funds are not solely available for water pollution abatement. Second, they cannot be loaned to any farmer whose total indebtedness, including the loan, will exceed $225,000, a limitation that excludes a great many farmers. Third, they are only available for family farms, defined as units operated by no more than a single family and one hired worker. This limitation excludes a large number of farms that by most other definitions would be considered as small businesses. Finally, the loans have a $100,000 limit, compared to the SBA's current $350,000 limit and $500,000 limit for pollution abatement. The comparative advantage of SBA loans will be even greater if this bill (S. 2498) passes and raises the limit to $500,000 for all loans.

Business and individual loans have market interest rates, around 10½ percent, and a 15-year term. This compares very unfavorably with SBA loans available for water pollution, for instance, at 6⅝ percent for 30 years.

Operating loans are much too short, 7 years at 8.75 percent, to be useful or practical.

Soil and water conservation loans, while having low rates, also have the $225,000 indebtedness limit and do not apply to pollution from buildings which are the source of most of the wastes that cause the pollution. They also have a $100,000 limit. In any event, this is a very minor program and would not approach meeting the needed funds. There also has been some difficulty in getting these funds released.

In sum, FmHA programs are simply not adequate, particularly in cleaning up sources of pollution under short-term Federal deadlines. Many small farmers are simply excluded altogether. Those who are not will all too frequently find that FmHA loans—especially compared to those of the SBA—are very unfavorable with respect to rates, terms or limits. Finally, in areas such as pollution abatement, the available funds are overly restricted in their terms of use and are so limited as to be unable even to meet a fraction of the need. As a result, small farmers may be driven out of business trying to meet Federal regulations.

Recognizing the problem of requiring compliance with new Federal standards under short-term deadlines, Congress has amended section 7(b) of the Small Business Act in an effort to prevent its regulatory statutes from putting enterprises out of business.

The SBA has also contended that farmers are also adequately covered by agriculture price support programs, and thus do not need SBA programs. But, in fact, these payments are negligible or nonexistent for most small farmers. Moreover, manufacturers and marketers receiving similar Federal price supports are not disqualified from SBA financial assistance.

While dairy farmers are especially vulnerable, various other agricultural small businesses are likewise affected including the nurseries and hog and cattle producers who feed their own livestock.

The amendment before us today, Mr. President, aims at removing what amounts to discrimination against food and fiber producers. It would make available to these farm businesses the assistance which Congress has placed in the Small Business Act, and which now can benefit other small businesses. Small business food and fiber producers must comply with the same regulatory statutes. They are suffering from the devastating inflation and the same recession and are equally fighting for survival. They should be entitled to the same help.

If efficient small and family farmers close up shop and quit production, they will never be able to afford the cost of reentering. With the capital costs of farming so high, few young people can afford to enter farming. SBA financing of change and of compliance with Federal standards is therefore important to preserving the family farm pattern of American agriculture.

The small farms of this country are already an "endangered species," and everything possible should be done to preserve and energize this vital segment of our society. They should not be allowed to perish from unfortunate and misdirected Government policies.

This amendment would give a measure of aid to the individual farmer, the family farmer to enable him to stay on the land and continue to produce the food and fiber which is so necessary to our economic prosperity, and the self-reliant, independent institutions of this country.

Mr. President, this is a simple, straightforward amendment adopted by the House, which states that all those provisions in the Small Business Act that apply to small business will also apply to all farmers who meet the standards of a small business under the act.

The statute, when it was passed, did not eliminate the farmers from the benefits of the Small Business Act. It was done by administrative regulation and practice.

One of the main provisions, then, would make farmers eligible for loans from the Small Business Administration in order to build the structures that may be required to control agricultural pollution runoff when ordered to do so by the Environmental Protection Agency. I discussed this specific aspect of the amendment with the distinguished chairman of the Committee on Agriculture and Forestry, Senator TALMADGE, because this is an agricultural problem, so that committee would have an interest in it. Senator TALMADGE authorized me to say on the floor of the Senate that he has no objection to that aspect of the amendment, because there is not sufficient money in the FmHA program for loans for this purpose.

This adds nothing to the appropriations and adds nothing to the authorization of the Agency. One was adopted by the Congress several years ago making loans available to small business who had to meet pollution control regulations. It has an authorization of $800 million. It was my amendment. I had assumed that in making these loans available to all small businesses, the Small Business Administration would make it available to agriculture, but by their regulations, they did not.

I will conclude my remarks by pointing out that the National Milk Producers Federation endorses the amendment, as well as the National Federation of Independent Business, the National Farmers' Union, and the National Farmers Organization.

I ask unanimous consent that a statement by the National Milk Producers Federation be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

DECEMBER 12, 1975.

MEMORANDUM

To: Senate Select Committee on Small Business.

From: National Milk Producers Federation.

Subject: Nelson amendment to S. 2498.

The House has passed H.R. 9056 which requires the Small Business Administration to make loans available to farmers and ranchers.

It is now imperative that the Senate adopt an amendment to S. 2498 which would require SBA to make loans available to farmers for pollution control practices.

Currently, the financial assistance available to farmers for these purposes is very limited. Under the Farmers Home Administration (FHA), the limited amount of funds available and the eligibility qualification requirements limit the extension of credit to those who cannot obtain credit from other sources. Under the Agriculture and Stabilization and Conservation Program (ACP), many requests for cost-share assistance cannot be approved due to a lack of Federal funds which will adequately satisfy a substantial increase in requests for approved practices, particularly those practices designed to meet animal waste runoff pollution requirements imposed upon smaller dairymen by new EPA regulations. The legal maximum cost-share payment limitation cannot exceed $2,500, but many states and counties have had to impose payment limitation restrictions ranging as low as $700 to $900. Cost-share assistance in many states are running three to one, compared with approved payments. In Wisconsin, for example, cost associated with meeting EPA pollution control requirements on smaller dairy farms will range between $3,000 and $10,000 depending on individual site conditions and requirements. For 1973, cost-share payments in Wisconsin amounted to $572,000, representing 460 producers or $1,233 per producer.

The new proposed EPA Concentrated Animal Feeding Operation regulations will impact upon selected smaller dairymen who own milking and dairy housing facilities with open lot areas transversed by a stream or discharge rainwater runoff wastes directly to a stream through man-made structures. This will have a significant economic impact upon approximately 10 percent of all dairymen in the Upper Midwest based on survey results of the National Milk Producers Federation. Without additional assistance in the form of loans from the Small Business Administration, many of the above mentioned dairymen will be forced to either relocate their operation at great expense, install the necessary pollution control practices at great expense, or go out of the dairy farming business.

In order to meet what amounts to a "no discharge" standard by 1983 imposed by EPA upon point sources of discharge in the concentrated animal feeding operation category, high overhead cost of pollution control will be incurred by many more smaller dairymen.

In 1974, there were approximately 52,000 dairy farms in Wisconsin. If 10 percent of these dairymen were forced into the EPA point source permit program, substantially more assistance in the form of low interest rate-long term loans will be required, for the dairyman cannot pass the high overhead cost of pollution control on to the consumer by raising food prices over the short term. The average size dairy farm in Wisconsin is 188 acres supporting a milking herd of 32 cows.

National Milk Producers Federation Supplemental Statement: Rural Environmental Assistance Program—REAP

The Rural Environmental Assistance Program should receive a much higher priority in 1973 to restore appropriations for this program to the original appropriation of $500 million authorized by Congress in 1936. At the very minimum, an additional $200 million should be authorized over and above last year's appropriation level of $195.5 million.

More cost-sharing assistance is urgently needed to assist farmers and dairymen who have indicated a readiness to match substantially more cost-sharing funds than have been provided during 1971 and 1972.

The major problem with the existing program is a lack of Federal funds which will adequately satisfy a substantial increase in requests for approved practices, especially those practices designed primarily for management of animal wastes to prevent or reduce pollution of water, land or air.

Lack of Federal funds for such practices prevent the national payment limitation of $2500 from being increased to $5000. A $5000 minimum payment limitation is urgently needed to bring cost-share payments in line with the bare minimum costs now being experienced by many dairymen for the following reasons. Many of the figures and data referenced have been provided by the U.S. Department of Agriculture, ASCS, Conservation and Land Use Programs Division.

(1) Cost associated with pollution control on dairy farms will range between $4000 and $20 000 depending on individual site conditions and requirements. Individual costs in some cases can be expected to exceed $20,000.

(2) Estimated cost for runoff control facilities for large herds numbering over 100 cows will range between $8,000 and $20,000 with the majority of costs averaging $10,000 to $12,000 dollars (see attached memorandum from U.S. Department of Agriculture).

(3) A 50 percent cost-share basis applied to a minimum cost of $8,000 would provide a $4,000 cost-share payment, a level far in excess of the legal national payment limitation of $2,500.

Current payments for animal waste pollution abatement practices based on 1971 U.S. Department of Agriculture figures for a 15-state area shows an average cost-share of only $1,414 per farmer.

(4) Due to lack of funds, many requests for cost-share assistance cannot be processed. Many states and counties have had to impose payment limitation restrictions ranging as low as $700 to $900. Current requests for cost-share assistance in many states are running three to one, compared with approved payments.

(5) The percentage of total U.S. REAP cost-share earned for animal waste practices continues to increase from 0.73% in 1970 to 3.15% in 1971 to an estimated 5 plus percent in 1972.

(6) Higher cost is a strong deterrent to completion of project requests which have received cost-share approvals; 71% of projects costing under $5,000 were complete in 1970 while only 46% of approved projects which cost $5,000 or more were completed.

(7) High cost of pollution control facilities cannot be passed on to the consumer by raising food prices over the short term, but high cost associated with meeting pollution control regulations will ultimately have to be borne by the consumer in the form of higher food costs unless farmers receive adequate cost-sharing assistance.

For the above reasons, the National Milk Producers Federation is recommending that 1973 REAP appropriations be expanded by at least an additional $200 mililon per year over current REAP funding.

In making such a recommendation for an additional $200 million per year, $25 million should be earmarked for technical assistance and research, and $175 million for cost-sharing practices designed primarily for management of animal wastes to prevent or reduce pollution of water, land or air.

Mr. NELSON. Mr. President, I ask unanimous consent that an editorial published in a very fine Wisconsin newspaper, the Medford Star News, on this subject, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Farming a Business

Every farmer knows how he has to sharpen his pencil to figure out his costs against income in order to eke out a living. He knows that it takes a lot more than just working the land and milking cows.

Finally others are recognizing the fact that farming is a business and a complicated one. If legislation introduced recently in the U.S. Senate is approved, farmers would become eligible for low interest loans or loan guarantees from the Small Business Administration to finance pollution abatement equipment to treat runoff from animal feeding operations.

The measure, if passed, would extend SBA opportunities equal to both small businesses and farms. Sponsors of the amendment to the Small Business Act are Sen. Gaylord Nelson, Democrat, Wisconsin, and Sen. Jacob Javits, Republican, New York. Nelson is chairman of the senate small business committee and Javits is ranking minority member.

The amendment would aid farmers who are said to be so-called "point sources" of pollution from runoff from feeding lots into streams. These farmers, under regulations being prepared by the environmental protection agency (EPA) under a federal court order, would have to install treatment equipment. Loans and guarantees also would be available to farmers who voluntarily wish to install equipment.

Presently the SBA has authority to make direct loans for pollution abatement equipment to various small businesses, but not farmers. The SBA can loan up to $500,000 at 6.58 percent interest over 30 years.

"Financial assistance like this should be made available to any type of small business," Sen. Nelson said, "whether it produces edible products, durable goods or software. There should be no distinction, for example, between the small businessman who produces the raw material for cheese (the farmer) and the man who processes the cheese (the cheese plant operator), or the man who sells the cheese (the grocery store operator). Of these three, only the farmer is denied SBA financial assistance."

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. I yield myself such time as I may use.

Mr. President, the amendment offered by the distinguished Senator from New York and the distinguished Senator from Wisconsin embodies, to my mind, two entirely different proposals.

The portion discussed primarily by the the Senator from New York regarding those small businesses that may have been damaged because of interruption of utility services was offered in the committee, was submitted to the subcommittee and to the full committee, and was considered and debated there and rejected. I will defer discussion of that portion of the amendment momentarily, and then I will yield to the Senator from Utah.

Mr. JAVITS. Mr. President, will the Senator yield so that we can get the yeas and nays?

Mr. MORGAN. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that if the amendment is divided, the yeas and nays may be granted on one showing of hands for both parts. I ask for the yeas and nays.

Mr. NELSON. Mr. President, I did not hear the request of the Senator.

Mr. JAVITS. Simply that if a division of the amendment is demanded, the yeas and nays may apply to both parts.

Mr. NELSON. Will the Senator agree that the votes be cast back to back?

Mr. JAVITS. Yes; also passage, if the manager is agreeable, so that Members can come in and do it all at once.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. MORGAN. Yes, I yield.

Mr. NELSON. If we have two rollcalls, we will have them back to back. May I ask unanimous consent for a 10-minute time limitation?

Mr. BURDICK. Mr. President, there may be a fourth. We have another amendment pending.

Mr. MORGAN. Mr. President, I have no objection to all of them being back to back.

Mr. TOWER. Reserving the right to object on the 10-minute request, I think the leadership should be consulted on that before we make such a request.

Mr. NELSON. I thought that was the role of the Senator from Texas?

Mr. TOWER. That is one I owe the Senator from Wisconsin.

Mr. MORGAN. Mr. President, for the time being, we will enter an objection to the 10-minute rollcall until we have time to consult the leadership.

The PRESIDING OFFICER. Objection on that is heard.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

May we have order, please?

Mr. MORGAN. Mr. President, it now appears that we shall have at least three rollcalls, and possibly four. I ask unanimous consent that the first rollcall be a 15-minute rollcall and that the following rollcalls be back to back and be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

As the Chair understands the request, we do not know exactly how many rollcall votes will occur because of pending amendments, is that correct?

Mr. MORGAN. That is correct. Possibly three or four, whatever they are.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I desire to address my remarks for the moment to that portion of the amendment which will bring into the Small Business Administration small farmers and small ranchers. Mr. President, I feel especially qualified, in one of the few cases in which I do feel qualified, to discuss this area, because I am a small farmer and have always been. The intent and the ultimate purpose of this amendment certainly pleases me no end, for I might possibly be eligible for some loans under the provisions. The difficulty is, Mr. President, that the provisions of this part of the amendment have never been considered by the Committee on Banking. In addition to that, that part of the amendment brings into the Small Business Administration an area that, in the past, has been uniquely a part of another department.

The Committee on Agriculture and the Department of Agriculture have, historically, been involved and been concerned with the farmers and the ranchers. I think, first of all, that it is extremely unwise to bring up an amendment that would violate this division of responsibility that has existed for so long on the floor of the Senate without its having ever been considered by the Committee on Agriculture nor the Committee on Banking, which has dealt historically with small business.

There are some other important points that I think should be made, Mr. President. The amount of money needed by dairy farmers to meet the requirements of the Federal Water Pollution Control Act of 1972 is estimated at $500 million. This is more than all of the direct loan funds that are available to the Small Business Administration in 1975. Funds ing is inadequate to meet the need of the entities that are already available for assistance through the Small Business Act. What I think we would do, just with regard to dairy farmers, would be to spread the resources that we have so thin that there would actually be little or no assistance to any particular group.

Second, Mr. President, farmers are eligible now for loans to meet pollution control requirements under three programs with the Department of Agriculture. In one case, there is no provision for a reduced interest rate, nor is there any guarantee for the term of the loan.

In the two others, the Secretary has not requested funding, nor has Congress appropriated funds against an established authorization. However, the logical solution to the problem is not to place responsibility with the Small Business Administration for programs that have already been authorized in Agriculture. The answer is to insure that assistance is forthcoming from the Department of Agriculture.

Another reason that I think we should defeat this amendment, especially that part relating to agriculture, is that the small farmer and rancher amendment raises a very serious question, which was touched upon by the distinguished Senator from New York, as to whether or not the Small Business Administration should offer financial assistance to price-supported products. The Government is already involved very heavily there.

Then there is an important distinction between business matters and agricultural, or farming, matters, which I think should not be eliminated. The separation, as I mentioned, of authority between SBA and the Department of Agriculture has resulted in far better service to the farmer, and I think we should retain it.

Making farmers eligible for SBA loans could set a precedent of allowing comparison shopping among Federal agencies, since the farmers are already eligible for assistance with the Department of Agriculture.

First, under the farm ownership loan program, FHA may provide a direct loan of up to $100,000 at 5 percent interest for up to 40 years. However, these loans are available for other than satisfaction of water pollution control requirements.

Second, under the business and industrial loan program, FHA may guarantee bank loans for machinery and equipment and up to 10.5 percent for up to 15 years. While 10.5 percent may sound like an extremely high amount, when we consider the cost of interest for that type of equipment and machinery available in regular commercial lending institutions, that is a very reasonable interest rate.

Third, under the operating loan program, FHA may provide direct loans of up to $50,000 at 8.75 percent for up to 7 years. Then, under a soil and water conservation loan program, FHA may provide an insured loan of up to $100,000 for up to 40 years.

In addition to those, I would say, Mr. President, if I were in need of a loan back in North Carolina, which I quite frequently am, I usually go down to the local Production Credit Association, where my father borrowed money long before I ever got into the farming business and where I borrow money regularly for machinery and for other equipment necessary to operate the farm.

Then, if I need some money for a longer period of time than the Production Credit Association can make, I make application to the Federal Land Bank. So it seems to me, Mr. President, the one area that has, probably, more coverage or more areas available to them than small businesses is the small farmer and the small rancher.

The Small Business Act prohibits regular loan assistance from SBA to an applicant unless the financial assistance applied for is not otherwise available on reasonable terms. This has been interpreted to include financial assistance from Federal agencies. So I think it would have very little effect but, nevertheless, I think would create a problem for SBA.

Section 10 of the Small Business Act requires that SBA shall not duplicate the work or activity of any other Federal department or agency without specific authorization in the Small Business Act.

The Department of Agriculture already assists farmers and ranchers and, Mr. President, if I know any amendment that should not, in my opinion, be attached to this bill and any program that should not be added to the SBA program without adequate hearings, especially by the Committee on Agriculture, it would be this part of the amendment.

So I urge the entire amendment be defeated, and especially this part.

Mr. President, I now yield to the Senator from Utah to discuss the second provision of this amendment.

Mr. GARN. Mr. President, I yield a few minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I concur with what has been said by the distinguished Senator from North Carolina.

I once took a course in economics in England, and I remember the first thing the professor said was—of course, I wish the British had learned this lesson well—the first thing he said was you cannot get more than a pint out of a pint pot.

There is a limit to the amount of funds that SBA has to operate with. It was designed primarily for small business, not for the agricultural community. Ninety-five percent of the businesses in this country are small businesses.

There are over 2.8 million farms in the United States, and it is estimated if this amendment passed there would be an additional 2.7 million units that might be potential constituent beneficiaries of SBA loans. I really wonder if there is enough in the pot to handle that. The Senator from North Carolina has suggested this comes within the purview of the responsibilities of the Department of Agriculture.

If the Department of Agriculture is not doing its job the Committee on Agriculture had better look at them and make sure certain remedial legislation is passed to make the Department of Agriculture more responsive to the needs of the agricultural community.

We have not held hearings on this in the Senate, to my knowledge. I would ask the chairman and the ranking member if anything has been said in terms of hearings, so we certainly should not proceed along this line without extensive hearings and, therefore, I hope the Senate will heed the admonition of the distinguished Senator from North Carolina. I believe that we should have hearings on this matter before final adoption. It is in this spirit that I feel reluctant to support this amendment.

Mr. GARN. In answer to the Senator from Texas, I repeat that no hearings were held on the agricultural portion. We did hold hearings on the public utility portion, and this was rejected unanimously in the subcommittee and, I think, there was one dissenting vote in the full committee to defeat this amendment.

Concerning the utilities section, small businesses which would be made eligible for disaster loans through this legislation are already eligible for direct loans at the same rate of interest and maturity. For example, as of July 18, 1975, SBA had already approved loans to small concerns suffering from the fire in the American Telephone & Telegraph building in Manhattan in the amount of $1,802,000.

The universe created by these measures is very broad and could involve SBA in making loans to any small concern able to demonstrate economic injury as a result of intentional or unintentional public utility service disruption. It would simply make the Federal Government an insurer against interruption of public utility services to small businesses.

The primary justification for the legislation was that it would provide a small business affected by public utility disruptions with another possible source of assistance from the disaster loan fund. However, it does not simultaneously make more funds available.

The point the Senator from Texas just made as far as the agricultural portion also applies to the public utility portion. Therefore, the result would be a greater demand for the same amount of money. There are already seven categories in the disaster loan program. This legislation will add an eighth to the disadvantage of those entities whose eligibility has already been established.

The 1976 direct loan authorization, $109.5 million in the appropriation bill, H.R. 8121, which is currently in conference, is $500,000 less than was authorized in 1975. So the pint is even smaller this year than it was last, but we are going to ask that a great deal more entities be taking part in that pot.

The $100 million appropriated for disaster loans is $13.6 million less than the amount authorized for nonphysical disaster loans in 1975.

The point is that the total amount of the funds being made available to small businesses in both programs is declining, and shifting eligibilities is an inconsequential benefit to those who are already involved. So again the pint is maybe half a pint, getting less and less funds and asking a great deal more to be included.

The definition of disaster can be very broad, covering the effect of almost anything from a hurricane to Federal regulations. If this fiscal shuffle is taken to the extreme almost every small business eligible for a direct loan could also be made eligible for a disaster loan, making the existence of two separate funds meaningless. It is a backward attack on a substantial problem, the lack of sufficient funds to meet all the small business assistance needs. There is not nearly enough adequacy of funds for the present programs, let alone adding the $2.7 million for farmers and untold disruptions from utility problems and other nonphysical disasters that the distinguished Senator from New York has mentioned.

So I would encourage my colleagues to reject this amendment as it was rejected by the Subcommittee on Small Business and the full Banking Committee.

I reserve the remainder of my time.

Mr. JAVITS and Mr. MONDALE addressed the Chair.

Mr. JAVITS. I yield to the Senator.

Mr. MONDALE. I asked for recognition for the purpose of calling up an amendment, but I think the Senator from New York was seeking recognition first, and I will yield the floor.

Mr. JAVITS. Mr. President, I am anxious to get through with this.

I think the arguments have been very clearly made on both sides, but I would just like to answer one or two of the arguments made as to that particular portion of the bill to which I devoted the most time in my presentation.

The point has been made that the District Office of the SBA in New York loaned $1.8 million as a result of a fire. Now, we just happened to have a lucky break there in that direct loan money was available in that office after the New York fire, but even it was not adequate, and a number of businesses collapsed as a result.

The reason why we seek the opportunity to apply to the disaster loan fund is because that is kept replenished by Congress. It is a revolving fund and, therefore, has much greater availability and accessibility and in the case of utilities this is a very, very serious crunch that comes very suddenly, is a disaster and, therefore, needs to be treated as a disaster.

Finally, Mr. President, I wish to make it clear it is the result of experience. After all, the other eight nonphysical disaster provisions in the law resulted also from experience, and this one results from experience, and we have recapitulated to the Senate a number of instances in various States indicating why such a provision is necessary, ranging all the way from the disaster which struck in New York when a telephone central was burned up to a situation where natural gas supplies—and those natural gas supplies are likely to go the same route this very winter—were turned off plunging a number of small businesses into a disastrous situation.

Mr. President, I wish to emphasize that all the small businesses will have to meet all the tests which everybody meets. It is just a question of making them eligible and, I believe, this kind of a disaster is just as much a disaster as a typhoon or a tidal wave or some other form of natural disaster which hits, bringing the disaster relief law into operation.

The best argument remains the fact we have created eight other eligible categories and, I believe, the case is very strong for this as the ninth.

Finally, Mr. President, the Senator told us this seemed to be a very generalized opinion in the committee, with only one exception. I wish to point out that in the other body, Mr. President, this particular provisions was passed on a suspension of the rules which carries a two-thirds vote, so men's minds are by no means unanimous on the issue, and I hope the Senate will, therefore, include this amendment in the bill.

Now, Mr. President, I yield such time, if I may have the attention of the Senator from Wisconsin (Mr. NELSON)——

Mr. NELSON. I beg the Senator's pardon.

Mr. JAVITS. I yield such time as the Senator desires to reply to Senator MORGAN.

Mr. NELSON. Mr. President, I do not want to impose any longer on the Senate. I think the issue is understood. I would like just 60 seconds.

On the question of the availability of money, one of the problems is that there is $50 million, I understand, available through FHA. The authorization for the Small Business Administration is $800 million and they are just getting that program underway and as of now have made about 17 loans to small businesses that need loans for this purpose.

I conclude by saying that, in any event, I do not think this is an invasion of any jurisdiction of agriculture. It simply extends benefits that other small businessmen are getting to small businessmen and farmers. I think everybody would want to do that.

Last, I discussed it, as I said, with the distinguished Senator from Georgia, the chairman of the Agriculture Committee who is here and can speak for himself, but he advised me he had no objection to that aspect that related to extending availability of loans to comply with EPA regulations to farmers who qualify under the standards of the Small Business Act.

Mr. CULVER. Mr. President, this amendment provides that family farms and small agribusinesses should be treated in the same manner other small businesses. Those concerns engaged in agriculture encounter difficulties no less severe than those in other business sectors. In addition, agriculture is characterized by unique problems, such as unpredictable weather, widely fluctuating demand, and an extremely complex marketing system, making it an area even more in need of Federal assistance and support.

The Small Business Administration has made an administrative determination that it will exclude agribusiness from the benefits of SBA's many worthwhile programs. Its reasoning is that farmers and others in agribusiness can find assistance from other Federal agencies and programs. This assumption is incorrect. Large segments of the agricultural community do not receive subsidy payments. The programs of the Farmers Home Administration are in many cases substantially different from those of the SBA, and the types of loans which are available to farmers from other agencies differ considerably in term, amount, and interest rate.

The Small Business, Public Works, and Agriculture Committees have recently held hearings on the water quality standards as they relate to animal feedlots. The proper control of runoff contamination from these sources will involve substantial costs, and will be particularly burdensome for the small operator. It seems unconscionable to require these small concerns to obtain this expensive pollution control equipment, without providing them access to loans which are available to those in other industries.

In many cases, we are in a near-emergency situation. Feedlot operators must have their pollution control equipment in place by July 1 of 1977—a short 18 months away. Furthermore, while July 1 is the Federal deadline, States may require an earlier date for installation, and some States have done so. And this is not the type of equipment that one can order off the shelf—advanced technical expertise is required in the installation of each unit.

If we are to preserve competition, by not imposing unfair hardships on many of our small agricultural operators and handicapping many of our Nation's indispensable small agribusinesses, we must favorably consider this vital amendment.

Mr. LONG and Mr. JAVITS addressed the Chair.

The ACTING PRESIDENT pro tempore (Mr. Stone). The Senator from Louisiana.

REPORTS OF THE COMMITTEE ON FINANCE

Mr. LONG. Mr. President, from the Committee on Finance I send to the desk the committee reports on five bills, one of them being H.R. 5559, to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations, and that is the bill, Mr. President, on which the tax cut amendment has been attached.

Mr. President, we have discussed this matter before and the distinguished acting minority leader had some doubts about requiring that amendments to that bill be germane. We have had a chance to discuss it further, and I ask unanimous consent now that when H.R. 5559 is before the Senate all amendments submitted must be germane except for an amendment to be offered by the minority dealing with the President's budgetary recommendations involving the limitation of expenditures related to the future tax cuts.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I want to indicate that we have discussed this with the ranking minority member of the Finance Committee (Mr. Curtis), with Senator Taft who had asked to be consulted, and with others, to the extent that we knew about any particular interest.

The minority does wish to present the President's alternative for the Senate to work its will.

But outside of that, I think we agree with the distinguished chairman of the Committee on Finance that other amendments should be germane so that the Senate can deal with this issue and get behind it as quickly as possible.

There is going to have to be a conference or get the House to accept the Senate's version.

I believe that we would like to get some kind of bill down to the White House next week as quickly as possible and find out what the President wants to do with this.

Mr. LONG. To make it clear, in making this exception, I have in mind in the event the Senator from Nebraska (Mr. Curtis) wants to offer such an amendment, he of course would be protected, and that the same would apply to Mr. Bellmon and Mr. Roth, who have been working on amendments.

Mr. GRIFFIN. I appreciate that.

Mr. JAVITS. Reserving the right to object, the request is apparently a very serious one. May we know the request?

The ACTING PRESIDENT pro tempore. The request is that amendments must be germane with the exception of a minority amendment to propose the President's program.

Mr. JAVITS. To which bill?

The ACTING PRESIDENT pro tempore. The tax reduction bill.

Mr. JAVITS. Mr. President, may I ask the Senator whether amendments to the amendment will be in order and provided that they are germane to the basic amendment?

Mr. LONG. Yes, they would.

Amendments that are germane to the committee amendment, of course, would be in order.

Mr. JAVITS. Mr. President, one other thing, if I may ask the Senator. We are in kind of a bind always at the end of a session about unemployment compensation. Would the Senator be willing to allow that to be a germane amendment, or to be an amendment?

I promise the Senator this. I think he knows me——

Mr. LONG. Let me make this suggestion.

Mr. JAVITS. Surely.

Mr. LONG. In this type of situation, about the only kind of amendments that could be agreed to other than this matter which I have discussed, in view of the fact that the Democrats have agreed we are not going to offer tax reform amendments of a controversial nature, would have to be the type of amendment that can be agreed to by unanimous consent.

Mr. JAVITS. The Senator is correct.

Mr. LONG. So that with regard to the Senator's amendment, if it is something that could be agreed to by unanimous consent, I do not think we would have difficulty getting an agreement that it be regarded as germane by unanimous consent.

But I do not want to make an exception for the Senator's unemployment amendment, because then other Senators might have other amendments that could present problems.

Mr. JAVITS. The Senator has had long experience in this body and knows unanimous consents are very difficult to obtain. There are 100 Members. The unemployment compensation may be agreed to by 98 to 2, but those 2 can block us if we allow this.

Mr. LONG. I have just filed a report on a social security bill, H.R. 10727. I hope the Senator will offer his amendment on that bill instead.

Mr. JAVITS. That depends on what the leadership—and one-half of it is here represented; I notice Senator Mansfield has just gone into the cloakroom and one of the attaches could get him—whether Senator Mansfield would allow that bill to come up.

I have no desire to impede the Senate.

May I acquaint the Senator from Montana (Mr. Mansfield) with the situation?

Mr. MANSFIELD. Is it on the calendar?

It is not on the calendar.

Mr. LONG. I just filed the report on a social security bill, H.R. 10727.

Mr. JAVITS. While it is being looked at, may I explain?

I raised the question whether, if we are in a jam about unemployment compensation at the year end, a matter which has been voted on here many times and with great support on the part of the Senate, but I could propose such an amendment. Senator Long properly said that he does not want to complicate the tax bill with anything except by unanimous consent. I cannot accept unanimous consent. It might be 98 to 2. So, offering this other bill as a vehicle——

Mr. MANSFIELD. Will the Senator yield?

I have not seen this bill. The report has just been filed. We will make every effort, but I fully hope that no one, under any circumstances, will apply any kind of extraneous amendment to the tax bill which has been reported, because if you want to do something for the people, you have really to take this thing as it is and not amend it.

That would be the worst thing that could happen.

I know of no Democrat—and I think we feel as strongly as the Senator from New York on the issue which he has discussed—contemplating offering an amendment at this time.

So if you want to help the people on a tax basis, not deepen the depression, not create a hiatus economically, the best way to do it is not to offer amendments which will jumble up the tax bill reported out tonight and to be taken up Monday. The Senator is aware of that.

Mr. JAVITS. Mr. President, it is not necessary, as the Senator knows, to kind of instruct me on that. I thoroughly agree with the Senator, but the Senator will agree with me, too, that unemployment compensation and its continuance with 8 million unemployed is pretty essential business of the Congress of the United States.

I just ask for an opportunity if we need it next week to bring up an unemployment compensation amendment. That is all.

Mr. MANSFIELD. But not on the tax bill.

Mr. JAVITS. That is correct.

Mr. MANSFIELD. On this bill.

Mr. JAVITS. Yes.

Mr. MANSFIELD. We will make every effort, and the Senator will have to give me a little flexibility since I have not seen the bill, that that will be done.

Mr. JAVITS. I accept that.

The ACTING PRESIDENT pro tempore. Is there objectioin? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. Does this unanimous concern include amendments to the basic amendments?

The ACTING PRESIDENT pro tempore. As the Chair understands it, amendments to the basic amendments which are germane are permitted.

Mr. JAVITS. I thank the Senator.

NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

The Senate continued with the consideration of the bill (S. 2498) to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

Mr. MORGAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. MORGAN. I believe on this particular amendment, Mr. President, both sides have been discussed adequately. I am prepared, if the opposition is, to yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. JAVITS. Make it clear, Mr. President, that it is Senator Morgan who is the opposition. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

Mr. MORGAN. I will yield back the remainder of our time, Mr. President, and ask for a division.

Mr. JAVITS. Mr. President, as I understood the parliamentary inquiry, there will be a rollcall on this back to back at the end of the bill.

The ACTING PRESIDENT pro tempore. The agreement covers this amendment as divided. The rollcall will be applied to both. They will be held back to back just before the rollcall on final passage of the bill.

Mr. JAVITS. Mr. President, a further parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. Has anybody demanded a division?

The ACTING PRESIDENT pro tempore. The Senator from North Carolina has demanded a division.

Mr. MORGAN. Two sections, section 113 as one part and section 114 as the second.

Mr. President, I believe we have a unanimous-consent agreement that the vote an all amendments and the bill will occur back to back.

The ACTING PRESIDENT pro tempore. The amendment shall be divided as designated by the Senator from North Carolina and the rollcall will be back to back.

Mr. JAVITS. Mr. President, I understood we agreed that all votes on amendments would be held back to back.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. BURDICK. Mr. President, on behalf of myself, Mr. Domenici, Mr. Eagleton, and Mr. Percy, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from North Dakota (Mr. Burdick), proposes an amendment for himself, Mr. Domenici, Mr. Eagleton, and Mr. Percy.

The amendment is as follows:

> On page 4, strike lines 2 through 8 and insert a new Section 103 as follows:
>
> "The President shall undertake a comprehensive review of all Federal disaster loan authorities and shall make a report to the Congress, not later than April 30, 1976, containing such recommendations and legislative proposals, including possible consolidation of Federal disaster loan authorities, as may be demonstrated to be necessary and appropriate to assure the most effective and efficient delivery of disaster relief. Such study shall give particular emphasis to alleivating any extraordinary burden the management of Federal disaster loan programs may impose on an agency."

Mr. DOMENICI. Mr. President, will the Senator yield? Will the Senator ask for the yeas and nays?

Mr. BURDICK. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

The ACTING PRESIDENT pro tempore. Under the previous order, this rollcall will be held back-to-back with the other votes.

The Senator from North Dakota is recognized.

Mr. BURDICK. Mr. President, the amendment strikes section 103 from the bill.

The ACTING PRESIDENT pro tempore. Will the Senate be in order?

Mr. BURDICK. Mr. President, the amendment strikes section 103 from S. 2498, as reported from the Committee on Banking, Housing, and Urban Affairs. The amendment replaces this section with a study.

First of all, the amendment strikes section 103. This is proposed because of our grave concern that the transfer it authorizes will be counterproductive. Every Member of this body is interested in seeing that Federal disaster relief programs are as efficient and effective as possible. While the consolidation that is the ultimate goal of the committee's section might be a step toward improving the delivery of disaster relief benefits, there is just not enough evidence in the record to say that this will certainly occur. For example, presently the Small Business Administration has a total staff of over 4,800 employees—about 3,700 in field locations where they are available for disaster field work. By contrast, the agency within HUD with direct disaster relief responsibilities—the Federal Disaster Assistance Administration—is authorized about 160 employees. More significantly, SBA operates with a large pool of personnel experienced in the sensitive job of disaster relief. During the height of the disaster season this summer, SBA had about 600 personnel doing relief work—three times more than the entire FDAA staff. Section 103 of the bill simply does not provide assurances that HUD will be adequately staffed with trained personnel capable of handling the most delicate disaster relief program in the Federal panoply.

My colleague, Senator Eagleton, has other concerns with the ability of HUD, even under the best staffing situations, to handle the disaster loan program as well as SBA has handled it. For example, which agency within HUD is intended to receive this new responsibility? Will it be properly staffed with trained personnel? Will it be capable of pursuing its mission in addition to disaster relief functions? Will the Secretary of HUD be willing to declare a disaster for the purpose of triggering the individual loan program in the absence of a major disaster declaration? In short, I think there is reason to oppose the transfer at this time. This view is bolstered by the fact that both HUD and SGB, according to my information, oppose section 103.

The amendment which Senator Eagleton, Senator Domenici, Senator Percy, and I have agreed upon replaces section 103 as presently drafted with a study of all Federal disaster loan programs. This study would be done at the direction of the President, and a report to the Congress would be made not later than April 30, 1976. In drafting this substitute section, we were eager to satisfy the legitimate interests which gave birth to the committee proposal. Accordingly, our substitute would authorize that the President give particular emphasis to alleviating any extraordinary burden the management of Federal disaster loan programs may impose on an agency. The results of this kind of investigation should shed much needed light on the committee's concern that SBA is being swamped by disaster business to the detriment of their regular programs.

I would also like to point out that the study is of all Federal disaster loan authorities. Therefore, if consolidation is truly a goal to be sought after in the administration of Federal disaster relief programs, the study should be able to go further than the committee's proposal in identifying programs to be brought under a single umbrella agency.

I hope the managers of S. 2498 will be able to accept this amendment.

We simply would like to know whether or not there is expertise, whether there is manpower, to carry on the job before we take this momentous step.

Mr. DOMENICI. Will the Senator yield?

Mr. BURDICK. I yield.

Mr. DOMENICI. I thank my distinguished friend.

I might say to the distinguished Senator from Utah that I think I understand what he intends and why he has put the provision in to transfer that aspect of the Small Business Administration disaster loan program. He has talked with me at length. I am extremely sympathetic with his cause. He would like to remove the burden which SBA now has for disaster relief loans by moving the program to HUD so that SBA, as the Senator so aptly puts it, could do a better job with small business.

I am sympathetic to that, but I can honestly say to the Senator from Utah that I believe with any unilateral or quick transfer to HUD of that very large function of SBA—which has historically been vested with them and in which they have acquired a great deal of expertise—without adequate studies, without adequate evaluation, without adequate time for HUD to prepare, we are going to create another disaster. If a disaster strikes, HUD will not have the kind of expertise to handle 18,000 disaster loans which have occurred during some short periods of time during Agnes and other American disasters.

So it seems to me that what Senator BURDICK, Senator EAGLETON, Senator PERCY, and I propose is not in derogation of the Senator's objective, but is rather saying let the President quickly, not over a long period of time but by April 30 of next year, evaluate this function and give us a report, telling us how they can help SBA do a better job with business, and how we can prepare HUD or some other agency to adequately handle this tremendous task of loan assistance to disaster victims. There are budgetary problems, manpower problems, and other administrative problems associated with a transfer. And I also suggest to the Senator from Utah that there are field office problems. SBA has far more field offices, which have grown capable of handling disasters.

We need to put that into a report. I can assure the Senator that if that executive report shows us a way of having HUD handle disaster loans, I will be glad to reconsider it after April 30 of next year.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. CURTIS. I hope the managers of the bill will accept the Senator's amendment. HUD is not qualified to take on this job in the small towns and cities. They are not used to working there. As a matter of fact, we ought to be taking some functions away from HUD, rather than adding functions.

Mr. GARN. Mr. President, if the Senator will yield, maybe we should do away with HUD altogether.

Mr. CURTIS. I did not want to hurt anyone who has something pending, but I would go along with the idea.

We could abolish the Omaha office tomorow, because they do not know what is going on in any county, since they do not take any claims. They harass these people. About the only public housing we have is for the elderly, and I wish, just as we have turned the financing of individual farms over to the Farmers Home Administration, that this housing in small towns could likewise be turned over to them.

HUD is so involved with great cities and huge housing projects, where they have all sorts of troubles—disrepair, troubles with tenants, and so on—that they are not equipped to handle any further business in the rural areas, and a great disservice would be done to the people in those communities if we turned any more authority over to HUD.

HUD is not equipped in attitude, in personnel, or in any way for operating in a rural area. Perhaps that is not too great a criticism of them; our big housing problems are in the great cities, and that is what they think about.

Mr. PERCY. Mr. President, I am happy to join with my colleagues, Senators BURDICK, DOMENICI, and EAGLETON, in proposing this amendment to strike section 101 of S. 2498, which transfers part of the Small Business Administration's disaster relief loan program to the Department of Housing and Urban Development, and authorizes the President to make a comprehensive review of the Federal disaster loan authorities, to be submitted to the Congress with recommendations no later than April 30, 1976.

I would like to make one point at this time regarding the legislation before the Senate today, S. 2498. While this bill has a title that relates to small business, while it deals at great length with proposals to restructure the Small Business Administration, and while it contains a number of substantive provisions enabling small businesses to obtain financing for such worthwhile uses as pollution control, I note that three of the major provision of the act fall squarely within the realm of Government reorganization. I refer specifically to those provisions which: First, create a new Government agency, the National Commission on Small Business in America; second, create a new agency within the Small Business Administration, the Office of Export Development; and third, transfer a substantive program, the disaster loan program, from SBA to HUD.

I note this fact, Mr. President, because, as ranking minority member of the Senate Government Operations Committee, the committee that is supposed to have responsibility over such Government reorganization proposals, I am somewhat distressed that in this case, the Government Operations Committee was never given the opportunity to exercise that responsibility. While I realize that this is not the time to give a long speech about the uncontrolled growth of the Federal bureaucracy and the need for close congressional oversight over such growth both prospectively and retrospectively, I would like to register my displeasure over the fact that the jurisdiction and responsibility of the Government Operations Committee was in this case overlooked.

The Government Operations Committee should itself have been more alert to this legislation, but I would hope that in the future, both the Senate parliamentarian and the distinguished chairmen of the Senate standing committees will be sure that any legislation which does in fact involve major reorganizations of the executive branch are referred to the Government Operations Committee, so that we might be able to fully exercise our responsibility to control the growth of the Federal bureaucracy.

I have cosponsored this amendment along with Senators BURDICK, DOMENICI, and EAGLETON, because I believe it will offer an opportunity for the proper kind of homework to be done before the type of action envisioned by this legislation takes place. Senator BURDICK, in his opening statement, notes many of the serious problems involved in the transfer of disaster loan functions from the SBA to HUD as provided by this legislation, problems which to a greater degree appear to result from a failure to adequately consider the organizational and administrative implications of such a transfer of function.

The social, economic, and most importantly, the human problems caused by disasters are surely too important to be dealt with without the necessary groundwork or thought to assure that these problems are given the attention they deserve. I hope the President will give the responsibility delegated to him under this amendment a high priority, and that his recommendations will provide a solid and comprehensive basis for achieving the needed reorganizations in the disaster relief area.

Mr. ABOUREZK. Mr. President, I wish to voice opposition to the provision in this bill which would shift responsibility for housing-related disaster lending from the Small Business Administration to the Department of Housing and Urban Development.

In the aftermath of the flood which struck my hometown, Rapid City, S.D., June 9, 1972, the Small Business Administration was charged with lending for homes, businesses and personal property loss.

In any program where there is a huge, instant volume which must be dealt with on a crash basis, there are bound to be some mistakes, and my office was intimately involved in hundreds of those cases trying to straighten out the problems which did arise.

Overall, though, considering the crash volume, the crash timeframe and the fact that a great many important records had been destroyed, I think that the Small Business Administration did an excellent job.

One lesson we learned is that when people have their records, their homes and personal property destroyed, in the midst of great tragedy and confusion, it is an inestimable asset to have a one-stop lending agency.

When you have a thousand distraught flood victims on your hands, it is hard enough to get the message about the program across clearly to everyone who needs assistance, much less to compound it by giving them a Chinese menu of agencies.

I think it is a matter of utmost priority that we clearly leave one agency in the saddle for disaster loans, and I believe also that by its track record the SBA has shown it can do the job well.

I am not at all impressed, on the other hand, with the job HUD has been doing to meet our Nation's housing needs. The latest restrictions on the section 235 program, which I understand is to be reopened, the continuing unproductive jumble of "section 8" housing, and the budget freezes, lead me to conclude that HUD has enough new programs on its hands, without adding another one.

It has been argued that SBA is strapped for personnel which HUD would have more freely available to make those disaster housing loans. As I read the disaster act, though, the Federal coordinating officer who is to be sent in after a major disaster has plenty of authority to borrow HUD personnel and assign them to, say, appraising housing properties, verifying credit and losses and appraising new homes in cooperation with the SBA personnel. I think there is plenty of authority to do it that way, if a shortage of SBA personnel is the main problem. If such authority is not there, I would be more than happy to support an amendment to put it there.

In short, what this proposal reduces to is taking a responsibility from an agency which has shown it can do the job, and giving it to an agency which has not. What we have now is workable. It is the product of experience. I urge the Senate to support the Eagleton amendment to strike section 103.

Mr. HUDDLESTON. Mr. President, I support the amendment proposed by the senior Senator from North Dakota (Mr. BURDICK), Senator EAGLETON and Senator DOMENICI. It is my understanding that the amendment calls for a comprehensive study of disaster loan programs with a report and recommendations to be submitted to the Congress by April of next year. The Presidentail study would be in lieu of the transfer proposed in the pending bill.

In the spring of 1974, Kentucky was ravaged by a series of tornados and heavy rains. The entire State was declared a major disaster area. Many families were left homeless and in need of Federal assistance. I realized then how important it is that Federal disaster assistance be handled expeditiously and with utmost efficiency. The special experience of Federal agencies were required in order to alleviate quickly hardships and minimize further disruption. One of the principle needs of disaster victims relates to the loss of personal property and homes. These basic needs must be met before normal activities can be resumed in the community.

I am concerned that the proposed transfer in the pending legislation would disrupt the present Federal disaster program to the detriment of the disaster victim. The individual loan program is a large and complex program and I do not believe the committee bill or committee report fully addresses the problems which would be created by this abrupt transfer. There is no discussion of the burdens this transfer may impose on another agency.

I am sympathetic to the argument made about the administrative burdens placed on the Small Business Administration. However, the study would give particular attention to this problem as well as the requirements of transferring the activity to assure that the needs of disaster victims are met.

Furthermore, there is no assurance that transferring the disaster aid responsibilities to the Department of Housing and Urban Development will improve the efficiency of the program or the relative priority attached to them. In fact, the very opposite could be the case.

Most every Government program can stand some improvement, and disaster assistance is to exception. However, I believe that a comprehensive study prior to taking action on the disaster loan program is the only reasonable way to approach the matter. I urge the adoption of this amendment.

Mr. DOMENICI. Mr. President, I join the distinguished Senator from North Dakota, (Mr. BURDICK), and Senator EAGLETON of Missouri, in offering this amendment to S. 2498, the Small Business Investment Act Amendments of 1975.

I cosponsored this amendment because of my concern about the proposal in the pending bill to transfer the individual disaster loan program from the Small Business Administration to the Department of Housing and Urban Development. My concern is based upon a common priority I am sure we all share—that we in Congress assure the most effective and efficient delivery of disaster relief to those unfortunate enough to require such Federal help. I am not at all certain that the transfer called for in section 103 of this bill would accomplish that goal. I, therefore, urge the Senate to support our amendment which would authorize a comprehensive study of disaster loans in place of this transfer.

There are several problems with the transfer proposed in the bill. First, I am concerned about the practical problems of immediately transferring SBA's individual loan program to another Federal agency with no expertise in this area. The Department of Housing and Urban Development is not equipped with trained personnel or field offices to immediately begin administering this large, important program. The bill and committee report are silent on the manpower or budget requirements of the transfer.

SBA's individual loan program, in terms of the number of people contacted, is the largest disaster program. In the 2-year period beginning April, 1973, SBA made nearly 18,000 individual disaster loans. The total dollar value of the loans is over a hundred million dollars. The Small Business Administration, building on its loan programs under the old Reconstruction Finance Corporation, undoubtly has more experience in disaster loans than any other agency within Government.

The individual loan program deals directly with the very personal problems and needs of a disaster victim, offering him assistance to rebuild his home, replace possessions and otherwise reconstruct his life after the trauma of a disaster. It is one of the most sensitive programs administered by the Federal Government and the way the program is carried out determines the way many citizens view the competency of Government.

Secondly, I am concerned that the proposed transfer of only a part of SBA's disaster loan authority will further fragment the delivery of disaster assistance. The transfer will introduce a third, new agency into the disaster assistance program and it is unclear how such a move will increase the efficiency of disaster assistance programs.

I serve, with the distinguished Senator from North Dakota, Mr. BURDICK, on the Disaster Relief Subcommittee of the Public Works Committee. This subcommittee has legislative jurisdiction over the major Federal disaster assistance program embodied in the Disaster Relief Act of 1974—Public Law 93-288. Through my work on the subcommittee, I have become aware of the serious problem of program fragmentation and the need to better coordinate and manage the separate Federal disaster loan activities. This is made more necessary by the enactment of the individual and family grant program in the 1974 Disaster Relief Act. This major new program must be operated very closely with the various loan authorities in order to best serve disaster victims. Repeated changes in the loan programs have serious impact on the proper functioning of the grant program. In an effort to coordinate these programs, the Federal Disaster Assistance Administration has established one-stop centers in disaster areas. While these centers collect all Federal agencies under one roof, disaster victims are still faced with many different programs, forms, eligibility requirements and each program's redtape. I believe we should take this opportunity to study the various programs to see if there are better, more effective ways to deliver disaster relief to disaster victims.

The disaster loan program has grown considerably in the last few years and necessary changes in organization and functions have not kept pace. Perhaps a single disaster loan agency, encompassing all the separate programs, may be the best approach. Perhaps the proposals we have before us, to expand the number of loan agencies, is the proper approach. I am not sure and I do not believe the information supplied by the Banking Committee is sufficient to make such a determination at this time. For this reason I support a comprehensive study, authorized by the amendment, to determine the most effective delivery system for the long term.

A Presidential study authorized by our amendment would address other aspects of the various disaster loan authorities, in addition to the transfer, including termination of unnecessary administrative procedures and duplication of effort by Federal agencies; the feasibility of a single disaster loan authority; standardization of eligibility requirements for and the nature, terms, and extent of Federal loan assistance to those affected by disasters; specific alternative relief measures and ways to assure minimal disruption of the normal activities of

Federal agencies charged with responsibility for providing loan assistance.

Mr. President, the bill before us is a piece meal approach to a very important matter. It does not have to be this way. It should not be this way. A comprehensive study could be submitted to the Congress by next April giving us time to adopt a well-based, informed disaster loan program early in the next Congress. I recommend this section in place of simply moving a part of SBA's program to HUD.

Mr. HRUSKA. Mr. President, I rise in support of the amendment offered by the junior Senator from North Dakota.

The Small Business Administration's performance in a disaster situation is well known to me. As Members of the Senate know, my home city of Omaha was struck on May 6 by a tornado which took 3 lives, injured 200 persons and caused $200 million in property damage.

I have spoken previously of the tremendous job that Federal agencies did in assisting Omaha to recover from that disaster. The Federal Disaster Relief Administration performed in brilliant fashion its assigned role of coordinating these activities and I have offered my thanks and congratulations.

There were several agencies involved. The Department of Housing and Urban Development processed 550 requests for housing. The Department of Labor received 322 applications for unemployment assistance. The Department of Agriculture expedited 1,716 applications for food stamps. The Internal Revenue Service gave tax assistance to 810 persons. The Corps of Engineers participated in debris removal. And the Small Business Administration processed 535 applications for home loans.

Each of these agencies was able to respond because, in large measure, it was simply a case of experts in those various fields being temporarily diverted from their regular duties to turn their experience and their competence to an emergency situation.

The bill before us would have the disaster relief activities of the Small Business Administration absorbed by the Department of Housing and Urban Development.

It would make as much sense to have the post-disaster tax activities of the IRS transferred to HUD. Or the debris removal activities of the Corps of Engineers.

Clearly, Mr. President, that would make no sense at all. The reason the SBA was able to respond in such a timely and efficient fashion to the needs of the people of Omaha was because it has the know-how and the experience gained from its day-to-day operations.

I hope my colleagues will support this amendment.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah has the floor.

Mr. GARN. Mr. President, before I respond in rebuttal to the distinguished Senators from North Dakota and New Mexico, I would like to yield to the Senator from Minnesota (Mr. MONDALE), to propose an amendment which we will accept. It can be handled very shortly. Then I ask unanimous consent to yield to the Senator from Arkansas (Mr. BUMPERS) for the same purpose. We can handle those amendments very quickly, and then turn to the rebuttal on this amendment.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The Senator from Minnesota is recognized.

AMENDMENT NO. 1252

Mr. MONDALE. I thank the Senator.

Mr. President, I call up my amendment No. 1252, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

Mr. MONDALE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MONDALE's amendment (No. 1252) is as follows:

At the end of title I of the bill add the following new section:

SEC. —. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "$35,000,000" and inserting in lieu thereof "$56,500,000".

Mr. MONDALE. Mr. President, I shall not take up much of the time of the Senate, because I think this is a noncontroversial amendment. It is cosponsored by the floor manager of the bill, the chairman of the Select Committee on Small Business, to try to deal with the crisis in small business guarantee bonds.

My amendment would amend section 412 of the Small Business Act by increasing the authorized capital of the surety bond guarantees fund from $35 million to $56.5 million. The intent of this amendment is to authorize funds for the continuation of the surety bond guarantee program and to expand the program's contract awarded value ceiling from its presently budgeted $833 million to at least $983 million for this fiscal year.

Mr. President, the surety bond guarantee program has been one of the most successful programs operated by the Small Business Administration. It is critical to thousands of small contractors who would otherwise lose contracts because they would be unable to obtain bid, payment, or performance bonds. Since its inception in 1971, over 31,000 such contracts valued at over $2 billion have been obtained by small business as a result of these surety bond guarantees. Testimony received by the Senate Select Small Business Committee has documented that the difference between these awarded bids and the second lowest bids was over $61 million for all Government contracts. On this basis, the program, besides providing a critically necessary stimulus to the construction industry, has saved the Nation's taxpayers millions of dollars.

In October of this year, several regional offices of the Small Business Administration reported that they expected soon to run out of funds for the second quarter. Only an emergency transfer of funds allocated for future quarters allowed the program to continue uninterrupted. Well over half of the presently budgeted $833 million will be obligated or the first half of the year. Without increased authorizations to expand this guarantee ceiling, the program will be forced to discontinue its operations in the spring.

Representatives from the surety and construction industries have testified that on an accrual basis, the program's present authorization of $35 million is fully obligated to cover the expected defaults on already issued guarantees. They reported that an additional authorization of $18.5 million is required to cover the expected defaults on the presently budgeted $833 million in guarantees. These funds are essential if the program's guarantee is to retain its credibility in the surety and construction industries. Another $3 million in authorization is needed to expand the program's bonding ceiling to approximately $983 million and meet the additional need. Without such an increase, small contractors would lose this $150 million in contracts.

These small business firms are at the heart of our economic system, and they are critical to this Nation's economic recovery. Without the surety bond guarantee program, many would be forced into bankruptcy, and several thousand people would lose their jobs. This would be a terrible and senseless loss of these most valuable economic resources. The costs of such failures and their economic dislocations would far exceed this amendment's authorization. I urge my colleagues to support this vitally important program.

Mr. President, I hope that the distinguished chairman of the committee can accept this amendment.

Mr. MORGAN. Mr. President, I have read the amendment, and I concur with the distinguished Senator from Minnesota that this is one of the finest programs in SBA. During the recession, I know of no program that did more to help the small businessman and to help the economy. I certainly have no objection to it, and am pleased to accept it.

Mr. GARN. Mr. President, the minority accepts the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment (No. 1252) of the Senator from Minnesota.

The amendment was agreed to.

AMENDMENT NO. 1256

Mr. BUMPERS. Mr. President, I call up my amendment No. 1256, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 1256.

Mr. BUMPERS' amendment (No. 1256) is as follows:

At the end of title I of the bill, insert the following:

SEC. —. Section 411 of title IV of Public Law 85-699, as amended, is hereby amended by inserting at the end thereof the following new subsection (e):

"(e) If there is a breach by the principal of the terms of a bid bond, performance bond, or payment bond, resulting in loss to the obligee, and if the surety by reason of insolvency or other cause defaults and does not discharge its obligation to the obligee, the Administration shall, notwithstanding any other provision of law, pay the obligee whatever sum would otherwise have been payable to surety under subsection (b) of this section 411.".

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. DOMENICI. Has time been yielded back on the previous amendment?

The ACTING PRESIDENT pro tempore. No, it has not. This is simply a unanimous-consent agreement to call up two amendments acceptable to the manager of the bill.

Mr. DOMENICI. I did not hear that request.

The ACTING PRESIDENT pro tempore. The second is now being called up by the Senator from Arkansas.

Mr. DOMENICI. I thank the Chair.

Mr. BUMPERS. Mr. President, this amendment goes along with the amendment of the Senator from Minnesota. I can state in 60 seconds what it does.

As Senators know, the SBA is authorized to guarantee surety companies against up to 90 percent of their losses as a result of the breach of the terms of a bond in certain circumstances. In general, the contractor who would be the principal of the bond in order to obtain such SBA assistance must be a small business concern, must be unable to obtain the bond on reasonable terms and conditions without a guarantee from SBA, and there must be a reasonable expectation that such person will perform the contract with respect to which the bond is required. The authority that Congress has granted SBA under this program has enabled a number of small-business contractors to secure contracts that they would otherwise have been unable to handle. Surety companies, relying on SBA's guarantee, have been willing to issue performance bonds that would not otherwise have been issued.

From time to time, however, it happens that contractors and surety companies become insolvent. In this event, the obligee of the bond, the person for whom a building, say, is being constructed, not only sustains the loss occasioned by the default of the contractor but also is without a solvent surety company with the ability to make him whole, as contemplated by the bond to begin with. In this situation, one would think that the SBA would make a payment directly to the obligee of the bond, the person for whose benefit the bond was issued in the first place. The present law is, however, to the contrary, and clearly requires SBA to make payments in the event of loss only to the surety companies themselves. If a surety company is insolvent or defaults on its obligations for any other reason, SBA still makes payment to the surety, or to its trustee or receiver. Consequently, the benefit of this payment may actually never reach the owner of the project on which the contractor has defaulted. Other creditors of the insolvent surety company may share, in whole or in part, in the payment made by SBA to it.

The situation does not, I am sure, arise very frequently, but it has happened a couple of times quite recently, and statutory correction would be relatively simple. I am therefore proposing an amendment to S. 2498 that would simply add a new section at the end of title I of the bill. This section would require SBA, in the event of default by a surety company in the event of insolvency or for any other reason, to make its payments directly to the owner of the project with respect to which the bond was issued, instead of to the surety company or its receiver. In this way, the person who has really suffered a loss, and for whose benefit the bond was issued, would be made whole, or nearly so, and the purposes of the guarantee program would be better fulfilled.

The problem is that if the surety company becomes insolvent, and subsequently the contractor becomes insolvent, the SBA pays the amount of their liability to the receiver of the bankrupt surety company, rather than to the highway department, which is the real loser.

Since a fairly significant bankruptcy in New York last year, I think the SBA has been contracting in a number of instances directly. What this amendment does would redress a serious inequity when it does occur. In the future, the SBA will be obligated, not to pay the receiver of the bankrupt, who would in turn at some future time liquidate and pay maybe 10 cents on the dollar to the owner, but pay the limits of his liability to the owner, to help make him whole.

That, in substance, Mr. President, is the gist of the amendment.

Mr. MORGAN. Mr. President, I concur in this amendment. I think it is a contingency that would seldom arise, but one that would need a remedy if it should arise.

Mr. GARN. Mr. President, the Senator from Utah, representing the minority, concurs in this amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment (No. 1256) of the Senator from Arkansas.

The amendment was agreed to.

Mr. GARN. Mr. President, I would like to go back now to the amendment of the Senator from North Dakota and the Senator from New Mexico.

The distinguished Senator from New Mexico has actually pretty well outlined the reasons for having this particular provision in the bill, which they would like to take out and have a 6-month study.

We found, in our hearings with SBA, that every time a disaster occurs, they have to divert many people away from the normal functions of SBA.

One of the hurricanes required 35 people to be taken away out of SBA field offices. During that period of time, the normal function simply piled up, and those seeking business loans under the normal programs of SBA were delayed many months because of it.

I agree completely with the Senator from New Mexico that SBA has built up the expertise, they do understand how to handle these programs, but to the detriment of those small businesses all across the country that are not involved in the disaster area when one occurs.

So we simply felt that it made a great deal more sense to remove this function which caused a great burden on SBA.

As to the argument of Senator BURDICK that HUD did not have the funds available or the personnel, neither does SBA except by diverting them away from the normal functions of SBA.

Senator DOMENICI originally proposed an amendment that before this transfer occur that a 1-year period for study take place so that it would be possible to have an orderly transition. The majority and I agreed that we would accept that amendment. We felt it was reasonable to give them time to have an orderly transition rather than an immediate transfer, as the bill called for.

Since that time, the amendment has been changed and does call for a study to be completed by April 30, 1976. I expect that really this will just kill it. We might just as well, in my opinion, kill it now, because I know what the administration is going to come back and say. They are going to stall around until April 30 and then come back and say, no, keep it with SBA. Let us not kid ourselves. That is exactly what is going to happen. They could not do an adequate study by April 30, in any event with the Christmas holidays coming up. So I think that is all it is going to be.

The original amendment by the Senator from New Mexico, I think, was a very good one, was one we should have thought of by ourselves, and had that year for the transition to be made. I am not going to belabor the point. That was the reasoning, so that we were not taking away from the normal functions of SBA and creating a hardship on them.

We even discussed the possibility that, with the expertise, maybe during this year's study that those people who experienced the disaster could be transferred to HUD. We set up the department, so that SBA was not continually being diverted.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. GARN. I will in a minute.

If this amendment has any worth at all, I think that at the very least we ought to make it 6 months from enactment rather than April 30. I still think the administration is going to come back and say exactly what I think they would say today.

I yield to the Senator from Missouri.

Mr. EAGLETON. I wish to ask this question to our colleague from Utah. In the hearings of the committee was there any testimony taken as to the personnel capacity or to the administrative competency, either one or both, of HUD to administer this program?

Mr. GARN. No, there was not. That is why I made the statement that I agreed that the original amendment of the Senator from New Mexico was a good one, to give a year for them to study the problem and come up with an orderly transition.

I was not being entirely facetious with the Senator from Nebraska when I said maybe we should do away with HUD totally. My experience with them as a mayor was not very good. But nevertheless, I, being responsible for oversight in our committee on SBA, am rather disturbed with what this problem does to them and what it takes away from them during these disasters. So at the very least, if the Senator's amendment is successful, maybe we should consider an appropriation for properly staffing SBA so they do not have to divert away from their normal functions.

Mr. EAGLETON. Will the Senator yield for one additional question to clarify the Record?

Mr. GARN. I yield.

Mr. EAGLETON. I think the Record is clear. But will the Senator agree that this is the case, that HUD is not asking or seeking to have these duties transferred to it, and SBA is not seeking or asking that these duties be transferred from it? Is that correct?

Mr. GARN. No, that is only partially correct. It is true that HUD did not seek this. It came from our hearings in the subcommittee that it was a burden on SBA. Officially SBA is not seeking it. I will be absolutely candid about it. They were in the hearing, and then when OMB got to them they came back and changed their position. But the original request did come from the hearings with SBA personnel who told us of the great burden placed on them until someone else in the administration told them to get back in line and keep with the administration which was do not give it to HUD.

Mr. EAGLETON. As the Senator knows, this will not be the first time that the word OMB, meaning OMB, has been superimposed on a governmental agency.

Mr. GARN. That is correct.

Mr. EAGLETON. I shall wish to speak on the amendment whenever the Senator from Utah has finished his remarks.

Mr. GARN. I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, I shall be brief.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. EAGLETON. Does the Senator from North Dakota yield me 5 or 2 minutes?

The ACTING PRESIDENT pro tempore. One minute is remaining.

Mr. EAGLETON. Thirty seconds?

Mr. BURDICK. I do not know if I have any. If I have control, the Senator has it.

Mr. EAGLETON. Mr. President, I am the last of the Burdick, Domenici, and Eagleton tripartite to speak on this amendment.

The amendment has been well debated.

Mr. President, I am pleased to join the distinguished Senators from North Dakota (Mr. BURDICK) and New Mexico (Mr. DOMENICI) in sponsoring this amendment to strike section 101 of the bill and to substitute a requirement that the administration review the entire disaster assistance program and make recommendations to Congress within 6 months.

I can appreciate the staffing problems the Small Business Administration has in administering this program and I know there has been some disruption of its services to small businesses as a result. As much as I would support an effort to remedy that problem, I do not believe transfer of the program to HUD is the answer.

The object of disaster assistance is to get money into the hands of individuals and communities that need it. With all the problems it has had, SBA has done a commendable job in cutting redtape and bureaucratic delays in order to carry out this overriding purpose.

On average, it has been able to process a loan application within 48 hours to 1 week. By contrast, the Federal Disaster Assistance Administration of HUD can take years to give final approval to community disaster grant applications. When I spoke on this issue in October, I cited several cases of Missouri communities that have waited 2½ and 3 years for grants to repair flood damage. Since then, I have been apprised of another similar situation in Marion County, Mo., whose county seat is Hannibal. This county has been waiting 2½ years for final payment on a grant to rebuild bridges and public roads damaged in 1973 floods.

Fortunately, with the active help of the fine HUD regional director, Elmer Smith, settlement of this claim was made within 5 days of the time my office was notified of the problem.

That proves to me that the Federal Disaster Assistance Administration of HUD can act expeditiously when it needs to. I would hope that all communities could expect similar expedition of their claims in the future.

But we are still a long way from that point, in my opinion. As it stands, I believe it would be a disservice to communities and individuals in need of prompt disaster help to put HUD in charge of this program.

It is better that we study this matter and come to some considered changes that will improve the entire disaster assistance program before we make any rash moves to reorganize any one function.

Again, I appreciate and sympathize with the concerns of the Senator from North Carolina (Mr. MORGAN) and the Senator from Utah (Mr. GARN) and I am fully supportive of their efforts to relieve the SBA of this disaster assistance burden. But, I sincerely hope that the distinguished floor manager will accept the constructive amendment being offered by Senators BURDICK, DOMENICI, and myself.

I say this very succinctly, that if there is any one agency in Government from which we should be taking power, it is HUD, the most inept, incompetent Federal bureaucracy in the history of mankind, and no one can justify giving HUD one additional duty. It will be not performed, or be ill performed or malperformed. It is totally inept.

Mr. MORGAN. Mr. President, I shall try to justify giving them one additional duty.

How much time remains?

The PRESIDING OFFICER. Nine minutes remain of the Senator from North Carolina.

Mr. MORGAN. Mr. President, I wish to add to what the Senator from Utah has said. In trying to find ways and means to make the SBA more effective and in taking testimony from businessmen and the independent Businessmen's Association, as well as from representatives of SBA, we found constantly that the SBA was not able to handle the applications of the small businessmen expeditiously. In the first place, the SBA is designed to help a small businessman that is in trouble financially. Many times we found that he made his application and before the agency got around to acting on it he was out of business.

When we began to look into the reasons why he was out of business, we were told that each time there was a disaster that their fieldmen were called from the field offices all across the country to that given area and, therefore, the applications had to stay in the file waiting for action. And this certainly hampers the effectiveness of the Small Business Administration.

It is true that they have 3,000 and some men in field offices across the country. But we are not likely to have a disaster nationwide at any one time. So the number of SBA men in a given area at any given time is usually very small, and they have to bring in outsiders.

Certainly, if there is one area that SBA does not have expertise in it is handling and making residential loans. This transfer would not affect those disaster loans with regard to businesses.

As the distinguished Senator from Utah mentioned, we discussed this with the Senator from New Mexico and the Senator from North Dakota, and we both agree that, if the Subcommittee on Disaster Relief needed time to consider this question, we would make the provision whereby the transfer would not be effective until the subcommittee had had time to study it. I think that is what we ought to do.

Mr. President, I propose, when time has expired, to send forth an amendment to the amendment which would do what I thought we had agreed upon.

I say to the distinguished Senator from North Dakota—I serve on his committee—after he conducts hearings, if he then decides and the committee decides that the transfer should not be made, then I will support it in the Chamber.

My only reason for wishing it to stay in this bill now is because it is a little difficult to put together a bill, bring it in the Chamber, and get it through. So I am going to propose an amendment at the proper time which would simply delete that part of the Senator's amendment which eliminates this section, but it would leave his provision which calls for the study, but would add to it at the end that the provisions of this section shall not be effective until July 1, 1976.

That would give the Senator from North Dakota and his subcommittee 6 months to look into the matter. Then, if he thinks the transfer is wrong, I will support him on the floor of the Senate. If it is not wrong, we will not have any problem about getting another bill through the Senate.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. BURDICK. Suppose the study should ascertain that it was not wise to make this transfer. If we put that amendment on, then it would automatically go into effect, regardless, would it not? We would have to have affirmative action to repeal it. What is the difference between taking action to repeal or action to reinstate?

Mr. MORGAN. That would be the result of a study. We will be more conversant with it. We will not be working on another SBA bill for probably another year.

Mr. BURDICK. We would have to work on it if we found out that the transfer was not justified.

Mr. MORGAN. But under the Senator's amendment, he will be conducting a study, anyway, and he will be working on it. This is more in keeping with the point that the Senator and I and the Senator from New Mexico had talked about.

Mr. BURDICK. If the study bears out the necessity for the transfer, I do not believe there would be any great trouble in getting a bill passed.

Mr. MORGAN. Then we have to hold hearings and meetings of the Small Business Subcommittee, and I think it would eliminate a lot of difficulty.

I am on the Senator's committee. If the study shows that it should not be transferred, I give the Senator a commitment that I will vote with him in the committee, and I will assist him on the floor of the Senate.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. MORGAN. I yield for a moment.

Mr. DOMENICI. I say to the Senator that the Subcommittee on Disaster Relief of the Committee on Public Works was precluded from going into the Small Business Administration's role, because we did not have jurisdiction.

I think we are biting off far more than we can chew when we try to bring about an overload by transferring, whether it be 1 year hence or 6 months hence, such a vital role as handling disaster relief.

I say to the Senator that we will undertake an indepth study of it when the report comes down. I think that will cover the problem more than adequately without in this bill affecting the transfer, even if it is delayed for a year.

Mr. MORGAN. Mr. President, we have 3 minutes remaining. I yield back that 3 minutes, and I send to the desk an amendment to the amendment.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading the the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page ——, line ——, insert the following:

by deleting the words "strike lines 2 through 8 and insert a new section 103" and inserting the following: "by adding at the end of the first sentence the" and by adding a new sentence as follows: the provisions of this section shall not be effective until July 1, 1976.

Mr. MORGAN. Mr. President, my amendment contains the agreement that I thought we had entered into, which I had no objection to, and I think it is a good amendment.

The thought occurred to me, however, that we now have four votes pending which are going to take 45 minutes. This would add an additional hour to debate. I will stand or fall on the original amendment. I hope the Senate will defeat the original amendment.

I ask unanimous consent to withdraw my amendment.

The ACTING PRESIDENT pro tempore. The amendment is withdrawn.

The bill is open to further amendment.

Mr. GARN. I yield back the remainder of my time.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GARN. It is my understanding that we will proceed now, first, with the vote on section 113, the Javits amendment, then on section 114, the Domenici-Burdick amendment, and then final passage, back-to-back. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the second and third rollcalls be limited to 10 minutes.

The ACTING PRESIDENT pro tempore. The previous order already requires 10-minute rollcalls for all three succeeding rollcalls after the first rollcall vote.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessary absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 50, nays 25, as follows:

[Rollcall Vote No. 586 Leg.]

YEAS—50

Baker
Beall
Bentsen
Brooke
Bumpers
Burdick
Cannon
Case
Church
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Inouye
Jackson
Javits
Leahy
Mansfield
Mathias
McClellan
McGee
McGovern
Mondale
Moss
Muskie
Nelson
Packwood
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stone
Symington
Taft
Talmadge
Tunney
Williams
Young

NAYS—25

Bartlett
Biden
Buckley
Byrd, Harry F., Jr.
Domenici
Eastland
Fannin
Fong
Garn
Goldwater
Griffin
Hansen
Helms
Hruska
Laxalt
Long
McClure
McIntyre
Metcalf
Morgan
Nunn
Proxmire
Stennis
Stevenson
Tower

NOT VOTING—25

Abourezk
Allen
Bayh
Bellmon
Brock
Byrd, Robert C.
Chiles
Curtis
Ford
Hartke
Huddleston
Humphrey
Johnston
Kennedy
Magnuson
Montoya
Pastore
Pearson
Pell
Percy
Scott, William L.
Stafford
Stevens
Thurmond
Weicker

So the first division of Mr. JAVITS' amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the first division of the amendment was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The question is now on agreeing to the second division of the amendment of Mr. JAVITS. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Washington (Mr. Magnuson) would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. Scott), the Senator from Alaska (Mr. Stevens), the Senator from South Carolina (Mr. Thurmond), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The result was announced—yeas 28, nays 46, as follows:

[Rollcall Vote No. 587 Leg.]

YEAS—28

Beall
Brooke
Case
Clark
Culver
Durkin
Fong
Gravel
Hart, Philip A.
Hatfield
Hathaway
Hollings
Inouye
Jackson
Javits
Leahy
Mathias
McGovern
McIntyre
Mondale
Nelson
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Taft
Williams

NAYS—46

Baker
Bartlett
Bentsen
Biden
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Church
Cranston
Dole
Domenici
Eagleton
Eastland
Fannin
Garn
Glenn
Griffin
Hansen
Hart, Gary
Haskell
Helms
Hruska
Laxalt
Long
Mansfield
McClellan
McClure
McGee
Metcalf
Morgan
Moss
Muskie
Nunn
Packwood
Proxmire
Roth
Stennis
Stevenson
Stone
Symington
Talmadge
Tower
Tunney
Young

NOT VOTING—26

Abourezk
Allen
Bayh
Bellmon
Brock
Byrd, Robert C.
Chiles
Curtis
Ford
Goldwater
Hartke
Huddleston
Humphrey
Johnston
Kennedy
Magnuson
Montoya
Pastore
Pearson
Pell
Percy
Scott, William L.
Stafford
Stevens
Thurmond
Weicker

So the second division of the amendment of Mr. Javits was rejected.

The ACTING PRESIDENT pro tempore. The question now recurs on the Burdick-Domenici amendment. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Indiana (Mr. Bayh), the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from Florida (Mr. Chiles), the Senator from Kentucky (Mr. Ford), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), and the Senator from Rhode Island (Mr. Pell) are necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Rhode Island (Mr. Pastore), the Senator from Rhode Island (Mr. Pell), and the Senator from Washington (Mr. Magnuson), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. Scott), the Senator from Alaska (Mr. Stevens), the Senator from Nebraska (Mr. Curtis), the Senator from South Carolina (Mr. Thurmond), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The result was announced—yeas 64, nays 10, as follows:

[Rollcall Vote No. 588 Leg.]

YEAS—64

Baker
Bartlett
Beall
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Inouye
Jackson
Javits
Leahy
Long
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Nunn
Packwood
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stennis
Stone
Symington
Taft
Talmadge
Tower
Williams
Young

NAYS—10

Bentsen
Biden
Garn
Laxalt
Mondale
Morgan
Proxmire
Sparkman
Stevenson
Tunney

NOT VOTING—26

Abourezk
Allen
Bayh
Bellmon
Brock
Byrd, Robert C.
Chiles
Curtis
Ford
Goldwater
Hartke
Huddleston
Humphrey
Johnston
Kennedy
Magnuson
Montoya
Pastore
Pearson
Pell
Percy
Scott, William L.
Stafford
Stevens
Thurmond
Weicker

So Mr. Burdick's amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Indiana (Mr. Bayh), the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from Florida (Mr. Chiles), the Senator from Kentucky (Mr. Ford), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), and the Senator from Rhode Island (Mr. Pell), are necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Magnuson), the Senator from Rhode Island (Mr. Pell), and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. William L. Scott), the Senator from Alaska (Mr. Stevens), the Senator from South Carolina (Mr. Thurmond), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The result was announced—yeas 69, nays 5, as follows:

[Rollcall Vote No. 589 Leg.]

YEAS—69

Baker
Bartlett
Beall
Bentsen
Biden
Brooke
Bumpers
Burdick
Cannon
Case
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Glenn
Gravel

Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Hruska
Inouye
Jackson
Javits
Laxalt
Leahy
Long
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Tower
Tunney
Williams
Young

NAYS—5

Buckley
Byrd, Harry F., Jr.
Helms
Proxmire
Roth

NOT VOTING—26

Abourezk
Allen
Bayh
Bellmon
Brock
Byrd, Robert C.
Chiles
Curtis
Ford
Goldwater
Hartke
Huddleston
Humphrey
Johnston
Kennedy
Magnuson
Montoya
Pastore
Pearson
Pell
Percy
Scott, William L.
Stafford
Stevens
Thurmond
Weicker

So the bill (S. 2498) was passed, as follows:

S. 2498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SMALL BUSINESS DEVELOPMENT

TRANSFER OF DISASTER RELIEF AUTHORITY

SEC. 101. The President shall undertake a comprehensive review of all Federal disaster loan authorities and shall make a report to the Congress, not later than April 30, 1976, containing such recommendations and legislative proposals, including possible consolidation of Federal disaster loan authorities, as may be demonstrated to be necessary and appropriate to assure the most effective and efficient delivery of disaster relief. Such study shall give particular emphasis to alleviating any extraordinary burden the management of Federal disaster loan programs may impose on an agency.

POLLUTION CONTROL

SEC. 102. (a) Section 403 of the Small Business Investment Act of 1958 is amended by striking out "$10,000,000" and inserting in lieu thereof "$25,000,000".

(b) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"POLLUTION CONTROL

"SEC. 404. (a) For purposes of this section, the term—

"(1) 'pollution control facilities' means such property (both real and personal) as the Administration in its discretion determines is likely to help reduce, abate, or control air or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

"(2) 'qualified contract' means a lease, sublease, loan agreement, entered into between a small business concern and any person.

"(b) Whenever the Administration determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities or the obtaining of private financing thereof (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), it may guarantee, upon such terms and conditions as the Administration may prescribe, either directly or in cooperation with a qualified surety company or other qualified company through a participation agreement with such company, the payment of rentals or other amounts due under qualified contracts, and any such guarantee shall be for the full amount of the payments due under such qualified contract. Any guarantee made by the Administration pursuant to this section shall be a full faith and credit obligation of the United States.

"(c) The Administration shall fix a uniform fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. The Administration may require that an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, be placed in escrow upon such terms and conditions as the Administration may prescribe.

"(d) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom the payments under qualified contracts are due.".

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

SEC. 103. (a) Section 303(b)(1) of the Small Business Investment Act of 1958 is amended:

(1) by striking out "200" and inserting in lieu thereof "300"; and

(2) by striking out the second sentence thereof.

(b) Section 303(b)(2) of such Act is amended:

(1) by striking out "300" and inserting in lieu thereof "400"; and

(2) by striking out the second sentence thereof.

(c) Section 303(c) of such Act is amended—

(1) by striking out "300" in clause (2)(iii) and inserting in lieu thereof "400"; and

(2) by striking out "200" where it appears in clauses (2)(iii) and (4) and inserting in lieu thereof "300".

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

SEC. 104. The last sentence of section 305 (b) of the Small Business Investment Act of 1958 is repealed.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

SEC. 105. (a) Section 301(a) of the Small Business Investment Act of 1958 is amended—

(1) by inserting after "incorporated body" a comma and the following: "or a partnership, association, or other generally recognized business organization";

(2) by inserting "or otherwise existing" after "chartered";

(3) by inserting after "shareholders" a comma and the following: "partners, owners, or members,"; and

(4) by inserting "or by law" after "articles of incorporation".

(b) Subsection (b) of such section is amended by inserting after the phrase "articles of incorporation" the first time it appears the following: "(or the functionally equivalent or other similar documents specified by the Administration for other forms of business organizations (hereinafter referred to collectively as 'articles' or 'articles of incorporation'))".

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

SEC. 106. Section 302(b) of the Small Business Investment Act of 1958 is amended by striking out all that follows "upon the making of that acquisition", and inserting in lieu thereof the following: "the aggregate amount of shares in small business investment companies then held by the Bank would exceed 5 percent of its capital and surplus.".

LOANS FOR PLANT ACQUISITION

SEC. 107. (a) Section 502 of the Small Business Investment Act of 1958 is amended by inserting "acquisition," after "plant".

(b) Section 7(a)(4)(C) of the Small Business Act is amended to read as follows: "(C) no such loan including renewals and extensions thereof may be made for a period or periods exceeding ten years except that such portion of a loan made for the purposes of acquiring real property or constructing facilities may have a maturity of twenty years plus such additional period as is estimated may be required to complete such construction.".

ECONOMIC OPPORTUNITY LOAN LIMIT

SEC. 108. Section 7(i)(1) of the Small Business Act is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

LOCAL DEVELOPMENT COMPANY LOAN LIMIT

SEC. 109. Section 502(3) of the Small Business Investment Act of 1958 is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

REGULAR BUSINESS LOAN LIMIT

SEC. 110. Section 7(a)(4)(A) of the Small Business Act is amended by striking out "$350 000" and inserting in lieu thereof "$500,000".

FARMING AND AGRICULTURE RELATED INDUSTRIES

SEC. 111. (a) Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) and (c) as (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) It is the declared policy of the Congress that the Government, through the Small Business Administration, should aid and assist small business concerns which are engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and the financial assistance programs authorized by this Act are also to be used to assist such concerns.".

(b) The first sentence of section 3 of the Small Business Act (15 U.S.C. 632) is amended by inserting after "concern" the following: ", including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries,".

(c) Section 7(a)(1) of the Small Business Act (15 U.S.C. 636(a)(1)) is amended by inserting "from non-Federal sources" immediately before the period at the end thereof.

(d) Section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)(4)) is amended by striking out the proviso.

(e) Section 18 of the Small Business Act (15 U.S.C. 647) is amended by inserting after "Federal Government" the following: ", except to those enterprises engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agriculture related industries,".

AMEND TITLE IV OF PUBLIC LAW 85–699

SEC. 112. Section 411 of title IV of Public Law 85–699, as amended, is hereby amended by inserting at the end thereof the following new subsection (e):

"(e) If there is a breach by the principal of the terms of a bid bond, performance bond, or payment bond, resulting in loss of the obligee, and if the surety by reason of insolvency or other cause defaults and does not discharge its obligation to the obligee, the Administration shall, notwithstanding any other provision of law, pay to the obligee whatever sum would otherwise have been payable to the surety under subsection (b) of this section 411.".

INCREASE AUTHORIZED CAPITAL OF SURETY BOND GUARANTEES

Sec. 113. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "$35,000,000" and inserting in lieu thereof "$56,500,000".

TITLE II—NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

SHORT TITLE

Sec. 201. This title may be cited as the "National Commission on Small Business in America Act".

FINDING AND PURPOSE

Sec. 202. (a) On the eve of the Bicentennial anniversary of the American Revolution, the Congress recognizes the enormous contribution which small business has made toward improving the economic well-being of all Americans for over two hundred years.

(b) The Congress also recognizes that small business has the potential for making an equally large or larger contribution toward improving economic well-being both at home and abroad in years ahead .

(c) To insure that small business continues to have the opportunity to realize its full potential, it is the purpose of this title to establish a National Commission on Small Business in America to make a study and furnish recommendations to the President and the Congress with respect to small business.

ESTABLISHMENT; MEMBERSHIP

Sec. 203. There is established the National Commission on Small Business in America (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States. The Commission shall be composed of eleven members appointed by the President as follows:

(1) four individuals who are affiliated with small business concerns or who represent the interests of small business;

(2) three individuals who are affiliated with or who represent venture capital firms, small business investment companies, commercial banks, insurance companies, investment banking firms, or other comparable financial institutions involved in the financing of business;

(3) three individuals who have expertise in tax, regulatory, legal, economic, or financial matters, at least one of whom is a member of the academic community; and

(4) one individual from the public at large who shall be appointed by and with the advice and consent of the Senate and who shall be the Chairman of the Commission.

In addition, the Administrator of the Small Business Administration and the Director of the Office of Minority Business Enterprise shall be advisory members of the Commission, without a vote in any determination or decision of the Commission.

FUNCTIONS

Sec. 204. The functions of the Commission shall be—

(1) to examine the role of small business in the American economy and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) to assess the effectiveness of existing Federal subsidy and assistance programs for small businesses and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) to measure the direct costs and other effect of government regulation on small businesses; and make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulation of small businesses;

(4) to determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

(5) to study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) to recommend specific measures for creating an environment in which all businesses will have the opportunity to compete effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures; and

(7) to determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

STAFF AND POWERS

Sec. 205. Subject to such rules and regulations as it may adopt, the Commission may—

(1) appoint, by and with the advice and consent of the Senate, and fix the compensation of an Executive Director at the rate provided for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the lowest rate for GS–15 of the General Schedule;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code; and

(3) hold hearings and sit and act at such times and places, as it may deem advisable.

ASSISTANCE OF GOVERNMENT AGENCIES

Sec. 206. Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission such reports and other information as the Commission deems necessary to carry out its functions under this Act.

COMPENSATION

Sec. 207. (a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) A member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate equal to the per diem equivalent of the rate for GS–18 of the General Schedule for each day he is engaged in the performance of his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

REPORTS

Sec. 208. The Commission may from time to time prepare and publish such reports as it deems appropriate. Not later than two years after the date of enactment of this title, the Commission shall transmit to the Congress and the President a full report containing its findings and specific recommendations with respect to each of the functions referred to in section 203, including specific legislative proposals and recommendations for administration or other action. Upon the submission of its final report, the Commission shall cease to exist.

AUTHORIZATION

Sec. 209. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Any sums so appropriated shall remain available until expended.

The title was amended so as to read:

A bill to amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2498.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HELLS CANYON NATIONAL RECREATION AREA ACT

Mr. McCLURE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 322.

The ACTING PRESIDENT pro tempore (Mr. Stone) laid before the Senate the amendments of the House of Representatives to the bill (S. 322) entitled the Hells Canyon National Recreation Area Act. (The amendment of the House in the nature of a substitute is printed in the Record of November 18, 1975, beginning at page 37062.

The amendment to the title reads as follows:

An Act to establish the Hells Canyon Recreation Area in the States of Oregon and Idaho, and for other purposes.

Mr. McCLURE. Mr. President, today the Senate considers the Hells Canyon National Recreation Area bill as passed by the House of Representatives. While this bill is similar to the measure passed by the Senate on June 2, 1975, S. 322, there are differences we need to examine before taking action on H.R. 30, the House measure.

Before discussing the House changes in relation to the Senate language, it is helpful to review the background of this

Hells Canyon National Recreation Area legislation. The objective is to provide a secure protection for the Middle Snake River in its free-flowing state. The Middle Snake has carved a canyon which forms the common boundary between Oregon and Idaho and forms the deepest gorge on the North American Continent. Over the years it has attracted more than local attention, and when it was considered in the 93d Congress, the bill received national support, as it has in the 94th Congress.

Water is the life blood of Idaho. The water from the mighty Snake has worked its way across the breadth of southern Idaho from the Wyoming border to Hells Canyon Dam, just above the Middle Snake. This water has provided habitat for some of the finest fishing in the Henrys Fork of the Snake, provided countless opportunities for swimming and boating; irrigated fields of potatoes, corn, and sugarbeets from St. Anthony westward to the Caldwell-Payette area that I call home. Upland game birds thrive on the irrigated acres, and migrating geese and ducks find the Snake River a welcome haven on their flights to and from their nesting grounds. The forested watersheds are sites for a variety of multiple-use activities, including timber harvest on a sustained yield basis, big-game habitat, and playgrounds for the relaxing local Idaho resident, as well as the visitors from other States.

The House adopted a September 1975, map that differs from the Senate, May 1975, map. In addition to the change that excludes the lower 34.5 miles of the Snake River between Idaho and Washington from the national recreation area, an adjustment of the boundary along the northeast corner of the area was made to conform with the management recommendations of the U.S. Forest Service. The specific boundary designation that follows the reservoir above Hells Canyon Dam beginning at mile 247 and continuing upstream to the point where it turns west into Oregon needs clarification. After discussions with the House Interior Committee, the Forest Service, and my Senate colleagues, it is the understanding of all the parties that the boundary on that portion of the national recreation area is the high water mark on the Idaho side of the reservoir. I shall ask unanimous consent that copies of two letters be included in my remarks. It is my recommendation that the Senate accept the House September 1975, map.

Section 1 of the House bill provides that no later than 18 months after enactment of this act, the Secretary shall publish a detailed boundary description of the recreation area, the designated study areas, and the established wilderness. It is my hope that this can be accomplished at a much earlier date by the Secretary. I see no reason why this should take 18 months.

Mr. President, I offer an amendment to section 3(b) of H.R. 30 to substitute the original Senate-passed language relating to establishment of a corridor along the segments of the Rapid River designated as wild or scenic areas by this act. The House bill provides that the areas shall be administered by the Secretary in accordance with the provisions of the Wild and Scenic Act (82 Stat. 906), as amended. The Senate language was carefully drafted and considered with the intent to assure that the wild and scenic river boundaries in the Rapid River segments are carefully established. Specifically, the Senate language reference to the word "corridor" was to direct the Secretary to establish appropriate boundaries with a minimum of deviation from the average distance on either side of the river in question. It is my view that the House language reference to "detailed boundaries" does not accomplish this goal.

The House, in its consideration of section 9(g) on the subject of acquisition of mineral interest, removed the Senate language "except for the provisions of subsection (a) of this section," found on lines 24 and 25, page 12 of S. 322. I recommend this change be accepted by the Senate as a technical one that will not detract from the intent of that section.

The language added by the House to section 9(h); "Lands acquired by the Secretary or transferred to his administrative jurisdiction within the recreation area shall become parts of the national forest within or adjacent to which they are located," is appropriate, and I recommend this change be accepted by the Senate as one to conform with map changes already discussed.

Mr. President, I offer an additional amendment that has the effect of adding the word "National" to the House amendment found at the end of page 29 of H.R. 30. The title will then read; "A bill to establish the Hells Canyon National Recreation Area in the States of Oregon and Idaho, and for other purposes.".

Under section 1, the 34.5-mile segment of the Snake from the northern boundary of the National Recreation Area to Asotin, Washington is designated a "study" river rather than a "recreational" river under the Wild and Scenic Rivers Act. The change, recommended by the administration and the House committee, requires a study of that river segment before permanent designation. I reluctantly accept this change. I accept it because it is important to get this bill passed. I am reluctant because this area is most subject to changes of use, the lands being privately owned. Because the land is still in private ownership, I urge that a prompt, factual review be submitted to Congress so that determination of future status will not be delayed and so there will not be undue harm to those directly affected by the study designation.

I can agree to the revisions in section 3(a) based on my interpretation of the language. In two instances, identical provisions have been excluded that allowed "relevant provisions of the Hells Canyon Recreational Area shall be applicable to these river segments." I believe it is clear that the NRA provisions will automatically apply to any areas that do not fall under the provisions of the Wild and Scenic Rivers Act.

Section 6 (a) and (b) of the House bill pertaining to water rights is one of major significance. Many Idahoans have voiced their concerns about the future availability and priority uses of the Snake River water. I have consistently emphasized the importance of the Snake River water with respect to the protection of upstream rights and the prohibition of a minimum flow requirement. Section 6(a) states:

> No provision of the Wild and Scenic Rivers Act (82 Stat. 906) nor of this Act, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.
>
> No flow requirements of any kind may be imposed on the waters of the Snake River

Section (b) states:

> below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act, of this Act, or any guidelines, rules, or regulations adopted pursuant thereto.

This guarantees in the strongest most protective language possible that upstream rights for present and future use cannot be affected by this act. This section adds safeguards that do not now exist and in my opinion, does not threaten but adds protection to upstream water rights. To me, it also expresses the legitimate concern of all Snake River water users and all Idahoans that we have first right to Idaho's water and any threat to it will be courageously challenged.

The House has carefully inserted in section 8 that the Secretary, after completing the comprehensive 5-year plan, is to transmit that plan to the "appropriate House and Senate Interior Committees." I support the inclusion as it indicates that the Members of both the Senate and the House who initially established the recreation area have the major responsibility of reviewing its management plan.

Section 16 excludes specific reference to Heavens Gate as a location for a NRA interpretive center. In considering the development of the overall recreational plan, I am certain that the Secretary will include the Heavens Gate area for an interpretive center.

I support the House's technical changes and commend the House staff for their careful editing of the bill. Appreciation also goes to the Senate Interior staff members who have given considerable effort to the drafting of this bill. Their cooperation plus that of the Interior Department, the Forest Service, and the many State and local groups was invaluable.

I also praise my colleagues, Mr. HATFIELD and Mr. PACKWOOD, Mr. CHURCH and Mr. ULLMAN, for their contributions in developing this sound proposal.

The Hells Canyon National Recreation Area legislation is a constructive, well balanced, innovative concept of outdoor recreational management. It took over 20 years to accomplish this feat with many difficult choices being reached. Idahoans had debated among themselves for years the various ways to manage the area. More recently, however, not only Idahoans but the country as a whole has been aware of the values of the area and have become actively involved in developing its future.

Through communications and surveys, they expressed their desire to see this unique area, the free flowing river through the canyon of the Middle Snake, set aside for future generations to enjoy. They also made it clear that they wanted to see continued use of the area's resources. My goal in sponsoring Hells Canyon legislation was to see these wishes upheld. I was emphatic in seeing that boundaries were studied and drawn so as to accommodate those people directly affected by the implementation of the bill.

Many of the existing pioneer uses of the high plateau areas are to be continued. Grazing is not prohibited, timber harvesting will be continued by selective cutting—except in unusual situations—in areas outside the designated wilderness.

Management of the Rapid River watershed will protect the water quality but does not prohibit timber harvesting. Mining will be prohibited only in the high peaks of the Seven Devils, but may be permitted in other portions outside designated wilderness under valid existing rights. Water, as mentioned earlier was painstakingly protected for its quality, its upstream uses and its natural free flowing state. The solitude of wilderness plus a less restricted access to the NRA will provide a wider variety of experiences to its visitors.

The Hells Canyon Recreation Area management approach recognizes that compatibility in a recreation area and the continued use of resources is important so the rural economy can survive. This delicate balance has been achieved through years of study and hours of dedicated citizen efforts on its behalf.

In his truly inspirational book, "Idaho," Bob Beatty vividly expresses the struggle and story of Hells Canyon by delineating the choices Americans have to make. Do we opt for the "tonic of wilderness" or the use of our vital resources? We are fortunate. We have gained both in the proposal for the Hells Canyon National Recreational Area.

Mr. President, I ask unanimous consent that the two letters I have referred to may be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

December 3, 1975.

Hon. James A. Haley,
Chairman, House Interior and Insular Affairs Committee, Washington, D.C.

Dear Mr. Chairman: In the House deliberation of the Hells Canyon National Recreation Area legislation, H.R. 30, the September 1975 map delineates the National Recreation boundary.

It is the Senate understanding that the boundary along the reservoir above the Hells Canyon Dam is intended to be the shoreline on the Idaho side.

Your confirmation of this point would be most helpful.

Sincerely,

James A. McClure,
U.S. Senator.

Committee on
Interior and Insular Affairs,
Washington, D.C., December 11, 1975.

Hon. James A. McClure,
Senate Office Building,
Washington, D.C.

Dear Jim: I have received your recent letter regarding the detailed boundary along the reservoir above the Hells Canyon Dam as depicted in H.R. 30, as reported by this Committee and passed by the House of Representatives.

I have discussed this matter with Roy A. Taylor, Chairman of the Subcommittee on National Parks and Recreation. Our mutual understanding is that the intent of the Committee was to include the reservoir within the bounds of the National Recreation Area. While we have not discussed a precise boundary location in this area, there is no history to indicate that a specific location of the boundary along the shoreline of the Idaho side of the reservoir would in any way conflict with the action taken by the Committee.

I am glad to confirm your understanding of this particular point with regard to H.R. 30, and I am hopeful that we will soon see this measure enacted into law.

With kind regards, I am,

Sincerely,

James A. Haley,
Chairman.

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate agree to the House amendment with an amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 3, section 3(b), commencing with the sixth line strike the remainder of the section and insert in lieu thereof the following: "boundaries of the Snake River segments thereof in accordance with subsection 3(b) of that Act; *Provided*, That the Secretary shall establish a corridor along the segments of the Rapid River and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River segment: *Provided further*, That the Secretary is authorized to make such minor boundary revisions in the corridors as he deems necessary for the provision of such facilities as are permitted under the applicable provisions of the Wild and Scenic Rivers Act (82 Stat. 906)."

On page 29, strike out the House amendment to the title on page 15 and amend the title to read as follows: "Amend the title so as to read: "A bill to establish the Hells Canyon National Recreation Area in the States of Oregon and Idaho, and for other purposes."."

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. HATFIELD. Mr. President, I rise in strong support of S. 322, which would create the Hells Canyon National Recreation Area, and of the amendments offered by Senator McClure. These are largely clarifying amendments to make this House-passed bill conform to the original intent of the Senate sponsors.

This legislation represents the culmination of years of effort on the part of many citizens of the Northwest who have fought so hard to save the magnificent Hells Canyon from dam construction. Not only does this bill protect the canyon itself, but it also protects the surrounding lands, most of which are managed by the U.S. Forest Service. A portion of the lands within the canyon rim would be designated wilderness, other areas would be studied for their wilderness suitability, and a management plan will developed to determine the best use of the remaining lands within this recreation area.

It should be noted, Mr. President, that there is some grazing and farm activities within the canyon rim, which are compatible with the wilderness designation, and I believe such activities can and should continue under this act. The important factor here is that the beauty of the area remain undisturbed.

The interested public will have every opportunity in the development of the management plan and I am confident that we will see the development of a plan which protects the recreational and scenic values of the Hells Canyon National Recreation Area.

Mr. President, passage of this legislation is really a victory for the people of the Northwest and of the Nation. It insures the protection of a resource which must not be lost to dam construction; with this bill, future generations will be able to visit this scenic wonder and to enjoy it in undisturbed state. I urge my colleagues to approve the legislation, with the proposed amendments, and I urge the House of Representatives to speedily approve it as amended.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. PACKWOOD. Mr. President, I compliment the Senator from Idaho and thank my colleague, Senator Hatfield.

This is the end of an almost quarter-of-a-century battle to preserve Hells Canyon. This bill will take care of that task. I think the House is prepared to accept the amendments which have been offered, and the battle is at last finished, fortunately.

Mr. McCLURE. I thank the Senators from Oregon.

Mr. President, Senator Church is a cosponsor of the amendments I have offered to the House amendment.

Mr. CHURCH. Mr. President, I want to express my support for these amendments to the Hells Canyon National Recreation Area bill, S. 322, which passed the Senate on June 2, 1975.

As I understand, adoption of these amendments will reinstate original Senate language to assure that the intent of the Senate authors of S. 322 is carried out.

For more than two decades the fate of this rugged and beautiful country dividing parts of Idaho and Oregon has been unknown. Passage of this bill will resolve a long standing issue and I urge support and speedy passage of the Hells Canyon National Recreation Area bill.

EXTENSION OF SUSPENSION OF DUTIES ON CERTAIN CLASSIFICATIONS OF YARNS OF SILK

AMENDMENT NO. 1264

Mr. GLENN. Mr. President, I submit an amendment to H.R. 7727, the so-called silk yarn bill, and ask unanimous consent that the text of the amendment be printed in the Record at this point, together with a "technical note" prepared by my staff in support of the proposal. I also ask unanimous consent to have printed in the Record letters to Senators Long and Muskie from me relating to this proposal. The letters were earlier submitted to them in their respective capacities, Senator Long as chairman of the Committee on Finance and Senator Muskie as chairman of the Budget Committee. The amendment was sent to the desk a few moments ago.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment and the other matters requested by the Senator will be printed in the Record.

The material ordered to be printed in the Record is as follows:

Amendment No. 1264

At the appropriate place in the Act insert the following new section:

Sec. Tax Incentive for Insulation of Principal Residence.

(a) General Rule.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) of the Internal Revenue Code of 1954 is amended by inserting immediately before section 45 the following new section:

"Sec. 44A. Insulation of Principal Residence.

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the qualified insulation expenditures paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $750.

"(b) Limitation.—

"(1) Application with other credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 35 (relating to partially tax-exempt interest),

"(C) section 37 (relating to retirement income),

"(D) section 38 (relating to investment in certain depreciable property),

"(E) section 40 (relating to expenses of work incentive programs),

"(F) section 41 (relating to contributions to candidates for public office), and

"(G) section 42 (relating to credit for personal exemptions).

"(2) Verification.—No credit shall be allowed under subsection (a) with respect to any qualified insulation expenditures unless such expenditures are verified in such manner as the Secretary of the Treasury or his delegate shall prescribe by regulations.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified Insulation Expenditures.—The term 'qualified insulation expenditures' means any amount paid by an individual for any installation (other than pursuant to a reconstruction of the dwelling unit) which occurs after January 1, 1976 and before January 1, 1979, of insulation in any dwelling unit which—

"(A) at the time of such installation is used by the individual as his principal residence; and

"(B) is in existence on January 1, 1976, and used on such date by one or more individuals as a residence.

Such term shall only include amounts paid for the original installation of any insulation in a dwelling unit.

"(2) Insulation.—The term 'insulation' means any insulation, storm (or thermal) window or door, clock thermostat, or any other similar item—

"(A) which is specifically and primarily designed to reduce, when installed in or on a building, the heat loss or gain of such building,

"(B) the original use of which commences with the taxpayer,

"(C) which has a useful life to the taxpayer of at least 3 years, and

"(D) which meets such performance standards as the Secretary of the Treasury or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development.

"(3) Joint Occupancy.—In the case of any dwelling unit which is jointly occupied and is used during any calendar year as a principal residence, by two or more individuals—

"(A) the amount of the credit allowable under subsection (a) (after applying subsection (b)(2)) with respect to any qualified insulation expenditures paid during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of subsection (b)(1)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals during such calendar year for such expenditures.

"(4) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual—

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any qualified insulation expenditures paid by such corporation.

"(d) Reduction of basis.—The basis of any property shall not be increased by the amount of any qualified insulation expenditures made with respect to such property to the extent of the amount of any credit allowed under this section with respect to such expenditures.

"(e) Reports.—

"(1) The Secretary of the Treasury shall prepare an annual report in consultation with the Administrator of the Federal Energy Administration. Such report shall be transmitted to the Congress not later than December 31 of each year, beginning with 1976, and shall include information with respect to the number and amounts of credits taken under the amendments made by the foregoing provisions of this Act; the nature of insulation improvements made by taxpayers with respect to their principal residences; the geographic areas of the United States in which such residences were located;

"(2) The Administrator of the Federal Energy Administration, in consultation with the Secretary of the Treasury, shall prepare an analysis of the energy savings achieved through operation of such amendments and prepare recommendations for modification, if any, of the tax incentive.

"(f) Termination.—This section shall not apply to any amount paid after December 31, 1978."

(b) Technical and Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following new item:

"Sec. 44A. Insulation of principal residence."

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out "; and" at the end of clause (vii) and inserting in lieu thereof ", and", and by inserting after clause (vii) the following new clause:

"(viii) section 44A (relating to insulation of principal residence); and".

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 44A (relating to insulation of principal residence), exceed".

(4) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon and by inserting after paragraph (22) the following new paragraph:

"(23) to the extent provided in section 44A (d), in the case of property with respect to which a credit has been allowed under section 44A.".

(5) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof "44, and 44A".

Technical Note on Insulation and Clock Thermostats

I. THE BASIC IDEA

Residential heating consumes 11% of the nation's energy usage of 40 million bbl/day, oil equivalent. Thus, residential heating consumes about (40 million bbl/day) (0.11) = 4.4 million bbl/day. This amount of consumption is nearly comparable to the amount which is consumed by the automobile: 6.5 million bbl/day.

Heat transfer losses in residences are proportional (to first order) to thermal conductivities, (k), and temperature differences, (T); or

$$\text{energy loss/hour} = (\text{area})\,(k)\,(T_{in} - T_{out})$$

where the area is an appropriate average surface area of the house, k is the thermal conductivity, and T_{in} and T_{out} are the inside and outside temperatures of the building. It follows that there are two straightforward ways to reduce the heating losses:

1) Insulation. By reducing the thermal conductivity with increased insulation. (See II.)

2) Clock Thermostats. By reducing the temperature differences over parts of the day to a greater extent than we are now doing. (See III.)

II. INSULATION

According to FEA's data, ceiling insulation is the most cost effective insulation that can be added. For about 25¢ per square foot one can insulate an attic. According to FEA the payback period is 2.3 years. See FEA data in Section IV.

III. CLOCK THERMOSTATS

We see that the heat losses can be reduced if we could use a clock controlled thermostat so that we could drop the thermostats when we sleep and when we are away at work. The thermostat can then be programmed to raise the temperature before we rise in the morning or return from work so that we will not have to experience any discomfort. The further one drops the thermostat, the greater the savings. (By using a 100 Watt electric blanket one could further enhance the savings.) We can see that savings of the order of 25% might be possible since we sleep for about 35% of the day.

Roughly the maximum amount of energy that could be saved is obtained by multiplying the rate of energy consumption of the U.S. (40 million barrels/day oil equivalent) times the fraction used for residential heating (0.11) times the fraction saved with clock thermostats (0.25). Carrying out these multiplications we obtain:

$$(40 \text{ M bbl/day})\ (0.11)\ (0.25) \cong 1.1 \text{ M bbl/day}$$

IV. DATA AND REFERENCES

A. "The Energy Conservation Potential of Winter Thermostat Reductions and Night Setback" by David A. Pilati of the Oak Ridge National Laboratory, Report Number ORNL–NSF–EP–80. (Dr. Pilati is currently at the University of Illinois.)

TABLE 5.—ESTIMATED U.S. ANNUAL ENERGY SAVINGS FOR SEVERAL THERMOSTAT OPERATIONS [a] (FROM 72° F)

Thermostat setting	Reduction in total U.S. energy use (percent) [b]	Energy saved in 1973 (trillion Btu) [a]	Million bbl year	Million bbl day
70°F	1.2	889	162	0.44
68°F	2.3	1,720	313	.86
68°F (day) 60°F (night)	3.6	2,685	488	1.34
68°F (day) 55°F (night)	4.1	3,067	560	1.53

TABLE 3.—CLOCK THERMOSTAT PAYOFF PERIOD FOR AN 1,800 FT^{2} HOUSE AT 1974 FUEL COSTS (NUMBER OF WINTERS) [a]

City	Payoff period (years)	
	60° F night	55° F night
Atlanta	[b]4–10	3–7
Boston	1–3	1–2
Cheyenne	2–18	2–8
Chicago	2–4	2–3
Dallas	5–>20	4–14
Kansas City	3–11	2–7
Knoxville	3–8	2–5
Minneapolis	2–6	2–3
Philadelphia	2–4	2–3
Seattle	3–16	2–9
Washington, D.C	2–5	1–3

B. "Housing Retrofit Actions" by Maxine Savitz of the Federal Energy Administration, CONGRESSIONAL RECORD, S. 4657, March 21, 1975. (Dr. Savitz is currently with ERDA.)

TYPICAL SAVINGS AND EXPECTED ACTIVITY FOR VARIOUS RETROFIT ACTIONS (1–FAMILY HOMES)

Retrofit action	Cost per unit	Minimum number of units poorly protected	Expected yearly appropriation for tax credit	Btu per year saved per unit (millions)	Dollars saved per action [1]	Payback period (years)
Ceiling insulation	$200 per home	18,000,000	3,000,000	35 per home	$86.80	2.3
Wall insulation	$500 per home	25,000,000	100,000	30 per home	74.40	6.7
Storm windows	$30 per window	70,000,000 windows in north	25,000,000 (inclduing replacements).	2.2 per window	5.46	5.5
Storm doors	$75 per door	25,000,000 in north	25,000,000 (including replacements).	1 per door	2.48	30.0
Clock thermostats	$70 per home	Not available	1,000,000	15 per home	37.20	1.9
Siding and weatherstripping	$50 per home	20,000,000	2,000,000	Substantial but indeterminate.		2.0

[1] Computed at an average national cost of $2,480,000. Btu, weighted 60-percent gas, 30-percent oil, 10-percent electricity.

U.S. SENATE,
Washington, D.C., December 3, 1975.
Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Senate Finance Committee will shortly be considering tax cut extension legislation. At that time I would hope the committee could include in its deliberations the tax credit for housing insulation. That provision is presently included in H.R. 6860, the "Energy Conservation and Conversion Act of 1975", but I understand that that bill is not scheduled for early consideration by the Committee. I am concerned that if the housing insulation measure is not included in the tax cut extension bill it will not be enacted in time for this winter. I feel that it is imperative that this energy conservation provision be instituted as soon as possible to help alleviate the natural gas shortage which we now face.

H.R. 6860 passed the House on June 19 by a vote of 291–130. The bill, as passed by the House, included a tax credit for housing insulation of 30% of the first $500 for qualified insulation expenditures. The Senate Finance Committee marked-up the tax credit provision on July 22 and raised the tax credit to 30% of the first $750 expended. It is estimated that the revenue loss due to this provision would amount to $390 million annually during its two year duration. However, the potential energy savings through the tax credit would enable this provision to repay its cost in four to five years. Further, the energy savings would be considerable, amounting to about 150,000 barrels per day of oil, or natural gas equivalent, by 1980.

Even though the tax credit provision would be of substantial benefit at low cost, it is my understanding that an amendment to the tax cut extension which would involve a revenue loss through a reduction in the estimated tax liability for the first six months of calendar year 1976 may not be in compliance with the Senate-passed Second Concurent Resolution on the Budget. It may be necessary, therefore, to balance the revenue loss with either a decrease in the tax reductions of the extension bill or an increase in revenue as the Committee deems appropriate. It is my hope that the Committee can determine a means by which this may be accomplished.

I am contacting Senator Muskie, Chairman of the Senate Budget Committee, to determine the budget impact of including the housing insulation tax credit as an amendment to the tax cut extension.

Thank you very much for your consideration.

Best regards.
Sincerely,
JOHN GLENN,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 3, 1975.
Hon. EDMUND S. MUSKIE,
Chairman, Senate Budget Committee, Caroll Arms Hotel, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of a letter which I have sent to Senator Long in his capacity as Chairman of the Senate Finance Committee. In that letter I requested that the tax credit for housing insulation, presently included as part of H.R. 6860, the "Energy Conservation and Conversion Act of 1975," be included as a provision of the tax cut extension bill. With the realization that the tax credit provision may have an impact on the Second Concurrent Resolution, I respectfully request an assessment by the Senate Budget Committee of what that impact, if any, might be.

Thank you very much for attending to this matter.

Best regards.
Sincerely,
JOHN GLENN, *U.S. Senator.*

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent at this time that there be a brief period for the conduct of morning business with a time limitation of 5 minutes attached thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. STONE) laid before the Senate a message from the President of the United States submitting the nomination of Frank A. Shrontz, of Virginia, to be an Assistant Secretary of Defense, which was referred to the Committee on Armed Services.

MESSAGES FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by

Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 8674) to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a U.S. Metric Board to coordinate the voluntary conversion to the metric system.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the resolution (H. Con. Res. 466) revising the congressional budget for the U.S. Government for the fiscal year 1976, and directing certain reconciliation action.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8122) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; that the House recedes from its disagreement to amendments of the Senate Nos. 13, 19, 21, 24, 26, 27, 29, 33, 38, and 41 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate Nos. 25, 28, 30, 51, and 52, each with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 2:30 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills:

S. 55. An act for the relief of Dino Mendoza Pascua.

S. 447. An act for the relief of Jesus Cortez Pineda.

S. 605. An act for the relief of Heung Soon Kim.

S. 1653. An act for the relief of Sun Yang Kim and Sun Mi Kim.

H.R. 2724. An act to provide for establishment of the Father Marquette National Memorial near Saint Ignace, Mich., and for other purposes.

H.R. 8773. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

H.R. 9883. An act to amend the joint resolution approved December 28, 1973, providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac, and for other purposes.

H.R. 9924. An act to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes.

H.R. 11027. An act to amend the effective date of the Defense Production Act Amendments of 1975.

The enrolled bills were subsequently signed by the President pro tempore.

At 3 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the com- partment of Defense for the fiscal year mittee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9861) making appropriations for the De- ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate No. 19 to the bill; and that the House recedes from its disagreement to the amendments of the Senate Nos. 49, 53, 75, 83, 98, and 101 and concurs therein with amendments in which it requests the concurrence of the Senate.

The message also announced that the Speaker has appointed Mr. HÉBERT, Mr. SEIBERLING, and Mr. YOUNG of Alaska, as additional managers on the part of the House in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 49) to authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. STONE) laid before the Senate the following letters, which were referred as indicated:

PROPOSED SUPPLEMENTAL APPROPRIATIONS FOR THE JUDICIARY—(S. Doc. No. 94–139)

A communication from the President of the United States transmitting proposed supplemental appropriations for fiscal year 1976 in the amount of $404,000 and for the transition quarter in the amount of $151,000 for the judiciary (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

REPORT OF THE VICE PRESIDENT

A letter from the General Counsel to the Vice President reporting, pursuant to law, on a violation in the account entitled "Special Assistance to the President, Office of the Vice President"; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6874. An act to amend the Small Reclamation Projects Act of 1956, as amended (Rept. No. 94–544).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 2742. A bill to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States (Rept. No. 94–545).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 9432. An act to amend the Internal Revenue Code of 1954 in order to provide for quarterly payment, rather than annual payment, to the government of the Virgin Islands of amounts equal to internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States (Rept. No. 94–547).

H.R. 2110. An act for the relief of Joyce Ann Farrior and Sarah E. Farrior (Rept. No. 94–546).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 5559. An act to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations (Rept. No. 94–548).

H.R. 10284. An act to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for three years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums (Rept. No. 94–549).

H.R. 10727. An act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles (Rept. No. 94–550).

By Mr. HATFIELD, from the Committee on Interior and Insular Affairs, without amendment:

S. 2361. A bill to reauthorize and modify McKay Dam, Umatilla project, Oregon, for multiple functions, and for other purposes (Rept. No. 94–551).

REGIONAL DEVELOPMENT ACT OF 1975 — CONFERENCE REPORT — REPT. NO. 94–552

Mr. RANDOLPH submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional 2-fiscal-year period, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Richard A. Wiley, of Massachusetts, to be General Counsel of the Department of Defense.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Lt. Gen. John W. Vessey, Jr., U.S. Army, for appointment as senior U.S. Army member of the military staff, Committee of the United Nations, Maj. Gen. Eugene Joseph D'Ambrosio, U.S. Army to be lieutenant general and Brig. Gen. Salvador Monserrate Padilla, U.S. Army National Guard to be major general in the Reserve of the Army; and, in the Air Force, Lieutenant General Scowcroft to be placed on the retired list in that grade and also there are 52 colonels for promotion in the Air Force to the grade of brigadier general—list begins with Col. Christopher S. Adams, Jr. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. In additon, Mr. President, there are 1,053 in the Army Reserve and National Guard for promotion to the grade of colonel and below. There are 1,047 in the Navy and Naval Reserve for promotion to the grade of commander. In the Marine Corps and Marine Corps Reserves, there are 80 for appointment to the grade of colonel and below. And, in the Air Force and Reserve of the Air Force there are 5,766 for promotion to the grade of lieutenant colonel and below. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

H. Gregory Austin, of Colorado, to be Solicitor of the Department of the Interior.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Robert E. Barrett, of Pennsylvania, to be Administrator of the Mining Enforcement and Safety Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LONG, from the Committee on Finance:

Michael B. Smith, of Massachusetts, U.S. negotiator on textile matters, for the rank of Minister.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RANDOLPH, from the Committee on Public Works:

Andrew W. Breidenbach, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, December 12, 1975, he presented to the President of the United States the following enrolled bills:

S. 55. An act for the relief of Dino Mendoza Pascua.

S. 447. An act for the relief of Jesus Cortez Pineda.

S. 605. An act for the relief of Heung Soon Kim.

S. 1653. An act for the relief of Sun Yang Kim and Sun Mi Kim.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. STEVENS (for himself and Mr. HANSEN):

S. 2778. A bill to require that any pipeline constructed to transport natural gas from Alaska's Prudhoe Bay area be entirely within such State and to require the Federal Power Commission to establish certain allocations and priorities with respect to the use of such gas. Referred to the Committee on Commerce.

By Mr. ABOUREZK:

S. 2779. A bill to amend title 28, United States Code, to provide for nonunanimous verdicts in the trial of civil actions. Referred to the Committee on the Judiciary.

S. 2780. A bill to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 2781. A bill to direct the stationing of an additional immigration inspector at Salt Lake City, Utah. Referred to the Committee on the Judiciary.

By Mr. BEALL:

S. 2782. A bill to amend the Social Security Act to change the standard of liability and to provide for expenses of legal counsel in certain civil suits, actions, and proceedings against Professional Standards Review Organizations, and members, directors, trustees, employees, officials, and consultants thereto. Referred to the Committee on Finance.

By Mr. MORGAN (for himself, Mr. HELMS, Mr. HUDDLESTON, Mr. FORD, Mr. BAKER, and Mr. BROCK):

S. 2783. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Daniel Boone Trail as a national scenic trail. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself and Mr. HANSEN):

S. 2778. A bill to require that any pipeline constructed to transport natural gas from Alaska's Prudhoe Bay area be entirely within such State and to require the Federal Power Commission to establish certain allocations and priorities with respect to the use of such gas. Referred to the Committee on Commerce.

(The remarks of Mr. STEVENS on the introduction of the above bill are printed earlier in today's RECORD.)

By Mr. ABOUREZK:

S. 2779. A bill to amend title 28, United States Code, to provide for nonunanimous verdicts in the trial of civil actions. Referred to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, I am today introducing legislation to eliminate the requirement of unanimous jury verdicts in Federal civil cases. Having practiced under a five-sixths rule in the State courts of South Dakota, I know from personal experience that such a system provides a more efficient and expeditious resolution of civil cases. I believe that this same nonunanimous jury verdict system might help alleviate the serious backlog of civil cases in the Federal courts.

This legislation most probably will have its greatest impact on hung jury situations. Retrying a civil suit is costly to litigants and expensive to the court system as a whole in terms of judicial time and energy. The benefits of this bill would be reflected in financial savings to litigants and greater judicial economy. At the same time, I am confident that reducing the number of jurors constituting a verdict from all of the jurors to five-sixths of the jury will not impair the quality of justice in civil cases. This fact is evidenced by the experiences of those State courts which operate under such a system.

I urge the support of my fellow Senators in this effort to introduce more efficiency into the Federal judicial system.

By Mr. MOSS:

S. 2781. A bill to direct the stationing of an additional immigration inspector at Salt Lake City, Utah. Referred to the Committee on the Judiciary.

Mr. MOSS. Mr. President, I introduce a bill for appropriate reference, and I ask unanimous consent that a letter which I have received from L. F. Chapman, Commissioner of the Immigration and Naturalization Service be printed in the RECORD together with the text of the bill.

There being no objection, the letter and bill were ordered to be printed in the RECORD, as follows:

IMMIGRATION AND
NATURALIZATION SERVICE,
Washington, D.C., December 12, 1975.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: Reference is made to your letter of December 4, 1975, concerning your request that an immigration inspector be stationed at Salt Lake City, Utah, on a permanent basis.

It is true that the Fiscal Year 1977 regular appropriation bill provides for a funding increase and authority to hire additional employees. The authority to hire employees, however, is limited to employees other than immigration inspectors. There is no leeway within the authority providing for additional inspector positions regardless of location or need. No inspectors are included in the 750 increase. As a matter of fact, we have been authorized no additional inspectors for four years, despite the dramatic increases in international travel.

While I can appreciate the wishes of your constituents in Salt Lake City and their attempts to improve the economy of that area through additional air traffic, I have no alternative but to reiterate my position which I relayed to you by letter of September 29, 1975. You may be assured that when the Service is authorized to hire additional immigration inspectors, I will station one of them at Salt Lake City.

With best regards,

Sincerely,

L. F. CHAPMAN,
Commissioner.

S. 2781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General is authorized and directed to station one additional immigration inspector at Salt Lake City, Utah.

By Mr. BEALL:

S. 2782. A bill to amend the Social Security Act to change the standard of liability and to provide for expenses of legal counsel in certain civil suits, actions, and proceedings against Professional Standards Review Organizations, and members, directors, trustees, employees, officials, and consultants thereto. Referred to the Committee on Finance.

Mr. BEALL. Mr. President, I send to the desk a bill amending the Professional Standards Review Organization—PSRO—provisions of the Social Security Act.

These provisions were enacted in 1972 as part of Public Law 92-603 and were designed to provide review of health services by health professionals to assure that such services were medically necessary, provided at the appropriate level of care, and that the quality of such services would meet professionally recognized standards of care.

Today there are 63 PSRO's actually in operation in the country and another 57 in various planning stages. The growth of PSRO's is threatened, however, unless liability protection can be provided to those professionals who are willing to undertake the review of medical services and perform this important public responsibility.

In Montgomery County, for example, the Montgomery County Medical Care Foundation, is scheduled to cease its professional review activities as of the end of this year if some such protection is not forthcoming. This is because such foundation, notwithstanding a year long search, has been unable to secure liability insurance protection.

The problem of adequate liability insurance is not just a problem for Montgomery County, but evidentally one for PSRO's throughout the Nation. In a recent survey, 99 out of 105 PSRO's indicated that the issue of liability insurance was of major importance to them. Thus, unless we can solve this liability issue, the PSRO's will be endangered. HEW to date has been only able to promise reimbursement to PSRO's for defense "under certain conditions" and "subject to the availability of funds." Obviously, such conditional and "iffy" assurances are not adequate for the PSRO's. The bill I introduce today, which is identical to the measure introduced by my friend and colleague, Congressman GUDE yesterday would:

First, make PSRO's as well as its members and employees, civilly liable in connection with the performance of duties authorized or required of PSRO's only if it can be demonstrated that such organizations or individuals were "grossly negligent." Present law makes such organizations and individuals liable for the failure to exercise "due care;"

Second, make PSRO's as well as its members and employees liable for defamation in connection with its PSRO's duties and functions only when it can be shown that such organization or individual acted with malice or with gross negligence, and

Third, authorize HEW to pay PSRO's and individuals expenses for legal counsel "necessarily incurred as determined by the Secretary in connection with the defense of the portion of such suit, act, or proceeding, in connection with the performance of any duties, functions, or activities of professionals standards review laws."

Mr. President, with respect to this latter item, I wish to make it clear that it is my intent and that of Congressman GUDE that such HEW payments would only take place if the PSRO were unable to secure liability insurance. If in fact such liability insurance is available, this provision would not be needed. If PSRO's are to work, physicians and other health professionals involved must be protected against personal liability for carrying out their responsibilities. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1167(b) of the Social Security Act (42 U.S.C. 1320c-16(b)) is amended to read as follows:

"(b) In any civil suit, action, or proceeding brought against a Professional Standards Review Organization a member, director, trustee, employee, or official thereof, or a person who is requested by, and who furnishes professional counsel or services to, such organization—

"(1) such organization, individual, or person shall not be held liable for the negligent performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part, unless such organization, individual, or person was grossly negligent in such performance;

"(2) such organization, individual, or person shall not be held liable for defamation in connection with the performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part, unless such organization, individual, or person acted with malice or with gross negligence in connection with such such performance; and

"(3) the Secretary shall make payment to such organization, individual, or person equal to the reasonable amount of the expenses of legal counsel actually and necessarily incurred, as determined by the Secretary, in connection with the defense of the portion of such suit, action, or proceeding in connection with the performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part.

SEC. 2. The amendments made by this Act shall take effect on the date of enactment of this Act, but shall not apply with respect to any civil action, suit, or proceeding brought prior to the date of enactment of this Act.

By Mr. MORGAN (for himself, Mr. HELMS, Mr. HUDDLESTON, Mr. FORD, Mr. BAKER, and Mr. BROCK):

S. 2783. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Daniel Boone Trail as a national scenic trail. Referred to the Committee on Interior and Insular Affairs.

Mr. MORGAN. Mr. President, I am proud to introduce this legislation on behalf of myself and Senators HELMS, HUDDLESTON, FORD, BAKER, and BROCK. This is a bill to authorize a study of the feasibility of designating a new component of the National Trails System, the Daniel Boone Trail in North Carolina, Tennessee, Virginia, and Kentucky.

Similar legislation was introduced by our friend and former colleague, Senator Sam J. Ervin, Jr., in the 93d Congress. In the present Congress, legislation identical to that which I am introducing, H.R. 10280, has been offered in the other Chamber by Representative ROY A. TAYLOR and additional members of the North Carolina, Tennessee, Virginia, and Kentucky delegations.

The passage of the National Trails System Act in 1968 indicated the growing sophistication of the conservationists and the U.S. Congress in seeking techniques to provide increased outdoor recreation opportunities and to preserve segments of our natural and cultural heritage at the same time.

Although limited funding has hampered the development of the national system as originally planned, the concept remains sound. Two trails, the Appalachian and Pacific Crest Trails were named as the original components of the system, with another 14 trails designated for study as to their suitability for inclusion in the system.

As those studies have proceeded, the Congress has seen fit to propose new trail segments for study and evaluation as to their suitability for inclusion in the system. It is a similar proposal which I make today with regard to the route taken by Daniel Boone on his travels from North Carolina into Kentucky in the 1760's and 1770's. This is the trail which became known as the Wilderness Road, and was the pathway to the lands west of the mountains for thousands of pioneers.

Much of the route has been lost through the development which has taken place in the past 200 years, but a dedicated group of citizens has expended a tremendous amount of time and effort in locating the remaining segments of Daniel Boone's Wilderness Road.

My interest in this project has been aroused by an articulate member of that citizen group, Carl W. Ramsey, of Hillsborough, N.C. In correspondence, he has described the location of the trail, as follows:

> The trail began near Boone's home and the early settlements on Third Creek and Fourth Creek near the present town of Statesville in what was then Rowan County in North Carolina. Rowan County at that time included all of northwest North Carolina with county seat at Salisbury.
>
> From the beginning the trail ran northwest to the location of the present town of North Wilkesboro, North Carolina and then almost due west crossing the Blue Ridge Mountains at Deep Gap. It then passed near the present town of Boone, N.C. and followed the Watauga River Valley into present Tennessee which was then part of North Carolina.
>
> The trail then turned northwest again and crossed the Holston River at the present

town of Kingsport, Tennessee. Shortly thereafter it entered Virginia and then turned due west to Cumberland Gap and through this into present Kentucky and on to Boonesboro. Kentucky at this time was still part of Virginia.

I have found traces of the trail in present Iredell, Davie, Wilkes and Watauga Counties in North Carolina, especially where it follows Lewis Fork at the Yadkin River to cross the Blue Ridge Mountains at Deep Gap.

It strikes me as particularly appropriate that the Congress take this legislative proposal under active consideration at this time, because of the Bicentennial Anniversary we are beginning to celebrate. It was on the very eve of the American Revolution, in 1775, that Daniel Boone blazed the Wilderness Road to the West and moved his family to the frontier in Kentucky.

Mr. President, I ask unanimous consent to have printed in the Record a brief statement by Mr. Ramsey which presents in admirable fashion some of the most impressive arguments in support of this proposed trail study. My colleagues will doubtless find Mr. Ramsey's succinct history as compelling as did I.

I also ask unanimous consent that the bill be printed in the Record.

There being no objection, the statement and bill were ordered to be printed in the Record, as follows:

Daniel Boone and the Settlement of the West

Kentucky has adopted Daniel Boone as their own and made a great man of him. They have preserved all they could find relating to Boone; whereas, North Carolina, from where he came to Kentucky and where the whole thing began, has practically no relics of him.

Kentucky was just one end of the Trail. Thousands of settlers that took Boone's trail across the mountains did not go to Kentucky but settled Tennessee. As the best land there was taken up, they moved on into what is now Alabama and Mississippi and settled those states. The next generation moved on west and settled northern Louisiana, Texas and Arkansas. It is said that a Tennessean is a North Carolinian once removed and that a Texas is a North Carolinian twice removed. The family names of many people in Texas, Arkansas, Alabama and Mississippi are still found in the western Piedmont of North Carolina.

Since the publication of "Carolina Cradle" in 1964, my son had received hundreds of letters from people in Tennessee, Alabama, Mississippi, Louisiana, Texas, Arkansas, Missouri, Kansas, Illinois and Kentucky who had read his book and who stated their ancestors came from North Carolina and asked his help in tracing their family.

Andrew Jackson and James K. Polk were born in the western Piedmont and Andrew Johnson from the Central Piedmont of North Carolina. All went to Tennessee and became presidents of the United States; also, Hugh Lawson White who ran for president in 1836.

The forbears of Sam Houston, Davy Crockett, and Kit Carson were from North Carolina according to good evidence. The first Governor of Texas, James Pinckney Henderson, was born in Lincoln County, North Carolina.

The North Carolinians that followed Boone to Kentucky also helped to settle Missouri, southern Ohio, Indiana and Illinois. From these people came Thomas Hart Benton, William Jennings Bryan and Adlai Stevenson.

The men mentioned in the preceding three paragraphs are, of course, of great importance in United States history. They or their forbears not only settled the West and Southwest, but made them a part of our country. The fact that they and others came from North Carolina and went west by way of the Daniel Boone Trail makes the Trail of national importance.

You may ask how the thousands of North Carolinians that went west could have come from the western Piedmont section; expecially since in 1740 there were only a few white traders there living with the Indians. In the late 1740's there began that great migration of people to Carolina from Pennsylvania, New Jersey, Delaware, Maryland and Virginia. In the late 1600's and early 1700's great numbers of people had arrived in the middle colonies from Europe and the British Isles. Good land had become scarce and expensive. In Carolina there was plenty good fertile land very cheap and the climate was good. Also, there was freedom of worship or none at all if you preferred. First came the English Quakers and the Scotch-Irish followed by the Germans. From 1746 to 1767 the population in the Western Piedmont including northwest South Carolina jumped from a few hundred to around 75,000 and this included the period during the French and Indian War, 1754–1760, when movement north and south over the Great Wagon Road in the valley of Virginia practically ceased. After the war the southern movement increased and by 1774 the population was perhaps double that at 1767. Many of the younger sons of the pioneers would have no good land so thousands of them followed Daniel Boone to the west. He took his first group to Kentucky in 1773.

In conclusion, I would like to talk about Daniel Boone, the man. He was born in Olney Township near Reading, Pennsylvania of English Quaker parentage. In 1750 when Boone was 16 his family moved to North Carolina and settled on a large tract of land on Bear Creek in what is now Davie County. They had followed other Quaker friends such as Morgan Bryan, William Linville and Edward Hughes, who had come to Carolina about 1746 and settled near the Shallow Ford on the Yadkin River (see attached map). These settlers took up the best land along the river bottoms before the Moravians arrived in 1753 and settled near by.

Daniel's father, Squire Boone, was made a Justice of the Peace in Rowan County. This county, when it was created in 1753, included all of Northwestern North Carolina west of Orange County and above the Earl of Granville's line.

Daniel grew to manhood on Bear Creek. He did not care much for farming but liked to hunt and explore new country. During this period he probably heard of the lands west of the mountains from Christopher Gist, a famous frontierman, surveyor and Cartographer, who had settled on the Yadkin River prior to 1748.

Gist was originally from Maryland. He was well educated for that time and had a wide reputation for his excellent work in mapping new country. When Governor Dinwiddie of Virginia and the leading men in that Colony formed the Ohio Land Company in 1749, they sent to North Carolina for Christopher Gist to explore and map the lands in the Ohio Valley on both sides of the river. He made several trips between 1750–1752 exploring and mapping an area which now includes the states of Ohio, Indiana, Illinois and Kentucky, returning between trips to his home on the Yadkin. He also was commissioned to make friends with the Indians and try to win them away from the French. In 1752–1753, Gist served as a guide for George Washington on his historic trip to warn the French out of the Ohio Valley and on the journey twice saved Washington's life. On General Braddock's campaign in 1755 against Fort Duquense he served as a guide. Gist died of smallpox in 1759 in the Cherokee Country in southwestern North Carolina and Northern Georgia where he had gone to persuade that tribe to fight against the French.

Daniel Boone served as a wagoner in General Braddock's ill-fated campaign in Pennsylvania when the British-American force was defeated by the French and their Indian allies. George Washington became famous in this battle when he saved part of the American-British Army. Daniel Boone met John Findley, another wagoner and an Indian trader. Findley had already been west of the mountains and told Boone about the beauty and richness of the country there. Findley later came to live in North Carolina and in 1769 he and Boone made a trip together to Kentucky.

In 1756 Daniel married Rebecca Bryan, daughter of Morgan Bryan. She was a courageous frontier woman and understood Daniel's great drive to explore new country. She more than fulfilled one third of Daniel's prescription for happiness, a "a good gun, a good horse and a good wife". In 1760 he explored eastern Tennessee. In 1767 he first visited eastern Kentucky. In 1769–1771 Boone with a small party explored the region thoroughly. Indian attacks drove back the first party of settlers he took there in 1773, but in 1775 as agent for Judge Richard Henderson and the Transylvania Land Company and with an armed band of 30 men. Boone blazed the Trail, the famous Wilderness Road. Later the same year he led a party of settlers including his own family to Kentucky.

During the American Revolution, Boone was an officer in the Kentucky (Virginia) militia. After the war, he was elected to several terms as representative in the Virginia Legislature. Later, after Kentucky was made a state, his titles to large tracts of land were adjudged imperfect and he lost most of his property. Disgusted, he and Rebecca in 1799 followed a son to Missouri where he was granted a large tract of land. Boone always said he needed "elbow room". When the United States took over this territory after the Louisiana Purchase, Boone's land titles were again judged defective but direct intercession by Congress restored part of the acreage. Boone was then an old man, but already famous. He died in Missouri in 1820.

S. 2783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(c) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by adding at the end thereof the following new paragraph:

"(15) Daniel Boone Trail extending from the vicinity of Statesville, North Carolina, to Frankfort, Kentucky."

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 1009

At the request of Mr. Stone, the Senator from Georgia (Mr. Talmadge) was added as a cosponsor of S. 1009, a bill to amend title 13 of the United States Code to require the compilation of current data on total population between censuses and to require the use of such current data in the administration of Federal laws in which population is a factor.

S. 2608

At the request of Mr. Fannin, the Senator from Oklahoma (Mr. Bartlett) was added as a cosponsor of S. 2608, a bill to provide geothermal tax incentives.

S. 2246

At the request of Mr. Beall, the Senator from Florida (Mr. Chiles) was added as a cosponsor of the bill (S. 2246) to amend the Communications Act of 1934 with respect to the renewal of licenses for the operation of broadcasting stations.

S. 2390

At the request of Mr. Roth, the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of the bill (S. 2390) to facilitate the consolidation of Federal assistance programs.

S. 2401, S. 2402, AND S. 2403

At the request of Mr. Fong, the Senator from New York (Mr. Buckley) was added as a cosponsor of S. 2401, S. 2402, and S. 2403, three bills to amend the Internal Revenue Act of 1954.

S. 2404

At the request of Mr. Packwood, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of the bill (S. 2404) to provide that income from certain public entertainment activities conducted by organizations described in section 501(c) (3), (4), or (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organizations.

S. 2540

At the request of Mr. Humphrey, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 2540, the Federal Reserve System Modernization Act.

S. 2642

At the request of Mr. Thurmond, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of the bill (S. 2642) to authorize the Secretary of the Interior to establish the Old Ninety Six and Star Fort National Historical Park in the State of South Carolina, and for other purposes.

S. 2664

At the request of Mr. Packwood, the Senator from Minnesota (Mr. Mondale) was added as a copsonsor of the bill (S. 2664) to amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to Indian tribes performing governmental functions as are applicable to other governmental units.

S. 2741

At the request of Mr. Mondale, the Senator from Minnesota (Mr. Humphrey) and the Senator from Connecticut (Mr. Weicker) were added as cosponsors of S. 2741, a bill to establish a series of six regional Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States.

S. 2742

At the request of Mr. Eagleton, the Senator from Maine (Mr. Hathaway) and the Senator from Idaho (Mr. Church) were added as cosponsors of S. 2742, a bill to dedicated the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States.

S. RES. 291

At the request of Mr. Beall, the Senator from Kansas (Mr. Pearson) and the Senator from North Dakota (Mr. Burdick) were added as cosponsors of the resolution (S. Res. 291) which clarifies the intent of Congress regarding the regulation of pay cable television.

S. RES. 321

At the request of Mr. Leahy, the Senator from South Dakota (Mr. Abourezk) was added as a cosponsor of Senate Resolution 321, disapproving the deferral of certain budget authority.

SENATE RESOLUTION 328—SUBMISSION OF A REOLUTION RELATING TO LONG-TERM ENERGY NEEDS

(Referred to the Committee on Foreign Relations.)

Mr. BIDEN (for himself and Mr. Kennedy) submitted the following resolution:

S. Res. 328

Resolved, Whereas, fundamental changes are taking place in the global economy, requiring bold and imaginative steps to restructure and reform international economic practices and institutions, for the benefit of all nations and peoples;

Whereas, the United States retains the capacity and responsibility for sharing effective leadership in efforts to promote constructive efforts to achieve this end;

Whereas, the world's fossil fuels are being progressively exhausted, thus creating an imperative need to develop new sources of energy, and design equitable ways of sharing energy among nations;

Whereas, meeting the world's long-term energy needs involves and affects all countries;

Whereas, the World Food Conference demonstrated that nations can work together in seeking to meet long-range problems critical to the future of mankind;

And whereas, on December 16 and 17, 1975, the first meeting of the Conference on International Economic Cooperation will be held in Paris, bringing together oil producing and consuming nations;

Therefore be is *Resolved,* that it is the sense of the Senate that

(1) The President should propose to other nations a global approach to world energy problems, seeking to assess energy needs for the future, the energy sources most likely to prove both cheap and abundant, the areas of the world where investments are most likely to produce cheap and abundant energy, and the problems of equity and justice in sharing among nations the world's energy resources.

(2) That the President should make this proposal within such forums that would be most likely to permit systematic effort to understand the goals in Section 1. These forums should include, but not be limited to, the Conference on International Economic Cooperation and a global energy conference to which all nations would be invited.

(3) The Secretary of the Senate shall transmit copies of this Resolution to the President and the Secretary of State.

Mr. KENNEDY. Mr. President, next Tuesday, oil importing and exporting nations will meet in Paris at the first session of the Conference on International Economic Cooperation. It is the culmination of lengthy efforts to find a basis for direct negotiations, not just on energy, but on a variety of subjects affecting the global economy. The conference will set up four commissions—on energy, raw materials, development, and international finance—that will carry forward this initial effort. We should not expect dramatic developments next week. This is only the start of a long and complex effort. But we can expect that the right tone will be set, and that nations involved will commit themselves to the hard work needed to restructure the global economy.

I am gratified that this conference has finally come to fruition. When I proposed this approach to energy and related issues more than 2 years ago, I said:

> It is time to consider the energy problems of both exporting and importing countries together. It is time to search for areas of common agreement. And it is time to begin looking systematically at the worldwide dimensions of energy affairs.

A formal proposal to hold an exporter-importer energy conference was made by France. However, we chose first to embark on efforts to secure consumer cooperation, leading to the establishment of the International Energy Agency. That Agency is now in place, and it has taken the first steps toward coordinating the energy policies of the major industrial consumer states.

Accepting the merits of consumer cooperation, I have long believed that this approach did not go far enough. For one thing, the consumer nations most affected by the staggering rise in energy prices were not included—the poor nations of the world. For another, the United States at the same time began an effort to confront the oil-producing nations of OPEC, despite the counsel of several of our allies, and despite the fact that the worldwide situation of energy supply and demand did not promise to make such a confrontation policy effective in meeting the OPEC challenge. On more than one occasion, there were even indirect threats made by American leaders to invade oil producing countries under certain circumstances.

When Presidents Ford and Giscard d'Estaing met in Martinique, the United States agreed to take part in a conference that would bring both oil exporters and importers together. However, the first preparatory conference broke down in May, over the nature of the agenda. This fall, however, there was agreement to proceed, and to broaden the agenda to include economic problems that go beyond energy, itself. I believe that this agreement is in our interest. Not only is there pressing need to deal with all the world's growing economic problems—and not just energy in isolation—but also the economic strengths of the industrial states are far more likely to be brought to bear effectively in a conference that is not limited to energy issues. Fortunately, too, this conference will also include limited representation from the developing world, beyond oil-producing nations.

I am also pleased that there will be congressional staff representation next week in Paris. I do not know of any precedent for this step; and I believe it reflects a forthcoming attitude on the part of the Department of State. It is a recognition that the importance of these issues, and their impact on the lives of individual Americans, argues for congressional involvement from the beginning. I welcome this step in the direction of effective congressional-Executive relations in foreign affairs.

Mr. President, the four commissions scheduled to be set up by the conference cover the basic economic issues facing most nations in the global economy, today: Energy, raw materials, development, and finance.

Yet there is a particular theme that may be missed by the conference as it is structured. This is the need to look at energy problems, not just in terms of relations between oil exporters and importers—both rich and poor—but also in terms of long-term global needs. It is not enough to discuss energy problems in a context where there are overtones of "us" and "them"—a division brought about by today's particular situation in the global trade in oil. It is also important to focus attention on the interest that all nations share—whatever their role in today's oil markets—in the future of global energy supply, demand, and sharing of precious resources.

I am, therefore, introducing a resolution, expressing the sense of the Senate on this critical matter. I propose that the United States begin an effort to look at long-range energy problems on a global basis, and involving all nations. This would take us beyond the immediate issues facing the CIEC next week; it would take us beyond any hint of "us" and "them"; it would stress the common interest of all nations in the future of global energy.

This longer-range approach could begin at the CIEC; but it is also essential to find a forum that includes far more countries, especially in the developing world. In my resolution, therefore, I am also proposing that the United States initiate efforts to convene a World Energy Conference, that would begin the search for an effective, global energy strategy for the long term. Such a conference would be unlikely to answer many questions; but it would at least raise them, and help to change the psychology of energy relations from one based on "OPEC versus the rest," to one in which common interests are stressed.

We have had a debate in this country for some time whether we should develop our energy resources first, or those of other countries. But an essential part of that debate should be long-range global needs. For the world as a whole, in fact, it is important that the focus of energy development be on those fuels, and in those countries, that are most likely to provide for global needs, to meet issues of equity among nations in sharing the world's energy resources, and to solve best those other problems that have arisen—or that will arise—in international energy trade.

We have a precedent for this approach, in the World Food Conference held in Rome. That conference did not produce the final answers for meeting the future's food problems. But it did show that a long-range issue in this interdependent world—vital to all nations—could elicit a response, and foster attitudes, that have moved us far beyond earlier efforts to meet food problems. It set a standard and a method for coping with enormous and complex food issues.

Pursued in the right spirit—and with a commitment of time, attention, and ideas—a World Energy Conference could well begin an effort in energy similar to the one in food begun at the World Food Conference.

Mr. President, all nations will benefit from constructive steps we take now, to meet both short-term and long-term energy problems—and other vital international economic issues. I, therefore, welcome next week's Conference on International Economic Cooperation, and the future efforts it can begin.

AMENDMENTS SUBMITTED FOR PRINTING

SMALL BUSINESS INVESTMENT ACT AMENDMENTS OF 1975—S. 2498

AMENDMENT NO. 1259

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, I join the distinguished Senator from North Dakota (Mr. BURDICK), and Senator EAGLETON of Missouri, in submitting this amendment to S. 2498, the Small Business Investment Act Amendments of 1975.

I cosponsored this amendment because of my concern about the proposal in the pending bill to transfer the individual disaster loan program from the Small Business Administration to the Department of Housing and Urban Development. My concern is based upon a common priority I am sure we all share—that we in Congress assure the most effective and efficient delivery of disaster relief to those unfortunate enough to require such Federal help. I am not at all certain that the transfer called for in section 103 of this bill would accomplish that goal. I, therefore, urge the Senate to support our amendment which would authorize a comprehensive study of disaster loans in place of this transfer.

There are several problems with the transfer proposed in the bill. First, I am concerned about the practical problems of immediately transferring SBA's individual loan program to another Federal agency with no expertise in this area. The Department of Housing and Urban Development is not equipped with trained personnel or field offices to immediately begin administering this large, important program. The bill and committee report are silent on the manpower or budget requirements of the transfer.

SBA's individual loan program, in terms of the number of people contacted, is the largest disaster program. In the 2-year period begininng April 1973, SBA made nearly 18,000 individual disaster loans. The total dollar value of the loans is over a hundred million dollars. The Small Business Administration, building on its loan programs under the old Reconstruction Finance Corporation, undoubtly has more experience in disaster loans than any other agency within government.

The individual loan program deals directly with the very personal problems and needs of a disaster victim, offering him assistance to rebuild his home, replace possessions and otherwise reconstruct his life after the trauma of a disaster. It is one of the most sensitive programs administered by the Federal Government and the way the program is carried out determines the way many citizens view the competency of Government.

Secondly, I am concerned that the proposed transfer of only a part of SBA's disaster loan authority will further fragment the delivery of disaster assistance. The transfer will introduce a third, new agency into the disaster assistance program and it is unclear how such a move will increase the efficiency of disaster assistance programs.

I serve, with the distinguished Senator from North Dakota (Mr. BURDICK), on the Disaster Relief Subcommittee of the Public Works Committee. This subcommittee has legislative jurisdiction over the major Federal disaster assistance program embodied in the Disaster Relief Act of 1974—Public Law 93–288. Through my work on the subcommittee, I have become aware of the serious problem of program fragmentation and the need to better coordinate and manage the separate Federal disaster loan activities. This is made more necessary by the enactment of the individual and family grant program in the 1974 Disaster Relief Act. This major new program must be operated very closely with the various loan authorities in order to best serve disaster victims. Repeated changes in the loan programs have serious impact on the proper functioning of the grant program. In an effort to coordinate these programs, the Federal Disaster Assistance Administration has established one-stop centers in disaster areas. While these centers collect all Federal agencies under one roof, disaster victims are still faced with many different programs, forms, eligibility requirements and each program's redtape. I believe we should take this opportunity to study the various programs to see if there are better, more effective ways to deliver disaster relief to disaster victims.

The disaster loan program has grown considerably in the last few years and necessary changes in organization and functions have not kept pace. Perhaps a single disaster loan agency, encompassing all the separate programs, may be the best approach. Perhaps the proposal we have before us, to expand the number of loan agencies, is the proper approach. I am not sure and I do not believe the information supplied by the Banking Committee is sufficient to make such a determination at this time. For this reason I support a comprehensive study, authorized by the amendment, to determine the most effective delivery system for the long term.

A Presidential study authorized by our amendment would address other aspects of the various disaster loan authorities, in addition to the transfer, including termination of unnecessary administrative procedures and duplication of effort by Federal agencies; the feasibility of a single disaster loan authority; standardization of eligibility requirements for and the nature, terms, and extent of Federal loan assistance to those affected by disasters; specific alternative relief measures and ways to assure minimal disruption of the normal activities of Federal agencies charged with responsibility for providing loan assistance.

Mr. President, the bill before us is a piecemeal approach to a very important matter. It does not have to be this way. It should not be this way. A comprehensive study could be submitted to the Congress by next April giving us time to adopt a well-based, informed disaster loan program early in the next Congress. I recommend this action in place of simply moving a part of SBA's program to HUD.

FOREIGN ASSISTANCE ACT OF 1975—S. 2662

AMENDMENTS NOS. 1260, 1261, AND 1262

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. EAGLETON. Mr. President, I am introducing legislation today to modify the "ineligibility" sections of the Foreign Assistance and Foreign Military Sales Acts. These sections, 505(d) and 3(c), are the statutory embodiment of the principle that the use of American-supplied weapons is to be strictly controlled.

In addition, I am submitting an amendment which would assure that section 662 of the Foreign Assistance Act cannot be construed as conveying authority to conduct covert actions. Section 662 was enacted into law last year as a limitation on intelligence activities. It states that no funds may be expended by the CIA for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security. These activities are to be reported "in a timely fashion" to the Congress.

In testimony on December 9 before the House Intelligence Committee, Mr. Mitchell Rogovin, Special Counsel to the Director of Central Intelligence, stated that section 662 "clearly implies that the CIA is authorized to plan and conduct covert action." Mr. Rogovin has therefore asserted that a provision clearly intended to limit intelligence activities in fact authorizes such covert operations as political actions, propaganda, intelligence deception and even paramilitary action.

In order to clarify that section 662 does not authorize such actions, I am submitting an amendment to the Foreign Assistance Act which would state that nothing contained in section 662 "may be construed as authority for any operation or activity of the Central Intelligence Agency."

The amendments I am submitting to modify sections 505(d) of the Foreign Assistance Act and 4(c) of the Foreign Military Sales Act are intended to assure that those provisions of law which seek to impose control over the use of American weapons are free of ambiguity.

Our recent experience with these provisions has exposed three fundamental problems: One, the President can too easily ignore his responsibility to make a determination as to the eligibility of a nation to receive further sales or assistance from the United States; two, if such a determination is made that a nation is ineligible, the State Department has stated that its interpretation of current law is that pipeline sales and grants may go forward; and three, the current law does not provide a means whereby a nation can requalify for U.S. aid or sales after once becoming ineligible.

I have explained my proposal to correct these problems and ambiguities in a letter to Senator HUMPHREY, the chairman of the Subcommittee on Foreign Assistance of the Foreign Relations Committee. I ask unanimous consent that this letter and a letter to Chairman SPARKMAN concerning the CIA amendment be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 11, 1975.

Hon. HUBERT H. HUMPHREY,
Chairman, Subcommittee on Foreign Assistance, Washington, D.C.

DEAR HUBERT: You are to be highly commended for your comprehensive effort to reform our government's arms export policies. Many, including myself, have fretted over the policy consequences of this ever-burgeoning distribution of weapons, but no one has tackled the problem in such an all-inclusive manner. I heartily endorse your efforts.

I am particularly interested in your proposal to modify the "ineligibility" sections of the current law, 505(d) of the Foreign Assistance Act and 3(c) of the Foreign Military Sales Act. As you know, I was involved, with your considerable assistance, in applying those sections in the case of the Turkish invasion of Cyprus. That exercise made obvious the need for change.

The principle of control over the use of American-supplied weapons embodied in these provisions is perhaps even more important today than it was when first made part of the law. As you stated in your "dear colleague" letter, our concern today properly arises over the dangerous proliferation of conventional weapons and the absence of adequate policy guidance and control. It therefore behooves Congress to assure that the provisions of law which seek to impose this control are free of ambiguity.

As I see it, there are three fundamental problems with the current wording of the ineligibility sections of the Foreign Assistance Act and the Foreign Military Sales Act: (1) although a recipient nation violating its agreement with the United States becomes "immediately ineligible" to receive further assistance, a President can apparently fail (willfully or not) to make the determination necessary to cause a termination of assistance (this occurred in the case of Turkey); (2) if a determination *is* made that a nation is ineligible, the State Department has stated that its interpretation of current law is that pipeline sales and grants may go forward—that only new contracts are affected by the cut-off (conceivably, therefore, a nation which becomes "immediately ineligible" for further assistance could continue to receive American arms for as long as the pipeline lasts, some contract deliveries extending for as long as three years); and (3) the current law does not provide a means whereby a nation can requalify for U.S. aid or sales after once becoming ineligible.

With respect to point 3, I agree with your proposal to permit the President to determine either that a violation has ceased or to certify that continued assistance is vital to our security interests, this latter action being subject to congressional veto by concurrent resolution within 30 days. This seems to be a sound approach, allowing a nation to requalify for aid and also creating an exception to encompass other foreign policy considerations—an exception which, if the President chooses to invoke it, can be vetoed by Congress.

The second problem with current law—deriving from the State Department's rather far-fetched interpretation of the meaning of "further assistance"—is easily correctible. I would simply specify that a nation would become ineligible for "further deliveries" of assistance or sales. Such language would terminate pipeline articles as well as new contracts.

Finally, the most fundamental difference I have with your approach to this section concerns your proposal to permit Congress to make a finding by concurrent resolution as to a nation's eligibility. As I stated earlier, the problem with current wording is that a President can too easily avoid deciding whether a nation's actions render it ineligible by simply refusing to make a determination.

The burden of making such a determination is, in my view, correctly assigned to the Executive, the branch which has immediate access to the information required to judge whether a violation has taken place. For example, one would have to know whether American arms were used or transferred without consent and whether the armed action was defensive or aggressive. Oftentimes such decisions require close judgments and intimate knowledge of the circumstances.

When incidents involving the possible misuse or improper transfer of American arms occur, however, Congress and the public have a right to receive an expeditious determination by the President. In other words, if he fails to make a determination—as he did in the Cyprus situation—Congress should possess a legal mechanism by which to request a decision.

To effectuate this procedure I would propose legislation enabling a single House of Congress to request, by simple resolution, a Presidential determination on which he would report to Congress. After receipt of a certification that a nation remains eligible, Congress would be given 30 days within which time it could reverse the President by concurrent resolution as per your proposal.

It should be noted that a President may not want to point a finger at a nation as having violated the terms of its agreement with the United States. Again, this was an extenuating consideration in the President's decision not to declare Turkey ineligible for its actions on Cyprus. My proposal would automatically termiate aid or sales to a nation if the President has made no certification of eligibility within 30 days after a House of Congress has requested his determination.

I feel that such a procedure would keep the initial determination of eligibility with the President where it belongs, but would enable Congress to assure that the initial determination is in fact made. In addition, Congress, given the power to disagree by concurrent resolution, would not have to resort to its ultimate weapon—its power of the purse—in order to force the Executive to implement an important requirement of law. Such a procedure would, in my view, enhance the principle of control over the use of our weapons Congress sought to embody in the current law.

I have enclosed copies of my amendments to your proposed section on ineligibility. I hope you and the Committee will see fit to adopt these relatively minor modifications in your omnibus reform proposal.

Again, my congratulations on an excellent initiative. I strongly support your efforts.

Sincerely yours,

THOMAS F. EAGLETON,
U.S. Senator.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 10, 1975.
Hon. JOHN SPARKMAN,
Senate Foreign Relations Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: Yesterday before the House Intelligence Committee Mr. Mitchell Rogovin, the Special Counsel to the Director of Central Intelligence testified concerning the constitutional, statutory and legal basis for covert action. Mr. Rogovin presented the Executive Branch definition of covert action by presenting four general categories: covert political action, covert propaganda, intelligence deception and covert paramilitary action. He then cited a number of constitutional and legal arguments to demonstrate that such actions are authorized.

Among those Congressional actions cited by Mr. Rogovin as authorizing covert actions was Section 662 of the Foreign Assistance Act of 1961 as amended. Section 662 reads as follows:

> SEC. 662. Limitation on Intelligence Activities.—(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

Mr. Rogovin, acknowledging that this section requires the President to report on the action he authorizes "in a timely fashion" then goes on to say that this provision "clearly implies that the CIA is authorized to plan and conduct covert action." He also states that the Association of the Bar of the City of New York has concluded that the provision serves as a "clear Congressional authorization for the CIA to conduct covert activities."

In effect, Mr. Rogovin is pointing out that a provision which was intended to limit intelligence activities in fact authorizes such covert actions as covert propaganda, intelligence deception and even covert paramilitary action. It is my belief that the granting of such authority was not intended by the drafters of Section 662. In order to clarify that point, however, I propose that the Foreign Relations Committee, during its markup of the Foreign Assistance Act, amend Section 662 to state that "nothing contained in this Section may be construed as authority for any operation or activity of the Central Intelligence Agency." A copy of the amendment I propose is attached. I am also enclosing a copy of Mr. Rogovin's prepared testimony.

It should be noted that the activities of the Central Intelligence Agency are statutorily authorized by other provisions of law and would not be modified until changes have been made in those laws. Nonetheless, it is important to assure that a provision which was intended as a limitation not be construed as authorizing covert activities as defined by the Central Intelligence Agency. I would appreciate your Committee's consideration of this amendment.

Sincerely yours,
THOMAS F. EAGLETON,
U.S. Senator.

SUSPENSION OF DUTIES ON YARNS OF SILK—H.R. 7727

AMENDMENT NO. 1263

(Ordered to be printed and to lie on the table.)

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk.

AMENDMENT NO. 1264

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENT NO. 1194

At the request of Mr. CLARK, the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of amendment No. 1194, intended to be proposed to the bill (S. 2662) the Foreign Assistance Act of 1975.

ADDITIONAL STATEMENTS

GAMMA GOAT GETS TAXPAYER'S GOAT

Mr. PROXMIRE. Mr. President, the General Accounting Office recently completed its analysis of the Gamma Goat 1¼-ton truck program. Reading the report, I do not know whether to laugh or cry. It is a laughing matter up until we read about the $200 million the Army has spent to purchase 14,000 of these beauties. That works out to $14,285 per truck.

Now, the Gamma Goat is supposed to be quite a truck. It is designed for use all over the world, over difficult terrain, with a high degree of mobility. And, yes, it also swims, that is, according to specifications.

Of course, specifications are not always met. Sometimes there is a difficulty or two. And with its swimming, the Goat is having problems. First, the truck's manual warns about operating the Goat in water.

The vehicle first must be stopped before entering the water to see if it is watertight. For example, if it has a damaged tailgate, it will sink. And that is not a situation any driver would appreciate.

The Goat can only enter and leave the water where there is a gentle bank angle. There must also be the right soil conditions. I do not know if there are detailed specifications for judging the soil conditions, but that would seem a logical military procedure.

Oh yes, the water entry cannot be made at more than 2 miles an hour. And of course the Goat cannot enter a stream that flows at more than 4 miles an hour. Or when the wind blows stronger than 20 miles per hour.

Aside from those minor limiting conditions, the Goat is very swimmable. Except under certain payload conditions, that is. The Army has agreed that the freeboard of the vehicle is inadequate and that without the balance of a payload it would sink.

The swimming problem may not be as bad as it seems, though, since the drivers will not be able to communicate their fears to each other. That is the result of the engines' generating 95 decibels of noise—which is a level considered harmful to human beings. The noise prohibits on-the-move communications in the vehicle.

So the Army has issued earplugs to the drivers. But then the drivers still cannot hear the commands and instructions when driving the vehicle. I know that if one command were to "ford that stream," I would be thankful for the earplugs.

It is not easy to ride in the Goat. It has a tendency to pop out of gear. And it is difficult to shift—but only while moving. Many drivers have said that if care is not taken in shifting, the axle breaks.

It also has the nasty habit of sloshing mud up on the windshield, not on the outside, mind you, but the inside. Thus the driver with the earplugs must constantly wipe the inside of the windshield.

The Army's rebuttal is that the complaints about cab comfort and handling were usually voiced by "tall individuals."

The poor Goat does not seem to be very rugged. Twenty-eight percent of the drivers interviewed by the GAO said that they had experienced breakdowns. Part of this can be attributed to the lightweight materials used in the Goat so that it can be airlifted anywhere in the world—anywhere in the world that has slow-moving streams with gentle banks, nice smooth roads, and very little wind.

The Army is asking for $5.6 million to make certain modifications in the Gamma Goat. The GAO recommends a more thorough test of the Goat first.

COMMUNIST EFFORTS TO TAKE OVER ANGOLA

Mr. THURMOND. Mr. President, the over 3,000 Cuban military personnel in Angola plus Soviet military advisers and Soviet military equipment are enabling the Soviet-backed group to pull this country into the Communist orbit.

The Soviets for decades postulated about capitalistic imperialism and now that European countries have withdrawn from management of foreign territories the Soviets are moving in to take over.

While some U.S. military aid is apparently being supplied to those fighting the Communists, no U.S. military personnel are involved in the fighting.

Actually, this is a problem which the Central Intelligence Agency may have been able to avoid if it had not been crippled by congressional investigations. There are ways to manage a nation's intelligence agency without destroying its effectiveness.

An excellent article on the tragic developments in Angola appeared in the December 2, 1975, issue of the Augusta Chronicle newspaper in Augusta, Ga., under the byline of James J. Kilpatrick. Mr. President, I ask unanimous consent that this column entitled "Time and Tide in Angola" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Augusta Chronicle, Dec. 2, 1975]

(By James J. Kilpatrick)

Time and Tide in Angola

Time is running out in Africa. In another few weeks, unless the United States provides decisive leadership for the Western world, Angola may be lost to Communist domination. The situation is bleak, but it is not beyond redemption.

One of the melancholy factors is that few Americans know much or care greatly about Angola. It lies for a thousand miles along the southwest coast of Africa, an immense land, almost as large as Britain, France and Spain combined. Until last month, it was a province of beleaguered Portugal. Next month, for all practical purposes, it could become a virtual satellite of the Soviet Union.

It is a maddening spectacle to watch, this disintegration of Angola. They say that chickens come home to roost, and in this grim business we have a henhouse full.

It might have been possible for the Central Intelligence Agency to avert this calamity—but the CIA has been crippled by a moralizing Senate. At one time, before détente, we might have confronted the Kremlin boldly; but the Ford-Kissinger Administration is obsessed with détente and would not be beastly to the Reds. If domestic political considerations did not weigh so heavily, the President might do what needs to be done; but the President is thinking politically now.

Two major groups are contending for control of Angola. The MPLA, directed by Angostinho Neto is supplied, armed, and financed by the Soviet Union; it controls the capital at Luanda and a part of central Angola. The FNLA, directed by Holden Roberto, is oriented toward the West; it controls most of the rest of the country, including Nova Lisboa and the major port at Lobito.

If ever a situation cried out for decisive action, the Angolan situation cries out for it now. If the United States were to take the lead in recognizing a government at Nova Lisboa, led by Roberto, the Communist MPLA might yet be contained and defeated. Neighboring Zaire and Zambia, struggling for economic survival, doubtless would welcome such a move. South Africa would be in a position to lend discreet assistance. Roberto once was the darling of American liberals. Are they, too, so obsessed with detente that their will is paralyzed?

Events are moving swiftly over the whole of southern Africa. With Portugal's collapse, Mozambique's long eastern coastline no longer can be counted as friendly water. The fall of Mozambique has further imperiled Rhodesia, which has served as the cork in the bottle. Within the United Nations, pressures increase for UN control of Southwest Africa. Meanwhile, South Africa is countering with significant gestures of rapprochement toward her neighbors.

Things are in flux. Angola's fate is of critical importance. The consequences of a Soviet success through Neto's MPLA demand our attention. Consider the worst prospect: Mozambique gone, Angola gone, Southwest Africa neutralized, Zaire and Zambia forced to accommodation with Marxist neighbors, little Malawi isolated, Rhodesia still treated as an outcast, South Africa increasingly maligned—what then?

Instead of decisive action, we get murmuring noises. In his speech of Nov. 24 in Detroit, Secretary Kissinger had only this to say: "We cannot ignore the substantial Soviet buildup of weapons in Angola, which has introduced great-power rivalry into Africa for the first time in 15 years. This Soviet involvement is resented by African nationals most of all, but the United States cannot be indifferent while an outside power embarks upon an international policy so distant from its homeland and so removed from traditional Russian interests."

Cannot ignore? Cannot be indifferent? From all surface indications, this is precisely what our flabby policy has been. The Soviet Union, tossing its Helsinki pledges to the winds, is made of sterner stuff. Behind the Kremlin's walls, detente is not the be-all and the end-all.

There is a tide in the affairs of men, said Brutus, which taken at the flood leads on to fortune. The Ford Administration hesitates at the thought of Soviet reaction, while Senators roll their pietistic eyes at the horrid CIA. We are missing the tide; and it may not return to Africa for a long, long time.

NEED FOR FEDERAL FUNDS FOR REFORESTATION IN LOS ANGELES COUNTY

Mr. TUNNEY. Mr. President, as you know, the Senate accepted the amendment to the supplemental appropriation bill proposed by Senator Cranston and myself on Tuesday. The thrust of the legislation is quite simple: It provides funds for the reforestation and seeding of the more than 68,000 acres blackened by fires in the Angeles National Forest in southern California. During consideration of that amendment, Senator McClellan, chairman of the Appropriations Committee, requested additional documentation of the cost estimates for repair and restoration of the area. Such additional data would be used in the joint House-Senate conference on the legislation.

Because of the prompt action by the Forest Service in the Angeles National Forest to survey the damage and develop a complete assessment of the cost of repair, Chairman McClellan received the documentation he needed in time for the conference.

I ask unanimous consent that the text of that report and my forwarding letter to the chairman be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Committee on the Judiciary,
Washington, D.C., December 11, 1975.

Hon. John L. McClellan,
Chairman, Senate Appropriations Committee,
Washington, D.C.

Dear Mr. Chairman: In discussion on the Senate floor during debate of my amendment to the Supplemental Appropriation bill, you expressed concern about the adequacy of the data bearing on the $3.4 million appropriation to the Soil Conservation Service for repair of the damage to Angeles National Forest. At that time, I indicated that I would be happy to supply you with the necessary back-up data to support the Senate amendment in Joint House-Senate Conference.

Therefore, I am transmitting a copy of the report entitled "Preliminary Emergency Report: Flood Hazard and Remedial Measures Needed on the Watershed Affected by the Mill, Village and Pacoima Fires," submitted by William Dresser, Supervisor of the Angeles National Forest to the U.S. Forest Service in Washington. Not only has Mr. Dresser approved this report and the budgetary requests it contains, but Douglas Leisz, the Regional Forester and George H. Stone, the State Conservationist, have also approved the document. It is now in the hands of the Forest Service Offices here in Washington, the staff of which informs me that these very data are those upon which Secretary Butz will make his ultimate decision to release Soil Conservation Service funds to the Forest Service.

I am hopeful that this information will prove beneficial in your kind efforts in support of this amendment during the Conference. Again, thank you for your continuing efforts to help reclaim our fire-ravaged Angeles National Forest.

Sincerely,

John V. Tunney,
U.S. Senator.

November 30, 1975.

Reply to: 3540 Emergency Flood Prevention Program, Village, Mill and Pacoima Burns.

Subject: 2510 Watershed Surveys and Plans, 6520 Financial Management.

To: Regional Forester, R-5.

Attached are six copies of a "Preliminary Emergency Report Flood Hazard and Remedial Measures needed on the watersheds affected by the Mill, Village and Pacoima Fires—1975 Fire Season".

The purpose of this report is to give you an overview of the scope of work needed (and its cost) to attempt to mitigate damage to the watersheds and to protect downstream lives and values. We hope you will be able to use these data to advantage in expediting the allocation of emergency funds. As you know we are well into the usual rainy season for Southern California; the utmost urgency is indicated in this matter.

As detailed in the report, the data involving aerial seeding and watershed protection measures in road areas are firm. $727,000 is requested as soon as possible.

The figures dealing with primary protection and upper watershed debris reduction structures are not firm. We are working with and receiving input from a multiplicity of local, State, and Federal agencies. (See the attached "Roster" for attendance at a coordination meeting the Angeles called in the Hilton Hotel on 11/28/75). The comprehensive report will identify projects and cooperating agencies.

Please keep us informed by telephone on the progress of fund allocation—seeding contract bid requests will be ready for advertising on 12/3/75.

William T. Dresser,
Forest Supervisor.

Report on Flood Hazards and Emergency Measures Needed as a Result of the Mill, Village, and Pacoima Fires

INTRODUCTION

This report provides a concise preliminary appraisal of the probable magnitude of watershed treatment measures needed, as a result of the subject fires, to protect downstream life and property.

The data cited involving aerial seeding and watershed erosion reduction measures in road areas are firm. $727,000 is requested.

Preliminary cost data is, also, included to provide a range of values of future fund requests for primary protection and upper watershed debris retaining structures. Unlike the seeding and road related watershed protection work, these structural data are far from firm. More precise data will be forwarded in a comprehensive report in about three weeks.

It is expected the information herein contained will assist Regional and Washington level officials to grasp the scope and nature of the emergency situation and to proceed expeditiously in securing allocation of funds.

BURN REHABILITATION NEEDS MILL (BIG TUJUNGA), VILLAGE (MOUNT BALDY) AND PACOLMA FIRES

	Mill	Village	Pacolma	Totals
Seeding	$75,000	$24,000	$25,000	$124,000
Road stabilization	381,000	29,000	9,000	419,000
Program management plus general administration	195,000	23,000	10,000	228,000
Primary channel structures	2,300,000	80,000		2,380,000
Upland channel structures	170,000	70,000		240,000
Total	3,121,000	226,000	44,000	3,391,000

THE NOVEMBER 22 MILL FIRE

The Mill Fire burned approximately 46,500 acres. The fire started in the mountainous interior of the San Gabriel Mountains. Santa Ana winds pushed the fire front thru 35% of the large 80,000 acre Big Tujunga drainage, over hydrographic divides into San Gabriel Valley frontal canyons and down into several urban communities. About 75 miles of fire line were needed to encircle the fire. At the peak of suppression activity, fire fighting resources on the fire included nearly 2,000 men, 12 tractors, 29 ground tankers, 9 air tankers and 9 helicopters. An overnight wind shift brought Thanksgiving Eve rain and snow. Containment was declared late Thanksgiving Day. At least 30 urban and Forest dwellings and other structures were damaged or destroyed.

Winter rain runoff, if only moderate, is expected to accelerate movement of volumes of debris in Big Tujunga Canyon and in the frontal canyons. Hansen Dam, flood control reservoirs, and numerous debris basins are located below the frontal canyons. These structures are expected to protect most areas from flooding which will receive massive siltation from the burned areas. However, it is becoming clear at this writing that specific areas are definitely still lacking debris and flood protection. Under these conditions, winter rains will cause damaging mud flows directly in residential foothill communities.

Emergency measures description supporting this funding request for Mill fire

Aerial seeding is planned with emergency funds (Section 216) on selected burned over lands. Burned frontal canyons above developed areas will be 100% seeded. Interior mountain land will be selectively seeded. Areas will be seeded which suffered complete vegetation loss identified by post-fire false color photo interpretation) and which have slope gradients of less than 60%. Approximately 25,000 acres will need seeding. Seeding of suppression damaged lands is in progress with FFF funds.

Erosion reduction with emergency funds is planned along roads with measures specifically benefitting watershed protecton by reducing soil dislodgement above and/or below road areas. Specific road protection measures will be accomplished with F.R.&T. funds at an estimated cost of $251,000.

Emergency funding request summary

Aerial seeding (25,000 acres)	$75,000
Erosion reduction (road related)	381,000
Field level project cost	456,000
Overhead (30%) of total project cost	195,000
Total project cost	651,000

Description of emergency measures presently being quantified for which funding requests are pending—Mill fire

At this writing, primary protection structures such as debris basins, revetments and debris catchment/slope support dams (check dams) are needed in lower frontal canyons locations presently under study. A few structures and channel treatments in the mountain interior uplands appear advisable and feasible. These upland structures will prevent initial massive debris movement, i.e., a landslide into channel following slope undercutting by flood flows. Local agency contributions are undefined at this time so costs reflect total project cost including overhead assessments. The installation and lack of installation of larger structures are reflected in the range of anticipated costs. Probable cost reflects our best guess at this writing.

Pending emergency funding request summary

Primary Protection Structures, $2,100,000 to $3,200,000.

Most Probable Request, $2,300,000.

Upland Structures, $40,000 to $400,000.

Most Probable Request, $170,000.

THE NOVEMBER 23RD VILLAGE FIRE

The Village Fire burned approximately 23,000 acres. The fire started in a structure in the Baldy Village mountain community. Santa Ana winds pushed the fire front southwest thru rugged wildlands, a wilderness study area and then 30% of the San Dimas Experimental Forest. About 32 miles of fire line were needed to encircle this fire. At the peak of suppression activity, fire fighting resources on the fire included 1,900 men, 5 tractors, 30 ground tankers, 12 air tankers and 7 helicopters. The Thanksgiving Eve windshift and moisture effectively stopped the rapidly advancing fire. Containment was declared Thanksgiving Day. Several structures are damaged or totally consumed. Winter rain runoff is expected to produce significant volumes of debris. Heavy runoff will compound debris delivery. Land below two smaller frontal canyons are not protected. However, two large flood dams and one reservoir are between 98% of the burned watersheds and the valley's urban area.

Emergency measures description supporting this funding request for Village fire

Aerial seeding is planned with emergency funds (Section 216) on selected burned over lands. Burned frontal canyons above urban areas will be 100% seeded. Interior mountain land will be selectively seeded. Areas will be seeded which suffered completed vegetation loss (identified by post-fire false color photo intergretation) and which have slope gradients of less than 60%. Approximately 8000 acres will need seeding. Seeding of suppression damaged lands is in progress with FFF funds.

Erosion reduction with emergency funds is planned along roads with measures specifically benefitting watershed protection by reducing soil dislodgement above and/or below road areas. Specific road protection measures will be accomplished with F.R.&T. funds at an estimated cost of $72,000.

Emergency funding request summary

Aerial seeding 8,000 acres	$24,000
Erosion reduction (road related)	29,000
Field level project cost	53,000
Overhead (30%) of total project cost	23,000
Total project cost	76,000

Description of emergency measures presently being quantified for which funding requests are pending—Village fire

At this writing, primary protection structures such as debris basins, revetments and debris catchment/slope support dams (check dams) are needed in lower frontal canyons locations presently under study. A few structures and channel treatments in the mountain interior uplands appear advisable and feasible. These upland structures will prevent initial massive debris movement, i.e., a landslide into channel following slope undercutting by flood flows. Local agency contributions are undefined at this time so costs reflect total project cost including overhead assessments. The installation and lack of installation of larger structures are reflected in the range of anticipated costs. Probable cost reflects our best guess at this writing.

Pending emergency funding request summary

Primary Protection Structures, $60,000 to $100,000.

Most Probable Request, $80,000.

Upland Structures, $15,000 to $150,000.

Most Probable Request, $70,000.

Pacoima fire emergency rehabilitation reimbursement

This fire burned August 9–15, 1975. An emergency report requesting funding was forwarded in September. No emergency watershed funds were allocated. Work was programmed with Los Angeles River Flood Prevention Project funds initially allocated to going-program flood prevention projects. Needed planned project installations had to be postponed.

This reimbursement request is for the cost of emergency seeding and that component of road-related work which reduces erosion of nearby watershed lands.

Aerial seeding of fire damaged lands	$24,800
Watershed erosion reduction, road related	9,000
Total	33,000

FREDERICK, MD.

Mr. MATHIAS. Mr. President, the State of Maryland has often been called America in miniature, because its geography, its economy, its people, and its history all reflect the patterns of the Nation as a whole.

Within Maryland, much the same can be said of the city of Frederick, where business and agriculture have each found a congenital setting and where our Nation's history has left footprints from every era.

Today Frederick shares many of the problems and opportunities of the 1970's. Its efforts to plan for the future and at the same time to preserve its heritage should be noted with interest by other cities throughout our country. A capsule report of these efforts, submitted as an All-American Cities presentation, shows the energy and commitment which still thrive in Frederick and, I am convinced, in kindred cities and towns across the Nation. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ALL AMERICAN CITIES PRESENTATION: FREDERICK, MD.

It is our honor today to present the story of Frederick, Maryland—a story of a city made great by its people, both past and present—a story of people seeking to develop conditions that will firmly establish their city as a desirable human environment where the needs of man can best be met.

Arriving in Frederick is always exciting. The overall setting is beautiful. It nestles in a valley between the Catoctin Mountains and the Monocacy River just 45 miles from Baltimore and Washington, D.C. Our population is approximately thirty thousand, on a land area of nearly fourteen square miles. Retail, manufacturing, agricultural and supporting industries comprise the major economic base.

Frederick is a city steeped in history. It was the home of Thomas Johnson (Maryland's first governor), John Hanson (our Country's first president in the Continental Congress), of Barbara Fritchie and Roger Brooke Taney. The grave of Francis Scott Key and the Hessian Barricks from the Revolutionary War are also outstanding attractions. In 1765 Frederick was the first community to repudiate the Stamp Act, served as a temporary capital of Maryland during the Civil War, and is today the home of the largest cancer research center in the world.

Frederick like many cities fell victim to changing times. With the growth of shopping centers and related suburban sprawl, the center city began to deteriorate and lose its viability as an economic center. For years little was done by either business or government. Apathy spread like a dread disease and almost everyone mourned the corpse, saying the city was finished and spoke fondly of "the good old days."

Fortunately, amid the "dark ages" of our community a renaissance was birthing. In 1961 Fredericktown Association, Inc. was formed in an effort to preserve historical properties. In 1964 legislation was passed that allowed the creation of an historic district and related commissions, but members were not appointed regularly and the downtown remained stagnant. In early 1970 a Downtown Action Committee was formed and a comprehensive study of the town was made. Despite the efforts of many, suggestions were ignored and revitalization did not get off the ground. In 1973 a small group that would not let Frederick die, formed the Frederick Improvement Foundation, Inc., (FIFI) and drew together representatives of various community groups to achieve the many and varied community goals. Also in 1973 Frederick Preservation Advisors, another volunteer group, successfully led the efforts to get Frederick on the National Register of Historic Places.

About this same time there was a city election. Revitalization of downtown Frederick was one of the key issues. Candidates supporting this redevelopment received the support of the community and a totally new city government was elected—a government that said "yes" to downtown. Within six months the new government, hand-in-hand with its citizen groups did battle with the Postal Service and the Board of Education. They reversed plans to move the Post Office and two neighborhood schools out of the downtown area. Construction of the new Post Office will begin in the spring. Various civic groups then accepted the challenge of those attempting to move the Court House complex out of town, and won. The new complex is in the planning stages with very active citizen advisory committees involved. For nearly twenty years there was talk of a parking structure in the heart of Frederick. All talk—no action. With the change in city administrations, there was action. A four hundred car garage will be completed by December 1.

This year citizen groups have also been actively planning, consulting, contributing to, and working on individual projects as well as city sponsored projects such as mini parks, the parking deck, a linear park which flows through the center of town, the South Market Street project (which includes five blocks of underground wires, trees, landscaping, street furniture, new street lighting, sidewalks and streets), a city-wide tree planting program and many, many other projects.

The momentum was growing. In February 1974, Operation Town Action (OTA) was born. A few key volunteers worked under a deliberate publicity blackout. Artists and architects drew plans for renovating and restoring the center of the city, keeping the buildings true to their architectural periods. Finally after seven months of preparation a town meeting was called in September. Merchants, property owners, civic and government leaders packed City Hall, heard a stimulating presentation, saw the artists' display and became instant enthusiastic supporters of OTA. It was an electrifying moment! Emphasis was on a self-help community effort, keyed on "pride." City government was asked to facilitate rather than operate or dictate this resurrection.

Buildings were restored and upgraded, landscaping projects initiated and completed and new businesses recruited. It was amazing that all our citizens needed to restore Frederick was a simple plan of action. A self-help plan with no City, State, or Federal funds. In one year 60 properties have been improved in the business district and they range from a simple painting to creating totally new store fronts costing tens of thousands. Everyday new ladders and workmen can be seen. New businesses have located downtown and others are considering plans and looking for locations.

After the initial meeting, the town action co-chairmen spoke to virtually all of Frederick's civic clubs and their response was amazing. Ninety percent of the clubs and civic organizations have taken part in OTA. FIFI also rallied support and correspondingly encouraged its member organizations to gather support from their members. Much credit goes to a group of determined women in Frederick who would not take no for an answer. Enthusiasm is so great that organizations and individuals regularly contact OTA, FIFI, or the city offering new ideas and their support. OTA has intentionally steered away from formal committee structure. The whole emphasis has been on action. Don't talk about it, do it.

Operation Town Action has become more of a spirit than a committee or an organization. It has become associated with positive action, community accomplishment, and pride. Civic clubs, the National Guard, Boy Scouts, homemaker clubs, church groups, preservation and historic groups, neighborhood organizations, PTA's and individuals have contributed to the action of the past year. It is estimated that well over one thousand people have participated, contributing tens of thousands of volunteer hours. The co-chairmen of OTA totaled over six thousand volunteer hours between them.

Beautification projects spring up almost daily all over town. Hundreds of trees and thousands of flowers, all donated, have been planted. Within the last several weeks thousands of red, white, and blue bulbs have been planted and our oldest shopping center has caught the spirit and begun tree planting.

This total commitment to improving the place we live has become an act of love. An influx of new people coming to our community has helped to reawaken us to what we have always had but lost sight of. Citizens have rediscovered their identity as a community and once again have a sense of hope and a sense of future.

The spirit of OTA has become an umbrella to cover programs all over the City that are independently deserving of special recognition. Many are stressing the issues of quality of life and humanization of the city. The Frederick Civic Club has effected a city-wide campaign to eliminate architectural barriers to the handicapped, one of the first such projects in the State of Maryland.

The "Friends of Neighborhood Progress" has launched a total community program, with emphasis on self help in the black community. The activities at the community center, housed in an historical landmark where Lincoln once spoke, are open to the entire community and volunteers from throughout the country assist in the activities. The NAACP is actively involved in soliciting help and offering aid in correcting housing problems. Numerous civic groups are also involved in programs assisting the elderly. The list of good things happening in Frederick could go on and on.

Word of our efforts has spread far and wide. Citizens and officials from several towns have come to visit and seek guidance in starting similar projects in their own cities.

Frederick has once again discovered community pride—but we have only just begun. Much of our effort during the first six months was directed toward physical improvements or a town face lift. These improvements are continuing but we also are moving into action programs to seek more and better housing, and more jobs. We have come to recognize that Frederick is a unique city, a city with grace, charm and beauty. A city with a wealth of historical landmarks and architectural gems. It is also a modern city. A growing city with a bright and prosperous future, meshing the old with the new in such a way that it remains a city with a distinct identity. This identity is being preserved because of citizen action. There is a new spirit in our city. It is exciting to see our city officials, civic clubs, leaders, merchants, property owners and tenants, young and old, black and white, working together for the betterment of our community. "Our grand business undoubtedly is, not to *see* what lies dimly at a distance, but to *do* what lies clearly at hand,"—Carlyle Essays.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it was over a generation ago that President Truman first brought the International Convention on Genocide before this body for ratification. At the time, the United States was at a new height in world prominence. We were deeply concerned about global problems and global solutions. We recognized that only international understanding and cooperation could solve the conflicts and disputes that existed between the nations. Our concern in this area was reflected in our efforts in support of the United Nations.

The first step toward achieving the goals that we sought was the laying down of the principles that would be our guide. The next step was the transformation of these principles into concrete, international law. The first move in this direction was the drafting of the International Convention on the Prevention and Punishment of the Crime of Genocide. The United States played a leading role in the introduction of this document in the United Nations. And it was largely due to our support of the treaty that it passed the General Assembly unanimously.

Since that time, Mr. President, many political observers have seen a tendency toward isolationism in this country. Many claim that we are ignoring the problems of the other nations of the world and thus denying our place in the international arena. I hope this is not true. I hope that we will always live up to our responsibilities as a world power. But many look upon what we have not done as proof of our growing isolationism. And one of the things that we have not done is to ratify the Genocide Convention.

In these times of great domestic problems, we must not allow ourselves to forget or to ignore the apparently less pressing global problems. I call on our colleagues in the Senate to act with speed on the ratification of this important international treaty.

THE SELECTIVE SERVICE SYSTEM

Mr. THURMOND. Mr. President, it has come to my attention that the Office of Management and Budget has recommended to the President that the funding of the Selective Service System for fiscal year 1977 be cut further from the proposed $28 million to $6 million. Such a drastic cut would apparently eliminate the minimum draft mechanism available now to respond immediately to provide manpower for the Armed Forces in the event of a national emergency.

Since the end of the draft, the Selective Service System has been reduced to a very small standby operation. This preliminary administration recommendation will throw away all that has been done by the existing agency in carrying out essential plans for an annual registration and adapting automated data handling techniques.

In spite of the fact that the volunteer force is working and the role of National Guard and Reserve in the total force structure hopefully will be improved, our Nation will require the rapid call-up of young Americans to fill the ranks in a conventional war emergency. Every emergency in the past has required more conventional forces. Although the Soviets have been steadily increasing their nuclear strategic capability, their increase in the capability of their conventional forces has been as great or greater. In my judgment, the United States cannot safely further erode alternatives to nuclear war.

Mr. President, I would like to quote from a letter, dated September 9, 1975, from the Deputy Secretary of Defense. He states:

> A standby draft operated by the Selective Service System is the only way we see to provide the additional manpower required in the event of mobilization. The recent study of the Guard and Reserve in the Total Force, submitted to the Congress in June, reaffirmed the need for a standby draft mechanism to call up Standby Reservists needed after a mobilization, and to draft new personnel needed principally as a hedge against a protracted major combat phase. The study supported retaining the presently planned capability to select Standby Reservists for immediate recall, to start delivering draftees by M+80, and to deliver a total of 500,000 individuals by M+180.

As I understand the administration's proposal, it would assign a conscription planning function to one of the subordinate offices of the General Services Administration. In the event of an emergency one can easily visualize the chaos which would result in a crash program to reestablish the draft mechanism in 50 States.

Mr. President, the administration advanced and Congress approved a very austere budget to provide for an annual registration. A budget of $37.5 million in fiscal year 1976 to accomplish this is already scheduled to be reduced to a rock bottom of $28 million.

Thousands of young men were registered in early 1975. However, hundreds of thousands of other young men and their families were told to wait due to already inadequate funding. In preparation for this event, both the American Legion and the Veterans of Foreign Wars have gone to considerable effort to make their facilities available as registration sites. The use of other public facilities has been arranged. Thousands of people have been recruited, and their training as registrars begun. Now it is proposed to tell all these people and organizations that the administration did not mean it.

The purpose of the Selective Service System is not to draft, but to maintain the vital mechanism to register those eligible under the law. This is needed to have an available manpower pool, not only to meet a future emergency, but also to serve as an important deterrent factor. This deterrent is as vital to our national security as some weapon systems.

Mr. President, the fiscal support of the Selective Service System is the most economical premium the people of this country can pay for the insurance it would provide. No other agency in the history of our Government has had so many uncompensated individuals doing a job that is so necessary and for which so much abuse is received.

As long as there are conditions of uncertainty in the world, there are certain dangers. We must not succumb to wishful thinking when facing these dangers. As individuals, we take precautions—insurance—against fires in our homes, accidents on the highways, defects in our physical condition. We cannot afford to neglect "insurance" on our country's security. Our Nation's manpower "insurance" is the Selective Service System.

Mr. President, I would like to quote from a letter from one of my constituents who wrote to me about the OMB recommendation. He stated:

> What is happening to the defense capability of the nation. What with the closing of the AbM sites (strictly defensive in nature), the tenuous détente with the Russians, the firing of Secretary Schlesinger, along with some wild scheme of dubious intent and common sense in the Office of Management and Budget who seem intent in destroying the [Selective Service] System, one can only fear for our future as a free society.

In my judgment, the recommendation to the President by OMB is pennywise and pound foolish. It is incredible that we have a defense budget of over $90 billion, yet OMB recommends disbandment of our Nation's ability to provide an immediate manpower pool in case of an emergency.

One does not create an effective, fully operating Selective Service System in a matter of days, weeks, or even months. Local board members who are not paid would have to be recruited, trained, and organized, as well as paid employees and State staffs. Our manpower pool has to exist before it can be adequately managed and allotted to its several users, the Armed Services, industry, food production, meat raising and other vital elements which are essential to our survival.

Mr. President, although the ill-advised proposal of OMB is only under consideration by the administration, I wanted to alert our distinguished colleagues to the grave risk if such a proposal is submitted to Congress. It is prudent that we maintain a cadre force to continue the registration process and to provide a base organization which can be rapidly expanded in the event of a need for a partial, or full mobilization.

NLRB HAS BROUGHT ORDER TO LABOR RELATIONS

Mr. PASTORE. Mr. President, recently the Southeastern Conference on Current Trends in Collective Bargaining held its 19th annual meeting in Knoxville, Tenn.

Mr. John H. Fanning, one of my Rhode Island constituents, who is a senior member of the National Labor Relations Board, gave a look at the board's work and the Maryville-Alcoa Times of Thursday, November 20, 1975, carries an account of Mr. Fanning's talk.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

NLRB Has Brought Order to Labor Relations

Some interesting insight into the work of the National Labor Relations Board (NLRB) was given at the recent 19th annual Southeastern Conference on Current Trends in Collective Bargaining sponsored by U-T in Knoxville.

John H. Fanning, senior member of the National Labor Relations Board, gave a look at the board's work in a talk "We Are 40—Where Do We Go?" He has been on the five-member board since 1957, almost half of its history.

He is particularly concerned about two major things, 1. The remedies for the vast array of unfair labor practice violations, and 2, the prompt administration of the board's huge, steadily growing caseload.

He said that the real key to the problem of adequate remedies is accelerating the board's processes. He favors legislation to permit the board to delegate decisional authority in relative simple unfair labor practice cases to its 75 administrative law judges or trial judges. They already decide all unfair labor practice cases in the first instance, with an appeal as of right to the board.

Fanning also favors implementation of a 1960 recommendation that board orders become final if respondents do not file for U.S. Courts of Appeals review within 30 days.

In fiscal 1975 which ended June 30, the NLRB had collected more than $11 million in backpay for more than 7,400 employes. In the same period, 6,300 workers were reimbursed more than $700,000 for union fees, dues, and fines improperly collected.

The board has handled more than 800,000 cases in its 40 years, Fanning told the southeastern labor law specialists. He pointed out there were almost 3,000 strikes for organizing purposes in 1937 but that today more than 80 per cent of NLRB elections are conducted on an amicable basis by agreement of the employer and union.

He summed up the responsibility of the board as "Protecting the right of employes to freely determine for themselves whether they will combine their collective might to achieve a measure of economic justice; conducting perhaps the fairest and freest elections in the world today so that they may so decide . . ."

Despite its problems, Fanning feels the board has functioned efficiently and been principal administrative factor in national labor policy stimulating the achievement of industrial democracy.

He concluded by predicting the board is coming into its professional prime and will remain as viable next year and the years to come as it has been during the first 40 years of its existence.

While some people on both sides of the employe-employer picture may not agree with the NLRB or its decisions, the board certainly has brought order to labor relations by deciding many thorny cases in its first 40 years.

REORDERING PRIORITIES: MARIHUANA ARRESTS

Mr. JAVITS. Mr. President, the 1974 FBI Uniform Crime Reports once again present an increasingly disturbing picture of the growing incidence of crime and violence affecting every area of the

United States. The increase of 18 percent in serious crime over the 1973 figures represents the highest single year increase ever recorded by the FBI.

With the challenge to public safety reaching a new level of concern for all our citizens it is tragic that law enforcement agencies continue to devote such a high proportion of their scarce resources to marihuana arrests.

The FBI last week reported that marihuana arrests in the United States rose to 445,600 in 1974 out of an overall total of 9,055,800 arrests. Marihuana arrests comprised almost 70 percent of all drug-related arrests and nearly 5 percent of all arrests. There were 25,000 more marihuana arrests in 1974 than in the previous year.

Since 1965, in the last 10 years a staggering total of 1,900,000 Americans have been arrested by State and Federal authorities for marihuana violations. This extraordinary number of arrests and the devastating impact which they have had upon the lives and future career prospects of otherwise law abiding citizens is unconscionable. The fact is that almost $600 million is being spent each year on marihuana law enforcement when so much serious crime goes undetected.

I again urge the Senate to consider and enact S. 1450 which I introduced with Senators Cranston, Brooke, and Nelson. This legislation, originally proposed more than 3 years ago by me and former Senator Harold Hughes would decriminalize, at the Federal level the personal possession or use of up to 1 ounce of marihuana. It was predicated upon the unanimous recommendation of President Nixon's National Commission on Marihuana and Drug Abuse. Since the Commission report was published, steadily increasing support for marihuana decriminalization has been reported.

A recent survey by the National Institute on Drug Abuse established that 86 percent of the public no longer favors sending marihuana users to jail.

In six States the possession of small amounts of marihuana is no longer a crime. Oregon first changed its law in 1973. Alaska, Maine, Colorado, and Ohio took that step in 1975. The National Organization for the Reform of Marihuana Laws—NORML—and its able executive director, Keith Stroup, are continuing to challenge these laws in many other States effectively and with great commitment. Despite the organization's strained financial resources, it continues to bring a sense of reasonableness and moderation to this debate.

A survey commissioned by the Drug Abuse Council, as a followup to one taken in 1974, sought to establish the extent to which the new marihuana law was affecting public attitudes and use concerning marihuana.

The poll found a 1-percent reduction in adults presently using marihuana and also that a majority of Oregonians—58 percent—continue to favor the approach of the new law. Also, the survey again found that the nonusers gave lack of interest and concern for health questions rather than punishment as the dominant reasons for not using marihuana.

Mr. President, I ask unanimous consent that a summary of the FBI Uniform Crime Report concerning marihuana arrests, and a brief summary of the Oregon survey be printed in the Record.

There being no objection, the summaries were ordered to be printed in the Record, as follows:

OREGON SURVEY

	Percent of adults who have ever used	Percent of adults who currently use
October 1974	19	9
October 1975	20	8

REASONS FOR NOT USING AMONG CURRENT NONURSES

[In percent]

	1974	1975
Not interested	53	65
Health danger	23	28
Legal prosecution	4	3
Not available	2	1
Other reasons	9	3
Undecided	9	0

FBI REPORT MARIJUANA ARRESTS

	1974	1973	1972	1971	1970	1969	1968	1967	1966	1965
Total marijuana arrests	445,600	420,700	292,179	225,828	188,682	118,903	95,870	61,843	31,119	18,815
Percent of total drug arrests	69.4	66.9	55.4	45.9	45.4	51.1	59.1	61.2	51.5	40.8

Source: FBI uniform crime reports.

TIMBER SALES IN NATIONAL FORESTS

Mr. **HOLLINGS**. Mr. President, the Fourth Circuit Court of Appeals has recently handed down a decision in West Virginia Division of the Izaak Walton League of America, Inc. against Earl Butz, which has caused a great deal of concern over the future of timber sales in national forests.

South Carolina is a State with almost 20 million acres, of which approximately two-thirds is forest land. Of these 13.3 million acres of forest land we have about 12.4 million acres on a commercial forest basis and about 550,000 of those acres are in the national forest. Although the national forest lands comprise only about 4 percent of the total, the fourth circuit decision has a major impact on several individual timbermen and on those 14 counties that would normally receive tax revenues from the sale of this timber.

The research arm of the Forest Service makes regular forest surveys, and in their latest surveys in 1968 the Southeastern Experiment Station reported substantial improvements in most of the vital components of the timber resources of South Carolina since 1958. The area of commercial forest land increased from 11.9 to 12.4 million acres. The volume of growing stock timber increased from 10.3 to about 12.2 billion cubic feet. In 1967, net growth of growing stock exceeded removals by over 200 million cubic feet.

While the report was good and while growth exceeded removals, I would not contend that unlimited cutting should be permitted. There is an upward trend in annual wood requirements, and accelerated efforts are needed to increase timber growth so as to meet this demand and yet preserve the forest lands. Thus, we are now faced with the problem of determining reasonable guidelines to achieve this goal.

The decision by the Fourth Circuit Court of Appeals affirmed the action of the district court in West Virginia in a case involving timber harvesting on the Monogahela National Forest. Their decision affects the four States that have national forests in the court's circuit: West Virginia, North Carolina, South Carolina, and Virginia.

The issue raised in the litigation by the plaintiffs was that the law enacted in 1897, which permitted the sale of timber from the national forests, was being, and long had been, improperly applied by the Forest Service. The plaintiffs said that this law restricted the sale of trees to those that were dead, mature or large growth; that is, physiologically mature trees. The court agreed. They said the law required that each tree must be marked before it could be cut. The court agreed. They said that trees that are cut must be removed. The court agreed. The Chief of the Forest Service, after the Court of Appeals action on August 21, 1975, announced that he was suspending timber sales from the national forests in the four States. Next, the Chief announced that reviews had been made of pending sales and that those that conformed to the law as determined by the court would be made.

For the record, the annual sales picture in South Carolina shows that in fiscal year 1975, 130 million board feet were sold. In fiscal year 1976, plans were to sell 160 million board feet. Now only 15 million board feet will be sold. Of this 9 million board feet have been sold and 6 million remain to be sold. I am told this remaining volume is mainly to effect clearing for a reservoir and for right-of-way requirements and is not mature timber. This 90-percent reduction in timber sales will cause a great local impact.

The issues sought to be raised in the litigation by the plaintiffs went far beyond whether the Forest Service had strictly applied the portion of an 1897 act that authorized the sale of timber from the national forests. As I understand the position of the plaintiffs, their initial concern was about the system of cutting that was used on the Monongahela and other national forests which is known as "clear cutting" and the system of management known as "even age."

Debate over this matter has been going on for several years. The Senate Committee on Interior and Insular Affairs condutced a review of this issue as it related to the Monogahela Forest, as well as to national forests in Wyoming and Montana. In May of 1970, the senior Senator from West Virginia (Mr. RANDOLPH) asked the Council on Environmental Quality to review the subject. There have been studies and commissions galore and there are strongly held positions of concern by various contenders.

It would be useful to recall that the national forests that were created in the East, at least in States such as South Carolina, were never a part of the "public domain" but were purchased as a result of the Weeks Law which was enacted in 1911. The initial purpose for this acquisition was to protect the watersheds. In 1924, the act was amended to permit acquisition for timber management. In 1920, the Nanatahela National Forest was established in Georgia, North Carolina, and South Carolina. In 1936, the Francis Marion and Sumter National Forests were established. They lay wholly within South Carolina, and the portion of the Nanatahela in South Carolina was then made a part of the Sumter National Forest. Starting in 1920 with 19,000 acres, the national forests in our State grew to their present 607,000 acres. The big surge in purchases was in the 1930's, and most of the land secured was badly cut over and denuded. Through careful and judicious management these lands have now been restored to multiple use productivity.

In reaching its conclusions in the suit on the Monogahela Forest, the court did not suggest that the national forests were being incorrectly managed as a matter of conservation practice. The court did find that the law as written in 1897 to guide the sale of timber was clear and that it was a legislative-executive function to rewrite the law, not a judicial function. I do not quarrel with the finding of the courts.

In 1973, I joined in cosponsoring the Forest and Rangeland Renewable Resource Planning Act. In its early version it proposed a revision of the 1897 language on the sale of timber which would have provided a modernized statute. The section was dropped from the bill because, as I understand it, the prevailing view in the executive branch, forest products associations and in some sectors of the conservation associations was that the court would hold that the 1897 act was not restrictive.

In order that the people of my State will have an opportunity to consider the language in the existing law and that which was proposed in 1973, I shall ask unanimous consent that both be printed at the conclusion of my remarks.

I trust that their inclusion will give the people of my State, conservation leaders, State and local officials, and industrial groups the basis for advising me, and others in our delegation on the best course of action to follow in determining how the authority to sell national forest timber should be modernized.

While I have no doubt that from a legal standpoint the language of the 1897 act was the basic authority for the sale of timber, I also feel that there was a major oversight in not revising it in 1924 when the Weeks Act was enlarged to permit the acquisition of lands for the national forest system for forestry as well as watershed purposes.

It is, or it should be equally clear, that today and for years to come the national forests in South Carolina would be converted to a land reserve if the test for the sale of timber were that the trees had to be physiologically mature or dead in order to be sold.

Over 80 percent of the lands acquired for national forest purposes in our State were secured 40 years ago. The fact is that virtually every acre purchased was cut-over land. For the past 55 years, since the first lands were acquired, programs of reforestation, stand improvement, watershed protection, wildlife management, and recreational development have gone forward on these lands.

The notion that these lands could provide recreational opportunities, that the soils and water could be conserved and improved, and that the fish and wildlife populations enhanced in a framework of holding these 600,000 previously cut-over acres without applying forest management concepts, including timber harvesting, until trees were dead or physiologically mature has not been put forth in South Carolina over the past half century.

Insofar as I am aware, the principles guiding national forest management, as they have been applied in South Carolina, have generally met with the approval of knowledgeable people. At the same time, however, there have been concerns as to whether as much was being done to assure that all of the conservation principles were being as effectively implemented as the lands, the resources, and the needs of people require.

The situation that has developed on one aspect of national forest management, the sale of timber, as it applies to South Carolina and elsewhere, is that the present law restricts sales to a situation that does exist—dead and mature trees.

Many in South Carolina feel that they are swept into a controversy that others are having and that they are like innocent bystanders struck by a car that went out of control.

The national forests of South Carolina may have some dead trees. For the entire State, the forest inventory for all lands shows that barely one thousandth of the timber is in salvagable dead trees. Even if one assumes that trees above 21 inches in diameter are mature, the national forest lands, due to their history, would have only 2 or 3 percent of their trees in this class. Also, since size is not the sole indicator of maturity, very little of the national forest land contains mature timber at all.

To the contrary, trees on the national forests of South Carolina are principally young, less than 50 years of age. The ecological and environmental health of these stands depends upon their being carefully managed, and this cannot be sensibly achieved by letting them stand until they reach maturity.

The national forests occupy a distinct niche in South Carolina. They are designed to be used, not abused. They are designed to have their renewable resources restored and amplified. They are designed to permit the harmonious and coordinated management of their various resources. They were created to be conservative yet progressive examples of the benefits that can flow in perpetuity from sustained yield management based on a broad base of uses.

In any event, citizens have a perfect right to file suits in situations where they believe they have a matter that deserves judicial review. In the West Virginia case, their concerns, as I understand them, were to change the system of management on the Monongahela National Forest in several ways.

They sought to have the forest managed in its entirety under a system known as "uneven age management." In this method every acre will have trees of different ages as opposed to the contrasting system known as "even age management" where the entire forest is unevenly aged and it is made up of compartments that are essentially trees that are all the same age.

Their second concern was over systems of cutting. They objected to the practice known as clear cutting which removes all the trees on a cutting area. Their preference was for selection cutting methods, with only mature or dead trees marked and only a small number of trees cut at any one time.

Third, they wanted all trees to be marked before a sale was made, a practice that was not used in sales where all trees were to be cut.

Finally, they wanted all of the trees that were cut to be removed in contrast to the practice of removing the merchantable portion of the tree and leaving the remainder to decompose and add its nutrient content to the site.

In the litigation, none of these issues were treated by the court in terms of their silvicultural, environmental, or economic soundness. The court simply found that the law permitted only the sale of the dead and mature trees and that they must be marked and removed.

The court of appeals said it rejected the request by the Government that it "not permit a literal reading of the 1897 act to frustrate the modern science of silviculture * * *." The court pointed out that it did not have "a license to rewrite a statute no matter how desirable the purpose or the result might be." It said that this law may well be "an anachronism which no longer serves the public interest" and it said that the "appropriate forum to resolve this complex and controversial issue is not the courts but the Congress."

On November 6, 1973, when the district court in West Virginia issued its decision, the Secretary of Agriculture was on notice that there was a high probability that the law providing for the sale of timber was in need of revision.

Certainly since August 21, 1975, when the Court of Appeals for the Fourth Circuit affirmed the district court decision, the Secretary has had further notice that either the law should be implemented as written nationwide, or it should be revised. The decision by the Secretary, in the interim, to limit only those sales in the national forests in the four States in the fourth circuit, has certainly removed any uncertainty as to what the effect would be of operating nationwide under the existing law.

There is a very fundamental lesson in this case. Administrators of our laws need to give attention to whether they are stretching the intent of the law beyond the clear meaning of its words and its actual intent. The reason why a law is being stretched may be perfectly valid and sound from an operating point of view. When it is, the first act, rather than the last, should be to request the needed authority.

It is unfair to South Carolina, North Carolina, Virginia, and West Virginia, and to all of the citizens from these States and from other States, to upend the programs on the national forests in the absence of a clear showing that wrongheaded policies are being applied with reckless abandonment of sound conservation principles.

In this period immediately ahead, the prospects are that the amount of timber sold from the South Carolina national forests will be reduced to 10 percent of last year's amount. The 90-percent reduction of sales will mean reduced payments to the 14 counties that have national forests in South Carolina from about $1,000,000 last year to about $100,000 this year. Several people in the forest products industry will also be affected.

Forest improvement cutting designed to stimulate growth and improve future supplies will be set back a year or more since under the tight terms of the existing law only dead and mature trees may be cut.

Yet no one has come forward and said that the way in which the national forests in South Carolina have been managed these past several years—even if outside the construction of this one law, violates the concept of sustained yield, the concept of multiple use or that it would undercut the tremendous improvements that have occurred in the forest lands entrusted to the care of the Forest Service since they began operations in our State 55 years ago.

If the court had found that the forest management and harvesting practices being used by the Forest Service violated sound conservation principles as expressed in law, then clearly the public interest would be benefited by stopping sales in South Carolina. This, however, was not the finding of the court. Rather it found that the law limited administrative discretion and that to continue to apply forest management practices that have been used will require a change in the law.

The administration has avoided facing up to the issue, and its policy of delay hurts only the innocent bystander.

As an attorney I would note that the legal issues as to the meaning of the existing law are settled, but the policy issues remain. These need to be addressed promptly by persons with an interdisciplinary natural resources background so that the authority to manage the forest based resources in the national forests can assure a sustained yield of their several resources for their various uses in a conservative and progressive manner.

I am confident that the Committee on Agriculture will give prompt and careful attention to the best way to promote sound management of all of the resources found in the national forests.

I think it is especially incumbent on the Secretary of Agriculture to come forward promptly with a well reasoned case for modernization and improvement in the authority needed to manage the forest resources in the national forests.

Of course, there is a special degree of concern in the areas within the four States with national forests where timber harvesting activities have been drastically curtailed.

The renewable resource program to be submitted in early January by the administration as required under the Forest and Rangeland Renewable Planning Act of 1974 will afford the first real opportunity the people have had to help set national renewable resource goals for forest and range lands. While it is essential that we give careful consideration to these proposals, it is my hope that the Committee on Agriculture will give early attention to the modernization of the law dealing with the management and sale of timber from the national forests. I will be happy to give my time and support to any such efforts.

Mr. President, I ask unanimous consent that the attached material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

TIMBER

SALE

Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476)

For the purpose of preserving the living and growing timber and promoting the younger growth on national forests, the Secretary of Agriculture, under such rules and regulations as he shall prescribe, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found upon such national forests as may be compatible with the utilization of the forests thereon, and may sell the same for not less than the appraised value in such quantities to each purchaser as he shall prescribe, to be used in the State or Territory in which such timber reservation may be situated, respectively, but not for export therefrom. Before such sale shall take place notice thereof shall be given by the said Secretary of Agriculture for not less than thirty days, by publication in one or more newspapers of general circulation, as he may deem necessary, in the State or Territory where such reservation exists. In cases of unusual emergency the Secretary of Agriculture may, in the exercise of his discretion, permit the purchase of timber and cord wood in advance of advertisement of sale at rates of value approved by him and subject to payment of the full amount of the highest bid resulting from the usual advertisement of sale. He may, in his discretion, sell without advertisement, in quantities to suit applicants, at a fair appraisement, timber and cord wood and other forest products not exceeding $2,000 in appraised value. In cases in which advertisement is had and no satisfactory bid is received, or in cases in which the bidder fails to complete the purchase, the timber may be sold, without further advertisement, at private sale, in the discretion of the Secretary of Agriculture, at not less than the appraised valuation, in quantities to suit purchasers. Such timber, before being sold, shall be marked and designated, and shall be cut and removed under the supervision of some person appointed for that purpose by the Secretary of Agriculture not interested in the purchase or removal of such timber nor in the employment of the purchaser thereof. Such supervisor shall make report in writing to the Secretary of Agriculture of his doings in the premises.

From S. 2296—National Forest Environmental Management Act of 1973 as Introduced in 93d Congress, First Session, July 31, 1973

TITLE II—OTHER ACTS AMENDED

Sec. 201. Sale of Timber. The Act of June 4, 1897 (16 U.S.C. 476), relating to the sale of timber is repealed and the following is enacted therefor: "For the purpose of achieving and maintaining an environmentally sound forest, now and for the future, on the National Forest System the Secretary, under rules and regulations he may prescribe, may sell at fair market value such trees and forest products as may be compatible with the goals and standards set forth in this Act and other laws applicable to the National Forest System.

"The Secretary shall select for each such sale the method of sale and timber measurement which in his judgment is designed to encourage a high level of use of the trees to be harvested: *Provided,* That as measured over the sustained yield rotation period applicable to the site and species, the silvicultural harvesting systems applied shall be those which in the judgment of the Secretary best influence and promote both a high level of environmental quality and economic benefits from the national forest resources. The Secretary shall prescribe the size of each sale, and unless he has determined that extraordinary conditions exist or the quantities of timber to be sold are small, he shall widely advertise and give public notice of all sales. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement. However, in any event the Secretary shall exercise due care that public notice is utilized so as to encourage public participation in securing sales. Payments for sales shall be made to the Secretary and the moneys arising therefrom shall be accounted for in a special account and covered into the Treasury. Such sales, before being offered, shall be marked and designated, supervision of the cutting and removal, and the measurement of the forest products shall be conducted by persons employed by the Secretary and such persons may have no interest in the purchase or removal of such products nor be directly or indirectly in the employment of the purchaser thereof.".

CIVIL WAR IN ANGOLA

Mr. THURMOND. Mr. President, I rise today to comment on the situation in Angola where the Soviet Union has slipped large amounts of military hardware, including tanks, as well as persuaded an expeditionary force reportedly of about 3,000 Cuban military personnel to join with Communist forces there.

It is noteworthy that there has been very little criticism of this involvement by the Soviets and Cubans in Congress, although everyone apparently concedes this is strictly a civil war.

Many stood on this floor for years and criticized the United States for its involvement in South Vietnam on the grounds that that particular conflict amounted to no more than a civil war. Developments earlier this year, when the North Vietnamese Communists moved large numbers of its regular forces into Saigon, ended for all time any contention that conflict was a civil war.

It is strange that those individuals who were so interested in the tragic loss of civilian life in Vietnam as well as the heavy losses on the battlefield are now silent when two Communist nations, one on another continent and another in a separate hemisphere, have involved themselves in the Angolan war.

While significant U.S. involvement in this affair has not been suggested by the President or anyone in Congress, to my knowledge, it still would behoove this body to make a strong statement abhorring the efforts of the Soviet Union and Cuba in their heavy-handed involvement in Angola.

Cuba, apparently as a pawn of the Soviets, has landed six shiploads of men and 19 airlift flights in Angola prior to December 1.

The steps being taken by these two Communist states further document their philosophy and publicly-stated goals of extending communism throughout the world whenever opportunities might be present for such colonialist-type activities. We saw such an extension in Laos last week when the coalition government there collapsed and the Communists took control and completed their conquest of Indochina.

Certainly the Soviet action is especially deplorable in view of the pronouncements made by Communist Party Secretary Brezhnev at Helsinki earlier this year. The shipment to Angola of heavy equipment such as tanks and the support being provided the Cuban soldiers sent there are blatant violations of the principles of peace and noninterference enunciated by the Soviets at Helsinki. The actions in Angola make a mockery of the United States-Soviet détente policy.

Mr. President, while I realize the American people are very wary of involvement in the internal affairs of any foreign nation, our lack of a direct military response should not preclude us from calling for an end to this military intervention.

In conclusion I would invite all the Members of this body to join with me in deploring the introduction of heavy Soviet equipment, Soviet advisors, and Cuban military personnel equipped with Soviet weapons into the civil war in Angola.

Mr. President, finally I ask unanimous consent that the following articles on this subject be printed in the RECORD: an editorial entitled "Angola Intervention," which appeared in the New York Times on November 26, 1975; an article entitled "Soviets Use Cubans As Cops of World," which appeared in the Philadelphia Inquirer, November 26, 1975; an article entitled "Angola Coalition Losing Edge to Soviet Rockets," which appeared in the Los Angeles Times, November 25, 1975; an article entitled "Soviet Advisers in Angola: United States" which appeared in the Chicago Tribune on December 4, 1975; an article entitled "Soviet Is Adamant Against Détente in Struggle of Ideas," which appeared in the New York Times, November 26, 1975; an article entitled "Moscow's Africa Policy Criticized by Moynihan," which appeared in the December 3, 1975 issue of the New York Times; an article entitled "Communist Regime Set Up in Laos," which appeared in the Baltimore Sun on December 4, 1975; and, finally, an editorial entitled "Words, Only Words?" which appeared in the December 8, 1975 issue of the State newspaper in Columbia, S.C.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 26, 1975]

ANGOLA INTERVENTION

While Portugal itself is again threatened by Communist-inspired take-over, Soviet imperialism has re-entered the African continent in crude force, this time in the former Portuguese colony of Angola.

Secretary of State Kissinger has properly warned the Soviet Union that Moscow's scarcely veiled intervention in Angola's civil war is totally contrary to the atmosphere of détente which Soviet policymakers are so eager to invoke for their own purposes. He delivered this warning in public in Detroit last Monday; the same message is understood to have been conveyed in more private and more emphatic form through diplomatic channels a few days previously.

Some analysts believe that the prime Soviet purpose in supporting one of the Angolan factions, the Popular Movement for the Liberation of Angola (MPLA), is to counter Chinese influence thrown behind the rival National Front. Other assessments stress the possibility of a Soviet strategic presence on Africa's western coast, augmenting the foothold that Moscow has already established in Somalia and Mozambique in the east.

Whatever the motivation, it is clear that the massive flow of Soviet armaments, including heavy weapons and aircraft, grossly escalated the level of fighting in Angola earlier this year and allowed the MPLA to secure total control over the capital city of Luanda. But combat continues, and so does an air and sealift of supplies. Since October the MPLA has been reinforced by a 3,000-man force of Cuban personnel. Whatever military supplies have reached other factions in Angola from American sources are paltry and tardy by contrast.

There was a time when the United States would have responded to such a massive and menacing intervention with its own show of force, but that is something that the American people would never countenance now. The interventionists, the provocateurs of civil war in Angola are not American; it is not Washington that is trying to capitalize, for its own great-power interests, on the misery of an ill-prepared African society struggling for national identity and sovereignty.

[From the Philadelphia Inquirer, Nov. 26, 1975]

SOVIETS USE CUBANS AS COPS OF WORLD

(By Robert S. Boyd)

WASHINGTON.—In recent years, Cuba has sent thousands of its soldiers overseas to help leftists governments or revolutionary movements in Africa and the Mideast, the latest being a Vietnam-style intervention in the civil war in Angola.

Generally, say American officials, the Cubans have served as military advisers, training local forces or providing logistical support. But in Angola, an estimated 3,000 Cubans are for the first time engaged in actual combat on the side of the Soviet-backed Popular Movement for the Liberation of Angola (PMLA), U. S. officials say.

In addition, Cuban military men are serving in as many as eight other African countries and one or two Mideast countries, according to U. S. sources.

There are also signs that Cubans may be acting on behalf of the USSR in non-military secret operations in Greece, Turkey and possibly Portugal.

"The Cubans have become the mercenaries of the Communist world," a cabinet-level U. S. official said recently.

Secretary of State Henry A. Kissinger warned this week that "a policy of conciliation will not survive Cuban meddling in Puerto Rico or Cuban armed intervention in the affairs of other nations struggling to decide their own fate."

Kissinger was referring specifically to Cuban support of the Puerto Rican independence movement and to the Cuban part in the three-sided civil war in Angola, a former Portuguese colony.

The United States, as is well known, has been doing the same kind of thing for many years, and President Ford has declared his intention to continue supporting U. S. friends and allies in other countries.

In Angola, for example, the United States is supplying military equipment to an anti-Soviet faction, the National Front for the Liberation of Angola. Communist China is reported to be backing the third Angolan faction, the National Union for the Total Independence of Angola.

The Senate Select committee on Intelligence reported last week that U. S. officials had been involved in assassination plots against at least five world leaders.

But U. S. leaders, in discussing Cuba, said they were increasingly concerned by Cuba's apparent willingness to serve as an instrument of Soviet foreign policy in troubled areas across the globe.

Particularly in tropical countries, U. S. officials say, Cubans get along better with local populations than Soviet soldiers do, arouse less resentment, and reduce the chance of major embarrassment for the Kremlin.

In effect, then, Moscow is using Cubans much as the United States employed mercenaries in Southeast Asia to accomplish its goals.

The Cuban government is said here to be highly sensitive to charges that it is serving as a Soviet catspaw. But officials speculate that Cuba cooperates with the Soviet Union partly in return for extensive Soviet aid, and partly out of ideological sympathy for left-wing movements in underdeveloped countries.

U.S. officials believe that the Soviet Union, directly or indirectly, pays all the expenses of the Cuban foreign operations and provides all the equipment.

Until the death of revolutionary leader Ernesto (Che) Guevara in 1967, Cuba's foreign adventures were confined to Latin America.

Since then, U.S. officials say, Cuba has pretty much ceased trying to export its revolution elsewhere in the Western Hemisphere.

The only significant exception was during the three-year left-wing regime of Salvadore Allende in Chile, when Cubans were used to train police, security and intelligence forces, and provided arms, propaganda and financial support to militant organizations in Chile.

In the late 1960s and early 1970s, Cubans began showing up in Africa.

One of the first places they appeared was the People's Republic of Congo, a former French colony—not to be confused with Zaire, the former Belgian Congo.

U.S. officials estimate that there are about 400 Cuban military advisers in the Congo now, many of them working to support Angolan forces across the border. Congo President Marien Ngouabi visited Havana in September, where he and Prime Minister Fidel Castro issued a communique supporting the PLMA struggle.

From 200 to 300 Cuban military advisers are also reported to be in each of five former European colonies in Africa—Malawi, Mozambique, Guinea, Cameron and Gabon. Their duties include training native troops in guerrilla warfare and in the use of mortars and recoilless rifles.

In addition, there are unconfirmed reports that Cubans are training guerrillas for warfare against South Africa and Rhodesia.

In the Mideast, U.S. officials say, Cuban military advisers have been working in the People's Democratic Republic of Yemen, a Soviet-supported regime near the southern tip of the Arabian Peninsula, which has been fighting with Saudi Arabia and the U.S.-backed Yemen Arab Republic.

U.S. officials have also received reports that Cuban advisers have been seen in Syria, but there is not solid evidence of this.

The Cuban mission reported to be in Portugal is also said to be active, and radical Portuguese leaders have visited Havana.

The Castro government has never officially acknowledged that it has military forces overseas, but does not seriously attempt to conceal their presence.

[From the Los Angeles Times, Nov. 25, 1975]

ANGOLA COALITION LOSING EDGE TO SOVIET ROCKETS

(By Dial Torgerson)

AMBRIZ, ANGOLA.—As the walking wounded from the battle of Quifangondo watched silently from the weedy parkway on Ambriz's main street, a Soviet bloc convoy sailed past this coastal town, headed for Luanda.

There were 12 ships in the convoy, grouped closely for protection against air attack from the dirtfield at Ambriz. The ships carried rapid-fire cannon and heavy machine guns.

But none of the planes in the air force of the National Front (FNLA) is armed. The soldiers of the FNLA could do nothing but watch as the ships headed for Luanda, 70 miles south, with more arms for the Communist-supported Popular Movement (MPLA).

"Just think," said an FNLA officer at Ambriz, "How many rockets those ships are carrying."

Russian 122-mm. rockets won the battle Nov. 10 at Quifangondo. In the civil war of northern Angola, the 5-foot-long missiles rule the battlefield.

Forces of the FNLA and the national Union (UNITA) have united their military forces to fight the MPLA and are setting up a new two-party government. They are backed by China, the United States, Zaire, Zambia and South Africa.

The coalition forces control much of the north and south of Angola, while the MPLA holds the capital and central areas, plus some land in the northeast and the oil-producing enclave of Cabinda.

While the coalition forces appeared to have the upper hand early this month when the Portuguese gave the country its independence the tide now appears to have shifted.

"We will have tea in Luanda," the leaders of the FNLA army promised on the morning of their big attack. Quifangondo is a village between Ambriz, military headquarters of FNLA, and Luanda. The road runs south through the village, between a swamp and a hill. Beyond the hill lies Luanda, 15 miles away.

The FNLA committed 2,500 men—about half their effective force in the north—in an attack down the road toward the hill. They used armored cars, jeep-mounted 106-mm. recoilless rifles and 120-mm. mortars. The attack started at 8 a.m.

The FNLA attack carried across the first of two bridges below the MPLA hill, was stalled at the second by four MPLA armored cars and then came under a furious barrage by the 122-mm. rockets.

"They were mounted 10 tubes apiece on jeeps," said an officer who was at the scene. "The men who manned them were white. They would pull around the front of the hill and fire and then disappear over the hill again to reload, The FNLA had no defense against them."

Perhaps 1,000 rounds rained down and the FNLA withdrew. It tried again at 3:30 p.m., was hit by a two-hour barrage of 122s, and then retreated. The FNLA counted 17 dead, 60 wounded and four armored cars destroyed.

It was a bold attack and a heavy price to pay in a war which until recently was fought mostly with noise—mortars, rockets, recoilless rifles, machine guns fired in the enemy's general direction.

"Neither side showed much interest in getting within small-arms range," said an intelligence officer assigned here by a foreign nation. "It was fought mostly at long range, with the side which showed the most noisy firepower advancing and the other side withdrawing. On Nov 10 they actually came to close range."

The FNLA lost its bid to upset the MPLA's assumption of power from the Portuguese, and the threat to Luanda from the north had been removed.

Wednesday, the Russian convoy, biggest shipment to date to the MPLA, passed Ambriz. Friday, the MPLA made an amphibious attack on the beach south of Ambriz.

A counterattack by FNLA troops, led by tough ex-troopers from Portugal's Angola army, drove the MPLA out of Caxito. But it is the MPLA—led by Russian and Cuban advisers—which now threatens Ambriz, not the FNLA which threatens Luanda.

[From the Chicago Tribune, Dec. 4, 1975]

SOVIET ADVISERS IN ANGOLA: UNITED STATES

(By John Maclean)

WASHINGTON.—About 100 Soviet Military advisers are in Angola aiding a pro-Marxist faction in the civil war there, United States officials told The Tribune Tuesday.

The Soviet Union also has sent dozens of medium-weight tanks, hundreds of light-weight tanks and armored personnel carriers, and dozens of multiple-tube rockets into the former Portuguese colony, they said.

This was the first time U.S. officials have said Soviet advisers and tanks were operating in Angola, although there have been scattered press reports in Africa to that effect.

Reports of the Soviet activity followed warnings by Secretary of State Henry Kissinger that Russian intervention in the Angolan civil war threatened U.S.-Soviet relations. Analysts here said the Soviet presence was a major political step.

The Soviet Union has backed the Popular Movement for the Liberation of Angola [MPLA] against two rival factions, who are variously supported by Western powers, including the U.S., South Africa and the People's Republic of China.

The Soviets began shipping large quantities of military equipment to the Popular Movement about a month before Angola was declared independent of Portugal on Nov. 11. In the first days after liberation, U.S. officials reported they had no evidence of Soviet tanks or advisers within Angola.

[From the New York Times, Nov. 26, 1975]

SOVIET IS ADAMANT AGAINST DÉTENTE IN STRUGGLE OF IDEAS

(By Christopher S. Wren)

Moscow, November 25.—While the Soviet Union has committed itself to such goals of East-West accommodation as reduction of strategic arms and expansion of trade, it has also made it clear that détente will not be permitted to intrude upon Moscow's ideological interests. Put simply, the Kremlin has reserved the right to proselytize its Marxist gospel abroad through such devices as the support of national liberation movements while protecting it at home with a stiff quarantine against Western values.

Several recent activities have made the limits of détente look even starker, even taking into account a noticeable sharpening of the ideological line as the 25th congress of the Soviet Communist Party approaches. In Africa, rising Western concern has been sounded over Soviet arms shipments to the Luanda government set up by the Popular Movement for the Liberation of Angola.

These prompted Secretary of State Henry A. Kissinger to caution in a speech in Detroit yesterday that "the United States cannot remain indifferent" to Soviet intervention in Angola and that its continuation "must inevitably threaten other relationships."

LITERAL DEFINITION

Domestically, the Kremlin has resisted a freer flow of ideas and people as envisioned in the Helsinki declaration signed early last August. This most recently took the form of refusing to let Andrei D. Sakharov, the dissident physicist, travel to Oslo to receive the Nobel Peace Prize.

Yet Moscow, which defines détente literally as "the relaxation of international tension," has never relaxed its ideological aims. When President Valéry Giscard d'Estaing proposed in a visit last month that détente become ideological as well as political, Leonid I. Brezhnev told him that "international détente in no way puts an end to the struggle of ideas."

At the same time, the Kremlin has billed its version of détente as the only rational course the world can follow. At a reception today for Czechoslovak party chief, Dr. Gustav Husak, Mr. Brezhnev said that all his Western critics could offer was "a return to the cold war and to an even more risky balancing on the brink of a hot war."

For all its praise for the merits of détente, the Kremlin has been noncommittal about specific applications. Yet it has been candid about the broader limitations. If détente was oversold, it was more likely at the American end. During his 1974 visit to Moscow, President Richard M. Nixon announced "After a long period of confrontation, we moved to an area of negotiations; now we are learning cooperation, "such an assertion seemed to gloss over the very different aims of the two societies.

A case for confrontation could be made in Angola, where Moscow has committed itself with an abandon that prompted surprise in diplomatic quarters. Some diplomats see it as a new manifestation of Soviet-Chinese rivalry in the developing world. Others find the Kremlin locked into actively supporting the Luanda government because of mutual ties with the Portugese Communist Party. One African diplomat believes Moscow is simply seizing its best chance for a foothold in black Africa.

Secretary Kissinger said it was "difficult to reconcile this with the principles of coexistence that were signed in 1972" and declared that "we will never permit détente to turn into a subterfuge of unilateral advantage."

Several Soviet insiders have professed surprise over the Western reaction.

"We have been helping the Popular Movement for 14 years now," one recently told a foreigner. "Why have you waited until now to complain about it?"

Whatever the Soviet motive Moscow clearly does not consider its support of Luanda in consistent with its détente obligations. A precedent was set last spring in Indochina, where Communist victories did little more than ripple the waters of détente.

Likewise, the Kremlin has continued to insulate Soviet society from any liberalizing * * * not telling the Russians that they would be eating bread made from American grain. Mr. Brezhnev justified such an attitude at the European security conference in Helsinki, when he told the other leaders that the conference's major conclusion was that "it is only the people of each given state, and no one else, that has the sovereign right to resolve its internal affairs.

Soviet authorities appeared taken aback by the profusion of Western calls for liberalization that cited the Helsinki document. But rather than give way, Moscow chose to counter-attack as best it could, stating that the Helsinki provisions were expressly subject to the laws and traditions of the countries concerned.

The press agency Tass also contended that the United States itself had violated the human rights provisions by turning away Chilean refugees.

Despite its calls to make détente irreversible, the Soviet Union has continued to perceive a relationship hedged with ideological escape clauses. It may not be what Americans thought they wanted, but for better or worse it was the kind of détente they were offered.

[From the New York Times, Dec. 3, 1975]

MOSCOW'S AFRICA POLICY CRITICIZED BY MOYNIHAN

(By Bernard Gwertzman)

WASHINGTON, December 2.—Daniel P. Moynihan said today that Soviet and Cuban military involvement in Angola meant that Moscow intended "to colonize Africa."

In a speech here that was sharply critical of Soviet actions, Mr. Moynihan, the chief American delegate to the United Nations, also accused the Russians of having helped inspire the anti-Zionist resolution passed by the General Assembly last month in order to justify repression of Soviet Jews.

Mr. Moynihan, who appeared with Senator Edward M. Kennedy, Democrat of Massachusetts, at the opening session of a convocation sponsored by the Fund for Peace and the Center for the Study of Democratic Institutions, said later that he was indulging in "a little hyperbole" in using the word colonize.

After praising former President Richard M. Nixon and Secretary of State Henry A. Kissinger for seeking to halt the arms race with the Soviet Union—the process called detente—he said that it was unrealistic to expect wholesale relaxation of tensions.

IDEOLOGICAL CONFLICT

"Any lessened expenditure of energy on military technology will lead to an increased expenditure on what the Communists will see as the equally inviting, equally productive area of ideological conflict," he said.

On the Soviet side "ideologic conflict has been stepped up," he said, adding:

"With the fall of Southeast Asia, the perimeter of pressure in that region is much expanded, with results already evident. Where necessary, military force is used. At this moment, for example, the Soviets in effect have landed Cuban troops, but Soviet withal, on the southwest coast of Africa"—an allusion to Angola.

He said that the Russians were "consolidating military facilities" in northeastern Africa, a reference to reports of bases in Somalia.

"It is fair to assume they mean to colonize Africa," Mr. Moynihan said, "and manifest that they are already partially successful, their main problem being opposition from another Communist power and also from the fact that the United States will call them instances of open military operations, as indeed the Secretary of State has done."

Mr. Kissinger has warned the Russians repeatedly that intervention in Angola raises questions about their willingness to abide by the ground rules for avoiding overseas involvement that both powers agreed to, but he never talked about colonization.

Mr. Moynihan said of the Russians that when they are "blocked at one point they shift to another." He said the anti-Zionist resolution "directly served an announced Soviet cause."

As recently as 1971, he went on, the Soviet Union launched a campaign linking Zionism with Nazism, so the United Nations resolution justified the Soviet propaganda.

Mr. Kennedy, in his speech at the convocation, named Pacem in Terris IV for the papal encyclical on peace on earth, was more willing to defend the policy of detente. He argued that American and Soviet leaders must take urgent steps to break the deadlock in the talks on control of strategic arms, putting off settlement of the key remaining issues to get agreement fulfilling the tentative accord that gave both sides a limit of 2,400 missiles and bombers.

[From the Baltimore Sun, December 4, 1975]

COMMUNIST REGIME SET UP IN LAOS

(By Arnold R. Isaacs)

HONG KONG.—A people's democratic republic was proclaimed in Laos yesterday completing the Communist conquest of all Indochina.

A broadcast from Vientiane, the Lao capital, announced the abdication of King Savang Vatthana, the abolition of the 600-year-old Lao monarchy, and the dissolution of the existing coalition government headed by Prince Souvanna Phouma.

The coalition already had been reduced to purely nominal status as the Communist Pathet Lao took control of the government's administrative apparatus in the months following the Communist victories in Cambodia and South Vietnam in April.

The end of the coalition and the monarchy was determined by a "National Congress of People's Representatives" that met Monday and Tuesday.

"In response to the aspirations of the Lao people," the Vientiane broadcast said, the Congress accepted the King's abdication and the dissolution of Prince Souvanna's government and "unanimously decided to abolish the monarchy, establish a people's democratic republic and appoint a president of the Lao People's Democratic Republic."

A later Vientiane Radio broadcast reported today that the people's congress has named Prince Souphanouvong, nominal leader of the Pathet Lao, as president of the new people's democratic republic. Kaysone Phoumvihan, a leading Lao Communist, was named the new premier.

The announcement said the dethroned king was designated adviser to President Souphanouvong and Prince Souvanna would be adviser to the new premier.

The 68-year-old king, a devout Buddhist who played no active role in his 16-year reign beyond occasional prayers for reconciliation in his troubled realm, becomes the last of a royal line that can be traced back to King Fa Ngoun, the founder of the kingdom of Lan Zang—"land of a million elephants"—in the mid-Fourteenth Century.

Yesterday's final Communist takeover ended the last chapter in a 30-year struggle in Laos, the poorest, most primitive and least populous of the three Indochinese nations.

Had the conflicting Lao factions been left to pursue their rivalry without foreign interference, the country's suffering would have been far less. But inevitably the two sides became proxies in the larger war between the United States and North Vietnam.

Hanoi not only armed the Pathet Lao but backed up its clients with regular North Vietnamese infantry forces, at times numbering up to 100,000.

The U.S. clandestinely at first and then more openly, supplied, advised and often in practice commanded the rightist forces, while carrying on a bombing campaign that lasted nearly nine years—the longest sustained American bombing anywhere in Indochina.

The main U.S. target was the Ho Chi Minh trail complex in eastern Laos, along with North Vietnamese troops and supplies were sent to the war in South Vietnam. In return for Prince Souvanna's acceptance of the trail bombing, the Americans also carried out strikes in direct support of the rightist forces.

American military officers nominally assigned to the U.S. Embassy's defense attache office and civilians working for the U.S. Central Intelligence Agency served with the ramshackle regular Lao Army and organized irregular guerrilla armies centered in the Meo tribal region of northern Laos. The Americans also financed a force of mercenaries from Thailand which numbered 20,000 troops by late 1972.

The war devastated large swaths of the country and made refugees of 1 million persons—a third of the population. Most of the fighting was centered to regions occupied by mountain tribesmen rather than in the lowlands where the ethnic Lao population was centered, however, with the result that except in rare battles lowland cities like Vientiane seemed almost untouched by the war.

A Laos peace agreement was signed February 21, 1973, four weeks after the ill-fated Paris cease-fire pact took effect in Vietnam. Prince Souvanna, whose neutralist sentiments remained powerful despite his decade of co-operation with the Americans, put heavy pressure on rightist generals to accept Communist demands and make the agreement possible.

The accord called for a cease-fire and the formation of a new coalition. After a few days of skirmishing the cease-fire ended the fighting, while political negotiations on the new government proceeded at a pace typical of the sleepy, unhurried Lao way of life.

The new government was finally formed more than a year later, in April, 1974. Prince Souvanna, still the country's most prestigious political leader, was retained as prime minister, while Prince Souphanouvong, his half-brother, was made chairman of the Joint Political Council, a parallel governmental body set up by first and then more openly, sup- * * * Prince Souphanouvong was tumultuously welcomed in Vientiane when he emerged from the Communist headquarters in far northeastern Sam Neua province—a demonstration of the popular spirit of reconciliation that distinguished Laos from the far more bitterly divided Vietnam.

A year later, with the Communists on the verge of their triumphs in Vietnam and Cambodia, Pathet Lao forces seized a number of strategic points that had been occupied by the rightist army—the first substantial violations of the 2-year-old truce.

Then, Communist political agents began taking over the government's administrative structure in a bizarre but peaceful slow-motion revolution. The method was to call mass meetings at which rightist officeholders were compelled to confess their misdeeds and hand over their positions to Communist replacements.

The Pathet Lao meanwhile demanded the withdrawal of the U.S. aid mission, which in past years had been a huge establishment carrying out not only humanitarian but also military and paramilitary functions.

A campaign of harassment forced a cutback in the large U.S. Embassy staff, of which only a skeleton remained by last summer. If the embassy stays open it will be the only U.S. diplomatic mission in Communist Indochina.

During the gradual takeover thousands of Lao—including about 40,000 Meo who felt endangered because of their cooperation with the CIA's clandestine war—fled to Thailand, in boats or by swimming across the Mekong River that divides the two countries. In recent days several members of the royal family have made the swim. The presence of the refugees in Thailand has contributed to tension on the border, where sharp fighting occurred between Thai and Lao forces late last month.

Yesterday's announcement of the new Communist republic was preceded by several days of mass rallies in Vientiane and Luang Prabang, the picturesque royal capital.

[From the Columbia (S.C.) State,
Dec. 8, 1975]

WORDS, ONLY WORDS?

Responding to a question on a national television news interview program, former Georgia Gov. Jimmy Carter—one of the many Democratic Presidential hopefuls—said he favored telling the Arab oil-producing nations what the United States would do if they instigated another oil embargo.

The Georgian's message is that he would consider an embargo as "economic declaration of war" and would shut off U.S. supplies of food, weapons, and materials to the Arab world.

Whether a nation should telegraph its exact response to provocative situations is a topic for serious debate. There may be other considerations at the moment of decision. Nevertheless, we like Governor Carter's belief that there should be a response of some sort from the United States.

In saying that, we have in mind Secretary of State Henry A. Kissinger's beclouded objection to the Soviet Union's active support of pro-Communist military forces in Angola's civil war. Mr. Kissinger suggests that the United States feels that the Kremlin's involvement isn't helping détente at all.

It seems to us that it is time for a more precise response from the United States to that situation, perhaps a public demand by Mr. Kissinger for the Soviet to explain how their actions are compatible with the Helsinki accord regarding non-interference in other nation's affairs.

When the Soviets are caught red-handed in flagrant disregard of their signed agreements, they should be exposed for all the world to see. But there seems to be a strong thread of timidity in our foreign policy—idle and veiled threats but little more.

If it is difficult for Americans to believe what its chief spokesman says and means, then surely our adversaries take it all with a grain of salt—and will hold unswervingly to their aggressive course.

FOOD AND WORLD POPULATION ISSUES

Mr. HUMPHREY. Mr. President, on November 20, 1975, I was scheduled to address the World Population Society Conference, but I was unable to attend because of pending Senate legislation.

In my prepared remarks, I tried to provide some background information on the food and population problems which are directly interrelated. The major population increases in the world occur in the developing countries where the food also is in short supply.

I also dealt with the August 1974 World Population Conference held in Bucharest. Adopted by the Conference was the world population plan of action. It included major propositions on the right of individuals to decide on the number of children, the necessity of governments to adopt population policies, the need to improve the status of women, and the urgency of promoting socioeconomic development. This includes the effective utilization of existing food supplies and the development of new food resources.

The Population Commission has been asked to monitor this plan of action, and the United Nations Fund for Population Activities has been active in this area.

In my prepared remarks, I discussed the results of the World Food Conference which I attended in November 1974. This Conference recommended the establishment of a World Food Council, an International Agricultural Development Fund, an international food reserve system, and an early warning agricultural information system on food production, exports, and imports.

The World Food Council is now seeking funds for the International Fund for Agricultural Development, and the International Wheat Council's Preparatory Group was established in February 1975 to develop a reserve system.

The actions of these two world conferences need to be carefully followed. They have given us a blueprint, but the implementation work is still ahead. We need to start organizing to assist developing countries in fighting illiteracy, disease, and malnutrition. These countries cannot be ignored. We must now recognize the new reality of interdependence. We must work together to develop a new balance in terms of population, food, and world resources.

Mr. President, I ask unanimous consent that my prepared remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

Throughout history, man has struggled to have enough food in the face of an ever increasing population.

The average annual population increase throughout most of history was about one-tenth of one percent. But after World War II, this figure increased to one percent. And today, the earth's population is increasing by about two percent per year.

The major population increase is in the developing world where food supplies are tight. It is estimated that 90 percent of the world's population increase during the rest of the century will take place in these countries.

The world's population today is approaching four billion people. And it is likely to reach between six and seven billion people by the end of this century.

By that time, eight out of every ten people will live in the developing world.

We must ask ourselves whether we want to be an island of plenty in a sea of poverty. It would be well to recall the words of Aristotle, "Poverty is the parent of revolution and crime."

There are a number of factors relating to this population explosion:

First, declining death rates in the developing world, as a result of medical advances, have enabled more infants to survive.

Second, in recent decades we have seen extensive trading of food supplies throughout the world. In earlier times, a food shortage in one country or locality might lead to starvation in that area. Today, famine or drought can be met by commercial imports or humanitarian assistance.

Third, the aspirations of the developing world have been awakened to the knowledge that there is a better life. While the required steps may not be clear, this is a new political reality which relates to food, population, trade, minerals and energy.

And fourth, these rising expectations have extended to other more affluent countries in Asia, Eastern Europe and the Soviet Union. This additional demand on the world's supply of food and fibre has meant that developing countries must pay more for energy, minerals and food. And it has meant delays in development programs.

Many observers have looked to the future with the gloomy words of Thomas Malthus that man would breed himself into a corner by increasing his number beyond his ability to feed himself.

In spite of this pessimism, a great deal of work has begun to address these problems.

THE WORLD POPULATION CONFERENCE

The convening of the World Population Conference in August, 1974, was itself a remarkable achievement. It was the first time that a world conference had been held on such a scale and on this sensitive subject.

U.N. Secretary-General Kurt Waldheim, in opening the Conference, recalled the sixth special session of the General Assembly of April, 1974, when he identified six primary issues requiring immediate attention: mass poverty, food supplies, the utilization of energy, military expenditures, the world monetary system, and "an unprecedented rate of population growth."

There was a great deal of controversy surrounding the conference and especially in relating population growth to social and economic development, curbing population growth rates, and setting targets for birth-rate reduction.

The United States was particularly disappointed that the Plan did not include target dates for specific population goals rather than merely including the concept of quantitative goals.

The World Population Plan of Action adopted at the Conference made numerous recommendations including the need for better data and analysis, research on population problems (including unemployment, starvation and poverty), and the development and evaluation of population policies.

Major propositions in the Plan of Action include:

Deciding the number and spacing of one's children is a basic human right.

Governments should provide individuals the information and means to exercise this right.

Governments should include population policies and programs in their development planning.

Quantitative goals and timetables for reducing population growth and mortality are desirable.

Improving the status of women will help to reduce population growth.

Reducing population growth and promoting socio-economic development are mutually reinforcing and together lead to a higher quality of life.

The Conference also passed resolutions supporting increased food production, the development of new food resources and the more effective utilization of existing sources.

THE WORLD FOOD CONFERENCE

There was a strong recognition of the correlation between food supply and population growth at the November, 1974, World Food

Conference. There, governments and people were urged to make every possible effort to grow and equitably distribute sufficient food so that all human beings might have an adequate diet.

The resolutions of the World Food Conference recommended the establishment of international machinery to respond to the world food problem, including the following:

Creation of a World Food Council to coordinate U.N. policies and actions.

Creation of an International Agricultural Development Fund to finance agricultural projects in developing countries.

An international food reserve system based on a system of nationally held stocks.

A world warning and information system on food and agricultural production, stocks, prices, exports and imports.

A target of 10 million tons a year in food aid until agricultural production is increased.

Twenty-three days after the World Population Congress adjourned, the President of Mexico proposed amendments to three articles of that nation's Constitution, thereby incorporating three specific recommendations on the status of women from the World Population Plan of Action.

Following the approval of the Population Conference actions by the General Assembly, the Population Commission held a session in February, 1975, and the Economic and Social Council held meetings in May. It asked the Population Commission to monitor the World Population Plan of Action, giving special attention to population trends and policies.

In addition to the meetings of the Population Commission and ECOSOC, a series of intergovernmental consultations were held in five regions throughout the world.

One of the most active bodies concerned with population in the United Nations is the United Nations Fund for Population Activities. Although the number of requests received have nearly doubled, it has been unable to respond to all of them because of limited funds. The Fund's budget for this year should be increased from $80 million to between $120 and $140 million to meet the requests.

Progress since the World Food Conference also has been slow. The World Food Council held a stormy inaugural session in June and adopted a report containing proposals on short-term food needs, food aid, world food security, fertilizers and pesticides.

The Council is seeking $1 billion a year in contributions to the International Fund for Agricultural Development. This would represent a 60 percent increase in foreign investment in the agriculture of developing nations.

At a fall meeting of countries interested in the proposed fund, contributing members of the Organization of Petroleum Exporting Countries (OPEC) indicated their intention to help meet half of the initial target of $1 billion for the new fund.

The United States restated its intention to seek Congressional approval for a contribution of $200 million to the Fund, provided that the $1 billion target is met.

The Council also has the task of establishing a world food security system based on the target of 10 million tons in food aid. For 1975–76, 8.9 million tons already have been pledged, of which over half would be provided by the United States.

The International Wheat Council's Preparatory Group, established in February of this year, has been the principal forum for discussions of a reserve system.

At its meeting in London on September 29–30, the United States introduced a proposal including the following major points:

The establishment of a 30 million metric ton reserve—25 million tons in wheat and 5 million tons in rice.

Each participating nation would be responsible for holding an equitable share of the reserves.

The cost of the reserve would be the responsibility of each participating nation.

Production rather than price indicators would determine the build-up or release of reserves.

Shortage situations would be met by a two-stage response: first, in a warning stage, participants would consult on what action is warranted; and second, should a shortage stage be reached, participants would be obliged to make their reserve stocks available.

ACTION NEEDED NOW

We will need to follow carefully the work of these two world conferences. But at some point in the near future we are going to have to stop talking and organizing and start helping the hungry people in the world.

We have nearly completed the work on our U.S. bilateral foreign economic aid legislation. And while our assistance has been focused mainly on agriculture and food for the last two years, much work remains in terms of effectively implementing these programs.

What is needed is a development program designed to increase the security of people in the developing world. This means not only more food, but also improved educational and health opportunities.

Nations such as Indonesia, Brazil, Pakistan, Nigeria, the Philippines, and Thailand have population growth rates ranging from 2.6 percent to 3.3 percent. And almost half of their people are under 15 years of age.

This means that the governments will have to spend increasing sums to fight illiteracy, disease and malnutrition.

Our assistance should be targeted on the rural areas and primarily on health, nutrition and family planning, extension and training, improving transportation, increasing fertilizer availabilities, and improving irrigation and water management.

The United States has made great contributions in the area of agricultural research. Further work, and especially through the international research centers, is needed to improve the existing seed varieties in order to increase their nutritional value and their resistance to disease.

A greater effort also is needed to bring these new high-yielding seed varieties to the small farmers, along with the required inputs such as fertilizer and water. I am especially encouraged that the Philippines, which has pioneered in the new rice varieties, has reported a bumper rice harvest this year.

We also must increase our efforts to bring rural electrification to Asia, Latin America and Africa. This will provide increased irrigation and industrialization in the rural areas and improve communications.

We must have before us a challenge of awesome dimensions. The World Conferences have given us a blueprint, but the work is still ahead.

We have reached the stage in world development where interdependence not only is a motto but the new reality.

In the future, we will be dependent upon many of the developing countries for valuable resources. In our own common interest, we must join with these nations in a concerted effort to reduce ignorance, poverty and disease.

A policy of triage—which recommends ignoring the most needy nations—makes no practical sense, and it is morally reprehensible.

Ultimately we will develop a new balance in terms of population, food and world resources.

The question comes back to the kind of balance and the sort of world we want for the future. Your organization can play an important leadership role in advancing new ideas and alerting nations to the implications of rapid population growth.

The philosopher Descartes has stated "there are two things which make life bearable, ignorance of the future and hope in the future."

We need a certain optimism and daring to pursue the programs needed to shape the future of the world. And we will need a long term commitment no less ambitious than our program to conquer outer space.

William Faulkner said "I believe that man will not merely endure: He will prevail."

We all need to dedicate ourselves to this challenge.

BUSINESS AND REGULATION: THE RHETORIC COMES HOME TO ROOST

Mr. PERCY. Mr. President, the American business community has for years objected to what they like to call "excessive and burdensome Government regulation." But recently, since substantial regulatory reform has become a real possibility, certain narrow segments of affected business executed a startling about-face on the issue. Now that the rhetoric has come home to roost, it is almost as if those years of pronouncements on "our free enterprise system" never happened.

The apparent inconsistency between the past phrase-making and present behavior of certain regulated industries can only be explained by their special definition of "free enterprise," which accords with the special status they enjoy in the American economy. To some regulated industries, free enterprise has come to mean freedom from competition, freedom to set prices with active Government approval, and freedom to heed or ignore consumer interests as they choose.

Fortunately, though, this definition has fallen out of favor with Congress, the President, and the American people and a very large part of American business leadership itself. Consumers as well as this preponderance of business leadership now recognize the contributions that a great deal of Government economic regulation have made to inflation, inefficiency, wasted fuel, pollution, and the suppression of valuable technology. Like so many other things, the cost of coddling a few privileged industries has become prohibitive, and the effect on the economy, disastrous.

But old habits die hard. We should not expect companies which have basked for years in the cozy atmosphere of Government regulation to surrender their security blanket without a fight. In the face of stiffening business—and bureaucratic—resistance, some deregulation proponents may falter. But we cannot let the present unprecedented momentum for regulatory change subside. The long-run health of our economy may depend on it.

To assure effective and timely reform of Government regulatory functions and practices, a major, new legislative proposal will be introduced in the Senate next week by the distinguished assistant majority leader, ROBERT C. BYRD, and myself. I anticipate that that proposal will form the basis for a lively dialog and an affirmative timetable for action in this highly important area.

Mr. President, in an excellent article

appearing recently in the Wall Street Journal, staff reporters Burt Schorr and Albert Karr outlined business reactions to the President's deregulation initiative, giving a balanced, cogent analysis of the critical issues involved. I ask unanimous consent that it be printed in the Record at the conclusion of my remarks, along with an outstanding lead editorial on this issue which appeared in the Chicago Tribune on December 7, 1975, entitled "But Who Will Regulate Us?"

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Nov. 25, 1975]

Road to Deregulation Is Full of Turnabouts, Ford's Aides Discover

(By Burt Schorr and Albert R. Karr)

John Copeland, president of Esmark Inc.'s Swift Fresh Meat Co. division, one of the nation's largest cattle slaughterers, thinks of himself as politically conservative. So he generally applauds President Ford's efforts to get government regulators "off the backs" of businessmen.

But recently the Ford deregulation drive threatened to touch Mr. Copeland's company, and the executive stopped applauding and started booing. For Swift Fresh Meat Co. and other large meat packers actually want more federal regulation—they want a government requirement that packers be bonded against financial loss. They see it as a way to override a jumble of state laws designed to protect cattlemen from being stuck with worthless IOUs if a packer collapses.

At first, the administration told Congress it was dead against bonding because it clashed with deregulation goals. But when Mr. Ford was politicking at the Iowa State Fair last summer, he promised to take a "second look," and aides now say he probably will sign bonding legislation that is likely to clear Congress.

That turnabout tells something about why Mr. Ford's drive to shrink the federal regulatory mountain is lagging behind his antiregulation rhetoric, and why the shrinkage may continue slow. The President is finding the task far from easy, largely because businessmen themselves have been telling the White House and Congress that they need federal regulation and that "reform" should come slowly, if at all.

GIST OF "REFORM"

"Somebody should have explained to the President that regulatory reform to too many people means, 'Get rid of the regulations I don't like, but keep the regulations I do like,' " says an administration economist who has worked on Ford deregulation proposals.

For administration officials striving to transform presidential rhetoric into deeds, pressures being exerted by business offer discouraging evidence that the economist is right.

Consider two press releases sent out in the same envelope the other day by the National Association of Broadcasters. In one, the NAB praises Federal Communications Commission deregulation proposals that would enable station-owners to cut engineering costs and that would exempt small stations from Equal Employment Opportunity reporting.

In the second release, though, the NAB backs FCC regulations broadcasters want to keep—those protecting them from cable-television operators who would like to "siphon" programs from the airwaves for their subscribers.

A MATTER OF CAMPAIGNING

More significantly, White House insiders expect broadcaster opposition may prompt Mr. Ford to shelve legislation, currently under consideration, that would lift nearly all the regulatory restraints the FCC has imposed on cable systems during the past decade. Explaining the broadcasters' clout, one White House official says, "Let's face it, every two years, one whole body of Congress runs for reelection and all the campaigns use the electronic media." Thus the idea probably will have to wait "until Ford has a new mandate from the voters," the official predicts.

The airline and trucking industries are proving themselves equally adroit in fending off deregulation.

A Ford administration bill awaiting congressional action would sharply reduce Civil Aeronautics Board regulation of airline service, fares and mergers. Cutting against the grain of CAB policies dating back to the 1930s, the proposal ultimately would let air carriers slash fares down to operating-cost levels if they chose, and, beginning in 1981, permit them to gradually expand their route systems—both without prior CAB clearance.

LOSS-OF-SERVICE ARGUMENT

However, representatives of airlines and the Air Line Pilots Association are arguing with apparent success that deregulation would mean loss of air service to small towns and to remote areas; carriers would be free to drop unprofitable routes.

One influential Senator whose state has lots of remote areas is the chairman of the Senate aviation subcommittee, Howard Cannon. The Nevada Democrat suggests the administration bill means "total deregulation" and says that "would destroy the aviation transportation business as we know it today." Neither Mr. Cannon's subcommittee nor its House counterpart is planning hearings on the Ford proposals until sometime next year.

The same loss-of-service arguments is being used by truckers and their Teamsters union allies against the administration's trucking deregulation bill. The measure would require the Interstate Commerce Commission to grant new truck-route applications without regard for existing service—a green light for wide-open competition on the highways. It also would grant motor carriers much more latitude to raise and lower rates.

But administration officials, signed by heat from truckers and Teamsters, aren't optimistic about the bill's chances. Some shaken Ford's aides tell of table-pounding sessions with irate Teamsters. And the American Trucking Associations Inc. is taking its case to the public with advertisements warning, "Deregulation is really going to affect you and your family—your budget and your pocketbook—more than you may realize." The truckers contend that transportation costs would rise and so would retail prices.

Railroad deregulation proposals that the administration sent to Capitol Hill in May, on the other hand, have influenced congressional thinking. But the omnibus rail legislation into which the House transportation subcommittee is wrapping deregulation includes more than $8 billion in budget-busting railroad grants and loans that could well trigger a Ford veto. Even if it doesn't meet that fate, the House bill would leave more regulation intact than the administration proposed.

The administration plan would allow railroads to cut or raise rates as much as 7% in the first year, as much as 12% in the second, and as much as 15% in the third; thereafter, it would permit rate boosts of 15% a year and cuts with no limit, as long as rates don't go below a line's out-of-pocket costs. The ICC couldn't suspend such changes while it considers their legality—a bar that would impede actual rejection by the agency.

The House bill, in contrast, would authorize maximum rate changes of only 7% a year for a three-period, without ICC suspension.

A measure passed by the Senate Commerce Committee last week would go further. It would generally permit railroads to raise or lower rates at will, without ICC approval. But a railroad wouldn't be permitted this rate-boost freedom in markets which the ICC finds it dominates, and the cost floor would be applied to rate cuts. And the Senate bill contains the same veto-inviting $8 billion-plus rail-aid figure as the House version.

BETTER RECORD THAN MOST

Some congressional Democrats regard the Ford deregulation bills as "provocations rather than serious legislative proposals," a Senate aide says, and an official in the White House Office of Management and Budget seems to agree. "Basically what we've done is create an issue for the 1976 campaign," he says, acknowledging that the chances for the transportation bills range from so-so to dismal.

Anyway, Ford men can claim with some justification that their chief, capitalizing on widespread public backlash against the burden of federal rules, has advanced the cause of deregulation further than at any time since the Hoover Commission proposals of the early 1950s. The truck and airline bills represent the first such legislation ever sent up by the White House, they note, and if the rail proposals don't get sidetracked by money issues, they could become the first significant deregulation measures ever enacted into law.

Certainly, the President has made deregulation an issue the Democrats can't ignore. One outgrowth of his prodding is the "first comprehensive study of federal regulatory agencies ever undertaken by Congress," begun recently by two Senate committees. The study won't touch fundamental deregulation questions but it could produce legislation for speeding regulatory decisions as early as next year, a Senate staff man says.

Mr. Ford also has made deregulation an issue the regulators themselves can't ignore, partly by confronting a number of them in an unprecedented meeting in the White House this past summer.

Even before the meeting, a modest trend toward deregulation by agencies themselves had begun. The Federal Power Commission has allowed companies short of natural gas to bypass regular distributors and federally regulated interstate pipelines and by gas directly from producers at uncontrolled prices. The FCC, in addition to proposing the broadcast rule modifications, has reinterpreted federal equal-time law to grant broadcasters much greater freedom in decisions on covering or not covering presidential news conferences and political debates.

PERSONNEL MOVES

Mr. Ford has sought to speed the deregulation trend by replacing industry-leaning supporters of the status quo. The White House and the Senate Commerce Committee joined in forcing the resignation of Helen Delich Bentley as Federal Maritime Commission chairman; Karl Bakke, Commerce Department general counsel, was named to replace her. And Robert D. Timm, a Nixon appointee, was forced out as CAB head last spring and replaced by John E. Robson, a deregulation-minded Chicago lawyer and former Transportation Department official.

Under pressure from Mr. Robson, as well as outside critics, the CAB has turned away from protection of airlines by no longer approving their joint agreements for cutting service, by opening up new route cases promising more competition, and, for a while at least, clamping down on fare increases.

Nevertheless, the new CAB chief has had difficulty in recruiting even one ally on the five-member board. Moreover, his ideas are regularly excoriated by Mr. Timm, who has chosen to ignore White House suggestions that he get off the CAB altogether.

Another status-quo defender the White House would like to replace is ICC Chairman George Stafford. Under his leadership, the agency has proposed some modest rollbacks of regulation, but critics contend they are mostly window-dressing. And the commission has just dropped one of those proposals, which would have reduced its power over freight-rate increases. Teamsters and truckers are lobbying in Mr. Stafford's behalf, but Ford men are not giving up in efforts to force him out.

[From the Chicago Tribune, Dec. 7, 1975]

But Who Will Regulate Us?

The strongest opposition to the Ford administration's cautious moves toward deregulating business is coming from a curious source—businessmen who fear they might lose the comforts of regulation.

Businessmen have been generous in their praise of free enterprise and their denunciation of regulation, particularly of pricing and delays of decisions. Yet now, as the prospect of greater freedom comes closer to reality, many who were talking a good deregulation game seem to be changing their tune.

As one administration economist has noted, regulatory reform often seems to mean "get rid of the regulations I don't like, but keep the regulations I do like." In other words, free enterprise is good for "everybody else but myself."

The President has proposed reduced regulation in a number of areas, but primarily in transportation and broadcasting. Objections by air lines, trucking companies, and broadcasters may delay action on the legislation. Action should proceed.

When all the catch phrases are swept away, the objections really mean that regulated companies are afraid of each other. They do not particularly want more competition from within their existing industries, and they certainly don't want any new competitive elements added.

Regulation is almost as old as time. It certainly was a target of Adam Smith's theories of laissez-faire economics in the 18th century. There are few who suggest that total laissez-faire can work in today's complicated world.

But neither should businessmen, of all people, be afraid of the free market. On the contrary, they should be urging Uncle Sam to give back some of the power he has taken away. The public interest may require some government oversight of important industries, but less is better than more.

Regulation certainly should not be maintained simply because industries feel more comfortable or protected with it than without it.

Overzealous regulation reduces competition and the price benefits that would thereby accrue to the public. It can reduce innovation. It reduces individual initiative by prescribing transactions that can or cannot take place. It increases taxpayer expense through subsidies and through the cost of the regulating mechanical process. On top of all this is the tremendous business cost of complying with regulations—a cost that falls on the public in the end.

But the greatest disadvantage of regulation is that it transfers the power to make business decisions from business to the government. Imperfect as the market system is, it does force business at least indirectly to heed the preferences of consumers and to alter its decisions accordingly. The auto industry's move away from big cars and toward compacts is an illustration of this. And this after years of being told that it is the public that responds to the auto companies, not the other way around.

Too often, government regulators answer to no one but themselves—not to the President, not to Congress. And the public interest is often so bogged down in an agency's paperwork that a decision, when it finally emerges, is useless.

A perfect example was the proposed merger of the Chicago, Rock Island, and Pacific Railroad with the Union Pacific. In the 12 years the case was ensnarled in Interstate Commerce Commission bureaucracy, economic conditions were so changed that the Rock Island went bankrupt. Who was served by the process? Certainly not the Rock Island. The public? Hardly. It was denied the benefits of the improved service the original business decision would have provided.

Businessmen who cringe at the thought of reduced regulation aren't very good historians and their economics may be in question as well. If they'd use a shoulder to take on a greater share of the responsibilities of the market system, they wouldn't need one to cry on.

DECEMBER 9—RHODE ISLAND DAY

Mr. PASTORE. Mr. President, as part of its Bicentennial program the government of the District of Columbia proclaimed Tuesday, December 9, Rhode Island Day. To help commemorate this occasion, the students of the Noyes Elementary School and the Seaton Elementary School in the District of Columbia produced a collection of poems written in honor of Rhode Island. These elementary schoolchildren, none of whom are from Rhode Island, spent a great deal of time and effort in paying tribute to my State. They studied Rhode Island's history, geography, and economy, and they wrote some very fine poetry.

These youngsters made a beautiful gesture in paying tribute to Rhode Island, and now I want to pay tribute to them.

Mr. President, I ask unanimous consent that their poems be printed in the Record so that my colleagues can share the fruits of the very creative imaginations of these young minds. I would like my colleagues to see just how talented the children of the fine people of the District of Columbia can be.

There being no objection, the poems were ordered to be printed in the Record, as follows:

Little Rhody: A Collection of Poems Written in Honor of Rhode Island Day

RHODE ISLAND

(By Renee Ellis, Noyes School, Grade 6)

One day God laid down his fork
Sighed and said "It is time to mold my land"
First I'll form Florida and then New York
Then he thought and said
What's next? Oh yes, how could I forget
Rhode Island
Rhode Island took a little longer you see because of the perfection he wanted it to be
For Rhode Island was to be the most beautiful of all
He placed the mountains, flowers, water and trees.
When at last he had finished God knew he had been quite successful

MAPLE TREE TALKS

(By Jerita Bryant, Seaton Elementary School, Grade 4)

Maple tree is my name
I belong to the state
Maple tree talks to other trees
I like to stand by the Bay and dream
I hope nobody comes by to scare me
I will say "Why do you come here?"
I want to stay by myself
And dream by the bay

MY DREAM OF RHODE ISLAND

(By Odessa Brown, Seaton Elementary School, Grade 6)

Have a dream
All of us have dreams
But I have dreams as it seems
That though you are tiny in size
You are big and mighty, strong and wise
You might be small, tiny not tall
But do not dance a sad jig
Keep on moving, you'll become very big
This is my dream, my dream of you
You keep my skies so blue
Rhode Island, Rhode Island
I love you!

A LITTLE PLACE TO BE

(By Jacqueline Robinson, Seaton Elementary School, Grade 5)

Of all the places I'd rather be
Rhode Island is the state for me
Because it's small and neat and clean
And on the map can hardly be seen
They have a tree the maple tree
That stands tall, rich and free
They're famous for the garden crops,
Textiles, seafoods and tourist stops
I dreamed of going to this little spot
That on the map looks like a dot
There winter nights are cold and freezy,
And then your nose begins to get sneezy,
Like my little dog named, Squeezy
I do not know any more to say,
But I will say "Happy Rhode Island Day!"

RHODE ISLAND

(By Daryl Exum, Seaton Elementary School, Grade 6)

Rhode Island lying there on
the Narragansett Bay
Remembering Roger Williams, its founder
Sea faring state, shipping and building ships
Fishing and making jewelry and silverware
Big City, Providence, the Capital, perched in a pleasant, ocean side climate
Resorts, big manufacturing plants
People working, going back and forth
And all this in the teeny, tiny state of
Rhode Island

CAMPING IN RHODE ISLAND

(By Marshall Green, Seaton Elementary School, Grade 5)

I love to camp in Rhode Island
The woods and grounds are so green and beautiful
I like to climb up a tall maple tree
Or just relax in the woods
Or go for a walk by the big ocean
And watch boats everywhere
I like to fish all night long
And look at the sunshine all day long
I like the way it shines the Rhode Island way

RHODE ISLAND

(By Paul Kelley, Seaton Elementary School, Grade 5)

Of all of the fifty states
Rhode Island is the smallest
No matter how you look at it
It always seems the tallest
I think Rhode Island is the best
Of all the fifty states, I like
It better than any of its mates.
My school is so clean, it is like new,
It is located on Rhode Island Avenue

LITTLE RHODY

(By Crystal Stephen, Noyes School, Grade 6)

How did you obtain your name
Why and in what way?
Was it from an island in Narragansett bay?
You are so diminutive so very small to me
When compared with the other states you are so tiny
Yet your shores look so pretty outstretched across the sea
You have played a great part in America's history.

I'LL VISIT YOU

(By Patricia Galloway, Seaton Elementary School, Grade 4)

I'll visit you, Rhode Island
I'll swim in your pretty beaches
I'll eat your Rhode Island red chicken
I hope I can taste your lobster
And please have cornbread
Let me climb one of your pretty maple trees
And maybe pick one of your purple violets
I know I will have a good time
And I will come back
Thank you Rhode Island

JUST LIKE RHODE ISLAND

(By LaDonna Williams, Seaton Elementary School, Grade 4)

Rhode Island Avenue is the street near Seaton School
Here we clean up and follow the golden rule
Just like Rhode Island
You can see the maple trees growing up high
And you can see the sun brightening up the sky
Just like Rhode Island.

POEM ABOUT RHODE ISLAND

(By Treva Woody, Grade 6, Noyes School)

R is for Rhode Island,
H is for the hope upon which you were founded
O is for the opportunity to worship God,
D is for the dream that was fulfilled
E is for the earnest faith,

I is for the interest of all mankind
S is for being the smallest state in the union,
L is for the Little Rhody a nickname you proudly accept,
A is for an answer to prayer,
N is for never giving up,
D is for demonstrating what can be done,
My dear little state of Rhode Island you have won. Put the letters together Rhode Island is the name, small in size but great in fame.

DEMOCRATIC GOVERNORS' ECONOMIC RESOLUTION

Mr. HUMPHREY. Mr. President, I rise to congratulate the Democratic Governors for the excellent economic resolution they passed on December 3 by a vote of 14 to 1. There are those who have criticized Democratic leadership for not taking positions on the major issues facing the country. I have sometimes joined in that criticism myself. I am delighted to see the leadership and initiative shown by the Democratic Governors at this recent conference.

Mr. President, I do not believe that the Democrats can expect the country to turn to them in default. I believe that the Democrats, in the cities, in the statehouses, and in the Congress, must speak out candidly and creatively about the major issues facing the country. There is no issue, in my mind, more important than the economy. The Democratic Governors deserve credit for their comprehensive and thoughtful statement.

Although the Governors were critical in their resolution of recent Republican economics, the emphasis of their statement is an affirmative one, laying out a program for economic reconstruction. The Governors say, and I agree with them, that the Nation stands at a crossroad of economic policy. The choice is between accepting a slow rate of recovery, without unemployment rates of 8 percent or above, or acting decisively to promote a healthy recovery with sustainable increases in economic growth, jobs, and with stable prices.

Among the many recommendations made by the Governors, the following should be emphasized:

They recommend that we continue the Tax Reduction Act of 1975, so that we can prevent a tax increase for the average businessman and consumer. I think that is sound economics and I believe the Congress should join the Governors on this matter.

The Governors also recommend a supplementary program of job creation, with expanded public service jobs, countercyclical revenue sharing to assist State and local budgets, and accelerated public works. I believe all of these are necessary because only with a comprehensive and major attack on unemployment will we get this country back to anything like reasonably full employment.

The Governors would also mount a comprehensive attack on inflation, which would include increasing the resources of the Council on Wage and Price Stability and, if necessary, would provide standby authority to impose controls on wages, prices and profits in those industries where price stability cannot be achieved by the market.

Taking a somewhat longer perspective, the Governors also suggest that the Federal Government get better organized about its economic policy and establish a sensible and flexible system of national economic planning. I am pleased to see the Governors endorse economic planning because I have, along with Senator JAVITS, advocated such measures in the Balanced Growth and Economic Planning Act of 1975. We must establish some form of economic planning in this country if we are to prevent the country from careening from crisis to crisis, and if we are to get the Federal Government under control.

Finally, the Governors stress very forcefully the need to fulfill the mandate of the Employment Act of 1946 by establishing full employment in this country. The Governors' resolution on this question reads as follows:

> The highest priority in the nation's agenda must be the support for a rate of economic recovery consistent with the mandate of the Employment Act. We firmly believe that it is the government's obligation to provide employment opportunities for all Americans willing and able to work. This level of commitment to jobs will help to substantially reduce our growing expenditures for unemployment compensation, welfare and other transfer programs.

Mr. President, as I said at the outset, I believe our Democratic Governors are to be congratulated for a sensible and comprehensive statement on the economy. This is another example of Democrats speaking out on the issues and I applaud it.

Mr. President, I ask unanimous consent that the text of the Democratic Governors' Resolution on Economic Recovery be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SUSTAINING ECONOMIC RECOVERY

(A resolution adopted by the Democratic Governors' Conference, December 2-3, 1975)

Since the Great Depression, the American people have properly expected positive and forceful government leadership in the economic affairs of the nation. Government policies and actions have energized and strengthened the private market system in order to maintain the growth and stability of our economy, to provide needed public goods and services, and to assure a national economic policy grounded on the principle of equity and on properly structured incentives.

Today, our country faces a wide range of unmet private and public needs. We have the manpower, the resources, and ingenuity to fulfill these needs. What we lack is the leadership necessary to organize and sustain full and productive use of our resources.

Nowhere is the responsibility of the federal government for economic leadership clearer than in the Employment Act of 1946. Nowhere has that clear policy been more neglected and ignored than in the Nixon and Ford administrations. They have disregarded the economic law of the land. The stated goal of national economic policy in the Employment Act is maximum production, employment and purchasing power. Our earlier periods of post-World War II prosperity indicate that these goals are not illusive if the economy is properly managed on both the employment and price front.

The highest priority item on the nation's agenda must be the support for a rate of economic recovery consistent with the mandate of the Employment Act. We firmly believe that it is the government's obligation to provide employment opportunities for all Americans willing and able to work. This level of commitment to jobs will help to substantially reduce our growing expenditures for unemployment compensation, welfare and other transfer payments.

Not only must we eliminate the economic waste and human tragedy brought by depressed production, high rates of unemployment and ever accelerating prices, but the restoration of economic strength is a necessary condition for the success of all our other policies in the domestic and foreign fields.

For the past six and one-half years, workers, businesses, states and cities have suffered under the economic mismanagement of two Republican administrations. Widespread unemployment, eroded purchasing power, and two back-to-back recessions, along with an unprecedented and worsening peace time inflation, are the legacy left to the American people by Republican policies.

When the Nixon Administration took office in January, 1969, the unemployment rate was 3.4 percent. Since then it has never been that low. Over the past year, the economy has taken the biggest battering it has received at the hands of any President since Coolidge and Hoover. Systematically ignoring the warnings and signs of a major downturn in late 1974, the White House proceeded by design to cut off the life blood of the private and public economy by continuing tight budget and money policies. Those policies separated some ten million people from their jobs, idled one-third of our industrial capacity, wrecked the auto industry, brought construction to a standstill, and brought cities, and now states, to the brink of bankruptcy. As a result of these misguided policies our soft economy is now losing well over two hundred billion dollars yearly in potential production.

We have been asked to accept this squandering of national wealth as the cost of price stability. Yet significant and long-term progress against inflation is an unfilled promise. The Administration has failed to properly diagnose the causes of inflation or present the proper remedies after 2½ years of below normal growth and deep recession, price stability is nowhere in sight.

At a time of declining confidence in American economic and political institutions, the country needs and deserves competent executive leadership. Instead, we have witnessed an abdication of leadership and a subversion of the American economy.

The emergency tax cuts enacted by Congress last March served to halt the pattern of economic decline. After falling for five consecutive quarters, real output stabilized in the second quarter of 1975 and will probably rise moderately in the second half of the year. However, if current policies are followed, it is unlikey that this rate of recovery can be sustained in 1976. Last spring's tax rebate and the anticipated rebuilding of inventories are the foundations for an upturn in GNP in late 1975. Both are temporary, and as 1976 proceeds, typical forecasts indicate the economy will experience a sharp reduction in the rate of output growth. Sluggish growth in final sales for the third quarter point to the fragility of the recovery. A continuation of the upward trend in prices and interest rates will further enhance the chances for a new recession. The October increases in unemployment and wholesale prices, together with the prospect of other adverse developments, clarify the need for decisive action to sustain the recovery and control the upward movement of prices.

In 1975–76, the same policies needed to overcome recession will also help restrain inflation and reduce budget deficits. As a result of the recession, productivity in early 1974 was down to where it was three years ago. Low productivity means higher unit labor costs and higher prices. Productivity has now turned up and the gains associated with rising output will help control inflation. Anti-recession policies to stimulate business capital spending are necessary to modernize our facilities and prevent the shortages that will otherwise occur and cause prices to rise. The budget deficits projected over the next several years are due, by the Administration's own admission, to a shortfall in government revenues caused by recession. High unemployment and declining production mean lower income levels and less taxable income. The only way to reduce these deficits is to stimulate the economy and thereby raise income and tax revenues.

A PROGRAM FOR ECONOMIC RECONSTRUCTION

The nation stands at a crossroads of economic policy. The choice is between accepting a slow or possibly aborted recovery with unemployment rates above 8 percent and well above 9 percent when those on forced part-time schedules are counted, unused productive capacity and excessive price increases, or acting decisively to promote a healthy recovery with sustainable increases in production, jobs, income and with stable prices.

As Governors and elected executives, who on a daily basis must confront and try to solve the human problems created by almost 7 years of misguided national economic policy, we urge Democrats to continue to underscore the Democratic commitment to a rapid recovery, full employment and stable prices. To this end we urge the following actions:

Taxes

In order to prevent a federal tax increase, the major provisions of the Tax Reduction Act of 1975 should be extended at an approximately $12 billion annual rate. As politically attractive as the President's $28 billion tax and spending proposal appears, it is economically unsound. A study by the Congressional Budget Office shows this tax and spending cut would actually depress the economy after the 1976 election.

Enactment of a tax reform package which would redress longstanding inequities in the personal and corporate tax structure and add to government revenues.

Jobs

Extension of the 1975 tax cuts will not be sufficient to provide the forward momentum that can be measured in jobs, income and a restoration of consumer confidence. Nor can tax cuts respond to the country's unmet public investment and human service needs.

In concert with the tax measures, an anti-recession expenditure package should be implemented. Components of this program could include:

An emergency job creation program. With unemployment having risen back up to 8 million, a greatly expanded public employment program could give both workers and the nation the benefits flowing from productive employment.

The enactment of pending legislation providing for anti-recession grants to state and local governments. The recession has transformed the budget surpluses of recent years into a substantial deficit. The failure to achieve full employment has cut $25–30 billion from state and local revenues in 1975. Lacking the debt financing capacity of the federal government, state and local units are being forced to raise taxes or cut back services and jobs. If federal assistance is not forthcoming, increased taxes, service reduction and lay-offs will only aggravate the recession.

Enactment of pending legislation for accelerated public works which would provide funds to local governments for needed short-term public works construction and repairs.

This anti-recession expenditure package need not be a long-term program. Rather, legislation to implement it should provide that it be gradually phased out as the nation approaches a full employment economy.

These programs should be offset by a reduction in lower priority programs.

The recovery stimulated by the proposed recommendations on tax policy and spending measures will quickly restore federal revenues, reduce federal expenditures for unemployment compensation and other transfer payments, and thereby reduce the federal deficit and eventually provide a margin to finance other priority public needs.

Credit and interest rates

Federal Reserve Board actions should be carefully coordinated with the national economic goals and policies of the President and Congress. If the desired expansion in economic growth is to be achieved, monetary policy should be designed to hold interest rates below the levels that would divert funds from housing and discourage the revival of business investment. It appears that this will require a growth of money supply in excess of the 5–7½ percent range proposed by the Federal Reserve Board.

Furthermore, it may be necessary to create a development financing institution to assure adequate investment in housing, power generation, the nation's rail system and state and local public facilities, as well as to assist small businesses and break other critical supply bottlenecks in the economy.

Energy prices

Since the beginning of this year, the fuels component of the Consumer Price Index has risen at an 18 percent rate. Recent pricing decisions of OPEC will add further to energy prices. Such price increases result in a loss of consumer purchasing power.

Any policy which would permit an immediate and complete decontrol of domestically produced old petroleum would have a significant impact on the economy. Large price increases would shift purchasing power from consumers to producers. While these funds may eventually be reinvested, the immediate economic impact would be negative. A heavy drag would be placed on the level of consumer spending required to sustain the recovery.

To develop additional energy sources, which would in turn reduce energy prices, we must expand our research commitment to finite energy resources like coal and safe nuclear power, and non-depletable resources such as solar energy.

Inflation

Some sectors of the economy command excessive price increases for their goods and services even in the event of falling demand. As the Director of the Council on Wage and Price Stability warned the Joint Economic Committee in September:

> It used to be that prices fell during recessions as severe as this one. The prices of many industrial raw materials have declined, but the list prices of most finished industrial goods have not declined, and they are beginning to rise very early in the recovery. What concerns me deeply is, if these price increases become widespread this recovery will be less vigorous than it should be.

The October wholesale price increase of 1.8 percent or a compounded annual rate of 23.9 per cent foreshadows a disturbing future. To avoid unjustifiable price increases, the Council on Wage and Price Stability should be strengthened. Additional powers could include the authority to subpoena pertinent information on wages, prices, sales, costs and profits, and the power to hold public hearings and set reasonable public standards for industries in which the market fails to act as a price regulator. In the event that such industries violate these standards, the Council should be given stand-by authority to impose controls on wages, prices, and profits.

Wages have persistently lagged behind price increases. 1976 will be a heavy year in the collective bargaining cycle, and workers have legitimate needs to recover lost purchasing power due to inflation and to achieve the growth in real disposable income necessary to support recovery. However, public officials must keep an eye on wage settlements and their potential impact on inflation.

FUTURE DIRECTIONS FOR ECONOMIC POLICY

The previous recommendations for tax policy, job-creation spending interest rates and price stability can sustain a vigorous recovery and may be necessary to avert a new recession. A strong and healthy recovery must be our highest priority. At the same time, the experience of recent years has taught us that over the longer run the achievement of full employment with reasonable price stability will require supplementing conventional economic policy with new measures.

Planning

Over the past three decades we have experienced an unprecedented period of prosperity. An economy of abundance has permitted a use of public and private resources that may no longer be possible. Real or contrived shortages of energy and other raw materials, population growth and rising expectations point to the possibilities and problems of recurring scarcity. Resource use will be further constrained by the recognition of environmental hazards and the need to improve basic human services.

Unless positive action is taken to avoid scarcity, our only policy choice will be to ration scarity. The solution to shortages rests upon resource conservation, the discovery of economically and environmentally feasible substitutes, and well informed decisions about the division of resources among competing uses. Planning is essential to each of these tasks, and only through long-range planning can we make full and proper use of our resources and for an equitable distribution of the same.

The days of the wasteful public and private economy are gone. We must begin to look ahead, assess future needs and capabilities, and set goals. In other words, we must initiate a program for national economic planning. This program should be compatible with our federal structure of government and thereby permit full state and local participation in the planning process.

Budgeting

We reaffirm the position taken by the Democratic Party in the 1960 platform that long-range programming of the nation's resource development is essential. We shall put budgeting for resources on a business-like basis distinguishing between operating expense and capital investments so that the country can have an accurate picture of costs and returns.

Employment policy

Even when the economy resumes a strong enough growth path to substantially reduce unemployment, conventional economic policy may be unable to bring the rate of unemployment below 4 percent. To remove ambiguity about the intent of the Employment Act, specific measures should be provided that would in a noninflationary manner make full and socially productive use of all Americans willing and able to work. Public policies should be designed to stimulate private sector activity that would create jobs and meet our investment needs.

To the extent that the private economy cannot provide adequate employment, the government must assume the responsibility. This commitment to provide work for our citizens is the thread which can weave back together the social fabric of our nation.

SCHWEIKER SUPPORTS MESA TO LABOR

Mr. **SCHWEIKER**. Mr. President, I would like to comment on the language included in the interior appropriations conference report opposing the transfer of mine safety operations from the Department of the Interior to the Department of Labor.

I am a cosponsor of S. 1302, which would transfer the Mine Enforcement Safety Administration to the Department of Labor. I believe it is vital that this function be transferred as soon as possible. And I am not alone in that belief, Mr. President—S. 1302 now has 40 Senate sponsors.

The simple fact is that the Interior Department has a built-in conflict of interest on mine safety. A single agency cannot vigorously oversee mineral production, preservation, and safety, and do it all well. Some of these conflicting responsibilities will simply be ignored—and too often mine safety has been ignored, as the horrendous mine casualty figures indicate.

We recognized and eliminated this conflict in the nuclear area, creating ERDA to stimulate production, and the Nuclear Regulatory Commission to oversee safety. S. 1302 will eliminate this conflict in the mine safety area—and I simply wanted my colleagues to know I intend to fight for prompt passage of this vitally needed legislation. The language in this conference report should not be construed to indicate any diminishing of the broad Senate support for S. 1302.

SMALL CITIES—THEIR IGNORED PROBLEMS

Mr. **BENTSEN**. Mr. President, today, the American Association of Small Cities is holding its first steering committee meeting in Bellmead, Tex. This association represents cities and municipalities with populations of up to 50,000 people. Four months ago, representatives of this newly formed group which could claim a membership of only 32 mayors of small cities came to request my support. Today this association represents 250 cities and municipalities in 12 States, and the association is growing.

Mr. President, as I listened to those representatives, I realized that although these smaller communities face the same critical social, economic, and environmental problems of their larger counterparts, they do not receive their fair share of Federal aid. There are some 20,000 small cities in this country—950 in Texas alone—with a cumulative population of over 70 million people.

These small cities—like their larger counterparts—want to assure the development and maintenance of a quality standard of living. They must supply the same range of services that larger cities do from efficient transportation systems to safe sewage treatment facilities; from adequate health services to effective security systems.

However, these smaller cities do not have a large municipal payroll. They are unable to afford a Federal aid specialist to keep them informed on available Federal assistance. Local officials do not have the time to negotiate their way through a maze of Federal regulations and redtape only to find that Federal programs are not flexible enough to respond to their specific problems. Small cities' cash reserves are not large enough to take advantage of federally funded reimbursement programs; yet the matching share requirement of other programs usually strains severely tight city budgets.

Mr. President, let me give you some specific examples of the kind of discrimination under which these small cities suffer. The Housing and Community Development Act of 1974 provides funds on a formula basis—based on population—for cities of 50,000 and over. Smaller cities must apply for their share of the approximately $1.2 billion appropriated under this act for fiscal year 1976. Ironically, this application process takes staff to fill in the forms, to travel to the Federal regional offices, and to interpret the complexities of Federal guidelines—staff that are the least available resource of a small city and probably the most readily available resource of the larger cities. Another piece of legislation, the Comprehensive Employment and Training Act of 1975 distributes funds only to cities of 100,000 or more. Smaller cities must join in a consortium in order to qualify for funds that support job training and employment opportunities for the economically disadvantaged and the underemployed. However, many of these smaller cities in my State of Texas and other States are too far apart to join in consortia and do not have appropriate units of Government to administer complex Federal grant programs.

There are other ways in which this discrimination against the smaller communities is manifested. The Federal Government disposes of surplus property at very economical costs to the buyers. However, this property is divided into lots—for example, 20 bulldozers in 4 lots of 5 each. If a small city needs one bulldozer—not five—it cannot purchase it from the Federal Government.

When the Small Business Administration sends a regional representative into a State to counsel local units of government on how to encourage development of viable small businesses—the representative spends 2 days in the large cities and one-half day in the small communities. Ironically, it is the larger cities that can afford such expertise on their own municipal payroll.

Mr. President, these problems can no longer be ignored. We must begin to examine our legislation to assure that it takes into account the kinds of constraints that small cities face in their dealings with the Federal Government—constraints of manpower, budgets, and size of municipal government. I intend to hold hearings—early next year—before my Economic Growth Subcommittee on the issues I have mentioned. The result of these hearings will hopefully be some legislation amending the acts I have mentioned and other acts that now discriminate against the small communities.

The Congress must not become isolated—hearing only those voices which can afford to come to Washington to state their needs. We must examine our own States and our Nation to find those problems which are widespread, yet unrepresented.

REKINDLING OUR PRIDE AND SPIRIT

Mr. **FANNIN**. Mr. President, we have entered a span of time in which we are celebrating the Bicentennial of many important events in the founding of the United States. During this time I would hope that we will rekindle the pride and spirit which was involved in the creation of our country and the high principles in which we believe.

One of the most perceptive and articulate observers of American politics and history in our Nation today is the former Governor of Arizona, Jack Williams. He was a pioneer in the broadcast industry in Arizona, and for many years the people of the State have enjoyed his radio columns and newspaper articles. After serving as mayor of Phoenix, and as Governor of Arizona for 8 years, he is once again engaged in his first love—that of studying history, observing politics, and delivering radio columns which help inspire and enlighten the people of Arizona.

Mr. President, this week in his "Yours Sincerely" columns, Jack Williams talked about how our history compares with the history of some other nations, about the threats to our freedom, and about the menace that Cuba still provides. I ask unanimous consent that the transcript of three of these columns be printed in the Record for the benefit of my colleagues and all Americans:

There being no objection, the material was ordered to be printed in the Record, as follows:

YOURS SINCERELY

DECEMBER 9, 1975

The World Council of Churches Assembly in Nairobi, Kenya indulged in an "American Confession": Dr. Rev. Robert McAfree Brown told the Assembly "I'm deeply ashamed of my country." He mentioned the bombings in Southeast Asia and said that many in the Third World starve because "American businesses exploit them unnecessarily!

This is said of a nation that fought just one war of aggression in its history; a nation that has tithed itself to feed the world; has sent its men to thwart aggression in the Far East and to save Europe from the threat of Hitler.

Governor George Wallace put it on the line recently when he told Scandanavian critics of the United States: "We poured troops and money and lives into your countries to save you! And you criticize us for attempting the same in South Vietnam. You should be ashamed of yourselves," he added.

A confession is said to be good for the soul and all Christian denominations have some type of confession of faults. But let's look at the rest of the smug world that condemns this United States, standing on its record of millions of dollars poured into foreign missions and foreign missionaries, building clinics, supporting the poor, underwriting nursing schools, proclaiming the gospel message for evangelism.

Let's look at the record of critical India: Since it gained independence in 1947, India has seized Kashmir from Pakistan, French Colonies in the Bay of Bengal, the Portuguese Colonies of Goa, Damao and Diu, and the Himalayan kingdom of Sikkim. In 1962 it started a war against Communist China to seize part of Tibet. Now India is attacking Bangladesh.

Yes, let's look at Russia: 15 million exterminated by Stalin, 6 million starved in the Ukraine between 1932–1933. During 1918, the Communists sent police to kill a thousand a month and Stalin in 1937–1938 shot 40,000 persons a month, according to Solzhenitsyn.

What condemnation can Germany join in against the United States, when the record shows two great wars in this century to achieve living room. Not to mention (imagine that statement) not to mention the millions killed in Hitler's extermination camps. At the height of the Spanish inquisition 10 persons a month were killed.

Spain's conquests are well known and Spain's subjugation of Indian races in the New World a blot on that country's proud record. Name a country. Italy? Mussolini's bombing of Hailie Sallassies' capitol. France and the Napoleonic conquests—including an attempt to set-up a French connection in Mexico. Great Britain, which ran a tight and good Empire, subjugated the New World Colonists in this country. Sweden at one time overran most of Europe. Name the nation that fought a World War as we did in 1942–1946 and then spent billions to restore its principal enemies—helping them rebuild shattered economies. Confession? Nowhere in history has there been such a record of liberality or conscience. We no longer read history, or we would know these things. "Necessary in no small measure is a revitalized sense of history", wrote James R. Schlesinger.

A sense of history that defines us as a nation, that defines the values we represent, and also an understanding of the differences between these values and customs prevailing in other societies. That perception conveys to our citizens or should, why it is that we seek to defend this particular national entity.

DECEMBER 10, 1975

Our nation stands naked in the world as a result of freedom destroying freedom. Once, long ago, I read that a Democracy cannot fight a limited war—yet limited wars are necessary to protect the flanks of a free people. De Toqueville said it this way: "It is especially in the conduct of their foreign relations that Democracies appear to be decidedly inferior to other governments. A Democracy can only with great difficulty regulate the details of an important undertaking, preserve in a fixed design and work out its execution, in spite of serious obstacles. It cannot combine its measures with secrecy or await their consequences with patience." Russia is free to act without recrimination or confession. Acting for Russia, Cuba sends troops to support uprisings far away. Che Guervara was sent into Latin America to foment revolution. All around the world today, small groups using such strange terms as liberation seek to overthrow governments and threaten the stability of the free world.

We are betraying our armed forces, and are destroying their eyes and ears and intelligence in the struggle to investigate actions of the CIA and FBI. Premier Acevedo of Portugal said recently "without armed forces there is no authority and without authority there is no government."

The eminent Hayakawa wrote recently: "Disgusted with politicians, people from time to time yearn for government without politics. Sometimes to their dismay, they get it; as in Soviet Russia, Poland, North Korea, where the political process has been abolished; or as in Northern Ireland where the political process has failed." The Communists have beaten us at semantics; and if we do not understand what they are doing they will indeed bury us. Henry Cabot Lodge wrote: "Wars of covert terrorism, called by some criminal wars, and in Communist terminology, 'National Wars of Liberation,' can conquer the world as surely as nuclear weapons can. To defeat them takes patient police type fighting," he added. I hope we will become more skillful in the endless propaganda war—Hanoi has made the world believe we were in Viet Nam to establish a colonial empire—think back on what I've been saying: we are naked to the world. Any attempt on our part to infiltrate, to defy, to stand up against the so called "National Wars of Liberation" find criticism in our country. The critiques assemble our youth and, having failed to know history, convince them of the evilness of our purpose.

If we are not to support those lonely figures who strive to protect their countries against the onslaught of Soviet sophisticated weaponry and propaganda, then we lose by default. It is almost as though we were engaged in a bowl game for a championship, but failed to field a team. Unless we work now to thwart the efforts everywhere for the Communists to take over, we will ultimately face them at the barricades of two oceans and the land mass of Canada and Mexico. After a visit to Greece I can well understand Hayek's comment: "Of government, needs limitations." End of quote. We are permitting unlimited freedom under Democracy, and thus are allowing freedom to destroy freedom, here in the greatest Democracy of all—even as Athens destroyed its greatest leaders thru the unlimited power to abuse them.

DECEMBER 12, 1975

The memory of a forgiving people is sometimes too short. Cuba comes to mind. Fidel Castro is in the mountains, Eisenhower is President. Two Marines are kidnapped! No punitive action is taken by the United States, no threats! In fact, the authoritative New York Times assured us that Castro was a modern Robin Hood. Robin Hood and his merry men have flawed history quite a number of times. They robbed from the rich to give to the poor, but robbery is robbery, death is death, and terrorism is terrorism.

Castro came down out of the mountains and overthrew Batista. Blood ran in the streets, political prisoners piled up in prisons, the ominous information came that Russia directed and supported the subjugation of Cuba. We forget so soon. But, if a paradise was to have been developed why did over a quarter of a million flee to Florida, and countless others succumb to the wind and the wave and the terror off shore as they tried in flimsy boats to seek sanctuary in the United States. Came next the familiar five year plans to put everybody in the sugar fields to produce sugar. Failure after failure, subsidized by Russia. The Soviets now had a bone in the throat of Uncle Sam. How many have looked at a map of the Gulf of Mexico? Ingress and egress are perfectly blocked by Cuba. It is the most strategic island to command the rich resources of the Mississippi Valley, as shipped through New Orleans, or the superb port facilities of Houston with its tremendous industrial development.

You couldn't pick a better stopper to put in a bottle than Cuba. And Castro, as a puppet of the Soviets, took over.

We forget so soon. He vowed to extend revolution to all of Latin American, and sent Che Guevera into South America to lead revolutionary bands bent on terrorism and pillage. Fortunately, the South American countries preferred their own brand of revolution and spurned the efforts of the bearded one. But, when we prattle about assassinations, we forget the death contemplated and dealt out by the revolutionary actions of Soviet emissaries, operating under the guidance of Castro and others.

Comes next the Bay of Pigs fiasco. Planned prior to President Kennedy, inherited by him, and virtually destroyed by him, when he called off the air support. Historians have been strangely silent about this. But, Robert Kennedy was put to work to build a ransom fund to pay for the prisoners of the Bay of Pigs . . . and many an arm was twisted and many a threat made to pile up this sizable amount of loot for Castro at a time when he needed cash. The Bay of Pigs "cop out" was a forerunner of our "bug out" in South Vietnam, after assuring them of our support. It isn't a very savory record, and running like a crimson thread of indictment is the Soviet influence everywhere.

Then came the planting of Russian missiles on Cuban soil! Those missiles were directed at concentrations of people—babies, cripples, elderly, defenseless, as well as at military targets. They were aimed at the juglar of the United States, Washington, D.C., New York City! And other centers. Finally truly alarmed by the Cuban menace, President Kennedy confronted the Soviets eye ball to eye ball and they blinked first.

GROWING OPPOSITION TO CONCORDE

Mr. PROXMIRE. Mr. President, another nail has been driven into the coffin of the British-French SST—the Concorde. In a change of position, EPA Administrator Russell Train announced that any Concorde landings at John F. Kennedy Airport in New York were "undesirable" and that landings at Dulles, outside Washington, were "increasingly questionable."

ENVIRONMENTAL HORROR

I am convinced that SSTs pose dangerous, possibly insoluble environmental problems. Mr. Train based his mounting skepticism about the Concorde on the environmental problems caused by the deafening noise the airplane generates. It will be about four times as noisy as the Boeing 747. The noise will spread over a much wider area. The Concorde will be so noisy as to cause hearing impairment for significant numbers of people.

In addition, the Concorde does not meet established EPA exhaust emission standards. With the air around most major cities polluted now, adding another source of pollution is foolish.

The most disturbing environmental horror about the Concorde, however, is that it could deplete the ozone layer in the upper atmosphere. This layer is vital if certain cancer-causing rays from the

Sun are to be prohibited from reaching the Earth. Thus even limited Concorde flights could increase the incidence of skin cancer.

POLITICAL INTERFERENCE

In early 1973 pressure was exerted through the State Department to delay publication of emission standards applicable to the Concorde. These standards would have been a blow to the Concorde, which cannot meet them even today. They were delayed because joint British-French meetings were being held to decide the fate of the Concorde. At the time it was feared that strict U.S. standards would influence Britain and France to terminate the airplane. That these standards were delayed has proven to be a mistake.

Moreover, former President Nixon wrote encouraging letters about the Concorde to then-Prime Minister Heath and then-President Pompidou. It has been charged that former President Nixon, in these letters, assured the British and French leaders that loopholes would be found that would permit the Concorde to land in the United States. These letters may be released soon. I will be extremely interested to see if these charges are true.

Mr. President, I ask unanimous consent to have printed in today's Record articles which appeared in the December 10 issues of the Washington Post and the New York Times. These articles report on the growing opposition to the Concorde. I think bureaucratic procrastination and pettifogging have gone on long enough. On the merits of the case, the Concorde should not be permitted to land in the United States. If the bureaucrats will not act, then Congress must.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 10, 1975]

Doubts on Concorde Grow

(By Douglas B. Feaver)

Russell Train, administrator of the U.S. Environmental Protection Agency, told Congress yesterday that the noise of the Concorde supersonic jet would make landings at New York "undesirable" and at Dulles International Airport here "increasingly questionable."

"That's a preliminary statement," Train said. "We do not intend to make (a final recommendation) until we complete our review."

That statement was added extemporaneously by Train to prepared testimony he delivered to the House Government Operations Transportation Subcommittee, which is examining the process that U.S. agencies are using in deciding whether the Concorde should be allowed to land in the country.

But preliminary or not, it represents a much stronger anti-Concorde view from EPA and will add impetus to the growing stop-Concorde movement.

Train said his agency's final position will be presented to Transportation Secretary William T. Coleman Jr. at Coleman's scheduled Concorde hearing on Jan. 5. Coleman, who has the last word about Concorde regardless of EPA's position, has promised he will decide by early February whether to permit the plane to land in the U.S.

The Concorde, a $2.5 billion joint Anglo-French venture, flies at 1,400 miles an hour—about twice the speed of sound—and would carry about 100 passengers from the U.S. to Europe in 3½ hours as opposed to the current travel time of seven hours. Air France and British Airways are seeking a total of two flights a day into Dulles and four a day into John F. Kennedy Airport in New York City.

The EPA, and Train himself, had previously said that Concorde would sound about like an older Boeing 707 or McDonnell-Douglas DC–8, both subsonic transoceanic jetliners.

But new noise information developed over the past summer and included in a final environmental impact statement prepared by the Federal Aviation Administration showed that Concorde on takeoff, would be perceived as twice as loud as a Boeing 707 and four times as loud as a McDonnell-Douglas DC–10, a newer, quieter jumbo jet.

Train's agency, working with that new data, constructed "noise footprint" maps that showed Concorde noise equivalent to that heard on a busy downtown street corner would be heard in a swath as wide as five miles and as far as 63 miles from the end of the runway. The total area affected at Dulles would by 485 square miles.

The EPA is preparing maps to show the impact levels in New York. It is because the area around Kennedy Airport is heavily populated that Train labeled landings there "undersirable." Much of the Dulles impact area is rural, but people in communities such as Leesburg, Manassas, Sterling Park and Poolesville would hear it.

Those giant maps were taped to the hearing room wall yesterday. During a break in the hearing, Train waved in the direction of the maps and told a reporter, "When you look at that, how can there be much question?"

Subcommittee members, especially Chairman William J. Randall (D-Mo.) and Rep. Bella Abzug (D-N.Y.) pressed Train on why the EPA had arrived at its present position on the Concorde. That position is that federal noise limits should not apply to the 16 Concordes existing or under construction but that landing rights should be granted by individual airports only in a case-by-case basis. Future supersonic transports—including a 17th Concorde would have to meet noise rules for subsonic airplanes.

Train insisted that exclusion of existing planes from new noise rules was a normal procedure and had been done in the past with some U.S. aircraft.

Train also said that his agency was not influenced or pressured by letters former President Nixon wrote to then-Prime Minister Edward Heath of Britain and then-President Georges Pompidou of France. According to a letter from White House counsel Philip Buchen to Rep. Abzug, those letters promised that Concorde would receive fair consideration.

Train said that EPA had delayed for a few months the promulgation of an air quality regulation that adversely affected future Concordes at the time Heath was defeated and Pompidou died.

[From the New York Times, Dec. 10, 1975]

EPA Tentatively Decides SST Is Too Noisy for Capital or City

Washington. December 9.—The Environmental Protection Agency has tentatively decided that flying the noisy Concorde supersonic jet aircraft into New York city is undesirable and that flying it into Washington is questionable.

The decisions, if made final, could severely damage the hopes of the British and French manufacturers to get scheduled landing rights in those two cities for their 1,400-mile-an-hour plane.

The E.P.A. administrator, Russell E. Train told a House subcommittee today that the decision resulted from information showing that the deltawinged jet gets far noiser than expected.

Previously the E.P.A. recommended that the 16 Concordes now in production be exempt from Federal aircraft noise regulations. The agency said, however, that decisions on whether to let the planes land at any particular airport should be made on a case-by-case basis.

SKIN CANCER CASES

The final environmental impact statement prepared by the Department of Transportation indicated that the Concordes would sound twice as loud as conventional long-range jets to persons standing outdoors as it passed over. The plane will sound even louder than conventional jets to persons indoors because the Concorde's engines produce more low-frequency noise which carries farther and produces more structural vibration.

The final environmental report also indicates that operation of the Concorde can be expected to produce about 200 new cases of nonfatal skin cancer in the United States each year. There are now about 250,000 such skin cancer cases each year.

The increased skin cancer will result, the report states, because the Concorde flies in the stratosphere and its exhaust vapors can reduce the ozone layer that protects life on earth from deadly ultraviolet rays.

Mr. Train said that the final report had caused E.P.A. to have second thoughts about letting the Concorde land in the United States. He said the agency would make a final recommendation to the Department of Transportation in the near future.

Transportation Secretary William T. Coleman Jr. has said that he would make a final decision on requests by Air France and British Airways to operate the Concorde on scheduled flights to the United States within 30 days after he concludes public hearings. Those hearings are to start on Jan. 5.

The two airlines have proposed operating a maximum of two round-trip flights a day at New York City's John F. Kennedy International Airport outside Washington.

Although Mr. Train stressed that no final recommendation had been made, he said the E.P.A.'s position at this point was "any landings at JFK [Kennedy Airport] would be undesirable and any landings at Dulles look questionable."

The final Federal decision on whether the Concorde should be allowed into the United States is to be made by the Department of Transportation. That decision, which Mr. Coleman has promised to make by Feb. 4, will take into consideration the views of numerous Federal agencies, including the E.P.A. and State Department.

AMERICAN POLITICAL PRISONERS

Mr. STONE. Mr. President, to enlarge upon and complete my remarks of yesterday I ask unanimous consent to print in the Record an article from the Washington Post of December 10, which I believe outlines clearly the plight of American citizens who are held prisoners for political reasons in Cuban jails. This situation indicates to me that the regime of Fidel Castro has no interest in living up to the basic requirements required of members of the community of responsible nations. As long as American citizens are held for political reasons by Castro, any talk of trade or diplomatic ties seems to me to be irresponsible and premature.

There being no objection, the article was ordered to be printed in the Record, as follows:

Castro Adaman on Fate of Eight American Political Prisoners

(By Ike Flores)

Miami.—Frank Emmick of Toledo, Ohio, was bustling around the American Club in Havana in October, 1963, when members of

Fidel Castro's G2 security organization burst in and accused him of espionage.

Emmick, a short, red-haired look-alike to actor Mickey Rooney and president of the club, protested his innocence. But he was brusquely bundled into an army car and driven away.

The G2 agents said they found a small camera in his jacket pocket. It contained a roll of film of military installations and other security material, according to trial testimony. Emmick, then 48, was sentenced to 30 years in prison.

He is still there, along with seven other U.S. citizens convicted of crimes against the state.

Some of them are in bad health, as is Emmick, who has had two heart attacks. Others, younger and stronger, have suffered the years a bit better.

Although there is increased talk of a normalization of relations with the United States, Cuba remains adamant on the question of American political prisoners. Castro has indicated in strong terms that they are not to be freed before they complete their sentences.

Castro has told Swiss diplomats, visiting American lawyers, members of the U.S. Congress and others that he will not follow suggestions to release them as a gesture of good will on the path to an easing of tensions.

Miles Alexander of Atlanta, Ga., one of a group of three lawyers and a judge who visited Cuba in July, said he "got the feeling that this question would be one of their negotiating points" with the United States.

But neither that group, which was invited there to study Cuba's judicial system, nor other visiting Americans have been permitted to visit the island nation's prisons or to see how political prisoners are treated.

The U.S. citizens are a miniscule portion of the Castro regime's political prisoner population, estimated by outside sources at upwards of 20,000.

Sen. George McGovern (D-S.D.), a visitor to the island early this year, said Castro avoided direct reference to the Americans but asserted that the question of prisoners who engaged in "sabotage and counterrevolutionary steps" was an internal matter.

Rep. Charles Whalen (R-Ohio) who was in Havana in July, said then he wasn't sure "I want to go out on a limb for them" in light of recent revelations about activities of the CIA in Cuba and elsewhere.

Who are these American prisoners? What are they being imprisoned for and what are their circumstances?

From reports of recently returned ex-prisoners, Cubans who knew and served time with them in prisons from the dreaded Isle of Pines to Havana's La Cabana, this sketchy picture has emerged:

Emmick—went to Cuba shortly after the Castro triumph in 1959 and was associated with Maj. William Morgan, also from Toledo, who had served with the rebel army during the revolution. Quickly became prominent in high government and diplomatic circles and rose to president of the still-functioning American Club. His luck turned for the worse when Morgan was executed for plotting against the regime. Emmick suffered a heart attack in 1972 and another last year. He is presently in La Cabana.

Lawrence Kirby Lunt—A former U.S. Air Force captain and long-time Cuban resident sentenced to 30 years on charges of espionage for the CIA. Lunt, who has a Belgian wife and three children, ran a farm in Western Cuba's Pinar del Rio province until his arrest on allegations of recruiting Cuban counterrevolutionaries and passing economic, political and military information to the United States.

Everett D. Jackson—A Miami student pilot forced down while flying his small plane over Santa Clara province in 1967. The purpose of his ill-fated trip is unknown, but the plane contained photographic gear and a rifle. Friends believe he was working on his own and wanted to take pictures of Cuban missile sites for sale to American magazines.

Rafael del Pino—Born in Cuba and naturalized as an American citizen. Was a boyhood chum of Fidel Castro and later broke with him. Del Pino was shot down in a light plane near Havana in 1960, apparently while trying to get some friends out of the island. He was badly wounded and has spent much of his time in various prison hospitals. He is serving 30 years and presently believed to be in La Cabana. He is about 50 years old.

Juan tur Valdez—Born in Tampa, Fla., of Cuban parents who took him to Cuba as a youngster. Serving 20 years in La Cabana for espionage.

Maria del Carmen y Ruiz—The only woman in the group, she is reported to be from New Jersey. She is divorced from a Cuban still on the island who has custody of their two children. Sentenced to 15 years in the late 1960s for counterrevolutionary activities, she received electric shocks and other treatment for a mental condition while in prison, according to several ex-prisoners. She is in her late 30s. At last report, she was working at a prison farm called Free America.

Claudio Rodriguez Morales—Arrested in 1966 when he infiltrated Cuba from Florida in a small boat, apparently to bring out some friends. Sentenced to 20 years for crimes against the state. Born in Mayaguez, Puerto Rico. Rodriguez, 45, is believed to be on a prison farm.

Antonio Garcia Cruz—Sentenced in 1961 for counterrevolutionary activities. His mother is a naturalized American, but Garcia's birthplace is unknown. He was last reported in La Cabana.

CALIFORNIA LEASE SALE

Mr. HOLLINGS. Mr. President, I wish to bring to the attention of my colleagues the results of the Outer Continental Shelf lease sale in southern California which occurred on Thursday, December 11, in Los Angeles.

This sale was extremely important from a fiscal standpoint, because the presale estimates by the administration projected high bonus bids from oil companies totaling $2 billion. In fact, the bids totaled only $438 million, causing the sale to be a dismal failure. In my opinion, the Secretary of the Interior will be forced to reject many of these bids because they are too low to give the public a fair market value for its resources.

I remind the Senate that only last week, when the Budget Committees of the House and the Senate met in conference on the second concurrent budget resolution, I stood virtually alone in predicting that the administration and the House were in error based upon overestimates of Outer Continental Shelf receipts, resulting in underestimates of Federal budget authority, outlays, the size of the deficit, and the size of the public debt, by as much as $1.6 billion. It turns out, Mr. President, that my figures, developed through our research on the Senate national ocean policy study, were right on target.

If the results of yesterday's sale in California are any example of what we can expect from the other scheduled lease sales in this fiscal year, then we may have overestimated OCS receipts by $2 or $3 billion. I intend to bring this to the attention of the Budget Committee immediately.

Thus far this year, OCS receipts have totaled $963,000,000. If we even presume that the planned January sale in Alaska accept the high bids made in California yesterday, OCS receipts would reach $1.4 billion. I would venture to predict that the planned January sale in Alaska and the February sale in the Gulf of Mexico will result in significantly lower bids than were optimistically projected by the Office of Management and Budget. And I would not be surprised if the proposed Baltimore Canyon sale on the east coast in May is postponed into fiscal 1977. Therefore, we may see OCS receipts total as little as $2 billion to $2.5 billion in this fiscal year.

Mr. President, I ask unanimous consent to print in the RECORD a table showing the actual, probable and further possible OCS receipts in fiscal year 1976 which I provided to the Budget Committee last week. The figure appearing in parenthesis behind the probable California lease sale is the actual amount of high bids from the sale.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ACTUAL	
Release of funds in escrow	$800,000,000
Sale held 7-29-75 in Gulf of Mexico	163,000,000
Subtotal, actual	963,000,000
PROBABLE	
Rents and Royalties through June 30, 1976	622,000,000
California lease sale (if not blocked by Court)—estimate (438,000,000)	996,000,000
Gulf of Mexico sale	300,000,000
Subtotal actual and probable	2,881,000,000
POSSIBLE	
Higher receipts, California Sale (estimate range)	500,000,000 to 1,000,000,000
Mid-Atlantic Sale	1,200,000,000
Total including possible	4,581,000,000 to 5,081,000,000

Mr. HOLLINGS. As I have pointed out, it is my view that we are now assured of missing the second concurrent resolution target for the OCS receipts. The practical effect of such a dramatic shortfall is that the Budget ceilings on Budget Authority and outlays will be reached before we have passed all the legislation contemplated under the second concurrent resolution. Therefore, all spending legislation brought to the floor after the ceilings have been reached will be subject to a point of order.

Furthermore, Mr. President, in my view yesterday's lease sale is further evidence that the Congress should move rapidly to reform the Federal Outer Continental Shelf leasing and management program. On July 30 of this year, the Senate overwhelmingly passed S. 521, the Outer Continental Shelf Management Act of 1975, which contains significant changes to modernize the present program operated by the Department of the Interior.

One of the changes offered by this bill would be to open new alternatives to the Secretary to use in conducting lease sales. I think the Secretary should be required to use a system of profit sharing through blind joint ventures on entire geological structures rather than the current, arbitrary 5,700-acre tract leases so favored by industry and Interior. This bill contains the plan devised through the research of our National Ocean Policy Study group in the Senate to accomplish this new method, along with separation of exploration from the decision to develop and produce offshore leases.

The oil companies and Interior Department officials already are seeking scapegoats for the failure of the sale. The oil companies are blaming a "hostile attitude" toward them in southern California as one reason why the bids were so low. I think that if there is any hostility, it is justified by the administration's continued opposition to legislation such as S. 586, our Senate-passed bill which would amend the Coastal Zone Management Act to provide for additional planning money and Federal grants to offset the bad impacts of energy facility siting in the coastal zone.

Coastal States such as California are justifiably concerned about multiple uses of the coastal zone. They are definitely not against exploitation of underground oil and gas, but they want to make certain that they have the advance information upon which to make plans for use of the coastal zone. California, fortunately, is one of the States in the forefront in efforts to develop comprehensive coastal zone management programs pursuant to the Federal CZM Act. All California officials want is an opportunity to manage their coastal zone, including energy facilities, in such a way as to benefit all of the citizens. Even the oil companies recognize the need for S. 586, but the White House is saying "business as usual."

MY FATHER

Mr. DOLE. Mr. President, my father was a good man. He is gone but he shall be remembered as an honest, decent, straightforward, unpretentious, compassionate human being.

He possessed the real attributes of goodness—not wealth—nor power—or position. He will be missed and remembered by his loved ones and his countless friends for a variety of reasons—but primarily because he was a good man.

It is with a heavy heart—but boundless pride—that I ask unanimous consent to print in the Record an editorial from the Russell Daily News of December 11, entitled "D. R. Dole."

There being no objection, the editorial was ordered to be printed in the Record, as follows:

D. R. Dole

Doran R. Dole, 75, whose final rites were today in the church he preferred, was a man who lived the life style of a bygone era. Probably two-thirds of those alive today have no real understanding of the role played by men like Dole in hundreds of small towns across the broad farming belt. They find it hard, too, to probe the depths of the vanishing breed who were, only a few years ago, the heartbeat of rural communities.

After returning to Russell from service in World War I, Doran Dole operated a restaurant for a few years before opening Dole's Produce. He remained in the feed and grain business until his death last Monday.

In small towns in the farm belt, there were three or four men known by everyone. There was the banker, the dry goods store owner, the produce man and, possibly, the preacher who were closer than all the rest. Families had to be clothed and, after harvest, there were bills to be paid. The banker's relationship was more formal although not quite as formal as that with the preacher. It was the feed and grain dealer who felt the pulse of the community.

The produce house is where grain was bought and sold; eggs marketed; cream and milk delivered; farm needs purchased; and where the winter stove was the center of a group discussing everything from grain markets to the major leagues—with time allowed for mentioning sons-in-law, widowers and the younger generation whose real worth still remains suspect.

The grain dealer, if he was successful, played these varied and often unrelated forces like an artist at the keyboard of a mighty organ. His hardward floor, soft drink cooler, dusty showcases and stacked sacks of feed with the odors of patent cures for man and beast mingled with the smell of grain were the stage setting. The backdrops were the ever-present grain tanks, dump bins, and the large scale prominently at attention inside the crowded office and store.

Doran R. Dole was successful.

A master of the understatement, his wit was reserved and his judgment about the things that matter to those who traded with him was solid. It was offered sparingly, a fact appreciated by those who sought it.

Men like Doran Dole are hard to measure by ordinary yardsticks. He was a volunteer member of the fire department for over 55 years; intensively active in American Legion affairs, a veteran of World War I; the father of four children, two sons and two daughters; and a man whose word was good.

The fact that a son, Robert J., is a U.S. senator, attests to his measure by accepted standards. The fact that this son and the other three children shared equally in his heart and home placed him well on an even higher scale.

Doran Dole's livelihood and life style may seem to belong to a past generation. The rules by which he chose to live will always be valid.—R.T.T.

SAVE THE INTERNAL SECURITY SUBCOMMITTEE

Mr. HELMS. Mr. President, the Senate has spent a very great deal of time and money investigating the procedures and goals of the intelligence community in the executive branch. At the same time, the Senate has somewhat neglected its own center of expertise on this subject, the Internal Security Subcommittee of the Judiciary Committee.

In my judgment, only the most unreasonable sort of person would assert that our Government should be barred from collecting information about those who try to subvert free institutions. The chief vulnerability of an open society is that it is open not only to those who want to support and develop freedom, but that it is also open to those who want to impose dictatorship and tyranny. We cannot, therefore, deprive ourselves of the knowledge that is necessary to counteract totalitarian activity.

It is most appropriate that these problems be studied within the legislative branch, which is based most directly upon democratic procedures and a democratic base. Although no human institution is perfect, we can repose more confidence in those bodies which we, ourselves, create and maintain.

The distinguished columnist, Mr. William F. Buckley, Jr., discussed this issue recently in the Washington Star. He pointed out that the Internal Security Subcommittee has been limping along on a budget scarcely more than half what it was, without even the funds necessary to hold new hearings. Mr. Buckley reports that, over the past 6 years, the subcommittee has held over 90 hearings. Indeed, I might add parenthetically, one of the subcommittee's finest accomplishments is its most recent publication of hearings concerning the activities of Castro-directed Puerto Rican terrorists. These hearings were well-received by the press all over the country, especially since they were subsequently proved to be most timely by the spate of 20 bombings by terrorists associated with the Puerto Rico independence movement last October.

Mr. President, I ask unanimous consent that the article by Mr. Buckley, "Save the Senate Internal Security Committee," from the Washington Star of December 10, 1975, be printed in the Record.

Save the Senate Internal Security Committee

(By William F. Buckley Jr.)

They used to tell us that one of the reasons to do away with the House Committee on Internal Security was that the Senate had a perfectly good Committee on Internal Security of its own, so why the duplication? After a good many years, the critics won that battle. And now, without anybody much really noticing, they may be about to win the battle to eliminate the last significant legislative watchdog over internal security, unless the full Senate wakes up. At this writing, the budget of the Senate subcommittee has been cut in half, from $36,000 a month to less than $20,000, which is barely enough to pay the overhead, and not enough to permit it to hold its vital hearings. This economy was effected at a desultory meeting of the Senate on a sleepy Saturday in late July, with only a dozen members on the floor.

There are, here and there in America, citizens who are upset by the creeping indifference to the continuing and awesomely complex question of internal security. One of them wrote to one of the senators who had participated in the budget-slashing.

Now Senator Mark Hatfield of Oregon is among the most conscientious men in the Senate. His instincts are adamantly civilized, whatever one feels about the nostrums that attract him. Out of his office went a letter to one correspondent disparaging the work of the committee in language utterly unrelated to reality. The senator's letter said that the Senate committee's work had reduced to the staff's "drawing (its) own salary."

The Senator, suggesting the Stakhanovite schedules of other Senate committees between 1970 and 1975, drew an invidious comparison. "During this same period of time, which covers six years, this subcommittee held a total of only eight public hearings on legislative matters. . . ."

The fact of the matter is that Senator Hatfield is dreadfully misinformed. During the last six fiscal years, the Senate Subcommittee on Internal Security has held over 90 hearings.

The insinuated qualifier, "on legislative matters," is best answered by looking at the mandate of the Internal Security Subcommittee. Indeed, by merely inspecting its full title. It is called "Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary."

A Congress that has suddenly become so alert to investigating the conduct of the executive agencies should not find this the appropriate moment to be indifferent to the administration of its own laws. Let alone to the necessity of new laws. During the period in question, the Senate subcommittee conducted extensive investigations into, for example, the human cost of communism in the Soviet Union, China,—and, Vietnam; an investigation of vital interest to everyone who wasted his heart and his mind wrestling with moral and geopolitical questions that tormented this nation. The committee examined rules of procedure and information for witnesses in respect of internal security, it revealed the legacy of the experiences of Alexander Oriov, examined Soviet disarmament propaganda, reported on the Weather Underground, went exhaustively into marijuana and hashish traffic, examined Soviet intelligence and security practices, reported on the long list of Fidel Castro's hemispheric subversion, and issued six studies on the awful problems of terrorism and counterterrorism.

The United States today is crushed by the dilemma brought to light by recent revelations involving the conduct of the FBI and the CIA. Both these agencies were set up by statute essentially for the purpose of guarding our internal security. "We are friends of liberty everywhere in the world," John Quincy Adams wrote, "but custodians only of our own." It is hard to imagine a moment when we have needed more than we do today hard facts on the basis of which to adjust the scales. What a curious moment to emasculate the only committee of Congress exclusively devoted to such tasks. Friends of Senator Hatfield would hope that he will reconsider, and are confident that he will reinform himself.

INTERRELIGIOUS STATEMENT ON THE CHILD AND FAMILY SERVICES ACT

Mr. MONDALE. Mr. President, as many of my colleagues are aware, the Child and Family Services Act is being subjected to an outrageous and totally dishonest propaganda attack.

As I pointed out in my speech in the Senate on November 19, 1975, wild and completely false allegations are being made that this legislation would somehow give children the legal right to disobey their parents; somehow prohibit parents from providing religious training to their children; somehow give the Goverment authority over child rearing; and somehow give children the right to complain about their parents and teachers "without fear of reprisal."

These allegations are absolutely and completely false. There is not a shred of truth in any one of them. If there were, neither I nor any Member of Congress, would be sponsoring this legislation.

In that earlier speech rebutting this attack, which appeared on pages 37380 through 37384 of the November 19 Record, I included material rebutting each of the allegations made in the widely circulated, unsigned flyer; an accurate summary of the Child and Family Services Act, and a section-by-section analysis of the legislation.

Mr. President, today I would like to bring to the attention of my colleagues and the public, an interreligious statement on the child and family services bill.

This statement, signed by 14 religious organizations who have reviewed this bill, represents a thorough and objective rebuttal of these outrageous and dishonest attacks. I ask unanimous consent that this interreligious statement be printed in the Record, and I commend it to the attention of my colleagues and members of the public.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Interreligious Statement on the Child and Family Services Bill

In December of 1971 both the House and the Senate passed the Comprehensive Child Development Act of 1971. Supported by a coalition of poverty and civil rights groups, labor unions, women's groups, churches, educators, and community and citizens organizations, the bill would have amended Title V of the Economic Opportunity Act "to provide every child (through age 14) with a fair and full opportunity to reach his full potential by establishing and expanding comprehensive child development programs." This bill was vetoed by President Nixon.

In February of 1975, Sen. Mondale (D–Minn.) introduced a very similar bill, S. 626, The Child and Family Services Act of 1975. Rep. Brademas (D–Ind.) introduced a companion bill (H.R. 2966) in the House. This bill would establish programs of part-day and full-day child care, prenatal care, special services for minority group children, food and nutrition programs, aid for handicapped children, and various types of assistance to families with special needs.

The Child and Family Services Act is now under attack by groups and individuals charging that it would give government undue authority over family life. In fact, some groups have charged that the proposed legislation would make the "government responsible for . . . the religious interests of your child," give "children the right to protection from any excessive claims made on them by their parents," and make preschool education "compulsory" for all children beginning at age three.

These charges are totally inaccurate. There is nothing in this legislation that relates to religious preferences or religious instruction; nothing that relates to or alters the existing legal relationship between parents and their children; and nothing that provides for compulsory preschool education, or for compulsory service of any kind.

What it seeks to do, instead, is to strengthen and support families in their efforts to provide their children—on a totally voluntary basis—with the basic health, education and other services they want for them but too often cannot afford. Thus, it authorizes funding for a variety of child and family services including prenatal health care, medical treatment to detect and remedy handicapping conditions, and day care servicces for children of working parents.

Most importantly, any and all of these programs are totally voluntary, and limited to children whose parents request the services. Parent control is further assured by requirements that all programs would be selected, established and controlled by parents whose children participate in them.

A careful reading of the bill reveals that it will support families, not weaken them. The bill states, for example, that the "family is the primary and most fundamental influence on children" and that "child and family service programs must build upon and strengthen the role of the family."

The need for legislation of this kind is clear. The infant mortality rate in the United States is higher than that of thirteen other nations. Each year an estimated 200,000 children are struck by handicaps which could have been prevented if their mothers had received early health care. Forty percent of the young children of this country are not fully immunized against childhood diseases. Sixty-five percent of all handicapped preschool children are not receiving special services. There are only one million spaces in licensed day care homes and centers to serve the six million preschool children whose parents are working.

Debate over legislative proposals such as this Child and Family Services Act should be based on the facts, and decided on the merits. To do otherwise—to misrepresent the purpose and provisions of the legislation under discussion—is a disservice to all Americans concerned about families and children.

American Jewish Committee, Ms. Anne Wolfe, Director, Social Welfare.

Christian Church (Disciples of Christ), Disciples Peace Fellowship.

Christian Church (Disciples of Christ), Department of Church in Society, Division of Homeland Ministries.

Church of the Brethren, Washington Office.

Friends Committee on National Legislation.

National Conference of Catholic Charities.

National Council of Churches.

Lutheran Children's and Family Services, St. Louis, Missouri.

National Council of Jewish Women, Mrs. Esther R. Landa, National President.

Network.

Synagogue Council of America.

United Church of Christ, Center for Social Action.

United Methodist Church, Women's Division, Board of Global Ministries.

United Presbyterian Church, U.S.A., Washington Office.

PAUL A. PORTER: A CAPITAL FIXTURE

Mr. CANNON. Mr. President, the Nation lost a great citizen and public servant with the tragic and untimely death recently of Paul A. Porter. Paul Porter, a close personal friend, and a friend of many in this body, was a Washington attorney of unexcelled ability who threw himself wholeheartedly into the public's business both in and out of government.

A lawyer, Office of Price Administration official, Federal Communications Commission chairman, Democratic Party leader, head of an economic mission to Greece and American representative on the Palestine Conciliation Commission after World War II, Paul Porter was a man of concern, compassion and dedication. I was proud to have been numbered among his friends.

Chalmers Roberts, a distinguished Washington Post columnist, wrote an excellent article on Paul Porter and his absorption with and constributions to public affairs. Robert brought to light his humor and dedication to public service. I would like to share his observations with my colleagues in the Congress.

I ask unanimous consent that the afticle be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Paul A. Porter: "A Capital Fixture"

(By Chalmers M. Roberts)

There is in Washington a certain breed of men, most of them lawyers, who seem to move easily into, out and back into the government. Many are men of great ability who retire to private life "to make some money" but whose interests in government compel their continuing attention to public affairs and who thus are tempted from time to time to have another fling in one form or another at moving and shaking events.

One of these was the late Paul A. Porter. None more than be enjoyed the bureaucratic battle for what he saw as a good cause. And few were wiser than he in the ways of government. "The deadliest knife-throwers," he once said, "aren't all travelling with a circus—an unhealthy percentage of them live and work in Washington, D.C." Many victims of the knife skulk away to nurse their wounds; some even go back to Pocatello. Not Paul Porter. He simply lived for another day, hugely enjoying meanwhile whatever work or cause seized him for the moment.

Probably what saved him was his immense sense of humor. A wit, a raconteur, a showman, his table at the club or wherever he was dining was always the center of sparkle and fun—serious words, too, but always good conversation. When the wartime Office of Price Administration was collapsing amidst the greedy post-war expectations of management and labor alike, someone asked him what he intended to do. "Buy common stocks," he replied with that big grin. Wit, wisdom, perception, legal skill—he had them all.

Porter intended to come to Washington in 1933 only "for a few months." Instead, he became a capital fixture. He never made it to Cabinet rank and probably he never cared. What he did he did well, in and out of government. He made lots of money and he cared about a lot of things; he worked for corporate giants as a lawyer but his inclinations were with the liberal wing of the Democratic Party. It is sad that an accident took his life before he had a chance to get his hand into the upcoming Democratic campaign melee.

During World War II Porter set up and ran the OPA's rent control program for the nation, a notable success. For a while he was chairman of the Federal Communications Commission. Before that he had been director of publicity for his party during Roosevelt's fourth term election, working for National Chairman Bob Hannigan. When Hannigan wanted a license for a client, he called up old friend Porter at FCC. Porter promised only to "study it carefully" and to be sure the client would get "every consideration." The disgusted Hannigan snorted: "Hell, I could take you to court and get that."

When the post-war spy hunt raged, Porter and his partner Abe Fortas took on a number of cases of government employees struggling to deal with faceless accusors, a process that outraged them. When one woman lost her government post, Porter gave her a job. When one man claimed he could show up Joe McCarthy, Porter helped finance him; alas, the man was a liar. When President Truman brought him back to government in 1948 to help sell his anti-inflation program, Porter campaigned long and hard. He told one group that unless Congress enacted some curbs in a hurry, "come spring, the American housewife may find meat nestling in blue velvet cases in Cartier's instead of in the usual butcher shops."

Paul Porter headed an economic mission to Greece in 1947 to figure out how to rehabilitate that wartorn nation. He quickly grasped the connections between economic recovery and democratic politcs in Greece. What he had to say was listened to with respect and helped lay the basis for the Athens end of the Greek-Turkish assistance program. Just as clearly he saw the dangers of our own post-war inflation; he warned against those "who seem to pawn America's future for a pot of paper profits."

He tried his hand, too, in the Middle East, serving as American representative on the Palestine Conciliation Commission in 1949–50. Way back then he called for support of the legitimate aspirations of all parties to the conflict. But he had no illusions about the difficulty of the problem or about how long it might take to solve it. When he came home he brought his wife a memento to symbolize his work—a gold snail for her charm bracelet.

A youthful city editor of the Lexington, Ky., Herald, Porter never lost his enthusiasm for what came to be called the media, or his ability to make use of it. At various times he was counsel for a group of newspapers and for the Columbia Broadcasting System. His FCC post turned him into a spokesman on the sins of television; in 1965 he spoke of "a dready sameness and steady conformity" dominating the airwaves. He favored repeal of the equal time rule to facilitate debates between Presidential candidates.

He broke with many others in press and television to oppose TV coverage of a Senate trial of Richard Nixon's impeachment on the grounds that it would impede justice. "The issues are too grave and fundamental," he wrote, "to be exposed to such televised techniques of a Perry Mason . . ."

When the 1972 election was approaching he wrote an article for The Washington Post calling for an end to "spot" political plugs, especially those hyped up with film clips, tape recordings and personal abuse. "Such a code of ethics," he wrote "will not necessarily destroy dirty politics, but it could eliminate a few obnoxious cesspools from the political landscape, add some dignity to the political process and help restore the confidence of the viewing public in the electronic media as a vehicle for political campaigning."

For years Washington has had two Paul Porters, and they were constantly being mixed up; Paul A. the lawyer and Paul R., also a government employe who today is a retired businessman. In a way there were also two Paul A. Porters. One was the gregarious, affable, charming fellow with time always for another story; the other was the serious man of conscience and concern about the nation's and the world's problems. It was a happy combination, rather a rarity in the capital and one that will be sorely missed.

HOUSE SCUTTLING OF PROJECT INDEPENDENCE

Mr. MOSS. Mr. President, it is difficult for me to imagine the basis for the opposition of the House of Representatives to sections 103 and 104 of the bill authorizing appropriations for the Energy Research and Development Administration.

Section 104 provides for a program of in situ oil shale demonstrations on public land under the direction of the Administrator of ERDA. Section 103 creates a loan guarantee program, limited to $6 billion, under which up to 75 percent of the cost of construction and operation of commercial-sized demonstration plants to convert coal and oil shale into synthetic fuels and to generate power or heat in commercial quantities utilizing as their energy source, direct solar, wind, ocean thermal gradient, bio conversion, or geothermal resources.

This is what Project Independence is all about. Failure to support these sections of the bill, added by the Senate, is tantamount to approving reliance on imported energy. I cannot believe that pride of authorship restrains the House from approval of these measures.

PITFALLS IN THE CONFERENCE VERSION OF S. 622—THE ENERGY CONSERVATION AND OIL POLICY ACT OF 1975

Mr. MATHIAS. Mr. President, in January of this year Congress resolved to develop a comprehensive, workable energy plan—a plan that would provide sufficient energy at prices that we, as a Nation and individuals, could afford to pay—a plan that would enable our great Nation to both meet short-term needs and fulfill long-term goals.

It is with great regret that, after reading the conference report on S. 622, I have come to the conclusion that it does not fulfill the requirements of a national energy policy. Although S. 622 contains some worthwhile provisions, overall it is neither comprehensive, nor workable. It appears to be a hodgepodge of ideas which neglect the realities of the current and future energy situation in an attempt to placate Americans' current anger and frustration over the spiraling cost of living, especially energy. The proposals in this bill may indeed be pleasing to Americans over the short term. I dare say each and every one of us would welcome the return of cheap prices for energy—if they could be maintained. But sufficient supplies of cheap fuel cannot be maintained. Perhaps in years to come we will succeed in harnessing energy sources which are inexhaustible and universally distributed, but that probably will not happen for at least several decades. In the interim we must develop an energy program based upon reality as it is, not as we would like it to be.

I believe that passage of the conference report would be an absolute disservice to the American people. It fails to accomplish a single one of the following objectives, which must be an integral part of a national energy policy:

First. Reduce amount of imported oil. By lowering the financial incentives for new domestic production, without decreasing demand, S. 622 increases our dependence on foreign oil.

Second. Recognize that high energy prices are a fact of life. S. 622 tells the public that high energy prices result from Congress' failure to mandate low prices by law.

Third. Simplify administrative morass. S. 622's "average price" mechanism not only puts controls on all domestic oil, but will result in four or five different prices for domestic oil.

Fourth. Enunciate a clear long-term energy program. S. 622 is clearly temporary, a poor bandaid, not a cure; it does not even point in the direction of a cure.

Fifth. Aid those parts of energy industry that would provide self-sufficiency. S. 622 decreases the financial incentives for domestic producers to increase production; saddles small and independent producers, refiners, and marketers with high administrative costs; and encourages a shift of investment to energy sources outside the United States.

The consequences of S. 622 will be higher consumption and waste, lower production from domestic sources, increased imports resulting in greater dependence upon foreign countries, and eventual higher prices or nonavailability of energy to Americans. By approving this bill we will ensure that in the future the American people will be facing the same problems they face today—but the situation will be far more critical and the answers much more expensive and difficult.

We need creative programs that change America's lifestyle towards a conservation ethic. We need programs that provide incentives to encourage producers to develop, produce, and refine domestic resources. Bureaucratic redtape has never succeeded in accomplishing either. Therefore, I urge my colleagues to oppose the conference report on S. 622 and seek a comprehensive, workable solution to the Nation's energy crisis.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

PROGRAM

Mr. MANSFIELD. Mr. President, I wish to republish the schedule at this time.

As Senators know, we will not be in session tomorrow.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M ON MONDAY

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., Monday morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. At that time an order has been entered for the distinguished Senator from Oregon (Mr. HATFIELD) to be recognized for not to exceed 15 minutes after the joint leaders have been recognized.

Following the completion of the remarks of Senator HATFIELD, there will be a brief morning hour for the conduct of morning business with a time limitation of not to exceed 3 minutes thereon.

Beginning at the hour of 10 a.m. and concluding at 12 o'clock, there will be debate on the common situs conference report, H.R. 5900. At 12 o'clock, following that debate, the Senate will turn to the consideration of the defense appropriation conference report.

At 1 p.m., the Senate will vote on the treaty which was carried through to its final reading this afternoon. That will be a rollcall vote, and the yeas and nays have been ordered.

At approximately 1:15 p.m., the Senate will proceed to consider the tax bill, H.R. 5559. At 4 p.m., the tax bill will be laid aside, and the Senate will vote on the situs picketing conference report, H.R. 5900.

At approximately 4:15 p.m., the Senate will resume consideration of the tax bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. MONDAY, DECEMBER 15, 1975

Mr. GRIFFIN. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:30 a.m. Monday morning.

The motion was agreed to, and at 6:45 p.m., the Senate adjourned until Monday, December 15, 1975, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 12, 1975:

Department of Defense

Frank A. Shrontz, of Virginia, to be an Assistant Secretary of Defense, vice Arthur I. Mendolia, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 12, 1975:

Department of Justice

Richard J. Arcara, of New York, to be U.S. attorney for the western district of New York, for the term of 4 years.

Richard N. Moore, of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before a duly constituted committee of the Senate.)

The Judiciary

Patrick E. Higginbotham, of Texas, to be U.S. district judge for the northern district of Texas.

EXTENSIONS OF REMARKS

NELLIE FOX

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. RUSSO. Mr. Speaker, in recent days tragedy visited the south side of Chicago.

A gentleman who spent his life on and off the playing field proving that a man's stature is not measured in feet and inches, but by the simple courage required to meet the challenges which come to all of us, lost his final struggle. Jacob Nelson Fox died of cancer at the age of 47.

Nellie Fox was a noted athlete, playing and coaching for 19 years in major league baseball—14 of them for my hometown Chicago White Sox, but he was much more than a ballplayer. He was a man of decency and compassion, a man of dedication and modernization, and man principally concerned for others in a world where so many seem to be consumed by themselves. There are too few "Little Nels" around. He will be missed, but not forgotten.

At this time, Mr. Speaker, I insert in the RECORD an editorial which appeared in the Chicago Tribune the day after Mr. Fox' death, as well as a story by Robert Markus of the same newspaper. I can only echo Mr. Markus' call for the admission of the 1959 American League Most Valuable Player to the Baseball Hall of Fame:

Nellie Fox

Jacob Nelson Fox, better known to millions of baseball fans as Nellie, played the sport with the spirit and determination which won the high regard of not only the fans but his fellow competitors as well.

Mr. Fox, who died of cancer Monday at the age of 47, played in the big leagues for 19 years—14 of those as the star second baseman for the Chicago White Sox—augmenting what might be considered average natural talents with a degree of hard work, hustle, and concentration that made him the American League's Most Valuable Player in 1959 and a member of 13 all-star teams.

Nellie Fox's strong weapon was baseball's rifle shot, the single—not its heavy artillery, the home run. He collected enough singles to compile a respectable .288 lifetime batting average. An excellent fielder, he was described by the great hitter Ted Williams as "one of those fielding pests who drive hitters into retirement."

Frank Lane, the former White Sox general manager, and the man who brought Nellie Fox from the Philadelphia Athletics to Chicago once said: "Nellie talks it up, he runs, he struts, and he's aggressive. But if you want a one line description . . . it's this: Nellie loves baseball."

All of us who love baseball are grateful that we had the chance to see him run, strut, and be aggressive. His own good qualities helped bring greatness to the game.

Sox Great Was 17th in Voting—Inexcusable Nellie Fox Is Not in Hall of Fame

(By Robert Markus)

Life is not always fair and it certainly wasn't always fair to Nellie Fox, who died Monday at the age of 47. Of course, Nellie would have thought you crazy if he had heard you say that. Life is not fair? What could be more fair than to spend your life doing what you loved to do?

But I insist. Life was not always fair to Nellie Fox. Beyond the obvious fact that it shorted him by quite a number of years, it also denied him the honor that he deserved, the honor that could have made his last days a little easier.

Nelson Fox isn't in baseball's Hall of Fame. More than that, there weren't many who even paused by his name when it came time to fill out the last Hall-of-Fame ballots.

At the last election, Fox received 76 votes. Sixteen other players received more, including Ralph Kiner, the only player to be elected. How could we all have been so blind? Why did it take his death to wake us up?

If it had not been for a simple sentence in a wire service story that ". . . the left-handed swinging Fox has failed to be elected to the Baseball Hall of Fame . . ." it would not even have occurred to me that, of course, Nelson Fox should be among baseball's immortals. Inexcusable!

Worst of all, it took a look at the record books to convince me. Incredible! Nellie Fox was not a player to be measured by statistics. But he had them, nevertheless.

He had 2,663 hits in his 19 years, more than Red Schoendienst [who finished three notches higher in last January's voting] and only 32 fewer than Al Kaline, a cinch Hall-of Famer, had in his first 19 seasons.

And Nelson Fox struck out fewer times than Robert Redford. He led the league in that category 13 times and set a record by going 98 games in a row without whiffing once.

Nellie's lifetime average was .288 and he hit better than .300 six times. And, oh, how he could play second base! He led the league in putouts for nine years in a row. You're looking for a money player? Nellie played in 11 All-Star games and batted .368. He played in only one World Series and hit .375.

And how did the White Sox get into the World Series? Well, Nellie Fox hit .306 that year and was the league's Most Valuable Player.

But that doesn't really tell you what kind of a ball player Fox was. You'd have to know that when he first played in the big leagues with the Philadelphia Athletics he was deemed so lacking in talent that the White Sox were able to acquire him in a trade for an obscure catcher named Joe Tipton.

You'd have to know that when Paul Richards came over to manage the White Sox he was convinced the 5-foot-8-inch Fox could not play in the big leagues. Fox soon convinced him otherwise.

It has been said of Fox that he had no natural ability and that he made himself the player he was through hard work. That is only partly true and it may be one reason so many have overlooked his achievements for so long.

Nobody hits a baseball safely as often as Nellie Fox did without a good deal of natural talent. But, like Pete Rose in the present day, Fox embellished that talent with hard work and relentless hustle.

Fox once fielded a ground ball with his mouth, losing a tooth and considerable blood. But he threw out the runner and refused to leave the game. Maybe that doesn't rate with the old Baltimore Oriole ethic of John McGraw, where, if you broke a finger, you were supposed to rub it in the dirt and go right on playing. Except that this happened in a meaningless exhibition game.

Fox played 13 years for the White Sox and then they traded him because baseball managements are notoriously sentimental. They are also notoriously thick-headed, almost as thick-headed as Hall-of-Fame electors.

If ever there was a man who should have had a chance to manage a baseball team it was Nellie Fox. But once more life was unfair. He never got that chance. Frank Lane, who engineered the trade that brought Fox to Chicago, says he thinks Nellie would have been the Washington Senators manager back in 1969 if Vince Lombardi had not been signed by the Redskins. Senators' owner Bob Short, feeling he needed a big name, hired Ted Williams instead.

It's too late now to get Nellie Fox that manager's job he should have had at some point in his career. But it's not too late to get him into the Hall of Fame.

I, for one, intend to vote for him. And it won't be out of sentiment, either. Nellie Fox doesn't need the sympathy vote. Just look at the record, fellas. Or better yet, just remember the way Little Nellie used to play the game.

A STATEMENT OF POSITIVE VALUES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. ANDERSON of California. Mr. Speaker, we seem to be going through a period of "negatives" in this country—indeed, in the world. It is very easy for all of us to state what we are against.

My good friend, J. Walker Owens, executive vice president of the Torrance, Calif., Chamber of Commerce, has recognized this problem. His letter to the editor of the South Bay Daily Breeze, Torrance, Calif., states his positive convictions for an improved society. I am pleased to share his letter with my colleagues so that we may all endeavor to keep sight of the positive ends we strive for. Mr. Owens' letter follows:

LIST THINGS "FOR"

EDITOR, THE DAILY BREEZE: Because of the lessons of history and the obviously tragic results of repeating past errors, I have, of necessity, been forced to take—and have frequently stated—a negative approach on the subject of expanding central government and the scope of the federal budget.

Lest the impression endure that I am always "against" but never "for," allow me to list the things I am for:

I am for the duty of a child to honor and obey his parents as long as they are worthy of honor and obedience.

I am for the responsibility of parents to their children by setting a good example of proper conduct, by furnishing guidance and exercising discipline.

I am for recognition of the inequality of men without reference to race, religion, color or creed as a fact of life. Without it, life could lose much of its savor.

I am for the duty of all citizens to participate in good government by obeying laws, keeping informed and electing good people to office who will put the long-range interest of the nation, state and local community first and their personal interest last.

I am for uncommon men as our only hope for true progress.

I am for maximum freedom for the individual so long as it does not infringe on the freedom of others.

I am for the free individual private enterprise system because it has given us a higher standard of living for more people than any other in history and, at the same time, has increased personal freedom.

I am for doing everything we can for ourselves at home through the private enterprise system and delegating to government only those things that are necessary and which we cannot do for ourselves.

I am for minimum government at all levels with all functions delegated to the lowest possible level.

I am for the Constitution of the United States of America as it was originally established with provision for amendment. I am for abiding by the Constitution without using devious means to alter or stretch its meaning.

I am for the United States of America and her welfare first, because here is the last strong bastion of freedom on the face of this globe.

I am for resisting with all our strength those from without and from within who would change our way of life by force, subversion or circumvention of our Constitution. This includes all those who espouse economic and political theories.

And last, but by no means least, I am for the idea of a higher power which has established an orderly universe and inflexible natural laws. Some call it God. I am for increasing our knowledge of, and strict conformance to, these natural laws so essential to our survival.

These are things I am for.

J. WALKER OWENS, CCE,
Executive Vice President,
Torrance Area Chamber of Commerce.

CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. LEVITAS. Mr. Speaker, the Chattahoochee River in Georgia is an invaluable natural resource which must be protected and preserved for future generations. Accordingly, I have joined eight of our House colleagues from Georgia, the two Senators from our State, and 22 members of the House Interior Committee in sponsoring legislation to establish the Chattahoochee River National Recreation Area along a 48-mile stretch of the stream in the Atlantic area.

An article describing the Chattahoochee, and telling why we need legislation to save it, has been written by our colleague ANDREW YOUNG and published in the December 1975 issue of National Parks & Conservation magazine, and I call it to the attention of the Members of Congress because we will be considering this very important proposal to include the Chattahoochee in our National Park System. Therefore, I submit this article for the RECORD.

CHATTAHOOCHEE—RIVER OF FLOWERED STONES

(By Andrew Young)

The Chattahoochee—"River of Flowered Stones" the Creek Indians called it—spills down from the Blue Ridge Mountains in northern Georgia, glides past the city of Atlanta, and flows onward to the Gulf of Mexico. Pastel granite rocks in the river bed reminded the Creeks of underwater flowers; hence their poetic name for the river. Just across the river boundary of the Creek Nation, the Cherokee Indians once thrived in the Chattahoochee Valley, which they called "The Enchanted Land."

In an age of often unchecked urban sprawl, this river has survived in a relatively unspoiled natural condition, yet it is readily accessible to 1.5 million people. In fact, all year long it attracts visitors from throughout the Southeast and others who come to Atlanta.

As the Chattahoochee passes through the Atlanta area, it is wild and serene. It provides the hiker, canoeist, camper, or cyclist with a variety of landscapes and the history buff with sites recording the presence of Indians 10,000 years ago, the coming of Georgia settlers, and the Civil War. The stream wends its way around islands and shoals interspersed with calm passages. At several points, massive granite palisades rise above the watercourse. The valley is as much as five miles wide and is bordered by ridges from 150 to 400 feet high. The flood plain through most of the corridor is about half a mile wide at some locations. Narrow valleys with small streams; broader valleys with marshes and larger streams; and a variety of narrow and broad ridges, sheer cliffs, and steep and gentle slopes are a few of the natural features of the river area.

Among the many varieties of trees and shrubs that grow in the region are the oak and hickory, which predominate in the stable forests along the river, stands of beech in many of the ravines, mountain camellia, and umbrella magnolia. Each spring brings wildflowers like trillium and ladyslippers, and in the fall come rattlesnake orchids and gentians. Rock outcrops display many unusual mosses and lichens.

Deer, squirrel, rabbit, and fox are among the wildlife that live along the Chattahoochee. Birdlife includes waterfowl, osprey, and redtailed hawk.

The stretch of the Chattahoochee in the Atlanta area is the most scenic of the 48-mile stretch between Peachtree Creek and Lake Lanier to the northeast, and it is also outstanding for sport fishing. The relatively low temperature of the water, the favorable pool/riffle ratio, and the abundance of food make the river excellent habitat for brown, rainbow, and brook trout.

But the Chattahoochee River is in peril. Southward from the confluence of Peachtree Creek and the Chattahoochee in Atlanta, the stream is badly polluted. A few miles upstream, several wild tracts of adjacent land are in danger of conversion to the familiar landscape of high-rise buildings.

The Chattahoochee can be saved, and indeed for several years vigorous efforts have been underway to preserve the river area. Since the late 1960s, a citizen group called Friends of the River and a coalition of conservation organizations have spurred progress toward survival of the Chattahoochee. Donations from private sources and the state and local governments have provided $7 million for acquiring 747 acres of land, the value of which has since climbed to $12 million. In 1973 the Georgia legislature passed the Metropolitan River Protection Act, which put strict controls on construction and development in the river area. However, the Chattahoochee has been found deserving of even greater protection.

In 1971 the federal Bureau of Outdoor Recreation produced a plan for preserving the natural and historical values of the Chattahoochee and for using some of the area for outdoor recreational opportunities. That proposal was never acted upon. In 1972 a study by the Atlanta Regional Commission (ARC) recommended a federal-state-local partnership designed to protect the river and its corridor. And in 1975 the Georgia Department of Natural Resources, in cooperation with ARC and local citizen groups, carefully surveyed the stream and its environs and came up with a new plan for the establishment and management of the Chattahoochee River National Recreation Area (NRA).

The plan to preserve the Chattahoochee calls for space and facilities for family camping, primitive camping, picnicking, hiking trails, canoe beaches, scenic overlooks, and access points for fishing and other recreational activities. Botanical gardens, wildlife sanctuaries, and an education center would further environmental awareness and scientific research. A historical and archaeological center would interpret the area's colorful history, from the early Indian settlement a hundred centuries ago, to the taking of Atlanta during the Civil War, to the present.

Legislation based on this plan has been introduced in Congress. It would provide for preservation of the natural integrity of the corridor along a forty-eight-mile segment of the Chattahoochee from Lake Lanier, northeast of Atlanta, to Peachtree Creek, which is about five miles from "Five Points," the heart of the city. Fourteen tracts of land covering 5,454 acres along the river would be acquired at an estimated cost of $52 million. This land, the corridor, and the river acreage already held by the state of Georgia would be managed by the Park Service as a national recreation area. An additional $11.7 million would be authorized for planning and construction of facilities.

Compelling reasons exist for establishing the Chattahoochee River NRA now. The Chattahoochee provides drinking water for one-third of the population of Georgia, and further development can only exacerbate the pollution problem. The cost of land proposed for public acquisition inevitably will escalate. Some of that land is now valued at $24,000 an acre. In addition, most of the land in question is held by developers, and they have indicated an interest in selling their property. But they insist that they cannot afford to hold the land indefinitely without developing it.

Congressional sponsors of the Chattahoochee legislation strongly believe that federal funding and management by the National Park Service are necessary to ensure the river's integrity and to protect the area's resources. Yet the Park Service now has a backlog of about $600 million in unfunded land acquisition authorizations. The Service is also woefully understaffed. Some seven thousand people employed by the Park Service (one thousand below the authorized level), must operate more than 275 National Park Service units.

As National Parks & Conservation Magazine has repeatedly pointed out during the past year and a half, we have given inadequate attention and money to parks and recreation: Funding for the combined programs of the National Park Service, the U.S. Fish and Wildlife Service, and the Bureau of Outdoor Recreation amounted to only about 0.2 percent of the total federal budget for fiscal year 1976. Higher outlays should be made available for the National Park Service and the Land and Water Conservation Fund.

With respect to the Chattahoochee, local initiatives began the process of saving this river, and they will continue. Land already acquired can be turned over to a federally managed national recreation area for the Chattahoochee. Private donors could help purchase and hold some of the most immediately threatened tracts along the river if Congress authorizes future federal acquisition of this land.

The gentle Chattahoochee has abiding friends throughout Georgia; it now needs the same kind of friends among people across the nation who are working to protect our invaluable natural environments. A visit to the Chattahoochee inspires concern for the people now and in the future who might appreciate the majesty of the land and waters of this metropolitan stream. The river cries out for salvation and, with that salvation, a refreshing new dimension in urban life.

Congressman Andrew Young represents the Fifth District of Georgia, which includes most of Atlanta and its northern suburbs. The Chattahoochee River flows along a substantial portion of this district, and Mr. Young enjoys canoeing on the Chattahoochee and hiking in the stream's valley.

EDITOR'S NOTE—EXPAND THE LWCF

Even at $300 million per year the Land and Water Conservation Fund is inadequate. There is more than a $½ billion backlog of acquisitions authorized by Congress but not funded. If this backlog is to be funded and if the many new proposed areas that should be preserved as open space are to be acquired, then more money must be made available. In testimony on invitation NPCA has urged expanding the LWCF to $900 million; but the Administration is opposed, even though the money comes from entrance fees at park units and revenues from outer continental shelf oil and gas leasing, rather than from taxpayers and the general treasury. Write the President to urge him to support expansion of the Land and Water Conservation Fund. Write: Hon. Gerald R. Ford, The White House, Washington, D.C. 20500.

SITUS PICKETING

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. HUGHES. Mr. Speaker, it was only after much thought and consideration that I cast my vote against the conference report to H.R. 5900, economic rights of labor in the construction industry or the common situs picketing bill. This was not an easy decision, but one I reached after all available facts indicated that passage of this legislation would lead to fewer, not more jobs for the construction trades, and a sicker, not healthier construction industry.

I am extremely concerned about unemployment among construction workers in the Second Congressional District. In some trades unemployment approaches 85 percent. This is an intolerable situation that should be corrected. Prompt enactment of the Local Public Works Capital Development and Investment Act, H.R. 5247, would be one means of assistance that I strongly support. H.R. 5900, however, would not provide more jobs for those who need them, but would guarantee less jobs, at least in the conditions prevailing in South Jersey.

This legislation presumes that a general contractor has control over the subcontractors under his direct jurisdiction and thus can be held responsible for all the work on one construction site. In many instances in the Second District, this is simply not the case. On most jobs, each subcontractor is hired separately as if he were a prime contractor. The party initiating the construction does not hire a general contractor, but instead contracts with each individual employer. Hence, there is no general contractor with control and responsibility for the entire site as this legislation assumes.

The ability of a dispute between one union and one subcontractor to close down an entire jobsite is another feature of this legislation that can only be detrimental to increased employment. One labor dispute involving a relatively small number of workers may deprive a much larger number from working. Even though the majority may be eager to work and in need of employment, they are prohibited due to the actions of one of the many subcontractors and unions on the construction site.

Finally, I am fearful that this legislation may polarize and adversely effect the already depressed housing and construction industry. The bottom line of this legislation may well be that employers are driven away from union employees. In areas such as South Jersey with a mixture of union and nonunion workers, I do not think that one can presume that all of the jobs will now go to union shops; on the contrary I am afraid that there may very well be fewer jobs for union members and for all construction workers in general.

In short, Mr. Speaker, I believe that this legislation will hurt, not help, the American construction worker. This bill was based on a false premise, that a general contractor exercises control over an entire jobsite and that independent subcontractors act as a single employer. If H.R. 5900 insured more and better jobs at fairer wages then I would not have hesitated for a second to wholeheartedly back this measure. Sadly, however, I think that time will prove that the opposite is true.

WORTH ITS SALT? THE UNITED STATES IS IN DANGER OF BECOMING A SECOND-RATE POWER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. McDONALD of Georgia. Mr. Speaker, there is a growing debate as to whether the Soviet Union has not already violated the SALT I agreement on many occasions. In my view, there is sufficient evidence to show that it has. The former Chief of Naval Operations, Elmo Zumwalt, now retired, has recently testified that Secretary Kissinger withheld evidence of these violations from the President of the United States. Secretary Kissinger denies that he did. It appears to me he "doth protest too much."

In this connection, an editorial by Robert M. Bleiberg appeared in Barron's on December 8, 1975. The comments made by Mr. Bleiberg on the subject of SALT are very pertinent in my view and I commend the editorial to the attention of my colleagues.

Worth Its Salt?—The United States Is in Danger of Becoming a Second-Rate Power

(By Robert M. Bleiberg)

Old soldiers—so General Douglas MacArthur once poignantly reminded his fellow countrymen—never die; they just fade away. But that was before the heyday of the Village Voice, radical weekly which apparently sees colonels under every bed. Be that as it may, one grizzled veteran of World War II, who thought that metaphorically at least he had faded away for good in December, 1945, at Fort Dix, N.J., was gratified to learn not long ago that although he can no longer fit into his uniform, in some circles he is still considered a warmonger. Specifically, in an article headlined "Know Your New Military-Intellectual Complex," which ran in the Dec. 1 issue, the Voice, under various categories such as "Theoreticians," "Academics," "Hitmen" and "Rabbie," listed prominent members of the sinister so-called alliance (why not cabal?), some of whom allegedly "trace their ancestry back to the CIA-funded Congress for Cultural Freedom." Third on the list of "Journalists"—right under Bob Bartley and Jude Wanniski of The Wall Street Journal—appeared our name.

We don't often find ourselves in such distinguished company—"Journalists" also included Hedley Donovan of Time Inc., Patrick Moynihan of growing diplomatic fame and Drew Middleton, author of "Can America Win the Next War?"—nor do we qualify for many enemies lists. As a former private who took years to make Pfc. we are naturally pleased to be ranked with the brass. Yet along with our co-conspirators (most of whom we must confess to never having met), we cannot help but ask what all the shouting is about. "The unifying experiences of the new military-intellectual complex," so we are told by the Voice, "include . . . reaction to the New Left . . . hatred of socialism, whether democratic or totalitarian . . . opposition to detente." What's more: "The Alliance is a successful one, though it still pretends to underdog status." Those at last are fighting words. Apart from New Zealand, and as of next perhaps, Australia), socialism still holds a commanding lead in the struggle for men's minds. There are so many New Leftists in the 94th Congress that they aren't conspicuous by their presence. As for detente—tell it to the Marines.

Under cover of detente, as more and more Americans lately have come to perceive, some very ugly things have been happening. According to Admiral Elmo R. Zumwalt, Jr., former chief of Naval Operations who is well on the way to becoming this decade's Arleigh Burke, the Soviet Union, in half-a-dozen ways and on a "massive" scale, has violated the arms of the first Strategic Arms Limitation Treaty. "In my judgment," the retired sea dog last week told a startled House Select Committee on Intelligence, "there have been significant violations of the SALT I agreements by the Soviets in their interference with our national means of detection which has produced a serious reduction in our ability to check against Soviet cheating." In the light of the long history of failure by the Kremlin to honor its commitments—the Senate Internal Security Subcommittee has ticked off nearly one thousand broken treaties, and the list only went through 1963—the Admiral's accusations, to judge by the relatively sparse press coverage, could have shocked only freshman Democrats and perhaps the studiedly naive State Department.

Far more jolting than Soviet duplicity, in our view at any rate, is the mounting evidence of this country's incapacity or unwillingness to defend its own interests. In the phony name of detente, Admiral Zumwalt avers, Secretary of State Kissinger has deliberately withheld, from the Commander-in-Chief, as well as the American people, full details of the alleged violations; certainly the State Department has blocked release of even a censored version of his previous testimony on the issue, as well as that of former Secretary of Defense James Schlesinger. Even if what are involved—as the White House weakly contends—are nothing worse than "ambiguities," their proliferation in what is unarguably a matter of national life and death should surely give pause to those who are pushing so hard for a second SALT pact. U.S. negotiators, said Air Force magazine, "manifestly failed to appreciate just how leaky was the vessel they had launched. Innocence is attractive in children, but it should be grounds for instant dismissal when it appears at the level of state-to-state negotiations."

Innocence—if that's what it is—can often lead to unpleasant surprise. Time and again since detente was proclaimed (as Admiral Zumwalt has taken pains to document), the Soviet Union, notably in Vietnam and the Middle East, has not blinked at breaching spirit and letter alike. Within the past few days, Moscow has reaffirmed in no uncertain terms its undeviating purpose to export Marxist revolution wherever—in this case, the quandam Portuguese territory of Angola—it can find a likely prospect, a grim state of affairs which Patrick Moynihan, one of the most effective champions the U.S. has ever fielded, promptly denounced in the United Nations as a naked thrust aimed at recolonizing Africa.

Meanwhile, according to those in strategic position to know, this country's military posture, vis-a-vis that of its implacable enemy, day by day grows weaker. Freedom has survived for nearly two centuries, an occasion which the country is in the process of duly celebrating. Thanks to Kissinger et al., however, the next hundred years will be harder.

Time, in any case, is unmistakably not on our side. In the current fiscal year, according to ex-Secretary Schlesinger, expenditures by the Department of Defense will total no more than 16% of all government spending, lowest point since before Pearl Harbor. Ominous enough in itself, the comparison looks still more alarming weighed against the relentless 3%–5% year-by-year advance (in real terms) in Soviet military outlays. In Schlesinger's view, the Soviets are outspending the U.S. in every significant category—procurement, research and development, general purpose forces, strategic nuclear offensive forces—by 20%–60%. "Continuation of the trends that I have outlined," he warned, "would lead to Soviet military preponderance in the Eastern Hemisphere—and disintegration of the system of mutual security that the United States has long supported."

After heated protests over further cuts in the Defense budget, his subsequent ouster—and a 19-gun salute—the departing official laid it on the line. "The adverse trend in military power has repeatedly been underscored. It isn't a matter of theory. It is a matter of simple arithmetic. Continuation of this trend will inevitably bring a drastic and unwelcome change to the preferred way of life in the U.S." As to the question, "Can America Win the Next War," raised by Drew Middleton in his latest book, the answer, according to Admiral Zumwalt, is "increasingly likely to be NO."

For national security, in short, this country is increasingly—and dangerously—relying not on its own power but on the elusive, if not downright subversive, concepts of disarmament and detente. As to the former, it exists solely in the eyes of the U.S. Arms Control and Disarmament Agency. Dispassionate observers point out that SALT I or not, the Soviets have expanded their missile silos by more than the agreed-upon 15%. They have tested unauthorized radar and built new installations in Kamchatka. Contrary to agreement, they have camouflaged work in progress and hindered U.S. detection. According to Admiral Zumwalt: "The U.S.S.R. continues to deploy the SS–19, a missile 50% larger and three-to-four times heavier in throw weight than the SS–11 it replaces."

Even President Ford, who tends to shrug them off as "minor," concedes there have been violations, yet he goes in hot pursuit of the will-o'-the-wisp of arms control. As perennial cold warriors and members in good standing of the New Military-Intellectual Complex, we take a different stance. "If the SALT have lost its savor, wherewith shall it be SALTed? It is thenceforth good for nothing . . ."

As for detente, much the same may be said. Indeed—this is perhaps why Bartley and Wanniski won their citations—in a recent issue of The Wall Street Journal, Admiral Zumwalt has done just that. "Even though it has been Mr. Kissinger's policy not to admit the extent of the shift in military balance, the Soviets are, of course, well aware of it. Under the mantle of this shifting balance they have misbehaved in a series of ways which have never been accurately reported.

"1. They violated the rules of detente, agreed to at the 1972 summit, by failing to warn the U.S. of the impending Arab attack on Israel in 1973. They deployed their own forces, without informing us and well in advance of U.S. deployments, to be able to back up their Arab clients. They urged the

Arab oil embargo. . . . They delivered a savage ultimatum to the U.S. when the Israelis surrounded the Egyptian Third Army, making it implicitly clear that the U.S. must order the Israelis to release that army or the Soviets would send their forces in, with or without us. . . .

"2. In Southeast Asia where the Soviets were pledged to support the 1973 truce, they actively aided and counselled Hanoi in the subsequent truce violations leading to the conquest of Cambodia and South Vietnam."

The last word quite properly belongs to Aleksandr I. Solzhenitsyn. In The New York Times last week, the famous Russian exile eloquently wrote: "The very process of surrender of world positions has the character of an avalanche. At every successive stage it becomes more difficult to hold out and one must yield more and more. This is evident in the new conditions across entire continents, in the unprecedented encroachments by the Soviet Union in southwestern Africa and in votes in the United Nations.

"Mr. Kissinger always has an emergency exit available to him. He can transfer to a university to lecture to credulous youngsters about the art of diplomacy. But the Government of the United States (just as those youngsters) will have no emergency exit."

A GOLDEN ANNIVERSARY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. LEHMAN. Mr. Speaker, I would like to share with my colleagues the news of a special event which should help to reassure us about the stability of our American way of life.

Forty-one south Florida couples who have all been married for at least 50 years were honored at a reception at Ro-Len Lake Gardens in Hallandale on November 30.

Because of the extraordinary warmth which was present when I attended this unique event, I am moved to request that the names of the celebrants be permanently inscribed upon the pages of the Record.

The couples include:

Kay and Aram Babyan.
Bertha and Isador Barkas.
Mollie and Morris Brownstein.
Frances and Samuel Calvert.
Margaret and Samuel Cohen.
Ethel and Samuel Cooper.
Esther and Louis Cowan.
Mollie and Samuel Damasek.
Rose and Joel Elias.
Tillie and Charles Feit.
Gertrude and Abraham Finkelstein.
Hannah and Jack Fox.
Lena and Angelo Gadaleto.
Augusta and Murray Goodman.
Rose and William Hirshberg.
Sadie and Abraham Jaret.
Goldina and Meyer Levine.
Hannah and Hyman Levine.
Mary and John Lippart.
Gertrude and Joseph Luks.
Fannie and George Marks.
Freda and Samuel Messer.
Shirley and Max Molnick.
Ray and Samuel Morgen.
Edna and Edward O'Brien.
Edna and Joseph Palanker.
Egina and Julius Papel.
Bella and Jack Peshkin.
Esther and Arnie Peterson.
Sadie and Louis Reich.
Sonya and Jack Reichberg.
Miriam and Fred Rosen.
Tillie and Israel Samuelson.
Fanny and Edward Sander.
Rose and Saul Segal.
Hannah and Morris Shapiro.
Tess and Charles Sherman.
Ann and Samuel Silverman.
Gert and William Stecker.
Frances and Emanuel Tichman.
Elsie and Leo Wishman.

FARM EXPORTS AND THE MARKET

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. FINDLEY. Mr. Speaker, instant experts on food have invented many ways to interfere with the free market in the export of agricultural goods. As in the 1973 soybean embargo, are we now bungling agricultural export policy? Warren Lebeck, president of the Chicago Board of Trade asked the question in a recent and thoughtful speech. Mr. Lebeck has worked hard to insure the integrity of the marketplace and to see that the marketplace has the ability to function to the benefit of the farmer and consumer alike. I commend excerpts of his recent remarks to you:

Farm Exports: Will We Bungle America's New Super Strategy?

A favorite story among farmers a few years ago—and it was only a few years ago—concerned two farmers discussing what each would do if he suddenly had a million dollars. The first said he would sell the farm, move to Florida, buy a yacht, and live a life of idle luxury. The second farmer pondered for a moment and then reckoned that he'd just keep right on farming until the money ran out.

It wasn't a laughing matter. To most Americans, farmers and consumers alike, "farmproblem" was one word. As recently as four years ago—the fall and winter of 1971—corn on Iowa and Illinois farms was bringing less than a dollar a bushel. Wheat commanded little more than its value as hog feed. Nor were these happy times for taxpayers. In 1971 they shelled out $1.5 billion in payments to farmers to curtail the production of food. That year the U.S. Department of Agriculture boasted that its cropland "set aside" programs had idled 53 million otherwise productive wheat and feed grain acres.

Such efforts and expenditures notwithstanding, a plethora of grain continued to glut the marketplace and depress prices. Defaulting on government price support loans was the way many farmers "sold" their crops. Commodity Credit Corporation—which had pared its inventories during the "wheat life" to India in the mid-1960's—became once again the world's largest owner of unwanted "groceries." . . .

Tens of millions of bushels of grain that couldn't be sold, bartered, or given away rotted and ruined in government bins—its fate concealed from the American public by statstical obfuscation.

Our propensity for producing food in greater abundance than anyone was willing or able to pay for it was a serious—and seemingly unsolvable—national liability. In 1970, despite offers of easy credit and other enticements, we were able to find paying customers for less than $6 billion of farm exports. So the surpluses piled higher and higher. Grain was sometimes dumped in the vacant lots of Midwest towns, exposed to weather and rodents, for lack of space to store it or boxcars to haul it. "Farmproblem" was, indeed, one word. . . .

A shortage of food exports has been replaced by a sometimes shortage of food to export. The liability of agricultural abundance has become the asset of agricultural abundance. Selling food abroad—and being paid well for it—has clearly become America's avowed super strategy for saving its economic hide in world markets that are increasingly competitive and increasingly resource oriented. . . .

The precise time at which one era ends and another begins is difficult to pinpoint, but most who were there when it happened point to the 12-month period that began in the summer of 1972. . . .

Certainly the most conspicuous result of the Great Grain Rush that began in 1972–73 was the rapid and virtual depletion of government-owned inventories of grain. The 367 million bushels of wheat owned by the CCC in the summer of 1971 was reduced, within two years, to less than 19 million bushels—a reduction of 96 percent. Even more dramatic was the clean-out of corn from government bins. In that same time period, the CCC inventory was cut from 718 million bushels to 8 million bushels—a reduction of 99 percent. For the first time in two decades, the CCC was able to sweep the warehouse floors. . . .

While historians will undoubtedly focus on the fact that the government got out of the grain business, economists are likely to regard the effect as the more significant development—specifically the long overdue revitalization of a free market for U.S. agricultural commodities, a market where supply and demand are once again permitted to speak the language of price, a market where consumers can signal their desires to producers and producers can respond. It is a system which had helped to make American agriculture great in the first place but which for far too long had been muzzled and managed to suit the purposes of politicians.

Once the oppressive government stocks were exhausted, the ability of a free market to work when allowed to work was quickly demonstrated. The proof came the very next year. With better than average balances in their bank accounts from the sale of their 1973 crops and an indication—via the futures market—of continued attractive prices, farmers in the spring of 1974 planted more acres and poured on more fertilizer than ever before. This despite the knowledge that their production costs would be the highest in history. The result is now a matter of record. Notwithstanding a drought, excessive rains, and freezing weather—all at the worst possible times—the American farmer produced ample supplies of food for domestic use with enough left over to export another $21.6 billion worth.

How did it happen? I submit that there is only one answer: The incentive of price, promised and delivered through a free market. In the absence of reasonable price assurances, farmers would not have risked the money to produce in such abundance. It's that simple. . . . let me expand briefly and somewhat bluntly on the theme of Farm Exports: America's new super strategy.

It is a workable strategy. It is a sound strategy. It is a timely strategy. But perhaps most important, it is a necessary strategy.

The time has come to face hard facts about the world we live in. It is a rapidly changing world—politically and economically. Especially economically. Where once the dollar was worth whatever, in effect, we decreed it to be worth, today it is worth what others decree it to be worth—hardnosed currency traders who salute only the flag of value. In the world of industrial competition, such previously All-American words as "efficiency" and "productivity" are no longer All-American words. In one industry after another—from electronics to textiles to machine tools to heavy equipment to consumer goods—we are no longer the "only kid on the block." Neither, in too many cases, are we the toughest kid on the block. Where once the notion of economic extortion by a ragbag oil cartel would have seemed like a fantasy from Arabian Nights, it is today a reality called OPEC. And it clearly intends to remain a reality. . . .

This brings us to the ultimate reality of the 1970's and the 1980's. Namely, that if this nation is unable or unwilling to compete and compete effectively in world markets that we no longer dominate and no longer dictate to, our economic prospects are indeed bleak. Unless we sell as much or more than we buy, the value of the dollar in world markets will further erode. What we must buy will then cost more. And our imbalance of payments will widen. And the dollar will erode still further. The bottom line of such a downhill cycle isn't pleasant to contemplate.

One thing that more people ought to contemplate, though, is the fact that we are presently removed from such a cycle only by the existence of farm exports—exports at a level attained only during the past several years. The farm sector of our economy is literally "carrying" the nonfarm sector. . . .

What does this mean? It means, quite simply, that the *non*-agricultural sector of our economy had a $10 billion balance of payments *deficit* while the agricultural sector produced a $12 billion trade *surplus*. Because of farm exports—and *only* because of farm exports—we ended the year with a $2 billion net surplus instead.

Agriculture is proud of its contribution—What they *are* asking for is the preservation of a free market system that enables them and encourages them to compete effectively. And they are asking for myopic politicians and greedy union leaders to keep off their backs.

Given this, they can out-compete, out-produce, and out-sell any farmer anywhere in the world. And that's a claim that not many industries in this country can make right now. . . .

Such an increase in export sales—and a roughly proportionate increase in export earnings—is also within the realm of *demand* possibilities. Expanding populations and rising per capita incomes are expected to provide the need, the desire, and the buying power to purchase ever-increasing quantities of food in the years ahead. This country, if we refrain from making too many mistakes in the meantime, has the resources, the tools, and the talents—the competitive edge—to remain the principal seller. . . .

Ours is a *renewable* resource. Moreover, while their resources will eventually diminish, as eventually they must, our ability to produce food is limited only by the barriers of scientific know-how. Year by year, these barriers are being moved forward. Slowly at times and rapidly at others, but always forward.

Now for the bad news. Neither the fact that we *can* maintain and increase our export sales nor the recognition that we *must* is any assurance that we *will*. To the contrary. If the frighteningly low level of economic literacy exhibited in recent weeks and recent months by some of our politicians, bureaucrats and labor union bosses is a harbinger of the obstacles that lie ahead, there is a very real danger that we may bungle it. Pogo of comic strip fame said it as well as it can be said: "We have met the enemy, and he is us."

Probably the most pervasive domestic threat to the continuation and expansion of agricultural exports is the recurring contention that such sales are a major cause of inflation, and that they should therefore be curbed, at least until the American populace has had its opportunity to eat cheaply. What's wrong with this argument is that it is wrong. . . .

But the "farm exports cause inflation" crowd grossly overstates its point and misses several others entirely. Case in point: You may recall that several years ago a highly organized and vociferous group of bread and biscuit bakers implored Congress, the White House and whoever else would listen to "do something quickly" about wheat exports. They wanted an embargo. Without it, they warned, bread would soon cost a dollar a loaf. It was so preposterous and so hysterical an exercise in wolf crying that it strained the credulity of even would-be backers. Nevertheless, it was front page news. . . .

Possibly because they have never really understood the mechanisms of a free market, apostles of "exports-cause-inflation" ignore the fact that the effect of increased demand on price is generally a *short-term* effect—for the simple reason that higher prices are a signal to producers to increase production. And in the absence of a further expansion in demand, increased production generally brings lower prices, or at least restores price equilibrium. It's part of a theorem called supply and demand, and when politicians abstain from meddling with it, it usually works quite well.

Finally, those who have a knee-jerk reaction to every announcement of an export sale fail altogether to address themselves to a key question: What is the inflationary impact if we do *not* export? I would refer them to any expert economist who can explain the A-B-C's: (A) Reduced exports mean a less favorable balance of trade unless offset by reduced imports. (B) A less favorable balance of trade, in the present system of variable exchange rates, means a decline in the value of the dollar relative to other currencies. (C) A decline in the value of the dollar relative to other currencies means that the things we import *cost* us more. It also means that people in other countries tend to buy more things that are produced in this country and that, too, contributes to our inflation.

The simple fact of the matter is that the overall net impact of food exports is *anti*-inflationary rather than inflationary. . . . That being the case, it is probably futile to try to explain that the converse of the above is also true: Namely, that as we export more, the value of the dollar on international currency markets is *strengthened*. . . .

Earlier I made the point—and said I wanted to return to it—that except for our newly attained level of farm exports this country's recent recession might have begun sooner, slumped further, and lasted longer. It is as ironic as it is disturbing that some of the people who have been screaming the loudest about recession and unemployment have been simultaneously doing their best to undermine this nation's strategy of maximum farm exports. They either haven't checked the facts or have chosen to ignore them. . . .

If the various allegations being made about the economic effects of farm exports defy the facts, the "solutions" being suggested defy even common sense. In addition to being unworkable, many are downright dangerous. Example: The way to limit price increases in agricultural commodities is to control our exports. That means *limiting* our exports. The list of what's wrong with this classic illustration of kindergarten economics is so long that I will touch on just a few of the things.

First of all, it implies that the United States is somehow in a position to dictate world prices. And it assumes that we can somehow live blissfully in a kind of economic vacuum. Neither is the case. . . .

Department of Commerce in 1973 clamped an embargo on the export of soybeans when the world price had risen to Washington's political panic point of $11 a bushel. The price in Rotterdam promptly rose to $17 a bushel. In today's highly interdependent economic environment, the notion that there can be one market for the United States and another, separate, market for all other nations holds about as much water as a bottomless bottle. We might also bear in mind that by imposing unilateral, selfish restrictions on the *$20* billion of farm commodities that we export, we are inviting in-kind retaliation by suppliers of the $100 billion worth of goods that this country must *import*. Trade is a two-way street and so are trade restrictions.

Secondly, the reaction to U.S. export controls by those countries that rely on us as a supposedly "dependable supplier" is Disaster with a capital "D". Not long after we embargoed soybean shipments, I was in Japan—our largest single cash customer—and visited with one of that country's leaders. The subject of the embargo came up; and, although I don't understand a half dozen words of Japanese, I didn't need the translator to tell me his reaction. He and a lot of other Japanese, many of whom consume soy protein in their daily diets, were indignant in the *nth* degree that soybeans were being withheld from Japanese children so that they could be fed instead to American hogs.

The reaction didn't stop with indignation. Jolted by the unexpected U.S. cutoff, the Japanese and Germans promptly began offering other could-be suppliers tens of millions of yen and deutsche marks to finance an expansion of production. Brazil, for one, was an anxious and willing taker. This year, with a crop estimated at 330 million bushels—four times larger than it was four years ago—Brazil will meet the demand for roughly 25 percent of the world market for soybeans. It is a market that this country could once call virtually private property. By 1980, Brazil expects to have a soybean harvest of 600 million bushels.

Our government must somehow learn that the age-old law of science—that every action has an opposite reaction—can also apply to economics. But in economics, the long-run reaction may not be equal to our short-sighted action. It may be worse.

Thirdly—and I'll not dwell further on the point—there is a definite limit, which we are rapidly approaching, to how many more times the American farmer is going to be willing to have the rug pulled out from under him in mid-season. . . . No sooner is the corn tasseled than word comes from Washington that the President of the United States has consulted with the President of the AFL-CIO and that *free market* has been, well, "redefined." If this is what our political leaders mean, then this is what they ought to say, so that the farmer can plan accordingly. . . .

As to whether economic misunderstanding or political interference poses the greater threat to a successful export strategy, I can only observe that the contest is still going on. A number of recent proposals containing elements of both—including several, unfortunately, by this country's Secretary of State—are especially disconcerting. . . .

We would then find that the same "experts" who brought us the soybean embargo, who deliver our mail, and who avoid cost overruns in the Defense Department were in charge of planning and managing our export programs. That's scarcely an encouraging prospect. As Secretary of Agriculture Earl Butz recently observed, "The experience of government in business has not been a happy one." I certainly know of no way of putting it any more kindly than that.

Admittedly, a free market will never please all of the people all of the time. Sellers like high prices, and buyers want low prices. The beauty of a free market is that it provides the mechanism whereby sellers and buyers are in continuous communication—negotiating, in effect, what is needed, when and where it is needed, and what it is worth. . . .

Suffice it to say that a free market is working infinitely better. For all of us. It is also

working better, the evidence would indicate, than the systems of those nations that must rely on the American farmer to put food on their tables. I hope we will have the wisdom to keep it working.

HOW AMERICANS VIEW THE ECONOMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. HAMILTON. Mr. Speaker, I include my Washington report entitled "How Americans View the Economy:"

HOW AMERICANS VIEW THE ECONOMY

Americans are having some unusual thoughts about the nation's economy, according to top pollsters.

They believe that the party may be over. They are deeply dissatisfied with the current performance of the economy. The great American dream that every year will be better than the last year has faltered. Inflation, the lack of progress in solving the country's economic problems, and an unease about the energy crisis have sapped their confidence and their expectations. Their mood about the economy is neither happy nor optimistic.

They are not only benumbed, they are increasingly skeptical about the ability of government, or any politician, to diagnose and cope with economic problems. Any politician who glibly talks of having restored public confidence in the economy is deluding himself. The public knows politicians are not dealing effectively with wage, price, energy, and job problems. They are tired of politicians who promise the world in benefits, and any politician is going to have to work hard to convince the voter that he understands economic problems and knows what to do about them. By and large people see government as ineffective and inefficient in dealing with the economy. Not only is government unpopular, but so is big business, and the perception is that neither is taking sufficiently strong steps to deal with the nation's economic problems.

Recent signals of possible high price increases have caused a resurgence in Americans' fears about inflation, and these fears have caused them to act cautiously and to save more. Inflation, and particularly food and fuel inflation, has the most significant impact on changing their confidence in the economy. It will probably take a sustained period of good economic news, especially in the food and fuel sectors, before they will make the kinds of purchases necessary for the economy to recover from the present recession.

Americans exhibit a growing interest in the quality of life rather than in the accumulation of material possessions. This interest in quality is significant. It means that they are confronting the reality that the raw materials of the world are finite and that some, such as oil, are running out. Their consciences are awakened by the fact that as 6% of the world's population, Americans consume an estimated 40% of the world's raw materials. The public opinion polls indicate that many Americans are more prepared to change their ways of consumption, to cut down on waste, to be generous with food, to make a sacrifice, and to accept new initiatives to deal with economic problems.

They are willing to accept economic policies that are more radical—not necessarily radically left or radically right, just radically different—than recent economic policies, and they are willing to see the government try some policies that have not been tried before. Ideology is less important than it once was, if it is not dead. They are dealing with each issue on its merits, and they are not reacting with knee-jerk responses on an ideological basis.

The problem for the politician, though, is that the public does not send clear signals as to exactly what policy should be. People want reduced deficits, increased spending, particularly for health care, aid to the elderly, and education, and they want, above all, economic policy that will work. They may be deeply disturbed by the economy, and they may be crying out for action, but they are also suspicious of government, wary of proposed changes, and reluctant to take risks. Essentially, they have been badly scarred by inflation, and the turn that the economy takes will depend in large measure on whether inflation can be brought sufficiently under control to restore their confidence in the economy and the government's ability to deal with it.

These surveys do have policy implications. In contemplating new policies, it is important that the President and the Congress do not add to the fear of inflation. We must find ways to reorder spending priorities and at the same time calm the fear of inflation. In my mind, at least, these surveys raise serious doubts about the extent to which tax cuts may actually stimulate the economy. They suggest that the best way to restore confidence and stimulate the economy would probably be to stabilize or reduce food and fuel prices. They also suggest that if inflation and high unemployment persist, Americans will accept more government intervention in the economy and will be willing to accept wage and price controls, for example, although such controls are not the preferred way of dealing with inflation. A guaranteed federal job program also appears to be favored by a substantial majority of Americans. It is also apparent that while the public may accept federally-set general goals for the economy, people strongly resist government management of the economy but believe that business does need government to keep an eye on it.

The clearest signal that comes through from these surveys, apart from the frustration with the economy, is the strong support that exists for any economic policy, no matter what the label, that will keep inflation under control.

VOLUNTEER EFFORT BRIGHTENS HOLIDAY SEASON FOR HANDICAPPED CHILDREN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. SOLARZ. Mr. Speaker, this past Saturday I had the pleasure of attending one of the most meaningful affairs of my public career. The occasion was a Christmas-Chanukah party for almost 40 handicapped children sponsored by the Amalgamated Transit Union, Local 1181–1061, which represents drivers and matrons for the Varsity Bus Co., in Brooklyn.

The party was entirely a volunteer effort—the food, entertainment, and gifts were all donated by the drivers and matrons. They worked late into the evenings making the arrangements and decorating the hall. Their only reward was to see the children, ages 6 to 23, each of whom are physically or mentally handicapped, have the time of their lives on Saturday afternoon. But for these volunteers, that was enough.

It is truly rare to find, in 1975, such spirit and dedication toward helping those not so fortunate. The work of these 330 individuals is deserving of the highest praise, but their real tribute was the joy in the eyes and on the faces of the children last Saturday afternoon.

COMMENDING THE BICENTENNIAL CELEBRATIONS OF TEMPLE CITY

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. ROUSSELOT. Mr. Speaker, the commemoration of our Nation's 200th anniversary is important not only for the country as a whole, but for each community and individual citizen. It is right and proper that we take the time to reflect on and rededicate ourselves to the principles of the U.S. Constitution upon which our Nation is founded.

Cities and towns throughout the Nation are making special plans to observe our Bicentennial and I would like to share with my colleagues the accomplishments, events and plans of a city in my congressional district, Temple City:

1976

January 30: Festival of Foods, Bicentennial Dinner, Folk Dancing. Memorbilia on display include period clothing, kitchen items, etc. of yesteryear.

February 27, 28, 29: 31st Annual Camellia Festival and Parade. Theme: "Happy Birthday, America", William Harker, Chairman, Rosemarie Gorman, Secretary.

March: Temple City High School Annual Drama. Essay, Literature and Poetry Contests, Woman's Club of Temple City, Louella Swain, Chairman.

April: Bicentennial Patriotic Display—American Savings and Loan by the Temple City Creative Arts.

April 12 thru 16: Easter Market Place—Easter Week, Open Forums, Noon meetings. Churches update Religious Heritage—Churches of Temple City Free to public. To be held at the First United Methodist Church 5957 N. Golden West.

Arbor Day: Girl Scouts—to plant tree in Temple City.

May: Merchants Windows—Patriotic Paintings, Temple City Creative Arts Members.

1976

May, Any Sunday: Bicentennial Tea to be held at one of the oldest residences in Temple City, Quota Club of Temple City, Beulah Johnston, Chairman.

Date to be set: Community Variety Show—presented to the public by the Bicentennial Commission. Local talent used, dancers, singers, choirs, musicians, seamstress work, stage settings, etc. Open to citizens joining the Bicentennial Committee, and will be presented to the public free.

June: Bicentennial Patriotic Painting Display, Temple City Library.

June 14: Dedication and unveiling of the Heritage Obelisk, Temple City Park, 3 p.m.

June 14 thru July 4: Community to fly American Flags, daily thru this period. Flags put up and taken down daily by the Host Lions Club of Temple City. They also do the same for every legal holiday or special event—year in and year out.

July, 1976: Bicentennial Patriotic Painting Display at the Temple City Library by the Temple City Creative Arts Members.

4th: Old Fashioned Community Picnic—Live Oak Park. Music group—old fashioned games, ice cream social, craft of historical society to be demonstrated. Temple City Chamber of Commerce. Marie's Weavers—Demonstraters of early crafts, cording spinning of wool, weaving—basket making, loom weaving, off loom weaving, macrame. Maude Parkhurst, Chairman. Ring bells all over the world.

MISCELLANEOUS

May 1: Law Day possible celebration—Mock trail panel to debate pertinent issues. San Gabriel Bar Association and San Gabriel Valley Legal Secretaries Association.

History of American Women 1900 to present in drama form to be presented to PTA's, Service Groups, Youth Groups, etc., in early '76.

Jeweled Bicentennial mosaic 18" x 24" will be presented to a local organization—July '76.

To participate in SLOGANS, USA, a general Federation of Woman's Club National Project.

Junior Woman's Club of Temple City, Mrs. Robert Wohlford, President, Mrs. Jerry Gallagher, Chairman.

To assist with Obelisk planned for Temple City Park.

Pilot Club of San Gabriel Valley, Inc., Mrs. Norma von Haverbeck, President.

Rotary, Jaycees, First United Methodist Church, Wish to help in any way possible.

Bicentennial Mosaic Monument—Obelisk a pyramid to be made of concrete and covered with mosaic murals depicting the history of Temple City. Ideas to be selected from suggestions—the Temple City schools. Temple City Creative Arts in charge. Judy Magnela, Chairman, Betty Brush.

American Essay Contest in Temple City Schools honoring Gold Star Mothers.

Girl State contest—Education in Government.

American Legion Auxiliary, Unit #279.

Proposed—Bicentennial Choir to use musicals written by well known composers, Forrest Pershall, Director.

Church of the Nazarene—July Picnic, Rev. Bryan Cuthill, Chairman.

Tours to be proposed for Casa Robles, Nazarene Missionary Retirement Center, oldest residence in Temple City.

In Progress: Bicentennial quilt—King size depicting signing of Constitution, Abraham Lincoln, George Washington, Astronauts, etc.

Woman's Club of Temple City, Mrs. Wm. Matthews, President, Mrs. Waldon Calamia, Chairman.

June 14 thru July 4: Schools (teachers & students) and Business personnel to attire in period clothing.

Interview citizens of yesteryear and youth of today. Compile for newspaper history and for copy in the Temple City library. Soroptimists of Temple City.

Indian Heritage Programs and Annual Dress Award. YMCA Indian Guides and Indian Princesses.

Memberships offered to the whole community in the Temple City Bicentennial Commission—Cards and Decals given.

Flags may be purchased thru the American Legion Post 279, John Shaw, Jr., Chairman.

Business and Professional Women's Club chose the winner—Bicentennial Theme, for Temple City Camellia Festival.

Temple City Bicentennial Committee, Mrs. Waldon Calamia, Chairman, Mayor Louis T. Gilbertson, Vice Chairman.

THE SIGNS ARE SURRENDER—THE THAILAND DOMINO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. McDONALD of Georgia. Mr. Speaker, while the U.S. policymakers keep their heads in the sand, Thailand slides toward disaster. Mr. Robert Morris, in a recent column, dated Bangkok November 4, 1975, outlined the seriousness of the situation. For those who continue to believe that fighting and dying ended with the departure of U.S. military forces from Laos, Vietnam, and Cambodia, they have another thought coming. The column follows:

THE SIGNS ARE SURRENDER

(By Robert Morris)

As we make our exodus from Bangkok, the flood waters are now taking on emergency proportions. Most of the main thoroughfares are under six to eight inches of water. Three days hence the tides will crest.

The excellent Bangkok Post features a picture of Governor Dhumnoon, pants rolled up, in a state of profuse embarrassment. He is being criticized for accepting an invitation of the "Lord Mayor of Moscow" instead of attending to the flood water in his own city.

The same issue of the paper carries a lead story headed "Fear Grips Police Station"—an account of guerrilla successes in the southern provinces.

We were not able to see our Ambassador Whitehouse who was negotiating with the Thai Foreign Minister and agreeing to have all U.S. troops out of the country by March.

The Thai government is hailing the resumption of diplomatic relations with Cambodia despite the account carried here of how the Khmer Rouge notified "thousands" of Prince Sihanouk's top supporters of his arrival in Phnom Penh only to have them ambushed, bound and executed en masse. This is an act of treachery after the fashion of the Russians luring the Polish underground to attack the Germans in 1945 on the false report of the Red Army attack.

The Chinese Communists have built their military roads almost to the Thai border. There are three areas of insurgency-all waxing. Controversial refugees are being expelled after ukase from Laos.

This is so different from the Bangkok I visited many times prior to 1972. Then the Secretary General of SEATO held forth. The Thai leaders were strong allies of the United States. Bangkok was the seat of ASEAN which was becoming a shield for collective security.

All of this has changed. People remind us that in World War II when the Japanese threatened, the Thais quickly capitulated and accepted occupation. What else can they do? Their army is nondescript. Their history is one of conciliation and accommodation. The United States is retreating.

There is one advantage, however. When the Communists move into Thailand and Malaysia they are moving into the Malay world. Animated by Muslim convictions, the people present a whole new challenge and I am sure the planning lights are lit through the Indochinese nights.

These signs of retreat here are plentiful. This is a different Far East from the one I knew before the Kissinger-Nixon journey to Peking.

We keep looking for bright spots, however. In Hong Kong the word is out that all swimmers from the mainland are being turned back to be executed. But still they try. We were told while we were there that fifty are being sent back every week. But more than that succeed in eluding interception. It is this realization that the human spirit cannot be denied that gives us hope.

THORNTON WILDER

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. GIAIMO. Mr. Speaker, I am saddened to note the death in New Haven, Conn., on Sunday, December 7, 1975, of Thornton Wilder, three-time Pulitzer Prize Winner, recipient of the National Book Award, holder of many individual honors, and truly one of the most gifted writers of the 20th century. He was one of Connecticut's most distinguished citizens.

Novelist, playwright, lecturer, and scholar, Thornton Wilder achieved in his lifetime a well-earned reputation the world over, both among literary critics and the general reading public. At another level of activity, to thousands of prep school and college students, he was a brilliant lecturer and effective teacher.

Few of us who read his works in high school will forget the intriguing intellectual puzzle presented by Mr. Wilder in the mysterious ending of "The Bridge of San Luis Rey." Nor will we forget the humanism and the personal involvement we experienced with the people of "Our Town" and the imaginative constructions of "The Skin of Our Teeth." But his literary reputation continued to grow and stir critical debate with his later works, the last of which, "Theophilus North," was published in 1973.

Thornton Wilder was also loved by his neighbors, his friends, and his fellow-townspeople for his friendly manner, his warmth of personality, his patience with all people. Up until recent years, when illness first slowed him down, Thornton Wilder was a familiar figure in the greater New Haven area, on campus and off, in stores and restaurants, and other public places.

Thornton Wilder is dead at the age of 78. The New Haven (Connecticut) Register has published a fitting obituary of this "literary genius." I now insert it in the RECORD at this point:

Private burial services will be held for Thornton Wilder, three-time winner of Pulitzer Prizes for his writing, who died at his Hamden home Sunday night at the age of 78.

Memorial services are being arranged for the playwright, novelist, teacher and traveler who may have suffered a heart attack while napping at the Deepwood Drive home he shared with his sister, Isabel.

Wilder was pronounced dead upon arrival at St. Raphael's Hospital.

Among numerous works written during more than half a century, Wilder produced, in 1928, the novel "The Bridge of San Luis Rey," and two plays, "Our Town" in 1938 and "The Skin Of Our Teeth" in 1943. All were Pulitzer Prize winners.

He also authored "The Matchmaker" which, as "Hello Dolly," became the longest running Broadway musical.

In 1963, Wilder was awarded the Presidential Medal of Freedom, the nation's highest civilian citation, and in 1967 he was the first recipient of the National Book Committee's National Medal for Literature.

Wilder was awarded The New Haven Register Connecticut Citizen of the Year citation in 1968, in which it was said, "Few men have written so eloquently about what it is to be an American. Few men have practiced so faithfully the politics of hope."

Amos Tappan Wilder, a nephew, said Wilder had been in poor health for several years but has continued to travel occasionally.

His attitude tended to be Olympian, his writing simple and realistic, his stage settings stripped to bare essentials—a few chairs and a table.

"The whole purpose of literature," he said, "is the notation of the heart."

In "Our Town" he portrayed the life of a family in the town of Grover's Corners, N.H., a microcosm which could have been any small town in virtually any country.

"I have no patience with people who say they love nature and go out to look at a field on a Sunday afternoon. Our families, the way we live with our fellow man, are a part of nature, too," he said in a 1962 interview.

"Skin of Our Teeth" is a satirical play about how the Antrobus family of Excelsior, N.J., survived the Ice Age. It optimistically proclaimed during World War II that man has repeatedly escaped holocaust and was likely to keep doing so.

In "The Bridge of San Luis Rey," written in 1927, he examined what happens when people are brought together by chance as a result of catastrophe. It was widely acclaimed and brought him instant fame.

"Wars and human disasters come from the ugly unresolved things in us, just as earthquakes come from ugly unresolved things in nature, the cooling of the earth's crust," he said.

Of his method, he said. "I write first as if I were writing about people I know. Then I do my research after I write—not before."

He wasn't afraid to experiment, once even attempting an opera.

"Every form is a restriction . . . but a restriction can be a challenge," said Wilder, whose hobbies included playing the piano.

Thornton Niven Wilder was born April 17, 1897 in Madison, Wis., the second of five children of Amos Wilder, editor of a newspaper. When he was 9, his father was named consul general in Hong Kong and later Shanghai, and Wilder attended German and English schools in China. He later went to schools in California. His first literary effort was scribbled in an algebra book: "The Russian Princess, an Extravaganza."

"Quadratics in those days could be supported only with the help of a rich marginal commentary," he later quipped.

Wilder studied at Oberlin College and spent a year in the Coast Guard before graduating from Yale in 1920. He taught French for several years before obtaining masters degree from Princeton in 1926.

He studied archeology in Rome and wrote his first novel, "The Cabala," about the city. It was published in 1926, the same year his first play, "The Trumpet Shall Sound," was produced.

Wilder later taught at the University of Chicago from 1930 to 1936 and held an honorary professorship of poetry at Harvard in 1950–51.

During World War II, Wilder served with the U.S. Army Air Forces Intelligence in North Africa.

Wilder, who never married, was a dapper dresser known for his charm and wit. He spoke French, Italian, German, Spanish and told an interviewer when he was 65 that he might just take up Russian.

Wilder didn't believe a man should spend much time in his own personal past. In a 1958 interview, he said: "I erase as I go along. I look forward so much I have only an imperfect memory of the past.

"When your eyes are directed to the future, you have no hurt feelings over the praise or criticism of the moment—because, moment by moment the present becomes the past. You have the sense of forever beginning your career, of trying to offer something new to interest the community."

"I am interested in the drives that operate in society and in every man," he said in 1961. "Pride, avarice and envy are in every home.

"Because we live in the 20th century, overhung by very real anxiety, we have to use the comic spirit. No statement of gravity can be adequate to the gravity of the age in which we live."

In addition to his sister and nephew, Wilder is survived by a brother Rev. Amos Niven Wilder, Hollis Professor of Divinity Emeritis at Harvard; three sisters, Charlotte of Brattleboro, Vt., and Janet Wilder Dankin of Amherst, Mass., and a niece, Katherine Dix Wilder of New Haven.

A memorial service will be announced later. Burial will be private.

CHAMPUS SERVICES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mrs. SCHROEDER. Mr. Speaker, when the House considered the Defense appropriations bill, H.R. 9861, it deleted a number of services from the civilian health and medical program of the Uniformed Services—CHAMPUS. In Senate action on the bill, however, services of family and child counselors, marriage counselors, and pastoral counselors, as well as services by optometrists for nonsurgical eye care, were approved.

I am happy that the House and Senate conferees have basically adopted the Senate position with the proviso that services will not be paid by CHAMPUS if available in military facilities. I think that this proviso is consistent with CHAMPUS policy. In rejecting the House position the conferees have reaffirmed the congressional intent to cover the services of these counselors under the CHAMPUS program.

After the CHAMPUS cutbacks were announced February 28, 1975, 12 colleagues on the Armed Services Committee joined me in writing the Department of Defense requesting an explanation of these changes in policy. I agree that expenditures must be held down as much as possible, but not at the expense of ignoring the needs of our Armed Forces families. Yet, officials of the Department of Defense have sworn under oath that these proposed CHAMPUS cuts will be likely to have the opposite effect.

Children and families are important. The deterioration of the American family is seen in the divorce rate. The first nationwide survey of child abuse recently indicated that child abuse has reached epidemic proportions. More than a million children suffer physical abuse or neglect each year and about one in 500 youngsters die from mistreatment. Yet in view of these facts, the Director of the National Institute of Mental Health has projected a shortage of 10,000 psychiatrists by the year 1981. Because of this manpower shortage in the mental health field, and our commitment to the families of the military, failure to pay for the services of trained and certified counselors would represent a retreat from the original intent of CHAMPUS legislation.

NEW YORK IS A STATE OF MIND

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. LEVITAS. Mr. Speaker, I would like to call to your attention a recent article in which Professor Irving Kristol brilliantly explains why a $2.3 billion Federal bailout of New York City will not and cannot succeed. As Professor Kristol notes, Federal aid is not the answer to New York City's problems, because "New York's crisis will end up where it began: with the politics of the city and the state of mind that has bred this politics" and "unless and until this state of mind is itself reformed, the city will move inexorably toward that destiny which it seems to have chosen for itself; to be a moral theater for the affluent, an urban reservation for the poor."

The point Professor Kristol raises is compelling: governmental actions which may seem to be beneficial to the poor in the short term, may actually prove harmful to them in the long term as well as being financially disastrous for the city. This lesson is not confined to New York City but applies to all our cities and to all levels of government. Governmental generosity untempered by wisdom and responsibility is a prescription for financial ruin.

The article follows:

[From the Wall Street Journal, Dec. 11, 1975]

NEW YORK IS A STATE OF MIND

(By Irving Kristol)

In the December 1st issue of The New York Post, there appeared a full-page ad by the New York State Nurses Association. Protesting anticipated budget cuts, the ad declared in bold type: "We reject the philosophy and policy that 'a little health care is better than no health care'." It's a marvelously absurd statement, and the fact that educated people in New York can solemnly make it and solemnly listen to it tells us much about the roots of New York's crisis.

That crisis endures, despite the last-minute infusion of federal aid. That aid may avert a cash-flow crisis over the next three years. One has to put it so tentatively because (a) it assumes that the agreed-upon budget cuts will in fact be made, and (b) it assumes that the calculations behind the new budgets are honest and accurate. Both assumptions are questionable, to put it mildly. Already, the organized interests in the city are mobilizing to see to it that their particular constituencies do not suffer from any cuts in expenditures. And the income estimates rather blithely ignore the city's deteriorating tax base—a deterioration that will, unfortunately, be accelerated by the new taxes which were a condition of federal aid.

Even if a cash-flow crisis is averted, however, the harsh fact remains that, after the three years are up, New York will still be in a critical condition unless it can then sell its paper in the financial markets. A city cannot survive merely by balancing its operating budget; it needs a capital budget and capital expenditures, and in the absence of a huge cash surplus—which no one foresees—these will have to be financed by debt. Will there be anyone to buy New York's notes and bonds? The answer to that question depends on whether the rest of the nation has any faith in the creditworthiness of New York's people and politicians. So, finally, New York's crisis will end up where it began: with the politics of the city, and with the state of mind that has bred this politics.

It is a state of mind not peculiar to New York. It is visible, in varying degrees, in other parts of this country too, as well as in Britain, Canada, Australia, Argentina, Italy, and the many political communities whose economic troubles are largely of their own making. But in the United States this state of mind, though prevalent enough, is not dominant. In New York City its dominance is absolute. That is the difference and helps explain why New York's "urban crisis" is not quite prototypical—even though many New Yorkers self-righteously and self-servingly declare that it is.

THE UNIONS' ROLE

The nature of this "urban crisis" is widely misperceived, even by astute observers. It is frequently said, for instance, that it is the excessive power of the municipal unions which is at the heart of the matter. But New York's municipal unions are no more belligerent or acquisitive than unions elsewhere; nor do the union members necessarily vote for candidates their unions endorse; and several of the leaders of these unions—notably Albert Shanker and Victor Gotbaum—are among the most thoughtful and moderate of their class. The city's unions never did have the brute power to impose their will upon the body politic. The extraordinary benefits which have accrued to their members were conferred by the political leaders of the city and state, who believed they were doing the "liberal" and "progressive" (as well as electorally advantageous) thing. And the state of mind that prevails in New York ratified and legitimated their generosity.

I well recall having dinner with a municipal trade union leader who had just come from a final bargaining session. He was pale and ashen. "Have things gone badly?" I inquired. "Terrible," he replied. "They actually gave me everything I asked for! What in God's name am I going to do next year?"

Nor is it the case, as is often claimed, that New York has a huge "underclass"—on welfare, mainly—whose votes are so decisive as to make fiscal responsibility an impossible ideal for the politician. To begin with, the welfare population tends to vote not at all, or infrequently, and rarely votes as a bloc. Moreover, this "underclass" is not a distinct and coherent body of citizens; it is an impermanent, fluctuating population whose very size is determined by the city's social policies and whose "militancy" is usually manufactured at official request. New York's poor don't go around talking about "blood in the streets" if this or that isn't done upon demand. It will mainly be *their* blood, after all, and they know it. It is our politicians and our media who talk so provocatively.

No, there is nothing unique about New York's unions or New York's poor—or, for that matter, about New York as a city. It is an old, industrial city and it faces the many serious difficulties which all of our older, industrial cities confront: industry and jobs are gradually moving out, the tax base is eroding. No one has yet figured out what the future of such cities will be. (In contrast, such "post-industrial" cities as Los Angeles, San Diego, Houston, Dallas, Phoenix, etc., while they do have problems, seem also to have an assured future.) But there is nothing about New York's socioeconomic condition that is startlingly different from the conditions in a dozen other large cities which are *not* facing bankruptcy.

One will hear presumably sophisticated New Yorkers say otherwise—in newspaper editorials, television commentaries, magazine articles, and elsewhere. One will hear, for instance, that whereas New York City bears all of its welfare costs, other cities have no such burden at all, welfare being entirely a concern of the county or the state. This, of course, is nonsense. First of all, New York pays only one-quarter of its welfare costs with the federal and state governments paying the rest. Furthermore, this complaint confuses the mechanism of collecting taxes with the incidence of taxation. Though hard figures are impossible to come by, it is most unlikely that the taxpayers of Chicago or Los Angeles are being given a "free ride" on welfare by their generous suburban neighbors. They are just bearing the tax burden of welfare in a different way.

But New Yorkers prefer to believe that they are special victims of discrimination on the part of Washington, or Albany, or History. They *need* to think that, because otherwise they would have to reflect seriously, not so much on their condition, as on the state of mind which produced this condition. In short, they would have to become self-critical about their regnant political ideology—and the sad truth is they have become comfortably addicted to this political ideology, and would just as soon not have to face a reality that is at odds with it.

One might call this ideology the politics of compassion, or the politics of philanthropy, or the politics of conscience, or perhaps simply the politics of social democracy. We really do not have a good and acceptable brand-name for it. But we do have a clear enough conception of it. Indeed, its basic premise has been brilliantly articulated by a distinguished Harvard philosopher, John Rawls, in his book "A Theory of Justice"—a book that has made a profound impression on liberal thinkers. This premise asserts that economic inequalities and all social policies are justifiable only to the degree that they benefit the poor and help them become more equal to everyone else. Upper-middle class New Yorkers enthusiastically endorsed this principle long before Rawls articulated it for them. And the actual workings of this egalitarian principle, in the case of New York City, constitute a fascinating intellectual and social experiment.

The results of the experiment are conclusive, I should say: the principle is a prescription for disaster. The flaw in it lies less in its egalitarian goal than in the fact that actions which may seem to be, in the short term, helpful to the poor can be, in the longer term, hurtful to them, And, inevitably, vice versa: policies that, in the short term, seem negligent of the poor can, over the long term, be helpful to them. All that the Rawls' principle of "fairness" means, in effect, is that we will concentrate on apparent short-term benefits for the poor—a view which in any case commends itself to liberal-minded people and politicians who want, not only to *do* good, but to *feel* good and *look* good while doing good. The upshot is a species of infantile liberalism, seeking immediate gratification, spiritually and politically, while laying the groundwork for permanent frustration.

THE CITY'S GREATEST NEED

Thus, it is obvious to everyone who looks objectively at New York's plight that what the city's poor need, far above all else, is jobs, jobs, and more jobs. Since 1967, New York City has lost 470,000 jobs—an incredible statistic, and one far larger than the secular decline of the city's economy would imply. It follows that the overriding purpose of social policy in New York should be job retention and job creation. Unfortunately, achieving this purpose means, in the shorter term, offering encouragement to the non-poor—i.e., to businessmen and business firms. Such a policy is utterly repugnant to those who have an inflamed sense of political compassion. It may end up doing good for the poor, but it does no good whatsoever to affluent men and women who need to feel good while they are seen to be doing good for the poor. Such people cannot postpone their moral gratifications, and this moral delinquency—created by a kind of elephantiasis of the moral sentiment itself—is what makes New York's state of mind so self-destructive.

Instead of emphasizing job creation, New York's liberal elite has encouraged job destruction in the name of social reform. The ways in which it has done so—in which it has made doing business in New York ever more expensive and difficult—are too familiar to recount. What is less familiar is the fact that, at the back of their minds, our reformers sincerely believed they had a viable alternative to job creation in the private sector Two viable alternatives, indeed. One was job creation in the public sector—some 100,000 city jobs were created in the past decade. This, however, has had the unfortunate consequence of bankrupting the city's treasury. The second alternative was a generous welfare program for the poor. This, however, had the unfortunate consequence of attracting large numbers of poor people to New York where they became a dependent and evermore demoralized population which has created enormous social problems.

The failure of New York's political ideology is apparent enough to most ordinary New Yorkers, who always were somewhat skeptical of it. But the political and cultural elites in New York have made a huge investment in that ideology, and are struggling desperately against the prospect of a massive write-off. They cannot believe they did harm when their consciences—magnified and rebroadcast to them by their media—assured them they were doing good. Unless and until this state of mind is itself reformed, the city will move inexorably toward that destiny which it seems to have chosen for itself: to be a moral theater for the affluent, an urban reservation for the poor. And all this in the name of equality.

TAKING ACTION ON ENERGY

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. MEZVINSKY. Mr. Speaker, in the energy conservation and Oil Policy Act, we are laying it on the line to the automobile manufacturers; getting tough with the oil industry; promoting the efficient use of scarce energy resources; and giving the consumer a better chance to save money and energy on home appliances, gasoline, and power. This bill meets the energy problem head on.

We have talked long enough about energy conservation measures. This bill takes action which should improve the efficiency of home appliances by at least

20 percent by 1980. It will phase in minimum auto fuel economy standards which, when fully implemented, will see every new car in America delivering an average of 27.5 miles per gallon; it will give consumers an immediate break on oil prices and it will promote the use of millions of tons of low-sulfur coal which we are not yet taking full advantage of.

I hope that we will approve this vital legislation and see it signed into law by the President.

AMBASSADOR DINITZ'S ADDRESS AT NATIONAL PRESS CLUB

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. BELL. Mr. Speaker, last week the Ambassador of Israel, Mr. Simcha Dinitz, addressed the National Press Club.

Insofar as his remarks may be of great interest to my colleagues in the Congress, I wish to call to their attention the following major excerpts from his address:

MAJOR EXCERPTS FROM AN ADDRESS BY THE AMBASSADOR OF ISRAEL, MR. SIMCHA DINITZ, BEFORE THE NATIONAL PRESS CLUB

TESTING EGYPTIAN INTENTIONS

1. The Arms Build-Up

When Israel signed the Interim Agreement with Egypt only three months ago, it fully realized that this could not be an even bargain. Israel gave concrete and tangible assets; Egypt gave promises and intentions. What Israel gave could be measured in square miles and millions of barrels of oil. What the Egyptians gave could only be measured by the dimension of time. So we knew we were taking calculated risks, but we took them in order to test the peaceful intentions of our neighbors.

That is why our minds and ears were so carefully attuned to every sound and echo that came from across the border. That is why we followed with such great interest every utterance and action of the man who had just signed an agreement with us pledging to renounce the use of force and settle all disputes by peaceful means.

Yet even before his arrival in this country, President Sadat announced that he planned to acquire additional arms from the United States. He wanted to diversify his sources. He wanted to add to the 1.5 billion dollars' worth of arms that he received from the Soviet Union since the Yom Kippur War. Since that war, the Soviet Union sent him planes, tanks and missiles. He subsequently concluded 800 million dollars' worth of arms deals with France, Great Britain and Italy, and recently negotiated another 1.5 billion dollar deal with Great Britain, including the most sophisticated planes.

But when we come to calculate the balance of arms in the Middle East, we must add to it the Soviet arms in Iraq, the increased supply of the most modern Soviet arms to Syria, the 6 to 8 billion dollars' worth of Soviet arms to Libya, and the billions of dollars' worth of western arms to Arab countries, primarily in the Persian Gulf area.

This massive build-up of armaments by the Arab countries is not based on any consideration of balance or political restraint. It is based on the growing capacity of the Arab countries to use their growing oil revenues to purchase implements of war—and the eagerness of the industrialized world to sell these. This poses a serious question: Can this unrestrained accumulation of arms go hand in hand with a policy of negotiations, agreements and peace?

2. Sadat's Anti-Jewish Statements

The second distressing signal came with the utterances of the President of Egypt on Judaism, Zionism and Israel.

It was from this rostrum that Sadat told you that the Jews controlled the economy of Egypt and were directed from Israel not to sell him a radio when he came out of prison. No one asked him why he was in prison to begin with. The fact is that Sadat was put in prison in 1942 for collaboration with the Nazis.

When he came out, he demonstrated that not only had he a lot to learn—but some very important things to forget. And he has evidently not forgotten some of the teachings of his mentors . . .

3. The Resolution that Legitimized Murder

While President Sadat was visiting in Washington, the representatives of Egypt and other countries were busy sponsoring, supporting and defending a resolution, at the United Nations, which labels Zionism as a form of racism.

This infamous resolution was not significant in terms of bestowing credentials upon Jews, Zionists or Israelis—or depriving us of such credentials. We do not need to receive our credentials from any organization—least of all from the United Nations. Our credentials are enshrined in the Bible and in 4,000 years of history. They stood the test of massacres, pogroms, exiles, persecutions and the holocaust. They will withstand the verdict of tyrannical majority at the UN, itself composed of countries which practice military tyranny, autocracy, one-party rule, slavery—and racism.

On the same day that this infamous resolution was passed, two other resolutions were adopted, granting legitimation to the so-called Palestine Liberation Organization to assume rights over "Occupied Palestine," thus making a gang of terrorists, bent on the destruction of another State, legitimate and recognized representatives in the eyes of the UN.

These resolutions established the ideological justification for acts of murder and terror.

If Zionists are racists, then it is permissible to kill them in Zion Square in Jerusalem. If a group of murders has been legitimized, then they believe themselves to possess the license to murder. And, in fact, Radio Damascus announced on November 20:

The Fedayeen are taking a copy of the UN resolutions, mix it with dynamite and TNT, and blow it up in Zion Square.

Only two days ago at the UN General Assembly, the representative of the PLO, explaining the killing and terror conducted by his organization, declared: I must stress that my colleagues were on a mission, a human mission. They were exercising a right approved and confirmed by this august assembly.

And again, Radio Damascus, following the murder in Ramat Magshimim, said on November 23: When the time comes, Syria will know how to cut off the hand of Israel, to expand its graveyards, and to soak the face of Zionism in blood.

This is the atmosphere which the terrorist organizations operate against in Israel, against Jews and against innocent people throughout the world.

ISRAEL'S WAR AGAINST THE TERRORISTS

In the last three months alone, the terrorists have conducted 25 acts of terror—infiltrating into agricultural villages, setting off bombs in crowded cities and shelling population centers. In these few months, Israel suffered 68 casualties, nearly all of them civilians.

Throughout this period, Israel acted with great restraint. It took into consideration the delicate situation that exists in Lebanon. It refrained from striking at the centers of the terrorist organizations, where all these actions were planned, prepared and organized.

But Israel could not allow this situation to continue . . . so we struck at five of the terrorists' bases:

The As-Saika headquarters, which directs the entire terrorist operation from southern Lebanon;

The El-Fatah center near Nabatiya;

The training base for terrorists in the same area;

The training center of the Habash group;

And the headquarters of the Popular Front base of operations.

None of the targets were in refugee camps or in population centers. The regrettable loss of civilian life was due to the unexpected presence of civilians in these camps and bases, and not to any intention, on our part, to hurt innocent people. Those responsible for these unfortunate casualties are the terrorists themselves, who thought to seek immunity by luring these people into their camps and using them as a human shield.

DIRECT TALKS—THE ONLY WAY

The difficult dispute in the Middle East will not be solved by acts of terror, just as it was not solved by the open warfare that was conducted against us by the Arab world. Neither will it be solved by granting recognition to the terrorist organizations. Such recognition will only increase their lust for murder and radicalize their stand.

The search for peace in our area must be conducted through negotiations between the parties, based on the accepted resolutions of the Security Council—242 and 338—and without any prior conditions. . .

SOVIET-SYRIAN-PLO PLOY TO STALL PEACE PROCESS

The occasion of the renewal of the UNDOF mandate, which is an integral part of the Syrian-Israeli Disengagement Agreement, was used for extortion and blackmail. The orderly implementation of this Agreement is in the interest of Syria, no less than it is in the interest of Israel. We have made it clear that we are prepared to extend the mandate but object to any attempt to subvert its agreed basis and the UN resolutions that are the only foundations for any future peace negotiations.

Instead, we witnessed a concerted plot by Syria, the Soviet Union and the PLO to exploit this opportunity and exert pressure to adopt a resolution which burdens the extension of the mandate with irrelevant elements that jeopardize the very possibility of continuing the negotiating process . . .

Israel will not be a party to this futile exercise. The resolution of the Security Council and the statement of the Soviet Chairman represent a prescription for stalemate, not for progress. It serves the interests of the Soviet Union, which wishes to forestall the American initiative. It serves the interests of Syria, which seeks to avoid real negotiations for peace. And it serves the interests of the PLO, which continues to advocate the destruction of Israel as a Jewish State.

CHIEF TARGET: U.S. POLICY IN MIDEAST

Yet it would be folly to believe that the resolution was aimed solely at Israel. Its primary aim was to undermine the basis for an negotiated peace and substitute for it a prescription for an imposed solution.

If this was its main aim, its main target was the policy of the United States, which is trying to bring about peace negotiations between the parties based on the already accepted UN resolutions and terms of reference.

The Russians have tried for a long time to wrestle away the initiative from the US and move it into the arena of the UN. Now, with the help of the Syrians and the PLO, they have succeeded.

Will this act succeeed in destroying the chances for a truly negotiated peace—or will it be only a temporary setback? The answer to this question will depend, to a large extent, on how we all act.

A POSITIVE APPROACH TO THE PALESTINIAN ISSUE

Israel, for its part, continues to stand ready to negotiate a peace settlement with each one of its neighbors. In such peace negotiations, a solution can be found to the question of the Palestinian Arabs. There is no contradiction between the independent existence of Israel within secure borders and the expression of a Palestinian identity in a neighboring independent Jordanian-Palestinian State. The only obstacle that stands in the way of a solution along these lines is the continued resistance in the Arab world to the very existence of Israel as an independent Jewish State.

Progress toward peace will not be promoted by Sadat relegating it to future generations, nor by Assad's refusal to recognize Israel's existence, nor by Arafat's doctrine of terror and the liquidation of Israel.

Progress toward peace will commence when the Arab countries will be prepared to sit down and negotiate peace with the State of Israel.

There is no solution that can be achieved by imposition or force.

There is no problem that cannot be solved through negotiations.

INSTITUTE FOR CONGRESS

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. FOLEY. Mr. Speaker, this past weekend saw the official establishment of the Institute for Congress, a nonpartisan research organization devoted exclusively to providing both Houses of Congress with independent policy analysis of those major issues that confront the Nation.

The institute is organized under the most able leadership of our former distinguished colleague, Martha W. Griffiths, as chairman and William D. Ruckelshaus, the first Administrator of the Environmental Protection Agency as vice chairman. The institute is in excellent hands, and the strength and reputation of the board of trustees indicate that its contribution to thoughtful and thorough policy debate will be continuing and valuable.

The institute will be dependent upon the generosity and support of foundations and private individual citizens. It was brought into being after extensive consultations and deliberations with people both within and without the Congress who shared the common concern of bringing complex policy problems into the framework of order and comprehensive analysis. Anyone who had the opportunity to meet with the organizing committee, Alton Frye, James R. Killian, Gordon J. F. MacDonald, Harry C. McPherson, Jr. and Cyrus R. Vance, can attest to the thoughtfulness and care involved in the development of the institute.

I take great pleasure in joining with many of my colleagues in welcoming the institute and personally look forward to working with it in the continuing effort to more efficiently and comprehensively deal with the problems of public policy that this and future Congresses must resolve.

AMERICANS SUPPORT CONTINUED TIES WITH THE REPUBLIC OF CHINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. CRANE. Mr. Speaker, one of the great success stories in today's world is that of the Republic of China on Taiwan.

Expelled from the United Nations, shunned by a variety of international organizations, diplomatically abandoned by its former friends in Europe and much of Asia, Taiwan continues to thrive.

Consider the economic miracle which continues to take place in Taiwan. Foreign trade for the Republic of China, though briefly slowed by sharply increased fuel prices, in 1974 exceeded the 1973 total of some $8 billion by the end of August, and moved to upward of $12 billion by the end of the year.

A recent survey of family life in Taipei, the capital city, suggests a standard of living unknown on the Communist Chinese mainland and in most parts of Asia. More than half the families live in their own homes, most of the rest live in apartments and only a handful live in government provided housing. For each 100 families there are more than 93 television sets, nearly 80 refrigerators, not quite 5 air conditioners, 40 washing machines, 30 telephones, nearly 35 cameras, and some 65 newspaper subscriptions. Monthly family income averages out at $197.60 while monthly expenses totaled $186.47 out of which $73.97 goes for food, leaving a small balance for savings and investments. What makes these accomplishments most remarkable is the fact that the Republic of China has the highest population density in the world.

The United Nations, which expelled Taiwan in violation of its own charter, is now itself in wide disrepute. The Republic of China has not only provided its people with a high standard of living but has also maintained a society in which there is freedom of religion, and a higher degree of freedom of speech, press, and assembly than may be found in most parts of the world. The ancient Chinese culture, which is being destroyed by the Communists on the Mainland, thrives in Taiwan.

It is essential, as President Ford visits Peking, that he understand the desire of the overwhelming majority of the American people to maintain our strong and close relations with the Republic of China.

The Gallup Organization has just finished a survey on the question of United States-China policy. Seventy percent of those polled favor continuing relations with the Republic of China and oppose the United States withdrawing recognition in order to establish relations with Peking.

President Ford and Secretary of State Kissinger should keep in mind the feelings of these 70 percent—a clear and overwhelming majority. Under no circumstances should we submit to blackmail on the part of the leaders in Peking and abandon our old and loyal friends and allies.

I wish to share with my colleagues the results of the latest Gallup Poll on the subject of United States-China relations, and insert these results into the RECORD at this time:

1. Now that the United States has ended its envolvement in Vietnam, do you think this has or has not led other Asian nations to doubt the value of American treaties and guarantees in Asia?

	Percent
Yes	58
No	25
Don't know	17

2. There has been talk of the United States establishing diplomatic relations with the People's Republic of China—Mainland China. Would you favor or oppose our establishing diplomatic relations with Mainland China?

	Percent
Favor	61
Oppose	23
Don't Know	16

3. We now have diplomatic relations with Nationalist China on Taiwan. Do you favor or oppose continuing formal relations with Nationalist China on Taiwan?

	Percent
Favor	70
Oppose	14
Don't Know	16

4. The People's Republic of China—Mainland China—insists that before the United States can establish diplomatic relations with that country, it must first break off formal relations with Nationalist China on Taiwan. Do you think the United States should or should not withdraw recognition from Nationalist China in order to establish relations with the People's Republic of China?

	Percent
Should	10
Should Not	70
Don't Know	20

5. We now have a mutual defense treaty with Nationalist China, approved by Congress in 1954. Do you think the United States should continue to stand by this treaty to defend Nationalist China in the event of an attack?

	Percent
Yes	47
No	31
Don't Know	22

NEW PROGRAM BACKED BY SMALL BUSINESS ADMINISTRATION

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. LLOYD of California. Mr. Speaker, small and independent businesses are the backbone of our free enterprise system. I would like to share with my colleagues a new program that will be under way December 18, 1975, at California State

Polytechnic University at Pomona, which is in the 35th district, which I serve.

This pilot program which is backed by the Small Business Administration and coordinated through the Pomona Chamber of Commerce, will offer assistance to small businessmen in the Pomona and San Gabriel valleys.

Decades of management know-how and business experience will be provided by the Pomona Chapter of SCORE/ACE—Service Corps of Retired Executives/Active Corps of Executives. Persons thinking about launching a small business, or a small businessman thinking of expanding, or just wanting to understand his business better, can benefit greatly through this innovative program.

This elite corps of SCORE/ACE will also go into the classrooms of business students at the university to work with business majors who are increasingly becoming interested in the world of small business.

This program also provides great benefits to the retired businessmen in SCORE, who can still be active and who possess invaluable business experience.

On behalf of my colleagues in the Congress, I wish this program great success.

HOLIDAY SPIRIT

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. GUDE. Mr. Speaker, everyone who knows the little post office in Glen Echo, Md., loves it and the seven bright and cheerful women who work there.

This post office should be a model for our Postal Service—and, I am glad to say, someone in the Postal Service agrees, because the Glen Echo post office is featured as the cover-story of Postal Life, the magazine for postal employees.

I wish I could share the pictures of the Christmas decorations and bright smiles that make this post office so special, as well, but here is the excellent article by Andrea Nellius, headlined "Where Every Day is Christmas":

WHERE EVERY DAY IS CHRISTMAS

They call it "the post office with a heart." They call the seven women who work there "a miracle of sunshine."

People drive many miles to do their mailing—especially their Christmas mailing—at the little post office in Glen Echo, MD, a suburb of Washington, DC.

In December, Glen Echo's lobby is busier than a toy store with a sale on Barbie clothes. Trucks pick up 100 sacks of parcels a day when the Christmas season is in full swing.

The unusual volume for such a small office is the direct result of a kind of year-round Christmas spirit on the part of Postmaster Irene Cannon, her supervisor, her two full-time clerks and her three part-timers.

"We're no different from any other small town office," Postmaster Cannon maintains. "We know half the people who come in here and we treat them as friends."

Treating people as friends—the hallmark of good post offices, big or small—has brought little Glen Echo a big reputation around the Washington metropolitan area.

Last Christmas a Washington television station sent a crew to Glen Echo after a customer reported seeing a Christmas angel behind the windows. The camera focused on supervisor Janice Miller, who had slipped into her church-play costume, and scanned a jovial crowd jammed wall-to-wall in the lobby with floor-to-ceiling holiday decorations. Then it zoomed in for a close-up of an "I'm Tillie, Mail Me" name tag worn by Mrs. Tillie McNulty, a clerk who has since retired.

In a feature later picked up for the CBS Evening News, a reporter told the nation:

"Folks around here have come to call them 'the crazy ladies of Glen Echo.' For years now the gals who run this place have combined personal service with a little good humor."

It isn't only at Christmas time that the holiday spirit engulfs the Glen Echo post office. You name the holiday and the seven women have the place decked out.

The Washington Star, for instance, devoted half a page to Glen Echo's Valentine decorations, headlining the article "The Post Office With a Heart."

And on July 31 readers of the Washington Post saw a feature about Glen Echo's postal Bicentennial observance, with pictures of the clerks in colonial costume. Said the article:

"On any day the Glen Echo post office is a small miracle of sunshine coming through spotless windows, green plants, cheerful neighborly chitchat and an itinerant cat or two."

Customers aren't disappointed after following the newspapers' directions to Glen Echo. They find the post office in the town hall, a white clapboard building that looks like a church in a Christmas card scene of New England.

They find the polished brass doorknob opening the way to the holiday decorations, candy (an everyday treat at Glen Echo, where the staff wants children to look forward to visiting the post office), and the small-town treatment that makes friends for the Postal Service.

Last year the post office collected $303,329, mostly from people buying stamps or mailing parcels. Only around $9,000 of that total came from meter setting and permits.

Postmaster Cannon has coined a motto to sum up the Glen Echo philosophy: "We call it $ervice—because it pays." And that's with a dollar sign, she emphasizes.

But she adds that such services as retying a package at the window instead of sending it home for rewrapping go beyond the money motive.

"We do it because we enjoy it," she says.

Customers from near and far also get a sample of Postmaster Cannon's educational efforts.

"Customers are dying for information," she declares in tones that express firm opinions. "They feel they should know more about something that's so basic to their everyday lives. They tell us, 'I feel so stupid.' "

So Mrs. Cannon advises secretaries who call with questions about the meters in their office. The clerks recite the insurance litany with every parcel: "Is it valuable? Is it perishable?"

Supervisor Miller offers her own formula for measuring packages: Once the length, twice the width and twice the depth. "Even some of the engineers who come in here have trouble with 'girth,' " she says.

And customers can count on getting the right information about certified and registered mail from clerks Jan LaHargoue, Eve Plummer, Andra Seebold, Jeri DePaolis and Carolyn Reptsik.

"We feel the time you spend explaining proper mailing saves time in filling out complaints—or consoling someone," says the postmaster.

Mrs. Cannon's tall, slender frame packs a formidable personality. She reminds you of the good teacher you once had—the one who could let class discussions get a bit boisterous because she was always in control. The one who taught you that adults, too, can have a sense of humor.

One of her favorite educational devices is the old-fashioned bulletin board. Her own cartoons of a crowded lobby go above the windows long before the national mail-early posters arrive. And when the crowds do come, a picture of a cross-looking baby glares back at them over the words, "I was here first!"

The postmaster dabbles in advice on correspondence—such as the time she found people requesting the Love stamp for their wedding invitations. She posted a message recommending the Mississippi commemorative, with its magnolias. "Wedding invitations require dignity," she said.

Regulars at the post office try to arrive early on Saturdays—to avoid a scolding. They know Mrs. Cannon may sweep into the lobby to remind "all you sleepyheads" that the dispatch leaves at 12:30 and 12 o'clock mailers make it difficult to meet.

At Christmas time, the office operates on a take-a-number system. Instead of dragging their packages forward in line, customers stand around talking or addressing cards, waiting for their numbers to come up.

While her brand of friendly service can be entertaining at times, she knows that efficient service has a big portion of hard work in it.

"I'd hate for anyone to think that we don't do anything here but have fun," she says.

NATIONAL COUNCIL OF STATE GARDEN CLUBS, INC., COMMENDS U.S. FOREST SERVICE

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. LITTON. Mr. Speaker, it has come to my attention that the National Council of State Garden Clubs, Inc., has adopted a resolution highly commending the U.S. Forest Service, U.S. Department of Agriculture, for its development of operative and immensely beneficial environmental education workshops. I believe their resolution merits the attention and recognition of my colleagues. As chairman of the Forestry Subcommittee of the House Committee on Agriculture, I am pleased at this recognition of the Forest Service's efforts. I include the resolution adopted by the National Council of State Garden Clubs, Inc., following my remarks:

NATIONAL COUNCIL OF STATE GARDEN CLUBS, INC.—RESOLUTION

Whereas, National Council of State Garden Clubs, Inc., was organized on a foundation of Conservation, Horticulture, Roadside Development and Civic Improvement, and since inception in 1929 its major goals have been to develop, restore, enhance and protect America's natural resources; therefore be it

Resolved,

1. That National Council of State Garden Clubs, Inc., with membership of nearly half a million, highly commends the Forest Service, United States Department of Agriculture, for making possible and sharing with our

members the exceptionally effective and highly motivating Environmental Education Workshops developed by the Forest Service; and

2. The National Council Officers and members of the Board of Directors express their admiration and gratitude for the notable work done by this branch of our Government with citizen groups who are especially interested in working with youth, thus extending benefits far into the future; and

3. Boundless appreciation to the Forest Service for its workshops and other cooperative programs with National Council of State Garden Clubs, Inc., which demonstrate dedicated effort to develop sensitive and balanced conservation ethics for this earth we share.

NATIONAL COUNCIL OF STATE GARDEN CLUBS, INC.,
Mrs. VERNON L. CONNOR,
President.
Mrs. GEORGE A. PATERSON,
Chairman, Environmental Education.
OCTOBER 8, 1975.

PUERTO RICAN REVOLUTIONARIES HAIL JUSTICE DEPARTMENT MISFEASANCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the newspaper of the Puerto Rican Socialist Party—PSP—Claridad, has published a report that the U.S. Department of Justice has refused to permit the Federal Bureau of Investigation to proceed with legal action against three Puerto Rican guerrillas due to be released from prison in the Domincian Republic and returned to U.S. territory on December 23.

So that there is no mistake about this extraordinary and shocking development or about details, the Claridad article (November 23, 1975) reported:

> NEW YORK.—A decision taken by the Criminal Division of the Justice Department last August 15 invalidates attempts by the Federal Bureau of Investigation (FBI) to take legal action against the three socialists recently pardoned by President Joaquín Balaguer.
>
> The judicial decision is contained in a letter signed by Assistant Attorney General for Legislative Affairs, Michael M. Uhlmann, sent to Congressman Herman Badillo on November 5.
>
> In that letter the Justice Department states that the three Boricuas did not violate the Federal Neutrality Act, which prohibits citizens from threatening the sovereignty of countries friendly to the United States.
>
> The FBI, it was learned, had intentions of asking the Department of Justice to bring charges against Angel Gandía, Johnny Sampson and Raul García under that act, upon their return to Puerto Rico next December 23.
>
> The conclusion made by the Justice Department is based on an investigation conducted by the FBI in San Juan, Puerto Rico on June 3, it was learned.
>
> The letter in the possession of Badillo indicates that "the results of the investigation were referred to the Criminal Division of the Justice Department and on August 14, 1975 the department concluded that there was no violation."
>
> Badillo told CLARIDAD that he had telephoned FBI Director Clarence Kelley last Wednesday to discuss the matter.
>
> The congressman indicated that as a result of the talks, Kelly called off the investigation that was being carried out against the three boricuas.
>
> He said that apparently the FBI was not aware that he had the letter in his possession.
>
> Badillo pointed out that it had been "lucky" that the Justice Department had put the information in writing. He said the department had probably taken this risk "because they didn't expect Balaguer to release them."
>
> "If the FBI reopened the investigation it would be a case of political persecution," he said.

Perhaps there are those who do not fully understand the nature of the Puerto Rican Socialist Party or who are unaware of the incident which caused the arrest and sentencing of three PSP members in the Dominican Republic for guerrilla activities. In brief:

The Puerto Rican Socialist Party, formerly called the Movimiento Pro Independencia—MPI—was formed in 1959 under the leadership of attorney Juan Mari Bras, the PSP secretary-general. Mari Bras has stated in interviews that his organization was formed as a direct response to "the Cuban revolution and the various revolutionary currents developing in Latin America."

The PSP/MPI has maintained an office in Havana since the early 1960's and its officials travel constantly to Havana. Juan Mari Bras stated in a 1971 interview that "armed action as utilization of self-defense for the mass struggle, and armed struggle as a sort of urban guerrilla" were present in the independence movement "in an irreversible way."

The PSP does not hide the fact that it is a revolutionary Communist organization. The general declaration issued at the 1971 founding convention states:

> The party will base its programs, organization, theoretical analyses and practice in Marxist-Leninist theory, adapting it to the particular conditions of our country.

The PSP also clearly states its support of terrorism in achieving its revolutionary goals: The 1973 PSP political declaration read:

> The Puerto Rican people have the possibility—and responsibility—of * * * transporting the third world's war of liberation to the very heart of the North American cities.

The PSP's intentions are treasonable by its own statements. PSP founder Mari Bras said in 1967:

> Just as imperialism uses Puerto Rico as a bridgehead for its penetration into Latin America, so will the Patriotic Vanguard (PSP/MPI) of Puerto Rico offer itself as a bridge over which world revolution can penetrate into the United States.

The rhetoric of terrorism and armed revolution, as well as statements showing that the PSP leadership's loyalty lies with the Cuban Communists have been made much more recently. On July 24, 1975, Florencio Merced Rosa spoke in New York City at a meeting to honor the Cuban regime. Merced, a member of the PSP's elite political committee, said:

> Armed struggle is always the highest form of struggle. This is not to say that armed struggle is always the main form of struggle. The key to the success of the Cuban Revolution is found in the harmonious interrelationship of political mass struggle with the armed struggle of the vanguard and the armed struggle of the people of Cuba.

Merced continued:

> How many of those who today praise and celebrate the Cuban Revolution once thought that the process unleashed by the attack on the Moncada Garrison was merely an adventure carried out by a small group of youths who represented no one and had no massive base of support? How many of those who will tomorrow celebrate and applaud the Puerto Rican Revolution have those same thoughts about the revolutionary process underway in Puerto Rico today?
>
> Cuba and Puerto Rico are sister nations. In our joint struggle we think of San Juan as the former tyrannical Saigon of the Caribbean and of Havana as our Hanoi. That portion of our homeland that begins in Havana is free and socialist. That portion which begins in San Juan will also be free and socialist.

The Puerto Rican Socialist Party has explicitly supported several revolutionary terrorist groups whose bombs and boobytraps have been accompanied by statements of support for the PSP's aims. These terrorist commandos include MIRA, CAL, and the FALN.

Juan Mari Bras explained the relationship between CAL, whose communiques were published by the Cubans, and the PSP in these terms:

> There is no liberation without a liberating army. We don't occupy ourselves with the development of this army. That task belongs to others * * * (but) we have given full moral support to CAL because we consider it an important ingredient in raising the mass struggle.

When the FALN broke into the news in October 1974, Juan Mari Bras was asked for comments on the new terrorist group. He replied:

> There is a diversity of forms and means by which the Puerto Rican people are striving for independence.

While disclaiming knowledge of the FALN, the PSP leader said,

> I do not condemn it.

It is also noted that over the past 15 years, PSP/MPI members have been arrested for numerous bombings, possession of explosives, riot, arson, bank robbery, and murder in connection with revoluntary endeavors.

In June 1975, the Dominican Republic announced that three U.S. citizens who were members of the Puerto Rican Socialist Party—PSP—Johnny Sampson, Raul Garcia, and PSP Political Committee member Angel Gandia—had been arrested in the coast city of La Romana, having transported several Dominican guerrillas there. At a press conference the three Puerto Rican revolutionaries admitted their guilt. They were sentenced originally to 30-year terms. The terrorists brought to the Dominican Republic's coast by the PSP members have been captured since by that country's security forces.

The Dominican Government, now that it has its own terrorists in hand, has decided to release the Puerto Rican Socialist Party trio on December 23.

In no case should the release of the three Puerto Rican United States citizens by the Dominican Government stop the United States Government from prosecuting violations of the law. I call upon the Justice Department to allow the FBI investigation to continue with a view toward prosecution, if proper and sufficient evidence is available.

THE PRESIDENT—AND HUMAN RIGHTS—IN INDONESIA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. BONKER. Mr. Speaker, the President's recent visit to Indonesia seems as inappropriate as it does untimely. Surely this will be widely interpreted as an endorsement of the Indonesian regime; I can only hope it is not meant that way. The people of most of Indonesia are living in abysmal squalor, and the few members of the elite are living royally. The income distribution is one of the most uneven in the world. This is not because the country is as poor as the people. On the contrary, it is oil-rich and, of course, that is much of the reason underscoring our support of it. The corruption and callousness are as evident as is the scandalous mismanagement which has just accounted for the collapse of Pertamania, the state's oil conglomerate. The Government is now engaged in soliciting even modest amounts of aid from outside sources though its officials continue their own high living.

Political conditions rival the economic conditions. The Government admits to holding at least 50,000 political prisoners, many of them having served years without charges. This is not to mention reliable accusations that literally hundreds of thousands of opponents were summarily executed in the reign of terror that followed the regime's accession to power by coup d'etat in the mid-1960's.

It is hard to believe that the President is going out of his way to associate himself with this repressive government. It may be argued that the President routinely visits countries whose social systems we do not condone. And when he travels to China or Russia, say, it appears only that he wants to do some talking and negotiating with an important adversary. To most Americans interested in preserving peace, this is justifiable. But Indonesia is in quite another category. The President obviously considers it a pillar of our foreign policy in Southeast Asia, and he currently has a request in Congress for over $40 million in grant and credit military assistance. A personal visit at this time only reinforces the sorry appearance of that relationship.

Perhaps it is arguable that we should be aiding Indonesia if only because it is a non-Communist country. But the vivid fact is, it is not a democratic or benevolent or even honest country. It is hard to see, from a humanitarian perspective, how a Communist government could be much worse for the mass of the people than what they have got now. An argument has long been that stability is a precondition of progress. But the only progress that has been registered during the last decade of stability has been that of the upper class. The gap between rich and poor is actually getting wider.

Even considered as just a practical matter—though it ought to be inadmissible to put morality aside—it is difficult to justify our coziness with the Indonesian regime. Exactly what vital interests of our national security have been jeopardized by the "loss" of Indochina—as if it were ever ours to "possess"? We may be in bad stead now, but that is precisely because we identified ourself with the decadent old regime. It is a tenuous and backfiring policy to support factions that lack a popular and lasting base. Ultimately, our genuine and dependable allies are those who share our values and principles. Our greatest influence comes from setting an example worthy of emulation. If we are interested in influence, the last thing we should do is undermine the world's respect for us. Yet that is what we do by being seen so supportive of the likes of the Indonesian ruling clique.

I do not doubt that Indonesia is an increasingly important country. But it is presumptuous to try to buy its friendship or maintain it in our sphere. Just last week, Indonesia announced that it will now be accepting aid from the Soviet Union, expressly to demonstrate its emphatic foreign policy of non-alignment. Everyone's talking these days about how countries that receive our aid are biting the hand that feeds them. Indonesia's vote in support of the anti-Zionism resolution in the United Nations is but the latest of its actions which fly in the face of all the high ideals our country stands for.

CASH DEPOSIT FOR BEVERAGE CONTAINERS

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. LLOYD of California. Mr. Speaker, increasingly there are demands by various groups that Congress pass legislation requiring that beverage containers be returnable for cash deposits to reduce litter, conserve resources and lessen solid waste disposal. I would like to bring the attention of my colleagues to a U.S. Department of Commerce study released this month which concludes that there should be no national legislation of this nature. I wholeheartedly agree.

Such legislation would be an example of Government interference in the marketplace and there is too much of that at present. Furthermore, such a law would require the involvement of Federal regulatory agencies, and as a sponsor of a bill to eliminate wasteful regulatory bureaucracies, I would oppose any such legislation.

The public "votes" on its desires through its marketplace behavior, and this is the guideline we should follow. Moreover, I ask why beverage manufacturers are singled out? Why not include cans and bottles being used for pickles, ketchup, soup, coffee, or hundreds of other items? How about newspapers and other paper products?

State and local legislation is not the jurisdiction of this Congress. Speaking for the Congress, I feel that any national legislation that would dictate marketplace behavior is wholly inappropriate.

POSTAL INEFFICIENCY

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. KASTEN. Mr. Speaker, there has been a great deal of debate on the efficiency of the U.S. Postal Service and the way that this service is operated. Many people are very dissatisfied with the service provided and wonder, quite justifiably, if private firms could do the same job more efficiently and at a lower cost.

An article was brought to my attention recently that may shed some light on this question. It was about an experiment conducted by a newspaper reporter who mailed a number of packages to identical locations via the U.S. Postal Service and the United Parcel Service, the latter being a private company.

The results of this experiment were very interesting and I would like to share them with you. This article appeared in the Milwaukee Journal of November 30, 1975:

UPS DEFEATS POST OFFICE HANDS DOWN IN PARCEL BOWL

(By Barbara A. Koppe)

They started out as 20 simple beer glasses. Nothing fancy.

Just ordinary, 35 cent beer glasses whose main virtue was that each would hold an entire can of beer with a fine, foamy head on it.

But they didn't continue to be 20 simple beer glasses after they got into the hands of the US Postal Service.

One of them was smashed into so many fragments that the recipient couldn't count them.

Two others are in limbo, whereabouts unknown. Presumably they're still somewhere between Milwaukee and Los Angeles on a journey that has so far lasted 12 days.

PART OF EXPERIMENT

The 20 beer glasses were part of an experiment to compare the services offered by the post office and by United Parcel Service (UPS) a private package shipper.

Ten identical packages, each containing two beer glasses, were mailed Nov. 18 by a Journal reporter to five friends and relatives around the country. Each person was to receive two packages, one delivered by the post office and one delivered by UPS.

In terms of cost, travel time and condition of the package on arrival, UPS won the experiment hands down.

About the only problem with UPS was that it required driving to Elm Grove to send the packages, or paying a $2 pickup charge to send them. The other packages, mailed at the main post office, could have been sent from more than 20 other post offices around the area.

The experiment had these results:

At four of the five destinations, UPS delivery beat postal delivery by at least three days. One recipient, in North Scituate, R.I., received both packages the same day. The Los Angeles recipient still hasn't heard from the post office, although the UPS package was delivered to her door last Monday.

The Kansas City recipient reported receiving his package from UPS in "perfect condition." Such was not the case with the package delivered to him by the post office.

"The rope was almost completely undone," he said in describing the appearance of the Postal Service package. "The tape was slit in two places on the sides of the box, and it looked like somebody tried to open it. The side was squeezed in."

Even worse, however, was the condition of the contents of the smashed box: One of the two glasses was broken in many pieces. The other was undamaged.

Except for minor dents in the cardboard boxes, or rounded corners or edges, all the other boxes arrived in good condition. The New York City recipient, however, said his package from the Postal Service had arrived with the string completely missing.

All the glasses had been packaged by the same person. Each glass was wrapped in a sheet of newspaper, and two additional sheets of crumpled newspaper were stuffed into each box for padding. The boxes, purchased from a box factory, were identical. Each was sealed with gummed packaging tape and tied with extra strong polished twine.

It cost a total of $4.30 to send the five packages via UPS, compared to $5.05 via the post office. And the UPS fee included $100 worth of insurance on each package. Insurance costs extra at the post office. It was not purchased, so the sender is out the cost of the broken beer glass.

Perhaps the biggest difference, according to the spokesmen for the two delivery services, is that UPS is geared to handle only packages, whereas the post office must handle every type of mail from small note paper to huge packages.

UPS limits the packages it will accept to 50 pounds and a total measurement of 108 inches, calculated by adding the length plus girth. The post office will accept packages that weigh up to 70 pounds and whose dimensions do not exceed 80 inches, figured by adding length plus width.

But Dan Buckley, a spokesman in the UPS national office in Greenwich, Conn., said there was more to UPS's apparent success than its policy of limiting service to packages.

He said the UPS operated totally with a system of conveyor belts—no huge canvas bags for them, such as the post office still uses. Packages are placed upright, by hand, onto a conveyor belt. As they are moved along, he said, there are no drops from one belt to the next.

The post office also uses some conveyor belts, said Milan Popavich, manager of retail sales and service at the Milwaukee post office. But the Postal Service still has some troubles to iron out, such as large drops from one belt to another or tight corners that might squeeze a package.

Popavich said the post office tried to put as many packages as possible into containers, which can be stacked. But canvas bags continue to be a way of life.

There are some restrictions also on where UPS will deliver packages, but generally it will deliver to most of the continental United States. In contrast, the Postal Service is required by law to deliver anywhere in the 50 states.

Popavich said that the four packages delivered by the post office had all arrived within the standard delivery time.

"I don't know what happened to Los Angeles," he said, adding that the package should have arrived there within eight days, not counting Sundays and holidays.

He also said he did not believe that a test involving the shipping of 10 packages proved that UPS was better.

"I don't know that they are better in all cases," said Popavich. "I am not convinced that UPS has a better record."

THE CHILDREN'S DEFENSE FUND

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. RANGEL. Mr. Speaker, the Children's Defense Fund has been organized to protect the rights of children in our country. Its work in the area of detailing the psychological, societal and economic impact of school suspension and expulsion policies will, I hope, lead to a reevaluation of such procedures by school administrators, teachers and parents. The Children's Defense Fund's study of these school disciplinary measures also underlined the fact that students of minority parentage are far more likely to be singled out for removal from the educational system—with dire results for the children and their communities.

In addition, the Children's Defense Fund has been in the forefront of the fight for development of an adequate school nutrition program in the United States which will reach the millions of children who are eligible but attend schools where there is no breakfast or lunch program.

I am pleased to include in the CONGRESSIONAL RECORD an account of the Children's Defense Fund's efforts which appeared in the October 1975, issue of "Images":

SOMETIMES CHILDREN NEED LOVE, UNDERSTANDING, AND A DEFENSE FUND

CQ—The idea of a fund to "defend" children seems an anomaly. Whatever the country's failings, the notion that we care about our children and that our institutions do their best by them has never been seriously questioned. Yet the pervasive discrimination and shortcomings of the schools, statistics on children's health and infant mortality, the arbitrary and self-defeating practices of the juvenile justice system, and our wholly inadequate and limited day care facilities tell a different story—too often a story people do not want to hear and would rather not act on.

These conditions have given rise to the Children's Defense Fund (CDF) of the Washington Research Project in Washington, D.C., a children's advocacy organization dedicated to dispelling our myths and changing institutions that plainly do not help the children they were created to serve. Established in 1973 with Carnegie Corporation and other foundation grants, CDF aims at correcting selected serious problems faced by large numbers of youngsters in ways that lead to broad institutional reform and raise more general questions about equality and justice in America.

The Fund's first report, Children Out of School in America, shattered the prevailing belief that all children who ought to go to school are in fact in school. Its second report looks at school suspension and reveals how education, an essential ingredient for success in this society, is arbitrarily denied many children.

The statistics are appalling: More than one million children were suspended one or more times during the 1972–73 school year in school districts which enroll better than half of the nation's students. According to data submitted to the Department of Health, Education and Welfare's Office of Civil Rights, this means that in these districts, one out of every 24 students was suspended. For Black secondary school children, the suspension rate was one out of eight. The situation, to be sure, differs dramatically from school to school, but it is dismal wherever you look, North or South, city or country, big district or small.

Statistics, of course, do not tell the whole story. They do not state the number of students who suffer de facto suspensions, from children who are sent home for "cooling off periods" or "medically discharged" to those who never return to school after suspension and are reported as having "dropped out." They do not reveal who these faceless students are, what their presumed offenses are, or what becomes of them.

Is suspension an effective educational tool or an arbitrarily wielded, all-purpose stick that inflexible or insensitive schools use to get rid of students they do not care about or know how to deal with? The report, School Suspensions: Are They Helping Children? delves beneath the raw government data to size up the effects of suspension in human terms. Using a house-to-house survey of 6,500 families that it had undertaken previously in nine states and the District of Columbia, CDF found much that should lead anyone even vaguely concerned with the welfare of children to question the value of suspension.

What it concluded was that suspension, which schools consider a corrective measure, does children no good and may do them a great deal of harm. Misbehavior is a sign that children are "crying for help," says one principal. It is not ended by putting them on the street. Suspended students fall behind in their schoolwork and are stigmatized by their classmates; suspension may merely make children give up on school altogether because, like Jimmy, they feel "no one in school is out to help anybody."

The great majority of suspensions, 63.4 percent according to the survey, were for non-dangerous, non-violent offenses. These included everything from smoking or cutting in the lunch line to tardiness and truancy where, as a Denver school official noted, "the crime and the punishment are identical." Less than 3 percent of the suspensions were for "destruction of property, criminal activity, or use of drugs or alcohol."

If these findings alone do not make suspension a questionable practice, CDF found that Black children and poor children, youngsters who generally have enough problems to contend with, bear the brunt of it. Though Blacks accounted for only 27.1 percent of the enrollment in the reporting districts, they constituted 42.3 percent of suspension where race was identified. As the report states: "Had they been suspended at the same rate as white children, 50 percent of the Black children would not have been suspended."

Often the reasons for these suspensions

are related not to disruptive behavior but to race or poverty. In Boston, where court-ordered desegregation has exacerbated racial tensions, one Black girl was suspended five days simply for not having a gym suit. In one district in the South, the mere possession of a hair pick which Blacks use to comb Afro hairstyles was an "offense" requiring automatic suspension. While the government data do not break out the economic background of the suspended students, the Fund's survey points out the preponderance of low-income children. In Portland, Maine, for example, "almost every child suspended in a three-month period from one school came from a low-income housing project."

The findings are, indeed, damning. Suspensions, the report states, "were discretionary acts, hidden from public view, with few procedures in their routine use to ensure fairness, to gather all the facts, to review the decision, or to help identify or remediate the disruptive act precipitating the exclusion." Almost every school official the Fund staff interviewed said schools suspend children to "get parents into the school," yet one-third of the youngsters in the surveyed families returned to class without their parents ever having talked with school officials. The unmistakable conclusion: Schools' misuse of suspension—more than children's misbehavior—seems to explain the rampant number of suspensions that added up to a loss of 4,062,404 school days for the children covered in the government data.

While the report's statistics make a very real and very serious case against the use of suspension, the Fund's working proposition is that such data must be woven into a convincing argument or insight that can persuade the public that something is wrong and that something can be done about it. Simply taking potshots at the schools, however ineptly or destructively some may operate, might accomplish little in changing the fundamental practices that hurt youngsters. CDF director Marian Wright Edelman insists "most school officials are not malevolent. They have simply ceased thinking about whether suspension serves a useful purpose. They keep poor records, so they don't know what they're doing, and there is little accountability to make them look at what they're doing. We do not want to attack schools. Rather, we want to change their policies so they will help, not hurt, children. We want positive action."

Beyond showing schools how they can meet the narrow legalistic requirements—the "due process" minimum recently mandated by the Supreme Court—the report poses alternatives for dealing with discipline problems. In meetings with superintendents in the canvasses areas. CDF is trying to help officials, says Edelman, "to handle kids who do have problems and do misbehave." The report describes constructive attempts to keep order and children in school—a student ombudsman to settle disputes or special programs for youngsters who can neither thrive nor survive in traditional classrooms. And it includes interviews with principals who manage to run their schools without resorting to suspension.

The Fund is investigating other areas where schools that do not overtly exclude children from school nevertheless exclude them from equitable treatment. One report will focus on misclassification, the way schools tend to cluster minority children in "slow" or special education classes, and another will look into how schools use records contrary to children's interests. CDF also is researching children's rights and needs in health, in the juvenile justice system, in medical experimentation, and in child care; carrying a heavy load of litigation; and developing how-to handbooks to help parents gain a greater say over the decisions that affect their children. Edelman sums up all the work: "We are fighting as if we really care about our young."

MUST WE FEED THE WORLD?

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. ARMSTRONG. Mr. Speaker, the spectre of starving millions around the world is an increasingly serious worry to thoughtful Americans. Although there is sincere disagreement regarding the proper role of individuals and governments in coping with world hunger, more and more concerned citizens are expressing concern and studying possible solutions.

Recently the Lutheran magazine made a valuable contribution to this effort by publishing contrasting views on the vital question, "Must We Feed the World?"

I commend this timely article to my colleagues:

MUST WE FEED THE WORLD?—TWO POINTS OF VIEW ON A VITAL QUESTION

NO:

(By Arthur H. Wulfsberg)

At the Seventh Biennial Convention of the Lutheran Church in America in Baltimore last year, those especially concerned with the material needs of people prevailed upon the LCA to launch a campaign against world hunger. Under the Love Compels Action/World Hunger Appeal members of LCA congregations are now being confronted with endless pictures of hungry mothers and children, guilt-inducing comparisons of our standard of living and those of underdevelloped nations and exhortations that we do something about world hunger.

We cannot deny that world hunger is a problem—we have both immediate problems and the possibilities of chronic hunger and large-scale famines in the decades ahead. A number of these instances of hunger and famine can be attributed to war, natural disasters and other short-term circumstances, such as the floods in Bangladesh, drought in the southern Sahara, the Palestinian refugee problem in the Middle East. For these instances, short-term assistance in the form of gifts of food is certainly an appropriate response for compassionate Christians.

But the long-term problems of chronic hunger and famines are quite a different matter. For these problems, actions taken to alleviate immediate symptoms only reduce the need to solve the real problems; humane intentions are likely to make the ultimate disasters even worse. Massive U.S. aid to India—some ten billion dollars in the 1960s—and continued Christian food gifts seem only to delay action by the people of India to resolve their problems of population growth and food production. Meanwhile the population grows and the level of the potential disaster increases.

Overall, the world food situation today is much better than it has been in recent history. The United Nations recently reported that per capita world food production increased 22 percent in the past 20 years. While world population is increasing at a rate of 2 percent per year, agricultural production has increased even faster. From this recent history, it is reasonably argued by some that fears of large-scale famines in the near future are groundless—that food production will continue to increase rapidly and that population growth will be adequately limited by economic factors, education and birth control.

Nevertheless many serious scholars of the situation are pessimistic about the capabilities of improved agricultural technology and other means for increasing food production to cope with the rate of population growth. As Norman Borlaug, who won the Nobel Prize for leading the "green revolution" development of high-yield food grains has put it, "Our efforts to buy time have been frittered away because political leaders in developing nations have refused to come to grips with the population monster." In his opinion, "It is going to take a tremendous disaster from famine before people come to grips with the population problem."

But the population explosion is not the only problem. Russia's need to import food is the result of the agricultural policies of its Communist government. The same is true of China. Farmers seem to be particularly resistant to communism—collectivized agriculture just doesn't produce food the way free-enterprise farms do. Yet the governments of Russia and China prefer to keep their people on limited diets or to purchase food from other countries rather than admit to the failures of their agricultural policies.

India is in bondage to ancient religions so that its people worship cattle instead of using them for food and allow rats to consume a large share of their grain. The government of India puts the production of nuclear bombs ahead of the operation of fertilizer factories and applies price controls which make it impossible for many farmers to earn a living producing food.

In short, three very large non-Christian nations put other objectives ahead of the welfare of their people, and they drain the world's food supply instead of contributing to it.

For the Christian seriously concerned about social justice and the material welfare of his fellow man, study of the New Testament raises significant problems. We are consistently exhorted toward acts of love and compassion. The action of the good Samaritan in serving the man who needed his help is commended to us. And, of course, we have the letter of James who is particularly insistent that a faith which is divorced from deeds is barren and lifeless.

Yet Jesus initiated no "social action" programs. He advised obedience to a tyrannical Roman government. He and his disciples used their miraculous healing powers only in connection with teaching and preaching the Good News. Compassionate and concerned with the plight of the poor, Jesus seemingly ignored the problems of poverty. He commended the widow for giving her entire livelihood to the church. We have the puzzling incident of his approving the seeming waste of the precious ointment rather than selling it to feed the poor—"The poor you will always have with you." The organized charitable efforts of the early church appear to be for the needs of members of the Christian fellowship, not for others.

In his preaching Jesus repeatedly warned against excessive concern for material things. In the Sermon on the Mount, he made it very clear that we should not worry about our needs for food, drink and clothing—"All these are things for the heathen to run after, not for you, because your heavenly Father knows that you need them all. Set your mind on God's kingdom and his justice before everything else, and all the rest will come to you as well."

From this we can conclude that, as the church of Jesus Christ, our actions of love toward other human beings must be similarly directed—that helping them seek the kingdom of God and his righteousness must come before everything else. Only by doing this can the church be consistent with his commission to it and with his own ministry on earth.

With these thoughts in mind, is it not strange that the church commissioned by Jesus Christ to bring the kingdom of God to all nations should be increasing its efforts to provide "things for the heathen to run after" while decreasing its efforts to bring the light of the Gospel to the world? In the face of rapidly rising costs of missionary efforts caused by inflation and devaluation of the dollar, the LCA budget for world missions has decreased from $5.4 million in 1966 to $4.1 million in 1974, and LCA missionary positions have decreased from 325 in 1969 to 183 in 1974.

We as a church seem to have lost sight of our mission as it relates to the rest of the world. To use nutritional figures of speech, we are trying to supply the bread rather than be the yeast in the dough or the salt of the earth. With the funds the LCA is trying to raise for world hunger, we could exactly double our world mission efforts. But we have no Love Compels Action/Bring the Light of the Gospel to the World program.

And we seem to be rationalizing our lack of emphasis on world missions. It is all well and good to establish the Japan Evangelical Lutheran Church as a self-reliant church, but this does not address the fact that less than one percent of Japanese are Christians. To expect JELC to evangelize Japan within the limits of its own resources is sheer nonsense. And if foreign governments forbid or restrict missionary effort, should we not wipe their dust from our feet to their shame, leave them to the judgement of God and go elsewhere? If this concept bothers you, read the tenth chapter of Luke—especially see what Jesus had to say about Chorazin, Bethsaida and Capernaum.

Does not history bear out the wisdom of Jesus' teaching and the validity of his commission to his church? Are not the blessings of material prosperity we enjoy in America directly related to our obedience to God and the general commitment of our society to Christian principles? Are not our problems of poverty and social injustice related to our failures to be obedient to God? Have not the western Christian nations resolved their problems of population and food production so that they not only feed themselves but also are suppliers of food to the rest of the world? God is faithful in his promises and righteous in his judgments. We should no more feel guilty about receiving his blessings than we should feel complacent and unrepentant about our failures.

The long range problems of world hunger will be solved only by spiritual renewal. Only when all peoples and nations are brought to Christ can we reasonably expect the world to be free from hunger and poverty. True compassion and obedience to our Lord call for the church to be concerned with the spiritual and not the material welfare of the world. The mission of the church is not to provide food and drink, but to satisfy the spiritual hunger of the world and fill it with the living waters of Christ's Gospel.

MUST WE FEED THE WORLD?

YES

(By Robert W. Stackel)

When seven synods brought memorials requesting action on the problem of world hunger to the Baltimore convention of the Lutheran Church of America last year, it was an unprecedented number of memorials on the same subject. Across the church, Christians were ready to respond. The convention enlarged the Love Compels Action appeal to include global hunger. Later a survey of LCA leaders which ranked issues confronting the church disclosed that world hunger was far in the lead as the first concern.

It was recognized at the beginning that just to treat symptoms would make the problem worse. Objectives were adopted that would chop at the massive roots of the problem. Slowing the world's population growth, helping hungry people produce more food in their own countries, reducing consumption levels in affluent nations and shaping government policies to aid developing peoples in larger measure—these are the main thrusts. During most of the present year 80 percent of all overseas aid from this appeal is going to produce more food in poor countries for the tomorrows as against 20 percent to supply food to starving and malnourished people today.

The present lull in vast famines around the globe affords the opportunity to get ready for tomorrow. A great new drought, ramping floods or widespread crop disease could quickly plunge millions into starvation again. Even now a generation of children is growing up in the Third World, many of them stunted in mind and body from malnutrition.

Statistics can deceive. More food is being produced in the world than ever before, but most of it is in the rich nations. The hungry cannot afford it. The world is not short of food; the poor are short of money. Distribution is out of whack. Presently certain affluent nations with large grain stores face the problem of finding a way to share that food until the hungry can produce more themselves.

The world's population explosion aggravates the food crisis. Hunger appeal funds work side by side with church-program money overseas to address this problem in four ways. Direct family-planning education is offered in a number of places. Child health-care programs permit more children to survive into adulthood, thus reducing the need for as many children. Helping women to find fulfillment in an alternate role to mothering large families, such as in nutrition education, literacy classes and vegetable gardening, gives purpose to life. Lifting the economic level of a nation through self-help projects offers the greatest hope of bending the steeply rising population graph line eventually into a plateau. The church is now at work in these critical arenas. The race has not yet been lost between population growth and food supply.

It is true that Russia has been buying large quantities of grain recently on the world market, partly because of a reported severe drought in its grain-producing areas. China also has purchased some grain at various times, but it is a universal wonder that China, which used to suffer from cruel famines that killed millions, now reports no famines at all.

India has a different situation. If the Christian churches of the world in past decades had committed even more resources to their missionary witness in that country, there might be more Indians today who would have a different belief about Creation. Because India cannot afford the commercial energy it needs at today's prices, it developed an atomic capacity which it claims can provide a new energy source for peaceful purposes. In each of these three large nations over the years there has been an increase in food production for their expanding populations.

It is correct that in the New Testament Jesus instituted no "social action" programs as such. He set forth the great concepts of love and justice on which Christians base present programs of concern for their fellows. Such programs are a sign to society written in capital letters that God cares for all as he cares for each. Without the deed the word would be hollow. Some sores of society are so gaping and complex that even a corporate program dedicated to their healing by the church seems inadequate, to say nothing of individual efforts.

When Jesus observed, "The poor you will always have with you," he did not mean that therefore we should not concern ourselves too much with them. His words arose out of the context of the woman anointing his feet with ointment. Some onlookers objected that the money which it had cost should have been given instead to the poor. Jesus meant that he would only be among them in physical form a short time more. It was right to adore him with costly devotion because his time was growing short. The cries of the poor would always deserve a Christian's utmost in response.

While a Christian should not have excessive concern for his own material needs, a believer should have deep concern for the basic material needs of brothers and sisters in God's family who live in abject poverty and misery. It is difficult for an affluent people to proclaim the Gospel effectively to poor people who are starving without food and sick without medicine unless food and medicine accompany the Gospel. Even better is the effort to help them feed themselves from increased crops in their own land, better nutrition bringing with it better health.

Inadequate financial support is one reason for the reduction in missionary personnel overseas in the last few years. Half a dozen other causes play into the sag. For instance, Christian nationals have been trained to do some of the work which missionaries formerly did. In addition, some countries are putting restrictions on mission work in their land.

The Baltimore convention adopted another significant resolution in addition to the world hunger appeal. It authorized investigation of the need for a churchwide appeal for world and American missions in 1977 and 1978. But millions of people will not be alive in 1977 to hear the Gospel unless somehow they can get food to survive in 1975 and 1976. The world hunger appeal deals with a form of pre-evangelism. Having experienced the compassion of Christians who helped them survive, the starving poor are more inclined to listen to the Gospel and weigh its values for themselves.

In the meantime, the Gospel of Jesus Christ requires that we share both food and faith with those deprived materially and spiritually. There is no long black dividing line between things material and spiritual. It is the same person who needs both grain and Gospel. The church cares that this person receives both.

Christians in the United States and Canada have been fantastically blessed by God. Spiritually, freedom to proclaim the Gospel has graced these two nations almost from their origins. Materially, this year these two countries are being given by God the largest grain harvests that any comparable area of earth has ever produced throughout history. Even members of the middle-class of these nations are in the top 5 percent of the economic pyramid of the world's peoples.

God has not blessed North Americans because they are good. Some of America's most shocking exposures of moral collapse in public life came out the year before the greatest harvest. God has blessed the peoples of the United States and Canada in spite of their sins. He has given them more than any other people so that they could share their abundance.

Even the sharing of material blessings in the name of Christ has quickened poor people overseas spiritually. In the Henna region of western Ethiopia, for four years the Lutheran World Relief has conducted one of its most successful agricultural development projects. During the same period of time, as the Gospel was also preached there, church membership almost doubled in that region.

In Latin America similar projects have brought a spiritual quickening in the life of the church. When Lutheran material resources were brought to these projects from overseas, church members in Latin America were moved to commit various resources from among themselves which otherwise had been dormant.

The misery of the world's unnumbered poor needs spiritual and material balm. Gospel and grain interrelate. The Bread of Life and bread for life are both necessary. The love of Christ motivates a compassionate response to the ache of both heart and stomach.

ANOTHER LOOK AT THE RUSSIAN WHEAT DEAL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. HARRINGTON. Mr. Speaker, it appears to me that a good portion of the discussion of grain sales to the Soviet Union shows a curious tendency away from a sober consideration of economic facts. In an article for the Columbia Journalism Review of November–December 1975, professor emeritus of agricultural economics L. H. Simerl takes what strikes me as an objective and hardheaded look at the actual situation regarding wheat production and sales at the time of the first Russian wheat deal. I think this brief article is worthy of the attention of members of this body and of the public, and I therefore insert it in the Record.

The text of the article follows:

Did the Russian Wheat Deal Really Boost Food Prices?

(By L. H. Simerl)

In its coverage of the sale of grain to Russia, the press has done a very effective job of misinforming the public. The most glaring example was its almost universal condemnation of the sale of wheat to Russia in 1972 as a major factor in the rise of food prices in the U.S. The facts do not support such a conclusion.

When the Russians first came to buy wheat in the summer of 1972, our problem was surplus production capacity and burdensome stocks. During the previous crop marketing year, twelve months ending June 30, our government (taxpayers) had paid $877 million to farmers to hold 13.7 million acres of wheat land out of production. In addition, we had exported 632 million bushels with various subsidies ranging up to the full price of the wheat, which averaged around $1.50 a bushel. Even so, the carry-over of old wheat on July 1, 1972 was 863 million bushels.

For the crop of 1972 that was being harvested when the Russians arrived, at government request farmers had held 20,300,000 acres out of production. The cost of that program depended on the market prices received by farmers for the wheat they produced and sold. The lower the market price went, the larger the payments to the producers for restricting production. It appeared almost certain that those payments would exceed $1 billion. Despite that costly restraint on production, farmers were harvesting a crop of 1,545,000,000 bushels when the Russians arrived. That, plus the carry-over of 863 million, made a total supply of 2,408,000,000 bushels. In contrast, our own needs for wheat totaled only 595 million bushels (528 million for food and 67 million bushels for seed). The remainder, 1,813,000,000 bushels, was available for export (with subsidies) for feeding to farm animals, and for carry-over into the next marketing year.

In that situation the sale of wheat directly to Russia, even though subsidized the same as other commercial sales, appeared to be, and was, a good deal for us and for the food-short people in Russia and the satellite countries, which suffered from bad weather.

Canada, the second largest exporter, had 605 million bushels of old wheat left over in the summer of 1972, and was harvesting a new crop that was expected to total 580 million bushels. The total supply of 1,185,000,000 bushels was 500 million more than the Canadians had been able to dispose of during the previous twelve months. Other countries, too, had wheat in excess of needs. Some governments were subsidizing the use of wheat for feed for poultry and other farm animals in order to dispose of "surplus stocks."

During the fiscal year beginning July 1, 1972, we shipped 344 million bushels of wheat to Russia, and also increased shipments to other countries by 213 million bushels. U.S. exports that year totaled 1,186,000,000 bushels, yet we still had more than 440 million bushels of old wheat left over at the end of the marketing year, July 1, 1973.

If we had not sold wheat directly to the Russians, they would surely have obtained a large amount of U.S. wheat through world grain dealers based in Europe, Japan, Argentina, and elsewhere. Furthermore, the Russians would have drawn more heavily on imports from other countries, with little difference in the net effect of the poor crops in Russia and adjoining countries on the U.S. agricultural situation.

Adding greatly to the upward pressure on world grain prices during 1972–73 were poor harvests of rice, wheat, peanuts, and corn in India and southeast Asia, a short crop of wheat in Australia, and of peanuts, corn and other crops in Africa, and a poor catch of fish (anchovy used as a high-protein feed for animals) off the coast of Peru.

Another price-boosting force at about that time was the two devaluations of the U.S. dollar, which tended to raise prices of our grains and all other products exported or imported.

I realize that very few of the nation's reporters, writers, and commentators have any understanding of the economics of agriculture and food production. But that surely does not justify their appallingly poor reporting.

For a time in 1973 and 1974 it appeared that the media people were doing a better, or at least more cautious, job of reporting the food situation. Fewer gross errors appeared in the press or were broadcast over the radio and on television. Recently, however, there has been a growing tendency to resume blaming past and prospective increases in food prices on sales of grain to the Russians rather than on such factors as rising labor and transportation costs.

DRUGS AND SOCIAL POLICY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. WOLFF. Mr. Speaker, I would like to take this opportunity to call my colleagues' attention to an editorial which appeared in the Washington Post on Friday December 5, "Drugs and Social Policy."

I have made a concerted effort for several years to inform my colleagues of the need to have a coordinated national policy concerning narcotics control. For too long we have allowed narcotics trafficking to be a low priority issue in our foreign policy. The administration and the State Department have consistently failed to treat narcotics control as an issue worthy of serious consideration. Several high level reports including a GAO study of the international narcotics control effort have concluded that several of the ambassadors in the opium-producing countries did not know that narcotics control was a high priority. The problem has been further complicated by the President failing to make his desires clear on this vital subject. The President did not see fit to appoint an administrator to the Drug Enforcement Agency, supposedly our lead enforcement agency, for over 6 months. I have written to the President on numerous occasions and all that I receive is bland statements which confirm his concern over the issue. No concrete policy statements are ever issued and hence are not implemented.

I was pleased when the President commissioned the Domestic Council to prepare a white paper on drug abuse and yet now that the report has been released, nothing is being done to implement the recommendations. As the Post editorial states:

> But after all the various governmental parties have said what they wish to see, one thing stands out clearly: Nothing is possible unless the President makes his own intentions very clear to all his subordinates in the White House and in the agencies. And he must spell out his plans to Congress as well.

The Post article underlines the crucial aspect of the problem in their conclusion:

> Until Mr. Ford makes his wishes known and his interest felt, bickering and the chaos will only grow worse—and so will the drug problem.

I find the argument put forth in the article to be very compelling. As most of you know, I joined with 80 of my colleagues in November in sending a letter to the President requesting a meeting to help devise a Federal policy to deal with the increasing supply of heroin which is entering the United States, particularly from Mexico. To this point we have not received a response from the President. Our letter concluded:

> Mr. President, we as a concerned and bipartisan group of representatives call on you for your leadership in developing ways by which we can halt the flow of this deadly poison from reaching our cities and towns and ultimately destroying the lives of our youth.

I look forward to working with all of you in the coming months in developing a comprehensive and coordinated policy aimed at reducing the level of drug abuse in this country.

Furthermore, I request that the Washington Post editorial be reprinted in the Record at this point for your consideration:

Drugs and Public Policy

Those in a position to know about hard narcotics and street life say the supply of heroin is as great today as it was before the demise of the legendary "French Connection." The newest and most commonplace form of the drug is Mexican "brown" heroin, which has replaced the Turkish "white" heroin that used to reach the streets of America by way of southern France.

This copious supply of Mexican heroin is reaching the U.S. at a time when the federal effort to combat the influx of harmful drugs (and to treat the victims of those drugs) is virtually leaderless. With rare exceptions, the same can be said of most local efforts. The result is that little headway is being made against the drug problem. Some believe the problem, in fact, is getting worse.

There can be no serious or effective anti-drug program without strong federal leadership. But as matters now stand, the federal government has no mechanism for mounting a serious effort. In consequence, the dozen or so agencies and offices concerned with parts of the problem of heroin abuse are each going their own way. Some do not even communicate with other agencies that have related responsibilities. One example involves the Drug Enforcement Administration and the Customs Service. Their enmity is so bitter and of such long standing that a White House task force on drug abuse had to suggest to the President that he step in and somehow settle the squabble. As far as we know, the President has yet to act on that recommendation.

That is but one of many examples of the policy disagreements that abound concerning an admittedly disagreeable subject. On Capitol Hill, the disagreement concerns the form federal leadership should take. The House has passed a bill that would extend the life of something called the Special Action Office on Drug Abuse Prevention, which went out of business last June. Some in the Senate argue that the Special Action Office was doing things that should be done by departments such as Health, Education and Welfare, and not by an agency lodged in the White House. Others on the Hill are arguing for a high-level White House office with the conferred influence of the President to "knock heads" between agencies and somehow to hammer out a coherent policy with respect to both the law enforcement and treatment aspects of drug abuse. They want the President to give the issue high visibility and to make it clear to cabinet and bureaucracy alike that he expects progress, and that he expects cooperation among and from the agencies.

The White House, leery of a highly visible and "activist" drug abuse office in its midst, wants a "cabinet committee" that would meet from time to time to discuss problems and a lower ranking working group that would see that the cabinet's wishes are carried out. But after all the various governmental parties have said what they wish to see, one thing stands out clearly: Nothing is possible unless the President makes his own intentions very clear to all his subordinates in the White House and in the agencies. And he must spell out his plans to Congress as well. Since the task force report, President Ford has been silent on the subject of drug abuse and how it should be dealt with. His task force produced a report that was widely admired for its candor and its pragmatic tone. If the President were to match that tone with utterances of his own, we might get past the arguments to some results.

The White House task force made it plain that federal policy should not be cast in terms of a "war on drugs" and that it should not be predicated on the notion that drug abuse can be eliminated totally. Instead, it argued for sensible priorities in attacking those drug problems that are the most serious and in applying public resources judiciously. Those goals are only attainable if a firm hand is applied to both the law enforcement and the treatment problems. As a model, the President might want to examine the kind of coordinative power to be found, for example, in the Office of Telecommunications Policy. If Congress can be persuaded that the administration means business, it seems to be in a mood to give it the tools. But the next move is up to the White House. Until Mr. Ford makes his wishes known and his interest felt, bickering and the chaos will only grow worse—and so will the drug problem.

NATIONAL HEALTH INSURANCE AND THE FAMILY PHYSICIAN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. McDONALD of Georgia. Mr. Speaker, historically American citizens have been free to practice their profession without having to worry about and deal with Government restrictions, controls, and orders. But this is no longer so for many professions, particularly the medical profession. Having experienced the results of recent Government intrusions into their practice, many doctors recognize the grave consequences of nationalizing the health care professions.

Thus some are devoting part of their time to defending the private practice of medicine and to opposing proposals for national health insurance. One such individual is Dr. J. Roy Rowland, a practicing family physician in Dublin, Ga. Recognizing the threat that such proposals pose to his practice of medicine and to the health and well-being of his patients, Dr. Rowland has become chairman of a committee on medical care professionals organized to seek a solution to continuous government encroachment into their profession. The organization has the appropriate name of CONTROL—Committee On National Trends, Ramifications, and Origins of Legislation.

On November 13 Dr. Rowland testified before the Subcommittee on Health of the Ways and Means Committee regarding the disastrous affects of national health insurance on the family physician and his patients. It is an excellent statement and deserves our attention:

National Health Insurance and the Family Physician

I thank this committee for allowing me to express my views, which are also the views of many of my colleagues.

I am J. Roy Rowland, Jr., a family physician from Dublin, Georgia. I am a member of the American Academy of Family Physicians and a diplomat of the American Board of Family Practice. I am engaged in the private practice of medicine in a five man group of family physicians. I have been in private practice since 1954.

Until recently, most of my time and talents have been devoted to the care of my patients and to my continuing education. Now, however, I find I must involve myself not only in treating the illnesses and injuries of my patients, but also in attempting to protect them from a pre-malignant proposal called National Health Insurance, being fomented by socialist theoreticians or other persons, who, in my opinion, frequently can't visualize the consequences of what they are doing.

In a great many areas in our country, the family physician delivers the majority of medical care to the American people. Since there is now a trend toward specialization in family practice among medical students, there will be an increasing number of people receiving care from this type physician. The quality of care rendered has continued to improve. The American Academy of Family Physicians requires a specified amount of post-graduate study every three years.

Within the past five years, the American Board of Family Practice, with its rigid examination, has also contributed to improvement. Over 90% of the ills of the American people can successfully be treated by these physicians. Furthermore, family physicians would be found more frequently in rural areas. Now let's take a look at what the relationship of the family physician and the patient could be under National Health Insurance based on experience thus far in similar type programs

What we are concerned about is the quality of and access to care at the lowest possible cost. Since the controlling factor of fee for service would be substantially reduced or removed, there can be expected an increased request for services. People will be paying for medical services through payroll deductions or whatever method, probably on a mandatory basis, and many will seek reasons to see a physician even if no significant illness exists. It is human nature for a person to seek some return for money that he has been forced to spend. His response will be completely different in this circumstance than if he had purchased the insurance on a voluntary basis.

I can tell you from the experience that I have had with medicare and medicaid that this will cause a substantial increase in the number of office visits for trivial complaints. The physician has no way of knowing if a patient needs medical care or not until after he spends some time examining him. This will allow less time for people who do need medical care. When the physician finds himself over-loaded and rushed, he begins to treat symptoms rather than look for the cause of diseases. The physician becomes frustrated with himself, the patient becomes angry with the physician, the doctor-patient relationship suffers, and an atmosphere of hostility develops to the detriment of everyone. What happened in Laurens County, Georgia in a ten year period from 1960 to 1970 depicts exactly what I am saying.

In 1960 the population of this county was approximately 33,000 and there were ten physicians there. In 1970 the population was still about 33,000, but now there were 20 physicians there. In 1960, patients had little difficulty in obtaining the services of a physician. In 1970, it had become increasingly difficult to secure the services of a physician. The increased affluence of the population and the increase in technical knowledge would, of course, cause some increase in requests for services. It would seem, however, that a doubling of the number of physicians for the same population would have been more than adequate to care for these factors. But that wasn't so. In 1967, Medicare was implemented in Georgia and in 1968 Medicaid was implemented. Many of the patients in these programs presented themselves in physicians' offices for problems they would not have come in for if it were not now free, unwittingly causing a serious problem of patient overload.

If we have National Health Insurance, and if history repeats itself as it always does, when problems develop, the government will step in with more money and more bureaucracy, which again, will only compound the problem as it always has in the past.

With regard to hospitalization under similarly funded programs, and again I speak from experience, there will be people who demand hospitalization when it is not justified or justification may be marginal. These people will claim hospitalization is their right. This again could displace patients who need hospitalization.

Family physicians will find themselves additionally burdened attempting to comply with Professional Standard Review Organizations and various federal regulations, using time that should be spend improving professional skills instead of for this activity.

It is evident from this that the quality of care will be reduced and access to care will be more difficult. And since governmental agencies will be involved, the cost can only escalate.

The epitome of what we can eventually expect is happening in England this year. Quoting an Essex doctor in PULSE, a British Medical Journal, "In 1948, GP's made the greatest error of all times. The mistake has cost the family doctor dear. Politicians have promised unlimited medical care for all. This can demand the very life, literally, of a member of the professions." Dr. David Owen, minister of health, stated that the National Health Service could no longer claim to provide a comprehensive service. He told a conference of community health councils: "the health service is a rationed service. There will never be a government or country that has enough resources to meet all the demands any nation will make on a National Health Service . . ."

Physicians in countries with socialized medicine such as England, find themselves seeing as many as 100 patients daily. There is no possible way that a family physician can give any type of adequate medical care under such circumstances. Large numbers of physicians have emigrated from England because of the frustrations of trying to function in this type of system. National Health Insurance, no matter what form it takes now, will no doubt eventually lead to total socialization of medical care.

Reasons espoused for needing National Health Insuprance are based on false premises, such as (1) a crisis in health care exists, (2) there is a public outcry for a change in our health care system, or (3) that physicians' fees have increased much more than the cost of living in general. It is inconceivable to me and my colleagues that our government could perpetrate this type of legislation on the citizens of this country who still enjoy the best health care system in the world at the most reasonable cost and which is also the most accessible—all this in spite of the fact that governmental involvement already exerts a considerable amount of oppression.

The relationship of the physician and patient would become totally impersonal under nationalized medical care. There are so many illnesses that have a psychogenic overlay which requires a very intimate and trusting relationship between physician and patient. This would be lost.

National Health Insurance will herald the onset of the collapse of the medical care system that we now have, and the beginning of the end of the family physician in America.

LARRY GARCIA—A CONGRESSIONAL PROFESSIONAL

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. LEGGETT. Mr. Speaker, over the last month, the Congress lost one of its most esteemed former professional staff members and a friend of many of us, Larry Garcia.

Labre Rudolph Garcia, Kensington, died at Bethesda Naval Hospital on November 7, 1975, after complications resulting from a recent operation. Well known for many years among service and congressional circles, "Larry" was born in Antonito, Colo., April 21, 1910. His father, Celestino Garcia, was a rancher who was well known in State politics, having served as a State senator for several terms. Larry came to Washington in 1935 and obtained his law degree from American University in 1939. For a short while he practiced law in the District of Columbia before he was drafted in March of 1941 and sent to Infantry Officer Candidate School in Fort Benning, Ga.

Although basically an infantry officer, his law degree dictated that he leave combat forces and serve in a military government capacity. During World War II he served in North Africa, Sicily, and Italy with both the American 5th Army and the British 8th Army.

In the close of World War II he returned to civilian law practice in Washington for a short period of time before joining the State Department as a Foreign Service officer. Most of his service during this period of his life was in Germany where he was appointed presiding district judge for the occupation forces and later presiding district judge of the High Commissioner, U.S. Military Forces.

Upon his return to the United States, he was active in the Army Reserve, but in April 1953, he transferred his commission to the U.S. Air Force and went on active duty in the Office of the Secretary of the Air Force in the Office of Legislative Liaison. Colonel Garcia remained in this capacity throughout the remainder of his military career except for one short tour in Germany as a contracts and procurement officer. In 1967, as an Air Force colonel, he was assigned to the staff of the House Armed Services Committee. In May of 1968, he retired from the U.S. Air Force with 28 years of military service. He remained on the House committee staff for 2 years, after which he became the minority staff member of the Senate Armed Services Committee. In 1973, he retired from the committee and joined the Raytheon Corp. as a consultant.

Colonel Garcia is survived by his wife, Anne R. Garcia, and three children, Kim, Kristina, and Judith. He was a member of the Sigma Delta Kappa fraternity. Among his military medals are the Legion of Merit with Oak Leaf Cluster, Bronze Star, American Defense Service Medal, the American Theater Medal, the Europan Theater Medal with Silver Star, and the Brazilian Madalha de Guerra.

Larry was honest, courageous, informative, but moreover independent and reliable. His talents will not be easily replaced on Capitol Hill, and his friendship will persevere indefinitely.

Larry Garcia, the Congress of the United States salutes you.

U.S. JOURNAL: JEFFERSON CITY, MO.—FOREIGN RELATIONS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. HUNGATE. Mr. Speaker, I believe this article from the New Yorker will be of interest to my colleagues, particularly those interested in Jefferson City, Mo.:

U.S. JOURNAL: JEFFERSON CITY, MO.—FOREIGN RELATIONS

(By Calvin Trillin)

Wyman Basinger, the Sheriff of Cole County, has lately been accused of collaborating with the Shah of Iran. The Sheriff has taken the accusation in stride. Basinger is a man who has an old-fashioned county-sheriff speech pattern that tends to relax the formality of his headquarters, as well as an old-fashioned county-sheriff build that tends to tighten the pressure on the lower buttons of his shirt. "If they say I'm working for that Shah," he said not long ago, "what I really want is that Shah to send me my check."

The county seat of Cole County, Jefferson City, is also the capital of Missouri, but that has not made it into a place any more likely than the ordinary county seat to become entangled in the political problems of Iran. In fact, it has always seemed an unlikely place to become entangled in the political problems of St. Louis. The state government does attract an exotic now and then—by chance, the present governor and attorney general both come under that category, both being wealthy by inheritance and overtly educated—but, like a lot of state governments, it has traditionally had a tone much closer to a county courthouse than to a metropolitan city hall. The residents of Jefferson City—many of whom are descendants of German farmers who settled along the Missouri River in the first half of the nineteenth century—have a reputation for conservatism.

The only newspaper in town, the *News Tribune*, has the reputation of being to the right of the general population—any general population. The kind of subjects *News Tribune* editorials bring up for public reflection are whether Henry Kissinger has committed treason and whether the United States Senate has been infiltrated by Communist agents. Its columnists range from Ralph de Toledano rightward toward a couple of commentators whose names would be familar only to people who collect brochures at rallies of anti-Communist evangelism. As if recognizing that print has its limitations even in a one-newspaper town, the *News Tribune* until recently sponsored daily radio broadcasts by Ronald Reagan.

Because Lincoln University is in Jefferson City, there have been foreign students in town for years, although the permanent residents have not taken much notice of them; in fact, the permanent residents have taken as little notice as possible of Lincoln University. Before the 1954 Supreme Court decision, Lincoln, a state school, was, by law, all black. In Missouri, a sort of Midwestern Border State that has always managed segregation without Southern rhetoric, the very word "Lincoln" used to be the equivalent of signs in the Deep South that said "Colored Only." Kansas City had not only a Lincoln High School but a Lincoln movie theatre.

Until the fifties, there might have been children in Missouri who were surprised to learn in grade school that the word also served as the name of the sixteenth President. As many whites as blacks attend Lincoln University now, but after class the whites go home—many of them to small towns around the county. The dormitory population is all black. The senior administration is mostly black. Jefferson City residents tend to think of Lincoln as black, and state legislators in charge of appropriations, so it is said, think of it hardly at all. The relations between the university and the town are not so much tense as merely thin.

The Lincoln administration has often been rather conservative—conscious that tumult could drive the legislature into new spasms of parsimony, or even into a decision to allow Lincoln to "lose its heritage" (not to speak of its black administrators) by turning it into a community-college branch of the University of Missouri. Some windows at the *News Tribune* were broken during disturbances following the murder of Martin Luther King, but Lincoln students, being generally more affected by poverty than by militancy, are much less likely to get into trouble with the law in downtown Jefferson City for any act of racial hostility than for shoplifting a package of bologna.

The attraction of Lincoln for foreign students seems to be that it is cheap and relatively undemanding and authorized to award credits that can be easily transferred to the University of Missouri, in Columbia, twenty-five miles away. Nigerians once dominated the foreign-student population, and until the recent political turmoil in Ethiopia there were a lot of Ethiopians. For the last few years, the largest single group has come from Iran. This year, there are nearly a hundred Iranian students registered at Lincoln—enough of them in engineering so that the Building Engineering program at Lincoln more or less exists to train Iranians.

The Iranian Students Association has been having a nasty factional dispute at campuses all over the country, but the two I.S.A. factions are bound by the strong belief that Shah Mohammed Riza Pahlavi is a corrupt and oppressive puppet of American imperialism—a belief they feel obligated to share with the American people. (There may be supporters of the Shah attending Lincoln—Jewish Iranians, for instance, normally prefer the Shah's regime to their estimate of what would replace it—but they are as quiet as a cell of McGovernites might be at the *News Tribune*.) In early October, some Iranian students applied for a permit to bring their case to residents of Jefferson City by parading down the middle of the main business street shortly before noon on a Friday.

The permit was given for the sidewalk rather than the street—and on the condition that the students not wear the masks they said were protection against retaliation by the Shah—but the parade went peacefully. Jefferson City shoppers were able to see, presumably for the first time, placards that called for the end of house raids in Iran and the end of American involvement in the Persian Gulf. On the following Sunday, the Iranians of one faction, including many people who had come in from other campuses for the parade, marched over to where the other faction was meeting, in the Wesley Foundation building adjoining the Lincoln campus, and tried to get into the meeting. There was a lot of noise and some minor scuffling, and eventually the city police, the sheriff's department, and the Missouri Highway Patrol were on hand.

Twenty-six Iranians who had refused to leave the Wesley Foundation lawn were arrested, and another was arrested outside the county jail. All of the students were released the following day, twenty-six of them on twenty-five-dollar bonds. Within a few days, bomb threats phoned in to the *News Tribune* (A male caller with a foreign accent") had resulted in the evacuation of City Hall and two clothing stores, the Iranians had claimed that they were mistreated during their arrest and their confinement in the county jail, Sheriff Basinger had received telegrams of protest from places like Chicago and Miami, and, most remarkable of all, the mayor of Jefferson City had said that he was planning to send the names and pictures of those arrested to the Shah—an act the Iranians said would result in retaliation against the students involved and their families. Before long, the flyer that Iranian students were handing out in Jefferson City was no longer one headed "The Fascist Shah" but one headed "Defend I.S.A. 27!"

The Sheriff says that what went on at the jail amounted to little more than some "carrying on" by the students, mostly over when they would be fed—"raisin' hell and stompin' on the table," that sort of thing. In fact, the Sheriff says, "We had this one little old Nigerian in there at the same time, and he was getting the biggest kick out of it." The Iranians were less taken with the humor of the situation than the Sheriff was, but they have not provided the details or filed the formal complaint that might make their most serious accusation against the Sheriff—the accusation that one student was beaten—sound more persuasive. The Sheriff says that he did give one slight shove to a student who refused to move through a doorway, whereupon the student "fell down and rolled on the floor and started squallin'." The squalling apparently included some warnings about the possibility of a heart seizure, but Sheriff Basinger says he didnt believe there was anything wrong with the student's heart. "I said, 'Well, just lay there, you damn Communist,'" the Sheriff recalled recently. "He come up off that floor with fists doubled up and said he wasn't any Communist. It was really comical." The Sheriff told the *News Tribune*, "I sure learned a quick way to cure an Iranian heart attack."

If the Iranian student reacted strongly to being called a Communist, it was presumably because he assumed the word was meant to describe his political ideology—Communist as opposed to Social Democrat, for instance, or Muslim Nationalist or anti-Soviet Maoist. Sherfiff Basinger, of course, is the sort of man who might call someone a Communist as an alternative to calling him a sissy or a yellow dog. Calling someone a yellow dog would not imply that the person so called was actually yellow and wagged his tail. It is just the sort of cultural misunderstanding that student-exchange programs were once expected to clear up.

There are probably not many citizens in Jefferson City who have taken a stand one way or the other on house raids in Iran or the American presence in the Persian Gulf, but everyone has some pretty definite views on demonstrators who get themselves arrested—particularly foreign demonstrators who get themselves arrested. A representative letter to the *News Tribune*, signed "Native American," said, "If you don't like our peaches, don't shake our tree. Just get out of our country and let Americans alone. In plain language, go back to where you came from and Good Riddance!" Sheriff Basinger says, "Most of the remarks I hear are 'Send 'em back home. They couldn't do it there.'"

The problem involved in doing it there, of course, is one of the points the Iranian students were trying to make with their placards about house raids and political prisoners. The possibility that the Shah's regime was the sort that might deal harshly even with demonstrators who did their demonstrating in another country—one implication of the mayor's decision to punish the students by sending their names to the Shah—was another point they were trying to make, by asking to wear masks at the downtown march. But that rather subtle propaganda victory was lost in the outrage Iranian students of both factions expressed at the mayor's decision.

The mayor of Jefferson City, Robert Hyder, is a bluff, white-haired attorney who retired two years ago as chief counsel for the Missouri Department of Highways—an agency that has been compared to Iran at least to the extent of being referred to around the capitol quite often as "a kingdom of its own." Mayor Hyder is not a man who keeps his views much below the surface. Asked about Lincoln recently, he said, "They got ex-convicts out there from all over the country. They got cars out there a lot bigger than you and I could afford from working." He finds the political rhetoric of the Iranian students repugnant, but he assumes they don't believe in it anyway. "What they really want," Hyder says, "is sympathy so they can stay here and make money, of course." A career at the Missouri Department of Highways does not nourish a belief in the motivational power of ideology over hard cash.

The Mayor was reported once as saying that he was going to write the Shah to apologize for what the students had done, and quoted another time as saying that, having been told that the Immigration and Naturalization Service was lacking the funds to deport all of the student troublemakers now in the country, he had decided to solicit funds "from the other end."

What may have happened, judging from what the Mayor and local newspaper reporters now say, is that the Mayor spontaneously reacted to the news of the arrest by saying he would write the Shah, the newspaper printed his remarks, and the Mayor either had to write the letter or back down. There was some discussion among the smart-alecks around town as to how the Mayor would go about writing the Shah, diplomatic correspondence not ordinarily being within the purview of his office. "Dear Shah"? For Shah's eyes only"? What the Mayor did was to ask Congressman Ichord's office to find out how the Shah should be addressed in a letter—which turned out to be as "His Imperial Majesty." Then, the Mayor says, he "got the names and pictures and bundled them all up and sent them to him, with an account of what happened."

Some of the lawyers in Jefferson City discussed among themselves the propriety of the Mayor's taking official—not to say international—action in a case that had not yet been heard in court, the students having been found guilty of nothing at all so far. But there were few public objections to the Mayor's action except from the Iranian students themselves. The Mayor says that it is "hogwash" to believe that the students on the list would ever be seriously punished by the Iranian regime—even if they defy his prediction by spending their future as political activists in Teheran rather than as illegal aliens in St. Louis. He says that a documentary he saw on television not long ago showed row after row of houses built by the

Shah for his people, leading him to conclude that the Shah is a pretty benevolent fellow.

He also says that one of the Iranian students admitted to a Columbia student paper that the students whose names were turned over would probably only have to apologize when they returned home—although the form of apology mentioned by the Iranian student quoted, a young man who was identified as a supporter of the Shah, included "two or three years in jail." Whatever the punishment, the Mayor sees its threat as a deterrent to demonstrations in Jefferson City. "They know we won't put up with any nonsense," he says.

The Mayor describes the entire incident as an attempt to "make waves" by the members of the I.S.A., and the Iranian students describe it as an attempt to concoct a "cause célèbre" by the Mayor—smearing the I.S.A. with implications that it includes terrorist bombers, exploiting an internal dispute in order to have innocent students arrested and threatened with deportation.

The Iranian students who were arrested, like a lot of overseas opponents of various regimes, tend to be secretive and defensive and capable of interpreting practically any event anywhere purely in terms of the politics of their own country. They speak matter-of-factly of a conspiracy that includes the C.I.A. and SAVAK (the Iranian secret police) and the Sheriff of Cole County. When they criticize the Mayor, they tend to put together a step-by-step, carefully documented chain of evidence that leads inescapably to the charge that there is "express and outright coöperation between the Mayor and the Shah of Iran." The Mayor's dispatch of the names and his statements to the newspapers are criticized by the students incidentally as interference in a case that is still before the court and heatedly as a "clear manifestation of Shah-Mayor collaboration."

Arguing in Cole County, Missouri, about the future of an Iranian Shah—or the future of Iranian students—can make some of the arguments and the arguers seem sillier than they really are. Sheriff Basinger's way of talking may make him inappropriate as a representative of the United States Information Agency abroad but not necessarily as a sheriff in Cole County. In fact, even that minority of Jefferson City residents whose sympathies normally lie with prisoners rather than policemen say that Basinger's administration of the sheriff's department has been remarkably free of complaints about brutality or mistreatment. If the attacks on the Iranians in the letters column of the *News Tribune* by Native American and such other enraged residents as American Taxpayer and Citizen are put in calmer language, the proposition they contain—the proposition that American taxpayers should not be expected to subsidize the education of foreign students who spend a good deal of their time attacking American policy—is merely questionable instead of ridiculous.

In Cole County, the students' talk of C.I.A. plots and *agents provocateurs* from SAVAK phoning bomb threats that resulted in the evacuation of Herman's Department Store sounds like bad melodrama in broken English. But, even assuming that the students exaggerate the number of political prisoners and the amount of torture and the level of repression in Iran, they obviously have reason to be concerned that a neat, well-typed list of their names has been sent to their government. The list of countries in the world whose young people studying abroad would have absolutely no cause for concern in such circumstances is short, and, as has become obvious from revelations in Washington over the past months, it does not include this one.

PRIVATE PHILANTHROPY AND AMBULATORY CARE FOR "NEAR POOR"—VITAL NHI ISSUES

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. SCHEUER. Mr. Speaker, private philanthropy has been, for many years, a major support for our health care delivery system. In 1974, over $4 billion was philanthropically donated by our citizens for health care. Of that total, more than $708 million was given for hospital construction.

I believe that the role of private philanthropy should be protected, and indeed encouraged, in any national health insurance program we develop. Dr. S. David Pomrinse, executive vice-president of Mount Sinai Hospital in New York, testified before the House Ways and Means Comimttee last week on this matter. He made the important point that:

> For many hospitals, the dollar contributed by the private sector represents the marginal dollar—the engine of change. It permits the hospital to try new techniques of care as well as of organization—new procedures, some of which will not work, and some of which will be gloriously successful. It encourages research into untried areas in the hope that early results will give weight to an application to the National Institutes of Health for major support. Philanthropy serves the non-profit field as venture capital serves industry. Without the willingness to invest in new ventures, American industry would lose its creativity and dynamism; without philanthropy, the American health field will become stultified, non-responsive and outdated.

Dr. Pomrinse also spoke of another matter which is vital to all hospitals, but particularly those in large urban areas, that of hospital-based ambulatory care. I quote his testimony again:

> The second major issue concerns hospital-based ambulatory care. In the poorer neighborhoods of major cities, there are very few physicians in practice and the hospitals have become the family doctors through their outpatient clinics. While Medicaid and Medicare pay for the care of their eligibles, approximately half the ambulatory patients in my hospital are the "working poor". Their incomes are just above the Medicaid eligibility level and yet they cannot afford to pay for care. This burden has become too large for philanthropy and too onerous for the hospital.
>
> New York's hospitals are losing $70 million per year because of this unreimbursed care.

Dr. Pomrinse proposed that an amendment be considered which would alleviate these problems nationwide.

I insert his full testimony at this point, because I believe it would be valuable reading for all of my colleagues:

TESTING OF S. DAVID POMRINSE, M.D.

I am grateful for the opportunity to bring to your attention two basic issues which many voluntary hospitals consider critical for inclusion in any national health insurance legislation.

The first is the preservation and encouragement of philanthropy. America's voluntary hospital system owes its origin and current health to the response of millions of individual Americans to a recognized local community need. Their contributions are tangible expressions of the Judeo-Christian philosophy which forms the ethical infrastructure of our country. The contributions take many forms: being a volunteer who provides a gift of self to a hospital, buying a ticket in a raffle, giving to an annual maintenance drive to cover a deficit arising from care for those unable to pay or making a major capital donation in support of a building project for which a certificate of need has been issued.

For many hospitals, the dollar contributed by the private sector represents the marginal dollar—the engine of change. It permits the hospital to try new techniques of care as well as of organization—new procedures, some of which will not work, and some of which will be gloriously successful. It encourages research into untried areas in the hope that early results will give weight to an application to the National Institutes of Health for major support. Philanthropy serves the non-profit field as venture capital serves industry. Without the willingness to invest in new ventures, American industry would lose its creativity and dynamism; without philanthropy, the American health field will become stultified, non-responsive and outdated.

My experience as a Hospital Administrator has convinced me that individuals who give to a hospital become very much part of it. They act as monitors of progress and of quality and provide invaluable playback to trustees and administrators. This is the most responsible form of community accountability: those who contribute to an institution assure themselves that their money is well-spent and that they are identified with an organization of which they can be proud.

There are, however, two threats to the continued success of this system. The first is a possible change in our current tax laws which would reduce the deductibility of donations to tax-exempt institutions. The government is truly a partner in giving and tax deductions constitute recognition that decisions regarding new and creative ideas should not be totally centralized but that they should flow from the involvement of thousands of institutions and millions of donors. This basic principle should continue to be recognized and encouraged.

The second threat to the efficacy of our current health care delivery system is to consider philanthropic contributions as an offset to expenses in calculating hospital reimbursement rates. It is essential that donations and bequests be excluded from whatever formulas are evolved for paying hospitals for care provided to beneficiaries. Otherwise there will be no purpose in giving since the donor would be paying twice for the same thing, once in his taxes or premiums, and a second time in his gift. Dispelling these two threats would enable America's voluntary hospitals to continue to respond to the national health needs of our people in whatever form Congress may define the program in years to come.

The second major issue concerns hospital-based ambulatory care. In the poorer neighborhoods of major cities, there are very few physicians in practice and the hospitals have become the family doctors through their outpatient clinics. While Medicaid and Medicare pay for the care of their eligibles, approximately half the ambulatory patients in my hospital are the "working poor". Their incomes are just above the Medicaid eligibility level and yet they cannot afford to pay for care. This burden has become too large for philanthropy and too onerous for the hospital. That is the primary reason I favor national health insurance. It is my hope that future legislation in this area will cover *all* Americans and include hospital-based ambulatory care on a cost basis.

Until a comprehensive law is passed, however, this urgent situation calls for an interim answer. New York's hospitals are losing $70 million per year because of this unreimbursed care. Recognizing the importance of this care, the New York State Legislature in 1974 required Blue Cross to pay its share of the ambulatory care deficit as an add-on to its in-patient rates. They recognized that we could not run major hospitals without clinics and that the loss was a normal cost of doing business.

I propose that Congress adopt this same philosophy and amend Titles XVIII and XIX to permit these programs to share in that cost. Everybody agrees that ambulatory care should be encouraged; but not everyone wishes to pay for it. Congress now has an opportunity to help hospitals to maintain viable ambulatory services at a relatively modest national cost, estimated at $200 million per year. Surely this is not too high a price to pay for safeguarding the health of our fellow Americans. Thank you.

A NEW YEAR'S RESOLUTION

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. ARMSTRONG. Mr. Speaker, with the New Year upon us—an extraordinary year since we will observe the 200th birthday of this great Nation—it is my hope Congress will make a New Year's resolution to observe the anniversary in a way most beneficial to those people who pay this country's bills every year—the American taxpayer.

As matters now stand, the average American must work the first 4 months of a New Year to earn enough money just to pay his taxes—local, State, and Federal. Somewhere around May 1, he finally begins to work for himself and his family.

I call this to the attention of the House for two reasons:

First, to point out how ridiculous it is to have to work 4 months out of the year to pay taxes. Our country was born in a revolution sparked by unjust and excessive taxation symbolized by the Boston Tea Party. Today we are very close to taxation so excessive it often threatens to create a similar revolutionary spark.

But Congress must have forgotten the meaning of the Tea Party symbol or surely it would not have created the over-blown and fat-laden programs which have necessitated excessive Federal spending, spending on a scale unknown throughout the history of mankind.

The Federal Government is spending $12,000 per second—actually every 1.1 seconds. And the total continues to go up every year. As a consequence citizens must work longer each year to support a profligate Government.

Second, I want to dispel some of the myths that are so glibly spun by those who want to foster even bigger Federal spending.

Over and over again we are told that tax reform and loophole closing can provide funds to finance vast new spending schemes. If only we are willing to create tax equity, the story goes, we can balance the budget and spend more; in other words, have our cake and eat it too.

This talk has the ring of demagoguery about it.

Under the guise of shifting the burden through a tax reform that soaks the rich or allegedly restores equity to taxation or under some other name, we are told all will be better for the average taxpayer. The truth is the average man or woman will get it in the neck again if Federal spending is not brought under control.

Why?

Because in this country the wealth is in the hands of the average people. They are the economic backbone of the Nation. Middle America, if you will. They do the work and they have the income. So new taxes are bound to hit them the hardest.

We are told taxes could be shifted from the average breadwinner to the huge corporations. Corporations have the big money and could solve our problems, the story goes.

Well, what about the big corporations?

I presume we are not going to tax corporations out of existence. Even if we did we could not pay the Government's bill very long. For the sake of illustration let me point out that if we taxed all of the corporate income in the United States not at 50 percent or 60 percent or even 70 percent, but at a full 100 percent—that is, if we ignore all considerations of equity and commonsense and confiscate the profits of all corporations in the country—by the way, how would State governments replace the lost tax on corporate income—it would raise only about enough money to keep the Federal budget going for about 8 weeks.

Obviously this would wreck our economy, send the stock market plummeting to zero, precipitate a depression, throw millions of workers out of jobs, and deal harshly and unfairly with millions of Americans who have invested their savings in business enterprises.

Well, then, what about closing some loopholes and getting it from the high income individuals?

Again the facts contradict the demagogues.

It is true, of course, that some people in our system earn huge incomes. But as long as it is honestly acquired in a free, competitive market we should not punish people for being successful. To do so would remove the fundamental incentive that makes the free enterprise system function.

But, even if we did not wish to be fair to upper income people, even if we wished to tax the incentives out of our system completely, there just are not enough of these high-income persons to raise a significant amount of tax revenue. Let me give you some more examples:

If we taxed the income of everyone in the $100,000 and up bracket at the rate of 100 percent, it would not keep the Federal Government going for 3 weeks.

With Federal spending running at the rate of $7 billion per week, confiscation of all incomes above $50,000 would barely cover Federal expenditures for 6 weeks. Even if we seized every penny of income above $30,000, it would provide less than 3 months running expenses of the Federal Government. And on and on and on.

Additionally, there is the problem of determining what constitutes a high income. To the man earning $5,000 a year, $20,000 is high. To the $20,000 a year man, $50,000 looks high. That, too, goes on and on. Thus, even if we could support the Government by "soaking the rich," we would be hard pressed to find an equitable place to draw the line.

So any attempt to increase Federal income tax revenues significantly in order to pay for greater Federal spending is bound to hurt the people who can afford it the least: The wage earners, men and women who are trying to make ends meet, educate their children, support their churches, and charitable organizations, and even to save a little for their old age—all of which are getting harder and harder to do as the burden of taxation grows heavier.

I can think of no more significant way to observe our 200th birthday than to display to the American public our determination to reverse the trend of increased taxation, by reducing the amount of Federal spending—setting a permanent budget ceiling—and a corresponding reduction in Federal taxes.

CIVIL WAR IN LEBANON

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. DERWINSKI. Mr. Speaker, the House International Relations Committee continues its slow but steady pace in marking up security assistance legislation. The disturbing fact to me is that the measure contains $90 million for Syria.

I trust that the Members of the House can take time from the many things that preoccupy them to thoroughly study the developmens in Lebanon. This peaceful, progressive nation is now torn by a terrible civil war, and major factors include Syrian activity in support of radical groups in Lebanon.

An article by Pat Pastin of the Lerner Newspapers, an outstanding chain serving suburban areas of Cook County, which appeared in their November 23d edition, has just come to my attention. I insert it in the RECORD at this point:

CHICAGO AREA MAN SEES SIDES OF LEBANESE WAR

(By Pat Pastin)

The Palestine liberation organization (PLO) murder squad stared coldly at photographer Michael Schiff. They stood over the bodies of three Christians, slain moments before at the outskirts of Beirut, Lebanon.

"I was supposed to be a PLO sympathizer," Schiff recalls. "I knew if I showed any emotion I would be killed, too. I was terrified, so I took some pictures to be busy. Eventually, they shrugged and we continued the patrol."

Schiff went to Lebanon on forged documents. He was accepted as a pro-Arab Christian American interested as propagandizing the PLO. Actually, Schiff was working for Faces Magazine. He is Jewish, a Glenview resident, and a former Marine and as will be seen, a very brave man.

He took photographs of street fighting, of a secret visit of Jordan King Hussein and Syrian President Hafezal Assad; of a United Nations unit providing free propaganda services (with United States money) for the PLO, of Syrian troops on Lebanese soil, and came away with PLO and Syrian strategy plans.

Schiff said he was told that there is a three-fold plan:

Syria eventually will take over Lebanon to gain the deep water ports of Beirut and Lebanon. On Syrian maps there is no "Lebanon," only an area marked as part of "Greater Syria."

The PLO object in the street fighting is to close down all the business and banks until the Christians are forced to abandon them. They would then be taken over by the Moslems.

Lebanon then would be used as a staging area for future attacks upon Israel.

Schiff flew to Beirut after getting clearances from the Lebanese Counselate General in Chicago. He pretended to be a third generation Catholic of German descent favoring the Christian side in Lebanon. Schiff figured that his paper would hold up for two weeks. Ironically, his cover was exploded by the PLO in 11 days who wanted to kill him for pretending to favor the Arab side.

With a letter of authorization he was cleared in Beirut and then worked his way into the confidence of the PLO. In effect, he was pretending to be pro-Christian for the Christian Lebanese and pro-PLO for the Arab Lebanese.

The PLO gave him a guide who took him to PLO headquarters. There he met Abdul Majid, head coordinator for Al Fatah (the extreme wing of PLO). "They searched me, checked all my papers. We talked for two hours, the conversation being entirely anti-American and Anti-Israel. He introduced me to Ahmad Jadda (who was to become his PLO contact).

"We went to hospitals, PLO camps and I asked him if I could take photographs. They said I could, but only if they could develop and censor them. The first time they did, I complained about the quality of the work and told them I would do the developing, and afterwards they could censor them. They agreed, but I hid extra prints in my boots and they never found them."

Schiff was taken on a number of PLO raids. The PLO squad consisted of four automatic riflemen and a rocket launcher. The first day they found three Christians walking along a railroad track on the outskirts of Beirut. They were killed by a single volley of rifle fire.

"One of the riflemen found a crucifix on a body. He stuffed it in the victim's mouth. He laughed and said "The next time it will be the Jews in Israel."

But the killing was not all one-sided. The previous day, Christians had murdered a Moslem cabdriver by cutting his throat in public. The raid was in revenge.

The PLO squads were armed with Russian rifles and machine guns as well as with rocket launchers. The squads roamed the streets openly, one squad covering the next. If a Christian sniper was spotted they would converge to wipe him out.

The PLO squadmen were brave, Schiff reported, often daring the heavy artillery of the Christian forces. But, they were ruthless, killing on sight, whether or not the Christians were armed.

Schiff went on a dozen patrols, once barely escaping death when a direct artillery hit wiped out his car moments after he had left it.

"We would go out at 11 in the morning or so. The raids were all premeditated. They wouldn't let me go and I knew that they didn't trust me. I saw 20 or 30 people killed. It was like having your mouth gagged. I had to be neutral, since I knew they would kill me. They have no regard for life. They marched right down the middle of the streets, shooting at anybody . . ."

Once he was taken to the UN Work Relief Agency in Beirut. "They were told I was a guest of the PLO. I saw them doing photo outlines for the PLO, the printing was done somewhere else. I asked Jadda where the money came from. He said from America, from the refugee money. The head of the department was a British national Munir Nasr . . . Her real name was Myrtle Winter Chaumeny. She was an absent-minded old lady, who was against anything Israeli. She was one of the old British residents in Israel and never forgot the wars there."

Schiff went to Tripoli, the second biggest city in Lebanon. There he met a high ranking Syrian officer, who doubled as a smuggler. He was taken into a building where a class was in progress.

"There were 80 or 90 Orientals there looking at a mock up of the cockpit of a 747 jet. It was a class in hijacking. There was a lady instructor. I recognized her as a German who had once been caught while hijacking a plane in Europe."

Schiff quietly slipped some of the paperwork into his pocket, for proof of what he had seen. His camera had been unloaded by the guards. Later he slipped some film in and shot "off the hip" while facing the opposite direction, a scheme he was to use in many situations.

While driving through Tripoli he came across a parade. There was King Hussein of Jordan and President of Assad of Syria, reviewing Syrian and Al Fatah troops. They were hustled away by angry guards, but not before Schiff had a "hip shot."

Next they stopped at a building for a scheduled talk with leader of PLO's Al Latah Yasir Arafat, but wandered into the wrong room.

"The next thing I know we were staring at five or 10 Orientals. They looked like advisers. They saw me and went right out the door. Guards came rushing out and they pushed us out." They took Schiff's escort away and when he returned he was "pale and worried. We got out of there fast."

On the trip back Schiff took photographs of Syrian troops praying.

The next day Schiff slipped away from his PLO "friends" and accompanied some Spanish newsmen, for a trip to Saida in Northern Lebanon but were stopped by an Al Fatah roadblock. Only after he had returned did Schiff remember that he had been carrying film and documents that could have got him shot if he had been searched closely.

The next day, after being forced to go on another raid, he went to a Christian Falangist camp. The Christians had gathered heavy artillery, mostly American, including 105 m.m. field guns and some brand new .50 caliber machine guns from China.

"The Falangists have the high ground," Schiff said. "They are as fanatical as the Moslems. They gave us a tour and again, I had forgotten about my films! I was white when I got home."

The killing had sickened Schiff. He wanted to stick it out for another week, but the American Embassy got a message to him that the jig was up. The PLO were now suspicious of him and it would only be a day or so until his documents were broken down. His trip to the Falangist Camp had been an error.

"I told Jadda that I had to go to Cypress to send my photographs. I asked him for an escort so the Falangists wouldn't take my film. I said I would come back on the next flight. I was given an armed escort of two PLO commandos. They shoved guns into the bellies of the customs agents and I passed through untouched."

In Cypress Schiff who had no money, used his credit cards for a flight to Israel and safety. From there, he flew home.

"The Moslems can overthrow the Lebanese government anytime they want to," Schiff insists. "This is because 90 percent of the government military is Moslem, while 80 per cent of the officers are Catholic. The government doesn't interfere with the street fighting. They just back off.

"I wanted to know what was going on and why. Why did they kill all those athletes at the Olympics? Being a Jew had little to do with what I did. I wanted to find motivation . . ."

His conclusions are that the fighting is completely organized. The eventual plan is destroy American intentions in the Middle East and Israel, and to get Lebanon under Syrian sway.

He said he had learned that Syria was under tremendous pressure from Saudi Arabia to "lay off" Lebanon. The Saudis' evidently control the purse strings of war, Schiff reports.

After Schiff returned, he told of some of his experiences on a radio show Tuesday, Nov. 18, on WBBM. His magazine received a bomb threat and death threats were made against Schiff. He was escorted home by four sheriff's police.

During his 11 days in Lebanon Schiff had seen a house to house war and was the only newsman to see fighting from both sides. ("Most of the newsmen did their reporting from their hotel rooms," says Schiff).

"Nobody seems to understand what is going on there," he said, "Perhaps nobody really does. There are many forces at work in Lebanon—American, British, Chinese, Syrian, Arabian, Japanese, French . . . The Lebanese are caught in the middle."

FAIRNESS TO THE PARK POLICE

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. ZEFERETTI. Mr. Speaker, it is with a great deal of pride that I introduce today a bill designed to bring fairness and efficiency to the system of compensation and disability retirement of the over 800 members of the U.S. Park Police.

Since the year 1791, the U.S. Park Police have had a distinguished and unblemished record of service to our country. Its officers are carefully chosen and well-trained, and are learned in the laws of the State and local jurisdictions in which they serve, as well as the Federal laws pertaining to the areas for which they have primary law enforcement responsibility.

As do other police, officers of the U.S. Park Police perform their duties under conditions which are hazardous and require the constant utilization of wisdom. In the over 70,000 Federal areas which they patrol, including those within the National Capital area, they have jurisdiction over the full range of criminal acts and are on call and ready to assist local and other Federal law enforcement agencies.

Beyond law enforcement, the Park Police provide other major services to the public in both community relations functions and hazard relief. For example, the Park Police maintains and operates two helicopters staffed with paramedics to provide emergency assistance to victims of accidents requiring immediate care or hospitalization.

In performing their duties, the Park Police serves people in all Federal areas administered by the Department of the Interior, including parks, malls, and road and waterways. Of major immediate importance is their visitor assistance function which will be especially vital during the nearing celebration of our Nation's Bicentennial.

In short, the U.S. Park Police exemplify the best and most admirable qualities of our various law enforcement personnel.

The bill which I now introduce is required in order to bring justice, sensibility, fairness and efficiency to the system of compensation and disability retirement of the members of the U.S. Park Police.

For years, under the District of Columbia Code, the salaries of Park Policemen and Policewomen have been treated jointly with those of the District of Columbia Metropolitan Police Department and the Executive Protective Service. The recent D.C. Home Rule legislation, however, while requiring the D.C. Government to bargain with labor representatives of the Metropolitan Police Department, provides no such procedures for the Park Police. This bill will remedy that defect by bringing the members of the Park Police, who are Federal employees within the legislation which protects other Federal workers.

Mr. Speaker, the Chief of the U.S. Park Police has recognized the problems caused by the presently dysfunctional provisions under which these matters are governed. Among these problems is an increasing amount of resignations of Park Police officers and transfers to other Federal agencies. In other words, the present law is counterproductive and in addition to withholding fairness from the Park Police, operates to cause well-trained and experienced officers to look elsewhere, thus reducing the potential effectiveness of this valuable Federal resource. I commend this bill to you for favorable and speedy action.

OCTOBER LEAGUE REVEALED AS RACIST LIARS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the October League, Marxist-Leninist, OL, includes quite a number of "Mao-Think" revolutionists whose contribution to their movement consists of rhetoric-ridden fantasies which have only the loosest connection with truth. The purpose of these propaganda efforts are to promote racial and social antagonisms in order to divide, alienate, and weaken our country.

A case in point involves an article in the tabloid Southern Patriot published by the Southern Conference Educational Fund, SCEF. The Southern Conference Educational Fund was taken over from the Communist Party, U.S.A., by a Maoist-dominated coalition in 1974. Since that time the October League has become the determiner of SCEF's political line with known open and secret OL members among the SCEF staff and on its board. The newspaper, dated September 1975, but not distributed until late in October, contains a viciously racist and inflammatory story relating to two criminal events which occurred in the Waverly community of Baltimore, Md., last June.

The facts of the matter were that on June 25 an elderly white woman died of a skull fracture after an assault and robbery of her purse. Two black juveniles were arrested and charged minutes after the incident took place. On June 26, more than a mile from the first incident, two black men intervened in a gang fight on a school playground between white and black juveniles. One of the men was stabbed to death, the other was wounded. The Waverly neighborhood has unfortunately been the scene of sporadic gang fights between white and black juvenile delinquents for the past two summers.

Several weeks after these two unrelated incidents, the tiny Baltimore cadre of the Progressive Labor Party, PLP, a highly militant radical group which has endeavored to exploit racial tensions in Boston over the busing controversy, distributed leaflets containing a highly fictionalized account of the June 26 stabbings and blaming only the whites for the violence. This was in the true revolutionary organizing tradition in which the alienated white revolutionaries endeavor to recruit blacks and other minorities to serve as their—expendable—shock troops in the planned revolution. The tactic involves supporting the minority group in any dispute no matter what the facts are.

During July two meetings were organized by the "Waverly United Committee" which was a creation of the Baltimore October League chapter under its own name and under its "covert" guise as the Baltimore Fight Back Committee, with the participation of the PLP and even OL's chief rival, the Revolutionary Union which recently changed its name to the Revolutionary Communist Party.

The Waverly neighborhood was unimpressed by the little Lenins and since their efforts to exploit the incident came to nought, the Waverly United Committee dissolved.

However, to read the Southern Patriot is to find an account of "racist mobs" of whites roaming the streets of Baltimore "lynching" the "first Black they could get their hands on" while "armed guards" of Maoists protect terrorized black families and collect money door to door.

The fact that extremist propaganda sometimes backfires should not cause the public to discount the potential and actual threat posed by revolutionary groups. However, the nature of the propaganda shows the extreme lengths and the total disregard for truth the October League and its allies hold.

THE NEED FOR FULL EMPLOYMENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. RANGEL. Mr. Speaker, the Democratic Congress has been criticized by the President and the press for our failure to devise a strategy that would reverse the downward trends in our sagging economy. Although I do not agree that we have failed to deal with the problem as rapidly as I would like to see.

The paramount issue on most of my constituents' minds is that of jobs. They want to know when the Congress is going to pass legislation that will guarantee all Americans a job so that they can provide their families with the basic necessities of life. My response to their question is soon.

We have H.R. 50, the full employment bill proposal by Congressman HAWKINS pending in committee. Just as the energy bill and Tax Reduction Act were brought quickly to the floor, so too should this legislation. The time for action is now, for delay will only further prolong an already overdue economic recovery.

I would like to share with my colleagues a resolution which was adopted by the St. Philip's Church, which is in my district. It calls upon all of us to immediately adopt this concept so as to inject a needed stimulus to our economy. I would hope that you will consider it and then begin to mobilize your efforts for prompt action on H.R. 50. The full text of the resolution follows:

FULL EMPLOYMENT AND FULL CHURCH MEMBERSHIP

Too many people are out of work.

This is as much the business of St. Philip's Church as is anything we do inside this church building.

Jesus said: "I was hungry and you fed me."

People without money cannot eat. The preferred way to get money is to work. Those who cannot get work should get public aid just as private business receives public aid through subsidies a scheme of tax shelters, depletion allowance and payments for not growing farm products.

The only sensible answer is a national program for full employment for everybody who can do any kind of work. New kinds of work must be planned for the unskilled as well as the skilled. When everybody works, there is no financial crisis for anybody.

We, the people, should insist in every way that makes sense that the Federal Government take the leadership for full employment. If we can get to the moon, we can get people to jobs and jobs to people.

Write your Congressman, Senator Javits, Senator Buckley and President Ford.

It makes no sense to tell people to come together to worship God on Sunday if they have no money to get there. Food, shelter, clothing—these are the business of the Church.

DO AEROSOLS CAUSE CANCER?

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. DOWNEY of New York. Mr. Speaker, the potential hazards of our environment presented by fluorocarbon emissions from aerosol products has received considerable public attention. The evidence indicates that the mixing of these substances with the upper atmosphere is destroying the protective layer of ozone, which shields the Earth from the Sun's ultraviolet rays. The consequences of this process are staggering. An increase in the incidence of skin cancer, as well as dramatic changes in the Earth's climate, are promised.

While these facts are widely known, there is a dangerous tendency to dismiss the evidence as inconclusive, and therefore of little value. Critics of the ozone depletion theory, who number some of the largest manufacturers of aerosol products among them, counsel that no action should be taken until all the evidence is in. I suggest we cannot afford the luxury of certainty. With what sort of satisfaction will we greet the "proof" years from now that we have indeed been destroying the atmosphere. The price of conclusive evidence may well be an irreversibly lethal situation. We must not sacrifice the health of our's and future generations to protect the profits of a few large corporations. As producer of half the world's flourocarbon products, the United States has a moral obligation to insure that irreparable damage is not being done to our environment.

H.R. 4328, of which I am a cosponsor, is in my view a considered and sensible approach to the problem. It does not propose a ban on the manufacture of fluorocarbon products. Rather, it insures that this situation is given the careful study it deserves. It would place the burden of proof of the safety of these substances on their manufacturers. Furthermore, it would not inflict hardship upon the consumer, as emissions from refrigeration units would not fall under action which H.R. 4328 may authorize.

I would like to bring to my colleagues attention an article in the Wall Street Journal of December 3, 1975, concerning recent studies of this matter.

I believe it is time we paused to reflect on the damage we are doing to the world we live in, before it is too late. We cannot continue our callous indifference to the health and safety of the world's people by our inaction.

The article follows:

Theory That Aerosols Deplete Ozone Shield Is Attracting Support

(By Jeffrey A. Tannenbaum)

New York.—Evidence is mounting in support of a controversial theory that gases spewed out by billions of spray cans are damaging the atmospheric layer that shields the earth from the sun's harmful ultraviolet radiation.

The theory is still unproved. But experiments are tending to support it and nothing so far has been found to invalidate it. More scientists now speculate privately that confirmation isn't far off. Pressure for a ban on use of the suspect chemicals, at least in aerosols, is expected to grow in Congress.

Eighteen months ago, two University of California chemists, Mario J. Molina and F. Sherwood Rowland, advanced their astonishing theory. It concerns the most commonly used fluorocarbons, which are employed in refrigerators and air conditioners and as propellants in the majority of aerosols, including deodorants and hair sprays.

They said fluorocarbons, after being released from spray cans and old refrigeration equipment, are being wafted into the upper atmosphere, where their molecules split apart and trigger a complex chemical reaction. The hypothesized result: damage to the shield of ozone, a form of oxygen, that prevents much radiation from reaching the earth's surface.

SERIOUS EFFECTS

In theory, a continuation of such emissions into the atmosphere could increase cases of human skin cancer. Possibly even worse, it might cause awesome changes in the earth's weather and ecology, including damage to wildlife and crops.

Fluorocarbon manufacturers and users, however, insist that the ozone-depletion theory is far from proved. Recent scientific findings "seem clearly to raise enough doubt to warrant making a better test in nature before demolishing a major industry," says James P. Lodge Jr., an atmospheric chemist retained by the industry as a spokesman.

The industry stands to lose big, of course, if the products are banned. The Commerce Department estimates the value of fluorocarbons made in the U.S. at $400 million to $450 million a year and the replacement value of the manufacturing facilities at $300 million. Of the six primary producers, the biggest is Du Pont Co. The others are Allied Chemical Corp., Union Carbide Corp., Pennwalt Corp., Kaiser Aluminum & Chemical Corp. and Racon Inc. U.S. producers account for about half the world production of fluorocarbons, which now approaches two billion pounds a year.

Until recently, nobody suggested that the ubiquitous fluorocarbons were anything but beneficial. The chemicals, which aren't found in nature, are nonflammable and substantially inert in chemical reactions, including degradation, on earth and in the lower atmosphere. They have been used as refrigerants since the 1930s and in aerosols since World War II.

STEPS IN THE THEORY

But in recent years some scientists have pondered what happens to fluorocarbons after release into the atmosphere. Last year Messrs. Molina and Rowland came up with their theory.

The theory's first assumption is that fluorocarbons gradually are lifted by the winds to the layer of the upper atmosphere called the stratosphere, which starts 10 kilometers (about 6.2 miles) or more above sea level. That first assumption has been borne out by research.

"Fluorocarbons are getting to the stratosphere in the predicted amounts," says Arthur L. Schmeltekopf, a physicist with the National Oceanic and Atmospheric Administration's aeronomy laboratory, which measured fluorocarbons in balloon samples of air taken as high as 28 kilometers (17.4 miles).

The balloon-sampling research also confirms the next proposition of the Molina-Rowland theory—that the fluorocarbons are being broken down in the stratosphere. Researchers found that above about 15 kilometers (9.3 miles), the amount of fluorocarbons present diminishes until only traces are left about 40 kilometers (24.8 miles) high. "Something is destroying the fluorocarbons as predicted and at the rates predicted by theory," Mr. Schmeltekopf says.

ROLE OF ULTRAVIOLET LIGHT

In theory, what is breaking down the fluorocarbons is ultraviolet light, which is more intense at high altitudes. Fluorocarbon molecules keep rising into stronger radiation, until finally they are split apart.

Several research groups have confirmed that fluorocarbon molecules split under ultraviolet light and, in doing so, release the highly reactive element chlorine—the next step in the Molina-Rowland theory. "We have proved beyond any doubt that you get chlorine atoms when a photon (a particle of light) is absorbed by the fluorocarbon molecule," says Pierre J. Ausloos, a chemist with the National Bureau of Standards. Using ultraviolet lamps in the laboratory, the researchers demonstrated that each fluorocarbon molecule gives off either one or two chlorine atoms, depending on the wave length of the ultraviolet light.

From here on, the steps of the ozone-depletion theory become harder to prove. The theory says the released chlorine is depleting the ozone by converting it to ordinary oxygen. Among other difficulties in proving this hypothesis is the lack of any simple way to measure the ozone and tell if it is being depleted by chlorines from fluorocarbon pollution. Natural variations in the ozone shield make it difficult to determine whether a change would have occurred anyway.

Nevertheless, a significant depletion of ozone could probably be detected eventually, scientists say. However, many of them argue that the problem shouldn't be allowed to grow big enough to become detectable, for by then, they say, the consequences may be too dangerous.

So rather than measure ozone, scientists are investigating the stratosphere for other substances involved in the ozone-depletion theory. According to theory, each chlorine atom released by fluorocarbons sets off a catalytic chain reaction destroying tens of thousands of ozone molecules. But the chlorine atoms eventually combine with other types of molecules to produce substances such as hydrochloric acid.

With spectroscopic tests using U-2 flights and balloons, scientists at California Institute of Technology's Jet Propulsion Laboratory have confirmed that something in the stratosphere is producing hydrochloric acid. "The results show very clearly that there's a stratospheric source of hydrochloric acid—that it doesn't get there in that form from the earth," says Crofton B. Farmer, an atmospheric physicist at the laboratory. He adds: "The evidence at the moment points very strongly to the fluorocarbons being the cause, but it isn't unequivocally proven."

Measurements of chlorine oxide, a key but short-lived intermediary in the supposed reactions, still are lacking, but University of Michigan scientists think they can make such measurements via balloon samples by next April. Many scientists say the results may be widely accepted as proof or disproof of the whole theory.

MANY SCIENTISTS CONVINCED

But even the incomplete evidence to date has persuaded many researchers to accept the Molina-Rowland theory. "It's surprising how much the theory and the experiments agree," says the National Oceanic and Atmospheric Administration's Mr. Schmeltekopf. "My confidence level now is at least 95% that the ozone-depletion theory is correct." Adds F. Kenneth Hare, a University of Toronto climatologist: "Various professional groups are increasingly impressed with what the Rowland theory has to say. Evidence seems to be confirming it."

It's true, as the fluorocarbon industry points out, that four key chemical reactions in the stratosphere have recently been remeasured and found to be different from those Messers. Molina and Rowland assumed. However, Mr. Rowland asserts that all the changes in effect cancel one another out, so the net depletion of ozone is the same. He says he stands by his "conservative" assertion last year that fluorocarbons have already depleted ozone by 1% and will eventually deplete it by 7% to 13%, perhaps within 50 to 80 years, if the use of fluorocarbons continues at recent levels.

While there is more evidence than a year ago to support the theory, scientists don't know any more about possible consequences of ozone depletion. As the industry puts it in a recent position paper, "The questions aren't just whether the theory's general premises are valid, but also whether the magnitude of any ultimate effect is meaningful to the quality of the environment and public health."

SKIN CANCER HAZARD

There is only one projected consequence of ozone depletion that scientists agree on: Since the ozone layer shields the earth from much harmful ultraviolet radiation, ozone depletion would enable more radiation to reach the earth and cause skin cancer. Scientists estimate there would be 2,100 to 15,000 more cases of usually nonfatal skin cancer in the U.S. (and many more world-wide) for each 1% depletion in ozone!

Scientists continue to speculate that additional ultraviolet radiation would also harm animal and plant life, including crops. "There could be a detrimental effect on all biological systems," says Kendric C. Smith, a professor of radiology at Stanford University. Unfortunately, Mr. Smith adds, almost no scientific research has been conducted on the effects of ultraviolet light on crops or animals. He blames a lack of federal funding.

Similarly, there is a speculation that ozone depletion would alter the temperature structure of the stratosphere, and thus weather patterns or earth. But again, scientists say, there isn't yet any way to know what, if any thing, may happen.

But the very uncertainties are fueling calls by some scientists and environmentalists for a ban on fluorocarbons, at least in spray cans. "To my mind, the benefits of using aerosol products are negligible next to the risks we are taking," says Ralph P. Cicerone, an atmospheric scientist at the University of Michigan.

REFRIGERATION PROBLEM

Nobody seriously agrues that the world couldn't live without aerosal sprays, which account for perhaps 60% of fluorocarbon emissions. But living without fluorocarbons for refrigeration would be much harder. About two-thirds of refrigeration units in the U.S. use the suspect fluorocarbons, known as F–11 and F–12. However, a different type of fluorocarbon, F–22, is the second most commonly used refrigerant. The extent to which F–22 or other chemicals could replace the suspect ones in existing equipment isn't yet known. Presumably future equipment could be designed for new refrigerants.

Last June, a year after the ozone depletion from fluorocarbons was first hypothesized, a federal task force deemed the chemicals "a legitimate cause for concern." Unless new evidence removed them from suspicion, the group added, the use of fluorocarbons should be restricted to existing refrigeration beginning in 1978.

Currently, all the evidence is being reviewed by an independent scientific panel that is expected to report next March or April. Federal action against fluorocarbons isn't anticipated before then, and foreign governments are considered unlikely to act before the U.S. does. However, the state of Oregon already has adopted a ban on fluorocarbon aerosols, to be effective in 1977, and more than a dozen states are considering restrictive legislation.

Continuing scientific research, meanwhile, also concerns a number of additional possible threats to the ozone, including supersonic aviation, other chemicals such as carbon tetrachloride, and the use of nitrogen-based fertilizers. The fluorocarbon industry itself is sponsoring a multimillion-dollar research program into the stratosphere. The industry argues that withholding restrictions on fluorocarbons for a couple of years until all its research results are in wouldn't have any serious consequences. But Messrs. Rowland and Molina, and others, are calling for immediate action.

DAY CARE CHILD STAFF RATIOS

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. TREEN. Mr. Speaker, I am introducing today, together with 10 cosponsors, legislation to extend the day care provisions of Public Law 94–120 through October 1, 1977. I am especially pleased to have as cosponsors Representative L. A. "SKIP" BAFALIS and Representative GUY VANDER JAGT, who is a member of the Public Assistance Subcommittee which will consider this legislation.

This bill is identical to H.R. 11004 which I introduced Thursday, December 4, with my colleague Representative BILL KETCHUM, who is also on that subcommittee. I regret that through typing errors Representative BEARD of Tennessee was omitted from that bill and Representative BEARD of Rhode Island was listed by the Clerk as a cosponsor. Representative ROBIN BEARD of Tennessee has been an outspoken opponent of imposing Federal standards on day care centers without adequate research, and was a cosponsor of H.R. 9750 which passed the House as H.R. 9803 and is now Public Law 94–120.

I do not look forward to postponing decisions in this area until October 1977. But, unless Congress schedules hearings on the appropriateness of applying the Federal interagency day care requirements to all day care centers under title XX, it is mandatory that we permit HEW to complete its first study on the subject of child-staff ratios before ordering the States to change their licensing laws. That study will not be complete until mid-1977.

I would prefer prompt hearings by the House Ways and Means Committee to a lengthy postponement. So would most of the State welfare administrators, day care center operators, and parents with whom I have discussed this problem.

CONSERVATION AND PROSPERITY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. OTTINGER. Mr. Speaker, this morning's Washington Post contains an extremely thoughtful editorial about the need for this country to begin moving genuinely toward increased conservation of energy. The editorial was apparently inspired by a newly released study by the Federal Energy Administration which compared energy consumption patterns in Germany and the United States.

West Germany is as highly industrialized as this country, yet energy consumption levels are just about half of our own. This should provide us with an example to follow; we must move to decrease our consumption in nonessential areas with all possible speed.

I would like to commend the text of this excellent editorial to my colleagues:

CONSERVATION AND PROSPERITY

Now that the economic recovery is getting under way, it is time to start paying serious attention to its effect on oil imports. It is particularly urgent to think hard about the relationship between fuel consumption and prosperity. If production goes up, does the flow of oil have to rise proportionately? In the immediate future, the answer is yes. But as time goes on, the possibilities for dramatic savings become much more apparent. It all depends upon national policy and, to use an unfashionable term, will power.

No one knows exactly how much fuel the country is currently saving through conservation. Energy consumption is below last year's level, but the recession and the drop in industrial production is responsible for most of the change. According to the Federal Energy Administration, demand for gasoline in recent months has been running at almost exactly the same rate as last year and the year before—that is, the same as it was just before the oil crisis. That is a considerable improvement over the pre-1973 pattern of a steady increase of 6 per cent a year in gasoline sales, but it is not a reduction. Light distillates are used to heat homes as well as to power industry and run some types of utility generators, and here consumption is down significantly. But the biggest drop is in the heavy fuel oil that only industry uses. It is necessary to assume that, when industrial production picks up again, the demand for oil will rise with it. How much? Nobody can really tell, partly because the answer depends upon national choices that have not yet been made.

The chief reason for American reluctance to undertake serious conservation is the fear that it will stunt the country's future economic growth. The input of energy and the output of production in North America have followed tracks that, with certain interesting variations, have been parallel. But our past experience may not be a useful guide for the future. Other rich countries, including several with much higher growth rates than the United States', consume far less energy per capita.

Throughout most of northern Europe, energy use is about half the American level in relation to population. The comparison with West Germany is particularly instructive, since the German economy is based on heavy industry and the gross national product is, per capita, now equal to the American. An FEA commissioned study of the disparity in energy usage between the two countries found that in 1972—the last year before the great leap in oil prices—West Germans used one-fourth as much energy per capita for transportation as Americans did, one-half as much in their homes and stores, and that for each dollar's worth of production, German industry got by with one-eighth less fuel. The comparison shows immediately why the American thirst for oil is the world's highest but, simultaneously, why it is going to take time to change it.

While it is all very well to deplore the degree of American dependence on the automobile, it arises largely from the American style of metropolitan development. We cannot rebuild our cities overnight. It is more realistic simply to encourage the trend toward smaller cars—a trend that is taking hold much faster than anyone would have expected two years ago. Some aspects of conservation are matters of custom. In the United States, where oil has been cheap, central heating throughout one's home is considered a basic necessity of life. In Germany, where oil has been heavily taxed, it is normal to heat only half of the house—typically the living room but not the bedrooms. In industry, some very promising prospects for saving fuel are routine engineering decisions. Because the cost of oil is up, plants and machinery will be designed differently. But it takes years for the new equipment to come into operation and the old equipment to be phased out.

The federal government is still not sure how hard it can push. The dilemma is demonstrated, as usual, by the case of the automobile. Both the administration and Congress fear that too rapid and drastic a change of standards will kill sales and increase unemployment. But too little pressure, and oil imports begin to accelerate again. Timing is crucial to a wise choice of tactics. A year ago, with the economy tilting into a deep trough, the government was quite right not to go into a powerful conservation program enforced by heavy taxes and import limits. But as the recovery gains strength, both the White House and Congress have a responsibility to give more weight to the opposite danger implicit in the rising flow of Arab oil into this country. The American public has shown itself so far to be more responsive and more sensible about fuel than its government really expected. As production rises, it will be necessary for public policy to reinforce the present pressures for conservation.

THE INFLATIONARY IMPACT OF THE EPA MOTORCYCLE REGULATIONS

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. KASTEN. Mr. Speaker, during the past year, we have witnessed an increased awareness of the significant impact that Federal regulations have on the consumer costs of products. Sometimes, the social benefits far outweigh the increased cost to the consumer. Unfortunately, all too often, this is not the case.

A recent example is the regulations issued by the Environmental Protection Agency to control motorcycle emissions. These regulations were issued without any real consideration being given to whether or not the benefits of the public, in terms of cleaner air, are greater than the costs to the public, in terms of the increased price for motorcycles. In fact, EPA did not even address the threshold question of whether the potential of pollution by motorcycles was significant enough to warrant emission controls.

Mr. Speaker, on December 10, the Council on Wage and Price Stability filed its comments with EPA challenging the necessity of the proposed regulations. I would like the statement issued by the Council announcing its challenge entered into the RECORD at this point. I commend the Council for its initiative in this matter.

Mr. Speaker, Congress must give the issue of regulatory overkill a higher priority.

The statement follows:

COUNCIL CRITICIZES EPA REGULATIONS FOR MOTORCYCLE EMISSIONS

The Council on Wage and Price Stability today sharply criticized recently proposed regulations by the Environmental Protection Agency to establish uniform pollutant emission standards for new motorcycles. The Council's criticisms were based on three points:

Substantial evidence that motorcycle emissions are not now and would not become a problem sufficient to require nationwide regulation in the public interest;

Substantial evidence, based on EPA's own data, that the proposed uniform standard would not be as cost-effective for motorcycles as the equivalent standards have been for automobiles and other pollution sources;

Substantial evidence that the proposed standard, by driving up sharply the cost of regulated motorcycles, would act to divert consumer purchases to other types of motorbikes which are exempt from the Clean Air Act and hence the proposed regulations.

In sum, the Council charged that the proposed standard would have at best "a limited impact on the nation's air quality" but nevertheless would impose considerable costs upon motorcycle owners. For those reasons, the Council recommended that EPA not implement the proposed emission standards. The Council recommended that, at the most, EPA promulgate standards applicable only to the types of motorcycles for which they would be cost-efficient.

According to EPA's stated rationale that "all vehicles used for public transportation should, to the extent feasible, be controlled to the same levels of allowable emissions of air pollutants," the proposed regulations would establish for all new motorcycles designed for street or highway use, crankcase and exhaust emission standards for carbon monoxide, hydrocarbons and nitrogen oxides equivalent to those established for automobiles and small trucks. The regulations were published in the October 22 issue of the Federal Register, with a request that comments of interested parties be submitted by January 20, 1976.

In filing with EPA, the Council examined in great detail an issue which the Council claimed that EPA had largely overlooked—whether motorcycle-induced air pollution was an important national problem. The Council claimed that it was not. According to EPA's own data, motorcycles contributed in 1970 only 0.15 percent of total hydrocarbon emissions and only 0.17 percent of total carbon monoxide emissions. By 1980 these percentage figures are expected to grow to only 0.7 and 1.3 respectively. Moreover, EPA data indicates that of major urban areas facing air pollution problems in the 1980's, only 9 of these will have substantial motorcycle populations, all of them in the Far West (Los Angeles, San Francisco-Oakland, San Diego, Sacramento, the San Joaquin Valley, the Southeast California desert region, Phoenix-Tucson, Salt Lake City and Denver). Furthermore, the Council claimed that even in those areas, EPA's methodology served to inflate the amount of motorcycle emissions subject to regulation and to understate the percent of those emissions contributed by so-called "off road" motorcycles not covered by the regulations.

The Council also criticized the standard on the grounds that it did not constitute a cost-effective method for controlling air pollution. The basic problem, the Council said, was that a uniform standard simply did not work efficiently when applied to all types of motorcycles, principally because there is such a wide variation in the emissions characteristics among the four basic types of motorcycles (four-stroke vs. two-stroke, large vs. small).

One particularly unfortunate result of this problem, the Council said, was that the standard worked to place the cost burden most heavily on the least polluting motorcycles. The Council said that this inconsistency highlighted the problem of EPA's using the same uniform emissions control standard for motorcycles as it did for all other light-duty vehicles, even when their own data showed that what might be cost-effective with regard to light-duty vehicles was not cost-effective when it came to motorcycles. For example, the Council noted that the current average cost of control per ton of hydrocarbons for light-duty vehicles was $303, but for small, four-stroke motorcycles could go as high as $9,060.

Finally, the Council criticized the standard for the impact which it would have on consumer prices. According to EPA's own estimates, the proposed standard would cost consumers between $304 million and $665 million during the five-year period from 1978 to 1982. The Council also said that EPA's own estimates of increased costs per motorcycle resulting from the standard were disturbingly large, ranging from a low of $50 up to $130, or between 4.9 percent and 15.2 percent, depending on the size of motorcycles. Because of those increased costs, the Council predicted that consumers, particularly those purchasing the cheaper motorcycles, would divert their purchases to "off-road" motorcycles not covered by the regulations.

In conclusion, Council Director Michael H. Moskow asked that EPA not implement the proposed emission standards. "EPA should first consider whether motorcycles are a problem sufficient to require nationwide regulation in the public interest. If the answer to that inquiry is in the affirmative, EPA then should consider the promulgation of standards applicable only to the types of motorcycles and motorcycle use for which they are cost efficient," Moskow said.

HOW WILL SECURITIES BE TRADED IN THE FUTURE?

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. ZEFERETTI. Mr. Speaker, the SEC is weighing the future structure of our securities markets, deciding how securities will be traded in the future, who will price them and how they will be bought and sold. Presently about 95 percent of all transactions in listed securities take place on registered stock exchanges, primarily because exchange rules generally require member brokers to expose all orders in a particular listed stock to the flow of all other orders in that stock coming to the same exchange. The resulting interaction of the supply and demand for each stock is crucial in determining the fair market price of each stock at any given moment.

Some people argue that present exchange rules, such as New York Stock Exchange Rule 394, are unnecessarily restrictive to competition, and the SEC is presently considering elimination of exchange rules restricting offboard trading in listed securities. However, aside from the fact that these rules promote competition in requiring all orders in a listed security to be channeled into the auction process on an exchange, they provide significant benefits to the public in assuring: First, all investors an opportunity to participate at the best price available in the auction on an exchange; second, a more orderly market by channeling the full flow of orders into the auction; and third, close surveillance by the exchange of all transactions and listed companies.

Altering or destroying the existing rule might bring chaos to the market and damage the investor. The present rule is essential in preserving an auction system where the members of the exchange act as agents for their customers in bringing orders to the exchange to obtain the best price available in the auction process. Any basic relaxation of this rule probably would cause many securities broker-dealers to deal with their customers as dealers selling for their own account.

An editorial in the October 13 issue of the Wall Street Journal stressed this point, noting that "there is a great deal to be said for the argument that the customer generally gets a better deal in a market that stresses brokerage than he might by dealing directly with a professional dealer trading for his own account."

Furthermore, the New York Stock Exchange has suggested a new market responsibility rule, designed to provide investors the best of both systems by allowing members to execute orders in listed securities off the exchange when a better price may be obtained off the exchange, after satisfying all orders on the exchange at an equal or better price.

It seems as if we may have short memories. In previous eras manipulations in securities led to reforms and regulation of securities dealers and markets to protect the investing public. Now, in the name of "competition," consideration is being given to relaxing some of the most effective requirements for protecting investors. I do not favor monopoly, but I do fear a return, in the name of reform or competition to a relaxation of important requirements for protection of investors and orderly markets. This is an uncertain period in our capital markets, with unprecedented demands for capital at a time when the securities industry is adjusting to competitive commission rates initiated May 1 of this year.

Since 1969 there has been a loss of 35,000 jobs in the securities industry in New York alone and this figure can be multiplied a number of times to realize the total damage to the Nation's economy and employment picture. Further, a recent shareholder's survey by the New York Stock Exchange reveals that there has been a 5,644,000 decline in the number of individual owners of corporate stock in this country since 1970.

Accordingly, I think it would be a grave mistake to take a chance on serious financial dislocations by making changes at this time in exchange rules which are basic in assuring investor protection and orderly markets.

A GREAT OCCASION IN LIVINGSTON, N.J.

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. RINALDO. Mr. Speaker, tomorrow evening will mark a great occasion in Livingston, N.J. At that time, the Salaam Temple, which has over 7,000 members, will honor our 38th President by inducting 125 new members and designating them as the "Gerald R. Ford" class.

This is only one example of the civil-mindedness of the Salaam Temple. As one of the largest temples in New Jersey, which has over 80,000 shriners, Salaam has been deeply committed to helping citizens by caring for crippled children and by supporting burn care centers for the victims of fire. In honoring the peacemaking efforts of President Ford, this temple once more demonstrates that it is concerned not only with its neighbors in Livingston and in New Jersey, but with people the world over.

Accordingly tomorrow night Salaam Temple will be presented with a plaque honoring its efforts. I would like to submit the text of this inscription for the benefit of my colleagues:

IN RECOGNITION

Of the outstanding contributions to the health and welfare of thousands of crippled children, and for its compassionate efforts in supporting Burn Care Centers for the victims of fire,

Salaam Temple of Livingston, New Jersey is on this day of December 12, 1975 paid high tribute in the Congress of the United States for its outstanding work and generosity.

MATTHEW J. RINALDO,
Member of Congress.

KEEP THE INTELLIGENCE COMMITTEES WORKING

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. HARRINGTON. Mr. Speaker, in my testimony before Chairman PIKE's Select Committee on Intelligence yesterday, I expressed my very strong feeling that both the House and the Senate intelligence investigations should continue through the next session of Congress. The job of educating the public on the full range of problems, threats, and abuses of the "national security" bureaucracy is nowhere near complete.

I am inserting my testimony in the RECORD at this point for the attention of my colleagues:

TESTIMONY OF HON. MICHAEL J. HARRINGTON

Mr. Chairman, I thank the committee for this opportunity to testify on the role of the Congress in the intelligence area, even though I may be less a witness here than an object lesson. The fact that I appear before you, not among you, this morning may say more about the subject at hand than anything I might offer in the next hour of discussion. I trust you didn't invite me here to serve as a warning to the wayward, but I think the example of my recent troubles might serve well as a point of departure for some general observations on the problems we face as a Congress in challenging the national security mystique. To me the example suggests that our major obstacle in this area is ourselves.

None of you will object, I'm sure, if I spare you a full recitation of my record of interest in Chile, my efforts to get official information on CIA involvement there, my transmittal of that information to other Members in hopes of stimulating an inquiry, and my tribulations as a result of all this leaking to the press. That story is fairly well known, and its comic-opera details are far less important to observe than the attitudes and institutional reflexes that brought it into being. I therefore direct your attention to the very end of the story—to the final twist of fate that "got me off the hook"—because I think it perfectly exemplifies the problem we confront.

Just as it was about to begin formal disciplinary hearings last month, the House Ethics Committee met in secret session and dismissed the entire proceeding on what was generally billed as a "technicality." Accordingly to the committee, it was discovered that the Colby testimony on Chile in April of 1974 had not been taken in executive session after all, and the charge that I mishandled executive session material was therefore without foundation. No prior notice of Mr. Colby's appearance had been given to Intelligence Subcommittee members, no vote had been taken to go into executive session, and no one but the chairman had been present for the interview.

The Ethics Committee's finding, in other words, actually illustrated what a sham congressional oversight of the CIA had been under the auspices of the Armed Services

Committee. And the fact that this could be written off as a "technicality" as late as November 1975 illustrates how far we still have to go in raising public and congressional awareness of the nature of our responsibilities. I might add that not one of the Members who dogged me with sermons on the sanctity of the Rules during that period has so far stepped forward to suggest that a chairman who violated his own obligations in this manner might himself be subject to challenge or complaint.

With such attitudes still so widely shared, I'm not sure how much sense it makes for us to sit here and debate the fine points of structural change and legislative reform. For example, throughout my time of troubles I repeatedly insisted that Congress must decide what a Member should do when he discovers evidence of high-level crimes or improprieties in classified material. I still think we have to solve that problem, and the formulation of appropriate new procedures is not beyond the combined talents of the Rules Committee and the House Parliamentarian. But procedures alone won't make us stand up to Executive lawlessness. It really comes down to a question of stomach, and we can't legislate that.

In matters of national security, to put it plainly, Congress has allowed itself to be intimidated. For thirty years presidents have told the American people that only the Executive Branch has the information, competence and discipline to conduct foreign policy, and by and large, Congress has acquiesced in that judgment. Not wanting to be vulnerable to the charge at election time that we have trifled with the national security, we have erred on the side of "safety," contributing by simple avoidance to the slow but steady growth of a garrison-state Executive, an edifice of deception, lawlessness and unaccountability.

A prime example of Executive intimidation was Secretary Kissinger's speech in Detroit two weeks ago in which he called for an end to the "self-flagellation that has done so much harm to this nation's capacity to conduct foreign policy." Just in case the point was missed, the Secretary went on to characterize the clandestine activities of the CIA in terms which, a decade ago, would probably have received near-unanimous acclaim from those who aspired to be elected to public office:

"We must keep in mind that in a world where totalitarian governments can manipulate friendly political parties, there is a grey area between foreign policy and overt intervention which we deny ourselves at grave risk to our national security."

Now who among us wants to be accused of "self-flagellation" or of posing "grave risk to our national security?" In the American political lexicon those are scare phrases of the highest order—plain intimidation.

A prime example of congressional acquiescence, on the other hand—and here I speak with special regret—was this committee's most recent response to the stonewalling obstructionism of the man who uttered those words. The tough stand you appeared to be taking in demanding documentation from this so-called "open Administration" had my unqualified support; the contempt citations you voted against the Secretary of State were an important and necessary step in restoring congressional co-equality. Although I fully understand the political realities that led to the final arrangement, I was deeply disappointed that once again we saw a caving-in to Executive high-handedness—to the arrogant presumption of superior insight at their end of Pennsylvania Avenue and the disdainful assumption of irresponsibility at this end.

In this connection, allow me to make a proposal. In my judgment, the announced determination of this committee, along with its Senate counterpart, to complete its work within another month or so has greatly weakened your position with the Administration, for it permits a defense based simply on delay. Your successor oversight committee—no matter how well-structured, no matter how competent or well-intentioned—cannot possibly retain the momentum of this special investigation. In view of the obstacles you have encountered here under the very best of conditions, you can hardly expect that successor committee to complete your work after the reporters and cameras are gone. There are a great many areas that have had little or no public treatment by either of the select committees.

The area of Defense Department intelligence activity, for example, needs to be investigated far more thoroughly—we have learned very little publicly regarding the allegtions of abuses and incompetence in the DIA, the NSA, and the service intelligence agencies. After two years of intense international speculation about the CIA's role in the Chilean coup, the Senate committee held only one afternoon of public hearings on the subject, without a single witness from the CIA. Senator Church, in my opinion, should have issued subpoenas to the officials involved and followed the initial example of this committee if the officials had failed to comply.

In short, the select committees should serve notice that they are prepared to outlast the Administration—that they will not go out of business until their work has been completed to the satisfaction of Congress and the public. I strongly urge you today to extend the life of this committee through the next session of Congress, providing yourselves the time and the resources to complete the job. The oversight committee that takes over after you should be secure in the knowledge that the intelligence abuses of the past have been thoroughly explored and their lessons absorbed by the nation.

Let me move, finally, to some lessons which I have drawn from what we have seen revealed in recent months. Effective congressional oversight, if it can be achieved, will not by itself assure a law-abiding, well-managed intelligence community in the future. Certain additional steps will have to be taken.

(1) If we really believe in democracy and self-determination as a model for the world, covert action must be abolished as an instrument of United States foreign policy. The existence of a standing covert action capability in the CIA, available to a series of presidents anxious for quick results, has had disastrous long-term consequences, severely crippling this country as a leader in the world and badly shaking the faith of our own people in the integrity of their system. "Secret wars" fought without the knowledge or approval of the Congress, secret deals with foreign governments and political elements, the use of methods such as assassination and bribery—all have combined to make us look rather similar in the eyes of the world to societies we routinely condemn.

The effort by the Congress to control covert action, embodied in an amendment to the Foreign Assistance Act of 1974, has failed and ought to be supplanted by an outright prohibition. It has merely resulted in Congress being implicated in programs such as those underway in Portugal and Angola, without any real power on the part of this Branch to veto or even influence the actions undertaken by the Executive. Language must be found which will prohibit clandestine manipulation of foreign societies, and Congress must be emphatic in its enforcement.

(2) We must build in reliable safeguards against illegal activity by intelligence agencies, setting up mechanisms for the investigation and prosecution of those who abuse their public trust. To this end we should establish:

—A Special Prosecutor for the intelligence community, confirmed by the Senate for a fixed term, with jurisdiction over illegal activities by any of the intelligence agencies of the federal government. The Justice Department performance in the Watergate case, and its failure to take action on any of the illegal intelligence activities which have been reported to it, including the allegations of perjury brought against Richard Helms, lead me to conclude that jurisdiction over these matters should be transferred to an independent prosecutor who can be held accountable to the Congress.

—An Inspector General for the entire intelligence community, appointed from outside that community and confirmed by the Senate for a fixed term, with responsibility to report any possible violations to the Special Prosecutor for intelligence. This function should be performed from an independent position to prevent the kind of negligence that became apparent following the Schlesinger review of questionable CIA activities.

—A Legal Counsel for each of the intelligence agencies, appointed from outside the intelligence community, confirmed by the Senate for a fixed term, and accountable to the Congress for the independence and integrity of their legal advice to the agencies. This would ensure that the agencies' lawyers would act to keep them within the law, rather than help them avoid it, as has often been the case in the past.

(3) After several decades of almost unrestrained proliferation of Executive secrecy, the classification system is in desperate need of revamping. Since access to information is essential both to congressional oversight of Executive activity and to intelligent public debate, curbing the power to classify must be a basic part of our effort. There is currently no independent control over the large number of federal agencies which wield the secrecy stamp, nor is there an independent body to which classification abuses can be appealed. Indeed the only body I have been able to discover which is charged with declassification is an office in the National Archives. In light of this obvious need for reform—

An independent Classification Appeals Board should be established, consisting of Congressional, Executive and public members to monitor the use of classification by Executive agencies.

Congress should have uninhibited access to all finished intelligence. The Congress established the CIA and it is entitled to the agency's findings.

The "third agency rule" should be abolished, at least as it affects Congress. It is outrageous that such a regulation should be used by the Executive as grounds to deny Congress classified material.

Congress should initiate a root-and-branch review of the classification system, taking its cue from the excellent effort of the Moorhead panel and establishing something in the nature of a national joint commission. The commission should not only document the abuses and difficulties which characterize the present system, but should thoroughly outline sane new standards of classification and disclosure, explaining in the process how minimizing secrecy actually enhances the national security in a democratic society.

In closing, let me emphasize that none of these specific steps can serve their intended purpose unless we seriously challenge through forums such as this, the assumptions that have buttressed our defense and foreign policy over the past thirty years. The cold-war vision of this nation as the guardian and ruler of a free world ringed with peril is the root of most of the abuses and inanities your investigation has uncovered. With the sobering experiences of Vietnam and Watergate behind us, this crude and infantile perception should be ripe for radical revision. Until we regain a capacity for sensing global nuance and recognize our own moral and physical limitations as a nation, we will probably continue to hand over our rights as a Congress and a people to the national security bureaucracy.

LABOR DEPARTMENT REJECTS GRIEVANCE PETITIONS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. HAWKINS. Mr. Speaker, I was deeply disturbed to learn that an official in the U.S. Department of Labor has informed Dr. Aaron Henry, chairman of the National Center on Black Aged that—

> There will be no further communications with you or the National Center on Black Aged either directly or indirectly on this subject.

The subject at issue is the continuing effort by the National Center on Black Aged to obtain an older worker employment grant from the U.S. Department of Labor. The Department of Labor has responded to the National Center on Black Aged on 35 occasions, and has decided that there will be no further communication on this issue.

It is important for public officials to understand that the first amendment of the Constitution guarantees each American the right to "petition the government for redress of grievances," and this right is not restricted to 35 or even to 35,000 petitions. By placing this limit on Dr. Henry and on the National Center on Black Aged, the Department of Labor is depriving black Americans of their constitutional rights of petitioning their Government. As Dr. Henry stated:

> I do not know how many petitions it took to pass the Civil Rights Act of 1964, but I can assure you that it was more than 35, perhaps as many as 100,000 or more But the civil rights movement did not stop when the first 35 negative replies were received from government. Nor was the movement stopped when public officials turned their backs on the just grievances of minority citizens, or when public officials turned loose their guns, clubs, dogs, water hoses and cattle prods.

Furthermore, the indirect replies referred to in the Labor Department letter include a number of Congressmen and Senators who wrote on behalf of the National Center on Black Aged. Indeed, I am informed that the White House also wrote the Labor Department on behalf of the National Center on Black Aged. Consequently, not only are Dr. Henry and the National Center on Black Aged to be ignored on this issue, but so is every Member of the Congress of the United States and the President of the United States if we choose to inquire about this issue.

I suggest that the Secretary of Labor and the attorneys in the Department of Labor intervene in this situation to determine if the policy stated in this letter from Mr. Burdetsky, Deputy Assistant Secretary for Manpower is the official policy of the Department. I further suggest that the Department of Justice be asked if this is the position of this administration.

Also, in view of the high levels of unemployment among black older workers, which are twice as high as those among white older workers, I would also suggest that the Secretary of Labor fund the National Center on Black Aged for an older worker employment program.

I am including for the RECORD the correspondence between the Department of Labor and Dr. Henry, as well as related materials:

DR. AARON E. HENRY PETITIONS PRESIDENT FORD ON THE CONSTITUTIONAL RIGHT OF BLACKS TO PETITION THE GOVERNMENT

One year before America's Bicentennial celebration, Dr. Aaron E. Henry, President of the National Center on Black Aged, has asked President Ford whether black citizens have the right to petition their government for redress of grievances.

This need to clarify the interpretation of the Bill of Rights by President Ford was made necessary by a letter recently received by Dr. Henry from the U.S. Department of Labor. In that letter, a U.S. Department of Labor official informed Dr. Henry that "It is my decision, therefore, that there will be no further communications with you or the National Center on Black Aged either directly or indirectly on this subject."

The issue is a manpower grant for older workers that NCBA has been attempting to obtain from the Department of Labor. The Department has steadfastly refused to fund the application and has decided that after 35 direct or indirect replies that all further replies on this subject will be ignored. Dr. Henry informed the Department that the Bill of Rights does not limit the right of a citizen to petition his government to only 35 times, and not even 35,000 times. Consequently, the decision by the Department to break off communications with NCBA constitutes a direct violation of the rights of black Americans.

Dr. Henry has written to President Ford requesting that he personally investigate this situation and inform Dr. Henry if blacks can only petition their government 35 times, and if there is a similar constitutional restriction placed on white Americans.

THE NATIONAL CENTER ON BLACK AGED,
Washington, D.C., November 19, 1975.

President GERALD FORD,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am bringing to your attention a serious issue between the National Center on Black Aged and the U.S. Department of Labor.

I have just been informed by the Department of Labor that they will no longer respond directly or indirectly to any communications from me or the National Center pertaining to our effort to obtain an older worker employment grant. I quote from their letter; "It is my decision, therefore, that there will be no further communications with you or the National Center on Black Aged either directly or indirectly on this subject."

Am I to understand that our constitutional right to "petition the government for redress of grievances," included in the Bill of Rights, is no longer valid? Should we inform the black people of this country that government officials in your administration have the power to deprive black citizens of their right to petition their government?

I do not believe that the position stated by the Department of Labor is the official position of your Administration. Therefore, I am bringing this matter to your personal attention, so that you can correctly interpret the Bill of Rights, and inform the Department of Labor of your position on this Constitutional issue and on our grant.

May I please hear from you at your earliest convenience?

Respectfully,

DR. AARON E. HENRY,
Chairman, NCBA.

THE NATIONAL CENTER ON BLACK AGED,
Washington, D.C., November 17, 1975.

Mr. JOHN A. BUGGS,
Staff Director,
U.S. Commission on Civil Rights,
Washington, D.C.

DEAR MR. BUGGS: I am enclosing correspondence I recently received from Mr. Ben Burdetsky, Deputy Assistant Secretary for Manpower, Department of Labor, and my reply to him.

In my judgment, Mr. Burdetsky's statement that, "It is my decision, therefore, that there will be no further communications with you or the National Center on Black Aged either directly or indirectly on this subject," deprives us of our constitutional right to petition our government.

This Labor Department reply continues what we believe is a pattern of racial discrimination against NCBA. As you may recall, we were told initially by the Labor Department that the Congress intended only to fund five national organizations and, therefore, NCBA could not be funded for an older worker manpower grant. This reason was not valid, as we soon discovered.

We were then advised that we would not be funded because we had no experience in manpower programs. To our knowledge, the other national contractors did not have manpower experience before they were funded by the Labor Department. Does this imply one standard for white national aging organizations and a separate standard for black?

We were then advised that even if additional funds became available, we would not receive a sole-source grant, but that we would have to compete with any and all other organizations interested in operating older worker manpower programs. To our knowledge, the other five national organizations did not compete with anyone; they were given sole-source negotiated grants from the Labor Department. Again, is this another example of one standard for white national aging organizations, and another standard for black?

And now this latest response to our petition: "There will be no further communications with you or the National Center on Black Aged either directly or indirectly on this subject."

The Labor Department should be asked certain questions pertaining to this issue, such as:

1. Has the Labor Department issued regulations limiting petitions to 35? If so, we would like a copy, and perhaps the Congress would like a copy.

2. Has the Labor Department ever advised a white person or a white organization "that there will be no further communications with you?" If so, who and when.

3. Does the Labor Department have the authority to ignore the direct petitions of NCBA, as well as the indirect petitions we send to the Civil Rights Commission, the President and the Congress?

I would appreciate an early investigation and response to my allegations of racial discrimination, and particularly to this latest reply which deprives me and the black elderly of our Constitutional Right of petitioning our government.

In my judgment, this latest reply is one additional indication of what appears to be a clear pattern of racial discrimination.

Sincerely yours,

AARON E. HENRY,
Chairman.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., November 11, 1975.
Mr. AARON E. HENRY,
Chairman,
The National Center on Black Aged,
Washington, D.C.

DEAR MR. HENRY: Reference is made to your letter of October 10, 1975, in which you continue to question the policy decisions made by the Manpower Administration relative to programs for the older worker.

Since you began this series of letters with the Manpower Administration concerning the Older Worker Program, we have replied to you or the National Center on Black Aged either directly or indirectly on 35 occasions.

In addition, your organization has seen fit to file a complaint with the Civil Rights Commission relative to the activities of the Manpower Administration in the older worker area. This investigation is now underway. I feel, therefore, that the Manpower Administration has gone well beyond the normal bounds of courtesy in dealing with your correspondence and there is little to be gained in continuing this activity.

It is my decision, therefore, that there will be no further communications with you or the National Center on Black Aged either directly or indirectly on this subject.

I sincerely regret to have to take this action, however, all of the pertinent points have been covered and no further cost to the taxpayer can be justified.

Sincerely,

BEN BURDETSKY,
Deputy Assistant Secretary for Manpower.

THE NATIONAL CENTER ON BLACK AGED,
Washington, D.C., November 17, 1975.
Mr. BEN BURDETSKY,
Deputy Assistant Secretary for Manpower, U.S. Department of Labor, Washington, D.C.

DEAR MR. BURDETSKY: This is in response to your November 11, 1975 letter in which you informed me that, because you replied to us directly or indirectly on 35 occasions, "there will be no further communications with you or the National Center on Black Aged either directly or indirectly on this subject." Of course, the subject is our continuing effort to receive a manpower grant for older workers from the U.S. Department of Labor.

Obviously, we cannot control your actions, and you and all other Department of Labor officials can decide not to communicate with us.

Please understand our position. We are not attempting to overburden your professional and secretarial staffs. What we are attempting to do is to obtain grant funds from your office to provide opportunities to black older workers who continue to have unemployment rates twice as high as white unemployment rates, despite the many programs and civil rights efforts that are now in effect.

If we were to follow your suggestion to refrain from communicating with your Department, then we would be turning our backs on the needs of black older workers, and I can assure you that we will not follow this advice. We intend to continue to persevere in our efforts to serve black older workers.

However, there is a far more important issue at stake in your response, and that is the constitutional right of every American citizen "to petition the government for redress of grievances." That quote was taken directly from the Bill of Rights. To our knowledge, there is nothing in the Bill of Rights, in the Constitution, or in any subsequent amendments, to restrict a citizen to 35 petitions. You do not have the authority to deprive us of our constitutional right to petition our government, and we have no intention of allowing you to deprive us of this right this year, next year during our Nation's Bicentennial, or any year. Incidentally, have you ever told any white person or white organization that there will be no further communications with them? If so, please let me have their names.

I do not know how many petitions it took to pass the Civil Rights Act of 1964, but I can assure you that it was more than 35, perhaps as many as 100,000 or more. But the civil rights movement did not stop when the first 35 negative replies were received from government. Nor was the movement stopped when public officials turned their backs on the just grievances of minority citizens, or when public officials turned loose their guns, clubs, dogs, water hoses and cattle prods.

Consequently, please be prepared for more petitions on our part that we will be sending to your Department, to the President, to the press, and to the Congress. You may ignore us, as you have stated in your letter. But when you said that you will also ignore communications "indirectly," does this mean that you will also ignore the Congress of the United States and the President of the United States?

Again, I cannot decide for you or for other Labor Department officials what to do with our direct or indirect petitions, but I can assure you that you will be hearing from us again. Furthermore, in the end, "We Shall Overcome."

Sincerely,

AARON E. HENRY,
Chairman.

FREEDOM AND ENTERPRISE AND RAILROADS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the Congress is being faced with an ever-growing number of legislative decisions on how to keep our Nation's railroads going. In my view, our actions to date amount to creeping nationalization. Anthony Harrigan, in two recent columns, points out the dangers of this approach, and to illustrate his views, he points out the problems encountered in Britain with nationalization. These columns appeared in his "Sensing the News" columns released on August 7 and 14, 1975, respectively:

SENSING THE NEWS

(By Anthony Harrigan)

AUGUST 7, 1975.

Efforts by the Labor Party government in Great Britain to expand state ownership of industry into new fields of manufacturing have caused great concern among Britons who believe in freedom and enterprise. They view recent and proposed nationalization moves as an effort to jettison economic freedom.

Mrs. Margaret Thatcher, leader of Britain's Conservative Party, recently addressed herself to the choice facing Britons: competitive enterprise or state bureaucracy. Writing in *The Manchester Guardian*, Mrs. Thatcher pointed out that under so-called "public enterprise" schemes the state merely takes over a going concern, usually when all enterprise has been knocked out of it.

"The people at large," she noted, "are given no choice as to whether or not they will invest. Their money is taken from them by taxation and they have no vestige of influence or control over the purposes to which it is then applied."

Mrs. Thatcher observed that "Historically, free political institutions have always been linked with a free enterprise economy. I do not believe that political freedom can exist without economic freedom. They are two sides of the same coin. If we lose one, do not doubt that we shall lose both."

The socialists who are in charge of Britain's government today do not understand this historical fact. Indeed they deny its validity. Thus they recently nationalized Rolls Royce and the shipyards and are planning the takeover of British Leyland and the aircraft industry. The socialists are pumping public money into various businesses. But they can't supply authentic enterprise or initiative. As a result, nationalized companies become a burden on the taxpayers.

The same process is taking hold in the United States. For example, indirect nationalization is proposed for railroads in receivership. The taxpayers are asked to supply vast sums to rebuild roadbeds and provide new rolling stock. But nothing is done about antiquated union work rules which are responsible for the financial plight of the railroads.

The creation of vast and monopolistic public corporations or nationalized industries only compounds the problems facing the economies of the United States and Britain, for vast monopolistic unions have crippled what should be viable business units.

How to fight nationalization and big government in general is a question being considered by thoughtful people on both sides of the Atlantic. What is needed, fundamentally, is far more public pressure at the grassroots level against specific expenditures by government, against grandiose public programs and services which could be done just as well by private organizations.

People in free societies everywhere need to understand that waste, overmanning, and inefficiency are the hallmarks of an economy and political regime which rejects or hampers private enterprise.

Individual citizens must organize to protest the use of tax money to prop up ailing businesses, whether they be debt-ridden aircraft companies, near-bankrupt railroads or whatever. They also have a vital stake in protesting further subsidization of the postal service when private postal companies are prepared to offer better service at lower cost. And the taxpayers have every reason to object to both the proposed federal oil and gas corporation and federal drilling for offshore oil.

Activities of this sort only involve the state deeper and deeper into industrial planning and government ownership of production facilities. Such intervention cripples the spirit of enterprise and leads directly to a curtailment of freedom.

SENSING THE NEWS

(By Anthony Harrigan)

AUGUST 14, 1975.

One of the essential elements of a sound national economy is an efficient railroad system operated on free enterprise principles. Such a system is a vital component in the nation's overall transportation system, which includes truck lines, barges and air line companies.

Unfortunately, excessive government regulation and paralyzing union influences have resulted in the crippling of major U.S. railroads in the Northeast and Midwest, notably the Penn Central railroad.

Only a few months ago the Rock Island line, which serves 756 communities and 1,668 grain elevators in 13 states, went bankrupt. This kind of disaster affects not only the stockholders of the affected lines but the residents of a vast region. In the Northeast, 45 per cent of the freight traffic is moved on the Penn Central, which is limping along on transfusions of money supplied by Congress.

In attempting to wrestle with the railroad problem, Congress passed the Railroad Reorganization Act in 1973 to deal with the widening rail crisis. Out of this has emerged the proposed-quasi-government "Conrail" system, which would provide service over bankrupt and near bankrupt lines.

Unfortunately, Conrail is likely to create more problems than it solves. It is a costly, poorly disguised step toward nationalization of U.S. railroads.

Sen. Strom Thurmond (R.-S.C.) recently said that Conrail "would require an enormous taxpayer subsidy of $2 billion initially, and could siphon off as much as $7 billion during the 14-year rehabilitation period. This is not only an unnecessary burden on the public, but it is also a dangerous step down the road of nationalization of the railroads."

Conrail isn't an answer to the rail crisis because it is simply another proposal for pumping taxpayer dollars into failing enterprises. Moreover, Conrail would do nothing about the antiquated railroad work rules, imposed by rail unions, which prevent railroads from operating in an efficient manner.

Not more government, but less, is the proper approach to the troubled railroads. As Sen. Thurmond pointed out, "Congress must search deeper to find the real causes of the railroads' problems." He added, "Over a period of years, government has subjected the railroads to an impossible maze of unnecessary regulations, which have hampered their competitive position in certain areas. Government has caused the problem, and freeing the railroads of unnecessary government control is my preferred solution."

Sen. Thurmond has joined with Sen. Robert Taft Jr. (R-Ohio) in sponsoring legislation that would provide a free enterprise solution to the rail crisis. Their bill (S. 1801) would provide for "controlled liquidation of the bankrupt lines, allowing successful railroads to buy up troubled lines in a manner that would insure the continuation of vital rail services.

Under the Thurmond-Taft bill, rail carriers would establish their fees in a competitive market structure, not by rule of the Interstate Commerce Commission, which bears a heavy responsibility for the current rail crisis. Most importantly, the free enterprise rail bill calls for reform of what Sen. Thurmond refers to as "the many ridiculous, make-work labor rules, which hinder greater labor productivity on the rail lines."

This legislation points in the right direction—toward a free market solution and away from taxpayer subsidies and the threat of nationalization. Nationalized railroads would constitute a government rathole of unprecedented size. It is time that the public speak up against another multi-billion dollar subsidy.

JONES PRAISES RETIRING OKLAHOMA STATE CONSERVATIONIST HAMPTON BURNS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. JONES of Oklahoma. Mr. Speaker, the citizens of Oklahoma will soon lose a very dedicated and able public servant when Hampton Burns retires from Federal service. Hampton Burns has served as State Conservationist for the Soil Conservation Service in Stillwater, and is known and respected by many Oklahomans.

It has been my privilege since assuming office to work closely with Hamp Burns on a number of important programs and projects vital to my constituents and our State. In each case, Hamp has demonstrated a remarkable understanding and sensitivity to the everyday problems our citizens face. He has consistently shown a willingness to explore every possible way in which the Federal Government can be responsive to those problems.

The citizens of Oklahoma are indebted to Hamp Burns for his tireless efforts to make effective, responsive government a reality in our State. At a time when the Federal bureaucracy is being criticized for its failure to inspire confidence in the public, it is a pleasure to recognize Hamp Burns for achieving this very difficult goal.

I want to join Hamp's many friends in wishing him the best of success and happiness in the years ahead. We are all deeply grateful to him for a job "well done."

DETECTIVE ALVIN HODGE WINS DISTINCTION

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. DE LUGO. Mr. Speaker, it is my pleasure today to share with my colleagues the distinguished achievements of a St. Thomas crime specialist, Detective Alvin S. Hodge.

The varied background and experience of Detective Hodge has enabled him to contribute to the highly successful work of the criminal identification bureau in St. Thomas, of which he is the officer-in-charge. In addition to being a police instructor for scientific crime detection and investigation, Al Hodge is also the chairman of the National Committee on Criminal Identification.

His outstanding efforts on behalf of Virgin Islanders are deserving of the public praise he has already received and the gratitude of all law abiding citizens. I am therefore, requesting permission to have an article on Detective Hodge reprinted from the November 23, 1975 issue of the Virgin Islands Post:

DETECTIVE ALVIN HODGE WINS DISTINCTION

(By Stanford Joseph)

Crime specialist Detective Alvin S. Hodge has earned himself two distinctions in quick succession within the past few months.

Close on the heels of becoming chairman of the National Committee on Criminal Identification, the policeman-entertainer scored another double when his wife A. Gertrude, presented him with two bouncing babies on November 9.

The babies, one a girl, was born 4:45 a.m. that Sunday while the boy followed at 5:00 a.m. Each weighed 7 pounds. The boy is named Anthony St. Jacques and the girl, Antoinette Simone.

Dad says they are doing fine, and it appears one of them might be an entertainer (singer). Her vocal chords are excellent. "I can hardly sleep at nights," he said.

Det. Alvin S. Hodge Jr., better known in the entertainment circle as Al Sinclair (formerly Lord Sausage) is now a professional member of the highly-regarded National Association of Criminology in America, an affiliate of the International Criminology Society.

Upon membership, he was offered, and did accept, the position of Chairman of the Committee on Criminal Identification, a position which will assist his professional career. He will have full authority as an officer of the Society, according to Wayne A. Forestor, executive secretary of the association.

This position was offered to Detective Hodge based upon his training and experience in the field of Scientific Crime Detection and Investigation which are the following:

Graduate of the Institute of Applied Science in (scientific crime detection.)

Graduate of the Alabama School of Fingerprinting in (Science of Fingerprints).

Attained a diploma in Drug Addiction from the National Law Enforcement Academy.

Attained a diploma from the Delehanty Institute in (Police Practice, Procedure & Science) in New York City where 95 percent of the New York City police department are graduates.

Det. Hodge, also had training with the Metropolitan Police Department in Washington, D.C. in the following areas:

Medical Examiners Office (Morgue)
Firearm Examiners Office (Ballistics)
Crime Scene Search.
Fingerprinting Examiners Office.

Mobile Crime Laboratory to include eight hours briefing at the FBI Latent Fingerprint Section.

Det. Hodge Jr. joined the Police force on September 19, 1966 and had 5 years experience in Scientific Crime Detection. He worked at the U.N., Lincoln Center and Holmes Electric, Museum of Modern Arts between 1968 and 1970.

He was sworn-in in New York as special patrolman for the City of New York, worked at eleven branches of First National City Bank and was almost wounded in a robbery attempt.

He is presently an officer in charge of the Criminal Identification Bureau in St. Thomas. He fights crime scientifically which means that he has to reconstruct a crime scene if no witness is possible. Also, Hodge and the pathologist decide what could have happened in the case of no material evidence.

Det. Hodge Jr. is a police instructor for scientific crime detection and investigation on St. Thomas.

"My position takes a lot of experimenting and researching everyday. But we do have modern equipment here to handle the situation," he said.

DEFENSE DEPARTMENT APPROPRIATION

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. TREEN. Mr. Speaker, as we debate the Defense Department appropriation, it is important that we look at what the Department has been trying to do in order to maximize the taxpayer dollars that they have received. This article from Armor magazine, a publication of the U.S. Army Armor School and the U.S. Armor Association, demonstrates another example of the Defense Department's attempts to save money and still maintain the strongest possible defense posture.

The U.S. Army has been experimenting with a method of obtaining a sizable number of additional, combat ready, main battle tanks without having to pay the entire cost of a new tank. The aging, but dependable M48 series tank is being upgraded to make many of them almost comparable to our present main battle tank, the M60 series. This is significant for several reasons. First, the Soviet Union has approximately 40,000 battle tanks to the United States' approximately 9,000. Second, the United States has given a large number of combat ready M60 tanks to Israel and we need to replenish our supply of main battle tanks as quickly and cheaply as possible. Third, the cost of the next group of M60 series tanks is going to be more than the last group, so any use made of older equipment will save the taxpayer a considerable sum. Fourth, the Congress apparently will not be given the Defense Department the funds necessary to acquire the M60A3 main battle tank, the newest and most modern model of the very solid and dependable M60 series.

By converting older M48AIs and M48A3s to the refitted M48A5s, the Defense Department is saving quite a sizable percentage of money. To upgrade a M48A1 to a M48A5 saves 45 percent of the cost of a new M60 series main battle tank. To upgrade a M48A3 to a M48A5 saves 72 percent of the cost of a new M60 series main battle tank. The next group of M60 series tanks will cost approximately $430,000 per tank. The upgrading of the M48A1s to M48A5s will cost approximately $235,600 per tank. The upgrading of the M48A3 tanks to the M48A5 configuration will cost approximately $120,000 per tank.

The new M48A5 was tested at the Yuma Proving Grounds in Arizona recently and it passed the tests with "no sweat." The test lasted for 8 weeks in temperatures that sometimes rose to 140 degrees. There were over 2,000 main gun rounds fired during the tests, many of them under simulated battle conditions.

The Army would like to convert 100 M48A3s by December and has plans to refit more than 1,200 old M48s by March of 1978. The following article from the September-October 1975. Armor magazine, a professional journal for U.S. Army officers, gives further details:

DEFENSE DEPARTMENT APPROPRIATIONS

The M-48A5 is basically a dieselized and upgunned version of the M-48-series 90-mm gun tanks used prior to introduction of the M-60-series. The current conversion program is not a new venture. In the early 1960's, several M-48-series vehicles were modified to accept the diesel engine and M-68 105-mm gun. The modified tank, designated M-48A1E3, was subjected to engineering and service tests, but the program was not advanced to the production phase. Instead, a large number of the 90-mm M-48A1 assets were retrofitted with the diesel engine, M-17 coincidence rangefinder, and hydraulic turret control system. The modified tank was type classified and designated M-48A3. The M-48A3 was extensively used in the Republic of Vietnam.

The current program involving the upgunning of M-48-series tanks was initiated as an expedient to upgrade the tank fleet in the shortest possible timeframe. From the standpoint of physical characteristics, the M-48A5 does not differ much from the M-60A1.

Production of the M-48A5 is the responsibility of Anniston Army Depot and is scheduled to get underway in October.

The initial phase of the program will consist of converting 360 M-48A3 tanks. In a subsequent phase, about 850 unserviceable M-48A1 vehicles will be converted to the M-48A5 configuration. Conversion of the 1,210 tanks will be completed by late 1978. A comparison of the two tanks is shown below:

Characteristic	M-60A1	M-48A5
GENERAL		
Weight combat loaded (tons).	54.8	53
Height (inches)	129.5	121.6
Width (inches)	143	143
Length-gun forward (inches).	371.5	366.25
Maximum speed (mph)	30	30
Cruising range (miles)	310	300
Maximum ford depth (feet).	8	4
POWERTRAIN		
Engine (model)	AVDS-1790-2C	AVDS-1790-2D
Fuel (type)	Diesel	Diesel
Fuel capacity (gallons)	385	375
Transmission (model)	CD-850-6A	CD-850-6A
TURRET		
Main gun (mm)	105	105
Elevation (degrees)	20	19
Depression (degrees)	10	9
Rangefinder	Coincidence	Coincidence
Computer	Mechanical	Mechanical

While not a part of the conversion program, the combat and materiel developers have agreed that improvements to the basic M-48A5 are required. Recommended improvements include: the installation of an Israeli Defense Force-type cupola, with an M-60 machinegun; installation of an M-60D coax machinegun, an increase in main gun ammunition stowage to 54 rounds, and installation of two pintle mounts at the loader's station to accept the M-60D machinegun. Hopefully, these improvements will be ready for application in the second phase of conversion and retrofitted to previously produced tanks. According to the planned distribution schedule, reserve components will be issued some of the M-48A5 tanks commencing in calendar year 1976.

FOOD STAMP PROGRAM

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. YOUNG of Florida. Mr. Speaker, on November 20, State Representative Dennis McDonald, a member of the Florida Legislature, testified before the Senate Agriculture Subcommittee on Agricultural Research and General Legislation on his experiences—as a member of the Health and Rehabilitative Services Committee of the Florida House—on the need for food stamp reform. The testimony is a frank review of a number of problems which have developed in the food stamp program, from the point of view of one who sees the problems at the State and county level. I would urge each of the Members to become familiar with the problems he describes, for they—and others like them—are the subjects of the remedial legislation, the National Food Stamp Reform Act, which I am cosponsoring with Congressman BOB MICHEL and over 100 Members of this House. The text of Representative McDonald's testimony follows:

TESTIMONY OF FLORIDA STATE REPRESENTATIVE DENNIS MCDONALD

I am State Representative Dennis McDonald of St. Petersburg, Florida. I am here representing the Health and Rehabilitative Services Committee of the Florida House of Representatives which directs the food stamp program in Florida. My involvement in welfare programs goes back to early 1971. Since that time, I have sponsored or cosponsored many pieces of welfare reform legislation and served as chairman of the public assistance subcommittee. I am currently serving as the welfare reform committee chairman of the American Legislative Exchange Council, a national group of State legislators.

Senators, I thank you for this opportunity to appear before you and testify about food stamps. The magnitude of the problem can easily be noted through the media or simply listening to the public cries of outrage. It is heartening to me that you have recognized this problem and are here today looking for solutions.

My testimony may seem parochial or may not appear to recognize the complexity of the food stamp problem. However, I feel that although this is a Federal program, the problems exist on a local level. This may be the only place the problems become truly visable. Since the rules and regulations are uniform across the country, I think my State or my county's problems are a realistic mirror of the program nationwide. For instance, in Florida, one out of every eleven persons is currently receiving food stamps. This seems to be consistent with statistics from all over the country. In September, over 785,000 Floridians received stamps at a cost of almost $23 million. In one year, we have added 270,000 recipients, a 52% increase, and the cost has almost doubled.

I will address my remarks to problems and solutions as I see them based on my involvement with Florida's food stamp operation. Most of my recommended solutions are found in the legislation sponsored by Senator Buckley and Congressman Michael.

PROBLEM NUMBER ONE: THE NON-POVERTY LEVEL PERSONS RECEIVING FOOD STAMPS

The current program allows for a multitude of deductions to income before determining if a person is eligible. Allowances are made for tuition to private schools; deductions from earnings, even though voluntary; and actual shelter expenses with no limitations. This sets artificial eligibility requirements, allowing, in some instances, middle class families to receive stamps while needy families or individuals cannot qualify. To illustrate the truth of this statement, I have attached three actual worksheets used by food stamp workers to determine eligibility. The first, attachment A, shows an actual family in my county in Florida. This family is getting $220 of stamps at no cost to them (zero purchase) even though (or because) they are paying $400 in rent, and own a recent-model Cadillac free and clear. For those who might question if this is just an unusual instance, I show you attachment B, which is a hypothetical, but fairly typical American family, with an income of around $16,000 annually, but who would qualify. On the other hand, we have attachment C which shows another actual case of a sixty-four year old man with a ten year old daughter, with a small mortgage payment of $36.16, who cannot benefit from the program because he is $1.84 over.

Further complicating this problem is that limitations on the amount of assets or resources a person or family can have are simply not realistic or in line with other welfare programs. These unrealistically high standards heighten the discrimination against the very poor. All these mathematical acrobatics result in the Government encouraging and rewarding families who maintain high standards of living, while penalizing and ruling ineligible many needy families who keep their living expenses low.

The best solution, I feel, is to consider the gross income only, without deductions. In addition, a maximum gross income level should be set, beyond which families are not eligible for stamps. This bill suggests the federal poverty level guidelines. In addition, a realistic resource limitation should be developed. The bill suggests those currently being used by HEW in the supplemental security income program.

The artificial eligibility standards currently being used is the most significant problem this committee must deal with, in my opinion. These unrealistic requirements are responsible for the uncontrolled growth in food stamps and cause much of the public indignation.

PROBLEM NUMBER TWO: LOOPHOLES

Other eligibility factors must be addressed. Current loopholes, for example, allow minors to leave home and establish eligibility; allow strikers and persons voluntarily terminating their employment to qualify; allow students to qualify regardless of parents' income or worth; to name just a few.

The "work requirement" is a joke. In Florida, "registering for work" consists of filling out a card, in the food stamp office, which is then mailed to the Florida State Employment Service. The stamp recipient is not required to go to the employment office, unless called, which rarely happens.

The bill specifically addresses each of these problems. It sets the minimum age for establishing a "separate household: at the age of majority in the various States. It requires those without children under age six to register for work, engage in proven job search and accept employment if offered. It rules ineligible those voluntarily leaving their jobs, and precludes strikers from qualifying. The bill defines college students as voluntarily unemployed and rules them ineligible.

These loopholes are another major area that upsets the public, and rightly so, I believe. This committee should eliminate these loopholes.

BENEFIT LEVELS

Problem number three:

Since the above recommendations would redirect the program to the truly needy, we should look at the benefit levels. The $162 now allowed for a family of four is not realistic and senior citizens face additional problems of food purchase or preparation.

The solution proposed is to increase benefits approximately 29% for all recipients and giving those, over sixty-five, a special $25 deduction. It is significant that this bill if enacted, will allow a sizable increase in benefits while reducing overall expenditures considerably.

I have always supported making all welfare benefits realistic, but only after being certain that the benefits are going to the truly needy.

FRAUD

Problem number four:

Now we come to the problem of fraud. A local supervisor claimed the major problem in that particular office was fraud. Not long delays, not understaffing or low salaries, not complex eligibility determination forms, but fraud. This particular office refers about eighty cases of possible fraud per month. This is out of a workload of 3,700 cases. The suspected fraud rate works out to 26%. And these are just cases discovered in the office, since there are no outside verifications or investigations done.

The quality control figures in Florida show that in the first six months of 1975, 15.8% of all recipients were ineligible at a cost of around $43,000,000. The overpayments are incredible at 21.7%! From any kind of acceptable accounting procedure or acceptable error rate, the program is out of control.

The nature of the food stamp itself helps contribute to the criminal activity in the present system. Stamps have become legal tender in many areas. States give little attention to policing the program or prosecuting offenders.

The bill makes the excellent suggestion that food stamps be redesigned to resemble traveler's checks, with signatures at the time of purchase and again at the time of cashing. A second proposal is the issuance of photo identification cards (perhaps with the social security number as the identification number). Development of a central clearing House of information should solve the problem of recipients getting stamps at more than one location. A system of income verification, such as a computer tie-in with social security and unemployment compensation would be a major improvement. The problem of State involvement (or lack of same) will be covered later.

No one, whatever his political persuasion can condone the huge fraud and error rates this program is incurring; nor can anyone justify the hundreds of millions of dollars being lost every year. You must act to institute these basic, elementary precautions and put a stop to these criminal abuses of the system.

FUNDING

Problem Number Five:

The last major problem area I want to address is funding. The food stamps themselves are funded 100% by the Federal Government, with the administrative costs being borne by the States and Federal Government on a 50/50 cost sharing basis. Because the states have no participation at all in stamp costs, they have little interest in the program. On the other hand, they are vitally interested in the administration since they must pay 50% of these costs. In fact, and this is important, the states' best financial interests are served by allocating the minimum resources and people to this program. Since the state receives nothing back from fraud recovery or cutting high ineligibility rates, they would be foolish to assign and pay the additional personnel necessary to adequately police the problems. In fact, they have a *disincentive* to institute any kind of reform. The State directors of welfare are put into an impossible situation by being given limited funds by their legislatures and then having to allocate positions between the AFDC program and food stamps. Because cutting down error rates or lowering AFDC rolls can save the State millions of dollars, they feel they must place these employees where the State's best interests will be served.

I believe we can prove the validity of this concept by using Florida as an example again. Attachment D shows a comparison between the AFDC and food stamp programs during the past year. You will notice that the AFDC rolls showed an actual *decline* of almost 20,000 people, while food stamp recipients *increased* 270,000. Costs are interesting, too. AFDC increased by about $1,200,000 because benefits were increased over 16%. However, during the same period, food stamp costs increased $9,600,000, almost doubling in one year.

Attachment E, showing the quality control figures for the two programs, also demonstrates what I'm saying. You will notice that all catagories of error are substantially higher in the food stamp program, in fact, approaching 50%.

But skyrocketing rolls are not uniform within the food stamp program. In Florida there are two categories of recipients, public assistance (P.A.) households (those also receiving AFDC) and non assistance (N.A.) households. The number of P.A. households, where the State has a financial interest, declined by over 4,000 persons, while N.A. households increased by over 84,000.

So you can see that where the State has a financial interest in determining eligibility, the program is stable or even decreasing while the portion completely federalized is out of control.

This bill suggests that "block grants" be given to the States, on a 50/50 match. Then, if the State takes positive action to reduce rolls, it would benefit financially. This portion of the bill is crucial. Only the States can reform this program, and they cannot and will not unless they have some sort of financial interest in the program. We want to help you. We don't like what is going on in Florida, but we are penalized (financially) if we try to administer the program better. I believe this provision may be the most important section of the bill.

There are four more areas covered in this bill which I also support:

1) The deliberate transferring of property to qualify should be eliminated.

2) Property should be evaluated at full market value, not an individual's equity.

3) Any public funds such as AFDC payments, rent supplements and other Government assistance should be considered as income.

4) The entire program should be transferred to HEW.

SUMMARY

I want to remind this committee that real welfare reform has only been accomplished by State initiative, and at the State level. You need look no further than the States of California, Illinois, and Florida to discover this. Any meaningful reform of the food stamp program must include some kind of initiative for the States. In addition, the entire question of determining eligibility, with its "hodge podge" of deductions, disregards, and exemptions must be revised. While no one method would ever be perfect, the gross income, no deductions, with a maximum income limit would seem to be the most equitable and by far the easiest to administer. And finally, fraud must be brought under control.

In conclusion, gentlemen, I feel that unless funding, eligibility, and fraud are reformed in your efforts, the program will continue out of control and cannot gain public credibility.

STAATS-ZEITUNG UND HEROLD

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. DELANEY. Mr. Speaker, Christmas is a season for nostalgia—a time to reflect on old friendships, a time to be thankful for men of good will and for the spirit which makes our communities better places in which to live.

Such is the spirit of Staats-Zeitung und Herold, one of the oldest newspapers in America, which is located in my congressional district.

It was on Christmas Eve night, in 1834, that the first issue of the Herold hit the snow-covered sidewalks of New York from old Newspaper Row. She has been a tower of strength in the community and in the Nation ever since.

I was privileged to know her late publisher, Mr. August Steuer, as a friend for over 40 years. I am sure he would be proud to know his paper continues to flourish today, not only as a biweekly chronicle of events in our community, but as a reference source for scholars.

Mr. Speaker, I would just like to take this opportunity to wish her "Herzlichen Glückwunsch zum Geburtstag und Recht Frohe Weinachten!"

THE U.N., ZIONISM, AND LIBERAL DOUBLE STANDARDS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. CRANE. Mr. Speaker, it is good for the country and, in the long run, for the stability of the world that many American liberals have finally come to the conclusion that the United Nations is not, in reality, "the world's best hope for peace."

It has been clear to many of us, from the very beginning of the United Nations, that an organization which included within its membership those States which had aggressive designs upon others could not, in any sense, be a force for peace.

From the start, the Soviet Union was given three votes while every other nation in the world had only one. American liberals acquiesced in this very early indication that the U.N. would never serve the purposes of peace. Their goal after World War II, similar to the goal of Woodrow Wilson after World War I, seemed to be a world organization, any organization, regardless of the long-run purposes it might serve. They failed to recognize that peace was not endangered because nations did not have a forum for discussion but because some nations had the desire to rule others. The lessons of the League of Nations were entirely lost to such U.N. supporters.

As the U.N. departed more and more from its own Charter, as it expelled Taiwan, boycotted Rhodesia, censured Israel, South Africa and Portugal, American liberal supporters of the U.N. again submitted to the double standard. It seemed not to trouble them that the U.N. remained silent with regard to those nations in the world which were the most brutal violators of human rights—the Soviet Union and Communist China.

Now, finally, the U.N. has seen fit to inflict its false double standard on Zionism. This, being closer to the hearts of American liberals, has brought a proper response. I share their dismay over the false condemnation of Zionism as racism. I wonder, however, where they were in the past?

Columnist David Brudnoy makes this point when he writes that the anti-Zionist resolution—

> Has already driven American liberalism to frenzied condemnation of this vote, while the Assembly's long time move toward immutable irrelevancy and infantilism has left them for so long untroubled. Where were they when the U.N. ousted the Republic of China and seated Red China, that Hell on Earth? Where were they when the U.N. resolved to humiliate South Africa and Rhodesia while strewing garlands before Yasir Arafat and Idi Amin?

Mr. Brudnoy responds to his own question:

> We know where they were: digging their heads ever deeper into the sand. Now there's the Jewish vote to consider, so the liberals are suddenly vexed. I don't know what's more nauseating—the Assembly vote, or the situational ethics of a star-studded cast of America's liberal establishment.

I wish to share Mr. Brudnoy's column, "U.N. Zionism Vote to Pot-Kettle Story," as it appeared in the Anaheim Bulletin of November 24, 1975, with my colleagues and insert it into the RECORD at this time:

U.N. ZIONISM VOTE A POT-KETTLE STORY

(By David Brudnoy)

Let us now fuss and fume about the General Assembly vote on Zionism. Let us get it out of our system. To be sure, it was the "unhappy product of pressure by those who wanted to impose a point of view which is historically and philosophically false," as said Assembly President Gaston Thorn, Prime Minister of Luxembourg. It was indeed a "wicked resolution," in the right-on phrase of Israel's UN ambassador Chaim Herzog. It evoked "moral loathing" in Senator Jacob Javits, and it seemed to Ambassador Prof. Dr. Moynihan an "infamous act" in which the U.S. "will never acquiesce." It reflected a "tyranny of the majority," opined Albert Schlossberg, president of the Jewish Community Council of Boston, copping Tocqueville's most famous term.

It was a vote, editorialized The New York Times in a paragraph exquisitely balanced between fulmination and that journal's usual sang froid, whereby "an irresponsible majority in the world body has taken itself one large step closer to its own demise as a constructive force in international affairs." "Deplorable," said Gen. Matthew B. Ridgway; "stupid," said George Ball; "very serious and very bad," said Henry Cabot Lodge the Younger; it was the action, said William F. Buckely in virtually the only non-hysterical reaction to get into print, of a body which "long ago abdicated the authority to cause uproar. Do you get mad at the Bronx Zoo?"

Reaction veered between the obvious and the outlandish. Certainly this vote manifested the fanaticism of anti-Zionist and anti-Semitic Jew-haters; as well as the blatant hypocrisy of the entire Communist world; not to mention the pots-calling-kettles-black tack of such despotisms as one finds in Uganda, Libya, Yemen and the like; and don't forget the vitally significant opinions registered by nations of the very first rank in world importance: Burundi, Chad, Dahomey, Oman, Grenada, the Maldives, Qatar, Sri Lanka—the big guns.

Oh, there were a few suprises: Mexico and Turkey and Brazil, for three. And some disappointments among the abstainers, countries fearing petroleum retribution if they voted sensibly, countries like Japan, the Philippines, Chile, and Greece. But ponder the vote not in numbers but in personae: virtually the entire civilized non-Communist world rejected the General Assembly majority's assault on decency; virtually the entire Red and primitive blocs got their jollies equating Zionism and racism, which phenomenon, racism, most of them so nakedly reveal in their own conduct.

Fret not. William Buckley is quite right, as on this subject he has for years been quite right. Within minutes of the UN vote, Buckley showed up as my guest on the radio talk show I've been hosting for a few weeks, repeating his long-time suggestion that the U.S. permanently cease to vote in the General Assembly. Buckley doesn't go along with many of his conservative brethren, including your servant, who have pushed for a total American break with the whole United Nations organization. Buckley believes, and I see his point, that American non-voting in the Assembly would once and for all deprive that human zoo of the bulk of its erstwhile legitimacy. For the moment, at least, such would suffice—coupled with a white-hot flame of opposition to the Assembly's latest bit of nincompoopery.

The consequences of this ghastly vote should not be minimized. It will inspire—it has already inspired—an upsurge of anti-Semitism, no matter how the logic choppers struggle to disentangle anti-Zionism from the more naked variety of Jew-baiting. It has already driven American liberaldom to frenzied condemnation of this vote, while the Assembly's long time move toward immutable irrelevancy and infantilism has left them for so long untroubled. Where were they when the UN ousted the Republic of China and seated Red China, that Hell on Earth? Where were they when the UN resolved to humiliate South Africa and Rhodesia while strewing garlands before Yasir Arafat and Idi Amin? Where—oh hell, we know where they were: digging their heads ever deeper into the sand. Now there's the Jewish vote to consider, so the liberals are suddenly vexed. I don't know which is more nauseating—the Assembly vote, or the situational ethics of a star-studded cast of America's liberal establishment. Take your pick. Me, I'm thinking of selling my UN stamp collection.

(Copyright 1975, David Brudnoy.)

MANDATORY SENTENCES FOR GUN CRIMES

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. GRADISON. Mr. Speaker, in the 5 minutes it takes to read this statement, 10 violent crimes will have been committed in this Nation. You can be certain that the weapon used most often in the commission of these crimes will be a firearm.

The latest statistics on crime released by the Federal Bureau of Investigation serve to highlight two shocking facts. Not only is the number of violent crimes committed with firearms on the rise—so, too, is the number of repeat offenders. These criminals have been convicted of crimes but, for one reason or another, are out in the streets again. The FBI appropriately labels such repeat offenders "career criminals."

From 1969 to 1974, violent crime has increased by almost 50 percent. The murder rate alone has increased by an astonishing 40 percent. Statistics dealing with the increase in the criminal use of firearms are truly frightening. A handgun, shotgun, or rifle was used in 25 percent of all aggravated assaults in 1974 and 45 percent of all the robberies committed involved firearms. And worst of all, 68 percent of all murders last year were committed with a firearm. Included in these killings were the murders of 132 law enforcement officers; 97 percent of the time their lives were ended by a firearm.

Furthermore, the "career criminals," committed 65 percent of these crimes. These are the attackers, the robbers, the murderers, who hold our citizens as hostages in fear, with firearms pointed at their heads.

The Federal Government must crack down on the gun-toting "career criminal." This is why, earlier in this session, I introduced a bill which requires stiff additional prison sentences for anyone committing a felony while using a firearm.

Under this bill, H.R. 10058, anyone who commits a felony with a firearm would receive a mandatory sentence of 5 to 15 years imprisonment for a first offense. Although this mandatory sentence can be lessened by a judge for a first offense, he must state in writing why the additional sentence was not imposed. For a second conviction, the additional penalty would range from 10 to 30 years. This mandatory sentence for second convictions cannot be lessened by the judge.

H.R. 10058 does not restrict the rights law-abiding citizens, such as sportsmen, and homeowners, in their legitimate use of a firearm. Instead, it puts the criminal on notice that he will be severely punished for the illegal use of a gun. Furthermore, it is a bill designed to protect the American public.

As President Ford said in his speech on crime earlier this year, we must not seek vindicative punishment of the criminal, but rather, protection of the innocent victim. The victims, and millions of other possible victims, should be our primary concern.

I am pleased to see this same feeling is evident in both the House Subcommittee on Crime and the Senate Subcommittee on Juvenile Delinquency. Both subcommittees, after reviewing well over 100 pieces of legislation pertaining to firearms over the last several months, have reported bills with mandatory sentencing provisions included. This effort is highly commendable and shows the determination of the subcommittees membership to place gun-toting career criminals in prisons where they belong.

We all agree something must be done to curb the criminal use of firearms. But we should remember that, in passing a law which punishes criminals, we must never infringe upon the rights of law-abiding citizens. Stiff, mandatory sentences for a person committing a felony with a firearm are the answer. I sincerely urge all Members of this House to join in this fight against the criminal and in support of individual freedom for all law-abiding Americans.

BREAKING THE BOYCOTT'S SECRECY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. WAXMAN. Mr. Speaker, less than 2 days after Secretary of Commerce Rogers Morton had agreed to turn over the Department's records of the Arab boycott to the Investigations Subcommittee of the House Interstate and Foreign Commerce Committee, a pattern of widespread acquiescence to the reprehensible demands of the Arab League nations has begun to emerge. There are indications that during the past 5 years upward of 30,000 commercial transactions between American firms and Arab nations involved a boycott of Israel. Since October 1, 1975, nearly 900 firms reported that they had complied with boycott demands. In most instances, this meant that an American company, as a condition of doing business with an Arab League member, agreed to boycott Israeli goods, blacklisted shippers, and blacklisted insurance companies.

Moreover, the Department of Commerce apparently had intimate knowledge of the nature of these discriminatory activities during the entire period involved, notwithstanding our Nation's formal opposition to these pernicious activities.

The Commerce Subcommittee on Oversight and Investigations subpenaed the information on boycott requests precisely because there is a need to ascertain the effectiveness of the laws which currently govern restrictive trade practices. Secretary Morton's belated compliance with the subpena on December 8 was the first step in our investigation of the Arab boycott, and a determination of whether remedial legislation is needed. On its face, the allegations of compliance with boycott requests over the past 5 years and the implementation of secondary boycotts against shippers and insurance carriers would appear to violate our antitrust and securities laws. And the sorry record of the Commerce Department's enforcement of the anti-boycott policies of the United States confirms that only through vigorous congressional oversight can adherence to our Government's stated opposition to restrictive trade practices be ensured.

I am extremely proud of the insistence of the Subcommittee on Oversight and Investigations of its right to obtain this crucial material, and of the vigorous leadership of our chairman, JOHN E. MOSS.

Finally, it is ironic to note that although Secretary Morton refused for weeks to turn over the subpenaed material without an absolute assurance of confidentiality from the subcommittee, the first press report on the scope of the boycott contained in these materials has come from the Commerce Department. I commend the following article from the December 10 New York Times to my colleagues:

COMPLIANCE SEEN ON ARAB BOYCOTT: COMMERCE OFFICIAL BELIEVES MOST AMERICAN CONCERNS YIELD TO DEMANDS

(By Robert M. Smith)

WASHINGTON, December 9.—A Commerce Department official disclosed today that in nearly three-fourths of 50,000 trading transactions with Arab countries since 1970, American companies had declined to tell the United States Government whether they had complied with Arab boycott demands.

The official asserted that this indicated that in most if not all of these transactions, the American companies had complied with the Arab demands involving a boycott of Israel.

The official, who asked for anonymity, went on to say that formal compliance with the boycott request did not necessarily mean, however, that the companies were not also trading with Israel—as the result of a loophole in the boycott regulations.

STIPULATIONS FOR TRADE

He explained that the most usual statements that the American companies were called on to make the Arabs with regard to the boycott were that the ship carrying the goods was not blacklisted, that the goods were not of Israeli origin and that the insurance company involved was not blacklisted.

A company could meet all those conditions, he said, and still trade with Israel. "How many goods are imported here from Israel," he asked, "that are not for use in the United States?"

The official has first-hand knowledge of the reports on compliance. He explained his reasoning on boycott compliance as follows:

Since Oct. 1, American companies dealing with the Arabs have been required to tell the Commerce Department whether or not they had complied with the boycott. And of the reports since Oct. 1, he said, 90 percent indicated compliance. On the basis of these reports and his personal knowledge of 50,000 transactions since 1970 he said he had determined that nearly three-fourths of the companies would have had to comply with the boycott demands.

TWO THOUSAND FORMS PRESENTED

The Commerce Department turned over to the House commerce subcommittee on oversight and investigations today more than 2,000 forms covering trade transactions reported by American companies between Oct. 1 and last Friday. The department is scheduled to turn over about 10,000 more forms covering Jan. 1, 1970, to Oct. 1, 1975, by the end of the week.

The material is being made available to the subcommittee as the result of a compromise arrangement worked out by Secretary of Commerce Rogers C. B. Morton and Representative John E. Moss, the California Democrat who heads the subcommittee.

Until yesterday, Mr. Morton had refused to turn over the documents on the ground that the statute involved, the Export Administration Act of 1969, forced him to keep the reports secret, even from Congress.

The exact nature of the compromise reached by the two men has remained unclear, with each apparently having a different understanding of what has been agreed upon.

PREVIOUS OFFER

In an interview today, Mr. Moss was asked if he had not merely acceded to an offer made by Mr. Morton on Nov. 24. In that offer, Mr. Morton said he would turn over the reports if Mr. Moss provide written assurance that he would allow them to be seen only by members of the subcommittee and its staff.

"I couldn't give those assurances," Mr. Moss said. Under the rules of the House of Representatives, he explained, he must allow other Congressmen to look at the material.

What he did promise the Secretary, Mr. Moss said, was that he would "personally do everything possible to make sure that we handle the material in consonance with its alleged confidential nature."

In contrast, William F. Rhatican, a spokesman for Secretary Morton, said: "It's our understanding he won't show (the material) outside the subcommittee and staff."

When Representative Moss's position was pointed out to him, Mr. Rhatican said, "Well, we'll see what he does."

In the meantime, Representative James H. Scheuer, Democrat of Brooklyn and a member of the subcommittee, reiterated his view that "if companies have been guilty of flagrantly violating the enunicated public policy of the United States" by complying with the boycott, "the responsible course will

> be to expose them to their stockholders, customers and competitors."
>
> **Mr. Scheuer also said he thought Congress should make it illegal—no, simply declare that it is against public policy—for American companies to comply with the boycott.**

MEMBERS' BULLETIN BOARD

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. SYMMS. Mr. Speaker, the following column was forwarded to me by my constituent, Mrs. Marg Leighty of Boise, Idaho. She asked that—

> If there is a bulletin board in the House of Representatives, the enclosed item should be tacked up as a reminder of the prevailing attitude of the taxpayers.

This CONGRESSIONAL RECORD is the closest thing we in Congress have to a Members' bulletin board, so I enter Mr. Robert I. Weingarten's editorial from Financial World for the benefit of my colleagues.

Since our hindsight frequently reflects greater wisdom than our foresight, perhaps we still can learn the lesson of economy—at all levels of government—from examples of Federal frivolity like this one, describing a public housing project in New York. For if we fail to mend our ways and continue to shower this Nation's "underprivileged" with the comforts arduously worked for by America's middle class taxpayers, then we will soon become a nation where no one will find rewards in work, and all will expect a life of security at the hands of the benevolent Government.

We are spending ourselves into slavery. God save the Republic.

The article follows:

> PERSPECTIVE
>
> (By Robert I. Weingarten)
>
> Someone should invent a machine that measures the intensity of government insanity. And it had better be constructed out of materials capable of standing the high voltage bound to be created by such leaps into lunacy as were recently described in the *New York Times* article headlined "Four Luxury Towers To House Poor Opening In Harlem." The description of these edifices included mention of triplex apartments with balconies, 11-foot-high ceilings, an indoor swimming pool, an auditorium, a greenhouse, a gymnasium and, of course, the item that no building for the poor should be without—an underground parking garage attended 24 hours. I can just see the rental ads now:
>
> "Attention, welfare recipients! Now at last an apartment complex fit to meet your essential needs and at a price that your welfare check can easily afford. Be among the chosen few to live in style while New York sinks into the sea."
>
> If your credulity is strained by the above don't let it be: only the ad is my foray into fantasy. The housing project is real and it is scheduled to open in East Harlem in about two months. The project is Taino Towers and consists of four thirty-five-story buildings with a total of 656 apartments, and includes the amenities already mentioned. This fiscal fiasco is being brought to you compliments of HUD at a cost of $82 million in government subsidies. It is a timely reminder that profligacy is not only indigenous to New York City; Uncle Sam is a long-standing practitioner of the art.
>
> The projects administrator and driving force is Robert Nicol, a former Harlem church minister, who scores his critics for attacking what he refers to as providing "basic and humane services for people." It seems basic services have acquired some frills somewhere along the line.
>
> If you question the sobriety of those in government who agreed to the funding of the commitment, you've never been on a government committee. Bureaucrats need not imbibe to lose touch with reality; that lightheadedness comes with the job. Unfortunately, the products of their fiscal follies are usually more subtle to detect, and for that reason we should applaud the arrival of Taino Towers. At least we have a huge monument to the mental deficiency of government.
>
> Even Karl Marx, who envisioned giving "each according to his needs," would be impressed that our definition of needs now includes indoor swimming pools and attended garages.
>
> It's not altogether surprising, however, that a society which has increasingly accepted the concept of paternal government should come to this. And it is fitting that this memorial to mismanagement be erected in New York City. It can remind New Yorkers of the type of thinking that got New York where it is today, as well as ominously warning the rest of us that it's not a local disease.

NORTHERN MICHIGAN UNIVERSITY WILDCATS IN CAMELLIA BOWL

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. RUPPE. Mr. Speaker, tomorrow the pride of the North, the Northern Michigan University Wildcats will play in the Camellia Bowl for the Division II College Football Championship.

I would like to call my colleagues attention to the incredible record the Wildcats have compiled in anticipation of this title game. Last year, Coach Gil Krueger's team failed to win a single game.

In a dramatic turnaround, the same basic team defeated last year's College II champions, Central Michigan University on CMU's own turf. But the Wildcats were not finished and went on to defeat two favored teams in the quarter-final and semi-final games leading to tomorrow's title game in Sacramento, Calif.

We in Michigan are proud of the fact that for the second consecutive year one of our home grown teams will vie for the national championship.

We in northern Michigan are doubly proud because this team dispels once and for all any of the long-held theories about the quality of football played in Michigan, and, in particular, the brand of football played in upper Michigan.

Parenthetically, I would note that it was an Upper Peninsula team which ended the longest high school winning streak in recorded football history.

Northern Michigan's Wildcats, Mr. Speaker, go into this game against Western Kentucky with the full support of not only my own district, but of the entire Upper Great Lakes Region.

Without hesitation, Mr. Speaker, I predict the Wildcats will keep the College Division II title within the State of Michigan for the second straight year.

VIRGIN ISLANDS INTERNATIONAL FILM FESTIVAL

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. DE LUGO. Mr. Speaker, the first Virgin Islands International Film Festival recently took place in St. Thomas. This significant event was the first to be held in the Caribbean area and as such was a rather historic happening for Virgin Islanders.

While the flaws that beset most first-time productions were present in our festival, it was a remarkably successful enterprise, one of which its producers, sponsors and participants can be justly proud. It will continue to bear much fruit for the Virgin Islands.

In his November 18, 1975 editorial in the Daily News, Ariel Melchior, Sr., owner and publisher, had some pertinent retrospections on the film festival which I would like to share at this time with my colleagues:

> THIS COULD BE THE START OF SOMETHING BIG
>
> The first Virgin Islands International Film Festival is now history and, we hope, the predecessor of many more despite the flaws evident in this year's event.
>
> While the festival did not attract the great number of stars or even the number of film industry people its promoters enthusiastically predicted, it did bring in visitors who might not see the islands otherwise and who are in a position to give the Virgin Islands significant widespread coverage.
>
> Whether we get the amount and kind of publicity possible will not be known until the clippings start coming back. Certainly, the government's advertising agency did very little to bring in festival participants and we hope this foot-dragging will be eliminated in the future. However, in our conversations with our visitors we found a positive reaction to the beauty of the islands and the warmth and hospitality of the people.
>
> We could hope for better organization on the part of the festival itself although much of the confusion stemmed from the short period of time available. That the festival core was able to move from Atlanta amid adverse circumstances, obtain local support despite detractors here and off-island and mount a festival which attracted 2,000 entries from 38 countries is a tribute to their skill and perseverance and the momentum carried over from their original base.
>
> We could hope for more involvement of the local population although the spotty attendance at film screenings and other events might have been due to a combination of inadequate local publicity and a cautious attitude by many of us about an unfamiliar event.
>
> Perhaps as the extravagant statements about the event are toned down in the future and as more Virgin Islanders are drawn into participation, the festival can become the type of major international affair that these islands so badly need. We tend to think that Virgin Islanders would have been happy if they had been told to expect a few minor stars from the first instead of a

galaxy that would rival the Academy Awards presentation.

It would also be a major step, we believe, if the festival period were also used as a time when other local cultural groups would sponsor such events as concerts by marching bands from other islands, dance recitals, art exhibits and similar cultural events which coincide with and augment the value of the festival, and which would show off area culture for ourselves as well as for our visitors.

All in all, though, the film festival has enormous promise for these islands and the first one came off actually better than many had expected. For this, credit must go to the prime force behind it, J. Hunter Todd, the Film Promotion Office which attracted it, the government for having the faith to contribute much to it and all the volunteers who gave time, money and in-kind contributions.

And to those who have, through honest skepticism or unthinking malice continued to unfairly criticize it, we ask; what do you have to offer in its place?

TEACHER'S UNION WANTS ONE-WORLD STUDIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. McDONALD of Georgia. Mr. Speaker, one of the great difficulties in the field of education today is that many of the so-called organizations, such as the National Education Association, claim to be interested in better education for our children, when in reality they are more interested in pushing a point of view than basic education. Evidence of this is that after 20 years of Federal aid to education, test scores continue to go down and our public school systems are turning out poorer and poorer products. Mr. Joseph F. Baldacchino, Jr., pointed out yet another instance why this is so as regards the NEA, in Human Events for November 15, 1975. I commend this article to the attention of my colleagues and hope they will bear this material in mind when voting on funds for Federal aid to education:

TEACHERS' UNION WANTS ONE-WORLD STUDIES

(By Joseph F. Baldacchino, Jr.)

As reported previously in this journal (October 25 issue, pages 5 and 6), the National Education Association, long the leading U.S. teachers' organization and now a major source of funds for liberal-left political candidates as well, is making a major push to introduce "world order studies" in the nation's public schools and doing so as its supposed "contribution" to the country's bicentennial celebration. One element of this bicentennial program: a "Peace Studies Exposition" held last July in Los Angeles, the purpose of which, according to NEA, was to "emphasize the value of teaching peace" in the schools beginning from kindergarten on up.

But, as disclosed in the earlier Human Events article, a look at some of the materials promoted at the exposition indicates that what NEA is pushing under the "peace studies" label is really an attempt to get children to accept a whole range of left-wing values and even goes so far as to question the concept of national sovereignty.

Human Events has since obtained copies of additional materials displayed at the exposition, which make for interesting reading and give further evidence of the leftist bias inherent in the NEA peace studies push.

"(*b*) The oceans' resources should be controlled by the United Nations.

"(c) World pollution problems should be under the jurisdiction of a world court.

"(*d*) Nations must relinquish more of their national sovereignty to a world organization."

Among the books displayed at the exposition (and therefore "recognized," according to NEA, "as having real usefulness for peace education"), for instance, is a little tome entitled *Learning Peace* by Grace Contrino Abrams and Fran Contrino Schmidt. This book—published by the Jane Addams Peace Association, a Philadelphia outfit with close ties to the liberal-left Women's International League for Peace and Freedom—is described in its preface as a "resource unit . . . intended to help the teacher in grades 7–12 teach *about* and *for* peace."

As with the materials described in our earlier story, *Learning Peace* is heavily slanted in favor of world, as opposed to national, government. On pages 19 and 20, for instance, one of the suggested "activities for student" is to "Select a current world problem that you would like to discuss in a mock session of the General Assembly of the United Nations." The book then lists four possible discussion topics, each of which suggests the desirability of weakening U.S. sovereignty:

"(*a*) The U.S. Charter should be revised to provide for a federal organization of nations.

At another place (page 11) the student is asked to discuss the view of syndicated columnist Sydney J. Harris that "Until the nations are willing to give up some of their external authority—just as cities give up some to the states and states to the nation—there is no way to resolve national disputes except by force and violence."

In yet another place (page 31), he is told to investigate the feasibility of creating such supranational agencies as "an International Police Force" and "a world agency consisting of an ombudsman from each nation who would be empowered to have the final say in international peace." *Learning Peace* is rife with other "student activities" in a similar vein. And, lest there be any doubt that this assault on the nation's political independence is wholly intentional, one of the book's last questions posed to students is: "Have any of your ideas about your nation's sovereignty changed since you began your study on peace?"

Yet perhaps even more blatant than the book's obvious devotion to weakening U.S. sovereignty is the serious treatment given in its pages to such radical chic fads as the "peace symbol" and "Woodstock Nation" and its adulation of seemingly every leftist peace activist that ever postured before a network news camera.

Thus, on page 29, the student (and this is supposedly a high school-level course, remember) is directed to:

"A Collect and research symbols which have been used throughout history that stand for peace.

"B. Take a count of the number of people you meet in a week's time who wear a peace symbol.

"C. Interview people who wear peace symbols, asking their opinions about peace.

"D. Do you wear a peace symbol? Why?

"E. Design your own peace symbols."

From there, the book moves on to even greater heights. On page 35, the authors list 37 persons who they describe as "courageous spokesmen for peace," and ask that, for any five, the students say "how they lived and how they helped promote peace or understanding." In addition, the student is to "role-play" one of these spokesmen for peace. Among the heroes to choose from: Joan Baez, Shirley Chisholm, Daniel Ellsberg, Linus Pauling, Benjamin Spock, and on and on and on.

There's more. Just one page later, for instance, the young scholar gets this assignment:

"Thoreau once said: 'If a man does not keep pace with his companions, perhaps it is because he hears a different drummer.'

"A. Investigate and assess the types of actions engaged in by the following individuals:

"(*a*) Albert Bigelow, American Friends Service Committee, sailed into Pacific bomb-test area.

"(*b*) Dr. Benjamin Spock, pediatrician and famous author, counseled resistance to draft.

"(*c*) Rev. William Sloane Coffin Jr. counseled draft resistance.

"(*d*) The Berrigan brothers and Sister McAlister burned draft records.

"(*e*) Joan Baez withheld taxes used for war.

"(*f*) Scott Herrick, American Friends Service Committee, exchanged children's art with children of Cuba; walked from San Francisco to Moscow; boarded a Polaris submarine.

"(*g*) Jane Fonda presented anti-war shows to servicemen.

"(*h*) Students and Buddhist monks set fire to themselves as a war protest.

"(*i*) Dick Gregory said he would fast until peace came in Vietnam."

"How effective are the above actions in working for peace?" the lesson continues. "Can you suggest other kinds of non-violent actions which would build people's consciousness of peace?"

But the height of absurdity comes on the book's last page of instruction—indeed, this would be laughable if the authors did not seem so deadly serious about it—where the student is informed that "Recently a diverse cross-section of American young people united to work for new social, economic, and international goals which include 'Peace on Earth.' Since the famous rock festival held by these young people, they have come to refer to themselves as the Woodstock Nation." The assignment: "Investigate the Woodstock Nation, its formula or philosophy for individual actions that could help achieve peace."

As if such leftist drivel in the book's own pages weren't bad enough, the authors also suggest outside reading for the more enterprising young people. One book recommended repeatedly is *Johnny Got His Gun* by Dalton Trumbo, a long-time radical left-winger whose Communist party membership card was produced by the House Committee on Un-American Activities during its investigation of the "Hollywood Ten" three decades ago and who has never publicly denied allegiance to the party in the years since.

Other works cited as good "sources of information" include *Pentagon Capitalism* by disarmament advocate Seymour Melman and *Military-Industrial Complex* by Sidney Lens. An idea of where Lens stands can be discerned from a recent article he did for *The Progressive*.

"Our sympathies," he said in *The Progressive piece,* "quite naturally are with the Viet Minh, the Provisional Revolutionary Government, the Sihanouk and Khmer Rouge forces of Cambodia, the Pathet Lao, who suffered so much at the hands of our government. . . ."

Nowhere does *Learning Peace* come to grips with the problem of communism and the lethal threat to world peace posed by the Kremlin. Nor does it present the position shared by almost all conservatives and moderates and even many liberals in this country that the best way to assure peace is for peace-loving nations such as the United States to remain militarily strong.

In brief, this book falls far short of the balanced treatment that good scholarship demands; and, indeed, if truth be told, constitutes the most blatant left-wing propaganda masquerading as serious high-school instructional material.

Meanwhile, another book by the same authors *Peace Is In Our Hands,* described as a "resource unit for teachers of kindergarten and grades 1 to 6," seeks to reach this younger age group with the same "One World" message. This book, too, is being promoted in connection with the NEA bicentennial program.

Are these "resource units" being used in your school district? With such a ubiquitous teachers' organization as the NEA touting them "as having real usefulness for peace education," they very well could be. The only way to know for sure is to inquire of your local school officials.

A TOTAL OF 21.4 PERCENT OF U.S. FARMS NO LONGER COUNT IN USDA AND CENSUS FIGURES

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. ROSE. Mr. Speaker, there has been a discussion going on between the U.S. Department of Agriculture (USDA), the Census Bureau, and the Office of Management and Budget (OMB) about the definition of the term "farm" for statistical purposes. Since 21.4 percent or 570,000 farms in America are affected, I thought my colleagues in the House might be interested in some findings of my Subcommittee on Family Farms and Rural Development.

In 2 days of hearings, we heard from Mr. Quentin West, from the USDA, and Mr. Starkey Thomas and Ms. Shirley Kallek from the Census Bureau. They provided background about how the decision to redefine "farm" was made, and pointed toward certain possible effects of the change on data collection.

My distinguished colleagues, the Honorable ANDREW YOUNG of Georgia, and the Honorable GILLIS LONG of Louisiana, brought to our attention their fears of what this change would mean for those farmers suddenly deleted from the statistical rolls.

Patrick Mullen, research director for the National Sharecroppers Fund, and Clay L. Cochran, executive director of Rural America, Inc., spoke about their constituents' needs for recognition and help, and urged us to reverse the decision of USDA authorities.

My point of view is that anyone has a right to participate in farming. I am old-fashioned in my beliefs, I guess, but I like the American Heritage Dictionary definition of the term "farm." It says, a farm is a "tract of agricultural land, together with the fields, buildings, animals, and personnel there assembled for the purpose producing a crop or crops."

Many of us have experienced farm life—whether indirectly through our relatives who lived on farms or directly by personnally living on one ourselves. Problems of nose-to-nose urban living and the romance about homesteading have brought today's counterculture away from the large urban areas and back to the quiet of rural towns. More and more people are looking toward the self-sufficient and hard-working life of the farm. It may be true as Madison Avenue advertisers have told us, that we can take our bodies out of the country, but we cannot take the country out of our souls.

I read a recent poll in which people were asked to choose what they considered important to their happiness. Out of 26 items, 95 percent of those polled chose green grass and trees and plants and flowers. For those among us who are citybound, our windows in high rise apartments are full of green plants, hanging and sitting, all attempting to replicate the country of green grass and trees.

We are all hungry for the land, and the idea of farming is still one of hard work, honesty, sincerity, and health. This is true even though most of us have not and probably will not choose farming for our life's work.

But, Mr. Speaker, a large percentage of people in this country have chosen it, and some of them are in trouble. I am talking about the farmer on a few acres of land who is bound to tobacco and cotton and soybean acreages. I am talking about farmers who must work part time in nearby towns because they cannot make enough money on their farms to live.

I am talking about thousands of farmers on 570,000 farms in America whose land has recently been deleted from the USDA's definition of farm.

In April 1975, the USDA issued a press release stating that the new definition of farm for statistical purposes would now read, "any establishment from which $1,000 or more of agricultural products is sold or would normally be sold during a year." The change was expected to have a decreasing statistical reporting effort in census data of some 16 to 20 percent after 1982.

In contrast, the old definition was far more flexible and comprehensive than this new one. It defined a farm as any establishment which either sold $250 or more of agricultural products during a census year or which contained 10 acres or more with sales of $50 or more. Twenty-one and four-tenths percent of America's farms which met this definition criteria would not meet the new one, and so would no longer be counted.

In addition to flexing their dictionary powers, the agricultural triumvirate of USDA, Census, and OMB also set about to rewrite new farm classifications to specify further who is and what is what as far as farm size and farm business are concerned. They presented these four new sections:

> 1. The primary farm is any farm operated by a person who spends at least one-half of their time working on the farm or any farm operated by a corporation which makes at least one-half of its income from farming.
>
> 2. The part-time farm is any farm operated by a person who spends less than one-half of their time working on the farm.
>
> 3. The business associated farm is a farm operated by a corporation which makes less than one-half of its gross income from farming.
>
> 4. The abnormal farm is a farm operated by an institution, Indian reservation, or as an experimental or research farm.

The old part-time definition was a farm which sold less than $2,500 of farm products and the farmer was less than 65 years old and worked off the farm at least 100 days. Since the average age of the American farmer is 53, maybe the USDA saw that continued insistence on the 65 age limit for farmer status might be unreasonable. We should be thankful for small favors.

But, Mr. Speaker, the nagging questions remain: Why was the redefinition of farm necessary and what does it mean for the farmers suddenly cast in the below $1,000-a-year-sales group?

The attitude of the USDA toward the small farmer has never been sympathetic. And in 1972, a Young Executive Committee was established by then USDA Secretary Clifford M. Hardin, to review the "farm income question." It was not an official body. Rather it appears to have been an in-house "think tank" for USDA policy clarification.

The Young Executives stated five policy recommendations which I find discouraging and indicative of USDA's attitude in general. Basically, they state that agriculture is an industry solely responsible for the production of food and fiber. Any inefficiencies in the industry must not be tolerated or supported. In fact, they go so far as to say:

> National policy should be directed toward maintaining agriculture as a viable industry and not as a way of life.

Mr. Speaker, I say that farming has been and continues to be a viable way of life for thousands of people across the country. Many of my constituents in North Carolina depend on farming as their sole source of income, and the farm ethic is the backbone of our Nation's democratic philosophy. However, the young executives seem unimpressed. They went on to speculate that the food and fiber requirements of the United States could be met in a more effective manner by 600,000 highly mechanized, efficient business operations. The other 2.1 million farms were presumably irrelevant.

That may well have been the beginning of what finally was announced in April of this year. However, the attitude, the stance of the Agriculture Department toward those farmers who subsist on low incomes and marginal profits, has been apparent for some time, and this most recent decision to redefine farm and so eliminate thousands of farms from census data is only one more example.

At our subcommittee hearings I asked my colleague from the State of Louisiana, the Honorable GILLIS LONG, why he thought this redefinition had been made. He admitted that small farmers who own 5 to 10 acres live in remote areas in his district and are outside the mainstream of the Nation's agricultural business. Transportation to and from these areas is difficult and communication with the farmers is poor. It might be they were too much trouble for the people at Census who just did not want to drive the miles necessary to count these farmers and USDA decided they just did not want to bother with them anymore.

In addition, Mr. LONG noted before the Post Office and Civil Service Subcommittee on Census and Population in September 1975, that he felt the administration was trying to rationalize the elimination of small farms from census rolls because they account for less than 3 percent of the Nation's farm output.

It is apparent that USDA did not want to add low farm incomes into the national statistical pot. Ms. Kallek from the Census Bureau said they supported the change because the small farm income numbers were distorting corporate farm statistics. If the under-$1,000-a-year farms are simply deleted from the overall picture, America's average net farm income per year goes from $9,789 to $11,906. That looks good for America on paper, to say nothing of what it does for the status of the USDA when it comes to Congress to request more funding for its obviously successful program.

But what does it mean for the future of farming? During the past decade, more than 400,000 farms went out of business. USDA's recent campaign toward capital-intensive, industry-oriented farming, has made it virtually impossible for young people to get started with a farm. Loans are impossible to get because these youngsters cannot prove that they will be successful producers of food and fiber. That they want to choose farming as a way of life is irrelevant to USDA administrators.

If the USDA wants to insure the demise of the small farm in America, this redefinition will do it. As Patric Mullen of the National Sharecroppers Fund said:

> This statistical adjustment will dismiss more farms from the census in one year than went bankrupt, merged, sold out or otherwise succumbed to the economic and technological pressures of modern agriculture during the past ten years.

Mr. Mullen went on to note that "one out of every five American farms will suddenly become a nonfarm." Five and nine-tenths percent of Iowa's farms will be affected; 45.5 percent of West Virginia's will lose their status. The South is the hardest hit, where "one out of every four farms in North Carolina is affected, and two out of every three farms in Alabama and Mississippi" are reclassified.

In addition, "because of their limited acreage and access to credit, the impact on black farmers will be greater," the Honorable ANDREW YOUNG told us. Forty-six percent of all black-owned farms will fail to meet the new criteria. Ms. Kallek of the Census Bureau admitted that some 50,000 to 200,000 people would be classified as "poor" who previously would have been classified as farmers. With our Nation's welfare rolls already swelled beyond a reasonable limit, we can hardly afford to add thousands more to the lists.

And what about agricultural programs for these new nonfarmers? The USDA claims that the changes in definition and classification will not affect the programs conducted by the Farmers Home Administration, the Soil Conservation Service, the Farmer Cooperative Service, and the Agriculture Stabilization and Conservation Service because these services are not tied to the definition of a farm used for statistical purposes.

But I am not so sure. The financial effect alone is alarming. Twenty-five States will lose future moneys from title V of the Rural Development Act of 1972; 28 States will lose future Hatch Act moneys. The USDA Cooperative State Research Service figures sent to us indicate that Iowa will lose 10.4 percent of its future rural development funds and 10.1 percent in Hatch Act funds. Michigan will lose 12.4 percent and 12 percent respectively. Wisconsin will lose 13.1 percent and 12.7 percent of its Federal assistance funds. Some States will lose more than this.

Mr. Quentin West of the USDA admitted in his testimony before our subcommittee that there is a problem about farmers losing money and program assistance under the new definition. But he said that Federal assistance to farmers would not be in jeopardy unless the grant-loan programs used farm definitions to determine eligibility. Unfortunately, 570,000 new farms do not meet that new criteria.

It will be easy to forget these small farmers. If their group no longer appears on agricultural charts or in farm statistics, it is not hard to imagine that soon their names will be lost from programs so desperately needed by them all. Unseen Americans have frequently become forgotten Americans, and we stand to lose more here than I think we can afford.

Clay L. Cochran, executive director of Rural America, Inc., said that census data on small farms was important for those organizations like his who need it, and he noted with insight that in order to reckon with the poverty of rural Americans, "we need to know who they are, what they are, and how many there are." Without census data, the USDA cannot be responsible for the welfare of thousands of small farmers.

And who is to care for them then? The movement in this country toward agribusiness cannot be halted. The die is cast. With huge resources of energy focused on the widespread and almost flawless efforts of food production, there is little room for the small farmer. Farming has ceased to be a way of life for many Americans and it has become an industry for some. The USDA says that:

> As farming changes, new classifications and definitions are required to maintain the usefulness of the economic and statistical information.

That is the new language of farming. The people at the American Heritage who wrote the definition at the beginning of these remarks seem out of touch with reality. The cold facts of present-day farming are couched in charts and tables and graphs of production.

But there are still people out there who do not understand this new language, and somebody needs to hear them. A recent General Accounting Office—GAO—report was critical of the USDA's efforts to solve the problems of our Nation's small farmers. The GAO report specifically recommended a better collection of data on small farm operations so that Congress could write more meaningful legislation. Yet the preservation of this critical data base has been declared unnecessary.

Not only that, no one I know concerned about this issue has ever seen substantive, cause-and-effect analyses that should have been gathered before this decision was made. Percentages that might have given justification for this change, were not compiled, and my subcommittee has ordered USDA and the Census Bureau to start compiling them.

The Census Bureau and USDA witnesses told our subcommittee that their decision was made openly, that they held public hearings before drawing their conclusion, and that they sought expert assistance before reaching the $1,000 a year limit. They even asked two House Members and one Senator what they thought of the idea.

Well, Mr. Speaker, in light of USDA's record in this area and in view of the recommendations made by some of their young executives in 1972, I tend to be skeptical about what they say.

It seems clear to me and to my colleagues on the subcommittee and our witnesses, the Honorable GILLIS LONG and the Honorable ANDREW YOUNG, that Congress should have been involved in this decision. As Mr. YOUNG stated:

> A decision affecting hundreds of thousands of Americans is not the proper province of our unelected public officials.

Neither is it the business of the Young Executive Committee or the USDA or the Census Bureau or OMB or anybody else to decide that from now on farming will be emphasized as an industry and not as a way of life. If I want to farm, I have the right to farm. And I should get all the benefits due any farmer of this land whether I produce enough food and fiber to feed and clothe my family or my region. And I should be counted with everybody else, taken seriously, and cared for by those elected and hired to represent my interests. There should be no limit to my production and no penalty if I fall below the mark. As an American, I should be free to do as I choose; to select my way of life as it pleases me; to follow my instincts as well as my intellect.

Maybe the real reason for this change is the statistical jump upward in the average net farm income from $9,789 to $11,906. USDA has already mailed out a press release heralding the upward moving in farm incomes for 1976. Maybe they are now trying to make it come true by juggling figures. Maybe the administration feels it needs this sort of ammunition as it enters the 1976 political campaigns.

Whatever the real reason, 570,000 small farms will no longer appear on Census Bureau charts. We will not know who they are or where they are or how many they are. A grevious decision has been made. I urge my colleagues in this House to look carefully at what has happened here so that it never happens again. I believe a commitment to the land is one of our country's greatest strengths. We must protect those who continue to make this commitment.

"MOSHER'S LAW"—BETTER TO RETIRE TOO EARLY RATHER THAN TOO LATE

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. J. WILLIAM STANTON. Mr. Speaker, I have just read a retirement statement by our colleague, my friend and neighbor, Chuck Mosher of Ohio.

My reaction is very mixed, great regret at his decision but also great understanding of his reasons for not seeking reelection next year.

Because he expresses forcefully several thoughts surely of interest and value to all of us, concerning service in the Congress, I am placing Congressman Mosher's full statement in the Record, for all to read and ponder.

However, before doing so, I cannot help but add one further thought. Over the years Charles Mosher has become known to many of us as the "Congressman's Congressman." I know of no one whose advice, consultation, and opinion was more sought among his colleagues than Congressman Mosher. His wealth of commonsense, good judgment, and willingness to look at issues without a narrow prejudiced political outlook brought him the respect of all who came in contact with him. Those of us who are fortunate to call him a personal friend will miss him greatly. I can say without hesitation that I consider him one of the most highly respected Members of the House of Representatives of the Congress of the United States. His retirement is a loss to all of the people of the United States.

The statement follows:

Memorandum To the People of Ohio's 13th Congressional District.

From Congressman Charles A. Mosher.

Summary: Being "the Congressman" is rigorous servitude, ceaseless enslavement to a peculiar mix of everyone else's needs, demands and whims, plus one's own sense of duty, ambition or vanity. It is that from which Mrs. Mosher and I now declare our personal independence, to seek our freedom, as of January 3, 1977.

I am opting out. I shall not be a candidate for reelection in 1976.

Until January 3, 1977, when this 94th Congress ends, I am your elected representative here and I intend to be fully responsible to that obligation. Then, after 31 years as a "public servant" (16 in the U.S. Congress, 10 in the Ohio Senate, 5 on the Oberlin Village Council) I will be done with elective office.

As yet, Mrs. Mosher and I have no specific plans for our way of life after 1976. I do not relish the thought of sudden do-nothing monotony, so I intend to look for some new way to be useful, probably parttime, but where or how is completely uncertain. I have been wonderfully lucky in experiencing variety, four distinctly different and interesting career periods in the past 45 years. I would welcome a fifth.

This decision to retire has been very difficult. Within myself I have struggled fiercely. I have identified and considered seven powerfully tempting reasons (listed below) by which I could justify seeking another term; and I do believe I could be reelected. But there are two other overriding reasons which convince me enough is enough, this IS the right moment to stand aside . . .first my age; and second, my increasing personal desire (strongly supported by Mrs. Mosher) to seek a more relaxed life, and privacy.

Later in this memo, I will discuss further those specific reasons I so carefully weighed, both for and against another election try. But first, because of the immediate urgency, I offer here some strong opinions . . . my personal advice to the voters of our 13th district, to the leaders of both political parties, and to the media pundits . . . concerning the selection of your next Congressman, my successor.

CHOOSE YOUNG CANDIDATES

Please. My one all important plea is that you choose with great care the man or woman who shall be your next elected representative here in Washington. It is imperative that neither political party shall nominate a merely humdrum person. Our district deserves to choose between two top quality candidates, deserves and needs a very lively, really substantive election contest for Congress.

Especially, I urge the pragmatic necessity to choose candidates who are relatively young . . . surely under 50 years old.

I entered Congress at age 54 and on May 7 next year will be 70. Now, only after repeated elections have I . . . or can anyone . . . attain a place of really significant, effective personal leverage here as a ranking committee member, a small part of the leadership. I have reached that point, but also I am at the right age and in the right mood to retire.

That is the urgent lesson I emphasize here. Demand of both parties that they shall take positive initiatives to recruit genuinely able candidates who are young enough now to have the prospect of more years ahead in which to grow into a position of greater influence here . . . thus to the very advantage of our 13th district.

Also, I suggest it is NOT imperative that a candidate shall have previous experience in elected office. For example, why not nominate a young man or woman of great intelligence, initiative, capacity for work, who may have demonstrated a genius for responsible leadership in some other form of community service? Let's broaden our sights as to whom might best be attracted to run for Congress.

That gratuitious advice may be resented by some of my good friends. But I have the gall to offer it, feel compelled to say it publicly, because of my own experience here, my awareness of today's changes in the Congress . . . this increasingly is a job that demands and deserves youthful brains, energy and growth potential. This is no place for old hat types.

AND NOW I RESIGN FROM "POLITICAL" ACTIVITY

Having ventured such urgent opinions above (and a few other political comments below), I now withdraw from any active involvement in the choice of your next Congressman. For the next 12 months I intend to be discreetly aloof from election-year politics. Seldom, if ever is it wise or actually feasible for an office holder to try to name his successor, or effectively to influence that choice. I shall *not* try! Yes, of course, if my Republican Party leadership asks my private advice, I will respond as helpfully as possible. But I shall refuse absolutely any public comment (if queried by reporters, for example) or political activity either for or against any potential aspirant for this seat in Congress.

That means precisely this, that I shall devote my time and energies as completely, competently and impartially as I can to the official duties to which you elected me here in Washington.

"MOSHER'S LAW"—IT'S BETTER TO RETIRE TOO SOON THAN TOO LATE

AGE is the first of two decisive reasons for my decision to retire. I am convinced from observing the sad examples of others, it usually is a mistake for anyone in public office to seek reelection after age 70. Some critics will say, with considerable validity, that the wise quitting age should be before that. I determined many years ago definitely to consider retirement at 70.

It really is no favor to the public interest, nor to one's party, and least of all to oneself, to continue stubbornly in office as an oldster . . . even if physically fit, mentally alert and allegedly "powerful" in seniority; and even though well intentioned or flattering friends and political allies urge "hang in there!" Not one of us is really *that* essential. So, I believe it obligatory that we should quit cheerfully and voluntarily . . . earlier rather than later . . . to thus make room for the younger, fully capable and probably more attuned to the times candidates who surely can be identified and recruited and who deserve their opportunity to serve . . . undoubtedly including several excellent, potential winners who are not immediately visible.

If there are special exceptions to that quit-after-70 general rule (dub it "Mosher's Law" if you will), they should be very rare exceptions, and I am *not* one of them. I shall conform fully to that rule, rather than rationalize that I could in good conscience serve "just one more time".

Privacy—My second decisive reason for retirement . . . essentially a very personal and selfish reason, as distinguished from the above general principle . . . is that I am becoming hungry for privacy, for the opportunity to savor life at my own gait and choosing, hopefully to attain a bit of serenity.

Contrary to a stereotyped opinion popularly encouraged, the job of a Congressman is not all special advantages (of which there *are* many), it is in fact weighted heavily with DISadvantages . . . it requires an onerously demanding, hectic, fragmented schedule of seldom less than seven days per week and often many more than 12 working hours per day, constantly harried by call bells, phone bells, committee sessions (frequently shuttling between two or more meetings at the same time), and at every turn there are deserving people insistently crowding to capture your momentary attention . . . to confer, to report, to assist, to argue, to request, to demand or plead, to compliment, criticize, invite, etc., etc., staff people, bureaucrats, lobbyists, reporters, colleagues, a steady stream of valued constituents, and varied others. All that, plus the House debates, caucuses, briefings, working breakfasts, working lunches, receptions, dinners, homework study, and even midnight collect calls from drunks . . . you name it!

Catch a few minutes for concentrated desk work, there faces you a great pile of letters to read and answer, reports and analyses to absorb, a never ceasing flood of papers, periodicals, pamphlets . . . propaganda or fact. And very importantly "case work" too, the daily dozens of urgent requests and demands from the district . . . from individuals, groups, local officials, businesses and every other conceivable interests . . . requiring assistance in their myriad of difficult, complex relationships with the federal agencies. Trips back to the district give no respite, those schedules also are intense, stressful; and even the official committee trips (those "junkets" so popularly scorned) should be and usually are genuinely substantive and demanding.

AN HONOR AND PRIVILEGE TO SERVE YOU

Yes, I asked for this job, and I like the pay. Do not read into the above paragraphs any personal complaints from me. It is an amazingly fascinating experience to work in this beautiful, powerful capital city. I greatly cherish the honor, the privilege of having been elected to represent here one of this nation's most dynamic districts . . . our own Ohio 13th . . . an excitingly vibrant area and people of immense, diverse productivity, varied and churning attitudes and needs, bursting with further potential, richly cosmopolitan!

But there is SO little time or opportunity to study, to think and rethink to get above the battle and view it reflectively in the larger perspectives. There seldom is more than 15 minutes at any one time to concentrate on any single subject . . . then hop, skip, jump on to another, then another and another. And each one of them . . . each conversation, each meeting, each letter, each report, each vote . . . deals with a genuinely substantive significant problem or issue, often complicated, tensely controversial, requiring a responsible decision. Ours is a contentious regimen of decisions, decisions ad infinitum, each one impacting our fellow beings for good or ill, often with consequences vitally important to thousands upon thousands of people, and to the future course of human history.

THE MEANING OF "PUBLIC SERVANT"

Thus it is a Congressman's inescapable lot, his or her enslavement, to be never alone, never free from incessant buffeting by people, events, problems, decisions; and always the ubiquitous, skeptical newsmen and other critics are looking very closely over one's shoulder, intently watching, questioning, assessing every word or move . . . and that's the way it must be, it should be . . . that's what it means today to be a "public servant".

It is a gruelling experience, often frustrating, discouraging, sometimes very disillusioning. Any sense of personal satisfaction from individual, creative accomplishment is for most Congressmen rare and partial . . . small, infrequent victories . . . necessarily shared with many others. Constantly, the needs, the problems, the opportunities all seem so many, so varied, so immense, so complex, so inextricably twined and often contradictory, and our efforts so indecisive, so inadequate!

To put it simply, I sense in me a certain loss of zest for this kaleidoscopic life; the glamour of it palls, the guff intensifies. Do I have any right or obligation to seek another two years of this tremendous responsibility and opportunity, if I am losing zest for it? I think not.

THE SEVEN TEMPTATIONS TO RUN AGAIN

Recent rumors that I might retire have prompted advice and requests from many whose judgment I respect, urging me to seek reelection for at least two more years. Those appeals are very pleasing, conforting, flattering. But I have noted the mistakes of other maturing politicians, how readily they accept such blandishments! And I treasure independence . . . so Mrs. Mosher and I have decided firmly to begin now our search for greater privacy, by resisting such tempting advice.

Early in this memo I said there are seven powerfully tempting "good reasons" I have carefully considered, by which I might justify reelection. They are these:

One—Trusted soothsayers (knowledgeable election forecasters in both parties, and the political reporters) assure me that I would be elected again in '76 . . . and I believe them. But is that not exactly the right time for any "veteran" to step aside, while still a winner . . . not with a whimper but with a bang . . . proudly, ahead of the time when many friends whisper "how can we tell him gently he should quit?"

Two—Republican party leaders have urged me to run again; and I certainly am indebted to my party for long, loyal support. I know well and greatly appreciate the fact that the more conservative members of our party sometimes have disagreed with my views and voting decisions, and yet they continued to support me. I feel very grateful for that most generous support. But I believe my retirement now can have a healthy impact on our party. We Republicans urgently need to attract new talent, new insights, fresh faces! If I monopolize the Congressional nomination, I am in effect a stopper that discourages bright new talent from trying. Any notion that I am an indispensable candidate is thus counter productive error. It should be very healthy for our party to force it to recruit new blood. State Representatives Scrib Fauver and Bill Batchelder are shining examples for the top calibre, younger candidates the G.O.P. needs to attract; and I hope my quitting may afford the opportunity which will attract others of that calibre.

Three—The increased Congressional salary (now $44,600), plus expense allowances and other attractive prerequisites, are difficult to give up. Continuing here, we could save substantially more for such good causes as helping our grandchildren go to college, and my own pension fund would be considerably larger. But that would be equally tempting two years from now; and we are not greedy. We wish my successor wisdom in the use of that income!

Four—Most tempting of all is the fact that in this 94th Congress, more than ever before, I believe I am performing a significant, substantive role in very important, fascinating areas of the legislative process. It is a demanding but encouraging role. It certainly is true that in the next two years . . . because of seniority, practical experience, and close working relationships of mutual respect on both sides of the aisle . . . I would have a genuine advantage over any newcomer here, to represent you effectively. But presumably that also would be true next time; an incumbent cannot use that argument forever.

Five—I greatly admire and enjoy, am inspired and stimulated by many of my colleagues in the Congress, as well as committee staffers and a host of other exceptionally able people serving through government. Capitol Hill, despite the disadvantages listed above, is still in so many respects a uniquely wonderful place to serve. Very reluctantly I opt for only one more year here; and in the years ahead, surely I will look back to this very nostalgically.

Six—I owe a very special debt to the capable, hard working, loyal members of our 13th District Congressional staff, who serve you and me so efficiently and effectively. I hate to make problems for them. When I leave, obviously some of them must seek other employment. But I do urgently suggest that whoever succeeds me will be wise to consider keeping several of these experienced, professional staffers, to continue to provide our district with the benefit of their proved expertise, their exceptional understanding of the 13th district. There should be important value in such continuity.

Seven—My health is excellent. I never felt better! I hope my mind still seems reasonably clear (do your best friends ever tell you?). I am very fortunate to feel younger than my years! So, some say age alone is no excuse to quit. But I say, is not good health (knock on wood!) all the more reason why now is the best time to try new activities, new ways of life? I look forward to doing just that in 1977 . . . God willing!

APPRECIATION AND THANKS

Now is not yet time for me to try to tell you of my profound appreciation for this opportunity, this honor, this great privilege to be your elected representative. A year from now, I will try to express that feeling, and my gratitude. But during this coming year, I still owe you my best efforts. That is what I intend.

CHARLES A. MOSHER.

A BUSINESSMAN'S LOOK AT THE ENERGY BILL

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. HYDE. Mr. Speaker, as we approach the moment of truth on the long awaited energy legislation, I should like to share with my colleagus the views of a businessman who supports the compromises reflected in the conference committee report:

A BUSINESSMAN'S LOOK AT THE ENERGY BILL

After a lengthy dialogue, Congress and the President appear to have finally reached agreement on a comprehensive energy bill. The bill will soon reach the floor of the House and Senate for final approval and submission to the President. If enacted into law, this energy bill will embark the nation on a reasonable course toward energy independence and economic health. It will remove energy policy from the superheated political arena and give the oil industry, as well as affected users a foundation for sound economic forward planning including necessary flexibility to meet future contingencies.

Now that the spectre of unwanted, immediate decontrol arising from an Executive/Congressional confrontation has dissipated, the oil industry has mobilized to recreate the very type of political confrontation they ostensibly urged the nation to forego. An unprecedented campaign is being waged to secure a Presidential veto of the energy bill notwithstanding the obvious political risks to all business as well as the potential economic chaos of total immediate decontrol. At a time when the national economic indicators show us to be in delicate balance between continued recovery and a further, destructive slide, the business community is being asked to join in the veto campaign.

Before the business community circles its wagons and engages itself in a last-ditch stand, however, a cold and realistic appraisal of the salient features of the energy bill and its consequences should be undertaken. As set forth below, that analysis clearly demonstrates that the Congressional natives are not at all unfriendly and that the energy bill is much more a proposal for reasonable peace with oil and business interests than a declaration of war. Indeed, a risk/benefit analysis of the energy bill makes it clear that the business community should be in the forefront of its supporters.

At base, the energy bill is a necessary and constructive result of the political process. The President's firmness in insisting upon reasonable incentives for increased domestic oil production, substantial administrative discretion and a comprehensive approach to the energy problem has been honored. At the same time, the Congressional focus on consumer interests, economic recovery and increased energy efficiency planning is adequately reflected.

While the energy bill does not wholly accord with either Executive or Congressional philosophies, it does show that Congress and the President's representatives can work together to produce compromise rather than impasse. With many problems critical to business before us, such as taxation, incentives for private investment and reasonable restraint of the Government budget, the momentum for negotiation must be maintained. The nation, and the business community in particular, cannot afford the risk of an all-out energy confrontation regardless of who is sustained. And nothing could produce a needlessly stubborn, high-risk climate faster than a claim that the President had walked away from an energy compromise under political pressure from the oil industry.

Equally important, the vigorous veto campaign being waged by the oil industry should not be permitted to obscure the fact that the Senate-House Conference Committee and FEA have worked hard to create truly comprehensive energy legislation. The energy bill permits the President to carry out international Energy Administration commitments; it authorizes creation of Strategic Petroleum Reserves; it provides standby authority to take emergency conservation measures in an embargo situation; it deals with recycled oil, power plant conversions, state conservation programs and a host of other conservation issues; it looks toward improved energy efficiency for automobiles; market-oriented information programs for appliance efficiency labeling and greater voluntary energy efficiency responsibility from major industrial users. It is, in short, the very type of broad approach the President demanded from the Congress in his State of the Union message.

Against these impressive achievements, the claims being made against the oil pricing provisions of the Energy Bill are vastly overblown and of limited significance.

First, the claim that the Energy Bill establishes a permanent control regime is flatly wrong. Control authority is expressly limited to a 40-month period—long enough to prevent production shut-ins but short enough to force a progressive return to market standards with full price decontrol on a date certain.

Second, despite oil industry assertions to the contrary, the Energy Bill increases the President's administrative flexibility. Congress has not attempted to classify and price regulate domestic crude oil. Within the limits of a target established to preserve the nation's economic health, the President has been granted great discretion to particularize price incentives for added recovery and exploration. The President may propose upward price revisions to deal with inflation, old oil decline, introduction of Alaskan crude oil, or other significant market changes. And these proposals may become law without the need for affirmative Congressional action.

Moreover, apart from those critical products specifically designated by Congress for special protection, the President can move toward simplification of petroleum product price and allocation controls as these become unnecessary. Indeed, the whole network of FEA regulations will be thoroughly reviewed with an eye toward simplification within 90 days of enactment of the Energy Bill.

Third, as clearly established by extensive hearings, the Energy Bill in no way curtails production and exploration incentives. Despite months of Congressional testimony and access to unlimited expert assistance, the oil industry has failed to prove the case that OPEC price incentives are necessary to expand domestic production and exploration. In fact, it appears clear that prices above the $9–$10 range simply increase rents and other costs without favorably impacting on profit incentives for exploration and production.

Because the "rollback" included in the Energy Bill consists largely of removal of the President's $2 import fee, the composite target selected by the Congress would permit FEA to set new oil prices as high as $11.28, substantially in excess of any proven incentive level, without affecting old oil prices. Alternatively, by pricing new oil at $9.50, the President could substantially raise old oil prices or provide further special incentives for advanced recovery or difficult projects. And if the oil industry *can* satisfy the President and the Congress that even higher prices are required for additional domestic production, the Energy Bill creates speedy means for action without the need for further legislation.

Fourth, despite talk of increased imports, the Energy Bill has no adverse impact on price incentives for conservation. The oil industry has taken the simultaneous positions that the Energy Bill will yield no sufficient price reduction but that Energy Bill price reductions will increase consumption. This fundamental contradiction hopelessly clouds the facts.

Crude oil price changes under the Energy Bill could yield a 3 cent per gallon across-the-board reduction. However, some of that reduction, apart from Congressionally protected products, will be absorbed in increased refinery margins to the particular benefit of small and independent refiners. Prices for the principal consumer product, gasoline, will probably be marginally impacted and price/conservation impacts will be largely unaffected.

In sum, Congress and the FEA have jointly formulated an oil pricing policy which recognizes reasonable price incentives for production, recognizes as well the need for adequate profits and defuses claims for confiscatory excess profit taxes, and ultimately insures a phased return to market pricing. The economy has been shielded from further energy shock and provided with long term relative stability for business planning. The need for vigorous conservation efforts has been met by a combined price/efficiency restraint approach which is realistic and fair to all segments of the community.

The nation has moved beyond a debate on the details of the Energy Bill. The Congress has acted; the President's representatives have helped forge a compromise; time has run out for piecemeal extension of outdated authority. The Energy Bill which has emerged may not be perfect but it is a remarkable political achievement and a sound legislative package. Its risks to business, if any, are limited and its benefits substantial.

The risks of a Presidential veto, on the other hand, are open ended. If a veto were overridden, the President could lose his ability to check radical, anti-business forces in the Congress. If a veto were sustained, the result would be immediate decontrol at a critical time with results agreed by the President, the Congress and responsible voices in the oil industry to be totally unacceptable.

The adverse impact of immediate decontrol would be felt both in the market place and the political arena. This is no time for the nation to turn its back on business or for business to turn its back on the nation. The oil industry has benefited enormously from OPEC prices and could benefit more with immediate decontrol. But the business community as a whole stands to gain only if the Energy Bill is promptly enacted.

HOUSE COMMERCE COMMITTEE MARKS 180TH ANNIVERSARY OF ITS ESTABLISHMENT IN 1795

HON. HARLEY O. STAGGERS

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. STAGGERS. Mr. Speaker, December 14, 1975, is the 180th anniversary of the founding of the oldest continuous standing legislative committee of the House of Representatives—the Committee on Interstate and Foreign Commerce.

The committee was established early in the first session of the Fourth Congress, which convened on December 7, 1795, in the city of Philadelphia. According to volume 2 of the Journal of the House of Representatives—page 375—the House agreed on Monday, December 14, 1795, to the appointment of a standing Committee of Commerce and Manufacturers at the commencement of each session. The committee's name was later changed in 1819 to the Committee on Commerce, which continued until 1892 when the name became the present Committee on Interstate and Foreign Commerce.

The House Journal for December 14, 1795—page 376—states:

> It shall be the duty of the said Committee of Commerce and Manufacturers to take into consideration all such petitions and matters or things, touching the commerce and manufacturers of the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report, from time to time, their opinion thereon.

Later that same day, the House adopted a resolution which provided:

> Ordered, That a Committee of Commerce and Manufacturers be appointed, pursuant to the standing rules and orders of the House.
>
> And a committee was appointed of Mr. Goodhue, Mr. Bourne, Mr. Livingston, Mr. Swanwick, Mr. Samuel Smith, Mr. Parker, and Mr. William Smith.

Representative Benjamin Goodhue, a Federalist from Salem, Mass., thus became the first chairman of our committee. He later served as a U.S. Senator from Massachusetts.

The House Journal of that same day notes that the first matter referred to the new committee was a memorial from Mr. John Courts, Collector of the Revenue for the District of Cedar Point, Md., praying that Nanjemoy, Md., be made a port of entry instead of Cedar Point. The memorial was referred to the Committee of Commerce and Manufacturers for examination and it was ordered to report back its opinion on the matter to the House. According to the House Journal of May 2, 1796, the committee reported back sundry memorials and petitions to the House and were agreed to by the House, including a resolution which ordered that:

> In the State of Maryland, the district of Cedar Point shall be called the district of Nanjemoy, which shall be the port of entry for the said district, and the Collector shall reside at Nanjemoy.

Much of the initial legislative activity of the committee was of such routine nature. But the most far-reaching legislation acted upon by the Commerce and Manufacturers Committee during its early years was the 1798 measure authorizing the construction and maintenance of marine hospitals for merchant seamen at major U.S. ports, providing for medical treatment and quarantine facilities to prevent the spread of contagious diseases from abroad. Signed into law by President John Adams on July 16, 1798 (ch. 77, 1 Stat. 605), it marked the beginning of the Public Health Service and was the first federally financed medical care and treatment for American citizens.

Mr. Speaker, during the early years of the committee's operations, it considered a broad range of subjects, including such matters as protective tariffs to encourage domestic manufacturers; regulation of shipping, fishing, harbors, light-houses, buoys, and other navigation matters; marine hospitals and quarantine services; regulation of distilleries; regulation of ports of entry and collectors of customs; and other similar legislative measures related to domestic and foreign commerce and manufacturing. After the subsequent creation of the House Ways and Means Committee, certain matters dealing with revenue and tariffs were often handled jointly by the two committees.

In the 16th Congress—1819—jurisdiction affecting manufactures was transferred from the original Commerce and Manufactures Committee and it then became the Committee on Commerce. At that time, the committee's chairman was Representative Thomas Newton, Jr., a Democrat from Norfolk, Va.

Down through the 19th century, the Commerce Committee played an ever-increasingly important legislative role in the growth and commercial development of the Nation. It was responsible for such matters as rivers and harbors development, canals, bridges over navigable waters, dams, and tunnels. It handled legislation dealing with public health and quarantine, life-saving stations, regulation of railroads, rates, and rail safety. It dealt with undersea cable communications, regulation of the manfacture and sale of foods and drugs, including prohibitions of misbranding and adulteration of foods and drugs imported from abroad or sold in interstate commerce. It established the U.S. Weather Bureau and the Interstate Commerce Commission and was responsible for many other measures important to the Nation's commerce and industrial expansion during the 1800's.

As America moved into the 20th century, the committee handled legislation which created the Department of Commerce and Labor in 1903. Congress established a separate Department of Labor in 1913. In 1906 it was responsible for the enactment of the Pure Food and Drug Act and the Hepburn Act, which broadened the regulatory jurisdiction of the Interstate Commerce Commission over railroads. The Employers' Liability Act of 1908 was enacted to regulate the liability of railroad employers for injury to their employees. The Hours of Service Act of 1907 and the 1916 law establishing an 8-hour day for employees of carriers engaged in interstate and foreign commerce were enacted. The committee was also responsible for the handling of the measure which created the Federal Trade Commission in 1914 to prevent unfair methods of competition, deceptive acts or practices in commerce. It handled the Federal Power Act of 1920, providing for the improvement of navigation and the development of water power in the United States. In 1926 it was responsible for the enactment of the Railway Labor Act to facilitate the resolution of railway labor-management disputes.

During the early years of President Franklin D. Roosevelt's administration, the committee acted on major reform legislation. At that time the committee's chairman was Representative Sam Rayburn of Texas, later our beloved Speaker. Among the landmark measures of this period were:

Securities Act of 1933.

Securities Exchange Act of 1934.

Public Utility Holding Company Act of 1935.

Communications Act of 1934.

Railroad Retirement Act of 1935.

Motor Carrier Act of 1935.

Interstate Transportation of Petroleum Products Act of 1935.

Over the next several years the Committee was also responsible for producing many other significant legislative accomplishments such as:

Railroad Unemployment Insurance Act of 1938.

Civil Aeronautics Act of 1938.

Natural Gas Act of 1938.

Federal Food, Drug, and Cosmetic Act of 1938.

Trust Indenture Act of 1939.

Investment Company Act of 1940.

Transportation Act of 1940.

Wool Products Labeling Act of 1940.

Public Health Service Act of 1944.

Hospital Survey and Construction (Hill-Burton) Act of 1946.

Federal Health Grants and Services to States Act of 1946.

War Claims Act of 1948.

National Heart and Lung Act of 1948.

National Dental Research Act of 1948.

International Aviation Facilities Act of 1948.

Mr. Speaker, during the past quarter century that it has been my privilege to serve on the Commerce Committee, we have enacted many significant new laws to deal with changing technology, to meet new challenges of our modern industrial society, and to keep pace with the growing needs of our people.

In the fields of transportation and communication, they include such measures as:

Transportation Act of 1958.

Federal Aviation Act of 1958.

International Travel Act of 1961.

Communications Satellite Act of 1962.

National Traffic and Motor Vehicle Safety Act of 1966.

Public Broadcasting Act of 1967.

Rail Passenger Service Act of 1970.

Hazardous Materials Transportation Control Act of 1970.

Emergency Rail Services Act of 1971.

Emergency Rail Facilities Restoration Act of 1972.

Regional Rail Reorganization Act of 1973.

Air Transportation Security Act of 1974.

Amtrak Improvement Act of 1974.

In the areas of consumer protection and the environment, they include such laws as:

Fur Products Labeling Act of 1951.

Flammable Fabrics Act of 1953.

Textile Fiber Products Identification Act of 1958.

Automobile Information Disclosure Act of 1958.

Federal Hazardous Substances Act of 1960.

Solid Waste Disposal Act of 1965.

Federal Cigarette Labeling and Advertising Act of 1965.

Fair Packaging and Labeling Act of 1966.

Clean Air Act of 1967.

Air Quality Act of 1967.

Motor Vehicle Air Pollution Control Act of 1967.

Noise Pollution and Abatement Act of 1967.

National Emissions Standards Act of 1967.

Securities Investors Protection Act of 1970.

Poison Prevention Packaging Act of 1970.

Consumer Product Safety Commission Act of 1972.

Motor Vehicle Information and Cost Saving Act of 1972.

Securities Exchange Act Amendments of 1975.

In the health and related areas, they include such laws as:

Mental Health Study Act of 1955.

National Health Survey Act of 1956.

Health Research Facilities Act of 1956.

Indian Health Facilities Act of 1957.

Public Health Service Act Amendment of 1960.

International Health Research Act of 1960.

Community Health Services (Migrant Workers) Act of 1962.

Vaccination Assistance Act of 1962.

Health Professions Educational Assistance Act of 1963.

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

Graduate Public Health Training Amendments of 1964.

Hospital and Medical Facilities Amendments of 1964.

Nurse Training Act of 1964.

Medical Library Assistance Act of 1965.

Allied Health Professions Act of 1966.

Partnership for Health Amendments of 1967.

Clinical Laboratories Improvement Act of 1967.

Mental Health Amendments of 1967.

Alcoholic and Narcotic Addict Rehabilitation Act of 1968.

Radiation Control of Health and Safety Act of 1968.

National Library of Medicine Act of 1968.

Comprehensive Drug Abuse Prevention and Control Act of 1970.

Emergency Health Personnel Act of 1970.

Population Research and Voluntary Family Planning Act of 1970.

National Cancer Act of 1971.

National Institute on Drug Abuse, Prevention, and Treatment Act of 1972.

Public Health and National Health Service Corps Scholarship Training Program Act of 1972.

National Venereal Disease Prevention and Control Act of 1972.

National Sickle Cell Anemia Control Act of 1972.

Drug Abuse Office and Treatment Act of 1972.

Emergency Medical Services Act of 1973.

Health Maintenance Organization Act of 1973.

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1974.

Narcotic Addict Treatment Act of 1974.

Health Services Research and Evaluation and Health Statistics Act of 1974.

Sudden Infant Death Syndrome Act of 1974.

Research on Aging Act of 1974.

Health Revenue Sharing, Health Services and Nurse Training Act of 1975.

In the fields of energy, power, and related matters, such laws include:

Pipeline Safety Act of 1965.

Natural Gas Pipeline Safety Act of 1968.

Emergency Petroleum Allocation Act of 1973.

Emergency Daylight Saving Time Energy Conservation Act of 1973.

Energy Supply and Environmental Coordination Act of 1974.

Emergency Petroleum Allocation Act Amendments of 1975.

Other major laws which were the work product of the Commerce Committee during this period were the National Science Foundation Act of 1950; the State Technical Services Act of 1965; the Uniform Time Act of 1966; and the Airport and Airway Development Act of 1970, as well as numerous amendments to extend and improve the functioning of other existing laws under the committee's jurisdiction.

Mr. Speaker, the legislative impact of many dramatic and far-reaching changes in our industrial society during these past 25 years has focused increasingly on areas within the jurisdiction of the Commerce Committee. Examples are those involving America's energy needs, breakthroughs in the health and medical care fields, rail and motor transportation problems, new directions in communications, in environmental matters and in the field of consumer protection.

The workload of our committee also increased correspondingly. During the 81st Congress—1949-50—some 444 House and Senate bills and resolutions were referred to our committee. But 25 years later during the 93d Congress, this number had risen to 2,708 and at the present rate of bill referral in the present 94th Congress, it will most likely exceed 3,600 bills and resolutions.

The Commerce Committee's jurisdiction was modified as a result of the House's adoption of the Bolling-Hansen Committee Reform Amendments of 1974. (H. Res. 988). Our jurisdiction over civil aeronautics, surface transportation—except for railroads—the Weather Bureau, the Trading With the Enemy Act, and environmental and energy research and development measures were transferred to other House committees. But the Commerce Committee took over new jurisdictions from other committees, including those affecting biomedical research and development, nursing home construction, health care and facilities—except for health care supported from payroll deductions. Thus, commencing with the 94th Congress our legislative and oversight jurisdiction, as set forth in clause 1(1) of House Rule X, is as follows:

(1) Interstate and foreign commerce generally.

(2) Inland waterways.

(3) Interstae oil compacts and petroleum and natural gas, except on public lands.

(4) Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.

(5) Regulation of interstate and foreign communications.

(6) Regulation of interstate transmission of power, except the installation of connections between Government waterpower projects.

(7) Securities and exchanges.

(8) Consumer affairs and consumer protection.

(9) Travel and tourism.

(10) Public health and quarantine.

(11) Health and health facilities, except health care supported by payroll deductions.

(12) Biomedical research and development.

During the present 94th Congress, our committee has organized itself into five legislative subcommittees and one oversight subcommittee as follows:

Subcommittee on Communications—Representative TORBERT H. MACDONALD, of Massachusetts, chairman.

Jurisdiction: Interstate and foreign communications, including all communications by satellite, broadcast, radio, common carriers, interstate communication by wire and such jurisdiction over communications and media as in the jurisdiction of the full committee.

Subcommittee on Oversight and Investigations—Representative JOHN E. MOSS, of California, chairman.

Jurisdiction: Responsibility for oversight of agencies, departments and all programs within the jurisdiction of the full committee and to conduct such investigations within such jurisdiction. Note: This subcommittee would not have legislative jurisdiction. The committee's legislative subcommittees would have parallel responsibility to conduct oversight in their assigned areas under provisions of House Rule X(2)(b).

Subcommittee on Energy and Power—Representative JOHN D. DINGELL, of Michigan, chairman.

Jurisdiction: Energy matters within the jurisdiction of the full committee, and jurisdiction over all petroleum, natural gas, and electrical power issues.

Subcommittee on Health and the Environment—Representative PAUL G. ROGERS, of Florida, chairman.

Jurisdiction: Public health and quarantine; hospital construction; mental health and research; biomedical programs and health protection in general, including medicaid and national health insurance; food and drugs; drug abuse; Clean Air Act and environmental protection in general.

Subcommittee on Consumer Protection and Finance—Representative LIONEL VAN DEERLIN, of California, chairman.

Jurisdiction: Consumer protection in general, including toxic substances, product safety, motor vehicle safety, securities and exchanges—the SEC—the regulation of trade—the FTC—and insurance.

Subcommittee on Transportation and Commerce—Representative FRED B. ROONEY of Pennsylvania, chairman.

Jurisdiction: Regulation of travel and tourism, interstate and foreign commerce generally, and all matters related to inland waterways, railroads, railroad retirement, railway labor, solid waste disposal and noise pollution control.

As chairman of the full Commerce Committee, I serve as an ex officio member of each of the six subcommittees along with the ranking minority member of the full committee, the gentleman from Ohio (Mr. DEVINE).

Mr. Speaker, the broad legislative and oversight responsibilities of the Commerce Committee affect American businesses, labor, and consumers, the activities of the major Federal regulatory agencies, our modern systems of transportation and communication, energy and the environment, and the health and well-being of our people. The work of our committee thus has a direct impact upon the daily lives of all Americans. We are ever mindful of the awesome responsibilities entrusted to us by the House and are proud of the historic traditions and the outstanding record of service to the Nation that our committee has made during these past 180 years. We pledge ourselves to continue these high standards of responsibility and legislative accomplishment in the years to come.

GUN CONTROL

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. RUSSO. Mr. Speaker, the Chicago Tribune series on gun control, which I have placed in the RECORD in its entirety over a period of 4 days, is a result of a professional survey the Tribune sponsored. Today's report, which is the final article in the series, compares the opinions of Chicago area residents and Illinois Congressmen:

CONGRESSMEN, VOTERS DIFFER ON OWNING, CONTROLLING GUNS

When the talk moves to gun controls, the tone of congressmen is conspicuously off key from the voices of voters in six-county metropolitan Chicago area.

The views of Chicago-area and Illinois congressional delegations do not harmonize with the attitudes toward controls of residents in the Chicago area, as uncovered in a Chicago Tribune survey.

The 24 Illinois members of the House of Representatives and both senators were asked their views of a range of gun-control schemes also proposed to 509 persons selected as a cross section of metropolitan residents. The senators and 22 of the representatives responded. Their views make interesting comparisons with the opinions of constitutents to whom they must answer.

For example, while 88 per cent of the metropolitan Chicagoans surveyed said they would support a federal law requiring registration of all handguns, 63 per cent of the Chicago-area congressmen support it and only 48 per cent of all Illinois congressmen do so. Both of these groups include the state's two senators.

When a federal law to license gun owners was proposed, 87 per cent of the survey's respondents said they favor it, but only

63 per cent of Chicago-area and 57 per cent of all Illinois congressmen do.

Asked if police permits should be required before purchasing a gun, 82 per cent of the survey respondents said "yes," versus 63 per cent of Chicago-area and 65 per cent of all Illinois congressmen.

The volunteered comments of some of the congressmen about this proposal indicate strong sentiment to allow local officials to institute gun controls through such means as police permits, rather than relying on federal laws.

On the survey's thorniest proposal—whether possession of handguns by private citizens should be outlawed—the Chicago-area congressmen were close in tune with their constituents: 45 per cent of the voters accept the idea, while 44 per cent of area congressmen approved it. Among all Illinois congressmen surveyed, only 30 per cent approve the idea.

The mismatch of congressional opinions with those of a majority of the people may explain why 79 per cent of survey respondents said they believe Congress is doing too little to control guns.

Interestingly, 14 of the 24 members of Congress surveyed agree that Congress has done "too little" to control guns. Several of them, however, are involved in proposed legislation that goes beyond what President Ford has suggested is needed for gun control.

In 1968 Congress passed what is known as the Gun Control Act of 1968. It includes a ban on importation of cheap handguns, but loopholes permit gun parts to be shipped to the U.S. and assembled. It also requires all gun dealers to hold federal licenses. The licenses cost $10 a year and are held by 160,000 dealers, a number which has been all but impossible to police effectively.

The gun controls of the 1963 act led Franklin E. Zimring, University of Chicago law professor and co-author of a 1969 report, Firearms and Violence in American Life, for the National Commission on the Causes and Prevention of Violence, to observe in a recent article in The Journal of Legal Studies:

"If Congress is supposed to be the policy-setting institution, the Gun Control Act of 1968 may stand as an example of the blind leading the halt."

More than 130 gun proposals are before Congress. Ford's bill, which would ban sales of cheap "Saturday Night Specials" and require mandatory sentences for anyone using a gun in a crime, is considered the softest and least likely to provoke the gun lobby to wrath.

Strictest is a bill offered by Rep. John Conyers (D., Mich.) which would ban civilian possession of handguns, a proposal included in the Tribune survey. Conyers admits it's not likely to pass—just as it does not with Illinois congressmen or metropolitan Chicagoans.

Illinois lawmakers involved in some of the bills between the extremes of the Ford and Conyers proposals include Sen. Stevenson (D., Ill.), Sen. Percy (R., Ill.), Rep. Robert McClory (R., Joliet) and Rep. Thomas F. Railsback (R., Moline).

Stevenson (who reported in the survey that there are nine guns in his household, all for recreation) said he is proposing, with Sen. Edward Kennedy (D., Mass.), a bill to require a federal license before an individual could acquire a handgun.

The license would not be issued if the individual were not entitled to own a handgun under the laws of his state or locality. A similar proposal in the Tribune survey won heavy support from Chicago-area respondents and a congressional majority.

"This bill is a compromise," Stevenson said, "between those who propose to outlaw all handguns and those who resist any effort to control the possession and ownership of any guns.

"It will be said, as it always is, that only the law-abiding will register their guns. But that is the point of the bill. Those unable or unwilling to register will be subject to prosecution. They can be disarmed."

Percy is cosponsoring a bill with Sen. Jacob K. Javits (R., N.Y.) that would bar residents of major cities with high crime rates—such as Chicago—from acquiring handguns.

Anyone owning pistols outside high crime areas would have to furnish the U.S. attorney general with his name, address, Social Security number, and the gun's serial number. The manufacture, sale, or possession of Saturday Night Specials also would be prohibited.

In his response to the questionnaire, Percy said: "It would be naive not to expect powerful lobbying against these bills. But the time may have arrived when Congress will demonstrate that the gun lobby is not running the government."

McClory has introduced a bill which, like the President's would ban cheap Saturday Night Special handguns, but also would require the registration of every gun and licensing of every gun owner. Congressional observers rate the McClory bill as the strongest control bill with a chance to pass.

Proposed in the Tribune survey, the registration and licensing provisions of the McClory bill won solid support.

Railsback said he could not answer the survey's five questions on possible gun control legislation because he is a member of the House committee that must consider each of the measures and then make recommendations to the full House.

Observers of the gun-control controversy usually credit a well-organized and well-heeled gun lobby, centered around the National Rifle Association, with successively blocking stricter legislation.

James Wright, a University of Massachusetts sociologist who has studied public views on guns extensively, wrote in The Nation on Sept. 20 that "NRA cadres are readily mobilized when pro-control legislation is being considered." He added, "The appearance of massive popular sentiment can be easily created by mobilizing a tiny fraction" of the 60 million adults in American households that hold firearms.

Nelson Turner Shields III, a Du Pont Co. executive who took a leave of absence from his job to battle for more control over guns after his son was killed by a sniper in San Francisco, says:

"Even though 70 per cent of the American people favor stronger gun controls, the issue itself is not No. 1 on the public's list of priorities. The state of the economy, for example, is far more pressing.

"But for those who oppose control, it is the single most important issue—and they will go to the wall on it. That's why a liberal like Sen. Frank Church (D., Idaho) always votes against gun controls.

"Most elections in this country are decided by less than 10 per cent of the electorate, and no politician wants to risk alienating that deciding vote."

The NRA is said to have 1.1 million members. Five per cent of the respondents in the Tribune survey's sample, randomly drawn to be a cross section of the 2,367,000 households in the six-county metropolitan Chicago area, said their households include at least one NRA member, indicating that as many as 118,395 area homes may have members active in the association. This, obviously, could be a political force with which to be reckoned.

To say, however, that congressmen who vote against gun laws do so only out of fear of the NRA or a newer, more militant group, the Citizens Committee for the Right to Keep and Bear Arms, is to say that the lawmakers can't think for themselves, which is extreme.

Some congressmen responding to the survey who oppose its proposals to register, license, or issue permits for guns gave thoughtful reasons for their stands.

Rep. George O'Brien (R., Joliet), one of the four Illinois congressmen who oppose each of five gun-control proposals in the survey, said:

"The idea of a list, somewhere, of all gun owners bothers me. It's another security item that you can't keep secure. A criminal would be able to get the list if he really wants to and will know which homes are not protected (by guns)."

Rep. Philip M. Crane (R., Mt. Prospect), one of the hardliners against controls, said:

"I take the citizen's right to keep and bear arms literally. There is no way to restrict a criminal's access to guns, so all you would be doing is potentially jeopardizing the security of innocent people. You are going to make lawbreakers out of otherwise law-abiding citizens."

TROUBLE IN THE "GIMPY OLD PARTY"

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. J. WILLIAM STANTON. Mr. Speaker, with election year rhetoric already in high gear, it is almost too much to hope that debates will be on the issues and that candidates will keep in mind the words of the former great Republican national chairman, Ray Bliss, when he said: "Thou shall not speak against another Republican."

I recently came across an article by Mr. Richard G. Thomas, which illustrates my point exactly. The article aptly titled, "Trouble in the 'Gimpy Old Party,'" follows:

[From the Mansfield (Ohio) News Journal, Nov. 23, 1975]

TROUBLE IN THE "GIMPY OLD PARTY"

(By Richard G. Thomas)

WASHINGTON.—The one-and-one-half party system is alive and well in Congress, an unhappy fact for the Republican Party, which is the half.

Holding a mere one-third of the 535 House and Senate seats, the Gimpy Old Party finds that it can do little to positively influence the flow and form of legislation. Its main tools, by numerical necessity, are the negative ones of voting to sustain presidential vetoes and (in the Senate) conducting filibusters.

The Republican minority group on Capitol Hill is a national as well as a party problem, for a healthy loyal opposition is the best safeguard against laziness, complacency, corruption and even tyranny by the majority. The country, in short, needs ample quantities of both Democrats and Republicans.

Therefore, it would be reassuring to hear that the GOP is working to regain its lost strength in next year's elections. No doubt a comeback is under way in many quarters, but it Dayton, O., there are disturbing reports of regression, of efforts to thin GOP congressional ranks even further.

For the past four months, the conservative clique that controls the Montgomery County

Republican Executive Committee has been working to dispose of Rep. Charles W. Whalen, Jr., the Datyon area's highly respected five-term Republican congressman.

Whalen, a 55-year-old former state senator and chairman of the University of Dayton economics department, is regarded in Washington as a public servant with superior integrity, intellect and capacity for hard work. He is well thought of in Dayton, too, where voters biennially re-elect him with 75 per cent or more of the vote in a predominately Democratic district.

Whalen's name is invariably cited in discussions of the most competent and effective Ohio congressmen, and an informal survey this year by the Cleveland Plain Dealer Washington Bureau found him to be the outstanding Ohio House member.

All of that notwithstanding, in the eyes of the troglodyte faction of the Montgomery County Republican Party, Whalen has committed the sin of being "too liberal." He does not fit the faction's definition of Republican, which is the one that describes the likes of Ronald Reagan, William Loeb and Attila the Hun.

"We want him to join the Democratic Party, where he belongs," says H. K. (Bud) Crowl, a member of the executive committee and a leader of the dump-Whalen movement.

Whalen, added Crowl in a telephone interview, may even be "a fellow traveler" because he frequently votes along with ultraliberals like Bella S. Abzug (D-N.Y.) and Ronald V. Dellums (D-Calif.), both of whom are, in Crowl's opinion, "communists" in performance though not in actual party membership.

Although Whalen has proven to be the most effective vote-getter among Republican candidates in Montgomery County, the Crowl faction is working to come up with a formidable challenger to him in next year's primary.

Already this year the local GOP recruitment committee has twice summoned Whalen to defend his congressional performance. "The lines are drawn," says Crowl, "because many in the party feel that he is disgracing his own party with his extremely liberal voting positions."

To which Whalen responds: "I am concerned about the future of the Republican Party. If they are going to support candidates with only one point of view, the party will be in worse shape in 1976 than it is now. If they're going to read men and others who share my views out of the Republican Party, it's just going to narrow the base. And you know the Republican Party is at probably the lowest ebb in the history of the organization."

One of Whalen's Ohio GOP colleagues, Rep. J. William Stanton of Painesville, says the issue is larger than one member's voting record.

"Chuck Whalen belongs in the party just as much as the extreme conservative Republicans like John Rousselot (a former Birchite, now a California congressman) belongs in it," says Stanton. "I subscribe to what (former Ohio and national GOP chairman) Ray Bliss says, 'Thou shalt not speak against another Republican.' We have to be realistic in recognizing that the Republican Party is a minority party, and that we need the broadest possible base."

Crowl, owner of two Dayton radio stations, disagrees. Exhibiting an outlook that the Republican National Committee no doubt hopes to contain in the Dayton area, he says:

"There is a strong wave of conservatism hitting this country and they might as well bury the elephant and the donkey because the two parties are dead. There should be two new parties, the conservatives and the socialist liberals."

NIXON'S PREDECESSORS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. HARRINGTON. Mr. Speaker, an article in the current issue of MORE magazine offers a rare and important perspective on the violations of American rights and liberties that occurred under President Nixon. Noam Chomsky, the distinguished professor of modern languages and linguistics at M.I.T., writes that "Cointelpro and other illegal FBI operations under Kennedy and Johnson were incomparably more serious than anything charged against Nixon." Chomsky unexpectedly sides with Mr. Nixon's defenders, to the extent that the attack on Nixon by the "eastern press establishment" was grounded as much on self-interest and ideological bias as on purely constitutional concerns.

I insert this article in the Record not only for the attention of my colleagues but for the reflection of the fourth estate as well:

Nixon's Defenders Do Have a Case

(By Noam Chomsky)

The punishment of Richard Nixon for his misdeeds was described in the national press as "a stunning vindication of our constitutional system." Particularly stunning was the performance of the media, which brought the tyrant to bay in a remarkable display of courage, demonstrating their firm commitment to civil liberties and freedom from ideological controls. Nixon's few defenders took a rather different stand. In their view, Nixon had broken little new ground in harassment of political opponents or misuse of the FBI. The attack on him, they alleged, was politically motivated, and the solemn invocation of high principle, a hyocritical pretense.

Such pleas were dismissed with contempt. Suppose, nevertheless, that we try to put them to the test. It is easy to imagine relevant evidence. Suppose that during the period of the Watergate exposures, other information had come to light concerning acts of state repression on a scale far exceeding any charges levelled against Nixon, acts in which earlier Administrations were also implicated. Suppose further that we were to discover that this story, while not suppressed, aroused little interest or concern during the period when efforts were devoted to driving Nixon from office for his lesser offenses. Then it would be fair to conclude that Nixon's defenders have a good case.

History is rarely kind enough to provide us with anything like a "controlled experiment." In this case, in fact, it has virtually done so. In December 1973, Carl Stern of NBC obtained the release of documentary evidence on the FBI campaigns through the 1960s to undermine and disrupt legal activities directed to social change or protest against state policy. In subsequent months, while public attention was riveted on Watergate, much additional information was released on court order in civil suits. Still more was provided by former government agents and others.

In comparison with these revelations, the whole Watergate affair was a tea party. The evidence now available, though fragmentary, reveals a systematic campaign of disruption, intimidation, instigation of violence, and terror, initiated under the Kennedy and Johnson Administrations. The Justice Department claims that superiors were not informed. Perhaps so, but we may still observe that officials who had even a passing familiarity with FBI practices had a responsibility to determine how the bureau was operating under their authority.

The story of the FBI campaigns, carried further under Nixon, was not censored. The assiduous researcher who knew where to look could put much of it together; Chicago newspapers, for example, discuss local atrocities in detail. Among the liberal journals, *The Nation* was, to my knowledge, unique in giving detailed coverage in 1973–4, as did pacifist and left-wing sources (e.g., *Liberation, Ramparts*, the *Militant*); the left, of course, did not have to await the documentation, any more than the peasants of Laos had to learn from *The New York Times* that their villages were being bombed. After the Watergate battle was won, the national press and liberal journals did express some editorial concern. But an investigation of the record will show that COINTELPRO (counterintelligence programs) and other illegal FBI operations, undertaken to "expose, disrupt, and otherwise neutralize the activities" of designated enemies of the state, while incomparably more serious than anything charged in the Congressional Articles of Impeachment or other denunciations of Nixon, aroused scant interest and little concern, specifically, in the organs of American liberalism that were so agitated over the latest tax trickery or tape erasure.

Ergo: Nixon's defenders do have a case.

The political meaning of the FBI programs is revealed in the secret memorandum that set a "Disruption Program" in motion against the Socialist Workers Party in October 1961. The grounds offered were these: the SWP "has, over the past several years, been openly espousing its line on a local and national basis through running candidates for public office and strongly directing and/or supporting such causes as Castro's Cuba and integration problems arising in the South." It has also been in contact with "international Trotskyite groups stopping short of open and direct contact with these groups." No criminal action is alleged. In a class action suit, the SWP charges that "disruption" over the years included burglaries, attacks on SWP offices to terrorize campaign workers, bombing and burning of offices, and various other forms of harassment. I will not review the evidence. Rather, I want to direct attention to the motivation for the program: to block legal political activity that departs from orthodoxy, to disrupt opposition to state policy, and to undermine the struggle for civil rights. These basic commitments persisted through the Nixon Administration. Thus in early 1969, the FBI succeeded in driving a Black minister from a civil rights organization in the South, under COINTELPRO. FBI harassment of the SWP had been documented through 1973, long after COINTELPRO was officially discontinued.

The FBI programs were modeled on earlier efforts to disrupt the Communist Party. Organizations "targeted" included the Puerto Rico independence movement, the SWP, the Ku Klux Klan, "black nationalists," and finally the entire "New Left" (May 1968). Agents were directed to "inspire action in instances where circumstances warrant," to "disrupt or neutralize" these organizations, and to use "established local news media contacts" to "ridicule and discredit" black organizations. There is evidence that among the actions "inspired" were considerable campus violence, arson, bombing of buildings, attempted murder, killing after entrapment, financing and arming of right-wing terrorist groups that carried out fire-bombings, burglaries and shootings with the knowledge of the FBI. Whether these actions were "inspired" under COINTELPRO we do not know, but it hardly matters.

The most shocking story concerns the murder of Black Panther leaders Fred Hampton and Mark Clark by Chicago police in December 1969. There is substantial evidence in subpoenaed depositions and documents that the FBI was directly involved in this gestapo-style political assassination, although the courts have so far refused to permit the issue to be raised in the civil suit filed by the families of the victims.

A top secret *Special Report* of the combined intelligence agencies (FBI, CIA, DIA, NSA) in June 1970 gives some insight into the government effort to destroy the Black Panther Party. The report cites polls indicating that 25 per cent of the black population had great respect for the Panthers, 43 per cent among those under 21. The full details of these programs will probably never be known. What has already been documented far outweighs in significance the Watergate and its aftermath.

There has been—and will be—no independent investigation of the FBI programs of repression from 1960. One indication of the character of these programs is given in a survey by Gary Marx (*American Journal of Sociology*—September 1974). He notes that among 34 cases of infiltration for which he was able to gain some information, two involved right-wing groups and the remainder, campus groups, "predominantly white peace groups and/or economic groups," and Black and Chicano groups. Furthermore, in two-thirds of the cases "the specious activities appear to have gone beyond passive information gathering to active provocation." Other sources indicate that the attack on dissent was a major function of the FBI in this period, as previously.

Though partially exposed during the Watergate period and incomparably more serious than anything charged against Nixon, the FBI programs of repression—instituted under the Democratic Administrations—were virtually ignored during this period and have been barely discussed since. I have discovered—and others may verify—that much of the most significant information is unknown even to generally well-informed observers and that the scale and character of the programs is rarely appreciated. Note finally that the Justice Department has decided not to prosecute anyone in connection with these activities.

Shortly after the "Saturday night massacre," Attorney General Elliot Richardson explained that the "fatal flaw" of the Nixon Administration was its proclivity to perceive critics and opposition as "enemies" and to "adopt tactics used against an enemy" in countering such criticism. In fact, Nixon did break the rules of the political game; he concentrated political power too narrowly, demeaned the office of the Presidency by petty chicanery, and attacked the political center with tactics designed for true political enemies, such as the New Left, the Black Panthers, the SWP, or others who depart from the narrow political consensus. For these crimes, Nixon was hounded from office.

The lesson of Watergate seems clear. American liberalism and the corporate media will defend themselves from attack. But their spirited acts of self-defense are not to be construed as a commitment to civil liberties or democratic principle, despite noble and self-serving rhetoric. Rather, they demonstrate a commitment to the principle that power must not be threatened. Those who control the economy, political life, and the system of conventional doctrine must be safeguarded from the "disruption" that is designed for those who raise a serious challenge to ruling ideology or state policy or established privilege. An "enemies list" including corporate executives, media figures and government intellectuals is an obscenity and a horror. The involvement of the national political police in the assassination of Black Panther leaders, in contrast, barely deserves comment in the national press.

The Watergate affair demonstrates, the continued subservience of the media to ruling powers and ideology. The same was true generally of the Vietnam war. The liberal press turned against the war at about the time that conservative business circles did and for the same reasons. Its opposition was "pragmatic," like that of the "intellectual elite": we could not win at an acceptable cost. To the end, the liberal press generally described the war as a conflict between North and South Vietnam, hewing close to the official propaganda line. Media doves joined most liberal intellectuals in protesting that the U.S. was defending South Vietnam in an exercise of misplaced benevolence. The war was "a mistake," a case of good motives transmuted (mysteriously) into bad policy. The plain fact that the U.S. was engaged in direct aggression in South Vietnam in the early 1960s after the failure of the massive repression of earlier years, and that its murderous attack then spilled over to neighboring regions, has been consistently ignored, again, with a few honorable exceptions.

I believe that adequate documentation is available, and has been presented, to support these conclusions. None of this serves to absolve Nixon and his law-and-order cohorts. Rather, it indicates that the pretensions of his persecutors can be largely dismissed.

To be properly understood, all of this should be placed in its historical context. The repression after World War I received the overwhelming support of the press until it perceived a threat to its own interests. The same was true of business circles. The record was replayed after World War II, during what is mislabeled as the "McCarthy era." The basic liberal doctrine was expressed by Supreme Court Justice Robert Jackson, upholding the Smith Act. He argued that the clear-and-present-danger doctrine was inapplicable to "Communist plotting," for if the government were to await "imminent action," it would be "too late." It is hardly surprising that the beginning of protest and organization in the early 1960s should have set the apparatus of repression into operation once again. Nor is it surprising that American liberalism often looked the other way until the repression struck home under Nixon, and that even then, indignation was focused on crimes that are insignificant in comparison with what was revealed in exactly the same period.

A NATIONAL VETERANS CEMETERY FOR THE WASHINGTON, D.C. AREA

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. HARRIS. Mr. Speaker, I am pleased to introduce today a bill establishing a national veterans cemetery at the Quantico Marine Base, in Prince William County, Va. I am joined by two distinguished cosponsors, my colleagues, Congressman DANIELSON, chairman of House Subcommittee on Cemeteries and Burial Benefits; and Congressman HILLIS, ranking minority member of the subcommittee. I have been assured that hearings will be held on my bill when Congress returns ofter the Christmas recess, and both the Veterans' Administration and the Marine Corps have a strong interest in the proposal.

THE NEED FOR AN ADDITIONAL CEMETERY

The Veterans' Administration has estimated that there are 600,000 veterans in the Washington metropolitan area who will desire burial in a national cemetery. World War II veterans are now an average of 58. Some World War I veterans will seek space. And Korean war veterans will seek interment here as well. Additionally, space for burial at Arlington National Cemetery is diminishing and the eligibility restrictions imposed on Arlington by the Army mean that a vast number of veterans cannot be buried there. The nearest space available to Washington area veterans who wish burial in a national veterans cemetery is Long Island, N.Y., and Raleigh, N.C. The fact that 600,000 veterans will wish to be buried in Washington and the unique nature of the Nation's Capital mandate, in my view, the establishment of this national landmark.

A PART OF THE NATIONAL CEMETERY SYSTEM

A veterans cemetery in the Washington area was recommended in the January 1974 Veterans' Administration report, "A Study of the National Cemetery System," which says:

> Another national cemetery should be established in or near the District of Columbia.

The Quantico cemetery would be part of the National Cemetery System and administered by the Veterans' Administration. The VA has explored many sites in the area—in Washington, D.C., Maryland, and Virginia. On November 17, 1975, John W. Mahan, Director of the National Cemetery System, told the Veterans Affairs Subcommittee on Cemeteries and Burial Benefits, that while no final determination had been made—

> I feel without hesitancy that a recommendation to establish a site for a national cemetery at the Quantico Marine Base would be most desirable.

VA has had discussions and correspondence with the Marine Corps and the corps response has been most favorable.

AN EXCELLENT SITE

On December 5, Chairman DANIELSON, Congressman HILLIS, and I visited the 620-acre site and viewed the land by helicopter. It is ideally suited for a national cemetery. The Quantico Marine Base is of great historical significance and a burial ground for our veterans would be very compatible with the military installation. The land consists of gently rolling hills and woods; it is 80 percent developable now, which means making major changes in the existing landscape will not be necessary. There are no buildings on the property. Drainage is good and access is excellent. Located 30 miles south of Washington, D.C., the site has direct access from Interstate 95, a major interstate highway going south from Washington. The property is sufficiently distant from developed portions of the base and the nearest town, Quantico, so that traffic to and from the cemetery would not be disruptive to the base or the area's citizens. I am particularly pleased that the land is buffered by Prince William Forest Park and additional acreage to be developed as a county park, making it a serene and peaceful setting.

ADVANTAGEOUS TO THE COMMUNITY

A national cemetery at Quantico would be an honor to the community. It would be a major attraction to the Washington area, ultimately providing burial space for 300,000 veterans and eligible dependents. According to preliminary plans, the cemetery would include a national shrine, a visitors center, and theater to accommodate tourists and students. As one local official put it:

> I think it a great honor that Prince William be chosen for the final resting place for many of our nation's military. I think the cemetery will certainly be a great asset for Prince William County.

An important advantage of the Quantico site is that the 620 acres are currently owned by the Federal Government; thus, establishing the cemetery would not take one acre of property off local tax rolls nor require any additional funding for land acquisition.

The cemetery would be an asset to the area because it would bring tourism and jobs to the community. One local business leader, in applauding the location, said:

> "We need all the help we can get." Another businessman has described it as "a shot in the arm."

COMMUNITY ACCEPTANCE

I have been delighted at the community's response to the cemetery. The local newspaper for the area, the Potomac News, endorsed the proposal on December 10, immediately following my visit to the site with the subcommittee. A local veterans leader, Dave Lynch, former chairman of the Potomac Region Veterans Council, said:

> "I don't think they could have picked a better site." Other comments from local leaders have ranged from "It would be quite an honor" to "This is something we would welcome locally."

I intend to hold a local meeting in the area in January to receive citizens' views, in preparation for the February hearings here in the House. Because I value the views of residents of the area, I look forward to hearing from the people who live there and believe it is most important to provide them an opportunity in their community to express their opinions to their elected representative.

This Nation has a responsibility, recognized in law, to afford public honor and recognition to those who have sacrificed to serve our country. I am honored to be a part in providing a lasting memorial to the Nation's veterans. I am confident that the residents of Virginia will also feel this great honor.

AFL-CIO ADOPTS PRINCIPLES FOR FULL EMPLOYMENT LEGISLATION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. HAWKINS. Mr. Speaker, on Monday, December 8, 1975, the AFL-CIO, which historically has been in the forefront of the struggle for full employment made public a policy statement on the principles for full employment legislation. The distinguished president of the AFL-CIO, Mr. George Meany, issued the statement drafted by the economic policy committee chaired by Vice President I. W. Abel. I would like to submit for the RECORD, Mr. Speaker, the text of the statement whose full employment legislation principles are much in concert with those embodied in H.R. 50, the Equal Opportunity and Full Employment Act of which I and HENRY REUSS are principal sponsors and which 110 other Members are cosponsors. The text is as follows:

NEWS FROM THE AFL-CIO

AFL-CIO President George Meany today made public a policy statement on the "Principles for Full Employment Legislation."

The statement was adopted Friday by the Economic Policy Committee at a meeting at AFL-CIO headquarters, chaired by Vice President I. W. Abel, who is president of the United Steelworkers of America.

Meany said, "we will start immediately to implement the committee's recommendations."

The text of the statement is attached.

STATEMENT ON PRINCIPLES FOR FULL EMPLOYMENT LEGISLATION, DECEMBER, 5, 1975

Full employment has been a major objective of the American labor movement since its inception. A job opportunity at a decent wage for each person able and seeking work—the only definition of full employment that is acceptable to the labor movement—is an economic necessity, for jobs are the lifeblood of the American economic system.

From jobs come the wages that generate mass purchasing power. A job is a key measure of a person's place in society—whether as a full-fledged participant or on the outside looking in. Work is the source of individual fulfillment. It is positive, constructive activity.

It was in this spirit that the recent AFL-CIO Convention reiterated its support for programs to achieve full employment and urged "the immediate adoption of a national full employment policy" by the Congress.

The Convention resolution further declared: "The Employment Act of 1946 contained more promise than action. We need legislation which provides that the President and Congress spell out specific programs to create jobs for every American willing to work. At long last we must recognize that in our modern society a worker is entitled to a job as a matter of right and the total society including government, must assume this responsibility and must 'guarantee its fulfillment."

The Convention entrusted this committee with the responsibility of studying proposals pending in Congress and determining those fundamentals that must be included in planning a Full Employment Act to make it both achievable and workable. We consider the following to be essential:

1. Full employment must mean, in fact, job opportunities, at decent wages, for all those who are able to work and seek employment. This means that the unemployed, at any time, would be only persons who are temporarily jobless—such as entrants into the labor force, people moving from one job to another or from one part of the country to another, or people who are temporarily jobless as a result of seasonal fluctuations in their specific industry.

2. The Congress must declare, as we do, that the Administration forecasts of unemployment—7.9% in 1976, 7.2% in 1977, 6.5% in 1978, 5.8% in 1979 and 5.1% in 1980—are completely unacceptable. The Congress must undertake an immediate and sustained campaign to reduce unemployment to 3% of the civilian labor force and keep it from increasing, in the future, to more than 3%.

3. The Congress must require the President annually to submit to it targets, policies and programs to achieve full employment and to meet national needs.

4. The President must be required to propose specific federal tax, expenditure, budget and monetary policies and programs to meet the targets he proposes for full employment, balanced economic growth and national needs.

5. The Congress should establish a consultative body, composed of major groups in the economy, to review the President's goal and policies.

6. The Congress should provide procedures for prompt Congressional review and action on the President's economic goals and policies.

7. The Federal Reserve, as a key government agency in the economic area, should be required to justify to the President and the Congress the manner in which its policies concerning interest rates, the money supply and availability of credit will help meet the targets and objectives that are established.

8. The full-employment goal must be good jobs at good pay. To the extent that the economy's regular channels of private and public employment fail to achieve that goal, the government must maintain a public employment program to provide additional jobs at prevailing rates of pay, but in no case less than the federal minimum wage. Such a program should be of sufficient size to keep unemployment below 3%.

9. The Congress must establish full employment as the top-priority objective of national economic policy to maintain the strength of American society. The Congress must realize that an obsession with budget deficits ignores the benefits of a full employment economy—increased jobs and increased earnings, reduced unemployment benefits and welfare costs, increased sales for business, increased savings and investment, and increased tax receipts.

The way to cut the deficit, quickly and substantially, is to put America back to work. Any other proposal means continuing deficits, continuing high unemployment, continuing hardship, continuing recession.

Those who put deficits before people have no faith in America. They would condemn America to continued idle plants, idle machinery, idle productive equipment, and idle manpower.

It is precisely because the AFL-CIO is so opposed to this negative thinking that we support a Full Employment Act. We consider it an early "must" item for consideration by the next session of the Congress.

There are many friends of the concept of full employment in the Congress who have demonstrated their concern through the introduction and support of legislation. We trust they will combine to push for a realistic, achievable, workable measure containing the fundamental points we have outlined.

It is the recommendation of this committee that this statement be immediately conveyed to every member of the Congress and that the help and assistance of the AFL-CIO be extended to members in the drafting of legislation that will meet our objective—jobs at decent wages for everyone able to work and seeking work.

WHAT PRICE ANGOLA?

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1975

Mr. BONKER. Mr. Speaker, I am hoping to amend the security assistance legislation currently before the House International Relations Committee so as to enjoin direct or indirect American military aid to Angola. I do so reluctantly, because I recognize that the President is entitled to a certain degree of personal judgment and flexibility in trying to execute an effective foreign policy, and that open congressional opposition can detract from his authority. But I believe that the matter of our involvement in Angola is so significant and timely that it is appropriate at last resort for Congress to interject its opinions.

As a first-term Congressman sent here by an electorate fresh from the sobering experiences of Vietnam and Watergate, I believe most emphatically that it is the prerogative of Congress to resist any secret and, in my judgment, misguided participation in yet another distant conflict. Admittedly it is improbable that American involvement in Angola will deepen to the point of our sending troops, let alone on the scale of a Vietnam. But short of that, the prospects are dangerous and unwarranted enough. For several weeks now, the press reliably has been reporting that the United States is aiding the FNLA and possibly also UNITA both directly, through covert CIA channels, and indirectly, through congressionally-authorized aid to Zaire. The absence of a denial by the State Department has been conspicuous. Secretary Kissinger apparently concedes that in fact the United States has no intrinsic strategic interest in Angola, and that our posture there is determined solely by the Soviet position.

This is an effete chessboard mentality, the 1950ish notion that we have to counter every Soviet move, however many innocent pawns we lose in the process, or that in the end we will be checkmated. The only genuine parallel I detect between chess and the tragically real Angolan situation is that both superpowers are indeed treating it as a game. I thought by now we had learned that the United States cannot be the policeman of the world, let alone the king.

The fact is that recent history indicates the ultimately self-defeating nature of power-grabbing. Countries resent a relationship of dependence and particularly the strings that come attached to aid. Perhaps the Soviets are intent on asserting themselves in the likes of Somalia and Angola precisely because they have failed to achieve real footholds by their previous forays in Africa. Guinea, Ghana, Mali, Nigeria, Tanzania, and the Sudan, which have all been recipients of substantial Soviet aid over the years, are not exactly Soviet puppets. They may be left-leaning but more likely that results from the temper of the times than from bribery. The Soviets have even been kicked out of China and Egypt, where at one time they were feared by other countries as a permanent presence. In the process of all this, Soviet heavy-handedness has succeeded mainly in antagonizing world opinion. Not surprisingly, the Organization of African Unity has taken the strong stand to oppose all foreign intervention in Angola, whatever its source.

For 500 years, the Portuguese ruled Angola as a colony. There is, in consequence, general hostility among native Angolans to anything perceived to smack of imperialism. It is true that the factions engaged in the fighting are accepting outside aid, but then so did we during our own civil war. It is doubtful that, having struggled for independence these last 13 years, they yearn for victory only to surrender their independence to another master. There is only a temporary coincidence of interests between indigenous nationalism and international communism. Reportedly, the MPLA has established definite limits to the extent of Soviet aid it will accept, fearful that too many technicians and advisers might come along with it. The MPLA wants to be nonalined, just like Cambodia and Vietnam do despite years of close association with Russia and China. On the other side of the coin, it might be noted that Indonesia, despite all our recent support, has just announced it is going to begin accepting Soviet aid, just to prove its nonalinement. Indeed, the standing of communism in Angola is not so clear, considering that Russia and China compete in supporting opposite sides. Why not remain above the fray and let them fight it out?

The MPLA is often said to resemble the new socialist governments in the former Portuguese colonies of Mozambique and Guinea-Bissau with whom our Government now maintains fairly cordial relations. Perhaps it is inclined to nationalize American oil holdings, but it would not necessarily do so without compensation. In any case, such an action is understandable for a fledgling country which wants to reverse a humiliating legacy of dependence. If, as we claim, capital investment and trade are mutually beneficial, a new government, whatever its politics, will be tempted to establish relations—especially if it does not hold a grudge against us for our initial opposition and if it does not have reason to fear our further intrusions into its sovereign domestic affairs. The leader of MPLA is Agostinho Neto, a medical doctor who seems to have acquired the enlightened and diplomatic style of the Europeans with whom he has long had admiring contact. He is a close friend of Mario Soares, the Portuguese Socialist leader who our State Department considers quite moderate enough to support strongly. Neto appears more a socialist or African nationalist than a militant communist or ideologue who would represent any greater threat to the liberty of his people than a number of repressive right-wing regimes the United States already supports.

If we are interested in influence in Africa, as Secretary Kissinger protests, why not try to win it the moral way, by setting an example of fair and benevolent foreign policy worthy of respect and, dare one imagine, emulation? The best way to incur the enmity of the nations we want to accept us is to appear selfish, material, reactive, and opportunistic. It also would not help us to identify ourselves with the cause of the South African government in supporting UNITA. For that matter, if we are genuinely opposed to South Africa's minority-rule regime, as we often profess, we should on the merits be concerned about supporting a faction in its neighboring country which Prime Minister Vorster apparently expects will lessen the pressure on him to reform.

The best military analysis available to us indicates that the MPLA is militarily ahead at this point if anyone can be adjudged "successful" in war. Specifically, it seems to be in substantial control of Luanda, roughly the central third of Angola, and Cabinda—and on the offensive now in the North against the FNLA. I happily stand to be corrected by our intelligence community, though really that does not undermine my position which is ultimately a political judgment on the general merits of intervention, whatever our chances of success. It would appear that the best the administration can hope for is a stalemate, which at least would prevent the MPLA from assuming total control over Angola. This would imply, however, a protracted war, and the war has already been unspeakably brutal. In addition to personal atrocities that none of the factions has been above committing, the economy of what had been the second-richest country in black Africa is now a shambles. This is only too reminiscent of Vietnam. Looking back in the latter case, it is hard to believe that the regime we were so dead-set opposing could have been much worse for the people—assuming that is who we are primarily concerned about—than years of deprivation and bloodshed—which would have eventuated, to boot, only in a longer life for General Thieu's regrettable regime. And indeed it is arguable that the MPLA might not be so undesirable an alternative to the FNLA. According to the Christian Science Monitor, the MPLA has attracted more than its share of intellectuals and technocrats who could competently service a new administration, while Holden Roberto is considered too "quarrelsome" to lead. Indeed, Roberto is said to have lived altogether only 4 years of his life in Angola and is not particularly the outstanding representative of all classes of Angolans. He is, finally, none other than the brother-in-law of President Mobutu of Zaire, who despite all our aid has never been so dependably pro-American. And not at all "pro-American" if that is defined more idealistically to encompass respect for our ideals of democracy and social progress.

To some extent, our intervention on the assumption of opposition is self-fulfilling. Certainly we would provoke the other factions to accept higher levels of outside aid than they otherwise would, and in a very real sense drive them into the arms of the Russians which is exactly what we say we fear. The country is divided up already along tribal lines; our black and white support for sides serves only to reinforce the divisions. Probably only a coalition or outright partitioning offers any lasting solution. And it is possible that even a coalition—which it is sometimes said to be our policy to help the FNLA win enough clout to join—might just buckle under after a while on the order of what has transpired lately in Laos. It is not right—and in the end it is futile—for the big powers simply to choose up their ethnic sides in a proxy war, especially in a remote part of the world that surely we are not willing ourselves to fight in. By rights, we should not count the loss of others' lives any less a cost than the loss of our own.

Even in the fanciful event that our side won, it would be a Pyhrric victory. And having invested so much, we would feel obligated to keep the winner on our side, which would require the blackmail of our taxpayer having to shell out perpetual foreign aid in return for friendly relations. Buying friendship is a tenuous foreign policy. In the long-run, our allies are those who share our values and principles, and who have a popular base of support. Next-door to Angola, in Zaire, we have anted-up at least $400 million since we first helped to install President Mobutu in office. We are beholden to him, rather than the other way around. And either direction of a relationship just doesn't conform to our Republic's high ideals of self-determination and independence.

I think it is about time that our traditionally progressive and open-minded country got in the swing of world opinion. It is not merely a matter of fashion. There is good reason that the less-developed countries of the world, representing the vast majority of the human race, are beginning to demand a redress of the traditional political and economic order which so far has been administered essentially by the few fortunate Western industrialized countries. The United States has always been well-meaning. After the last World War, we embarked on a new internationalism to put defeated old countries and struggling new ones on their feet. I am proud of that heritage and in no way want to reverse our active concern for the welfare of other less fortunate peoples and nations. But I think the time has come when it is in our mutual benefit more to let others make a go of it themselves than for us to intercede and decide what is in their own interest.

I want to make clear that I do not in the least condone the intervention of any other country in Angola, either. I support Secretary Kissinger and Ambassador Moynihan in making the strongest representations in particular to the Soviet Union that, especially in the spirit of Helsinki, interference in the affairs of other nations is unacceptable. I think we have some leverage of détente to drive our point home. I also think we should press in the United Nations for a considered debate on the Angolan situation. The Soviet Union is not deaf to the world's opprobrium, if only it is registered. But to play tit for tat with the Soviets invites retribution and implicates us in the sort of behavior we indict. It is not so obvious to much of the world that our intervention is merely in response to Soviet provocation, or, even so, that one bad turn deserves another. We can stand to be more popular in the international arena these days. I do not believe that the hostility toward us is all knee-jerk or coerced. When Ambassador Moynihan delivered the administration's novel and forward-thinking program some weeks ago during the U.N. special session, he was greeted with widespread respect and gratitude.

I believe that even the Angolan situation has a silver lining. Not only does Congress have the opportunity to avoid grave involvement in a war, but it also has the chance now to assert a positive new philosophy in world politics. Angola is above all a highly symbolic issue which can give birth to healthy new directions in our foreign policy—and perhaps produce something of a better world.

SOURCES FOR GENERAL SCHOLARSHIPS AND FELLOWSHIPS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1975

Mr. VANIK. Mr. Speaker, in response to numerous inquiries which I have received from my constituents, I am submitting in the RECORD sources for general scholarships and fellowships, as well as Government sources for loans and scholarships, and business and industries providing scholarships. With education costs continuing to soar, it is my hope that this list will be of some assistance to those families and individuals for whom higher education might otherwise be an "impossible dream". The list follows:

SOURCES FOR GENERAL SCHOLARSHIPS AND FELLOWSHIPS

I. GENERAL SCHOLARSHIPS AND FELLOWSHIPS

1. Abraham & Straus Scholarships, (24) Executive scholarships annually for students to combine on-the-job training and studies in retailing at Adelphia College, City College, Hofstra College, Long Island University, and New York University.

2. Alco Foundation Scholarship Fund, Pittsburgh, Pennsylvania, Scholarships to needy high school graduates.

3. Accident Prevention, Director, Allstate Insurance Companies, 7447 Shore Blvd., Skokie, Illinois, Scholarships for Driver Education to high school teachers.

4. Allstate Foundation, National League for Nursing, 10 Columbus Circle, New York, New York 10019, Scholarship for persons interested in nursing.

5. American Institute of Architects, The, 110 Pearl Street, Buffalo 2, New York, (1) Scholarship for students interested in Architecture as a career.

6. American Machine and Foundry Company, 261 Madison Avenue, New York, New York 10016. Four year scholarship to high school seniors—awards based on competitive Scholastic Examination.

7. AMVETS National Foundation, 1710 Rhode Island Avenue, N.W., Washington, D.C. 20036. (16) Children whose fathers are deceased or totally disabled as a result of military service. $2,000 total for four years.

8. ASARCO Foundation, 120 Broadway, New York, New York.

9. Association of American Medical Colleges, 2530 Ridge Avenue, Evans, Illinois. Brochure: For sources of financial aid to medical students.

10. Bell Foundation, Inc., Buffalo, New York. (2) Tuition scholarship for use at Erie County Technical Institute and at Niagara University.

11. Beta Chi Inc., 1211 Leeds Street, Utica, New York. One Scholarship of $500 for a girl to attend any accrediated hospital school of nursing.

12. Boy's Club of America, 771 First Avenue, New York, New York 10017. Scholarships for those that are interested in Boy's Club as a career.

13. Celanese Corp. of America, 522 Fifth Avenue, New York, New York 10036. Competitive Examination.

14. Cook (Wm. J.) Fund Scholarships, Chicago Community Trust, 10 South LaSalle Street, Chicago, Illinois 60603. Scholarships limited to Cook County Illinois High School.

15. The Cooper Union (For the Advance of Science and Art), Director of Admissions, The Cooper Union, Cooper Square, New York, New York 10003. Scholarships valued at $1500 to $2000 per year—Competitive Scholarships in Art, Architecture, Engineering and Science.

16. Cornell Club of Buffalo, 92 Pearl Street, Buffalo, New York. Scholarship intended for Buffalo area students—Residents of New York. Determined individually for students planning to attend Cornell University.

17. Council of Hotel, Restaurant, and Institutional Education, Statler Hall, Ithaca, New York 14858. Summary of financial aid available to students pursuing courses of study leading to a career in hotel, restaurant, and institutional work.

18. American Newspaper Publishers Association Foundation Journalism Scholarships, 750 Third Avenue, New York, New York 10017. Negro college students studying journalism.

19. AMA African Studies Grant, unspecified, President of AMA, 287 Park Avenue South, New York, New York 10010. For Black American graduates of American Missionary Assoc. and other accredited colleges.

20. Atlanta University, Dean of School and Library Science, Atlanta 4, Georgia. School of Library Service Fellowships; up to $1000 a year; (10) U.S. citizens with outstanding scholarship records.

21. American Council of Learned Societies, 345 E. 46th Street, New York, New York 10017. (40) Up to $7000. For research in specialized fields including foreign area studies.

22. Babson Institute of Business Administration (Male Negro Students Only), Financial Aid Office, Babson Institute of Business Administration, Babson Park, Mass. 02157.

23. Bollingen Foundation, 140 E. 62nd Street, New York, New York 10021, $1200 to $3600 for research and writing in anthropology, archaeology, comparative religion, cultural history, mythology, philosophy, and psychology.

24. Carleton Student Association Scholarship, Carleton College Administrations Office, Room 4, Leighton Hall, Northfield, Minn. 55057. Preference given to North American Indians and Negro students. (Must apply to Carleton as a student first.) Catholic Scholarships for Negroes, Inc. High school seniors. (Not limited to Catholics).

25. Mrs. Roger L. Putnam, President, 254 Union Street, Springfield, Mass. 01105. Co-

operative Program for Educational Opportunity Eligibility. High school seniors; major part of program focuses on Negroes.

26. Cooperative Program—Educational Opportunity, 17 Hillhouse Avenue, New Haven, Conn. 06520. List of scholarships available to dental students.

27. Dentistry—American Dental Association, Council on Dental Education, 222 East Superior, Chicago, Illinois. 60611.

28. American Association of Dental Schools, 840 North Lakeshore Drive, Chicago, Illinois 60611.

29. The Dillon Fund, c/o Sherman and Sterling, 20 Exchange place, New York, New York 10005.

30. Dolan Foundation, Edward Joy Company, 905 Canal Street, Syracuse 3, New York.

31. Eleanor Roosevelt Scholarship Program, CORE, SEDF, 150 Nassau Street, Room 1312, New York, New York 10038. Undergraduates activity involved in the Civil Rights Movement, up to $1500 a year.

32. Educational Funds, Inc., 10 Dorrance Street, Providence 3, Rhode Island. Up to $2500 per year. Renewable. No tests. Any educational expense.

33. Elks National Foundation Scholarship Plan, Chairman, Elks National Foundation, 16 Court Street, Boston, Mass. (142) High school seniors in upper five per cent of their class. $700 to $1500 annual.

34. Field Foundation, Inc., 250 Park Avenue, New York, New York 10017.

35. Foresight Foundation, Inc., 30 East 71st Street, New York, New York 10021.

36. The Fund for Theological Education, Inc., 163 Nassau Street, Princeton, N.J. 09540.

37. Edward A. Filene Good Will Fund for Negro and American Indian Students, $1500 per year, Roosevelt University, 430 South Michigan Avenue, Chicago, Ill.

38. Friends Education Fund for Negroes (varies), Mr. A. J. Palmer, Treasurer, FEFFN, 1004 State Office Building, Indianapolis, Indiana.

39. Funds for Educational, Inc., 319 Lincoln Street, Manchester, N.H. 01201. Loans from $350 to $2500.

40. General Motors College Scholarship Plan, General Motors Corporation, General Motors Building, Detroit 2, Michigan (350) High school seniors—up to $2000 annually.

41. Generoso Pope Scholarship Awards, Columbus Citizens Committee, Inc., 136 West 52nd Street, New York, New York.

42. Green Fountain, 167–10 Hillside Avenue, Jamaica 32, New York.

43. Howard University Foreign Service Careers Fellowships—$4000 per year, Financial Fellowships, Howard University, Washington 1, D.C.

44. William Randolph Hearst Foundation, 3rd and Market Streets, Suite 1018, San Francisco, Calif. 94103. Grants for study to undergraduate journalism students, range from $75 to $100 each month.

45. James R. Hoffa Scholarships Fund, 25 Louisiana Avenue N.W., Washington, D.C. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. Open to sons and daughters of teamsters members.

46. Honig (Ely) Memorial Scholarship Fund, Anglo Fabrics Company, Inc., 1407 Broadway, New York, New York. Fashion Industry.

47. Institute of Food Technology, 176 West Adam Street, Chicago, Illinois 60603. Scholarships range from $300 to $1000 for the field of Food Technology or Food Science.

48. International Supreme Council of World Masons, 1775 West Forest Avenue, Detroit, Michigan.

49. John Hay Whitney Foundation, 111 West 50th Street, New York, New York 10020. Primarily for racially or culturally deprived students. Must be college seniors about to begin graduate work.

50. Jephson Educational Trust, c/o Chase Manhattan Plaza, New York, New York 10005.

51. Jones (W. Alton) Foundation, Inc., 70 Pine Street, New York, New York 10005.

52. Knights of Columbus Scholarships, New York State Council, 486 Park Avenue, Yonkers, New York.

53. Knights Templar Educational Foundation Committee, Mr. Robert J. Hackett, 611 West Market Street (Division of Ohio), Martin Luther King Memorial Scholarship.

54. University of Southern California, Financial Aid Department, Los Angeles, California.

55. New York University, 13 University Place, New York, New York. For minority group students, both graduates and undergraduates. Varies according to financial need.

56. Alexander S. Langdorf (Engineering Fellowship competition for high school seniors), Dr. Harold P. Brown, Assistant, School of Engineering, Dean and Applied Science, Washington University, St. Louis, Missouri 63130.

57. Aid Association for Lutherans Scholarship, Appleton, Wisconsin.

58. Levy (Jacob) Foundation, Inc., 1440 Broadway, New York, New York. (2) Four year scholarships of $1,800 each.

59. Levy (Adele R.) Find, Inc., 100 Park Avenue, New York, New York 10017.

60. Littauer Foundation, Inc., 345 East 46th Street, New York, New York 10017.

61. Lutheran Scholarships, National Lutheran Council, 50 Madison Avenue, New York, New York 10010. Graduate Students in Social Work.

62. Mazer (The Abraham) Family Fund, 477 Madison Avenue, New York, New York, 10022.

63. R. R. McCormick Charitable Trust Scholarships for Journalism Students, high school, students applying at Notre Dame. (Varies), Financial Aid Director, Notre Dame University, South Bend, Indiana.

64. Minority Groups Scholarship Program, High School seniors at any of seven specified colleges or universities. (Varies) Admissions office of particular member college; Antioch, Carleton, Grinnel, Oberlin, Occidental, Reed and Swarthmore.

65. McGregor Fund, 2486 First National Building, Detroit 26, Michigan.

66. McMillin Foundation, Inc., 435 East 52nd Street, New York, New York.

67. Mery College, Detroit, Michigan.

68. National Commission for Social Work Careers, 345 East 46th Street, New York, New York 10017. Handbook of Graduate scholarships in the field of social work.

69. National Achievement Scholarship, Program for outstanding Negro students (200) high school seniors, $1000–$6000 scholarships for four years. National Achievement Scholarship Program, 990 Grove Street, Evanston, Illinois 60201.

70. National Scholarship Service and Fund for Negro Students. (Supplementary Scholarship fund) High school seniors who have been counseled by this organization up to $600. Write early in junior year to: NSSFNS, 6 East 82nd Street, New York, New York 10028.

71. National Association for Colored Women (Varies), National Association of Colored Women, 1601 R Street N.W., Washington, D.C.

72. National Council Boy Scouts of America, New Brunswick, New Jersey 08903. A summary of colleges and universities that offer scholarships for boy scouts.

73. National Honor Society Scholarships, 1201 Sixteenth Street, N.W., Washington, D.C. (225) High school seniors who are National Honor Society members. $500 to $5000 for four years.

74. National Merit Scholarships, National Merit Scholarship Corporation, 1580 Serman Avenue, Evanston, Illinois. (750) High school seniors in upper five per cent of their class. $100 to full tuition for four years.

75. National Methodist Scholarship, Department of Student and Scholarship, P.O. Box 871, Nashville, Tennessee 37202. Awards to outstanding Methodist students in Methodist colleges.

76. National Presbyterian College Scholarships, Office of Education Loan for Scholarships, Board of Christian Education, United Presbyterian Church in the U.S.A., 425 Witherspoon Building, Philadelphia, Pennsylvania 19187. Awards range up to $1000 to qualified members of Presbyterian church enrolled in Presbyterian colleges.

77. National Restaurant Association, Educational Director, 1530 North Lakeshore Drive, Chicago, Illinois 60610. (5) Scholarships at $1000 each to persons entering the field of Food Service Administration.

78. National Scholarship Fellowship Program of YMCA, Program of YMCA Personnel Services, National Council of YMCA, 291 Broadway, New York, New York 10007. Full time graduate professional study to prepare for YMCA work.

79. The Newspaper Fund, P.O. Box 300, Princeton, New Jersey. List of nearly $700,000 in scholarships offered by schools and departments of Journalism.

80. Azalia P. Oberg Foundation, Inc., Thomas & Thomas, 504 Broadway, Room 1016, Gary, Indiana. Renewable; no restriction other than financial need; no deadline.

81. Pfeiffer Research Foundation, Scholarships in Medicine for Negro Men. Students going into pre-med program at Wesleyan University. $500 to $300 a year. Dr. John C. Hory, Dean of Admissions, Wesleyan University, Middletown, Conn.

82. Polytechnic Institute of Brooklyn, Huber Scholarships for Negroes. (10) Students working on degree in electrical engineering, tuition & maintenance costs. Huber Scholarship, Financial Aid Office, Polytechnic Institute of Brooklyn, Brooklyn, New York.

83. Pickett and Hatcher Educational Loan Fund (Varies), P.O. Box 2128, Columbus, Georgia 31902.

84. P. E. O. Educational Fund, Executive Office, Mt. Pleasant, Iowa, Women Students.

85. Procter and Gamble Company, Scholarship Program, P.O. Box 599, Cincinnati, Ohio (201) Full tuition plus allowance for books, fees, and supplies; renewable up to four years. No restrictions.

86. RCA Scholarships (34) Undergraduates in one of the specified schools. $800 renewable—Financial aid office of the school. Write the college at which you have been accepted.

87. Roosevelt University (Edward A. Filene Good Will Fund), 430 South Michigan Avenue, Chicago, Illinois 60605, Negro & Indian students wishing to study in the college of Business Adm. $1500 a year.

88. Henry Warren Roth Education Fund, from $500 to $1500, Financial Aid Office, Thiel College, Greenville, Pa. Radio Corporation of America. Application should be made to the Financial Aid Office for the school in which the student is enrolled.

89. The Ralston Purina Fellowship, Ralston Purina Company, Education Department, St. Louis, Missouri 63102. Scholarships for training in animal husbandry.

90. Revlon Foundation, Inc., 666 Fifth Avenue, New York, New York 10019.

91. Henry Warren Roth Education Fund, University of Pittsburgh, Pittsburgh, Pennsylvania. All undergraduates—Range from $500 to $1500 maximum, 4% interest after graduation.

92. Royal A. & Mildred D. Eddy Student Loan Fund, Eddy Student Loan Fund, Thomas & Thomas, 504 Broadway, Room 1016, Gary, Indiana. $1500 annually, renewable, no restrictions other than financial need, no tests, deadline.

93. S & H Foundation National Scholarship Program, Educational Testing Service, Princeton, New Jersey. High school seniors—up to $1,000 renewable for four years.

94. Sandy Hill Foundation, 27 Allan Street, Hudson Falls, New York.

95. Scholarship Foundation, Inc., 120 East End Avenue, New York, New York.

96. Sears, Roebuck Foundation. Apply to Dean of Land Grant College in home state. Scholarships for male agricultural students and female home economics students.

97. Schepp Leopold Foundation, 551 Fifth Avenue, New York, New York 10017.

98. Hattie M. Strong Foundation Loans—Interest-free loans. Repayment based on monthly income after graduation. Send brief personal history and identification of the educational institution attended, the subjects studied and amount of funds needed. If applicant qualifies, formal application forms will be sent. For students within two years of a final degree from an accredited four year college or graduate school. Loans up to $2000 per year and not exceeding $4000 per student. Hattie M. Strong Foundation, Suite 409 Cafritz Building, 1625 Eye Street, N.W., Washington, D.C. 20006.

99. Society of Exploration Geophysicist, Scholarship Committee, Shell Building, Tulsa, Oklahoma 74119. Scholarships for persons interested in a career in geophysicist.

100. Henry Strong Educational Foundation, 50 South LaSalle Street, Chicago, Illinois. Vary.

101. Student Opportunity Scholarships, 475 Riverside Drive, Room 1140, New York, New York 10027.

102. Telluride Association, Ithaca, New York. Students to attend Cornell.

103. Tiffany Foundation, 1083 Fifth Avenue, New York, New York 10028. Apply through Art Schools and the College Art Departments.

104. United Negro College Fund, 22 East 54th Street, New York, New York. High School seniors and college undergraduates (Varies).

105. United Student Aid Fund, 845 Third Avenue, New York, New York. 10022. Loans up to $1000.

106. United Steelworkers of America, District No. 24, 1330 Market Avenue N., Canton, Ohio.

107. Westinghouse Educational Foundation Scholarships, Director of Admissions, Carnegie Institute of Technology, Pittsburgh, Pa. 15213. High school seniors—$6800 for four years.

108. John Hay Whitney Foundation Opportunity Fellowship—Up to $3000 awarded for full year of study. For seniors in college who plan to study beyond bachelor's degree. Also college graduates seeking graduate study. Open to Negroes, Spanish-Americans, American-Indians, and residents of the Southern Appalachian and Ozark Mountains areas, Guam, Puerto Rico, Samoa, the Pacific Trust Territory and the Virgin Islands. John Hay Whitney Foundation, 111 West 50th Street, New York, New York 10020.

109. Weisberg Foundation, Inc., 29 Cooper Road, Scarsdale, New York.

110. Western Golf Association, Golf, Illinois. (75) Four year scholarships to qualified caddies.

111. Westinghouse Science Talent Search, Westinghouse Electric Corporation, East Pittsburgh, Pennsylvania. (40) High school seniors in top 10% of their class $250 to $7500 for four years.

112. White Scholarship Fund, 73 Main Street, Cooperstown, New York. Fund is set up for graduates of Cooperstown Central School.

113. Wolke Foundation, Inc., 1775 Broadway, New York, New York 10019.

114. Woodrow Wilson National Fellowship Foundation, Box 642, Princeton, New Jersey. (1000) Fellowships for first year graduate students interested in college teaching careers.

115. Texas Southern University. School of Business Scholarships (15) High school seniors interested in business. Four year full payment grants. Have guidance counselor write to Texas Southern University for you.

II. GOVERNMENT SOURCES—LOANS AND SCHOLARSHIPS

116. COSTEP, Surgeon General, U.S. Public Health Service, Washington, D.C. Attn: Office of Personnel. For juniors and seniors in health related fields and students in programs of engineering and science.

117. Health Careers, The Surgeon General, Department of Army, Washington, D.C. 20315. Attn: Medpt-MP. Scholarships for Dietetic Therapeutics fields under the Army, also Foods, Nutrition and Institutional Management majors. Earn over $200 a month. The Health Profession Education Assistance Act of 1963: The Health Professions Student Loan Program-PTA.

118. Bureau of State Services (Community Health), U.S. Department of Health, Education and Welfare, Washington, D.C. 20201. (Request publication 1347) Institution where student is enrolled or has been accepted. Persons enrolled or accepted as full-time students in a school which has a loan fund under the ACT. Establishes student loan funds, for students pursuing a degree in medicine, dentistry, optometry, or osteopathy. May obtain loans of up to $2000 a year. Higher Education Act of 1965.

119. Public Inquiry Branch, U.S. Department of Health, Education & Welfare, Washington, D.C. 20201. Undergraduate college students and graduate students training for teaching. Provides for scholarships of up to $800 to $1000 based on need and academic standing in high school.

120. National Board of Civil Air Patrol, Civil Air Patrol, Ellington Air Force Base, Texas. Undergraduate and graduate scholarships awarded to Civil Air Patrol members. National Defense Education Act of 1958: Students Loans for Higher Education—Title II.

121. Disabled American Veterans Educational Loan Fund—Up to $200 a year. 130 63rd Street S., St. Petersburg, Florida 33707. The National Defense Student Loan Program—Up to $1000 a year.

122. Department of the Navy, Navy ROTC College Scholarship, Navy Recruiting Station, 74 East Gay Street, Columbus, Ohio. College where student is enrolled or has been accepted.

123. Division of Student Financial Aid, U.S. Office of Education, Washington, D.C. 20202 (Request publication OE-55001-65). Loans may not exceed $1000 per year or $5000 for all years to any student.

124. National Institute of Health, Division of Research Grants, U.S. Public Health Service, Bethesda, Maryland. Undergraduate and graduate training grants.

Navy Nurse Corps Candidate Program, Nearest U.S. Navy Recruiting Station. Open to juniors and seniors in an accredited college. Provide for tuition, salary and/or allowance benefits. Nurse Training Act of 1964: Nursing Student Loan Program. Institution where student is enrolled.

125. Bureau of State Services (Community Health), U.S. Department of Health, Education, and Welfare, Washington, D.C. 20201 (Request publication 1154). Person enrolled or accepted for enrollment as full-time students in an accredited school of nursing having a loan fund under the Act. Students may borrow up to $1000 an academic year. War Orphans Education Program, Local Veterans' Administration Office. Children of servicemen who died in U.S. Armed Forces. $100 a month.

BUSINESS AND INDUSTRIES OFFERING SCHOLARSHIPS

126. Association of American Railroads, 59 East Van Buren Street, Chicago, Illinois.

127. Atlantic Refining Company, 260 South Broad Street, Philadelphia, Pennsylvania. Does not provide individual scholarships except through National Merit Corp.

128. Boston Insurance Company, 87 Kilby Street, Boston, Massachusetts.

129. Brown and Sharpe Manufacturing Company, Providence, Rhode Island.

130. Bryant Chucking Grinder Company, Springfield, Vermont.

131. Bulova Watch Company, Inc., Bulova Park, Flushing, New York. Scholarships are only awarded to qualified sons and daughters of Bulova Co.

132. Chance Voight Aircraft, Inc., P.O. Box 5907, Dallas, Texas.

133. Chubb Foundation, 90 John Street, New York, New York 10038. Available only to children of Chubb employees.

134. Climax Molybdenum Company, Langeloth, Pennsylvania.

135. Cummins Engine Company, Inc., Columbus, Indiana.

136. Fairchild Aircraft Division, Hagerstown, Maryland.

137. Firestone Tire & Rubber Company, 1200 Firestone Parkway, Akron, Ohio. Firestone employees only.

138. Fisher Scientific Company, 717 Forbes Street, Pittsburgh, Pa. Annual Competition for scholarship awards for children of Fisher emp.

139. Food Fair Stores, Inc., 223 East Allegheny Avenue, Philadelphia, Pennsylvania. Must be employed by Food Fair for 2 years or be child of employee who meets requirement.

140. Ford Motor Company, Central Building American Road, Dearborn, Michigan. Scholarships for sons and daughters of Ford employees.

141. Fruehauf Trailer Company, c/o Framk Strick Foundation, 1335 Glenbrook Road, Huntington Valley, Pennsylvania.

142. General Electric Company, Schenectady, New York.

143. General Motors Corporation, 3044 West Grand Boulevard, Detroit, Michigan.

144. Goodbody & Company, 115 Broadway, New York, New York.

145. Goodrich, B. F. Company, Akron, Ohio.

146. Greenfield Tap & Die Corporation, Greenfield, Massachusetts.

147. Grumman Engineering Company, Bethpage, New York.

148. Greenwall, Susan Foundation, Holmdel, New Jersey.

149. Gulf Oil Company, Pittsburgh, Pennsylvania.

150. Handcraft Company, Inc., Princeton, Wisconsin.

151. Hood Dairy Foundation, 500 Rutherford Avenue, Boston, Massachusetts. For sons & daughters of employees.

152. Hunt, C. Howard Pen Company, 7th & State Streets, Camden, New Jersey.

153. International Business Machines Corporation, 590 Madison Avenue, New York, New York.

SENATE—*Monday, December 15, 1975*

The Senate met at 9:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Fountain of Light and Love, as we bow at the manger-cradle of Jesus, let there be in us a new nativity of faith and hope and the charity that endures forever. May His tenderness move us to a new gentleness toward all our fellow men in whom, however dimly, Thou dwellest, and make us sensitive to those who know bitterness and want. May the rights vouchsafed in the Federal Constitution become the possession of all people. Hasten the day when the spirit of love and gladness shall fill the Earth with shapes of purity and beauty, as of old it made the sky melodious with prophesy. Move forward the time when there shall be no more war, no more misery in our streets, because the law of love prevails. Make our hearts a cradle of peace and good will.

In this spirit give us power to work this week. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 12, 1975, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Calendar, beginning with "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with "New Reports," will be stated.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of Richard A. Wiley, of Massachusetts, to be General Counsel of the Department of Defense.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF THE INTERIOR

The second assistant legislative clerk read the nomination of H. Gregory Austin, of Colorado, to be Solicitor of the Department of the Interior.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

The second assistant legislative clerk read the nomination of Robert E. Barrett, of Pennsylvania, to be Administrator of the Mining Enforcement and Safety Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

MINISTER

The second assistant legislative clerk read the nomination of Michael B. Smith, of Massachusetts, U.S. Negotiator on Textile Matters, to be Minister.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of Andrew W. Breidenbach, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—AIR FORCE, ARMY, NAVY, AND MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, the Army, the Navy, and the Marine Corps which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 515, 516, 517, 518, 519, 521, and 525.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESTORATION OF ANNUAL LEAVE

The bill (H.R. 7976) to amend title 5, United States Code, to provide that annual leave lost by a Federal employee because of an unjustified or unwarranted personnel action shall be restored to the employee, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

ASSIGNMENT OF PAYMENTS FROM CIVIL SERVICE ANNUITIES

The bill (H.R. 6642) to provide for allotment or assignment of payments from civil service annuities, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FRANKED MAILINGS BY MEMBERS OF CONGRESS

The bill (H.R. 4865) to amend title 39, United States Code, to prohibit certain franked mailings by Members of the Congress and certain officers of the United States, other than mailings related to the closing of their official business, after such Members or officers have left office was considered, ordered to a third reading, read the third time, and passed.

USE OF CENSUS DATA IN LEGISLATIVE APPORTIONMENT OR DISTRICTING

The bill (H.R. 1753) to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

TIME LIMITATIONS FOR CIVIL SERVICE RETIREMENT

The Senate proceeded to consider the bill (H.R. 4573) to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes, which had been reported from the Committee on Post Office and Civil Service with amendments, as follows:

On page 1, in line 5, strike out "(g)" and insert "(h)".

On page 2, beginning with line 11, insert:

(2) In section 552a(g)(5) strike out "to the effective date of this section" and insert in lieu thereof "to September 27, 1975";

On page 2, in line 14, strike out "(2)" and insert "(3)".

On page 2, in line 16, strike out "(3)" and insert "(4)".

On page 2, in line 18, strike out "(4)" and insert "(5)".

On page 2, in line 20, strike out "(5)" and insert "(6)".

On page 2, in line 21, strike out "(6)" and insert "(7)".

On page 2, in line 23, strike out "(7)" and insert "(8)".

On page 3, in line 1, strike out "(8)" and insert "(9)".

On page 3, in line 3, strike out "(9)" and insert "(10)".

On page 3, in line 7, strike out "(10)" and insert "(11)".

On page 3, in line 9, strike out "(11)" and insert "(12)".

On page 3, in line 12, strike out "(12)" and insert "(13)".

On page 3, beginning with line 14, insert:

(14) In section 5108(c)(11) strike out "twenty two" and insert in lieu thereof "twenty-five";

(15) In section 5108(c) redesignate paragraphs (11) through (14) as paragraphs (11) through (16), respectively;

On page 3, in line 19, strike out "(13)" and insert "(16)".

On page 3, beginning with line 21, insert:

(17) In section 5314 redesignate paragraphs (53) through (61) as paragraphs (53) through (63), respectively;

(18) In section 5315 redesignate paragraphs (91) through (104) as paragraphs (91) through (107), respectively;

(19) In section 5316 redesignate paragraphs (131) through (136) as paragraphs (131) through (139), respectively;

On page 4, in line 6, strike out "(14)" and insert "(20)".

On page 4, in line 7, strike out "(15)" and insert "(21)".

On page 4, in line 10, strike out "(16)" and insert "(22)".

On page 4, in line 13, strike out "(17)" and insert "(23)".

On page 4, in line 15, strike out "(18)" and insert "(24)".

On page 4, in line 17, strike out "(19)" and insert "(25)".

On page 4, in line 19, strike out "(20)" and insert "(26)".

On page 4, in line 20, strike out "(21)" and insert "(27)".

On page 4, in line 22, strike out "(22)" and insert "(28)".

On page 4, in line 25, strike out "(23)" and insert "(29)".

On page 5, in line 3, strike out "(24)" and insert "(30)".

On page 5, beginning with line 6, insert:

(31). In section 8193 redesignate subsection (e), the second time it appears, as subsection (f);

On page 5, in line 8, strike out "(25)" and insert "(32)".

On page 5, in line 13, strike out "(26)" and insert "(33)".

On page 5, in line 15, strike out "(27)" and insert "(34)".

On page 5, in line 20, strike out "(28)" and insert "(35)".

On page 6, in line 1, strike out "(29)" and insert "(36)".

On page 6, in line 3, strike out "(30)" and insert "(37)".

On page 6, in line 5, strike out "(31)" and insert "(38)".

On page 6, in line 15, strike out "(32)" and insert "(30)".

On page 6, in line 15, strike out "(U.S.C.)" "(— U.S.C. —)";

On page 6, in line 17, strike out "(33)" and insert "(40)".

On page 6, in line 19, strike out "34)" and insert "(41)".

On page 6, in line 21, strike out "and".

On page 6, beginning with line 22, insert:

(42) In the analysis of chapter 85 strike out item 8524 and insert in lieu thereof the following:

"8524. [Repealed.]"; and

On page 7, in line 1, strike out "(35)" and insert "(43)",

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

COMPILATION OF CERTAIN DATA ON TOTAL POPULATION

The Senate proceeded to consider the bill (S. 1009) to amend title 13 of the United States Code to require the compilation of current data on total population between censuses and to require the use of such current data in administration of Federal laws in which population is a factor which had been reported from the Committee on Post Office and Civil Service with amendments, as follows:

On page 2, at the end of line 11, insert: Should the Secretary be unable to produce and publish current data on total population for county and local units of general purpose government as required by this section, a report shall be made by the Secretary to the President of the Senate and the Speaker of the House of Representatives not later than one year after the date of enactment of this Act and not later than ninety days prior to the commencement of each fiscal year thereafter, enumerating each government excluded and giving the reasons for such exclusion.

On page 2, in line 21, strike out "Other current data" and insert "Surveys".

On page 2, at the beginning of line 24, strike out "(other than population)".

On page 3, beginning with line 2, strike out

"In the administration of any law of the United States in which population is used to determine the amount of benefit received by State, county and local units of general purpose government, the data most recently produced and published pursuant to section 181 shall be used except with respect to any date or period of time for which the census of population taken under section 141 is the most recent data. The preceding sentence shall apply with respect to any such law whether or not such law makes reference to the census of population taken under section 141.

And insert in lieu thereof:

"For the purpose of administering any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, and local units of general purpose government, the Secretary shall transmit to the President for use by the appropriate departments and agencies of the executive branch the data most recently produced and published pursuant to section 181 except with respect to any date or period of time for which the census of population taken under section 141 is the most recent data.

On page 3, in line 25, after "township," insert "Indian tribe, Alaskan native village,".

On page 4, following line 4, insert

"SUBCHAPTER IV—INTERIM CURRENT DATA

On page 4, following line 5, insert:

"SUBCHAPTER IV—CURRENT INTERIM DATA

On page 4, following line 5, in subparagraph numbered 182, strike out "Other current data." and insert "Surveys."

On page 4, beginning with line 6, strike out

SEC. 2. (a) The Secretary of Commerce and the Director of the Office of Management and Budget shall jointly initiate the development and establishment of uniform methods and procedures to be used by the Bureau of the Census and all other bureaus and components of the executive branch in producing statistical information used in effecting the delivery of Federal benefits to State and local governments.

(b) Not later than one year after the date of the enactment of this Act, the Secretary and the Director shall report to the Committees on Post Office and Civil Service of the Senate and House of Representatives with respect to progress made toward the development and establishment of the methods and procedures described in subsection (a).

(c) Nothing in subsection (a) or (b) shall be construed as to limit the present authority of the Office of Management and Budget to develop and promulgate statistical standards and authority under the Federal Accounting and Procedure Act of 1950.

On page 5, beginning with line 5, insert

SEC. 2. (a) In the administration of any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, and local units of general purpose government, the President through the Director of the Office of Management and Budget shall insure that the most recent data provided by the Secretary of Commerce, and which refers to the same point or period in time for each class of eligible government, will be used by the appropriate departments and agencies of the executive branch.

(b) The Director shall initiate the development of uniform methods and procedures to be used by the departments and agencies of the executive branch in producing statistical information used in effecting the delivery of Federal benefits to State and local governments. The Director or his representative shall consult with the appropriate departments and agencies for this purpose, and the Director shall issue regulations for the purpose of establishing uniform methods and procedures in producing statistical information effecting the delivery of Federal benefits to State and local governments.

(c) Not later than one year after the date of enactment of this Act, the Director shall report to the President of the Senate and the Speaker of the House of Representatives with respect to progress made toward the development and adoption of the methods referred to in subsection (b).

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter IV of chapter 5 of title 13, United States Code, is amended to read as follows:

"SUBCHAPTER IV—CURRENT INTERIM DATA

"§ 181. Population

"During the intervals between decennial censuses of population under section 141, the Secretary shall annually produce and publish for each State, county, and local unit of general purpose government which has a population of fifty thousand or more, current data on total population and shall bienially produce and publish for other local units of general purpose government current data on total population. Such data shall be produced and published for each State, county, and other local unit of general purpose government for which data is compiled in the most recent census of population taken under section 141. Such data may be produced by means of sampling or other methods which the Secretary determines will produce current, comprehensive, and reliable data. Should the Secretary be unable to produce and publish current data on total population for county and local units of general purpose government as required by this section, a report shall be made by the Secretary to the President of the Senate and the Speaker of the House of Representatives not later than one year after the date of enactment of this Act and not later than ninety days prior to the commencement of each fiscal year thereafter, enumerating each government excluded and giving the reasons for such exclusion.

"§ 182. Surveys

"The Secretary may make surveys deemed necessary to furnish annual and other interim current data on the subjects covered by the censuses provided for in this title.

"For the purpose of administering any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, and local units of general purpose government, the Secretary shall transmit to the President for use by the appropriate departments and agencies of the executive branch the data most recently produced and published pursuant to section 181 except with respect to any date or period of time for which the census of population taken under section 141 is the most recent data.

"For purposes of this subchapter, the term 'local unit of general purpose government' means the government of a county, municipality, township, Indian tribe, Alaskan native village, or other unit of government below the State which is a unit of general government.".

(b) The table of contents for chapter 5 of title 13, United States Code, is amended by striking out

"SUBCHAPTER IV—INTERIM CURRENT DATA

"181. Surveys."

and inserting in lieu thereof

"SUBCHAPTER IV—CURRENT INTERIM DATA

"181. Population.
"182. Surveys.
"183. Use of most recent population data.
"184. Definition.".

Sec. 2. (a) In the administration of any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, and local units of general purpose government, the President through the Director of the Office of Management and Budget shall insure that the most recent data provided by the Secretary of Commerce, and which refers to the same point or period in time for each class of eligible government, will be used by the appropriate departments and agencies of the executive branch.

(b) The Director shall initiate the development of uniform methods and procedures to be used by the departments and agencies of the executive branch in producing statistical information used in effecting the delivery of Federal benefits to State and local governments. The Director or his representative shall consult with the appropriate departments and agencies for this purpose, and the Director shall issue regulations for the purpose of establishing uniform methods and procedures in producing statistical information effecting the delivery of Federal benefits to State and local governments.

(c) Not later than one year after the date of enactment of this Act, the Director shall report to the President of the Senate and the Speaker of the House of Representatives with respect to progress made toward the development and adoption of the methods referred to in subsection (b).

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOYCE ANN FARRIOR AND SARAH E. FARRIOR

The bill (H.R. 2110) for the relief of Joyce Ann Farrior and Sarah E. Farrior, was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. I do not.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. HATFIELD) is recognized for not to exceed 15 minutes.

PROHIBITING FEDERAL INTELLIGENCE AGENCY INVOLVEMENT WITH THE CLERGY

Mr. HATFIELD. Mr. President, this summer, various news sources reported that the Central Intelligence Agency has made it a regular practice over the years to use missionaries, clergy, and members of religious organizations for intelligence activities. It is my firm belief that this practice tarnishes the image of the United States in foreign countries, prostitutes the church, and violates the first amendment's separation of church and state.

Articles in the Washington Post, the Washington Star, the Chicago Tribune, the National Catholic Reporter, and Time magazine document the funding and manipulation of missionaries by the Central Intelligence Agency. Even those used to stories of intelligence agency operations have been shocked by these accounts.

Based on information gathered by Mr. John Marks of the Center for National Security Studies, the Catholic News Service and the Washington Star published stories reporting that in 1963, the CIA gave $5 million to Father Roger Vekemans, a Jesuit priest in Chile, to support activities of anti-Communist labor unions and the presidential campaign of Eduardo Frei.

This story was recounted in an August 5 article in the Washington Post, and the Post article also told of CIA plans to coordinate with the Bolivian Government a plan of attack against progressive forces in the Roman Catholic Church.

Efforts to secure the release of missionaries captured in Vietnam at the end of the Thieu regime were hindered by charges that they had been working for the CIA. Though the charges were false, the Vietnamese may have had good reason to be suspicious. According to John Marks' July 18 story for the National Catholic News Service, the Catholic bishop of a diocese outside Saigon was on the CIA payroll as late as 1971.

In August of this year, a group of missionaries were arrested in Mozambique. The suspicion of missionaries created by the involvement of the CIA with just a few of the overseas representatives of U.S.-based religious groups puts the welfare of all missionaries in jeopardy. I must emphasize that I am in no way implying that these particular missionaries are involved with the CIA, but the taint of CIA involvement with other groups in the past has put these persons in a most uncomfortable position.

In this country, Mr. President, the church is not an arm of the state, nor is the state the tool of the church. The first amendment and all our history since the creation of this Nation 200 years ago make that abundantly clear.

At the very least, the involvement of the CIA or any other intelligence agency with the clergy, missionaries, or members of religious orders abroad is a violation of this heritage and the restraints of the Constitution.

Even worse is the damage the association does to both church and state. When we allow the CIA or any other Government intelligence agency to use our missionaries, while in the mission field or at home, to perform political and intelligence operations, we pervert the church's mission and bring discredit upon the foreign policies and credibility of the United States. For its part, the church jeopardizes the integrity of its mission when it allows itself to be used for the purposes of the state rather than for the purposes for which it was created.

Shortly after the initial revelations of CIA involvement with missionaries abroad, I wrote CIA Director Colby urging that he issue an internal directive prohibiting CIA contact with members of the clergy. Such a directive would be similar to those already in force which prohibit CIA contact with members of ACTION and Fulbright grantees. Mr. Colby replied on September 23 to the effect that the CIA has indeed used missionaries in the past for political and intelligence purposes and has every intention of continuing to do so.

I then wrote President Ford on September 19, urging him to take Executive action to bar the CIA from using the clergy. In a letter of November 5, White House Counsel Philip Buchen responded on behalf of the President, saying that—

> The President does not feel it would be wise at present to prohibit the CIA from having any connection with the clergy.

Failing action in the CIA itself or from the President, the only recourse is legislation outlawing Federal intelligence agency involvement with missonaries, clergy, or members of religious orders for the purpose of manipulating political events or collecting intelligence. I am introducing such legislation today. It prohibits the CIA, the NSA, and the DIA from paying any member of the clergy or any employee or affiliate of a religious organization, association, or society for intelligence gathering or for any other participation in agency operations. It further prohibits any member of these intelligence agencies from soliciting or accepting the services of any member of the clergy, or any employees or affiliate of a religious organization, association, or society to gather intelligence for the agency or to participate in any agency operation. I ask that the bill be printed in the RECORD at the conclusion of my remarks.

I also have copies of my correspondence with the President and CIA Director Colby on this matter, and articles on the CIA's involvement with the clergy and missionaries, and I ask unanimous consent that they be printed in the RECORD as well, following the text of the bill. The letter to me from Director Colby has been edited somewhat to protect the privacy of others.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that this legislation be jointly referred to the Committee on Armed Services and the Committee on Government Operations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. MANSFIELD. Mr. President, I am very happy to note that this most difficult and delicate question has been brought to the floor of the Senate by the distinguished Senator from Oregon. It is, in my opinion, a violation of the first amendment, which states quite specifically that church and State should be considered as separate entities, apart. I was interested in this because I know that in the area of the clergy being used, there have been stories in the press to the effect that $5 million was allocated to a Jesuit priest in Chile prior to the overthrow of the Allende regime. I believe that report was corroborated. Certainly, it was not denied, if my recollection is correct.

I note also that the distinguished Senator, in introducing legislation today, mentions only the CIA, the NSA, and the DIA. The Senator is aware of the fact that there are other intelligence agencies which operate overseas, such as the Air Force Intelligence, the Navy Intelligence, and the Army Intelligence. I hope that he will correct his legislation so that it will include all intelligence agencies operating overseas.

This is a most difficult question. While I can understand the use of businessmen in certain circumstances in the carrying out of covert activities, I find it most hard to understand the use of the clergy, whose avocation and vocation is to spread the word of God and the gospel and to not become involved in the affairs of governments, but, rather, in the affairs of the Holy Father. I am not referring to the Pope in that respect; I mean the Lord.

I commend the distinguished Senator for laying this out and I hope that his legislation will receive expeditious consideration.

I would hope also that the administration would give us what reasons they have for their contention that the use of missionaries will be continued in the carrying out of covert activities. I commend the Senator.

Mr. HATFIELD. Mr. President, I am very grateful for the comments made by the distinguished majority leader. I am most mindful of his concern and expressions that he has made in the past toward this whole matter of the CIA and its activities. He has again demonstrated this morning his depth of understanding and sensitivity.

I also am grateful for his suggestions for broadening the scope of the legislation to cover these other intelligence-gathering agencies that the bill itself has not incorporated. I am anxious to present these matters in more detail before the committees as they hold hearings on this matter, and the committees can consider broadening the bill at this time.

I thank the Senator from Montana.

S. 2784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j) is amended by—

(1) inserting in section 8(a) after "provisions of law" the following: "other than subsection (c)",

(2) adding immediately after section 8(b) the following new subsection:

"(c) No funds appropriated to, or otherwise made available for use by, the Agency may be paid to any member of the clergy or to any employee or affiliate of a religious organization, association, or society for intelligence-gathering or for any other participation in Agency operations. Whenever any amount is paid by the Agency, or by any other person carrying out a function of the Agency, to a member of the clergy or to any employee or affiliate of a religious organization, association, or society for any other purpose, the Director shall cause to be published in the Federal Register, within 15 days after the date on which payment is made, a complete explanation of one's payment, including—

"(1) the name of the person to whom the payment was made,

"(2) the purpose of the payment, and

"(3) the amount and date of the payment.", and

(3) redesignating sections 9 and 10 of such Act as 10 and 11, and by inserting immediately after section 8 the following new section:

"LIMITATIONS ON AUTHORITY

"SEC. 9. (a) No person shall solicit or accept the services of any member of the clergy or any employee or affiliate of a religious organization, association, or society to gather intelligence for the Agency or to participate in any Agency operations.

"(b) Any person violating subsection (a) of this Act shall be imprisoned for no more than five years or fined no more than $10,000, or both.".

SEC. 2. Section 138 of title 10, United States Code, is amended by adding immediately after subsection (d) the following new subsection:

"(e)(1) No funds appropriated to, or otherwise made available for use by, the Defense Intelligence Agency, the National Security Agency, or any other intelligence-gathering office or agency of the Department of Defense may be paid to any member of the clergy or to any employee or affiliate of a religious organization, association, or society for intelligence-gathering or for any other participation in the operations of such agencies. Whenever any amount is paid by these agencies, or by any other person carrying out a function of these agencies, to a member of the clergy or to any employee or affiliate of a religious organization, association, or society for any other purpose, the Secretary of Defense shall cause to be published in the Federal Register, within 15 days after the date on which such payment is made, a complete explanation of such payment, including—

"(A) the name of the person to whom the payment was made,

"(B) the purpose of the payment, and

"(C) the amount and date of the payment.

"(2) No person shall solicit or accept the services of any member of the clergy or any employee or affiliate of a religious organization, association, or society to gather intelligence or to participate in operations for the Defense Intelligence Agency, the National Security Agency, or any other intelligence-gathering office or agency of the Department of Defense.

"(3) Any person violating section 138(e)(2) of this title shall be imprisoned no more than five years, or fined no more than $10,000, or both.".

EXHIBIT 1

AUGUST 26, 1975.

Mr. WILLIAM COLBY,
Director of Central Intelligence,
Washington, D.C.

DEAR MR. COLBY: I am most disturbed by recent press reports indicating that the CIA has regularly used church groups and members of the clergy as part of its covert operations. It would seem to me that all church activities overseas are tainted and made suspect by contacts of even a few church people with a secret intelligence agency and that the work of missionaries is potentially jeopardized by reports of such contacts.

It is my understanding that in the past your agency has issued internal directives prohibiting any operational contacts with certain groups of people, including Peace Corps volunteers and Fulbright scholars. Could you not do the same for members of the clergy and church officials?

In any case, I am prepared to introduce legislation which would legally bar any operational connections between the CIA and the churches, but it seems to me that the same result could be achieved by a public announcement on your part that in the future the CIA will totally separate itself from organized religion.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., September 13, 1975.

The Hon. MARK O. HATFIELD,
Committee on Appropriations,
U.S. Senate, Washington, D.C.

DEAR SENATOR HATFIELD: Thank you for your letter of August 26th. I regret your reaction to press reports about any relationship between CIA and church groups and members of the clergy. . . .

. . . I believe that it would be neither necessary nor appropriate to bar any connection between CIA and the clergy and the churches. In many countries of the world representatives of the clergy, foreign and local, play a significant role and can be of assistance to the United States through CIA with no reflection upon their integrity nor their mission. The "taint" to which you refer stems, I believe, more from the sensational publicity recently about CIA than from the nature of the contact we may have with such individuals. Thus, I believe that any sweeping prohibition such as you suggest would be a mistake and impose a handicap on this Agency which would reduce its future effectiveness to a degree not warranted by the real facts of the situation.

Sincerely,

W. E. COLBY,
Director.

SEPTEMBER 19, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Recent press reports have divulged startling and most disconcerting incidences of Central Intelligence Agency involvement with the clergy, members of religious orders, or missionaries abroad for the accomplishment of an intelligence mission. It is my firm belief that this involvement tarnishes the image of the United States in foreign countries and prostitutes the church.

Articles in the Washington Post, the Washington Star, the Chicago Tribune and Time magazine throughout the months of July and August amply document the CIA's recruitment and use of missionaries. A Jesuit priest in Chile was given $5 million by the CIA in 1963 to support activities of anti-Communist labor unions and the presidential campaign of Eduardo Frei. Other reports claim that the CIA was involved in a plan to arrest and discredit progressive clergy by promising to provide information on certain priests, particularly those from the United States.

Just in the last week, Nazarene missionaries in Mozambique have been arrested and imprisoned on suspicion of being CIA agents. This illustrates how even legitimate missionary programs can become suspect and frustrated by the taint of previous CIA involvement with other religious groups.

You may recall that previous efforts to secure the release of captured missionaries in Vietnam were met with charges that they had involvement with the CIA. A news story being released this week, which has come to my attention, corroborates evidence that the CIA did, indeed, use missionaries in South Vietnam for certain purposes.

The church has always been most effective in its mission when not influenced by or a part of the state. The state, in turn, has been most legitimate when it has refrained from attempting to control the faith of its citizens or use the church for its own ends. When we allow the Central Intelligence Agency to use missionaries or other clergy in foreign countries to perform its political and intelligence operations, we pervert the church's mission and create the view that the United States will resort to any means in pursuit of its particular interests.

I do not question the need for an intelligence-gathering agency in the federal government. The Central Intelligence Agency is a highly professional organization which has been of great service to this country. Part of my concern in this matter is that the Agency not jeopardize its operations by earning the reputation as the manipulator of priests, pastors, and missionaries.

I have already raised this issue with CIA Director Colby. In response, he has indicated that the Agency has used clergy in the past for intelligence-gathering and political operations, and has every intention of continuing this relationship.

It is my understanding that restrictions on CIA involvement with Peace Corps Volunteers and Fulbright scholars presently exist. A similar prohibition could be instituted, at your initative, regarding the clergy. Executive action could be equally effective and more expeditious than legislation from Congress. Failing an executive order, however, a statutory prohibition would be the only recourse.

Again, Mr. President, I urge you to take this action.

Warmest regards.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.

THE WHITE HOUSE,
Washington, November 5, 1975.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: Thank you for your letter to the President of September 19, 1975. The President has asked me to reply for him.

I understand that Mr. Colby has previously corresponded with you concerning the CIA's relationships with church groups and members of the clergy. The President does not feel it would be wise at present to prohibit the CIA from having any connection with the clergy. Clergymen throughout the world are often valuable sources of intelligence and many clergymen, motivated solely by patriotism, voluntarily and willingly aid the government by providing information of intelligence value.

As you are aware, Select Committees in both the House and Senate are currently reviewing the activities of the CIA. Within the Administration, similar efforts to reassess the proper roles and activities of all the intelligence agencies are underway. As part of this internal review, the CIA's relationships with clergymen is one subject to discussion. I can assure you that consideration will be given to the important question of whether any regulations are needed to guide the CIA in its future relations with clergymen.

Sincerely,

PHILIP W. BUCHEN,
Counsel to the President.

[From the National Catholic Reporter, Aug. 1975]

CIA FUNDED, MANIPULATED MISSIONARIES

(By Richard L. Rashke)

WASHINGTON.—The growing awareness that the CIA has infiltrated the churches has placed church leaders on the horns of a Watergate-like dilemma.

If they do not own up to their CIA-church connections, they will be accused of a cover-up; but if they tell what the know, they will further damage their credibility, shock the sensibilities of Americans and expose innocent people to the threat of expulsion, imprisonment or even torture and death.

John D. Marks, co author of the controversial *The CIA and the Cult of Intelligence* (Alfred A. Knopf), recently documented the CIA's use of missionaries as volunteer spies and its manipulation of the churches.

The CIA's extensive role in the destabilization of Chile and President Ford's defense of covert CIA activity did enough to cast a cloud of suspicion over Americans abroad, including missionaries. "This is one of the most serious threats to missionary outreach in my entire experience," said Episcopal Father William Wipfler, a former missionary to Latin America. "The groundwork has been laid for wholesale expulsions of missionaries or at least strict controls on their entry and activities, as occurred in China, India, Ceylon and elsewhere in Asia and Africa after World War II."

Wipfler was quoted by writer Gary MacEoin in a widely publicized March article, "U.S. Mission Efforts Threatened by CIA Dirty Tricks."

The fires of mistrust toward American missionaries are being fueled even more by the steady trickle of stories documenting the CIA-church connection.

The issue is complex.* * * Ecuador in the early 1960s to destroy the influence of the Cuban revolution on the future of Ecuador, to bring about a break in relations with Cuba and to promote the repression of the left.

"The Catholic church served this purpose because it was very reactionary—particularly the hierarchy," Agee told NCR.

By way of contrast, Uruguay "didn't have the power as an institution to be a great asset" to the CIA, he said, so the agency didn't bother to use the church there.

Agee's book will be published in the U.S. Aug. 8. It promises to keep the CIA-church issue alive.

As provocative as Agee's book and Marks' writings are, however, they leave one important question unanswered: how extensive is the CIA-church connection?

"I don't think the CIA has any conscious strategy to subvert the churches," said Marks, a former State Department intelligence analyst and now a staffer at the Center for National Security Studies. "I think that's overdone. To the CIA, the end justifies the means and the means have often been church people."

Former CIA operative Philip Agee agrees.

In a telephone interview from England where he is self-exiled, Agee told NCR that the CIA infiltration of a church depends "on what the specifics were in each country—whether the church in that country would be an effective (CIA) tool. It would depend on what the CIA's program would be in a particular country and whether the church could be used or manipulated to further these purposes."

Agee, who was a CIA operative in Latin America before he decided to blow the whistle in his Inside the Company: CIA Diary (Stonehill), details how the CIA used and manipulated the Catholic church in Latin America.

Marks told NCR that 30 to 40 per cent of the missionaries he sampled either had a CIA-church connection story to tell or knew someone who did. And a former Protestant missionary to Latin America, who conducted his own informal tally, placed the figure at 50 per cent.

"If I could find these things with random phone calls introducing myself as a reporter they never heard of," Marks said, "I would assume there are a lot more skeletons out there buried somewhere. But you just don't know."

Marks' doubt raises an even more important question: do church leaders really want to know how bad the CIA-church connection is?

It's risky business, for a full-scale investigation could leave a lot of CIA egg on ecclesiastical faces or it could show that the churches' hands are relatively clean.

Thomas Quigley, a staff member of the United States Catholic Conference's Office of International Justice and Peace, has called for such an investigation—"a systematic effort at intelligence gathering by missionaries themselves."

To be thorough, the investigation would have to examine three aspects of the CIA-church connection—CIA use of missionaries as voluntary spies or conduits for funds; CIA manipulation of church persons without their knowledge; and CIA harassment of "dangerous" church people.

This article will examine the first two aspects.

"Hell, I'd use anybody if it was to the furtherance of any objective," a 20-year veteran of American intelligence told John Marks. "I've used Buddhist monks, Catholic priests and even a Catholic bishop."

Marks cites four specific examples of church people who knowingly cooperated with the CIA:

A Catholic bishop in Vietnam who was on the CIA payroll until at least 1971.

A missionary in India who around 1960 fed information to the CIA but then saw how "foolish" that was and stopped.

A Protestant missionary in Bolivia who made regular intelligence reports to the CIA about the communist party, labor unions and farmers' cooperatives

Another Protestant missionary in Bolivia who until recently supplied the agency the names of people believed to be communist.

It is well-known that CIA counterinsurgency advisers organized and directed the tracking down of Che Guevara and his guerrilla force in 1967.

Marks also tells the story of Belgian Jesuit Roger Vekemans who accepted millions of CIA dollars for his programs to fight the rising left-wing tide in Chile in the early 1960s.

The Vekeman story was already documented in David Mutchler's *The Church as a Political Factor in Latin America* (Praeger, 1971).

Marks' book, co-authored by Victor Marchetti, who worked for the CIA for 14 years, principally as an analyst, says CIA agents posed as missionaries for cover. The book gives no further details.

Philip Agee told *NCR* of a Catholic priest in Ecuador who supplied information to the CIA about leftist activities in exchange for money for his programs.

The *New Asia News* reported in April that two international relief agencies in Phnom Penh, Cambodia, with religious sponsors—Catholic Relief Services and the Protestant-related World Vision, Inc.—have been receiving 95 per cent of their Southeast Asia operating funds from the Agency for International Development (AID) in exchange for highly-valued political and military intelligence.

"Although official church ties to AID programs appear relatively new, the AID's link with intelligence work is not," the News reported." In June 1970, AID Director John Hannah publicly admitted that his agency was funding front-line CIA missions in such places as Thailand and the Philippines."

Marks and Marchetti also single out AID as a favorite CIA front.

Church leaders would like to believe that voluntary CIA-church connections were just a phase of America's anticommunism hysteria of the early to mid 1960s.

Marks agrees to a point. "I know for a fact that it's harder to find things that happened more recently," he told NCR, adding that he uncovered several recent incidents.

The reason is, Marks says, that American missionaries are not as "sympathetic" to America's covert activities as they were in the '60's, and that a new breed of "social activist" missionaries would no longer cooperate with the CIA.

"It's a lot more dangerous to contact a church group at this point," he said, "because there are always one or two members who have the social consciousness—perhaps an anti-CIA attitude—and who would be very unhappy and would go to the press or whatever.

"And I think that is the reason (for fewer instances of cooperation with the CIA—the churches have changed and the CIA hasn't so much."

Both Marks and Agee agree that voluntary CIA-church connections should be exposed and that the churches should be held accountable.

"The press has the responsibility to report what's happened," Marks told NCR, "and what's happened is that the CIA, to some extent, has infiltrated church groups. I think that is a legitimate subject for reporting.

"I think it would be unfortunate if some innocent missionaries were accused, but on the other hand they have been accused already."

Marks said he found missionaries and church leaders reluctant to talk about church-CIA connections and that in two instances church persons lied to him.

One was an archbishop, he said.

"I find that kind of shocking that you have members of the clergy who are not telling you the truth," he said. "I can understand 'no comment,' but I don't like lies."

Besides using the voluntary help of church persons, the CIA has manipulated missionaries and their programs. Marks cites three examples:

A priest in India was about to accept a $5,000 grant from the Asian Free Labor Institute (An AFL–CIO auxiliary) for an educational program aimed at trade unions, when he learned from a State Department official that the money was coming from the CIA. He refused the grant on pragmatic rather than moral grounds.

CIA money flowed into a church-run national radio program in Colombia which was trying to combat illiteracy but which also contained anticommunist propaganda.

The CIA supported illiteracy programs in Colombia involving nuns as field workers who unknowingly collected important census information for the CIA.

And Philip Agee documents in his book how the CIA manipulated the Catholic church in Ecuador, even getting a member of the hierarchy "to make inflammatory statements."

Extensive CIA covert political intervention in Ecuador in the early 1960s destablized two civilian governments which refused to break relations with Cuba. The resulting chaos led to military rule.

If church leaders are concerned about the CIA's infiltration of the churches, they are even more concerned about CIA harassment of missionaries.

A document, alleged to be a plan to muzzle the Catholic church in Bolivia, surfaced recently.

The document, "The Bolivian Government's Plan of Action against the Church," was reportedly leaked by an official of General Hugo Banzer's right-wing government.

One of the 15 points in the plan reads: "The CIA promised to provide full information on certain priests, especially those from the U.S.A. In 48 hours they compiled for the minister of the interior complete files on certain priests—personal data, studies, friends, addresses, writings, contacts abroad, etc. . . . the CIA also has information on other priests and religions who are not North Americans."

The authenticity of the plan has not been verified so far, but Agee told NCR the document sounds "legitimate."

"I'm sure the CIA has many files on church people—those who have cooperated directly with the CIA," he said, "others through whom the CIA has worked without their knowledge, others whom the CIA might have considered approaching for a direct relationship but then decided not to, and others they approached but who turned them down."

The plan, which has become a symbol of CIA harassment of missionaries, names John La Mazza as someone "very helpful" in compiling the files.

La Mazza is the U.S. labor attache in La Paz, Bolivia—a favored CIA cover.

William P. Stedman Jr., U.S. ambassador to Bolivia, canceled a scheduled talk to 50 Maryknoll missionaries in Cochabamba, Bolivia, in May when they refused to allow La Mazza to accompany him.

The missionaries had invited Stedman to explain U.S. foreign policy in Bolivia to their annual conference; but when Stedman showed up with La Mazza, the Maryknollers voted against admitting the suspected CIA operative to the meeting.

"There was no way of proving whether La Mazza is working with the CIA or not," an unnamed Maryknoll source quoted in *Latinamerica Press* said, "but given the fact he is suspected, the priests felt that his presence could jeopardize the work of Maryknoll."

Concerned about the Bolivian plan to muzzle the church also surfaced in Central America. When an El Salvador priest, Rafael Barahona, was arrested and tortured by the National Guard at the end of May (*NCR*, July 4), Central America's Justice and Peace Director Juan Ramon Vega claimed the circumstances of Barahona's arrest corresponded to the specifications of the Bolivian plan, which Vega believes is CIA-inspired.

"Arrests (of priests) should be made preferably in the countryside, on deserted streets or late at night," the Bolivian plan advises. "Once a priest has been arrested the ministry should try to plant—in his briefcase and, if possible, also in his room—subversive literature and a weapon (ideally a large-bore pistol) to discredit him before the bishop and public opinion."

According to a letter Barahona wrote to his bishop, Pedro Arnoldo Aparicio, two days after his release from prison, Barahona was arrested at 10 p.m. in the countryside, his car was searched and copies of a subversive book, *The Rebel*, were planted in his mass kit. He was released amicably the next morning, after he had been beaten for about a half hour, and told not to distribute more copies of the book.

A copy of the Bolivian plan was sent to the Senate Select Committee on Intelligence, currently investigating the CIA, by Maryknoll Father Charles Curry, an intern at Network.

"Such alleged cooperation (between the CIA and the Bolivian government) has ominous implications especially when viewed in the light of widespread and violent repression taking place in Bolivia today," Curry wrote to Senator Frank Church (D-Idaho), committee chairman.

"I bring this to your attention with the expectation that it will be of assistance to the committee in investigating the many questionable facets of CIA activity. If the committee were to take up this area of investigation, I am sure the church and missionary community would be cooperative."

Although church leaders and missionaries alike are convinced that the Bolivian plan against the church is only one instance of the CIA's harrassment of the church, not many documented cases have been brought to light so far.

Faced with the implications of the CIA's using missionaries as volunteer spies and conduits, its manipulation of the churches and their programs and its harrassment of missionaries, church leaders are not certain what to do.

Several lines of approach have been suggested.

1. In his letter to Senator Church, Curry suggests a committee investigation of the CIA's manipulation and harassment of the churches.

Committee spokesman Spencer Davis told *NCR* that CIA abuses of American missionaries is within the mandate of the committee, and that the committee would welcome evidence of such abuses.

But Davis also said he didn't think the CIA-church connection has "come up specifically," adding that the committee would be open to receiving testimony from the churches, depending on "what they had to say and the nature of the charges."

But an unidentified spokesman for the committee told the *Washington Star* that the staff is "investigating complaints that the CIA has had improper dealings with missionaries."

The spokesman also said some of the charges, which included "tapped phones, dossiers and improper use of priests," resulted from CIA activities in Bolivia.

2. John Marks, in his interview with *NCR*, suggested an ecumenical policy statement about the CIA-church connection.

"It would be a comparatively easy matter to end the whole business," he said, "if you had denominational leaders around the country making policy statements and getting together to call on the press and the director of the CIA to issue a directive—'no more contacts with the church.'"

"That would end it because the CIA would not be able to get up in public and defend its use of the churches. The only reason it's been able to go on for so many years is that no one has been paying attention. People don't know what's going on, or people didn't care or they were eagerly cooperating."

Marks sees the possibility of getting Congress to make it illegal for the CIA to use church persons in the future. He pointed out to *NCR* that former Senator J. William Fulbright of Arkansas has demanded assurances that the CIA would not use Fulbright scholars as contacts, and that it is illegal for the CIA to use Peace Corps volunteers.

"A similar action or pressure coming out of Congress would end the CIA-church connection," he told *NCR*.

But missionaries point out that Peru expelled 137 Peace Corps members for allegedly gathering political intelligence for the U.S. government, even though it is illegal for the government to use the volunteers as contacts.

And a strongly worded ecumenical policy statement, sent to President Ford in October and signed by representatives of 15 Protestant and Catholic missionary organizations, condemning CIA covert activity, received little notice in the national press.

3. Thomas Quigley goes one step further than Curry and Marks and suggests that besides conducting their own investigation of the CIA-church connection, the churches should develop a code of ethics to cover any future relationship with the CIA.

Such a code would have to deal with some practical and thorny questions such as:

Is it ethical for a missionary to serve as a CIA cover, act as an agent, accept money from suspected CIA conduits and furnish even seemingly innocuous information?

Are there any circumstances when it might be ethical for missionaries to work with the CIA?

What kind of relationship should missionaries have with U.S. personnel, the State Department, AID and the military, given that these organizations are frequent CIA covers?

4. Agee believes these three approaches—policy statements, investigations and a code of ethics—are only Band-Aids that do not treat the real cancer—an American foreign policy built around protecting American economic and business interests around the world.

Agee told NCR the CIA is only one instrument of that foreign policy together with banks, unilateral lending institutions, treaty organizations to which the U.S. belongs and military assistance programs.

Agee proposes to the churches a long-range and a short-term solution.

For too long the churches have been on the wrong side, especially in Latin America, he said. "They should quit supporting the tiny ruling minorities in the third world, switch sides and begin to practice what they preach by fighting injustice."

"The progressive elements in the churches have to be encouraged," he said.

On a more practical level, Agee suggested that the churches should "work toward exposing the CIA people in their country—identify them, expose them, drive them out, make their presence intolerable."

Agee said he knows hundreds of CIA operatives whom he did not name in his book. "This is something that has the CIA pretty worried and upset," he told NCR. "It is very disruptive to them."

"But by exposing their people, future Chiles can be prevented."

[From the Washington Star, July 23, 1975]

Jesuit: "I Got $5 Million From the CIA"

(By Norman Kempster)

Following a White House meeting with President John F. Kennedy in 1963, a Belgian Jesuit priest was given $5 million in under-the-table CIA money to support anti-Communist labor unions throughout Latin America and back the presidential campaign of Edwardo Frei in Chile.

The incident was related by an American Jesuit friend of Belgian Rev. Roger Vekemans as an example of the CIA's relations with missionaries and other overseas representatives of religious groups.

The Rev. James Vizzard said he was having lunch with Vekemans at a restaurant near Dupont Circle when a White House automobile picked up the Belgian for a meeting with Kennedy, Atty. Gen. Robert F. Kennedy, CIA Director John McCone and Peace Corps Director R. Sargent Shriver.

After Vekemans' session at the White House, Vizzard related, "Roger came back with a big grin on his face and said, 'I got $10 million—$5 million overt from AID (Agency for International Development) and $5 million covert from the CIA.'"

Vizzard said he has no reason to believe that the CIA ever asked Vekemans to do anything that he would not have done anyway in attempting to carry out orders from his superiors in Rome to support social development in Latin America. It was just a case of the CIA helping to finance a program that fit in with the agency's objectives.

Almost from its inception in 1947, the CIA has used religious groups both as a source of information and as a conduit for funds. CIA spokesmen declined to discuss the CIA-church connection in any detail but other sources said the relationship was prevalent in the 1950s and 1960s at least. Some souces said it may be used less frequently today.

Sources said the CIA dealt with religious groups in Latin America, Africa, Asia and elsewhere.

A spokesman for the Senate select intelligence committee said the panel's staff is investigating complaints that the CIA has had improper dealings with missionaries.

The spokesman said some of the accusations resulted from CIA activities in Bolivia. He said the charges included "tapped phones, dossiers and improper use of priests."

"The committee is interested in whatever it can get on this matter," the spokesman said.

Dr. Eugene Stockwell, assistant general secretary of the National Council of Churches for overseas missions, said he has personal knowledge of two cases in which missionaries provided intelligence information to the CIA. But he said they occurred 14 years ago.

However, Stockwell said his organization is warning missionaries that the CIA may try to contact them. He said it is important that overseas churchmen not be gullible enough to inadvertently provide information to intelligence agencies.

"I personally would hope that missionaries would not provide information of this kind," he said in a telephone interview.

David A. Phillips, once the chief of the CIA's Latin Americans operations, remarked, "CIA people go to church, too."

"Over the past 25 years in Latin American CIA people have been in contact to mutual advantage with some of the many fine churchmen who work in the area," said Phillips, who has been attempting to respond to criticism of the agency since he retired from active service earlier this year.

"This does not surprise or shock me," he added. "On the contrary, any information gathering organization would be derelict if it did not take advantage of the in depth expertise of American clerics working in the area."

But Phillips insisted that overseas contacts with missionary groups have declined in recent years.

"There are a lot of things that used to happen in Latin America in the 1960s that don't happen in the 1970s," Phillips said in a telephone interview.

Other sources indicated that any reduction in CIA contacts with church groups is probably due to a new suspicion of the agency on the part of missionaries rather than any CIA scruples about using religious figures.

According to the Rockefeller Commission report, the CIA routinely contacts American citizens returning from abroad to determine if they can provide useful information. The commission said the agency attempts to contact all Americans except for students and Peace Corps volunteers.

A CIA official confirmed that there is no prohibition on contacting missionaries, either those who are taking brief home leave or those who are returning to the United States to stay. He refused to discuss specifics but he left little doubt that missionaries are routinely asked for information.

The official emphasized that in contacting returning Americans, CIA representatives always identify themselves fully and stress that the interview is voluntary.

Nevertheless, some returning missionaries have expressed shock at having been questioned by the CIA.

The CIA official said he knows of no instance in which churchmen were asked for information while they were working in foreign countries.

But former State Department intelligence officer John Marks said such contacts have been made.

Marks, a CIA critic who is director of the CIA project at the Center for National Security Studies, related the case of a Protestant missionary who said that until he left Bolivia two years ago he routinely passed on to the U.S. Embassy, and thus presumably to the CIA station, the names of Bolivians he thought were Communists.

Marks said another American at the same mission was asked to take over the reporting duties but refused to do so.

Vizzard, who serves as a lobbyist for the United Farm Workers Union, was interviewed in the living room of a house near Chevy Chase Circle which he shares with eight other Jesuit priests. He said he has frequently heard reports of CIA contacts with missionaries.

"If you get eight or ten priests together, you hear stories," he said. "Some of them are probably true, some are probably false."

Vizzard said he has first hand knowledge of CIA funding of one church-related organization in addition to what Vekemans revealed about his CIA connection.

In the 1950s, Vizzard said, he was working in the Washington office of the National Catholic Rural Life Conference which was sponsoring a series of land-reform congresses in several Latin American nations.

He related that the organization received a $25,000 check from a prominent Philadelphia businessman to help finance one of the meetings.

Vizzard said he remarked to the organization's director, Msgr. Lugi Ligutti, that the contribution was most generous.

"Ligutti replied, 'Oh, it's not his money, it's the CIA's money,' " Vizzard said. He added that he understands that the CIA helped to finance the other congresses as well.

Vekemans, the Belgian, was secretary of some of the conferenes, Vizzard said.

But Vekemans' primary effort was the Center for Economic and Social Development of Latin American located in Santiago, Chile.

Vizzard said the primary purpose of the center was to support anti-Communist labor organizations. But Vizzard said Vekemans also worked hard for the election of Frei as president of Chile in 1964.

Frei defeated Marxist Salvadore Allende that year. CIA Director William E. Colby has told a congressional committee that the CIA pumped $3 million into Frei's campaign. It was not clear whether the portion of the $5 million in CIA money which Vekemans spent on Frei's behalf was included in the $3 million total.

Allende ran for president again in 1970 and was elected. Colby told the same committee that the CIA spent $8 million in opposing Allende's election and in attempting to undermine his government. Allende died in a coup that overthrew his government in 1973.

Vizzard emphasized that support of Frei, a Christian Democrat, was a happy marriage between the CIA and the Catholic church. Both supported Frei for their own reasons.

"There really was a belief at that time that the answer to social problems was a movement like the Christian Democratic party," Vizzard remarked.

Marks said he has learned that the CIA had the Catholic bishop of a diocese outside of **Saigon on its payroll at least as late as 1971.** He said the CIA treated the bishop with such care that a CIA case officer flew in from Saigon for special secret meetings with him.

According to Phillip Agee, a former CIA officer who has since turned against the agency, the CIA's dealings with churches were not always of the "mutual benefit" variety described by the agency's friends.

In his book, "Inside the Company," Agee relates that in Ecuador in the early 1960s, CIA-backed squads of right-wing terrorists bombed churches because they believed the Communists would be blamed for the attacks. In most cases, Agee wrote, the blame did go to the left.

[From the Washington Post, Aug. 5, 1975]

Clergy Wary of CIA Approaches

(By Majorie Hyer)

"Come back in three days," the nun, supervisor of the little Chilean school, told the American priest.

The priest, a missionary of the Maryknoll order, was seeking answers to usually inoffensive school census-type questions for Chilean Roman Catholic bishops.

When he returned three days later, the nun was apologetic. "I am sorry, but the teachers and the parents of the children have told me not to answer your questions," she said.

"They think you are from the CIA."

That was in 1971, two years before the Chilean government of the late Salvador Allende—Latin America's first popularly elected Marxist president—was toppled from power and three years before President Ford denied any U.S. role in the coup but acknowledged and defended covert activities by the Central Intelligence Agency in Chile.

"The climate of suspicion is very real in Latin America," said the priest, Charles Curry, now based in Washington, D.C., as he recalled the 1971 encounter.

Far from being a CIA operative, Father Curry now spends much of his time trying to deal with problems of the CIA's relationship to churches. He is a leader of an ad hoc coalition of Protestant and Catholic mission groups.

The CIA's relations with church groups is one of the areas that Sen. Frank Church's (D-Idaho) committee on intelligence expects to look into "in due course," committee spokesman Spencer Davis said recently.

The churches' problems with the CIA fall into several categories: use of mission programs as a conduit for CIA funds; use of missionaries, with or without their knowledge, as intelligence sources, and what Father Curry calls "harassment" of missionaries in the field.

The last category usually involves social reform projects undertaken by progressive missionaries in countries controlled by political regimes that church leaders view as repressive but which are friendly to the United States.

A current complaint—one Father Curry referred to Sen. Church's committee—involves a situation in Bolivia.

In May, Ambassador William P. Stedman Jr. canceled a scheduled discussion with about 50 Maryknoll missionaries in Cochabamba when the missionaries objected to the presence of another U.S. embassy official who accompanied the ambassador.

The missionaries were convinced that the second man, John LaMazza, listed on the embassy roster a labor official, was a CIA agent.

LaMazza had been named as a CIA collaborator in a document circulated earlier in Bolivian church circles. The document, which allegedly originated within the Bolivian government, outlined a suggested plan of attack against progressive forces in the Roman Catholic Church.

The document stated that the CIA was involved in the plan to arrest and discredit progressive clergy by promising to "provide full information on certain priests, especially those from the U.S.A." The document called LaMazza "very helpful" in this operation.

"The CIA's collaboration with foreign governments in repressing their own people is highly questionable in itself," Father Curry told Sen. Church in requesting the Senate committee to investigate.

"But because our government's mission in foreign countries is charged with protecting the security and interests of American citizens there, the CIA's action directed against those very American citizens is doubly questionable," he said.

Church sources estimate there are more than 42,000 Americans, Protestant and Catholic, serving as missionaries in other countries.

John Marks, former State Department intelligence officer who coauthored "The CIA and the Cult of Intelligence," has charged that since its beginning in 1947, the CIA has used religious leaders as information sources.

"A lot of people are willing to cooperate," said the Rev. William Wipfler of New York, who heads the Latin American working group of the National Council of Churches. "You can't damn the CIA for talking to anybody who's willing."

As early as 1967, the National Council of Churches, whose membership includes most of the main Protestant and orthodox denominations, formally frowned on such conversations.

The Rev. Dr. David M. Stowe, overseas mission boss, recently took from his files a copy of a policy statement that said, in part, that "as a matter of policy," NCC disapproved of a staff members "reporting to CIA agents or entering into any other involvement with the CIA."

Dr. Stowe, mission executive for the United Church of Christ, said the statement was "circulated to member denominations" of the NCC but as far as he knows, none adopted it.

Early last month, representatives of nearly a score of Protestant and Catholic groups came together at Father Curry's invitation to explore a possible "code of ethics" for missionaries in dealing with the CIA.

Church mission leaders queried recently about encounters with the CIA were reluctant to talk. But conversations confirmed that CIA approaches were not uncommon.

The experience of Missionary A., appears to be typical:

Mr. A. had been back in a U.S. city about a week when he received a phone call and was asked to come downtown to "discuss something."

The caller, who said he was with "the government," said it had something to do with Country X, the Latin American nation where Mr. and Mrs. A. had served for a number of years.

At the designated address downtown, behind an unmarked door, Mr. A. was ushered into the office of a man who said he was from the CIA.

"As you know, there's an American corporation in your community (in Country X) and we're very concerned about what's happening down there," the CIA agent began.

The CIA agent, Mr. A. recalled, "had a folder in front of him with my name on it, and it was quite full. He also assured me he was a member of my denomination and casually mentioned the names of former associates of mine—ministers here in the States."

Mr. A. said he refused to inform on the people in Country X who had been his parishioners.

A few weeks later, the family moved to another city. One evening, a woman who said she was a CIA agent called on Mr. and Mrs. A. seeking information about Country X. She, too, was rebuffed.

John Marks believes that such CIA practices could be "stopped in a week" if U.S. church leaders strongly spoke out against it.

Rev. Dr. Eugene Stockwell, overseas mission head of the National Council of Churches, disagrees.

"I don't think the CIA will be that responsive to any statement we make," he said.

Father Curry has raised the question of "legislation to prohibit the CIA from operating in a covert way . . . so that any contact they make must be made public."

In the long run, however, he believes that the "education" of missionaries might be more effective.

"It's important to know what the CIA is doing, to be more knowledgeable about what they are up to" so missionaries can be more discreet, he said.

In the past, the CIA has funded church programs and individuals viewed as furthering U.S. policy.

One example is the Rev. Roger Vekemans, a Belgian sociologist sent by the Jesuit General, worldwide head of the order, to Chile in 1957 to help stop the advancing Marxist tide of Allende.

Father Vekemans developed a network of cultural and social agencies aimed at strengthening the Christian Democratic Party and destroying the effectiveness of the Marxists.

By 1963, Vekemans' Center for the Economic and Social Development of Latin America controlled allocations of $25 million a year, he told an interviewer.

Of that amount, $5 million came from the International Development Foundation, an agency revealed in 1967 to be wholly subsidized by the CIA.

Father Vekemans' operation is detailed in a David E. Mutchler's "The Church as a Political Factor in Latin America."

Although the book was published in 1971, an account of the CIA funding of the Jesuit was largely ignored until the recent flurry of interest in the CIA.

Thomas Quigley, Latin America expert for the U.S. Catholic Conference, believes that the days of such practices are over.

"I don't think that kind of large funding is around anymore," he said.

Despite their reluctance to talk about their encounters with the CIA, religious leaders are keeping a careful watch on probes into the agency.

In October, after President Ford defended covert CIA activities in Chile, angry representatives of 16 Catholic and Protestant mission agencies sent him an open letter.

Calling his defense of the CIA "immoral," they charged that "CIA covert actions in the Third World frequently support undemocratic governments which trample on the rights of their own people. . . ."

"Gangster methods undermine world order and promote widespread hatred of the United States," they said.

Though the ad hoc coalition of Protestant and Catholic mission groups, Father Curry said he expected to "keep a collective eye" on the situation and to remain alert for abuses "now that we have a new consciousness of the problem, now that we know what the CIA is up to."

[From the Washington Star, Aug. 13, 1975]

Church-State Relations Do Not Need CIA Meddling

(By Garry Wills)

American missionaries are often accused of being cat's paws for their government, and with good reason. Our 19th Century missionaries in China laid the way for Pacific empire, as Mark Twain pointed out so eloquently. Missionary efforts in Latin America depended on local missions that were often in cahoots with right-wing regimes, which were in turn propped up by our government.

Yet many missionaries of all faiths have labored to overcome the natural suspicion that greets them. The greatest missionary of our time, Mother Theresa of Calcutta, is not an American; but I have known Americans like her, those who think the best way to preach a gospel of love for the poor is to embody that love in unquestionable ways.

There can be no better charity than money given to such men and women. It goes 100 per cent for the poor. I know a non-political priest in Honduras who, if you send him $50, will himself put up a home for a poor family, laboring on it with the members of the family. (Address supplied on request.)

When men and women give up so much of their lives to break down the suspicion that they are being used by the American government, it is despicable for the CIA to undermine that effort. Yet secret funding of missionary efforts has led to this result. Chile was a special target for covert funds in the '60s, according to a 1970 book by David Mutchler.

Our ambassador in Bolivia cancelled a talk to Maryknoll missionaries because they asked him not to appear with an American thought to be a CIA agent—an example of the pressure put on missionaries to endorse American attitudes.

Stories of efforts to recruit missionaries, or use them, or make them dependent on CIA funds, have been uncovered by John Marks, the co-author of "The CIA and the Cult of Intelligence." Phillip Agee, in his new book, tells how the CIA used Catholic priests in Ecuador. In the wake of other CIA revelations, priests and ministers are beginning to wonder at things they did not understand before, or volunteering things they discovered in the past but found no one interested in.

The *National Catholic Reporter* is collecting evidence of this meddling, and already the moral is clear: The CIA holds nothing sacred, including the sacred. It has to meddle in everything. While court decisions and public debate were drawing up elaborate rules of separation between church and state here in America—so that tax funds cannot go to religious schools, for instance—the CIA was giving our tax money directly to churches, priests, nuns, ministers and religious schools for non-Americans. It is just part of that absurd mentality that has put the CIA outside the law at home and abroad. What we need, right now, is not so much a wall of separation between church and state but a wall between us and the CIA, to protect us from its imperial meddling.

[From Time magazine, Aug. 11, 1975]

Cope-and-Dagger Stories

Businessmen, students, journalists, even Mafiosi have all, it seems, been used by the CIA for its various overseas operations. Has the CIA also extended its reach to the church? Many missionaries, particularly in Latin America, have regularly, and falsely, been accused of having CIA ties. Last week religious periodicals around the U.S. were carrying new allegations that certain churchmen had either given information to the CIA or received money from it for propagana purposes. Most of the charges came from two articles, distributed by the National Catholic News Service, written by an inveterate CIA foe, John D. Marks, author with Victor Marchetti of *The CIA and the Cult of Intelligence* (Time, April 22, 1974).

Marks interviewed more than 30 church and CIA sources, most of whom insisted upon anonymity and made veiled accusations. A typical charge was that during the '60s CIA funds had been channeled into a Catholic-run anti-Communist radio network in Colombia. Another allegation: 15 years years ago, a Protestant missionary in Bolivia, "as a patriotic duty and not for pay," gave reports to the CIA about the Communist Party, labor unions and farmers' cooperatives. At least one nun in Colombia, an ex-agent says, meticulously compiled an account of the political affiliation of each family in a village; it went to the CIA. According to Marks' report, another ex-agent claimed that a Roman Catholic bishop in South Viet Nam was "on the CIA's payroll" as recently as 1971. A knowledgeable Vatican source, informed of this charge, stoutly maintained that no bishop would ever knowingly take CIA money, even for good purposes, much less be "on the payroll."

Boasted of Money. Marks provided the most detail about a Belgian Jesuit priest named Roger Vekemans, who arrived in Chile in 1957 and founded a network of social-action organizations, one of which grew to have 100 employees and a $30-million-a-year budget. In 1963, Marks reported, Vekemans boasted to Father James Vizzard, now Washington lobbyist for the United Farm Workers, of getting money from the CIA. After a meeting with President Kennedy and CIA Director John McCone, Vekemans had dinner with Vizzard in Washington and said with a grin: "I got $10 million—$5 million overt and $5 million covert." The first half was from the Agency for International Development, he explained, and the second half was from the CIA, largely to help Eduardo Frei beat Marxists Salvador Allende in the next presidential election. Vekemans, who has now shifted his base of operations to Bogotá, refused to give his version of the tale last week.

Whatever is later substantiated about Marks' cope-and-dagger stories, Time's sources report that the CIA as a matter of policy only rarely tries to make any contact in the field with U.S. missionaries. Over the years, as it did with certain other travelers, the agency interviewed a number of returning missionaries about conditions in the countries they had left. Several Protestant and Catholic mission boards are now discussing whether to direct their people to have no contact at all with the CIA—a policy that the pacifist Chuch of the Brethren established last October.

[From the Chicago Tribune, Aug. 2, 1975]

Spy Role of Missionaries Told

(By James Robison)

He spoke matter-of-factly. But what he said had far more impact than the way he said it. It revealed a pattern of alleged Central Intelligence Agency entanglement with the church.

"It just seemed that when I made these phone calls I kept turning up missionaries who had CIA involvements or knew someone who did," John Marks, coauthor of "The CIA and the Cult of Intelligence," said in a telephone interview with The Tribune.

Marks, who worked five years as an analyst for the State Department's Intelligence Bureau, said that 30 to 40 per cent of his calls produced a missionary who had a story of CIA-church connections overseas or knew someone who did.

"There must be a lot of it [CIA-church connections] because I didn't even look very hard," Marks said, noting that his sampling was completely unscientific and involved about 30 missionaries.

Marks, however, had other stories culled from his knowledge of the intelligence community. But he refused to name names, something that got him into a tussle with the courts in the publication of the book that he wrote last year with Victor Marchetti, a 14-year CIA veteran.

He told The Tribune about:

A Catholic bishop in Viet Nam who was on the CIA payroll until at least 1971.

A Protestant missionary to Bolivia who filed CIA reports naming people he suspected of being Communists.

A missionary in India who supplied data to the CIA but then stopped when he realized "how foolish" it was.

Another Protestant missionary in Bolivia who kept tabs on the Communist Party, labor unions, the farmers' cooperatives on behalf of the CIA.

Marks' allegations follow recent reports that Belgian Jesuit Roger Vekemans received $10 million in CIA and Agency for International Development funds from the Kennedy administration in 1963 to counter the growing Leftist sentiment in Chile.

Marks said it was a common attitude among members of the intelligence community to use anyone, regardless of his position, to secure information or further CIA goals.

"Hell, I'd use anybody if it was to the furtherance of any objective," one intelligence officer was quoted by Marks. "I've used Buddhist monks, Catholic priests, and even a Catholic bishop."

But being unwittingly used by the CIA may have been a more common occurrence for missionaries, Marks said. He spoke of several examples where money was supplied by the CIA thru various front organizations:

A grant of $5,000 from the Asian Free Labor Institute for educational programs aimed at trade unions was to be funnelled to a priest in India until he discovered the money was from the CIA. He turned down the grant.

A "Msgr. Salcedo" regularly accepted money for a church-run radio program aimed at combating illiteracy but also broadcasting anti-Communist propaganda.

Another CIA-funded illiteracy program in Colombia used nuns who unwittingly collected data for the CIA as part of their field work.

But how reliable are Marks' allegations?

"The specific allegations that Marks makes are pretty credible," said Thomas Quigley, a Latin American expert with tne United States Catholic Conference.

"I frankly don't believe that the CIA finds information from missionaries very important," said the Rev. Eugene Stockwell, head of the National Council of Churches' Overseas Ministries.

The Rev. Paul McCleary, director of the National Council's Church World Service, questioned the "relevance [of Marks' charges] at this moment in history. What he says may have been the case in the past. But is it happening today? We ought to take his statements seriously, either to prove them or disprove them."

The Rev. Charles Curry, a Maryknoll missionary to Chile until September, 1973, said Marks' allegations are probably exceptions rather than the rule in the relations between the CIA and the church.

"The willing cooperation of missionaries has been almost nil," he said, noting, however, that the use of unwitting missionaries was probably more widespread.

But what disturbs Father Curry more is the reported involvement of the CIA with foreign governments trying to thwart missionaries.

He said he had sent what purported to be a copy of "The Bolivian Government's Plan of Action Against the Church" to the Senate Select Committee on Intelligence which is investigating the CIA.

Father Curry pointed out "Paragraph Four," and questioned if the paragraph was the tip of the iceberg of CIA involvement in the harassment of missioneries felt to be working against U.S. interests in Latin America.

The paragraph read: "The CIA, thru Freddy Vargas and Alfredo Arce, has decided to get directly into this project. The CIA promised to provide full information on certain priests, especially those from the U.S.A. In 48 hours, they compiled for the Minister of Interior complete files on certain priests, personal data, studies, friends, addresses, writings, contacts abroad, etc."

Father Curry said he found it contradictory that the U.S. presence in foreign countries was supposedly to protect U.S. citizens but, if the Bolivian document was reliable, the CIA was out to help damage U.S. citizens.

"On the one hand," he said, "there was someone protecting you. On the other hand, there was someone out to undermine you."

[From the Chicago Tribune, Aug. 2, 1975]

CHURCHES SEEK END TO THE CIA CONNECTION

Even before John Marks' revelations about Central Intelligence Agency-church connections, there was growing concern within the religious community about ties between the CIA and missionary personnel.

"This is one of the most serious threats to missionary outreach in my entire experience," the Rev. William Wipfler, head of the Latin American Working Group of the National Council of Churches, said in an interview with Gary MacEoin published by Christian Century magazine.

"Every United States missionary is now automatically suspect," he said. The groundwork has been laid for wholesale expulsions of missionaries or at least strict controls on their entry and activities, as occurred in China, India, Ceylon, and eleswhere in Asia and Africa after World War II."

Can anything be done to shore up the discredited missionary effort in the wake of the disclosures about CIA-church connections?

Marks has suggested the churches prevail upon President Ford to issue an executive order outlawing CIA contact with overseas church personnel.

"The President could end it in 10 minutes with an executive order," Marks said. "Or else, someone could attach a rider on a bill [in Congress] making it illegal for the CIA to use church people."

Marks said the CIA already has an internal policy against using Peace Corps personnel or Fulbright Scholars.

"The church should be given as much deference," he said.

"The missionary groups themselves need to do something," Thomas Quigley, the Latin American expert with the U.S. Catholic Conference, said. An ecumenical effort to get to the bottom of the alleged CIA involvement would be one step, he said.

"It behooves them [the mission groups] to make it very explicit that they reject such involvement," he said.

Quigley suggested mission groups might draw up a "code of ethics" for mission activity "describing what is undesirable behavior."

The Rev. W. Sterling Cary of Hilsdale, president of the National Council of Churches, said "Obviously, we don't approve the CIA approaching missionaries or using missionary support."

However, he questioned the need for a government inquiry into CIA-church connections or the need for specific legislation enjoining the intelligence agency from contacting missionaries.

"Those who are acting in behalf of the church do not need the government to maintain their integrity," the Rev. Mr. Sterling said. "I can assure you that if at any point, as president of the National Council, I received documentation that our people were collaborators with the CIA, there would be an immediate investigation of our own."

The Rev. Eugene Stockwell, head of the National council's overseas ministries, said the allegation of CIA contracts with mission personnel have been discussed by his executive committee.

"There was the feeling that we ought to find out more about it," he said. "But we didn't want to put out a statement that would even imply that missionaries were giving information to the CIA in large numbers."

Meanwhile, Americans United for Separation of Church and State, an interdenominational group based in Washington, has already appealed to President Ford for government safeguards in the wake of reports about CIA religious entanglements.

"The United States government is barred by the Constitution from funding operations of religious institutions or entangling itself in their affairs," the group stated in a letter to the president. "We respectively urge that you and the Congress erect safeguards to prevent future use of public funds for such purposes."

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m., with statements therein limited to 3 minutes.

ORDER FOR RECOGNITION OF SENATOR TAFT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the conference report on the situs picketing bill is called up, the distinguished Senator from Ohio (Mr. TAFT) be allocated a period of time of from 15 minutes to not to exceed 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committee.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILLS

A message from the President of the United States announced that he has approved and signed the following bills:

S. 267. An act to designate the Flat Tops Wilderness, Routt and White River National Forests, in the State of Colorado; and

S. 1245. An act to amend section 218 of title 23, United States Code.

MESSAGE FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has rejected the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The message also announced that the House recedes from its disagreement to amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, and concurs therein with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:40 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

H.R. 8674. An act to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a U.S. Metric Board to coordinate the voluntary conversion to the metric system.

H.J. Res. 733. Joint resolution making further continuing appropriations for the fiscal year 1976, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

At 5:30 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate Nos. 28 through 36, inclusive, 37 through 42, inclusive, 46, 47, 48, 49, 52, 54, 65, 76, 77, and 82 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate Nos. 5, 6, 44, and 59 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGOVERN, from the Committee on Agriculture and Forestry, without amendment:

H.R. 7862. An act to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts (Rept. No. 94–554).

By Mr. BARTLETT, from the Committee on Interior and Insular Affairs, with amendments, and an amendment to the title:

S. 1823. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes (Rept. No. 94–555).

By Mr. EASTLAND, from the Committee on the Judiciary:

S. Res. 330. An original resolution authorizing supplemental expenditures by the Committee on the Judiciary for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, without amendment:

S. 2089. A bill to authorize modifications to the Dickinson Dam, Dickinson Unit, Pick-Sloan Missouri Basin program, North Dakota, and for other purposes (Rept. No. 94–556).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, without amendment:

S. 2260. A bill to establish improved programs for the benefit of producers and consumers of rice (Rept. No. 94–557).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, with an amendment:

S. 700. A bill to amend the Agricultural Adjustment Act of 1938, as amended (Rept. No. 94–558).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 2090. A bill to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953 (Rept. No. 94–560).

By Mr. NUNN, from the Committee on Armed Services, with an amendment, and with an amendment to the title:

S. 2117. A bill to amend sections 5202 and 5232 of title 10, United States Code, relating to the appointment to the grades of general and lieutenant general of the Marine Corps officers designated for appropriate higher commands or for performance of duties of great importance and responsibility (Rept. No. 94–561).

By Mr. NUNN, from the Committee on Armed Services, with amendments:

S. 2115. A bill to amend chapter 39 of title 10, United States Code, to enable the President to authorize the involuntary order to active duty of selected reservists, for a limited period, whether or not a declaration of war or national emergency has been declared (Rept. No. 94–562) (together with minority views).

ADMINISTRATIVE PRACTICE AND PROCEDURE—REPORT NO. 94–559

Mr. KENNEDY, from the Committee on the Judiciary, submitted a report entitled "Administrative Practice and Procedure," prepared by the Subcommittee on Administrative Practice and pursuant to Senate Resolution 255, 93d Congress, 2d session, which was ordered to be printed.

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT OF 1975—H.R. 5247—CONFERENCE REPORT—REPORT NO. 94–563

Mr. RANDOLPH submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATFIELD:

S. 2784. A bill to amend the Central Intelligence Agency Act of 1949 to prohibit expenditures for intelligence-gathering by clergymen, and for other purposes. Referred jointly, to the Committee on Armed Services and the Committee on Government Operations, by unanimous consent.

By Mr. DOLE:

S. 2785. A bill to amend the Emergency Petroleum Allocation Extension Act of 1975. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUGH SCOTT:

S. 2786. A bill for the relief of Kim Yon Jin; and

S. 2787. A bill for the relief of Ana Young. Referred to the Committee on the Judiciary.

By Mr. CHILES:

S. 2788. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts received by members of certain firefighting and rescue units. Referred to the Committee on Finance.

By Mr. TAFT:

S. 2789. A bill to amend title 38, United

States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to veterans; to revise the criteria for approval of nonaccredited courses; and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. MOSS:

S. 2790. A bill to strengthen the penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

By Mr. ROTH:

S. 2791. A bill to require approval by the Director of the Office of Management and Budget of the use of new or revised forms by the Internal Revenue Service. Referred to the Committee on Finance.

By Mr. EASTLAND:

S.J. Res. 151. A joint resolution to authorize and request the President to issue a proclamation designating July 2, 1976, as an official holiday. Referred to the Committee on the Judiciary.

By Mr. CLARK:

S.J. Res. 152. A joint resolution prohibiting the use of funds for certain intelligence activities in, to, for, or on behalf of Angola. Referred to the Committee on Foreign Relations.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 2784. A bill to amend the Central Intelligence Agency Act of 1949 to prohibit expenditures for intelligence-gathering by clergymen, and for other purposes. Referred, jointly, to the Committee on Armed Services and the Committee on Government Operations, by unanimous consent.

(The remarks of Mr. HATFIELD when he introduced the above bill appear earlier in today's RECORD.)

By Mr. DOLE:

S. 2785. A bill to amend the Emergency Petroleum Allocation Extension Act of 1975. Referred to the Committee on Interior and Insular Affairs.

EXTENSION OF EPPA

Mr. DOLE. Mr. President, today I am introducing a bill to extend until March 15, 1977, the Emergency Petroleum Allocation Act which contains the authority for the existing price and allocation control program on the oil industry.

The primary purpose of this bill is to show that there is a better approach than that contained in the conference report on S. 622, the Energy Policy Act. The purpose in introducing this bill is to show that S. 622 is not a step forward. On the contrary, it is a step backwards. It is even worse than the existing price control program.

The purpose in introducing this bill is not to say that a simple extension is the best possible approach to achieve energy independence. It is simply to say that this simple extension is better than the legislation that is now in its final stages.

The second purpose of this legislation is to provide a rallying point for those members of the Senate who recognize that the energy policy bill is contrary to the national interests. This is particularly important in view of continued silence from the White House as to whether the President will sign or veto the Energy Policy Act.

The prevailing argument in favor of the President signing S. 622 into law seems to be based on the argument that it is the best compromise energy policy that can be obtained from the Congress. It is my strong feeling that such an argument is wrong.

The introduction of this bill is intended to provide other Senators the opportunity to recognize that there is a better approach to our national energy policy. One approach—and not necessarily the best approach—is a simple extension of the existing program.

BETTER FOR NATIONAL INTEREST

There has been almost universal acceptance in this country that it is in our best national interest to obtain self-sufficiency in our own energy production, and thereby reduce our dependence on foreign produced oil. With nearly 40 percent of our total petroleum consumption coming from foreign sources, it is obvious that we have a long way to go.

The existing program of price controls does not move us toward energy independence as quickly as other programs might. However, it does maintain market prices for new stripper and high-cost recovery crude oil. This market-oriented aspect of the existing program has led to some important and striking results. In my own State of Kansas, for example, the oil industry reached a production peak in 1956. Oil production there has been declining in the 20 years since. This year in the first 10 months of 1975, that trend has been reversed. For the first time in all those years, we have had a reversal of the decline and an acutal increase in production.

That increased production could not and certainly would not have occurred without the tremendous market incentive that exists under the present system of controls.

The Energy Policy Act, S. 622, would go the opposite direction. It would establish price controls on new, stripper, and high-cost crude oil for the first time. The market incentive that has existed in these categories of production would be reduced.

The reduction of incentives would in turn reduce our domestic energy production.

If the crude price rollback is enacted and if there is any reduction in retail gasoline prices, then there would be a further increase in our petroleum consumption in this country. Greater consumption of petroleum here means a need to increase imports of foreign-produced oil. It would further increase our dependence on foreign oil production.

In short, S. 622, the energy policy bill, would strengthen the hand of the oil-exporting countries to further increase their prices and to force us to follow their dictates. A simple extension of the existing program does not reduce our dependence as quickly as I would like, but still it is far better than the policy contained in S. 622.

NO DELUSION OF CONSUMERS

An extension of the existing program does not attempt to give consumers the illusion that there is an easy or inexpensive way to achieve energy independence.

In my opinion, the supporters of the oil price rollback contained in S. 622 are attempting to convince the public that their bill will make it easier on consumers. In the long run, it clearly will not, since it will increase our dependence on foreign-produced oil, as I have already discussed. Even in the short term, the Energy Policy Act may not make things any easier for consumers.

As I understand, a 2.5 cents per gallon decrease in retail gasoline prices is expected to accompany the oil price rollback in the Energy Policy Act. However, the reduction in retail prices may in face be nowhere near 2.5 cents per gallon and may not even occur at all. This is because several factors have not been taken into consideration in calculating the 2.5 cents decrease. For example, there are the "banked costs" of refineries which are costs that refiners have simply saved and have not passed on through to consumers. There is also the problem that all cost increases resulting from the most recent price increase of the petroleum exporting countries have not been passed through in the retail price of gasoline. Third, there have been increases in the cost of transportation and other overhead expenses that would tend to offset the price rollback. Finally, as I understand, it was assumed that the average price of crude oil for the purpose of calculating the $2.5 cents retail price decrease is $8.75 per barrel. In actuality, the cost of crude oil on an average may not be that high, so that any rollback in crude oil prices would result in a retail price decrease of less than 2.5 cents.

So, all these factors tend to offset the predicted 2.5 cents per gallon retail price decline. In the end, consumers would not only find themselves more dependent on foreign oil, but would possibly also receive the nasty shock of not even receiving a small price decrease when they buy.

A continuation of the existing program makes no pretense of any kind of rollback or decrease in retail prices. It simply recognizes the fact that we are heavily dependent on foreign-produced oil and that if we are ever to achieve independence from the whims of those producers, we must greatly expand our own petroleum and energy production in this country.

Mr. President, there are numerous other things wrong with the Energy Policy Act which I have not mentioned. My discussion has been concerned only with the primary difficulty with this legislation. This is not to say that there are also some good provisions in S. 622. It is my hope that we might reenact those advantageous provisions at a later date.

But the primary purpose is to call attention to the fact that enactment of the Energy Policy Act would be a step backward from what we already have now. It is my hope that others in the Senate will recognize this fact and vote 622.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Emergency Petroleum Allocation Extension Act of 1975".

EXTENSION OF MANDATORY ALLOCATION PROGRAM

SEC. 2(a). Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "December 15, 1975," wherever it appears and inserting in lieu thereof "March 15, 1977,".

(b). The amendment made by this section should be effective as of December 15, 1975.

By Mr. TAFT:

S. 2789. A bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to veterans; to revise the criteria for approval of nonaccredited courses; and for other purposes. Referred to the Committee on Veterans' Affairs.

Mr. TAFT. Mr. President, 2 years ago I cosponsored S. 2789 designed to remove structural inequities from the GI bill and insure that all veterans could have the help they need and to which they are rightfully entitled.

GI bill increases enacted last year provided vitally needed subsistence increases for veterans who were already enrolled in education and training programs. Those increases opened the doors to a few more who could not previously handle the cost.

But for all Congress has done for Vietnam veterans, it has not eliminated the inequities which still plague the millions of veterans who are unable to use the GI bill at all.

Educationally disadvantaged veterans, veterans in States with high cost schools, the 5 million veterans with families to support, veterans who are unsuited or unqualified for a 4-year college program—these young men are still denied the help they need and deserve.

Our responsibility to the Vietnam veteran is not fulfilled. Certainly we cannot say our commitment is ended if we simply help veterans who are already in school, while denying help to veterans who cannot get into school because tuition costs are too high.

We cannot say our obligation is paid if we restrict the effective use of the program to 4-year undergraduate schools, when the Nation so badly needs trade and technical specialists trained in 2-year programs and community colleges.

One of our concerns must be the 600,000 unemployed Vietnam veterans who could and should be training for productive and self-sufficient careers under a fully effective GI bill.

It is to repay the debt we owe the veteran of the Vietnam conflict, and to strengthen the Nation's future and aid its economic recovery that I am introducing accelerated entitlement legislation. An identical bill is already cosponsored by a majority of the House Veterans' Affairs Subcommittee on Education and Training and by 60 Members of the House.

Accelerated entitlement would enable a veteran in a full time program of instruction to receive a greater monthly subsistence allowance while reducing his total entitlement at a proportional rate. Accerleration is not a new spending program, it is a more effective utilization of an existing entitlement.

At a time of national economic crisis; the Vietnam-era GI bill has the same potential for economic recovery as did the World War II GI bill. The World War II GI bill deferred the impact of 17 million veterans on the labor force. It enabled veterans to phase into the labor force gradually with the educational, vocational, trade, technical, and professional skills required for secure, productive and rewarding careers. The career opportunities accorded by the World War II GI bill more than repaid the Government's initial investment in increased tax revenues.

Vietnam-era veterans denied effective readjustment assistance by the current GI bill are the most needy and those most affected by unemployment and the current economic situation. Because the GI bill denies them access to effective readjustment assistance, the Government must spend massive sums for unemployment compensation, public service employment, and welfare for unemployed and under-employed veterans. These expenditures are nonproductive and contribute very little to the veterans' readjustment and his preparation for a meaningful and productive role in society. These expenditures also contribute little to the Nation's economy recovery, while diverting billions that could be more effectively devoted to other critical social programs.

Acceleration of entitlement offers not only the opportunity for all Vietnam-era veterans to effectively use their existing GI bill entitlement, but also offers a cost effective, socially rewarding economic recovery program. Acceleration would make possible a 2-year trade, technical, vocational, or professional education for every veteran. Veterans with previous college education could complete their educations at private institutions or attend graduate programs. Acceleration would enable almost every veteran regardless of dependency status who is qualified to attend three school years—24 months—at almost every public school in America.

The scientific and technical revolution is creating millions of new career opportunities. The demand for veterans with technical skills is growing twice as fast as the demand for veterans with college degrees. The economic crisis has cost many veterans their jobs. The veterans hardest hit are the married "blue collar" veterans who never had an opportunity to use their GI bill benefits because of their family responsibilities and because the GI bill did not provide them effective access to the skills and training they needed.

Accelerated entitlement would enable veterans to enter training programs and acquire the skills necessary for meaningful, productive and secure careers, while easing the competition for the existing few jobs. Veterans could develop a cooperative program with their employers, whereby they could acquire a year or two of intensive specialized training under accelerated entitlement, and then return to their employer assured of a secure and rewarding career in that field.

Under the current GI bill a single veteran receives per year $2,430; little more than the average yearly tuition at a private trade or technical institution. Accelerated entitlement would not limit any veterans choice of education and training to a 2-year technical or vocational program, but would rather insure every veteran who sought a technical or vocational education a realistic opportunity to pursue it.

It is invalid to presuppose that every veteran desiring a college degree requires 4 school years of education. Over 20 percent of all Vietnam-era veterans have a year or more of college at the time of their discharge from the service. Accelerated entitlement would enable almost every qualified veteran to attend 3 school years at a public college or university.

The education at a private college or university that was available to all World War II veterans is out of reach for Vietnam-era veterans who must depend upon today's GI bill for their financial and educational support. The World War II GI bill paid for an education at Harvard and Yale. In 1948, 60 percent of the student bodies at our most prestigious universities were veterans. Today's GI bill amount to little more than half the tuition charged by Harvard and Yale. Vietnam veterans represent less than 2 percent of the student bodies at prestigious colleges and universities. Acceleration would enable many veterans who were drafted while in school to complete their education at a private institution.

The Veterans' Administration expressed some reservations about potential abuses of the accelerated entitlement program. Serious consideration was given to the VA's concerns and extensive safeguards were written into the accelerated entitlement program. The accelerated entitlement legislation requires that a veteran must be able to attain a recognized and predetermined educational, vocational, professional or technical objective within the time period benefits are accelerated. The legislation stipulates that benefits cannot be accelerated beyond twice the amount a veteran is normally entitled to receive. The bill contains safeguard provisions designed to preclude abuses of the program by unscrupulous nonaccredited institutions.

The accelerated entitlement legislation also provides comprehensive counseling and effective career guidance. The counseling would assist veterans in selecting occupational and training objectives in terms of personal needs, circumstances, characteristics, financial resources, dependent responsibilities, and other relevant factors. Counselors would assist veterans in selecting training institutions and developing educational, vocational, technical, or professional programs for accelerated entitlement.

Recognizing Presidential constraints upon new spending programs and the economic consequences of inflationary spending, careful consideration was given to the cost and the economic impact of accelerated entitlement in developing the program and drafting the legislation. Accelerated entitlement is not a new spending program. Accelerated entitlement removes the structural impediments and inequities from an existing program; greatly enhancing the GI bill's ability to provide the most needy veterans effective readjustment assistance, while providing the Nation a cost effective, socially rewarding economic recovery program.

An earlier OMB cost estimate on an accelerated entitlement provision containing none of the safeguards and income restrictions included in this bill was $564 million. This I believe was based on questionable assumptions about the purpose and effect of accelerated entitlement, and was an overestimate of cost.

Applying VA and OMB cost calculation criteria to the accelerated entitlement legislation I have introduced, realistic figures would be $200 million for fiscal 1976 and a 5-year cost of possibly 550 million dollars in the VA budget. It should be emphasized that accelerated entitlement adds nothing new to the benefits a veteran is already entitled to; it only gives him effective and equitable access to them.

In addition, accelerated entitlement would substantially reduce Federal expenditures in unemployment compensation, welfare, and public service jobs for the 600,000 unemployed veterans. Therefore, the cost incurred by the VA budget for the productive accelerated entitlement program would be paid for in part by reductions in the budget costs of other departments and agencies.

Finally, Mr. President, I would note that the following distinguished organizations support accelerated entitlement: The American Legion, the Veterans of Foreign Wars, the National Association of Concerned Veterans, the Jewish War Veterans, the American Council on Education, American Association of Community and Junior Colleges, Great Lakes Colleges Association, Association of American Universities, the U.S. Department of Labor, and the AFL–CIO.

I ask unanimous consent that this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1663 of title 38, United States Code, is amended to read as follows:

"§ 1663. Educational and vocational counseling

"(a) The Administrator may arrange for educational and vocational counseling for veterans eligible for educational assistance under this chapter. At such intervals as he deems necessary, he shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent he deems practicable.

"(b) Counseling provided under this section may include, but shall not be limited to assisting any veteran—

"(1) to select the occupation or training objective suitable to him in terms of his personal circumstances, characteristics, financial resources, dependent responsibilities, and other relevant factors;

"(2) to select the occupation or training objective which will provide him, after he has developed the required job skills, with reasonable opportunities for employment and with job satisfaction;

"(3) to select the educational institution that will effectively assist him in attaining his educational or vocational objective;

"(4) to develop a program of education that will lead to a recognized and predetermined educational, vocational, technical, or professional objective within the veteran's period of entitlement; and

"(5) by providing to him such other services, assistance, or readjustment counseling as the Administrator deems necessary or appropriate for his effective readjustment."

Sec. 2. Chapter 34 of title 38, United States Code, is amended by inserting immediately after section 1682 thereof following new section:

"§ 1682A. Acceleration of educational assistance allowance payments.

"(a) Notwithstanding any other provision of this chapter or chapter 36 of this title, a veteran pursuing a full-time program of institutional training under the provisions of this chapter may apply to the Administrator to have his monthly educational assistance allowance accelerated and have his entitlement charged proportionally.

"(b) The application of a veteran for acceleration shall include the following information:

"(1) The income of the veteran (including that of his or her spouse) less any Federal, State and local income taxes paid or payable for the academic year (or other comparable period of enrollment) in which the veteran is enrolled.

"(2) The amount of cash assets of the veteran.

"(3) The amount of financial assistance received by the veteran under the provisions of title IV of the Higher Education Act of 1965, as amended.

"(4) The amount of educational assistance available to the veteran under this title (including loan assistance under subchapter III of chapter 36 of this title).

"(5) The amount of any other scholarship, fellowship, grant or loan funds available to the veteran.

"(6) The amount of tuition and other educational expenses expected to be paid by the veteran for the academic year (or other comparable period of enrollment) in which enrolled.

"(7) The amount of living expenses (including expenses for dependents) expected to be incurred by the veteran for the academic year (or other comparable period of enrollment) in which enrolled.

"(c) Approval of the application shall be granted only if the veteran demonstrates need for the additional assistance allowance (based upon the information to be submitted pursuant to the provisions of subsection (b) of this section) and the veteran will attain his predetermined and identified educational, professional or vocational objective within his entitlement period. In no event shall the monthly assistance allowance payable to the veteran under section 1682(a)(1) of this title be increased by more than twice the amount he would otherwise be entitled to receive under that section."

Sec. 3. Subsections (b) and (c) of section 1776 of title 38, United States Code, are amended to read as follows:

"(b) Such application shall be accompanied by not less than two copies of the current catalog, bulletin or public statement which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

"(1) Identifying data, such as volume number and date of publication.

"(2) Names of the institution and its governing body, officials, and faculty.

"(3) Names and titles of associated or previous institutions or corporate affiliations, governing body, officials, and faculty, that have been cited for or involved in illegal, unethical, deceptive or misleading practices or for violation of one or more provisions of this title.

"(4) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates.

"(5) Institution policy and regulations on enrollment with respect to enrollment dates.

"(6) Institution policy, regulations and specific entrance requirements for each program of education offered by such institution including all testing, counseling and admissions procedures, policies and standards designed to determine an eligible veteran's educational, financial, intellectual, and physical aptitudes and abilities to successfully complete a course of instruction and attain and maintain employment in the specific predetermined and identified educational, vocational, or professional field that is the objective of such program of education.

"(7) Institution policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.

"(8) Institution policy and regulations relative to standards of progress required of the student by the institution (including defining of the grading system of the institution, the minimum grades considered satisfactory, conditions for interruptions for unsatisfactory grades or progress), a description of the probationary period, if any, allowed by the institutions, conditions for reentrance for those students dismissed for unsatisfactory progress, and a statement regarding progress records kept by the institution and furnished the student.

"(9) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

"(10) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, approximate time and clock hours to be spent on each subject or unit, and a statement of recognition or acceptance by any prominent institutions, associations, agencies, and employers associated with the type of work or skill to be learned.

"(11) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.

"(12) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom.

"(13) A detailed and accurate description of the available space, facilities, and equipment.

"(14) Policy and regulations of the institution relative to granting credit for previous educational training, to include policy, regulations, and procedures for evaluation, certification, or recognition of military training, education, skills, and experience.

"(15) Accurate and detailed completion rates for courses, and placement rates for graduates in the specific skill or work they were trained for.

"(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

"(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and private schools in the State, with recognized accepted standards.

"(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

"(3) Educational and experience qualifications of directors, administrators, and instructors are adequate and in compliance with all applicable Federal and State laws and regulations.

"(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training (including recognition and evaluation of relevant military training and experience) with the training period shortened proportionately and the eligible person and the Administrator so notified.

"(5) A copy of the course outline, schedule of tuition, fees and all other charges, regulations pertaining to absence, grading policy, rules of conduct and operation, and policy and regulations of the institution relative to refund of unused portion of tuition, fees, and other charges in the event that the veteran does not enter the course or withdraws or is discontinued therefrom, and provision for a full explanation and disclosure of all financial, legal or contractual obligations an eligible veteran would entail to be furnished the eligible veteran prior to entering into any legal or contractual or financial agreement with the educational institution or its representatives.

"(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

"(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards of progress and conduct are enforced.

"(8) The institution is financially sound and capable of fulfilling its commitments for training.

"(9) The institution complies with all local, city, county, municipal, State and Federal regulations, such as fire codes, buildings and sanitation codes (with evidence of compliance to be supplied as is deemed necessary).

"(10) The institution does not utilize advertising, promotions, or sales techniques of any type which are erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency has ascertained from the Federal Trade Commission whether (i) the Commission has issued an order to the institution to cease and desist from any such act or practice; (ii) if such an order has been issued, due weight has been given to that fact; and (iii) the Commission has given due weight to significant complaints or criticisms about the institution's advertising, promotions or sales techniques.

"(11) All advertising, promotion and sales techniques, claims and personnel employed by or representing the institution are in compliance with all applicable State and Federal licensing regulations and laws.

"(12) The institution does not exceed its enrollment limitations as established by the State approving agency.

"(13) The institution's administrators, directors, owners, and instructors are of good reputation and character.

"(14) The institution has and maintains a policy for the refund of the unused portion of tuition and fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that for tuition, fees, and other charges for a the amount charged to the eligible person portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges (including any enrollment or registration fee or charge in excess of $40) that the length of the completed portion of the course bears to its total length.

"(15) All claims and statistics by the institution with regard to completion and placement rates for a specific course of instruction leading to employment in the specific skill or type of work learned shall not be false, erroneous or misleading, either by actual statement, omission, or intimation, and the appropriate State approving agency shall require such evidence of compliance as is deemed necessary.

"(16) Such other criteria as may be deemed necessary by the State approving agency."

SEC. 4. The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by inserting immediately after

"1682. Computation of educational assistance allowances."

the following:

"1682A. Acceleration of educational assistance allowance payments.".

By Mr. MOSS:

S. 2790. A bill to strengthen the penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

Mr. MOSS. Mr. President, one of the most alarming crises which we face in this Nation today is the dramatic increase in violent crimes being perpetrated upon our citizenry. We have enacted volumes of legislation in our never ending attempt to curtail the increase in crime. While some of this legislation has been effective to a degree it still has not deterred the criminal from committing his acts nor has it caused a decrease in the use of firearms during the commission of crimes, making them violent crimes. Most of us recognize the need to eliminate the use of firearms by criminals. Many of my colleagues firmly believe that the only way to eliminate the use of firearms by criminals is to limit manufacture and accessibility of those firearms.

Mr. President, I have not subscribed to that position and I do not support it. Such legislation will not eliminate the use of firearms by criminals. There are already too many firearms which are privately owned to be able to effectively control anything but the sale of new firearms. Controlling the sale will have little or no impact upon the accessibility to firearms by the criminal; he need only obtain one already available to avoid registration. Firearms last a long time, so those that are presently available will continue to be so for at least another 50 years. In addition, there are many States which do not believe that there is a need to patrol the sale of guns within their jurisdiction, and those States ought to have the opportunity to determine the license and registration requirements which should apply to their own residents.

There is, however, Mr. President, an alternative to the requirements of license and registration, an alternative which will effectively deter the use of firearms by the criminal during the commission of a crime. That is to make certain that anyone using a firearm in the commission of a crime will automatically receive additional incarceration for such use. The legislation which I am introducing will serve to provide an additional penalty of not less than 5 nor more than 10 years for anyone who uses a firearm during the commission of a crime. It further provides that anyone who is convicted of using a firearm a second time will receive an additional sentence of not less than 10 nor more than 25 years. This legislation also provides that anyone using a firearm in the commission of a crime shall not be entitled to a suspended sentence nor probation for the period of the additional sentence.

Mr. President, with the enactment of this legislation, anyone considering commission of a crime will certainly think twice about automatically having to serve an additional sentence of 5 to 25 years because he used a firearm in the commission of his crime. No other legislation will be effective to reduce the use of firearms by criminals during the commission of a crime.

Mr. President, I urge the earliest consideration and passage of this bill for the benefit and protection of the citizens of this great Nation.

By Mr. ROTH:

S. 2791. A bill to require approval by the Director of the Office of Management and Budget of the use of new or revised forms by the Internal Revenue Service. Referred to the Committee on Finance.

ESTABLISHING OVERSIGHT WITH RESPECT TO IRS FORMS: A STEP TOWARD LESSENING THE PAPERWORK BURDEN

Mr. ROTH Mr. President, in my frequent meetings with groups of small businessmen in my home State of Delaware, the subject of Government redtape and paperwork is invariably high on the list of their problems. Indeed, the myriad number of Government forms to be filed, records to be maintained, and survey questionnaires to be answered are having a cumulative impact that is overwhelming for many of the small business men of America.

Decisive remedial action by the Congress in this problem is long overdue. I am encouraged that a Federal Paperwork Commission has been established with a broad mandate to investigate and develop some meaningful proposals for reform.

However, the Commission's work has only just begun and will not be completed for approximately 2 years. In the interim, we should move forward to take whatever steps are now feasible to begin turning back this paperwork tide.

The Federal agency which imposes by far the largest amount of paperwork requirements is the Internal Revenue Service. We recently heard testimony from the Office of Management and Budget, at joint hearings of two Government Operations Subcommittees, concerning this overall problem. I was impressed with the OMB estimate that "the Internal Revenue Service alone generates more than half the Federal Government's information requirements." This certainly is borne out by my contacts with Delaware businessmen: IRS, along with OSHA, appears to be the most troublesome source of paperwork requirements. Yet, IRS is one of the few Federal agencies that are exempt from the provisions of the Federal Reports Act. The act requires, in part, that Federal forms and information requests intended for 10 or more persons must be reviewed and cleared by the Office of Management and Budget. Thus, unlike other agencies, IRS tax forms are not subject to review by the OMB or any other agency outside the IRS itself.

The exemption was written into the law when the Federal Reports Act was originally enacted in 1942. The committee report at that time gave essentially two reasons for the exemption: First, the public's confidence in the confidentiality of their tax returns might be disturbed; and, second, few complaints had been received from businessmen in connection with IRS forms. Neither of these objections appears to be valid today. The confidentiality argument relates to another provision of the act which authorizes sharing of information among Federal agencies.

With respect to the second reason, there is clear evidence that businessmen are having problems with both the number and complexity of IRS forms.

Congress, in its wisdom, perceived the potential for Government-generated red tape when it enacted this law more than 30 years ago. There is no longer any justification for exempting the Internal Revenue Service from the single statutory provision we now have for paperwork oversight in the Federal Government. I am, therefore, introducing legislation today that would remove the IRS exemption from the forms clearance requirements of the Federal Reports Act. The exemption from the act's other provisions, such as exchanging information with other agencies, would remain intact.

I want to stress that this proposal should not be interpreted as an overwhelming vote of confidence in the OMB's performance in this area, to date. I and other members of the Government Operations Committee have made it clear to the OMB that we expect a far tougher exercise of their oversight responsibilities and we have been assured by the present leadership of OMB that they intend to vigorously carry out that authority.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7805(c) of the Internal Revenue Code of 1954 (relating to preparation and distribution of regulations, forms, etc.) is amended by adding at the end thereof the following new sentence: "No form prepared or revised after July 1, 1976, may be distributed unless it has been approved by the Director of the Office of Management and Budget.".

SEC. 2. (a) Section 3507 of title 44, United States Code, is amended by inserting after "Treasury Department" in the second paragraph the following: "(except that the provisions of section 3509 shall apply to the Internal Revenue Service)".

(b) The amendment made by subsection (a) shall take effect on July 1, 1976.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 123

At the request of Mr. INOUYE, the Senator from South Carolina (Mr. THURMOND), the Senator from Washington (Mr. MAGNUSON), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 123, a bill to amend the Social Security Act.

S. 872

At the request of Mr. HATFIELD, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 872, to provide that certain State conservation publications shall qualify for second-class mail rates.

S. 2535

At the request of Mr. EAGLETON, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 2535, a bill to provide for a program of distribution of inexpensive books to schoolchildren.

S. 2635

At the request of Mr. HARTKE, the Senator from Texas (Mr. BENTSEN) and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of the bill (S. 2635) to amend title 38, United States Code, to modify the pension program for veterans of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and their survivors, and for other purposes.

S. 2677

At the request of Mr. BIDEN, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 2677, the Regulatory Agency Responsibility Act.

S. 2742

At the request of Mr. EAGLETON, the Senator from Delaware (Mr. BIDEN) and the Senator from Rhode Island (Mr. PASTORE) were added as cosponsors of S. 2742, a bill to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas.

SENATE RESOLUTION 319

At the request of Mr. CURTIS, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of Senate Resolution 319, relating to the occupation of certain Baltic nations by the Soviet Union.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. CURTIS, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Concurrent Resolution 77, relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws.

SENATE JOINT RESOLUTION 150

At the request of Mr. HELMS, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of Senate Joint Resolution 150, to establish the 4th of July as Independence Day.

SENATE RESOLUTION 329—SUBMISSION OF A RESOLUTION RELATING TO REIMBURSEMENT OF COSTS OF AIR TRAVEL ACCOMMODATIONS

(Referred to the Committee on Rules and Administration.)

Mr. HASKELL submitted the following resolution:

S. RES. 329

Resolved, That it is the purpose of this resolution to prohibit Members of the Senate, their employees, and employees of standing committees and select committees of the Senate from being paid or reimbursed for the difference between the cost of first-class accommodations with respect to air travel and the cost of other air travel accommodations, except for reasons described in Section 2, and to make possible a reduction in the amount of funds necessary to defray travel expenses of such Senators and employees as a result of such prohibition.

SEC. 2. Until otherwise provided by law, a Senator, an employee of any such Senator, or an employee of any standing committee or select committee of the Senate, may not be paid or reimbursed for the difference between the cost of any first-class accommodation with respect to air travel, and the cost of any other accommodation with respect to air travel, unless—

(1) no other accommodations are available;

(2) first-class accommodation is necessary because of the health of the Senator or employee involved;

(3) in the case of foreign travel, only first-class accommodation meets satisfactory standards of sanitation, health, or comfort; or

(4) the cost of first-class accommodation provided by the air carrier involved does not exceed the cost of other accommodations provided by other air carriers.

SEC. 3. The Committee on Rules and Administration shall prescribe rules to carry out the provisions of this resolution.

Mr. HASKELL. Mr. President, today I am submitting a resolution which may require some to give up an item of comfort, but one which will curb unnecessary congressional expense. The legislation is very simple; it prohibits Senators and Senate employees when traveling on official business from being reimbursed for first-class air fare. The resolution does provide for exceptions in the event that other accommodations are not available or the health of the individual requires that they travel first class.

One of the greatest concerns of Coloradans, as well as many Americans across the country, is excessive Government spending. Reduction of our massive Federal deficit and control of Federal expenditures is vital to our economic health. Mr. President, there is an old adage that "charity begins at home;" I would like to add that savings should also begin at home. First-class air fare is a luxury that Members of Congress and their staffs should not indulge in at taxpayers' expense.

The legislation that I am introducing today will bring the Senate under the same rules that are presently in force under General Services Administration regulations. Should the individuals desire first class, they would have to pay the difference between first class and coach.

When this legislation is enacted into

law we will not only save taxpayers money, but will demonstrate a public example far more significant than dollar figures.

SENATE RESOLUTION 330—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution:

S. Res. 330

Resolved, That Senate Resolution 72, 94th Congress, agreed to July 26 (legislative day, July 21) 1975, is amended as follows:

(1) In section 2, strike out "$4,057,700" and insert "$4,069,700".

(2) In section 11, strike out "$283,300" and insert "$295,300".

AMENDMENTS SUBMITTED FOR PRINTING

SUSPENSION OF DUTIES ON CERTAIN SILK—H.R. 7727

AMENDMENTS NOS. 1265 THROUGH 1270

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted six amendments intended to be proposed by him to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

AMENDMENTS NOS. 1278 AND 1279

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted two amendments intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENT NO. 1280

(Ordered to be printed and to lie on the table.)

Mr. CHURCH (for himself, Mr. Ribicoff, Mr. Kennedy, and Mr. Williams) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7727), supra.

AMENDMENT NO. 1281

(Ordered to be printed and to lie on the table.)

Mr. CHURCH (for himself, Mr. Ribicoff, Mr. Huddleston, and Mr. Williams) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7727), supra.

AMENDMENT NO. 1288

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to the bill (H.R. 7727), supra.

INCREASED LOANS FOR MOBILE HOMES

AMENDMENT NO. 1271

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to the bill (H.R. 9852) to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes, and for other purposes.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT—H.R. 8617

AMENDMENTS NOS. 1272 THROUGH 1277

(Ordered to be printed and to lie on the table.)

Mr. FONG submitted six amendments intended to be proposed by him to the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

SOCIAL SECURITY UNIFORM REVIEW PROCEDURES—H.R. 10727

AMENDMENT NO. 1282

(Ordered to be printed and to lie on the table.)

Mr. PELL (for himself, Mr. Schweiker, and Mr. Kennedy) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles.

HIGHER EDUCATION ACT AMENDMENTS OF 1975—S. 1196

AMENDMENTS NOS. 1283 AND 1284

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. HUMPHREY submitted two amendments intended to be proposed by him to the bill (S. 1196) to amend the Higher Education Act of 1965 to establish a student internship program to offer students practical involvement with elected officials on local and State levels of government and with Members of Congress.

PHASEOUT OF GOVERNMENTAL INDEMNITY—S. 2568

AMENDMENT NO. 1285

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill (S. 2568) to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes.

AMENDMENT NO. 1286

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 2568), supra.

PREVAILING FEES OF MEDICARE—H.R. 10284

AMENDMENT NO. 1287

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. Stone, Mr. Ribicoff, Mr. Philip A. Hart, and Mr. Pell) submitted an amendment intended to be proposed by them to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

PHASEOUT OF GOVERNMENTAL INDEMNITY—H.R. 8631

AMENDMENTS NOS. 1289 AND 2290

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY submitted two amendments intended to be proposed by him to the bill (H.R. 8631) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1237

At the request of Mr. McIntyre, the Senator from Maine (Mr. Hathaway), the Senator from South Dakota (Mr. Abourezk), and the Senator from Nevada (Mr. Cannon) were added as cosponsors of amendment No. 1237, the Solar Energy Equipment Tax Credit Amendment of 1975, intended to be proposed to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns and silk.

AMENDMENT NO. 1253

At the request of Mr. Brooke, the Senator from Oregon (Mr. Packwood) was added as a cosponsor of amendment No. 1253, intended to be proposed to the bill (H.R. 7727), supra.

ADDITIONAL STATEMENT

MAKING A PROFIT—VICE OR VIRTUE?

Mr. HELMS. Mr. President, a great British statesman once remarked that—

> It is a socialist idea that making profits is a vice. I consider the real vice is making losses.

The words are those of the late Sir Winston Churchill, who fought unsuccessfully to save Britain from the drudgery of socialism. At a time in our national history when the business community is maligned by self-appointed interest groups, and blanketed by Government edicts which stifle the economy, these words have an ominous and timely ring.

They are echoed by Mr. Baine P. Kerr,

general counsel and chairman of the executive committee of the Pennzoil Co. In an address on Government-industry relations, delivered before the joint meeting of the Commercial Development Association on September 29, 1975, Mr. Kerr rightly warns that the survival of our free enterprise system depends in large part upon a change of the present relationship between government and business.

Mr. President, I would like to share Mr. Kerr's eloquent and incisive address with my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

GOVERNMENT/INDUSTRY RELATIONS

(By Baine P. Kerr)

We are reminded rather incessantly these days that our republic will have been in existence next year for two hundred years. By many standards, this is a rather insignificant period of time. Nevertheless, in comparison to the brief life of the great Athenian Republic which served as the principal inspiration for our own, it is indeed an impressive span.

Since democracies are so fragile and so subject to abuse, a long look at where we began, where we have come, and most importantly, where we are going, could be a most valuable exercise.

There are many unusual aspects of this country's history. One of the most significant of these is the unique way in which a new land was settled by wave after wave of emigrant peoples of diverse origins who created a great cohesive nation. I can think of no true parallel on such a grand scale.

It is interesting to consider what brought all of these peoples to these shores, and what unifying forces they shared in common. In the broadest sense, there appear to be two basic factors of such overwhelming importance as to cause ordinary and extraordinary people alike to uproot themselves from their homes, families and friends and come to a distant and unknown land.

First of all, there was the hope that in this new land there would be the opportunity to improve one's condition in life, or at least that of one's descendants. Whether the emigrant was the second or third son of landed English gentry or an ordinary workman or peasant, there was the aspiration to be something more and to live a better life. It may not be popular today in some circles to aspire to material benefits. But our forebears certainly did. They were willing to suffer the severest of hardships and to take the gravest of risks to achieve a better life, in a material as well as in an aesthetic or spiritual sense.

The other factor of overriding importance in most cases was the fundamental desire to escape an oppressive society or government. For Puritans and Catholics alike; for Quakers and Presbyterians; for the victims of Russian pogroms and Nazi concentration camps; for Hungarians, Cubans and Vietnamese, this country has represented a refuge from oppressive and destructive governments throughout its history. The founders of this country were well aware of the evils and dangers of governmental oppression. The most striking thing about the Declaration of Independence and the Constitution are their explicit concern for the rights of individuals vis-a-vis their own government. In no other governmental charter had these rights been more clearly defined. In no other form of government had such safeguards been established as those which provided for a clear separation of powers, an express statement of individual rights and an independent judiciary to define and enforce such rights. Even the mother country, Great Britain, and its other North American descendant, Canada, do not provide such explicit constitutional safeguards. And, to its credit, the independent judiciary has ably discharged its duty to ensure that individual rights are not eroded or ignored by an all powerful government.

THREAT TO LIBERTY

This country was founded on the principle that governmental functions should be limited to the absolute minimum and with full recognition that the government itself is the single greatest threat to individual liberty and happiness. It has long been recognized in this country that governmental purposes or objectives may appear to be beneficial or as we now say "in the public interest" but that they can nevertheless endanger our most important and fundamental liberties. As Justice Brandeis pointed out "experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

Considering this long history of unswerving devotion to individual rights and a high degree of skepticism as to governmental powers, it is difficult to understand what has been occurring in this country over the past decade and where we seem to be heading. The expansion of governmental functions has proceeded at an astounding pace over this recent period with no signs of abatement. This expansion has been marked by a curious paradox—the ambivalence of political activists nominally called "Liberals". This group can be credited with successfully advocating policies diluting governmental authority with respect to individuals. Regrettably, there has been little encouragement or development of that essential ingredient of a democratic society, individual responsibility. The result is the social disorder with which we are all familiar.

When these activists have turned their attention to the economic order, however, their purpose has been to strengthen the role of the government vis-a-vis the private economic unit. Again, one must conclude that they have achieved their purpose. Private business, private enterprise, private initiatives have been subjected to governmental controls at a truly dizzying pace. Over the last five years governmental spending in the United States averaged more than 22% of the gross national product.* No other major western country's rate exceeded 20% and Japan's was below 9%. In the '50s the U.S. led all the world by a huge margin in gross national product per capita. Now, however, we stand in 7th place.

PRODUCTIVE CAPACITY DIMINISHED

It is no accident that as governmental activities have increased the relative productive capacity of this country has diminshed. We are told, furthermore, that we are now entering upon a new era of less and less rather than more and more, and that we must be satisfied with a lower standard of living and less opportunity for advancement. Is it not time for thoughtful citizens to ponder the unhappy thought that to the extent that our system is distorted in the direction of government-controlled economies, the resulting deterioration parallels the experience of socialist states? And is it not time to give consideration to whether we wish to be led further in the direction of such intense governmental domination of our economic system?

Kevin Phillips theorizes that, as capital accumulation becomes increasingly difficult in a mature, highly-industrialized society, we are seeing the rise of a new knowledge/communications / education / bureaucracy power complex. Once in authority, this group finds how easy it is to control votes and maintain job security by subsidizing consumption. The economic impact of these new influences is to shift resources and expenditures away from business and national defense to welfare—bureaucratic—education—research projects. It is contended that the surge of these expenditures and the transition to a service economy have been major ingredients in soaring taxation and inflation.

Whatever the cause, however, we do know that the governmental sector of our economy has been growing at the expense of the private sector, and that private enterprise has become increasingly subject to governmental supervision and control. Governmental enterprise, financed by deficit spending, is ranging far and wide while private enterprise, constrained by the necessity of financing its operations out of profits and limited by governmental fiat, is under constant attack for failure to accomplish more.

WHAT SHOULD BUSINESS EXPECT?

Assuming that at this stage of our national history we do not intend to consign our economic system to the ideological tinkering of what is, we hope, an activist minority, we can properly inquire, what should business expect of its government? In what ways can government and business conduct their respective affairs for the common good? I would like to suggest a few changes in attitude or approach which I believe would be for the benefit of us all.

First of all, those in government and in business alike should understand how our free market system operates and take pride in it. They should support that system as the only system which allocates people and resources by individual free will and choice rather than by an autocratic central authority. They should be mindful that we cannot maintain a free society in an ordered economy. They should endeavor to make that system work effectively and not to subvert it for individual gain or to hobble it with unnecessary burdens and restrictions.

Let me be specific. For some years now we have had governmental controls over petroleum prices and, for a somewhat lesser period, controls over many other aspects of the petroleum business. Since the Phillips Decision in 1954, we have had federal control over the well-head price of natural gas. While free market forces have not been permitted to operate with respect to domestic gas and oil, competing energy sources, foreign and domestic, have not been subject to price control. The domestic coal and nuclear energy industries have, however, been subject to other forms of severe governmental restraints.

What do we have to show for these governmental interventions into a free market economy? First of all, we have found it irresistibly attractive to squander our once plentiful supplies of irreplaceable natural gas. Because we had no free inter-fuel competition, because the price of gas was governmentally imposed at a level far below its minimum value as a source of heat, domestic coal and domestic oil were shouldered aside in the mad rush for the bargain counter. We heedlessly used up the cheap, readily available supplies of natural gas and let our coal and oil resources languish.

Since we established governmentally all energy values at the lowest common denominator, the controlled price of natural gas, we had no incentive or practical ability to develop alternative, but more expensive, energy sources.

DAMAGE RESOURCE BASE

At the same time regional political considerations and, sad to say, private gain for some individuals and companies, dictated the virtually unlimited importation of what were then cheap foreign petroleum products without any regard to the damaging consequences to our domestic energy resource base.

---

* This percentage increased to 33% in 1974, according to a recent study by Arthur Andersen & Co., and, were it properly accounted for, probably exceeded 40%.

In a fool's paradise of both artificially cheap natural gas and temporarily cheap foreign oil we stepped up our profligate use of energy. We built our cities, our cars and our industries upon the implicit assumption that there would always be plenty of fuel and its cost would always be trifling. Having been slow to perceive our mistakes, we have been even slower and more foolish in doing anything about them.

It is clear, I think, that no matter what course we had pursued we would have had at some point to face up to higher fuel costs and to the need to develop non-fossil sources of energy. These adjustments, however, would have been far easier and less painful if we had avoided special interest and politically-motivated governmental intervention. We might still not have all the natural gas we would like to have, but higher prices would have maintained our level of production and at the same time reduced discretionary consumption. Coal production would have increased, as would have nuclear generation of electricity. An effective oil imports program would have kept domestic crude oil production at an optimum level.

In spite of the obvious ill effects of governmental intervention in the oil and gas industry, however, we hear nothing but continued demands for more government price controls, and more governmental allocation of raw materials, supplies and customers. Our political leaders seem deathly afraid of letting our economic system function in its normal way. And yet any impartial observer knows that the free market economy over any period of time does a far better job of allocating resources and people than any governmental hierarchy.

In addition to understanding and believing in our traditional free market economy, we must recognize the direct relationship between laws and governmental policies and an economic and political climate conducive to the growth and development of our economy.

POWER TO DESTROY

The tax laws, for example, can encourage and facilitate the formation of capital necessary for industrial expansion, or they may make business expansion impossible. Our first Chief Justice, John Marshall, told us long ago that the power to tax is the power to destroy. Nevertheless, even though it is generally conceded that industry must make unprecedented capital investments over the coming years, there are many who believe the oil industry, and business generally, should be heavily taxed to finance new projects for the poor and the unemployed. We may well ask where America would be today, how many more poor and unemployed there would be, if such a punitive tax policy had in past years prevented basic capital formation.

There are some who feel that the government should appropriate billions to create public jobs for the unemployed. Others feel that we cannot do without a whole variety of costly social or welfare or experimental educational programs. All of these new programs, and there seems to be no end to them, are to be piled on top of our already enormous social welfare budget. All will require deficit financing. None will add to this country's productive capacity in any lasting or meaningful way. In most cases the new program fails to solve the basic problems to which it is addressed.

It is difficult to imagine the forefathers settling for such a permanent welfare culture. Surely they would have recognized that just as it is possible for the government to engage in direct political tyranny, it can engage in economic oppression, and as well, bureaucratic authoritarianism over citizens made overly dependent on governmental welfare—in short, free citizens who have lost their freedom from the government because of governmental policies.

Our system was designed by a free and confident people. It has worked and will work. But we have unwisely allowed the role of the government to be expended beyond the extent of its capability.

We need real progress, real solutions. We need to encourage production and not stagnation. We need jobs—real jobs, permanent jobs. We need social justice, too, but we cannot buy it with governmental make-work and handouts. We need laws to protect the rights of all our citizens, and a healthy economy to make those rights meaningful.

GREAT SURGE OF BUSINESS

If we were to set out on a program to restore our domestic energy resources base in the quickest possible time, a program which would unshackle the oil, coal and related industries to do the job they are capable of doing, we would not only solve a lot of our energy problems but many other problems as well. A great surge of productive business activity would reach every segment of our economy and every element of our society. We would see real employment gains, and the opportunity for lasting social progress in the traditional American pattern.

I recently saw the observation of a well-known economist to the effect that we should not be so worried about deficit spending—after all, businesses incur long-term indebtedness to finance their needs, so why shouldn't the government do the same thing? The parallel is not a persuasive one. Businesses must pay back their indebtedness or cease their operations. Businesses do not borrow money to finance projects unless it seems reasonably sure that these capital expenditures will increase production or efficiency, or both. Unfortunately, the great bulk of governmental spending is not related to the development of the economy except in a most tangential manner, and little thought is given to the ultimate repayment of the debt.

I would say that the United States is already heavy on debt. Frequent and massive incursions into the money markets by governmental bodies tend to crowd out private borrowers and drive up interest rates. We have mortgaged our nation's future rather heavily already, and serious thought should be given to creating some discipline, some control, over governmental spending.

I happen to live in a state whose constitution requires that every appropriation must be accompanied by a certification of the state's chief financial officer that there will be adequate government revenues to meet the expenditures. When a legislative body cannot vote for expenditures without at the same time enacting the necessary revenue measures to foot the bill, clear choices must be made. Some approach to such a system at the federal level seems long overdue if we are to avoid financial debacles such as those faced by Italy, The United Kingdom and New York City.

If business is to thrive, if our economy is to be healthy and productive, and if we are to move ahead in making possible a better life for all our citizens, it is essential that we adopt governmental policies that create a favorable climate for business development. Those in government should not be embarrassed about considering openly and most carefully the effect of any proposed governmental action upon business. We must have more concern for the producers of goods and services, and not merely assume that no matter what burdens of restrictions are imposed the horn of plenty will always be full.

CHANGE IN ATTITUDE

A third change that would be most constructive would be a change in attitude of people in government and in business toward one another. Instead of mutual distrust, there must be mutual respect and better understanding.

The entire Watergate episode, following on the heels of the most unpopular war in this country's history, has had profound effects. On the positive side, it has demonstrated that our constitutional form of government can and will handle a crisis in government of awesome proportions. It also showed us some of the dangers of an overly powerful central government.

On the negative side, it created doubts and mistrust of all in a position of authority, including both industry and government. Because some apparently unwarranted charges turned out to be all too true, many people today are suspicious of all leaders, and are all too willing to believe the worst of everyone.

Not since the McCarthy days have we seen such a heyday for innuendo, half truths and character assassination.

Ambitious demagogues in public life, in partnership with self-appointed "public interest" representatives, have inundated the American public with sensational accusations, primarily against business, which are in most cases either wholly false or a gross distortion of the truth. These accusations extend also to the regulatory agencies and others involved in the administration of government. The only safe thing for someone in government is to take the hard line against business, even if there is no sound basis for the action taken.

Business has not reacted effectively to this concerted attack. Fragmented and embarassed by revelations of improper or at least questionable uses of corporate funds at home and abroad by a number of major corporations, business has ducked for cover in the hope of riding out the storm.

Responsible governmental employees are often subjected to harassment and vilification by committee or subcommittee chairmen on the hill, as well as to leaks by dissident staff members.

OBJECT OF THIS GAME

The real object of this game is publicity, coverage, public name identity, whatever one wishes to call it. This is the stuff of which political careers are made. In the case of the self-appointed "public interest" figures, this is the stuff of which a captive law practice or other means of livelihood is created. And the press, of course, contributes by its selection of the "news" it chooses to feature, and the irresponsible way in which these stories are often written. It is no wonder that governmental employees who are subject to these pressures are unable to function effectively and responsibly.

The ugliest feature of all this, however, is the vitriol, the invective and the appeal to mob passion. The power of government is truly awesome. When it is turned against an individual or a private business, it is difficult indeed to take the heat. No matter how strongly one may feel that his actions or that of the company he represents are perfectly right and proper, the sanctions that can be governmentally imposed, including criminal sanctions, are such as to crumble even the stoutest resolve.

I used to wonder why it was that the defendants in the Moscow show trials invariably admitted to the most egregious crimes. When I read "Gulag Archipelago", it became much clearer, however. We are not quite there yet, but the way in which executives of the major oil companies have been commanded to appear before some of the senate and congressional committees, not in many instances to provide information or a better understanding, but to be subjected to abuse and unjustified charges, gives one the uneasy feeling that our particular brand of intimidation is not so different after all.

I happen to believe, based on a number of years experience, that the general level of honesty and integrity among both business and governmental employees and executives is quite high. In both cases I have found an equal dedication to this country's ideals, and a genuine desire to advance the public welfare. Any exceptions to this rule are just that and form no basis for destroying our whole economic and governmental system.

Let us dedicate ourselves to cooling the rhetoric and the invective. Let us make rational decisions based on the facts and not for political gain. Let us make our system work better rather than destroy it. If we do not and have nothing left but a retreat to socialism, we will have turned our back on everything this country was created for those two hundred years ago.

THE LIMITATIONS OF DETENTE

Mr. HARRY F. BYRD, JR. Mr. President, recent events and forthcoming decisions have created a climate favorable for a major reexamination of the global interests of the United States.

Arms control negotiations are under way with the Soviet Union.

The Senate and the House have approved appropriations for the Department of Defense and may soon consider funds for military and economic assistance to other nations.

The dismissal of Secretary Schlesinger has renewed the ongoing debate about détente and all of its ramifications.

And of course all of this is taking place against the background of continuing discussion of our foreign policy in the wake of Vietnam.

I think a full review of our defense posture and relationships with the rest of the world is very much in order. We must conduct this study of our policies and commitments in the perspective of history and with a view to defining more clearly our national purposes.

Moreover, we must debate these issues with full awareness of the restraints imposed by the capacities of the national economy and national will.

Secretary of State Kissinger has from time to time suggested that the Congress interferes unduly with foreign policy, and that this interference undermines the flexibility needed by the executive branch in conducting diplomacy.

Perhaps the Secretary does not have all the flexibility that he would like. So be it: that is part of the American system.

Congress has a role to play in the conduct of foreign relations. To cite only the most obvious points, the Senate must ratify treaties and the Congress as a whole must approve any commitment of funds.

And beyond the strictly legal requirements, there is the important point that in an open society, no foreign policy can be successful which lacks a consensus. Surely recent history has taught us that.

There can be no scheming Metternich, no juggling Talleyrand, in the United States. This country's ability to deter aggressors and to negotiate with firmness depends in no small degree upon our national unity of purpose.

But we cannot impose unity, as totalitarian governments do. Instead, we must arrive at our foreign policy—I speak of policy now, not the mechanics of its execution—through democratic means.

At the outset of the foreign policy debate, let me state my conviction that the United States must not permit disillusion in Southeast Asia to cause a withdrawal from the world. As a great power, America has major responsibilities.

At the same time, bitter experience has taught us that we can be neither a world policeman nor a world Santa Claus.

So we must reject both isolationism and adventurism. A reasonable middle course must be found.

As we seek this middle course, let us look briefly at the world today.

Today the free world is beset by troubles, with weakness and disorder apparent both between nations and within nations.

In Asia, the United States is being called an uncertain friend. South Korea, the Philippines, Taiwan and Japan are questioning our Nation's resolve.

In Europe, the NATO alliance is confronted by one of the most awesome military machines ever created, the Warsaw Pact. At the same time, the cohesiveness of NATO is threatened because of the tragic situation on Cyprus and the tumultuous revolution in Portugal,

In the Middle East, the United States has been instrumental in securing a partial agreement, but the Syrian and Palestinian problems remain grave, and the Christian-Moslem fighting in Lebanon further destabilizes the uneasy situation,

In Latin America, Secretary of State Kissinger has committed the Nation to a treaty terminating U.S. sovereignty over the Panama Canal, despite Congressional opposition which is likely to prevail.

Overtures are being made to Cuba in which our Government appears ready to make unilateral concessions to Castro, thereby rejecting the Monroe Doctrine and accepting Soviet penetration of the Western Hemisphere.

As we look around the world, we see that power without resolve is no power at all.

Because of our country's preeminent military and political position among the nations of the world over the last 30 years the United States assumed many obligations and has had others thrust upon it. For many years, our actions established the credibility of our posture.

Without this credibility—a credibility we see threatened today—we would not only lose the confidence of our allies, but perhaps even more importantly, we would lose the credibility needed to deter any would-be aggressor.

History has taught us only too well that our international commitments have value only insofar as they are perceived to be credible by both our allies and our adversaries.

In the United States, popular dissatisfaction with what seemed to be an endless conflict in Vietnam led to an erosion of the domestic consensus over the conduct of our foreign policy.

The publicity surrounding détente further dimmed popular awareness of existing military and political threats to the United States, and also contributed to an erosion in the western alliance system.

Free nations around the world, confused by the ambiguities of détente, seem weakened in their sense of unity and common purpose.

A major danger of "détente" is that it tends to lull the United States into a false sense of security. Indeed, it tends to mislead the free world.

In an era that is said to reflect "entente, détente, and cooperation" among the globe's major power centers it is, of course, all too easy to misinterpret a potential adversary's intentions, and to allow judgment to become clouded by wishful thinking.

It is not sophisticated today to talk of a Communist threat. Yet, in my judgment, Russia remains committeed to the destruction of the free world, although not necessarily by force.

Moscow has an advantage in this effort. While the United States does not seek to impose its values on others, the Russians have no hesitation about forcing other nations to toe the line.

Although Communists boast of the independence of the nations of Eastern Europe, no one would seriously contend that Moscow does not remain the uncontested gondolier of Warsaw Pact diplomacy.

Lest anyone forget, in 1968, Chairman Brezhnev enunciated the Brezhnev Doctrine when the Soviet Union invaded Czechoslovakia.

The Brezhnev Doctrine, according to the Soviets, gives Moscow the right to intervene at will in the internal affairs of its European satellite countries.

Russia, as I see it, is playing a shrewd game.

The Soviets have come to realize that, in order to reach their goals, they must utilize all the fundamental elements of national power: political power, economic power, and military power.

Over the years, they have cautiously but continuously expanded their control and influence over more of the world. In the process, they have not only increased their elements of national power but have become more skillful in using them.

Their scientific achievements have been great. They lack capital, management, and technological skills, but they recognize these deficiencies and are taking steps to rectify them.

They hold out the hope of détente as a means of obtaining assistance in their technological difficulties, low interest rates, and long-term credits.

Most Americans are, of course, familiar with the United States-Soviet grain deal of 1972.

Not only did we let our products go too cheaply but the U.S. Government also provided what was in effect a $300 million subsidy. And, on top of that, Russia borrowed the money from the U.S. Government to pay for the wheat. In other words, Russia bought our wheat with our money.

Melvin Laird, former counselor to President Nixon, stated flatly:

> The wheat deal was forged to save the Soviets from the results of a disastrous agricultural program.

In addition, our subsidy of their domestic economy made it easier for them to spend for defense—and strengthened the regime which had so mismanaged its farm policy.

Parenthetically, I want to say that the new grain agreement with Russia seems to me an improvement. It promises to end the wild fluctuations in Soviet demand—and there are no subsidies involved, or loan guarantees.

A second agreement with Russia in 1972 was the settlement of its debt to the United States.

At the end of World War II, after writeoffs, the Russian debt was set at $2.6 billion. In 1972, the United States agreed to a settlement for assured repayment of only $48 million, or less than 2 cents on the dollar.

Russia agreed to pay an additional $674 million—but that was contingent upon being granted most-favored-nation tariff treatment and huge loans from the Eximbank. To state it another way, the $674 million would be paid if she could borrow the money from us to pay it.

In addition to the grain deal and the debt settlement, we have permitted a technological drain to the Soviet Union. The Soviets are taking advantage of détente to obtain American computer science, the most advanced in the world.

Intelligence reports indicate that the Soviet MIRV Development was shortened by 3 to 5 years as a result of the Soviets' obtaining our advanced technology.

Furthermore, while the Soviets are building a more solid economic base, they exacerbate economic troubles for the West.

Oil was the first economic weapon to be used against us. There seems little doubt that the Soviets influenced Arab action in establishing the oil embargo and drastically and repeatedly raising the price of oil.

This has hurt the economy of Western nations and aggravated the relationships among nations dependent on Middle East oil.

Détente has, indeed, been a bargain for Russia. The Soviet Union has received tangible benefits. Just what the United States has received is not apparent.

Secretary Kissinger's theory is that détente will draw Russia into a network of commercial and diplomatic relationships which will give the Soviets a vested interest in stability and peace—tame the Russian bear, so to speak.

But history shows many long feuds and wars among nations that were trading partners and had extensive diplomatic relationships.

I favor keeping the lines of communication open to Moscow—just as I favored the opening of a dialog with China. I was the first Senator to applaud former President Nixon's trip to China.

Détente, in theory, namely a relaxing of tensions, is desirable. But what has happened in practice is that Secretary Kissinger has used it in an effort to buy Russian friendship with more and more concessions.

This is not likely to stand the test of time.

Although I feel the Soviets will avoid any action that might lead to general nuclear war, at the same time they will continue to maintain and improve nuclear capability and try to achieve military superiority for political ends.

It is, therefore, essential that the United States never lose sight of the fact that while moods and methods, words and gestures may change in Moscow, the underlying goal of the Communist dictatorship remains constant.

That goal is the world-wide domination of the Communist system. Russian actions in Angola give fresh proof of continuing Soviet expansionism.

If we forget this central fact, we imperil ourselves. Soviet theorists constantly reiterate that no matter what course may be dictated by the opportunities of the moment—and Moscow has changed course often—the ultimate goal remains the same.

Chairman Brezhnev made this clear in June 1972, when he said:

> Détente in no way implies the possibility of relaxing the ideological struggle. On the contrary, we must be prepared for this struggle to be intensified and become an even sharper form of the confrontation between the two systems.

The United States cannot afford to accept a "détente" which paves the way for global domination by the Soviet Union.

A distinguished professor on the faculty at the University of Virginia, Dr. G. Warren Nutter, has pointed out that when Secretary Kissinger was a full-time scholar and author, he repeatedly warned against the illusion that the Russians would abandon their drive for world domination in the name of détente.

Professor Nutter wrote:

> Kissinger the public official could find no more severe a critic of his policy of detenté than Kissinger the scholar, who would say that the search for a no-risk policy is self-defeating, that a so-called no-risk policy incurs the greatest risk of all.

I believe I have more faith in the views of Kissinger the scholar than those of Kissinger the public official.

In 1975, when our allies are questioning America's commitment to them, it is particularly important that we carefully evaluate the entire defense policy of the United States.

Most of us would prefer a world order based on justice rather than on might. But such an order, unfortunately, has not yet come.

Indeed, the only way we have to build a peace that is effective and lasting is to maintain a strong defense and to bargain realistically.

The implications of these facts for the current SALT negotiations are important to note.

If we are to attain nuclear stability, then we must insist upon strategic equality. We must maintain an adequate strategic defense as a vital element of our own national security and for the security of the free world.

I had reservations about the SALT–I agreement, which gave the Soviet Union a strategic edge.

For this reason I joined in sponsorship of an amendment to the SALT–I agreement, calling on United States negotiators to insist on equality with Russia in future agreements.

As negotiations proceed toward a second arms control accord, it is my hope that our representatives will above all resist the temptation to seek an agreement for the sake of an agreement.

I agree with my colleague, Senator JACKSON, that it is time to put the Soviets to the test.

Let us urge an accord under which both the United States and Russia pledge reductions in strategic weapons below existing levels. That is the direction in which I think we should move.

While negotiations are in progress, we must maintain a strong defense. The Soviets have only contempt for weakness.

As we consider our expenditures for defense, we should keep in mind that defense costs are not the major reason for the vast expansion of the Federal budget which has taken place in recent years.

The national defense budget is large. It rose by 58 percent from 1965 to 1975 and is still increasing. Two-thirds of that budget goes for personnel and related costs.

But during the same period, appropriations for the Department of Health, Education, and Welfare increased fivefold—and HEW expenditures are growing rapidly all the time.

Another important point is that while we must have a nuclear force sufficient to deter nuclear war, we also must have a conventional capability second to none.

We need both—nuclear and conventional—because without the latter a future President will lack a conventional option. We must have an alternative to holocaust.

For if, in this nuclear age, thermonuclear force is to remain the last and not the only resort, traditional diplomatic and military forces are more important than ever before, and conventional forces must be ready to indicate the seriousness of a nation's intentions.

The United States must be capable of establishing political goals in which the question of national survival is not always the immediate issue.

This requires responsible and enlightened leadership, and it requires a public aware of the realities of a nuclear age.

Peace can only be preserved if we have the capacity to deal with crises before they lead to general war.

We cannot, therefore, allow our wishes to overcome our judgment.

A strong United States, in my judgment, is essential to world peace and stability.

World peace, and stability, in turn, are highly important to our own prosperity and freedom.

And so as we frame a foreign policy for the future, let us set aside the illusions of détente and build up a solid foundation of strength and realistic bargaining.

No other course can insure our survival and our liberty.

SUPPORT FOR S. 2451, THE PROPOSED FOOD STAMP REFORM ACT OF 1975

Mr. CASE. Mr. President, the increased cost of Government is naturally a concern to all of us who pay taxes. And it is easy to focus on visible programs with known abuses, and demand that they be cut back or even eliminated. I am speaking patricularly of our food stamp program.

There have been a number of press reports in recent months concerning alleged abuses of the food stamp program, some of which were later shown to be false. One advertisement claimed that a family with a net income of $16,000 could be eligible for food stamps, that even executives could qualify for the program. If that were true, I would be incensed, too. Nonetheless, there have been abuses, and they should be eliminated.

The Senate Agriculture Committee now has before it a number of proposals to make substantial changes in the food stamp program. I am a cosponsor of the bill introduced by Senators Dole and McGovern, S. 2451, because I believe it best meets the objectives of providing food assistance to those who need it most, while reducing the cost of the food stamp program by cutting its administrative cost and the possibilities for error.

The bill would establish a mandatory standard deduction of $125 to replace the existing complicated maze of deductions in arriving at net income. The present system has resulted in some households participating in the program when, in fact, they should not have been certified.

The legislation would eliminate the so-called purchase requirements, resulting in tremendous savings in administrative costs, possibly as much as $100 million annually. An eligible family would receive food stamps only in the amount of the present bonus and would not be required to purchase stamps in order to receive the bonus.

Elimination of the purchase requirement should also help to decrease the black market in food stamps. A substantial reduction in the number of food stamps in circulation will decrease the opportunities for chicanery.

In addition, this bill would prohibit participation in the food stamp program by students who are listed as dependents on tax returns by parents who are not themselves eligible for food stamps.

Under existing law, welfare recipients are automatically eligible to purchase food stamps. This has resulted in discriminatory treatment of welfare and nonwelfare food stamp recipients in some States where people are receiving food stamps at income levels which would disqualify them for food stamps if they were not receiving public assistance funds. Income and resources should be treated the same in all the States. This legislation would drop the automatic eligibility of welfare recipients, with an estimated savings of some $120 million annually.

Unfortunately, other proposals before the Senate Agriculture Committee, while also substantially reducing costs, would drastically lower the eligibility standards to eliminate many people from the program. In my view this would be inhumane because it would hit the elderly the hardest.

I hope that the Senate Agriculture Committee will look with favor on the approach taken in S. 2451. We should not deny those living on the verge of poverty the opportunity to purchase a nutritionally adequate diet for themselves and their families.

U.S. POSTAL SERVICE

Mr. McGEE. Mr. President, Sunday's Washington Star published a letter by the Postmaster General, Ben Bailar, which I thought was a most succinct and apt description of the purposes—and difficulties—the U.S. Postal Service now faces.

The Postmaster General points out that there is a good bit of confusion about the mission of the Postal Service. This confusion often leads, both in and out of Congress, to vastly oversimplified recommendations about the future of the Service. As the Postmaster General points out, many assume since the reorganization of the Postal Service, that the Service is a business. It is not. Indeed, as the authors of the Postal Reorganization Act, we made very clear that the Service was to remain first and foremost a service to the American people.

There has been far too much simplistic talk about returning all or most of the control of the Service to Congress. The fact is, the Postal Service is undergoing some serious difficulties in trying to pay its own way. Those difficulties are very well put in Postmaster General Bailar's letter. The country and the Congress must come to grips with the problem of whether the Service is going to meet its rising costs and declining revenues through the rate structure or throughout tax base. That is the issue, and Mr. Bailar states it well.

Mr. President, I ask unanimous consent that the Postmaster General's letter to the editor of the Washington Star be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

[From the Washington Star, Dec. 14, 1975]

POSTAL SERVICE IS NOT A BUSINESS

Your Nov. 30 editorial ("Can't we deliver the mail?") misses the mark on the problem of postal finances. You make two inaccurate assumptions:

(1) That the Postal Service is a business, not a public service.

(2) That by returning control of the Postal Service to Congress, the costs of providing mail service will somehow fade away.

You sum up your position by stating that if the postal system is made accountable to Congress, it will become "what it once was and should be again: a government public service, rather than a business."

What the Postal Service once was, it still is—a public service. In reorganizing the nation's postal system in 1970, Congress did not alter its nature as a public agency. The opening words of the Postal Reorganization Act state: "The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the government of the United States . . ." So we are, in every respect, a public agency and, as such, remain accountable to the people we serve.

Our paramount obligation is to provide a vital public service that facilitates the free flow of commerce and ideas. But the law also obliges us to balance our costs and revenues—to pay our own way. Obviously, we have had major problems in achieving this balance, especially in the last two years.

Like virtually every American business, institution and family, the Postal Service has suffered from higher inflation and the wilting effects of recession. Rising costs for labor and fuel—which together comprise 90 percent of the postal budget—have produced much higher costs. Decreased mail volume due to the economic slowdown has held down revenues. And our plight was aggravated by the extended deliberations of the independent Postal Rate Commission, which took almost two years to issue a recommendation on our request for higher rates.

In advocating a return of financial control of the Postal Service to Congress, you are tacitly supporting the myth that services provided by the government are "free."

"The government simply has to provide this (postal service) and pay whatever it costs beyond the revenues derived," you wrote. While this sentiment is appealing in its simplicity, your proposal would solve nothing.

The government does not pay for anything; the public does. The real question is how the public is to pay for mail service; whether through postage rates or through tax dollars for a subsidy. It is a question of whether mail users should pay for the services they receive, or whether the average taxpayer should pick up the tab, regardless of the extent of his or her use of the mails.

The Postal Service has asked Congress to take a closer look at the level of the "public service subsidy" we now receive. We have proposed that Congress determine what the "public services" are that cannot pay themselves, ascertain their true cost, and adjust the public service payment accordingly. We are also seeking legislation to speed up the rate-making process. And to bridge us over our current financial problems, we have also asked for a temporary additional public service payment.

I confess that I am puzzled by your inability to see the wisdom, if not the necessity, of making cost reductions and running the Postal Service more efficiently in light of our financial situation. Cost reduction, after all, is not synonymous with service reduction.

Further, no small post office will be closed unless we can provide alternative service equal to or better than that provided by the existing rural office.

The question of paying for the cost of mail service has been left too long ignored. The Postal Reorganization Act sought to provide the framework for an answer, and until double-digit inflation and recession intervened, our financial situation was fairly sound.

I do not therefore share the Star's view that the time has come for that structure to be dismantled after only four years of testing. The Postal Service remains firmly committed to its legal and historical obligation to the public—to provide efficient mail service at a reasonable price. The steps we have taken in recent weeks to resolve our financial problems will, I believe, help us meet that mandate.

BENJAMIN F. BAILAR,
Postmaster General.

WASHINGTON, D.C.

SENATOR HUMPHREY'S ECONOMIC POLICY LEADERSHIP

Mr. PROXMIRE. Mr. President, the December 15, 1975 issue of Business Week contains an excellent article commenting on the outstanding leadership in the national economic policy area that is being provided to the Nation by Senator Hubert Humphrey in his post as chairman of the Joint Economic Committee.

In this article, Senator Humphrey's initiatives in the areas of full employment, national economic planning, aid to the cities, and reform of the Federal Reserve System, are singled out for special attention. The article also outlines Senator HUMPHREY's views on current economic conditions and the role of national economic policy in improving them.

The article further describes the important influence that the Joint Economic Committee has had on the major economic policy decisions and debates in the last year. It also indicates the very high regard with which the committee and its chairman are held within the Congress, the administration and the Federal Reserve Board.

As a former chairman of the Joint Economic Committee myself, and an active member of that committee who has worked on numerous occasions with Senator HUMPHREY during the past year on important pieces of economic legislation, I would just like to add my support and appreciation for Senator HUMPHREY's vigorous leadership.

Senator HUMPHREY has done a magnificent job with the committee. He has it working night and day. The staff is on its toes. He has been innovative in the services provided to Congress, and he has done stellar work.

I believe that sometimes it is easy for us to overlook the important contributions made by nonlegislative committees of the Congress. I bring the Business Week article to the attention of my colleagues in order to give them a fuller understanding of exactly how important such committees can be, in this case, the Joint Economic Committee.

Mr. President, I ask unanimous consent that the Business Week article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HUBERT HUMPHREY'S SPRINGBOARD FOR '76

"I don't think any man worth a damn can be President of the U.S. unless he understands economics," insists Hubert Humphrey, the man President Ford says will be his opponent next November. "If he doesn't, he isn't going to be able to govern."

Although the Minnesota Democrat claims that he is not actively seeking the Presidency, he has been vigorously using his new post as chairman of the Joint Economic Committee to challenge the Ford Administration's economic policies. And with the economy likely to be the No. 1 issue in the 1976 elections, Humphrey makes it clear that the JEC will be both a forum for public debate on economic issues and a catalyst for major legislative changes in the economic area. "I don't think he planned it that way, but being chairman of the JEC fits well into the noncampaign of a potential candidate," notes Walter Heller, former chairman of the Council of Economic Advisers.

It is also no coincidence that Humphrey intends to try to make ideas developed through the JEC a part of the Democratic platform in 1976. "I intend to take some of these ideas and push for them on the party platform," he says. Adds Representative Richard Bolling (D–Mo.), a ranking member of the JEC: "In the coming year the JEC with Humphrey as chairman will certainly be a policy voice for centrist Democrats."

Between now and the election next November, Humphrey's strategy is to keep himself and the JEC highly visible by moving on three broad and highly controversial fronts:

A review of the Employment Act of 1946—in time for its 30th anniversary next year—to determine what amendments may be needed to enable the government to cope more effectively with the twin problems of high unemployment and high inflation.

A push for comprehensive economic planning and job guarantee programs, which could become the basis for changes in the employment law and more Congressional control over the Federal Reserve Board.

A series of economic studies that range from the role of monetary and fiscal policy to the development of national energy and food programs.

In keeping with traditional liberalism, Humphrey's overriding concern is unemployment. With the jobless rate expected to hover around 8% next year, unemployment will be a key issue in the campaign. He maintains that without new government initiatives unemployment will remain very high for years.

Humphrey wants to toughen the employment law by committing the government to specific unemployment targets of 3% to 4% at a time when many economists feel a more realistic unemployment target should be around 5% ot 6%. He argues that the public, Congress, and even liberal economists have become resigned to unemployment because they have been conditioned from the New Deal through the Great Society to having the government administer "pain killers and pep pills" to treat joblessness. 'There is a limit to the effectiveness of unemployment compensation and of the other economic stabilizers we have built into the economy," he says.

NEW TOOLS

Humphrey does not want to abandon the stabilizers, but he wants the government to become the employer of last resort. The JEC is now working on legislation for Humphrey that would require the White House and the Fed to publicly declare what policies they intend to pursue in support of full employment goals set by Congress. Current drafts by the JEC staff, set the long-term full employment goal at 3% and would require the President to state numerical goals for employment growth and prices each year. And where monetary and fiscal policies fall short of meeting these goals, the legislation would provide for job-creating programs, such as revenue sharing grants, wage subsidies, public works, and public service jobs.

Underlying Humphrey's approach is the belief—shared by many, including such conservatives as Fed Chairman Arthur F. Burns—that traditional monetary and fiscal policies alone no longer work. Humphrey says he is part of the "Heller group," but insists that the liberal economic policies of the Sixties that relied mainly on fiscal policy are inadequate to deal with current problems. "We have never before been confronted by inflation and recession at the same time, and we have to find new government tools for combating both," he says.

In particular, Humphrey believes that macroeconomic policies cannot deal with the types of problems that have plagued the economy, such as shortages in food, energy, and other resources, and bottlenecks in industrial production. As John Stark JEC staff director says: "Macroeconomics has not borne the fruits we expected. We have come full circle from the early Sixties, and we are now looking at more sectoral problems."

LONG-TERM PLANS

Humphrey argues that these sectoral problems have in part thwarted macroeconomic solutions to unemployment and economic growth. He therefore is pushing for planning legislation that makes even some liberal economists such as Heller uncomfortable. His bill, which was cosponsored by Senator Jacob Javits (R-N.Y.), would set up an economic planning board in the White House to draw up long-term plans for the economy every two years. Humphrey takes pains to point out that the plans, which would be drafted with the help of Congress, business, labor, and consumers, would not in any way be compulsory, but would set long-term targets for the economy.

"The purpose of the economic planning bill is to focus attention on the proper utilization of resources, the interrelationships in our economy, and the role of government policy," he says. "The question is how we make the government a good working partner, not a dictator, of the private economy. Today, government policy often is such an ad hoc, patch-on proposition that you never really get a chance to take a look at the final ripple effect."

Humphrey's favorite example of the consequences of this ad hoc approach is the 1972 Russian grain deal. "Nobody ever stopped to think what was going to happen to the grocery bills across this country," he says. "In the end our grocery bills went up billions of dollars. Somewhere in the government there ought to be a way you can analyze the cost of such deals."

Ironically, Humphrey's concern with unemployment and growth has allied him with businessmen and many conservative economists who believe a capital crisis is shaping up. "Unlike some of my liberal colleagues I am very concerned about capital formation," he says. "The capital requirements to boost employment in the future are going to be much heavier than they were in the past and that they will not be met simply by getting the economy on its feet again."

FED CONTROL

A companion measure to the planning bill, and one that is equally controversial, would increase Congressional control over the Fed and its policies. The bill would reduce the terms of Fed members from 14 to 7 years and broaden the seven-member board by mandating representation of labor, small business, agriculture, and consumer groups. It would also permit the President to appoint a majority of the members during his first term, make the term of the chairman end with that of the President, and force the Fed to come to Congress for operating funds. Complaining about Burns's independence at the Fed, Humphrey says, "We're playing the ball game on his ground now and that means he always wins. As things now stand, the Fed doesn't have to relate monetary policy to the goals of the Employment Act or to over-all government economic policy."

Humphrey concedes that none of these legislative initiatives is apt to be approved anytime soon. He regards them as vehicles for generating a national debate of economic issues in the coming election year. And he hopes the extensive study series now under way at the JEC will provide the intellectual underpinnings for the debate.

The study series, described by the staff as the "most ambitious" ever undertaken by the JEC, will initially cover 12 major areas, including employment, national economic growth, monetary and fiscal policy, economic planning, inflation, and government regulation.

The JEC's Stark sees a parallel between the current situation and the late 1950s when Senator Paul Douglas, with the help of the then Senate Majority Leader Lyndon Johnson, used the committee to conduct a major study on employment, prices, and income that was to serve as the foundation for President John F. Kennedy's New Frontier economic policy. "When Kennedy came into office, there was a body of ideas available from which policy could easily be developed," Stark says.

Despite the obvious partisan thrust of the committee, Humphrey has earned high marks from Burns, a frequent adversary. Testifying at the committee's midyear review of the economy last July, Burns told Humphrey: "I find it more pleasant and more instructive to appear before your committee than any other in the Congress." Concedes a top Administration economist: "On economic issues, Humphrey is among the most perceptive people in Congress."

Since taking over the chairmanship, Humphrey has not only broadened the committee's workload, he has broadened its exposure. Almost immediately after becoming chairman last January he started a weekly newsletter that now has a circulation of 6,500 in and out of Washington. More recently he has taken the committee on the road with a series of regional hearings on unemployment and inflation. The JEC has appeared in Chicago and New York, and before capping the hearings off with a national economic summit meeting next March, the committee plans to appear in Atlanta, Los Angeles and Boston.

THE NEW IMAGE

Perhaps more important, at least within the power structure of Congress, Humphrey has begun to make the JEC a force in the legislative process. Because joint committees of Congress have no power to initiate legislation, the JEC for many years has had an "ivory tower image."

Under Humphrey that image has changed. He has already used the JEC to develop the ideas and data that heavily influenced such major pieces of legislation as the 1975 tax cut and the resolution that forced the Fed to announce its monetary targets quarterly. Humphrey also used the JEC to focus the Congressional debate on New York City's financial crisis, and the committee chairman, for the first time, is included in the leadership meetings of the Senate.

Says non-candidate Humphrey: "I am trying to make the committee an educational instrument as well as an advisory body for the Congress. I want to put my ideas before the public and I intend in the coming year to make myself heard on some pretty controversial issues."

KENYA NATIONAL DAY

Mr. HARTKE. Mr. President, in 1963, Kenyans achieved the status and dignity of a free people after a long period of protracted struggle. On December 12, 1975, Kenya celebrated her 12th independence anniversary when 12 million Kenyans recalled with pride the formal departure of the colonial administration.

Today, the 12 million Kenyans, led by his Excellency Mzee Jomo Kenyatta, President of the Republic of Kenya who is one of Africa's most respected nationalist leaders, will rededicate themselves to achieve and uphold the ideals and goals pledged at the time of independence on December 12, 1963.

Kenya has continued to operate a unicameral national assembly which is composed of a chief of state, 158 elected members, and 12 nominated by the President.

During the 12 years of nationhood, great achievements have been made to uplift and improve the well-being of Kenyans. Within this period, Kenya has directed its efforts to combat three national enemies: disease, ignorance, and poverty. The battle against these enemies will continue for a long time as corrective measures are taken to minimize or eradicate their adverse effects on socioeconomic development.

Kenya's achievements would not have been possible without the guidance and good leadership provided by H.E. the President Mzee Jomo Kenyatta who, among other things, has inspired a sense of national unity based on Harambee for the fulfillment of commitments.

Over the years, Kenya's gross national product, GNP, has increased from 347 Kenya million pounds in 1963–64 to 789 in 1973–74. This has nearly doubled the per capita income at the time of independence. The GNP per capita in 1963–64 was 38 Kenya pounds. Today, the figure is more than 60 Kenya pounds.

On the national forum, the Government has continued to strive to promote social justice which of necessity must be based on growing political stability and economic strength. Since independence, the economy has grown at an average rate of 6.8 percent per annum. Manufacturing output—prices adjusted—has grown by 8.1 percent per annum since 1963, while agriculture has grown 6.5 percent.

Despite world spiraling inflation affecting Kenya's essential inputs sustained growth and declining prices of her exports, Kenya continued to explore new markets for her exports and in 1974, the volume of Kenya's trade was estimated to have risen by no more than 3 percent in real terms.

Before independence, most high- and middle-level occupations were manned by expatriates; by 1972, 74 percent of them were in the hands of Kenyans.

Since 1963, nearly 260,000 hectares of former European-owned farms have been purchased to settle more than 35,000 landless families in the so-called "million acre scheme." Out of this figure, 9,000 families had already been settled just before independence when the settlement program was initiated. The settlement program has been a major contributing factor in the increased agricultural output. In 1972, recorded sales from settlement schemes amounted to over 4,000,000 Kenya pounds, an average of Kenya pound 114 per family. This was in excess of the original target of an average cash income of Kenya pound 100 per family. Settlement farmers contribute significantly to the production of pyrethrum and dairy products. The second phase of the "million acre scheme" has been launched and the Government intends to settle more landless people through cooperative schemes. In 1973, more than 43,000 hectares had been taken over and more than 6,000 families settled. Squatters have also been settled on abandoned and mismanaged farms.

Kenya provides free education from standards—grades—one to four. Education has witnessed an unprecedented push and improvement. The number of boys and girls enrolled in primary schools has doubled from 890,000 in 1963 to 1,676,000 in 1972. The proportion of girls rose from 34 to 43 percent in the period under review. The 1972 figure represents 70 percent of the population aged between 6 and 12 and this suggests a 1974 target of 75 percent overall enrollment was achieved, bringing the ultimate goals of universal primary education.

For secondary education, 162,000 students were enrolled in 1972 compared with only 30,100 in 1963. About 45 percent of 1972 figure were in unaided "Harambee" schools of which several of them were built in the last decade, with resources provided by the local people throughout the country. Enrollment at the University of Nairobi has risen tenfold from 571 in 1963–64 to 6,000 in 1972–73 and with the opening of the second Kenyatta University College, the number of the Kenya students on Higher Education including those students abroad is now estimated at more than 10,000.

To supplement her education efforts, Kenya has a number of teacher-cum-technical training institutions for training teachers to meet the increasing demand for qualified manpower in the education system. In 1972, the number of teacher trainees reached 7,500. During the seventies, more than 10 colleges of technology were started in various parts of the country and some of them have become operative. The construction of these colleges were necessitated by the increased number of students from secondary schools who could not get access to the universities. Graduates from these colleges will meet, over a period of time, Kenya's needs for technical skills and thus reduce her reliance on technical personnel from overseas.

As defined in the African Socialism—Sessional Paper No. 10, Kenya has continued to offer free medical treatment to outpatients. This necessitated the construction of new hospitals and the improvement of the existing ones. In 1973–74, there were 200 hospitals with the bed-occupancy of 18,000 as compared to 148 hospitals in 1963 with 9,700 beds. The total medical expenditure in 1963 was 100 million Kenya shilling—this figure has been quadrupled.

Kenya adheres to the charters of the United Nations Organization and the Organization of African Unity, and espouses the policy of nonalinement and good neighborliness.

Nairobi, Kenya, is the headquarters of the United Nations Environment Program—UNEP.

With the completion of the Kenyatta Conference Center, 2 years ago, Nairobi has become a hub of international activities as evidenced by the convening of the World Bank and International Monetary Fund annual meetings in Nairobi in 1973. This was a great honor not only to Kenya but to the entire African continent. Since then, the number of international and regional meetings in Nairobi has been on the increase.

Lastly, the Fourth United Nations Conference on Trade and Development, UNCTAD, is scheduled to be held in Kenya in 1976 during the months of May and June.

Mr. President, the foregoing is a short review of Kenya's achievements through her national motto of "Harambee."

ENERGY POLICY AND CONSERVATION ACT, S. 622

Mr. McINTYRE. Mr. President, I plan to cast my vote in favor of the conference report on S. 622, the Energy Policy and Conservation Act for several reasons. I urge President Ford to sign it when we send it to him.

In the interest of national security and worldwide economic well-being, I do not believe that it is wise for the United States to hand its energy pricing system over to a two-part cartel, made up of the major multinational big oil companies and the Organization of Petroleum Exporting Countries. If we do not accept this report's price system, I am afraid that we will do just that. There will then be no semblance of order in the country's energy pricing system.

If we rapidly abolish price controls on energy in this country, several things might result. First, we could find that the two-part cartel would work with our domestic energy companies to raise prices dramatically. Second, as oil prices rise, coal, gas and even uranium prices would jump. Sensing a golden opportunity for windfall profits, energy producers would jump on the bandwagon of greed fostered by the lenient Ford administration and its oil baron handmaidens. We cannot allow that to happen.

Those big oil companies that I speak of have run roughshod over consumers in other countries. I am told that gasoline now costs nearly $2 per gallon in Britain. In this country, and for the rest of the world, the economic effect of rapid price increases would be disaster for the already shaky world economy. Britain is paying huge sums for imported oil. Many people say it is close to bankruptcy. The Italian standard of living dropped last year. France and Germany face high inflation rates. Japan struggles to pay. Everywhere the pervasive impact of oil prices has affected the international economy. In this country, with a reasonable system of price controls on oil we can help slow down that inflationary spiral. But if we give in and remove price controls on crude oil, the effect on this economy and the world economy and international security could be monumental. It could make the effects of New York City look like a minor cold in the face of worldwide pneumonia.

So, even with its imperfections we should enact this legislation.

It has some other very positive features.

In the case of New England, it could mean a decrease in the price of gasoline and fuel oil by a penny or two per gallon because of the price rollback for crude oil.

Second, it could mean an end to the burdensome price controls on the independent retail sector that may be keeping prices up, if hearings show that they have outlived their usefulness. Many independent oil dealers tell me that prices could come down if these controls and regulations are removed.

The conference report also calls for establishment of a national petroleum reserve, with a specific regional reserve for New England. This will mean that New England will have a fuel reserve equal to about five months supply of each fuel we import and use for home heating and electricity generation.

For the longer run, our consumers will also benefit from the bill's requirement that automobiles and home appliances be labeled to show their efficiency and meet standards for miles per gallon or electrical efficiency.

This conference report has several other sections that are important.

It requires that the States establish energy conservation goals and programs, it helps set up the international oil sharing program without giving the entire program away to the oil company cartel, it requires that utilities whenever possible burn coal instead of natural gas, and sets energy conservation standards for industry.

Finally, it sets up an energy data bank to make sure that the Federal Energy Administration and the Congress know what is happening in our energy industry so that important statistics cease to be under the total control of big oil.

THE UNWRITTEN RULE OF JUDICIAL RESTRAINT

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch of Sunday, December 7, 1975, carried the major portion of a recent speech by Virginia Supreme Court Justice Harry L. Carrico.

That address, "The Unwritten Rule of Judicial Restraint," presents, in my view, one of the finest brief statements ever rendered on this subject.

Mr. Justice Carrico was nominated to the Virginia Supreme Court by then Gov. J. Lindsay Almond, Jr., in 1961. He is exceeded in seniority on the commonwealth's highest court by the chief justice alone.

Prior to his appointment to the Virginia Supreme Court, Mr. Justice Carrico had divided his professional life between the private practice of law and service on lower court benches, as a trial justice for 8 years and as a judge of the 16th Judicial Circuit for 5 years. He is eminently well qualified to speak on this important subject.

It is my belief that the single most important canon of judicial responsibility is the unwritten rule of judicial restraint. As Mr. Justice Carrico puts it:

> This unwritten rule in the conduct of our judicial affairs is almost as old as our legal system itself, and arose as a matter of urgent necessity. If the laws were to be declared subject to the whims of each judge or so as to suit the desires of a particular litigant or to satisfy the pressures of a special group, we would soon have a confused hodgepodge rather than a system of justice. Every judge, regardless of the high or low order of his court, should be foresworn to observe this doctrine with infinite care.

Mr. Justice Carrico notes the rule of "stare decisis," or respect for announced and established judicial precedent, has its most profound application in the area of constitutional interpretation. He realistically notes that "changes in times require and demand changes in law." But he follows with an admonition, which I heartily endorse:

> But under the theory of separation of powers and the delicate pattern of checks and balances set up to make the theory work, the courts, are enjoined from making laws and thus encroaching upon the area reserved to the legislative department. *And the process of amending constitutions is forbidden territory to the court.* (Emphasis added.)

His final admonition cannot be stressed enough. It needs constant public reiteration because this Nation has seen it abused time and time again by judges who legislate from the bench with a studied disregard for the canon of judicial restraint.

It is most fitting, I feel, that this fine address has been published at this time. I am doubly pleased that I can bring to it the attention of the Senate, both as a study of one of the precepts of our great legal heritage and as a sound measure by which to judge the next individual to ascend to the bench of our Nation's highest judicial tribunal.

Mr. Justice Carrico states that test succinctly:

> . . . we can maintain the integrity of that system (of justice) only by adherence to those doctrines of law that have been tested in the crucible of the centuries and proved worthy of sustained allegiance.

Indeed, that test should be employed by the Senate each and every time it carries out its constitutional responsibility of confirming nominees to any judicial post.

I ask unanimous consent that the excerpt of the speech of Virginia Supreme Court Justice Harry L. Carrico, "The Unwritten Rule of Judicial Restraint," which was published by the Richmond Times-Dispatch, be printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

[From the Richmond Times-Dispatch,
Dec. 7, 1975]

The Unwritten Rule of Judicial Restraint

The Bicentennial, of course, is the celebration of the birth of our country as an independent nation. But it will mean nothing unless, at the same time we celebrate, we rekindle and reawaken our faith in the fundamental concepts upon which our country was founded. The Bicentennial will be an empty thing unless we take the occasion to pause and quicken our appreciation for the American system of government, the American system of law—a plan of government and of justice by rule, reason and right, rather than by force and fear.

It is my sincere belief that the American rule of law has been the ultimate, most important single factor in the greatness of our country. Without our rule of law, the American experiment, in my opinion, would have long since failed.

Law is the key to order, justice and freedom. But we cannot hope to secure order or promote justice or aspire to be free, we cannot expect our way of life as we have known it to continue forever, we cannot give any meaning to the Bicentennial if the key we employ to open the door to the future is a crude, untried product, whittled out of the emotional graspings of the uninformed political opportunists of our times. We can achieve the lofty ideals of which the Bicentennial is symbolic only if we adhere to those principles which have made this country the finest, freest place in the world.

We can successfully adhere to those principles only if we keep vitally strong our system of justice and the judiciary which is the essential element of its strength. and we can maintain the integrity of the system only by adherence to those doctrines of law that have been tested in the crucible of the centuries and proved worthy of sustained allegiance.

One of those doctrines is as important to our system of justice as any other single precept. I refer to the doctrine known as *stare decisis* . . .

It means to stand by decided cases, to maintain adjudications, to uphold legal precedents. It rests upon the theory that the laws by which people are governed should be fixed, definite and known; and that, when a law has been declared by a court of competent jurisdiction to have a particular construction, *such* construction—in the absence of palpable mistake or error—will be followed by that and inferior courts as the law until changed by competent authority.

This unwritten rule in the conduct of our judicial affairs is almost as old as our legal system itself, and arose as a matter of urgent necessity. If the laws were to be declared subject to the whims of each judge or so as to suit the desires of a particular litigant or to satisfy the pressures of a special group, we would soon have a confused hodge-podge rather than a system of justice. Every judge, regardless of the high or low order of his court, should be foresworn to observe this doctrine with infinite care.

It is in the highest interest of the people that there should be stability in the laws by which they regulate their conduct. It is sound public policy that the construction of statutes and the interpretation of constitutions ought not to vary with every change in the personnel or ideas of a court. It is only by consistent and uniform application of the laws that one may make a will, execute a contract, undertake an obligation and direct his normal affairs, safe in the knowledge that what is declared to be the law today will probably be the law tomorrow when the effect of today's actions are judged.

In no other area is the doctrine of *stare decisis* so important as in the field of constitutional law. It has been asked, "What is the Constitution but the great contract of the people, every citizen having sworn allegiance to it?" A system of fundamental principles, a permanent and paramount law which should be faithfully and rightfully executed. Like any other contract, it is not to be violated; its violation foredooms its destruction. When the sovereign will of the people has been expressed in a written constitution, it is the duty of the courts rigidly to enforce it and not to circumvent it, even though the need and pressure for change may be great.

It has long been a cardinal rule in dealing with constitutions that an interpretation once adopted will consistently be followed so that a constitutional provision will not be taken to mean one thing at one time and something different at another time, despite the fact that circumstances may have so changed as to make a different rule desirable. Admittedly, changes in times require and demand changes in law. But under the theory of separation of powers and the delicate pattern of checks and balances set up to make that theory work, the courts are enjoined from making laws and thus encroaching upon the area reserved to the legislative department. And the process of amending constitutions is forbidden territory to the courts.

In practical operation, then, the doctrine of *stare decisis* imposes upon judges a rule of restraint. If a judge follows this rule of restraint, he has the ability to resist the temptation of injecting his personal ideas of the law and his own private notions of justice into the conduct of his judicial affairs. If he fails to exercise restraint, a judge will be unable to recognize judicial precedent. He will abandon the principles of law that wiser and more learned judges have charted for him; he will embark upon a course of deciding cases because of expediency, pressure or hope of self-gain. Without this restraint—this essential judicial quality—a judge may do great harm to fundamental doctrines; he will destroy faith in our system of justice.

The effect of the failure of judges to follow the doctrine of *stare decisis* was exemplified in the dissent of Mr. Justice Roberts in a 1944 Supreme Court case. He dramatically held up a warning hand when he said, "The reason for my concern is that the instant decision, overruling that announced about nine years ago, tends to bring adjudications of this tribunal into the same class as a restricted railroad ticket—good for this day and this train only."

All this is not to say that when a judicial decision is made that is admittedly wrong it must nonetheless stand forever and constantly do harm to one innocent litigant or another. The rule of *stare decisis* does not apply where the former decision has misunderstood or misapplied the law or is contrary to reason. This is because no legal principle is ever settled until it is settled right. And it may be said to be settled right when it is accepted by the people, when it is not reversed by the legislature, when it is reacknowledged by the same and by other courts and when it is acted upon over a long period of time. But once so settled, such a decision must be accorded the greatest finality as a statement of the law. It should be binding unless and until it is changed by the people, acting through the legislative process.

The courts should, therefore, refrain from making changes in established rules except to the extent permitted within the framework of the doctrine of *stare decisis*, and that is when previous decisional error is apparent. With self-restraint and self-discipline as his daily by-words, a good judge will confine his actions to the discharge of his sole function: to interpret and administer the law, and not to make it.

In these days, when our democratic institutions are being challenged from every side and our courts assailed by frustrating criticism and abuse, it is time for all of us to remember that this country was founded, and has flourished, upon a set of ideals of decency and honesty in government never before known in history. As we celebrate our Bicentennial, it is a good time to remind ourselves that the privilege to enjoy what we have carries with it the responsibility to sustain it against all attack. But even more important, it is time to forewarn ourselves that the things that we have long cherished can suddenly and easily be lost.

A qualified, dedicated judiciary is the greatest safeguard of the rights of man and his finest hope for the preservation of his traditions and his heritage. The men who sit on our benches must love and be devoted to the law; they must be men with souls—men who are willing to accept and bear the awesome responsibility and who, with alert and constant vigilance, will keep alive the highest principles of justice and the greatest blessings of liberty.

This is the nature of the duty imposed upon and assumed by the judiciary. But upon . . . every citizen there rests a reciprocal burden: to foster and protect the dignity, freedom and integrity of our system of justice. Only if these mutual obligations are patriotically discharged can we hope to approach with calm assurance the forecast of destiny, made long ago in words far more profound than I can express: "We, even here, hold the power and bear the responsibility . . . We shall nobly save, or meanly lose, the last, best hope on earth."

THE C-5A: $1.5 BILLION TO FIX THE DEFECTS

Mr. PROXMIRE. Mr. President, cost overruns on the C-5A cargo aircraft are nothing new, but most people have assumed that we have heard the last of them. Unfortunately, we have not. The C-5A is back, warts, wing cracks, cargo hatch defects and all.

The bills for correcting the many deficiencies are beginning to come in and the Air Force is trying to stampede Congress into approving repairs on the C-5A aircraft, including $1.3 billion to fix defective wings, without adequately considering alternatives.

A General Accounting Office study, done at my request, shows that costs to fix the defective wings of the C-5A are now being estimated as high as $1,344,000,000.

Other defects such as the need to repaint all the planes to prevent corrosion will bring the repair bill to $1.5 billion, according to GAO.

REAR CARGO HATCH PROBLEM

Among the other deficiencies that need to be corrected are the rear cargo hatches.

Failure of the rear hatch system caused the crash of the C-5A in Saigon, on April 4, 1975.

The rear cargo hatches of the entire C-5A fleet were sealed shut following the April crash.

The Air Force gave Lockheed a $695,000 contract to provide material kits and show it how to seal the rear hatches. An additional $1 million was spent by the Air Force in actually sealing them.

The Air Force has given Lockheed approximately $500,000 in other contracts to study the deficiencies of the C-5 and it is probable that Lockheed will be awarded the contracts to design the new wings and to install them.

PENTAGON WITHHOLDS INFORMATION

It is necessary to examine specific data on airlift needs, particularly outsize cargo requirements in an emergency situation, in order to determine whether the high costs of repairs is justified.

The Pentagon has denied GAO access to the information on grounds that it is part of the war plans and therefore too sensitive. The Air Force has now agreed to furnish some of the information in the next few weeks.

C-5A COMPARED WITH 747

A comparison of the C-5A with a comparable commercial plane, the Boeing 747 cargo aircraft, shows that the Air Force needs might be better served by not sinking additional billions into the problem-plagued C-5A.

The Air Force could purchase 30 747 cargo planes for the same amount it would need to spend repairing the C-5A fleet.

A major advantage of buying new planes would be that the soundness of their construction has been proven in extensive commercial use.

WHY SINK MORE MONEY INTO A DEFENSE PLANE?

After spending $1.5 billion to repair the C-5A, we would still be stuck with the old C-5A. We would still have doubts about its future performance.

Another option would be to not fix the C-5A or buy any plane until it is necessary to build a follow-on replacement.

The C-5A can be used until the early 1980's without extensive repairs.

It seems to me to be precipitous and wasteful to spend so much more on the C–5A.

The Pentagon's refusal to fully disclose to Congress its airlift requirements reinforces my suspicion that we are being rushed into an unwise action.

For all Congress knows at the present time, there may not even be a real need for the C–5A or a replacement.

AMENDING THE HATCH ACT

Mr. McGEE. Mr. President, Robert B. Barnett, a Washington attorney and law professor, has presented in the pages of the Washington Star a fairly concise statement of the questions which the Committee on Post Office and Civil Service addressed in its consideration of H.R. 8617, to amend the Hatch Act.

The overriding question is, as Mr. Barnett put it, the conflict between freedom to participate in politics and restrictions on that freedom for an allegedly overriding public good.

In his article, which appeared in Sunday's Star, Mr. Barnett arrived at the same point as the majority of the committee, concluding that the limitations put on the rights of individual citizens, even though employed in public service, should be clearly defined and as few as possible. In short, he has viewed H.R. 8617 as consistent with our commitment to first amendment rights and therefore a justifiable change to take.

Mr. President, H.R. 8617 has been reported to the Senate and I hope that it can be taken up soon. I ask unanimous consent that Mr. Barnett's generally excellent article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, Dec. 14, 1975]

Scuttling the Hatch Act Is Worth a Gamble

(By Robert B. Burnett)

Republican Rep. Edward Derwinski of Illinois calls it "a power grab by federal union leaders (placing) conscientious federal employees at the mercy and calling of politicians." Democratic Rep. Herbert Harris of Virginia says it will "grant 2.8 million citizens their political freedom."

The argument is over HR 8617, a bill passed by the House last month on a vote of 288–119. The legislation would effectively repeal the Hatch Act which, since 1939, has severely limited partisan political activity by public employees at all levels of government.

Although facing a veto at the White House, the bill is likely to clear the Senate this year. If HR 8617 becomes law, civil servants will be able to run for office, play an active role in campaigns, support partisan candidates, and otherwise exercise full political rights.

The battle over the bill presents, in sharp focus, a new conflict between freedom to participate in politics and restrictions on that freedom for an allegedly overriding public good.

The Hatch Act has survived two major Supreme Court challenges, in 1947 and 1973. Most recently, the court, by a 6–3 vote, upheld the act, rejecting arguments by the National Association of Letter Carriers, several federal employes, and Republic and Democratic political committees that the act was "unconstitutionally vague and fatally overbroad."

Although 1974 legislation removed most restrictions on state and local government employes, the basic limitations on federal employes, prohibiting them from "tak(ing) any active part in political management or in political campaigns," remain.

The legislation currently pending would remove all restrictions on political activity by 2.8 million federal employes, freeing them to enter the political arena. It strengthens current prohibitions on use of official authority to influence political activity or votes, and it limits the solicitation of contributions, the use of money to influence votes, and activity during working hours and on government property.

The bill creates a new Board on Political Activity of Government Personnel to hear and adjudicate alleged violations and gives the Civil Service Commission broad powers and greater flexibility to investigate abuses.

A new educational program designed to inform federal employees of their rights will take effect. Federal workers will need know little more, however, than that everything outside the narrow prohibitions is permitted.

The bill's supporters see an opportunity to remove antiquated and unclear restrictions on the political freedom of federal workers. A representative of the AFL–CIO says: "(P)ublic employees . . . are effectively denied the rights enjoyed by other citizens to take part fully in America's democratic process.

Opponents of the bill—mainly Republicans, judging by the House vote—see it as an attempt by the Democrats to unleash thousands of overwhelmingly Democratic federal employees for service in the 1976 election. They see a formidable political force in the public-employee unions, which have gained large memberships but have lacked political muscle.

In view of the American commitment to political freedom, the Hatch Act may seem difficult to defend. Actually, restrictions on political activity by public employees are designed to serve three distinct purposes.

First, the Hatch Act and its forerunners seek to protect the public. In the words of the Supreme Court majority which upheld the legislation in 1973, "It seems fundamental . . . that (public) employees . . . should administer the law in accordance with the will of Congress, rather than in accordance with their own or the will of a political party."

Whether political considerations would actually influence the decisions of civil servants, it has been thought important that the public not even perceive partisan considerations to be influencing governmental decisions. To avoid actual conflicts of interest or public perceptions of them, civil servants were kept off of partisan tickets and ways from partisan political activity.

The House Post Office and Civil Service Committee, in sending the bill to the floor, discounts this rationale. "Previous studies, public hearings, and staff surveys," the committee's report states, "reveal no evidence that voluntary political activity in any way erodes the integrity of the merit system nor operates against the public interest."

But Robert Hampton, the chairman of the Civil Service Commission, disagrees. "(P)ublic employees become identified with the aspirations of political parties and candidates," Hampton argues, "and partisan considerations are injected into the career service . . . (The) employee (is compromised) in the eyes of the public . . . Competition among employees for advancement and favor based on their contribution of money or services to political parties would detract from the efficient administration of public business."

The second purpose of the restrictions is to protect those in power from their own baser instincts. The Hatch Act was enacted following massive abuses during the 1936 and 1938 campaigns. A Senate Committee found that government employes and welfare recipients were coerced into political activity and that public assistance funds were diverted for political purposes. Congress was convinced, again in the words of the Supreme Court majority, "that substantial barriers should be raised against the party in power—or the party out of power, for that matter—using the thousands or hundreds of thousands of federal employes, paid for at public expense, to man its political structure and political campaigns."

Proponents of H.R. 8617 feel that direct restrictions on the misuse of official authority to influence votes or to force political activity will keep the party in power in line. Opponents of the legislation remember the Huston Plan, proposing the use of federal agencies to harass Nixon administration "enemies." They continue to fear the politicization of the civil service and recognize the difficulty of detecting abuses.

Finally, the Hatch Act was designed to protect the public employe. Restrictions on political activity by civil servants free them from coercion by their superiors. When asked to perform political duty, they need only say, "I can't." Government jobs, and advancement in those jobs, should be dependent upon merit rather than upon political performance.

The proponents of change in these restrictions argue that direct prohibitions on coercion, solicitation, and influence are sufficient to protect the public employe, but opponents of the legislation insist that employes would remain subject to indirect pressure to support candidates favored by their superiors.

If the Hatch Act is repealed, there will be important and inescapable consequences for 2.8 million federal employes and the rest of us as well.

The legislation moves toward clarifying gross ambiguity in the present law, which has left public employes confused as to what is permissible political activity. The law will give new freedom to public employes long relegated to second-class political citizenship. The nature of public employment will be significantly changed. A new cast of activists will enter the political scene exerting a profound influence on subsequent elections.

Will the public suffer? Will those in power seek to turn the civil service into a political army? Will public employes be forced into political servitude? Whether the removal of this cornerstone of our governmental edifice will have the drastic impact predicted by the bill's opponents is impossible to predict. But the chance seems worth taking.

An impressive independent commission and two congressional committees have studied the problem over a nine-year period and found no foolproof answers. If increased political freedom for federal workers proves truly harmful to the efficiency and fairness of the civil service, restrictions on political activity can be reimposed. In view of our *overriding commitment* to First Amendment political freedom, the H.R. 8617 gamble is justified.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, no one has raised serious objections to the purposes of the United Nations Convention outlawing genocide. The primary objections which have been raised since the time the treaty was first considered for ratification by the U.S. Senate have been related to constitutional and legal issues.

An often heard criticism of the treaty is that its passage would adversely affect Federal-State relations by sapping the authority of States on criminal matters. However, this clearly is not the case. Congress has the power to enact such legislation pursuant to the treaty under article 1, section 8, clause 10 of the Constitution which provides:

> The Congress shall have the Power . . . To Define and Punish Piracies and Felonies committed on the high seas, and Offences aaginst the Law of Nations . . .

Thus, making genocide a crime, providing for appropriate punishment, and so forth, are clearly on the checklist of Federal constitutional powers.

Moreover, as the American Bar Association's section on individual rights and responsibilities said in its report:

> Ratification of the Convention will add no powers to those the Federal Government already possesses.

Further, the fact that the Congress enacts a statute pursuant to a treaty, such as the Genocide Convention, does not alter the fact that Congress could pass such legislation without a treaty.

In short, the Genocide Convention will not adversely affect the constitutional division of powers between the Federal and State Governments and, thus, the United States should go on record as opposing genocide, both legally and officially.

NATIONAL IMPLICATIONS OF RECENT POPULATION SHIFTS

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Congress the figures recently released by the Bureau of the Census regarding U.S. population shifts during the past 5 years.

The trends indicate a population growth of over 8 percent in both the South and the West during the years 1970–75. On the other hand, growth was almost negligible in the Northeastern States while in the North Central States a 1.9-percent increase was registered.

These trends obviously will carry important implications politically and for the economy of this country. But I am most concerned that this Government take into account these trends in its long-range programs.

Obviously, this shift may very well carry important implications in terms of reducing the increased energy requirements in the years ahead. It may also reflect a determination on the part of many American families to leave the more heavily concentrated urban areas in favor of smaller towns and rural settings.

We clearly need a much more detailed analysis as to why these trends are developing and their implications. This information is needed not only by the Government but also by industry and our educational institutions.

This analytical requirement is met in legislation which I have introduced, S. 1795, on improving our economic planning. Clearly, we can and must do a better job in this area in order to bring together and relate the major trends in our complex economy.

Mr. President, I ask unanimous consent that the article in the December 12 New York Times entitled "85% Rise in Population Found in South and West," which outlines these trends, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

85% RISE IN POPULATION FOUND IN SOUTH AND WEST

(By Robert Reinhold)

WASHINGTON, December 11.—The gradual but massive shift of the American population away from the industrialized North and toward the South and West, documented by the 1970 census, has accelerated greatly in the last five years, according to a mid-decade estimate of state populations released today by the Census Bureau.

The bureau calculated that the United States has grown by nearly 10 million persons since the last census—to 213,121,000—and that 85 percent of this growth occured in the 29 states that make up the South and West.

If this trend persists, it is likely to have profound implications for the social and political complexion of the country. Congress will be reapportioned on the basis of the 1980 census, and today's figures point to a tipping of the balance of political power toward what some have called the "sunbelt."

These states—forming a broad arc extending from Montana down through the Rockies to Arizona, and across Texas to Florida and North Carolina—grew at rates far greater than the national average of 4.8 percent.

The fastest growing state was Arizona, whose population expanded by over a quarter. And Florida, which had swelled by nearly one-third in the 1960's, accelerated its growth, expanding by 23 per cent in the last five years.

By contrast, New York State lost 121,000, or about 0.7 per cent, of its residents. Also losing population were Rhode Island and the District of Columbia. Taken together, the dense Northeast and North Central regions grew by only a scant 1 percent.

Behind all these dry numbers are some compelling human and economic realities—the industrialization of the South, the greening of the Arizona deserts, pollution of the wilderness, land swindles, the overnight blossoming of retirement villages and the ungainly emergence of one-time cow towns such as Houston and Phoenix into major metropolises.

Propelling it all, according to demographers and sociologists, is the quest for money and leisure, and, perhaps for some, escape from the decaying and increasingly "unliveable" Northeast.

Today's figures lend credence to the theory that the liberal East is slowly losing its grip on national power to what Kirkpatrick Sale calls the "Southern rim" in his recent Random House book "Power Shift; the Rise of the Southern Rim and its Challenge to the Eastern Establishment."

INDIRECT ESTIMATES USED

The new figures were compiled not by actual count, but by indirect estimate based on changes in birth and death rates, school enrollments, automobile registrations, employment, migration patterns and other data for the various states between April 1, 1970, the date of the last full census, and July 1, 1975. These data are thought to reflect accurately trends in population.

The final estimates were produced by averaging the results from three formulas, which census officials said were consistent, varying no more than 2 percent for any state.

Inasmuch as they confirmed an obvious trend, the numbers were not completely surprising in their thrust. But to some the magnitude and speed of change were startling. The Mounain and Desert states experienced heavy gains—Nevada (21.1 percent), Idaho (14.9), and Colorado (14.7), for example. However, since these states were so sparsely populated previously, these figures are deceptively dramatic.

What is perhaps more interesting, and perhaps less widely noticed, is the sharp growth in the South Central states—Arkansas (10 percent), Texas (9.3), South Carolina (8.8), Georgia (7.4) and North Carolina (7.2). Texas gained more than a million people, nearly the entire population of Maine.

NORTHEAST NEARLY STATIC

Conversely, the counts in the Northeast were almost uniformly static, with the states either losing populaion or growing at rates well below the national average.

New Jersey gained 145,000 persons and Connecticut 63,000, or 2.0 and 2.1 percent growth, respectively. New York State's population of 18,242,000 in 1970 was estimated to have dropped to 18,120,000 by this year. No separate estimates were made for New York City. The only Northern states gaining more than the national average were the New England states of Vermont, New Hampshire and Maine.

There were suggestions that the glitter of golden California is no longer as attractive as it once may have been. Although California, the most populous state, grew faster than the national average, the growth was only half its pace during the previous decade.

There are no "whys" in the statistics, but demographers have offered many economic and social interpretations of what is happening. David Word, a Census Bureau official who helped calculate the estimates, theorized that a major factor in the Southern gain was a change in black migration patterns.

Fewer blacks are leaving the South, he said; at the same time, white families from the North continue to settle in the West and South. The combination, he went on, means little growth in the North.

THREE ESTIMATING METHODS

Three methods are used to estimate state population between decennial censuses. The first, called "component method II," uses vital statistics and school enrollment data from the states to estimate the "natural increase" in population and migration from state-to-state.

The second, "the ratio-correlation method," starts with the percentage change, for each state, in school enrollment, automobile registration, Federal income tax returns and work force. These are specially weighted and then multiplied to give a picture of the percentage change in population distribution among the states.

The last, "the administrative records method," employs vital statistics, along with income tax returns, as a gauge of interstate migration and Immigration and Naturalization Service data for migration from abroad.

The new estimates were published today under the title "Population Estimates and Projections," which is part of the Census Bureau's current population reports (Series P-25, No. 615). It is available for 30 cents, from the United States Government Printing Office, Washington, D.C. 20402.

TABLE ON POPULATION SHIFT

[Washington, Dec. 11—Following is a table of population data on the United States by region and by states, as is issued today by the Bureau of the census]

Region and State	Residential population (in thousands) July 1, 1975	Residential population (in thousands) Apr. 1, 1970	Percentage change
United States, total	213, 121	203, 304	+4.8
Regions:			
Northeastern States	49, 461	49, 061	+.8
North-central States	57, 669	56, 593	+1.9
The South	68, 113	62, 812	+8.4
The West	37, 878	34, 838	+8.7

Region and State	Residential population (in thousands) July 1, 1975	Apr. 1, 1970	Percentage change
Northeast:			
Maine	1,059	994	+6.6
New Hampshire	818	738	+10.9
Vermont	471	445	+5.9
Massachusetts	5,828	5,689	+2.4
Rhode Island	927	950	−2.4
Connecticut	3,095	3,032	+2.1
New York	18,120	18,242	−.7
New Jersey	7,316	7,171	+2.0
Pennsylvania	11,827	11,801	+.2
North-central:			
Ohio	10,795	10,657	+1.0
Indiana	5,311	5,196	+2.2
Illinois	11,145	11,113	+.3
Michigan	9,157	8,882	+3.1
Wisconsin	4,607	4,418	+4.3
Minnesota	3,920	3,806	+3.1
Iowa	2,870	2,825	+1.6
Missouri	4,765	4,678	+1.8
North Dakota	635	618	+2.7
South Dakota	683	666	+2.6
Nebraska	1,546	1,485	+4.1
Kansas	2,267	2,249	+.8
The South:			
Delaware	579	548	+5.7
Maryland	4,098	3,924	+4.4
District of Columbia	716	757	−5.4
Virginia	4,967	4,651	+6.8
West Virginia	1,803	1,744	+3.4
North Carolina	5,451	5,084	+7.2
South Carolina	2,818	2,591	+8.8
Georgia	4,926	4,588	+7.4
Florida	8,357	6,791	+23.0
Kentucky	3,396	3,221	+5.4
Tennessee	4,188	3,926	+6.7
Alabama	3,614	3,444	+4.9
Mississippi	2,346	2,217	+5.8
Arkansas	2,116	1,923	+10.0
Oklahoma	2,712	2,559	+6.0
Louisiana	3,791	3,642	+4.1
Texas	12,237	11,199	+9.3
The West:			
Montana	748	694	+7.7
Idaho	820	713	+14.9
Wyoming	374	332	+12.5
Colorado	2,534	2,210	+14.7
New Mexico	1,147	1,017	+12.7
Arizona	2,224	1,775	+25.3
Utah	1,206	1,059	+13.8
Nevada	592	489	+13.8
Washington	3,544	3,413	+3.8
Oregon	2,288	2,092	+9.4
California	21,185	19,971	+6.1
Alaska	352	303	+16.3
Hawaii	865	770	+12.3

THE GRAIN STANDARDS CONTROVERSY

Mr. McGOVERN. Mr. President, the horror stories coming out of the port of New Orleans regarding bribes, corruption, and short weighing have been well publicized in publications such as the Washington Post, the Des Moines Register, and the New York Times. These reportings have been in continuing and day by day focus indicating the results of congressional hearings and the results of guilty pleas and trials in the Federal court system.

In a recent issue of New Times, Stephen Diamond and Stephen Armbruster do a first rate job of pulling all these diverse men and events together in a lengthy article entitled "Against the American Grain. The ultimate and most innocent loser in this whole drama is, of course, the American farmer. The product of his land refined by his machines is unequaled on the planet for both its bounty and its quality. It ends up in international channels adulterated, misgraded, mishandled, corrupted by money changers, shippers and grain handlers, all of whom are making a fast buck on the original producer who is having a hard time making ends meet.

I invite every Member of this body to read the whole article as a total perspective of a deplorable system which must be corrected. It is in my opinion an eloquent and persuasive testimony for the proposed legislation now being prepared in the Congress. I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGAINST THE AMERICAN GRAIN

(By Stephen Diamond with Stephen Armbruster)

Pumping hard to push her load to payoff point, the big tug *Dolly K* is winding her twin Cummins 8000s up to high-whine rpms. Eight huge barges head the snakelike parade; pushed by the tugboat, each of these barges carries approximately 1,200 tons of No. 2 hard red winter wheat, enough grain to keep any self-respecting McDonald's addict burger buns for the next thousand years.

A mild fog hangs over the Mississippi tonight, a cool, murky vapor tinged with a touch of evil. The skipper settles in to navigate the final stretch between Baton Rouge and the riverbank town of Destrehan, some 18 miles above New Orleans. At Destrehan, the megabushels of grain will be sucked up into a huge elevator complex owned by one of the grain trade giants. There, the grain will be inspected, dissected, weighed out and resurrected before export. It will not be the same when it leaves.

At well past 3:00 in the morning, the skipper presents his bills of lading to the foreman on duty at the grain elevators: 320,000 bushels of No. 2 Iowa-grown wheat, ultimate destination, Cairo, Egypt.

The foreman signs the skipper's papers and extracts a sample of the wheat as it is drawn out of the barges and up through a long vacuum tunnel. The grain travels on a three-and-a-half-foot-wide conveyor belt up into the mammoth cement-encased grain elevators. There is something biblical in the scene, perhaps a reminiscence of the Pharaoh's storage silos in the time of Joseph's prophecies. A normal, predawn experience down at the nether end of the Mississippi River, but inside the grain elevators all is not quite kosher.

The 320,000 bushels of No. 2 hard red wheat are officially weighed in as 280,000: A rewritten bill of lading complements the newly entered figure. Of the eight men on duty, three key people are in on the game: the foreman of the elevator company, the company's weighing inspector and the man from the "private" inspection agency. Night is the traditional time of crime, and on the wharves at the end of the Mississippi things are no different. Moreover, the federal grain inspectors are badly understaffed. They spot check 2 percent of the time at best. And tonight they are not around. The grain elevator company is now 40,000 bushels richer, a value conservatively estimated at $120,000. Of this, maybe 10 percent or $12,000, will be paid to the boys in "bonus" payments or overtime.

A week later, the 280,000 bushels will have been blended into a lesser grade, made into No. 3 or 4 by legally adding organic "trash," or "allowable percentages of foreign matter." It then becomes part of a million-bushel shipment headed to Cairo and purchased under the Food For Peace program, Public Law 480. Although certificates claim the wheat to be No. 2 quality, it is closer to No. 4. But who's to complain?

"It's like guys who deal grass," a long-haired, overalled longshoreman told us. "They buy a pound of good Colombian, mix it with two pounds of ——— weed, and somehow they come out at the other end with three pounds of dynamite Colombo! If that ain't enough, they short you a couple of ounces for their trouble. The grain companies ain't no different, except they're dealing in millions of pounds and billions of dollars."

Like most major scandals, the current grain trade commotion centered at the crescent-shaped Port of New Orleans began with the small stuff: nickel-and-dime thievery and the rumor that a ship captain had bribed an inspector to pass a vessel that was unclean.

In the 18 months since the New Orleans investigation was initiated by the U.S. attorney's office here, the scandal has mushroomed into a widespread indictment of the American grain trade, our national system of inspection of grain and even the Department of Agriculture itself.

The dimensions of the scandal are difficult to assess at this point. Fifty-seven individuals and four corporations have been indicted, of which 43 persons and two companies have either been convicted or copped pleas on charges ranging from misgrading grain, short-weighting loads bound for foreign ports, bribery and extortion, income tax evasion and even conspiracy to commit large-scale thefts by corporations of their own customers. As the Watergate "burglary" proved to be a mere preamble, so the grain scandal centered in New Orleans is but the tip of an iceberg: As a result of a combined investigation by the U.S. attorney's office, the FBI, IRS and USDA's Office of Investigation, two senatorial subcommittees have met to discuss the problem, and "emergency legislation" is pending.

Last month, the Bunge Corporation, one of the Big Six grain trade giants, pleaded nolo contendere to two counts of systematically looting grain from its own customers over a 12-year period. The rumored estimate of the amount of theft is said to be in the neighborhood of $5 million, though it could easily be much higher.

But it is not the amount of outright theft, bribery and corruption that is of utmost significance in the grain game: The Port of New Orleans scandal has brought to light a thoroughly unmanageable grain inspection system—a mixed marriage of private and federal—through which the Big Six conglomerates have been allowed to run rampant for more than a decade. These six multinationals control 90 percent of American grain exports, approximately $11 billion worth of annual sales. Their corporate power overshadows the private agencies that are supposed to regulate the grain traffic, and they overshadow the USDA as well. When the results are finally in, it may turn out to be the biggest financial debacle of the century.

As much as this nation apparently depends on the Arabs for oil, that much and more so does the world look here for its food supply. The United States has earned the somewhat dubious nickname "The Saudi Arabia of Wheat."

More grain passes through the Port of New Orleans than any port in the world. This area exports one-third of all feedgrain (wheat, soybean, oats, corn, barley, etc.) leaving this country, over a billion bushels annually.

Blessed with an abundance of good cropland, the American farmer can produce far more grain than we could possibly use for domestic consumption. The exportable surplus becomes a "powerful weapon in the political toolkit," as Secretary of Agriculture Butz has termed it. But more important, grain is a major factor in balancing the American trade deficit: In fiscal 1974 the grain export trade amounted to some $12.5 billion out of $22 billion in overall agricultural exports.

The American farmer has been urged by his government to plant every available acre; he has been "educated" by its agent, the Department of Agriculture, to use the most scienterrific methods, chemical fertilizers, high-yield seed, powerful bug killer, and he has come to rely on some very expensive harvesting machinery. He gambles against the weather, insect plague, early frost and other acts of God. This year he and the others of his fraternal order have succeeded in growing a record crop.

But once out of his hands, the harvest falls into the realm of speculators, processors, merchants, carriers and inspectors. And many months later, the farmer will read in his airmail copy of the *Des Moines Register* that grain buyers in Mexico, Germany, Israel, Spain and even Russia are complaining of receiving a product inferior to that for which they'd agreed to pay. The complaints escalate, ranging from excessive moisture to misgrading of grains and large-scale repetitive short-weighting of the ordered load. The farmer feels personally accused. The grain was perfect when it left the farm. Not only is he being ripped off by the grain companies when he sells the product, he's also being bad-rapped by the foreign customer.

"We heard a rumor back in early 1973 that an inspector had taken a bribe from a company to pass a ship that wasn't clean," recounted Assistant U.S. Attorney Neil Heusel, a former FBI agent. "We checked it out and quickly saw that it was not an isolated incident." Shortly thereafter, the U.S. attorney's office joined forces with the FBI in the New Orleans area and the USDA's Office of Investigation. This last agency, whose task it is to examine departmental complaints and irregularities, had been dragging its feet, to say the least, until the appointment in 1973 of Harlan L. Ryan as chief of the USDA's Grain Inspection field office.

Called a "witch-hunter and a troublemaker" by some, Ryan, 47, carried a reputation from Des Moines and Chicago of effective and persistent reform. Soft-spoken but obviously tough-minded, he grew up on a soybean farm in Iowa and saw his father gypped at the local grain elevators when they would bring in the crop at the end of the season. Now, 35 years later, he is shaking up the waterfront at the Port of New Orleans:

"Frequently I have to go out at all hours of the night, maybe to back up one of our fellows. They have tremendous pressure put on them by the elevator superintendents." (Ryan uses the soft understatement employed by many government people who'd like to tell you more only their lips are sealed for obvious reasons.) "I saw things going on when I first came down here which I knew weren't right." Ryan's efforts initially resulted in the impaneling of a federal grand jury in August 1974, and indictments soon followed.

Among the first to be charged were 20 "private" grain inspectors. It was their responsibility to maintain uniform standards in the grading process. The price the foreign customer will pay is determined most often at this point. Both the "private" and USDA inspectors use a system of classification codified by the U.S. Grain Standards Act of 1916, amended in 1968.

But built-in conflicts of interest make it well-nigh impossible to trust the private inspector's impartiality. The men and the companies they work for, so-called boards of trade, must be licensed by the USDA, but their cash livelihoods depend on the grain companies they are supposed to regulate. The "private" inspection agencies are paid for each shipment they certify before loading, yet the sheer volume of the loading operation defies a careful grading. One export elevator can load a ship in excess of 100,000 bushels per hour. It would be hard to make a careful survey in any event. But why should they try? It is obviously in the better interests of both parties to rush the inspection process.

"It's still going on," Harlan Ryan says solemnly. "They're just doing it more in the dark, underground."

The private inspectors are also in charge of certifying ships as being clean enough to take on foodstuff. Cargo holds can contain petroleum residues from previous hauls, excessive moisture, rats, weevils or even odors that can ruin grain. A shipper stands to lose between $3,000 and $20,000 a day in demurrage charges if its cleanliness certificate is withheld. A $2,500 "gift" to an inspector comes out cheaper any way you slice it.

But the federal inspection agent, Ryan's men, are empowered to answer only specific appeals cases and to make periodic spot checks of their private counterparts. These have proven to be a very feeble deterrent. The private inspection agencies handle well over 90 percent of the bulk grain loadings with a labor force that outnumbers the federal inspectors by more than a hundred to one.

"It's far from over," the assistant U.S. attorney explains. "This investigation will go on for at least another year. We'll be looking into each of the grain elevator companies in this area." But New Oleans is only one port, and "problems" have already surfaced at others around the country—the incidents here are only symptomatic of the larger disease rampant in the American grain trade.

BITTER GRAPES

"Your attitude . . . to me, typifies the attitude of the Department of Agriculture to this whole subject of grain inspection: delay and inaction."—Chairman Sen. Hubert H. Humphrey, to Undersecretary of Agriculture J. Phil Campbell, on opening day of Senate subcommittee hearings, 6/19/75.

The Senate Subcommittee on Foreign Agricultural Policy opened its doors for business on June 19, just as the stench from New Orleans was making its way upriver. On paper, Humphrey's subcommittee, which included senators from such agribusiness states as Kansas, South Dakota, Iowa and Florida, had convened with the express purpose of looking into "Grain Inspection Irregularities and Problems and to Provide Emergency Authority to the Secretary of Agriculture to Restore Confidence in the U.S. Grain Inspection System." But the man to whom this "emergency authority" would have been delegated. Secretary of Agriculture Earl Butz, was out of the country on a speaking tour of Venezuela and Brazil.

Right off the bat, Humphrey brought up the issue of the "Browning Report." Written in January of 1969, this document covered the visit of a "situation team" led by James Browning, a USDA official, to the United Kingdom and other countries of Western Europe. The visit was initiated by complaints received from European grain buyers in preceding years. Browning was overwhelmed by the scope and consistency of complaints:

"Mr. Schmittman of Denka, Dusseldorf, said he had spent 15 years in feed processing and year after year the quality of corn from the U.S. has been declining. Mold has been increasing, broken corn and foreign material has been increasing; moisture that was formerly 10% is now 15%, some corn with 15.5% moisture had a sour and stuffy smell and had to be discharged. . . ."

In addition, Browning found that the Europeans were incensed over our penny-ante system of fines for faulty inspection:

"One of the astonishing statements made [in Italy] was that in increasing fines for mishandling or misgrading grain from $1000 to $5000 under the new act [1968] we did not go far enough, that it should have been $100,000 because they felt the shipper stands to make $50,000 or so. They felt the fine was not large enough to be a deterrent to stop either the shipper or the inspector from bribery."

After listing the complaints from the U.K., Italy, Germany, Portugal, Spain and Belgium, Browning himself concludes in a somewhat shaken manner:

"The Grain Division [USDA] should make doubly sure that there is no bribery of inspectors or falsification of certificates or misgradings of grain or improper sampling . . . . After listening to complaints for 3 weeks and seeing the look on people's faces and in their eyes when they accused the inspection system of being subject to bribery, I cannot stress too strongly. . . ."

That report was issued more than six years ago, and the foreign complaint department had certainly not slowed in the time since then. In May of this year, prior to the New Orleans indictments, a Spanish grain company, Kelsa S.A., complained that ships arriving from the ports of Philadelphia and New Orleans were often missing as much as 3 percent of the ordered loads.

Undersecretary J. Phil Campbell, Butz' stand-in at the hearings, claimed that neither he nor any of the top USDA officials had ever heard of the Browning Report until it was brought out in the *Des Moines Register* and the *New York Times*. Campbell insisted that the Browning Report was not an "official" document of the USDA and never had been.

But the senators had other questions for USDA officials on the carpet: How was it that in the eight years between 1966 and 1974 the number of active agents in the USDA's Grain Inspection Division had been reduced from 300 to 220 men, while in the same time period the volume of exports-to-be-inspected had doubled? Was the USDA tying its own hands behind its back?

And what of the Griffin incident? In 1971 a USDA Grain Division man named W. W. Griffin stationed in the New Orleans field office reported the discovery of phony grain gradings and other irregularities. He filed a series of reports to his immediate supervisors, only to be rebuffed. When he presented the matter to the USDA's Office of Investigation, Griffin was told not to bother his superiors with trivialities. At the Senate hearings, the USDA officials could not answer on the topic of the Griffin case: Two weeks later they submitted a brief listing the facts but were still unable to identify the superior who'd clamped down on Griffin's complaints.

At another point in the hearings, Francis Riley, a 44-year-old chicken farmer from Boaz, Ala., and chairman of the Alabama Poultry and Egg Association, told the senators about the time he tried to buy corn from Cargill Corporation, the biggest of the Big Six traders:

"It was shipped to me as No. 2 corn, of which I'd ordered 25,000 bushels, but it included 11.8 percent of broken and foreign materials, trash, and was 4.7 percent oats. I have the grade with me. Purchased as No. 2 and shipped to me as No. 5.

"But you simply cannot blend and feed No. 5 corn to poultry and get results. It will not work. The blending practices as practiced by the grain companies today are outright criminal and should be treated as such. A hen cannot eat enough of a low-test weight or light-weight corn to maintain a body and lay. It just doesn't work that way.

"If I sound like it is bitter grapes, it really is, because there is not a grain company in the country today that I will trust any further. And I have been in business with them and tried to work for them for 25 years and have come to the conclusion that there is not a one of them that can be trusted."

Robert Johnson, a former New Orleans USDA Grain Division inspector, told the senators of threats on his life after he'd forced the Bayside Grain Elevator in Reserve, La., to unload a shipment that contained high percentages of sour grain:

"Rumors began to circulate that both my kneecaps would be broken, that there was a contract out on my life," the former inspector testified. Since quitting the USDA, Johnson has changed his name and address, carries a gun and generally keeps a low profile. His case was complicated (or strengthened) by the fact that he'd admitted to taking a bribe several years earlier. Placed on a probation of sorts, he apparently absolved himself by becoming a tough inspector.

"In spite of what he'd done in the past, he was a good inspector. I don't know if he turned over a new leaf or what," says Harlan Ryan of his former agent. "Johnson did a good job and he became very much disliked on the riverfront. The inspection agencies would call me up as soon as he'd been there and complain. It was that way all along, but they could never prove him wrong. As far as the threat itself, I'd say it was real enough, but none of our other men has been threatened like that."

Johnson's testimony before the senators highlighted the strain placed on USDA field office personnel at the lower levels. They worked under limited circumstances, attempting to police the numerous private inspectors, inspection agencies and grain elevators, while at the higher echelons USDA officials maintained a policy of no see, no hear, no speak.

The matter of Butz' absence during the early weeks of the Senate subcommittee hearings would warrant no special notice but for two coincidences: (1) The week before Sec. Butz left for Brazil, Jorge Born, president of Bunge & Born, Lda., of Buenos Aires, had been released from nine months' captivity by Montonero revolutionary forces. The firm had paid a reported $60 million—the highest ransom ever for a kidnapping—and Mrs. Peron's government was enraged that so much money had fallen to their enemies. As a result of the uproar, the entire directorate of Bunge & Born temporarily transferred their operations to the firm's Rio de Janeiro offices in Brazil. They were all in Rio at the same time. (2) Less than a month after Butz' return from South America, the Bunge Corp. (USA) and 13 of its employees were indicted with conspiracy to defraud their own customers, the first (with more to follow) of the grain giants to be so indicted. We called Butz' office and asked whether he'd met with any of the Bunge executives in Brazil and whether they might have discussed the growing grain troubles up north.

"Well, Dr. Butz may have talked with them in the cocktail line after his speech at the American Chamber of Commerce down there, but he certainly did not discuss the forthcoming indictments," a spokesman said.

20TH-CENTURY PIRATES

". . . the American farmer has never produced a higher quality grain, and yet foreign buyers have increasing complaints about the deteriorating quality of our grain on delivery.

"Obviously something is happening to the grain along the way. I suspect three or four things are occurring.

"1. Our inspection system is faulty and corrupt.

"2. Our grading standards are inadequate.

"3. Our grain handling methods need revision, and

"4. Six major grain trading companies so monopolize the grain trade and all its aspects that effective regulations can be thwarted by their size and political influence." Sen. Dick Clark (D-Iowa), at Senate subcommittee hearings.

The Grain Trade, ala the Big Six, is the multinational conglomerates that control 90 percent of the $12.5 billion in exports from this country to the rest of the world.

Their names are Cargill, Continental Bunge, Louis Dreyfus & Cie., Cook and ADM (Archer-Daniels-Midland). The first four are privately owned and thus do not have to file with the federal Securties and Exchange Commission. Cargill and Continental dealt 50 percent of that $11 billion. Bunge took 20 percent and the other 30 percent was split among the last three.

But what "multinational" really means is that these conglomerates cannot be policed by any one individual nation. Their billion-dollar holdings, subsidiaries and vertically integrated offsprings are too far-flung across too many international borders to ever be held in check.

*Cargill**

At the top is Cargill, a firm that for the past century has quietly become one of the nation's largest corporations, probably the largest privately held corporation in the U.S.

Cargill's sales are in the billions, 3 billion in 1972. . . . *Fortune's* listing of the largest 500 industrial corporations in the U.S. shows 26 with bigger sales than Cargill's. Ranking well below Cargill's sales . . . are Bethlehem Steel, Kraftco, Lockheed, Tenneco, Greyhound, General Foods and Dow Chemical.

Cargill's reign in grain is mainly in conveying. Cargill is a handler and trader, storing grain and seed-oil in a massive complex of elevators at more than sixty locations. Cargill's total storage capacity of 180 million bushels is almost 2.5 times as great as the total storage capacity of ADM, a grain trade rival.

Gargill loads grain from its elevators onto its own barges, trucks, railroad cars and ships, using mechanical grain handling aids developed by its own researchers. The company maintains plants and offices at more than 250 North American locations . . .

The Big Six are pirates in the oldest tradition. The flag they fly is the Jolly Roger, the black flag of no nation, and their inner dictum is *secrecy über alles*. For years these 20th-century pirates have gotten away with unchecked highway robbery; government personnel readily admit that the **Big** Six not only have farmers and consumers over a barrel, they've got the whole planet over that barrel.

*Continental**

Business is good—a conservative estimate puts Continental's sales at $2.5 billion, Continental is large and diversifying, moving from the shadows of the grain trade world into consumer products. . . .

[Michel Fribourg] controls the company in a bizarre manner for this age of corporate managers. He owns more than 90% of Continental's stock. *Business Week* says, and "separating his personal holdings from those of Continental Grain is difficult and probably academic."

His personal holdings are extensive:

There are at least 100 companies under the Fribourg umbrella and new ventures in many new markets are being added regularly. American housewives buy Fribourg's Oroweat bread, his Polo Food frozen dinners, and his Hilbun chickens which are fattened on his Wayne feed. Pets eat Ful-O-Pep animal food. Industrial plants and private homes are located on Fribourg's vast real estate holdings in such places as France, Morocco, Switzerland, Staten Island and Long Island. Some 50,000 head of cattle graze on Fribourg's acres, and his Argentine supermarkets are supplied by Agricom, his food distributorship.

"Look," a USDA Grain Division man told us, "grain has got to keep moving. These companies are the only ones with the power and efficiency to handle the volume of traffic." The USDA official lights a cigarette, and the drab metallic furnishings of his office seem to mirror his personal helplessness: "The grain trade controls the barges, railway vehicles, ocean-going tankers and, of course, they've got the capital all locked up. If the department, or even the U.S. Congress were to come down on the grain trade, hell, the whole economy would go down the drain in a flash."

*Bunge Corporation**

Bunge Corp., with U.S. headquarters in New York, is one of the most privately held grain trade corporations. It is by one account the third largest in the world, second only to Cargill and Continental. But Bunge has kept the cloak of secrecy more tightly drawn around its operations than the others have.

Bunge is the U.S. arm of Bunge & Born, Lda., a vast, little known Buenos Aires-based conglomerate that controls 20% of the world's grain shipments, according to *Business Week.*

Bunge's storage capacity is around 100 million bushels. The corp. maintains offices and agents in 80 foreign countries; has 22 river, five interior rail, and four port terminals and 100 country (inland) elevators in the U.S. It operates 105 barges with total tonnage of 93,380 gross tons, and controls 75,000 railway cars. . . .

The Big Six keep in constant touch with their subsidiaries and other worldwide trade connections through the most sophisticated communications networks—their financial "espionage" units would make the Shah of Iran envious. It is not uncommon for CIA personnel to court their private enterprise counterparts in an effort to pick at each other's data.

The grain trade can, and most certainly does, manipulate the futures and commodities markets world over. First and most obvious, they are buying and selling in volume with a capital V: second, their mega-computer brains keep a precision watch on the variables of planetary weather conditions, climate reorganization, employing all available data feeding it through their hardware in order to predict the rise and fall of world agriculture, and third, as far as U.S. exports are concerned, the Big Six have a particular magnetic sway over the directorate of the U.S. Department of Agriculture.

REVOLVING DOORS

"Butz said the investigators have no evidence at this point that any Agriculture Department employees or grain company officials were involved in unlawful conduct.

" 'That's not saying they weren't,' he added. Every man has his price.' "—Reported by James Risser in the *Des Moines Register*, 5/30/75

They call it the Revolving Door Policy because the man comes in from the "private sector," spins around a bit in government service, then goes out right back where he began.

The most obvious case, and probably the one responsible for the moniker, was the appointment of Dr. Earl Butz by President Nixon in 1971. Butz had been serving on the board of directors of Ralston Purina, a major domestic grain company. The man Butz replaced as secretary of agriculture, Clifford Hardin, returned to private life and joined Butz' alma mater, Ralston.

The current director of the USDA's Export Marketing Service (EMS) is George Shank-

---

*The Agribusiness Accountability Project, a Washington based nonpartisan public interest group, has done several excellent in-depth studies of which *The Great Grain Robbery & Other Stories* by Martha M. Hamilton and others is the best. The book spells out grain trade corruption focusing on the Russian wheat deal of 1972, and not coincidentally serves as an indictment against the USDA and its pro-Big-Six policies. All quotes are from the same book, Agribusiness Accountability Project, c. 1972, 1000 Wisconsin, Ave., N.W., Washington, D.C. 20007.

lin, who for the seven years previous to his appointment had been in charge of Bunge Corp.'s Washington office. Lucky Shanklin didn't even have to "relocate." In July, during the first big wave of New Orleans grain indictments, Shanklin was quoted in the *Wall Street Journal* as saying: "Whatever it is [in New Orleans], I'm sure it's not this inspection thing."

There are many others who have gone through the revolving door process, and though it's a cute concept, the repercussions on the American farmer and consumer are deadly serious.

A glimpse as just one aspect of the disastrous Russian grain deal of '72 can give us sufficient view of the arrogant attitudes held by the Earl of Agriculture and his sheriffs:

At the outset of the deal, there was the suggestion that the U.S.S.R. and the U.S.A. make their deal on a one-to-one basis, government-to-government. The bulk of the grain purchased would come from official USDA warehouses, government-owned surpluses; unfortunately, it didn't go down that way.

The first American negotiating team dispatched to Moscow was headed by Butz himself, but it was Assistant Secretary Clarence D. Palmby who was pulling the toggle switches. Several weeks prior to leaving for the U.S.S.R., Palmby had been offered (and was seriously considering) a high post with Continental Grain. Needless to say, this high-level public servant did not discuss the conflict-of-interest job offer with anyone in the USDA before or during the negotiations with the Russians.

William Robbins, the *New York Times* man whose reports have added fuel to the New Orleans grain caldron, captures the spirit of the Palmby *affaire* in his excellent work *The American Food Scandal* (1974).

A government-to-government deal would have had advantages. It would have given responsible officials a precise knowledge of what the Russians were receiving from U.S. stores; it would have had a restraining influence on the price spiral that accompanied heavy buying from private stocks.

Palmby flatly turned down the direct purchase proposal. Whatever deal should be made, he said, would have to be channeled through the private grain companies.

One of the more quixotic twists of the grain game is that the USDA subsidizes these multinational, multibillion-dollar dealers. The price of American-grown grain is always substantially higher per bushel than the world market price. In order for the grain merchant to "compete" on the world market, someone has to make up the differentials—the taxpayer, through USDA subsidies, has the pleasure of providing the grain pirates with builtin guaranteed profits. In fiscal 1974 the USDA paid approximately $350 million in subsidies to the Big Six and others.

In point of fact, the Russian wheat burn of '72 hinged on assurances by the USDA to Cargill and Continental that the subsidies would be continued in full through the term of the deal. Before the final "bargain" was struck (at an estimated cost to the American consumer of $3 billion a year in higher food prices). Continental's executives had the assurance from Carroll Brunthaver, Palmby's replacement, that the USDA subsidies would be there. Brunthaver, by the way, came to USDA from Cook, another one of the big Six.

The system is not one of outright bribe between the grain trade and the USDA, it's more like an indirect form of payola—"deferred rewards," as the Agribusiness Accountability Project has termed it. The Palmby episode is a perfect example.

THE WELL-GREASED GRAPEVINE

"Right now they're using floating rigs, and we have the suspicion that the quality of grain going on board from the floating rigs isn't necessarily that which it has been represented to be on the certificates . . . in some cases. . . ." Inspector Ryan adds the last words as an afterthought. He shows us a professional photographer's color portrait of the "floating rig," a recent innovation in the grain game. It consists of a huge crane operation and platform seated on an anchored vessel out in the Mississippi. The floating rigs act as intermediate elevators, receiving the grain from inland barges and loading it directly onto the ocean-going freighters. The grain never touches land, thus bypassing the grain elevators and making the federal grain inspector's life even more difficult.

"We have no way of getting onto the floating rigs without everyone on the waterfront knowing about it," Ryan says ruefully. The fifth floor window of Ryan's office in the Federal Building on Loyola Avenue looks out at the construction skeleton of a 25-story hotel, and next to it, the ominous oval of the Louisiana Superdome.

"When we go out to inspect the floating rigs, we go on the public launch. Word gets passed along that way. Before you even get there everyone knows you're coming. And when you're out there, the launch comes back and calls last trip until 7:00 in the morning. Either you stay there till 7:00 in the morning, or you get off then and there. Most of the big companies are using floating rigs, in addition, of course, to the regular elevators, partly because of this year's record crop. And the floating rigs can move up to 30,000 or 40,000 bushels per hour."

Ryan's task is certainly no bed of roses, and though there has been no outright violence so far, the threat constantly lingers beneath the waterfront surface. Aside from the millions, if not billions, of dollars involved at the Big Six level, there are literally hundreds of jobs at stake, not only in New Orleans but at the other ports around the nation.

Although there are no heroes in this story, Harlan Ryan comes closest to the role. His persistence in bringing much of the New Orleans mess to the surface was instrumental to both the grand jury's revelations and the later inquiries conducted by the senators.

"The rumor came to me that there were two petitions drawn up to have me put out of New Orleans. . . ." Again Inspector Ryan hesitates, not vain but matter-of-fact about his popularity. "The petition was initiated by one of the boards of trade down here. I heard of it from a manager who'd been asked to sign one petition but refused. These things get around very fast, the grapevine on the waterfront is well-greased. The petitions were intended for someone in Washington. I don't know who, but they never made it that far."

THE BIG "FINAGLE"

"The most glaring deficiency lies in the present grain inspection system. It is barely a system at all, but rather a confused hodgepodge of private, State, and Federal."—Sen. Dick Clark (D-Iowa) in The Congressional Record, 8/1/75

The Destrehan Board of Trade (DBOT) is housed in a small, one-story building 35 yards from the mammoth Bayside Grain Elevator, which is at least 100 times larger than the trade office. Senator Clark has called them "sweethearts," and it sort of looks that way from the physical layout—the muscle-bound macho grain giant and its pert little mistress, the private, nonprofit inspection agency. In the late afternoon sun, the shifts are changing, wives are driving up to the gate to wait for their men. The cement elevator seems almost like a mighty power plant—and perhaps it is, a foodpower plant.

We were not allowed to see the inside workings of these overgrown succubi, with their miles of conveyor belts streaming back and forth with billions of kernels, feeding in and bleeding out 100,000 bushels per hour. The giants shun the public's eye on their facilities as well as on their finances: "Sorry, against regulations," said one grain elevator office. "Definitely not," Continental told us. "We're expanding and the insurance people wouldn't like it." "Not until this inspection mess is over with," came word from the Cook Company's main office. The plant manager at the St. Charles Elevator Company allowed as how he couldn't let us in for a look "without the owner's consent. I work for them and I do what they say." Other efforts only accumulated unreturned phone calls and polite refusals.

"That, indeed, is where they make their profits," says Dan Willis, 38, chief inspector for the Destrehan Board of Trade, and he points out through his office window at the fortresslike grain elevator. "The law sets the percentages for allowable foreign materials, and they'd be foolish to sell anything better than it has to be. When the elevator companies blend it to the limit, they control the quality and also maximize their profits." Willis supervises DBOT's nine inspectors, who rotate between this facility and another similar one at Bunge's elevators down the road. Five of the men have "full" licenses—they're authorized to grade and weigh all types of grains, while the other four are limited to particular categories. In the past year, two DBOT inspectors have been indicated on charges of bribery and their licenses subsequently revoked by the USDA.

The DBOT is one of the private inspection agencies operating in New Orleans. Founded in 1961, the agency came to life at the same time as Bunge Corp. rebuilt its elevators after a disastrous fire. DBOT's leader these past 14 years, Bryan J. Lehmann Jr., is a former state representative who did legal work for Bunge before starting his inspection agency. Lehmann told Senator Clark's committee of inquiry that the grain giant had "loaned me $10,000 or $15,000. I don't recall which," when he first got DBOT off the ground. The loan was "advance payment" on subsequent fees for inspection that DBOT would later perform for Bunge. In spite of the apparent conflict of interest right at the outset, the USDA gave Lehmann his license.

"Do the grain elevators ever exceed the legal limits of blending?" we asked Willis.

"No, not to my knowledge," he replied. "It's not really my department. If someone's finigelin' with the scales, it's the elevator people themselves, not us. It's also feasible that someone could get inside the scales and finigle with them, too."

Just such a method had actually been in operation at the Bunge elevators. A secret switch had been installed so that the Bunge superintendent could put the weighing scales on "hold" and then be free to write in any weight he chose. This was one way the elevator built up large pilfered surpluses. An obliging middleman would then "fence" the stolen grain and split the profits with the grain company. Bunge's fence was the Degelos Bros. Grain Company, operating under several names out of New Orleans and keeping its cash in Bahamian bank accounts. They would arrive at the elevators with appropriate barges and boxcars and misleading papers, pick up the load of "skimmings" and sell it on the open market. But the hometown heroes couldn't always cover their tracks and on occasion had to call for help from the New York office. Phony documentation for the movement of the grain was drawn up, and thus it came to be recorded in company history that a certain barge delivered 54,981 bushels of corn on February 15, 1968, when it was in fact hauling aluminum from Paducah, Kentucky.

So far 13 Bunge employees, including two high-level vice-presidents, have been indicted and have pleaded nolo contendere to the charges of stealing from their customers, but there are clearly plenty more thieves on the waterfront yet to be discovered.

Two weeks after the Bunge indictments in July, the grand jury brought similar charges against the neighboring St. Charles Grain Elevator Company, owned by Adnac, a joint venture of ADM and Garnac of Switzerland. Adnac and six of its high-level executives are accused of conspiring to steal grain from June '71 to June '74, causing grain inspectors to falsify certificates and defrauding the government by interfering with the regulatory functions of the USDA. The Adnac indictments also pinpointed instances where large quantities of grain were listed as having been loaded on ships when actually the grain never left the elevator. It further revealed that the elevator employed a secret conveyor belt that would draw pools of "trash" and cheaper grains out to the loading platform, bypassing inspectors and automatic sampling devices along the way. In all, the company has been charged with nine overt acts in violation of the conspiracy statutes.

In still another case, the Mississippi River Grain Elevator Company (MRGE), of Myrtle Grove, La., has been charged with systematic theft of entire bargeloads of diverted grain. These transactions also involved Degelos Company as the "fence." Evidence documents that at least $817,612 in illegal income accrued to the conspirators. MRGE was in the habit of substituting cheaper stock on orders for soybeans and would reserve top-quality beans for the elevator's owner, Italian magnate Serrafino Ferruzzi. Ferruzzi is one of Europe's largest soybean processors. His purchases from MRGE were listed as low-grade, low-price stock when in fact the stock he was buying was the best. A Feruzzi employee who worked upriver at the firm's loading terminal in Davenport, Iowa, was asked by Senator Clark if he had been requested to misgrade corn. "I wasn't asked," said John Leese to the senators, "I was told." Leese also suggested that Ferruzzi's inland sales were habitually adjusted to short-weight the farmers.

In late October it was revealed that Ferruzzi actually owned part of the Delta Weighing and Inspection Bureau, which had been licensed to inspect Ferruzzi's traffic. In an unprecedented action, probably a result of the intense media and senatorial heat, the USDA revoked Delta's inspection license. Delta is the first of the private inspection agencies to be put out of business, but indications are that there will be others.

On October 8, 1975, a federal judge in New Orleans District Court fined the Bunge Corporation $10,000 on two counts of conspiracy, at Galveston and at New Orleans, for systematic theft over a 12-year period. "A slap on the wrist" is admittedly a hackneyed cliche, but remember, the corporation does more than $2 billion a year in gross sales—the $20,000 fine was probably far less than they paid out in bribes over six months. Echoes of the European complaints to Browning of penny-ante fines come rebounding back as if through a grain tunnel.

In the judgment, the corporation agreed to establish an "affirmative action program" aimed at preventing recurring theft. The U.S. attorney's office offered the self-policing measures as a condition for dropping other parts of the conspiracy charges. The new program also calls for stricter auditing procedures, increased federal inspections and a brand-new battery of automatic scales. The clean-up applies to all five Bunge export terminals, not just the two convicted.

"The other three were voluntary on the company's part," Assistant Attorney Heusel said. "And it's a good decision. It might save investigators in those other places a lot of time." But it is important to remember that these self-improvement measures are—ultimately—voluntary. Like the other grain traders, Bunge's financial records still remain flush to the vest; and the company continues to maintain favor in high places in the event of a really serious crunch.

Back on Capitol Hill, Senator Humphrey's bill to provide emergency authority to Secretary Butz has passed in the Senate but lingers in the House. Behind it, a bill by Senator Clark proposing total federalization of the grain inspection system waits for an audience in the Senate. Yet both pieces of legislation are being held in abeyance pending a GAO report of the whole shooting match, as requested by Senator Humphrey. The GAO study is not due until late February 1976. By then much of this fall's export harvest will have left the country—likely as not, laced with mold, weevils, organic "trash," petroleum residue and rat droppings.

THE PANAMA CANAL: MYTH VERSUS REALITY

Mr. NELSON. Mr. President, a great deal has been said and written about the Panama Canal during this session of Congress, and we can expect that this troubling issue will be very much with us in 1976. The Washington Star of December 14, contained an article by Ellsworth Bunker, an ambassador-at-large with responsibility for negotiations on the status of the canal. Ambassador Bunker's remarks are a succinct and cogent examination of some of the historical, political, and economic factors at work in United States-Panamanian relations. I commend his remarks to the Senate for a concise analysis of U.S. interests in Panama, and ask unanimous consent that the text of this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, Dec. 14, 1975]

Expunging Panama Canal Myths

(By Ellsworth Bunker)

The Panama Canal negotiations have evoked emotion, controversy and opposition. But I am convinced that much of this opposition stems from a number of false impressions about the basis for our presence in the Canal Zone.

Political realities make it desirable, in my judgment, to bring the negotiations to an early and satisfactory conclusion.

But our presence in the canal has a constituency among the American people—while our negotiations to solve our problem there do not. So, if we are to gain support, we must find it through candid and reasonable public discussion.

Our story begins 72 years ago. In 1903 the newly independent Republic of Panama granted to the United States—in the Hay-Bunau-Varilla Treaty—a strip of land 10 miles wide and 50 miles long for the construction, maintenance, operation, and protection of a canal between the Atlantic and Pacific.

The treaty also gave the United States—in perpetuity—the right to act within that strip of land as "if it were the sovereign."

It was quickly and widely acknowledged that the treaty favored the United States. When Secretary of State John Hay submitted the treaty to the Senate for ratification he said:

> ". . . We shall have a treaty very satisfactory, vastly advantageous to the United States and, we must confess, not so advantageous to Panama."

For many years Panama has considered the treaty to be heavily weighted in our favor. As a result, the level of Panama's consent to our presence has steadily declined. And by Panama, I mean not simply the government, but the Panamanian people.

The Panamanians point out:

First, that the existence of the Canal Zone impedes Panama's development. The Canal Zone cuts across the heartland of Panama's territory, dividing the nation in two. The existence of the zone curbs the natural growth of Panama's urban areas; it holds unused, large areas of land vital to Panama's development; it controls all the major deepwater port facilities serving Panama; and it prevents Panamanians from competing with American commercial enterprises in the zone. For the rights we enjoy on Panamanian territory, we pay Panama only $2.3 million a year.

Second, that the Canal Zone infringes on Panama's nationhood. Panama says the privileges exercised by the United States deprive their country of dignity and indeed, of full independence. Within the Canal Zone the United States operates a full-fledged government of Panama, which is its host. It maintains a police force, courts, and jails to enforce U.S. laws, not only upon Americans, but upon Panamanian citizens as well. And, the Panamanians point out, the treaty says the United States can do all these things forever.

Panamanian frustration over this situation has increased steadily over the years, as shown by the riots and demonstrations of January 1964.

In our negotiations, we are attempting to lay the foundations for a new—a more modern—relationship which will enlist Panamanian cooperation and better protect our interests.

Unless we succeed, I believe that Panama's consent to our presence will continue to decline—and at an ever more rapid rate. Some form of conflict in Panama would seem virtually certain, and it would be the kind of conflict which would be costly for all concerned.

We should understand that the canal's physical characteristics make it vulnerable. The canal is a narrow channel 50 miles long. It operates by the gravity flow of water and depends for its efficient operation on an integrated system of locks, dams, and other vital facilities. At best, it is susceptible to interruption, and interruptions would mean reduced service to world shipping and lower revenues.

But the most enduring costs of confrontation over the canal would not be commercial. Our Latin American neighbors see in our handling of the Panama negotiations a test of our political intentions in the hemisphere. Moreover, the importance of the canal, and our contribution to it, are recognized throughout the world. It is a measure of the respect in which we are held that people everywhere expect the United States to be able to work out an arrangement with Panama that will guarantee the continued operation of the canal in the service of the world community. We can, I suggest, create an example for the world of a small nation and a large one working peacefully and profitably together.

Were we to fail—particularly in light of the opportunity created by the negotiations so far—we would in a sense be betraying America's wider, long-term interests.

The plain fact of the matter is that geography, history, and the economic and political imperatives of our time compel the United States and Panama to a joint venture in the Panama Canal. A new arrangement based on partnership promises a greater assurance of safeguarding our interest in a canal that is open, safe, efficient, and neutral.

The real choice before us is not between the existing treaty and a new one but rather between a new treaty and what will happen if we should fail to achieve a new treaty.

These, then, are some of the political realities we face in Panama.

We must face political realities here at home as well. We know that a treaty must receive the advice and consent of two-thirds of the Senate of the United States. And we expect both houses of Congress will be asked to approve implementing legislation.

There is opposition in Congress to a new treaty; it reflects to a considerable degree the sentiments of many citizens. Our job is to make sure that the public and Congress have the facts they need if they are going to make wise decisions about the canal.

Unfortunately, the basis for our presence in the zone is widely misunderstood. Indeed, a number of myths have been built up over the years—about Panama's intentions and capabilities, about the need for perpetuity, and, most important, about ownership and sovereignty. We need to replace these myths with an accurate understanding of the facts.

First, there is the matter of Panama's intentions and capabilities—and the suggestion that a new treaty will somehow lead to the canal's closure and loss. The fact is that Panama's interest in keeping the canal open is far greater than ours. Panama derives more income from the canal than from any other single revenue-producing source.

Even so, some argue, canal operations would suffer because Panamanians lack the technical aptitude and the inclination to manage the operation of the canal enterprise. No one who has been to Panama and seen its increasingly diversified economy can persuasively argue that the Panamanians would not be able to keep the canal operating effectively and efficiently.

And Panama's participation in the canal can provide it with a greater incentive to help keep the canal open and operating efficiently.

In fact, the most likely avenue to the canal's closure and loss would be to maintain the status quo.

Second, there is the notion that the canal cannot be adequately secured unless the U.S. rights there are guaranteed in perpetuity—as stipulated in the 1903 treaty.

I can say this: To adhere to the concept of perpetuity in today's world is not only the exercise of rights in perpetuity has become a source of persistent tension in Panama. And clearly, an international relationship of this nature negotiated more than 70 years ago cannot be expected to last forever without adjustment.

Indeed, a relationship of this kind which unrealistic but dangerous. Our reliance on does not provide for the possibility of periodic mutual revision and adjustment is bound to jeopardize the very interest that perpetuity was designed to protect.

Third and finally, there are two misconceptions that are often discussed together: ownership and sovereignty. Some Americans assert that we own the canal; that we bought and paid for it, just like Alaska or Louisiana. If we give it away, they say, won't Alaska or Louisiana be next?

Others assert that we have sovereignty over the Canal Zone. They say that sovereignty is essential to our needs—that loss of U.S. sovereignty would impair our control of the canal and our ability to defend it.

I recognize that these thoughts have a basic appeal to a people justly proud of one of our country's great accomplishments. The construction of the canal was an American achievement where others had failed; every bit as great an achievement for its era as sending Americans to the moon is for ours.

But let us look at the truth about ownership and sovereignty. The United States does not own the Panama Canal Zone. Contrary to the belief of many Americans, the United States did not purchase the Canal Zone for $10 million in 1903. Rather, the money we gave Panama then was in return for the *rights* which Panama granted us by the treaty. We bought Louisiana; we bought Alaska. In Panama we bought not territory, but rights.

Sovereignty is perhaps the major issue raised by opponents of a new treaty. It is clear that under law we do not have sovereignty in Panama. The treaty of 1903 did not confer sovereignty, but speaks of rights the United States would exercise as "if it were the sovereign."

From as early as 1905, U.S. officials have acknowledged repeatedly that Panama retains at least titular sovereignty over the zone. The 1936 treaty with Panama actually refers to the zone as "territory of the Republic of Panama under the jurisdiction of the United States." Thus, our presence in the zone is based on treaty rights, not on sovereignty.

It is time to stop debating these historical and legal questions. It is time to look to the future, and to find the best means for assuring that our country's *real* interests in the canal will be protected.

What are our real interests?

We want a canal that is open to all the world's shipping—a canal that remains neutral and unaffected by international disputes;

We want a canal that operates efficiently, profitably, and at rates fair to the world's shippers;

We want a canal that is as secure as possible from sabotage or military threat; and

We want fair treatment for our citizens in the Canal Zone.

The negotiations we are now conducting with Panama for a new treaty will insure that all these interests of our country are protected.

In early 1974 Secretary of State Kissinger went to Panama to initiate with the Panamanian foreign minister a set of eight "principles." The best characterization of these principles came from the Chief of Government of Panama. He said they constitute a "philosophy of understanding." Their essence is that:

Panama will grant the United States the rights, facilities, and lands necessary to continue operating and defending the canal; while

The United States will return to Panama jurisdiction over its territory; and arrange for the participation by Panama, over time, in the canal's operation and defense.

It has also been agreed in the principles that:

The next treaty shall not be in perpetuity but rather for a fixed period;

The parties will provide for any expansion of canal capacity in Panama that may eventually be needed; and

Panama will get a more equitable share of the benefits resulting from the use of its geographic location.

Since then, major issues have been identified under each of the principles, and we have reached agreement in principle with the Panamanians on three issues:

Jurisdiction. Jurisdiction over the zone area will pass to Panama in a transitional fashion. The United States will retain the right to use those areas necessary for the operation, maintenance, and defense of the canal.

Canal Operation. During the treaty's lifetime the United States will have the primary responsibility for the operation of the canal. There will be a growing participation of Panamanian nationals at all levels in day-to-day operations in preparation for Panama's assumptions of responsibility for canal operation at the treaty's termination.

The Panamanian negotiators understand that there are a great many positions for which training will be required over a long period of time and that the only sensible course is for Panamanian participation to begin in a modest way and grow gradually.

Canal Defense. Panama recognizes the importance of the canal for our security. As a result, the United States will have primary responsibility for the defense of the canal during the life of the treaty. Panama will grant the United States "use rights" for defending the waterway; and Panama will participate in canal defense in accordance with its capabilities.

Several other issues remain to be resolved. They concern:

The amount of economic benefits to Panama;

The right of the United States to expand the canal should we wish to do so;

The size and location of the land and water areas we will need for canal operation and defense;

A mutually acceptable formula for the canal's neutrality and nondiscriminatory operation of the canal after the treaty's termination; and

Finally, the duration of the new treaty.

Quite obviously, we still have much to do to resolve these issues. Although we have no fixed timetables, we are proceeding with all deliberate speed. We are doing so with the full support of the Department of Defense. Indeed, our most senior military officials regard the partnership we are attempting to form as the most practical means of preserving what is militarily important to our country respecting the Panama Canal.

America has always looked to the future. In the Panama Canal negotiations we have the opportunity to do so again:

To revitalize an outmoded relationship;

To solve an international problem before it becomes a crisis; and

To demonstrate the qualities of justice, reason, and vision that have made and kept our country great.

HUMPHREY ADDRESSES MINNESOTA GRAIN TERMINAL ASSOCIATION ON AGRICULTURAL POLICY

Mr. HUMPHREY. Mr. President, on December 3 I had the privilege of speaking before the Grain Terminal Association of the Minnesota Farmers Union at its annual meeting.

At that time, I outlined some of the problems and complexities facing our agricultural producers today. And I indicated the very significant role that our agricultural exports play in meeting our petroleum import requirements.

I also outlined some of the shortcomings of today's agricultural programs and the continuing uncertainty which these policies encourage.

I also pointed out the present administration attitudes which prevail regarding the role of the cooperatives. In my view, the cooperatives play an important role in the production and marketing of our farm commodities. But at present there is almost a vendetta against these cooperatives in the name of "stimulating competition."

Clearly we need to develop new legislation which provides improved fuller protection for our producers and reliable food supplies for consumers. At the same time we need a reserve mechanism to acquire any extra production during a particularly good production year.

In addition, our agricultural policy needs to take into account the transportation and input requirements for agriculture, which generally have not been adequately considered in developing positions regarding food and agricultural policy.

Mr. President, in order to stimulate discussion regarding this important subject, I ask unanimous consent that my remarks be printed at this point in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Hubert H. Humphrey

Despite record U.S. harvests this year, the world food supply situation is little better than a year ago.

Our farmers still feel neglected and unappreciated by the government. And many urban consumers do not understand agriculture and its modern complexities.

We have an Administration which is trying to forget lessons learned in maintaining the stability and productive capacity of this vital industry.

It's not a case of trying to teach an old dog new tricks. It's a case of trying to remind a confused Administration of some basic facts.

The Nation's Governors in February, 1975, resolved:

"We must develop a workable national food policy that takes into account at least minimum protection for our farmers and their resources upon whom we are calling for unlimited production."

That need exists more than ever today. The production of wheat this year was up 19.2 percent, corn 22.5 percent and soybeans 19.5 percent.

The index of all agricultural production for this year is 122 in comparison with the previous record of 120 in 1973.

Our agricultural exports are expected to approach $23 billion this year, with net agricultural sales over imports of $12.7 billion. And yet, net income for farmers is likely to drop from over $27 billion last year to around $25 billion this year.

Minnesota farm income for this year is lower than in 1974, when net farm income dropped by $543.3 million. How many sectors of our economy would be willing to accept a twenty-four percent reduction in net income?

Farm prices have continued to bounce up and down, depending on the weather and rumors of export sales. Meanwhile, production costs keep rising ever upward.

The Administration responds that its policy is one of full production and the free market.

I support that as a goal, but it is not adequate or realistic as a policy. Without a balanced food and agricultural policy, our farmers will continue each year to look down the barrel at potential financial disaster.

On the other hand, we confront a frightening world food need, with over 2 million new mouths to feed each month.

To cripple food production with economic pressures that drive people from farms is unacceptable as we watch the progression of world starvation. We cannot and will not ignore this serious obligation.

The record of this nation in helping to feed the world is one of which we can all be proud. In addition to our ever increasing commercial exports, we have provided over $27 billion in food assistance since 1954.

This record achievement did not just happen. We provided agriculture with the stability needed to encourage the farmer to invest in new technology, and to plan for five, ten or more years into the future.

It is a record that was made possible by developing programs to assure the availability of credit.

It also was based on agricultural research efforts, market promotion and development, adequate transportation and inputs.

And it was encouraged by the tremendous growth in the ability of the farmer to market his own product. Those of you gathered here know this story better than most, because you helped write that history.

However, let us not kid ourselves. The programs we fashioned over the years have not been perfect. We did not provide adequate rewards for our farmers.

But let's look at the record of what we have accomplished.

The American farmer—from the Minnesota dairyman to the Louisiana rice producer—stands before his nation and the entire world with a record of productivity that is unmatched anywhere.

In the years right after World War II, America was looked to as the breadbasket of the world. And today, more than ever, we are the world's main food surplus nation.

The people of America today enjoy a diet unparalleled in the world for quality, variety and—most important—abundance. For most of us, food costs amount to only about 17 percent of take-home income.

The average American has been able to improve his diet through a generally rising standard of living, by programs of consumer information, and by improved food quality, quantity and safety.

The child nutrition programs have been greatly expanded and extended to reach additional millions with better school lunches, school breakfasts, and additional milk. A special effort has been made to place these food programs within the reach of all children, regardless of family circumstances.

We also have launched a special supplemental feeding program for the nutritionally vulnerable. The Woman, Infants and Children (W.I.C.) program is designed to make certain that the most needy infants have the opportunity for normal mental development.

The Food Stamp Program has made an adequate diet a reality for millions of people. And it also serves as a buffer during periods of severe unemployment.

All of these efforts to improve agriculture and our national nutrition levels came only because groups such as G.T.A. made their contribution. Someone recognized a need and saw the responsibility of having the government act in the public interest.

But in spite of our progress, we face major uncertanties in agriculture today.

We hear a lot of talk about the advantages of the free market. And we are told of the wisdom of removing the shackles of government intervention and interference from the farmer. But these speeches do not represent the dawning of a new era in agricultural economics.

They represent an attempt to turn back the clock.

One of the main shortcomings of our present agricultural programs is lack of adequate support prices for our producers.

Last spring Congress passed a one-year farm bill. It was not an ideal piece of legislation. We were forced to temper what we felt was needed against what might be acceptable to the White House. But even this modest bill brought forth a Presidential veto, although grain prices then were well above the target prices in the bill.

Recently the market prices have been hovering near the levels in that bill.

In vetoing the bill, President Ford said it would cost too much money. He acknowledged that farm costs were 11 percent higher than in 1974, and prices were down seven percent.

And unfortunately the Department of Agriculture resorted to furnishing highly misleading and distored information on the cost of the bill in order to defeat it.

The President praised the American farmer for responding to his call for all-out production. And he pledged his personal support to maintain the farmer's access to world markets.

Since then, our farmers have learned the value of that promise. As the Soviet crop estimates plummeted—from 215 to 160 million metric tons—the demand for our grain escalated.

But the Administration—in spite of its free market proclamations—again, as in 1973 and 1974, established export controls.

I hope that the recent agreement with the Soviet Union helps to stabilize the demand for our agricultural products. It is highly disruptive when one year that country buys 15 million tons and the next year purchases almost nothing.

I have urged that the Soviets buy on a regular basis. This would enable cooperatives such as GTA to participate in the business, and it would reduce the disruption in our market.

But it is not just on the farm or in our export markets that we face uncertainty today. In the marketing of agricultural commodities, farmers have made tremendous investments in the development of cooperative associations to market their products.

When the cooperative movement began, it was often subject to attack as a violation of antitrust laws. In 1922, Congress, through the Capper-Volstead Act, said that farmers needed cooperatives to permit them to compete in the market.

Over the years, Congress has encouraged farmer cooperatives on the basis that they improve the marketing ability of farmers and serve to stimulate competition with private corporations.

But today, the cooperatives are under attack once again, being charged with "unduly enhancing" food prices. It is clear that the Administration would like to restrict cooperatives in the name of stimulating competition.

I understand that Secretary Butz, who should know better, recently stated that G.T.A. has "gobbled up all the private elevators along the Milwaukee and Northwestern railroads."

To make matters worse, these remarks were made in an urban setting, at the Harvard Business School, where the comments were likely to go unchallenged.

I am reminded of Adlai Stevenson's comment that "if the Republicans will stop telling lies about us, we will stop telling the truth about them."

But let us not be deceived. The talk about limiting cooperatives really is a discussion of how we can limit the farmer in the market place.

It is interesting to note that only 28 percent of all farm output is marketed through cooperatives. In 1973, the combined sales of all cooperatives totaled $19 billion, while General Motors had sales of over $28 billion.

The cooperative is a force for stability and a means to enable the producer to get a better deal. It also helps assure reliable food supplies for consumers. But today, we hear veiled threats which create concern and confusion.

The cooperatives must not stand divided. An attack on one is an attack on all.

This is just one more area where the Administration has been guided by theory rather than fact.

We need not only a new coach and a new team, but an entirely different game plan.

Increasingly, we also have become aware of the critical importance of a good transportation system in moving the output of the farm to the ultimate used. What we need is a transportation policy including not just roads but also our railroads and waterways.

Our focus in recent years has been mainly on railroads. Since 1960, track abandonments have averaged about 1,000 miles annually. Yet the railroads insist that they are losing $130 million a year on branch lines alone.

Around Redwood Falls, according to your GTA Digest, trains don't run on that line until the quack grass is strong enough in spring to hold the ties together.

We also face a major issue in trying to reach a decision on rebuilding Lock and Dam 26 at Alton, Illinois, on the Mississippi. If these structures give way, we will place a heavy strain on our rail and road facilities. And our farmers will pay a heavy price because we have been unable to reach a decision on how to proceed.

This issue brings together the concerns of the environmentalists, and those who feel that these facilities must be rebuilt.

We need to find a way to give these concerns a full hearing, but also be able to reach a conclusion promptly.

What is needed today is the development of a balanced food and agricultural policy which takes into account the needs and interests of farmers and consumers alike. This policy must relate our domestic, export and humanitarian concerns.

We will need to avoid dealing with problems on an ad hoc basis—groping from crisis to crisis, unsure of where we are headed but still proclaiming the gospel of the full market.

This will mean being realistic rather than being guided by polls, developing slogans, or coming up with new "WIN" buttons.

We should develop a policy aimed at the following specific objectives:

Price and income protection for producers of food and fiber;

Food supply stability for consumers at reasonable prices;

Adequate supplies of inputs and transportation for producers at reasonable prices;

Assuring the production of adequate supplies of dairy and livestock products for domestic and international needs; and

The establishment of a reserve program to provide market stability during periods of shortage and surplus, maintain the reliability of the U.S. as an exporter, and continue the provision of food assistance to needy nations.

All of this can be done without depressing farm prices.

We have seen some of the problems of recent years from rising food prices, embargoes, rising farm indebtedness and foreclosures, and volatile export markets, to the cost price squeeze on farmers, particularly livestock and dairy producers.

We must get away from the uncertainty each year as to whether this will be a bad year for our livestock or grain producers.

The task before us requires leadership, getting on with the job ahead. Unfortunately, that commodity seems to be in short supply these days.

I pledge to continue my best efforts in this direction, and I urge you to do likewise.

U.S. INTERVENTION IN ANGOLA

Mr. BAYH. Mr. President, despite the tragic and bitter lessons we should have learned from our intervention in civil war in Southeast Asia, the Ford administration persists in deepening our involvement in the civil strife in Angola. This past week it was revealed that American aid has grown to the sum of $50 million, and allegations that five American "spotter" planes, piloted by Americans, are being flown over Angola have not been denied. From statements made by the Secretary of State, it would appear that official intentions are to escalate rather than curtail American intervention in the weeks and months to come.

The war in Angola presents the first test of American foreign policy after Vietnam. Unfortunately, our performance to date indicates that we have not learned from our mistakes. Rather than recognizing our limitations and carefully analyzing our interests, we are again plunging into a conflict in a far corner of the world as if we believed it was still our mission to serve as policeman of the world. The administration continues to base American foreign policy on an outmoded theory of balance of power among the superpowers and to view every internal conflict as a threat to that balance. What is worse, the course of action we are choosing offers no real benefits even if it succeeds.

Though the administration has portrayed the conflict in Angola as a product of the struggle between Soviet and Western ideologies, nothing could be further from the truth. The divisions within Angola are based on ethnic history and centuries of social stratification and colonial rule. They carry tribal and social overtones, and there is no evidence that any one faction can claim the broad based popular support to establish a legitimate claim to govern Angola. Indeed, from information now available it would appear that the FNLA, the movement supported by the United States, has the narrowest ethnic base of all the factions. Even if it should prevail in the near term, it is unlikely that it could control the long term course of events.

Further, in entering the Angolan conflict, we are allying ourselves with South Africa, the embodiment of racial repression.

Already 13 African nations, most recently Nigeria, have recognized the Soviet-backed Popular Movement, largely because they see a far greater danger in an Angola allied with South Africa than one friendly to the Soviet Union. It would be a Pyrrhic victory, indeed, if the United States were to successfully back a pro-American Angolan regime, and at the same time gain the enmity of a major portion of black Africa.

The United States should not condone or countenance the blatant intervention in Angola of the Soviet Union and Cuba. Once again the Soviets are demonstrating the limitations of détente and their adventuristic behavior should be condemned in every available forum. It must be made perfectly clear to the U.S.S.R. and Cuba that they cannot expect to reap the benefits of more normal relations with the United States if they persist in such irresponsible conduct. We should make every effort to encourage the Organization of African Unity to curtail outside intervention and find peaceful solution to the Angolan problem.

Let us not, however, compound the tragedy and imitate Soviet policy. We should not expand and prolong the suffering of peoples on the other side of the world when American security is not at stake and when our actions have little chance for success and will jeopardize our relations with black Africa.

Congress should insist that the administration come forward and explain the extent of our involvement and exactly why it believes such involvement is necessary. We must demand much more than vague statements that transportation routes for oil would be endangered by a pro-Soviet Angolan Government. No more funds should be expended for Angola until the issues are thoroughly debated and such expenditures are properly authorized by congressional action. There is still time to restore sanity and vision to American foreign policy if we act decisively in responding to the test which Angola has presented.

HUD FINANCES FLOOD PROJECTS

Mr. EAGLETON. Mr. President, tomorrow the Senate will consider my amendment to correct some of the worst inequities and excesses of the flood insurance program.

Over the many months I have been dealing with this program, I have been distressed by the calloused attitude of HUD administrators that people who have homes and businesses in areas subsequently designated to be a 100-year flood plain have only themselves to blame.

Forgetting for the moment that this country was settled on rivers, lakes, and ocean plains and that many of the individuals being victimized by this program built their homes decades before anyone thought of a Federal flood insurance program, I want to bring to the attention of Senators certain other mitigating circumstances that should weigh in their consideration of this issue.

First. Many of those who now find themselves in flood-disaster areas never had a problem until a Federal project—that is Corps of Engineers—was built upstream usually to give flood protection to an urban area. This has resulted in an aggravated flood problem downstream.

Second. Not until 1974 did the Federal Government act to require sellers of flood plain property to notify buyers of the hazard and consequences of buying in terms of loss of Federal construction and disaster aid.

Third. Perhaps most disturbing, a large number of these flood-plain structures were built or acquired with Federal assistance and the Federal agency had or should have had full knowledge of the hazard involved. Here is what GAO found in a limited survey of this situation in May, 1975—GAO Report No. RED–75–327:

> HUD. "In January 1970 HUD approved a multi-family complex—subsequently constructed—in Texas for mortgage insurance of $1.2 million. Although a Corps flood plain information report showed that part of the development was in the 100-year flood plain, HUD did not adequately evaluate this information. Based on information in the Corps' report . . . 3 of the 10 apartment buildings would have their floors covered by up to 2 feet of water in a 100-year flood."
>
> HUD. "In another case, HUD gave preliminary approval in June 1972 for mortgage insurance totaling $690,000 on a 60-unit multi-family project in Texas. The HUD appraiser certified that the project was not subject to flooding. We discussed this project with HUD officials, and they requested the Corps to provide technical information on the flood hazard. The information showed that a 100-year flood would cover the first floor of the units with up to 4 feet of water."
>
> HUD. "GAO reviewed the files for 1 existing house and for disposal actions on 13 houses and found no evidence of flood hazard evaluation. HUD field officials said they did not evaluate the flood hazard on the disposal cases because they were unaware of any

requirement to do so. One official stated that he would not tell a property buyer of a flood hazard because it would make the property more difficult to sell."

HUD. "In April 1972 HUD sold a single-family dwelling in North Carolina to a private citizen. An available Corps flood plain information report indicate that the house was in the 100-year flood plain. HUD did not evaluate the flood hazard. In another case, HUD in March 1973 sold and reinsured a mortgage for $10,000 on a single-family dwelling located in Missouri. HUD did not evaluate the flood hazard although a Corps flood plain information report issued in 1970 showed that the dwelling was in the 100-year plain."

VA. "A VA field office in October 1972 guaranteed a mortgage for $7,080 on an existing house in Missouri. VA did not evaluate the flood hazard for this property. In the spring of 1973, a flood of less than a 100-year level inundated the house to within 9 inches of the rooftop."

VA. "GAO reviewed nine disposal actions in the 100-year flood plain and found that flood hazards had not been evaluated. For example, in March 1970 a VA field office sold a house in Nebraska for $17,750 and provided a $16,900 mortgage. Although VA files noted that the house had been damaged by a flood in 1964, VA sold it without restricting its use to minimize future flood damages—such as requiring floodproofing or prohibiting residential use."

FmHA. "GAO selected one subdivision, six new houses, and three existing houses, located in the 100-year flood plain. Three existing houses and one new house were financed before . . . February 1973. FmHA had not adequately evaluated flood hazards for any of them. For example, in May 1973 FmHA approved five new houses in North Carolina for mortgage insurance averaging $17,000 each. Even though available information indicated that these houses would be in a 100-year flood plain, FmHA did not evaluate the hazard."

GSA. "GAO reviewed eight disposals in the 100-year flood plain. GSA did not adequately evaluate the flood hazards for five disposals. For example, in 1974 GSA sold property in Virginia containing 21 structures for $253,000. A flood plain information report issued in 1965 by the Corps showed that the property was in the 100-year flood plain. In addition, the property had been flooded twice in recent years and was flooded while GSA was in the process of disposing of the property. Yet, GSA sold the property without any use restriction except that the buyer must comply with area zoning."

SOLZHENITSYN ISSUES STRONG WARNING ON WISDOM OF DÉTENTE

Mr. ALLEN. Mr. President, in our willingness to "go the extra mile" with nations throughout the world in order to maintain peace and stability, we must take care never to let our desire to accomplish these goals overrule our best judgment.

It is well and good to extend the hand of friendship and assistance to other nations. But we must not be deceived and distracted by détente, or other so-called mutual agreement policies, which offer absolute solutions to all our foreign relations problems.

While it is important to continue our efforts to improve the relationship between our great country and the Soviet Union, it would be foolhardy for us to believe that they approach our Nation in the same spirit.

Aleksandr Solzhenitsyn, exiled Russian citizen and Nobel Prize-winning author, in two speeches in Washington and New York earlier this year, warned us of the dangers involved in the policy of détente. He offered us a look at this "new understanding" between our countries from the Russian's point of view. This view was enlightening. Solzhenitsyn said:

> Do we have to wait until the knife is at our throats? Isn't it possible to assess the menace that threatens to swallow the whole world? I was swallowed myself. I have been in the red burning belly of the dragon. He wasn't able to digest me. He threw me up. I come to you as a witness to what it's like there.

Mr. President, by presenting another view of what détente may hold for us, I believe Mr. Solzhenitsyn's penetrating remarks should be given serious consideration by those who wish to look realistically at the policy of détente.

Mr. President, I ask unanimous consent that the address by Mr. Solzhenitsyn be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Wake Up! Wake Up!

(By Aleksandr Solzhenitsyn)

Is it possible to transmit the experience of those who have suffered to those who have yet to suffer? Can one part of humanity learn from the bitter experience of another? Is it possible to warn someone of danger?

How many witnesses have been sent to the West in the last 60 years? How many millions of persons? You know who they are: if not by their spiritual disorientation, their grief, then by their accents, by their external appearance. Waves of immigrants, coming from different countries, have warned you of what is happening. But your proud skyscrapers point to the sky and say: It will never happen here. It's not possible here.

It can happen. It **is** possible. As a Russian proverb says: "When it happens to you, you'll know it's true."

Do we have to wait until the knife is at our throats? Isn't it possible to assess the menace that threatens to swallow the whole world? I was swallowed myself. I have been in the red burning belly of the dragon. He wasn't able to digest me. He threw me up. I come to you as a witness to what it's like there.

Communism has been writing about itself in the most open way for 125 years. It is perfectly amazing. The whole world can read but somehow no one wants to understand what communism is. Communism is as crude an attempt to explain society and the individual as if a surgeon were to perform his delicate operations with a meat-ax. All that is subtle in human psychology and the structure of society (which is even more delicate) is reduced to crude economic processes. This whole created being—man—is reduced to matter.

Communism has never concealed the fact that it rejects all absolute concept of morality. It scoffs at "good" and "evil" as indisputable categories. Communism considers morality to be relative. Depending upon circumstances, any act, including the killing of thousands, could be good or bad. It all depends upon class ideology, defined by a handful of people. In this respect, communism has been most successful. Many people are carried away by this idea today. It is considered rather awkward to use seriously such words as "good" and "evil." But if we are to be deprived of these concepts, what will be left? We will decline to the status of animals.

FREEDOM'S TAX

But what is amazing is that, apart from all the books, communism has offered a multitude of examples for modern man to see. The tanks have rumbled through Budapest and into Czechoslovakia. Communists have erected the Berlin Wall. For 14 years people have been machine-gunned there. Has the wall convinced anyone? No. We'll never have a wall like that. And the tanks in Budapest and Prague, they won't come here either. In the communist countries they have a system of forced treatment in insane asylums. Three times a day the doctors make rounds and inject substances into people's arms that destroy their brains. Pay no attention to it. We'll continue to live in peace and quiet here.

What's worse in the communist system is its unity, its cohesion. All the seeming differences among the communist parties of the world are imaginary. All are united on one point: *your social order must be destroyed.*

All of the communist parties, upon achieving power, have become completely merciless. But at the stage before they achieve power, they adopt disguises. Sometimes we hear words such as "popular front" or "dialogue with Christianity." *Communists* have a dialogue with Christianity? In the Soviet Union this dialogue was a simple matter: they used machine guns. And last August, in Portugal, unarmed Catholics were fired upon by the communists. This is dialogue? And when the French and the Italian communists say that they are going to have a dialogue, let them only achieve power and we shall see what this dialogue will look like.

As long as in the Soviet Union, in China and in other communist countries there is no limit to the use of violence, how can you consider yourselves secure or at peace? I understand that you love freedom, but in our crowded world you have to pay a tax for freedom. You cannot love freedom just for yourselves and quietly agree to a situation where the majority of humanity is being subjected to violence and oppression.

The communist ideology is to destroy your society. This has been their aim for 125 years and has never changed; only the methods have changed. When there is détente, peaceful coexistence and trade, they will still insist: The ideological war must continue! And what is ideological war? It is a focus of hatred, a continued repetition of the oath to destroy the Western world.

I understand, it's only human that persons living in prosperity have difficulty understanding the necessity of taking steps—here and now—to defend themselves. When your statesmen sign a treaty with the Soviet Union or China, you want to believe that it will be carried out. But the Poles who signed a treaty in Riga in 1921 with the communists also wanted to believe that the treaty would be carried out; they were stabbed in the back, Estonia, Latvia and Lithuania signed treaties of friendship with the Soviet Union and wanted to believe that they would be carried out; these countries were swallowed.

And those who sign treaties with you now, at the same time give orders for sane and innocent people to be confined in mental hospitals and prisons. Why should they be different? Do they have any love for you? Why should they act honorably toward you while they crush their own people? The advocates of détente have never explained this.

You want to believe, and you cut down on your armies. You cut down on your research. You eliminated the Institute for the Study of the Soviet Union—the last genuine institute which actually could study Soviet society—because there wasn't enough money to support it. But the Soviet Union is studying you. They follow what's going on in your institutions. They visit Congressional committees; they study everything.

Nuclear Checkmate. The principal argument of the advocates of détente is necessary to avoid nuclear war. But I think I can set your minds at ease: there will not be any nuclear war. Why should there be a nuclear war if for the last 30 years the communists have been breaking off as much of the West as they wanted, piece after piece? In 1975 alone, three countries in Indochina were broken off.

You have theoreticians who say: "The United States has enough nuclear weapons to destroy the other half of the world. Why should we need more?" Let the American nuclear specialists reason this way if they want, but the leaders of the Soviet Union think differently. In the SALT talks, your opponent is continually deceiving you. Either he is testing radar in a way which is forbidden by the agreement; or he is violating the limitations on the dimensions of missiles; or he is violating the conditions on multiple warheads.

Once there was no comparison between the strength of the U.S.S.R. and yours. Now theirs is becoming superior to yours. Soon the ratio will be 2 to 1. Then 5 to 1. With such a nuclear superiority it will be possible to block the use of your weapons, and on some unlucky morning they will declare: "Attention. We're marching our troops to Europe and, if you make a move, we will annihilate you." And this ratio of 2 to 1 or 5 to 1 will have its effect. You will not make a move.

A WORLD OF CRISIS

In addition to the grave political situation in the world today, we are approaching a major turning point in history. I can compare it only with the turning point from the Middle Ages to the modern era, a shift of civilizations. It is the sort of turning point at which the hierarchy of values to which we have been dedicated all our lives is starting to waver, and may collapse.

These two crises—the political and spiritual—are occurring simultaneously. It is our generation that will have to confront them. The leadership of your country will have to bear a burden greater than ever before. Your leaders will need profound intuition, spiritual foresight, high qualities of mind and soul. May God grant that you will have at the helm personalities as great as those who created your country.

Those men never lost sight of their moral bearings. They did not laugh at the absolute nature of the concepts of "good" and "evil." Their policies were checked against a moral compass. They never said, "Let slavery reign next door, and we will enter into détente with this slavery so long as it doesn't come over to us."

I have traveled enough through your country to have become convinced that the American heartland is healthy, strong, and broad in its outlook. And when one sees your free and independent life, all the dangers which I talk about indeed seem imaginary; in your wide-open spaces, even I get infected. But this carefree life cannot continue in your country or in ours. A concentration of world evil, of hatred for humanity is taking place, and it is fully determined to destroy your society. Must you wait until it comes with a crowbar to break through your borders?

NO MORE SHOVELS

We in the Soviet Union are born slaves. You were born free. Why then do you help our slaveowners? When they bury us in the ground alive, please do not send them shovels. Please do not send them the most modern earth-moving equipment.

The existence of our slaveowners from beginning to end depends upon Western economic assistance. What they need from you is absolutely indispensable. The Soviet economy has an extremely low level of efficiency. What is done here by a few people, by a few machines, in our country takes tremendous crowds of workers and enormous masses of materials. Therefore, the Soviet economy cannot deal with every problem at once: war, space, heavy industry, light industry, and at the same time feed and clothe its people. The forces of the entire Soviet economy are concentrated on war, where you won't be helping them. But everything that is necessary to feed the people, or for other types of industry, they get from you. You are helping the Soviet police state.

Our country is taking your assistance, but in the schools they teach and in the newspapers they write, "Look at the Western world, it's beginning to rot. Capitalism is breathing its last. It's already dead. And our socialist economy has demonstrated once and for all the triumph of communism." I think that we should at last permit this socialist economy to prove its superiority. Let's allow it to show that it is advanced, that it is omnipotent, that it has overtaken you. Let us not interfere with it. Let us stop selling to it and giving it loans. Let it stand on its own feet for 10 or 15 years. Then we will see what it looks like.

I can tell you what it will look like. It will have to reduce its military preparations. It will have to abandon the useless space effort, and it will have to food and clothe its own people. And the system will be forced to relax.

The Cold War—the war of hatred—is still going on, but only on the communist side. What is the Cold War? It's a war of abuse. They trade with you, they sign agreements and treaties, but they still abuse you, they still curse you. In the depths of the Soviet Union, the Cold War has never stopped for one second. They never call you anything but "American imperialists." Do I call upon you to return to the Cold War? By no means, Lord forbid! What for? The only thing I'm asking you to do is to stop helping the Soviet economy.

In ancient times, trade began with the meeting of two persons who would show each other that they were unarmed. As a sign of this each extended an open hand. This was the beginning of the handclasp. Today's word "détente" means a relaxation of tension. But I would say that what we need is rather this image of the open hand.

Relations between the Soviet Union and the United States should be such that there would be no deceit in the question of armaments, that there would be no concentration camps, no psychiatric wards for healthy people. Relations should be such that there would be an end to the incessant ideological warfare waged against you and that an address such as mine today would in no way be an exception. People would be able to come to you from the Soviet Union and from other communist countries and tell you the truth about what is going on. This would be, I say, a period in which we would truly be able to present "open hands" to each other.

MINE HEALTH AND SAFETY STANDARDS

Mr. BAYH. Mr. President, I regret the inclusion in the Interior Appropriations Conference Report of language designed to prevent the transfer of the Mining Enforcement and Safety Administration from the Interior Department to the Labor Department.

In March of this year I cosponsored legislation, S. 1302, along with 39 other Senators, which would mandate the transfer of MESA from the Interior Department to the Labor Department. The Senate Labor and Public Welfare Committee, under the able leadership of my colleague from New Jersey (Mr. WILLIAMS), is planning to hold hearings in the near future on this very issue. These hearings, and, indeed, the legislation itself, have been necessitated by the failure of the Interior Department to enforce adequately existing mine health and safety standards.

The failure to enforce mine safety standards is fairly self-evident when one looks at the death rates for miners during 1973 and 1974. During 1974 132 coal miners were killed carrying out their jobs—only 2 fewer deaths than in 1973. Surely, Mr. President, by increasing the number of safety inspectors by 10,000 between 1973 and 1974, we should have expected far better results in reducing fatalities.

The failure of the Interior Department to make significant progress in reducing the number of mine accidents and fatalities reflects a larger problem. The primary purpose of MESA is to enforce standards providing maximum safety to coal miners. One of the prime goals of the Interior Department is to increase the amount of coal available in meeting our energy needs. The fact is we can increase coal production and better protect the safety of coal miners, but the Interior Department has refused to give these two important goals the balanced attention they need.

This is why I favor transferring MESA to the Labor Department. To those who oppose the transfer, I can only say that the record on mine safety speaks for itself. For those who say that mine accident injuries, or even fatalities are a normal part of the mining business, and a price we must pay for increased coal production, I reject the notion that we must sacrifice human life in order to meet our energy needs.

I sincerely hope that the full Senate will have the opportunity to express itself on this matter in the very near future. Enactment of S. 1302 will mean greater safety in our mines, it will encourage more workers to go into the mines, and it will ultimately increase coal production under safer conditions.

SOLAR ENERGY TAX CREDIT

Mr. McINTYRE. Mr. President, on December 10, 1975, I introduced the Solar Energy Equipment Tax Credit Amendment of 1975 to H.R. 7727. This amendment would provide for a tax credit for the installation of solar home heating, cooling and water heating equipment. Several Senators have joined with me in cosponsoring this amendment including Senators BROOKE, DOMENICI, PELL, MONTOYA, HATHAWAY and ABOUREZK.

The importance of incentives for solar collection equipment has been stressed in hearings before the Senate Small Business Committee. At hearings I chaired, several witnesses noted that a tax credit or other tax incentive would help to build a solar heating equipment industry.

On page 16 of the interim report of the committee on the "Role of Small Business in Solar Energy Research, Development and Demonstration," which I filed on October 7, 1975, the committee noted that—

Congress should enact tax incentives for the deveolpment of solar energy for heating and cooling residences and other buildings wherever possible.

I ask unanimous consent to have printed the language of that report in the Record at the end of my statement to stress the importance of solar energy development.

The PRESIDING OFFICER. Without objection, it is so ordered. [See exhibit 1.]

Mr. McINTYRE. Mr. President, incentives are important. They would provide an assist to America's homeowners to install solar heating equipment. But at the same time they would work to increase the development of American business.

A credit for the installation of solar equipment would mean more orders for American businessmen. Large companies that manufacture glass, copper, aluminum, and other materials used in collection equipment would benefit. Small companies that install and put together bits and pieces of collectors would benefit. Engineering and architectural design firms would benefit. Research establishments, both public and private, would benefit. There is no end to the flow-through that this tax credit would mean for American industry.

Let us look at the flow-through that occurred when the SBA's technology utilization program was in full swing about three years ago. The SBA spent about $250,000 every year passing through the benefits of technology from Government-contracted research. The return in revenue to the Government from that quarter-million dollar investment was between $2 and $4 for every $8.30 the SBA spent. In the case of this solar energy tax credit, the investment of $2,000 per home in revenue loss in solar development could mean the establishment of an entirely new industrial sector. That industrial sector would be paying corporate taxes and adding to the revenues of the government. After 1981 when the tax credit expires, the industry we will have built up could be producing low-cost collectors, providing energy saving equipment to America's consumers. And, through its taxes, making up for the revenue loss that the Joint Committee on Internal Revenue Finance has already told me is not going to be excessive.

EXHIBIT 1

THE ROLE OF SMALL BUSINESS IN SOLAR ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION

I. INTRODUCTION

During the spring of 1975, the Senate Select Committee on Small Business initiated a study of energy research and development and small business.

In the first phase of its investigation, the committee conducted two days of hearings on May 13 and 14, 1975, on the problems small businesses are encountering in the emerging solar energy industry.[1] Various sessions of those hearings were chaired by Committee Chairman Gaylord Nelson of Wisconsin, Senator Thomas J. McIntyre of New Hampshire, and Senator William D. Hathaway of Maine.

Prior to the hearings, Senator McIntyre circulated a voluntary questionnaire to solar energy concerns, seeking to determine the near-term manufacturing capacity of the industry.[2] Senator Nelson directed the committee staff to prepare background material on the national solar energy potential and plans, and to interview dozens of representatives from small business firms actively engaged in the solar energy industry.

The hearings and investigation centered on the particular problems that small business research companies have met in dealing with the Federal Government, that small business development companies have faced with Government regulations and competing companies, and that small businesses might meet should the national drive for energy self-sufficiency, known as Project Independence, mean accelerated uses of the sun for power.

Further, the committee questioned why for years solar energy had been virtually ignored as an alternative energy resource—even in the face of promising Government reports dating back to the early 1950's. In 1952, the Paley Commission, in its final report to President Truman, stated: "Efforts made to date to harness solar energy economically are infinitesimal. It is time for aggressive research in the whole field of solar energy—an effort in which the United States could make an immense contribution to the welfare of the free world."[3]

The amount of energy from the sun reaching the United States annually, according to the Paley Commission, was 1,500 times the nation's energy consumption in 1950.[4] And although U.S. energy consumption has increased dramatically since 1950, estimates compiled by the Energy Research and Development Administration (ERDA) show that total U.S. insolation is still over 600 times our current use of energy in all forms.[5]

Tragically, the Paley Commission's recommendations "for aggressive research" went unheeded. As a result, the Commission's optimistic prediction for solar energy's contribution to the national energy budget was unrealized. That prediction was that, by 1975, solar energy could account for 10 percent of the nation's total energy consumption.[5]

A. A National resource in solar energy

Within the near future, solar power could and certainly should contribute significantly to the national energy budget. Despite 20 years of abysmally inadequate funding, the solar option is finally beginning to receive the attention it has long deserved. Federal budgets for solar energy research were barely $100,000 per year only five years ago. But today, under the new ERDA authorization bill,[6] solar energy research could exceed $140 million in fiscal year 1977. As research and development have accelerated, the estimates of the contribution that solar energy can make in all of its various technologies, have tended to grow.

For instance, two years ago, the Joint Committee on Atomic Energy projected that only 1.2 percent of the nation's total energy consumption in the year 2000 would be contributed by solar energy.[7] But in the latest figures released by ERDA, the projected contribution of solar energy to total national energy consumption in the year 2000 has climbed to 7 percent.[8]

Another series of estimates made by three large corporations—General Electric Company, Westinghouse Electric Corporation, and the TRW Systems Group—in studies funded by the National Science Foundation in 1974, found that only 1.6 percent,[9] 3.04 percent,[10] and 5.77 percent,[11] respectively, of the energy needed for heating and cooling of buildings would be met by solar energy in 2000. But a year later, the National Science Foundation staff said that solar energy could provide 3.68 percent of the requirements in that national energy sector by 1985, a full 15 years sooner that the year mentioned in the corporate estimates just cited.[12] By 2000, according to another recent report,[13] that percentage could be 30.

These projections and others have all been tabulated by members of the Small Business Committee staff and Senator Nelson's staff. The table reports numerous estimates, made by experts in both the public and private sectors, of U.S. energy consumption, by total and by function, and of the solar energy contributions, by technology, from 1980 to 2020. Too often estimates of our future energy consumption and of the contribution that solar energy consumption and of the contribution that solar energy might make have been published without reference to other existing estimates. The purpose of the table is to facilitate comparison of projections from various sources made at various times. The table appears in the hearings in two versions,[14] the second being a revision and amplification of the first. The staff has been directed by Chairman Nelson to augment and republish this tabular compilation of energy estimates from time to time, as additional data are required. The hope is that these efforts will also encourage similar and more comprehensive tabulations by others.

B. A small business opportunity—and a national need

Rapidly expanding areas of the economy have always attracted entrepreneurs. The growth of the nation's electronics industry since the Second World War shows that small businessmen with entrepreneurial spirit have been able to capitalize on the needs of the nation. The size of the potential solar heating and cooling market is huge; there were over 68 million single- and multi-family units of housing in 1970.[15] This number grows at the rate of 1 to 2 million units a year.

At least 60 U.S. small businesses are already primarily or exclusively engaged in the research, production and marketing of solar heating and cooling equipment, and some of them have been at it for two decades or more. Much more recently, a few giant conglomerates have cautiously entered the field. Other small businesses—and a few giants—are engaged in other aspects of solar energy conversion: photovoltaic cells for electricity generation, wind power applications, energy extraction from ocean thermal gradients, use of agricultural crops for fuel, bioconversion of wastes into methane, and more.

Following a recent survey that was believed to reach and obtain data from all or substantially all U.S. firms engaged in the manufacture of thermal collectors used to trap heat from the sun for the heating of buildings and water (including swimming pools), the Federal Energy Administration (FEA) concluded that approximately 1.3 million square feet of such solar collectors were manufactured in 1974.[16] A later survey for this committee, made by Senator McIntyre in early 1975, which obtained data from only about half or less of all firms producing solar thermal collectors (a substantially smaller number than the FEA survey), indicated that the 1975 capacity of those firms *alone* was over 7.5 million square feet of collector.[17] It thus appears that the FEA's estimate of 1974 *manufactures*, while accurate, might have been more helpful had it also included an estimate of the production *capacity* of the companies the agency contacted. It seems probable that 1974 capacity was substantially higher than 1974 production; it also seems probable that capacity is growing rapidly. The conclusion to be drawn is that there is in place a small but significant manufacturing capacity for solar collector in this country right now, and it is expanding. With appropriate and wise government action, the industry could and would "take off."

Depending on the type of collector used, the fraction of total energy to be supplied by conventional fuels, and the location and insulation of the building, the quantity of

---

Footnotes at end of article.

solar collector required to heat (and possibly cool) a building may range from under 100 to over 1,000 square feet. Even with reference to the lower end of that range, it must be noted that for the present and the immediate future (next year), the capacity of the emerging solar industry to provide collector is small in comparison to the number of buildings.

But the more important point, to reiterate, is that there *is* a capacity already in place; it *is* growing; and the nation's history in other technologies has repeatedly demonstrated that new ideas and new products can spread with almost unbelievable speed, once they find consumer acceptance. Since one-fourth to one-third of our total national energy consumption goes to heat and cool our buildings, the importance of fostering that consumer demand, in our quest for energy independence is obvious.

While there are few experts who foresee a day when all heating and cooling will be done by the sun, at least one official report estimates that 30 percent of that energy sector can be solar in 2000.[18] Estimates of total energy consumption in that sector in that year range from 21 to 36 quads.[19] Should the 30 percent solar estimate be correct, the saving in conventional fuels would thus be 6.3 to 10.8 quads. Since each quad of energy per year is the equivalent of 472,000 barrels of oil per day, the saving may also be estimated as in the range of 3 million to over 5 million barrels of oil per day—one-half of current oil imports, or more.

Given the eminently practical possibility that such important savings of precious fossil fuel could be realized, year by year in fast-growing amounts for the rest of this century and beyond, it is surprising and disappointing—to say the least—that ERDA and FEA have not devoted a substantially larger, more imaginative and energetic effort to the task of stimulating market demand for solar space-heating and water-heating equipment.

One witness at the hearings, Mr. Barney Mendith (further identified below), suggested one thing that appropriate government agencies could and should be doing now; indeed, they should have been doing it some years ago. It is the preparation and wide circulation, to the business community, of technical and commercial information on solar equipment.

There is no doubt that small development companies and contractors will necessarily play a key role in both creating and filling demand for solar heating and cooling systems. This follows from the present patterns, with conventional systems. But plumbing and heating contractors, electricians, homebuilders and the transportation companies that serve them are as yet not aware—or not convinced—of the profit possibilities in solar energy development. (In this connection, it may be recalled that, as recently as the end of World War II, very few small business office supply firms foresaw the money to be made in office copying devices, and few small camera retailers envisaged the full potential of polaroid photography). The government agencies responsible for leading this nation into the era of energy independence by now should be—but are not far advanced in a vast information effort designed to bring the solar energy message to the business community. By preparing and disseminating to the small business industries just mentioned pamphlets tailored to the needs and self-interests of each industry, the energy agencies could generate badly needed awareness of the potential profits, the relative simplicity and advanced development of the technology, and the growing availability of off-the-shelf products for solar heating and cooling.

C. Apprehension over government policies

Unfortunately, government policies have generally lacked the concern, flexibility and determination necessary to encourage small business participation in the solar home heating and cooling market.

Small business firms responding to Senator McIntyre's questionnaire, and small business representatives who discussed their problems with the committee's staff, showed an almost uniform attitude: Federal policy has virtually ignored the contributions of small business to solar energy research and development. Little money has been available from the Federal Government for small entrepreneurs and investors. In fact, it appears that most Federal expenditures in solar energy R&D have been concentrated among a handful of corporate giants and large universities.[20]

But the policy of Congress, as clearly affirmed in the Solar Heating and Cooling Demonstration Act, is that small business is to be included in the development of solar programs. Section 14 of that Act states:

"In carrying out their functions under this Act, all Federal officers and agencies shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this Act to the maximum extent possible.[21]"

Despite this mandate, the Energy Research and Development Administration's Interim Report (ERDA–23) [22] made little mention of small business, and made *no* mention of the Small Business Administration.[23]

ERDA–23, the working document for the development of solar energy in the United States, emphasized research but did not aim at rapid development of marketing techniques for the existing small businesses with production facilities.

If the interim plan were adopted, ERDA would spend between $100 million and $300 million for solar energy demonstrations before the end of 1979, building from 400 to 2,400 solar heated and cooled units. Homes, apartments, and offices would be included, as part of a national solar demonstration project.[24] However, the ERDA–23 plan made no specific reference to retrofitting the nation's approximately 50 million single-family dwelling units [25] or the apartments in which additional millons of Americans live. Nor did it state whether mobile homes would be considered in early phases of the demonstration program.

II. THE COMMITTEE HEARINGS OF MAY 13–14 1975 [26]

With these apprehensions in mind, the committee began its hearings on the nation's solar energy program and the role that small business should play.

On the first day, May 13, witnesses included solar equipment producers and developers, and representatives for the contractors who will eventually install and maintain solar equipment on a wide scale.

On the second day, May 14, representatives of major executive departments testified. ERDA, the Department of Housing and Urban Development (HUD), and the Federal Energy Administration (FEA) sent witnesses. Other agencies, notably including the Small Business Administration (SBA) and the National Science Foundation (NSF), sent observers to the hearings although they did not testify. SBA did, however, submit a statement for the record.[27]

A. The questions

All witnesses were asked to consider a series of questions:

"Questions on Solar Energy," Exhibit 1 From Remarks in the Senate by Senator Nelson, May 8, 1975

1. Why have the estimates varied so widely—and been so low—on the contribution that solar energy might make, by the years 1985 and 2000, to the Nation's total energy budget?

2. Why has the Federal Government spent so little, and spent it so late, on the development of solar energy, in comparison to expenditures for support of other forms of energy?

3. What contributions to solar energy development have been and may be made by small business?

4. Now that Federal expenditures for solar research, development and demonstration are increasing, what steps are being taken by the various agencies to recognize the contributions and protect the positions of the small business pioneers of solar energy?

5. What amounts and percentages of Federal research, development and demonstration expenditures in the solar energy field have been channeled to small business, to big business, to large universities, to small universities and colleges, and to non-profit organizations other than universities in recent years? What changes in any of the important percentage shares are contemplated in the next fiscal year or years?

6. What are the prospects for greatly accelerating the pace of solar energy development and greatly increasing the percentage of our total energy budget that will be met by solar energy within the next decade?

7. What is the maximum percentage contribution that solar energy could make to the total national energy budget by 1980, 1990, 2000 and 2020? To heating and cooling of buildings? To electricity generation?

8. What types and dollar levels of Federal expenditure would be necessary to attain these maximum percentage levels of solar energy contribution?

9. What are the arguments for and against *maximizing* the solar energy contribution to the total energy budget?

10. What can small businesses do differently and better than large businesses in furtherance of the development of solar energy?

11. Are there documented cases in which small businesses in the solar energy field have been threatened, intimidated, purchased or otherwise suppressed by utilities or large businesses?

12. How can communications on solar energy subjects be improved between the Government and small business?

13. Should there be small business set-asides for the solar demonstration programs?

14. Have technology transfer and technology utilization activities and programs of the Federal Government been useful to small business and designed for maximum benefit to small business?

15. How might the Congress improve the relevant legislation or its own oversight activity in the area of solar energy development?

16. What criteria and accomplishments should the Congress use to judge the success of Federal Government programs intended to foster solar energy development and small business participation in that development? [28]

B. The testimony

In answer to the questions raised, the small business witnesses expressed a strong desire that the government should become more involved in the promotion of solar heating and cooling, but questioned the emphasis of the current program.

Dr. Jerry D. Plunkett, President of Materials Consultants, Inc., of Denver, Colorado, stated that small businessmen have considerable trouble dealing with Federal research agencies.

For instance, Plunkett told the committee that he had developed a research proposal that he presented to the National Science Foundation, which he had previously served as a consultant. NSF rejected the proposal. Plunkett then turned the idea over to the University of Utah in order to testify his theory that the NSF prefers to deal with universities rather than small research companies. The university submitted his proposal (for a ceramic materials study) as its own, and received a grant to do the work. Plunkett said this supported his contention that government research offices are often unwilling

---

Footnotes at end of article.

to work with small businessmen, preferring to turn to universities or large corporations, even when the ideas have merit and the abilities of the researchers are well known to the research agency.[29]

Plunkett also testified that solar energy research and development for space heating and cooling had been substantially and successfully completed, and that further massive infusions of Federal aid for R & D would therefore be superfluous. Federal money, said Plunkett, should be used instead for demonstration projects and commercialization programs for solar equipment.[30]

James R. Piper, president of Piper Hydro, Inc., of Anaheim, California, agreed with Dr. Plunkett. Piper was, in addition, sharply critical of the high unit costs and the low total numbers of demonstration units proposed in the ERDA–23 document. Whereas ERDA–23 projected the expenditure of $100 million to $300 million to install 400 to, at most, 2,400 demonstration solar heating and cooling units by 1980, Piper said that it would be possible for his own company, using existing technology, to install 63,500 units by 1980, for the same $300 milion amount projected on the high side of ERDA's range.[31]

Further, Piper pointed out that the government is currently funding electric and gas utilities to develop solar energy utilization equipment when small businesses are already equipped to do a similar job.[32] He also expressed concern that giant corporations heavily involved in promoting nuclear energy would not do their best to develop solar energy because "it would harm their profitability in other areas."[33]

The third small businessman to testify on May 13 was Barney Menditch, president of General Heating Engineering Company of Capitol Heights, Maryland, representing the National Environmental Systems Contractors Association. Menditch said that installation manuals to teach a businessman how to equip new buildings with solar heating and cooling equipment would be a necessity. He testified that there has been little effort "to get this data in simple form in the hands of the contractors who actually do the design, installation, and service of the climate-conditioning systems."[34]

On the second days of hearings, May 14, Administration witnesses presented views on solar energy development.

Dr. John Teem, Assistant Administrator for Solar, Geothermal and Advanced Energy Systems, Energy Research and Development Administration, noted that the solar heating and cooling demonstration project to be run through ERDA is designed to insure that new technologies be developed with some speed. Said Teem:

"All of the solar technologies under study have a common feature—we know that they will work. In each instance, no major technical barriers exist to prevent the development of practical systems. Widespread use hinges on the production of cost-effective energy systems, and their ready acceptance by society. We do not underestimate the significance of these requirements. Large-scale manufacture of solar systems at reasonable cost will be critically dependent on how well ERDA conducts its research and development program."[35]

Dr. Michael Moskow, Assistant Secretary of Housing and Urban Development for Policy Development and Research, added this:

"The most important role HUD can play in this effort is to assist in the development of a rational basis for such an industry—the creation of standards and certification procedures so that the customer can rely on the product; the development of financing procedures and other incentives which will overcome the current "first cost" problems associated with solar units; the amelioration of local barriers (such as building codes and zoning ordinances) to the widespread use of solar energy for housing; and the dissemination of information about solar energy applications to the industry and the public."[36]

Under questioning, Moskow's testimony also disclosed one grave deficiency in his own department. HUD's Minimum Property Standards do not contain standards for solar heating and cooling, or water heating equipment of any kind.[37] The HUD Minimum Property Standards are used as a basis for determining eligibility not only for mortgage insurance issued by HUD itself but also for mortgage insurance of the Farmers Home Administration and mortgage guarantees of the Veterans Administration. In addition, some private lenders rely on the HUD Minimum Property Standards. The omission of solar equipment from those standards therefore shuts such equipment out of an enormous part of the total housing market.

Immediately after the hearings, Senator McIntyre, on behalf of the committee, wrote to Secretary of Housing and Urban Development Carla A. Hills, requesting that a change in the Minimum Property Standards be made quickly.[38] Secretary Hills, in her response, advised that she had instructed her staff to expedite their development of appropriate provisions in coordination with the National Bureau of Standards.[39]

Donald B. Craven, Acting Assistant Administrator, Energy Resources Development, Federal Energy Administration, said few technological advances are necessary for the development of solar energy for heating and cooling buildings.

Craven told the committee that FEA's efforts would be directed at removing impediments now standing in the way of a more highly developed solar industry infrastructure, while at the same time moving forward with an aggressive commercialization program.[40] He noted that FEA, the agency most confident about the development of solar energy, realized that higher initial costs for solar home heating and cooling systems adversely affect consumer acceptance. He mentioned a need, which he hoped FEA would help to meet, for educating the public to think about the cost of alternative systems for heating and cooling their homes, and providing hot water, in total system life-cycle terms, rather than initial costs alone. When the consumer considers, on an integrated basis, the costs of (1) equipment, (2) installation, and (3) lifetime fuel costs, the sometimes higher initial equipment and installation costs for solar systems will in many situations be overcome.[41]

According to Craven, one way the government could generate consumer confidence in the cost effectiveness and the reliability of solar power for space heating and cooling and water heating, would be through a three-pronged government buildings program now under consideration by FEA and related Federal agencies. Craven stated:

"First, we would require that all designs for Federal buildings initiated from this point on include an assessment of the feasibility of using solar heating and cooling at this time, and the feasibility of including provisions within the design to enable relatively easy retro-fit to solar heating and cooling at some future time.

"Secondly, we would consider that it be required that estimates of costs of buildings, to reduce the demand for energy within buildings, include use of energy conversion products, solar heating and cooling systems, and that these cost estimates be done on a life-cycle costing basis in order to be able to fully analyze the cost of solar as compared with the cost of heating by fossil fuels or electricity.

"Thirdly, we would anticipate that this program might provide for substantial government requisitions of solar heating and cooling systems by requiring purchase of solar systems currently found to be competitive with conventional systems. And also requiring, to some extent, in addition to the purchase of competitive systems, that certain quantities of economically non-competitive heating and cooling systems be purchased by the government in order to contribute to refinements of the technology and to the development of the necessary infrastructure.

"We believe that if this project were initiated now, a substantial amount of oil per day would be saved by 1980 in government buildings, and furthermore, we would have the technology and industry infrastructure in place by that time to contribute aggressively to our national energy goals.

"The significance of this effort would be to have a very stimulative effect on the solar manufacturing industry, and the development of the industry infrastructure."[42]

The *immediate* commercialization of solar heating and cooling is possible, however, and it should be encouraged, according to Craven, at the same time the ERDA and HUD demonstration program goes forward. This announcement that the FEA would be working for rapid commercialization of existing solar energy technologies was based on studies done for the FEA and other agencies.

III. THE WORK TO COME

At hearings already scheduled for October 8 and 22, 1975, and very probably at additional hearings to be scheduled thereafter, the committee expects to continue its exploration of the problems confronting small businesses and the country in the development of solar energy. Among the particular areas that deserve scrutiny are:

(1) Supposed overt or covert opposition to rapid solar development by various institutions, ranging from the oil industry and the electric utilities to the Federal government.

(2) The need to change the focus of all Federal programs on solar heating and cooling of buildings and water from research and development to large-scale demonstration and immediate commercialization.

(3) Governmental regulations—Federal, State and local—that now impede, or that now help, or that might be written or revised to help the development of a large solar heating and cooling industry comprised of thousands of small businesses. Examples are:

(a) The grave obstacle to solar heating and cooling presented by the total omission of solar equipment standards in the Minimum Property Standards of the Department of Housing and Urban Development.

(b) State and local planning practices, building codes and zoning laws, some of which now help and others of which impede the development of solar heating and cooling.

(c) Tax assessment practices and their relationship to market opportunities and consumer demand.

(4) The specific roles and problems of general contractors and the specialized contractors and labor crafts of the construction industry—electrical, plumbing, heating and air-conditioning, carpentry, etc.—in the development of solar heating and cooling of buildings and water on a large scale. Particular attention must be given to preventing unnecessary conflicts in jurisdiction and restrictive work practices.

(5) Reticence on the part of financial institutions to fund solar equipment in new and existing homes, apartments and other buildings.

(6) Possibilities for Federal encouragement to the development of a large solar heating and cooling industry, through such actions as:

(a) Tax incentives of various kinds.

(b) A small business loan program tailored to the needs and problems of this emerging industry.

(c) Direct loans to consumers, or loan guarantees, for installation of solar heating and cooling equipment.

Footnotes at end of article.

(7) Possibilities for widespread dissemination, through both governmental and private channels, of solar heating and cooling information. Attention should be given especially to:

(a) Publications containing technical and commercial information for business concerns in various parts of the industry.

(b) Publications for consumers on the potentials of solar products, and on consumer evaluation of competing products.

(c) Publications on the methods of calculating the costs of a heating and cooling system on a life-cycle basis that includes equipment, installation and *lifetime fuel costs*, and the desirability of making such calculations.

(8) Small business opportunities and problems in the emerging solar technologies and industries other than heating and cooling of buildings and water. Among these are:

(a) Electricity generation by photovoltaic cells.

(b) Electricity generation by solar thermal collection through arrays of mirrors or lenses or both.

(c) Combined thermal and electrical power production.

(d) Electricity generation by utilization of ocean temperature gradients.

(e) Use of wind power for electricity generation and other purposes, including production of hydrogen from sea water.

(f) Chemical conversion or bioconversion of sewer and other wastes into the gaseous fuel, methane.

(g) Agricultural production of certain combustible, fast-growing crops, on lands or in the sea, for fuel use.

(9) Economic opportunities and economic problems associated with rapid development of solar energy technologies and applications: new jobs and new opportunities for business profit, and new products for consumer savings and enjoyment, that will be created; existing jobs and capital investment that may be adversely affected. Quantitative estimation of both. Methods for maximizing the former and softening or minimizing the latter.

(10) Measures needed to assure that the solar heating and cooling industry, and other emerging solar industries, will develop along competitive lines and avoid the patterns of concentration and cartelization that have marked energy industries in the past and to this day. Measures to assure that there will be extensive small business participation in all parts and at all levels of those solar industries that are feasible for smaller concerns. (Tentatively, that appears to be *all* parts and levels of the heating and cooling industry, except perhaps supply of such raw materials as glass, and all or many parts of other industries that will be based on more advanced solar technologies, mentioned in 8, above.)

(11) Legislative remedies for the disappointingly small number of solar research, development and demonstration contracts awarded to small business by Federal agencies.

(12) Allegations of excess and injustices in the paperwork required of small business in order to compete for government solar (and other) R, D & D contracts.

(13) Methods for quantitative and qualitative analysis of the costs and benefits to the nation as a whole, especially in environmental terms, of developing various alternative energy options. For example, have there been sufficient, and sufficiently accurate and detailed appraisals of the *net* resources and energy benefits and costs involved in covering hundreds of square miles of desert with mirrors for solar-thermal generation of electricity, as compared with, say, the stripmining of hundreds of square miles of the nation's surface for coal or oil shale?

IV. CONCLUSIONS

1. The United States and other countries are in an energy situation that is properly called crisis. The cost, depletion, and environmental impact of current sources of energy, coupled with the importance of national security, require each nation to develop a self-sufficient, independent, and decentralized energy system. From the viewpoint of the United States, development of solar energy and other alternative energy sources is the only way to maintain energy consumption without decreasing national security.

2. Had the United States Government followed the recommendations of the Paley Commission in 1952, "for aggressive research for the whole field of solar energy," it seems probable that the country might now be achieving the solar equivalent of—and thereby saving for other uses or for future generations—3 million barrels of oil (or oil equivalent) per day, or more.[43] While the fossil fuels we could thus have saved but didn't are now burned forever, the opportunity for future savings is even greater, and the need more compelling now than in 1952. The nation could and should establish immediately the goal of providing at least 30 percent of its building heating and cooling, and water heating from the sun by 2000, with significant percentage increases each year from now until then.

3. The commercialization of a non-polluting, environmentally acceptable and cost-effective energy system is not a challenge for the distant future. The challenge is now. The United States has a growing solar heating and cooling industry which can markedly accelerate its manufacturing capability provided the proper incentives are there. In fact, a massive research and development program may be unnecessary, if not counterproductive, to the extent that it could further postpone the wide-scale use of solar heating and cooling systems.

4. Until very recently, the Federal government has not accepted that challenge. By ignoring the recommendations of the Paley Commission, it left solar energy up to the small business pioneers and individual innovators who, acting on their own initiative, with virtually no government support, were responsible for almost all of the solar energy research, development, and demonstration work that occurred in this country prior to 1973.

5. Now that the Federal government has decided to embark on an accelerated program for solar energy development, one might think that the pioneers would finally get their rightful share of participation, but that has rarely been the case. The Federal departments and agencies charged with the development of solar energy have not adequately considered the needs and capabilities of small business. The agencies have not sufficiently consulted the Small Business Administration, have not established small business set-asides, and have usually relied on and favored big business concerns and giant universities.

6. While ERDA has determined in its Interim Report that special attention will be given to assure that small business has sufficient opportunity to be considered in the selection of projects,[44] no considered program for small business appeared to have been developed as this report was completed.

7. Anything that slows down the development of solar energy—the one cheap, limitless source of energy that cannot be shut down by war or embargo—is undermining the national security. In a speech before the Exchequer Club, Senator McIntyre noted the relationship of energy to national security:

"What single factor has heightened global tensions? Hurt or threatened the health of our people? Raised havoc with the world economy? Plunged us into a near-depression? Undercut confidence in leadership and policy?

"Would you agree that in a word the answer is 'oil'?

"Would you agree that in a phrase the answer is the industrialized world's enslavement to sources of energy that will soon be exhausted, that can't be renewed, that pollute the world we live in, that lend themselves to ruthless exploitation and blackmail politics, that breed greed, envy, chaos, and war?"

I believe that this enslavement—coupled with a blind refusal to research and develop clean, renewable alternative energy resources—must, indeed, be one of the most calamitous errors in human judgment since time began.[45]

V. RECOMMENDATIONS

1. Special procedures should be introduced immediately, by all responsible agencies, to insure that small business receives its fair share of participation in Federal solar energy research, development and demonstration programs, as the Congress has mandated. The agencies and the Congress should consider—and the committee is now investigating—the feasibility of a 70-percent small business set-aside in the heating and cooling demonstration program.

2. The Energy Research and Development Administration, the Department of Housing and Urban Development, and all other departments and agencies, should structure their policies and award their R, D & D contracts in a manner, and to companies, that will best serve the goal of creating and maintaining a free, competitive climate and avoiding excessive concentration in any of the emerging solar energy industries.

3. ERDA, HUD and other departments and agencies should carefully consider, before awarding any Federal R, D & D contracts to giant corporations, whether the effect of the award might be to slow down rather than expedite the policy and program in connection with which the award was made. In the solar heating and cooling demonstration program, for example, the agencies should make no contract awards where the effect might be to dissuade a financially competent, large recipient from making a risk investment of its own in the same technology, without government funding.

4. Regulatory policies and regulations should be changed, or augmented, whenever necessary and as quickly as possible to encourage solar development. An outstanding example of this need is the continuing failure of the Minimum Property Standards of the Department of Housing and Urban Development to include standards for solar space-heating, air-conditioning and water-heating equipment. That omission shuts such equipment out of a large fraction of all the new buildings being constructed in the country and is directly counter to the national policy as expressed in numerous statutes. HUD should correct this situation at once.

5. ERDA and HUD should increase their information services to heating, ventilating and air-conditioning contractors, in particular, and to all the building trades, in general, to spread technical and commercial knowledge in solar heating, cooling and water heating. Manuals should be developed quickly to provide performance criteria, installation techniques and other necessary data. Such manuals should be given wide circulation.

6. ERDA and HUD should also work to make sure that retrofitting of buildings, especially residences, with solar equipment is undertaken with all due speed in all practical

---

Footnotes at end of article.

cases. Of particular value would be the preparation and wide circulation of pamphlets designed to help the consumer make sensible selections of solar equipment and sensible decisions on the feasibility of retrofitting.

7. The Federal Energy Administration should implement its proposed Federal buildings program as quickly as possible to develop an ethic of low fossil fuel consumption in Federal buildings and to widen the market and encourage the development of an industrial infrastructure for widespread manufacture of solar products.

8. Appropriate committees of the Congress (including this committee) should study the extent and the quantitative and qualitative effects of Federal purchasing of solar heating and cooling equipment by all departments and agencies.

9. Congress should enact tax incentives and consider low-interest loan and loan guarantee programs for the development of solar energy for heating and cooling residences and other buildings, wherever possible and as quickly as possible.

10. HUD and ERDA should proceed more rapidly in the development of model building, planning, and zoning codes, intended to assist and guide municipalities in fostering the efficient use of solar power for heating and cooling of buildings. In this process, ERDA and HUD should consult closely with appropriate officials in municipalities of varying population, climate and topography.

11. ERDA should hire more personnel with small business backgrounds. It should expand the size and scope of its small business office. It should consult regularly with the Small Business Administration.

12. ERDA should concentrate more of its energies and funds on smaller, decentralized applications of solar energy, many of which are already proven, less expensive to implement, less prone to large-scale blackouts or other failures, and less likely to lead the establishment of anti-competitive and concentrated conditions in the emerging solar energy industries.

FOOTNOTES

[1] Hearings on Energy Research and Development and Small Business—Part 1, Solar Energy: How Much? How Much from Small Business? How Soon? Why Not More? Why Not Sooner? Senate Select Committee on Small Business, 94th Congress, 1st Session (1975), hereinafter cited as "Hearings, Part 1."

[2] Letter dated April 25, 1975, from Senator McIntyre to 67 solar heating and cooling firms, with enclosure. For statistical results of aggregate information, see Hearings, Part 1, p. 26.

[3] The President's Materials Policy Commission, Final Report, *Resources for Freedom, Vol. IV, The Promise of Technology*, June 1952, p. 220; hereinafter cited as "Paley Commission Report, Vol. IV" (cited excerpt reprinted in Hearings, Part 1, p. 857).

[4] *Ibid.*

[5] Energy Research and Development Administration, *National Solar Energy Research, Development, and Demonstration Program, Definition Report*, (ERDA–49), June 1975, p. I–2; hereinafter cited as "ERDA–49."

[5a] Paley Commission Report. Vol. IV, p. 217; Hearings, Part 1, p. 850.

[6] H.R. 3474, to authorize appropriations to the Energy Research and Development Administration. Passed House June 20, 1975; passed Senate, amended, July 31, 1975. Figure used is from the House-passed appropriations bill, H.R. 8122, and is intermediate between the authorization figures.

[7] Joint Committee on Atomic Energy, *Understanding the "National Energy Dilemma,"* 1973. Fold-Out "N."

[8] ERDA–49, p. 2.

[9] General Electric Co., *Solar Heating and Cooling of Buildings (Phase 0): Volume 1, and Planning Study, Final Report. Volume 1, Executive Summary*, p. 15 (May 1974).

[10] Westinghouse Electric Corporation, *Solar Heating and Cooling of Buildings: Phase 0, Final Report, Executive Summary*, pp. 45–46 (May 1974).

[11] TRW Systems Group, *Solar Heating and Cooling of Buildings (Phase 0): Volume 1, Executive Summary*, p. 15 (May 31, 1974).

[12] National Science Foundation, as reported by Michael Harwood in article, "But Not Soon," *The New York Times Magazine*, March 16, 1975. (Reprinted in Hearings, Part 1, p. 3469.)

[13] Atomic Energy Commission, *Solar and Other Energy Sources*, report of Subpanel IX (Alfred J. Eggers, Jr., Chairman) to the Atomic Energy Commission Chairman in support of her development of a comprehensive Federal energy research and development program, Oct. 27, 1973; hereinafter cited as "AEC Subpanel IX report."

[14] Hearings, Part 1, pp. 12–23, 815–837. The earlier version of the table also appears in the *Congressional Record* of May 8, 1975, at p. 13573.

[15] U.S. Bureau of the Census, *Statistical Abstract of the United States* (95th ed., 1974), p. 699; hereinafter cited as *"Statistical Abstract: 1974."*

[16] Such collectors can also be used in space cooling applications; but it is likely that few if any, of the collectors manufactured in 1974 were so used. Most of the collector discovered by the FEA survey to have been manufactured last year was used to heat swimming pools. Hearings, Part 1, p. 463.

[17] Hearings, Part I, p. 26. Several of the companies contacted in Senator McIntyre's survey were also engaged in research and some manufacture of devices for generating electricity by wind power.

[18] AEC Subpanel IX report, p. 16; Hearings, Part I, p. 2738.

[19] One quad is one quadrillion (10^{15}) British thermal units (Btu) of energy. Current U.S. national energy consumption is about 75 quads per year. Estimates of total national energy use in the year 2000 range from 124 to 201 quads. The estimates of 21 quads and 36 quads for total heating and cooling energy consumpton in 2000 are from the National Science Foundation/National Aeronautics and Space Administration Solar Energy Panel and the Ford Foundation Energy Project, respectively, See Hearings, Part I, pp. 815–837.

[20] See, e.g., Federal Energy Administration, *Solar Energy Projects of the Federal Government*, PB–241 620 (Jan. 1975), reprinted in Hearings, Part I, at p. 480. The committee staff is currently engaged in an effort to classify and tabulate Federal research, development and demonstration contracts on solar energy by numbers and dollar amounts of awards to big business concerns, small business concerns, and universities and nonprofit institutions.

[21] Solar Heating and Cooling Demonstration Act of 1974, Public Law 93–409, Sec. 14, 93d Congress, 2d Session, Sept. 3, 1974.

[22] Energy Research and Development Administration, Division of Solar Energy, *Interim Report, National Plan for Solar Heating and Cooling (Residential and Commercial Applications)*, ERDA–23, March 1975; hereinafter cited as "ERDA–23."

[23] After the text of this report had been completed, the committee noted that ERDA's Division of Solar Energy had announced one "commercial integrated project to support the national solar heating and cooling demonstration program" in which an attempt would be made to give 50 percent of the awards to teams offering solar energy systems supplied by small business concerns and other "substantial small business participation." *Commerce Business Daily*, Sept. 19, 1975, p. 2.

[24] *Ibid.*, p. 105.

[25] Number of single-family dwelling units estimated by committee staff from data in *Statistical Abstract; 1974*, pp. 695, 699.

[26] *Hearings, Part I.*

[27] *Ibid.*, p. 810.

[28] *Ibid.*, p. 10.

[29] *Ibid.*, p. 39.

[30] *Ibid.*, p. 42.

[31] *Ibid.*, p. 86.

[32] *Ibid.*, p. 82.

[33] *Ibid.*, p. 98.

[34] *Ibid.*, p. 136.

[35] *Ibid.*, p. 168.

[36] *Ibid.*, p. 304.

[37] *Ibid.*, p. 320. [Note.—In an informal comment on the text of this report as approved by the committee, before it was filed, the Department of Housing and Urban Development stated that it is accepting and approving solar equipment applications on an individual basis. Over the years, according to HUD, "several thousand" solar hot water heaters have been installed in Public Housing units in Florida, although few of these are currently in use. Applications for solar water heating equipment in "several hundred" HUD-insured private units are in an advanced state of processing at this time. Pending the completion of solar equipment standards for inclusion in the Minimum Property Standards, those desiring to use solar equipment in HUD/FHA-insured housing should contact the Office of Technical and Credit Standards, Department of Housing and Urban Development, Washington, D.C. 20410: tel. (202) 755–5718.—*Committee editor.*]

[38] Letter dated May 23, 1975, from Senator McIntyre to Hon. Carla A. Hills, Secretary of Housing and Urban Development: Hearings, Part I, p. 1317.

[39] Letter dated June 30, 1975, from Secretary Hills to Senator McIntyre; Hearings, Part I, p. 1318.

[40] Hearings, Part I, p. 414.

[41] *Ibid.*, p. 425.

[42] Hearings, Part I, p. 415

[43] See text at footnotes 3–6 and 18–19 (pp. 2, 43 supra. The 3 million barrel a day figure in this conclusion is obtained as follows: (1) The Paley Commission, in its 1952 final report, stated that by 1975, given an aggressive research effort, 10 percent of the total national energy requirements could be met by solar technologies, with solar thermal collection for the heating of buildings predominant. (2) The national energy consumption in 1975 will be about 75 quads (75 quadrillion Btu.). (3) Since one quad is the equivalent of 472,000 barrels of oil a day for a year, 10 percent of current national energy consumption would be, conservatively, 3 million barrels of oil a day.

[44] ERDA–23, p. 55.

[45] Senator Thomas J. McIntyre, *Yardstick for Survival*, a speech delivered before the Exchequer Club, Sheraton Carlton Hotel, Washington, D.C., Feb. 19, 1975; Hearings, Part I, p. 3044 (also inserted in the *Congressional Record* by Senator Humphrey, Feb. 26, 1975, p. 4440).

STATEMENT OF SENATORS BARTLETT, HASKELL AND JOHNSTON

Senators Bartlett, Haskell and Johnston announce that, having been unable to participate in the hearings with which this report deals, they are unable to associate themselves at this time with the report's summary of testimony, conclusions and recommendations. However, they have no objection to the report's being filed by the committee.

DEWEY F. BARTLETT.
FLOYD K. HASKELL.
J. BENNETT JOHNSTON.

DR. McLUCAS SPEAKS TO NATIONAL SPACE CLUB

Mr. MOSS. Dr. John L. McLucas, Secretary of the Air Force until he became Administrator of the Federal Aviation Administration last month, recently described the current status and outlook of our civilian and military navigation and communication satellites to the National Space Club. These forthcoming spacecraft will enable our aircraft, both civilian and military, to navigate with unprecedented accuracy.

As Dr. McLucas points out, the civilian Aerostat—a joint project of the United States, Europe, and Canada—should permit international airlines flying the Atlantic to save $15 million annually in fuel costs alone by making better use of the existing airspace. Furthermore, he states that the consolidation and automation of air traffic control services permitted by Aerosat should yield additional savings of about $70 million per year.

It is singularly appropriate, Mr. President, that Dr. McLucas made his remarks at a regular meeting of the National Space Club, which has consistently and forcefully encouraged U.S. leadership in space, science, and aeronautics since its founding in 1957. Now in its 19th year, the National Space Club, through its regular meetings, continues to provide a responsible forum for the exchange of information which is of great value to the entire areospace community.

Because Dr. McLucas' remarks before the National Space Club illustrate how the down-to-earth benefits of space technology are improving our lives in many ways, I ask unanimous consent that they be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Dr. John L. McLucas

It is a great pleasure for me, finally, to keep this date with you. I regret that I was unable to keep my last speaking engagement here when I was Secretary of the Air Force. Now, as Administrator of the Federal Aviation Administration, here I am. I don't want you to conclude that FAA speakers are more dependable than Air Force speakers!

In all seriousness, let me take this opportunity to express my happiness over the years I spent with the Air Force. Those were good years, trying years, exhilarating years. Those were years filled with successes of many kinds, as well as the tragedy of Vietnam—a tragedy for which we as a nation should not blame ourselves, for our goals were honorable, and our sacrifices greater than anyone could have reasonably expected.

On the "successes" side in the Air Force, we can point to a number of very substantial achievements in recent years. Some of those achievements are technological, others are in the realm of human and social progress. Some of those achievements have already reached fruition; others provide the ground work for a technologically advanced and more effective Air Force in the years to come.

We can point to such recent technological triumphs as the F–15 and F–16 Fighter Aircraft, the A–10 Close Air Support Aircraft, the work that we have done on the B–1 Bomber, on the Airborne Warning and Control System (AWACS), and on a great number of systems and subsystems, all of which help us to maintain technological superiority—now and for the near term—that is so essential to maintain an equilibrium with the numerical superiority of the Soviet Union.

In all of these things, it was my aim, in over six years in the Air Force, to help create a stronger, more capable Air Force, leading the way in Aerospace Technology. Yes, those were good years. I enjoyed the rewards, and welcomed the challenges—and was looking forward to more years with the Air Force when the President asked me to become the Administrator of the FAA.

I am honored that the President considered me for the position and pleased to be with the FAA. Like the Air Force, the FAA is an organization that plays a vital role in our nation. I have been in my new job for just a short while—and so will not attempt to speak as an authority on the FAA and all its many activities. Over the years, I have developed a certain wariness of "instant experts"—you know the type.

I must confess, there were some difficulties in selecting subjects of interest to this space-oriented group as well as to my new civil aviation constituency. In that regard, I was reminded of a story told about Woodrow Wilson. It seems that President Wilson was once asked how long he took to prepare a ten-minute speech. He said, "Two weeks." "How long for an hour speech?" "One week." "How long for a two-hour speech?" President Wilson replied, "I am ready now." I don't plan to subject you to a two-hour speech, but I do hope you are comfortable in your chairs.

I alluded earlier to the importance of the FAA. The Congress summed up that Agency's safety responsibilities in this succinct fashion in the Federal Aviation Act of 1958: ". . . To provide for the regulation and promotion of civil aviation . . . as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft . . ."

The FAA operates and maintains what is known as a common system of air traffic control and navigation serving both civil and military aviation. In this area, the FAA has performed remarkably well, achieving a world-renowned standard of excellence as well as keeping pace with the introduction of higher performance aircraft. But of growing interest to us is the future increase in international air transport. Even the most conservative estimates are that the number of passenger miles which will be flown solely by U.S. International Carriers ten years hence will exceed the 163 billion revenue passenger miles flown by U.S. domestic and international carriers last year. We foresee a threefold increase in the number of U.S. flag aircraft on international routes. Foreign aircraft similarly are expected to increase in numbers.

I don't think I need to remind this group what that means in terms of air traffic control services, communications and navigation that will be required by the world's civil air fleet within the next-quarter-century. The implications are enormous.

So I thought that I would discuss with you two satellite-based developmental programs that, very likely, will have considerable impact on airspace management.

There are two satellite-based developmental programs—one civil and one military—which are scheduled for testing and demonstration during the next 10 years. The programs are the Defense Department's Global Positioning System (GPS), or NAVSTAR, and the International AEROSAT Program in which FAA is a key participant. The military GPS/NAVSTAR system will provide a global, all-weather, position determination system of considerably improved accuracy and with performance characteristics better than existing navigation systems. The NAVSTAR system will have two signal formats—an encrypted signal for exclusive military use and a clear signal for both military and civil use.

On the civil side, FAA has been developing, on an international basis, an oceanic communications and air traffic control satellite system called AEROSAT. This system, which also involves Canada and Europe, is designed to provide improved communications and position surveillance over oceanic airspace to handle the increased traffic loads projected for the late 1980's and beyond. AEROSAT will also have a broad band experimental channel to permit investigation of longer range system concepts for possible future application within the continental United States.

Even though both the GPS (NAVSTAR) system and the AEROSAT program are satellite-based systems, the functions which will be performed will be quite different.

The military GPS (NAVSTAR) system is designed to fulfill a variety of critical military positioning needs and requirements for which the satellite capability is well suited. In particular, the system provides extremely accurate instantaneous position, velocity and time information which can be used in a multitude of ways as dictated by military requirements. Representative applications include weapons delivery, command and control, en route navigation, anti-submarine warfare, geodesy and survey, and range instrumentation.

As a matter of policy, DOD is not encouraging others to make decisions or commitments on the use of NAVSTAR until Phase I testing has been completed in 1978, and the DOD has approved the system for development based upon its cost and performance merits in meeting military needs. However, it is possible that the system may have some civil applications of interest to the FAA. But these uses will need to be carefully considered by us and our civil aviation community. I will cover some of the advantages and disadvantages of this military system as applied to the civil sector a little later.

The NAVSTAR Development Schedule consists of three phases:

Phase I—is the test program and is scheduled for completion by 1978. It involves the deployment of six satellites in 12-hour inclined, circular orbits providing coverage of a test area for several hours a day.

Phase II—will be initiated in the early "eighties" with the planned orbiting of nine satellites, providing a full time two-dimensional global coverage system.

By the end of Phase II, a worlwide, 24-hour capability for navigation would exist with an initial accuracy of better than 600 feet and velocity accuracies of 2 knots.

As use of the NAVSTAR System is expanded and its capabilities for other applications are demonstrated, Phase III would be initiated. This involves adding satellites to the "constellation" until a "full system" capability of 24 satellites permitting continuous, worldwide, three-dimensional coverage is attained, probably, by 1984.

Now, to elaborate on the AEROSAT Program.

After more than three years of negotiation involving considerable preparatory work and strong encouragement by the International Civil Aviation Organization (ICAO), AEROSAT has evolved as a program organized by aeronautical authorities in the United States, Canada, and nine member-states of the European Space Agency, formerly the European Space Research Organization (ESRO). The program, slated to cover a span of about ten years, provides for the experimentation, evaluation and demonstration of the use of satellites to provide improved communication and surveillance capabilities for oceanic air traffic services, and perhaps over other areas such as Africa where these capabilities are not now present. At the present time, air traffic control and air carrier communications for oceanic flights are almost entitrely dependent on high-frequency

(HF) voice radio circuits. Shore-based extended-range VHF facilities provide communications for oceanic flights up to 400 miles from the coasts. Beyond that range, communication between aircraft and traffic control facilities is by HF and is generally relayed through associated communication stations.

But, as many of you know, HF has well-known propagation deficiencies. Under present procedures, a single HF "family" of frequencies has the capacity to handle the communications for about 50 aircraft and, the number of available "family" is limited. As a result, the future growth in oceanic air traffic is threatened by inadequate communication capacity that cause delays during peak traffic periods.

For oceanic flights, surveillance by ground-based radar or beacon is non-existent because the radar/beacon systems have the same line-of-sight limitations as VHF. Aircraft positions are now derived in the aircraft by on-board navigation equipment and are then reported every 100 of longitude, or every 40–60 minutes of flight, to ground communication stations for relay to the traffic control facilities.

Under these arrangements, oceanic flights must now be provided considerable lateral and longitudinal separation. But obviously, to handle the expected future volume of flights without resorting to excessive delays or unfavorable routings, aircraft separation must be decreased. FAA studies show that by 1986 the successful completion of the AEROSAT Program would solve the communications problem and permit a reduction of route widths and longitudinal spacings over the ocean. Another benefit would be an annual fuel savings of $15 million to international carriers. Furthermore, AEROSAT operations would make possible consolidation and automation of oceanic air traffic control operations for further annual savings approaching $70 million.

Today, there is general agreement that a system of satellites in geostationary orbit offers the best and, really, the only technical solution to the aeronautical communications and surveillance problems over ocean areas.

Such a system would provide high-quality voice and data communication, both for air traffic control and airline operational services. Direct controller-to-pilot communications would be possible. Ranging techniques using two or more satellites, in which a signal to an aircraft is returned over different paths, would permit a ground-derived and "independent" means of aircraft surveillance.

But I must emphasize that AEROSAT is *not* an operational system. The AEROSAT Memorandum of Understanding (MOU) recognizes that it relates only to a system experiment. Moreover, the AEROSAT program politically is a very ambitious one—and, for the FAA, an expensive one. For one thing, inflation and reduced budget authorizations by the Congress have seriously threatened our ability to undertake this expensive project—important as it is. As a result we are doing everything possible to reduce the costs of the system and bring the program in line with our budgetary constraints.

Now, as to some of the advantages and limitations of the civil and military systems.

NAVSTAR is a military system designed to meet military needs. To this end it has excellent performance accuracies. However, at the present time the FAA has no requirement for such a sophisticated navigation capability in its management of air transport operations. NAVSTAR provides navigation but does not include communications or position surveillance while AEROSAT provides communications and surveillance but has no navigation functions.

To sum it up, AEROSAT is a civil system designed to solve a specific set of problems by employing the advanced capabilities of satellite technology. The AEROSAT system addresses the problems which exist in a few oceanic regions while NAVSTAR is designed for worldwide coverage. However, FAA is continuing to examine the long-term use of NAVSTAR navigation signals for civil use. At this time, it is very uncertain whether the cost of NAVSTAR-associated avionics could ever be brought within the reach of general aviation users. Future use of NAVSTAR signals in oceanic and low density areas of the world as a supplement or replacement for LORAN and OMEGA is also being examined.

In closing, ladies and gentlemen, I feel that my years with the Air Force have given me good insight into the problems and needs of military air operations in the United States. With that experience, plus my industrial and technical background. I hope to be able to bring into a greater harmony the sometimes seemingly conflicting desires within civil aviation—the scheduled airlines, our huge general aviation contingent and, importantly, the general public.

As I view it, then, I have a fascinating and a challenging job ahead of me. I accept that challenge.

GI FORUM

Mr. TOWER. Mr. President, in 1945, a young soldier, Pvt. Felix Longoria, of Three Rivers, Tex., lost his life defending America's ideals while fighting against the Japanese. That sacrifice alone is just cause for remembering his death and for affording him the honors due any fallen warrior.

But Private Longoria's battle for the Nation's ideals did not end with his death. Because of racial prejudice that existed at that time, he was not given the dignity and equal opportunity that were rightly his. Instead, it became his lot to touch the consciences of a great many people and to become the symbol of a greater cause.

On October 26, 1975, the Honorable Richard L. Roudebush, Administrator of the Veterans' Administration, told the story of Private Longoria and what his death has meant to veterans of all races, when he spoke at the American GI Forum at the annual Veterans' Day memorial ceremony at Arlington National Cemetery. On that occasion, Mr. Roudebush related the importance of what happened to this young soldier after his death and of its lasting significance to our Nation. Mr. President, I ask unanimous consent that the remarks of Mr. Roudebush be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by the Honorable Richard L. Roudebush, Administrator of Veterans Affairs

Tomorrow is Veterans Day and here at Arlington National Cemetery and in locations across the country citizens will take time out to salute millions of men and women who have worn our country's uniform and to pay their respects to those who died in it.

Those who gave their lives were all special people . . . to themselves, to their families, to their friends, to those they served with. They were remembered in death by those who loved them and those personal memories continue.

Today we honor a man who died in battle and has found a special place in the memories of many people besides his family and friends.

Today we remember in these ceremonies the life and the death of Pvt. Felix Longoria and we recall the importance of what happened to that young soldier even after his death.

Pvt. Longoria's enemy in 1945 was the Japanese but he, like many other servicemen of that time, had to struggle against more than one adversary. He also had to battle the bias, the prejudice and the unfairness of many who were on his side in the war.

And when his enemy had defeated him . . . when he was dead . . . certain of his fellow Americans sought to go beyond what the enemy had done.

His enemies deprived him of his life at a time when he was able to fight and to try to defend himself. His neighbors sought to deprive him of his dignity at a time when he was beyond the struggle, when he could no longer fight back.

I think it is important that we keep the memory of Pvt. Longoria alive and I commend those who have seen that this has been done for the thirty years since his death.

It is important that we remember the prejudice that existed at that time. But it is equally important that we recall the reaction to that prejudice, the fact that many persons were outraged by it and that action was taken to give Pvt. Longoria the respect that all men are entitled to and the special honor that he had earned as a soldier.

It is possible to recount with shame and with chargin many other instances of prejudice against our fighting men during World War II. We remember the reports of civilians abusing American servicemen of Japanese descent. We remember the news stories of black military policemen being refused service at restaurants that fed the German prisoners the MPs were guarding.

It is easy to recall these things with wonder and amazement that they could have happened a generation ago and to comfort ourselves that such blatant abuse would be unlikely to take place today.

But it would be inappropriate to be too comforted about the lessening of prejudice or about conditions as they exist today.

I think Americans have improved in the last thirty years in the way they behave toward each other. I think most people are more enlightened in their relations with those of different backgrounds, understand others better and have less fear of them.

New laws protect the rights of minorities and provide them greater opportunity.

But I know you agree that the struggle against prejudice and for equality is far from over. And I know you are dedicated to continuing that struggle.

It is particularly important, I think, that all Americans who have worn their nation's uniform, who have given years out of their young lives, who have known hardship and perhaps faced danger, should be able to share fully in all that the Nation has to offer.

The G.I. Forum has not only stood for opportunity for veterans, it has articulated and promoted programs of action to secure that opportunity.

I commend you for what you have done and for what you are doing for Americans of Spanish descent. You have given your cause a strong voice and a great deal of muscle.

We at the Veterans Administration join you in your desire to help veterans and their families take full advantage of programs available to them. We stand with you in urging them to come to VA and we appreciate the help you are giving us in reaching a very important segment of our clientele.

We recognize the language and cultural barriers that exist for many veterans of Spanish descent. We want to overcome them, just as you do.

It is a great privilege for me to be here today as we salute Pvt. Longoria and those he represents. We remember that Pvt. Longoria died for his country. No man could do more, and that would be reason enough to pay tribute to him.

But he did much more than give his life for a great cause we all believed in, much more, I am sure, than he ever thought he could do.

It became his lot to touch the consciences of a great number of people and to become the symbol of another great cause. Much good has come of the way he has been remembered ... and I hope he will never be forgotten.

I am honored to be with members of his family here today. I appreciate the chance to get to make these brief remarks with them in attendance and I wish them well.

To all who have had a part in planning and conducting this ceremony, I would like to express my gratitude for your kind invitation to be a participant and my congratulations for the success of your work. I look forward to future observances.

PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Alabama (Mr. Sparkman), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Sparkman

Section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I attach hereto the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication. The information is available to Senators in the Foreign Relations Committee.

The attachments ordered to be printed in the Record are as follows:

Office of the Director Defense Security Assistance Agency and Deputy Assistant Secretary (Security Assistance), OASD/ISA,
Washington, D.C., December 12, 1975.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding under separate cover Transmittal No. 76-21, containing information on a proposed Letter of Offer in excess of $25 million for an anti-tank missile system for the Government of Switzerland. The transmittal has been classified at the request of the government concerned.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

OIL COMPANY PROFITS

Mr. GRAVEL. Mr. President, when the Senate begins consideration of the conference report on the Energy Policy and Conservation Act, S. 622, it is inevitable that much of the discussion will once again focus on the subject of oil company profits and the capital needed for investment in the future. I would like to introduce into the Record an analysis of the report done by Morgan Stanley & Co. Morgan Stanley & Co. has been quoted by Senator Jackson as an expert in the whole subject of "obscene profits" and I had asked them to clarify their position on that issue since it had become an issue of contention in the Senate debates.

In his response to my letter, the author of the studies speaks briefly on the profits that were enjoyed by the oil companies in 1974. He explains that they were inventory profits and will have been wiped out by the end of this current quarter if the present rate of decline in profits continues.

In his analysis of the impact of the current legislation, he is quite plain in his conclusion that the Energy Policy and Conservation Act will have a negative impact on the industry's ability to generate needed capital for future investment. He concludes and I agree that this course of action is a highly illogical way to go about pursuing a goal of national energy self-sufficiency.

Mr. President, I ask unanimous consent to have the letter from Morgan Stanley & Co. and two of their analyses printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Morgan Stanley & Co., Inc.,
New York, N.Y., December 4, 1975.

Senator Mike Gravel,
U.S. Senate, Washington, D.C.

Dear Senator: I am delighted to have the opportunity to respond to your letter of November 12. Hopefully this will clear up a matter which has been a cause of personal embarrassment to me. I am aware of the fact that Senator Jackson, who apparently fathered the phrase "obscene profits", has suggested that my use of this word in a report issued February 24, 1975 supported his contention. Nothing could be further from the truth. The word "obscenity" or "obscene" was used twice on the first page of the report, both times in quotation marks, indicating the word was attributed to an outside source. By hindsight it is clear that I either should have made this point more specific or have curbed my attempt at facetiousness.

A cursory reading of the text, however, would indicate that a significant part of the "obscene" or "windfall" profits could be attributed to inventory or currency translation profits, which are by nature transitory. The first paragraph stated that "earnings are in the process of declining" and that "1974 is likely to remain a high watermark for earnings" for some years to come. Nine-month earnings for 20 major oil companies show a decline of $3.38-billion from 1974, or 29.4%. A continuation of this trend in the current quarter would mean that virtually all of the 1974 profit gain will be eliminated. There is abundant evidence that competitive operating conditions in the face of a worldwide recession would have accomplished much of this result even in the absence of Congress' gratuitious gesture in eliminating percentage depletion on crude oil for the majors. (An analysis of nine-month 1975 earnings will be sent to you under separate cover.)

I feel it is clear that any insinuation that I agreed that 1974 oil profits were "obscene" is taken completely out of context of the February 24 report. Furthermore, it is taken out of context of an ongoing body of work. For example, in *Energy Outlook*, May 30, 1974, which originally referred to Senator Jackson's remarks, I wrote:

"The Supreme Court has defined 'obscenity' as '. . . being without redeeming social value'. The social value of profits is that they provide the bulk of the capital for investment in facilities required to meet the ever-growing public demand for goods and services, the hallmark of an expanding economy. It is indeed curious that the same people who question profits are those most rooted to the concept of higher living standards and full employment. One can only surmise either that they do not understand the interrelationship between capital formation and growth (in which case they would only be ignorant) or that they simply believe profits in the hands of private industry are evil. Any comparison of material well-being under the American free enterprise system and centrally-planned economies would hardly support the conclusion that governments can do it better; but, that seems to be the premise of this group."

You inquired as to my conclusions on capital requirements over the next two decades. I rely on outside sources—such as Chase Manhattan (CMB)—for these projections. Most of the estimates I have seen fall in the $30- to 40-billion per annum range. Industry capital and exploration expenditures in the U.S. from 1970 through 1973 (the last year for which CMB industry figures are available) were $38-billion, an average of $9.5-billion per annum. The CMB group of 29 major companies accounted for $29-billion of this spending, or 76% of the total. Assuming the majors continue to account for about three quarters of all capital and exploratory spending, their annual requirement at the bottom part of the above range, or $30-billion, would be $22.5-billion annually.

Yet for the entire five-year period, 1970-1974, these companies had net income of only $21.3-billion, or an average annual rate of about $4.3-billion. During this period, U.S. profits accounted for roughly 44% of the companies profits. Assuming a similar breakdown in overall cash flow, total cash earnings attributed to U.S. operations in the last five years would be about $41-billion, or $8-billion annually. As you can appreciate, this is less than 40% of potential capital requirements. Let us assume that the "obscene" profits generated in 1974 were maintained. Net income attributed to the U.S. last year was $6.4-billion, or 39% of total earnings. Assuming the same distribution of total cash earnings, total cash generated in the U.S. would have been $11.2-billion, or about half of potential requirements. Whatever numbers one wishes to use, it is perhaps sufficient to conclude that capital requirements in the future will be a multiple of those in the past and that neither the historic or current level of oil industry cash flow is remotely adequate to meet these requirements.

One final point of interest: as already mentioned, approximately 44% of cash flow for the CMB Group may have been derived from the U.S. in the past five years yet over this same period, capital and exploratory spending in the U.S. was 54% of the worldwide total. The conclusion that might be drawn from this is that repatriated cash flow from foreign operations has been used to subsidize capital and exploratory spending in the U.S. The availability of this "free" cash flow from outside the U.S. in the future is subject to considerable question now that most of OPEC has nationalized producing operations. I have not touched on the subject of external financing, but I believe that studies done in other departments of this firm indicate that whereas in the past the amount of capital investment needed has determined the amount of capital raised, in the future the amount of capital which can be raised will determine the number of projects which are carried forward to completion. It is entirely unlikely that oil companies will be able to finance up to 50% of their potential capital requirements not covered by internal cash flow from the capital markets, particularly given investor hesitancy with regard to highly regulated industries. In this regard I am enclosing some recent comments on the proposed Energy Policy Act.

Sincerely yours,

BARRY C. GOOD.

THE PROPOSED ENERGY POLICY ACT

(Excerpt from Research Summary, Nov. 24, 1975)

We have been asked how the pricing provisions of the proposed Energy Policy Act differ from the President's last decontrol plan to the point that our attitude toward the legislative proposals has shifted from positive to negative. It will be recalled that the plan the President sent to Congress on July 25 called for a rollback in "new and released" oil prices (but not stripper production) to approximately $11.50/barrel from the prevailing figure of about $12.30/barrel. Assuming 12% of the barrels represented stripper production, the immediate effect of this rollback would have been a decline in gross wellhead realizations of approximately $687-million.

On the other hand, the immediate effect of the presumed rollback to $11.28 per barrel to meet the $7.66 composite price ceiling mandated by the Energy Policy Act would be $2.1-billion in wellhead revenues assuming a new oil price of $13/barrel, or $3.3-billion using the Conferee's figure of $14.00/barrel for new oil. Aside from the quantitative difference, we note the President's July 25 proposal called for a phased decontrol program under which the amount of old oil under controls was to be decreased by 1.5% per month the first year, 2.5% per month in the second year, and 3.5% over the remaining 15 months of the 39-month decontrol program. (That is, 18% of old oil would be removed from controls in the first year, 30% in the second, and 52% in the last fifteen months.)

While average wellhead prices obtainable under the President's proposal are not materially different from those under the Energy Policy Act *assuming the full 10% adjustment available under the composite ceiling*, we are unaware of anything in the Act that guarantees the maximum adjustment. As we understand it, the only automatic adjustment is governed by the rate of inflation (up to a maximum of 7% if the 3% incentive adjustment is applied), and even this is subject to a freeze in February 1977.

Thus, whereas the President's proposal constituted a clear-cut 39-month removal of controls on old oil, the Energy Policy Act offers a price adjustment scheme whose preponderant part is governed by the GNP deflator, whose 3% incentive factor is dependent on a presidential finding of necessity, and whose application is subject to the whims of the FEA. Finally, it should be pointed out that while crude oil prices could presumably rise to the market level after 39 months under the July 25 proposal, controls under the Energy Policy Act convert to standby authority after 40 months, and this authority does not terminate until after 5 years. In summary, we believe both the quantitative and qualitative differences under the two proposals are significant.

Perhaps even more important than comparing the details of the two proposals is attempting to comprehend the rationale behind the Energy Policy Act. It is common to dismiss this simply as political posturing. However, we believe the position taken by those who would closely regulate the oil industry, while not entirely apolitical, is rooted in the economic concept that prices should be cost—as opposed to market-related. As applied to an industry which must replace its most vital resource—oil and gas reserves—through the process of discovery, we believe this is an extraordinarily counterproductive concept. Twenty-one years of interstate natural gas price regulation would seem to make this obvious. Nevertheless, this thinking not only exists, it appears to be in the majority (public opinion polls notwithstanding), and even if the President vetoes the Act, it will not disappear. Thus while we remain hopeful that a favorable outcome to the great energy debate will still emerge, our conviction in this regard is low.

BARRY C. GOOD.

THE ENERGY POLICY ACT

THEORETICAL IMPLICATIONS

The predominant trend affecting the oil industry in the 1970s has been its progressive loss of control over its own destiny. In the traditional oil-exporting nations, this trend has been evidenced in the transformation of the industry's role from an entrepreneurial to a service function. In this case, at least, the industry was confronted with understandable nationalistic aspirations. The varying degrees of control imposed on the industry in the oil-importing industrialized nations are, perhaps, somewhat more difficult to fathom. We suspect, however, that they result from the suppressed recognition by governments of their own inability to fulfill the dreams of perpetual prosperity which became the keystone of the postwar social contract.

Theoretically, it would follow that the greater the degree of failure public institutions have in maintaining promises to their constituents, the more they will seek to shift the blame elsewhere, principally to the private sector. With ready access to a media generally sympathetic to social idealism, the verbal stage of the transference mechanism seeks to build a mandate for initiating structural change. This is followed by the imposition of controls altering the market process. Since the controls seldom recognize the concept of economic pricing, cash flow is inadequate to meet the demands upon it. Once industry fails to deliver, the government can insist that it must take over the means of production. Those who might wish to contrast the economic experience of England with that of West Germany.

While all private industry must operate under the prevailing socioeconomic framework, the petroleum industry in the United States was rendered particularly vulnerable to government intervention by the confluence of events leading from the oil embargo of October 1973. Long viewed with suspicion as a center of privilege and elitism, the combination of gasoline shortages, escalating product prices, and rising profits proved an irresistible magnet for political attack. However much one might wish to decry these forces as counterproductive, it is both painfully obvious that they exist and patently foolish to believe they will quietly disappear. Thus, the main determinant of oil company earnings will continue to be government policies.

PROFIT IMPLICATIONS

The Energy Policy and Conservation Act which has been agreed to by House-Senate Conferees reasserts the Federal government's role in managing the domestic oil industry's business for at least the next forty months. The principal details of the act as it may affect oil industry profits are outlined in John Wellemeyer's report "Aspects of the Proposed Energy Bill and the Implications of the Petroleum Service Industry." If the President signs the bill, as currently expected, it will be out of political expediency and will represent yet another example of Murphy's law that anything that can go wrong will go wrong.

While a price rollback by itself is not unexpected (*Research Summary* comment: 10/20/75), we had anticipated the trade-off for a rollback would be a definitive schedule of phased price decontrol. We do not view the bill that has apparently emerged as containing such a provision. The President is permitted to adjust the composite $7.66/barrel price upward by no more than 3% per year (i.e., $0.23/barrel from the composite base level). He may propose a modification in this adjustment on the finding that such modification is likely to result in an increase in domestic production. Any modification, however, is subject to disapproval by either house of Congress. We note that the IPAA is forecasting a decline in U.S. crude oil production of 2.7% in 1976, and a number of companies forecast continued declines in Lower-48 production of 3% or more per annum beyond 1976. If correct, this would indicate that the bill does nothing to enhance the oil industry's real cash flow from crude-producing operations. That is, production declines would eliminate the advantage of the 3% price increase.

The balance of the permitted upward price adjustment is subject to the rate of U.S. inflation, presumably as measured by the GNP deflator. The sum of the inflation factor plus the incentive adjustment may not exceed 10% unless the President proposes a modification, which can again be disapproved by either house of Congress. (The maximum implied inflation factor is 7%.) Judging from the continued adversary relationship between Congress and the oil industry, we are not optimistic that any upward modification to the 10% maximum adjustment would be approved. Thus, the bill provides a price-adjustment ceiling but does not ensure a rising composite price floor. Since the bulk of any adjustment will be to offset inflation, it seems clear Congress has reinforced its concept of regulation based on historic or current costs as opposed to replacement costs.

Shown below are average year-to-date crude realizations for a number of major oil companies. In most cases these averages are through the first nine months.

	Estimated Average Crude Oil Price, Year-to-Date ($/Barrel)	Estimated Recent U.S. Crude Oil Production* (B/D)
Atlantic Richfield	$7.46	349,000
Continental	7.43	178,000
Exxon	7.60	675,000
Gulf	6.40	350,000
Louisiana Land	8.50	76,000
Marathon	6.50	166,000
Mobil	6.70	275,000
Phillips	7.50	118,000
Shell	7.40	460,000
Std. Oil (Indiana)	7.94	460,000
Texaco	7.70	570,000
Union Oil	6.25	224,000

* Does not include natural gas liquids.

Although not a foregone conclusion, it is widely suspected that the President will arrive at the composite ceiling price by confining the rollback to the price of new oil. This would require a reduction in the new oil price to approximately $11.28/barrel. Such an event would not appear to be detrimental to the majority of companies listed above. However, there is no indication at present as to how price adjustments will be applied, or whether the application will be consistent from year to year. (The frequent rule changes promulgated by the FEA since its inception hardly inspire confidence in this regard.)

House-Senate Conferees refer to encouraging the development of high-cost and high-risk production and the application of enhanced recovery techniques. This would appear to recognize that the bulk of incremental U.S. production is likely to be achieved as the result of new discoveries in frontier areas (i.e., the outer continental shelf, the Arctic) and through implementation of secondary and tertiary recovery programs in old oil fields. Logically, the highest permitted price would accrue to properties requiring new investment. The problem is that the required economic price in both these areas is considerably higher than the composite allowed price. That is, if the President opts to apply the adjustment only to new oil, thereby maximizing exploratory incentives, he would be reducing or eliminating incentives for enhanced recovery. The President could, of course, adopt the suggestion that yet another category of prices be established for oil recovered through newly instituted secondary and tertiary schemes. Until the method of price administration is determined, however, it is impossible to forecast which, if any, oil company will benefit from the Energy Policy Act.

On balance, however, it would seem fair to project that U.S. crude earnings are unlikely to provide a source of higher profits in 1976. Legislators will now attempt to reach a compromise on natural gas prices. We are dubious that the decontrol measures which passed the Senate will survive the House. We suspect the maximum price for new natural gas that would be allowed under a Senate-House conference would be the thermal equivalency of the composite crude oil price, or around $1.35/mcf. In the absence of legislation to increase natural gas realizations, we expect the Federal Power Commission will move to increase the current 52c/mcf ceiling. While the outlook for natural gas prices is thus encouraging, particularly relative to crude oil, its impact on individual company profits will be tempered by the amount of natural gas that is classified as new.

Implementation of the Energy Policy Act suggests that a multitiered U.S. crude pricing structure will persist for at least forty months. This being the case, the FEA will undoubtedly be required to maintain the current system of allocations and entitlements which have so severely distorted downstream results in 1975. Combined with recent competitive gasoline price cuts, the prospects for higher relative refining/marketing profits beyond the first quarter of 1976 (when the comparison will be against a deficit for most companies) are very unclear. Finally, higher U.S. taxes will have to be absorbed effective January 1, 1976 from limitation of foreign tax credits and July 1 from elimination of percentage depletion on natural gas sold under fixed-price contracts. In sum, if earnings from domestic petroleum operations can show any gain at all in 1976, it is likely to be modest. This would contrast with an estimated earnings increase of around 20% for the Standard & Poor's Industrials.

Superimposed on these less-than-inspiring profit prospects is the virtual certitude that additional legislation aimed at horizontal and/or vertical divestiture will be introduced in the 1976 Congress and will become part of campaign rhetoric. A group of legislators that have seen fit to pave the way toward Project Independence by eliminating percentage depletion for the oil industry under the Tax Reduction Act of 1975 and by rolling back crude oil prices under the Energy Policy Act of 1975 cannot help but pursue its perverse logic through the "Oil Competition Act of 1976."

THE HONORABLE JOHN PAUL STEVENS

Mr. MATHIAS. Mr. President, prior to the submission of Judge John Paul Stevens' name as President Ford's nominee to be Associate Justice of the Supreme Court, I was asked by a number of journalists what standards or tests I would apply in assessing the qualifications of the next nominee to the High Court. I replied only that he or she must be a person who is honest and who understands the Constitution.

Since that time, as a member of the Committee on the Judiciary, I have had the opportunity to review the opinions of Judge Stevens while serving on the Seventh Circuit Court of Appeals, his other legal writings, the financial reports, income tax returns and former client list he was kind enough to provide to the committee, and the reports of the American Bar Association and Federal Bureau of Investigation regarding his fitness to serve.

Based on everything I have seen, heard and read of Judge Stevens since his nomination, and based on the record of his conduct and responses during 2 days of extensive questioning by members of the Committee on the Judiciary, I must say that I am happy to apply that test in his case and to observe that he meets it.

One need not agree with every decision or opinion of a sitting judge such as Judge Stevens in order to recognize his qualities of candor, integrity, intellectual capacity and deep understanding of the spirit and substance of the document which has guided our democracy since its ratification 187 years ago.

For this reason, I was happy to vote in favor of Judge Stevens' nomination when it was unanimously approved by the committee on December 11, and look forward to his prompt confirmation by the full Senate.

I believe we all can be confident that his contributions to American jurisprudence as a member of the U.S. Supreme Court will be substantial for as long as he graces its bench.

SENATOR MUSKIE'S CONCEPT OF THE NEW BUDGET PROCESS AND THE ROLE OF CONGRESS IN THAT PROCESS

Mr. MANSFIELD. Mr. President, I have reviewed the transcript of the proceedings of last Thursday's meeting of the majority conference.

I was most impressed by the remarks of Senator Muskie at that conference. As the chairman of the Budget Committee he displayed a fine grasp of the new budget process and the responsibilities of the Congress with regard to that process. For the benefit of all Senators I commend these remarks of Senator Muskie and ask unanimous consent that they be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Edmund S. Muskie

I would like to make a couple of observations to begin with. I have lived through many of these confrontations between the President and the Congress which were provoked by attempts to set arbitrary spending ceilings. They rarely worked. They always resulted in acrimony and bitterness, in no results. They resulted finally in the impoundment scenario of 1973–74 which resolved nothing. The budget process was created as a result of the failure the last time the President tried to set an arbitrary spending ceiling. So there is that history.

Secondly, and I cannot resist this, with respect to looking ahead a year or two to determine what your spending cuts ought to be, I have two illustrations.

A year ago this President announced that he was going to recommend a balanced budget for fiscal 1976. This was in October 1974. Five months later, in February, he sent his budget to the Hill and it was in the hole $52 billion. He was not able to look ahead 5 months at that time. His own latest figure on the deficit for this year is about $68 billion. So that is the margin of error with which he has worked.

Another point: Since his last budget review for this year, which takes place about June 1, his own budget has gone up $8.6 billion because of uncontrollables which were not accurately estimated June 1. This is December and he was off by $8.9 billion just on that part of the budget in less than 6 months.

Let's look at his proposal. First of all, he proposed cutting $28 billion. How did he arrive at that? First, he projected outlays or potential outlays of $423 billion for the next fiscal year. Where did he get it? I have been unable to find out.

Under the Budget Act he is required now to send up a current services budget in November. This pamphlet contains that. Is the $423 billion in here? The answer is no.

We projected four different sets of economic assumptions in order to give us not one number on outlays but four, from the most optimistic economic assumptions to the least optimistic.

The range of his outlay numbers is from $410 billion to $414 billion. So the highest number is $9 billion below the $423 billion which was the basis for his $28 billion in cuts.

We do not know the make-up of the $423 billion at all. He has not sent it to us. This pamphlet was printed after he made his proposal. The $423 billion is not in here, nor is the basis for it. The justification for it is not in here.

Then how about the $28 billion in cuts? If he does not have $423 billion in outlays and his proposed spending ceiling is $395 billion, then is he proposing cuts of $15 billion or $19 billion or $28 billion? He has not made that clear. He said that the number is $395 billion, but he has not told us how that relates to an outlay figure.

As to the $28 billion, what does that consist of? He did not tell us at the time. Since that time, the Budget Committee has had extensive hearings with Mr. Lynn, with Mr. Simon, with Mr. Burns, and we did our best to solicit from them the details of the $28 billion in cuts. We still have not received them.

If the administration in a 2-month period has not been able to make up its own mind, its collective mind, as to what the cuts are, where they ought to be, it is a little difficult for us to get a handle on them.

So we are talking about a $423 billion outlay figure that is a complete phantom, that is not found anywhere except in the President's speech of that night. Nowhere else have we found it.

Secondly, we are talking about a $28 billion cut which is not substantiated in any way whatsoever. The OMB leaks pretty well from time to time. We have not had even a leak as to the composition of that $28 billion in cuts. Now we are asked to establish an outlay ceiling of $395 billion.

As Russell says, that may be a figure that we agree upon.

What have we done as a Congress? We have prided ourselves, and I think justifiably, that we have at least set in motion a process which would lead us to fiscal responsibility and budgetary prudence. I think the case is pretty good on that score, but history will judge better. In any case, what we are about to put in place for this fiscal year, in accordance with the law that we enacted over a year ago, in accordance with the law which administration witnesses have applauded to the skies, what we are about to put into place when we act on the second concurrent resolution this week—and I expect it will be this week—is this: An extension of the tax cuts we enacted into law this year, and that number is a result of a deliberate, rational process of discussion which has included the Finance Committee, the Ways and Means Committee, the Budget Committees of both Houses, and the Senate and the House of Representatives.

That number is not a figure picked out of the air. On our side, it is based upon the testimony we have received from economists across the board, liberal, conservative, Keynesian, monetarists, and what have you. That figure made sense as against the higher cut that the President is proposing.

We considered the higher cut. We got almost no testimony in support of it. This cut was the sensible one. Its purpose was simply to avoid the drop in withholding rates which would have the effect of impacting upon every individual taxpayer. So that $6.4 is a hard number and nobody in the Budget Committee on our side, nobody on the floor of the Senate on our side, offered any amendments to change it. If there was a Presidential spokesman on the floor of the Senate, he did not raise his voice. If there was one in the Budget Committee, he did not raise his voice. So that $6.4 billion in tax cuts is firmly based upon a considered judgment of the Congress of the United States. We have a right to make that. The Constitution says we have the power of the purse. We have the sole power to raise revenues. That is our decision, and I think we ought to make it stick, frankly.

Second, when we approve the second concurrent resolution this week, we will be putting firmly into place a ceiling for outlays in this fiscal year that will subject anything that breaches the ceiling to a point of order, the toughest kind of discipline that the Congress has ever adopted with respect to spending legislation, a ceiling at $375 billion.

There are those who would like to see it lower; there are those who would like to see it higher. But that also was the result of a kind of process which has made it possible for us to bring 535 different human beings in the Congress of the United States into agreement on what the national interest requires by way of outlays for this fiscal year.

And may I say, incidentally, if you compare that with the President's, using common assumptions, about sales of Outer Continental Shelf oil leases, about other kinds of common things that are not going to change, we are pretty close to the President's numbers for this fiscal year. We are going to put it in place and enforce it for the next 6 months with a point of order to strike at anything that breaches that ceiling.

That, to me, is a demonstration of fiscal responsibility to the country that the country should take some assurance from and that this administration ought to take some assurance from. What they want to do is to completely torpedo it. They want to take it back to the prebudget process days when they laid down the mandate and we had no chance to look at it.

We will set a ceiling for 1977 next May 15 that is mandated by law, a law signed by the President of the United States. That is the date that we agreed between us should be the date for setting a spending ceiling.

Why we should let the President, for his own political purposes, change that law, modify it unilaterally, bludgeon us into changing, is beyond any conception I have of what the will of Congress may be.

So I say to my colleagues, I don't think the other option is available to us. I think we have only one—to enforce the policy that we have taken a year to put into place, and to challenge the President who would undermine this budgetary process from which the country is taking a great deal of assurance and growing confidence in the public policymaking of this country.

I hope we have a unanimous vote in this Congress to support Russell, and specifically, I think all the budget resolution does is assume revenues until July 1. So if Russell's bill extends the tax cuts only until July 1, that fits us. It also fits the May 15 date for setting an outlay ceiling. So all of it goes together.

May I say when we finally act on both of these things, we will have acted 4 months in advance of the beginning of the fiscal year for which the President is arguing, and that is not bad.

RHODE ISLAND DAY

Mr. PELL. Mr. President, my colleague and friend, Congressman Fernand St Germain, made some remarks on Rhode Island Day which I believe might interest my colleagues.

We gave a concise, thorough review of the history of Rhode Island and the Providence Plantations. He stressed the emphasis that has always been given in our State to the quality of independence and the tradition of free thought that we have had since the time of Roger Williams.

But, he also added his own qualities of humor and style which made his a truly delightful speech.

I hope my colleagues may enjoy reading it as much as I enjoyed hearing it. I ask unanimous consent that the speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks of Congressman Fernand J. St Germain, Rhode Island Day, December 9, 1975

A few years ago, Phyllis Meras titled an article in the Providence Journal "We've got more history per square mile than we have square miles."

That thought immediately came to mind when the good people of the District of Columbia Bicentennial Commission asked me to make a short recap of our State's history on this gala occasion.

Without intending any slight to the Norsemen, the Indians or Giovanni Di Verrazano, I think we can count Roger Williams' arrival in 1636 as the beginning of Rhode Island's history. We are all familiar with Roger Williams' story . . . How his outrageous social attitudes so distressed the elders of the Massachusetts bay colony that his presence was considered a threat to the peace of the community. Roger, with a commendable spirit of self-preservation, gathered his friends in one leaky canoe and departed Rehoboth via the Seekonk River. You can imagine their relief when the party was greeted by friendly Indians with the famous "What Cheer, Netop?", and they immediately and industriously set about the development of a choice bit of East Side property, in what is still the high rent district.

Early Rhode Islanders were a remarkably contentious lot. Wars with the Indians and court battles with each other seem to have been the chief form of diversion for the colonists. Most of the lawsuits had to do with boundaries; not only for personal property, but of the growing State. It took a decree from His Majesty, George II, to settle our eastern boundary in 1746. Massachusetts was forced to return the towns of Bristol, Tiverton, Warren, Cumberland and Little Compton, and I am certainly grateful for that wise decision, as those towns comprise a substantial part of my congressional district.

The Providence compact, the law of the early days, decreed that "any man shall have liberty to sell liquor without doors, no man forbidding him." This instance of farsighted free enterprise soon sent the price of liquor out of hand, and the town of Providence set a ceiling price of three shillings per quart on all liquors in 1650. How things have changed!

Recognizing the evils and pitfalls of gambling, the early settlers passed a law forbidding lotteries. Two hundred and forty years later the General Assembly, recognizing the benefits to be gained by getting a piece of the action, repealed that statute, so that we could all play and dream of winning "the lot".

The spirit of independence, so apparent from the beginning in our State, took a decidedly hostile turn against British rule as early as 1769, when the disgruntled citizens of Newport destroyed the sloop "Liberty". In 1772, we burned the "Gaspee", thus providing Warwick with a wonderful excuse to party and parade for several days each spring.

On May 4, 1776, the General Assembly formally declared our independence from the British crown. As you know, the other colonies didn't get around to that measure until July. Having taken that first decisive step, we were in no hurry to ratify the Constitution. Only when the exasperated other States threatened to declare Rhode Island outside the United States, and our very profitable trade subject to taxation as a foreign power, did we give in and sign the Constitution—the last of the original thirteen colonies to do so.

Now part of the new Nation, the citizens of Rhode Island embarked upon the pursuit of their favorite pastime, politics. It is customary in our state for Democrats and Republicans to engage in spirited dispute within the respective parties. The primaries represent the most colorful, knock-down, drag-out battles . . . replete with heated accusations, rebuttals and name-callings, and the general elections that follow pale by comparison.

Dorr's rebellion was an early instance of political free-for-all that is somehow typical of Rhode Island's fervor. In the middle of the 19th century, when the textile industry had brought hoards of new citizens into our midst. The existing law allowed the vote only to landowners and their eldest sons. Thomas Dorr took exception to that premise, and formed the suffrage party, which would grant the vote to every adult male. The landowner's party and the suffrage party each elected their own governor, and as all state business came to a halt at this confusion, both appealed to President Tyler to settle the matter. He refused to intervene, and, in desperation Dorr's party commenced open warfare by attempting to capture the arsenal in Providence. As a dense *fog* had settled over the state, the battle became a haphazard affair, with the only casualties being a cow, a bystander and Dorr's pride. He escaped to Connecticut.

1924 was a banner year in the political wars, it seems. Two cryptic little entries in the Rhode Island Almanac read as follows:

"June 19, 1924—Bromine gas bomb ends Democratic filibuster in the State Senate; five members collapse.

"June 23, 1924—Republican Senators, failing to get protection, flee to Rutland, Massachusetts, in 'exile' indefinitely."

Now, perhaps that explains why we have so few Republicans in the general assembly today. Many never returned from Rutland, Massachusetts.

Among the most famous attractions in Rhode Island are those amazing palaces and mansions of Newport, built in the 19th century. The millionaires who lived in them—

only in the warmest summer months—quaintly called them "cottages". Those cottages were mighty hard to heat, and if the tax laws had not already discouraged single ownership of the properties, today's electric bill fuel adjustment charges would certainly have done the job.

As the Nation's smallest State, Rhode Island must fight for every scrap of recognition, and we are intensely proud of our individuality. Among all the available choices for a state symbol, what other state would have the temerity, the nerve and the pugnacious pride to choose a domestic chicken—"our beloved Rhode Island Red."

SMALL RECLAMATION PROJECTS ACT

Mr. CHURCH. Mr. President, I rise in strong support of Senate passage of H.R. 6874, a bill to amend the Small Reclamation Projects Act of 1956.

With the passage of the original Small Projects Act in 1956, Congress created a valuable tool for the development and effective utilization of water and related land resources in the arid Western States. For almost 20 years this program has been wholeheartedly pursued by the water resources community and the program's history is one of continued success. The importance of the program to the Nation can be measured by the number of projects which have been initiated under the act. Nationwide, 49 loan projects have been completed with loans totaling $95 million, and 15 more projects valued at $65 million are under construction. Over $240 million worth of potential projects are presently in various stages of preparation. Without question, this program benefits the entire Nation.

On May 21 of this year, I introduced S. 1794, a companion measure to H.R. 6874. On September 16 the Subcommittee of Energy Research and Water Resources of the Senate Interior and Insular Affairs Committee held hearings on S. 1794. As chairman of the subcommittee, I can report to my colleagues that the small reclamation projects program is continuing to function well but is in need of revision. Congress has periodically reviewed the small projects program and has amended the basic act to reflect changing times or congressional intent for the program. Evidence gathered by the subcommittee during the September 16 hearing indicates that the act is again in need of amendment if it is to continue to be a viable asset in the development of Western water resources.

Foremost among the needs faced by the program is the ability to adjust to inflationary cost increases in construction. Over the past 3 years since the act was last amended, inflation has eaten away at the authorized cost ceiling for projects in such a way that current projects under the act are only two-thirds the size originally envisioned by Congress. H.R. 6874 would provide for the adjustment of cost ceilings to reflect inflationary pressures. Additionally, because of the enthusiasm with which the program has been pursued by the water resources community, there is a need to increase the authorization level for the entire program. And finally, testimony indicated that a saving may be realized to the program if authorization is given for the use of program funds for the purchase of existing project related facilities, thereby preventing useless duplication of project features.

Mr. President, H.R. 6874 reflects two decades of experience with a widely used Federal program and with enactment, Congress will insure that the Small Reclamation Projects Act will continue to be of vital service to the production of food and fiber for the Nation and the world.

I strongly urge the Senate's approval of H.R. 6874 as reported by the Committee on Interior and Insular Affairs.

SUPPORT FOR THE CONFIRMATION OF JUDGE STEVENS

Mr. BAYH. Mr. President, the Judiciary Committee has unanimously reported favorably the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court. Before deciding to support this nomination, I viewed the testimony presented at hearings as well as the opinions of Judge Stevens, his other legal writings, his medical records, his financial statements and income tax returns, his former client list, and the ABA and FBI reports on him.

My decision to support this nomination was not based on ideological kinship. Indeed, certain of my positions directly differ with those taken by Judge Stevens in his opinions as an appellate judge and his testimony before the Judiciary Committee. His views, in particular, on equal justice for women do not demonstrate the type of empathy and concern that I would prefer in a Supreme Court justice. For that reason alone, if the choice had been mine, Judge Stevens would not have been the nominee. My nominee would not only have been someone who had greater understanding of the real nature of the discrimination faced by women in our society today, but would also have been someone whose general beliefs and convictions more closely mirrored those of the two previous holders of this seat on the Courts—Mr. Justice Douglas and Mr. Justice Brandeis.

However, I do not believe it is responsible to oppose a nominee solely because that nominee's views differ in part from mine or the nominee's predecessors. Therefore, in deciding whether to support Judge Stevens, I did not simply compare his views with mine or with William Douglas or with Louis Brandeis. Rather, I carefully considered whether this nomination ran afoul of the same standards I used in deciding to oppose the nominations of Judge Haynsworth, Judge Carswell, and Mr. Justice Rehnquist. It is clear to me that it does not.

First, I considered whether Judge Stevens was intellectually and professionally qualified to sit on the Nation's highest tribunal. It was, of course, the distinct absence of such intellectual and professional qualities that forced me to oppose the nomination of Judge Carswell. Judge Stevens is an individual whose intellectual abilities and professional achievements are substantial. That fact is undisputed by everyone who knows Judge Stevens or who has examined his record.

Second, I considered whether Judge Stevens has demonstrated the personal and judicial integrity expected of a Supreme Court Justice. As you know, Mr. President, it was the lack of such propriety that led me to oppose the nomination of Judge Haynsworth. Judge Stevens is clearly a man of great integrity. In his service on the Seventh Circuit Court of Appeals, he has scrupulously observed the highest standards of judicial propriety. In this respect, he can serve as a model for the entire Federal judiciary.

Third, I considered whether Judge Stevens' views demonstrated the kind of gross insensitivity to the rights, liberties, and protections guaranteed to individuals by the Constitution that forced me to oppose the nomination of Justice Rehnquist.

As I noted, there is one area—the legal rights of women—in which Judge Stevens' record causes me deep concern.

As one who has fought long and hard to establish many of the legal guarantees against discrimination based on sex, I was disturbed by the narrow scope of reasoning used by Judge Stevens in his dissent in *Sprogis* v. *United Airlines Inc.* 444 F. 92d 1194 (7th Cir. 1971). In this case, despite existing equal employment opportunity guidelines to the contrary, Judge Stevens refused to consider United Airlines' practice of marital status discrimination against married stewardesses as sex discrimination under title VII of the Civil Rights Act of 1964.

In his dissent Judge Stevens argued that firing married stewardesses did not constitute discrimination based on sex but rather was discrimination against a certain class of females—therefore not covered by the statute. Judge Stevens, in a footnote to his dissent, stated that indeed had United Airlines employed males and females in the same job category and applied a no marriage rule for females only, his findings would be quite different.

This narrow finding of what constitutes sex discrimination ignores the fact that a great deal of the most invidious form of sex discrimination comes from sex role stereotyping. Judge Stevens, while finding he could not support this line of reasoning, at least showed he was not totally insensitive to this very real problem when he stated:

> As I understand the majority's test, it did not focus on the impact of a rule on the employment opportunities of the members of one sex as opposed to the other: instead the critical inquiry is whether the rule is an irrational attitude toward females. As a matter of policy, the majority's view may not only be contemporary, but also wise.

Judge Stevens' findings in this case, as in many other cases relating to women, reflects his overall tendency to apply the narrowest and simplest interpretation to the statute in question. This narrow type of legal reasoning is evident in other cases such as *Cohen* v. *Illinois Institute of Technology*—F. 2d—(7th Cir., Oct. 28, 1975) and *Doe* v. *Bellin Memorial Hospital*, 479 F. 2d 756 (7th Cir., 1973).

In both of these cases, he applies a very strict standard of what constitutes State action, declaring that the simple receipt of Federal funds is not sufficient in and of itself to constitute State action. By the use of such a narrow interpretation, Stevens limits the application of Federal discrimination standards to private educational or medical facilities, despite their receipt of Federal financial assistance.

Particularly distressing to me was Judge Stevens' statement on the Equal Rights Amendment during the Judiciary Committee hearings on his nomination. I do not believe that Judge Stevens believes in discrimination against women. I do not believe that Judge Stevens is totally insensitive to the vast scope of what constitutes sex discrimination. I do believe, however, that Judge Stevens' narrow line of judicial reasoning could deny to women the broader protection that should be afforded them under the 14th Amendment and which will be guaranteed when the ERA is ratified. As the Senate author of the equal rights amendment, I can assure Judge Stevens that its intent and its impact is considerably more than symbolic.

While, as I have noted, Judge Stevens' views on the rights of women are in certain cases deeply troubling, I do not think that on balance, Judge Stevens' failings on women's issues are of such magnitude to deny his confirmation.

With respect to the rights of groups other than women who have often received less than equal treatment before our courts, I am also satisfied that Judge Stevens, while holding somewhat more restrictive views than mine, does not evidence a general insensitivity. In fact, in certain areas, his opinions and testimony indicate empathy with the rights and aspirations of minorities.

Mr. President, for the reasons that I have just outlined, I have decided to support the nomination of Judge Stevens before the Judiciary Committee and the Senate, and I am hopeful that this nomination can be soon confirmed and the Supreme Court restored to full membership.

CONSTRUCTIVE CONTRIBUTIONS TO AID HANDICAPPED PERSONS ARE MADE BY VOLUNTARY GROUPS—EASTER SEAL CONVENTION STRESSES MUTUAL EFFORTS—CONGRESS PROVIDES NEEDED LAWS

Mr. RANDOLPH. Mr. President, the National Easter Seal Society for Crippled Children and Adults Convention November 4 through 8, in Louisville, Ky., demonstrated the constructive contributions being made by voluntary organizations. The convention brought together over 1,000 representatives of such diverse fields as dentistry, design, recreation, employment, and the entire scope of health and social services to the handicapped.

In the keynote address, Dr. Leonard Silverstein, Executive Director, Commission on Private Philanthropy and Public Needs, reviewed the scope covered by the Commission's 3-year study of the role of private philanthropy today. He commented on the decline in private contributions due to recent hearings, and the increase of Government intervention. Dr. Silverstein analyzed the validity of current proposed legislation which threatens to decrease the mainspring of revenue for private philanthropy. Said the Director:

> The uniqueness of the American private sector needs to be sustained if we are to have a genuinely free society in America.

Included was an award to the Greyhound Lines for its recent action in making facilities available to the handicapped; an award to Universal Studios for the film, "The Other Side of the Mountain" which was accepted by Lucie Arnaz; and the presentation to the delegates of the 1976 Easter Seal Child, Miss Kerri Hines of Pontiac, Mich.

Throughout the meeting, convention participants in forums addressed themselves to a myriad of subjects, including reaching out for employment opportunities for persons with handicaps, and reassessing needs for rehabilitation services from the clients' point of view. Attitudes of life style for handicapped persons, integrated camping experiences for the disabled with the nondisabled, special needs for the handicapped for dental services, and recent research in infant stimulation and early detection of handicaps in the newborn—all were stressed.

Volunteers and staff in Easter seals and allied agencies analyzed some of the social and legislative forces affecting service to the handicapped. There was a discussion on the Health Planning and Resources Development Act, as well as a detailed explanation of title XX of the Social Services Act.

In a workshop, professionals and parents looked at methods of involving parents or handicapped persons themselves, in assessing the needs of the client for rehabilitation services. The process for training professionals was cited as an area needing improved emphasis in dealing with handicapped clients and their families.

The American Occupational Therapy Association and the American Speech and Hearing Association were two cosponsoring agencies. In the workshop sponsored by ASHA some 200 registrants learned techniques for relating the process of speech therapy to the total rehabilitation of the handicapped child.

The Academy of Dentistry for the Handicapped sponsored a thought-provoking session devoted to new concepts in dentistry for the handicapped, including proper nutrition, new techniques in dental surgery, and special inpatient treatment.

Last year, Mr. President, it was my privilege to speak at the Academy's national convention on Congressional concern and commitment to the total rehabilitation of the handicapped. I am gratified that the academy's "Campaign of Concern" and commitment to the handicapped has stimulated the application of new concepts in the care of handicapped persons' dental needs.

The involvement of the evergrowing number of self-help groups was witnessed in the Easter Seal Convention program. ALPHA–Action League for Physically Handicapped Adults, Inc.—participated in a specially designed forum to discuss barriers posed by peers, parents, and professionals to the independent life styles sought by many of our Nation's handicapped citizens.

Barriers faced in the manmade environment by persons with handicaps was the focus on the final day of the convention. As a founding member of the National Center for a Barrier Free Environment, the National Easter Seal Society for Crippled Children and Adults sponsored the national center's first annual meeting as a part of its convention. The meeting open to the public brought over 200 persons from nearly every State in the Union and Canada.

This conference on "Developing a Barrier Free Environment," which closed the Easter Seal Convention, highlighted the implications of some federally funded projects underway to identify deterrents for accessibility, to develop standards in the manmade environment, and develop design standards. Other resources are needed by architects, designers, builders, and municipal officers to insure accessibility features in the construction and remodeling of buildings across the country.

This conference on the problems handicapped persons face when confronted with architectural barriers will result in increased public awareness of the fact that our society has not provided to the handicapped population full freedom to enjoy the benefits of our society.

Congress has taken steps to eliminate these barriers which exist for our handicapped citizens. In 1968, we worked to pass the Architectural Barriers Act. That legislation required that all Federal and federally assisted buildings must meet accessibility standards. September 26, 1973, the Rehabilitation Act of 1973 became law; that measure included a provision, which I authored, to establish a Federal Architectural and Transportation Barriers Compliance Board to insure compliance with the 1968 law. Amendments to the 1973 act, which became law on December 7, 1974, further strengthened the Board and provided it with an enforcement mechanism.

On February 7, 1975, I introduced Senate Concurrent Resolution 11 which states that there shall be a national policy to recognize that all citizens, regardless of their physical disabilities, have the right to full development of their potential through the free use of our environment levels.

A highlight of the convention was the luncheon sponsored by Rehabilitation International, USA. The speaker, Arieh Fink, president-elect of the 13th World Rehabilitation Congress, extended an invitation to send delegates to Tel Aviv, Israel, on June 13 through 18, 1976.

VETERANS DESERVE EDUCATION AND JOB ASSISTANCE

Mr. BAYH. Mr. President, nearly one out of every two Americans is a veteran or the dependent or survivor of a veteran. For the past several years, Congress has taken the initiative in providing various kinds of assistance to veterans, their survivors and dependents, with little help from the administration.

Once again, we are witness to another instance of administration insensitivity to veterans' needs—and callous disregard of the obligation which this country owes to men and women who gave their lives, their health, years of absence from occupations and families, to serve their country.

The administration has proposed a recision of $23,750,000 in the veterans' cost of instruction program—VCOI—the full amount appropriated. I urge my colleagues to oppose the recision; I believe that in this instance, as in the past, the Congress will act to maintain an acceptable level of educational assistance to veterans.

Since the inception of the VCOI program in 1972, it has recorded impressive achievements. More than 1,200 institutions of higher learning now have offices of veterans' affairs. More than 800,000 full-time undergraduate veteran students utilize VCOI services. The number of veterans with educational deficiencies who are receiving VCOI assistance is increasing rapidly; more than 40,000 undergraduate veterans are receiving tutorial and remedial assistance from VCOI.

Yet, despite its important role in providing veterans with the necessary tools to become productive members of society, VCOI has been struggling against administration intransigence and negativism. In 1973, President Nixon impounded VCOI's funds; it required a court order to obtain release of those funds.

In 1974, President Ford vetoed the Veterans' Education and Rehabilitation Amendments of 1974, a bill to increase education benefits for Korean war and Vietnam-era veterans. Congress overrode that veto by stunning margins: by 90 to 1 in the Senate, 394 to 10 in the House of Representatives.

In fiscal 1975, President Ford requested authority to rescind the $23.75 million appropriated for VCOI; Congress disagreed and denied him that authority.

The fiscal year 1976 education budget request from the administration contained not a single dollar for VCOI. The House and Senate Appropriations Committees wisely and responsibly included $23,750,000 for the program—the same level provided in 1975.

President Ford vetoed the education appropriations bill. Once again, the Congress overrode the veto.

Now the Congress is presented with six proposed recisions to cut education programs by $1.3 billion—including a proposed recision for the entire $23.75 million appropriated for VCOI.

Mr. President, we must do everything in our power to assist veterans to obtain the education and skills necessary to find employment. Veterans' unemployment continues at 22 percent for young veterans aged 20 to 24; more than half a million veterans between the ages of 20 and 34 remain out of work.

Many young veterans have been chronically unemployed since their discharge. And many of these face serious disadvantages in obtaining jobs and advanced training. Over 600,000 Vietnam-era vets never received high school diplomas; many others have serious educational deficiencies. These are the individuals who need special help. In many cases, remedial and tutorial help is available only through VCOI.

The administration has offered no meaningful program which will put veterans to work. Continuation of the VCOI program is essential to provide veterans with education and training opportunities, and to insure that they obtain maximum benefit from the GI bill rather than be forced to exist on unemployment compensation or welfare.

Provision of education and occupational skills is not only a basic part of our obligation to veterans and their families. It makes sense in terms of our national economy; the training of men and women for productive jobs is not only important in terms of human dignity, but in fiscal terms as well. I continue to believe that every Federal dollar spent should be spent for a constructive goal. The education of the unemployed is such a goal. Welfare or unemployment payments—while sometimes necessary—are a stopgap measure which do not serve to put people back to work.

The administration has defended the recision request on the grounds that VCOI is unnecessary, because it duplicates Veterans' Administration activities. Yet the Veterans' Administration testified before the Senate Veterans Committee that there was no such duplication.

The administration has also said that it is better to provide funds directly to students. Yet the administration consistently opposes increases in the GI bill.

The administration states that HEW special programs for disadvantaged students reaches veterans. Yet the administration also resisted requests to modify such programs to serve veterans. Significant funds were made available to veterans only after the Senate specifically earmarked funds for a special upward bound for veterans program to provide remedial courses to veterans.

Mr. President, I sought in 1974 and 1975 to increase funding for VCOI and was partially successful.

The funding level for 1975 and 1976 for for this important program has remained constant at $23.7 million. This is not budget-busting and it is not fiscal irresponsibility.

It is a rational response to a severe unemployment problem among the Nation's veterans; it is a fair and cost-effective means for repaying the debt which we owe to veterans, particularly our youngest veterans.

I urge the Congress not to approve the rescision.

PACEM IN TERRIS IV—AMBASSADOR MOYNIHAN

Mr. JAVITS. Mr. President, on December 2, I participated in Pacem in Terris Convocation IV at the Sheraton Park Hotel in Washington as a member of the panel on détente. On that day, our distinguished Ambassador to the United Nations, Daniel Patrick Moynihan, in his own inimitable style delivered a most interesting speech on the ideological implications of détente.

There exists even in the United States a wide divergence of opinion on the nexus of issues that generally are subsumed in the term "détente." An imperative for formulating a sound foreign policy must be the articulation of these sentiments in the expectation that out of the form of these differences will emerge the wisest approach to these international relations. In this respect, I believe that Ambassador Moynihan has presented an incisive and stimulating presentation of the parameters of détente as he sees them.

I ask unanimous consent that the address of Ambassador Moynihan be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY AMBASSADOR DANIEL P. MOYNIHAN

Pacem in Terris made its appearance in Easter Week of 1963 and attracted some attention, for it was clearly addressed beyond the limits of the Roman Catholic community to the world at large, and in terms and by a man of spaciousness and perceptible authority. In the United States the impact of the encyclical was enhanced by the fact of its having appeared during the incumbency of our first Catholic President and during the majority, if you will, of a generation of American Catholics for whom papal encyclicals did directly influence views on public affairs and, for those in public life, influenced conduct as well. We were—if a brief parochialism may intrude here—between the generation of Catholics such as Al Smith, who once asked Robert Moses what in the hell a papal encyclical was, and the generation now coming along which shows every disposition to wonder why anyone bothers to issue them. It was, in any event, an unaccustomed, even a heady experience. In the United States political liberals, who were by then reasonably well disposed towards President Kennedy, and were themselves rather enjoying the experience of being somewhat less ill disposed towards Rome, showed some enthusiasm for this evidence that the Pope was a liberal, too. I was then an Assistant Secretary of Labor and was at some pains to assure the Harvard graduates in the administration and the press that the Holy Father was indeed in favor of the minimum wage. Being so heavily Catholic, the AFL–CIO was not accustomed to paying much heed to what the papacy thought about working conditions, but the Harvards appeared to be impressed. Among the laity there was even, I think, some elucidation. For generations they had been beset by aged Irishmen, doing their best, who from drear episcopal studies in 19th-century slums had been sending forth diocesan letters denouncing "liberalism", by which term they intended the Manchester school of economics, but which the Democratic faithful assumed to mean the New Deal and its forebears. Earlier encyclicals, even Quadragesimo Anno, presented themselves to a Catholic community in America that was but little trained to serious social analysis, and still less accustomed to having its views in such matters taken seriously. In this respect, as in so many others, Pope John appeared at the propitious moment: confidence had risen; suspicion had declined. Thereafter the "native" political liberalism of American Catholics was much more at ease with, and even, I think, reinforced by what was clearly seen as Church doctrine.

This was all other sectarian, however, Nothing, or next to nothing in the large was affected. Catholic social thinking had never theretofore had any serious influence on American public policy, whether in domestic or foreign affairs, and Pacem in Terris had none either. Thus, as he had done in Mater et Magistra, John in this encyclical most emphatically restated the principle of subsidiarity, first enunciated by Pius XI in Quadragesimo Anno, a proposition with doctrinal roots going as far back as Aquinas. This principle states as a "fixed and unchangeable rule" that "one should not withdraw from individuals and commit to the community what they can accomplish by their own enterprise and industry", and further that it is an "injustice," indeed a "grave evil and a disturbance of right order, to transfer to the larger and higher collectivity functions which can be performed and provided for by lesser and subordinate bodies." Now a century earlier—just to keep matters complicated—such papal doctrine would have been seen as the embodiment of liberal principle! But by 1963 this was no longer so. To the contrary, American liberalism was at that very moment about to enter a period of unprecedented attachment to whatever it is that is the opposite of the principle of subsidiarity. The state was encouraged to take over more and more individual functions, and the highest levels of the state were encouraged to take over more and more of the functions of the "lesser and subordinate" levels. There is every sign that American liberalism is just now coming out of this phase, and may indeed be adopting a principle of subsidiarity of its own, but in neither situation does Pacem in Terris appear to have had any influence.

What is noteworthy, however, is that the encyclical continues to enjoy quite a vigorous life. If it has had little or no influence on social policy, it appears mirabile dictu, to have had and to be having considerable influence in the less accessible realms of American political thought.

Indeed, although the notion verges on the bizarre, it is the case nevertheless that this papal encyclical seems altogether an appropriate subject for study during this coming bicentennial year, a tract indeed to be studied as if it were a contemporary statement of views wholly congruent with and reminiscent of those of the Founding Fathers themselves. There is no mystery to this. The authors of the founding documents of the American republic and of this Roman Catholic discourse were both adherents to the Natural Law School of philosophy, and constituted their respective regimes, the one real and the other ideal, in just those terms. Pacem in Terris bears rereading. It is more Greek than Hebraic in tone, heavily indebted to Neo-Platonist doctrine, and openly acknowledging of this debt.

"For, as Lactantius so clearly taught . . ."

It has surely been some time since American statesmen could be depended upon to be quite certain as to just who Lactantius was, much less what it was he taught so clearly. But we would not be surprised to learn that some at least of the Founding Fathers were. This third-century apologist was one of those, who with Augustine, preserved the doctrine of natural law and helped incorporate it into Catholic teaching. Given some confusion on the subject, it is nonetheless clear enough that Lactantius stands in that company of Church fathers, and in point of time first among them, to assert that the state is a product of a social contract or convention among men for the repression of certain evils, which is to say that the individual exists prior to the state and owes his first allegiance not to the state but to God. The great question—always—of political philosophy concerns the nature of the individual and the claims which the state may make on the individual. The drafters of the American constitution and of Pacem in Terris both insisted that the individual was divine and the claims the state may make upon him are both strictly limited and conditional on the behavior of the state itself. To assert this may be nothing exceptional, but to conclude it, as the issue of a detailed and coherent account of the nature of man and of his world, sets these men apart from most men at all times, and most particularly, most men in these times.

It is for just this reason, is it not, that we find ourselves drawn to such coherent and comprehensive statements as we try to deal with issues of foreign policy in our time, issues which have assumed such a cosmic quality. The reason for this is known to everyone, and quite clearly stated in Pacem in Terris itself, in a section headed, with what caprice one dares not speculate, "Signs of the Times":

"Men are becoming more and more convinced that disputes which arise between states should not be resolved by recourse to arms, but rather by negotiations.

"It is true that on historical grounds this conviction is based chiefly on the terrible destructive force of modern arms; and it is nourished by the horror aroused in the mind by the very thought of the cruel destruction and the immense suffering which the use of those armaments would bring to the human family. . . ."

In the atomic era, the encyclical concluded, war could never be just and ought to be unthinkable.

Now it is the historic fact that two American statesmen—one hopes we are not so lost in the Orwellian fog that it is no longer permissible to mention both their names—Richard Nixon and Henry A. Kissinger, saw this situation for what it is, seized the moment, and with competence and courage engaged our great nuclear adversary, the Soviet Union, in a dialogue from which emerged the compelling and mutually shared conviction that unless the nuclear arms race were ended, mankind was doomed. And so they set about to end it, commencing the process which we know as *détente*. As an act of statecraft, it has not had its equal in our time. It is little wonder that we are only slowly growing accustomed to the new circumstances in which the world lives in the aftermath; that we are finding the adjustment difficult; and are poorly concerned as to whether we have got the hang of it.

The first fact of *détente* is that it is not a condition, such as peace or war, but a process that can lead away from or toward either accordingly as we successfully manage the process—or fail to do so. The process arises from the simultaneous necessity to deal with two nominally incompatible imperatives. The first is the technological imperative, which commands that we cooperate as with a partner; the other is the ideological imperative that commands that we compete, as with an adversary.

Now a fleeting acquaintance with sociobiology—with the argument of Edward O. Wilson, for instance—suggests that this combination is not at all unnatural, indeed that all manner of species manage something of the sort. But it is troubling to men because of our poor efforts to get things straight in our minds, which for most of us comes down to trying to be consistent. *Détente* demands inconsistency. Inconsistency of the highest order of constancy. Clearly it is going to make demands on us of an unusual order.

And yet of an order not inaccessible to analysis, even of a certain clarity. The technological imperative is easy enough to grasp: A generation is coming of age in America which has known it since birth. So, equally, is the ideological imperative to those who will grasp it. Detente is a word we use to describe an approach to nations who are not friends, whose governments are based on principles different from ours, whom we are not sure we can trust and who have great military power which they have shown an inclination to use to the detriment of freedom. This is something we have understood in the past—the essential antagonism of the Communist system to ours—and most of us in truth still do understand it. Our problem has to do with continuing to understand that this is not just a fact, but a salient fact, one from which an imperative arises every bit as compelling as that which arises from the facts of nuclear armament.

Why is this difficult?

It has not helped that we picked the wrong word to describe the present process. Detente is a French word—perhaps the cause of precision would have been better served had we chosen something from the German!—which means, first relaxation of tension, as with physical objects like muscles. Now such wholesale relaxation is exactly what will not happen under detente. To the contrary, political detente can at most lead to a redistribution of tension from the technological sector to the ideological one, such that there will be a pronounced increase in the latter.

It is probably not a good thing to rely heavily on mechanistic analogues for human behavior, but in this instance it seems justified. The Communist system contains a certan amount of energy, capable of doing work. Any lessened expenditure of energy on military technology will lead to an increased expenditure on what the Communists will see as the equally inviting, equally productive area of ideological conflict. The relaxation of tensions in one sector will lead more or less automatically to more intense conflict in the other. That is what detente means. To question, to repeat, is why we find this difficult to grasp.

It helps to note that the Soviets have had no such difficulty. It is fairly clear that ideological conflict has been stepped up on their side, or at very least expanded to new areas. With the fall of Southeast Asia, the perimeter of pressure in that region is much expanded, with results already evident. Where necessary, military force is used. At this moment, for example, the Soviets in effect have landed Cuban troops, but Soviet withal—on the Southwest coast of Africa, even as they are consolidating military facilities on the Northeast coast of that continent. It is fair to assume they mean to colonize Africa, and manifest that they are already partially successful, their main problem being opposition from another Communist power and also from the fact that the United States will call them in instances of open military operations, as indeed the Secretary of State has done.

Blocked at one point, they shift to another. The United Nations offers near limitless opportunities in this respect. Last month, in an infamous act, the General Assembly declared that "Zionism is a form of racism. . . ." This was seen as an Arab initiative, but was it? The Ukraine, for one, was a sponsor of the resolution, which directly served an announced Soviet cause. Four years ago Pravda published—and indeed The New York Times reported it on February 19, 1971—a two-part article "Anti-Sovietism is the Profession of the Zionists" accusing Jews of all manner of plots against Communism, much as Hitler had accused them of plots in support of it. A campaign was begun which explicitly and heavily stressed the Zazi-Zionist theme. Its unmistakable intent was revealed by such grotesque things as a television documentary that superimposed Ben-Gurion's face on that of Hitler. And so it is indeed no accident that two days after the Zionism resolution passed the General Assembly this year a Tass political observer wrote:

> . . . . Zionism is racism pure and simple of the same (variety) that was practiced in the not too distant past by Hitler's Germany.

This was all one campaign, serving the Soviet need to deal with what is one day going to be its central political problem—or may already be—that of ethnic conflict, and also serving its general aims in the Middle East. It is a daily occurrence in Turtle Bay, as elsewhere in the world.

Now there is nothing devious in this. The Soviet leaders have repeatedly stated that détente does not mean an end to ideological competition. They have not perhaps stressed that it means an increase, but surely that is something for us to perceive, not for them to proclaim.

Once again, why do we have such difficulty? I will suggest three clusters of influence, ranging from the temporary to the persisting.

The first, and temporary, condition arises from what I have elsewhere called a failure of nerve within the American elites that controlled and directed foreign policy in the postwar period. In 1963, the year Pacem in Terris appeared, was crucial in this regard: It was the year the commitment to Vietnam became, if not irreversible, then at all events one which was never reversed until failure was both inevitable and visible.

Now this sort of thing happens. Nations lose wars, and there are almost always consequences that are not so much political in nature as social. This is to say a class, or even a caste, is defeated in the process. Something of this sort has happened. The Vietnam war was quintessentially an elite decision, made by a confident, essentially coherent, and to that point undefeated foreign policy establishment.

Then it was defeated.

The results were curiously unnerving. There was an immense effort to transfer blame. One recalls the spring of 1970, when the tensions between supporters and opponents of the war led some of this elite to hint broadly that the continuation of the doomed enterprise in Asia was a scheme to use the Catholic working class to bring about fascism.

This didn't work, and even if it had, the elites involved found themselves assaulted from within. Not to put too fine a point on it, their children would not fight in their war. Before it was over, the R.O.T.C. building at Harvard had been converted to a day care center. Worse, a singularly derelict day care center. Almost a forlorn day care center, as if fecundity itself had been discredited, and shame was everywhere. Saul Bellow was quick to see it, which is what novelists are for: to know things before they are known. Mr. Sammler saw well enough in New York City an elite that would not defend itself.

Time heals such hurts. Time and the circulation of elites of which Pareto wrote. What it means for the moment however, is that in the area of ideological encounter our responses are much slowed. Where we had been quick to sense danger—even, sometimes, quick to perceive opportunity—we are now slow to do so. Events have to penetrate much deeper into the political and bureaucratic system in order to evoke a response. There has been a decline in authority. Students of public administration delight to tell the story of a Congressional hearing during World War II in which the then war production chief, a Detroit executive, was asked why he thought a certain proposal he had made would work, to which the executive replied that the General Motors Corporation paid him $200,000 a year to know when something would work, and when it would not. That kind of authority is gone. The committees, in the general sense and I need hardly note the specific ones, require lengthy justification, and are slow to give consent. Hence, in this temporary sense, the Soviets have an advantage and *detente* has difficulties.

An intermediate cluster of influences which retard our responses to communist aggression may be simply stated as the superior capacity of Marxist argument to induce guilt. Observe that this is stated as a relative relationship. Liberal democracy makes great claims on nonliberal societies, and has done so for some time. There is probably not now in the whole of the world a totalitarian state which does not have a constitution guaranteeing individual liberties. On the other hand, there is not a liberal society which does not contain a real Marxist or neo-Marxist movement dedicated to its overthrow on grounds of insufficient liberality. Nor is there any liberal society which is not torn by doubts on this score. Yeats sensed the mood:

> Come fix upon me that accusing eye.
> I thirst for accusation. . . .

It is said that if a Communist regime were to take over in the Sahara there would in time be a shortage of sand, and we shall doubtless in time have tested that hypothesis, but we can be fairly confident that to the very end there would be those in the West convinced that the sand had gone to build swimming pools for the rich—in the West. The Communist Manifesto is heavy with such accusation—interpolated between Marx and Engels' insistent analysis of the creative dynamics of capitalism—and its force provide the true dynamics of the doctrine. It is for a master such as John Dollard to delineate the role of guilt in liberal society—it is what makes us most humane as well as, at times, a bit absurd—but none can doubt that it is a weapon used against us by our adversaries.

More specifically, it is a weapon which our adversaries contrive to have us use against ourselves. This technique was much in evidence not long ago at the United Nations when, on the 30th anniversary of the U.N. and in a moment of relative peace in the world, the United States introduced a resolution—which had been readied a month earlier—calling for a general amnesty for political prisoners. Now if there is one thing Communism has brought to human experience, it is the phenomenon of political prisoners on a social scale: not just individuals but masses. The Soviets know their interests in such matters. Tass immediately denounced the measure as an "unsavory strategem" to distract attention—truly—from the anti-Zionist resolution passed two days earlier. The first American press accounts written in New York took a different line, *to wit,* that the resolution had been introduced in retaliation for the anti-Zionist resolution; but the general effect of such accounts, in this country and others, was to district attention from the measure we had proposed to the question of what motives we had in so doing. A classic mechanism for inducing guilt. Soon American commentators all but apologized for what we had done. The general drift of the critique was encapsulated from Scarsdale by a man who for fifteen years served as vice president of the Center for the Study of Democratic Institutions. In the words of this worthy, presumably now much versed in the ways of democracy, we were able—

> . . . "Without a blush, to present a resolution urging amnesty for political prisoners in other countries while overlooking our own country's inability to behave generously to our political prisoners. . . ."

One need not go on.

No forgiveness; no redemption. John XXIII took the name of a disgraced antipope, and resumed the Johanine tradition. Not so the guilt ridden American.

This guilt is most difficult to handle just now in our relations with the post-colonial nations. We begin with the assumption of exploitation, a burden of guilt, the final burden of colonialism, which we evidently assumed when we took on "the leadership of the free world," as the phrase once went. Which is not to say there was no exploitation: There was the unforgivable humiliation of peoples the world over. The point here has to do only with the impact of these events on the American conscience, generations later and vast distances from events which Americans were scarcely aware of and only in the most peripheral way involved in at the time. But more recently—and I would venture more important—there has been the more complex phenomenon of the steady falling away from politically liberal norms and the gradual establishment of leftist regimes in the formerly democratic post-colonial states. This has been a great disappointment to the West, and the disappointment is now almost final. Speaking somewhat beyond the evidence, I would suggest that our emergent reaction is one of questioning *where we went wrong, where we failed.* Did we not for example, give enough aid. Hence the more demanding the claims made upon us by the new nations, the more support such claims gather from some, at least.

I would not wish to be seen as explaining all of this response—or all of that part of it which seems to me uncalled for and unhelpful, in contrast to a decent and constructive concern to help others. I am, however, prepared to ask whether some part of it is not based on fear—the fear, again among western elites—that comes of seeing the vast multitudes of the world nominally turned against us. Now the fact of the matter is that most of the new nations have opted for the regimes we now see in those areas *not* from egalitarian urges, but from the very opposite. In almost every nation, a post-independence generation has come to power, and within that generation a more or less small elite which—and why should this surprise us—finds in leftist, statist doctrine an excuse for gathering all power to itself, an excuse which cannot be found in democratic doctrine. Ergo. There is no nation so poor it cannot afford free speech, but there are few elites which will put up with the bother of it. A few days ago an enormous building was opened opposite the United Nations, constructed by a public-spirited group to provide offices for various United Nations campaigns for economic development and like enterprises, and also containing a hotel where UN delegates might conveniently stay. The daily cost of the cheapest room in this hotel is about the equivalent of the anual per capita income of an Indian peasant. But what does that matter? At the opening ceremonies a brochure was distributed for the new hostelry. The cover described it simply as: New York City's Newest Refuge for the Privileged. Now guilt can be induced by all this—and also fear. (It is altogether worth asking how much our present discomfiture arises from the psychological mechanism of identification with the aggressor.)

To state again, there is an element of guilt in our relations with many of the newly leftist nations in the world, which is not to be accounted for by older concerns. (Further evidence: observe our disinclination to acknowledge what these new nations have become.) Part of it may be accounted for by the continuing success of Marxist doctrine in inducing guilt in the West, part by a separate but related sublimation of aggression. Neither of these phenomena is likely to fade rapidly, but on the other hand, if we observe that Soviet society commanded unreasoning, irrational sympathies only for about two generations, we may reasonably assume that our present difficulties in dealing openly with the newer nations will not last much longer than that.

Of the third cluster of influences, I have written elsewhere, and need not dwell upon at length. This is the long term ideological drift away from liberal democracy, the influence of which, I have argued, crested in 1919, at the end of the First World War, and has declined ever since. In a lecture given at that worthy Jesuit institution the University of Detroit, just weeks before the appearance of *Pacem in Terris*, Leo Strauss, the foremost political philosopher of his time in America, spoke more generally of the failure of what he called "the Modern Project." This was a world system that grew out of the political philosophies of the 16th and 17th centuries and which in, say, 1914, seemed well on the way to triumph. The West, at this time, was certain of its purpose, a "purpose in which all men could be united." It had a clear vision of its future "as the future of mankind." It was not less certain of its power. At that time, Strauss observes, this country, Britain, and Germany, if united, could have had their way, without force, in any region of the world. All went well, or well enough, for a bit thereafter, until Communism, which had been seen as a parallel movement to the modern project—part of it really, "a somewhat impatient, wild, wayward twin"—revealed itself, as Strauss puts it, to "even the meanest capacities" as something else, as Stalinism and post-Stalinism. Oriental despotism was once again a major force in the world; and finally, to cite Strauss, "The only restraint in which the West can put some confidence is the tyrant's fear of the West's immense military power." For the rest there is decline. Specifically, the purpose of a universal society, "a society consisting of equal nations, each consisting of free and equal men and women, with all these nations to be fully developed as regards their power of production, thanks to science"—that purpose is no longer sustainable. In its stead political society in the foreseeable future reverts to what it always has been, what Strauss called "particular" society—"society with frontiers, a closed society, concerned with self-improvement."

One must accept this as a long-term condition, but also see in it the essence of what might be our long-term security. For a particular society is a society that can be defended—and, I think, will be.

It comes to that. Out of the decline of the West there will, I sense, emerge a rise in spirits. We have shortened our lines. We are under attack. There is nothing in the least in the culture that suggests we will not in the end defend ourselves successfully.

We shall do so as we have in our armamentarium the incomparable weapon of liberty. We are the party of liberty, all of us. Republicans and Democrats, McCarthyites and Wallaceites, Mathiasands and Ampersands. Always have been, even when least true to it. And as the lights go out in the rest of the world, they shine all the brighter here. This requires discipline of ourselves,—by government and about government. But that is not beyond us. How do you suppose we have got to a bicentennial without knowing something of such matters? In the United Nations today, half the nations have had a violent internal change of government within the past eleven years. What it requires, most of all, is truth-telling: to one another, and to the rest of the world. We are not merely advised in this matter, to those who would lend some authority to Pacem in Terris, we are commanded:

> The first among the rules governing the relations between States is that of truth.

Already, we hear voices from the other world asking for truth. From us. About them. Most particularly, and most poignantly, we hear voices from the Soviet Union which ask no more than Pacem in Terris commands: that as between governments and their respective peoples "it is not fear which should reign but love. . . ."

That is our strength: that we can say this, and that the nations with which we are leagued can say it. Those who cannot say it must perforce hear it from us with ever mounting concern, a concern which they will attempt to allay by measures which will only enhance that concern.

Surely we must see this. Just as we must see the persistent attempt to dissuade us from speaking out for what it is: the assertion of their weakness and our strength. The night the American amnesty resolution was introduced, a German newspaperwoman called on me, an appointment made several weeks earlier. As we sat down she said, "Before beginning, let me just tell you that already the news of what the United States has proposed will be whispered from cell to cell in East German prisons. You would think such news would never reach such places, but it does and it is what keeps you alive. I know. I spent four years in one of them." On the heels of our initiative, one American commentator, having declared us unworthy to do anything decent gleefully predicted that our effort would be met with "a deadly silence." Which in retrospect might to many seem to be the case. But is it the case? Or is it only that we have not learned to hear the whispers?

Sursum Corda.

OVERREGULATION BY THE FEDERAL BUREAUCRACY

Mr. THURMOND. Mr. President, perhaps one of the most glaring examples of the smothering overregulation of the Federal bureaucracy is found at a small private college in southern Michigan. Indeed, this fine institution, Hillsdale College, has felt the administrative boot of big Government at its worst.

Throughout the history of Hillsdale College it has proudly maintained its independence, never receiving a dime in government aid from any level. It was founded more than 130 years ago by faithful Baptists who wanted to provide a religious oriented program of higher learning. The generations of Americans who have received their college education at Hillsdale have been the recipients of both academic and spiritual training of their choice. It was the type of education offered as the independent and free expression of the institution and was, in no way, geared to a consensus of thought or a Federal formula. It was their right under the American Constitution and had existed that way for Hillsdale since John Tyler was President of the United States.

Now, however, enters the Department of Health, Education, and Welfare. Ever zealous for more control over the institutions of our lives, HEW has stretched its web about as far as anyone can imagine to ensnarl this small college. While that vast bureaucratic empire has, for years, linked its controlling tentacles to the Federal dollars it dispenses for colleges and other institutions, it was thwarted in its move on strictly private campuses.

However, the bureaucratic mind of big Government planners is ever at work. Now HEW administrators have told Hillsdale officials, who have never taken the first Federal dollar, that their college will fall under the purview and control of HEW regulations if just one student on campus is receiving a Federal grant. Presumably, the same would apply to any other institution in America.

Mr. President, among 1,100 students now at Hillsdale, it would be unusual not to find a single student who has applied for and received some form of Federal assistance. Therefore, the Hillsdale edict by HEW has ominous tones for each person and each organization in America. The message to that small, independent college in southern Michigan is that there is no escape from bureaucratic control; there is no freedom from conformity and big Government.

The Founders of this great Nation who cherished freedom and restraint of Government would shudder at such intrusions into independence—and so do I. It seems that Americans are constantly being molded, regulated, directed, enjoined or administered into conformity with a Washington concept.

Mr. President, we must confront this insidious encroachment of "Big Government" which has been created right here in Congress. Both laws and appropriations have spilled forth from these Chambers which have created the bureaucracy and clothed it with its authority. Once loose, it tends to generate its own rules and formulas for overregulation. We must reverse this trend against freedom and restore the guarantees of independence and liberty which the Constitution enumerates so clearly.

Mr. President, as further explanation of the plight faced by Hillsdale College, and consequently, by every American, I ask unanimous consent that an article on this subject which appeared in Time magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THAT SUFFOCATING FEDERAL HELP

Never, since it was founded in 1844 by freewill Baptists, has fiercely independent Hillsdale College in southern Michigan accepted a cent from the federal, state or local government. This fall, nonetheless, the Department of Health, Education and Welfare informed Hillsdale that even if only one of the colleges 1,100 students receives a federal grant, the entire college is considered a "recipient institution." Hillsdale trustees were outraged; they called the federal regulations immoral and illegal" violations of the school's "inalienable rights of freedom," and announced that the college would try to find legal ways to resist. Hilldale President George Roche III also wants to ward off federal encroachment: "That's a Pandora's box we have no wish to open."

Hilldale's reaction is only one example of the growing resentment on campuses against a smothering blanket of complex and often impractical federal rules and regulations. They flow from a host of federal programs, ranging from environmental protection and unemployment insurance to affirmative action (which requires a college to prove that it is taking steps to eliminate discrimination on the basis of sex or race). Indeed, after a survey of affirmative-action programs at 132 schools, the Carnegie Council on Policy Studies in Higher Education delared that they are "confused, even chaotic," full of contradictory guidelines, and enforced by agencies that are often "feuding with each other." The federal regulations have further threatened the survival of many colleges that are already in perilous financial condition; they simply cannot afford the paper work and restrictions that each new program entails. Some of the more onerous examples:

When Dartmouth recently decided to hire a new dean, it followed the federal regulations and advertised in national publications. The college was inundated by 500 applications; it had to set up evaluation committees and underwrite four trips across the country to interview candidates. The result: Dartmouth promoted its own dean of freshmen.

Last August HEW required the University of Washington to present statistical information about its 15,000 staff and faculty members in a new computerized format. The cost of complying with federal requirements in the past two years, says University Vice President Philip Cartwright, runs "into hundreds of thousands of dollars."

Jim Barratt, Oregon State's athletic director, was appalled by the red tape and "huge economic cost" of meeting new rules prohibiting sex discrimination. Barratt decided on a dramatic form of protest: he resigned. Ironically, he was a strong advocate of women's participation in sports.

Brigham Young University, a Mormon institution, has also challenged the legality of part of Title IX. President Dallin Oaks charges that the regulations prohibiting different rules for men and women "infringe on religious freedom and other constitutional rights." Brigham Young, he says, will continue to enforce its own rules on students' dress and appearance. (Women cannot wear jeans; men's hair must be cut neatly above the ears.) Says Oaks: "We believe that differences in dress and grooming of men and women are proper expressions of God-given difference in the sexes."

Still, many colleges might more willingly accept the growing federal presence if it were not so expensive. A study of six colleges by the American Council on Education has found that the cost of complying with federal programs has multiplied from ten to 20 times in the past decade. The costs at one medium-sized private college soared from $2,000 to $166,000; at a large public university, from $438,740 to $1.3 million.

PEACE ABROAD BEGINS WITH PEACE AT HOME

Mr. KENNEDY. Mr. President, as we seek new foreign policies for the United States, we are increasingly aware that many areas of our concern neither stop nor start at the water's edge. What we do at home and what we do abroad are linked closely together, calling for wisdom, leadership, and action that deal with many domestic and foreign problems together. This means that, to have a strong and effective foreign policy, we must also have a strong and effective domestic economy; inspired leadership to meet the problems of America as well as through affecting us abroad; a revitalization of our cities; security against the rising tide of crime; and continuing social development of our own people, in health, in education, and in all the other areas that help individuals lead secure and productive lives.

Few of our national leaders better understand that "peace abroad begins with peace at home" than Mayor Tom Bradley of Los Angeles. Last week, at the Pacem in Terris IV Convocation here in Washington, he outlined some of his basic views in this area, concluding that "it is up to those with faith in themselves to speak with a clear voice and to act with a strong heart and a clear conscience." This I believe Mayor Bradley does in his convocation address, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

CONVOCATION ADDRESS BY TOM BRADLEY

When Pope John XXIII issued his mighty encyclical, Pacem in Terris, it was to become an historical document filled with optimism and opportunity for the world's people locked in prisons of suspicion and gloom. His simply written moral message produced rays of hope which helped thaw the Cold War mentality.

The fact that we are meeting at this convocation sponsored by the Fund for Peace and the Center for the Study of Democratic Institutions is high testimony to the lasting influence of Pope John's prescription for Peace on Earth.

We are meeting at a time when Beirut, Portugal and Northern Ireland are bloody battlefields of suffering and despair. Each is a dateline of useless death and destruction. Each is a reminder that we still haven't learned how to live at peace with one another.

In this country, we have our own battlefields: America's cities. In any one of thousands of cities and towns across this land, each day is a struggle for survival; each hour brings us closer to the brink. We only have to look at New York as a practical lesson. But it could be Boston or Cincinnati, Detroit or Dallas, San Francisco or my city, Los Angeles.

Uncertainty of direction in federal policies—policies governing economics, energy and spending, to name a few—has meant that America's cities are being asked to do more and more. But the simple truth is that we've been asked to attack the problems without enough strategic support, and casualties have been enormous.

We all know what they are: too few policemen on our streets, too few firemen, inadequate services, strikes and lockouts, haphazard education, debilitating unemployment and so on.

We who fight this battle daily have longed for peace and pleaded that this nation set straight its priorities. The war in Indo-China ended and we hoped that the billions which were spent in financing it would be shifted to plan for peace, to help with the domestic problems in the cities and towns across America. But, of course, there was no "peace dividend." A policy of increased military and foreign aid expenditures was perpetuated and the problems of inflation worsened.

Our cities have become the burden of a decade of preoccupation with Vietnam. And after Vietnam, Watergate and oil prices once more drew the nation's attention away from the plight of urban America.

It is in our cities where fiscal deficits force cutbacks of fire and police protection. It is in our cities where the lines of jobless workers stretch the longest. It is in our cities where families are desperate to flee apartments they share with rodents. And it is in our cities where hundreds of thousands of homes have already been abandoned.

The mayors of our cities—playing the role of domestic statesman or diplomats—are on the front line. We see the anger and the frustration. We face the legitimate demands for clean sidewalks, for streets where people can walk without fear, for schools, for jobs where men and women can earn decent wages and for a climate of progress that attracts rather than repels investments.

There is something wrong when pleas for emergency aid to cities do not bring response. There is something wrong when our vital requests are answered by White House vetoes. And there is something wrong when our voices do not produce a Congressional consensus to override those vetoes.

The federal government seems to understand inflation only when it comes to the defense budget.

But where is the same understanding when it comes to the need to provide services in our cities? Where is there a sense of understanding that the security of the people in Boston, Birmingham and Baltimore is not only determined by the magnitude of our missile and submarine power, but by the strength of our police and fire forces, by the quality of our schools and medical care, and by the adequacy of housing and employment?

If the federal government can keep pace with inflation for the defense department, then it can keep pace with inflation for the cities of America.

If the federal government can maintain the U.S. commitment to foreign defense budgets, then it can maintain a national commitment to social progress in our cities.

If the federal government can listen to the pleas of foreign heads of state and to our own generals and admirals, then it can listen to the pleas of its mayors and citizens.

We are making a grave error if we continue to allow our cities and towns to suffocate or stagnate while trying to cover all our bets in the international game of economic roulette.

Today, foreign policy goes far beyond the traditional bounds of strategic weapons, military alliances or economic expansion. Today, the substance of foreign policy is hardly distinguishable from what is called "political" policy, or perhaps more importantly, what has commonly been called "domestic" policy.

On the home front, we must come to recognize and deal with the intricate relationships which are becoming more and more complex. Such issues as oil, food, unemployment, abandoned central cities and the environment are so interrelated that they sometimes overwhelm us. Recent events have shown that trying to distinguish between them, or trying to deal with them as separate issues, is inconsistent with reality.

When American consumer interest in the price of bread or soybeans conflicts with this country's relations with Russia or Japan; when our Middle East policy raises imported oil prices from $7 billion in 1973 to $24 billion in 1974 or results in long lines at our gas stations; when the price of tuna on the west coast is tied to the actions of Peru or Ecuador, then the relation between foreign and domestic concerns is direct and difficult. This much is clear: international forces in today's world have a direct impact at the grocery store and on unemployment lines, whether they are in Detroit, Rome or elsewhere.

It is evident that foreign and domestic policies cannot operate in a vacuum. This country plainly does not have the wherewithal to be all things to all nations. And our priorities cannot relegate homegrown problems to second place. An indelible domestic element should become the foundation of our foreign policy, without abandoning our long-standing charitable tradition of sharing our wealth to provide humanitarian assistance where needed around the globe.

We must ask ourselves, then: How much military and foreign aid do we need and can we afford, consistent with our social obligations at home and security needs abroad? Many in the military and foreign policy establishments, concerned as they are with such things as the "balance of power" and meeting "potential threats to our vital interests," seem to imply sometimes that all important factors affecting this nation's foreign policy emanate only from abroad.

Sometimes those establishments fail to take into serious account the necessary constraints imposed by the wishes of citizens in a democracy and the pressing needs at home, particularly in urban America.

There is a need, I believe, for fundamental change in developing policy to meet both domestic and foreign interests. The need for change is symbolized by the attitude of a national administration which leaves New York City teetering on the brink of bankruptcy one week, and in the next week announces its $4.7 billion foreign military and security assistance plan. Is this the new American way? Are we willing to abandon out own people while trying to buy the hearts and minds of others? I hope not.

I would oppose a return to isolationism as vigorously as I call for recognition of our domestic needs. The realities of our world dictate a life-line role for national interdependence and for reconciliation with old antagonists. The American people understand and accept the economic ties of the nations of the world, but they are increasingly calling for reordered priorities in a way that cannot be dismissed as a short-lived phenomenon in the wake of Vietnam.

What many want is a foreign policy which acknowledges not only the interdependence among nations, but also the interrelationship with local problems and economic cycles. They want a policy of friendship, built on trust and respect among nations, a policy which doesn't shift with every wind off the Syrian Desert.

Twelve years ago in his Pacem in Terris encyclical, Pope John admonished us to replace porous foundations "upon which our present peace depends." His wisdom shines even brighter today. It's time for America to look inward.

With due respect to our foreign obligations we must build a new structure of social justice to serve as a national policy framework for the cities and towns of this country. It should be a policy strong enough to overcome today's problems but flexible enough to meet tomorrow's challenges.

As for our short-term needs, permit me to take advantage of the holiday season and present you with a brief shopping list for a vigorous urban America.

First, we need a firm national policy of full employment. Programs to meet this commitment should include public service jobs, new housing construction, community redevelopment and special economic assistance for hard-pressed areas.

Next, we need to expand the general revenue sharing concept to allow for specialized aid where needs exist.

We need new methods for controlling crime and administering justice.

We need new and better transportation systems, with urban mass transit a primary goal.

And we need stability in the urban money markets. The uncertainty surrounding New York City's financial troubles has already cost other local governments untold millions of dollars in higher interest rates.

Beyond these immediate steps, I want to mention several propositions to reduce future shock.

For a number of years now, I have been interested in strengthening local economies so that they might withstand the trauma of change. My interest was kindled and kept ablaze because Southern California—particularly its aerospace, defense and auto industry—is especially susceptible to cyclical and structural recessions. In response to this, I proposed a few years ago the development of a Joint Economic Revitalization and Productivity Board.

This federally appointed local board would direct innovative pilot studies and recommend ways of revitalizing, diversifying and redirecting the economy to care for basic community needs. With a board comprised of local representatives of industry, labor and finance, people with first-hand knowledge and daily involvement would help put together programs which have practical application.

The potential of this kind of mechanism is boundless. Areas like Los Angeles or Detroit, which are dependent on recession-sensitive industry, are ideally suited to serve as prototypes for this kind of economic conversion. Investment in such areas would be minimal because of their high concentrations of facilities and skilled workers. Local reconversion efforts, focused on invigorating sluggish economies, are long overdue.

When this concept was first proposed, both the departments of labor and commerce expressed support, but rapid shifts of personnel here in Washington stymied final action. I trust its fate will be more positive this time. Though I wish the situation were different, there is no better time than now to formulate this kind of progressive action, with unemployment high and the economy strung out by inflation.

Another idea I would like to see promoted further is the concept of an urban recovery program; a Marshall Plan for the cities, if you will, Just as billions of dollars in postwar economic aid for Europe was spent in the two decades following World War II, the same sort of investment should now be made at home. The goal of such an ambitious program should be to recapture the attractive, healthy lifestyle which made this country thrive. To this end, urban recovery should become a high national priority.

We must act, and act swiftly and effectively in this recovery. If not out of humane motives, then out of real concern for the very survival of our institutions in the cities.

As a nation, we have to develop the capacity to manage our cities so that we don't forfeit the tremendous investments of time, money and energy in our great metropolitan areas. Restoring them, of course, is not a simple proposition. Years of neglect, waste and inaction cannot be swept away overnight. While it won't be easy, it is not an impossible dream. But we must begin now.

To be sure, our ability to solve urban problems depends greatly on our ability to wrestle with and overcome such problems as inflation, recession and crime. But perhaps the most difficult task before us—in promoting city living again as an attractive lifestyle—is the reshaping of the national psyche which developed during this country's years of affluence.

This nation's technology explosion during the 20th century produced better living standards for millions.

Along with our growing affluence, though, we developed a tendency to become a disposable society. We use something for a while and then simply toss it away. Every day we throw away untold thousands of disposable cans and bottles, disposable lighters, cameras and even disposable clothing and furniture. In our affluent, technological society, we have created the dubious art of producing something, using it up, throwing it away and simply replacing it.

This disposable trend is even reflected in a too common philosophy about our cities—particularly our central cities: Get out fast. Don't look back.

At the first sign of deterioration and blight, there is the tendency to pick up and move out, to run away instead of facing up to the challenge of rejuvenating, of restoring life to old, dying portions of American cities.

We must now frankly ask ourselves if it is in our best interests to continue the wasteful practice of quick use and rapid disposal. I, for one, am convinced that we cannot afford the luxury of throw-away cities any longer. We cannot afford to turn our backs on our gasping cities and run to the nearest suburbs.

Reversing this trend, bringing about a change in this throw-away cities philosophy is the key, I believe, to the salvation of the American metropolis. And by salvaging cities, we will at the same time take a giant step towards regaining some all-around national stability.

Government's inability—at all levels—to address key national issues such as I have mentioned fosters a lack of overall public confidence, a decline in optimism about the future and even a drop in aspirations. I am sure this attitude has had an impact on the economy and on how government is perceived abroad and here at home.

Americans are not necessarily asking that government do more for them. Rather, they are saying that government should show them what to expect next, what to plan for, how to channel their individual energies for the national good. Foresight is the key ingredient they seek from leadership—that, and the honesty to admit the truth when predictions go sour.

Certainly the performance of government leadership is vital to a democracy's ability to withstand accelerating, bewildering, unnerving change, particularly when the belief in progress for its own sake becomes another casualty of our crowded, diverse existence. It is this failure of government to perform the vital role of conducting an educational dialogue that makes the choices unclear and the future incomprehensible, particularly in dealing with the impact of our foreign policy decisions on our economy. This is what we now see reflected in the crisis of confidence.

No single law or leader, no simple slogan or dramatic act can, by itself, renew the loss of trust. But a concerned, continuing effort by government at all levels to explain the complexities of policy, to bring the people into the process of evaluating alternatives, to admit indecision when evidence is inconclusive, to promise only what can realistically be expected is the only way to revitalize the democratic system and restore the public's confidence.

As we move into the third century of this republic, I believe this nation must return to its founding tradition of dialectic democracy; a democracy where action is determined by forthright discussion and the synthesis of ideas.

So now we face tomorrow. And it is up to those with faith in themselves to speak with a clear voice and to act with a strong heart and a clear conscience. It is up to all of us to serve this present age well so that the crises which confuse our future become converted into clear options from which we can choose our tomorrow: a day of renewed hope, a day of truth and sincerity, a day of freedom and justice for all and a day of peace, within ourselves and with others.

THE UNITED NATIONS AFTER 30 YEARS

Mr. CLARK. Mr. President, some of the serious and deplorable posturing by Third World countries in the United Nations General Assembly has caused many Americans to ask fundamental questions about the U.S. role in the U.N. I certainly share their concern about the direction the Assembly has taken recently on Middle East questions. The absurd equation of Zionism with racism and the unseemly embrace of the Palestine Liberation Organization deserve the condemnation they have received in this country.

But I am also deeply troubled that, in our anger over such actions, we may lose our perspective about the United Nations. Resolutions of the General Assembly are not binding on members. They are simply a reflection of the views of the members. So, in a sense, many of the most annoying noises coming out of the U.N. are empty, though by no means always harmless. Even when we disagree radically with what the governments of the world are saying, it is important that we hear them.

The United States, of course, has a veto in the Security Council, where operative decisions are made. While I strongly hope that the United States does not fall into the practice of excessive use of the veto, it is there, and should be used in emergencies. Our veto of the resolution condemning Israeli violence is a case in point. Indeed, we should condemn such violence as the recent Israeli raid in which 100 lives were taken. But we cannot be a party to a double standard. The United Nations cannot condemn violence by Israel, while failing to condemn like actions of other countries. The unwillingness of other members of the Council to accept this justifies our veto of this one-sided resolution.

But quite apart from these considerations, we must not lose sight of the value of the U.N. to us and to the entire world. Despite its failures, we must look at the extremely important role it has played in ameliorating the world's problems. The situation in the Middle East would have been bloodier by far over the past quarter century had it not been for the continuing role of the U.N. in keeping the peace. And in the world's struggles against hunger, disease, pollution overpopulation and many other global problems, the U.N. has a role which cannot be played by a less-than-global body.

Mr. Benjamin M. Becker, a prominent Chicago lawyer and expert on international organizations, has made an important analysis of the pros and cons of the U.N., and I ask unanimous consent that his thoughtful article, "The United Nations after 30 years," which appeared in the November, 1975, issue of the Bulletin of Atomic Scientists, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE UNITED NATIONS AFTER 30 YEARS

(By Benjamin M. Becker)

During the last days of the 29th session of the U.N. General Assembly, the U.S. Ambassador to the United Nations, John Scali, warned the General Assembly that the United States is deeply disturbed by actions of the world body and that U.S. support is eroding; that the unrealistic resolutions passed by the United Nations had become a "clear and present danger" to its usefulness; that "if the United Nations ceases to work for the benefit of all its members, it will become increasingly irrelevant. It will fade into the shadow world of rhetoric, abandoning its important role in the real world of negotiation and compromise"; that "they [Americans] are concerned by moves to convert humanitarian and cultural programs into tools of political reprisal," and that neither the American people nor the U.S. Congress believe that such actions can be reconciled with the spirit or letter of the U.N. Charter.

When the Arabs threatened to use their bloc power in the General Assembly in June 1975 to unseat and expel the State of Israel, it was reported that if this should come to pass it might bring about a walkout by the United States, and probably cause the U.S. Congress to cut contributions to the United Nations. More recently, practically on the eve of the opening of the 30th session of the United Nations, Secretary of State Henry Kissinger re-emphasized the disenchantment of the U.S. government and the American people with the United Nations. He stated, "If the United Nations begins to depart from its Charter, where suspension and expulsion are clearly specified prerogatives of the Security Council, we fear for the integrity and the survival of the General Assembly itself and no less for that of the specialized agencies." He concluded that "the future of the United Nations is clouded."

As Irving Kristol has observed, "An almost infinite number of other legalistic absurdities can be found in the shelf-full of U.N. resolutions—on 'human rights,' 'self determination,' 'the abolition of poverty and hunger,' etc., etc.—we have automatically and unthinkingly subscribed to. Other nations, of course, pay no attention to them and never had any intent to do so. We, in contrast, are very solemn about them and are constantly exposing ourselves to—indeed, are constantly encouraging—a barrage of criticism and self-criticism." (Commetary, July 1975, p. 54.)

It is thus appropriate for Americans and the U.S. Congress to take a look at the United Nations today. A few years ago I took a look and wrote a book entitled Is the United Nations Dead? It considered then whether or not continued American support of the United Nations was warranted, despite its failures and our general disenchantment. The conclusion was reached that despite its ineptness the United Nations was the only nearly universal international organization which could possibly someday provide the framework for international cooperation to tackle many of the pressing global problems which faced all of humanity; that U.N. participation in ceasefire and peacekeeping operations in the Mideast and elsewhere and its extensive work in the social and economic field were sufficient justification for continued U.S. support.

Much has happened since that book was published, however. China was substituted for Taiwan as a member. Many more nations have been admitted. The membership grew from 111 to 138 at the last count. The United Nations has involved itself in many more areas of economic concern to member nations. The United States has lost influence among member states and began to use its veto in the Security Council. The Afro-Asian-Arab-communist bloc has developed an overwhelming majority in the General Assembly.

On the positive side, thrice in the past three years the United Nations has been called upon to supervise cease-fires and keep the peace, twice in the Mideast and once in Cyprus. It appeared as if the United Nations had come alive.

But nothing in recent years has so greatly diminished the United Nations in the view of many people as some totally irresponsible actions taken in the last two months of the 1974 session.

There was the General Assembly's invitation to the terrorist Palestine Liberation Organization leader Yasir Arafat to present his appeal to the General Assembly in New York. Arafat, with gun in holster, pleaded for the creation of a Palestinian state and to eliminate the State of Israel to which the United Nations had given birth some 26 years before. Arafat is the man who is the commander of Fatah-Black September group. He personally received $5 million from President Qaddafi of Libya as a price for the slaughter of Israeli sportsmen at the Olympic games. He personally directed the murder of diplomats in Khartum; and told the Italian weekly L'Europeo, "Our goal is the destruction of Israel. Peace for us means Israel's destruction, nothing else." Three of Arafat's guards in New York were the same men who had been involved in the killing of the three diplomats at Khartum, including one American. Yet, Arafat was received with resounding applause by the overwhelming majority of U.N. members.

This was the United Nations which for more than four years has failed to act to stop international terrorism. The invitation to Arafat was a craven surrender to political expediency of the worst kind, an acknowledgement that terrorism and violence was the road to international recognition. It was a surrender to barbarism. As the New York Times editorialized, "It is grim irony that virtually the same Assembly majority that suspended a founding member of the United Nations one day could on the next esthusiastically welcome the leader of a terrorist organization whose goal is the destruction of another state."

For the first time in its history, the U.N. General Assembly voted to gag a member nation (Israel), denying it the right to speak more than once during the heated debate on the Palestinian question, notwithstanding the fact that there were some 75 to 90 Arab, Third World and communist bloc nations ready to take the rostrum in opposition to Israel.

There was the arbitrary, capricious suspension of South Africa from the U.N. General Assembly. This was clearly illegal and a violation of the U.N. charter.

There was the attempt to oust the Cambodian government, headed by Marshall Lon Nol, and to replace it with the exile regime of Prince Norodom Sihanouk. It failed by the narrowest of margins.

The overwhelming General Assembly action against Israel after the debate on the Palestinian question was quickly followed by irresponsible actions against Israel by Unesco: the resolutions expressing hostility to Israel, which weakened her status in the agency; barring Israel from Unesco's European region without admitting her to any other regional grouping; cutting off Unesco's modest aid to Israel ($24,000 in 1973–1974 for cultural institutions), notwithstanding Israel's past contributions to Unesco, which in financial terms far exceed what Israel has received from Unesco; and inviting Unesco's new director general to supervise educational and cultural institutions in territories under Israeli occupation in cooperation with the Arab states concerned and with the Palestine Liberation Organization. In contrast, no action was taken against member nations who harbored hijackers, kidnappers, murderers and the like.

Once again the U.N. General Assembly voted to postpone debate on the problem of international terrorism until the following year. Israel was the only nation voting against the postponement.

On December 12, 1974, the General Assembly approved a highly controversial economic declaration called the "Charter of Economic Rights and Duties of States" by a vote of 120 to 6, with the United States, Britain, West Germany, Denmark, Belgium and Luxembourg voting against the charter. Under the declaration every nation would have full sovereignty over all its wealth, resources and economic activities, the right to regulate foreign investments in accordance with its laws and to supervise transnational corporations within its jurisdiction.

The basic objections to the new declaration involved the provisions permitting expropriation of foreign properties without guarantee of equitable compensation under international law. With the sanction of the seizure of property without any guarantee of compensation, as the Chicago Daily News editorialized, "this could be construed as an open license to steal" and illustrated "the paucity of principle in the U.N. General Assembly."

NEW NATIONS DOMINATE

Small nations clearly now dominate the United Nations. When the United Nations was founded in 1945 there were 51 members, and now there are 138. The new members, who have emerged from colonial status since the end of World War II, now command the majority of votes and steer debate in areas of their interests. With the close of the 1974 session of the U.N. General Assembly it was clear that the United States had lost whatever influence it had. Appeal to reason fell on deaf ears.

Somewhat petulantly, on December 17, 1974, the United States decided to boycott a special fund set up by the United Nations to provide emergency relief and development aid to the countries hardest hit economically. The U.S. action was interpreted as a retaliation for the controversial action taken by the Arab, African, Asian and communist bloc nations in the United Nations.

The American people and the U.S. Congress now are faced squarely with the question of whether to continue their support of the United Naitons. The problem is not easily resolved. The United States contributed approximately one-third of the entire cost of the United Nations and its varied operations. Is it in the United States national interests to continue to support the United Nations?

It will take a largeness of perspective to recognize that the United Nations should continue to be supported and that the task of getting it to work effectively in accordance with charter principles is something that involves a longterm undertaking, continuing commitment and the utmost patience and fortitude.

Impartial critics recognize that it is not the structure of the United Nations, but the conduct of its members which is largely responsible for its failures in many areas. That aside, the United Nations has served well, considering the limitations imposed upon it by its members. To state the case very briefly, there is much that has been accomplished by the United Nations: There are the many U.N. supervised cease-fires and peacekeeping undertakings—in Korea, in the Mideast on numerous occasions, in Africa, and in Cyprus. There are the continuing day-to-day economic and social welfare programs and operations in underdeveloped nations. There is the continuing identification and study of potentially disastrous global problems, such as the population explosion, pollution of the environment, hunger and nuclear proliferation. There is the sponsorship of and planning for world conferences on the human environment (Stockholm), population (Bucharest), food (New York), hunger (Rome), law of the sea (Caracas), disarmament (Geneva), and narcotics control. And lastly, there is the continuing availability of the United Nations as a central place for international multipolar diplomacy and off-the-record discussions involving critical world problems.

To be sure, the United Nations may be short of definitive accomplishments in many areas. But it does serve important purposes.

Has the United Nations fallen so far short of the high and noble aspirations and hopes of its founders and supporters that it is time to call it quits and let it go the way of the League of Nations? As New York Times columnist William Safire notes: "This has not been [the recent actions on South Africa and the Mideast] a victory of the U.N.—rather, a victory over the U.N.—and the organization that could still be helpful in averting World War III has been made the breeding ground for the Third World's War."

Before we bury the United Nations, let us ask: What would be world do without the United Nations?

What would have happened on the outbreak of hostilities in Korea in 1950 without the U.N. participation? True, it involved minimal participation by nations other than the United States. But would it have meant United States entry into hostilities independently, perhaps another Vietnam?

What would have happened without the United Nations on the outbreak of hostilities in the Mideast in 1957, 1961, 1963, 1967, 1971 and 1973? Each of the principals had their patrons, the Soviet Union and the United States. What would have happened had hostilities continued without the intervention of the U.N. cease-fire and peacekeeping assistance? Certainly the cease-fires and peacekeeping were encouraged by the United States and the Russians; but the United Nations provided the format for easing the difficult step from active hostilities to cease-fire and peacekeeping.

The same questions may be posed in connection with Cyprus, Africa, and the India-Pakistan hostilities. What would we have done without the United Nations?

But there was a United Nations. There was a hastening to the United Nations to bring each crisis before the Security Council. Here was a ready-made international forum for the statement of positions by the combatants and their supporters, a place for giving vent to their feelings, and yet a central point for quick, but quiet, diplomacy and negotiations to move toward a cease-fire, and then to some reasonable posture of peace.

Here was an organization with experience in organizing and maintaining a cease-fire, as it had on other occasions in the Middle East and elsewhere. To be sure the United Nations could act only when the superpowers agreed, persuaded and pressured the combatants to agree. But the United Nations was there to follow through and implement such agreements. As at this writing U.N. peacekeeping forces are in place in the Mideast and in Cyprus.

GLOBAL PROBLEMS

But there are more compelling reasons for the existence of the United Nations and for strengthening it so that it can act more effectively. Apart from the danger of nuclear war and devastation, there are the rapidly worsening global problems which threaten all people and nations. These problems cannot and will not be solved by summitry, the balance of power approach, or tenuous detentes; but only by a global approach in the form of a strong international body which can act effectively. Appropriately strengthened and utilized the United Nations *can* be such an organization.

Most of the critical problems of our time are universal in character. No nation is immune from the disastrous effects of the failure to grapple with these world problems:

Radiation fallout from nuclear testing in any part of the world is of concern to all peoples and nations.

Hunger and impoverishment of more than half of the world's population is a matter of international concern. Revolution is born of desperation.

Disease has no national boundaries.

Pollution and despoliation of the environment is worldwide.

The economic interdependence of nations has been demonstrated time and time again. The weakness of the American dollar has its reverberations throughout the world. Monetary imbalances seriously affect the economies of all trading nations. The current oil crisis has worldwide repercussions and dramatically demonstrates the interdependence of nations.

Only with a common vision and purpose can nations even begin to attack problems with worldwide consequences. As the massive problems of environment and atmospheric pollution, exhaustion of natural resources, poverty and health are exacerbated and we come closer to the days of reckoning, there will be—and there is now—a growing realization of the need of a global and universal approach to the easing of these problems. Here is where the United Nations some day may be found to be indispensable as the only truly available universal organization—not perfect to be sure in its organization and operations, but yet the only truly global organization standing ready to tackle the monumental tasks facing humanity.

Imperfections in United Nations organization will become less important when world problems involving survival transcend national boundaries and nations are impelled to work together with a common purpose. Weak as it is now, the United Nations is doing what it can about these global problems. They have, as mentioned above, sponsored world conferences on population, pollution, and hunger. And in April 1974 there was the special session of the U.N. General Assembly on the subject of raw materials—another global emergency facing both poor and rich nations; and this also involved the existing and anticipated mass poverty in the underdeveloped and developing nations, the tragic consequences of the population explosion, the frighteningly low supply of food to feed the world population, the energy crisis, the massive military expenditures, and the worldwide inflation. U.N. Secretary-General Waldheim called it a "global emergency" of massive proportions.

Then, of the 135 member-nations, 96 were classified as developing countries which, in turn, encompassed 70 percent of the world's population. As U.N. Secretary-General Waldheim said, the problems

> "affect the lives of virtually every man, woman, and child on Earth. It holds vast significance for future generations. It raises the fundamental question of the kind of world economic system and social order we wish to establish and live under. It challenges us to make a series of rational and agreed choices which may be decisive in determining the quality and condition of mankind's future life on the planet."

There is also the critical problem of a global approach to the task of eliminating the pollution of the world waterways and utilizing the seas as a source of food and raw materials. This involves 70 percent of the Earth's surface, and the utilization of the oceans as a source of food supply for the world population. The Caracas Law of the Sea Conference in 1974 made at least a start in tackling this difficult problem.

The universal urgency of solving, or at least easing, the pressing global problems may well transcend disagreements on nuclear arms control for at that point our very survival will be at stake. Sovereignty will need to bow to the primacy of survival. The past failures and ineptness of the United Nations may then be viewed as part of the growing-up process by which nations learn to work together in peaceful co-existence, striving cooperatively to survive. In the meantime, it behooves nations and leaders to strengthen the United Nations step by step for that day when its availability will be crucial—and that day is now.

It is reasonable to assume that at least in the foreseeable future there will be no definitive resolution of the basic ideological conflict and differences which now divide the world. Yet, it is equally reasonable to assume that the economic interdependence and the mutual interests of nations in solving and easing the crucial world problems will necessitate expanding areas of cooperation despite basic differences. There is evidence of this all around us.

It is a much different world in which we live. Global problems require a global approach and a global approach involves effective international organization. And there is in existence today only one truly universal organization, the United Nations. As Richard J. Walton has noted, "It is easy to scorn the United Nations but can anyone suggest an alternative? Or imagine the world without it?"

What indeed will it take for the nations of the world to realize the potential of the United Nations? After 10 years, as the late U.N. Secretary-General, U Thant said,

"What is required, of course, is a common global ethic [which, of course, we do not have, except in time of catastrophe], which the human society as a whole wishes implemented. . . . When I am asked what I see as the key to a world order that is adequate to assure peace, justice, and progress . . . . the need for such a global ethic is always the first of three major considerations that come to my mind. The others are modifications of the notion of national sovereignty [hardly conceivable with the revival of nationalism among nations] and structural adjustments in the world organization [which none of the major powers would support]." (*World*, July 4, 1972, p. 38.)

But the situation is not without hope. There *is* a growing 'planetary awareness,' with the increasing concern about the common global problems of environment, poverty, health and nuclear war.

As the global approach to international problems is expanded, the United Nations conceivably can come into its own. In the meantime, the maintenance of even a teuous and relative peace and co-existence can give us time. Time is on the side of peace. And the United Nations, with its proven capacity to provide a forum for discussion of international controversy and its extensive experience in supervising cease-fires and peacekeeping can give us the time.

With or without major structural changes, again as U Thant has noted, "There is no alternative to the United Nations as the major focus for the building of a world order guaranteeing peace, justice and progress for all peoples." Going and looking to the United Nations may yet become a pattern of international life.

No, the United Nations is not dead! It is reborn with each major crisis. It deserves continued U.S. support.

As Secretary of State Kissinger spoke out on July 14, 1975, after reviewing the merits and demerits of the United Nations, "This, then, is the promise and the problem of the United Nations. We must insure that the promise prevails because the agenda we face makes the institution more necessary than ever before. The United Nations, first, faces continuing and increasing responsibilities in its mission, in the famous words of the U.N. Charter, 'to save succeeding generations from the scourges of war.' "

What will be needed to procure the enthusiastic and important support of the United Nations by the major powers? Perhaps, as former U.S. Senator J. William Fulbright recently noted, "A long period of trouble and education combined—getting into crises one after another."

But then it may be too late!

THREE OF FOUR IOWANS BACK A WOMAN PRESIDENT

Mr. CLARK. Mr. President, the Des Moines Register recently conducted an Iowa poll on the question of whether Iowans would support a woman candidate for the Presidency.

The results of the poll are encouraging, because they show Iowans to be very receptive to the idea of a woman running for President—77 percent say that, if their party nominated a woman they felt was qualified, they would vote for her.

Perhaps this poll will serve as an additional encouragement to women to seek this Nation's highest office. I wish them well.

I ask unanimous consent that the text of the December 12, 1975, Register story and poll be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THREE OF FOUR IOWANS BACK WOMAN

Is the time ripe for a woman president? The vast majority of Iowans thinks so.

The Iowa Poll found that 77 per cent of Iowans would vote for a qualified woman for president if their political party nominated her. Only 17 per cent said they wouldn't and 6 per cent had no opinion.

"I don't discriminate," remarked Grand Mound farmer Harold Green, 47. "It wouldn't enter my thinking that she was a woman running against a man. But I wouldn't vote for her just because she was a woman, either."

Interestingly enough, men are 6 percentage points higher than women in their vote for a woman president, and city dwellers 16 percentage points more than rural residents.

Carla Holmes, 26, cashier at a Davenport lumber yard, said she would support a qualified woman candidate, "but I'm not sure there is one who is qualified right now."

Age is a factor in the poll taken Oct. 1–4, with support for a woman declining as the interview group's ages increased. Eighty-eight per cent of the 18–24-year-old group said they would back a woman while 65 per cent of those 65 and over said they would.

Politically, independents (83 per cent) and Democrats (80 per cent) surpassed Republicans (69 per cent) in the "yes" answer.

While he said he would vote for a "qualified" woman for president, State Senator Richard Norpel, a Bellevue Democrat, said he would not back "an equal rights radical."

"A radical would go too far to the left and create an imbalance, a situation favorable to women," he commented. "I think too many women are entering the work field now and are putting men out of work."

Would the country be governed better by women? Thirty-two per cent of Iowans think so, according to the Iowa Poll. Nineteen per cent say no, 39 per cent say there would be no difference and 10 per cent have no opinion.

John J. Waltz, 59, a Dubuque trucking contractor, said women "couldn't do any worse and might do better." Ron Sorenson, owner of a Des Moines cable radio station, said, "I think women are just as inclined to be as crooked or honest as men."

Remarked John Leary of Waterloo, a 41-year-old telephone repairman: "Women may be a little more honest than men, but they may not have the moxie for the job. They also could be a bit too sentimental or temperamental."

On the question of whether women could govern better or not, 35 per cent of women replied yes, compared to 29 per cent of men. Only 18 per cent on farms thought so, compared to 42 per cent in the cities.

Commented William E. Davis, 34, an attorney in Davenport (where the woman mayor was recently defeated): "I think women have a different viewpoint, and that is missing now in government."

IOWA POLL RESULTS (IOWANS WERE ASKED THE FOLLOWING OCT. 1-4)

[In percent]

	Total	Men	Women	Metro.	City/town	Farm
Question: If your party nominated a woman for president, would you vote for her if she were qualified for the job?						
Yes	77	80	74	84	75	68
No	17	14	20	11	19	24
No opinion	6	6	6	5	6	8
	By age—					
	18-24	25-34	35-49	50-64	65 and over	
Yes	88	85	79	71	65	
No	9	12	16	21	25	
No opinion	3	3	5	8	10	
	Total	Men	Women	Metro.	City/town	Farm
Question: Do you think the country would be governed better or governed worse if more women held political office?						
Governed better	32	29	35	42	33	18
Governed worse	19	15	23	12	21	20
No difference	39	46	33	39	35	51
No opinion	10	10	9	7	11	11
	By age—					
	18-24	25-34	35-49	50-64	65 and over	
Governed better	32	32	23	40	33	
Governed worse	16	15	21	18	23	
No difference	45	44	50	29	31	
No opinion	7	9	6	13	13	

Note: The Iowa Poll is based on 602 personal face-to-face in-home interviews with Iowans 18 yrs of age and older located in 106 sampling points throughout the State. A permanent staff of 68 independent interviewers follows a probability sampling method that eliminates interviewer's choice in selecting persons to be interviewed. The Iowa Poll was established in 1943 as a public service and is sponsored by the Des Moines Register and Tribune Co.

DEATH OF THORNTON WILDER

Mr. KENNEDY. Mr. President, the death of Thornton Wilder is a great loss to American letters. Few writers in American literature have written so well about the fundamental decency of the American character and the ordinary citizen's sense of individuality; few have stood so strongly against the contemporary cynicism and pessimism that threatens to erode these timeless values.

When Washington thinks of New Hampshire, it usually thinks of Presidential primaries. But I suspect that, for a large part of the rest of the Nation, when people think of New Hampshire, they think of Grover's Corners. Generations of American children have grown up on "Our Town" in their school productions and absorbed its eloquent message about the virtues of small town American life.

Of the many tributes to Thornton Wilder, what impresses me perhaps the most about them is the obvious affection and respect in which Mr. Wilder was held by those he touched. The vitality of his writing was exceeded only by his vitality in person, and his loss to American literature and life is all the greater.

Mr. President, I ask unanimous consent that a sample of recent columns by some of the Nation's most distinguished commentators, including Mary McGrory, Gilbert Harrison, Rod MacLeish, and Edwin M. Yoder, Jr., may be printed in the RECORD, along with Alden Whitman's obituary that appeared in the New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 9, 1975]

GRACIOUS ENCOUNTER WITH WILDER RECALLED

(By Mary McGrory)

I once crossed the ocean with Thornton Wilder, which proves that Fortune, of whom he wrote so much, has her good side. The year was 1965, and the ship was the Leonardo da Vinci.

He was leaning against a grand piano in the deserted upper-deck nightclub bar. He looked around and I recognized him. I reminded him, a bit tremulously, that we had met the previous summer at a Washington dinner.

He plainly did not remember me, but he was gracious. He always came to that spot to see the last of New York, he said. He sailed to Europe every summer, preferably on the Italian Line. He liked best the South American run, because it was longer. Did I know the Donizetti? It had marble columns in the ballroom.

He looked like a prep-school headmaster, tweedy, square-jawed, with a neat moustache and eyes. Knowing he was beset by strangers, I awaited dismissal.

"I will call you on the telephone," he said, and departed.

Two days later I saw him again, lunching alone at a table for one. He had tried to call, he said, but the Italian telephone service, alas, was miserable at sea as on land. Perhaps we could meet for a drink?

When I arrived, he was deep in chat with the bartender, his Italian erratic as to verbs and gender, but fluent. All around were passengers dying to approach him. He greeted me with brisk courtliness, and I began to hear what sounded like conditions. I was to call him "Thorny." I must never try to reach him during the day. He wrote every morning from eight o'clock—the steward, trained to wordlessness, brought him coffee. He did his work—although he did not regard it as that—with an ancient fountain pen in a small, barely legible hand.

That understood, he began to talk. The talk poured out in an animated, effortless, glinting stream, running from Roman goddesses to American actresses, from Diana to Tallulah Bankhead, from Julius Caesar to Lyndon Johnson. He was a mimic, he was an actor, he could quote. He was pondering a theory that evolution applies to mind and spirit. "I scan the horizon for evidence," he said, with a sudden shift to irony. The name of Ruth Gordon recurred in the rich flow. She was a woman he admired, for her gifts, for her character.

He talked about everything under the sun, but himself. Of the dozens of plays, novels, short stories that had won him the world's acclaim and most of its prizes, only a single letter he thought worth mentioning.

Ruth Gordon's son, Jones Harris, had been mysteriously ill, facing exploratory surgery—and despondent. Wilder had reached into the depths and wrote him a letter about the worth and splendor of life. The young man had brightened.

"Imagine," he mused, the gray eyes looking for confirmation, "it seemed to make a difference."

He was generous, it seemed with everything but his time alone. He put off the celebrity-seekers with a hearty vagueness.

"I'm cheerful and chipper as long as I don't see too many people," he explained. "I fall philosophically ill at loquacious congeries."

But I made bold to ask him to dine out one night. One of my table-mates, whose name was Ruth, was celebrating her birthday. Ruth was born blind, but she was a merry soul, full of music and laughter. Her husband, Larry, was a theatre buff, I told Thorny. He accepted and we paid a ceremonial visit to the ship's store, where he bought a present, Chanel No. 5—"always acceptable, my dear."

The birthday party was a winged occasion. Thorny was at his most genial and Ruth was in transports. The moment came for the toast, and we looked to him. He saluted Ruth, and then recited the last lines of "Our Town," ending with "Eleven o'clock in Grover's Corners—you get a good rest, too. Good night."

Table 167 fell apart. The waiters, who were enchanted by "il grande scrittore Americano," applauded through their tears.

We repaired to the night-club. Ruth sang "Parlez-moi d'amour" and Thorny beseeched her to study Germain lieder. Thorny was at home in the nightclub. He went there every night for his "sleeping pill"—three bourbons. Although he loved Mozart, he politely applauded every rackety selection from the band. He called the piano-player "maestro."

The feast, for me, ended in Genoa, where I debarked. Thorny was headed for Cannes, his destination Davos and the first snow—"it's magical, the recovery of lost innocence, my dear." He escorted me to the train, bought me chocolates and magazines. He installed me in my compartment and doffed his battered grey felt hat.

"Buon viaggio," he said. "Be happy."

I never saw him again, although we corresponded for a while. I winced when I heard of his death. I read his obituaries, the lists of novels and plays and honors, and I remember his golden heart and his golden talk. I think of "Heraclitus:"

"Still are thy pleasant voices, thy Nightingales, awake;

"For Death, he taketh all away, but them he cannot take."

[From the Washington Post, Dec. 10, 1975]

A CELEBRANT OF LIFE

(By Gilbert A. Harrison)

May I add a few words about Thornton Wilder.

We first met in Los Angeles 35 years ago, he was having to come to advise on the filming of "Our Town." He was probably the most literate and exuberant entertainer the local folks had ever seen. They were charmed, and a little puzzled. What could a Hollywood producer make of a writer who would take no pay for his advice?

Two years later, Wilder was in the Air Force. He was 46: "Up at 5:15, drill, study, drill, study—all day. Lights out at 10. Hot days and close muggy nights under blackout. But it's all wonderful!"

It was always "wonderful," for Wilder had inexhaustible curiosity—that "ireless awareness of things." And you were invited, commanded to share the wonder.

He thought of himself as a school master. But he was more than a counselor of the human race through his novels and plays. He was an insistent counselor to friends. How many, I don't know. Hundreds?

He gave this kind of counsel to the young, at least younger than he: "It's your business now not to be 'eager' about the thousand and one things in the night sky of knowledge, but to be enthusiastic about the one or two constellations that you have marked down for your own, and the enthusiasm should have a legitimate portion of pride in it because they are matters about which you are certain that you know a good deal. Count that month lost in which you have not been swept up in an enthusiasm."

When I was editing The New Republic, a note called my attention to a "darned good" book review he had read—"so deferential in its severities."

In his 20s, he read all the great books in the French language, in his 30s all the German, and then the Spanish and Italian. And of course the English went on all the time. "Waves of excitement have gone over me continuously," he wrote, "all the more exciting because I found no one really to discuss them with; the specialist-professors have been bored by my enthusiasms; it is bad form to praise masterpieces to a professor, it is naive; it is half-baked." No matter. Locke and Descartes were "heavy wine," Bishop Berkeley was "champagne."

Wilder could take only a limited amount of "cultivated conversation"; it quickly went dead, solemn; it had too little inner energy, conviction. He was an intense, unpretentious celebrant of life.

With what joy and clarity he would explain unasked, his latest discovery—Gertrude Stein, Jean Paul Sartre, Claude Levi-Strauss, Lope de Vega. You had to know about them. You had to!

There was an evening at the Washington Hotel, which began in the manager's suite with a half hour of Handel—or was it Mozart—Wilder at the piano and the manager playing the cello. Then drinks and dinner in Wilder's room (food and drink deserved attentive care), and when the dishes had been removed and a scotch and soda placed safely within his reach, Wilder pulled himself up and began. "Now," and he pluged into a solo performance of a play he was writing. One hour, two hours, with Wilder playing all the parts. It was done so that he could test the force of it and see the effect of it. "I am never so happy," says the hero of his last novel, "as when I'm inventing."

It would be wrong to leave an impression that Wilder, with all his eagerness and bounce, was starry-eyed or gushy. "Up to the ago of 15," he said, "we can receive education openmouthed. After that we receive in a different way: we learn by resisting, or at least by testing and by transforming." I once expressed admiration for a scene in William Saroyan's "The Human Comedy," in which a small boy is wandering through the stacks in the public library, and he gazes up and says in awe, "All those books!" Nonsense, said Wilder, that's adolescence, we grow up and read those books. And he would not agree that T. S. Eliot's "Cocktail Party" was genuine. Yes, it "appears to be about a vocation; but it's really about the unsatisfactoriness of human daily life . . . You sir, coming with all that background of religious conferences and youthful religious movements get into a sort of edified swoon every time the Soulful is mentioned. The religious aspects of Cocktail Party are, for my money, practically phoney."

Wilder had his own flag to raise. In the mid-20s he wrote a book of very short plays ("The Angel That Troubled the Waters") and said in his preface that he hoped, "through many mistakes, to discover the spirit that is not unequal to the elevation of the great religious themes, yet which does not fall into a repellant didacticism." But he knew that "there has seldom been an age in literature when such a vein was less welcome and less understood."

But "the age" he lived in was not an excuse for despair or indolence. He never stopped working. Two novels were written when he was in his 70s. Now there are only the books and their everlasting affirmations.

[From the Washington Post, Dec. 10, 1975]

A POSER OF QUESTIONS

(By Rod MacLeish)

The other day they took Thornton Wilder from his house in Hamden, Conn., and rushed him to a hospital. But, by the time they got there, he was dead, an old writer gone on to other business. Yet those of us who stay behind for awhile can comfort ourselves with the realization that Mr. Wilder's great premise didn't die with him. Indeed, it has always cropped up in the complicated world and life of literature.

The premise insists that there are transcendent, unquenchable themes in the human passage and that addressing them is—or should be—the principal business of those who write. "I am not interested in the ephemeral—such subjects as the adulteries of dentists," Mr. Wilder once said. "I am interested in those things that repeat and repeat and repeat in the lives of the millions."

Because he devoted his creative life to that premise, Thornton Wilder was, at times, accused of insensitivity to the problems, currents and preoccupations of the times in which he lived. In the '30s he declined to write social criticism novels. He ignored the immediate themes that engaged most other serious writers in the '50s and '60s.

Instead, Wilder's limited output—seven novels and only two plays of enduring consequence—pondered the two or three vast, almost inexpressible questions that have plagued our species since its first consciousness of itself in conjunction with something else beyond us, our times and places. When the Bridge at San Luis Rey snapped, plunging five people to their deaths in the canyon below, was that an accident, a hazard of a meaningless world or was it part of an intended design? Another question: Is there possibility? "All I ask," said Mr. Antrobus at the end of Wilder's play, "Skin Of Our Teeth," "is a chance to build new worlds and God has always given us that. And has given us the voices to guide us and the memory of our mistakes to warn us."

Thornton Wilder, in other words, posed the same questions as Euripides, Sophocles and the other classic Greeks whose works fascinated and comforted him. And the reason that he couldn't answer the questions lay in the very face of literature; the writer, being mortal, doesn't know the answers any more than anyone else does. But he has the wit to keep on asking.

If we—or somebody among us—ever stopped asking, then we might come to believe that the problems, currents and preoccupations of the moment are what life is all about.

By some hazard of a meaningless world—or maybe it was a part of an intended design—Thornton Wilder appeared among us to re-ask the questions.

And that was what HE was all about.

[From the Washington Star, Dec. 11, 1975]

THORNTON WILDER'S DIFFICULT VIRTUE

(By Edwin M. Yoder, Jr.)

When Mrs. Lyndon Johnson presented Thornton Wilder with the National Book Committee's medal for literature ten years ago, she—or some nameless White House ghostwriter—addressed the great man as follows: "Unlike some modern writers, you respect your fellow man and . . . the American language. You have never confused being modern in language with a dreary reliance on four-letter words. You have never assumed that realism in writing means a cloying self-pity or a snappish disdain for others."

Alden Whitman, the obituary man, quotes this curious tribute in a lengthy New York Times piece on Mr. Wilder, who died Sunday at 78 He doesn't say whether Mr. Wilder felt himself to be flattered by it. Probably not. The tribute, as the worldly Mr. Wilder no doubt recognized, springs from an exasperating ignorance of what makes the difference between good and bad literature.

Yet one sympathizes in a way. When you don't know quite what to say about an undoubtedly important writer, a helpful device is to play off his virtues, real or imagined, against the vices, real or imagined, of unnamed others.

Knowing just what to say about Thornton Wilder was always a problem, even for his admirers. He was not the literary square Mrs. Johnson extolled: not a Yale variant of the genteel tradition. He was always very much au courant. His early and constant booster, Edmund Wilson, was thunderstruck to find at their first meeting in 1928 that Thornton Wilder knew as much about Marcel Proust as he. Later, Mr. Wilder wrote a play, "The Skin of Our Teeth," that borrowed freely from James Joyce. And Joyce, as we know, was no prude about four-letter words and, in some of his early work, exhibited a snappish disdain for others.

No, the view of Thornton Wilder to which Mrs. Johnson gave official endorsement is that he was an affirmative and wholesome writer. He won this popular reputation with his first successful novel, *The Bridge At San Luis Rey*. It sold over a quarter-million copies in 1927 and prompted Peruvian officials to find a bridge such as Mr. Wilder had invented in the book for the unpleasant purpose of plunging "five travelers" to instant death, the better to ponder the theme of human destiny.

The Marxist critics of the 1930s, offended by his refusal to write literary propaganda, reinforced this reputation, one of them calling Mr. Wilder an "Emily Post of culture."

Millions of people who rarely read novels knew Mr. Wilder's imaginary small town, Grover's Corners, as he fondly portrayed it in "Our Town." Grover's Corners is as comfortable and reassuring as a Grandma Moses landscape—"ye olde American township," sneered Clive Barnes during one revival, "lovable, supremely marketable and supremely phony."

Even when writing (in The Ides of March, my own favorite) of a character known to history as a conqueror and dictator in the grand mold, Julius Caesar, Mr. Wilder's portraiture was sunny. If he had done for Napoleon or even Ivan the Terrible what he did for Caesar they would have seemed amiable.

And yet, vulnerable as he was to the charge of incorrigible cheerfulness, Thornton Wilder was important. If one were listing the dozen most considerable American fiction writers of the last 50 years he would be on the list, for all that he irritated severe critics and shone in uninstructed opinion.

The problem is, again, to say just what his great merit was. He did not invent a new style, like Ernest Hemingway. Unlike Thomas Wolfe he left no memorable characters. Unlike William Faulkner—very unlike William Faulkner—he did not wrestle with demons; he merely observed them distantly. He lived quietly, issued no manifestos on the topics of the day, adhered to conventional manners, suffered no known problem with alcohol, insulted no one. His conclusions about life, as intimated and sometimes baldly stated in fiction, were not altogether reassuring, though they were, as Mrs. Johnson put it, "without self-pity." He viewed life as a durable process, quite old and quite likely to survive its harsh setbacks.

True, his characters in both book and play tend to perch too often on the cracker barrel. Sometimes they sound like editorial writers in conference. In this weakness for grandiloquence he recalls the late Archibald MacLeish, who is also accused of wholesomeness from time to time. It is, in American letters, a reputation not easily overcome.

[From the New York Times, Dec. 8, 1975]

THORNTON WILDER IS DEAD AT 78; WON THREE PULITZERS FOR HIS WORK

(By Alden Whitman)

Thornton Wilder, who won three Pulitzer Prizes for his writing, died yesterday in New Haven, Conn. He was 78 years old.

Mr. Wilder was dead on arrival at the hospital of St. Raphael about 7:25 P.M., a hospital spokesman said. He had been taken there in an ambulance from his home in Hamden, Conn. The cause of death was not immediately known.

Aloof from the 20th century's preoccupation with politics, psychology and sex, Thornton Niven Wilder concentrated in his novels and plays on what he construed as the universal verities in human nature. He seemed to be examining mankind from an Olympian platform, more concerned with the over-all topographical features than with geographical details.

"I am interested in the drives that operate in society and in every man," the stocky, owlish-appearing writer said a few years ago in a moment of self-disclosure. "Pride, avarice and envy are in every home. I am not interested in the ephemeral—such subjects as the adulteries of dentists. I am interested in those things that repeat and repeat and repeat in the lives of the millions."

These quintessences were probed for, summarized and recounted in seven novels and two major serious plays published over 40 years, an output hardly prolific by the standards of most writers. Nonetheless, these works, written in an elegant yet simple style, lifted Mr. Wilder to the front ranks of American men of letters. He won three Pulitzer Prizes, the first in 1928 for the novel "The Bridge of San Luis Rey"; the second in 1938 for the play "Our Town" and the third in 1943 for the drama "The Skin of Our Teeth." For "The Eighth Day," his seventh and last novel, he received the National Book Award in 1968.

Moreover, for the whole body of work, he received the National Medal for Literature of the National Book Committee. This honor, along with $5,000, was conferred on Mr. Wilder at a White House ceremony in 1965. Articulating the attitude of thousands of readers, Mrs. Lyndon Johnson told the shy, quiet writer then that he had succeeded in making "the commonplaces of living yield the gaiety, the wonder and the vault of the human adventure."

RESPECT FOR LANGUAGE

"Unlike some modern writers," the First Lady said, "you respect your fellow man and you respect the American language. You have never confused being modern in language with a dreary reliance on four-letter words.

"You have never assumed that realism in writing means a cloying self-pity or a snappish disdain for others. You have written with an understanding, affectionate rapport with your subjects which to me is the hallmark of genuine literature."

Although this view was by no means unanimously endorsed by literary and theater critics (Mr. Wilder was acclaimed by Edmund Wilson and drubbed by Dwight Macdonald), he held the sustained attention of middlebrows. Not only did his fiction continue to sell years after publication, but also his serious plays were revived hundreds of times. Even the insubstantial "The Matchmaker," transmuted into the musical "Hello, Dolly!" was a perennial favorite.

The qualities that accounted for Mr. Wilder's enormous popular appeal were his evident talent as a storyteller and his singular knack of dressing up his parables as realistic fiction.

At the same time, he posed cosmic questions, "those old teasers Heredity and Environment, about gifts and talents, and destiny and chance." Mr. Wilder phrased his question in "The Eighth Day" this way:

"This John Ashley—what was there in him (as in some hero in those old plays of the Greeks) that brought down upon him so mixed a portion of fate: unmerited punishment, a 'miraculous' rescue, exile, and an illustrious progeny?"

AMBIGUOUS ANSWERS

As with questions in his other books, Mr. Wilder explored them but did not give unequivocal answers. In "The Bridge of San Luis Rey," for example, the question was, why did the collapsing bridge plunge five particular persons to death? The conclusion left uncertain whether the disaster was the work of God or the result of chance.

Equally ambiguous was Mr. Wilder's answer, in "The Ides of March," to the question, what is greatness? If Wilder novels offered the reader no certitudes, they did affirm a sense of human possibilities, an optimism that life can be satisfying.

Although Mr. Wilder was essentially a metaphysician, his novels (and his plays) were infused with humor and wit. "Because we live in the 20th century, overhung by very real anxiety, we have to use the comic spirit," he once explained. "No statement of gravity can be adequate to the gravity of the age in which we live."

In contrast to his fiction, which was notable for its adherence to form, his major plays broke with the usual rules of the theater. When Mr. Wilder showed "Our Town" to Edward Sheldon, a knowledgeable friend and playwright, he said:

"Of course, you have broken every law of playwriting. You've aroused no anticipation. You've prepared no suspense. You've resolved no tensions."

The play also lacked scenery and its plot was sketchy; yet it did succeed, as did the more rambunctious "The Skin of Our Teeth." This play, in which the action was out of orthodox sequence, was the story of Everyman spread over 5,000 years, from the Flood to Armageddon.

THROUGH A TELESCOPE

"'Our Town' is the life of the family seen from a telescope five miles away," Mr. Wilder explained. "'The Skin of Our Teeth' is the destiny of the whole human group seen from a telescope 11,000 miles away."

The themes of these plays, as well as those of the books, were not intended to be profound. Indeed, Mr. Wilder believed that "literature is the orchestration of platitudes," and that its function was not to reveal new truths so much as to trigger those that lie within everyone.

Until he was 65 and began what he called his retirement, Mr. Wilder indulged an uninhibited appetite for life. Full of bounce and bubble, entirely without airs and immensely interested in people, he fueled himself on travel and conversation. His friendships ranged from truck drivers to waitresses ("I don't pinch. I just relish human beings"), from Sigmund Freud to a Chicago hoodlum named Golfbag, from Robert Hutchins to Gene Tunney and from Gertrude Stein to Texas Guinan, the nightclub entertainer.

Indeed when Mr. Wilder was teaching in Chicago, he took to visiting Miss Guinan's club and she would sometimes call on him to take a bow. "Come on up here, Thornton," she would cry out. "Folks, give Thornton a nice hand. He's the best little writer in these United States."

A NATURAL EXPRESSION

Mr. Wilder's genius for finding rapport with virtually every person he met was especially striking in his relationships with students. "Teaching is a natural expression of mine," he once remarked, and he was very good at it indeed with teen-agers (at Lawrenceville) and college youth (at the University of Chicago and at Harvard). Lecturing on creative writing or the classics, he was a showman. Describing his platform performance, Time magazine said in 1953:

"He would fling his arms about, jump from the platform and leap back again. Talking at trip-hammer speed, he was sometimes in front of the class, sometimes at the back, sometimes at the window waving to friends. Wilder could play the blind Homer, a Greek chorus or the entire siege of Troy. Even his pauses were planned, with an actor's timing, to keep his audience in suspense."

Wherever he went he was trailed by students ("my Kinder") as if he were the Pied Piper; and he was never too busy ("On my grave they will write: 'Here lies a man who tried to be obliging'") to engage them in talk, spinning off ideas in English, French, German, Italian or Spanish. He also liked to lecture his friends, filling gaps he discerned in their knowledge.

Indeed, Garson Kanin, the director, once observed:

"Whenever I'm asked what college I attended, I'm tempted to reply 'Thornton Wilder.'"

SON OF A PUBLISHER

Mr. Wilder's propensity for instructing others was a trait he acquired from his father, Amos Parker Wilder, a Maine-born newspaper publisher and editor in Madison, Wis., who counted the day lost when he did not somehow add to his children's fund of information. Thornton, the second of five children, was born to Amos and the former Miss Isabella Thornton Niven in Madison on April 17, 1897.

When the boy was 9, the family moved to Hong Kong, where the elder Wilder was stationed as United States consul general. Thornton attended a German school there and, later, a school for missionaries' sons at Chefoo. Afterward, he was returned to California to prepare for Oberlin College in Ohio, which he entered in 1915. Already he was writing one-act plays for his sisters to act in. Two years later he transferred to Yale, served for a year in the Coast Artillery during World War I and took his degree in 1920.

At Yale, the youth continued his omnivorous reading in world literature, wrote for The Lit, turned out plays and came under the influence of Prof. William Lyon Phelps, the distinguished teacher. Said the professor of his student, "I believe he is a genius." "Oh, tut-tut-tut, Billy," Thornton's father replied, "you're puffing my boy up way beyond his parts."

Preparing to become a teacher, Mr. Wilder spent a post-graduate year at the American Academy in Rome and returned to the United States in the fall of 1921 to teach French at Lawrenceville, an exclusive boys' preparatory school near Trenton.

FIRST NOVEL SUCCESSFUL

He passed eight years there ("I am the only American of my generation who did not 'go to Paris'") drilling teen-agers in French irregular verbs, getting a post-graduate degree at Princeton and working on "The Cabala," his first novel. A mannered story of a group of Roman aristocrats, ancient gods in modern dress, the novel was a critical success. He also scored a small triumph with "The Trumpet Shall Sound," which was produced by the American Laboratory Theater.

Meantime, from a Prosper Merimee play he conceived the idea for "The Bridge of San Luis Rey," which was published in 1927 and brought Mr. Wilder instant national and international fame. The novel's opening sentence set its tone:

"On Friday noon, July the twentieth, 1714, the finest bridge in all Peru broke and precipitated five travelers into the gulf below."

The book was, according to the critics, "a little masterpiece," a work of "genius," an expression of "pure grace." These were estimates with which the public agreed, for the book sold 300,000 copies in a year—an astronomical figure for that time—and was translated abroad. And Peru even found a bridge to fit Mr. Wilder's fictive one.

The writer employed his royalties to buy a house in Hamden, Conn., on the outskirts of New Haven and to travel to Europe with his sister Isabel. There he was the lion of the day, dining with Arnold Bennett and George Bernard Shaw and touring Germany. He showed up on the Riviera with F. Scott Fitzgerald and Glenway Wescott. He also found time to write "The Woman of Andros," which was inspired by a Terence play.

This novel earned Mr. Wilder more critical applause, and its "harmonious limpidity of style" was especially remarked. About this time, Edmund Wilson, one of the country's most influential critics, began to rank Mr. Wilder with Ernest Hemingway, Mr. Fitzgerald and William Faulkner. On the other hand, in the Depression of the early thirties, when novels of social significance seemed important, Mr. Wilder came under attack.

The most fervent assault was written by Mike Gold, a Marxist critic, for The New Republic under the title "Wilder: Prophet of the Genteel Christ."

Mr. Gold said that Mr. Wilder ignored the social injustices of America while writing for a "small sophisticated class." "Is Mr. Wilder a Swede or a Greek, or is he an American? No stranger would know from the books he has written," Mr. Gold said. He went on to argue:

"[Mr. Wilder] has all the virtues Veblen said this leisure class would demand: glossy high finish, caste feeling, love of the archaic . . . This Emily Post of culture will never reproach them; or remind them of Pittsburgh or the breadlines."

Mr. Wilder was stung by this and similar criticism, for in 1921 he published his first works about contemporary America, "The Long Christmas Dinner and Other Plays in One Act." And in 1935 he wrote "Heaven's My Destination," a novelistic attempt at social realism. It was witty and satiric; but it failed to please either the realists or the esthetes.

START OF A FRIENDSHIP

Amid these controversies Mr. Wilder was teaching at the University of Chicago at the invitation of his friend, Mr. Hutchins. The job permitted the author to teach for a half year and to travel the rest of the time. It also gave him an introduction to Miss Stein that was the start of a close friendship, and when he left Chicago in 1936 he paid a long visit to the expatriate American writer's villa in France. Writing of the experience afterward, Mr. Wilder said:

"Gertrude Stein made a distinction between human nature and the human mind. Human nature, she said, clings to identity, to location in time and place. The human mind has no identity; it gazes at pure existing and pure creating, and 'it knows what it knows when it knows it.'

"It can be found in masterpieces, for masterpieces alone report the ever-unfolding and the boundless Now.

"But it can also be found in America, which was brought up to believe in boundlessness."

"Our Town," which was staged in 1938, contained some of these musings as it portrayed life in Grover's Corners, N. H., as representative of all smalltown life. Frank Craven was the Stage Manager when the play opened at Henry Miller's Theater in New York, after a shaky tryout in Boston. It was a hit on Broadway from the start. It moved Alexander Woollcott, the critic, to tears and the mot, "I'd rather comment on the 23d Psalm than 'Our Town.' "

REPUTATION FLUCTUATED

Mr. Wilder himself took the role of the Stage Manager for two weeks during the play's Broadway run and later played it in several summer stock productions. He also appeared in revivals of "The Skin of Our Teeth."

The reputation of "Our Town" fluctuated with the years, and by 1968 the Pulitzer Prize drama's relevance was being questioned. Reviewing the revival then, Clive Barnes, The Times drama critic, said:

"Mr. Wilder has described his play as 'an attempt to find a value above all price for the smallest events in our daily life.' To do this, however, he has produced a pretty Andrew Wyeth-like landscape, almost doomed by its superficial attractiveness. There is no malice in Grover's Corners and no death; the citizens' rites of passage proceed tidily from the cradle to the grave, and everyone lives, massaged by good thoughts and compliant to God's will.

"It would be a great life if anyone lived it. No, I fear that Grover's Corners is merely ye olde American township, Anglo-Saxon to the core, lovable, supremely marketable and supremely phony."

Shortly after "Our Town" made its bow, Mr. Wilder staged "The Merchant of Yonkers," which did not do well at the box office. He rewrote it as "The Matchmaker" in 1955, and it did better, but not nearly so well as "Hello Dolly!," the saucy musical adapted from it.

After "Our Town" Mr. Wilder scored again on Broadway with "The Skin of Our Teeth." The story of man's constant struggle for survival and his astonishment over why he struggles was praised in The Times as being presented "with pathos and broad comedy, with gentle irony, and sometimes a sly self-rallying."

A CHANCE TO BUILD

"All I ask " said Mr. Antrobus, the play's Everyman, as the curtain fell, "is a chance to build new worlds and God has always given us that. And has given us (*opening a book*) voices to guide us and the memory of our mistakes to warn us."

The play itself reminded many of "Hellzapoppin" because the scenery bounced up and down, the players carried on rehearsals and the audience at one point was asked to give up its seats to keep the fire going against the advancing ice age. It also reminded some keen-eyed viewers of James Joyce's novel "Finnegan's Wake," and there were nasty charges of plagiarism.

Mr. Wilder, an admirer of Joyce, declined an invitation by The Saturday Review of Literature to answer the charge, but friends said it was no secret that "Finnegan's Wake" had inspired the play. Later, Mr. Wilder backhandedly acknowledged his debt by saying:

"My writing life is a series of infatuations for admired writers."

The episode was said to have persuaded the Critics' Circle to withhold its 1943 award from "The Skin of Our Teeth," but it did not bother the Pulitzer jury, which gave the play its prize.

Coming at a low point in World War II, "The Skin of Our Teeth" touched audiences with its message of courage and hope. Tallulah Bankhead played Sabina, the eternal temptress; Fredric March was Mr. Antrobus; and Florence Eldridge was his ever-faithful wife. In a 1955 revival the cast included Mary Martin, Helen Hayes, George Abbott and Florence Reed.

HELD NORTON CHAIR

During the war years Mr. Wilder served in the Army as a lieutenant colonel in air intelligence, posted in North Africa and Italy. On his return to Connecticut he worked on "The Ides of March," a novel of Rome in Julius Caesar's time, a rich and a human novel. He was also invited by Harvard to occupy the Charles Eliot Norton chair for the academic year 1950–51. In lectures then he expressed his attitude toward Americans, saying:

"From the point of view of the European, an American is a nomad in relation to place, disattached in relation to time, lonely in relation to society and insubmissive to circumstance, destiny or God.

"It is difficult to be an American, because there is as yet no code, grammar, Decalogue by which to orient oneself. Americans are still engaged in inventing what it is to be an American.

"Americans could count and enjoy counting. They lived under a sense of boundlessness. And every year a greater throng of new faces poured into their harbors, paused and streamed westward. And each one was one. To this day, in American thinking, a crowd is not a homogeneous mass, but is one and one and one.

"Every human being who has existed can be felt by us to be existing now. All time is present for a single time. Every American has this sense, for the American is the first planetary mind. Americans have the realization of the multiplicity of human beings and their geographical extension. Many problems which seem insoluble will be solved when the world realizes that we are all bound together as the population of the only inhabited star."

In the fifties Mr. Wilder traveled a good deal, maintained a prodigious correspondence and worked on "Alcestiad," a drama inspired by Euripides that was produced abroad but not here, toiled at his hobby of dating the plays of the Spanish dramatist Lope de Vega, played at the piano and took walks.

His neighbors in Hamden saw him as a large man with beetling eyebrows and a light brown mustache, jolly for the most part, and a blue-streak talker. He dressed indifferently and ate even more carelessly. A lunch recorded by Mr. Woollcott consisted of lobster Newburg, cocoa and brandy. His sister Isabel kept house for him and fended off the curious.

In 1957 Mr. Wilder dropped his correspondence, cut off most interviews and virtually dropped out of the active world. The step was not really retirement, for Mr. Wilder began patiently to write "The Eighth Day." Always a careful writer ("The incinerator is the writer's best friend"), he worked patiently over the 400-page novel that was designed to demonstrate that man is not an end but a beginning.

The title had Biblical overtones. As one of the characters explains:

"The Bible says that God created man on the sixth day and rested, but each of those days was many millions of years long. That day of rest must have been a short one. Man is not an end but a beginning. We are the beginning of the second week. We are children of the eighth day."

RECEIVED MIXED NOTICES

The book, issued in 1967, received mixed notices. Praising it, Eliot Fremont-Smith wrote in The Times:

" 'The Eighth Day,' a novel in what might be called the old tradition, is a very fine performance—honest, intelligent, suspenseful, profoundly moving and all done quietly, with dignity, without trick or need for entreaty.

"If a touch of patronizing is finally felt (not during the reading but afterwards in reflection), this, like the sense of affirmation, may be endemic in all grand designs, God's or Mr. Wilder's. But few will feel it, and fewer still will mind. What matters is that one of the country's recognized master artists has produced his best and most absorbing novel."

From this view there was strong dissent, typified by Stanley Kauffmann's review in The New Republic, which said:

"There is no question here of whether Wilder has sustained claims to serious consideration; seriousness does not even enter into it. Although the Wilder views are recognizable, this new book almost seems to have been written by another man, an imitator inferior to the feeblest Wilder we have previously seen.

"The writing—by a man distinguished in his youth for style—is without grace, though he strains for it constantly; the characters are stagey, hollow, unrealized; the plot, full of arthritic twists, is attenuated and undramatic although the author himself seems generally breathless with excitement, the theme, as apprehended here, is sophomoric."

BRITISH CRITICS RESERVED

The British critics were also reserved. The (London) Times Literary Supplement, for example, said:

"All Thornton Wilder's earlier concerns and techniques—the allegory of 'The Skin of Our Teeth,' the Grover's Corners everytown morality of 'Our Town,' the stylistic point counterpoint of 'The Bridge of San Luis Rey'—re-emerge in this book. He has always been a story-teller, but now the urge sounds didactic, no longer dramatic; and the ultimate concern too easily re-echoes George Antrobus's 'most important thing of all: the desire to begin again, to start building.' "

"This truism, although awakening its felt response in 1942, today evokes merely the facile optimism of an earlier generation of Americans."

Nonetheless, there was a popular appetite for Mr. Wilder's works. "The Eighth Day" sold well, and his plays, including some of his short ones from the cycle "The Seven Ages of Man," were mounted from time to time.

After publication of "The Eighth Day" Mr. Wilder declined to participate in award ceremonies that it prompted, remaining for the most part in Hamden, with visits to Martha's Vineyard in the summer. He never married, explaining once that he was so busy that he had "just skipped" acquiring a wife.

THE PANAMA CANAL

Mr. McGOVERN. Mr. President, the January 1 issue of Rolling Stone contains a thoughtful and perceptive article on the Panama Canal issue by Jan Morris.

In view of the interest in this issue in the Congress, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Rolling Stone, Jan. 1, 1976]

A Terminal Case of American Perpetuity

(By Jan Morris)

I. THE GENRE

They have a TV program in England in which a panel of eminent antiquarians inspects curios and objets d'art presented for its assessment by eager collectors. "Nice enough little piece," they say. "You inherited it from your grandmother did you Mrs. Thompson? Well, it's not quite a first-class example, I don't think—something a little greenish about the glaze, wouldn't you say Francis?—but still a nice little thing, very pleasing, well worth hanging on to Mrs. Thompson."

In such a consultative capacity, as an aficionado of historical curiosities, did I fly into Central America the other day to inspect that well-known collectors' item, that controversial but beguiling example of diplomatic craftsmanship, the Panama Situation. I will not pretend to you that it was always a specialty of mine.

When I awoke in my hotel room in Panama City, the capital, the morning after my arrival, I did not know whether it was the Atlantic or the Pacific Ocean I could see extending, bounded by humpbacked islands and speckled with shrimp boats, grayish and steamy outside my window. It was the Pacific actually, but as the waiter said when he brought my breakfast, I need not feel ashamed of myself—hardly anybody knows for sure.

Geographically Panama, which occupies the narrowest sliver of land in Central America, is a confusingly contorted country. Dividing as it does, almost symmetrically, North from South America, and calling itself, almost incessantly, the Bridge between the Oceans, it ought to run north and south, but instead goes perversely, and unreliably, east to west. The Pacific is south of Panama, the Atlantic north; the sun rises over the Caribbean; to go to the States from Panama City one sets off, ignorantly protesting, in a southwesterly direction. Moreover, the country is surrounded by states whose location most people are vague about, like Costa Rica and Colombia, besides having a history that few foreigners can grasp, a population rather less than Detroit's, and a name that nobody knows the meaning of, some translating Panama as "Lots of Fish," some as "Many Butterflies," and some rather feebly as "Big Trees."

Nevertheless, the moment I stepped out into the drizzle of Via España (for it was the rainy season and those shrimp boats lay there hangdog and apparently waterlogged in the bay), I recognized the genre. The Panama Situation is a late classic of the imperial form. It possesses all the true imperial elements: a distant and tremendous dominant power, an anxious settler community, a subject people united only in resentment, dubious historical origins, a sleazy tropical setting, above all, a specific raison d'être. In the annals of Empires there is no artifact more charged with passion and purpose than a canal, for great works of irrigation and navigation were always hallmarks of imperial grandeur, and sometimes its excuses too. Wherever Emperors ruled in foreign parts, they commemorated themselves with mighty waterworks, as though to demonstrate their mastery not merely over the lesser breeds, but over nature herself. In Mesopotamia the rulers of Babylon brought the desert to life; in Egypt the Pharaohs linked the Mediterranean with the Indian Ocean; grand aqueducts marked the progress of Rome across Europe; in India the Victorians summoned new provinces into existence by their monumental dams and conduits. The Suez Canal, though the British did not actually build it, became so inescapable an emblem of their imperialism that the phrase "East of Suez" was a synonym for Empire itself, and the Empire's desperate attempt to keep control of the waterway became in the end its bitter curtain call. Nearly always the constructions were destined to outlive their sponsoring sovereignties, and when all the substance of command had faded, the drums were silenced with the rhetoric, then the great work lingered on, crumbling more slowly down the centuries, like the last ironic smile of the Cheshire cat.

The greatest single work of the American Empire is the Panama Canal, the 50-mile waterway which, bisecting the Republic of Panama, links the Pacific and the Atlantic oceans, and has for more than 60 years given the United States an overwhelming presence at the junction of the Americas. The Canal is the truest meaning of the Panamanian Republic, though Panamanians hate one to say so, but no less is it a terrific expression of American imperialism in its original and simplest sense, older by far than the complexities of Vietnam, the CIA or the conglomerates. It was bred by Big Stick out of Manifest Destiny, two thoroughbreds of American assertion with which, around the turn of the 20th century, the Americans hoped to keep up with the galloping European Empires. "Take up the White Man's Burden," Rudyard Kipling had abjured the Americans, and nobody responded more boisterously to the call than Theodore Roosevelt, "Theodore Rex," who had already more or less arranged the acquisition of the Philippines, and was to see in the construction of the Panama Canal, with its emphasis on skill, strength and usefulness, a truly Kiplingesque consummation of American splendor.

Like most great imperialist enterprises, it had murky beginnings. It was an old dream, of course—for generations people had thought of piercing the isthmus, and Panama indeed had come into existence as a place of transit between the Atlantic and the Pacific. Here the conquistadors girded themselves for their assaults upon the Inca kingdoms, and here, by mule track from one coast to the other, the booty was assembled for shipment to Spain or plunder by English pirates. Here the gold-rush men staggered through swamp and jungle on their way to California, and here, as far back as the 1850s, the Panama Railroad Company of New York laid a line across the isthmus and carried $750 million of gold bullion back to the East from California. The Panama Situation, by which this ancient function became subject to American expansionist instincts, was born in the early 1900s. Until then Panama had formed part of a province of the Colombian Republic, subject to the neglected authority of Bogotá: It was the prospect of the Canal, giving the isthmus an incalculable international importance, which enabled the local nationalists to break away and establish their own hopeful if infinitesimal state.

Here was the American chance. Ferdinand de Lesseps, the French genius of the Suez Canal, had already begun work on a cutting through Panama, but had made a terrible mess of it all, sinking deeper every year in shame and corruption—the Panama Scandal, it is called in the French history books, and it is said that de Lesseps's bribery of the French press was so thorough that even Choral Societies Echo got its payoff. The Company went bankrupt, and so in 1903 Washington stepped in.

By guaranteeing the independence of the new Panama Republic, by a frank flourish of the Big Stick in fact, President Roosevelt arranged that the Panama Canal would be a great work of American enterprise, a marvel to posterity and an earnest of American greatness forever. As Suez was to the British, Panama would be to the United States; not just a commercial enterprise, not only a strategic convenience, but a grand talismanic truth, the ships of all the nations passing symbolically beneath the Stars and Stripes from one half of the world to the other. "I took Panama!" Teddy Roosevelt cried, and he was echoing, consciously perhaps, Disraeli's celebrated report to his monarch, when with a loan from the Rothschilds he bought Britain's way into the Suez Canal: "Madam, the Canal is yours."

A proper degree of skulduggery was involved. The Panamanians, being inexperienced in power politics, had employed a French commission agent, the astute Philippe Bunau-Varilla, to present their case to Washington, offering in effect a canal concession in return for cash and protection. Bunau-Varilla had good personal reasons for wanting an agreement, since he stood to gain financially himself, and in no time at all he had drawn up the terms of a treaty. By the time the Panamanian leaders got to Washington themselves, he and John Hay, the U.S. secretary of state, had already signed it. The entire future of the Panamanian state had been decided by a Frenchman and an American; and Hay himself frankly told the Senate, when the treaty came up for ratification, that it was "very satisfactory, vastly advantageous to the United States, and we must confess, not so advantageous to Panama." The Senate naturally ratified it at once, for what it promised the Americans, give or take an interpretation or two, was not just the right to build and operate a canal across the isthmus of Panama, but the right to establish a colony of their own around it, with all the rights of sovereignty, inalienable, complete and in perpetuity.

The Panamanians were paid a modest fee—$10 million down, $250,000 yearly annuity—and could certainly be assured that no revengeful Colombian gunboat would be permitted to bombard Panama City. But the Americans were given sovereign powers over a swath of land ten miles wide running clean across the new Republic, dividing it absolutely in half. The Panamanians would have no share in the profits of the Canal: The Americans would have the right to do almost anything they pleased in the Canal Zone, to have a monopoly of all transisthmian communications forever, and even to keep order within the Panamanian cities of Colon and Panama City, which were not in the Zone at all.

Roosevelt was delighted. The uncompleted French works, with the railroads, were handed over to the United States government, represented by a Panama Canal Commission, and before long 45,000 men had poured into Panama, from the States, from the West Indies, from Spain, even from Greece and Italy, to build the all-American canal.

In 1906 Roosevelt went down in person to inspect progress. It was the first time an American president had ever left the country during his term of office, and it was like a Pageant of Destiny in some celebratory festival; all among the dredgers and the steam hammers, the toiling thousands of workers, the jungle clearings and the swamp causeways, the president strode bull-like and resolute, in knickerbockers and straw hat. Here was the American Empire, the White Man's Burden heroically shouldered! Sweeping irresistibly through marsh and shrub, defying disease, employing all the latest instruments of science and engineering, tremendously the Americans were cutting their ditch between the oceans. It was, said Roosevelt, one of the great works of the world. More than that, declared the editor of Panama and the Canal in Picture and Prose, it was "the most gigantic engineering undertaking since the dawn of time." The Canal was the equivalent of a ditch ten feet deep and fifty-five feet wide clean across the United States, Maine to Oregon, or a hole 16.2 feet square from the North to the South

Pole. It was Colossal! It was Historical! It was American!

Seventy years later it is still there, and in essence nothing much has changed in the relationship between Panama and the United States. But a situation that seemed the very latest thing in 1906, the most modern product of expansionist policy, is now a period piece. Though it can still give pleasure to enthusiasts like me, and still raise a frisson in true-blue all-American hearts, still good taste has outgrown it over the years—don't you agree, Francis? It has lost its atavistic punch, and is riddled anyway, I am sorry to have to say, with rot and woodworm.

II. THE NATIVES

The natives are restless, for the Republic of Panama has greatly changed its temper since those hapless delegates, morosely surveying the terms of their treaty, returned to their bewildered compatriots in 1903. They are frustrated, unfulfilled, and their national life has come to revolve around a grievance—as though in a subtle and insidious way they have been deprived of potency.

There is a shabby corner of Panama City which effectively conveys, I think, this flavor. It is down by the markets, in the old Spanish part of the city, and is pervaded by a powerful odor of dismembered bullock and gutted codfish, but it is not without beauty either, for here the wooden tenements open out to reveal a small shingly beach upon the bay, a fine sweep of sea, and the white high-rise buildings of the city's posher quarters to the east. This is a busy place, but not frenzied. There is something expectant to the scene, something calculated perhaps, as though everyone is waiting for an interesting event to occur—as though the whole city is waiting, indeed, for some grand and undefined denouncement. In the market entrance a leisurely row of men and women is selling lottery chances, sitting on the ground with legs stretched out, carpeted by green and yellow tickets.

Facing the beach are a couple of open-fronted cafes, at whose counters one or two layabouts are meditatively or perhaps narcotically slumped. Whorelike ladies are here and there, giggling mildly with construction men or swapping symptoms with colleagues, and from the door of the marine police station a couple of lean gendarmes, heavily armed and darkly spectacled, look broodingly across the square, as though they are wondering whom to electrocute next. Above the beach there is a pile of rubbish; and there in ghoulish concentration half a dozen vultures pick away among the garbage, looking for bones and offal, or perhaps corpses, sometimes flapping their huge wings in appreciation, or taking off heavily among the rooftops, trailing strings of gristle.

Yet if it is a squalid scene, smelly too, it is very easily transformed. The Panamanians are people of great charm, and any one of those stagy characters, tart, cop, hardhat or beachcomber, will respond with grace to a greeting or an inquiry. Physically Panama may not be a very prepossessing Republic, but it has a quick and courteous style, even down there among the scavengers. Can it be you yourself, you momentarily wonder, that they have been expecting, like one of those theatrical tableaux that need only a director's click to bring them to life? But no, when they have given you your directions, and you look back upon the scene as you walk away toward the cathedral, that spell of anticipatory suspension has fallen upon it once more, and everyone is waiting for Godot again.

Panama lacks *settledness*. Perhaps it always has. Perhaps it is something to do with its function of transit. It has always attracted the rootless, raffish kind, from the lusty Welsh pirate Henry Morgan, who with his compatriot John Morris sacked Old Panama in 1671, to the Spanish developers, American bankers, Russian cultural delegates and French arms salesmen who still fish hopefully in its somewhat polluted waters. Panama is a community of gamblers, jockeys, boxers and cockfighters, a place where characters habitually disappear to, or reemerge from, in old-fashioned thrillers. Its greatest institution is the National Lottery, which holds the entire population in its grip, and it has traditionally been a great entrepôt of the drug trade, in whose profit, if we are to believe a line of gossip peddled almost everywhere in the modern world, many of its most prominent citizens have shared (you do know, don't you, about the Archbishop of Canterbury and the Corsican Connection?).

It lives for, by, around and because of the Canal, just as its churches, convents and caravanserai arose around the mule tracks of the Spaniards.

Tourist guides speak glossily of mountain resorts, delectable island beaches, unspoilt Indian tribes, and colorful country markets, but really Panama *is* the Canal. "If you're going to Gibraltar, dear," says one lady to another in a favorite Victorian cartoon, "you must on no account miss seeing the Rock"; and similarly one might say that if you are visiting Panama, you should keep your eyes open for the Canal. Probably a third of the population lives in one or other of the two Canalside cities, Colón at the Atlantic end, Panama City at the Pacific, and the whole texture of their lives, their manners and mores, their outlooks, their incomes, are influenced by the presence of the waterway.

This makes for an embattled feeling, too, as though they are struggling always to keep their dignity, or even their identity. The city of Colón is bisected by a rather grand boulevard, tree lined and ornamented with heroic statuary, Nationhood, Motherhood, Christopher Columbus, that kind of thing; but all around the Paseo del Centenario oozes the contagion of the Canal, in duty-free zones and sailors' bars, in yachts impounded for drug smuggling and seamen arrested for midnight brawls, in Hindu emporia and cut-price camera shops, in the shrill and gaudy bustle of Front Street, where generations of travelers have come ashore to be deftly clipped or comforted. Educated Panamanians try hard to maintain their Castilian poise, but it is hard to seem very composed on the edge of all this racket, and diligently though the National Cultural Institute presents its folk festivals and piano recitals, wittily and caustically though the Panama bourgeoisie observes the passing charade, still it must be said that the Republic of Panama, as Lord Roseberry once observed of the entire African continent, is not much of a place for a gentleman.

Wistfully they keep trying. I was taken to the theater one night to see the Cuban National Ballet, with its celebrated *première danseuse,* Alicia Alonso. It is a dear little theater, exuberantly embellished with gilt and flourishes, and the balletgoers were dressed in their slinky best and greeted each other with cousinly enthusiasm, since they all seemed to be related; but no less than that seamier ensemble beside the market, I thought, did the occasion seem to express some sense of yearning, some *jamais vu*. When the music struck up it was played only on a wavering record player, and the ballet itself turned out to be largely propaganda, emancipated peasants greeting a golden dawn, or marching shoulder to shoulder toward the revolution. The Panamanians greeted these exhortations halfheartedly, and there was some booing, not from the gallery but from the dress circle, where Aunt Elisa sat decorously with her nephew the professor.

Panama is a kind of police state, but not the most awful kind, for unlike some of its neighbors it has an easygoing tradition of politics. The family oligarchy which, until 1968, ran the place in quadrillelike succession was venal perhaps, but not often cruel: The revolutionary government which has succeeded it does not, I am assured, habitually murder its opponents, or incarcerate too many critics on its penal island. Exile rather than execution is the rule, and sometimes a dissident even returns from banishment and lives happily enough ever after.

Still, all the paraphernalia of despotism is there. The press is entirely controlled, all political parties are banned and the statutory portraits of the chief, General Omar Torrijos Herrera, gaze lugubriously from cobblers' shops and gas stations. There is a genial president of the Republic, who keeps live white herons in the hall of his presidency beside the sea, their cages lined daily with clean white copies of the morning newspapers. There is a ministry of civilians, mostly from the middle classes. There is even an impotent National Legislature, in a showy new Legislative Palace. The true core of the state, though, the state itself perhaps, is the National Guard, part army, part police, which brought General Torrijos into power seven years ago and keeps him there now.

This all-powerful gendarmerie is no joke. In other countries there is often something tragicomic about military despotisms, with their preposterously epauletted generalissimos and their strutting puffed up majors, but there is nothing laughable about the National Guard of Panama. Expensively equipped, well-trained and disciplined, it is like a formidable praetorian guard implanted immovably in the heart of the Republic, with fingers in almost every Panamanian activity. Its elite battalions, the Tigers and the Pumas, are enough to scare any dissident into conformity, and its intelligence is said to be omniscient, so that people think twice before telling anecdotes about it.

The fortress headquarters of the force is in El Chorrillo, another of the less inviting quarters of Panama City, and a baleful place it is, being surrounded by slums, gas storage tanks and the city prison. As it happens I spent a couple of hours inside it, for I had arranged to meet the guard's chief of security, Colonel Manuel Noriega, and since he never in the event turned up, a common enough Panamanian practice, I was left to kick up my heels and pursue my fancies deep in his bunkerlike suite of rooms—now and then looked in upon by obliging orderlies, soothed by music from a local uplift program called the *Bright Sounds of Inspiration*, but otherwise all on my own.

How strange, to sit alone in the lair of an unknown security chief! I had heard conflicting reports of Colonel Noriega. He was sinister, he was not bad really, he had hypnotic eyes, watch out for his hands, he liked art, he knew all about interrogation. Certainly he looked after himself in his bunker. Steel doors enclosed it, with armed sentries and closed-circuit TV in his outer office, within the shuttered gates of the building itself, within the guarded wires of the headquarters compound. It was bugged, no doubt, and it had no windows, only skylights. The longer I sat there, and the more boldly I opened doors and peered around the place, the more vividly I seemed to see the absent colonel, and perhaps the autocracy he enforced. Here, through the left hand door, was the sybaritic side of him, the sensual side, all done up in chrome and white leather, with thick sexy carpeting, and bright pictures of girls and landscapes, and a well-stocked cocktail cabinet, and a very strong suggestion of self-indulgence.

Here, through the right-hand door, was his machismo: his big black TV console, with its six steady pictures of exits and entrances, his library of books on counter-insurgency and military intelligence, a huge photograph of himself parachuting out of an aircraft, and above the door an automatic rifle of the

Egyptian Army, brought home from Sinai by the Panamanian contingent to the UN peacekeeping force.

Here and there I diffidently pottered, while the *Bright Sounds of Inspiration* wallowed on, and gradually there overcame me a feeling of despair, familiar to any student of the ends of Empires. Those adolescent symbols of manhood and virility! Those second-rate pictures! Those manuals of violence and repression! We are ruled by children, I thought, and all the agonies of state and ideology are only games for little soldiers.

At 3:30 next morning, before the dawn broke, there was a rap at my door, and looking out of my hotel window I saw two National Guardsmen pacing around the deserted patio far below. I feared the worst—perhaps they had put me on film down at the colonel's bunker?—and, jumping swiftly back into bed again, took my usual emergency action and pulled the sheets over my head.

Nothing more happened, but still for a moment I had experienced the chill uncertainty that is the worst part of autocracy. The Panama Situation, like many another experience of late imperialism, is especially disturbing because nobody knows what lies beyond it. What kind of a place will Panama be, if ever it is resolved? Will the traveling prove more gratifying than the arrival? The revolutionary government is a government of pragmatic response, rather than original initiative. Beyond a generally reformist or populist bias it has no true ideology of its own. If it has a communist emphasis, and certainly several of its civilian members have Marxist sympathies and backgrounds, that is partly because in imperialist situations communism habitually thrives. General Torrijos himself has invested in that least Marxian of properties, an estate in Spain (bought indeed, I am told, from the widow of Cuba's fascist reactionary colonialist puppet, Batista). Stylistically his models have varied from Moshe Dayan to Fidel Castro, and in recent pictures he looks for all the world like any other Pentagon general posing for a publicity handout. Ideologically he probably belongs, if he belongs to any company, only to the eclectic society of the dictators, living more by charisma than conviction. He does not often appear in Panama City these days, preferring his seaside estate some 60 miles out of town; but his bodyguard is always thick around his villa in the capital, and in his trellissed garage there one may see his gleaming white Jaguar, ready perhaps for hasty getaways.

All these uncertainties, though, these unexpressed yearnings and expectancies, these unsatisfied aspirations, the very tone and temperament of modern Panama, find their focus in the presence of the Canal. It is the alien-controlled Canal which has, paradoxically, deprived the Panamanians of their vocation and their self-esteem; it is the Canal which binds them together; it is the Canal which enables the dictator to command their loyalty and pride.

Colonia Americana . . . No! runs the chorus of one of the regime's official Revolutionary Marches:

> Es nuestro el Canal
> No somos, ni seremos
> Di ninguna otra Nación.

—"We are not, nor shall we be, of any other nation." For in a world turned upside down since Teddy Roosevelt's day, the Panamanians look with an evergrowing resentment toward the imperial presence deposited, like some vast pyramid from earlier ages or a survivor from some vanished species, gigantically in the middle of their little state.

III. THE IMPERIALISTS

The Republic of Panama grants to the United States all the rights, powers and authority within the zone mentioned and described in Article II of this agreement . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

The American presence in Panama is based upon two abstractions: power and pride. Both are inescapable. For most of its length the Canal Zone, 553 square miles of it, is remote from large Panamanian settlements, but at its two extremities its border forms the limit of a Panamanian city. Suddenly, across a city street, or at the end of an avenue, the Latin jumble of life evaporates, the rickety dark tenements disappear, the rubbish-strewn gutters give way to almost obsessively tended lawns and everything is plumper, richer, duller—as if these streets, the Panama poet Manuel Orestes Nieto has written, and their stop lights/and highway signs/ were controlled by computers/from Washington itself. In the days of that other Empire, the British Raj in India, Englishmen of imagination often liked to escape from the ordered incorruptibility of their own territories into the jumbled domains of the independent and often atrocious maharajahs; and I must say that whenever I crossed the unmarked frontier out of the Republic of Panama into the Canal Zone, I felt I was taking a retrograde step, out of reality into pretense.

An impressive pretense, mind. The Panama Canal is exceedingly well run, to a textbook precision. The United States Defense Department not only operates the Canal itself, it also governs the Canal Zone. In its representatives are all virtue and authority delegated. The governor of the Zone, usually a lieutenant-general of engineers, is also president of the Panama Canal Company. The company may sound like a corporation, and indeed a representative of the *New York Times* was down there recently soliciting its advertising, but it is really wholly owned by the Defense Department: Its toll rates are decreed by Washington and are supposed to cover the cost of working the Canal. There is no private property in the Canal Zone and no private commerce: Even the supermarkets are government owned, and when you expect a Zone TV program to break for soap powder or shampoos, instead you get advice about calling the Fire Brigade, or elevating messages about the history of the 193rd Infantry.

It is a terribly institutional place, run so authoritarianly that there is not even a school board, let alone an elected legislature. Its judges, its radio announcers, its storekeepers, its railwaymen, its funeral parlor managers are one and all government servants. It is thick with notices, mostly prohibitive—Consumption of Alcoholic Liquor in any Vehicle is Prohibited, Swimming Is Not Permitted between Dawn and Dusk—and even its friendly neighborhood signs are apt to have an organizational flavor, like Welcome to the Dredging Division. The Canal Zone is intensely *bland*. Panamanians often find it stifling in its pallor. Its architecture is mostly a kind of Hispanic Beaux Arts, and most of its buildings seem to look more or less the same, whether they are Lock Control Stations or Mrs. Dugdale's residence, but the governor's house is very desirable in white clapboard, with flower-painted fans and awned patios, while the headquarters of the company and government, standing magnificently on a crest above the company town of Balboa, looks half like the Forbidden City of Peking, and half like a post office (there is a large statue of Theodore Roosevelt in its central rotunda, and when I offered to wipe its nose, the cleaning lady being untable to reach that high, she said, "Yeah, he does get kinda snotty").

This is a truly imperial enclave, jammed with expertise and experience. It has been doing the same job for 60 years now and it all goes with a very professional smoothness. The great lock gates swing smoothly open. The sluices spill their overflow. The tugs adeptly maneuver. The pilots, leaning from their bridges as they pass through the locks, murmur a pleasantry over their walkie-talkies or wave a languid hand to Joe in the control tower. Down at marine headquarters the great register of vessels builds up year by year, so that the computer knows not simply the size, speed and shape of a ship, but the way she handles to, her mechanical idiosyncracies, even the kind of meal the pilot is likely to get. Well oiled, well practiced, well documented—the Canal Zone Regulations fill 314 pages of the Federal Code—the mechanism has come to seem organic, as though the passing of the vessels is a natural phenomenon and the locks are no more than steps in the landscape or a convenient kind of cascade.

Teddy was right, though—it really was one of the world's great works when they built it long ago. It was cut through some of the nastiest country in the world, so unhealthy that 25,000 men are said to have died during the construction of the Panama Railroad, infested with noxious insects and jealous reptiles, lethal with malaria and yellow fever, tangled with jungle and soggy with swamp. It entailed building the biggest dam in the world to create the largest man-made lake, digging the largest excavation in history through the Continental Divide and raising and lowering ships, by the largest locks ever conceived, 85 feet up at one end of the canal, 85 feet down at the other. The very idea of the canal was inspiring: Goethe himself had responded to the poetry of it, long before, and James Bryce, the historian, called it "the greatest liberty man has ever taken with nature."

Everything, Balboa on the Pacific to Cristobal on the Atlantic, was made to a pattern, giving the work an aesthetic unity too—Frederick Law Olmstead, the creator of New York's Central Park, approved the landscaping—and method, consistency, care, were embedded into the Canal's very structure, making it a kind of philosophical enclave, too, in that tropical environment. Everything was self-sufficient, self-reliant; only one percent of the labor force was Panamanian, and the Canal was built almost without reference to the Panamanian government. The Canal's own surgeons eradicated yellow fever from the Zone, having discovered that it was caused by mosquitos.

The Canal's own engineers invented the electric "mules" which, like land-borne tugs or the horses of earlier waterways, manipulated ships through the locks. And through all the great work, which took ten years to complete, there ran that conscious thread of American destiny, as the skills, guts and dollars of the United States drove the great ditch through the Divide to link sea with shining sea. It was a deliberately imperial enterprise. They called one of the construction towns Empire.

Almost from the start, too, the Americans saw it not just as a waterway, but as a power base. This was inevitable. Just as the possession of Suez enabled the British to keep a grip on the whole Middle East, so Panama was America's key to the command of the Americas. It obviated the need for a two-ocean Navy and it gave the Washington strategists an invaluable foothold in Latin America. They have never looked back. American forces have been based in the Canal Zone since 1911, and since 1963 Quarry Heights, just over the Zone border outside Panama City, has been the headquarters of United States Southern Command, responsible for all American military activities in Central and South America.

There is no pretending that this base is there for the defense of the Canal itself, as the original treaty allowed. Its purpose is strategic, a command post for the whole of Latin America, a staging point, a training camp, a military laboratory. Every kind of military establishment has used the Canal Zone, from medical research teams to intelligence agencies, and today it teems with activities overt and concealed and bristles with military acronyms—USARSA and IAAFA and COMUSNAVSO, MILGPs and MAAGs and MTTS and TATs. Here the army has its Jungle Training School. From here the Green Berets dispatch their counterinsurgency training teams throughout Latin America: Among their most successful pupils were the Bolivian rangers who hunted down Che Guevara. Here, too, is the School of the Americas, specializing in counterrevolution (or as the military put it, "internal security and civic action requirements"); its alumni include many a Latin American security chief, war minister and intelligence director, and it is particularly busy at the moment training Chileans to keep their country in order. There are schools of Air Force technique too, and tropical laboratories of several kinds, and from the Canal Zone are coordinated all the contingency plans for American affairs, with or without the help of the CIA.

For within the Zone, in the very heart of Latin America, the American establishment may do what it pleases. It is like having a room of one's own, with one's very own lock and key, and a private telephone line, inside one's neighbor's house. The hills around Quarry Heights bristle with masts, aerials and suggestive bumps, and are tunneled through, like Gibraltar, with secret caverns; and whenever I looked up to those grassy knolls, beyond the parklike lawns of Balboa, the royal palms and the monument to Colonel George Washington Goethals Erected by His Fellow Americans—whenever I looked up there, I seemed to hear the hum of the ciphered messages, on their way to Washington, and see the wary flicker of their electronics.

These are reasons, right or wrong, for the American presence in the Canal Zone. Below them lie emotions. "It is not the critic that counts," Theodore Roosevelt cried when he visited the Canal in 1906. "The credit belongs to the man who is actually in the arena; whose face is scarred by dust and sweat and blood; who knows the great enthusiasms, the great devotions, so that this place shall never be with those cold and timid souls who know neither victory nor defeat . . ." This kind of rhetoric, imperfectly enunciated, still infuses the Americanism of the Canal Zone. Deeper by far than the goings-on of Green Berets or MILGPs lies an old American pride in achievement. This gives the Zone community a very old-fashioned, almost touching air, a nostalgic assertion of myth that is a kind of mirror image of Panamanian aspirations across the border—the one people hungering for a chimerical fulfillment, the other pining for a half-legendary past. The average age of American civilians in the Zone strikes me as fairly high and their affinities are often with the South, with New Orleans, which is almost the Canal's home port, so to speak, with Louisiana upon whose laws the Zone's legal system is patterned. They are likely to be patriots, Veterans of Foreign Wars, Bicentennialists, people of the Flag and the Oath, family men, lodge members. They read the Panama edition of the *Miami Herald* over cheeseburgers in government canteens, and award second prizes to artifacts called Things and Strings in exhibitions of work by the National League of American Penwomen. Their husbands attend the Nathanial J. Owens Branch of the American Legion. Their daughters go to proms. They are unlikely to read ROLLING STONE. They are not Ugly Americans, not at all, but you might judge them, well, *plain*, perhaps.

I have much sympathy for them, for in all these attitudes they are only being true to themselves. They have been brought up to believe that they are serving a great American institution, the Panama Canal. It is as American in their eyes as Kleenex or George Wallace, and for them it reflects the American genius, the American dream, as truly today as it did when the first ship sailed through it. There is a plaque in the headquarters rotunda put up there in 1955 by the American Society of Engineers. "A Modern Civil Engineering Wonder of the U.S.," it says of the Panama Canal, and never for a moment does it suggest that the Canal is not in the U.S. at all. Americans built it, Americans run it, Americans own it; many of its American employees seldom enter the Republic of Panama from one year to the next—there used to be a policeman who boasted he had never set foot in the place for 30 years. Of the 15,000 people who work the Canal today, 12,000 are Panamanians, but none of them are senior executives and only two of the 200 Canal pilots are local men. The Panama Canal remains what it always was: a self-sufficient self-reliant, self-perpetuating American organism.

And this conviction is accentuated by the unchanging nature of the Canal itself. In fact it is fast getting out of date, being too small for many modern ships, so that the big container vessels have to squeeze their way through the locks like Victorian dames in bustles edging their way through drawing-room doors. There have long been plans to build a newer bigger one, probably without locks at all, but in the meantime the Canal still works exactly as it always did, often with its original equipment. The original dials and gauges, familiar to generations of American operators, still record the rise of the lock water in the high control towers. The electric mules still trundle archaically up and down, Japanese built in their latest models but still doing precisely the same job they always did. It is a very dated wonder and this adds a true pathos to the pride its servants have in it. They live in a world where Big is still Beautiful, where engineering marvels can still move the spirit, where a statistic is still believed, and you can still raise a gasp with the revelation that the stone handled in the construction of the Panama Canal would be enough for 28 Giza pyramids, or 190,438 average American homes, Manifest Destiny is alive, well and rather endearing in the duplexes of Balboa and Cristobal.

IV. THE CONFRONTATION

There they stand then, at the end of 1975, the classic opponents in an archetypal performance of Empire. They have been opponents from the start, even since it dawned upon the Panamanians that the 1903 Treaty had robbed them of a birthright, but the animosity has built up steadily through the years, through the brave American heydey, through the chicaneries of banana republic and conglomerate, through the ignominies of Vietnam and Watergate—through a whole era of history in which imperialism as an idea has been discredited, and America as an imperial power has lost faith and persuasion.

The Panamanians now demand an altogether new relationship. They do not, at the moment anyway, demand the immediate withdrawal of American power from the Zone; but they want the arrangements to end altogether by the year 2000, and in the meantime they want to see the Canal gradually handed over to Panamanian control, they want substantial parts of the Zone given back to them and they want Panamanian sovereignty fully recognized. There is absolutely no way in which they can enforce these demands physically, the disparity between the two peoples being as great as ever—140 to 1. Today for the first time, though, they may well enforce them diplomatically, for Panama now has behind her the support of many countries and the threat of many more. In January she again becomes a member of the United Nations Security Council, and from that vantage point she can make the Panama situation one of the blazing issues of the later Seventies.

When the British were fighting to keep control of Suez, the antagonism was complete, Britons and Egyptians having very little in common, seldom mixing, and pursuing diametrically opposite aims. In Panama it is different. For one thing, though the Canal Zone forms so distant an enclave within the Republic, still it is not physically insulated. Anyone can cross from one side to the other. There are no barriers, check points or wire fences, not even a cordon sanitaire (though in Panama City the wide highway called Avenida de los Mártires does form an unfortunate sort of No Man's Land, avidly photographed for TV documentaries, between the lawns of Quarry Heights and the fetid tenements of El Chorrillo). Many Panamanians commute from the Republic to the Zone—some Americans, too. There have been thousands of intermarriages over the years, so that for myself, as I wandered around the Zone, I often found it hard to know whether a cop, a functionary or even a soldier was American or Panamanian.

The cultures overlap, as the British and the Egyptian never did: Half America has grown up with the awareness of a Spanish past and all Panama has grown up with the consciousness of a gringo present. These antagonists are anything but strangers. They know each other very well. indeed, and have more in common than they care to admit.

Then again, though Panamanians prefer not to recognize the fact publicly, they share many self-interests. General Torrijos would not be the chief he is without his American military training. Colonel Noriega perfected his machismo at the School of the Americas. The National Guard is armed with American weapons and advised by an American military mission (MAAG, I think, or it may be MILGP): When its battalion went to the Middle East, every item of its equipment was supplied by the United States, even down to the *socks*. The revolutionary government itself might well have been overthrown by now were it not for tacit American support (interspersed, they tell me, by CIA threats to have the chief of state contracted for, but then we all know how effective *they* are).

Economically, it pays Panama handsomely to be within the American orbit, and especially perhaps beneath the guns of the Canal Zone. The U.S. dollar is official currency, the Panamanians never having printed their own banknotes, and it is unlikely that US–SOUTHCOM would never let the Republic disintegrate into chaos; but the Panamanians impose few prissy restrictions on exchange, interest rates or accessibility, so that the canny investor in Panama City can enjoy the best of many worlds. Whereever you look in the capital there is a foreign bank or a company headquarters, and the Panamanian flag is so particularly convenient that more than 1000 merchant ships, nearly all American owned, gratefully fly it. Panama enjoys the highest living standards in Central America and there is no denying that this is partly because the Americans are there.

So it is an amorphous emergency, blurred at the edges, slow in coming. There have been the customary riots now and then, the standard breaking of Embassy windows, the normal breaking of diplomatic relations, the usual student protests. The Avenida de los Mártires was renamed for Panamanian students killed in a 1964 affray—it used to be called Fourth of July Avenue. There have been several attempts to replace the Treaty. and it has been repeatedly modified, each time to give the Panamanians a little more self-respect or a little more cash; but only now is the confrontation really coming to a head, each side knowing that if a limit is not soon set upon the American presence in Panama, real trouble is on the way.

In February 1974 Henry Kissinger and Juan Tack, the Panama foreign minister, agreed to open negotiations and listed eight principles which both accepted—among them Panamanian sovereignty and jurisdiction in the Zone, and an end to the iniquitous concept of "perpetuity": Any new treaty would have a terminal date. Since then talks have straggled on, mostly in secret, sometimes in Washington, sometimes on the Panamanian island of Contadora (a resort being exploited, appropriately perhaps, by Spanish developers). On the American side intentions remain veiled, Dr. Kissinger himself letting slip, last October, that he really thought the American military must remain in Panama "indefinitely." On the Panamanian side they are very clear: The Americans must be out of Panama altogether in 25 years, leaving the Republic of Panama in complete control, technically, economically and militarily, of the Most Gigantic Engineering Undertaking since the Dawn of Time.

If you drive from Panama City to Colón, along the highway magnificently called the Carretera Transistmica, you are traveling more or less parallel with the Canal, without entering the Canal Zone (for a Treaty modification of 1955 kindly allowed the Panamanians to have a road of their own across the isthmus). Everything is highly Panamanian. The villages you pass through are cheerfully wayward, littered with 7-Up signs, buses with pictures, banana-sellers' booths and ravaged, abandoned automobiles. The country is jungly, hummocky and unlovely. There is a kind of aimless shabbiness to it all, shambled, benevolent but not picturesque. At one or two places, though, a side road will take you to a vantage point above the Canal itself, and there, spread out before you between the hills, you may see an almost allegorical antithesis. There the tiled houses of the Americans nestle in their gardens. There the big ships sail across Gatun Lake, their high funnels and superstructures gliding grandly among the islands. There are the trim installations of USGOG or AMPLIG or COMSWAM. There everything seems cool, ordered, prosperous and private. It is like looking through the lodge gates at some unapproachable estate.

The Panama Situation, like so many of its kind, is embodied in *contrast*. Of course not all the Americans of the Canal Zone are stinking rich—none of them indeed are as rich as rich Panamanians. They are, however, undeniably exclusive and they have made the Zone a world of their own. Once you cross that Zone border, though you may be only 100 yards from your own home, nothing is Panamanian. The signs, the systems, the language, the ambiance—all are American. If you are caught speeding, you will be taken before an American judge in an American court. If you need a cup of coffee, you will be unable to buy one without a Zone card. The Stars and Stripes fly everywhere—only since 1964 has the Panama flag flown within the Zone, and even now it does not often show. It is the apparency of it all that is so provocative. It so happens that in Panama City, a spit of the Zone protrudes directly in front of the Legislative Palace, so that while the Legislature is within the Republic, the lawns before it are in the Zone. On that very spot the Zone authorities, every morning of the year, hoist the American flag—in tandem, indeed, with the Panamanian, but giving the distinct impression, to foreigners as to touchier Panamanians, that they claim a tacit suzerainty not just over the Zone but over Panama itself.

In fact the Americans are not sovereign even within the Zone. Even M. Bunau-Varilla did not allow for that. They are the owners of the Canal Zone soil, just as a householder owns the title to his garden, and they possess all the rights of government, the Panamanians having specifically given up all claim to power or authority. But the United States was given those rights, even in 1963, only *"as if it were the* sovereign of the territory." America did not acquire the Canal Zone in the sense that she acquired Alaska, say, or Hawaii. She enjoys no sovereign right of cession or conquest, which is why the Zone never became a territory of the United States. The American presence in Panama is analogous only to the Treaty Ports of prerevolutionary China, where the several powers, while dimly recognizing the sovereignty of the Celestial Kingdom, ruled themselves and the local citizenry by their own laws and with their own authority. And just as the foreign garrisons, clubs, parks and department stores of Shanghai now seem like images of another age, so the American presence in the Canal Zone is already one of history's anachronisms.

Legally the Americans might maintain the status quo indefinitely. "We own this place," as one Canal Zone resident explained it to me, "it's as simple as that. It's ours for all time. It's a bit of America." Perhaps even a court of law, though, would not hold Panama to such an agreement, concluded in such doubtful circumstances, in such different times. The 1903 Treaty is a true text of the Imperial Age, presupposing that Western civilization would dominate mankind for centuries: But only a Frenchman and an American, perhaps, deciding between them the entire future of a third country, could make its provisions, like Rome herself, actually *eternal!* Even Hitler envisaged only a 1000-year Reich! Even Churchill, contemplating the British Empire's finest hour, gave it only a millenium!

I did not myself meet a single citizen of the Panamanian Republic who wished the Americans to remain in the Canal Zone. In this if in nothing else they are united, and it was a fierce critic of the Torrijos regime, in fact, who joked to me that when they took over the Zone, what she wanted was the governor's house. Their motives vary, of course. There are Communists who hope to shift the balance of the world, opportunists who hope to make fortunes, politicians who hope to consolidate their power, above all hundreds of thousands of plain patriots. All are agreed, though, as the natives nearly always are in this stage of the imperial performance: The imperialists must go.

And again as always, the imperialists themselves are split. The State Department is committed to Treaty revision, and the chief U.S. negotiator, the octogenarian Ellsworth Bunker, has said frankly that the United States "no longer can be—nor would want to be—the only country in the world exercising extraterritoriality on the soil of another country."

The Defense Department holds very different views and may be expected to defend to the last its conviction that command of the Zone is essential to the security of the Free World. As for the American residents of the Canal Zone, they long ago formed their own pressure group, Keep the Canal American, and are busy lobbying congresspeople, writing letters to editors and rallying comrades everywhere.

That air of expectancy I noticed in Panama City extends to the Canal Zone too. Things, one feels, are coming to a head. Life is quite enough now, there having been no student disturbances for a month or two, but one senses an impending air. Generals and diplomats come and go. The governor is summoned to Washington. Reporters fly in for feature articles, and rumors proliferate. They say the U.S. Army was all set to enter Panama City, when the students broke the USIS windows in October. They say Schlesinger was really fired because of Panama—"Well, it's obvious, isn't it?" They say the Chinese have offered to build a new canal, when they're through with the Tanganyika railroad. Didja hear about Torrijos and the Cuban deal? Didja hear about the booing at the ballet? Who's the guy with the little black moustache talking to the ambassador?

It is like the cadenza, before the full orchestra enters with the grand theme, and in this case the full orchestra plays in Washington. Enter the Imperial Factor, as the British used to say. Far away in America, one feels, busy minds are at work upon the Panama Situation, and as a presidential election approaches, the aides and the lobbyists are at work. For years your true-blue Americans have been denied a truly imperial cause. Befuddled by Vietnam, betrayed by the CIA, bewildered by the Third World, defused by détente, messed about by Kissinger, antagonized by a generation that hardly seemed to understand the meaning of patriotism, not since World War II, or at least the Berlin Airlift, have they discovered a foreign field that can be forever America.

Perhaps Panama offers them just that cause, just that stirring issue? *All over* America the Minutemen are stirring, hastening to the call: the retired brigadiers and superannuated admirals, the John Bichers, the Daughters of the American Revolution, the irreconcilable exiles, the shrewd campaign managers. Old habits die hard, old emotions too. Already 37 senators have introduced a resolution demanding that the United States should "in no way cede, dilute, forfeit, negotiate or transfer" any of its rights in Panama. Senator Strom Thurmond has declared that the surrender of "sovereignty" in the Canal Zone is simply "not a negotiable item."

Representative Daniel Flood has said that even Kissinger's concession of principles was "an unconstitutional giveaway by faceless wonders in striped pants." Ronald Reagan has let it be known that, as his campaign aide put it, "we don't have any business giving away the Panama Canal—giving up sovereignty." For years after the end of their rule in India the British still thought of the Suez Canal as the Lifeline of Empire, so deeply instilled was this conception in the national consciousness; and deep in the American psyche too, only waiting to be exploited, is the same sense of imperial possession—what we have we hold, we've been kicked around long enough, here's where we stand and fight.

There is sadness to these emotions because they cannot win. They are expressed by imperialists only when it is too late anyway, when conviction is already faltering, when the world has gone too far. Of course there is logic to the conservative arguments. The Canal may *not* be run as well, when the Americans move out. Perhaps Communists *will* take over. It is perfectly true that the American presence has brought benefits to Panama, from thousands of jobs to pure water. True, too, that in retreating from Panama the United States will be, in effect, abdicating its supremacy throughout Latin America—even perhaps, it could be argued, abdicating its status as a world power.

Yet it is all too late! These are the arguments of Empire and the world has moved on. The very nature of power has changed since 1903. It has become far subtler, more precarious abstraction, dependent upon imponderables the old Empire builders could scarcely have imagined, and even today's Pentagon planners are reluctant to recognize student opinion, for instance, the Third World, the urban guerrillas, investigative reporting, oil money, nuclear deterrents. A Russia might be able to hang on to the Panama Canal by sheer force: An America never can. Already the Panamanians have mobilized much of the world in their support—when the Security Council met in Panama City in 1973, the U.S. had to veto a resolution calling for a new treaty. Every single Latin American government is united behind Panama, a remarkable testimonial in itself.

What is more, time is running short. Ford and Kissinger, of course, will want to prolong the negotiations as long as they can, to keep Panama out of the 1976 election; but within Panama, Torrijos is allegedly being urged to more precipitate action, by the more ferocious of the nationalists, by the Communists, by the student extremists. His own demands are moderate but he may not be able to keep them so: If the Americans, for reasons political or emotional, refuse to give in within a reasonable time, the Panama Situation can inflame the world, like Suez before it, like Vietnam.

> Take up the White Man's Burden,
> And reap his old reward
> The blame of those ye better
> The hate of those ye guard!

You must not suppose that I do not understand. I know the glory of the distant flag! I have heard the bugles call! From the island of Perico, at the Pacific end of the Canal, there is a magnificent view of Panama Bay and the Canal entrance. From there the scene looks immensely powerful. The city straggles eastward along the shore, ramparted and steepled at one end, skyscrapered at the other; the lawns and villas of the Canal Zone, topped with aerials and ringed around by harbor installations, run away to the west. The high steel arch of the Bridge of the Americas takes the Pan-American highway magnificently across the waterway, and through the humpbacked islands offshore, sometimes green and blue in the sunshine, sometimes black with sudden rainstorms, ships are always moving, steadily and silently out of the Pacific.

High on the flank of Perico, shut off by wire fences and severe injunctions (trash and litter generated in this area will be deposited in yellow trash cans) there stands an observation post, the first American station on the Pacific side; it's probably been there since the Canal was built. Its platforms are open-fronted and it perches on the hillside with a campaigning air, a hammocky, mosquito-net, semaphore and heliograph, sepia. Sam Browne air. I could not see if anyone was actually on watch beneath its eaves, when I went out there on my last afternoon in Panama, but I was powerfully moved anyway by the spectacle of that ever loyal lookout, ever watchful, ever faithful down the years. What generations of Americans looked proudly out from there, in the days when American power really was the hope and glory of the world! It seemed to me to stand in the truest line of the imperial monuments, the best of the genre, the line of the Khyber and Hadrian's Wall, the Saharan forts and the Venetian castles—the kind that make you wonder what kind of men once served their Empire there, how bravely they stood their ground, and how gratefully, when the time came, they pulled the flag down and departed.

TWO PRESIDENTS VISIT AUSCHWITZ

Mr. JAVITS. Mr. President, on July 29 of this year, President Ford visited the site of the former Nazi death camp in Auschwitz. His visit there was preceded by that of President Giscard d'Estaing of France on June 18. On the occasion of both visits, the youngest survivor of the holocaust, Dr. Samuel Pisar, a U.S. citizen by special act of Congress—Public Law 87-37, 1961—made a brief address. I believe that Dr. Pisar's statement is simple and yet moving.

I believe that it is important to keep in mind that there are hundreds of millions in other countries that continue to share our fundamental human values and our abhorrence of barbaric and malevolent threats to those basic values. If we needed a reminder we have witnessed it recently at the United Nations in the effort to equate Zionism with racism.

I ask unanimous consent that the statement of Dr. Pisar at Auschwitz be printed in the RECORD for the reading of all Senators.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

(By Dr. Samuel Pisar)

To return at your side, Mr. President, to this altar of the holocaust, where as a boy of 14 I died so many deaths, lived so many tortures and humiliations, where all I ever loved was reduced to cinders, is an experience that staggers the soul. But it is also a journey from tragedy to triumph. By your presence here today, the date on which from London, 35 years ago Charles de Gaulle's call to resistance redeemed the honor of France, you add a new dimension to the historic meaning of the 18th of June.

From here, Mr. President, you speak to generations, to races, to nations, to ideologies, to liberal and conservative, to rich and poor, to East and West. For the spot on which you stand is the deepest wound ever inflicted upon human civilization, the inferno where Eichmanns' realism eclipsed Dante's vision of hell.

On this I bear you the personal testimony of a rare survivor, perhaps the youngest survivor of all. Among the unspeakable reminiscences that flood my mind in these once familiar surroundings, one heartbreaking image stands out, and it is the only one about which I would like to say a word.

Near those machine-gun towers, in their striped blue and white rags, sat every day the most remarkable symphony orchestra ever assembled. It was made up of the greatest virtuosos from Warsaw and Paris, from Kiev and Oslo, from Budapest and Rome. The precious violins they brought along on their last journey were signed Stradivarius, Guarneri and Amati. To accompany the daily hangings and shootings—while the gas chambers over there belched fire and smoke—they were ordered to play Mozart, the Mozart you and I adore.

Enough of the past!

These horrors, which I have never mentioned to you in the years of our friendship devoted to seeking together new avenues of international coexistence, new weapons of peace, must not numb our senses, nor shake our faith in God and man. If they seem relevant today it is because we dare not forget that the past can also be prologue, that amidst the ashes of Auschwitz we behold the true specter of doomsday—a warning of what might still lie ahead. It is to this barbed wire fence, therefore, that man must come, in emulation of your example, to bow his head and meditate on justice, on tolerance on respect for human rights and, most of all, on new moral perspectives that can reclaim the world's alienated youth.

Mr. President, in this cursed and sacred place you are facing your greatest audience. Here you stand in the presence of four million innocent souls. In their name, and with the authority of the number engraved on my arm, I say to you that if they could answer your noble words they would cry out: "Never again"!! Never again between Frenchman and German, between Turk and Greek, between Indian and Pakistani. Never again between Arab and Jew.

In their name I thank you for your pilgrimage to this shrine of martyrdom and agony. Your gesture inspires universal hope that the statesmen of the world will pay new heed to the clouds of violence that are gathering around us. That they will spare no effort to lead us to a safer and better future.—SAMUEL PISAR, Auschwitz 1975.

THE PANAMA CANAL

Mr. McGEE. Mr. President, in the Sunday edition of the Washington Star, there appeared an excellent analysis of the reasons why the United States is negotiating a modern treaty relationship with the Government of the Republic of Panama concerning the status of the Panama Canal.

The article was written by our chief negotiator, Ambassador Ellsworth Bunker, and is entitled: "Baring Panama Canal Myths." Ambassador Bunker is recognized as the premier negotiator and one of our most capable and talented career diplomats.

The Ambassador has articulated the substantive issues concerning the treaty negotiations, and the reasons for such negotiations, in a very effective manner. The Panama Canal has always been shrouded in myth and a perpetuation of these myths does not serve the national interests of the United States.

The Ambassador spells out the issues and the consequences of a failure on our part to negotiate a new treaty relationship with Panama and subsequent Senate ratification of such a document. I would urge my colleagues to give serious consideration to the Ambassador's article.

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 14, 1975]

BARING PANAMA CANAL MYTHS

(By Ellsworth Bunker)

The Panama Canal negotiations have evoked emotion, controversy and opposition. But I am convinced that much of this opposition stems from a number of false impressions about the basis for our presence in the Canal Zone.

Political realities make it desirable, in my judgment, to bring the negotiations to an early and satisfactory conclusion.

But our presence in the canal has a constituency among the American people—while our negotiations to solve our problem there do not. So, if we are to gain support, we must find it through candid and reasonable public discussion.

Our story begins 72 years ago. In 1903 the newly independent Republic of Panama granted to the United States—in the Hay-Bunau-Varilla Treaty—a strip of land 10 miles wide and 50 miles long for the construction, maintenance, operation, and protection of a canal between the Atlantic and Pacific.

The treaty also gave the United States—in perpetuity—the right to act within that strip of land as "if it were the sovereign."

It was quickly and widely acknowledged that the treaty favored the United States. When Secretary of State John Hay submitted the treaty to the Senate for ratification he said:

". . . we shall have a treaty very satisfactory, vastly advantageous to the United States and, we must confess, not so advantageous to Panama."

For many years Panama has considered the treaty to be heavily weighted in our favor. As a result, the level of Panama's consent to our presence has steadily declined. And by Panama, I mean not simply the government, but the Panamanian people.

The Panamanians point out:

First, that the existence of the Canal Zone impedes Panama's development. The Canal Zone cuts across the heartland of Panama's territory, dividing the nation in two. The existence of the zone curbs the natural growth of Panama's urban areas; it holds, unused, large areas of land vital to Panama's development; it controls all the major deepwater port facilities serving Panama; and it prevents Panamanians from competing with American commercial enterprises in the zone. For the rights we enjoy on Panamanian territory, we pay only $2.3 million a year.

Second, that the Canal Zone infringes on Panama's nationhood. Panama says the privileges exercised by the United States deprive their country of dignity and, indeed, of full independence. Within the Canal Zone the United States operates a full-fledged government without reference to the Government of Panama, which is its host. It maintains a police force, courts, and jails to enforce U.S. laws, not only upon Americans, but upon Panamanian citizens as well. And, the Panamanians point out, the treaty says the United States can do all these things forever.

Panamanian frustration over this situation has increased steadily over the years, as shown by the riots and demonstrations of January 1964.

In our negotiations, we are attempting to lay the foundations for a new—a more modern—relationship which will enlist Panamanian cooperation and better protect our interests.

Unless we succeed, I believe that Panama's consent to our presence will continue to decline—and at an ever more rapid rate. Some form of conflict in Panama would seem virtually certain, and it would be the kind of conflict which would be costly for all concerned.

We should understand that the canal's physical characteristics make it vulnerable. The canal is a narrow channel 50 miles long. It operates by the gravity flow of water and depends for its efficient operation on an integrated system of locks, dams, and other vital facilities. At best, it is susceptible to interruption, and interruptions would mean reduced service to world shipping and lower revenues.

But the most enduring costs of confrontation over the canal would not be commercial. Our Latin American neighbors see in our handling of the Panama negotiations a test of our political intentions in the hemisphere. Moreover, the importance of the canal, and our contribution to it, are recognized throughout the world. It is a measure of the respect in which we are held that people everywhere expect the United States to be able to work out an arrangement with Panama that will guarantee the continued world community. We can, I suggest, create operation of the canal in the service of the an example for the world of a small nation and a large one working peacefully and profitably together.

Were we to fail—particularly in light of the opportunity created by the negotiations so far—we would in a sense be betraying America's wider, long-term interests.

The plain fact of the matter is that geographically, history, and the economic and political imperatives of our time compel the United States and Panama to a joint venture in the Panama Canal. A new arrangement based on partnership promises a greater assurance of safeguarding our interest in a canal that is open, safe, efficient, and neutral.

The real choice before us is not between the existing treaty and a new one but rather between a new treaty and what will happen if we should fail to achieve a new treaty. These, then, are some of the political realities we face in Panama.

We must face political realities here at home as well. We know that a treaty must receive the advice and consent of the Senate of the United States. And we expect that both houses of Congress will be asked to approve implementing legislation.

There is opposition in Congress to a new treaty; it reflects to a considerable degree the sentiments of many citizens. Our job is to make sure that the public and Congress have the facts they need if they are going to make wise decisions about the canal.

Unfortunately, the basis for our presence in the zone is widely misunderstood. Indeed, a number of myths have been built up over the years—about Panama's intentions and capabilities, about the need for perpetuity, and, most important, about ownership and sovereignty. We need to replace these myths with an accurate understanding of the facts.

First, there is the matter of Panama's intentions and capabilities—and the suggestion that a new treaty will somehow lead to the canal's closure and loss. The fact is that Panama's interest in keeping the canal open is far greater than ours. Panama derives more income from the canal than from any other single revenue-producing source.

Even so, some argue, canal operations would suffer because Panamanians lack the technical aptitude and the inclination to manage the operation of the canal enterprise. No one who has been to Panama and seen its increasingly diversified economy can persuasively argue that the Panamanians would not be able to keep the canal operating effectively and efficiently.

And Panama's participation in the canal can provide it with a greater incentive to help keep the canal open and operating efficiently.

In fact, the most likely avenue to the canal's closure and loss would be to maintain the status quo.

Second, there is the notion that the canal cannot be adequately secured unless the U.S. rights there are guaranteed in perpetuity—as stipulated in the 1903 treaty.

I can say this: To adhere to the concept of perpetuity in today's world is not only unrealistic but dangerous. Our reliance on the exercise of rights in perpetuity has become a source of persistent tension in Panama. And clearly, an international relationship of this nature negotiated more than 70 years ago cannot be expected to last forever without adjustment.

Indeed, a relationship of this kind which does not provide for the possibility of periodic mutual revision and adjustment is bound to jeopardize the very interest that perpetuity was designed to protect.

Third and finally, there are two misconceptions that are often discussed together: ownership and sovereignity. Some Americans assert that we own the canal; that we bought and paid for it, just like Alaska or Louisiana. If we give it away, they say, won't Alaska or Louisiana be next?

Others assert that we have sovereignty over the Canal Zone. They say that sovereignty is essential to our needs—that loss of U.S. sovereignty would impair our control of the canal and our ability to defend it.

I recognize that these thoughts have a basic appeal to people justly proud of one of our country's great accomplishments. The construction of the canal was an American achievement where others had failed; every bit as great an achievement for its era as sending Americans to the moon is for ours.

But let us look at the truth about ownership and sovereignty. The United States does not own the Panama Canal Zone. Contrary to the belief of many Americans, the United States did not purchase the Canal Zone for $10 million in 1903. Rather, the money we gave Panama then was in return for the rights which Panama granted us by the treaty. We bought Louisiana; we bought Alaska. In Panama we bought not territory, but rights.

Sovereignty is perhaps the major issue raised by opponents of a new treaty. It is clear that under law we do not have sovereignty in Panama. The treaty of 1903 did not confer sovereignty, but speaks of rights the United States would exercise as "if it were the sovereign."

From as early as 1905, U.S. officials have acknowledged repeatedly that Panama retains at least titular sovereignty over the zone. The 1936 treaty with Panama actually refers to the zone as "territory of the Republic of Panama under the jurisdiction of the United States." Thus our presence in the zone is based on treaty rights, not on sovereignty.

It is time to stop debating these historical and legal questions. It is time to look to the future, and to find the best means for assuring that our country's real interests in the canal will be protected.

What are our real interests?

We want a canal that is open to all the world's shipping—a canal that remains neutral and unaffected by international disputes;

We want a canal that operates efficiently, profitably, and at rates fair to the world's shippers;

We want a canal that is as secure as possible from sabotage or military threat; and

We want fair treatment for our citizens in the Canal Zone.

The negotiations we are now conducting with Panama for a new treaty will insure that all these interests of our country are protected.

In early 1974 Secretary of State Kissinger went to Panama to initial with the Panamanian foreign minister a set of eight "principles." The best characterization of these principles came from the Chief of Government of Panama. He said they constitute a "philosophy of understanding." Their essence is that:

Panama will grant the United States the rights, facilities, and lands necessary to continue operating and defending the canal; while

The United States will return to Panama jurisdiction over its territory; and arrange for the participation by Panama, over time, in the canal's operation and defense.

It has also been agreed in the principles that:

The next treaty shall not be in perpetuity but rather for a fixed period;

The parties will provide for any expansion of canal capacity in Panama that may eventually be needed; and

Panama will get a more equitable share of the benefits resulting from the use of its geographic location.

Since then, major issues have been identified under each of the principles, and we have reached agreement in principle with the Panamanians on three issues:

Jurisdiction. Jurisdiction over the zone area will pass to Panama in a traditional fashion. The United States will retain the right to use those areas necessary for the operation, maintenance, and defense of the canal.

Canal Operation. During the treaty's lifetime the United States will have the primary responsibility for the operation of the canal. There will be a growing participation of Panamanian nationals at all levels in day-to-day operations in preparation for Panama's assumption of responsibility for canal operation at the treaty's termination.

The Panamanian negotiators understand that there are a great many positions for which training will be required over a long period of time and that the only sensible course is for Panamanian participation to begin in a modest way and grow gradually.

Canal Defense. Panama recognizes the importance of the canal for our security. As a result, the United States will have primary responsibility for the defense of the canal during the life of the treaty. Panama will grant the United States "use rights" for defending the waterway; and Panama will participate in canal defense in accordance with its capabilities.

Several other issues remain to be resolved. They concern:

The amount of economic benefits to Panama;

The right of the United States to expand the canal should we wish to do so;

The size and location of the land and water areas we will need for canal operation and defense;

A mutually acceptable formula for the canal's neutrality and nondiscriminatory operation of the canal after the treaty's termination; and

Finally, the duration of the new treaty.

Quite obviously, we still have much to do to resolve these issues. Although we have no fixed timetables, we are proceeding with all deliberate speed. We are doing so with the full support of the Department of Defense. Indeed, our most senior military officials regard the partnership we are attempting to form as the most practical means of preserving what is militarily important to our country respecting the Panama Canal.

America has always looked to the future. In the Panama Canal negotiations we have the opportunity to do so again:

To revitalize an outmoded relationship;

To solve an international problem before it becomes a crisis; and

To demonstrate the qualities of justice, reason, and vision that have made and kept our country great.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous agreement morning business is closed.

ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed to the consideration of the conference report on H.R. 5900 which the clerk will report by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of December 8, 1975, at page 39119.)

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WILLIAMS. Mr. President, as Members of the Senate know, there are two titles to this bill as it passed the Senate. On the one hand there is title II which introduces a new pattern for collective bargaining to the building and construction industry and which will undoubtedly have long-term effects on labor-management relations in that industry. There can be no doubt that it is a worthy experiment and I believe it will be a singular contribution to the health of that industry.

I am pleased to say the committee on conference adopted title II of the bill as it passed the Senate with only minor technical amendments.

With respect to title I, however, there were more considerable disagreements and, therefore, this review will begin by discussing the three major points of contention in that title.

The House bill would have gone into effect after 90 days with respect to all construction. Title I of the Senate bill would not have been applicable to construction work which was contracted for and actually begun on or after November 15, 1975.

This difference was resolved by making title I applicable to such construction but delaying its effective date depending on the gross value of the construction work already underway on November 15, 1975. Where that gross value is $5 million or less, the effective date is 1 year after the effective date of title I, that is, 90 days plus 1 year after the date of enactment.

With respect to construction work of a gross value of more than $5 million, the effective date is delayed by 2 years, that is, 90 days plus 2 years after the date of enactment of the bill.

The purpose of the provision in the Senate bill is to protect owners who had already entered into contracts for construction work with the general contractor and the general contractor who had already contracted out work to subcontractors, so long as the contract was let out and the work had begun prior to November 15, 1975.

The conferees arrived at the solution that I have just outlined on the understanding that a substantial majority of the work contracted for and begun prior to November 15 could be complete within the insulated period that was provided for in conference. Moreover, the conferees were influenced also by the advisability of providing a clear and definite cutoff date in order to avoid the serious administrative difficulties that would otherwise have been encountered.

The House bill was applicable to construction regardless of its character. The Senate bill excluded from the provisions of the bill construction of the residential structures of three stories or less without an elevator.

This difference was resolved by adopting a new section 8(j) which makes the protection for common situs picketing granted by the bill applicable to the construction of three levels or less when it is performed by a general contractor or owner-developer—whom we refer to throughout this section as the employer—who has not in the preceding year performed $9.5 million of gross volume of construction, whether residential or commercial, or otherwise in his own capacity, or with or through any other person.

The purpose of this exception was stated by the sponsors in this body to be for the protection of small businesses, and the $9.5 million figure was chosen because it is the definition of a small contractor as determined by the Small Business Administration.

In order to account for changes in the value of money, this figure will be subject to annual adjustment by the Secretary of Labor. This will exempt approximately 80 percent of contractors involved in the construction of all types of residential housing.

Because the intent is to protect genuinely small businesses, in harmony with the general philosophy and method of the bill, it is the contractors' gross volume in any capacity in any construction enterprise in which he enjoys "the power of common ownership or financial control." The standard to be applied "for evaluating such exercise of power," is as properly stated by the Court of Appeals, for the District of Columbia Circuit "whether, as a matter of substance, there is the arm's length relationship found among unintegrated companies."

The House bill provided that common situs picketing could be directed at the employees "of the employers primarily engaged in the construction industry."

Title I of the Senate bill provided that such picketing could be directed at the employees of any "person".

The conferees agreed on the House language with an amendment so that the bill now provides that picketing may be directed at the employees of "any employer primarily engaged in the construction industry on the site."

In committee, we rejected the House language on the theory that it would undermine the rule that is stated in *Steelworkers* v. *Labor Board,* 376 U.S. 492, a 1964 decision known as the Carrier case.

During the conference, it became clear that we had misunderstood the intention of the House. The House language was designed simply to assure that an industrial employer engaged in painting, renovation, or repairs of his own premises with his own employees would not be affected by the change in the law made by H.R. 5900. It was also intended that the bill would leave untouched an industrial employer who engages in the construction of an addition to his own plant or other facility, and who acts as his own general contractor, and, not through a subsidiary or subdivision devoted to construction work, who mans the construction job with a work force primarily composed of his own regular long-term employees and not individuals hired only for that project.

That was the intent of the House as it was explained by Members of the other body in our meeting in conference and as is stated in the manager's report and is further amplified on the floor by the gentleman from Minnesota, Mr. QUIE.

The gentleman from Minnesota was the conferee most instrumental in convincing the Senate conferees to accept the House language with the amendment that I have already noted.

With this understanding it became clear to us that this limitation on the reach of H.R. 5900 is similar to the other legislative compromises that were made in the bill: Those relating to the construction of residential structures by small contractors, to employers who received work under State separate bidding laws, and to work done by organized industrial employees on a construction site.

Mr. President, the Denver Building Trades decision permitted employers to manipulate corporate forms and thereby to all but extinguish the right of construction workers to appeal to each other in the effort to maintain their union status and union standards. None of the exemptions to the bill permit that form of manipulation. Moreover, as the statement of the managers indicates, the laws declared in the Carrier case remain undisturbed.

The right to appeal to all those approaching the site of a primary dispute "whose mission is selling, delivering, or otherwise contributing to the operations which a strike is endeavoring to halt," rests on the "primary picketing" proviso added to the law in 1959. That proviso and the law construing that proviso which the Supreme Court has developed are not altered.

Thus, after the provisions of title I have been added to section 8(b)(4), picketing of a separate gate reserved for deliverymen will be a violation only if the deliveries are destined solely for an employer or employers who are neutrals rather than for primary employers in the dispute.

The House's desire not to have H.R. 5900 apply to the industrial employers doing work on their own premises with their own employees that I have described did not appear to the Senate conferees to be an unreasonable one. We, therefore, acceded to that desire.

But the right to use the primary picket line at the site of the dispute to "apply economic pressure by halting the day-to-day operations which the strike is endeavoring to halt"—and its corollary that picketing "becomes illegal secondary activity only when it interferes with business intercourse not connected with the ordinary operation of the employer"—is at the heart of the act. We could not in good conscience have compromised that principle, and we did not do so.

Thus, on every major issue the Senate conferees were successful in preserving the essential provisions of the Senate bill, and doing so without permitting their dilution. This is true also of the less critical matters as to which there was a disagreement between the House and the Senate.

In general, both titles I and II of the Senate bill embodied substantial drafting and structural improvements. As I have indicated, almost every one of these was accepted in conference.

The result is the conference report embodies legislation which is tighter, more carefully defined, and somewhat more limited in scope than either House or Senate bills.

The compromises have had been accomplished without undermining the basic principles stated in both title I and title II of the legislation.

To cite one instance, during the floor debate, the Senator from California (Mr. CRANSTON) and I discussed the impact of the bill when a dispute occurs on a construction site at a Veterans' Administration hospital. I wish to assure the Senate that the understanding stated in that colloquy is preserved in the conference report.

Mr. President, this measure more than meets the specifications President Ford requested when he met with some of us last July to discuss these issues.

The bill contains the situs picketing amendments in title I. Title II of the bill contains the collective-bargaining amendments, and these are virtually as presented by the administration.

Moreover, there are additional restrictions on the situs picketing approval that should be noted as placing limitation on the use of this right that were not included in the bill as introduced.

Mr. President, I believe Congress has met its commitment to the President, and I certainly hope the President will see fit to honor his agreement and approve this measure with the amendments it now contains.

Mr. President, I noted in my earlier remarks that title I of this bill would have the effect of adding to the complexity of the already labyrinthine section 8(b)(4) of the National Labor Relations Act. Moreover, title II of the bill introduces novel procedures to assist in the peaceful settlement of disputes in the construction industry.

Mindful of our responsibilities as the sponsors of this legislation, the able ranking minority member of the Committee on Labor and Public Welfare, the most able and distinguished Senator from New York (Mr. JAVITS) and I have prepared a section-by-section legal analysis for presentation to the Senate at this time, together with a summary of that analysis stated in layman's terms. Only a few prefatory remarks to the section-by-section analysis appear to me necessary at this point. Title I is addressed to the problems created by the Supreme Court's decision in the Denver Building Trades case. In drafting and explaining this legislation, we have attempted to focus on that problem. However, an exact correlation between the scope of the Denver case and the scope of the law made by title I of H.R. 5900 has not proved possible. There are several reasons for this.

First, the Denver Building Trades decision is part of the overall body of secondary boycott law. To make clear what economic activity is permitted by the bill, we have been required to place this legislation in its context.

Second, title I does not simply overrule the Denver Building Trades decision. During the course of the legislative process we have accepted certain limitations and exceptions to the right to engage in what is deemed primary activity under the bill. In order to define the scope of these limitations and exceptions, it has been necessary for us to address subjects somewhat far afield from that of secondary boycotts.

Third, where judicial or administrative interpretation has left the present law uncertain, we have felt it necessary to state our understanding of the original legislative intent, in order to assure that this bill be interpreted according to what we regard to be the correct view. On the other hand, we have taken pains at some cost to legislative brevity to make clear that the unfair labor practice provisions not dealing with secondary boycotts remain intact. And, of course, since the focus of the bill is on work at construction sites, those unfair labor practices which were not intended to relate to that industry—the basic prohibition of section 8(e), its companion 8(b)(4)(A) and the original section 8(g) remain unchanged. But, in every instance we have limited ourselves to issues squarely raised by the expanded scope of legislation itself. To make sense of the resulting complex whole, it will be helpful to restate the essential principle underlying all that we have done.

Senator TAFT explained the purpose of the original prohibition against secondary boycotts as being to protect a third person "who is wholly unconcerned in the disagreement between an employer and his employees." While the performance of the Board and the lower courts in applying this "primary-secondary dichotomy" has not always been faithful to the neutrality principle, the dichotomy has been correctly understood and applied by the Supreme Court from the *General Electric* decision 366 U.S. 667 through *NLRB* v. *Operating Engineers*, 400 U.S. 297. That dichotomy was reaffirmed in explicit statutory terms in the primary picketing proviso to section 8(b)(4)(B) which informs the whole law of secondary boycotts. See for example, the *National Woodwork case*, 386 U.S. 612, 624, 632–633.

The governing philosophy of the bill is to restore to this law of secondary boycotts a test of neutrality in the construction industry which depends upon the economic realities of the industry independent of corporate form or identity, or whether for some reason, the general contractor chooses to engage a subcontractor to perform work. The Denver Building Trades case, which gave insufficient weight to the interdependence of all the contractors on a construction site, is disapproved. The general contractor and the subcontractors who are engaged at the construction site are to be treated as a single person for the purpose of the secondary boycott provisions of the act.

In essence, a primary dispute with one is to be deemed as a primary dispute with all. The workers' right to engage in primary activity carefully preserved in sections 7 and 13 of the act should not be subject to diminution by concerned employers' internal and external business arrangements. This same approach has governed in working out particular compromises.

Most notably, the compromise reached in the conference to exempt some light residential construction from the bill provides that in determining a general contractor's gross volume of construction, work done "in his own capacity or with or through any person" shall be included. To cite just one other example, precisely to prevent industrial or retail employers from taking advantage of the decision not to permit inducement of employers not "primarily engaged in the construction industry on the site" to become a little more than normal general contractors, the House language in this regard was agreed to only pursuant to the understanding that the construction work could not be done through the normal construction industry pool of craftsmen or by utilizing a corporate subsidiary or subdivision that is mainly devoted to construction work.

Normally, the building trades reserve the picketing weapon for the protection of their work rather than to support their wage demands. Thus, it is appropriate to note that the motivating policy of H.R. 5900 is to permit the building trades to utilize their economic weapons in order to combat the depression of their working conditions and the undermining of their organization by nonunion employers. The following represent the paradigm class of situations in which picketing against all the contractors on the situs shall be lawful. First, picketing to protest the general contractor's use of one or more nonunion subcontractors; second, picketing by a union or union which represents some or all of the general contractor's employees in support of a demand for an agreement requiring the general contractor to use only union subcontractors for onsite work; finally, picketing to protest the payment of substandard wages or the maintenance of substandard working conditions.

Mr. President, I ask unanimous consent that this analysis and summary be printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAMS. We have also prepared a detailed statement in reply to a recent legal memorandum concerning S. 1479 which was prepared by two lawyers in response to a request by the Senator from Nevada (Mr. LAXALT), a member of the committee. That memorandum, which we believe includes several erroneous statements concerning the bill has received wide circulation and has been reported in the press. It is our view, therefore, that we also have an obligation to respond to these statements at this time.

Mr. President, I ask unanimous consent that our rebuttal to this document, together with a copy of the document itself be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2).

Mr. WILLIAMS. Mr. President, I will yield the floor at this time, but I will say that I know there are members who support the legislation and who were active in conference who will at a not too much later time seek recognition.

EXHIBIT 1

EXPLANATION OF THE CONFERENCE AGREEMENT ON H.R. 5900

H.R. 5900 both modifies construction union picketing rights and reforms collective bargaining in the construction industry. Title I establishes the right of construction workers to picket effectively in support of lawful goals in a labor dispute. Under Title II, the process of collective bargaining in the construction industry has been restructured to make it more responsive to the need for stable labor-management relations.

Under Title I of the bill, construction workers will have the right to picket an entire construction site, just as workers are now permitted to picket entire manufacturing, warehousing, and other types of job sites.

The bill conforms construction industry picketing rights with the original intent of the secondary boycott provisions of the Taft-Hartley Amendments to the National Labor Relations Act. It overrules administrative and judicial case law that misinterpreted that intent for nearly 25 years. This case law is based upon a 1951 Supreme Court ruling that the general contractor and subcontractors on a building site are separate businesses; therefore, they are to be treated as neutrals with respect to each other's labor controversies. Accordingly, under present law a union having a controversy with one subcontractor cannot picket the other contractors and subcontractors at the job site without engaging in a prohibited secondary boycott.

In most cases, in fact, a construction project is a single, coordinated and integrated economic enterprise. Contractors and subcontractors are jointly engaged in a common venture. The daily tasks of one are closely related to the normal, day-to-day operations of all others at the site. Thus, the employers who are working together at a construction site are not the uninvolved neutrals in each other's labor disputes that the Taft-Hartley Amendments were designed to protect and they should not be treated as such for purposes of the secondary boycott provisions.

The basic purpose of the bill is to bring the law into conformity with this reality. In essence, the legislation merely states that contractors and subcontractors are to be treated as an integrated enterprise and that, when there is a labor dispute, the union having the dispute is to be allowed to engage in normal, peaceful primary picketing at the entire site of the dispute.

In order to insure that this permission does not include activity that is presently unlawful, the bill explicitly states that it is not to be construed to permit picketing of an entire construction site when:

The labor dispute is "unlawful under this Act (National Labor Relations Act, as amended) or in violation of an existing collective bargaining contract" between the picketing employees and their employer;

The object is to force another union's members off the job;

It discriminates against any employee on the basis of sex, race, creed, color, national origin, labor union membership or because union membership has been denied or terminated;

The picketing is for the purpose of committing any other unfair labor practice as defined in Section 8(b) of the Act;

The picketing is for the purpose of engaging in a "product boycott."

The bill also provides that where picketing at a construction site is carried on for the purposes of organization or recognition, the NLRB must conduct an expedited election, and certify the results thereof, within 14 days after a petition and a charge have been filed.

One major exemption is included in the bill. Contractors engaged in building residential structures and whose gross volume of construction for the preceding taxable year was $9.5 million or less, will be exempted from the provisions of the legislation on sites involving structures of "three residential levels or less."

In order to minimize labor strife at construction sites and to encourage peaceful resolution of disputes, the legislation provides a cooling-off period during which the international union and Federal mediators can use their best efforts to resolve the dispute. Thus, the amendment prohibits picketing of an entire site until:

The striking union has given 10 days advance notice to all employers and labor organizations engaged at the site to the international labor organization with which the local is affiliated, to the general contractor, and to the National Construction Industry Collective Bargaining Committee;

(In event the site is a military facility) 10 days advance notice also has been given to the Federal Mediation and Conciliation Service, to any equivalent State agency, and to the government agencies concerned with the particular facility; *and*

The striking union has received written authorization from its parent national or international union.

Further, the bill also restricts what would otherwise be valid primary activity in order to recognize overriding competing interests. Therefore, it does not permit common situs picketing:

Against employers who have been awarded separate contracts pursuant to the requirements of State separate-bidding laws regulating public construction, or

Where there is an organized employer at the construction site who is not primarily engaged in construction work at the site, e.g., an industrial employer. (In this situation, his employees may enter the site through a separate gate, and that gate may not be picketed), or

To induce any individual to strike whose employer is not engaged primarily in the construction industry on the construction site other than those making deliveries, etc. at the site to such employers with whom there is a primary dispute.

The bill also specifically affirms the authority of the courts to enjoin picketing in violation of no-strike agreements over issues which are subject to resolution through final and binding arbitration.

Finally, Title I of H.R. 5900 exempts construction work on which work had actually begun on November 15, 1975 in the following manner:

Construction work valued under $5 million shall be exempted for the first year after the effective date;

Construction work valued over $5 million shall be exempted for the first two years after the effective date.

In sum, Title I contains a carefully designed and limited right to engage in primary activity for workers in the construction industry comparable to that which the National Labor Relations Act permits in other sectors of the workforce.

Title II of H.R. 5900 contains provisions designed to reform collective bargaining in the construction industry by establishing a national focus on contract negotiations. Collective bargaining in the construction industry has been traditionally marked by fragmented and sometimes divisive bargaining procedures. While in large part this fragmentation is the result of the nature of the industry itself, a national coordination of such bargaining will improve both its effectiveness and its success.

To accomplish this goal, the bill establishes a Construction Industry Collective Bargaining Committee, to be comprised of twenty-three members appointed by the President, ten members representing construction contractors, ten members representing national construction unions, and three members of the public. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service (FMCS) shall also serve as ex-officio members.

The CICBC will exert direct influence over collective bargaining in the construction industry by requiring that all contract modifications and terminations become subject to review at its discretion. This process will take place in the following manner:

The CICBC must be notified 60 days prior to any contract modification or termination;

All national unions with which local unions are affiliated, and national employer organizations must also be given similar notice;

Within 90 days after the receipt of the notice of either contract termination or modification, the CICBC may assume jurisdiction over the issue;

If the CICBC takes such jurisdiction, during the 90-day period it will then work with the appropriate national unions and employer organizations to achieve a peaceful resolution of the dispute;

Once the CICBC has assumed jurisdiction and requested the participation of the international union the appropriate national or international union must approve any ensuing negotiated contract by a local union unless the CICBC withdraws such approval power.

In order to allow the collective bargaining process a chance to work effectively, during the time that CICBC has jurisdiction over a pending dispute, a mandatory "cooling-off" period is provided for.

There is no intention to establish compulsory arbitration under the provisions of Title II, or to give the CICBC authority to dictate terms and conditions to local unions in their bargaining process. However, the CICBC, by invoking jurisdiction under this Title, can act to mediate labor disputes between local unions and employers, and to involve both national unions and national employers organizations in the bargaining process. This function will, in itself, provide for more thorough and more careful bargaining, thereby increasing its effectiveness.

In sum, it is the intention of Title II of the Senate substitute to interject a body, the CICBC, with a national view of labor-management relations in the construction industry, into the local bargaining process to allow that process to flow more smoothly, and, at the same time to provide a dispassionate arbiter of local disputes.

SECTION-BY-SECTION LEGAL ANALYSIS OF H.R. 5900

TITLE I—TO PROTECT THE ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY

A. Section 101(a): Section 101(a) of H.R. 5900 takes the form of numerous additional provisos to Section 8(b)(4)(B) of the Act. The most important, and the major operative provision of the bill, is the first of these which will, upon enactment, become the third proviso to Section 8(b)(4)(E).

1. In order to facilitate a complete understanding of the effect that this main proviso added to Section 8(b)(4)(B) by H.R. 5900 will have in permitting picketing and strike activity at the common situs of a construction project, it is helpful to begin by examining various phrases of that proviso independently. The proviso states:

Provided further, That nothing contained in clause (B) of this paragraph (4) shall be construed to prohibit any strike or refusal to perform services or any inducement of any individual employed by any employer primarily engaged in the construction industry on the site to strike or refuse to perform services at the site of the construction, alteration, painting, or repair of a building, structure, or other work and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting, or repair at such site.

(a) The phrase *"Provided further*, That nothing contained in clause (B) of this paragraph (4) shall be construed to prohibit any strike or refusal to perform services or any inducement of any individual employed" is intended to reach all the means set forth in Section 8(b)(4)(i) and (ii) of the Act. The phrase "employer primarily engaged in the construction industry" within the foregoing was contained in H.R. 5900 as it passed the House and was accepted by the Conference with an amendment adding the words "on the site."

This language is designed simply to assure: that an industrial employer engaged in painting, renovation, or repairs of his own premises with his own employees would not be affected by the change in the law made by H.R. 5900; and, that the bill would also leave untouched an industrial employer who engages in the construction of an addition to his own plant or facility, who acts as his own general contractor and not through a subsidiary or subdivision devoted to construction work who mans that construction job with a work force made up predominantly of his regular long-term employees and not individuals hired only for that project. That was the House's intent as explained in Conference, and as stated in the manager's report, and as further amplified on the floor by the gentleman from Minnesota [Mr. Quie], the conferee who was instrumental in convincing the Senate conferees to accept the House language as amended. Of coures, as Mr. Quie noted to the House, if an employer is deemed "primarily engaged in the construction industry on the site" because of his "resort to the normal construction industry pool of craftsmen," this does not mean that his entire industrial facility may be picketed because of a dispute on the common construction sites. He loses the benefit of this exemption only as to the construction work, i.e. "the work of these craftsmen."

Thus, this limitation on the reach of H.R. 5900 is of a piece with the other legislative compromises that were made in the bill—those relating to the construction of residential structures by small contractors, to employers who receive work under States' separate bidding laws, and regarding work done by organized industrial employees on a construction site. The *Denver Building Trades* decision permitted employers to manipulate corporate forms and thereby to all but extinguish the right of construction workers to appeal to each other in the effort to maintain their union status and union standards. None of the exemptions to the bill permit that form of manipulation.

Moreover, as the statement of the managers indicates, the law as declared in the *Carrier case*, 376 U.S. 492 (1964) (*Carrier*) remains undisturbed. The right to appeal to all those approaching the site of a primary dispute "whose mission is selling, delivering or otherwise contributing to the operations which a strike is endeavoring to halt" (*id*. at 499) rests on the "primary picketing" proviso added to the law in 1959. That proviso and the Supreme Court law construing it are not altered. Thus, after the provisions of Title I have been added to Section 8(b)(4), picketing of a separate gate reserved for deliverymen will be a violation only if the deliveries are destined solely for an employer or employers who are neutrals rather than primary employers in the dispute.

(b) The phrase "at the site of the construction, alteration, painting, or repair of a building, structure, or other work and directed at any of several employers" adopts the language used in the construction proviso to section 8(e) of the Act which was added in 1959. Here, as there, this language is used only to distinguish work at construction sites from all other types of work, as for example, at an industrial plant. The language does not confine the activity permitted by the bill to a particular construction situs or require picketing on a situs-to-situs basis; in that sense too it is identical to what was intended by the construction proviso to section 8(e). The limitation of common situs picketing to the particular construction situs at which the dispute arises is created by other language, discussed in paragraph 2(b) of this analysis and is not present in the construction industry proviso.

(c) The phrase "and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting, or repair at such site" describes those who will be treated as a single person by virtue of the bill.

The phrase "in the construction industry" is also adopted from the construction industry proviso to section 8(e). The remainder of this clause makes clear that it is those who are jointly engaged as "joint venturers" or as "contractors and subcontractors" in the construction, etc., at such site, who are to be treated as a single person. Where the construction site is at an industrial plant (for example, an addition to a manufacturing facility), the owner of the plant will not be treated as a single person with the general contractor who is engaged to perform such construction work, or any of that general contractor's joint venturers or subcontractors. In that situation, when the dispute is with the owner of the plant and the owner establishes a separate gate for the construction workers picketing in support of that dispute against the owner of the facility can be conducted at that gate if and only if the contractors and their employees are engaged in tasks which aid the owner's every day operations. See the *General Electric* case, 366 U.S. 667, 681. Likewise, if the dispute is with the general contractor or one of the subcontractors, the owner of the industrial facility may, by establishing a separate gate for the construction employees confine the picketing to that gate and thereby insulate his own employees from that picketing. As explained in detail above (in paragraph 1(a)), certain industrial employers doing construction work on their own premises will also be permitted to set up a separate gate for their own employees doing construction work.

A special problem of application will arise in situations involving the development of a large, multi-faceted construction project such as a shopping center complex, an urban renewal project or a government facility such as Cape Canaveral which includes both NASA's Kennedy Space Center and Patrick Air Force Base. In these situations it is not unusual for several general contractors, each using one of several subcontractors, to be employed in closely related work and in the same general location. Each of these contractors, however, may be engaged in building a totally separate facility within the parameters of the entire project.

If more than one general contractor is working on a multifaceted development involving distinct and unrelated projects then common situs picketing is not permitted under S. 1479 except with respect to the single general contractor involved in the dispute and all of its subcontractors. If, however, separate general contractors are responsible for completion of an interrelated structure and the site can be considered one project then common situs picketing is permitted by S. 1479 with respect to all general contractors and their subcontractors.

Pursuant to the provisions of H.R. 5900 picketing may not be used to close down the entire site or project merely on the basis of a labor dispute with one of the contractors or subcontractors. The applicable test to determine whether the entire site may be closed down pursuant to the principles under H.R. 5900 is to identify whether the contractors or several employers in the construction industry are "jointly engaged" at the "site of construction, alteration, painting, or repair of a building, structure, or other work". In addition, the bill provides that "in determining" whether or not several employers are in fact "jointly engaged" at any site, "ownership or control of such site by a single person shall not be controlling."

Employers are engaged as joint venturers when the work each contracts to perform is related to the work contracted for by the other as part of an integrated building, structure, or other work; and the employees of one perform work related to the other. The "site" of any such work is at the geographical physical location where several employers are jointly engaged in the construction, alteration, painting or repair of a building, structure, or other work at such location, and where the employees of such employers, contractors, and subcontractors are engaged in interrelated work toward a common objective in geographical proximity to each other. This is in accord with the settled principle that the situs of a dispute with an employer is wherever he performs his day-to-day operations, be it an industrial plant, a fleet of trucks or one or more construction sites.

H.R. 5900 recognizes the economic reality that construction work on one part of a building, structure or other work is interrelated to work on other parts of a building, structure or other work. It therefore permits the union representing employees in one phase of the work to strike or picket at the construction site against several employers at that site who are jointly engaged as joint venturers or in the relationship of contractor and subcontractor when the strike raises over wages, hours, and other working conditions.

2. Other portions of Section 101(a) of the bill take the form of six further provisos to section 8(b)(4)(B) which may be conveniently considered together because, only with the exceptions to be noted, they are all designed solely to prevent the bill from being construed as a privilege to engage in conduct which is presently unlawful by reason of provisions other than the secondary boycott provisions of the law, or to forbid conduct which is presently lawful.

That such provisions relating to presently unlawful conduct add nothing to the law and are in that sense redundant was understood during the House debate on the next to last of the foregoing provisos in H.R. 5900. In urging the adoption of amendment he had proposed, Mr. Esch said:

"Mr. Chairman, I will say, if the gentleman from Michigan will yield, that it is because of the inherent sloppiness of the method of developing legislation that I think this amendment, even though some may think it is redundant will help clarify it so that H.R. 5900 very clearly states that in no way does it go beyond the intent of sections 8(a)(3) and 8(b)(2) and thus protect the individual employee in this regard."

These six provisos read as follows:

"*Provided further*, That nothing in the above proviso shall be construed to permit a strike or refusal to perform services or any inducement of any individual employed by any person to strike or refuse to perform services in furtherance of a labor dispute, unlawful under this Act or in violation of an existing collective bargaining contract, relating to the wages, hours, or other working conditions of employees employed at such site by any of such employers, and the issues in dispute involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry: *Provided further*, Except as provided in the above provisos nothing herein shall be construed to permit any act or conduct which was or may have been an unfair labor practice under this subsection: *Provided further*, That nothing in the above provisos, shall be construed to prohibit any act which was not an unfair labor practice under the provisions of this subsection existing prior to the enactment of such provisos: *Provided further*, That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is the removal or exclusion from the site of any employee on the ground of sex, race, creed, color, or national origin or because of the membership or nonmembership of any employee in any labor organization: *Provided further*, That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is to cause or attempt to cause an employer to discriminate against any employee, or to discriminate against an employee with respect to whom membership in a labor organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership, or to exclude any labor organization on the ground that such labor organization is not affiliated with a national or international labor organization which represents employees of an employer at the common site: *Provided further*, That nothing in the above provisos shall be construed to permit any attempt by a labor organization to require an employer to recognize or bargain with any labor organization presently prohibited by paragraph (7) of subsection (b): *Provided further*, That if a labor organization engages in picketing for an object described in paragraph (7) of subsection (b) and there has been filed a petition under subsection (c) of section 9, and a charge under subsection (b) of section 10, the Board shall conduct an election and certify the results thereof within fourteen calendar days from the filing of the later of the petition and the charge:"

To facilitate a complete understanding of the additional provisos, the following additional comments are necessary:

(a) The term "labor dispute", as used in H.R. 5900 was deliberately chosen to track the broad language of section 2(9) of the Act, which in turn was adopted from section 13 of the Norris-LaGuardia Act, 29 U.S.C. section 113, and covers all disputes "relating to the wages, hours, or other working conditions."

(b) The phrase "of employees employed at such site by any of such employers" is intended to preserve the Denver rule and the prohibitions of section 8(b)(4) in a single narrow situation: where there is a dispute with a subcontractor which relates only to a single site, the union will not be permitted to treat that subcontractor as the same person as the general contractor and other subcontractors at other sites. For example, if a subcontractor is under contract with the union at several sites, but fails at one site to pay the wages due the workers, or fails at that site to adhere to some other provisions of the contract, the union may engage in common situs picketing only at the site. At other sites, the subcontractor will be treated as a different person from the general contractor and the other subcontractors and Denver Building Trades will continue to apply.

The subcontractor will still be subject to strikes and picketing at the other sites which was lawful even under Denver Building Trades, for example, picketing which complies with the standards declared in Sailor's Union of the Pacific, 92 NLRB 547 (Moore Dry Dock). But for this phrase the bill would have granted the right normally enjoyed by all unions to apply economic pressure against an employer with whom they have a dispute wherever he may be found, in order to halt his day-to-day operations. However, it was decided to restrict that right to engage in a primary strike as just described. Since section 13 declares that the Act shall not be construed "to interfere with or impede or diminish in any way" the right to strike as it was understood in 1947 "except as specifically provided" this limitation is stated explicitly. This decision represents a compromise designed to confine the picketing permitted in the bill to the situs at which the labor dispute arises in the one narrow situation in which it can be said that the dispute has a specific point of origin. Earlier provisions of the Act have taken account of the special conditions in the construction industry (see section 8 (e) and (f)). This is the first in which the protections granted are limited in any way to a particular job site.

As its language should make clear, the qualification contained in the phrase "of employees employed at such site by any of such employers," of course, does not affect the right granted in the bill to picket at all job sites at which a struck employer may be found where the origins of the dispute are not so confined. Thus, where there is a dispute between a union or group of unions and a general contractor over an agreement to apply at more than one site or on future jobs it will be lawful to treat that general contractor and his subcontractors as a single person wherever they are engaged in construction activity. The same rule will apply where there is such a dispute with a subcontractor.

(c) The phrase in the proviso "and the issues in the dispute involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry" is to exclude from the protection of H.R. 5900 those disputes which involve a union which represents employees of an employer at the site who in general is not engaged primarily in the construction industry but who is so engaged on a particular site.

Here again the purpose is to write into H.R. 5900 a narrow restriction on the basic right to engage in primary picketing. And, in this instance as the prior one, the sponsors of the bill have agreed to a compromise designed to give recognition to a carefully defined competing interest. The logic of the overruling of Denever Building Trades would allow picketing to appeal to organized industrial employees at or approaching a construction site. However, in promoting the stability of established collective bargaining relationships with industrial employers and protecting the integrity of the "no-raiding" agreements that have been entered into by many unions, the most encompassing of which is contained in Article XX of the AFL–CIO Constitution, the sponsors, with the support of the labor movement, determined not to write the bill in a manner that extends common situs picketing to its full extent.

In light of the use of the phrase "employers primarily engaged in the Construction Industry on the site" in the new third proviso to section 8(b)(4) added by this bill as it emerged from Conference, the office of the proviso presently under discussion is even more restricted than it was in the Senate bill. An example will describe both the function and the limitations of this phrase: if an employed is engaged by a contractor to install some specialized equipment as part of the construction project (for example, electrical or refrigeration equipment) and that employer utilizes his own regular employees who are represented by a labor organization for this installation, H.R. 5900 would permit the use of a separate gate for those employees that the construction union could not picket.

Of course if that same employer, however, retains a general contractor who is "primarily engaged in the construction industry" for the job, picketing would be allowed consistent with the principles of 366 U.S. 667 General Electric. The employer could, thereby, set up a separate gate for the construction workers and isolate his own employees from picketing.

(d) In the consideration of S. 1479, the Senate adopted an amendment by the Senator from Maine (Mr. Hathaway) which would explicitly preserve section 8(b)(7), but which would provide for prompt representation elections among the employees of an employer on a construction site when the certain conditions are met. This amendment applies only to the construction industry and in that industry only when the union seeking recognition is engaged in common situs picketing. The last of the foregoing provisos embodies that amendment, whose meaning was amplified by the statement of the managers.

As noted in the debate on the Senate floor, in order to expedite proceedings before the Board, it is intended that the unit in which the election is to be held is to be either all the employees or all the employees in a recognized craft, depending on the union's demand, of the picketed subcontractor at the picketed construction site. The result will be that if the union wins the election the contractor will be under a legal duty by virtue of section 8(a)(5) to bargain with the picketing union with respect to that unit; if the union loses the election it will be under a legal prohibition by virtue of section 8(b)(7)(B) against picketing that employer for recognition at that construction site.

(e) Both the House and Senate versions of the bill contained provisions, in differing form, designed to assure that common situs picketing could not be undertaken with the object of causing an employer to discriminate against an employee on the basis of union membership. The conferees were able to resolve their differences over these similar provisions only by retaining the language of both versions, with the understanding that they are to be given the meaning as expressed in the earlier legislative history of each body. That history is found in the report of the Senate Committee on Labor and Public Welfare on S. 1479, Sen. Rept. No. 94-938, at page 23-24 and in the House floor debate on H.R. 5900, *Congressional Record*, daily edition, July 25, 1975, at pages 24826-24828.

3. The last of the provisos to section 8(b)(4)(B) contained in section 101(a) of the bill reads:

Provided further, That nothing in the above provisos shall be construed to permit any picketing of a common situs by a labor organization to force, require, or persuade any person to cease or refrain from using, selling, purchasing, handling, transporting, specifying, installing, or otherwise dealing in the products or systems of any other producer, processor, or manufacturer. In determining whether several employers who are in the construction industry are jointly engaged as joint venturers at any site, ownership or control of such site by a single person shall not be controlling".

This provision resolved the controversy concerning product boycotts in the following manner: The distinction made in the *National Woodwork* case (386 U.S. 612) between primary product boycotts which are lawful, and secondary product boycotts which are unlawful, is preserved. However, it will be unlawful to enforce such a product boycott by engaging in picketing which has been illegal under the *Denver Building Trades* case, which will otherwise be lawful by virtue of this bill. Other forms of primary economic activity to enforce a primary product boycott, for example, picketing which satisfies the *Moore Dry Dock* standards, continue to be lawful. Thus, this last proviso, like other provisions of the bill, preserves the *Denver Building Trades* rule in a narrow class of situations.

4. Although the term "common situs picketing" is used informally to describe the kind of picketing which is protected by the bill, that term, properly applied, refers to picketing in a variety of situations, many of which have previously been lawful notwithstanding the *Denver Building Trades* decision. For example, where the employees of employers other than the struck employer are present, the situs of the dispute, whether that situs is an industrial plant or a fleet of moving trucks, a "common situs" situation arises. In many situations, picketing will be lawful under the decisions in *Carrier* or *General Electric*, or because the *Moore Drydock* rules apply and the picketing satisfies those standards. The restrictions on the permission granted by the third proviso to section 8(b)(4) of course are not intended to make unlawful any picketing which was previously lawful even given the *Denver Building Trades* decision.

B. Section 101(b): Section 101(b) of the bill adds to the National Labor Relations Act subsections 8 (h), (i), and (j), each of which is described in turn.

1. New subsection (h) to section 8 of the National Labor Relations Act provides special procedures for determining contractor and subcontractor relationships under those State Laws containing "separate-bid" requirements. Section 8(h) provides:

"(h) Notwithstanding the provisions of this or any other Act, where a State law requires separate bids and direct awards to employers for construction, the various contractors awarded contracts in accordance with such applicable State law shall not, for the purposes of the third proviso at the end of paragraph (4) of subsection (b) of this section, be considered joint venturers or in the relationship of contractors with each other or with the State or local authority awarding such contracts at the common site of the construction."

The laws of eight states require separate bids to be let to the lowest responsive bidders for certain categories of work on public construction jobs as follows: (1) for general construction; (2) for heating, ventilating and air conditioning; (3) for plumbing work; and (4) for electrical work.

H.R. 5900 provides that when construction jobs are contracted under authority of such laws those contractors shall not be considered as joint venturers or in the relationship of contractor and subcontractor. Additionally, H.R. 5900 provides that the state or local subdivision shall not be viewed as a joint venturer or contractor for the purposes of this Act. This is also supported by the requirement of that such employers must be in the construction industry.

The sole effect of Section 8(h) is to continue the rule of the *Denver Building Trades* case to protect the employers have been awarded separate contracts pursuant to the requirements of State bidding laws. However, picketing directed at those employers which was lawful even under *Denver*, for example, picketing which satisfies the *Moore Dry Dock* standards will remain lawful.

This narrow retention of the *Denver* rule was added as an accommodation to state procurement policies. Eight states require separate bidding and direct awards by the general and subcontractors to guarantee the integrity of the expenditure of public moneys. These laws have nothing to do with labor-management relations, and make it impossible for the contractors "by design or otherwise" (*Carrier*, 376 U.S. at 501) to arrange their affairs so as to insulate themselves from disputes in which they are economically concerned. State laws which have a labor management relations objective or which permit such manipulation are not within section 8(h). For, it is not intended to destroy uniformity in the national labor policy which favors the use of peaceful primary economic weapons as part and parcel of the process of collective bargaining (*Labor Board* v. *Insurance Agents*, 361 U.S. 477, or to permit employers to arrange their affairs so as to define or limit the scope of primary activity; *see also, Carrier*, 376 U.S. at 501.).

2. New subsection (i) provides:

"(i) Notwithstanding the provisions of this or any other Act, any employer at a common construction site may bring an action for injunctive relief under section 301 of the Labor-Management Relations Act (29 U.S.C. 141) to enjoin any strike or picketing at a common situs in breach of a no-strike clause of a collective bargaining agreement relating to an issue which is subject to final and binding arbitration or other method of final settlement of disputes as provided in the agreement."

The purpose of this provision is to codify with respect to strikes and picketing at a common situs the accommodation established in *The Boys Markets, Inc.* v. *Retail Clerks Union*, 398 U.S. 235 (1970) between the Norris-LaGuardia Act, 29 U.S.C. 101, *et seq.* and sections 203(d) and 301 of the Labor Management Relations Act (29 U.S.C. 141, *et seq.*). Here again, the placement of this section should not be construed to create a new unfair labor practice.

Thus where the parties to a collective bargaining agreement have provided for a method of "final adjustment" for the settlement of grievance disputes arising thereunder as to the application or interpretation of an existing collective bargaining agreement (See section 203(d)), the Courts may, notwithstanding the provisions of section 4 of the Norris-LaGuardia Act, in a suit under section 301 issue an injunction enjoining a work stoppage at a common situs. Such injunctive relief is available only where the stoppage is over a grievance which "both parties are contractually bound to arbitrate and provided also that the other conditions declared in *Boys Markets* are satisfied, and provided further that the procedural and equitable requirements of the Norris-LaGuardia Act are satisfied. *See Boys Market*, 398 U.S. at 253-254 and *Emery Air Freight Corporation* v. *Local Union 295*, 449 F. 2d, 586, 588-589 (2d Cir. 1971).

3. New subsection (j) provides:

"(j) The provisions of the third proviso at the end of paragraph (4) of subsection (b) of this section shall not apply at the site of the construction, alteration, painting, or repair of a building, structure, or other work involving residential structures of three residential levels or less constructed by an employer who in the last taxable year immediately preceding the year in which the determination under this subsection is made had, in his own capacity or with or through any other person, a gross volume of construction business of $9,500,000 or less, adjusted annually as determined by the Secretary of Labor, based upon the revisions of the Price Index for New One Family Houses prepared by the Bureau of the Census, if the employer within 10 days of being served with the notice required by subsection (g) (2) (A) of this section notifies each labor organization which served that notice in an affidavit that he satisfies the requirement set forth in this subsection."

This provision was adopted by the Conference as a compromise between the bill as it passed the House which did not exempt any residential construction and the bill as it passed the Senate which exempted light residential construction.

The new § 8(j) makes the third proviso to § 8(b) (4) (B) inapplicable to the construction of residential structures of three residential levels or less when it is performed by a general contractor or owner developer (referred to throughout the section as the employer) who has not in the preceding year performed $9½ million of gross volume of construction, residential, commercial or otherwise in his own capacity, or with or through any other person. The purpose of this exception was stated by its Senate sponsors in this body to be for the protection of small business, and the $9½ million figure was chosen because it is the definition of a small contractor determined by the Small Business Administration. In order to account for changes in the value of money, this figure will be subject to an annual adjustment by the Secretary of Labor. While § 8(g) (2) (A) distinguishes between the general contractor and the other employers at the site, the term "employer" in § 8(j) refers uniformly and exclusively to the general contractor or owner developer if there is no general contractor.

This section is an exception to the benefit of small businessmen. It is not to be abused by the manipulation of corporate form. In determining gross volume, therefore, the NLRB and the courts are to attribute to a general contractor (or owner-developer) all amounts earned on construction in his own individual or corporate capacity and through any other entity in which he enjoys "the power of common ownership or financial control". The standard to be applied "for evaluating such exercise of power" is that stated in a decision treating this industry (*Local No. 627, Int. U. of Operating Eng.* v. *N.L.R.B.*, 518 F. 2d 1040 (D.C. Cir.)) which is, "whether, as a matter of substance, there is the arm's length relationship found among unintegrated companies."

C. *Section 101(c)*: Section 101(c) of the bill adds a new subsection 8(g) (2) to the Act which contains two notice requirements to the Act. By virtue of new section 8(g) (2) (C) these notice requirements are in addition to those presently provided in section 8(d), where 8(d) is now applicable. A failure to comply with section 8(g) will constitute a new unfair labor practice, subject to injunction under section 10(j) of the Act.

In administering § 8(g) (2), the Board should treat charges on a priority basis, move expeditiously to investigate those charges, and promptly seek injunctions under § 10(j) of the Act if it believes the issuance of a complaint is warranted. This is in accord with the intent in enacting the parallel provision, § 8(g) (1), see Sen. Rep. No. 93–766, 93rd Congress 2nd Session, PP. 4, 6–7. Because the Board's internal procedures for determining whether a § 10(j) injunction should be sought sometimes result in unnecessary delays, it is intended that, especially with respect to § 8(g) violations, the Board should modify these procedures so as to eliminate such delays.

Since there has been disagreement within the courts as to whether the standard for determining when a section 10(j) injunction should be granted is the same as the standard under section 10(l), it is intended that the courts in § 10(j) proceedings are to follow the same standard as in § 10(l) cases. The legislative judgment to make it discretionary for the Board to seek injunctions with respect to some unfair labor practices and mandatory with respect to others does not affect the judicial role when an application for an injunction is made. The language of § 10(j) dealing with the court's role is the same as the language of § 10(l): "Upon the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper."

It is helpful to describe separately the two situations in which this new unfair labor practice arises:

The new section 8(g) (2) (A) provides as follows:

"(2) (A) A labor organization before engaging in activity permitted by the third proviso at the end of paragraph (4) of subsection (b) of this section shall provide prior written notice of intent to strike or to refuse to perform services of not less than ten days to all unions and the employers and the general contractor at the site and to any national or international labor organization of which the labor organization involved is an affiliate and to the Construction Industry Collective Bargaining Committee: *Provided*, that at any time after the expiration of ten days from transmittal of such notice, the labor organization may engage in activities permitted by the third proviso at the end of paragraph (4) of subsection (b) of this section if the national or international labor organization of which the labor organization involved is an affiliate gives notice in writing authorizing such action: *Provided further*, That authorization of such action by the national or international labor organization shall not render it subject to criminal or civil liability arising from activities, notice of which was given pursuant to this subparagraph, unless such authorization is given with actual knowledge that the picketing is to be willfully used to achieve an unlawful purpose.

H.R. 5900 requires that not less than ten days prior to engaging in any primary activity as contemplated under the bill, the labor organization which seeks to engage in a strike, or a concerted refusal to perform services, must file a notice thereof before undertaking the activity to the following persons:

(1) to all unions representing employees employed at the site;

(2) to all employers engaged at the site and the general contractor at the site;

(3) to any national or international labor organization with which the movant union is affiliated; and

(4) to the Construction Industry Collective Bargaining Committee.

H.R. 5900 requires further that in order for the picketing to be undertaken, the national or international union with which the local union is affiliated must give notice, in writing, approving the proposed action by the local. Thus, in order for strike activity which is presently forbidden by the *Denver* ruling to be lawful, the union engaging in that activity must both provide written notice as outlined about and, if the union is affiliated with a national or international union, receive authorization in writing.

These provisions are designed to enhance the possibility of settling the dispute without a work stoppage. The requirement for authorization by the union's parent organization is to bring into play the mediating influence of the parent and to prevent strike activity entirely if the parent organization disapproves. There is also included a proviso which safeguards the parent union against civil or criminal liability for granting such authorization to assure that it will not be held liable for exercising a function which the national labor policy regards as desirable.

This proviso furthers the principle of section 2(13) and section 301(e) of the Act that a labor organization—like an employer—is subject to liability for illegal activity which it has not committed only if that action is authorized or ratified according to the common law doctrine of agency, and recognizes that an affiliated local union is not an agent of its parent union by virtue of that relationship or the parent's reservation of control over the activities of the local. See, e.g. *Franklin Electric Co.*, 121 NLRB 143 (1958), which follows the *Coronado Coal* cases 259 U.S. 344, and 268 U.S. 295. The immunity will be unavailable only if the international grants authorization for picketing is to be willfully used to achieve an unlawful purpose. While the proviso is phrased in terms of an immunity from liability because the parent has authorized the strike activity by the local, it is not to be inferred that it is subject to liability where it does not authorize such activity. To allow a local union or its members to sue the international for withholding approval of a strike on some extension of the duty of fair representation or the international's obligations to its locals under their constitution or on any other basis would defeat the objective of requiring notice to and approval by the international.

New subsection 8(g) (2) (B) provides:

"*Provided further*, That in the case of any such site which is located at any military facility or installation of the Army, Navy, or Air Force, or which is located at a facility or installation of any other department or agency of the Government if a major purpose of such facility or installation is or will be, the development, production, testing, firing, or launching of munitions, weapons, missiles, or space vehicles, prior written notice of intent to strike or to refuse to perform services, of not less than ten days shall be given by the labor organization involved to the Federal Mediation and Conciliation Service, to any State or territorial agency established to mediate and conciliate disputes within the State or territory where such site is located, to the several employers who are jointly engaged at such site, to the Army, Navy, or Air Force or other department or agency of the Government concerned with the particular facility or installation, and to any national or international labor organization involved is an affiliate.

When a site of construction is located on any military facility of any other facility which has as a major purpose—present or future—the development, production, testing, firing, or launching of munitions weapons, missiles, or space vehicles H.R. 5900 establishes special conditions which must be met by any labor organization which undertakes primary activity under this amendment.

These conditions require:

(1) prior written notice of intent to strike of not less than 10 days:

(2) prior written notice of intent to refuse to perform services of not less than 10 days.

The written notice of intent to undertake primary activity at any such site or installation must be given to all the parties enumerated in the proviso.

Thus, in order for strike activity at a military installation or missile site, now forbidden by the *Denver* decision, to be lawful, the union engaging in that activity must comply with written notice requirements set out above.

Since it is the theory of H.R. 5900 that the relationship between the general contractor and subcontractors in construction is primary, the "military facility" proviso does add specific limits on the right to engage in a primary strike at this particular type of site. This, nevertheless, reflects a proper exercise by the Congress of its role to declare a national labor policy to achieve the most effective labor relations. The Supreme Court has recognized the Congressional role in this regard in *Labor Board* v. *Erie Registor Corp.*, 373 U.S. 221, 234 (1963):

"While Congress has from time to time revamped and redirected national labor policy, its concern for the integrity of the strike weapon has remained constant. Thus, when Congress chose to qualify the use of the strike it did so by prescribing the limits and conditions of the abridgement in exacting detail, e.g. §§ 8(b)(4), 8(d), by indicating the precise procedures to be followed in effecting the interference, e.g. section 10(j), (k), (l); sections 206–210, Labor Management Relations Act, and by preserving the positive command of section 13 that the right to strike is to be given a generous interpretation within the scope of the Labor Act."

To the extent that the right to engage in strike activity is restricted in specified situations under H.R. 5000, the bill represents a continuation of congressional policies of setting only narrow qualifications on the use of the strike.

D. Section 102: Section 102 of the bill establishes the effective date of Title I. With respect to the construction work which was not contracted for or was not begun on or before November 15, 1975, Title I will go into effect within 90 days after the enactment of the bill. With respect to construction work which was contracted for and begun on or before November 15, 1975 whose gross value is $5 million or less, the effective date is one year after the effective date of Title I, that is, 90 days plus one year after the date of enactment. With respect to construction work of a gross value of more than $5 million, the effective date is delayed by two years, that is 90 days plus two years after the effective date of the bill. The reason for staggered effective dates contained in this section is to provide protection to owners who had already entered into contracts for construction work with general contractors and general contractors who had already contracted out work to subcontractors so long as the contract was let and the work had begun prior to November 15, 1975.

E. *Remedies:* While there has been no controversy on this subject, the section-by-section analysis would be incomplete without an explanation of the remedial consequences of the various provisions of the bill. The basic provision in what will be the third proviso to section 8(b)(4) will, of course, make lawful the conduct described, and thereby relieve unions which engage in that conduct of the sanctions for a violation of section 8(b)(4), under section 10(c), 10(l) and 303. However, picketing which does not satisfy the criteria of the third proviso, that is which does not satisfy the phrases discussed in paragraph (A)(1)(b) and (c), and which was illegal under section 8(b)(4) previously, will continue to be illegal and subject to those sanctions. The *Denver* rule and the prohibitions of section 8(b)(4) will also be preserved in the situation described in paragraphs (A)(2), (A)(2)(c), and (A)(3) discussed above. The other provisions of section 101(a) of the bill merely preserve prior law embodied in other provisions and the sanction relating to such other provisions. For example, picketing of all contractors on a construction site which is in violation of section 8(b)(7), will be subject to the remedies provided in sections 10(c), 10(l) but not in section 303. The rule of the Denver case is also preserved in the new subsection 8(h) and with respect to picketing on residential construction which is excepted by section 8(j). The remedies for a violation of 8(g) have already been separately discussed. Section 8(i) does not create a new unfair labor practice, but merely provides the circumstances under which a violation of section 301 of the act may be remedied through an employer suit for an injunction.

TITLE II—CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING ACT

A. Section 202: Findings and Purpose—

Section 202 contains findings and conclusions about the nature of the construction industry, including the need for an enhanced role for national labor organizations and national contractor associations, working as a group, to assure that such problems as bargaining structure, productivity and manpower development are constructively approached by the parties themselves.

B. Section 203: Construction Industry Collective Bargaining Committee—

Section 203 establishes the Construction Industry Collective Bargaining Committee (CICBC) consisting of ten members representing the viewpoint of employers, ten members representing the viewpoint of national labor organizations, and up to three public members representing the public. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service are non-voting members ex officio. This section provides that all action of the Committee shall be taken by the Chairman or the Executive Director on behalf of the Committee.

Subsection (c) of Section 203 provides that the CICBC may promulgate rules and regulations, as necessary, without regard to the rulemaking provisions of section 553 of the Administrative Procedure Act. The exemption from section 553, however, does not mean that other portions of that Act do not apply, as appropriate, and it is intended that the freedom of information requirements, for example, are fully applicable.

C. Section 204: Notice Requirements—

Section 204 requires that with respect to termination or modification of any collective bargaining agreement covering employees in the construction industry, unions affiliated with any standard national construction labor organization, and any employer or employer association dealing with them, must give notice to their respective national organizations 60 days prior to the expiration date of the agreement. Where the national organization is a party, it must give notice directly to the Committee. If the agreement contains no expiration date, notice must be given 60 days before the date on which a proposed termination or modification is intended by the parties to take effect. It also requires 60 days notice of proposed mid-term modifications in existing agreements. The national organizations are required to transmit promptly the notices they receive to the CICBC. During this 60-day period, which is comparable to the provisions of section 8(d) of the National Labor Relations Act, the parties to the agreement may not change the terms and conditions of the existing agreement or engage in any strike or lockout.

D. Section 205: Role of the Construction Industry Collective Bargaining Committee—Under this section, the Function of the CICBC is set out in the following seven subsections:

Subsection 205(a) authorizes the CICBC to take jurisdiction over a labor matter within a specified 90-day period.

Section 205(b) authorizes the CICBC to refer matters to national craft boards (or other similar organizations), and to meet with the parties directly.

Section 205(c) provides that once the Committee takes jurisdiction, strikes and lockouts are prohibited for a period of up to 30 days following the expiration date of the contract.

Section 205(d) authorizes the CICBC to request the participation in negotiations of the national labor and management organizations whose affiliates are parties to the matter.

Section 205(e) provides that when the Committee has taken jurisdiction and has requested participation of the appropriate national organizations, no new contract between the parties shall take effect without approval of the standard national union involved, unless the Committee has suspended or terminated the operation of this approval requirement.

Section 205 (f) limits the civil and criminal liability of national labor and contractor organizations which might be imputed to them by virtue of their participation under the Act.

Section 205 (g) states that the Act does not allow the CICBC to modify any contract.

After receiving the required notice, the Committee may take jurisdiction over the labor negotiations if it determines that such action will meet one or more of the following criteria: facilitating collective bargaining, promoting construction industry stability, encouraging bargaining agreements with more appropriate expiration dates and geographic coverage, promoting practices consistent with apprentice training skill level differentials, and promoting voluntary procedures for dispute settlement. The CICBC, in its discretion, may take jurisdiction on its own initiative or at the request of an interested party.

Once the Committee has taken jurisdiction, it may assist the parties by referring the labor matter to a national craft board, or to the national dispute procedures established by the appropriate branch of the construction industry. The Committee may also select to meet with the parties and take other appropriate action to assist the parties. Craft boards were established voluntarily pursuant to Executive Order 11588 operating under the Construction Industry Stabilization Committee. Membership was composed of representatives from contractor associations and from the international construction unions. These boards provided a preliminary review of collective bargaining agreements submitted to the CISC by the local parties, and assisted in local negotiations at the request of the CISC. Since such craft and branch boards have performed effectively in the past, the Committee expects that additional boards will be established. It is not intended, however, that the CICBC will delegate to them its principle functions of asserting jurisdiction or referring labor matters to national union and contractor organizations.

The Construction Industry Collective Bargaining Committee may request the national construction labor organizations and the national construction contractor associations whose members are directly involved to participate in the negotiations. If the Committee, after asserting jurisdiction, makes such a request, any new collective bargaining agreement or revision of an existing agreement must be approved by the standard national construction labor organization with which the local labor organization or other subordinate body is affiliated for the agreement to be of any force or effect.

In all cases, the CICBC's decision to assert jurisdiction over a construction industry labor matter, and to refer it to the national labor and contractor organizations, is confined to a specific 90-day period consisting of the 60-day required notice period, plus the next 30 days. Accordingly, if timely notice is given 60 days before the termination date of a collective bargaining agreement, the Committee's jurisdictional period will terminate 30 days after the expiration date of the contract. If the serving of the required notice is delayed, the jurisdictional period consists of the 90 days following the actual date of giving notice. If early notice is given (for example, 80 days before the expiration date) to terminate or modify the agreement on the expiration date, the CICBC may take jurisdiction during the same period as if timely 60-day notice had been given. The giving of early notice would not extend the period during which a strike, lockout, or change in terms or conditions of employment is prohibited under this Act. In the case of a collective bargaining agreement which contains a "reopener" provision (permitting negotiations over mid-term modifications of the agreement), or an agreement containing no expiration date, the jurisdictional period runs during the 90 days following the giving of notice, or the 90 days which includes and immediately precedes the 30th day after the proposed effective date of the modification, whatever is later. During the 60-day notice period, the parties are required to continue in full force and effect, without resorting to a strike or lockout, all the terms and conditions of the existing collective bargaining agreement.

In every case where the Committee has asserted jurisdiction, whether or not it has referred the matter to the appropriate national organizations, a 30-day "cooling-off" period is imposed. No party to the agreement may initiate or continue any strike or lockout prior to the expiration of the full 90-day period (the 60-day notice period plus the succeeding 30 days), unless the Committee earlier releases its jurisdiction.

When the CICBC has requested the participation of the appropriate national organizations, the national union's approval is required in the case of all agreements entered into or intended to be effective during or after the 90-day jurisdictional period. Moreover, such approval is required whether the new or revised agreement is entered into prior to, or subsequent to, the assertion of jurisdiction by the CICBS. The parties are not permitted to agree or consent, either formally or tacitly, to any changes in the terms or conditions of employment prior to national union approval of the new collective bargaining agreement. Neither party may unilaterally impose new terms and conditions of employment, except to the extent otherwise permitted by law, prior to the approval of the new agreement. If, prior to the assertion of jurisdiction, and the request for national participation, the parties have put into effect a new agreement or revision, the parties must return to the terms and conditions of employment specified in the earlier agreement upon assertion of jurisdiction and the making of such request.

As the Committee may at any time relinquish its jurisdiction, it may also separately suspend or terminate the requirement that the national union must approve any local agreement before it is permitted to take effect. The Committee is expected to scrutinize carefully the progress of the negotiations and the procedures it has invoked, and it is to suspend or terminate the approval power of the international union only when it determines that such action is necessary to facilitate the bargaining or to accomplish other purposes of the Act. It is also intended that the CICBC is authorized to offer its advice and assistance to the parties even when it does not have jurisdiction over a labor matter.

The bill, in section 205(f) limits the civil and criminal liability of national construction labor organizations and national construction contractor associations which might be imputed to them from the actions they take at the request of the CICBC. It is to be expected that their actions will, at times, include steps to restrain their subordinate bodies in the interest of collective bargaining stability and the reduction of inflationary wage agreements under the guidance of the CICBC. It is intended that civil and criminal liability should not be imposed on these organizations because, as contemplated by the Act, they have participated in negotiations, or approved or refused to approve a collective bargaining agreement, pursuant to a request of the CICBC.

This provision recognizes that, under established agency principles, the national organizations should not be held liable under this Act unless they clearly have authorized, participated in or ratified the illegal conduct. Similarly, the national organization does not become a party to or an obligor under a collective bargaining agreement to which its subordinate organization is a party unless it has expressly agreed to do so. Section 205(f) begins from these principles and adds further protections. Accordingly, under section 205(f), when a national organization participates in local negotiations at the request of the CICBC pursuant to the Act, it is not to be held liable, for example, in the event of a wildcat strike, a breach of contract strike, or misconduct by union pickets or employer agents at a picket line.

The Committee provided these protections because it concluded that they are essential if the overall purposes of the legislation are to be achieved, and that there remain countervailing protections for third persons which the bill does not limit in any way. Local organizations, employees and employer agents continue to be liable for their torts, breaches of contract and violations of statutes. The courts also retain the authority to negate any provision in a collective bargaining agreement which is unlawful whether or not the agreement has been reached under the aegis of this bill. Moreover, section 205(f) is not intended to protect actions by a national organization that are not part of and parcel of its responsibilities under section 205(e) and 205(f) and when it performs an act to willfully achieve a purpose which it knows to be unlawful.

Finally, as an additional safeguard, the bill provides that the CICBC has the power to withdraw its authorization for a national organization to participate in collective bargaining negotiations. It is the intent of this proviso that the CICBC should invoke this power to assure that the national organizations utilize the authority granted to them in a manner consistent with the objectives of the bill.

E. Section 206: Standards for Committee Action—

Section 206 sets forth the standards for the assumption of Committee jurisdiction: to facilitate collective bargaining; to improve the structure of bargaining; to promote practices consistent with the appropriate apprenticeship training and skill level differentials among the various crafts; to promote voluntary procedures for dispute settlement; or to further the purposes of the Act.

F. Section 207: Other Functions of the Committee—

Section 207 authorizes the Committee to promote and assist in the formation of voluntary national craft or branch boards; to make recommendations as deemed appropriate to facilitate area bargaining structures; to improve productivity; to promote stability of employment; to improve dispute settlement procedures; and to make other suggestions, as it deems appropriate, relating to collective bargaining in the construction industry.

Under the provisions of section 207, the resolution of disputes over the terms of new or succeeding collective bargaining agreements through voluntary labor-management procedures is favored. This intent is embodied in the provision of this section authorizing the Secretary of Labor and the CICBC to refer a dispute to a craft disputes board, where one is in existence. These craft dispute boards are generally bi-partite in composition, comprised of an equal number of representatives from management and labor, and perform a function best described as bi-partite arbitration. The decisions of these boards, when reached by a majority vote, are generally binding on both parties to a dispute. Because these craft disputes boards play a vital and a needed role in attaining industrial stability and often prevent disruptive strikes, their use under the intent of this legislation is both encouraged and supported.

G. Section 208: Miscellaneous Provisions—

Section 208 provides for enforcement action in the form of civil actions for equitable relief brought by the Committee in U.S. District Courts to enforce any provisions of the Act. It sets forth the standard of judicial review of actions and decisions of the Committee. The result of the conference is to provide that the Committee's findings must not be "arbitrary or capricious" and that its decisions and actions must not be "in excess of its delegated powers or contrary to a specific requirement of Title (II)." Section 208 further provides that nothing in the Act shall be deemed to supersede or modify any other provision of the law except as provided by H.R. 5900. Section 208 also provides that attorneys of the Department of Labor will represent the CICBC in court except for the Supreme Court of the United States.

More specifically, under the enforcement provisions of section 208, in the event that the procedures required by the Act are not followed by the parties, the CICBC may direct that the appropriate U.S. District Court be petitioned to enforce any provision of the Act, including the issuance of an injunction prohibiting any strike, lockout, or the continuation of the strike or lockout, for the period prohibited under the Act. In granting injunctive relief, the District Courts are not bound by the restrictions on injunctions contained in the Norris-LaGuardia Act of 1932.

Since it is intended that the membership of the Construction Industry Collective Bargaining Committee will include individuals with a particular familiarity with the construction industry and its labor relations issues, and since the special expertise and experience of Committee members with regard to these matters is crucial if this legislation is to achieve its intended purposes, in the event that judicial review of the CICBC's actions and decisions is sought H.R. 5900 provides that they may be held unlawful and set aside only where they are found to be arbitrary or capricious, in excess of its delegated powers, or contrary to a specific requirement of the Act.

H. Section 209: Coordination—

Section 209 authorizes other agencies and departments of the Federal Government to provide information deemed necessary by the Committee, and directs the Committee and the Federal Mediation and Conciliation Service to consult and coordinate their activities.

I. Section 210: Definitions—

Section 210 defines the terms in the Act by incorporating certain definitions set forth in the Labor-Management Relations Act of 1947.

J. Section 211: Separability—

This section provides that if any portion of Title II is found to be invalid for any reason, the remainder of the title will continue to remain in effect.

K. Section 212: Authorization of Appropriations—

This section provides that such sums may be appropriated as are necessary to carry out the provisions of this title.

L. Section 213: Expiration Date and Reports—

Section 212 provides that the Act shall expire on December 31, 1980.

The Committee is also authorized to make broad studies of collective bargaining in the construction industry and to make general recommendations with regard to bargaining structures, improvement of productivity, stability of employment, differentials among branches of the industry, dispute settlement procedures, and other related matters. The CICBC is required to submit annual reports to the Congress, and by June 30, 1980, is to make its final recommendations to the Congress, including a recommendation as to whether the Act should be extended.

EXHIBIT 2

STATEMENT OF SENATORS WILLIAMS AND JAVITS ON NASH-OBADAL MEMORANDUM ON COMMON SITUS PICKETING

A statement on the Senate Report on S. 1479 which in major part is retained in the Conference Report on H.R. 5900 was prepared for the Senator from Nevada (Mr. Laxalt) by two Washington lawyers (Anthony Obadal and Peter Nash), has been reprinted in the press, and has been circulated widely to members of Congress. (Mr. Obadal is counsel to the National Constructors Association and Mr. Nash is a partner in a leading management firm which represents various contractor associations.) Lest this statement of the bill's opponents be regarded as a guide to its meaning, we have prepared a response to that document.

Contrary to the assertion of the Obadal-Nash memorandum, the report of the Senate Committee on S. 1479 does not plow new ground on the basic issue before this body, the overruling of the *Denver Building Trades* case.

While the Senate Committee report treats the issue presented in that case in great depth, the basic points it makes are confined to that issue. This is also true of the report of the House Committee on Education and Labor and the floor statements of the House sponsors. Indeed, there is only one subject discussed in the Senate Committee report which was not contained in the bill as it passed the House, and which was not fully discussed in the House debate. This new matter is contained in the provision which will be § 8(i) of the Act and which according to Messrs. Obahal and Nash restrict employers rights "under the guise of assisting employers in obtaining injunctions against union strikes in violation of 'no-strike' clauses."

Section 8(i) is the result of an amendment offered in the Committee by the Senior Senator from Ohio (Mr. TAFT). The sponsors hesitated before accepting Senator Taft's amendment, because alone of all the provisions of the bill, it is extraneous to the central question of this legislation: the legality of picketing all the contractors at a construction site. We did accept the amendment because we believed that it served the best interests of everyone concerned with this legislation that the issue of the courts' authority to issue injunctions where a breach of a no-strike commitment is alleged, an issue which the Supreme Court has addressed twice with different results, be put to rest by legislative action.

The Obadal-Nash letter forwarding the memorandum states that § 8(i) would upset "existing law which allows injunctions." Their memorandum more accurately states that the issue with which they are concerned is not settled at all but one which is presently before the Supreme Court to resolve a conflict in the decisions of the circuit courts. And, even on that issue, they failed to state that the position of the Committee Report is to give continued effect to what the Supreme Court itself has said on the subject in its prior decisions.

There is a suggestion in the Obadal-Nash memorandum that it is somehow improper for Congress to declare what the law should be while a controversy is before the courts. This, however, completely reverses the Constitutional order of priorities. It is most emphatically the responsibility of Congress to determine the national labor policy and for the courts and the Board to enforce it. It is particularly incumbent upon us to do so where the judicial response to date manifests that those whose Constitutional role is to enforce our legislative intent are uncertain as to what that intent was. Indeed, the fact that the lower courts have had difficulty in understanding what the Supreme Court said about our intention is additional reason for us to deal with the problem at this time.

The Supreme Court first determined that the federal courts did not have the authority to issue injunctions in suits based on an alleged breach of contract. *Sinclair Refining Co. v. Atkinson* 370 U.S. 195 (1962). Thereafter, as a result of changes in the court, it was determined that an injunction could issue in a narrow class of cases, but not in others. *Boys Markets v. Retail Clerks,* 398 U.S. 235. It is that balance which the bill writes into statutory law.

A basic thrust of the Nash-Obadal memorandum is that the provisions of S. 1479 (Title I of H.R. 5900) "go far beyond its advertised purposes of providing picketing rights to construction unions equal to those now enjoyed by industrial unions". But the equal treatment concept which animates this legislation is not an advertising man's slogan. It is an entirely accurate description of what the bill does.

In 1947 Congress enacted a single provision against secondary boycotts which was to apply without distinction in all industries. During the past 25 years the Board and the Courts have turned that provision into one which contains two different definitions of who is a neutral employer. In the construction industry, each company is a neutral employer even when doing work interrelated with that being done by the struck employer. In all other industries, when a separate company does work interrelated with work of a struck employer, that employer is recognized not be the third person "who is wholly unconcerned in the disagreement" that the 1947 Congress intended to protect by providing a single definition of who is a neutral employer on a site where more than one employer is working. That definition is the "connected work" definition stated by the Supreme Court for industrial sites in *Electrical Workers v. Labor Board,* 366 U.S. 667 (1961) (*General Electric*).

Of course, the enactment of this bill would not mean that construction unions and industrial unions have exactly the same bundle of rights. For example, we have provided that construction unions must give a 10-day prior notice of an intent to engage in common situs picketing. Industrial unions are not subject to any such limitation by the *General Electric* case. Again, H.R. 5900 limits construction industry common situs picketing on the site or sites where the dispute is taking place. In contrast, *General Electric* places no limitation on the right of an industrial union to picket the employer with whom it has a dispute wherever the union can find him.

On the other hand, as the Nash-Obadal memorandum notes, other provisions of the Act give construction workers certain rights not granted to all unions representing non-construction employees.

The most important example is the right to picket for a clause requiring the general contractor to subcontract work only to union subcontractors. That right is presently enjoyed also by the garment trade unions but not by others. We have determined to continue the permission contained in § 8(e) of the Act because it provides a separate means for coping with the problem addressed by this bill. A general contractor, like a garment manufacturer, has the economic opportunity of destroying union organization by securing a contract and then subcontracting virtually all of the work to non-union employers. The purpose of § 8(e) in both instances is to provide a method for the unions in these two inherently unstable industries which are characterized by thousands of factors and in which each employer works on short-term projects, to remain organized. Indeed, common situs picketing is intended to be a second line of defense for the construction unions faced with this problem just as the broader 1959 garment industry proviso created an exception both to §§ 8(b) (4) (A) and (B) for the same reason.

The remaining three points made in that memorandum are also insubstantial. It is not necessary, however, to go through the same detailed analysis on each item. The essential point is that the differences between the rights and obligations of unions in different fields noted there is the product of considered Congressional judgment.

It is the function of Congress to make the national labor policy. There is ample room in that policy for thoughtful, realistic distinctions. Some work to the advantage of particular unions or employers and others to their disadvantage. Such consequences are inherent in the process of determining where the public interest lies. There is, however, the most fundamental difference between such legislative judgments and distinctions between different industries created by the NLRB or by the courts where there is no legislative intent to create them. Thus H.R. 5900 overrules the *Denver* case relied on by the Board and the courts in creating an impermissible distinction in the definition of neutrality in the construction industry and in all others. It leaves unaffected, except to the extent we have stated, the right to engage in primary picketing created by the bill.

The memorandum further objects that under the bill, International Unions would be granted absolute immunity against liability arising out of the exercise of the duty imposed on them to authorize or not to authorize picketing. The memorandum cites the recent case of *Wood* v. *Strickland,* 95 S. Ct. 992, which declares a narrower immunity for State officials. However, federal officials enjoy complete immunity from civil liability for actions taken in the exercise of their official responsibility. *Barr* v. *Matteo,* 360 U.S. 564; *Howard* v. *Lyons,* 360 U.S. 593. Broad immunity is particularly appropriate where, as under the bill, a private party is conscripted to perform a Federal function.

Moreover, it was never the sponsor's intent to immunize International Unions against conscious or deliberate wrong-doing. That, is made plain by the proviso added by the Senate and retained by the conferees.

The Nash-*Obadal* memorandum also states that the adoption of H.R. 5900 would adversely affect the recent Supreme Court's ruling in *Connell Company* v. *Plumbers* 421 U.S. 616. In that case, the Supreme Court agreed with the employers' argument—

"That despite the unqualified language of the construction industry proviso to § 8(e) Congress intended only to allow subcontracting agreements within the context of a collective bargaining relationship; that is, Congress did not intend to permit a union to approach 'stranger' contractor and obtain a binding agreement not to deal with non-union subcontractors".

Given the intimate interrelationship of all the secondary boycott provisions of the Act, and since the construction industry proviso to § 8(e) is an antecedent to the approach taken in H.R. 5900, the Committee Reports of both the House and Senate note and comment briefly on the *Connell* decision. The memorandum argues that that discussion "may substantially undercut the recent Supreme Court decision in *Connell Construction*". In light of that point, it is appropriate to restate the sponsors' intent on this question in some detail.

It is our considered judgment that the *Connell* interpretation of § 8(e) is wrong. The Court noted that its view was contrary to the plain language of the construction industry proviso. And it is also plain that it is contrary to the authoritative legislative history explaining the intent underlying the proviso, as we noted in the Committee Report on S. 1479, on page 12.

While this answers that part of the *Connell* decision which was the subject of the contractor memorandum, to avoid any implications from our silence it is necessary to point out also that we do not intend to approve those aspects of the decision which extend the anti-trust laws or its remedies to secondary union activity, but these do not relate to the subject matter of the bill.

Given our views, the only substantial question that the sponsors of the bill had to decide was whether or not to rewrite the construction proviso to overrule the *Connell* interpretation. Contary to the explanation of the Nash-Obadal memorandum, we determined not to do so. Our reasons are these:

Section 8(e) already clearly protects agreements requiring the subcontracting of work only to union subcontractors.

Moreover, it is our understanding that the *Connell* decision reaches only the situation, there presented, where the general contractor has no employees who perform work which is performed by members of the picketing union. It does not affect agreements entered into by a union, or unions representing some of the general contractor's employees or by a Building Trades Council on behalf of its affiliate local unions or picketing in support of efforts to serve such agreements. This is made plain at several points of the opinion 421 U.S. at 631 and *id*. at note 10, 633 and 635. Since this more usual practice remains lawful, we determined not to present an amendment overruling the narrow holding of *Connell* although its reasoning is contrary to the views of the 1959 Congress and our own.

Finally, it was our view that the basic principles upon which H.R. 5900 is based and which have been both described during the floor debate on this bill and which are articulated in the Committee Reports, should be sufficient to assure that § 8(e) is properly interpreted in the future. It is our intent to establish that a general contractor and the subcontractors working for him are a single person for the purposes of the laws regulating secondary boycotts. This is the proper rule because: it is in accord with the realities of the situation; it assures that general contractors in subcontracting work do not undermine union conditions or union organization; the permission to engage in common situs picketing is the sole permission which can be exercised only on a situs-by-situs basis; by overruling of *Denver Building Trades* while retaining § 8(e), we intend to establish that the permissions contained in this bill and in the latter provision are complementary and that the § 8(e) proviso is not a mere stopgap enacted in 1959 pending action on the matter now finally before Congress; and, as the specific reference in this bill and in the legislative history to § 8 (b)(7) demonstrates, it is that section, and not the secondary boycott provisions, that regulates economic activity to organize or obtain recognition. The views stated in *Connell* insofar as they are contrary have not deterred us because as Justice Frankfurter wrote in a related case:

"It is the business of Congress to declare policy and not this Court's. The judicial function is confined to applying what Congress has enacted after ascertaining what it is that Congress has enacted." *Carpenters' Union v. Labor Board,* 357, U.S. 93, 98.

Finally, the memorandum charges that the Committee Reports intend to alter the established meaning of § 301(e) of the Act which deals with the question of agency. The charge is entirely baseless. The Reports make perfectly clear that in 1947, Congress determined that the common law rule of agency is preserved in cases arising under the NLRA. As Senator Taft then explained:

"I think the word 'agent' used here, as used in the contract section, and as used in other places in the bill, means an agent under the ordinary rules of the agency, an agent of the labor union, the organization, as such. The fact that a man was a member of a labor union in my opinion would be no evidence whatever to show that he was an agent." (93 Cong. Rec. 4435)

The Senate Report therefore states:

"It furthers the principle of section 2(13) and section 301(e) of the Act that a labor organization—like an employer—is subject to liability for illegal activity which it has not committed only if that action is authorized or ratified according to the common law doctrine of agency, and recognizes that an affiliated local union is not an agent of its parent union by virtue of that relationship of the parent's reservation of control over the activities of the local. See, e.g., *Franklin Electric Co.*, 121 NLRB 143 (1958)."

The *Franklin Electric* case, which was cited, is the leading NLRB case applying the common law doctrine of agency to the relationship of an international union and its locals. The Contractor memorandum does not assert that the case was wrongly decided, nor is such a claim possible, since the Board was there following the doctrine laid down by the Supreme Court in the *Coronado Coal* cases, 259 U.S. 344, 395; 268 U.S. 295, 304–305 namely:

"The argument of counsel for the plaintiffs is that, because the national body had authority to discipline district organizations, to make local strikes its own, and to pay their cost, if it deemed wise, the duty was thrust on it, when it knew a local strike was on, to superintend it and prevent its becoming lawless at its peril. We do not conceive that such responsibility is imposed on the national body. A corporation is responsible for the wrongs committed by its agents in the course of its business, and this principle is enforced against the contention that torts are ultra vires the corporation. But it must be shown that it is in the business of the corporation. Surely no stricter rule can be enforced against an unincorporated organization like this. Here it is not a question of contract or of holding out an appearance of authority on which some third person acts. It is a mere question of actual agency, which the constitutions of the two bodies settle conclusively. If the international body had interfered, or if it had assumed liability by ratification, different questions would have arisen."

When Congress in 1947 adopted the common law rule of agency, it, of course, did so against the background of the *Coronado* case. Prior to *Coronado,* unions as unincorporated associations were not subject to suit; *Coronado* held that they could be sued just like corporations, and according to the same rules of vicarious liability as corporations. These proportions were codified in § 301 (b) and (e) of 1947 amendments. In other words, the liability of the international for acts of the local is patterned after that of a parent corporation for acts of a subsidiary.

As Senator Taft said:

"I admit it may be difficult to prove the responsibility of a union. It is sometimes difficult to prove in the case of an employer. If the wife of a man who is working at a plant receives a lot of telephone messages, very likely it cannot be proved that they came from the union. There is no case then. There must be legal proof of agency in the case of unions as in the case of corporations. . . ."

There is a statement in the memorandum that "The courts have interpreted this section 301(e), and its accompanying history, as restoring in the labor relations field the general rules of agency, particularly the rules of apparent authority. The innuendo is that the apparent authority of the international union to prevent illegal conduct is sufficient to establish liability. But this is not what the rule of "apparent authority" provides. As *International Longshoremen's and Warehousemen's Union* v. *Hawaiian Pineapple Company,* 226 F.2d 875, 876 (9 Cir.), cited in the memorandum, states, the rule is that a principal is liable for the act of his agent if the agent has apparent authority to perform the act; it is not that a person becomes a principal because he has apparent authority to direct the action of another. "We think section 301(e) was intended to cover the acts of officers of the union who deal with employers or with the public. That is, if a union puts or lets an officer or other representative get into a position where he can and does cause trouble proscribed by the act, then the union is responsible."

Hawaiian Pineapple correctly held that the international union could be liable for the illegal actions of its officers, agents, and representatives. It did not hold and both *Coronado* and *Franklin Electric* preclude such a holding, that the international could, by reason of its relationship with the local, be liable for the actions of the local officers or agents.

The memorandum also refers to the recent *Eazor* decision by the Third Circuit Court of Appeals, which sustained a very substantial judgment against an International Union (actually understated in the memorandum) on the basis of section 301(e). The opinion in that case does not even mention the *Coronado* cases or any of the authoritative explanations of Senator Taft we have quoted, and the memorandum understandably does not assert that that case was correctly decided. It is precisely because some lower courts have misapplied the common law rules of agency and have held the international responsible for the actions of its locals although international officers, agents, or representatives have not participated in or ratified the illegal conduct that the clarifying discussion in the Reports was indispensable to assure that this bill be applied as we intend, and to foreclose the argument that we have ratified decisions which allow liability to be imposed on some theory not approved in 1947.

It should be emphasized that the whole problem of international responsibility came into the bill and thus into the Reports only by virtue of the additional responsibility placed on international unions by Secretary of Labor Dunlop's proposal for international approval of the exercise of the right granted in the bill, which proposal the House and the Senate and the conferees have accepted.

NOVEMBER 10, 1975.

Hon. PAUL LAXALT,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR LAXALT: In accordance with your request, we are forwarding to you our analysis of the Common Situs Picketing bills presently pending in Congress. It has not been our intent or purpose to approve or disapprove of this legislation, but, rather, to set forth our understanding of the legal consequences which we believe might result from ultimate enactment of the legislation as it now stands.

As is evident from the enclosed memorandum, these bills (S. 1479 and H.R. 5900) go far beyond their advertised purpose of providing picketing rights for construction unions equal to those now enjoyed by industrial unions. Thus, while construction unions continue to be exempt from the "hot cargo" prohibition which restricts industrial union agreements, the bill permits them to go further and sanctions the use of secondary strikes to obtain and enforce such agreements. The proposed legislation also allows construction union picketing to spread to and close down not only entire construction sites, but also industrial plants or facilities located at such sites.

Further, although not originally intended, this legislation, through the interpretation being given it by the Senate Report, may substantially undercut the recent Supreme Court decision in *Connell Construction* which found restrictive union practices to be violative of the National Labor Relations Act and subject to the antitrust laws. In addition, under the guise of assisting employers in obtaining injunctions against union strikes in violation of "no strike" clauses, the bills actually restrict the employer's existing right to such injunctions, and at a time when the Supreme Court has just agreed to hear and decide the *Buffalo Forge* case which may broaden the employer's right to such injunctive relief.

Moreover, under the avowed purpose of reducing unrealistic demands and strikes by local construction unions by requiring approval of their international unions before any dispute may be spread by a local to close down an entire construction project, the Congress may be granting international construction unions extremely broad immunity from civil and criminal prosecution effecting liability on such issues as violations of no strike agreements or responsibility under the antitrust laws.

Finally, the Senate Report attempts to alter the plain meaning of Section 301(e) by contending that unions may only be held responsible for acts which they specifically authorize. This view is not supported by that Section, its legislative history, or the cases that have interpreted it.

Accordingly, there seems to be no basis in fact for characterzing this legislation as "Protecting Economic Rights of Labor" (the title of the House Report) or as providing "Equal Treatment of Craft and Industrial Workers" (the title of the Senate Report). This so-called "common situs picketing" legislation actually grants new and extensive powers to construction unions well beyond any now possessed by industrial unions. It is hoped that the enclosed analysis may be helpful to you in the determining what the bills really accomplish, which, in our judgment is far different from the "equal treatment" consequences announced and discussed by their proponents.

Sincerely,

ANTHONY J. OBADAL,
Zimmerman and Obadal.
PETER G. NASH,
Vedder, Price, Kaufman, Kammholtz, & Day.

"COMMON SITUS PICKETING" FAR MORE THAN ADVERTISED

(By Peter Nash* and Anthony J. Obadal**)

IN INTRODUCTION

S. 1479 and H.R. 5900, commonly know as the "common situs picketing bills," are presently pending before the Congress. They have been generally described by their proponents as, at last, affording construction trades unions the same strike and picketing rights as apply to all industrial unions in this nation.[1] So stated, it is difficult to argue with this principle of equality. Accordingly, it is reported that several Presidents, Secretaries of Labor and the majority of the present members of both houses of Congress have endorsed this proposed legislation as providing long denied equity to construction trades unions.[2]

Without debating whether or not the powerful construction unions need additional strike and picketing rights,[3] a detailed review of the ramifications of the present common situs picketing bills is necessary before one endorses this proposed legislation as a simple, uncomplicated grant of equal picketing rights to construction unions.

The analysis which follows indicates that the proposed legislation, in fact, grants rights and privileges to construction unions well beyond those enjoyed by industrial unions in our society.

Thus, for example, entire job sites may be picketed, and, in fact, industrial facilities may be subject to construction union picketing, because of disputes between a union and a construction subcontractor. Construction unions may engage in broad picketing to close down entire construction projects and even industrial plants and public utilities to remove a disfavored construction subcontractor from a job or to force a construction employer to recognize and bargain with a union that his employees have never voted as their bargaining representative.

Further, and without debate or warning, the legislative history carefully drafted by the Senate and House committees seeks to establish the basis for an overruling of the Supreme Court's antitrust decision in *Connell Construction Co.*[4] decided in June 1975. The Senate bill itself also seeks to prejudge an extension of the *Boys Market* doctrine, relating to union violations of no-strike agreements which the Supreme Court has recently accepted for argument but has not yet heard and decided.

Finally, the proposed legislation may confer immunity from civil and criminal responsibility upon national construction unions which goes beyond that enjoyed by any other unions and, in fact, beyond that enjoyed by public officials, including U.S. Congressmen and Senators. This provision could well allow unions exercising "approval" functions under the bill to deliberately encourage violations of the antitrust laws or violations of no-strike pacts to which they are parties without suffering any legal sanctions.

Whether these expanded rights and privileges are proper is a matter for Congress' informed judgment. The difficulty to date is that the proposed legislation has not been widely discussed or reviewed for what it, in fact, accomplishes, but, rather, has been viewed primarily as a grant of equal economic power to construction unions. Thus, both the Senate and House reports submerge the issues rather than develop an explanation of them for the guidance of the members of Congress. It is the intent of this paper to focus upon some of the specific consequences which may flow from enactment of these measures so that those who may be interested in its development may better judge its value on a more informed basis.

II. LEGAL BACKGROUND

Some back ground is required first.

A. *"Secondary boycotts" and "hot cargo" Agreements generally*—Section 8(b)(4)(B) of the National Labor Relations Act[5] prohibits union strikes and picketing which result in "secondary boycotts." This prohibition is intended to protect employers and their employees from disputes between unions and other employers. Thus, for example, if a union is bargaining with employer A (who manufacturers hammers) and strikes employer A in quest of higher wages for A's employees, it may not picket employer B (who buys hammers from A) in an effort to pressure B into ceasing its purchase of A's hammers and thereby add pressure against A so that it will more readily agree to the union's wage demands. In this example, the union has no dispute with B concerning the manner in which B treats its employees. B is a "neutral" to the union's "primary" dispute with A and may not under present law be struck or picketed by the union. Another way of stating this legal result is that B (the neutral) is "secondary" to the union's "primary" dispute with A. Thus, the term "secondary boycott" describes the statutory prohibition against union action to pressure the "secondary" to "boycott" (cease purchasing the products of) the employer with whom the union has its primary dispute. Thus, Congress adopted secondary boycott prohibitions in order to confine labor disputes to the primary parties and thereby eliminate the unfortunate economic consequences of broader pricketing activity.

Section 8(e) of the National Labor Relations Act[6] prohibits so-called "hot cargo" agreements. Section 8(e) provides that an employer and a union may not enter into an agreement whereby the employer agrees not to do business with ("boycott") another. In our example above, the union would be prohibited by Section 8(e) from agreeing with employer B that B would no longer purchase A's hammers. Section 8(e), therefore, is basically a prohibition against a union indirectly accomplishing a secondary boycott by agreeing with the neutral (secondary) employer instead of by direct striking or picketing of that neutral.

Section 8(b)(4)(A)[7] of the National Labor Relations Act prohibits any union from striking to obtain an agreement from an employer which would be unlawful under Section 8(e) (the "hot cargo" prohibition).

Finally, both the "secondary boycott" and "hot cargo" prohibitions apply to a "boycott" of services as well as goods.

B. *Construction industry exception to Section 8(e).*—

Section 8(e), however, contains an exception for the construction industry and allows an employer in the construction industry and a construction trades union to enter into a "hot cargo" agreement if that agreement relates to the contracting or subcontracting of work to be done at the site of construction. For example, construction employer B could agree with any union which represents its (B's) employees that B would not subcontract any job site work (the building of a foundation, for example) to any employer who does not have a collective bargaining agreement with a union. Further, because such an agreement would be lawful under Section 8(e), the union would not violate Section 8(b)(4)(A) by striking or picketing employer A to obtain such an agreement; Section 8(b)(4)(A) limiting its prohibition only to strikes or picketing to obtain agreements which violate Section 8(e).[8]

However, the union's pressure to obtain an agreement otherwise protected by the Section 8(e) construction exception violates Section 8(b)(4)(A) (and any agreement would violate Section 8(e)) unless that union has a collective bargaining relationship with the construction employer.[9] Thus, if a union enters into a restrictive subcontracting agreement as to construction site work with a general contractor and that union does not represent the construction employees of that general contractor, then the agreement is not protected by the construction exception to Section 8(e) and thus violates Section 8(e).[10] Accordingly, any strike or picketing to obtain that agreement violates Section 8(b)(4)(A).

Footnotes at end of article.

C. *Leading cases.*—Against this backdrop, a few leading cases need be discussed.

The first is *Denver Building Trades.*[11] In that case, the Supreme Court held that a general contractor and each subcontractor on a construction site common to them all were separate and independent employers. Accordingly, the Court held that a union, which had a collective bargaining agreement with the general contractor but had a dispute with a subcontractor who was paying his non-union employees less than union scale, could not picket the general contractor or the entire common construction site to force the general contractor to terminate the disputed subcontractor. Thus, the union must limit its picketing to the subcontractor with whom it had its primary dispute. The union could not picket the general contractor (the secondary) in an effort to force him to cease doing business with the disputed subcontractor (the primary).[12]

After *Denver Building Trades,* the Supreme Court decided the General Electric case.[13] In that case, the Court deal with a primary dispute that existed between GE and a union representing its plant employees. GE also had subcontractors working at its plant site, some of whom performed general day-to-day maintenance work for GE and some of whom were engaged in the construction of GE facilities. GE had established separate gates leading onto its premises, some for the exclusive use of its employees, the rest for the exclusive use of its subcontractors' employees. The union, in furtherance of its dispute with GE, picketed all the gates including those limited to the exclusive use of the subcontractors and their employees. The Court held that the question of whether the picketing of the subcontractor gates was a prohibited "secondary boycott" (i.e., a prohibited pressure against the subcontractors to cause them to cease working for GE) turned on whether those subcontractors were engaged in performing work which aided the employer's everyday operations or whether their (the subcontractor's) work was unconnected to the normal operations of GE. If the former, then the subcontractors' separate gates could be picketed, for as part of a lawful primary dispute with GE, the subcontractors who were assisting GE in its day-to-day operations could be urged to cease work at the common site for the duration of the dispute which involved General Electric's day-to-day operations workers. However, if the subcontractors' work was unconnected to GE's normal operations (such as work on the construction of a new building or a plant expansion), then the subcontractors were "secondaries" or "neutrals" whose gates could not be picketed to force them to cease their work for General Electric.[14]

Thereafter, construction trades unions argued that the *General Electric* rule, not the *Denver* rule, should apply to construction. Accordingly, the argument went, when a union had a dispute with the general contractor on a construction site, it should be able to picket all the subcontractors of that general who were assisting in the general's day-to-day operations. Thus, because the work of all construction subcontractors is integrated with and related to the general contractor's day-to-day work of constructing something, all the subcontractors should be subject to picketing. This argument was rejected by the NLRB and the courts on the view that the Denver rule, not the GE rule, applies in the construction industry.[15]

It is with this dichotomy that the "common situs picketing" bills are advertised to deal.

However, some additional background is required.

Since the *General Electric* case, the National Labor Relations Board and a court of appeals have held that the *General Electric* rule does not apply to industrial employers and unions in reverse. Thus, where a union has a dispute with the day-to-day maintenance subcontractor of an industrial employer (such as GE), rather than with the industrial employer as in the *General Electric* case, that union may picket only the gates set aside for the subcontractors' employees and materialmen and may not, without violating Section 8(b)(4)(B), picket the gates used exclusively by the industrial employer.[16]

III. "EQUAL TREATMENT"—WHAT IT WOULD AND WOULD NOT INCLUDE

Against this background, legislation seeking to grant construction unions the same picketing and strike rights as industrial unions and prohibiting the same secondary boycott and hot cargo restrictions as apply to industrial unions would simply result in the following:

The proposed legislation would allow a union which has a legitimate dispute with a construction general contractor to picket and strike not only that general contractor but all of his construction subcontractors whose work is related to the general's day-to-day function of constructing whatever is being built on the job site. Thus, the general contractor in such a case would be like GE in the *General Electric* case, and the subcontractors could be picketed at their separate gates because they are engaged in the primary's (GE's or the general's) day-to-day operations.

If only equality were truly intended, such legislation would not continue heretofore privileged 8(e) construction agreements[17] nor the right to strike to obtain them,[18] nor would it allow union pressure to remove a non-union subcontractor from a construction job site.[19] Further, the proposals would not sanction spreading a dispute from a subcontractor to the contractor and his other subcontractors,[20] nor to any industrial facility located at the construction site. Finally, no dispute between an industrial employer and a union would be allowed to engulf construction contractors whose work is not related to the normal operations of the industrial employer.

And yet, despite the claim that the proposed "common situs picketing" legislation is intended merely to provide equal treatment for construction unions, the present proposals may well grant to construction unions all of the foregoing additional picketing, strike, "secondary boycott" and "hot cargo" powers which are denied industrial unions. Accordingly, the present proposals should be analyzed for what they are and do, and not merely on the basis of their catchy advertising slogans. To do so, one must carefully analyze the pending bills.

IV. THE PROPOSED LEGISLATION

The basic provisions of both bills provide, in essence, that there shall be no secondary boycott violation (no violation of § 8(b)(4)(B)) where there is a strike or picketing of all employers in the construction industry (including general contractors and all subcontractors) at a construction site concerning a dispute involving the working conditions of employees on the construction site between the striking or picketing union and one of the construction employers on that site (either the general contractor or any one of his subcontractors) if the dispute with that particular employer is not otherwise unlawful under the NLRA and if the issues in the dispute ". . . do not involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry. . . ."

The various elements needed to trigger this exception to the secondary boycott prohibitions of the law would, therefore, seem to be as follows:

(1) The basic primary dispute the union has must be with an employer who is *"in"* the construction industry;[21]

(2) The dispute must relate to the working conditions of employees employed at the construction site by an employer *"in"* the construction industry;

(3) What the union seeks or does not otherwise unlawful under the NLRA;

(4) The other employers (other than the employer with whom the union has its primary dispute) struck or picketed by the union (presumably to pressure them to cease doing business with the employer with whom the union has its primary dispute) must be "in" the construction industry;

(5) The strike and/or picketing must be limited to the site of the construction project at which union has its primary dispute; and

(6) ". . . the issues in the dispute do not involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry. . . ."

Accordingly, leaving aside for the moment the technicalities which may serve to greatly expand construction union economic power beyond that of industrial unions, these basic provisions do apply the General Electric principles to the construction industry and effectively overrule the Supreme Court's holding in Denver.

If the results of the proposed legislation stopped here, equal treatment, and only equal treatment, would be afforded construction and industrial unions. However, the proposed legislation produces results far beyond those so advertised.

First, the proposed legislation does not repeal or change in any form the construction industry exemption to the hot cargo prohibitions of § 8(e).[22] Accordingly, a construction union may continue to exact agreements from general contractors whose employees the union represents which will restrict the subcontracting of on-site construction work only to union contractors. Further, the union may strike or picket the general contractor to obtain such an agreement. In no case do industrial unions have either the power to enter into, or to strike to obtain, such agreements. Even more important, however, is the fact that the construction union's strike or picketing pressure need not be limited to the general contractor from whom it seeks such an agreement, for the proposed legislation will allow this union to picket all of the subcontractors on the job site in an effort to place additional pressures upon the general contractor to sign such an agreement—an agreement that no industrial union could seek at all, let alone pressure "secondaries" to obtain.

Second, although it is presently a violation of the secondary boycott provisions of § 8(b)(4)(B) of the Act for both a construction union and an industrial union to strike or picket a general contractor to pressure him to dismiss a non-union subcontractor working on the job site, and although the clear statement is contained in the proposed bills that common situs picketing will not be allowed if the union's dispute is otherwise unlawful under the NLRA, the congressional discussion dealing with the proposed "common situs picketing" legislation clearly indicates that the legislation is intended to privilege such activity in the future by construction unions.[23] If the intent is to privilege strikes or picketing pressure to this end, then a construction union could picket a general contractor to have all non-union subcontractors removed from the job, a right that no industrial union possesses. Further, that picketing or strike pressure may be extended to all the subcontractors on the job site, again a power in the hands of construction unions far beyond the reach of any industrial union.

Third, the proposals make no distinction between, and provide no different conse-

---

Footnotes at end of article.

quences with respect to, primary disputes with general construction contractors and primary disputes with subcontractors.[24] Thus, under the Congressional bills, if a union has a legal dispute with a construction subcontractor, it may picket not only that subcontractor but the general contractor working on the construction site—a right and power not granted to industrial unions under the *General Electric* rules where a dispute with a GE subcontractor would have to be limited to the separate gate reserved for that subcontractor.

But the bills grant even more. Not only may the general contractor be picketed in such a dispute with one of its subcontractors, but all its other subcontractors on the construction site may be picketed. Again, these are rights and powers far beyond anything even contemplated for industrial unions.

Fourth, the union in question may not even represent the employees of the primary subcontractor but may picket that subcontractor and the entire job site for up to 30 days in an effort to force the subcontractor to bargain with it on behalf of its employees. Whereas industrial unions have the same right for 30 days, they must confine their picketing to the employer from whom they seek recognition and cannot expand that picketing and its pressure to "secondaries" in an effort to more effectively override employee wishes by forcing employer capitulation to union power.[25]

Finally, as earlier discussed, under *General Electric* principles no union is privileged to picket or strike an industrial employer concerning a dispute between it and a subcontractor working at the industrial site. Further, no union with a dispute between it and an industrial employer may picket the separate gates set aside for construction contractors whose construction work is not related to the day-to-day operations of the industrial facility. However, apparently the proposed "common situs" legislation will allow unions to engage in both such expanded picketing activities under certain circumstances.

These consequences flow from the fact that the phrases "employer *in* the construction industry" and "employer engaged *primarily* in the construction industry" are phrases of art, having particular technical meanings under the National Labor Relations Act.[26]

To be an "employer *primarily in* the construction industry," one's main business must be construction, such as a normal construction contractor or subcontractor.

However, to be an employer merely *"in* the construction industry," one need spend little time, effort or expense on construction work. For example, the National Labor Relations Board has held, in a relatively little known case, that an employer who operated a chain of retail, drive-in, take-out fried chicken stores was *"in* the construction industry" because, in building new stores, it employed a construction superintendent who hired, supervised the work of and paid construction subcontractors.[27] The same principle would presumably hold true for the hundreds of American industrial employers (particularly manufacturers and public utilities) whose main business has nothing to do with construction but who, in one way or another, act as their own general contractors when they engage in building projects.[29]

When one analyzes the pending common situs picketing legislation with this little known NLRB ruling in mind, the ramifications are startling.

Assume a union has a lawful dispute with a construction subcontractor. As analyzed above, the proposed bills would allow that subcontractor to be struck and/or picketed. In addition, a picketing would be allowed at the construction site of all other employers "in" the construction industry. If an industry facility acts as its own general construction contractor on an addition to its existing plant, it is *"in* the construction industry." Further, its existing plant, as well as the new addition, may all be part of the "construction site."[28] Thus, the industrial employer's entire facility could be picketed,[30] a result far beyond any existing power of any industrial unions.

Assume further that an industrial union has a dispute with the industrial employer who is acting as its own general construction contractor in the construction of a plant addition. Again, the dispute is with an "employer *in* the construction industry," and the plant facility and its addition may be the "site of construction." [31] Accordingly, it may well be that all the construction subcontractors may be picketed at their separate gates despite the fact that the dispute has nothing to do with construction work, the union involved is not a construction trades union and the construction work is unrelated to the day-to-day operations of the industrial facility.

Although the latter dispute does not involve an employer "engaged primarily in the construction industry," the only place that requirement is mentioned in the proposed legislation is in the confusing "double negative" phrase ". . . the issues in the dispute do *not* involve a labor organization which is representing the employees of an employer at the site who is *not* engaged primarily in the construction industry."

If the union with a dispute between it and the industrial employer represents the employees of the industrial employer, it appears that the union's picketing activity cannot spread to the construction subcontractors on the site. In such circumstances, the issue *would* involve a labor organization representing employees of an employer, who, although "in" the construction industry, is not "primarily in" the construction industry. If, however, the union in dispute with the industrial employer does not represent the industrial employees (but instead may be seeking to represent them by picketing the industrial employer), it appears that its picketing of the industrial employer may be expanded to include picketing of the separate gates set aside for the construction contractors. Thus, in such a case, although the issues do not involve an employer "primarily in" the construction industry, they also do not involve a union representing that employer's employees. Because the issues do not involve such a union but are related to employees employed by an employer "in" the construction industry and so employed at the construction site, apparently the union may engage in common situs picketing of the construction subcontractors.

Although this may seem extraordinary, the question of whether picketing now clearly prohibited by the GE rule can be expanded to construction work may turn, under the proposed bills, on whether the employees of the industrial employer are represented by a union or not.[32]

V. EFFECT ON RECENT AND PENDNG SUPREME COURT DECISIONS

Although the debates to date have not concentrated on the effect of the pending legislation upon two very important areas of the law (one recently and one about to be decided by the Supreme Court), the legislation itself, as well as its underlying committee reports, may well have a significant impact which as yet has not been reviewed in detail by the Congress.

A. *Connell Construction Co.*—

Just at the time that the House was about to commence hearings on its initial version of the Common Situs Picketing Bill (H.R. 5900), the Supreme Court issued its landmark opinion in *Connel Construction* v. *Plumbers Local 100,* 421 U.S. 616 (June 2, 1975). In a decision not related to the announced purposes of this bill, the Court held that a union's restrictive subcontracting agreement as to construction site work with a construction employer with whom it had no collective bargaining relationship and which was not limited to a particular job site, was **not protected** by the construction exception to § 8(e)[33] and was further subject to the antitrust laws.[34]

Although the avowed purpose of H.R. 5900 and S. 1479 is to overrule *Denver Building Trades,* as noted earlier, the legislation and its history seem to go far beyond that announced goal. So too do these bills now seem to involve and attempt to undermine the Court's decision in *Connell*. Thus, this legislation could be construed to impose, as a matter of law, the element of a collective bargaining relationship between a union and a job site general contractor—the absence of which infected the subcontracting agreement which was found violative of § 8(e) by the Supreme Court in *Connell*.

This potential is created because the House and Senate reports, rather than treating the Bill as simply creating an exception to the secondary boycott prohibitions, seeks to remove as a matter of law, the separate employer status of different contractors and subcontractors on a construction site which, pursuant to *Denver,* formed the basis of the insulation of each from the disputes of the others. Such heretofore separate employers would be treated under this Bill as one, for purposes of Section 8(b) (4) and 8(e) of the Act. Thus, as the general contractor and his subcontractors are one employer, the proposed legislation may result in the union's collective bargaining relationship with a construction subcontractor being imputed to the general contractor. As such, the general contractor and the union with whom it otherwise has never dealt as a bargaining representative of the general's employees would, as a matter of law, have a bargaining relationship sufficient to undermine the Court's holding in *Connell*.[35]

Accordingly, if the proposed legislation is to be so interpreted, then a construction union could picket a construction contractor to obtain a restrictive subcontracting agreement as to on-site construction work even though that union represents *none* of that contractor's employees—a power barred by the Court in *Connell,* and a right, far beyond that afforded any industrial union.

In addition to the basic structure of the legislation and its intended combination of construction employers into a singly employer entity, the committee reports accompanying the proposed legislation seem further to support the understanding that the legislation is, in fact, intended to undermine the *Connell* decision.

Thus, the Senate Report asserts that the result in *Connell* was contrary to the language of the construction exception to § 8(e) and suggests that *Connell* was predicated upon Denver.[36]

The inference to be drawn from the latter suggestion, presumably, is that if *Denver* is overruled by the pending legislation (as it is intended to be), then the *Connell* decision must fail. Further, in explaining § 8(e), the House Committee makes no mention of the need for a bargaining relationship.[37] In fact, the Senate Committee report seems to disavow the bargaining relationship requirement so recently established by the Supreme Court by specifically discussing the discredited *Duplex* case [38] as holding that union exemption from the antitrust laws was limited to "an immediate employer-employees relationship." [39]

Finally, the Senate Report in discussing the general contractor's position in construction, leads toward the conclusion that the proposed legislation is intended to change the result reached by the Court in *Connell*. Thus, the report states:

"If he chooses to subcontract to a nonunion subcontractor who pays less than the prevailing union wage and wins the bid for

---

Footnotes at end of article.

that reason, the contractor cannot claim 'neutrality' when the unions protest by picketing the job site."[40]

Thus, although the proposed legislation was not intended to affect *Connell* and although testimony before the Congress emphasized that the bills would not impact *Connell*[41] it seems clear that the legislation and its history are designed to undercut this decision.

B. *Boys Markets—Buffalo Forge.*

On October 20, 1975 at the United States Supreme Court ordered review of a Second Circuit Court of Appeals decision dealing with the granting of injunctions against strikes in breach of a "no-strike" commitment in a collective bargaining agreement. On October 19, 1975 the Senate Committee on Labor issued its report on S. 1479 in which it announced the unanimous committee adoption of an amendment to that bill which deals with the same subject.

That amendment provides that an employer at a common construction site may bring an action to enjoin any strike or picketing at a common construction site in breach of a "no-strike" clause, but only if the strike or picketing relates "to an issue which is subject to final and binding arbitration . . . as provided in the agreement.[42]

However, the issue to be considered by the Supreme Court in the *Buffalo Forge Co.* case[43] (the case now being considered by the Supreme Court) is precisely whether injunctive relief against a breach of a "no-strike" clause must be limited to strikes relating to issues arbitrable under the collective bargaining agreement or whether such injunctions may be granted by the Federal Courts in strike situations where there is no underlying arbitrable dispute between the striking union and the struck employer.[44] The argument that this amendment was included in order to protect employer rights under *Boys Market* fails to withstand analysis. Both the Bill (p. 4, line 14) and the Senate Report (p. 20) make clear that situs picketing is not to be permitted where the dispute is "unlawful under this Act or in violation of an existing collective bargaining contract." The so-called "right" granted employers by the amendment merely codifies for the construction industry the more restrictive view of a right which already exists under the Supreme Court's decision in *Boys Markets.*[45] The amendment does not take into account the view of some Circuits that employers may properly seek injunctions against strikes in breach of a "no-strike" clause in a collective bargaining agreement, whether or not the strike relates to an underlying issue arbitrable under that agreement.[46]

Accordingly, it may be well to consider whether the proposed amendment should be acted upon at this time (just prior to Supreme Court consideration of the issue dealt with in the amendment) and, if so, whether "no-strike" injunctions should be restricted to the most limited circumstances under which the courts already grant such injunctions. Further, if the amendment is enacted into law and if the Supreme Court holds in *Buffalo Forge* that injunctions against such strikes may be more liberally granted, construction union may again have been afforded by the pending legislation more strike and picketing rights than are applicable to other unions.[47]

VI. UNION IMMUNITY

Both H.R. 5900 and S. 1479 grant significant additional picketing and strike rights to construction union. However, the bills condition this right to expand their economic power by requiring approval by a parent union, i.e., the national or international union with whom the local is affiliated. Thus, before a union engages in strike or picketing activity which, but for the legislation under consideration, would have been an unlawful secondary boycott, that union must give 10 days written notice of its intention to do so to any national or international union with whom it is affiliated and the parent organization must authorize such activity in writing.

The proposed legislation then protects international unions from the consequence of irresponsibly approving common situs strikes by providing:

"That authorization of such action by the national or international labor organization shall not render it subject to criminal or civil liability arising from activities notice of which was given pursuant to the above proviso. . . ."[48]

Presumably this immunity clause has been added to the proposed legislation to protect conscientious but unknowing international unions from liability for acts engaged in by their local union which the international never knew about and, thus, never ratified or authorized when it approved common situs activity by that Local. Both committee reports profess that this grant of immunity is not intended to change existing law which, it is claimed, renders an international union liable for the acts of its local union only when they authorize or ratify such activity.[49]

However, the wording of this immunity proviso could allow an interpretation which would hold international unions far less accountable for acts authorized by them, and, in fact, change existing law for construction unions. The following examples indicate the abuses which may occur under this provision:

A local construction union seeks common situs picketing authority from its international union and alerts the international that it will engage in mass picketing and acts of violence in furtherance of its objective. Such acts would clearly violate Section 8(b)(1)(A) of the Act[50] as well as state criminal laws. If the international otherwise knew and approved of such violence it might well both be criminally liable and have committed an unfair labor practice under the National Labor Relations Act. However, the immunity provision in the proposed legislation may well remove its approval issued pursuant to that proviso. In fact, it would be relieved of this liability even if it encouraged the illegal violent actions by the local.

A local union seeks common situs activity permission from its international in an effort to boycott certain manufactured products which are to be used in the construction work. The international union's approval of that activity, which would be in violation of the secondary boycott provisions of Section 8(b)(4)(B),[51] again might render it immune from liability which would otherwise attach to it but for the proposed immunity proviso.

A local union seeks strike and common situs picketing authorization from its international union in violation of the "no-strike" clause in a collective bargaining agreement to which both the local union and the international are parties. Although the international union as well as the local would normally be liable for the knowing breach of that agreement, it may be that authorization, pursuant to the proviso, of the common situs activity by the local union would shield the international from liability.

An international union, in concert with a local, could knowledgeably authorize or encourage a common situs strike with the objective of achieving a goal prohibited by the antitrust laws. [See, for example *UMW* v. *Pennington,* 381 U.S. 657, 59 LRRM 2369 (1965) where the union, in conjunction with certain employers, sought to drive some coal operators out of business through the misuse of their bargaining functions.] Prosecution under the criminal law or a private suit for damage would seem to be foreclosed by the immunity provision.

Accordingly, if the proviso is to be construed to grant immunity to international unions from liability for any activity that authorize pursuant to its provisions, then the proviso could become a useful mechanism by which construction international unions may shield themselves from liability and responsibilities which confront industrial unions.[52]

It is possible that Congress has not intended, nor would the courts affirm, such a broad grant of immunity to construction international unions. If so, and if what is intended is merely a limited immunity to protect international unions from suits by its members for refusal to grant common sites authority[53] and to protect them from the unlawful aspects of strikes or picketing of which they had no knowledge, then that intent should be more clearly defined.[54]

VII. THE ATTEMPT TO ELIMINATE RULES OF AGENCY

Finally, it should be noted that the Senate Report attempts to establish a "legislative" history which if left uncorrected may allow courts to alter the established meaning of section 301 (e) of the National Labor Relations Act.[55] That section provides:

"For the purposes of this section, in determining whether any person is acting as an 'agent' of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling."

The floor debates concerning this section make crystal clear that Congress did not wish the strict agency doctrines developed under Norris-La Guardia Act cases applicable to action involving violations of agreements between employers and labor organizations. [See, for example the colloquy between the then Senators Taft and Magnuson.][56]

The courts have interpreted this section and its accompanying history as restoring in the labor relations field "the general rules of agency, particularly the rules of apparent authority." See *International Longshoremen's & Warehousemen's Union v. Hawaiian Pineapple Co. et al.*, 26 F. 2d 875, 876 (CA-9, 1955). Most recently, courts awarded a judgment of over $665,000 in damages against a union based in part upon this section. See *Eazor Express Inc., supra,* 89 LRRM 3179.

The Senate Situs Picketing Report attempts to reverse the plain meaning of 301 (e). That Report states that the immunity provisions of the Bill.

". . . furthers the principle of section 2 (13) and section 301(e) of the Act that a labor organization—like an employer—is subject to liability for illegal activity which it has not committed only if that action is authorized or ratified according to the common law doctrine of agency, and recognizes that an affiliated local union is not an agent of its parent union by virtue of that relationship or the parent's reservation of control over the activities of the local. See, e.g. *Franklin Electric Co.*, 121 NLRB 143 (1958)."[57]

This history casts the present Senate in the position of disagreeing with the interpretation given Section 301(e) by the courts in cases like those cited above. Few who favor situs picketing will be aware that by their votes they may be laying the basis upon which Section 301(e) is being revised.

If the proposed legislation sought only equal rights and powers for construction unions, it would repeal the construction exception to the "hot cargo" prohibitions of § 8(e) and merely provide that a union representing employees of a general contractor engaged primarily in construction would not violate § 8(b)(4)(B) if, as part of a lawful dispute involving the working conditions of construction site employees it represents, it

---

Footnotes at end of article.

picketed that general contractor's subcontractors at that construction site. Such legislation would not allow union disputes with subcontractors to be spread to the contractor or the ultimate owner of the project (e.g., an industrial facility). It would not allow industrial disputes to be spread to a construction job site. It would not allow pressure against anyone (contractor or industrial facility) to force the removal of a non-union subcontractor. The fact that the "common situs picketing" proposal may grant all these additional rights and powers indicates that it is far more than a simple grant of equity to construtcion unions.

Further, the attempt through committee report language to thwart the recent Supreme Court decision in *Connell* as it affects the construction industry as well as the apparent attempt to grant extraordinary civil and criminal immunity to construction unions, go far beyond any proposal required to grant equality to the nation's construction unions. Finally, the attempt to limit injunctive relief in construction site strikes at a time when the Supreme Court is about to consider that issue as to all industries may result in another indirect grant of economic power beyond that available to industrial unions.

Clearly, then, the "common situs picketing" legislation does far more than provide equal rights to construction unions. The proposals, in fact, would grant construction unions rights and economic powers far beyond those accorded industrial unions in our nation. It may be that the Congress, either consistent with what it believes to be sound labor policy[58] and/or as a result of the extraordinary political power of the nation's construction unions, will see fit to enact such legislation. However, it should not do so with the idea that it is granting "equal rights" as its proponents slogan indicates. It should, it is submitted, understand the broad and extensive new powers it would be granting the already powerful building trades unions of this country.

FOOTNOTES

*Mr. Nash is presently a partner in the law firm of Vedder, Price, Kaufman, Kammholtz & Day. He previously served as General Counsel of the NLRB from 1971–1975.

**Mr. Obadal is presently a partner in the law firm of Zimmerman & Obadal. He previously served as the labor relations counsel for the U.S. Chamber of Commerce.

[1] See generally, H. Rep. No. 94–371, 94th Cong., 1st Sess., 1, 5, 9, 19 (herein "H. Rep.") and S. Rep. No. 94–438, 94th Cong., 1st Sess., 1, 4, 13, 15, 65, 69 (herein "S. Rep."). See Cong. Rec. p. 22657 (July 14, 1975). See Statement of Robert A. Georgine, President, Building and Construction Trades Department, AFL–CIO, before House Labor Subcommittee, BNA, DLR, pp. E–1—E–3 (June 5, 1975). The House Committee on Education and Labor specifically stated that the enactment of H.R. 5900 would not give workers in the construction industry any "special treatment" (H. Rep. 19). The title of the Senate Report is "Equal Treatment of Craft and Industrial Workers" (S. Rep. 1).

[2] See generally, H. Rep. 4–7; S. Rep. 14–15; Cong. Rec. p. 22657 (July 14, 1975). See also Statement of Secretary of Labor Dunlop before the House Labor Subcommittee, BNA, DLR, E–3 at E–4 (June 5, 1975). H. Rep. 5900 passed the House of Representatives on a vote of 230 to 178 (Cong. Record p. 24844 (July 25, 1975)).

[3] See H. Rep. 23–24, 40; S. Rep. 65.

[4] *Connell Construction Co.* v. *Plumbers Local 100*, 421 U.S. 616, 89 LRRM 2401 (June 2, 1975).

[5] 29 USCA § 158(b) (4) (B).

[6] 29 USCA § 158(e).

[7] 29 USCA § 158(b) (4) (A).

[8] *Laborers Union* v. *N.L.R.B.* (*Colson & Stevens Constr. Co.*), 54 LRRM 2247 (9th Cir. 1963); *Centlivre Village Apts.*, 148 NLRB No. 93, 57 LRRM 1081 (1964). Such agreements, however, are enforceable only by court or arbitration actions and not by strike or picketing activity. See, e.g., *N.L.R.B.* v. *Operating Engineers Local 12*, 48 LRRM 2776 (5th Cir. 1961); H. Rep. S. Rep 11, 12, 17.

[9] *Connell Constr. Co.* v. *Plumbers Local 100*, 421 U.S. 616 (June 2, 1975).

[10] *Ibid.*

[11] *Labor Board* v. *Denver Building & Construction Trades Council*, 341 U.S. 675 (1951).

[12] This case arose before enactment of § 8 (e), so there was no question concerning any agreement between the general contractor and the union nor any question as to whether such an agreement would have been privileged by the construction industry exception to § 8(e).

[13] *Local 761, International Union of Electrical, Radio and Machine Workers* v. *N.L.R.B.*, 366 U.S. 667 (1961).

[14] See also, *Sailors Union of the Pacific* (*Moore Dry Dock*), 92 NLRB 547 (1950).

[15] *Markwell & Hartz, Inc.* v. *N.L.R.B.*, 387 F. 2d 79 (5th Cir. 1967). See S. Rep. 13.

[16] *Circle, Inc.*, 202 NLRB 99 (March 2, 1973), aff'd., 84 LRRM 3010 (5th Cir., December 12, 1973).

[17] See, eg.., *Truck Drivers Local 413* v. *N.L.R.B.*, 55 LRRM 2878 (D.C. Cir. 1964). "Union signatory subcontracting clauses are secondary, and therefore within the scope of § 8(e). * * * This clause would be a union-signatory clause if it required subcontractors to have collective bargaining agreements with . . . unions . . ." (55 LRRM at 2884.)

[18] The situs picketing bill undoubtedly will aid in the proliferation of such agreements in the construction industry under the 8(e) proviso. This may become a matter of serious economic consequence since unions through concerted activity could, by withholding agreements from employers who meet their disfavor, drive such companies from the marketplace.

[19] *Truck Drivers Local 413, supra* at note 17. See, e.g., *N.L.R.B.* v. *Operating Engineers Local 12*, 48 LRRM 2776 (9th Cir. 1961).

[20] See *Circle, Inc., supra*, at note 16.

[21] The House bill uses both the terms "employer *primarily engaged* in the construction industry (an) agreed-to floor amendment which substituted that phrase for the word "person" used in the bill reported by Committee (see Cong. Rec. p. 24841, July 25, 1975) and the phrase "employers who are *in* the construction industry" (the only term used in the Senate bill (S. Rep. 38) to describe those with whom the primary dispute may exist. However, it is not clear that the distinction between "employers *in*" construction and "employers *primarily* engaged in construction was understood or intended (see textual discussion *supra* for an analysis of that distinction). Thus, the phrase "employer primarily engaged in" construction was an agreeed upon floor amendment with no discussion of the word "primarily" and was explained by Congressman Ashbrook, who offered the amendment, as merely clarifying the intent that the bill was to apply to persons "in" the construction industry. See also Supplemental Views of Marvin Esch, H. Rep., 30, where he describes the intent of H.R. 5900 as affecting only any individual employed by any employer engaged "in" the construction industry. Further, as noted above, the Senate bill reported by Committee continues to use only the phrase "employer *in* the construction industry." (S. Rep. 6, 38)

[22] H. Rep. 23. Cong. Rec. p. 22659 (July 14, 1975).

[23] H. Rep. 17. Mr. Ashbrook's amendment introduced at the House Subcommittee to prohibit picketing directed at forcing a non-union employer off the job site was defeated as being directly opposed to the purpose of H.R. 5900. (H. Rep. 19–20). The House bill clearly intends to allow picketing of the entire construction site when a contractor employs a non-union subcontractor. (H. Rep. 18.) The same is true of the intent of the Senate Committeee (S. Rep. 13–14, 72).

[24] H. Rep. 19. All contractors and subcontractors are to be treated as closely related to the normal operations of each, other, and all are to be involved in each other's labor disputes. S. Rep. 16. A dispute with a subcontractor is to be treated the same as one with a general contractor, allowing picketing of all the employees at the construction site.

[25] See S. Rep. 74. Section 8(b) (7) (c) (29 USCA § 158(b) (7) (c)) provides that a union may not picket an employer in furtherance of its demand that the employer recognize that union as the bargaining agent of the employer's employees unless a petition for an election among those employees has been filed within a reasonable period of time not to exceed 30 days from the start of the picketing. The NLRB and courts have construed this provision to allow recognitional picketing for 30 days except in extraordinary circumstances. One might think that such picketing which shuts down an entire construction site would be extraordinary, but nowhere has Congress indicated a desire that the NLRB treat it so. This is particularly significant, for only a little more than one year ago, when Congress brought non-profit hospitals under the NLRA, it went to special lengths to indicate that picketing of a health care institution would itself constitute an unusual circumstance "justifying the application of a period of time less than thirty days." (S. Rep. No. 93–766, 93d Cong. 2d Sess., 6.)

[26] Section 8(f) (29 USCA § 158(f)) of the NLRA contains the term "employer engaged primarily in the . . . construction industry." Section 8(e) (29 USCA § 158(e)) contains the term "employer in the construction industry." For their different and distinct meanings, see *Church's Fried Chicken*, 183 NLRB 1032 (June 24, 1970); and S. Rep. 21–22.

[27] *Church's Fried Chicken, supra*, at note 26.

[28] That the same principle is intended to apply to all industrial facilities under the proposed legislation seems clear from the Senate Report (S. Rep. 21–22).

[29] What is the "site construction" is undefined. Thus, many witnesses before Congress believed that the pending legislation would privilege picketing of industrial facilities when construction or repair at those facilities was taking place (H. Rep. 35). See also Cong. Rec. p. 24819 (July 25, 1975). Presumably, the Senate Committee intended that an industrial facility at which an addition was being constructed was to be part of the "site" of construction. (See the discussion in S. Rep. 21–22). Thus, presumably, when construction work in the nature of an addition to an industrial facility is being performed, it may well be that the entire facility itself is part of the construction site. (See *Lein Steenberg*, 219 NLRB 153 (August 6, 1975), where the NLRB held that construction of a new wing on a hospital is construction "at" the hospital.)

[30] See S. Rep. 22.

[31] See discussion at note 29, supra.

[32] It is interesting to note that the Senate Report does not seem to deal with this specific situation in detailing its examples of how this "double negative" clause would operate, thus, leaving a reader of the report with a distinct impression that the above discussed consequences are, in fact, intended (See S. Rep. 21–22).

[33] See notes 9 and 10, *supra* and accompanying text.

[34] Organized labor was obviously upset with the decision. Indeed, Rep. Thompson, Chairman of the House Subcommittee on Labor Management Relations, critically observed

during hearings on H.R. 5900, that *Connell* "... takes us back to 1914." (*Daily Labor Report*, June 5, 1975, p. A–10 (BNA, 1975)).

[35] Both the House and Senate Reports treat contractors and subcontractors on job site as one employer (see, e.g. S. Rep. 12, 13, 15–16, 19), thus, presumably eliminating any need for a collective bargaining relationship directly between a union seeking a § 8(e) construction site agreement and the general contractor.

[36] S. Rep. 12.

[37] H. Rep. 23.

[38] 254 U.S. 443 (1921).

[39] S. Rep. 9. Not only does the Senate Report disavow the "bargaining relationship" requirement of *Connell*, it also substantially undercuts the second element of the Court's *Connell* opinion, i.e., that for "hot cargo" agreements to be protected by the § 8(e) construction exemption they must be limited to specific job sites. Thus, the Senate Report states that "the right to strike as it was understood in 1947" has remained unchanged until the passage of this bill which "is the first in which the protections granted are limited in any way to a particular job site." (S. Rep. 21.) Further, the Senate Report states that the language of the bill "does not confine the activity permitted ... to a particular construction site or require picketing on a situs-to-situs basis; in that sense too it is identical to what was intended by the construction proviso to section 8(e)." (S. Rep. 18–19.)

[40] S. Rep. 14.

[41] Secretary of Labor Dunlop seated with respect to *Connell* at the House hearings on H.R. 5900 that "there is not much bearing of one on the other." (D.L.R., June 5, 1975, p. A–10) (BNA, 1975). This was reinforced in a published memorandum of Solicitor of Labor Kilberg. (D.L.R., July 1, 1975, pp. D–1–3) (BNA, 1975).

[42] S. Rep. 5, 43–44.

[43] *Buffalo Forge Co. v. Steelworkers*—F. 2d—89 LRRM 2304 (2d Cir. 1975); cert. granted—U.S. (October 20, 1975).

[44] For example, if a strike is called by Union A in sympathy with and in support of the strike of another union (Union B) who has a dispute with their common employer, there exists no basic underlying dispute between Union A and the employer which can be resolved under their bargaining agreement.

[45] *Boys Markets* v. *Retail Clerks Union*, 398 U.S. 235 U.S. 235 (1970).

[46] *Napa Pittsburg, Inc.* v. *Automotive, etc. Local 926*, 502 F. 2d 321 (C.A. 3, 1974) (*en banc*), cert. den. 43 U.S.L.W. 3328 (1974); *Monongahela Power Co.* v. *Local 2332, I.B.E.W.*, 484 F. 2d 1209 (C.A. 4, 1973); *Inland Steel Co.* v. *Local 1545, UMW*, 505 F. 2d 293 (C.A. 7, 1974).

[47] Thus, if construction union strikes in breach of their no-strike clauses are enjoinable only if the dispute underlying the strike is arbitrable, then construction unions will not have their "sympathy strikes" enjoined. However, if the Supreme Court holds that all strikes in breach of a "no-strike" clause are enjoinable, all other unions will be foreclosed from engaging in such sympathy strikes.

[48] S. Sep. 39. H. Rep. 28. The "Construction Industry Collective Bargaining Act of 1975" (S. 2305), reported by the Senate Labor Committee on the same days as S. 1479 contains even broader immunity provisions exempting national construction labor and contractor organization from incurring "any criminal or civil liability, directly or indirectly, for acts or omissions" stemming from activities under that bill. (Add cites.) The provisions of both bills must be scrutinized to fully appreciate the broadness of the exemptions from criminal and civil laws being given national construction unions. During the Watergate controversy many in Congress argued that no individual, not even the President, should be above the law and immune from the knowledgeable commission of unlawful acts. The lessons of that recent experience seem to have been quickly forgotten. See S. Rep. No. 940439, 94th Cong., 1st Sess., 16. See also DLR, Sept. 5, 1975, p. F–1 at F–2 (BNA, 1975).

[49] See, e.g., S. Rep. 25. See also H. Rep. 16, 25. The statement of law by the Committees may be somewhat restrictive, but is sufficient for our discussion in this paper. See, e.g., *Eazor Express, Inc.* v. *Teamsters*, 89 LRRM 3177 (3rd Cir 1975); *New England Tel. &. Tel., Inc.* v. *I.B.E.W.*, 384 F. Supp. 752 (D.C. Mass. 1974); *U.S.* v *Hutcheson*, 312 U.S. 219 (1941).

[50] 29 USCA § 158(b)(1)(A).

[51] The hypothetical assumes a produce boycott, not an attempt to preserve bargaining unit work. See *Woodwork Manufacturers* v. *N.L.R.B.*, 386 U.S. 612 (1967).

[52] Not only would construction unions be more immune from liability than industrial unions, it is possible that their immunity would extend beyond that granted public officials who are immune in the performance of the official duties only when they perform in good faith and without malice and are not immune from prosecution for knowledge violation of the law. *Wood* v. *Strickland*, 95 S. Ct. 992 (1975). See *U.S.* v. *Brewster*, 408 *U.S.* 513 (1972).

[53] S. Rep. 25–26.

[54] As an example, the present provision could be amended to add the following language to it:

"except that this immunity shall not insulate from civil liability such national or international labor organizations when (1) the performance of acts under this statute are knowingly used to achieve an unlawful purpose, or (2) independent of the performance of act under this statute liability would otherwise be incurred."

[55] 29 USC 185(e). The labor law courts heavily upon the legislative history in order to determine and carry out the intent of Congress. See, e.g., *National Woodkork Mfgrs. Assn. v. N.L.R.B.*, 386 U.S. 612 (1967).

[56] Legislative History of the National Labor Relations Act, Vol. 2, p. 1617.

[57] Compare *Eazor Express, supra*, and *New England Tel. & Tel., Inc. v. I.B.E.W.*, 384 F. Supp. 752, 753 (D.C. Mass. 1974) wherein the courts discuss an international's liability for its locals' actions when the international possesses an ability to exercise control over those actions.

[58] H. Rep. 14, 23–24.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, at this hour of 10:18 o'clock on Monday morning, it can hardly be said that a rip-roaring debate is in progress on this measure, the so-called common situs picketing conference report.

Mr. WILLIAMS. I think the Senate should be in order, though, to hear the Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator, of course.

The Senator will be very brief because almost everything has been said, pro and con, on this measure that could be said and perhaps more than should have been said from time to time, especially the Secretary of Labor, Mr. Dunlop.

There is now a question, Mr. President, as to whether this measure, if indeed it receives final approval at 4 o'clock this afternoon by the Senate, will be vetoed by the President of the United States.

In that connection, Mr. President, I would call the attention of the Senate to a column by the distinguished James Jackson Kilpatrick, which appeared in newspapers throughout the Nation over the weekend. In Washington it was published by the Washington Star Saturday afternoon. It is appropriately headed "Common Situs, Cause for Presidential Veto." Mr. Kilpatrick, erudite as always began by stating that a showdown is at hand on the common situs bill; the bill ought to be vetoed.

Then he went on to say:

> In any competition to choose the worst bill of 1975, H.R. 5900 would rank near the top. The purpose of the measure is plain and indeed undenied: It is to force non-union workers in the construction industry to join the building trades unions.

Mr. Kilpatrick continued:

> The legislative mechanism is equally simple. This bill would overturn the famous Denver Building Trades decision of 1951. That Supreme Court decision (341 U.S. 675) upheld a provision of the Taft-Hartley Act making it an unfair labor practice to engage in secondary boycotts.

Mr. President, I shall not read the entire article. In a moment I shall ask unanimous consent that it be printed in the RECORD in its entirety. But let me read the last three paragraphs, in which Mr. Kilpatrick summarized his whole argument. He said:

> Labor bosses defend the measure, of course, as no more than an innocent little bill to give equal treatment to craft and industrial workers. This is a smokescreen. Industrial workers in a given factory, may belong to different unions, but they are all employed by the same employer. The situation in construction is wholly different.

Then Mr. Kilpatrick concluded:

> This is a bill to strike at small open shop contractors. It is a bill to dragoon free men, against their will, into joining some of the most violent, vicious, and disruptive unions in the country. A number of cosmetic provisions, intended to encourage peaceful collective bargaining, amount to so much bogus make-weight.
>
> This is the all-around bad bill, as the President himself well knows. During his 25 years in the House—

Mr. Kilpatrick was referring to the President of the United States—

> he opposed it all the way. Why would he change his mind now?

Mr. President, that says it all. If the President of the United States does not veto this very bad piece of legislation, then he will be making a serious mistake, in the judgment of the Senator from North Carolina.

I ask unanimous consent that the column by Jack Kilpatrick to which I have referred be printed in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"COMMON SITUS" CALLS FOR PRESIDENTIAL VETO

(By James J. Kilpatrick)

A showdown is at hand on the "common situs" bill. The bill ought to be vetoed.

In any competition to choose the worst bill of 1975, H.R. 5900 would rank near the top. The purpose of the measure is plain and indeed undenied: It is to force non-union workers in the construction industry to join the building trades unions.

The legislative mechanism is equally simple. This bill would overturn the famous Denver Building Trades decision of 1951. That Supreme Court decision (341 U.S. 675) upheld a provision of the Taft-Hartley Act making it an unfair labor practice to engage in secondary boycotts.

The Denver case illustrates what this bill is all about. A general contracting company, Doose & Lintner, was erecting a building. A number of subcontractors were engaged on the job. Among them was Gould & Preisner, which had a $2,300 subcontract for electrical work. The firm for 20 years had employed non-union workers. The Denver Building and Construction Trades Council demanded that the contract be canceled, or that Gould & Preisner employ union electricians instead. When the general contractor refused, other unions put out a picket and the entire job closed down. After two weeks Doose & Lintner caved in and ordered Gould & Preisner off the site. The subcontractor took the matter to the NLRB, which found an unfair labor practice. On June 4, 1951, in a 6-3 decision, the Supreme Court affirmed.

The important thing, said the Court, was that the dispute did not involve employes of the general contractor. So far as the record shows, Gould & Preisner had no disagreement whatever with its own workers. The assumption, in a free society, is that the non-union workers had a right to work, and that the electrical subcontractor had a right to compete for jobs. These rights would be effectively abolished if the pending common situs bill becomes law.

Every consideration of morality, common sense, and practical politics argues in support of the veto.

It is morally wrong—there is no way to make it right—for unions to abuse their power in the fashion here demanded. Of the 4.7 million workers in construction, some 1.8 million belong to no union. They prefer it that way. More than 80 per cent of those involved in small construction are nonunion. These are the carpenters, bricklayers, electricians, plumbers, and manual laborers who work for small companies. They are overwhelmingly opposed to the bill.

His common sense should tell Mr. Ford what enactment of the bill would mean in economic terms: strikes, disruption, violence on building sites, greatly increased costs of construction across the country. It is unbelievable that the President could invite this blow to an economy slowly struggling for recovery.

The political considerations scarcely need to be spelled out. Mr. Ford will not win a single vote from union zealots by signing the bill. Fanatical union members will oppose him willy-nilly. But if the President has nothing politically to gain, he has much politically to lose. Business and industry are solidly opposed to the bill. A survey by the respected Opinion Research Corporation found 68 per cent of the people (including 57 per cent of union members) opposed to the bill. Such liberal newspapers as *The New York Times* and the *Louisville Courier-Journal* have made common cause with conservative newspapers in opposition.

Labor bosses defend the measure, of course, as no more than an innocent little bill to give equal treatment to craft and industrial workers. This is a smokescreen. Industrial workers in a given factory, may belong to different unions, but they are all employed by the same employer. The situation in construction is wholly different.

This is a bill to strike at small open shop contractors. It is a bill to dragoon free men, against their will, into joining some of the most violent, vicious, and disruptive unions in the country. A number of cosmetic provisions, intended to encourage peaceful collective bargaining, amount to so much bogus make-weight.

This is the all-round bad bill, as the President himself well knows. During his 25 years in the House he opposed it all the way. Why would he change his mind now?

Mr. JAVITS. Mr. President, who controls the time?

The PRESIDING OFFICER. The Senator from New Jersey and the Senator from North Carolina.

Mr. WILLIAMS. I yield to the Senator from New York such time as he may need.

Mr. JAVITS. Mr. President, we are now considering the conference report on H.R. 5900, which we passed on November 19, 1975. As passed by the Senate, and agreed upon by the conference committee, this bill incorporates the Construction Industry Collective Bargaining Act as title II.

We are all aware that a number of amendments were adopted in the House and Senate to narrow its scope, which had to be resolved in conference. After 2 days of work on this legislation, the conferees have reached an accommodation which I believe is basically sound and which very substantially maintains the Senate position. As the ranking minority member of the Senate Labor and Public Welfare Committee, and as one of the conferees on this legislation, I can assure you that thorough consideration was given to the Senate provisions and that in every instance their essence is retained in the report of the conference committee.

Title I of the bill, concerning the protection of the economic rights of labor in the construction industry, erases the artificial distinction that has been made by the courts, beginning with the Denver Building Trades case, between strikes which are permitted by construction unions against employers with whom they have a lawful dispute, and those strikes which are prohibited because they attempt to force neutral employers to cease doing business with the primary employer.

In that case, the Supreme Court held that each of the construction contractors and subcontractors are separate employers, neutral as to each other, and that picketing in furtherance of a labor dispute against one employer could therefore not enmesh other contractors at the site. The common situs picketing legislation simply overturns the Denver Building Trades case in recognition of the economically integrated nature of the construction industry.

Construction projects almost always involve the combined effort of many contractors working together under the direction of a general contractor. As Mr. Justice Douglas pointed out in his dissent in the Denver Building Trades case, the separate contractual relationships among contractors at a construction site are "fortuitous business arrangements that have no significance so far as the evils of the secondary boycotts are concerned." These secondary boycott provisions incorporated in the Taft-Hartley amendments were adopted in the context of plan and retail situations, and were designed to protect the neutral employer handling the products of the employer with whom the union has the primary dispute. The proponents of the secondary boycott provisions did not refer to the construction industry for common situs picketing at construction sites. Thus, the basic purpose of title I of this legislation is to correct the misinterpretation that has been given to the act with respect to common situs picketing in the construction industry.

As to the differences between the House and Senate versions of this legislation which were required to be resolved by the conference committee, the key issues involve title I, the common situs picketing legislation. I particularly wish to call your attention to the agreement reached on two important amendments adopted on the floor of the Senate.

The first is the residential housing amendment offered by Senator BEALL, designed to exempt from the common situs picketing provisions the construction of residential structures of three stories or less without an elevator. The House bill contained no similar provision. In his statement in support of the amendment, I believe that Senator BEALL expressed its basic intent when he said:

> This amendment is aimed at the typical small businessman home builder who builds the major share of housing units in this country. He traditionally builds from 1 to 25 units a year and employs only a few craftsmen directly.

After this amendment was adopted, and just before Senator ALLEN generously withdrew his motion to instruct the Senate conferees with respect to it, I said, in part:

> The amendment appealed to a majority of the Senate because it dealt with small builders and small projects . . . I am confident we will bring back a reasonable and honorable provision which will truly reflect the Senate's purpose intent.

I am pleased to report to you that, in my judgment, we have done just that. The conference agreement provides an exemption for those contractors who are involved in the construction of structures of less than three residential levels and who are within the Small Business Administration's definition of a small businessman in the residential construction industry—currently those whose gross receipts are less than $9.5 million in a year.

Two points concerning the figure $9.5 million should be noted. First, the number will be adjusted annually in order to reflect any increase or decrease in the cost of construction. Second, the $9.5 million figure takes into account all construction which a contractor engages in and is not limited solely to residential construction. At this dollar level, I estimate that more than 80 percent of those contractors involved in the construction of this type of residential housing, both single family and multifamily, will be exempted from the operation of this legislation.

I believe, Mr. President, that all agree upon this solution as being one that closely parallels the real feeling of the Senate. I might say that I made it my personal duty, as I promised the Senate I would, to keep in close touch with Senator BEALL and others interested during the time of the negotiation, in order to keep them advised as to what we were accomplishing.

The second Senate amendment was that offered by Senator ALLEN to exempt from the provisions of the bill construction work on which work had actually started by November 15, 1975. This amendment was intended to eliminate possible abrupt disruptions of existing projects upon the effective date of the Act. The agreement reached by the conferees, in my judgment, preserves this basic purpose. As to construction work which was not begun on or before November 15, 1975, title I will go to into effect 90 days after the enactment of the bill. With respect to construction work which had actually begun on or before November 15, 1975, which has a gross value of $5 million or less, the effective date is 1 year after the effective date of enactment. For projects with a value of more than $5 million, the effective date will be delayed for 2 years from the effective date.

Finally, Mr. President, an amendment came to us from the other body which presented some considerable problem to us. That was the so-called Ashbrook amendment, which related to common situs picketing directed at employees who were not employees of contractors on the job.

We resolved that question pretty much along the lines which carried out the substance of what was sought, and it is best defined in paragraphs 5 and 6 on page 14 of the statement of the managers in the following examples:

The next paragraph:

> The Conference amendment is not intended to preclude a union at a construction site from exercising its right to primary picket or otherwise induce the employees of employers not in the construction industry when making deliveries, etc., to the construction employer or employers with whom the union has a primary dispute.
>
> The conference amendment does not prohibit separate gates, but does prohibit common situs picketing of employees of the employers not in the construction industry when making deliveries, etc., to the construction employer or employers with whom the union does not have a primary dispute.

In any case, that is the compromise which we arrived at on the Ashbrook amendment, which turned on the question of with whom did the employees, who were picketing, have a primary dispute, and that is the essential definition which was locked into the compromise.

There were other compromises arrived at. We dealt with problems of organizational picketing. That was Senator HATHAWAY's amendment, and I have rarely seen a more spirited fight for a position than that made by Senator HATHAWAY; I only express the hope that the scheme embodied in the amendment can be operationalized because the limit of 14 days for an election is a very short time. We will do our utmost, however, by way of the oversight activity of the Committee on Labor and Public Welfare to make good on this time limitation.

Also, there is very tight provision in which the Senate yielded to the House on the matter of not allowing any discrimination between union and nonunion employees in respect of the object of picketing.

State separate bidding statutes were respected.

There is one provision that I wish to comment on with particularity, a provision which has not had the consideration and attention to which I think it is entitled. This is the provision respecting notice to an international union of a prospective picketing of a situs of a construction project and the requirement that that international union give its consent to such picketing.

I flag this as a very critical matter of legislative oversight because I believe this represents an exercise of statesmanship and responsibility by the international unions which are involved. I hope that they will hear me on this subject loud and clear because the reason we put this provision in is to guard against the specter of a small number of workers shutting down a project which might employ hundreds of workers who are not involved in the dispute.

I issue an invitation to employers to let the Senate committee know if they feel that this particular provision is not being used for the therapeutic purposes for which it was designed. It will then be our job to be sure that it is so used because I believe that it has not been adequately discussed as a real protection against vexation, opportunistic or oppressive common situs picketing.

I say to organized labor that there is nothing that could destroy this act sooner than irresponsibility on the part of internationals, shutting their eyes to obvious situations in which it is counterproductive to the workers, to the stability of employment, and to the effectuation of the economic security of the country, not to intercede in a situation where common situs picketing, as a matter of policy, should not take place. Let us remember that this was one of the very solid conditions which the Secretary of Labor, a man of vast experience, insisted on as one of the qualifications for a situs picketing law which the President could sign.

I end upon the phrase "which the President could sign." As we are all aware, there has recently been a good deal of public discussion as to whether or not this legislation will be approved by the President. I would like to point out that, in meetings with me and other Members of Congress, the President has clearly indicated his intent to approve this legislation as long as certain conditions were met. These conditions, involving the additional enactment of the Construction Industry Collective Bargaining Act, now included as title II of H.R. 5900, and amendments providing prior notice and related requirements with respect to common situs picketing, have been fully incorporated in the bill.

Secretary Dunlop specifically described the amendments sought by the administration in his testimony before the committee. He recommended one amendment "requiring 10 days' notice to the standard national labor and management organizations engaged in collective bargaining in the industry whose local unions or member contractors are involved in or affected by the dispute." He added:

> I would also suggest the principle that authorization of such picketing by the appropriate national union be required.

These amendments, which Secretary Dunlop has explicitly assured us completely meet the terms of his recommendations, are contained in H.R. 5900 as a new section 8(g) (2) of the National Labor Relations Act.

During the hearings on the Construction Industry Collective Bargaining Act, I questioned Secretary Dunlop in the President's position with respect to both bills. He replied:

> It is clear that if the two come to him and he said he supports them he will find them acceptable.

When I asked him for even further clarification, he said in reference to the common situs picketing bill:

> I have testified before this committee before, Senator Javits, in support of the earlier bill with the amendment that I proposed and I said to this committee then, which was correct, that I have been specifically and personally authorized by the President of the United States to make that testimony. I have had those instructions changed in no way since that time.

In addition, on at least two occasions the President has publicly reaffirmed this statement. For example, he concluded one of these statements by saying:

> If these amendments are approved, I will support it; if they are not approved, I will veto it.

Mr. President, I ask unanimous consent that the President's public statements be included at this point in my remarks.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

[From Presidential Documents: Gerald R. Ford, 1975, Aug. 25, 1975, page 909]

SITUS PICKETING LEGISLATION

Q. Mr. President, one of the job bills or one of the bills that the construction industry here in the State of Wisconsin is vitally interested in is Senate bill 1479, which many of the contractors seem to feel would provide for an illegal secondary boycott. There have been some direct appeals, I know, to your office on 1479. Have you reviewed the bill? Have you made any kind of decision as to whether you will veto that bill or let it go by?

The PRESIDENT. About 3 months ago, Secretary of Labor Dunlop appeared before the House and Senate Committees on Education and Welfare, and he testified that if the original so-called situs picketing bill were modified with three amendments—at least two amendments—it would be acceptable.

One of those amendments would provide that before you could have on-site picketing, it would require a 10-day cooling off period.

The second provision that would be mandatory as a part of the bill would be that no local could go on strike under those conditions without having gotten prior approval from the international.

Now, in my opinion, those two added amendments would make that bill acceptable, plus one other factor: There is also a bill that the Secretary of Labor is working on, with both management and labor, which in effect provides that there shall be greater responsibility for both labor and management on strikes and lockouts.

If that second bill comes to the White House with the original bill plus those two amendments, then I think we have put together, working with management and labor and the Congress, an acceptable solution to this long-standing conflict.

[From Presidential Documents: Gerald R. Ford, 1975, Sept. 22, 1975, page 1003]

Common Situs Picketing

Q. Mr. President, I am Earl Dille, president of Associated Industries of Missouri, and I would like your position on the issue of the legalization of common situs picketing at construction projects.

The President. I believe that the legislation originally introduced should be vetoed. I believe that there are amendments that have been added, that will be added, if they are added to force local union responsibility, then the legislation ought to be approved. I know the arguments that the building trades have gotten wage hikes of too high or too great an amount, and people say, "Don't change the law."

My answer to that is they have gotten them under the present law. If they are inflationary, they came under the present circumstances. What we are trying to do with the amendments that we have advocated is to get some responsibility at the local level, and if they don't achieve local responsibility the international unions have the right to veto it. I think that is a better way to achieve wage stability in the construction field, and if those amendments are approved, I will support it; if they are not approved, I will veto it.

Q. Thank you, sir.

Mr. JAVITS. Mr. President, we have incorporated in this bill, in the most direct and honorable way, the basic conditions laid down by the President with the hope of realizing the quarter of a century old promise that this measure of justice would be done to construction labor.

As is true in connection with any antidiscrimination legislation, those who oppose this legislation—mainly employers in the construction industry—portend of absolute disaster if the measure is enacted.

This prediction of disaster is similar to those of 1945, when the first bill was passed against employment discrimination on grounds of race, creed, or color in my home State of New York. I have read the testimony, through the decades in which I have served in this body and the other body, as to the disastrous impact equal opportunity legislation would have; how thousands of employers would be bedeviled, spend all their time in hearing rooms and in courts because of the impositions of boards and officials utilizing the antidiscrimination law of the State of New York. Nothing like that ever happened.

I served as the chief prosecutor of New York for 2 years and had a great deal of personal experience with this matter. First, the cases were not nearly as numerous; second, they often were readily adjusted; and, third, it was by no means a difficult question of evidence to enforce the standards which were allegedly too subtle and too uncertain, said its opponents, in respect of nondiscrimination in employment.

Mr. President, the same is true of this situation. The dire predictions made about how this bill will cripple the industry by enabling small groups of workers to victimize employers and tie up huge construction sites are similar to arguments made against other nondiscrimination laws which have proven to be groundless.

Finally, as I have already indicated, title II of this bill incorporates the administration's proposal to bring about structural reform of the collective bargaining process in the construction industry. We know that collective bargaining in this industry has too often been characterized by inflationary wage agreements, costly work stoppages and inefficient manpower utilization. The successful experience of the Construction Industry Stabilization Committee, created under the Economic Stabilization Act of 1970, demonstrated the wisdom of governmental assistance, working through the international construction unions and the national contractor associations, to curtail whipsaw agreements and bring about more stable labor relations and economic growth in this industry. For example, under the DISC the rate of first year wage increases declined over a 4-year period from 17.6 percent in 1970 to 5.0 percent in 1973.

The bill in title II establishes a Construction Industry Collective Bargaining Committee composed of 10 management and 10 labor representatives, and with up to three neutral members, all appointed by the President. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service will be ex officio members. This committee, building on the previous experience of the Construction Industry Stabilization Committee, will identify pattern-setting collective bargaining agreements in the construction industry which have a potentially disruptive and unsettling effect on bargaining in the industry generally. It will have the power to intercede before such agreements are finally reached by the parties. It can, with the assistance of the parties themselves, head off unnecessary strikes and inflationary wage agreements that threaten to disrupt established patterns across the country. It will also be expected to promote agreements covering more appropriate geographic areas, encourage measures to rectify what is widely recognized as an unwieldy and unstable labor relations situation in the construction industry.

So Mr. President, for all those reasons, I hope very much that the Senate will approve this conference report. It is quite obvious that that is likely to be the outcome of this debate. I also hope that the President will honor a quarter-of-a-century-old promise. We have incorporated all the provisions that he and his very gifted Secretary of Labor have asked us to incorporate and have given to him in one package two bills which will go far to stabilize labor relations in a heretofore unstable industry.

I feel that there would be great dismay in the country should anything other than approval of this long-promised and long-deferred remedy for discrimination, suffered by construction industry labor for so many years.

In sum, Mr. President, I believe that titles I and II of this legislation represent an important new development in Federal labor relations policies. It will, I believe, substantially enhance the prospects of peacefully resolving labor-management disputes in the construction industry, and bring about a most needed national framework for collective bargaining in this vital sector of our economy. This legislation, as resolved by the House and Senate conferees, warrants the strong support of the Senate, and I urge its prompt enactment.

Mr. WILLIAMS. Mr. President, I appreciate the statement of the Senator from New York, as I am sure other Members of the Senate will. It describes fully how we approached the conference and what the end result was. I join with the Senator from New York.

In meeting with the President in July, the Secretary of Labor presented certain ideas that he thought should be included in the situs picketing bill. He also, of course, discussed the development of the collective bargaining bill and made clear to us what would be the content of legislation that would lead him to recommend a Presidential signing of legislation to come from Congress. We have included all the points. Specific things were suggested by the Secretary, and they have been included.

In the wisdom of Congress, the areas permitted for situs picketing have been defined more closely and more narrowly than was presented to us by the Secretary of Labor in two particular situations—residential construction and the application of situs picketing to work already in progress on November 15. There is a greater limitation on the opportunities to use picketing at the entire site, than was discussed in July. Congress has narrowed the opportunities and tightened up this legislation. I suggest that it should have, from the President's viewpoint and from his desk, greater appeal than the bills that were discussed with him in July.

So if the Senate, in its wisdom and after the vote occurs this afternoon should agree to this conference report, I believe that a very volatile and difficult area of labor-management relations will be much improved.

There is, I believe, a great impatience in the country with the current operational methods in construction labor, particularly with local autonomy, with whipsawing, and with other pressures increasing the cost of construction. This bill, in its totality, will bring, in an operational way, new tools and new methods for greater effectiveness in peaceful labor-management relationships and collective bargaining in the construction industry. The elements are here for lifting the decisions in bargaining from the local level to a higher level. With that, I think we will have the wisdom of national experience brought forward to bear in the local situation, and we will have less of the whipsawing and all of the other local pressures that tend to disrupt negotiations and drive up prices. I think it will be a wholesome thing for the economy if we agree to this conference report and if the President should sign the bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HELMS. Mr. President, I ask unanimous consent that the time consumed by the quorum call be charged equally to both sides.

Mr. WILLIAMS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that, after calling again for the roll and suggesting the absence of a quorum, the time be charged to neither side.

Mr. HELMS. Mr. President, reserving the right to object, I believe we have a previous order to return to another piece of business at 12.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. In that case, I ask unanimous consent that the time be charged to my side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR FANNIN, SENATOR GARN, AND SENATOR McCLURE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Senators FANNIN of Arizona, Garn of Utah, and McCLURE of Idaho be recognized for not to exceed 15 minutes each after the joint leaders have been recognized tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11:15 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:15 a.m.

There being no objection, the Senate, at 10:54 a.m., recessed until 11:15 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I would like to address a few remarks this morning to the conference report on the Common Situs Picketing and the Construction Industry Collective Bargaining Act, H.R. 5900, which passed both bodies of the Congress to modify the construction union picketing rights and reform the collective-bargaining process.

Mr. TAFT. Mr. President, H.R. 5900, passed by both bodies of Congress, modifies construction union picketing rights and reforms collective bargaining in the construction industry. Title I relates to the right of construction workers to peacefully picket in support of lawful goals in a labor dispute. Under title II, the process of collective bargaining in the construction industry has been restructured to make it more responsive to the need for stable labor-management relations.

I voted in favor of final passage of the Senate-passed version, as well as the conference report. I did so, for the reasons set forth herein, only after thorough study of the intricacies of labor relations in the building industry and the possible effect of this bill upon them. I believe that the bill is now carefully drawn to meet a specific justifiable objective. Moreover, I believe it embodies sufficient safeguards so as to prevent undue disruption to or adverse impact upon the construction industry. I offered and supported successfully a number of amendments to insure that the change to the picketing rules did not result in their misuse to the detriment of genuine innocent neutrals.

Title I of the bill, relating to common situs picketing, contains a carefully designed and limited right to engage in primary picketing activity for workers in the construction industry comparable to and limited to that which the National Labor Relations Act permits in other sectors of the work force. The basic purpose of title I is to bring the National Labor Relations Act into conformity with the reality that employers who are working together at a construction site are not the uninvolved neutrals in each others' labor disputes that the Taft-Hartley law was designed to protect. Accordingly, it overrules administrative and judicial case law that interpreted the law otherwise for nearly 25 years. It follows the position advocated by President Eisenhower and all Presidents since.

In essence, the amendment merely states that a contractor and subcontractors on a building construction project at one site are to be treated as an integrated enterprise and that, when there is a labor dispute, the union having the dispute is to be allowed to engage in normal, peaceful primary picketing at the entire site of the dispute.

However, in order to insure that this congressional permission to engage in common situs picketing does not include activity that is presently unlawful, the bill explicitly states that it is not to be construed to permit picketing of an entire construction site when:

> The labor dispute is "unlawful under this Act (National Labor Relations Act, as amended) or in violation of an existing collective bargaining contract" between the picketing employees and their employer;
>
> The object is to force another union's members off the job;
>
> It discriminates against any employee on the basis of sex, race, creed, color, or national origin;
>
> An object is to exclude any employee from the site on the basis of his union membership or lack of union membership;
>
> The picketing is for the purpose of committing any other unfair labor practice as defined in the section 8(b) of the Act;
>
> The picketing is for the purposes of engaging in a "product boycott";
>
> The object is to induce to picket or to strike any individual employed by any employer not primarily engaged in the construction industry on the site such as utility companies, manufacturers, department stores, petroleum companies, transit companies, and so forth, although they do construction work both within their premises and elsewhere.

The bill also provides that where picketing at a construction site is carried on for purposes of organization or recognition, the National Labor Relations Board must conduct an expedited election, and certify the results thereof within 14 days after a petition and a charge have been filed with that agency. This provision thus restricts further the use of common situs picketing where a labor organization's organizational and recognitional objectives are involved. The present law restricts picketing to a reasonable period not to exceed 30 days for such a purpose.

In order to minimize labor strikes at construction sites and to encourage the peaceful resolution of disputes, the bill provides a cooling off period during which the international union and Federal mediators can use their best efforts to resolve the dispute. To do this, the amendment prohibits picketing of an entire site until the striking union has given 10 days advance notice to all employers and labor organizations engaged at the site, as well as to the international labor organization with which the local is affiliated. In the event the site is a military facility 10 days advance notice must also be given to the Federal Mediation and Conciliation Service, to any equivalent State agency, and to the Government agencies concerned with the particular facility.

In all cases the striking union must then receive written authorization from its parent national or international union as a condition precedent to engaging in valid common situs picketing. An obvious purpose of this provision is to put responsibility on the international union so as to prevent "whipsawing" of local union leadership by pressure from their membership for uneconomic increases.

In addition, I offered another amendment which was adopted and which further restricts what would otherwise be valid primary picketing activity in order to recognize overriding competing interests. Therefore, the bill does not permit common situs picketing against employers who have been awarded separate contracts pursuant to the requirements of State-separate bidding laws regulating public construction. Ohio is one of these States which has a State law applicable to this situation.

Moreover, I introduced another amendment which has been adopted which specifically affirms the authority of the Federal courts to enjoin picketing in violation of a no-strike agreement over issues which are subject to resolution through final and binding arbitration or other method of final settlement of disputes.

I would note that in the Buffalo Forge case this issue is already apparently on its way to the Supreme Court in a court of appeals case which has considerably cut into the impact of the Boys Markets case.

I believe that this amendment is particularly important by virtue of the Supreme Court's decision to review the rationale of the Boys Markets case which establishes the right of an aggrieved employer to seek injunctive relief for breach of contract violations of no-strike provisions. Without this provision in statute this vital doctrine might otherwise be subject to court reversal or weakening.

Furthermore, I cosponsored an amendment which exempts the residential housing industry from the coverage of this act. The amendment is limited in that it is predicated upon the annual gross volume of construction business which a residential housing builder performs in an annual year. Thus, construction of residential structures of up to three residential levels is exempted from this bill involving contractors who, alone or with others, in the preceding year earned in the construction industry, a gross volume of less than $9.5 million, with this threshold adjusted annually to reflect changes in housing construction costs.

While I preferred the blanket exemption for the housing industry which was passed on the Senate floor, and fought for its inclusion in the conference report, the compromise appears to be acceptable in light of the fact that the amendment will exempt in excess of 80 percent of all residential homebuilders from the operation of the situs picketing provision of the act.

Finally, the bill contains an amendment which delays the effective date for 1 year for construction projects valued at $5 million or less on which work had actually started on November 15, 1975, and delays the effective date for 2 years with respect to such projects valued at more than $5 million. Of importance is the fact that this "grandfather clause" will not stay the operation of title II of this act.

Under title II, commonly known as the Dunlop bill, which I cosponsored, the process of collective bargaining in the construction industry has been redesigned to make it more responsive to the need for stable labor-management relations. This collective bargaining procedure should go a long way to bringing order to the chaotic and inflationary contract settlements which have plagued the industry in recent years thereby reducing its ability to survive and compete effectively.

Title II of the bill contains provisions designed to reform collective bargaining in the construction industry by establishing a national focus on contract negotiations. Collective bargaining in the construction industry has been traditionally marked by fragmented and sometimes divisive bargaining procedures. While in large part this fragmentation is the result of the nature of the industry itself, a national coordination of such bargaining will improve both its effectiveness and its success. The need for this bill results from the fact that the national parties have been unable to focus this necessary attention at the national level through voluntary methods.

To assure this stability, the bill establishes a construction industry collective bargaining committee, CICBC, to be comprised of 23 members appointed by the President, 10 members representing construction contractors, 10 members representing national construction unions, and 3 members of the public. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service, FMCS, shall also serve as ex-officio members.

The council will exert direct influence over collective bargaining in the construction industry by requiring that all contract modifications and terminations become subject to review at its discretion. This process will take place in the following manner:

The council must be notified 60 days prior to any contract modification or termination;

All national unions with which local unions are affiliated and national employer organizations must also be given similar notice;

Within 90 days after the receipt of the notice of either contract termination or modification, the council may assume jurisdiction over the issue;

If the council takes such jurisdiction, during the 90-day period it will then work with the appropriate national unions and employer organizations to achieve a peaceful resolution of the dispute;

Once the council has assumed jurisdiction and requested the participation of the international union the appropriate national or international union must approve any ensuing negotiated contract by a local union unless the council withdraws such approval power.

In order to allow the collective bargaining process a chance to work effectively, during the time that the council has jurisdiction over a pending dispute, a mandatory 30-day "cooling-off" period is provided for.

There is no intention to establish compulsory arbitration under the provisions of title II, or give the CICBC authority to dictate terms and conditions to local unions in their bargaining process. However, the Council, by invoking jurisdiction under this title can act to mediate labor disputes which are of pattern-setting nature between local unions and employers, and to involve both national unions and national employer organizations in the bargaining process. This function will, in itself, provide for more thorough and more careful bargaining, thereby increasing its effectiveness and relating it to economic realities and the public interest. In sum, it is the intention of the Congress to interject a body—the Council with a national view of labor-management relations in the construction industry—into the local bargaining process to allow that process to flow more smoothly, and, at the same time to provide a dispassionate arbiter of local disputes.

I believe that the act, which embodies both the common situs picketing proposal and the collective bargaining stabilization procedures, will not adversely affect the construction industry. Under both provisions, management and labor know that there must be mutual cooperation and restraint if the industry is to flourish. In my view, these two legislative proposals will form a new plateau from which labor and management can advance and improve their relationship in the construction industry, thereby ultimately benefiting the public interest.

In short, despite the highly political rhetoric and the Cassandra-like cries of alarm, this legislation will do the following:

It will allow picketing by construction workers on the same basis and only the same basis as other covered workers;

It will require the written approval of international building trades unions for common situs picketing by their locals and provide a 10-day cooling-off period before it occurs;

It will enact statutory approval of injunctions against violations of no-strike clauses involving construction industry collective bargaining agreements;

It will improve bargaining relations procedures in the construction industry and provide a 30-day cooling-off period after contract termination or modification;

It will limit to a maximum of 14 days common situs picketing in support of an organizational or recognitional objective.

On the other hand, it will not do the following:

It will not make legal any practice not now permitted other than situs picketing under the conditions specified;

It will not apply to residential construction for builders under $9.5 million volume;

It will not affect State right-to-work laws;

It will not permit now-illegal product boycotts;

It will not apply to employers not primarily engaged in the construction industry on the site;

It will not permit situs picketing to exclude employees on the basis of union or nonunion membership, sex, race, creed, color, or national origin or to force another union's members off the job.

In total, it promises to improve labor

relations in the construction industry in a just and equitable manner.

Mr. JAVITS. Mr. President, I think the arguments have been made very adequately on both sides. I would like to pay a special tribute to the Senator from Ohio (Mr. TAFT), who took a very great interest in this legislation and proposed a number of very helpful amendments to it, and who I know can be relied upon, as I feel I can, in respect of the oversight which is necessary to a statesmanlike utilization of the various functions that would be assigned to internationals, to members, and to the ultimate selling feature of the continuation of the very good experience with the construction industry stabilization committee.

Mr. President, if other Senators do not wish to be heard, with the consent of the Senator from North Carolina, I would suggest the absence of a quorum, with the time to be charged equally to both sides.

The PRESIDING OFFICER (Mr. HASKELL). There is no further time for the proponents of the legislation, and therefore the time would have to come out of the time allotted to the Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum to be charged to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield the distinguished Senator from Nevada (Mr. LAXALT) such time as he may require.

Mr. LAXALT. Mr. President, I make my statement for the record recognizing whatever is said at this point probably will not alter the result among my colleagues here in the Senate, but I think perhaps this issue should once again be drawn into perspective.

I happen to be the sole member of the Committee on Labor and Public Welfare who voted against situs picketing when it came out of that committee. From that low base, through the concerted help of many people throughout this country who finally became aware of the ramifications of this bill, we developed 45 votes on the Senate floor, and we won one cloture vote.

I think the reason why we were able to muster that kind of support was the fact that my colleagues in this body, to their great credit, upon close analysis of this measure recognized that it was an atrocious piece of legislation.

This proposal had been in the halls of Congress for some 25 years, and had never surfaced above the committee level, because Congress over the years recognized that the thrust of this bill was simply to legalize the secondary boycott, thereby penalizing innocent parties in construction disputes.

This year, not accidentally, for the first time there was sufficient political support mustered by organized labor to make the move, and the move was made and apparently was made successfully at least here in Congress. But during the course of those deliberations, upon close analysis, defect after defect was uncovered in connection with the bill.

I will not at this time bore our colleagues with once again reciting what the negative effects of this piece of legislation are, because they are numerous and there are several.

The bottom line would mean that as to a construction industry already beleaguered with sufficient difficulties we are going to add to those difficulties.

On the bottom line was the fact that we are going to add substantially to the inflation problem of an industry already burdened with inflation.

On the bottom line was the fact that we are going to add materially to devisiveness among union and nonunion people and among union people themselves.

Also on the bottom line was the fact whether or not the proponents would agree, and they do not, this was a vital thrust at the vitals of right-to-work because this piece of legislation emanated in Denver out of a classic right-to-work situation where a nonunion subcontractor was taken off the job because he was nonunion, and it was testified to in the House that it was the hope of the union people supporting this legislation that henceforth on every union job there would be no nonunion subcontractors.

This despite the fact that we have some 20 right-to-work States. This despite the fact that throughout this country we have any number of mixed jobs working very well in which there has been a combination of union and nonunion subs. This despite the fact that this piece of legislation would prove very detrimental to the union people who have worked satisfactorily in this situation. What was unusual during the last several days throughout both these houses is the fact that the union people finally came to grips with the problem that beset them because even if a typical job were totally union, under this situation, it meant if there were a dispute with a union subcontractor that some other union subcontractor could be driven off the job even though they were not parties to the dispute.

So everyone loses in this bill, except the people in organized labor here in Washington who want it for their own interest. It is no more complicated than that.

I recognize the conference report was passed in the House, and I recognize that it will probably be passed this afternoon. But I state once again for this record that this is a harmful piece of legislation. In an area of labor and collective bargaining, it is the most harmful piece of legislation that has hit the halls of Congress in 25 years.

If this bill is not vetoed by the President, the time will come when everyone is going to regret this decision.

I am a freshman Senator around here, but I had the unusual and unique honor of managing this bill in the Chamber, and I have had an opportunity during these last few weeks to talk to almost every individual Senator in this Chamber, either here or elsewhere, and I have yet to find a Senator who without qualification will tell me this is a good piece of legislation; to the contrary, even those who strongly supported it in the committee and here in the Chamber, have expressed reservations about where this piece of legislation is going to go and that it should be monitored.

That being the fact, the flag is already up because if we have that kind of reservation expressed by Senators in this Chamber about where this legislation can go, we all have a problem.

I hope that the President when he comes to grips with the fact that there were 45 votes in this Chamber in opposition to this piece of legislation and when he samples what the American public throughout this country thinks of this piece of legislation as evidenced by thousands of pieces of communication in the White House, as evidenced by uniform editorial opinion throughout this country opposing this piece of legislation, will do the one thing that is required responsibly in this piece of legislation, and that is to veto it.

I will predict very optimistically that, if he sees fit to veto it, we will sustain this veto in the Halls of Congress.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LAXALT. I will certainly yield.

Mr. CURTIS. Mr. President, while I have very strong feelings against this legislation, I do concede that the proponents of the legislation have a case on paper. Theoretically, they contend this ought to be. I do not agree with them. But I am sure that their position was made in good faith.

One thing this debate has done is to clarify the situation. There has been wide discussion in the newspapers about it. The practical effect of this bill will be very bad. It will increase the power to shut down a job completely.

Who can stand that? The giant contractors over the country. Who cannot stand it? Who cannot even get started at all because they cannot get their financing or performance bonds? Small contractors. Who among the small and newer contractors will have the toughest time? The minorities.

This is a proposal, the practical effect of which will be to take out of the construction business to a considerable extent minority contractors and other small contractors.

It will also result in damages to our entire economy. Have any Senators had any experience on how long it takes to build a powerplant? I daresay every State in the Union is in need or in the process of building coal or nuclear powerplants. It takes forever. They meet all the requirements, the overregulations, that all businesses must contend with, and the clearances.

Now we add to that the proposition that one subcontractor's labor dispute becomes a dispute of all.

They are not going to have to hire young contractors to get the job done during their lifetime but someone who has a son coming up who can take over. It drags on now most to their detriment.

Mr. President, it is my hope that those who originally sponsored this legislation in good faith, in the light of the facts drawn out, for the sake of minority contractors and small contractors, and of the general public, who is suffering from inordinate delays now in construction, will change their position on this legislation.

I hope that the President will not only take into account the fact that 45 Senators think this is bad law, but also will take into account all of these facts which this extensive debate, comment in public places, and discussion on the part of many editorial writers, and other newspapermen, has disclosed. I am sure that if he does that he cannot put his stamp of approval on this legislation.

I yield the floor, and I thank the Senator.

Mr. HELMS. I thank the Senator from Nebraska and the Senator from Nevada.

Mr. THURMOND. Mr. President, will the Senator yield me 3 or 4 minutes?

Mr HELMS. I yield 5 minutes to the distinguished Senator from South Carolina and then 5 minutes to the distinguished Senator from Illinois.

Mr. THURMOND. Mr. President, much was said about this legislation when it was first before the Senate. I do not intend to rehash all those arguments and counterarguments here today. I do, however, wish to draw the attention of my colleagues to the person who will be most affected by this legislation if it should become law. That person is the construction worker.

Mr. President, if common situs picketing is legalized, construction union members in this Nation are going to be faced with the difficult decision of whether or not to cross a picket line which results from an isolated dispute in which they have no part. If a union member crosses a picket line, he runs the risk of being fired or expelled from the union. These are serious consequences. If the union member elects not to cross a picket line, he will not work that day and, as a result, will receive no wages. This is a serious blow to the economic stability of the worker and his family.

Mr. President, an additional economic factor which must be considered is the likelihood of further unemployment in the construction industry. The level of unemployment in construction is unacceptably high. As construction becomes more expensive and more bothersome, due to increased strikes, the number of construction projects will be reduced. This will add to the depressed state of the construction industry and contribute to further depression of the national economy. If there are no construction jobs, it will be of no benefit to construction workers, whether they belong to a union or not.

Mr. President, I urge the Senate to take a close look at the problems this legislation creates for the individual worker. I hope this conference report will not be agreed to. If it is agreed to, I hope President Ford will veto the bill, and not make this winter a colder one for members of the construction trades.

Mr. President, in my judgment, no good can come from this bill. In my opinion, it is a bill that will destroy freedom.

If a man wants to join a union, I have always favored his having that right. If he does not want to join a union, I do not think he should be forced to do so. I believe that the first civil right of all is the right for a man to make a living for himself and his family, and to do that I do not think he should have to join any organization—any religious organization, any economic organization, any political organization, any union organization, or any other organization. After all, this is a free America. But when we require people to join a union to hold jobs, we are destroying some of that freedom.

As I have said here before, Mr. President, under this bill, the employees of 1 contractor—say, 12 in number—can strike against their subcontractor, throw up a picket line, and close down a job on which perhaps 2,000 or 3,000 people are working. This even can apply on a defense installation or on a Government building. It can apply anywhere. Are the people of America going to favor this? I cannot believe that public opinion in this country will warrant an approval of such actions as Congress will take if this conference report is agreed to.

Mr. President, it is my sincere hope that, at the last moment, in view of all the debate and all the facts that have been brought out here—the new information that has been brought to the Senate on this question, because the House passed it hastily and several members there have changed their position when they found out more about it—the Senate, upon careful reflection, will see fit now to defeat this conference report, so that the bill will go no further.

Mr. LAXALT. I thank the Senator from South Carolina.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes, which have been allotted to the Senator from Illinois.

Mr. LAXALT. I yield the remaining time to the Senator from Illinois.

Mr. PERCY. Mr. President, I express my deep appreciation to Senator LAXALT and Senator HELMS for yielding their remaining 5 minutes to someone who voted for this bill. It is typically gracious and thoughtful of them. I think we share some of the same concerns.

There is no question that those on this side of the aisle do not have to be tested on the fact that we are for organized labor. I recall that in 1959, the Committee on Program and Progress that President Eisenhower asked me to Chair, came out with a very strong and unanimous Republican position that organized labor has been helpful and responsible for a great deal of the economic progress made by the workingmen and workingwomen of this Nation. The report stated:

> The Republican Party seeks a better life for the working men and women of America. Labor unions have contributed importantly to this better life, and to the vigor of the American system. They are an essential institution in the fabric of American life both today and tomorrow.

Certainly, the rest of the world has learned a great deal from the United States about the collective bargaining process and the rights of workers. But I sometimes think that some elements of organized labor are their own worst enemy.

I stopped and talked to the pickets at United Airlines just the other day—the mechanics who have shut down our Nations largest airline just before the holiday season. I said, "If I were you fellows, looking for good will, I would take off those signs. You are disrupting the travel schedules of literally hundreds of thousands of Americans, leaving students stranded at universities, unable to get home to their parents; vacation and family plans disrupted all over this Nation, at a time when 8 million people are out of work.

Garbage left piled up on the streets of New York at a time when employees are being laid off and the city is on the verge of bankruptcy. I am not sure what all the issues were in this strike, but it seems that their sense of knowing what is right and in the public interest versus the tendency toward excesses, is sometimes overwhelming.

I must say that in the building industry, this has been true to a degree. We have probably the most efficient and effective building industry in the world, but we also have abuses and excesses in it, such as featherbedding practices.

In Washingon, I have seen the head of a major building trades union—say before his own national convention that labor is pricing itself out of the market in the building field.

Houses are becoming too expensive for even middle income families to afford. Factories are becoming so expensive to construct that companies are moving abroad, rather than building here at home.

Taking into account this type of abuse of power, it was with a deep concern, that I faced the situs picketing question. I finally voted for this right, but I did so after much deliberation, including a lengthy discussion with Secretary Dunlop one morning in his office at 7:45 a.m. As a result of our discussion I became convinced that the package that had been put together would help stabilize the building trades industry as well as building costs. He worked this package out, he said, with leading contractors who worked for months with him in regular meetings with leaders of organized labor to try to build a fabric of balanced legislation.

It was on the basis of that effort that I voted for this bill despite the fact that even the labor movement is not united on this issue. Other labor unions, other than those in the building industries, are very much opposed to it, because they think they are going to be priced out of the market if the building costs spiral and irresponsible strikes are called.

As we approach this vote on the conference report, I have carefully reread the President's latest statement on this issue, furnished to us by Senator TAFT, which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SITUS PICKETING LEGISLATION

Q. Mr. President one of the job bills or one of the bills that the construction industry here in the State of Wisconsin is vitally interested in Senate bill 1479, which many of the contractors seem to feel would provide for an illegal secondary boycott. There have been some direct appeals, I know, to your office on 1479. Have you reviewed the bill? Have you, made any kind of decision as to whether you will veto that bill or let it go by?

The PRESIDENT. About 3 months ago, Secretary of Labor Dunlop appeared before the House and Senate Committees on Education and Welfare, and he testified that if the original so-called situs picketing bill were modified with three amendments—at least two amendments—it would be acceptable.

One of those amendments would provide that before you could have on-site picketing, it would require a 10-day cooling off period.

The second provision that would be mandatory as a part of the bill would be that no local could go on strike under those conditions without having gotten prior approval from the international.

Now, in my opinion, those two added amendments would make the bill acceptable, plus one other factor: There is also a bill that the Secretary of Labor is working on, with both management and labor, which in effect provides that there shall be greater responsibility for both labor and management on strikes and lockouts.

If that second bill comes to the White House with the original bill, plus those two amendments, then I think we have put together, working with management and labor and the Congress, an acceptable solution to this longstanding conflict.

Mr. PERCY. The President made this statement in Milwaukee on August 25, 1975, describing the balanced picture that he wanted in this package.

I wish to read a letter that I recently wrote to Secretary Dunlop.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I demand the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. I ask unanimous consent to have printed in the RECORD at this point a letter I wrote on September 8 to Secretary Dunlop and a reply that I have received from him this morning, in which the Secretary pledges that, if this measure becomes law, he will monitor it to see that it does not fulfill the concerns and fears that some of us may have.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 8, 1975.

Hon. JOHN T. DUNLOP,
Secretary of Labor,
Department of Labor Building,
Washington, D.C.

DEAR JOHN: As I am sure you realize, my vote in support of the common situs picketing legislation was in large part the result of our discussion about it. In particular, I share your anticipation that the "Dunlop bill" which was added as a Senate floor amendment will bring greater stability to the industry.

I would like to propose that the Department of Labor make a special effort to monitor and report on this legislation once it is enacted. Many businessmen are predicting a rash of strikes and spiraling labor costs, and are not convinced that the bill and companion legislation will be effective. Hopefully, six to eight months of monitoring will prove your contention correct, that the provision added to the original concept, with the support of representatives of the construction industry, namely, ten days advance notice and approval by an international or national organization prior to a strike and the Construction Industry Bargaining Committee process itself will actually stabilize labor-management relations in the industry and thus actually reduce spiraling costs in the construction field. Spiraling construction costs have caused a reduction in building and job opportunities and have been self-defeating. Construction industry unions must consider this in their contract negotiations.

If this does not result, then I predict the legislation will be, and should be, repealed.

Sincerely,

CHARLES H. PERCY.

U.S. DEPARTMENT OF LABOR,
Washington, December 15, 1975.

Hon. CHARLES S. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your recent letter regarding HR 5900, Economic Rights of Labor in the Construction Industry, and for your support of this important legislation.

It is, as you know, my considered judgment that the legislation in its present form represents the best practical combination of actions in the overall best interest of the industry and the public. It is also my intent to monitor closely the implementation of the legislation when it is enacted. Indeed, I believe the Collective Bargaining Committee can play a major constructive role in this regard with labor and management working together directly.

The bill does provide for sufficient staff to monitor the progress and direction of the legislation. The gradual phase-in of the situs legislation over more than two years, wisely adopted by the Congress, provides an opportunity for constructive developments.

I do not believe that the passage of the legislation will increase strife or wage inflation. Indeed, I and others in the Administration responsible for dispute settlement, have the judgment that there will be much less strife and more responsible bargaining in this industry. In any event, I am always ready to reassess developments after a reasonable period.

Thank you again.

Sincerely,

JOHN T. DUNLOP.

Mr. BARTLETT. Mr. President, the conference report on H.R. 5900, the common situs picketing bill, represents special interest legislation at its worst.

It has never been established that this legislation is necessary to grant construction unions collective bargaining equality with other unions.

It has been established that this legislation would confer upon construction unions grave new powers; the power to shut down entire construction projects over an isolated dispute between one employer and his employees, the power to deny a worker's right to decide for himself if he is to be represented by a union, and the power to cripple the construction industry through more strikes, longer strikes, and unfair contract demands. In granting these new powers, the Congress would be promising higher costs and increased unemployment in the Nation's largest industry, and would be dealing a serious blow to the Nation's hopes for economic recovery.

I call on my colleagues to take this final opportunity to place the interests of the National above the interests of construction unions, to vote against the conference report on H.R. 5900.

Mr. DOLE. Mr. President, I must cast my vote in opposition to the conference report on the so-called common situs picketing bill, H.R. 5900.

The junior Senator from Kansas must oppose this legislation not because he is opposed to fair treatment of working people. On the contrary, it is my feeling that we should support the reasonable demands of the working people in the construction industry.

However, the clear message I have been receiving from literally thousands of my constituents who have written and called my office regarding this measure during the past several weeks is that this bill goes much beyond fair and reasonable demands.

My primary objection to this legislation is that—viewed in the context of practical labor-management negotiations—it will serve to alter the existing power "balance" between contractors and the building trade unions. With the type of wage settlements commanded by construction workers over the past several years, however, I hardly think we need to tilt the scales of collective bargaining in their favor.

For Department of Labor Statistics show that in cities with populations over 100,000, the average wage for union construction workers is already $4.10 an hour higher than their industrial counterparts—irrespective of any health, welfare, pension, or vacation benefits otherwise paid by the employer.

Although the sponsors of H.R. 5900 have attempted to portray the measure as effecting "equal" treatment of craft and industrial union members, there is an important distinction to be made between their respective employment situations. At a manufacturing site, that is, common picketing is directed against a single management entity which has the ability to negotiate a settlement. At a construction site, on the other hand, pressure could be applied against separate contractors who can do nothing about resolving the dispute.

For this reason, I have opposed the passage of H.R. 5900 throughout its consideration before the Senate.

I opposed the motions to invoke cloture on debate on this bill.

I opposed this legislation on its initial passage in the Senate.

I have written the President, urging him to veto this bill if passed by Congress. Although no final commitment has been announced one way or the other by the White House at this time, I have every reason to believe the ultimate decision will be in accordance with the clear demands of the American people.

I say to my colleagues that a vote against this bill is not a vote against the reasonable needs and demands of workers in the construction industry, for the working people in the construction industry will still be able to bargain collectively for improved working conditions, just as do workers in any other private industry.

Mr. President, I cast my vote in opposition to final passage of this common situs picketing conference report and urge every Senator who supports a labor-management relationship based on equity to do likewise—to demonstrate to the President that a veto, as difficult and courageous as it may be, will be decisively sustained.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider the conference report on H.R. 9861, which the clerk will state.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of December 10, 1975, at page 39786).

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives, it has been printed as a report of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, on Monday, December 8, the conferees on the Department of Defense appropriations bill for fiscal year 1976 and the 3-month transition period reached agreement on the differences between the two Houses after 3 days of meetings and about 10 hours of deliberations.

The total amount of new budget authority agreed to was $90,466,961,000 for fiscal year 1976 and $21,860,723,000 for the 3-month transition period ending September 30, 1976.

For fiscal year 1976, this is $7,390,888,000, or 7.6 percent below the administration's amended budget request. For the transition period, it is $1,256,922,000, or 5.4 percent less than the budget request .

The final amount agreed to by the conferees for fiscal year 1976 is $247,916,000 above the House bill, and $254,828,000 below the Senate bill—or very close to an even split between the two Houses.

The conferees resolved 437 individual line-item dollars or language differences, including 101 amendments made by the Senate to the House bill.

I am convinced that the conference committee has produced a reasonable compromise and that the amount appropriated in this bill provides a level of funding commensurate with both American national responsibilities and, hopefully, prudent fiscal policy.

Although reductions amounting to over $7 billion—or 7.6 percent of a defense budget request—must involve sizeable cutbacks in many areas, the conferees attempted to make reductions that will not be detrimental to our national security interests. I would like to emphasize that, even with this large reduction, this bill is $8,370,664,000—or 10.2 percent—more than the comparable amount provided last year in the Defense Appropriations Act for fiscal year 1975.

COMPLIANCE WITH CONGRESSIONAL BUDGET RESOLUTION (H. CON. RES 466)

Mr. President, the Committee on Appropriations has made every effort this year to work within the framework of the new Budget and Impoundment Act, which is on a trial run basis this year. When this Chamber considered H.R. 9861, you will recall that I pointed out that the bill as reported by the committee was in compliance with the Senate version of the second concurrent resolution on the budget, with respect to both budget authority and outlays.

H.R. 9861, as agreed to by the conferees, is within the targets established for the national defense function in the second concurrent resolution (H. Con. Res. 466) that was reported by the conference committee on December 8, if reasonable assumptions are made about bills not yet acted upon that affect this resolution—such as the pay supplemental, which will be submitted in January.

The conference total is $89 million below the budget authority target and $202 million below the outlay target.

MAJOR ITEMS IN THE CONFERENCE

TITLE I—MILITARY PERSONNEL

The conference agreement includes restoration of $10.3 million of the House $29.6 million reduction for pay of military personnel assigned to recruiting activities. The conferees also agreed to a decrease of $2.3 million associated with the Senate proposal to reduce drill training status for certain Reserve personnel. Also agreed to was restoration of $10 million to support a Naval Reserve average strength of 102,000, rather than the 94,000 recommended by the Senate and 106,000 proposed by the House. The conferees also agreed with the Senate proposal to terminate, until reviewed and approved by the Congress, future drill payments to non-prior-service Reserve enlistees who have not yet undergone basic military training.

TITLE III—OPERATION AND MAINTENANCE

The conferees agreed to provide funds for the civilian personnel strength levels in the Authorization Act for the period ending September 30, 1976. This requires that a reduction of 23,537 personnel be made from the budget request. The conference agreement specifies reductions of 20,334, and permits the Secretary of Defense to allocate the remaining reduction of 3,203 positions. Principal conference restorations of House civilian personnel reductions occurred in Army depots, naval aircraft rework facilities, and naval shipyards.

The conference agreement provides $174,950,000 for the stock fund surcharges, or approximately half of the amount provided in the Senate bill. The House provided no funds for this item. These funds are required to pay for costs already incurred, even though the conference agreement stipulates that the surcharge is to be removed.

The conferees agreed that the subsidy for commissary personnel operations should not be phased out at this time, as was proposed by the Senate.

With respect to Safeguard, the conference agreement provides the full amount of the budget request, as proposed by the Senate, but stipulates that the funds provided may be used only for the purpose of the expeditious termination and deactivation of all operations of the antiballistic missile facility, except the perimeter acquisition radar.

TITLE IV—PROCUREMENT

AIRCRAFT PROGRAMS

The conference agreement includes $64 million for advance procurement for the B-1 strategic bomber as proposed by the House. The Senate had deleted these funds. The conference report makes clear that provision of these funds implies no commitment on the part of the Congress to the production of the B-1, and limits obligations of funds for the B-1 under a continuing resolution in 1977 to a rate not more than the amount provided in fiscal year 1976.

The conference provided $251.2 million to fully fund four airborne warning and control system—AWACS—aircraft, instead of two AWACS as proposed by the House and six AWACS as provided by the Senate.

The conference also provided $1,373,300,000 for procurement of 108 F/TF-15 fighter aircraft as proposed instead of $1,316,200,000 for production of 96 such aircraft as proposed by the Senate.

MISSILE PROGRAMS

The conference agreement provides $37.5 million for procurement of 52 Chaparral missile launchers as proposed by the Senate. The House had denied the funds requested for these launchers. The conference agreement also provides $102.8 million for the Trident I missile instead of the $95.3 million as proposed by the House and the $120.3 million proposed by the Senate. The conference agreement provides $85.6 million for procurement of 205 Condor missiles, the same amount provided by both Houses. However, the bill contains a proviso, similar to that contained in a Senate amendment, which limits funding for Condor to $15 million until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production.

SHIPBUILDING

A total of $3,853,000,000 is provided in the conference agreement for the 1976 shipbuilding program as proposed by the Senate, instead of $3,832,700,000 as proposed by the House. The conferees agreed to the Senate's proposals in all cases. This involved making necessary adjustments in order to fully fund the most important ships in the program by making provision for known cost growth that was determined subsequent to the date the House reported the bill. An additional $38.7 million provided in the conference agreement as proposed by the Senate, will fund Trident cost growth, making the total amount $641.3 million instead of $602.6 million as proposed by the House. Only one AD destroyer tender is funded at $201.9 million, instead of $364.5 million for two tenders as proposed by the House. A total of $239.4 million is provided for two AO fleet oilers, as proposed by the Senate, which is $27.3 million more than the House proposed, in order to fund known cost increases in these ships.

105MM AMMUNITION PLANTS

The conference agreement provides $21.7 million in fiscal year 1976 and $88.7 million in the transition quarter, for construction of a 105mm artillery projectile metal parts plant at the Lone Star Army Ammunition Plant in Texarkana, Tex., as proposed by the Senate. The House had denied these funds. The conference agreement, however, provides bill language that requires a new Army study of the requirements for this plant, a certification of the essentiality of these requirements, and approval of the Army decision by the Armed Services and Appropriations Committees prior to obligation of any funds provided in this act for this purpose.

TITLE V—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

AIRCRAFT PROGRAMS

The conference agreement provides $597.2 million for the B–1 bomber as proposed by the Senate instead of $642 million as proposed by the House. The conference agreement provides $216 million for the F–16 air combat fighter instead of $221 million as proposed by the House and $146 million as proposed by the Senate.

MISSILE PROGRAMS

The conferees agreed to provide $3.8 million for the advanced forward area air defense system as proposed by the House instead of $9.9 million as proposed by the Senate. A total of $4 million is provided in the conference agreement for the heliborne missile, Hellfire, instead of $3 million proposed by the House and $4.5 million proposed by the Senate. The conferees provided $55 million for the short range air defense missile system instead of $45 million proposed by the House and $65 million proposed by the Senate.

During the transition quarter, the conference agreement provides $40 million for the SAM–D missile system as proposed by the Senate, instead of $25.4 million as proposed by the House.

The conference agreement approves the continuation of the Trident Maneuvering Reentry Vehicle program, providing $725.5 million for the Trident missile system as proposed by the Senate instead of $686.9 million as proposed by the House.

The conferees also agreed on the appropriation of $51 million as proposed by the Senate to continue the Air Launched Cruise Missile program. The House had denied these funds.

OTHER MAJOR DEVELOPMENT PROGRAMS

The conference agreement provides $51.8 million for the XM–1 tank program as proposed by the Senate instead of $43.8 million as proposed by the House. The conferees also agreed to provide $15 million for the Closein Weapon system as proposed by the Senate. The House had denied all funds for this system. The conferees also agreed to provide $38 million for the Surface Effects Ship program as proposed by the Senate instead of $20.1 million as proposed by the House.

GENERAL PROVISIONS

The conference reached agreement on a number of differences in the general provisions, providing as follows on the major items:

Deleted a Senate provision which would have permitted the payment of a price differential on contracts made for the purpose of relieving economic dislocations;

Limited the Department to 396 enlisted aides as proposed by the House instead of 250 as proposed by the Senate;

Permitted payment of a monetary allowance to military personnel who move their own baggage and household effects. This provision was proposed by the House and stricken by the Senate;

Provided a 40-mile radius, instead of a 50-mile radius proposed by the House and a 30-mile radius proposed by the Senate for the issuance of certificates of nonavailability under the Civilian Health and Medical Program of the Uniformed Services—CHAMPUS; and

Permitted payments under the CHAMPUS program to be made to family, pastoral and family and child counselors when these services cannot be obtained at a military medical facility or on a military base. The House had prohibited all payments, while the Senate had permitted them.

The details of the calculations and assumptions made by the Committee on Appropriations are shown on the two tables which I shall include at the conclusion of my remarks. Mr. President, I ask unanimous consent that a list of major items in conference and a tabulation summarizing the actions of the House, the Senate and the conference, and the other tables just mentioned, be printed in the Record at this point.

There being no objection, the materials were ordered to be printed in the Record, as follows:

BUDGET AUTHORITY WORKSHEET, NATIONAL DEFENSE FUNCTIONAL CATEGORY (050) FISCAL YEAR 1976

[In millions of dollars]

		Actions/ estimates	President's requests including amendments
Enacted:			
Previous years:			
Trust funds		6,807	6,807
Offsetting receipts		−5,139	−5,139
This session:			
Treasury—Postal service		100	121
HUD—Independent		38	48
State—Justice		5	5
Military retired pay adjustment		9	0
Military construction		3,585	4,109
Public works—ERDA		1,918	1,969
Total already enacted		7,323	7,920
Pending or not yet submitted legislation, and additional information useful in determining estimates:			
Pay raises:			
Provided by law	3,079		3,079
Less President's proposals			−1,847
Less re-estimate	−134		
Less congressional action on pay caps	−932		
Pay raise subtotal	2,013	[1] 1,800	
Foreign assistance:			
Middle East		933	(933)
All other		[2] 334	(557)
Naval petroleum reserve and	122		
offsetting receipts (estimate)	−100	[3] 0	−347
	22		
Stockpile sales (estimate)	−244	[3] 0	−408
Inventory replenishment (authorization denied)	0	0	300
Other		[4] 54	142
Total pending (excluding DOD appropriations)		3,121	2,409
Total enacted and pending (excluding DOD appropriations)		10,444	10,329
H.Con.Res. 466—2d Concurrent Resolution National Defense (505) Target		101,000	(5)
Minus above total, enacted and pending		−10,444	(5)
Residual available for defense appropriations bill within target		90,556	(5)
H.R. 9861 as reported by the conference committee		90,467	(5)
Under target		89	(5)

---

[1] Assumes 10 percent absorption and cut in final appropriations (including retired pay). See exhibit A.

[2] Assumes 40 percent cut in final appropriation excluding Middle East, the same percentage cut as in 3 previous fiscal years. See exhbit B.

[3] Assumes no legislation passes this fiscal year.

[4] Military per diem (+$44,000,000) and reimbursement for accrued leave (+$10,000,000); both bills passed by House. Senate Armed Services Committee advises that Senate action is likely. Assumes effective date of Jan. 1, 1976, for per diem legislation and Apr. 1, 1976, for accrued leave legislation.

[5] Memo: President's defense appropriations bill included $97,695 in new budget authority.

OUTLAYS WORKSHEET, NATIONAL DEFENSE FUNCTIONAL CATEGORY (050) FISCAL YEAR 1976

[In millions of dollars]

		Action/ estimates	President's requests including amendments
Enacted:			
Previous years:			
Trust funds		4,676	4,676
Prior years		[1] 23,952	[1] [5] 23,952
Offsetting receipts		−5,139	−5,139
This session:			
Treasury—Postal Service		62	81
HUD—Independent		31	39
State—Justice		5	5
Military retired pay adjustment		9	0
1975 foreign assistance		−159	(2)
Rescissions		−63	(2)
1975 pay supplemental		83	85
Military construction		827	836
Public Works—ERDA		858	880
Total already enacted		25,142	25,145
Pending or not yet submitted legislation, and additional information useful in determining estimates:			
Pay raises:			
Provided by law	3,002		3,002
Less President's proposals			−1,808
Less reestimate	−134		
Less Congressional action on pay caps	−917		
Pay raise subtotal	1,951	[3] 1,750	

OUTLAYS WORKSHEET, NATIONAL DEFENSE FUNCTIONAL CATEGORY (050) FISCAL YEAR 1976—Continued

[In millions of dollars]

		Action estimates	President's requests including amendments
Foreign assistance			638
Middle East		170	(170)
All other		281[4]	(468)
Naval petroleum reserve and	35		
Offsetting receipts (estimate)	−100	0[5]	−400
Total	−65		
Stockpile sales (estimate)	−244	0[5]	−408
Inventory replenishment authorization denied)	0	0	90
Other		49[6]	138
Total pending (excluding DOD appropriations)		2,250	1,252
Total enacted and pending (excluding DOD appropriations)		27,392	26,667
H. Con. Res. 466—2d Concurrent Resolution National Defense (050) Target		91,000	(7)
Minus above total, enacted and pending		−27,392	(7)
Residual available for defense appropriations bill within target		64,508	(7)
H.R. 9861 as reported by the conference committee		64,306	(7)
Under target		202	(7)

[1] Incorporates President's re-estimate for prior year outlays (−$500,000,000).

[2] Carried in previously enacted.

[3] Assumes 10 percent absorption and cut in final appropriation (including retired pay). See exhibit A.

[4] Assumes 40 percent cut in final appropriation excluding Middle East, the same percentage cut as in three previous fiscal years. See exhibit B.

[5] Assumes no legislation passes this fiscal year.

[6] Military per diem (+$40,000,000) and reimbursement for accrued leave (+$9,000,000); both bills passed by House. Senate Armed Services Committee advises that Senate action is likely. Assumes effective date of Jan. 1, 1976 for per diem legislation and Apr. 1, 1976 for accrued leave legislation.

[7] Memo: President's defense appropriations bill included $57,233 in outlays from current BA.

EXHIBIT A

DOD SUPPLEMENTALS FOR PAY

[Dollar amounts in millions]

	Supplemental request for pay[1]	Enacted	Percent reduction
Fiscal year:			
1975	$1,772	$1,491	15.86
1974	3,260	3,014	7.54
1973	1,074	930	13.40
1972	2,639	2,339	11.37
1971	2,838	2,685	5.39
Average reduction			10.71

[1] Includes retired pay.

EXHIBIT B

CONGRESSIONAL REDUCTIONS IN MILITARY ASSISTANCE AND FOREIGN MILITARY CREDIT SALES PROVIDED THROUGH THE APPROPRIATIONS PROCESS

[Dollar amounts in millions]

Fiscal year		Total President's request including supplementals and amendments	Total final appropriation	Percent reduction from President's request
1971	Military assistance, Executive	690.0	690.0	
	Foreign military sales credits	272.5	200.0	27
	Total	962.5	890.0	8
1972	Military assistance, Executive	705.6	500.6	29
	Foreign military sales credits	510.0	400.0	22
	Total	1,215.6	900.6	26
1973	Military assistance, Executive	780.5	550.9	29
	Foreign military sales credits	527.0	400.0	24
	Total	1,307.5	950.9	27
1974	Military assistance, Executive	685.0	450.0	34
	Foreign military sales credits	525.0	325.0	38
	Total	1,210.0	775.0	36
1975	Military assistance, Executive	1,207.0	475.0	61
	Foreign military sales credits	555.0	300.0	46
	Total	1,762.0	775.0	56
	Average reduction 1971 through 1975			31
	Average reduction 1973 through 1975			40
Note: Above numbers exclude aid for Israel and Cambodia, which are as follows:				
1971	Military credit sales, Israel	500.0	500.0	
1972				
1973				
1974	Emergency security assistance, Israel	2,200.0	2,200.0	
	Emergency military assistance, Cambodia	200.0	150.0	25
1975				

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1976 (H.R. 9861)

Conference agreement	New BA enacted fiscal year 75	New BA estimates 76/Transition	New BA House 76/Transition	New BA Senate 76/Transition	New BA conference 76 Transition	Conference compared with fiscal year 75 enacted	Conference compared with new BA estimate	Conference compared with House bill	Conference compared with Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel, Army	8,072,021,000	8,264,400,000	8,162,738,000	8,185,666,000	8,180,347,000	108,326,000	−84,053,000	17,609,000	−5,319,000
Transition period	304,715,000	2,100,000,000	2,062,994,000	2,064,644,000	2,064,635,000		−35,365,000	1,641,000	−9,000
Transfer from other accounts	(10,100,000)					(−10,100,000)			
Military personnel, Navy	5,835,560,000	5,784,900,000	5,721,114,000	5,722,484,000	5,722,300,000	−113,260,000	−62,600,000	1,186,000	−184,000
Transition period	168,170,000	1,476,900,000	1,451,568,000	1,451,878,000	1,451,668,000		−25,232,000	100,000	−210,000
Transfer from other accounts	(10,100,000)					(−10,100,000)			
Military personnel, Navy 1969, 1971 (liquidation of deficiencies)	43,356,000					−43,356,000			
Military personnel, Marine Corps	1,757,256,000	1,828,300,000	1,802,843,000	1,810,335,000	1,806,377,000	49,121,000	−21,923,000	3,534,000	−3,958,000
Transition period	66,844,000	467,900,000	459,863,000	460,190,000	460,117,000		−7,783,000	254,000	−73,000
Transfer from other accounts	(3,200,000)					(−3,200,000)			
Military personnel, Air Force	7,441,031,000	7,400,600,000	7,262,661,000	7,244,884,000	7,251,524,000	−189,507,000	−149,076,000	−11,137,000	6,640,000
Transition period	270,425,000	1,816,300,000	1,777,928,000	1,764,481,000	1,776,677,000		−39,623,000	−1,251,000	12,196,000
Transfer from other accounts	(55,500,000)					(−55,500,000)			
Reserve personnel, Army	493,800,000	464,600,000	468,700,000	469,357,000	468,879,000	−24,921,000	4,279,000	179,000	−478,000
Transition period		168,900,000	168,120,000	164,527,000	165,299,000		−3,601,000	−2,821,000	772,000
Reserve personnel, Navy	215,400,000	191,000,000	204,390,000	189,450,000	200,035,000	−15,365,000	9,035,000	−4,355,000	10,585,000
Trnsition period	7,378,000	56,300,000	61,935,000	54,715,000	59,525,000		3,225,000	−2,410,000	4,810,000
Reserve personnel, Marine Corps	66,800,000	72,700,000	69,320,000	71,983,000	70,652,000	3,852,000	−2,048,000	1,332,000	−1,331,000
Transition period		28,900,000	27,850,000	28,313,000	28,082,000		−818,000	232,000	−231,000
Reserve personnel, Air Force	147,865,000	160,700,000	157,500,000	152,700,000	157,500,000	9,635,000	−3,200,000		4,800,000
Trsition period		51,100,000	48,260,000	47,160,000	48,260,000		−2,840,000		1,100,000
National Guard personnel, Army	660,800,000	697,300,000	696,900,000	696,900,000	696,900,000	36,100,000	−400,000		
Trannsition period	9,700,000	225,300,000	209,050,000	209,050,000	209,050,000		−16,250,000		
National Guard personnel, Air Force	205,227,000	213,200,000	211,318,000	212,318,000	212,318,000	7,091,000	−882,000	1,000,000	
Transition period	2,213,000	61,100,000	60,924,000	60,924,000	60,924,000		−176,000		
Total title I	24,939,116,000	25,077,700,000	24,757,484,000	24,756,077,000	24,766,832,000	−172,284,000	−310,868,000	9,348,000	10,755,000
Transition period	829,440,000	6,452,700,000	6,328,492,000	6,305,882,000	6,324,237,000		−128,463,000	−4,255,000	18,355,000
Total, transfer from other accounts	(78,900,000)					(−78,900,000)			

Conference agreement	New BA enacted fiscal year 75	New BA estimates 76/Transition	New BA House 76/Transition	New BA Senate 76/Transition	New BA conference 76 Transition	Conference compared with fiscal year 75 enacted	Conference compared with new BA estimate	Conference compared with House bill	Conference compared with Senate bill
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, Defense	6,250,900,000	6,885,200,000	6,885,200,000	6,885,200,000	6,885,200,000	634,300,000			
Transition period	235,300,000	1,775,100,000	1,775,100,000	1,775,100,000	1,775,000,100				
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance, Army	6,350,167,000	7,352,000,000	6,984,830,000	7,052,000,000	7,052,000,000	701,833,000	−300,000,000	67,170,000	
Transition period	275,539,000	1,883,700,000	1,752,542,000	1,781,442,000	1,779,000,000		−104,700,000	26,458,000	−2,442,000
Transfer from other accounts	(23,221,000)					(−23,221,000)			
Operation and maintenance, Army, 1972 (liquidation of contract authority)		42,214,000					−42,214,000		
Army stock fund		94,000,000	94,000,000		20,000,000	20,000,000	−74,000,000	−74,000,000	20,000,000
Operation and maintenance, Navy	7,290,525,000	8,320,000,000	7,974,615,000	8,108,615,000	8,069,400,000	778,875,000	−250,600,000	94,785,000	−39,215,000
Transition period	161,800,000	2,234,500,000	2,121,157,000	2,133,557,000	2,133,557,000		−100,943,000	12,400,000	
Transfer from other accounts	(6,700,000)					(−6,700,000)			
Operation and maintenance, Navy, 1972 (liquidation of contract authority)		54,000,000					−54,000,000		
Navy stock fund		42,000,000	42,000,000		10,000,000	10,000,000	−32,000,000	−32,000,000	10,000,000
Operation and maintenance, Marine Corps	459,384,000	507,300,000	492,910,000	499,210,000	497,110,000	37,726,000	−10,190,000	4,200,000	−2,100,000
Transition period	15,200,000	129,400,000	125,506,000	125,856,000	125,506,000		−3,894,000		−350,000
Transfer from other accounts	(1,600,000)					(−1,600,000)			
Marine Corps stock fund		8,700,000	8,700,000		2,000,000	2,000,000	−6,700,000	−6,700,000	2,000,000
Operation and maintenance, Air Force	7,141,450,000	7,956,300,000	7,437,079,000	7,586,479,000	7,498,679,000	357,229,000	−457,621,000	61,600,000	−87,800,000
Transition period	127,200,000	2,020,300,000	1,906,245,000	1,897,495,000	1,897,495,000		−122,805,000	−8,750,000	
Transfer from other accounts	(24,780,000)					(−24,780,000)			
Operation and maintenance, Air Force, 1972 (liquidation of contract authority)		67,000,000					−67,000,000		
Air Force stock fund		82,100,000	82,100,000		15,000,000	15,000,000	−67,100,000	−67,100,000	15,000,000
Operation and maintenance, Defense agencies	2,400,097,000	2,569,800,000	2,460,631,000	2,497,876,000	2,475,431,000	75,334,000	−94,369,000	14,800,000	−22,445,000
Transition period	50,888,000	653,600,000	623,925,000	631,855,000	627,725,000		−25,875,000	3,800,000	−4,130,000
Defense stock fund		250,000,000	250,000,000	88,000,000	88,000,000	88,000,000	−162,000,000	−162,000,000	
Operation and maintenance, Army Reserve	283,993,000	332,300,300	305,760,000	311.460,000	310,710,000	26,717,000	−21,590,000	4,950,000	−750,000
Transition period	9,408,000	98,200,000	91,400,000	91,100,000	91,100,000		−7,100,000	−300,000	
Operation and maintenance, Navy Reserve	246,738,000	308,600,000	281,525,000	288,125,000	284,425,000	37,687,000	−24,175,000	2,900,000	−3,700,000
Transition period	2,088,000	80,700,000	73,550,000	73,250,000	73,250,000		−7,450,000	−300,000	
Operation and maintenance, Marine Corps Reserve	11,728,000	12,100,000	11,900,000	12,000,000	12,000,000	272,000	−100,000	100,000	
Transition period	28,000	3,500,000	3,400,000	3,400,000	3,400,000		−100,000		
Operation and maintenance, Air Force Reserve	293,680,000	343,800,000	327,330,000	318,530,000	322,430,000	28,750,000	−21,370,000	−4,900,000	3,900,000
Transition period	7,200,000	87,700,000	83,190,000	79,590,000	81,190,000		−6,510,000	−2,000,000	1,600,000
Operation and maintenance, Army National Guard	607,528,000	678,200,000	649,930,000	650,033,000	649,930,000	42,402,000	−28,270,000		−400,000
Transition period	19,728,000	183,400,000	174,385,000	173,285,000	173,285,000		−10,115,000	−1,100,000	
Operation and maintenance, Air National Guard	648,350,000	723,500,000	690,100,000	703,400,000	697,100,000	48,750,000	−26,400,000	7,000,000	−6,300,000
Transition period	15,100,000	189,200,000	181,500,000	181,200,000	181,200,000		−8,000,000	−300,000	
National Board for the Promotion of Rifle Practice, Army	183,000	233,000		233,000	233,000	50.000		233,000	
Transition period	5,000	73,000	93,000	93,000	93,000		20,000		
Naval petroleum reserve	69,400,000	117,700,000	117,700,000	117,700,000	117,700,000	48,300,000			
Transition period		47,500,000	47,500,000	47,500,000	47,500,000				
Claims, Defense	54,600,000	71,600,000	71,600,000	71,600,000	71,600,000	17,000,000			
Transition period		15,500,000	15,500,000	15,500,000	15,500,000				
Contingencies, Defense	2,500,000	5,000,000	2,500,000	2,500,000	2,500,000		−2,500,000		
Transition period		1,250,000	725,000	725,000	725,000		−525,000		
Court of Military Appeals	1,065,000	1,134,000	1,134,000	1,134,000	1,134,000	69,000			
Transition period		285,000	285,000	285,000	285,000				
Total, title III	25,861,388,000	29,939,581,000	28,286,344,000	28,309,192,000	28,197,382,000	2,335,994,000	−1,742,199,000	−88,962,000	−111,810,000
Transition period	684,184,000	7,628,808,000	7,200,903,000	7,236,133,000	7,230,811,000		−397,997,000	29,908,000	−5,322,000
Total, transfer from other accounts	(56,301,000)					(−56,301,000)			
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	242,800,000	362,300,000	333,500,000	333,500,000	333,500,000	90,700,000	−28,800,000		
Transition period		59,400,000	59,400,000	59,400,000	59,400,000				
Transfer from other accounts	(7,000,000)					(−7,000,000)			
Missile procurement, Army	416,500,000	460,800,000	385,100,000	422,600,000	422,600,000	6,100,000	−38,200,000	37,500,000	
Transition period		56,500,000	41,600,000	42,600,000	42,600,000		−13,900,000	1,000,000	
Transfer from other accounts	(15,000,000)					(−15,000,000)			
Procurement of weapons and tracked vehicles, Army	344,800,000	989,300,000	881,400,000	918,700,000	881,400,000	536,600,000	−107,900,000		−37,300,000
Transition period		282,300,000	255,000,000	255,000,000	255,000,000		−27,300,000		
Transfer from other accounts	(3,000,000)					(−3,000,000)			
Procurement of ammunition, Army	720,200,000	751,400,000	615,500,000	637,200,000	637,200,000	−83,000,000	−114,200,000	21,700,000	
Transition period		271,200,000	164,100,000	252,800,000	252,800,000		−18,400,000	88,700,000	
Transfer from other accounts	(170,000,000)					(−170,000,000)			
Other procurement, Army	681,100,000	1,002,800,000	898,400,000	930,500,000	912,300,000	231,200,000	−90,500,000	13,900,000	−18,200,000
Transition period		197,700,000	197,700,000	197,700,000	197,700,000				
Transfer from other accounts	(3,000,000)					(−3,000,000)			
Aircraft procurement, Navy	2,775,400,000	3,077,000,000	2,972,800,000	2,972,800,000	2,972,800,000	197,400,000	−104,200,000		
Transition period		600,100,000	605,500,000	605,500,000	605,500,000		5,400,000		
Transfer from other accounts									
Weapons procurement, Navy	729,500,000	1,224,200,000	1,155,100,000	1,190,100,000	1,172,600,000	443,100,000	−51,600,000	17,500,000	−17,500,000
Transition period		332,700,000	314,200,000	329,200,000	321,700,000		−11,000,000	7,500,000	−7,500,000
Transfer from other accounts	(10,000,000)					−(10,000,000)			
Shipbuilding and conversion Navy	3,059,000,000	5,506,000,000	3,832,700,000	3,853,000,000	3,853,000,000	794,000,000	−1,653,000,000	20,300,000	
Transition period		474,200,000	471,200,000	471,200,000	471,200,000		−3,000,000		
Transfer from other accounts	(70,000,000)		(84,500,000)	(75,000,000)	(75,000,000)	(5,000,000)	(75,000,000)	(−9,500,000)	
Other procurement, Navy	1,582,600,000	1,981,900,000	1,810,100,000	1,872,700,000	1,829,700,000	247,100,000	−152,200,000	19,600,000	−43,000,000
Transition period		491,200,000	460,100,000	469,900,000	464,500,000		−26,700,000	4,400,000	−5,400,000
Transfer from other accounts	(20,800,000)					(−20,800,000)			
Procurement, Marine Corps	207,800,000	285,800,000	275,900,000	281,000,000	281,000,000	73,200,000	−4,800,000	5,100,000	
Transition period		43,800,000	40,400,000	40,400,000	40,400,000		−3,400,000		
Transfer from other accounts	(10,000,000)					(−10,000,000)			

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1976 (H.R. 9861)—Continued

Conference agreement	New BA enacted fiscal year 75	New BA estimates 76/Transition	New BA House 76/Transition	New BA Senate 76/Transition	New BA conference 76 Transition	Conference compared with fiscal year 75 enacted	Conference compared with new BA estimate	Conference compared with House bill	Conference compared with Senate bill
Aircraft procurement, Air Force	2,939,900,000	4,575,500,000	3,933,200,000	3,933,700,000	3,933,700,000	993,000,000	−641,800,000	500,000	
Transition period		1,087,100,000	818,400,000	803,100,000	818,400,000		−268,700,000		15,300,000
Transfer from other accounts	(153,600,000)		(24,300,000)	(24,300,000)	(24,300,000)	(−129,300,000)	(24,500,000)		
Missile procurement, Air Force	1,533,700,000	1,791,400,000	1,694,600,000	1,739,500,000	1,723,900,000	190,200,000	−67,500,000	29,300,000	−15,600,000
Transition period		277,400,000	232,000,000	245,900,000	233,000,000		−44,400,000	1,000,000	−12,900,000
Transfer from other accounts	(5,000,000)					(−5,000,000)			
Other procurement, Air Force	1,776,500,000	2,342,800,000	2,010,400,000	2,133,800,000	2,046,400,000	269,900,000	−296,400,000	36,000,000	−87,400,000
Transition period		383,600,000	345,700,000	358,000,000	353,000,000		−30,600,000	7,300,000	−5,000,000
Transfer from other accounts	(12,600,000)					(−12,600,000)			
Procurement, Defense agencies	98,416,000	128,300,000	203,100,000	120,100,000	205,600,000	107,184,000	77,300,000	2,500,000	85,500,000
Transition period		20,900,000	39,600,000	20,900,000	39,600,000		18,700,000		18,700,000
Transfer from other accounts									
Total, title IV	17,108,216,000	24,479,500,000	21,001,800,000	21,339,200,000	21,205,700,000	4,097,484,000	−3,273,800,000	203,900,000	−133,500,000
Transition period		4,578,100,000	4,044,900,000	4,151,600,000	4,154,800,000		−423,300,000	109,900,000	3,200,000
Total, transfer from other accounts	(480,000,000)		(108,800,000)	(99,300,000)	(99,300,000)	(−380,700,000)	(99,300,000)	(−9,500,000)	
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, development, test, and evaluation, Army	1,779,339,000	2,181,700,000	1,922,833,000	1,995,596,000	1,948,823,000	169,484,000	−232,877,000	25,990,000	−46,773,000
Transition period	25,386,000	585,600,000	464,774,000	512,451,000	504,452,000		−81,148,000	39,678,000	−7,999,000
Transfer from other accounts									
Research, development, test, and evaluation, Navy	3,006,914,000	3,467,700,000	3,146,050,000	3,265,950,000	3,238,390,000	231,476,000	−229,310,000	92,340,000	−27,560,000
Transition period	17,000,000	903,800,000	801,419,000	824,899,000	818,722,000		−85,078,000	17,303,000	−6,177,000
Transfer from other accounts	(17,000,000)					(−17,000,000)			
Research, development, test, and evaluation, Air Force	3,274,360,000	3,903,200,000	3,591,266,000	3,584,406,000	3,591,266,000	316,906,000	−311,934,000		6,860,000
Transition period	16,493,000	1,034,000,000	906,946,000	900,014,000	901,014,000		−132,986,000	−5,932,000	1,000,000
Transfer from other accounts	(16,493,000)					(−16,493,000)			
Research, development, test, and evaluation, Defense Agencies	491,057,000	597,800,000	599,100,000	557,200,000	604,400,000	113,343,000	6,600,000	5,300,000	47,200,000
Transition period		152,700,000	147,000,000	138,700,000	146,550,000		−6,150,000	−450,000	7,850,000
Transfer from other accounts									
Director of Test and Evaluation, Defense	25,000,000	28,500,000	25,000,000	25,000,000	25,000,000		−3,500,000		
Transition period		6,800,000	5,000,000	5,000,000	5,000,000		−1,800,000		
Total, title V	8,576,670,000	10,178,900,000	9,284,249,000	9,428,152,000	9,407,879,000	831,209,000	−771,021,000	123,630,000	−20,273,000
Transition period	58,879,000	2,682,900,000	2,325,139,000	2,381,064,000	2,375,738,000		−307,162,000	50,599,000	−5,326,000
Total, transfer from other accounts	(33,493,000)					(−33,493,000)			
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	1,945,000	2,668,000	2,668,000	2,668,000	2,668,000	723,000			
Transition period		37,000	37,000	37,000	37,000				
TITLE VII—GENERAL PROVISIONS									
Additional transfer authority, sec. 834	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
Transition period		(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)				
TITLE VIII—RELATED AGENCIES									
Defense Manpower Commission	800,000	1,300,000	1,300,000	1,300,000	1,300,000	500,000			
MILITARY ASSISTANCE, SOUTH VIETNAMESE FORCES									
Military assistance, South Vietnamese forces	700,000,000	1,293,000,000				−700,000,000	−1,293,000,000		
Final total	83,439,035,000	97,857,875,000	90,219,045,000	90,721,789,000	90,466,961,000	7,027,926,000	−7,390,888,000	247,916,000	−254,828,000
Transition period	2,107,803,000	23,117,645,000	21,674,571,000	21,849,816,000	21,860,723,000		−1,256,922,000	186,152,000	10,907,000
Total, transfer from other accounts	(648,694,000)		(108,800,000)	(99,300,000)	(99,300,000)	(−549,394,000)	(99,300,000)	(9,500,000)	
Total funding available	84,087,729,000	97,857,849,000	90,327,845,000	90,821,089,000	90,566,261,000	6,478,532,000	−7,291,588,000	238,416,000	−254,828,000
Transition period	2,107,803,000	23,117,645,000	21,674,571,000	21,849,816,000	21,860,723,000		−1,256,922,000	186,152,000	10,907,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
Transition period		(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)				

Mr. McCLELLAN. Mr. President, I shall be pleased to answer any questions the Members of the Senate may have in regard to this conference report.

Mr. President, I am happy to yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, the chairman has provided the details of this conference report and I will only make a few brief remarks.

This conference report provides $90,466,961,000 for fiscal year 1976 and $21,860,723,000 for the transition quarter ending October 1, 1976. This appropriation for the defense of our country is $6.5 billion more than the funding that was provided for defense in fiscal year 1975. However, this bill is $7.4 billion less than the budget estimate for fiscal year 1976 and $1.2 billion less than the budget estimate for the transition quarter. Overall for the fiscal year 1976 and the transition quarter, there is a reduction of $8.6 billion below the budget estimate. The conferees were confronted with the difficult task of resolving the differences between the House and Senate bills within appropriations line items that left very little room to adjust the dollars within the totals of the two Houses.

Mr. President, I agree that the conference report represents the best possible compromise with the House. I hope it will be approved.

I want to comment on an article which appeared in the New York Times of December 5, 1975, entitled "Soviets Suspected of Arms Violations." The subheadline says: "U.S. Intelligence Officials Raise Questions About a New Radar Station."

Mr. President, what Congress is doing with respect to our only ABM installation is engaging in unilateral disarmament, I do not believe that is in the best interest of our national defense. I checked with our defense community as to the accuracy of this New York Times article. They say it is not only correct, but the Russians are going beyond what this article indicates. They are building an ABM-type radar on the Kamchatka Peninsula in Northwestern Russia. They are testing out three entirely new types of ABM systems and they are expanding and modernizing their ABM system around Moscow while we are requiring that ours be dismantled, torn down, and moved away. The one exception is the PAR radar, which was saved by Senate action. This PAR radar reaches far up to the North Pole. I hope I am not disclosing too much classified information in saying it can detect incoming missiles as far north as the North

Pole and determine where they are targeted. This gives us 8 to 10 minutes warning.

It is part of a defense system that has great merit.

Certainly, after spending approximately $5.7 billion for the entire system, and $870 million for the site in North Dakota, it would be reasonable to let the Army operate it until July 1 as they requested rather than requiring immediate dismantling. This experience is important to the future Minuteman site defense program. There is in this bill over $100 million for this purpose.

Mr. President, I tried to save the other radar—missile site radar—MSR. The Senate voted to keep it till July 1, 1976, but the House would have no part of it.

The experts in weather modification felt this would be of great importance to them in their meteorological research and weather modification. The School of Mines in South Dakota, which has been deeply involved in weather research and modification, was particularly interested in the possible utilization of the missile site radar—MSR.

Some 10 States have weather modification programs in the breadbasket of the United States where we are short of rainfall, where better crops could be produced if we had a better weather modification program.

This program has given great promise and has gotten considerable results in recent years. In the State of South Dakota almost every county has agreed to levy a tax on their land to carry on this weather modification program at their own expense.

The Weather Bureau has some $5 million for research in this program alone. The House would have no part of it. They wanted this site dismantled.

Mr. President, I ask unanimous consent to have the entire New York Times story of December 5, 1975, printed in the RECORD as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET SUSPECTED OF ARMS VIOLATION—U.S. INTELLIGENCE OFFICIALS RAISE QUESTIONS ABOUT A NEW RADAR STATION

(By Bernard Gwertzman)

Special to The New York Times

WASHINGTON, December 4—American intelligence officials have reported to the Ford Administration that the Soviet Union recently constructed a large-scale radar station on the Kamchatka Peninsula, raising new questions about possible violations of the 1972 treaty limiting strategic arms.

According to well-placed Administration officials, the Russians have built very modern "phased-array radars" in the Kamchatka area of the northeastern Soviet Union for use in testing systems of defensive weapons known as antiballistic missiles.

This suspected violation of the strategic arms agreements is similar to the other alleged violations in that it points up the fuzziness of some aspects of the 1972 agreements.

"CURRENT" RANGES QUESTIONED

Article Four of the 1972 treaty allowed two operational sites, in Moscow and at Grand Forks, N.D.—the latter site has subsequently been mothballed—and provided that in addition ABM radars could be emplaced "for development or testing within current or additionally agreed test ranges."

Because this raised questions as to where each side had its "current" test ranges, the United States delegation to the negotiations told the Russians on April 26, 1972, that it understood that the Soviet Union had only one ABM test range, near Sarysagan in Kazakhstan, Central Asia.

High-level discussions are now under way within the Administration on whether the Kamchatka radar violates the 1972 treaty on defensive missiles, and what to do about it.

The sophisticated "phased-array radars" scan by electronic means. The smaller, dish-shaped radars scan mechanically, and are less suited to protect against incoming missiles.

Adm. Elmo R. Zumwalt Jr., the retired Chief of Naval Operations, who was told about the Kamchatka site, told the House Select Committee on Intelligence this week that it was a "clear and precise" violation. Some Administration officials are not so sure.

As with other alleged Soviet violations of the 1972 ABM treaty and the accompanying limited accord on offensive weapons, it is almost impossible to prove that the Russians did not technically comply with the agreements.

Despite several charges of Soviet violations, the Administration has consistently concluded that, at worst, the Soviet Union was not living up to the spirit of the agreement. President Ford has stated there were "no violations."

A STORM IN WASHINGTON

Nevertheless, the Soviet actions have created something of a political storm in Washington, of which Kamchatka issue is only the latest flurry.

Political conservatives such as Admiral Zumwalt, a possible candidate for the Senate in Virginia, or Senator Henry M. Jackson, an announced candidate for the Democratic Presidential nomination, are arguing that the actions demonstrate that the Russians cannot be trusted and that the Administration was naive.

Moreover, the direct role of Secretary of State Henry A. Kissinger in negotiating the 1972 accords and current efforts to conclude a treaty on offensive weapons is a factor. Charges about the Russians have been turned into arguments that Mr. Kissinger was deliberately closing his eyes to violations, deceiving the President, Congress and the public—something he vehemently denies.

The issue has been clouded by its complexity. Very few people can understand the technical aspects. The Administration, moreover, to protect its confidential diplomacy, has refused to disclose the allegations publicly. Thus, information is provided, for the most part, in a contentious way by critics such as Admiral Zumwalt, or in highly selective and incomplete briefings by Administration officials.

"We interpret the reference in Article Four," the American delegation to the negotiations said in April, 1972, "to 'additionally agreed test ranges' to mean that ABM components will not be located at any other test ranges without prior agreement between the governments that there will be such additional ABM test ranges." United States ABM ranges are at White Sands, N.M., and at Kwajalein Atoll in the Pacific.

NO SOVIET YES OR NO

The Russians, however, did not confirm or deny the American statement, merely replying on May 5, 1972, that "national means permitted identifying current test ranges."

Presumably, the new radar in Kamchatka would be useful to monitor Soviet long-range offensive missiles that are fired regularly either from Kazakhstan or Siberia, land in Kamchatka or go over it and end up in the Pacific Ocean.

The Saryagan range has been used in the past to monitor Soviet intermediate-range missiles fired from a test site east of Volgograd, officials said.

What troubles American officials is whether there is proof that the Russians have built a new ABM test range in Kamchatka or whether they have merely modernized an old one. There have always been old-fashioned dished-shaped radars in Kamchatka; the Russians could say that it always was an ABM test range and thus permissible.

It has also been charged that the Russians have replaced their light missile, the SS–11, with a much larger weapon, the SS–19, after both sides had agreed not to convert light-missile launchers into heavy ones.

Two years ago the Russians began digging underground works identical to their missile silos, in possible violation of the treaty's prohibition against new missile silos. But the Soviet Union said the 150 to 200 new silos were for command-control centers, and American intelligence accepted that explanation. The Russians have also been accused of covering up work on submarine construction and on mobile missile launchers, contravening the accord.

In turn, the United States has been charged by the Russians with covering up some Minuteman sites while new concrete was being poured. The accords called on each side not to impede the ability of the other to check on compliance.

Admiral Zumwalt also charged this week that the Russians had begun interfering in other ways with American satellites flying over the Soviet Union, but Administration officials denied that American capabilities had been impaired.

Mr. YOUNG. Mr. President, I would like to make an additional comment concerning the New York Times article. This story was called to my attention by the distinguished Senator from Florida (Mr. STONE) and I am grateful to him for it. I do not know of a Senator who has made a better record for himself and in a more timely way than the Senator from Florida. I particularly appreciate his interest in a strong national defense.

Mr. MANSFIELD. I could not agree more.

Mr. President, it is my understanding that several Members of the Senate want to speak on the situation in Angola, and I think it is a situation which merits some talk and some debate.

What we are doing in Angola is unknown to most Americans and, according to the information we get, not in committee, not from the administration, but primarily through the newspapers, it is to the effect that $25 million has already been allocated to Angola for covert operations; that $25 million more is anticipated, and there are even some reports to the effect that even more beyond that $50 million total is to be used in covert operations in Angola.

What we have in that country are three factions striking for control: one, backed by the Soviet Union and Cuba through the use of Cuban troops under a man by the name of Neto; and two others, Mr. Savimbi and Mr. Roberto Holden backed by various other outside interests, including Zaire, the Republic of China, the United States, South Africa and, perhaps, others.

Frankly, I hope—and I have so indicated—that the entire Committee on Foreign Relations would call Secretary Kissinger and CIA Director Colby for the purpose of finding out what the facts are actually in regard to our intervention covertly in Angola so that we could become better informed and, in that respect, I am delighted that the distinguished Senator from Iowa (Mr. CLARK) will offer an amendment in the Committee on Foreign Relations tomorrow seeking to bring about some order out of the confusion which confronts us in Angola at the present time. But, despite that, I still want the full Committee on Foreign Relations to consider this question so we will know where we are and where we are going.

Mr. JAVITS and Mr. McCLELLAN addressed the Chair.

Mr. McCLELLAN. Mr. President, will the Senator yield? How long a debate do we anticipate on this issue?

Mr. MANSFIELD. Until 1 o'clock.

Mr. McCLELLAN. Can we set a time for voting now on this conference report?

Mr. JAVITS. Mr. President, will the Senator yield to me? I just wanted to express my complete concurrence with the Senator. It needs to be looked into. I am a member of the Committee on Foreign Relations, and I would like to join with Senator MANSFIELD in being sure our committee thoroughly reviews the matter, and that Senator CLARK's amendment will give us a substantive opportunity, and to do that in a perfectly orderly way.

REQUEST FOR UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending conference report occur at the hour of 1 o'clock to be followed at 1:15 by the vote on the treaty.

Mr. TUNNEY. Mr. President, reserving the right to object, when we say the conference report are we now talking about the supplemental appropriation?

Mr. MANSFIELD. The defense appropriation conference report.

Mr. TUNNEY. Well, further reserving the right to object, Mr. President, I would like, before we agree to any vote on this measure, to find out from the very distinguished chairman of the Appropriations Committee exactly what is in this bill with respect to Angola, and I will object to any unanimous-consent request until we have an opportunity of further colloquy and to find out what we are voting on.

Mr. MANSFIELD. If the Senator will yield, that is perfectly acceptable. Therefore, Mr. President, I withdraw my request. But I inform the Senate if there is no vote on this bill at that time the Senate will then turn to the consideration of a vote on the trade treaty with the Soviet Union to be followed, as agreed to by the Senate last week, by the taking up of the tax bill, H.R. 5559; at 4 o'clock that will be laid aside for the purpose of voting on a yea-and-nay vote on the conference report on common situs picketing, and when that vote is concluded we will then once again return to the tax bill.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. I withdraw my request.

Mr. McCLELLAN. Mr. President, do we have any idea now when we can have a vote on this resolution?

Mr. MANSFIELD. At the moment, no.

Mr. TUNNEY. Mr. President, I rise today to express my concern over the course of events in Angola. Over the past week the Angolan situation has deteriorated rapidly, and I would like to say to my distinguished and esteemed colleague, the chairman of the Committee on Appropriations, that the reason why I have objected to a unanimous-consent request for a time definite to consider the defense appropriation bill is my concern about Angola.

I think we have to have some understanding of what is in this bill for Angola. There are a number of us on the floor today who are prepared to speak on this subject and to direct some questions to the distinguished Senator from Arkansas, the chairman of the Appropriations Committee.

Reports are surfacing in the press indicating that the United States has provided or is prepared to provide up to $50 million to two of the three warring factions in Angola in the interest of attempting to stem the tide of the Soviet-backed Marxist movement for the liberation of Angola.

On Saturday Secretary Kissinger was quoted as distinguishing the Angolan involvement from American involvement in Vietnam by saying the Vietnam conflict had a much longer, and more complicated, history.

Perhaps from Dr. Kissinger's grand global perspective this conflict has had a shorter history, although the African experts I and my staff have spoken with have indicated that the basically tribal nature of this conflict goes back many, many decades.

But I for one would have personally felt a great deal more secure if the Secretary of State had said that the real difference between Angola and Vietnam was that we were not going to get involved at this time.

Mr. President, I am sorry that we should have at this time to enter into a colloquy, a dialog, with respect to American intervention in underdeveloped areas of the world. I am tired, the Congress is tired. The American people are tired of the United States intruding into areas where it should not be.

For the past 30 years, to paraphrase former Senator Taft, we have given the military adventurists what they wanted and they have, indeed, gone everywhere and done everything, getting us involved in everybody else's business from Asia to Latin America and now, it seems, in Africa.

What has it gotten us? I will state that it has gotten us repressive right-wing dictatorships as allies all over the world. It has gotten us thrown out of Southeast Asia and has brought about the collapse of three pro-Western regimes. It has gotten us hundreds of billions of dollars in debt for weapons and more weapons. It has cost us 55,000 American lives. It has brought us to the point where we have so alienated third world nations of the United Nations that we cannot even muster the votes to defeat a totally irresponsible resolution on Zionism.

Now, once again, the phoenix of military adventurism in the guise of making the world safe for democracy has risen from the ashes of Southeast Asia.

It seems we were not content to alienate half the world over our involvement in Vietnam, we are now determined to alienate the other half of the world with regard to an involvement in Africa, in Angola, and side by side no less with the repressive white supremacist regime in South Africa.

That, Mr. President, is the crux of the situation in South Africa.

The South Africans have hundreds if not thousands of troops assisting the Union for the total independence of Angola.

On top of that, hundreds of white mercenaries have been hired from all around the world, many from the United States itself, to fight on the side of the South Africans and their allies.

The racial inference is clear.

In response to the South African intervention, 13 African states have declared their public support for the MPLA and even more have privately indicated their backing.

The largest single black state in Africa, and unquestionably the most influential and basically pro-Western, Nigeria, has even allowed the Soviet Union to use facilities in their country to supply MPLA forces.

Why is this? Do the Africans not realize the danger of Soviet interventionism? Why does a country like Nigeria, whose pro-Western, attitudes have been demonstrated again and again, indeed whose ruler is Western educated, a Sandhurst graduate, fail to perceive the threat to its security posed by Cuban and Russian advisers?

Mr. President, the reason is that the Africans do not perceive this as the grand checkmate move in Soviet world strategy that Secretary Kissinger does. They see it for what it is: an internal conflict growing more out of tribal animosities than from any real difference in ideology.

They do not like Soviet intervention any more than we do, but they like South African intervention even less.

They point out that this is the first time the South African forces have entered into combat on the soil of another African nation and they view that as a direct threat to their own independence.

By going in on the side of the South African backed faction, we are not only not acting to limit Soviet penetration in Africa, we are opening wide the door to charges that the United States has always been and always will be on the side of the reactionary regime in South Africa, rather than on the side of African independence and racial equality. The damage that such an inference will do is enormous.

Nobody wants to stand by and let the Soviets run roughshod over Africa, nobody wants to see the Soviet ensconced in a West African base astride our vital oil lanes.

But I ask, what have we gained if, at a cost of millions in American dollars, we save Angola and lose the entire continent of Africa in the process because of our support for the South Africans?

If the Soviets are taking advantage of the Angolan situation, as indeed I believe they are, then let us go to the heart of the problem, the leadership in the Soviet Union. Let us make it clear to them that we view their interference there as inconsistent with détente, that if they want progress in the SALT talks if they want American technology and investment and, most important, if they want American grain now or any time in the future they had better seriously weigh the cost of the intervention in Angola.

It has disturbed me for some time that the United States is perfectly prepared to take the one real economic weapon that we have available to us, our agricultural supplies, our wheat and feedgrain, and enter into long-term agreements with the Soviet Union without getting any commitment on the part of the Soviet Union that they are going to start living up to their responsibilities under SALT, under Helsinki, and under Vladivostok. But more particularly, and specifically as it relates to Angola, that they are going to stay out of tribal brushfires.

I personally cannot see the United States sending large shipments of grain to the Soviet Union which they desperately need in order to satisfy their own people and also to meet their own foreign policy commitments, if much of the grain we ship to the Soviet Union is, once again, used by the Soviets to free supplies for allies like the MPLA. It makes no sense for us to do that when they are going, to ignore, in the case of Angola, the principle of restraint that the United States considers to be vital for the maintenance of world peace.

And the same is true of the Cubans. If they want the East-West thaw to apply to them, then it should be made very clear that as long as they are sending troops to Angola, there will be no changes in American policy toward the Castro regime.

In short, let us take action to stop the Soviets and the Cubans. But let us not do it unilaterally and through the use of any American advisers or "volunteers" or through the massive introduction of American military might. The time is long past due to sit down with our African friends like Nigeria and Zaire, or at the Organization of African Unity and work out a common approach.

But above all, let us not ignore the feelings of those who stand to proximately gain or lose most from a great power confrontation in Angola—the Africans themselves. We must keep a close reign on the arrogant attitude that says we have the duty or the destiny or even the right to prescribe the course of government of an African state which our own policies have largely ignored in the past.

In the poll after poll in recent years the American pople have made it clear—no more Vietnams. We, in this country are prepared to fight to defend freedom. We are no longer prepared to squander the lives of our young men and our treasure in foreign policy adventures that bear no true relation to our own national security.

Mr. MORGAN assumed the chair at this point.

Mr. TUNNEY. I do not believe we can sustain any additional inflation.

Mr. CRANSTON. Mr. President, I would like to applaud my colleague for the leadership he is displaying in this matter, for all the reasons he has expressed, and also for the reasons expressed by the majority leader (Mr. MANSFIELD). I am totally in support of the effort to learn all the facts about Angola, and to make certain that we do not get dragged, by any means or to any degree, into a situation more similar to Vietnam than Angola already appears to be similar to Vietnam. If we let this legislation or any other legislation that has any direct relevance to Angola pass without knowing what we are doing first, we could well be involved in another Gulf of Tonkin resolution.

The fact that the Senator from California has made plain that he does not want to vote on this until we know what we are doing is a very significant action taken by my colleague.

If I may, I would like to have the attention of the chairman of the committee and to ask a very few questions of him.

The conference report states:

> The conferees also agreed to a reduction of $64,300,000 in intelligence activities instead of a reduction of $94,500,000 as proposed by the House and a reduction of $28,900,000 as proposed by the Senate.

I would like to ask the distinguished chairman, so we can know what we are doing before the vote on this conference report, if any funds for Angola are included in this measure?

Mr. McCLELLAN. There are no funds included in this measure for Angola, specifically so. Whether any funds under this bill could be used is another question. That is a matter that three committees can determine, including the Foreign Relations Committee, the Armed Services Committee and the Appropriations Committee. I believe hearings are already scheduled.

There are no specific funds in this bill for Angola.

Mr. STONE assumed the chair at this point.

Mr. CRANSTON. I thank the chairman very much for that direct response. I gather that while funds are not earmarked for Angola, funds which are being appropriated in this measure could be used for Angola.

Mr. McCLELLAN. I am not saying that there are or are not. As the Senator knows, there is certain intelligence information that we cannot give out, although we have three intelligence committees. One is a subcommittee of the Appropriations Committee; one is specific members of the Armed Services Committee; and another is the members of the Foreign Relations Committee.

Mr. CRANSTON. If the measure does contain funds that could be used for Angola, would there be merely an advice to the appropriate committees that the administration proposed to do so?

Mr. McCLELLAN. What was the question?

Mr. CRANSTON. Would there be merely information given to the Appropriations, Foreign Relations, and the Armed Services Committees that the administration decided to do this, or would there be a veto in the hands of the Senator's committee?

Mr. McCLELLAN. They can do that, yes.

Mr. CRANSTON. Would the Senator's committee have a veto over the use of such funds?

Mr. McCLELLAN. I think it is required that we be advised.

Mr. CRANSTON. Is that a matter where the whole committee would be advised or just the chairman and the ranking minority member?

Mr. McCLELLAN. Under the present rules and the way we operate, it would only be those on the Intelligence Operations Subcommittee, together with the specifically designated members of the other two committees, the Foreign Relations Committee and the Armed Services Committee. The entire Foreign Relations Committee, I understand, would have that information.

Mr. CRANSTON. Could I ask if the chairman was consulted before a decision was made in the administration, I gather by the 40 Committee, to earmark $50 million for Angola?

Mr. McCLELLAN. I could not go into that matter here in the Chamber.

Mr. CRANSTON. I would like to ask one other question of the chairman and then I would like to ask a question of the Senator from Iowa (Mr. CLARK).

I gather from a report of the New York Times, and that is my only source for this information, an article by Seymour Hersh which appeared December 14, that in the spring there was $300,000, according to that story, earmarked for Angola. By July that was $10 million. Then it was raised to $25 million and now it is up to $50 million. Has there been full consultation with the chairman's committee as those increases in funds have been allocated?

Mr. McCLELLAN. I cannot go into that information here in the Chamber. As the Senator knows, this is an arrangement which has been made and I am simply carrying out what has been the practice heretofore. If the Senate would want to pass a resolution making public all information available, of course, it has the power to do so. But until that is done I would have to observe the present requirements. The Foreign Relations Committee has equal power to make everything public if it wanted to, I believe.

Mr. CRANSTON. I thank the chairman very much.

I would like to ask the Senator from Iowa (Mr. CLARK) one question.

Was the Foreign Relations Committee informed "in a timely fashion" under the Hughes amendment to the Foreign Assistance Act of last year when $50 million was allocated by the administration, apparently by a decision of the 40 Committee, to Angola?

Mr. CLARK. Under the Hughes amendment, the Foreign Relations Committee and the Armed Services Committee are advised after the fact. There is no requirement, no veto, no action that those committees may take. I understood the chairman of the Appropriations Committee to say that they, in fact, have a veto in the sense, I assume, that they could refuse to transfer funds. But the Foreign Relations Committee is simply reported to after the fact, and they have no jurisdiction over it for decision. They have no veto.

Insofar as I know, they have no way in which to register their disagreement other than simply saying so. But certainly the President and the administration are in no way bound by what they say.

In terms of being informed, although the Hughes amendment calls for the full committee to be advised, the fact is it is done by convenience. The chairman and the ranking Republican are advised and then a circular goes to the remainder of the committee. Any other members of the committee who wish to be briefed on that briefing are briefed, if they so desire.

Following the fact, after the decisions were made, those reports were regularly made to the committee.

Mr. CRANSTON. I thank the Senator very much. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. TUNNEY. Mr. President, I am delighted to be able to yield the floor and yield to the Senator from Idaho. I just have one statement that I wanted to make in conjunction with what my distinguished colleague from California said and then I shall yield.

One of the things which has disturbed me about the moneys that we are providing in Angola is that they are shrouded in a cloak of secrecy. I can understand why our distinguished colleague from Arkansas, the chairman of the full committee, feels that in the Chamber he is bound by the confidentiality of the information he has received from the Department of Defense and presumably from the CIA. But on the other hand that does not help those of us who have to vote on a procurement bill, some of which money may be provided to Angola. In effect, we are going to be voting for moneys which may be used in a way that we do not want them used.

I cannot help but think that we are entitled to have the information, not necessarily from the distinguished chairman of the Appropriations Committee, but from the CIA and the Pentagon as to how those moneys are going to be used and whether or not they are going to be used in Angola.

This morning a member of my staff called the CIA and asked them to come and discuss with me the question of moneys for Angola. Their representative said that they would be happy to discuss with me what the Soviets were doing in Angola but they could not discuss with me what we were doing in Angola, which seemed to be a kind of ironic commentary on the nature of doing business around Washington.

I, for one, cannot help but feel that if we look to the future, as we see what Ambassador Moynihan said today, about how important the sea lanes are and how important the oil in Angola is, and if you tie that into what the Secretary of State said recently about the importance of Angola, that we are preparing a full-scale intervention in Angola insofar as the shipment of American arms and money to that beleaguered part of the world is concerned. And I am very deeply concerned about it. I, for one, do not think we ought to have a vote on this appropriation bill until some of us who are involved in the same shroud of ignorance that I am shrouded in—I think we just cannot have a vote until we get a better understanding of what is going on. As such I plan to request a closed session of the Senate so we can set some answers to the questions on Angola. I am happy to yield to the distinguished Senator from Idaho.

Mr. CHURCH. I thank the Senator very much.

First of all, Mr. President, let me say that the Select Committee on Intelligence, which has been charged with investigating all of the intelligence agencies, including, of course, the CIA, was briefed in considerable detail sometime ago on this covert action in Angola.

Our committee operates under very strict rules of secrecy. It has been one of the most leakproof committees ever to conduct a major investigation; and so members of the committee and of the committee staff were very careful to say nothing about the actions being taken by the United States in that African country.

But the discussion on the floor this morning underscores the need for different arrangements in Congress in order to deal with significant covert operations. As the Senator from Iowa (Mr. CLARK) has said, under present law certain committees of Congress, including the Foreign Relations Committee and the Armed Services Committee, are simply advised after the fact, as indeed we were on the very committee that is charged with the principal responsibility of investigating the activities of these various intelligence agencies. We, too, were advised after the fact.

If Congress is ever to have a check on covert action abroad, then new procedures must be established. I would hope that Congress would choose, in the months immediately ahead, to establish a permanent oversight committee on intelligence, which would be empowered not only to obtain all such information, but, whenever a significant covert action is contemplated by the executive, that this special committee on oversight would have advance notice of the intention, so that the committee could consult with the executive and express its own views before the operation began.

It comes close to comedy, I think, that the Congress of the United States, acting through its responsible committees, should have no other function but to be advised, after the fact, of an involvement so serious that it could broaden into another war. And that comedy turns into tragedy when Members of Congress must read about such an operation, for the first time, in the Washington Post, and learn that the details concerning the operation have been disclosed by our representative at the United Nations, Mr. Daniel Patrick Moynihan, in a television broadcast.

That is the predicament in which we find ourselves. And what is it, Mr. President, that our Ambassador, Mr. Moynihan, says in justification of what he now reveals to be a $50 million operation in Angola? What is the justification he gives for it? Let me read from the Washington Post:

> U.N. Ambassador Daniel Patrick Moynihan warned today that if the U.S. opposition to Soviet activities in Angola ends, "the Communists will take over Angola, and thereby considerably control the oil shipping lanes from the Persian Gulf to New York"
>
> Moynihan also warned that the Soviet Union would then control a "large chunk of Africa" and pose a military threat to Brazil. "The world will be different in the aftermath, if they succeed," he said.

Well, now, Mr. President, if we have not lost all of our commonsense, I suggest that such exaggerated statements about the importance of Angola and the effect of Russian influence there are so extreme as to be part of what Mr. Moynihan himself last week described the General Assembly of the United Nations as being, that is to say, a theater of the absurd. These arguments belong in a theater of the absurd.

If Angola is of such vital interest to the United States that we must begin to spend millions of dollars in a mushrooming war there to prevent a Soviet-backed faction of Angolans from forming the government, then there is no country anywhere in the world concerning which an American intervention could not be justified. Shades of the arguments that led us into Vietnam. I sometimes think that our policymakers are like the Hapsburgs who remembered everything and learned nothing. If they had learned anything about recent African history, they would know that what is happening in Angola is that two factions are making use of the Soviet Union, on the one hand, and the United States, on the other, to provide each contending group with money, weapons, and the wherewithal to carry on a civil war. Whichever side wins, that side will be Angolan. It will not be Russian; it will not be American. It will be Angolan.

In Africa today there is no compulsion that can be equated with the compulsion and desire for independence, and by that I mean not simply juridical independence, which now has been achieved by the severance of the ties that bound Angola to Portugal, but actual independence from foreign domination.

These young African countries will not be dominated for long by any foreign power, least of all a white power. It is our short-sightedness that leads us into such follies as Angola.

I remember when the same arguments were being made about Algeria. It was said that the newly formed independent Government of Algeria under Ben Bella was a Russian satellite and that we had lost one of the most important countries of Africa, bordering on the Mediterranean itself.

Angola borders on the South Atlantic. It is closer to Antartica than it is to Washington or to Moscow.

But what happened in Algeria? It was only a matter of a few months until the very tanks the Russians had supplied the

Algerian Army encircled Ben Bella's palace, and Mr. Ben Bella was abducted, disappeared, and later assassinated, by the new government which had taken over.

I can remember how concerned we were about the extent to which the Russians had moved into Egypt, but the Egyptians turned out to be more concerned, Mr. President, and it was not long until the Russians were unceremoniously pushed out of Egypt.

If we took a longer view of history, I think we would not become so frightened by interventions in Africa on the part of the Russians. We would adopt a policy that does not simply mimic the Russians.

Furthermore, as the Senator from California points out, once we intervene in these post-colonial civil wars, we almost invariably intervene on the wrong side, and that is what we are proceeding to do in Angola, for our Ambassador, Mr. Moynihan goes on in this article to warn about the convergence of our policy with that of South Africa.

Can Senators imagine a convergence more self-defeating, more calculated to guarantee that the faction we now choose to support will lose?

It does not take a student on African affairs to understand that any convergence with South African policy in that part of the world is tantamount to the guarantee of ultimate defeat.

So I suggest that the arguments presented by the Senator from California are eminently sound. We do not belong in Angola. We ought not to participate there in a conflagration that could be open-ended. Congress, at the very least, before voting money, had better find out now, what we are getting into. We had better have an up-and-down vote in this Senate so everyone can assume a responsibility for what ultimately may follow.

I commend the Senator for his effort to do just that.

Also, before I close, I wish to congratulate the distinguished Senator from Iowa on an amendment he has offered to the military aid bill which is now pending in the Committee on Foreign Relations. That amendment is similar to certain amendments with which I was associated in the effort to limit and finally to bring an end to the war in Vietnam and in Cambodia, because it relates to the purse strings. It would provide, if enacted, that no money in the military assistance bill or any other bill could be used for the purpose of financing this involvement on our part in the Angolan civil war.

I hope, one way or the other, that Congress soon faces up to this issue, and I commend both Senators for their efforts in this regard.

Mr. TUNNEY. Mr. President, will the Senator yield for a 15-second observation?

Mr. CLARK. Yes.

Mr. TUNNEY. I do not wish to take any time of the Senator from Iowa. We only have 5 minutes remaining before the vote on another matter.

But at the appropriate time this afternoon, I plan to make a request for a secret Senate session, so that we can hear more from the distinguished chairman of the Committee on Appropriations and anyone else who has any information on the subject matter of whether funds in this appropriation would be made available or could be made available to Angola.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. TUNNEY. Yes.

Mr. ROBERT C. BYRD. The Senator is aware that at 1 p.m. we have a vote on the treaty, and upon the disposition of the vote on the treaty, under the order previously entered, the Senate takes up the tax bill. I mention that as something the Senator might wish to think about.

Mr. TUNNEY. I shall have a chance to discuss it with my distinguished leader during the next few minutes while the Senator from Iowa is making his remarks, but I wish today to have an understanding that we would have a secret session, or I shall make a motion that we do have a secret session to bring out the facts as they relate in this appropriations bill to Angola.

Mr. CLARK. Mr. President, I join the Senator from California, and at the appropriate time I shall second the amendment to go into a closed session, because it seems very important that we not pass on money here today that could indeed be used in Angola without the Senate's knowledge.

The chairman of the Committee on Appropriations is entirely right in saying that ought not be done here in public session. For those reasons, it is wise to wait until that time.

As I understand it, in 2 minutes we are going to move to a vote, so I wish to, in effect, take some time later this afternoon when this bill comes back in the Chamber again, but let me say that——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CLARK. Yes.

Mr. ROBERT C. BYRD. For his consideration, the bill may not necessarily come back in the Chamber this afternoon. But at such time as it is again before the Senate, Senators will have their rights.

Mr. CLARK. That is correct.

But I join with the distinguished Senator from Idaho in commenting very briefly on Ambassador Daniel Moynihan's comments on television yesterday which were reported in the Washington Post today saying that the Communists will take over Angola and thereby considerably control the oil shipping lanes from the Persian Gulf to New York and that further it poses a military threat to Brazil.

I suggest, Mr. President, that there is a very good chance that this does not represent our Government's position.

As a spokesman from the State Department is quoted as saying later in the article, Mr. Moynihan seems to have a special talent for taking positions for the administration, which the administration in fact does not support itself.

I have been advised on many occasions over the last several weeks about Angola, both from the CIA and the State Department, and no one has ever suggested for one moment that our interest there involved Brazil or the oil shipping lanes from the Persian Gulf to New York. It is a ridiculous assumption. Senator CHURCH is right in referring to this as an absurd comment.

Indeed, the Ambassador's statement in the United Nations and the General Assembly this year make him one of the most absurd of the players, I think.

I simply say that I wish to ask the chairman of the Committee on Appropriations when we go into closed session, and I shall ask him now at least so that he might give some consideration to this question, whether in fact it is possible, that is to say, legally possible, that there is money in this bill which could be used for covert activities in Angola. I do not expect him to answer on that in open session. But that will be my question.

Mr. President, I intend to return to this subject when this matter is before the Senate later in the day or later in the week.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. TUNNEY. Mr. President, the Senator's work in the Committee on Foreign Relations is commendable. I feel that insofar as this appropriation bill is concerned, we should be prepared to have a very clear understanding that none of the money is going to be available for Angola. I am prepared to offer an amendment at the appropriate time that no money can be used for such purpose.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to proceed for 1 minute before the vote.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADDITIONAL STATEMENTS SUBMITTED ON DOD APPROPRIATIONS CONFERENCE REPORT

THE SENATE SHOULD REJECT THE DOD APPROPRIATIONS CONFERENCE REPORT

Mr. HATFIELD. Mr. President, I urge my colleagues to join me in voting against the conference report on the Defense Department appropriations bill. Even though the amount appropriated is approximately $250 million below that approved by the Senate, it is still at the staggering level of $112,426,984,000 for the fiscal year 1976 and the transition period. This amount is far more than adequate to defend this country, maintain our commitments abroad, and insure military strength second to none. In addition, the bill includes funds for several weapons systems which are either unnecessary or dangerously destabilizing in terms of the nuclear balance.

In its action of the bill, the Senate deleted advance procurement funds for the controversial B-1 bomber, thus postponing a final production decision until such time as the projected costs and benefits of this airplane could be analyzed on the basis of more complete test results. In conference, these advance procurement funds were restored in return for a reduction in research and development funds.

Mr. President, as we all are well aware, there has been considerable debate about the practicality of a manned strategic bomber in this age of ICBM's and SLBM's with MIRV and possibly, MARV warheads. I for one believe that this bomber is not needed and that we should not build it. Even those who disagree on that point, however, can agree that we should not provide procurement funds until the decision has been made.

Another item: The conference agreed to funding for 4 AWACS aircraft, two more than the House originally provided for, and two less than the Senate included in its bill. Time and again, Mr. President, our distinguished colleague from Missouri (Mr. EAGLETON) has led this body in debate on this aircraft, and demonstrated its inefficiency and ineffectiveness. Further tests recently have not dissipated doubts about the aircraft's performance of its mission. The security of our Nation and that of our allies is not improved by this airplane, and we certainly cannot afford it.

The House agreed to the substantially higher Senate figure for the XM-1 tank, and thus we are to vote soon on funding a weapon that has been made obsolete by technological advance. Students of the Yom Kippur war, Mr. President, know that tank losses were very serious, so serious, in fact, that more tanks were lost on both sides in that short war than were lost in all of World War II. Only a few of those losses were attributable to airplanes, and a good number of the Israeli losses were attributed to use of the Russian "Sagger" missile, a TOW missile similar to our own. Tube-launched, optically sighted, wire-guided—TOW—missiles are cheap, easily used, and very effective. Million-dollar tanks that can be destroyed by $10,000 missiles carried by a two-man team are not cost-effective, and should not be built.

Finally, Mr. President, the conference report agrees to the Senate's restoration of funds cut by the House for the development of the air-launched cruise missile. I consider this to be the worst element of this conference report. The House's action had offered some hope that cruise missiles could be stopped short of production and deployment, thus avoiding another escalation of the arms race, even though funds for the sea-launched cruise missile were left untouched. Cruise missiles, and especially sea-launched cruise missiles, are terribly destabilizing to the nuclear balance, pose serious threats to ongoing SALT negotiations, could render meaningless the Vladivostok Accords, and would add a fourth leg to the TRIAD even while we are constantly being assured that TRIAD gives us the upper hand. There is no necessity for this weapon whatsoever, but since technology makes it possible, missions will be invented for it and funds appropriated for its development, despite the serious consequences.

Mr. President, I intend to say more on the subject of cruise missiles when the Senate next considers the authorization bill. At this time, let me only say that money for this weapon alone is sufficient reason to vote against the conference report. Combined with the other items I mentioned, the case is more compelling, and I urge my colleagues to vote against this measure.

Mr. CRANSTON. Mr. President, earlier today, during debate on the defense appropriations bill conference report, there was a discussion of CIA funding of activities in Angola. I ask unanimous consent that an informative article on the Angola aid issue, written by Seymour Hersh in Sunday's New York Times be printed in the RECORD. I hope my colleagues will note the different installments approved for Angola within the executive branch—by the Forty Committee—and then ask: When did Congress approve or authorize these moneys? Or did it?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANGOLA-AID ISSUE OPENING RIFTS IN STATE DEPARTMENT—HEAD OF BUREAU OF AFRICAN AFFAIRS SAID TO HAVE QUIT OVER KISSINGER REJECTION OF HIS BID FOR A DIPLOMATIC SOLUTION

(By Seymour Hersh)

WASHINGTON, December 13.—A sharp dispute over covert operations by the Ford Administration in Angola has bitterly divided the State Department and resulted in the resignation of the head of its bureau of African affairs, according to well-informed Government sources.

The sources, in a series of interviews this week, said that the bureau head, Nathaniel Davis, resigned in August as Assistant Secretary of State for African Affairs after Secretary of State Henry A. Kissinger rejected his recommendation that the United States seek a diplomatic solution in Angola and play no active role in the country's civil war.

In fact, a number of sources said, Mr. Davis resigned a few weeks after a high Administration body, acting upon the strong recommendations of Secretary Kissinger and William E. Colby, Director of Central Intelligence, authorized the covert shipment in mid-July of up to $10 million worth of arms to two factions in Angola.

WHEN OPERATIONS BEGAN

The Central Intelligence Agency has since been authorized to provide at least $50 million worth of arms to the National Front for the Liberation of Angola and the National Union for the Total Independence of Angola, which have joined forces to oppose the Soviet-backed Popular Movement for the Liberation of Angola.

[In London, where Secretary Kissinger was conferring with British officials, reporters were told that he was understood to feel that the United States acted slowly in Angola last summer because of the repercussions from past revelations of covert American operations. The American support in Angola was to counter heavy shipments of arms to the Popular Movement by the Soviet Union and the presence of Cuban fighting men on that faction's side.]

"UTTERLY WRONG"

The sources, who have had access to many communications between Mr. Davis and Mr. Kissinger, said that Mr. Davis began expressing opposition to the Angolan policy shortly after his appointment as an Assistant Secretary last April.

"Davis resigned," said an official who is closely involved, "because he believed the policy was utterly wrong. The decision had gone against him and he was unable to carry out a policy he was inimically opposed to."

Steven Wagenseil, a State Department press officer, said that the Department would have "no comment" on the disclosure.

Mr. Davis, a career diplomat who has since been reassigned as Ambassador to Switzerland, refused to comment late yesterday after being told the gist of the report.

THE CHILEAN FACTOR

The State Department did not formally announce his resignation, or the reasons behind it. But an unidentified spokesman told the Washington Post late in August that Mr. Davis had left his assistant secretaryship post because of opposition from African leaders and the Black Caucus in Congress. That opposition was said to have stemmed from the fact that Mr. Davis was Ambassador to Chile while covert C.I.A. operations were going on there.

At the time, it was said, opposition to the Angola policy was widespread throughout the Bureau of African Affairs and, after a thorough review of the Angolan situation in late spring, the Bureau recommended that the United States stay out of the conflict.

In recent months, many sources said, there has been a series of personnel changes in the bureau and orders have been issued severely limiting to only a few of its key officials the distribution of classified cables and other documents relating to Angola.

ANOTHER CUTOFF REPORTED

In addition, the sources said, a similar cutoff to intelligence information has been authorized for many officials involved with African affairs inside the State Department's Bureau of Intelligence and Research. That bureau also expressed formal disagreement last summer with the devision to begin supplying arms and other aid to anti-Communist factions in Angola.

All of the officials interviewed were quick to express dismay and anger at the Soviet Union for its decision early this year to increase military shipments to the Popular Movement.

DAVIS STRESSED DIPLOMACY

The sources said, however, that Mr. Davis and others in the State Department repeatedly argued that the appropriate United States response should be diplomatic.

"Davis argued that we must mount a diplomatic effort—a multinational effort—to get a settlement," one official said. "He said we must trumpet it to the world that this is not the right kind of activity for any great power."

The question of how to respond to the initial Soviet increases in military aid shipments was discussed sometime in the spring by an interdepartmental group in the Ford Administration, another source said, and the only official who favored direct United States involvement was Secretary Kissinger.

"Kissinger in effect told Davis," an official said, "that he wasn't giving him the results he wanted."

A number of State Department officials and other sources expressed anger at Mr. Kissinger's decision to recommend direct United States involvement in Angola. "He was given the best advice there was and it didn't fit what he wanted to do," one official said. "He wanted to face off the Russians right there—in Angola."

THE FIRST BIG MOVE

Officials said that the first significant decision on Angolan policy was made in the spring, when the Administration authorized the C.I.A. to supply about $300,000 in military arms and aid to the National Union for the Total Liberation of Angola, led by Jonas Savumbi. Mr. Savumbi had been receiving some military aid from China for years but by early this year, the sources said, he was actively seeking funds from other nations in Africa as well as from the United States.

The funds were authorized after the C.I.A. formally began reporting the increases in Soviet military aid to the Popular Movement. The agency, it was said, led by Mr. Colby and James Pott, the C.I.A.'s director of African affairs, urged the United States to respond by increasing its involvement.

The C.I.A. also has been aiding the National Front, headed by Holden Roberto, since the early 1960's, much of that help being funneled through neighboring Zaire, headed by President Mobutu Sese Seko.

One official recalled that Mr. Davis argued in the spring that "once you put Savimbi in the game and once you continue to help Roberto through Zaire, that's a signal to the Russians that we're going to face them off."

"A little bit of Soviet stuff had been going in all year," said an official with access to intelligence about American involvement in Angola. Larger Soviet shipments did not begin, this official said, until after the United States decided to help supply Mr. Savimbi and further decided, at a formal meeting of the "40 committee" in July, to ship millions of dollars worth of supplies to Angola.

The "40 committee" is a four-man subcommittee of the National Security council with a responsibility for approving all proposals for covert intelligence activities carried out by this country abroad. Mr. Kissinger is the committee's head, and the other members are Mr. Colby, William Clement, Deputy Secretary of Defense, and Gen. George S. Brown, Chairman of the Joint Chiefs of Staff.

"IT WON'T WORK * * *"

A number of sources noted that Mr. Davis, in a steady stream of memoranda sent to Mr. Kissinger and others this summer, cited three main arguments against increased United States involvement in Angola.

"First of all," said an official directly involved, "Davis told them it won't work. Neither Savimbi or Roberto are good fighters—in fact, they couldn't fight their way out of a paper bag. It's the wrong game and the players we got are losers."

Secondly, the official quoted Mr. Davis as having argued further arguing that when the United States' efforts ended in failure, that failure inevitably would be extremely damaging to the two leading African moderates who are American supporters, Presidents Mobutu of Zaire and Kenneth D. Kaunda of Zambia.

Finally, the official said, Mr. Davis argued repeatedly that the United States would end up with racist South Africa as its only African ally.

"For years," the official added, "South Africa has pushed the line that the black liberation movements were arms of Communism. Resisting that argument has always been sensible African policy" for the United States. "Now, of course," he said, "we and South Africa are allies."

As many as 1,000 white South Africans * * * and fighting against the Popular Movement.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I have been requested by several Senators that there be a closed session of the Senate to discuss the questions of Angola. This is to serve notice that at 9:15 on Wednesday morning next, a closed session will start.

Do the Senators have any idea how long they would like to have that closed session last?

Mr. TUNNEY. I think that 2 hours, at least, would be needed on the subject.

Mr. MANSFIELD. Mr. President, for the information of the Senate, it will be a session for not to exceed 2 hours. I ask unanimous consent that that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Chair withdraws the ruling.

Mr. McCLELLAN. I have no intention of objecting, but for clarification, is there to be controlled time?

Mr. MANSFIELD. Yes, indeed. The time will be controlled by the distinguished chairman of the committee, the manager of the bill, the senior Senator from Arkansas (Mr. McCLELLAN), and the Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. Is there objection?

Mr. CASE. Reserving the right to object, Mr. President. I just want to know what we are agreeing to.

Mr. MANSFIELD. That we go into closed session at 9:15 on Wednesday morning next and that the time for the closed session not extend beyond 11:15 a.m.

Mr. CASE. This would be on what legislation?

Mr. MANSFIELD. Angola—in relation to the conference report on the defense appropriation bill.

Mr. McCLELLAN. What they really intend to go into is the question of intelligence information, whether or not to make it public. That is really what is involved—whether everything regarding Angola be made public, regarding the funds that may be in the bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. It covers the entire question of intelligence as it affects appropriations. That is what is involved.

Mr. MANSFIELD. Mr. President, I understand that the agreement for a closed session is automatic.

Mr. GOLDWATER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Chair notes the further reservation.

Mr. GOLDWATER. Mr. President, reserving the right to object—and I will not object—I merely want to ask a question of the majority leader. No amendments can be offered to the conference report. Is that correct?

Mr. MANSFIELD. That is correct.

Mr. GOLDWATER. We vote the conference report up or down. Nobody can offer an amendment. Is that correct?

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TUNNEY. A motion to recommit would be in order, would it not?

Mr. MANSFIELD. Yes; it would.

The PRESIDING OFFICER. Only if the Senate were acting first.

Mr. CASE. I just want to be sure, Mr. President, on what this time is to be used.

The PRESIDING OFFICER. The House already has agreed to the conference report, so a motion to recommit would not be in order.

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TUNNEY. But it would be in order to offer an amendment, if the conference report were defeated, to send it back to conference, with instructions. Is that correct?

The PRESIDING OFFICER. There are certain amendments in disagreement on which an amendment could be in order.

Mr. TUNNEY. It would be appropriate to offer instructions to the conferees?

The PRESIDING OFFICER. That would be possible.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. That would apply only to those amendments in disagreement, would it not?

The PRESIDING OFFICER. The Senator is correct.

If the Senate rejected the entire conference report, the entire matter could go back to conference.

Mr. CASE. Mr. President, reserving the right to object, if that time could be extended to 12 o'clock, I think it would be a good idea, because this is a rather important matter.

Mr. MANSFIELD. I know it is an important matter. I am keeping in mind that we are trying to get out by Friday next, and we have a very difficult schedule. However, I ask unanimous consent that beginning at 9:30 and not extending beyond 12 o'clock, there be a closed session of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, with a vote thereat. Is that correct?

Mr. MANSFIELD. If a vote is requested, yes. If a vote is requested, it will occur at that time.

Mr. GRIFFIN. Whether it is a rollcall vote or not, there will be a vote on the conference report.

Mr. MANSFIELD. Yes—at that time.

Mr. TUNNEY. Mr. President, there is no unanimous-consent request, is there, on time for a vote?

Mr. MANSFIELD. No, but I shall make that request now, because I think at the end of 2½ hours, we should be ready for a vote, one way or the other.

Mr. TUNNEY. Could that request be made after we finish the secret session?

Mr. MANSFIELD. The Senator is aware of the schedule which confronts the Senate this week. We have a common situs picketing conference report. We have this conference report. We have the emergency energy conference report. We have the tax matter. It would be my hope that the Senator would not push his luck too far and would agree to vote at 12:30, because no minds will be changed after that time.

Mr. TUNNEY. I would like to have an opportunity to discuss the unanimous-consent request with the majority leader before I would concur.

Mr. MANSFIELD. Mr. President, I withdraw my request, except for the 2½ hours.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, do I correctly understand that the request for time carries with it a request for control of the time as suggested by the distinguished majority leader?

Mr. MANSFIELD. That is correct—between the Senator from Arkansas, the manager of the bill, and the Senator from California (Mr. TUNNEY).

Mr. McCLELLAN. Is it from 9:30 until 12?

Mr. MANSFIELD. Not to exceed 12.

Mr. TUNNEY. Will the Senator from Montana indicate whether he feels that one-half hour in open session after the secret session would be appropriate? If so, I would agree to a unanimous-consent request that the vote on the conference report occur one-half hour after the secret session, assuming that that half hour was used for consideration of the conference report.

Mr. MANSFIELD. Will the Senator from California allow the Senator from Montana to make a counterproposal?

I ask unanimous consent that the closed session begin at 9:30 and end no later than 11:30 and that the vote occur at 12 o'clock.

Mr. TUNNEY. Yes, I concur.

Mr. MANSFIELD. I make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I thank the Senator.

EXECUTIVE SESSION

CONVENTION WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON MATTERS OF TAXATION

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, as extended by unanimous consent, the Senate will now go into executive session and proceed to vote on Executive T (93d Cong., 1st sess.), Convention with the Union of Soviet Socialist Republics on matters of taxation.

The resolution of ratification will be read for the information of the Senate.

The resolution of ratification was read, as follows:

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Union of Soviet Socialist Republics on Matters of Taxation, with related Letters, signed at Washington on June 20, 1973.

ADDITIONAL STATEMENT SUBMITTED ON TREATY

Mr. HELMS. Mr. President, I do not believe that this is the time to approve a new treaty with the Soviet Union, no matter how innocent the particular matter may seem to be on the surface. One by one such agreements begin to change our whole configuration of relationships with the Soviet Union; yet at the present time there is a growing feeling of unease in those relationships.

We see in Angola, for instance, the first use of Soviet troops outside of Soviet continental interests, despite the spirit that was supposed to be manifest in the Helsinki agreement. We are in the middle of a controversy over Soviet adherence to the SALT I agreement, with claims and counterclaims as to whether the Soviets have violated it or not. In both cases, there are those who argue that the Soviets have not committed violations of the actual letter of the agreement; but instead, with the peculiarly legalistic attitude that they have demonstrated in the past, they blandly ignored the purpose of the agreement even while supposedly sticking to the letter.

So here we have yet one more agreement. There is only one purpose for this convention: It is meant to increase U.S. trade with the Soviet Union. Assistant Secretary Walker, in his testimony on behalf of the convention, says that the purpose is "to achieve tax neutrality with respect to the flow of capital." Is there anyone in this Chamber who believes that it will increase the flow of capital from the Soviet Union to the United States?

Of course not. If there is any flow of capital, it will be from the United States to the Soviet Union.

Moreover, the treaty in article VIII provides that the Convention "shall apply only to the taxation of income from activity conducted in a contracting State in accordance with the laws and regulations in force in such Contracting State." Do we fully understand Soviet laws as they apply to business? Of course we do not. The Soviet system is set up to make free enterprise impossible, so we cannot expect to find Soviet laws that are very hospitable to our way of doing business. How do we know that the "neutrality" or reciprocity supposedly guaranteed in this Convention is not nullified by provisions of Soviet law?

The basic issue is that the Soviet system and the United States system are incompatible. Despite the evident intent to accommodate the treaty to the special conditions in the Soviet Union, we do not really know the impact. Even Mr. Walker admitted that—

> It would be extremely difficult to determine arm's length prices between two units of government enterprises and to obtain the necessary access to the financial accounts of the enterprise.

Indeed, there is no comparison to a U.S. company setting up an office in Moscow to deal with state trading companies, and the state trading companies setting up an office in New York. Behind one, you have a normal business enterprise; behind the other, you have the whole resources of a hostile government.

Mr. President, I believe that the time has come to vote against such one-sided treaties in principle, and to reassert the primary interests of the United States.

Mr. THURMOND. Mr. President, I favor foreign trade, but the Soviet Union is even now trying to spread communism into Angola. Russian soldiers are there accompanied by combat troops from the Soviet satellite Cuba.

Massive arms shipments have been sent to Angola by the Soviet Union. The purpose of the Russians is clear. That purpose is to add Angola to the Communist bloc. This agreement is meant to increase our trade with the Soviet Union.

Until the Soviet Union stops trying to take over other countries by force, I not only will oppose this treaty, but I question all commercial intercourse with the Russians.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive T, 92d Congress, first session, Convention with the Union of Soviet Socialist Republics on matters of taxation?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Michigan (Mr. HART), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Georgia (Mr. NUNN) is absent on official business.

I also announce that the Senator from Alaska (Mr. GRAVEL) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from North Dakota (Mr. BURDICK), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Arizona (Mr. FANNIN) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

The result was announced—yeas 82, nays 4, as follows:

[Rollcall Vote No. 590 Ex.]

YEAS—82

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brooke
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Case
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Tower
Tunney
Weicker
Williams
Young

NAYS—4

Byrd,
  Robert C.
Helms
Stone
Thurmond

NOT VOTING—14

Bayh
Brock
Buckley
Burdick
Chiles
Durkin
Fannin
Gravel
Hart, Philip A.
Jackson
Kennedy
Nunn
Sparkman
Symington

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

The Senate resumed the consideration of legislative business.

REVENUE ADJUSTMENT ACT OF 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5559, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5559) to make changes in certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all of the enacting clause and insert the following:

This Act may be cited as the "Revenue Adjustment Act of 1975".

Sec. 2. Individual Income Tax Reductions.

(a) Low Income Allowance.—

(1) Increase.—Subsection (c) of section 141 of the Internal Revenue Code of 1954 (relating to low-income allowance) is amended to read as follows:

"(c) Low Income Allowance.—

"(1) In general.—The low income allowance is—

"(A) $2,200 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $1,800 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,100 in the case of a married individual filing a separate return.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the following amounts shall be substituted for the amount set forth in paragraph (1)—

"(A) '$1,750' for '$2,200' in subparagraph (A),

"(B) '$1,550' for '$1,800' in subparagraph (B), and

"(C) '$875' for '$1,100' in subparagraph (C).".

(2) Change in filing requirements to reflect increase in low income allowance.—Paragraph (1)(A) of section 6012(a) of such Code (relating to persons required to make returns of income) is amended—

(A) by striking out "$2,350" in clause (i) of such paragraph and inserting in lieu thereof "$2,550";

(B) by striking out "$2,650" in clause (ii) of such paragraph and inserting in lieu thereof "$2,950"; and

(C) by striking out "$3,400" in clause (iii) of such paragraph and inserting in lieu thereof "$3,700".

(b) Percentage Standard Deduction.—

(1) Increase.—Subsection (b) of section 141 of such Code (relating to percentage standard deduction) is amended to read as follows:

"(b) Percentage Standard Deduction.—

"(1) General rule.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(A) $2,900 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $2,500 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,450 in the case of a married individual filing a separate return.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1) of this subsection, the following amounts shall be substituted for the amounts set forth in paragraph (1)—

"(A) '$2,450' for '$2,900' in subparagraph (A),

"(B) '$2,250' for '$2,500' in subparagraph (B), and

"(C) '$1,225' for '$1,450' in subparagraph (C).".

(2) Conforming amendments.—Section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$2,600" in paragraph (1)(B) and inserting in lieu thereof "$2,900", and

(B) by striking out "$2,300" in such paragraph and inserting in lieu thereof "$2,500".

(c) Credit for Personal Exemption.—Section 42(a) of such Code (relating to credit for personal exemption) is amended to read as follows:

"(a) Credit Allowed.—

"(1) In general.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of $45, multiplied by the number of exemptions to which the taxpayer is entitled for the taxable year under subsections (b) and (e) of section 151.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1) of this subsection, the amount '$22.50' shall be substituted for the amount '$45' where it appears in that paragraph.".

(d) Earned Income Credit.—Subsections (a) and (b) of section 43 of such Code (relating to earned income credit) are amended to read as follows:

"(a) Allowance of Credit.—

"(1) General rule.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where is appears in that paragraph.".

"(b) Limitation.—

"(1) General rule.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph.".

(e) Extension of Certain Low-Income Allowance, Percentage Standard Deduction, and Tax Credit Provisions.—The last sentence of section 209(a) of the Tax Reduction Act of 1975 is amended to read as follows: "The amendments made by section 201(a) and 202(a) shall cease to apply to taxable years ending after December 31, 1975; those made by sections 201(b), 201(c), and 203 shall cease to apply to taxable years ending after December 31, 1976.".

(f) Extension of Earned Income Credit.—Section 209(b) of the Tax Reduction Act of 1975 (relating to effective date for section 204) is amended by striking out "January 1, 1976," and inserting in lieu thereof "January 1, 1977.".

(g) Effective Date.—The amendments made by this section apply to taxable years ending after December 31, 1975, and before January 1, 1977.

Sec. 3. Corporate Tax Rates and Surtax Exemption.

(a) Corporate Normal Tax.—Section 11(b) of the Internal Revenue Code of 1954 (relating to corporate normal tax) is amended to read as follows:

"(b) Normal Tax.—

"(1) General rule.—The normal tax is equal to—

"(A) in the case of a taxable year ending after December 31, 1976, 22 percent of the taxable income, and

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1977, the sum of—

"(i) 20 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(2) Six-month application of general rule.—

"(A) Calendar year taxpayers.— Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the normal tax for such taxable year is equal to the sum of—

"(i) 21 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(B) Fiscal year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall cease to apply and the normal tax shall be 22 percent.".

(b) Corporate Surtax.—Section 11(c) of such Code (relating to surtax) is amended to read as follows:

"(c) Surtax.—

"(1) General rule.—The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(2) Special rule for 1976 for calendar year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer to whom this section applies who has as his taxable year the calendar year 1976, the surtax for such taxable year is—

"(A) 13 percent of the amount by which the taxable income exceeds the $25,000 surtax exemption (as in effect under subsection (d)(2)) but does not exceed $50,000, plus

"(B) 26 percent of the amount by which the taxable income exceeds $50,000.".

(c) Surtax Exemption.—Section 11(d) of such Code (relating to surtax exemption) is amended to read as follows:

"(d) Surtax Exemption.—

"(1) General rule.—For purposes of this subtitle, the surtax exemption for any taxable year is $50,000, except that, with respect to a corpration to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

"(2) Six-month application of general rule.—Notwithstanding the provisions of paragraph (1)—

"(A) Calendar year taxpayers.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the provisions of paragraph (1) shall be applied for such taxable year by substituting the amount '$25,000' for the amount '$50,000' appearing therein.

"(B) Fiscal year taxpayers.—In the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall be applied by substituting the amount '$25,000' for the amount '$50,000' appearing therein, and such substitution shall be treated, for purposes of section 21, as a change in a rate of tax.".

(d) Technical and Conforming Changes.—

(1) Sections 1561(a) of such Code (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations), and section 962(c) of such Code (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) as such sections are in effect for taxable years ending after December 31, 1975, is amended by striking out "$25,000" in paragraph (1).

(2) Section 21(f) of such Code (relating to increase in surtax exemption) is amended—

(A) by striking out "Increase" in the caption and inserting "Change" in lieu thereof, and

(B) by inserting after "Tax Reduction Act of 1975" the following: "and the change made by section 3(c) of the Revenue Adjustment Act of 1975".

(e) Effective Dates.—The amendments made by subsections (b), (c), and (d) apply to taxable years beginning after December 31, 1975. The amendment made by subsection (c) ceases to apply for taxable years beginning after December 31, 1976.

Sec. 4. Withholding; Estimated Tax Payments.

(a) Withholding.—

(1) In General.—Section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) as amended by section 205 of the Tax Reduction Act of 1975, is amended by inserting after the second sentence thereof the following: "The tables so prescribed with respect to wages paid after December 31, 1975, and before July 1, 1976, shall be the same as the tables prescribed under this subsection which were in effect on December 10, 1975.".

(2) Technical amendment.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1976" and inserting in lieu thereof "July 1, 1976".

(b) Estimated Tax Payments by Individuals.—Section 6153 of such Code (relating to installmnt payments of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(g) Six-Month Application of Revenue Adjustment Act of 1975 Changes.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 31, 1976, may be computed without regard to section 42(a)(2), 43(a)(2), 43(b)(2), 151(b)(2), or 154(c)(2).".

(c) Estimated Tax Payments by Corporations.—Section 6154 of such Code (relating to installment payments of estimated income tax by corporations) is amended by adding at the end thereof the following new subsection:

"(h) Six-Month Application of Revenue Adjustment Act of 1975 Changes.—In the case of a corporation which has as its taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 31, 1976, may be computed without regard to sections 11(b)(2), 11(c)(2), and 11(d)(2).".

Sec. 5. Rolling Stock.

(a) Exclusion From Income.—Section 883(a) of the Internal Revenue Code of 1954 is hereby amended by adding at the end thereof the following new paragraph:

"(3) Railroad rolling stock of foreign corporations.—Earnings derived from payments by a common carrier for the use on a temporary basis (not expected to exceed a total of 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States."

(b) Effective Date.—The amendment made by this section shall apply to payments made after November 18, 1974.

Mr. LONG. Mr. President, I ask unanimous consent that during the consideration of this measure the following staff members be granted privilege of the floor. From the staff of the Committee on Finance, Michael Stern, Bob Willan, Bill Morris, Don Moorehead, George Pritts, and Bill Galvin.

From the staff of the Joint Committee on Internal Revenue Taxation, Larry Woodworth, Bob Shapiro, Jim Wetzler, Mike Bird, and Paul Oosterhuis.

From Senator Hartke's staff, Don Kiefer.

If there are other requests, I will be glad to make them.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask unanimous consent that the following staff members may remain on the floor until action on this measure is completed: Donald V. Moorehead, George Pritts, and Vashti Brandenberg.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that Bill Corbett be granted privilege of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that Lyle Morris and Leonard Bickwit be granted privilege of the floor during this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Frank Ballance be granted privilege of the floor during this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Franklin Jones and Paul Oosterhuis of the joint staff be granted privilege of the floor during this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the following Finance Committee staff members be granted privilege of the floor. Michael Stern, Jay Constantine, Jim Mongan, Joe Humphreys, Bill Galvin, Don Moorehead, George Pritts, and John Kern, temporarily detailed to the staff of the Senate Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Will the Senator yield for a minute?

Mr. LONG. Yes.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana.

REVENUE ADJUSTMENT ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 5559) to make changes in certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes.

Mr. LONG. Mr. President, the second budget resolution approved by both Houses of Congress directs the Committee on Finance to submit to the Senate a bill decreasing Federal revenues by approximately $6.4 billion. This is part of what is known in the Congressional Budget Act as the "reconciliation process." The bill now before the Senate, H.R. 5559 as reported by the Committee on Finance, is the reconciliation bill in response to the second budget resolution.

The PRESIDING OFFICER. The Chair states that there will be 20 hours for debate on the bill. Two hours on each amendment in the first degree, 1 hour on each amendment in the second degree, debatable motions and appeals, and so forth. Amendments are required to be germane except for the waiver as part of the previous order.

Who yields time?

Mr. LONG. Mr. President, how much time does the law spell out, how the time is to be divided?

The PRESIDING OFFICER. The order does not spell out the control of the time. It states the limit of the 20 hours.

Mr. LONG. Mr. President, I ask unanimous consent that time on the bill be under control of the manager, of the chairman of the committee and the ranking minority member (Mr. Curtis).

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object—and I shall not object—may we have a clarification at this time as to what unanimous consent has already been entered into in reference to this legislation?

The PRESIDING OFFICER. The Chair just recited that amendments are required to be germane, that there are 20 hours, except for the ceiling amendment, imposing a ceiling on expenditures.

Mr. CURTIS. Twenty hours?

The PRESIDING OFFICER. Which would come from the minority side, and there are 20 hours on the bill.

Mr. CURTIS. No objection.

Mr. LONG. The 20 hours is spelled out by the law in view of the fact that this is part of the reconciliation process under the budget law.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Who yields time?

Mr. LONG. Mr. President, I yield myself sufficient time as I require for the point.

Mr. President, this bill seeks to continue the present rate of withholding taxes and generally it seeks to continue the tax cut that was voted earlier this year.

It works out to a reduction in withholding and other taxes of about $1 billion a month, the purpose of it being to maintain employment, to try as best we can to stimulate recovery during these troubled economic times.

I regret, Mr. President, that we have not been able to come to terms with the administration with regard to its suggestion that we should fix a precise figure of budget spending for 1977 fiscal year and that thereafter each dollar of tax cut should be accompanied by a dollar of reduction of spending.

Mr. President, I for one bent over backwards trying to reach a compromise with President Ford on a bill that will extend the 1975 tax cuts and prevent a $16 billion tax increase on New Year's Day. We realize how badly the President wants to get expenditures in the fiscal year 1977 under control. And we share that general objective. However, Congress has just adopted a new budget procedure which involves our examining the budget the President will send up to us in January and then we will make our own determination both as to the total expenditures and division of the total among the various functional categories. I believe the feeling is quite general in the Senate that, if we were to adopt an arbitrary ceiling without generally knowing its impact on the different categories of Government expenditures, we might well not be able to keep such a ceiling once we knew its effect. This would undermine our new budgetary control procedure and might do permanent, long-term harm to the cause of budgetary control.

We on the Finance Committee tried to help the President by providing an opportunity to control fiscal year 1977 spending without destroying the new budgetary procedure. We did this by extending the tax cuts only through the first half of 1976. This is only about a month beyond the time the Congress by law is required to set a ceiling on expenditures for 1977. The threat of not permitting the tax cut to be extended beyond June 30 should be all the leverage the President needs to hold 1977 expenditures to a reasonable level. I, for one, believe, in any event, he will find the Congress is as interested in holding down spending as he is.

I have also said that, once we agree upon a congressional budget level, we will endeavor to stay by the principle that from then on a $1 cut in taxes should be accompanied by a $1 reduction in projected Federal spending. I also want to say that I am willing to go another mile with the President. By this I mean I will certainly be glad to consider any other proposal to limit fiscal year 1977 spending that does not subvert the new congressional budgetary process.

I hope I have made it clear that I am not looking for confrontation with the President on this issue and I believe that most of the members of my party agree on this position. But it is essential that we continue the existing level of withholding and not increase taxes on January 1.

The economic situation is still extremely serious. The economy declined steadily for 18 months between October 1973 and March 1975. Although we have recovered some of this lost ground in the past few months, the level of economic activity remains very low. Over 7 million Americans are unemployed; the level of output is more than 4 percent below its peak in late 1973, and the gap betweeen what the economy is producing and what it is capable of producing is about $190 billion. This gap, this lost income, is about the size of the entire British economy.

Under these circumstances, it is essential that we continue the economic stimulous provided by the 1975 tax cuts. That is what the Finance Committee does in its amendment. The amendment provides no new stimulus to the economy; it only continues the existing stimulus for 6 months. Not to do this would be a severe blow to a fragile economic recovery.

To analyze the effects of letting taxes go up next year, the committee used a study by a subsidiary of Chase Manhattan Bank. That study is summarized in a table in the committee report. It predicts that not extending the tax cuts would lower national income by $25 billion by the middle of 1977. This would increase unemployment by 500,000 workers. Industrial production would fall by 2 percent. According to the Chase study, the rate of inflation will not increase in 1976 because of this tax reduction and will increase by no more than two-tenths of 1 percent in 1977 as a result of this action.

The prospect of this additional unemployment and lost production would be a cruel Christmas present to the American people, particularly at a time when 7 million Americans are already unemployed and the incomes of those who still have their jobs have been seriously eroded by inflation.

Like most Americans, I am deeply concerned with the high level of Federal Government spending. Both the Congress and the executive branch will have to come to grips with this vital issue.

The most effective way to limit Federal spending is through the congressional budget control procedure set up at the beginning of this year. This process enables Congress to determine revenue and spending totals in an orderly way and to establish priorities between different types of expenditures. Imposing an arbitrary ceiling on spending without congress even knowing its general composition is likely to undermine the whole effort to establish an orderly way of controlling spending.

To make a reasonable choice between two possible spending levels, Congress must have information about which expenditures are to be cut if the lower level is chosen. Also, it needs information about the level of revenues. This information will be available next year after the President submits his budget and it is reviewed by the budget committees, but it is not available now.

A flat spending ceiling enacted now would have no credibility since it might have to be changed drastically as more information becomes available. However, as I have already said, I am not opposed once Congress determines the appropriate level of spending and revenues, to hold to that level of spending and revenues if that is what Congress wants, unless economic conditions are such as to require a change in positions. I should think the President might also want the right to change his position if the economic situation changes.

Last week Congress passed a budget resolution for fiscal year 1976 that sets a spending ceiling and a revenue floor for that period. That resolution passed the Senate by a vote of 74 to 19. The revenue floor is consistent with the tax cuts provided in this bill, which apply only to the rest of this fiscal year and reduce receipts by $6.1 billion in that period. The way I see it this bill meets the spirit of President Ford's proposal that tax reduction be tied to a spending ceiling. The spending ceiling, however, is for the period to which the tax cuts apply, not some future period.

Under the regular budget procedures, the President will submit his budget for fiscal year 1977 in January 1976. This document will be examined by the Congress and by May 15, 1976, Congress will set a spending ceiling for fiscal year 1977.

The tax cuts provided by the Finance Committee amendment extend only to a period 6 weeks after that date. As a result, the Congress will be able to consider the question of tax reduction for the last half of 1976—and possibly for future years—after the spending ceiling for fiscal year 1977 has been voted. Any Senator who is dissatisfied with the spending ceiling can vote against any possible further extension of the tax cuts. Thus, under this amendment, the tax cuts for fiscal year 1976 are linked to the spending ceiling for that period and the question of tax reduction for fiscal year 1977 is postponed until after the spending ceiling for that period has been determined. This seems to me entirely consistent with the real heart of the President's proposals.

As I have said, however, I would be willing to go another mile with the President and tentatively accept the principle that once the spending and tax levels have been set for 1977 any further tax cuts should be matched dollar for dollar by spending cuts for that period. This is in the spirit of President Ford's proposal but it does not tie the Congress down to a specific spending ceiling. Circumstances may change and the economy may be worse than we expect in 1977 so I would not want to bind the Senate to any specific dollar figure. Also, it is difficult to focus on a specific dollar figure because there is no exact measure of what spending levels would be in the absence of any specific cuts. For example, President Ford has referred to a spending figure for fiscal year 1977 of $423 billion from which he proposes to cut $28 billion.

However, the current services budget, which measures Government spending in the absence of any new initiatives, shows a range of outlays between $411 billion and $415 billion in fiscal year 1977. I think the honorable way to proceed in an attempt to compromise with the President is not to set a specific dollar spending ceiling but to agree to his principle that barring unforeseen circumstances, as long as he remains President we will match tax cuts for 1977 with spending cuts for that year.

In addition to stimulating the economy during a period of high unemployment, there are other reasons for extending the 1975 tax cuts into 1976. The increased standard deduction in the Finance Committee amendment will encourage individuals who file 10 million tax returns to take the standard deduction instead of itemizing their deductions. This is a major simplification of the tax system. Also, the higher standard deduction will help compensate people who use the standard deduction for inflation. The inflation has eroded the real value of the minimum and the maximum standard deductions while the value of itemized deductions has risen as prices have risen.

Most important, these tax cuts achieve an important goal of tax policy—that poor families not be asked to pay income tax. If the 1975 tax cuts are allowed to expire, the poverty level for a four-person family will be almost $1,600 higher than the income level at which such a family begins to pay income tax—the tax threshold. This means a poor four-person family could pay as much as $222 in income tax, although that family is regarded as being in poverty by Federal standards.

For a six-person family, the gap between the poverty level and the tax threshold would be almost $2,000, leading to an income tax burden of as much as $285. It is wrong to subject poor families to such taxes, especially at a time of high food and energy prices and mass unemployment. Under this amendment, the tax threshold will be raised close to or above the poverty level.

Let me turn now to an outline of the specific tax cuts in the Finance Committee amendment.

The amendment reduces tax liabilities by $8 billion for the first 6 months of 1976. If Congress subsequently votes to extend these cuts for the entire year, the full year's reduction would be $16 billion. This is the amount necessary to maintain the present level of the income tax withholding rates provided by the 1975 tax cuts we passed last March.

The 1975 Tax Reduction Act provided an increase in the standard deduction and a $30 tax credit for each taxpayer and dependent. These provisions reduced tax liability for 1975 by $8 billion. Because the act was not passed until the end of March, these cuts were not reflected in lower withheld taxes in workers' paychecks until May. As a result, the entire $8 billion reduction in tax liability was concentrated in withholding reductions over an 8-month period which worked out to a $1 billion per month in tax cuts. This cut of $8 billion in withholding in 8 months was the equivalent of a $12 billion reduction on a full year basis. Allowing for the growth in income in 1976 over 1975, a full year extension of these withholding rates in 1976, therefore, would require a cut in tax liability of about $13 billion—a little more than $1 billion per month. As a result, an extension of these withholding rates for 6 months only requires a tax reduction of $6.3 billion.

The committee decided to provide this reduction in tax liability through an increase in the standard deduction by several hundred dollars more than was done in 1975 and by an increase in the flat $30 credit available for every taxpayer and dependent to $45. Specifically, the amendment increases the minimum-standard deduction from $1,300 to $1,800 for single people and from $1,300 to $2,000 for joint returns. The Tax Reduction Act of 1975 for 1975 only increased this minimum to $1,600 for single returns and $1,900 for joint returns.

The amendment also increases the percentage standard deduction from 15 percent to 16 percent. This is the same as the increase in the 1975 act. Also, the amendment increases the maximum standard deduction from $2,000 to $2,500 for single people and to $2,900 for joint returns. The 1975 act for 1975 increased it only to $2,300 and $2,600, respectively.

These increases in the standard deduction and the $45 credit will reduce tax liability by an amount that will permit the Internal Revenue Service to continue to use for the next 6 months the same withholding tables that are now in effect and have been in effect for the last 8 months of 1975. On a full year basis, the revenue loss from these provisions would be $12.7 billion.

The amendment also extends the earned income credit that was provided in the 1975 tax cuts. This is the most innovative provision of the 1975 act. It provides more help to poor people than any other provision in the code, because it is a refundable tax credit—that is, the credit can exceed tax liability. The workers eligible for the earned income credit are the people who have been suffering from high food and energy prices and who, nevertheless, are asked to pay the social security payroll taxes. The credit on an annual basis equals 10 percent of the first $4,000 of earnings and is phased out as income rises from $4,000 to $8,000. It is available only to families with dependent children on a full year basis. The loss in revenue is $1.4 billion or $700 million for the 6-month extension provided by this bill.

These tax reductions for individuals will go mainly to low and middle income families. These are the people who need the money the most and also who are most likely to spend it and thereby stimulate the economy and create additional income for other people, including higher profits for business. Of the total tax cut for individuals, 66 percent goes to taxpayers with adjusted gross incomes below $15,000.

Finally, the committee amendment extends the small business tax cuts in the 1975 act. These provide tax relief to a crucial sector of the economy and will encourage capital formation. The corporate surtax exemption is increased from $25,000 to $50,000 and the tax rate on the first $25,000 or corporate income is reduced from 22 percent to 20 percent. On a full year basis the tax cuts total $1.9 billion or $1 billion under the 6-month extension.

As I have indicated in each case the committee amendment extends these tax cuts for 6 months. The way this is done is to provide a reduction in tax liability for the whole calendar year 1976 that is one-half as large as the full year effect of these tax cuts. However, all of this reduction in liability is to be reflected in lower withheld and estimated tax payments over the first 6 months of the year. This means that if there is no further legislation, the entire amount of the tax cuts for the calendar year 1976 will have been withheld by July 1 and it will be necessary at that time for the Internal Revenue Service to raise withholding rates back to the 1974 levels—those which prevailed before the 1975 tax cuts.

For example, the $45 credit is converted into a half-year tax cut by enacting a credit of $22.50—one-half of $45—for the whole year 1976. Similiarly, the half-year effect for the increased standard deduction is achieved by enacting one-half of the increase over the pre-1975 level that would have been enacted for a full year. For example, the percentage standard deduction is increased from 15 percent to 15.5 percent which gives half the effect of an increase to 16 percent.

The half-year extension of the earned income credit is provided by enacting for the whole year a credit at a rate of 5 percent instead of the 10 percent prevailing for 1975.

For the small business tax cuts, the amendment sets up different rules for fiscal and for calendar year taxpayers. For fiscal year taxpayers, the $50,000 surtax exemption and the 20-percent normal tax rate on the first $25,000 of income are simply extended through July 1, 1976. The existing rules for fiscal year taxpayers that require them to prorate income when tax rates change during their fiscal year will give the appropriate result. For calender year taxpayers the same result is achieved without the necessity of prorating income by lowering the normal tax rate on the first $25,000 of income from 22 percent to 21 percent for the entire year 1976 and by reducing the surtax rate on income between $25,000 and $50,000 from 26 percent to 13 percent. This gives calendar year corporations one-half of the benefit of a full year extension of the 1975 tax cuts.

These tax cuts are entirely consistent with the revenue floor in the second concurrent budget resolution. The reduction in tax receipts for fiscal year 1976 is $6.1 billion which is below the $6.4 billion provided for by the budget resolution.

The extension of the 1975 tax cuts for only a 6-month period in this amendment was really an attempt on the part of the Finance Committee to meet what we believed to be President Ford's objective, but not to extend the cuts risks economic disaster. The economy needs this stimulus. This amendment enables the Congress to provide this stimulus and at the same time to consider the question of future tax reductions after a spending ceiling for fiscal year 1977 has been established. Then we will know more about the strength of the recovery. The twin causes of limiting Government spending and of promoting economic prosperity can best be served by enacting the committee amendment.

Mr. CURTIS. Mr. President, I wish to extend my thanks to the distinguished Chairman of the Committee on Finance for his cooperation and his unfailing courtesy to all the committee, and particularly to the members of the minority party. The minority members of the Committee on Finance had ample opportunity to explore, discuss, and present a proposal relating to the President's restraint on spending. For this and many other courtesies, I express my sincere thanks to the chairman.

At this time, Mr. President, I shall confine my remarks to a discussion of what is in the committee bill. I may have more to say about whether or not there should be a tax cut and something about putting the brakes on spending at a later time.

Mr. President, as the ranking minority member of the Committee on Finance, I rise to supplement our chairman's explanation of the pending bill so that we will have a full and complete legislative history.

As my colleagues are aware, Mr. President, I opposed this legislation in committee for the simple reason that, as reported, it reduces Federal tax revenues without making provision for an equal reduction in Federal spending. We will debate this aspect of the legislation later.

As passed by the House, this bill provides for an exemption from tax for payments received by Canadian railroads for the temporary use of their rolling stock by American railroads. The exemption, which will facilitate commerce between the United States and Canada, will produce a revenue loss of less than $2½ million annually. However, the exemption will only take effect if Canada adopts a similar exemption. To my knowledge, the administration has no objection to this part of the bill.

The principle feature of this legislation, however, is to extend for 6 months to June 30, 1976, certain provisions of the Tax Reduction Act of 1975 which are due to expire at the end of this month. For individuals, this bill extends the increased standard deduction, the credit for taxpayers and dependents, and the so-called earned income credit. For businesses, this bill extends the increased corporate surtax exemption and the reduction in corporate tax rates.

When the committee met last week on this bill, there was a general agreement among those who favored continuing the tax cuts that, for individuals, we should try to prevent any increase in withholding as of January 1, 1976. Starting from the premise that withholding should remain constant, the committee made several modifications in the expiring provisions so as to achieve this result. These modifications were designed not only to keep withholding from changing, but also to keep the distribution of the tax cut extension among income groups from changing when compared to the distribution produced by the Tax Reduction Act of 1975.

Specifically, the committee increased the low-income allowance to $1,800 for single persons and to $2,200 in the case of married persons filing joint returns. The percentage standard deduction, which was increased to 16 percent in the earlier legislation, was continued at 16 percent, but the maximum standard deduction was increased to $2,500 for single persons and $2,900 in the case of married persons filing joint returns.

The $30 tax credit for the taxpayer and each dependent—which is not a refundable credit—is increased by this bill to $45. Finally, insofar as individuals are concerned, the earned income credit—which is a refundable credit—is extended. This credit is available only to families with dependent children. Essentially, it provides a credit of 10 percent of earned income up to a maximum of $4,000 so that the maximum credit is $400. The credit is reduced once an individual's income exceeds $4,000 and it is eliminated completely when an individual's income exceeds $8,000.

The extensions passed by the House are partly permanent and partly effective for calendar year 1976. In contrast, the committee's extensions apply only for 6 months. Technically, the committee bill achieves this result by providing for a tax reduction for calendar year 1976 that is one-half as large as the tax cut the committee would have selected for the whole year and by providing that the entire reduction is to be reflected in reduced withholding during the first 6 months of 1976. In this way, the committee bill provides for a 6-month extension that is both comparable to the earlier bill and within the limits of the budget resolution.

The committee bill also extends for 6 months the increase in the corporate surtax exemption and the corporate tax rate reductions. Thus, for the first 6 months of 1976, the tax rate on the first $25,000 of corporate income will be 20 percent. The rate will be 22 percent on the second $25,000 of corporate income and 48 percent on income over $50,000.

To summarize, Mr. President, the committee bill provides for a 6-month extension of the earlier tax cuts. The provisions of the bill are designed to permit employers to use the withholding tables now in effect and to assure that each individual's tax liability will be as consistent with the level of withholding as it is now. Thus, if enacted, the committee bill will maintain the status quo for the first 6 months of 1976.

Mr. President, I yield the floor.

Mr. LONG. Mr. President, in view of the fact that the budget resolution does not spell out how time is to be divided, in order to insure that it be divided equitably, I ask unanimous consent that 3 hours of the time be assigned to the manager of the bill, the Senator from Louisiana, and 3 hours of time be assigned to the ranking minority member (Mr. CURTIS), and that both of us be credited with time we have already. That will leave 14 hours for those who wish to offer amendments. I am not aware that will be needed, but in the event it should, that much time could be reserved to those managing the bill.

The **PRESIDING OFFICER** (Mr. STEVENS). Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, if it is not used for amendments, it could be managed the same way the 6 hours are that the Senator is speaking about.

Mr. LONG. I ask unanimous consent if it is not used for any amendments that the remainder of the time be divided as previously agreed. We ought to reserve a certain amount of time to discuss the bill itself.

Mr. CURTIS. Very well.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the following members of my staff have the privilege of the floor during consideration of the tax-cut bill:

Jim Guirard, Dot Turnipseed, Doug Svendson, John Steen, Bruce Feingerts, George Foote, Joan Shaffer; and also Miss M. Scott of the staff of the joint committee.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The **PRESIDING OFFICER.** Who yields time?

Mr. LONG. Mr. President, I suggest the absence of a quorum, the time to be charged equally against both sides under the 14 hours of debate on the amendments.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that Mr. Brad Ferguson, of the staff of Senator MONDALE, be permitted the privilege of the floor during this debate.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield such time as he may require to the Senator from Maine (Mr. MUSKIE).

Mr. DOLE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. DOLE. Mr. President, I ask unanimous consent that Kim Wells, of my staff; Bruce Thompson, of Senator ROTH's staff, and Bob Kabel, of Senator

Fannin's staff, be granted the privilege of the floor during the debate and votes on H.R. 5559.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I think this might be a good point, with somewhat of a lag in floor discussion, to discuss the pending legislation, as chairman of the Budget Committee. I shall speak briefly of the relationship of the tax reductions contained in H.R. 5559 and the requirements of the congressional budget process.

The second concurrent budget resolution for fiscal year 1976, which is now binding upon Congress, provides for extension of the temporary antirecession tax cuts of 1975 at a level which will maintain current tax withholding rates until the end of June 1976. The resolution mandated the Finance and Ways and Means Committees to report such legislation — specifically, legislation which would decrease fiscal year 1976 revenues by approximately $6.4 billion less than what they would be under existing law. H.R. 5559 meets this standard.

Extension through June 30, 1976, of the temporary lower withholding rates established last spring will allow adequate time for Congress carefully to develop budget targets for fiscal year 1977 including an overall spending ceiling and revenue floor. These targets will be established in the first concurrent resolution to be adopted by Congress next May. This schedule will allow Congress to establish reasoned and accurate fiscal year 1977 spending and revenue decisions at the first available opportunity under the new congressional budget discipline. If Congress determines at that time to further extend or alter the original 1975 tax reductions, legislation to implement that decision can be enacted before the June 30, 1976, expiration date.

I would also like to take this opportunity to praise the Finance Committee, and particularly its chairman, the distinguished Senator from Louisiana, Senator Long, for so closely integrating the vital work of the Finance Committee into the framework of the new congressional budget process. Decisions affecting Government revenue levels are vital both to eliminating future budget deficits and to maintaining the momentum toward economic recovery. Thus, the close coordination of the tax writing committees with the budget process is essential if the process is to be successful.

The fact that H.R. 5559, as reported by the Finance Committee, meets the reconciliation instruction in the second concurrent budget resolution is proof of the commitment of the Finance Committee to the successful working of the new budget process.

Since H.R. 5559 constitutes the first so-called reconciliation bill required to be reported in the Senate under the Budget Act, I would also like to explain very briefly how reconciliation bills fit into the overall budget process.

In recent months, I periodically informed the Senate as to the consistency of various bills with the budget targets established by the first concurrent resolution last spring. Subsequently, the second concurrent budget resolution has just been adopted which establishes binding overall revenue, spending, and debt figures for fiscal year 1976.

The Budget Act provides a special procedure to insure rapid enactment of legislation to bring current congressional legislative programs into line with the figures established in the second concurrent resolution. This legislation—which can affect spending authority, budget authority, revenues, or the public debt limit—is known as a reconciliation bill. After enactment of the reconciliation legislation, the focus of the budget process will shift to insuring that subsequent legislation does not breach the second resolution figures.

The Budget Act provides that legislation subsequent to a reconciliation bill will be subject to a point of order if it causes either expenditures to exceed the relevant spending ceilings or revenues to fall below the revenue floor established in the second concurrent resolution.

With respect to reconciliation bills affecting either spending or revenues, the Budget Act requires they fully carry out the reconciliation instructions given in the second concurrent resolution. The act further provides that no amendment not germane to the provisions of that reconciliation bill is in order.

Therefore, in the case of the present second resolution requirement that fiscal year 1976 revenues be reduced by approximately $6.4 billion, amendments to the reconciliation bill which would further reduce revenues more than $6.4 billion or raise revenues above the $300.8 billion set as the appropriate revenue floor for fiscal year 1976 would be out of order.

The Budget Committee looks forward to working with the Finance Committee in enforcing the revenue floor and spending ceilings after this legislation is adopted.

May I make the point that this is the point at which we move beyond persuasion, which has worked very effectively and to my satisfaction, up to this point, to the discipline of a point of order.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes, I yield to my good friend.

Mr. HARTKE. How does this bill, which is the pending business, become a reconciliation bill without being designated a reconciliation bill?

Mr. MUSKIE. I think that when we see an apple that looks like an apple, we call it an apple.

Mr. HARTKE. How can we say this bill is the specific reconciliation bill?

Mr. MUSKIE. If it is not that, then it is out of order, as to cutting revenues.

In the first place, I understand the manager of the bill has described it as a reconciliation bill. But beyond that, the only revenue cut that is permitted under the second concurrent resolution is a cut of $6.4 billion. If this bill is not the instrument for achieving that cut, the assumption would have to be, I guess, that a bill is coming along that would. In that case, this bill, being extraneous to that, could be held to be out of order. But I think that is a semantic discussion. We do not mandate the words. All we do is mandate the action.

When I say "we," I am talking about Congress as a whole.

Mr. HARTKE. In other words, the chairman of the Committee on the Budget has made an assumption that this is a reconciliation bill.

Mr. MUSKIE. No, may I say, the chairman of the Committee on Finance has told me it is a reconciliation bill.

Mr. HARTKE. The chairman of the Finance Committee can make a statement, but that does not make it the situation. The Committee on Finance has not acted upon this being a reconciliation bill. There is no record of its being a reconciliation bill; there is no mention of it in the report as being a reconciliation bill. Therefore, I think a point of order would not be well taken in regard to any amendment, because it is not a reconciliation bill. This is a tax reduction bill.

I can see where the Senator may assume, but it is an assumption which is not based on a fact.

Mr. MUSKIE. May I make my point as simply as possible? The second resolution does not permit tax reductions beyond $6.4 billion. If the Senator chooses to say that the proposed tax reduction does not come in a legislative vehicle that could properly be described as a reconciliation bill, still, in my judgment, he cannot escape the point that if it is not that, it is, nevertheless, out of order if it exceeds $6.4 billion.

I really do not know why the Senator is chasing his own tail.

Mr. HARTKE. I am not chasing my tail. I will point out, very simply, that in my judgment, this is a case where two Senators have gotten together and agreed that this is a reconciliation bill and there is nothing in the record to show that it is a reconciliation bill.

Mr. MUSKIE. May I say to the Senator, I have never discussed this with Senator Long. If the Senator says I have gotten together with him, the only way in which we have gotten together is that the second concurrent resolution mandates a tax reduction of $6.4 billion and the chairman of the Committee on Finance has reported a bill which reduces revenues approximately $6.4 billion. In that open and nonconspiratorial way have the Committee on Finance and the Committee on the Budget "gotten together," in the words of the Senator.

Mr. HARTKE. Let us avoid any conspiracy, but the fact is that I think there are not very many, if any, Senators on this floor that had the idea that this bill would not be subject to amendment, other than the fact that there was a unanimous-consent agreement, which is an entirely different proposition. The germaneness rule only comes into effect if this is a reconciliation bill.

Mr. MUSKIE. Why does the Senator not test the point? He is not going to persuade me of it.

Mr. HARTKE. I am, but I am asking the Senator from Maine at this point why he contends this is a reconciliation bill when the amount of reduction is $6.1

billion, not $6.4 billion, and therefore has no direct relation. It could just as easily be $100 million.

Mr. MUSKIE. First of all, with respect to the question of what I contend, since I was not aware that the point was going to be made an issue of by the Senator, I did not realize that it had to be made the subject of contention.

Second, with respect to meeting the requirements of the second concurrent resolution, if the Senator will look at the language of that resolution, that language refers to a cut of approximtely $6.4 billion, which is supposed to continue withholding rates at their present level. That is the definitive description of what is supposed to be achieved by the implementing legislation.

Mr. HARTKE. Let me read the concurrent resolution as it is explained in the Senate report on December 9.

It directs the Ways and Means Committee and the Finance Committee to "reduce revenues by $6.4 billion." It does not say approximately.

Mr. MUSKIE. Page 1 of the conference report, which I have in my hand, says the recommended level of Federal revenues is $300.8 billion. "The House committee on Ways and Means and the Senate Committee on Finance shall submit to their respective houses legislation to decrease Federal revenues by approximately $6.4 billion," and the legislative record clearly defines the "approximately" as relating to what is necessary to continue withholding rates at their present levels.

Mr. HARTKE. I have no argument with the fact that, if this were a reconciliation bill and designated a reconciliation bill, and had been done so by the Finance Committee in response to a resolution, then the statement of the Senator from Maine would be correct. But that is not the case.

Mr. MUSKIE. I think they are still correct.

Mr. HARTKE. No, but that is not the case.

Mr. MUSKIE. Then raise the point of order, I say to the Senator. He is not going to persuade me. I do not know toward what objective the Senator is driving.

Mr. HARTKE. What was the reason for the Senator from Maine making that lengthy statement preceding this if no explanation was necessary? Why did the Senator from Maine proceed to explain it to the Senate? I sat here and listened very carefully to every word the Senator said. I have listened to the Parliamentarian explain to me how this procedure works; that in the budget law, it proceeds to direct the Budget Committee to come forward and, if a concurrent resolution is adopted which directs one committee of each body to come forward with a reconciliation bill, then that bill is not subject to any amendments which are not germane. That is, in essence, what is being contended here. That was the explanation, in shorthand, of what the Senator from Maine is contending.

The point I am making is I do not——

Mr. MUSKIE. May I say—incidentally, who has the floor, Mr. President?

The **PRESIDING OFFICER** (Mr. TAFT). The Senator from Maine has the floor.

Mr. MUSKIE. I should like to respond to the points as the Senator makes them. First of all, he puts me in a role of adversary on a point that had not been brought to my attention before I made my speech. I have no objection to debating it with the Senator, but to put me in the role of adversary on something that had not been brought to my attention, or a contention that had not been presented to me before I rose to speak this afternoon, is something I object to.

Second, with respect to who designates a piece of legislation as meeting the requirements of the budget act as it relates to reconciliation legislation—I assume the Senate as a whole can be the final judge of that question if the question proceeds that far. The purpose of my prepared statement today was to alert the Senate to what the parliamentary issues involved are with respect to reconciliation bills.

If the Senator wants to challenge that point as to whether this is, indeed, a reconciliation bill within the meaning of the Budget Act, that is his prerogative. I do not challenge that. But do not put me in the role of the other man in the ring, may I say to the Senator. I understand this to meet the requirements of a reconciliation bill.

We have studied it carefully. We discussed it with the Parliamentarian, and I say so to the Senate as a whole. My judgment is not infallible. If the Senator wants to challenge it, to raise a point of order in order that he may offer, I take it, an amendment to this bill contrary to the provisions of the Budget Act, then that is his prerogative, and the Senator has displayed an ability to use his prerogatives on the Senate floor, and I do not challenge his right to do so.

But when you bring an apple to the floor and it looks like an apple and the chairman of the Finance Committee says it is an apple, and under the description of the Budget Act it meets all of the elements of an apple, then I am tempted to call it an apple. But if the Senator chooses to call it an orange, that is his prerogative.

Mr. HARTKE. Let me say to the Senator from Maine he made a statement that he consulted with the Parliamentarian. It is a rather unique operation to consult with the Parliamentarian about something that has no controversy.

Mr. MUSKIE. No, we have been consulting with the Parliamentarian——

Mr. HARTKE. Let me say to the Senator from Maine——

Mr. MUSKIE. May I finish?

Mr. HARTKE. Can I ask the Senator a question? Why was the Parliamentarian consulted at all upon this matter?

Mr. MUSKIE. Well, I am about to answer that if the Senator would permit me to answer it.

Mr. HARTKE. All right.

Mr. MUSKIE. Because this is a new procedure enacted into law almost a year and a half ago, we have been consulting with the Parliamentarian for a year and a half to make sure there is a common understanding between the Parliamentarian and those of us who have responsibilities to manage the budget resolutions as to what the road rules are. It is not because we anticipate a specific challenge but because we want to know whether or not we are on track. That is the reason we are in constant consultation.

May I say to the Senator that my staff, the general counsel, interprets the act differently than the Parliamentarian does, and on a number of occasions we have had to resolve those differences in interpretation, and we think that is wise. I am not going to come to this floor blind, not knowing what the Parliamentarian may rule under unanticipated circumstances. So I try to get the best guidance I can. I do not see anything strange about that.

Mr. HARTKE. I would like to ask a question of the Senator from Louisiana, the chairman of the Committee on Finance, and I will explain to the Senator why I am concerned.

It is not a question of something being done that is wrong here. There is no question in my mind this could be the right procedure.

I certainly say if it is the right procedure it was done in a manner which was very haphazard, and certainly was not in accordance with good legislative procedure.

Mr. MUSKIE. I certainly take issue with that.

Mr. HARTKE. I am entitled to my opinion.

Mr. MUSKIE. Of course, the Senator is, and I am entitled to take issue, which I do.

Mr. HARTKE. Of course.

As to this measure, according to my information, there was only one tax cut enacted on March 29 which has been deleted from this bill. In other words, there is one tax cut, of which I was the author of the amendment, dealing with housing credits. I raised this question in the Committee on Finance, and it was rejected on a tie vote, and I was assured in the Committee on Finance that I would have a chance to raise this question again on the floor of the Senate.

Now we are in a sitution where two things have happened. I agree as far as a unanimous-consent arrangement, there is no question about the legality of such a procedure. It certainly is proper, but the procedure which is being followed under the Budget Committee procedure, I assure the Senator from Maine, is a shocking incident to practically all the Senators in this body.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HARTKE. Yes, I yield.

Mr. LONG. Mr. President, so far as I am concerned, if the Senator wants to have a vote on a particular amendment, and if he has it ready and would like to offer it, I will not object. It is all right with me. I would be willing to give consent to vote on it if the Senate would grant consent to vote on it.

Mr. HARTKE. I would like to get the amendment considered because it is an amendment which, I think, has a great deal of merit, and was the only item which was deleted. It has practically no budgetary implications whatsoever for fiscal 1976. But I really think in the long run the bigger issue is the Senate ought to know that what in effect you have reinstituted here under the budgetary process are the old rules, you have instituted the closed rule system of the House of Representatives, and that is exactly what has been done here, and what you have in effect here is a bill which is operating under a closed rule. I am not talking about the unanimous-consent agreement, that is an entirely different proposition. But under the law and procedures which have been set forth here, if this is and was a reconcilation bill, if it is that, then in effect what you have instituted is the closed rule concept of the House of Representatives. I do not believe the Senate intended to do that, but that is the net effect of it.

Mr. LONG. If the Senator will yield, Mr. President, let me make this clear: Prior to the time this matter came up we had already agreed by unanimous consent a day or so ago—in fact, it was Friday of last week—we had agreed and we had discussed it, and then it was said, well, there might be some objections, so let us wait a while.

We came back after about 4 hours and discussed it again, and then we entered into an agreement that amendments must be germane.

The Senator might not have known about that and so, as far as I am concerned, with regard to this particular amendment, the Senator has a lot of equity to his side because he had offered it in the committee, and if the Senator wants to offer it, it will be all right with me. But I think in view of the fact that the unanimous-consent agreement was entered into at a time when it was discussed on the floor, and thereafter there was a period of about 3 or 4 hours before it was discussed again, and then it was agreed that amendments must be germane, I think that every Senator who might want to object ought to be privileged to know that I have no objection. It is all right with me and, so far as I am concerned, I would be willing to ask consent that the Senator's amendment could be offered.

Mr. MUSKIE. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MUSKIE. Let me make two other points that may, hopefully, throw some light on this.

In the first place, the Budget Act requires that the Committee on Finance shall act promptly when it is mandated—that is the word "promptly," when it is mandated—to report a reconciliation bill. Now they have reported this one properly. It meets the specifications.

The second point I make is that the only limitation we impose—and by that I mean the second concurrent resolution which Congress has adopted—is an approximately $6.4 billion tax reduction.

If I understand the price tax on this bill, it is somewhere between $6.13 billion and $6.27 billion. We have not been able to nail down those numbers yet. But to the extent that amendments on the floor would reflect further reductions in revenue up to $6.4 billion, I suppose the germaness issue would not arise as to them. It is only if they go beyond the $6.4 billion that the strictures of the Budget Act would apply. I am talking now about the Budget Act and its implications.

Now, whether or not from a practical point of view, in terms of trying to meet the confrontation with the President as posed by this, we ought to avoid other amendments, that is another matter. It has nothing to do with the Budget Act. But insofar as the Budget Act is concerned, all it mandates is a reduction in taxes of not more than $6.4 billion. The bill before us does not go that far. To the extent that other amendments would increase tax reductions up to that amount, they would not run afoul, I take it, of the Budget Act or the second resolution.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes.

Mr. HARTKE. First, let me point out the housing credit amendment I have intended to offer does not violate the totality of the concurrent resolution. But, as I understand the parliamentary procedure, the budget law would not alone apply to the amount but, under the interpretation of the budget law, that the law provides under section 301 that any amendment must be germane to the bill and not germane to the amount, germane to the contents of the bill as it comes out of the committee, and not to the basic law of the land. In other words, it cannot relate simply to any matter dealing with taxation. It has to deal specifically, as the old closed rules of the House operated, it has to deal specifically with a matter in the bill, and since there is no housing credit amendment, no housing credit provision, in the bill, then any measure dealing with the housing credit is nongermane and, therefore, is not to be considered, and that would apply to any other amendment that any other Member of the Senate would want to propose unless there is a specific item in the bill itself dealing with this subject.

Mr. MUSKIE. I am afraid I am not parliamentarian enough to judge those implications of the President's proposed amendments, aside from the revenue implications.

Mr. LONG. Will the Senator yield at that point?

Mr. HARTKE. Yes.

Mr. LONG. Mr. President, in view of the fact that the tax credit amendment was part of the 1975 tax cut bill and in view of the fact that the amendment was considered in the Committee on Finance on this occasion and it failed on a tie vote, I believe that it would be well, if the Senator would like, that he would be privileged to offer that amendment.

So I ask unanimous consent that the Senator from Indiana might offer his amendment.

Mr. DOLE. Mr. President, with regard to the extension of the housing credit as an amendment to the bill——

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, and I shall be constrained to object, unless, as I understand the parliamentary situation, we are not even entitled to offer a motion to recommit the bill, is that correct, with instructions?

The PRESIDING OFFICER. A motion to recommit except the motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session, is not in order.

Mr. DOLE. That a motion to recommit with instructions to report back within 3 days would be in order?

The PRESIDING OFFICER. That is correct, that is the exception in the law.

Mr. LONG. That makes the exception.

Mr. DOLE. Further reserving the right to object, and perhaps I can agree to the request if we could have a brief quorum call so I could check the specific——

Mr. MUSKIE. Will the Senator yield?

Mr. DOLE. I yield.

Mr. MUSKIE. I wonder if I might not yield the floor. I think I have made whatever contribution I can with discussion to the problem.

I will be on the floor, but there is another matter I want to attend to in connection with this bill.

Mr. MANSFIELD. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. DOLE [continuing]. And I suggest the absence of a quorum on the basis that the Senator from Kansas be recognized and not lose his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I assume this is charged to the time in opposition?

The PRESIDING OFFICER. The time will be charged to the opposition.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, on Saturday, December 13, 1975, an article appeared in the New York Times entitled "Congress Succeeding in Curbs on Spending." This article by Richard Madden sets forth, I believe, the really very impressive development which has followed upon the enactment of the Budget Control Act, and recounts the very successful progress that we have made to date in the work of the Budget Committee.

I think this is a great compliment to its chairman, the Senator from Maine

(Mr. MUSKIE) and the ranking member on the minority side (Mr. BELLMON).

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Congress Succeeding in Curbs on Spending

(By Richard L. Madden)

WASHINGTON, December 12.—To the surprise of some of its own members, Congress in less than a year's time has taken the first cautious but so far successful steps toward gaining control of the Federal Government's purse strings.

For the first time, both the Senate and the House of Representatives, despite some close votes, have agreed on an overall ceiling for Federal spending in the current fiscal year and have bound themselves to try to legislate within that limit.

The House completed that step today by voting, 189 to 187, to limit spending to $374.9 billion in the fiscal year ending June 30, leaving a deficit of $74.1 billion. The Senate easily approved these limits yesterday by a vote of 73 to 19. The President's approval is not required.

Adoption of this budget measure, which also directs Congress to keep revenues at $300.8 billion, means that any future legislation that would break through the spending ceiling or lower the floor on revenues could be blocked by a point of order unless the limits were waived or a new budget resolution adopted.

If this new-found fiscal discipline continues next year, when the conduct of the new Congressional budget process becomes more demanding, and perhaps more painful, it could drastically alter the way Congress transacts its business and rearranges its power structure as well.

And ultimately, according to senior members of the Senate and House Budget Committees, the new process could force Congress to re-examine much more closely what up to now have been sacrosanct spending programs that range from veterans' benefits to public works to Social Security.

There is still skepticism that such a diverse institution as Congress can successfully discipline itself into more fiscal restraint. Two previous attempts to create a more coherent Congressional budget process collapsed shortly after World War II. But so far at least, supporters of the new procedure can claim some initial victories, such as the following:

At the urging of the Senate Budget Committee, a massive defense procurement bill, a pet of the conservatives, and a school lunch bill, a pet of the liberals, were sent back to conference committees to be scaled down to meet the budget targets.

A bill enabling Federal workers to retire after 30 years' service with full benefits disappeared quietly in the House Post Office and Civil Service Committee after Representative Brock Adams, a Washington Democrat who is chairman of the House Budget Committee, warned that he would fight the bill on the House floor because of its budgetary impact.

Prodded by the Budget Committees in both houses, Congress limited a pay rise for Federal employees to 5 percent instead of the 8.6 percent that had been sought, and many other bills have been altered without fanfare to ease Budget Committee objections.

Senior members of the Budget Committees say that now many representatives and senators quietly approach them to check that their bills fit within the budget targets.

Far More Effective

"It is for real," Representative James C. Wright, Jr., a Texas Democrat, who is on the House Budget Committee, said of the new budget procedure. "I think it has become far more effective than anyone thought it would in the first year," he said in an interview.

And Senator Edmund S. Muskie, Democrat of Maine, who is chairman of the Senate Budget Committee, told the Senate yesterday that the new process "has so far succeeded beyond our most optimistic expectations."

The new system is in sharp contrast to the way Congress used to do business. In past years a President would send up his proposed budget each January and then Congress, on a piecemeal basis, would pass various bills authorizing programs and 13 regular appropriations bills (plus supplemental measures) to provide the money. There was no over-all assessment of how much money was coming in or how much was going out or how one bill related to another.

"It was almost like hiring 13 carpenters to build a 13-room house and instructing each to build a room to his own liking without any guide to overall dimensions or any real concern for what the other 12 carpenters were doing," Mr. Wright explained in a newsletter to constituents.

Under the new budget control law, which was approved last year and which is to be more fully in operation next year, Congress each May will approve a first budget resolution setting targets for total spending and revenues, plus subtotals for 17 separate governmental functions ranging from defense to agriculture to health to interest on the national debt. Then in September both houses will have to pass a second budget resolution, similar to the one approved today, setting more binding limits.

This year's first run-through focused on the over-all spending and revenue totals, and the Senate and House did not vote directly on each of the individual spending categories, although the Budget Committees did. Next year is expected to provide a more critical test because both houses will vote on setting the individual limits, which would cause some intensive battles over establishing priorities for such things as defense and social programs.

Under the more stringent timetable next year, neither house is to consider bills creating new spending authority until the first budget resolution is passed in May. The aim is to have work on all spending bills completed by the final September resolution to coincide with the start of the Government's new fiscal year, which will begin Oct. 1, next year instead of July 1.

Also under the new law, Congress cannot adjourn until it has acted on the second budget resolution and completed any work needed to reconcile or adjust any previously passed legislation that would breach the set limits.

Creation of the Budget Committees has already caused some friction with the other established and powerful committees, particularly in the Senate. Senator John L. McClellan, Democrat of Arkansas, who is chairman of the Appropriations Committee, which in the past handled spending bills without any second guessing, has had some differences with Mr. Muskie over some of the procedures.

By contrast, on the House side Mr. Adams has developed what is described as a close working relationship with Representative George H. Mahon, Democrat of Texas, who is chairman of the Appropriations Committee.

"There is some tension that the Budget Committee may be getting too big for its britches," one Senator on the committee said. But so far, he added, the committee has generally prevailed.

As the Budget Committee members of the two houses met in conference last week to reconcile their differences over the spending limits, Mr. Muskie at one point warned his House colleagues, "They're going to walk all over you on the floor if your figures are too vague and hasty. I ran into the McClellan buzz saw a couple of times."

NOT THE MOST POPULAR

At another point Representative Sam Gibbons, Democrat of Florida, who is on the House budget unit, remarked: "We're not the most popular members of the House. Some people would like to get rid of us."

Representative Charles H. Wilson, a California Democrat, has already introduced a bill to repeal the new budget process.

"We seem to have created, without really thinking about it, an all-powerful committee, one which would hold the purse strings for every Federal body in the United States," he said.

Apparently to prevent the members of the Budget Committee from amassing too much power, the House restricted its 23 members to four-year terms on the committee. The Senate does not have a similar restriction on its committee members.

Other criticism has focused on the Congressional Budget Office, which was created by the budget law to provide Congress with fiscal expertise similar to what the President has with the Office of Management and Budget. The director of the Congressional Office, Alice Rivlin, an economist and former senior fellow at the Brookings Institution, angered some members of the House Appropriations Committee earlier this year by her request for 66 more staff members and an automobile to carry the staff to and from the Capitol.

The 48-year-old, boyish-looking Mr. Adams attributes the close votes in the House on the budget resolutions, such as the one today, to the fact that the members were being asked to vote directly for the first time on resolutions contemplating a $70 billion-plus deficit.

"People don't like that deficit," he said. "And the idea hasn't completely gotten through that the Budget Committee doesn't create the deficit—it simply exposes it."

Representative Delbert L. Latta of Ohio, the ranking Republican on the House Budget Committee, urged the House today to reject the measure on the ground that it "accepts the policy of deficit spending." He charged that the new process was budget control "in name only" and amounted to what he called "budget accommodation."

Only three Republicans and 186 Democrats voted in favor of the budget measure, while 126 Republicans and 61 Democrats opposed it.

While many conservatives have opposed the budget process because of the large deficit, some liberal Democrats have also begun to realize that the spending limitations, even with a big deficit, have not left room for any major new social or recession-fighting programs because just continuing existing programs has eaten up most of the available funds.

COULD GO BACK

Several Budget Committee members said that this could drive Congress to go back and cut down any number of existing programs to make funds available for new initiatives, such as national health insurance.

"I think the most important thing this year is that the Senate and the House have indicated a willingness to accept the discipline," Senator Muskie said in an interview. "I think it is doable. It's going to mean changing some habits," he added.

In contrast to widespread opposition in the House, the Senate's stronger votes for the Budget limitations are attributed to the fact that the 61-year-old Muskie, regarded as a liberal, and the Budget Committee's ranking Republican, Henry L. Bellmon, a 54-year-old fiscal conservative from Oklahoma, have remained united in defending the budget process on the Senate floor.

Mr. Bellmon recalled in an interview that he did not know Mr. Muskie until they were put together on the committee.

"We were in effect a couple of strangers," he said, "but we decided that the process was so important to the country that it had to be made to work. I think both he and I have been willing to submerge our personal preferences to the process and to speak in harmony. We have tried very hard to hold the whole committee together."

DECIDED NOT TO OPPOSE

Mr. Muskie acknowledged that last spring "a lot of votes" went against him as his committee was preparing its first budget resolution and that he considered opposing the measure, or trying to change it, on the Senate floor. Mr. Bellmon also had misgivings and waited to see what Mr. Muskie would do.

"I finally decided that if I pressed my own personal views on the floor the whole process would lose all credibility," Senator Muskie said. "So I told him I was prepared to support the resolution against the left or right in the interest of making this thing stick, if he would," Mr. Bellmon agreed.

Mr. Muskie said that a businessman looking at the new process would probably focus on the size of the deficit, but borrowing a local football analogy, he added:

"The important thing is that control is being established. George Allen [coach of the Washington Redskins] maintains that once he's established ball control he can control what happens on the football field. So what we're doing is establishing ball control here."

Mr. MONDALE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Does the Senator from Kansas yield?

Mr. DOLE. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I have had further discussion with Senators, and I believe we can accommodate one another, as we oftentimes do, by a unanimous-consent request.

With regard to what the Senator from Kansas is interested in doing, it seems to me that within the rules and within the unanimous-consent request that was granted it was certainly my intention that more than one provision limiting spending could be offered as amendments from the minority side. I would ask if the unanimous-consent request includes that?

The PRESIDING OFFICER. The consent resolution of last Friday exempted the spending ceiling amendment from the germaneness requirement.

Mr. LONG. So spending ceiling limitations are exempted from the germaneness requirement?

The PRESIDING OFFICER. They are exempt from the germaneness requirement.

Mr. LONG. Right. So the Senator from Kansas would then be in a position rather than offering a motion to recommit to simply offer whatever spending limitation amendment he would like to offer as an amendment to the bill before the Senate. Is that not correct?

The PRESIDING OFFICER. That would be correct, except for the provisions of section 306 of the budget bill which states that no bill or resolution and no amendment to any bill or resolution dealing with any matter which is in the jurisdiction of the Committee on the Budget of either House shall be considered by either House unless it is a bill or a resolution which has been reported by the Committee on the Budget of that House.

Mr. MUSKIE. Mr. President, reserving the right to object——

Mr. LONG. Mr. President, as I understand it, we have agreed by unanimous consent that an amendment involving a spending limitation, which is to reflect the position of the President of the United States, could be offered on this bill. We agreed to that by unanimous consent on Friday, or at least prior to today.

The PRESIDING OFFICER. The order only related to waiving the germaneness rule.

Mr. CURTIS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. What else is involved?

Mr. DOLE. The law.

The PRESIDING OFFICER. The request on Friday was that amendments must be germane with the exception of a minority amendment to propose the President's program.

UNANIMOUS-CONSENT REQUEST

Mr. LONG. I ask unanimous consent, Mr. President, that amendments may be offered relating to the spending limitation on this bill.

Mr. MUSKIE. Mr. President, reserving the right to object, I was not in the Chamber when the unanimous-consent agreement was entered into. I was not aware of it until a few moments ago. I have no objection to offering the kind of language we were discussing last Friday without raising the point of order. What the Senator has now proposed is a direct undermining of the Budget Control Act. The Budget Act says that spending ceilings shall be set on or before May 15 in accordance with the procedures of the Budget Act.

I, for one, will not agree to shortcutting that whole procedure by admitting by unanimous consent some number not yet identified which is going to be offered in a binding way, if enacted, to undermine that whole budget process. I do object to any such unanimous-consent request in that form.

Mr. LONG. Mr. President, if the Senator would like me to be more specific, as I understand it the Senator from Kansas wants to offer a figure of $395 billion. I am going to vote against that, but that is the figure that the President has mentioned. He has mentioned a series of figures, one of which is $395 billion. They all add up to the same thing one way or the other.

My understanding of all of these proposals is that there is nothing about any of them that could not be changed between now and the time they go into effect, anyway. But I think we are just losing a lot of time by denying Senators the right to offer some kind of a legislative proposal, even if it be only a sense of the Senate resolution, on which they would like to vote, because until the Senate expresses itself, all we do on a matter of this sort is just play games with one another. We charge up the hill and then charge back down; and in view of the fact that the President has taken the point of view that he is going to veto this bill unless we have a certain type of spending limitation attached to it, I would just like to let the Senate express itself.

I am confident I know how the Senate is going to express itself within reasonable limits, and I think we ought to be about that. To do otherwise, it seems to me, Mr. President, is just to make a lot of work for ourselves, spending days doing something we could dispose of in an hour or two.

Mr. MUSKIE. Mr. President, let me read section 306. This is also a part of the budget process.

Mr. DOLE. Mr. President, who has the floor?

Mr. LONG. Mr. President, I yield to the Senator from Maine.

Mr. MUSKIE. It reads:

> No bill or resolution, and no amendment to any bill or resolution, dealing with any matter—

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. MUSKIE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. I was trying to read the provision of the legislation. I do not understand the interruption.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. LONG. The Senator from Kansas has the floor.

Mr. MUSKIE. I am sorry; I understood the Senator from Louisiana had it.

The PRESIDING OFFICER. The Senator from Kansas yielded to the Senator from Louisiana without relinquishing his right to the floor.

Mr. DOLE. Yes. Mr. President, I wish to propound a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. As I understand it, the Parliamentarian is, in substance, ruling that section 306 is in effect notwithstanding the unanimous-consent agreement of last Friday. Is that correct?

The PRESIDING OFFICER. The unanimous-consent agreement of last Friday had no relationship to section 306.

Mr. DOLE. Can a Senator, by unanimous consent, make a motion to recommit or eliminate the reference to the spending ceiling? Can that be made notwithstanding section 306?

The PRESIDING OFFICER. No, it cannot.

Mr. DOLE. Not by unanimous consent?

The PRESIDING OFFICER. Yes, by unanimous consent.

Mr. DOLE. Then I would say to my

good friend from Maine that I yield to the Senator from Maine without losing my right to the floor to explain section 306. Members of the minority, Senator CURTIS, Senator BELLMON, and others, are meeting at this time to see if some resolution cannot be reached on the controversy. If that can be reached, perhaps the Senator from Maine would withdraw his objection at this point, pending some effort to resolve the impasse.

I agree with the Senator from Louisiana that we could stand here all day, all night, and all day tomorrow, and talk about the different sections of the Budget Act, but it would certainly seem to me to be in the interest of moving along with this session of Congress to work out something.

Having said that, I yield to the Senator from Maine without relinquishing my right to the floor.

Mr. MUSKIE. Well, let me say in reference to the language that I have indicated my willingness to accommodate myself to that objective, but as I understand the unanimous-consent request that was proposed by the Senator from Louisiana, he proposed a unanimous-consent agreement to make any amendments with specific dollar ceilings admissible, notwithstanding the provisions of the act; and I would object to such a proposal for this reason: All I have to do is read section 306 of the Congressional Budget Act, which reads as follows:

> No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

Under that provision, any resolution to set spending ceilings must be reported to the Senate by the Senate Committee on the Budget.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. MUSKIE. I am not going to acquiesce in bypassing that requirement. I yield to the Senator from Nebraska.

Mr. CURTIS. Does the Senator from Maine contend that the tax bill before us has no standing because it was not considered and reported by the Committee on the Budget?

Mr. MUSKIE. No. The tax bill is in response to the mandate of the second budget resolution, and as such, the procedures for reporting it are also specified in the act.

Mr. CURTIS. Does the tax bill carry any language in any way modifying or amending the concurrent resolution, the first one or the second one, of the Budget Committee?

Mr. MUSKIE. Not to my knowledge.

Mr. CURTIS. Is it the Senator's contention, reading section No.——

Mr. MUSKIE. May I say if it did, it would be out of order.

Mr. CURTIS. Is it the Senator's contention that section 306 would make it impossible to consider a public works bill which had not been reported out of the Committee on the Budget? It deals with an expenditure.

Mr. LONG. Mr. President——

Mr. MUSKIE. Wait a minute; I was answering a question from the Senator from Nebraska.

Mr. CURTIS. Did not the Senator mention that section 306 would prohibit the Committee on Public Works from reporting out a public works bill?

Mr. MUSKIE. A public works bill is not a subject dealing with the budget. A public works bill is not within the jurisdiction of the Committee on the Budget. Let me reread the language to the Senator from Nebraska, if he is interested in hearing it:

> No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget.

Public works legislation is not within the jurisdiction of the Committee on the Budget; it is within the jurisdiction of the Public Works Committee.

Mr. CURTIS. Is the tax bill within the Budget Committee's jurisdiction?

Mr. MUSKIE. The tax bill is within our jurisdiction to the extent that what it proposes by way of revenue reductions or increases runs afoul of the figures established in the budget resolution.

Mr. CURTIS. Then the Senator is saying that the jurisdiction of the Finance Committee is reduced to those changes in the tax law which neither add nor detract from revenue?

Mr. MUSKIE. You can have offsetting actions. I could conceive of a tax bill that would increase revenues in the form of tax reform by $10 billion to $15 billion, and would offset those increases in revenues by tax reductions. I mean, one can conceive of billions of dollars of jurisdiction of the Finance Committee that is outside the jurisdiction of the Budget Committee. Our committee deals with the target numbers, the ceiling numbers.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. LONG. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, I ask unanimous consent that three amendments might be presented and might be voted on notwithstanding the germaneness rule: One by Mr. HARTKE dealing with the housing amendment, identified as amendment No. 1255; another to be presented by Mr. CURTIS, dealing with the $395 billion spending limitation; and another to be presented by Mr. ROTH dealing with the limitation on spending.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I ask unanimous consent that the debate on each amendment be limited to 1 hour, to be equally divided.

Mr. CURTIS. Reserving the right to object, and I shall not object, may we have the understanding that the Curtis amendment precedes the one offered by Mr. ROTH and the members of the Committee on the Budget?

Mr. LONG. Yes.

Mr. MUSKIE. Reserving the right to object, Mr. President, and I shall not object, I want to make it clear that agreement to this unanimous consent request should not be regarded as a precedent for waiving section 306 of the Budget Act. As I indicated earlier in the debate, section 306 provides that no bill or resolution and no amendment to any bill or resolution shall be considered unless it has been reported by the Committee on the Budget.

I am disposed to agree to this unanimous consent request because, in the course of discussions over this tax bill and the President's proposal to tie spending ceilings to it, certain understandings developed as to what legislative opportunities Senators would have on the floor to vote on the President's proposals or other proposals dealing with spending.

In order to accommodate those discussions and understandings that developed, I have no objection to the Senate's considering the specific spending ceiling which will be proposed, as I understand it, by either Senator DOLE or Senator CURTIS, or the two combined. I hope that the Senator, in doing so, will draw the Senate's attention to the fact that in the future, section 306 will be insisted upon by the Committee on the Budget. In our judgment, that is the only rational way to consider budget matters.

In connection with this one, I think we shall have an opportunity to fully discuss the budget implications. I can make my argument based on section 306 in the course of that debate and the Senate can take section 306 into account in voting on the Dole and/or Curtis amendment.

So with that understanding, may I suggest to the distinguished chairman, the floor manager of the bill, the Senator ought to include in his unanimous-consent request section 306 specifically so that will be covered. With that, Mr. President, I will not object.

Mr. LONG. I so modify my request.

Mr. GRIFFIN. Mr. President, reserving the right to object, suppose there is an amendment in the second degree to these three amendments. I wonder what the Senator from Louisiana contemplates in that situation. Do we have a time limit?

Mr. LONG. I would assume if an amendment is to be considered, amendments germane to it could also be considered.

Mr. GRIFFIN. Should we have a 20-minute time limit on amendments in the second degree?

Mr. LONG. I ask unanimous consent that any amendments to the amendment be limited to 20 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not—with respect to whether this sets a precedent, I think attention ought to be focused on section 904(b) of the Budget Act which reads as follows:

> Any provision of title III or IV—

306 is part of title III—

> may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present or by unanimous consent of the Senate.

So we are certainly taking action here that is contemplated within the provisions of the Budget Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. HARTKE. Mr. President, reserving the right to object, may I ask one question of the Senator from Maine?

Mr. MUSKIE. May I make a parliamentary inquiry? Does the unanimous-consent agreement include 306? I suggested that to Senator LONG, and I do not know whether that suggestion was sufficient to incorporate 306 in the agreement or not. That ought to be clear.

The PRESIDING OFFICER. Is the Senator asking that section 306 be waived in that part of the unanimous-consent request?

Mr. MUSKIE. Only for the purpose of this specific request.

Mr. LONG. Only insofar as these amendments are concerned.

The PRESIDING OFFICER. The Chair would have to ask the Senator from Louisiana whether that is part of his unanimous-consent request.

Mr. LONG. Yes, I ask it be waived only insofar as these three amendments and amendments thereto are concerned.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1255

Mr. HARTKE. Mr. President, I call up my amendment No. 1255 and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place, insert the following:
>
> SEC. . SIX MONTH EXTENSION OF HOUSING TAX CREDIT.
>
> (a) Subsection (e)(1)(C) of section 44 of the Internal Revenue Code of 1954 (relating to property to which the credit for purchase of new principal residence applies) is amended by striking out "January 1, 1976" and inserting in lieu thereof "July 1, 1976".

Mr. HARTKE. This amendment would extend the $2,000 housing tax credit for an additional 6 months. This credit was first put into law in the tax reduction act earlier this year. It gives the purchaser of a new home a tax credit of 5 percent of the purchase price of the home up to a maximum of $2,000. The credit has been extremely effective in selling new homes and stimulating new construction in the home building industry, and thus creating new jobs. I think it is important that the one area of significant improvement this year in the construction industry has been residential construction for homebuyers. Even this area has not recovered as much as we would have liked, but all other construction activity is still dismally depressed.

The $2,000 housing tax credit, while not solely responsible, has at least contributed significantly to this increase in home building activity. The National Association of Homebuilders has done extensive surveys of their membership to assess the success of the credit. The survey in May indicated that in the first 30 days after the tax credit was adopted, 23 percent of the eligible homes were sold. The homebuilders attributed this sales increase to the tax credit, and the Wall Street Journal commented in an article on May 12, "Uncle Sam appears to have offered new homebuyers an incentive they cannot refuse," commenting upon this same matter, and I ask unanimous consent that that article be printed as part of my remarks at the close of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARTKE. Later surveys of the National Association of Home Builders indicate the following: Originally there were approximately 650,000 unsold homes which could qualify for the credit. By June, sales had reduced the number to 494,000 units. Additional sales since June have reduced the number to approximately 247,000 units. Their surveys also indicate that 44 percent of these homes which have been sold were sold as a direct result of the tax credit.

Summarizing these results the National Association of Home Builders in a statement in November of this year said the following:

> It is remarkable, considering the high mortgage rates, that for sale housing has done as well as it has. Some of the glut of the new unsold inventory has been moved, to a significant degree, as a result of the $2,000 tax credit. An NAHB survey shows that by the end of June the tax credit was responsible for the sale of about 40 percent of all units qualifying under this program.
>
> This one-shot program stimulated further production of new units. The survey indicated a nearly one-to-one ratio of units sold because of the tax credit to new units started.

This latter point is extremely important; not only did the tax credit sell homes, at a time when most economic factors were adverse, but it also stimulated new home construction. This is a crucial point because this new construction creates thousands of new jobs both in the construction industry and, through the multiplier effect, in all the supplier industries.

I want to emphasize that this amendment does not make any homes eligible for the $2,000 credit that are not now eligible and thus it does not increase the expected cost of the provision. All the amendment does is extend the expiration date for the credit on presently eligible houses for an additional 6 months in accordance with the general overall bill which is before the Senate at this time. In other words, it will continue this highly effective stimulus to home sales and construction.

I want to point out that during the original debate in the Finance Committee this amendment resulted in a tie vote. We have a unique situation in the Finance Committee of having an even number of members, and the vote was a tie and, therefore, the amendment did not succeed.

According to the reports given to us at that time, the fiscal year monetary effects are neither negligible or practically negligible. In other words, it will have no fiscal impact in fiscal year 1976.

Incidentally, this is the only amendment to the original bill which was not included in the final bill as it is being considered at this time so we are not doing anything new but just really, in substance, taking the bill which we passed in 1975, which was enacted on March 29, and extending, in substance, all of the provisions instead of eliminating this one provision.

I want to point out that a recent article in the Wall Street Journal, under date of December 10, 1975, in "Out in the Cold" and which is entitled "Many House Hunters Find New Homes Are Beyond Their Means," and which also says "First Time Buyers Suffer Most; Instead They Rent or Settle for Older Units," the article points out here very simply again that this type of operation is the one operation which can possibly provide for some relief. In fact, if you read on further in the article—and I ask unanimous consent that this article, too, be included at the end of my remarks——

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HARTKE (continuing). Makes this statement under the caption "Little Optimism," and where it says:

> Indeed, some observers predict that the housing situation will get worse. "We're probably at the peak of the housing recovery now, and by the fourth quarter of 1976, housing starts should be about 10% below current levels," says Stephen Lewis, manager of the shelter group of Weyerhaeuser Real Estate Co., a unit of Weyerhaeuser Co. The most optimistic analysts think that housing starts could make a weak gain, to 1.3 million to 1.6 million units, in 1976.

Mr. President, there may be a number of reasons why housing is in this slump, but there certainly is no reason why, when we are taking into consideration all the other measures of the taxpayer and going to extend it for 6 months, we should not do the same with the housing credit.

The net result is, again, that the effect upon the budget is none in 1976. The net result is we do not add any units that are not available at the present time. All the amendment simply does is extend the period under which people can avail themselves of this tax credit.

Mr. President, the expiration date would be extended from January 1, 1976, to July 1, 1976.

EXHIBIT No. 1

[From the Wall Street Journal, May 12, 1975]

HOME BUILDERS SAY TAX CREDIT FOR BUYERS HAS STIMULATED SALES

(By Ronald G. Shafer and Mark Starr)

Uncle Sam appears to have offered new-home buyers an incentive they can't refuse. And so that nation's home builders are starting to unload an inventory that had mounted to about 650,000 unsold homes.

The recently enacted tax credit of up to $2,000 on a new-home purchase has buyers suddenly snapping up houses they spurned for months, builders say. Some 350 builders surveyed by the National Association of Home Builders sold a surprising 23% of the houses and condominiums in their combined backlogs just in the first 30 days after the tax incentive went into effect March 30. What's more, these builders expect to sell 65% of their original inventory within the next 60 days to 90 days. Most trace the sales turnaround to the tax credit.

Talks with other builders around the country confirm that, despite much confusion about the tax credit, it generally is drawing buyers.

"They aren't standing in line, but in certain condominium subdivisions (in California) we're doubling our sales," says Louis Berkowitz, senior vice president of Kaufman & Broad Inc., one of the nation's largest home builders. He estimated the company has moved 25% of its nationwide inventory of houses and condominiums since the tax break took effect.

National Homes Corp. reports a similar positive response to the tax credit from its 1,400 sales outlets nationwide. "There's no question that, overall, it's been a strong stimulant," says David Price, executive vice president.

IMPACT IS SIGNIFICANT

The strong initial impact of the tax credit is significant because, housing analysts say, builders must whittle down the supply of unsold homes before the ailing industry can get back on its feet. Builders won't start much new construction and rehire laid-off workers until they sell houses they've already built. The estimated stock of 400,000 unsold single-family homes toted up just before the tax credit became effective represented a one-year supply based on the depressed sales rates of early this year. There also were an estimated 250,000 unsold condominium units.

The glut of unsold homes spurred Congress to tack the home-purchase credit onto the $22.8 billion tax-cut bill passed in late March. The law allows buyers to deduct from their 1975 taxes 5%—up to $2,000—of the purchase price of a new home built or under construction before March 16. To be considered new, a home must never have been sold. The credit, which will cost the government about $600 million, was criticized by many people, including President Ford when he signed the tax-cut bill into law March 30. Critics contend the credit is unnecessary and too costly.

Many home builders themselves have complaints—"it's a stupid law," says a Glen Falls, N.Y., builder. Those who prudently avoided building up big inventories are especially dubious about the tax incentive. But despite criticisms, the credit "sure seems to sell houses," says Michael Sumichrast, the builders association's chief economist.

As a result, builders may be able to slim down their bloated backlogs sooner than most analysts expected. But nobody knows by how much because nobody knows how much of the inventory is covered by the tax credit. The confusion arises partly from the fact that in order to qualify, a home must be sold at the lowest price at which it ever was offered for sale. Like many builders, Kaufman & Broad early his year temporarily cut prices on some houses; since then it has raised them "and we got locked in" when the tax credit came along, Mr. Berkowitz says. To make these houses eligible for the credit, the company would have to retreat to its cut-rate prices. Rather than do that, some company officials decided to forgo offering the credit on houses under their supervision.

OTHER PROBLEMS REMAIN

Even with reduced inventories, however, many builders say they aren't in any hurry to put up more houses because of their concern over the strength of the economy and fear of a new rise in mortgage rates. And, ironically, the tax rebate may deter some construction because homes started after March 16 don't benefit from the credit. "I'm hesitant to start anything new when I'm going to be in competition with other builders with tax-credit properties," says Norman Silets, sales manager of Practical Home Builders in Oak Park, Mich.

Nevertheless, "fiscal stimulus, including the tax credit," and a likely economic upturn "are almost certain to stimulate demand for new housing and eventually fuel a recovery in construction," albeit a "tentative and fragile" one, predicts Maurice Mann, president of the San Francisco Federal Home Loan Bank. Economists generally expect housing starts to rise slowly in this year's second half from a seasonably adjusted annual rate of 980,000 units in March—the second-lowest monthly pace in 30 years—to an annual rate between 1.4 million and 1.7 million by the fourth quarter.

Housing sales already were beginning to pick up even before the tax credit. Mortgage rates, though they've started back up recently, are well below last year's heights, and mortgage money is plentiful. But builders say the tax credit is what's spurring sales now.

"Most of the buyers are asking, 'Is this covered by the tax credit?'" says Chester Moskol, executive vice president of Miller Builders in Chicago. The company has sold about 25% of its hefty inventory of 500 condominium units since the tax credit became law. "The credit definitely is going to move the merchandise," Mr. Moskol says confidently.

Some home buyers agree that it was the tax saving that convinced them. Wayne Keeney, a retired Detroit police detective, recently bought a condominium in Novi, Mich., much farther out from the city than the suburb where he had been living. "I don't think I would have bought that one without the tax credit," he says. "But I figured what the heck, I'm putting down 5% and I'm going to get it back. It's a gift, a great thing," Mr. Keeney adds.

Besides, he sees it as a kind of taxpayer's revenge on the Internal Revenue Service. "I figure the IRS is helping me pay for that home," says the ex-policeman. "They've been getting it from me for a long enough time."

Builders and buyers aren't the only ones who benefit from the tax credit; so will bankers who foreclosed on unsold houses of bankrupt builders. "The worst of the turkeys have gone to the banks," notes one housing economist. "Lenders have high hopes the tax credit will help them get rid" of foreclosed homes, he says.

Some housing executives contend the credit may help more in some areas of the country than others. "This is commonly known in the industry as a West Coast-Florida bill" because inventories are highest in those areas, say an official of the Greater Chicago Home Builders Association. Reports from the high-inventory areas are mixed. But Kaufman & Broad says it has already moved 40% of its unsold houses in California, where its sales have been biggest.

Even within a limited area, the blessings bestowed by the tax credit may vary widely. During the past month RGM Builders in Boca Raton, Fla., has sold 15 of the 25 single-family houses it had in stock, compared with a pace of one sale a week previously. "I don't think—I know the tax credit was the reason," says J. A. Moles, RGM's sales manager. But a builder in nearby Palm Beach complains that "the buyer is quite apathetic to the credit."

The secret of sales success may lie in how the credit is promoted. The home builders association in Charlotte, N.C., ran full-page ads in local newspapers explaining the credit and urging consumers to call the local IRS office with any questions. Says a spokesman for Ervin Industries, a large Charlotte builder: "The first five days after the ad came out we had 70 calls wanting to know if we had homes that qualified." The company has since sold 89 of 203 homes it had in stock.

Many builders complain that one drawback is confusion over which houses qualify. "I haven't even advertised the credit because, frankly, I'm still not clear on eligibility," says Norman Long, a Troy, Mich., builder. "The people don't understand the whole thing, and neither do the builders," he maintains.

The law has other complexities. The credit applies only to new homes that are principal places of residence and are purchased between March 21 and Dec. 31 of this year. The credit is based on the "adjusted" purchase price of the home after deducting any profits from sale of a previous home. Thus, the IRS says, if you paid $20,000 for your old house and sell it for $30,000 to buy a new house for $40,000, the "adjusted" price of the new houe would be $30,000 ($40,000 less the $10,000 profit) and your 5% tax credit would be $1,500, not $2,000.

The tax incentive may hold basic disadvantages as well. Some housing analysts argue the credit could harm a housing recovery later this year by stealing sales that would have been made in the future without the tax incentive. "Housing sales also could be adversely affected after December when the credit expires and the cost of any units still unsold at that time, in effect, will go up" as much as $2,000, warned Morgan Guaranty Trust Co. of New York in a recent report.

Morgan Guaranty also complains about the propriety of having "tax-payers foot the bill" for such housing-aid "gimmickry." But the tax credit seems to have only whetted many builders' appetites for more federal aid, such as pending legislation to provide government-subsidized mortgages for up to 400,000 new homes at an interest rate of 6%, far below the prevailing 8½% to 9%. A Bath, Pa., builder responded in the builders' survey on the tax credit—"Thank God. Get the 6% through."

EXHIBIT 2

[From the Wall Street Journal, Dec. 10, 1975]

OUT IN THE COLD—MANY HOUSE HUNTERS ARE BEYOND THEIR MEANS

(By Robert L. Simison)

MEMPHIS.—Once again, Gay Garrett has found her dream house. It's a sparkling-new, $36,900 three-bedroom model home in the growing southeast section of this city. "I just love it. This is what I want," the 22-year-old secretary says as she darts excitedly from room to room.

Her 22-year-old husband Chuck is less effusive. He leans dejectedly against a door, his enthusiasm dulled by months of unsuccessful house-hunting. "We couldn't even afford to move in here," he says wearily.

Like thousands of other young couples, the Garretts are finding the dream of home ownership increasingly elusive these days. New-home contruction, expected to be making discernible gains by now, remains stagnant for a number of reasons, principally high interest rates, inflated home prices and shattered consumer confidence.

THE BUDGET: $24,000

In many ways, the Garretts are typical of the first-time buyers who have been squeezed out of the new-home market by a combination of these factors. Though their combined annual salary of $16,000 would easily qualify them to buy the model home that Gay so admires, they want something they'll be able to afford in about three years, when they plan to start a family and Gay expects to quit working. By then, Chuck, head basketball coach and an English and Latin teacher at a private school, hopes to be earning $10,000 a year. "I could put $3,000 into a home as a down payment and pay $220 a month and be happy and get fat," Chuck figures. Given Memphis's current 9½% interest rates for conventional mortgages, that would qualify them for a 95%, 30-year mortgage on a $24,000 home. "But we can't find anything new for that," Gay complains.

The Garretts' plight carries profound significance for the homebuilding industry and the economy as a whole. Housing starts are expected to hit a 29-year low this year. Most experts are predicting 1975 production to be 1.1 million to 1.2 million new residential units, including both single-family dwellings and apartments. That's down from 1974's 1.4 million units, and about half the all-time peak of 2.4 million units produced in 1972. After making only slight gains all year, housing starts spurted in October to a seasonally adjusted annual rate of 1.5 million units. Nevertheless, housing analysts termed the unexpected October jump a statistical "aberration," and cautioned that probably doesn't signal the beginning of a significant recovery.

"Nobody expected a very strong upturn," says Michael Sumichrast, chief economist for the National Association of Home Builders, "but we were optimistic." The association now predicts housing starts in the fourth quarter will reach an annual rate of 1.4 million units, lower than the 1.6 million units it had earlier predicted for the quarter. Housing's continued weakness has bolstered the widespread belief that the industry will trail recovery in other sectors of the economy, rather than lead it, as in past postwar recessions.

LITTLE OPTIMISM

Indeed, some observers predict that the housing situation will get worse. "We're probably at the peak of the housing recovery now, and by the fourth quarter of 1976, housing starts should be about 10% below current levels," says Stephen Lewis, manager of the shelter group of Weyerhaeuser Real Estate Co., a unit of Weyerhaeuser Co. The most optimistic analysts think that housing starts could make a weak gain, to 1.3 million to 1.6 million units, in 1976.

What went wrong? For one thing, builders' hopes that conventional mortgage rates would dip to 8% were dashed in September when lending institutions, responding to lower savings inflows, raised rates as high as 9½% from earlier lows of about 8½%.

And, of course, prices of new homes have skyrocketed. The median price of a home today is $39,000, whereas ten years ago, it was $20,000 and 20 years ago it was $13,400. Fewer than 23% of American families can afford to buy the median-priced home today, the home builders' association says.

FIRST-TIME BUYERS SHUT OUT

All this is keeping the largest group of potential customers—first-time buyers—out of the new-home market. Such buyers are typically couples aged 25 to 34. According to a survey by Investors Mortgage Insurance Co. in Boston, of the nearly 16 million couples in that age group, about six million already own homes and 4.5 million are actively seeking to buy. Their median family income was found to be about $14,800. With interest rates at 8½%, that median family income would qualify a buyer for an 80%, 30-year conventional mortgage on a $38,125 home. With rates at 9½%, the same buyer could afford to pay only $34,687, or $4,313 less than the current median new-home price.

As an alternative, many young couples are turning to existing homes. Of all money being spent on housing, 72% is going for existing homes, compared with 30% five years ago, according to Investor Mortgage. The National Association of Realtors says its seasonally adjusted index for existing single-family home sales rose to a record 122 in October. (It was 100 in 1972.)

The Garretts, too, settled at first on an existing home. They bought a 12-year-old, three-bedroom house in southeast Memphis for $23,400 last February. A big selling point was the location. It was near Elliston Baptist Academy, the school where Chuck teaches, and the offices of Farnham & Associates, Inc., the real-estate concern where Gay works. The Garretts were also happy with the purchase terms: $1,800 from their savings as the down payment and closing costs and monthly payments of $220.

Their pleasure was short-lived. The inexperienced home buyers soon discovered that their new home, acquired from a family acquaintance, was in sorry shape. They shortly found themselves painting the exterior in the snow to meet Federal Housing Administration requirements. (They had an FHA-insured loan.) Before they sold it in July for $28,500, they had also leveled the yard, reinforced the foundation, wallpapered the kitchen, repaired the plumbing, refinished the kitchen cabinets and installed new kitchen sinks and counter tops, a new toilet, new electric outlets, window screens, carpeting and a dishwasher. The Garretts say they cleared $900 on the sale, after these expenses.

"By the time we got it fixed, we didn't like it," Chuck explains. Gay adds: "I hated that house for all the work we had to do."

Now, the Garretts are back living in an apartment. As an incentive to move in, they got two months' free rent; they now pay $185 a month. Their only utility bill is $30 a month for electricity. That compares with more than $40 a month for heat and electricity, and $3 a month for water when they lived in the house. The Garretts count the apartment development's tennis courts as an added bonus, and Chuck savors the freedom from mowing lawns.

A good many young couples in this city of 864,000 are opting for apartment life over the financial and physical rigors of home ownership. J. B. Bell, executive director of the Memphis Home Builders Association, contends that low rents caused by Memphis's glut of unoccupied apartments is one factor keeping single-family housing permits in the area 26% below year-ago levels. After an early 1970s boom in apartment construction, the city's vacancy rate in July was 13.8%, double the June national rate of 6.3%. Through September, Memphis builders sought permits to build only 1,719 single-family units, down from 1974's 2,318 and sharply below 1972's record pace of 3,611, according to the home builders' association.

THE CONFIDENCE FACTOR

The Garrets' low rent has temporarily dulled their appetite for a new home, although they still hope to have one before they begin raising children. "I'm happy now" Gay says, "but I wouldn't want to live this way for the rest of my life." Chuck says he wants to have a house paid for by the time he is in his fifties. Gay's grandparents, in their sixties, never bought a home and are still renting. "That's a real sad situation," she says.

In at least one respect, the Garretts are atypical of most young couples in the market for their first new home. Outgoing and talented, they're undaunted by the recession and the nation's uncertain economic outlook. "One thing I'm not worried about is being out of work," remarks Chuck, who in addition to the two subjects he teaches, is qualified to coach several sports.

Generally, however, buyer confidence is low, housing experts say. The proportion of consumers expecting higher interest rates in the next 12 months climbed in the third quarter to 38% from 14% in the first quarter, according to the University of Michigan's Survey Research Center. This, the study observed, "slowed the recovery in attitudes toward buying a house."

A Weyerhaeuser spokesman says, "Consumers, lenders and builders themselves all lack confidence in the recovery." And a spokesman for U.S. Home Corp. adds: "Buyers aren't sure they want to put their life savings in a house."

Mr. CURTIS. Mr. President, I yield myself such time as I desire under the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CURTIS. Mr. President, I wish to make some comments about the pending amendment. The reason I am taking time under the bill is that the distinguished Senator from Kansas (Mr. DOLE) will speak on the amendment, also.

Mr. President, there is no necessity of adopting this amendment at this time. It does not affect withholding. But later on, after the first of the year, this matter can be considered. It does not have to be on this bill.

There are some of those matters I would like to call attention to. One is that it should be the objective of the Congress to have our tax law apply as fairly to all individuals and groups as possible. This particular provision falls short of that, in my opinion.

Suppose, for instance, on one side of the street there is a house offered for $30,000, no one has ever lived in it, it has never been used. Across the street is a comparable house, of equal value, for sale at $30,000. It is owned by a widow lady whose husband died 2 months after they bought it.

The purchaser of the first-mentioned house gets a $2,000 subsidy. Which house is going to be sold?

It is inequitable from the standpoint of the seller. There are many people that have a home for sale that will be disadvantaged and have their property rights taken from them to the extent of a certain amount of the purchase price because the Government is subsidizing unused houses.

How about the equities between purchasers? Suppose there is someone who in 1974 bought a house on a conventional arrangement and they live side by side with someone who buys a house under this law and then applies for the further subsidy 235.

Now our 235 housing subsidy provides that someone who meets the requirements can buy a house and the Government, because of his income status, subsidizes the payments. It is not unusual to find that subsidy of $75 or $100 a month. This $2,000 additional subsidy is on top of that.

Mr. President, under this program, a purchaser who can qualify might buy a house, the monthly payments might be $185, but because of the Government subsidy those payments are cut in half, or he pays $90 and the balance is a subsidy to him. He is not even required to have a downpayment. He can get a further credit for $2,000 for buying the house. A rather lucky thing for him.

If there is such a purchaser, I am not singling him out for embarrassment or criticism. I am saying that Congress is passing a law that does not treat our people equally; that whether they are buyers or sellers, it gives a subsidy to a certain class that is denied all others.

Mr. President, is it right that if a private owner has the house, for the sake of argument, we find it is almost new, but the circumstances in that family are such it must be offered for sale and the Government of the United States goes in and says, "If you will not buy that house, but buy one that a company has that has never been used, we will give you a $2,000 subsidy."

Mr. President, I am not very hopeful that this amendment will be rejected, but I do believe that it ought to be. I realize there will be our friends in the real estate business who are stuck with some houses. They made a few sales last year because of this and they would like to have it. I found that out when the vote was published in reference to this amendment in the committee. But this is a program that has to end somewhere. We cannot have a one-shot deal and have it go on forever.

It was enacted last time to give the impetus for getting rid of these houses. We have got to consider now, is it just and is it fair? Does it treat our people with equal treatment whether they be sellers or buyers?

Mr. President, I yield the floor and yield to the Senator from Kansas, who wishes to speak, under the time limit.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is there a time certain to vote on the conference report on situs picketing?

The PRESIDING OFFICER. The Chair advises the Senator that we are about to reach the point where we vote on the conference report on the situs bill.

Mr. DOLE. May I state that I only have about 5 minutes in opposition to the amendment, unless the Senator from Indiana has further discussion we might have——

Mr. CURTIS. We have another speaker.

Mr. DOLE. We have an additional one on our side. There may be a vote 10 minutes after the other vote.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Kansas be recognized immediately after the vote on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY—CONFERENCE REPORT

The PRESIDING OFFICER. The hour of 4 o'clock having arrived, under the previous order the Senate will now proceed to vote on the conference report on H.R. 5900 which the clerk will state by title.

The second assistant legislative clerk read as follows:

> The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), and the Senator from Hawaii (Mr. FONG) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. FONG) would vote "nay."

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 591 Leg.]

YEAS—52

Abourezk
Bayh
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Mondale
Moss
Muskie
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—43

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Garn
Glenn
Goldwater
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
McClellan
McClure
McIntyre
Morgan
Nelson
Nunn
Pearson
Roth
Scott, Hugh
Scott, William L.
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—5

Brock
Fannin
Fong
Montoya
Sparkman

So the conference report was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVENUE ADJUSTMENT ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 5559) to make changes in certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes.

The PRESIDING OFFICER (Mr. THURMOND). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, may we have order?

Let me announce to my colleagues——

The PRESIDING OFFICER. The Senator will suspend. We will have to have order before he can speak. The Senate will be in order.

The Senator from Kansas may proceed.

Mr. DOLE. Let me say, for the benefit of my colleagues, that I shall take only about 5 minutes, if my voice will hold out that long. Then I believe there is one other speaker on this side, and then, as far as I know, the Hartke amendment will be ready for a vote.

I rise in opposition to the Hartke amendment because of the diminution of about $200 million in fiscal 1975 revenues. In 1975 the estimated cost of the tax credit was about $600 million, and it is estimated to be about $200 million in 1976.

HOUSING MARKETS

According to the Federal Home Loan Bank Board "Economic Briefs," of October, 14, 1975, private housing starts rose slightly to 1.26 million units at a seasonally adjusted annual rate in August from 1.24 million units in July—the increase was accounted for by single-family units—building permit activity declined to 985,000 units at a seasonally adjusted annual rate in August from 1.04 million units in July. Thus, the housing recovery continues to be quite mild.

New home sales declined further to 521,000 units at a seasonally adjusted annual rate in July from 565,000 units in June. Sales peaked out in May, and the decline through July probably reflects a gradual weakening in the stimulus of the tax credit on sales. As it is, even the spurt in home sales from March through May was disappointing.

TAX CREDIT HAS HAD LITTLE IMPACT

The actual impact of the tax credit is best gauged from the rise in the actual level of new home sales rather than the annual rate. The actual level of sales rose from 44,000 units in March to an average of about 53,000 units per month in April through July, with sales down to 48,000 units in July. Under the extreme assumption that new home sales would not have increased except for the tax credit, we get an add-on due to the tax credit of

35,000 units in the 4 months since enactment of the tax credit. This impact is small when account is taken of the over 300,000 single-family housing units that were probably subject to the tax credit.

That indicates that notwithstanding the great cost, the tax credit for new homes was ineffective.

The positive stimulus of the housing tax credit on sales is less than 35,000 units since some of the improvement in sales over March has been the result of other factors. This includes the improvement in the economy and consumer psychology, assisted by tax rebates, a better housing resale market—dependent on mortgage credit availability—and the large Government tandem programs for both conventional and FHA-VA mortgages. It is disappointing that, with all these factors at work, new home sales have not been doing better.

The major factor constraining new home sales continues to be the general state of the economy and consumer psychology. Various signs of improvement in the economy would be expected to be favorable to housing demand, but the time lag is probably a long one. A home purchase is an extremely large item, and the lingering impact of a severe recession, combined with the impact of inflation on the financial position of households would be expected to constrain any improvement in home sales regardless of credit conditions.

Unfortunately, the rate of inflation is not declining as much as expected during this recession and already gives the appearance of worsening—although by how much is debatable. There is a possibility of a resumption of a decline in real disposable income or a minimal increase that would not represent much of a stimulus to housing demand. A worsening in inflation would also compound the cost problems faced by builders and serve to push up interest rates via the inflationary premium in the interest rate structure.

It begins to appear more and more that builders jumped the gun in increasing single-family housing starts in recent months in anticipation of a sustained improvement in new home sales. Given the weak impact of the housing tax credit, the inventory of unsold homes has continued high, with home sales turning weaker, unsold homes actually rose in July to 383,000 units. This rise was concentrated in units under construction. Total single-family units under construction have been increasing persistently in recent months, and single-family completions have moved up. Under these conditions, a continued recovery in single-family starts will depend upon a resumption of a more favorable trend in new home sales, and this will require both a continued improvement in the economy with no further deterioration in the inflation outlook.

I point up the program will have cost $600 million. It has been ineffective. It has not stimulated sales nor has it depleted inventories.

Mr. HANSEN. Mr. President, I yield myself such time as I may need on the bill.

Mr. President, I rise in opposition to this amendment. I think that the Committee on Finance has made a very good effort in trying to keep to a minimum those problems that should be considered by Congress now.

I commend the distinguished chairman of that committee for his efforts in trying to consider only those issues that appropriately must be addressed now.

There is no question but what this amendment and others that do deserve consideration and deliberation will be called up and considered after the first of next year. But it seems inappropriate to me when we are trying our very level best to try to get some resolution between the White House and Congress to add to that burden by bringing in this sort of an amendment now.

So I hope very much that Senators might join Senator DOLE, Senator CURTIS, myself, and others in rejecting this amendment in order that only those amendments that deal specifically with tax cuts that will expire January 1 may be brought up and considered for action.

I know that this amendment is one of those, but it is not the sort of amendment that is needed or required as is the case with those approved by the Finance Committee.

Mr. HARTKE. Let me say to the distinguished Senator from Wyoming exactly why I offered the amendment, because the provision of the tax cut bill of 1975 provides very simply that this provision does expire on January 1, 1976, unless it is extended.

With the housing industry in a depressed condition at this moment, to remove this one item which has been a success, according to the homebuilders and according to the surveys which have been made, would be an absolute turnaround in the direction in which the President and everyone else has said he wishes the country to go. The purpose of the tax is to stimulate the economy. The purpose of the tax credit is to stimulate the purchases of these homes and the building of others.

Mr. President, I ask for the yeas and nays on the amendment.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, if the distinguished Senator from Indiana has concluded, I wish to point out one very fundamental difference. When we change or when we stop the present deductions that are given individuals, it will change the tax reporting for practically every taxpayer in the United States. Those are the provisions that I think appropriately are in the bill before us now.

The only person who this amendment would affect is one who may be intending to purchase a house. I do not minimize at all the importance of homeowners and house purchasers, but I call attention to the fact that the increase in the standard deduction, the tax credit for taxpayers and dependents, and the earned-income credit are the three items that are in this bill here.

I think there is a very significant difference between the appropriateness of our actions on those kinds of deductions and extension for them as is proposed and contemplated in this bill and the sort of amendment that my good friend from Indiana has before us now.

Mr. HARTKE. Mr. President, I point out first that this is the only provision which expires at the end of this year that was not included in the extension of the bill of the Committee on Finanace. It has no effect whatsoever on the fiscal budget of 1976.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HARTKE. It applies only to those homes which were eligible under the old tax bill. In other words, no new homes are added.

Let me say that that is not what I would wish to do. I would wish to extend it across the board, and the committee knows that. The fact of it is, as I introduced this measure originally, I said we are providing for an investment tax credit for business. The two biggest investments of every individual in his lifetime are his home and his car. I would apply it to both of those.

Right now at this time until the end of 1977, there is the 10-percent investment tax credit for any person who invests in new equipment and new machinery in a business. But for the individual who invests his lifetime investment in a new home here is a very limited area in which it has been successful to stimulate homebuilding. It has also reduced the inventories of new homes built. It has made possible to go ahead and have an increase in development of areas where we have new homes, and it is the one saving grace which has provided some type of relief in a period of extremely high interest rates, which has absolutely gone counter to every other economic index in this field. In other words, what has happened is that in a period of high interest rates homebuilding has been the only part of the industry which has even had a nominal recovery. Here to say that we are going to cut this out at a time when it will give a chance to the homebuilding industry to at least try to go ahead and move a little bit forward to me would be the height of ridiculousness at this time.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HARTKE. I am glad to yield.

Mr. BROOKE. I ask the Senator whether he knows if this tax credit has been effective? As the Senator may remember, I made a proposal that we have a $2,000 credit which would be an incentive for homebuyers to buy new homes but that was $2,000 that would have been given to the homebuyer at the time of purchase of a new home as incentive for that buyer to go out and purchase a new home. It was essentially a downpayment assistance program.

The Committee on Finance came out with a $2,000 tax credit program which was different from the program I proposed, but I voted for it.

We had the Secretary of HUD before the Committee on Banking, Housing and Urban Affairs in an oversight hearing, and we asked the Secretary, in fact, I asked her myself, whether the tax credit program had been effective, and, as I recall, her testimony was that it had been of limited effect. I have had some correspondence with the Secretary on this subject, and I would ask unanimous consent that this correspondence be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUGUST 26, 1975.

Hon. CARLA A. HILLS,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR CARLA: Last April, during the hearings on H.R. 8070, the FY'76 HUD Appropriations Bill, I asked if you had directed a study of the impact on the housing market of the $2,000 home purchase tax credit contained in the Tax Reduction Act of 1975 (P.L. 94–12). Your answer indicated that a study was being conducted and that definite results would be available in six months. Now that four months have passed, the general outlines of this study should be taking shape. I would appreciate your tentative assessment of the impact of this program so that I may more accurately judge its effectiveness in reducing unsold inventory.

Similarly, I would appreciate your latest assessment of the first ten months of the GNMA conventional tandem plan under the Emergency Home Finance Act of 1974.

Thank you for your consideration of these requests.

Sincerely,

EDWARD W. BROOKE.

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., September 30, 1975.

Hon. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: Your letter of August 26 asked whether we had reached a tentative assessment of the impact of the $2,000 home purchase tax credit contained in the Tax Reduction Act of 1975 (P.L. 94–12).

We have been gathering empirical data on new home sales market activity and are considering some theoretical implications of the tax credit. The credit still has more than three months to run, and market data are available for only three or four months since passage of the Act, so any assessment must be very tentative. Our impressions may change with further analysis of the data; at present they are as follows:

Although both new and existing house sales were increasing in February and March, before passage of the Act, the availability of the tax credit may have given an additional boost to new single family house sales in April, as they rose 23 percent while existing (previously occupied) house sales, without benefit of a tax credit, rose 6 percent. However, new house sales usually are more volatile than existing house sales, so the new house movement may not have been unusual.

The increase in new single family house sales slowed in May to only 4 percent and then fell about 5 percent in June with a further decline of almost 8 percent indicated in July. Existing house sales continued to increase slightly in May and June before turning down less than 4 percent in July. Thus the April spurt in new house sales may have represented a borrowing from future sales as buyers came into the market a little earlier than they otherwise might have.

The sharp increase in new single family house sales in April occurred entirely in completed houses and houses under construction, that is, those houses eligible for the tax credit. At the same time sales of ineligible houses, those not yet started, did not increase at all. The tax credit may have shifted some sales from non-eligible units to eligible units; to the extent that occurred, total sales were not increased.

The unsold inventory of completed new single family houses for sale has declined to about 130,000 from a record high of 147,000 houses in January and February, and 145,000 in March, so that the tax credit may have been of some help in unburdening the heaviest part of builders' inventories. Unsold houses under construction declined from 198,000 units in January to 189,000 in March (before the credit) and 188,000 in April. Since then this part of the unsold inventory has risen back to January levels as single family housing starts have picked up. The "authorized by building permit but not started" part of the sale inventory has declined from 58,000 houses in January and February, to 55,000 in March, and about 54,000 houses in the latest reported month. On balance, builders have had a small improvement in inventory over the period.

Another measure of the impact of the tax credit is in the proportion of new houses sold which were eligible for the tax credit by virtue of being started before March 26 (the available data report only on starts before the end of the month). In April about three-fourths of the houses sold appear to have been eligible for the credit, while one-fourth were not. In May about 69 percent of those sold were started before the end of March, and 31 percent of sales were started after March or were not yet started. The eligible proportion declined further in June to 60 percent of sales, with 40 percent not eligible. If the trend continues the tax credit impact will diminish further.

As noted earlier, these conclusions are tentative and subject to revision with further analysis of current and future data. Unfortunately we have no data on condominium sales or mobile home sales and are unable to assess the impact on these forms of housing production. Fragmentary and impressionistic reports suggest that these may be faring less well than new single family houses. Shipments of mobile homes from manfacturers to dealers have not recovered quite as well as single family starts, even though dealers were reputed to have lean inventories so that a pick-up in sales would show up shortly in shipments. The tax credit may have had even less impact in these areas than in new family conventional houses.

Your letter also asked for an assessment of the first ten months of the GNMA conventional tandem plan under the Emergency Home Purchase Assistance Act of 1974. As you know, delivery of mortgage loans under the tandem plan lags behind commitments. All moneys authorized, $6.9 billion, have been committed since October 1974, including the most recent program of $2.0 billion. Of the first $4.9 billion in commitments, $871 million in mortgage loans have been delivered. We are in the process of initiating a lenders reporting system, and hope to have preliminary results on the conventional tandem plan available by late October. I will be happy to provide you with that material when it is available.

Sincerely,

CARLA A. HILLS.

Mr. BROOKE. Does the Senator from Indiana have any evidence or any data that this has been an effective program?

Mr. HARTKE. Yes. The National Association of Homebuilders conducted a survey. They said that the tax credit was responsible for the sale of about 40 percent of all the units which qualify under the program. That is pretty tremendous success. The fact of the matter is another survey indicated that 43 percent of the sales would not have occurred except for the tax credit provision.

Mr. BROOKE. The Senator will agree that these, I will not call them gimmicks, but these incentives are good when used for a short period of time. But when used for a long period of time, then they cease to be an incentive. I am wondering whether the Senator is satisfied that this has been an effective program and would continue to be an effective program if extended for another 6-month period.

Mr. HARTKE. In my judgment, as far as I am concerned, it is not only an effective program, but it should be extended across the board. It is the one type of provision which would give the same type of tax relief to the individual for his big investment in his lifetime, the same as we do to a businessman. In other words, if business can justify a 10-percent investment tax credit, certainly then we ought to justify an investment tax credit for the person who buys a new home, his one single investment in his lifetime.

I am prepared to vote.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield for a question?

Mr. HASKELL. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I am glad to yield.

Mr. WILLIAM L. SCOTT. I notice on the "Dear Colleague" letter on my desk and remember the Senator's statement that the amendment has no fiscal impact for fiscal year 1976. I do not understand that. The people who buy new homes would pay less taxes.

Is that accurate? They would get a credit?

Mr. HARTKE. It would have an effect in the calendar year, but it would not have any effect on fiscal year 1976—or very minimal, at best.

Mr. WILLIAM L. SCOTT. Would it not have an effect for 6 months, from January 1 until June 30?

Mr. HARTKE. No. The effect of that is very simply that the tax cut comes at the end of the year. But it does not have any effect, or a very minimal effect, on fiscal year 1976. This bill is specifically directed to the budget committee instructions, according to the chairman of the Budget Committee, as a reconciliation bill. I am not exactly in agreement with that, but that is the way the bill is being handled on the floor of the Senate. It is a reconciliation bill; and so far as fiscal year 1976 is concerned, it has no effect upon the budget.

Mr. WILLIAM L. SCOTT. Would the Senator say that it would have an effect upon fiscal year 1977?

Mr. HARTKE. Yes.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. HASKELL. Mr. President, will the Senator from Indiana yield, or will whoever is in charge of the time in opposition yield me about 5 minutes?

Mr. DOLE. I yield 5 minutes.

Mr. HASKELL. I thank the Senator.

Mr. President, the Senator from Massachusetts asked the question as to the effectiveness of this particular tax credit. I have in my hand a communication from the Director of the Budget Office to Representative Gibbons, dated November 20, 1975, specifically on that subject matter. I shall read to the Senator from Massachusetts this short paragraph:

> The impact of the home purchase tax credit is very difficult to measure, because it cannot be isolated from other factors at work in the housing industry during the same period.

The next sentence is the important one:

> As far as can be determined from the available evidence, however, the credit has had little or no impact on the inventory of unsold new houses, new home sales, housing starts, or construction industry employment.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. HASKELL. I should like to finish. This tax credit goes to people whether they bought the house because of the credit or not. Since it goes to people who buy new houses, it goes, by and large, to people with more money.

With respect to this business of people who are or are not going to buy houses, I should mention that last year, when I got home, I found one of my daughters and her husband absolutely jubilant. The reason for the jubilation was that they were going to buy a house, and all of a sudden they found that Congress had given them a tax credit. This is a personal experience which illustrates why these types of incentives do not work.

If we want to help housing, we should subsidize interest. If we want to help housing, we should adopt some kind of mortgage system with a balloon payment on the end.

My feeling is that this credit, at best, is a windfall for people who are going to do something anyway, and I hope that my colleagues will vote against it.

I yield to the Senator from Indiana.

Mr. HARTKE. In the first place, the Senator cannot be consistent by being for the investment tax credit for business and being opposed to housing credit for an individual. He cannot be consistent if he is going to say that he is going to give business a tax credit of 10 percent when he is only going to give a home purchaser a credit of 5 percent, with a limit of $40,000, when there is no limit whatsoever on the businessman.

In the letter which was read by the Senator from Colorado—from whomever he said it was—he states definitely that it is very difficult for him, or for them, to assess. They say it is from available evidence, which they do not quote.

I will give the Senator evidence, which I will quote, from people I think are most reliable in this field, the National Association of Homebuilders, the people directly involved, and they say this accounts for 43 percent of the inventory in houses up until September 1 of this year.

The Wall Street Journal has a long article, which I put into the RECORD, indicating that it has been a tremendous success and one of the saving graces in the homebuilding industry.

The law expires on January 1, and all I am asking is exactly what we are doing in the rest of this bill, saying that those provisions which expire on the 1st of January, 1976, should be continued in effect until we have had a chance to analyze them in conjunction with the request of the President, in conjunction with what our own budget committee has said, and that on July 1 of the coming year we will have a chance to reassess the whole matter.

Mr. HASKELL. I will take 2 minutes, if I may, from the Senator from Kansas.

This amendment is giving the credit to some people who are going to buy homes anyway. It is an indirect way, at best, of increasing home sales. It is a chancy way.

The Senator from Indiana says, "How can you be for the investment credit for business and not be for this?" The answer is that I am not for the investment credit for business. It is a simple check from the U.S. Government to those people who happen to be in the business of buying and using equipment. It distorts the business marketplace against people in other lines of business.

I think this measure is ill-advised, because it picks on just one segment of the housing industry and gives it a subsidy through the back door.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HASKELL. If I have time.

Mr. BROOKE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BROOKE. Mr. President, I thank the Senator from Colorado for the data from the Budget Office.

Was that from the Budget Office?

Mr. HASKELL. The Senator is correct.

Mr. BROOKE. The information indicates that this tax credit has not been effective. The Senator from Indiana says he has data from the homebuilders to the effect that it is responsible for 43 percent of new housing construction, as I understand it.

As I said, we had the Secretary of HUD at an oversight hearing, and she said that it had limited effect.

Had this tax credit been a refundable tax credit—and I urged that upon the chairman of the Committee on Finance when we passed this provision—it may have been effective; because it would have put money into the hands of the prospective new home purchaser at the time he bought his home rather than at the end of the tax year.

I do not like to see us extend legislation which is ineffective. I am not sure that we are going to stimulate much new housing production by extending this tax credit. I want to be sure of that, because many of us are in doubt as to how to vote on this extension. If, in fact, this has worked, if it has been effective, then there might be a need to extend it for 6 months. The housing industry is still in bad shape. If it has not worked, if it is not effective, if it is not doing the job, then I think we are spending money uselessly.

I would like the Senator from Indiana to address himself to that issue, if he will.

Mr. HARTKE. Mrs. Hills, when she testified, did not give any information as to her conclusion, but she did give a statement about the number. The percentage of homes that were sold during this period was approximately 10 percent of the total. I do not know what she is quoting, where she is getting her conclusion. I have no idea.

The fact is that we challenged these figures. We have asked for them, but HUD has not been able to come up with any substantiation of their conclusion. The National Association of Homebuilders is the only group I know of which has conducted a survey out in the field. That survey is in the RECORD. I am trying to get a copy of it.

Mr. BROOKE. What is the basis of the data that the Senator from Colorado gave us, from the Budget Office?

Mr. HARTKE. This is what Mrs. Hills said. She said that the Federal Home Loan Bank Board reported on 3,500 of the 300,000 homes sold—she is talking about total sales—3,500 of the 300,000 homes sold, after the credit was implemented earlier this year, were effective.

I have a copy of the Wall Street Journal article of May 12, 1975, which is written by Ronald Schaeffer and Mark Star. It says:

> Uncle Sam appears to have offered new homebuilders an incentive they cannot refuse, and so the Nation's homebuilders are starting to unload an inventory that has amounted to 650,000 unsold homes.

Mr. DOLE. What is the date on that?

Mr. HARTKE. "The recently enacted tax credit of up to $20,000 on a new-home purchase has buyers suddenly snapping up houses they spurned for months, the builders say."

This was early in May. It says:

> . . . sold a surprising 23 percent of the houses and condominiums in their combined backlogs just in the first 30 days after the tax incentive went into effect March 30. What's more, these builders expect to sell 65 percent of their original inventory within the next 60 days to 90 days. Most trace the sales turnaround to the tax credit.

Mr. DOLE. Does the Senator from Indiana yield?

Mr. HARTKE. I am glad to yield.

Mr. DOLE. What is the date on the information in the report the Senator was reading from?

Mr. HARTKE. May 12.

Mr. DOLE. Did I understand the Senator from Indiana correctly as saying that it would have no economic impact on fiscal year 1977?

Mr. HARTKE. This information was submitted in the Committee on Finance, that it would have no effect upon fiscal 1976.

Mr. DOLE. What about fiscal 1977?

Mr. HARTKE. I said it would have some effect on fiscal 1977.

Mr. PASTORE. Will the Senator yield to me?

Mr. HANSEN addressed the Chair.

Mr. HARTKE. If I am through with the Senator from Kansas, yes.

Mr. DOLE. It would be about $200 million in fiscal 1977?

Mr. HARTKE. Right.

Mr. PASTORE. It strikes me, Mr. President—I am not a member of this committee and I think it would be hard to determine whether or not anyone bought a house just because they got a tax credit. But it strikes me that if we give a boon of $2,000 credit to anyone who buys a house, it makes it easier for that person to buy a house. If it is easier for a person to buy a house, it is going to be easier for him to sell a house. If it is easier to sell a house, that makes it easier to build a new one.

I do not know how we are going to get precise figures indicating that somebody bought a home only because of the tax credit. I think somebody bought a house because he wanted to buy a house and, because they get a $2,000 break, it is easier to buy the house. I repeat, if it is easier to buy the house, it is easier to sell the house, and if it is easier to sell that house, it is always easier to build another one.

I do not know what we are talking about here. If this causes financial havoc, that is one thing to discuss. But we have been arguing for an hour, to and fro, as to whether or not somebody buys a house because of the tax credit. I do not think we are ever going to find that out. We would have to look into a person's mind, we would have to look into the circumstances. But the mere fact that he gets a break means that, of course, he is more apt to buy that house. To me, it is fundamental.

If we cannot afford it, that is one thing. But on this idea we are arguing back and forth as to whether or not it is an incentive, I do not think we are ever going to learn precisely.

Mr. DOLE. Will the Senator yield?

Mr. PASTORE. I do not have the floor, but I shall yield.

Mr. DOLE. Although there may be some uncertainty regarding the incentive aspect, we do know that the provision cost about $600 million in tax year 1975 and may cost as much as $200 million in tax year 1976. So if we do not know whether it has had any impact—and the First National City Bank of New York says it is one of the worst-thought-out provisions of the Tax Reduction Act—we ought to take another look at it.

Mr. CHILES. Will the Senator yield?

Mr. PASTORE. Now, let me answer the question. The point is, as has been brought out here, the homebuilders have said that they were able to sell that house much easier only because of this. That is very significant to me. I mean, they are the people on the ground floor. They do not deal with statistics in an ivory tower. They are right on the ground.

The point was made here about the investment credit. We have also argued here that we give it and I was for making it permanent. I was for raising it to 12 percent instead of 10 percent. The point there was that it would make jobs.

How do we ever know? Maybe if they buy new equipment it makes it easier for the people already working there to keep their jobs. We do not know that for sure. But we do it because we think it is an incentive. I think any time we give anybody a break, at least we have the seed there for an incentive.

Mr. CHILES. Will the Senator yield?

Mr. PASTORE. Yes.

Mr. CHILES. I think the Senator from Rhode Island——

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Who has the time here?

Mr. HANSEN. It depends on which side you are on.

Mr. HARTKE. I yield a couple of minutes.

Mr. CHILES. I think the Senator from Rhode Island makes a very good point. In Florida, we have 75,000 condominiums that are unsold. Now, we also have unemployment in construction of probably 24 percent. Those people cannot go back to work as long as we have 75,000 unsold condominiums. One of the best features that has been helping clean out some of that inventory has been the tax credit.

There are full-page ads, and I can say it has stimulated some newspaper ads. It stimulated a lot of buying, stimulated a lot of real estate people to go out and try to get people to put their money in. That has paid off some in my State.

I cannot say about any other State, but this provision has been one of the best things we got out of the last tax bill.

Then it took a while before we could correct it, because we had some kind of problem as to whether the property had ever been sold at a lower price. We got that corrected. When we did that, if we say there was a slight effect as it started, much of that is because there was a hiatus time in there and people did not know whether they could use this plan or not.

It is working well in my State. I should like to see it extended, because I can say it is helping make jobs for the people in the State of Florida. I do not think it is costing dollars. I think as we generate that payroll, as we generate all the taxes from that, that is better than having somebody drawing the food stamps, drawing unemployment compensation, drawing the welfare payments. I would rather have him be a taxpayer. So I think it is a very positive thing. I am sure to vote for the extension.

Mr. HASKELL. Will the Senator yield?

Mr. HANSEN. Before yielding to the Senator from Colorado, I want to make one observation. The reason that this amendment has no impact on fiscal 1976 is that the amendment does not address the law except after January 1, 1976. When a person buys a home then, unlike the withholding tax, which is kept out of the paycheck and does have an impact on the Treasury receipts as the thing moves along, this sort of investment tax credit is applied for after the end of the calendar year 1976.

I yield such time as the Senator from Colorado may desire.

Mr. HASKELL. I thank my friend from Wyoming. On the cost of this credit and how much, really, this benefits the housing market, I should like to throw in a couple of facts.

The estimated revenue lost is approximately $700 million. That is contained in this budget committee summary that I referred to before.

Now, as far as how many home purchases it may have stimulated, I refer my colleagues to a publication by the Federal Home Loan Bank Board dated October 14, 1975. This publication estimates that additional single-family units sold by virtue of this tax credit are 35,000 for 6 months. If we double that for 1 year to 70,000 and divide that into $700 million, we get $10,000 per additional house. That is a pretty expensive subsidy.

With that, I yield the floor.

Mr. CHILES. Will the Senator yield?

Mr. HASKELL. I yield the floor.

The PRESIDING OFFICER. All time in opposition to the amendment having expired, the Senator from Indiana has 3 minutes.

Mr. CHILES. Three minutes of the time on this side. I wish to be able to understand that mathematics.

If we only get a tax credit of $2,000, how can the Senator charge $10,000 per house? Or conversely, if it costs $700 million, then how many houses did they sell? This is the way my mathematics would go: if it is, again, $2,000 per house, if it costs $700,000, then we would have to have sold 350,000 homes. That would be pretty good.

Mr. HANSEN. Would the Senator go through those figures again? I do not think he said what he meant to say.

Mr. HASKELL. Mr. President, will the Senator from Florida yield to me?

Mr. LONG. I yield to the Senator 3 minutes.

Mr. HASKELL. If I may respond to my friend from Florida, the figures developed by the Federal Home Loan Bank Board say that for a period of 6 months the additional units, the ones that would not have been sold except for the credit, are 35,000.

Mr. CHILES. May I ask the Senator——

Mr. HASKELL. Excuse me, let me finish. Annualize that and you get 70,000 additional units due to this particular provision of the tax law.

The total revenue loss is estimated at $700 million.

Now, if you put 70,000 into $700 million you get $10,000. That is the cost to the Government of each additional house.

What the Senator was saying is that a lot of houses have been sold, so a lot more people have gotten credit. That is true but there are a lot of those people like my son-in-law and daughter, who were going to buy a house anyway, and so they got a credit.

Mr. CHILES. The Senator from Florida prefaced his statement by saying he wanted to report some facts to the Senate.

Mr. HASKELL. Yes.

Mr. CHILES. And then he gave us an estimate of the Home Loan Bank Board and someone else. That is not a fact, that is somebody's guess.

Mr. HASKELL. As things go in this world I would say that is a fact. [Laughter.]

Mr. DOLE. Mr. President, will the Senator from Colorado yield? In that same report by the Federal Home Loan Bank Board I might just quote one sentence which says:

> Under the extremist assumption that new home sales would not increase except for the tax credit, we get an add-on with the tax credit of only 35,000 units.

That is an extreme assumption, so I guess, to be more realistic, it would be even less than 35,000 units, by far.

Mr. RANDOLPH. Would the Senator yield?

Mr. HARTKE. I am happy to yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I wish to offer my support to the Senator from Indiana (Mr. Hartke) on this amendment. The housing industry is in a state of severe depression. Normally as the U.S. economy pulls out of the depths of recession the housing industry leads the way. But this is not the case today. The economy appears to be pulling out of its deep recession, however hesitantly, but housing construction is still depressed. This housing tax credit is partially responsible for the minimal increase in home sales and construction which has occurred since March. To remove it now, when some economists foresee a decrease in home construction, would be most unwise.

Mr. President, I strongly favor continuation of the housing tax credit consistent with the philosophy of the Revenue Adjustment Act. I commend the Senator from Indiana on this effort and I ask him if I might be added as a cosponsor of the amendment.

Mr. HARTKE. Mr. President, I thank the Senator for his comments and support, and I would be honored to have him as a cosponsor on this amendment. I ask unanimous consent that Senator Randolph be added as a cosponsor to amendment No. 1255.

Mr. President, I understood the time of the opposition had expired. I do not mind these people going ahead and talking, but why do we not go ahead and vote?

The PRESIDING OFFICER. All time on the amendment has expired. The question is on agreeing to the amendment of the Senator from Indiana.

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Washington (Mr. Jackson), the Senator from New Mexico (Mr. Montoya), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Brock) is absent on official business.

The result was announced—yeas 48, nays 44, as follows:

[Rollcall Vote No. 592 Leg.]

YEAS—48

Allen
Beall
Bentsen
Brooke
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Dole
Durkin
Eastland
Ford
Glenn
Gravel
Hartke
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Moss
Nelson
Packwood
Pastore
Pell
Randolph
Ribicoff
Stafford
Stevens
Stone
Tunney
Weicker
Williams

NAYS—44

Abourezk
Baker
Bartlett
Bellmon
Biden
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Clark
Culver
Curtis
Domenici
Eagleton
Garn
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Helms
Hollings
Hruska
Kennedy
Laxalt
McClellan
McClure
Muskie
Nunn
Pearson
Percy
Proxmire
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stennis
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—8

Bayh
Brock
Fannin
Fong
Goldwater
Jackson
Montoya
Sparkman

So Mr. Hartke's amendment (No. 1255) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, I move to lay that motion to reconsider on the table.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider the vote by which the amendment was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Washington (Mr. Jackson), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Brock) is absent on official business.

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 593 Leg.]

YEAS—50

Abourezk
Allen
Beall
Bentsen
Brooke
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Durkin
Eastland
Ford
Glenn
Gravel
Hartke
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Randolph
Ribicoff
Stafford
Stevens
Stevenson
Stone
Tunney
Weicker
Williams

NAYS—41

Baker
Bartlett
Bellmon
Biden
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Culver
Curtis
Dole
Domenici
Eagleton
Garn
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Helms
Hollings
Hruska
Kennedy
Laxalt
McClellan
McClure
Nunn
Pearson
Percy
Proxmire
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stennis
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—9

Bayh
Brock
Fannin
Fong
Goldwater
Jackson
McGovern
Montoya
Sparkman

So the motion to lay on the table the motion to reconsider was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

PRIVILEGE OF THE FLOOR

Mr. HARTKE. Mr. President, I ask unanimous consent that Mr. Pursley of Senator Stone's staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, on behalf of myself, Senators Dole, Roth, Griffin, Hruska, Packwood, Hugh Scott, Young, Garn, Taft, Laxalt, Thurmond, and Baker, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. Curtis) for himself and others proposes an amendment.

The amendment is as follows:

At the appropriate place, insert the following:

"Sec. —. Limitation on Federal Spending. "Notwithstanding any other provision of law, or rule of law, or of this Act, Federal outlays for the fiscal year beginning October 1, 1976, shall not exceed $395 billion."

Mr. CURTIS. Mr. President, we hope to dispose of this amendment very shortly.

What it does is it takes the President's figure that he wanted a ceiling on next year's spending, fiscal 1977, that begins the 1st of October of $395 billion.

There are those who feel that we should cut taxes irrespective of spending or spending ceilings. There are those who feel that we should not cut taxes, even though it is an extension of existing cuts, without some brake on future spending.

I also wish the members of the Committee on the Budget to realize that all the rest of us appreciate the hard work that they have done, their dedication, the way they have wrestled with these figures, and their desire to establish the committee in a strong and appropriate place in this Senate.

But I do not believe that this proposed

amendment flies in the face of good budget procedure or what the Budget Committee wishes to do.

Budget ceilings are in reality targets. That is the reason that the law itself provides for a second concurrent resolution. We do not do violence to the right of the Budget Committee to work their will when the time comes a few months from now by saying in advance "if we are going to have this tax cut, we favor a ceiling on spending for this next fiscal year."

According to the Office of Budget and Management, if all of these programs that we have now and all of the calculations for increases by operation of law, by inflation, by other matters are added up, we will be faced with spending in fiscal 1977 of about $423 billion. That is a lot more than the current one of about $375 billion.

It is important that we practice economy, but we can shave here and there and cut a little bit. We would have a hard time adding up $2 billion. If we are going to bring this budget under control we have to look at the authorization laws; we have to establish some priorities.

Frankly, I am convinced that we can do it and still do justice to the poor, the disabled, and those people not able to fend for themselves. The United States is rich enough to take care of the unfortunate.

I believe as to those benefits that go to the able bodied and to the people who are not of advanced age and are on those, we are going to have to look at and establish some priorities. Some of them we may have to change, postpone, or something else.

If we are going to cut taxes—we do not know what we will have when we come back from conference with the House—this bill calls for a cut of $6.4 billion. That is a lot of money. The Secretary of the Treasury tells me that they are having to pay interest of about 8 percent on money now. Of course, that is not the average. Take 6 percent. At 6 percent interest on the national debt, if we cut taxes by $6.4 billion, without reducing expenditures, we will increase the interest load on the people of the United States by over a million dollars a day. If we cut taxes without a comparable brake on spending, and that cut would remain to the Senate figure of only $6.4 billion, $6.4 billion at 6 percent, figures out to more than $1 million a day.

And that is the issue. The issue is not, is this a nice time to do it. The issue is not, must we wait until April. The tax bill is before us now. It is now that the Senate is proposing to cut taxes. At this same time, we should put a limit on spending.

I said a moment ago that we can save certain amounts by economies here and there. Those should be carried out. But as to the big amounts we have to change the law, or modify it in some way. That takes time, and that is the reason for the leadtime.

I hope that the members of the Committee on the Budget would not view this setting of target incorrectly. This pledging ourselves to the proposition that we are going to cut expenses by reason of the passage of this Tax Act is not in opposition to the Budget Committee. I do not believe it is. I believe that it is good planning. If we are going to cut spending down the road in fiscal 1977, now is not too early to plan on it. Now is not too early for committees to look over programs under their jurisdiction and say:

> Here, how can we take care of the essentials, how can we carry out the commitments of our people for such contractual things as Social Security, how can we take care of the unfortunate and the poor, and keep afloat?

I believe it can be done. I believe that this country can meet its fiscal problems.

Mr. President, the United States will not go bankrupt, because we have the power to create money. But what will happen is more and more inflation. If we go on cutting taxes in the face of a deficit of more than $70 billion, does anyone think that that is going to revive our economy? Does anyone believe that that will cause an investor to back a patent that might start a new activity that will create jobs? Does anyone feel that to have no restraint on spending will create such confidence in the country that individuals will buy, that they will plan, that they will contract? I think not. I believe that the way to restore full employment in this country is to restore financial and budgetary responsibility here in Washington.

So I hope that those who have strong feelings about the operation of the Budget Committee will not regard this as an intrusion upon their domain or their jurisdiction. It is proposed today because today is the day we are cutting taxes, and that is the time to say that we should not do this unless we cut expenditures.

If someone believes that inflation is not a threat, if someone believes that there is nothing to this, that we can go on with our spending and cut taxes, they may be right. I do not know. But I think that cannot be done. I believe that we will help the Budget Committee. I believe that by announcing this target, this desire, this determination not to let expenditures grow next year more than $20 billion, we are indicating that we are not going to do that. Even that will be a hard job for the Committee on Appropriations.

Some of us, when the time comes, will want to cut more. Some of us will fight for a balanced budget. But this is a compromise. This says that if we are going to cut taxes, let us not let this expansion go more than up to here.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. GRIFFIN. Mr. President, the Senator is making the point that I want to emphasize, and that is that we are talking about a cutback in the level of spending as we know it today. We are talking about a cutback of the projected growth of spending.

As I understand it, if we do not set a ceiling of $395 billion as anticipated by the Senator's amendment, we can look forward to an increase in spending on the order of 15 percent or more. What we are talking about here is limiting the growth of Federal spending to 7 percent instead of 15 percent. We are talking about limiting the Federal deficit for next year to $50 billion instead of $70 billion or more.

Should we not make the point that although we talk about a spending ceiling of $395 billion, there is nothing whatsoever to prevent Congress from holding it below that figure, if it sees fit to do so?

Mr. CURTIS. The distinguished Senator is correct on all points.

This is a compromise in which we set some objective. We can go below. I hope we can. Perhaps the economy will bring in more revenue. Perhaps we can do some things that we do not see clear to do now.

Also, the distinguished Senator makes a very valid point. It is difficult to take money away from an individual, a community, or a group after it is once appropriated. We are in the midst of the year. This merely says, "Let us slow up the growth. Instead of letting the budget grow by 15 percent, let us hold it back to 7 percent—a maximum." We all could make our fight to make it less, and I am sure that many on the Budget Committee will do that very thing.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. WILLIAM L. SCOTT. Do I correctly understand that the Senator's amendment is to put a ceiling on spending of $395 billion?

Mr. CURTIS. Just about. It is not to exceed $395 billion. It is not an approval of $395 billion.

Mr. WILLIAM L. SCOTT. What is the anticipated revenue for this fiscal year?

Mr. CURTIS. Approximately $301 billion.

Mr. WILLIAM L. SCOTT. I probably spoke of a $20 billion figure. Are we not saying that if we have the same revenue next year as we have this year, there will be about a $95 billion deficit?

Mr. CURTIS. The projections are certion increases in revenue and certain offsets from this reduction. I think that unless we are very diligent, there is a danger of an increased deficit. That is why I say, as a minimum, let us put on our brakes to this extent.

Mr. WILLIAM L. SCOTT. I probably will vote against the Senator's amendment, not because I do not want to see a ceiling, but because I believe the ceiling is too high. I have the greatest confidence in the Senator from Nebraska but I would make the ceiling lower than it is in his amendment.

Mr. CURTIS. If the Senator's position prevails, then we cut taxes without any restraint. If the pending amendment prevails, then we have some restraint, and we can work for as much further as possible. It is not to exceed $395 billion.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CURTIS. I yield the floor.

Mr. DOLE. I say, in response to the Senator from Virginia's comment, that the projected revenues will be about $350 billion.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CURTIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mr. CURTIS. I yield the Senator such time as he wishes.

Mr. DOLE. The projected revenues are about $350 billion, rather than $301 billion for this fiscal year, so we are not talking about a deficit of approximately $90 billion. It is still a very high deficit. If the amendment of the Senator from Nebraska should be rejected, then there is no ceiling at all.

Mr. WILLIAM L. SCOTT. I say to the distinguished Senator that if he will look at the record—he may be better informed on this matter than I am—however, in recent years we have not an increase in revenue anywhere near the $50 billion figure the Senator indicates. Even now we are discussing cutting taxes, and I cannot see how we are going to substantially increase revenue in the next fiscal year.

Mr. DOLE. Mr. President, I think we are in a period of economic recovery. I say to the Senator from Virginia that revenues can rise very rapidly at such time.

To speak more specfically, if we do nothing to restrain Federal spending in fiscal year 1977, we can have an expected increase of $53 billion. We are talking about increases in civilian and military salaries, retirement benefits, social security, railroad retirement, medicare and medicaid, public assistance, food stamps, major construction of water treatment plants now underway. Budget outlays for this fiscal year are in the neighborhood of $370 billion. Without specific legislative action to limit spending, outlays in fiscal year 1977 will reach $423 billion or more.

There will probably be more without some legislative restraint.

Cutting the budget by $28 billion would result in spending of about $395 billion in fiscal year 1977. This is still $25 billion above the level of expenditures for fiscal year 1976. So there is some flexibility. We are not cutting back below 1976 fiscal year levels; we are adding $25 billion in new spending authority; so there will be some growth. As the Senator from Nebraska and the Senator from Michigan have pointed out, all we have attempted to do is slow the growth.

As a member of the Committee on the Budget, I can understand the pain and anguish of the members of that committee. I can understand, having cross-examined the Budget Director, Mr. Lynn, myself, at some length earlier this year, that it is difficult for us to operate and to make a judgment when we do not know where they are going to recommend cuts. But I have concluded that, in the interest of fiscal responsibility, we should take a look at the President's ceiling. The President has not arbitrarily set a ceiling. He has set a ceiling and has gone to the departments and the agencies. They are now trying to see what they can do to pare down expenses. I think we need some guidance and direction now from Congress to make it work.

I add one other note. If we look at the election returns in San Francisco, we may have some revelation, because there, where both candidates took a cold, calculated stand against more spending in a very liberal—the most liberal—city in America, with a 3-to-1 Democratic registration. The Republican lost by about 4,000 votes.

I might add that the Democratic candidate who was successful came out strong against excessive spending and indicated to the electorate that it was time we took a look at where we are heading.

Everyone is concerned about what happened in New York. They are concerned in San Francisco. We should be concerned about what could happen in the Nation.

With reference to the comment of the Senator from Virginia, I know there are others who share that view. Maybe $395 billion is too high. That is the reason the amendment says "not to exceed $395 billion." I doubt that we can do any better. I frankly doubt that we can do that well. But if, by amendment, we bind Congress to stick to $395 billion, it is the view of the Senator from Kansas that the country will be much better off for it.

I might add that the only way we can change it is through legislation. The President cannot do that. That is Congress' responsibility. That is our responsibility. If we are going to look at increases in programs, whatever they may be, whether they are in defense, medicare, medicaid, waterways, agriculture—whatever—only those of us in Congress can change that program.

I might say that one committee that is making an effort at oversight is the Committee on Agriculture, under the chairmanship of the distinguished Senator from Georgia. That committee will start early next year taking a look at all the programs under the jurisdiction of the committee to see if they cannot make proper cuts.

The Senator from Kansas believes that, though it is going to be very difficult, the $395 billion ceiling can be achieved. We can slow the growth. We are not seeking to cut back the growth; we are seeking, as I have indicated earlier, fiscal responsibility. Therefore, I not only support the amendment, but have cosponsored the amendment.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield briefly?

Mr. CURTIS. I yield 2 minutes to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's yielding. Certainly, I share his concern, the concern he has always expressed, about the mounting Federal debt and the amount of money that we spend on various programs. I am also in agreement with the thought of practicing fiscal responsibility that my distinguished friend from Kansas has mentioned.

It seems to me that the proper approach is to vote against the bills as they come before us, bills to expend more money. I just do not believe that the Government is going to have revenue approaching $350 billion in the next fiscal year. Therefore, in setting a ceiling of $395 billion, I believe we are encouraging a greater deficit. Reasonable people can disagree with this. But putting a ceiling on spending does not stop it if Congress continues to approve big spending programs and passes appropriation bills exceeding the ceiling. They will continue to be valid regardless of whether this amendment passes or does not pass.

Mr. DOLE. Will the Senator yield?

Mr. WILLIAM L. SCOTT. Yes; I am glad to yield. I only have 2 minutes.

Mr. DOLE. I have just been advised that, depending on economic growth, the revenues could be between $360 and $380 billion, which is even better than the Senator from Kansas said earlier.

Mr. WILLIAM L. SCOTT. I think we can learn the future by studying the past. If the Senator looks at this year's income and last year's income and the income before that, he will find the growth has been nothing like what the Senator from Kansas indicates it will be next year. The budget submitted by the President early this year indicates receipts of $264.9 billion in fiscal year 1974, $278.8 billion as an estimate for fiscal year 1975, and an estimate of $297.5 billion for the current fiscal year. I understand this last figure has now been revised to $300.8 billion, but Government revenue for the present fiscal year and prior years does not support a figure approaching $350 billion. Therefore, I cannot support a $395 billion ceiling.

Mr. DOLE. I am just quoting from OMB, which may not be precisely accurate.

Mr. CURTIS. Mr. President, how much time do I have?

The PRESIDING OFFICER. There are 5 minutes remaining.

Mr. CURTIS. I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of this amendment. I have been in the Senate for 21 years. The budget has been balanced only 4 years during those 21 years. I know of no man in my State and no corporation in my State that could stay in business if he did not operate his financial matters in a sounder way than that.

I think the time has come when we must retrench fiscally. I think the time has come when we must eliminate from our budget some nonessential, nondefense matters.

I am convinced we cannot keep on as we are going. I am convinced that we are headed in the same direction that New York City has already found itself in. I think it is urgent that we take action, and we ought to take it now. In fact, Mr. President, I think it is ridiculous to talk about reducing taxes when we are going in debt as much as we are now.

For the next year, I understand that the projected budget is $423 billion. This amendment would cut off of that $28 billion. This would bring it down to $395 billion. This makes sense to me. I think it makes sense to the American people. If we go back home and ask our people how they feel about this amendment, I believe we will agree that this amendment, sponsored by the distinguished Senator from Nebraska and others, is a sound amendment and warrants the support of every member of the Senate.

Mr. CURTIS. I yield 2 minutes to the Senator from New York.

Mr. BUCKLEY. I thank the Senator from Nebraska.

Mr. President, we keep on talking about extending a tax cut. I wish to point out that all we are really doing is, in a very crude way, removing the automatic and surreptitious tax increases that results from the fact that inflation is lifting our entire working population into higher tax brackets.

I have had some rough calculations made, and I understand that what we are accomplishing would roughly equal the automatic results that would come about if we were to index our income tax. I hope my good friend from Louisiana will, sometime, allow hearings on some legislation that I have introduced to accomplish this.

I profoundly agree that we are already placing too high a burden of taxation on the American public. We have shifted too great a percentage of the total earning capacity of our society and our economy from private hands to public hands. Therefore, where we have to focus if we are to rationalize our fiscal policy and bring inflation to a halt is on cutbacks very strong cutbacks, in the spending by this Government.

I believe that what we are doing now, if the Curtis amendment is adopted, really is more symbolic than practical, in that I do not think it has the teeth, under our budget procedures that we have adopted. But I do not think it does violence to our budget procedures. For that reason, as a member of that committee, I shall be supporting this amendment.

Mr. CURTIS. Mr. President, I yield the distinguished Senator from Wyoming 10 minutes under the bill.

Mr. HANSEN. Mr. President, I thank my colleague from Nebraska.

Let me say the reason I am supporting this amendment is that spending in this country is out of control. We have lost control of it. Spending is too high. It is inflationary. Anyone who is trying to make ends meet these days—and that includes most Americans, most Americans who are on a salary and who are working for wages—knows it is getting tougher every day.

There is no doubt but what we can also learn, I think, another lesson from California. One of the speakers addressing the subject earlier, spoke about one of the cities in that State. I would refer you to what the Governor of California is doing. He is recognizing, as all of us should these days, that we cannot buy many of the things we hope to buy. We cannot solve every problem by spending money. He is saying realistically Government has overpromised. It has overpromised, and about all it can do is assure the people of the United States that the money will be spent.

Most of the objectives that sc easily creep into a budget are never realized. We disappoint people because we tell them we are going to do certain things, that certain goals will be achieved, and we wind up falling flat on our faces.

The one thing we can do is recognize that governments cannot solve all of the problems of the people in the United States. They have to accept the responsibility for doing those things they should be able to do for themselves; and, second, we must be pretty careful about what we promise people and tell them we can do.

I read a short news story relating how a certain group is actually thinking about suing an official who failed to keep what they understood were clearly his campaign promises. If I recall correctly, the surprising thing to most of us is that anyone would have taken a politician seriously in the first place.

Another reason, that has been given as to why we should oppose this amendment is that it interferes with the Budget Act. That point technically is right.

The reason we are proposing the amendment now is the bill to extent certain tax cuts is before us now. We are talking about extending certain tax reductions that affect withholding taxes that will expire come December 31 at midnight of this year, extending them for another half year. It is suggested we should consider cuts later in the summer.

The trouble with that approach, Mr. President, is simply this, mark my words: 1976 is an election year. The Congress of the United States is not about to take up a tax measure after June 30, 1976 and either raise taxes or cut back on expenditures. So what it really amounts to is that the typical American is going to find he has been deluded another time. The increases, if he has gotten any, in wages or salary will be more than eaten up by the effects of inflation, and he will find, to his great delusion, if he were gullible enough to believe us, that the things we promised, the goals we held out for the new programs and the new spending authority that we authorize, fall short of achieving those goals.

I withhold the remainder of my time.

Mr. LONG. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I believe I have made my position clear with regard to this matter already so I will be very brief.

The amendment seeks to control spending for the fiscal year 1977, starting in October of 1976. Neither Congress nor the President has distinguished itself or himself for being able to look into the future and tell what the situation will be a long time in advance. The President, in a much shorter period of time than we have involved here, changed from recommending a tax increase to recommending the largest tax cut in history.

Under our budget procedures, the President would submit his budget in January, the Budget Committees and the Appropriations Committees, the Finance Committee, and the Ways and Means Committee can study these recommendations, as well as all the other committees that have the responsibility, and they can arrive at a budget goal under the law. This is to be done by May 15 and, I submit, Mr. President, we will be a lot better able to estimate what the Nation's needs will be starting in October if we are looking at that in May than we would if we are looking at that same thing here in December.

No one knows what the future holds in that regard. This measure would ask those of us in Congress to fix a spending figure sight unseen, without having any breakdown, limited merely to a $395 billion overall figure.

That, Mr. President, is an irresponsible way to do business, particularly if, by waiting a few months, you can proceed in an orderly fashion, see what the President recommends, and then see what the figures should be. For all I know $395 billion might be too much. On the other hand, it might not be nearly enough, and who would know unless he would have a chance to analyze it and study it after he had seen it broken down by different functions.

My experience with most budgets has usually been I would think we ought to spend more in some respects and less in others, and I think that is how the majority of the people would look at it.

But to set this precedent, after having passed a law to provide an orderly budgetary proceeding, and to say now we are going to bypass all that, we are just going to get one figure and try to cut the costs to fit the figure, not knowing how adequately that provides for national needs is, in effect, to sidestep the budgetary proceeding that Congress so responsibly agreed to during this year.

I think, Mr. President, that would be a very bad mistake and, I believe, the Senator from Maine can explain that far more logically, precisely and eloquently than I because he is so much more familiar with it, and I ask the Senator from Maine how much time he would desire.

Mr. MUSKIE. Let me start with 10 minutes. I want to try to keep this debate to a minimum.

Mr. LONG. I yield 10 minutes to the Senator.

Mr. MUSKIE. First of all, I want to make it clear this $395 billion ceiling is not the President's proposal. The President proposed a $395 billion ceiling related to a $28 billion tax cut. The pending bill is not a $28 billion tax cut.

The President did suggest at the White House the other day that if the tax cut were less than his $28 billion that the spending ceiling might be adjusted by the difference in the tax cut. I do not know what this would produce in terms of a spending ceiling. It probably would be something more than $400 billion. But in any case what the distinguished Senator has introduced and which is pending before us is not the President's proposal.

I am not for the $395 billion, I would not be for the $400 billion plus, I would not be for the $423 billion; I would not be for any number at this point which would undertake to forecast the economic and budgetary conditions are going to be a year from now.

Let me remind Senators that a year ago this President promised us a balanced budget for the fiscal year in which we find ourselves, fiscal year 1976. He sent up his budget in January of 1975, 5 months later. Was it a balanced budget? No. It showed a deficit of $52 billion. This was in February. A few months later, in the spring, we all remember the President on television drawing an imaginary line and saying, "$60 billion and no more." That was as high as the deficit was going to go.

Now, just within the last month, last few weeks, the President has given us his latest deficit for 1976, $72 billion plus.

Yet, the President wants us to look ahead a year from now and to nail down a specific dollar ceiling.

What we come up to, given variables of economic conditions, the problems with which the budget is forced to deal, such as unemployment compensation, social security, retirement pensions, and so on, given those we might conceivably come up with a lower number than 395, or a higher number, or 395.

But, Mr. President, I have been in the Senate for 17 years and I have seen Presidents suggest these magic spending ceilings. I have seen the Senate in panic endorse them, get to its collective feet with the most patriotic rhetoric endorsing fiscal responsibility. And those ceilings never worked, they never worked because they were not established on a solid basis of fact and they were not based upon an intelligent analysis of what the consequences were.

It was because of this history that the Congress finally established the budget process, and over the 17 years I have been here it is only since the Congress has undertaken to implement that budget process that there has been a sign of effective fiscal responsibility.

If I were a fiscal conservative—and I think I am, but may not be so regarded by others in the Chamber—I would embrace this new process as the first promise, the first meaningful promise of fiscal responsibility.

This proposal, if adopted, would completely torpedo the budget process—completely torpedo it.

I agreed to a unanimous-consent agreement which waives section 306 of the Budget Act with respect to this amendment, but I did so only because it seemed to me that maybe in this forum, in connection with this legislation and the President's proposal, this might be the time to discuss this budget process and what it means.

But in order to bring the budget under control, this is what the law says:

> SEC. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

What that says is that nobody else—no single Senator, no other committee—can initiate matters dealing with the budget, except the Budget Committee.

Why? Because the Congress wanted to vest 16 members of the Senate Committee on the Budget with unprecedented power? No. This provision was included because the Congress wanted to put control of the budget clearly in one place, the Committee on the Budget, and that is where it is.

Now we hear this proposal just a few days after Congress has done what? The Congress has adopted a budget resolution which establishes what? A revenue floor which is protected by the right of any Senator to raise a point of order against any legislation that would change it and a spending ceiling not of $395 billion, but of $375 billion for fiscal 1976, and both those numbers are protected by the right of a Senator to invoke a point of order against any spending legislation that would breach the spending ceiling and any revenue legislation that would cut revenues below the revenue floor.

That is a form of discipline, may I say to my colleagues, that the Senate and Congress as a whole have never previously been willing to accept. We heard something about that here this afternoon, and only a few days after we have taken that unprecedented step of adopting the second concurrent resolution.

I hear Senators rising on the floor and suggesting that all that be brushed aside. I have heard a Senator say, "No, we are not really doing violence."

Well, are we not? What does section 300 say? Section 300 says that the timetable with respect to the congressional budget process for any fiscal year is as follows:

> November 10, President submits current services budget.

He has done that.

> Fifteenth day after Congress meets, President submits his budget.

He has not yet done that and he refused the other night—refused—to give us information which he said he had in hand substantiating the $28 billion in cuts he proposed. So he refused up to this point to take that step.

> March 15, committees and joint committees submit reports to Budget Committees.
>
> April 1, Congressional Budget Office submits report to Budget Committees.
>
> April 15, Budget Committees report first concurrent resolution on the budget to their Houses.

That is the resolution which establishes recommended spending ceilings.

That is the timetable that this amendment would sweep aside.

Why have a first concurrent resolution on April 15 which is structured upon all the information that the act mandates. Why have it? Why not throw away the process and slip back to those golden days when Presidents recommended arbitrary spending ceilings, the Congress adopted them with tongue in cheek, knowing they would never be honored, never be honored and they never were.

So now when we get something that will work, we would throw it away.

In my State this year the people acted on a constitutional amendment to make sessions of the legislature annual, and why? Because ever since 1880 we have been trying to budget for 2 years at a time with biennial sessions of the legislature and it did not work.

The people of Maine had the commonsense to understand that and now we are going to deal with the budget on an annual basis in Maine because Maine people understand that is the way to control it.

What does the President want us to do? He wants us to budget on a biennial basis. He wants us to write the 1977 budget—for a year that does not begin until next October 1—today when he will not even give us a month's notice on what his proposed budget cuts will be in January of that same year.

Is that intelligent budgetmaking? Do my colleagues really believe that it is?

We have got something that is working. I could be just as exaggerated in my view of how it is working as some of the oratory I hear around here.

When we began in March, we took note of the President's budget. We looked at all the other legislation that was pending in committees that had substantial support, and we came up with a total of potential spending legislation that reached $410 billion.

That was the figure. I placed that speech in the RECORD on March 26, 1975.

The Budget Committee had to consider $410 billion in spending. What did we report to the Senate? A spending ceiling of $367 million. We could claim a saving of $43 billion. I am sure that we imposed restraint on a great deal of spending, but the exact amount would only be a guess. My honest guess is that we may have saved the taxpayers $10 billion to $15 billion this year because of the existence of the process, but that is only a guess.

I do know that at a time when the administration was expressing fears that the Congress would run up a deficit of $100 billion, I promised that that would not happen and it has not happened.

We have a deficit of $74 billion. That is a little less than $6 billion more than we projected in May. That difference is totally represented by reestimates of the entitlement programs which are governed by the effect of current law.

With respect to those things that the Congress can control through the appropriations process we have kept our commitment of last May.

So I say this process is working. I believe the country takes great assurance. It has not achieved what we would like ultimately to achieve, but with respect to that deficit let me make this point: Taking into account the President's proposals for this year as of their current status, including the tax cuts that he recommended, the congressional deficit at this point is $800 million under the President's deficit. I suggest that he does not have any better eye to the future than we have. Last March what I was shooting for was a deficit something like this as the maximum, and it came out pretty much on the button as of this moment.

So I say Senators can go back if they wish to an old-fashioned, outmoded, ineffective technique. It has been tried over and over again in the last 17 years. It has been proposed by Presidents of both parties; it has been proposed by Members of this body. It never worked. But I will say this: If we set this ceiling now, in effect, setting aside section 300 of the Budget Act and all that follows, including section 306, I can only comment as one Member of the Budget Committee. I am going to believe that the punch has been taken out of the budget process.

Like it or not, and I have listened to the Senator from Nebraska, a Federal budget of $350 billion to $400 billion does have an impact on the economy.

One can argue it should not. How can it be avoided? We cannot neutralize the Federal budget's impact on the economy. We can misguide it, misdirect it, overstimulate it or overdepress it, but we cannot ignore it. There has to be some sense to what we do.

A little more than a year ago the President saw no recession coming. Two months later we had the biggest monthly drop in gross national product since the Great Depression—10 percent on an annual basis—and we were plunged into the recession. Two months later we had an unemployment rate climbing over 8 percent and approaching 9 percent, all unpredictable.

Will Senators predict with the kind of finality represented by this number what the economy is going to require next spring or next October? My hat is off to Senators if they can do it.

Do not think for a moment that that sense of fiscal responsibility is going to neutralize the effect of the budget in terms of its impact upon the economy. One could not find an economist to agree with them on any such proposition.

What I am urging is not to approve a ceiling of $395 billion or $375 billion, or $423 billion, or anything else. Under the scenario as it is now written, the tax cut in this bill runs only to the end of this fiscal year. So it is tied to the spending ceiling we have already written into the law. That is all nailed down for this fiscal year.

I promise, not on the Bible but on the record of this year, that before the end of this fiscal year we will put in place another spending ceiling and revenue floor that can be approved or disapproved. It can be looked at in the light of what the President is proposing and a Senator can say no to it or a Senator can say yes to it.

That will be in place so both decisions will be tied together.

This one is nailed down already; that one will be nailed down in the first and second concurrent resolutions for fiscal 1977.

I say on the question of fiscal responsibility and prudence that the record of Congress this year, looking at the deficit totals, matches that of the President of the United States.

Mr. ALLEN. Will the Senator yield?

Mr. MUSKIE. I yield.

Mr. ALLEN. I commend the Senator on his speech. I might say that few speeches on this Senate floor, according to my observation, have affected the outcome of votes taken in the Senate. I believe the excellent speech of the Senator from Maine, the chairman of the Budget Committee, had influenced the outcome of the vote on this amendment.

I would like to see spending for the next fiscal year limited to $395 billion, but I respect too much the fine work of the Budget Committee, which I believe is a fiscally conservative operation, to go against the recommendations of the distinguished chairman of the Budget Committee at this time.

I commend him on this fine speech he has made outlining the work and the thrust of the Budget Committee, and the dedication that the members of the committee have to their task of seeking to get the budget as near in line as possible. I commend the Senator for his speech and for the work of the Budget Committee.

Mr. MUSKIE. I am most grateful to the distinguished Senator from Alabama.

Mr. STENNIS. Will the Senator yield?

Mr. MUSKIE. I yield.

Mr. STENNIS. Mr. President, no one knows what course to follow in this problem which seems to have no full answer. But I do believe that, in spite of the large budget we have for 1976, the Senator from Maine, the Senator from Oklahoma, and their colleagues on this committee have made a contribution. I felt it myself is one reason I say that. The Senator will be more definite next year in his own guidelines, more certain and more positive, so that we can bring these things about. That will be more help. That would be more help. I shall expect more from the Senator next year than this year, because of his own experience, the fact that the Senate has had more experience, and we are all looking at this thing with more experience.

So I thank the Senator very much for the contribution he has made. I believe, everything considered, it is best to follow this route until we have given it another year's trial, anyway.

Mr. MUSKIE. I am very grateful to the Senator.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I, too, wish to commend the Senator from Maine, who has so clearly enunciated here before the Senate the one problem related to budget-making and expenditure limitations. The one problem before the Senate and before the House of Representatives in our budget-making machinery, as he said, will be to make sure that the Senate works, now, in accordance with that machinery, so that we can responsibly address the question of how much revenue we must have and how it shall be expended for the benefit of the people of this country.

I wish to say further that I think it is somewhat degrading to the Senate of the United States that we have presented such a political ploy, in trying to validate a position taken by the President of the United States, who some months ago determined that he was going to spend his time campaigning for reelection, rather than occupying himself with the problems that confront this country, and to try to set here some kind of a false and fallacious ceiling on expenditures for fiscal year 1977, without first knowing what his spending proposals are, without first knowing what kind of condition our country will be in at that time, where the priorities are going to be, and what the requests and the needs are to be. I think it would be foolhardy for this body to pervert its own machinery for responsible budget making by going off on this tangent in response to a purely and clearly political operation on the part of a candidate for President of the United States.

So I support the position taken by the distinguished chairman of the committee and by the distinguished Senator from Maine (Mr. MUSKIE). I believe the best interests of this country will be served if the Senate follows that course.

Mr. MUSKIE. I thank my good friend from Kentucky.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 3 minutes remaining.

Mr. LONG. I yield my remaining time to the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, in the past I have favored spending ceilings. I remember working with the former Senator from Idaho (Mr. JORDAN) to help establish a ceiling some years back. But in every case I did that because at that time that was the best device we had available. In all candor, those budget ceilings never worked, for the reasons that have been ably explained here earlier by the distinguished chairman of the Budget Committee, the Senator from Maine (Mr. MUSKIE).

If you try to establish a budget ceiling when you do not know what is behind it, what its impact will be, it is ineffective and is quickly ignored. We have a new process now in the budget law, that does show promise of working, for the reason that we arrive at the ceilings in an intelligent and informed way. Every Member knows what is involved, and once we agree on a ceiling, we can make it stick. We can challenge bills that go beyond the ceilings we adopt, and in that way establish a process that will give us control of Federal spending.

I would like to support the amendment of the Senator from Nebraska, but in all candor I cannot, because while the approach he recommends is the best we had a year ago, it is not the best as things stand tonight. I believe we should not go ahead with the old system, but start moving ahead with the new one which Congress has already agreed to.

We pleaded with President Ford to accept the fact that we now have a better system than the arbitrary ceiling he has asked us to accept. I personally seriously doubt that President Ford understands the changes that have been made since he was a Member of Congress. I think he accepted some very bad advice from his staff when they got us into this business of an arbitrary ceiling before we know what is involved in the process.

I am of the opinion that had the President known what we are doing here, he never would have gotten himself in this business, but the fact is that here we are, and I believe it would be a serious mistake, now, to abrogate the benefits of the Budget Act when none of us quite know what we are doing. I believe for Congress to abandon the budget process that we knew to be working so well during the first year of its——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BELLMON. May I have an additional 2 minutes?

Mr. CURTIS. On the bill?

Mr. BELLMON. I ask for 2 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes on the bill.

Mr. BELLMON. I believe it would be a mistake for us to abandon the budget process in the first year of its infancy, and agree upon an arbitrary spending limitation without prior judgment as to its effects and method of enforcement. I think that would be a serious error. Even President Ford, who has had months to consider the level of Federal spending, does not seem to know, or at least will not reveal, where these spending cuts can be made.

As a Republican, it is distasteful for me to go against my own President and the leaders of our party. However, I believe he received some bad advice, as I stated earlier, and his advisors did not fully understand the efforts Congress has been making toward achieving and maintaining a responsible fiscal policy, or for some other reason they have elected to go around that process and seek a confrontation with Congress for some political reason.

In either case, I think it would be a mistake to abandon what we have been trying to do here, and I intend to vote against the amendment.

Mr. CURTIS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Tennessee (Mr. BROCK) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, is there any time remaining?

The PRESIDING OFFICER. There is no further time remaining on the amendment.

Mr. DOMENCI. Do either of the Senators have any time remaining on the bill? Two minutes? Will the Senator from Nebraska yield me 2 minutes on the bill?

Mr. CURTIS. I yield the Senator 2 minutes.

Mr. DOMENICI. I thank the Senator.

Mr. President, I commend the distinguished ranking Republican member of the Budget Committee for his remarks, and state that for myself, I would like very much to support this proposal by the Senator from Nebraska, but my reasoning is this:

Had the Finance Committee extended this tax cut for the full year, I would have had difficulty supporting it; but what they have done is make it jibe specifically with the present Senate concurrent resolution of the Budget Committee. So what we are doing here today will have no impact on the budget before us, and we are properly considering the taxes that the Budget Committee in its resolution considered.

If we were not going to have an opportunity, come April and May, as a Budget Committee and as a body, to consider the proposal of the President, that is, if we were going to extend into 1977 additional tax cuts, without attempting reductions in expenditures, then I would probably support the proposal of the Senator from Nebraska.

But this body will have an opportunity, in April and May, and in the hearings preceding the first concurrent resolution, to specifically consider and testify, if Senators choose, before the Budget Committee that we ought to have a policy in our tax recommendations which will come to this body as a part of the tax ceilings in our first concurrent resolution, a proposal of the type which the President recommends, and which may be good for this country; that to reduce taxes further requires a reduction dollar for dollar in proposed expenditures of the Federal budget.

In summary, we have an opportunity to do what the President wants, and to do it in an orderly manner.

I think to support the amendment of the Senator from Nebraska, as much as I would like to, would pervert that process. If we would not have a further chance to do it, and he would not have a further chance at a proper time to propose it, then I would support his amendment. But since he will have another chance, I cannot support the amendment of the Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield the Senator from Delaware 5 minutes on the bill.

Mr. ROTH. Mr. President, I had planned to offer a further amendment, if the one now before the Senate does not carry, but I have decided after reviewing the situation very carefully that I shall not do so.

The past week I have been actively participating in an effort to develop a constructive solution to the confrontation between the President and Congress over the tax and spending cuts.

In my opinion and in the opinion of many other distinguished colleagues involved in the debate, there are three crucial elements involved in a responsible solution to the problem.

We believe that there is a need to avoid a sudden tax increase, a need to control Federal spending, and also an obligation to continue the congressional budgetary process we ourselves have created.

I agree with those who feel that a tax cut should be continued in the months ahead. I think that our recovery is such that this would be helpful. But I equally believe that it is extremely important that we make it clear to the Nation that we do not intend to continue on our past spending policies, that we intend to bring the Federal budget under control.

I regret that our efforts to reach agreement on a firm moral commitment on spending have broken down between those who feel that what we are proposing was undermining the budgetary process, and the White House who did not think our language went far enough.

No one was more active than myself in creating the budgetary process, and I believe that in many ways it is doing a good job. But I see nothing wrong with the Congress instructing it to seek certain cuts in spending. After all it is a creature of Congress and should carry out our will.

But because these are particularly critical times, I think it perfectly proper for us to give it instructions. I think the public at home wants some evidence that this Government is seeking in good faith to hold down Federal spending.

Therefore, I have to respectfully disagree with the members of the Budget Committee who feel that a concurrent resolution today necessarily undermines what they will do in the months ahead. I see nothing wrong with this Congress, this Senate giving some indication to the Budget Committee that they want a spending ceiling at a certain amount. That does not prevent, in my judgment, the Budget Committee coming out with other recommendations.

But in any event, I regret to advise that my efforts, along with others, to reach some kind of language that would develop a firm moral commitment to holding down spending were not reached. I felt that the language acceptable to the Budget Committee was too weak, that it would be construed as merely a way out for the White House.

It is my belief that unless the Budget Committee was unwilling to accept a firm commitment, barring unforeseen circumstances, the language would accomplish little.

For that reason, I have decided it will not be desirable to offer my amendment upon the conclusion of the vote on the Curtis amendment. If the Dole-Curtis amendment does not carry, I shall vote against the tax cut and urge the President to resume the Congress the day after Christmas to consider further, a tax cut joined with action to hold down Federal spending.

Mr. MOSS. Mr. President, the President has said he would veto the tax cut proposed by Congress unless Congress agrees now to a deeper tax cut in fiscal 1976 and 1977 and a spending ceiling for 1977 which does not begin until next October and before we have seen the budget which is still under preparation in the White House. The President wants us to buy a "pig in a poke"—by insisting that Congress set a ceiling now on fiscal 1977 spending before we have seen his budget and long before anyone can predict with any certainty the economic situation the Nation is likely to experience nearly a year away. The President is also asking Congress to ignore the Budget Act and to abort the new budget process which is being implemented this year belatedly after a long, hard struggle.

Enacted in 1974, the Budget Act was implemented this year to bring the Federal budget process under control. It is the law of the land and applies to all Federal spending. An integral part of the law is the establishment of a spending ceiling and a floor on revenues each year for the coming fiscal year. Congress has already set a spending ceiling of $374.9 billion for fiscal 1976. And will set a ceiling for fiscal 1977.

The law also spells out a list of requirements and a time schedule for handling the Federal budget. These include requirements for—First. The President to submit to Congress in November the Current Services Budget for the new fiscal year. This shows what the Federal budget would be for the coming fiscal year under current law; Second, submission of the President's proposed budget to the Congress in January; Third, the congressional authorizing committees to submit reports to the Budget Committee by March 15 indicating requirements for various types of spending; Fourth, a report by April 1 by the new Congressional Budget Office on the economic and program options regarding the Federal budget; and fifth, establishment of a target ceiling on spending and a floor on revenues by May 15 each year.

The law wisely prescribes that the Congress wait until these facts are known before setting the ceiling.

I strongly support actions to limit the growth of Federal spending in fiscal 1977. But this can only be accomplished effectively by identification of specific expenditure cuts which the President has not done. Spending ceilings were proposed and enacted by the Congress in 5 of the 6 years between 1967 and 1972. But because the spending ceilings were never combined with specific expenditure reductions they were ineffective in controlling spending. As a matter of fact, the last such failure of a spending ceiling in 1972, led directly to the new budget process Congress initiated this year.

Just what is a valid ceiling for fiscal 1977 remains an open question until a determination is made of the Nation's needs, the actual economic picture for a period which begins nearly a year from now, and until specific cuts can be identified.

We cannot ignore the administration's track record on economic predictions and budget estimates for a period that is a year ahead. After all, a year ago this same administration was recommending a tax increase in order to balance the budget for fiscal 1976. Some of us in Congress pointed up the glaring need to address the recession as well as inflation. Three to 4 months later, the administration did a turnaround; in February this year, the President submitted a budget to Congress which included a tax cut and called for a $52 billion deficit. Moreover, for the last 12 years the administration's budget submitted to the Congress in January has misestimated expenditures an average of 7 percent annually. Applying this figure to the $395 billion budget for 1977 which the President is talking about, would mean—perhaps coincidentally—about $28 billion.

The President has indicated that he is not proposing any budget cuts, but that he wants to restrain the growth in Federal expenditures. Let us look at the facts. The President's Current Services Budget for fiscal 1977 submitted to Congress last month amounts to $414.5 billion. By definition, the Current Services Budget does not enact any new programs, but merely continues existing programs. Thus, at least $20 billion must be cut from current services in order to reach the $395 billion ceiling.

I am confident that some economies are possible through program cuts and better management of existing programs. I support such an effort. But setting a ceiling should not be done in a way which would abort or destroy the new budget process—the very mechanism created to get the budget under control. And this cannot meaningfully be done before next year for the reasons already stated.

The new budget process is not an easy one, nor does it lend itself to shortcuts as we have found out this year. The question is not whether there should be a tax cut. The Congress agrees on that. The question is not really whether there should be a ceiling. The law requires a ceiling and Congress will set one for fiscal 1977 as it did this year. The question then is whether the ceiling should be set in accordance with the budget law that is—after Congress has received and considered the President's budget and the CBO report on the economic and program options—or whether we should act now in the dark and try to pick a figure that is meaningless. It boils down to whether we are going to be realistic and responsible or whether we are going to play politics with the Nation's economy.

Extension of the tax cut is necessary to offset the loss in consumer purchasing power, to stimulate business activity, reduce unemployment, and to continue economic recovery. It means about $156 a year less taxes for the average worker, and about $250 per year for a family of four with $15,000 annual income than if the tax cut expired. This money would be available to consumers to spend on items of their choosing. The result would be increased economic activity, a higher GNP, and a healthier economy.

Unfortunately, the President's proposal is long on rhetoric and short on facts, it is long on politics and short on economics. It may make news, but it does not make sense.

What appears to be a larger tax cut, although more attractive, would be a curse. The President's proposal involves boom-bust economics. A larger tax cut in January would stimulate the economy for the next 9 months, but the spending cuts starting in October—somewhat like a delayed time bomb—would force a more substantial drop—a real net loss—in the economy in the next year. Compared to the tax cut recommended by the Congress, CBO estimates indicate the President's proposal would:

Increase GNP $8 billion annually by the third quarter 1976 but then reduce GNP over four times that amount, $37 billion, annually beginning fourth quarter 1977. For the average family, this means an increase in disposable income—after taxes—at an annual rate of $82 next year, but then a reduction of 4½ times that amount—about $380 annually—beginning in the fourth quarter of 1977. What family wants to get so little in 1 year in order to give up so much each succeeding year?

Reduce unemployment by about 200,000 by the third quarter of 1976; but then add another 600,000 to the unemployment roles by the end of 1977.

Create an abrupt and significant swing in the economy in a very short period. Such harsh swings are responsible for a lot of the current inflation and unemployment, and I believe the American people want to see an end to such activity.

The question is not whether there should be a tax cut. The Congress agrees on that. The question is not whether there should be a ceiling. The law requires a ceiling and Congress will set one for fiscal 1977 as it did this year. The question then is whether the ceiling should be set in accordance with the budget law—after Congress has received and considered the President's budget and the CBO report on the economic and program options—or whether we should act without the necessary data and pick a figure out of the air that is meaningless. It boils down to whether we are going to be realistic and responsible or whether we are going to play politics with the Nation's economy.

Frankly, I am hopeful that the Congress and the administration can reach agreement on a compromise and that we will not have to replay the record of impasse and confrontation which has occurred between the Congress and the administration in the energy program.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

The result was announced—yeas 27, nays 66, as follows:

[Rollcall Vote No. 594 Leg.]

YEAS—27

Baker
Bartlett
Beall
Brooke
Buckley
Byrd,
  Harry F., Jr.
Curtis
Dole
Garn
Griffin
Hansen
Hatfield
Helms
Hruska
Laxalt
McClure
Packwood
Pearson
Proxmire
Roth
Scott, Hugh
Stafford
Stevens
Taft
Thurmond
Tower
Young

NAYS—66

Abourezk
Allen
Bellmon
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon

Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, William L.
Stennis
Stevenson
Stone
Symington
Talmadge
Tunney
Weicker
Williams

NOT VOTING—7

Bayh
Brock
Fannin
Fong
Goldwater
Jackson
Sparkman

So Mr. CURTIS' amendment was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 12, between lines 4 and 5, insert the following:

(3) CORRECTION OF OVERWITHHOLDING.—Notwithstanding the provisions of section 3402(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall, by regulation, prescribe such adjustments to wage withholding under such Code as may be necessary to reduce excessive withholding where such excessive withholding is not desired by the taxpayer.

Mr. MATHIAS. Mr. President, this is an amendment similiar in some respects to an amendment that I have offered in the past. The principle embodied in this amendment is a very simple one. The Government withholds $1.20 from the paychecks of this country, from the workers of this country, for every dollar of taxes that is due. The 20 cents in overwithholding that is taken by the Government, which is ultimately repaid on applications for refund, at 20 cents, really becomes part of the money on which the Government does business without interest at the expense of the American taxpayer and wage earner. The amendment is just that simple.

Mr. President, this amendment empowers the Secretary of the Treasury or his delegate to amend the withholding tables in the Internal Revenue Code in order to reduce excess withholding.

The principle which I seek to support is that withholding should approximate the actual tax obligations of individual American citizens. The fact is that in recent years, withholding has exceeded taxes actually owed by over $20 billion per year. This means that approximately $1.20 was withheld from paychecks for every $1 actually owed by the Government.

This gross overwithholding results from several factors. In some cases, individuals prefer to have more withheld from their paychecks than they actually owe so that they receive a refund each April. In other cases, the withholding tables do not recognize the realities of the working lives of individuals. In still other cases, wage earners could reduce the amount which is withheld from their paychecks, but only by filing forms which are either unknown to them, or unavailable, or at least difficult to obtain or to understand. In any case, the result is massive overwithholding by the Federal Government of money which belongs not to the Government but to individual Americans.

There are several reasons why this excess withholding is undesirable. First, all withholding denies citizens the use of their money between the time at which it is earned and the time at which payment of a tax is due. The citizen does not receive interest from the Government on the amount withheld, nor can he invest it himself in a business venture or a savings account. He cannot pay a pressing bill early in the year, some 15 months before a tax is actually due. Indeed, money withheld is, for the wage earner, money the fruits of which are never attained nor attainable, until the refund check finally arrives.

Moreover, money withheld from the taxpayer is money that does not flow freely through our economy encouraging the very purchases of goods and services which the Congress is trying to encourage by enacting this tax reduction act. A reduction of excess withholding frees this money from the clasp of the Government for circulation through the private economy.

Indeed, a study undertaken at my request by the Library of Congress over a year ago showed that if we had cut withholding rates at that time by 8 percent, the economy would have been stimulated, over 200,000 new jobs created, inflation reduced, and the Government deficit actually slashed. If we had acted then, we would not be confronted today with the dire economic statistics which leap at us from the front pages of our daily newspapers, or appear in human form at the unemployment bureau, the closed factory gates, or the supermarket lines. The lives of millions of Americans would today be more prosperous and more rewarding. And the Federal deficit, instead of being monumentally increased by a tax cut bill of this proportion, would have been reduced by the taxes paid by people put to work and businesses with increased sales and production.

Mr. President, this amendment makes economic sense. It also makes our Tax Code more fair and equitable. I urge its adoption by the Senate.

I believe this amendment will be unique, first because it will not cost the Treasury a nickel, not even a penny and, second, because I think it can be presented in record time.

All it does, Mr. President, is it addresses the problem of overwithholding. The Treasury annually overwithholds $20 billion of taxpayers' money that they do not owe. For every dollar of tax owed, the Treasury takes $1.20 in withholding. Ultimately, that money comes back, but in this particular climate, in this particular time, every American family needs every penny to pay the grocery bill and the rent. I think it is very unfair for the Government to take $1.20 for a dollar that is owed. All we do by this amendment is empower the Secretary to adjust the withholding tables to recognize the overwithholding, to take from the taxpayer what is fairly due, and to leave to the taxpayer the money that he or she has earned to pay their family expenses. It does not mandate it; it does not direct it. It empowers the Secretary to do it.

I recognize the argument will be made that some people enjoy the refunds. They like to get a refund after they have filed their tax return. But I do not think it can be said that everybody who receives a refund deliberately arranged to have his taxes overwithheld.

Even those who may want to err on the side of safety, so that they do not have to make up the deficit when they file their return, did not contemplate that they would have a 20-percent overwithholding. They did not contemplate that $20 billion in taxes would be overwithheld that were not due from the taxpayer.

I think that at this particular moment in America's economic history, it is an unfair imposition on our taxpayers to make this kind of an overwithholding.

So, Mr. President, I urge the Senate to adopt this amendment.

The Senator from Louisiana opposed this amendment last March when I offered it to the Tax Reduction Act. Thirty-five Senators, however, voted in favor of it.

The Senator's principal argument against the amendment was, "a lot of taxpayers like to claim fewer exemptions than they are entitled to claim so that at the end of the year they will have money coming back to them." I have sought to accommodate the Senator's concern in this amendment by providing that the Secretary's regulations will only apply in those instances where "excessive withholding is not desired by the taxpayer."

I have discussed the amendment with the distinguished Senator from Louisiana, the chairman of the Committee on Finance. He has presented certain ideas on the way in which this might be implemented. I shall be glad to yield to him at this point.

Mr. LONG. Mr. President, this amendment really ought to be studied in connection with the tax reform measure when we have some time to consider it. It could result in any one of a number of decisions, depending upon how the Secretary of the Treasury goes about handling the withholding operation.

For example, we are told that it could conceivably result in a decrease of $5 billion in receipt of revenues for fiscal year 1976 if the Secretary, in trying to avoid overwithholding, were to do everything that one could anticipate he might be inclined to do. It is definitely the kind of suggestion that would have a great deal of appeal, because most people do not like to overwithhold, although some do. I hope that the Senator will submit this proposal in connection with the so-called Tax Reform Act that we will be working on next year, because, to implement this type of suggestion, which does have a lot of merit to recommend it, would require a very substantial amount of lead time.

As it stands now, if one were to have a different set of withholding tables, he would have to have either the tables for 1974 or those for 1975, because it would be impossible to get any other set of tables in the hands of taxpayers between now and January.

The Senator is moving in an area that certainly deserves study and in which, if we can perfect this suggestion, we might well recommend action by the Senate. I do think it ought to be on some measure that has enough leadtime so it can be given some study and see what the withholding tables would look like under the new proposal.

Mr. MATHIAS. I understand what the Senator is saying. Here we are on the evening of the 15th of December and we are talking about legislation which, if it is enacted, will go into effect on the 1st of January. I know that I can rely on the Senator's assurance that this will receive consideration in the tax reform bill. It is a matter of continuing interest to the American people that more money is being taken out of their paychecks than they owe. When every dollar counts for groceries, rent, interest, and all the other necessities of life, I think it is time to look at this problem. On that basis, Mr. President, I shall withdraw the amendment.

The amendment was withdrawn.

The **PRESIDING OFFICER.** (Mr. CHILES). If there be no further amendments, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **PRESIDING OFFICER.** The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. MANSFIELD. I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I should like to vote to reduce taxes.

Government is taking from the working people too high a percentage of their hard earned dollars.

But the amount of revenues needed to operate government is determined by the amount of spending.

What are the facts?

The facts are these: Congress has passed a concurrent resolution mandating expenditures of $375 billion and mandating a deficit of $75 billion.

Such huge expenditures and such a huge deficit are, in my judgment, unwise, unsound, unwarranted, and irresponsible.

For Congress to take the view that it can spend $75 billion more than it takes in and that no one need pay for it is, I feel, totally unjustified.

A true tax reduction can be accomplished only by getting spending under control; it is now totally out of control.

A $75 billion deficit is certain to stimulate inflation, which already has eaten so heavily into every wage earner's pay check and into every housewife's grocery dollar.

Inflation itself is a tax, a hidden tax and a cruel tax. It hits hardest those on fixed incomes, the elderly, and those in the lower and middle economic brackets.

I should like to see taxes reduced, interest rates reduced and excessive Government spending reduced.

But the first can be accomplished only in concert with the third.

The Government's financial house is in total disarray. This year's deficit, coupled with last year's deficit, is greater than was the total cost of Government 11 years ago.

Under the conditions existing today, I cannot vote to reduce the Government's revenues.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 5559

Mr. TUNNEY. Mr. President, the Senate is now considering a temporary extension of the recession-fighting tax reductions first enacted last spring. It is critically important that this legislation pass, and that the President not veto extension of the 1975 tax reductions—otherwise, American consumers will lose $14.2 billion of spending power when, on January 1, 1976, an increased Federal tax bite hits the paychecks of 85 million workers.

American workers will not be the only ones who will lose if the tax reduction bill does not become law. In California alone, more than 900,000 people are suffering through the greatest unemployment crisis since the Great Depression. One out of every ten members of the labor force is unable to find employment. In the Nation at large, more than 7½ million people, 8.3 percent of the entire working population, are without productive employment. If the 1975 tax cuts are not extended, we may as well give up any hope of restoring what should be a basic right for all Americans—the right to a decent job.

Last September the Congressional Budget Office issued a report entitled, "Recovery: How Fast and How Far?" The opening sentence of that report was:

> The U.S. economy is beginning to recover from its longest and worst recession since the 1930s, but it is not at all clear that the recovery will be sustained enough to carry the economy up the long road to full employment.

Since that report was issued, the economy has continued to wallow in depressed production and employment. Little progress has been made toward reducing unemployment and inflation.

Under these circumstances, the President's opposition to continuation of the 1975 tax reduction is destructive and irresponsible.

President Ford has proposed that Congress combine extension of the tax cut with an additional tax cut and with a 1977 spending reduction equal to the sum of these two cuts—$28 billion. He has promised to veto any extension of the 1975 tax reduction which does not provide for a corresponding spending reduction. He has chosen to grandstand with superficially appealing rhetoric when he knows perfectly well that a nation cannot use a guillotine to cut a budget. Cuts must be made surgically and carefully after complete evaluation of the effect on defense, domestic, and foreign policies. It is almost a year before the new fiscal year, and I do not believe Congress should surrender to the demagoguery of wholesale cuts, but should scrutinize the budget item by item.

I am deeply disturbed by the President's budget as a guide to executive way on this critical question. Last year the Congress enacted the Congressional Budget Act of 1974 in order to create the means by which Federal spending can be brought under control. The procedures under this act have worked so well that leading Republicans in Congress have estimated that these procedures have already saved at least $10 billion in the current fiscal year. The Budget Act requires Congress to set a spending limitation this coming May. Under the President's proposal, that ceiling would have to be set within the remaining few days of this session of Congress, without the benefit of congressional hearings, expert witnesses, knowledge of future economic conditions and without even the President's budget as a guide to executive branch priorities. If the Congress were to accede to the President's demand, we would fatally undermine the Congressional Budget Act procedures. We would lose the progress made toward long-term fiscal responsibility. We would endanger the fragile economic recovery and we would be making a fundamental economic policy decision which, although based on solely arbitrary political considerations, will be the single most important factor in determining the prospects for long-term economic recovery.

We cannot afford to gamble the recovery for the sake of accommodating the political needs of the President. We should and will pass this legislation to extend the 1975 cuts for 6 months. Within this 6-month period, we will set a spending ceiling for 1977 which is consistent with sound fiscal policy. With both economic recovery and the integrity of the congressional budgetary process at stake, we should and we will prevail in this most basic policy contest.

TAX CUT EXTENSION

Mr. MONDALE. Mr. President, I rise in support of H.R. 5559, which, as reported from the Committee on Finance, extends the calendar 1975 tax cuts into calendar 1976.

I wish to congratulate the distinguished chairman of the Finance Committee, the senior Senator from Louisiana (Mr. LONG) for his leadership in developing the pending legislation. And I wish to thank the Senator, along with the distinguished chairman of the Senate Budget Committee (Mr. MUSKIE) and the Senators from Oklahoma and Nebraska (Mr. BELLMON and Mr. CURTIS) for their efforts to seek common ground with an administration bent on veto.

The case for the measure before us is a simple one. If no action it taken, key provisions of the Tax Reduction Act of 1975 will expire on December 31. And that will mean, in effect, a $15 billion tax increase affecting every American, and striking hardest at moderate income families and small businesses.

Under my amendment, accepted in committee, the expiring provisions are extended, and an upward adjustment is made in personal tax relief—increasing the standard deduction and raising the per-person credit from $20 to $45—to keep withholding rates from rising. This was necessary because the expiring Tax Reduction Act affected withholding over only 8 months of 1975.

EXPLANATION OF AMENDMENT

The Tax Reduction Act contained three approaches to personal income tax relief: First, increases in the minimum, percentage and maximum standard deductions; second, creation of a new $30 per dependent tax credit; and third, the earned income credit—or "work bonus"—which provides low income working Americans modest additional relief to compensate for the burden of payroll taxes. All will expire December 31 under current law, along with corporate tax reductions targeted for small businesses.

Under the Tax Reduction Act enacted last March, $8 billion in personal tax relief was withheld, under the increased standard deduction and $30 credit, over an 8-month period. A simple extension of the Tax Reduction Act would cause withholding rates to increase, since the same amount of tax relief would be withheld over a 12-month period.

The committee amendment proposes a proportionate increase in the standard deductions and credit, to keep withholding as nearly constant as possible, and an extension of the remaining expiring provisions.

COMPARISON OF AMENDMENT WITH 1975 TAX REDUCTION ACT

1975 ACT	AMENDMENT
Increases minimum standard deduction from $1,300 to $1,600 for single people and $1,900 for couples.	Increases minimum standard deduction to $1,800 for single people and $2,200 for couples.
Increases percentage standards deduction from 15% to 16%.	No change.
Increases maximum standard deduction from $2,000 to $2,300 for single people and to $2,600 for couples.	Increases maximum standard deduction to $2,500 for single people and $2,900 for couples.
Establishes a $30 per dependent credit.	Increases credit to $45.
Changes rate of corporate taxation (20% on first $25,000 of income, 22% on next $25,000, and 48% above $50,000).	No change.

This approach will extend the policies of the Tax Reduction Act, and keep withholding as nearly constant as possible. In addition, the increased standard deduction will permit 3 million taxpayers to convert from itemized to standard deductions.

Revenue Impact of Amendment (Full-Year Basis)

	FY 76	Calendar 76
Increased standard deductions	$2.04	$4.7
$45 per dependent credit	3.5	8.1
Earned income credit	0.4	1.4
Corporate rate reduction	0.59	1.9
Total	6.13	16.1
Budget target for FY 76	6.4	

THE VETO THREAT

The President has apparently given the Congress the choice between a "go-stop" economic policy or a "just plain stop" policy. His dramatic proposal of a $28 billion tax cut now and a $28 billion expenditure reduction in fiscal year 1977 would have boosted the economy in 1976—and then slowed the rate of growth drastically in the final weeks of 1976 and in 1977.

The Congressional Budget Office has estimated the following "go-stop" effects of the President's initial plan, when compared to the fiscal policy embodied in the recent concurrent budget resolution.

Unlike the President's proposal, there is nothing dramatic about the legislation we are considering this morning. And that is one reason this Senator finds it so hard to understand the administration's threat to veto this bill.

ESTIMATED EFFECTS ON THE ECONOMY OF THE PRESIDENT'S TAX AND SPENDING PROPOSALS—COMPARED TO SECOND CONCURRENT BUDGET RESOLUTION

	1976 third quarter	1977 fourth quarter
Effect of proposals on:		
GNP (billions of current dollars)	+10.5	−36.9
Real GNP (billions of 1958 dollars)	+5.3	−18.0
General price level (percentage of GNP deflator, 1958=100)	0.0	0.0
Unemployment rate (percentage points)	−.2	+.6

The President says he wants a ceiling to reduce spending.

But the ceiling he proposes is not for this fiscal year. That may be because the Congress under the Budget Act has already adopted a firm and binding ceiling covering revenues, spending, and deficit for this year—fiscal year 1976. And, I might add, the pending measure is allowed under those ceilings.

Instead, the President is asking for a ceiling on a fiscal year beginning October 1, 1976. Yet the President should know very well that we cannot set a meaningful budget target today for a year that does not begin until October 1976. He should know because for weeks we have asked for his specific proposals, and he is still unable to provide them.

In addition, the President should know that the only way to achieve budget control is with thoughtful and well considered spending targets, because recent history shows that ad hoc ceilings of the kind the President recommends are bound to fail.

That is why the Congress enacted the Budget and Impoundment Control Act—to set up committees, and a detailed and binding procedure for controlling the budget.

The responsible thing is to follow those procedures. And they will lead us to a spending ceiling for the year beginning next October 1 no later than next May 15. These ceilings will be based on a thorough review of the budget which the President has not yet put together. They will be passed on recommendations of each of the committees of Congress. They will be adopted after a full and informed debate. And they will effectively control the budget.

In enacting the pending legislation, the Senate is bending over backward to accommodate the administration's efforts to match 1976 tax cuts with 1977 spending ceilings. If the pending bill is to be effective for all of 1976, it will require extension on or before June 30 of next year. By that time, Congress will have completed its first concurrent resolution on the budget for fiscal year 1977. The President and the Congress can then consider the further extension of the tax cut in view of the congressionally established budget.

I still hope that the President will accept this compromise offer. A veto would be an act of tragic irresponsibility. And should the President veto this measure, I am hopeful that the bipartisan support which has characterized the development of the budget process here in Congress will permit an override of the President's veto.

Mr. JAVITS. Mr. President, I wish to address myself to the question of the extension and enlargement of the Tax Reduction Act of 1975.

It is imperative that the 94th Congress not permit income tax withholding rates to increase on January 1, 1976. We are all concerned about the size of the Federal budget deficit. We are concerned also that the level of demand in the economy not be reflated to the point where it exceeds our Nation's ability to produce. I have examined carefully the relationship between present and projected productive capacity and can report confidently that this Nation is operating so far below its potential that the danger of renewed inflationary pressure from continuation of reduced withholding rates is minimal.

What is the condition of our economy?

Third quarter GNP growth was, it is true, enormous. But when the positive effects of the reduced levels of inventory disinvestment are removed, and focus is placed instead on the behavior of final demand—the more relevant figure for the long-run supply-demand relationship—an entirely different picture of the economy is obtained. Third quarter growth in final demand was only 4.4 percent on an annual basis, unchanged from the behavior of final sales in the second quarter of 1975. This means that in marked contrast to the boom in GNP, the most important indicator of final demand showed no improvement over its second quarter performance.

There is further evidence that the behavior of our economy is anything but robust.

The new composite index of leading business indicators—which has predicted accurately most of the postwar swings in the business cycle—fell in both September and October. This index was the only one to predict the 1973 turning point in business activity and to portend the 1974–75 recession. After rising steadily through 1975 it has now dropped unexpectedly, to the alarm of most economists. This unfortunate development makes it clear that the recovery is already losing steam and that an economic slowdown will occur in 1976. I am not saying that our Nation is about to enter another recession. Only that after just a few months of economic growth, with the unemployment rate still above 8 percent, a deceleration is about to take place in the strength of economic recovery.

Mr. President, the growth of demand and the recovery of our economy depend on the consumer. Business investment in 1976 is not expected to grow in real terms over the levels reached in 1975. According to the conference board, the 1,000 largest manufacturing firms appropriated $10.8 billion in the third quarter for capital investment, the fourth successive decline in this significant expenditure component. The conference board predicts a 1-percent decline in capital investment in 1976.

State and local government spending plans have been paralyzed by the New York City financial crisis. This sector of our economy has been a major contributor to spending growth in the past decade, growing by 6 percent per year and accounting for 15 percent of GNP.

State and local governments are raising their taxes and reducing their expenditures, thereby exerting tremendous negative impact on the growth of national demand. This sector has been a most important creator of jobs and spending power since the early 1960's. The slowing of spending growth on the part of State and local governments will have adverse effects on the national economy. A recent New York Times article by Soma Golden explains clearly that recovery is threatened by the slowdown in State and local spending.

Analogously, we cannot rely on export growth to fuel economic recovery. The worldwide economic recession still holds many nations in its grip, so their demand for our exports continues to be impaired.

When these complex factors are considered, we must conclude that private investment, State and local spending, and exports will provide only ancillary contribution to the pace of economic recovery.

This leaves only the consumer and the Federal Government to carry economic recovery and thus close the monumental $120 billion gap between actual and potential production that now exists. Regrettably, the consumer appears to be hesitating at this time, as he awaits more concrete evidence that his recent income gains are genuine and permanent.

Consumer demand, which accounts for two-thirds of total U.S. output, has behaved most erratically in recent months. Although real consumption spending rose briskly in the second quarter of 1975, it did not exceed this level of growth in the third quarter. Retail sales, which moved upward sharply in late spring, have stood still since July and have already begun to show signs of weakness. The growth of consumer credit in October was 30 percent below that of September.

The National Industrial Conference Board reported in November that consumer confidence sagged in October for the first time this year. And First National City Bank found the same pessimism in its survey of consumer sentiment.

Why is the consumer so reluctant to carry the economic recovery? The answer to this question is apparent to all who have examined our Nation's economy. It is because the real, after-tax personal incomes of consumers are declining. Disposable personal income in constant 1958 dollars fell from $620 billion in the second quarter of 1975 to $611 billion in the third quarter. Real, spendable average weekly earnings of production workers fell in October from $91.70 to $91.66.

After-tax earnings on an individual and aggregate basis are declining because under our progressive income tax rate system tax brackets reflect nominal income changes. Thus, even if the growth of pretax earnings match price increases—as has occurred recently—the progressivity of the personal income tax structure causes real, after tax earnings to fall.

When this complex phenomenon is combined with the eroding effects of inflation on purchasing power, we get a picture of serious consumer income weakness and a commensurate failure of consumer demand to support economic recovery.

Mr. President, this dangerous situation in the economy compels us to extend the income tax reductions through 1976. This is a minimal requirement for economic policy because even if withholding rates are prevented from increasing on January 1, the return to full employment will be painfully slow.

Dr. Paul McCracken, former Chairman of the Council of Economic Advisers and presently the distinguished professor of economics at the University of Michigan, pointed out in a recent Wall Street Journal article entitled, "The Targets for Economic Policy," that since the unemployment rate is now at least 3 percentage points above that considered to be the full employment level and since three points of real GNP growth are required to reduce the unemployment rate by 1 percent, we now require 9 percent more GNP growth to achieve full employment. This task is immensely compounded by the fact that the labor force grows by about 1.6 percent per year and productivity can be expected to grow by two percent per year. Thus, at least 3.6 percent of real GNP growth is required just to keep the unemployment rate from rising above its already intolerable level. Dr. McCracken concludes that over the next 3 years real GNP must grow by 20 percent, or by 6½ percent per year in order to regain full employment by 1978.

I might add to this that if productivity grows by 2½ percent instead of by only 2 percent, and if we strive to reach a 4½ percent unemployment rate from the current astronomical rate of 8.3 percent, real growth would have to be about 24 percent or 8 percent per year for the next 3 years.

Mr. President, we cannot afford to ignore the threat to our economic prosperity and the challenge to government economic policy implied in these statistics.

If tax rates increase because we have not passed a simple extension and slight enlargement of the Tax Reduction Act, $900 million could be removed from the economy in January alone. When this is combined with resumption of social security taxes for workers who earned more than $14,100 this year, we have an ominous threat to the disposable income of American consumers. The result can only be reduced consumer demand and a slowdown or decline in national production.

In testimony before the Senate Finance Committee on December 9, Treasury Secretary Simon asserted that discipline was required to control the share of GNP channeled through Government. I disagree with the timing and relevance of that argument.

This is neither a time for being hard-nosed nor a time for careless largesse. Two years of recession, double-digit inflation, and 8 percent-plus unemployment already has provided discipline for the American people.

I submit that this is a time for reasoned judgment and for thoughtful analysis. In the context of our present economy, reasonable Americans are led to conclude that maintenance of current tax rates is both a judicious and a prudent course for public policy to follow.

This is a prudent policy because it takes into account the condition of abnormally high unemployment that is expected to persist through 1980. I simply cannot share the improvidence and cynicism that seem to characterize our present leisurely approach to the restoration of full employment. I believe we must strive to get the unemployment rate down as quickly as possible to a normal level.

A policy of maintaining current tax rates through 1976 is a judicious one because such a policy would insure more rapid recovery during the period when the slack in the economy was greatest. With an 8.3-percent unemployment rate and an enormous gap between actual and potential gross national product, we are in the most strategic position for continuing mild fiscal stimulus without reflating the economy.

What concerns me most about the debate over the tax cut extension is the growing evidence that the Congress and the administration may be approaching this question from two different viewpoints and with two different motives.

My own analysis has been couched in the context of the present and projected state of the Nation's economy. From the perspective of the long-range needs of our economy, I have concluded that maintenance of current tax rates is a prudent and judicious course for fiscal policy.

I suspect that the administration, on the contrary, has proceeded to develop its analysis as an examination of the appropriate role of government in the American economy. According to that point of view, a combined spending reduction-tax cut program is recommended in order to halt the growth of the Government's contribution to the economy but I believe this aborts the whole Budget Committee process by which the spending ceiling to be agreed on is based on expertise and cuts we made wisely with a scalpel and not a cutlass—for the budget directly affects the lives and fortunes of 220 million Americans.

But I think that this is an inopportune time for such deliberation. I have thought a good deal over the past few years on such subjects as capital formation, profit sharing, antitrust, and the related questions of the status of the American private sector. Questions such as these require serious attention and they demand legislative consideration.

But the issue of the growing role of government in the economy cannot receive adequate analysis when it is treated as a part of economic recovery legislation. The goal of a larger share of the economic pie for the private sector can not be achieved unless the pie itself is growing. If it is shrinking—as it may very well be if higher tax rates drain over $10 billion in purchasing power from consumers in 1976—the share of both sectors will diminish.

It seems that the administration may be willing to jeopardize the health of our economy in order to foster the development of a particular political-economic philosophy. To sacrifice the recovery of this Nation on the altar of philosophical expediency is a dangerous game.

I ask unanimous consent that certain supporting press articles be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Key Barometer Of Economy Fell Again in October

Washington.—A key government barometer of future economic activity flashed a further signal that the business recovery is slowing down from the sharp post-recession rebound.

The Commerce Department's index of leading economic indicators declined in October for the second month in a row, falling 0.5% to 102% of the 1967 average from an upward-revised 102.5% in September. It was the first time the index had posted back-to-back declines since the barometer began rising in March, just before the end of the worst recession since World War II. (See chart on page one).

The September index, however, was raised to within 0.1% of the August figure, compared with an initially reported drop of 0.9%. Thus, the preliminary October index, if it stands would mark the first sizable monthly decline since the economic recovery began. Economists generally believe the index doesn't signal a change in economic direction until a trend has established itself for three months.

Nevertheless, government economists hadn't expected the October index to drop. Ford administration officials hastened to emphasize that in recent months the preliminary economic statistics used to compile the index have fluctuated sharply from the final figures. But the officials concede that the economy, while still growing, probably will record slower activity in the months ahead than during last summer.

"The behavior of the index in September and October, together with other recent developments, suggests a moderation in the pace of the overall economic recovery following a strong and unsustainable initial upsurge," said James Pate, Assistant Commerce Secretary for economic affairs. He said the 12.1% rise in the index in the eight months from March through October was second only to the record eight-month rise of 14.4% in 1958.

"Although some slowing in the pace of overall activity is expected in the fourth quarter, continued strong growth throughout 1976 is anticipated," Mr. Pate added.

Four of the 11 available leading indicators for October declined from September, while five increased and two were unchanged. Most of the decline in the index stemmed from a negative change in the percentage of total liquid assets, such as cash and checking accounts, held by businesses. Also moving unfavorably were the nation's money supply, net business formation and building permits. The Commerce Department said that at least one component—the money supply—resumed growth in early November.

Stock prices had the greatest influence on the index among the five components that increased in October. Also moving favorably were the percentage of companies reporting slower deliveries, the change in sensitive materials prices, new orders for plant and equipment and new orders for consumer goods. The layoff rate and the average workweek were unchanged.

Cities and States Slowing Spending

(By Soma Golden)

Spending by state and local governments has been a steady and powerful generator of jobs and incomes in the United States for most of the period since World War II.

But for a variety of political, financial and demographic reasons, this spending has begun to slow—with potentially adverse effects on the expected economic recovery. This slow-down, which experts say could last several years, has apparently been intensified by New York City's financial crisis.

With state and local spending accounting for 15 percent of gross national product, slower growth in this $230 billion sector could lead to slower growth in the economy as a whole. Instead of the 5 to 6 percent yearly increase in such spending, analysts expect real growth for 1976, and probably for the rest of the decade, to be closer to 2 or 3 percent a year.

"The state and local sector is just too big to ignore," said Otto Eckstein of Data Resources Inc., an economics research company. "Any major change in the expenditure trends of this enormous sector will have an economy-wide impact." He noted that, in contrast, Federal spending accounts for only 9 percent of G.N.P.

"The question now is whether the growth of the state and local sector will stop altogether under the impact of New York City's problems," he added.

FEW PROJECTS PLANNED

Indeed, a check of two dozen state and local governments around the country found virtually none contemplating a major initiative in budgetary outlays for the years immediately ahead. Instead, officials seem hard-pressed even to follow through on existing spending plans as the recession's aftermath continues to sap their revenues and inflation continues to raise their costs.

Although most local and state officials publicly deny that New York City's problems have changed their budgetary practices, various outside economists think otherwise. A key Administration economist points to what he calls "a consciousness-raising" effect from New York City's disastrous reliance on heavy deficit financing.

In Illinois, for example, Gov. Daniel Walker has slashed his record $10.8 billion state budget by 6 percent through vetoes. If he is overridden by his legislature, the Governor has promised to raise taxes—rather than borrow—to cover the deficit.

CITY'S PATH CITED

Borrowing, says Governor Walter, "is the road that New York City went, and I will not take Illinois down the New York City road."

New York City, of course, is also trying to reduce spending. Markets slammed shut to the city last spring and New York has gone through a series of desperate financial gymnastics to pay its bills and trim its sails.

Despite the Administration's decision last week to offer the city seasonal loans for the next three years, New York has cut $300 million from its budget this year, which puts the budget at about $12 billion. Some $200 million of cuts must still be found to meet stringencies imposed on Mayor Beame by the Emergency Financial Control Board.

Another $800 million of potential city spending has been eliminated by a drastic slash in the capital budget, used primarily to finance construction programs and financed by long-term borrowing.

The state Legislature, meanwhile, is locked in a partisan debate about how big the state's deficit is and what taxes are necessary to close the gap. A modest $70 million or so has been cut from the state budget this year. The deficit however, is probably in the vicinity of $700 million.

IMPACT IS UNCERTAIN

How state and local cutbacks will affect the national economy is something about which economists disagree.

Arthur M. Okun, a former Democratic chairman of the President's Council of Economic Advisers says the new restraint in lower-level governments "does not mark the difference between recovery and recession." But "it's a relatively negative factor in the outlook now compared with two months ago," he said.

Mr. Okun, who is now with the Brookings Institution, a nonprofit research center, has cut a half a percentage point off his earlier forecast of 6 to 7 percent real output growth for next year to compensate for the new fiscal scrutiny under way in state capitals and city halls.

But one top Administration analyst, Rudolph G. Penner, senior economist at the Office of Management and Budget, disagrees, calling the Okun estimate "an exaggeration." He concedes, however, that in the short run the new restraint by lower-level governments could moderate the recovery.

Payrolls at state capitals and city halls now account for about 14 percent of the nation's total employment. The sector's jobs have grown faster in recent years than total United States employment and five times faster than Federal employment.

But the experience of past years—with spending propelled by the growth of Federal grants programs, the rise in welfare rolls, the Federal highway program, the increase in salaries of public employees, Federal revenue sharing may not be repeated.

Changes are already under way. According to a recent survey of 48 states and 140 local governments by the Joint Economic Committee of Congress, at least $8 billion has been drained out of the sector's spending stream during 1975 by emergency budget actions at the state and local level.

One result of these moves, the study says, is the elimination of about 140,000 government jobs—the equivalent of a little over a tenth of a percentage point in the unemployment rate.

The $8 billion of changes turned up by the survey came in three forms of governmental action: $3.6 billion of tax increases, $3.3 billion of cuts in current outlays and $1 billion in postponed capital construction projects.

It is considered ironic by many observers that at a time when the Federal Government has cut taxes once and contemplates cutting them again to stimulate the economy, state and local governments are heading in the opposite direction, taking stimulus out of the system in an effort to achieve fiscal respectability.

STATUTES CURB DEFICITS

The reason, in part, is that states, cities and counties—unlike the Federal Government—are generally bound by statutes to run their affairs without running deficits. Borrowing money is allowed, but, in general, only to finance capital expenditures or to tide the government over a cash-flow problem until revenues from another source come in.

Although borrowing money is one way to bridge a budget gap, New York City's difficulties this year in repaying its creditors has soured the municipal market for many government borrowers. Although total borrowing this year is expected to be new record highs of $251 billion, raising interest rates have frightened voters into rejecting new bond issues for additional capital spending.

This has forced many governments to pursue the tough political course of raising taxes or cutting outlays to make ends meet.

As a result, states and localities are spending money at roughly a record-breaking $10 billion annual rate of deficit. Without the $8 billion of spending cuts and tax increases reported to the Joint Economic Committee, the deficit would amount to $18 billion.

This marks a dramatic turn-around from the $4 billion surpluses that the sector ran in the prerecession year of 1972. The result was an $8 billion deficit during 1974, a year of deep recession and rampant inflation.

These official deficit figures, from the Federal Government's National Income Accounts, omit an additional $24 billion of long-term debt issued this year, a near record amount.

STRINGENT BUDGET POLICIES

The states and cities reporting the most stringent budgetary actions are those with the weakest local economic conditions and the highest unemployment rates.

The Joint Committee found a "significant mismatch" between resources and needs when it analyzed the fiscal conditions of three groups of states—those that produce energy, the farm states, and those with high unemployment.

The 13 energy producers, according to the report, are in "a very strong financial position" on average. These are Alabama, Arkansas, Oklahoma, West Virginia, Ohio, Utah, Indiana, New Mexico, Montana, Wyoming, and Tennessee. Overall, these states pursued very moderate spending cuts or tax increases this year.

The 18 states with relatively high unemployment were Oregon, Washington, Delaware, Pennsylvania, Florida, Georgia, North and South Carolina, Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Jersey, New York, Michigan, California, and Nevada.

Another relatively prosperous group of states discovered by the Congressional study are eight heavily agricultural states, namely Iowa, Minnesota, North Dakota, South Dakota, Wisconsin, Kansas, Nebraska and Idaho. They also were able to avoid major moves toward budgetary restraint during 1975.

"In 1973 and 1974 we had a net transfer of wealth in the United States to the energy or farm producer-states," said Ralph Schlosstein, an economist with the Joint Economic Committee, who directed the group's study.

However, a recent drop in farm prices and farm income, Mr. Schlosstein said, could put the farm states into the same difficult predicament as the 18 states in the study with jobless rates at or above the national average.

As a group, these states have "severe financial problems." They have been hit by the recession on both sides of their budgets—expenditures up for unemployment compensation and welfare, while revenues have been reduced. And they have little surplus left to live off this year, the study said.

The reseult has been a necessity on the part of officials in these areas to cut spending or raise taxes of citizens who can ill afford it.

"Restraints are being put on hardest in just those regions and states with the worst economies," Mr. Schlosstein said.

Officials in these areas hardest hit by unemployment seem to agree. In Detroit and Newark, they endorsed the effort in Congress to adopt countercyclical revenue sharing on top of the existing non-cyclical program that pumps out about $6 billion a year for state and local governments.

Although the immediate economic strain in the United States has obviously taken its toll on state and local spending, analysts insist that more than the business cycle is at work to cut back growth of the sector.

A major dampening force, they say, began in the late 1960's when the nation's school-age population dropped, lifting the pressure on lower-level governments to spend money on education outlays.

An even more powerful potential force in dampening the growth of state and local spending may be what a Congressional budget expert called "the fundamental fed-upness of this country with public spending." He, like many others, attributed popularity of Edmund G. Brown Jr., Governor of California, to this anti-government spirit.

Governor Brown is struggling now to hold California's spending increases to as most, the inflation rate by forcing what he calls "very tough choices" on the legislature choices between salary increases and education at outlays, between colleges and child care, between health and conservation.

TAX DEMAND SEEN

"I know there will be a strong demand for new beer and liquor taxes and an increase in the gasoline tax," Governor Brown says. "But I certainly will work to avoid them as I did in the last year. I have a rather jaundiced view of any new taxes."

A similar sentiment was expressed by the Governor of Texas, Dolph Briscoe. Though he is feeling little financial pressure these days because of his state's energy tax revenues, he is already worrying about balancing the budget in fiscal 1978—two years away. To avoid a tax increase then, he has pledged to trim the budget.

A similar attitude prevails in the state house in Massachusetts, where Gov. Michael S. Dukakis has just acceded reluctantly to a $364 million tax package to support his minimal budget of $3 billion.

FINANCE COMMITTEE ACTS ON TAX CUT EXTENSION, OTHER MATTERS

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, announced that the Committee today ordered favorably reported legislation affecting the expiring provisions of the Tax Reduction Act of 1975 to maintain present withholding levels for six months. The Committee also acted on various other measures, as described below.

TAX MEASURES

Extension of expiring tax reductions

Railroad Rolling Stock

The Committee ordered favorably reported H.R. 5559, a bill providing for reciprocal tax exemption for payments received by Canadian railroads for the temporary use of their rolling stock. The Committee agreed to amend the bill as described below in order to provide for the continuation of present withholding rates until June 30, 1976.

Increase in Standard Deduction

The Committee amendment provides for a six-month increase in the minimum standard deduction, to $1800 for single persons and to $2200 in the case of joint returns. The percentage standard deduction, which was increased to 16% by the Tax Reduction Act of 1975, would be continued at 16% for an additional six months. The maximum standard deduction would be increased for six months to $2500 for single persons and $2900 in the case of joint returns.

$45 Tax Credit for Taxpayers and Dependents

The Committee amendment would provide for six months a $45 tax credit for each taxpayer and dependents for whom the taxpayer claimed personal exemptions; this compares with a $30 credit which was provided in the Tax Reduction Act of 1975. The credit could not exceed tax liability.

Earned Income Credit

The earned income credit provided for in the Tax Reduction Act of 1975 would be extended for six months under the Committee amendment. The earned income credit equals 10% of earned income up to a maximum of $4000 (a maximum credit of $400). The amount of earned income eligible for the credit, however, is reduced dollar-for-dollar as adjusted gross income rises above $4000 so that the credit is phased out entirely when adjusted gross income is greater than $8000. The earned income credit may exceed tax liability, in which case it is refunded to individuals. The credit is available only to families with dependent children.

Business Tax Cuts

The Committee also approved a 6-month extension of the provision of the Tax Reduction Act of 1975 which allowed tax cuts largely for small businesses. This provision imposes a tax rate on the first $25,000 of corporate income of 20 percent rather than 22 percent; the next $25,000 of taxable income is subject to a 22 percent rate instead of a 48 percent rate. Corporate income in excess of $50,000 continues to be subject to a 48 percent rate.

The fiscal year 1976 impact of the Committee amendment is shown in the table below:

Fiscal year 1976 impact of Finance Committee amendment to H.R. 5559

[Dollars in billions]

Increase the standard deduction changes in the 1975 Tax Reduction Act (minimum increased to $1,800 for single persons and to $2,200 for joint returns; percentage standard increased to 16 percent; and maximum standard increase to $2,500 for single persons and $2,900 for joint returns)	$2.06
Increase the $30 tax credit for each individual taxpayer and each dependent under the 1975 Tax Reduction Act to $45	3.55
Extend the earned income credit (10 percent on the first $4,000, phased out at $8,000)	.04
Extend the 1975 Act to corporate rate changes (20 percent rate on the first $25,000 of income, 22 percent on the next $25,000, and 48 percent above that level)	.59
Total	6.24

Mr. BELLMON. Mr. President, as a long time loyal Republican and as one who has generally supported both President Nixon and President Ford, I do not look forward with any enthusiasm toward a confrontation on the tax reduction bill between the Congress and President. Also as a Member who has not supported past reduction in revenues at times when the Federal Government has been adding billions to the national debt, I shall find it difficult to vote to override the President's veto in the event he turns down the tax bill.

The record will show that I voted against the tax reduction which was before Congress a year ago. I took this action for the reason above. I doubt seriously the wisdom of reducing taxes and requiring the Government to borrow large sums of money to pay its bills. I find it highly distasteful to burden future Americans with paying the costs of current Government programs.

For the past 12 months, I have worked diligently with others who have attempted, with some success to bring an end to the constantly escalating growth in the cost of Government. This has been done through the budget process. This new process is in place and while it is still in its infancy, I am persuaded that given continued support it will prove to be a cure to the Governments economic malaise.

Mr. President, the results of the process are important but even more important in my mind is the credibility of the new procedures and the preservation and strengthening of the process. This Government must have an effective budget control method. While it has far to go, the new system is far superior to procedures of the past.

The budget process provides for in-depth consideration of every facet of Government service, thorough examination of the state of the Nation's economic condition and a thoughtful informed conclusion as to the proper levels of spending, the proper levels of taxation and the resulting levels of debt and deficit or surplus.

Also, Mr. President, even though I did not vote for the tax reduction when it was passed by the Congress, I am deeply concerned about the impact of a $17 billion tax increase in the period when unemployment is above the 8 percent level and when the economy recovery is still shaky. The jolt to the Nation's economy which would result from the sudden increase in taxes might turn the current recovery around and deepen the recession to the point that even greater deficits would be generated in future years. The present trend toward recovery is heartening and healthy. The recovery rate is even more rapid than expected. If it continues the prospects for reducing deficits and a balanced budget at an early date are bright, I am convinced that Congress should continue on the course which has been set until the objective of reasonably full employment is reached and a balance between Government's cost and its income has been struck.

Therefore, I will vote to continue the current level of taxation as proposed by H.R. 5559. Further, should President Ford veto the bill, I shall cast my vote to override.

TAX CUT EXTENSION IS VITAL

Mr. HUMPHREY. Mr. President, by acting today to provide for the extension of the 1975 tax cuts, we are achieving two vital purposes. First, we are preserving a budgetary and focal policy which will support continued economic recovery. Second, we are upholding our commitment to rational and systematic procedures for setting budget policy in the 1977 budget year and beyond.

Let us look first at the impact of extending the tax cut on the prospects for economic recovery during 1976. Every forecast of economic conditions in 1976 assumes extension of the tax cut. The second concurrent resolution on the budget assumes it. Even with this assumption that the tax cut is extended, the prospects are for, at best, a moderate recovery in 1976, with the unemployment rate declining slowly. Typical forecasts now show an average unemployment rate in 1976 of 7.8 or 7.9 percent. This is, of course, an improvement from the present 8.3 percent rate. Most of this improvement is expected to occur in the next few months. However, once the inventory swing is completed and the impact of last spring's tax rebates has been dissipated, the economic growth rate could slow down, meaning that further reductions in unemployment in late 1976 and in 1977 will be difficult to achieve.

I repeat, even that rather gloomy forecast assumes these tax cuts are extended. Suppose they were not extended? Suppose this tax cut bill is vetoed and the veto sustained? The President's advisers have allegedly told him it would not make much difference for the economy.

I beg to differ. It would make a great difference. Several studies of that difference are available—one by the Congressional Budget Office, one by Wharton Econometrics, and one by the staff of the Joint Economic Committee. These studies differ somewhat in their details, but the general conclusion is the same. Failure to extend the tax cuts means less economic growth and more unemployment. The JEC staff estimates that an additional 300,000 people will be unemployed if the tax cut is not extended. May I say I think that estimate is conservative. The mathematical techniques which economists must use to make these estimates have no way of taking into account the confidence factor.

Consumers are not in a confident mood. Every survey shows this to be true. The University of Michigan has just released a new consumer survey which reinforces this conclusion. Failure to extend these tax cuts might be the last straw for consumers—the stroke which completely destroys what little confidence they have left in the ability of Government to deal with economic problems. We cannot take the risk. I call on the President to sign this bill—to give the consumer a chance to regain confidence in the economy and confidence in Government. We will not have a recovery unless we have some revival of consumer confidence.

This is easier to understand if we look at the impact of the tax cut on specific individuals and families. A family of four with an income of $5,000 will experience a tax increase of $300 if the 1975 tax cuts are not extended. The same size family with an income of $10,000 would experience a $144 tax increase. Those are big tax increases for people with modest incomes. It is absurd to say such tax changes would have no impact on the economy. They would have a big impact on the buying plans of these families. This impact would be felt throughout the economy. It is not an impact we can tolerate.

Let me turn now to the second aspect of this bill we are considering today. By passing the tax cut now and doing so for six months only, we preserve freedom of action on the fiscal year 1977 budget. Perhaps the economy will be stronger than we expect six months from now. perhaps further extension of the tax cut will not be needed. I myself think it is highly unlikely that the economy will develop such surprising strength, but we have learned in the last 2 years that the economic situation is capable of sudden and unexpected change. It could happen again.

For this reason it is entirely proper that flexibility be preserved with respect to the 1977 budget. Flexibility on both the tax and the spending side. The new budget procedures are well designed to provide for budget decisions at the appropriate time. Those decisions should be taken in light of economic conditions and expectations prevailing at that time. To take decisions today which bind us for the 1977 year on either the tax or spending side would be both unnecessary and unwise. I am pleased that the Congress has spoken with great unanimity on this issue. The new congressional budget process has been working well, and it must be given a chance to continue to do so.

I would urge the President of the United States to reflect on this point. After reflection, I hope he will see fit to sign the bill which we are passing today.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. CURTIS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Washington (Mr. Jackson), the Senator from Alabama (Mr. Sparkman), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. Brock) is absent on official business.

The result was announced—yeas 73, nays 19, as follows:

[Rollcall Vote No. 595 Leg.]

YEAS—73

Abourezk
Allen
Baker
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NAYS—19

Bartlett
Byrd,
Harry F., Jr.
Curtis
Garn
Griffin
Hansen
Hatfield
Helms
Hruska
Laxalt
McClure
Morgan
Packwood
Roth
Scott,
William L.
Stevens
Thurmond
Tower
Young

NOT VOTING—8

Bayh
Brock
Fannin
Fong
Goldwater
Jackson
McGovern
Sparkman

So the bill (H.R. 5559), as amended, was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I have a number of routine motions.

I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Chiles) appointed Mr. Long, Mr. Talmadge, Mr. Hartke, Mr. Nelson, Mr. Mondale, Mr. Gravel, Mr. Curtis, Mr. Fannin, Mr. Hansen, and Mr. Dole conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 5559.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS AND SURVIVORS PENSION REFORM ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 512.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2635) to amend title 38, United States Code, to modify the pension program for veterans of the Mexican Border period, World War I, World War II, the Korean conflict, and the Vietnam era and their survivors, and for other purposes, reported with an amendment.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Veterans and Survivors Pension Reform Act".

TITLE I—REFORM OF THE NON-SERVICE-CONNECTED PENSION PROGRAM FOR VETERANS AND THEIR SURVIVORS

Sec. 101. Section 503 of title 38, United States Code, is amended to read as follows:

"§ 503. Determinations with respect to annual income

"(a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

"(1) payments under this chapter and chapters 11 and 13 (except section 412(a)) of this title;

"(2) donations from public or private relief or welfare organizations;

"(3) amounts equal to amounts paid by a spouse for the expenses of a veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

"(A) the veteran's just debts,

"(B) the expenses of the veteran's last illness, and

"(C) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(4) amounts equal to amounts paid—

"(A) by a veteran for the last illness and burial of the veteran's deceased spouse or child, or

"(B) by a spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such a veteran;

"(5) proceeds of fire insurance policies;

"(6) profit realized from the disposition of real or personal property other than in the course of a busness;

"(7) amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner;

"(8) $780 of any earned income not otherwise excluded by this section;

"(9) one-half of the earned income over $780 of a spouse of a veteran who is in need of aid and attendance or is permanently housebound; and

"(10) amounts equal to amounts paid by a veteran, spouse, or child for unreimbursed medical expenses which exceed 5 per centum of such person's income (determined without regard to exclusions provided by this subsection) received during the year.

"(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.".

Sec. 102. Section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b), (c), (d), and (e) to read as follows:

"(b) If the veteran is unmarried (or married but not living with or not reasonably contributing to the support of such veteran's spouse) and has no child to whose support the veteran is reasonably contributing, pension shall be paid monthly at the annual rate of $2,700, unless the veteran is entitled to pension at the rate provided by paragraph (1) of subsection (d) or by subsection (e) of this section, reduced by the amount of the veteran's annual income.

"(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child to whose support the veteran is reasonbly contributing, pension shall be paid monthly at the anual rate of $3,900, unless the veteran is entitled to pension at the rate provided by paragraph (2) of subsection (d) or by subsection (e) of this section. If the veteran has two or more such dependents, the rate shall be increased by $360 for each such dependent in excess of one. The rate payable shall be reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.

"(d) (1) If the veteran is in need of regular aid and attendance, the pension payable to the veteran under subsection (b) of this section shall be $4,296, reduced by the amount of the veteran's annual income.

"(2) If the veteran is in need of regular aid and attendance, the pension payable to the veteran under subsection (c) of this section shall be $5,496, plus allowances for additional dependents, reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.

"(e) If the veteran has a disability rated as permanent and total, and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for the aid and attendance rate under subsection (d) of this section, the pension payable to the veteran under subsection (b) of this section shall be $3,336, reduced by the veteran's annual income, and the pension payable to the veteran under subsection (c) of this section shall be $4,536, plus allowances for additional dependents, reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.";

(2) by amending clause (1) of subsection (f) to read as follows:

"(1) in determining annual income, where a veteran is living with or reasonably contributing to such veterans' spouse or dependent, the income of the spouse and dependent which is reasonably available to or for the veteran shall be considered as the income of the veteran;"; and

(3) by adding at the end thereof the following new subsection:

"(h) Benefits under this section may be paid less frequently than monthly where the amount of the monthly benefit would be less than $10.".

SEC. 103. Section 522 of title 38, United States Code, is amended to read as follows:

"§ 522. Net worth limitation

"(a) The Administrator shall deny or discontinue payment of pension under subsection (b) of section 521 of this title when the corpus of the estate of the veteran is such that under all the circumstances, including the consideration of the veteran's income, it is reasonable that some part of the corpus be consumed for the veteran's maintenance.

"(b) The Administrator shall deny or discontinue payment of pension under subsection (c), (d), or (e) of section 521 of this title when the corpus of the estates of the veteran, spouse, and children is such that under all the circumstances, including the consideration of the veteran's, spouse's, and children's income, it is reasonable that some part of the corpus be consumed for the maintenance of the veteran and such dependents.".

SEC. 104. (a) Section 541 of title 38, United States Code, is amended by amending subsections (b), (c), and (d) to read as follows:

"(b) If there is no child, or if no child is in the custody of the surviving spouse, pension shall be paid monthly at the annual rate of $2,700, reduced by the amount of the surviving spouse's annual income.

"(c) If there is a surviving spouse and one child in such surviving spouse's custody, pension shall be paid monthly at the annual rate of $3,900. If the surviving spouse has two or more children in such surviving spouse's custody, the rate shall be increased by $360 for each child in excess of one. The rate payable shall be reduced by the amount of the annual income of the surviving spouse and, subject to subsection (e) of this section, the income of any child or children, in the surviving spouse's custody.

"(d) Benefits under this section may be paid less frequently than monthly where the amount of the monthly benefit would be less than $10.".

(b) Section 541 of such title is further amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by adding after subsection (d) a new subsection (e) as follows:

"(e) In determining annual income, where a surviving spouse has custody of a child or children, the income of the child or children which is reasonably available to or for the spouse shall be considered as the income of the spouse.".

SEC. 105. Section 542 of title 38, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Administrator shall pay to the child or children (not in the custody of a surviving spouse having basic eligibility for pension under section 541 of this title) of each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, who met the service requirements of section 521 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, monthly pension at the annual rate of $1,200 for one child, plus $360 for each additional child, reduced by the amount of each child's annual income."; and

(2) by repealing subsection (c).

SEC. 106. Section 543 of title 38, United States Code, is amended to read as follows:

"§ 543. Net worth limitation

"(a) The Administrator shall deny or discontinue payment of pension under subsection (b) of section 541 of this title when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the surviving spouse's income, it is reasonable that some part of the corpus be consumed for the surviving spouse's maintenance.

"(b) The Administrator shall deny or discontinue payment of pension under subsection (c) of section 541 of this title when the corpus of the estate of the surviving spouse and the estates of children in such surviving spouse's custody is such that under all the circumstances, including consideration of income of the surviving spouse and the income of children in such surviving spouse's custody, it is reasonable that some part of the corpus be consumed for the maintenance of the surviving spouse and children in such surviving spouse's custody.

"(c) The Administrator shall deny or discontinue payment of pension under section 542 of this title to any child when the corpus of the estate of the child is such that under all the circumstances, including consideration of income of that child, it is reasonable that some part of the corpus be consumed for the child's maintenance.".

SEC. 107. Section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"(a) If the surviving spouse is in need of regular aid and attendance, the pension payable to the surviving spouse under the subsection (b) of section 541 shall be $4,296, reduced by the amount of the surviving spouse's annual income.

"(b) If the surviving spouse is in need of regular aid and attendance, the pension payable to the surviving spouse under subsection (c) of section 541 shall be $5,496, plus allowances for additional dependents, reduced by the amount of the annual income of the surviving spouse and child or children in such surviving spouse's custody.".

SEC. 108. (a) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Annual adjustment of certain benefit rates

"Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, increase the rates of pension payable under sections 521, 541, 542, and 544 of this title or pursuant to such sections as in effect on September 30, 1976, and rates of dependency and indemnity compensation for parents payable under section 415 of this title or pursuant to such sections as in effect on September 30, 1976, as such rates were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such rates, as so increased, may be rounded in such manner as the Administrator considers appropriate for ease of administration).".

(b) The table of sections at the beginning of such chapter 53 is amended by adding at the end thereof the following:

"3112. Annual adjustment of certain benefit rates.".

SEC. 109. (a) Any case in which—

(1) a claim for pension is pending in the Veterans' Administration on September 30, 1976,

(2) a claim for pension is filed by a veteran after September 30, 1976, and within one year after the date on which such veteran became totally and permanently disabled, if he became totally and permanently disabled prior to October 1, 1976, or

(3) a claim for death pension is filed after September 30, 1976, and within one year after the date of death of the veteran through whose relationship the claim is made, if the death of such veteran occurred prior to October 1, 1976,

shall be adjudicated under title 38, United States Code, as in effect on September 30, 1976, with respect to any period prior to October 1, 1976, and, except as provided in subsection (c), shall be adjudicated under such title as amended by title I of this Act for any period on or after October 1, 1976.

(b) Nothing in this Act shall affect the eligibility of any person receiving pension under chapter 15 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, on September 30, 1976, for pension under all applicable provisions of that chapter or for pension under all provisions of law applicable to pension paid pursuant to such section 9(b), as the case may be, in effect on that date for such period or periods after September 30, 1976, with respect to which such person can qualify under such provisions. This subsection shall not apply in any case for any period after pension is granted, pursuant to application under title 38, United States Code, as amended by this title

(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that pension is payable for September 30, 1976.

SEC. 110. Any child eligible for pension under section 533, 535, or 537 of title 38, United States Code, may elect to be paid pension at the rates prescribed by section 542 of such title. The Administrator shall pay pension pursuant to such election at the rates prescribed by such section 542 and under the conditions (other than the service requirements) applicable to pensions paid under that section to children of veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable.

TITLE II—ADJUSTMENTS IN CURRENT STATUTORY PENSION PROVISIONS

SEC. 201. Effective January 1, 1976, title 38, United States Code, is amended as follows:

(1) chapter 1 of title 38, United States Code, is amended—

(A) by striking out in paragraph (3) of section 101 "widow", "woman", "wife", "his", "him", "man", and "herself" each time they appear and inserting in lieu thereof "surviving spouse", "person", "spouse", "the veteran's", "the veteran", "person", and "himself or herself", respectively;

(B) by striking out in the second sentence of paragraph (4) of section 101 "his support" and "his spouse" and inserting in lieu thereof "the person's support" and "the veteran's spouse", respectively;

(C) by striking out in paragraph (5) of section 101 "his" and inserting in lieu thereof "the veteran's";

(D) by striking out in paragraph (13) of section 101 "widow" and inserting in lieu thereof "surviving spouse";

(E) by striking out in paragraph (14) of section 101 "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(F) by striking out in paragraph (15) of section 101 "widow" and inserting in lieu thereof "surviving spouse"; and

(G) by adding at the end of section 101 the following new paragraph:

"(31) The term 'spouse' means wife or husband and the term 'surviving spouse' means widow or widower."; and

(2) chapter 15 of title 38, United States Code, is amended—

(A) by inserting in subsection (a) of section 503 "and" after the semicolon at the end of clause (16) of such subsection;

(B) by striking out in subsection (a) of section 541 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(C) by striking out in subsection (e) of section 541 the language preceding clause (1) of such subsection and inserting in lieu thereof "No pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—" and by amending subclause (D) of clause (1) of such subsection, to read as follows: "(D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran; or";

(D) by striking out in section 542 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(E) by striking out in section 543 "widow" and inserting in lieu thereof "surviving spouse";

(F) by repealing sections 510 and 531;

(G) by striking out in the heading of subchapter III "Widows" and inserting in lieu thereof "Surviving Spouses";

(H) by striking out in the catchline of section 541 "Widows" and inserting in lieu thereof "Surviving Spouses";

(I) by striking out in the subheading of subchapter III immediately following section 543 "WIDOWS" and inserting in lieu thereof "SURVIVING SPOUSES"; and

(J) by amending the table of sections at the beginning of such chapter 15—

(i) by striking out

"510. Confederate forces veterans.";

(ii) by striking out

"SUBCHAPTER III—PENSIONS TO WIDOWS AND CHILDREN"

and inserting in lieu thereof

"SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN"

(iii) by striking out

"531. Widows of Mexican War veterans.";

(iv) by striking out

"541. Widows of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."

and inserting in lieu thereof

"541. Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."; and

(v) by striking out

"Widows of Veterans of All Periods of War"

and inserting in lieu thereof

"Surviving Spouses of Veterans of All Periods of War".

SEC. 202. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	1,200
.06	1,200	1,700
.07	1,700	2,000
.08	2,000	3,300

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,300.

"(c)(1) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension for a veteran shall be— $186 if such veteran has one such dependent; $191 if such veteran has two such dependents; and $196 if such veteran has three or more such dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,300
.04	1,300	2,800
.05	2,800	3,200
.06	3,200	3,800
.08	3,800	4,500
.08	3,800	4,500

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $4,500.";

(2) by striking out in subsection (d) "him" and "$123" and inserting in lieu thereof "such veteran" and "$133", respectively;

(3) by striking out in subsection (e) "his", "him", and "$49" and inserting in lieu thereof "such veteran's", "such veteran", and "$53", respectively; and

(4) by amending clause (1) of subsection (f) to read as follows:

"(1) in determining annual income, where a veteran is living with such veteran's spouse, all income of the spouse which is reasonably available to or for the veteran in excess of whichever is the greater, $1,200 or the earned annual income of the spouse or not more than $7,000, shall be considered as the income of the veteran, unless in the judgment of the Administrator to do so would work a hardship upon the veteran;"

SEC. 203. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 541 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,500
.05	1,500	2,700
.06	2,700	3,300

"(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,300.

"(c)(1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,800
.03	1,800	2,700
.04	2,700	3,500
.05	3,500	4,500

"(2) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $4,500.

"(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate."; and

(2) by striking out in subsection (d) "widow" and "$20" and inserting in lieu thereof "surviving spouse" and "$22", respectively.

SEC. 204. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 542 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$49" and "$20" and inserting in lieu thereof "$53" and "$22", respectively; and

(2) by striking out in subsection (c) "$2,400" and inserting in lieu thereof "$2,700".

SEC. 205. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pension payable to the surviving spouse shall be increased by $69.".

SEC. 206. Effective January 1, 1976, chapter 15 of title 38, United States Code, is amended—

(1) by striking out in section 501(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in subsections (a), (b), and (c) of section 502 "he" and "his" each time they appear and inserting in lieu thereof "such person" and "such veteran's", respectively;

(3) by striking out in section 503(a)(7) "wife", "his", and "widow" and inserting in lieu thereof "spouse", "such veteran's", and "surviving spouse", respectively;

(4) by striking out in subclauses (A), (B), and (C) of section 503(a)(7) "his" each time it appears and inserting in lieu thereof "such veteran's";

(5) by striking out in subclauses (A) and (B) of section 503(a)(9) "his", "widow", and "wife" each time they appear and inserting in lieu thereof "such veteran's", "surviving spouse", and "spouse", respectively;

(6) by striking out in section 503(a)(14) "his widow" and inserting in lieu thereof "such veteran's surviving spouse";

(7) by striking out in section 503(a)(16) "his" and inserting in lieu thereof "such employee's";

(8) by striking out in section 503(c) "widow" and inserting in lieu thereof "surviving spouse";

(9) by striking out in section 505(a) "his" each time it appears and inserting in lieu thereof "such individual's";

(10) by striking out in section 505(b) "his wife" and inserting in lieu thereof "such veteran's spouse";

(11) by striking out in section 505(c), including clauses (1) and (2), "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(12) by striking out in section 506(a)(1) "he" and inserting in lieu thereof "the Administrator";

(13) by striking out in section 506(a)(2) "him", "he", and "his" each time they appear and inserting in lieu thereof "the Administrator", "such person", and "such person's", respectively;

(14) by striking out in section 506(a)(3) "his" each time it appears and inserting in lieu thereof "such person's";

(15) by striking out in section 507 ", in his discretion,"; by striking out in such section "his wife" and inserting in lieu thereof "such veteran's spouse"; and by striking out in such section "wife" the second time it appears and inserting in lieu thereof "spouse";

(16) by striking out in subsections (b) and (c) of section 511 "he" each time it appears and inserting in lieu thereof "such veteran";

(17) by striking out in subsections (a) and (b) of section 512 "he" each time it appears and inserting in lieu thereof "such veteran";

(18) by striking out in section 521(g) "he" and inserting in lieu thereof "such veteran";

(19) by striking out in section 523(b) "him" and inserting in lieu thereof "such veteran";

(20) by striking out in section 532(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse". " spouse", and "such veteran's", respectively;

(21) by striking out in subsection (b) and (c) of section 532 "widow" and "he" each time they appear and inserting in lieu thereof "surviving spouse" and "such veteran", respectively;

(22) by striking out in section 532(d) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(23) by striking out in the catchline of section 532 "Widows" and inserting in lieu thereof "Surviving spouses";

(24) by striking out in the table of sections at beginning of such chapter 15

"532. Widows of Civil War veterans."

and inserting in lieu thereof

"532. Surviving spouses of Civil War veterans.";

(25) by striking out in section 533 "widow" and inserting in lieu thereof "surviving spouse";

(26) by striking out in section 534(a) "widow", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(27) by striking out in section 534(b) "widow" and inserting in lieu thereof "surviving spouse";

(28) by striking out in section 534(c) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(29) by striking out in the catchline of section 534 "Widows" and inserting in lieu thereof "Surviving spouses";

(30) by striking out in the table of sections at the beginning of such chapter 15

"534. Widows of Indian War veterans."

and inserting in lieu thereof

"534. Surviving spouses of Indian War veterans.";

(31) by striking out in section 535 "widow" and inserting in lieu thereof "surviving spouse";

(32) by striking out in section 536(a) "widow", "she", "wife", and "his" and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(33) by striking out in subsections (b) and (c) of section 536 "widow", "she", and "him" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(34) by striking out in section 536(d)(1) "widow", "she", and "widows" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "surviving spouses", respectively;

(35) by striking out in section 536(d)(2) "widow" and inserting in lieu thereof "surviving spouse";

(36) by striking out in clauses (A) and (B) of section 536(d)(2) "her" and "widow" each time they appear and inserting in lieu thereof "such surviving spouse" and "surviving spouse", respectively;

(37) by striking out in the catchline of section 536 "Widows" and inserting in lieu thereof "Surviving spouses";

(38) by striking out in the table of sections at the beginning of such chapter 15

"536. Widows of Spanish-American War veterans."

and inserting in lieu thereof

"536. Surviving spouses of Spanish-American War veterans.";

(39) by striking out in section 537 "widow" and inserting in lieu thereof "surviving spouse";

(40) by striking out in subclauses (A), (B), and (C) of section 541(e)(1) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(41) by striking out in section 560(b) "himself and "his" and inserting in lieu thereof "such person" and "such person's", respectively;

(42) by striking out in subsections (a) and (b) of section 561 "his", "him", and "he" each time they appear and insertnig in lieu thereof "such person's", "such person", and "such person", respectively;

(43) by striking out in section 561(c) "by him";

(44) by striking out in section 562(a) "him" and inserting in lieu thereof "the Administrator"; and

(45) by striking out in subsections (b) and (d) of section 562 "he" each time it appears and inserting in lieu thereof "such person".

TITLE III—REFORM OF DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 301. Section 415 of title 38, United States Code, is amended—

(1) by amending paragraph (1) of subsection (b) to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid monthly at the annual rate of $2,700, reduced by the amount of the parent's annual income.";

(2) by amending paragraph (2) of subsection (b) by striking out "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parent's", respectively;

(3) by amending subsections (c) and (d) to read as follows:

"(c) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid monthly to each such parent at the annual rate of $2,700, reduced in the case of each such parent by the amount of such parent's annual income.

"(d)(1) If there are two parents who are living together, dependency and indemnity compensation shall be paid monthly to such parents at the annual rate of $3,900, reduced by the amount of their annual income.

"(2) If there are two parents and both have remarried and are living with their respective spouses, dependency and indemnity compensation shall be paid monthly to each such parent at the annual rate of $3,900, reduced by the amount of the annual income of each couple, respectively.

"(3) If there are two parents and one has remarried and is living with such parent's spouse and the other parent is not remarried, or, if remarried, is not living with such parent's spouse, dependency and indemnity compensation shall be paid monthly to the remarried parent who is living with such parent's spouse at an annual rate of $3,900, reduced by the amount of the annual income of such remarried parent and such parent's spouse, and dependency and indemnity compensation shall be paid monthly to the other parent at the annual rate of $2,700, reduced by the amount of the annual income of such other parent.";

(4) by amending paragraph (1) of subsection (g) to read as follows:

"(g) (1) In determining income under this section, all payments of any kind or from any source shall be included, except—

"(A) payments under this chapter (except subsection 412(a)) and chapters 11 and 15 of this title and the first sentence of section 9(b) of the Veterans' Pension Act of 1959;

"(B) donations from public or private relief or welfare organizations;

"(C) amounts equal to amounts paid by a parent of a deceased veteran for—

"(i) a deceased spouse's just debts,

"(ii) the expenses of the spouse's last illness to the extent that such expenses are not reimbursed under chapter 51 of this title, and

"(iii) the expenses of the spouse's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(D) amounts equal to amounts paid by a parent of a deceased veteran for—

"(i) the expenses of the veteran's last illness, and

"(ii) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(E) proceeds of fire insurance policies;

"(F) profit realized from the disposition of real or personal property other than in the course of a business;

"(G) amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner;

"(H) $780 of earned income; and

"(I) amounts equal to amounts paid by a parent for unreimbursed medical expenses which exceed 5 per centum of such parent's income (determined without regard to exclusions provided by this subsection) received during the year."; and

(5) by amending subsection (h) to read as follows:

"(h) (1) If the parent is in need of regular aid and attendance, the dependency and indemnity compensation payable under subsection (b) or (c) shall be $4,296, reduced by the amount of the parent's annual income.

"(2) If the parent is in need of regular aid and attendance, the dependency and indemnity compensation payable under subsection (d) shall be $5,496, reduced by the amount of the couple's annual income, except for a parent who is not remarried, or, if remarried, is not living with such parent's spouse, in which case the amount shall be $4,296, reduced by the amount of the parent's income.".

Sec. 302. (a) Any case in which—

(1) a claim for dependency and indemnity compensation for a parent is pending in the Veterans' Administration on September 30, 1976, or

(2) a claim for dependency and indemnity compensation is filed by a parent after September 30, 1976, and within one year after the date of death of the veteran through whose relationship the claim is made, if the death of such veteran occurred prior to October 1, 1976,

shall be adjudicated under title 38, United States Code, as in effect on September 30, 1976, with respect to any period prior to October 1, 1976, and, except as provided in subsection (c), shall be adjudicated under such title as amended by this title for any period on or after October 1, 1976.

(b) Nothing in this Act shall affect the eligibility of any person receiving dependency and indemnity compensation for parents under chapter 13 or death compensation under chapter 11 of title 38, United States Code, on September 30, 1976, for dependency and indemnity compensation for parents or death compensation under all applicable provisions of those chapters, in effect on that date for such period or periods after September 30, 1976, with respect to which the parent can qualify under such provisions. This subsection shall not apply in any case for any period after dependency and indemnity compensation for parents is granted, pursuant to application, under title 38, United States Code, as amended by this title.

(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that dependency and indemnity compensation is payable for September 30, 1976.

TITLE IV—ADJUSTMENTS IN CURRENT STATUTORY PROVISIONS RELATING TO DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

Sec. 401. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 415 of title 38, United States Code, is amended—

(1) by redesignating paragraph (2) of subsection (b) as paragraph (4) of subsection (b) and by striking out in the redesignated paragraph (4) of subsection (b) "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parents", respectively;

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(b) (1) Except as provided in paragraph (4) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to the parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.04	1,000	1,200
.05	1,200	1,500
.06	1,500	1,700
.08	1,700	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.";

(3) by amending subsections (c) and (d) to read as follows:

"(c) (1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $93 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.04	1,100	1,600
.05	1,600	2,400
.06	2,400	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.

"(d) (1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $93 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,300
.03	2,300	3,300
.04	3,300	4,500

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $4,500.";

(4) by striking out in subsection (e) "him" each time it appears and inserting in lieu thereof "the Administrator";

(5) by striking out in subsection (f) "he" and inserting in lieu thereof "the Administrator";

(6) by striking out in subsection (g) (1) (J) (ii) "his" and inserting in lieu thereof "such veteran's"; and

(7) by striking out in subsection (h) "$64" and inserting in lieu thereof "$69".

TITLE V—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

Sec. 501. Effective January 1, 1976, section 4 of Public Law 90–275 (82 Stat. 68) is amended to read as follows:

"Sec. 4. (a) The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,900 and $4,200, instead of $2,600 and $3,900, respectively.

"(b) Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, increase the income limitations applicable to persons receiving pensions under section 9(b) of the Veterans' Pension Act of 1959 as such income limitations were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such income limitations, as so increased, may be rounded in such manner as the Administrator considers appropriate for ease of administration).".

SEC. 502. Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, adjust components of the statutory formulas relating to determination of rates of—

(1) pension for a person receiving pension for a period after September 30, 1976, pursuant to provisions of chapter 15 of title 38, United States Code, in effect on September 30, 1976, and

(2) dependency and indemnity compensation to parents for a person receiving dependency and indemnity compensation for a period after September 30, 1976, pursuant to provisions of section 415 of title 38, United States Code, in effect on September 30, 1976, to provide increases in rates and income limitations as such rates and income limitations were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such rates and income limitations, as so increased, may be rounded in such manner as the Administrator considers appropriate for ease of administration).

SEC. 503. Except as provided in sections 201, 202, 203, 204, 205, 206, 401, and 501, this Act shall become effective on October 1, 1976.

Mr. HARTKE. Mr. President, I rise to urge the Senate to pass S. 2635, the "Veterans and Survivors Pension Reform Act", which was reported unanimously from the Committee on Veterans' Affairs, which I am privileged to chair. I am most pleased that the entire membership of the Committee on Veterans' Affairs are principal cosponsors, including the distinguished hardworking chairman of the Subcommittee on Compensation and Pensions, the senior Senator from Georgia (Mr. TALMADGE). Senator TALMADGE, as chairman of this important subcommittee, has been most persistent since assuming that position in requiring the Veterans' Administration to develop and communicate adequate information needed to develop a more sound and equitable pension program. Other valued committee Members cosponsoring this important measure are the senior Senator from West Virginia (Mr. RANDOLPH) the senior Senator from California (Mr. CRANSTON), the Senator from Florida (Mr. STONE), and the Senator from New Hampshire (Mr. DURKIN).

In continuing the strong tradition of a bipartisan committee united in the objectives of providing all necessary and appropriate assistance to our veterans, once again I am pleased that the entire minority membership of the committee has also cosponsored and is unanimous in their support of this measure, including the ranking minority member, the Senator from Wyoming (Mr. HANSEN), and the senior minority Senator from South Carolina (Mr. THURMOND), and the Senator from Vermont (Mr. STAFFORD). In sum, Mr. President, 35 Senators have joined in cosponsoring this measure, which is aimed at fundamentally restructuring our veterans pension program to meet the crisis it currently faces and to accomplish more fully our national objectives of an equitable, workable pension program.

Mr. President, that there is a crisis facing the veterans pension program, is well documented. First, on January 1, 1976, solely as a result of this year's social security increases, 1,327,136 veterans and survivors are scheduled to have their pensions reduced while another 41,840 will lose their eligibility for pensions altogether. More fundamentally, there are hundreds of thousands of veterans and widows who are living in poverty despite receipt of VA pension benefits. The poverty level for a single person is defined as income of less than $2,590 a year. The maximum pension payable to a veteran without dependents, however, is only $1,920 and even less for a widow—$1,296. The poverty level for a couple is presently established at $3,410 annually, yet the maximum pension payment for a veteran with a dependent is $2,064—and $1,536 for a widow with dependents. According to information supplied by the Veterans' Administration, 34.1 percent of all veterans without dependents receiving pensions this year have incomes lower than the poverty level. Almost 49 percent of all widows without dependents have incomes which place them below the poverty level. As to veterans with dependents, 24 percent of those have incomes below poverty level and nearly 56 percent of widows with dependents have incomes including their pensions which still leave them below minimal poverty level standards.

In sum, Mr. President, there are 668,023 veterans and survivors who remain below the poverty level even with receipt of their veterans pension income.

The consequences of such inadequate pensions were revealed starkly in a congressionally-mandated study submitted by the Veterans' Administration to the committee this past July. In a study of the needs of older veterans and widows, the Veterans' Administration found that fully 30 percent of the veterans and nearly 37 percent of the widows interviewed reported they could not afford all the food they need. Twenty-five percent of the veterans and nearly 21 percent of the widows could not afford to pay for all the medical attention they needed. Approximately 36 percent of those interviewed, reported problems concerning adequate housing. Mr. President, it is clear, as the Veterans' Administration itself has acknowledged, that the current pension program in their words, contains "inconsistencies, inequities, and anomalies, which cannot be corrected unless the entire framework of the program is restructed." The bill before you today, is intended to meet these problems head on by restructuring the entire pension system to insure that all veterans and survivors are assured a level of income which places them above the poverty level.

Mr. President, S. 2635, the "Veterans and Survivors Pension Reform Act" as reported, creates a new pension system applicable to all veterans, widows, or dependent parents who, subsequent to October 1, 1976, the effective date of the new program, are or become eligible for a VA non-service-connected pension. This new pension program attempts to restructure the need-based pension program to provide greater assistance to those in need and to remove a number of inconsistencies, anomalies, and problems which prevent the current program from operating in all cases in the equitable manner intended by Congress. It is intended that the new pension system as authorized by the reported bill should:

First, assure a level of income above the minimum subsistence level, allowing veterans and their survivors to live out their lives in dignity;

Second, prevent veterans and widows from having to turn to welfare assistance;

Third, treat similarly circumstanced pensioners equally;

Fourth, provide the greatest pension for those with the greatest needs; and

Fifth, guarantee regular increases in pension which fully account for increases in the cost of living.

Under current law a basic payment rate is set which is reduced by a formula system as outside income increases. Current maximum payments for a veteran without dependents and with no other income is $1,920 a year—$1,296 for a widow. A veteran with a dependent and with no other income is entitled to a maximum yearly payment of $2,064—$1,536 for a comparable widow with dependents.

Rather than the current "rate-decrement income-limitation" structure, the new program adopts a system of establishing a basic minimum level of income for all eligible veterans and dependents, which is $2,700 for all single pensioners and $3,900 for all pensioners with dependents. For pensioners with little or no other income the Veterans' Administration would pay the difference between that income reasonably available to them and the minimum income floor established by Congress.

The new system—unlike the present system—generally contains few income exclusions other than those which represent extraordinary expenses—for example, burial or unusual medical expenses—or which represent one-time payments which replace loss—for example, fire insurance. Generally, each dollar of income available to an individual or couple will be reduced from the congressionally established level of need with the VA paying the difference in monthly assistance checks. For those in need of an "aid and attendance" or "housebound" allowance, a higher level of need is established which reflects the additional support needed—an additional $1,596 a year for those in need of aid and attendance or an additional $636 for those pensioners who are housebound. Unlike current practice, loss of the aid and attendance allowance will thus be "dollared down" gradually rather than lost totally, which is the case today when maximum income limitations are reached by pensioners.

In deserving cases, a limited amount of earned income of the spouse of a veteran in need of aid and attendance or who is permanently housebound is not counted.

Consistent with the objectives and principals of a true need-based pension program, the rates payable to widows are equalized with those for veterans. Currently, widows receive pension at a rate two-thirds of that paid to veterans.

The new pension program provides automatic annual cost-of-living adjustments to the minimum level of income support established by this act. For example, a 10-percent increase in the cost of living would automatically result in a similar increase in pension for single and married pensioners to $2,970 and $4,290, respectively. According to information supplied by the Veterans' Administration, under the new pension program, no veteran or widow receiving cost-of-living increases in social security payments would as a result suffer any reduction in VA pension payments.

Prior to implementation of the new program, all veterans and dependents currently eligible for pension will receive an 8 per centum increase in the rate and a $300 increase in the maximum annual income limitations effective January 1, 1976. After October 1, 1976, all new pensioners must qualify under the new program. Those pensioners on the rolls prior to October 1, 1976, will have the option of switching to the new program or continued coverage under existing pension programs. Those minority of veterans electing to remain under that program originally established by Public Law 86–211, would thereafter annually receive cost-of-living adjustments in their rates and maximum annual income limitations.

A new pension program based on identical principals is established for parents receiving dependent and indemnity compensation.

Current "old law" pensioners—that is, those receiving pension under those provisions in effect prior to enactment of Public Law 86–211—would receive automatic cost-of-living increases in the maximum annual income limitations which is consistent with past congressional practice.

Mr. President, I ask unanimous consent that appropriate excerpts from the committee's report to S. 2635, the "Veterans and Survivors Pension Reform Act" be inserted in the RECORD at this point.

There being no objection, the material was ordered printed in the RECORD as follows:

BACKGROUND AND DISCUSSION

Historical development of veterans pension program

Throughout America's 220-year history wars have claimed the lives of many. Millions have rallied to the aid of their country during times of turmoil. Since the War for Independence, America has remembered these brave citizens who have risked their lives in defense of their country. Pensions to veterans, their wives, and dependents have been one expression of this Nation's gratitude and its sense of obligation.

Veterans whose bravery characterized the fight for independence were the objects of the Nation's first pension bill. In 1818, President Monroe, himself a veteran of the Revolutionary War, signed into law a measure providing benefits to needy veterans who had served 9 months or more during the Revolutionary War period.

The administrations of Presidents Jackson, and Van Buren witnessed extended efforts on behalf of the Revolutionary War patriots. Widow pensions were authorized.

The War of 1812 did not spark the nationalistic fervor produced by the Revolution. Mired in sectional conflict which inhibited the development of national pride, the Nation did not grant pensions to veterans of that conflict until the 1870's when, again, need plus wartime service determined entitlement.

The veterans of the Mexican War also waited for pensions. The sectional ills which plagued this country in the decades following the Mexican War prevented the passage of a comprehensive pension program. But upon a return to "normalcy" the Nation remembered; the 1870's evidenced a pension program instituted designed to help the destitute. And in 1890, Benjamin Harrison signed into law, a measure which extended pension benefits to the needy veterans of the Civil War.

Within 20 years following the Spanish-American War, veterans and surviving spouses were extended pension benefits. Though immersed in World War I, the Nation sought to express gratitude for the service to their country.

World War I resulted in pension measures within a decade. President Hoover recognized the Nation's obligation to the warriors of the trenches and signed into law a bill which provided pensions to veterans of the Great War. Again the determinative factor, after a showing of qualifying service, was need.

In the midst of the depression President Roosevelt requested and received measures which repealed pension legislation for Spanish-American and World War I veterans. To replace these programs, F.D.R. issued 41 Executive orders in the area of veterans' affairs. The New Deal established the mechanisms to relieve those needy veterans whose valiant services had protected this country in time of war.

World War II vets, their widows, and dependents were extended benefits as well. Later, Congress extended pension benefits to Korean war veterans and to needy non-service-connected disabled veterans of the Vietnam era. Thus, after each war, the Nation has remembered its obligation to veterans and dependents in need who have faithfully served their country.

Modern development of non-service-connected pension program

Until 1959, the veterans' pension program consisted of all-or-nothing determination of eligibility. Needless to say, this particular feature of the system resulted in drastic consequences to those whose allowable income increased above the determined eligibility limits. In 1959, the Congress extensively researched the pension system. Their study revealed the continued need for a pension program. It was also apparent that the structure of that program had created inequities. As a result a revision was undertaken which produced the penson structure as we know it.

The Congress decided that the variations in the amounts of pensioner's income required graduation in amounts of pension entitlement. Believing that the pension program should be responsive to the needs of those served, the Congress sought to take steps to correct the inequitable deficiencies inherent in the all or nothing pension structure. For example, the old system failed to correlate the number of dependents for which a veteran was responsible with the amount of pension for which he was eligible.

To rectify the anomalies, Congress attempted to adjust the pension entitlement to correspond with the individual pension recipient's income. A three-tier structure replaced the one-level benefit. In this manner, it was hoped, cognizance could be given to the varying degrees of need characterizing individual recipients.

To protect those pensioners whose pension entitlement might be reduced by the new program, a grandfather clause permitted those on the rolls to continue their eligibility under old law subject, of course, to the requirements of that law.

Thus, enactment of Public Law 86-211 gave credence to the philosophy that a pension ought to be reflective of the needs of individual recipients. The graduated levels of pension eligibility gave expression of Congress' desire that need would be determinative of pension entitlement. As such, Public Law 86–211 was another step toward the creation of a benefit program based upon need.

In 1964, faced with a prospective increase in social security benefits. Congress amended the revised pension law by excluding 10 percent of all payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs in determining the "annual income" of the veteran. Thus, in addition to a general rate increase, the 10-percent exclusion provided for in Public Law 88–664 generally assured that no individual pensioner would be adversely affected because of the contemplated social security increase. At the same time Congress also created another exclusion, and provided that a wife's earned income would not be counted for determining a veteran's outside income and that a wife's unearned income would only be counted in excess of $1,200.

In 1967, Congress provided an average overall cost-of-living pension increase of 5.4 percent in Public Law 90–77. The following year in 1968, in Public Law 90–275, Congress again increased pension rates and also provided for a $200 increase in the maximum annual income limitations to mitigate against prospective pension loss which would result because of the 13-percent increase in social security benefits that year. The same act also replaced the three-level system of pension rates with a multilevel increment spstem. Under the previous three-level system, a slight increase in outside income often could result in a disproportionate decrease in a veteran's pension. The enactment of a 20-plus increment system of $100 graduations was designed to permit a more orderly and gradual reduction in monthly benefits wherever there was an increase in the outside income.

In 1970, in enacting Public Law 91–588. Congress again agreed to reduce projected adverse effects on pensioners because of the 15-percent increase in social security benefits. It raised the current maximum annual income limitations $300 and increased most current law pensions through an increase in the rates payable.

Under earlier pension laws, despite increasing refinements, the structure of the pension system was such that small increases in outside annual income could result in a sharp drop in pension or being dropped from the pension rolls completely. The problem become particularly acute whenever there were increases in social security, other retirement benefits or other countable income under the current pension program. Veterans complained that whatever social security increase Congress gave with one hand it took back in reduced pension with the other. More important, the reduction in a veteran's pension was often greater than the increase in social security benefits producing a loss of aggregate income for the veteran or his survivor. As the foregoing indicates, congressional response to these problems over the years has generally been to adjust pensions and increase the maximum annual income limitations which in effect accomplishes a "pass long" of social security increases or other increases of like amount.

In 1971, in response to social security increases that year, Congress enacted Public Law 92-198 which not only increased the pension rates and the maximum annual income limitations but also adopted a new formula approach to the payment of pensions. Intended to prevent the net loss of aggregate income for any pensioner who continued to qualify for a pension and who received an increase in outside income, the formula specified a maximum monthly rate for each group within designated income categories. Under the formula, each individual's monthly benefit is computed by reducing the maximum rate by a specified number of cents for each dollar by which the maximum income level for that group is exceeded.

Because of 1972 social security increases, approximately 20,000 pensioners consisting of 14,200 veterans and 5,800 survivors were scheduled to be dropped from the pension rolls on January 1, 1973, the effective date of annual revision of entitlement to pension income. Concerned about the effect of social security amendments on pensioners the Committee held hearings on September 12, 1972, to consider legislation which would ameliorate the adverse impact of social security increases on pensioners and to adjust for continuing inflation. Subsequently, the Committee unanimously ordered reported S. 4006 which would have increased maximum annual income limitations by $400—the approximate amount of the average social security increase—and would have increased the base pension rates by about 8 percent.

The measure unanimously passed the Senate in the closing days of the session on October 11, 1972, but the House was unable to consider pension legislation prior to sine die adjournment.

The Committee proceeded to investigate pension restructuring during the 93d Congress and thereafter (see DISCUSSION, *infra*.). Because it lacked sufficient information to proceed, however, interim measures were reported and enacted into law. In particular, S. 275, which was reported and ultimately enacted as Public Law 93-177, provided for a 10-percent increase in the rates effective January 1, 1974. Similarly, the following year Congress enacted S. 4040, the Veterans and Survivors Pension Adjustment Act of 1974 as Public Law 93-527. This provided effective January 1, 1975, an average 12-percent increase in the rates of pension and a $400 increase in the maximum annual income limitations.

The following tables illustrate the historical development of both current law pensions and protected or "old law" pensions for veterans:

TABLE 1.—HISTORICAL DEVELOPMENT OF PROTECTED LAW PENSION FOR VETERANS

Law and effective date	Income limits		Rates of pension					
	Single	With dependent	Single	1 dependent	2 dependents	3 dependents	Aid and attendance	House-bound
WW VA, July 1, 1933	$1,000	$2,500	$30	$30	$30	$30		
Public Law 77-601, June 10, 1942	1,000	2,500	$40	$40	$40	$40		
Public Law 78-313, May 27, 1944	1,000	2,500	$50, age 65 or after 10 yr $60.	$50, age 65 or after 10 yr $60.	$50, age 65 or after $10 yr 60.	$50, age 65 or after 10 yr $60.		
Public Law 79-662, Sept. 1, 1946	1,000	2,500	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.		
Public Law 82-149, Nov. 1, 1951	1,000	2,500	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$120.00	
Public Law 82-356, Public Law 82-357, July 1, 1952.	1,400	2,700	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	129.00	
Public Law 83-698, Oct. 1, 1954	1,400	2,700	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75	135.45	
Public Law 90-77, Oct. 1, 1967	1,400	2,700	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 90-275, Jan. 1, 1969	1,600	2,900	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 91-588, Jan. 1, 1971	1,900	3,200	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 92-198, Jan. 1, 1972	2,200	3,500	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.76.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 93-527, Jan. 1, 1975	2,600	3,900	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100

TABLE 2.—HISTORICAL DEVELOPMENT OF CURRENT LAW PENSION FOR VETERANS

Law and effective date	Income limits		Rates of pension					
	Single	With dependent	Single	1 dependent	2 dependents	3 dependents	Aid and attendance	House-bound
Public Law 86-211, July 1, 1960	$1,800	$3,000	$85 down to $40	$90 down to $45	$95 down to $45	$100 down to $45	$70 added	
Public Law 88-664, Jan. 1, 1965	1,800	3,000	$100 down to $43	$105 down to $48	$110 down to $48	$115 down to $48	$100 added	$35 added.
Public Law 90-77, Oct. 1, 1967	1,800	3,000	$104 down to $45	$109 down to $50	$114 down to $50	$119 down to $50	$100 added	$40 added.
Public Law 90-275, Apr. 1, 1968	2,000	3,200	$110 down to $29	$120 down to $34	$125 down to $34	$130 down to $34	$100 added	$40 added.
Public Law 91-588, Jan. 1, 1971	2,300	3,500	$121 down to $29	$132 down to $34	$137 down to $34	$142 down to $34	$110 added	$44 added.
Public Law 92-198, Jan. 1, 1972	2,600	3,800	$130 down to $22	$140 down to $33	$145 down to $38	$150 down to $43	$110 added	$44 added.
Public Law 93-177, Jan. 1, 1974	2,600	3,800	$143 down to $28	$154 down to $39	$159 down to $44	$164 down to $49	$110 added	$44 added.
Public Law 93-527, Jan. 1, 1975	3,000	4,200	$160 down to $5	$172 down to $14	$177 down to $19	$182 down to $25	$123 added	$49 added.

The following table compares cost-of-living increases in relation to the pension rate increases:

TABLE 3.—PENSION RATES CORRELATED TO COST OF LIVING

Law	Effective date	Monthly rates, veteran and 3 or more dependents, minimal income	Consumer Price Index[1]	Percent of change in monthly pension rate over July 1933 rate	Percent of change in cost of living index over that for July 1933[1]
Veterans Regulations 1(a)	July 1, 1933	$30.00	38.1		
Public Law 601, 77th Cong	June 10, 1942	40.00	48.8	33⅓	28.1
Public Law 313, 78th Cong	May 27, 1944	50.00	52.4	66⅔	37.5
Public Law 662, 79th Cong	Sept. 1, 1946	60.00	60.5	100.0	58.8
Public Law 356, 82d Cong	July 1, 1952	63.00	79.5	110.0	108.7
Public Law 698, 83d Cong	Oct. 1, 1954	66.15	80.4	120.5	111.0
Public Law 86-211	July 1, 1960	100.00	88.7	233.3	132.8
Public Law 88-664	Jan. 1, 1965	115.00	93.6	283.3	145.7
Public Law 90-77	Oct. 1, 1967	119.00	100.7	296.7	164.3
Public Law 90-275	Jan. 1, 1969	130.00	106.4	333.3	179.3
Public Law 91-588	Jan. 1, 1971	142.00	119.1	373.3	212.6
Public Law 92-198	Jan. 1, 1972	150.00	123.1	400.0	223.1
Public Law 93-177	Jan. 1, 1974	164.00	138.5	446.7	263.5
Public Law 93-527	Jan. 1, 1975	182.00	155.4	506.7	307.9

[1] As of January 1971, the CPI has been connected to the new base, 1967=100.

Current pension benefits and characteristics of pensioners

At present, then, under current law a veteran may be eligible for pension benefits if:

First, he served in the armed forces at least 90 days, including at least 1 day of service during wartime;

Second, his income does not exceed the limits specified in the law—currently, $3,000 if the veteran is single and $4,200 if he has a dependent;

Third, he is permanently and totally disabled (for the purposes of the pension law, veterans age 65 or older are totally disabled); and

Fourth, his net worth is not excessive as determined by the Veterans' Administration.

Widows and children of deceased wartime veterans are also eligible for pension benefits if they qualify on the basis of need.

As provided by Public Law 93-527, for an eligible veteran without dependents, the monthly pension rates range from $5 to $160 with a limitation on countable annual income of $3,000. Monthly rates of $14 to $172 are provided for veterans with dependents where the annual countable income does not exceed $4,200. Widows with no children are subject to the same income limitations as veterans alone, although the pension rates vary from $5 to $108. The $4,200 annual income limitation for veterans with dependents also applies to widows with children. The rates for widows with one child range from $49 to $128; the applicable rate is increased by $20 per month for each child in excess of one.

Currently, there are approximately 2 million veterans and widows receiving pension of whom 1,000,963 are veterans and the remainder are their widows. The present cost of the non-service-connected pension program is approximately $2.8 billion a year. The following table shows the distribution of all active compensation, dependency, and indemnity compensation and pension cash as of September 1975:

TABLE 4.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONT H OF SEPTEMBER, 1975

Entitlement	Disability, total cases	Death, total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Total	3, 235, 722	1, 622, 840	2, 218, 466	1, 179, 628	866, 157	172, 681
Service connected	2, 221, 514	368, 676	491, 961	211, 012	108, 268	172, 681
Compensation	2, 221, 514	90, 225	101, 539	206	37	101, 296
Dependency and indemnity compensation		273, 519	380, 004	206, 202	108, 030	65, 772
Dependency and indemnity compensation and compensation		4, 932	10, 418	4, 604	201	5, 613
Non-service-connected	1, 013, 824	1, 254, 135	1, 726, 475	968, 600	757, 875	
Public Law 86-211	911, 448	1, 159, 480	1, 630, 655	875, 239	755, 416	
Prior law	102, 376	94, 655	95, 820	93, 361	2, 459	
Special acts	41	29	30	16	14	
Retired emergency officers	342					
Retired Reserve officers	1					
World War II	1, 888, 830	726, 253	1, 053, 447	433, 324	508, 656	111, 467
Service connected	1, 303, 265	191, 189	222, 256	95, 073	15, 716	111, 467
Compensation	1, 303, 265	71, 767	79, 788	112	16	79, 660
Dependency and indemnity compensation		115, 768	134, 833	91, 499	15, 611	27, 723
Dependency and indemnity compensation and compensation		3, 654	7, 635	3, 462	89	4, 084
Non-Service-connected	585, 565	535, 064	831, 191	338, 251	492, 940	
Public Law 86-211	576, 344	532, 032	827, 959	335, 237	492, 722	
Prior law	9, 221	3, 032	3, 232	3, 014	218	
World War I	419, 194	614, 648	630, 385	602, 722	27, 283	380
Service connected	53, 519	34, 880	35, 496	34, 027	1, 089	380
Compensation	53, 519	186	198	55	1	142
Dependency and indemnity compensation		34, 690	35, 290	33, 968	1, 088	234
Dependency and indemnity compensation and compensation		4	8	4		4
Non-service-connected	365, 332	579, 768	594, 889	568, 695	26, 194	
Public Law 86-211	273, 711	507, 486	521, 873	496, 488	25, 385	
Prior law	91, 621	72, 282	73, 016	72, 207	809	
Special acts	1					
Retired emergency officers	342					
Korean conflict	293, 663	136, 363	287, 116	49, 252	213, 544	24, 320
Service connected	239, 869	39, 381	51, 373	18, 728	8, 325	24, 320
Compensation	239, 869	14, 798	17, 535	14	2	17, 519
Dependency and indemnity compensation		23, 620	31, 777	17, 841	8, 294	5, 642
Dependency and indemnity compensation and compensation		963	2, 061	873	29	1, 159
Non-service-connected	53, 794	96, 982	235, 743	30, 524	205, 219	
Public Law 86-211	52, 779	96, 914	235, 651	30, 458	205, 193	
Prior law	1, 015	68	92	66	26	
Vietnam era	438, 407	72, 344	153, 528	38, 372	93, 135	22, 021
Service connected	430, 561	54, 852	114, 032	30, 861	61, 150	22, 021
Compensation	430, 561	26	38	9	14	15
Dependency and indemnity compensation		54, 802	113, 915	30, 835	61, 100	21, 980
Dependency and indemnity compensation and compensation		24	79	17	36	26
Non-service-connected	7, 846	17, 492	39, 496	7, 511	31, 985	
Public Law 86-211	7, 846	17, 492	39, 496	7, 511	31, 985	
Regular establishment	194, 324	48, 122	68, 547	32, 095	21, 959	14, 493
Service connected	194, 283	48, 110	68, 585	32, 083	21, 959	14, 493
Compensation	194, 283	3, 448	3, 980	16	4	3, 960
Dependency and indemnity compensation		44, 375	63, 920	31, 819	21, 908	10, 193
Dependency and indemnity compensation and compensation		287	635	248	47	340
Special acts	40	12	12	12		
Retired Reserve officers	1					
Spanish-American War	929	24, 078	24, 394	23, 048	1, 346	

TABLE 4.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF SEPTEMBER, 1975—Continued

Entitlement	Disability, total cases	Death, total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Service connected	9	253	258	236	22	
Compensation	9					
Dependence and indemnity compensation		253	258	236	22	
Non-service-connected	920	23, 816	24, 127	22, 809	1, 318	
Public Law 86–211	401	4, 989	51, 00	4, 985	115	
Prior law	519	18, 827	19, 027	17, 824	1, 203	
Special acts		9	9	3	6	
Mexican Boarder Service	375	569	578	562	16	
Service connected	8	2	2	2		
Compensation	8					
Dependency and indemnity compensation		2	2	2		
Non-service-connected	367	567	576	560	16	
Public Law 86–211	367	567	576	560	16	
Indian wars		78	79	64	15	
Service connected		1	1		1	
Dependency and indemnity compensation		1	1		1	
Non-service-connected		76	77	63	14	
Prior law		76	77	63	14	
Special acts		1	1	1		
Civil War		385	392	189	203	
Service-connected		8	8	2	6	
Dependency and indemnity compensation		8	8	2	6	
Non-service-connected		370	376	187	189	
Prior law		370	376	187	189	
Speical acts		7	8		8	

Over 11 percent of veterans and 15⅓ percent of pension widows reported no other outside income other than pension, thus leaving these recipients far below the poverty level. The annual income of pensioners (other than their pensions and excludable income) is shown in the following tables:

TABLE 5.—ALL VETERANS ON PENSION ROLLS, APR. 20, 1975

Annual income not over—	Total	Old law	New law
$100	158, 507	9, 121	149, 386
$200	4, 229	656	3, 573
$300	4, 233	576	3, 657
$400	3, 424	540	2, 884
$500	3, 648	452	3, 196
$600	3, 155	429	2, 726
$700	3, 296	434	2, 862
$800	2, 766	386	2, 380
$900	8, 524	482	8, 042
$1,000	15, 057	795	14, 262
$1,100	37, 638	3, 291	34, 419
$1,200	18, 966	1, 570	17, 396
$1,300	18, 946	1, 627	17, 319
$1,400	21, 777	2, 025	19, 752
$1,500	28, 581	2, 676	25, 905
$1,600	29, 112	2, 754	26, 358
$1,700	33, 439	3, 436	30, 003
$1,800	31, 524	3, 520	28, 004
$1,900	34, 390	4, 183	30, 207
$2,000	33, 722	4, 401	29, 321
$2,100	35, 604	5, 028	30, 576
$2,200	33, 351	4, 672	28, 679
$2,300	37, 995	5, 359	32, 606
$2,400	39, 391	6, 686	32, 705
$2,500	39, 860	4, 621	35, 239
$2,600	42, 534	5, 355	37, 179
$2,700	39, 321	3, 388	35, 933
$2,800	35, 343	2, 803	32, 540
$2,900	26, 312	2, 817	23, 495
$3,000	26, 248	2, 937	23, 311
$3,100	20, 882	2, 867	18, 015
$3,200	18, 504	2, 939	15, 565
$3,300	16, 306	2, 842	13, 464
$3,400	14, 480	2, 898	11, 582
$3,500	13, 942	2, 899	11, 043
$3,600	12, 790	2, 257	10, 533
$3,700	11, 549	1, 972	9, 577
$3,800	12, 621	1, 448	11, 173
$3,900 to $4,200	28, 919	1, 115	27, 804
Total	1, 000, 963	108, 232	892, 731

TABLE 6.—ALL WIDOWS ON PENSION ROLLS, APR. 20, 1975

Annual income not over—	Total	Old law	New law
$100	126, 514	2, 001	124, 513
$200	4, 987	153	4, 834
$300	6, 460	147	6, 313
$400	5, 695	142	5, 553
$500	6, 200	162	6, 038
$600	7, 576	238	7, 338
$700	7, 510	283	7, 227
$800	8, 137	259	7, 878
$900	10, 838	334	10, 504
$1,000	28, 745	1, 133	27, 612
$1,100	53, 584	2, 180	51, 404
$1,200	26, 162	1, 603	24, 559
$1,300	27, 936	1, 943	25, 993
$1,400	31, 472	2, 789	28, 683
$1,500	37, 419	3, 555	33, 864
$1,600	37, 068	3, 734	33, 334
$1,700	38, 291	4, 239	34, 052
$1,800	39, 942	4, 869	35, 072
$1,900	42, 548	5, 652	36, 896
$2,000	45, 682	5, 971	39, 711
$2,100	45, 185	6, 209	38, 976
$2,200	44, 530	8, 713	35, 817
$2,300	40, 565	6, 432	34, 133
$2,400	45, 388	7, 979	37, 409
$2,500	36, 656	3, 783	32, 873
$2,600	38, 456	2, 517	35, 939
$2,700	28, 935	28	28, 367
$2,800	21, 787	41	21, 746
$2,900	11, 822	34	11, 788
$3,000	7, 319	37	7, 282
$3,100	2, 071	30	2, 041
$3,200	1, 191	27	1, 884
$3,300	1, 681	28	1, 653
$3,400	1, 630	17	1, 631
$3,500	1, 595	21	1, 574
$3,600	1, 533	14	1, 519
$3,700	1, 376	24	1, 352
$3,800	2, 721	5	2, 226
$3,900 to $4,200	4, 588	15	4, 573
Total	931, 575	77, 356	854, 219

Consideration of proposals to restructure the non-service-connected pension program in the 93d and 94th Congress

During the 93d Congress, the Committee examined a number of approaches for adjusting the pension system. In testimony before the Subcommittee on Compensation and Pensions on June 18, 1973, representatives of the Veterans' Administration asserted that there were a number of "inconsistencies, inequities, and anomalies in the present pension system." They advocated that there be a thorough examination and complete revision of the system which they believed could be developed quickly, but did not offer any formal draft of legislation to accomplish this.

Subsequent to the hearings of June 18, the Senate and House Committee staff members met with representatives of the administration in an attempt to reduce the suggestions of the testimony to a more concrete form. At the meeting, it was obvious that there was a serious lack of pertinent data required by Congress before it can make any rational determination of any proposed new pension system. In general, this information was not forthcoming during 1973, nor did the Committee receive a formal draft proposal. Accordingly, while agreeing to further investigate the entire pension system, the Committee concluded that action was needed on an immediate cost-of-living measure and introduce legislation (S. 275) to accomplish it.

S. 275 was ultimately enacted as Public Law 93–177 and provided for a 10-percent increase in the rates effective January 1, 1974.

In signing Public Law 93–177, on December 6, 1973, the President stated:

"While this bill is a step in the right direction, more can be done—and should be done. As I mentioned in my message to the Congress on national legislative goals on September 10, 1973, full reform of the Veterans' Administration pension program is necessary. The program is currently fraught with inconsistencies, inequities, and anomalies, which cannot be corrected unless the entire framework of the program is restructured.

"This administration regards the following principles as vital to a realistic and equitable VA pension program:

"VA pensioners should have some regularized way of receiving cost-of-living adjustments in VA pension payments tied to automatic increases now available to social security recipients.

"The VA pension program should be restructured to assure that additional income flows to the neediest pensioners. This objective would involve raising VA payments to those pensioners who receive less total income than adult welfare recipients under recent amendments to the Social Security Act. In addition, a family's total income should be considered in determining the amount of pension needed.

"Veterans and widows should be treated equally with regard to income and pension payments."

In his message on veterans of January 28, 1974, the President repeated the foregoing and stated that he would propose legislation.

On March 15, 1974, the administration submitted a formal draft provision proposal. According to the administration:

The enclosed draft measure would (1) fill the gap between the resources available to a veteran and his dependents and a national minimum standard of need; (2) treat veterans and widows equally with regard to income and benefit amount; (3) eliminate the inequities arising from exclusions of income—consideration of family income as a whole; (4) contain an automatic cost-of-living adjustment working simultaneously with that applicable to social security and eliminate the lag in adjusting pension for increase in income; (5) provide benefits which guarantee a minimum income of $166 per month for a single person and $249 per month for a person with one dependent; and (6) provide a hold-harmless provision to permit present recipients of pension to continue receiving benefits under the present provisions of law with a 4-percent rate increase and thereafter, automatic cost-of-living increases.

On receipt of the administration's formal request, the Committee intensified its efforts to obtain relevant information from the VA with which to assess the full impact of this proposal.

It soon became apparent that the VA lacked basic, timely information in detail. Further, the Veterans' Administration lacked sufficient analytical staffing and did not have an advanced computer model necessary to make an adequate analysis of its own proposal, let alone the possible variations being considered by the Committee. These inadequacies continued throughout 1973 and 1974. A series of six memoranda were exchanged with the VA. Each memorandum occasioned delays by the VA; some information was submitted months beyond the Committee's requested deadlines. From information then currently available to the Committee, it was apparent that the actual proposals made by the VA would be unduly restrictive and unacceptable in operation. Few of the veterans or widows in need of pension could qualify under the new system submitted by the Veterans' Administration. For example, if the proposed pension system had been applied to the present population of veterans and widows receiving VA pensions—which was not the VA proposal—almost two-thirds would have been ineligible for receipt of pension under the new system. Accordingly, it was obvious that variations had to be considered and additional information was necessary before the Committee could proceed with any pension restructuring.

Meanwhile, given the uncertainties and the unanswered questions, the Committee believed that it was necessary to proceed with an interim cost-of-living measure in order to protect VA pensioners from the continued toll of inflation.

Thus, Congress enacted S. 4040, the "Veterans and Survivors Pension Adjustment Act of 1974" as Public Law 93–527. In addition to providing an average 12-percent increase in the rates of pension and a $400 increase in the maximum annual income limitations, Public Law 93–527 also directed the Administrator of Veterans' Affairs to carry out an original study of the needs and problems of veterans and their widows 72 years of age and older. The statute directed the study to include a profile of the current income characteristics of such veterans and their widows describing the proportion and amount of such income from all sources, and the average cost for all necessities such as rent, food, medical care, and other items. The study was also to evaluate the adequacy of the present veterans' pension system and provide actuarial information concerning present expected mortality rates of such pensioners. The study was submitted to the Committee on July 22, 1975.

With each succeeding pension adjustment enacted into law, it has become increasingly clear that the entire pension system needs to be overhauled, if it is to be fully responsive to the needs of our veterans and their survivors. The stopgap approach of responding to social security increases and tinkering with the pension rate decrement system distorts the formula and further prevents it from working properly. Thus, our neediest pensioners are not receiving adequate benefits while at the same time, in some cases, other pensioners are receiving pensions under questionable circumstances. Further, thousands of veterans and widows each year complain bitterly about pension reductions even following congressional action which increases rates and annual income limitations.

Accordingly, staff activity was intensified at the beginning of the 94th Congress to obtain adequate relevant information from the Veterans' Administration in order to restructure the entire program.

Previously, on November 11, 1974, Chairman Hartke sent a detailed letter to Administrator Roudebush noting the many problems the Committee had in obtaining adequate accurate information, and relaying particular concern that an adequate computer simulation model be developed which could predict with great assurance the operation and effect of various alternative pension proposals.

That letter which is reprinted in full in the Agency Reports *infra*, noted problems in obtaining information on timely basis and cited a study by the Congressional Research Service conducted at the Committee's request concluded that chief problems of the Veterans' Administration in responding to Committee inquiries concerning pension restructuring were:

"*Inadequate analytical staff* in the Veterans' Administration devoted to VA pension reform effort (a potentially solvable problem).

"*Inadequate data* (only partly amenable to solution).

"*Competing computer models,* which are by themselves only partially capable of answering Committee concerns.

"*A tangled administrative structure* which now seems incapable of resolving these problems and making timely responses to Committee inquiry."

In Chairman Hartke's letter to Administrator Roudebush, he noted that:

"Each of the foregoing presents serious problems which I believe should be brought to your personal attention. In particular, I want to emphasize my strong belief that a properly functioning computer model with adequate data is absolutely necessary if there is to be a serious consideration of pension restructuring in the near future by the Committee as has been advocated by the administration."

The letter also observed that a principal problem was:

"* * * that the computer model used by the Veterans' Administration fails to age pensioners. As a consequence, the computer model is unable to properly estimate future accessions to any new pension system that may be adopted. Second, it is unable to properly estimate terminations due to death, or excess income for those 'grandfathered' pensioners who would choose to remain under the current pension system. And third, it is unable to provide reasonably accurate estimates of the number of cases switching from the current pension system to any new system that might be enacted."

"This inability to reasonably project the nature and extent of the future caseload, of course, means that it is impossible to estimate cost impact with any degree of accuracy. Also, failure to estimate the impact of the existence of other Federal programs such as Supplemental Security Income will distort the actual net cost of any new veterans legislation to the Federal Government."

In response, Administrator Roudebush indicated that he had instructed the Veterans' Administration to proceed rapidly to the development of a more sophisticated computer simulation model capable of producing information long desired by the Committee. In the interim, additional information for which an advanced computer simulation model was not necessary, was requested and received by the committee staff during the early part of this year. On April 1, 1975, the Administrator informed the Committee that the long-awaited new computer simulation model was operational. The Committee then requested considerable information to be processed by the computer simulation model in a series of memos dated April 11, May 19, June 3, and June 25. Generally, the bulk of the information requested was promptly supplied by the Veterans' Administration with the material requested in the last mentioned memo received by July 15 of this year. Also on July 22, the Veterans' Administration transmitted its Study of the Needs of Older Veterans and Widows as required by section 8 of Public Law 93–527.

VA study of the needs of older veterans and widows

Graphic evidence that the current pension system is not fulfilling its objectives can be found in the recent study of the needs of older veterans and widows recently completed by the Veterans' Administration.

In considering pension legislation last fall, the Committee indicated that it continued to receive complaints from elderly pensioners, particularly World War I veterans and their survivors about the inadequacy of the VA pension system. In addition to the Committee's difficulties in assessing various pension proposals as previously outlined, the Committee was hampered by the fact that the Veterans' Administration does not regularly collect annual income data about pensioners over the ages of 72. Consequently, section 8 of S. 4040, which was later enacted as Public Law 93–527 provided:

> The Administrator of Veterans' Affairs shall carry out an original study of the needs and problems of veterans and their widows seventy-two years of age or older. The study shall include (1) a profile of the current income characteristics of such veterans and their widows, describing the proportion and amount of such income from all sources and the average necessary for all necessities such as rent, food, medical care, and other items; (2) an evaluation of the adequacy of the present veterans pension system to meet the needs of such veterans and their widows; and (3) actuarial information concerning the present expected mortality rates of such veterans and their widows.

The law further directed a report of the results be furnished the President and the Congress together with any recommendations for legislative or administrative action to improve the present program of pension benefits for such veterans and widows.

The required study was transmitted to the Committee by Administrator Roudebush on July 22, 1975 (Senate Committee Print No. 16, 94th Cong. 1st Sess.).

An examination of that study's protocol and procedures reveal them to be competent and well done. The actual survey was conducted with professionalism and a sensitivity that is too often rare today. The raw data produced by the study has been of great value to the Committee. This data revealed for example that large numbers of veterans and widows had incomes below the poverty level. Thirty percent of the veterans and nearly 37 percent of the widows interviewed reported they could not afford all the food they need (table 28). And 25.1 percent of the veterans and 20.9 percent of the widows cannot afford to pay for all the medical attention they need (table 30). Nearly 36 percent reported problems concerning adequate housing (table 29).

INADEQUACIES OF THE CURRENT PENSION SYSTEM

Structural problems and inflation

A close examination of the data received by the Committee in the past 2 years, the VA's own recent study of the needs of older veterans, and continued exposure of anomalies and inequities inherent in the present pension program all combine to argue for fundamental restructuring now.

At the same time, it should be acknowledged that the present pension program has not served us badly over the years. The difficulties experienced today are often the result of circumstances outside the initial basic design of the program itself. In large part, the present pension program has been a progressive one which has in the main aided those needy veterans and survivors for which it was designed. Increasing legislative refinements in recent years, as previously discussed, have mitigated many problems which developed or became apparent during the operation of the program. But, when the current pension program was first enacted into law in 1959, it was impossible to gauge the very rapid increases in the Consumer Price Index and substandard increases in social security payments which would occur in the succeeding years. These changes which have distorted the basic formula system and together with various statutory income exclusions have produced today's very evident inequities.

Similarly-circumstanced pensioners, with identical outside incomes but from different sources, can receive radically different pensions. And although the number of cases are not excessive, VA testimony about veterans receiving pensions, even where their spouses have incomes in excess of $20,000 a year, strikes heavily at the principle of a need-based pension program and, at best, is an unwise allocation of available tax dollars under the pension program.

The following table supplied by the Veterans' Administration last year revealed the following distribution of reportable income:

TABLE 7.—REPORTABLE INCOME—CURRENT PENSION PROGRAM

[Figures based on 1973 expected income data]

Veterans with dependents—Total on VA rolls: 584,389

Veterans with dependents with gross income over limitations:

Income increment		Cases
$3,800 to $4,000	153,392 cases with income between $3,800 and $5,000	26,416
$4,000 to $4,500		58,983
$4,500 to $5,000		47,993
$5,000 to $5,500	101,833 cases with income between $5,000 and $10,000	34,684
$5,500 to $6,000		22,585
$6,000 to $6,500		8,066
$6,500 to $7,000		7,058
$7,000 to $7,500		7,058
$7,500 to $8,000		5,646
$8,000 to $8,500		5,545
$8,500 to $9,000		3,428
$9,000 to $9,500		3,831
$9,500 to $10,000		3,932
Over $10,000		15,225
Total		250,450

Gross amounts of annuities and spouses' income are included.
Childrens' income, if any, not included.

Continued tinkering with the current formula system with periodic enactment of pension adjustment laws has not resulted in proportional increases which accurately reflect the varying needs of veterans and widows. That is, larger increases have gone to less needy pensioners while the neediest have received smaller increases which continue to leave them substantially below acknowledged poverty levels. Further, the formal rate system is presently structured so that the same or nearly the same amount of pension is paid to veterans and widows at the lower end of the economic scale, even though their actual incomes may vary substantially. For example, the rate structure for a widow with a dependent and no income provides a pension of $128 a month, identical to the rate payable to one who has $700 of unearned income. And, the formula rate structure pays only $3 a month more to such a widow than to one with $1,000 of nonpension income.

These problems inherent in the rate system intensify with continuing changes in the Consumer Price Index and resulting periodic rate adjustments. This in turn makes it increasingly difficult to meet fully the objectives of an equitable need-based pension program by simply adjusting the current formula system.

The Veterans' Administration acknowledged this in 1974 in an appearance before the Senate Committee, when it testified that the VA opposed pending rate adjustment legislation because—

"The people who would get the greatest benefit of a cost-of-living increase, would be people at the upper end of the scale, because it is a flat percentage. On the other hand, the people on the lower end of the scale, would remain in a relatively poor position."

The Veterans' Administration further added—

"An untoward amount of dollars available are devoted to providing pension benefits to those beneficaries who are at the top limits of the income scale. Thus, the basic philosophy of providing a proportionate measure of assistance to those who need it has been distorted."

The immediate need to restructure the pension system now to eliminate the inconsistencies, inequities, and anomalies and to provide a truly equitable need-based pension program is further underscored by the projected large increases in potential pensioners in the near future. The number of veterans 65 years and older will more than triple by 1990 to almost 8 million. The average World War II veterans is 54.4 years old. According to the VA projections there will be 9,255,000 World War II veterans in 1990 of whom some 7.5 million will be 65 or over. That means that out of every 10 World War II veterans alive today, 6 will be living in 1990 and 85 percent of these will be at least 65 years of age and potentially eligible for veterans pension.

The aging veteran population now comprises approximately 27 percent of our Nation's total male popuulation age 65 or older. By 1985, this is expected to rise to 60 percent and by 1995, 75 percent. The following table shows the distribution of estimated age of veterans and civilian life by period of service:

TABLE 8.—ESTIMATED AGE OF VETERANS IN CIVIL LIFE JUNE 30, 1975

[In thousands]

Age	Total veterans	War Veterans							Service between Korean conflict and Vietnam era only [5]
		Total [1]	Vietnam era [2]		Korean conflict		World War II [4]	World War I	
			Total [3]	No service in Korean conflict	Total [3] [4]	No service in World War II			
All ages	[6] 29,459.0	[6] 29,367.0	7,597.0	7,094.0	5,973.0	4,723	13,586.0	963.0	3,092.0
Under 20 yr	57.0	57.0	57.0	57.0					
20 to 24 yr	1,013.0	1,013.0	1,013.0	1,013.0					
25 to 29 yr	3,522.0	3,503.0	3,503.0	3,503.0					19.0
30 to 34 yr	2,928.0	2,137.0	2,137.0	2,137.0					791.0
35 to 39 yr	2,301.0	633.0	360.0	339.0	294.0	294			1,668.0
40 to 44 yr	3,115.0	2,543.0	181.0	33.0	2,510.0	2,505	5.0		572.0
45 to 49 yr	3,994.0	3,958.0	169.0	8.0	2,158.0	1,789	2,161.0		36.0
50 to 54 yr	4,899.0	4,893.0	96.0	3.0	545.0	106	4,784.0		6.0
55 to 59 yr	3,676.0	3,676.0	57.0	1.0	289.0	21	3,654.0		
60 to 64 yr	1,752.0	1,752.0	20.0	(7)	115.0	8	1,744.0		
65 to 69 yr	887.0	887.0	4.0	(7)	43.0	(7)	887.0		
70 to 74 yr	260.0	260.0	(7)	(7)	14.0	(7)	253.0	7.0	
75 to 79 yr	516.0	516.0			4.0		87.0	429.0	
80 to 84 yr	434.0	434.0			1.0		9.0	425.0	
85 yr and over	[6] 105.0	[6] 105.0			(7)		2.0	102.0	
Average age [8]	45.9	47.0	29.6	28.3	45.8	43.9	55.4	80.3	36.7

[1] Veterans who served in both World War II and the Korean conflict, and in both the Korean conflict and the Vietnam era are counted once.

[2] Service between Aug. 4, 1964 and May 8, 1975.

[3] Includes 503,000 veterans who served in both the Korean conflict and the Vietnam era.

[4] Includes 1,250,000 veterans who served in both World War II and the Korean conflict.

[5] Former members of the Armed Forces whose only service was on actice duty between Jan. 31, 1955 and Aug. 5, 1964.

[6] Includes 1,000 Spanish-American War veterans, average age 95.5 yr.

[7] Less than 0.5 (thousand).

[8] Computed from single-year of age data.

Veterans and widows pensioners below poverty level

The Committee was shocked to discover that substantial numbers of veterans and surviving spouses have incomes below the poverty level despite receipt of VA pensions. In fact, 34.13 percent of single veterans in receipt of pensions had incomes lower than the poverty level of $2,590. Further, close to half of all "pension widows" in receipt of pension were below the poverty level. Additionally, the median income for pension widows with one dependent was below the poverty level of $3,410 (poverty level for a family of two). The following tables graphically illustrate the income levels of pension recipients. The poverty level for a single person is $2,590; for a couple, $3,410. Maximum pension for a veteran is $1,920; a widow, $1,296; and veteran and spouse, $2,064; and a widow and dependents, $1,536.

TABLE 9.—*Pensioner's available income—Veteran—No dependent*

POVERTY LEVEL

Total income:	*Veterans*
$1,920	82, 756
$2,020	3, 004
$2,120	1, 960
$2,220	1, 976
$2,284	1, 263
$2,348	1, 222
$2,400	1, 125
$2,452	1, 383
$2,504	1, 047
$2,556	4, 760
$2,596	9, 231
$2,746	19, 550
$2,796	9, 694
$2,846	9, 652
$2,896	10, 656
$2,946	13, 342
$2,984	13, 275
$3,022	14, 498
$3,060	12, 628
$3,098	12, 924
$3,124	11, 924
$3,150	11, 816
$3,176	10, 361
$3,202	11, 282
$3,216	10, 815
$3,230	11, 466
$3,244	13, 155
$3,258	9, 857
$3,272	7, 903
$3,286	3, 695
$3,360	2, 888

TABLE 10.—PENSIONER'S AVAILABLE INCOME—VETERAN—1 DEPENDENT

Total income:	*Veterans*
$2,064	61, 662
$2,164	1, 964
$2,264	1, 613
$2,364	1, 681
$2,465	1, 621
$2,565	1, 974
$2,640	1, 601
$2,716	1, 479
$2,780	1, 333
$2,844	3, 282
$2,908	5, 031
$3,082	14, 869
$3,156	7, 702
$3,230	7, 667
$3,304	9, 096
$3,378	12, 563
POVERTY LEVEL	
$3,452	13, 083
$3,526	15, 505
$3,600	15, 376
$3,662	17, 283
$3,724	17, 397
$3,786	18, 760
$3,848	18, 318
$3,910	21, 324
$3,972	21, 890
$4,034	23, 773
$4,096	24, 024
$4,158	26, 076
$4,220	24, 632
$4,282	19, 800
$4,344	20, 423
$4,394	18, 015
$4,444	15, 565
$4,494	13, 464
$4,544	11, 582
$4,594	11, 043
$4,632	10, 533
$4,670	9, 577
$4,708	11, 173
$4,734	27,804
$4,760	
$4,774	
$4,788	

TABLE II.—*Pensioner's available income—Widow—No dependent*

Total income:	*Widows*
$1,296	109, 336
$1,396	5, 332
$1,496	4, 381
$1,596	5, 456
$1,684	3, 937
$1,772	4, 194
$1,860	4, 607
$1,924	4, 729
$1,988	4, 393
$2,052	6, 921
$2,104	23, 409
$2,266	47, 455
$2,328	19, 989
$2,390	21, 165
$2,452	24, 118
$2,514	28, 328
$2,576	27, 496
POVERTY LEVEL	
$2,638	29, 085
$2,700	29, 117
$2,762	30, 308
$2,824	31, 246
$2,886	30, 864
$2,936	30, 467
$2,986	29, 346
$3,036	33, 396
$3,086	29, 600
$3,136	33, 027
$3,186	25, 793
$3,236	19, 375
$3,286	9, 580
$3,360	4, 960

TABLE 12.—*Pensioner's available income—widow—one dependent*

Total income:	Widows
$1,536	9, 373
$1,636	472
$1,736	453
$1,836	857
$1,936	1, 616
$2,036	1, 844
$2,136	2, 731
$2,236	2, 498
$2,324	3, 485
$2,412	3, 583
$2,500	4, 203
$2,698	3, 949
$2,784	4, 570
$2,870	4, 828
$2,956	4, 565
$3,042	5, 536
$3,129	5, 838
$3,214	4, 967
$3,300	5, 956
$3,386	6, 588
POVERTY LEVEL	
$3,472	8, 465
$3,558	8, 112
$3,632	5, 350
$3,706	4, 769
$3,780	4, 013
$3,854	3, 273
$3,928	2, 912
$4,002	2, 574
$4,076	2, 371
$4,150	2, 208
$4,224	2, 322
$4,286	2, 041
$4,348	1, 884
$4,410	1, 653
$4,472	1, 613
$4,534	1, 574
$4,596	1, 519
$4,658	1, 352
$4,768	2, 266
$4,878	4,573
$4,988	
$5,098	
$5,208	

The tragedy of large numbers of pensioners forced to live below the poverty level is best understood when the significance of the poverty level threshold is understood and the statistics for pensioners are compared with the population as a whole.

An examination of the current pension system within the context of "poverty levels", demonstrates that within the statistical framework many recipients of veterans pensions are unable to assume a standard of living sufficient to supply the bare necessities. For instance, of the single veterans in receipt of pension, 34.13 percent had incomes insufficient to remove them from categorization of "below the poverty level." Further, 25.7 percent of pension veterans without dependents had a total income comprised solely of veterans' pension; an income less than three-fourths that of the poverty threshold of $2,590.

While close to 11 percent of veterans with a dependent relied upon the veterans pension as their sole source of income, more than 135,000 veterans with dependents (or 24 percent of veterans with dependents) had incomes, including their pension, which was insufficient to elevate the couple from the ranks of the "economically disadvantaged." Additionally, although the current pension system is benignly regarded as a need-based system, 34.1 percent of the veteran recipients were below the poverty level as compared to a national average of 26 percent. These figures indicate that the pension system does not afford a veteran the opportunity to live his life out in dignity. Perhaps the most devastating attribute of the current pension structure can be noted when a veteran is in receipt of the maximum entitlement allowed. A veteran with a dependent receiving the maximum entitlement of $2,064 a year is in the bottom 3 percent of all families with regard to total income. Discouragingly, close to 62,000 veterans with dependents (or 11 percent of the veteran with dependents category) are recipients of only $2,064 a year.

The median income for an American family (including husband and wife) is $12,836 as shown by the following table:

TABLE 13.—NUMBER OF FAMILIES AND UNRELATED INDIVIDUALS BY TOTAL MONEY INCOME IN 1974

[Families and unrelated individuals as of March 1975]

Total money income	Number of— Families	Number of— Unrelated individuals
Total	55, 712, 000	18, 872, 000
Under $1,000	701, 000	1, 189, 000
$1,000 to $1,999	766, 000	2, 171, 000
$2,000 to $2,999	1, 489, 000	3, 231, 000
$3,000 to $3,999	2, 040, 000	2, 175, 000
$4,000 to $4,999	2, 305, 000	1, 526, 000
$5,000 to $5,999	2, 475, 000	1, 375, 000
$6,000 to $6,999	2, 478, 000	1, 202, 000
$7,000 to $7,999	2, 501, 000	1, 025, 000
$8,000 to $9,999	5, 203, 000	1, 613, 000
$10,000 to $11,999	5, 702, 000	1, 185, 000
$12,000 to $14,999	7, 879, 000	1, 047, 000
$15,000 to $19,999	10, 032, 000	923, 000
$20,000 to $24,999	5, 755, 000	
$25,000 and over	6, 384, 000	209, 000
Median income	12, 836	4, 439

The table reveals that the number of families below the poverty level set for a couple ($3,410) is approximately 3,058,000 or 5.4 percent of all families in America. Presently one quarter of pension veterans with dependents are below the poverty level; an income which causes them to rank with the lowest 5 percent of families in the population as a whole. For single unrelated individuals, the results are as startling when one considers that veterans pensions are termed need-based and are regarded as a "preferred" income maintenance mechanism. Whereas, the single veteran pensioner's median income is approximately $2,900 the national median for unrelated individuals is $4,439 or 150 percent greater.

As indicated previously, 64.5 percent of all pension widows are 65 years and older. The 48.52 percent poverty level rate for pension widows compares unfavorably with the 18.3 percent for females 65 years old and older generally. The following table demonstrates income breakdown by age and sex. Note that the below poverty level rate for men 65 years and older is only 11.8 percent—less than one-quarter the rate of "poverty pension widows".

TABLE 14. AGE—PERSONS BY LOW-INCOME STATUS IN 1974, RACE, AND SEX

[Numbers in thousands, Persons as of March 1975]

Age	All races			White [1]			Negro [1]		
		Below low-income level			Below low-income level			Below low-income level	
	Total	Number	Percent of total	Total	Number	Percent of total	Total	Number	Percent of total
BOTH SEXES									
Total	209, 343	24, 260	11. 6	182, 355	16, 310	8. 9	23, 705	7, 456	31. 5
Under 3 yr	9, 159	1, 593	17. 4	7, 624	1, 020	13. 4	1, 364	544	39. 9
3 to 5 yr	10, 293	1, 701	16. 5	8, 575	1, 061	12. 4	1, 533	604	39. 4
6 to 13 yr	29, 944	4, 834	16. 1	25, 189	2, 921	11. 6	4, 251	1, 817	42. 8
14 and 15 yr	8, 434	1, 192	14. 1	7, 142	707	9. 9	1, 164	461	39. 6
16 to 21 yr	23, 944	2, 953	12. 3	20, 512	1, 822,	8. 9	3, 079	1, 069	34. 7
22 to 44 yr	63, 371	5, 192	8. 2	55, 439	3, 640	6. 6	6, 687	1, 409	21. 1
45 to 54 yr	23, 586	1, 645	7. 0	21, 045	1, 102	5. 2	2, 218	506	22. 8
55 to 59 yr	10, 362	925	8. 9	9, 380	704	7. 5	866	203	23. 5
60 to 64 yr	9, 124	917	10. 1	8, 243	692	8. 4	819	217	26. 5
65 yr and over	21, 127	3, 308	15. 7	19, 206	2, 642	13. 8	1, 722	626	36. 4
5 to 17 yr, total	49, 947	7, 656	15. 3	42, 115	4, 585	10. 9	7, 026	2, 927	41. 7
Related children 5 to 17 yr	49, 798	7, 524	15. 1	41, 998	4, 482	10. 7	6, 998	2, 901	41. 5
MALE									
16 yr and over	72, 061	5, 571	7. 7	64, 015	4, 016	6. 3	6, 926	1, 390	20. 1
16 to 21 yr	11, 821	1, 336	11. 3	10, 193	801	7. 9	1, 448	496	34. 3
22 to 44 yr	30, 971	1, 893	6. 1	27, 410	1, 449	5. 3	2, 966	370	12. 5
45 to 54 yr	11, 366	616	5. 4	10, 194	434	4. 3	1, 017	165	16. 2
55 to 59 yr	4, 931	343	7. 0	4, 477	267	6. 0	388	70	18. 0
60 to 64 yr	4, 250	350	8. 2	3, 848	268	7. 0	379	80	21. 1
65 yr and over	8, 722	1, 033	11. 8	7, 893	797	10. 1	728	209	28. 7
FEMALE									
16 yr and over	79, 452	9, 371	11. 8	69, 812	6, 583	9. 4	8, 466	2, 640	31. 2
16 to 21 yr	12, 123	1, 619	13. 4	10, 319	1, 020	9. 9	1, 630	573	35. 2
22 to 44 yr	32, 400	3, 300	10. 2	28, 030	2, 190	7. 8	3, 722	1, 039	27. 9
45 to 54 yr	12, 220	1, 029	8. 4	10, 851	668	6. 2	1, 201	341	28. 4
55 to 59 yr	5, 431	582	10. 7	4, 903	436	8. 9	479	134	28. 0
60 to 64 yr	4, 874	566	11. 6	4, 396	424	9. 6	439	136	31. 0
65 yr and over	12, 404	2, 275	18. 3	11, 313	1, 845	16. 3	995	417	41. 9

[1] The data on persons by race differ from those shown in other tables where persons are classified by race of the family head.

Presently widows of veterans are entitled to a maximum pension of $1,296 a year ($108 a month), just about half the poverty level. For 109,336 pension widows the $1,296, which equals 40 cents a meal totaled their entire income. Hence, fully 15.36 percent of pension widows with no dependents received the maximum entitlement, and, yet, were fully 50 percent below the poverty level. This meager subsistence level places a female whose sole source of income is the $1,296 VA pension in the lowest 9 percent of all unrelated individuals in income received. But another way, fully 91 percent of unrelated individuals in America have more income than the widow whose sole source of income is the maximum veteran pension entitlement despite the widow's eligibility for pensions as a result of her husband having served his country in time of war. Further, from 1974 to 1975, the number of widows whose sole income was the $1,296 widows pension, rose 1.8 percent. It is difficult to assess a pension system as a "preferred" one wherein recipients are left at the very bottom of the economic totem pole.

Thus, not only does the present maximum entitlement fail to accord recipients a standard of living sufficient to supply necessities, but also falters when viewed in comparison to the population as a whole.

To further understand the Committee's dismay with the inability of the current pension system to assure a life of dignity for its recipients, a cursory look at the poverty level is required. It must be understood that the poverty level is not the only level by which living standards are measured. Neither is the assurance of a life style above the poverty level one which permits a recipient a life relieved of economic woes. In evaluating the needs of aged pensioners, consideration should be given to the Bureau of Labor Statistics release of August 1, 1975, on "Three Budgets for a Retired Couple, Autumn 1974." According to the news release, in the Fall of 1974, the estimated U.S. average annual cost of the budget for an urban retired couple, excluding personal income taxes, amounted to approximately $4,228 at the lower level, and $6,041 and $8,969 at the intermediate and higher levels. The budget costs were based on three hypothetical lists of goods and services specified in the mid-1960's to portray the three standards of living. Since the Fall 1974 updating, the costs of goods and services have advanced about 8 percent. The Committee is aware that life at poverty level is far below the standards to which the average American is accustomed. The Committee recognizes that assuring a standard of living above the poverty level is, at best, a modest goal.

Poverty level income, quite simply, is the maximum annual income a family of a given size can receive and still be considered economically disadvantaged. The amount of family or individual income is used to determine whether or not a person is poor.

Present poverty thresholds emanate from definitions developed by the Social Security Administration in 1964 and modified by the Federal Interagency Committee in 1969. The Social Security Administration utilized the "economy" food plan developed by the Department of Agriculture around 1964. Various food plans have been prepared by the Department of Agriculture for more than 40 years. The purpose of the food plans was to provide guides for estimating costs of needed food for families of varying sizes. As noted by Mollie Orshansky in her 1965 article on "Counting the Poor";

"The plans represent a translation of the criteria of nutritional adequacy set forth by the National Research Council into quantities and types of food compatible with the preference of U.S. families, as revealed in food consumption studies. Plans are developed at varying levels of cost to suit the needs of families with different amounts to spend.

An economy food plan was developed in 1964 which cost 74 percent to 80 percent of the "low cost" food plan. The "low cost" plan had served as the basis for determination by welfare agencies of eligibility for food allotments for a number of years. The economy plan was recommended for *"temporary or emergency use when funds are low" only.*

The next step in determining poverty levels involved translating food costs into total income requirements. Statistics indicate that the proportion of income allocated to necessities and in particular, food, is a viable indicator of economic well-being. The greater the proportion of income spent on food, the more likely the person purchasing was financially hard pressed. As a result of an Agricultural Department evaluation of family food consumption and dietary adequacy in 1955, a relationship was established between the minimum cost of food and the total income (post taxes) needed by an individual, couple, or family. The 1955 evaluation revealed that the average expenditure for families of two or more was approximately one-third of post tax income. Thus, the basis for defining poverty was developed.

In 1965, it was estimated that an average family of 4 would have to live on a budget of 70 cents a meal per person for food. The present poverty level of $2,590 for a single person, assuming that one-third of the person's income is spent on food, permits an expenditure of 79.9 cents per meal for a single individual. Again it should be emphasized that the poverty threshold used a diet recommended for *"temporary or emergency use"* as the basis of poverty determination.

From 1964 to 1969, the poverty threshold figures adopted in 1964 were adjusted to reflect the changes in the cost of food included within the economy food packet. In 1969, the Interagency Committee suggested that, inasmuch as the pace of the cost of living was not adequately reflected by increases in the price of foods, a better adjustment gauge should be utilized. In its stead, the Consumer Price Index (CPI) was inserted. The following table compares CPI increases with food price increases. Note particularly that since the standard was changed in 1969 that in 2 of the 4 years charted, food prices had *greater* increases than the CPI including a dramatic difference in 1972–73. This variance in CPI and food prices has continued to date and causes the Committee to question the validity of a food-based poverty threshold.

TABLE 15.—AVERAGE ANNUAL PERCENT CHANGE IN THE COST OF THE ECONOMY FOOD PLAN AND IN THE CONSUMER PRICE INDEX (ALL ITEMS AND FOOD): 1959 TO 1973

Year	Economy food plan	Consumer Price Index	
		All items	Food
1959–60	2.2	1.6	1.0
1960–61	−2.2	1.0	1.3
1961–62	0	1.1	.9
1962–63	2.2	1.2	1.4
1963–64	0	1.3	1.3
1964–65	2.2	1.7	2.2
1965–66	4.2	2.9	5.0
1966–67	0	2.9	.9
1967–68	NA	4.2	3.6
1968–69	NA	5.4	5.1
1959–70	NA	5.9	5.5
1970–71	NA	4.3	3.0
1971–72	NA	3.3	4.3
1972–73	NA	6.2	14.5

NA—Comparable data not available.
Source: Economic Report of the President, February 1974, and U S. Department of Agriculture.

Each year new guidelines are established which determine those who are "economically disadvantaged". The figures released in April 1975 for use for the next year are shown by the following table:

TABLE 16.—ECONOMICALLY DISADVANTAGED—CONTINENTAL U.S.

Family size	Apr. 30, 1975, United States		May 1974, United States	
	Nonfarm	Farm	Nonfarm	Farm
1	$2,590	$2,200	$2,330	$1,980
2	3,410	2,900	3,070	2,610
3	4,230	3,600	3,810	3,240
4	5,050	4,300	4,550	3,870
5	5,870	5,000	5,290	4,500
6	6,690	5,700	6,030	5,130

It should be remembered that the low-income concept was developed to identify in dollar terms, a minimum level of income adequacy for families of different types in keeping with American consumption patterns. Insofar as individual circumstances vary, the needs do also. Note in the above chart that the money income required by an individual family to eat within the nutritional standards imposed by the "economy" food plan is classified by family number only. Thus, an individual with disabilities would, in all likelihood, be more "needy" as a function of the costs normally attributed to disability. Additionally, inasmuch as the poverty threshold is determined as a function of food budget outlays designed by the Agricultural Department, substantive evaluation should be considered. For instance, the U.S. Department of Agriculture in *Family Food Plans and Food Costs* noted that:

> All the plans, if strictly followed, can provide an acceptable and adequate diet, but generally speaking—the lower the level of cost, the more restricted the kinds and qualities of food must be and the more the skill in marketing and food preparation that is required.

Therefore, when involved with the disabled and elderly, such as those who are recipients of veterans' pension, one must be aware of the poverty threshold limitations.

The result of a low income diet is predictable. Mollie Orshansky in her article alluded to *supra* wrote:

> There is some evidence that families with very low income, particularly large families, cut their food bills below the economy plan level—a level at which a nutritionally good diet, though possible, is hard to achieve. *Indeed, a study of beneficiaries of old-age, survivors, and disability insurance—limited to 1- or 2-person families—found that only about 10 percent of those spending less than the low-cost plan (priced about a third higher than the economy plan) had meals furnishing the full recommended amounts of essential nutrients.* Not more than 40 percent had even as much as two-thirds the amounts recommended. Only when food expenditures were as high as those in the low-cost plan, or better, did 90 percent of the diets include two-thirds of the recommended allowance of the nutrients, and 60 percent meet them in full. Few housewives with greater resources—incomes and other—than most poor families have at their disposal could do better. Many might not do as well. (emphasis ours)

Accepting the poverty level with its drawbacks has, at least, enabled determination of what income is 'too little". Matching one's income against the poverty guidelines for that individual's particular situation enables categorization of economically disadvantaged or poor. Programs, especially need-based programs, can then be devised that will benefit recipients identifiable by the cognizable standards. In this manner, programs can be examined to determine whether qualification for benefits did, in fact, enable a recipient to assume a standard of living sufficient to supply the bare necessities.

Thus the poverty threshold is a minimum administrative standard. Premised upon the cost of food and the relationship of food to overall cost of living, it should be no more than lowest tolerated level. Thus the Committee believes that the reported bill's intent of enabling each pensioner to have an income above the poverty level is a considerably modest one. To assure a standard of living above the poverty level is a small step toward assuring that veterans and their dependents can live their lives out in dignity.

Scheduled Pension Reductions on January 1, 1976

With problems of this magnitude continuing to affect large numbers of veterans and widows, and an existing pension program which is incapable of responding to their needs, the necessity of promptly developing a new pension system should be evident to all.

This urgency is compounded further by a prospective pension reduction facing a majority of our veterans and widows.

Most pensioners are elderly—and the most common source of income available to them is social security. The average social security payment now received by veteran pensioners is reported as $187 monthly. The figure for widows was placed at $157 monthly. The following table shows the number of non-service-connected pensioners receiving OASI benefits broken down by age grouping and average benefit:

TABLE 17.—NON-SERVICE-CONNECTED PENSIONERS WITH OLD AGE SURVIVORS INSURANCE

Veterans	Number with OASI [1]	Total caseload	Present with OASI [1]	Average OASI [1]
Less than 65	275, 700	448, 800	61.4	$2, 447
65 to 69	106, 300	113, 100	94.0	2, 103
70 to 74	54, 600	58, 600	93.1	2, 012
75 to 79	181, 600	200, 700	95.5	2, 191
80 and over	165, 600	196, 700	84.2	2, 061
Total veterans	783, 800	1, 017, 900	77.0	2, 229
Survivors	945, 700	1, 250, 990	75.6	1, 883

[1] Source: 1 percent sample of AIQ's; March 1975.

Note: No age breakout is available for survivors.

Solely because of the 8 percent cost-of-living increases in social security benefits this year, on January 1, 1976, 1,327,176 veterans and widows, or approximately 53.1 percent of all pensioners, are scheduled to sustain annual pension reductions averaging $98. Another 41,845 veterans and widows will be dropped from the pension rolls altogether. The number reduced or terminated by category and the average annual reduction in pension is shown in the following table:

TABLE 18.—ESTIMATED EFFECTS OF 8 PERCENT OASI INCREASE AS OF JAN. 1, 1976 (NEW LAW ONLY)

	Number reduced pension	Average annual reduction	Number termination
With no change in law:			
Veteran alone	225, 567	$117	6, 602
Veteran with dependent	467, 339	123	17, 805
Widow alone	526, 391	79	16, 748
Widow with dependent	107, 879	44	690
Total	1, 327, 176	98	41, 845

Note: Data supplied by Veterans' Administration.

In addition, it is estimated that if there is no change in annual income limitations, another 12,000 pensioners under the old law provision program will be ineligible for that program.

As thousands upon thousands of letters addressed to Congress each year reveal, veterans and widows have difficulty understanding the logic of Government programs which appear to give with the one hand and take away with the other. Of course, any need-based income maintenance program can properly take into account the amount of other annual income available to a veteran or his survivor. But if a significant portion of those pension recipients *remain below the poverty level* and if they are unable to live out their lives in dignity, then giving with one hand and taking away with the other as to those veterans and widows, is not only illogical but it is also inherently self-defeating as well. The Committee believes veterans and widows should receive the full measure of increases which reflect changes in the Consumer Price Index.

DEVELOPMENT OF THE VETERANS AND SURVIVORS PENSION REFORM ACT

General objectives

Given the foregoing, what principles should govern the development of a new pension system? At its core, the Committee is convinced an income maintenance program taking a significant share of available tax resources should be need-based. This has been a principle which, if not always honored in practice, has been the keystone of pension programs for a considerable period of time. When H.R. 7650—ultimately enacted as Public Law 86-211—the basis for our current law pension program, was reported by the House Committee on Veterans' Affairs in 1959, they noted:

> The committee in reporting this legislation declares that the program of non-service-connected pension for World War I, World War II, and the Korean conflict is designed basically to furnish financial assistance when needed to non-service-connected disabled veterans who have served their country honorably in time of war, and because of non-service-connected disability are unable to follow a substantially gainful occupation; further that the assistance should be measured according to need.

It will thus be noted that the provision of disability and need has been paramount in the history of pension legislation and that, while it is true that pension has been paid on the basis of age or service alone, the predominant pattern has been the requirement of a showing of need and/or disability.

The Committee believes that an adequate, equitable, need-based pension reform program, thus, should be one which:

First, assures a level of income above a minimum subsistence level allowing veterans and their survivors to live out their lives in dignity;

Second, provides veterans and widows from ever having to turn to welfare assistance;

Third, treats similarly circumstanced pensioners equally;

Fourth, provides the greatest pension for those with the greatest needs; and

Fifth, guarantees regular increases in pension which fully account for the increases in the cost of living.

Clearly the present pension program does not fully meet these objectives. In sum, the maximum payment of $1,920 a year for a veteran without dependents—or $1,296 for a similarly circumstanced widow—does not guarantee a minimum subsistence level that allows veterans or survivors to live out their lives in dignity. And with nearly half of our pensioners with incomes below the poverty level and one-third unable to buy enough food, the present system does not insure that veterans and widows will not have to turn to welfare assistance.

Different payments for veterans and widows and a variety of income exclusions means that we are not treating similarly circumstanced pensioners equally. Nor do such payments, in conjunction with the distorted rate system, always provide the greatest pension for those with the greatest needs. Finally, there is no mechanism in the current program which provides for regular increases which take into account changes in the cost of living.

Alternative Proposals Considered

Apart from the report bill, there have been two other basic pension proposals advanced in Congress in recent years, which the Committee believes should be examined briefly. The first set of proposals are generally aimed at older veterans and with minor variations would authorize a minimum pension payment of $135 a month for all veterans of World War I—$150 with a dependent. The need of our older veterans of World War I have been and continue to be a priority concern for the Committee. But these measures would not meet the objectives of an equitable pension program previously outlined. These proposals would completely eliminate the need-concept for all such veterans and survivors and direct the payment of pension to all regardless of their income or need. For example, several current Members of the Senate and House of Representatives would receive a veterans pension if this measure were enacted. Similarly circumstanced veterans and survivors would not receive the same amount of pension. Equally important, such a proposal which the Veterans' Administration estimates would result in new minimum mandatory expenditures in excess of $2 billion during the first year alone, would distribute benefits in an inverse ratio to need. That is, the entire $2 billion would be distributed to veterans at the upper end of the income scale while not the first dollar in additional benefits would be paid to any veteran or survivor currently below the poverty level.

In this connection, it should be noted that this proposal was explicitly considered at the most recent national convention of The American Legion (whose membership includes 770,000 veterans of World War I) and this year, as in the past, it was rejected by the delegates. In a letter dated July 31, 1975, they noted:

> For the past several years, resolutions have been considered by our national conventions to either remove the needs test in veterans pension considerations or to excuse certain types of income from counting against the annual limitations. On each occasion, these proposals have been rejected by a large majority of the delegates in the belief the first consideration would ultimately destroy the program and the second would be discriminatory.

A second basic set of proposals are those which generally provide that in determining annual income for pension purposes the Administrator shall disregard or not count any increases provided under the Social Security Act. While the motivations for such legislation are readily understandable, in the final analysis, such bills are neither desirable nor workable. First, any measure which would not count increases in social security income but would count other income increases, would be inequitable. The need-based origin of the pension program counts all retirement income. Thus, to exclude increases in social security while counting increases in say railroad retirement, private pension, or Federal pension would create a favored class of pensioners. Similarly circumstanced veterans would not be treated alike; veterans with identical amounts of outside incomes but from different sources would receive different pensions, which, in turn, would cause considerable dissension. Second, a social security "disregard" or "pass along" would also have the unintended effect of giving larger percentage Federal income increases to those in the higher income brackets, than to those in the lower income brackets, which, again, would not meet Federal policy objectives and would run counter to longstanding congressional intent for a need-based pension program.

Nor would such a system even be workable. The Veterans' Administration has repeatedly informed Congress that a so-called pass along of social security increases creates imaginable, and could result in the complete breakdown of the veterans' pension system. The Committee is all too aware that the Government often has problems administering certain programs where it believes itself capable. Accordingly the Committee believes that Congress should be prepared to give the full benefit of the doubt in those cases where the executive branch admits it cannot. In this connection the Veterans' Administration has previously supplied a memorandum to the Committee outlining in greater detail the problems that the proposal would engender.

That memorandum is as follows:

Effect of the social security "pass through" turns a simple system into a high'y complex one

Pension is paid based upon countable income, self-reporting through annual income questionnaires, and therefore kept simple.

Pensioners receive income from various sources, and most have income from more than one source. When income from any one or combination of sources undergoes change, an adjustment in rates is made.

For social security and other retirement incomes, 10 percent is excluded in determining the pension rate payable.

The "pass thru" proposal would create an administrative monstrosity.

For those on the pension rolls who are receiving social security, the social security portion of their income would be of three components the "pass thru" amount which is never to be counted as income; the balance of which 10 percent is not counted, and 90 percent which is counted.

By law social security will be adjusted each year in time with changes in the cost of living. The percentage will be applied to the total social security payable. Where there is a portion not to be counted, that amount, and the new increase would be excluded. The individual is not usually certain of the amount of his benefit increase (with medicare, etc., deductions) nor can we be sure of the amount which will be the total increase "pass thru." Automatic adjustments will not be feasible for all of these cases, for individual treatment and adjudication would mean incurring tremendous administrative costs.

The problem would also be compounded when income other than social security changes and an adjustment must be made. The various components of social security must be unraveled to properly assign the pension rate.

There would be further problems should a pensioner be taken off the rolls for a period of time due to employment or other change in income, and then again become eligible. Another complex income determination would have to be made for each case.

The "pass thru" would also create disparate classes of pensioners. For all future payments, we would have to distinguish between those receiving pension before January 1, 1974 and receiving social security and those entitled on or after January 1, 1974, as well as those who have received pension before January 1, 1974 but did not commence receipt of social security until after that date.

Given the foregoing the Committee believes the reported bill is preferable to either of the alternatives just examined.

Principal features of the pension program

The Veterans and Survivors Pension Reform Act, as reported, attempts to meet the objectives of an equitable need-based pension program by establishing a "one variable system." Additional detailed discussion can be found in the Section-by-Section Analysis, *infra*.

The current pension program is a "two variable" system with an annual income limitation and a sliding scale or rates, either or both of which can be altered. Under a one-variable system, a basic level of income support is established, and the amount of pension payable is determined by calculating the difference between the annual income available to the veteran or widow and the minimum income floor established by Congress. The basic minimum level would be $2,700 for a single pensioner, and $3,900 for a couple, which assures all pensioners an income above the current official poverty level established by the Bureau of Labor Statistics—BLS. The following table compares the BLS poverty level, the maximum payment under current pension law and that under the restructured program:

TABLE 19.—PENSION COMPARISON

	Single	Couple
Poverty level	$2,590	$3,410
Current pension, veteran	1,920	2,064
Pension Reform Act	2,700	3,900

For the first time, all eligible veterans and survivors will be assured of a level of assistance that places them above the official poverty level and national welfare standards.

Utilizing this basic structure, the Veterans' Administration will then pay all eligibile veterans and survivors pension on an annual basis—in monthly installments—such an amount to insure that the pensioner achieves the minimum level of support established by Congress. If a veteran without dependents, for example, has no income, the Veterans' Administration will pay him $2,700 a year. If he has some non-pension income he will receive in veterans pension the difference between income available and the congressionally-mandated level of support.

There are numerous advantages to the one-variable system. First, the setting of minimum standards of need assures that the system provides an adequate income for veterans or widows with no outside income. Such a system will, as a result, channel more funds to the poorest recipients. Second, the system will not be incompatible with the supplemental security income program and therefore it can be assured that the veterans will receive enough benefits to prevent them from having to turn to welfare. Third, the new program will be more responsive to changes in income and the pension paid will fill the entire gap between the standard of minimum need and all other annual income available to the beneficiary. In addition, as to those beneficiaries in coming years, where outside income increases to the level where they will be unable to qualify for pension, they will be eased from the system at a more gradual rate than at present. Finally, a one-variable system is simply the most basic and uncomplicated approach to income maintenance.

Generally, with limited exceptions, no distinction is made as to the source of non-pension income and all such available income will be calculated in determining the amount of pension the veteran will receive under the need-based income maintenance program. Thus, in order to align pension payments more closely to a pensioner's available resources and, hence, to actual need, the vast majority of the 18 income exclusions contained in the current pension law are eliminated. Certain exclusions with respect to unusual situations which do not conflict with the basic principles of pension program are continued. For the most part these exclusions were recommended by the Veterans' Administration in draft proposals previously submitted to the Committee. They were directed toward those funds expended which are irretrievable—for example, unusual unreimbursed medical expenses; bureau expenses—or funds which represent one-time payments for loss—for example, fire insurance proceeds. As the Veterans' Administration noted in testimony in 1973 in support of such exclusions:

> These are some items which are offsets, those in which the pensioner acts as a conduit of those funds for a specific purpose, such as in receiving the proceeds of a fire insurance policy, which is then used to replace the property loss.

To maintain the integrity of the VA pension program vis-a-vis the supplemental security income program which also excludes a like amount, $780 of annual earned income would be disregarded as recommended by the Veterans' Administration in their July 1973 proposal. Only 3.9 percent of those veterans in receipt of pension have any earned income at all.

Spouse's Income

As a starting principle, there is general agreement that available income of the spouse reasonably available for the maintenance of a veteran, should be included in determining pension eligibility. The exclusion of all of the spouse's earned income under the present program and the partial exclusions of unearned income—$1,200 annually—have been responsible according to the Veterans' Administration, for some of the most serious inequities and anomalies of the current pension program. As has been previously noted the Veterans' Administration testified critically about certain veterans receiving pensions even though their wives had earned in excess of $20,000 annually. Though the legislative history of this provision fails to reveal the reasons why the exclusion was added, it generally has been presumed—in part because most elderly pensioners do not have earned income of any consequence—that the exclusion was designed to aid the young veterans seriously disabled from non-service-connected causes by providing a work incentive for his wife. There are, for example, 7,800 Vietnam era veterans in receipt of pension, many of whom are paralyzed or have sustained other catastrophic disabling injuries from non-service-connected accidents. Several alternatives have been considered in dealing with this difficult problem. Previously submitted VA draft proposals provided that all income of the spouse shall be considered as the income of the veteran. However, that could be unfair in some circumstances and be a work disincentive. As such it has been of particular concern to such veterans organizations as Paralyzed Veterans of America, who testified before our Committee that to include all of the spouse's income would cause undue hardship for their members.

In 1973, the House of Representatives unanimously passed provisions in H.R. 9474 which would have placed an annual limitation of $3,600 upon a spouse's earned income, which Chairman Teague termed a "reasonable and realistic modification". The American Legion mandates approved at their annual convention would limit such earnings to $7,200 a year.

After deliberation the Committee has provided in the bill that the spouse of a veteran who is in receipt of aid and attendance or is permanently housebound may disregard up to one-half of the spouse's earned income. The Committee recognizes that this whole area presents very difficult questions in attempting to balance various policy considerations The Committee has attempted to take cognizance of the particular problems of those the Paralyzed Veterans of America termed "19,000 non-service-connected catastrophically disabled veterans" who deserve "special consideration". Accordingly the Committee has permitted this modest work incentive for the working spouses of such catastrophically disabled veterans. By excluding one-half of earned income, this means that a spouse of a seriously disabled non-service-connected disabled veteran could earn up to a maximum of $11,671 and the veteran would qualify for at least $1 of pension. The Committee will continue to examine this problem closely as well as medical and other costs associated with the seriously disabled veterans condition to assure both that equity is done and that the basic principles of the pension program are maintained.

Pensions For Surviving Spouses

An important provision of the restructured pension program is that widows will receive the same amount of pension as that of similarly-circumstanced veterans. Under the current pension system such widows receive pension at a rate which is only two-thirds that payable to a veteran. Thus, under the current pension system a maximum pension, a widow without dependents may receive is $1,296 which is nearly $1,300 below the official poverty level of $2,590. Under the reported bill, a widow would be entitled to $2,700, an increase of $1,404 over her present annual pension.

The rationale for paying widows only two-thirds of that paid a veteran has never been entirely clear; the Committee believes that perhaps it is based upon a presumption that a spouse is once removed from the veteran who survived and hence should not share in the same benefits as provided the veteran. Perhaps it is based in part upon the fact that veterans under the age of 65 must, in fact, be disabled as well as needed in order to receive benefits. Veterans over the age of 65 are, of course "presumed" disabled so that need is the only test applicable. In this connection it should be noted that fully 64.5 percent of all widows in receipt of pension are over the age of 65 as shown in the following table:

TABLE 20.—*Ages of pension widows*

Age:	*Numbers*
Under 20	100
20 to 24	1, 575
25 to 29	4, 414
30 to 34	4, 565
35 to 39	11, 528
40 to 44	26, 269
45 to 49	53, 981
50 to 54	80, 822
55 to 59	82, 538
60 to 64	77, 764
65 to 69	92, 946
70 to 74	167, 817
75 to 79	213, 758
80 to 84	106, 112
85 to 89	32, 935
90 to 94	9, 022
95 and over	2, 454

Upon a careful examination the Committee believes that the "once removed" rationale is based upon a false premise. The veterans who risked their lives during World War I or World War II or any other conflict were not doing so for selfish gain. The veteran was fighting for his country; to protect his family and our way of life. Veterans have been and remain greatly concerned that there be adequate support for their widows after their death. More fundamentally, such distinctions in the amount of pension payments make no sense in a need-based program. Supermarkets do not charge widows two-thirds of what they charge veterans for a loaf of bread. There is, of course, true equality for widows when it comes to cost of food and medical care and housing. Inequality then, only exists as to the amount of pension entitlements. This disparity, the Committee believes, accounts for the survey results of the Study of Older Veterans and Widows conducted by the Veterans' Administration this year, which revealed greater problems for widows than for veterans in almost every category examined.

Equalization of survivor benefits was recommended by the Senate in 1959, but was not enacted into law. In this connection, it is important to note that social security survivor benefits were equalized in 1972 despite the surviving spouse's status as "once removed" from the wage earner. That act increased widows rates from 82.5 percent of the veterans retirement benefit to 100 percent of the worker-husband retirement benefit. The Committee report to the measure found not surprisingly that ". . . the expenses of a widow living alone are no less than those for a single retired worker." The same committee observed that " no reason for paying aging widows less than the amount which would be paid to their husbands as retirement benefits could be found". The Committee on Veterans' Affairs believes the same observation is true for surviving spouses of veterans who have died from non-service-connected disabilities.

The 1968 report of the U.S. Veterans Advisory Commission on the Veterans' Benefits System stated that "from the beginning it (the pension) has been intended (to) be offered and received in dignity". Despite this intent, the current pension system entitles surviving spouses to maximum pension of $1,296 a year; a rate of only two-thirds that of a veteran's rate and substantially below the poverty level. As pointed out by the Veterans of World War I in testimony before the Compensation and Pensions Subcommittee, it make no sense to grant surviving spouses less than equality with veterans since "(it) costs them the same to get an apartment and to eat." Equalization is also strongly supported by the American Legion and Veterans of Foreign Wars.

The Bradley Commission on Veterans Pensions and Veterans Benefits in 1956 recommended that "income standards for payment of pension benefits to survivors should be governed by the same . . . formula recommended . . . (for) veterans". The Veterans' Administration in testimony before the Veterans' Affairs Committee in June 1973 designated the present two-thirds relationship between veterans and surviving spouses as "inequitable". They further indicated that the artificial distinction resulted in "two classes of beneficiaries in like circumstances and with the same needs for assistance . . . (being) treated quite differently". Such a result is, of course, in conflict with the concept of a need-based system.

The attitude of veterans' widows is perhaps best summed up by Anna Fuhrer, National President of the Widows of World War I, Inc. She said:

"I am enclosing a copy of Pension to Veterans and Widows of WWI as granted under Public Law 93–527. I have two questions about this list; first what makes the Members of the Congress think that a widow can get along on less than a veteran with the same amount of income, exclusive of pension? Second, if a widow whose income is $2,900 a year, exclusive of income, is entitled to the same amount of pension as a veteran with that amount of income, why is not the widow with income of less than $300 entitled to the same consideration? To me this is grossly unfair. It is discrimination, not only against women, but what is worse, discrimination against the 'have nots.'"

Perhaps the most persuasive argument for equalizing rates is revealed by examining the economic situation facing widows in receipt of pensions. For example, using poverty guidelines, the $1,296 maximum pension entitlement allows the equivalent of 40 cents a meal, a total far below minimum U.S. nutritional standards. It is not surprising that 37 percent of the widows surveyed by the Veterans' Administration this year reported they were unable to afford all the food they needed. Over 100,000 surviving spouse's or 15.36 percent of all pension widows reported that they had no other countable income. For these recipients, the $1,296 veteran pension entitlement represents their entire income; a total which leaves these pensioners far below the poverty level, abandoned to a life euphemistically depicted as "disadvantaged". Probably the current system's failure is epitomized best by the economic plight of widows receiving pensions in relation to minimum societal standards. Fully 48.52 percent of all widows in receipt of pension had a total income (including their pension) which placed them below the poverty level in comparison to only 11.3 percent for all females generally.

The Committee believes the foregoing facts provide ample support for the proposition that similarly-circumstanced pensioners should receive the same amount of pension. Any pension system expressly intended to allow its recipients to live out their lives in dignity cannot create inequities, anomalies, and inconsistencies. A true need-based system treats similarly-circumstanced pensioners similarly, be the recipient a veteran or the veteran's surviving spouse.

Of course, in developing a pension system Congress could have decided not to pay benefits at all to surviving spouses of veterans. But having made such a decision the Committee believes that in a need-based program the benefits should be the same. For this reason the reported bill meets no distinction between the veteran and the surviving spouse when determining entitlement.

Finally, it should be noted that the Committee has for some time been examining the amount of survivor benefits paid to widows whose husbands had died of service-connected causes under the Dependency and Indemnity Compensation (DIC) program. It is the Committee's intent in the near future to reexamine the entire system of survivor benefits for service-connected widows to insure the system is structured correctly and these survivors are receiving an adequate level of compensation.

AID AND ATTENDANCE ALLOWANCE

Under current law, certain pensioners are entitled to receive, in addition to their pension, an annual aid and attendance allowance of $1,476 ($123 per month). A veteran is considered in need of regular aid and attendance if he is a patient in a nursing home or is bedridden or is nearly helpless or blind as to need or require the regular aid and attendance of another person. Under current law, a particular problem often develops when a veteran accrues enough income in a particular year to lose the last dollar of regular pension. In this situation, he also loses the entire $1,476 in aid and attendance allowance in a lump sum as a result, which is a significant reduction in income. The Blinded Veterans Association among others, has expressed great concern about this loss of aid and attendance allowances.

Under the restructured pension system, however, this will not occur. The aid and attendance allowance which has been increased by an 8-percent cost of living to $1,596 ($133 per month) under the bill, will simply be added to the basic level of support to establish higher support levels which reflect the aid and attendance allowance. For example, the Veterans' Administration will assure a level of support for a veteran without dependents who is in need of aid and attendance of $4,296 ($2,700 plus $1,596) subject to reduction by the pensioner's annual income. Thus under the restructured pension program, the veterans' aid and attendance allowance would be gradually "dollared down" as non-pension income increases; not lost in a lump sum as under current law. In testimony before the Compensation and Pensions Subcommittee, the Paralyzed Veterans of America termed this a "welcomed reform initiative". A similar procedure is provided in the bill for those who qualify for housebound allowances. Under current law, a veteran is considered "permanently housebound" when he is substantially confined to his house or immediate premises due to a disability which it is reasonably certain he will sustain throughout his lifetime. Currently, veterans eligible for housebound allowances annually receive an additional $588 ($49 per month). Under the restructured bill this amount has been increased to $636 ($53 per month), to reflect an 8-percent cost-of-living increase. Then, to use the example of a veteran without dependents who is "housebound", the minimum annual level of support which the Veterans' Administration will assure would be $3,336 ($2,700 plus $636). Currently, 126,294 veterans and 55,737 widows received aid and attendance allowances. Another 25,968 veterans are considered "housebound".

COST-OF-LIVING ADJUSTMENTS

Another important feature of the pension program introduced today is the provision for regular adjustment in the basic level of support established under this bill. This provision, which has occasioned much thought and discussion, provides that whenever social security benefits are increased automatically as a result of changes in the Consumer Price Index, the annual rate of pension will also be increased by a like percentage. Enactment thus will eliminate the "push-pull" effect that characterizes the present system when social security benefits are increased. Further, the possibility that inflation will rob pensioners of benefits which are irretrievably lost, even though the law is subsequently amended to adjust the rate, is eliminated. And it is clear that veterans and widows living on fixed incomes are those who are hurt the most by inflation.

The Veterans' Administration has informed us that under the new pension program, no veteran or survivor will suffer any pension support reduction solely because of cost-of-living increases in social security benefits. This corrective feature of our bill should eliminate much of the criticism of the existing program and insure that all veterans and survivors receive the full measure of the cost-of-living increases.

The interrelationship of the new pension system with social security benefits is, perhaps, best explained by the following example. Assume a veteran is receiving social security benefits at an annual rate of $2,000. Under the reform proposal insuring him an income level of $2,700, he would be entitled to $700 in veterans pension. Assume further that in July of a given year the Consumer Price Index indicates a 10 percent increase in the cost of living. This, in turn, would trigger an automatic 10 percent increase in social security benefits bringing the income from that source to $2,200. This additional income, of course, would not be counted with respect to pension until January 1 of the following year; the annual date for determining of income. But on January 1 instead of having his pension benefits reduced, the basic level of support would also be increased by 10 percent or $2,700 to $2,970. As a consequence, he would continue to receive the full measure of the $200 increase in social security benefits without any decrease in his pension income, and in this case, would also receive an additional $70 in pension support. Thus, a pensioner is assured of receiving the full measure of changes in the cost of living, which are measured against the basic minimum level of support established under this bill.

Congress, of course, will retain the primary role of determining whether benefit levels are adequate. The Older Americans Act of 1965 declares a national policy of insuring that our elderly have an "adequate income in retirement, in accordance with our American standard of living." Certainly we can expect no less for our veterans who risked their lives in defense of that standard. Thus, it is expected that Congress will periodically review the standards of support established by this act and will make necessary appropriate changes when warranted and feasible within the context of existing budgetary resources. The cost-of-living provisions in this measure simply assure that in the absence of statutory amendments, the real value of the benefits established by this bill will not be seriously eroded by rising prices.

Similar automatic cost-of-living provisions are authorized for those veterans and survivors currently receiving or eligible for pensioners who elect to remain under the existing pension system. For both programs the provisions for regular cost-of-living adjustments in the benefit levels were recommended by the Veterans' Administration in draft proposals they submitted in 1973 and 1974 and are supported by various veterans' groups.

DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

Dependency and indemnity compensation (DIC) is paid to needy parents of those veterans who have died from a service-connected cause. Under the current system DIC for parents is determined by utilizing a formula system similar to the formula system for veterans and widows. Accordingly, a new DIC program is authorized for dependent parents similar to that created for veterans and survivors under this act. There are approximately 71,000 parents in receipt of such allowances. A breakdown of their annual income is shown in the following tables:

TABLE 21.—DEPENDENCY AND INDEMNITY COMPENSATION, PARENTS ONLY—SOLE SURVIVING PARENTS, APR. 20, 1975 (ALL CASES)

Annual income not over	Father unremarried or remarried not living with spouse		Mother unremarried or remarried not living with spouse		Father not living with spouse or remarried but not living with spouse		Mother not living with spouse or remarried but not living with spouse	
	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total
$100	634	22.4	6,224	23.7	342	28.1	1,986	44.7
$200	19	.7	164	.6	7	.6	29	.7
$300	14	.5	165	.6	4	.3	30	.7
$400	24	.9	180	.7	12	1.0	51	1.2
$500	14	.5	173	.7	7	.6	79	1.8
$600	17	.6	195	.7	6	.5	79	1.8
$700	165	5.8	1,544	5.9	18	1.5	90	2.0
$800	27	1.0	389	1.5	11	.9	116	2.6
$900	50	1.7	510	1.9	38	3.1	204	4.6
$1,000	177	6.2	1,307	5.0	62	5.1	212	4.8
$1,100	409	14.4	3,059	11.6	85	7.0	228	5.1
$1,200	104	3.7	1,063	4.0	47	3.9	118	2.7
$1,300	110	3.9	1,020	3.9	48	3.9	146	3.3
$1,400	122	4.3	1,101	4.2	32	2.6	135	3.0
$1,500	114	4.0	1,103	4.2	60	4.9	108	2.4
$1,600	105	3.7	1,019	3.9	42	3.5	124	2.8
$1,700	93	3.3	925	3.5	51	4.2	82	1.9
$1,800	69	2.4	766	2.9	43	3.5	79	1.8
$1,900	87	3.1	794	3.0	45	3.7	81	1.8
$2,000	61	2.2	723	2.8	32	2.6	76	1.7
$2,100	75	2.6	699	2.7	35	2.9	82	1.9
$2,200	61	2.2	614	2.3	24	2.0	61	1.4
$2,300	67	2.4	543	2.1	36	3.0	43	1.0
$2,400	57	2.0	553	2.1	31	2.6	36	.8
$2,500	42	1.5	373	1.4	32	2.6	44	1.0
$2,600	49	1.7	438	1.7	24	2.0	25	.6
$2,700	33	1.2	266	1.0	20	1.6	39	.9
$2,800	14	.5	200	.8	10	.8	22	.5
$2,900	15	.5	108	.4	6	.5	13	.3
$3,000	6	.2	49	.2	2	.2	8	.2
Total	**2,836**	**100.0**	**26,291**	**100.0**	**1,217**	**100.0**	**4,440**	**100.0**

TABLE 22.—DEPENDENCY AND INDEMNITY COMPENSATION, PARENTS ONLY—2 PARENTS, APR. 20, 1975 (ALL CASES)

Annual income not over	Father living with spouse or remarried and living with spouse		Mother living with spouse or remarried and living with spouse		Surviving father remarried and living with spouse		Surviving mother remarried and living with spouse	
	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total
$100	1,147	14.1	1,229	15.0	43	9.4	72	10.2
$200	33	.4	37	.5	1	.2	1	.1
$300	41	.5	44	.5	1	.2	4	.6
$400	37	.5	36	.4	2	.4	2	.3
$500	49	.6	45	.6	1	.2	6	.9
$600	50	.6	53	.7	2	.4	6	.9
$700	91	1.1	99	1.2	5	1.1	9	1.3
$800	55	.7	63	.8	3	.7	1	.1
$900	127	1.6	121	1.5	7	1.5	7	1.0
$1,000	145	1.8	148	1.8	17	3.7	13	1.9
$1,100	203	2.5	208	2.6	20	4.4	20	2.8
$1,200	111	1.4	110	1.4	14	3.1	12	1.7
$1,300	189	2.3	182	2.2	12	2.6	6	.9
$1,400	279	3.4	281	3.4	10	2.2	24	3.4
$1,500	324	4.0	308	3.8	18	3.9	21	3.0
$1,600	324	4.0	318	3.9	18	3.9	16	2.3
$1,700	254	3.1	244	3.0	7	1.5	19	2.7
$1,800	229	2.8	228	2.8	12	2.6	18	2.6
$1,900	275	3.4	273	3.3	15	3.3	23	3.3
$2,000	271	3.3	259	3.2	19	4.2	23	3.3
$2,100	326	4.0	310	3.8	23	5.0	21	3.0
$2,200	245	3.0	242	3.0	15	3.3	14	2.0
$2,300	232	2.9	227	2.8	10	2.2	14	2.0
$2,400	223	2.7	219	2.7	16	3.5	24	3.4
$2,500	262	3.2	254	3.1	15	3.3	20	3.7
$2,600	230	2.8	242	3.0	11	2.4	28	4.0
$2,700	231	2.8	228	2.8	14	3.1	23	.3
$2,800	206	2.5	206	2.5	11	2.4	15	2.1
$2,900	194	2.4	189	2.3	7	1.5	22	3.1
$3,000	165	2.0	167	2.0	11	2.4	28	4.0
$3,100	179	2.2	187	2.3	13	2.3	22	3.1
$3,200	166	2.0	150	1.8	3	.7	17	2.4
$3,300	151	1.9	149	1.8	13	2.8	18	2.6
$3,400	175	2.2	172	2.1	10	2.2	19	2.7
$3,500	146	1.8	163	2.0	5	1.1	22	3.1
$3,600	148	1.8	161	2.0	11	2.4	17	2.4
$3,700	141	1.7	141	1.7	10	2.2	15	2.1
$3,800	134	1.7	132	1.6	8	1.8	19	2.7
$3,900 to $4,200	345	4.2	344	4.2	25	5.5	37	5.3
Total	8,133	100.0	8,169	100.0	458	100.0	704	100.0

The current maximum payment for parents in receipt of DIC is $1,476 a year. Under the reform system a single parent without dependents would be entitled to a maximum yearly payment of $2,700, thus assuring that DIC recipients will maintain a standard of living above the poverty level. As with the current pension program, parents currently in receipt of DIC may elect not to switch to the new system but instead remain under the current program.

DEPENDENT CHILDREN

Heretofore children of qualified veterans have not been an integral part of the pension framework. Children are currently eligible for a maximum of $49 a month whenever there is no surviving spouse entitled to receive pension. Any surviving spouse entitled to receive at least a dollar of pension cannot be paid at a rate less than the amount a child would be eligible to receive. This limitation on reduction of widow's pension rates results in similarly-situated individuals receiving various amounts of pension.

The Veterans and Survivors Pension Reform Act recognizes the family as the primary social unit and integrates children into the pension program accordingly. For example, a mother who had a dependent in her custody would be entitled to a maximum pension of $3,900—the same amount to which a veteran and a spouse are entitled. A surviving spouse with two dependents in her custody would be entitled to a maximum pension of $3,900 plus $360 for each additional dependent in the surviving spouse's custody in excess of one—a total entitlement in this instance of $4,260. For both the veteran and the surviving spouse the entitlement for a family of three would be $4,260 reduced by the amount of the family unit's annual income.

A surviving child, except for those in the custody of a surviving spouse eligible to receive pension, would be entitled to a maximum of $1,200 annually. This entitlement is reduced by the child's annual income in the same manner that a veteran's or surviving spouse's entitlement is reduced. A second child would raise entitlement from the maximum $1,200 to a maximum of $1,560, an increase of $360, a method of additional entitlement comparable with current practice. The two children would each be entitled to one-half of the $1,560—$780 each. Each child would then have his entitlement reduced by the amount of his annual income, again in the same fashion that a veteran or surviving spouse's maximum income is reduced. Integrating the children into the "pension family" also results in inclusion of their income and estates in determining net worth and income needs. Under the bill, a veteran is to include in annual income any income received by a spouse which is reasonably available to or for the veteran. To assure assumption of a total family concept, any income of a child also would be considered that of the veteran if it is reasonably available to or for him. The same is true for a surviving spouse and any children in her custody.

Additionally, whenever the net worth of the veteran is being considered to evaluate whether part of his corpus should be consumed for his maintenance, the corpus of the estate of the children is also considered in the same manner as the corpus of the estate of the spouse is regarded. The same is true of the relationship between the surviving spouse and any children in her custody.

In this connection the Committee intends, however, that whenever the income or estate of the child is to be considered, due regard should be given to the accumulation of corpus for the future attainment of educational aspirations or such other goals as deemed worthy by the administrator.

Another provision of the reported bill enables the children of the Civil War, Indian War, and Spanish-American War to elect to receive pension under these new pension provisions. This small group of pensioners have not had an increase in pension since 1958. The only children eligible under these provisions are those children who, at the age of 18, had serious mental or physical deficiencies or afflictions and as such are in particular need for assistance.

NET WORTH LIMITATION

The Pension Reform Act contains additional provisions to be used by the Administrator when considering whether it is reasonable for veteran or survivor to consume the corpus of his estate for his maintenance. For example, the corpus and income of veteran's dependents are considered in evaluating corpus size in those instances when the veteran receives additional benefits because of those dependents.

Eligibility for the veterans' need-based-pension system is premised upon a demonstration of disability and need in both income and net worth. Failure to show need results in an eligibility for pension benefits. Of course, utilization of the single variable system permits dollar entitlement to vary according to differences in individual recipient's income status. Further, should a veteran or survivor have a net worth sufficient to cause the Administrator to rule that it is reasonable that part of the corpus be consumed for the veteran's maintenance, the veteran would be ineligible for pension benefits.

There have been some instances when pensions have been terminated or pensions denied when a recipient or claimant had an excess of corpus as shown in the following table:

TABLE 23.—TERMINATIONS BECAUSE OF EXCESS CORPUS OF ESTATE

	Disability	Death	Tota
Fiscal year:			
1962	495	294	789
1963	877	616	1,493
1964	781	986	1,767
1965	809	870	1,679
1966	790	934	1,724
1967	738	1,178	1,916
1968	557	854	1,411
1969	723	660	1,383
1970	503	873	1,376
1971	347	521	868
1972 (through September)	34	48	82
Total	6,654	7,834	14,488

Previous studies in 1966 revealed that the average net worth of those claimants who were denied pension because of excess corpus was $22,403 inclusive of all real and personal property except the claimant's dwelling place and personal effects suitable to the claimant's reasonable life style.

In general, however, studies have confirmed the generally modest financial condition of those veterans and survivors filing for non-service-connected pension. According to a 1967 VA study the average net worth of all survivors filing was only $2,509; the average net worth for all veterans filing was even more meager—$1,358. Further, only 26.9 percent of veterans and 39.9 percent of the survivors had any net worth at all and, of those with net worth, veteran claimants had an average of $3,110 and survivor claimants an average estate of $6,289.

It is readily evident that a need-based system must apply only to those veterans who are, in fact, in need. The average size of the estates of claimants was demonstrated in the VA study to be of such small equity as to indicate that the veterans need-based non-service-connected pension is limited to people immersed in economic deprivation.

Table 24 demonstrates that the net worth of veterans and survivors eligible to receive the need based pension is indicative of the need for the higher entitlement benefits of S. 2635.

TABLE 24.—VA STUDY MADE FEB. 20 AND 21, 1967, ON ALL CLAIMS FOR DISABILITY AND DEATH PENSION FILED ON THOSE DATES SHOWN

	Cases in study	Number net worth in excess of $15,000	Percent net worth in excess of $15,000	Average net worth of those in excess of $15,000
Veterans	834	18	2.2	$24,042
Survivors	807	34	4.2	30,844
All cases	1,641	32	3.2	28,489

	Veterans	Survivors
Average net worth, all cases	$1,358	$2,509
Average net worth for those with net worth	$3,110	$6,289
Percent who have some net worth	26.9	39.9
Average liquid assets, all cases	$824	$1,665
Average liquid assets for those with liquid assets	$3,638	$4,160
Percent who have some liquid assets	22.7	40.0
Average value real property, all cases	$786	$925
Average value real property for those with real property	$8,085	$8,996
Percent who have some real property	9.7	10.9
Average value other property, all cases	$71	$280
Average value for those who have other property	$1,812	$5,915
Percent who have some other property	3.9	4.7
Average value of debts, all cases	$799	$682
Average debt for those who have debts	$3,743	$2,865
Percent who have debts	21.4	23.8

Eligibility to continue under existing pension program

The Pension Reform Act provides that prior to the effective date of the new program those veterans and survivors who are in receipt of pension or eligible to receive pension can elect, if they choose to do so, to remain under the current programs. Generally, the vast majority will find it advantageous to elect to participate in the new program. But if they decide not to do so, they can continue receiving benefits under the current program and be assured that there will be regular increases in the rates and income limitations which respond to changes in the Consumer Price Index. This should guarantee that no veteran will be dropped from the rolls solely because of any cost-of-living increase in social security and should continue to insure that a veteran remaining on the pension rolls will not suffer an aggregate loss of income because of social security changes. This right of election or "grandfathering" of current pensioners has been recommended by the Veterans' Administration, and veterans organizations and was the same procedure utilized when the present system was established in 1959. Veterans under the current program may elect at any time in the future to switch to the new system but once that election is made, it is irrevocable.

INTERIM ADJUSTMENTS AND EFFECTIVE DATE OF NEW PROGRAM

Pension increases effective January 8, 1976

To allow the Veterans' Administration adequate time to prepare for implementation of the restructured pension program the reported bill establishes an effective date of October 1, 1976. As previously mentioned, because of this year's social security increases, 1,327,136 veterans and survivors are scheduled to sustain pension reductions effective January 1, 1976 (reflected in the February check). Another 41,840 will lose entitlement altogether. It should be noted that for all those veterans who remain on the rolls scheduled to sustain pension reductions that there will be no reduction in aggregate income according to the Veterans' Administration. The average annual reduction is estimated to be $98. The following table shows the changes in the Consumer Price Index which have occurred since January 1, 1975, the effective date of the last increase in pension:

TABLE 25.—SHOWING PERCENTAGE CHANGE IN CONSUMER PRICE INDEX SINCE PENSION INCREASE, EFFECTIVE JAN. 1, 1975

Date	CPI	Percent increase since last increase
Jan. 1, 1975	155.4	0
Feb. 1, 1975	156.1	.5
Mar. 1, 1975	157.2	1.2
Apr. 1, 1975	157.8	1.5
May 1, 1975	158.6	2.1
June 1, 1975	159.3	2.5
July 1, 1975	160.6	3.4
Aug. 1, 1975	162.3	4.4
Sept. 1, 1975	162.8	4.8
Oct. 1, 1975	163.6	5.3
Nov. 1, 1975	164.6	5.5

As a result of changes in the Consumer Price Index and because of the large number of veterans and survivors who will sustain pension reductions on January 1, 1976, the bill also provides for interim adjustments in the current program effective January 1, 1976.

An 8-percent increase in the rates payable and a $300 increase in the maximum annual income limitations are provided for veterans and survivors in the current program.

Similarly, maximum annual income limitations for the "old law" pensioners are increased by $300. An 8-percent increase in rates and increase in the annual income limitations are authorized also for needy parents receiving dependency and indemnity compensation. Finally, aid and attendance allowances for "housebound" are increased by 8 percent. Thus, under the current program the maximum rate for a veteran without dependents would be increased from $160 to $173 a month, while the rate for a veteran with a dependent would be increased from $172 to $186. The following tables show the rates currently payable and those proposed in titles II and IV.

TABLE 26.—PENSION PROPOSAL

Income not over	Veteran alone		Veteran and 1 dependent		Widow alone		Widow with 1 dependent	
	Current	Bill	Current	Bill	Current	Bill	Current	Bill
$300	$160	$173			$108	$117		
$400	157	170			107	116		
$500	154	167	$172	$186	106	115		
$600	150	163	170	184	105	114		
$700	146	159	168	182	102	111	$128	$139
$800	142	154	165	179	99	108	127	138
$900	138	149	162	176	96	105	126	137
$1,000	133	144	159	173	92	101	125	136
$1,100	128	139	156	170	88	97	124	135
$1,200	123	134	153	167	84	93	122	133
$1,300	118	128	150	164	80	89	120	131
$1,400	113	122	147	160	76	85	118	129
$1,500	108	116	144	156	72	81	116	127
$1,600	102	110	141	152	68	76	114	125
$1,700	96	104	138	148	64	71	112	123
$1,800	90	97	135	144	60	66	110	121
$1,900	84	90	113	140	56	61	108	118
$2,000	77	83	127	136	52	56	106	115
$2,100	70	75	123	132	48	51	104	112
$2,200	63	67	119	128	43	46	101	109
$2,300	56	59	115	124	38	41	98	106
$2,400	48	51	111	120	33	36	95	103
$2,500	40	43	107	116	28	31	92	100
$2,600	32	35	103	112	23	26	89	97
$2,700	24	27	99	108	18	21	86	94
$2,800	16	19	95	104	13	15	93	90
$2,900	8	11	91	99	8	9	80	86
$3,000	5	5	87	94	5	5	77	82
$3,100		5	82	89		5	73	78
$3,200		5	77	84		5	69	74
$3,300		5	72	78		5	65	70
$3,400			67	72			61	66
$3,500			62	66			57	62
$3,600			56	60			53	57
$3,700			50	54			49	53
$3,800			44	48			49	53
$3,900			37	40			49	53
$4,000			30	32			49	53
$4,100			22	24			49	53
$4,200			14	16			49	53
$4,300				8				53
$4,400				5				53
$4,500				5				53

TABLE 27.—DIC PARENTS

Income not over	1 parent		2 parents not together		2 parents together	
	Current	Bill	Current	Bill	Current	Bill
$300						
$400						
$500						
$600						
$700						
$800	$123	$133	$86	$93		
$900	120	130	84	91		
$1,000	117	127	82	89	$83	$90
$1,100	113	123	80	87	82	88
$1,200	109	119	76	83	80	86
$1,300	105	114	72	79	78	84
$1,400	100	109	68	75	76	82
$1,500	95	104	64	71	74	80
$1,600	90	98	60	67	72	78
$1,700	84	92	56	62	70	76
$1,800	78	84	52	57	68	74
$1,900	71	76	48	52	66	72
$2,000	64	68	44	47	64	70
$2,100	56	60	40	42	62	68
$2,200	48	52	35	37	60	66
$2,300	40	44	30	32	58	64
$2,400	32	36	25	27	56	61
$2,500	24	28	20	21	54	58
$2,600	16	20	14	15	51	55
$2,700	8	12	8	9	48	52
$2,800	4	5	4	5	45	49
$2,900	4	5		5	42	46
$3,000	4	5		5	39	43
$3,100		5		5	36	47
$3,200		5		5	33	30
$3,300		5		5	30	34
$3,400					27	30
$3,500					24	26
$3,600					20	22
$3,700					16	18
$3,800					12	14
$3,900					8	10
$4,000					4	6
$4,100					4	5
$4,200					4	5
$4,300						5
$4,400						5
$4,500						5

According to information supplied by the Veterans' Administration, if the interim adjustments contained in this measure are enacted, none of the 41,845 veterans or survivors currently scheduled to be terminated because of social security increases will be dropped. Further, 1,098,566 veterans, widows and dependents can expect to receive an average annual gain in pension of approximately $94.

And although no veteran or survivor will sustain a loss in aggregate income, solely as a result of social security increases, it should be explicitly acknowledged that even if provisions contained in titles II and IV are enacted, 655,000 veterans and survivors will sustain some reduction in pensions despite such adjustments. The following tables show the projected gains and losses with respect to the current pension population if titles II and IV are enacted into law.

TABLE 28.—ESTIMATED EFFECTS OF 8 PERCENT OASI INCREASE AS OF JAN. 1, 1976 (NEW LAW ONLY) AND OF S. 2635

With no change in law:	Number gaining pension	Average annual gain	Number reduced pension	Average annual reduction	Number gaining aggregate	Average annual gain	Number reduction aggregate	Average annual reduction	Number terminating
Veteran alone	0	0	225,567	$117	230,568	$48	0	0	6,602
Veteran w/dependent	0	0	467,339	123	464,738	136	0	0	17,805
Widow alone	0	0	526,391	79	530,528	82	0	0	16,748
Widow w/dependent	0	0	107,879	44	120,884	104	0	0	690
Total	0	0	1,327,176	98	1,346,718	97	0	0	41,845
With enactment of Title II of S. 2635:									
Veteran alone	202,825	$122	130,597	93	333,927	119	0	0	0
Veteran w/dependent	364,175	93	202,319	111	567,505	125	0	0	0
Widow alone	400,171	76	308,983	60	709,852	77	0	0	0
Widow w/dependent	131,395	110	13,369	18	145,063	136	0	0	0
Total	1,098,566	94	655,268	82	1,756,247	105	0	0	

Note: It is estimated that if there is no change in income limitations, 12,000 pensioners under the old law would have excessive income because of the 8 percent OASI increase, and that the vast majority of those would elect to come under new law.

The Committee wishes to reemphasize that under the new pension program authorized by titles I and III, which are an integral part of the reported bill, no veteran or survivor receiving benefits under the new program will ever suffer reduction in pension solely because of social security cost-of-living increases according to data supplied by the Veterans' Administration.

Effect of pension reform legislation

The effects of a major legislative change in any large Federal income maintenance program are always extensive and varied, and the Veterans and Survivors Pension Reform Act is no exception. The most important effect is that all eligible veterans and survivors will be guaranteed an income that places them above the poverty level. The Committee's immediate attention has, thus, been directed to the 34.1 percent of veterans and 48.5 percent of widows in receipt of pension who nevertheless have total incomes below the poverty level. For these veterans and widows, the bill provides a dramatic increase in benefits. A single veteran with no income would receive $2,700 under this bill, a 40-percent increase over the current maximum of $1,920. Veterans with dependents currently receive a maximum payment of $2,064; under the reform act they will receive $3,900, an annual increase of $1,836 or an 89-percent increase. Significant increases are also provided to widows who for the first time will receive benefits equal to those available to veterans. The current maximum of $1,296 will be increased to an annual income of $2,700 while widows with dependents who now receive a maximum $1,536 will be assured $3,900 a year. Those who have some nonpension income, of course, will receive proportionately reduced increases. The importance is that this measure is aimed at providing a rational, cost-effective system, that insures that available tax dollars are applied to those who need it and in proportion to their needs. The Committee wishes to reemphasize the importance of restructuring the system so that these objectives are accomplished, particularly with the millions of veterans approaching age 65.

Position of the veterans organizations

All veterans organizations appearing before the Committee were in agreement that the present pension system is inadequate and flawed and testified in support of the objectives of S. 2635, the "Veterans and Survivors Pension Reform Act".

The American Legion testified that the current pension system and the periodic amendments to it is "not a satisfactory solution". It endorsed the approach contained in S. 2635 which it said would "correct the inequities and anomalies" in the present system. It recommended, however, higher support levels of $3,300 and $5,500. Further, The American Legion indicated its belief that such legislation should be considered prior to the expiration of the current fiscal year.

The Veterans of Foreign Wars also recognized the importance of immediately revising a "pension program which causes one-third of our older veterans to go without the food they need and one-quarter of these unable to afford medical care. . . .". They endorsed the concept of S. 2635, which they termed the "most comprehensive bill before the subcommittee" which "makes highly desirable changes in the pension program" and would make it "possible for our veterans and their widows to live out their lives with dignity above the poverty levels". They testified in support of higher support levels of $3,300 and $5,500 instead of the $2,700 and $3,900 levels in S. 2635, which they indicated was their "only complaint about this bill".

Mrs. Anna Fuhrer, National President of the Widows of World War I, testified for that group's support of S. 2635, particularly with reference to equalization of widows benefits. She noted that under current law:

"A widow with an income of $2,900 a year is given the same amount of pension as a veteran with that income. What did she do to "earn" more than the widow who receives $108 in pension while her veteran counterpart receives $160? I cannot understand what makes anyone think that a woman can live on two-thirds of the amount needed by a man. Rents, utilities, and food costs the same regardless of sex. It may no longer be true, but I know that for years, the widows of Spanish-American War veterans received the same amount of pension as the veterans themselves. Why should different criteria be applied to widows of World War I veterans?"

The Veterans of World War I of the U.S.A., Inc. testified that they were mandated by their members to seek a "meaningful or realistic pension" and that with respect to "S. 2635, we support the measure and its objectives".

In response to questions posed by the chairman of the Subcommittee on Compensation and Pensions, they explicitly supported the objectives of a need-based pension system and supported giving greater benefits to the needy; treating similarly-circumstanced veterans alike; equalizing widows pensions; and, including automatic cost-of-living provisions; they further acknowledged that S. 2635 was more likely to achieve these goals than the present system.

In their testimony they also suggested that upon reaching age 78, there should be a statutory presumption that a pensioner is "house bound" and hence qualify for such additional allowances as may be authorized by law. The Committee believes that such an approach might well be justified, but it is of the opinion that any action should be deferred at present pending further study.

The Disabled American Veterans in testimony submitted to the Committee noted that as an organization which is devoted to wartime disabled and surviving widows, children and dependent parents of servicemen and veterans who die of service-connected causes that "in the absence of a national convention mandate, we have no official position regarding the pension proposals," for non-service-connected veterans. They did indicate in general, however, that they did not oppose reasonable objectives in the non-service-connected pension program and that "we (the DAV) fully support the principle of providing the greatest benefits for those who are most in need."

With respect to the dependency and indemnity compensation for dependent parents of veterans who have died of service-connected causes (which would be restructured by title III of S. 2635, to assure a level of income above the poverty level) the DAV said:

"It is quite obvious that the existing DIC rates for dependent parents are so grossly inadequate that the maximum payment of $1,476 per year, is far below the current official poverty level of $2,590 for a single individual.

"We therefore believe that a very substantial increase in the DIC rates for those needy parents is both necessary and equitable and we urge enactment of appropriate legislation to achieve this worthy objective."

The Paralyzed Veterans of America, whose membership is composed of both service-connected and non-service-connected disabled veterans, testified that they "basically support the concept of S. 2635. We feel that a reform of this nature is definitely needed in the current program." In large measure, their testimony was directed to the particular problems of about 19,000 (according to their estimates) non-service-connected catastrophically disabled veterans, who they said should receive "special consideration." In order to properly evaluate a number of proposals to aid such veterans, the Committee awaits with interest the detailed results of a survey being conducted by the Paralyzed Veterans of America of 5,000 non-service-connected veterans who are catastrophically disabled and in receipt of pension.

The Committee found the testimony of various veterans organizations most helpful and was pleased by the uniform general support of the concept embodied in S. 2635.

The desire for higher support levels than those established by the reported bill is understandable. In the context of current overall budgetary considerations and administration policy, however, the Committee does not believe it could recommend or that legislation at those levels could be enacted now which would result in additional mandatory expenditures of $2.8 billion in the first year alone.

COST ESTIMATES

Estimating the cost of government programs is an inexact science at best. In considering pension restructuring proposals during the past 2 years, the Committee discovered that sufficient analytical staffing and an advanced computer simulation model at the Veterans' Administration capable of making sophisticated cost projections were lacking. This led to determined efforts on the part of the Committee to develop more accurate cost estimates, as discussed previously under "Considerations and Proposals to Restructure the Non-Service-Connected Pension Program During the 93d and 94th Congress" supra. Extensive correspondence and memoranda concerning the new computer simulation model, its capabilities and its shortcomings can also be found reprinted in AGENCY REPORTS *infra*. In developing cost estimates for this program there has also been extensive consultation on a staff level with the Senate Budget Committee and the Congressional Budget Office.

In sum, the Committee believes the estimates submitted by the Veterans' Administration as to maximum budgetary outlays to be as accurate as currently possible given existing information and the state of the art. Accordingly, it adopts them as its own.

These figures, however, are subject to offset reductions both in terms of budgetary outlays and budgetary authority. Projected offsets which have been developed by the Congressional Budget Office are discussed hereinafter.

The Veterans' Administration estimates the fiscal 1976 cost attributable to S. 2635 to be $100.1 million. Costs for the Transition Quarter are estimated at $50 million. These figures have been included in the reestimates for "function 700-Veteran Benefits" as passed by both the House and the Senate in their respective versions of the Second Concurrent Budget Resolution currently pending in conference. A waiver of the provisions of section 303(a) of the Congressional Budget Act of 1974 with respect to S. 2635, concerning budgetary authority for fiscal year 1977, is sought through Senate Resolution 322 reported by the Committee, December 9, 1975.

The Veterans' Administration estimates maximum outlays under S. 2635 to be as follows:

TABLE 29.—*Veterans' Administration estimate maximum outlays under S. 2635*

Fiscal year:	*Costs (millions)*
1977	$798.9
1978	1,132.1
1979	1,273.3
1980	1,322.7

In developing cost estimates, the Veterans' Administration noted "several caveats" which they said should be taken into account in considering their cost estimates. In particular they said:

> As with any estimate for a program made prior to its inception, it should be viewed as a magnitude figure only. There is no historical data upon which to base a precise projection. The estimate assumes that all recipients of PL 86-211 pension who would be eligible for a higher benefit under reform will elect to switch to the new program. However, our experience after the enactment of PL 86-211 would indicate that some portion of those cases which would benefit from election will fail to do so. The impact of new cases which will accede to the reform rolls is even more difficult to gauge. As these accessions will be coming on under different eligibility requirements than those applicable to current cases, we can only hypothesize their income characteristics. In addition, numerous aspects of the national economy, i.e. inflation, unemployment, etc.; must be projected and their impact considered. Notwithstanding the fact that a highly sophisticated technique, i.e. computer simulation, was used to make this estimate, its accuracy is circumscribed by the necessity of projecting a substantial portion of the significant variables.
>
> In this connection it should be noted that the cost estimates assume that all current pension recipients who would be eligible for higher benefits under the reform program will elect to switch to the new program. However, experience following enactment of Public Law 86-211 would indicate that some portion of those cases who would benefit from the election will fail to do so. In the first 2 years of that program only 37 percent of those pensioners who would have benefitted by electing the new program actually did so.
>
> If a similar pattern develops, the cost estimates could be considerably overstated.

Of even greater importance are offsets from other Federal programs which should occur if S. 2635 is enacted into law. In particular, the Congressional Budget Office has estimated that in fiscal year 1977, the maximum potential offsets in Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC) and Food Stamp programs should be $313 million as shown in the following table:

TABLE 30.—MAXIMUM POTENTIAL OFFSETS TO OTHER FEDERAL PROGRAMS

[Dollar amounts in millions]

	Veteran alone	Veteran with dependent	Surviving spouse	Surviving spouse and dependent	Total maximum savings
Supplementary security income	none	56	74	[1] 67	$197
Food stamps	14	38	39	25	116
Total	14	49	113	29	313

[1] Benefits to surviving spouse with dependents include aid to families with dependent children (AFDC), which varies widely by State.

Such a maximum estimate would reduce the fiscal year 1977 net Federal cost from $798 million to $485 million. Of course, such a figure represents a budget authority offset since it assumes all veteran pensioners who would benefit from these programs participate in them. In point of fact, there is no universally accepted data available concerning the actual participation rate in these programs for either the total eligible population or for veterans in particular. Accordingly, in order to estimate offsets to budgetary outlays as opposed to offsets to budgetary authority, the Congressional Budget Office assumed that there would be a 50 percent participation rate in SSI and AFDC programs and a 25 percent participation rate in food stamps thus resulting in offset of $128 million, which would result in a fiscal year 1977 cost of $670 million. In particular, the Congressional Budget Office said:

"Most current estimates indicate that Food Stamp programs attract between 40 and 50 percent of those eligible. The AFDC participation rate is apparently in the 80 to 90 percent range. SSI participation rates are not well established but are expected to be around 50 percent.

"The information on veteran participation in these programs is even sketchier. A 1975 study of veterans over 72 years of age indicates that 11,274 of them received SSI assistance while 5,862 used Food Stamps. Though these figures represent a small fraction of the total veteran population over 72 years old, they translate into a 66 percent participation rate for SSI and a 9 percent participation rate for Food Stamps among those eligible for the program. A 1973 AFDC study indicated that over 26,000 beneficiaries also received veterans pensions. Almost all AFDC beneficiaries would fall into the surviving spouse and dependent category though others in the same group would be eligible for the SSI program.

"The maximum potential offset of about 313 million dollars should thus be significantly reduced to reflect the fact that these income security programs have substantially less than 100 percent participation rates. A reasonable assumption would be a 50 percent participation rate in SSI and AFDC programs and a 25 percent for Food Stamps yielding an offset of about $128 million."

Their complete report to the Committee on Veterans' Affairs dated December 9, 1975 can be found reprinted in full in AGENCY REPORTS *infra*.

Thus utilizing the offset figures prepared by the Congressional Budget Office, the Committee estimates net budget outlays to be as follows:

TABLE 31.—S. 2635 BUDGET IMPACT

[Amounts in millions; fiscal years]

	1977	1978	1979	1980
Budget outlays	$798.9	$1,132.1	$1,273.3	$1,322.7
Offsets	128.0	169.0	211.0	238.0
Net outlays	670.9	963.1	1,062.3	1,084.7

Finally, the Committee believes it important when examining the projected cost estimates of S. 2635, not to view them in isolation. That is, those costs should not be contrasted with Congressional inaction, but rather the traditional Congressional response of annually increasing pension rates and maximum annual income limitations to offset annual automatic increases in social security benefits. Although such data is incomplete and still being developed, there are positive indications that in addition to a more rational distribution of pension benefits, S. 2635 will also result in significant long-range cost savings.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report S. 2635, with an amendment, favorably to the Senate:

Yeas—9

Vance Hartke
Herman E. Talmadge
Jennings Randolph
Alan Cranston
Richard (Dick) Stone
John A. Durkin
Clifford P. Hansen
Strom Thurmond
Robert T. Stafford

Nays—0

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF S. 2635

Section 1

This section provides that the Act may be cited as the "Veterans and Survivors' Pension Reform Act".

TITLE I—REFORM OF THE NON-SERVICE-CONNECTED PENSION PROGRAM FOR VETERANS AND THEIR WIDOWS

Section 101

This section amends section 503 of title 38, United States Code, to redefine the allowable exclusions in computing annual income for the purpose of determining pension payments. Under current law there are 18 income exclusions, some of which have created inequitable situations where similarly-circumstanced veterans with identical incomes from non-Veterans' Administration sources receive different pension payments. Different pension payments occur because the law currently distinguishes as to the source of income and excludes in whole or part certain income in determining a veteran's total annual income upon which pension entitlement is based.

In order to assure that pension programs are aligned more closely with each pensioner's needs, allowable exclusions, in most instances, are limited to situations which are neither annual events nor typical income accrual mechanisms. Certain exclusions which represent unusual situations and do not conflict with the principles of the pension system are retained and included in the new program as follows:

§ 503. Determinations with respect to annual income

(a) All income from all sources is included as annual income unless specifically excluded by this section. Any and all income waived by a recipient is regarded as income to the recipient despite compliance with any other laws unless the income is excluded by this section.

Clause 1, excluding payments under this chapter and chapters 11 and 13 (except section 412(a)) continues present law as recommended by the Veterans' Administration in pension reform proposals advanced by them in 1973 and 1974.

Clause 2, which excludes donations from public or private relief or welfare organizations, continues present law as suggested by the Veterans' Administration. Failure to exclude would result in a crossing between SSI and the veteran's pension. Currently, SSI uses veterans pension to determine eligibility and entitlement benefits. It is intended that this clause aid in maintaining the veteran pension system as a preferred pension system.

Clause 3, which excludes amounts equal to amounts paid by a spouse for the veteran's last illness or in the case of deceased veteran amounts paid by a surviving spouse, continues present law. The Veterans' Administration in the draft of a pension reform measure submitted to the Committee, included the provision as an exclusion. Originally included as an exclusion in Public Law 86-211, the provision is not violative of the principles of a need-based pension system.

Clause 4, a clause which permits the exclusion of amounts paid by a veteran for the last illness of his spouse continues present language. The statutory language is varied slightly from that of the current statute but the intent remains the same. The statutory language has been altered to accommodate the utilization of "surviving spouse" rather than continued gender references.

Clause 5, the proceeds of fire insurance policies, continues present law. The history of this provision predates the inception of the pension system of Public Law 86–211 in 1959. The Veterans' Administration in testimony in 1973 and 1974 concurred in the advisability of the continued allowance of fire insurance proceeds as exclusion when computing annual income.

Clause 6, the profit realized from the sale of property other than in the course of business, continues present law as suggested by the Veterans' Administration. Many older pensioners sell their homes. To assure that this sale would not result in termination of pension benefits the exclusion of the proceeds is authorized. Should the money received for property sold be of an amount which would make it reasonable that some part of the corpus be consumed for the veteran's maintenance, it is possible for the Administrator to so rule under section 522 of this act and section 103 of the bill to be described *infra.*

Clause 7, a clause which would exclude from income amounts in joint accounts in banks acquired by reason of death is a continuation of present law. The exclusion was suggested continued by the Veterans' Administration.

Clause 8, would exclude from computation of annual income $780 of any earned income not otherwise excluded by section 503.

Clause 9, an exclusion of earned income over $780 would exclude from the computation of annual income one-half the earned income of spouses of veterans when the veteran is in need of aid and attendance or permanently housebound. This exclusion is particularly applicable to those young veterans catastrophically disabled whose spouses continue to work to assure that the veteran remains out of the hospital in addition to aiding the family in attaining a dignified standard of living. Further, the added costs of aid and attendance disability necessitate added pension income. The Committee is aware of a recent study conducted by the Paralyzed Veterans of America which raises a number of as yet unanswered questions covering the adequacy of current aid and attendance allowance. Accordingly, the reported bill allows the exclusion of one-half of the earned income.

The exclusion is limited to those spouses of those veterans in need of aid and attendance or housebound allowance. Need for aid and attendance is limited to those who are helpless or so nearly helpless as to require the regular aid and attendance of another person. A veteran or widow will be considered in need of regular aid and attendance as follows: If he or she is blind or so nearly blind as to have corrected visual acuity of 5/200 or less, both eyes, or concentric contraction of the visual field to 5 degrees or less; is a patient in a nursing home on account of mental or physical incapacity; or establishes a factual need for aid and attendance under criteria set forth in VA Regulation 1352(a) (38, U.S.C. 502(b); Public Law 90–77, Public Law 92–197). VA Regulation 1352(A) qualifies those eligible for aid and attendance as follows:

"Inability of claimant to dress or undress himself [(herself)], or to keep himself [(herself)] ordinarily clean and presentable; frequent need of adjustment of any special prosthetic or orthopedic appliances which by reason of the particular disability cannot be done without aid (this will not include the adjustment of appliances which normal persons would be unable to adjust without aid, such as supports, belts, lacing at the back, etc.); inability of claimant to feed himself [(herself)] through loss of coordination of upper extremities or through extreme weakness; inability to attend to the wants of nature; or incapacity, physical or mental, which requires care or assistance on a regular basis to protect the claimant from hazards or dangers incident to his [or her] daily environment. "Total blindness" as well as "bedridden," will be a proper basis for the determination. For the purpose of this paragraph "bedridden" will be that condition which, through its essential character, actually requires that the claimant remain in bed. The fact that claimant has voluntarily taken to bed or that a physician has prescribed rest in bed for the greater or lesser part of the day to promote convalescence or cure will not suffice. It is not required that all of the disabling conditions enumerated above be found to exist before a favorable rating may be made. The particular personal functions which the veteran is unable to perform should be considered in connection with his [or her] condition as a whole. It is only necessary that the evidence establish that the veteran is so helpless as to need regular aid and attendance, not that there be a constant need. Determinations that the veteran is so helpless, solely by reason of service-connected compensable disease or injuries (38 U.S.C. 310 and 331) or without regard to service connection (38 U.S.C. 511 and 512) as to be in need of regular aid and attendance will not be based solely upon an opinion that the claimant's condition is such as they would require him [or her] to be in bed. They must be based on the actual requirement of personal assistance from others. If the claimant is able to be out of bed and can walk around entirely unassisted by others, he [or she] cannot generally be regarded as meeting the requirements of the law and VA regulations; however, the other enumerated types of personal assistance must be considered."

Housebound determination (for which a veteran can qualify but not a surviving spouse) is paid to a person permanently and totally disabled who, in addition, has a disability independently ratable at 60 percent or more or by reason of his disability or disabilities is permanently housebound but does not qualify for aid and attendance. This requirement is met when the veteran is substantially confined as a direct result of disabilities to his [or her] dwelling and the immediate premises or, if institutionalized, to the ward or clinical area, and it is reasonably certain that the disability or disabilities and resultant confinement will continue throughout his [or her] lifetime.

The philosophy which motivated allocation of an aid and attendance allowance is the desire on the part of Congress to help alleviate additional financial burdens caused as a result of infirmity and/or specific individual medical problems. As just noted, the recent survey done by the Paralyzed Veterans of America asserted that the aid and attendance allowance benefits supposedly designed to counterbalance extraordinary medical expenses were meager. This exclusion of one-half of the spouse's income permits the supplementation of aid and attendance allowance in counterbalancing heightened medical costs by excluding from computation one-half the earned income of the spouse. This provides a work incentive and allows private contribution in the absence of additional public assistance.

Clause 10, is a new provision which would exclude expenditures made by pensioners for medical needs was added at the request of the Veterans' Administration. Fully cognizant of the crippling financial circumstances which occur as a result of rising medical expenses it is thought that pensioners can be encouraged to seek necessary medical attention by assuring that financial position is not jeopardized by spiraling medical costs. The exclusion in the reported bill is not as broad as the one suggested by the Veteran's Administration. The VA suggested that 5 percent of the pension be used as the base medical figure over which any medical expenditure would be excluded. The bill specifies that the 5 percent figure over which medical expenditures are excluded is calculated from the pensioner's actual income. In this way, needy pensioners receiving the full pension entitlement will not be penalized and the medical exclusion can be obtained in the same needs-based fashion as pension benefits are allocated.

Subsection (b) continues current practice by providing that where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

Section 102

Clause 1 amends subsections (b), (c), (d), and (e) of section 521 of title 38, United States Code, currently prescribing rates of pension for veterans, to create a new pension system. Under this system an eligible veteran, with no other countable income, will receive pension payments equal to an annual level of minimum need established by law. If the veteran receives income from other sources, that income is deducted dollar for dollar from the congressionally-established standard of need with the Veterans' Administration paying the difference as pension. A veteran's pension system of this sort was suggested as early as 1959 by the Bradley Commission which concluded: "Within the veterans' pension system the objective should be to meet first needs first, providing assistance to those who require it most in terms of commonly accepted standards of need . . ." The Veterans' Administration recommended this type of program known as a "one-variable" system in testimony before the Committee in 1973 and 1974 although at considerably lower standards of need than are established in this measure. Today the current maximum level of pension payments do not even reach the officially recognized poverty level. The levels provided in this bill will exceed that standard as shown below:

TABLE 30.—*Pension comparison*

Payment level:	*Single*	*Couple*
Poverty level (1974)	$2, 590	$3, 410
Current law	1, 920	2, 064
Reform proposal	1, 700	3, 900

The pension system proposed, unlike current law, would authorize rates which exceed the current rates payable under our national welfare program, the Supplementary Security Income program.

This section would also provide for aid and attendance payments by establishing a higher standard of need for those veterans in need of aid and attendance. Reduction of this aid and attendance allowance because of increased annual income will occur on a dollar for dollar basis rather than being discontinued in a lump sum as is the present case when maximum annual income levels are reached. The amendments are more fully described as follows:

§ 521. Veterans of the Mexican Border period, World War I, World War II, the Korean conflict, or the Vietnam era

Subsection (b) of section 521 is amended to provide that an eligible veteran **without** dependents (and also not eligible for aid and attendance or housebound allowances) would receive a monthly pension at an annual rate of $2,700 reduced by the amount of the veteran's annual income. Currently section 521 (a) authorizes monthly rates which range from a maximum of $160 ($1,920 per annum) to $5 ($60 per annum) subject to the veteran's annual income which may not exceed $3,000. Under the proposed amendment the maximum monthly pension payments for the lowest-income pensioners would be increased by $65 to $225 per month.

Veterans with no other income would thus receive an additional $780 per annum under amendments made by the bill.

Subsection (c) of section 521 is amended to provide that an eligible veteran with one dependent (but not eligible for aid and attendance or housebound allowances) would receive a monthly pension at the annual rate of $3,900 reduced by the amount of the couple's annual income. For each additional dependent of a veteran the maximum annual rate is increased by $360. Currently, section 521(c) authorizes monthly rates for a veteran with one dependent which range from a maximum of $172 ($2,064 per annum) to $14 ($168 per annum) subject to an annual income limitation of $4,200. Under the proposed amendment, an eligible couple with no other income would receive $325 per month, nearly double the rate currently paid to veterans with a dependent. Lesser payments, of course, would be made to those pensioners who had annual income determined per section 503 as described infra.

Subsection (*d*) of section 521 is amended by authorizing higher standard of support to include aid and attendance allowances for those who are eligible. At present, any veteran in need of "aid and attendance" receives an additional $123 per month ($1,476 per annum). However, if the veteran should gain enough income in a particular year to lose the last dollar of regular pension, he also loses the entire $1,476 in aid and attendance allowance at the same time, which has significant impact upon individual recipients. In order to prevent this immediate lump sum loss, clause 1 of section 521(d) as amended, would raise the guaranteed annual income level for which a pensioner is eligible to reflect the additional annual aid and attendance allowance. By providing an 8-percent increase in current monthly aid and attendance allowances from $123 to $133 (reflecting changes in the Consumer Price Index since they were last adjusted), the total additional annual income from aid and attendance would be $1,596. This is added to the annual pension rate of $2,700 for a single veteran to provide a maximum $4,296 in annual pension subject to reduction by the pensioners' annual income. Thus, under this section, as amended, a veteran's aid and attendance allowance would gradually be "dollared down" as non-pension income increases rather than lost in one lump sum.

Similarly, clause 2 of section 521(d) authorizing aid and attendance allowances for veterans with dependents is amended by adding $1,596 in annual aid and attendance allowances to the proposed maximum annual rate of $3,900 to provide a maximum annual rate of $5,496 plus such other allowances for additional dependents as are authorized. The amount of annual income would be deducted from the maximum rate of $5,496 to determine entitlement total.

Subsection (*e*) of section 521 is amended to provide a similar system of payment of housebound allowances as is provided in subsection (d) for aid and attendance allowances. Thus, the pension provided to a single veteran eligible for household allowances would be $3,336 reduced by the amount of his annual income. Similarly the annual pension for a veteran with dependents would be $4,536. In each instance, allowance is made for additional dependents and reduced by the amount of annual income.

Clause 2, of this section would amend section 521(f) to include the income of the spouse and dependent or dependents of a veteran which is reasonably available to the veteran as the income of the veteran. Under current law $1,200 of the spouse's unearned income or the total amount of earned income of the spouse is excluded from consideration in determining need for pension. The Veterans' Administration has testified that this has created a number of inequities in which veterans received a need-based pension even though their spouses were earning in excess of $15,000 and in some cases in excess of $25,000. This exclusion of wives' earned income and of a limited amount of non-earned income often created a false standard of need by basing the pension on a veteran's income rather than on the family income reasonably available to them. For example, a veteran who is receiving social security at the rate of $1,111 per annum, whose spouse is receiving $6,000 in earned income none of which is countable in determining pension, will receive $1,548 in pension for a total income of $8,659.

Another veteran with the same amount of social security, $1,111, and a spouse who is receiving retirement income of $1,111 will receive the same amount of pension for a total income of $3,770 per annum. The pension program provides the first couple with income because the system declares them to be in an equal need situation with the second couple, when in reality they have an additional $5,000 per annum. The Veterans' Administration testified in hearings before the Senate Committee on Veterans' Affairs in 1974 that over 15,000 couples receiving pension for veterans with one dependent had incomes in excess of $15,000. The amendments made by this clause would align pension payments much closer to need.

Of course, a small earned income exclusion is provided in section 101 of this bill for reasons explained there which is not expected to produce the anomalies mentioned above.

Clause 3, would add a new subsection (h) to section 521, authorizing pension to be paid less frequently than monthly if the amount of the monthly payment is less than $10. This amendment is intended to reduce administrative workloads and provide a more efficient method of payment.

Section 103

This section would amend section 522 which denies or discontinues pension payments when a veteran's net worth might reasonably be consumed for the veteran's maintenance. The veteran's income is considered in determining need. Further, whenever the veteran is reasonably contributing to or living with a spouse, a child, or children under subsection (c), (d), or (e) of section 521, the net worth of the dependent or dependents and the income of the dependent or dependents is considered in determining whether net worth should be consumed for the maintenance of the veteran and dependents. It is the Committee's intention that whenever the net income and corpus of a child or children are evaluated to determine whether the corpus should be consumed for maintenance, consideration should be given to the accumulation of income and corpus on the part of the child or children for future educational goals and such other objectives as deemed worthy by the Administrator. This amendment would further align pension benefits more closely to actual need.

Section 104

Section 104 amends subsections (b), (c) and (d) of section 541 of title 38, United States Code, currently prescribing pension rates for surviving spouses of veterans who died from non-service-connected causes. A new pension system is created consistent with that proposed for veterans in section 102 discussed *supra*. As amended, the pension program for surviving spouses provides benefits for survivors equal to those for which a veteran is eligible. Currently, a surviving spouse's pension is approximately two-thirds that of the veteran's. The pension reform system created as described in section 102 *supra* is a need-based system which pays similar amounts to people similarly situated. The Twentieth Century Task Force reported that "no rational grounds" for the differentiation between the veterans' pension program and the widow's pension could be found. The Veterans' Administration in testimony before the Veterans' Committee in June 1973, described the present two-thirds relationship between veterans and surviving spouse's "inequitable." Further, they commented that the two-thirds relationship resulted in "two classes of beneficiaries in like circumstances and with the same need for assistance" being "treated quite differently."

Whether a surviving spouse should be accorded equal treatment with those who earned the benefits was an issue confronted in Senate Report No. 92–1230 on the Social Security Amendments of 1972. That act increased widows' rates from 82.5 percent of the workers retirement benefit to 100 percent of the worker-husband retirement benefit. The Senate Committee on Finance found not surprisingly, that ". . . the expenses of a widow living alone are no less than those of a single retired worker." The same committee observed that "no reason for paying aged widows less than the amount which would be paid to their husbands as retirement benefits" could be found. The committee believes the same observation is true for surviving spouses of veterans who died from non-service-connected disabilities. Equalization of benefits has been supported by the Veterans' Administration in their draft pension reform measures submitted in 1973 and 1974.

Equalization of benefits is also supported by The American Legion, the Veterans of Foreign Wars, Veterans of World War I, and the Widows of World War I.

Steps are also taken in section 541 to integrate children into the new pension system created by the reported bill. Under the current pension system the children do not exist as an integral part of the pension program. Though more pension benefits are given a spouse or veteran whenever children are present, the children's program exists as adjunct apart from others entitled to pension. With the extended inclusion of children, in pension benefits entitlement comes examination of their assets and incomes to determine whether children's corpus and income should be consumed for a veteran or surviving spouse's maintenance as described in section 103 *supra*. Currently a widow's entitlement can go no lower than the entitlement for which a child would be eligible. Under the new system the amount of entitlement for which a widow and child are eligible is equivalent to a veteran and spouse similar situated. Inasmuch as both the spouse and the veteran's annual income is included in determination of pension as described in section 101 *supra* so too should the income of children be considered whenever pension benefits are paid for or to them.

It is the Committee's intention that whenever the net income and corpus of a child or children are evaluated to determine whether the corpus should be consumed for maintenance consideration should be given to the accumulation of income and corpus on the part of the child or children for future educational goals and such other objectives as deemed worthy by the Administrator.

§ 541. Widows of Mexican Border Period, World War I, World War II, Korean conflict or Vietnam era veterans

Subsection (*b*) of section 541 is amended to provide that a surviving spouse without an eligible dependent would receive a monthly pension at an annual rate of $2,700 reduced by the amount of the spouse's annual income. Currently, section 541(b) authorizes monthly rates for surviving spouse which range from $108 ($1,296 per annum) to $5 ($60 per annum) per month subject to the surviving spouse's annual income which may not exceed $3,000. Under the proposed amendment the monthly pension payments would range from $225 to $1 depending on the amount of annual income. For the poorest pensioners the maximum monthly pension payment would be increased by $117 per month.

Subsection (*c*) of section 541 would be amended to provide that a surviving spouse with custody of one dependent would receive a monthly pension at the annual rate of $3,900 reduced by the amount of the surviving spouse's and the dependent's annual income. If the spouse has custody of two or more dependents, the annual rate is increased by $360 for each dependent in excess of one. Under current law the rates for a surviving spouse with one dependent range from $128 ($1,536 per annum) to $49 ($588 per annum) with the spouse with a dependent never receiving less than the $49 rate a child alone is entitled to receive under other provisions of title 38. Payment of these pension rates is subject currently to the surviving spouse's annual countable income which may not exceed $4,200. Under the reform proposal the minimum standard of need for the veteran with dependent is set at $3,900 which would provide a maximum benefit for a surviving spouse and child of $325 per month, an increase of $197 per month for those widows with little or no other income. This would for the first time raise benefits for those surviving spouses with no other sources of income above the poverty level.

The rate payable to spouses and dependents is reduced by the amount of annual income as described in subsection (e) *infra*. The introduction of "custody" defining the relationship between a spouse and dependents is not intended to change present law concerning determination of when a spouse is eligible to receive additional pension benefits due to the presence of dependents.

Subsection (*d*) of section 541 is amended by eliminating the allowances provided for additional dependents which have been incorporated in new subsection (c) and by inserting a new provision to increase administrative efficiency by authorizing that pension may be paid less than monthly if the amount of the monthly payment would be less than $10.

Subsection (*e*) is added to include child's income in determination of pension benefits whenever there is a surviving spouse with one or more children. In order for the income of a child or the income of children to be considered as income of the surviving spouse the income must be reasonably available to or for the surviving spouse.

Section 105

Clause 1 amends section 542(a) of title 38, United States Code, currently by prescribing rates of pension for surviving children (other than those children in the custody of a surviving spouse having basic eligibility for *supra*) to create a new pension system consistent with that authorized for veterans and surviving spouses discussed previously.

Under current law where there is no eligible widow, a surviving child receives $49 per month ($588 per annum) and $20 ($240 per annum) for each additional child (with payments to eligible children in equal shares). Subsection (a) of section 542 is amended to provide that the first child would be eligible for $100 per month ($1,200 per annum) with $30 ($360 per annum) for each additional child with payments in equal shares. Thus, if there were two surviving children they would receive $130 per month ($1,560 per annum), reduced by the amount of each child's annual income.

If there are two children each would be entitled to a maximum pension of $780 a year (one-half of $1,560). The maximum pension would then be reduced by the amount of each child's annual income. In no event shall the annual income of one child reduce the amount of pension to which another child is entitled.

Clause 2, repeals subsection (c). Inasmuch as the entitlement for children is determined under the pension system in the same manner as veterans and surviving spouses there is no need for income limitations. Rather each child's pension is reduced by the amount of his individual annual income.

SECTION 106

This section retains the context of present section 543 of this title but rewords and restructures the section to assure that the income and corpus of children are considered in determining whether part of corpus should be consumed for the surviving spouse's maintenance whenever the surviving spouse is in receipt of benefits as a result of having custody of a child or children. This construction permits the treatment of the surviving spouse-child relationship in the same manner as a veteran and spouse is treated. Further whenever a child is eligible under section 542 of this title the corpus of the estate of the child and the income of the child is considered in determining whether it is reasonable that some part of the corpus be consumed for the child's maintenance; all as more fully described as follows:

§ 543. Net worth limitation

Subsection (*a*) of section 106 amends section 543 of title 38 to make more specific that the income of the surviving spouse is included with corpus in determining whether it is reasonable that some of the corpus be consumed for the surviving spouse's maintenance.

Subsection (*b*) is added to section 543. It is applicable when the payment of pension is made under section 541(c) described *supra*.

Whenever a surviving spouse is in receipt of pension benefits because she is in custody of a child or children the corpus of the estate of the children and the income of the children are both considered in determining whether corpus should be consumed for the maintenance of the surviving spouse and the children in the surviving spouse's custody.

Subsection (*c*) would permit a net worth determination whenever a child is eligible for pensions under section 542 of this title as described *supra*. This makes more specific the inclusion of the corpus of the estate of children eligible in addition to the inclusion of income whenever the Administrator is considering whether it is reasonable that some part of the corpus be considered for the particular child's maintenance.

SECTION 107

This section amends section 544 of title 38, United States Code, currently prescribing aid and attendance allowances for eligible surviving spouses to make such allowance consistent with those provided veterans under section 102 of this bill all more fully described as follows:

§ 544. Aid and Attendance Allowance

Subsection (*a*) would be amended to provide that the pension payable to a surviving spouse with no dependents who is in need of aid and attendance will be $4,296 per annum. subject to the reduction by the surviving spouse's annual income.

Subsection (*b*) would be amended to provide that pension payable to a surviving spouse with one dependent under section 541 (c), who is in need of regular aid and attendance will be $5,496 plus any additional allowances for dependents in excess of one, subject to reduction by the spouse's annual income and the annual income of the child or children in the surviving spouse's custody.

Section 108

Subsection (*a*) of section 107 amends chapter 53 of title 38, United States Code, by adding a new section 3112 providing for annual adjustment of benefit rates.

This section would provide for automatic cost-of-living increases for the new reform pension program adopted in this act.

The Veterans' Administration recommended automatic upward adjustment in benefit rates tied to changes in the Consumer Price Index in both drafts of their reform proposals submitted in 1973 and 1974. The inclusion of automatic adjustment provisions will insure that veterans and widows under the new pension system will receive increased benefits which fully compensate for changes in the Consumer Price Index. This provision also should eliminate conflict between veterans' pensions and social security.

Each time social security increases under current law, veterans pensions are often reduced the following January.

Continuing refinements in current law are intended to insure that for those veterans and widows continuing to receive pensions, there never is an aggregate loss in combined Federal income. Nevertheless pensioners continue to be upset over a system which they believe denies them the full benefits of social security cost-of-living increases. With the inception of the one-variable program as contemplated by this act, the veteran or surviving spouse who receives a social security cost-of-living increase will have the congressionally established level of need automatically adjusted by changes in the cost of living. Thus the Committee is informed, no veteran or widow under the new system will have their pension reduced because of social security cost-of-living increases. By having this increase occur automatically there will no longer be a lag between the loss of pension income for the veteran and traditional congressional action to "make up" the loss by subsequently adjusting the pension program rates and income limitations. The same result should occur for other income available to pensioners when it is increased by changes in the cost of living. Most major income security programs, for example, are now indexed to the Consumer Price Index including: Social Security, Supplemental Security Income, Federal Employees Retirement, and Railroad Employees Retirement. In addition, many major private retirement programs are now so indexed. New section 3112 is more fully described as follows:

§ 3112. Annual Adjustment of Certain Benefit Rates

This section provides that whenever social security benefits are increased as a result of changes in the Consumer Price Index, that the annual rate of pension (and Dependency and Indemnity Compensation for parents) under the new program as authorized by this bill will be adjusted by a like percentage effective January 1 of the following calendar year. Similarly, those veterans and survivors currently receiving or eligible for pensions who elect, pursuant to section 108 discussed *infra*, to remain under the current rather than the new pension system will be entitled under section 502 to similar percentage increase in both the rates payable and the maximum annual income limitations under that program.

Section 109

Subsection (a) clarifies the period of transition and provides for procedures to govern specific situations arising from the change to the new system. Specific rules apply to the following situations:

(1) claims pending in the VA on September 30, 1976;

(2) claims for a pension filed by a veteran within one year after he becomes totally disabled if he became such prior to October 1, 1976 but filed later than that date; and

(3) claims for a death pension filed within one year after the death of the veteran through whom the claim is made if the veteran died before October 1, 1976 and the claim is filed after that date.

Under this subsection the amount of pension to which the veteran is entitled is calculated by dividing his entitlement between the two programs on the day the switch is made. Thus the entitlement would reflect the old rate until October 1 and the new rate after that date, and his entitlement would reflect the amount of time for which he was eligible prior to October 1 and the amount of time he was eligible after September 30.

Subsection (*b*) is a general "savings" or "grandfather clause", granting those pensioners on the rolls prior to October 1, 1976, the option of switching to the new program or continuing coverage on the current system. Also, the eligibility of any person receiving a pension pursuant to chapter 15 as per section 9 of the Veterans' Pension Act of 1959, popularly known as "old law" is protected by this measure. If the pensioner is receiving a pension on September 30, 1976, either under the current or "old law" program, he may continue to remain under either program so long as he continues to meet their qualifying criteria.

Subsection (*c*) would also "grandfather" those whose claims are described in subsection (a) of this section.

Section 110

This section extends benefits of the pension reform bill to certain children. It affords the opportunity to elect benefits under the children program in section 542 of title 38 to children of Civil War veterans (§ 533), children of Indian War veterans (§ 535) and children of Spanish-American War veterans (§ 537). The children involved are no longer children but were classified as "dependent" as a result of physical or mental defects present in the child at the age of eighteen.

Since 1958, the pension rate of $73.13 plus $8.13 for each additional child has not been changed. This class of dependents, assuredly, is in need of some additional benefits. Thus they are given the opportunity to elect under section 542, a maximum entitlement of $100 a month for a single child ($1,200 a year) plus $20 a month ($360 a year) for each additional child.

These entitlements, as described in § 104 *supra*, are reduced by the amount of the dependent's annual income. The dependents are not obligated to elect but if pension is paid pursuant to § 103 of the bill the election is irrevocable.

TITLE II—ADJUSTMENTS IN CURRENT STATUTORY PENSION PROVISIONS

In general, title II of the act would provide an average 8 percent cost-of-living increase in current pension rates and a $300 increase in the maximum annual income limitations for all pensioners effective January 1, 1976. Subsequently on October 1, 1976, the new pension system authorized in title I would replace these provisions except for those pensioners then on the rolls, who elect not to switch to the new system. The rates and income limitations contained in this title applicable to those pensioners not electing to come under the new system would thereafter be adjusted by changes in the Consumer Price Index as provided for in section 502 of this act discussed *infra*.

Section 201

Section (*a*) amends section 101 of title 38, United States Code, providing general definitions of terms used in that title by adding the term "spouse" to mean wife or husband and the term "surviving spouse" to mean widow or widower.

Section (*b*) makes a number of technical and conforming amendments to chapter 15 of title 38, United States Code, providing for pensions for non-service-connected disability or death or for service.

Clause 1 makes a technical grammatical amendment to section 503(a).

Clause 2 amends subsection (a) of section 541 by substituting the term "surviving spouse" for widow to eliminate unnecessary gender references.

Clause 3 amends subsection (e) of section 541 by providing that no pension shall be paid to a surviving spouse of a veteran of the Vietnam era unless married to the veteran prior to May 8, 1985. Existing law provides that no pension will be paid unless the surviving spouse was married prior to the expiration of 10 years following termination of the Vietnam era. Inasmuch as the President declared the Vietnam era terminated as of May 8, 1975, a specific date reflecting that 10-year period has been substituted to conform with existing practice for previous periods of war enumerated in that subsection.

Clauses 4 and 5 amend section 542 and 543 respectively to substitute the term "surviving spouse" for widow to eliminate unnecessary gender references.

Clause 6 repeals section 510 authorizing payment of pensions to persons who have served in military, naval forces of the Confederate States of America during the Civil War, and section 531 authorizing payment of pensions to widows of Mexican War veterans. These provisions are now obsolete because there are no longer any living veterans or dependents of the Confederate States of America nor widows of the Mexican War.

Clauses 7, 8, and 9 make further amendments to the subchapter headings, subheadings and catchlines to delete unnecessary gender references.

Clause 10 makes conforming amendments in the table of sections at the beginning of chapter 15 to reflect the deletion of sections 510 and 531 and the removal of unnecessary gender references.

Section 202

Would provide effective January 1, 1976, an average 8-percent increase in the rates of pension and a $300 increase in the maximum annual income limitation for eligible veterans under section 521.

Clause 1 amends subsection (b) of section 521 prescribing pension rates for unmarried veterans. Currently, a veteran with no dependents and with an annual countable income of $300 or less receives a maximum monthly pension of $160 which is gradually reduced to $5 subject to a limitation on annual countable income of $3,000. As amended, this section which also substitutes a more readable table of payments for the current written formula would provide that a veteran with no dependents and an annual countable income of $3,300. *Clause 1* also amends maximum monthly rate of $173 reduced to $5 subject to a limitation on annual countable income of $3,000. *Clause 1* also amends subsection (c) of section 521 prescribing rates for veterans with dependents. Currently, the maximum monthly pension payable to a veteran with annual countable income of $500 or less and with one dependent is $172, for two dependents $177 and with three or more dependents $182. This decreases gradually to the minimum monthly payment of $14, $19, and $24, respectively, until the veteran's annual countable income reaches $4,200 whereupon he would be ineligible for a pension. As amended subsection (e) would provide a veteran with one dependent $186, with two dependents $191, and with three dependents $196, based on income of $500 or less, ranging downward to a minimum monthly payment of $5 and limited by a maximum annual countable income of $4,500.

Clause 2 amends section 521(d) which authorizes additional allowances payable to veterans receiving pensions who are in need of regular aid and attendance by increasing the monthly rate from $123 to $133.

Clause 3 amends section 521(d) which authorizes additional allowances payable to those veterans receiving pension who do not qualify for aid and attendance but who are permanently housebound by increasing the monthly allowance from $49 to $53.

Clause 4 amends clause 1 of section 521(f) by providing a limitation on the spouse's earned income. In determining veteran's income for pension purposes under current law $1,200 of a spouse's income or the total earned income of the spouse is excluded, whichever is greater. The Veterans' Administration has testified that this has caused some inequities in the program where some veterans qualified and received a "need-based" pension even though their spouse has annual earned income in excess of $25,000. This subsection as amended would exclude $1,200 of income or up to $7,000 of earned income whichever is greater, unless in the judgment of the Administration to do so would work a hardship upon the veteran.

Section 203

Would provide, effective January 1, 1976, an average 8-percent increase in the rates of pension and a $300 increase in the maximum annual income limitation for eligible surviving spouses of veterans under section 541 of title 38, United States Code.

Clause 1 amends subsection (b) of section 541 prescribing pension rates for surviving spouses with no dependents. Currently, a widow with no dependents and with an annual countable income of $300 or less receives a maximum monthly pension of $108 which is gradually reduced to a minimum monthly payment of $5 subject to a limitation on annual countable income of $3,000. As amended, this section which also substitutes a more readable table of payments for the current written formula, would provide that a surviving spouse with no dependents and an annual countable income of $300 or less would receive a minimum monthly pension of $117 reduced to $5 subject to a limitation on annual countable income of $3,000. *Clause 1* also amends subsection (c) of section 541 prescribing rates for surviving spouses with dependents. Currently, the maximum monthly pension to a surviving spouse with an annual countable income of $700 or less with one dependent is $128 which decreases gradually to a minimum monthly payment of $49 and is limited by annual countable income of $4,200.

Clause 2 amends subsection (d) of section 541 providing additional payments for dependents in excess of one by increasing the monthly pension for each additional child from $20 to $22.

Section 204

Would provide, effective January 1, 1976, an average 8-percent increase in the rates of pension and a $300 increase in the maximum annual income limitation for eligible children where there is no surviving spouse.

Clause 1 amends subsection (a) of section 542 which currently provides for payment of pension at a monthly rate of $40 for one child and $20 for each additional child. As amended, this section would provide for respective rates of $53 and $22.

Clause 2 would amend the eligible child's maximum annual income limitation from $2,400 to $2,700.

Section 205

Provides, effective January 1, 1976, an 8-percent increase from $64 to $69 for any widow entitled to additional monthly allowances for aid and attendance.

Section 206

Would make a number of technical and conforming amendments to chapter 15 of title 38 United States Code, to eliminate unnecessary or unwarranted gender references.

TITLE III—REFORM OF DEPENDENCY AND INDEMNITY COMPENSATION FOR DEPENDENT PARENTS

Section 301

This section would provide a new reform system of dependency and indemnity compensation (DIC) for dependent parents under section 415 of title 38, United States Code. DIC payment is based upon the same standard of need as the system for dependent parents for veterans and survivors. The reform system for dependent parents established here is consistent with that provided in title I of this bill for veterans and survivors.

Clause 1 would amend section 415(b) to provide that a parent without dependents would receive monthly payment of dependency and indemnity compensation (DIC) at an annual rate of $2,700 reduced by the amount of the parent's annual income. Currently, monthly rates range from $123 a month ($1,476 per annum) to $4 a month ($48 per annum) subject to an annual income limitation of $3,000. Under the proposed reform a single parent without dependents could receive a monthly DIC payment of $225.

Clause 2 amends section 415(b)(2) to avoid inappropriate gender references.

Clause 3 amends section 415(c) to provide that where two parents are not living together each would be entitled to receive a monthly payment of dependency and indemnity compensation (DIC) at an annual rate of $2,700 reduced, in the case of each parent, by that parent's annual income. Currently, monthly rates for each parent range from $86 ($1,032 per annum) to $4 ($48 per annum) subject to an annual income limitation of $3,000. Under the proposed reform the maximum monthly DIC payment would be $225.

Clause 3 would also amend section 415(d) to provide that two parents who are living together, or a parent who has remarried and is living with his spouse, would, for each couple, receive a monthly payment of dependency and indemnity compensation (DIC) at an annual rate of $3,900 reduced by the amount of that couple's annual income. Currently, monthly rates range from $83 ($996 per annum) to $4 ($48 per annum) subject to an annual income limitation of $3,000. Under the proposed reform, the maximum monthly DIC payments would be increased to $325.

Clause 4 would amend section 415(g) to eliminate and alter the allowable exclusions in computing annual income for the purpose of determining dependency and indemnity compensation for parents. Only six exclusions are retained, one existing exclusion is modified and one is added. This amendment is consistent with the amendments proposed for the pension program for veterans and survivors in section 102 of this bill. Thus, section 301 attempts to align more closely the pensioner's need with the pension rate allocated.

Certain exclusions which represent unusual situations and which do not conflict with the pension premise would be permitted. For example, proceeds of fire insurance policies would not be included as income inasmuch as the event which precipitated the payments is neither an annual event nor an income accrual mechanism. Other examples include amounts equal to unreimbursed expenses for burial of the veteran, an amount equal to the expenses of a veteran's last illness, and profits realized from the disposition of real or personal property other than in the course of business.

The first $780 of earned income would be excluded in the same manner as it is excluded in the pension program for veterans and survivors. The $780 of earned income is applicable only to income not otherwise excluded by section 301 of the bill.

Clause 5 would amend section 415(b) to provide aid and attendance allowance consistent with those provided for veterans under section 103 and for survivors under section 108 of this bill. Parents receiving dependency and indemnity compensation under sections 415 (b) and (c) who are in need of regular aid and attendance would, under this amendment, be entitled to DIC payments based on an annual rate of $4,296 less the amount of the parent's annual income. Parents receiving DIC under section 415(d) and who are in need of regular aid and attendance would, under this amendment, be entitled to DIC payments based on an annual rate of $5,496 less the couple's annual income.

Section 302

Subsection (a) clarifies the period of transition and provides for procedures to govern specific situations arising from the change to the new system. Specific rules apply to the following situations:

(1) claims pending in the VA on September 30, 1976; and

(2) claims for a pension filed by a parent within one year after he becomes totally disabled if he became such prior to October 1, 1976 but filed later than that date.

Under this subsection, the amount of pension to which the parent is entitled is calculated by dividing the parent's entitlement between the two programs on the day the switch is made. Thus, the entitlement would reflect the old rate until October 1 and the new rate after that date.

Subsection (b) is a general "savings" or "grandfather clause", granting those parents in receipt of DIC prior to October 1, 1976 the option of switching to the new program or continuing coverage on the current system.

Subsection (c) would also "grandfather" those whose claims are described in subsection (a) of this section.

TITLE IV—ADJUSTMENTS IN CURRENT STATUTORY PROVISIONS RELATING TO DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

In general, title IV of this act would provide an average 8 percent cost-of-living increase and a $300 increase in the maximum annual income limitations effective January 1, 1976, for those parents receiving need-based dependency and indemnity compensation. Subsequently, on October 1, 1976, the new Dependency and Indemnity Compensation system authorized by title III would replace these provisions except for those parents, then on the rolls, who elect not to switch to the new system. The rates of income limitations contained in this title which are applicable to those pensioners not electing to come under the new system would, thereafter, be automatically adjusted to reflect changes in the Consumer Price Index, as provided for in section 502 of this act discussed *infra*.

Section 401

Clause 1 would redesignate current paragraph 2 of subsection (b) as paragraph 4.

Clause 2 would increase the rates of dependency and indemnity compensation (DIC) and annual income limitation for a sole surviving parent receiving dependency and indemnity compensation under section 415(b).

Currently, a sole surviving parent receives a maximum monthly DIC payment of $123 if his annual countable income is less than $800, decreasing to $4 subject to a limitation on annual countable income of $3,000. As amended, this section, which also substitutes a more readable table of payments for the current written formula, would provide for a maximum monthly payment of $133 with an annual income of $800 or less, down to $4 and limited by an annual income of $3,300.

Clause 3 would increase the rates of dependency and indemnity compensation (DIC) and the annual income limitation for two parents not living together but receiving DIC under section 415(c). Currently, each of two parents who are not living together receives a maximum monthly DIC payment of $86 if annual countable income is $800 or less, decreasing on a graduated scale to $4 subject to a limitation on annual countable income of $3,000. As amended, this section would provide a maximum monthly rate of $93 with an annual income of $800 or less, down to $5 subject to a limitation on annual income of $3,300. *Clause 3* would also increase the rates of dependency and indemnity compensation (DIC) and the annual income limitation for parents receiving DIC under section 415(d). Currently, if there are two parents who are living together or if a parent is remarried and is living with his spouse, each parent receives a maximum monthly DIC payment of $83 if their annual countable income is $1,000 or less, decreasing gradually to $4 subject to a limitation on annual countable income of $4,200. As amended, this section would provide a maximum monthly payment of $93 with an annual income of $1,000 or less, down to $5 for an annual income of $4,500.

Clause 4 would increase the allowance payable under section 415(h) to parents in receipt of DIC who are in need of aid and attendance. Currently, this additional allowance is $64 per month. As amended, it would be increased to $69.

TITLE V—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

Section 501

Subsection (*a*) This section would amend section 4 of Public Law 90-275 (82 Stat. 68) to increase the maximum annual income limitations applicable under the "old law" pension plan by $300. A veteran or surviving spouse without a dependent, or a child alone, would remain eligible for pension with a maximum countable annual income of up to $2,900 a year as contrasted with the current $2,600 limitation. A veteran with a dependent or a surviving spouse with a child would remain eligible for pension with a maximum countable annual income of up to $4,200 as opposed to the current maximum of $3,900.

Subsection (*b*) provides for annual adjustment of the maximum annual income limitation for those veterans receiving pensions under section 9(b) of Public Law 90-275 (82 Stat. 68) who elect not to switch to the new program created by title I. The income limitations in effect shall be raised annually by the same percentages by which such benefits payable under title II of the Social Security Act are increased.

Section 502

Provides for annual adjustment of benefit rates and the maximum annual income limitations for those veterans and survivors who elect to remain under the current system as authorized by titles II and IV rather than switch to the new program created by titles I and III.

This is consistent with the administration's draft bill submitted in 1973 which proposed that veterans and widows under the current system should receive "automatic cost-of-living increases to the same extent as authorized under section 215 of the Social Security Act as a cost-of-living increase for social security recipients".

Accordingly, this subsection provides that whenever social security benefits are increased as a result of changes in the Consumer Price Index, that the benefit rates and the maximum annual income limitations for pensioners (and dependency and indemnity compensation for parents) will be adjusted by a like percentage effective January 1 of the following year.

The administration also proposed this in their 1973 draft legislation. The Administrator is empowered to round the income limitations as increased as he deems appropriate in light of the need for administrative ease.

Section 503

Except as provided in sections 202, 203, 204, 205, 206, 401, and 501, this Act takes effect on October 1, 1976. The excluded provisions are those which cover the pension program during the interim period of January 1, 1976–October 1, 1976.

Mr. HARTKE. Mr. President, subsequent to the filing of the committee report to S. 2635, we received additional information from the Congressional Budget Office. I ask unanimous consent that the material be inserted in the RECORD at this point.

There being no objection, the material was ordered printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 10, 1975.
HON. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office prepared a cost estimate for S. 2635, a bill to amend Title 38, U.S. Code, to modify the pension program for veterans and their dependents. This cost estimate was sent to you on December 9, 1975. Today I am transmitting the CBO's revised cost estimate for your consideration.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE—REVISED

1. Bill No.: S. 2635.

2. Bill Title: Veterans Survivors and Pension Reform Act.

3. Purpose of Bill:

The bill amends Title 38, U.S. Code, to modify the pension program for veterans and their dependents. The program establishes a minimum level of income of $2,700 for single pensioners and $3,900 for pensioners with dependents, beginning in FY 1977. Titles II and IV of the bill provide an inflation-based 8 percent increase in pension rates between January 1976 and the beginning of FY 1977. The bill also indexes future pension levels to the rate increases in social security retirement payments.

4. Budget Impact: (millions of dollars).

	Fiscal year	Transition quarter	Fiscal year—			
			1977	1978	1979	1980
Budget authority	110	55	986	1,203	1,423	1,597
Outlays	110	55	986	1,203	1,423	1,597
(Offsets)[1]			(128)	(169)	(211)	(238)
Net outlays			858	1,034	1,212	1,359

[1] Represents offsets to outlays for supplemental security income, food stamps, and aid to families with dependent children programs.

5. Basis for Estimate:

FY 76 and T.Q. estimates reflect the direct 8 percent interim increase in pension benefit levels. FY 77 estimate was developed by calculating the actual difference in pension payment resulting from reform for each income category. Numbers of pensioners in each income category were derived from the 1974 annual income survey of pensioners. The resulting costs are inflated using CBO estimates of increases in social security benefit levels for each of the years estimated. Offsets to other income security programs are calculated by measuring the dollar increase in benefits attributable to the increased pension levels. The resulting maximum potential offset to program outlays was reduced by 50 percent for SSI and AFDC programs and 75 percent in the Food Stamps program based on available evidence concerning participation rates in these programs.

6. Estimate Comparison: (millions of dollars)—

	Fiscal year—			
	1977	1978	1979	1980
VA estimate	816	1,165	1,318	1,381
CBO estimate	986	1,203	1,423	1,597

The estimates by the Veterans Administration and the CBO are reasonably consistent both in terms of methodology and results. The differences that do exist are primarily attributable to a more conservative set of assumptions used by CBO. The CBO estimate assumes that there would be a 100 percent participation in the reform program by those who benefit, while the VA assumes a somewhat lower participation. CBO's estimate also assumes a high inflation rate. These two assumptions account for the bulk of the difference between the estimates. Another, though smaller, portion of the difference is attributable to the CBO's more conservative assumption on the growth in income other than social security and veterans' pensions. This still leaves a modest difference between the two estimates, approximately 7 percent, which probably represents a reasonable range of cost uncertainty for a major legislative change.

7. Previous CBO Estimate: December 9, 1975.

8. Estimate prepared by: Michael Gutowski (255-4972) Roger Faxon (225-4972).

9. Estimate approved by: James L. Blum, Assistant Director, Budget Analysis Division.

Mr. HARTKE. Mr. President, I want to emphasize that what we propose today, namely, insuring that all eligible veterans and widows receive a level of support that places them above the poverty level, is a quite modest goal. Higher levels of support have been urged upon the committee which are not without merit. Veterans' organizations such as the American Legion and the Veterans of Foreign Wars, have urged support levels of $3,300 for a pensioner without dependents, and $5,500 for those with dependents. Such support levels would result in new mandatory expenditures of $2.8 billion in the first year alone, however. Given the state of the economy, budgetary realities, and the position of the administration, it is clear that such levels could not be achieved this year. At the same time, I believe it important to emphasize that we have a strong obligation to our Nation's veterans to insure that they are able to live out their lives in dignity. Establishing levels of support just above the poverty level, provides only the most minimum sense of dignity. I believe it will be incumbent upon Congress to continually reexamine support levels we establish for veterans and their survivors to insure within the context of existing budgetary resources that our national policy objectives are being fully achieved.

Veterans' groups, of course, are accustomed to the necessity of viewing and balancing veteran program increases within the context of the overall Federal budget. Further, such groups understand, perhaps better than anyone else, the need for providing a rational cost-effective system that insures that available tax dollars are applied to those who need it and in proportion to their needs. With millions of veterans approaching the age of 65, it is essential that we have a system that will be responsive to their needs and which can be defended against the attacks of those who would abolish veterans' pensions altogether. Unfortunately, I believe that there are those within and without the Government who if they could would totally eliminate veterans' pensions.

Thus, failure to act promptly will make the system more vulnerable to attack from hostile quarters and result in Federal expenditures that become increasingly illogical and difficult to defend. Veterans organizations recognize this and want to assure as I do that our Nation never forgets its special debt and continued obligation to those who risked their lives to defend their country. They recognize that we need an equitable, workable pension program that meets national objectives. And they are all too painfully aware of the failings of our current pension system, for it is they who are in regular contact with veterans and widows who must try to survive with dignity on a meager income. Mr. President, I believe that S. 2635 will serve as a strong cornerstone for an effective, continuing veterans pension program. I urge my colleagues to support it.

Mr. President, many people worked long hours to aid in the development of legislation before the Senate today. In particular, I want to commend the staff members of this committee, including Guy McMichael, Jack Wickes, Harold Carter, and Glorida Lawler, for their valuable assistance. To this list should be also added former staff member Mary Whalen who during the past 2 years developed much of the information needed by the committee to proceed in its consideration of pension restructuring.

The committee also received considerable assistance from the Library of Congress. In this connection, I want to single out William Robinson, Martha Proskauer, and Ilona Rashkow for their timely responses to committee inquiries.

Finally, I want to express my gratitude to the numerous individuals at the Veterans' Administration who provided technical assistance to the committee during its consideration of pension restructuring. In particular, I would be remiss if I did not mention Charles Peckarsky, Arthur Carley, Herbert Mars, Norman Paulson, and Kathleen Shepherd, for the high quality of the technical assistance that they rendered to the committee.

Mr. President, the bill has been agreed to on both sides. It has unanimous support of the Committee on Veterans' Affairs.

Mr. HANSEN. Mr. President, I rise in support of S. 2635, the Veterans and Survivors Pension Reform Act of 1975.

One of the most perplexing problems which we have faced on the Veterans' Affairs Committee involves the reduction of pensions when social security benefits increase. I am hopeful that the approach embodied in this bill will keep veterans who draw pensions from being adversely affected every time a social security increase goes into effect.

Under this pending bill, all veterans and dependents who are now eligible for the veterans' pension program will receive an 8-percent increase in their benefits and a $300 increase in the maximum annual income limitations. This will take effect on January 1. Otherwise, over 400,000 veterans or their survivors would be thrown off the pension rolls.

On October 1 next year, all new pensioners would qualify under the reform embodied in the legislation before us. Furthermore, current pensioners may elect to continue to participate under the current program or under the new program.

Mr. President, I think this bill is worthy of our consideration and enactment, and I urge my colleagues to join me in supporting it.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 2635) was passed.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, the remaining business for this evening is a conference report to be offered by the distinguished Senator from Wisconsin (Mr. PROXMIRE), the supplemental appropriation conference report to be offered by the distinguished Senator from Arkansas, on which I ask unanimous consent there be a time limitation of 10 minutes to be equally divided between the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Massachusetts (Mr. BROOKE).

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is hoped after that is concluded to be followed with a resolution by the distinguished Senator from Florida (Mr. STONE).

As of now it is not anticipated that there will be any rollcall votes. I cannot guarantee it absolutely, but the chances are about 99 to 1.

HOME MORTGAGE DISCLOSURE ACT—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on S. 1281, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CHILES). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, as follows:

CONFERENCE REPORT (S. REPT. NO. 94-553)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—REGULATION OF INTEREST RATES

SEC. 101. Section 7 of the Act of September 21, 1966 (Public Law 89-597), is amended by striking out "December 31, 1975" and inserting in lieu thereof "March 1, 1977".

SEC. 102. (a) An interest rate differential for any category of deposits or accounts which is in effect on December 10, 1975, between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)) may not be eliminated or reduced unless—

(A) written notification is given by the Board of Governors of the Federal Reserve System to the Congress; and

(B) the House of Representatives and the Senate approve, by concurrent resolution, the proposed elimination or reduction of the interest rate differential.

(b) In the case of the elimination or reduction of any interest rate differential under subsection (a) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to charge for such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

TITLE II—ELECTRONIC FUND TRANSFERS

SEC. 201. Section 203(b) of title II of the Act of October 28, 1974 (Public Law 93-495), is amended by—

(1) striking out "within one year of its findings and recommendations" and inserting in lieu thereof "within one year of the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson"; and

(2) striking out "not later than two years after the date of enactment of this Act" and inserting in lieu thereof not later than two years after the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson".

TITLE III—HOME MORTGAGE DISCLOSURE

SHORT TITLE

SEC. 301. This title may be cited as the "Home Mortgage Disclosure Act of 1975".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

(b) The purpose of this title is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(c) Nothing in this title is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

DEFINITIONS

SEC. 303. For purposes of this title—

(1) the term "mortgage loan" means a loan which is secured by residential real property or a home improvement loan;

(2) the term "depository institution" means any commercial bank, savings bank, savings and loan association, building and loan, or homestead association (including cooperative banks) or credit union which makes federally related mortgage loans as determined by the Board;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "Secretary" means the Secretary of Housing and Urban Development.

MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE

SEC. 304. (a)(1) Each depository institution which has a home office or branch office located within a standard metropolitan statistical area, as defined by the Office of Management and Budget shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at least one branch office within each standard metropolitan statistical area in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated, or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this title).

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts, where readily available at a reasonable cost, as determined by the Board, otherwise by ZIP code, for borrowers, under mortgage loans secured by property located within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that standard metropolitan statistical area.

For the purpose of this paragraph, a depository institution which maintains offices in more than one standard metropolitan statistical area shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased by an office of that depository institution located in the standard metropolitan statistical area in which the office making such information available is located.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan; and

(3) the number and dollar amount of home improvement loans.

(c) Any information required to be compiled and made available under this section shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

ENFORCEMENT

SEC. 305. (a) The Board shall prescribe such regulations as may be necessary to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary and proper to effectuate the purposes of this title, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System, other than national banks, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)) and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

RELATION TO STATE LAWS

SEC. 306. (a) This title does not annul, alter, or affect, or exempt any State chartered depository institution subject to the provisions of this title from complying with the laws of any State or subdivision thereof with respect to public disclosure and recordkeeping by depositor institutions, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this title if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this title, or that such law otherwise provides greater disclosure than is required under this title.

(b) The Board may by regulation exempt from the requirements of this title any State chartered depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced under—

(1) Section 8 of the Federal Deposit Insurance Act in the case of national banks, by the Comptroller of the Currency; and

(2) Section 5(d) of the Home Owners' Loan Act of 1933 in the case of any institu-

tion subject to that provision, by the Federal Home Loan Bank Board.

RESEARCH AND IMPROVED METHODS

SEC. 307. (a) (1) The Federal Home Loan Bank Board, with the assistance of the Secretary, the Director of the Bureau of the Census, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Federal Home Loan Bank Board deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) The Federal Home Loan Bank Board is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) The Federal Home Loan Bank Board shall recommend to the Committee on Banking, Currency and Housing of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate such additional legislation as the Federal Home Loan Bank Board deems appropriate to carry out the purpose of this title.

STUDY

SEC. 308. (a) The Board, in consultation with the Secretary of Housing and Urban Development, is authorized and directed to carry out a study to determine the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas, as defined by the Office of Management and Budget, to make disclosures comparable to those required by this title.

(b) A report on the study under this section shall be transmitted to the Congress not later than three years after the date of enactment of this title.

EFFECTIVE DATE

SEC. 309. This title shall take effect on the one hundred and eightieth day beginning after the date of its enactment. Any depository institution which has total assets as of its last full fiscal year of $10,000,000 or less is exempt from the provisions of this title.

TERMINATION OF AUTHORITY

SEC. 310. The authority granted by this title shall expire four years after its effective date.

And the House agree to the same. That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON WILLIAMS,
T. J. MCINTYRE,
ALAN CRANSTON,
EDWARD W. BROOKE,
BOB PACKWOOD,
Managers on the Part of the Senate.

H. REUSS,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
W. A. BARRETT,
JERRY M. PATTERSON,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill. The House amendment, the Senate bill and the substitute agreed to in conference are noted below except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

The House amendment provided for an extension of Regulation Q until December 31, 1977. The term "Regulation Q" refers to the authority by which the various Federal financial regulatory agencies set interest rate ceiling on deposits in financial institutions under their respective jurisdictions. The Senate bill had no provision. The Senate receded to the House with an amendment providing for an extension of Regulation Q until March 1, 1977.

The House amendment provided that an interest rate differential of not less than one-quarter of one percent be maintained in favor of deposits in thrift institutions. The amendment further provided that the Federal financial regulatory agencies take no action to eliminate or lessen any such differential in existence on the date of enactment except that such differential may, upon a finding of competitive disadvantage, be lessened or eliminated for selected geographic areas and by category of accounts.

The Senate bill had no provision. The House receded to the Senate.

The House amendment provided that there could be no lessening or eliminating of the differential by the regulatory agencies upon a finding of competitive disadvantage unless 45-day prior notification be given by the Board of Governors of the Federal Reserve System to the respective Banking Committees of both the House and the Senate and that neither Committee, within such 45-day period, disapprove by resolution the proposed elimination or lessening of the differential.

The Senate bill contained no provision. The Senate receded to the House with an amendment that any lessening or elimination of the differential proposed by the Federal financial regulatory agencies could take effect only upon the adoption of a concurrent resolution by both the Senate and the House of Representatives approving such proposal. The Conferees intend that this provision shall in no way restrict the present authority of the Federal financial regulatory agencies to increase deposit rate ceilings under Regulation Q as appropriate.

The House amendment provided that in any case where the differential is lessened or eliminated with regard to any category of account, the rate payable by all depository institutions on such category of account shall be the highest rate permitted under Regulation Q for that category of account.

The House amendment provided that for the period during which Regulation Q is extended under this Act, the Federal financial regulatory agencies shall study the impact of expanded lending and investment powers authorized for State-chartered thrift institutions on the housing portfolios of such institutions with special emphasis upon possible disintermediation effects.

The Senate bill had no provision. The House receded to the Senate.

TITLE II

The House amendment provided that the interim and final reports of the National Commission on Electronic Fund Transfers be submitted within one and two years, respectively, from the date of the confirmation by the Senate of the Chairperson. The Senate had no provision. The Senate receded to the House.

The House amendment further required an additional report to be submitted to the respective House and Senate Banking Committees within six months after enactment. The Senate bill had no provision. The House receded to the Senate.

TITLE III

Findings and purpose

The House amendment contains a finding that depository institutions have sometimes contributed to the decline of certain geographic areas by failing to provide home mortgage financing on reasonable terms to qualified applicants. The Senate provision is somewhat narrower and implies a connection between neighborhoods from which deposits are received and neighborhoods to which loans are made. The conference report contains the House provision.

The House amendment provides that the purpose is to enable citizens to determine whether depository institutions are fulfilling their obligations to serve housing credit needs of the affected areas and to help public officials determine public sector investments. The Senate provision contains broader language indicating an obligation by lenders to serve the housing needs of their communities. The conference report adopts the Senate provision, and also incorporates the House language indicating an additional purpose to assist public officials in their determination of public sector investments.

The House amendment contains a provision not included by the Senate that nothing in this title shall be construed to encourage unsound lending practices or the allocation of credit. The legislative history indicates a similar intent on the part of the Senate. The conference report adopts the House provision.

DEFINITIONS

The House amendment defines a mortgage loan as a loan secured by residential real property, or a home improvement loan. The Senate definition includes only "Federally related" mortgage loans other than temporary financing as defined under Section 3 of the Real Estate Settlement Procedures Act of 1974. The conference report adopts the broader house provision, which will provide information on multiple as well as single family mortgage loans, and also home improvement loans.

The House and Senate both included within the definition of a depository institution a bank, a savings bank, or a savings and loan association. The Senate bill also included credit unions; the House amendment added homestead associations (including cooperative banks). The House receded to the Senate provision with an amendment, to include homestead associations (including cooperative banks).

The conference report includes the House provision defining "Board" as the Board of Governors of the Federal Reserve, and "Secretary" as the Secretary of Housing and Urban Development. There was no comparable Senate provision.

Maintenance of public records and public disclosure

The Senate bill required information to be available for inspection at every branch of an institution located within a standard metropolitan Federally related mortgage loans. In addition to mutual savings banks, this includes non-Federally insured savings and loan associations. The conference report includes the Senate provision extending coverage to all non-Federally insured institutions, but adopts the House provision specifying that in the case of such institutions compliance shall be enforced by the FDIC.

The Conference Report includes a provision in the Senate bill but not in the House amendment providing that the National Credit Union Administration shall enforce compliance in the case of credit unions.

Relation to State laws

The Senate bill provided that this legislation does not exempt any "person" otherwise subject to state or local laws regarding recordkeeping and disclosure by depository institutions except to the extent of inconsistency with the provisions of this Act, and then only to the extent of the inconsistency, with the provision that the Board shall determine whether such inconsistencies exist. The Senate's intent was to subject all depository institutions in a jurisdiction to the same mortgage disclosure law, whether State or Federal, depending on which offered a greater degree of disclosure of mortgage information.

The House amendment provided an identical process for determining the inconsistency between state and Federal law, but limited the optional exemption from this Act to state chartered institutions. Under the House language, a state-chartered institution could be granted an exemption from this Act if the Board determined that the law of the state or subdivision afforded equal or greater disclosure, but in no case could a federally chartered institution be granted an exemption from this Act. The intent of the House provision is that in the area of public disclosure of mortgage lending statistics, this Act shall apply to all depository institutions unless an exemption is granted by the Board, in which case state-chartered institutions would be subject to the state or local law to the extent of the exemption, but Federally chartered institutions would continue to follow the requirements of this Act. The conferees understand that for the purposes of exemption authority granted to the Board, the term state law shall include State regulations which carry the force of law.

The Senate conferees regard the House provision concerning Federal pre-emption as an exception to the pre-emption provisions of other consumer finance laws, including the Truth in Lending and the Fair Credit Billing Acts, which contain provisions similar to the Senate provisions of S. 1281.

In the case of mortgage disclosure, however, the conferees on the part of the House strongly believe that subjecting a Federally chartered institution to state law would threaten the dual banking system.

With the understanding that this provision goes only to the narrow area of geographical disclosure of mortgage lending statistics, the Senate conferees agreed to the House provision, which is included in the conference report.

Studies

Both versions provided for a number of studies. The Conference Report included the Senate provision for a study to be carried out by the Federal Reserve Board to determine the feasibility and usefulness of requiring depository institutions located outside metropolitan areas to be subject to the requirements of this Act.

The Conference report also includes provisions contained in the House amendment, requiring the concerned Federal regulatory agencies to work with the Census Bureau to develop methods of matching addresses with census tracts to facilitate compliance with this Act, and requiring the Federal Home Loan Bank Board to recommend to the Banking committees of the Congress such additional legislation deemed appropriate.

The State provision requiring such studies to be transmitted to the Congress within three years of enactment was included in the conference report.

Exemption

The House amendment contained exemptions not included in the Senate bill, exempting institutions with total assets of $25,000,000 or less from compliance for 15 months, and exempting institutions with assets of $10,000,000 or less for the life of the Act. The conference report includes the exemption for institutions with assets of $10,000,000 or less.

Effective date

The Senate bill provided an effective date 90 days after enactment. The House amendment provided for 180 days. The Conference report provides that the Act shall take effect 180 days after enactment.

William Proxmire,
John Sparkman,
Harrison Williams,
T. J. McIntyre,
Alan Cranston,
Edward W. Brooke,
Bob Packwood,
Managers on the Part of the Senate.

H. Reuss,
Fernand J. St Germain,
Frank Annunzio,
W. A. Barrett,
Jerry M. Patterson,
Managers on the Part of the House.

Mr. PROXMIRE. Mr. President, title III of this legislation was passed by the Senate last September 4 as the Home Mortgage Disclosure Act. That measure requires financial institutions to disclose by geographic area the number and dollar amount of home mortgage loans. The intent here is that citizens and public officials will be more successful in discouraging the practice of "red-lining" or the refusal to lend mortgage money in older urban neighborhoods if they are armed with the facts. As the Banking Committee found during extensive hearings, mortgage disinvestment in urban neighborhoods is a serious problem that requires a remedy. Disclosure is the least painful remedy I am aware of. It does not require that a lender favor certain areas, or depart from sound lending criteria: only that the depositors and the community be informed of the facts.

Mr. President, the House and Senate versions of this legislation were quite similar. As the conference report indicates, the conferees have adopted the House language providing that the compilation and reporting of mortgage data shall be by census tract where feasible, and otherwise by U.S. postal ZIP code. The concern here had been that if we simply required universal reporting by census tract this might present a problem in newer areas where census track boundaries were fluid or unclear. But the "where feasible" language, to be determined by the Federal Reserve Board in consultation with the Census Bureau, should take care of that concern.

The conferees also agreed to the House provision regarding Federal preemption, at the recommendation of the regulatory agencies. The bill passed by the Senate provided that in the event that a State enacted its own mortgage disclosure legislation and that legislation provided a greater degree of disclosure than this act, a waiver could be obtained from the Federal law and all depository institutions doing business in that State would comply with State law.

Subsequently, at the suggestion of the Federal Home Loan Bank Board, the House modified that language to provide that federally chartered institutions would always be subject to the Federal law, but that State chartered institutions in States with mortgage disclosure laws could be granted a waiver if the State law provided for equal or greater disclosure. Although it is my belief that in certain areas of consumer legislation it is always useful to let the States serve as laboratories and that we should not preempt more comprehensive State legislation, we did agree to the House provision. We understand, however, that this language applied only to the mortgage disclosure provided in S. 1281, and does not preempt States from taking action to promote reinvestment in other ways.

The conferees included the Senate's provision to require that the Federal Reserve Board undertake a study of the usefulness of extending disclosure requirements to rural lenders. The present act covers only loans made in metropolitan areas. I know that is of interest to the Senator from Iowa, Dick Clark, who has been extremely concerned about rural credit outflows.

We also included the Senate provision to require that information be retained for a period of 5 years. The conferees accepted the House language adding home improvement loans, and we set a 4-year expiration date, as originally provided by the House.

Mr. President, title I of this legislation had no Senate counterpart. Title I extends regulation Q for a period of 14 months.

Regulation Q, which authorizes a ceiling on interest which may be paid by commercial banks and by thrift institutions has been routinely extended every time the expiration date approaches.

This time, however, the Congress was confronted by two new factors. First, far-reaching comprehensive legislation is pending to broaden the powers of thrift institutions, and if all goes well to end the need for regulation Q after 6 years. That legislation passed this body last week.

The second new factor was a provision in the House bill legislating a mandatory quarter-point differential for the first time. Now, in light of our action to phaseout regulation Q in the context of broad financial reform, the distinguished chairman of the Financial Institutions Subcommittee, Senator McIntyre felt very strongly that we had no business going the other way and writing the existing quarter-point differential into law.

I think the compromise the conferees drafted goes a reasonable way toward the House provision, but stops short of a statutory differential. The House extended regulation Q for 2 years. The conference report extends it for 14 months. The House wrote into law a mandatory quarter point differential. The conference report provides that the existing quarter-point differential, which has been in effect since 1973, may not be further reduced without a concurrent congressional resolution of approval. This will have the effect of protecting thrift institutions from capricious action, but it does not write the quarter point differential into law, which would be a poor precedent.

Finally, Mr. President, the conference accepted, with slight modification, title II of the House bill extending the Electronic Funds Transfers Commission for 2 years.

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the conference report.

The conference report was agreed to.

SUPPLEMENTAL APPROPRIATIONS, 1976—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 10647, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of December 12, 1975, at page 40219.)

The PRESIDING OFFICER. Under the order, there are 10 minutes a side on this conference report, 5 minutes for the Senator from Arkansas (Mr. McCLELLAN) and 5 minutes to the Senator from Massachusetts (Mr. BROOKE).

Mr. McCLELLAN. Mr. President, I yield myself as much time as I might require.

Mr. President, the Committee on Conference met on H.R. 10647, the supplemental appropriations bill for fiscal 1976 and the transition period on Thursday, December 11. The report was finalized and filed in the other body on Friday.

Mr. President, a total of 83 numbered amendments were in conference. Of that total the Senate receded on 13, the House receded on 17. A total of 23 amendments were further amended and agreed to by the House and 30 have been brought back in technical disagreement.

The bill as agreed to by the Committee on Conference totals about $10.3 billion. In round numbers this is about $35.5 million less than the Senate-passed bill; about $2.5 billion above the House bill and about $1 billion below the budget estimates. It should be pointed out that the Senate considered almost $2.4 billion in formal budget estimates that were submitted to the Senate following House action on the bill and this, of course, explains why the Senate bill is far in excess of the House-passed bill. The major item which is now covered by a budget estimate but which had not been considered by the House is the New York assistance item with which we are all familiar.

Mr. President, I ask unanimous consent that immediately following my remarks there be included in the record a table showing the bill totals and comparative data for both fiscal 1976 and the transition period.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, I do not plan to discuss this bill at any great length today. This bill was before the Senate for 2 days just last week and most of the items of any great interest were discussed in some detail at that time. As I indicated on this floor last week and as the final vote then showed, many of us are not happy with the total of this supplemental bill—more than $10 billion. But a very small portion of this bill was before the Committee on Conference. There was $5 billion for payments to the unemployment trust fund and $1.75 billion for food stamps that were not subject to conference.

The major money item in conference was the $2.3 billion in New York assistance money and on this item the House conferees agreed reluctantly, with two conferees continuing to object to this item in the conference report and the joint statement of the managers. But these three items total more than $9 billion and this serves to explain, but not necessarily justify the size of this bill.

The conference agreement includes $5,500,000 for fiscal year 1976 and $1,375,000 for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department to implement a test of concentrated urban enforcement—CUE—of gun control laws. These funds will enable the Bureau to employ up to 250 additional special agents and support personnel to assist in the conduct of the test in three geographically separated cities. One of the cities shall be Washington, D.C.

Mr. President, when the bill was before the Senate, I voted against the bill. I will vote against the conference report and I would like the RECORD to so reflect. Although there will be no rollcall vote I would like the RECORD to reflect my continuing objection to the bill.

I yield to the distinguished Senator from Massachusetts.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1976 and the transition period recommended by the committee of conference, with comparisons to the 1976 budget estimates, and the House and Senate bills for 1976 follows:

Budget estimates of new (obligational) authority (as amended), fiscal year 1976	[1] $11,303,560,377
Transition period	[1] 904,409,360
House bill, fiscal year 1976	7,820,306,201
Transition period	127,654,795
Senate bill, fiscal year 1976	10,334,347,777
Transition period	156,010,610
Conference agreement	10,298,883,117
Transition period	133,813,695
Conference agreement compared with:	
Budget estimates of new (obligational) authority (as amended), fiscal year 1976	−1,004,677,260
Transition period	−770,595,665
House bill, fiscal year 1976	+2,478,576,916
Transition period	+6,158,900
Senate bill, fiscal year 1976	−35,464,660
Transition period	−22,196,915

[1] Includes $2,375,333,516 in budget estimates for fiscal year 1976 and $2,644,900 for the transition period not considered by the House.

Mr. BROOKE. Mr. President, I concur, for the minority, on the supplemental appropriations bill.

Mr. President, as the chairman has indicated, the conferees agreed to supplemental appropriations of $10,298,883,117 for fiscal year 1976 and $133,813,695 for the transition period. This is a reduction below the budget estimates of $1,004,677,260 for fiscal year 1976 and $770,559,665 for the transition period. Overall the funding provided in this bill is a reduction of the amounts provided in the Senate bill.

I will not repeat the detail that has been provided by the chairman of the committee. However, I would like to make a few brief points.

First of all, as we are all aware, this bill contains $2.3 billion for New York City. We have spent considerable time debating this issue and I do not believe it necessary to elaborate further on this issue at this time.

Second, this bill contains $1.75 billion for food stamps and the special milk program. This is approximately $1.3 billion below the budget estimate.

Third, this bill contains $5 billion for unemployment. These funds are mandatory under existing law as a result of the high unemployment rate we are experiencing.

Mr. President, funds provided in this conference report are necessary to provide for many major needed programs but in particular to support increased pay costs, increases due to inflation and other urgent matters that cannot be delayed until the next supplemental appropriations bill or until fiscal year 1977.

I urge the adoption of the conference report.

Mr. JAVITS. Will the Senator yield very briefly?

Mr. BROOKE. I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I shall not detain the Senate, but Senator ALLEN and I had a very interesting colloquy at the termination of the previous phase of this New York legislation in which I made certain statements to the Senate respecting my own activities in the future to make good what the Senate has done and, finally, is consummating in this bill.

I ask unanimous consent, because I think it is so pertinent to the final stage of this legislation, that my colloquy with Senator ALLEN may be printed in the RECORD.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

> Mr. JAVITS. Mr. President, I simply wish to express my appreciation for the statemanship which has just been shown by the very doughty opponents of the New York bill and by the extraordinary effort of the leadership on the Democratic side, aided by that on our side, especially by Senators TOWER and BROOKE, to bring this matter to a head before it would be too late to do anybody any good, no matter what the Senate decided.

I am very grateful for this, and it is only in that spirit that I speak. I have made many representations to the Senate on this subject, obviously a subject in which I am very well grounded, not only from study but also from life. I have lived in this city all my life, except for the war years, and I understand its troubles, and nobody knows its derelictions better than I. So I speak with a certain—I cannot say objectivity, but certainly with knowledge, from which objectivity comes.

First, we always must bear in mind that it is not only those bankers—and they serve a critical purpose in our country, as we all know—but also 160,000 individual holders, to who Senator ALLEN quite properly called attention.

It is a fact that New York City's securities have been considered tops; and even when the city and the State began to go wrong in terms of using the tax anticipation notes, because of the great reputation of New York City and New York State, people continued to buy them. I am very well aware of that and consider it an important element of conscience on the part of the people of the State and the city and on my part to see that those holders ultimately suffer no damage.

Second, the conditions of the loans, believe me, are truly tight. It will be a matter of conscience to me to do my utmost to see that they are dealt with honestly. I emphasize the word "honestly" because of the financial gimmickry for which New York City has been guilty and was kind of allowed to do it, to give it the kindest word, by the State.

Third, we have an enormous tax-paying ability, which is of great aid to the Federal Government. Roughly, in round figures, an estimated $25 billion to $30 billion comes out of our State every year. The New York business community can make the difference in whether or not that continues to be, in New York, the great source of revenue for all the things the rest of the country does. It may be remembered by some of my colleagues who have been here some time that even so beloved and close a friend and colleague of mine as Kenneth Keating and I differed very materially on education aid, for which New York was paying four to five times what it received. This did not throw me, but it did throw him, and I can understand why. But I stuck to my guns, and I always will, realizing that it is part of our duty. While we must get a better break in many of these formulae, and I have always fought for that, the fact is that we are destined to pay a considerable amount more than we have received and it simply cannot be simplistically run the other way. If you want to be the outlet and the intake for the United States, you have to pay for the franchise—that is what it really comes to.

So, I pledge to the Senate my utmost effort to marshal the enormous New York business community in the effort to make up for our problems in what looks like a very serious downhill slide for New York in terms of what it can generate in revenue in order to maintain it for the next quarter of a century as that kind of revenue source for the Federal Government.

Next, the State itself has financial problems and we are in grave danger of losing great business elements in our State, because it will just be too expensive and too difficult to do business there. Nobody is tied down; they can go elsewhere. It may be trouble and it may cost money, but ultimately they can do it. So I shall make it my business, to the maximum extent possible, to cooperate with the Governor of the State, who has done a wonderful job in respect of this particular problem and crisis, in order to make it possible for New York to be New York, notwithstanding the terrible drain which this is going to be for the next 3 to 5 years.

Finally, on the bailout issue, without arguing the use of the term—and I understand why it is used by Senator ALLEN and other opponents. I am too much of a trial lawyer myself to say, "Do not do it." But I should rather address myself to the merits there. This will take, in addition to the business community, a highly disciplined New York City, by 8 million people, who will have learned from this terrible experience what it means to run a tighter ship. That goes not only for taxes and financing, but it also goes for crime and drug addiction and the many other things which have dragged our city down and have been responsible for many of the adverse developments with respect to it. There, too, I have been responsible, with the alliance of Senator BUCKLEY, in organizing an outstanding citizens committee, chaired by Osborn Elliott, who is the editor-in-chief of Newsweek, secretaried by a man who used to be my New York assistant and is now the secretary of this citizens committee, named Dennis Allee, who has a fine record, and joined in by some of the leading citizens of our city of all kinds, from the financial and artistic side to the highest business levels, with the honorary chairmanship of the leading political people—myself, Senator BUCKLEY, Congressman DELANEY, the head of the New York delegation, the Governor and the mayor and the comptroller of the State of New York. We shall do a job there, with the citizens, in terms of self-help and the discipline which is going to be required of the people of New York.

Mr. President, I believe that that is a proper accounting by me to the Senate of what I hope to do for what I consider to be a certain faith placed in my good faith and intentions by the Senate in voting this New York bill, which was no pleasure to any Members of the Senate, including myself.

Mr. ALLEN. Will the Senator yield?

Mr. MANSFIELD. Mr. President, if the Senator will allow me, I want to say that I took note of the criticism of the leadership by the distinguished Senator from Alabama. I must admit, in all candor, that there was merit to what he had to say, and I wish to take this opportunity to thank him for the temperateness of the criticism which he directed at the leadership.

Mr. ALLEN. Will the Senator from New York yield?

Mr. JAVITS. I yield to the Senator.

Mr. ALLEN. I commend the Senator from New York for his statement. I certainly admire the fight he has put up here in the Senate and elsewhere in behalf of his city and State. He certainly started out with an underdog position, but, through circumstances that developed, he was able to win his case here in the Senate. Now that the issue has been decided, certainly, I shall express my best and kindest wishes for New York and its people, which has never been other than my attitude. I have felt, all along, that in taking the position that I have against this, shall I say, assistance rather than bailout—this assistance to New York City—I was standing for the people of New York.

I felt that the assistance at the Federal level would serve to freeze in this wasteful level of public expenditures in New York City, but that by solving the matter themselves, or taking the protection of the bankruptcy statutes, New York would emerge with a level of expenditures that the taxpayers could better support. I am hopeful that this $2.3 billion will be sufficient to tide New York over until it can put its affairs in better shape.

The distinguished Senator has my very best wishes for the success of this program and for better days, economically, for New York. Certainly, I appreciate the pledges the distinguished Senator has made to use his best efforts and his good offices in seeing that the agreements and stipulations that New York is entering into are carried out in order that this will be a program that is beneficial to all.

Again, I want to commend the distinguished Senator from New York for the role that he has played. It is a role that I have opposed, but still, I have admired him for his tenacity, and for the evenness of his disposition through the trying hours this matter has been under consideration. I applaud him for the success of this measure on the Senate floor.

Mr. JAVITS. I am very grateful to my colleague. He is very generous. I have never had the least doubt of the sincerity of my colleagues, and I have always believed that liberals and conservatives, be we what we may, it is our amalgam that makes our country what it is. I thoroughly believe in it, just as the Senator does, and I welcome and applaud his efforts in what he felt, in deep conscience, he should do.

May I say, finally, that if the Lord will give me years, I shall do my utmost to see that the investment made by our country is the right one and that it is a success.

Mr. ALLEN. Mr. President, I thank the Senator.

Seeking recognition in my own right, I am delighted that the distinguished majority leader commented so generously on the remarks the Senator from Alabama made with regard to the piloting of these two bills, the rail transportation bill and the New York assistance measure—I say out of deference to the distinguished Senator from New York (Mr. JAVITS)—through the Senate. He was kind enough to say there is some merit in the criticism—and I guess it was criticism—offered by the Senator from Alabama. I think it might be noted that he made no pledge to mend his ways in the conduct of Senate business here, so I shall have to say that, as long as that is the attitude of the leadership, we are going to have to look for more extended discussions on subjects here in the Senate.

Mr. JAVITS. Mr. President, I would like to extend my thanks on behalf of the people of the city of New York to Senator PROXMIRE and to Senator BROOKE, who were so gifted, and to Senator STEVENSON and other Senators who participated in the same way.

Also, the very splendid action by our country in respect of the United States-Japanese Friendship Act which is also contained in this bill, which will do our country enormous good in the years ahead, and to express appreciation for the extraordinary statesmanship of Senator PASTORE and Senator INOUYE.

I thank the Chair.

Mr. BROOKE. Mr. President, we have come a long way, and I think we have accomplished the only rational solution. I commend my colleague, the distinguished senior Senator from New York, for all the work I know he has done on this particular piece of legislation, starting from our hearings before the Banking Committee and on each phase of this legislation. He has always been present and working toward a proper solution. He has done a yeoman's job for his fine city, the city of New York, and it has been a joy to work with him. I commend him.

Mr. JAVITS. I thank my colleague.

Mr. MAGNUSON. Mr. President, the conference report on the first supplemental appropriations bill before the Senate contains some very important and high-priority Labor-HEW programs.

This chapter is the largest in the bill—a total of $5,104,139,000. We did very well in our conference with the House. The Senate sustained well over 50 percent of all the Senate figures.

This money is for service, care, and training programs—visible, high-need areas which many people in our country will benefit from almost immediately.

Five billion dollars has been allowed for unemployment compensation. These are tough times. Without this money, families all over the country will have an awful long, cold, hungry winter.

I want to inform the Members of an oversight which occurred while this bill was being printed and prepared. It was our intention to delete a provision, enacted in the education appropriations bill, which deals with limiting consultant services. Because of an oversight, this problem will have to be dealt with in a subsequent bill containing Labor-HEW programs.

There are also many preventive health programs in this bill—over $450 million for health services. This includes funding for the new hypertension programs, important migrant health centers, community health centers, and rat control in our cities.

We have also expanded a very important community program—community mental health centers. This growing network across the Nation is helping thousands of people to help themselves—instead of being put in expensive institutions during a time of great stress and need.

The conferees have also agreed to increased funding for the new and very important nurse training programs. This will begin to help nurses accept a larger role in our health care system through better training and services to our aged and medically underserved areas.

All of these health programs have finally received the new authorization under the Health Services—Nurse Training and Health Revenue Sharing Act of 1975. We will now be able to once again renew our efforts in developing a working health delivery system in this country. We have a long way to go, but this is another giant step.

In the past we simply had to provide funding, and the programs would be properly implemented. Now, unfortunately, things are more complicated. The administration has gone to a method of slowing new programs or destroying old ones—the impoundment of positions.

It is because of this that many health programs have as much as a 40-percent decrease in positions while having 40- to 90-percent funding increases since 1968. This clearly creates poor management and the inability to carry out good research.

This position of OMB forced the Congress to take action to solve this problem. What we did in the regular Labor-HEW appropriations bill was a "first." The Congress clearly provided positions to continue and initiate health research and service programs in the conference report (No. 94–689), which was overwhelmingly passed by both Houses of Congress.

Now, the House conferees and their chairman (Mr. FLOOD) on this first supplemental have encouraged the Senate conferees to insert the following table on positions into the RECORD during the adoption of the conference report. These are the same positions which the Senate included in its Senate report. We are very serious that these additional positions be provided. They are vital if the newly-authorized health programs are to ever be properly implemented. These positions will help the nursing programs, which have been drastically cut back, as well as health service and prevention projects.

	1975 level	1976 budget	1976 conference allowance	Senate committee supplemental allowance	Increase
Health Services [1]	7,796	6,995	7,797	7,846	+49
Center for Disease Control	3,569	3,508	3,648	3,682	+34
Alcohol, Drug Abuse and Mental Health (Mental Health)	1,696	1,590	1,796	1,816	+20
Health Resources Administration	2,046	2,046	2,066	2,096	+30

[1] Excludes 150 National Health Service Corps positions added by the House and Senate for the same purpose.

I urge adoption of this conference report. We must begin the implementation of these vital new programs now. Every day is important in our efforts to create a good, efficient national health care system for all of our citizens.

Mr. President, I would like to include in the RECORD a response I requested from HEW regarding Senator CRANSTON's remarks on the floor December 10 when we passed our version of this supplemental.

Senator CRANSTON appeared to be making the point that $1.4 million of the $18.5 million in developmental disabilities special projects is already earmarked for vocational rehabilitation client assistance and migrant projects. The Department's position, to the contrary, is that the full $18.5 million provided by transfer in this supplemental is available for use under the new developmental disabilities legislation. If this continues to be a matter of dispute, perhaps we could ask the General Accounting Office to help resolve the problem.

I ask unanimous consent that HEW's position on this issue be printed in the RECORD, as well as a conference report table.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEW POSITION ON $18.5 MILLION IN DEVELOPMENTAL DISABILITIES SPECIAL PROJECTS

Senator Cranston believes that only $17.1 million, instead of $18.5 million, is actually available in FY 1976 for developmental disabilities service projects. The Senator's point is that $1.4 million of the $18.5 million is already earmarked for vocational rehabilitation Client Assistance and Migrant projects.

The Department's position is that the full $18.5 million is available for use under the new developmental disabilities Act.

The Supplemental Budget Request asked that $18.5 million be made available under the new Special Projects authority of the Act. Both the House and Senate bills agree with this. Since these projects would be funded under the new authority (and not section 304 of the Rehabilitation Act as was done in the past), we would no longer trigger the mandate in section 112 of the Rehabilitation Act for funding Client Assistance.

It is now our intention to have Client Assistance projects compete with other Rehabilitation projects.

Migrant projects would continue to receive 5% of the amount appropriated under section 304 of the Rehabilitation Act, as required by that Act.

The Department has not made final decisions on the total amount to be used for Client Assistance and Migrant projects in FY 1976.

SUPPLEMENTAL APPROPRIATION BILL, 1976

LABOR–HEW SUBCOMMITTEE

	1975 appropriation	1976 regular budget request	1976 supplemental request	House and Senate action
DEPARTMENT OF LABOR				
Manpower Administration:				
Advances to the unemployment trust fund and other funds	$5,750,000,000		$5,000,000,000	$5,000,000,000
Grants to States for unemployment insurance and employment services	(1,242,300,000)	($1,069,000,000)	(364,100,000)	(364,100,000)
Labor-Management Services Administration:				
Salaries and expenses	36,845,000	42,000,000	4,618,000	3,910,000
Transition period		10,047,000	1,930,000	1,930,000
Departmental Management:				
Salaries and expenses	30,339,000	33,242,000	305,000	203,000
Transition period		7,781,000	154,000	154,000
Employment Standards Administration:				
Salaries and expenses	76,116,000	79,715,000	3,340,000	2,926,000
Transition period		19,929,000	1,198,000	1,198,000
Special benefits	165,000,000	201,000,000	97,100,000	97,100,000
Transition period		70,000,000	10,800,000	10,800,000
Total, Department of Labor	6,058,300,000	355,957,000	5,105,363,000	5,104,139,000
Transition period		107,757,000	14,082,000	14,082,000

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—FISCAL YEAR 1976 SUPPLEMENTAL APPROPRIATION BILL

Appropriation/activity	1975 actual	1976 pending request	1976 House allowance	1976 Senate allowance	1976 conference agreement
HEALTH SERVICES					
Health revenue sharing (Sec. 314(d))	$90,000,000		$90,000,000	[1] 97,500,000	[2] 93,750,000
Family planning:					
Project grants (Sec. 1001(c))	94,500,000	$75,135,000	94,500,000	94,500,000	94,500,000
Training (Sec. 1003(b))	3,000,000	2,000,000	3,000,000	3,000,000	3,000,000
Information and education (Sec. 1005(b))	600,000	300,000	600,000	600,000	600,000
Research (Sec. 1004(b)(1)	2,515,000	2,000,000	2,515,000	2,515,000	2,515,000
Subtotal	100,615,000	79,435,000	100,615,000	100,615,000	100,615,000
Migrant health centers:					
Planning and development grants (Secs. 319(h)(1))	23,750,000	19,200,000	23,750,000	25,000,000	25,000,000
Operational costs grants (Secs. 319(h)(2))					
Outpatient and hosptial services (Secs. 319(h)(3))					
Community health centers:					
Planning and development (Sec. 330(g)(1))	196,648,000	155,190,000	196,648,000	196,648,000	196,648,000
Payments for operation (Sec. 330(g)(2))					
National Health Service Corps: Extension of Sections (Sec. 329)	[3] 14,055,000	12,529,000	15,000,000	15,000,000	15,000,000
Home Health services, Public Law 94-63:					
Demonstration and initial operation (Sec. 602(a)(5)			3,000,000	3,000,000	3,000,000
Demonstration training of personnel (Sec. 602(b)(4))					
Hemophilia programs:					
Treatment centers (Sec. 1131(f))			1,000,000	1,000,000	1,000,000
Blood separation centers (Sec. 1131(e))			2,000,000	2,000,000	2,000,000
Total, Health Services	425,068,000	266,354,000	432,013,000	440,763,000	437,013,000
Transition quarter		(65,017,000)	(87,517,000)	(112,000,000)	(89,662,000)
PREVENTIVE HEALTH SERVICES					
Diseases borne by rodents (Sec. 317(d))	13,100,000	5,410,000	10,410,000	13,710,000	13,100,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH					
Community mental health centers: (CMHC Act):					
Planning community mental health centers (Sec 202(d))			1,500,000	1,500,000	1,500,000
Initial operation (Sec 203(d))			18,000,000	30,000,000	24,000,000
Consultation and educational services (Sec. 204(c))			3,000,000	5,000,000	4,000,000
Conversion (Sec: 205(c))			20,000,000	20,000,000	20,000,000
Financial distress (Sec. 213)			6,000,000	4,000,000	4,000,000
Rape prevention and control (Sec. 231)			2,000,000	4,000,000	3,000,000
Total, ADAMHA			50,500,000	64,500,000	56,500,000
HEALTH RESOURCES					
Nursing:					
Institutional assistance:					
Capitation grants (Sec. 810)	34,343,000		44,000,000	44,000,000	44,000,000
Special projects (Sec. 820(d))		15,000,000	15,000,000	15,000,000	15,000,000
Advanced training project grants (Sec. 821(b))	23,039,000	1,000,000	1,000,000	3,000,000	2,000,000
Nurse practitioners (Sec. 822(d))		2,000,000	2,000,000	4,000,000	3,000,000
Student assistance:					
General scholarships (Sec. 845)			[4] 2,000,000	[4] 2,000,000	2,000,000
Traineeships (Sec. 830)	13,016,000		13,000,000	13,000,000	13,000,000
Student loans				8,000,000	6,000,000
Total, Health Resources	70,398,000	18,000,000	77,000,000	89,000,000	85,000,000
Transition quarter		(4,000,000)	(6,000,000)	(6,000,000)	(6,000,000)
National Institute of Education (educational satellite activities)	4,292,000			3,250,000	
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT—HUMAN DEVELOPMENT					
White House Conference on the Handicapped (S. 306 White House Conference on Handicapped Individuals Act)	25,000	2,955,000	2,955,000	1,370,000	1,370,000
Grants to the developmentally disabled (Developmentally Disabled Assistance and Bill of Rights Act):					
State grants (S. 131)	30,875,000	30,875,000	32,875,000	32,875,000	32,875,000
University affiliated facilities (S. 123)	4,250,000	4,250,000	4,250,000	4,250,000	4,250,000
Total, OHD	35,150,000	38,080,000	40,080,000	38,495,000	38,495,000
Transition period		(8,668,000)	(9,168,000)	(9,150,000)	(9,317,000)
DEPARTMENTAL MANAGEMENT—GENERAL DEPARTMENTAL MANAGEMENT					
Office of investigations and security			413,000	413,000	413,000
Transition period		( )	(206,000)	(206,000)	(206,000)
Total, DHEW	548,008,000	327,844,000	610,416,000	650,131,000	630,521,000
Transition period		(77,685,000)	(102,891,000)	(127,716,000)	(105,185,000

---

[1] Includes $7,500,000 for hypertension programs.

[2] Includes $3,750,000 for hypertension programs.

[3] Includes $5,000,000 appropriated in 1975 and made available for obligation through June 30, 1976.

[4] $4,000,000 request already considered in regular Health and Welfare appropriations bill. The $2,000,000 is in addition to amount provided in regular appropriation bill.

Mr. BROOKE. Mr. President, since the distinguished chairman of our subcommittee (Mr. MAGNUSON) has provided an overview of the conference action on the Labor-HEW portion of the supplemental, I will mention just a few of the programs covered by our chapter of the bill.

I am particularly pleased that the House conferees agreed to provide $3.7 million in startup funds for the recently authorized hypertension program. Hypertension is a serious problem which afflicts millions of people—and many of its victims do not even know they have it. It is essential that HEW work out a formula to target these funds on areas with high incidences of hypertension.

Also approved was the Senate add-on which will allow migrant health centers to continue operation at the fiscal year 1975 level rather than the 20-percent decrease which had been recommended.

The sum of $24 million will be available in fiscal year 1976 for initial operations of community mental health centers—there was no budget request for this program—$3 million has been allocated to implement the new Rape Prevention and Control Act—a $1 million increase over the House passed level.

The Senate provided increases of $12 million for nursing programs. Of this amount, the House accepted $8 million to be distributed among nursing loans, advanced nurse training and nurse practitioner programs.

The House agreed with the Senate reduction of $1.5 million for the White House Conference on Handicapped Individuals. The amount contained in the Senate bill will be sufficient to fund this year's activities and we will consider the additional funding needs in the next regular HEW Appropriations bill.

Since the House and Senate levels for

the Department of Labor were identical, there were no programs in conference for this Department and the total of $5.1 billion remains unchanged. Five billion dollars was requested by the President for future unemployment benefits.

I feel that the conferees have reported a balanced bill for HEW as well as the other agencies funded through this chapter of the supplemental and I urge that the conference agreement be accepted by the full Senate.

Mr. MANSFIELD. Mr. President, at this time I would like to ask a question or two about the language in the Senate committee's report on this bill that concerns the appropriation item for the National Commission on Supplies and Shortages. At page 83, the report states as follows:

> The Commission is advised that $80,000 of the funding provided shall be made available for use by the Advisory Committee.

As the able chairman knows, the Advisory Committee to the National Commission is considered extraordinarily important in terms of the legislative mandate which has been assigned to it. The $80,000 figure, I assume, refers to the fiscal year 1976 ending June 30, 1976 and does not include the transition period ending September 30, 1976. Is that a fair statement?

Mr. McCLELLAN. It is my understanding that the Appropriations Committee was referring only to the fiscal year ending June 30, 1976, in that particular statement.

Mr. MANSFIELD. As I recall, approximately $40,000 in addition to the $80,000 was contemplated out of the total funds made available to the Commission for use by the Advisory Committee during the transition period.

Mr. McCLELLAN. I would think that during the transition period at least $40,000 would be needed by the Advisory Committee to perform the task it was assigned under Public Law 93-426. If there is any doubt about this in the mind of the Commission, I would think that prior to the commencement of the transition fiscal year the matter could be resolved by the committee through an appropriate vehicle that will come before the Senate in the first half of the next calendar year. I suggest this matter be given further attention at that time.

Mr. MANSFIELD. I thank the distinguished chairman. I think the RECORD is clear.

Mr. HOLLINGS. Mr. President, when this bill passed the Senate, I voted for it so that I could support my legislative section in the conference markup. Now that the conferees have agreed, I am in a position to express my feeling about the seasonal financing for the city of New York. I will vote "No" to the adoption of the conference report. The New York problem has been a moving target and it is extremely difficult to document the understanding of the members in appropriating $2.3 billion in this measure. For my part, I look at the causes and I examine the proposed solution of $2.3 billion. Rather than outline in an argumentative way, I shall ask unanimous consent to have printed in the RECORD at this point an article in New York magazine by Ken Auletta and one from the Reader's Digest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Who's To Blame for the Fix We're In

(By Ken Auletta)

On October 7, 1965, William F. Buckley, then a candidate for mayor, warned, "New York City is in dire financial condition, as a result of mismanagement, extravagance, and political cowardice. . . . New York City must discontinue its present borrowing policies, and learn to live within its income, before it goes bankrupt." Judging by the reaction, one would have thought Buckley had proposed to drop the atom bomb on Israel.

It took a decade for Buckley to appear "responsible." He was bucking the sixties, the Age of Good Intentions, when candidates solemnly promised to outspend their rivals. New ideas. New programs. That's what we wanted. An unwitting spokesman for the age was Mayor Robert F. Wagner, who, in his last budget message, in 1965, declared: "I do not propose to permit our fiscal problems to set the limits of our commitments to meet the essential needs of the people of the city."

Consistent with that curious fiscal philosophy, New York City persisted in an ambitious—and compassionate—effort to care for those less fortunate by taxing those who could afford it. Today, 14 per cent of our citizens are on welfare. We support nineteen municipal hospitals, free tuition at the City University, open enrollment, day-care centers, foster homes—and we have an assortment of more than 25 different taxes. We have conducted a noble experiment in local socialism and income redistribution, one clear result of which has been to redistribute much of our tax base and many jobs out of the city.

The city's now overwhelming credit crisis is primarily a symptom, not a cause, of a deeper economic malaise, whose roots reach back three decades and encompass a series of city, state, and even federal decisions. This is a piece about those decisions, a chronicle of the people and events that cumulatively pulled us into our predicament.

To pinpoint the most important of these decisions, I interviewed more than 40 public officials, labor leaders, businessmen, bankers, and students of city government. My question was always the same: What were the key events and decisions that led to the city's present fiscal crisis? After sorting through these responses, and assisted by a research associate, Robert Sullivan, I waded through old budget. Board of Estimate minutes, press releases, newspaper clips, state laws, books and pamphlets. Then, when I had narrowed the choices, I did more interviewing.

In time, twenty critical decisions seemed to me to be the key events that let New York into financial ruin. The criterion for selection was not merely a "bad" or a "good" decision as such, but also those that opened the door for later abuse.

There are those who stress that New York is primarily the victim of social forces beyond its control. They will be disappointed in what they find here. Sure, there are general villains in plenty: the migration since World War II which brought 2 million blacks and Hispanics (largely poor) to the city and the departure of 2 million primarily white residents (largely middle income); the loss of one out of ten jobs in the last five years; inflation; taxes; racial polarization; anti urban bias; even the invention of the automobile. Not to mention such nondecisions as insufficient federal and state aid and the failure to engage in effective economic planning.

But to blame everybody is to blame nobody. There are particular villains in this story. If there is a single common thread weaving through these many decisions, it would be what is called "politics." And since "liberal" politicians have dominated city government these many years, it is they who are more guilty than others. The roll-overs, false revenue estimates, and plain lies that have robbed taxpayers of literally billions through excessive borrowing to cover up excessive fraud . . . people have gone to jail for less.

If the principal actors who have guided our city's destiny these last several decades—Wagner, Rockefeller, Beame, Lindsay—seem the chief villains in this piece, it must be remembered that they could not have accomplished all they did without a supporting cast of state legislators, borough presidents, City Council members, and city comptrollers.

Add to this list promiscuous bankers, voracious labor leaders and their members and—by no means least—the press, because it was too preoccupied with gossip, too lazy, or assumed its readers were too dumb or too bored to bother with detail. Finally, there's the press's audience, the public, which all too often lived down to the press's low expectations.

So, this is a story not only about what our "leaders" did—and how—but about what we did to ourselves.

TWENTY CRITICAL DECISIONS THAT BROKE NEW YORK CITY

1. June 22, 1944: The G.I. Bill of Rights is enacted.

One cannot write about the city's fiscal crisis without tracing the exodus of 2 million middle-income people since World War II to the suburbs. The decision of the federal government in 1944 to provide 4 per cent home loans to World War II veterans, with no down payment required, opened the floodgates. The American dream of owning a home and property converged with federal moneys to subsidize that dream. There were few comparable incentives to keep people in town. Implicitly, the government was saying: We invite you to the suburbs. Millions took advantage of that offer. To get them to their new homes, various governments and agencies would subsequently, quite literally, pave the way.

2. March 26, 1953: Governor Thomas E. Dewey signs a bill allowing New York to impose a payroll tax.

Governor Dewey, in a then common Republican effort to win suburban and upstate support by running against and embarrassing Democratic New York City, had the legislature pass a bill granting the city authority to impose a payroll tax of one-half of 1 per cent on all wage earners—including commuters. The cost of this was to be shared by the employer and the employee. There was a state string attached, however. The tax could be imposed only if the city agreed to set up a Transit Authority and commit itself to make its mass transportation system self-sustaining. Which was politically impossible. The city got the Transit Authority. What it didn't get was a payroll tax. On the recommendation of Mayor Wagner, the Board of Estimate rejected it. Through the mid-sixties the city retained this authority to impose a payroll tax. It was unused, and finally withdrawn by the state. For years the city has fought, vainly, to get permission of the State Legislature to tax commuters. A payroll tax would have provided a means to do so. If the city now had the payroll tax John Lindsay had asked for in 1970—his proposal would also have abolished the city income tax—an estimated additional $400 million would have been received from commuters alone this year.

3. January 16, 1955: The Port Authority and the Triborough Bridge and Tunnel Authority agree on a master plan—for cars

Many factors were to contribute to the erosion of the city's economic base—repeal of the Lyons law, for example, which had required city employees to live in the city, and constantly rising taxes which encouraged business to leave town. But it was the highway construction binge after World War II that made it easy to do so.

The Port Authority and the TBTA agreed on a plan to build a second level of the George Washington Bridge, the Throgs Neck Bridge, and the Verrazano-Narrows Bridge—each to carry cars only—and for ribbons of access roads and highways to go with them. It was a $1.2 billion package, and its architect was Robert Moses. As Robert Caro wrote in *The Power Broker*, his biography of Moses, the pact "sealed, perhaps for centuries, the future of New York and its suburbs." If the proposed money had been applied to mass transit—an abhorrent thought to Moses or the Port Authority's Austin Tobin—the city could have completely remodeled its subway system.

Little more than a year later, on June 29, 1956, the Federal Highway Trust Fund was established, creating a mechanism—a gasoline tax—to funnel new billions each year into highway construction. Between 1956 and 1965 alone, these funds paid for the construction of 439 miles of new highway in the metropolitan area. In the same period, not a mile of new rapid-transit track was completed.

4. March 31, 1958: Mayor Robert F. Wagner issues Executive Order Number 49

What came to be called the "Little Wagner Act" was in fact the Big Wagner Act for municipal unions. The mayor's executive order granted to 100,000 city employees the right to join the union of their choice and the right to bargain collectively. It was not an easy decision. Wagner's advisers were divided between those who opposed the order, claiming it would lead to increased union pressure, and those who favored it, arguing it would impose orderly machinery for the resolution of disputes, bring stability to city agencies, and promote efficiency.

A labor adviser to Wagner, one who urged the signing of the executive order, now thinks it was a "mistake." He now believes it was wrong to assume that a municipal union can be dealt with like a trade union, because "the city is not an employer in the traditional sense. Profits do not exist. Workers are not extracting a share of profits but rather a share of taxes." He now views municipal collective bargaining as part of the political rather than the adversary process. Therefore, he says, municipal unions "are really a pressure group, a special-interest group."

A pretty powerful one, too. They are heavy contributors of money, printing, and manpower to campaigns. As Victor Gotbaum, head of District Council 37 of State, County, and Municipal Employees' union, recently remarked: "We have the ability, in a sense, to elect our own boss."

The signing of the executive order led inexorably to the dilution of the power of city executives to manage their departments, since it placed such matters as "workload and manning" on the collective-bargaining table.

City union contracts now specify two-man, rather than one-man, patrol cars in low-crime areas; four rather than five men to a fire truck; a set number of days off for blood donations; 35-hour, rather than 40-hour, weeks for most city employees; eighteen days off a year for "chart" time for cops; fifteen minutes a day of paid wash-up time for sanitationmen; more than three months a year of paid vacation for teachers, plus paid sabbaticals.

Federal employees, who do not have the same collective-bargaining rights, have received salary increases averaging 5.5 per cent in the last ten years. In the same period city salaries grew by 10.4 per cent.

One does not have to make labor a scapegoat or excuse a weak management to note, as Newsweek did recently, that even after adjusting for disparities in county, state, and federal aid, it still costs New York City $1,446 per capita to deliver the same services that cost Atlanta only $650, Chicago $715, and Philadelphia $731.

Following Wagner's executive order in 1958, the New York Times editorialized: ". . . city employees . . . will now be permitted to bargain harder for a pay rise that isn't there." Ultimately the Times was right, but it took a calamitously long time to make it so.

5. March 26, 1960: Governor Rockefeller signs a bill increasing by 5 percent the state's contribution to state employees' pensions

On the face of it, this appears to be a minor decision with small immediate dollar consequences. But, in fact, this decision signaled the beginning of a process of leapfrogging, of open competition between the city and state to outdo each other in rewarding their servants. The bill for the first time made pensions a part of collective-bargaining settlements and invited competition among public unions. Former Mayor Wagner recalls a Loyalty Day Parade in the early sixties. He and Rockefeller "were heading up the parade. The police and firemen were shouting, 'Atta boy, Rocky!' So I turned to Nelson and I said, 'You son of a gun, taking all the credit.' He laughed."

The financial consequences of the 54 pension bills passed between 1960 and 1970 are staggering. In 1961, according to the State Scott Commission, the city paid $260.8 million to provide its employees with retirement and social security benefits. By 1972, that had jumped to $753.9 million, a growth of 175 per cent. The rapid increase in city employment accounted for only 30 per cent of this increase.

This year, the city budget for retirement benefits is $1.3 billion. But not even that sum gives the whole story. The business-oriented Committee for Economic Development has calculated that when all the city's costs—including hidden ones—are figured in, pensions will cost about 25 per cent of payroll. And the payroll itself now consumes 60 per cent of the city's budget.

6. April 18, 1960: Governor Rockefeller signs a bill creating the State Housing Finance Agency

Until the creation of this agency, public authorities were expected to be self-sustaining. The things they built were supposed to pay their own way. However, upon the recommendation of a housing task force consisting of such luminaries as I. D. Robbins, James Scheuer, and Harry Van Arsdale, Rockefeller persuaded the State Legislature to depart from this policy.

The new agency would build nothing itself; it would provide money for others to build with. There would be no direct user revenues. The purposes for which the money could be used were broadly defined. As a way of getting around the state constitutional requirement to hold a public referendum in order to sell bonds backed by the "full faith and credit" of the state, the HFA would now rely on what was called "the moral obligation" of the state, for which voter approval wasn't necessary.

The "moral obligation" concept was thought up by John Mitchell, the bond lawyer who went on to other things.

The governor, in lining up support, tried to have it both ways. On the one hand, he told the public it would cost the "taxpayers" no money. On the other, he told investors that the state taxpayers would back the bonds. Years later we would all pay. "The decision on moral-obligation bonds," says Donna Shalala, a professor of government at Columbia University and a director of the Municipal Assistance Corporation, "reinforced and led to the era of avoiding constitutional requirements. It was difficult for the state to say to the city, 'Look, you're avoiding statutory or constitutional requirements in preparing your budget' when the state ignored the constitution by not going to the voters on bond issues."

By the winter of 1975, the moral-obligation debt of state public authorities had soared to $7.4 billion. Public authorities had proliferated across the state, now totaling 230. And in February, 1975, one of the children of the HFA—the Urban Development Corporation—defaulted on its moral obligations, setting off the chain reaction which now threatens the entire local and state government bond market.

7. November 7, 1961: Voters approve new city charter

This was an eventful day in New York. It was a day the voters re-elected Bob Wagner—running against his own eight-year record—as mayor. Less noticed was a proposal supported by such good-government groups as the City Club and the League of Women Voters to amend the city charter. It carried by better than two to one. Among the charter changes were two that would strengthen the Office of mayor. One empowered the mayor to estimate general fund revenues, a power formerly shared with the comptroller, the Board of Estimate, and the City Council; the second granted the mayor the power to estimate the maximum debt the city might incur for capital projects, a power also formerly shared.

It was the belief at the time—much as it was in Washington—that we needed a strong chief executive with the power to make decisions. The charter changes strengthened the mayor's powers, but they also opened these powers to abuse. An audit check on the mayor had been removed.

The new charter took effect on January 1, 1963. Fiscal sleight-of-hand began almost instantly. On April 2, 1963, Wagner proposed to balance his $3-billion budget, in part, by waiving payment of $15 million to the city's Stabilization Reserve Fund for one year. The City Council rubber-stamped this request, as did the State Legislature.

Comptroller Beame, unhappy with this approach, called on Wagner to use magic instead and balance the budget by increasing general fund estimates by $13.75 million and by changing the payment dates on state aid, thereby shifting the following year's state aid payments into the upcoming fiscal year.

Then, on May 6, Wagner solemnly warned: "A way must be found to replace a $40-million loss from the out-of-city sales tax." But on May 14, he suddenly saw a "brighter economic outlook" and said that the city could count on an additional $26.3 million in revenues.

"The significance of the charter change," argues a budget expert, "was that when you had a mayor operating with a Budget Bureau which was creative, the sky was the limit."

8. April 3, 1964: The New York State local finance law is amended

The State Legislature and the governor, each of whom is required to pass on every city budget, have often passed on, winked at, or initiated gimmicks which allowed city officials to use the capital budget—intended to pay for projects with a long economic life—for current expenses. Instead of requiring politically painful budget cuts, Section 11, Paragraph 62 permitted officials to use the capital budget to borrow money for *current* expenses.

Imagination bloomed. In his 1964–65 capital budget, Mayor Wagner buried $26 million in expense items. Governor Rockefeller approved an administration bill (Chapter 634 of the Laws of 1967) which allowed "the costs of codification of laws and the fees paid to experts [lawyers], consultants, advertising and costs of printing and disseminating" to be regarded as a capital expense by granting these expenses a "three year period of possible usefulness." This from our present vice-president, who is now campaigning against "permissive liberals."

The expanding use of this device and its long-range cost and effect on "investor confidence" should not be underestimated. Between 1965 and 1975, according to the Citizens Budget Commission, a total of $2.4 billion in expense items was smuggled into the capital budget at an added interest cost of $250 million. It has become a major factor in the city's massive debt service, which in this year is projected to require $1.886 billion, consuming 14 cents out of every expense budget dollar, or more than the city spends for police, fire, the City University, sanitation, and the environment combined.

9. May 13, 1965: Mayor Wagner closes a budget gap by short-term borrowing

Mayor Wagner had planned to present his last expense budget to the full Board of Estimate before live television cameras. But word had leaked out that the mayor planned to close a $255.8-million budget gap by issuing short-term notes and by asking two separately elected state legislatures and the voters to approve a constitutional amendment permitting the city to increase real estate taxes 20 per cent. Editorialists screeched. City Comptroller Beame, a close Wagner ally, blasted the plan.

The live TV plans were scratched. Instead, Deputy Mayor Edward F. Cavanagh Jr. read a six-minute message to two Board of Estimate members on the same day John Lindsay announced his candidacy for mayor. Among the highlights of the Wagner budget message was his plan to "borrow now, repay later," as he phrased it. Expressing the optimism and rhetoric of the day, he said, "I intend that we shall press ahead with the war on crime, the war on poverty, the war on narcotics addiction, the war on slums, the war on disease, and the war on civic ugliness."

Such "wars" cost money, and Wagner presented a tricked-up, record-high $3.87-billion budget to pay for them. It was deficit planning and the implications for the future were profound. In July, Moody's lowered New York City's credit rating, thereby costing taxpayers millions of dollars in additional interest charges. According to one official on the privately funded Citizens Budget Commission, an organization whose timely and pertinent warnings went largely unheeded over the years, "Wagner showed it could be done. His action showed that our laws—with the help of the legislature, our constitution, and our statutory framework—are sufficiently elastic to encompass a devastating amount of mismanagement." Governor Rockefeller helped round up sufficient Republican votes in the legislature to pass this scheme.

On June 30, 1965, the city's short-term debt was $526 million. By February, 1975, it had grown to an insupportable $5.7 billion.

On December 21, 1965, Mayor-elect John Lindsay, sounding remarkably similar to the man who would follow him into office eight years later, expressed alarm: "I face a budget gap of almost a billion dollars for the first fifteen months of my administration." Wagner denied there was a deficit, as Lindsay would eight years later.

10. January 12, 1966: Mayor Lindsay settles a citywide transit strike

Mayor-elect John Lindsay journeyed to the Americana Hotel on December 27, 1965, to meet with representatives of the Transport Workers union and the Transit Authority. He asked both sides to arrive at a "fair settlement" to avoid a transit strike and then, with unaccustomed humility, declared: "I am not an expert on labor matters."

Over the next fifteen days he would prove this. On January 1, 1966, 34,800 transit workers went on strike, immobilizing most of the city. It was the first strike in TWU history, and the first major citywide strike in the city's history. Until this point, unions would threaten and bluster but then sit down in some smoke-filled room and work out a settlement. This time—after Lindsay denounced what he called the "power brokers," after the New York Times, near hysteria, had blasted a judge for merely throwing union leaders in jail, after union president Michael Quill had called his mayor a "pip-squeak" and the Times a "meddler"—the strike was settled with a package of improvements worth $52 million, or twice what one of the three mediators said could have been the price.

Price aside, there was another important consequence. As former Mayor Wagner now recalls, "They went on strike—a violation of the law—and yet as part of the settlement they were forgiven, with no penalties to any extent."

The 1966 transit strike was John Lindsay's Bay of Pigs. It set the pattern for his future shaky dealing with municipal labor. Some feel he was the victim of poor advice. One participant recalls, "There were four guys principally responsible: Abe Raskin and John Oakes of the New York Times were on the phone every day telling Lindsay what to do. Then there was [pollster] Lou Harris and [Liberal party chief] Alex Rose. They were the architects of that settlement. They were all smart guys who understood public relations, but not labor relations."

Today, one of those four advisers reflected that Lindsay's mistake was that he "surrendered" to the unions' demands. His view was that Lindsay should have drawn the line and summoned the troops to battle. That may be correct, but it presupposes that the public, like a mighty army, would march in step behind their leader. Yet by the thirteenth day of the strike the public—tired, inconvenienced, their work and life patterns disrupted—was the party most ready to "surrender."

11. April 30, 1966: The State Medicaid law is enacted.

Running for re-election in 1966, and playing the role of a "liberal," Nelson Rockefeller signed Medicaid into law, hailing it as "the most significant social legislation in three decades."

The significance should not be underestimated. Almost everyone was for Medicaid in 1966—Robert Kennedy, both houses of the State Legislature, labor, Republicans, and Democrats. It was the compassionate thing to do—and a classic case of good intentions and goals being subverted by poor thinking and slovenly legislation. The New York State Medicaid law promised free medical care to the poor, to senior citizens, and part of the middle class as well. The state was going to spend money—Rockefeller said "$90 million"—to subsidize medical care. But the state neglected to provide money or a plan to expand medical facilities and provide the beds, doctors, nurses, and technicians that would be necessary. Costs exploded as too many people chased too few doctors and facilities—making medical care prohibitively expensive for many New Yorkers. Not to mention what it would later do *to* our senior citizens in nursing homes and *for* venal private nursing-home operators.

The city's share of Medicaid costs is now greater than its share of welfare.

12. January 4, 1967: The city's Office of Collective Bargaining names an impasse panel to settle a pay-parity dispute.

In 1967, faced with a tough quarrel involving old and sensitive relationships—"parities"—within police ranks, and between police and fire pay scales, the city's Office of Collective Bargaining named an impasse panel to sort out the issues. There followed the city's breaking of a written agreement with the police, a lawsuit, appeals, rehearings, and a six-day police strike in 1971. Ultimately, the city lost a suit brought by the Patrolmen's Benevolent Association, and the financial consequences were great. "By the time other groups, like firemen and sanitationmen, came forward with their related demands," writes professor Raymond Horton in his book *Municipal Labor Relations in New York City*, "the cost to the city was considerable—estimated from $150 million to $215 million."

But the city paid another price for its parity debacle. The city had previously suffered strikes by its transit workers, its teachers, sanitationmen, welfare workers. But until January, 1971, it had been almost unthinkable that those responsible for public safety would strike. With that strike went another piece of the social fabric, encouraging citizens and investors alike to lose confidence in the city's future.

13. November 7, 1967: Voters reject a new State constitution

Voters who can remember back to 1967 may dimly recall a strident argument over the wisdom of repealing the so-called "Blaine Amendment" to the state constitution, which forbade state aid to parochial schools. Repeal of Blaine was part of an extensive revision worked out in a constitutional convention. The package was resoundingly defeated. But for the city of New York, which cast 56 per cent of its ballots against the revisions, the new constitution would have helped a great deal in other ways.

Article V, Section 25b of the proposed constitution called for the state to assume over a ten-year period the full cost of operating all courts in the city of New York. In the 1975–76 year the city's share of court costs is budgeted at $94.2 million.

Article X, Section 16 of the proposed constitution called for the state to assume over a ten-year period—10 per cent each year—the total cost of all city welfare. In 1967–68 the local cost for welfare was $267.2 million. By 1975–76 the local share of welfare and Medicaid costs had multiplied to more than $1 billion.

Article IX, Section 1d of the proposed constitution would have changed the city's state-school-aid formula. Instead of being based on attendance, as it now is (with the city's high rate of absenteeism), the formula would have been switched and would have been based on pupil registration, benefiting densely populated areas like the city.

14. November 5, 1968: The election of Richard Nixon

The name Nixon will be remembered for various perfidies—Watergate, Cambodia, Chile, Vietnam. But as far as the city's fiscal crisis is concerned, Nixon should be remembered as the president who in the words of urban historian Richard Wade, "abandoned the notion of compensatory spending for our cities and instead switched to per capita aid, which favored the burgeoning suburbs." Though in absolute numbers federal aid to the city grew incrementally during each of the years Nixon was president, by 1973–74 it decreased as a percentage of the city's budget—and it is certain that had a progressive been president, the city would have received considerably more support. Additionally, as the federal government cut back on matching grant programs, the city, in an attempt to continue those services, often overextended itself. "A critical series of decisions," argues a former deputy mayor, "was the acceptance of federal programs forced on us during the Johnson years. In the liberal euphoria over these programs too little attention was paid to the long-term costs of these programs."

15. March 18, 1969: John Lindsay announces his candidacy for reelection

Lindsay was in trouble, and he knew it. In February, 1968, he had suffered a massive, citywide sanitation strike in which he threatened to call out the National Guard. In a union town, labor leaders were calling him anti-labor. Even worse, in the wake of the September, 1968, teachers' strike over decentralization, many Jews—the city's largest and most powerful ethnic group—were openly calling the mayor anti-Semitic.

He had to try to rebuild an electoral coalition, to be more political. He hired a talented campaign manager, Richard Aurelio, and instructed his key aides to check important government decisions with Aurelio. If he was to win he had to do what most elected executives do: use his government powers to advance his campaign. Only John Lindsay had to do more. He was still a Republican in a town where that party is nearly extinct. And more he did.

"That was a year the mayor wanted labor peace," Lindsay's deputy budget director at the time, David Grossman, now recalls. It was the year, says Raymond Horton, "when John Lindsay stopped fighting with the unions and went to bed with them."

Before the 1969 election, lucrative new pension benefits had been awarded attendance teachers, sanitationmen, higher-education employees, police, firemen, and library teachers. Lindsay's re-election campaign would ultimately win the support of such powerful city unions as those of the state, county, and municipal employees and the sanitationmen. Albert Shanker, head of the teachers' union—who in 1968 spoke of Lindsay in terms that would make Mike Quill proud—remained neutral. The mayor's people considered this a pro-Lindsay posture. In 1970, the teachers were rewarded with an extravagant pension settlement.

Lindsay also used his budget for a series of manipulations to tide him through the election. He balanced his expense budget by counting $116.7-million in nonexistent revenues. He doubled expense moneys slipped into the capital budget. Playing Santa Claus, he reversed a long-held position and promised to hire more firemen; he also dangled overtime pay for policemen who worked a new night shift.

With the involuntary help of the taxpayers, and assisted by a brilliant campaign, the Liberal party, and a clown named Procaccino, Lindsay won—with 42 percent of the total vote.

16. June 18, 1971: Rockefeller signs an amendment to the Local Finance Law

New York State first resorted to budget notes in 1942 as a method of meeting emergency expenditure needs by borrowing against next year's revenues. The legislation spoke of "epidemic, riot, flood, storm, earthquake, or other unusal peril." Looking at New York City's recent fiscal history one would think that "epidemic," "earthquake," and "unusual peril" were annual events.

In 1971, in order to "balance" the city budget, city leaders got behind an overly optimistic forecast of how much federal aid the city could expect. When Congress hedged on revenue-sharing, the city got caught short by several hundred million dollars. Governor Rockefeller responded by signing into law an amendment to the Local Finance Law which, in effect, said, if New York City makes a mistake in its estimate of additional revenues from federal revenue sharing in fiscal 1971–72, not exceeding $100 million, and gets insufficient aid from the federal government, it can issue one-year budget notes. But if the city can't come up with this money by 1974 it would be permitted to ask the State Legislature for money to cover the budget notes, and the legislature "will make a first-instance appropriation." That is, it would lend the city the difference.

At that time, John Lindsay used this special power to issue $308 million of such notes to cover false revenue estimates. The legislature also permitted the city to repay these notes as late as July 31, 1974, on the presumption the city would repay a part each year. Instead, each year the city simply rolled over that debt. This takes us to May 30, 1974, a gubernatorial election year. In preference to prudence, Governor Malcolm Wilson and the legislature created the New York City Stabilization Reserve Corporation at the request of Mayor Beame to repay the budget notes of 1971–72.

The legislature then created the Stabilization Corporation to be a borrowing agency in order to borrow money to pay for the borrowings the city could not. In brief, this new agency was encouraged to borrow money to repay borrowed money—paying interest on interest. And digging the city in deeper and deeper until it faced a true "epidemic" in 1975.

17. June 19, 1973: The Board of Estimate and City Council approve Lindsay's 1973–74 expense budget.

It was a good year for wine but a lousy year for the city budget. It was an unusual budget in that it was shaped by both an outgoing mayor (Lindsay) and by a comptroller (Beame) who was to be the incoming mayor. Though Beame has repeatedly blamed the $1.5-billion deficit he says he inherited for much of the city's woes, as comptroller and mayoral frontrunner his fingerprints were all over the document. He attended breakfast meetings on June 11 and 15 with Lindsay to achieve a compromise toward what they called a "balanced budget." On June 18, 1973, City Hall issued a joint statement. "Agreement has been reached on a proposed 1973–74 Expense Budget by the Mayor, the Comptroller, the Board of Estimate and City Council leaders." The New York *Post* reported: "This was the first year in the past four that Lindsay and Beame practiced budget politics of consensus instead of confrontation."

Among their budget tricks were (1) the placing of $564 million of expense items in the city's capital budget, an increase of $290 million from the previous year; (2) the city ended at mid-year its existing subsidies of transit fares for schoolchildren and the elderly, pretending the need would disappear or that the state or federal government would bail the city out; (3) the City Council arbitrarily freed "revenues" of $148.5 million by, among other things, postponing the statutory repayment of $96 million to the "rainy day" fund; (4) Lindsay announced a deficit of $211 million and simply summoned the state to close it; (5) they made good a Beame campaign pledge by adding to the budget an authorization for 3,000 more cops, even though the city had at the time 2,250 police vacancies; (6) they approved a one-year roll-over of the $308 million in budget notes issues to cover the 1970–71 budget deficit.

A high official in the present comptroller's office calls that budget an example of outright fraud.

David Grossman, Lindsay's budget director at the time, described in a June, 1973, memo the importance of his and Lindsay's—and Beame's—budget for 1973–74: "It was not until recently—from June 30, 1973, to March, 1975—that the really sharp increase in short-term borrowing occurred and the market began to ask what was going on. In those two years, short-term debt went up by an astounding 138 per cent (from $2.5 billion to the current $6 billion level). During the same two years, the expense budget went up 19 per cent while the state and federal aid component rose by only 7 per cent. Small wonder, then, that the city ran into a crisis of confidence in March, 1975, and ceased to be able to sell its short-term debt.

What accounts for the very rapid growth in short-term borrowing in only two years? It would appear that the anwser lies mostly in the way in which the last two city budgets were constructed—built on hoped-for revenues that never arrived, on budgetary techniques that anticipated future revenues by borrowing cash in the present, and on a continuing roll-over of past deficits from year to year. . . . The current cash crisis is, in budgetary terms, the end result of a political process that saw the city adopt two successive budgets in which the hard issue of budget balance was avoided."

November 6, 1973: The election of Abe Beame

"The whloe disaster of the city is Beame," bitterly complains an official with the Citizens Budget Commission. "The people in the Budget Bureau are and have been his. The secret of his powers is his mastery of the Budget Bureau. If you take a look at the 'creative decisions' in the city, you have to stand in admiration. There is an unbelievable technical elegance that one has to admire. What led to Beame and Deputy Mayor Cavanagh's downfall was the fact that these two guys were unable to adjust to change in the new intergovernmental ball game we have. The city came to depend for 40 to 45 per cent of its budget on state and federal government funds. They could not shuffle these funds.

"The nature of the city's budget changed, but Beame did not adjust to the situation. He still continued to claim savings based on expenditures not made, and which never would have been made to begin with. The city claimed hundreds of million in savings on people it could not have hired. It was as if my washing machine broke and my wife got it repaired for $50. If I were Abe Beame I would claim a $250 saving since I didn't have to go out and buy a new washing machine."

Abe Beame did something like that in the spring of 1974 when he presented his 1974–75 budget. Rather than make painful cuts to balance his budget, he raised the already highest taxes in the nation by $44 million; he smuggled $722 million of expense items into his capital budget; borrowed $520 million through the creation of the Stabilization Reserve Corporation, to be repaid over ten years; raised some $280 million by advancing the date of sewer-rent collections and siphoning what he called "excess" pension earnings to meet the city's share of pension contributions. The city had increased its reliance on borrowed funds to cover insufficient current revenues, thus pushing off still larger debt payments to next year.

Besides his budget failures, Abe Beame's performance directly led to the undermining of confidence in his—and, therefore, the city's—credibility. At first, he blamed whatever budget problems he had on the $1.5-billion deficit he said he inherited from terrible John Lindsay. Then on December 2, 1974, he blamed City Comptroller Goldin's differing deficit estimates for the 9.5 per cent interest the city was forced to pay for short-term notes. Then, over the next two months, he separately announced what he called Phase One, Two, and Three of city layoffs. On February 1, he said layoffs had been averted because city unions were forgoing contractual rights. The mayor seemed to be saying that the current year's budget crisis was no more. On February 15, Beame projected a $1.68-billion budget gap for the next fiscal year. Then he announced layoffs that later did not materialize. He blamed Republicans in Washington. Then he blamed Albany. On May 29, standing in the well of the

Council Chamber before live television cameras, the mayor blamed the banks and "editorial columns" for a "conspiracy" to create "an atmosphere of doubt and uncertainty about New York's securities." On June 24, First Deputy Budget Director John J. Lanigan, a long-time Beame-Cavanagh associate, said, "I think there's a possibility we'll end up with a balanced budget" for the 1974–75 fiscal year. By July 7, the mayor was sitting calmly in his office and announcing that the fiscal crisis was "behind us." Like Nixon with Watergate, he had treated the city's fiscal crisis as a public-relations problem.

On March 24 he warned, "Nobody is going to tell me how to run the city." On June 10, the state Municipal Assistance Corporation was created. By July 18 Beame meekly told the MAC he would do "whatever is necessary" to win back the investors he had accused of "conspiracy" on May 29. By September, the State Legislature had passed a bill, a main purpose of which was to advertise to investors that Abe Beame was no longer in charge. He had been stripped of his budgetary powers, as the city—through the default of its leaders—had been stripped of representative government.

"Abe Beame could have done much more much earlier and paid much less," a high state official told me in July. "In fact, if the city had been willing to get honest with its figures last winter and had presented a two- or three-year fiscal plan and agreed to limit its borrowing, there could have been an agreement with the financial community and there would have been no need for Big MAC."

19. June 15, 1974: The Port Authority's 1962 covenant is repealed

In 1962 the Port Authority made a deal with the governors of New York and New Jersey. The authority agreed to take over and modernize the bankrupt and decaying trans-Hudson commuter tubes in return for winning the approval of the governors to build the World Trade Center. As an additional incentive, the legislatures of the two states passed covenants assuring the authority, together with its bondholders, that never again would it be required to assume any deficit mass-transit operation. Since mass-transit systems chronically lose money, this effectively took the authority out of the mass-transit business.

For years, critics of the Port Authority have lashed out at this failure to invest in mass transit. A leader in the fight to wrench the authority into helping finance mass transit was labor attorney Theodore Kheel, who said in the spring of 1974, "Repeal of the 1962 statutory covenant will in no way impair the security of Port Authority bondholders." He was backed by Governor Brendan Byrne of New Jersey, who signed the repeal on April 30. Then overwhelming majorities in both houses of the New York State Legislature passed the repeal. Governor Malcolm Wilson, switching from the support he had promised Nelson Rockefeller in the fall of 1973, hesitated in signing the measure. He was fearful, he said later, that his approval of the measure would "overturn a solemn pledge of the state." He was immediately attacked by fellow Republicans, by Kheel, by all the then-Democratic-candidates for governor, by the City Bar Association, by just about everyone in politics. Wilson had been warned that repeal would seriously undermine "investor confidence," words then foreign to most of us. Finally, on June 15, only minutes before the signing deadline—and knowing he faced a difficult November election—Governor Wilson relented and approved the measure.

Donna Shalala, a member of the MAC board, reports that in her dealings with bankers they often cite the repeal as undermining "confidence" in government securities. To investors the repeal served as a warning—despite assurances from the state and the Port Authority—that what the state giveth it can taketh away.

20. February 25, 1975: the New York State urban development corporation defaults.

The first sentence of UDC President Edward J. Logue's 64-page annual report for 1974 begins: "1975 can be a banner year. . . ." It was, of sorts.

On January 21, State Comptroller Arthur Levitt deplored yet again the "moral obligation" gimmick used by UDC and other agencies to avoid constitutionally required voter approval for state borrowing. He also blamed the banks for "cooperating with a vengeance" to reap profits from UDC. In succeeding days Governor Carey appointed task forces to study and seek to prevent the nation's most powerful housing agency from drowning in $1-billion in debts outstanding, and the $1-million per day it owed contractors. The agency had clearly overextended itself. After a series of frenetic meetings and touch-and-go negotiations with the banks, on February 26 the governor fashioned a bipartisan plan to provide refinancing and stave off the collapse of this important state agency. At the time everyone hailed the statesmanship exhibited by all sides. Largely overlooked was an event which took place the day before and seemed less significant. On February 25, New York State—rather than appropriating state moneys and perhaps raising taxes to cover $104.5 million in due notes—chose to default on UDC obligations for four weeks. Governor Carey double-talked, saying tht since these were short-term notes they "do not carry the moral obligation of the state."

Four weeks later the state made good on this money. But the damage had been done. UDC became the first major government agency since the Depression to become insolvent. As Richard Ravitch, the man Carey installed as Logue's successor, had warned on February 9, "People did business with the UDC—small businessmen, architects, civil-rights organizations—thinking they were doing business with the state of New York. The fact that they technically were not doesn't matter now." The message communicated to investors was that state moral obligations were not legal obligations. Like the Port Authority bond convenant, in the eyes of the investment community the state was breaking a contract. Said a Wall Street bond trader: "Why should I buy the moral obligations of immoral politicians?" The consequences were swift. The *Wall Street Journal* reported "public bonds fell an average of $15 for each $1,000 face amount." Within days New York City was forced to accept a then astronomical 8.69 percent interest rate on $537-million of bond-anticipation notes—up from 7 per cent two weeks before. In a joint statement Beame and Goldin said, "The recent default by the state Urban Development Corporation" has created an "unwarranted climate of suspicion in the marketplace." They charged that New York City taxpayers were being forced to pay for the mistakes of "another jurisdiction." The State Housing and Finance Agency postponed a scheduled note sale—made finally on April 23 for a record 9.6 per cent. By April, construction of more than $1 billion in nursing homes, hospitals, facilities for the handicapped, and other projects was held up for lack of investors. The municipal-bond market was going to hell. And the city of New York, the most flagrant violator of that market's rules, was thus set up to reap a whirlwind.

[From Reader's Digest, November 1975]

THE FISCAL FOLLIES OF NEW YORK CITY

(By Irwin Ross)

Last summer, New York City sanitation workers went on a wildcat strike that piled up 20,000 tons of garbage a day under the hot sun. Some 500 newly discharged policemen, in civilian attire, demonstrated outside City Hall and then blocked traffic at nearby Brooklyn Bridge, setting up barricades and letting air out of automobile tires. Fire fighters began reporting in sick in growing numbers.

These protests against massive layoffs were dramatic expressions of the financial crisis which had brought the nation's largest city close to bankruptcy. At the start of the new fiscal year, July 1, approximately 5000 police officers, 1800 fire fighters and 2900 sanitation workers had been sacked, with the total potentially swelling to more than 40,000 city employes.

Late in 1974, the news had emerged that the city's budget was running a deficit—estimated by the mayor at $430 million for the fiscal year, and at $650 million by the comptroller. The city put economies into effect, but nonetheless fear was voiced later that the city might default on its debt obligations—a catastrophe that had not occurred even in the Great Depression.

In May, Mayor Abraham Beame went to Washington to plead for federal assistance. The city needed a mere $1 billion before June 30 (it was already receiving $2.3 billion a year from Washington for a variety of programs). The mayor was eager to get a federal guarantee of the city's short-term notes to make them salable, or an outright purchase of city paper by the Federal Reserve banks.

Beame was turned down first by Secretary of the Treasury William Simon, then by President Gerald Ford, who noted that the city's "critical financial condition is not new but has been a long time in the making without being squarely faced."

New York State's Governor Hugh Carey appointed a top-level citizens' committee of financial and legal experts to come up with a solution to the city's cash problem. On June 10, the committee created a new state agency to rescue the city—the Municipal Assistance Corporation. Popularly known as "Big Mac," it was to provide the money to redeem short-term city debt coming due in July, August and September.

Big Mac's funds, in turn, were to come from its sale of $3 billion in bonds issued over a 90-day period; but it found surprising customer resistance to the issues in July and August, even at very high interest rates. Despite budget stringencies, mass lay-offs and wage roll-backs, investors obviously feared that New York had not been cured of its spend-thrift ways. Amid controversy and crisis, one thing could safely be predicted: New York's financial agonies would go on for months.

How had the city got into such a mess? The complex story is worth unraveling, for it provides a model of financial profligacy and short-sightedness that should point a moral to local governments everywhere. Fiscal delinquencies are by no means unique to New York, nor are financial crunches in this recession period. A survey of 50 representative cities, released last spring by the U.S. Conference of Mayors, indicated that the nation's urban centers as a whole would show a $5- to $8-billion fiscal gap in 1975.

Fringe Benefits. New York's crisis was precipitated by the combined impact of inflation and recession, which boosted the costs of city government while tax revenues fell. But, basically, the city had been spending too much for years and postponing payment by escalating borrowings—a situation that had been screened from the public. Treasury Secretary Simon's staff studies highlighted the gap. "What we found," he said, "was a complete lack of balance. Expenditures were increasing at a rate of 15 percent a year, while revenues were growing at only 8 percent a year."

New York may seem a cold and forbidding

place to outsiders, but it is actually openhanded to some of its residents and, especially, to its employes. For instance, the city maintains 18 municipal hospitals (where much care is provided free or for a nominal charge), compared to Chicago's one. In New York's vast City University system, full professors are among the highest paid in the country, and the great majority of its nearly 270,000 students pay no tuition. Elsewhere in the country, the public university systems are maintained by the state, but New York City paid $612 million in fiscal 1975 to continue a proud tradition of free higher education.

Welfare is another costly New York burden which, in most regions, devolves on the county and/or state. In the last fiscal year, the city paid $615 million of the bill, the state $730 million and the federal government $1.2 billion—a staggering total of almost $2.6 billion. And no wonder. Nearly one out of every eight of the city's 7.6 million population is on welfare!

The city's largess is most dramatically displayed in the pay scales and fringe benefits enjoyed by its vast army of employes, who before budget cuts last spring numbered 338,000—one civil servant for every 23 citizens. The last U.S. Bureau of Labor Statistics study shows that, as of April 1974, salary levels for skilled maintenance workers, such as electricians, painters and carpenters, averaged 46 to 76 percent above what was being paid in the private sector. The unions, whose strength grew steadily in the 1960s, today bargain for about 90 percent of city employes, helping to account for the surge in labor costs. Too often politicians, especially former Mayor John Lindsay, wanted to live in harmony with unions and gave in to excessive demands.

City employes who have done particularly well are teachers, 62,000 strong, and the police, fire, and sanitation workers, who altogether number more than 47,000. New York City teachers have recently been averaging $16,907 a year. Total earnings for patrolmen and fire fighters, after five years, came to $19,259, and for sanitation workers $15,731, until pay cuts went into effect on September 1.

New York City's greatest generosity, however, has been in fringe benefits, particularly in its pensions. They are the highest among major cities in several job categories and far higher than those in private industry. Traditionally, New York police and fire fighters have been able to retire at half-pay after 20 years' service, which was both a reward for hazardous duty and a way to replenish the forces with younger men. In the 1960s' union pension push, sanitation workers obtained the same 20-year privilege, as did jail guards, housing and transit police. Transit employes were able to get half-pay after 20 years once they reached the age of 50, teachers at age 55. Pension formulas were written in such a fashion that many city workers retiring after 30 years received more take-home pay, including Social Security benefits, than when they were on the job.

Pension costs have inevitably mounted—going from $361.3 million in 1965 to $1.2 billion in 1975. Moreover, a recent study by a state watchdog commission found that the use of fiscal gimmicks has led to $2 billion in underfunding since 1967, which means still higher costs in the future. One of the city's biggest pension plans, for example, based its funding on actuarial assumptions derived from the city's experience between 1908 and 1914— when retirees died much younger.

Disguised Reality. Beyond all this, New York's expenditures have ballooned because of waste and inefficiency. A New York Post exposé three years ago revealed that Highway Department street repairmen were working as little as two hours a day. There were promises of reform, and a year later the Post team took another look. Guess what? City paving crews had expanded their work stints to an average of 4½ hours a day.

Another example: In 1971, the Economic Development Council, made up of civic-minded businessmen, was invited by the city to furnish an analysis of the city's Human Resources Administration, which then had a budget of $2.3 billion to provide welfare and social services to New Yorkers. As the Council's annual report put it, the task force found that the HRA was "sadly lacking in the most basic tools of modern organization and management," and proposed reforms that potentially could have saved an estimated $356 million. In three years, the city saved $35.2 million, but a new HRA administrator was appointed by the newly elected Mayor Beame in 1974, and he virtually abandoned the reform project. Such are the vicissitudes of a municipal war on inefficiency.

The city's solution has been to live with an unbalanced budget while ostensibly balancing it. Although by law the city's budget has to be balanced before the start of each fiscal year on July 1, in recent years the balance has been purely formal, not to say fictional, with the help of a variety of bookkeeping techniques to disguise reality.

A memorandum prepared last spring in the office of Comptroller Harrison J. Goldin revealed that New York continuously overestimated revenues and underestimated expenses. Thus, in 1973–74, the city overestimated its general-tax-fund revenues by $248 million—far in excess of a reasonable margin of error. Short-term debt service, welfare expenses and collective-bargaining reserves were underestimated by $300 million. Later in the fiscal year, the shortfall had to be covered by massive short-term borrowing.

A favorite gimmick to inflate revenues has been to credit one year's budget with some of the next year's revenue. By changing the billing system for water charges, for instance, 18 months' revenue from this source was picked up on the books for fiscal 1974; and an additional $56 million was thus generated. But most of the money didn't actually come in until the following fiscal year—so the city had to borrow.

New York has long done much the same thing with what has been dubbed "end-of-year general-fund accruals"—the general fund being the catchall for taxes and fees apart from real-estate taxes. Prior to fiscal 1965, the general fund was on a cash basis: receipts were credited as received. In that year, however, the city began to estimate what it would be owed in the final quarter—even though most of the money would be received the next fiscal year—and borrow against these expected revenues. Year after year, the last quarter's revenues were overestimated by an ever-increasing percentage. With cost items, the city has often reversed the process—counting this year's expenses as next year's, especially when a fortnightly pay period overlapped two fiscal years.

Carefree Ways. Such manipulations have allowed New York to "balance" its budget each year and to paper over yawning gaps as the year proceeded. Meanwhile, shortterm debt increased from $466.7 million on June 30, 1966, to $4.6 billion on June 30, 1975. Of this huge sum, fully $2.6 billion represented the city's accumulated yearly deficits, according to Comptroller Goldin. The interest on the deficit alone comes to more than $200 million a year.

In addition to its expense budget, the city has been misusing its capital budget of some $2 billion. As its name indicates, this budget is supposed to finance long-term construction projects through the sale of long-term bonds. Over the years, however, an increasing volume of operating expenses has been assumed by the capital budget—not only salaries for planning activities but even such items as library books, education equipment, manpower training and vocational education. The result: of a capital budget that came to nearly $2 billion, before it was pared down somewhat last summer, at least $500 million represented operating expenses.

New York City's crisis finally forced a halt to its fiscal follies. In September, the state legislature set up an Emergency Financial Control Board, which transferred ultimate authority over the city's financial policies from the city to the state City officials are on the board, but it will be dominated by the state. The board will exercise stern control over the city's expenditures and is empowered to end its fiscal malpractices. The hope is that such drastic measures will ultimately make city securities salable.

There may still be hope for the old town—but other cities should ponder the lessons of New York City's travail. To wit: bountiful municipal services must be limited by ability to pay; munificent pension plans make politicians popular and win union support, but the burden of financing such largess becomes enormous as the years roll on; budgetary manipulation may bring short-term magical solutions, but the ultimate price is a prohibitive debt load.

Any one of these practices is bad enough, but New York indulged in all of them. That's learning about bankruptcy the hard way.

Mr. HOLLINGS. A perusal of the Auletta article and the Senate hearings on the New York City financial crisis will show that the fundamental causes for New York's dilemma were barely touched upon at the Senate hearings and in large measure hardly debated in moving forward as we have in the Senate. I think the general atmosphere was reached in a peroration by the distinguished majority leader when he stated that in essence when it came to foreign aid, billions of dollars would whip through the Senate without hardly a murmur but when it came to our own people, we saw nothing but obstacles, nothing but roadblocks. Senator MANSFIELD stated that we treat our people "shabby" and the membership has lined up to make certain that they are not included in the category of treating their own "shabby."

The issue here is not the kind of treatment but the kind of leadership. I think the seasonal financing is misleading to the people of New York as well as a leaving of the wrong impression with the people of the cities of America. Noting from the Auletta analysis, any New York resident can see that in a sense it is not additional financing that is needed but rather a limitation of government largess. The need and the desirability is not an issue. I would love to provide free tuition for the students at the College of Charleston but I know my city cannot afford it. It is a simple proposition of paying your way and the way here is not to borrow more but to borrow less. I think it misleading to set this precedent. Can we provide seasonal financing for the financial dilemmas of urban America? They are all in trouble. We are in a recession and the Federal Government is in more trouble than any. The treatment called for is what is being adopted by the majority of mayors of America all over this land and that is a tightening of the belt. In contrast, we are putting our stamp of approval upon increased taxes to exacerbate the problems of New York rather than solve them. Other residents and other businesses will be forced away and we will again meet with the same problem another day. We have momentarily saved the banks and the bond holders but the peoples' burdens have been increased. I think for our own that the time has come for government to be realistic. Fortunately, we are beginning these trends in the national Congress with our budget process. But unfortunately due to a Madison Avenue campaign, we have succumbed to the temptation of being political rather than realistic. Financial problems cannot be solved in this fashion and politically we are setting a bad example.

Mr. GLENN. Mr. President, in spite of some misgivings, I intend to vote for this conference report. It contains a number of extremely valuable provisions, and I think the conferees should be congratulated for their efforts. Most importantly it includes the loan moneys needed to prevent default of one of our great cities and to protect our national economy from the damage that would be done by that default.

I am critical of the report however in that it does not include an amendment passed by the Senate last week which would have added $6,900,000 to the operating budget of the Energy Research and Development Administration for research and development on fuel cell technology. While I understand the rational behind the decision to reject this provision, I regret that the conferees deleted that particular portion of the bill on which the Senate had clearly expressed its will.

The argument that has been made against the amendment is that it exceeds the money figure officially requested by ERDA for fuel cell research when that agency appeared before the Senate Appropriations Subcommittee on the Interior.

Although the Congress has now approved an Interior Appropriations bill which also exceeds that money figure, it was felt that to add to it the additional $6,900,000 that would have been appropriated by the amendment would violate orderly appropriations procedures. This is argued in spite of the fact that Robert Seamans, Administrator of ERDA, has now sent the Congress a letter recognizing that his original official request was deficient and stating that to fail to add the money specified in the amendment would be to possibly delay development of the program by as much as a year.

Certainly this argument has some appeal. If as a general rule we were to allow agencies within the executive branch to bypass our appropriations committees by sending up revised requests after those committees had finished their work, we would seriously impair the orderliness of our traditional appropriations procedures. Those procedures are sound ones and we ought not to look lightly upon departures from them.

Yet we must have sufficient flexibility to allow those departures where in special circumstances they are justified. In my view this is just such a circumstance. The agency has changed its position not on a whim but rather as a result of an intensive technology assessment of the fuel cell technology. Moreover, if we are to require a formal budget request on which hearings can be held prior to the next supplemental, we may seriously jeopardize the benefits to the country that can result from quick application of this technology. The circumstances are such that I believe we would not be creating a precedent by abandoning the rule for the exception in this instance.

Mr. President, decisions on whether to adhere to rules or to provide exceptions—on whether to opt for procedural consistency or flexibility aimed at some objective conceived to be in the public interest—invariably are judgment calls on which reasonable men can differ. While I do differ with the judgment of the conferees in this instance, I recognize their judgment as being that of reasonable men.

Mr. President, I would also term reasonable—as well as honorable—the decision of the distinguished majority whip to remove himself from the list of conferees on the bill. His action again demonstrates the integrity that has made him so effective as a leader of Senate Democrats and as a public servant generally. I look forward to working with him in the future on energy-related and other issues.

Again I commend him and the conferees for their work on the bill before us and urge my conferees to vote with me in favor of the conference report.

Mr. McCLELLAN. I have no further remarks on the bill.

I move that the conference report be adopted.

The PRESIDING OFFICER (Mr. MORGAN). The question is on agreeing to the motion of the Senator from Arkansas.

The conference report was agreed to.

Mr. McCLELLAN. Mr. President, I ask that the clerk state the amendments in disagreement.

The PRESIDING OFFICER. The amendments in disagreement will be stated.

The second assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

GENERAL PROVISIONS

Section 610 under this head in the Agriculture and Related Agencies Appropriations Act, 1976, Public Law 94–122, is amended by striking "$37,452,000" and substituting in lieu thereof "$42,400,000" and by striking $9,363,000" and substituting in lieu thereof "$10,650,000".

Resolved That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

RELATED AGENCIES

Commodities Futures Trading Commission

The limitation of $20,000 for employment under 5 U.S.C. 3109 under this head in the Agriculture and Related Agencies Appropriation Act, 1976, (Public Law 94–122) as increased to $265,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

Provided further, That none of the funds in this bill shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 193 staff employees: *Provided further,* That the Congressional Budget Office shall have the authority to contract without regard to section 5 of title 41 of the United States Code (section 3709 of the Revised Statutes, as amended).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Japan-United States Friendship Commission

Japan-United States Friendship Trust Fund

For the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118), there is appropriated to the Japan-United States Friendship Trust Fund, to remain available until expended, $18,000,000 of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971. Funds appropriated under title I of Public Law 94–121 for United States-Japan Friendship Activities are transferred to the Japan-United States Friendship Trust Fund for the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118) and are to remain available until expended.

Mr. McCLELLAN. Mr. President, I move that the Senate concur en bloc in the amendments of the House to the amendments of the Senate numbered 5, 6, 44, and 59.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas.

The motion was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the conference table, which was included by the House when it acted on the pending report on H.R. 10647, be incorporated in the record by reference. This table gives the complete results of the conference in tabular form and shows a comparison of the conference action with new budget authority made available in fiscal year 1976, the budget estimates for fiscal year 1976, the House bill and the Senate bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE addressed the Chair.

Mr. MANSFIELD. Are we finished with the conference report?

The PRESIDING OFFICER. Yes.

Mr. McCLELLAN. Perhaps someone should move for reconsideration.

Mr. MANSFIELD. I move to reconsider the vote by which the conference report was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE CONCURRENT RESOLUTION 79—DECLARING THE COMMITMENT OF THE SENATE TO COMPLY WITH THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974, AND TO REDUCE SPENDING LEVELS

Mr. STONE. Mr. President, I send a Senate concurrent resolution to the desk and ask that it be received, printed, and placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Reserving the right to object, Mr. President, and I shall not object, I just call attention to the fact that this is a resolution dealing with the matter of spending under section 306 of the Budget Act which has been invoked earlier today to reach a very interesting parliamentary situation which was unexpected. This resolution, too, would seem to be subject to the same point of order. I do appreciate the Senator from Florida not seeking immediate consideration. He is only seeking to have it placed on the calender. On that basis, I will not object.

Mr. STONE. Mr. President, I thank the distinguished Senator from Michigan for myself and my cosponsors, Mr. MANSFIELD, Mr. MUSKIE, and Mr. BELLMON.

Mr. President, I ask unanimous consent that the concurrent resolution be received, printed, and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution is as follows:

S. CON. RES. 79

Resolved by the Senate (the House of Representatives concurring), That Congress reaffirms its commitment to following the procedures established by the Congressional Budget and Impoundment Control Act of 1974. The Senate recognizes and approves the President's determination to reduce spending levels in order to reduce the national deficit, and requests that the President expedite his submission to the Congress of specific spending cut proposals. The Senate further declares its intention to seek to counterbalance future tax reductions enacted by the Congress by restricting the growth of spending.

ORDER FOR RECOGNITION OF SENATOR HELMS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the three orders already entered for tomorrow, Mr. Helms be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 2568 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the four special orders for tomorrow morning, the Senate proceed to the consideration of S. 2568, a bill to amend the Atomic Energy Act of 1954, as amended, to revise a method for providing for public remuneration in the event of nuclear incidents.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROLLCALL VOTES SET NEW SESSION RECORD

Mr. ROBERT C. BYRD. Mr. President, the highest number of rollcall votes for any previous Senate session in the history of our country, I am advised, was 594 rollcall votes.

Today we have set a new record by having now a total for this session of 595 rollcall votes.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the order for convening on tomorrow?

The PRESIDING OFFICER. The Senate will be in recess until 9 a.m. tomorrow.

Mr. ROBERT C. BYRD. Very well.

ORDER FOR SENATE TO CONVENE DAILY AT 9 A.M. DURING THE REMAINDER OF THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate convene daily during the remainder of this week through Saturday—and I would hope that this order would be vitiated in due time—at the hour of 9 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Messrs. FANNIN, GARN, MCCLURE, and HELMS. On the conclusion of the aforementioned special orders, the Senate will proceed to the consideration of S. 2568, a bill to amend the Atomic Energy Act to revise the method of providing for public remuneration in the event of a nuclear incident. There is a time agreement on that measure. Rollcall votes may occur on amendments thereto and on passage of the bill.

It is anticipated that the Senate also tomorrow will take up H.R. 9852, and act to amend section 2 of the National Housing Act, to increase the maximum loan amounts for the purchase of mobile homes. Other measures on the calendar may also be called up, as well as conference reports, which are privileged matters, and rollcall votes may occur thereon.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 a.m. tomorrow.

The motion was agreed to; and at 7:36 p.m., the Senate recessed until tomorrow, Tuesday, December 16, 1975, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 15, 1975:

In the Foreign Service

Thomas O. Enders, of Connecticut, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Department of State

Samuel W. Lewis, of Texas, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

In the Export-Import Bank

Stephen M. DuBrul, Jr., of New York, to be President of the Export-Import Bank of the United States, vice William J. Casey, resigned.

In the Coast Guard

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

David A. Bailey
Gary L. Hutchens
Larry K. Carr
Richard J. Dein, Jr.
Arthur A. Whiting III
Alphons R. Melis III
Charles H. Lancaster
Warren W. Johns
Nevin A. Pealer
Donald R. Carlberg
Vernon O. Eschenburg
William H. Boland
Charles C. Rogers
Clinton W. Carter
Charles H. Cox
William G. Wohlfarth
Russell W. Badger
John R. Arnold
William F. Collier
Eugene M. Field, Jr.
Stephen E. Goldhammer
Ellis W. Grimes
Lywald W. Hendricks
Michael J. Schiehl
Larry E. Sartin
Robert D. Bowen
James L. Phaup
Robert G. Gipe
Howard A. Tawney
Michael F. Cook
John R. Neu
Harry F. Schmecht
Joseph P. Solometo, Jr.
Roland W. Callis
James T. Marcotte
George S. McDowell, Jr.
Raymond J. Pratte
Robert A. Danforth
James T. Cushman
Wilburn K. Elkins
Richard B. Disharoon
August E. Redlinger
James M. Hough
James H. Thomson
John D. Derenthal
Joe F. Poteat
Edward K. Mullan
Robert N. Lynch
Kenneth N. Ryan
Anatol Rozumny
Eugene N. Tulich
Robert C. Houle
James C. Arritt
Brian C. Sonner
Thomas D. McLaughlin
Rudolph L. Carpenter, Jr.
George P. Spaniol
Michael J. Barry
Gerald W. Hayes
Philip W. Wiseman
Philip Souza
Anthony J. Maglione
Leonidas M. Patton
John W. Spreter
David N. Russell
Louis A. Nataro
William K. Herrell
Roger E. Cowley
Ronald R. Digennaro
Ronald E. Meeker
Bruce S. Washburn
James W. Szymanski
James W. Calhoun
David E. Cole
Michael P. Lovett
Robert A. Regan
David C. Jeffrey
Darryl R. Hannon
Craig T. Lynch
John W. Reiter

The following reserve officers of the U.S. Coast Guard Reserve for promotion to the grade of lieutenant commander:

Harry C. Robertson, III
Michael E. McKaughan
Robert T. Reining
Jon W. Young
Charles M. Wrighter
Robert G. Frame
John H. Distin
Michael K. Bell
Bruce Y. Arnold
James H. Getman
Carmond C. Fitzgerald
John C. Voden
Michael F. Cowan
Richard S. Tweedie
James R. White
George P. White, Jr.
Russell J. Collins
Richard A. Knisely
Richard B. Cook
Thomas W. Snook
George J. Sepel
Roger A. Brunell
Richard M. Larrabee, III
Robert E. Williams
Paul J. Pluta
Geoffrey C. Kline
James L. Barth, Jr.

Thomas J. Schaeffer
James F. Verplanck
Kenneth L. Ervin
Allen T. Maurer
Helnut E. Walter
Rex M. Wessling
Lawrence F. Cox, Jr.
David B. Lorenz
Chad B. Doherty
Ronald E. Beck
Robert T. Ritchie
Hebert D. Robinson, Jr.
Cecil T. Loter
Vidas Vilkas
Joseph F. Angelico
David M. Strasser
Timothy J. Wood
Thomas C. Greene
James R. Townley, Jr.
Gary J. E. Thornton
Robert E. White
David E. Prosser
Robert F. Riley, Jr.
John R. Painter
Douglas M. Miller
David H. Lyon
Robert E. Long
Drew R. Hamblin
David J. West
Stephen W. Clark
Jack A. Lang
Jerome C. Cobb, II
James L. MacDonald
Winston G. Churchill
Richard C. Motter
Robert W. Sitton
Bennett C. Osborne
James J. Shaw, Jr.
Terence T. Post
Terence M. O'Connell
Richard L. Zeidera
Leo B. Tyo
Roger D. Enstrom
Harvey B. Packard
Charles C. Boyer
John R. Hearn, Jr.
Brian C. Curtis
Mont J. Smith

The following regular officer of the U.S. Navy to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant:

Samuel R. Hardman

CONFIRMATIONS

Executive nominations confirmed by the Senate December 15, 1975:

DEPARTMENT OF DEFENSE

Richard A. Wiley, of Massachusetts, to be General Counsel of the Department of Defense.

DEPARTMENT OF THE INTERIOR

H. Gregory Austin, of Colorado, to be Solicitor of the Department of the Interior.

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Robert E. Barrett, of Pennsylvania, to be Administrator of the Mining Enforcement and Safety Administration.

EXECUTIVE OFFICE OF THE PRESIDENT

Michael B. Smith, of Massachusetts, U.S. negotiator on textile matters, for the rank of Minister.

ENVIRONMENTAL PROTECTION AGENCY

Andrew W. Breidenbach, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Brent Scowcroft, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. Christopher S. Adams, Jr., [redacted] FR, Regular Air Force.

Col. Bernard Ardisana, [redacted] FR, Regular Air Force.

Col. William J. Becker, [redacted] FR, Regular Air Force.

Col. Emil N. Block, Jr. [redacted] FR, (major, Regular Air Force), U.S. Air Force.

Col. Robert M. Bond, [redacted] FR, Regular Air Force.

Col. Richard T. Boverie, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Donald J. Bowen, [redacted] FR, Regular Air Force.

Col. Bill V. Brown, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. George M. Browning, Jr., [redacted] FR, Regular Air Force.

Col. John T. Buck, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Louis C. Buckman, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. George C. Cannon, Jr., [redacted] FR, Regular Air Force.

Col. Gerald J. Carey, Jr. [redacted] FR, Regular Air Force.

Col. William E. Carson, [redacted] FR, Regular Air Force.

Col. Robert W. Clement, [redacted] FR, Regular Air Force.

Col. Philip J. Conley, Jr. [redacted] FR, Regular Air Force.

Col. James S. Creedon [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Harry J. Dalton, Jr. [redacted] FR, Regular Air Force.

Col. James E. Dalton [redacted] FR, (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Joseph B. Dodds, [redacted] FR, Regular Air Force.

Col. Jay T. Edwards III [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Herbert L. Emanuel, [redacted] FR, Regular Air Force.

Col. James C. Enney, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Harry Falls, Jr., [redacted] FR, Regular Air Force.

Col. Billy B. Forsman, [redacted] FR, Regular Air Force.

Col. Clyde H. Garner, [redacted] FR, Regular Air Force.

Col. Paul T. Hartung, [redacted] FR, Regular Air Force.

Col. William W. Hoover, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Robert E. Kelley, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. George J. Kertesz [redacted] FR, Regular Air Force.

Col. James E. Light, Jr. [redacted] FR, Regular Air Force.

Col. George C. Lynch, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Frederick L. Maloy, [redacted] FR, Regular Air Force.

Col. James H. Marshall [redacted] FR, Regular Air Force.

Col. David M. Mullaney, [redacted] FR, Regular Air Force.

Col. Cornelius Nugteren, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Waymond C. Nutt [redacted] FR, Regular Air Force.

Col. Earl T. O'Loughlin, [redacted] FR, Regular Air Force.

Col. John W. Ord, [redacted], Regular Air Force, Medical.

Col. Leighton R. Palmerton, [redacted] FR, Regular Air Force.

Col. John L. Piotrowski [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col.: James N. Portis, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. John T. Randerson [redacted] FR, Regular Air Force.

Col. Berry W. Rowe, [redacted] FR, Regular Air Force.

Col. John P. Russell, [redacted] FR, Regular Air Force.

Col. Walter C. Schrupp, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Richard V. Secord, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. William L. Shields, Jr., [redacted] FR, Regular Air Force.

Col. Herman O. Thomson, [redacted] FR, Regular Air Force.

Col. Jack L. Watkins, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Charles E. Woods, [redacted] FR, Regular Air Force.

Col. Clifton D. Wright, Jr., [redacted] FR (major, Regular Air Force), U.S. Air Force.

IN THE ARMY

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 3066(a), in grade as follows:

To be lieutenant general

Maj. Gen. Eugene Joseph D'Ambrosio, [redacted] Army of the United States (colonel, U.S. Army).

Lt. Gen. John W. Vessey, Jr., [redacted], U.S. Army, for appointment as senior U.S. Army member of the Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711.

The Army National Guard officer named herein for appointment as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Salvador Monserrate Padilla, [redacted].

IN THE AIR FORCE

Air Force nominations beginning Maj. William D. Bagge, to be lieutenant colonel, and ending Maj. John E. Worm, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1975.

Air Force nominations beginning Joseph D. Abate, to be major, and ending Alvin J. Wooten, to be major, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1975.

Air Force nominations beginning Charles D. Ridgley, to be first lieutenant, and ending William K. McRaney, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 14, 1975.

IN THE ARMY

Army nominations beginning Billy J. Abel, to be colonel, and ending William R. Wahl, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1975.

IN THE NAVY

Navy nominations beginning Dean Allen Ablowich, to be commander, and ending Barbara Mary Williams, to be commander, which nominations were received by the Senate on November 26, 1975, and referred and appeared in the Congressional Record on December 1, 1975.

IN THE MARINE CORPS

Marine Corps nominations beginning Robert E. Akins, to be lieutenant colonel, and ending Judith A. Sternburg, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1975.

Marine Corps nominations beginning Bobby R. Johnson, to be second lieutenant, and ending Robert C. Tekampe, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on November 14, 1975.

HOUSE OF REPRESENTATIVES—*Monday, December 15, 1975*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not: for, behold, I bring you good tidings of great joy, which shall be to all people.—Luke 2: 10.

Our Father God, who art ever gracious and ever seeking to lead Thy children in right ways, come Thou anew into the hearts of the Members of this House of Representatives. Strengthen them for the tasks of this day and guide them as they labor for the good of our beloved country.

May the glory of Advent enter our minds, lifting us to the realm where love rules, peace reigns, and joy is supreme. Grant that Thy power and Thy love may so renew us that we may be born again to a better life on a higher plane for greater ends. Help us to live through these days with hearts of compassion, deeds of kindly service, and the spirit of good will toward all mankind.

In the spirit of Him who gives life to all we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4287. An act to provide for additional law clerks for the judges of the District of Columbia Court of Appeals; and

H.R. 10035. An act to establish the Judicial Conference of the District of Columbia.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 322. An act entitled the Hells Canyon National Recreation Area Act.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1136. An act to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes.

S. 1267. An act to expand competition, provide improved consumer services, strengthen the ability of financial institutions to adjust to changing economic conditions, and improve the flow of funds for mortgage credit; and

S. 2498. An act to amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

DECEMBER 12, 1975.

Hon. CARL ALBERT,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on December 12, 1975, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate passed H.J. Res. 733, a Joint Resolution making further continuing appropriations for the fiscal year 1976, and for other purposes;

That the Senate agreed to the amendments of the House of Representatives to the amendments of the Senate numbered 25, 28, 30, 51, and 52 to the Bill H.R. 8122.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

PROVIDING FOR DISPOSITION OF FUNDS TO PAY JUDGMENT IN FAVOR OF COWLITZ INDIANS

The Clerk called the bill (H.R. 5090) to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket No. 218 and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

W. R. POAGE FEDERAL BUILDING

The Clerk called the bill (H.R. 9348) to name a building in Temple, Tex., as the "W. R. Poage Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 9348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building to be constructed in Temple, Texas, and leased by the Administrator of General Services for use by the Federal Government is hereby designated as the "W. R. Poage Federal building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the W. R. Poage Federal building.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ACT OF JULY 7, 1970, AUTHORIZING APPROPRIATIONS TO THE SECRETARY OF INTERIOR WITHOUT REFERENCE TO AGENCIES INVOLVED

The Clerk called the Senate bill (S. 1922) to amend the act of July 7, 1970 (84 Stat. 409), to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

The SPEAKER. Is there objection to the present consideration of the Senate bill?

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

EXTENDING MEDICAL BENEFITS TO SURVIVORS OF ANY VETERAN WHO AT TIME OF DEATH WAS SUFFERING FROM A TOTAL AND PERMANENT SERVICE-CONNECTED DISABILITY

The Clerk called the bill (H.R. 1547) to amend title 38 of the United States Code in order to extend medical benefits to the survivors of any veteran who at the time of death was suffering from a total and permanent service-connected disability.

The SPEAKER. Is there objection to the present consideration of the bill?

PARLIAMENTARY INQUIRY

Mr. JOHNSON of Pennsylvania. Reserving the right to object, Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. JOHNSON of Pennsylvania. Are these last three bills, H.R. 1547, S. 1922, and H.R. 9348, eligible for consideration today?

The SPEAKER. The Chair will announce that this is the last bill eligible on the Consent Calendar.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 1547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 613(a) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by inserting ", and" at the end of clause (2); and

(3) by adding immediately after clause (2) the following new clause:

"(3) the widow or child of a veteran who, at the time of death, had a total disability, permanent in nature, resulting from a service-connected disability".

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 1547, which extends medical benefits to certain widows and children who are not included under the CHAMPVA program, but in my view are equally entitled.

The CHAMPVA program was created by Public Law 93-82, the Veterans Health Care Expansion Act of 1973. It provided for the medical care of the wives and children of the veterans suffering from a permanently and totally disabling service-connected disability, and for the widows and children of the veteran whose death resulted from it.

This stringent requirement with regard to widows and children resulted in a loss of medical care benefits in those instances where the veteran's death did not result from his service-connected disability. There is something incongruous in a law that takes benefits away from the dependents of a veteran, following his death, to which they were entitled during his lifetime.

Medical care for the dependents of these seriously disabled veterans was bestowed in recognition of the sacrifices that were made. With the death of the veteran, the sacrifice does not diminish, neither should the entitlement to medical care for their dependents.

I urge my colleagues to give this bill favorable consideration.

Mr. SATTERFIELD. Mr. Speaker, H.R. 1547 will extend medical benefits under the CHAMPVA program to survivors of any veteran, who at time of death, was suffering from a total and permanent service-connected disability.

This legislation is considered necessary to correct a technical oversight in legislation passed by the 93d Congress when the CHAMPVA program was authorized.

The law, as currently worded, provides medical care for the wife or child of any veteran who has a total disability, permanent in nature, resulting from a service-connected disability. It also provides medical care for the widow or child of any veteran who died as a result of a service-connected disability. This means that the wife or child who currently may be eligible for medical care by reason of the veteran having a total disability, permanent in nature, resulting from a service-connected disability, loses entitlement in the event the veteran dies of a nonservice-connected cause.

This was not the intent of Congress in passing the original CHAMPVA legislation.

H.R. 1547 would provide for the widow or child of a veteran who died as a result of a non-service-connected cause, while a total and permanent service-connected disability was in existence, to receive the same kind of treatment under the CHAMPVA program, as the survivors of a former serviceman do under the CHAMPUS program.

Enactment of H.R. 1547 would result in an estimated annual cost of the Veterans' Administration of approximately $56,934 which is within the budget ceiling established for veterans' benefits and services in the second concurrent congressional budget resolution.

The administration favors this legislation.

Mr. Speaker, the committee on Veterans' Affairs unanimously urges passage of H.R. 1547.

Mr. O'BRIEN. Mr. Speaker, I rise in support of H.R. 1547, a bill which extends medical benefits to the survivors of any veteran who at the time of death was suffering from a total and permanent service-connected disability.

Section 613(a), title 38, United States Code, as currently worded, provides medical care for the widow or child of a veteran who died as a result of a service-connected disability. Therefore, a veteran's survivors, who were eligible for medical care by reason of the veteran having a total disability, permanent in nature, resulting from a service-connected disability, would lose that entitlement in the event the veteran dies of a non-service-connected cause.

Mr. Speaker, we have always accorded the veteran who has a service-connected total disability special recognition and special assistance for the sacrifices he and his family have made. We know that a veteran so rated has a reduced earning capacity and that his survivors are denied an economic status others, more fortunate, have established.

H.R. 1547 will allow those eligible to continue to receive medical care under the CHAMPVA program in line with that applicable to the survivors of former servicemen under the CHAMPUS program, upon which it was based.

I strongly urge my colleagues to support this worthwhile legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the eligible bills on the Consent Calendar.

CONFERENCE REPORT ON S. 1281, HOME MORTGAGE DISCLOSURE ACT OF 1975

Mr. REUSS submitted the following conference report and statement on the Senate bill (S. 1281) to improve public understanding of the role of depository institutions in home financing:

CONFERENCE REPORT (H. REPT. No. 94-726)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—REGULATION OF INTEREST RATES

SEC. 101. Section 7 of the Act of September 21, 1966 (Public Law 89-597), is amended by striking out "December 31, 1975" and inserting in lieu thereof "March 1, 1977".

SEC. 102. (a) An interest rate differential for any category of deposits or accounts which is in effect on December 10, 1975, between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)) may not be eliminated or reduced unless—

(A) written notification is given by the Board of Governors of the Federal Reserve System to the Congress; and

(B) the House of Representatives and the Senate approve, by concurrent resolution, the proposed elimination or reduction of the interest rate differential.

(b) In the case of the elimination or reduction of any interest rate differential under subsection (a) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to charge for such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

TITLE II—ELECTRONIC FUND TRANSFERS

SEC. 201. Section 203(b) of title II of the Act of October 28, 1974 (Public Law 93-495), is amended by—

(1) striking out "within one year of its findings and recommendations" and inserting in lieu thereof "within one year of the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson"; and

(2) striking out "not later than two years after the date of enactment of this Act" and inserting in lieu thereof "not later than two years after the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson".

TITLE III—HOME MORTGAGE DISCLOSURE

SHORT TITLE

SEC. 301. This title may be cited as the "Home Mortgage Disclosure Act of 1975".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

(b) The purpose of this title is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are fulfilling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(c) Nothing in this title is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

DEFINITIONS

Sec. 303. For purposes of this title—

(1) the term "mortgage loan" means a loan which is secured by residential real property or a home improvement loan;

(2) the term "depository institution" means any commercial bank, savings bank, savings and loan association, building and loan association, or homestead association (including cooperative banks) credit union which makes federally related mortgage loans as determined by the Board;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term '"Secretary" means the Secretary of Housing and Urban Development.

MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE

Sec. 304. (a) (1) Each depository institution which has a home office or branch office located within a standard metropolitan statistical area, as defined by the Office of Management and Budget shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at least one branch office within each standard metropolitan statistical area in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated, or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this title).

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts, where readily available at a reasonable cost, as determined by the Board, otherwise by ZIP code, for borrowers, under mortgage loans secured by property located within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that standard metropolitan statistical area.

For the purpose of this paragraph, a depository institution which maintains offices in more than one standard metropolitan statistical area shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased by an office of that depository institution located in the standard metropolitan statistical area in which the office making such information available is located.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan; and

(3) the number and dollar amount of home improvement loans.

(c) Any information required to be compiled and made available under this section shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

ENFORCEMENT

Sec. 305. (a) The Board shall prescribe such regulations as may be necessary to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary and proper to effectuate the purposes of this title, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System, other than national banks, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)) and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

RELATION TO STATE LAWS

Sec. 306. (a) This title does not annul, alter, or affect, or exempt any State chartered depository institution subject to the provisions of this title from complying with the laws of any State or subdivision thereof with respect to public disclosure and recordkeeping by depositor institutions, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this title if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this title, or that such law otherwise provides greater disclosure than is required under this title.

(b) The Board may by regulation exempt from the requirements of this title any State chartered depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced under—

(1) Section 8 of the Federal Deposit Insurance Act in the case of national banks, by the Comptroller of the Currency; and

(2) Section 5(d) of the Home Owners' Loan Act of 1933 in the case of any institution subject to that provision, by the Federal Home Loan Bank Board.

RESEARCH AND IMPROVED METHODS

Sec. 307. (a) (1) The Federal Home Loan Bank Board, with the assistance of the Secretary, the Director of the Bureau of the Census, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Federal Home Loan Bank Board deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) The Federal Home Loan Bank Board is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) The Federal Home Loan Bank Board shall recommend to the Committee on Banking, Currency and Housing of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate such additional legislation as the Federal Home Loan Bank Board deems appropriate to carry out the purpose of this title.

STUDY

Sec. 308. (a) The Board, in consultation with the Secretary of Housing and Urban Development, is authorized and directed to carry out a study to determine the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas, as defined by the Office of Management and Budget, to make disclosures comparable to those required by this title.

(b) A report on the study under this section shall be transmitted to the Congress not later than three years after the date of enactment of this title.

EFFECTIVE DATE

Sec. 309. This title shall take effect on the one hundred and eightieth day beginning after the date of its enactment. Any depository institution which has total assets as of its last full fiscal year of $10,000,000 or less is exempt from the provisions of this title.

TERMINATION OF AUTHORITY

Sec. 310. The authority granted by this title shall expire four years after its effective date.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

Henry Reuss,
Fernand J. St Germain,
Frank Annunzio,
Wm. Barrett,
Jerry M. Patterson,
Managers on the Part of the House.

William Proxmire,
John Sparkman,
Harrison Williams,
T. J. McIntyre,
Alan Cranston,
Edward W. Brooke,
Bob Packwood,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill. The House amendment, the Senate bill and the substitute agreed to in conference are noted below except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

The House amendment provided for an extension of Regulation Q until December 31, 1977. The term "Regulation Q" refers to the authority by which the various Federal financial regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions. The Senate bill had no provision. The Senate receded to the House with an amendment providing for an extension of Regulation Q until March 1, 1977.

The House amendment provided that an interest rate differential of not less than one-quarter of one percent be maintained in favor of deposits in thrift institutions. The amendment further provided that the Federal financial regulatory agencies take no action to eliminate or lessen any such differential in existence on the date of enactment except that such differential may, upon a finding of competitive disadvantage be lessened or eliminated for selected geographic areas and by category of accounts.

The Senate bill had no provision. The House receded to the Senate.

The House amendment provided that there could be no lessening or eliminating of the differential by the regulatory agencies upon a finding of competitive disadvantage unless 45-day prior notification be given by the Board of Governors of the Federal Reserve System to the respective Banking Committees of both the House and the Senate and that neither Committee, within such 45-day period, disapprove by resolution the proposed elimination or lessening of the differential.

The Senate bill contained no provision. The Senate receded to the House with an amendment that any lessening or elimination of the differential proposed by the Federal financial regulatory agencies could take effect only upon the adoption of a concurrent resolution by both the Senate and the House of Representatives approving such proposal. The Conferees intend that this provision shall in no way restrict the present authority of the Federal financial regulatory agencies to increase deposit rate ceilings under Regulation Q as appropriate.

The House amendment provided that in any case where the differential is lessened or eliminated with regard to any category of account, the rate payable by all depository institutions on such category of account shall be the highest rate permitted under Regulation Q for that category of account.

The House amendment provided that for the period during which Regulation Q is extended under this Act, the Federal financial regulatory agencies shall study the impact of expanded lending and investment powers authorized for State-chartered thrift institutions on the housing portfolios of such institutions with special emphasis upon possible disintermediation effects.

The Senate bill had no provision. The House receded to the Senate.

TITLE II

The House amendment provided that the interim and final reports of the National Commission on Electronic Fund Transfers be submitted within one and two years, respectively, from the date of the confirmation by the Senate of the Chairperson. The Senate had no provision. The Senate receded to the House.

The House amendment further required an additional report to be submitted to the respective House and Senate Banking Committees within six months after enactment. The Senate bill had no provision. The House receded to the Senate.

TITLE III

Findings and purpose

The House amendment contains a finding that depository institutions have sometimes contributed to the decline of certain geographic areas by failing to provide home mortgage financing on reasonable terms to qualified applicants. The Senate provision is somewhat narrower and implies a connection between neighborhoods from which deposits are received and neighborhoods to which loans are made. The conference report contains the House provision.

The House amendment provides that the purpose is to enable citizens to determine whether depository institutions are fulfilling their obligations to serve housing credit needs of the affected areas and to help public officials determine public sector investments. The Senate provision contains broader language indicating an obligation by lenders to serve the housing needs of their communities. The conference report adopts the Senate provision, and also incorporates the House language indicating an additional purpose to assist public officials in their determination of public sector investments.

The House amendment contains a provision not included by the Senate that nothing in this title shall be construed to encourage unsound lending practices or the allocation of credit. The legislative history indicates a similar intent on the part of the Senate. The conference report adopts the House provision.

Definitions

The House amendment defines a mortgage loan as a loan secured by residential real property, or a home improvement loan. The Senate definition includes only "Federally related" mortgage loans other than temporary financing as defined under Section 3 of the Real Estate Settlement Procedures Act of 1974. The conference report adopts the broader house provision, which will provide information on multiple as well as single family mortgage loans, and also home improvement loans.

The House and Senate both included within the definition of a depository institution, a bank, a savings bank, or a savings and loan association. The Senate bill also included credit unions; the House amendment added homestead associations (including cooperative banks.) The House receded to the Senate provision with an amendment to include homestead associations (including cooperative banks).

The conference report includes the House provision defining "Board" as the Board of Governors of the Federal Reserve, and "Secretary" as the Secretary of Housing and Urban Development. There was no comparable Senate provision.

Maintenance of public records and public disclosure

The Senate bill required information to be available for inspection at every branch of an institution located within a standard metropolitan statistical area. In addition to mutual savings banks, this includes non-Federally insured savings and loan associations. The conference report includes the Senate provision extending coverage to all non-Federally insured institutions, but adopts the House provision specifying that in the case of such institutions compliance shall be enforced by the FDIC.

The Conference Report includes a provision in the Senate bill but not in the House amendment providing that the National Credit Union Administration shall enforce compliance in the case of credit unions.

Relation to State laws

The Senate bill provided that this legislation does not exempt any "person" otherwise subject to state or local laws regarding recordkeeping and disclosure by depository institutions except to the extent of inconsistency with the provisions of this Act, and then only to the extent of the inconsistency, with the provision that the Board shall determine whether such inconsistencies exist. The Senate's intent was to subject all depository institutions in a jurisdiction to the same mortgage disclosure law, whether State or Federal, depending on which offered a greater degree of disclosure of mortgage information.

The House amendment provided an identical process for determining the inconsistency between state and Federal law, but limited the optional exemption from this Act to state chartered institutions. Under the House language, a state-chartered institution could be granted an exemption from this Act if the Board determined that the law of the state or subdivision afforded equal or greater disclosure, but in no case could a Federally chartered institution be granted an exemption from this Act. The intent of the House provision is that in the area of public disclosure of mortgage lending statistics, this Act shall apply to all depository institutions unless an exemption is granted by the Board, in which case state-chartered institutions would be subject to the state or local law to the extent of the exemption, but Federally chartered institutions would continue to follow the requirements of this Act. The conferees understand that for the purposes of exemption authority granted to the Board, the term state law shall include state regulations which carry the force of law.

The Senate conferees regard the House provision concerning Federal pre-emption as an exception to the pre-emption provisions of other consumer finance laws, including the Truth in Lending and the Fair Credit Billing Acts, which contain provisions similar to the Senate provisions of S. 1281.

In the case of mortgage disclosure, however, the conferees on the part of the House strongly believe that subjecting a Federally chartered institution to state law would threaten the dual banking system.

With the understanding that this provision goes only to the narrow area of geographical disclosure of mortgage lending statistics, the Senate conferees agreed to the House provision, which is included in the conference report.

Studies

Both versions provided for a number of studies. The Conference Report included the Senate provision for a study to be carried out by the Federal Reserve Board to determine the feasibility and usefulness of requiring depository institutions located outside metropolitan areas to be subject to the requirements of this Act.

The Conference report also includes provisions contained in the House amendment requiring the concerned Federal regulatory agencies to work with the Census Bureau to develop methods of matching addresses with census tracts to facilitate compliance with this Act, and requiring the Federal Home Loan Bank Board to recommend to the Banking committees of the Congress such additional legislation deemed appropriate.

The Senate provision requiring such studies to be transmitted to the Congress within three years of enactment was included in the conference report.

Exemption

The House amendment contained exemptions not included in the Senate bill, exempting institutions with total assets of $25,000,000 or less from compliance for 15 months, and exempting institutions with assets of $10,000,000 or less for the life of the Act. The conference report includes the exemption for institutions with assets of $10,000,000 or less.

Effective date

The Senate bill provided an effective date 90 days after enactment. The House amendment provided for 180 days. The Conference report provides that the Act shall take effect 180 days after enactment.

Henry Reuss,
Fernand J. St Germain,
Frank Annunzio,
Wm. Barrett,
Jerry M. Patterson,
Managers on the Part of the House.
William Proxmire,
John Sparkman,
Harrison Williams,
T. J. McIntyre,
Alan Cranston,
Edward W. Brooke,
Bob Packwood,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5247, PUBLIC WORKS EMPLOYMENT ACT OF 1975

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 5247) to authorize a local public works capital development and investment program.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FOOD DRIVE FOR NEEDY IN DISTRICT OF COLUMBIA

(Mr. PEYSER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PEYSER. Mr. Speaker, a year ago the Members of this House led the District of Columbia in providing food for the needy in the District over this Christmas period.

Once again this year, with the help of the Speaker and the majority leader and the minority leader and others in leadership on both sides, we are going to have a program of bringing in nonperishable food programs that will be collected on the steps of the Capitol at 11:30 this coming Thursday, December 18, on the House side.

For any Members who will not be able to be here or bring in the food on Thursday, if they want they may bring it and leave it in room 1133, the Longworth Building, where we will be glad to receive it.

This program is supported by all the religious organizations in Washington because it is a very worthwhile thing and I think it is fitting that Congress should take this leadership.

A TRIBUTE TO SPEAKER ALBERT

(Mr. CARTER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, recently I read an editorial by a well-known Washington writer who has a proclivity for relating stories bordering on the lewd and lascivious. I feel that these stories were not based on fact. It has been my pleasure and my honor to accompany the gentleman, who was maligned by this poison pen artist, throughout the Far East and recently on a visit to Russia, Yugoslavia, and Romania. The man so maligned was an honor graduate of his high school, the University of Oklahoma, a Rhodes Scholar, and a colonel in the armed services of the United States during World War II. Since I consider Mr. Albert to be a man of probity and wisdom, I include the following for the Record:

If with pleasure you are viewing
Any work a man is doing
And you like him, or you love him, say it now!
Don't withhold your approbation
Till the person makes oration
And he lies with snowy lilies o'er his brow.
For no matter how you shout it
He won't really care about it
He won't know how many tear drops you have shed.
If you think some praise is due him
Now's the time to hand it to him
For he cannot read his tombstone when he's dead!

More than fame and more than money
Is the comment, kind and sunny
And the hearty warm approval of a friend;
Oh! It gives to life a savor
And strengthens those who waver
And gives one heart and courage to the end.
If one earns your praise—bestow it!
If you like him—let him know it!
Let the words of true encouragement be said!
Let's not wait 'till life is over,
And he lies beneath the clover
For he cannot read his tombstone when he's dead!

COMEBACK OF NORTHERN MICHIGAN UNIVERSITY WILDCATS

(Mr. RUPPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUPPE. Mr. Speaker, last Saturday Northern Michigan University's Wildcats completed one of the most remarkable comeback success stories in college football history.

The Wildcats won the NCAA Division II football championship in the Camellia Bowl by defeating the University of Western Kentucky 16–14, and thus secured this high honor for the State of Michigan for the second consecutive year.

What makes the Wildcats' championship so extraordinary, Mr. Speaker, is that last year the same basic team failed to win a single game. In fact, the Northern Michigan University 1974 team was listed in the bottom 10 college teams in the country.

Ah, but this year, a Wildcat team which was basically unchanged from last year, launched a campaign that took them from the ashes of defeat to the zenith of college football prominence.

During the regular season, the Wildcats defeated last year's champions on the latter's own field. The Northern Michigan team went on from there to defeat highly regarded opponents in the three playoff games leading to the national championship.

In true Upper Peninsula fashion, the Wildcats came from behind to win those three games.

Mr. Speaker, I submit that the character demonstrated by the Northern Michigan University Wildcats in winning a championship despite nearly overwhelming odds is an outstanding example of those virtues of courage, determination, and fighting spirit which this Nation has always sought to inculcate in its citizens.

It is with a deep sense of pride in their accomplishments, then, that I salute and congratulate the Northern Michigan University Wildcat football team and coaches.

They have demonstrated to the Nation that the quality of upper Michigan football is second to none.

Indeed, Mr. Speaker, the pride and power of the North is now the pride of the United States.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CALL OF THE HOUSE

Mr. FREY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 778]

Andrews, N.C.
Badillo
Bell
Biaggi
Burke, Fla.
Burton, John
Byron
Chappell
Chisholm
Clancy
Collins, Ill.
Conyers
Coughlin
Diggs
Dingell
Drinan
English
Esch
Eshleman
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Giaimo
Guyer
Harkin
Harsha
Hastings
Hayes, Ind.
Hébert
Hinshaw
Hungate
Jarman
Jenrette
Jones, Tenn.
Karth
Kasten
LaFalce
Latta
McEwen
Metcalfe
Mikva
Mills
Mitchell, N.Y.
Murphy, Ill.
Passman
Pickle

Rees
Riegle
Russo
St Germain
Scheuer
Schulze
Simon
Stark
Stephens
Symington
Taylor, Mo.
Teague
Thompson
Traxler
Udall
Waxman
Wydler

The SPEAKER. On this rollcall 369 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

CARE OF VETERANS IN STATE HOMES

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10394) to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

The Clerk read as follows:

H.R. 10394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 641 of title 38, United States Code, is amended to read as follows:

"§ 641. Criteria for payment

"(a) The Administrator shall pay each State at the per diem rate of—

"(1) $6.50 for domiciliary care,

"(2) $10.50 for nursing home care, and

"(3) $13.50 for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

"(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home."

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ROBERTS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the reported bill would raise the per diem paid to State homes for hospital, nursing home, and domiciliary care for veterans. The rates were last raised on September 1, 1973.

Today there are approximately 11,000 veterans being cared for in State veterans' homes at a Federal cost of approximately $22.2 million. The committee feels the present per diem is unrealistically low considering the dramatic increase in medical costs during the past 2 years. H.R. 10394 would provide a more equal distribution of the total cost for veterans' care in our State homes.

Before yielding to the distinguished gentleman from Virginia, the very able chairman of our Subcommittee on Hospitals, I want to commend him for favorably considering this bill, and the two bills to follow. The gentleman is totally dedicated to providing quality health care for the veterans of our Nation. I also want to thank the ranking minority member of the full committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for his leadership and support on behalf of our veterans and their dependents during this session of the Congress.

I also want to thank all members of the committee for the great work they have done this year for our 29 million veterans and their families.

I now yield to the distinguished gentleman from Virginia (Mr. SATTERFIELD).

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Speaker, before proceding with an explanation of the bills scheduled for consideration today, all of which were unanimously reported by the committee on Veterans' Affairs on December 10, 1975, I wish to take this opportunity to express my special appreciation to the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Texas (Mr. ROBERTS), and the distinguished ranking minority member of the committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT), for their cooperation and support of legislation which has emerged from our committee during this session. I also wish to commend all of the members of the committee for their hard work and the long hours devoted to the committee hearings and markup sessions of the subcommittee on hospitals.

There is still much to be done. I hope to schedule early meetings of the subcommittee on hospitals when Congress reconvenes in January to continue hearings on important pending legislative proposals and to carry out our oversight responsibilities.

Mr. Speaker, H.R. 10394 would provide increases in the reimbursement rates for care in State veterans homes for various categories of care.

Currently, there are over 11,000 veterans being treated in State veterans homes at costs substantially below the per diem costs in the Veterans' Administration.

Comparative per diem costs are as follows:

Category of care	State homes	Veterans Administration	Difference per patient day
Domiciliary care	$12. 19	$15. 53	$3. 34
Nursing home care	20. 23	41. 74	21. 41
Hospital care	37. 92	77. 88	39. 96

During fiscal year 1975, based on the average daily census in State veteran homes of approximately 11,000 veterans being treated, the savings of treating veterans in State home facilities as opposed to VA facilities has resulted in a savings to the Federal Government of over a quarter million dollars.

Reimbursement rates under current law were last increased in September 1973. Costs of operating these facilities have increased dramatically as they have in the Veterans Administration since that time.

This bill proposes to give some relief to State veteran homes which are facing financial crisis situations because of spiraling inflation.

H.R. 10394 would raise the State home reimbursement rates as follows:

Domiciliary care from $4.50 to $6.50 per day;

Nursing home care from $6.00 to $10.50 per day; and

Hospital care from $10.00 to $13.50 per day.

The president of the National Association of State Veteran Homes has advised the committee that they are in full accord with the provisions of H.R. 10394 and the general concept is likewise supported by the major veteran organizations which have communicated with the committee on this subject. Mr. Speaker, I include the communication from the National Association of State Veteran Homes to the committee supporting this legislation at this point in the RECORD:

Congressman RAY ROBERTS,
Chairman, House Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN ROBERTS: The National Association of State Veterans Homes representing 40 state homes in 32 states supports H.R. 10394. This bill is a compromise which we feel is fair and equitable to both the Veterans Administration and the state. We cannot properly stress the urgency for passage of some form of financial relief to more adequately compensate state homes as intended by the original legislation.

We sincerely hope your committee can approve this legislation on December 10. Very truly yours.

KENNETH M. TARR,
President, National Association of State Veterans Homes, New Hampshire Veterans Home.

The fiscal year 1976 cost of this bill, assuming an effective date of January 1, 1976, would be $6.1 million and the cost would rise to $15.6 million in fiscal year 1981.

The cost of this legislation is within the budget ceiling established for veterans' benefits and services in the second concurrent congressional budget resolution.

Mr. Speaker, the Committee on Veterans' Affairs unanimously recommends passage of H.R. 10394 by the House of Representatives.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10394. The principal thrust of this measure is to increase the per diem rate payable by the Veterans' Administration to States on behalf of veterans receiving care in State homes. Additionally, the bill will permit the Veterans' Administration to pay the per diem of State homes on behalf of any veteran eligible for care in a Veterans' Administration facility. Current law limits payments to veterans of any war or of service after January 31, 1955.

Earlier this year, Mr. Speaker, we received testimony on the subject of this measure, H.R. 10394. It was revealed that at that time the average cost of hospitalization per day for one veteran in a Veterans' Administration facility was $76 in 1975. Had the same veteran been hospitalized in a facility operated by a State veterans home, the cost to the Veterans' Administration would have been $10 per day. The average per diem in State home hospitals, incidentally, at that time, was $42.

A veteran receiving nursing care in a Veterans' Administration facility during 1975 cost the Federal Government $41.18 per day. If he received nursing care in a State veterans home, Mr. Speaker, the Veterans' Administration would pay only $6 per day.

Domiciliary care in a Veterans' Administration facility costs $15.39 per day. In a State home facility, the Veterans' Administration pays but $4.50 per day.

Mr. Speaker, our Nation is indeed fortunate that many States have undertaken programs of this nature to assume a portion of the responsibility for providing veterans benefits and services. We cannot afford to discourage them from continuing such programs. The testimony before our subcommittee clearly revealed that the present per diem paid to State veterans homes is insufficient to provide adequate care for veterans.

H.R. 10394 will increase the per diem rate paid to State veterans homes. The $10 rate for hospital care will be increased to $13.50. The $6 rate for nursing care would be increased to $10.50, while the domiciliary home rate would be increased from $4.50 to $6.50.

Mr. Speaker, this bill is necessary if veterans are to continue receiving quality care from this most welcome source. I support the bill, and urge that it be passed.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER.)

Mrs. HECKLER of Massachusetts. Mr. Speaker, I thank the distinguished gentleman from Arkansas for yielding me this time and I rise in strong support of H.R. 10394. This improvement in the funds for State veterans home is long overdue and hardly keeps pace with the costs. It is a step in the right direction that is badly needed to help compensate for the valuable services that the State veterans homes do perform for our veterans.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. WYLIE), a member of the committee.

Mr. WYLIE. Mr. Speaker, I rise in support of the bill H.R. 10394. I think this is a good investment by the Federal Government.

Mr. Speaker, H.R. 10394 is necessary to fulfill our partnership with the 31 State veterans' homes in the United States, one of which is located in my own State of Ohio, the Sailors and Soldiers Home at Sandusky, Ohio.

We here in Congress often tend to forget that the veterans' agencies of the several States provide many varied and important services to veterans that constitute needed supplements to the programs administered by the Veterans' Administration. These State programs save the Federal Government a significant sum of money because if they were to terminate, the entire financial burden of veterans' care would fall on the Federal Establishment.

This bill will increase the Federal Government's share of providing domiciliary, nursing, and hospital care to the State veterans' homes. The Federal Government has been assisting these State homes in various ways since 1939. The last time the Federal subsidy was determined was in September of 1973. Since then, there has been a significant amount of inflation.

H.R. 10394 provides a necessary and modest increase in support of State veterans' homes.

The current Federal share is $4.50 per diem for domiciliary care, $6 per diem for nursing home care, and $10 per diem for hospital care. H.R. 10394 will increase the Federal per diem share to $6.50 for domiciliary care, $10.50 for nursing home care, and $13.50 for hospital care. Considering the fact that it costs the Veterans' Administration in its own facilities $15.53 per diem for domiciliary care, $41.74 per diem for nursing home care, and $77.89 for hospital care, and the fact that the VA would have to expand its facilities to care for these veterans if the State veterans' homes closed, it is extremely important that we increase the Federal Government's share to compensate for the rising cost of caring for these veterans. It is also important to remember that the Veterans' Administration in the past few years has promulgated regulations which require that the care in State veterans' homes be comparable with that in the similar facilities in the VA. In some instances, this has also increased the State veterans' homes per diem costs.

Therefore, I strongly support and recommend passage of this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, I want to thank both the gentleman from Texas (Mr. ROBERTS) and the gentleman from Virginia (Mr. SATTERFIELD) for their efforts in bringing this matter before the House of Representatives. By having a State veterans' home in my home State of South Dakota and having sponsored a similar bill, I know of the need for this proposed legislation.

As has been pointed out earlier, the State veterans' homes provide a special bargain to the Federal Government. There are currently 40 State veterans' homes in the United States which either provide domiciliary, nursing or hospital care, or a combination of any or all such care to many veterans. Both the States and the Federal Government share in the expense of operating these homes and it is time that the Federal Government increased its share in this partnership. This is particularly true, since if these State veterans' homes were to close, many of the veterans in these homes would have to be taken care of by expanded Veterans' Administration facilities. By comparison, this would be vastly more expensive to the Federal Government. In fiscal year 1975 it cost the VA $15.43 per diem for domiciliary care, $41.74 for nursing care, and $77.89 for hospital care at its own VA facilities. The bill under consideration today, H.R. 10394, would raise the Federal Government share to State veterans' homes to $6.50 for domiciliary care, $10.50 for nursing home care, and $13.50 for hospital care—a definite bargain to the Federal Government.

This is a bargain we cannot afford to refuse and as a cosponsor of similar proposed legislation, I strongly urge my fellow colleagues to unanimously support this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 10394, a bill to promote the care and treatment of veterans in State veterans' homes.

In essence, this bill would amend section 641 of title 38, United States Code, to increase the per diem amounts paid by the Veterans' Administration to States for the care and treatment of eligible veterans receiving such care in State homes.

The per diem rate for domiciliary care would increase from $4.50 to $6.50; from $6 to $10.50 for nursing home care; and from $10 to $13.50 for hospital care. The bill does limit payments to one half of the cost of the veterans' care in the State homes.

Historically, the contribution of the Federal Government to State homes was one of assistance in domiciliary care. However, in 1939, Federal aid payments were extended to State homes which provided hospital care and treatment; and during recent years permitted per diem allowances were extended to nursing home care provided by State homes.

The current per diem rates were established in September 1973. The current average cost per day to care for a patient in a Veterans' Administration hospital is $77.88; nursing care units is $41.74; and VA domiciliary is $15.53.

Mr. Speaker, the States are carrying the larger cost share of maintaining veterans in State homes. H.R. 10394 would provide a more equal distribution of the total cost.

And, in view of the dramatic increase in medical care costs since 1973 when the rates were last increased, I strongly feel that this increase is justified.

Therefore, I urge my colleagues to join in supporting this worthwhile measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, I rise in support of H.R. 10394, a bill to promote the care and treatment of veterans in State veterans' homes .

Mr. Speaker, the main thrust of this bill would increase the per diem amounts paid by the Veterans' Administration to States for the care and treatment of eligible veterans receiving such care in State homes. It would increase the per diem rate for domiciliary care from the current $4.50 to $6.50; the per diem rate for nursing home care from $6 to $10.50; and the per diem rate for hospital care from $10 to $13.50.

The average cost per day for care in State homes has increased dramatically since September 1, 1973, when the current per diem rates were established. The States, through public and private funds, are carrying the larger cost share of maintaining veterans in State homes. H.R. 10394 would provide a more equal distribution of the total cost, by giving some relief to State veterans' homes during this period of spiraling inflation.

Mr. Speaker, I support this bill and urge that it be passed.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. Grassley).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this bill.

It is important to remember that the States have no obligation to operate these homes, but by doing so they relieve the Veterans' Administration of a tremendous financial burden. Even the increased contribution rate of this bill comes nowhere close to meeting the costs faced by the States in providing this gratuitous care. In short, the Federal Government is getting a tremendous bargain by insuring the continued operation of State homes.

Additionally, I know from personal experience from my visits to the Iowa Veterans Home in Marshalltown, Iowa, that the quality of care provided by the State homes is unsurpassed. Even more important, the quality of care provided is the manner in which it is delivered. They make every effort to deinstitutionalize the services, in order to make the veteran feel he is in fact, "at home," and not treated impersonally.

Mr. CORNELL. Mr. Speaker, I rise in wholehearted support of the legislation now before us. H.R. 10394 closely reflects the intent of my personal efforts to correct long-standing inequities between Federal and State support of veterans homes. While this bill differs from those I have introduced, and the funding level is somewhat less than I had hoped would be passed by this house, it nonetheless is a significant step forward in helping our fine State veterans homes continue in the provision of quality health care in the personalized manner for which they have been noted.

By increasing the Veterans' Administration's portion of daily health costs incurred by State homes, the Federal Government not only helps improve these institutions but also insures that over 11,000 of our older veterans will be treated at far less cost to the taxpayer than if they were handled at our more costly VA institutions.

Hence, we have the best of all possible situations. Veterans will receive personalized attention in facilities which are close to home and families; States will now have the means to prepare for the influx of our largest group of veterans, those of World War II; the Federal Government will incur less than half the cost it ordinarily would if these servicemen or their relatives were treated in VA facilities.

Mr. Speaker, I commend the Committee on Veterans' Affairs and Mr. Satterfield for this praiseworthy legislation, and I urge my colleagues to support its passage.

Mr. CONTE. Mr. Speaker, I rise in support of the bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes, H.R. 10394.

Basically the bill will provide modest increases to State facilities providing domiciliary and nursing care to veterans. The present per diem Federal contribution to the States is $10 for hospital care, $6 for nursing home care, and $4.50 for domiciliary care. The bill before us will raise the per diem contribution to $13.50 for hospital care, $10.50 for nursing home care and $6.50 per day for domiciliary care. The increases are very modest. The present rates have been in effect since September 1, 1973. As a contrast, I should like to point out that the average per diem cost to the Federal Government in a Veterans' Administration hospital is $77.88, $41.74 in a nursing care unit, and $15.53 at a domiciliary unit. It is clear that the States are maintaining the vast proportion of the cost to maintain veterans in State facilities. Facilities such as the Soldiers' Home in Holyoke, Mass., are doing an excellent job given their tight budgets and limited amounts of donations. It is only proper that we increase the Federal share to at least equal the real dollars we were providing in 1973. I urge my colleagues to support this timely and important legislation.

Thank you, Mr. Speaker.

Mr. TEAGUE. Mr. Speaker, I wholeheartedly support the passage of H.R. 10394 which will increase per diem rates for the care of veterans in State veterans' homes.

There are over 11,000 veterans receiving some form of care in over 40 State home facilities throughout the United States. They receive excellent care in these facilities and relieve the Federal Government of a substantial workload which would otherwise increase the already overcrowded condition in many VA hospitals and nursing homes.

Mr. Speaker, I am particularly proud to have authored legislation in the 88th Congress and the 91st Congress to expand the scope of this program and the reimbursement rates need to be adjusted now to carry on this fine program and to take care of inflation which has taken place since they were last set in September 1973.

Mr. Speaker, H.R. 10394 would raise the State home reimbursement rates as follows:

Domiciliary care from $4.50 to $6.50 per day;

Nursing home care from $6 to $10.50 per day; and

Hospital care from $10 to $13.50 per day.

Mr. Speaker, I hope the Senate Veterans' Affairs Committee will take prompt action on this particular measure when the 2d session of the 94th Congress convenes in January.

Mr. ROBERTS. Mr. Speaker, I have no additional requests for time. I would inquire if the distinguished gentleman from Arkansas desires to yield further time.

Mr. HAMMERSCHMIDT. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Roberts) that the House suspend the rules and pass the bill H.R. 10394.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the subject of the bill just passed, H.R. 10394.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR ANNUAL INVESTIGATIONS BY THE ADMINISTRATOR OF VETERANS' AFFAIRS INTO COST OF TRAVEL BY VETERANS TO VA FACILITIES

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2735) to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e) In carrying out the purposes of this section, the Administrator shall conduct annual investigations of the cost of travel (including lodging and subsistence) and the operation of privately owned vehicles to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provision of this section. In conducting the investigations, the Administrator shall review and analyze among other factors—

"(1) depreciation of original vehicle costs;

"(2) gasoline and oil costs;

"(3) maintenance, accessories, parts, and tires;

"(4) insurance;

"(5) State and Federal taxes; and

"(6) the per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5, for employees of the United States traveling on official business;

and he shall report the results of such investigations to the Committees on Veterans' Affairs of the Senate and the House of Representatives at least once each year, setting forth the allowance rate authorized and the basis used for such determination.".

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. Roberts) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. Hammerschmidt) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Texas (Mr. Roberts).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reported bill would require the Administrator of Veterans' Affairs to conduct annual investigations of the cost of travel, and the operation of privately owned vehicles by veteran beneficiaries while traveling to or from a Veterans' Administration facility in connection with vocational rehabilitation, counseling, or for the purpose of examination, treatment, or care. Factors to be included in the study are set out in the committee report.

Currently, the allowance may be fixed by the Administrator in such amount per mile as he determines. Periodically, the Agency is supposed to make studies to determine the adequacy of beneficiary travel allowances; however, those studies to date have not taken into consideration such factors as depreciation of the original vehicle cost, insurance, taxes, or the relative rates paid Federal employees traveling on official business. We feel such factors are essential if results of such studies are to have any meaning.

The reported bill would simply require the Administrator to conduct annual studies based on specific criteria, and set a rate based on the results of such studies. The Congress could then determine whether the rate set by the Administrator is adequate.

Mr. Speaker, I now yield such time as he may consume to the distinguished Chairman of the subcommittee, the gentleman from Virginia (Mr. Satterfield).

Mr. SATTERFIELD. Mr. Speaker, H.R. 2735 would amend section 111 of title 38, to require the Administrator to conduct annual investigations of the cost of travel—including lodging and subsistence—and the operation of privately owned vehicles to veteran beneficiaries while traveling to or from a Veterans' Administration facility. Factors to be considered in such investigations would include depreciation of original vehicle costs; gasoline and oil costs; maintenance, accessories, parts and tires; insurance; State and Federal taxes; and the expenses of employee travel. Reports of such investigations would be submitted annually to the Committee on Veterans Affairs of the Senate and the House of Representatives.

Under current law, a VA beneficiary who travels in connection with Veterans' Administration vocational rehabilitation, counseling, or for the purpose of examination, treatment, or care, may pay his own necessary expenses of travel by personally owned conveyance and be reimbursed on a mileage basis; he may pay his own expenses of travel and be repaid for actual and necessary expenses; or he may obtain a Government transportation request from the VA for presentation to the ticket office in exchange for his bus or train ticket. Should the veteran choose the last option, he may also obtain from the VA, reimbursement for any necessary expenses for meals and lodging.

The authority of the President, pursuant to section 111(A) of title 38, to set rates for travel of certain VA beneficiaries, was delegated to the Administrator of Veterans Affairs by Executive Order 11609, dated July 22, 1971.

Currently, the allowance may be fixed by the Administrator in such amount per mile as he determines. Presently it is fixed at 8 cents per mile.

A Federal employee on official Government business is currently paid 15 cents per mile if he uses his own vehicle if the situation is deemed "advantageous to the Government" or 11 cents per mile if he uses his own vehicle when a GSA vehicle is available, but he chooses to use his own.

Beneficiary travel was last increased by the Veterans' Administration on June 1, 1974, from 6 cents to the present 8 cents per mile. This bill merely requires the Administrator of Veterans' Affairs to make an annual study and set a rate. It does not take away the Administrator's right or responsibility to change the rate. There would be negligible cost to the Government in authorizing the study as provided under this bill, and it is impossible to determine future costs until the study is completed, as would be directed by this legislation.

Mr. Speaker, the Committee on Veterans' Affairs unanimously recommends passage of H.R. 2735 by the House of Representatives.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

I am not going to object to the bill, and I am going to vote for the bill, but I do want to raise a question. As the gentleman knows, this travel was included in the Government Operations report, and the bill was re-reported out, and the bill was vetoed, as I recall, by the President because of the Veterans' travel cost increase.

Then it was decided that we would separate the bill, and we did not include the veterans in the increase for all general employees.

I certainly think that it is important to have the rates increased as far as the veterans are concerned. I certainly want to indicate my support for that, but the question that I have is this: As I understand it, the General Services Administration can provide the kind of information that is being delegated here to the Administrator. I would hope that the Administrator would rely upon and utilize the facilities of the General Services Administration rather than duplicate what is already being done. I just call this to the attention of the Members of the House and to the chairman of the committee and the chairman of the subcommittee, in the hope that there will be no duplication. Perhaps the gentleman might want to comment as to whether or not that was looked into.

Mr. SATTERFIELD. I might say that that is precisely what we hope. It is our intent that if information as to these factors are available from the General Services Administration or elsewhere, the Administrator will have the good judgment to utilize that information instead of developing it independently. We are requiring that he take them into consideration so that if in the future Congress decides it wishes to increase the rate or if the Administrator decides that he wishes to increase the rate, these factors will be taken into consideration, factors which we do not believe have been taken into consideration in the past.

Mr. HORTON. If the gentleman will yield further, that is the point I wanted to make, that the studies and obtaining of the information the GSA is equipped to handle, and there is no point in having Veterans' Administration duplicate that service, and hopefully the Veterans' Administration could rely upon and get the information from GSA. GSA would agree that the decision is to be made by the Veterans' Administration and I would indicate my support for the need for an increase at this time.

Mr. SATTERFIELD. I thank the gentleman from New York. I think his suggestion is a worthy one. I am hopeful that the basic information to which he refers will be available to the Administrator, where it should be, so that he can take it into consideration.

I might add that the cost of this measure is negligible. It will not require an increase in the rates and I believe the colloquy in which we have just engaged support in the conclusion that the cost will be negligible.

The committee unanimously adopted this bill and I hope the House will pass it.

Mr. HAMMERSCHMIDT. Mr. Speaker, again I commend the chairman of our full committee, the gentleman from Texas (Mr. Roberts), as well as the distinguished chairman of our subcommittee, the gentleman from Virginia (Mr. Satterfield).

Mr. Speaker, I rise in support of this bill, H.R. 2735. Existing law permits the Veterans' Administration to underwrite the cost of travel to and from Veterans' Administration facilities and other necessary expenses, such as meals and lodging, for veterans reporting for physical examination, treatment, or medical care or for veterans reporting for counseling in connection with vocational rehabilitation.

By Executive order issued in 1971, the President delegated to the Veterans' Administrator the authority to set the rates for such travel. The Administrator last exercised this authority on June 1, 1974, when he increased the allowance for travel by privately owned conveyance from 6 cents to 8 per mile.

The veteran is also authorized to pay his own expenses of travel and be reimbursed for actual and necessary expense, or he may obtain a Government transportation request from the Veterans' Administration which will authorize bus or train travel. In such cases, he would be reimbursed for meals and lodging.

This measure, Mr. Speaker, will not

disturb the authority of the Administrator to set the rate of travel allowance. It will, however, require the Administrator to conduct an annual investigation of the cost of travel, taking into account various related factors. The results of his investigation, setting forth the travel allowance rate authorized and the basis for such determination, shall be reported once each year to the House and Senate Committees on Veterans' Affairs.

The new procedures authorized by this legislation, Mr. Speaker, will insure that the rate of travel reimbursement authorized for Veterans' Administration beneficiaries keeps pace with current costs of travel generally. I strongly support this measure, and urge that it be passed.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I rise in support of H.R. 10394, a bill to raise the per diem rates paid by the Veterans' Administration for veterans who receive care in State veterans' homes.

At the present time, the Veterans' Administration pays $6.50 for domiciliary care, $10.50 for nursing-home care, and $13.50 for hospital care for each veteran receiving such care in a State home. These costs contrast with the average cost per day for a patient in a Veterans' Administration hospital of $15.53 for domiciliary care, $41.74 for nursing care, and $77.88 for hospital care.

In increasing the rates from $4.50 to $6.50 for domiciliary care, $6 to $10.50 for nursing-home care, and from $10 to $13.50 for hospital care, H.R. 10394 provides an essential readjustment for the treatment of veterans in my own State, the Commonwealth of Massachusetts, and in States throughout the Nation.

Ever since 1939, when the public law was amended to permit Federal aid payments for hospital care and treatment furnished to veterans in State veterans' homes, the Federal and State governments have cooperated in caring for veterans in State homes. In recent years, as medical costs have risen dramatically, both in private and public facilities, State veterans' homes have been hard pressed to maintain the quality of the care they provide. For example, at the Soldiers' Home in Chelsea, Mass., directed by Commandant John L. Quigley, every effort is being made to utilize dwindling resources in order to serve the veterans of the Commonwealth. Having stretched the available dollars to the utmost, they are being forced to reduce services, including the turning away of prospective patients and the cutting back of their staffs. All of this is at considerable sacrifice to the veterans who have earned and who rely upon adequate treatment and care.

Mr. Speaker, H.R. 10394 seeks to redress this situation, by providing modest increases in per diem rates. I am pleased to add my voice to those of my colleagues in urging the Members of the House to vote in favor of this bill.

Mr. TEAGUE. Mr. Speaker, I rise in support of H.R. 2735 which would require the Administrator of Veterans' Affairs to annually conduct investigations of the cost of travel for veterans traveling to and from VA medical facilities to receive medical examinations and care for their disabilities.

The authority of the President, pursuant to section 111(a) of title 38, to set rates for travel of certain VA beneficiaries, was delegated to the Administrator of Veterans' Affairs by Executive Order 11609, dated July 22, 1971.

Beneficiary travel was last increased by the Veterans' Administration on June 1, 1974, from 6 cents to the present 8 cents a mile. This bill merely requires the Administrator of Veterans' Affairs to make an annual study and set a rate. It does not take away the Administrator's right or responsibility to change the rate.

Mr. Speaker, we all know that economic conditions change rapidly, and it is not at all unreasonable to require the Administrator to annually justify to the Congress the basis for setting beneficiary travel allowances, particularly for the service-connected veterans of our country.

Mr. Speaker, I hope this bill will be unanimously passed by the House and that the Senate will take swift favorable action during the second session of this Congress.

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 2735, a bill which would provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to establish rates for such travel.

Section III, title 38, United States Code currently provides for payment of actual necessary expense of travel—including lodging and subsistence—or in lieu thereof an allowance based upon mileage traveled to and from a VA facility for various rehabilitation, counseling, and medical care.

H.R. 2735 would require the Administrator to conduct investigations of the cost of travel—lodging and subsistence—and the operation of privately owned vehicles to beneficiaries traveling to and from a VA facility. The results would be reported to the Veterans' Affairs Committees at least once a year and would provide such information as recommendations for allowance rates authorized and the factors used for such determinations.

Mr. Speaker, in view of the disparities in the travel expense allowances for Government employees as compared to those authorized our disabled veterans, it is quite obvious that those rates authorized for veterans appear to be wholly unrealistic and discriminatory. I believe it is important that an equitable and reasonable schedule of travel allowances for VA beneficiaries be established and that periodic reviews be conducted.

In view of the above, I urge my colleagues to join in supporting this measure.

Mr. O'BRIEN. Mr. Speaker, I rise in support of H.R. 2735, a bill to provide for an annual investigation by the Veterans' Administration concerning the cost of travel by veterans who travel in connection with Veterans' Administration vocational rehabilitation, counseling, or for the purpose of examination, treatment, or hospital care.

Mr. Speaker, this bill would simply require the Administrator to conduct annual studies and set a rate based on the result of such studies. The bill would not take away the Administrator's present authority to change the rate. The annual reports would be submitted to the Committees on Veterans' Affairs and would provide such information as recommendations for allowance rates authorized and the factors which were considered.

It appears that a Federal employee, who receives travel expense allowances is at a distinct advantage over our disabled veterans in the amounts of reimbursement.

It is, therefore, important that we periodically review the schedule of travel allowances for VA beneficiaries and that equitable and reasonable rates be established.

In view of the above, I urge my colleagues to join in supporting this measure.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 2735, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation (H.R. 2735) and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

RELEASE OF NAMES AND ADDRESSES OF PRESENT AND FORMER PERSONNEL OF THE ARMED SERVICES BY THE ADMINISTRATOR OF VETERANS' AFFAIRS

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10268) to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of the Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents, as amended.

The Clerk read as follows:

H.R. 10268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (9) of section 3301 of title 38, United States Code, is amended to read as follows:

"(9) (A) The Administrator shall, pursuant to such regulations as he shall prescribe, release the names and addresses of present or former personnel of the armed services, or their dependents, or both—

"(i) to service organizations recognized under section 3402 of this title for purposes of the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration; and

"(ii) to any Federal, State, or local government agency if the Administrator deems such release to be necessary or appropriate for the protection of the public health and safety.

"(B) Any organization or member thereof, or any agency or officer or employee thereof, who uses any name or address released pursuant to subparagraph (A) of this paragraph for purposes other than those specified in such subparagraph shall be fined not more than $1,000 in the case of a first offense and not more than $5,000 in the case of any subsequent offense.".

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the reported bill is to clarify existing law which permits the Veterans' Administration to release the names and addresses and relevant medical information of patients in VA health care facilities.

For years it has been the practice of VA hospitals to routinely inform appropriate public health departments of the hospital release of veteran patients diagnosed with communicable diseases. This information is essential if the health departments are to aid the veteran and assure protection to the general population with whom the veteran comes into contact.

We feel the Administrator now has authority to release this information under paragraph (8) of section 3301, title 38, United States Code; however, because Congress enacted amendments to section 3301 in 1972 to halt the unauthorized release of lists of veterans' names and addresses to commercial organizations interested in solicitation, the Veterans' Administration has taken the position that Congress intended to remove altogether the release of veterans' names and addresses from the Administrator's broad authority under paragraph (8) of section 3301. This certainly was not the intent of Congress.

The committee feels strongly that since the release of names and addresses, for the limited purposes authorized in the reported bill, cannot be accomplished by administrative action, legislative action is the only remedy in order to avoid serious implications.

I now yield to the distinguished gentleman from Virginia, the very able chairman of our Subcommittee on Hospitals, Mr. SATTERFIELD.

Mr. SATTERFIELD. Mr. Speaker, the purpose of this legislation is to clarify existing law which would permit the Veterans' Administration, as it has done for many years until recently, to release medical information on communicable diseases to State public health officials; to permit the release of information on gunshot wounds and other crime-related matters to local law enforcement officials; and release medical information which might bear on an individual's driving ability to licensing authorities.

At the request of the Veterans' Administration, H.R. 12828 (Public Law 92-540), which amended veterans' education laws, language was included in the legislation relating to indiscriminate release of names and addresses of veterans and their dependents. This law was signed in October 1972.

It was not the intent of Congress to restrict the release of names and addresses to law enforcement officials for law enforcement purposes or to State public health officials in connection with epidemics and communicable diseases or in matters affecting the public safety.

Yet, on May 30, 1974, almost 2 years after the bill was signed, the General Counsel of the Veterans' Administration issued an opinion construing the language VA requested to preclude the release of names and addresses to the aforementioned officials.

Despite repeated appeals for reevaluation of their position by this committee, law enforcement officials, and State public health directors, the Veterans' Administration General Counsel insists that current law as we amended it in October 1972 does not permit the release of this information. This ruling has caused widespread problems in relationships between the VA and those who are charged with protecting community public health and safety.

The need for this bill was clearly demonstrated during the recent encephalitis epidemics in Texas, Mississippi, and a few other States. Local VA medical officials refused to release the information based on the General Counsel's opinion. However, in view of the emergency situation, the Chief Medical Director directed that the information be released immediately to authorized State public health officials, despite the VA General Counsel's opinion.

While the Administration opposed this bill in their testimony before the committee based on their interpretation of the Right to Privacy Act, our committee believes VA's interpretation is incorrect. We believe this legislation is urgently needed to clarify congressional intent and the Committee on Veterans' Affairs unanimously urges its passage by the House of Representatives.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10268, a bill to clarify the authority of the Administrator of Veterans' Affairs to release the names and addresses of veterans to Federal, State, and local government agencies when necessary for the protection of the public health and safety.

The Veterans' Administration, Mr. Speaker, has for many years cooperated with State and local health departments and reported to them the names and addresses of veterans being treated for communicable disease such as tuberculosis, hepatitis, and venereal disease. This has been necessary so that a unit of the State or municipal public health service could follow up on each case to prevent the spread of communicable disease. This authority to release such information is set forth in 38 U.S.C. 3301(8) which reads:

> The Administrator may release information, statistics, or reports to individuals or organizations when in his judgment such release would serve a useful purpose.

In 1972, the Congress added a new subsection (9) to section 3301 which reads in part:

> The Administrator may, pursuant to regulations he shall prescribe, release the names and addresses of present or former personnel of the armed services, and/or dependents to any nonprofit organization but only if the release is directly connected with the conduct of programs and the utilization of benefits under this title.

It was clearly the intent of our committee and the Congress that subsection (9) was enacted to clarify the circumstances under which veterans names and addresses could be released to veterans organizations for rehabilitation and outreach efforts and denied to organizations for commercial purposes.

For some unexplained reason, the Veterans' Administration waited some 2 years until May 30, 1974, to reach the conclusion that because of the enactment of subsection (9), the Veterans' Administration no longer had the discretionary authority to release the names and addresses of veterans to State and local health agencies.

I, for one, do not agree with this rather arbitrary opinion of the Veterans' Administration that has had such a devastating effect upon an extremely important and longstanding cooperative arrangement with State and local public health authorities.

Despite repeated requests by this committee, the President and members of the Association of State and Territorial Health Officials and other persons, the Veterans' Administration has refused to change its position.

I do not want the health of this Nation placed in jeopardy by this ridiculous interpretation of law by the Veterans' Administration. I was, therefore, pleased to have cosponsored this measure, H.R. 10268, which clearly and concisely sets forth the Administrator's authority to release the names and addresses of veterans to Federal, State, or local government agencies, if such release is necessary or appropriate for the protection of the public health and safety.

I urge that the bill be approved.

Mr. TEAGUE. Mr. Speaker, I am pleased to be a coauthor of this legislation which provides legislative clarification which would clearly authorize the Veterans' Administration, as it has done for many years, until a year or so ago, to release medical information on communicable diseases to State public health officials; to permit the release of information on gunshot wounds and other crime-related matters to local law enforcement officials; and release medical information, which might bear on an individual's driving ability to State licensing authorities.

It was not the intent of Congress to restrict the release of names and addresses to law enforcement officials for law enforcement purposes or to State public health officials in connection with epidemics and communicable diseases or in matters affecting the public safety when we enacted Public Law 92-540.

On May 30, 1974, almost 2 years after the Public Law 92-540 was signed, the

General Counsel of the Veterans' Administration issued an opinion construing the langauge of this bill to preclude the release of names and addresses to the aforementioned officials.

The need for this bill was clearly demonstrated during the recent encephalitis epidemics in Texas, Mississippi, and a number of other States. Local VA medical officials refused to release the information based on the General Counsel's opinion. However, in view of the emergency situation, the Chief Medical Director, to his credit, immediately directed that the information to be released to authorized State public officials, which averted a medical crisis in these States. I believe this legislation is urgently needed to clarify congressional intent, and I urge my colleagues in the House to give it their unanimous support.

Mr. Speaker, I hope the Senate will give prompt attention to this matter when the second session of the 94th Congress convenes in January.

Mr. O'BRIEN. Mr. Speaker, I rise in support of H.R. 10268, a bill which, as amended, clarifies the purposes for which the Administrator of Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents.

Mr. Speaker, this bill would authorize the release of names and addresses of present or former personnel of the armed services and/or their dependents to service organizations recognized under section 3402 of title 38, United States Code, for specific purposes and to Federal, State, or local government agencies for the protection of the public health and safety.

The furnishing of necessary information to legitimate State public health agencies is required where there is concern to prevent the spread of communicable diseases. And this need was recently promulgated during the recent encephalitis epidemics in Texas, Mississippi, and other States.

Mr. Speaker, I believe this bill provides adequate penalties for misuse of such information, and that the release of names and addresses would be applicable only in accordance with Federal laws and regulations safeguarding individual privacy.

Therefore, I give my support to H.R. 10268.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 10268, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

The title was amended so as to read: "A bill to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of the bill (H.R. 10268) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REHABILITATION ACT AMENDMENTS OF 1975

Mr. BRADEMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11045) to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such Act.

The Clerk read as follows:

H.R. 11045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Rehabilitation Act Amendments of 1975".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

SEC. 2. (a)(1) Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)) (hereinafter in this Act referred to as the "Act") is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", $740,000,000 for the fiscal year ending September 30, 1977, and $760,000,000 for the fiscal year ending September 30, 1978".

(2) The first sentence of section 100(b)(2) of the Act (29 U.S.C. 720(b)(2)) is amended by inserting immediately before the period at the end thereof the following: "; and there is authorized to be appropriated for such purposes $25,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for the fiscal year ending September 30, 1978".

(b) The first sentence of section 112(a) of the Act (29 U.S.C. 732(a)) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976," the following: "and for the fiscal year ending September 30, 1977, and September 30, 1978,".

(c) Section 121(b) of the Act (29 U.S.C. 741(b)) is amended by striking out June 30, 1977" and inserting in lieu thereof September 30, 1979".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

SEC. 3. (a) The first sentence of section 201(a)(1) of the Act (29 U.S.C. 761(a)(1)) is amended by inserting immediately before the period at the end thereof the following: "; and for the fiscal years ending September 30, 1977, and September 30, 1978, such sums as the Congress may determine to be necessary".

(b) Section 201(a)(2) of the Act (29 U.S.C. 761(a)(2)) is amended by inserting immediately before the period at the end thereof the following; ", and for the fiscal years ending September 30, 1977, and September 30, 1978, such sums as the Congress may determine to be necessary".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 4. (a) The first sentence of section 301(a) of the Act (29 U.S.C. 771(a)) is amended by inserting immediately before the period at the end thereof the following: ", for the fiscal years ending September 30, 1977, and September 30, 1978".

(b) The last sentence of section 301(a) of the Act (29 U.S.C. 771(a)) is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1980".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 5. Section 302(a) of the Act (29 U.S.C. 772(a)) is amended by inserting immediately before the period at the end thereof the following: ", for the fiscal years ending September 30, 1977, and September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 6. Section 304(a)(1) of the Act (29 U.S.C. 774(a)(1)) is amended by inserting immediately before the period at the end thereof the following: ", and for the fiscal years ending September 30, 1977, and September 30, 1978, such sums as the Congress may determine to be necessary".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 7. Section 305(a) of the Act (29 U.S.C. 775(a)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: "September 30, 1977, and September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND PROJECT EVALUATION

SEC. 8. Section 403 of the Act (29 U.S.C. 783) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976," the following: "September 30, 1977, and September 30, 1978,".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL RESPONSIBILITIES

SEC. 9. Section 405(d) of the Act (29 U.S.C. 785(d)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and such sums as may be necessary for the fiscal years ending September 30, 1977, and September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 10. Section 502(h) of the Act (29 U.S.C. 792(h)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and such sums as may be necessary for the fiscal years ending September 30, 1977, and September 30, 1978".

The SPEAKER. Is a second demanded?

Mr. QUIE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us today represents a timely authorization of programs carried on under the Rehabilitation Act. The act is presently authorized through fiscal year 1976. This bill would extend the authority for all of the programs operated under the act for 2 additional years; that is, through fiscal years 1977 and 1978.

Specifically, Mr. Speaker, authorizations are provided in the bill for the basic Federal-State program of vocational rehabilitation for 1977 in the amount of $740 million and in fiscal year 1978 of $760 million.

The State-Federal program of vocational rehabilitation has represented, for over 55 years, the best example of a genuine partnership that effectively meets the needs of handicapped individuals.

The basic objective of the State-Federal program is to provide rehabilitation services which assist physically and mentally handicapped individuals to become employable.

Mr. Speaker, much of the successful development of the vocational rehabilitation program has been the result of the effective use States have been able to make of advanced information on State allotment figures for the basic rehabilitation program. State allotments for the basic program are computed in part on the specific dollar authorization for the basic program provided in the Rehabilitation Act. With the advance State allotment information, which for the most part has been available in the past, States have been able to plan effectively for the orderly growth of their programs and to estimate and appropriate sufficient State funds to match available Federal support.

With this factor in mind, handicapped clients, as well as State directors of vocational rehabilitation programs, have advised the committee of the importance of extending, as soon as possible, the authorization for Federal support of State programs of vocational rehabilitation services through fiscal years 1977 and 1978.

Mr. Speaker, unless Congress acts now to extend the authorizations, States will be unable to determine how much Federal money they can anticipate in fiscal year 1977 for their program of vocational rehabilitation—and thus, they will be unable to plan their State expenditures accordingly. The proposed additional year of authorization will further give stability to a program which over the last several years has been on a year-to-year extension authority.

Because the authorization for the basic State programs constitutes a commitment of Federal funds to which each State is entitled if sufficient State funds are appropriated to match the State allotment, it is imperative that States have available sufficient matching funds.

Enactment of H.R. 11045, providing for a 2-year extension of vocational rehabilitation programs, would facilitate orderly and timely administration of programs at State and local levels. At the Federal level, enactment of H.R. 11045 will mean that there will be no delays in the appropriation process because of a failure to have a timely authorization.

Mr. Speaker, the overall achievements of the vocational rehabilitation efforts clearly indicate the value of making a greater Federal investment. Several cost-benefit analyses of the rehabilitation program have been completed. Although these analyses differ with respect to methods and assumptions, they all agree on one crucial fact—the benefits of the rehabilitation program are many times its cost. Estimates of the ratio of benefits to costs have ranged as high as $35 returned to the Federal Treasury for every Federal dollar of investment.

In addition to the contribution to the gross national product, it is estimated that these individuals, at a minimum, will be contributing approximately 5 percent of their total income—or $60 million—to Federal, State, and local governments in taxes. This contribution, of course, is in addition to the estimated savings to the Government through either the removal of clients from the public assistance rolls or by a reduction in dependency of clients. The taxes paid by those persons rehabilitated, together with savings from welfare payments, represent only the initial annual financial benefits derived from this program.

H.R. 11045 extends the authorizations in the Rehabilitation Act of 1975 for fiscal year 1977 and fiscal year 1978. The authorization for the basic program for fiscal year 1976 was $720 million, the same amount being appropriated. The authorization for fiscal year 1977 is $740 million and for fiscal year 1978 is $760 million, the additions being increases of only 2.8 and 2.6 percent respectively.

Mr. Speaker, with regard to another State grant program extended by H.R. 11045, the program of innovation and expansion projects to provide new methods of rehabilitating handicapped persons, the bill would provide authorizations of $25 million each of the 2 years.

Mr. Speaker, I would also call attention to the other provisions of the act which deal with research, training, construction, training services, special projects, and evaluation. The bill provides authorization of such sums as may be deemed necessary. I personally have been disappointed over the past few years with the decreasing appropriations provided in the areas of innovation and expansion, research, and training, and, when the opportunity next arises, I urge my colleagues to give more support for these activities.

Mr. Speaker, at this point I would like to thank all of the members of the Committee on Education and Labor for their support of this bill. In particular, I would like to thank the distinguished chairman of the Education and Labor Committee (Mr. PERKINS) and the distinguished ranking minority member (Mr. QUIE) for their support in bringing this measure before you today.

Let me also point out that H.R. 11045 was reported to the House unanimously by the members of the Education and Labor Committee.

Mr. Speaker, this is actually only a modest increase in financial support, and it is my hope that this body will give an overwhelming vote of confidence to this program which means so much to so many handicapped individuals.

I urge all my colleagues to give their strong support to this measure.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the committee, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, initially I want to compliment the distinguished chairman of our Subcommittee on Select Education, JOHN BRADEMAS, for his efforts in connection with H.R. 11045. Timely authorizations for rehabilitation programs are imperative and I wish to congratulate Chairman BRADEMAS for his foresight and leadership in bringing this bill to the floor today to assure stability and continuity in the important Federal-State program of rehabilitation.

I wish to commend also members of the committee from both sides of the aisle for their cooperation and support.

The rehabilitation program, which was initiated in 1920, is often and correctly cited as a model of effective Federal-State humanitarian action.

Mr. Speaker, it has been both an honor and a pleasure for me to have been associated with the rehabilitation program and rehabilitation legislation during my years in Congress.

Aware of the great need for rehabilitation services in my own congressional district—particularly with respect to disabled coal miners—in the early fifties I worked with members of the committee, and in particular with our former colleague, Carl Elliott, on legislation to expand and strengthen the rehabilitation program.

Our efforts then eventually led to the enactment of major legislation in 1954. With strong congressional support and the unique leadership of Mary Switzer in the administration, the rehabilitation program grew and grew during the fifties and the early sixties.

Again with overwhelming support in the Congress and under the leadership of the Committee on Education and Labor, in 1965 we enacted legislation to take still another significant step forward in the rehabilitation effort.

After this, we worked in our committee with our colleague, DOM DANIELS, and now with the chairman of our Subcommittee on Select Education, JOHN BRADEMAS, to bring the rehabilitation program to a point where today we are serving over 2 million persons annually and rehabilitating over 300,000 handicapped individuals.

Mr. Speaker, at this time also I wish to compliment the many dedicated people in my home State of Kentucky who are involved in the rehabilitation effort. Under the leadership of my dear friend, Ben Coffman, the State of Kentucky continues to make significant progress with the rehabilitation program. I am proud that my State ranks fourth in the Nation in the number of persons rehabilitated per 100,000.

In 1975, over 55,000 handicapped clients were served. This represents a 15-percent increase over the numbers served in 1974. There was also an increase in the numbers of persons rehabilitated with 10,722 handicapped individuals provided rehabilitation services which brought them back into employment.

Instrumental in this rehabilitation effort are the services being rendered by the new Eastern Kentucky Comprehensive Rehabilitation Center at Thelma, Ky., which I have been associated with since the early days of this facility.

Mr. Speaker, unlike many other programs, it is important—in fact necessary—that the States have early information on the amount of Federal moneys they may receive under the Rehabilitation Act.

It is for this reason that we are processing this legislation today. It is our hope that H.R. 11045 will become law before the end of this calendar year. This will mean that State legislatures meeting in the early months of 1976 will have the necessary information so that appropriate State financing can be provided for the rehabilitation program.

This is a 2-year extension with very reasonable authorizations. For the current fiscal year, $720,000,000 is authorized for the basic Federal-State program, and the pending appropriation is at that level.

For fiscal year 1977 H.R. 11045 proposes an increase of $20,000,000 bringing the authorization to $740,000,000 and for fiscal year 1978 another $20,000,000 is added, bringing the authorization to $760,000,000. These increases are less than 3 percent.

The innovation and expansion program is authorized at $25,000,000 for each year. This actually represents a decrease from the existing authorization of $42,000,000. The proposed authorizations are however in line with the pending appropriation of $18,000,000 for fiscal year 1978.

Mr. Speaker, it is our intention to review next year in hearings the substantive issues in the rehabilitation program. As my colleagues know, the 1973 act made major changes in all of the rehabilitation programs. Some of these changes are just now being implemented and it would be unwise in my view to at this time legislate still further changes.

We must very thoughtfully and carefully evaluate and monitor the new act and having this straight extension will allow us to proceed without the pressures of expiration deadlines.

Mr. Speaker, I know of no objection to the legislation. To the contrary, persons at the State and local levels and in private organizations involved in the rehabilitation effort all are in support of it. I urge unanimous approval of H.R. 11045.

Mr. Speaker, at this point, I should like to insert a chart which compares existing authorizations, pending appropriations and the authorizations proposed in H.R. 11045:

COMPARISON OF AUTHORIZATIONS IN H.R. 11045 WITH FISCAL YEAR 1976 AUTHORIZATIONS AND APPROPRIATIONS

	Authorizations fiscal year 1976	Appropriations fiscal year 1976 (1)	H.R. 11045 authorizations fiscal year 1977	H.R. 11045 authorizations fiscal year 1978
Basic State services, sec. 100(b)(1)	$720,000,000	$720,000,000	$740,000,000	$760,000,000
Innovation and expansion, sec. 100(b)(2)	42,000,000	18,000,000	25,000,000	25,000,000
Research, sec. 201(a)(1)	32,000,000	24,000,000	(2)	(2)
Training, sec. 201(a)(2)	32,000,000	22,200,000	(2)	(2)
Facilities construction sec. 301(a) and vocational training services, sec. 302(a)	(2)	8,000,000	(2)	(2)
Mortgage insurance, sec. 303	(2)	0		
Special projects	20,000,000	4,900,000	(2)	(2)
National Center for Deaf-Blind, sec. 305(a)	(2)	2,100,000	(2)	(2)
Secretarial responsibilities, sec. 405	600,000	200,000	(2)	(2)
Architectural and Transportation Barriers Compliance Board, sec. 502(h)	1,500,000	300,000	(2)	(2)

[1] H.R. 8069, Labor-HEW appropriations bill for fiscal year 1976 awaiting Presidential action.

[2] Such sums.

Mr. BRADEMAS. Mr. Speaker, I thank the chairman of the committee for his remarks.

I yield 2 minutes to the gentleman from Florida (Mr. LEHMAN), a member of the subcommittee, who has been very helpful in working on this legislation.

Mr. LEHMAN. Mr. Speaker, once again I want to compliment the gentleman from Indiana and the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) for their work in bringing this legislation to the floor. My present concern relates to the State of Florida's Department of Health and Rehabilitative Services and the conflicts that this legislation has with some of the rules and regulations as laid down by the Florida Legislature in a recent reorganization act.

As a Member of Congress, my first responsibility is to see that the Congress has the proper oversight control over the Federal dollars that we authorize and appropriate, and that this money does not, and is not misplaced or misused in the political bureaucracies at either the Federal or State level. We must see that the State agencies are accountable in regard to these Federal funds, but also I understand the State's concern in regard to the manner in which rehabilitative funds are allocated.

The overriding problem however, is to be sure that the people for whom this legislation is written, the people who need these rehab services, will not in any way be adversely affected by the conflict that may or may not develop between Federal law and the implementation of these services by the State agencies.

I will work diligently and long at both the State and the Federal level to reconcile whatever these differences are so that we can go ahead with these badly needed and necessary health and rehabilitative services.

Mr. BRADEMAS. Mr. Speaker, I want to take just a moment also to pay particular thanks to the distinguished ranking minority member of the committee, the gentleman from Minnesota (Mr. QUIE), for his very important contribution to the legislation under consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. QUIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11045, the extension for 2 years of the Vocational Rehabilitation Act.

Mr. Speaker, as the gentleman from Indiana (Mr. BRADEMAS) has indicated, it is extremely important that we enact this important legislation now so that the States will know just what they will be matching in the coming fiscal year. As you know most of the State legislatures are meeting this coming January.

Mr. Speaker, this legislation is different than most, in that the States match against authorizations and not appropriations. Since there are no authorizations for fiscal year 1977 or fiscal year 1978, realistic State planning is not possible. I would say that the authorizations are reasonable and represent only a slight increase over the existing authorization and appropriation levels—which are the same. Surely there can be no objection to these levels. The question really is not whether we have authorized too much; the question is whether we have authorized enough.

This legislation is important so that the States may be able to plan and project for both their matching share as well as program direction. The enactment of this legislation today will give some stability to the program. I compliment the gentleman from Indiana (Mr. BRADEMAS) for his promise to hold extensive hearings covering all aspects of this legislation during the early part of the next session of Congress. By passing this bill today we will be able to focus on all facets of the program without becoming bogged down with dollar figures. Therefore, if as a result of the hearings next year we deem it necessary to make changes in the program, we will not have to come to the floor and fight over authorization levels for each of the titles of the bill but will be able to deal strictly with the substance of those issues.

Many of my colleagues feel that, under the formula their States are not receiving an adequate amount. I feel it will be unfortunate if we engage in a debate on that subject at the present time. Anybody who feels the formula should be changed can bring their proposal before the committee next year. Those who feel we may be getting into trouble because of the preference for the most severely handicapped can also make their proposals. Congress felt very strongly the severely handicapped were not being helped in the past, and that is why we passed the legislation as we did in 1973.

I would say, Mr. Speaker, to my colleagues that this is a must legislation. We ought to pass it now and we ought to enact it into law before we go home for the Christmas recess.

Mr. BRADEMAS. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I urge support of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill (H.R. 11045).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL READING IMPROVEMENT ACT AMENDMENTS

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8304) to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STATE LEADERSHIP AND TRAINING PROJECTS

SECTION 1. Section 705(a) of the Education Amendments of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) (A) Notwithstanding the requirements of paragraphs (b) through (g) of this section, the Commissioner is authorized to enter into agreements pursuant to this paragraph with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or in other States to be effective in overcoming reading deficiencies. These activities shall be limited to (i) assessments of need, including personnel needs, relating to reading problems in the State, (ii) inservice training for local reading program administrators and instructional personnel, and (iii) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.

"(B) Not to exceed $5,300,000 of any sums appropriated pursuant to subsection (a) of section 732 for any fiscal year may be used for carrying out this paragraph.".

READING PROGRAM REQUIREMENTS

SEC. 2. (a) Section 705(b) of such Act is amended by striking out "Each such application shall set forth a reading program which provides for—" and by inserting in lieu thereof "Each such application shall set forth a reading program which provides for the following (except that the requirements contained in paragraphs (4) and (13) shall be met to the extent practicable)—".

(b) Section 705(c) of such Act is amended by striking out ", in addition to meeting the requirements of subsection (b)", and by inserting in lieu thereof ", in addition to meeting the requirements of subsection (b), except for paragraphs (4) and (13) thereof,".

(c) Section 705(c)(3) of such Act is amended by inserting "at" before the phrase "which such preelementary".

(d) Section 705(e) of such Act is amended to read as follows:

"(e) No agreement may be entered into under this part unless the application submitted to the Commissioner has first been approved by the State educational agency."

STATE ADMINISTRATIVE COSTS

SEC. 3. Section 705 of such Act is amended by adding at the end thereof the following new subsection:

"(h) From the sums appropriated for the purposes of this part for any fiscal year, the Commissioner may pay to each State educational agency, in addition to any amounts paid to such agency pursuant to subsection (a) of this section, the amount necessary to meet the costs of carrying out its responsibilities under this section, including the costs of the advisory council required to be established pursuant to subsection (d). However, such amount may not exceed 3 per centum of the total amount of grants under this part made within that State for that fiscal year."

STATE ADVISORY COUNCILS

SEC. 4. Section 714 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The functions of the State advisory council on reading, required to be established by subsection (a)(2) of this section, may be carried out by the State advisory council created pursuant to section 705(d)(1)."

READING ACADEMIES

SEC. 5. Section 723(a) of such Act is amended by inserting "in-school as well as out-of-school" before "youths".

SEC. 6. Part C of title VII of such Act is amended by adding the following new section after section 723:

"NATIONAL IMPACT READING PROGRAMS

"SEC. 724. (a) The Commissioner is authorized to carry out, either directly or through grants or contracts, (1) innovation and development periods and activities of national significance which show promise of having a substantial impact in overcoming reading deficiencies in children, youths, and adults through incorporation into onging State and local educational systems throughout the Nation, and (2) dissemination of information related to such programs.

"(b) Not to exceed $600,000 of any sums appropriated pursuant to subsection (a) of section 732 for any fiscal year may be used for carrying out this section."

REPORTING DATE

SEC. 7. Section 731(a) of title VII of such Act is amended by striking out "March 31" and inserting in lieu thereof "February 1".

ACCEPTANCE OF GIFTS BY AN ADMINISTRATIVE HEAD OF AN AGENCY

SEC. 8. Part D of such Act is amended by adding the following new section after section 732:

"ACCEPTANCE OF GIFTS

"SEC. 733. Notwithstanding the provisions of section 408(a)(3) of the General Education Provisions Act, the Commissioner may accept on behalf of the United States, gifts or donations made with or without conditions of services, money or property (real, personal, or mixed; tangible or intangible) made for any activities authorized to be carried out by such agency under the authority of this title.".

INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

SEC. 9. (a) Part C of title VII of such Act is amended by adding at the end thereof the following new section:

"INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

"SEC. 725. (a) The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the 'contractor'), which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students and (2) to pay the Federal share of the cost of such programs.

"(b) This contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as 'subcontractors') under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift, loan, or sale at a nominal price to children in preelementary, elementary or secondary schools;

"(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1);

"(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

"(c) The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) For purposes of this section—

"(1) the term 'nonprofit', when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'Federal share' means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to schoolchildren in that locality, 50 per centum of the cost of that agency or group or organization for such books for such program;

"(3) the term 'preelementary school' means a day or residential school which provides pre-elementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age;

"(4) the term 'elementary school' has the same meaning as provided in section 801(c) of the Elementary and Secondary Education Act of 1965; and

"(5) the term 'secondary school' has the same meaning as provided in section 801(h) of the Elementary and Secondary Education Act of 1965."

(b) Section 732 of such Act is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated to carry out the provisions of section 725, relating to inexpensive book distribution programs for reading motivation, $4,000,000 for the fiscal year ending June 30, 1976, and $9,000,000 for each of the following two fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under section 725 for technical assistance under subsection (b)(3) of section 725 to carry out the provisions of such section."

The SPEAKER. Is a second demanded?

Mr. QUIE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. QUIE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us has two purposes.

The first purpose is to authorize the Office of Education to continue funding worthwhile reading activities which it had been funding during fiscal year 1975, but which it will not be able to fund during this present fiscal year due to certain changes made in the law. These activities principally involve making grants to State educational agencies for leadership and training activities related to reading programs. No additional authorization of appropriations are needed to fulfill this purpose.

I am inserting at this point in the record a chart which describes the reading activities which had been carried on by the Office of Education during fiscal year 1975, the activities the Office of Education will be able to carry on under the existing law in fiscal year 1976, and the activities the Office of Education will be able to continue if H.R. 8304 is enacted:

DISTRIBUTION OF READING FUNDS BY ACTIVITY, FISCAL YEARS 1975–1976

[In millions]

Type of activity:	Fiscal year 1975	Tentative fiscal year 1976 [1] Prior to H.R. 8304	Tentative fiscal year 1976 if H.R. 8304 adopted
State educational agencies	$5.2	----	$5.3
Part A, LEA demonstrations	[3] 1.3	$10.2	5.2
Part B, State grants	----	----	----
Special emphasis projects	----	1.0	1.0
Reading academies	1.4	5.6	4.7
Evaluation	----	0.2	0.2
Community projects	2.0	----	----
Teacher preparation	1.5	----	----
National impact	0.6	----	0.6
Total	[2] 11.9	17	17

[1] If recission not accepted.

[2] Items don't equal total because of rounding.

[3] School-based projects comparable to part A projects.

Source: Department of HEW.

The second purpose of the bill is to authorize a new Federal program to provide funds to a private nonprofit or public group for purchasing books to be distributed to children free or at a nominal cost. Reading is Fundamental, Inc., is the model program for this legislation. That organization, since 1966, has distributed over 5½ million books to 3 million children. The bill authorizes $4 million for fiscal year 1976 to carry out a program of book distribution. For fiscal years 1977 and 1978, $9 million a year would be authorized.

I would like to mention at this point the tremendous efforts which Mrs. Robert McNamara has put into making Reading is Fundamental such a successful program. She has been tireless in her work. And millions of youngsters read better today because of that work.

H.R. 8304, as amended, was reported from the Committee on Education and Labor unanimously on December 9.

Mr. Speaker, I would now like to go into somewhat more detail on the provisions of H.R. 8304.

SUMMARY OF THE BILL

H.R. 8304, as reported by the committee, amends the National Reading Improvement Act—title VII of the Education Amendments of 1974—to provide more flexibility in the types of projects which can be funded under the act. Two basic changes are achieved by these amendments.

The purpose of the first set of amendments is to allow the U.S. Office of Education to continue to fund some of the same types of programs under the National Reading Improvement Act during fiscal year 1976 and beyond that it has funded in previous years under the right to read program. These activities include providing funds to the States for leadership and training programs and providing funding for reading programs having a national impact. No additional authorizations of appropriations are needed to accomplish this purpose.

The second purpose of the bill as reported is to authorize the Commissioner of Education to contract with a private nonprofit group or a public agency for the distribution of inexpensive books to children to motivate them to take a more active interest in reading. Under the bill, the Commissioner can pay up to 50 percent of the costs of purchasing these books through a contract with such an organization as Reading is Fundamental, Inc. For fiscal year 1976 there would be authorized $4 million for this purpose; and for each of the 2 succeeding fiscal years there would be authorized $9 million.

NEED FOR LEGISLATION

Although the country enjoys a high rate of literacy, we still face serious reading problems among our population. A recent survey by the University of Texas showed that almost 20 percent of adult Americans are unable to cope with daily tasks such as addressing an envelope. A basic cause of this inability to cope with daily life lies in a poor reading ability.

We also have evidence that the reading ability of our youths is declining. For the past 12 years test scores on the college entrance examinations have been declining, with the most dramatic decline being experienced this past year.

The Federal Government has sought to assist educators in finding solutions for this problem of poor literacy through the right to read program, begun in 1971. A good deal has been achieved through the right to read program although its impact has been inherently limited by relatively small appropriations.

In the Education Amendments of 1974 Congress sought to upgrade the Federal Government's efforts in this area by enacting the National Reading Improvement Act. That act was structured in such a way as to lead to a substantial Federal commitment to help the States and local school disrticts in eradicating illiteracy. Due to our Nation's economic problems, however, appropriations for that act have not been much greater than appropriations were for the right to read program.

That is one of the major reasons why the committee has reported H.R. 8304. The bill is meant to allow the Office of Education to continue to fund certain worthwhile reading programs under the new act which it had been funding under the discretionary right to read program. These activities principally involve providing grants to the States for leadership and training programs and providing funds for programs having a national impact.

The Office of Education cannot fund these activities this year under the new act because the act was designed to be a direct grant program by the U.S. Office of Education for school-based programs until the appropriations reach $30 million. Then, funding would have to go through the States. H.R. 8304 would retain this format of the law, but it would make these two exceptions—for State training activities and national impact programs.

These exceptions, however, would be limited to the present levels of funding so that the basic thrust of the act would be retained. It is essential to keep the basic format for the act because an appropriations level of $30 million is needed before a full-fledged State grant program can be effective. Until that level is reached, direct grants by the U.S. Office of Education to States and local school districts is the more effective approach.

We have not continued the authority for the community-based programs or for the teacher preparation programs since it was felt that these activities do not fit into the thrust of the new act. The Office of Education, of course, can continue to fund these programs with its own discretionary funds if it so desires.

The bill also contains several relatively minor amendments to the act. The first of these minor amendments waives two requirements for school-based reading programs since it was felt that they could prove to be too burdensome for many worthwhile small projects. The second amendment simplifies the functions of the State advisory councils. The third amendment provides funds to the States for administrative expenses and for the advisory councils.

The second purpose of H.R. 8304 as reported is to create a new program for a contract to a private nonprofit or public agency to distribute inexpensive books to children in order to motivate them to read. There would be authorized $4 million for fiscal year 1976 for this purpose, and $9 million each for fiscal years 1977 and 1978.

We have found through countless hours of testimony in the committee that one of the most important, if not the most important, aspect of education is motivation. A child's motivation to learn can be stimulated by his or her home environment, by his or her own colleagues, or by teachers. We have found that motivation can also be stimulated by ownership of books.

Most of us forget that millions of youngsters throughout the country do not have books in their homes. Some youngsters also do not have books available to them through their schools.

Reading is Fundamental, Inc. has since 1966 worked to provide books to youngsters in order to stimulate them to learn. Five and one-half million books have been provided to over 3 million children. These books are distributed at a nominal cost or free to these children.

The committee's bill would authorize funds for the Commissioner of Education to contract with Reading is Fundamental, Inc. or with a similar organization for the purpose of paying 50 percent of the cost of buying books to be distributed to children. The committee has been very impressed by Reading is Fundamental's success, and we believe that this small amount of Federal funds will be well spent in continuing RIF's program or in funding a similar program.

We would like to make clear for the purpose of legislative history that the intention of the amendment contained in the bill authorizing this book distribution program, is to permit funds to be used to purchase these reading materials for all children, whether they attend public or private schools.

Mr. Speaker, I believe that the bill before us will lead to sound improvements in the Federal Government's efforts to improve reading in this country. Therefore, I urge the House to suspend the rules and pass the bill.

Mr. Speaker, I do want to state that the distinguished gentleman from Minnesota (Mr. QUIE), the author of the legislation, has done an outstanding job, not only on this legislation but on all the legislation that comes out of the Committee on Education and Labor. The gentleman is certainly to be complimented for his work on this particular piece of legislation.

Mr. Speaker, I urge the adoption of the bill. I know of no opposition to the bill in the House. It will serve a good purpose, and there is very little money involved for expenditure.

Mr. QUIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8304. The bill before us combines, with some minor amendments, the texts of two bills which I introduced earlier in this session, H.R. 8304 and H.R. 9048. Both bills amended the National Reading Improvement Act of 1974.

Several of the amendments to the Reading Act contained in the committee-reported bill are of a technical nature only. Several others, including those in sections 1 and 6, are more substantive and are designed to permit the continuation of programs which were begun under the right to read program of the U.S. Office of Education.

In my view, the most important of these is the amendment in section 1 which will permit the continuation of State leadership and training activities.

I know from my own experience with the Minnesota right to read program that these State directed activities are the most important element in the entire reading effort of USOE.

These amendments are necessary because the legislated structure of the National Reading Improvement Act, signed into law last year as title VII of Public Law 93-380, would have prevented the continuing funding of State-level activities until appropriations for the act exceed $30 million annually. Since the current level of funding is $17 million, the existence of these State-level programs begun years ago under a different legislative authority are in jeopardy. The existing grants, made under authority of the now-repealed Cooperative Research Act, will expire within the next 60 days. Unless both Houses act before the end of this session on this legislation, 45 States, the District of Columbia, and five outlying territories will lose support ranging from $50,000 to $350,000. That would mean both the termination of employment and of programs.

I do wish to make it clear that the language in section 1 is designed to permit States either to provide in-service training directly or to train those who will then go out into local schools directly or to retrain classroom teachers.

In order to give my colleagues an idea of how a successful State reading program functions, I would like to insert at this point an excerpt from a recent statement before the Subcommittee on Elementary, Secondary, and Vocational Education by Mr. Edwin Cain, director of Federal/State programs for the Minnesota Department of Education:

The State Right to Read Program consists of major parts, each of which are vital to systematic change.

1. The establishment of a State "Criteria of Excellence" to serve as a standard of what a reading program should be.

2. A commitment by the school board and school officer to the development of a quality reading program.

3. The amassing of public support to assist in the resolution of the reading problem.

4. The preparation of reading leadership at the local school level.

5. The development of a state and local plan of action.

6. The implementation and evaluation of the plan of action.

The Right to Read State Agency Program was initiated by The Office of Education in 1972 with five states participating in demonstration projects with an initial $10,000 Grant; these five states were to develop a process to impact the National reading problem. In Minnesota, this grant in conjunction with monies made available by the Minnesota Commissioner of Education and the commitment of the Governor of the State of Minnesota, gave impetus to the development of the Minnesota Right to Read strategy. It is important to know the premises on which this program was built. They are vital to its success.

1. All but one per cent of the population can be taught to read, the parents have the right to expect that each one of their children will learn how to read.

2. Drastic reform is necessary of at least that part of the educational system which has so consistently produced such a large number of functionally illiterate individuals.

3. The needed reform is not something that can be purchased, because no solution appears to be for sale. More money alone will thus not solve the problem. The solution will need to be built rather than bought.

4. The needed reform must be comprehensive in order that rural as well as urban, small as well as large, and non-public as well as public school districts are served equally. By comprehensive we also mean that the out-of-school illiterate is served as well as the in-school population.

5. The needed reform must be systematic and pervasive, rather than consisting of a stab here and a stab there. Random demonstration projects cannot solve the problem, for a system cannot be changed by merely working with a component—one teacher at a grade level, one grade level in a school, one school in a district, or one or two districts in a state. A system is changed by systematically getting to everyone and everything directly. Minnesota has 430 school districts and 464 non-public schools. All contribute to the problem. The solution will not be realized by only working with a few. The nation has about 18,000 school districts. The implication should be apparent.

6. The plan for reform must be replicable. Not only should the plan permit us to solve our immediate problems in the area of reading, but it will hopefully apply to the solution of other problems and in other locales.

7. The plan for reform must have clearly stated objectives, defined action steps, the necessary human and dollar resources, a broad base of support, and a limited amount of time in which to complete the task.

Proceeding from the established premises, the plan was developed. It appeared that in order to eradicate functional illiteracy in Minnesota's schools and out-of-school adult population, the state should attempt to do two things. The state should provide direct technical assistance to local education agencies (LEA's) for an extended period of time in order that quality reading programs may come to eventually be built. By technical assistance we mean the kind of help and knowledge that the typical LEA is unable to buy for itself. By local education agency, (LEA) we mean each and every public school district (436) and nonpublic school (464) which voluntarily seeks help. By extended period of time, we mean up to three and one-half years. By quality reading programs, we mean programs which are able to meet the State of Minnesota Criteria of Excellence in Reading Programming. The technical assistance will help LEA's to achieve these criteria. This role of being a provider of technical assistance on a massive scale is new to the State Department of Education.

The state should also seek to ensure that each LEA come to eventually possess its own technical assistance person. We will call this person a reading director. This will be a leadership position. The reading director will be prepared to assume this role by completing a program of preparation, a curriculum, as conducted by State of Minnesota personnel.

On October 2, 1972, the Minnesota State Board of Education created a new position in Minnesota schools, that of reading director in Right to Read LEAs. A local education agency which designates a person as reading director may consider that person legally qualified to serve in that position upon his/her completion of the program of preparation.

The Minnesota Plan assumes that if an LEA is able to truly achieve the Criteria of Excellence, and if the LEA is served by a truly competent reading director, it will follow that functional illiteracy will be on its way to eradication. There is no single component more essential for educational reform in reading than the development of a "Criteria of Excellence." It provides the basis for assessing school district and community needs; it identifies the areas of training need for teachers and administrators; it serves as an evaluative tool in determining progress toward the stated goal and it alleviates the fear of change by showing what changes are to be made.

The Criteria of Excellence in Minnesota was established by the State Advisory Council for Reading. This Council included educators, parents, reading specialists, and a variety of others who represented concerns about reading and the educational system. Educators are too prone to avoid the identification of specific learning objectives. The Criteria of Excellence clearly stated what an effective, failure-proof, reading program in the public and private schools should be. This document served as a guide for school districts in the development of a comprehensive approach toward meeting the reading needs of children and adults.

The document not only deals with the institutional process, but also addresses all areas of the educational process which impinge upon learning. Certain criteria addressed the administration and organization of the reading program. There was a commitment to student learning and not just to staff teaching. The organization and management of the classroom was clearly addressed, as well as local community leadership and organization. The Criteria of Excellence recognized that a program must be comprehensive, not just dealing with one segment or a few grades of the school program, but addressing a pre-school through adult effort. It stressed the use of community resources and supported the development and initiation of intensive in-service training for teachers, support services for the administration, faculty, staff, volunteers, and parents.

Such a Criteria of Excellence has been developed in thirty-one Right to Read States along with a commitment to implement such a program on a schedule designed by each participating state agency.

In Minnesota we begin by a 240 hour training program of local reading directors from 22 pilot districts selected regionally throughout the State. Each of these reading directors were responsible for the initiation of Right to Read Programs in their local districts, whether they be public school or private school districts. From that group of 22 local reading directors 8 were selected to serve as regional directors and to implement our "multiplier effect." The second phase of the program found each of the regional directors conducting classes of preparation for 20 or more new reading directors within their respective regions. By continuing this process over five phases in the past three years, we have now provided reading leadership at the local level in nearly three-fourths of our 440 school districts and 200 plus private school districts.

The larger school districts such as Minneapolis and St. Paul determined that the program would be more effective in the metropolitan schools if a reading director was prepared and assigned to each of the units within their school district. Minneapolis, for example, has employed seven reading directors, each of which has been assigned to an educational pyramid, i.e., a senior high school plus the "feeder" junior high schools and elementary schools within a specific geographical location.

In some of the small school districts and in the private schools, the position of the reading director may be combined with that of a master teacher or a principal. The important factor is that a specific, trained individual be delegated both the responsibility and the authority to carry out those functions that will reshape the system to meet the reading needs of children, youth and adults.

What impact has this strategy had on the reading program in Minnesota? This is the vital question.

Participation.—Nearly three-fourths of Minnesota's 1,000,000 students attend public or private schools committed to Right to Read concepts. This feat has been accomplished in three years with no promise of money to local school districts, only the opportunity to improve the quality of education. They receive only technical assistance, reading leadership training, and an opportunity to share reading program materials and ideas with each other.

Volunteers.—The greatest untapped resource this nation has in education are the citizens themselves. Parents, senior citizens, and students are currently providing millions of hours in volunteer services to the Minnesota Right to Read Effort.

In the adult literacy program alone, more than 3,000 volunteer tutors have completed 12 hours of training and are working in every section of the state, providing the opportunity for adult non-readers to overcome a handicap more severe than many physical and mental handicaps.

Finance.—The Minnesota State Legislature has added over a million dollars to this effort. ESEA Title V funds also were used to increase the initial Federal grants. Seven other states now have passed or have pending legislation supporting their respective Right to Read programs.

Evaluation.—Minnesota has initiated a twelve phase evaluation program which includes statewide assessment of reading skills. These studies have indicated a surging enthusiasm for the Right to Read effort by teachers, administrators, parents, and others surveyed. But most significant, a study conducted by an independent evaluation firm of 22 Right to Read districts, found after seven months of program involvement that students in Right to Read districts achieved 2½ times more than students from non-participating districts.

Other Factors.—The Right to Read concept encourages, supports, and enhances reading programs for all students. We all recognize the need for programs for the gifted and talented, but litle has been done except in isolated demonstration programs to provide for the needs of these students. However, under the Right to Read "umbrella," the Great Books Program has increased from 14 school districts serving 1800 children in 1972, to 110 school districts serving 25,000 students in 1975. Similar growth has been observed with RIF, Book Fairs, and other reading program activities.

Similar results are taking place in States across the nation, but it takes time to set in motion a program of the magnitude reached through the Right to Read State Agency Effort. The remaining 18 states, Puerto Rico, and the District of Columbia just received planning grants a few months ago. Twenty other states have been in operation a little over two years. To terminate legislative authority for funding at this time is simply unbelievable.

Mr. Speaker, returning to H.R. 8304, sections 2, 3, 4, and 5 are primarily technical in nature.

Section 6 of H.R. 8304 will permit the continuation of certain national impact programs being funded directly by the U.S. Office of Education, including the dissemination of information and the funding of activities such as the development of television programs to teach adults to read.

Sections 7 and 9 are, again, of a technical nature.

Section 9, by contrast, is a highly important section. I need not recite for the Members the number of recent reports which illustrate quite vividly that the average American youngster is leaving high school with lower reading skills than his counterpart did 10 to 15 years ago.

Section 9 authorizes a program aimed at what I consider to be one of the keys to the decline in reading ability—the lack of proper motivation on the part of the student. In many ways that is hardly surprising since in too many homes the presence of a book is a rare sight. The program authorized by section 9 is designed to motivate children to read by giving them, often for the first time, the opportunity to own books.

Each student may pick from among a wide selection of books. He or she then has the opportunity to take that book home, share it with the rest of his family and then, perhaps later, swap it with a friend for another book.

The program I have described has been in operation for 9 very successful years under the name Reading Is Fundamental, Inc. The national chairman of RIF, Mrs. Margaret McNamara, has together with President Dr. Sidney Nelson and Program Director Barbara Atkinson done a superb job in expanding RIF from 18 programs in 1971 to 400 programs in 1975.

The RIF goal is to reach 5 million children by the end of next year. It is clear that the Bicentennial goal will not be achieved without the assistance of the Federal Government.

Since its inception in 1966, RIF has been supported by a variety of foundation and corporate grants including the Ford Foundation, the Old Dominion Fund, the Edna McConnell Clark Foundation, IBM, Ford Motor Co., Alcoa, Union Carbide, A.T. & T., Texaco, CBS, Chase Manhattan Bank, and General Electric. RIF has tapped these private resources to the maximum. If this dynamic program is to expand, it must have help.

The intention of this bill is to provide that help and through RIF to provide motivational reading materials to children whether or not they are in attendance at school or whether they are enrolled in public or nonpublic schools.

This is not a giveaway Federal program. Each community that has a program will be required to match the Federal grant dollar for dollar. In many communities that is done through a combination of donations, fundraising events, and by charging the student a nominal amount for each book.

Sponsors of local programs include such varied groups as the American Association of University Women, B'nai B'rith, Church Women United, Junior Chamber of Commerce, NAACP, Rotary Club, and U.S. Jaycees.

I strongly urge the support of all Members. I know that many of my colleagues on both sides of the aisle share my own concerns about the need to find better ways to improve the reading skills of the people of this Nation. H.R. 8304 is a small contribution to that cause.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, very briefly I wish to state that this type of legislation that promotes reading ability of our children, while there is not a great deal of money involved in it, in the terms of what we deal with in the Congress, probably has more positive effect on more people in this country than most of our programs and in a very direct way. I think that if the goal is reached of nearly 5 million children being given books to read in this country through this program we will have made a major contribution.

I would like to wholeheartedly endorse this program and commend the chairman and the minority member for their leadership in making this possible. I hope we will pass this legislation unanimously on the floor of the House.

Mr. PERKINS. Mr. Speaker, I have no further requests for time.

Mr. QUIE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I have taken this time so that I might commend the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) for his interest in the school children, his recognition of the fundamental importance of motivating each of them to learn to read and his support of programs to assist the States in carrying out their obligations in the area of reading. That is certainly the basic necessity of education. This legislation will help us toward that goal. I appreciate the willingness of the gentleman to entertain this bill. I am particularly appreciative of his ability to bring the legislation to the floor so promptly. Again I want to commend the gentleman from Kentucky for all of his fine work.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and pass the bill, H.R. 8304, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may have 5 legistive days in which to revise and extend their remarks on the bill just passed, H.R. 8304.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RENEGOTIATION ACT EXTENSION

Mr. MINISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11016) to extend the Renegotiation Act of 1951 for 6 months.

The Clerk read as follows:

H.R. 11016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c)(1) of the Renegotiation Act of 1951 is amended by striking out "December 31, 1975" and inserting in lieu thereof "June 30, 1976".

The SPEAKER pro tempore. Is a second demanded?

Mr. HANSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. MINISH) and the gentleman from Idaho (Mr. HANSEN) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11016, a bill to extend the life of the Renegotiation Act of 1951 until June 30, 1976. At present, the act is scheduled to expire on December 31, 1975.

The Renegotiation Act, as you are probably aware, establishes a process by which the Federal Government, through an independent agency in the executive branch—the Renegotiation Board—attempts to recoup excessive profits from contractors dealing in defense and defense-related industries. The basic concept behind renegotiation is that the American taxpayer should not be overcharged for goods and services relating to the national interest and national security.

The 6-month extension called for in H.R. 11016 will provide both the House and Senate a full opportunity to consider much needed reform of the renegotiation process such as that embodied in H.R. 10680, a bill reported by the Banking, Currency and Housing Committee on December 9. This 6-month extension enjoys broad bipartisan support. It has been cosponsored by every member of the Subcommittee on General Oversight and Renegotiation—both majority and minority sides—and by the chairman and the ranking Republican member of the full House Banking Committee.

Mr. Speaker, I urge approval by the House of H.R. 11016.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, controversial legislation to renew and expand the provisions of the Renegotiation Act of 1951 (H.R. 10680) has experienced many months of hearings and markup sessions and has now been favorably reported by the House Committee on Banking, Currency and Housing.

It is unfortunate that this legislation was not modified sufficiently to provide for good administration of the act and to prevent oppressive measures against those contracting with the Government.

Mr. HANSEN. Such legislation, if enacted, could handicap Government procurement procedures and result in increased cost to the taxpayers.

However, it now appears that the only program in position to pass the House this year will be a simple extension of the act (H.R. 11016) which we have before us today. This was introduced, as the chairman of the subcommittee has stated, with all members of the subcommittee and both ranking members of the full committee as cosponsors. Hopefully, passage of this extension legislation will provide further opportunity to more adequately define the circumstances of the controversial committee proposal and, perhaps, allow for proper and necessary modification when the matter reaches the House floor possibly sometime in the next 6 months.

Mr. Speaker, at this point I ask unanimous consent to insert in the RECORD the minority views on H.R. 10680 as reported from the Committee on Banking, Currency, and Housing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

The report is as follows:

MINORITY VIEWS ON H.R. 10680

We are opposed to the enactment of H.R. 10680 which makes broad and controversial changes in the power and authority of the Renegotiation Board. Some of us feel that the Renegotiation Act should be allowed to expire. Others believe that a simple extension within its existing framework would be sufficient. However, at most we are concerned that any modification of the Board's authority should be directed toward its efficient functioning without creating counterproductive costs to the taxpayers by an imposition of excessive demands on government contractors.

It should be recognized that the initial purpose of the 1951 Act, to recover abnormally high profits during periods of mobilization, is no longer valid. We are not in a period of mobilization today. Furthermore, both Congress and the Administration have initiated a series of safeguards over the past decade which, when properly applied to the purchasing process, practically eliminate the possibility of excess profits. Considering that we are in a peacetime economy and recognizing that procurement procedures are continually improving, we see a diminishing need for the renegotiation process.

In fact, there is some question whether this process may not be counterproductive. It is difficult to accumulate accurate figures on how much it costs businesses to comply with the requirements of the Renegotiation Act; however, it has been conservatively estimated that these costs to business run some $72 million per year which are added into the price of products sold. The Board's expenses run some $5 million per year for a total cost of $82 million. Between 1968 and 1974, the Board's recoveries averaged only $40 million. This results in a net loss to the American economy of $42 million per year.

Proponents of this legislation like to cite horror stories—exceptional cases—to justify the continuation and expansion of the renegotiation process. They would have you believe that defense contracting is the road to riches. A more objective analysis by the General Accounting Office demonstrates that this is not so. In its "Defense Industry Profit Study" dated March 17, 1971 the GAO has this to say:

"FINDINGS AND CONCLUSIONS

"Profit before Federal income taxes, on defense work, measured as a percentage of sales, was significantly lower than on comparable commercial work for 74 large DOD contractors included in the GAO study. For example, profits on DOD contracts averaged 4.3 percent of sales over the 4 years, 1966 through 1969, but profits on comparable commercial work of the 74 contractors averaged 9.9 percent of sales for the same period. When profit was considered as a percent of the total capital investment (total liabilities and equity but exclusive of Government capital) used in generating the sales, the difference narrowed—11.2 percent for DOD sales and 14 percent for commercial sales. Further, when profit was considered as a percent of equity capital investment of stockholders, there was little difference between the rate of return for defense work and that for commercial work. The 74 large DOD contractors realized average returns before Federal income taxes of 21.1 percent on equity capital allocation to defense sales and 22.9 percent on equity capital allocated to commercial sales."

In summary, this shows: Profits on D.O.D. contracts—4.3%; on comparable commercial business—9.9%.

Profit as a percent of total capital investment: DOD sales—11.2%; Commercial sales—14%.

Profit as a percentage of equity capital investment of stockholders: DOD—21.1% before Federal taxes; Commercial—22.9% before Federal taxes.

Certainly, this does not suggest that the Government is being ripped off.

Be that as it may, since the prevailing view of the Committee is that the Renegotiation Board should be continued, the Minority has worked for what we believe would be a constructive bill. Simply defined, we believe this bill should be one which strengthens and modernizes the Renegotiation Board. We are pleased to say that H.R. 10680 contains some such provisions which we support. (Secs. 2, 3, 6, 9, 10(a), 12, 13, 14 15).

Our real concern with H.R. 10680 is that it makes major changes in renegotiation procedures and imposes such onerous requirements and penalties on defense contractors that we believe it will be counter-productive. We are convinced these provisions if enacted, will actually make it more difficult and costly for the Government to obtain the goods and service it needs.

We are also concerned that while the bill's proponents seek to limit the profits of large diversified defense contractors, the effects will fall heaviest on small businesses and with devastating results.

We would like to discuss some of these concerns in more detail. Section 4 of H.R. 10680 rewrites Sec. 105(a) of the Renegotiation Act. This section sets forth the procedures for carrying out renegotiation. The General Rule set forth in existing law makes it clear that the determination of "excessive profits" will be made through a process of negotiation and renegotiation between the contractor and the Renegotiation Board. While the Board has the right in the final analysis to make a decision with which the contractor disagrees, it is clear that Congress intended that every effort should be made to negotiate, as equals, a decision which is mutually agreeable.

The proposed bill changes this General Rule. While still granting the contractor the right to be heard, the concept of negotiating an agreement is abandoned. In fact, the Board is implicitly encouraged to make a decision and get it over with. To make things worse, Section 11 of the bill states that any such decision will be presumed to be correct and that the burden of proof will be on the contractor should he seek to appeal it in the Court of Claims.

These provisions clearly put the Board in a position to coerce any contractor it chooses. The effect on small contractors who cannot afford prolonged legal fights will be devastating.

Section 4 would also change the Method of Renegotiation. This section has caused major concerns throughout the deliberations on this bill and while the reported language represents some compromises, we are still opposed to it. Were it not a matter of such magnitude, the evolution of the reported language would be comic. This language, the product of a GAO effort to overcome certain objections to the bill's initial language, has still resulted in a twenty-three page memo of concern from the Renegotiation Board explaining a multitude of problems with it. We can only summarize some of these.

The bill prohibits use of the "percentage of completion" method of accounting while permitting the "ship and bill" method. As the Board points out, either one can result in variability in the rate of profit from year to year and that these variances can occur under a conservative but acceptable accounting policy. It is also pointed out that IRS permits the "percentage of completion" method, hence it is used by many contractors. Prohibiting its use for renegotiation will result in many contractors having to institute new accounting procedures merely for renegotiation. For many contractors, renegotiable sales constitute such a small part of their total business that it would not be worthwhile for them to institute new accounting procedures merely to retain this business. If such firms withdraw from Government contracting, the reduced level of competition will tend to increase the Government's procurement costs and to render the revised procedures counterproductive.

As a sop to those of us who objected to many of the bill's provisions on the basis that they would necessitate new accounting procedures, the Committee threw in language stating that renegotiation should be conducted "under the contractor's or subcontractor's normal accounting system." This creates a real dichotomy. Under existing law, the Board has authority (which it uses) to impose accounting changes where necessary to correct the kinds of variation in profit that would otherwise result in the kinds of abuses the bill is designed to correct. Under this language, they lose that authority but contractors are required to report according to methods which they may not have accounting systems to support.

Add to these problems the fact that the same section requires renegotiation to be conducted "by division and by major product line within a division" and you begin to appreciate our concern with the bill.

Product line reporting really poses two major problems. The first is identifying what is a product line or division.

The Financial Accounting Standards Board has published a draft for comment on "Accounting Standards Financial Reporting for Segments of a Business Enterprise." This extensive draft explores many of the problems of the subject. We would like to quote one paragraph which we think highlights the problems·

"Grouping Products and Services by Industry Lines.

"12. Several systems have been developed for classifying business activities by industry, such as the Standard Industrial Classification (SIC) and the Enterprise Standards Industrial Classification (ESIC). The SIC and ESIC classifications are described in Appendix C to this Statement. While those systems may be helpful in grouping an enterprise's products and services by industry lines, none of those systems is, by itself, necessarily suitable to determine an enterprise's industry segments for financial accounting and reporting purposes. Moreover, although certain characteristics can be identified that assist in differentiating among industries (such as those discussed in Appendix D to this Statement), no single set of characteristics is universally applicable to determine the industry segments of all business enterprises; nor is any single characteristic determinative in all cases. Consequently, determination of an enterprise's industry segments must depend to a considerable extent on the judgment of the management of the enterprise."

What this says, in essence, is that there are all sorts of classifications which could be useful for different purposes—but NO ONE CLASSIFICATION meets all needs. Furthermore, the draft goes on to point out that while various types of product line reporting are used—and are useful for management purposes—the breakdowns and classifications used are as diverse as the corporate structures involved.

The difficulty of allocating costs of some items such as overhead among various product lines means that there are practical limits to the ability to devise accounting systems which permit a satisfactory degree of comparability among firms.

Anyone who thinks you can take these internal systems and utilize them for intercorporate comparability to protect small business doesn't understand accounting.

The provisions of H.R. 10680 requiring product line accounting utilizing a company's normal accounting procedures are thus totally unrealistic.

The second problem is that renegotiating by product line is inherently unfair because it permits the Government to recapture "excessive" profits on individual product lines while ignoring losses on other lines altogether. All companies, whether producing commercial products or Government products, compute their profits and losses on an aggregate basis. This is a recognized basis by the IRS in evaluating taxable income. Many small companies have several small product lines. Many of these small companies are subcontractors to major companies. It would be terrible to penalize these small companies if they were not allowed to balance their losses in one product area against their profits in another area (i.e., if you renegotiate to collect excess profits on one or several individual products of a small company and it could not balance these profits against other product lines which are losing money, you can put them out of business).

In the final analysis, we view Section 4 as so confusing, contradictory, and unworkable that it should be stricken.

Section 5 would repeal existing mandatory exemptions for oil and gas well products and standard commercial services; modify the exemption for standard commercial articles; and require future studies of the exemptions for durable productive equipment and standard commercial articles.

Unfortunately, we heard no testimony on the effect of removing the oil and gas well products exemption so the Committee has no real facts about what this provision would do. Board members have commented privately that they don't know how they would administer renegotiation of these products because to do so would require them to establish some value for them as a raw material. World conditions being what they are, who knows the real value of such materials?

Our principal concern with the other provisions of Section 5 is that we were not presented with evidence to justify the removal or modification of the mandatory exemptions for standard commercial products and services, although there was evidence of abuse of the waiver provisions of Section 106(e)(5) of the Act which has been corrected by the bill's repeal of this section. In fact, the Department of Defense felt these exemptions for commercial products and services should be retained. It seems clear to us that where competitive prices set market levels for goods or services, there is no need for renegotiation.

We have one further concern with this Section. After weeks of discussion with a variety of people knowledgeable about Government sales and the renegotiation process, it appears certain that many small businesses will now be subject to scrunity who have never previously been renegotiated. The impact of this possibility has not yet been fully realized since most of the firms concerned have not yet become aware of their potential involvement.

As a minimum, we believe the provisions of Section 5 need considerably more study and input from these businesses. We consider it irresponsible to enact such changes in the law without a clear justification of the need and a comprehensive understanding of the results.

Section 7 would require that contractors pay interest on excessive profits from the first day of the fiscal year following the year in which they were earned. This is just another example of the excesses of this bill.

The renegotiation process is a slow and imprecise one. A contractor never knows until the process is completed (which is usually at least three years and often five or six years), whether he is going to have an excess profit to refund. To charge interest during this period is unfair. Present law requires that interest be paid on excessive profits due to be refunded beginning thirty days after it is determined that a refund is due. *This is fair.*

Section 10(c) provides that every fiscal statement submitted to the Board either for the purpose of renegotiation or to establish an exemption from renegotiation shall be verified by an audit performed by the Board. This is duplicative, unnecessary, expensive and is destined to have explosive results. It should be recognized that the Board presently has the authority to require an audit when it deems it necessary, and exercises that authority. It does not need or want this provision.

More importantly, from the comments we have received, it is certain that the effect of this requirement will be to reduce the availability of goods and services to the Government. A number of large companies in particular have commented that their sales to the Government, while running into millions of dollars, represent less than 5% of their total business. They have stated flatly that rather than open their books to auditors—whose audits are available to anyone, including competitors seeking advantages, under the Freedom of Information Act—they will withdraw from Government sales.

We consider this requirement ill-advised.

Section 11 of the bill provides that upon appeal to the Court of Claims by the contractor, the decision by the Renegotiation Board is presumed to be correct. This means that the contractor has the burden of proof in overturning the presumption of correctness in the Board's favor. This is particularly unfair in view of the fact that the contractor, under Section 105(a) as altered by this bill, would no longer be engaged in a negotiated process, but in a process which encourages the Board to make a unilateral determination. This would reduce the participation of the contractor in the proceedings. Thus, to allege, as the proponents of this legislation have, that the contractor will have been a co-equal participant in the hearing process all along is no longer supportable. To require that the contractor then be forced to resort to an appeal procedure where the Government's case is presumed correct without a showing of the elements of its case seems patently unfair. Section 11 should be stricken to leave the burden of proof on the Government to make a showing of the proof against the contractor.

As stated earlier, we in the Minority, while dubious about the continued or expanded need for renegotiation, are convinced that if it is to be continued, the Board should be strengthened to enable it to do a first-class job, and we support those sections of H.R. 10680 designed to accomplish this. However, we are unalterably opposed to those sections noted above which we believe are poorly conceived and even counterproductive responses to alleged abuses. It seems clear to us that the enactment of such proposals will be costly and burdensome to the Government, impact harshly on small business, and finally result in a disservice to the taxpayer.

Mr. HANSEN. Mr. Speaker, in conclusion, I strongly urge that this legislation, H.R. 11016, a simple extension of the Renegotiation Act of 1951, be passed.

Mr. ROUSSELOT. Mr. Speaker, this is the first Congress in which the Committee on Banking, Currency and Housing has had jurisdiction over the Renegotiation Act. Jurisdiction had formerly been exercised by the Committee on Ways and Means.

Following hearings and two sets of markups by the Subcommittee on General Oversight and Renegotiation, conducted under the leadership of the distinguished and able chairman of the subcommittee, the gentleman from New Jersey (Mr. MINISH), the full committee reported a bill, H.R. 10680, on December 9, 1975.

That bill perpetuated the failure of the Renegotiation Act to adequately define the term "excessive profits," which is the very subject of the renegotiation process. The board would retain the authority to apply the "statutory factors" in a highly subjective manner.

However, on the issue of the "method of renegotiation," H.R. 10680 went to the other extreme. It would have required that financial data of firms be analyzed on a "product line" basis, whether or not it would be appropriate to do so with respect to a given firm or industry. Many firms would have been required to add to the sets of accounts which they presently keep for management and for tax purposes yet another set to be used for renegotiation purposes. Of course, the cost of complying with this additional reporting requirement would ultimately have been passed on to the very taxpayer for whose benefit renegotiation is conducted.

The minority views which accompany the report on H.R. 10680 discuss in greater detail the reasons why the committee bill is not ready to be considered by the full House at this time. Both the subcommittee and the full committee need to take additional time to reconsider the complex issues involved in this legislation.

The bill which is before the House today, H.R. 11016, a bill which I have cosponsored along with Chairman MINISH, of the subcommittee, Mr. HANSEN, the ranking minority member, and several other members of the committee, provides for a 6-month extension of the Renegotiation Act of 1951. Its passage will provide the time necessary for the committee to take its renegotiation legislation "back to the drawing board," and I, therefore, strongly urge my colleagues to support it.

Mr. MINISH. Mr. Speaker, I have no further requests for time.

Mr. HANSEN. I have no further requests for time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. MINISH) that the House suspend the rules and pass the bill H.R. 11016.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Ohio withdraw his point of order that a quorum is not present?

Mr. MILLER of Ohio. Mr. Speaker, I withdraw my point of order.

EARNINGS ON TAX AND LOAN ACCOUNTS

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3035) to require the payment of interest on certain funds of the United States held on deposit in commercial banks, to provide for reimbursement of commercial banks for services performed for the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized, for cash management purposes, to invest any portion of the Treasury's operating cash for periods up to ninety days in (1) obligations of depositories maintaining Treasury tax and loan accounts secured by a pledge of collateral acceptable to the Secretary of the Treasury as security for tax and loan accounts, and (2) obligations of the United States and of agencies of the United States: *Provided,* That the authority granted under this section shall not be construed as requiring the Secretary of the Treasury to invest any or all of the cash balance held in any particular account: *Provided further,* That the authority granted under this section shall not be construed as permitting the Secretary of the Treasury to require the sale of such obligations by any particular person, dealer, or financial institution.

SEC. 2. (a) Section 5(k) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(k)) is amended by adding after "Bank" in the first sentence thereof the following: "shall be a depository of public money and" and by striking the period at the end thereof and inserting the following: ", including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money, in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(b)(1) Section 402(d) of the National Housing Act (12 U.S.C. 1725(d)), is amended by adding the following at the end thereof: "Insured institutions shall be depositories of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in each insured institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositories of public money and fiscal agents of the United States. Each insured institution shall perform all such reasonable duties as depository of public money and fiscal agent of the United States as may be required of it.".

(2) The second sentence of section 402(d) of the National Housing Act (12 U.S.C. 1725 (d)) is amended by inserting immediately before the period at the end thereof the following: ", including services in connection with the collection of taxes and other obligations owed the United States".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Texas (Mr. PATMAN) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation will allow the Treasury Department—for the first time—to obtain compensation on tax funds left on deposit with commercial banks and other financial institutions.

It simply places the Federal Government and the depositories on a sound businesslike basis. No longer will there be an excuse for the Treasury Department to leave billions of dollars of tax funds—basically withholding receipts—on deposit interest-free. The Federal Government—the taxpayers—will at long last start getting a return on the funds.

At times, these deposits—known as tax and loan accounts—have exceeded $10 billion and the running average in recent years has been about $5 billion. As a result of congressional efforts to develop a more equitable system for these accounts, the Treasury has been drawing the funds down more rapidly, reducing the balances substantially in the past year. It is my understanding that the balances are averaging about $1.4 billion a month now and at times this year they have been as low as one-half billion dollars. We support this improved cash management and hope that it continues.

As my colleagues know, many of us have long urged interest payments on these funds and in past years we have faced bitter and emotional opposition from the Treasury Department. Happily, the Treasury now agrees with us and they are in full support of the authority to allow them to invest these funds in obligations of the depositories. The Treasury Department has given us every indication it wants this program to work and we have left them with flexibility to negotiate the terms and conditions on these accounts—consistent with good cash management and the maximum return on the taxpayers' money.

Mr. Speaker, this legislation has broad bipartisan support. The Domestic Monetary Policy Subcommittee reported the bill unanimously and the vote in the full committee was 26 to 0 in favor. Members of both parties are to be commended for their fine support which has resulted in the successful reporting of this bill to the full House.

Many Members of the House have worked long and hard on the issue through the years. That certainly includes the members of the Banking Committee and its chairman, HENRY REUSS, who has long recognized the need for reform of the tax and loan account program.

Our colleagues from Ohio—JOHN SEIBERLING and RON MOTTL—are not on the committee, but they have done a tremendous job on this legislation and have been invaluable in drumming up support in the House.

A second section of H.R. 3035, as amended, adds savings and loan associations as eligible depositories. Under this language, they will be eligible to receive these funds if they meet the criteria and regulations established for the tax and loan program by the Treasury Department. The same eligibility already exists for credit unions, mutual savings banks, and the commercial banks. It is simply a matter of equity that the savings and loans be included along with the rest of the financial community.

Let me emphasize, however, that this does not require any savings and loan to become a depository, nor does it require the Treasury Department to channel these tax and loan accounts into these institutions. It simply removes any legal roadblock to their eligibility as depositories for such funds.

Mr. Speaker, I sincerely hope that the House will approve this legislation on suspension today, because it is important that the Treasury Department get this program underway as soon as possible. Even at the current low level of these balances, we are probably losing between $10 and $20 million each month we delay. The Treasury ought to be receiving that interest right now and I hope the House will speed this through this afternoon.

Mr. MOTTL. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Speaker, I thank the distinguished gentleman from Texas for yielding.

I certainly compliment the gentleman and his subcommittee and the entire committee for the outstanding work they have done in this area. It certainly was a privilege to work with the gentleman from Texas on this issue.

Mr. Speaker, the public interest demands interest.

With that thought in mind, I would like to urge my colleagues in the House to vote in favor of H.R. 3035 today. This bill would permit the Federal Government to start charging banks interest on the use of billions of taxpayers' dollars now in the tax and loan account, which consist of withholding taxes and FICA.

Banks have been given carte blanche use of this money without paying any interest for the past 58 years. Conservative estimates are that taxpayers would "earn" about $200 million a year if banks were required to pay interest on this money.

I have been working on this legislation with colleagues JOHN SEIBERLING and WRIGHT PATMAN since I came to Congress 11 months ago.

Taxpayers have been deprived of billions of dollars in interest for too long. This practice of giving banks a free ride will end if we approve this bill.

Please vote to reduce our massive Federal deficit and support H.R. 3035.

Mr. PATMAN. I thank the gentleman from Ohio. We appreciate his kind support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. REUSS), chairman of the Committee on Banking, Currency and Housing.

Mr. REUSS. Mr. Speaker, I thank the distinguished chairman of the subcommittee, the manager of the bill, Mr. PATMAN, for yielding.

I want to express my admiration for the way in which the gentleman has handled this complicated and difficult matter. I compliment the subcommittee and the full committee for their unanimous approval of this important legislation, and the two gentlemen from Ohio, Mr. SEIBERLING and Mr. MOTTL, for the outstanding work they have done on this. Altogether they are doing a good day's work for the taxpayers of the United States, and I am proud of the work the subcommittee has done.

Mr. PATMAN. I thank the gentleman from Wisconsin.

Mr. HANNAFORD. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from California.

Mr. HANNAFORD. Mr. Speaker, I rise in support of H.R. 3035 and I commend Chairman PATMAN for his leadership and I applaud the unanimous support of our subcommittee and full committee in bringing this legislation before us. Also to be commended are our two colleagues from Ohio, Mr. SEIBERLING and Mr. MOTTL, who are not members of the committee, but who testified and supplied initiative for the legislation. I also commend the Treasury officials for their cooperation and support in shaping the bill in its final form.

In fact, with such universal support and cooperation, it is difficult to understand why we did not pass this legislation long ago.

Every bank performs some services for the Federal Government, one of which is collecting and holding tax funds. Other services are also performed, such as the issuance of food stamps and handling series E bonds. The financial benefit to the bank of holding the funds has been considered a tradeoff for the services rendered by the banks. But it has not been an even tradeoff in any way because the amounts held by the banking system collectively have been so large in some years as to amount to an interest loss to the taxpayers through these tax accounts as high as $300 million annually. Furthermore, some banks held large accounts and performed little in the way of services, while other banks had high service requirements and small Federal accounts, but always the collective effect has been a loss of many millions of dollars to the taxpayer.

All this bill does is to allow day-to-day investment of these public funds, after which the aforementioned services will be paid for, based on services rendered. The Treasury estimates that this year the saving to the taxpayer will be about $86 million.

Mr. Speaker, the legislation is overdue. I urge its passage.

Mr. ROUSSELOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3035, as printed, will not be considered today. We will consider, instead, a committee substitute which consists of two sections.

The first section would authorize the Treasury to invest surplus cash for periods of up to 90 days in obligations of institutions holding tax and loan accounts and in obligations of the United States and United States agencies. This is clearly a section which is worthy of our support.

The effect of the second section is much less clear. It authorizes savings and loan associations to bid for public funds, which may be deposited by Government agencies which may have such funds to invest. Such deposits could be made in insured savings and loan associations, subject to regulations of the Federal Home Loan Bank and other appropriate agencies.

However, there are two points which need to be made with respect to this legislation:

First. It does not, by itself, provide authority for savings and loan associations to accept deposits of individuals in payment of their Federal tax obligations. In the absence of further legislation originating in the Committee on Ways and Means, such individual deposits would not have the effect of extinguishing the taxpayer's debt, and savings and loans associations would not be empowered to accept such deposits from individuals.

Second, there also remains the question whether the funds will be made available for investment in savings and loan associations as a result of this legislation will in fact be suitable and desirable for acceptance by institutions whose assets consist primarily of long-term home mortgages. It would have been helpful to all concerned if the committee had held hearings on this question. However, the decision to seek such deposits will ultimately rest with the management of the associations themselves. and the ordinary regulatory and supervisory measures should provide sufficient protection against any major problems which may arise as a result of these new powers.

Having stated these caveats and reservations, it is my intention to support this bill.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield for a question?

Mr. ROUSSELOT. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I have a question; in fact, two.

First of all, H.R. 3035, the only printed copy of a bill as we have before us, I understand the gentleman says, is not the bill we have under consideration.

Mr. ROUSSELOT. No; it is a substitute with the same number.

Mr. MYERS of Indiana. Under section 1 then, the Treasury would apply an interest to a commercial bank which was holding a U.S. Treasury tax and loan account. For example, a bank customer would come in and make a deposit for taxes withheld from their employees in a tax and loan account. Subsequently, the Treasury will draw upon that in 15 or 20 days, draw the account entirely out. Is the intent that a commercial bank would have to pay interest on that very short-term deposit; is that correct?

Mr. ROUSSELOT. If the gentleman is talking about 1 or 2 days, that is not the intent. It says up to 90 days. But the bank could charter an agreed upon service fee.

Mr. MYERS of Indiana. Up to 90 days.

Mr. ROUSSELOT. Yes, up to 90 days. But it is still subject to rule and regulation and negotiation with the Treasury.

Mr. MYERS of Indiana. Is it the intention that a deposit left less than 30 days, the bank would have to pay interest on it?

Mr. ROUSSELOT. Yes.

Mr. MYERS of Indiana. I am afraid, if the gentleman will continue to yield, the gentleman will find a lot of banks that will discontinue having that service of serving as a depositor for tax and loan accounts for their customers. Because really if it is 1 percent below the Federal fund rates, the Federal fund rate runs up to 12 or 13 percent, and if a bank has to pay 1 percent less than that, the commercial bank will lose money under that requirement.

Mr. ROUSSELOT. My understanding is that in that type of fast turnover account, the bank could be paid, in fact, a service charge.

Mr. MYERS of Indiana. That is my next question. Is it possible that a commercial bank that is in this situation where they are not a continuing depository, but they are using that Treasury tax and loan account as a service for their customers, where it is drawn out in 15 or less than 30 days, if they do have to pay interest, could they also in that same account come back and charge the Treasury? If they had to pay interest and lost money on the account because they were required to pay interest to the Treasury, the Treasury might have to pay a service charge to the bank for that service; is that correct?

Mr. ROUSSELOT. As I have just stated, the Treasury informed us that banks could be paid a service fee for services performed in connection with tax and loan accounts.

Mr. MYERS of Indiana. On the same account, the commercial bank might have to pay the Treasury interest to have that account for a short time, and later on in the month come back and charge the U.S. Treasury for the service.

Mr. ROUSSELOT. The interest under this bill is paid by the depository to the Treasury.

Mr. MYERS of Indiana. And the Treasury then would have to return back to the bank a service fee. It seems to me we are getting into an awful lot of book work here that will not really accomplish anything. Extra accounting both for the banks as well as the Treasury.

Mr. ROUSSELOT. I am sure it is extra book work. But all that needs to be is for the bank or depository to make the necessary debit or credit as required in accordance with negotiated agreement with the Treasury.

Mr. MYERS of Indiana. Instead of being up to 90 days, it seems that interest payments by banks ought to be starting after 30 days.

It would be a lot more reasonable to pay after 30 days instead of up to 90 days. To require interest payments for deposits left between 30 days and 90 days.

Mr. ROUSSELOT. The Treasury already has authority to pay interest after the 90 days. This is to correct it so that interest can be paid or charged under 90 days.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from Texas.

Mr. PATMAN. Mr. Speaker, I thank the gentleman for yielding to me. Remember that the regulation of the Treasury will govern, and under the present law, or the law when this is passed, the Federal funds will still pay overnight interest, and that is about as low as one can get so far as getting interest on accounts, so this does not make any real change.

Mr. ROUSSELOT. Well, except that it allows interest on accounts under 90 days.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield further, the thing that concerns me about this legislation is that the 1 percent less than the Federal funds rate, the Federal funds rate does run rather high sometimes because funds are used by banks for a specific purpose of maintaining a minimum balance. But, there are many small commercial banks who really do not have the expertise and the capacity to invest this U.S. Treasury tax and loan account for something less than 30 days, and sometimes not even for 30 days to 90 days.

What concerns me is that we are putting a real burden here on some very small commercial banks who really are handling these accounts as a service to their customers and to the Treasury, but now we are going to require the Treasury to charge the commercial bank for keeping these funds for a few days when the banks may have no way of recovering the costs. I believe many commercial banks are going to discontinue the service and will not perform the work the gentleman wants them to do.

Mr. ROUSSELOT. Let me explain. Perhaps the gentleman is confusing this amended bill with the language of the original bill. In the substitute we do not mandate, and it is subject to negotiation as to what is to be paid by the Treasury.

Mr. MYERS of Indiana. If the gentleman will yield further, I have seen some recent GAO audits, things just like this. A Member of Congress will be questioning about the Treasury not applying the interest to some commercial banks, and the GAO, through its forces, is going to require the legislation he complied with.

Mr. ROUSSELOT. Mr. Speaker, I yield 3 minutes to my colleague from Ohio (Mr. Gradison).

Mr. GRADISON. Mr. Speaker, I rise in support of H.R. 3035. I want to compliment the chairman of our subcommittee, the distinguished gentleman from Texas (Mr. Patman), for his efforts on this matter.

Mr. Speaker, this has been a problem that has been around for decades, and the problem has really become severe in recent years because of the rise in general interest rates. There was a time when the argument could be made that the interest which banks were able to earn on these deposits was necessary to compensate them for services rendered to the Treasury. However true that may or may not have been at one time, it is no longer true today because of the generally prevailing level of interest rates and increased flexibility available to banks in putting funds to work on an overnight basis.

Mr. Speaker, I particularly want to point out that I think that this bill is an example of what can happen with a high level of cooperation, of working in the same direction. In this instance, the original bill was superseded by the amendment offered by the gentleman from California (Mr. Hannaford). It was based in no small part on the very useful suggestions received from the Treasury. I think we have a workable device and one which, while it deals with this specific issue, does not in itself resolve the problem which we will probably have to face later on, on the general issue of whether interest should be paid on demand accounts.

In response to the inquiries directed to the gentleman from California (Mr. Rousselot) by the gentleman from Indiana (Mr. Myers), I would just point out that what this really does is to provide to the Treasury the same opportunities for the management of the short-term deposits which generally are available today to any depositor, but primarily to large individual depositors and to large corporations.

The way in which it will be used is, of course, very much in question. How will the rates be determined? How will they balance the costs incurred by the bank in providing services for the Treasury, against the interest to be paid?

Mr. Speaker, on that matter, I would suggest that the Committee on Banking, Currency and Housing will have a continuing responsibility for oversight to determine whether this will be done in a way that is fair and equitable not only from the point of view of the taxpayers, which must be uppermost in our minds, but also the banking institutions which do have costs to cover for services provided for the Treasury.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. GRADISON. I will yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I do support the thrust of the bill. I think it is a good intent to start collecting some interest on the large sums which can be invested for a period of 30 days or more.

What concerns me is these small accounts, $2,000 or $3,000 which are deposited, and the next day they come in with $300 or $400. The small banks—and I am thinking mostly of the small banks in this instance cannot pay interest on the accounts on a 1-percent spread between what they pay and the Federal funds. The small bank cannot afford to handle the tax accounts for 1 percent. That is all I am concerned about, how it is going to be applied and administered by the Treasury.

Mr. GRADISON. Mr. Speaker, the gentleman from Indiana (Mr. Myers) raises a proper concern in the way this bill will operate because if the Treasury cannot come in with a satisfactory agreement for the payment of interest by an individual bank, that bank could not continue to handle that account.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. Gradison) has expired.

Mr. ROUSSELOT. Mr. Speaker, I yield the gentleman from Ohio (Mr. Gradison) 1 additional minute.

Mr. GRADISON. Mr. Speaker, I feel we have the continuing responsibility to monitor the way in which this operates, to make sure the taxpayers are not inconvenienced, especially in smaller communities which may only have one or two institutions upon which the people currently rely to provide these services.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. GRADISON. I will yield to the gentleman from Indiana (Mr. Myers).

Mr. MYERS of Indiana. I thank the gentleman for yielding again.

Mr. Speaker, I think we both agree that if there are large sums of money that are not going to be used for 30 or 60 days, they should be invested. There are plenty of banks that will be willing and able to pay if they know it is an investment and for a definite time. But if we come down to small balances, where an account at the end of the month is zero, small banks are not going to be depositories to service their customers and the Treasury. It is not going to work out.

Mr. GRADISON. Mr. Speaker, I thank the gentleman for his comments, because I think it is important that the record does indicate that this is a matter which we are going to have to look into in the future.

Mr. PATMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope we will have no confusion about this. This has come up a number of times. This legislation has been under concern for about 10 years. People wonder why a simple matter like this cannot be quickly adjusted. It is very plain. It is very simple. I do not think there is any question that this represents justice. It is perfectly justifiable and represents justice in every sense of the word. We cannot expect to have exact justice.

If we have equal justice, that is about all we can expect, and this certainly gives equal justice, if not exact justice.

Mr. Speaker, there is really no problem about small banks; there has not been over the years. The Treasury Department will use this new authority in a prudent manner. When the accounts are small, I do not anticipate that the Treasury Department will be using this authority.

In other words, we are hopeful that this will provide substantial returns for the Treasury Department, and obviously this means the Treasury Department must place its emphasis on these institutions which have the bulk of the accounts, the really large tax and loan accounts. This will be the emphasis of the program, and, therefore, I do not think that there will be any real change for the small, independent banks.

So I repeat, let us be very careful here. Let us cause as little confusion about this as possible. Otherwise it will probably result in delay. It has been delayed now for 10 years, and its costs the people, the taxpayers, about $10 million or $20 million a month for these delays.

Mr. Speaker, this has been carefully worked out. Every question that has been raised has been satisfactorily answered in the hearings and this debate, so I urge the Members to vote for the bill.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Hannaford).

Mr. HANNAFORD. Mr. Speaker, I thank the gentleman for yielding time to me.

I wil point out for the benefit of the gentleman from Indiana (Mr. Myers) that we on the subcommittee did hold a number of days of hearings on this legislation. The small bankers, the minority bankers, did appear. They were concerned, and they had the same concerns the gentleman has.

They were assured that the Treasury does utilize and will utilize the flexibility necessary to satisfy their concerns. I think the legislation is addressing itself to the very kind of thing the gentleman mentioned, wherein it applies to very large accounts with substantial revenue benefits to those large banks and relatively low service responsibilities or charges in those large accounts.

So, Mr. Speaker, I really think this is satisfactorily addressing the problem, and I assure the Members that the small bankers were satisfied with the final product.

Mr. ROUSSELOT. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I wish to answer my colleague, the gentleman from Indiana (Mr. Myers), because he was concerned about the statement in previous bills that does not appear in this substitute about the interest to be computed at a rate of not less than 1 percent below Federal funds raised. That language is not in the substitute, and interest rate is totally negotiable. So I think the gentleman's concern is partially answered by the elimination of the previous wording.

That does not mean the Treasury in its negotiations will satisfy all banks in the matter of the type of small accounts to which the gentleman addresses himself. However, I think it is not mandated in this substitute on the basis which brought up the concerns the gentleman has.

So I want to emphasize again that as to the original bill, H.R. 3035, that has changed by substitute language.

Mr. Speaker, I have no further requests for time.

Mr. GRASSLEY. Mr. Speaker, I rise in support of H.R. 3035 as a bill representing good financial management—an example that the Congress does not follow too often, especially when it budgets more than its income.

This bill calls for the Government to receive interest on idle Federal funds in financial institutions throughout the country. My own State receives $40 to $50 million a year from the investment of idle funds. If the State of Iowa can do this well, surely the Federal Government can do this well many times over. Not too many years ago my State was leaving this money in financial institutions untouched.

Also, the broad support this bill received among the various political philosophies within the Congress as well as the agreement from various interest groups outside the Congress speaks to the fairness of this bill. It deserves the support of every Member of the Congress.

Mr. SEIBERLING. Mr. Speaker, the Banking and Currency Committee is to be commended for bringing this legislation before the House. If enacted, it could save the U.S. Treasury hundreds of millions of dollars each year. I think I can speak on behalf of the 113 cosponsors who joined me in introducing the Tax and Loan Account Interest Act—H.R. 1016—in expressing our appreciation for the committee's attention to this issue and particularly for the efforts of the chairman of the Subcommittee on Domestic Monetary Policy (Mr. PATMAN) over the years in seeking Treasury cooperation to obtain a fair return on the taxpayers' money.

Not many people, I imagine, know what happens to the social security and income taxes that are withheld from their paychecks. It would come as a shock to many to know that this money does not go directly to the U.S. Treasury, but to "tax and loan accounts" in commercial banks where it sits without earning 1 cent of interest for the taxpayers. Even more shocking is the fact that the Government allows the banks to invest the taxpayers' money and reap high rates of interest on it, not for the taxpayers, but for the banks.

The primary purpose of the tax and loan account system is to provide an efficient tax collection mechanism for the Treasury and to minimize the potentially disruptive effect of Treasury cash operations on the banking system and the Nation's economy. It has performed this useful function ever since it was set up in 1917. Ostensibly, the Government has allowed banks to hold the accounts without paying interest to compensate them for various banking services they perform for the Government, including holding the accounts. But with rising interest rates in recent years, it has become obvious that most banks are being greatly overcompensated.

Last year, the Treasury Department released the results of a 2-year study of the tax and loan account system which indicated that the total value of the tax and loan accounts to commercial banks in calendar year 1972 exceeded the value of the services they performed for the Government by over $260 million. Last year, when interest rates rose to record highs, the losses to the Treasury were in the $350 to $400 million range.

Since last year, the Treasury has drawn down the balance in the tax and loan accounts substantially and placed it in the Federal Reserve banks so that the losses to the Government are minimal. However, the current system is unacceptable to the Federal Reserve Board on a permanent basis because it tends to complicate the Federal Reserve's monetary policy.

H.R. 3035, as amended by the committee, would give the Treasury authority to invest unneeded tax and loan balances on a day-to-day basis in obligations of depositaries maintaining tax and loan accounts. The Treasury would be in effect lending any unneeded balance in the tax and loan accounts to the banks and collecting interest on it. This would put the Federal Government on a par with other major bank depositors such as corporations, States, and cities which have arrangements with banks for the day-to-day investment of their operating cash balances in excess of daily needs.

It is incredible that the Federal Government has allowed the tax and loan account system to operate at such a substantial loss to the Treasury for so many years. No well-managed business would tolerate such an unbusiness-like practice. Certainly at a time when the Congress is faced with a $74 billion budget deficit, we can no longer afford delay in enacting such a money-saving measure. I urge that H.R. 3035 be approved by the House.

Mr. PATMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Texas (Mr. PATMAN) that the House suspend the rules and pass the bill H.R. 3035, as amended.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Ohio (Mr. MILLER) withdraw his point of no quorum?

Mr. MILLER of Ohio. I do, Mr. Speaker.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 3035, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 11016, Extension of Renegotiation Act of 1951, the bill previously considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPORTS BROADCASTING ACT OF 1975

Mr. MACDONALD of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11070) to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games, as amended.

The Clerk read as follows:

H.R. 11070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Sports Broadcasting Act of 1975".

SEC. 2. Section 331 of the Communications Act of 1934 is amended to read as follows:

"BROADCAST OF GAMES OF PROFESSIONAL SPORTS CLUBS

"SEC. 331. (a) If any game of a professional sports club, other than a postseason game of a professional baseball, basketball, or hockey club, is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which were available for purchase by the general public one hundred and twenty hours or more before the scheduled beginning time of such game have been purchased seventy-two hours or more before such time, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect. If any postseason game of a professional baseball, basketball, or hockey club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which are available for purchse by the general public have been purchase by the general public have been purchased twenty-four hours or more before the scheduled beginning time of such game, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect. The right to broadcast any such game by means of television at such time and in such area shall be made available, by the persons having such right, to a television broadcast licensee on reasonable terms and conditions unless the broadcasting by means of television of such game at such time and in such area would be a telecasting which section 3 of the Act entitled "An Act to amend the antitrust laws to authorize leagues of professional football, baseball, basketball, and hockey teams to enter into certain television contracts, and for other purposes", approved September 30, 1961 (15 U.S.C. 1293), is intended to prevent.

"(b) Notwithstanding the provisions of subsection (a) of this section, a television broadcast licensee may not enter into any agreement that prevents the broadcasting by means of television of any professional football game that occurs at any site located within a home area which area is more than seventy-five miles from the location of the television broadcast station of such licensee.

"(c) If any person violates subsection (a) or (b) of this section any interested person may commence a civil action for injunctive relief restraining such violation in any United States district court for a district in which the defendant resides or has an agent. In any such action, the court may award the cost of the suit including reasonable attorney's fees.

"(d) For the purposes of this section:

"(1) The term 'professional sports club' includes any professional football, baseball, basketball, or hockey club.

"(2) The term 'league television contract' means any joint agreement by or among professional sports clubs by which any league of such clubs sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games engaged in or conducted by such clubs.

"(3) The term 'agreement' includes any contract, arrangement, or other understanding.

"(4) The term 'available for purchase by the general public', when used with respect to tickets of admission for seats at a game or games to be played by a professional sports club, means only those tickets on sale at the stadium where such game or games are to be played, or if such tickets are not sold at such stadium, only those tickets on sale at the box office closest to such stadium.

"(5) The term 'postseason game' means any game which is played following the regular season of a professional sports club and which determines or leads to the determination of the championship of such professional sport.

"(6) The term 'home area' means the limits of the city within which is located the site at which a professional football game occurs, and in the case of such a site which is not located within a city, such term shall mean the limits of the county within which it is located.

"(e) The Commission shall conduct a continuing study of the effect of this section for three years from the date of enactment of this section, and shall, not later than April 15 of each year, submit a report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate. Such report shall include pertinent statistics and data relating to the effects of this section on professional football, baseball, basketball, and hockey.".

The SPEAKER pro tempore (Mr. McFALL). Is a second demanded?

Mr. FREY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MACDONALD) will be recognized for 20 minutes, and the gentleman from Florida (Mr. FREY) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Massachusetts (Mr. MACDONALD).

Mr. MACDONALD of Massachusetts. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, my remarks in support of H.R. 11070 will be brief, although I will revise and extend my remarks for the RECORD.

Essentially, H.R. 11070, the Sports Broadcasting Act of 1975, makes permanent the so-called sports antiblackout law which Congress enacted in 1973. This law is set to expire on December 31, 1975—in just about 2 weeks.

When Congress first passed the antiblackout law, it did so in order to make available to local fans certain games of professional football, baseball, basketball, and hockey which were being televised pursuant to network contracts. But Congress took this important step with full awareness of the importance to professional sports of the "live gate." Thus, we built a "fail-safe" mechanism into the bill. If the game is not a complete sellout 72 hours in advance, the blackout imposed by the league remains in effect. Only when all tickets have been sold does the law require it to be made available for local television.

This key feature of Public Law 93-107 is carried over in H.R. 11070. However, we have made one change which relates to postseason playoffs in professional baseball, basketball, and hockey. Because it is often not known 72 hours in advance if a game in these playoff series will even take place, H.R. 11070 reduces the sellout deadline to 24 hours. Hopefully, this change will make more of those playoff games available on television to fans who are unable to obtain tickets.

I would like to emphasize one basic point about both this legislation and the existing law. They cover only those games televised pursuant to a contract between the league and the networks—not games televised under terms of local contracts such as are utilized predominantly by baseball, basketball, and hockey. This was not done, as some have suggested, to single out professional football, but because in 1961, all four major professional sports received from the Congress an antitrust exemption which extended protection from the antitrust laws to league network contracts. All of these sports have profited handsomely as a result of their league television contracts and so has the public because of the greater number of games made available.

Congress has asked that professional sports give something to the public in return for this valuable exemption, but has done so in a way which has not caused financial harm to the sports themselves. The lack of adverse economic impact is documented by the two annual reports submitted to date to the Congress by the Federal Communications Commission. The absence of harm to the sports involved justifies making the antiblackout law permanent. However, H.R. 11070 provides for three more reports from the FCC so that the Congress can be especially certain that no unforeseen problems arise.

H.R. 11070 also limits the area which can be blacked out by a professional football club when its games are not sold out. The limit is 75 miles from the city or county in which the stadium is located—the same definition which the National Football League has adopted for itself in its constitution and bylaws but which is not being adhered to by several teams. As a result, cities up to 150 or 200 miles away from the site of the game are being blacked out in some parts of the country.

H.R. 11070 is sound legislation which deserves the support of every Member of the House. It is in the public interest, while at the same time, it protects the interests of professional sports. I urge its immediate adoption.

I would like to point out that the Subcommittee on Communications considered this legislation very carefully.

We held hearings on H.R. 9566 on September 22 and October 29, 30, and 31, 1975. Testimony was received from Richard E. Wiley, Chairman of the Federal Communications Commission, and the Honorable L. A. BAFALIS. In addition, representatives of the National Basketball Association, the National Football League, the National Hockey League, Organized Baseball, the Columbia Broadcasting System, the National Broadcasting Co., Station WQXI, Atlanta, Ga., a concession company, an advertising agency, and other interested parties appeared and testified. A statement for the record was submitted by the American Broadcasting Co.

I feel that the testimony of one witness requires some comment. The Commissioner of the National Football League, Pete Rozelle, stated to the subcommittee that he could show that the NFL had lost $9 million as a result of the antiblackout law. He sent out press releases accordingly, but during the hearings, he was evasive as to where these losses had been incurred. He spoke of a decline in season ticket sales, yet refused to speculate how much of that decline would be made up for by game-by-game sales.

It was interesting that after testifying before our subcommittee, Mr. Rozelle changed his approach when he appeared before the Senate Committee. Under questioning, he admitted that:

> I cannot say at this point that we have had serious financial losses.

He cannot say it, because, of course, no losses have taken place. The two FCC reports establish this as far as the NFL is concerned, and I hope that we can avoid such meaningless debates in the future by passing a permanent bill.

On December 9, 1975, the subcommittee considered H.R. 9566 and adopted an amendment offered by Mr. FREY of Florida. A clean bill incorporating this amendment was prepared and I introduced it for myself and other members of the subcommittee (Messrs. MURPHY, CARNEY, BYRON, FREY, and MADIGAN). The bill (H.R. 11070) was unanimously reported to the full committee.

On December 11, 1975, the full committee considered H.R. 11070, with the amendment reported by the subcommittee, and by a voice vote unanimously ordered the bill reported to the House.

The subcommittee carefully considered the two annual reports submitted to it under Public Law 93-107 by the Federal Communications Commission. In addition, we reviewed partial data filed with the FCC for the current NFL season. These findings support the enactment of permanent legislation as embodied in H.R. 11070 and can be summarized as follows:

One. Public Law 93–107 has resulted in the televising of 255 regular season NFL football games which would have otherwise been blacked out. In addition, 9 NFL postseason playoff games and 2 Super Bowl games have been televised as a result of this law. These figures include the 1973–74 and 1974–75 seasons and the first 11 weeks of the 1975–76 season. A relatively small number of NBA and NHL games have been affected, while there has been no effect on Baseball.

Two. Although the number of no-shows—those who purchase a ticket but choose not to attend—for NFL games has increased since Public Law 93–107 was enacted, no-shows have not been significantly higher for home games televised under Public Law 93–107 than for home games for which the blackout was imposed. Up to and including the eighth week of the 1975 season there were 41 games telecast locally as against 48 games locally telecast after the eighth week of the 1974 season. Of the games televised locally there were 60,955 fewer no-shows in the 1975 season than in the 1974 season. Of the games that were blacked out there were 42,972 fewer, no-shows. Paid attendance was also up—60,488 more tickets had been sold after the eighth week of the 1975 season than had been sold after the eighth week of the previous season.

Three. In addition, statistical tests conducted by the FCC demonstrate that precipitation and team standings are more important influences on the number of no-shows than Public Law 93–107.

Four. Impact of the antiblackout law on concession sales and on radio broadcast revenue has been slight overall, and the small decline in the latter has been partially offset by rebate payments from some NFL clubs.

In addition to the findings of the FCC, representatives of the television networks provided data which demonstrate the local home games of NFL teams, on an overall basis, receive higher ratings than games involving other teams, and as a result, they felt that the value of the league network contract might be enhanced when the time comes for new negotiations.

I am not suggesting that H.R. 11070 be enacted on the basis of possible financial advantage to professional sports, but I do feel that we can enact it with no fear of financial harm to professional sports.

I feel that permanent legislation is justified and that it puts the burden squarely on professional sports to demonstrate financial harm in the future. If they meet this burden, H.R. 11070 can be modified through amendments.

I recognize, as we did in our report 2 years ago, that some additional no-shows may result from televised home games and that these no-shows may cause some slight diminution of revenues from such sources as parking fees, program sales and concession sales; however, I feel there is no hard evidence that tickets sales and television rights will be adversely affected by the legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CARNEY) a very valued member of our subcommittee.

Mr. CARNEY. Mr. Speaker, I want to associate my remarks with those of the chairman of the subcommittee, the gentleman from Massachusetts (Mr. MACDONALD). I want to say that this bill is very close to me. Currently there are no laws defining the home territory of a professional sports team. However the NFL has arbitrarily set a 75-mile limit. However this has not always been adhered to.

Thanks to the ranking minority member, the gentleman from Florida (Mr. FREY) there is an amendment in this bill which will take care of that matter and define the home territory of a national professional football team as a 75-mile area. However, the city of Youngstown, Ohio, which I represent, has no professional sport teams. It does lie within 65 miles of Cleveland and 60 miles of Pittsburgh, so we are blacked out both ways. To correct this situation, with the help of the gentleman from Florida (Mr. FREY), and the chairman of the subcommittee, the gentleman from Massachusetts (Mr. MACDONALD), I had conferences with the representatives of the National Football League and their attorney. I had conferences with our affiliate of NBC, in Youngstown, WFMJ-TV, which carries these games or are entitled to, and through the good offices of all of these people, we reached a verbal agreement that Youngstown, Ohio, will get one of these games regardless of the 75-mile limitation.

In this report, Mr. Speaker, I am very thankful that they have a section called, "The Youngstown Problem." I want to publicly thank the chairman and the ranking minority member of the committee, and all of the other members of the committee, as well as the National Football League, for their cooperation in this matter.

Mr. MACDONALD of Massachusetts. Mr. Speaker, I want to congratulate the gentleman from Ohio for showing such grave concern for his constituents and really pointing out a minor error. It is no longer an amendment; it is in the bill. We welcome it in the bill.

Mr. FREY. Mr. Speaker, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman from Florida.

Mr. FREY. I thank the gentleman for yielding.

I just also want to add my congratulations. The gentleman showed a great deal of drive and preserverance and managed to handle the problem in a way so that the legislation was not cluttered. We know that the people in his hometown will be delighted with the way it has worked out.

Mr. Speaker, the bill we have before us today is in essence a recognition of the success of the 3-year experiment—established by Public Law 93–107—of a sports antiblackout law. H.R. 11070 would continue the balanced, equitable situation whereby both the public and the professional sports leagues benefit from Federal legislation; that is, the public benefits through the antiblackout law, and the sports leagues benefit through the antitrust exemption that permits league pooling of game telecast rights, resulting in a large financial gain to the leagues. Obviously, before we continue this antiblackout law, we should look to see whether there have been harmful effects as a result of its existence these past 3 years.

During the hearings held on this legislation by the Communications Subcommittee of our committee, we heard from the various television networks, sports leagues, the FCC, and other interested groups. While organized baseball did not oppose this bill, the NHL, NBA, and NFL did oppose various portions of it, with the major opposition, of course, coming from the NFL. However, they were unable to demonstrate any substantial harm resulting from the the existence of an antiblackout law.

Two matters were primarily addressed by the NFL; the contentions that the number of no-shows was increasing and that there has been a downturn in season ticket sales. The argument that football will become a studio sport as a result of this law is just not supported by the facts. During last year's season, the average number of no-shows—holders of tickets who fail to attend—at televised games exceeded the number at blacked-out games by only 448 people. Clearly, there are other facts to take into account, such as weather and team standing. In fact, the FCC statistical analysis showed that precipitation explained 46 percent of the variation in no-shows, while the lifting of a blackout indicated only a 2.2-percent increase in no-shows.

With regard to the contention that the law has resulted in fewer season ticket sales, let me emphasize that nothing was said by the NFL about the number of tickets sold on a game-by-game basis. It would be naive to assume that only season ticket holders attend professional football games. It would also be naive on our part to assume that the only factor that affects season ticket sales is the antiblackout law. If an apathy does develop, there are many reasons for its occurrence, such as player strikes, ticket prices, and as much news in the sports section of our newspapers about players' salary negotiations and labor disputes as about sports scores.

Before I leave this point, let me point out that the two teams who experienced the greatest decline in season ticket sales this year were Kansas City, 17,694 fewer, and Miami, 17,322 fewer; Kansas City blacked out every game last year, and Miami televised only three home games. Obviously, the sports blackout law is not the direct result, as the NFL would have us believe.

H.R. 11070 contains an amendment that I proposed in subcommittee markup to remedy a problem that has long concerned me—the problem of an NFL imposed blackout of a nonsold-out home game well beyond 75 miles from the city of the game. Seventy-five miles is the distance the NFL uses in its bylaws to define a team's home territory. To give you an example of the abuse of its definition, the NFL blacks out Fort Myers, Fla., 120 miles from Miami, and Mason City, Iowa, 126 miles from Minneapolis. My amendment provided—

First, that, in effect, no blackout of a professional football game may be instituted with regard to any television station that is located more than 75 miles from the limits of the city in which the game occurs; and second, that the FCC shall make three more reports to Congress on the effects of this law, so that should any of its provisions prove harmful in the future, this would be brought to the attention of Congress.

The language now in the bill, in essence, requires a recognition of the very definition of "home territory" that is contained in the NFL bylaws.

Mr. Speaker, the sports leagues have not been harmed, but the American people have benefited from the broadcast over public airways of sports events which they otherwise would have been unable to view.

I urge your support of this legislation.

Mr. **MACDONALD** of Massachusetts. Mr. Speaker, I have no further requests for time.

The **SPEAKER**. The question is on the motion offered by the gentleman from Massachusetts (Mr. **MACDONALD**) that the House suspend the rules and pass the bill, H.R. 11070, as amended.

The question was taken.

Mr. **MILLER** of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Pursuant to the provisions of clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

Does the gentleman from Ohio withdraw his point of order that there is no quorum?

Mr. **MILLER** of Ohio. I do, Mr. Speaker.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. Debate has been concluded on all motions to suspend the rules.

Pursuant to the provisions of clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 11016, de novo; H.R. 3035, de novo; and H.R. 11070, de novo.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

RENEGOTIATION ACT EXTENSION

The **SPEAKER**. The unfinished business is the question of suspending the rules and passing the bill H.R. 11016.

The Clerk read the title of the bill.

The **SPEAKER**. The question is on the motion offered by the gentleman from New Jersey (Mr. **MINISH**) that the House suspend the rules and pass the bill H.R. 11016.

The question was taken.

Mr. **MILLER** of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 395, nays 5, not voting 34, as follows:

[Roll No. 779]

YEAS—395

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—5

Collins, Tex.
Crane
McDonald
Steiger, Ariz.
Symms

NOT VOTING—34

Andrews, N.C.
Bell
Burke, Fla.
Burton, John
Collins, Ill.
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Goldwater
Guyer
Hébert
Heckler, Mass.
Hinshaw
Hungate
Jarman
Jenrette
Jones, Tenn.
Metcalfe
Mikva
Nolan
Pickle
Riegle
Rodino
Russo
St Germain
Simon
Staggers
Stephens
Symington
Thompson
Waxman
Wydler

The Clerk announced the following pairs:

Mr. Hébert with Mr. Andrews of North Carolina.

Mr. Thompson with Mr. Ford of Michigan.

Mr. Waxman with Mr. Goldwater.

Mr. Symington with Mr. Metcalfe.

Mr. St Germain with Mrs. Heckler of Massachusetts.

Mr. Russo with Mr. Burke of Florida.

Mr. Staggers with Mr. Wydler.

Mr. Rodino with Mr. Guyer.

Mr. Jenrette with Mr. Simon.

Mr. Foley with Mr. Hinshaw.

Mr. John L. Burton with Mr. Jarman.

Mr. Flowers with Mr. Nolan.

Mr. Fraser with Mr. Jones of Tennessee.

Mr. Hungate with Mr. Riegle.

Mr. Mikva with Mr. Stephens.

Mr. Pickle with Mrs. Collins of Illinois.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

EARNINGS ON TAX AND LOAN ACCOUNTS

The **SPEAKER**. The unfinished business is the question of suspending the rules and passing the bill (H.R. 3035), as amended.

The Clerk read the title of the bill.

The **SPEAKER**. The question is on the motion offered by the gentleman from Texas (Mr. PATMAN) that the House suspend the rules and pass the bill H.R. 3035, as amended.

The question was taken.

Mr. **MILLER** of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 391, nays 0, answered "present" 4, not voting 39, as follows:

[Roll No. 780]

YEAS—391

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

ANSWERED "PRESENT"—4

O'Brien
Quillen
Shipley
Winn

NOT VOTING—39

Andrews, N.C.
Beard, R.I.
Bell
Burke, Fla.
Burton, John
Clausen, Don H.
Collins, Ill.
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Guyer
Hébert
Hinshaw
Hungate
Jarman
Jenrette
Jones, Tenn.
Ketchum
Litton
Metcalfe
Mikva
Nichols
Nolan
Pickle
Riegle
Risenhoover
Rodino
Russo
St Germain
Simon
Staggers
Stephens
Symington
Teague
Thompson
Waxman
Wydler

The **Clerk** announced the following pairs:

Mr. Thompson with Mr. Stephens.
Mr. Hébert with Mr. Bell.
Mr. Teague with Mr. Guyer.
Mr. Ford of Michigan with Mr. Don H. Clausen.
Mr. Foley with Mr. Fraser.
Mr. Nichols with Mr. Hinshaw.
Mr. Nolan with Mr. Jarman.
Mr. Waxman with Mr. Hungate.
Mr. St Germain with Mr. Mikva.
Mr. Rodino with Mr. Burke of Florida.
Mr. Russo with Mr. Ketchum.
Mr. John L. Burton with Mr. Pickle.
Mrs. Collins of Illinois with Mr. Beard of Rhode Island.
Mr. Flowers with Mr. Riegle.
Mr. Jenrette with Mr. Risenhoover.
Mr. Litton with Mr. Simon.
Mr. Metcalfe with Mr. Andrews of North Carolina.
Mr. Staggers with Mr. Wydler.
Mr. Symington with Mr. Jones of Tennessee.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SPORTS BROADCASTING ACT OF 1975

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 11070, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. MACDONALD) that the House suspend the rules and pass the bill, H.R. 11070, as amended.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 40, not voting 31, as follows:

[Roll No. 781]

YEAS—363

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell

Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Ford, Tenn.
Forsythe
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCollister
McCormack
McDade
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ryan
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
White
Whitehurst
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—40

Abdnor
Armstrong
Beard, Tenn.
Burleson, Tex.
Collins, Tex.
Conlan
Crane
Davis
Duncan, Tenn.
Flynt
Fountain
Goldwater
Hansen
Hicks
Kemp
Krueger
Landrum
McClory
McDonald
McEwen
Mathis
Milford
Moorhead, Calif.
Murtha
Poage
Rhodes
Roberts
Rousselot
Satterfield
Snyder
Spence
Stanton, J. William
Steiger, Ariz.
Stuckey
Symms
Talcott
Treen
Whalen
Whitten
Wilson, Bob

NOT VOTING—31

Andrews, N.C.
Bell
Burke, Fla.
Burton, John
Clausen, Don H.
Collins, Ill.
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Guyer
Hébert
Hinshaw
Hungate
Jarman
Jenrette
Jones, Tenn.
Metcalfe
Mikva
Pickle
Riegle
Rodino
Russo
St Germain
Simon
Stephens
Symington
Thompson
Waxman
Wydler

The Clerk announced the following pairs:

Mr. Thompson with Mr. Andrews of North Carolina.

Mr. Hébert with Mr. Burke of Florida.

Mr. Ford of Michigan with Mr. Fraser.

Mr. Riegle with Mr. Bell.

Mr. Pickle with Mr. Jarman.

Mr. Mikva with Mr. Guyer.

Mr. Foley with Mr. Simon.

Mr. Flowers with Mr. Don H. Clausen.

Mrs. Collins of Illinois with Mr. St Germain.

Mr. John L. Burton with Mr. Jones of Tennessee.

Mr. Jenrette with Mr. Metcalfe.

Mr. Hungate with Mr. Stephens.

Mr. Waxman with Mr. Wydler.

Mr. Russo with Mr. Symington.

Mr. Rodino with Mr. Hinshaw.

Messrs. GRASSLEY, DEVINE, and ASHBROOK changed their votes from "nay" to "yea."

Messrs. POAGE, ROBERTS, WHITTEN, and BURLESON of Texas changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MACDONALD of Massachusetts. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2554) to amend Public Law 93–107 with regard to the broadcasting of certain professional sports clubs' games.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of Public Law 93–107 (87 Stat. 351) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1978".

Sec. 2. Section 331 of the Communications Act of 1934 (47 U.S.C. 331), as added by Public Law 93–107 (87 Stat. 350), is amended by—

(1) amending subsection (a) thereof in the first sentence thereof by inserting after "sports club" and before "is to be" the following: ", other than a postseason game of a professional baseball, basketball, or hockey club,";

(2) amending subsection (a) thereof by inserting at the end of the first sentence thereof the following new sentence: "If any postseason game of a professional baseball, basketball, or hockey club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which are available for purchase by the general public have been purchased twenty-four hours or more before the scheduled beginning time of such game, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect.";

(3) amending subsection (c) thereof by inserting at the end thereof the following new paragraph:

"(5) The term 'postseason game' means any game which is played by a professional sports club (A) after the conclusion of such club's regular season, and (B) in order to determine or in the course of determining the championship of the sport in which such club is engaged."; and

(4) amending subsection (d) thereof in the first sentence thereof by striking out "April 15" and inserting in lieu thereof "June 15".

MOTION OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. MACDONALD of Massachusetts. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Macdonald of Massachusetts moves to strike out all after the enacting clause of S. 2554 and insert in lieu thereof the provisions of the bill H.R. 11070, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11070) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2554, TO AMEND COMMUNICATIONS ACT OF 1935 WITH REGARD TO BROADCASTING OF CERTAIN PROFESSIONAL SPORTS CLUBS' GAMES

Mr. MACDONALD of Massachusetts. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill S. 2554, to amend the Communications Act of 1935 with regard to broadcasting of certain professional sports clubs' games, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and appoints the following conferees: Messrs. Staggers, Macdonald of Massachusetts, Murphy of New York, Carney, Byron, Frey, and Madigan.

CONFERENCE REPORT ON H.R. 4073 TO EXTEND REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1975 FOR AN ADDITIONAL 2-FISCAL-YEAR PERIOD

Mr. JONES of Alabama submitted the following conference report and statement on the bill (H.R. 4073) Regional Development Act Amendments of 1975:

Conference Report (H. Rept. No. 94–727)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional two-fiscal-year period, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Regional Development Act of 1975".

TITLE I

Sec. 101. This title may be cited as the "Appalachian Regional Development Act Amendments of 1975".

Sec. 102. Section 2 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 2) is amended by inserting "(a)" after "Sec. 2." and adding the following new subsection:

"(b) The Congress further finds and declares that while substantial progress has been made toward achieving the foregoing purposes, especially with respect to the provision of essential public facilities, much remains to be accomplished, especially with respect to the provision of essential health, education, and other public services. The Congress recognizes that changes and evolving national purposes in the decade since 1965 affect not only the Appalachian region, but also its relationship to a nation now assigning higher priority to conservation and the quality of life, values long cherished within the region. Appalachia now has the opportunity, in accommodating future growth and development, to demonstrate local leadership and coordinated planning so that housing, public services, transportation and other community facilities will be provided in a way congenial to the traditions and beauty of the region and compatible with conservation values and an enhanced quality of life for the people of the region. The Congress recognizes also that fundamental changes are occurring in national energy requirements and production, which not only risk short-term dislocations but will undoubtedly result in major long-term effects in the region. It is essential that the opportunities for expanded energy production be used so as to maximize the social and economic benefits and minimize social and environmental costs to the region and its people. It is, therefore, also the purpose of this Act to provide a framework for coordinating Federal, State and local efforts toward (1) anticipating the effects of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize the social and economic benefits and minimize social and environmental costs, and (3) implementing programs and projects carried out in the region by Federal, State, and local governmental agencies so as to better meet the special problems generated in the region by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.".

Sec. 103. Section 101 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 101) is amended as follows:

(1) The third sentence of subsection (a) is amended to read as follows: "Each State member shall be the Governor.".

(2) The last sentence of subsection (a) is amended by striking the period and inserting the following: "for a term of not less than one year.".

(3) Subsection (b) is amended by adding the following: "No decision involving Commission policy, approval of State, regional or subregional development plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, or any allocation of funds among the States may be made without a quorum of State members present. The approval of project and grant proposals shall be a responsibility of the Commission and exercised in accordance with section 303 of this Act.".

(4) The first sentence of subsection (c) is amended to read as follows: "Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personnal staff.".

(5) Subsection (c) is amended by adding at the end thereof the following: "A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present. No Commission powers or responsibilities specified in the last two sentences of subsection (b) of this section, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings."

Sec. 104. Subsection (d) of section 101 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 101) is amended to read as follows:

"(d) The Federal Cochairman shall be compensated by the Federal Government at level III of the Executive Schedule in subchapter II of chapter 53 of title V. United States Code. His alternate shall be compensated by the Federal Government at level V of such Executive Schedule, and when not actively serving as an alternate for the Federal Cochairman, shall perform such functions and duties as are delegated to him by the Federal Cochairman. Each State member and his alternate shall be compensated by the State which they represent at the rate established by law of such State.".

Sec. 105. Section 102 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 102) is amended by inserting "(a)" after "Sec. 102." and adding the following new subsection:

"(b) In carrying out its functions under this section, the Commission shall identify the characteristics of, and may distinguish between the needs and goals of appropriate subregional areas, including central, northern, and southern Appalachia."

Sec. 106. Section 105(b) of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 105) is amended by adding at the end thereof the following new sentence: "To carry out this section there is hereby authorized to be appropriated to the Commission, to be available until expended, not to exceed $4,600,000 for the period beginning July 1, 1975, and ending September 30, 1977 (of such amount not to exceed $800,000 shall be available for expenses of the Federal cochairman, his alternate and his staff), and not to exceed $5,000,000 for the two-fiscal-year period ending September 30, 1979 (of such amount not to exceed $900,000 shall be available for expenses of the Federal cochairman, his aternate and his staff).".

Sec. 107. Paragraph (7) of section 106 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 106) is amended by striking out "June 30, 1975" and inserting in lieu thereof, "September 30, 1979".

Sec. 108. Paragraph (2) of section 106 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 106) is amended by inserting after the first sentence the following: "The executive functions of the Commission, for direction of the Commission staff, and for such other duties as the Commission may assign.".

Sec. 109. Section 107 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 107) is amended by inserting "(a) after "Sec. 107." and adding the following new subsection:

"(b) Public participation in the development, revision, and implementation of all plans and programs under this Act by the Commission, any State or any local development district shall be provided for, encouraged, and assisted. The Commission shall develop and publish regulations specifying minimum guidelines for such public participation, including public hearings.".

Sec. 110. Section 201 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 201) is amended as follows:

(1) The third sentence of subsection (a) is amended by striking "two thousand seven hundred miles" and inserting in lieu thereof "two thousand nine hundred miles"; and the fourth sentence of subsection (a) is amended by striking "one thousand six hundred miles" and inserting in lieu thereof "one thousand four hundred miles".

(2) Subsection (g) is amended by striking "and $180,000,000 for the fiscal year ending June 30, 1978." and inserting in lieu thereof $250,000,000 for fiscal year 1978; $300,000,000 for fiscal year 1979; $300,000,000 for fiscal year 1980; and $170,000,000 for fiscal year 1981.".

Sec. 111. Section 202 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 202) is amended as follows:

(1) The second sentence of subsection (a) is amended by (A) inserting after "not operated for profit" the phrase ", or previously operated for profit where the acquisition of such facilities is the most cost-effective means for providing increased health services if the Commission finds that but for the acquisition of such facility such health services would not be otherwise provided in the area served by such facility,", and (B) inserting after "made in accordance" the phrase "with section 223 of this Act and shall not be incompatible".

(2) The third sentence of subsection (c) of such section is amended by inserting "and title XX" after "title IV, parts A and B,".

Sec. 112. Section 205 of the Appalachian Regional Development Act of 1965 (40 App. U.S.S. 205) is amended as follows:

(1) The first sentence of subsection (a)(1) is amended by striking "and to control and abate mine drainage pollution." and inserting in lieu thereof "to control and abate mine draining pollution; and for planning or engineering for any such activities.".

(2) The first sentence of subsection (a)(2) is amended by inserting "planning, engineering, or" after "projects for".

(3) The second sentence of subsection (b) of such section is amended by inserting "(including, but not limited to, sand, clay, stone, culm, rock, spoil bank and noncombustible materials)" after "materials",

(4) Subsection (c) is amended to read as follows:

"(c) Whenever a State, local government, or other nonprofit applicant agrees to indemnify the Federal Government, or its officers, agents, or employees, for all claims of loss or damage resulting from the use and occupation of lands for a project assisted under this section, the Secretary may waive all requirements for the submission of releases, consents, waivers, or similar instruments respecting such lands, but the Secretary may require security as he deems appropriate for any such indemnification agreement.".

(5) Subsection (d) is amended to read as follows:

"(d) No moneys authorized by this Act shall be expended for the purposes of reclaiming, improving, grading, seeding, or reforestation of strip-mined areas, except on lands owned by Federal, State, or local government bodies or by private nonprofit entities organized under State law to be used for public recreation, conservation, community facilities, or public housing.".

Sec. 113. Section 207 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 207) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of low- and moderate-income families and individuals, the Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') is authorized to make grants and loans from the Appalachian Housing Fund established by this section, under such terms and conditions as he may prescribe, to nonprofit, limited dividend, or cooperative organizations, and public bodies, for planning and obtaining federally insured mortgage financing or other financial assistance for housing construction or rehabilitation projects for low- and moderate-income families and individuals, under section 221 of the National Housing Act, section 8 of the United States Housing Act of 1937, section 515 of the Housing Act of 1949, or any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal or State government, in any area of the Appalachian region determined by the Commission."

(2) Subsection (c)(2) is amended to read as follows:

"(2) The Secretary is authorized to make grants and commitments for grants, and may advance funds under such terms and conditions as he may require, to nonprofit, limited dividend, or cooperative organizations and public bodies for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, whenever such a grant, commitment, or advance is essential to the economic feasibility of any housing construction or rehabilitation project for low- and moderate-income families and individuals which otherwise meets the requirements for assistance under this section, except that no such grant for the construction of housing, shall exceed 10 per centum of the cost of such project, and no such grant for the rehabilitation of housing shall exceed 10 per centum of the reasonable value of such rehabilitation housing, as determined by the Secretary.".

(3) Subsection (e) is amended by inserting before the period at the end, the following: "and may provide funds to the States for making grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the Secretary is authorized to provide funds under this section".

(4) By adding the following new subsection (f):

"(f) Programs and projects assisted under this section shall be subject to the provisions cited in section 402 of the Act, notwithstanding such section, to the extent provided in the laws authorizing assistance for low- and moderate-income housing.".

SEC. 114. Section 211 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 214) is amended as follows:

(1) The first sentence of subsection (b)(1) is amended by striking out everything after "operating" and inserting in lieu thereof, "education projects which will serve to demonstrate areawide education planning, services, and programs, with special emphasis on vocational and technical education, career education, cooperative and recurrent education, guidance and counseling. Projects shall be selected with the involvement of all sectors of the community, including industry and labor.".

(2) Subsection (b)(2) is amended by striking out "a vocational and technical" and inserting in lieu thereof, "an".

(3)(a) The first and third sentences of subsection (b)(3) are amended by striking out "vocational and technical".

(b) The fourth sentence of subsection (b)(3) is amended by striking out "a vocational and technical" and inserting in lieu thereof, "an".

(4) Subsection (b)(4) is amended by striking out "a vocational and technical" and inserting in lieu thereof, "an".

(5) Subsection (b)(5) is amended to read as follows:

"(5) No grant for planning, construction, equipment, or operation of an education demonstration project shall be made unless the facility is publicly owned, but this shall not be deemed to preclude training or on-the-job employment activities away from such facility if the project is administered through a public body.".

SEC. 115. Section 214 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 214) is amended as follows:

(1) The first sentence of subsection (a) of such section is amended by inserting after "projects", where it first appears in such subsection, "or activities (hereinafter referred to as projects)".

(2) The first sentence of subsection (c) of such section is amended to read as follows: "The term 'Federal grant-in-aid programs' as used in this section means those Federal grant-in-aid programs authorized on or before December 31, 1978, by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; title VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; titles I and IX of the Public Works and Economic Development Act of 1965; the housing repair program for homeowners authorized by section 1319 of title 42, United States Code; grants under the Indian Health Service Act (42 Stat. 208); and title I of the Housing and Community Development Act of 1974.".

SEC. 116. Clause (1) of section 223 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 223) is amended by striking "compatible" and inserting in lieu thereof "not incompatible". Clause (2) of section 223 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 223) is amended to read as follows: "(2) the Commission has approved such program or project and has determined that it meets the applicable criteria under section 224 of this Act and the requirements of the development planning process under section 225, and will contribute to the development of the region, which determination shall be controlling and which shall be accepted by the Federal agencies.".

SEC. 117. Section 224 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 224) is amended by adding at the end the following new subsection:

"(c) Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this Act.".

SEC. 118. There is inserted after section 224 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 224) a new section as follows:

"APPALACHIAN STATE DEVELOPMENT PLANNING PROCESS

"SEC. 225. (a) Pursuant to policies established by the Commission, each State member shall submit on such schedule as the Commission shall prescribe a development plan for the area of the State within the region. The State development plan shall reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan which may be approved for the subregion of which such State is a part. Such State development plan shall (1) describe the State organization and continuous process for Appalachian development planning, including the procedures established by the State for the participation of local development districts in such process, the means by which such process is related to overall statewide planning and budgeting processes, and the method of coordinating planning and projects in the region under this Act, the Public Works and Economic Development Act of 1965, and other Federal, State, and local programs; (2) set forth the goals, objectives, and priorities of the State for the region, as determined by the Governor, and identify the needs on which such goals, objectives, and priorities are based; and (3) describe the development program for achieving such goals, objectives, and priorities, including funding sources, and recommendations for specific projects to receive assistance under this Act.

"(b)(1) Local development districts certified by the State under section 301 of this Act provide the linkage between State and substate planning and development. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local development districts, local units of government, and citizen groups and take into consideration the goals, objectives, priorities, and recommendations of such bodies. The districts shall assist the States in the coordination of areawide programs and projects, and may prepare and adopt areawide plans or action programs.

"(2) The Commission shall encourage the preparation and execution of areawide action programs which specify interrelated projects and schedules of actions together with the necessary agency fundings and other commitments to implement such programs. Such programs shall make appropriate use of existing plans affecting the area.

"(c) To the maximum extent practicable, Federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs or projects in the region shall (1) take into account the policies, goals, and objectives established by the Commission and its member States pursuant to this Act; (2) recognize Appalachian State development programs approved by the Commission as satisfying requirements for overall economic development planning under such programs or projects; and (3) accept the boundaries and organization of any local development district certified under this Act which the Governor may designate as the areawide agency required under any such program undertaken or assisted by such Federal departments, agencies, and instrumentalities."

SEC. 119. Section 302 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 302) is amended as follows:

(1) Subsection (a)(1) is amended by striking "including technical services," and inserting in lieu thereof "including the development of areawide plans or action programs and technical assistance activities,".

(2) Subsection (a) is amended by striking "and" after paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting the following new paragraph:

"(2) to make grants to the Commission for assistance to States for a period not in excess of two years to strengthen the State development planning process for the region and the coordination of State planning under this Act, the Public Works and Economic Development Act of 1965, as amended, and other Federal and State programs; and".

(3) Subsection (b) is amended to read as follows:

"(b)(1) Notwithstanding the provisions of section 224(b)(2), (3), or (4), the Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region. No more than $3,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year, and no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.

"(2) In carrying out the purposes of this Act, including section 2(b), and in implementing this section, the Federal Energy Administration, the Energy Research and Development Administration, the Environmental Protection Agency, and other Federal agencies shall cooperate with the Commission and shall provide such assistance as the Federal Cochairman may request.

"(3) The Commission shall conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian migrants. The Commission is authorized to conduct pilot projects and demonstrations within the region in connection with such study.

"(4) The Commission shall conduct a study of physical hazards which are constraints on land use in the Appalachian region (with emphasis on mudslides, landslides, sink holes, and subsidence) and the risks associated with such hazards. To the extent practicable, such study shall identify high-risk hazard areas throughout the Appalachian region. The Commission shall submit its report on such study, together with recommendations for means to remove or avoid such constraints on land use, to the Congress not later than twenty-four months after the enactment of this paragraph.".

Sec. 120. Section 303 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 303) is amended to read as follows:

"APPROVAL OF DEVELOPMENT PLANS, INVESTMENT PROGRAMS, AND PROJECTS

"Sec. 303. State and Regional Development Plans and implementing investment programs, and any multistate subregional plans which may be developed, shall be annually reviewed and approved by the Commission in accordance with section 101(b) of this Act. An application for a grant or for any other assistance for a specific project under this Act shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate the application for approval. Only applications for grants or other assistance for specific projects shall be approved which are certified by the State member and determined by the Federal Cochairman to implement the Commission-approved State development plan; to be included in the Commission-approved implementing investment program; to have adequate assurance that the project will be properly administered, operated, and maintained; and to otherwise meet the requirements for assistance under this Act. After the approval of the appropriate State development plan and implementing investment program, certification by a State member of an application for a grant or other assistance for a specific project pursuant to this section shall, when joined by an affirmative vote of the Federal Cochairman for such project, be deemed to satisfy the requirements for affirmative votes for decisions under section 101(b) of this Act.".

Sec. 121. Section 401 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 401) is amended by adding at the end thereof the following new sentence: "In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system, and local access roads, there is authorized to be appropriated to the President, to be available until expended, to carry out this Act, $340,000,000 for the period beginning July 1, 1975, and ending September 30, 1977, and $300,000,000 for the two-fiscal year period ending September 30, 1979.".

Sec. 122. (a) Section 405 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 405) is amended by striking "July 1, 1975" and inserting in lieu thereof, "October 1, 1979".

(b) The Appalachian Regional Commission shall submit to Congress by July 1, 1977, a report on the progress being made on implementing section 2(b) of the Appalachian Regional Development Act of 1965, the energy related enterprise development demonstration authority in section 302 of such Act, and other amendments made by this title.

Sec. 123. Section 104 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is repealed.

Sec. 124. To the extent that any section of this title provides new or increased authority to enter into contracts under section 201 of the Appalachian Regional Development Act of 1965, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriation acts.

TITLE II

Sec. 201. This title may be cited as the "Regional Action Planning Commission Improvement Act of 1975".

Sec. 202. Section 509(d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188(a)), as amended, is amended, to read as follows:

"(d)(1) There are authorized to be appropriated to the Secretary to carry out this title, for the two-fiscal-year period ending June 30, 1971, to be available until expended, not to exceed $225,000,000; and for the two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000; for the fiscal year ending June 30, 1974, to be available until expended, $95,000,000; for the fiscal year ending June 30, 1975, to be available until expended, $150,000,000; for the fiscal year ending June 30, 1976, to be available until expended, $200,000,000; for the transition quarter ending September 30, 1976, to be available until expended, $50,000,000; and for the fiscal year ending September 30, 1977, to be available until expended, $250,000,000. After deducting such amounts as are authorized to carry out subsections (a)(1) and (b) of section 505, the Secretary shall apportion the remainder of the sums appropriated under this authorization for any fiscal year among the regional commissions which have been established for more than two fiscal years.

"(2) There are authorized to be appropriated to the Secretary as are necessary for the management and authorized activities under this title of any new commissions for their first two full fiscal years, for the fiscal year ending June 30, 1976, to be available until expended, not to exceed $5,000,000; for the transition quarter ending September 30, 1976, to be available until expended, not to exceed $1,250,000; and for the fiscal year ending September 30, 1977, to be available until expended, not to exceed $5,000,000."

Sec. 203. Section 513 of the Public Works and Economic Development Act of 1965, as amended, is amended, to read as follows:

"REGIONAL TRANSPORTATION

"Sec. 513. (a) Each regional commission, with the assistance of the Secretary of Transportation, is authorized to conduct and facilitate full and complete investigations and studies of the transportation needs of economic development regions established under this title. Such studies and investigations should analyze the effectiveness of regional transportation systems for meeting the purposes of this Act. The information gathered from these studies and investigations should determine the types of transportation facilities needed in the region and be of value in planning for such transportation facilities.

"(b) Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the planning of regional transportation networks and to make grants for the construction, purchase of equipment, and operation (including payment of operating deficits) for transportation demonstration projects. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this title and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

"(c) No grant for the construction or equipment for any component of a demonstration transportation project shall exceed 80 per centum of such cost. The Federal contribution may be provided entirely from funds authorized under this section or in combination with funds authorized under other Federal grant-in-aid programs for the construction of transportation facilities. Notwithstanding any other provision of law, funds authorized under this section may be used to increase the Federal share of any such project to 80 per centum of the cost of such facilities.

"(d) Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 509 of this title shall be expended in any one fiscal year for the purpose of carrying out this section.".

Sec. 204. Title V of the Public Works and Economic Development Act of 1965, as amended, is amended by adding the following new section at the end thereof:

"ENERGY DEMONSTRATION PROJECTS AND PROGRAMS

"Sec. 515. (a) Fundamental changes are occurring in national energy requirements and production which could result in short-term dislocation and result in major long-term effects on various regions of the country. Expanded energy production opportunities must maximize social and economic benefits while minimizing social and environmental costs to the regions experiencing increased energy development. In some regions, impacted by limited, energy resources, severe problems disruptive of regional economies could result. The programs of the regional commissions provide an excellent framework for coordinating Federal, State, and local efforts toward (1) anticipating the effects of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize social and economic benefits and minimize the social and environmenal costs, and (3) implementing programs and projects carried out in the regions by Federal, State, or local government agencies so as to better meet the special problems generated in the regions by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.

"(b) Each regional commission is authorized to carry out energy-related demonstration projects and programs within its regions including programs and projects addressing the social, economic, and environmental impact of energy development, requirements, and utilization. Grants shall be made only to those projects which are developed through regional planning designed to identify the effects of regional resource development, requirements, utilization, and impact. Each regional commission is authorized to carry out demonstration projects within its region in connection with the development and stimulation of indigenous arts and crafts of the region.

"(c) Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 509 of this title shall be expended in any one fiscal year for the purpose of carrying out the energy-related provisions of this section, and not to exceed $2,500,000 of such funds shall be expended in any one fiscal year for indigenous arts and crafts demonstrations.".

SEC. 205. Title V of such Act is further amended by adding the following new section at the end thereof:

"HEALTH AND NUTRITION DEMONSTRATION PROJECTS

"SEC. 516. (a) In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health, Education, and Welfare is authorized to make grants for the planning, construction, equipment, and operation of multicounty demonstration health, and nutrition projects including hospitals, regional health diagnostic and treatment centers, and other facilities and services necessary for the purpose of this section. Grants for such construction (including the acquisition of privately owned facilities not operated for profit or previously operated for profit where the acquisition of such facilities is the most cost effective means for providing increased health services, and initial equipment) shall be made after applications and plans relating to the program or project have been determined by the responsible Federal official to be compatible with the provisions and objectives of Federal laws which he administers that are not inconsistent with this title, and the regional commission has approved such program or project and determined that it will contribute to the development of the region, and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291–291o), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this title and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provision of law.

"(b) No grant for the construction or equipment of any component of a demonstration health project shall exceed 80 per centum of such costs. The Federal contribution may be provided entirely from funds authorized under this title or in combination with funds provided under other Federal grant-in-aid programs for the construction or equipment of health-related facilities. Notwithstanding any provision of law limiting the Federal share in such other programs, funds authorized under this title may be used to increase Federal grants for component facilities of a demonstration health project to a maximum of 80 per centum of the costs of such facilities.

"(c) Grants under this section for operation (including initial operating funds and operating deficits comprising among other items the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with funds authorized by this title, may be made for up to 100 per centum of the costs thereof for the two-year period beginning, for each component facility or service assisted under any such operating grant, on the first day that such facility or service is in operation as a part of the project, or the next three years of operation such grants shall not exceed 75 per centum of such costs. The Federal contributions may be provided entirely from funds appropriated to carry out this title or in combination with funds provided under other Federal grant-in-aid programs for the operation of health related facilities and the provision of health services, including title IV, parts A and B, and title XX of the Social Security Act. Notwithstanding any provision of the Social Security Act requiring assistance or services on a statewide basis, if a State provides assistance or services under such a program in any area of the region approached by the regional commission, such State shall be considered as meeting such requirement. Notwithstanding any provision of law limiting the Federal share in such other programs, funds appropriated to carry out this section may be used to increase Federal grants for operating components of a demonstration health project to the maximum percentage cost thereof authorized by this subsection. No grant for operation of a demonstration health project shall be made unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit. No grants for operation of a demonstration health project shall be made after five years following the commencement of the initial grant for operation of the project. No such grants shall be made unless the Secretary of Health, Education, and Welfare is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits. A health-related facility constructed under title I of this Act may be a component of a demonstration health project eligible for operating grant assistance under this section.".

SEC. 206. Title V of such Act is further amended by inserting at the end thereof the following new section:

"EDUCATION DEMONSTRATION PROJECTS

"SEC. 517. (a) In order to assist in the expansion and improvement of educational opportunities and services for the people of the region, the Secretary of the Department of Health, Education, and Welfare is authorized to make grants for planning, construction, equipping, and operating vocational and technical educational projects which will serve to demonstrate areawide educational planning, services, and programs. Grants under this section shall be made solely out of funds specifically appropriated for the purposes of this title and shall not be taken into account in any computation of allotments among the States pursuant to any other law.

"(b) No grant for the construction or equipment of any component of a vocational and technical education demonstration project shall exceed 80 per centum of its costs.

"(c) Grants under this section for operation of components of vocational and technical educational demonstration projects, whether or not constructed by funds authorized by this title, may be made for up to 100 per centum of the costs thereof for the two-year period beginning on the first day that such component is in operation as a part of the project. For the next three years of operation, such grants shall not exceed 75 per centum of such costs. No grants for operation of vocational and technical education demonstration projects shall be made after five years following the commencement of the initial grant for operation of the project. An education-related facility constructed under title I of this Act may be a component of a vocational and technical education demonstration project eligible for operating grant assistance under this section.

"(d) No grant for expenses of planning necessary for the development and operation of a vocational and technical education demonstration project shall exceed 75 per centum of such expenses.

"(e) No grant for planning, construction, operation, or equipment of a vocational and technical education demonstration project shall be made unless the facility is publicly owned.

"(f) Any Federal contribution referred to in this section may be provided entirely from funds appropriated to carry out this section, or in combination with funds available under other Federal grant-in-aid programs providing assistance for education-related facilities or services Notwithstanding any provision of law limiting the Federal share in such programs, funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost thereof authorized by the applicable paragraph of this subsection.".

SEC. 207. Each regional commission established pursuant to title V of the Public Works and Economic Development Act of 1965 shall submit to the Committees on Public Works of the Senate and House of Representatives within one hundred and twenty days after enactment of this Act the Regional Economic Development Plan required under section 503(a)(2) of the Public Works and Economic Development Act of 1965.

SEC. 208. (a) The second and third sentences of section 502(b) of the Public Works and Economic Development Act of 1965 are amended to read as follows: "Each State member shall be the Governor. The State members of the commission shall elect a cochairman of the commission from among their number for a term of not less than one year."

(b) Section 502(c) of the Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new sentence: "No decision involving commission policy, approval of regional development plan, implementing investment programs, or allocating funds among the States may be made without a quorum of State members present.".

(c) The first sentence of section 502(d) of the Public Works and Economic Development Act of 1965 is amended to read as follows: "Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff.".

(d) Such section 502(d) is further amended by adding at the end thereof the following new sentences: "A State alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the State members is required to be present. No commission power or responsibility specified in the last sentence of subsection (c) of this section, nor the vote of any commission member, may be delegated to any person not a commission member or who is not entitled to vote in commission meetings.".

SEC. 209. (a) Section 501(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3181), as amended, is amended by inserting "and the Commonwealth of Puerto Rico and the Virgin Islands and the States of California and Texas" after "with the exception of Alaska and Hawaii,".

(b) Section 502(f) of such Act of 1965 (42 U.S.C. 3182) is amended by inserting after "Hawaii" the following "or the State of California or the State of Texas", and by striking out "either" and inserting in lieu thereof "any such".

(c) It is the intent of Congress that the Secretary of Commerce acting under authority of title V of the Public Works and Economic Development Act of 1965 should invite and encourage the formation of a regional commission for the region along the border with Mexico in the States of Texas, New Mexico, Arizona, and California.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title and agree to the same.

ROBERT E. JONES,
JIM WRIGHT,
HAROLD T. JOHNSON,
ROBERT A. ROE,
W. H. HARSHA,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
ROBERT MORGAN,
HOWARD H. BAKER,
ROBERT T. STAFFORD,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional two-fiscal-year period, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

Short title

House Bill

The short title of the House bill provides the legislation may be cited as the "Appalachian Regional Development Amendments of 1975."

Senate Amendment

Provides the Act may be cited as the "Regional Development Act of 1975".

Section 101 provides title I may be cited as the "Appalachian Regional Development Act Amendments of 1975."

Conference Substitute

Identical to Senate amendment as to the Act and to both House and Senate provisions as to the title.

Extension of commission expense authorization

House Bill

Section 2 extends the authorization for expenses of the Appalachian Regional Commission not to exceed $4 million for the period beginning July 1, 1975 and ending September 30, 1977. No more than $750,000 of this amount is to be available for expenses of Federal Cochairman, his alternate and his staff. In addition, $4 million is authorized for the two-fiscal-year period ending September 30, 1979. Of this amount, not more than $750,000 is to be available for expenses of the Federal Cochairman, his alternate, and his staff.

Senate Amendment

Section 106 of the bill increases to $4,600,000 the authorizations for the period July 1, 1975, to September 1, 1977, for the Commission's administrative expenses, sufficient to cover pay and other cost increases, and would include a limitation of $800,000 for expenses of the Federal Cochairman, his alternate, and staff.

Conference Substitute

Extends these authorizations for four years with $4,600,000 for the period July 1, 1975 through September 30, 1977 and $5,000,000 for the next two-fiscal-year period. Not more than $800,000 in the first period is available for the expenses of the Federal Cochairman, his alternate, and his staff and not more than $900,000 for that purpose in the second period.

OFFICE SPACE RENTAL

House Bill

Extends the authority of the Commission to rent office space through September 30, 1979.

Senate Amendment

Extends the authority of the Commission to rent office space through September 30, 1977.

Conference Substitute

Same as the House provision.

Highway system authorization extension

House Bill

Increases highway authorizations from $185,000,000 for fiscal year 1977 and $180,000,000 for fiscal year 1978 to $300,000,000 for the period beginning July 1, 1976, and ending September 30, 1977, and $300,000,000 per year for fiscal years 1978, 1979, and 1980.

Senate Amendment

Increases highway authorizations from $180,000,000 for fiscal year 1978 to $250,000,000 for that fiscal year and $300,000,000 for fiscal year 1979, $300,000,000 for fiscal year 1980, and $170,000,000 for fiscal year 1981.

Conference Substitute

Same as the Senate amendment.

Extension of authorizations for other programs

House Bill

Authorizes $340,000,000 for the period July 1, 1975 through September 30, 1977, and $300,000,000 for the two-fiscal-year period ending September 30, 1979 for programs other than the highway program.

Senate Amendment

Authorizing $267,000,000 for the two-fiscal-year period ending September 30, 1977 for programs other than the highway program.

Conference Substitute

Same as the House provision.

Termination date

House Bill

Extends the termination date of the Act (other than the highway program) to October 1, 1979.

Senate Amendment

Extends the termination date of the Act (other than the highway program) to October 1, 1977.

Conference substitute

Same as the House provision, except that the Appalachian Regional Commission is directed to submit to the Congress by July 1, 1977, a report on the progress being made in implementing section 2(b) of the Appalachian Regional Development Act, the energy-related entrprise edvelopmnt demonstration authority in section 302 of such Act, and other amendments made by this title.

Statement of purpose

House bill

No comparable provision.

Senate Amendment

Amends the statement of purpose of the Act recognizing current problems, particularly changes occurring in national energy requirements and production which affect the region, to establish the purpose of coordinating Federal, State, and local efforts toward (1) anticipating the effects on the region of alternative national energy policies and practices, (2) planning for the growth and change generated through the accelerated coal development so that it will further the social and environmental well-being of the region, and (3) implementing the activities of Federal, State and local governments in the region to better meet the special problems generated in the region through national energy policies.

Conference substitute

Same as the Senate amendment.

Commission structure and operation

House Bill

No comparable provision.

Senate Amendment

Makes the following amendments dealing with Commission membership, voting, and administrative powers: (1) Only the Governor may be a State member of the Commission; (2) Each State member may have a single alternate appointed by the Governor from among the members of his cabinet or his personal staff; (3) No decision involving Commission policy, approval of State, Regional or subregional Development Plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, or any allocation of funds among the States, may be made without a quorum of State members present; (4) A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present; (5) The approval of project and grant proposals shall be a responsibility of the Commission exercised in accordance with section 303. No Commission powers or responsibilities, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings; and (6) The term of the State Cochairman shall be at least one year.

Conference Substitute

Same as the Senate amendment.

Compensation

House Bill

No comparable provision.

Senate Amendment

The amendment increases the rating of the Federal Cochairman from level IV to level III of the Executive Schedule and the Alternate Federal Cochairman from GS–18 to level V on the Executive Schedule.

Conference Substitute

Same as the Senate amendment.

Commission functions

House Bill

No comparable provision.

Senate Amendment

The amendment specifies that the identification of subregional characteristics, needs and goals should be undertaken by the Commission.

Conference Substitute

Same as the Senate amendment.

Executive director

House Bill

No comparable provision.

Senate Amendment

The amendment reaffirms that the executive director is the chief administrative officer of the Commission staff.

Conference Substitute

Same as the Senate amendment.

Public participation

House Bill

No comparable provision.

Senate Amendment

Section 107 of the Act is amended to require that public participation be provided for, encouraged, and assisted by the Commission, States, and local development districts.

Conference Substitute

Same as the Senate amendment.

Highway mileage revision

House Bill

No comparable provision.

Senate Amendment

The Senate amendment would authorize a 200-mile increase in developmental highway mileage, with a corresponding 200-mile decrease in local access roads, to provide corridors for a sector of the region which was not part of the Appalachian program when the original corridors were established.

Conference Substitute

Same as the Senate amendment.

Demonstration health projects

House Bill

No comparable provision.

Senate Amendment

Makes the following amendments to section 202: (1) To allow acquisition of facilities previously operated for profit where that is the most cost-effective way of providing increased health services, (2) to clarify that Commission determination on need for a project is controlling once HEW establishes compatibility with basic HEW legislative authority, and (3) to add reference to title XX of the Social Security Act, enacted since the 1971 Appalachian Act amendments.

Conference Substitute

Same as the Senate amendment with the additional requirement that acquisition of facilities previously operated for profit requires a finding by the commission that but for this acquisition the health services would not otherwise be provided in the area served by the facility.

Mining area restoration

House Bill

No comparable provision.

Senate Amendment

Amends section 205 of the Act relating to mine area restoration to allow separate grants for planning or engineering projects; to make cover materials eligible project costs; to allow waivers wherever a State, local government or other nonprofit applicant agrees to indemnify the Federal Government, for all claims of loss or damage resulting from the use and occupation of lands for projects assisted under section 205.

It also amends section 205 to allow reclamation on lands owned by private nonprofit entities for public recreation, conservation, community facilities and public housing.

Conference Substitute

Same as the Senate amendment.

Housing

House Bill

No comparable provision.

Senate Amendment

Amends section 207 of the Act to expand the types of housing programs which may be assisted with "seed money" grants or loans to include any Federal or State low- or moderate-income housing assistance program; to include limited dividend or cooperative organizations as eligible for assistance; to allow up to 10 percent of the value of rehabilitated housing for off-site improvements for housing rehabilitation projects; and to authorize funds for States to make similar assistance to that under section 207.

Conference Substitute

Same as the Senate amendment.

Vocational and technical education projects

House Bill

No comparable provision.

Senate Amendment

Amends section 211 of the Act to broaden the scope of areawide demonstration projects from strictly vocational and technical education projects to include projects for career education, cooperative and recurrent education, and guidance and counseling.

A second amendment makes clear that the present requirement for public ownership does not preclude training and on-the-job employment activities away from facilities of a demonstration project if the project is administered by a public body.

Conference Substitute

Same as the Senate amendment.

Supplementary grants

House Bill

No comparable provision.

Senate Amendment

Amends section 214 of the Act to include additional Federal grant-in-aid programs as eligible for supplementation. These include titles I and IX of the Public Works and Economic Development Act of 1965, as amended.

Conference Substitute

Same as the Senate amendment.

Program implementation

House Bill

No comparable provision.

Senate Amendment

Amends section 223 of the Act to require a determination that the program or project authorized under the title has been determined to be not incompatible with the provisions and objectives of Federal laws before implementation of that program or project and to require the Commission to determine it meets the requirements of sections 224 and 225 of the Act, which determination is to be controlling and accepted by Federal agencies.

Conference Substitute

Same as the provisions of the Senate amendment.

The Congress designed the Appalachian Regional Development Act of 1965 so that in many of the programs under the Act (such as those authorized in sections 202, 204, 205, 207, 211, and 214), the supplemental or special basic grant assistance approved by the Commission is subsequently extended to the grantee through the framework of Federal grant-in-aid programs administered by Federal departments and agencies. Section 116 of the Conference Report provides further clarification that the responsible Federal official shall review such grants only to determine that they are not incompatible with the provisions and objectives of the framework laws which he administers. In making this modification, however, it is intended that the Federal official administering the framework program through which the Appalachian Act assistance is provided, shall continue to discharge responsibility for assuring that such grants are not incompatible with other Federal laws such as, for example, the National Environmental Policy Act. Thus, the conferees intend, in such cases, that the department or agency responsible for the basic program would make such reviews and assessments as might be required by the National Environmental Policy Act.

Program criteria

House Bill

No comparable provision.

Senate Amendment

Amends section 224 of the Act by adding a new subsection which reemphasizes that programs and projects may be funded under this Act only if the Commission has determined that the funds will not diminish the level of effort by the State in its Appalachian counties in order to substitute funds authorized by this Act.

Conference Substitute

Same as the Senate amendment.

Planning process

House Bill

No comparable provision.

Senate Amendment

Amends the Act to add a new section 225 requiring a State Development Plan. These Plans are to (a) describe the State organization for Appalachian development planning, including the procedures established for the participation of local development districts in the process and the means for relating the process to State planning and budgeting and coordinating it with other Federal, State and local programs; (b) set forth the goals, objectives, and priorities of the State for the region; and (c) describe the development program for achieving the goals and objectives, including funding sources and recommendations for specific projects. Plans would be revised annually, and an implementing investment program would be submitted by each State.

Conference Substitute

Same as the Senate amendment.

Administrative expense grants and research and demonstrations

House Bill

No comparable provision.

Senate Amendment

Amends section 302 of the Act to provide assistance in preparing State development plans as well as specifying that grants for administrative expenses of local development districts may include costs for development of areawide plans or action programs and technical assistance activities.

It also authorizes a new, limited demonstration program in the area of energy-related enterprise development in subsection (b) of section 302. For purposes of the new demonstration authority, the restrictions in section 224(b) (2), (3) and (4) are waived which preclude the use of Commission funds for financing industrial facilities or working capital, or the cost of facilities for the generation, transmission, or distribution of electric energy or gas.

Another provision directs the Commission to conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian migrants. In carrying out this study, the Commission may undertake pilot projects and demonstrations within the region. A third provision also directs a study of physical hazards which are constraints on land use (with strong emphasis on mudslides, landslides, sink holes and subsidence) and the risks associated with these hazards. The study is to provide identification of high-risk hazard areas throughout the Appalachian Region.

Conference Substitute

Same as the Senate amendment with the additional authorization to the Commission to carry out demonstration projects, at not to exceed $2,500,000 per fiscal year, for development and stimulation of the indigenous arts and crafts of the region.

Approval of development plan, investment program, and projects

House Bill

No comparable provision.

Senate Amendment

The amendment rewrites section 303 of the Act to provide that State Development Plans, the Regional Development Plan, and implementing investment programs must be approved by the Commission as in accordance with the Regional Development Planning Process. Once a State Development Plan is approved, the submission and approval of a project by a State, when joined by an affirmative vote of the Federal Cochairman for such project, shall be deemed to satisfy the requirements for affirmative votes for decisions in section 101(b).

Conference Substitute

Same as the Senate amendment.

Repeal

House Bill

No comparable provision.

Senate Amendment

The amendment repeals section 104 of the Public Works and Economic Development Act of 1965, which now prevents cooperative funding of Appalachian Regional Commission and Economic Development Administration projects.

Conference Substitute

Same as the Senate amendment.

Limitations

Conference Substitute

Contains a provision limiting new or increased authority to enter into contracts under section 201 of the Appalachian Regional Development Act to only such amounts as are provided in appropriation Acts.

TITLE II

Short title

House Bill

No comparable provision.

Senate Amendment

Provides Title II may be cited as the "Regional Action Planning Commission Improvement Act of 1975".

Conference Substitute

Same as the Senate amendment.

Authorizations for commissions

House Bill

No comparable provision.

Senate Amendment

Amends Section 509(d) of the Public Works and Economic Development Act (hereinafter stated as Act) to increase the authorization to carry out the Title for the fiscal year 1976 from 150 to 200 million dollars and 50 million dollars for the transition quarter ending September 30, 1976. It authorizes 250 million dollars for the fiscal year 1977. After deducting the amounts required by the Secretary to carry out the administration and technical assistance, the Secretary is to apportion the remainder of sums appropriated to the existing seven Commissions based on the following formula:

14 percent on the basis of equality of the Seven Regional Commissions.

14 percent on land area.

28 percent on the basis of population.

44 percent on the basis of per capita income (weighted inversely).

All funds are to be apportioned prior to the end of the fiscal year.

Conference Substitute

Same as the Senate amendment except the formula for allocating appropriated funds to the regions is deleted. Funds authorized by the Senate amendment are to be allocated to the regional commissions which have been established for more than two fiscal years. An additional $5,000,000 for fiscal year 1976, $1,250,000 for the transition period, and $5,000,000 for fiscal year 1977 is authorized for the management and authorized activities of new commissions that may be established by the Secretary, for their first two fiscal years.

For fiscal year 1976 funds were allocated to the regional commissions in accordance with the formula which was contained in the Senate amendment. It is the intent of the conferees that the Secretary of Commerce utilize the same formula for fiscal year 1977 for the existing regional commissions. The Senate Committee on Public Works and the House Committee on Public Works and Transportation will evaluate the formula with the goal of devising a permanent formula for future fiscal years.

Regional transportation demonstration projects

House Bill

No comparable provision.

Senate Amendment

Amends section 513 of the Act to authorize each Commission to conduct studies and investigations of the transportation needs of the region. Each Commission can make grants for planning, construction, purchase of equipment and operation for transportation demonstration projects. Planning grants may be up to 100% of costs. Grants for construction, equipment and operation are authorized for up to 80% of costs. Not more than 5 million dollars of the funds apportioned to each region can be expended in any one fiscal year to carry out this section.

Conference Substitute

Same as the Senate amendment.

The new authorities contained in sections 513, 515, 516, and 517 of the Conference substitute are intended to provide each commission additional tools to carry out its mission of economic development.

Energy demonstration projects and programs

House Bill

No comparable provision.

Senate Amendment

Adds a new section 515 to the Act to authorize grants for energy related demonstration projects and programs. Not more than 5 million dollars of the apportioned funds to each Region Commission may be expended in any fiscal year for the purpose of carrying out this section.

Conference Substitute

Same as Senate amendment except that, in addition, it authorizes each Commission to carry out demonstration projects, not to exceed $2,500,000 per Commission per fiscal year, for the development and stimulation of the indigenous arts and crafts of the region.

Health and nutrition demonstration projects

House Bill

No comparable provision.

Senate Amendment

Adds a new section 516 to the Act which authorizes grants for multicounty demonstration health projects. Grants may be used for planning, construction, equipment, and operation or projects similar to those authorized by the Appalachian Region Development Act. Construction and equipment grants may not exceed 80% of cost. Grants for the operation may be up to 100% of cost for the first two years and 75% of cost for next three years of operation.

Conference Substitute

Same as the Senate amendment.

Education demonstration projects

House Bill

No comparable provision.

Senate Amendment

Adds a new section 517 to the Act to authorize grants for planning, construction, equipping and operating vocational and technical education projects which will serve to demonstrate area-wide educational planning services and programs. Construction and equipment projects may not exceed 80% of cost. Grants for operation may be up to 100% of cost for the first two years and 75% of cost for the next three years. A planning grant for the development of a demonstration project may not exceed 75% of such expenses. All projects must be for publicly owned facilities. Funds for projects under this section may be combined with the funds available under other Federal grant-in-aid programs.

Conference Substitute

Same as the Senate amendment.

Review of regional development plans

House Bill

No comparable provision.

Senate Amendment

Each Regional Commission must submit to each Committee on Public Works within 120 days after enactment of this Act their regional development plan. The Committee must study and review the plans to determine their conformity to the purposes of the Act.

Conference Substitute

Same as the Senate amendment except that the last sentence of the section requiring Committee study and review of plans was deleted. A review of such plans by the Committees will form the basis for additional legislative changes tailored to the needs of particular regions.

Structure and operation of commissions

Conference Substitute

The conferees agreed to amend section 502 of the Act to make applicable similar changes in the commission structure and operation of the Title V Regional Commissions as were made to the Appalachian Commission by amendments to the Appalachian Regional Development Act. The amendment makes the following changes dealing with commission membership, voting, and administrative powers: (1) Only the Governor may be a State member of the Commission; (2) Each State member may have a single alternate appointed by the Governor from among the members of his cabinet or his personal staff; (3) No decision involving Commission policy, approval of the Regional Development Plan or implementing investment programs, or any allocation of funds among the States, may be made without a quorum of State members present, (4) A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present; (5) No Commission powers or responsibilities, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings; and (6) The term of the State Cochairman shall be at least one year.

Designation of regional commissions

Conference Substitute

The conferees agreed to amend section 501 of the Act to add California, Texas, the Commonwealth of Puerto Rico and the Virgin Islands as exceptions to the requirement that a region must be within contiguous States to be designated as an "economic development region".

Section 502 is amended to permit the Secretary to designate single State Commissions for the State of California or the State of Texas if they otherwise meet the requirements for an economic development region. Congressional intent is also expressed that the Secretary encourage formation of a regional commission along the Mexican border in the States of Texas, New Mexico, Arizona and California.

These border areas in both the United States and Mexico historically have suffered severe economic depression. By most statistical accounting, all indices of economic deprivation — unemployment — illiteracy — low median family income—fully qualify this region as being more economically depressed than other areas where regional commissions have been established.

Presidential review

House Bill

No comparable provision.

Senate Amendment

Requires the President to review the structure and authorities of Title V Regional Planning Commissions and then report to Congress his recommendations concerning the Commissions not later than six months after the enactment of this Act.

Conference Substitute

Since both Committees will be considering further extensions and amendments to the Act within the next few months, the conferees agreed to delete this provision and reconsider it at a later time.

Title of the bill

Conference Substitute

The conference substitute adopts the amendment of the Senate to the title of the bill since it more accurately reflects the text as proposed in the conference substitute.

Robert E. Jones,
Jim Wright,
Harold T. Johnson,
Robert A. Roe,
W. H. Harsha,
John Paul Hammerschmidt,
Managers on the Part of the House.
Jennings Randolph,
Edmund S. Muskie,
Joseph M. Montoya,
Robert Morgan,
Howard H. Baker,
Robert T. Stafford,
James A. McClure,
Managers on the Part of the Senate.

MAKING SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1976

Mr. MAHON. Mr. Speaker, pursuant to the unanimous-consent request granted Friday, December 12, 1975, I call up the conference report on the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of December 12, 1975.)

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. Mahon) is recognized for 30 minutes, and the gentleman from Michigan (Mr. Cederberg) is recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Mahon).

Mr. MAHON. Mr. Speaker, from reports in the media these days it appears that big government and bureaucracy are under attack. There is a great deal of interest in what can be done about big government. Without doubt much needs to be done. I suspect that most of the Members of the House and most of the Members of the other body, and most of the citizens of the country are opposed to big government.

My attention was called this morning to a recent issue of Newsweek magazine. There, Uncle Sam is portrayed as fat and unsightly instead of tall, lean, and alert. It is very upsetting to see Uncle Sam portrayed in this manner.

There is cause to wonder if we really are opposed to big government, and if we are going to do anything about it. These matters we should ponder as we give consideration to the pending conference report on this appropriation bill.

Mr. Speaker, we bring before the House today the conference report on the first general supplemental bill for fiscal 1976. The conference agreement being presented today represents a compromise total of $10,298,883,117 of new budget authority for fiscal 1976 and $133,813,695 for the transition period. It also includes $500,000,000 for insured farm home loans, $142,500,000 for restoration of Federal Housing Administration losses, $364,100,100 for trust fund transfers, and $443,000,000 for liquidation of contract authority.

The 1976 budget authority is $1,004,677,260 below the budget request of the President; $35,464,660 below the Senate bill and $2,478,576,916 above the House bill. Of course, that latter amount includes $2,301,000,000 added by the Senate for the relief of New York City.

Major items included in the conference agreement are:

The amount of $2,301,000,000 for the New York City Seasonal Financing Fund; $1,750,000,000 for the food stamp program; $5,000,000,000 for advances to the unemployment trust fund; $364,100,000 for grants to States for unemployment insurance and employment services; $97,100,000 for benefit payments under the Federal Employee's Compensation Act.

The amount of $437,013,000 for the Health Services Administration; $56,500,000 for mental health programs; $85,000,000 for nurse training programs of the Health Resources Administration; $37,125,000 for the Development Disabilities Services and Facilities Construction Act; $245,537,000 for facilities and equipment for the Federal Aviation Administration; $26,432,000 for watershed and flood prevention operations; $60,000,000 for the special milk program.

The sum of $35,000,000 for support of the U.N. Middle East peacekeeping force; $500,000,000 for insured rural housing loan authority for the Farmers Home Administration; $300,000,000 for liquidation of contract authority for the urban mass transportation fund; $142,500,000 for restoration of losses to the special risk insurance fund and general insurance fund, the Federal Housing Administration; 193 employees for the Congressional Budget Office.

Mr. Speaker, that covers the major points of the bill. Ten of the 13 subcommittees of the Appropriations Committee were represented in the conference. The chairmen of those subcommittees and the ranking minority members and others on the committee are knowledgeable about the bill before us and are able to respond to questions which may be propounded.

Mr. Speaker, 88 percent or $9,050,000,000 of the funds in the bill is for three items that were received after action was completed on the regular 1976 bills—$1,750,000,000 for food stamps, $5,000,000,000 for unemployment compensation, and $2,301,000,000 for relief of New York City. I urge adoption of the conference report by the House.

At this point I offer a summary table by chapter showing the conference agreement compared with the budget estimate and the action on the bill by the House and the Senate:

SUMMARY OF CONFERENCE ACTION ON H.R. 10647—SUPPLEMENTAL APPROPRIATION ACT, 1976

Subcommittee	New BA estimates 1976/Transition	New BA House 1976/Transition	New BA Senate 1976/Transition	New BA conference 1976/Transition	Conference compared with estimates	Conference compared with House bill	Conference compared with Senate bill
Agriculture:							
Fiscal year 1976	3,137,095,000	1,771,702,000	1,840,532,000	1,838,482,000	−1,298,613,000	66,780,000	−2,050,00
Transition period	788,883,000				−788,883,000		
Insured loans			(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	
Increase in limitation			(10,076,000)	(5,013,000)	(5,013,000)	(5,013,000)	(−5,063,
Transition period			(2,573,000)	(1,287,000)	(1,287,000)	(1,287,000)	(−1,286,
Defense (language only)							
District of Columbia: District of Columbia funds	(59,000)		(59,000)		(−59,000)		
HUD-Independent agencies:							
Fiscal year 1976	2,301,000,000		2,301,000,000	2,301,000,000		2,301,000,000	
Transition period	315,000		315,000	315,000		315,000	
Restoration of losses	(463,672,000)		(142,500,000)	(142,500,000)	(−321,172,000)	(142,500,000)	
Labor, and Health, Education, and Welfare:							
Fiscal year 1976	5,433,207,000	5,717,055,000	5,756,270,000	5,737,160,000	303,953,000	20,105,000	−19,110,00
Transition period	90,550,000	115,756,000	140,581,000	118,50,000	27,500,000	2,294,000	−22,531,00
Trust fund transfers	(364,100,000)	(364,100,000)	(364,100,000)	(3640,100,000)			
Legislative:							
Fiscal year 1974	300,000	300,000	300,000	300,000			
Fiscal year 1975	350,000		350,000	350,000		350,000	
Fiscal year 1976	50,026,868	39,823,308	44,987,268	45,623,608	−4,403,260	5,800,300	636,30
Transition period	12,465,360	5,667,795	7,517,610	7,301,695	−5,163,665	1,633,900	−215000

Subcommittee	New BA estimates 1976/Transition	New BA House 1976/Transition	New BA Senate 1976/Transition	New BA conference 1976/Transition	Conference compared with estimates	Conference compared with House bill	Conference compared with Senate bil
State, Justice, Commerce, and Juidciary:							
Fiscal year 1976	54,662,000	6,537,000	71,411,000	65,081,000	10,419,000	58,544,000	−6,330,000
Transition period	1,975,000	1,612,000	1,763,000	1,763,000	−212,000	151,000	
Transportation:							
Fiscal year 1976	250,000,000	245,537,000	245,537,000	245,537,000	−4,463,000		
Liquidation of contract authorization: Fiscal year 1976	(350,000,000)	(50,000,000)	(350,000,000)	(350,000,000)		(300,000,000)	
Transition period	(93,000,000)	(43,000,000)	(93,000,000)	(93,000,000)		(50,000,000)	
Treasury, Postal Service, and General Government:							
Fiscal year 1976	34,097,500	14,705,000	24,238,500	22,527,500	−11,570,000	7,822,500	−1,711,000
Transition period	10,221,000	4,619,000	5,834,000	6,384,000	−3,837,000	1,765,000	550,000
Transfer: Fiscal year 1976	(554,000)	( )	(554,000)	(500,000)	(−54,000)	(500,000)	(−54,000)
Transition period	(131,000)	( )	(131,000)	(120,000)	(−11,000)	(120,000)	(−11,000)
Claims and judgments: Fiscal year 1976	43,472,009	24,946,893	43,472,009	43,472,009		18,525,116	
Interior and related agencies: Fiscal year 1976			6,900,000				−6,900,000
Totals:							
Fiscal year 1974	300,000	300,000	300,000	300,000			
Fiscal year 1975	350,000		350,000	350,000		350,000	
Fiscal year 1976	11,303,560,377	7,820,306,201	10,334,347,777	10,298,883,117	−1,004,677,260	2,478,576,916	−35,464,660
Transition period	904,409,360	127,654,795	156,010,610	133,813,695	−770,595,665	6,158,900	−22,196,915
Insured loans	( )	( )	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	
Increase in limitations	( )	( )	(10,076,000)	(5,013,000)	(5,013,000)	(5,013,000)	(−5,063,000)
Transition period	( )	( )	(2,573,000)	(1,287,000)	(1,287,000)	(1,287,000)	(−1,286,000)
Restoration of losses	(463,672,000)	( )	(142,500,000)	(142,500,000)	(−321,172,000)	(142,500,000)	( )
Trust fund transfers	(364,100,000)	(364,100,000)	(364,100,000)	(364,100,000)	( )	( )	( )
Liquidation of contract authorization: Fiscal year 1976	(350,000,000)	(50,000,000)	(350,000,000)	(350,000,000)	( )	(300,000,000)	( )
Transition period	(93,000,000)	(43,000,000)	(93,000,000)	(93,000,000)	( )	(50,000,000)	( )
Transfer: Fiscal year 1976	(554,000)	( )	(554,000)	(500,000)	(−54,000)	(500,000)	(−54,000)
Transition period	(131,000)	( )	(131,000)	(120,000)	(−11,000)	(120,000)	(−11,000)
District of Columbia Funds	(59,000)	( )	(59,000)	( )	(−59,000)	( )	(−59,000)

Mr. FLOOD. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, chapter III of H.R. 10647, making supplemental appropriations for fiscal year 1976, as recommended by the Committee of Conference, contains appropriations totalling $5,737,160,000 for the Departments of Labor, and Health, Education, and Welfare and the Community Services Administration for the current fiscal year, and $118,050,000 for the transition period ending September 30, 1976.

The largest single item in chapter III is an appropriation of $5,000,000,000 for advances to the unemployment trust fund and other funds. This appropriation is needed to make loans to States which do not have sufficient funds in their accounts in the unemployment trust fund to meet anticipated unemployment compensation benefit payments, and also to make repayable advances to meet the Federal share of extended benefit payments and emergency unemployment compensation payments. The need for this appropriation is, of course, attributable to the continued high rates of unemployment in many parts of the Nation. Chapter III also includes $97,100,000 for the Department of Labor to provide additional funds for benefit payments under the Federal Employees Compensation Act.

The conference agreement includes appropriations for the Department of Health, Education, and Welfare amounting to $630,521,000 for fiscal year 1976, and $105,185,000 for the transition period. Most of these funds are for carrying out various health services and nurse training programs authorized by Public Law 94–63, which was enacted on July 29, 1975. The programs authorized in Public Law 94–63 account for a total of $591,613,000, which is over $300,000,000 more than the President requested for these programs. You will recall that the President's budget proposed termination or phase-out of many health services and nurse training programs, and that Public Law 94–63 was enacted in spite of a Presidential veto. The amounts in this bill for health services and nurse training programs represent an increase of about $60 million over the comparable fiscal year 1975 appropriations.

Since there is so much interest in the programs funded in chapter III of this bill, I shall insert at this point in the RECORD a detailed table showing the amounts included in the conference agreement for each program, together with the comparable appropriations for fiscal year 1975, the budget request for 1976, and the amounts carried in the House and Senate versions of the supplemental appropriation bill:

SUPPLEMENTAL APPROPRIATION BILL, 1976 (H.R. 10647)

CHAPTER III—DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES

	1975 appropriation	1976 regular budget request	1976 supplemental request	House	Senate	Conference agreement
DEPARTMENT OF LABOR						
Manpower Administration						
Advances to the unemployment trust fund and other funds	$5,750,000,000		$5,000,000,000	$5,000,000,000	$5,000,000,000	$5,000,000,000
Grants to States for unemployment insurance and employment services	(1,242,300,000)	($1,069,000,000)	(364,100,000)	(364,100,000)	(364,100,000)	(364,100,000)
Labor-Management Services Administration						
Salaries and expenses	36,845,000	42,000,000	4,618,000	3,910,000	3,910,000	3,910,000
Transition period		10,047,000	1,077,000	1,077,000	1,077,000	1,077,000
Departmental Management						
Salaries and expenses	30,339,000	33,242,000	305,000	203,000	203,000	203,000
Transition period		7,781,000	154,000	154,000	154,000	154,000
Employment Standards Administration						
Salaries and expenses	76,116,000	79,715,000	3,340,000	2,926,000	2,926,000	2,926,000
Transition period		19,929,000	834,000	834,000	834,000	834,000
Special benefits	165,000,000	201,000,000	97,100,000	97,100,000	97,100,000	97,100,000
Transition period		70,000,000	10,800,000	10,800,000	10,800,000	10,800,000
Total Department of Labor	6,058,300,000	355,957,000	5,105,363,000	5,104,139,000	5,104,139,000	5,104,139,000
Transition period		107,757,000	12,865,000	12,865,000	12,865,000	12,865,000

	1975 appropriation	1976 regular budget request	1976 supplemental request	House	Senate	Conference agreement
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE*						
Health Services Administration						
Health services						
Health revenue sharing (sec. 314(d))	$90,000,000			$90,000,000	$90,000,000	$90,000,000
Hypertension programs					7,500,000	3,750,000
Family planning	100,615,000		$79,435,000	100,615,000	100,615,000	100,615,000
Migrant health centers	23,750,000		19,200,000	23,750,000	25,000,000	25,000,000
Community health centers	196,648,000		155,190,000	196,648,000	196,648,000	196,648,000
National Health Service Corps	[1] 17,131,000		12,529,000	15,000,000	15,000,000	15,000,000
Home health services				3,000,000	3,000,000	3,000,000
Hemophilia programs				3,000,000	3,000,000	3,000,000
Total, Health Services	428,144,000		266,354,000	432,013,000	440,763,000	437,013,000
Transition period			65,017,000	87,517,000	112,000,000	89,662,000
Center for Disease Control						
Preventive health services						
Diseases borne by rodents (sec. 317(d))	13,100,000		5,410,000	10,410,000	13,710,000	13,100,000
Alcohol, Drug Abuse and Mental Health Administration						
Community Mental Health Centers:						
Planning community mental health centers (sec. 202(d))				1,500,000	1,500,000	1,500,000
Initial operation (sec. 203(d))				18,000,000	30,000,000	24,000,000
Consultation and educational services (sec. 204(c))				3,000,000	5,000,000	4,000,000
Conversion (sec. 205(c))				20,000,000	20,000,000	20,000,000
Financial distress (sec. 213)				6,000,000	4,000,000	4,000,000
Rape prevention and control (sec. 231)				2,000,000	4,000,000	3,000,000
Total, ADAMHA				50,500,000	64,500,000	56,500,000
Health Resources Administration						
Nursing:						
Institutional assistance:						
Capitation grants (sec. 810)	34,343,000			44,000,000	44,000,000	44,000,000
Financial distress grants (sec. 815)	1,084,000					
Special projects (sec. 820(d))	22,482,000		15,000,000	15,000,000	15,000,000	15,000,000
Advanced training project grants (sec. 821 (b))			1,000,000	1,000,000	3,000,000	2,000,000
Nurse practitioners (sec. 822 (d))			2,000,000	2,000,000	4,000,000	3,000,000
Student assistance:						
General scholarships (sec. 845)	6,000,000			2,000,000	2,000,000	[2] 2,000,000
Traineeships (sec. 830)	13,016,000			13,000,000	13,000,000	13,000,000
Student loans	22,800,000				8,000,000	[2] 6,000,000
Total, Health Resources Administration	99,725,000		18,000,000	77,000,000	89,000,000	85,000,000
Transition period			4,000,000	6,000,000	6,000,000	6,000,000
National Institute of Education						
National Institute of Education	70,000,000				3,250,000	(3)
Assistant Secretary for Human Development						
Human development						
White House Conference on the Handicapped	25,000		2,955,000	2,955,000	1,370,000	1,370,000
Grants to the developmentally disabled:						
State grants	30,875,000		30,875,000	32,875,000	32,875,000	32,875,000
University affiliated facilities	4,250,000		4,250,000	4,250,000	4,250,000	4,250,000
Total, Human Development	35,150,000		38,080,000	40,080,000	38,495,000	38,495,000
Transition period			8,668,000	9,168,000	9,510,000	9,317,000
Departmental Management						
General departmental management						
Office of Investigations and Security				413,000	413,000	413,000
Transition period				206,000	206,000	206,000
Total, Department of Health, Education, and Welfare	646,119,000		327,844,000	610,416,000	650,131,000	630,521,000
Transition period			77,685,000	102,891,000	127,516,000	105,185,000
RELATED AGENCIES*						
Community Services Administration						
Community services program	492,400,000			2,500,000	2,000,000	2,500,000
Total, related agencies	492,400,000			2,500,000	2,000,000	[4] 2,500,000
Total, chapter III:						
New budget (obligational) authority	7,196,819,000		5,433,207,000	5,717,055,000	5,756,270,000	5,737,160,000
Transition period			90,550,000	115,756,000	140,581,000	118,050,000
Trust fund transfers	(1,242,300,000)		(364,100,000)	(364,100,000)	(364,100,000)	(364,100,000)

---

*Figures in 1976 regular budget request column not included in these sections.

[1] Includes $5,000,000 appropriated in 1975 and made available for obligation through June 30, 1976.

[2] The 1976 Labor-HEW appropriations bill contains an additional $4,000,000 for scholarships and an additional $15,000,000 for loans.

[3] The 1976 education division and related agencies appropriation (Public Law 94-94) contains $70,000,000 for the National Institute of Education.

[4] The 1976 Labor-HEW appropriations bill contains $494,652,000 for Community Services Administration.

Mr. MAHON. Mr. Speaker, I reserve the balance of my time.

Mr. CEDERBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the Committee on Appropriations said, we are looking here at a very substantial supplemental bill.

I think there is one thing we ought to point out. Sometimes figures do not really mean what they say. If we look at page 21 of the conference report, it appears that the conference report is $1 billion under the President's budget estimates. That figure is very misleading. As an example, the conference report is about $1,387,095,000, less than the President requested for food stamps. The request was $3,137,095,000 and the conference report agreed to $1,750 million.

Well, that is a questionable reduction, because as a matter of fact, as I understand, the administration said we probably can get by with $1,750 million, but they did not formally revise their budget estimate.

Under the Federal Housing Administration, under the title Reimbursement to Special Risk and General Insurance Fund, the budget request was $463,672,000, and the conference agreed to $142,500,000, which is a reduction of $321,172,000. It means that they will be back to replenish that fund later on; but it does make it look a little better in this conference report.

I think it is time we stopped kidding the public. Without these two so-called paper cuts, we would be looking at a conference report that is $703,589,740 over and above the request of the President.

Of course, if we look at the total HEW chapter, that chapter alone is $303,973,000 over and above what the President requested in his submissions to the Committees on Appropriations.

This conference report, as the distinguished chairman pointed out, is another indication that we are going down the road to substantially larger budget figures than we have ever had before. As a result of these budget figures, we wind up with substantially larger deficits, when we consider that we in the House passed conference reports and the Budget Committee just last week indicated that this figure is going to have a deficit of some $74 billion plus. My prediction is that it will be closer to $80 billion, the largest deficit that we have had in any one fiscal year, I believe, in the history of the country.

I believe the time has come to be honest with the American people and just tell them we can no longer go along having these kinds of deficits year after year.

We closed June 30 last year with a budget deficit of $45 billion. We will close the current fiscal year with a budget deficit of around say $75 or $80 billion. We will then look at the figures for the next fiscal year, when we come back in January. Even with increased activity in the economy, I see no way that we can possibly have less than a $50 billion deficit. When we add all these together, we are looking at something very close to $175 billion to $180 billion worth of deficits in 3 fiscal years. Financing these deficits on the open market these days means that Uncle Sam is pre-empting a lot of money in the market that should be and could be used in the private sector. As a result, it is no wonder that we have interest rates going so high. It is no wonder that the inflationary impact we have been having over the past number of years is still with us. I predict that unless we put our fiscal house in order, it will still be with us.

Mr. Speaker, I do not want to take any more time. I know everyone has had an opportunity to look at this conference report and everyone will have to make up his own mind.

Mr. BAUMAN. Mr. Speaker, I would like to ask a question of the distinguished gentleman from Texas (Mr. MAHON) or possibly to the gentleman from Texas (Mr. CASEY), since it is within his subcommittee's jurisdiction.

This particular conference report comes back with a proposed amendment 44, which will be offered as an amendment in the House once the conference report is acted upon. The language is on page 14. In effect, it sets a limit of 193 employees for the Congressional Budget Office, and it goes on to say that it waives section 5, title 41, United States Code.

Title 41, section 5 of the United States Code allows for the hiring of personal services, when they are required to be performed personally by a contractor, and for service of a technical or professional nature.

It seems to me that if the conferees had truly concluded that 193 employees for the CBO was the limit, they would not have waived a section of the law that, in effect, allows CBO to go ahead and contract for services above 193. I would like to have the assurances from the appropriate gentleman from Texas that the total CBO ceiling on employees is 193, whether they be staff employees, contractual employees or from whatever source of employment.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Texas.

Mr. MAHON. There was considerable controversy with respect to this matter in the conference. The House held firmly to the 193 employee figure, and I would like to yield for further comment to the gentleman from Texas (Mr. CASEY).

Mr. CEDERBERG. I yield to the gentleman from Texas (Mr. CASEY).

Mr. CASEY. I thank the gentleman for yielding to me.

One hundred ninety-three is a firm figure. The Senate provided funds for 228 positions, but did not include a limitation, so this is one amendment which is required. I would say more time was spent on this amendment than on any other, because we held firm. We felt that this office was growing fast enough. We felt that this was a new operation and we wanted to make sure that the direction in which it was going would not result in a proliferation of other services we already have such as the Congressional Research Service which we have built up in recent years; the Office of Technology Assessment which we set up a couple of years ago; and the General Accounting Office.

The competitive bidding provision, which we agreed to is not to add more people on the staff. I assure the gentleman that we would not have allowed that provision if that were the case, because we on the House side held firm—and, mind you, there was some bitter feeling on this item and some of our best friends may not be our best friends any longer because we held firm and we disagreed with the Senate conferees in this regard. They were willing to settle for, "Just give us anything," and we said, "No, 193 is the limit and that is it."

Mr. BAUMAN. If the gentleman from Michigan will yield further, I am safe in my understanding of the conferees' intention that, regardless of the type of employment, 193 is the absolute maximum of any type of employees?

Mr. CASEY. That is correct. That is my understanding and that is what we have insisted on, and that is what is in the bill as agreed to in conference.

Mr. BAUMAN. I thank the gentleman.

Mr. CEDERBERG. Mr. Speaker, that certainly is my understanding, and there is a question here involved with computers that may be necessary.

Mr. CASEY. That is the reason for allowing this provision, it is for computer services, and not for staff people. They can go out without the requirement for competitive bidding, and this will facilitate their computer operations. Frankly, we hope that before another year or so they will not even have to contract this work out, because we will have developed our own computer operation on the Hill which they can use.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. STEED), chairman of the subcommittee.

Mr. STEED. Mr. Speaker, I take this time to call the attention of the House to a matter that received considerable interest on the floor when the supplemental bill came up. It is the matter contained on page 36 of the bill and dealt with on page 18 of the conference report dealing with the Bureau of Alcohol, Tobacco, and Firearms and their request to start a new program.

I think that, because of interest shown, I should make these comments.

The conference agreement includes $5,500,000 for fiscal year 1976 and $1,375,000 for the transition period for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department to implement a test of concentrated urban enforcement—CUE—of gun control laws.

These funds will enable the Bureau to employ up to 250 additional special agents and support personnel to conduct the test in three geographically separated cities, one of the cities being Washington, D.C.

Mr. Speaker, I think the people down at the Treasury feel that this gives them a very good test program, and they are very happy with what the conference has agreed upon.

Mr. CEDERBERG. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, and Members of the House, touching upon a few particulars in this conference report, there is included an item of $1,750,000,000 for the food stamps, which is $2,175,978,000 below the budget request, counting the transition period. This is based, according to both the House and Senate committee report, on a reevaluation of estimates and on the development of regulations to reform the program by the Department of Agriculture. Our own committee report states that at least $1,000,000,000 could be saved through such a revision of regulations.

Does this indicate now that the Members of both bodies are really committing themselves to a significant overhaul and tightening up of the program by the Department? The question has to be asked because we all remember what happened earlier this year when the Department proposed a change, and only 38 Members of this House voted to sustain that kind of a change. So now there will be adequate notice given that when the Department, if they follow these committee reports to the letter to bear down and tighten up, that they ought not to be overruled and vetoed by this House and the other body, like we did earlier this year when the Department attempted to make some changes. If there is no commitment to reform the food stamp program, then the cut in this bill is a phony cut and Congress is deceiving the public. If no reform takes place, the money in this bill will not be sufficient to carry us through next September, and another supplemental appropriation will be needed.

The food stamp program ought to be reformed by Congress itself, not by passing the buck to the administration. If we are going to pass the buck, however, we have an obligation to accept what the Department recommends, particularly if we are going to appropriate money on this basis. We cannot have it both ways.

With respect to the labor-HEW section, the conference report comes in at $20,105,000 above the House bill and a substantial $303,953,000 over the budget, virtually all of it in HEW.

As I indicated in my remarks on the conference report for the regular Labor-HEW bill, the excess in this bill, combined with the excess in that bill, boosts overall appropriations over the budget by $1.2 billion. When we add the education bill, the total that Congress has appropriated for Labor-HEW busts the budget by over $2.5 billion this fiscal year. This represents an all-time record of deficit spending by Congress in this field and is certainly ample reason why we need a spending ceiling. Congress simply does not have enough self-discipline to keep down expenditures on its own. There are too many pressure groups and vested interests to appease.

Of the Labor-HEW increases in the conference report over the original House bill, $3.5 million is added to health revenue-sharing grants for initiating of a hypertension program. This is virtually wasted money, because it will be spread so thin under the formula governing the 314–3 grants that the impact will be almost meaningless. We argued long and hard in conference that a change in the law allowing the money to be allocated to the major need areas was needed before funds are appropriated, but the Senate conferees apparently could not grasp that argument, and a dollar split was thus agreed to in order to avoid a logjam. It should also be noted that over $40 million will be spent this year by Heart and Lung Institute on hypertension activities.

The Senate committee report itself admits the prospect of duplication in this field.

Mr. Speaker, funds are included in the report for 150 new positions for the National Health Service Corps. This occurred in spite of the fact that 146 new slots were added by a reprograming action just this past summer, the hiring for which has not yet been completed. The 150 new positions are simply not needed.

The sum of $3 million is included to launch the National Center for the Prevention and Control of Rape, despite the fact that they do not have any clear notion downtown as to what direction the program should take and the fact that the FBI and the Law Enforcement Assistance Administration are spending over $20 million a year on rape projects.

A majority of the conferees again bowed to the pressure and added $8 million to the $77 million the House had included for nursing programs. That boosts the total for these programs over the budget by $67 million.

Finally, Mr. Speaker, I attempted in the conference to reduce the appropriation for the New York loan by $1 billion because according to figures provided by the State of New York itself, just $1,275,000,000 is necessary to meet the city's needs during the current fiscal year. That money will be allocated by the end of March, and then for the last 3 months of the year New York will have a surplus of about $1.3 billion in its cash flow, which will enable it to pay back the Federal loans by June 30. In July of 1976 the cycle starts all over again, with the peak pay-out period not being reached until March of 1977.

Since the full amount of loan money will not be needed until almost a year and a half from now, I can see no sound reason for appropriating the full amount now. By doing so, we in the Congress would be giving up virtually complete control of the situation. We would retain no significant leverage to insure that New York officials and citizens do not back down from their commitment to tighten their belts and set their own financial house in order. We would again be placing complete reliance in the executive branch, thus continuing the erosion of congressional power vis-a-vis the Executive, despite all that rhetoric we have heard during this session of Congress about the need to reverse the trend.

I am confident the Administration will stringently administer the loan fund, but we as a Congress are a co-equal branch and we ought to retain a co-equal role. We can most effectively do this through our power to appropriate, but we in effect give up this power as a lever if we appropriate the full amount at this time.

By appropriating just $1.3 billion now, we would have an opportunity to hold hearings during the spring and ascertain what kind of progress is being made. If New York is doing at that time what it says now it will be doing, then additional moneys can be appropriated as part of the spring supplemental.

Mr. Speaker, it has been suggested that even if the full amount is appropriated at this time, Congress could still review the program in connection with an administrative expenses appropriation. I submit that this is a weak alternative with little leverage, and that it would be so perceived by New York City. Once funds are appropriated, it becomes difficult to prevent their usage through a denial of administrative expenses, and the result is that New York would not feel the same pressure to fulfill its commitments that it would have if some of the actual loan moneys still had to be appropriated. In fact, it is reasonable to argue that a partial loan appropriation would actually help city officials in fulfilling their commitments because it would give them the lever of a possible congressional refusal to use to counteract a lack of citizen cooperation.

It has also been suggested that a failure to appropriate the full amount at this time would endanger the financial agreements the city has made with banks and pension funds for the purchase of short-term notes and bonds, the argument being that the lenders need the assurance of the availability of Federal funds to cushion the risk. If they were out-of-State lenders, the argument might hold water, but they are not. They are New York banks and New York pension funds. They have as much responsibility for New York's plight and recovery as anyone else. The only way the full amount of Federal loan money will not be appropriated would be if New York reneges on its commitments. So, if the lenders need assurance, let them see to it that their New Yorkers' feet are kept to the fire. They are all in the boat together, and they ought to be willing to cooperate with each other for the good of the community.

I can assure them of my support for the additional loan money next year if the commitments are kept. I voted for that authorization of $2.3 billion.

I will not renege on that kind of authorizing commitment. But as I indicated, all New York City needs between now and the end of the fiscal year is $1.3 billion to get over the first high point in their cash flow cycle. After that point we can hold hearings and check out for sure they are living up to their agreement. I think the floor dialog here will be indication enough that such appropriations will be forthcoming. We might even wish to add language to this effect in the conference report.

At the appropriate time, Mr. Speaker, I will offer a motion to recommit this conference report with instructions that the item of $2.3 billion for assistance to New York be cut to $1.3 billion, and I urge my colleagues to support that motion.

Mr. MAHON. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, as the gentleman from Illinois (Mr. MICHEL) has indicated, he is going to offer a motion to recommit this supplemental bill to the conference committee with instructions to reduce the amount for New York City from $2.3 billion to $1.3 billion.

He indicated that the seasonal financing cash-flow table that was supplied to the committee shows that the peak amount necessary for the city of New York in this fiscal year would be reached in March, and that amount would be $1,275 million. He also indicated that if at the time the money which we had appropriated under his amendment had been utilized and there was a necessity for additional funds, he would support that movement to provide additional funds for the city of New York.

Mr. Speaker, the gentleman from Illinois (Mr. MICHEL) made that pledge just a moment ago, and I take that pledge at its face value. There is no one for whom I have greater respect and no one who has more integrity in this great body than the distinguished gentleman from Illinois (Mr. MICHEL). He does an outstanding job on the full Committee on Appropriations and on the very difficult subcommittee on which he serves. But the pledge he has just made is only his pledge. I am concerned about the position of others who have opposed financial aid to the city of New York.

As all of us know, the authorization passed this body by a vote of 213 to 203, a mere 10 votes. Therefore, there would be a real question in an election year, let me say—next year, an election year—as to whether or not we would make sufficient funds available to the city of New York to prevent a default or bankruptcy.

Mr. Speaker, I do not have to recite all the pros and cons of this issue. I think all of us have heard them, but what I do want to emphasize is that this really is the time to deliver on the pledge, not a year from now, but now. If we fail to deliver on the pledge at this time, I think that we do damage to the whole structure that was so laboriously put together by Governor Carey of New York; by the mayor of the city of New York, Mayor Beame; by the administration itself, by President Ford, by Secretary Simon; by those who are running Big MAC in New York; and by a whole host of others.

This is a complete package, not for 1 year, but for 3 years. That is how the agreement was reached, and I think that anyone who is a contributor to the bond market and the investment field would conclude that a failure to deliver on the $2.3 billion authorization and the $2.3 billion appropriation would do great damage to the investment field and to the ability of the city of New York to sell its bonds.

I know that the motion to recommit looks like an attractive deal. I know that the gentleman from Illinois (Mr. MICHEL) has looked at the seasonal requirements, and I know that the argument that the maximum amount required to cover these imbalances in revenues and expenditures between now and next June is only $1.3 billion. On the surface that argument has an appeal, but if you look behind, it has no appeal. You really are going to do damage to the city of New York. I think without following the commitment that the Congress has made, the administration has made, and that the conference report recommends, we will do great damage to the city of New York. I do not think we ought to take that chance. I think it is too dangerous.

What about controls? There was something said here about controls that have been imposed on the city of New York. There are a number of conditions attached to the loan authority, all designed to protect the Federal Government and to insure the Federal Government against losses.

A loan may be made only if the Secretary determines that there is a reasonable prospect of repayment and then under such circumstances and conditions as he requires to insure repayment.

No loans may be provided unless all prior loans which have become due have been repaid and the Secretary may require such security as he deems appropriate.

The proposal that has been entered into by the Federal Government, by the State of New York, and by the city of New York contains provisions to permit adequate oversight of the city's financial affairs by the administration and by the Congress during the life of the act. And the act only lasts for 2½ years.

I think it is important to understand what controls the Treasury Department will establish on these funds.

The parties concerned, the Municipal Corporation, the Emergency Control Board, the city, and the Federal Government are establishing formal legal relationships. This agreement will be constructed this month and it will give the Treasury authority to divert revenue flows from the State to the Federal Government.

In effect, what will be created is a "blocked account" from which New York will not be permitted to withdraw funds until the money loaned by the Federal Government is repaid. And that is security at par plus, I would say.

I also should advise the Members of the House that the Treasury Department will establish a regular system of reporting to the House and the Senate Banking and Appropriation Committees. A liaison will be established that will provide a weekly or monthly analysis of how the total plan is performing against what was expected. The Treasury also plans to engage full-time auditors who, working with the General Accounting Office, will monitor New York's fiscal integrity on a weekly basis.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MAHON. I yield the gentleman 2 more minutes.

Mr. BOLAND. These safeguards are reinforced by the Emergency Control Board, which is chaired by Governor Carey, and which must pass upon each and every expenditure of the city. The Board will not let the city deviate from the strict 3-year budget balancing proposal, and the Treasury will be watching both the Board and the city.

Finally, the Appropriation Committees of the Congress must approve each year the administrative expenses necessary for the Treasury to monitor this agreement. We can add, we can subtract and we can earmark these funds as the circumstances require.

Let me again say, Mr. Speaker, that the danger, should the motion that will be offered by the gentleman from Illinois prevail—the danger is that we could increase the uncertainty for New York in the bond market and indirectly cause bankruptcy or default if we vote in favor of this motion.

Again let me emphasize that the proposal was developed by the Governor, and of course, all of the city officials of New York. The package was hammered together by the banking community, by Big Mac and by the pension funds, and it was a very difficult proposition.

I think we would endanger the whole structure if we were to vote for the motion of the gentleman from Illinois. I hope that motion does not prevail.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, on December 12, the Congress finally adopted House Concurrent Resolution 466, the second budget resolution for fiscal year 1976. As a result, we now have binding ceilings on budget authority and outlays and a lending floor for revenues which will guide future congressional actions with respect to the fiscal year 1976 budget.

Many Members have inquired as to when a point of order will lie against a spending measure for breaching the ceiling and I would offer the following explanation. No point of order will lie against a spending bill for breaching the ceilings until the aggregate ceilings of $408 billion for budget authority and $374.9 billion for outlays are reached. There is no ceiling for point of order purposes in the functional category breakdowns; ceilings on on the totals only.

The supplemental bill before us today does not breach the aggregates although it does include some spending not assumed by the House in the budget resolution functional allocations. Our budget experts inform me that based on spending on the books right now—that is, authority enacted in prior years including permanent authority, enacted this session and entitlement authority which may require further supplmentals this year—we have used up about 50 percent of the total amounts for budget authority and 77 percent for outlays. This is because we have a number of components of the budget not yet enacted into law, including the defense appropriation. Thus, as of today, we are not going to breach the ceilings.

Section 311(b) of the Congressional Budget Act establishes that for point of order purposed, the level of outlays and revenues for a fiscal year shall be determined on the basis of estimates made by the budget committees of the House and Senate. The House Budget Committee will be making such an estimate immediately after the recess based on our staff work in conjunction with the Congressional Budget Office. After that point, we will be tracking various spending bills and amendments to determine if they will cause the ceilings of revenue floor to be breached.

With respect to the measure now before us, the amounts contained therein track approximately the amounts contemplated in the second resolution, with the exception of the New York funds. As the statement of managers on House Concurrent Resolution 466 notes, no funds are provided in the resolution for New York. This is because the program request for direct loans was submitted after the resolution and cleared the House and Senate. Should the budget authority for New York of $2.3 billion not be offset by reductions in other amounts assumed in the second budget resolution, a point of order will lie against spending for which amounts have been assumed when such a supplemental appropriation bill reaches the floor in the spring.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Michigan.

Mr. CEDERBERG. I thank the gentleman for yielding.

Is the gentleman speaking about the funds for fiscal year 1977? He is not referring to the existing ceilings in the conference report we just passed; is he?

Mr. ADAMS. I am. I am referring to fiscal year 1976.

Mr. CEDERBERG. That has no force of law at all.

Mr. ADAMS. I would correct the gentleman. That has an absolute force of law. If the gentleman would refer to the implementation report filed in the House and to the debate we had on the floor, that is a ceiling under the law which is enforceable under the act. The targets went out of existence when the second concurrent resolution with the binding ceiling was adopted for fiscal year 1976.

Mr. CEDERBERG. In other words, what we went through was not a so-called dry run?

Mr. ADAMS. It was not, and we kept repeating that to the gentleman that it was not. We partially implemented the Budget Act only because part of it was already in the budget cycle. The parts implemented included a second concurrent resolution which has established a ceiling and a floor.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CEDERBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I would say in reply to the gentleman from Washington (Mr. ADAMS) that perhaps the budget procedure we just went through may have the force of law, but apparently based on his announcement today it was a farce. I say that because he has repeatedly assured the House that the $2.3 billion for New York City loans was not included at any point in the consideration of the Budget Committee. Yet he comes before us today and says it is perfectly all right to go ahead and pass the supplemental appropriation because the aggregate ceiling of total Federal outlays is not broken, at least at this moment in time.

When the crocuses and the next supplemental come up in the spring, we can all judge whether or not this streamlined budget procedure has any meaning or whether it does not. I can only see from what the gentleman from Washington says here today that it does not.

I had intended to make a point of order against the New York loan amounts but I ran into the same sophisticated and, in fact, rather sophistic argument the gentleman from Washington just made as to whether this amount was in excess of the budget aggregates. Apparently it is all right to spend money that the Budget Committee has not allocated even after we have passed the concurrent resolutions setting budget and spending ceilings.

On another point, Mr. Speaker, I just want to say I rise in support of the gentleman from Illinois (Mr. MICHEL) and his suggestion that we reduce the New York loan provisions by at least $1 billion.

We have been told all sorts of stories about the financial plight of New York City. We were told New York City was about to collapse last Thursday unless we acted. We were told the bond market would be affected. We passed the authorizing legislation and the stock market went down 20 or 30 points in 3 days, contrary to predictions.

I think the real issue is credibility and whether we in the Congress will accept the responsibility for these funds taken from the taxpayers. There is no reason we cannot return next spring and examine the New York appropriation, as the gentleman from Illinois suggests. That would be the prudent manner in which to conduct our business; but I have long since given up any thought that fiscal prudence will prevail in this body as it is now constituted; but at least the gentleman from Illinois is ready to shoulder the responsibility and not swallow the theory that once we pass an authorization we have to accept blindly the word of people that have shown they do not know how to manage the affairs of New York City. For those Members who supported the New York loan bill, they can now redeem themselves by supporting the motion of the gentleman from Illinois (Mr. MICHEL). I hope all Member will do that.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, could I have the attention of the gentleman from Washington (Mr. ADAMS).

Mr. Speaker, I was one of the cochairmen on the original Study Committee on the Budget and served the first year on the Committee on Budget.

Now, it is my belief and my understanding as we went along that this committee would have the responsibility of trying to put together and trying to set a target for the Congress and later to set a firm target; but never have I understood, and I do not so understand now, that this committee or any committee can bind a Congress throughout its session. While the gentleman from Washington is one of the finest and ablest Members of this Congress, one of the things we had in this conference was that some of our friends on the other side took it that they had a right to set up an office of budget comparable with that of the executive branch and that they, and they alone, had the right to make exceptions to it, and to set up study groups to supervise particular departments.

Members of our Committee on Appropriations have received the schedule of the various subcommittees of the Appropriation Committee. I do not see any way in the world we can live up to that short schedule. It is our committee which reduced budgets through the years. I do not see how our committee can do a good job on the budget, in the short period allowed unless we accept last year's expenditures reduced by 1 percent, 2 percent or 3 percent, because to do the regular job we must have time to study these bills, time which the gentleman from Washington does not have, time which his committee does not have, because its members serve on other committees. Again a resolution which binds the Congress; until the Congress decides differently. That is my understanding.

Mr. ADAMS. Mr. Speaker, if the gentleman will yield, the gentleman can do, of course, what he wishes by changing the law, by enacting a new statute; but section 311(a) of the Budget Act says, and I know the gentleman is familiar with this because he was one of those that drafted it, that after the bill has been enacted into law or any binding concurrent resolution has been agreed to, it shall not be in order for either the House of Representatives or the Senate to consider any bill, resolution or amendment, providing additional new budget authority for such fiscal year or providing new spending authority described in section 401(2)(c).

The SPEAKER pro tempore (Mr. MCFALL). The time of the gentleman has expired.

Mr. CEDERBERG. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. ADAMS. Or reducing revenues for such fiscal year or any conference report or bill or resolution, if the enactment would cause the appropriation level or total new budget authority or total budget outlays set forth in the most recently agreed to binding concurrent resolution of the budget for the fiscal year to be exceeded.

Which of course leaves out the concurrent resolution itself, which is subject to change by the Congress when it sees fit. And it is subject to change. That is a point that was not being brought out, that the result is binding unless the Congress sees fit to change the resolution.

Mr. ADAMS. Absolutely. If the gentleman wishes to go to a third concurrent resolution.

Mr. WHITTEN. That is a point that has to be made and it was not being made in the committee. I would like to say I voted against this resolution. Why? Not because it was too low but had I voted for the ceiling I would have been approving many programs and billions of dollars, which I have been voting against consistently.

I think the gentleman, with time and experience will learn, and we have all got to gain the experience, that changes will prove to be necessary. The gentleman is one of the ablest Members of this Congress, but there never was an attempt to make the ceiling firm to the point that the appropriation for an entire department or program might come up last and be subject to a point of order on the whole department and thus left out. The gentleman can see where we are going to have to grow with this vehicle of a target and later an overall budget. I am glad I brought this out again. The Congress can change this vehicle when it becomes necessary, in fact when we see fit.

Mr. ADAMS. This is why we took the time today to explain this because the

Members voted on this and endorsed the fixed ceiling.

Mr. WHITTEN. Until the Congress changes its mind.

Mr. ADAMS. Until the Congress adopts another concurrent resolution changing the ceiling. The reason why I brought this up today is the resolution passed last week by a vote of only 187 to 185, and I think the Congress has pretty well agreed upon where they want the ceiling.

The reason for the problem with the New York and Sinai situation was we implemented those projects this year after the budget process had been completed because we did not have the locking process or having the bills reported at a particular time fully implemented, so we were into the fiscal year before these bills came up.

Mr. WHITTEN. I appreciate the gentleman's willingness to acknowledge that but he can see the ridiculous position where we would be if we had gone up to the point where we had used up all the money under the resolution but had not considered the Department of Defense, where all items of Defense would be subject to a point of order under the gentleman's first statement.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to address myself particularly to the Members who voted against the so-called bail out program for New York City. I myself opposed the various proposed programs. I voted against the New York City loan program. As the Members know this program was initiated, revised, and discussed at length and finally the House and the other body approved a loan program for New York City after it was recommended by the President. I voted against the loan program but I lost. A majority of the Congress and the President have now determined that there will be a program of aid for New York City. Now what shall I do? I am going to do the only sensible thing that I know to do. I am going to try to help the program succeed and avoid losses to the taxpayer which might otherwise occur.

Under the bill before us in conformity with the law we are going to be providing a loan to New York which must be repaid within the year. Under the bill we are going to provide the city this year a loan of up to $2.3 billion. Under the motion to recommit which will be offered by the gentleman from Illinois we would provide $1.3 billion. In other words the gentleman from Illinois does not want to kill the loan program for assistance to New York. That is not his object. If we are against assistance to New York, there is no need for us to vote for the proposal of the gentleman from Illinois with the thought it abolishes the New York City aid program, it does not.

And I for one cannot support the motion of my friend from Illinois (Mr. MICHEL), as able and fine a gentleman as I regard him.

We would be glambling that the program would succeed despite his motion. There are officials in the Treasury Department who would say that the Michel motion might cause the program to fall on its face since the whole program of aid to New York City was based on the banks in New York City supplying about $2.5 billion, and the Federal Government $2.3 billion which would be repaid at the end of the year in which it is loaned.

If we reduce the Federal share of the program, it greatly increases the chances that New York will not be able to get back on its feet.

Obviously, it is impossible to say flatly that this program of $2.3 billion will succeed. But I am confident that we are doing our very best to create a very tightly run, closely monitored situation as far as the part of the Federal Government is concerned.

I see no need to take that chance at this time as it would impact heavily on the taxpayer—and instead of saving a billion dollars as the gentleman from Illinois proposes, we would face the possibility of losing forever $1.3 billion. It would be better to loan New York City $2.3 billion and have it all repaid than just loan New York $1.3 billion and get none of it back.

The Michel amendment proposes an appropriation of $1.3 billion for the New York City loan. We should not take a chance on having the loan funds not to be repaid. If we make this program succeed, if we give it a maximum opportunity to succeed, and it does succeed, then we lose nothing. So, I am not in favor of gambling on losing the $1.3 billion, through the adoption of the Michel motion. We are stuck with the program any way we go, and I feel that since Congress has passed the bill and the President has aproved it and it has been enacted into law, that it is up to us to try to make the program work and not cost the taxpayers any money.

Another factor involved in this, I would like to say, is that under the old system this bill would have been handled by the Committee on Banking, Currency and Housing, and never would have seen the light of day in the Appropriations Committee, but under the new order of things in the House and the new rules, the Committee on Banking, Currency and Housing very generously agreed with us that since the measure did financially commit the Federal Government, the funding should be handled by the Appropriations Committee, and so it did come to the Appropriations Committee for funding. Here it is today in this conference report. So, it is a cup which many of us wished could have been avoided, but nevertheless it is a responsibility we have to face.

Do we want to give this program a maximum opportunity to succeed? If we do, at the minimum cost to the taxpayer, if we want to give it the chance to succeed at minimum cost to the taxpayer, we should vote against the Michel motion. It is just that simple to me, regardless of what Members may think about New York. The gentleman from Massachusetts (Mr. BOLAND) said that if we had to renew this in the middle of next year, in the elections, it might lose.

It might lose, and then the $1.3 billion is down the drain in all probability. I am not seeking to introduce political considerations into this matter, but I am just trying to reason with the Members as I have reasoned with myself as to what to do. Many papers have said, the television has said, the radio has said, that I have said I am against the program of bailing out New York.

That is correct, but we have passed that stage. That decision has been made. The law is on the books, and we are now faced with the issue of trying to make this program succeed at a minimum loss—at no loss, shall I say—to the American taxpayer.

So, I do not find it a difficult decision for me to make with respect to how to vote. If the gentleman had made a motion to recommit the bill because some of the other high figures for the other program in the bill, it might have had more charm and appeal, but under present circumstances I do not want to take the chance and be responsible for the loss which might be entailed.

Mr. ROUSH. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to my colleague from Indiana.

Mr. ROUSH. Mr. Speaker, I thank the gentleman for yielding to me. As I understand it, I agree with the chairman. The Treasury Department is establishing strict control over these funds, and already my chairman and the Treasury Department have been communicating with each other. There will be a regular system of reporting from the Treasury Department to the Appropriations Committee so that the monitoring will not be haphazard, but will be on a regular, consistent basis so that the Congress itself will know how these moneys are being spent and controlled. I ask the chairman, is that correct?

Mr. MAHON. The gentleman is correct.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I want to compliment the distinguished chairman of the full Appropriations Committee on a very fine statement, a very statesmanlike statement. I would also like to ask him what in his judgment would happen if this bill were recommitted to Congress, and particularly in view of the fact that a similar amendment was offered in the Senate twice, and twice rejected by votes of 63 to 26 and 63 to 18.

The identical motion that the gentleman from Illinois will offer was defeated twice in the Senate by those substantial margins. Would the distinguished chairman care to venture an opinion as to what would happen if it went back to conference on this very item?

Mr. MAHON. I do not know just what the final outcome would be, but it would certainly be a difficult situation.

I feel that what has been said here in this debate should weigh very heavily, especially with people who voted against the proposal to extend assistance to New York City.

Mr. AuCOIN. Mr. Speaker, I would like to take this opportunity to commend the members of the conference committee for their quick action in accepting a Senate amendment calling for $1,250,000 for restoration and repair of storm damage in coastal counties in northwest Oregon.

Heavy rains began in this area on November 30 and totaled 10 to 12 inches by Thursday morning, December 4. High tides of 95 to 100 feet occurred during this time along with winds reaching 75 miles per hour. The extent of destruction, in financial terms, is still being determined. The damage in personal terms, however, is already apparent.

Specifically, these funds are needed immediately for restoration work on non-forested land for debris removal, stream bank protection, and dike repair in three drainage districts. The amount called for by the amendment is based on the preliminary damage estimate made by the Soil Conservation Service.

It is urgent that this assistance be available to these counties as soon as the full extent of destruction is determined, and passage of this conference report with the emergency amendment will help to insure that there are no bureaucratic delays in getting this aid to the people of northwest Oregon as soon as the damage assessments are received. Again, I thank the chairman and the committee for including these much-needed funds in the report.

Mr. COHEN. Mr. Speaker, the supplemental appropriations bill we are now considering contains important funds for housing programs, health programs, mental health programs; nurses training, and other programs. I support this funding. H.R. 10647 also contains, however, a $2.3 billion appropriation for a revolving loan fund for New York City. I have opposed this proposal in the past and I continue to oppose it.

I intend to support the efforts of my distinguished colleague from Illinois to recommit the bill with instructions to delete a major portion of this funding. But if this effort fails, I will vote for final passage of the supplemental, albeit reluctantly.

Mr. Speaker, I believe we cannot throw the baby out with the bath water. The House had a chance to reject the New York City loan plan when it considered the authorization for the program. It failed to do so—a mistake, in my view.

But I believe that it would be an equally large mistake to endanger other needed programs just to demonstrate my continued opposition to the New York City bailout. The bulk of the funds contained in the supplemental are vitally needed in many areas of the country, including my own district. In voting for the bill, I am voting for these funds.

Mr. GRASSLEY. Mr. Speaker, it is regrettable that the House and the Senate have passed, and the President has signed, an authorization bill intended to cure New York of its fiscal woes. Not only has New York City done little to cut back city expenditures and bring its budget into balance, but, in fact, a Washington Post artcle of November 28 quotes city officials as saying that they are nowhere near a balanced budget and have no specific plans to pay off the short-term debt.

If this body goes on record in favor of appropriations for New York, I hope each and every Member who votes "yea" will admit his responsibility for contributing to the 40-year-old myth that deficit spending is wise spending. One can hardly say that New York is lucky that there is a Washington to bail it out. Congress has been duped as badly as were the citizens of the city of New York. Unfortunately, the duping of Washington is more tragic because it simply puts the entire Nation one step closer to national bankruptcy.

Gentlemen and gentlewomen, I hope that when election day rolls around, when each of us is back home trying to convince the American people that our votes were supportive of sound fiscal policy, that the people will look at what we have done, and not what we have said.

Mr. PICKLE. Mr. Speaker, during the course of consideration of this bill, a proposal came to light to move the Rural Electrification Administration from the Department of Agriculture buildings to a suburban location.

Fortunately, the proposal was brought to light before the Senate completed work on the bill and language could be included in the Senate report to prohibit the move.

There are serious reasons not to allow the move, especially without careful consideration by Congress.

Besides the cost factors implicit in any move, estimates were that moving the REA headquarters could add as much as half a million dollars a year to the REA administrative budget to cover increases in costs of computer and other shared services. The proposed new location for the REA would also have been extremely inconvenient for rural electric personnel, who do not have the alternative of regional offices or other field offices in which to conduct their business.

In conference, the House agreed that the language prohibiting the move should be maintained, and I wholly support that decision. The REA is administering programs which involve tremendous public investment of critical importance to millions of Americans and they are doing so at a relatively low cost. The prevention of this move is in my view, a step to continue the good services of the REA in bringing electric power to nonurban America.

Mr. GOLDWATER. Mr. Speaker, contained in H.R. 10647, the first supplemental appropriation, is $3.4 million in emergency funds for the Angeles National Forest.

I want to express my support for these funds and urge my colleagues in the House to retain them.

As many of you know, southern California and the Angeles National Forest was recently ravaged by two severe forest fires that destroyed a'most 68,000 acres. The fires damaged or destroyed some 38 private residences, and they burned away almost all the vegetation. Fortunately, there was no loss of life.

While the declaration of the Small Business Administration that the area qualifies for loan assistance because it was rendered a disaster area will certainly help those immediately affected by the fire, the destruction of ground cover and vegetation exposes all surrounding areas to severe flooding and soil erosion. Reclamation must be begun immediately so that reseeding and reconstruction of debris and water basins may begin and be substantially completed before the traditionally heavy winter rains come to the Los Angeles area.

Regretfully, this legislation had already passed the House when the fires struck. My colleague John Rousselot and I undertook to enlist the assistance of our California Senators in this matter. They responded with an amendment on the floor of the Senate adding the necessary funds. Most of the California congressional delegation joined us in the request, and for the Record I enclose the pertinent correspondence.

Congress of the United States,
House of Representatives,
Washington, D.C., December 4, 1975.

Dear California Colleague: As you well know, the Los Angeles region was recently ravaged by severe forest fires in the Big Tujunga and Mount Baldy areas. These fires destroyed a total of 60,000 acres of the Angeles National Forest. Also lost were some 20 homes and over 95% of the forest and watershed in the affected areas.

The problem confronting the forest management people is that they have less than one month in which to repair these burned areas in order to protect the terrain, watersheds and residential areas from the flooding and soil erosion which will certainly accompany the Southern California December and January rains.

We wish to enlist your support for a delegation request to our California Senators to offer an amendment to the supplemental agricultural appropriations bill to add $3.5 million to the Forest Service Maintenance Program. This amount is needed for reseeding, stabilization of road fills, earthen dams and repairs in recreational areas.

Enclosed is a copy of the delegation letter, and we would sincerely appreciate your assistance in helping to avert a worse disaster than the fire.

Sincerely,

Barry M. Goldwater, Jr.,
Member of Congress.
John H. Rousselot,
Member of Congress.

December 4, 1975.

Hon. John V. Tunney,
Dirksen Senate Office Building,
Washington, D.C.

Dear John: As you undoubtedly know, Southern California has had the great misfortune to be ravaged by severe forest fires which affected two areas in the greater Los Angeles region: Big Tujunga and Mount Baldy. Serious damage was inflicted on a total of 60,000 acres of forest and watershed. Also lost were some 20 private residences.

The problem confronting the forest management is that they have less than one month in which to repair these burned areas in order to protect the terrain and watersheds against the severe December and January rains which come to Southern California. In normal times, the rains present serious flood and soil erosion, and the devastation of fire has removed all soil covering. In addition, the fire fighting activity required damage to the roads and dams. Bill Dresser, Supervisor of the Angeles National Forest, in which the fires occurred, has indicated the following restorative operations must be undertaken immediately:

Reseeding—for rapid growth before rains to prevent mud slides.

Approximate cost: $500,000.

Stabilization—of road fills and trails to prevent mud slides.

Check Dams and Debris Dams—to check run-off.

Rehabilitation and Protection—of damaged areas including recreation areas.

Approximate cost: $3 million.

The need is for $3.5 million and the Angeles National Forest has no funds available to support the cost of this emergency effort.

On Thursday, December 4th, the Senate Appropriations Committee reported out the supplemental agriculture appropriations bill. The full Committee was informed of the situation confronting the Angeles National Forest, but the short notice worked against the inclusion of these desperately needed funds.

We, the undersigned members of the California Congressional Delegation, urge you to amend this legislation to include the $3.5 million emergency assistance funds.

Sincerely yours,

BARRY M. GOLDWATER, Jr.,
Member of Congress.
JOHN H. ROUSSELOT,
Member of Congress.

In addition, Congressman ROUSSELOT and I sent an urgent telegram to the Secretary of Agriculture requesting his assistance and support. The response of his Department was quick and affirmative. Mr. Robert W. Long, Assistant Secretary for Conservation, Research and Education has informed me that the Department will move immediately to repair and reclaim the burned out areas once the funds are made available. I include a copy of his letter for the RECORD:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 11, 1975.
Hon. BARRY M. GOLDWATER, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GOLDWATER: This responds to your telegram of December 7, 1975, pointing out the emergency in the Angeles National Forest in Southern California and requesting support for Section 216 funding for emergency measure installation on the impaired watershed.

When the supplemental act is signed, we will recommend that the funds for work that can be completed in FY 1976 be made available in 1976. The amount to be expended during FY 1976 will be determined by factors such as availability of resources, equipment and people, and weather conditions, and will be determined by field employees who are familiar with the problem. Remaining funds will be available beginning in July 1976.

Sincerely,

ROBERT W. LONG,
Assistant Secretary for Conservation, Research and Education.

Finally, Mr. Speaker, I want to bring to the Members' attention the diligent efforts of Mr. William T. Dresser, the forest manager of the Angeles National Forest. He and his staff first had to deal with fighting the fires and then, without any rest, move to evaluating the damage and preparing the necessary reports so that reliable information would be available for the Congress to act on. He is an exemplary public servant and California and the Los Angeles area are indeed fortunate to have him working in their behalf.

I urge the House to retain these necessary funds.

Mr. VANIK. Mr. Speaker, I note that conference amendment No. 66 deletes the appropriation provided by the House of Representatives for the Internal Revenue Service's Employee Plans and Exempt Organizations Office.

Originally, the House Committee provided some $4 million for this office to help administer the new Pension Reform Act. The Senate committee deleted this appropriation, and I regret to note that the conferees have accepted the other body's position.

The Employee Retirement Income Security Act of 1974 is one of the most complex bills passed in recent years. It is a very difficult program to administer. During the coming year, IRS will be reviewing over 500,000 pension plans to determine whether those plans are taking steps to comply with the new law. It has been calculated that with present manpower, that the IRS would only have enough staff to spend 9 minutes per plan during 1976 to determine if the plan was complying with the complex new legislation.

The Pension Reform Act was some 10 years in the making—and now its promised reforms are being crippled because of inadequate appropriations. The IRS, for example, requested $14 million from OMB for the administration of the new act. OMB totally denied that request.

I would hope that when the spring supplemental is requested that the House committee could again consider providing an appropriation for the Office of Employee Plans and Exempt Organizations. While we can now anticipate that this program is headed toward disaster, I believe that by late winter we will have sufficient documentation of the demands upon IRS that we will be able to convince the other Chamber to support even more than a $4 million appropriation.

I want to thank the House committee members for supporting this appropriation when it was before their committee and before the House, and I hope that something can be provided in the next supplemental.

Mr. WAMPLER. Mr. Speaker, I am unequivocally opposed to Senate amendment No. 14 in the conference report to the bill, H.R. 10647, making supplemental appropriations for fiscal year 1976. Section 14 establishes the New York City seasonable financing fund in the amount of $2.3 billion.

It is my intention to support Mr. MICHEL's motion to recommit the conference report with instructions to reduce one billion dollars from the appropriations for New York City. It is my understanding that this amount will not be needed until after June 30, 1976, and by withholding these unneeded funds until that time it is my judgment that New York City will be induced to further correct its situation. To do otherwise would tempt the city to let up on its promised efforts to do everything in its power to solve its own problems.

If the Michel motion fails, I will then vote for the conference report to preclude the loss of other appropriations in the bill, such as $500 million for insured loans from the Rural Housing Insurance Fund and the $26.4 million for certain flood control activities, emergency runoff retardation and soil erosion prevention, both administered by USDA and vitally needed in our agriculture communities.

Mr. Speaker, if the parliamentary situation permitted, I would vote against any aid to New York City.

Mr. MAGUIRE. Mr. Speaker, although I strongly favored Federal action, contingent upon stringent fiscal and budgetary reforms, to assist New York to avert default, I voted "present" on the recommittal motion with instructions to alter the appropriation for New York, and on the final vote on the Supplemental Appropriations Act to avoid any possible conflict of interest, or appearance of conflict, arising from the fact that my wife, Margaret, owns municipal assistance corporation bonds.

On October 28, 1975, I inserted in the CONGRESSIONAL RECORD at page 34128, the details concerning my wife's holdings, together with the disclosure of same contained in my letter of October 20, 1975, to the Committee on Standards of Official Conduct.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. MICHEL. Mr. Speaker, I am opposed to the conference report in its present form, yes.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL moves to recommit the conference report on H.R. 10647 to the committee of conference, with instructions to the managers on the part of the House to move that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the sum provided in said amendment, insert: "$1,300,000,000".

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The Speaker. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 219, answered "present" 2, not voting 26, as follows:

[Roll No. 782]

YEAS—187

Abdnor
Allen
Anderson, Calif.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baldus
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan

Burgener
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conlan
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Early
Edwards, Ala.
Emery
Erlenborn
Esch
Eshleman
Evans, Ind.
Findley
Fithian
Flynt
Forsythe
Fountain
Frey
Fuqua
Gibbons
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Haley
Hamilton
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Hubbard
Hutchinson
Hyde
Ichord
Jacobs
Johnson, Colo.
Jones, N.C.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Levitas
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McDonald
Madigan
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
Neal
Nichols
O'Brien
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Roberts
Robinson
Rogers
Rose
Rousselot
Runnels
Ryan
Santini
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.

NAYS—219

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Casey
Chisholm
Clay
Conable
Conte
Conyers
Corman
Cornell
Cotter
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Florio
Ford, Tenn.
Frenzel
Giaimo
Gilman
Green
Gude
Hall
Hanley
Hannaford
Harkin
Harrington
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Helstoski
Hicks
Holtzman
Horton
Howard
Howe
Hughes
Jeffords
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Long, La.
McCloskey
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Peyser
Pike
Price
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Sarasin
Sarbanes
Scheuer
Seiberling
Sharp
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Weaver
Whalen
Whitten
Wilson, C. H.
Wolff
Wright
Wydler
Yates
Young, Ga.
Zablocki
Zeferetti

ANSWERED "PRESENT"—2

Gonzalez
Maguire

NOT VOTING—26

Andrews, N.C.
Bell
Burke, Fla.
Burton, John
Collins, Ill.
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Guyer
Hébert
Hinshaw
Hungate
Jarman
Jenrette
Jones, Tenn.
Metcalfe
Riegle
Russo
St Germain
Simon
Stephens
Symington
Thompson
Waxman

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Thompson against.

Mr. Stephens for, with Mr. St Germain against.

Mr. Burke of Florida for, with Mr. Russo against.

Mr. Jarman for, with Mr. Ford of Michigan against.

Mr. Guyer for, with Mr. Foley against.

Mr. Hinshaw for, with Mr. John L. Burton against.

Mr. Bell for, with Mr. Waxman against.

Mr. Flowers for, with Mr. Metcalfe against.

Mr. Jones of Tennessee for, with Mrs. Collins of Illinois against.

Mr. Hungate for, with Mr. Symington against.

Mr. Jenrette for, with Mr. Riegle against.

Mr. Andrews of North Carolina for, with Mr. Simon against.

Mr. EVINS of Tennessee and Mr. RICHMOND changed their vote from "yea" to "nay."

Messrs. ARCHER, STUCKEY, BUCHANAN, PREYER, and PERKINS changed their vote from "nay" to "yea."

Mr. MAGUIRE changed his vote from "nay" to "present."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 275, nays 130, answered "present" 1, not voting 28, as follows:

[Roll No. 783]

YEAS—275

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Casey
Cederberg
Chisholm
Clay
Cohen
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Ford, Tenn.
Forsythe
Frenzel
Giaimo
Gilman
Gonzalez
Green
Gude
Hall
Hanley
Hannaford
Harkin
Harrington
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Heinz
Helstoski
Hicks
Hightower
Holland
Holtzman
Horton
Howard
Howe
Jeffords
Johnson, Calif.
Johnson, Pa.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lujan
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Sarasin
Sarbanes
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—130

Abdnor
Anderson, Calif.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bowen
Breaux
Brinkley
Broomfield
Broyhill
Burgener
Burleson, Tex.
Butler
Byron
Carter
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
du Pont

Early
Eshleman
Evans, Ind.
Fithian
Flynt
Fountain
Frey
Fuqua
Gibbons
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Haley
Hamilton
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Hefner
Henderson
Hillis
Holt
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Levitas
Long, Md.
Lott
McCollister
McDonald
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
Neal
Nichols
Pettis
Poage
Pritchard
Quie
Regula
Rhodes
Roberts
Robinson
Rogers
Rousselot
Runnels
Ryan
Santini
Satterfield
Schneebeli
Schulze
Shuster
Smith, Nebr.
Snyder
Spence
Steelman
Steiger, Ariz.
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Waggonner
Whitehurst
Wiggins
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Maguire

NOT VOTING—28

Andrews, N.C.
Bell
Burke, Fla.
Burton, John
Collins, Ill.
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Guyer
Hébert
Hinshaw
Hungate
Jarman
Jenrette
Jones, Ala.
Jones, Tenn.
Metcalfe
Mosher
Riegle
Russo
St Germain
Simon
Stephens
Symington
Thompson
Waxman

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Hébert against.

Mr. John L. Burton for, with Mr. Burke of Florida against.

Mr. St Germain for, with Mr. Hinshaw against.

Mr. Ford of Michigan for, with Mr. Guyer against.

Mr. Foley for, with Mr. Stephens against.

Mr. Waxman for, with Mr. Jarman against.

Until further notice:

Mrs. Collins of Illinois with Mr. Bell.

Mr. Jenrette with Mr. Andrews of North Carolina.

Mr. Jones of Alabama with Mr. Flowers.

Mr. Russo with Mr. Simon.

Mr. Riegle with Mr. Fraser.

Mr. Jones of Tennessee with Mr. Metcalfe.

Messrs. STUCKEY and HILLIS changed their votes from "yea" to "nay."

Messrs. ENGLISH and YOUNG of Texas changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 3, line 13, insert:

GENERAL PROVISIONS

Section 610 under this head in the Agriculture and Related Agencies Appropriations Act, 1976, Public Law 94–122, is amended by striking "$37,452,000" and substituting in lieu thereof "$47,328,000" and by striking "$9,363,000" and substituting in lieu thereof "$11,936,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

GENERAL PROVISIONS

Section 610 under this head in the Agriculture and Related Agencies Appropriations Act, 1976, Public Law 94–122, is amended by striking "$37,452,000" and substituting in lieu thereof "$42,400,000" and by striking "$9,363,000" and substituting in lieu thereof "$10,650,000".

The motion was agreed to.

The SPEAKER. The Clerk will report that next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 6: Page 3, line 19, insert:

RELATED AGENCIES

"COMMODITIES FUTURES TRADING COMMISSION

"The limitation of $200,000 for employment under 5 U.S.C. 3109 under this head in the Agriculture and Related Agencies Appropriation Act, 1976 (Public Law 94–122), is increased to $400,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"RELATED AGENCIES

"COMMODITY FUTURES TRADING COMMISSION

"The limitation of $200,000 for employment under 5 U.S.C. 3109 under this head in the Agriculture and Related Agencies Appropriation Act, 1976, (Public Law 94–122) is increased to $265,000."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

Mr. MAHON. Mr. Speaker, inasmuch as amendments 28 through 36, inclusive, relate solely to housekeeping operations of the other body in which it is the practice of the House to concur without an amendment, I ask unanimous consent that Senate amendments 28 through 36, inclusive, be considered as read, printed in the RECORD, and that they be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read as follows:

Senate amendments 28 through 36, inclusive: Page 11, insert:

SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For an additional amount for "Compensation and mileage of the Vice President and Senators", $181,500.

For an additional amount for "Compensation and mileage of the Vice President and Senators" for the period July 1, 1976, through September 30, 1976, $62,000.

SALARIES, OFFICERS AND EMPLOYEES

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $9,400: *Provided,* That effective January 1, 1976, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $18,762.

For an additional amount for "Office of the Secretary" for the period July 1, 1976, through September 30, 1976, $4,700.

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For an additional amount for "Administrative and Clerical Assistants to Senators", $26,400: *Provided,* That effective January 1, 1976, the clerk hire allowance of each Senator from the State of California shall be increased to that allowed Senators from States having a population of more than twenty-one million, the population of said State having exceeded twenty-one million inhabitants.

For an additional amount for "Administrative and Clerical Assistants to Senators" for the period July 1, 1976, through September 30, 1976, $13,200.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For an additional amount for "Inquiries and investigations", $1,080,000.

For an additional amount for "Inquiries and investigations" for the period July 1, 1976, through September 30, 1976, $275,000.

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous items", fiscal year 1975, $350,000.

For an additional amount for "Miscellaneous items", $2,550,000.

For an additional amount for "Miscellaneous items", for the period July 1, 1976, through September 30, 1976, $1,275,000.

ADMINISTRATIVE PROVISIONS

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendments of the Senate numbered 28 through 36, inclusive, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 14, line 17, insert: SEC. 109. Subsection (b) of Public Law 94–57 is amended by adding at the end thereof the following: "In carrying out the provisions of section 3620 of the Revised Statutes, as amended by subsection (a), the Secretary of the Senate shall promulgate such rules and regulations as may be appropriate with respect to the Senate. The provisions of section 3620(b)(1) of the Revised Statutes, requiring reimbursement for any additional check sent on behalf of an employee, shall not apply in the case of an additional check sent upon the request of an employee of the Senate.".

(b) Subsection (c) of Public Law 94–57 is amended by adding at the end thereof the following: "In carrying out the provisions of section 3620 of the Revised Statutes, as amended by subsection (a), the Clerk of the House with approval of the Committee on House Administration shall promulgate such rules and regulations as may be appropriate with respect to the House. The provisions of section 3620(b)(1) of the Revised Statutes, requiring reimbursement for any additional check sent on behalf of an employee, shall not apply in the case of an additional check sent upon the request of an employee of the House.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 38: Page 15, line 5, insert: Sec. 110. Effective January 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of the following positions in the Senate Recording Studio: an assistant director at not to exceed $32,436 per annum in lieu of a chief video engineer at not to exceed $32,436 per annum; a chief video engineer at not to exceed $26,394 per annum in lieu of an administrative officer at not to exceed $26,394 per annum; a chief film and video cameraman at not to exceed $25,440 per annum in lieu of a director of photography at not to exceed $25,440 per annum; a film and video cameraman at not to exceed $20,352 per annum in lieu of a chief sound engineer at not to exceed $20,352 per annum; a video engineer at not to exceed $24,168 per annum in lieu of an assistant video engineer at not to exceed $24,168 per annum; a chief audio engineer at not to exceed $23,214 per annum in lieu of an assistant video engineer at not to exceed $23,214 per annum; a video technician at not to exceed $18,126 per annum in lieu of a cameraman at not to exceed $18,126 per annum; an audio engineer at not to exceed $15,900 per annum in lieu of a film and radio recording engineer at not to exceed $15,900 per annum; a film and laboratory technician at not to exceed $16,536 per annum in lieu of a color film technician at not to exceed $16,536 per annum; a secretary at not to exceed $11,448 per annum in lieu of a shipping and stock clerk at not to exceed $11,448 per annum, an appointment secretary at not to exceed $13,038 per annum in lieu of a traffic manager at not to exceed $13,038 per annum; an audio engineer at not to exceed $17,172 per annum in lieu of a production assistant at not to exceed $17,172 per annum; a film and laboratory technician at not to exceed $20,352 per annum in lieu of an editor and printer at not to exceed $20,352 per annum; and an audio engineer at not to exceed $13,356 per annum in lieu of a laboratory technician at not to exceed $13,356 per annum.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 39: Page 16, line 16, insert: Sec. 111. (a) The tenth sentence of section 105 of the Legislative Branch Appropriations Act, 1976, is amended by inserting immediately after "fiscal year," the following: "and the two employees referred to in such clause (A) who are employees of any joint committee having legislative authority,".

(b) The ninth sentence of section 4 under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriations Act, 1975, is amended by inserting immediately after "joint committee employees" the following: ", who are not employees of a joint committee having legislative authority,".

(c) The amendments made by this section shall become effective January 1, 1976, and no increase in salary shall be payable for any period prior to such date by reason of enactment of this section.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: Page 17, line 16, insert:

Sec. 112. (a) Notwithstanding any other provision of law, the Sergeant at Arms of the Senate, subject to the approval of the Committee on Rules and Administration, and the Committee on Appropriations, is authorized to lease, for use by the United States Senate, and for such other purposes as such committees may approve, all or any part of the property located at 400 North Capitol Street, Washington, District of Columbia, known as the "North Capitol Plaza Building": *Provided*, That rental payments under such lease for the entire property shall not exceed $3,375,000 per annum, exclusive of amounts for reimbursement for taxes paid and utilities furnished by the lessor: *Provided further*, That a lease shall not become effective until approved by Senate Resolution. Prior to such approval process the General Accounting Office shall examine the terms of the proposed lease and shall report to the Senate on its reasonableness, taking into account such factors as rental rates for similar space, advantages of proximity, and possible alternative arrangements. Such payments shall be paid from the Contingent Fund of the Senate upon vouchers approved by the Sergeant at Arms: Provided further, That such lease may be for a term not in excess of five years, and shall contain an option to purchase such property, and shall include such other terms and conditions as such committees may determine to be in the best interests of the Government: *Provided further*, That nothing in this section shall be construed so as to obligate the Senate or any of its Members, officers, or employees to enter into any such lease or to imply any obligation to enter into any such lease.

(b) Notwithstanding any other provision of law, property leased under authority of subsection (a) shall be maintained by the Architect of the Capitol as part of the "Senate Office Buildings," subject to the laws, rules, and regulations governing such buildings, and the Architect is authorized to incur such expenses as may be necessary to provide for such occupancy.

(c) Notwithstanding any other provision of law, the Sergeant at Arms of the Senate, subject to the approval of the Committee on Rules and Administration and the Committee on Appropriations, is authorized to sublease any part of the property leased under authority of subsection (a) which is in excess of the requirements of the Senate. All rental payments under any such sublease shall be paid to the Sergeant at Arms of the Senate and such amounts shall thereupon be added to and merged with the appropriation "Miscellaneous Items" under the Contingent Fund of the Senate.

(d) Notwithstanding any other provision of law, upon the approval of the Committee on Rules and Administration and the Committee on Appropriations, the Secretary of the Senate shall transfer by voucher or vouchers to the Architect of the Capitol from the "Contingent Fund of the Senate" such amounts as may be necessary for the Architect of the Capitol to carry out the provisions of subsection (b) and such amounts shall thereupon be added to and merged with the appropriation "Senate Office Buildings".

(e) The authority under this section shall continue until otherwise provided by law.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concurs therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 41: Page 19, line 24, insert: Sec. 113. The provisions of sections 491(c) and 491(d) of the Legislative Reorganization Act of 1970, as amended (2 U.S.C. 88b–1), shall not apply to the pay of pages of the Senate and House of Representatives during the period between the recess or adjournment of the first session of the Ninety-fourth Congress and the convening of the second session of the Ninety-fourth Congress. The pay of Senate and House pages shall continue during such period of recess or adjournment.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein.

The motion was agreed to.

The Speaker. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 42: Page 20, line 8, insert: Sec. 114. Notwithstanding the provisions of section 1110 of the Legislative Branch Appropriation Act, 1976, effective January 1, 1976, the pay of pages of the Senate shall not exceed a gross annual maximum rate in excess of $9,063.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 44: Page 22, line 24, strike out: "*Provided further*, That none of the funds in this bill shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 193 staff employees." and insert: "*Provided further*, That the Congressional Budget Office shall have the authority to contract without regard to section 5 of title 41 of the United States Code (section 3709 of the Revised Statutes, as amended)."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "*Provided further*, That none of the funds in this bill shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 193 staff employees: *Provided further*, That the Congressional Budget Office shall have the authority to contract without regard to section 5 of title 41 of the United States Code (section 3709 of the Revised Statutes, as amended).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 46: Page 23, line 11, insert: CAPTIOL BUILDINGS

For an additional amount for "Capitol buildings", for relocation within the United States Capitol of statues contributed by States to the National Statuary Hall Collection under authority of section 1814 of the Revised Statutes, as amended (40 U.S.C. 187), $65,000, to be expended without regard to section 3709 of the Revised Statutes, as amended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 47: Page 24, line 1, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate office buildings", $696,000, of which $200,000 shall remain available until expended.

For an additional amount for "Senate office buildings" for the period July 1, 1976, through September 30, 1976, $29,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 24, line 12, insert:

Administrative Provision

The third paragraph under the heading "Office of the Architect of the Capitol" and the sub-heading "Salaries" in the Legislative Branch Appropriation Act, 1960 (73 Stat. 407), as amended by section 214(p) of Public Law 90-206 (81 Stat. 638), is amended by striking out "one position" under the appropriation "Capitol Buildings" and inserting in lieu thereof "two positions" under the appropriation "Capitol Buildings".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Page 25, line 14, insert:

ADMINISTRATIVE PROVISION

The Disbursing Officer of the Library of Congress is authorized to disburse funds appropriated for the Congressional Budget Office, and the Library of Congress shall provide financial management support to the Congressional Budget Office as may be required and mutually agreed to by the Librarian of Congress and the Director of the Congressional Budget Office.

All vouchers certified for payment by duly authorized certifying officers of the Library of Congress shall be supported with a certification by an officer or employee of the Congressional Budget Office duly authorized in writing by the Director of the Congressional Budget Office to certify payments from appropriations of the Congressional Budget Office. The Congressional Budget Office certifying officers shall (1) be held responsible for the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting paper and the legality of the proposed payment under the appropriation or fund involved, (2) be held responsible and accountable for the correctness of the computations of certifications made, and (3) be held accountable for and required to make good to the United States the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by him, as well as for any payment prohibited by law which did not represent a legal obligation under the appropriation or fund involved: *Provided*, That the Comptroller General of the United States may, at his discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever he finds (1) that the certification was based on official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained the actual facts, or (2) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment: *Provided further*, That the Comptroller General shall relieve such certifying officer or employee of liability for an overpayment for transportation services made to any common carrier covered by section 66 of title 49, whenever he finds that the overpayment occurred solely because the administrative examination made prior to payment of the transportation bill did not include a verification of transportation rates, freight classifications, or land grant deduction. (Public Law 85-53, paragraph 3, June 13, 1957, 71 Stat. 81.)

The Disbursing Officer of the Library of Congress shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate, the responsibility for which is imposed upon a certifying officer or employee of the Congressional Budget Office.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 52: Page 28, line 17, insert:

GENERAL PROVISIONS

Section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), relating to the use of foreign currency, is amended by striking out "and the Joint Economic Committee" and inserting in lieu thereof ", the Joint Economic Committee, and the Joint Committee on Congressional Operations".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 54: Page 29, line 4, insert:

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otheriwse provided for, by the United States for expenses of United Nations peacekeeping forces in the Middle East, $35,000,000, notwithstanding the limitation on contributions to international organizations contained in Public Law 92-544 (86 Stat. 1109, 1110).

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 32, line 12, insert:

Japan-United States Friendship Commission

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For the purpose of implementing the Japan-United States Friendship Act (Public Law 94-118), there is appropriated to the Japan-United States Friendship Trust Fund, to remain available until expended, an amount equal to 7.5 per centum of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971. Funds appropriated under title I of Public Law 94-121 for United States-Japan Friendship Activities are transferred to the Japan-United States Friendship Trust Fund for the purpose of implementing the Japan-United States Friendship Act (Public Law 94-118) and are to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Japan-United States Friendship Commission

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For the purpose of implementing the Japan-United States Friendship Act (Public

Law 94-118), there is appropriated to the Japan-United States Friendship Trust Fund, to remain available until expended, $18,000,000 of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971. Funds appropriated under title I of Public Law 94-121 for United States-Japan Friendship Activities are transferred to the Japan-United States Friendship Trust Fund for the purpose of implementing the Japan-United States Friendship Act (Public Law 94-118) and are to remain available until expended.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 65: Page 36, line 4, insert:

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

Of the amount provided under this head in the "Treasury, Postal Service, and General Government Appropriation Act, 1976", $677,000 shall be available for expenses of travel, notwithstanding the provisions of section 501 of the Act.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 76: Page 39, line 3, insert:

GENERAL SERVICES ADMINISTRATION

REFUNDS UNDER RENEGOTIATION ACT

For necessary expenses to carry out section 201(f) of the Renegotiation Act of 1951 (50 U.S.C. App. 1231(f)), $1,000,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 77: Page 39, line 8, insert:

TEMPORARY STUDY COMMISSIONS

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the National Commission on Supplies and Shortages Act (Public Law 93-426), including personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, $622,500: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

For necessary expenses for the period July 1, 1976, through September 30, 1976, to carry out the provisions of the National Commission on Supplies and Shortages Act (Public Law 93-426), including personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, $295,000: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 82: Page 42, line 14, insert: SEC. 205. (a) It is the sense of Congress that the President, through the Director of the Office of Management and Budget, shall take immediate steps to restrain the inflationary impact of Federal expenditures and to conserve the use of energy by ordering a reduction of Federal travel expenditures not to exceed 10 percent; and

(b) These steps shall include such provisions as are necessary to insure that such reductions are allocated so as not to disrupt the provision of vital governmental services or the organized troop movement of military personnel; and

(c) The President is requested to submit to Congress, within 30 days of adoption of this section by the Senate and the House of Representatives, a report outlining his actions.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

The motion was agreed to

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material and tabulations, on the conference report on the bill (H.R. 10647), making supplemental appropriations for fiscal year 1976 and for the transition period.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 622, ENERGY POLICY AND CONSERVATION ACT

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

POINT OF ORDER

Mr. GOLDWATER. Mr. Speaker, I make a point of order.

The SPEAKER. The gentleman from California will state his point of order.

Mr. GOLDWATER. Mr. Speaker, I make a point of order against title V, part B.

The SPEAKER. The Chair would request that the gentleman withhold his point of order until we have had the title of the bill read by the Clerk.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. TEAGUE. Mr. Speaker, I reserve a right to object.

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) reserves a right to object.

The Chair states that the right of the gentleman from California (Mr. GOLDWATER) will be protected.

Mr. TEAGUE. Mr. Speaker, I reserve the right to object in order to ask the gentleman from West Virginia (Mr. STAGGERS), the chairman of the committee, a question.

CALL OF THE HOUSE

Mr. SYMMS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 784]

Addabbo
Alexander
Ambro
Andrews, N.C.
Badillo
Beard, R.I.
Bell
Bonker
Brown, Mich.
Burke, Fla.
Burton, John
Burton, Phillip
Carney
Collins, Ill.
Conyers
Davis
Derrick
Diggs
Dodd
Drinan
Duncan, Oreg.
Edgar
Edwards, Calif.
Esch
Eshleman
Flowers
Foley
Ford, Mich.
Fountain
Fraser
Gaydos
Giaimo
Gibbons
Gude
Guyer
Harsha
Hastings
Hébert
Hinshaw
Hungate
Ichord
Jarman
Jenrette
Jones, Tenn.
Karth
Kastenmeier
Keys
Landrum
Leggett
McDade
Mahon
Mazzoli
Melcher
Metcalfe
Meyner
Mikva
Mineta
Mitchell, Md.
O'Neill
Pike
Rees
Riegle
Rosenthal
Runnels
Russo
Ryan
St Germain
Scheuer
Schneebeli
Shuster
Simon
Skubitz
Steiger, Ariz.
Stuckey
Symington
Thompson
Udall
Ullman
Vander Veen
Vigorito
Waxman
Wiggins
Wilson, C. H.
Wolff
Yatron

The SPEAKER. On this rollcall 349 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 622, ENERGY POLICY AND CONSERVATION ACT

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) has reserved the right to object.

Mr. TEAGUE. Mr. Speaker, I reserved the right to object in order to ask a question of the gentleman from West Virginia, the chairman of the committee.

Mr. Speaker, I would like to ask the gentleman from West Virginia a question with respect to the inclusion in the conference substitute for S. 622, of provisions relating to application of advanced automotive technology. These provisions establish a program in the Department of Transportation to develop new automotive technologies and guarantee loans for these purposes. These provisions came from title II of S. 1883, which was referred to the Committee on Science and Technology as H.R. 9174. Is the inclusion of these provisions in the conference report an assertion of jurisdiction by the Interstate and Foreign Commerce Committee over the subject of energy or environmental research and development?

Mr. STAGGERS. If the gentleman will yield, I will be very happy to say very emphatically that we have no intention of ever invading the authority of any other committee. By this being in the bill is one of the things we were trying to work out in the energy bill with the other body. We tried to work out something that would make it effective in regulating gas and oil at this time; but I can say to the gentleman that it sets no precedent.

Mr. TEAGUE. Would the gentleman comment on the oversight provisions on this?

Mr. STAGGERS. It would be within the gentleman's committee's jurisdiction.

Mr. TEAGUE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of California. Mr. Speaker, I reserve the right to object.

The SPEAKER. The Chair will protect all points of order, but would like to get all the reservations first. The gentleman from California has reserved the right to object.

Mr. BROWN of California. Mr. Speaker, I make this reservation hopefully to enter into a colloquy with the gentleman from Michigan (Mr. Dingell), which I hope will be helpful in regard to this legislation.

The gentleman from Michigan (Mr. Dingell) knows the high regard I have for the gentleman's concern with energy matters. I received last week a couple of "Dear Colleague" letters from the gentleman, one of them announcing the support that had been obtained for this bill. Just as a matter of interest, I wonder if that support includes the editorial support of the Wall Street Journal?

Mr. DINGELL. If the gentleman will yield, I am not sure I understand either the gentleman's reservation or the gentleman's question, if the gentleman would help me.

Mr. BROWN of California. This is merely laying the foundation for some subsequent questions, if I may.

That "Dear Colleague" letter also announced the fact that the energy bill would be on the floor in the near future. I wonder if the gentleman would care to comment as to whether or not this is the only energy bill that is going to be on the floor, or whether there are other energy bills from other committees that also have some claim on the attention of this House in constructing an energy policy of the United States.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, this is one of possibly several that will be before the House, one from the Committee on Interstate and Foreign Commerce and one that passed the House from the Committee on Ways and Means. There may be other related matters coming before the committee.

Mr. BROWN of California. I was confused by the term "the energy bill," whether the gentleman means there were no other energy bills available to us.

The gentleman also sent out another "Dear Colleague" letter in regard to the ERDA bill, which the gentleman indicated that the gentleman was opposed to that bill and specifically referred to the securities and exchange implications invoved in section 103, the loan guarantee program. The gentleman made a number of assertions in that "Dear Colleague" letter with regard to loan guarantees, that when the full faith and credit of the United States was placed behind it, that it was no longer subject to the jurisdiction of the SEC.

Mr. Speaker, because I want to understand how to differentiate between the loan guarantee provision in that bill and those in the gentleman's own bill, would the gentleman explain how it is that the loan guarantee program, which is about $1 billion in this conference report, manages to avoid the difficulties in the other loan guarantee provision in the ERDA bill.

Mr. DINGELL. Well, there are several things. First of all, this is not $1 billion.

Second, it is three-fourths of $1 billion.

Mr. BROWN of California. That is just for the coal mining, that does not include the automotive section.

Mr. DINGELL. Second of all, the Comptroller General has full authority to engage in careful audit under this $1 billion of the ERDA bill.

I agree with the gentleman, it is a perfectly valid point, that wherever the question of loan guarantees is involved, that under the Securities and Exchange Act there is an exemption for the issuance of those securities.

That is something which I regard as being very bad and which I intend to correct. It is something upon which my staff is now commencing to draft all the necessary documents to correct that situation.

Mr. BROWN of California. In other words, the gentleman is stating that certain exemptions from SEC requirements apply to the loan guarantees in his bill as well as to the loan guarantees in the ERDA bill.

Mr. DINGELL. I think the gentleman ought to know that in the instance of the loan guarantees under S. 622, the administrator will prescribe and very carefully set out such circumstances setting forth safeguards requiring completing of records and disclosing——

Mr. BROWN of California. If I may interrupt, those same provisions were in the ERDA bill also.

Mr. DINGELL. I am not sure they were. I have reason to think they were not, but the gentleman may be correct.

Mr. BROWN of California. In connection with the debate on the ERDA bill last Thursday, the gentleman referred to loan guarantees over and over again as "giveaways." Has the gentleman come to a different point of view with regard to loan guarantees in his own bill, or is there something which has happened that has changed them?

Mr. DINGELL. I say to the gentleman that on the basis of the committee's consideration, these are highly meritorious.

Mr. BROWN of California. Will the gentleman give me the reasons for this so that I may more carefully draft legislation?

Mr. DINGELL. I refer the gentleman to pages 7 and 8 of the conference report, where he will find the reason. I can read it to the gentleman.

Mr. BROWN of California. I may want the full conference report read if the gentleman does not care to explain it to me.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I have been very interested in the colloquy between the gentleman from California and the gentleman from Michigan, because I too was present last Thursday when, in section 103 of that bill, we heard loan guarantees loudly attacked as ripoffs and giveaways. I see now with some astonishment that we now have a conference report which says that a mine operator—not of a new mine, but of an existing mine, which was not the language in the bill passed by this House previously—an existing mine that has revenues up to $50 million per year and produces up to 1 million tons of coal, is eligible under the $750 million program of loan guarantees in this bill.

I wonder if someone could explain why what was so bad last Thursday has suddenly become very good in the form of loan guarantees in this bill?

Mr. BROWN of California. I will be happy to give the gentleman from Michigan an opportunity to respond to the question.

Mr. DINGELL. Mr. Speaker, I think it ought to be pointed out for the benefit of the gentleman from California and the gentleman from Illinois, who protest this quite loudly that this precise provision was considered by the House. I am delighted that they have finally read it; I rejoice. They did have an opportunity to consider this. They did have an opportunity to amend it. They did have a right to ask these questions at a time earlier. I am delighted that they are asking them now. I rejoice. I think it is very helpful. I would have been glad to answer the same way.

Mr. ANDERSON of Illinois. I challenge the gentleman from Michigan to show me in H.R. 7014, as passed by the House of Representatives, where there was any provision extending loan guarantees to the operator of an existing mine. It is my understanding that the provision as it passed the House related solely and exclusively to newly opened mines.

Mr. DINGELL. The answer, for the benefit of the gentleman, was that it was to reopen existing mines. There have been certain minor clarifications of that point with regard to the conference report now before us.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I now yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, I would like to know why and how we have cut the rollback and that we are reducing, putting into the rollback price of $7.66 per barrel, the stripper mines that average in the entire country not more than three barrels a day. They are already exempted. Small operators are exempted and are earning the $11.

Some of our best oil in the whole country and in the world is Quaker oil, and most of that is produced by pump strippers that only produce anywhere from a quarter of a barrel to four or four and a half barrels a day. How do we justify that?

Mr. DINGELL. I am not sure whether the gentleman is asking me a question or making a speech. If he has a question, I would like to respond to it.

The fact of the matter is that we are transgressing on the time of the gentleman from California, but for now we have fixed a $7.66 overall price for crude petroleum. What we are accomplishing in this section is to permit the President broad discretion in terms of fixing prices with regard to stripper wells, with regard to old crude, with regard to new crude, with regard to a few special categories of crude such as off-shore production, production from the North Slope in Alaska, production from the Gulf of Alaska and other high cost oil.

Mr. DENT. If the gentleman will yield back, I understand what the word "average" means, and I know that the gentleman is taking into consideration all the different types of production in different areas. But what is going to be the price of a stripper barrel of oil under this Act? What is the price going to be?

Mr. DINGELL. Conglomerate, or the overall, price of crude petroleum products is $7.66.

Mr. DENT. And that means they are reducing that to about $4.00 a barrel?

Mr. DINGELL. It means, on an overall pricing reduction, less than that. About $3.50.

Mr. DENT. Three dollars and fifty cents a barrel.

Mr. BROWN of California. May I continue with my colloquy with the gentleman from Michigan (Mr. DINGELL)?

Mr. DENT. Yes; I would like some time later.

Mr. BROWN of California. As I said, I am trying to help resolve some of these questions, in the hope that it will expedite and facilitate the consideration of the bill.

With regard to the loan guarantees which the gentleman described as a rip-off, I am sure the gentleman will be able to adequately explain this distinction to our colleagues here. I am looking forward to hearing a more detailed explanation. But I would like to look specifically at the loan guarantee provisions having to do with the advanced automotive program.

Mr. DINGELL. If the gentleman will yield, for the benefit of the gentleman from California, I have consistently voted against that in conference.

Mr. BROWN of California. I appreciate that.

Mr. DINGELL. I never supported that at all.

Mr. BROWN of California. What I want to ask the gentleman is this: In his debate on Thursday last, with regard to ERDA, he referred to section 103, loan guarantees, as, I think, dripping with patent problems, for example. Yet in reading the report I note that the patent provisions for the automotive section of this bill are the same as are applicable in the ERDA bill which the gentleman referred to as dripping with patent problems.

I wonder if the gentleman would care to explain to the Members of the House how he has cut out this dripping that he referred to last Thursday.

Mr. DINGELL. For the benefit of the gentleman from California (Mr. BROWN), in regard to the language of the advanced automotive technology section, the bill now before us requires mandatory licensing of patents. It incorporates section 9, Federal Nonnuclear Research and Development Act of 1974. It also goes further.

Mr. BROWN of California. Does it not say that the patent provisions are essentially the same in this bill as in the EREDA bill? Is not that language used there?

Mr. DINGELL. It is the same as in the Federal Nonnuclear Research and Development Act of 1974.

Mr. BROWN of California. Which is the provision which was in the ERDA act.

Mr. DINGELL. The gentleman is free to make that statement.

Mr. BROWN of California. Let me raise another point having to do with this. Of course, the gentleman has made a great point of who the beneficiaries were of the loan guarantees in section 103, and he mentioned the huge octopuses of the oil industry. I would like to have the gentleman tell me who would be the beneficiaries in the loan guarantee section in this bill.

Mr. DINGELL. In my judgment, it would be the public corporations.

Mr. BROWN of California. What corporations would the gentleman think would be interested and capable of initiating an advanced automotive program with loan guarantees? Would it be General Motors, for example?

Mr. DINGELL. The bill requires, if the gentleman will permit, that before anybody can get a guarantee they have to show that this will go to small businesses.

Mr. BROWN of California. Mr. Speaker, will the gentleman repeat that? They would have to show what?

Mr. DINGELL. They have to show that they cannot get the credit elsewhere, which means that this would have to go to small businesses.

Mr. BROWN of California. No, because that provision is in the coal loan guarantee provision, which is restricted to those small businesses doing less than $50 million worth of business a year. There is no similar provision in the automotive loan guarantee provision.

Mr. DINGELL. For an automotive loan guarantee they would have to show they could not get credit elsewhere.

Mr. BROWN of California. Would it be the gentleman's opinion that General Motors in some area under this provision would be eligible for loans if there were no other companies that could provide the service?

Mr. DINGELL. I must confess to the gentleman that I suppose if General Motors could show that there were no other alternative, that is possible, if they could not get credit somewhere else.

Mr. BROWN of California. Mr. Speaker, the ERDA bill, under specific provisions, limits companies getting loan guarantees to American-owned companies. Is there any similar provision in this bill?

Mr. DINGELL. The answer is that there is not.

Mr. Speaker, I want to recall for the benefit of the gentleman from California that I have never supported this provision.

Mr. BROWN of California. Mr. Speaker, the gentleman is going to be supporting it on the floor here, I presume?

Mr. DINGELL. I am supporting the whole conference report.

Mr. BROWN of California. So Toyota of Volkswagen would be eligible for loan guarantees under this provision?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield further, the answer to that question is that if DOT desired to have that happen, that would be so. I would assume they would not, and I think the legislative history here is going to reflect clearly that that would not be advisable.

Mr. BROWN of California. Mr. Speaker, I want to thank the gentleman for his responses. I am sure they will be helpful in getting additional support for the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. DENT. Mr. Speaker, further reserving the right to object, I just want to clarify something.

I think that it is going to be a very difficult thing for any Member to explain the action here when we refuse a guaranteed loan to gasify and liquefy coal, which are products that are needed in this country, and yet we turn around and we see the very Members who fought that proposal on the floor are now asking us to give guaranteed loans for $750 million to produce more coal.

What are we going to do with the coal? There is not a thing we are going to be able to do with that coal, because there is coal above ground now; there is mined coal above ground in many areas of the country. Unless we get another use for that coal, I cannot see what we are going to do with it.

Here we are trying to get money to guarantee production of coal that we do not need, and we have not provided one incentive to anybody to go into the gasification and liquefaction of coal.

If we would say we would advance $750 million to anyone who will gasify coal, not on an experimental basis but on a production basis we would be doing something for our country. There are at lease seven processes ready now and in operation in certain areas of this country and in the world.

Yet we are talking about putting money up for experimentation. We are talking about foolishly spending money, money to be thrown away so that the patents are not held by any one entity, the real need is for doing something no matter who or where it is done so long at the Government holds the reins on cost. This cannot be used and should not be used to open new coal mines when we do not need all the coal we have now. What we need is a use for the coal that we do have now.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I would like to say how important the point is that he is making. Last week when we had the ERDA authorization bill before us, with loan guarantees for demonstration programs, a major portion of that package was for coal liquefaction, coal gasification and coal desulfurization; the cleaning up of coal so that it can be used.

That provision, under the leadership of the gentleman from Michigan (Mr. DINGELL) was defeated by this body, and so we have no such program in this country today.

Now under the loan guarantee program we have a suggested amount of $750 million to guarantee up to 80 percent for existing mines to mine high-sulfur coal. There is no requirement here that it be low-sulfur coal.

Mr. DINGELL. Mr. Speaker, if the gentleman from Pennsylvania will yield, that is not so.

Mr. McCORMACK. Mr. Speaker, the committee represents that the money should be used only for low-sulfur coal, but according to the words of the report, the money may also be used for high-sulfur coal, because the language in the conference report removes the restraints that were in the House bill.

So the conference report, as it comes to us today, provides 80 percent for mining high-sulfur coal, even in existing mines, and this follows the action last Thursday by the very Members who are sponsoring this bill had defeated the program to clean up the coal.

Mr. DENT. Mr. Speaker, I thank the gentleman for his contribution.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

I will say that I am in thorough agreement with the gentleman. We have an over-production of coal, an oversupply of coal all through eastern Kentucky at least, and I am familiar with that.

We need to do something with it. We do not need to open more mines. We need gasification and liquefaction of coal so that we can be independent of the Arab and OPEC nations.

Mr. Speaker, I thank the distinguished gentleman from Pennsylvania for yielding.

Mr. DENT. Mr. Speaker, let me tell the Members of an incident that happened a few weeks ago, and Members of Congress now on the floor were in Iran when it happened.

There was a discussion with the Shah of Iran and Members of Congress. The Shah of Iran announced to this group that Iran had enough oil, at the present rate of consumption, for 30 years. He said they intended to use every gallon of oil they had to sell to the United States and to the industrial nations, but in the meantime, with excess profits made during that period of 30 years, they would build a nuclear-powered grid that would provided them with power on into eternity.

Here we are with the greatest resources in the whole world and with the cheapest way to produce energy. We are sitting here, and all we are doing is talking about defeating every proposition that comes before us to try to do something about gasification and liquefaction.

We are already gasifying coal. U.S. corporations have build seven or more plants all around the world. We are and have been producing gas from coal since I was a boy of 7 years of age. One new plant under construction at a cost of $1.4 billion in a foreign country, American designed and to be American built, it will produce 40 percent of all the gas, oil, greases, and waxes required in a certain country with many millions of people, and here we are sitting here talking about digging coal.

There is not a single coal operator I know who is worried about the money. What he is worried about is what he is going to do about the coal he is digging now and whether he can do something about liquefying coal or do something about our gas and oil energy that we require and will require.

I stated to this House 3 years ago, and I repeated it the other day, that we will never proceed to the liquefaction and gasification of coal until this country takes part of the risk in guaranteeing the loans. There is no way that any lending body is going to lend money to anybody to go into a situation where there are two kinds of problems; that is, first, whether or not we will really be able to produce that fuel at a price to compete with Russian gas that will soon be pumped all over the world, and with oil coming from the Mideast. The second thing is whether we are going to produce it in quantity enough for the needs of this country and stay in competition with OPEC and still pay the high interest cost for loans without Government guarantees.

Therefore, if these risks are set aside or ignored and we are talking about the cheapest process we know, and that industrial gas production process, I believe—costing about $300 million plus about 9.5 to 10 percent interest per year for 20 years, that particular facility will cost $600 million. Who is going to lend that kind of money with that kind of interest rate unless there is a Government guarantee?

We have had to guarantee every breakthrough in this country for transportation, for navigation television and other major fuel breakthroughs. We have had to do something either by direct giveaways by the Government or through loan guarantees.

Mr. Speaker, we cannot break through the greatest crisis this country has had in its entire lifetime. Even if we have had to pay $1 a quart for oil, or $1 a gallon of gasoline.

That is not the crisis, Mr. Speaker, the crisis is this, no matter how much money we have, we won't have the product to sell or buy. Let us quit pussyfooting about this thing on energy and talking about consumer-gouging. The biggest gouge is when we in this Nation have to buy our oil from foreign sources, we in this Nation apply a $2 tax against a price that is already costing the American people a phenomenal amount.

I do not know what anybody calls it, but we are paying $2 more than the Arabs are charging us for the oil that comes into this country. If we put the tariff on the things we need and then we take tariffs and customs duties and surcharges off of things we do not need we are gouging the American people and hurting our jobs. Someone is crazy, and I am sure I am not that one.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. OTTINGER. Mr. Speaker, reserving the right to object, I was one of the first opponents of the $6 billion loan guarantee for coal gasification and for development of oil shale the other day.

I would like to point out that there are major differences between the provision here and the provision there.

First of all, this measure is environmentally sound. We ought to be encouraging the developing and burning of low sulphur coal. It is much more energy efficient to burn the coal than it is to gasify it or liquify it and then sell it. As a matter of fact, there may be no energy gain at all from the liquifaction or the gasification of coal. The carcinogenic by-products of production of synthetic fuels are inapplicable here.

Secondly, the guarantee limit here is $750 million as opposed to $6 billion and that is a lot of difference.

Thirdly, this is restricted to small or relatively small companies. There are adequate safeguards. It cannot go to any company that has a gross revenue in excess of $50 million in a calendar year or which produces more than 1 million tons of coal a year or more than 300,000 barrels of oil per year or own an oil refinery. No guarantee may exceed $30 million. So we are not subsidizing the gigantic corporations as was the synfuels case. These are not the same kind of antitrust law problems and the problems of the concentration of power in the biggest energy companies in the world in connection with this guarantee.

Fourthly, deep mining of coal is a proven technology which is readily marketable and for which no price supports would be required. Synfuels were so unmarkable that the administration proposed legislation for $4.5 billion price supports to make them salable and make the $6 billion program viable.

We desperately need new supplies of low sulfur coal in the East. This provision will help provide them. It will help obtain the use of our vast resources of low sulfur coal in the East.

The gentleman from Washington (Mr. McCormack) has indicated this is not restricted to low sulphur coal but I would like to point out that it is, in effect, because in section 102(b)(1)(D) it is restricted to a person who "has obtained a contract for sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act." Also, pursuant to section 102(b)(3), at least 80 percent of the guarantees must go to producers of low sulfur coal.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield on that point?

Mr. OTTINGER. I yield to the gentleman from California.

Mr. BROWN of California. Does the gentleman from New York know of anything that would prevent a powerplant from burning high-sulfur coal that would meet the requirements the gentleman has just indicated?

Mr. OTTINGER. That is perfectly all right if they can meet the Clean Air Act standards. I said that the effect of this is restricted to low-sulfur coal.

Mr. BROWN of California. No, it is not.

Mr. OTTINGER. It is not technically so restricted if somebody wants to buy the high-sulfur coal and put in the necessary stack precipitators and the other equipment needed so as to meet the requirements of the Clean Air Act and, if that happens, it is all right because it has the effect of using coal in the most economical and most energy-efficient way.

Mr. BROWN of California. Does the gentleman from New York know of anything that insures that a small coal mine is environmentally safe and sound and has no adverse economic or social impact upon the community in which that coal mine has been located? It so happens that most of the serious environmental problems that face certain portions of this country stem from coal mining, where the social and economic fabric of a community has been ruined by the operation of small coal mines. Is there anything in this legislation comparable to what was in the ERDA legislation which could prevent this kind of a thing from happening?

Mr. OTTINGER. I would point out to the gentleman from California that most of the low sulfur coal is subjected to being mined in deep coal mines and thus avoids the environmental problems that the strip mining and high sulfur coal mining has. Because 80 percent of the loans outstanding under this provision do have to be low sulfur coal in order to meet the requirements that exist within this act and that the Clean Air Act provisions must be met, these problems should not arise. Also, guarantees may only go to companies which comply with the Federal Coal Mine Health and Safety Act.

Mr. BROWN of California. Since the gentleman from New York seems to be defending the loan guarantee provisions of this bill, or this conference report, as being limited to the small developer, and, in the case of coal you have defined small as $50 million in gross annual revenues, what does the gentleman from New York have to say in defense of the provisions having to do with loan guarantees for the advance automotive development that could apparently go to both Toyota and General Motors?

Mr. OTTINGER. That disturbs me a great deal more. The chairman said that he did not support that in the conference; it was something he had to take in compromise with the Senate. It was also of concern to me, so much so that I attended the conference to express my concern and was told this is a compromise provision with the Senate, heavy research and development responsibilities with EUDA and, giving production responsibilities to the Department of Transportation.

Mr. BROWN of California. Would the gentleman be willing to strike this from the bill and send it back to conference, then?

Mr. OTTINGER. I think, as in any conference, we have to take some things we do not like, and we get some things we do like. This is something I do not particularly like.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

PARLIAMENTARY INQUIRY

Mr. ANDERSON of Illinois. Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ANDERSON of Illinois. I address the Chair with the following parliamentary inquiry: At which point would it be in order to offer or make a point of order against section 102 of the conference report?

The SPEAKER. If objection to the reading of the statement is not made, or at any time prior to reading the statement. The Chair has promised he is going to recognize the gentleman from California first on that issue, either now or at that point.

Mr. ANDERSON of Illinois. Mr. Speaker, if I still have the floor, I make a point of order against section 102 of the conference report.

The SPEAKER. The gentleman will not be recognized because there is a unanimous-consent request pending.

Mr. ANDERSON of Illinois. May I reserve a point of order against that section?

The SPEAKER. The gentleman's rights will be protected, but the Chair has already promised the gentleman from California that he would recognize him first on his point of order.

Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

Mr. BROWN of California. Reserving the right to object, Mr. Speaker I reserve the right to object to inquire further with regard to the scope of the conference report and the degree to which it conforms to rule XXVIII, clause 1. I call the attention of either the chairman of the committee or the chairman of the subcommittee to the statement in the report having to do with sections 531 and 541 which state, in one sentence, that the provisions follow the House language.

The question that I have is does that mean that they are identical to the House provision? Does that mean that they are the same except for minor technical differences, or are there in fact any substantial differences in these two particular sections of the conference report?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

I am not quite sure which sections the gentleman is referring to. The gentleman said sections 531 and 541. Is the gentleman referring to section 521, or 551, or 531, or 541?

Mr. BROWN of California. I am referring to the provisions which have to do with congressional review, which are in section 551.

Mr. DINGELL. That is section 551 the gentleman is referring to.

Mr. BROWN of California. And the other section on the preceding page having to do with the termination of certain programs. I believe that is section 531.

Mr. DINGELL. If the gentleman would yield further, what this does is recognize that the Senate language and the House language both were similar in character, but the language that was brought back by the conferees essentially is the language of the House bill, at least in substance. There are technical differences and technical changes which were adopted to conform it to the rules of the House.

Mr. BROWN of California. I understand that the conference report has dropped the definition of any energy action. The gentleman is, therefore, defining this as merely a technical action?

Mr. DINGELL. It is defined in the conference report.

Mr. BROWN of California. No; the definition of an energy action is nowhere defined. It was in the House bill when it went to the Senate, but that provision was dropped for the conference report.

Mr. DINGELL. I thank the gentleman for that advice.

Mr. BROWN of California. Is it the gentleman's view, then, that that is purely a technical matter and that the report in that respect does conform to the requirements of clause 1, rule XXVIII?

Mr. DINGELL. Let me read the language of section 551 for the benefit of the gentleman:

> For purposes of this section, the term "energy action" means any matter required

> to be transmitted or submitted to the Congress in accordance with the procedures of this section.

Mr. BROWN of California. It dropped the previous definition.

Mr. DINGELL. I am reading the language of the conference report on page 111.

Mr. BROWN of California. I am merely stating that this leaves this wide open as to what an energy action is.

Mr. DINGELL. No. It is our energy actions which were submitted to the Congress in connection with the actions of the President taken under the bill.

Mr. BROWN of California. If it is submitted by the President, it can be anything then?

Mr. DINGELL. This is where the provisions of the act say that the President must make the submission pursuant to the act.

Mr. BROWN of California. But in the bill as it passed the House the nature of those energy actions was circumscribed by certain definitions. In the conference report it no longer is.

Mr. DINGELL. It is my judgment we have not changed that very much.

Mr. GOLDWATER. Mr. Speaker, I wish to make a point of order.

Mr. WAGGONNER. Mr. Speaker, I reserve the right to object.

The SPEAKER. The Chair is doing his best to defer to the gentleman from California and to be fair. We have had only one speaker on the Republican side and the Chair wants to be fair to both sides.

The gentleman from Louisiana has reserved the right to object and the Chair recognizes the gentleman from Louisiana for that purpose.

Mr. WAGGONNER. Mr. Speaker, reserving the right to object, I thank the distinguished Speaker and I would like to ask the distinguished gentleman from West Virginia (Mr. Staggers) or the gentleman from Michigan (Mr. Dingell) with respect to section 547 having to do with patents and advanced automobile technology, how this differs from the bill which passed the House earlier this year in H.R. 7014. Admittedly we gave to the Federal Government, the Secretary of Commerce certain authority.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield; First, it is not in the House bill; second, it is in the Senate bill; and third, the language we have brought back to the House is a much narrower version than that which was in the Senate bill.

I wish to reiterate to my colleagues that I opposed that particular provision in the conference.

Mr. WAGGONNER. I understand that the gentleman opposes it but he is here supporting it today, so we have to deal with it on that basis. We were not party to the conference.

The gentleman added this or the conferees added this as a result of a conference agreement. Section 547 has to do with patents and it says:

> "(b) (1) Whenever the Secretary determines, on his own motion or upon application of any person and after opportunity for interested persons to present views, that—

Mr. Speaker, just to shorten it, it continues that in the interests of the United States after a hearing a Federal court can take any or all patents having to do with advanced automobile technology away from private individuals, away from private corporations in this country and give title to these patents to the Federal Government.

This is a situation somewhat similar to that which we faced with respect to section 103 and to a lesser degree with respect to section 102 in consideration of the ERDA conference report just last week.

One of my fears, and I felt it was real and it is even more so in my opinion here, was that at some point in time some successor to the Office of the Secretary to whom I refer would deem it, maybe justifiably but maybe without any foundation whatever, in the best interests of the United States to go to court, or at the urging of some unknown individual, and take over these patent rights which protect advanced automobile technology.

Now how is the private sector going to be protected under the provisions of this conference agreement?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to my good friend the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, this is simply from 28 U.S.C. 1496 under which contractors may use patents in order to conduct Government-financed research and it is extended slightly so that it may be used in this instance.

Then in conclusion, the users thereof must pay to the holder of the patent an appropriate payment for the use therein.

Mr. WAGGONNER. Will the gentleman from Michigan tell me where the Government is going to get this technology and this patent information? What does the Government have in the way of capability at the present time in technology that the private sector does not have?

Mr. DINGELL. With respect to advanced automotive technology?

Mr. WAGGONNER. Absolutely.

Mr. DINGELL. That is the whole purpose of the program.

Mr. WAGGONNER. That is the purpose, but what does the Government do now?

Mr. DINGELL. The purpose of the program is to generate new technology.

Mr. WAGGONNER. In other words, we are going to build an in-house Government ability to develop that technology?

Mr. DINGELL. No, that is not so. The purpose is to develop a total capability in the Nation to do this, to generate new technology.

Mr. WAGGONNER. That will require a considerable in-house capability on the part of the Federal Government and they will have to hire people to do what the bureaucrats cannot do. They are of a necessity going to hire them from the automotive people.

Mr. DINGELL. I think I should point out, if the gentleman will yield further, there is at present considerable capability in the Government, in the Environmental Protection Agency. I am not saying this is overall a necessary thing for this piece of legislation. I opposed this in the conference.

Mr. WAGGONNER. The gentleman from Michigan keeps repeating the fact that the gentleman opposed this in conference. Is the gentleman saying that if a motion was made to strike, that the gentleman would support it?

Mr. DINGELL. I did not say that.

Mr. WAGGONNER. Then the gentleman really does support it?

Mr. DINGELL. I am fully capable of enunciating my own views.

Mr. WAGGONNER. I am trying to see which side of the fence the gentleman is on. I think the gentleman is on both sides.

Mr. DINGELL. I support the conference report.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. Goldwater).

POINT OF ORDER

Mr. GOLDWATER. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. GOLDWATER. Mr. Speaker, I make a point of order to that part of section 301 which adds to the new motor vehicle improvements and cost saving account a new title V, part B, entitled "Application Advanced Automotive Technology."

My point of order is that it is nongermane, pursuant to clause 4, rule XXVIII.

Part B of title V was not in the House bill, as passed in H.R. 7014, but it was in the Senate version and it is in the conference report.

If the section had been offered as an amendment on the House floor, it would have been subject to a point of order as nongermane. Hence, it is subject to a nongermaneness point of order now under rule XXVIII, clause 4.

May I point out to the Speaker that the automotive R & D part of title V is wholly unrelated to the oil pricing and conservation thrust of the bill. Besides, the Science and Technology Committee has jurisdiction of all nonnuclear energy R. & D. matters, and this is an R. & D. incentive program which clearly falls in that jurisdiction.

The original Senate version of section 546 was contained in title II of the Senate bill (S. 1883). H.R. 9174 was introduced on July 31, 1975, by the gentleman from Washington (Mr. McCormack) and was referred to the Committee on Science and Technology. H.R. 9174 basically included all of title II of the Senate bill (S. 1883), specifically the loan guarantee provision. The committee jurisdiction was positively established by that referral.

Mr. Speaker, I insist on my point of order.

PARLIAMENTARY INQUIRY

Mr. STAGGERS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STAGGERS. Mr. Speaker, my parliamentary inquiry is that I had asked unanimous consent that the statement on the part of the managers be read in lieu of the report.

Mr. Speaker, I would like to go through with that before any other unanimous-consent requests or any other points of order are made against the bill. It does not jeopardize any point of order and then I would be glad to answer any questions.

The SPEAKER. The Chair had asked whether there was any objection to the request and there was no objection. It was so ordered.

Mr. STAGGERS. So, Mr. Speaker, it is now considered as read?

The SPEAKER. The request that the statement be read in lieu of the report has been granted. It does not jeopardize any point of order.

Mr. GOLDWATER. Mr. Speaker, I yield to the gentleman from Texas (Mr. Teague).

The SPEAKER. Does the gentleman wish to be heard further on the point of order?

Mr. TEAGUE. Mr. Speaker, I would like to be heard on the point of order.

Mr. DINGELL. Mr. Speaker, I would like to be heard on the point of order at the appropriate time.

Mr. GOLDWATER. Mr. Speaker, I yield back my time. I have made my point of order.

Mr. DINGELL. Mr. Speaker, I think that this is not a good point of order, but out of grace and in order to give the House a chance to vote on this as an orderly procedure—I protested the disorderly procedure with the ERDA bill which was before us—but in order to have orderly procedure I will not contest the point of order, and I do not think my good friend from West Virginia, the chairman of the committee (Mr. Staggers) will contest it. Under those circumstances, I think it is appropriate for the Chair to rule on the point of order with regard to germaneness in order that we may proceed.

Mr. STAGGERS. Mr. Speaker, I would say that we have a separate vote on the point of order and then under those circumstances we would be able to proceed.

The SPEAKER. The point of order is conceded and sustained.

Mr. STAGGERS. I would say to the gentleman from California that it is without prejudice——

Mr. TEAGUE. Whether he concedes it or not, I would like to be heard on the point of order.

The SPEAKER. The Chair is going to sustain the point of order.

Mr. TEAGUE. Mr. Speaker, may I reserve the right to make a point of order? I am going to make a point of order against the whole conference report.

The SPEAKER. That would come later.

Mr. TEAGUE. But the Speaker will reserve my right?

The SPEAKER. Could the Chair make himself clear to the gentleman? That might depend upon the outcome of the motion the gentleman from California will make.

Mr. DINGELL. I think the gentleman wants to be heard; he desires to be heard.

I ask unanimous consent that he be heard at this time on the point of order which, by concession, without waiving questions of jurisdiction——

The SPEAKER. The Chair has no authority to hear arguments on matters not related to the point of order made by the gentleman. If the gentleman from California makes a motion, the business which transpires after the motion made by the gentleman will determine whether certain other points of order will be in order.

PARLIAMENTARY INQUIRY

Mr. GOLDWATER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GOLDWATER. Has the Chair ruled on the point of order.

The SPEAKER. The Chair sustained the point of order.

MOTION OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Goldwater moves that part B, title V in section 301 of S. 622 be rejected.

The SPEAKER. The gentleman from California (Mr. Goldwater) is recognized for 20 minutes and the gentleman from West Virginia (Mr. Staggers) is recognized for 20 minutes.

The Chair recognizes the gentleman from California.

CALL OF THE HOUSE

Mr. McCORMACK. Mr. Speaker, I make the point of order that a quorum is not present..

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 785]

Addabbo
Andrews, N.C.
Archer
Bell
Biaggi
Bolling
Brown, Mich.
Burke, Fla.
Burton, John
Burton, Phillip
Chisholm
Collins, Ill.
Conyers
Davis
Derwinski
Dickinson
Diggs
Drinan
Eshleman
Evans, Colo.
Flowers
Ford, Mich.
Fraser
Gaydos
Giaimo
Green
Guyer
Hébert
Heckler, Mass.
Hinshaw
Hungate
Jarman
Jenrette
Jones, Tenn.
Kemp
LaFalce
Landrum
Metcalfe
Passman
Pike
Rees
Riegle
Russo
St Germain
Scheuer
Schneebeli
Shuster
Simon
Staggers
Symington
Thompson
Udall
Waxman
Wiggins
Wilson, C. H.

The SPEAKER pro tempore (Mr. McFall). On this rollcall 379 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 622, ENERGY POLICY AND CONSERVATION ACT

The SPEAKER pro tempore. The gentleman from California (Mr. Goldwater) is recognized for 20 minutes.

PARLIAMENTARY INQUIRIES

Mr. DINGELL. Mr. Speaker, will the gentleman yield for the purpose of a parliamentary inquiry?

Mr. GOLDWATER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I have a series of parliamentary inquiries and I thank the gentleman from California for yielding.

First of all, what is the business before the House, for the benefit of my colleagues?

The SPEAKER pro tempore. The Chair will state that the business before the House is the motion to reject offered by the gentleman from California (Mr. Goldwater) on which 40 minutes of debate is permitted.

Mr. DINGELL. A further parliamentary inquiry, Mr. Speaker, the motion is to reject what?

The SPEAKER pro tempore. The motion is to reject part B Title V of the Act as contained in section 301.

Mr. DINGELL. I thank the Speaker.

A further parliamentary inquiry is this: That is the part relating to "Application of Advanced Automotive Technology"?

The SPEAKER pro tempore. That is correct.

Mr. DINGELL. And the amount of time allotted for the debate is 40 minutes?

The SPEAKER pro tempore. The gentleman is correct, 20 minutes of which

Again I thank the gentleman from California (Mr. Goldwater).

Mr. DINGELL. Mr. Speaker, I have a further parliamentary inquiry that I will present at a later time.

Again I think the gentleman from California for yielding to me.

Mr. GOLDWATER. Mr. Speaker and my colleagues, there is now pending a motion to reject a particular section in the Energy Policy and Conservation Act entitled "Application of Advanced Automotive Technology."

Mr. Speaker, the Energy Policy and Conservation Act is a lengthy piece of legislation that was labored over by many Members of this body.

Upon going to conference, the House conferees caved in to the Senate conferees and accepted this particular amendment entitled "Application of Advanced Automotive Technology".

I would submit that this particular activity is not within the purview or really within the scope of the title or purpose of this bill, the "Energy Policy and Conservation Act".

If there are research and development efforts that are needed to obtain a better degree of auto efficiency, certainly there was legislation which we passed last week which was rightfully the place for that to be. Yet, now we find it in this conference bill before us.

Not only, Mr. Speaker, is this non germane, but clearly it is poorly worded and is not necessary.

This amendment, which was adopted by the conference, provides $50 million in 1976 and $80 million in 1977 which would be spent on advancing automotive technology, an activity which has been going on for many, many years within the automotive industry itself. This clearly calls for a duplication of existing programs and existing activities in an industry that ranks among the largest in the world, General Motors, which spends hundreds and hundreds of millions of dollars in advanced automotive technology. I am not convinced that we need to spend additional taxpayers' dollars in an area where clearly a great deal of money is being spent by the industry itself.

This particular section is obviously intended to develop a prototype. Let me quote from the language of the bill in the definition:

> The term "production prototype" means an automobile which is capable of being placed into production, for sale at retail, in significant quantities.

Listen carefully to what it says:

> production, for sale at retail, in significant quantities.

In other words, we are saying that the Federal Government is going to be paying money to General Motors, to Ford, and to other automobile companies, to do exactly what they are doing now—build automobiles for sale at retail in significant quantities.

Mr. Speaker, I would submit that this is not needed and it is not called for.

It was pointed out in the debate earlier that the language of this amendment, as adopted by the House conferees, places no restriction as to nationality. In other words, if we want to grant a loan guarantee, as provided for in this section, or if we want to give research and development moneys to, say, Volkswagen in Germany, or Datsun in Japan, clearly it is in the legal purview of the Department of Transportation to do so. But I do not think that my colleagues here in the Congress nor those would find that a wise course to follow.

There is also no restriction as to the size of the corporation which will be eligible for these funds to research advance automotive technology. It is a give-away to the Big Four. We are coming up on Christmastime, and here is a present to General Motors, and to Ford, and to other large companies in the State of Michigan.

Mr. Speaker, I would submit that there is a marketplace incentive for industry, for business, for Detroit to do production-line prototype research and development in light of foreign competition. The marketplace dictates efficiency of automobiles today, and we are seeing every day a new kind of car that claims more and more gas efficiency. Clearly I do not think it is in our best interests to duplicate what the automobile industry is already doing.

Another point that needs to be made, Mr. Speaker, is that ERDA already has this responsibility and is already in the process of doing this kind of research and development. It already has the wherewithal to give grants for automotive research and development.

Let me quote, if I might, from a letter signed by the Secretary of the Department of Transportation and the Administrator of ERDA. It says:

> DEAR MR. CHAIRMAN: The Department of Transportation is actively engaged in programs to enhance the fuel efficiency of automobiles, and the Energy Research and Development Administration is already authorized to investigate and develop more efficient propulsion systems for automobiles. But neither agency believes that the development of production prototype vehicles is an appropriate Federal role.

Let me repeat that statement from Secretary Coleman and Administrator Seamans of ERDA: "neither agency believes that the development of production prototype vehicles is an appropriate Federal role" at this particular time.

Mr. Speaker, I would submit that putting this particular responsibility, as this language does, for research and development into the hands and under the jurisdiction of the Department of Transportation is surely putting the cart before the horse. ERDA presently today now has the statutory authority in the Energy Reorganization Act.

If I might quote from that Energy Reorganization Act it specifically says:

> (g) There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the offices and components thereof as relate to or are utilized in connection with research, development, and demonstration, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems.

And again in the Federal Nonnuclear Energy R. & D. Act, which gave the direction for ERDA, it says:

> (iii) improvements in automobile design for increased efficiency and lowered emissions, including investigation of the full range of alternatives to the internal combustion engine and systems of public transportation; . . .

Mr. Speaker, if this particular provision is adopted by the House we are contravening precisely what we did earlier by putting the responsibility back into the hands of the Department of Transportation instead of in ERDA where we put it earlier this year and last year.

Mr. Speaker, in conclusion this particular language adopted by the House conferees—and I recognize that they were under great pressure—is wrong.We are already spending and have appropriated moneys for this type of activity to get away from the internal combustion engines to make them more efficient and to find alternate means of propulsion. We are doing that today. We will do it in the future. We do not need this language.

Second, clearly this language would transfer responsibility to the Department of Transportation. It should be in ERDA, it is in ERDA today, let us leave it in ERDA, let us not transfer it to the Department of Transportation.

Last, Mr. Speaker, even though this may be Christmastime, I do not think the Congress nor the American people are in much of a mood to give away presents of millions of dollars to such giant corporations as the Ford Motor Co. or General Motors. They have the wherewithal and they have the technical capability and they are today pursuing the objectives which are enumerated in this particular bill.

Clearly, Mr. Speaker, I would request the Members to reject this R. & D. section and let us go on with the remainder of the legislation.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, as I had indicated earlier to my colleagues I had not supported this in conference and voted against it at every opportunity. The reason was as raised by my friend and colleague, the gentleman from Texas, the chairman of the Committee on Science and Astronautics. However, my views did not prevail.

I do, however, believe the motion offered by the gentleman from California (Mr. GOLDWATER) should be rejected and for a very good reason. The conferees have brought back essentially a comprehensive package of energy legislation whose purpose is to see to it that we finally go in the direction of laying out controls on use and other things necessary to see to it that we finally begin to conserve energy and that we begin to develop alternative sources of energy.

It should be known that the conferees cut back a rather sweeping set of provisions. We deleted authority for the construction of prototype vehicles; we have reduced the funding which was inserted in the Senate from $175 million for loans and grants to $30 million; and we reduced the loan guarantees from $175 million to $55 million.

Mr. Speaker, we put in a series of limitations which had not previously been in the Senate bill; adequate security requirements, and a reasonable prospect of repayment were among things we required; also that no more than 90 percent of the principal be guaranteed and we very strictly narrowed the patent provisions. We continued the existing authority of ERDA and did not impair its authority to do research development on automotive engines.

I think it should be plain this is one of those jurisdictional questions, which the gentleman from Texas has pointed out, that plague us. We have not authorized research and development here; but on the contrary, we have done something else. We have provided for the application of advanced technology through new mechanisms. As I pointed out earlier, in not contesting the point of order from the gentleman from Texas in the interest of comity, this committee neither sought a special rule nor did we deny our colleagues the opportunity to vote on this question; although I believe we have behaved fully within the jurisdiction of the Committee on Interstate and Foreign Commerce, and our waiver of the points of order was to give the gentleman from Texas the opportunity to vote on this particular question.

Mr. Speaker, to reiterate my comments, I feel that the language, despite my opposition to it at a time earlier, is good language. I believe it is essential to a comprehensive package. I believe it is absolutely essential to the provisions relating to the limitations on energy used by automobiles inserted elsewhere and that research is clearly germane, even though I have sought to behave with comity toward my colleagues on the Committee on Science and Technology.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I shall

not take the 2 minutes, but I do want to say this: that this conference report has been a very difficult and long and tedious labor of the conferees on our committee. I do greatly regret that the jurisdictional question has come up. I do know that our chairman has assured the chairman of the other committee, the gentleman from Texas (Mr. Teague), that however this passes, the chairman does not want it to be considered in any sense as a precedent, a precedent trenching on the rights of that fine committee. I feel the same way about it.

The question of whether or not the authority is in ERDA or DOT is a matter that can easily be taken care of by amendment. I understand the gentleman from Washington (Mr. McCormack) has a bill which the gentleman supports, except for that important difference, which is substantially identical with this provision.

Now, when the jurisdictional question is taken out of it by the good faith statement of our chairman and when the gentleman from Washington is getting the language the gentleman wants, except for that narrow difference, and as for my part I would not object to putting the authority in some other agency at some other time.

The only reason I think we should keep this bill and this report intact is because I think we are coming to a solution of a very, very difficult, long problem. I am not quite sure what would happen if we changed the report. Therefore, I strongly urge the rejection of the motion.

Mr. GOLDWATER. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. McCormack).

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, I say to the gentleman from Washington, the chairman of the committee, that the gentleman has worked hard on this legislation and has done a lot of work on it. The gentleman has done as much as any Member of this House and I hope the Members will now listen to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I thank the gentleman from Texas for his comments, and once again I would like to express my appreciation to our chairman, the gentleman from Texas (Mr. Teague) for his leadership of the Committee on Science and Technology.

I want to concur with the remarks made by the gentleman from California (Mr. Goldwater), the ranking minority member on my subcommittee, who has worked very closely with me through several years in helping to develop an energy policy for our Nation.

I appreciate the gentleman from Michigan (Mr. Dingell), opposing the inclusion of this provision in this conference report. It was an act of good faith, and I appreciate it. Nevertheless, I support the motion by the gentleman from California (Mr. Goldwater) to reject this section.

Incidentally, I also appreciate the points made by the gentleman from Texas (Mr. Eckhardt). I realize it would not be easy to go back, but I think this is a matter of some considerable significance.

I want to point out that we have authorized $25 million for the ERDA for fiscal year 1976 for advanced automotive propulsion systems. The appropriation bills have already cleared the House and the Senate and are on their way to the White House. The total appropriation for this project is $10 million, as compared to the $25 million we have already authorized for ERDA. But now, in addition to that, the conference report before us would authorized $50 billion more for this year and $80 million more for next year. That is clearly out of the jurisdiction of the conference, but in addition to that, the report would provide a $55 million loan guarantee program to the automobile manufacturing corporations which are equipped with production lines.

Those loan guarantee moneys provided by the conference, it seems to me, must go to the major automobile companies because they must be able to put automobiles into production for sale at retail in significant quantities.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I want to commend the gentleman for his statement.

Mr. Speaker, I rise in support of the conference report on S. 622. I would like particularly to indicate my support for that portion of title 5 which deals with research and development of advanced automotive technology.

For several years I have urged that the Federal Government undertake an active role in support of research and development to improve the efficiency, economy, performance, and clean emission characteristics of American automobiles.

In the last Congress, I introduced a bill (H.R. 10392) that had goals similar to those of the advanced automotive technology sections of the bill before us today. More than 100 of my colleagues in the House joined me as cosponsors of that proposal, and extensive hearings were held by the Committee on Science and Astronautics.

Unfortunately, persuading the Congress to act even on the most meritorious measures sometimes takes a long time.

The dimensions of the problem we face are enormous. Approximately one-half of the petroleum used each year in the United States is burned as fuel in engines used for transportation, principally private automobiles. As our citizens become more conscious of declining energy resources and higher energy prices, it becomes imperative that automobiles be made more efficient.

While some progress has been made by the auto industry in recent years, the American car is still a notoriously inefficient mode of transportation. There is plenty of room for improvement, and much of the technology needed is near at hand. As a matter of public policy this Nation should, without further delay, undertake a thoroughgoing research program to improve the efficiency of these machines which play such an important role in all our lives. Increased efficiency of just a few percentage points quickly translates into savings of millions of barrels of oil per day. In present circumstances, that should be an irresistible inducement to develop more efficient cars.

This bill sets forth important roles and missions for both ERDA and DOT. The funding levels appear to be reasonable for the early stage of such a program.

Mr. Speaker, in my view this type of activity deserves the support of all Members of the House.

Mr. McCORMACK. I thank the gentleman for his comments.

Mr. Speaker, I want to point out to all the Members of the House that I am holding here a copy of H.R. 9714. In July of this year a bill (S. 1833) on automotive research and development and regulation come over from the other body. Because it covered two completely different subjects, one on regulatory—which clearly belonged in the Committee on Interstate Commerce in this body—and one on research and development—which clearly is within the jurisdiction of the Committee on Science and Technology—that bill still lays, as I understand it, on the Speaker's table. It has never been assigned to committee, and by consensus, we on the Science and Technology Committee sponsored the second title of that bill only. We pulled out what had to do with research, development and demonstration for vehicles and offered H.R. 9174, co-sponsored by the gentleman from Texas (Mr. Teague), the gentleman from Ohio (Mr. Mosher), the gentleman from California (Mr. Goldwater) and myself. That bill is scheduled for hearings early next year.

Now, this bill is almost identical to the provisions in title V, part B in the conference report, which we would now strike. I want to point out to the Members of the House that there has never been a minute of hearings on this subject in the House, in any committee. There have simply been no hearings on it at all. One may say, "well, if it is all that much the same, why not go ahead with it?"

The reason, aside from those mentioned above, is that there is one fundamental difference that is extremely important. Under the Nonnuclear Energy Research and Development Demonstration Act, all of the responsibility for automotive propulsion research and development was assigned to the Energy Research and Development Administration. That is where the money has been authorized, and it is for the ERDA that the money has been appropriated by this body this year—not to the Department of Transportation, but to the Energy Research and Development Administration.

So, this body and the other body, the Congress and the administration, are in clear agreement that the Energy Research and Development Administration should be carrying out this program. We have authorized the funds and we have appropriated the money.

The SPEAKER. The time of the gentleman has expired.

Mr. GOLDWATER. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Speaker, this report would superimpose the same program in the Department of Transportation, clearly duplicative within the administration after the fact of the authorization and the appropriation, and clearly not consistent with legislation that this Congress has passed. For this reason, I believe this section should be deleted, and I support the motion of the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I want to make one observation with reference to the controversy which has sprung up here, and that is that the conference met with 7 Members of the House of Representatives and 25—count them—Members of the U.S. Senate. Those 25 Senators represented 3 committees of the Senate, the Senate Commerce Committee, the Senate Public Works Committee, the Senate Interior and Insular Affairs Committee, and we literally took one bill from the House, H.R. 7014, and conferenced it with four bills from the Senate, S. 1883 and S. 349 from the Committee on Commerce, and S. 622 and S. 677 from the Committee on Interior and Insular Affairs.

How, you may ask, did we get so many members of the Committee on Public Works in the conference? I am not sure I can answer that question except that we had three different committees over there, and that is why we got into this imbroglio of what is in order and what is germane.

Mr. GOLDWATER. Mr. Speaker, I reserve the balance of my time.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. STAGGERS. Mr. Speaker, I very reluctantly rise to speak because I am sure that the gentleman from California (Mr. GOLDWATER) and the gentleman from Washington (Mr. McCORMACK) both have good faith, they are great Americans, they are great Congressmen here, and they make great contributions to our laws.

Mr. Speaker, I would like to reason with them, though, briefly, and with the rest of the Members of the House, in this way: This was put in on the Senate. We narrowed the concept of what the Senate had. The gentleman from California said we had not had hearings on this.

Mr. Speaker, we have held hearings on related subjects since we had the automobile jurisdiction in our committee, and that is since I have been on the committee. We talked about what we could do to help get this done and argued about many, many ways in which we could do it.

If any automobile company accepts one penny in loans or grants, they have to make their patents available to anyone else who wants them and would like to take a look at them. I do not think there is an automobile company in America which would take one penny. But this will go to colleges, universities, other laboratories. We have some of them which I think are great, which ought to have been in operation years ago. They can insure that automobiles attain twice the mileage that they are doing today, and I think we ought to encourage it. It is a part of the package that we brought back from the Senate.

Mr. Speaker, we have been almost a year on this bill. The subcommittee had 3 weeks of hearings. They had 28 days of markups. In the full committee we had 13 meetings in order to make up the bill. It was on the floor for debate from July 1 until late September, when it was finally passed. We were in conference more than a month. We came out with what I thought was the best bill we could for America.

Mr. Speaker, I want better automobiles. I think everyone here does. Let us not delay this one more year.

We have put this provision in the bill, and it was the intent of all of us that it go to the universities and to those who are capable of accomplishing this. Yes, the DOT can contract it out.

Mr. Speaker, I would hope that the Members of this House will vote this motion down and keep this bill intact as it is, because I believe it is a good bill for America and one that will be helpful. Certainly if there were any indication we were really going to give this money to automobile companies, I would vote against it right now, but I do not believe there will be one penny going to them.

So with that I will say I believe if the Members vote "no," they will be voting for the best interests of the land and they will be helping us to try to get a capable automobile on the road, one that will make 28 miles on a gallon and, yes, even 35 miles per gallon. I think it can be done, and I think it must be done before 1985. I think it should be done by 1980 or earlier than that.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, I will say to the gentleman that I know it can be done, because I drove a brand new American-made car here from Ohio last night, a car with a hundred miles on it, and I got 28½ miles per gallon. So they can do it.

Mr. STAGGERS. They can do it, and what I am saying is that we ought to have it done now and get it over with so we can get cars like this to people all over the land.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, Americans can do what the gentleman from West Virginia suggests, and they are doing it today without Federal tax dollars, and that is the point. We have a program, as spelled out by the gentleman from Washington (Mr. McCORMACK), a program of research and development as well as demonstration for more efficient automobiles, and that is what we are after.

This is clearly a duplication of that effort. It is not needed at this time. In addition, it transfers authority to the Department of Transportation out of ERDA. ERDA clearly has the jurisdiction, and that is where it should lie. Under this bill it transfers the authority to DOT, and we do not want that.

I have great sympathy for the argument of my colleague and my former committee chairman, the gentleman from West Virginia (Mr. STAGGERS), and I know that the conferees tried very hard to do the best job possible. However, I clearly do not have sympathy for their efforts in giving away over $130 million of hard-earned taxpayer dollars to General Motors or to Ford or to any other automobile company of that size to do something that they are already doing and to duplicate something that the Government is already in fact involved in.

We do not need it, Mr. Speaker, and I call upon my colleagues to very soundly reject this provision and have the conferees go back to the conference committee and insist on this rejection.

The SPEAKER. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, just in closing I would like to say that I do not think there is an automobile company in America that will get a penny of this money. They will have to show me that they can do it. This goes to the universities and to those laboratories that are competent. I think this is the time for us to do it. This is just a small amount of money.

If an automobile company does do this, it would have to give up their patent rights, and I do not think they are about to do that just for this small amount of money.

PARLIAMENTARY INQUIRY

Mr. GOLDWATER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GOLDWATER. Mr. Speaker, as I understand it, the motion is to reject this particular section of S. 622.

The SPEAKER. The gentleman is correct, part B of title V of the act as contained in section 301 of the conference report.

Mr. GOLDWATER. Yes, Mr. Speaker. That is the advanced automotive efficiency section.

As I understand it, an "aye" vote is to reject or to strike part B, as contained on page 51?

The SPEAKER. The gentleman is correct. An "aye" vote is to reject part B of section 541, as the Chair understands the motion, as found on page 51 of the conference report.

Mr. GOLDWATER. An "aye" vote is to reject that section?

The SPEAKER. The gentleman is correct. A vote of "aye" is a vote for the motion offered by the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. I Thank the Speaker.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. GOLDWATER).

The question was taken; and the Speaker announced that he was in doubt.

Mr. GOLDWATER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 103, not voting 31, as follows:

[Roll No. 786]

YEAS—300

Abdnor
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Corman
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Eilberg
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fithian
Flood
Flynt
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harsha
Hastings
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Horton
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Matsunaga
Melcher
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Nix
Nowak
Obey
O'Brien
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Roncalio
Rose
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Ryan
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Ullman
Vander Jagt
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—103

Abzug
Adams
Ambro
Badillo
Beard, R.I.
Bergland
Biester
Bingham
Blanchard
Brodhead
Brown, Calif.
Burke, Mass.
Burton, Phillip
Carney
Carr
Chisholm
Clay
Cohen
Conte
Conyers
Cotter
Derrick
Dingell
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Evins, Tenn.
Fascell
Fisher
Florio
Foley
Giaimo
Gonzalez
Green
Harrington
Harris
Hawkins
Hays, Ohio
Holland
Holtzman
Howard
Johnson, Calif.
Karth
Kastenmeier
Leggett
Lloyd, Calif.
McCloskey
McFall
Macdonald
Maguire
Mazzoli
Meeds
Meyner
Mikva
Mineta
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Moss
Murphy, N.Y.
Nedzi
Nolan
Oberstar
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pressler
Richmond
Rogers
Rooney
Rosenthal
Roybal
Santini
Scheuer
Schroeder
Seiberling
Sharp
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Stokes
Stratton
Studds
Sullivan
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Weaver
Young, Ga.

NOT VOTING—31

Addabbo
Andrews, N.C.
Archer
Bell
Biaggi
Burke, Fla.
Burton, John
Collins, Ill.
Diggs
Flowers
Ford, Mich.
Fraser
Gaydos
Guyer
Hébert
Hinshaw
Jarman
Jenrette
Jones, Tenn.
Madden
Metcalfe
Riegle
Russo
St Germain
Sarbanes
Simon
Symington
Thompson
Udall
Waxman
Wilson, C. H.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Archer.

Mr. Hébert with Mr. Fraser.

Mr. Thompson with Mr. Andrews of North Carolina.

Mr. Waxman with Mr. Guyer.

Mr. Russo with Mr. Hinshaw.

Mr. St Germain with Mr. Bell.

Mr. Biaggi with Mr. Burke of Florida.

Mr. Sarbanes with Mr. Jarman.

Mr. Symington with Mr. Riegle.

Mr. Metcalfe with Mr. Madden.

Mr. John L. Burton with Mr. Jenrette.

Mrs. Collins of Illinois with Mr. Simon.

Mr. Diggs with Mr. Jones of Tennessee.

Mr. Flowers with Mr. Charles H. Wilson of California.

Mr. Udall with Mr. Ford of Michigan.

Messrs. CARNEY, AMBRO, and WEAVER changed their vote from "yea" to "nay."

Messrs. KOCH, DELANEY, BAUCUS, ASHLEY, HUGHES, and RINALDO changed their vote from "nay" to "yea."

So the motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves that the House recede from its disagreement to the Senate amendments to the House amendment and concur with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That this Act may be cited as the "Energy Policy and Conservation Act"

TABLE OF CONTENTS

Sec. 2. Statement of purposes.
Sec. 3. Definitions.

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

Part A—Domestic Supply

Sec. 101. Coal conversion.
Sec. 102. Incentives to develop underground coal mines.
Sec. 103. Domestic use of energy supplies and related materials and equipment.
Sec. 104. Materials allocation.
Sec. 105. Prohibition of certain lease bidding arrangements.
Sec. 106. Production of oil or gas at the maximum efficient rate and temporary emergency production rate.
Sec. 151. Declaration of policy.
Sec. 152. Definitions.
Sec. 153. Strategic Petroleum Reserve Office.
Sec. 154. Strategic Petroleum Reserve.
Sec. 155. Early Storage Reserve.
Sec. 156. Industrial Petroleum Reserve.
Sec. 157. Regional Petroleum Reserve.
Sec. 158. Other storage reserves.
Sec. 159. Review by Congress and implementation.
Sec. 160. Petroleum products for storage in the Reserve.
Sec. 161. Drawdown and distribution of the Reserve.
Sec. 162. Coordination with import quota system.
Sec. 163. Disclosure, inspection, investigation.
Sec. 164. Naval petroleum reserves study.
Sec. 165. Annual reports.
Sec. 166. Authorization of appropriations.

TITLE II—STANDBY ENERGY AUTHORITIES

PART A—GENERAL EMERGENCY AUTHORITIES

Sec. 201. Conditions of exercise of energy conservation and rationing authorities.
Sec. 202. Energy conservation contingency plans.
Sec. 203. Rationing contingency plan.

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

Sec. 251. International oil allocation.
Sec. 252. International voluntary agreements.
Sec. 253. Advisory committees.
Sec. 254. Exchange of information.
Sec. 255. Relationship of this title to the international energy agreement.

TITLE III—IMPROVING ENERGY EFFICIENCY

PART A—AUTOMOTIVE FUEL ECONOMY

Sec. 301. Amendment to Motor Vehicle Information and Cost Savings Act.

"TITLE V—IMPROVING AUTOMOTIVE EFFICIENCY

"PART A—AUTOMOTIVE FUEL ECONOMY

"Sec. 501. Definitions.
"Sec. 502. Average fuel economy standards applicable to each manufacturer.
"Sec. 503. Determination of average fuel economy.
"Sec. 504. Judicial review.
"Sec. 505. Information and reports.
"Sec. 506. Labeling.
"Sec. 507. Unlawful conduct.
"Sec. 508. Civil penalty.
"Sec. 509. Effect on State law.
"Sec. 510. Use of fuel efficient passenger automobiles by the Federal Government.
"Sec. 511. Retrofit devices.
"Sec. 512. Reports to Congress.

PART B—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 321. Definitions.
Sec. 322. Coverage.
Sec. 323. Test procedures.
Sec. 324. Labeling.
Sec. 325. Energy efficiency standards.
Sec. 326. Requirements of manufacturers and private labelers.
Sec. 327. Effect on other law.
Sec. 328. Rules.
Sec. 329. Authority to obtain information.
Sec. 330. Exports.
Sec. 331. Imports.
Sec. 332. Prohibited acts.
Sec. 333. Enforcement.
Sec. 334. Injunctive enforcement.
Sec. 335. Citizens suits.
Sec. 336. Administrative procedure and judicial review.
Sec. 337. Consumer education.
Sec. 338. Annual report.
Sec. 339. Authorization of appropriations.

PART C—STATE ENERGY CONSERVATION PROGRAMS

Sec. 361. Findings and purpose.
Sec. 362. State energy conservation plans.
Sec. 363. Federal assistance to States.
Sec. 364. Energy conservation goals.
Sec. 365. General provisions.
Sec. 366. Definitions.

PART D—INDUSTRIAL ENERGY CONSERVATION

Sec. 371. Definitions.
Sec. 372. Program.
Sec. 373. Identification of major energy consumers.
Sec. 374. Industrial energy efficiency improvement targets.
Sec. 375. Reports.
Sec. 376. General provisions.

PART E—OTHER FEDERAL ENERGY CONSERVATION MEASURES

Sec. 381. Federal energy conservation programs.
Sec. 382. Energy conservation in policies and practices of certain Federal agencies.
Sec. 383. Federal actions with respect to recycled oil.

TITLE IV—PETROLEUM PRICING POLICY AND OTHER AMENDMENTS TO THE ALLOCATION ACT

PART A—PRICING POLICY

Sec. 401. Oil pricing policy.
Sec. 402. Limitations on pricing policy.
Sec. 403. Entitlements.

PART B—OTHER AMENDMENTS TO THE ALLOCATION ACT

Sec. 451. Amendments to the objectives of the Allocation Act.
Sec. 452. Penalties under the Allocation Act.
Sec. 453. Antitrust provision in Allocation Act.
Sec. 454. Evaluation of regulation under the Allocation Act.
Sec. 455. Conversion to standby authorities.
Sec. 456. Technical purchase authority.
Sec. 457. Direct controls on refinery operations.
Sec. 458. Inventory controls.
Sec. 459. Hoarding prohibitions.
Sec. 460. Asphalt allocation authority.
Sec. 461. Expiration of authorities.
Sec. 462. Reimbursement to States.
Sec. 463. Effective date of Allocation Act amendments.

TITLE V—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

Sec. 501. Verification examinations.
Sec. 502. Powers of the Comptroller General and reports.
Sec. 503. Accounting practices.
Sec. 504. Enforcement.
Sec. 505. Amendment to Energy Supply and Coordination Act of 1974.
Sec. 506. Extension of energy information gathering authority.

PART B—GENERAL PROVISIONS

Sec. 521. Prohibition on certain actions.
Sec. 522. Conflicts of interest.
Sec. 523. Administrative procedure and judicial review.
Sec. 524. Prohibited acts.
Sec. 525. Enforcement.
Sec. 526. Effect on other laws.
Sec. 527. Transfer of authority.
Sec. 528. Authorization of appropriations for interim period.
Sec. 529. Intrastate natural gas.
Sec. 530. Limitation on loan guarantees.
Sec. 531. Expiration.

PART C—CONGRESSIONAL REVIEW

Sec. 551. Procedure for congressional review of Presidential requests to implement certain authorities.
Sec. 552. Expedited procedure for congressional consideration of certain authorities.

STATEMENT OF PURPOSES

SEC. 2. The purposes of this Act are—

(1) to grant specific standby authority to the President, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) to increase the supply of fossil fuels in the United States, through price incentives and production requirements;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency to motor vehicles, major appliances, and certain other consumer products;

(6) to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources; and

(7) to provide a means for verification of energy data to assure the reliability of energy data.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

(4) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(7) The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (A) the annex entitled "Emergency Reserves", (B) any amendment to such Agreement which included another nation as a party to such Agreement, and (C) any technical or clerical amendment to such Agreement.

(8) The term "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or likely to be, of significant scope and duration, and of an emergency nature;

(B) may cause major adverse impact on national safety or the national economy; and

(C) results, or is likely to result, from an interruption in the supply of imported petroleum products, or from sabotage or an act of God.

(9) The term "antitrust laws" includes—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, et seq.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12, et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.);

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(10) The term "Federal land" means all lands owned or controlled by the United States, including the Outer Continental Shelf, and any land in which the United States has reserved mineral interests, except lands—

(A) held in trust for Indians or Alaska Natives,

(B) owned by Indians or Alaska Natives with Federal restrictions on the title,

(C) within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, or the Wild and Scenic Rivers System, or

(D) within military reservations.

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

COAL CONVERSION

SEC. 101. (a) Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) in paragraph (1) thereof, by striking out "June 30, 1975" and inserting in lieu thereof "June 30, 1977", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985"; and

(2) in paragraph (2) thereof, by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1984", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985".

(b) Section 2(a) of such Act is amended to read as follows:

"(a) The Federal Energy Administrator—

"(1) shall, by order, prohibit any powerplant, and

"(2) may, by order, prohibit any major fuel burning installation, other than a powerplant,

from burning natural gas or petroleum products as its primary energy source, if the requirements of subsection (b) are met and if (A) the Federal Energy Administrator determines such powerplant or installation on June 22, 1974, had, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal, or (B) such powerplant or installation is required to meet a design or construction requirement under subsection (c)."

(c) Section 2(c) of such Act is amended by inserting "or other major fuel burning installation" after "powerplant" wherever it appears and by inserting "in the case of a powerplant" after "(1)" in the second sentence.

INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

Sec. 102. (a) The Administrator may, in accordance with subsection (b) and rules precribed under subsection (d), guarantee loans made to eligible persons described in subsection (c)(1) for the purpose of developing new underground coal mines.

(b)(1) A person may receive for a loan guarantee under subsection (a) only if the Administrator determines that—

(A) such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) there is a reasonable prospect of repayment of the guaranteed loan;

(D) such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

(E) the loan will be adequately secured;

(F) such person would be unable to obtain adequate financing without such guarantee;

(G) the guaranteeing of a loan to such person will enhance competition or encourage new market entry; and

(H) such person has adequate coal reserves to cover contractual commitments described in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low sulfur coal.

(c) For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(d) The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsection (a) through (c) and—

(1) under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) with such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) in such form as the Administrator considers appropriate.

(e) Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who receives a loan guarantee under this section.

DOMESTIC USE OF ENERGY SUPPLIES AND RELATED MATERIALS AND EQUIPMENT

Sec. 103. (a) The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this Act, restrict exports of—

(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

(b)(1) The President shall exercise the authority provided for in subsection (a) to promulgate a rule prohibiting the export of crude oil and natural gas produced in the United States, except that the President may, pursuant to paragraph (2), exempt from such prohibition such crude oil or natural gas exports which he determines to be consistent with the national interest and the purposes of this Act.

(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this Act.

(c) In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of foreign demand" in section 3(2)(A) of such Act), impose such restrictions as specified in any rule under subsection (a) on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

(d) Any finding by the President pursuant to subsection (a) or (b) and any action taken by the Secretary of Commerce pursuant thereto shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state.

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

(3) the historical trading relations of the United States with Canada and Mexico.

(e)(1) The provisions of subchapter II of chapter 5 of title 5, United States Code shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

(2) In the event such notice and comment period are waived with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

(3 If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c), the enforcement and penalty provisions of the Export Administration Act of 1969 shall apply, in lieu of this Act, to any violation of such restrictions.

(f) The President shall submit quarterly reports to the Congress concerning the administration of this section and any findings made pursuant to subsection (a) or (b).

MATERIALS ALLOCATION

Sec. 104. (a) Section 101 of the Defense Production Act of 1950 is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding any other provision of this Act, the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

"(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

"(3) The authority granted in this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the President finds that—

(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

"(B) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

"(4) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.".

(b)(1) The authority to issue any rules or orders under section 101(c) of the Defense Production Act of 1950, as amended by this Act, shall expire at midnight December 31, 1984, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to such date.

(2) The expiration of the Defense Production Act of 1950 or any amendment of such Act after the date of enactment of this Act shall not affect the authority of the President under section 101(c) of such Act, as amended by subsection (a) of this section and in effect on the date of enactment of this Act, unless Congress by law expressly provides to the contrary.

PROHIBITION OF CERTAIN LEASE BIDDING ARRANGEMENTS

SEC. 105. (a) The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73 pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

(c) The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems.

(d) This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

(e) The Secretary shall study and report to the Congress, not later than 6 months after the date of enactment of this Act, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

(2) bidding for any right to develop coal and oil shale on such lands.

PRODUCTION OF OIL OR GAS AT THE MAXIMUM EFFICIENT RATE AND TEMPORARY EMERGENCY PRODUCTION DATE

SEC. 106. (a)(1) The Secretary of the Interior, by rule on the record after an opportunity for a hearing, shall, to the greatest extent practicable, determine the maximum efficient rate of production and, if any, the temporary emergency production rate for each field on Federal lands which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) Except as provided in subsection (f), the President may, by rule or order, require crude oil or natural gas, or both, to be produced from fields on Federal lands designated by him—

(A) at the maximum efficient rate of production, and

(B) during a severe energy supply interruption, at the temporary emergency production rate

as determined pursuant to paragraph (1) for such field.

(b)(1) Each State, or the appropriate agency thereof may, for the purposes of this section, pursuant to procedures and standards established by the State, determine the maximum efficient rate of production and, if any, the temporary emergency production rate, for each field (other than a field on Federal lands) within such State which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) If a State or the appropriate agency thereof has determined the maximum efficient rate of production and, if any, the temporary emergency production rate, or both, or their equivalents (however characterized), for any field (other than a field on Federal lands) within such State, the President may, by rule or order, during a severe energy supply interruption, require the production of such fields at the rates of production established by the State.

(c) With respect to any field, which produces, or is determined to be capable of producing, significant volumes of crude oil, or natural gas, or both, which field is unitized and is composed of both Federal lands and lands other than Federal lands and there has been no determination of the maximum efficient rate of production or the temporary emergency production rate or both, the Secretary of the Interior may, pursuant to subsection (a)(1), determine a maximum efficient rate of production and a temporary emergency production rate, if any, for such field. The President may, during a severe energy supply interruption by rule or order, require production at the maximum efficient rate of production and the temporary emergency production rate, if any, determined for such field.

(d) If loss of ultimate recovery of crude oil or natural gas, or both, occurs or will occur as the result of a rule or order under the authority of this section to produce at the temporary emergency production rate, the owner of any property right who considers himself damaged by such order may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(e) As used in this section:

(1) The term "maximum efficient rate of production" means the maximum rate of production of crude oil or natural gas, or both, which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering and economic principles.

(2) The term "temporary emergency production rate" means the maximum rate of production for a field—

(A) which rate is above the maximum efficient rate of production established for such field; and

(B) which may be maintained for a temporary period of less than 90 days without reservoir damage and without significant loss of ultimate recovery of crude oil or natural gas or both, from such field.

(f) Nothing in this section shall be construed to authorize the production of crude oil, or natural gas, or both, from any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10, United States Code.

PART B—STRATEGIC PETROLEUM RESERVE

DECLARATION OF POLICY

SEC. 151. (a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.

DEFINITIONS

SEC. 152. As used in this part:

(1) The term "Early Storage Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 155.

(2) The term "importer" means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) The term "Industrial Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 156.

(4) The term "interest in land" means any ownership or possessory right with respect to real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term "readily available inventories" means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term "refiner" means any person who owns, operates, or controls the operation of any refinery.

(7) The term "Regional Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 157.

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve.

STRATEGIC PETROLEUM RESERVE OFFICE

SEC. 153. There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Administrator, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve.

STRATEGIC PETROLEUM RESERVE

SEC. 154. (a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part. By the end of the 3-year period which begins on the date of enactment of this Act, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 155, if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 159 (a)) shall contain not less than 150 million barrels of petroleum products.

(b) The Administrator, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 551, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Administrator's proposals for designing, constructing, and filling the storage and related facilities of the Reserve.

(c)(1) To the maximum extent practicable and except to the extent that any change in the storage schedule is justified pursuant to subsection (e)(6), the Strategic Petroleum Reserve Plan shall provide that:

(A) within 7 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal the total volume of crude oil which was imported into the United States during the base period specified in paragraph (2);

(B) within 18 months after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 10 percent of the goal specified in subparagraph (A);

(C) within 3 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 25 percent of the goal specified in subparagraph (A); and

(D) within 5 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 65 percent of the goal specified in subparagraph (A).

Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil stored in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding the date of enactment of this Act, in which average monthly import levels were the highest.

(d) The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region which the Administrator determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

(e) The Strategic Petroleum Reserve Plan shall include:

(1) a comprehensive environmental assessment;

(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

(3) a statement as to the proximity of each such storage facility to related facilities;

(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

(6) a justification for any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c), and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

(7) an estimate of the direct cost of the Reserve, including—

(A) the cost of storage facilities;

(B) the cost of the petroleum products to be stored;

(C) the cost of related facilities; and

(D) management and operation costs;

(8) an evaluation of the impact of developing the Reserve, taking into account—

(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;

(B) any fluctuations in world, and domestic, market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;

(C) the extent to which such acquisition may support otherwise declining market prices for such products; and

(D) the extent to which such acquisition will affect competition in the petroleum industry;

(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);

(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;

(11) a statement of the manner in which the provisions of this part relating to the establishment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and

(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.

EARLY STORAGE RESERVE

SEC. 155. (a)(1) The Administrator shall establish an Early Storage Reserve as part of the Strategic Petroleum Reserve. The Early Storage Reserve shall be designed to store petroleum products, to the maximum extent practicable, in existing storage capacity. Petroleum products stored in the Early Storage Reserve may be owned by the United States or may be owned by others and stored pursuant to section 156(b).

(2) If the Strategic Petroleum Reserve Plan has not become effective under section 159 (a), the Early Storage Reserve shall contain not lesss than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act.

(b) The Early Storage Reserve shall provide for meeting regional needs for residual fuel oil and refined petroleum products in any region which the Administrator determines is, or is likely to become, dependent upon imports if such oil or products for a substantial portion of the total energy requirements of such region.

(c) Within 90 days after the date of enactment of this Act, the Administrator shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from the date of enactment of this Act. Such plan shall detail the Administrator's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth the manner in which, Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 159(a). The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve.

INDUSTRIAL PETROLEUM RESERVE

SEC. 156. (a) The Administrator may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the Administrator may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Administrator, except that the Administrator may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Administrator shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Administrator shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the insurance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States.

REGIONAL PETROLEUM RESERVE

SEC. 157. (a) The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Administrator. Such volume shall be computed annually.

(b) To implement the Strategic Petroleum Reserve Plan, the Administrator shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a), a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a), at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period specified in subsection (a), in which average monthly import levels were the highest, as determined by the Administrator. Such volume shall be computed annually.

(c) The Administrator may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the Regional Petroleum Reserve.

OTHER STORAGE RESERVES

SEC. 158. Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 154(b), the Administrator shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

(1) Utility Reserves containing coal, residual fuel oil, and refined petroleum products to be established and maintained by major fossil-fuel-fired baseload electric power generating stations;

(2) Coal Reserves to consist of (A) federally-owned coal which is mined by or for the United States from Federal lands, and (B) Federal lands from which coal could be produced with minimum delay; and

(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

REVIEW BY CONGRESS AND IMPLEMENTATION

SEC. 159. (a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

(1) the Administrator has transmitted such Plan to the Congress pursuant to section 154(b); and

(2) neither House of Congress has disapproved (or both Houses have approved) such Plan, in accordance with the procedures specified in section 551.

(b) For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a), the 5 calendar days described in section 551(f)(4)(A) shall be lengthened to 15 calendar days, and the 15 calendar days described in section 551(c) and (d) shall be lengthened to 45 calendar days.

(c) The Administrator may, prior to transmittal of the Strategic Petroleum Reserve Plan, prepare and transmit to the Congress proposals for designing, constructing, and filing storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such Plan, (2) the anticipated role of the proposed storage or related facilities in such Plan, and (3) to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(d) The Administrator may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(e) Any proposal transmitted under subsection (c) and any amendment transmitted under subsection (d), other than a technical or clerical amendment or an amendment to the Early Storage Reserve Plan, shall not become effective and may not be implemented unless—

(1) the Administrator has transmitted such proposal or amendment to the Congress in accordance with subsection (c) or (d) (as the case may be), and

(2) neither House of Congress has disapproved (or both Houses of Congress have approved) such proposal or amendment, in accordance with the procedures specified in section 551.

(f) To the extent necessary or appropriate to implement—

(1) the Strategic Petroleum Reserve Plan which has taken effect pursuant to subsection (a);

(2) the Early Storage Reserve Plan;

(3) any proposal described in subsection (c), or any amendment described in subsection (d), which such proposal or amendment has taken effect pursuant to subsection (e); and

(4) any technical or clerical amendment or any amendment to the Early Storage Reserve Plan,

the Administrator may:

(A) promulgate rules, regulations, or orders;

(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

(C) construct, purchase, lease, or otherwise acquire storage and related facilities;

(D) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this part;

(E) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

(F) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if such facilities are subject to audit by the United States;

(G) execute any contracts necessary to carry out the provisions of such Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposal or amendment;

(H) require any importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories, petroleum products in the Industrial Petroleum Reserve, pursuant to section 156;

(I) require the storage of petroleum products in the Industrial Petroleum Reserve, pursuant to section 156, on such reasonable terms as the Administrator may specify in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if such facilities are subject to audit by the United States;

(J) require the maintenance of the Industrial Petroleum Reserve;

(K) maintain the Reserve; and

(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having jurisdiction of such proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.

(g) Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgment of the Administrator be futile or so time-consuming as to unreasonably delay the implementation of the Strategic Petroleum Reserve Plan, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

PETROLEUM PRODUCTS FOR STORAGE IN THE RESERVE

SEC. 160. (a) The Administrator is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange—

(1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;

(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) petroleum products acquired by purchase, exchange, or otherwise.

(b) The Administrator shall, to the greatest extent practicable, acquire petroleum products for the Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of Reserve;

(2) orderly development of the Naval Petroleum Reserves to the extent authorized by law;

(3) minimization of the Nation's vulnerability to a severe energy supply interruption;

(4) minimization of the impact of such acquisition upon supply levels and market forces; and

(5) encouragement of competition in the petroleum industry.

DRAWDOWN AND DISTRIBUTION OF THE RESERVE

SEC. 161. (a) The Administrator may drawdown and distribute the Reserve only in accordance with the provisions of this section.

(b) Except as provided in subsections (c) and (f), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distributor Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a).

(c) Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 159(a).

(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(e) The Administrator may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such sules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Act of 1973.

(f) The Administrator may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 156 to remove or otherwise dispose of such products upon such terms and conditions as the Administrator may perscribe.

COORDINATION WITH IMPORT QUOTA SYSTEM

SEC. 162. No quantitative restrictions on the importation of any petroleum product into the United States imposed by law shall apply to volumes of any such petroleum products imported into the United States for storage in the Reserve.

DISCLOSURE, INSPECTION, INVESTIGATION

SEC. 163. (a) The Administrator may require any person to prepare and maintain such records or accounts as the Administrator, by rule, determines necessary to carry out the purposes of this part.

(b) The Administrator may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

(c) The Administrator may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) and (2) any storage facilities subject to audit by the United States under the authority of this part.

NAVAL PETROLEUM RESERVES STUDY

SEC. 164. The Administrator shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Congress within 180 days after the date of enactment of this Act, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Administrator; the Secretary of the Navy shall provide to the Administrator and Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Administrator in the preparation of such report.

ANNUAL REPORTS

SEC. 165. The Administrator shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

(1) a detailed statement of the status of the Strategic Petroleum Reserve;

(2) a summary of the actions taken to develop and implement the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan;

(3) an analysis of the impact and effectiveness of such actions on the vulnerability of the United States to interruption in supplies of petroleum products;

(4) a summary of existing problems with respect to further implementation of the Early Storage Reserve Plan and the Strategic Petroleum Reserve Plan; and

(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Administrator to implement the provisions of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 166. There are authorized be be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 159(a), for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 154(a) or 155(a)(2), whichever is applicable; and

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan, and to implement such plan which has taken effect pursuant to section 159(a), including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve.

TITLE II—STANDBY ENERGY AUTHORITIES

PART A—GENERAL EMERGENCY AUTHORITIES

CONDITIONS OF EXERCISE OF ENERGY CONSERVATION AND RATIONING AUTHORITIES

SEC. 201. (a)(1) Within 180 days after the date of enactment of this Act, the President shall transmit to the Congress pursuant to subsection (b)(1) one or more energy conservation contingency plans and a rationing contingency plan. The President may at any time submit additional contingency plans. A contingency plan may become effective only as provided in this section. Such plan may remain in effect for a period specified in the plan but not more than 9 months, unless earlier rescinded by the President.

(2) For purposes of this section, the term "contingency plan" means—

(A) an energy conservation contingency plan prescribed under section 202; or

(B) a rationing contingency plan prescribed under section 203.

(b) Except as otherwise provided in subsection (d) or (e) and subject to the requirements of subsection (c), no contingency plan may become effective, unless—

(1) the President has transmitted such contingency plan to the Congress in accordance with section 552(a);

(2) such contingency plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552; and

(3) after approval of such contingency plan the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and

(B) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan.

(c) In addition to the requirements of subsection (b), a rationing contingency plan approved under subsection (b)(2) may not become effective unless—

(1) the President has transmitted to the Congress in accordance with section 551(b) a request to put such rationing contingency plan into effect, and

(2) neither house of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

(d)(1) Except as provided in paragraph (2) or (3), a contingency plan may not be amended unless the President has transmitted such amendment to the Congress in accordance with section 552 and each House of Congress has approved such amendment in accordance with the procedures specified in section 552.

(2) An amendment to a contingency plan which is transmitted to the Congress during any period in which such plan is in effect may take effect if the President has transmitted such amendment to the Congress in accordance with section 551(b) and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 551.

(3) The President may prescribe technical or clerical amendments to a contingency plan in accordance with section 523.

(e) Beginning at any time during the 90-day period which begins on the date of enactment of this Act, the President may put a contingency plan into effect for a period of not more than 60 days if—

(1) The President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program; and

(B) has transmitted such contingency plan to the Congress in accordance with section 551(b), together with a request to put such plan into effect; and

(2) neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

(f) Any contingency plan which the President transmits to the Congress pursuant to subsection (b)(1) or (e)(1)(B) shall contain a specific statement explaining the need for and the rationale and operation of such plan and shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of, the potential economic impacts of such plan, including an analysis of—

(1) any effects of such plan on—

(A) vital industrial sectors of the economy;

(B) employment (on a national and regional basis);

(C) the economic vitality of States and regional areas;

(D) the availability and price of consumer goods and services; and

(E) the gross national product; and

(2) any potential anticompetitive effects.

ENERGY CONSERVATION CONTINGENCY PLANS

SEC. 202. (a)(1) The President shall prescribe, in accordance with section 523(a), one or more energy conservation contingency plans. As used in this section, the term "energy conservation contingency plan" means a plan which imposes reasonable restrictions on the public or private use of energy which are necessary to reduce energy consumption. In prescribing energy conservation contingency plans, the President shall take into consideration the mobility needs of the handicapped, as defined in section 203(a)(2)(B).

(2) An energy conservation contingency plan prescribed under this section may not—

(A) impose rationing or any tax, tariff, or user fee;

(B) contain any provision respecting the price of petroleum products; or

(C) provide for a credit or deduction in computing any tax.

(b) An energy conservation contingency plan shall apply in each State or political subdivision thereof, except such plan may provide for procedures for exempting any State or political subdivision thereof from such plan, in whole or part, during a period for which (1) the President determines a comparable program of such State or political subdivision is in effect, or (2) the President finds special circumstances exist in such State or political subdivision.

(c) Any energy conservation contingency plan shall not deal with more than one logically consistent subject matter.

RATIONING CONTINGENCY PLAN

SEC. 203. (a) (1) The President shall prescribe, by rule in accordance with section 523(a) of this Act, a rationing contingency plan which shall, for purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973, be deemed a part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 and which shall provide, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b) (1) of such Act—

(A) for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

(2) (A) For purposes of paragraph (1), the objectives specified in section 4(b) (1) of the Emergency Petroleum Allocation Act of 1973 shall be deemed to include consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-user's rights specified in paragraph (1).

(B) For purposes of this part, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities, and services and who has a substantial, permanent impediment to mobility.

(b) Any finding required to be made by the President pursuant to section 201(b) (3) and any request to put a rationing contingency plan into effect pursuant to section 201(e) shall be accompanied by a finding of the President that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b) (1) of the Emergency Petroleum Allocation Act of 1973 and the purposes of this Act.

(c) The President shall, by order under section 4 of the Emergency Petroleum Allocation Act of 1973, for the purpose of carrying out a rationing contingency plan which is in effect, cause such adjustments to be made in the allocations made pursuant to the regulation under section 4(a) of such Act as the President determines to be necessary to carry out the purposes of this section and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b) (1) of such Act and the purposes of this Act.

(d) (1) The President shall, to the extent practicable, provide for the use of local boards described in paragraph (2) with authority to—

(A) receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and

(B) order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights specified in paragraph (1).

Such boards shall operate under the procedures prescribed by the President by rule.

(2) Not later than 30 days after the date of the approval of a rationing contingency plan pursuant to section 201(b) (2), the President shall, by rule, prescribe—

(A) criteria for delegation of his functions, in whole or part, under this Act with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and

(B) procedures for petitioning for the receipt of such delegation.

(3) (A) Officers or local boards of States or political subdivisions thereof, following the establishment of criteria and procedures under paragraph (2), may petition the President to receive delegation under such paragraph.

(B) The President shall, within 30 days after the date of the receipt of any such petition which is properly submitted, grant or deny such petition.

(e) No rationing contingency plan under this section may—

(1) impose any tax,

(2) provide for a credit or deduction in computing any tax, or

(3) impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights specified in paragraph (1).

(f) Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973.

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

INTERNATIONAL OIL ALLOCATION

SEC. 251. (a) The President may, by rule, require that persons engaged in producing transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b) (2), such a rule shall remain in effect until amended or rescinded by the President.

(b) (1) No rule under subsection (a) may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1) (A).

(c) (1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b) (1) of the Emergency Petroleum Allocation Act of 1973.

(2) No officer or agency of the United States shall have any authority, other than authority under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Neither section 103 of this Act nor section 28(u) of the Mineral Leasing Act of 1920 shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States.

INTERNATIONAL VOLUNTARY AGREEMENTS

SEC. 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the dvelopment or carrying out of such voluntary agreements and plans of action.

(b) The Administrator, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the allocation and information provisions of the international energy program.

(c) The standards and procedures prescribed under subsection (b) shall include the following requirements:

(1) (A) (i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the Innational Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Administrator, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Administrator may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be

kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this action. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code: except that (A) matter may not be withheld from disclosure under section 552 (b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), or so much of (b)(4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State, the Administrator, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section.

(d)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (k).

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are also available as provided in the last sentence of subsection (c)(3). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraphs (3) and (4) of subsection (e).

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

(e)(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal Trade Commission or the Department of Justice or both by the antitrust laws or the Antitrust Civil Process Act; and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this section.

(f)(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect of actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708A(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of this Act.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

(j) The authority granted by this section shall terminate June 30, 1979.

(k) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

(l) As used in this section and section 254:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

ADVISORY COMMITTEES

SEC. 253. (a) To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system providing in such program, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974 (whether or not such Act or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular fulltime Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(b) A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of title 5, United States Code, except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, or pursuant to a determination under subsection (c).

(c) The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Administrator, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act,

(2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974,

(3) the requirements under subsection (a) of this section that meetings be open to the public, and

(4) the second sentence of subsection (b);

if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of the international energy program, (B) that such suspension relates solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b)(1) of title 5, United States Code. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

EXCHANGE OF INFORMATION

SEC. 254. (a)(1) Except as provided in subsections (b) and (c), the Administrator, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2)(A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552 (b)(9) or (b)(4) of title 5, United States Code applies shall, prior ot such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B)(i) Notwithstanding subparagraph (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency if otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3)(A) Within 90 days after the date of enactment of this Act, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information and data the confidentiality of which is protected by statute shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Administrator has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by section 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act of 1974, respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974;

(2) section 14(b) of the Federal Energy Administration Act of 1974;

(3) section 7 of the Export Administration Act of 1969;

(4) section 9 of title 13, United States Code;

(5) section 1 of the Act of January 27, 1938 (15 U.S.C. 176 (a)); and

(6) section 1905 of title 18, United States Code.

RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL ENERGY AGREEMENT

SEC. 255. The purpose of the Congress in enacting this title is to provide standby energy authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this title may, to the extent authorized by this title, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this title shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

TITLE III—IMPROVING ENERGY EFFICIENCY

PART A—AUTOMOTIVE FUEL ECONOMY

AMENDMENT TO MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 301. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting "(except part A of title V)" after "SEC. 2. For the purpose of this Act" in section 2 thereof and by adding at the end of such Act the following new title:

"TITLE V—IMPROVING AUTOMOTIVE EFFICIENCY

"PART A—AUTOMOTIVE FUEL ECONOMY

"DEFINITIONS

"SEC. 501. For purposes of this part:

"(1) The term 'automobile' means any 4-wheeled vehicle propelled by fuel which is maufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(A) which is rated at 6,000 lbs. gross vehicle weight or less, or

"(B) which—

"(i) is rated at more than 6,000 lbs. gross vehicle weight but less than 10,000 lbs. gross vehicle weight,

"(ii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards under this part are feasible, and

"(iii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards will result in significant energy conservation, or is a type of vehicle which the Secretary determines is substantially used for the same purposes as vehicles described in subparagraph (A) of this paragraph.

The Secretary may prescribe such rules as may be necessary to implement this paragraph.

"(2) The term 'passenger automobile' means any automobile (other than an automobile capable of off-highway operation) which the Secretary determines by rule is manufactured primarily for use in the transportation of not more than 10 individuals.

"(3) The term 'automobile capable of off-highway operation' means any automobile which the Secretary determines by rule—

"(A) has a significant feature (other than 4-wheel drive) which is designed to equip such automobile for off-highway operation, and

"(B) either—

"(i) is a 4-wheel drive automobile, or

"(ii) is rated at more than 6,000 pounds gross vehicle weight.

"(4) The term 'average fuel economy' means average fuel economy, as determined under section 503.

"(5) The term 'fuel' means gasoline and diesel oil. The Secretary may, by rule, include any other liquid fuel or any gaseous fuel within the meaning of the term 'fuel' if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(6) The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under section 503(d).

"(7) The term 'average fuel economy standard' means a performance standard which is applicable to a manufacturer in a model year.

"(8) The term 'manufacturer' means any person engaged in the business of manufacturing automobiles. The Secretary shall prescribe rules for determining, in cases where more than one person is the manufacturer of an automobile, which person is to be treated as the manufacturer of such automobile for purposes of this part.

"(9) The term 'manufacture' (except for purposes of section 502(c)) means to produce or assemble in the customs territory of the United States, or to import.

"(10) The term 'import' means to import into the customs territory of the United States.

"(11) The term 'model type' means a particular class of automobile as determined by rule, by the EPA Administrator, after consultation and coordination with the Secretary.

"(12) The term 'model year', with reference to any specific calendar year, means a manufacturer's annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(13) The term 'Secretary' means the Secretary of Transportation.

"(14) The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"AVERAGE FUEL ECONOMY STANDARDS APPLICABLE TO EACH MANUFACTURER

"SEC. 502. (a) (1) Except as otherwise provided in paragraph (4) or in subsection (c) or (d), the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1977 shall not be less than the number of miles per gallon established for such model year under the following table:

"Model year:	Average fuel economy standard (in miles per gallon)
1978	18.0.
1979	19.0.
1980	20.0.
1981	Determined by Secretary under paragraph (3) of this subsection.
1982	Determined by Secretary under paragraph (3) of this subsection.
1983	Determined by Secretary under paragraph (3) of this subsection.
1984	Determined by Secretary under paragraph (3) of this subsection.
1985 and thereafter	27.5.

"(2) Not later than January 15 of each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the Federal Register, a review of average fuel economy standards under this part. The review required to be transmitted not later than January 15, 1979, shall include a comprehensive analysis of the program required by this part. Such analysis shall include an assessment of the ability of manufacturers to meet the average fuel economy standard for model year 1985 as specified in paragraph (1) of this subsection, and any legislative recommendations the Secretary or the EPA Administrator may have for improving the program required by this part.

"(3) Not later than July 1, 1977, the Secretary shall prescribe, by rule, average fuel economy standards for passenger automobiles manufactured in each of the model years 1981 through 1984. Any such standard shall apply to each manufacturer (except as provided in subsection (c)), and shall be set for each such model year at a level which the Secretary determines (A) is the maximum feasible average fuel economy level, and (B) will result in steady progress toward meeting the average fuel economy standard established by or pursuant to this subsection for model year 1985.

"(4) The Secretary may, by rule, amend the average fuel economy standard specified in paragraph (1) for model years 1985, or for any subsequent model year, to a level which he determines is the maximum feasible average fuel economy level for such model year, except that any amendment which has the effect of increasing an average fuel economy standard to a level in excess of 27.5 miles per gallon, or of decreasing any such standard to a level below 26.0 miles per gallon, shall be submitted to the Congress in accordance with section 551 of the Energy Policy and Conservation Act, and shall not take effect if either House of the Congress disapproves such amendment in accordance with the procedures specified in such section.

"(5) For the purposes of considering any modification which is submitted to the Congress under paragraph (4), the 5 calendar days specified in section 551(f)(4)(A) of the Energy Policy and Conservation Act shall be lengthened to 20 calendar days, and the 15 calendar days specified in section 551(c) and (5) of such Act shall be lengthened to 60 calendar days.

"(b) The Secretary shall, by rule, prescribe average fuel economy standards for automobiles which are not passenger automobiles and which are manufactured by any manufacturer in each model year which begins more than 30 months after the date of enactment of this title. Such rules may provide for separate standards for different classes of such automobiles (as determined by the Secretary), and shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shall be prescribed at least 18 months prior to the beginning of such model year.

"(c) On application of a manufacturer who manufactured (whether or not in the United States) fewer than 10,000 passenger automobiles in the second model year preceding the model year for which the application is made, the Secretary may, by rule, exempt such manufacturer from subsection (a). An application for such an exemption shall be submitted to the Secretary, and shall contain such information as the Secretary may require by rule. Such exemption may only be granted if the Secretary determines that the average fuel economy standard otherwise applicable under subsection (a) is more stringent than the maximum feasible average fuel economy level which such manufacturer can attain. The Secretary may not issue exemptions with respect to a model year unless he establishes, by rule, alternative average fuel economy standards for passenger automobiles manufactured by manufacturers which receive exemptions under this subsection. Such standards may be established for an individual manufacturer, for all automobiles to which this subsection applies, or for such classes of such automobiles as the Secretary may define by rule. Each such standard shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for the manufacturers to which the standard applies. An exemption under this subsection shall apply to a model year only if the manufacturer manufactures (whether or not in the United States) fewer than 10,000 passenger automobiles in such model year.

"(d)(1) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under subsection (a) to such manufacturer for model year 1978, 1979, or 1980. Such application shall contain such information as the Secretary may require by rule, and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested.

"(2)(A) If a manufacturer demonstrates and the Secretary finds that—

"(i) a Federal standards fuel economy reduction is likely to exist for such manufacturer for the model year to which the application relates, and

"(ii) such manufacturer applied a reasonably selected technology.

the Secretary shall, by rule, reduce the average fuel economy standard applicable under subsection (a) to such manufacturer by the amount of such manufacturer's Federal standards fuel economy reduction, rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the Secretary). To the maximum extent practicable, prior to making a finding under this paragraph with respect to an application, the Secretary shall request, and the EPA Administrator shall supply, test results collected pursuant to section 503(d) of this Act for all automobiles covered by such application.

"(B)(i) If the Secretary does not find that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), he shall deny the application of such manufacturer.

"(ii) If the Secretary—

"(I) finds that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), and

"(II) does not find that such manufacturer applied a reasonably selected technology.

the average fuel economy standard applicable under subsection (a) to such manufacturer shall, by rule, be reduced by an amount equal to the Federal standards fuel economy reduction which the Secretary finds would have resulted from the application of a reasonably selected technology.

"(3) For purposes of this subsection:

"(A) The term 'reasonably selected technology' means a technology which the Secretary determines it was reasonable for a manufacturer to select, considering (i) the Nation's need to improve the fuel economy of its automobiles, and (ii) the energy savings, economic costs, and lead-time requirements associated with alternative technologies practicably available to such manufacturer.

"(B) The term 'Federal standards fuel economy reduction' means the sum of the applicable fuel economy reductions determined under subparagraph (C).

"(C) The term 'applicable fuel economy reduction' means a number of miles per gallon equal to—

"(i) the reduction in a manufacturer's average fuel economy in a model year which results from the application of a category of Federal standards applicable to such model year, and which would not have occurred had Federal standards of such category applicable to model year 1975 remained the only standards of such category in effect, minus

"(ii) 0.5 mile per gallon.

"(D) Each of the following is a category of Federal standards:

"(i) Emissions standards under section 202 of the Clean Air Act, and emissions standards applicable by reason of section 209(b) of such Act.

"(ii) Motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966.

"(iii) Noise emission standards under section 6 of the Noise Control Act of 1972.

"(iv) Property loss reduction standards under title I of this Act.

"(E) In making the determination under this subparagraph, the Secretary (in accordance with such methods as he shall prescribe by rule) shall assume a production mix for such manufacturer which would have achieved the average fuel economy standard for such model year had standards described in subparagraph (D) applicable to model year 1975 remained the only standards in effect.

"(4) The Secretary may, for the purposes of conducting a proceeding under this subsection, consolidate one or more applications filed under this subsection.

"(e) For purposes of this section, in determining maximum feasible average fuel economy, the Secretary shall consider—

"(1) technological feasibility;

"(2) economic practicability;

"(3) the effect of other Federal motor vehicle standards on fuel economy, and

"(4) the need of the Nation to conserve energy.

"(f) (1) The Secretary may, by rule, from time to time, amend any average fuel economy standard prescribed under subsection (a)(3), (b), or (c), so long as such standard, as amended, meets the requirements of subsection (a)(3), (b), or (c), as the case may be.

"(2) Any amendment prescribed under this section which has the effect of making any average fuel economy standard more stringent shall be—

"(A) promulgated, and

"(B) if required by paragraph (4) of subsection (a), submitted to the Congress.

at least 18 months prior to the beginning of the model year to which such amendment will apply.

"(3) Proceedings under subsection (a)(4) or (d) shall be conducted in accordance with section 553 of title 5, United States Code, except that interested persons shall be entitled to make oral as well as written presentations. A transcript shall be taken of any oral presentations.

"DETERMINATION OF AVERAGE FUEL ECONOMY

'SEC. 503. (a)(1) Average fuel economy for purposes of section 502(a) and (c) shall be calculated by the EPA Administrator by dividing—

"(A) the total number of passenger automobiles manufactured in a given model year by a manufacturer, by

"(B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles of a given model type manufactured by such manufacturer in such model year, by

"(ii) the fuel economy measured for such model type.

"(2) Average fuel economy for purposes of section 502(b) shall be calculated in accordance with rules of the EPA Administrator.

"(b)(1) In calculating average fuel economy under subsection (a)(1), the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories:

"(A) Passenger automobiles which are domestically manufactured by such manufacturer (plus, in the case of model year 1978 and model year 1979, passenger automobiles which are within the includable base import volume of such manufacturer).

"(B) Passenger automobiles which are not domestically manufactured by such manufacturer (and which, in the case of model year 1978 and model year 1979, are not within the includable base import volume of such manufacturer).

The EPA Administrator shall calculate the average fuel economy of each such separate category, and each such category shall be treated as if manufactured by a separate manufacturer for purposes of this part.

"(2) For purposes of this subsection:

"(A) The term "includable base import volume", with respect to any manufacturer in model year 1978 or 1979, as the case may be, is a number of passenger automobiles which is the lesser of—

"(i) the manufacturer's base import volume, or

"(ii) the number of passenger automobiles calculated by multiplying—

"(I) the quotient obtained by dividing such manufacturer's base import volume by such manufacturer's base production volume, times

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) The term 'base import volume' means one-half the sum of—

"(i) the total number of passenger automobiles which were not domestically manufactured by such manufacturer during model year 1974 and which were imported by such manufacturer during such model year, plus

"(ii) 133 percent of the total number of passenger automobiles which were not domestically manufactured by such manufacturer during the first 9 months of model year 1975 and which were imported by such manufacturer during such 9-month period.

"(C) The term 'base production volume' means one-half the sum of—

"(i) the total number of passenger automobiles manufactured by such manufacturer during model year 1974, plus

"(ii) 133 percent of the total number of passenger automobiles manufactured by such manufacturer during the first 9 months of model year 1975.

"(D) For purposes of subparagraphs (B) and (C) of this paragraph any passenger automobile imported during model year 1976, but prior to July 1, 1975, shall be deemed to have been manufactured (and imported) during the first 9 months of model year 1975.

"(E) An automobile shall be considered domestically manufactured in any model year if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year. The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph.

"(F) The fuel economy of each passenger automobile which is imported by a manufacturer in model year 1978 or 1979, as the case may be, and which is not domestically manufactured by such manufacturer, shall be deemed to be equal to the average fuel economy of all such passenger automobiles.

"(c) Any reference in this part to automobiles manufactured by a manufacturer shall be deemed—

"(1) to include all automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufactuer; and

"(2) to exclude all automobiles manufactued (within the meaning of paragraph (1)) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

"(d)(1) Fuel economy for any model type shall be measured, and average fuel economy of a manufacturer shall be calculated, in accordance with testing and calculation procedures established by the EPA Administrator, by rule. Procedures so established with respect to passenger automobiles (other than for purposes of section 506) shall be the procedures utilized by the EPA Administrator for model year 1975 (weighed 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emission tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy and any calculations of average fuel economy to the Secretary.

"(2) The EPA Administrator shall, by rule, determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months prior to the model year to which such procedures apply.

"(e) For purposes of this part (other than section 506), any measurement of fuel economy of a model type, and any calculation of average fuel economy of a manufacturer, shall be rounded off to the nearest one-tenth mile per gallon (in accordance with the rules of the EPA Administrator).

"(f) The EPA Administrator shall consult and coordinate with the Secretary in carrying out his duties under this section.

"JUDICIAL REVIEW

"SEC. 504. (a) Any person who may be adversely affected by any rule prescribed under section 501, 502, 503, or 506 may, at any time prior to 60 days after such rule is prescribed (or in the case of an amendment submitted to each House of the Congress under section 502(a)(4), at any time prior to 60 days after the expiration of the 60-day period specified in section 502(a)(5)), file a petition in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk of such court to the officer who prescribed the rule. Such officer shall thereupon cause to be filed in such court the written submissions and other materials in the proceeding upon which such rule was based. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. Findings of the Secretary under section 500(d) shall be set aside by the court on review unless such findings are supported by substantial evidence.

"(b) If the petitioner applies to the court in a proceeding under subsection (a) for leave to make additional submissions, and shows to the satisfaction of the court that such additional submissions are material and that there were reasonable grounds for the failure to make such submissions in the administrative proceeding, the court may order the Secretary or the EPA Administrator, as the case may be, to provide additional opportunity to make such submissions. The Secretary or the EPA Administrator, as the case may be, may modify or set aside the rule involved or prescribe a new rule by reason of the additional submissions, and shall file any such modified or new rule in the court, together with such additional submissions. The court shall thereafter review such new or modified rule.

"(c) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(d) The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"INFORMATION AND REPORTS

"SEC. 505. (a)(1) Each manufacturer shall submit a report to the Secretary during the 30-day period preceding the beginning of each model year after model year 1977, and during the 30-day period beginning on the 180th day of each such model year. Each such report shall contain (A) a statement as to whether such manufacturer will comply with average fuel economy standards under section 502 applicable to the model year for which such report is made; (B) a plan which describes the steps the manufacturer has taken or intends to take in order to comply with such standards; and (C) such information as the Secretary may require.

"(2) Whenever a manufacturer determines that a plan submitted under paragraph (1) which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance, he shall submit a report to the Secretary containing a revised plan which specifies any additional measures which such manufacturer intends to take in order to comply with such standards, and a statement as to whether such revised plan is sufficient to insure such compliance.

"(3) The Secretary shall prescribe rules setting forth the form and content of the reports required under paragraphs (1) and (2).

"(b)(1) For the purpose of carrying out the provisions of this part, the Secretary or the EPA Administrator, or their duly designated agents, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, the EPA Administrator, or such agents deem advisable. The Secretary or the EPA Administrator may require, by general or special orders that any person—

"(A) file, in such form as the Secretary or EPA Administrator may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary or the EPA Administrator under this part, and

"(B) provide the Secretary, the EPA Administrator, or their duly designated agents, access to (and for the purpose of examination, the right to copy) any documentary evidence of such person which is relevant to any function of the Secretary or the EPA Administrator under this part.

Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe.

"(2) The district courts of the United States for a judicial district in the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a duly authorized subpena or order of the Secretary, the EPA Administrator, or a duly designated agent of either, issued under paragraph (1), issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(c)(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary or the EPA Administrator may, by rule, reasonably require to enable the Secretary or the EPA Administrator to carry out their duties under this part and under any rules prescribed pursuant to this part. Such manufacturer shall, upon request of a duly designated agent of the Secretary or the EPA Administrator who presents appropriate credentials, permit such agents, at reasonable times and in a reasonable manner, to enter the premises of such manufacturer to inspect automobiles and appropriate books, papers, records, and documents. Such manufacturer shall make available all of such items and information in accordance with such reasonable rules as the Secretary or the EPA Administrator may prescribe.

"(2) The district courts of the United States may, if a manufacturer refuses to accede to any rule or reasonable request made under paragraph (1), issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(d)(1) The Secretary and the EPA Administrator shall each disclose any information obtained under this part (other than section 503(d)) to the public in accordance with section 552 of title 5, United States Code, except that information may be withheld from disclosure under subsection (b)(4) of such section only if the Secretary or the EPA Administrator, as the case may be, determines that such information, if disclosed, would result in significant competitive damage. Any matter described in section 552(b)(4) relevant to any administrative or judicial proceeding under this part may be disclosed in such proceeding.

"(2) Measurements and calculations under section 503(d) shall be made available to the public in accordance with section 552 of title 5, United States Code, without regard to subsection (b) of such section.

"LABELING

"SEC. 506. (a)(1) Except as otherwise provided in paragraph (2), each manufacturer shall cause to be affixed, and each dealer shall cause to be maintained, on each automobile manufactured in any model year after model year 1976, in a prominent place, a label—

"(A) indicating—

"(i) the fuel economy of such automobile,

"(ii) the estimated annual fuel cost associated with the operation of such automobile, and

"(iii) the range of fuel economy of comparable automobiles (whether or not manufactured by such manufacturer),

as determined in accordance with rules of the EPA Administrator,

"(B) containing a statement that written information (as described in subsection (b)(1) with respect to the fuel economy of other automobiles manufactured in such model year (whether or not manufactured by such manufacturer) is available from the dealer in order to facilitate comparison among the various model types, and

"(C) containing any other information authorized or required by the EPA Administrator which relates to information described in subparagraph (A) or (B).

"(2) With respect to automobiles—

"(A) for which procedures established in the EPA and FEA Voluntary Fuel Labeling Program for Automobiles exist on the date of the enactment of this title, and

"(B) which are manufactured in model year 1976 and at least 90 days after such date of enactment, each manufacturer, shall cause to be affixed, and each dealer shall cause to be maintained, in a prominent place, a label indicating the fuel economy of such automobile, in accordance with such procedures.

"(3) The form and content of the labels required under paragraphs (1) and (2), and the manner in which such labels shall be affixed, shall be prescribed by the EPA Administrator by rule. The EPA Administrator may permit a manufacturer to comply with this paragraph by permitting such manufacturer to disclose the information required under this subsection on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(b)(1) The EPA Administrator shall compile and compare a simple and readily understandable booklet containing data on fuel economy of automobiles manufactured in each model year. Such booklet shall also contain information with respect to estimated annual fuel costs, and may contain information with respect to geographical or other differences in estimated annual fuel costs. The Administrator of the Federal Energy Administrator shall publish and distribute such booklets.

"(2) The EPA Administrator, not later than July 31, 1976, shall prescribe rules requiring dealers to make available to prospective purchasers information compiled by the EPA Administrator under paragraph (1).

"(c)(1) A violation of subsection (a) shall be treated as a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232). For purposes of the Federal Trade Commission Act (other than sections 5(m) and (18), a violation of subsection (a) shall be treated as an unfair or deceptive act or practice in or affecting commerce.

"(2) As used in this section, the term 'dealer' has the same meaning as such term has in section 2(e) of the Automobile Information Disclosure Act (15 U.S.C. 1231(e)) except that in applying such term to this section, the term 'automobile' has the same meaning as such term has in section 501(1) of this part.

"(d) Any disclosure with respect to fuel economy or estimated annual fuel cost which is required to be made under the provisions of this section shall not create an express or implied warranty under State or Federal law that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use.

"(e) In carrying out his duties under this section, the EPA Administrator shall consult with the Federal Trade Commission, the Secretary, and the Federal Energy Administrator.

"UNLAWFUL CONDUCT

"SEC. 507. The following conduct is unlawful:

"(1) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502 (other than 502(b)),

"(2) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502(b), or

"(3) the failure of any person (A) to comply with any provision of this part applicable to such person (other than section 502, 506 (a), 510, or 511), or (B) to comply with any standard, rule, or order applicable to such person which is issued pursuant to such a provision.

"CIVIL PENALTY

"SEC. 508. (a)(1) If average fuel economy calculations reported under section 503(d) indicate that any manufacturer has violated section 507 (1) or (2), then (unless further measurements of fuel economy, further calculations of average fuel economy, or other information indicates there is no violation of section 507 (1) or (2)) the Secretary shall commence a proceeding under paragraph (2) of this subsection. The results of such further measurements, further calculations, and any such other information, shall be published in the Federal Register.

"(2) If, on the record after opportunity for agency hearing, the Secretary determines that such manufacturer has violated section 507 (1) or (2), or that any person has violated section 507(3), the Secretary shall assess the penalties provided for under subsection (b). Any interested person may participate in any proceeding under this paragraph.

"(3)(A)(i) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under section 502 (a) or (c) (determined without regard to any adjustment under section 502 (d)), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(1) occurring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any civil penalty assessed against such manufacturer for a violation of section 507 (1) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502 (a) or (c), multiplied by

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) (i) Whenever the average fuel economy of a class of automobiles which are not passenger automobiles and which are manufactured by a manufacturer in a particular model year exceeds an average fuel economy standard applicable to automobiles of such class under section 502(b), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(2) occuring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any such civil penalty assessed against such manufacturer for a violation of section 507 (2) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the automobiles of such class manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502(b), multiplied by

"(II) the total number of automobiles of such class manufactured by such manufacturer during such model year.

"(C) Whenever a civil penalty has been assessed and collected under this section from a manufacturer who is entitled to a credit under this paragraph with respect to such civil penalty, the Secretary of the Treasury shall refund to such manufacturer the amount of credit to which such manufacturer is so entitled, except that the amount of such refund shall not exceed the amount of the civil penalty so collected.

"(D) The Secretary may prescribe rules for purposes of carrying out the provisions of this paragraph.

"(b) (1) (A) Any manufacturer whom the Secretary determines under subsection (a) to have violated a provision of section 507 (1), shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502(a) or (c), multiplied by (ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

'(B) Any manufacturer whom the Secretary determines under subsection (a) to have violated section 507(2) shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the applicable average fuel economy standards exceeds the average fuel economy of automobiles to which such standard applies, and which are manufactured by such manufacturer during the model year in which the violation occurs multiplied by (ii) the total number of automobiles to which such standard applies and which are manufactured by such manufacturer during such model year.

"(2) Any person whom the Secretary determines under subsection (a) to have violated a provision of section 507(3) shall be liable to the United States for a civil penalty of not more than $10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purpose of this paragraph.

"(3) The amount of such civil penalty shall be assessed by the Secretary by written notice. The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection against any person, except that any civil penalty assessed for a violation of section 507(1) or (2) may be so compromised, modified, or remitted only to the extent—

"(A) necessary to prevent the insolvency or bankruptcy of such manufacturer,

"(B) such manufacturer shows that the violation of section 507 (1) or (2) resulted from an act of God, a strike, or a fire, or

"(C) the Federal Trade Commission has certified that modification of such penalty is necessary to prevent a substantial lessening of competition, as determined under paragraph (4).

The Attorney General shall collect any civil penalty for which a manufacturer is liable under this subsection in a civil action under subsection (c) (2) (unless the manufacturer pays such penalty to the Secretary).

"(4) Not later than 30 days after a determination by the Secretary under subsection (a) (2) that a manufacturer has violated section 507 (1) or (2), such manufacturer may apply to the Federal Trade Commission for a certification under this paragraph. If the manufacturer shows and the Federal Trade Commission determines that modification of the civil penalty for which such manufacturer is otherwise liable is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such penalty was assessed, the Commission shall so certify. The certification shall specify the maximum amount that such penalty may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this paragraph not later than 90 days after the application is filed with the Commission. A proceeding under this paragraph shall not have the effect of delaying the manufacturer's liability under this section for a civil penalty for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this paragraph becomes final shall be paid to the court in which the penalty is collected, and shall (except as otherwise provided in paragraph (5)), be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(5) Whenever a civil penalty has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (4), and the Secretary subsequently determines to modify such civil penalty pursuant to paragraph (3) (C) the Secretary shall direct the court to remit the appropriate amount of such penalty to such manufacturer.

"(6) A claim of the United States for a civil penalty assessed against a manufacturer under subsection (b) (1) shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to paragraph (4)).

"(c) (1) Any interested person may obtain review of a determination (A) of the Secretary pursuant to which a civil penalty has been assessed under subsection (b), or (B) of the Federal Trade Commission under subsection (b) (4), in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"EFFECT ON STATE LAW

"SEC. 509. (a) Whenever an average fuel economy standard established under this part is in effect, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation relating to fuel economy standards or average fuel economy standards applicable to automobiles covered by such Federal standard.

"(b) Whenever any requirement under section 506 is in effect with respect to any automobile, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation with respect to the disclosure of fuel economy of such automobile, or of fuel cost associated with the operation of such automobile, if such law or regulation is not identical with such requirement.

"(c) Nothing in this section shall be construed to prevent any State or political subdivision thereof from establishing requirements with respect to fuel economy of automobiles procured for its own use.

"USE OF FUEL EFFICIENT PASSENGER AUTOMOBILES BY THE FEDERAL GOVERNMENT

"SEC. 510. (a) The President shall within 120 days after the date of enactment of this title, promulgate rules which shall require that all passenger automobiles acquired by all executive agencies in each fiscal year which begins after such date of enactment achieve a fleet average fuel economy for such year not less than—

"(1) 18 miles per gallon, or

"(2) the average fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year,

whichever is greater.

"(b) As used in this section:

"(1) The term 'fleet average fuel economy' means (A) the total number of passenger automobiles acquired in a fiscal year to which this section applies by all executive agencies (excluding passenger automobiles designed to perform combat related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work), divided by (B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles so acquired of a given model type, by

"(ii) the fuel economy of such model type.

"(2) The term 'executive agency' has the same meaning as such term has for purposes of section 105 of title 5, United States Code.

"(3) The term 'acquired' means leased for a period of 60 continuous days or more, or purchased.

"RETROFIT DEVICES

"Sec. 511. (a) The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any such representation may be inaccurate, it shall request the EPA Administrator to evaluate, in accordance with subsection (b), the retrofit device with respect to which such representation was made.

"(b) (1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit device are accurate.

"(2) I under paragraph (1) the EPA Administrator tests, or causes to be tested, any retrofit device upon the application of a manufacturer of such device, such manufacturer shall supply, at his own expense, one or more samples of such device to the Administrator and shall be liable for the costs of testing which are incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of such device.

"(c) The EPA Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

"(1) the effect of any retrofit device on fuel economy;

"(2) the effect of any such device on emissions of air pollutants; and

"(3) any other information which the Administrator determines to be relevant in evaluating such device.

Such summary and conclusions shall also be submitted to the Secretary and the Federal Trade Commission.

"(d) Within 180 days after the date of enactment of this title, the EPA Administrator shall, by rule, establish—

"(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants, and

"(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.

"(e) For purposes of this section the term 'retrofit device' means any component, equipment, or other device—

"(1) which is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

"(2) which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under rules of the Administrator. Such term also includes fuel additive for use in an automobile.

"REPORTS TO CONGRESS

"Sec. 512. (a) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to (1) a requirement that each new automobile be equipped with a fuel flow instrument reading directly in miles per gallon, and (2) the most feasible means of equipping used automobiles with such instruments. Such report shall include an examination of the effectiveness of such instruments in promoting voluntary reductions in fuel consumption, the cost of such instruments, means of encouraging automobile purchasers to voluntarily purchase automobiles equipped with such instruments, and any other factor bearing on the cost and effectiveness of such instruments and their use.

"(b) (1) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to whether or not electric vehicles and other vehicles not consuming fuel (as defined in the first sentence of section 501(5)) should be covered by this part. Such report shall include an examination of the extent to which any such vehicle should be included under the provisions of this part, the manner in which energy requirements of such vehicles may be compared with energy requirements of fuel-consuming vehicles, the extent to which inclusion of such vehicles would stimulate their production and introduction into commerce, and any recommendations for legislative action.

"(2) As used in this subsection, the term 'electric vehicle' means a vehicle powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current.

Part B—Energy Conservation Program for Consumer Products Other Than Automobiles

DEFINITIONS

Sec. 321. (a) For purposes of this part:

(1) The term "consumer product" means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type—

(A) which in operation consumes, or is designed to consume, energy; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

(2) The term "covered product" means a consumer product of a type specified in section 322.

(3) The term "energy" means electricity, or fossil fuels. The Administrator may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purposes of this Act.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 323.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 323.

(6) The term "energy efficiency standard" means a performance standard—

(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 323, and

(B) which includes any other requirements which the Administrator may prescribe under section 325(c).

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 323.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered, products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Administrator).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufactures a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15) (A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms "to distribute in commerce" and "distribution in commerce" means to sell in commerce, to import, to introduce or dleiver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term "Commission" means the Federal Trade Commission.

COVERAGE

Sec. 322. (a) A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

(1) Refrigerators and refrigerator-freezers.

(2) Freezers.

(3) Dishwashers.

(4) Clothes dryers.

(5) Water heaters.

(6) Room air conditioners.

(7) Home heating equipment, not including furnaces.

(8) Television sets.

(9) Kitchen ranges and ovens.

(10) Clothes washers.

(11) Humidifiers and dehumidifiers.

(12) Central air conditioners.

(13) Furnaces.

(14) Any other types of consumer product which the Administrator classifies as a covered product under subsection (b).

(b)(1) The Administrator may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purpose of this Act, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term "average annual per-household energy use" with respect to a type of product means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used by households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under rules of the Administrator.

TEST PROCEDURES

SEC. 323. (a)(1) The Administrator shall, during the 30-day period which begins on the date of enactment of this Act, afford interested persons an opportunity to present written data, views, and arguments with respect to test procedures to be developed for covered products of each of the types specified in paragraphs (1) through (13) of section 322(a).

(2) The Administrator shall direct the National Bureau of Standards to develop test procedures for the determination of (A) estimated annual operating costs of covered products of the types specified in paragraphs (1) through (13) of section 322(a), and (B) at least one other useful measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(3) Except as provided in paragraph (6), the Administrator shall publish proposed test procedures with respect to all covered products of each of the types specified in paragraphs (1) through (13) of section 322(a), and shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. Such proposed test procedures shall be published not later than June 30, 1976, except that (A) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such proposed test procedures shall be published not later than September 30, 1976, and (B) in the case of covered products of the types specified in paragraphs (10) and (13) of section 322(a), such proposed test procedures shall be published not later than June 30, 1977.

(4)(A) Except as provided in paragraph (6), the Administrator shall prescribe test procedures for the determination of (i) estimated annual operating costs of all covered products of each of the types specified in paragraphs (1) through (13) of section 322(a), and (ii) at least one other measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(B) Such test procedures shall be prescribed not later than September 30, 1976, except that (i) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such procedures shall be prescribed not later than December 31, 1976, and (ii) in the case of covered products of the types specified in paragraphs (10) through (13) of section 322(a), such test procedures shall be published not later than September 30, 1977.

(5) If the Administrator has classified a type of product as a covered product under section 322(b), the Administrator may, after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof). The Administrator shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Administrator may thereafter prescribe test procedures in accordance with subsection (b) of this section with respect to such type or class of product, if the Administrator or the Commission determines that—

(A) the application of subsection (c) to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(B) labeling in accordance with section 324 will assist purchasers in making purchasing decisions.

(6) The Administrator may delay the publication of proposed test procedures or the prescription of test procedures for a type of covered product (or class thereof) beyond the dates specified in paragraph (3), or (4), if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class thereof) which meet the requirements of subsection (b), and publishes such determination in the Federal Register. In any such case, he shall publish proposed test procedures or prescribe test procedures for covered products of such type (or class thereof) as soon as practicable, unless he determines that test procedures cannot be developed which meet the requirements of subsection (b) and publishes such determination in the Federal Register, together with the reasons therefor.

(b)(1) Any test procedures prescribed under this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle (as determined by the Administrator), and shall not be unduly burdensome to conduct.

(2) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator), and from representative average unit costs of the energy needed to operate such product during such cycle. The Administrator shall provide information to manufacturers respecting representative average unit costs of energy.

(c) Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(1) in writing (including a representation on a label), or

(2) in any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

LABELING

SEC. 324. (a)(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1) through (9) of section 322(a), except to the extent that, with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible.

(2) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (10) through (13) of section 322(a), except to the extent that with respect to any such type (or class thereof)—

(B) the Commission determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (14) of section 322(a) (or a class thereof) if—

(A) the Commission or the Administrator has made a determination with respect to such type (or a class thereof) under section 323(a)(5)(B),

(B) the Administrator has prescribed test procedures under section 323(a)(5) for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(b)(1) Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 322(a) (or class thereof) is published under section 323(a), the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 323 with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (13) of section 322(a), the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 323 with respect to covered products of a type specified in paragraph (14) of section 322(a), the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the

prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (10) through (13) of section 322(a), that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph (14) of section 322(a).

(c)(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 323), except that if—

(i) the Administrator determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible.

the Commission shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under section 323); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs of other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 323 used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purchase for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product,

additional information relating to energy consumption, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(d) A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) The Administrator, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Administrator shall include the results of such study in the annual report under section 338.

(f) The Administrator and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a) (1) or (2), it shall obtain the views of the Administrator and shall take such views into account in making such determination.

(g) Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type or class of covered product.

ENERGY EFFICIENCY STANDARDS

SEC. 325. (a)(1)(A) Not later than 180 days after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a).

(B) The targets prescribed under subparagraph (A) shall be designed so that, if met, the aggregate energy efficiency of covered products of all types specified in paragraphs (1) through (10) of section 322(a) which are manufactured in calendar year 1980 will exceed the aggregate energy efficiency achieved by products of all such types manufactured in calendar year 1972 by a percentage which is the maximum percentage improvement which the Administrator determines is economically and technologically feasible, but which in any case is not less than 20 percent.

(2) Not later than one year after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered products specified in paragrahs (11), (12), and (13) of section 322(a). Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is economically and technologically feasible to attain for each such type manufactured in calendar year 1980.

(3) The Administrator may, from time to time, by rule, modify any energy efficiency improvement target prescribed under paragraph (1) or (2) so long as such target, as modified, meets the applicable requirements of paragraph (1) or (2).

(4)(A) The Administrator shall require each manufacturer of covered products of the types specified in paragraphs (1) through (13) of section 332(a) to submit such reports, with respect to improvement of energy efficiency of such products, as the Administrator determines may be necessary to establish targets under this subsection or to ascertain whether covered products of any such type will achieve the improvement prescribed by the energy efficiency improvement target for such type.

(B) If, on the basis of the reports received under subparagraph (A) or other information available to the Administrator, he determines that an energy efficiency improvement target applicable to any type of covered product specified in paragraphs (1) through (13) of section 322(a) is not likely to be achieved, the Administrator shall commence a proceeding under subsection (b) to prescribe an energy efficiency standard for such type.

(C) If, in a proceeding required to be commenced under subparagraph (B), the Administrator determines with respect to the type of product to which the proceeding relates (or class thereof)—

(i) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(ii) the application of a labeling rule under section 324 applicable to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified.

the Administrator shall prescribe an energy efficiency standard for such type (or, if the determinations are made with respect to one or more classes of such type, for such class or classes).

(D) For purposes of subparagraph (B), improvement of energy efficiency is economically justified if it is economically feasible the benefits of reduced energy consumption, and the savings in operating costs throughout the estimated average life of the covered product, outweigh—

(i) any increase to purchasers in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition.

(E) For purposes of subparagraph (D)(iii), the Administrator shall not determine that there are any negative effects on competition, unless the Attorney General, (on request of the Administrator, the Commission, or any person, or on his own motion) makes determination and submits it in writing to the Administrator, together with his analysis of the nature and extent of such negative effects. The determination of the Attorney General shall be available for public inspection.

(5) The Administrator may (without re-

gard to paragraphs (1) through (4)(B)) commence a proceeding to prescribe an energy efficiency standard applicable to any type or class of covered product (other than a consumer product classified as a covered product under section 322(b)). In such proceeding he may prescribe such a standard if he makes the determinations specified in clauses (i) and (ii) of paragraph (4)(C) of this subsection.

(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies (i) the type or class of covered products to which the rule will apply, and (ii) the energy efficiency level which the Administrator proposes to require by such energy efficiency standard, and (B) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

(i) written or oral presentation of data, views, and argument as to the proposed level of energy efficiency, and

(ii) a proposed energy efficiency standard applicable to such type or class of covered product.

(2) A proposed rule which prescribes an energy efficiency standard for a type or class of covered products may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such type or class.

(3) A rule prescribing an energy efficiency standard for a class or type of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type or class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

(c) An energy efficiency standard prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

(d) A rule with respect to any type or class of covered product prescribed under this section may not take effect unless a rule under section 324 with respect to such type or class of covered product has been in effect at least 18 months prior to the effective date of the rule under this section.

REQUIREMENTS OF MANUFACTURERS

SEC. 326. (a) Each manufacturer of a covered product to which a rule under section 324 applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 324 applicable to such product.

(b)(1) Each manufacturer of a covered product to which a rule under section 324 applies shall notify the Commission, not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Administrator or Commission, the manufacturer of a covered product to which a rule under section 324 applies shall provide, within 30 days of the date of the request, the data from which the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested by the Commission, the manufacturer of covered products to which a rule under section 324 applies shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Commission for the purpose of ascertaining whether the information set out on the label, as required under section 324, is accurate. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States.

(4) Each manufacturer of a covered product to which a rule under section 324 applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption developed in accordance with the test procedures applicable to such product under section 323.

(5) A rule under section 323, 324, or 325 may require the manufacturer or his agent to permit a representative designated by the Commission or the Administrator to observe any testing required by this part and inspect the results of such testing.

(c) Each manufacturer shall use labels reflecting the range data required to be disclosed under section 324(c)(1)(B) after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 324 provides for a later date. The Commission may not require labels be changed to reflect revised tables of ranges more often than annually.

EFFECT ON OTHER LAW

SEC. 327. (a) This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—

(1) the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any rule under section 323 applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 323, or

(B) if there is a rule under section 324 applicable to such covered product and such State regulation requires disclosure of information other than information disclosed in accordance with such rule under section 324; or

(2) any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product—

(A) if there is a standard under section 325 applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 323 or 324 applicable to such product and such State regulation requires testing in accordance with test procedures which are not identical to the test procedures specified in such rule.

(b)(1) If a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2), then any person subject to such State regulation may petition the Administrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator shall, within 6 months after the date such a petition is filed, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator shall issue such a rule with respect to a State regulation if and only if the petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is no significant State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interstate commerce.

(2) Notwithstanding the provisions of subsection (a), any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product shall not be superseded by subsection (a) if the State prescribing such standard demonstrates and the Administrator finds, by rule, that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(c) Notwithstanding the provisions of subsection (a), any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such State standards are more stringent than the corresponding Federal standards.

(d) For purposes of this section, the term "State regulation" means a law or regulation of a State or political subdivision thereof.

(e) Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost, which is required to be made under the provisions of this part, shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved, or that such energy use or estimated annual operating cost will not be exceeded, under conditions of actual use.

RULES

SEC. 328. The Commission and the Administrator may each issue such rules as each deems necessary to carry out the provisions of this part.

AUTHORITY TO OBTAIN INFORMATION

SEC. 329. (a) For purposes of carrying out this part, the Commission and the Administrator may each sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and each may administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpena served, upon any person subject to this part, the Commissioner and the Administrator may each seek an order from the district court of the United States for any district in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

(b) Any information submitted by any person to the Administrator or the Commission under this part shall not be considered energy information as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

EXPORTS

SEC. 330. This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such covered product is intended for export.

IMPORTS

Sec. 331. Any covered product offered for importation in violation of section 332 shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 332, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after the date of enactment of this Act.

PROHIBITED ACTS

Sec. 332. (a) It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 324 applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any new covered product or render illegible any label required to be provided with such product under a rule under section 324;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 326(a), (b)(2), (b)(3), or (b)(5); or

(5) for any manufacturer or private labeler to distribute in commerce any new covered product which is not in conformity with an applicable energy efficiency standard prescribed under this part.

(b) For purposes of this section, the term "new covered product" means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year.

ENFORCEMENT

Sec. 333. (a) Except as provided in subsection (b), any person who knowingly violates any provision of section 332 shall be subject to a civil penalty of not more than $100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 322(a)(3) which relate to requirements prescribed by the Administrator, violations of section 332(a)(4) which relate to requests of the Administrator under section 326(b)(2), or violations of section 332(a)(5) shall be assessed by the Administrator. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), or (5) of section 332(a) shall constitute a separate violation with respect to each covered product, and each day of violation of section 332(a) (3) or (4) shall constitute a separate violation.

(b) As used in subsection (a), the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(c) It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act) for any person to violate section 323(d)(2).

INJUNCTIVE ENFORCEMENT

Sec. 334. The United States district courts shall have jurisdiction to restrain (1) any violation of section 332 and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 324 or 325. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 332(a)(3) which relates to requirements prescribed by the Administrator, any violation of section 332(a)(4) which relates to requests of the Administrator under section 326(b)(2), or any violation of section 332(a)(5) shall be brought by the Administrator. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transact business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

CITIZEN SUITS

Sec. 335. (a) Except as otherwise provided in subsection (b), any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part (excluding sections 325 and 332(a)(5), and rules thereunder) or

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary (excluding any act or duty under section 325 or 332(a)(5)).

The United States district courts shall have jurisdiction, without regard to the amounts in controversy or the citizenship of the parties, to enforce such provision or rule, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) prior to 60 days after the date on which the plaintiff has given notice of such action to the Administrator and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

(c) In such action under this section, the Administrator or the Commission (or both), if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and export witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator or the Commission).

(f) For purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provisions of this part by reason of the alleged invalidity of such rule.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Sec. 336. (a)(1) Rules under sections 323, 324, 325(a) (1), (2), or (3), 327(b), or 328 shall be prescribed in accordance with section 553 of title 5, United States Code, except that—

(A) interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, and

(B) in the case of a rule under paragraph (1), (2), or (3) of section 325(a), the Administrator shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

(i) other interested persons who have made oral presentations under subparagraph (A), and

(ii) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Administrator determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this paragraph.

(2) Subsections (c) and (d) of section 18 of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a)(1), (2), and (3)) to the same extent that such subsections apply to rules under section 18(a)(1)(B) of such Act.

(b)(1) Any person who will be adversely affected by a rule prescribed under section 323 or 324 when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule under section 323 or 324 may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) Section 18(e) of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a) (1), (2), and (3)) to the same extent that it applies to rules under section 18(a)(1)(B) of such Act.

CONSUMER EDUCATION

Sec. 337. The Administrator shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

(1) the significance of estimated annual operating costs;

(2) the way in which comparative shopping, including comparisons of estimated an-

nual operating costs, can save energy for the Nation and money for consumers; and

(3) such other matters as the Administrator determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name.

ANNUAL REPORT

SEC. 338. The Administrator shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 339. (a) There are authorized to be appropriated to the Administrators not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;

(2) $1,500,000 for fiscal year 1977; and

(3) $1,500,000 for fiscal year 1978.

(b) There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

(c) There are authorized to be appropriated to the Administrator to be allocated not more than the following amounts—

(1) $1,700,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a), may, be allocated by the Administrator to the National Bureau of Standards.

PART C—STATE ENERGY CONSERVATION PLANS

FINDINGS AND PURPOSE

SEC. 361. (a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Administrator to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

STATE ENERGY CONSERVATION PLANS

SEC. 362. (a) The Administrator shall, by rule, within 60 days after the date of enactment of this Act, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Administrator shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation of the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) The Administrator shall, by rule, within 6 months after the date of enactment of this Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Administrator shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States); and

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping.

(d) Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls;

(4) programs of public education to promote energy conservation; and

(5) any other appropriate method or programs to conserve and to improve efficiency in the use of energy.

(e) The Governor of any State may submit to the Administrator a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsection (c) and (d) of this section.

FEDERAL ASSISTANCE TO STATES

SEC. 363. (a) Upon request of the Governor of any State, the Administrator shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 362, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 362 (b) or (e).

(b) (1) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Administrator pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 362(b) or (e), the Administrator—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Administrator determines that participation by the State submitting such a report or plan is likely to result in significant progress toward achieving the purposes of this Act.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Administrator shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this Act, and such other factors as the Administrator deems appropriate.

(c) Each recipient of Federal financial assistance under subsection (b) shall keep such records as the Administrator shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the project or program for which such assistance was given or used, the source and amount of funds for such projects or programs not supplied by the Administrator, and such other records as the Administrator determines necessary to facilitate an effective audit and performance evaluation. The Administrator and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

ENERGY CONSERVATION GOALS

"SEC. 364. Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Administrator shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 362(b) which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Administrator shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.

GENERAL PROVISIONS

SEC. 365. (a) The Administrator may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) In carrying out the provisions of sections 362 and 364 and subsection (a) of section 363, the Administrator shall consult with appropriate departments and Federal agencies.

(c) The Administrator shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Administrator, if any, for additional legislation.

(d) There are authorized to be appropriated for carrying out the provisions of this part $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $50,000,00 for fiscal year 1978.

DEFINITIONS

SEC. 366. As used in this part—

(1) The term "public building" means any building which is open to the public during normal business hours.

(2) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy in transportation, except that the term does not include rationing of gasoline or diesel fuel.

PART D—INDUSTRIAL ENERGY CONSERVATION

DEFINITIONS

SEC. 371. As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 3(2)(B) and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to each such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposese of this part.

PROGRAM

SEC. 372. The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry, and

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries.

IDENTIFICATION OF MAJOR ENERGY CONSUMERS

SEC. 373. Within 90 days after the date of enactment of this Act, the Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. Within each industry so identified, the Administrator shall identify each corporation which—

(1) consumes at least one trillion British thermal units of energy per year, and

(2) is among the corporations identified by the Administrator as the 50 most energy-consumptive corporations in such industry.

INDUSTRIAL ENERGY EFFICIENCY IMPROVEMENT TARGETS

SEC. 374. (a) Within one year after the date of enactment of this Act, the Administrator shall set an industrial energy efficiency improvement target for each of the 10 most energy-consumptive industries identified under section 373. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) In determining maximum feasible improvement under subsection (a) and under subsection (c), the Administrator shall consider—

(1) the objectives of the program established under section 372,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies,

(3) any special circumstances or characteristics of the industry for which the target is being set, and

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) The Administrator may, in order to carry out section 372(1), set an industrial energy efficiency improvement target for any major energy-consuming industry to which subsection (a) does not apply. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Any target established under subsection (a) or (c) may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent, and

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

REPORTS

SEC. 375. (a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Administrator pursuant to section 373, and which is in an industry for which an industrial energy efficiency improvement target has been set under section 374(a), shall report to the Administrator not later than January 1, 1977, and annually thereafter, on the progress which such corporation has made in improving its energy efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Administrator shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 376(g)).

(b) The Administrator shall prepare, publish, and make available, for use in complying with the reporting requirements under subsection (a), a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

(c) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator; and

(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any.

GENERAL PROVISIONS

SEC. 376. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 375(a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and prior to publication of any reporting requirements under section 375.

(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage: except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 374 of this Act.

(g)(1) The Administrator shall exempt a corporation from the requirements of section 375(a) if such corporation is in an industry which has an adequate voluntary reporting program, as determined by the Administrator annually after notice and opportunity for interested persons to comment. An industry's voluntary reporting program shall be determined to be adequate only if—

(A) each corporation within such industry which is identified under section 373 fully participates in such program;

(B) all information deemed necessary by the Administrator for purposes of evaluating the progress made by such industry in achieving the industry energy efficiency improvement target set forth under section 374 is provided to the Administrator; and

(C) reports made to a trade association or other person, in connection with such program, are retained for a reasonable period of time and are available to the Administrator.

(2) If the Administrator determines that an industry's voluntary reporting program is not adequate solely on the basis that any corporation within such industry is not fully participating in such program, he shall exempt from the requirements of section 375(a) only those corporations which fully participate in such program.

(h) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

PART E—OTHER FEDERAL ENERGY CONSERVATION MEASURES

FEDERAL ENERGY CONSERVATION PROGRAMS

SEC. 381. (a) (1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

(b) (1) The Administrator shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency—; or

(B) to promote van pooling and carpooling arrangements. (2) For purposes of this subsection:

(A) The term "van" means any automobile which the Administrator determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term "van pooling arrangement" means an arrangement for the transportation of employees between their residences or other designated locations and their place of employment on a nonprofit basis in which the operating costs of such arrangement are paid for by the employees utilizing such arrangement.

(c) The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b).

ENERGY CONSERVATION IN POLICIES AND PRACTICES OF CERTAIN FEDERAL AGENCIES

SEC. 382. (a) (1) The Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, and the Federal Aviation Administration shall each conduct a study and shall each report to the Congress within 60 days after the date of enactment of this Act with respect to energy conservation policies and practices which such agencies have instituted subsequent to October 1973.

(2) Each of the agencies specified in paragraph (1) shall, within 120 days after the date of enactment of this Act, report to the Congress with respect to the content and feasibility of proposed programs for additional savings in energy consumption by the persons regulated by each such agency which have as a minimum goal a 10-percent reduction, within 12 months of the institution of such programs, in energy consumption from the amount of energy consumed during calendar 1972, including any legislative recommendations each such agency finds are necessary to achieve such goal.

(3) Each of the agencies specified in paragraph (1) shall conduct a study and prepare a report with respect to any requirement of any law administered by such agency or any major regulatory action which the agency determines had the effect of requiring, permitting, or inducing the inefficient use of petroleum products, coal, natural gas, electricity, and other forms of energy, together with a statement of the need, purpose, or justification of any such requirement or such action. Each such report shall be submitted to the Congress within one year after the date of enactment of this Act.

(b) Except as provided in subsection (c), each of the agencies specified in subsection (a) (1) shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation.

(c) Subsection (b) shall not apply to any authority exercised under any provision of law designed to protect the public health or safety.

FEDERAL ACTIONS WITH RESPECT TO RECYCLED OIL

SEC. 383. (a) The purposes of this section are—

(1) to encourage the recycling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

(b) As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled" oil means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives,

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d) (1) (A) (i), is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) As soon as practicable after the date of enactment of this Act, the National Bureau of Standards shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the National Bureau of Standards shall report such procedures to the Commission.

(d) (1) (A) Within 90 days after the date on which the Commission receives the report under subsection (c), the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A) (i).

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Beginning on the effective date of the standards prescribed pursuant to subsection (d) (1) (A)—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d) (1) (A), and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d) (1) (A), to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d) (1) (A) (ii); and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) After the effective date of the rules required to be prescribed under subsection (d) (1) (A), all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nations oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

TITLE IV—PETROLEUM PRICING POLICY AND OTHER AMENDMENTS TO THE ALLOCATION ACT

PART A—PRICING POLICY

OIL PRICING POLICY

SEC. 401. (a) The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new sections:

"OIL PRICING POLICY

"SEC. 8. (a) Not later than the first day of the second full calendar month following the date of enactment of this section, the President shall promulgate and make effective an amendment to the regulation under section 4(a) of this Act which regulation, as amended, shall establish ceiling prices (or the manner of determining ceiling prices) applicable to any first sale of crude oil produced in the United States, such that the resulting actual weighted average first sale price for all such crude oil during such calandar month and each of the 39 months thereafter shall not exceed a maximum of $7.66 per barrel (hereinafter in this section referred to as the "maximum weighted average first sale price"), except as may be adjusted pursuant to this section.

"(b) (1) The regulation under section 4 (a), as amended pursuant to subsection (a) of this section or by any subsequent amendment thereto, may, subject to the limitations related to the maximum weighted average first sale price and other requirements of this section, provide for different ceiling prices (or manner of determining ceiling prices) for different classifications of crude oil produced in the United States. In providing for different ceiling prices (or the manner for determining such ceiling prices) and classifications for such crude oil, the President shall determine that such ceiling prices (or the manner for determining such ceiling prices) and such classifications—

"(A) are administratively feasible; and

"(B) are justified on the basis that such prices and such classifications are consistent with obtaining optimum production of crude oil in the United States.

"(2) No amendment to the regulation under section 4(a) made after the date of enactment of this section may permit, in any month which begins after such date, an increase in the price for any volume of old crude oil production from any properties, unless the President finds that such amendment—

"(A) will give positive incentives for (i) enhanced recovery techniques, or (ii) deep horizon development from such properties; or

"(B) is necessary to take into account declining production from such properties; and

"(C) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

"(3) As used in paragraph (2), the term 'old crude oil production' means that volume of crude oil produced and sold from a property in a month which is equal to or less than the volume of old crude oil, as defined in section 212.72 of title 10, Code of Federal Regulations (as in effect on November 1, 1975), produced and sold from such property in the months of September, October, and November of 1975, divided by 3.

"(c) (1) Not later than 6 months after the effective date of the amendment promulgated under subsection (a), and not later than every 6 months thereafter, the President shall, on the basis of valid and reliable information (which may include information obtained by a valid and reliable sampling technique) of actual first sale prices of domestic crude oil, determine whether and the extend to which the actual weighted average first sale price for crude oil produced in the United States during any 6-month period or portion thereof forwhich data are available following the effective date of the amendment promulgated under subsection (a) of this section, exceeded or was less than riod or portion thereof for which data are price of such crude oil specified in subsection (a) as may be adjusted pursuant to this section.

"(2) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price in excess of the maximum weighted average first sale prices specified in subsection (a) as adjusted pursuant to this section 3 he shall amend the regulation to make such compensating adjustments as are necessary to result, in a corresponding period, in an actual weighed average first sale price for domestic crude oil sufficient to offset such excess.

"(3) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price less than the maximum weighted average first sale price specified in subsection (a) as adjusted pursuant to this section, he may, notwithstanding the requirements of this section pertaining to such maximum weighted average first sale price, amend the regulation to make such compensating adjustments in the regulation as are necessary to offset the deficiency in a corresponding period.

"(d) (1) The amendment promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a)) may provide for an adjustment to the maximum weighted average first sale price specified in subsection (a), such adjustment to begin no earlier than in the calendar month following the first month the amendment is in effect—

"(A) to take into account the impact of inflation as measured by the adjusted GNP deflator; and

"(B) as a production incentive;

except that any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and the combined effect of any such adjustments referred to in subparagraphs (A) and (B) shall not result in an increase in the maximum weighted average first sale price in excess of 10 per centum per annum (compounded annually), unless modified pursuant to this section.

"(2) As used in this subsection, the term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modification as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

"(3) The adjustment as a production incentive referred to in paragraph (1) (B) may be made only on a finding by the President that such an adjustment is likely to provide positive incentive for—

"(A) the discovery or development of high cost and high risk properties (including new wildcat properties, and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells, including production from stripper wells.

"(e) (1) Not earlier than 90 days after the effective date of the amendment promulgated under subsection (a) and not earlier than 90 days after the date of any previous submission under this subsection, the President may submit to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which provides for (A) a production incentive adjustment to the maximum weighted average first sale price in excess of the 3 per centum limitation specified in subsection (d) (1), (B) a combined adjustment limitation in excess of the 10 per centum limitation specified in such subsection, or (C) both.

"(2) Any such amendment shall be accompanied by a finding that an additional adjustment as a production incentive, or a combined adjustment limitation greater than permitted by subsection (d) (1), or both, is necessary to provide a more adequate incentive with respect to the matters referred to in subparagraphs (A), (B), or (C) of subsection (d) (3).

"(3) Any such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(f) (1) On February 15, 1977, the President shall submit to the Congress a report containing an analysis of the impact of any amendment adopted pursuant to this section on the economy and on the supply of crude oil, residual fuel oil, and refined petroleum products.

"(2) The President may submit with such report to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which—

"(A) provides for the continuation or modification of the adjustment as a production incentive (referred to in subsection (d) as may have been amended pursuant to subsection (e));

"(B) provides for a modification of the combined adjustment limitation (referred to in subsection (d), as may have been amended pursuant to subsection (e)); or

"(C) provides for adjustments with respect to both subparagraphs (A) and (B).

"(3) Such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may, not later than 30 days after the date of such disapproval, submit one additional amendment in accordance with paragraph (2), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If no amendment to continue or modify the adjustment as a production incentive takes effect, no such adjustment to the maximum weighted average first sale price thereafter may be taken into account in computing such price for any month which begins after (A) the date on which a submission could have been made under paragraph (2) but was not, or (B) the last date on which a submission was disapproved and no further submission pursuant to paragraph (4) could be made, except that the President may, pursuant to the procedures under subsection (e), submit an amendment to the regulation to provide for a prospective reinstatement of such adjustment or of a modification of such adjustment.

"(g) (1) On April 15, 1977, the President shall submit to the Congress a report as to whether the regulation promulgated under section 4(a) and in effect on such date will provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2) (A) without lessening needed incentives for sustaining or enhancing crude oil production in the remainder of the United States.

"(2) If the President determines that a price required to provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2)(A) would, because of the maximum weighted average first sale price specified in subsection (a) of this section, as adjusted, have the effect of reducing or limiting ceiling prices permitted for crude oil produced in the remainder of the United States to levels which would result in less production of such crude oil than would otherwise occur, the President may, together with such report, or at any time thereafter not earlier than 90 days after any previous submission under this subsection, except as provided in paragraph (4), submit to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act an amendment to the regulation promulgated under section 4(a) which—

"(A) excludes up to 2 million barrels a day of crude oil production transported through the trans-Alaska pipeline from the computation of the maximum weighted average first sale price specified in subsection (a); and

"(B) establishes ceiling prices (or a manner of determining prices) for the first sale of crude oil production referred to in subparagraph (A) such that the actual weighted average first sale price for such production will not exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic crude oil

(3) Any such amendment shall be accompanied by such findings and support rationale as the President determines justify such ceiling prices (or manner for determining such prices). Any amendment submitted to the Congress pursuant to this subsection shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may not later than 30 days after the date of such disapproval submit one additional amendment in accordance with paragraphs (2) and (3), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If any amendment submitted by the President to the Congress pursuant to this subsection becomes effective, such amendment may thereafter be further amended by the President, subject to the procedures and requirements of paragraphs (2) and (3) of this subsection, except that no such further amendment shall be submitted earlier than January 1, 1978, and thereafter no earlier than 90 days after the date of any previous submission made under this paragraph.

"(h) In any judicial review of an amendment required by this section to be submitted to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of this section or of subparagraph (A), (E), or (F) of section 706(2) of title 5, United States Code.

"PASSTHROUGHS OF PRICE DECREASES

"SEC. 9. Not later than the first day of the second full calendar month following the date of enactment of this section, the regulation under section 4(a) shall provide for a dollar-for-dollar passthorugh in prices at all levels of distribution from the producer through the retail level of decreases in the costs of crude oil, residual fuel oil, and refined petroleum products (including decreases in costs which result from a reduction in the price of crude oil produced in the United States because of the amendment to such regulation required under section 8 (a))."

(b)(1) Subsections (d), (e) and (g) of section 4 of the Emergency Petroleum Allocation Act of 1973 are repealed, and subsection (f) of such section 4 is redesignated as subsection "(d)" of such section 4.

(2) Section 4(a) of such Act is amended by (A) striking out "Subject to subsection (f)" an inserting in lieu thereof "Subject to subsection (d)"; and (B) striking out "Except as provided in subsection (e) such" and inserting in lieu thereof "Such".

(3) Section 4(c) of such Act is amended in paragraphs (1), (4), and (5) thereof by striking out "subsections (b) and (d)" wherever it appears and by inserting in lieu thereof in each case "subsection (b)".

(4) Section 406 of Public Law 93–153 is repealed.

(5) The amendments made by paragraphs (1), (2), (3), and (4) of this subsection, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

LIMITATIONS ON PRICING POLICY

SEC. 402. (a) Paragraph (2) of section 4 (b) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(2) In specifying prices (or prescribing the manner for determining them), the regulation under subsection (a)—

"(A) shall provide for a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products at all levels of distribution from the producer through the retail level;

"(B)(i) shall not permit any net crude oil cost increases—

"(I) which are incurred by a refiner during the calendar month immediately preceding the effective date of this paragraph, or in any month thereafter, and

"(II) which are not passed through in prices charged pursuant to such regulation in the 2 calendar months following the calendar month in which such crude oil cost increases were incurred,

to be passed through by such refiner in any month subsequent to the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless the President makes the findings specified in clause (ii)(II)(aa), and such passthrough is consistent with the requirements specified in clause (ii)(II)(bb).

"(ii) shall not permit the passthrough in any month of—

"(I) any net crude oil cost increases incurred by a refiner not later than the last day of the calendar month which begins two months prior to the effective date of this paragraph and not passed through by the end of the last calendar month prior to the effective date of this paragraph unless such passthrough is not in excess of 10 percent of the total amount of such increased crude oil costs not passed through as of the last day of the last calendar month prior to the effective date of the amendment promulgated under section 8(a); and

"(II) any net crude oil cost increases incurred by a refiner after the effective date of this paragraph, which net crude oil cost increases were not passed through within the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless—

"(aa) the President finds, and reports to the Congress with respect to such finding, that a passthrough of such crude oil increases is necessary to alleviate the impact on refiners, marketers, or consumers of significant increases in costs, to provide for equitable cost recovery consistent with the attainment, to the maximum extent practicable, of the objectives specified in paragraph (1), or to avoid competitive disadvantage; and

"(bb) such passthrough in any month of such crude oil cost increases is not in excess of 10 percent of the total amount of such crude oil cost increases as of the end of the calendar month in which the effective date of this paragraph occurs or any month thereafter;

"(C) shall provide for the use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel, and refined petroleum products at all levels of marketing and distribution; and

"(D) shall not permit more than a direct proportionate distribution (by volume) to Number 2 oils (Number 2 heating oil and Number 2–D diesel fuel), aviation fuel of a kerosene or naphtha type, and propane produced from crude oil, of any increased costs of crude oil incurred by a refiner; except that the President may, by amendment to the regulation under subsection (a) or by order, permit deviation from such proportionate distribution of costs, if the President finds that refinery operations justify such deviation and further finds that to permit such deviation is consistent with the attainment of the objectives in paragraph (1) and would not result in inequitable prices for any class of users of such product.

As used in this paragraph, the term 'effective date of this paragraph' means the effective date specified in section 402(b) of the Energy Policy and Conservation Act.".

(b) The amendment made by this section, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

(c) The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"LIMITATIONS ON PRICING AUTHORITY

"SEC. 10. The President shall have no authority, under this Act, or under the Energy Policy and Conservation Act, to prescribe minimum prices for crude oil (or any classification thereof), residual fuel oil, or any refined petroleum product.".

ENTITLEMENTS

SEC. 403. (a) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following:

"(e) Any provision of the regulation under subsection (a) of this section—

"(1) which requires the purchase of entitlements, or the payment of money through any other similar cash transfer arrangement, the purpose of which is to reduce disparities in the crude oil acquisition costs of domestic refiners, and

"(2) which is based upon the number of barrels of crude oil input, or receipts, or both, of any refiner,

shall not apply to the first 50,000 barrels per day of input, or receipts, or both, of any refiner whose total refining capacity (including the refining capacity of any person who controls, is controlled by, or is under common control with such refiner) did not exceed on January 1, 1975, and does not thereafter exceed 100,000 barrels per day. The preceding sentence shall not affect any provisions of the regulation under subsection (a) of this section with respect to the receipt by any small refiner as defined in section 3(4) of payments for entitlements or any other similar cash transfer arrangement.".

(b) Subsection (a) of this section shall apply with respect to payments due on or after the last day of the month during which the date of enactment of this Act occurs.

PART B—OTHER AMENDMENTS TO THE ALLOCATION ACT

AMENDMENTS TO THE OBJECTIVES OF THE ALLOCATION ACT

SEC. 451. (a) Section 4(b)(1)(A) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(A) protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;".

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto;".

PENALTIES UNDER THE ALLOCATION ACT

SEC. 452. Section 5 of the Emergency Petroleum Allocation Act of 1973 is amended:

(1) by striking out "sections 205 through 211" in subsection (a)(1) of such section and inserting in lieu thereof "sections 205 through 207 and sections 209 through 211"; and

(2) by adding at the end of subsection (a) of such section the following:

"(3)(A) Whoever violates any provision of the regulation under section 4(a) of this Act, or any order under this Act shall be subject to a civil penalty—

"(i) with respect to activities relating to the production, distribution, or refining of crude oil, of not more than $20,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than activities entirely at the retail level), of not more than $10,000 for each violation; and

"(iii) with respect to activities—

"(I) entirely relating to the distribution of residual fuel oil or any refined petroleum product at the retail level, or (II) activities not referred to in clause (i) or (ii) or subclause (I) of this clause,

of not more than $2,500 for each violation.

"(B) Whoever willfully violates any provision of such regulation, or any such order shall be imprisoned not more than 1 year, or—

"(i) with respect to activities relating to the production or refining of crude oil, shall be fined not more than $40,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than at the retail level), shall be fined not more than $20,000 for each violation;

"(iii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product at the retail level or any other person shall be fined not more than $10,000 for each violation;

or both.

"(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of paragraph (3), shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (3) except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (3), unless he also has knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the President.".

ANTITRUST PROVISION IN ALLOCATION ACT

SEC. 453. Section 6(c) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(c) There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil, residual fuel oil, or any refined petroleum product, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulation or any order under this Act.".

EVALUATION OF REGULATION UNDER THE ALLOCATION ACT

SEC. 454. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REEVALUATION OF SECTION 4(a) REGULATION

"SEC. 11. (a) Not later than 60 days after the date of enactment of this section, the President shall give appropriate notice and afford interested persons an opportunity to present written and oral data, views, and arguments, respecting the appropriateness of, or the continuing need for, the application of any provision of the regulation promulgated under section 4(a) as such provision relates to the attainment of the objectives specified in section 4(b)(1) of section 4. A transcript shall be kept of any such oral presentation of data, views, and argument.

"(b) The President shall, after consideration of such written and oral presentations and such other information as may be available to him—

"(1) analyze such presentations and report thereon to the Congress within 120 days after the date of enactment of this section; and

"(2) shall promulgate, pursuant to the limitations and authority under section 12, such amendment, or amendments, to the regulation promulgated under section 4(a) as he determines are necessary or appropriate—

"(A) to modify any provisions of such regulation in a manner which is consistent with the attainment, to the maximum extent practicable, of objectives specified in section 4(b)(1); or

"(B) to eliminate any provisions of such regulation no longer necessary to provide for the attainment of such objectives.".

CONVERSION TO STANDBY AUTHORITIES

SEC. 455. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONVERSION MECHANISM TO STANDBY AUTHORITIES

"SEC. 12. (a) The President may not amend the regulation under section 4(a) in any manner which—

"(1) exempts crude oil produced in the United States from any provision of such regulation required to be made a part of such regulation by section 8; or

"(2) results in making such regulation, as so amended, inconsistent with any limitation or other requirement specified in section 8.

"(b) Except as provided in subsection (a), the President may amend the regulation under section 4(a) if he determines that such amendment is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) and that the regulation, as amended, provides for the attainment, to the maximum extent practicable, of such objectives.

"(c)(1) Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection.

"(2) The President shall submit any amendment referred to in paragraph (1) to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act. Any such amendment shall be accompanied by a specific statement of the President's rationale for such amendment and the matter described in subsection (d) of this section. Such an amendment—

"(A) may apply only to one oil or one refined product category;

"(B) may apply to the matters specified in either subparagraph (A) or (B) of paragraph (1) of this subsection, or both; and

"(C) may provide for scheduled or phased implementation.

"(3) As used in this section the term 'refined product category' means—

"(A) motor gasoline;

"(B) Number 2 oils (Number 2 heating oil and Number 2-D diesel fuel);

"(C) propane; or

"(D) all or any portion of other refined petroleum products a class (including natural gas liquids and natural gas liquid products, other than propane).

"(4) Such an amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(d)(1) The President shall support any amendment described in subsection (b) which is transmitted to the Congress under subsection (c) of this section with a finding that such amendment is consistent with the attainment of the objectives specified in subsection 4(b)(1) and in the case of—

"(A) any exemption described in subsection (c)(1)(A), with a finding that such oil or refined product category is no longer in short supply and that exempting such oil or refined product category will not have an adverse impact on the supply of any other oil or refined petroleum product subject to this Act; and

"(B) any exemption described in subsection (c)(1)(B), with a finding that competition and market forces are adequate to protect consumers and that exempting such oil or refined product category will not result in inequitable prices for any class of users of such oil or product.

"(2) Any amendment which the President submits to the Congress under subsection (c) of this section shall be accompanied—

"(A) by a statement of the President's views as to the potential economic impacts (if any) of such amendment which, where practicable, shall include his views as to—

"(i) the State and regional impacts of such amendment (including effects on governmental units);

"(ii) the effects of such amendment on the availability of consumer goods and services; the gross national product; competition; small business; and the supply and availability of energy resources for use as fuel or as feedstock for industry; and

"(iii) the effects on employment and consumer prices; and

"(B) in the case of an exemption described in subsection (c)(1)(B) of this section, by an analysis of the effects to such amendment on the rate of unemployment for the United States, the Consumer Price Index for the United States, and the implicit price deflator for the gross national product.

"(e) In any judicial review of an amendment required by this section to be submitted to Congress in accordance with the procedures specified in section 551 of the

Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of subsection (c), (d), or (g) of this section or subparagraph (A), (E), or (F), of section 706(2) of title 5, United States Code.

"(f) With respect to any oil or refined product category which is exempted to pursuant to the provisions of this section, the President shall have authority at any time thereafter to prescribe a regulation or issue an order respecting either the allocation of amounts, or the specification of price or the manner for determining the price, for any such oil or refined product category upon a determination by him that such regulation or order is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1). Any such oil or refined product category for which allocation or price requirements are reimposed under authority of this subsection may subsequently be exempted without regard to the provisions of subsection (c) of this section.

"(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—

"(1) results in unfair economic or competitive advantage with respect to other small refiners; or

"(2) otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b)(1)(D) and for the attainment of those other objectives specified in section 4 (b)(1);

submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such sections 551.".

TECHNICAL PURCHASE AUTHORITY

SEC. 456. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"TECHNICAL PURCHASE AUTHORITY

"SEC. 13. (a) The President may, by amendment to the regulation under section 4(a) of this Act, provide for and implement a procedure pursuant to which the United States may exercise the exclusive right to import and purchase all or any part of the crude oil, residual fuel oil, and refined petroleum products of foreign origin for resale in the United States.

"(b) The authorities granted under this section shall not be used for the purpose, or with the effect, of providing a subsidy or preference to any importer, purchaser, or user.

"(c) In exercising any authorities granted under this section, the President shall endeavor to buy and sell without profit or loss, except that the President may, in individual cases, sell, on a competitive bid basis, crude oil, residual fuel oil, or any refined petroleum product at a price above or below the cost of such oil or product if, in the judgment of the President, such sales may result in progress toward a lower price for oil sold in international commerce.

"(d) Any amendment to the regulation proposed to be implemented under this section shall be submitted to Congress for review under section 551 of the Energy Policy Conservation Act, together with a detailed explanation of the procedure to be employed and the need therefor and shall be supported by findings by the President that the exercise of such authority is likely to reduce prices for imported oils and products. Such amendment shall not take effect if disapproved by either House of the Congress in accordance with the procedures specified in section 551 of such Act and any authority to purchase shall be subject to appropriations Acts.

"(e) The President shall submit, within 90 days after the date of enactment of this section, a report which evaluates the feasibility of reducing the price of crude oil, residual fuel oil, or refined petroleum products of foreign origin for resale in the United States by providing incentives for domestic producers who also import such oils or products into the United States, to work for the reduction of the price of such oils or products. The report shall specifically discuss whether increasing aggregate old crude oil prices by an amount related to any decrease in aggregate prices for such imported oils and products would serve as an incentive for domestic producers to reduce the price of such imported oils and products.".

DIRECT CONTROLS ON REFINERY OPERATIONS

SEC. 457. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"DIRECT CONTROLS ON REFINERY OPERATIONS

"SEC. 14. The President may, by amendment to the regulation under section 4(a) of this Act or by order, as may be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, require adjustments in the operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations if he determines such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions as are necessary or appropriate to provide for the attainment, to the maximum extent practicable, the objectives specified in section 4(b)(1).".

INVENTORY CONTROLS

SEC. 458. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"INVENTORY CONTROLS

"SEC. 15. (a) In addition to other authority provided for in this Act to alleviate shortages of crude oil, residual fuel oil, and refined petroleum products, the President may, if he finds an existing or impending regional or national supply shortage of any fuel, by amendment to the regulation under section 4(a) of this Act or by order, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1), require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product which are held in inventory by persons who are engaged in the business of importing, producing, refining, marketing, or distributing such oils or products.

"(b) The authority specified in subsection (a) may be exercised to require either—

"(1) a distribution from such inventories to specified persons or classes of persons at specified rates of distribution or to specified levels of inventory accumulation; or

"(2) the accumulation of inventories at specified rates of accumulation or to specified levels,

as the President determines may be necessary or appropriate to provide for the attainment, to the maximum extent practicable, of the objectives of section 4(b)(1) or as the President determines may be necessary or appropriate to carry out the obligations of the United States under the international energy program, as defined in section 3 of the Energy Policy and Conservation Act.

"(c) The authority specified in subsection (a) may require the maintenance of inventories at levels greater or lesser than such person's normal business or operating requirements; except that such amounts shall not exceed the amount of oil or product, as the case may be, such person would use or distribute during any 90-day period of peak usage and in no case may the requirement to accumulate inventories be applied to any person in a manner which would necessitate such person making physical additions to storage facilities in order to comply with any such rule or order.".

HOARDING PROHIBITIONS

SEC. 459. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"HOARDING PROHIBITIONS

"SEC. 16. Except as may be otherwise provided with respect to persons engaged in the business of producing, refining, distributing, or marketing crude oil, residual fuel oil, or any refined petroleum product pursuant to section 15 or pursuant to requirements under section 156 of the Energy Policy and Conservation Act (relating to the Industrial Strategic Petroleum Reserve), the regulation under section 4(a) shall prohibit any person, during a severe energy supply interruption (as defined in section 3 of the Energy Policy and Conservation Act) from willfully accumulating crude oil, residual fuel oil, or any refined petroleum production inventories, or otherwise, in amounts which are in excess of such person's reasonable needs (as such term shall be defined in such regulation).".

ASPHALT ALLOCATION AUTHORITY

SEC. 460. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"ASPHALT ALLOCATION AUTHORITY

"SEC. 17. (a) The President may amend the regulation under section 4(a) of this Act to require, in a manner which he finds is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, the allocation of asphalt in amounts specified in (or determined in the manner prescribed by), or at prices specified in (or determined in a manner prescribed by) such amendment to the regulation, or both.

"(b) If the President exercises the authority under this section, he may thereafter amend the regulation under section 4(a) to exempt asphalt from such regulation without regard to the provisions of section 12 of this Act.".

EXPIRATION OF AUTHORITIES

SEC. 461. The Emergency Petroleum Allocation Act of 1973 is amended by adding to the end of such Act, as amended by this Act, the following new section:

"EXPIRATION OF AUTHORITIES

"SEC. 18. Notwithstanding any other provision of this Act, at midnight on the conclusion of the 40th month in which the amendment under section 8(a) is in effect, the President's authority to promulgate, make effective, and amend a regulation pursuant to section 4(a) of this Act shall become discretionary rather than mandatory, and the limitations on the President's authority contained in sections 4(b)(2), 8, and 9 of this Act shall terminate. The authority to promulgate and amend any regulation or to issue any order under this Act shall expire at midnight September 30, 1981, but such expiration shall not affect any action or pending proceedings, administrative, civil, or criminal, not finally determined on such date, nor any administrative, civil, or criminal action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date.".

REIMBURSEMENT TO STATES

SEC. 462. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REIMBURSEMENT TO STATES

"SEC. 19. (a) The President is authorized to reimburse any State for expenses incurred by such State in carrying out any responsibilities delegated to such State by the President under the provisions of this Act.

"(b) Such reimbursement may be paid from any funds appropriated for the purpose of carrying out responsibilities under this Act, unless any appropriation Act specifically provides to the contrary.

"(c) Not later than June 1, 1976, the President shall submit a report to the Congress analyzing and detailing the amount and nature of any reimbursements made to any State for expenses described in subsection (a) incurred prior to such date and specifically recommending whether authorizations of additional funds for direct grants to States are necessary or appropriate for the continued operation of the reimbursement provisions authorized by this section."

EFFECTIVE DATE OF ALLOCATION ACT AMENDMENTS

SEC. 463. Except as otherwise provided, the amendments made by this Act to the Emergency Petroleum Allocation Act of 1973 shall take effect as of midnight, December 15, 1975.

TITLE V—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

VERIFICATION EXAMINATION

SEC. 501. (a) The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Federal Energy Administration, the Department of the Interior, or the Federal Power Commission pursuant to any rule, regulation, order, or other legal process of such Administration, Department, or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

(b) The Comptroller General shall conduct verification examinations of any person or company described in subsection (a), if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or of the Senate, with respect to energy matters or any of the laws administered by the Department of the Interior (or the Secretary thereof), the Federal Power Commission, or the Federal Energy Administration (or the Administrator).

(c) For the purposes of this title—

(1) The term "verification examination" means an examination of such books, records, papers, or other documents of a person or company as the Comptroller General determines necessary and appropriate to assess the accuracy, reliability, and adequacy of the energy information, or financial information, referred to in subsection (a).

(2) The term "energy information" has the same meaning as such term has in section 11(e)(1) of the Energy Supply and Environmental Cooperation Act of 1974.

(3) The term "person" has the same meaning as such term has in section 11(e)(2) of the Energy Supply and Environmental Coordination Act of 1974.

(4) The term "vertically integrated petroleum company" means any person which itself or through a person which is controlled by, controls, or is under common control with such person, is engaged in the production, refining, and marketing of petroleum products.

POWERS OF THE COMPTROLLER GENERAL AND REPORTS

SEC. 502. (a) For the purpose of carrying out his authority under section 501—

(1) the Comptroller General may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, to submit books, records, papers, or other documents, or to submit any other information or reports, and such answers or other submissions shall be made within such reasonable period, and under oath or otherwise, as the Comptroller General may determine; and

(C) administer oaths.

(2) the Comptroller General, or any officer or employee duly designated by the Comptroller General, upon presenting appropriate credentials and a written notice from the Comptroller General to the owner, operator, or agent in charge, may—

(A) enter, at reasonable times, any business premise or facility; and

(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any energy information, or any financial information in the case of a vertically integrated petroleum company.

(b) The Comptroller General shall have access to any energy information within the possession of any Federal agency (other than the Internal Revenue Service) as is necessary to carry out his authority under this section.

(c)(1) Except as provided in subsections (d) and (e), the Comptroller General shall transmit a copy of the results of any verification examination conducted under section 501 to the Federal agency to which energy information which was subject to such examination was furnished.

(2) Any report made pursuant to paragraph (1) shall include the Comptroller General's findings with respect to the accuracy, reliability, and adequacy of the energy information which was the subject of such examination.

(d) If the verification examination was conducted at the request of any committee of the Congress, the Comptroller General shall report his findings as to the accuracy, reliability, or adequacy of the energy information which was the subject of such examination, or financial information in the case of a vertically integrated petroleum company, directly to such committee of the Congress and any such information obtained and such report shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(e)(1) Any information obtained by the Comptroller General or any officer or employee of the General Accounting Office pursuant to the exercise of responsibilities or authorities under this section which relates to geological or geophysical information, or any estimate or interpretation thereof, the disclosure of which would result in significant competitive disadvantage or significant loss to the owner thereof shall not be disclosed except to a committee of Congress. Any such information so furnished to a committee of the Congress shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 5(a)(3)(b) and (4) of the Emergency Petroleum Allocation Act of 1973, as amended by section 452 of this Act.

(f) The Comptroller General shall prepare and submit to the Congress an annual report with respect to the exercise of its authorities under this part, which report shall specifically identify any deficiencies in energy information or financial information reviewed by the Comptroller General and include a discussion of action taken by the person or company so examined, if any, to correct any such deficiencies.

ACCOUNTING PRACTICES

SEC. 503. (a) For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States. Such practices shall be developed not later than 24 months after the date of enactment of this Act and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under authority of subsection (b)(2).

(b) In carrying out its responsibilities under subsecton (a), the Securities and Exchange Commission shall—

(1) consult with the Federal Energy Administration, the General Accounting Office, and the Federal Power Commission with respect to accounting practices to be developed under subsection (a), and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule.

The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comment with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) as it determines may be necessary to allow for a meaningful comment period with respect to such determination.

(c) The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

(A) prospecting.
(B) acquisition,
(C) exploration,
(D) development, and
(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by controlling or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projection, and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

ENFORCEMENT

SEC. 504. (a) Any person who violates any general or special order of the Comptroller General issued under section 502(a) (1) (B) of this Act may be assessed a civil penalty not to exceed $10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the General Accounting Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

(b) Any action to enjoin or set aside an order issued under section 502(a) (1) (B) may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil penalty for violation of any general or special order may be brought only in the United States District Court for the District of Columbia. In any action brought under subsection (a) to collect a civil penalty, process may be served in any judicial district of the United States.

(c) Upon petition by the Comptroller General through any attorney employed by the General Accounting Office or designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof.

AMENDMENT TO ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

SEC. 505. (a) Section 11(c) of The Energy Supply and Environmental Coordination Act of 1974 is amended by adding at the end thereof the following:

"(3) In order to carry out his responsibilities under subsection (a) of this section, the Federal Energy Administrator shall require, pursuant to subsection (b) (1) (A) of this section, that persons engaged, in whole or in part, in the production of crude oil or natural gas—

"(A) keep energy information in accordance with the accounting practices developed pursuant to section 503 of the Energy Policy and Conservation Act, and

"(B) submit reports with respect to energy information kept in accordance with such practices.

The Administrator shall file quarterly reports with the President and the Congress compiled from accounts kept in accordance with such section 503 and submitted to the Administrator in accordance with this paragraph. Such reports shall present energy information in the categories specified in subsection (c) of such section 503 to the extent that such information may be compiled from such accounts. Such energy information shall be collected and such quarterly reports made for each calendar quarter which begin 6 months after the date on which the accounting practices developed pursuant to such section 503 are made effective.".

(b) The amendment made by subsection (a) to section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 shall take effect on the first day of the first accounting quarter to which such practices apply.

EXTENSION OF ENERGY INFORMATION GATHERING AUTHORITY

SEC. 506. Section 11(g) (2) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking out "June 30, 1975" wherever it appears and inserting in lieu thereof "December 31, 1979".

Part B—General Provisions

PROHIBITION ON CERTAIN ACTIONS

SEC. 521. (a) Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

(b) To the maximum extent practicable, any restriction under authorities to which this section applies on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature during times of day other than conventional daytime working hours.

(c) This section applies to actions under any of the following authorities:

(1) titles I and II of this Act (other than any provision of such titles which amend another law).

(2) this title.

(3) the Emergency Petroleum Allocation Act of 1973.

CONFLICTS OF INTEREST

SEC. 522. (a) Each officer or employee of the Federal Energy Administration or of the Department of the Interior who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest—

(A) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products, or

(B) in property from which coal, natural gas, or crude oil is commercially produced; shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of the Interior, as the case may be, a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Administrator and the Secretary of the Interior shall each—

(1) act, within 90 days after the date of enactment of this Act, in accordance with section 553 of title 5, United States Code—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Interior, as the case may be, of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Administrator and the Secretary of the Interior each may identify specific positions or classes thereof within the Federal Energy Administration or Department of the Interior, as the case may be, which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 523. (a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under title I (other than section 103 thereof) and title II of this Act, or this title (other than any provision of such titles which amends another law).

(2) (A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waive entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to title I or II of this Act or this title (other than any provision of such title) which amend another law shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)(ii)), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such request for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970.

(c) Any agency authorized to issue any rule, regulation, or order described in subsection (a)(1) shall, upon written request of any person, which request is filed after any grant or denial of a request for exception or exemption from any such rule, regulation, or order, furnish such person, within 30 days after the date on which such request is filed, with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial.

PROHIBITED ACTS

SEC. 524. It shall be unlawful for any person—

(1) to violate any provision of title I or title II of this Act or this title (other than any provision of such titles which amend another law),

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 383 of this Act; or

(3) to fail to comply with any provision prescribed in, or pursuant to, an energy conservation contingency plan which is in effect.

ENFORCEMENT

SEC. 525. (a) Whoever violates section 524 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 524 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 524 with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 524 with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this Act that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 524, such officer or agency may request the Attorney General to bring an action in an appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any ruler, regulation, or order described in section 524.

(e)(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this Act described in paragraph (2), may bring an action in an appropriate district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(2) The provisions of this Act referred to in paragraph (1) are as follows:

(A) Section 202 (relating to energy conservation plans).

(B) Section 251 (relating to international oil allocation).

(C) Section 252 (relating to international voluntary agreements).

(D) Section 253 (relating to advisory committees).

(E) Section 254 (relating to international exchange of information).

(F) Section 521 (relating to prohibition on certain actions).

EFFECT ON OTHER LAWS

SEC. 526. No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of title I or II of this Act (other than any provision of such title which amends another law) or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order.

TRANSFER OF AUTHORITY

SEC. 527. In accordance with section 15(a) of the Federal Energy Administration Act of 1974, the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this Act and amendments made thereby after the termination of the Federal Energy Administration.

AUTHORIZATION OF APPROPRIATIONS FOR INTERIM PERIOD

SEC. 528. Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976 shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for fiscal year 1976, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

INTRASTATE NATURAL GAS

SEC. 529. No provision of this Act shall permit the imposition of any price controls on, or require any allocation of, natural gas not subject to the jurisdiction of the Federal Power Commission.

LIMITATION ON LOAN GUARANTEES

SEC. 530. Loan guarantees and obligation guarantees under this Act or any amendment to another law made by this Act may not be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

EXPIRATION

SEC. 531. Except as otherwise provided in title I or title II, all authority under any provision of title I or title II (other than a provision of either such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1985.

PART C—CONGRESSIONAL REVIEW

PROCEDURE FOR CONGRESSIONAL REVIEW OF PRESIDENTIAL REQUESTS TO IMPLEMENT CERTAIN AUTHORITIES

SEC. 551. (a) For purposes of this section, the term "energy action" means any matter required to be transmitted or submitted to the Congress in accordance with the procedures of this section.

(b) The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c)(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: "That the -------- does not object to the energy action numbered -------- submitted to the Congress on --------, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the -------- does not favor the energy action numbered -------- transmitted to Congress on --------, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (A) of this subsection with respect to an energy action, for a resolution described in paragraph (2) (B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (B) of this subsection with respect to an energy action, for a resolution described in paragraph (2) (A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

EXPEDITED PROCEDURE FOR CONGRESSIONAL CONSIDERATION OF CERTAIN AUTHORITIES

SEC. 552. (a) Any contingency plan transmitted to the Congress pursuant to section 201(a) (1) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) No such contingency plan may be considered approved for purposes of section 201 (a) (2) of this Act unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d) (2).

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-calendar-day period.

(d) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the ———— approves the contingency plan numbered ———— submitted to the Congress on ————, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one contingency plan.

(3) a resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same contingency plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to

the request of the gentleman from West Virginia?

Mr. BROWN of Ohio. Mr. Speaker, I reserve the right to object.

Mr. GOLDWATER. Mr. Speaker, I reserve the right to object.

Mr. ANDERSON of Illinois. Mr. Speaker, I reserve the right to object.

Mr. STAGGERS. Mr. Speaker, I would like to explain that what we are referring to is on page 8, commencing with article 4, down to the small "d," which the gentleman from Illinios had objected to, and that has been deleted from the amendment.

Mr. ANDERSON of Illinois. Mr. Speaker, reserving the right to object, as the gentleman knows, I was prepared to offer a point of order to section 102 of the bill on the grounds it violates clause 3 of rule XXVIII, in that as the conference report came back from the House it contained a proposition which was not committed to the conference committee. That objection was based on the fact that H.R. 7014, the House bill in the section dealing with incentives to developing underground coal mines, limited it to a $750 million total program to new coal mines.

On page 8 of the conference report in subparagraph (2) (c) (4) is contained the language:

> The term "developing new underground coal mines" includes expansion of existing underground coal mines.

Mr. Speaker, existing mines are clearly not the same thing as new mines.

Do I understand that the motion which the gentleman from West Virginia has now sent to the desk would eliminate from the definition of coal mines as contained on page 8 of the conference report that the definition of developing new underground coal mines no longer includes the words, "includes expansion of existing underground coal mines"; has that language, by the gentleman's amendment, been removed from the conference report?

Mr. STAGGERS. Mr. Speaker, it has been removed; but the rest of the definition, I will state again that on page 8, the section marked (4) has been deleted down through the small "d," deleted completely, the whole of the section.

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman will yield further, the gentleman is eliminating all of subparagraph (4)?

Mr. STAGGERS. Down to the small "d"; that is correct.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield further?

Mr. STAGGERS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, let me ask the gentleman one additional question. When this bill was before the House previously, any of the loan guarantees provided for under this particular section provided that no more than 40 percent of a loan going to the operator of a non-low-sulfur mine would be guaranteed. This was for the obvious purpose of providing an incentive to the development of low-sulfur coal mines.

Now as the conference report comes back to us, I find that particular requirement or restriction has been removed. As I read the conference report, there is no provision limiting these loan guarantees to 40 percent of any loan extended to the operator of a non-low-sulfur coal mine.

Mr. Speaker, I wonder if the gentleman would enlighten us on that point, why that was done?

Mr. STAGGERS. Well, as the gentleman knows, having been here a long time in the House, that in going to conference we do not get everything we want.

We were trying to compromise, and we said that 80 percent of this would have to go to low-sulfur coal.

Mr. ANDERSON of Illinois. Ordinarily, I would be prepared to accept the gentleman's explanation. The bill S. 622 had no such provision. There was nothing in the Senate bill comparable to the loan guarantee situation in the House-passed bill. Therefore, I find it really strange that the House would back down on its own provision, and note our consideration that these loans be primarily provided to people who were going to open up new non- or low-sulfur mines, and the gentleman is now eliminating this restriction.

Mr. STAGGERS. I would say that as the gentleman knows, having had many years experience in conferences, that the conference had this point here on our side and said nothing in the Senate bill. That was not in our bill. We put in what we thought would make a better bill, and this was done because of the fact that we did have the conference with the Senate and came up with a conference report.

Mr. ANDERSON of Illinois. With the clear understanding from the gentleman from West Virginia that the provision of the conference report has now been amended to insure that these loan guarantees will not go to the owners or the operators of existing mines, I will not raise a point of order which I think otherwise would have been sustained.

Mr. STAGGERS. I thank the gentleman from Illinois.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Speaker, I rise to inquire about the parliamentary status with reference to this amendment. Presuming the amendment offered by the gentleman from West Virginia is in order before the House and is not objected to under the unanimous consent reservation, is it then in order that the amendment would be voted on immediately? Would there be time to debate that amendment?

The SPEAKER. It would be subject to debate.

Mr. BROWN of Ohio. Subject to debate under what time limitation?

The SPEAKER. One-hour rule.

Mr. BROWN of Ohio. Mr. Speaker, assuming that it then is approved, at that point does the House then go into consideration of the conference report, as amended, or does that infer approval of the conference report at that point?

The SPEAKER. The conference report has been rejected by the action on the Goldwater motion pursuant to clause 4(d), rule XXVIII.

Mr. BROWN of Ohio. Mr. Speaker, I am not sure that I understand the answer to my question. Once more, the question is that, if the motion of the gentleman from West Virginia is not objected to and is open to debate for 1 hour——

The SPEAKER. Adoption of the motion to strike rejected the conference report, the pending motion is to recede and concur with an amendment.

Mr. BROWN of Ohio. And that would be a vote on the whole conference report?

The SPEAKER. Minus the parts that were stricken.

Mr. BROWN of Ohio. In other words, it would be a vote on the whole conference report except that which is taken out by the amendment of the gentleman from West Virginia, is that correct?

The SPEAKER. By the motion of the gentleman from California and the additional deletion from page 8 contained in the motion of the gentleman from West Virginia.

Mr. BROWN of Ohio. And the action we have already taken?

The SPEAKER. That is right.

Mr. BROWN of Ohio. But there would be no further debate on the conference report after we complete the debate on this motion; is that correct?

The SPEAKER. The gentleman has stated it properly.

Mr. BROWN of Ohio. So there would be no further debate after the 1 hour on this particular motion, which would embrace the debate on the whole conference report, because I assume if anyone wants to raise a question on the rest of the conference report, he may?

The SPEAKER. That is true on the merits, during 1 hour of debate on the motion.

Mr. BROWN of Ohio. Is that correct?

The SPEAKER. The gentleman from Ohio is a very bright man. He understands.

Mr. BROWN of Ohio. I just want to be sure I understand and that everybody else understands it, Mr. Speaker.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I would like to ask a question of my colleague from Illinois. Is my understanding correct if his point of order is sustained and all language on page 7 of the conference report under the title incentives to develop underground coal mines, over to the last line of page 8 supposedly will be stricken. Is that essentially correct?

Mr. ANDERSON of Illinois. If the Chair had sustained a point of order to the entire section, the gentleman is correct. However, the point of order was based on subparagraph 4 on page 8. It has been expanded to cover existing as well as new mines, which I think went beyond the scope of the conference.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, will the gentleman explain then what the difference between his point of order, had it been sustained and that of the motion of Mr. STAGGERS even though we do not have the language of the so-called compromise position of the gentleman from West Virginia?

Mr. ANDERSON of Illinois. If the gentleman will yield further, I think what we have done, by virtue of the amendment offered by the gentleman from West Virginia—assuming that the amendment is adopted—is to insure that the incentives provided for under this section 102 will extend only to owners and operators of new coal mines, not to operators of existing mines.

Mr. ROUSSELOT. Further reserving the right to object, if the gentleman's point of order had been sustained, can the gentleman explain to us from the conference report what portions would have been stricken?

Mr. ANDERSON of Illinois. I believe probably the section I referred to, the language which appears on page 8, which I will quote:

> The term "developing new underground coal mines" includes expansion of existing underground coal mines and the reopening of underground coal mines which had previously been closed.

Mr. ROUSSELOT. Further reserving the right to object, would that be all of section 102?

Mr. ANDERSON of Illinois. When that language is stricken we are left merely with the language that appears elsewhere in the section called "new mines."

Mr. ROUSSELOT. All of the language on page 7, down to (4) on page 8?

Mr. ANDERSON of Illinois. Yes.

Mr. ROUSSELOT. All of that would have been stricken. Is the gentleman satisfied that this so-called compromise amendment really totally achieves what he intended to achieve by his point or order?

Mr. ANDERSON of Illinois. If the gentleman will yield further, no, it does not; because I think, as I indicated earlier in the colloquy I had with the gentleman from California (Mr. BROWN), I cannot quite understand why a loan guarantee program is bad on Thursday and suddenly a $750 million loan guarantee program becomes all right in this bill on Monday. I am not satisfied with the program, but I could not find, I do not think, under the rules any basis for striking the entire section.

Mr. ROUSSELOT. Does the gentleman then intend to object?

Mr. ANDERSON of Illinois. I have agreed with the gentleman from West Virginia that I would not object if he offered language that would remove from the purview of this section existing mines.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I will yield to the gentleman from Ohio (Mr. BROWN).

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, I have asked the gentleman to yield to further establish the parliamentary situation which exists at this moment.

Mr. Speaker, I would like to elaborate on the parliamentary situation and then to propound a question.

As I understand, under the unanimous-consent request of the gentleman from West Virginia, he has an amendment to the conference report which would then become the issue which gives us 1 hour of debate on the conference report. If we adopt the amendment, then we send the conference report, as amended, to the Senate, without in effect ever having voted on the conference report. If the Senate accepts it at that point, then the conference report is completed. But I would ask the Chair what happens if there is an objection at this point? Does that mean that the conference report debate that is up at this time would proceed without the amendment offered by the gentleman from West Virginia, but with the amendment offered by the gentleman from California (Mr. GOLDWATER)?

The SPEAKER. Would the gentleman bear with the Chair?

Mr. BROWN of Ohio. I would, Mr. Speaker.

The SPEAKER. A request has been made to dispense with reading of the motion. The gentleman from West Virginia has offered a motion. Is there anything difficult about that?

Mr. BROWN of Ohio. Mr. Speaker, the question I am propounding under the reservation of the gentleman from California (Mr. ROUSSELOT) is this: What occurs if there is a rejection of the request of the gentleman from West Virginia (Mr. STAGGERS)?

The SPEAKER. The Clerk will continue to read the motion.

Mr. BROWN of Ohio. Mr. Speaker, the motion will be read, and then we will continue with the consideration of the conference report?

The SPEAKER. The House will consider the motion, the conference report has been rejected.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Louisiana.

PARLIAMENTARY INQUIRIES

Mr. WAGGONNER. Mr. Speaker, let us try to clear up the parliamentary situation here, and let us try to do it on a step-by-step basis to see if we can gain an understanding of where we are.

Mr. Speaker, am I correct in saying that by voting up the Goldwater motion, the net effect is that the House has now rejected the conference report?

The SPEAKER. The gentleman is correct.

Mr. WAGGONNER. Mr. Speaker, am I further correct in saying that if there is no objection to the motion under a reservation of objection or otherwise, offered by the gentleman from West Virginia (Mr. STAGGERS), there will be provided 1 hour of debate, 30 minutes for and 30 minutes against, on his motion, which has the net effect of striking from section 102 that language which makes in order or authorizes loan guarantees for development of existing coal mines?

The SPEAKER. The gentleman is partially correct.

Mr. WAGGONNER. Mr. Speaker, am I further correct in saying that if there is no objection and we do debate that issue and that motion is agreed to, then the situation would have developed wherein, if that motion is agreed to, the conference would then be reconvened and the Senate would have the option of accepting the action of the House or not accepting it?

The SPEAKER. No. Would the gentleman bear with the Chair for a moment?

All the House can do now is to send an amendment back to the Senate. The Senate can either ask for a new conference or it can accept the amendment as presented to the Senate by the House.

Mr. WAGGONNER. But the point I am making, Mr. Speaker, if the gentleman from California (Mr. ROUSSELOT) will yield further under his reservation to allow me to continue my parliamentary inquiry, is that the House does not have to debate this motion. The House can reject this motion, object to it, and move then to strike that portion of the bill, as we have already done under the Goldwater motion striking part B of title V, and then the bill would be less those provisions or that portion of the bill which we identify as section 102; is that correct?

The SPEAKER. The Chair will state that the gentleman from West Virginia (Mr. STAGGERS) has offered a motion which is pending. The only other thing that has occurred is that a unanimous-consent request was offered to dispense with the reading of the motion.

Mr. WAGGONNER. Mr. Speaker, will the gentleman from California yield further under his reservation of objection?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Louisiana.

Mr. WAGGONNER. Then, Mr. Speaker, if this motion is objected to, the bill will be returned to the Senate?

The SPEAKER. No. There can be no simple objection to a privileged motion.

Mr. WAGGONNER. What I mean to say, Mr. Speaker, is if there is an objection to the request on the reading of it and if then there is further objection, the bill would go back to the Senate and would be subject to another point of order with respect to section 102, when returned, if it is returned with section 102 intact?

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, I yield to my colleague, the gentleman from Ohio.

Mr. WAGGONNER. Mr. Speaker, I wish the gentleman would allow the Speaker to answer this question first.

The SPEAKER. The Chair cannot anticipate the action of the Senate.

Mr. ROUSSELOT. Mr. Speaker, did the gentleman get a satisfactory answer from the Speaker?

Mr. WAGGONNER. I am not sure I heard the answer.

The SPEAKER. Neither the Chair nor the House can anticipate the action of the Senate.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I have asked the gentleman to yield so that I may make this parliamentary inquiry:

Should the gentleman from California (Mr. ROUSSELOT), who is now maintaining a reservation of objection, formally object, would it then be in order for the gentleman from Illinois (Mr. ANDERSON) to make a point of order against the language presently in the conference report which is under consideration on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) on the basis of scope?

The SPEAKER. It would not be in order.

Mr. BROWN of Ohio. Mr. Speaker, is that not in order under any circumstances?

The SPEAKER. Not at this point, the report has been rejected.

Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk will read the motion.

The Clerk proceeded to read the motion.

Mr. ANDERSON of Illinois (during the reading). Mr. Speaker, I make a point of order against section 102, and I would like to be heard.

The SPEAKER. The motion has not been read.

The Clerk will read the motion.

The Clerk proceeded to read the motion.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimons consent that further reading on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Speaker, I reserve the right to object.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, could we have another explanation on why the point of order that the gentleman from Illinois made could not be made at this point, could not be in order?

The SPEAKER. The Chair will state that the point of order raised by the gentleman from Illinois (Mr. ANDERSON) was to the conference report and the conference report is no longer before the House.

While, in fact, most of what the Clerk is reading is identical to the text of the conference report, it is still a motion as though it were taken out and typed up separately. The Clerk is now reading a motion. Whether we read the whole motion or whether we agree to dispense with the further reading of the motion will have nothing to do with the parliamentary situation topside or bottom.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman will yield further, as I understand and interpret the remarks as given by the Speaker, they are that once the motion offered by the gentleman from California (Mr. GOLDWATER) to reject certain language in the conference report was adopted, the conference report was gone. Therefore any point of order which I might otherwise have been entitled to make under rule XXVIII, clause 3, having to do with certain matters as being beyond the scope of the conference, was no longer in order. That is, as I understand, the ruling of the Chair.

The SPEAKER. The gentleman did not seek recognition at that time, and if, under the operation of clause 4(d), rule XXVIII, a conference report is rejected, no further points of order against the report are in order.

Mr. BROWN of Ohio. Mr. Speaker, after all of the discussion that has been going on here for the last hour or so, and in view of the fact that it appears that none of us are going to have an opportunity to have a clear-cut vote as to how we feel about this conference report, this would be an excellent time to pull this conference report for this evening.

The SPEAKER. May the Chair state that there will be a clear-cut vote on the motion.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. Mr. Speaker, further reserving the right to object, I yield to the distinguished Chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Then, if at any time, those of us who are opposed to the conference report will have an opportunity to discuss our position on it?

Mr. BROWN of Ohio. If I understand the situation—and I am not sure that I do—it is as follows: The issue we have before us is a conference report with the language stricken by the gentleman from California (Mr. GOLDWATER) and the language stricken that the Chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS) asked to have taken out of it. That is what we would vote on. We would vote on the question of whether or not in effect to take the language out of it that the gentleman from West Virginia (Mr. STAGGERS) wants taken out. But that also would be the vote on the conference report, so if we vote against taking that language out of it, we are also voting against the conference report.

Under his motion, as I understand from what I have been advised by the Parliamentarian and the Speaker, he would have half an hour for debate on the whole conference report, and I would have half an hour for debate on the whole conference report, as is the circumstance on a conference report generally. But the vote is obscured because we are really voting on the motion offered by the gentleman from West Virginia and not on the conference report.

If his motion is agreed to, then the conference report, absent the Goldwater amendment, absent the language that the gentleman from West Virginia wanted excluded, goes to the Senate. The Senate can adopt it, and that is the end of it. We will never have a vote on the conference report. That way we have lost our opportunity to express ourselves on the conference report.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Then we would have an opportunity to be heard.

Mr. MOSS. Mr. Speaker, I object to the unanimous-consent request.

The SPEAKER. Objection is heard.

The Clerk will read.

The Clerk continued to read.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Would a point of order lie at this point against the portion of the motion, section 102, a point of order based on other grounds?

The SPEAKER. The Chair knows of no other grounds.

Mr. BAUMAN. The gentleman from Maryland suggests that section 102 is not in order because it is written in such a manner as to provide $50 million——

Mr. MOSS. Mr. Speaker, I insist upon regular order.

Mr. BAUMAN. The gentleman from Maryland is making a point of order.

Mr. MOSS. Mr. Speaker, I insist upon regular order. The reading of the motion is the order before the House at this moment.

The SPEAKER. The Chair will state to the gentleman that no point of order, whether there is one or is not, assuming there were one, would be in order until the motion is read.

Mr. BAUMAN. I thank the gentleman. I will wait for that.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Speaker, is the motion offered by the gentleman from West Virginia (Mr. STAGGERS) at this point amendable?

The SPEAKER. No.

Mr. BROWN of Ohio. Is it divisible?

The SPEAKER. The only way it could be amended is if it is read. After debate, the previous question is in order. If the previous question is voted down, then it is amendable.

Mr. BROWN of Ohio. And so the way for us to get out of this parliamentary difficulty is to vote down the previous question?

The SPEAKER. Let the House get the motion read first or dispense with the reading and then proceed from there.

PARLIAMENTARY INQUIRY

Mr. BROWN of Michigan. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOSS. Mr. Speaker, regular order.

The **SPEAKER.** This is the regular order.

Mr. MOSS. Mr. Speaker, the regular order is the reading of the pending motion and it is the regular order and I insist upon the regular order.

The **SPEAKER.** The Chair would like for the sake of the entire House, if the gentleman will bear with the Chair, to hear a parliamentary inquiry.

The gentleman from California is correct. The regular order is the reading of the motion.

Mr. MOSS. Mr. Speaker, I am inclined not to be charitable. I insist upon the rules being applied, in this instance the reading of the motion pending.

The **SPEAKER.** The Clerk will read.

The Clerk proceeded to read the motion.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion and amendment be considered as read and printed in the RECORD.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The **SPEAKER.** The gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, a parliamentary inquiry.

The **SPEAKER.** The gentleman will state it.

Mr. DINGELL. Mr. Speaker, as I understand the rules, the gentleman from West Virginia is recognized for 1 hour and the gentleman may yield 30 minutes for purposes of debate only to the minority, or 30 minutes for each side?

The **SPEAKER.** Thirty minutes to each side.

Mr. DINGELL. Thirty minutes to each side?

The **SPEAKER.** The gentleman from West Virginia has 30 minutes.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana (Mr. LONG) for purposes of debate only.

Mr. LONG of Louisiana. Mr. Speaker, when the House considered H.R. 7014, we passed an amendment I offered to guarantee a reasonable price for new and stripper oil produced by independent oil producers. In so doing, we recognized the independent oil producer as the most effective finder of new oil in the industry—that independents are the last vestiges of competition in the oil industry—and that independents rely heavily on the price they get for new and stripper oil for the necessary capital to continue meaningful exploration.

When the conferees completed their report my amendment was not included. Instead, we have the so-called "composite price" mechanism. I am terribly afraid that the independent producers—the segment of the oil industry which most needs price protection if it is to stay competitive—will be affected in a way that is contrary to what the conferees intended.

For example, I am concerned that the President will increase the old oil price without making any findings that could be challenged in court regarding the relative productivity of an old oil price increase versus keeping new oil prices at an incentive level. To do this would reduce the price the independents could get for their new and stripper oil and also reduce their capacity to compete effectively with the major oil companies. I also am concerned that the FEA's distribution of the annual upward incentive adjustments might be applied disproportionately to old oil prices. This would have the effect of diminishing the price for new oil which will be hit by such things as inflation, increases in the price of old oil which also reduce new oil prices, and the fact that over time the amount of new oil in the total composite formula's mix will increase thereby reducing the price of new oil. It is my understanding that the conferees' intention is that new oil must get a share of the upward adjustments and that the President will not let the prices of new and stripper oil bear the major part of the burden which the rollback in the bill compels.

Mr. Speaker, I would like to have the attention of the gentleman from Michigan (Mr. DINGELL), chairman of the Energy and Power Subcommittee, for a question as to the intent of the conferees. I would like to ask the gentleman from Michigan the following question:

As I read the report and the report says on page 191 that—

> The President must find that the departure from current controls (on old oil) is likely to result in greater production from such properties than would otherwise occur had the departure not been made.

Is it the committee's intent that in adjusting prices for old and new oil, FEA should consider not merely the immediate short-term impact of a higher old oil price on production, but also the long-term effect of maintaining the new oil price at incentive levels?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, in answer to the question posed by my colleague, the gentleman from Louisiana (Mr. LONG), I would quote further from the report:

> The President is granted broad authority to establish ceiling prices for classifications of domestic crude oil production if he finds that such classifications are administratively feasible and will optimize domestic production.

So clearly the committee contemplates that the President and the FEA will set prices in such a way as to secure the maximum amount of oil, not just in 1976, but in the other years encompassed by the bill.

Further, the committee provides that the annual production incentive adjustment is to encourage the development of high-cost, high-risk properties, including production by independent producers, and to encourage production from stripper wells, the majority of which are operated by independents.

In this regard I will note that the majority of new oil production and production from stripper leases is owned by independent producers. The conferees would expect affirmative price incentives designed to optimize production of this type would be incorporated into the price regulatory mechanism to be devised by the President.

Mr. LONG of Louisiana. I thank the gentleman.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, as the House moves to vote on the conference report on S. 622, I believe it of paramount importance to consider both the dynamics and the differentials which are underestimated and understated in the bill and in the conference report we are asked to support.

OIL PRODUCTION DYNAMICS

There is a predictable distortion built into a formula with a weighted fixed average. Let me explain how oil production dynamics will predictably thwart the dual interests sought by the legislation.

The bill before us hopes to continue sufficient incentive to keep a flow of new oil. There are two dynamic elements which will be barriers to such a result. Any student of oil production and all knowledgeable oil men know that there is a downward graph of production predictable in any down-stream field. If we accept this basic fact and correlate it with the broadly accepted calculation that at present "old oil" acounts for 60 percent of domestic production and "new oil" accounts for 40 of the production; then, without any further data, we can expect that the "old oil" will become less of a percentage as time goes on. Since the two-tier system gives a downward spread of from $5.25 for "old oil" to $11.28 for "new oil." As the "old oil" production goes down in total volume, the "new oil" will become a greater percentage of the composite and will have to be reduced in price to maintain the weighted average now set at $7.66.

For the same reason, the use of the "weighted average" will predictably discourage exploration for "new oil." The greater the increase in new production, the more the percentage in the composite will be at the $11.28 figure and the "new oil" price will tend to adjust downward to maintain the same weighted average.

A further consideration for discouragement of new exploration is the question mark left hanging relative to the Alaskan crude. This 2 to 3 million levels of "new oil" could have a very disturbing effect on the ratios. Although the conference leaves this consideration open, it does nothing to provide confidence for the substantial risk capital required for new development.

The other aspect of production dynamics is also fundamental and quite clear. The bill addresses a control of production price but in no way does it, nor can it address control of costs. It is true that the bill is written in a form to allow the President to request adjustments for inflation but normally the remedy always trails the problem and the national figures for inflation are large composites and fail to truly reflect specific items within a given economic sector.

Experience with economic controls hardly provides a basis for confidence or comfort in terms of a close tandem relation between control of price and control of costs.

OIL PRODUCTION DIFFERENTIALS

The differentials in oil production have to do with both the quality of crude and the specific difference in production. In California, for instance, most of the crude has a lower gravity which brings a lesser price from the refinery, but it also is more difficult to extract and therefore has a higher cost of production. This double load factor makes more critical the spread of price. The crossover point for economic feasibility is much closer.

This differential also affects the availability of borrowed capital and investment capital. The basic price used by banks and knowledgeable investors to evaluate projected reserves is near the so-called weighted average of $7.66, that is, recently $7.50. The operating borrower must service the debt, principal, and interest, meet all costs and satisfy his equity partners before he generates profit for expansion or gets a return on his own efforts. The operating company must accommodate costs of operations, price of materials, cost of delivery and profits. The picture for California heavy crude is very troublesome in terms of financing new fields under the proposed formulas. If the borrowing figure was $7.50 at $13 as a crude price it is likely to be near $6 at $11.28 crude price. The differentials for heavy crude, sulfur crude, and paraffin crudes are not adequately addressed in the current legislation.

The important, dynamic fact is that over 80 percent of domestic oil reserves are in problem crude deposits which require higher costs to lift, deliver, and process. The current legislation proposed will immediately discourage the efforts to add this crude to the present available store of domestic product. As we frustrate access to our own reserves, we automatically increase reliance on imported Arabian crude at OPEC prices. So the game is we offer our own oil economy less and give the foreign economies more. I fail to see the sense in this.

Mr. MACDONALD of Massachusetts. Mr. Speaker will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Massachusetts (Mr. MACDONALD).

Mr. MACDONALD of Massachusetts. Mr. Speaker, I would like to say that despite what has happened here tonight and what is happening, I still support the Energy Conservation and Oil Policy Act conference report.

Mr. Speaker, I rise in strong support of the Energy Conservation and Oil Policy Act conference report. As a conferee on S. 622, I know the amount of time and effort that went into creating this massive piece of legislation. The result was a genuine compromise—not all that I would have hoped for, nor all that the President wanted. But it is a workable and equitable solution that fairly meets the middle ground in this energy debate.

While most of the controversy surrounding this bill is centered on the oil pricing policy, I hope my colleagues will not forget that the bill establishes far-reaching and strict conservation measures. Committee staff have estimated that the conservation programs in S. 622 will reduce petroleum demand by more than 1 million barrels per day by 1980 and 2.7 million barrels per day by 1985. The greatest savings in energy will come from the automobile fuel efficiency standards. Compliance with these standards will result in a 100-percent improvement in fuel economy over 1974 industry wide gas mileage averages. Provisions in the bill requiring energy use labeling of appliances will give consumers full knowledge about the energy efficiency of the products they buy. Industry energy efficiency targets require a 20-percent improvement in energy consumption by the top consuming industries. State grants to implement State energy conservation programs will have a positive impact on localized energy efficiency targets. At the same time Federal agencies will be required to develop energy efficiency standards and conduct public education campaigns on the need for energy conservation. The energy-saving features of this bill represent the most extensive conservation measures ever passed through Congress. Additionally and most important, these measures represent a massive and cohesive national plan to better utilize our dwindling energy resources.

Other vital provisions in this bill include a huge 1 billion barrel strategic storage system which will reduce our vulnerability and especially New England to a future Arab embargo. The value of this cannot be underscored for not only will it lessen the impact of an embargo, it will in all likelihood prevent its use. This will give us an invaluable political safeguard and a crucial strategic leveraging position with the OPEC nations.

The coal loan guarantee provisions authorizing $750 million in Federal loan guarantees to small producers of clean coal will spur development of abundant energy resources. At the same time related provisions requiring conversion from natural gas and oil to coal will allow us to better utilize coal while conserving natural gas and oil.

As a result of this bill, the Nation will finally have the benefit of reliable energy information. Provisions in this bill extend FEA energy gathering authority and allow for verification audits of the energy industry by the GOA. In the past we have had to rely strictly on industry figures which gave us little confidence in price and supply projections.

Mr. Speaker, as we all know only too well by now, the meat and the controversy of this bill is the oil pricing policy. The conferees in adopting a $7.66 per barrel domestic composite price for crude oil, gave much needed certainty and stability to our oil pricing policy. The compromise price was adopted with the full realization that any pricing policy had to carefully balance industry production incentives against the possibility of economic disruption. I feel confident that we have done this in S. 622, and that contrary to industry outcries, this Nation will have more than adequate domestic supplies of oil at reasonable prices.

Industry objections to this section allege that the pricing section would reduce domestic oil production, increase demand, and thus raise our dependence on foreign oil. I hope that the industry is not threatening us with the production decreases. It seems very evident to me that this bill will increase production unless there is a conscious industry decision to the contrary. The $7.66 price will increase by up to 10 percent per year which will give proportionally larger increases to new oil if old oil remains stable. Two years ago industry and administration representatives indicated that a new oil price of $7.50 was sufficient to drill for new domestic sources. Present price regulations now allow new oil prices to reach "market levels" based on OPEC prices which are way above and have no relation to the costs of oil production. Now, when new oil prices are put into a more realistic realm the industry screams that it is not enough.

It cannot be denied that the industry is powerful enough to carry out its threats of reducing supplies. We have seen what they did in capping natural gas. The fact remains, however, that S. 622 sets a realistic price that will rise rapidly over a 40-month period. I am sure that under the screaming and the greed, the industry will live quite comfortably with S. 622.

The industry assertion that oil price decreases over the short term will increase oil consumption, are totally unfounded. Simple economics might indicate this to be true, but detailed observations of oil consumption patterns do not bear this out. Projections by prominent economists and even FEA officials show that the elasticity of demand of all oil products is very low. Oil consumption is just not responsive to changes in price, especially at the low levels that would result from the pricing policy roll back. And when you think about it closely this makes a lot of sense. Does a reduction from 60 cents per gallon to 58 cents per gallon mean that people will start a surge of demand for gasoline. And I know for a fact that a slight decrease in the price of home heating oil will not increase demand. People in the Northeast and elsewhere are already paying huge heating bills and a slight price drop will not cause them to push their thermostats up.

I think it should also be mentioned that any decrease in oil prices will not be caused by an oil price rollback. The main reason why oil prices will decrease will be a result of the removal of the $2 per barrel oil import tariff. This is the same tariff that has artificially increased oil prices since last January and has helped fuel inflation and unemployment. It has also been ruled illegal and should have been removed months ago.

Other analysis indicates that by 1977 the pricing formula adopted in the bill will decrease consumer prices by 1 percent and cut unemployment by 0.3 percent. The President's alternative to this bill is decontrol and the consequences of this have been well documented. Sudden decontrol would cost $20 billion, add 1.5 percent to consumer prices, and put 800,000 workers on the unemployment rolls. Thus, the President's plan is just not an economically sound alternative, especially now.

One last point I would like to mention is that I hope my colleagues are aware of the fact that the conferees were in continuous contact with the administration. All of the provisions of the bill, especially the oil pricing section, were worked out with the full knowledge and in many cases the demand of the administration. In fact, at the close of the conference we were assured by the President's chief energy advisors that S. 622 would be signed into law by the President. I can state as fact, and I know my colleagues on the conference will back me on this, that we would never have agreed to many of the compromising amendments if we had not had the assurance of a Presidential signature.

I am amazed now to hear that the President's decision to sign or not is on a "knife's edge"—a 50-50 chance many have said. This change of heart has come about because the President is being heavily pressured by the oil industry to veto this bill. I watch this with great interest and a good deal of disappointment. A Presidential veto would be a dangerous threat to the formulation of our energy policy. But perhaps even worse, a veto would completely shatter any confidence and trust Congress and the American people have in the administration. Congress and the administration can and will express their differences of opinion, but when a commitment is made it must be honored. The President expects no less of the Congress and we should expect no less from him now.

A Presidential veto would indicate to me that Mr. Ford has buckled under the pressure of a powerful and wealthy industry. I am hopeful that the President will not be swayed by their self-serving lobbying effort. The Nation needs this Energy Policy Act, and I hope my colleagues will lend their full support to this bill.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I rise in support of the position just taken by the gentleman from Louisiana (Mr. LONG) with respect to oil exploration and production.

Mr. Speaker, in my judgment this bill would increase our dependence on foreign oil, guarantee a decrease in domestic exploration and production, and move us further away from the possibility of adequately meeting our energy problem. It will strike a damaging blow to the American consumer.

These words are not meant to be harsh, Mr. Speaker, and they are not intended as personal reflections on the Members who have worked under difficult circumstances.

But, Mr. Speaker, this bill represents a giant step in the wrong direction. It is wrong on many counts as has been amply documented in the debate.

Of course, it would be popular to roll back oil prices, especially before the election. But such a course of action can do little but harm our efforts to provide the energy the American consumer requires. I urge the defeat of the conference report.

Mr. DINGELL. Mr. Speaker, I have no further requests for time at this moment.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, may I ask a parliamentary inquiry?

The SPEAKER. The gentleman yields to himself for a parliamentary inquiry.

The gentleman is recognized for 30 minutes.

Mr. BROWN of Ohio. Mr. Speaker, in order to get to a modification of what we have before us that might receive a majority vote on the floor of the House, is it required that we would divide the question and that the House vote to recede and then modify the amendment of the gentleman from West Virginia (Mr. STAGGERS)?

The SPEAKER. The way the gentleman can get at what he apparently is trying to get at is to vote down the previous question on the motion offered by the gentleman from West Virginia.

Mr. BROWN of Ohio. So that when the previous question on the motion of the gentleman from West Virginia is put, there should be a vote requested on that previous question so that we can vote down the previous question and then modify the amendment of the gentleman from West Virginia?

The SPEAKER. The Chair is not saying it should be done. The Chair is saying that that is the way to get done what the gentleman wants done.

Mr. BROWN of Ohio. The vehicle for modifying the motion of the gentleman from West Virginia, and if anyone wishes to modify, then, the conference report we have before us further before we send it back to the Senate and lose control of it, is to vote down the previous question?

The SPEAKER. I think that is a statement of fact instead of a parliamentary inquiry.

Mr. BROWN of Ohio. I thank the Chair.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I am opposed to the passage of the conference report for two strong reasons. First, because it discourages efforts to seek alternatives to oil dominance in the energy field. Second, the scheme patently is doomed to failure and our country will loose valuable time in coming to a more rational and constructive answer.

By artificially suppressing the price of oil there is a diminished spectrum of competition from coal, nuclear, geothermal, or solar sources for energy. Already the Wall Street Journal has reported a gloomier prospect for investment in expansion of coal production. The cold hand of Government political control over economic factors by contrivances posed as consumer protection is really working against the consumer and the Nation in its need to develop long-term alternatives to oil. It suggests that the politicians are prepared to dry up all the private funds which might be directed to the problem of alternatives in energy and substitute public money controlled by bureaucratic criteria for future R. & D. Both the prospect of sufficient funds and the prospect for dynamic action are very poor under such a circumstance.

By contriving a mechanism which suppresses both price and production we get the worst of all possible worlds. An upward encouragement for consumption and a downward thrust for increased production. This is calculated to create pressures which when ultimately released will cause more economic dislocation and attending inflation than would be predicted if the opposite tack were taken where we used price to diminish use and to encourage production thus forcing a closer match of consumption and production.

Mexico, after years of subsidizing oil prices at the expense of killing capital for expansion of extraction, finally reversed about 1 year ago and recently announced Mexico may, next year, be oil sufficient where they had been net importers only 2 years before. If it did not work for Mexico, where tolerance for Socialistic answers to economic problems is high, how can this sort of scheme be expected to work in the United States.

The report should be recommitted to conference and, if passed, the legislation should be vetoed.

Mr. MILFORD. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Speaker, the House should vote down the conference report and, if passed, the legislation it supports should be vetoed.

The political rhetoric which promises protection for consumers in a contrived control mechanism is doomed to an early failure. By structuring an abstract pricing mechanism the legislation assures a reduction in domestic production. The operative facts of demand dictate that any shortfall on today's scale of our own oil will have to be met by substituting imported oil not subject to the artificiality of political control. Very soon thereafter the international price of crude, according to the passthrough mechanism at refineries, will be reflected in the rising cost of products including gasoline, heating oil, and diesel fuel used by utility companies.

This bill is a bonanza for the OPEC countries, but a cruel hoax on consumers.

The one aspect of the bill which could give the conference committee pride is the fact that their weighted average pretty accurately reflects the existing reserve evaluations used by banks in financing small drilling companies. Their pricing structure threatens the small oil companies by squeezing out a chance for ploughed back profit but makes the banker safe on his loans.

Big oil is not harmed by this bill for most of their domestic production is old oil which in no way goes down in price under this bill and the remainder is offshore oil which is not affected by this bill. Besides, the major profits for big oil is in contracts to assist exploration and production in foreign countries and in "arrangements" to market foreign crude. The other points of profit for big oil as against the small domestic operators are in refining and in distribution and sales of downstream products.

A bill for the giant oil companies is not the answer.

A bill for Arabs and bankers is not the answer for our oil fuel crisis.

A bill against consumer and small businessmen is not the answer.

This conference report should be defeated or the legislation should be vetoed.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, section 104 of the conference report amends the Defense Production Act of 1950 and was not included in the House-passed bill. The matter is not germane to the jurisdiction of the Interstate and Foreign Commerce Committee and is properly a subject for the Committee on Banking, Currency and Housing.

SECTION 160

Section 160 includes storage of crude oil produced from the naval petroleum reserves, and is not contained in the House-passed bill. The jurisdiction of the national petroleum reserves is locited in the Committee on Armed Services and the Committee on Interior and Insular Affairs and is not germane to the conference report.

SECTION 162

Section 162, which is a section on coordination with the impact quota system, was expanded by the conferees beyond the language as passed by the House which stated that no quantitative restriction "as may be imposed by law." The language now reads that no quantitative restriction "imposed by law is applied," and by this change present import restrictions contained in the jurisdiction of other committees would be backed up. The change is, therefore, a problem in both scope and germaneness under rule XXVIII.

SECTION 255

Section 255, the relationship of the act to the international energy agreement, was added by the conferees although nothing even similar to this section was included in the House-passed bill.

The new section goes beyond the scope of the conference and is not germane to the jurisdiction of the Committee on Interstate and Foreign Commerce.

Sections 361 to 366, State energy conservation plans, and sections 371 to 376, industrial energy conservation, were added by the conferees and are explained on pages 176 to 182 of the conference report.

This new section creates a program clearly beyond the jurisdiction of the conference since the Jurisdiction of the House on intergovernmental relationships between the United States and the States and municipalities falls within the jurisdiction of the Committee on Government Operations.

SECTION 362

Section 362 which spells out the elements of the proposed State energy conservation plan includes among other things "a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right after stopping," This subject matter pertaining to traffic rules and safety has its jurisdiction contained under House rules by the Committee on Public Works and Transportation and is not germane to the subject matter before the conference as passed the House.

SECTION 451

Section 451 contains amendments to the objectives of the Allocation Act and speaks about the maintenance of exploration for, and production or extraction of fuels and minerals. This amendment is an attempt to control the production and exploration of Federally owned property such as the leased tracts of the OSC and is not germane to the jurisdiction of the committee in conference and was not contained in the House-passed bill.

SECTION 453

Section 453, an antitrust provision added to the Allocation Act, permits a new affirmative defense, in antitrust litigation that the alleged breach of contract was caused solely by compliance with the Allocation Act or regulations or order thereof. Antitrust jurisdiction is properly subject under the House rules for the Judicial Committee and is not germane to the conference report.

SECTION 462

Section 462, reimbursements to the States, is added by the conferees and authorizes the FEA to reimburse States for functions performed under the Allocation Act. This is beyond the scope of the conference and creates new authorization for State grants which would assist States in carrying out the functions delegated them by this legislation.

SECTIONS 541 TO 550

Sections 541 to 550, automotive R. & D. were not contained in the House-passed bill and are clearly a matter for the Committee on Science and Technology.

SECTIONS 551 TO 552

Sections 551 and 552, congressional review, had been modified and is different from the language passed by the House. For example: It no longer contains the House-passed language which defines the term "energy action." The effect of this change is to broaden the matters which may be considered under this generic term when the administration transmits its requests under this plan for affirmative actions. In addition, the word "extraordinary" was removed from the heading which gives further weight to this argument.

Under this subsection which identifies the congressional review as change in the rules of the House, the procedure which is set forth to be followed is presumably, supposedly to be the same for both Houses. However, the application of the procedure appears to only be something which would be followed in the House and a change from earlier language which said that House.

Under the procedure contained in the conference report there is no opportunity for amendment of the regulations which are made part of the procedure and part of the House rules.

The procedure for amendment was not limited in the House-passed version and words have been added in subsection (f) (5) (B) at the end and "the amendment described in clauses (i) and (ii) in the subparagraph shall not be amendable." and the words were deleted from the House-passed bill.

PROVISIONS NOT CONTAINED IN THE HOUSE-PASSED BILL

First. Application of advanced automotive technology—sections 541 to 550.

Second. State energy conservation program.

Third. Industrial conservation program.

Fourth. Priorities for mineral extraction.

Fifth. Antitrust provision and Allocation Act.

Sixth. Reimbursement to States.

Accuracy of House reports to explain changes under rule XXVIII, clause 1(c). The joint statement "shall be sufficiency detailed and is to conform with the House rules. It is particularly important that Members of this body be apprised of any change to the rules of the House and procedures. Sections 551 and 552 are not sufficiency detailed; indeed, the language is one sentence in length and states:

> The conference substitute follows the House amendment with respect to the procedure to exercise Congressional review.

I include the following:

PROBLEMS IN S. 622

The auto efficiency standards (to meet 25 mpg by 1985):

1. Where did the Conferees get the technical data to support the contention that this is attainable?

2. What is wrong with letting the price of petroleum and the resultant marketplace drive this without getting into another Big Brother Federal Govt posture?

3. Why is the R&D prototype role shifted to DoT without any regard to the Congressional mandate that ERDA, which has the lead role now and has an on-going program, be responsible for fuel efficiency?

The $750 Million Coal Production loan guarantee program:

1. If the gentleman is opposed to loan guarantees, why is he including one in an area where there is clearly no need?

2. Why are there no concerns in his bill for the environment and for the socio-economic disruptions involved?

The Prohibition against joint ventures by major oil companies in exploration and development of new domestic oil supplies:

1. Why is the gentleman barring the companies which have the expertise and the capital from doing the work they are best qualified to do?

2. This provision will make it almost impossible for the development of the OCS by anyone with the capability to do the work and provide the environmental protections necessary?

3. The effect is to discourage the production of additional domestic resources and thereby increase our reliance on imports.

4. Is the gentleman a closet Arab?

The GAO audit provisions are absurd. They authorize the GAO to examine the books, not only of the major petroleum companies, but also each of the 27,000 independent gas stations across the country.

The requirement for energy efficiency

labelling were set without any regard to whether the market would utilize these labels—no marketing study:

1. The expense is mandated for industry without any regard to the energy payback.

2. There is no requirement to see that the standards and the labels are technically feasible and factually accurate.

The industry energy conservation standards—where does FEA get its expertise to either establish standards or improve standards. The gentleman's bill lacks even mention of ERDA or NBS, much less the requirement that these agencies concur (technically) with the FEA standards:

1. Why does the gentleman not rely on the efficiencies and the payback of the industry's conservation actions to be sufficient incentive for those actions?

2. Does the gentleman expect FEA to grow into a regulatory body capable of inspecting each and every little corner store or laundromat to ensure compliance with these standards. Heaven help the federal manpower budget.

Materials allocation (shipping scarce materials to drilling and production companies with designated higher priorities):

1. Is this a proper role of government?

2. When do we start allocating priorities to breakfast cereals?

3. Why does the gentleman here provide a measure of favoritism to the petroleum companies while at the same time making it almost impossible for them to finance or locate resources to bring into production?

Federal Import Purchasing Authority—creates a board to monitor and regulate imports of petroleum:

1. Absurd on its face . . . if the board were to require sealed bids from all OPEC countries under the mistaken belief that it can create competition and dissension among them . . . what makes him even the slightest bit certain that all the bids wouldn't be $22 per barrel. OPEC unity has been proven.

Pricing policy: artificially depresses petroleum prices and thereby depresses domestic production (no profit in it) and thereby increases petroleum imports:

1. Also increases government's role in a regulatory function. This could be the beginning of a never-ending oil-control scheme which will perpetuate the FEA and Government regulation in private industry to the detriment of free enterprise and petroleum production from domestic sources.

2. Because of effects on domestic production and pricing, larger shares of the dollar go to other than domestic oil producers and therefore depresses domestic production capability.

Mr. McCOLLISTER. Mr Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Mr. Speaker, after months and months of debate on oil pricing policy, we seem to have made no progress. This bill is still aimed at the same illusion as were its predecessors. We can never assure the American people low prices for energy unless we do something to stimulate the supply of energy. And, S. 622 goes in exactly the opposite direction, discouraging domestic energy production and forcing our country to become even more dependent on high-priced foreign imports.

The fallacious premise of the bill undermines its good intent. And its approach is symptomatic of the mistaken judgment of the majority that they have the power to suspend the law of supply and demand. The collective wisdom of the Congress is no match for the all-powerful forces of the free marketplace when it comes to making decisions on how to distribute goods and services in our economy.

Rolling back the price of domestic oil is an outrageous attempt to fool the American consumer. It is not at all clear that even the short-term impact will benefit the consumer, because the rollback will mean that a greater percentage of each barrel of oil will be imported from abroad. Cheaper domestic oil will be blended with high-priced foreign oil and the overall price may not reflect the attempt of Congress to lower consumer prices.

But worse, the impact down the road in the next year or 2 and over the next decade, if this policy is retained that long, will be to make expensive secondary and tertiary recovery techniques prohibitively expensive and cripple domestic production. Instead of phasing out the wrong-headed controls as "old" oil supplies become exhausted, this bill would bring the "new" oil under controls and inhibit its development and production.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I think all the Members understand that the motion before us contains the language in the conference report except some amendments that will knock out certain language, so the purpose part of section 102 and part B of title 3, here, if we pass this, is to continue and to add to the powers and the authorities of the Federal Energy Agency. This agency is already a bureaucratic mess. I hold in my hand a committee report which contains conclusions which say that the programs as administered by the FEA can be characterized as inadequate, confused, disorganized, and ineffective.

Mr. Speaker, this report is by a subcommittee of the other body chaired by the senior Senator from Massachusetts—the Subcommittee on Administrative Practice and Procedure. The most interesting conclusion that is in this report, although not surprising, is that the programs as have been administered by the FEA have resulted in lessening of competition. In fact, the FEA officials themselves testified at the hearings which the subcommittee on the other side held that continuation of the present programs "can only lead to increased concentration within the petroleum industry, with the large companies getting larger and the smaller ones disappearing."

Mr. Speaker, I think we should ask ourselves: Is that what we need? Is that the kind of program that is going to lead us to energy independence?

Any time we set up a group of bureaucrats to regulate an industry like this, the only result we can have is confusion, lack of efficiency, fuzzy guidelines and procedures, and, even as concluded by this report, "unfairness to firms in the regulated industry and to consumers."

Mr. Speaker, the purpose of this bill is to increase the power and the authority of the FEA without adding one bit to domestic supply of petroleum.

In fact, the section which has been well advertised as a rollback of prices in the bill would result in less oil for America and not more. In fact, according to recent estimates, no reduction in price would result because of the estimates that are now around that the "banked costs" the industry presently has would pretty well cancel out the so-called rollback in this bill. This bill will not increase one drop of domestic oil being produced in this country, and would increase America's dependence on OPEC oil.

Yes, this bill has been well advertised as a "price rollback" bill. And yet, oil prices would be held down only until election of 1976. After that, prices would be permitted to rise. I am not going to accuse Members of "playing politics," but it is an odd coincidence that prices are held down just to get through an election. It is time we start thinking of the next generation, not the next election.

It is a certainty that this bill will reduce incentives to produce fuel for America. It is odd that last week this House considered a bill to give energy companies vast subsidies to produce new, high cost fuels, yet here just a few days later, we consider a bill that will take billions in capital away from energy companies. This is capital that will be sorely needed if we are going to find the lower price energy, petroleum. There can be no conclusion but that less oil will be produced under such a plan. Every time we have tried price controls in this country, we have seen shortages develop. That is what will happen again here. Where will consumers go to obtain necessary energy? They will go to the Arabs, to OPEC countries. The only place to get oil will be to import it. This oil will be imported at higher world prices and the dollars spent to buy the oil will be controlled by foreign interests. Yet we could be encouraging domestic production, paying less, and the dollars would be controlled by Americans and American companies. And remember this, when you increase the demand for OPEC oil, you better enable them to increase their prices. They have excess production now. This bill would mean that we would take up a big chunk of that excess production.

Mr. Speaker, I, along with many, many of our Nation's leaders, have been concerned about increasing oil prices, but reducing incentives to find new oil is sure to drive up prices even higher.

Such a policy is sure to do something else. It would be a signal to all consumers that we can resume our wasteful ways. All agree that we have been wasteful of energy. Everywhere I go, people agree that this has been the pattern that has been established in recent years. Yet, in recent months, the one good result of the situation as it exists today has been that the American people are conscious of energy wastefulness and are making a total effort to use less. I hear this everywhere. People and businesses are aware of the need to conserve. Rising prices have warned the consumers of the need to conserve. They have responded.

Price freezes. Price rollbacks will give a false signal, you can resume the wasteful use of energy. We must have fuel conservation. The way to get that is through the response of consumers through market mechanisms, not by the force of bureaucratic regulations.

I have long advocated the enactment of excess profits tax on oil profits. This could be combined with a "plowback" feature which would insure that profits are plowed back into the exploration, drilling and production of new sources of petroleum. This is a far better way to legislate on oil prices than the pricing section found in this bill. This section will be impossible to administer fairly. No administrator will be able to write regulations that treat all sectors of the industry fairly. Remember what I said earlier, the FEA cannot administer the present law fairly. If less competition has resulted under present law, then this new law will drive all the little firms out of business.

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I think it is time that the House recognized where we are at this particular minute. There is a deliberate effort being made at this time to obfuscate the proceedings and a delaying process. Shortly there will be offered by my good friend and colleague and other Members of this body an attempt to defeat the previous question. I think my colleagues should understand where we would be at that point. If that motion would carry, it is almost certain that the very delicately balanced process of compromise which has been achieved between the House and the Senate and the administration would be severely jeopardized, if not totally destroyed. Mr. Speaker, I think my colleagues should understand clearly the consequences of that action. It would mean that there would be at that time then no meaningful compromise which would lead us toward a comprehensive national energy policy.

Mr. Speaker, I do not propose to go into the details and construction of the whole of the conference report in great detail. The conference report contains a summary of the legislation. As Members will note, it is both complex and multifaceted. Briefly summarized, the conference substitute seeks to reduce and manage the Nation's demand for energy and establish programs to minimize our vulnerability to major interruptions in the supply of petroleum imports.

The bill would equip the President with a full range of management tools in order to enable him to assure that the vital needs of this Nation will be met in the event of another oil embargo or other major interruption in energy supply. Certain extraordinary powers, subject to congressional review, have been included which would authorize the President to impose mandatory energy conservation plans and a gasoline rationing program under narrowly defined circumstances. Coupled with these authorities, is the creation of a national strategic petroleum reserve to serve as a means of minimizing vulnerability to abrupt curtailments in petroleum imports. The very existence of standby emergency authorities and the creation of a strategic reserve should act to discourage use of the oil supply weapon by the OPEC nations for short-term political objectives.

This legislation would apply price controls to the entirety of domestic crude oil production in an effort to restore elements of reason to a marketplace whose mechanisms are unable to counteract the influence of the OPEC pricing cartel. These controls will serve to insulate our economy—at least in part—from further sharp inflationary increases in petroleum prices. Our objective is to stabilize the pricing system within parameters of economic tolerance.

Provision is made to give assurance that in the near term this Nation maximizes its production opportunities. Thus, the President is given authority to require production from fields at their maximum efficient rates. Certain limited authority is also granted to require temporary increases in production rates for certain fields during a severe supply interruption. And provision is made to foster competition in the development of public lands on the Outer Continental Shelf by prohibiting joint bidding by the major oil companies. Also, the President is authorized to restrict exportation of energy materials as may be needed to maximize development of domestic resources. Finally, the legislation contains a general prohibition on further exportation of natural gas or crude oil unless the President specifically finds that such exports are consistent with our national interests.

This legislation would extend the Emergency Petroleum Allocation Act and provide a mechanism to convert today's mandatory controls to standby authority. A number of direct authorities are given to the President to augment his existing powers under the Allocation Act to respond effectively to a severe energy supply interruption and to provide for the attainment of the public policy objectives identified in that act.

This legislation incorporates a number of energy conservation programs designed to bring about measured savings in consumption of energy. Regulatory measures have been designed to improve the efficiency of the products we use and the automobiles we drive. Provision has also been made to assist the States in the development of energy conservation plans which may be tailored to the needs and particular characteristics of each State. Targeted goals have been established to promote energy efficiency among industrial consumers. And Federal programs have been structured to require regulatory agencies to consider the energy consequences of their actions.

The conference report includes a provision intended to assist small refiners by exempting them from obligations to purchase entitlements under certain circumstances. The many members have asked me about the effect of this exemption. Let me respond to some questions which have been raised regarding the competitive advantages such as exemption might create and the relative disadvantages small refiners who sell entitlements might suffer.

The potential for competitive disadvantage results from the fact that small refiners who sell entitlements have above average crude oil acquisition costs. Revenue from sales of entitlements helps to offset the competitive disadvantage of such above average costs.

Refiners who are required to purchase entitlements have below average crude oil acquisition costs. Entitlement purchases in effect raise the costs of these refiners and mitigate the competitive advantage enjoyed by reason of such lower than average costs. By exempting certain small refiners from entitlement purchase obligations, these refiners enjoy a competitive advantage. Conversely, small refiners with higher crude oil acquisition costs are disadvantaged vis-a-vis these small refiner competitors.

One of the stated objectives of the Allocation Act was the preservation of competition in the refining industry and specifically referred to the preservation of the competitive viability of all small refiners. It was with this purpose in mind that the entitlement exemption was included in the conference report.

The intent of the conference committee was to assist small refiners with a capacity of 100,000 barrels per day or less. The entitlement exemption was considered as a method of assisting small refiners to compete with large oil companies. The conference committee did not intend to create unfair competitive advantages among small refiners. If small refiners who are entitlement sellers are disadvantaged relative to other small refiners by this exemption or by any other aspect of current regulations, the President has authority under section 4(a) of the Allocation Act to compensate for this disadvantage by regulation and we would expect him to do so expeditiously.

The conference substitute also includes a number of provisions designed to make better use of this Nation's abundant coal resources and, lastly, would establish procedures designed to test the validity and improve upon the reliability of the data which we in Government use as a basis for energy policy decisions.

Mr. Speaker, I think it important to emphasize our concern that, in developing new underground coal mines under section 102 of the conference report, that people not be displaced from their homes unless adequate provision has been made for decent, safe, and sanitary substitute housing. Recent news media accounts of coal companies and allied corporations displacing a number of tenant families in Appalachia to make way for expanding coal production facilities are disturbing. The conferees do not want this program to operate in that way. It is expected that the Administrator will, as part of his regulations, insure that it will do. Big and small business, like Government, has a responsibility toward people to try to find ways to avoid creating new problems in the name of progress. Displacing families, some of whom are on limited incomes and have lived in rented houses for years, without providing adequate substitute housing is callous. Federal assistance programs should not contribute to such an attitude.

I stand ready, of course, to respond to questions of my colleagues concerning the details of this legislation. I commend this bill to you as a compromise energy policy which embraces balanced and achieveable energy goals which are consistent with this Nation's economic condition and I respectfully request your affirmative support.

Let me take one last moment to clarify

certain matters which relate to the development of State conservation plans.

Included in section 362 dealing with State energy conservation plans is a provision (362(d)(1)) which permits a State to include in its plan regulations governing the hours and conditions of operation of public buildings. The inclusion of this provision does not, however, mandate or of itself, authorize and require the regulation of the hours of operation of public buildings. It is the intent of the Congress that a State issuing regulations, and that the Administrator in approving a plan containing such regulations, be fully cognizant of the wide diversity of public buildings which could be subject to restrictions on hours and conditions of operation. For example, regulations dealing with the hours of operation of office buildings may well be appropriate and meet the tests of approval of a plan under section 363(b)(2). However, other industries, particularly retailing, may suffer severe economic dislocations, including unemployment, reduced sales, and economic concentration if their hours of operation are not regulated with full recognition of the intricacies of the respective industry. Likewise, it is extremely doubtful that any one set of guidelines or regulations could cover the broad scope of retail operations.

In this connection, it should also be noted that the Federal Energy Administration authorized a detailed study of the effect of a regulation of retail store hours as a means of achieving energy savings. The final report, issued on October 27, 1974, concluded that based upon its extensive data that only a "low level of energy savings (is) expected to accrue from a program of regulated commercial hours."

It is not the intent of the conferees to place an undue burden on the economy or on local and interstate commerce through restrictions on hours and conditions of operations and it is essential that this discretionary means of achieving energy reduction be carefully studied prior to implementation because of the severe economic and competitive ramifications which could result from improper restrictions.

Mr. Speaker, this is a good program. It is a good bill, one carefully worked out and one which has been worked on for months. As a matter of fact, it has been the subject of consideration in the House since February.

There were weeks of meetings with the Senate. No fewer than 25 Senators from a number of different committees participated.

I would point out that the Subcommittee on Energy and Power has made available to every member of this committee today a comprehensive statement of the impact of the pricing provisions upon the economy. That was delivered to the offices of each Member today.

I would point out further something which is very important: that 4 hours and 15 minutes from now the Allocation Act expires. All price controls on petroleum products, all authority to allocate propane, natural gas, and petroleum liquids and petroleum products expires at that time.

The SPEAKER. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. STAGGERS. Mr. Speaker, I yield 2 additional minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, my colleagues should know that if this bill comes apart in 4 hours and 15 minutes, we will have decontrol. There are people in this country who want to see the Allocation Act and this legislation destroyed.

I would just recall to my colleagues the matters which I brought to the attention of the House: the significant increases in inflation, the significant increases in unemployment, and the economic hardships that would be inflicted upon our Nation, our people, and our society if that transpires.

I would point out that under this legislation we have a more favorable pricing structure for consumers. I would recall to my colleagues that we have a pricing structure which encourages production, and I would recall to my colleagues that we have a piece of legislation that most favorably assures the best possible pattern of growth for our economy, and I would commend to my colleagues, for the purposes of appreciating the precise nature of the pricing structures, the print which is available here at the committee table to any of my colleagues.

Mr. Speaker, I would beg my colleagues to avoid frivolous attempts to destroy this conference report. I would beg my colleagues to support the chairman of the Committee on Interstate and Foreign Commerce in connection with his motion. The result of his motion is precisely the same, with the amendment, and the motion is precisely the same, and if my colleagues in the House will adopt the motion offered by the gentleman from West Virginia (Mr. STAGGERS), we can then move forward toward an extension of price controls and toward a completion of the compromise agreed to between the President and the House and Senate in conference.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, no matter how much some claim that this bill is going to solve our energy problem, let me tell the Members that it is 180 degrees in the wrong direction.

Our problem is that we do not produce enough oil domestically. If we roll back the price of oil, that is not going to help production. We do not produce a drop of oil in Minnesota, but we know something about production.

Roll back the price, administratively or legislatively, of any product, and I will guarantee that you will not get as much production. Farmers held their cattle when we had controls on beef. Oil can be held in the ground indefinitely as compared to beef in the feedlot.

What is that going to mean? This country needs oil. Where are we going to get it? We will get it from foreign sources: OPEC oil. That is not inexpensive oil. That is more expensive than anything we produce in this country. That is going to shoot up the cost to the consumer.

As far as the cost to the consumer is concerned, retail prices are determined by the highest priced crude that is used; the foreign oil that is now reduced by the entitlement program. We are not solving anything by greater dependence on foreign oil, adding to the $25 billion now going out of this country for crude oil.

Mr. Speaker, we do not have conservation of energy in this bill. This bill is totally wrong in that pricing provision.

What are we going to do, increase controls? Give the Federal Energy Administration more power? Is that going to work? I would say no; it is not.

What is the Government to do if Government controls do not work, put on more controls? That is what we are doing with this bill.

We would get more production with the present law, the one that is going to expire in about 4 hours, than we are with this bill. Is this bill going forward? No; it is going backward. If we continue this increase in controls by the Federal Government, we are just taking another step toward nationalization of the oil industry, and that is not going to work in this country.

Mr. Speaker, as far as I am concerned, my people would like lower priced oil, but they want oil, and I am not going to vote to make certain that they get less oil from this country that is going to make them more dependent on foreign oil. That is exactly what we are doing tonight.

I am not going to give FEA more power, with more standby powers to the Chief Executive. Certainly this President is my friend. I do not know how long he is going to be in there. I do not know how he would utilize this, with the kind of power that this bureaucracy will have.

Mr. Speaker, I do not even want to give my friend, Jerry Ford, this kind of power. I urge my colleagues to turn down this motion that is going to hurt all of our consumers in this country. I think this is the most disastrous thing we are about to do in this Congress, to pass this legislation, something that is going to harm us as a Nation, and harm us in this political attempt to bring about a solution to our energy problems in this Nation.

Mr. Speaker, I cannot think of anything worse than the pricing provisions that we are trying to put through here, and all because evidently we are afraid of the next election. My people can see through that. At least, they know economics enough to know that reducing the price is not going to increase production. They know that when we are talking about the length of time we have been discussing here, it just means that it is designed to get us by the next election.

We know we will not get away from controls at the end of 40 months. The people of this country know that this legislation should not be passed.

Lastly, if this Congress was really worried about profits of the oil companies it would have passed a windfall profits tax. None has still come from the Ways and Means Committee where it must originate.

The people of this country are too smart to be placated by a political expedient.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 additional minutes to the gentleman from Louisiana (Mr. WAGGONNER).

The SPEAKER. The gentleman from Louisiana (Mr. WAGGONNER) is recognized for 5 minutes.

Mr. WAGGONNER. Mr. Speaker, there is one good thing about the Christmas season. It makes people give, and I am happy to receive this 5 minutes.

I hope, my colleagues of the House, that you paid some attention to the statement made just a few moments ago by the gentleman from Minnesota (Mr. QUIE).

This gentleman does not come from an oil and gas producing State.

CALL OF THE HOUSE

Mr. KETCHUM. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 787]

Adams
Addabbo
Alexander
Andrews, N.C.
Annunzio
Bell
Biaggi
Bingham
Bonker
Buchanan
Burke, Fla.
Burton, John
Chisholm
Collins, Ill.
Conyers
Coughlin
Crane
Derwinski
Devine
Dickinson
Diggs
Drinan
Duncan, Oreg.
Flowers
Ford, Mich.
Forsythe
Fraser
Gaydos
Guyer
Harsha
Hastings
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Hinshaw
Jarman
Jenrette
Jones, Tenn.
Karth
LaFalce
Mathis
Metcalfe
Meyner
Montgomery
Moorhead, Pa.
Morgan
Mosher
Patman, Tex.
Peyser
Rees
Riegle
Rose
Rosenthal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Shuster
Simon
Stanton, James V.
Steiger, Wis.
Stuckey
Symington
Teague
Thompson
Udall
Vander Jagt
Vanik
Waxman
Wilson, C. H.
Wilson, Tex.

The SPEAKER. On this rollcall 361 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 622, ENERGY POLICY AND CONSERVATION ACT

Mr. WAGGONNER. Mr. Speaker, the speaker who preceded me in the well, the gentleman from Minnesota (Mr. QUIE), understands the problem of energy in this country. The gentleman from Minnesota (Mr. QUIE) properly described the ingredients of this conference report and its effect on this country.

Believe me, if we adopt this conference report as agreed to by the conferees, we are heading for disaster as far as energy is concerned, if we are depending on energy to come from crude oil and natural gas, which is the source of about 77 percent of our energy in this country today.

In addition, we are building the bureaucracy. Now, the President and almost everybody I know says that the bureaucracy is too big. Government, faceless bureaucrats, are making too many arbitrary decisions in this country. You will be turning energy over to bureaucrats. You will regret it.

The bill which the conferees have brought here for our approval cannot be administered. If anyone has griped and complained, and the people of this country have griped and complained about what FEA has done with the allocation legislation that they have been trying to administer to the best of their ability, and we saddled them with that monstrosity, we have not seen anything yet. Wait until they start administering this bill.

Now, the President of the United States cannot, unless he wants to bear the burden of every criticism with regard to energy that comes from oil and gas, afford to sign this bill, because all the conferees have done is bring the bill here saying to the President, "You administer it. You do what you think should be done. Here are some guidelines and you do the best you can."

And we know what the President will do. He will try, but every conferee, every Member of Congress here is going to raise hell when he starts administering it because they will say, "That is not what we intended, Mr. President. You ought to do this, you ought to do that." Do not blame me, blame the President. It was designed for this purpose.

We are tying his hands. We are going to, in the quest for our energy, make sure that we have less of it, because it is going to take us 2 years to get back to where we are with regard to price.

That is destructive as far as incentives are concerned. Just consider, you who say, "We want to move toward self-sufficiency," you are guaranteeing that by 1985 our dependency on foreign crude will probably be increased to the extent of having to import an additional—import an additional 8 million barrels a day. That is the situation that we are headed for. That is exactly what the situation is going to be. We are not going to produce it at home, we are going to have to get it from abroad because we are going to have a demand for a sizable increase every year.

My friends, there is one thing we can do here tonight, and everybody will be better off—the conferees, this House, the Senate, the country, in every respect will be better off and we will have a bill that the President can sign. That is to vote the previous question down so that we can offer a substitute to the Staggers motion. If we vote the previous question down, which I implore the Members to do, I am going to move a substitute. I am sure that I will be recognized inasmuch as I am asking for a "no" vote on the previous question so I can offer the motion to adopt a substitute.

The substitute will do three things. One of them, you will understand, has already been done. The motion offered by the gentleman from California (Mr. GOLDWATER) was adopted, and that deleted part B of title V, having to do with motor vehicle information and cost saving as it was in section 301 of the conference report.

Second, it will provide exactly what the gentleman from West Virginia (Mr. STAGGERS) proposes with regard to the definition of developing new underground coal mines.

Third—and this is the answer without which we have nothing—I am going to change the numbers of the pricing provision. I am simply going to offer a substitute which begins without a rollback, but exactly the national composite price figure as of now, which is $8.63 a barrel for crude oil. That is where we are now as compared to $7.66.

Oh, Members can say, "Whooo," but that is what we are paying now, and we are getting some oil and gas. Members can say, "Whooo" now and be getting less. They can cry later about what they have not got. That is exactly where we are. If we want energy, if we do not want to be self-serving politicians, vote against the previous question. Provide an incentive for domestic exploration. Do not go the regulation route. Do not prostrate us before the rest of the world. Do not do it to the automobile industry, only the bureaucrat fears decontrol.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, I rise in support of the comments of the gentleman from Louisiana.

It is my understanding that the conferees attempted to achieve three objectives as they considered the pricing provisions of S. 622: First, they intended to protect consumers from high gasoline and heating oil prices. Second, they intended to leave oil prices high enough to provide an adequate incentive for those who search for and produce oil in this country. And third, they tried to reserve enough administrative flexibility for the FEA to exercise its judgment about where those higher prices should be allocated.

I must agree at least in part with the New York Times' criticism that the pricing provisions of this bill will increase energy consumption and discourage production. I am not sure how much consumption will increase; but I am absolutely convinced that this bill, together with other actions taken recently by the House, will profoundly impair the ability of independents to search for and produce oil.

Independents—who found 94 percent of the new oil fields in this country in 1974—are not integrated companies. They do not receive profits from refining and retailing operations. Their investment capital comes primarily from the new and stripper oil price, from the availability of tax deduction for intangible drilling costs, and from the declining depletion left to them within the limitation of 65 percent of taxable income. These sources of capital are the only economic protections which enable them to survive in competition with the major oil companies.

Yet, has the Congress endeavored to support the independents' efforts to find and produce the domestic oil needed to reduce our dependence on OPEC? Clearly not. In two inseparable actions, the Congress has not only turned its back on independents but has actually undermined their ability to survive, much less compete.

First, we have passed a "tax reform" bill in which we diminished the use of the deduction for intangible drilling costs. Then we further diminished that part of the deduction we left intact by joining it with the remaining depletion allowance among the minimum tax preference items. Finally, we increased the taxable percentage of the minimum tax from 10 percent to 14 percent.

Was this an overdue censure of the majors? Did it eradicate an indefensible tax loophole which has unjustly enriched large corporations?

Absolutely not. The measure we passed does not even apply to corporations, the majors hardly use the deduction, and many do not take percentage depletion. Our bill hurt only the independents. It empties from their economic arsenal the primary weapons by which independents preserve their competitive viability.

Now we consider their third economic staple: the price they receive for their new and stripper oil.

When the House first considered the oil pricing question, it recognized the importance of the independents' exploration and production contributions. We passed the Long amendment to guarantee a remunerative price for their new and stripper oil. The conference committee could have retained a similar provision in its composite pricing scheme; but the Senate conferees decided instead to recommend to FEA that independents be granted a compensatory price.

This bill will dramatically set back energy efforts in this country, and create a bureaucratic nightmare. It will result in greater dependence upon foreign oil, and it will increase prices for consumer goods, particularly food and clothing.

S. 622 should be defeated because it will replace free market economics with administrative economics. It will place stripper wells and new production under price controls for the first time. And it will drastically reduce incentives for new exploration and production.

Upon careful analysis, this bill will benefit certain segments of the oil industry. But it will only penalize exploration and new production, particularly by independent producers.

The New York Times has called this a "flawed bill," one which "could increase American dependence on imported oil, slow the rate of domestic energy development, and even create another gasoline shortage".

Many of my colleagues will support this bill on the promise of lower gasoline prices, at least in the short run. But I contend that the rumored rollbacks in gasoline prices will be as mythical as the other alleged advantages of this bill. Recent reports indicate that S. 622 may decrease the price of gasoline by a penny, not the 3 to 4 cents the authors claimed. One wonders what other unforeseen consequences may appear in the future.

I believe that the American people have come to realize that if they want an adequate supply of oil and gas, they will have to pay the market price, not the price decreed by Congress.

Several years down the road, when imports are increasing, and domestic production is declining, do not blame the petroleum industry. The blame can be laid at only one place, the Congress of the United States, for a short-sighted energy policy.

When you destroy the economic incentive to find and produce new oil, when you establish bureaucratic obstacles which hinder exploration efforts, when you begin to control the petroleum industry, you are writing the obituary for energy independence in America.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will yield just for a second.

Mr. OTTINGER. Mr. Speaker, I would just like to point out that the New York Times supported the bill and said that the President should sign it.

Mr. CONTE. Mr. Speaker, I rise to speak in support of the Staggers amendment to the conference report to S. 622, the omnibus energy bill. I have listened carefully to the arguments made by my colleagues on this side of the aisle, and I recognize this bill has many shortcomings.

But after considering its assets and debits, I have concluded that my constituents and the people of New England need this bill. It has many strong points, and I am urging the President to sign this bill into law.

One of the strongest provisions in this bill is the extension of price controls in the oil industry for another 40 months. I support this key provision because it insures that oil prices will be stabilized. This is extremely important to New England, where 85 percent of the energy consumed for heat and power comes from oil. An immediate lifting of price controls, followed by sharply higher prices, would have a devastating impact on our regional economy. Inflation would be renewed, and the economic recovery—which is just beginning to be felt in New England—would be aborted.

So passage of this legislation would protect the economy against sudden price jumps at a difficult moment.

Another strong provision in this bill especially needed by New England provides for quick action on emergency fuel storage for both crude and oil products. Present fuel storage capacity in the Northeast is grossly inadequate. Our domestic refineries could not possibly supply New England with its residual fuel needs if the OPEC nations imposed another embargo. I would remind my colleagues that since the early sixties domestic refineries have largely stopped producing residual fuel, and consequently New England consumers, such as utilities and industries, must import 98 percent of their needs.

A third provision that strongly appeals to the Northeast would prevent refiners from piling more than proportionate cost increases on heating fuels. With 80 percent of the homes in New England heated by fuel oil, you could say that this is a burning issue. Since the OPEC embargo 2 years ago, the prices for heating and residual fuels have risen much faster than the price of gasoline.

New England consumers have reacted to these higher fuel prices with an enormous fuel conservation effort. In fact, heating fuel consumption in New England is now about 20 percent below the level of 2 years ago. But this campaign to cut back on heating fuel consumption has gone to its limit. So it is important to protect the consumers of heating oils from additional cost burdens.

In calling upon the President to sign this bill into law, I also want to urge him to take a companion measure vitally important to New England. I urge the President to repeal the $2-a-barrel tariff on oil imports. This tariff has been expensive and largely useless, and its repeal would benefit consumers far more than this legislation. Furthermore, to help consumers during this heating season, the President should repeal this tariff immediately.

Mr. Speaker, while the bill before us may have some flaws, it is far preferable to the only alternative—and that is total decontrol of oil prices. I urge my colleagues to support the Staggers amendment on this to the conference report and ask the President to sign it, therefore vote yes on the previous question.

Mr. Speaker, let us get this energy bill to the White House. If the President decides to veto the bill then we battle it out here in the Congress by either overriding or sustaining the veto but by all means let us get off of dead center.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Speaker, I am grateful to my colleague, the gentleman from Ohio (Mr. BROWN), for yielding.

As I listen to the debate on the bill before us I cannot help wondering, just how many times are we going to make the same mistake?

Mr. Speaker, we have been through this same discussion on numerous occasions. I would like to ask the House to consider the stated objectives of this bill.

On page 116 of the conference report, among the objectives which are set forth are to "maximize domestic production of energy, to provide for domestic crude oil prices, and to reduce domestic energy consumption."

Members of the House, we all know that the effect of the pricing provisions of this bill will be exactly the opposite. Under existing price controls which have been in effect for the past 3 years the proportion of our Nation's oil needs supplied by domestic production, has declined, and our dependence on OPEC nations has risen until now we are dependent on overseas sources for 46 percent of our oil, up from 35 percent as a result of unreasonable price controls. Obviously, continuing the controls will be a disaster. To roll back prices, as this bill would do, would be a disaster.

I hope when the time comes that we will vote down the previous question and adopt the amendment, or, failing that, that we will defeat the motion altogether.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Speaker, this bill, by encouraging consumption and discouraging discovery and production of new supplies is directly contrary to our national goal of energy self-sufficiency.

Its provisions are so vast that were it to become law, many months would pass before its full effect on energy production and consumption could be assessed. But a few thing are clear about it from the outset.

First, it creates a regulatory scheme of such complexity that it is almost certain to tie up domestic oil production—just as Federal Power Commission regulations have tied up interstate gas production. Anyone who has observed the FPC's performance over the past 20 years, and felt the impact of gas curtailments that have resulted from that performance, will wonder why the Congress wishes to visit the same consequences on oil—to transfer decisions about whether to drill for oil from the marketplace to the halls of bureaucracy.

Second, at a time when the rate of exploration for oil in the United States is finally recovering from a 15-year decline, the bill strikes at the very incentive that has made that recovery possible—the price of new oil. Since whatever is not explored for and produced here must be bought from abroad, the bill transfers income from American producers to OPEC producers.

Third, since every increase in old oil prices must be offset by a reduction in new oil prices if the bills composite price is to be maintained, it strikes hardest at independents, for whom the new oil price is altogether critical. It is not too much to say that after the initial rollback in the price of new oil, the bill transfers income from independents to the producers of old oil, who are largely major oil companies.

Fourth, since the proportion of total domestic production that new oil represents will inevitably grow as the production of old oil declines, the new oil price must come down under the composite pricing system. The possibility is offered that the annual upward adjustment will offset this downward trend, but there is nothing in the bill to assure how much, if any of it, will be so employed. So the bill transfers the fate of the exploratory effort for new oil to an irrelevant factor—the rate of decline in old oil production—and could well result in a continual rollback of new oil prices.

Fifth, the recently passed tax bill struck at oil and gas producers by depriving them of the immediate use of intangible drilling costs. That provision affected only individuals, not corporations. Coupled with the pricing provisions of this bill, the tax measure will help to transfer competitive vigor from the independents to the major companies.

These transfers, Mr. Speaker, are misconceived, unwise, and inequitable. They will make us more dependent on imports. They will vest vital decisions in bureaucratic hands. They will tend to concentrate the oil industry. The committee has erred in recommending these transfers, and I will not lend them my support.

Mr. BROWN of Ohio. Mr. Speaker, may I inquire how much time each side has remaining?

The SPEAKER. Each side has 12 minutes remaining.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BROWN).

Mr. Speaker, with respect to this debate, it seems to me there are certain truths, and these truths are evident. Our constituents, the American people, do not want higher petroleum prices. Our constituents, the American people, or most of them, are probably of the opinion that a rollback of domestic crude prices will result in lower petroleum prices to them.

We know, and the American people should know, that we have increased our dependence on foreign crude by 6 percent, from 35 percent to 41 percent, within approximately the last 2 years. We know, and the American people should know, that we decontrol the price of crude, and in view of the actions of foreign producers, necessarily increase the cost of products to consumers every time we buy one extra barrel of foreign crude.

Therefore, at the rate we have been going, we are becoming more dependent on foreign crude oil, and in not too many distant years we will have decontrol because of our dependence on uncontrolled foreign oil regardless of what we do this evening.

In short, Mr. Speaker, it seems to me that the supporters of the motion offered by the gentleman from West Virginia (Mr. STAGGERS) are being loyal followers, loyal followers of what, at the moment, appears to be the will and opinion of their constituents. However, not what would be the will and opinion of their constituents were their constituents to have the advantage of that which those Members know.

Mr. Speaker, we have become increasingly prone in this House to be a group of populists, if I may say so but I think our constituents want us to exercise our best judgment. Therefore, in acting upon this question, I would suggest that we keep in mind the words of Edmund Burke:

> Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion.

I urge a no vote on the previous question and support of the substitute motion which will be offered by the gentleman from Louisiana (Mr. WAGGONNER).

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, I rise in opposition to this legislation, S. 622. The Emergency Petroleum Allocation Act of 1973 was enacted to serve as our Nation's desperately needed energy policy during a period of severe shortage of crude oil and its products. We are again confronted with a comprehensive energy bill posing as the be-all and end-all to our Nation's energy shortage. This extension of the Emergency Petroleum Allocation Act will only serve to carry over those inequities witnessed in the current price control and allocation program.

Our country is in dire need of an energy policy that will lead us toward energy independence, and increased domestic petroleum production. The Democratic leadership pays continual lip service to these goals, yet constantly brings before the House so-called energy bills which make these goals more impossible. While reserves of both oil and natural gas have been declining in this country over the past years, little has been done of a positive nature to stimulate the search for additional reserves. It is long past time to introduce some sanity into our deliberations in energy.

While domestic demand for petroleum products has been growing at a rate of about 7.5 percent a year, domestic production of petroleum has declined by 1.1 million barrels a day since 1970. To make up the gap in this excess of supply over demand, we have come to the point where we import 38 percent of our petroleum. The Arab embargo demonstrated this is an intolerable situation, but one which will worsen to 50 percent dependency by 1980, and 60 percent dependency by 1985, unless this Congress takes responsible action.

To alleviate the present dilemma, and cut down on imports we can do one of two things: cut down on demand or increase the supply. We have spent entirely too much time in this Congress experimenting with schemes to achieve cuts in demand, but have not undertaken any sensible plan, save one, to increase supply. That has been a major and costly mistake.

I do not dispute the fact that there are many ways the American people can conserve on petroleum. The 55-mile-per-hour speed limit is one concrete example. I believe we should conduct an extensive campaign to educate our citizens on the need for conservation. But there is a limit to the savings to be achieved through decreased demand without worsening our economic situation.

Since 1950, there has been a steady correlation between growth in GNP and growth in energy consumption. If we are serious about bringing this country out of the current recession and restoring a growing economy, we must realize that petroleum consumption is going to go up as well. I do not seriously believe that the days of 7.5 percent annual increases in petroleum use will ever return, but most reliable estimates put growth at 4 percent per annum over the next 10 years.

Let me emphasize that an absolute zero growth rate in petroleum consumption, or even worse, an artificial ceiling based on 1973 consumption levels, will be accompanied by continued recession and double-digit unemployment figures. The Arab oil embargo resulted in a 7-percent drop in real GNP—eloquent proof that decreased demand can be pushed only so far without economic consequences that are totally unacceptable.

Still, this is the tactic that has been predominantly favored by the majority party. First, they offered us H.R. 6860, the Energy Conservation and Conversion Act, as reported by the Committee on Ways and Means.

This bill, with its reliance upon a gasoline tax and import quotas, will have created an artificial shortage of petroleum products, especially gasoline. It is a grotesque monument to the theory that Congress can reduce consumption without any visible consequences. Not satisfied with this travesty, the leadership served up the Interstate and Foreign Commerce Committee's gem, H.R. 7014. The height of lunacy was reached in this bill, which mandated that no more gasoline may be sold in the future than was sold during the embargo. Apparently the majority feels that the embargo was such a good idea that it needs repeating, and if the Arabs will not accommodate us, Congress will.

Now before us, the energy conferees have reported the conference bill to S. 622 (H.R. 7014), the Energy Policy and Conservation Act. This bill rather than encourage increased domestic production of petroleum, actually retards American energy independence. Not only will this measure drastically setback our energy efforts, but it will compound the regulatory problem that has been largely responsible for our present energy shortage. The oil price rollback provision of this legislation which Congress has scaled down to 12 percent from approximately 14 percent will immediately increase oil consumption in the United States. And, uncertainties with regard to future prices will cause many producers to put a lock on their wells during the coming forty months of control, the exact opposite of what is needed.

Our Nation hungers for more domestic crude oil. What is needed so desperately now is an increase in incentives for drilling to raise the domestic supply of petroleum. The only sound policy by which to do just this is by complete decontrol of domestic oil prices.

Price controls never work, they only create scarcities, and still higher prices in the long run. The only visible effect that the Emergency Petroleum Allocation Act, and the controls on "old" oil which it authorized, have had is the current mess we find ourselves in. As I stated during the debate on H.R. 7014:

> With the world market price for oil fluctuating between $11 and $14 a barrel, what producer in his right mind is going to pour his money into wells whose product brings him $5.25 a barrel?

Individual initiative and economic incentives inherent in our private enterprise system form the backbone of our great Nation. The only way to encourage more production is to allow petroleum producers to obtain a fair price for their product—a price in line with demand.

Of course, expiration of the President's authority to control oil prices will witness the price of oil from wells prior to 1972 in the United States to rise immediately from $5.25 a barrel to current market trends of $10 to $11 per barrel. I am not advocating that decontrol will not lead to increased prices of petroleum products. It will. But failure to decontrol will lead to a greater dependency upon foreign oil sources, which will be inevitably more expensive than decontrolled American produced oil. The days of cheap energy are over for good, it is about time we initiate a policy to accelerate the efforts of our individual producers by increasing economic incentives, unleashing competition, and stimulating technical progress in all areas of our oil industry. This calls for decontrol of oil as rapidly as possible.

I maintain that a sensible energy policy produces more energy. With the choice between this bill which would increase the shortage, or immediate decontrol, I view the latter infinitely preferable. Price controls have proved a disaster whenever they are imposed, and serve only to create a shortage of the controlled product. We need immediate offshore drilling. We need development of our shale oil reserves. Yet S. 622 will not accomplish any of these goals effectively. There is absolutely no justification for this legislation, which in essence is but a rewrite of the same old congressional proposals which have served us in the past so poorly.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I rise in reluctant opposition to the conference report on S. 622. We in the Congress have been telling the American people ever since this new Congress began back in January to hold on, to wait just a little while longer and the Congress will give the people a comprehensive energy bill.

To a great extent this bill does that. There are many excellent provisions which I strongly support. These include establishment of an oil reserve to provide greater protection against another Arab embargo should it become necessary; mandatory fuel-efficiency standards for automobiles; energy-efficiency standards for appliances; Federal funding for States that develop energy-conserving plans. The legislation also increases the reliability of Government information about the oil industry, something sorely needed. The Congress has here demonstrated clearly that we know that the resources of this country are unmistakably finite. And that this country must take responsible actions to conserve these resources by utilizing them in the most efficient and prudent manner possible. We have not backed away from our energy problems in these areas and have established a foundation to meet head on our energy conservation problems. Those that have worked closely with this legislation since its beginning must be commended for an excellent effort in these areas.

Mr. Speaker, were it not for title IV of this bill, dealing with the oil policy pricing provisions I would stand before this body as one of its strongest supporters. Instead I must stand here as one of its strongest opponents. Mr. Speaker, and my colleagues, the price provisions of this legislation can only increase our dependence on imported oil for the next few years, slow our rate of domestic energy development and perhaps by increasing consumption create another gasoline shortage. An effective energy program requires the stimulus to oil production and fuel conservation which only uniform, market prices—true market prices for oil can produce. We have recognized the fundamental and overriding fact of the oil crisis—that our resources are finite—but we have not dealt with them. We are saying with this bill, you the people must conserve, but here is cheap gas so you do not have to if you do not want to. We are saying that the country has a choice between artificial prices set by the Congress or artificial prices set by the world oil cartels.

Mr. Speaker, I too am concerned about the effects of decontrol on the overall economy. I voted back in July for $11.50 cap and a 39-month phased decontrol program, an effort that failed by a mere 18 votes to secure a majority vote in the House. I felt then and still feel that this would have been an excellent compromise of the massive and complex issues involved.

This was the best plan, my colleagues. It should have been adopted. Accordingly, Mr. Speaker, feeling as I did then, and as I do now, I find S. 622 counterproductive. I urge my colleagues to vote with me against this conference report—a vote to send it back to conference to develop a realistic policy to deal with the fundamental problem—that our resources are finite, and to a realization that we must recognize this fact and pay the price, the fair market unimpeded price.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I frequently come to this well taking a somewhat partisan position with respect to pricing. I know that, I admit it; but I want to talk now to the Members not as Democrats, not as Republicans, not as those who would cut back the price of oil, or as Members who would not cut it back. I want to talk to the Members of the greatest deliberative body in the world, the U.S. House of Representatives.

Mr. Speaker, I am glad to hear applause because if we did not vote "aye" on the motion for the previous question, we would appear to be a very different body, an aggregation of infants in the process of legislation.

We have come to this point after almost a year of deliberation, and, during the last part of that period, the conference sat not just as the conferees for the House and the Senate, but as a tripartite body, with the FEA present purporting to speak for the President with respect to the question of energy pricing.

If we should at this time not accept the motion that is made by my chairman, if we did not vote yes, and there happened exactly what the gentleman from Louisiana (Mr. WAGGONNER) said would happen, what would occur? The bill would be taken apart. Whatever agreement has been made, whatever work has been done would be dismantled at that point; and we would be back where we were at the beginning, indeed in a worse position than we were in the beginning for we appear to the people of the Nation as vacillating, fickle children.

Mr. Speaker, I am talking here to many who disagreed with me on the pricing section, and I think I can talk to them as persons who respect the House and its processes and respect reasonable accommodation within the power of Congress enough to keep intact a bill that has been worked on for a long time, and more than that, persons who want to retain the dignity of this House and do not want to make it the laughingstock of the Nation.

Mr. Speaker, we are that close to a solution of this problem. If we vote "aye" on this motion, we will have solved a difficult question, not for all time, but at least for a good while in the future.

If any Members have any question about the level of pricing, let me assure them that the average price in the bill that this body passed was $7.55.

The conference report's provisions that would be accepted if the chairman's motion is voted on favorably raises that figure to $7.66, and in addition, provides flexibility through a number of provisions including an escalator of up to 10 percent increase per year.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. Mr. Speaker, this legislation contains several important provisions affecting production of oil on the North Slope of Alaska.

Although these provisions were originally included in an effort to recognize the difficulties of production in Alaska, they will as currently written, seriously jeopardize the production of oil from the Prudhoe Bay field and place a severe crimp on future exploration activities in Alaska.

I am extremely distressed that this legislation places the reserves of Prudhoe Bay in an economically questionable position.

The 6-year delay in construction of the trans-Alaska pipeline has brought about vast increases in the cost of delivering the North Slope oil to the marketplace.

This legislation will allow the President to establish a ceiling price for Alaskan oil only if not disapproved by either House.

This provision will place the future financial solvency of the State of Alaska in the balance and subject to the whim of the political fever of the times.

Proponents of the Alaskan pricing formula base their arguments on the cost of producing the oil on the North Slope yet ignore the extremely high cost of transporting that oil to the market.

The full development of the Prudhoe Bay Reserves will only take place if the marginal costs for producing that oil are expressed in the marketplace. This situation is exactly like those that will be faced in the rest of the United States when controls governing marginal wells prove too restrictive.

Regardless of what is claimed by the proponents of this bill, this plays directly into the hands of the OPEC nations.

Exploration activities in the gulf of Alaska and the Beaufort Sea will be greatly inhibited by these price controls and place a further burden on the State government if lease sales in those areas produce little revenue.

In our search for energy independence, we cannot ignore the need for the efficient development of our domestic resources in an effort to stem the dependency on foreign oil.

Further, we cannot ignore the necessity of full production from proven reserves.

Only our market economy will allow for the attainment of these goals—not the will of Congress.

Finally, and most importantly, I cannot accept legislation that interjects a level of uncertainty into the potential revenues from the production of oil in Alaska.

The exploration and production of oil in Alaska is much too important to be hindered by this uncertainty.

I urge that this legislation be defeated for these reasons.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida Mr. Rogers, one of the conferees.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, may I say, and I only have a minute or so, that the conference report that has been brought to the floor is a common sense approach. Let me tell the Members why. All we have heard talked about is one small section of the bill, pricing.

Do the Members know that pricing has the agreement and the concurrence of the President's own advisor. Mr. Zarb has said that this is satisfactory because we give flexibility in the pricing section.

We have set a composite price which gives flexibility so that we can encourage new oil, and I repeat, new oil. That is where we have given the President the flexibility. Let me say this that at this pricing 2,000,000 barrels of Alaska oil is not even included in the present composite price and we give the President every 6 months the right to come in.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I cannot yield, if the gentleman from Alaska will permit, I only have a few moments.

We give the President the right to come in every 6 months to raise prices if it becomes necessary and the facts warrant this. Such prices go into effect unless this Congress says no.

So certainly we are all protected, and the advisers to the President thought so. That is one part of the bill: Everybody is protected. Another is conservation.

Mr. Speaker, this conference report represents a reasonable, commonsense resolution of a difficult problem—how to decrease this country's reliance on foreign sources of oil, and at the same time not jeopardize recovery from a severe and prolonged recession.

Throughout the debate over the months this year, and indeed, since October of 1973, there has been a consensus that oil imports should be reduced and that the reduction should be compensated for by a combination of increased domestic production, and reduced consumption but how are these proposed to be achieved?

This bill reflects the decision of this House and the Senate that we can achieve substantial reductions in energy consumption—not making all energy prohibitively expensive—but rather by changing the way we use energy—by increasing the efficiency of our energy use. This makes sense, since we well know that the other major industrial countries enjoy similar standards of living and similar industrial output at a per capita energy consumption a fraction of this country's.

So in this bill we give the President the statutory authority he requested in January to require energy efficiency labeling of appliances and automobiles, and to establish efficiency standards for major appliances. We put into law the increase in automobile gas mileage which the President has requested of the auto manufacturers. And we encourage private industry and the States, and require the Federal Government, to adopt plans to achieve substantial conservation over presently projected levels.

The bill also reduces vulnerability to any future cutoff of foreign supplies by giving the President the authority he requested in January to deal with emergency supply shortages by allocation and rationing and requiring emergency production rates, and to establish a strategic petroleum reserve as a buffer against such an emergency.

And the bill contains provisions designed to increase domestic oil supplies. It encourages the use of coal and requires domestic production of oil at the maximum efficient rate. And it establishes a pricing policy designed to do several things: to give the President flexibility to provide incentives for increased domestic production; to keep prices from rising too rapidly while the conservation provisions take effect, and, as a stimulus to the economy, to provide an initial rollback from today's prices to those of January of this year.

The pricing provision is the result of painstaking negotiations with the administration, and I believe it makes good sense. It recognizes the simple truth that it will be to no avail if we increase our domestic oil production, but there is not a sound economy to use that oil. I was very pleased to see the administration abandon a narrow concern for using increased prices to reduce consumption and increase supply, without concern for the effect of this on the economy.

It has never made sense to me that in January 1975, when the uncontrolled price of oil had been raised to about $11.28 by OPEC, that this country should say: "We don't think that's high enough," and raise the price another $2 by imposing an import fee—I would emphasize that this was not thought of as an incentive for increased domestic production—the President's proposal included a $2 excise on domestic oil as well. It was intended only as a brake on consumption.

But why stop there? Why not a $5 fee? Why not $25 per barrel oil? Because there are limits to what you can do to the economy in this way. And everyone has discovered this—OPEC, which has cut production 20 percent and has been unable to pass along its recent 10 percent price increase; the domestic companies, which have had to bank $1.4 billion of price increases the market would not bear, but most of all, the 8 percent unemployed in this country, and 12 percent in my district, and higher in many of your districts, who cannot find a job because an economy that runs on oil can no longer afford it.

In the face of this bankrupt, single-minded devotion to higher prices, whatever the effect, it seems eminently reasonable to me to adopt the conference pricing provision which would temporarily roll back oil prices to the levels of January, when new oil was selling at $11.28; $11.28 for oil which reflects OPEC's price increases from $1.75 a barrel in 1970, to $2.90 before the embargo and then to $5 in October of 1973.

It is not only reasonable, it represents quite a retreat from the stronger pricing provision this House adopted in its bill. As you will recall, at one point, the House voted 215 to 199 to strike the pricing provision altogether. Then the Members went home to their districts during the July recess and got the message on what their constituents thought of prices set by the formula, "OPEC plus two." The second vote was 231 to 193.

But we have compromised with the administration, and reached a reasonable solution.

If you would permit, I would make one final observation. The House recently adopted a budget resolution which permits a deficit of $75 billion. The economists tell me that if unemployment were reduced from 8 to 4 percent, revenues would increase and payment would decrease so that that deficit would be cut by $64 billion. Let us not forget the goal of balancing our spending with our receipts, by getting the economy back on the track.

By adopting the conference report, we are adopting an energy policy based on conservation, increased efficiency and increased production without forgetting the other goals we must pursue.

The **SPEAKER**. The time of the gentleman has expired.

Mr. **BROWN** of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. **COLLINS** of Texas. Mr. Speaker, the energy crisis in America will become much more severe if we pass this Energy Policy and Conservation Act conference report. This energy conference report was written for political expediency and ignores economic logic.

The most important conservation measure in the bill, which would have prohibited unreasonable transportation of all schoolbuses in America that are transporting public school students beyond their nearest school, was removed from the bill. Saving millions of gallons of gasoline and improving education at the same time—this worthy provision was omitted. So gasoline continues to be wasted.

America must produce more domestic oil. Yet, this conference report provides a $12.50 per barrel price to be paid for Arab crude oil and all foreign imports, while it limits domestic prices to $7.66 per barrel. This represents a rollback on American oil of $1.09 from the current domestic price of $8.75 per barrel. A few years ago, America was totally self-sufficient in oil. Yet, today we have gradually slipped back to where 43 percent of our oil is from imports. Twenty years ago, America was moving ahead by drilling 58,000 new wells each year. And we have dropped down to a 1973 level where we drilled only 28,000 wells. Open pricing could put America back on a self-sufficient oil basis within 5 years.

Instead, Congress has mandated price controls in the oil and gas industry. It should be emphasized that price controls are only on the oil and gas industry and on no other industry in America. Price controls always create product shortages. In all of history, price controls have never worked.

Let us recall the policy of the United States when we moved into the gold market, back in the days of President Roosevelt. Congress applied a price control of $35 an ounce for gold. Gold drifted abroad because the price on gold was higher. America lost 80 percent of its gold reserves on hand. Today the world price on gold is $138 an ounce, and America has finally been forced to get out of the price control business. Now that we have lost all of our gold, we are forced into the world market price.

While the price of gasoline in Europe ranges from $1.36 to $2 per gallon, we find short-sighted Congressmen who will not let gasoline seek its free level, which would be 3 cents higher than the present market, and would mean that gasoline would sell around 64 cents per gallon in the United States.

Why should America jeopardize the Peace in the Middle East by continuing to build and strengthen the Arab Nation' monopoly on the world oil? Why should we pay the Arab Nations $12.50 per barrel on oil, but pay only $7.66 to U.S. oilmen? We do not pay our own domestic producers enough to explore, develop and recover new and secondary production, which would make America oil self-sufficient.

During the past 10 years, the big oil corporations have achieved a record of accomplishment never matched by other industries. In 10 years, ending in 1973, the major U.S. oil companies invested $86.6 billion, whereas their total profits were only $60.6 billion. This means they invested $26 billion more capital than they earned in drilling, exploring and producing new oil.

So much of what a customer pays for gasoline is tax. Last year, taxes went up 30 times as much as stockholders' dividends increased. The price of crude oil is only a small part of what you pay for a gallon of gasoline at the pump.

In the past 50 years, the price of a gallon of gasoline—before taxes—has only inflated 58 percent, but the taxes on gasoline have gone up 13,230 percent.

It costs more to produce new crude oil. Much of the production is in secondary recoveries, which involves water injection and chemical treatments. Pipe is selling for twice as much; Labor costs 3 times as much as it used to. Costs are up and yet, under this absurd conference report, we roll back the price of crude oil on U.S. domestic production.

The conferees plan of rolling back the price would increase demand by 500,000 barrels per day. A lower price paid for U.S. crude oil will reduce supply by 600,000 barrels per day. This means we are going to be importing over 1 million barrels per day just as soon as this new plan is implemented. Coming on top of the loss of the depletion allowance, the petroleum industry's cash flow is crippled and oil development will be dropping rapidly.

Look at our domestic reserves, which have seen oil drop from a 13.5 year supply in 1938 to a 6.7 year supply in 1973. Gas reserves have dropped from a 40.5 year supply in 1940, to a 11.1 year reserve in 1973. We are not discovering new reserves, and we are rapidly using up the old fields we have on hand.

We talk about hydroelectric power and coal, but remember 76 percent of our total energy comes from oil and gas—46 percent is based on oil and 30 percent is generated from gas. America's demand and consumption increases as its per capita has risen from 14.2 barrels a year in 1949, to 30 per capita barrels in 1973.

It has been suggested that tar sands provide a good alternative source for oil. In 1967, the capital costs for tar sands was $6,000 per daily barrel. And today, estimates are running $20,000 per daily barrel for plant capital.

Although this bill will create less and less domestic oil, it does generate one thing and that's paperwork. I researched one of the smaller oil companies and found that on FEA form P324-A-O it will take 4,500 man-hours for the first submission, and 1,900 man-hours for subsequent annual submissions. This company spends $20 million annually preparing Government reports, and that means an extra price on your gasoline.

Enclosed is a listing of the 409 reports that are filed with 45 different agencies at this time. Many reports are duplicative. Many are never used. Many require information that the oil companies do not even have. With this new conference report on energy, the oil industry will have no one left in the fields finding new oil, but they will have the computers working day and night turning out 409 reports for 45 different Federal agencies. And, in addition, they have all of the State, county, and local commissions, plus all of the other reports any bureaucracy can dream up.

Listed below are the Federal reports now required:

409 reports to 45 different agencies

	No. of reports
Dept. of Interior	100
Dept. of Labor, HEW & EEOC	57
Dept. of Treasury	48

Dept. of Transportation	43
Dept. of Commerce	38
Federal Energy Administration	34
Dept. of Defense	28
Environmental Protection Agency	14
Interstate Commerce Commission	13
Federal Power Commission	11
Other	23
	409

Federal reports by subject matter

Prod. & Exploration Volumes & Operations	53
Domestic Sales and Exports of Crude Oil	45
Receipts, Runs and Inventory of Crude Oil	47
Transportation, Marine & Pipeline	69
Environmental, Health & Safety	43
Financial: Statements, Revenues, Costs and pricing	47
Personnel, Labor and Wages	50
Minerals and Coal Activities	10
Other (Primarily Permits and Licenses)	45
	409

Let Congress speak with courage and conviction and build a logical, progressive energy policy for America.

I urge you to vote no on this conference report.

The **SPEAKER**. The time of the gentleman has expired.

Mr. **DINGELL**. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. PREYER).

Mr. **PREYER**. Mr. Speaker, the Commerce Committee has worked overtime on one of the most complex issues ever to confront the Congress. Much of what it has produced merits our approval and I support the conference report. Yet in one crucial respect—the effect of the bill's pricing system on crude oil exploration in the lower 48 States—the measure is seriously deficient.

The exploratory effort is conducted largely by independent producers. Last year, according to industry data, independents found 94 percent of the new oil fields. For the first time in 15 years, independents drilled close to the limits of their ability. The reason was that the market price for new oil approached incentive levels. In one State, Kansas, where independents do virtually all of the drilling, a 20-year decline in production was halted. If there is one clear lesson to be learned about oil production from the recent past, it is that an adequate price for new oil is essential to exploration, and to the vitality of the independent sector of the industry.

Yet the bill cuts the new oil price by at least $2, and probably by as much as $2.50 per barrel. And that is only the begininng. As the production of old oil declines, new oil will inevitably make up a larger share of total domestic production. Since a composite price must be maintained, the new oil price must be brought down. Further, as FEA raises the price of old oil—as it is entitled to do under the bill—that, too, must be counterbalanced by a decrease in the new oil price if the composite price is not to be exceeded. Therefore both geology and administrative decisions will reduce the incentive for new exploratory efforts.

Major oil companies produce most of our new oil, as they do the old. But the major companies need not rely totally on an adequate new oil price. They have other sources of income. For the independents, and for domestic exploration, the new oil price is everything. If that price is depressed far below incentive levels, three things will happen: the rate at which new reserves are found will sharply decline; the ability of independents to compete with the majors will be reduced, and concentration of the industry will grow; and the United States must replace, with even higher priced oil from OPEC, every barrel it does not find and produce domestically.

If this bill is to become law, I believe it is vitally important that FEA maintain the new oil price for independent producers at incentive levels. That will require severe restraint in lifting old oil prices. It will also require giving to the independents' new, and stripper oil prices, a very substantial part of the annual increase in the composite price. The mechanism which the conference committee has chosen to regulate oil prices is a dangerous one. If it is not to cripple the exploratory efforts of the independents, it must be consistently exercised in a manner that will sustain their new and stripper prices at levels that make it economic for them to find and produce petroleum.

Mr. **STAGGERS**. Mr. Speaker, I yield 3 minutes to the majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. **O'NEILL**. Mr. Speaker, this is a bill that we have been working to perfect for a year. Our House Commerce Committee held 57 days of hearings and markup sessions. This House has had 11 days of debate, and we have had weeks of House-Senate compromise. In three instances the President vetoed energy bills that we sent to him. This, perhaps, has been the most parochial issue that could ever hit the floor. It is extremely difficult to write an energy bill.

We in New England, in the northeast section, who depend upon so much Arab and Venezuelan oil, feel differently about the legislation from those Members from Texas, or Oklahoma, or California, or Louisiana, or from the Tennessee Valley Authority section. We feel differently from those in the Northwest where there is an abundance of natural gas.

So it has taken all this time, all these months, these weeks, to write a comprehensive national energy bill which the advisors of the President say the President will sign.

I wish we had had more Members on the floor earlier today when the gentleman from Michigan (Mr. DINGELL) spoke. I think his remarks were excellent, and he outlined the bill in magnificent detail.

The issue that the Congress has worked on for a year now comes to a vote on the previous question. If we vote to defeat the previous question, allocation dies at midnight tonight. We then have no energy program for the Nation.

It is interesting to hear the cheers of the gentleman from Texas. I can imagine he is as parochial on the issue as are the other 434 Members representing different sections of the country. He is for oil, and he is for big oil. I admire him for articulating the economic values and oil interests of his area. However, if I were he, I would not sit there with a sneer or a smile at the rest of us who are trying to pass a national energy policy and conservation program. This is a problem that we have been fighting over a year. It is a national problem when we realize that in 1973 oil was selling in this country at a rate of $3 to $4 per barrel.

Inflation has gone up by 26 percent. That is a lot. It is 8 percent a year. But oil has gone up about 340 percent per year. Yet, some Members say that this bill hurts the fellow who is in the oil industry back home. I feel sorry if it hurts anybody, but I cannot conceive how in a period of 3 years the oil prices can go up 340 percent, and the oil industry can be hurt that badly.

If Members want to kill the bill, then they can vote against the previous question. But, if they want to vote in the best interest of America, if they want to vote in the best interests of the consuming public, then they should vote for the previous question. Let us send this bill, on which so many people have been laboring for so long, to the President of the United States because it is in the best interest of the American people, and because there are those of us who think of the American people.

Mr. **WAMPLER**. Mr. Speaker, this body has heard time and again of the importance of a national energy policy and why we must act now to guarantee energy self-sufficiency. All of us are aware, by now, without citing statistics that have become all too familiar since the oil embargo of 1973–74, that we are as a nation desperately in need of a policy that would guarantee energy self-sufficiency. We know, for instance, that nuclear energy can provide a substantial supplemental energy source at some point in the future; that geothermal energy will also provide a supplemental fuel source; that coal gasification and liquefaction, oil shale and solar energy, are future sources, as are perhaps the forces of the tides. We also know that while we are expanding our total energy base from other sources to maintain a high degree of economic viability, oil consumption must be decreased and domestic oil production must be increased. Then too we know that we are fortunate in our country to have sufficient coal resources to see us through this transition period of reducing oil consumption and increasing domestic oil production while at the same time researching and developing other sources.

We have before us today the conference report on the bill entitled "The Energy Policy and Conservation Act." This legislation, struggled over for the best part of this Congress, purports to establish an energy policy for the country by reducing the consumption of oil through energy conservation programs and by rolling back prices initially and then gradually allowing price decontrol over a period of years. As to whether this bill either establishes an oil policy or an energy policy, I must agree with the editorial appearing in the Washington Post, November 19, entitled "The Failure of Oil Policy," that this legislation "is a botched job."

Furthermore, the bill in attempting to convert some of our gas- and oil-fired burners in our electric utility plants to coal and thus save oil, also fails to get the job done that is needed to provide our people with adequate electrical energy for the future.

Mr. Speaker, this bill is not the kind of an energy bill the people want and need to keep our industries rolling and provide our people with jobs, heat, and light—it is not a cure to our energy dilemma.

Why, for instance, are we neglecting coal, our most abundant energy resource? The coal industry stands ready and willing to shoulder the burden, yet we continue to place our dependency on petroleum, a significant portion of which is imported from OPEC nations. This will continue to be the case until we remove unwarranted constraints imposed by Federal agencies, limiting the capability of the coal industry to rapidly increase production so that coal will be our energy base during this interim period. Domestic coal reserves are available now for production, sufficient to meet our projected Btu requirements for the next several decades. The simple fact of the matter is that domestic petroleum reserves are not available for production in quantities that would provide us with the necessary crude oil to meet our increasing energy requirements.

Presently we are facing a natural gas shortage which could place numerous jobs in jeopardy this winter, particularly in the industrial East and Middle Atlantic States. Just recently Columbia Gas of Pennsylvania announced that it is cutting off natural supplies for 5 months to 37 industrial customers. U.S. Steel, the Nation's largest steel producer, was among the affected companies. A spokesman for Columbia Gas stated that the cutback is designed to protect residential customers and is necessary because of dwindling supplies. Fortunately for the plants and employees involved, Columbia Gas selected 37 plants with alternative fuel capabilities. The point should be made that this is only December and the next group of plants affected may not have such capabilities. Therefore, it is imperative that those industrial installations now using our precious natural gas begin preparations to acquire the capability to convert to alternative fuel sources, preferably coal.

The Energy Policy and Conservation Act would extend the authority of the Federal Energy Administrator to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal. This provision does not go far enough, as no timetable is offered and no incentives are provided to expedite the process. The National Coal Policy Act, H.R. 9906, which I introduced in September, does include a timetable providing sufficient time and incentives for oil and gas burning electric powerplants and industrial installations presently not utilizing coal to convert to coal. After 10 years, oil and gas-fired electric powerplants and large industrial burners would be required to use coal as a primary energy source to the maximum extent practicable. This utilization will require an additional 300 to 400 million tons of domestic coal per year by 1985. It will establish a true oil conservation policy.

The Energy Policy and Conservation Act provides $750 million in loan guarantees for small operators to open underground low-sulphur coal mines—less than 1 million tons per year. This is the second and last coal provision provided, and will do little to stimulate coal production in the amounts required to meet the energy demands of our Nation. Certainly we should help the small operators, but coal, in the quantities required to form the base fuel for our energy policy, must come, for the most part, from those experienced mine operators in the industry. A similar policy encouraging wildcatters into the oil industry as the sole means of increasing domestic oil production would be laughed out of Washington. The Energy Policy and Conservation Act merely gives lip service to coal, our most abundant energy producing resource. No provisions are made for applicable Clean Air Act amendments or for coal transportation, or for research and development, without which we could not move the coal or burn it, regardless of any stepped-up coal production this bill might bring about.

The Energy Policy and Conservation Act is not a measure establishing an energy policy but rather a measure attempting to establish an oil policy. This is not to say that a revamping of our oil policy is not needed; however, we cannot accomplish this job and say to ourselves that now we have a new energy policy and our worries are now over. This simply is not the case. Under the bill before us today we are still using oil and gas as the basis for our energy policy. It is beyond comprehension that we are going to continue to depend on these energy sources as the basis when a domestic supply of both is critically limited. This reasoning is especially difficult to comprehend when one finds little or nothing in the bill before us to encourage oil producers to expedite the production of domestic oil supplies.

On September 29, I offered an alternative to this policy—H.R. 9906, to establish a National Coal Policy—which would take into consideration the ample coal reserves available, as well as the need to move from an energy policy based on oil and gas to one based in the near term primarily on coal. This bill, which I urged the Energy and Power Subcommittee to act on, would mandate coal substitution as previously discussed, and would also provide Federal funds and tax incentives to assist industry's required conversion. No such incentives are provided in the Energy Policy and Conservation Act. H.R. 9906 would require Clean Air Act amendments, including the use of tall stacks where reliable and enforceable. No provisions of this nature are provided in the Energy Policy and Conservation Act. As a matter of fact, the bill before us today, and other legislation soon to be brought to the Floor, places even more limitations than now exist on the burning of coal.

If we do not provide a reasonable balance to the environmental-energy question there are likely to be several conflicts and jurisdictional questions between the Federal Energy Administrator, who would be required under the act to direct a given plant to convert to coal, and the Administrator of the Environmental Protection Agency, who in turn would say that coal cannot be burned at that particular plant under existing Clean Air Act regulations. H.R. 9906 provides that technological and economic factors are to be considered jointly, identifying tradeoffs required to responsibly amend the existing air quality standards. This provision should act as a deterrent to the aforementioned conflicts. The National Coal Policy Act would further provide for railroad assistance and rail-banking of railroad trackage as well as consideration of coal pipeline development. These provisions are necessary to assure adequate coal transportation capability. The Energy Policy and Conservation Act is silent on these problem areas.

The coal industry, even now, is in dire need of assistance insofar as training and manpower development are concerned. This problem is not addressed in the bill before us today. H.R. 9906 would provide matching Federal-State grants through the Bureau of Mines to public colleges and universities doing mineral research and would authorize the Bureau to make basic Federal grants for training mineral and safety engineers and scientists. It would also authorize the Bureau to provide direct grants to high schools, community colleges, junior colleges and other educational institutions to train machine operators, mechanics, safety personnel, mine foremen and other mining personnel, and to grant supplementary funds to the private sector where this would be conducive to the increase of such training. The bill would further provide funding for additional coal mining and preparation research by the Bureau of Mines and provide Federal grants to States for pilot testing of improved coal land reclamation techniques. The bill would also allow accelerated write-offs for coal gasification and liquefaction development and tax write-offs for new mining equipment to insure necessary incentives and assurances to all sectors of our economy that their Government is serious about establishing a workable energy policy.

H.R. 9906, the National Coal Policy Act, is a comprehensive measure that carries the potential of shifting the basis of our energy policy from oil and gas to coal. The enactment of a national coal policy based on the concepts of my bill should go a long way toward guaranteeing an energy-independent United States by 1985.

I therefore cannot support this conference report. I will, however, support a simple extension of the current law for another 60 days, with a direction by the House to the Committee on Interstate and Foreign Commerce to redraft this legislation to prepare a true energy bill. Certainly we would be no worse off by the delay.

Mr. RIEGLE. Mr. Speaker, I concur in the gentleman from Louisiana, GILLIS LONG's statement that the Federal Energy

Agency not design a pricing structure which benefits the major oil companies at the expense of independent producers.

The existing price structure has enabled independent producers in Michigan to improve materially their oil reserves since the Arabs first imposed their embargo in October of 1973. In fact, more new oil and gas fields were found in Michigan last year than in any other part of the country and it has helped prevent a gas shortage in the State.

On a national scale, the independents found 94 percent of the oil in the United States last year. It is my understanding that the conferees intend that the price for new and stripper oil remain economically attractive so that the independents can maintain this momentum. I hope this is the case because I worry about the impact a rollback in the new and stripper oil price would have on independent production.

The assurance of a reasonable new and stripper oil price for independents within the confines of a composite price will not affect consumer prices. It would, however, insure continued exploration, price stability and ultimately greater independence from the Arab oil cartel.

If a reasonable price for independents is denied by the Federal Energy Administration the result will be a transfer of income from independents to the majors. I supported the amendment of the gentleman from Louisiana, and I support him again today.

Mr. HARRINGTON. Mr. Speaker, I rise in opposition to the conference report on S. 622, the compromise energy bill. The problem of meeting our future need for energy at prices which the people of this Nation can afford is probably the most important domestic issue today. Yet, after literally years of hearings and debates, we are being asked to vote for an energy bill which, by no stretch of the imagination, represents a comprehensive, workable, or even rational, approach to the energy problem.

Rather, it represents a vehicle by which both sides of the issue can claim partial victory and save face. In my opinion, this bill epitomizes what is wrong with Congress. I do not believe a single Member of Congress actually believes this legislation will be effective in the long run in either increasing supplies or holding down price. But like most other patchwork compromises that pass around here for policy, it is a bill which is least objectionable to the greatest number of people.

There is litle argument that we have a serious long-term energy problem. But there are two separate and distinct theories as to the cause of the problem and its solution.

One holds that the crisis is largely a function of government meddling in the free enterprise system, thereby not permitting the price of energy to rise sufficiently to cover the cost of development of new energy sources. The other holds that the energy crisis is largely a function of the monopolistic structure of the oil industry and that the solution lies in more Government control of energy development and prices.

Clearly, these two schools of thought are incompatible. Yet, after three years of work, the Congress has devised a piece of legislation which embodies both views. The bill sets ceilings on the price of oil and imposes all kinds of controls on oil companies, thereby making Congressmen like myself happy. At the same time, it provides for a phaseout of those very controls over a 40-month period, thereby making the administration and free enterprisers happy. In addition, it makes all of us incumbents happy by keeping prices low through the election, and then letting them rise once we have been safely returned to office. But while we all go home happy, the legislation has done nothing to solve the basic problem—it has probably made things worse.

I am voting against this bill with a great deal of reluctance. There are a number of vital sections of the bill which ought to be made part of any energy policy. The creation of crude oil and refined product reserves, to protect us from foreign blackmail; the extension of allocation policies to protect the independent sector from exploitation by the major oil companies; and the energy conservation standards and guidelines, all are important concepts which ought to be enacted.

But I cannot, in good conscience, vote in favor of what is little more than the business as usual response of a branch of government which has elevated compromise to its highest art form, even at the sacrifice of rational policy.

While the alternative to this bill—potential decontrol of oil—will, in my opinion, have serious detrimental effects on the American economy and consumers, they may not be as serious as the effects of permitting the American people to believe we have an energy policy, when in fact we have a pseudo-policy at best.

Mr. WIRTH. Mr. Speaker, I am pleased to see that the conferees have agreed to include a provision in this bill designed to encourage van pooling, a new energy-efficient way to get people to and from work. Van pooling makes use of 8-to-15 passenger vehicles, which are usually owned by employers.

Studies have shown that this new commuter transportation mode can cut gas consumption significantly and help relieve traffic congestion. In Minnesota, for example, a pilot project by the 3M Company has saved company employees over 1.4 million vehicle miles and more than 100,000 gallons of gasoline over the course of a year.

A similar program is underway at the Johns-Manville facility and at the ERDA Rocky Flats Plant in my own district in Colorado. These energy savings programs have a proven track record and enjoy wide public acceptance and support as an opinion poll which I inserted in the RECORD last week shows. These halting first steps should be encouraged and expanded.

Section 381 of the energy bill directs the Administrator of the Federal Energy Agency to undertake public education programs designed to encourage energy conservation and to promote car pooling and van pooling arrangements. Section 362 provides that van pooling promotional programs shall be included in State energy conservation plans, while section 363 states that these promotional activities are eligible for Federal funding after a State's energy plan has been approved.

Mr. Speaker, section 415 of the House bill, which I offered as an amendment in committee, authorized the Federal Energy Agency to begin working to encourage the use of van pooling. The van pooling provisions in the final version of the bill, while utilizing a somewhat different approach than the House version, will, nonetheless, enable us to accomplish what section 415 set out to do.

Mr. GUDE. Mr. Speaker, I intend to vote for this bill—albeit reluctantly—and I hope my colleagues and the President will support it as well. My support for the bill is based on the realization that it is probably the best we can get between a Congress uninterested in real conservation and an Administration committed to decontrol. The only alternative to this bill may well be no bill at all, meaning immediate price decontrol and a rapid resurgence of inflation. That this path is less desirable is the best argument for the bill.

Probably the most serious deficiency of the bill is its failure to deal meaningfully with the issue of conservation. I have commented on this before in connection with the energy tax bill (H.R. 6860) and the initial version of this bill (H.R. 7014). While setting up appliance energy efficiency standards of marginal significance, Congress has consistently refused to take any meaningful steps to guarantee gasoline conservation—the place where the greatest opportunity for savings lies. All efforts to set up a gasoline tax have been defeated. Efforts to impose a tax on inefficient autos were also defeated in favor of a regulatory standards system, an approach which opens the door to prolonged protests, delays and litigation as we have witnessed in the case of auto emission standards. A tax approach is a cleaner one administratively and one which builds in its own penalties for delays and noncompliance. By junking that approach we have agreed to accept years of argument with the auto industry and, ultimately, even further compromise away from our conservation goals.

The result, I fear, is a bill which will not effectively reduce our fossil fuel consumption to lessen our dependence on foreign oil, which is the real short run energy crisis. This failure is particularly unfortunate in view of the real limitations I see on our ability to increase domestic supplies.

This brings me to the bill's second deficiency—its failure to deal intelligently with the pricing/supply question. I base this conclusion on several premises I believe to be compelling. First, faced with an inevitably declining resource, it makes little sense, environmentally or economically, to sacrifice everything for that last barrel of oil or that last cubic foot of gas. Of course we should continue to explore and produce, but we should simultaneously recognize the midterm limits of that approach and put our real money on the development of alternative sources of energy. Granted that is a long term solution, but we must begin research and development for the long term now.

In the same context we should recognize that there is no free market in oil, that the price is effectively set by the Arabs and other foreign oil producers and that "decontrol" is not a market clearing tactic but a surrender to cartel pricing. The price of new oil has roughly tripled in the last several years without producing increases; indeed, the increases have mainly produced calls for decontrol of all prices. I fail to see why such a tactic is necessary to increase oil production.

Finally, we should return to basics. In the long run, energy alternatives to oil will be necessary. Decontrol is not a long run strategy. Neither, however, is it a short term strategy. Price increases in the past 2 years have not produced more oil, and I doubt that more increases will have a different effect; yet it is precisely here in the extreme short run that the crisis lies. That crisis is in the form of a potential future embargo by our foreign sources of oil, a crisis which will not be averted by decontrol.

One part of the answer to the crisis lies in some of the emergency features of this bill—the contingency plans, the petroleum reserve, and so forth. The other part of the answer, unfortunately, is missing. It is a tough conservation program—exactly my earlier point.

Having said all this, one might ask, why then are you voting for the bill? The answer is, simply because it appears to be all we can get. Despite the fact that the pricing provisions—a rollback followed by gradual decontrol—are blatantly political—the rollback lasts only through the next election—and economically unsound, the alternative appears to be continued Presidential vetoes, and ultimately, immediate, complete decontrol, which is not in anybody's interest except the major oil companies. Under these circumstances, then, I am constrained to support the conference report on S. 622, but I intend to continue pressing for other legislation that will better deal with our energy problems.

Mr. ROUSSELOT. Mr. Speaker, the conference report on the "Energy Conservation and Oil Policy bill" should be defeated in its present form. The bill amounts to another futile legislative effort to remedy a sickness, in this case the U.S. energy crisis, with a dose of the same cause that brought it on—a restricted market place with regulated prices.

While there are many provisions in the bill, ranging from stand-by rationing authority for the President, to provisions for a national civilian petroleum reserve, my comments on the bill will confine themselves to only a few areas that would produce especially onerous and undesirable results for the Nation and the Nation's goal of energy independence.

The first area of concern relates to title 4, and the change from the current two-tier pricing system for domestic crude oil to a so-called Average Price Plan. Under this plan "new" oil, which currently amounts to about 40 percent of domestic production, would, for the first time, come under price controls. The average price of all domestic oil, both "new" and "old," would immediately be rolled back from about $8.75 per barrel to $7.66 per barrel. Under the provisions of the proposed law, the President could allow this average price to rise by a maximum of 10 percent annually until the new law expires in 1979. Such price rises, however, would be subject to congressional veto.

All of the other sections and provisions of the bill are subordinate in importance to the effectiveness of this proposed "Average Price Plan." The provisions calling for reserves, auditing and rationing will contribute nothing toward solving our Nation's long-term energy problems if this proposed price structure fails to stimulate adequate investment in domestic exploration and development, and serves to continue our dependence on OPEC oil.

There are numerous problems with the new price plan. First of all, the plan mandates an average ceiling price without specifying how this ceiling is to be reached. As we all are aware, existing law requires a specified ceiling—$5.25 per barrel—for "old" oil, while leaving "new" oil prices free to respond to the market. The new plan, on the other hand would abolish the mandatory distinction between "old" and "new" oil, and would leave the President free to decide whether to create new categories and how to adjust prices within them. In place of the two tiers, it substitutes an indefinite number which could be changed at will and at whim. Nothing is definitely ruled out, except for the possibility for the oil to be priced by the best determinant of all: Full and free competition. For new companies trying to make long-term investment decisions in terms of exploration and new energy development, the new "Average Price Plan" increases uncertainty and risk.

It should be pointed out that uncertainty is especially significant in the high-cost areas of secondary and tertiary recovery—the use of water, steam, and chemicals to force previously unextractable oil into wells—and the development of oil in Alaska and on the Outer Continental Shelf. It is sad to note that under the provisions of the bill before us, oil explorer in Alaska, for the first time, will have to face the possibility that whatever new reserves they discover will fall under regulated price controls. It would be impossible for the President to exempt such reserves, or even to propose exempting such reserves, until 1977.

A major impact of the pricing plan will be to continue the ongoing decrease in domestic production and increase in imports from OPEC nations. This trend is inevitable since this legislation does nothing to remove the cause, as I mentioned earlier, but rather simply aggravates them. Some figures to point up this problem might be helpful.

Since 1973 the annual cost of imported oil has risen from $8.2 billion to $24.3 billion. During this same period of time, domestic production has fallen 8 percent. This reduction in domestic production has been caused primarily because of price controls which have artificially increased demand and reduced supply. The new price plan would serve to lower the controlled price even further, thereby creating even a greater gap between supply and demand. How big will the gap be? The American Petroleum Institute estimates that in 1980 consumption of imported oil will be 1.7 million barrels per day as a direct result of this legislation. And we thought this legislation was going to help reduce our dependence on foreign oil.

Whatever the exact figures may be, it is abundantly clear that the "average price plan" would significantly discourage discovery and exploration of new reserves. As today's "old" oil, now selling at $5.25 a barrel is used up, the President will have to push the price of "new" oil to lower and lower levels to meet the mandated average.

It seems that the only real goal of this legislation is a purely political one: to reduce the prices of fuel oil and gasoline to the consumer, and to keep them low, while doing nothing to solve the serious problem of reducing our energy dependence on foreign nations and increasing the Nation's energy alternatives by encouraging exploration for new oil and the development of new energy sources.

Mr. Speaker, the absurdity of this new price plan is clear. As Frank Zarb noted on November 6—

> All this bill does is guarantee that the higher energy bills are paid to foreign producers and not used to insure production from our own resources.

Rarely have a bill's certain effects been at more of a variance with its professed goals.

Mr. FRENZEL. Mr. Speaker, I shall vote against this strangely counter-productive conference report, despite the pleasure of seeing Congress finally do something, anything, after more than 2 years of ongoing energy crises. The logic of a bill which will reduce domestic energy supplies somehow eludes me.

The counter-productive nature of the bill is enhanced by the fact that it not only reduces domestic supplies, but also its artificial price rollback encourages demand. Even that weird policy might be tolerable for a while if the political motivation of a bill that reduces oil prices only until election time were not so obvious. That fact puts calluses and a very hard shell on an already bad policy.

A quick perusal of the "conservation measures" in this bill reveals no important, strong features which will reduce energy demand. The auto engine efficiency standards are the single feature which is supposed to generate more energy savings, but that feature only puts into the law some verbal guarantees already given by automakers to the President.

What I know about the bill is negative, but what we do not know concerns me even more.

Today for instance, we learned, on the floor, that the bill now contains certain loan guarantees to energy producers. Just this week, the House rejected similar loans by nearly a 2-to-1 margin. The same people who told us those loans were bad last week, are telling us they are good today. I guess it depends on whose friends own the mine.

The 40-month phaseout of price controls is the best feature of this bill. It would be tolerable if only the phaseout did not begin with a rollback. I have some doubts that this Congress, or another like it, will actually let controls expire. But because the expiration date exists, the bill only represents 3 years of bad policy which is surely better than bad policy in perpetuity.

Even if the bill should not be vetoed, or if a veto should be overriden, that expiration will eventually lead us to a more reasonable energy policy.

Mr. Speaker, the Congress should be congratulated for taking only 26 months to pass an energy policy. Unfortunately, it is a bad policy. I urge the defeat of this conference report.

Mr. SARASIN. Mr. Speaker, It is with some reluctance that I cast my vote in favor of this Energy Policy Act Conference Report before us today, but also with the conviction that there are positive aspects to this legislation and that it is unquestionably the best bill we can hope to get out of this Congress. For the same reason, I will urge President Ford to sign this bill into law rather than exercise the veto some Members have urged.

This is not a particularly good bill. It contains a blatantly political provision to temporarily roll back oil and gasoline prices until after the 1976 election, after which they will begin the inevitable rise. The entire pricing structure included in the bill is needlessly complex and difficult to administer and will undoubtedly result in significant short-term increases in oil imports.

The very mechanism of establishing a mandatory average price for old and new oil under the bill is contrary to experience and logic, since it requires steadily less expensive sources of new oil as the lower priced "old oil" resources are exhausted and it makes up a smaller and smaller percentage of the average barrel.

In the face of all this, I will support this bill because, again, it is the best we can hope for at this time. The Congress has been wrestling with the energy issue for 2 years now and the net result has been negative. When we return for the second session in January, we will not just be approaching a presidential election year, we will be in one. Clearly that will not improve the chances for agreement on a meaningful energy program, particularly with a number of Members of the Congress aspiring to higher office. The country can wait no longer to at least take a hesitating step toward an energy program.

The Conference report is surely a great improvement over the energy bill, H.R. 7014, which the House adopted in September. It does establish some form and direction for our energy policy. It includes provisions regarding coal conversion, strategic petroleum reserves, standby authorities, auditing powers, conservation goals, and international energy efforts many of us have been fighting for over the past months. It recognizes, albeit reluctantly and inadequately, the need for an upward adjustment of crude oil prices to reflect true market conditions and future resource development.

I vote for this bill today because the country simply cannot afford more haggling and inaction on the energy front. It is not a good answer to the Nation's needs, but if we recognize that it is a first step toward a policy and build on this very tentative start, we may be able to develop a workable policy.

Mr. PICKLE. Mr. Speaker, I rise in opposition to the conference report on S. 622, Energy Conservation and Oil Policy Act on the grounds that it will fail to accomplish its purpose to provide a comprehensive energy policy for the Nation. This bill would seem to encourage increased fuel consumption in the near future, discourage long-term domestic supply, and betray the American consumer.

The most complex part of this bill would provide for an immediate rollback in domestic prices by arbitrarily establishing a $7.66 per barrel composite price for all domestic oil. This rollback of $1.09 from the current average price of domestic oil and new oil is an arbitrary figure which misleads the consumers into thinking that they are going to save money. This can only be a very temporary measure. At best, it will encourage people to use more of a very scarce and expensive commodity. The formula itself is so complex that in order to interpret what a barrel of oil costs I predict that thousands of pages of regulations and interpretations will have to be published by the FEA. These fancy formulas that necessitate complicated regulations and interpretations of the regulations can only lead us further down the road to completely hamstringing the oil industry in Government red tape.

In my opinion, rolling back the price of crude oil is a step in the wrong direction. This will effectively stifle the incentive for new production that is desperately necessary. In order to attract the necessary capital we must assure it of a reasonable return. That is not true here. In fact the average price plan now necessitates an immediate cutback in the price of new oil but would encourage us to rely on foreign oil.

This short-sighted policy will also affect the permanent university fund endowment of the University of Texas. I would like to insert a copy of a letter that the chairman of the land and investment committee of the board of regents of the University of Texas wrote President Gerald Ford urging him to veto this legislation should it pass the Congress.

My major objections to the bill are as follows:

One. The oil pricing provisions. The bill, by establishing a domestic composite price of $7.66 per barel, represents a rollback on the average price of old oil of $.65, and a rollback on new oil of $2 a barrel. The result is to take away the incentive to drill for more new oil, and is a further disincentive to conservation.

Two. The grant to the President to administratively set prices for various categories of oil production. This is illusory, because when he raises the price of old oil, he must lower the price of new oil, since the composite price cannot exceed $7.66 per barrel.

Three. The administrative costs and burdens. The costs resulting from this bill are staggering. Not only are we encouraging a giant bureaucracy to continue to grow, issuing regulations, et cetera, that are already hopelessly complicated, as anyone who has had to study the FEA regulations will testify, but we are also requiring more recordkeeping on an already overburdened industry.

Four. This bill involves the jurisdiction of several committees; as has been made clear today. I urge you to think carefully of the long-term implications of this bill.

The letter follows:

THE UNIVERSITY OF TEXAS SYSTEM,
November 26, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As Chairman of the Land and Investment Committee of the Board of Regents of The University of Texas System which manages the lands set apart to the Permanent University Fund as an endowment of The University of Texas by the State of Texas, I urgently request that you veto H.R. 7014 (S. 622), "Oil Price Roll Back Legislation", which has recently been passed by both Houses of Congress and submitted to you for signature. Such bill, if signed into law, will have far reaching adverse effects on the Permanent University Fund Endowment of The University of Texas, and the millions of Texans of both this and future generations, who receive benefits from this permanent educational endowment; countless thousands of Texans who are directly or indirectly dependent upon the health of the oil and gas and related industries in this country for their livelihood; and ultimately all citizens of the United States who will have to pay higher and higher prices for a natural resource of this state which will arbitrarily be placed in a shorter and shorter supply.

The 2,100,000 acres of land set apart by the Constitution of Texas in 1876 for the permanent endowment of higher education in the State of Texas has played a vital role in providing energy to the people of the United States since its inception. The first major oil discovery in the vast Permian Basin of West Texas and Eastern New Mexico was made on University Lands in 1923, and since that time a total of 1.2 billion barrels of oil have been produced from the more than 268 fields located on University Lands. Current production from University Lands, if taken separately from other production in Texas, would rank it as the eighth largest producing state in this country.

The increase in prices for new oil which started in late 1973 and which has reached the $13.50–$14.00 per barrel level currently has clearly indicated that new petroleum reserves can be developed on these lands if the ever increasing costs of development can be offset by higher prices. The trend of decrease in actual production from University Lands can and is being reversed at this time as a result of higher prices. In 1973 oil production fell seven percent, but the decline was only one-half of one percent in 1974. Production has actually increased thus far in 1975. University Lands presently have more than 5,000 oil wells and 189 gas wells. Last year, an additional 120 wells were drilled, representing a fifty (50) percent increase over 1973. The more than 5,000 barrels a day of "new oil" production developed in 1974 was a result of new field drilling as well as "infill drilling" in old fields which also increased a substantial amount. Higher prices have also had a benefit on bonuses received on University oil and gas leases. Bonuses had begun a gradual decline in 1966–1972 from an average per acre price of $62.79 to $27.77. Bonuses received at the 62nd Auction Sale held on December 12, 1973, amounted to an average of $132.43 per acre; an average of $63.26 per acre for the 63rd Auction Sale held on September 19, 1974; and an average of $72.33 for the 64th Auction Sale held on October 10, 1975.

Higher prices being paid for intrastate gas even more dramatically indicate that higher prices will lead to the development of much needed reserves of this natural energy-resource. Up until 1972–1973 as a result of the fixed pricing policies adopted by the Federal Power Commission over the last 20 years, gas royalties amounted to only 9–10% of the total royalties received from University Lands. As gas prices have increased since 1973 from 30 cents MCF to their present level of about $1.90 MCF, gas royalties have increased about 500%. All of the increased gas production has come from discoveries in the deep gas Zone formations of the Delaware Basin which lie at depths ranging from 17,000 feet to 28,000 feet. Well costs can easily exceed $2 million and costs of wildcats in the deeper portions of the basin can go much higher. One recent dry hole on University Lands cost more than $5 million. These high costs can only be offset by higher prices and are a necessity to the development of these known but as yet unexplored reserves.

A recent study prepared by the University Lands Office of Geology located in Midland, Texas, indicates that higher prices for new oil has resulted in the largest geophysical exploration program ever conducted on University Lands having been initiated which is still some 6 months to a year from completion. Likewise, two tertiary recovery projects are being planned for University Lands in reservoirs where water flooding has failed. Reserves of oil under University Lands could be increased substantially by tertiary recovery, but not at the prices resulting from the roll back provisions of H.R. 7014. Of course, this is true of all producing areas in the United States not just University Lands. The roll back of new oil prices will result in the temporary shelving or permanent abandonment of these projects so vital to the continued growth of the Permanent University Fund endowment and the development of natural energy resources so desperately needed by the consumers of this country.

In view of the foregoing, I fervently urge that you veto H.R. 7014 which will have a lasting detrimental effect on the growth of the Permanent University Fund endowment and the millions of Texans who benefit therefrom; the independent oil industry in this State which has played a vital part in the development of these natural resources located on University Lands; and ultimately the people of the United States who will pay higher prices for its energy and be made more, rather than less, dependent on foreign oil at higher prices.

Respectfully yours,

EDWARD CLARK,
Chairman, Land and Investment Committee, The Board of Regents of The University of Texas System.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I am not at all sure what the President of the United States will do with this bill. He might sign it, he might veto it, but I can tell the Members one thing: If the previous question is voted down and the gentleman from Louisiana offers his amendment and it is adopted, I can guarantee the Members the President will come a great deal closer to signing it than he would to sign the bill as it came out of conference.

The one glaring error in this bill is the failure to understand something which unfortunately the Members on the majority side have not understood for a long time. That is that the name of the game as far as energy is concerned, is supply. Price is a function of supply. For some reason or other they cannot seem to get it into their heads that we do not set a price on petroleum by law if we expect to get an adequate supply.

So if we will allow the gentleman from Louisiana to offer his amendment to put the ceiling price—and I wish there were not any ceiling price—but if we allow the gentleman from Louisiana to put the ceiling price at what it is now instead of a rollabck, then I think very likely we would have a bill which would merit the signature of the President of the United States.

But believe me, there is no way we are going to get more oil by keeping with this fetish of trying to get a price by law which is lower than the market price.

Mr. Speaker, oil is oil, whether it comes from Saudi Arabia or Texas or Louisiana or Venezuela or Indonesia. It is still oil and the price determines whether we are going to have production in this country.

I do not have to tell the Members about our problems with the balance of payments. The thing we must do is get this country in a position to be self-sufficient in petroleum as rapidly as possible. If we cannot get this country to be self-sufficient in petroleum we will have to go to some alternative source. But we do have the oil reserves, we have natural gas reserves, and if we only allow the price mechanism to work these resources will be brought into play and we will once again have the situation the gentleman from Louisiana referred to, where we may make ourselves self-sufficient so far as oil is concerned.

My good friend, the majority leader, has mentioned that this is a sectional matter and it should not be. I agree with him. It seems to me this is a national problem and the whole Nation is served the best by providing the most energy for the lowest price, and the lowest price is obtained by providing the most energy. We have not been able to repeal the law of supply and demand, although we have tried.

So vote down the previous question and vote for the amendment of the gentleman from Louisiana.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I strongly oppose the conference report to accompany S. 622, the Energy Conservation and Oil Policy Act. It is a counterproductive piece of legislation that will only worsen our present energy problems.

As I have repeatedly stated on the House floor, we need to free ourselves from dependence on unreliable foreign oil. The Arab oil embargo and the staggering price increases by the oil producing nations have demonstrated that the United States must achieve energy independence. This country cannot continue to rely on foreign oil without endangering its economic and national security.

S. 622, however, will move us in exactly the opposite direction. It will mean less exploration, less development, and less production of domestic oil. This will necessitate even greater imports of foreign oil, precisely the path we must not follow.

Let us take a look at the pricing mechanism for domestic crude oil. The bill requires a rollback of domestic oil prices from their present average level of $8.75 per barrel to $7.66 per barrel. This is a $1.09 drop over the previous price. Although there is some provision for increasing the composite price, the allowable yearly increase is only a small percentage. In short, the domestic crude oil price is set far too low and is adjusted upward far too slowly.

Reducing the price of domestic oil may be politically popular. Over the long term, however, it will greatly injure our national interests. It will serve as a disincentive to production at a time when we need more production.

This makes no sense. It is ridiculous to roll back the price of domestic oil to $7.66 a barrel while imported oil is running over $12 a barrel. If we adopt such unrealistic price ceilings we will lock ourselves into permanent energy shortages.

This would be tragic. We must have greater domestic energy production if we are to become self-sufficient in energy and meet the growing energy needs of our citizens.

The best way to increase domestic production is to allow a higher rate of return on capital for the exploration and development of oil. Federal controls have taken the profit out of new energy development. It is time to put profit back into the business.

Higher prices would allow the use of secondary and tertiary recovery methods so that more petroleum would be available for everyone. Higher prices would also provide the capital that is needed to explore and develop new oil and gas reserves. This would especially help the small independents who drill about 80 percent of the wells in the United States.

We should not kid ourselves. The Congress cannot legislatively mandate the production of cheap oil in abundant quantities. Despite all the liberal rhetoric, Government controls do not create supplies.

Controls do, however, create shortages. The pricing provisions of this bill will mean that less oil will be discovered and produced in the United States. As domestic production drops, we will be forced to import more foreign oil.

This means an increased balance-of-payments drain. It also means increased dependence on unreliable foreign oil, Given the fact that our oil imports are already costing in the $25 billion a year range and that foreign oil is accounting for 40 percent of our needs, we can ill afford adding to either result.

Mr. Speaker, S. 622 is a faulty piece of legislation. The bill offers no real solution to our long-term energy needs. In fact, it will only make matters worse. I urge that it be defeated.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Speaker, I had not intended to speak on this subject, because I had spoken on it some months before, and was perhaps heard enough.

But, Mr. Speaker, in the 1 minute allowed me I would like to point out one reason that I will vote against the previous question: That is, that the bill, as it is presented to us at this point includes a kind of bureaucratic nightmare with regard to pricing provisions that is going to make it extremely difficult to implement. We have a composite price on new oil and we have GNP deflator and Government controls; but these controls are going to last for 40 months and at the end of that time this House will be in an even worse position if we pass the present bill than we are in now, because those controls will be continued for so long under such difficult circumstances that I would urge a no vote.

I wish, in addition, to make some observations on two particular sections of this bill.

First, I wish to discuss briefly the provisions in section 403(a) of the Energy Policy and Conservation Act of 1975. This section provides significant and necessary relief to a group of small refiners who have inadvertently been subjected to an unfair burden by FEA's crude oil equalization program, also known as the entitlements program. Many of the Nation's refiners with capacities of 100,000 barrels per day or less have been forced to purchase entitlements under this program, in effect paying subsidies to their competitors, who are often the major, integrated oil companies. Such a burden hardly accords with the concern expressed by this Congress in section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973, that the competitive viability of small refiners be preserved and enhanced.

A second burden has awaited those small refiners who have sought individual relief from FEA through its exceptions program. They have been subjected to profit margin restrictions placed on no other refiners in the industry, including those receiving subsidies. They have been forced to supply on almost a monthly basis marketing and financial data which are both costly and time consuming to obtain, particularly by the small companies involved here. Also, they have had to forego any rational planning for long-range expenditures—such as refinery expansion—since FEA will not grant exception relief for more than a few months at a time, even in cases in which such relief would make the difference between a company's earning a profit or suffering a loss for the period in question.

Section 403(a) of the Energy Policy and Conservation Act of 1975 corrects these unjust burdens on eligible entitlement purchase obligations by stipulating that the first 50,000 barrels per day of runs need not be "covered" by entitlements. The exemption begins with payments due in December, if the bill is signed this month. It further provides an orderly and open method of deciding whether this relief need be reduced in the future to any eligible refiner or group of refiners. At the same time, the exemption expressly protects small refiner entitlement sellers against any loss of entitlement revenue and assures that these refiners will continue to receive the full benefit of their status as sellers under the entitlements program.

In those instances in which the application of the partial exemption does, in fact, cause an unfair economic or competitive advantage to accrue to benefited refiners, the President may propose an amendment to the exemption. An "unfair economic or competitive advantage certainly does not mean a simple increase in profits or profit margin or a reduction in prices to the customers of benefited refiners. All of us who support this exemption recognize the need for small refiners to remain profitable and we all support reductions in petroleum prices. We do recognize, however, that small refiners could gain an unfair economic or competitive advantage if the direct result of the application of the exemption were a substantial and prolonged shift in market share for refined products to the benefited refiners at the expense of other small refiners.

The conference committee proposal permits an amendment to the partial exemption if its operation seriously impairs the flexibility necessary for the President to attain the objectives of section 4(b)(1) of the EPAA of 1973. Of course, we are all aware that the objectives of section 4(b)(1) are often mutually exclusive and that the exemption may appear to conflict at times with one or more of these objectives. This does not mean, however, that surface conflicts alone warrant the proposal by FEA of frequent amendments to the exemption. On the contrary, the joint explanatory statement of the committee of conference states:

> Here the conference substitute has added a *constraint* on the President's authority to amend the regulation. This constraint, not found in the House amendment, has been included to clarify and make compatible the terms of this section with those contained in new Section 4(e) relating to exemptions from entitlement obligations for certain small refiners. 121 CONGRESSIONAL RECORD pp. 39337–38, 9 December 1975. (Emphasis added.)

The conferees' use of the word "constraint" on the President's authority to amend the exemption signals clearly that the exemption should be given a reasonable trial period and not modified without compelling circumstances. Of course, the most reasonable way for the President to determine if an amendment to the exemption should be proposed would be to make findings after a hearing, on the record, with notice to affected refiners. Thus, the burden of providing that the benefits of this provision should be curtailed to any refiner would shift to the FEA, which would be responsible for making such findings in an orderly and reasonable way. The amendment becomes law unless either House of Congress disapproves it after expedited review. The result of such procedures will be a fair and accessible review arrangement that will protect competition among small refiners in the United States.

Second, I have some additional observations, based on my conversations with the distinguished chairman of the subcommittee, Mr. DINGELL, on section 403. Section 403 of the act, dealing with entitlements, does not define the term "control," although the phraseology seems to come from a very similar control provision in FEA regulations which is subject to FEA's exception rules. I understand that under section 403 the FEA, in each case, will have to decide if a control relationship exists that should require two companies to be treated as a single firm in determining whether they are eligible for the exemption.

Mr. STAGGERS. Mr. Speaker, I think the majority has the right to speak last, so I will yield to the minority.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the conference report before us today, S. 622, is not the piece of legislation I had hoped last January would be passed by Congress as oil policy law. The fact that 14 of the 32 conferees—all the Republicians and 3 of the 21 Democrats—refused to sign the conference report suggests my view of S. 622 is widely held.

My own preference would have been for legislation that would have gradually, but systematically and predictably, decontrolled the present prices of crude oil and petroleum products and terminated the allocation of all petroleum products by the Federal Energy Administration as soon as possible. This bill does not do that. Instead, it actually reduces prices from their present levels for so-called new oil.

I would have preferred a bill that did not provide for congressional committees to have the right to ask the General Accounting Office to audit the records of private firms in the oil industry from the corner gas station on up.

And I would have preferred to see no standards for fuel efficiency set on the automobile industry so far in advance as 1985, just as I would have preferred to see the Government limit its interests in appliance energy use to labeling and to only advisory assistance on conservation for major energy-consuming industries.

Each time I had the opportunity to work or vote for those specific preferences, I have done so. But I have been in the minority, and the result has been that provisions contrary to my views on those subjects have remained in the legislation.

But when H.R. 7014 left the House for conference with S. 622 and other energy bills which had been passed by the Senate, it had a lot of other very bad provisions in it. Many of these have been deleted in conference. And several other bad provisions of H.R. 7014 with which I took exception as it passed the House have been modified to such an extent that I now find them either acceptable or else not so onerous as to be by themselves sufficient cause to reject this bill. I distributed to my Republican colleagues this weekend a brief comparison of several of the provisions originally in H.R. 7014 when it passed the House in spite of my opposition and the improvements which were made in those provisions in the conference bill, S. 622, we have before us today.

IMPROVEMENTS IN THE CONFERENCE REPORT ON S. 622

First. The 1980 target for appliance energy improvement was reduced from 25 to 20 percent, a target that the great majority of manufacturers have indicated they can readily meet.

Second. Although mandatory automobile fuel efficiency standards through 1985 were retained, significant administrative flexibility to modify the standards was added by the conferees. The 1985 standard of 27.5 miles per gallon can be modified downward to 26 miles per gallon by DOT, and the adjustment in standards that was allowed by the House bill to take account of Federal emission requirements was expanded to also allow adjustments for Federal damageability, safety and noise requirements.

Third. In addition, the mandatory gasoline allocation program, which required by statutory fiat a reduction of U.S. gasoline consumption, was deleted by the conferees.

Other improvements made by the conferees included: Deletion of the Federal lands leasing provisions of the House bill which would have required production and sale within 2 years by mineral leaseholders on Federal lands.

The conferees also modified the comprehensive prohibition on joint ventures by major oil companies with respect to natural resources development to exclude oil shale and coal from the prohibition and to allow exceptions for ventures in high risk or frontier areas.

Finally, the $750 million coal loan guarantee program in the House bill was broadened to include coal from existing as well as new coal mines and to include other than low sulfur coal.

I felt that H.R. 7014 as it passed this House in September was a "turkey," as were S. 622 and the other energy legislation which came from the Senate and with which H.R. 7014 was sent to conference. I had little or no hope for the results of that conference because I felt it was impossible to breed two turkeys and get a swan. But as you know, legislative conferences are even more complicated processes than poultry breeding. While we did not get a swan from our two turkeys, we did get a partridge and—considering the season of the year—that appears to be the best we could have hoped for.

As I said before, the pricing provisions will have the impact for the next year and a half or so of discouraging the production of some domestic oil. But even the pricing provisions in this bill are a substantial improvement over what this House passed in H.R. 7014.

Under the conference report the $7.66 composite price for old and new oil produced in the United States is a substantial reduction from the present $8.63 composite price of domestically produced oil as influenced by the $2 tariff, but not that much of a reduction from the $7.83 composite price of domestically produced oil if the $2 tariff were to be removed, as the conference bill contemplates.

So let me now turn in detail to the most controversial part of this legislation: The pricing section.

What is the extent of that price rollback implied by the composite price of $7.66? If old oil is held at $5.25 per barrel under the S. 622 composite, the actual price allowed for new oil would be $11.28. That is a significant drop—about 18 percent—from the price of new oil on the current domestic market as a result of the $2 tariff. But it is not as significant a drop if one considers the domestic price without the impact of the $2 tariff, estimated at $11.70. The 42 cent difference between $11.70 and $11.28 is only about 4 percent. Under the provisions of S. 622, which permit a 10-percent price escalator annually, that 4 percent price differential will likely be made up within the first year. And beyond that, the administration can submit to Congress an amendment to increase the production incentive every 3 months.

Now I do not argue that new oil producers are happy with that rollback in prices for a year or so. But I do suggest that the rollback may not be too much of a kick in the pants in exchange for the opportunity to end controls after 40 months. Under the price controls in the law under which the Nation is currently operating, it is extremely difficult to raise the price of old oil from $5.25. Under the composite price arrangement of S. 622, it is possible that the price ceiling of old oil might be raised when it became necessary. But even if such action were taken, it is unlikely that such a step would stimulate additional domestic production over the next year or so, especially due to the long lead time required by the industry to develop new resources. But at the end of 2 years, the prices under S. 622 will be back to the current levels and the oil industry, no longer hampered by uncertain pricing policy, should be able to plan for expanded production.

Had I had my way, the gradual decontrol provisions of S. 622 would have started from the present composite price level and not from a rollback position. I offered a motion to that effect in conference and was defeated. So this is the best we could have gotten out of the conference. We now have another alternative—to vote down the previous question and to accept the amendment of the gentleman from Louisiana. If we do not do that I do not believe our Democratic colleagues in the Congress—particularly some who are embroiled in seeking the Presidency—are going to give us either an extension of present controls or some gentler decontrol arrangement initiated by the present occupant of the White House. We are too close to an election year for such bipartisan statesmanship.

So let us look at the impact of immediate decontrol, if you do not like this conference report. Under immediate decontrol, $5.25 oil—most of it in the hands of the major oil companies—will immediately go to the domestic market price, $13.70 with the $2 tariff, or $11.70 without it. But for our decontrol assumptions, let us use the $11.70 figure for all old oil and for all new oil produced in the United States and the $13 price for the foreign oil which will be needed to satisfy U.S. consumption demands. That means the blend price of foreign and domestic crude or average price of all oil sold in the United States will jump from $10.63, where it is now, to $12.12—an increase of $1.49. Since it is possible to get 42 gallons of gasoline from a barrel of oil, that means gasoline prices will go up from 3.5 to 6 cents per gallon, depending on the impact of natural gas liquids and whether or not present banked costs are passed through. Of course, these price increases will be felt first this winter in the prices of heating oil and propane because the gasoline market is now soft while the demand for heating oil is greatest. Then, when the driving season begins next summer, the impact of crude oil price increases will hit gasoline prices hardest.

The political impact of higher prices must be weighed by each Member against the need for return to a market without Federal controls in order to stimulate domestic production. The President has suggested that such a return to market prices be made gradually. We had a vote in the House on his proposal for such a phased decontrol plan over 39 months. Our concern then, and mine now, is about the impact of decontrol on an economy recovering from recession. I will not try to assess that except to suggest that I feel it is a valid concern.

There is another impact worthy of consideration, too. The profits of oil companies are likely to be sharply higher after total decontrol. If decontrol is immediate, the public reaction will begin to be felt when those profits are reported next summer and fall. Sharp increases in profits at that time are sure to revive the suggestion that oil companies should be broken up and divested of their marketing or refining facilities. Such legislation would be most unwise at a time when America is striving for energy independence and when large accumulations of capital are needed to develop new oil sources. But politically, a more gradual accumulation of that capital requirement may be wiser.

Another public reaction very well could be to force a burdensome windfall profits tax on the industry in the same way the depletion allowance was removed during reaction to the last temporary surge of oil company profits. The largest oil companies might be able to sustain such reactionary legislation because they have the most old oil. But independents, who are the producers of new oil, could very well be destroyed by such legislation.

In conclusion, let me say again that this conference legislation is not what I would have produced were I in the position to write the conference bill. But I have always maintained the position of working for the best possible legislation and I say without any hesitation that this is better legislation than I expected to come out of the conference when I voted—and asked my colleagues to vote—against H.R. 7014. This bill is no swan.

But it is not the turkey some would have us believe and could be much improved by the amendment of the gentleman from Louisiana.

Let me also note that we have been at this chore for 11 months now. I have come to feel like the mythological Greek, Sisyphus, who was condemned to rolling the great rock up that hill in Hades, only to have it slip when he got it close to the top and roll to the bottom again where he had to start over. The people at home are tired of our lack of success at getting oil policy legislation. They do not want that rock to roll to the bottom of the hill again and see us start over. This bill may not be exactly the right answer to the oil problem, but with the Waggonner amendment it may very well be the best answer that can be obtained, given the political realities that exist between a Republican President and a 2-to-1 Democratic Congress where every 40th Member is himself a candidate for President.

On several different occasions throughout the consideration of H.R. 7014, I expressed my interest in obtaining a compromise between the views of our President and this Congress so that we could eventually get an energy policy that would serve our national interest. While compromise never satisfies strong philosophical views, compromise is the essence of the legislative process. I have had the opportunity to express my strong philosophical views and I feel, perhaps immodestly, that my expression of these views has been helpful in winning significant improvement in this legislation—if not always a majority for my philosophical position.

So, though this bill still has some major flaws, the time has come for me to weigh my own philosophy, what is best for the Nation in the long run—even if it may not be that good in the short run—and what will be least harmful to the economy and best for my own district. Not all these considerations point to the same conclusion. And they will point in different directions for different colleagues. I will vigorously support the Waggonner amendment, but should it fail, for me, these considerations lead me to the close decision that I should vote for the conference report even though I did not sign it. I believe it is the best we could have done and I see little or no likelihood we will be given the opportunity to do better. So the choice I see is between this bill and immediate decontrol; and between those two choices, I prefer this bill—marginally.

The SPEAKER. The gentleman from West Virginia is recognized for 4 minutes.

Mr. STAGGERS. Mr. Speaker, the conferees on the part of the House have concluded work, and I believe, we have faithfully fulfilled our responsibility to bring back to this House a compromise bill which embodies a comprehensive national energy program.

Let me say at the outset, I am not personally satisfied with every aspect of this legislation. The final conference agreement does not reflect my personal opinion, nor does it represent the viewpoint of any single member of the conference. We have made every effort to define a policy upon which Congress and the President can agree. In this regard, throughout our deliberations, we tested our agreements with representatives of the President. We have been assured that the legislation which we present to the House today will be accepted by the President. The President's own energy adviser, Mr. Frank Zarb, Administrator of the Federal Energy Administration, has endorsed the conference substitute and recommended signature. I am optimistic, therefore, that the long and difficult task of developing a national energy policy will soon be concluded.

I will soon yield to the gentleman from Michigan, my colleague on the conference, to discuss more fully the terms of the conference agreement. But first I would like to comment briefly on the oil pricing policy evolved by your conferees.

Certainly the questions related to oil pricing were the most difficult presented to the conferees. Repeatedly, the Congress has been urged to remove price controls as a means of reducing this Nation's vulnerability to the OPEC nations. But, by removing price controls, we would, in turn, subject our entire economy to the whim and caprice of the OPEC pricing cartel. Surely this is a case where the cure would be worse than the disease of import dependency.

The conference substitute seeks to restore reason to petroleum prices. The objective is to stabilize the pricing system through the next 40 months at levels which are within the bounds of the consumers' ability to pay and producers' requirements to maximize investment in oil and gas production. The conferees believe that the price mechanism established in this legislation—which contemplates an initial domestic composite price of $7.66 per barrel increasing throughout the term of the 40-month program—strikes a proper balance between consumer and producer interests—a balance which the marketplace is unable to achieve because of the paralyzing influence of the OPEC cartel.

When this legislation was considered in the House, we attempted to assign different prices to various classifications of domestic production. Critics raised the objection that we had not properly taken into consideration the various costs and risk factors associated with the chosen classifications nor had we properly pegged the ceiling price at rational levels. Others contended that, in an attempt to finally tune the pricing provisions, we had created a program so complicated as to be incapable of being rationally administered. The conference substitute successfully avoids these liabilities. Instead, we leave to the discretion of the President, the administration of the price control authority, to create as many classifications of domestic production as he determines will optimize domestic production and be administratively feasible.

The President's administrative discretion is tethered in two primary respects. First, the President must establish ceiling prices at levels sufficient to result in a weighted average first sale price for domestic production which is equal to or less than a maximum allowable price fixed in the statute. Second, before the President allows any increase in the price for old oil above its current levels, he must specifically find that the increase is likely to produce greater levels of production than would otherwise occur.

In short, with some exception, the conferees have granted a significant measure of administrative discretion to the President to construct a rational pricing program throughout the next 40-month period. It seems to me this is a more appropriate way to legislate, rather than attempting to fill legislation with regulatory detail which has the tendency to become rigid and unresponsive to changing circumstances. The conferees expect that the President will use this discretion wisely and I can assure my colleagues that the Committee on Interstate and Foreign Commerce will take appropriate steps in the exercise of its oversight responsibilities to assure that a proper and sensible regulatory program will evolve from the authority hereby conferred on the President.

Mr. Speaker, there has been a lot of talk about the President maybe signing the bill. I will tell this House that during all the deliberations of that conference, we had consultations every day with the President's representatives. We had assurances from them that if we went along and did not all the things, but most of them, that we would have a Presidential signature.

Mr. Speaker, I think the President of the United States is a man of his word and that he had his intermediates talking to us each day and he made that statement and he said he will sign this. I have no question in my mind he will do it.

Mr. Zarb has said publicly he will recommend that the President sign this bill. I think all the rest of his representatives will see to that. We all took part in that in the Senate and the House and the administration each day, every day, and they were in on this.

This has many other things in the bill besides just pricing.

It has conservation, it has further plans for conservation. It has the use of coal and other fuels in place of our crude oil. It has a strategic reserve which we do not have today, making it unlikely that we will ever again be at the mercy of a foreign power. At the end of several years, we will have a billion barrels of oil in strategic reserve.

Do the Members want to knock that out? Do they want to go home to their constituents and say, "I voted against energy for America"? If they do, and give the constituents a Christmas present like that, I do not believe there will be a lot of us coming back.

I do not think that most of us want to do that, and a vote against the previous question will do just that. We will be once again in the hands of the OPEC nations, who will dictate to us.

This has in it a conservation measure so that automobiles must raise their mileage. It also has measures on appliances and many other features of the bill that have never been mentioned once, that are so important to this land. If we want to see America go down on its knees again to the OPEC nations, then vote against the previous question. If we want to see an independent nation, then vote for the previous question and we will bring something in that we can depend upon in America in our own right, and not depend upon somebody else abroad.

I would not dare go back to my district and say that I voted against energy. They would run me out. They would not only say, "We will not vote for you the next time,"' but they would say, "We do not want you around" and a lot of other Members would have the same experience, because energy is the most important thing there is in this land today, and it has been the most misused and abused thing in this country.

Today in my hometown there is more gasoline than they ever had in their history. They are trying to get dealers to sell more and to stay open on Sundays to sell gasoline. I say that for the good of America each and every one of us ought to make up his own mind and vote for what he thinks is right and not for what someone else tells him what his vote should be.

We have an energy plan. If we do not have this, we will not have one and there will not be any time to get one. The law goes out of existence tonight, and it will go wild then, and who is to blame? I think they will be pointing at those who voted against the previous question and saying, "You were the ones that brought chaos into the Nation." I do not want to be one of those, and I urge that the vote ought to be yea on the previous question.

Mr. PREYER. Mr. Speaker, I am pleased by that part of the text recommended by the conference report to accompany S. 622 which adds a new section 11 to the Emergency Petroleum Allocation Act of 1973 and which deals with the regulation which the 1973 act mandated the President to issue under section 4(a). The new section 11 will require the President to "promulgate, pursuant to the limitations and authority under section 12, such amendment, or amendments, to the regulation promulgated under section 4(a) as he determines are necessary or appropriate—first, to modify any provisions of such regulation in a manner which is consistent with the attainment, to the maximum extent practicable, or objectives specified in section 4(b)(1); or second, to eliminate any provisions of such regulation no longer necessary to provide for the attainment of such objectives." Presidential action would follow a hearing procedure which would allow interested parties to comment on the operation of the existing regulation.

My interest in this section results from my concern that the existing regulation works to stifle competition although the law, and the clear congressional intent, requires FEA to "restore and foster competition."

The relevant section, section 4(b)(1) of the 1973 act, says that the regulation shall provide for—

> (D) preservation to an economically sound and competitive petroleum industry; *including the priority needs to restore and foster competition* in the producing, refining, distribution, *marketing*, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded *independent marketers*, and branded independent marketers; (emphasis added).

However, one section of the regulation now in effect, section 211.63, does precisely the opposite, and would appear to lock in a monopoly of wholesale marketers while keeping out new competitors. Until recently—November 24—this regulation said:

> All supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program. . . .

Thus, the regulation requires producers to continue sales to the same marketers with whom they were doing business on December 1, 1973, and prohibits new crude oil marketers from purchases which would disturb these relationships. No provision is made by which new crude oil marketing companies may obtain supply sources. Competition is denied.

The effect of this is to freeze in, protect and perpetuate a monopoly. Data filed by one of these companies with the SEC reveals an enlargement of profits under the challenged regulation which resulted in those profits jumping from $19 million in 1973 to $59 million in 1974. Per barrel profits had a corresponding increase.

The U.S. District Court for the western district of Texas, San Antonio Division, in a decision October 6, 1975, captioned *Basin, Inc.* v. *Federal Energy Administration*, Civil Action No. 75–CA 250, issued a preliminary injunction against FEA. It ruled:

> There is a substantial question as to whether section 211.63 of the regulations, insofar as it denies plaintiff as a crude oil marketing company the right to purchase crude oil and makes no provision for allocation of supply purchased by the crude oil marketing industry on a fair and equitable basis among the members of that industry is in compliance with the Congressional mandate of the Emergency Petroleum Allocation Act of 1973 to restore, foster, and preserve competition in all segments of the petroleum industry. . . .

The court found that as a result "the plaintiff will in all likelihood be forced to discontinue its business." Clearly free enterprise competition was not being served by the regulation in the court's mind and an independent business was threatened by the enforcement of a regulation which this Congress did not anticipate in its 1973 act and which is contrary to the intent of the Congress in encouraging competition.

The FEA appealed that decision and amended its regulations.

On the eve of the argument in the Court of Appeals, after months in which FEA acknowledged inequity in the existing regulation, the new regulation was published. The announcement identified the purpose of the new regulation as "to allow for the new entry into the business of marketing crude oil"—conceding the inequity the court had already found. However, the new language then negated the impact it should have afforded by requiring as a condition to the establishment of a new supplier-purchaser relationship that the new wholesale marketer obtain from the refiner "their written consent to the proposed supplier substitution." Commonsense tells us that few refiners, if any, would want to consent to the substitution. He already has a relationship with the entrenched large operator who is protected by the FEA regulations and the refiner would not imperil that arrangement by telling the marketer to stop selling to the refiner, move over and give up part of the business to the little competitor. All the competition the 1973 law envisioned is undone by a telephone call between the parties to the existing relationship. It would appear that the new regulation might become an invitation to collusion and clearly violates the spirit of the statutory mandate for competition.

The joint explanatory statement of the conference committee on the bill which became the Emergency Petroleum Allocation Act of 1973, said of section 4(b):

> It is imperative that the Federal Government now accept its responsibility to intervene in this marketplace to *preserve competion* and to assure an equitable distribution of critically short supplies. Toward this end, the conference substitute requires the President to promptly implement a mandatory allocation program which *must be drafted so as to accomplish Congressionally defined objectives*. These are set out principally in section 4(b) of the conference substitute. Very generally stated they establish guidelines for the priority uses of fuels covered by this Act and set forth standards of action concerning the competitive structure of the industry and general economic policy to be followed in the establishment of the fuel allocation program. (Italics added.)

The history of the efforts of smaller, independent marketers to engage in the kind of competition mandated by the 1973 law is best told in the San Antonio decision. The FEA regulation does not foster competition; it stifles it. The new regulation offers no real change.

The new section 11 is the best hope we presently have for a real change. It is our best hope for the kind of competition the Congress intended in 1973 and which it must reaffirm today.

Mr. HANNAFORD. Mr. Speaker, I rise in most reluctant opposition to the conference report on S. 622. The chairman and his committee have labored so long on this legislation and the conferees have worked so diligently that I regret having to urge rejection of all their efforts, but in my judgment the oil pricing section of the bill simply will not work. I know that it will not work for some of the production in my district and elsewhere in the State of California. If it will not work in California it probably will not work in many other places.

The pricing of oil is, in my judgment, too complex an undertaking for the hand of mortal man. Out of concern for the shock to the economy I would not propose a sudden lifting of controls, however. But if control temporarily we must, those controls should not be so stringent as to discourage exploration and even shut in existing production. In my judgment the controls in this bill may do both, reduce present production and discourage exploration. We should, therefore, raise the limitations while the phaseout of controls takes place and should apply windfall profits taxes to encourage profits to be plowed into exploration. It would be better to err on the high side in this case and I fear this legislation errs on the low side.

Mr. Speaker, this is an infinite number of prices of oil based on production costs, and it is impossible to administer such a complex matter without making grievous mistakes.

Consider the situation in my district and in California. The city of Long Beach that I represent gets a reduced price of $4.19 for its heavy gravity crude. That price no longer pays for the cost of production and we are now shutting in wells; 2,700 barrels per day of production have already been stopped in the city of Long Beach. Much more production is on the verge of being shut in. Within a year 115,000 barrels per day will have been lost if present regulations prevail. Once these wells are shut in, in most cases they are gone forever for various technical and economic reasons. Understand I am saying we are pouring concrete in producing wells a $4.19 per barrel in California and buying replacements from overseas at $14. That does not make sense, Mr. Speaker, and I am afraid this legislation before us may do more of the same.

I do not know, my colleagues, how much the price of oil needs to be; but I do know how much oil we need. We need all we can get.

And when we have a pricing program that is resulting in producing wells being forced to discontinue production, it makes no sense to adopt a more stringent pricing system as this legislation does, though in the short term.

Mr. Speaker, I urge a "no" vote on the conference report.

Mr. HOWE. Mr. Speaker, for 2 years we have debated the issues of the energy problem with the intent to formulate a national program of energy conservation and development. We have discussed the benefits of "price-controls" and "no price controls," "old oil" and "new oil," "fast" and "slow" deregulation. We have considered testimony, reports, and statements from every sector of our country and now—2 years after we first faced the lineups at the corner service station—we are still without a national energy policy.

It is no wonder the American public is disconcerted over this issue. It doesn't take a President of the United States to realize the gravity of this problem—just ask a housewife who buys for her family, or a father who pays the utility bills, or a student who commutes to campus each day. Clearly, the issues that have impeded the adoption of a comprehensive program of energy development and conservation should have been resolved long before now. By approving the conference report to the Energy Policy and Conservation Act, we can, in my opinion, present the American people with an energy program that marks our commitment to energy independence. It is a beginning.

Fortunately, we have made, in this session, significant headway toward the achievement of energy self-sufficiency. On June 19, the House of Representatives passed the Energy Conservation and Conversion Act which pioneered our policy by mandating oil import quotas, auto efficiency standards, and a reduction in the industrial use of petroleum. We have passed the national petroleum reserves bill, which allows drilling and production in the Elk Hills and other fields previously reserved for military use only. Most importantly, the House passed on September 23 the Energy Conservation and Oil Policy Act. This bill, before the House today with amendments and a new title—Energy Policy and Conservation Act—recommended by conferees, is the cornerstone of our national energy policy. It includes provisions to improve competition within the energy industry, encourage coal-conversion research and application, improve auto efficiency, encourage industry and appliance energy conservation, and extend oil price controls on domestic crude oil, pending a gradual phaseout over a period of time.

In these bills we have underscored the pressing need to reduce our dependency on foreign oil by adopting strict energy conservation measures and developing alternative sources of energy. In my view, this twofold approach is the key to directing our energy policy away from oil consumption. In other legislation we have directly moved to encourage the development of alternative sources of energy; namely, oil shale, synthetic fuels, solar, nuclear, and geothermal power. We have passed the Energy Research and Development Administration authorization bill which would boost research efforts on all energy forms by $1 billion in fiscal year 1976. Also, we have passed legislation that aids the development of electric vehicles.

Recognition of our Nation's energy needs has revived interest in the potential of our vast coal resources. The U.S. recoverable coal supplies are more than double the equivalent oil reserves in all the Middle Eastern countries. I believe we must make every effort to utilize the enormous energy resource available in our coal reserves. In accord with this view, I have supported provisions in the major energy bills that provide loan guarantees to small coal operators, encourage coal conversion in industry, support the development of coal gasification and liquefaction processes. Furthermore, we have completed consideration in the House Interior and Insular Affairs Committee on H.R. 6721, the Federal Coal Leasing Amendments Act of 1975. This bill would step up coal production on Federal lands by requiring the diligent and planned development of these resources. I urge my colleagues to support this measure when it reaches the floor and thereby favor a necessary and positive step in our effort to achieve energy independence.

As we all know, much attention has been focused on the impasse between the President and Congress over the issue of the decontrol of "old oil" prices—pre-1972 domestic oil controlled at $5.25 per barrel. I have not generally supported the President's proposals because they tend to place the burden of fighting the energy battle on the consumer. Estimates indicate that the President's original plan, which called for immediate decontrol under a market situation where new domestic and foreign oil was selling at $13.50 per barrel, would cost the economy $40 billion in the first year, increase the consumer price index 5.4 percent by the end of 1976, and cost 700,000 jobs. All of this would add about $800 to the yearly cost of living in the average household. Fortunately, Congress and the American public, after seeing the economic folly of immediate decontrol, did not swallow the President's approach.

After reconsideration the President then suggested a 30-month decontrol plan and later a 39-month proposal. As a matter of compromise and concern over the timely need to adopt a national energy policy, I supported the President's 39-month plan. I prefer, however, the gradual decontrol arrangement adopted in the conference report to the Energy Policy and Conservation Act which sets a $7.66 per barrel composite price for all domestic oil, provides pricing flexibility for "high cost" new oil, and phases out controls over a 40-month period. I believe we are, in these provisions, looking at a policy of equity to both producers and consumers that could provide the core of any national energy policy. In addition, witnesses who testified before Congress, including oil company officials, agreed that a level near $7.50 is sufficiently high to cover the cost of production and provide exploration incentive.

As we all know, any consideration of the oil price issue must include recognition of our need to expand the domestic production of oil. Some believe that we should, in an effort to raise exploration capital, have no price controls and thereby allow the market to determine the price of oil. As a proponent of the free market concept and an opponent of all unnecessary Federal controls, I would quickly join those voicing this position if, in fact, a free and open market situation existed in the oil industry. But, under existing circumstances, petroleum prices are artificially set at high levels by the oil exporting countries. Therefore, I have favored an extension of the Emergency Petroleum Allocation Act until an acceptable gradual decontrol arrangement is adopted. Accordingly, I was disappointed to see the President veto our legislation that would have provided a temporary 6-month extension of controls beyond the August 30 expiration date. In my opinion, this action, coupled with his reluctance to accept congressional oil pricing provisions, appears to represent a continuation of his sanction for immediate decontrol. Clearly, I cannot support a policy that would require the American consumer to subsidize the cartel-marketing policies of the oil exporting countries.

On the subject of oil exploration, it appears to me that petroleum prices that have generated record revenues and profits for major oil companies are sufficiently attractive to encourage capital investment in exploration efforts. I would suggest to an industry enjoying preferential tax treatment and the ability to internally finance most of its operations that it look to sources other than the American consumer for capital. I believe oil executives could perform their companies and the public a timely service by increasing their participation in traditional capital markets, a practice common to most American enterprises. I think the energy crisis requires everyone to review his commitment to a true resolution of the problems hindering the achievement of national energy independence.

The course is clearly before us and we have no choice but to promptly resolve those issues preventing the adoption of a viable energy program. I believe that we can determine an equitable price for our domestic oil supplies; that we can become an energy-conscious people; and that we can develop fully our vast energy resources. Approval of the conference report to the Energy Policy and Conservation Act will help to move this Nation toward our goal of energy independence and I urge my colleagues to join me in support of this legislation.

The SPEAKER. The question is on ordering the previous question.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Speaker, if the previous question is voted down, then there is no vote on the issue raised by the gentleman from West Virginia (Mr. STAGGERS), and the time goes to the gentleman from Louisiana (Mr. WAGGONNER) for a motion, as I understand. Now, the vote to accomplish that would be a "no" vote, is that correct?

The SPEAKER. A vote against the previous question will permit an amendment to be offered to the pending motion.

Mr. BROWN of Ohio. I thank the Speaker.

The SPEAKER. The question is on ordering the previous question on the motion offered by the gentleman from West Virginia.

Mr. O'NEILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 179, answered "present" 1, not voting 39, as follows:

[Roll No. 788]

YEAS—215

Abzug
Alexander
Allen
Ambro
Ashley
Aspin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Carter
Chisholm
Clancy
Clay
Cohen
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Fountain
Fuqua
Giaimo
Gilman
Gude
Hall
Hamilton
Hanley
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Holtzman
Howard
Howe
Hubbard
Hughes
Jeffords
Johnson, Calif.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
McCormack
McDade
McFall
McHugh
Macdonald
Madden
Maguire
Mann
Matsunaga
Mazzoli
Meeds
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pike
Pressler
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Sikes
Smith, Iowa
Snyder
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Stokes
Stratton
Studds
Sullivan
Taylor, N.C.
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vigorito
Weaver
Whalen
Wirth
Wolff
Wylie
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—179

Abdnor
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Boggs
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Casey
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Esch
Eshleman
Findley
Fish
Flowers
Flynt
Forsythe
Frenzel
Frey
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Hagedorn
Haley
Hammerschmidt
Hannaford
Hansen
Hastings
Hightower
Hillis
Holland
Holt
Horton
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lent
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
McKay
Madigan
Mahon
Martin
Melcher
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
Passman
Patman, Tex.
Pettis
Pickle
Poage
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Risenhoover
Roberts
Robinson
Roncalio
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Nebr.
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Thone
Thornton
Treen
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Young, Alaska
Young, Fla.
Young, Tex.

ANSWERED "PRESENT"—1

Brown, Mich.

NOT VOTING—39

Adams
Addabbo
Andrews, N.C.
Annunzio
Bell
Biaggi
Burke, Fla.
Burton, John
Collins, Ill.
Coughlin
Dickinson
Diggs
Emery
Ford, Mich.
Fraser
Gaydos
Green
Guyer
Hébert
Hinshaw
Jarman
Jenrette
McKinney
Mathis
Metcalfe
Peyser
Riegle
Russo
St Germain
Simon
Stuckey
Symington
Teague
Thompson
Udall
Vander Jagt
Vanik
Waxman
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Hébert against.

Mr. St Germain for, with Mr. Brown of Michigan against.

Mr. Addabbo for, with Mr. Burke of Florida against.

Mr. Thompson for, with Mr. Dickinson against.

Mr. Biaggi for, with Mr. Guyer against.

Mr. Green for, with Mr. Teague against.

Mr. Russo for, with Mr. Hinshaw against.

Mr. John L. Burton for, with Mr. Bell against.

Mr. Ford of Michigan for, with Mr. Vander Jagt against.

Mr. Waxman for, with Mr. Jarman against.

Until further notice:

Mr. Riegle with Mr. Simon.

Mr. Stuckey with Mr. Udall.

Mr. Vanik with Mr. Fraser.

Mr. Adams with Mr. Andrews of North Carolina.

Mr. Diggs with Mr. Jenrette.

Mr. Metcalfe with Mr. Charles H. Wilson of California.

Mr. Mathis with Mr. Symington.

Mr. Emery with Mr. Coughlin.

Mr. DINGELL changed his vote from "nay" to "yea."

Messrs. PATMAN and HANNAFORD changed their votes from "yea" to "nay."

Mr. BROWN of Michigan. Mr. Speaker, I have a live pair with the gentleman from Rhode Island (Mr. ST GERMAIN). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BROWN of Ohio. Mr. Speaker, do I understand that if this motion passes, there is no vote on a conference report and that this in effect is a vote on the conference report? Is that correct?

The SPEAKER. The gentleman is correct.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WAGGONNER. Mr. Speaker, in answering the parliamentary inquiry propounded by the gentleman from Ohio (Mr. BROWN), the Speaker said this was in effect a vote on the conference report. Mr. Speaker, it would be more accurate to say that we cannot have a final vote on the conference report. If the motion offered by the gentleman from West Virginia (Mr. STAGGERS) is adopted, it goes to the Senate and if the Senate adopts the House version it then goes to the President.

The SPEAKER. The Chair will state that that is not a parliamentary inquiry. The gentleman from Louisiana (Mr. WAGGONNER) is making a speech and the gentleman has made several speeches already.

The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 236, nays 160, answered "present" 1, not voting 37, as follows:

[Roll No. 789]

YEAS—236

Abzug
Alexander
Allen
Ambro
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Carter
Chappell
Chisholm
Clay
Cleveland
Cohen
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Tenn.
Fountain
Fuqua
Giaimo
Gilman
Grassley
Gude
Hall
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hillis
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
McCormack
McDade
McFall
McHugh
McKinney
Macdonald
Madden
Madigan
Maguire
Mann
Matsunaga
Mazzoli
Meeds
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pike
Pressler
Preyer
Price
Randall
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Ryan
Santini
Sarasin
Sarbanes
Scheuer
Seiberling
Sharp
Sikes
Smith, Iowa
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Stokes
Stratton
Studds
Sullivan
Taylor, N.C.
Thone
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vigorito
Weaver
Whalen
Whitten
Wirth
Wolff
Wylie
Yates
Yatron
Young, Ga.
Zabloki
Zeferetti

NAYS—160

Abdnor
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Boggs
Bowen
Breaux
Brinkley
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Casey
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Esch
Eshleman
Findley
Flynt
Forsythe
Frenzel
Frey
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Hagedorn
Haley
Hammerschmidt
Hannaford
Hansen
Harrington
Hastings
Hightower
Holland
Holt
Hungate
Hutchinson
Ichord
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
McKay
Mahon
Martin
Melcher
Michel
Milford
Miller, Ohio
Mills
Montgomery
Moore
Moorhead, Calif.
Mosher
Murtha
Myers, Ind.
Myers, Pa.
O'Brien
Passman
Pettis
Pickle
Poage
Pritchard
Quie
Quillen
Railsback
Rhodes
Risenhoover
Roberts
Robinson
Roncalio
Rousselot
Runnels
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Nebr.
Spence
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Thornton
Treen
Waggonner
Walsh
Wampler
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Young, Alaska
Young, Fla.
Young, Tex.

ANSWERED "PRESENT"—1

Brown, Mich.

NOT VOTING—37

Adams
Addabbo
Andrews, N.C.
Annunzio
Bell
Biaggi
Burke, Fla.
Burton, John
Collins, Ill.
Dickinson
Diggs
Emery
Ford, Mich.
Fraser
Gaydos
Green
Guyer
Hébert
Hinshaw
Jarman
Jenrette
Mathis
Metcalfe
Peyser
Riegle
Russo
St Germain
Simon
Stuckey
Symington
Teague
Thompson
Udall
Vander Jagt
Vanik
Waxman
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. St Germain for, with Mr. Brown of Michigan against.

Mr. Emery for, with Mr. Hébert against.

Mr. Addabbo for, with Mr. Teague against.

Mr. Peyser for, with Mr. Jarman against.

Mr. Thompson for, with Mr. Hinshaw against.

Mr. Green for, with Mr. Dickinson against.

Mr. Annunzio for, with Mr. Burke of Florida against.

Until further notice:

Mr. Adams with Mr. Udall.

Mr. Biaggi with Mr. Fraser.

Mr. John L. Burton with Mr. Mathis.

Mr. Jenrette with Mr. Riegle.

Mr. Russo with Mr. Ford of Michigan.

Mr. Diggs with Mr. Simon.

Mr. Symington with Mr. Metcalfe.

Mrs. Collins of Illinois with Mr. Stuckey.

Mr. Vanik with Mr. Waxman.

Mr. Charles H. Wilson of California with Mr. Andrews of North Carolina.

Messrs. NICHOLS, WOLFF, LENT, CONTE, and RUPPE changed their vote from "nay" to "yea".

Mr. LONG of Maryland changed his vote from "yea" to "nay".

Mr. BROWN of Michigan. Mr. Speaker, I have a live pair with the gentleman from Rhode Island (Mr. ST GERMAIN). If he had been present, he would have voted "yea". I voted "nay". I withdraw my vote and vote "present".

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 5247, PUBLIC WORKS EMPLOYMENT ACT OF 1975

Mr. WRIGHT submitted the following conference report and statement on the bill (H.R. 5247) to authorize a local public works development and investment program:

CONFERENCE REPORT (H. REPT. NO. 94–733)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: That this Act may be cited as the "Public Works Employment Act of 1975".

TITLE I

SEC. 101. This title may be cited as the "Local Public Works Capital Development and Investment Act of 1975".

SEC. 102. As used in this title, the term—

(1) "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) "State" includes the several States, the

District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(3) "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

Sec. 103. (a) The Secretary is authorized to make grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects including but not limited to those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this title. In addition the Secretary is authorized to make grants to any State or local government for the completion of plans, specifications, and estimates for local public works projects where either architectural design or preliminary engineering, or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project under this title.

(b) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

Sec. 104. In addition to the grants otherwise authorized by this title, the Secretary is authorized to make a grant for the purpose of increasing the Federal contribution to a public works project for which Federal financial assistance is authorized under provisions of law other than this title. Any grant made for a public works project under this section shall be in such amount as may be necessary to make the Federal share of the cost of such project 100 per centum. No grant shall be made for a project under this section unless the Federal financial assistance for such project authorized under provisions of law other than this title is immediately available for such project and construction of such project has not yet been initiated because of lack of funding for the non-Federal share.

Sec. 105. In addition to the grants otherwise authorized by this title, the Secretary is authorized to make a grant for the purpose of providing all or any portion of the required State or local share of the cost of any public works project for which financial assistance is authorized under any provision of State or local law requiring such contribution. Any grant made for a public works project under this section shall be made in such amount as may be necessary to provide the requested State or local share of the cost of such project. A grant shall be made under this section for either the State or local share of the cost of the project, but not both shares. No grant shall be made for a project under this section unless the share of the financial assistance for such project (other than the share with respect to which a grant is requested under this section) is immediately available for such project and construction of such project has not yet been initiated.

Sec. 106. (a) No grant shall be made under section 103, 104, or 105 of this title for any project having as its principal purpose the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site) and having as its permanent effect the channelization, damming, diversion, or dredging of such watercourse or construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site).

(b) No part of any grant made under section 103, 104, or 105 of this title shall be used for the acquisition of any interest in real property.

(c) Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this title.

(d) Grants made by the Secretary under this title shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor can begin within ninety days of project approval.

Sec. 107. The Secretary shall, not later than thirty days after date of enactment of this title, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this title. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project areas, and (3) the extent to which proposed projects will contribute to the reduction of unemployment. The Secretary shall make a final determination with respect to each application for a grant submitted to him under this title not later than the sixtieth day after the date he receives such application. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of the grant requested. For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

Sec. 108. (a) Not less than one-half of 1 per centum or more than 10 per centum of all amounts appropriated to carry out this title shall be granted under this title for local public works projects within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be granted for such projects in all three of these jurisdictions.

(b) In making grants under this title, the Secretary shall give priority and preference to public works projects of local governments.

(c) In making grants under this title, if for the three most recent consecutive months, the national unemployment rate is equal to or exceeds 6½ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization.

(d) Seventy per centum of all amounts appropriated to carry out this title shall be granted for public works projects submitted by State or local governments given priority under clause (1) of the first sentence of subsection (c) of this section. The remaining 30 per centum shall be available for public works projects submitted by State or local governments in other classifications of priority.

(e) In determining the unemployment rate of a local government for the purposes of this section, unemployment in those adjoining areas from which the labor force for such project may be drawn, shall, upon request of the applicant, be taken into consideration.

(f) States and local governments making application under this title should (1) relate their specific requests to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions; and (2) where feasible, make requests which, although capable of early initiation, will promote or advance longer range plans and programs.

Sec. 109. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall not extend any financial assistance under this title for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

Sec. 110. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project receiving Federal grant assistance under this title, including any supplemental grant made under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

Sec. 111. There is authorized to be appropriated not to exceed $2,500,000,000 for the period ending September 30, 1977, to carry out this title.

TITLE II—ANTIRECESSION PROVISIONS

FINDINGS OF FACT AND DECLARATION OF POLICY

Sec. 201. (a) Findings.—The Congress finds—

(1) that State and local governments represent a significant segment of the national economy whose economic health is essential to national economic prosperity;

(2) that present national economic problems have imposed considerable hardships on State and local government budgets;

(3) that those governments, because of their own fiscal difficulties, are being forced to take budget-related actions which tend to undermine Federal Government efforts to stimulate the economy;

(4) that efforts to stimulate the economy through reductions in Federal Government tax obligations are weakened when State and local governments are forced to increase taxes;

(5) that the net effect of Federal Government efforts to reduce unemployment through public service jobs is substantially limited if State and local governments use federally financed public service employees to replace regular employees that they have been forced to lay off;

(6) that efforts to stimulate the construction industry and reduce unemployment are substantially undermined when State and local governments are forced to cancel or delay the construction of essential capital projects; and

(7) that efforts by the Federal Government to stimulate the economic recovery will be substantially enhanced by a program of

emergency Federal Government assistance to State and local governments to help prevent those governments from taking budget-related actions which undermine that Federal Government efforts to stimulate economic recovery.

(b) POLICY.—Therefore, the Congress declares it to be the policy of the United States and the purpose of this title to make State and local government budget-related actions more consistent with Federal Government efforts to stimulate national economic recovery; to enhance the stimulative effort of a Federal Government income tax reduction; and to enhance the job creation impact of Federal Government public service employment programs. It is the intention of Congress that amounts paid to a State or local government under this title shall not be substituted for amounts which the State would have paid or made available to the local government out of revenues from State sources.

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 202. (a) EMERGENCY SUPPORT GRANTS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall, in accordance with the provisions of this title, make emergency support grants to States and to local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(b) AUTHORIZATION OF APPROPRIATIONS.—Subject to the provisions of subsection (c), there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on April 1, 1976) for the purpose of making emergency support grants under this title—

(1) $125,000,000 plus

(2) $62,500,000, multiplied by the number of one-half percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such calendar quarter exceeded 6 percent.

(c) TERMINATION.—No amount is authorized to be appropriated under the provisions of subsection (b) for any calendar quarter if—

(1) the average rate of national unemployment during the most recent calendar quarter which ended 3 months before the beginning of such calendar quarter did not exceed 6 percent, and

(2) the rate of national unemployment for the last month of the most recent calendar quarter which ended 3 months before the beginning of such calendar quarter did not exceed 6 per cent.

ALLOCATION

SEC. 203. (a) RESERVATIONS.—

(1) ALL STATES.—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter for the purpose of making emergency support grants to States under the provisions of subsection (b).

(2) ALL LOCAL GOVERNMENTS.—The Secretary shall reserve two-thirds of such amounts for the purpose of making emergency support grants to local governments under the provisions of subsection (c).

(b) STATE ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(1) an amount for the purpose of making emergency support grants to each State equal to the total amount reserved under subsection (a)(1) for the calendar quarter multiplied by the applicable State percentage.

(2) APPLICABLE STATE PERCENTAGE.—For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

(A) the State excess unemployment percentage, multiplied by

(B) the State tax amount

by the sum of such products for all the States.

(3) DEFINITIONS.—For purposes of this section—

(A) the term "State" means each State of the United States;

(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of the State base period unemployment rate for that State from the State unemployment rate for that State;

(C) the State base period unemployment rate is equal to the average annual rate of unemployment in the State determined over the period which begins on January 1, 1967, and ends on December 31, 1969, as determined by the Secretary of Labor and reported to the Secretary;

(D) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

(E) the State tax amount is the amount of compulsory contributions exacted by the State for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined for the most recent period for which such data are available from the Social and Economic Statistics Administration for general statistical purposes.

(c) LOCAL GOVERNMENT ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(2) an amount for the purpose of making emergency support grants to each local government, subject to the provisions of paragraph (3), equal to the total amount reserved under such subsection for the calendar quarter multiplied by the local government percentage.

(2) LOCAL GOVERNMENT PERCENTAGE.—For purposes of this subsection, the local government percentage is equal to the quotient resulting from the division of the product of—

(A) the local excess unemployment percentage, multiplied by

(B) the local adjusted tax amount,

by the sum of such products for all local governments.

(3) SPECIAL RULE.—

(A) For purposes of paragraphs (1) and (2), all local governments within the jurisdiction of a State other than identifiable local governments shall be treated as though they were one local government.

(B) The Secretary shall set aside from the amount allocated under paragraph (1) of this subsection for all local governments within the jurisdiction of a State which are treated as though they are one local government under subparagraph (A) an amount determined under subparagraph (C) for the purpose of making emergency support grants to each local government, other than identifiable local governments, within the jurisdiction of such State.

(C) The amount set aside for the purpose of making emergency support grants to each local government, other than an identifiable local government, within the jurisdiction of a State under subparagraph (B) shall be—

(i) determined under an allocation plan submitted by such State to the Secretary which meets the requirements set forth in section 206(b), or

(ii) if a State does not submit an allocation plan under section 206(b) for purposes of this paragraph within 30 days after the date of enactment of this title or if a State's allocation plan is not approved by the Secretary under section 206(c), equal to the total amount allocated under paragraph (1) of this subsection for all local governments within the jurisdiction of such State which are treated as though they are one local government under subparagraph (A) multiplied by the local government percentage, as defined in paragraph (2) (determined without regard to the parenthetical phrases at the end of paragraphs (4) (B) and (C) of this subsection).

(D) If local unemployment rate data (as defined in paragraph (4)(B) of this subsection without regard to the parenthetical phrase at the end of such definition) for a local government jurisdiction is unavailable to the Secretary or the State for purposes of determining the amount to be set aside for such government under subparagraph (C) then the Secretary or State shall determine such amount under subparagraph (C) by using—

(i) the best available unemployment rate data for such government if such data is determined in a manner which is substantially consistent with the manner in which local unemployment rate data is determined, or

(ii) if no consistent unemployment rate data is available, the local unemployment rate data for the smallest unit of identifiable local government in the jurisdiction of which such government is located.

(E) If the amount determined under subparagraph (C) which would be set aside for the purpose of making emergency support grants to a local government under subparagraph (B) is less than $250 then no amount shall be set aside for such local government under subparagraph (B).

(4) DEFINITIONS.—For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary (in the case of local governments treated as one local government under paragraph (3)(A), the local unemployment rate shall be the unemployment rate of the State adjusted by excluding consideration of unemployment and of the labor force within identifiable local governments, other than county governments, within the jurisdiction of that State);

(C) the local adjusted tax amount means—

(i) the amount of compulsory contributions exacted by the local government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay) as such contributions are determined for the most recent period for which such data are available from the Social and Economic Statistics Administration for general statistical purposes.

(ii) adjusted (under rules prescribed by the Secretary) by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to expenses for education,

(and in the case of local governments treated as one local government under paragraph (3)(A), the local tax amount shall be the sum of the local adjusted tax amounts of all local governments within the State, adjusted by excluding an amount equal to the sum of the local adjusted tax amounts of identifiable local governments within the jurisdiction of that State);

(D) the term "identifiable local government" means a unit of general local government for which the Secretary of Labor has made a determination concerning the rate of unemployment for purposes of title II or title VI of the Comprehensive Employment and

Training Act of 1973 during the current or preceding fiscal year; and

(E) the term "local government" means the government of a county, municipality, township, or other unit of government below the State which—

(i) is a unit of general government (determined on the basis of the same principles as are used by the Social and Economic Statistics Administration for general statistical purposes), and

(ii) performs substantial governmental functions.

Such term includes the District of Columbia and also includes the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

For the purpose of paragraph (4)(D), the Secretary of Labor shall, notwithstanding any other provision of law, continue to make determinations with respect to the rate of unemployment for the purposes of such title VI.

CONTINGENCY FUND

Sec. 204. (a) Reservation.—The Secretary shall reserve from the amounts appropriated pursuant to the authorization under section 202 for each calendar quarter an amount equal to the amount, if any, not paid to State or local governments by reason of section 210 (c), but not in excess of an amount which is equal to 10 percent multiplied by the total amount appropriated under the authorization in section 202 for such quarter, for the purpose of making additional emergency support grants to State or local governments which are in severe fiscal difficulty, as determined under subsection (d).

(b) Allocations.—The Secretary shall allocate from the amounts reserved under subsection (a) such amount as he determines is necessary for an additional emergency support grant to assist each State or local government, upon application by such government, which is in severe fiscal difficulty. The sum of the amounts allocated under this subsection may not be less than 75 percent of the amount reserved under subsection (a) for the calendar quarter. No amount may be allocated for an additional emergency support grant to a State or local government under this section in excess of an amount equal to the lesser of—

(1) 10 percent of the amount allocated to such State or local government under section 203 for the calendar quarter, or

(2) 15 percent of the amount reserved under this subsection for the calendar quarter.

(c) Special Rule for Puerto Rico, Virgin Islands, Guam, and the Trust Territories of the Pacific.—The Secretary may allocate from the amount reserved under subsection (a) amounts for the purpose of making emergency support grants to the governments of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territories of the Pacific, upon application by such governments, if such governments are in severe fiscal difficulty, as determined under subsection (d). The total amount of payments made under this paragraph during any calendar quarter may not exceed 10 percent of the amount reserved under subsection (a) for that quarter. For purposes of sections 205 through 215, the governments of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territories of the Pacific shall be considered to be State governments.

(d) Criteria for Severe Fiscal Difficulty.—For purposes of this section, a State or local government shall be considered to be in severe fiscal difficulty if—

(1) the rate of unemployment during the appropriate calendar quarter within its jurisdiction exceeds the national annual average rate of unemployment,

(2) it is currently unable, or will be unable before the end of the current calendar quarter, to pay accrued interest to the holders of its outstanding debt instruments, or

(3) it must increase taxes immediately to maintain its level of basic services or reduce the level of those services before the end of the current calendar quarter.

USES OF EMERGENCY SUPPORT GRANTS

Sec. 205. Each State and local government shall use emergency support grants made under this title for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support grants made under this title for the acquisition of supplies and materials and for construction unless such supplies and materials or construction are essential to maintain basic services.

APPLICATIONS

Sec. 206. In General.—Each State and local government may receive emergency support grants under this title only upon application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary prescribes by rule. The Secretary may not require any State or local government to make more than one such application during each fiscal year. Each such application shall—

(1) include a State or local government program for the maintenance, to the extent practical, of levels of public employment and of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government which is consistent with the provisions of section 205;

(2) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the State or local government under this title;

(3) provide that reasonable reports will be furnished in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title and provide that the Secretary, on reasonable notice, shall have access to, and the right to examine any books, documents, papers, or records as he may reasonably require to verify such reports;

(4) provide that the requirements of section 207 will be complied with;

(5) provide that the requirements of section 208 will be complied with;

(6) provide that the requirements of section 209 will be complied with; and

(7) provide that any amount received as an emergency support grant under this title shall be expended by the State or local government before the end of the 6-calendar-month period which begins on the date after the day on which such State or local government receives such grant.

(b) State Allocation Plans for Purposes of Section 203(c)(3).—A State may file an allocation plan with the Secretary for purposes of section 203(c)(3)(C)(i) at such time, in such manner, and containing such information as the Secretary may require by rule. Such allocation plan shall meet the following requirements:

(1) the criteria for allocation of amounts among the local governments within the State shall be consistent with the allocation formula for local governments under section 203(c)(2);

(2) the allocation criteria must be specified in the plan; and

(3) the plan must be developed after consultation with appropriate officials of local governments within the State other than identifiable local governments. The allocation plan required under the subparagraph shall, to the extent feasible, include consideration of the needs of small local government jurisdictions with severe fiscal problems.

(c) Approval.—The Secretary shall approve any application that meets the requirements of subsection (a) or (b) within 30 days after he receives such application, and shall not finally disapprove, in whole or in part, any application for an emergency support grant under this title without first affording the State or local government reasonable notice and an opportunity for a hearing.

NONDISCRIMINATION

Sec. 207. (a) In General.—No person in the United States shall, on the grounds of race, religion, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

(b) Authority of the Secretary.—Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall, within 10 days, notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located, and the chief elected official of the unit) of the noncompliance. If within 30 days of the notification compliance is not achieved, the Secretary shall, within 10 days thereafter—

(1) exercise all the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d);

(2) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(3) take such other action as may be provided by law.

(c) Enforcement.—Upon his finding of discrimination under subsection (b), the Secretary shall have the full authority to withhold or temporarily suspend any grant under this title, or otherwise exercise any authority contained in title VI of the Civil Rights Act of 1964, to assure compliance with the requirement of nondiscrimination in federally assisted programs set forth in that title.

(d) Applicability of Certain Civil Rights Acts.—

(1) Any party who is injured or deprived within the meaning of section 1979 of the Revised Statutes (42 U.S.C. 1983) or of section 1980 of the Revised Statutes (42 U.S.C. 1985) by any person, or two or more persons in the case of such section 1980, in connection with the administration of an emergency support grant under this title may bring a civil action under such section 1979 or 1980, as applicable, subject to the terms and conditions of those sections.

(2) Any person who is aggrieved by an unlawful employment practice within the meaning of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by any employer in connection with the administration of an emergency support grant under this title may bring a civil action under section 706(f)(1) of such Act (42 U.S.C. 2000e–5(f)(1)) subject to the terms and conditions of such title.

LABOR STANDARDS

Sec. 208. All laborers and mechanics employed by contractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 C.F.R.

3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

SPECIAL REPORTS

Sec. 209. Each State and local government which receives a grant under the provisions of this title shall report to the Secretary any increase or decrease in any tax which it imposes and any substantial reduction in the number of individuals it employs or in services which such State or local government provides. Each state which receives a grant under the provisions of this title shall report to the Secretary any decrease in the amount of financial assistance which the State provides to the local governments within its jurisdiction below the amount which equals the amount of such assistance which such State provided to such local governments during the 12-month period which ends on the last day of the calendar quarter immediately preceding the date of enactment of this title, together with an explanation of the reasons for such decrease. Such reports shall be made as soon as it is practical and, in any case, not less than 6 months after the date on which the decision to impose such tax increase or decrease, such reductions in employment or services, or such decrease in State financial assistance is made public.

PAYMENTS

Sec. 210. (a) In General.—From the amount allocated for State and local governments under sections 203 and 204, the Secretary shall pay to each State and to each local government, which has an application approved under section 206, an amount equal to the amount allocated to such State or local government under section 203 or section 204.

(b) Adjustments.—Payments under this title may be made with necessary adjustments on account of overpayments or underpayments.

(c) Termination.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if—

(1) the average rate of unemployment within the jurisdiction of such State or local government during the most recent calendar quarter which ended three months before the beginning of such calendar quarter was less than 6 percent, and

(2) the rate of unemployment within the jurisdiction of such government for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent.

STATE AND LOCAL GOVERNMENT ECONOMIZATION

Sec. 211. No State or local government may receive any payment under the provisions of this title unless such government in good faith certifies in writing to the Secretary, at such time and in such manner and form as the Secretary prescribes by rule, that it has made substantial economies in its operations and that without grants under this title it will not be able to maintain essential services without increasing taxes or maintaining recent increases in taxes thereby weakening Federal Government efforts to stimulate the economy through reductions in Federal tax obligations.

WITHHOLDING

Sec. 212. Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State or local government, finds that there has been a failure to comply substantially with any provision set forth in the application of that State or local government approved under section 206, the Secretary shall notify that State or local government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title.

REPORTS

Sec. 213. The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which grants are made under the provisions of this title. Such report shall include information on the amounts paid to each State and local government and a description of any action which the Secretary has taken under the provisions of section 212 during the previous calendar quarter. The Secretary shall report to Congress as soon as is practical after the end of each calendar year during which grants are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to State and local governments under the provisions of this title, any actions with which the Secretary has taken under the provisions of section 212, and an evaluation of the purposes to which amounts paid under this title were put by State and local governments and the economic impact of such expenditures during the previous calendar year.

ADMINISTRATION

Sec. 214. (a) Rules.—The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary for the purposes of carrying out his functions under this title.

(b) Coordination.—In administering the provisions of this title, the Secretary is authorized to use the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

PROGRAM STUDIES AND RECOMMENDATIONS

Sec. 215. (a) Evaluation.—The Comptroller General of the United States shall conduct an investigation of the impact which emergency support grants have on the operations of State and local governments and on the national economy. Before and during the course of such investigation the Comptroller General shall consult with and coordinate his activities with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The Comptroller General shall report the results of such investigation to the Congress within two years after the date of enactment of this title together with an evaluation of the macro-economic effect of the program established under this title and any recommendations for improving the effectiveness of similar programs. Such report shall include the opinions of the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations with respect to the program established under this title and any recommendations which they may have for improving the effectiveness of similar programs. All officers and employees of the United States shall make available all information, reports, data, and any other material necessary to carry out the provisions of this subsection to the Comptroller General upon a reasonable request.

(b) Countercyclical Study.—The Director of the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations shall conduct a study to determine the most effective means by which the Federal Government can stabilize the national economy during periods of excess expansion and high inflation through programs directed toward State and local governments. Before and during the course of such study the Director and the Advisory Commission shall consult with and coordinate their activities with the Comptroller General of the United States. The Director and the Advisory Commission shall report the results of such study to Congress within two years after the date of enactment of this title. Such study shall include the opinions of the Comptroller General with respect to such study.

TITLE III

Sec. 301. (a) Section 201(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 202, except that annual appropriations for the purpose of purchasing evidences of indebtedness, paying interest supplement to or on behalf of private entities making and participating in loans, and guaranteeing loans, shall not exceed $170,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and shall not exceed $55,000,000 for the fiscal year ending June 30, 1974, and shall not exceed $75,000,000 for the fiscal year ending June 30, 1975, and shall not exceed $200,000,000 for the fiscal year ending June 30, 1976.".

(b) Section 202(a)(1) of such Act, as amended, is amended by adding after paragraph (1) the following new paragraph:

"(2) In addition to any other financial assistance under this title, the Secretary is authorized, in the case of any loan guarantee under authority of paragraph (1) of this section to pay to or on behalf of the private borrower an amount sufficient to reduce up to 4 percentage points the interest paid by such borrower on such guaranteed loans. Payments made to or on behalf of such borrower shall be made no less often than annually. No obligation shall be made by the Secretary to make any payment under this paragraph for any loan guarantee made after December 31, 1976."

(c) Section 202(a) of such Act, as amended, is amended by renumbering existing paragraphs (2) through (10) as (3) through (11), respectively, including any references thereto.

Sec. 302. Title IV of the Public Works and Economic Development Act of 1965 is further amended by adding at the end thereof, the following:

"PART D—URBAN ECONOMIC DEVELOPMENT

"Sec. 405. (a) For the purposes of this section, the term 'city' means (A) any unit of general local government which is classified as a municipality by the Bureau of the Census, or (B) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to those associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the Bureau of the Census.

"(b) Any city with a population of 50,000 or more which has submitted to and has had approved by the Secretary an overall economic development program in accordance with section 202(b)(10) of this Act shall be designated by the Secretary as a 'redevelopment area' and such area shall be entitled to the assistance authorized by this Act, except that only funds authorized by subsection (d) of this section shall be expended in providing such assistance to a city whose only designation as a 'redevelopment area' is under this section. Nothing in this section shall be construed to prohibit the designation of a city as a 'redevelopment area' under this section in addition to its designation as a 'redevelopment area' under any other provision of this Act, and nothing in this section shall be construed to prohibit a city designated a 'redevelopment area' both under this section and another provision of this Act from receiving assistance under this Act through the expenditure of funds both under this section and under any other provision of this Act.

"(c) In addition to any other assistance available under this Act, if a city that has been designated as a redevelopment area under this section prepares a plan for the redevelopment of the city or a part thereof and submits such plan to the Secretary for his approval and the Secretary approves such plan, the Secretary is authorized to make a grant to such city for the purpose of carrying out such plan. Such plan may include industrial land assembly, land banking, acquisition of surplus government property, acquisition of industrial sites including acquisition of abandoned properties with redevelopment potential, real estate development including redevelopment and rehabilitation of historical buildings for industrial and commercial use, rehabilitation and renovation of usable empty factory buildings for industrial and commercial use, and other investments which will accelerate recycling of land and facilities for job creating economic activity. Any such grant shall be made on condition (A) that the city will use such grant to make grants or loans, or both, to carry out such plans, and (B) the repayments of any loans made by the city from such grant shall be placed by such city in a revolving fund available solely for the making of other grants and loans by the city, upon approval by the Secretary, for the economic redevelopment of the city.

"(d) There is hereby authorized to be appropriated to carry out this section not to exceed $50,000,000 for the fiscal year ending June 30, 1976, and not to exceed $50,000,000 for the transition period ending September 30, 1976."

Sec. 303. (a) Section 1003(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) Where necessary to effectively carry out the purposes of this title, the Secretary of Commerce is authorized to assist eligible areas in making applications, for grants under this title.".

(b) Section 1003(d) of such Act, as amended, is amended to read as follows:

"(d) Notwithstanding any other provisions of this title, funds allocated by the Secretary of Commerce shall be available only for a program or project which the Secretary identifies and selects pursuant to this subsection, and which can be initiated or implemented promptly and substantially completed within twelve months after allocation is made. In identifying and selecting programs and projects pursuant to this subsection, the Secretary shall (1) give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment measured as the amount of such direct and indirect employment generated or supported by the additional expenditures of Federal funds under this title, and (2) consider the appropriateness of the proposed activity to the number and needs of unemployed persons in the eligible area.".

(c) Section 1003(e) of such Act as amended, is amended to read as follows:

"(e) The Secretary, if the national unemployment rate is equal to or exceeds 6½ per centum for the most recent three consecutive months, shall expedite and give priority to grant applications submitted for such areas having unemployment in excess of the national average rate of unemployment for the most recent three consecutive months. Seventy per centum of the funds appropriated pursuant to this title shall be available only for grants in areas as defined in the second sentence of this subsection. If the national average unemployment rate recedes below 6½ per centum for the most recent three consecutive months, the authority of the Secretary to make grants under this title is suspended until the national average unemployment has equaled or exceeded 6½ per centum for the most recent three consecutive months. Not more than 15 per centum of all amounts appropriated to carry out this title shall be available under this title for projects or programs within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be available for such projects or programs.".

Sec. 304. Section 1004 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"Sec. 1004. (a) Within forty-five days after enactment of the Emergency Job and Unemployment Assistance Act of 1974 or within forty-five days after any funds are appropriated to the Secretary to carry out the purposes of this title, each department, agency, or instrumentality of the Federal Government, each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 502 of this Act, shall (1) complete a review of its budget, plans, and programs and including State, substate, and local development plans filed with such department, agency or commission; (2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in the calendar year and additional programs and projects (including new or revised programs and projects submitted under subsection (b)) for which funds could be obligated in such year with Federal financial assistance under this title; and (3) submit to the Secretary of Commerce recommendations for programs and projects which have the greatest potential to stimulate the creation of jobs for unemployed persons in eligible areas. Within forty-five days of the receipt of such recommendations the Secretary of Commerce shall review such recommendations, and after consultation with such department, agency, instrumentality, regional commission, State, or local government make allocations of funds in accordance with section 1003(d) of this title.

"(b) States and political subdivisions in any eligible area may, pursuant to subsection (a), submit to the appropriate department, agency, or instrumentality of the Federal Government (or regional commission) program and project applications for Federal financial assistance provided under this title.

"(c) The Secretary, in reviewing programs and projects recommended for any eligible area shall give priority to programs and projects originally sponsored by States and political subdivisions, including but not limited to new or revised programs and projects submitted in accordance with this section.".

Sec. 305. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking such section and renumbering subsequent sections accordingly.

Sec. 306. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended by striking the period and inserting the following at the end thereof: "unless this would require project grants to be made in areas which do not meet the criteria of this title.".

Sec. 307. (a) Section 1006 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended by inserting the following after "1975" in the first sentence: "and $500,000,000 for the fiscal year 1976 and the transition period ending September 30, 1976".

(b) Section 1006 as redesignated by this Act is further amended by striking "December 31, 1975" in the second sentence and inserting in lieu thereof "September 30, 1976".

(c) Section 1006 of the Public Works and Economic Development Act of 1965 as redesignated by the Act is amended by adding at the end thereof the following new sentence: "Funds authorized to carry out this title shall be in addition to, and not in lieu of, any amounts authorized by other provisions of law.".

Sec. 308. Section 1007 as redesignated by this Act is amended by striking "December 31, 1975" and inserting in lieu thereof "September 30, 1976".

Sec. 309. Title X of the Public Works and Economic Development Act of 1965 is further amended by adding at the end thereof the following new section:

"CONSTRUCTION COSTS

"Sec. 1008. No program or project originally approved for funds under an existing program shall be determined to be eligible for Federal financial assistance under this title solely because of increased construction costs."

Sec. 310. The Secretary of Commerce shall notify in a timely and uniform manner State and local governments having areas eligible for assistance under Title X of the Public Works and Economic Development Act of 1965.

Sec. 311. (a) There is authorized to be appropriated to carry out title II of the Federal Water Pollution Control Act, other than sections 206, 208, and 209, for the fiscal year ending September 30, 1977, not to exceed $1,417,968,050 which sum (subject to such amounts as are provided in appropriation Acts) shall be allotted to each State listed in column 1 of table IV contained in House Public Works and Transportation Committee Print numbered 94–25 in accordance with the percentages provided for such State (if any) in column 5 of such table. The sum authorized by this section shall be in addition to, and not in lieu of, any funds otherwise authorized to carry out such title during such fiscal year. Any sums allotted to a State under this section shall be available until expended.

(b) The Administrator of the Environmental Protection Agency shall, within 45 days from the date of enactment of this section, report to Congress his recommendations for a formula or formulas to be used to allot equitably and allocate new funds authorized to carry out title II of the Federal Water Pollution Control Act.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert the following: "An Act to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the anti-recessionary effectiveness of the program, and for other purposes."

And the Senate agree to the same.

Robert E. Jones,
Jim Wright,
Harold Johnson,
Robert Roe,
Bella S. Abzug,
Managers on the Part of the House.
Jennings Randolph,
Edmund S. Muskie,
Joseph M. Montoya,
Quentin Burdick,
Abraham Ribicoff,
John Glenn,
Howard Baker,
James Buckley,
James A. McClure,
Jacob Javits,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, submit the following joint statement to the

House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees in minor drafting and clarifying changes.

TITLE I

House bill

House Bill

The short title of the House bill provides the legislation may be cited as the "Local Public Works Capital Development and Investment Act of 1975".

Senate Amendment

Provides the Act may be cited as the "Public Works Employment Act of 1975".

Conference Substitute

Identical to Senate amendment as to the Act and identical to the House bill as to title I.

Statement of purpose

House Bill

Provides that the purpose of the legislation is to establish a program to combat unemployment, to stimulate activity in the construction and materials industries and to assist State and local governments provide adequate public facilities.

Senate Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Definition of terms

House Bill

Defines "Secretary" to mean the Secretary of Commerce acting through the Economic Development Administration; defines "State" to include the several states, District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa; and defines "local government" to mean any city, county, town, parish or other political subdivision of a State and any Indian tribe.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill. Section 3 of this Act defines "local government" as any city, county, town, parish or other political subdivision of a State or any Indian tribe. For the purposes of this Act, it is intended that special districts such as school districts, and regional authorities, composed of local governments that are established or authorized by State law will be considered a political subdivision of the State.

Direct grant program

House Bill

Authorizes the Secretary to make grants to State and local governments for the construction, renovation, repair or other improvement of public works projects. This includes grants for projects for which Federal financial assistance is authorized by other acts and grants for architectural design, engineering and related planning expenses. No part of any grant under this section may be used for the purchase of any interest in land. The Federal share of the cost of any project for which a grant is made under this act shall be 100 percent of the cost of the project. Grants can be made only when it is shown that, if funds are available, on-site labor can begin within 90 days of the project approval.

Projects that would be eligible for funding would include, but not be limited to, the following: demolition and other site preparation activities, new construction, renovating, and major improvements of public facilities such as municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewage treatment facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, and health, education and social service facilities.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill except that grants may be made for the completion of plans, specifications, and estimates where either architectural design or preliminary engineering or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project. It is intended that these grants will be made for projects which will result quickly in work on the job site.

With respect to any expenditure of funds for detention facilities, the Secretary of Commerce shall make grants only to those projects which meet the criteria set down under Part E of the Omnibus Safe Streets and Crime Control Act of 1968, as amended (Subparts (1) and (4) through (9) of Section 3750(b) of Title 42, U.S.C.)

Rules and regulations

House Bill

Requires the Secretary to prescribe rules and regulations within 30 days of enactment. In doing so, he must consider, among other factors: (1) The severity and duration of unemployment in the project areas, (2) the extent of underemployment in the project area, and (3) the extent to which the project will contribute to the reduction of unemployment. In considering the extent of unemployment and underemployment under this section, the Secretary must consider the amount of unemployment and underemployment in the construction-related industries. A final determination of each project application must be made within 60 days of receiving it. Failure to make such determination within this period will be deemed to be an approval by the Secretary.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Supplemental grants

House Bill

Authorizes the Secretary to make grants for the purpose of increasing the Federal contribution to 100 percent of project cost on any Federally-assisted public works projects authorized by any other Federal law where the Federal financial assistance under such law is immediately available and construction has not been started. However, no part of any grant made under this section may be used for the purchase of any interest in land.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Grants for projects authorized by State or local law

House Bill

Authorizes the Secretary to make grants for all or any portion of the State or local share of cost of any public works project authorized by any State or local law. However, no grant may provide both the State and local share. The matching share, other than the share with respect to which a grant is requested, must be immediately available for the project and construction of the project not yet started. No part of any grant under this section must be used for the purchase of any interest in land.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Limitations

House Bill

Contains prohibitions on use of funds to affect natural watercourses, acquisition of interest in real property, use of funds for maintenance costs and a requirement for onsite labor within 90 days of project approval.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill except that limitations in the House bill are consolidated in this section of the bill.

Priority of projects

House Bill

Assures that at least ½ of 1 percent but not more than 10 percent of funds appropriated will be granted within any one State. Guam, the Virgin Islands and American Samoa together will not receive less than ½ of 1 percent.

The priority to be given applications of local governments is not intended to permit the Secretary to delay consideration of approval of an application from a State government until all local project applications within the State have been received and reviewed. Such a procedure would obviously run counter to the basic objective of initiating project construction quickly. This section is not intended, for example, to preclude the Secretary from receiving an application and making a grant to a State to construct a project in an area of high unemployment where it is clearly demonstrated that the State project will effectively meet the requirements of the Act and will have a significant impact on unemployment by producing jobs quickly and stimulating economic activity.

As long as the national unemployment rate is 6½ percent or more, the Secretary must give priority to applications from areas in excess of the national rate and must thereafter give priority to applications from areas in excess of 6½ percent but less than the national unemployment rate.

Statistics establishing the unemployment rate of an area may be furnished by the Federal Government, States, or local governments as long as the Secretary determines that they are accurate.

70 percent of the funds appropriated must be used for projects in areas that exceed the national unemployment rate in the first priority above and the remaining 30 percent of the funds appropriated must be used on projects in other classifications of priority.

When requested by an applicant, the Secretary, in determining the unemployment rate of a local government, must consider the unemployment in adjoining areas from which the labor force for a project may be drawn. Applicant should relate their projects to local and regional development plans and where possible, submit projects that would implement long-range plans.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill, except that the Secretary shall notify those States and local governments with unemployment in excess of the national average of their eligibility under this title.

Fair labor standards

House Bill

Makes the Davis-Bacon Act applicable to all grants for projects under this act.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Sex discrimination

House Bill

Prohibits any discrimination because of sex on any project receiving grant assistance under this act.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Authorization of program

House Bill

Authorizes up to $5 billion to carry out this act.

Senate Amendment

No comparable provision.

Conference Substitute

Authorizes up to $2.5 billion to carry out this title for the period ending September 30, 1977.

Grants to State and local governments for public works projects

House Bill

No comparable provision.

Senate Amendment

Adds a new section 107 to the Public Works and Economic Development Act of 1965 as follows:

(a) authorizes the Secretary upon application of State or local government to make supplementary grants for Federal aid public works projects in such amount as to bring the Federal share to 100% of cost. Basic grant funds must be immediately available and construction not started because of lack of matching share. Grant funds cannot be used to purchase land.

(b) (1) authorizes grants for cost overruns on Federal projects. Grants are limited to the maximum percentage of the Federal participation authorized.

(2) applications must set forth information on project, its job effectiveness and area to be served by the project. The Secretary must review applications and with the concurrence of the agency funding the project select those projects which best serve the employment objectives of this section.

(c) authorizes grants for construction, repair, renovation of State and local public works projects for which Federal assistance is authorized other than by the Public Works and Economic Development Act. These grants will be 100% grants.

(d) First priority must be given to projects that will have on-site labor within 90 days of project approval in the following order:

1. Supplemental grants authorized by subsection (a)
2. Cost overrun grants authorized by subsection (b) and
3. 100 percent grants authorized by subsection (c)

(e) (1) No more than 15 percent of funds appropriated may go to any one State. At least ½ of 1 percent must be granted to Guam, Virgin Islands, and American Samoa.

(2) No grants may be made for maintenance.

(f) Assistance under this section is available only to designated C.E.T.A. areas and areas designated by the Secretary of Labor as having 6½ unemployment or more for the most recent three months. As long as the the national unemployment rate is 6½ percent or more, the Secretary must give priority to project applications from areas of unemployment in excess of the national average. 70 percent of the funds appropriated must go to these areas. The grant program is suspended when the national unemployment rate goes below 6½ percent.

(g) Section 103 (15 percent limitation to any one state) and Section 104 (prohibition of Title I assistance to Appalachia) of the Economic Development Act do not apply to this section.

(h) Grants are to be made in accordance with the same regulations promulgated for the public facility grants authorized by the Economic Development Act except the Secretary should not consider the severity and duration of unemployment and the income levels of families and extent of underemployment as required by Section 101(d) nor should the Secretary require an Overall Economic Development Plan (OEDP) as required by Section 101(a)(1)(c). Any revision to the regulations must be made within 30 days of enactment.

(i) In selecting projects, Secretary must consider the extent and severity of unemployment, the level and extent of construction unemployment and, extent project will reduce unemployment in the area. Determination on applications must be made within 60 days of receipt.

(j) Unemployment statistics are to be determined by the Secretary of Labor, State or local governments may present the Secretary of Commerce with information on actual unemployment of an area.

(k) Authorizes $1 billion for Fiscal Year 1976.

Conference Substitute

No comparable provision.

TITLE II

Antirecession provisions

House Bill

No comparable provision.

Senate Amendment

Findings of fact and declaration of policy

Section 201 sets out congressional findings concerning the impact of recession on state and local governments and further declares it to be national policy to make state and local government budget-related actions more consistent with Federal efforts to stimulate national economic recovery.

Financial assistance authorized

Section 202 authorizes for each of 5 succeeding calendar quarters (beginning with the calendar quarter which begins on April 1, 1976) $125 million when the national seasonally adjusted unemployment rate reaches 6 percent plus an additional $62.5 million for each one-half percentage point over 6 percent. On an anual basis, that means $500 million would be authorized when the national seasonally adjusted unemployment rate reaches 6 percent and an additional $250 million would be authorized for each percentage point the national seasonally adjusted unemployment rate rises over 6 percent. All unemployment data to be used in the implementation of this title shall, because of limitations on data gathering, be from the quarter ending three months before the quarter in which a payment is to be made.

Section 202 further provides that no funds would be authorized for any calendar quarter during which the national unemployment rate averaged under 6 percent or for any quarter in which the last month's unemployment rate was below.

Allocation

Section 203(a) provides that the Secretary of the Treasury shall reserve one-third of the authorized funds for distribution to State governments and two-thirds of the authorized funds for distribution to local governments.

Section 203(b) provides that allocation to each State government be made according to a formula of its excess unemployment rate times its taxes raised. For a State government, the excess unemployment rate is defined as its unemployment rate during the most recent calendar quarter minus its unemployment rate during 1967–69.

Section 203(c) provides that allocations to local government would be made according to the same formula—excess unemployment rate times adjusted taxes raised.

The excess unemployment rate for local governments is defined as each local government's unemployment rate minus 4.5 percent. The 4.5 percent figure is used as the base period unemployment rate because the Labor Department has no data for local government unemployment rates during the last period that the national unemployment rate was below 4.5 percent. Unemployment over and above 4.5 percent is considered excess unemployment in other Federal programs, such as the Comprehensive Employment and Training Act of 1973.

In the case of local governments, tax collections by each local government are adjusted to exclude taxes raised for education purposes. The reason for this exclusion is that countercyclical assistance is intended to stabilize the budgets of only general purpose governments and those governments should not be given credit for taxes which they did not actually raise.

For each local government for which the Labor Department has verified unemployment statistics (about 1,200–1,500 in all), there would be an allocated share under the formula. For those local governments for which the Labor Department does not have verified unemployment data, funds would be set aside in each State to be distributed according to an allocation plan submitted by the State. If the State did not submit a plan or had its plan rejected by the Secretary, then the Secretary would prepare such a plan. The funds in this category would be distributed by the Secretary.

In computing the allocated share for all other local governments, for which the Labor Department does not have verified unemployment statistics, the aggregate unemployment and tax data for all jurisdictions—other than identifiable jurisdictions in the State—would be entered into the formula, as if they constituted one government, in a balance of State category.

This section also defines the term "local government" as the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principals as are used by the Social and Economic Statistics Administration for general statistical purposes).

Contingency fund

Sections 204 (a) and (b) provide that the Secretary of the Treasury reserve from the amount authorized for this program for each calendar quarter an amount equal to that not paid to jurisdictions with unemployment less than 6 percent, but in no case more than 10 percent of the total authorized amount for the purpose of making additional emergency support grants to State and local governments which are in severe fiscal difficulty. The Secretary is required to spend at least 75 percent of the contingency fund for grants under this section. No State or local jurisdiction may receive a grant out of the contingency fund that is more than 10 percent of its formula allocation or more than 15 percent of the total contingency fund.

Section 204(c) provides that Puerto Rico, the Virgin Islands, Guam, and the Trust Territories of the Pacific may be eligible for grants out of the contingency fund, though not more than 10 percent of the contingency fund can be spent for that purpose.

Section 204(d) sets out the criteria for determining severe fiscal difficulty.

Use of emergency support grants

Section 205 provides that grants under this program should be used for the maintenance of basic services ordinarily provided by the State and local governments and that State and local governments shall not use funds received under this Act for the acquisition of supplies and materials or for construction unless essential to maintain basic services.

The funds under this Act are intended to be used to maintain service and employment levels without increasing taxes and not to buy heavy equipment or for major construction projects.

Applications

Section 206(a) establishes an application procedure for State governments and identifiable local governments eligible to receive assistance under the Act.

Section 206(b) provides that applications for payment of funds to other local governments may be filed by the States. This section also delineates requirements that State plans for allocating funds to other local governments must meet.

Section 206(c) provides that the Secretary of the Treasury shall approve any application which meets the requirements of this Act within 30 days and shall not finally disapprove, in whole or in part, any application for an emergency support grant under this Act without first affording the State or local government reasonable notice and an opportunity for a hearing.

Nondiscrimination

Section 207 provides that no person, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this legislation.

Labor standards

Section 208 provides that laborers and mechanics employed by contractors on all construction programs funded under this Act be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor under the Davis-Bacon Act.

Special reports

Section 209 provides that each State or local government which receives a grant under this Act shall report to the Secretary, within 6 months, any increase or decrease in any tax which it imposes and substantial reductions in employment levels or in services which that jurisdiction provides. It also requires State governments to report any decreases in the amount of assistance they provide local governments.

Payments

Section 210 gives the Secretary of the Treasury the authority to make payments from the funds authorized under this Act. It further allows payments to be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

Section 210(c) provides that no fund be paid to any State or local government under this Act for any calendar quarter if the unemployment rate within that jurisdiction during the calendar quarter for which the payment is made or during the last month of that quarter was less than 6 percent.

State and local government economization

Section 211 provides that each recipient government must certify in good faith to the Secretary that it has taken steps of its own to economize and that without countercyclical assistance it would not be able to maintain essential service levels without increasing taxes.

Withholding

Section 212 requires the Secretary of the Treasury to withhold funds from any jurisdiction which fails to comply substantially with any of the provisions set forth in the application it submitted for funds under this Act. Funds will continue to be withheld until the Secretary of the Treasury is satisfied that compliance has been achieved.

Reports

Section 213 requires the Secretary of the Treasury to report as soon as practical after the end of each calendar quarter on the implementation of the program.

Administration

Section 214 authorizes the Secretary of the Treasury, after consultation with the Secretary of Labor, to prescribe such rules as may be necessary to carry out the Act. That section also provides the Secretary of the Treasury with the authority to use services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

Program

Section 215(a) requires the Comptroller General of the United States to report to Congress within 2 years on the impact of this program in State and local governments and on the macroeconomic impact of this program.

The Comptroller General is directed to conduct such an investigation in coordination with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The committee intends that the Government Accounting Office retain the principal authority in this investigation, and that the Congressional Budget Office focus on the macroeconomic impact of the legislation.

Section 215(b) requires the Director of the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations in coordination with the Comptroller General, to report to Congress within 2 years on the most effective means by which the Federal Government can stabilize the national economy during periods of excess expansion and high inflation through programs directed toward State and local governments.

Conference Substitute

Same as Senate amendment.

(Explanation)

Title II of the Senate amendment provides for the strengthening of the Federal government's role as guarantor of a stable national economy by promoting greater coordination, during times of economic downturn, between national economic policy—as articulated at the Federal level—and budgetary actions of state and local governments. Title II of the Senate amendment would accomplish this purpose by providing emergency Federal assistance to State and local governments hard hit by recessionary pressures, in order to reduce reliance of these governments upon budgetary actions which run counter to Federal efforts to stimulate speedier economic recovery. The assistance provided is designed to meet the following criteria of a limited, anti-recession program:

First, the assistance provided would go quickly into the economy, with as little administrative delay as possible.

Second, the assistance provided is selectively targeted, by means of the formula, to go to only those governments substantially affected by the recession.

Third, the assistance provided would phase itself out, as the economy improves.

A fundamental premise underlying Title II of the Senate amendment is that the amount and quality of government services at the State and local levels should not be determined by national economic conditions over which State and local governments have no control. In other words, the conferees, in accepting Title II, have concluded that it is not sound governmental policy for a jurisdiction to be able to provide good police protection, fire protection, trash collection and public education during good economic times, but be forced to lower the quality of those services significantly, whenever the health of the economy declines.

Impact on Jobs

The Congressional Budget Office, in a report released in September of 1975, measured the job-producing impact of various anti-recession measures. In this report, the CBO found that a program similar to Title II of the Senate amendment could create as many as 77,000 jobs per $1 billion initially, and as many as 97,000 jobs after twelve months. This estimate ranked anti-recession aid to state and local governments second highest of the four alternatives, in its employment impact.

Impact on Government Services

Title II of the Senate amendment will, as the CBO estimated, create thousands of jobs, but it is not designed or intended solely as a jobs program.

To be sure, unemployment is increased when state and local governments lay off workers. But unemployment in the public sector has an even broader impact on national economic recovery.

When a State or local government lays off employees, several things can occur.

First, if the vacant positions are filled with personnel paid for with Federal public service employment funds, then the goal of that Federal effort—to reduce overall unemployment—is blunted.

If the employees laid off are not rehired, they will go on the unemployment rolls. Thus, while payroll costs are reduced, unemployment compensation costs go up.

But the most important impact is on the basic services which State and local governments provide and which make population centers agreeable places in which to live. The demand for these services is as great, if not greater, during bad times as when the economy is healthy.

The demand for certain basic services—such as road maintenance, garbage collection or fire protection—is largely immune to fluctuations in the economy. Through it does not increase during bad times, neither does it decline and allow breathing room in government budgets.

But for many other services, the demand is greater when the economy is depressed. Certain of these services—unemployment compensation, food stamps, welfare benefits—are obviously recession-related. Though some or all of the cost of these benefits may be borne by the Federal Government, the administrative cost falls on the local government which, when hard pressed to meet existing payrolls, are in no position to add more staff to meet these new administrative burdens.

Other, less obvious services are in greater demand during bad times also. High unemployment may result in a higher crime rate or in hgher demands on publicly supported health and mental health services. Families which might ordinarily send a child to a private college may send him to a less expensive State college instead. Or families which had planned to take a vacation might decide to stay at home, and make use of the municipal swimming pool.

While all these pressures are occurring, State and local governments are laying off workers—at just the wrong time.

A case in point is the findings of a recent New York Times News Service survey of big city police departments. The survey found cities like Cleveland, Dallas, Los Angeles, Pittsburgh and Atlanta—all experiencing crime increases of major proportions—cutting back on police personnel or at least not hiring people, because of critical budget pressures.

When events like this occur, it is all the residents of a community who suffer—not just those who are laid off.

Impact on taxes

It must be remembered that reducing employment is not the only way that State and local governments can have an adverse impact on the economy. They can also raise taxes, thereby absorbing some of the stimulative impact of Federal tax cuts already enacted. In addition, while tax increases may allow local governments to keep their own employees on board, they often aggravate the recessionary pressures that already exist.

Title II of the Senate amendment is designed to lessen the possibility of such tax increases.

Who would receive assistance under title II of the Senate amendment?

All the States and all local governments for which certifiable unemployment data now exists under the CETA program (1,200–1,500 jurisdictions) will be eligible for assistance under Title II of the Senate amendment, providing that their unemployment rate is 6 percent or higher.

One third of the money is set aside for the States, two thirds for local governments.

In computing the States' shares, an allocation is determined for each of the 50 States, on the basis of excess unemployment and taxes. Only those States with unemployment of 6 percent or greater would actually receive that allocation. Allocations computed for States with unemployment less than 6 percent are returned to the Treasury, for use in the contingency fund.

Similarly, in computing local governments' shares, an allocation would be determined for each of the 1,200–1,500 jurisdictions, on the basis of excess unemployment and adjusted taxes. Only those jurisdictions with unemployment of 6 percent or greater would actually receive that allocation, with those for jurisdictions with unemployment less than 6 percent returning to the Treasury.

In every State, apart from the identifiable jurisdictions for which specific unemployment data is available, there is a balance of State category (referred to in the bill as "other than identifiable local governments") which includes all other local jurisdictions in the State. A single allocation is determined for the balance of State category as if it were a single unit of government, using adjusted taxes and unemployment for the entire State minus those for the identifiable jurisdictions.

Allocations for balance of State

The balance of State allocation would be distributed by the Secretary, on the basis of a plan drawn up by a State, in consultation with local officials. In the event that a State plan is not provided or is not approved by the Secretary, then the Secretary will draw up a plan for distribution of this money. The distribution plan is to be as much in conformance with the formula as possible. (It is not possible to mandate the use of the formula because of the lack of unemployment data for many jurisdictions in the balance of State.) In the likely event that such unemployment data is not available, then the distribution plans would have to take into account unemployment data for the smallest jurisdiction, in which a balance of State jurisdiction is located, for which data is available. In other words, if a town were located within a labor market or county area for which there was unemployment data, the unemployment rate for the labor market or the county area would be taken into consideration when determining the town's distribution.

Residency requirements

During consideration of this title, the conferees addressed the issue of residency requirements as they might be applied to individuals who are employed with funds from emergency support grants. The conferees state that the federal policy shall be neutral. Specifically, the Secretary shall make no regulation which requires an individual, as a condition of employment, to reside within the jurisdiction of the recipient of an emergency support grant; at the same time, the Secretary shall not prohibit a state or local government from establishing a residency requirement applicable to potential participants in programs using funds from emergency support grants.

The conferees agreed to clarify this matter after discussing problems arising out of Department of Labor regulations under the Comprehensive Employment and Training Program of 1973 (CETA). In New York City, ad elsewhere, CETA funds are presently being used to rehire a limited number of former city employees who lost their jobs due to recessionary pressures or extreme fiscal hardship. In certain job categories, these former employees do not live within the jurisdiction of the prime sponsor, yet they have a determined status on the approved civil service lists. Normally, individuals are hired or laid-off on the basis of these lists, according to seniority. These are rights won by the city employees in collective bargaining. However, Labor Department regulations are being interpreted to require that participants in CETA programs live within the jurisdiction of the prime sponsor, notwithstanding the fact that the regulations also require the prime sponsor to maintain personnel policies and practices for its employees in accord with State and local laws and regulations that adequately reflect federally-approved merit principles. The effect of this interpretation is to deny re-employment with CETA funds to individuals who do not reside within the jurisdiction of the prime sponsor, without regard to the rights of these individuals won in collective bargaining agreements. This situation has created hardships for many individuals and their families.

In order to avoid similar inequities and problems arising from the administration of emergency support grants under the countercyclical program, the conferees emphasize that the federal policy on residency as a condition of employment is one of neutrality. Residency requirements for employees are to be strictly a matter of respective State or local determination, as the case may be.

TITLE III

Interest supplements

House Bill

No comparable provision.

Senate Amendment

Amends section 201(c) of the Public Works and Economic Development Act of 1965 (hereinafter referred to as the "Act" in this statement concerning this title) to increase the authorization for fiscal year 1976 from $75 million to $200 million. It also makes authorization available for the payment of interest supplements to or on behalf of private entities. It also amends section 202(a)(2) of the Act to authorize an interest subsidy up to four percent for up to ten years to private firms of 1,500 employees or less on working capital loans obtained from a nongovernmental source.

Conference Substitute

Same as the Senate amendment as to the increase in authorizations; however, the conferees intend that the Secretary be authorized to pay to or on behalf of a private borrower an amount sufficient to reduce up to four percentage points the interest paid by such borrower on any loan guaranteed by the Secretary under this section. These payments must be made no less than annually and no obligation shall be made by the Secretary to make any payment under this paragraph for any loan guaranty made after December 31, 1976.

It is intended that this provision is to be an antirecessionary tool, to be used to aid firms suffering effects of the current recession. Additionally, this interest subsidy is to be used when no reasonable interest rate is available in the private lending market, that is, the subsidy is to be used during times of high interest rates or when such interest rates would be prohibitively expensive for a firm in need of financial assistance to continue current operations. The language limits this subsidy to one calendar year, through December 31, 1976, so that the Committees may have an opportunity to review this program to determine its effectiveness in meeting financial needs of eligible firms.

Lastly, the Conferees agreed that entities employing less than 1500 people should have preference for such interest subsidies. An entity may be an autonomous corporation, a wholly owned subsidiary of a parent corporation, a plant of a corporation, or the like, but it is not in any way restricted to an autonomous corporation.

Urban economic development

Conference Substitute

The conference substitute adds a new section 405 to the Act to authorize the Secretary to designate as a "redevelopment area" any city with a population of 50,000 or more as long as it submits and has approved by the Secretary an overall economic development program in accordance with Section 202(b)(10) of the Act. Nothing in this section is intended to be construed as to prohibit the designation of a city as a "redevelopment area" or a part thereof under this section in addition to its designation as a "redevelopment area" under any other provision of this Act. Also, this section should not be construed to prohibit a city designated under this section and another provision of this Act from receiving assistance through the expenditure of funds both under this section and any other provision in this Act.

If a city designated under this section prepares a plan for the redevelopment of the city or a part of it and submits its plan to the Secretary, and the Secretary approves such plan, he is authorized to make a grant to the city for the purpose of carrying out the plan. Any grant made by the Secretary on this section must be made on the condition that the city will use such grant to make grants or loans or both to carry out the plan and that the repayments of any loans to the city be placed in a revolving fund by the city to be available for making other grants or loans by the city upon the approval of the Secretary for the redevelopment of the city. $50 million for fiscal year 1976 and $50 million for the transition period are authorized to carry out this section.

In determining eligibility of cities for assistance under this section, it is intended that a city must have a population of 50,000 persons or more according to the latest decennial or subsequent special census counts as reported by the Bureau of the Census. When the published population estimates of the Bureau of the Census are used to determine eligibility, the Secretary may allow up to a five percent variation in population estimates in order to reflect changes in population since the last official census.

In defining the term "city" in Section 405(a)(B)(iii) it is the intent of the Conferees that a city either contains within its boundaries no incorporated places as defined by the Bureau of the Census or contains 50,000 people outside the boundaries of all incorporated places which are located within the city. In those cases where a township has a population of 50,000 or more outside of incorporated places, any funds authorized under this Act may be used only outside the corporate limits of those places.

Definitions

House Bill

No comparable provision.

Senate Amendment

Amends Section 1002 of the Act to delete, in the definition of eligible area, areas designated pursuant to Section 401 of the Public Works and Economic Development Act. In addition, if the national unemployment rate is 6½ percent or more, the Secretary must give priority to project applications for areas of unemployment in excess of the national average—70 percent of the funds appropriated must go to these areas. The grant program is suspended when the national unemployment rate goes below 6½ percent. Not more than 15 percent of funds appropriated may go to any State and at least ½ of 1 percent be used for projects in Guam, Virgin Islands and American Samoa.

Conference Substitute

Restores original definition of areas eligible for assistance under Title X as currently defined in the Act and transfers the priority language contained in the Senate amendment to section 1003(c) of the Act.

Programs authorized

House Bill

No comparable provision.

Senate Amendment

Amends Sec. 1003(c) of the Act to delete Secretary's authority to initiate programs and authorizes him to assist eligible areas make applications for grants.

(b) Amends Sec. 1003(d) to make funds available only for projects where the Secretary determines that the project gives consideration to the needs of the unemployed in the area, that the project can be started promptly and be substantially completed within 12 months, and that priority is given to projects that are most job effective.

(c) Eliminates Secretary of Labor and existing criteria from Section 1003(e).

Conference Substitute

Same as Senate amendment except that the Secretary must give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment, measured as the amount of such direct and indirect employment generated and supported by the additional expenditures of Federal funds under this title, and must consider the appropriateness of the proposed activity to the number and needs of the unemployed persons in the eligible area.

The Conference Committee is concerned about the procedure used in the selection of programs and projects under the Jobs Opportunities Program in the first year. Based on the results of the first experiences under this program, it is doubtful that a solely mechanistic selection process can achieve the full potential and desired effect of the program. The Conference Committee can understand the need for assistance from a computer when dealing with such a large and diverse number of programs in a very short time. It would appear, however, that individual judgment will need to be exercised in order to achieve the desired results. Congress intended when it passed Title X, and this bill is designed to reinforce the intent, that the Secretary undertake a project-by-project evaluation so that the most job-effective activities are selected.

The Economic Development Administration is the only Federal agency whose mission is long-term economic development and the creation of jobs. Based on the agency's long experience and background, it is the most logical choice to administer the Jobs Opportunities Program. As indicated before, judgment must be exercised in the administration of the program and EDA's long experience gives it the expertise to make these judgments. As this program is an addition to EDA's regular long-term responsibilities, the Conference Committee wants to make clear its intent that EDA be given the responsibility for directing and administering the Title X program.

Program review

House Bill

No comparable provision.

Senate Amendment

Amends Section 1004 of the act to require a review within 45 days of enactment or appropriation by every Federal department or agency of its development plans and budget to evaluate their programs and projects for job creation for which funds are proposed or could be obligated with Federal assistance in the calendar year; and submit to the Secretary programs and projects which have the greatest potential to stimulate the creation of jobs in the area. The Secretary, within 45 days of receipt, shall review projects and allocate in conformity with priorities set forth in the Title.

States and political subdivisions in any eligible area may submit their project applications to the appropriate Federal agency for Federal assistance under this Title. The Secretary in reviewing programs and projects for any eligible area must give priority to those sponsored by States and political subdivisions.

Conference Substitute

Same as the Senate amendment except that the conferees want to make clear that the provision in the Act requiring agencies to evaluate programs and projects for which funds are to be obligated is not intended to allow an agency to replace other appropriated funds with funds received under title X. The provision is intended to direct agencies to review their plans and budgets to determine if their regular programs are being used in the most effective job-creating way at this time of such high national unemployment.

Limitation on use of funds

House Bill

No comparable provision.

Senate Provision

Strikes from the Act section 1005 which requires that 50 percent of funds appropriated are to be used on projects where not more than 25 percent of the funds will be expended on non-labor costs.

Conference Substitute

Same as the Senate amendment.

Rules and regulations

House Bill

No comparable provision.

Senate Amendment

Amends Section 1006 of the Act, which requires equitable distribution of funds between urban and rural areas, to add a condition that such distribution is not necessary if it would require grants in areas that would not meet the criteria of the title.

Conference Substitute

Same as Senate amendment.

Authorizations of appropriations

House Bill

No comparable provision.

Senate Amendment

Amends section 1007 of the Act to authorize $1 billion for Fiscal Year 1976 and makes the funds available for obligation until June 30, 1976.

Conference Substitute

Amends Section 1007 of the Act to authorize $500 million for Fiscal Year 1976 and makes the funds available for obligation until September 30, 1976. In addition, a new subsection is added to make clear that funds authorized to carry out this title shall be in addition to, and not in lieu of, any funds authorized by other provisions of law.

Title X funds shall be used to provide additional funds for projects eligible under this Act. These funds are not intended to take the place of funds which have already been budgeted by another agency or are part of the future budget of another agency. Title X funds shall be used to supplement existing programs rather than to substitute for funds that would have been expended or are about to be expended through another program or agency.

Termination date

House Bill

No comparable provision.

Senate Amendment

Amends section 1008 of the Act to extend the termination date of this title to June 30, 1976.

Conference Substitute

Amends section 1008 of the Act to extend the termination date of this title to September 30, 1976.

Limit on authority to obligate

House Bill

No comparable provision.

Senate Amendment

Authority to obligate appropriated funds under amendments of this Act to Title I and X of the Public Works and Economic Development Act is limited to $2 billion when the national unemployment rate is 9 percent or more. For each quarterly decline of ½ of 1 percent, the authority of the Secretary to obligate funds is reduced by ¼ of funds appropriated not to exceed ½ billion. For each increase of ½ of 1 percent up to 9 percent the authority of the Secretary to obligate appropriated funds is increased by ¼ not to exceed ½ billion.

Conference Substitute

No comparable provision.

Notice to eligible areas

House Bill

No comparable provision.

Senate Amendment

Requires the Secretary of Commerce to notify in a timely and uniform manner areas of their eligibility for assistance under this Act.

Conference Substitute

Requires the Secretary of Commerce to notify in a timely and uniform manner state and local governments having areas eligible for assistance under this title.

Construction costs

Conference Substitute

Title X of the Act is further amended by adding a new section 1008 to make clear that no program or project originally approved for funds under an existing program be ineligible for assistance under this title solely because of increased construction costs.

The Conference Committee wishes to clarify its intent that Title X funds may be used to cover construction cost overruns if the project meets the other requirements of this Act. If a community has received a grant or supplemental grant for a project and the project is presently halted due to inflation or increased construction costs, which have increased the total project cost beyond the amount of the original grant, Title X funds may be used to cover this cost increase.

Expiration of amendments to the Public Works and Economic Development Act

House Bill

No comparable provision.

Senate Amendment

Requires that all amendments to the Public Works and Economic Development Act of 1965 made by this Act shall expire on June 30, 1976.

Conference Substitute

No comparable provision.

Allotment of wastewater treatment works construction grant funds

House Bill

No comparable provision.

Senate amendment

Section 301(1) amends section 205(a) of the Federal Water Pollution Control Act and requires the Administrator to reallot the $9 billion for construction of publicly-owned wastewater treatment works which was allotted in February 1975 by the Administrator of the Environmental Protection Agency in accordance with the formulas prescribed in the Act. The new allotment formula is based one-half in the ratio that the population of each State bears to all the States, and one-half on the basis of Table SP-3 in the final report to Congress dated February 10, 1975, as revised May 6, 1975, entitled, "Cost Estimates for Construction of the Publicly-Owned Wastewater Treatment Facilities, 1974 'Needs' Survey." In no case, however, would the allotment of any State be reduced below such amount as may have been obligated from the February 1975 allotment prior to the date of enactment of this provision. Section 301 (2) requires that funds authorized for fiscal years which begin after the fiscal year ending June 30, 1975, shall be allotted among the States one half in the ratio that the population of each State bears to the population of all States, and one-half of the basis of table SP-3 in the final report to Congress dated February 10, 1975, entitled "Cost Estimates for the Construction, on Publicly-Owned Wastewater Treatment Facilities, 1974 'Needs' Survey."

Conference substitute

Section 311(a) of the conference substitute authorizes an appropriation of $1,417,968,050 for the fiscal year ending September 30, 1977, for grants for the construction of publicly-owned wastewater treatment works, pursuant to Title II of the Federal Water Pollution Control Act. This authorization is subject to such amounts as are provided in appropriation Acts. The authorized sums shall be allotted to the eligible States in accordance with the percentages provided in Column 5 of table IV contained in House Public Works and Transportation Committee Print numbered 94–25. This table sets forth the percentages for each state to be used by the Administrator of the Environmental Protection Agency in allotting funds pursuant to this section. Those States eligible to receive allotments pursuant to this section are those which would have received a greater allotment than they actually received had the Senate amendment been utilized by the Administrator in February 1975 to allot the $9 billion. Funds allotted pursuant to this section shall remain available until expended.

The conference substitute requires the Administrator, within 45 days from the date of enactment of this section, to report to Congress his recommendations for a formula or formulas to be used to allot equitably new authorizations of funds to carry out Title II of the Federal Water Pollution Control Act. This reporting requirement was added by the Conferees to provide a possible basis for allotments of future authorizations.

Conference Substitute

The conferees agreed to an amendment to the title of the bill to more accurately reflect the text proposed in this conference substitute.

ROBERT E. JONES,
JIM WRIGHT,
HAROLD JOHNSON,
ROBERT ROE,
BELLA S. ABZUG,
Managers on the Part of the House.
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
QUENTIN BURDICK,
ABRAHAM RIBICOFF,
JOHN GLENN,
HOWARD BAKER,
JAMES BUCKLEY,
JAMES A. MCCLURE,
JACOB JAVITS,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 7656, BEEF RESEARCH AND INFORMATION ACT

Mr. POAGE. Mr. Speaker, I call up the conference report on the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer, and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 10, 1975.)

Mr. POAGE (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Texas.

Mr. POAGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know the House is anxious to adjourn because of the late hour. We have here a very simple matter. I am going to give to those who are opposed to the conference report exactly the same time as to those who support it.

Mr. Speaker, H.R. 7656 is a bill which would enable the cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information and promotion to improve, maintain, and develop markets for cattle, beef, and beef products. The bill does not involve the expenditure of Government funds—only assessments paid by cattle producers. The program is entirely voluntary since each producer may obtain a refund from the Beef Board of any assessments that he might have paid.

The conference report represents a compromise between the positions of the two Houses that strengthens and improves the act while preserving the important features of the bill adopted by the House. I would like to summarize for my colleagues the changes made by the conference report in the bill previously adopted by the House.

First. The conferees agreed to a Senate amendment that no advertising, consumer education, or sales promotion programs established under the act shall make use of: No. 1, false or misleading claims in behalf of cattle, beef, or beef products, or No. 2, false or misleading statements with respect to quality, value, or use of any competing product. There was no comparable provision in the House bill.

Second. The conferees agreed to a Senate amendment which specifically authorizes the Secretary to make appointments to the Beef Board which administers the program from nominations submitted by general farm organizations. The House bill did not contain a comparable provision, although the report of the House committee stated it was intended that general farm organizations be considered for certification as eligible to make nominations.

Third. The conferees agreed to a Senate amendment which deleted the requirement in the House bill that the annual budget of the Beef Board must be approved by the House and Senate Agriculture Committees. Under the provision agreed to by the conferees, copies of the budget would still be required to be submitted to the House and Senate Agriculture Committees. The budgets do not involve appropriated funds but only assessments voluntarily committed by producers to the research and promotion effort. If either committee should find in the budget any item that would be of special concern to the Congress it would still be in a position to make its views known to the Secretary prior to his approval of the budget.

Fourth. The conferees agreed to an amendment of the Senate with a technical change that would establish a limit of one-half of 1 percent on the aggregate rate of assessment that could be provided for under the program. It is believed that this should provide more than adequate funds for carrying out the program for the foreseeable future. If additional funds should be needed at a later date, the matter should be reconsidered by the Congress. It is estimated that the initial assessment would probably be in the amount of three-tenths percent so that the limit set forth in the amendment should allow from for growth should this prove necessary.

Fifth. A compromise was reached between the Senate and House provisions regarding the conduct of the referendum among cattle producers that is needed to bring the program into effect. Under the House bill the Secretary is to register the producers not less than 10 days prior to the date of the referendum. The order to be effective must be approved by at least two-thirds of the producers voting in the referendum, and at least 50 percent of the registered producers must vote in such referendum.

The Senate amendments deleted the registration requirement of the House bill and otherwise modified the referendum provision. Under the Senate amendments, the order would not be effective unless it is approved by not less than two-thirds of the producers voting in the referendum, or by a majority of producers voting in the referendum if such majority owned not less than two-thirds of the cattle owned by producers voting in the referendum. Also, the Senate amendments deleted other provisions of the House bill relating to the referendum.

The conference committee agreed to the Senate amendments with certain modifications. It deleted the requirement in the House bill for producers to make two trips to the county office in connection with the referendum. Under the conference report producers must still submit evidence of their eligibility to vote but it would be done at the time of voting. A detailed procedure is provided under which any person may challenge the eligibility of any person who voted in the referendum. The Secretary is to insure that information with regard to voting and challenging of ballots is generally publicized.

The conference report retains in strengthened form a House provision which assures that the Government is reimbursed for its out-of-pocket expenses incident to the conduct of the referendum whether or not the order is approved. These expenses would include all costs incurred by the Government—except salaries of Federal employees—and would include such items as those costs incurred in connection with the hearings and preparation and printing of ballots.

Sixth. There were other miscellaneous changes made in the House bill. One would require that no penalty for violations is applicable unless the violation is willful and that the maximum penalty which may be collected shall not exceed $1,000, and not $10,000 as provided in the House bill. The penalty would, of course, be in addition to any assessment payable by the producer or slaughterer. Also agreed to was a provision exempting from assessment cattle slaughtered for home consumption by a producer who has been the sole owner of the cattle, and a provision requiring rather than authorizing the Beef Board to appoint an executive committee to handle routine business.

The House prevailed on other provisions of the bill. Among those provisions was an agreement by the conferees to delete from the Senate bill a section that would have required at least 25 percent of the Beef Board, Egg Board, Cotton Board, Potato Board, and Wool Council to be appointed by the Secretary from nominations submitted by the membership of bona fide consumer organizations.

However, the conferees intend that the Beef Board solicit consumer input—ideas, suggestions, and recommendations—on problems that need attention and projects that deserve priority. Accordingly, the conferees recommend that the Secretary appoint five consumer advisers to the Beef Board. Such advisers shall be persons determined by the Secretary to be knowledgeable in nutrition and food. It is expected that the Beef Board shall reimburse the consumer advisers for the reasonable expenses they incur in performing their duties as advisers.

Mr. Speaker, H.R. 7656 is a good bill and in the interest of both producers and consumers. I urge the Members of the House to join me in voting for adoption of the conference report.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I associate myself with the remarks of the gentleman from Texas (Mr. POAGE).

Mr. Speaker, the beef cattle industry leaders of America have proposed a new and far-reaching self-help plan: First, a plan aimed at promoting more efficient and economical production of beef; second, strengthening the economy of the cattle industry; and third, assuring consumers of an adequate and reliable supply of beef at prices they can afford. This plan, known as the Beef Research and Information Act, H.R. 7656, will be producer financed at no cost to the taxpayer.

H.R. 7656 will establish research funds to improve beef marketing, develop new and different beef products, and develop new techniques in the preparation and preservation of meat products. The plan also calls for continued nutritional research that will benefit consumers who desire more knowledge of the nutritional value of beef and beef products.

The program will also authorize more research on cattle and forages for more efficient and economical beef production. There is a need to conduct research on cattle diseases, cattle feed rations and efficiency, genetics and environmental considerations. At the moment the industry is facing a standstill in developing new means to increase production—with little Federal money committed to further agricultural research in this important area.

The program will also help develop better means of product distribution. There is a need to move beef from the point of production to the point of consumption as efficiently as possible—improving processing, transportation, storage, and handling. Such improvements could be a factor in lowering retail beef prices. The Beef Board may at its discretion supply producers with current and projected supply and demand statistics. This will help producers in the prices they receive for beef and consumers in the prices they pay for beef.

H.R. 7656 will also enable the Beef Board to develop foreign markets to allow production to be maintained at full capacity and provide a climate of stability for the industry. This would benefit the U.S. balance of payments through increased marketing abroad while boosting our domestic economy.

Under this program, the cattlemen will spend their own money on beef production and marketing research designed to improve beef production efficiency and minimize fluctuations in supply. This will help producers in the prices they receive for cattle and consumers in the prices they pay for beef.

Again, I emphasize that this program will cost the Government nothing. The act sets a precedent for other agricultural check-off programs by requiring cattlemen to post a bond to cover referendum expenses or the administrative cost in auditing or other miscellaneous expense.

It is obvious that most cattlemen favor this self-help approach to solving their problems. However, if an individual cattleman does not wish to participate, he may request a refund of the modest deduction and get it. In this way, the program is voluntary and democratic.

I feel this bill is a credit to the many farmers and ranchers who comprise this Nation's livestock industry. The livestock industry has experienced hard times and seesaw markets in recent years, but beef producers are strong willed and self-reliant independents who do not ask for handouts. Rather they ask only for legislation which will allow them to spend their own money to promote their product through research and education. I urge my colleagues to support this legislation and allow the livestock industry to establish a truly self-help program.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report on H.R. 7656, the Beef Research and Information Act.

This bill has broad support from cattle producers and hopefully will go a long way toward improving marketing conditions for cattlemen throughout the Nation.

In our consideration of this measure in conference we found that the other body had refined and improved this bill in several areas. Thus the House conferees accepted amendments that—

First, provide that no advertising, consumer education, or sales promotion programs established under the act shall make use of: No. 1, false or misleading claim in behalf of cattle, beef, or beef products, or No. 2, false or misleading statements with respect to quality, value, or use of any competing product;

Second, require in the appointment of the executive committee that the members of the committee be more broadly representative of the industry;

Third, authorize the Secretary to make appointments to the Beef Board from nominations submitted by general farm organizations;

Fourth, provide that cattle slaughtered for home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessment;

Fifth, provide that the aggregate rate of assessment shall not exceed one-half of 1 percent; and

Sixth, provide for a $1,000 maximum civil penalty.

There were only three matters in serious dispute in the conference.

The first involved consumer representation. The House position prevailed. The position of the other body had previously been rejected in the House debate and the conferees correctly, I believe, felt that this beef bill should not be a vehicle for amending the Wool Act, the cotton or egg programs, or other commodity programs.

Another issue developed over the posting of a bond by the sponsors of the proposed beef program prior to the referendum. The House position prevailed and all out of pocket expenses—except Government employee salaries—will be paid for by the Beef Board and as far as the referendum is concerned will be subject to the surety requirements of the bill.

This provision, incidentally, is a new feature in commodity promotion legislation and it should be carefully considered and be made a part of other such programs in the year ahead.

Finally, the referendum voting procedures were changed. I will not go into detail beyond that set forth by the gentleman from Texas (Mr. POAGE) other than to say this was and is the most difficult provision to reconcile in the bill.

The conferees have tried to set up a fair system that takes into account both points of view as expressed by the cattlemen and by farm organizations.

In summary, Mr. Speaker, I believe we have produced a good conference report and a constructive bill that will serve well the Nation, agriculture in general and beef producers in particular.

Mr. SEBELIUS. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Speaker, I would like to point out that this is not, in the opinion of many of us, a superior product to the product that left the House. In fact, it was so disturbing to at least one major farm organization, the Farm Bureau, that they have now switched their support of the bill and are opposed to the bill in its present form.

My friends, those Members who are concerned with this matter because the consumers are not represented, the consumers are still not represented. Those Members who are concerned about this bill, as I am, because there is a mandatory checkoff guaranteeing the staff a $60 million sinecure, with no incentive for quality and no solution for the cowman because there is no way for the staff to accommodate all of the cowmen who are going to go broke over the next 5 years, the fact is that this is a false promise in its present form absent the Melcher language that was in the House bill. This bill allows a few large cattlemen to dominate the process, making it even a more untenable piece of legislation.

Mr. Speaker, I hope the Members will vote no. I hope they will force the bill to go back to conference and at least remedy the inequities that are in the process right now.

Mr. POAGE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, this conference report is bad news for America's consumers and for America's smaller, family-owned cattle producers. It is bad news for consumers because it is going to cost the consumer $60 million more on his food bill. It is bad news for the cattlemen because this bill only benefits large corporate interests. It does not benefit small cattlemen.

The bill was bad enough before it went to conference committee, but as a result of Senate action, the bill is even worse.

The referendum in this bill is weighted only in favor of the large producers. The more cattle you have, the bigger your vote. Basically, as I said, this referendum is weighted only in favor of the large corporate cattle owner. The small farmer is out. If a man has a thousand cattle, he has a thousand votes. If he has 100 cattle, he has 100 votes. So we can say this bill is only good for the big agribusiness corporations.

Finally, even though Senator Muskie put an amendment in the bill to add the consumer representation, it was taken out in conference committee. So there is not even any consumer representation in this bill. It is a bad bill for the consumer, it is a bad bill for the cattlemen, the small cattlemen. It is only good for the big agribusiness corporations.

Mr. Speaker, I urge everyone in the Chamber to please vote against this bill and send it back to conference.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, is the gentleman from New York saying that this bill provides for one cow-one vote?

Mr. RICHMOND. The gentleman is correct. That is the kind of a bill it is.

Mr. SEBELIUS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in opposition to this conference report on the "beef check-off" bill, and I urge my colleagues to vote against it.

I have spoken against this bill before and made some jokes about how it is a "bum steer" and how its passage would make this body known as the "rump-roast Congress." I regret to see that the point of my satire was not taken, and that this bill has now progressed into a conference report. So it is time to put humor aside and talk about the facts.

And the facts are that this legislation would be expensive, unnecessary, and would benefit a special interest group without consideration of consumer interests.

This bill would raise meat prices to consumers by up to $60 million a year. But consumers would not get any benefits from this higher cost. Instead, this $60 million would be used to underwrite advertising campaigns that would tell consumers to eat more beef. This is throwing money down the trough. Americans are now eating more beef on the average than any time in our history. I would suggest that this huge publicity campaign might backfire, and that consumers would buy less meat as soon as the prices started to rise to pay for the ad campaign.

I want to express my opposition to this bill on another ground. I am outraged and dismayed that the conferees stripped the Beef Board of its consumer representation. The conference report before us provides that this bloated Beef Board shall have five consumer advisers, but none of the consumer representatives is given any voting power. In my mind, that leaves the consumer advisers' role in the Beef Board meaningless.

Mr. Speaker, as much as I am concerned about the impact of this bill on consumers, I also want to raise the concern that it will impose a costly tax on beef farmers that they can ill afford. They will be paying a hefty "check-off" on each cow they send to market, but I would doubt very strongly that they will be sending any extra cows to market because of this "check-off."

I can only figure out one explanation for this bill: It is another attempt to bail out New York City. That is where the group is that stands to benefit from this legislation—and I am referring to the advertising agencies on Madison Avenue. They are the people who will wind up with most of this $60 million, while consumers will find less beef on the table and cattle farmers will find their market shrinking instead of expanding.

I urge my colleagues to defeat this conference report.

Mr. POAGE. Mr. Speaker, the proponents have only used 2 minutes, and I will now yield 2 minutes to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Speaker, I thank the esteemed chairman of my subcommittee on Livestock and Grains.

Two major changes were made in the conference. First of all, the bill as it passed the House contained a period of time of 10 days for notification to all cattle owners to become eligible by either mailing in a registration or stop in at the ASC office to register and thus become eligible to vote on the referendum.

The second part that was changed in conference came about because the Senate insisted that a simple majority of those voting, if they owned two-thirds of the cattle involved of those voting, would carry the referendum, whereas the House in its provision was much more selective. It said a majority of those eligible had to vote, that two-thirds of those voting in the referendum had to vote for the referendum, period. The Senate provision gave weighted voting based on the ownership of two-thirds of the total cattle numbers of those voting.

Mr. Speaker, I have a great deal of respect for all the cows, heifers, steers, and bulls involved in the referendum, but I am not in favor of weighted voting for cattle even if it is to help carry the referendum. I do not believe that is the way we ought to run the referendum.

For that reason, Mr. Speaker, I am going to vote for the motion to recommit that will be offered by the gentleman from Illinois (Mr. MADIGAN) because I think this bill needs to go back to the conference. I think it needs to be corrected and brought back in about the same shape on the referendum as it was when we passed it out of the House. It would certainly be a much fairer bill then.

Mr. SEBELIUS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to respond for a moment to the statements about the Farm Bureau that were made here. I do not think there is a Member here who has more to do with the Farm Bureau than I do in my 57 counties, and I know all of them are in favor of this bill for the cattlemen. They have gone through the wringer, and they are trying to work out something for themselves.

I did for one, try to have all the input I could to see that the money is used for research. The Department of Agriculture does not get to use nearly enough money for research to help out with the problems of the cattlemen.

Therefore, Mr. Speaker, I urge in very great sincerity that we agree to this conference report here tonight.

Mr. POAGE. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, as a member of the conference committee on this bill I did not sign the conference report, even though I am very sympathetic to beef producers.

I eat a lot of beef, and so do most Americans. As a matter of fact, in the last 15 years the consumption of beef per capita has gone up sharply in this country, from 50 percent to 65 percent of the beef market. This has been accomplished without any promotional scheme whatsoever. As a matter of fact, it is to the detriment of producers of many other meat commodities and to the producers of eggs and poultry.

This should be evidence enough that there is no need for further promotion, and, particularly, one which allows two-thirds of the cattle—not two-thirds of the cattle producers but two-thirds of the cattle—to put the promotion into effect. This would put $60 million a year—and this is going to come out of the pockets of consumers when they buy the beef—into the hands of a few people to use pretty much as they wish.

Mr. Speaker, I urge the Members of the House to vote to recommit the conference report.

Mr. SEBELIUS. Mr. Speaker, I yield back the balance of my time.

Mr. POAGE. Mr. Speaker, in an effort to accommodate the House, we will take no more time. I simply state that I support the conference report.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. MADIGAN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MADIGAN moves to recommit the conference report on the bill H.R. 7656 to the committee of conference.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 112, not voting 59, as follows:

[Roll No. 790]

YEAS—263

Abzug
Alexander
Allen
Ambro
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burton, Phillip
Butler
Carter
Chisholm
Clancy
Clawson, Del
Cleveland
Cohen
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fisher

Fithian
Flood
Florio
Flowers
Ford, Tenn.
Forsythe
Frenzel
Frey
Giaimo
Gibbons
Gilman
Gradison
Gude
Hagedorn
Haley
Hall
Hamilton
Hannaford
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Holland
Holt
Holtzman
Horton
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jones, Okla.
Jordan
Kelly
Kemp
Keys
Kindness
Koch
LaFalce
Latta
Leggett
Lent
Levitas
Lloyd, Tenn.
Long, Md.
Lujan
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mann
Martin
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford

Miller, Calif.
Miller, Ohio
Mills
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
Sarasin
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Slack
Snyder
Solarz
Spellman
Spence
Staggers

Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Ariz.
Steiger, Wis.
Stokes
Studds

Sullivan
Tsongas
Van Deerlin
Vander Veen
Vigorito
Walsh
Weaver
Whalen
Whitehurst
Whitten

Wilson, Tex.
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—112

Abdnor
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Armstrong
Bafalis
Baucus
Bergland
Bevill
Boggs
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Burgener
Burlison, Mo.
Byron
Carney
Casey
Cederberg
Chappell
Clausen, Don H.
Clay
Cochran
Conlan
de la Garza
Dingell
Duncan, Oreg.
English
Findley
Flynt
Fountain
Fuqua
Ginn

Goldwater
Gonzalez
Goodling
Grassley
Hammerschmidt
Hanley
Hansen
Harkin
Hays, Ohio
Hightower
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Ketchum
Krebs
Krueger
Lagomarsino
Landrum
Lehman
Litton
Lloyd, Calif.
Long, La.
Lott
McCollister
McFall
Mahon
Matsunaga
Meeds
Mineta
Mink
Montgomery

Moore
Nichols
O'Neill
Passman
Patman, Tex.
Pepper
Pickle
Poage
Quie
Randall
Rose
Santini
Sebelius
Shriver
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Steelman
Stephens
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Waggonner
Wampler
White
Wiggins
Wilson, Bob
Winn
Wright
Young, Tex.

NOT VOTING—59

Adams
Addabbo
Andrews, N.C.
Annunzio
Bell
Biaggi
Bolling
Burke, Fla.
Burton, John
Carr
Collins, Ill.
Conyers
Coughlin
Daniels, N.J.
Dickinson
Diggs
Emery
Esch
Eshleman
Fish

Foley
Ford, Mich.
Fraser
Gaydos
Green
Guyer
Hébert
Hillis
Hinshaw
Howard
Jarman
Jenrette
Karth
Macdonald
Mathis
Metcalfe
Moss
Ottinger
Rees
Riegle

Risenhoover
Roberts
Russo
St Germain
Sarbanes
Schneebeli
Simon
Stuckey
Symington
Teague
Thompson
Udall
Ullman
Vander Jagt
Vanik
Waxman
Wilson, C. H.
Wirth
Young, Alaska

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Andrews of North Carolina.

Mr. Hébert with Mr. John L. Burton.

Mr. Addabbo with Mr. Carr.

Mrs. Collins of Illinois with Mr. Foley.

Mr. Diggs with Mr. Fraser.

Mr. Biaggi with Mr. Coughlin.

Mr. Thompson with Mr. Bell.

Mr. Adams with Mr. Dickinson.

Mr. Conyers with Mr. Green.

Mr. Dominick V. Daniels with Mr. Burke of Florida.

Mr. Teague with Mr. Emery.

Mr. Fish with Mr. Esch.

Mr. Eshleman with Mr. Ford of Michigan.

Mr. Howard with Mr. Guyer.

Mr. Jenrette with Mr. Hillis.

Mr. Karth with Mr. Hinshaw.

Mr. Macdonald of Massachusetts with Mr. Jarman.

Mr. Mathis with Mr. Metcalfe.

Mr. Rees with Mr. Ottinger.

Mr. Moss with Mr. Riegle.

Mr. Risenhoover with Mr. Schneebeli.

Mr. St Germain with Mr. Russo.

Mr. Sarbanes with Mr. Simon.
Mr. Roberts with Mr. Stuckey.
Mr. Symington with Mr. Udall.
Mr. Charles H. Wilson of California with Mr. Vander Jagt.
Mr. Waxman with Mr. Wirth.
Mr. Ullman with Mr. Vanik.

Messrs. **PATTISON** of New York, **LATTA**, **QUILLEN**, **BENNETT**, and **CARTER**, Ms. **SCHROEDER** and Mr. **BONKER** changed their vote from "nay" to "yea."

Mrs. **SMITH** of Nebraska, Messrs. **YOUNG** of Texas, **COCHRAN**, **SIKES**, **STEELMAN**, **WAGGONNER**, **JONES** of Tennessee, **DON H. CLAUSEN**, **PEPPER**, and **TAYLOR** of North Carolina changed their votes from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5541, SMALL BUSINESS EMERGENCY RELIEF ACT

Mr. **SMITH** of Iowa. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 5541) to provide for emergency relief for small business concerns in connection with fixed-price Government contracts, and that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of December 12, 1975.)

Mr. **SMITH** of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The **SPEAKER**. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. **SMITH** of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this matter is noncontroversial and it should not take very long. The bill passed the House on April 22, 1975, by a vote of 402 to zero.

Mr. Speaker, the bill before us permits the Government, when it is deemed to be for the convenience of the Government and in the interest of the Government, to modify or cancel certain small business contracts which were entered into between August 15, 1971, and October 31, 1974. Members will recall that the period involved was one of very unstable prices and periodic shortages and that during this period our Government had an off-again on-again price control policy which very seriously disrupted the supply and price of various products. Also an oil embargo caused unpredictable delays in the delivery of some products. It is now believed that prices have stabilized enough since then so that such special relief should be cut off as of that date.

During this period numerous small businessmen entered into fixed-price contracts. They depended upon price controls in some instances but they have since been lifted. Also, the energy shortage which has developed, caused both huge price increases and a shortage or delay in delivery of some products. As a result some of these small businessmen will simply go broke and be unable to perform the contract anyway. In these cases the Government will face further delays and hinderances of obtaining the products it needs and letting a new contract will cost a lot more for the products. In some of these cases it not only is bad for the small businessman to be forced to the wall but also it is not in the interest of the Government.

It is general knowledge that big business contracts are almost all renegotiated in some form or another. In big contracts the Government generally changes the specification or through some mechanism they are reopened. The small businessmen in these small fixed-price contracts have not been able to secure the same kind of relief. The only exception is where a Government agency can certify that a contract is essential to the national defense and very few of these small contracts involve a product which is essential to the national defense and which cannot be obtained from another source.

At the beginning of this Congress several Members introduced similar legislation. The Small Business Committee readily held hearings and determined that a combination of various bills which had been introduced would be preferable. Therefore, this clean bill was introduced and it combines the essential parts of bills earlier introduced by several other Members. The bill was supported by the Small Business Administration and numerous small businessmen and small business associations. Although the GAO did not testify, they have informed us of their support for this type relief and the bill received overwhelming bipartisan support from the committee.

The conference report is substantially the same as the House bill. The major change is that the House bill would have authorized the head of any executive agency to terminate for the convenience of the Government "or make appropriate modification in the terms of" any fixed-price contract if certain specified conditions are found to exist.

The Senate amendment only authorized termination.

The Senate conferees were adamant on this point and would not allow any modification if the contract had already been performed or if the contractor had defaulted.

The conference substitute adopts the House modification authority, but limits its application to contracts which have not been fully performed or terminated and the amount of the modification plus the original contract amount may not exceed the expense incurred by the Government in reprocuring the item from another source.

The conferees intend that the authority to modify a contract be used only to save the Government money. Such a savings would result by limiting the amount of the modification plus the original contract amount to a figure not to exceed the cost of terminating the contract for the convenience of the Government plus the cost of reprocurement.

There were four other differences between the House and Senate versions.

First, the Senate amendment would authorize relief to small businesses which "have suffered or can be expected to suffer" serious financial loss because of the energy crisis or rapid and unexpected escalation of contract costs.

This type of a requirement expresses our intent as to the situations in which relief should be granted and was accepted by the House conferees.

Second, the House bill would have defined a small business concern as having the same meaning as such term is given under section 3 of the Small Business Act.

The Senate amendment would have included the language of the Small Business Act in the bill rather than refer to it.

The conferees adopt the Senate's use of the statutory language except that we deleted the reference to loan standards and instead tied the definition directly to procurement size standards. Thus the conference substitute defines a small business concern as any concern which falls under the size limitations of the small business Administrator's definitions of small business for Government procurement.

Third, the House bill would limit the application of the provisions authorizing modification or termination to contracts entered into during the period from August 15, 1971, through October 31, 1974. The House bill would also provide that the authority of the Agency to grant relief expires December 31, 1976.

The Senate amendment would have cut off the date of the contracts to those entered through April 30, 1974, and provide that the authority of the Agency to grant relief expires December 31, 1975.

The conference substitute adopts the House provision applying the authority to contracts entered through October 31, 1974, but terminates the authority of the Agency to grant relief on September 30, 1976.

Fourth, the House bill would provide that if a small business concern in the performance of a fixed-price Government contract experiences shortages of energy or energy products which result in a delay in the performance of the contract, the delay may be deemed to be an excusable delay.

The Senate amendment contained no comparable provision.

The Conference substitute adopts the House provisions except that in the event of such a delay, the head of the agency is specifically directed to modify the contract by extending the contract delivery date or period of performance.

The bill was introduced by myself and cosponsored by Mr. BERGLAND, Mr. CORMAN, Mr. YATRON, Mr. BRECKINRIDGE, Mr. J. WILLIAM STANTON, Mrs. FENWICK, Mr. CONTE, Mr. FISH, Mr. ROE, Mr. O'BRIEN, and Mr. FLOOD. However, I would like to express my appreciation for the fine work and excellent cooperation we have received from those Members who originally brought this problem to our attention; namely, Mr. CORMAN, Mr. FISH, Mr. ROE, Mr. O'BRIEN, and Mr. FLOOD.

Mr. Speaker, the principal provisions of this legislation were passed by the House on April 22 by a vote of 402 yeas and nays. This bill will provide benefits for both the small businessman and the Government. I stress that many of these contracts are still in existence. Some of them are reaching a crucial stage where products are to be delivered in the near future and that the relief authorized in this legislation with regard to contracts entered into during the particular 3-year period involved is very badly needed.

I urge adoption of the conference report on H.R. 5541.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the gentleman from Iowa. There is really no objection to this bill.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

WIRETAPPING AND FEDERAL SURVEILLANCE COMMISSIONS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2757) to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. BUTLER. Mr. Speaker, reserving the right to object, may I ask, has the gentleman cleared this legislation with the appropriate members of the legislative committee?

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield on the reservation, I would say I have consulted with the gentleman and also the gentleman from Illinois (Mr. RAILSBACK), a member of the committee.

Mr. BUTLER. Mr. Speaker, further reserving the right to object, will the gentleman explain the legislation?

Mr. KASTENMEIER. Yes, of course. The legislation merely extends the life of the Wiretap Commission 90 days from January 31, 1976, to April 30, 1976, in order that it may complete its final report. It does not call for any additional money or anything whatsoever, other than a simple extension.

Mr. BUTLER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 804(h) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 18 U.S.C. 2510 note), is further amended by striking out "January 31, 1976" and inserting in lieu thereof "April 30, 1976".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this opportunity to proceed for 1 minute for the purpose of inquiring of the distinguished majority whip as to what the program will be for tomorrow, as best the gentleman can give it.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority whip.

Mr. McFALL. Mr. Speaker, I will be glad to announce the schedule for tomorrow. We are adding several suspensions to tomorrow's schedule. That is why I am announcing them at this time. The scheduled program is as follows:

The first bill to be considered will be H.R. 12, Executive Protective Service, consideration of veto passage, which is already programed for tomorrow.

We will then consider H.R. 5559, the Tax Reduction Act extension, and move to go to conference. We expect this bill from the Senate, so that the gentleman from Oregon (Mr. ULLMAN) and the Committee on Ways and Means can go to conference.

Then we will take up the Private Calendar with the following suspensions, and votes on suspensions will be postponed until the end of all suspensions:

1. S. 2672 State Taxation of Depositories Act Extension;
2. H.R. 6644 Alaska Native Claims Settlements Act Amendments;
3. H.R. 4016 Claims by the Sac and Fox Indians;
4. H.R. 5090 Claims by the Cowlitz Indians;
5. H.R. 11172 Federal Maritime Commissioner Compensation;
6. H.R. 8169 Office of Management and Budget Director Compensation; and
7. S. 848 Flood Insurance Temporary Extension.

Then, the following bills: H.R. 8529, rice production, conclude consideration; H.R. 6461, public broadcasting, conference report; H.R. 10979, railroad revitalization and regulatory reform, with an open rule and 2 hours of debate; and H. 8235, Federal-Aid Highway Act, with an open rule and 3 hours of debate.

Mr. MICHEL. I thank the acting majority leader.

The SPEAKER. Would the acting majority leader mention that these bills might not be called up in the order as announced?

Mr. McFALL. As the Speaker says, these may not be called up quite in the order in which they are announced, because we are negotiating with some of the Members as to how they should be brought up.

The most important bill, of course, is the Railroad Revitalization and Regulatory Reform Act which, as the gentleman from Illinois knows, must be passed and sent to the President because he has stated that he would call us back if we did not get this finished. Hopefully, we will be able to get some of the amendments that are to be offered in order so that we can bring this up early in the day.

Mr. MICHEL. Mr. Speaker, recognizing that the gentleman from Kansas (Mr. SKUBITZ) had several amendments, is it the intention to go beyond general debate on that railroad bill tomorrow?

Mr. McFALL. Hopefully, we could do that.

Mr. MICHEL. That would be the last one scheduled for tomorrow?

Mr. McFALL. Perhaps, if the gentleman from Kansas can get his amendments in order so that we could proceed later in the day, that would be the ideal situation. I hope we will be able to do that.

Mr. MICHEL. I thank the gentleman.

CONFIRMATION HEARINGS ON GEORGE BUSH AS DIRECTOR OF CIA

(Mr. STEIGER of Wisconsin asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. STEIGER of Wisconsin. Mr. Speaker, in the Armed Services Committee in the other body this morning they began their hearings on the confirmation of our former colleague, Ambassador George Bush, to be Director of the Central Intelligence Agency.

Since this nomination to be Director of that agency is one that has much sensitivity related to it and since there is a matter of some controversy, I want to make sure that Members of this House have the opportunity to read in full what I consider to be an extraordinarily open and candid statement by Ambassador Bush at that confirmation hearing, and I will, as part of my remarks, include the full statement.

The statement is as follows:

Mr. Chairman and members of the committee: I am pleased to be back in the United States. I am still on Peking standard time; so if I seem a little tired I hope you will forgive me.

My nomination was sent to this committee sometime ago, but I was unable to leave China prior to the President's visit.

The President left Peking December 5th and we left December 7th.

I recognize that I am being nominated as director of the CIA at a very complicated time in the history of this agency and indeed in the history of our country. In fact, having been in China for a year, I didn't fully realize the depth of the emotions surrounding the CIA controversy.

Be that as it may I have a few fundamental views that I would like to set out in the brief statement.

First, my views on intelligence. I believe in a strong intelligence capability for the

USA. My more than three years in two vital foreign affairs posts, plus my attending cabinet meetings for four years, plus my four years in Congress, make me totally convinced that we must see our intelligence capability strengthened. We must not see the CIA dismantled.

Reporting and investigative work by the Senate and the House have brought to light some abuses that have taken place over a long period of time. Clearly things were done that were outrageous and morally offensive. These must not be repeated and I will take every step possible to see that they are not.

I understand that Director Colby has already issued directives that implement some of the decisions of the Rockefeller Commission—decisions designed to safeguard against abuses. If confirmed, I will do all in my power to keep informed, to demand the highest ethical standards from those with whom I work and particularly to see that this agency stays in foreign, I repeat foreign, intelligence business.

I am told that morale at the CIA and indeed in other parts of the intelligence community is low. This must change and I'll do my best to help change it. Some people today are driven to wantonly disclose sensitive information—not to the proper oversight authorities of the Congress but to friends and foe alike around the world. In many instances this type of disclosure can wipe out effective operations, can endanger the lives of patriotic Americans and can cause enormous damage to our own security.

I view the job of Director of Central Intelligence not as a maker of foreign policy; but as one who should forcefully and objectively present to the President and to the National Security Council the findings and views of the intelligence community.

It is essential that the recommendations be without political tilt.

It is essential that strongly held differences within the intelligence community be presented.

It is essential that without regard to existing policy or future policy, the intelligence estimates be presented—cold, hard, truthful.

I am convinced that I have the proper access to the President that was strongly emphasized in the recent Robert D. Murphy Commission Report.

I hope you find I have the proper integrity and character to see the job will faithfully be done.

Further I see the running of the CIA as very important, but I see the responsibility for coordinating all of our foreign intelligence activities as even more important. The CIA has a fundamental input into intelligence estimates, but so must the other agencies.

I will be fair to all, but I will do my level best to eliminate unnecessary duplication of effort and minimize interagency bureaucratic disputes. It won't be easy, I am told, but I will try hard on this.

Second, my personal qualifications:

I am familiar with the charges that I am too political for this job. Here is my side:

Yes, I have been in politics. I served four years in Congress. I served 2 years as Chairman of my party. I have no apology for either service, indeed I am proud to have served.

Some of the difficulties the CIA has encountered might have been avoided if more political judgment had been brought to bear. I am not talking about narrow political partisanship, I am talking about the respect for the people and their sensitivies that most politicians understand.

I do not view political experience as a detriment. I view it as an asset; but I also recognize the need to leave politics behind the minute I take on the new job if confirmed.

I would like to add:

If confirmed I will take no part, directly or indirectly, in any partisan political activity of any kind.

I will not attend any political meetings.

I will give no political speeches nor make any political contributions.

My ability to shut politics off when serving in non partisan jobs has been demonstrated in two high and sensitive foreign affairs posts—as the committee can verify.

For two years I was Ambassador at the United Nations, and for a little over a year I served in China as Chief of the U.S. Liaison Office. Both jobs taught me a lot about the product of our intelligence community—both taught me the fundamental importance of retaining an intelligence community second to none.

Frankly, many of our friends around the world and some who are not so friendly are wondering what we are doing to ourselves as a nation as they see the attacks on the CIA. Some must wonder if they can depend on us to protect them if they cooperate with us on important intelligence projects.

I think many admire our ability to cleanse ourselves and admit mistakes; but in something as sensitive as intelligence they frankly hope we don't go so far that we will kill off an important asset that they themselves and the free world need for their own security.

In addition to my foreign affairs assignments I attended Cabinet meetings from 1971–1974. Those four years gave me a good insight into some of the foreign policy considerations facing our country.

I think this foreign affairs background will be extremely useful in my new job.

I also feel the administrative experience I had in starting and running a business enterprise, which prospered, will be helpful.

Lastly, I will address myself to a question that is on the minds of some members of this committee. Namely, the question of my having been considered in the past for the Vice Presidency.

When Secretary Rumsfeld was before this committee not so long ago, his name having been speculated on for Vice President, he said "it is presumptuous of me to stand up and take myself out of consideration for something I am not in consideration for".

The committee accepted this answer then and I offer it now.

Let me add just one thing more:

If some individual or group comes forward promoting me for Vice President when I am Director of CIA I will instruct them to cease such activity.

But there is one other question, namely: "even if you have not lifted a finger to seek the nomination and even if you have actively discouraged others from advocating you for office, and the nomination is then offered to you—will you then accept?

I cannot in all honesty tell you that I would not accept.

I don't think any American should be asked to say he would not accept.

To my knowledge none in the history of this Republic has ever been asked to renounce his political birthright as the price of confirmation for any office.

I can tell you that I will not seek any office while I hold the job as CIA Director. I will put politics totally out of my sphere of activities.

In this new job I serve at the pleasure of the President. I plan to stay as long as he wants me there.

Some of my friends have asked me "Why do you accept this job with all its controversy and with its obvious barriers to political future?" My answer is simple.

First, the work is desperately important to the survival of this country and to the survival of freedom around the world.

Second, old-fashioned as it may sound, it is my duty to serve my country. I did not seek this job, but I want to do it and I will do my very best.

Mr. FREY. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Florida.

Mr. FREY. Mr. Speaker, I want to add my statement to that of the gentleman from Wisconsin.

Our former colleague from Texas, Ambassador Bush, has done an outstanding job at whatever he has done and I certainly hope the confirmation hearings will go the way we all want them to go.

Mr. STEIGER of Wisconsin. I thank the gentleman from Florida for his remarks. I agree with him completely.

THE STRATEGIC IMPLICATIONS FOR THE UNITED STATES OF CHANGING ALLIANCES IN ASIA

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, the status quo in Asia has depended in recent years on a vague United States-Soviet-Chinese balance of power, thought to be sufficient to prevent the dominance of any one of the three. But, the fall of Vietnam and Cambodia—a fall carried out with substantial Soviet and Chinese assistance—was a rude awakening to many that the United States never really understood Asian political forces, oriental perceptions of power, or oriental patience in realizing long-term objectives.

The game of diplomacy in Asia has always been a delicate one—one where players have been judged as much for their playing skill—their comprehension and uses of strategy—as for the substance of their actual wins and losses. This is of crucial importance in the diplomatic arena in Asia, for if one was a good player, there was always the outside chance that a different or unusual move might be construed by the other parties as the result of a deliberate but so far incomprehensible strategy.

Because of its erratic foreign policy in recent years, however, the United States has, unfortunately, become increasingly identified as a rather amateurish player in Asian power politics, forcing the Asian nations to believe a bold move by a power could very possibly win the game.

In recent months, the U.S. insistence on continuing to pursue détente with the Soviet Union has disturbed leaders in the People's Republic of China. Peking sees Soviet intentions through détente as a gradual increase in Soviet "hegemony" in Asia, aimed at undermining China's power and ultimately gaining complete control over all of Asia.

Peking cannot understand, therefore, why the United States persists in its present policies toward the Soviet Union. Peking considers them a direct affront toward Sino-American relations. For example, Secretary Kissinger's October visit with Chairman Mao Tse-tung was filled with strong attacks on the Secretary of State for recent U.S. relations with Moscow. And during President Ford's visit this month, Vice Premier H'siao-ping—in what appeared to be an obvious reference to the Soviet Union—

charged that "it is the country which most vehemently preaches peace that is the most dangerous source of war."

ASIAN VIEWS OF AMERICAN FOREIGN POLICY

When many in the United States were celebrating as a victory for U.S. foreign policy the Nixon-Peking summit of 1972, many of the nations of Asia saw it as a visit of accommodation at the very time when the likelihood of U.S. success in Southeast Asia was rapidly diminishing. As seen by these nations, the long breach in Sino-American relations ended only at Peking's initiative and entailed a visit to Peking by the American President to finalize the arrangements. This perception was reinforced by the pattern which emerged, that although other Communist leaders returned Presidential visits, no Chinese officials of any stature have done so.

What are most Asian leaders looking at today? First, they are looking at the measurable signs of America's military stature. Second, the Secretary of State's recent indication that he had no objections to the United States entering into a normalization of relations with the country that defeated the United States in Indochina only 8 months ago. Third, the substance the most recent trip to Peking.

Foreign perception of America's détente policy also sees the United States apparently scrambling to make perhaps not fully mutual agreements with the two major Communist nations in the world. And, while other countries have been concentrating on building up their defense postures in the face of known military buildups in both the Soviet Union and China, the United States appears to them to be making an effort to reduce further its own defense commitments.

The immediate results of America's recent foreign policy have been a disturbing buildup of Communist military posture in relation to the United States around the world, as well as reassessments by other nations of our foreign policy. For example, the Soviet Union has felt free to pour over $100 million into the Portuguese Communist Party's revolution there. Israel's reluctance to believe the American pledge of providing technicians in the Sinai neutral zone, until actually approved by the Congress, further reveals the declining influence of our executive branch, and the increasing importance of the Congress, to foreign eyes. Marilyn Berger of the Washington Post reported from the Middle East:

> The imminent fall of Cambodia and even South Vietnam . . . are said to be raising new obstacles in the current negotiations.
>
> Israelis are questioning the value of assurances . . . Arabs are said to be questioning the need to make concessions when American aid to Israel might soon be diminished, just as it has been in Cambodia and South Vietnam.

And, the OPEC countries have repeatedly raised the international price of oil despite angry U.S. protestations. Indeed, the Shah of Iran has said that he would raise the price of oil again, if it would serve to "shake up" the United States. "You Americans are not serious people," he has warned.

Our latest American foreign policy has had a devastating effect on our ability to keep alliance together abroad. American guarantees of protection are simply no longer regarded by other nations as sufficient safeguards against aggression and the countries with whom we have had friendly relations for many years are turning to the Communist superpowers in a last ditch effort to protect themselves through whatever means possible. This is not conjecture.

VIETNAM

This new American policy began to gel toward the end of the Vietnam war.

In 1972 the United States still wielded a sizable amount of power with the two other superpowers. The fact that the intensive bombing of Hanoi and Haiphong in the spring of 1972 did not lead to a Soviet postponement of the United States-U.S.S.R. summit meeting provided some grounds for the theory that the Soviet Union placed higher priority on détente with the United States than on furthering the interests of a minor Asian ally. In 1973 America's power was sufficient to enable us to obtain a commitment from both the Soviet Union and Peking to agree to a nonintervention pact concerning Cambodia.

But with heightened emphasis being placed on Sino-Soviet-American détente, the naturalization of communism as an objective of free world diplomacy began to crumble, principally because it had been apparently abandoned.

Several years ago, the Southeast Asian Treaty Organization—SEATO—reinforced its collective defense commitment, reasserting its policies of defending member countries against Communist aggression and of containing mainland China. In contrast, SEATO recently dissolved its military planning office, and last September 24, after suffering the insurmountable setback with the fall of Indochina, quitely voted to disband itself entirely.

In hindsight, the year 1973 marked a substantial turnaround in U.S. strength in Asia. On August 15, 1973, the United States ceased all bombing in Cambodia in accordance with two bills passed by Congress which prohibited funds for U.S. combat activities in Indochina. The effects of this action were, however, quite the opposite from what Congress had intended.

As a result of the congressional prohibition against any U.S. invlovement in Indochina, the delicate balance of superpower influence in Southeast Asia was severely upset. The Soviet Union was thrown into the position of taking a harder line with Hanoi than it had planned. China, too, was put in the position of having to interfere more directly in domestic Vietnamese affairs, in order to counter the growing Soviet-Asian influence.

Then, the resignation of President Nixon 1 year later added an additional element of instability to U.S. international relations. Most foreign policy analysts agree that, whatever President Nixon was to the American people, he was considered a statesman of enormous stature by the major powers of the world. More than anything else, President Nixon's resignation signaled to the outside world a probable U.S. reduction of involvement in foreign policy concerns.

With that departure, South Vietnam soon unraveled, and two broader things became apparent. First, the new President was not as well known in foreign circles, as former President Nixon had been. Second, for the time being foreign policy would be more heavily influenced by the Secretary of State. Previous U.S. guarantees of assistance were now made tenuous by a President chiefly concerned with establishing good relations with a less than sympathetic Congress.

The collapse of Vietnam, as it occurred, should not have been such a surprise in the United States in light of the existing political situation. We had shown the world by our words and actions that we no longer had a sufficient interest in prolonging a "winless war," and the congressional prohibitions and restrictions stand out, in hindsight, as the most obvious indications of that.

Strategists in Hanoi had not insisted upon winning in 1975. They knew they could wait. Basic Communist tactics had called for a slow but steady "salami strategy," every year working to gain one more slice of the "salami." The 1975 offensive had only intended to take the mountain highlands. It was a strong offensive, but not sizably stronger than any of its previous yearly advances.

Since Peking had for some time quietly supported a victory by guerilla forces indigenous to the South, rather than the heavily Soviet influenced North Vietnamese Government, China had therefore not contributed significantly to Hanoi's southern campaign.

With the sudden retreat of U.S. money and military support, however, China could not resist the opportunity for a military victory for the Communist North, and joined with the Soviet Union in supporting more fully the surprise, greatly accelerated advance from the North.

But while the North was continuing to receive outside Communist help, the South Vietnamese faced a war for the first time without the assurance of U.S. military and economic aid. And North Vietnamese plans for a "salami strategy" victory were upset, not by an enemy advance—but rather by an enemy retreat.

With no prospect of continued American aid, specifically ammunition, gasoline, and spare parts, General Thieu realized that it would only be a matter of time until an extended Southern army would be totally helpless. In an effort to cut his losses, he ordered a retreat to the more easily defendable areas of the South.

The result of his sudden action was a massive confusion within the South Vietnamese Army. For one thing, the soldiers in the Southern army had a very high morale. They had fought long and hard for the territory they now controlled.

The sudden word to retreat was intensely infuriating and demoralizing for these troops. Any advance warning had been prevented by the fact that Thieu's entire army and intelligence system had been thoroughly infiltrated by enemy North Vietnamese. In the ensuing panic and inexperienced retreat maneuvers, troops began to leave their units to try to get their families out of the way of the oncoming Vietcong. Some, realizing that the American supply line had been cut for good, decided that the end of the war had come for all intents and purposes, and left the army.

At the same time, a rumor spread through the South that President Thieu had made a deal with Hanoi to give central Vietnam to the North in exchange for the freedom of Saigon. Thousands of South Vietnamese soldiers, knowing that it would only be a matter of time until they could no longer hold out against the North, fled to Saigon, leaving their families behind in the belief that they would also have enough time to reach Saigon and safety. Not until Saigon was in the hands of the enemy did anyone in the South discover the untruth of the rumor.

Tragically, while everyone in South Vietnam knew why soldiers were fleeing en masse to the capital, it was never reported to the United States by any of the numerous American news agencies and reporters in Saigon. The misunderstanding this caused Congress and the American people only served to stiffen Congress' resolve against further economic aid to the South.

The ultimate irony of the fall of Vietnam is that intelligence sources say that, in 1 more year, North Vietnam would have listened to the Soviet Union and Chinese admonitions to ease her aggression against the South. The Soviet Union felt that the Southeast Asian nation was draining too much of its resources with little hope of a decisive communist victory in sight. And, China, on the other hand, involved as it was in building up her newly acquired stature as the third world superpower, could not afford to let North Vietnam jeopardize her carefully designed international position.

REACTION OF THE SUPERPOWERS

The fall of Vietnam was a major setback for U.S. international posture. It was the final signal for the countries of Asia to begin a rapid reevaluation of their relationships with the three superpowers and with each other. The issue at stake was not so much that of a U.S. withdrawal from three Southeast Asian countries—South Vietnam, Cambodia, and Laos—for most nations conceded that the United States gave more than enough to Vietnam, both in manpower and in money. The critical issue was that under pressure the United States backed out from a longstanding and formerly irreversible commitment.

The immediate effect of this new perception of American weakness was a reevaluation of the U.S. military posture by the two communist superpowers.

A newcomer among the superpowers, China had maintained a consistent foreign policy before the fall of Vietnam, sporting a fierce hatred of both the United States and in recent years of the Soviet Union. Many Asian analysts feel China pursued détente with the United States more as a "doomsday technique" than anything else. China was hoping to prevent any assertion of power by the United States in Asia in general and with respect to mainland China in particular until the time when China expected to have a nuclear capability large enough to defend herself against any attack. As it is, China today has a second-strike capability able to reach any major city on the Russian mainland. Always deathly afraid of Soviet hegemony China's relations with the Soviet Union deteriorated steadily in the 1960's, encouraged by a Soviet refusal to support China's attack on India in 1962, Sino-Soviet rivalry in North Vietnam and the Tonkin Gulf incident—when China accused Moscow of collusion with the United States against Vietnam, and the Chinese cultural revolution of the late '60's—which added new tension to the situation as China stressed Peking's "ideological purity" and rejected the Moscovite "revisionists."

The change that has come over the People's Republic of China in recent months is the result of her perception of the world political balance today, as compared to several years ago. Then, the United States and the U.S.S.R. were both seen by Peking as coequal threats to Chinese independence. Today the United States is not perceived as a threat; rather, it is perceived by China as little more than a paper tiger. This is much to the consternation of Peking too, for China sees the United States as the only deterrent to Soviet hegemony in South and Northeast Asia and is extremely worried that a U.S. withdrawal from the Asian sphere will leave a power vacuum that the Soviet Union will be only too eager to fill and capable of filling. As a result, Peking in recent months has sharpened her attack on the Soviet Union while using diplomatic means to encourage the U.S. continued participation in far eastern affairs. And the recent firing of Defense Secretary James Schlesinger—seen by Peking as a move to establish stronger ties with the Soviet Union through increased détente on defense issues—drew criticism from Chinese leaders.

Not surprisingly, the Soviet Union has formed an equally poor opinion of the U.S.'s defense posture. With frightening regularity, the U.S.S.R. has systematically stepped up its efforts in Southeast Asia in support of Communist insurgencies there, confident that America will do nothing to stand in her way.

CHANGING PATTERNS IN RELATIONS WITH JAPAN

International perception of U.S. military indecisiveness has caused the nations of South and Northeast Asia to rapidly redefine their postures with regard to the new American world position. Japan, once the staunch ally of the United States, was one of the first countries to do so after the Vietnam war. On May 2, 1975, the New York Times reported the immediate effects of the fall of Vietnam on Japan:

> In Tokyo, a Foreign Ministry official observed that the United States was plainly overextended in its commitments in Asia.
>
> "Japan, too, must rectify her position of having relied excessively on the United States," he said.
>
> Echoing President Ford, Foreign Minister Kiichi Miyazawa said yesterday:
>
> "A chapter in Japan's Asian policy has been closed as a result of the American setback in Indochina."
>
> He said the reassessment would not be hasty, and Government sources indicated that Tokyo would be seeking reassurance on the American security guarantee even as it groped for a more independent posture in Southeast Asia.

At the same time, however, Japan's leading newspaper was calling the Communist takeover of South Vietnam an "emancipation," and a "rise of nationalism," quoting a study that showed that over one-third of the Japanese population thought that a united Vietnam would be the best solution for peace in that country. Tokyo businesses are urging that country to establish diplomatic ties with Hanoi so that Japanese industry can get an early chance at the lush, virtually untapped resources of the two Vietnams.

Japanese Prime Minister Takeo Miki, realizing that both China and the Soviet Union still pose a distinct threat to his country, now finds himself caught between the two Communist superpowers, each vying for a first-place relationship with the industrial island. Because of the United States strong ties with Japan before the Shanghai agreement, and because of America's conscientious efforts to alleviate Japanese anger after not having been consulted in advance of United States-China détente, Japan should remain a firm ally of the United States in spite of other superpower pressure.

Yet Tokyo was one of the first countries in Southeast Asia to recognize the People's Republic of China and has become China's chief trading power—of all Communist and non-Communist nations. Commerce between the two nations rose to $3,293,000,000 in 1974. It would be very hard for Japan now to reduce the level of her involvement with her powerful neighbor, and Peking's influence grows on the Japanese islands almost daily.

ASIAN ALLIANCE

Since the mid-1960's five Southeast Asian countries—Thailand, the Philippines, Indonesia, Malaysia, and Singapore—have alined themselves within the Association of Southeast Asian Nations—ASEAN—in a loose economic alliance. In the eyes of the ASEAN nations, SEATO was not only ineffective as a multilateral defense arrangement, but, in fact, militarily provocative. The ASEAN alliance felt that those states adhering to SEATO became targets for insurgent subversion both to weaken the American position in Southeast Asia and to demonstrate the treaty's ineffectiveness.

ASEAN was created out of the concern that one of the major world powers would some day attempt to assert its authority over the region. Whereas before ASEAN the Asian States were divided by "competitive alliances" with one or more of the major powers, ASEAN has attempted to create among the participating countries a sense of regional unity and self-containment.

Although not as powerful an alliance

as NATO or the Warsaw Pact, ASEAN's main responsibility at present is promoting a policy of neutralism in Southeast Asia through which all nations involved will eventually attempt to encourage the complete nonalinement of its members with any major outside powers. Proponents of neutralism within ASEAN contend that—since the superpowers will not let themselves be outclassed in Southeast Asia—a unilateral scaledown of foreign influence will be just as effective as a military buildup, and less expensive. This is the reason they oppose any permanent base establishment in the Indian Ocean by either Russia or the United States. An escalation by either side would not make the region any safer, it is felt, and would in fact increase the chances of international incident. Hopes for the elimination of foreign influence and alliance, however, are woefully unrealistic.

The extended land wars on the Indochina Peninsula have created a political situation not unlike that in Western Europe following the Second World War. Decades of military conflict have resulted in political boundaries wholly unrelated to the ethnic and religious makeup of the area, with the result that the conflicts there are particularly bitter and unyielding. The widespread character of these disputes has extended an irresistible invitation for Communist support and intervention by both Russian and Chinese Communist Parties.

Thailand, potentially a security link between mainland Asia and the rest of the ASEAN nations, is already feeling the influence of the Communist-led insurgencies on all of its borders. Whereas the conflict on its Burmese border is relatively nonaggressive, that on its southern flank is steadily gaining momentum. There, Bangkok's Communist Suppression Operation Command—CSOC—estimated that 2,000 Malaysian-led Communists are operating under the legendary leadership of Chin Peng, mastermind of the Communist revolt in Malaysia in the 1950's. It is reported that the goal of the Malaysian Communist insurgents is the ultimate control of Thailand's southernmost provinces, and there is little reason not to believe this.

At the same time, Thailand faces a major threat on its Laotian border in the north and northeast. Here, approximately 7,500 Communist terrorists in the two regions claim the support of an estimated 40,000 Vietnamese residents, lending credence to a 1974 U.S. intelligence report that North Vietnam has organized a complex logistical system to support rural revolt in Thailand—manned by North Vietnamese and Pathet Lao troops with the additional support of Cambodian forces. Analysts agree that there is Chinese support behind this insurgency.

In view of the increasing hostilities on all of its borders and the sudden collapse of U.S. influence in the area, Thailand—once along with the Philippines—America's staunchest military friend in Asia, has hastened to switch alliances in an effort to preserve some semblance of independence. On July 1, Bangkok formally established diplomatic relations with Peking, and soon after recognized Cambodia's Khmer Rouge Republic, opening a full working embassy there and establishing trade relations with the Cambodian Government. After taking office last March, Thai Prime Minister Kukrit Pramoj forbad the use of Thai bases for U.S. military operations in Indochina, objecting strenuously to the use of Thai facilities during the recapture of the *Mayaguez*.

Fearing that any further U.S. military presence in their country would only be provocative to the Vietnamese, Pramoj ordered the removal of all U.S. troops from Thai territory by March 1976, and while as of October the White House was confident that Thailand would not continue in its policy of closing down U.S. military bases; at present fewer than 7,000 men and 100 aircraft remain in Thailand, down from 48,000 troops and 750 aircraft at the height of the Vietnam war.

Similar activity has been going on in the other ASEAN member countries, which have also become politically unstable.

In the Philippines the extent of Communist-dictated insurgency has caused the imposition of martial law in Manila. It is a very tense situation, the outcome of which is quite tenuous at this time, and it is not at all certain that Philippines President Ferdinand Marcos is willing to renegotiate a treaty for continuation of U.S. bases in the Philippines except for the protection and defense of the Philippines. In an exclusive interview with Chicago Tribune reporter Ronald Yates, Marcos declared that—

> All American military bases in the Philippines should be converted into Philippine bases under Manila's control and administration.

Marcos also said that the Philippines would normalize relations with the Soviet Union early next year.

Marcos' statements have caused considerable concern to American military experts, primarily because of the extensive U.S. presence in the Philippines at Subic Bay and Clark Air Force Base. Subic Bay has a complete drydock naval facility, with a repair facility for ships second only to our Japanese base in the Western Pacific. Because of the much lower labor costs in the Philippines, compared to the United States, the United States had planned to double Subic's capacity—the Navy estimates that repairs costing $220 million in the United States would run only $32 million in Subic Bay.

But even more important is the Clark Air Force Base, 75 miles inland from Subic Bay. Clark Field contains a naval magazine capable of handling the entire fleet that once operated off the coast of Vietnam, a major communications station, and an air base that handles all Pacific military airlift logistics flights.

Strategically, the Philippines are crucial to the entire Western Pacific defense operations of the United States. Located in the center of 7th Fleet operations—which cover waters from Alaska to Australia off the Asian coast—the Philippines are second in location only to the now-lost U.S. naval base at Cam Ranh Bay. Should the United States eventually be asked to leave, the next closest U.S. territory would be located in Guam. At a normal cruising speed of 15 knots, that would mean that American ships would have to add 5 to 6 days more onto their round trip supply runs from their positions off the Asian coast, and that the Navy would have to add more supply ships to the 7th Fleet, at considerable cost. In addition, the 1,000-mile capability of U.S. supply planes means that the removal of the Philippines as an American base would necessarily require U.S. stopovers in potentially dangerous country for any strategic maneuvers undertaken in Southeast Asia.

Indonesia is presently embroiled in a dispute over Portuguese Timor, where Dili, the capital, is already held by Communist leftist forces. Indonesia is walking a delicate line between Chinese and American influence. While Jakarta is making overtures to Peking in order to obtain a less threatening attitude from her Chinese neighbor, President Suharto at the same time has obtained a double dose of foreign aid from the United States.

At this time, Indonesia is one of America's closest allies in Southeast Asia—a fact reflected in President Ford's stopover in the capital of Jakarta at the end of his Chinese trip, a visit designed to reassure Indonesia of the United States continued commitment to the protection of this small country's independence. Hopefully, Suharto will choose to remain under American influence in the coming years.

The situation in Malaysia is also particularly bad at this time. The Washington Post of November 5, 1975, reported a resurgence of a serious Communist guerrilla movement in the country since the fall of Cambodia and South Vietnam. A curfew is in effect in Malaysia's capital, Kuala Lumpur, where national monuments have been bombed and grenade attacks have been carried out against police headquarters. Since April, 50 soldiers and police have been killed in the violence and over 250 have been wounded. The source of unrest in Malaysia is the very active Malaysian Communist Party MCP. Twenty years ago the MCP was practically eliminated by the British counter-insurgency expert, Sir Robert Thompson, and others. Today, it is a strong party—funded and supplied by the Communist Party of China. Observers feel that this buildup of MCP forces is a sign that Kuala Lumpur is the first target of a new, revitalized Peking-dictated insurgency.

One of the major difficulties in putting down this insurrection is the fact that Chinese make up 32 percent of the Malaysian population and control most of its business and money sources. Malaysian Prime Minister Tun Abdul Razak is attempting through strict economic policy to reduce the influence of the Chinese population while building up a sufficient armed service. So far, though, he has been unable to curtail Communist activities—even after formally establishing diplomatic ties with Peking. Razak has asked Peking to halt Chinese broadcasts into the Malaysian capital urging resistance to the Malaysian Government, but his request has so far met a deaf ear and a disavowal of control over the Chinese Communist Party's activities by the Chinese Government.

Malaysia sits across the Strait of Malacca from Singapore, the fifth of the ASEAN nations. Singapore is concerned about the control over the strait, if Malaysia should fall to the Chinese Communists and over its own fate as well.

Singapore is the third largest refining location in the world, the second largest shipbuilding center in the world, and the second largest oil rig building port in the world. All of this depends on the continued free access to the strait from the Indian Ocean to the South China Sea, thence to the Pacific. The strait presently sees a sea traffic of over 40,000 vessels per year—110 vessels per day—including approximately 8,000 tankers bound for Japan alone.

In November, 1971, Malaysia and Indonesia jointly claimed that the straits would be considered their national waters rather than an international waterway, claiming that the straits were part of the 12-mile zone bounding both their coasts. The United States—along with Japan and the Soviet Union—objected to that action, claiming that it impeded the "right of innocent passage" and that neither Malaysia nor Indonesia had the capacity to defend their claims anyway.

China, however, has consistently and forcefully argued for the 12-mile zone and for the establishment of a 200-mile coastal exploration limit. China's official position is that this would protect small littoral states from exploitation by other, more major powers.

In actual fact, China has two main purposes for supporting this course of action. First, adoption of this measure by international law organizations would enable Peking to disrupt and deter close-in operations of the ever-expanding Soviet Navy. But second, and most important in China's eyes, is the jurisdiction such a zone would provide Peking over the oil-rich East China and Yellow Seas. This is why Peking objected to the 1974 signing of a Japanese and South Korean agreement to begin mining the mineral-rich continental shelf off the South Korean coast, even though the People's Republic of China already claims undisputed jurisdiction over the 200-mile coastal zone off its eastern littoral.

INDOCHINA

One of the most potentially dangerous situations politically in Asia at the present time, however, is that of Indochina—of Vietnam, Cambodia, and Laos—now Communist-held for over 8 months.

The United States still maintains a 22 man American Embassy in the Laotian capital of Vientiane, but its activities have ground to a halt and its purpose is mainly to prevent further discouragement that an American withdrawal from that city would mean for our allies in Asia.

Laotian Communists have stepped up their attacks on Thailand, while it, too, holds out between an alliance either with China or the Soviet Union.

Pathet Lao leaders also lost no time last spring in approaching the United States for foreign assistance as soon as the coup was completed, stating that it was "America's duty to pay," even after having brazenly evicted U.S. Agency for International Development officers from Laotian soil.

On December 3 the pro-Communist Pathet Lao abolished the 600-year old Laotian monarchy as well as the 19-month old coalition government led by Prince Souvanna Phouma, largely in response to massive demonstrations believed to have been staged by the Pathet Lao itself. Although the government takeover is little more than a reaffirmation of the control the Pathet Laos has been exercising since 1962, the fact that another Communist government has risen to official status in Southeast Asia is the cause of concern to U.S. officials.

One of the bloodier scenes in Southeast Asia is now being shown to have taken place within the former U.S. ally—Cambodia. Stories of massacres are now reaching U.S. newspapers, and with them tales of Khmer Rouge barbarianism almost incomprehensible to Western minds. For a city that once held over 2,000,000 people, Phnom Penh, its capital, now contains only 50 thousand inhabitants, most of them Khmer Rouge soldiers. Khmer Rouge officials have ousted the U.S.S.R. because of her recognition of the old Lon Nol regime up until the collapse of Cambodia, and executed the former Premier's brother, Lon Non, in a massive execution of political prisoners after the capture of Phnom Penh last spring. While Cambodia has representatives from China, North and South Vietnam within its capital, it has maintained an impregnable wall between Cambodia and the outside world, only recently allowing trade with Thailand because of its dire need for food, fuel, and other supplies. The relationship between Phnom Penh and Hanoi is said to be gradually disintegrating and China, which has been providing food to the Cambodians on a limited basis for some months, hopes to gain more or less complete mentor status within the near future, especially since China would like to see a diplomatic counterweight to North Vietnam's growing power in Indochinese circles.

But one of the more controversial situations—to the American point of view—is that surrounding Vietnam itself. Soon after Vietnam fell it was reported that Secretary Kissinger was moving to encourage, and then establish ties with the North Vietnamese. The New York Times of November 19, reported:

> Last weekend . . . Secretary of State Kissinger let it be known through a group of Congressmen about to confer with North Vietnamese representatives in Paris that the United States was ready to respond to goodwill gestures from Hanoi, working towards a "normalization" of relations . . . (even though) Hanoi officials have regularly insisted that reconstruction aid, as envisaged in the 1973 Paris agreements, would have to be an integral element in any resumption of working relations.

Indeed, one high Government official has even speculated that the United States might not have blocked U.N. recognition of Vietnam if that country had not tried to obtain two seats for itself in the General Assembly—one for the North, and one for the South.

Hanoi has been inviting U.S. trade and economic aid ever since Saigon surrendered, saying the losers always pay reparations to the winners, while at the same time fostering bitter anti-American sentiment throughout the country.

At the same time, Hanoi has been working on cementing a closer relationship with the Soviet Union. Hanoi publicly joined Moscow in its enthusiastic praise of the dictatorial actions of India's Prime Minister Indira Gandhi this fall, and on October 28, North Vietnamese Communist officials pledged North Vietnam's "eternal and unbreakable ties" with Moscow, publicly thanking the Kremlin for helping North Vietnam win the war.

And since the fall of Vietnam, Moscow has poured money and equipment into the Hanoi government, slowly turning the country into the first full-fledged Soviet satellite nation in Southeast Asia, one the Soviets are intent upon having within their sphere, instead of within the Chinese sphere.

Largely because of her Soviet backing, Vietnam is now emerging as the major power among the small Southeast Asian nations. Within a month after the North Vietnamese overran the South, Foreign Minister Chatichai Choonhaven of Thailand said he was calling a meeting of the Southeast Asian alliance, which also includes Singapore, Indonesia and the Philippines, in hopes of arranging a joint recognition of the now Saigon government.

GROWING SOVIET INFLUENCE

It is a sad fact that, if the United States still exhibited the power and the strength of will it once had in international circles, the Southeast Asian nations would not have found it necessary to turn to one of the other two superpowers instead of, or in addition to, the United States. If we in America truly understand that fact, we should be very concerned.

The Soviet Union has wasted no time in capitalizing on our internationally perceived weakness. Détente to the Soviet Union, after all, fits into Soviet plans of: one, stabilizing its European front in order to be better able to deal with China; two, creating division within U.S. alliances; and three, seeking U.S. technology to help repair Moscow's ailing economy while leaving the Soviets relatively free to concentrate on military buildup.

The goals of the Soviet Union in Asia go far deeper than a single political alliance, however. While American troops were stationed in South Vietnam, the U.S. Government built the second largest manmade port facility in the history of the world—second only to that constructed in Normandy to sustain the Allied invasion of Europe in 1944—on the tropical east coast of South Vietnam at Cam Ranh Bay. Soviet military experts have been eyeing the all-weather facility which, according to a report in the Chicago Tribune of November 14, "would enable the Soviet fleet to blanket China, Japan, and U.S. bases in a crescent formation in case of hostilities." Presently, Moscow's only permanent base on the Pacific is the one at Vladivostok. While it is a formidable base in the northwestern section of the Japan Sea, Vladivostok is, nonetheless, subject to the cold winter weather and must be kept open by icebreakers between November and March. It is, therefore, of limited use during that 5-month portion of the year. Soviet control over Cam Ranh Bay, however, would give the Soviet Union her first 12-month door to the Pacific in Soviet history.

So far Hanoi has denied formal use of Cam Ranh Bay to the Soviet Union, but intelligence information made public indicates that Soviet naval experts are already preparing the former U.S. naval base for Soviet nuclear submarines and missile cruisers.

There are other indications, too, that the Soviet Union is taking advantage of the U.S. strategic impotence to enlarge her military reconnaissance missions in Southeast Asia.

The November 14 Chicago Tribune featured an article by Ronald Yates entitled, "Politics of Power in Pacific—Soviet Buildup." In the article Yates reveals an unsettling discovery. Last April, when the eyes of the world were focused individually on events in Indochina, the over 300-ship Soviet Pacific Fleet—275 ships larger than the U.S. Pacific Fleet—launched what Yates called "the biggest naval exercise in Soviet history":

> Russian ships, much to the consternation of Japanese defense officials, were concentrated all around Japan in a pattern designed to strangle this nation by cutting off all sea lanes. Soviet submarines, intelligence sources say, practiced preemptive strikes against American naval bases in the Philippines and Japan and deployed along the Chinese coast in a configuration designed to shower that nation with missiles.

Japan is, quite understandably, worried over this Soviet action. I quote further:

> There is no doubt about it, the Soviet Union has become the new Pacific power, replacing the United States," a Japanese Defense Agency source said. "We can only guess at Soviet intentions."

In the same article Yates writes that the Soviets have begun to maneuver troops along the ever-sensitive Manchurian border in the north of China, where it is estimated that they now have the capacity to launch a 50-division attack on mainland China. Yates wrote:

> And last month a Soviet reconnaissance plane pierced Japanese air space and flew undetected for some 20 minutes over Japan's northern island of Hokkaido—an event which painfully reminded the Japanese of their vulnerability to a Soviet attack.
>
> The Soviet Union has at its immediate disposal in northeast Asia, some 850 bombers and 1,200 tactical fighters compared to about 200 U.S. planes based in Japan.
>
> That the Soviet Union and China are engaged in a war of political influence in Asia following America's ebbing posture in the area is apparent by events in Indochina since communist victories there.

The two explanations offered for the Soviet Union's growing Asian military machine are equally distressing. Japan believes that the Soviets are expanding militarily in Asia as a means of neutralizing Japan in the event of a Pacific war. U.S. sources see the Soviet actions as a means of preparing for an eventual attack on the American west coast. Independent analysts concede that both theories lie well within the realm of possibility.

At present the Soviet Union has 105 submarines in its permanent Pacific fleet, about 40 of which are nuclear, and about 60 of which are major surface combat ships. Its Pacific air force has 5,350 combat aircraft with a troop force of 400,000. According to "The Military Balance—1975–76," Soviet tactical air forces include:

> About 4,500 aircraft including Yak-28, Il-28; 700 Mig-17; 500 Su-7; 400 MiG-23 Flogger; more than 1,350 MiG-21; Su-17/20 Fitter C, Su-19 Fencer A; Yak-28 Brewer E and An-12 Cub electronic warfare aircraft.

In addition, the Soviets have a Pacific paramilitary force of 430,000, including 200,000 KGB border troops.

KOREA AND TAIWAN

Where U.S. international weakness has encouraged increased military buildups by both China and the Soviet Union, it has also failed to discourage active aggression among Asian nations as well.

North Korea, encouraged by the swiftness and ease of her colleague's—North Vietnam's—success seriously contemplated an all-out attack on South Korea for some weeks last spring before she was talked out of it by both the Soviet Union and China—Moscow, because the rapid destruction of the delicate Indo-Chinese balance had revealed broadly her carefully constructed cover of alleged noninvolvement with Communist activities in Southeast Asia, and China, because a continued U.S. presence in Korea would maintain the peacefulness of the Chinese and Korean border, while the withdrawal of U.S. forces would necessitate a closer concentration on the area and a distraction from Peking's main strategic concern on the Sino-Soviet border. Indeed, the situation in Korea is very dependent upon the influence the U.S. commands in Asia. Forty thousand U.S. troops notwithstanding, the Democratic People's Republican of Korea, President Kim Il Sung is recognized as a very unstable leader, one who has never abandoned his plans for the forced reunification of North and South Korea. His strategy is simple—to somehow provoke a 9-day war, long enough to capture the South's key strategic positions, and too short for the U.S. Congress to take appropriate retaliatory action.

South Korea is understandably perturbed by all this action by its northern neighbor, and along with Taiwan is extremely worried about the apparently declining role of the United States in Asia. While at least South Korea does not have to worry too much at the present time about continued U.S. support of the Park regime, Taiwan has been receiving signals that Secretary Kissinger may be willing to recognize the People's Republic of China's jurisdiction over the Taiwanese people and that it is only a matter of timing—for example, after the 1976 Presidential campaign is over. In fact, as the New York Times stated in a May 5 article:

> The prospect that the collapse of the American-backed government in Saigon would provoke other Southeast Asian regimes to seek accommodations with Peking and Hanoi was taken, paradoxically, by some Taiwanese as an encouraging sign. The only way for Washington to deflect that trend, they contended, would be to reassert its old commitments in the region.

I, for one, do not believe that we need to further this course of expediency through diplomacy by abandoning one of our staunchest allies in return for "better relations" with a nation already more than anxious to pursue détente with the United States. On November 20 I joined with over 210 of my colleagues in the Congress in calling for an expression of the sense of the House that the United States be urged not to comply with this deplorable course of action against the freedom and independence of 16 million people on Taiwan who have asked nothing more than that the United States keep our commitments with them and let them stand on their own feet as a free world partner. I do not feel the United States should abruptly abandon its dialogs with the People's Republic of China. There are reasons why we should continue to play off mainland China against the Soviet Union, and continued communication is essential to that. But, I firmly believe that no moves to normalize our relations with the PRC should be undertaken that would jeopardize the Republic of China in any way.

Indeed, the People's Republic of China is watching the U.S. position on Taiwan very closely. While pushing for increased power over the Republic of China, Peking is also measuring the extent of America's mettle and resolve regarding one of our formerly staunchest commitments. Asian experts maintain that, should the United States concede victory to Peking on this very sensitive question, mainland China will treat U.S. international power with even more contempt than before.

COMPETING CLAIMS FOR OFFSHORE OIL AND GAS

Of equally major concern to international observers has been the recent actions by the People's Republic of China with regard to offshore oil in the Yellow Sea, East and South China Seas and Po-Hai Bay. Mainland China has claimed jurisdiction over a 200-mile "economic zone" in waters off the entire coast of China, including the waters surrounding Korea and Taiwan and their adjoining islands, a claim which the PRC has made in accordance with her policy of regarding all these islands as part of her territory. Although the People's Republic of China has claimed this territory since 1949, it was not until the islands were found to be rich in underground oil deposits that mainland China took decisive action to assert her supremacy.

In January, 1974, a Chinese amphibious force supported by four Mig fighters attacked the Parcel and Spratley Islands, a group of islands stategically located between the Strait of Malacca and Japan, and claimed the islands and their surrounding waters for China. It is believed that China's actions were meant as a warning to Japan, her main trading partner, who has been working with

South Korea to organize a joint undersea oil rig operation between the southern tip of the Korean peninsula and Japan's southern island of Kyushu.

An estimated 30 billion barrels of oil lie under the controversial Continental Shelf off the eastern shore of China. Since the Arab oil embargo of October, 1973, and the subsequent fourfold increase in the price of crude oil, this potential oil reserve has become increasingly important, particularly to the nations of Japan, Taiwan and Korea—who import approximately 90 percent of all their oil needs.

As part of an effort to locate economically recoverable oil and become independent of arbitrary OPEC price rises all three of these countries began 2 years ago to negotiate exploration agreements among themselves and contract with foreign firms to investigate offshore oil prospects.

Although international oil development firms are beginning to contract for the mining of undersea oil, the technologically advanced oil companies of the United States have recently been pressured by our own Department of State to abandon any operations in the Chinese Coastal Zone that might "irritate" Peking.

The New York Times of September 5, 1975, ran an extensive article on this singular interference by the State Department in the affairs of private businesses seeking to develop these foreign resources. According to the New York Times, the Ford administration has dealt with the problem of potential Chinese displeasure over American oil development—

> by applying its long-standing general policy to the China waters. As described by a ranking State Department official, this policy is to discourage American companies from operating in areas where they could get involved in political difficulties.
>
> This application of the general policy has had the effect of favoring China's claims.

The Times based its article on a study conducted over a 12-month period by the Carnegie Endowment for International Peace, which was published in the fall, 1975 issue of Foreign Policy magazine. In the study the Carnegie Endowment released some disturbing facts.

Among one of the first leases granted by the Government of Taiwan to develop that island's oil reserves was given to Clinton International, an American firm which then contracted with the Superior Oil Co. to do geological exploration in an area 500 miles north of Taiwan in the East China Sea. Superior secured an exploration rig and planned to drill in the area in April and May of this past year. But the White House and the State Department both personally intervened to prevent such action from being taken.

When Joseph Reid, president of Superior Oil's international division, visited Washington in February to finalize the plans for the offshore oil project, both the White House and the State Department intervened to discourage such action from being taken. Reid was told that his corporation would be denied the use of American satellites for navigational purposes during the course of the exploration, and that the American Government would render no assistance to either his ships or crews in the event of a confrontation with Communist Chinese naval vessels.

Finally, Reid was told by the State Department that Secretary of State Kissinger would personally take up the matter with the president of Superior Oil if the company proceeded with exploration in the area. The State Department contended that the Communist government in Peking had a substantial claim to the area, and they did not want a clash with them over such exploration.

In light of these pressures and complications arising with obtaining a drilling rig, Superior decided in February against the exploration.

Upon further investigation, the Carnegie Endowment found such heavy-handed techniques by the State Department and other agencies in defense of its détente policies. For example, 2 years ago the Commerce Department refused to allow a U.S. company to sell a drilling vessel to the Government of Taiwan. Specifically, the Commerce Department said that the vessel could not fly the U.S. flag, and that it could not carry any sophisticated equipment, and that no U.S. personnel would be given the protection of the U.S. Government while on the high seas. The company was threatened with the revocation of the equipment's export license if the vessel carrying that equipment ventured into disputed waters.

Yet other instances of difficulties encountered by American companies interested in drilling in supposedly neutral waters continue to arise. Korea, faced with similar energy problems as Taiwan, has encouraged major oil companies from the United States and other countries around the globe to explore in promising areas in the Yellow Sea, southwest of the Korean peninsula. Gulf Oil, which has already secured two concessions in this area, planned to drill in one area approximately half way between Korea and Communist China. Before drilling could begin, however, Gulf officials were approached by Deputy Secretary of State Robert Ingersoll, who strongly argued against any prospective activity in the oil-rich area.

The Korean Government, however, is very much interested in seeing Gulf Oil proceed with its contract, since without U.S. oil interests in the area Korea is completely dependent on OPEC and Chinese sources of crude oil. This is particularly important to South Korea in light of recent reports that North Korea's Kim Il Sung is planning an all-out offensive against the South sometime this winter. Both the People's Republic of China and the OPEC oil countries have been known to withhold vital resources in the interests of political considerations, and President Chung Hee Park is understandably worried that the safety of his country is under considerable jeopardy through its almost total dependence on unfriendly energy sources.

At issue here is the question of whether the U.S. Government is pursuing a true neutrality in its policy of enforced nonparticipation of U.S. industry in the oil-rich ocean floor. The New York Times has flatly stated that the manner in which the United States has been acting "has the effect of favoring China's claims." State Department policy is presently preventing U.S. firms from obtaining Overseas Private Investment Corporation—OPIC—risk insurance to cover drilling actions in the China Sea. Export-Import Bank loans are likewise being denied U.S. petroleum companies. In addition, the State Department's position that the Republic of China should not develop its continental shelf because the People's Republic of China claims it under its "one-China" policy is logically inconsistent. The U.S. Government allows U.S. investment onshore in Taiwan, even though Peking claims the island of Taiwan under the one-China policy, too.

There is an urgency about the outcome of these developments that cannot be ignored. Should the United States eventually allow private business to invest in offshore oil in Southeast Asia, the decision will have to come soon. It will take 6 to 8 years to complete production of an offshore rig in the continental shelf, and if production is not started within the next 18 months, inflationary cost factors will make such a venture impossible. Then again, these same factors will determine whether the Republic of China, along with South Korea and Japan, will be energy-sufficient or dependent on the whims of the PRC and the OPEC countries.

The only other alternative to a dependency on outside sources, friendly or not, for their energy needs is for these countries to develop a substantial nuclear energy capacity through nuclear reactor deployment, a disturbing prospect in light of the political repercussions that would necessarily entail.

Regardless of the economic and international implications of present U.S. policy, the U.S. role in this admittedly touchy situation should at least be consistent with existing international law principles and international treaty obligations, which at present it is decidedly not. The U.S. refusal to guarantee the protection of an American vessel and crew has the real effect of the U.S. Government deciding on behalf of private companies what should be the extent of their business interests, and enforcing that decision by coercion that is parenthetically helping the Communist Chinese to develop their own export capacity. In addition, it assumes a tacit approval of the Peoples' Republic of China's claim to territorial waters entirely outside of any legally recognized jurisdiction. By failing to encourage energy development by Korea and Taiwan, the United States contributes substantially to a power balance shift in East Asia in favor of Peking which will increasingly dominate the petroleum market in the region.

PERSONALITY POLITICS

It is best to remind those responsible for our foreign policy that they are putting trust in such traditionally unreliable governments as the People's Republic of China and the Soviet Union.

The policies that we have been

pursuing—from strategic arms limitation treaties to offshore oil "neutrality"—have relied heavily on Secretary Kissinger's perception of just how far the leaders of these major powers will go in order to preserve an advantageous détente.

But the "old guard" of the Soviet-Asian order is not going to be around much longer. China's Chairman Mao Tse-tung is now 81 years old, and ailing. Chou En-lai is terminally ill. Moscow's Brezhnev may step down after the Communist Party convention this spring—most certainly not long after the next United States-U.S.S.R. summit's conclusion. The new guard is not yet known, and may well decide to follow a foreign policy that is not so favorable to the United States.

Mr. Speaker, now is not the time for the United States to founder—to try to function without a strong international policy—in the vague hope that our withdrawal from international affairs will inspire the world toward unilateral nonaggression. The results of our foreign policy drift have been seen in Southeast Asia with frightening clarity, and have resulted in increased, not decreased, predatory violence around the world.

Today, perhaps for the last time in this century, the United States holds the upper hand in international political power. The Chinese are so afraid of encroaching Soviet hegemony that they are suppressing any talk of their formerly topmost prerequisite for normalization of relations with the United States—recognition of Taiwan as an integral part of the People's Republic of China. Furthermore, in its relations with the Southeast Asian nations, China has demonstrated that it has a greater stake in preserving good relations with the United States than in supporting Communist-led insurgencies of potential benefit to the Maoist cause.

At the same time, Moscow is increasing its invective against Sino-American relations, fearing that the U.S. preoccupation with Peking will weaken America's commitment to détente and strengthen opposition to the Soviet Union's declared intentions of eventual world domination. The December 8 U.S. News & World Report reported from Moscow:

> Western experts here say that some Soviet officials fear the U.S. is moving toward what they define as a more "opportunistic" approach to détente—treating Russia and China as complete equals or even playing the two countries off against each other. This is an unsettling possibility for Soviet leaders, as their primary aim is to demonstrate that détente represents a special relationship between the U.S. and the Soviet Union, with China in an inferior role.

Mr. Speaker, there is no reason why the United States should continue on a course of psychological inferiority to the two Communist superpowers of the world who are, at least at the present time, militarily and politically dependent upon America's initiative in world affairs. It is critical that now, while there is still time, the United States concentrate on regaining her position as greatest of the world's powers, in order to help guarantee peace through a strong national defense.

Whatever course America chooses to pursue in 1976 will determine whether mankind is to have a choice to pursue true freedom in the world's next 200 years.

VINCENT M. IGO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, recently one of Foxboro, Mass., activist citizens, Vincent M. Igo, was honored when the local school committee named its administration center for him. Foxboro is part of the 10th Congressional District of Massachusetts, which I have the honor to represent in the House, and I have personally observed Vin Igo's work for his community and its residents.

I join his many friends in extending to Vin my sincerest congratulations and best wishes for his future success. The citizens of Foxboro are indebted to Vin Igo for his tireless efforts on behalf of the children of the community, through his long and productive tenure as a member of the school committee.

Vin Igo is a person who has given unselfishly of himself in all areas of community and I take personal pleasure in bringing his work to the attention of my colleagues.

Mr. Speaker, the Foxboro Reporter recently detailed the school committee's action in honoring Vin, with the announcement followed by an outstanding editorial on radio station WARA of Attleboro, Mass.

I insert the news story and editorial at this point in my remarks:

School Administration Center Named to Honor Vincent M. Igo

Foxboro has a new building this week, or rather an old building with a new name.

In a surprise announcement Monday night, the School Committee announced it would honor its Chairman, Vincent M. Igo, by naming "the former Intermediate School" at the corner of South and Carpenter streets the "Vincent M. Igo School Administration Center."

In making the announcement, Superintendent of Schools Dr. Troy Earhart stated, "In view of the dedicated and unselfish service which he has given over many years to the children of Foxboro, to staff members of the Foxborough Public Schools, and certainly to Foxboro's citizens, and since the Foxboro School Committee believes that he is most deserving of having the 'Carpenter Street' facility named in his honor, I take great pride in announcing the committee's decision to name this facility 'The Vincent M. Igo School Administration Center.' "

Mr. Igo was then congratulated by the remaining four members of the committee, who together with Dr. Earhart, had made their decision without Mr. Igo's knowledge.

The building complex named for Mr. Igo is reflective of his many years of community involvement. The older wing of the building contains the school administrative offices, and Mr. Igo has been a member of the School Committee for seventeen years, serving fourteen years as Chairman. The newer wing of the building presently serves community needs, and includes the Foxboro Community Center, Council for Human Services, Council on Aging and the Kennedy Center for Handicapped Children.

WARA Editorial Point of View

Congratulations to Foxboro's Vin Igo. This past week, it was announced that the old intermediate school has been named the "Vincent M. Igo Administration Center". Igo is the voice of Foxboro News on WARA, and has served on the town's school committee for 17 years, 14 as chairman. Superintendent Troy Earhardt said the school was named in honor of Igo due to his dedicated and unselfish service which he has given over many years to the children of Foxboro, to staff members of the Foxboro public schools, and certainly to Foxboro citizens. Igo has served the town in many ways over the past several years, and presently is assistant to the publisher of the Foxboro Reporter, as well as having other duties at the Foxboro Company. We think Vin Igo is well deserving of this honor and we wish him only the best in the future. We also commend the Foxboro school committee for honoring a distinguished citizen while he is alive. So many times we reserve honors till someone has passed away, and thus she or he never has the satisfaction of a job well done.

H.R. 9464—ONE MORE STALLING TACTIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ARCHER) is recognized for 12 minutes.

Mr. ARCHER. Mr. Speaker, H.R. 9464, a short-term emergency natural gas bill, seeks to exempt sales of new on-shore gas to so-called "distressed' interstate pipelines from FPC price regulations until April 15, 1977. In fact, this bill is one more stalling tactic to avoid facing a real and worsening problem.

ASSESSMENT OF THE PROBABLE EFFECT OF H.R. 9464

First. This bill makes no effort to mitigate the natural gas shortage. It contains no provisions which will encourage gas exploration or additional production. The bill does not address the fundamental problem of low supply and high demand.

Second. H.R. 9464 will effectively foreclose some interstate pipelines from securing new gas supplies for the next two winters. If an interstate line is not found by the FPC to be a "distressed" pipeline, that pipeline can offer suppliers no more than the FPC-set ceiling rate for new gas: At the same time, the "distressed" pipelines can pay any rate for new gas. Inevitably the bill will operate to harm the pipelines presently able to serve their essential users, for they will, for the duration of the act, be unable to compete for new supplies. According to FPC, FEA, and OTA studies, it appears that H.R. 9464 will operate to the disadvantage of interstate pipelines serving the States shown below. See exhibit 1.

Third. The bill attempts to reallocate existing supplies of natural gas by an increased role of Federal regulation. The Federal Government—the FPC—will decide who is entitled to make emergency gas purchases. The Federal Government—again, the FPC—issues orders to say how the gas so purchased will be transported, and in this role can even order new pipeline facilities to be built and existing nonfederally regulated facilities to be used. The FPC has no such power today.

Fourth. The bill puts the Federal Government squarely in the business of dictating retail rates for the sale of natural gas. Retail rates, always until now regarded as the province of State action and local concern, must, by law, conform to the plan of "end-use pricing"—that is, that industrial consumers must pay for emergency gas. The mechanism by which this is attempted is extremely cumbersome; "distressed" pipelines are required to submit very detailed weekly reports of such complexity that it is doubtful that the FPC will have time to read, much less audit or analyze, all that is filed.

Fifth. The bill will probably not permit the movement of substantial quantities of emergency gas this winter. Before gas can be purchased and moved to market:

The FPC must decide who the eligible purchasers are. This will be an appealable ruling which can be tied up in judicial proceedings for many months.

The seller must file for and receive a certificate of public convenience and necessity from the FPC. This process historically consumes several weeks, even when the FPC expedites its processing.

The grant, or denial, of a certificate is an appealable ruling.

Unless the purchaser has facilities in place to receive and transport the emergency gas, certificate applications for construction or transportation must be filed and approved. This process is very slow at the FPC. If past experience is any guide, a delay of many weeks is inevitable. The grant, or denial, of facility or transportation certificates is an appealable order.

The pipeline purchaser must determine which of its distributor customers are entitled to receive emergency gas under the "end-use pricing" rule.

This process will initially require State regulatory commission approval of the distributor's rate structure.

Judicial review at this stage may also be contemplated.

Sixth. The bill creates enormous uncertainties for producers. Currently there is litigation over whether producers have minimum delivery obligations to pipelines; the measure of such obligations, if they exist, and the sanctions for breach of the obligation will not be spelled out, in all probability, until the Supreme Court addresses these problems. The bill will result in further litigation on this issue because of the provisions of section 8, which purport to declare certain producer conduct unlawful, but which fail to define with any certainty what the producer's obligations are, coupled with section 11 which permits "any person" to institute civil action in any district court to enforce section 8.

As a practical matter, producers may well be forced to the conclusion that they cannot afford to accept any certificates for new service until they know what their obligations are; the threat of multiple litigation may preclude any other course of action.

Seventh. The bill attempts to abrogate provisions common to many producer contracts, which have been in use for many years and which have become standard in the industry. Changing the rules in the middle of the game does little to provide certainty, and can only operate as a disincentive to new investment when the investor is forced to ask himself how might the rules be changed again when congressional whim strikes.

Eighth. The bill authorizes the FPC to direct previously nonfederally regulated pipelines to transport gas for "distressed" interstate pipelines. The act provides no compensation to the pipelines whose facilities are thus preempted by Federal order, and no protection to the customers of the preempted pipeline who stand to lose their own service if the "emergency gas" is given priority by the FPC.

CONCLUSION

H.R. 9464 will solve no long-term or short-term natural gas problems. It cannot reasonably be expected to mitigate unemployment and economic hardship this winter. The bill affords a tremendous potential for interminable litigation, and introduces new uncertainties and new inequities into the regulatory structure.

The cumbersome mechanics of H.R. 9464 mark it as a futile attempt to solve a regulation-induced shortage by more intensive and more intrusive Federal regulation.

It is important to note that the full committee extended the emergency period an additional year from April 1976 to April 1977. This shifts the termination date from an election year to a nonelection year. This is a clear signal that Congress is being given a chance to avoid a decision on the long-term issue during 1976.

EXHIBIT I

STATES SERVED BY INTERSTATE PIPELINES WHICH WILL NOT BENEFIT FROM PASSAGE OF H.R. 9464

New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

West North Central: Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota.

South Atlantic: Delaware, Florida.

Mountain: Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming.

Pacific: California, Oregon, Washington.

STATEMENT ON INTRODUCTION OF H.R. 11173, TO AMEND SECTION 5701(a)(2) OF THE INTERNAL REVENUE CODE OF 1954 SO AS TO CHANGE THE BRACKET TAX ON CIGARS TO AN AD VALOREM TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, I am today introducing legislation which would change the existing bracket system of taxing large cigars to an ad valorem system. Identical legislation, supported by the Treasury Department, was unanimously approved by the Ways and Means Committee in the 93d Congress, but did not reach the floor of the House.

Mr. Speaker, I urge favorable consideration of this legislation. The "bracket system" of taxation for large cigars, in effect since 1917, is archaic. Indeed, it is the only excise tax bracket system remaining in the Tax Code.

More important, it is inequitable, arbitrary, and discriminatory in impact. The present tax on cigars can range from about 7 percent to more than 12 percent, depending upon positions within price brackets.

In addition, Mr. Speaker, the legislation, by shifting the tax to the wholesale price of cigars rather than the retail price, would greatly simplify administration, collection, and enforcement of the tax by the Treasury Department.

The ad valorem rate on the wholesale price of cigars would be 8½ percent. This rate is necessary to prevent disproportionate increases in taxes for some manufacturers. Erratic results cannot be wholly avoided, but the 8½-percent rate, approved by Treasury, would minimize them. The revenue loss necessary to prevent disproportionate impacts would be less than $10 million.

Mr. Speaker, in the interests of equity, efficient administration, and revision of an archaic excise taxing system, I again urge favorable consideration of this legislation.

AMERICA—THE VULNERABLE—PART III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I noted in today's paper a statement that the General Accounting Office thinks that the Air Force might be wiser to buy 747 freighters, rather than continue with a proposal to strengthen the wings of the C–5A. That statement makes a number of presumptions, not all of which are valid, and it brings to mind once again the importance of this country's airlift capability.

A military force is of no value—until you need it. And no one seriously doubts that in today's world, we do need a formidable military force. Yet the value of that force continues to decline, because it is growing smaller and less capable of defeating our country's most likely opponents in any war, because the forces of those countries are increasing while ours are declining.

When you have less total force, you become more dependent on mobility—the ability to strike a decisive blow at any time, in any place depends on whether you can get there. A smaller force has to have more mobility, because it can be spread only so thin. In our present situation, with the smallest military forces we have had in more than two decades, the mobility of those forces is of paramount importance. We are inclined, in talking about defense, to speak of weapons. They are important. But so are logistics. A weapon that cannot reach the battlefield, a weapon that cannot be supplied with ammunition, a weapon that cannot be replaced—is useless.

As it happens, the C–5A is the only airplane that we have that is capable of reaching anyplace in the world in a matter of hours, completely independent of any land base outside of the continental United States. That is a very large capability to have on our side.

Every other military carrier we have today is inferior to the C-5A in that respect. The carrier we use most, the C-141, cannot be refueled in flight. That means that for almost any transoceanic mission, the C-141 must have access to a foreign base. We cannot be certain that it will receive that kind of friendly help. In the 1973 Middle East conflict, American supplies would have been denied altogether, save for the capabilities of the C-5A.

The thing we must keep in mind is not whether it might be cheaper to buy 747's than to repair the C-5A, but whether that would be better.

Some Members of Congress do not like to think in terms of what is best from a military point of view, but only what is cheapest from a budgetary point of view. In their zest to save dollars, they forget what the purpose of a military force is. In this case, it might be that a 747 can carry much weight. It can. But that is not the point. The point is whether that airplane, or any other airplane that is essentially a civilian design, is well suited for a military mission. The question is, what airplane will accomplish the mission that is required for military purposes?

It is foolish to think that the issue is anything else, in this, or any other case. It is true, for example, that many a civilian firearm design will do the same things a military firearm might do—but those civilian arms are not meant for combat situations. Military requirements are different, and civilian tools will not always suit the task.

The issue of what kind of airlift we will have for our military forces is every bit as important as what kind of forces we will have. Right now, our airlift is inadequate. No doubt, when the C-141 was designed, some budget-minded Member of Congress, not unlike the Senator from Wisconsin, asked whether it should have refueling capability. And no doubt, some soul said that to have that capability would be what they called in those days goldplating, for after all we had and would always have secure forward bases for refueling. And no doubt the Pentagon acquiesced. So, today, we find that we have no such secure forward bases, and the bulk of our airlift does not meet our needs. We can see readily that it is not only possible, but entirely likely, that the bulk of our air transport is all but useless in certain types of conflict, including the ones that are most likely to be of greatest danger to us.

Here we are today, about to debate whether to fix and strengthen certain weaknesses in both our principal military transports, the C-141 and the C-5A, and the same kind of issue is raised. And the issue, today as it undoubtedly was then, is whether the airplane can do what must be done. We know that the C-5A can do it. We don't know that about the 747, General Accounting Office or no.

But because of discussions that in the past have forgotten the whole point of military forces, we today have a force that is vulnerable—vulnerable because it cannot be moved at will. And what makes our forces vulnerable makes our country vulnerable.

CAPTIVE NATIONS HONOR ROLL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, each year at this time the National Captive Nations Committee releases the honor roll of outstanding Americans and others who remembered the continuing plight of the captive nations during and after the period of Captive Nations Week.

The 1975 honor roll is an impressive one, and it is my distinct pleasure to introduce it into the RECORD. Also, a current tract on "The New Captive Nations," published by the Americanism Educational League in California and written by Dr. Lev E. Dobriansky of Georgetown University, is included to indicate some of the current thinking on détente and the captive nations:

NATIONAL CAPTIVE NATIONS WEEK PROCLAMATIONS AND STATEMENTS—1975

PRESIDENT

Hon. Gerald R. Ford.

CONGRESS

U.S. Senate

Hon. Birch Bayh.
Hon. J. Glenn Beall, Jr.
Hon. James L. Buckley.
Hon. Quentin N. Burdick.
Hon. Carl T. Curtis.
Hon. Barry Goldwater.
Hon. Jesse A. Helms.
Hon. Roman L. Hruska.
Hon. Hubert H. Humphrey.
Hon. Edward M. Kennedy.
Hon. James A. McClure.
Hon. Claiborne Pell.
Hon. Charles H. Percy.
Hon. William V. Roth, Jr.
Hon. Robert Taft, Jr.
Hon. Strom Thurmond.
Hon. Harrison A. Williams, Jr.

House of Representatives

Hon. Joseph P. Addabbo.
Hon. Glenn M. Anderson.
Hon. Frank Annunzio.
Hon. William L. Armstrong.
Hon. John M. Ashbrook.
Hon. Herman Badillo.
Hon. Alphonzo Bell.
Hon. Mario Biaggi.
Hon. James J. Blanchard.
Hon. Wm. S. Broomfield.
Hon. J. Herbert Burke.
Hon. James A. Burke.
Hon. James C. Cleveland.
Hon. Barber B. Conable, Jr.
Hon. Lawrence Coughlin.
Hon. Philip M. Crane.
Hon. Robert W. Daniel, Jr.
Hon. Dominick V. Daniels.
Hon. James J. Delaney.
Hon. Edward J. Derwinski.
Hon. John D. Dingell.
Hon. Pierre S. du Pont
Hon. Marvin L. Esch.
Hon. Hamilton Fish, Jr.
Hon. Daniel J. Flood.
Hon. Robert N. Giaimo.
Hon. Benjamin A. Gilman.
Hon. James M. Hanley.
Hon. George Hansen.
Hon. Henry Helstoski.
Hon. Marjorie S. Holt.
Hon. Henry J. Hyde.
Hon. Jack F. Kemp.
Hon. Robert J. Lagomarsino.
Hon. Robert McClory.
Hon. Robert H. Michel.
Hon. Henry J. Nowak.
Hon. Richard L. Ottinger.
Hon. Edward J. Patten.
Hon. Melvin Price.
Hon. John J. Rhodes.
Hon. Peter W. Rodino, Jr.
Hon. Dan Rostenkowski.
Hon. John H. Rousselot.
Hon. Martin A. Russo.
Hon. Ronald A. Sarasin.
Hon. Herman T. Schneebeli.
Hon. Garner E. Shriver.
Hon. Samuel S. Stratton.
Hon. Steven D. Symms.
Hon. Joe D. Waggonner, Jr.
Hon. William F. Walsh.
Hon. Charles W. Whalen, Jr.
Hon. John W. Wydler.
Hon. Gus Yatron.
Hon. Clement J. Zablocki.

GOVERNORS

Alabama, Hon. George C. Wallace.
Georgia, Hon. George Busbee.
Illinois, Hon. Daniel Walker.
Louisiana, Hon. Edwin Edwards.
Massachusetts, Hon. Michael S. Dukakis.
Michigan, Hon. William G. Milliken.
Nebraska, Hon. J. James Exon.
New Hampshire, Hon. Meldrim Thomson, Jr.
Rhode Island, Hon. Philip W. Noel.
South Carolina, Hon. James B. Edwards.

MAYORS

Alabama

Mobile, Hon. Robert B. Doyle, Jr.

California

Anaheim, Hon. W. J. Bill Thom.
Santa Ana, Hon. John Garthe.

Connecticut

New Haven, Hon. Bartholomew F. Guido.

Florida

Metropolitan

Dade County, Hon. Stephen P. Clark.
St. Petersburg, Hon. J. W. Cate, Jr.

Illinois

Chicago, Hon. Richard J. Daley.

Michigan

Livonia, Hon. Edward H. McNamara.
Warren, Hon. Ted Bates.

Nebraska

Omaha, Hon. Edward Zorinsky.

New Jersey

Elizabeth, Hon. Thomas G. Dunn.

Ohio

Cleveland, Hon. Ralph J. Perk.
Youngstown, Hon. Jack C. Hunter.

Pennsylvania

Philadelphia, Hon. Frank L. Rizzo.

Rhode Island

Providence, Hon. Vincent A. Cianci, Jr.

Virginia

Newport News, Hon. Harry E. Atkinson.

CITIZENRY

Individuals

J. Fred Schlafly, President, American Council for World Freedom.

Orest Szczudluk, Ukrainian Congress Committee of America, Boston, Mass.

Newspapers/Publications/Radio

Asian Outlook (Taipei, Taiwan, Republic of China).
Boston Globe (Boston, Massachusetts).
Conservative Digest (Washington, D.C.).
Free China Weekly (Taipei, Taiwan, Republic of China).
New York Daily News (New York, N.Y.).
The Pilot (Boston, Massachusetts).
Rising Tide (Washington, D.C.).

Washington Report of the Air (National Security Council, Washington, D.C.).

THE NEW CAPTIVE NATIONS

(By Dr. Lev E. Dobriansky)

It is with sadness and a deep sense of tragedy that we view South Vietnam and Cambodia as the most recent additions to the long list of captive nations. Some apologists are already indulging in unrealistic rationalizations about "a united Vietnam," and "coalition governments." But the glaring fact is that two free and determined nations have fallen under Communist domination.

These tragic events demonstrate clearly the validity of the Domino Theory as nation after nation falls before imperialist Communist power, with its ultimate center in Moscow. By mid-1975, no less than 29 independent nations had fallen under the Comintern's sway—and around the world the despairing whispers rise, "Who's next? Laos? Thailand? Republic of China? South Korea? The Philippines?"

DOOMSDAY PREDICTIONS

In this unhappy period we hear doomsday predictions about the decline of Western civilization, another Great Depression, uncontrolled inflation, financial collapse, uncertainty about democratic government and general social upheaval. In all of this, it is clear that we need a basic reassessment and redirection of our policy toward the East, primarily toward Soviet Russia!

I share none of the grim doomsday outlook concerning the fate of the West, and I believe that this disaster course is needless. For example, our costs in Vietnam would have been meager, as expected, had the U.S.S.R. and Red China not invested heavily in support of their "comrades." In the Mideast, the problems can be directly traced to Soviet arms policy, Russian guidance on oil strategy, their precipitation of the Yom Kippur War, all of which generated the West's present acute energy and financial problems. And these factors affect the pinched economic state of every working American today, whether he is aware of it or not.

SELL-OUT TO PEKING?

What is beginning to show clearly is that the patchwork diplomacy of detente is only a shifting facade for Cold War operations, with America paying a much higher price than Moscow. In the Far East, Russian-backed North Korea has stepped up its military and subversive pressures. Japan faces severe internal Communist pressure with backstage assists from Moscow. Our loyal ally, the Republic of China, fears a sell-out by us to Peking. And the spectre of Red China's reconciliation with Moscow hovers over the area . . . and beyond!

Regarding the Soviet Union, the necessary linking of detente and human rights becomes far more important than anywhere else in the world, for these reasons: (1) The continual and unremitting threat posed by Moscow to our national security; (2) the peculiar composition of this contrived state—the Soviet Union—a land empire which is almost unique; and (3) Moscow's long and continuous suppression of human and national rights, which all-in-all far exceeds the totalitarian records of Nazi Germany or Fascist Italy.

INSECURE POSITION

A fundamental question about the value of detente is this: how does the opposing party view this process? Evidence is abundant that Moscow views "detente" as merely a conduit for its fixed policy of systematic ideo-political warfare against the American economic system and national interests. For us, detente may be purely a process of negotiation—practical and non-ideologic. But if we fail to understand Moscow's conception on it, we will find ourselves in an increasingly insecure position, both within and without.

Up to the Indo-China debacle, it might be said that pursuit of detente hadn't violated any basic principle to which we as a nation subscribe, while at the same time it really had not advanced our basic principles. As George Meany has said, "We are not building lasting structures of peace. We are building castles of sand on the watery foundations of petty greed, wishful thinking, irresponsibility, self-indulgence, and plain old ignorance!"

MYTH STILL PERSISTS

Recently we've heard a great deal about the need for "a conceptual breakthrough in nuclear arms control." But a more fundamental breakthrough is needed in our understanding of the Soviet Union. The myth that the U.S.S.R. is a nation-state, similar to ours, still persists. But over half of the population of the U.S.S.R. is non-Russian, and most of this part is divided into compact, distinctive nations made captive by their Russian neighbors in the 1920s.

Thus, to speak of a "Soviet people" is to distort the multi-national pattern of the U.S.S.R. and to ignore the real aspirations of its numerous nations. If the process of detente is pursued without awareness of this multi-national character of the U.S.S.R., we will, by virtue of our economic contributions, actually guarantee the permanent captivity of the many nations in the U.S.S.R., and to our own disadvantage! For the foundation of Moscow's power and world-wide ambition rests in these resource-filed captive nations and their large reservoirs of manpower.

For nations that have been subverted, militarily conquered, and forcibly incorporated into the U.S.S.R. since 1918, the current belief in the "noninterference in internal affairs" myth serves as a crude mockery to human and national rights. If Moscow's domain were extended to the Atlantic, through military conquest, the same phony cry of "non-interference" would be raised!

GENOCIDED BY STALIN

Actually, we should press hard now for these minimum concessions: (a) the reunion of families and elimination of extortionate Soviet duty taxes on relief packages; (b) return to religious freedom through resurrection of the major Ukrainian Orthodox and Catholic Churches, which were genocided by Stalin; (c) the beginnings of direct diplomatic relations with the larger national republics; and (d) end of psychiatric and labor camp imprisonment of dissidents.

Indeed in the wake of the Indo-China tragedy, the time is now for a massive campaign to educate our people about all the captive nations, especially those in the U.S.S.R. The greatest weakness and vulnerability of Moscow lies in the existence of these captive, non-Russian nations within the U.S.S.R. itself. Moscow knows this well, but our leaders scarcely appreciate it. And we can proceed in the knowledge that the captive nations are our firmest allies, in their overwhelming desire to be free of the Russian yoke.

REMEMBER PAST ERRORS

Let us not forget that our past errors and misdirected action saved Lenin's tyrannical regime and contributed to the death of the independent non-Russian republics in the 1920s . . . provided for the industrial foundations of the U.S.S.R. in the '30s . . . rescued this empire-state from destruction in the 40s, and helped extend its dominion in Central Europe, Asia and Cuba in the '40s and '50s . . . and, under cover of "detente" tolerated its vital support for Hanoi's aggression in the '60s and '70s.

Continuing and repeating such errors, as evidenced in the present detente process and its self-deluding effects, could lead to our own destruction. We too could become a captive nation!

DISTRICT COMMITTEE'S ACTION ON SENATE CONFERENCE RESOLUTION 78, THE SENATE RESOLUTION DISAPPROVING THE D.C. COUNCIL'S BOND AUTHORIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, on Saturday morning, December 6, 1975, the Senate passed Senate Concurrent Resolution 78, a resolution disapproving Act 1 to 57 of the Council of the District of Columbia. The Council's Act authorizes the issuance of $50 million in general obligation bonds to refinance two debts the District Government owes the U.S. Treasury. On December 8, 1975, Senate Concurrent Resolution was referred to the House District Committee for consideration. The full committee, following 3 days of hearings and markup, voted 19 to 1 on Thursday, December 11, 1975 against reporting the resolution to the House.

Because Senate Concurrent Resolution 78 passed both the Senate District Committee—7 to 0—and the Senate—80 to 3—by such wide margins, I felt it incumbent upon me as chairman of the House District Committee to advise the House: First, of the procedures we followed, and second, of the discussions and rationale for the action taken by our committee on the resolution.

First, let me say that most of our members expressed the view either for the record or to me privately that if the choice had been theirs, they would not have brought this matter before Congress in the middle of the New York financial crisis. Most felt that because the District officials brought this matter before Congress on the heels of the often bitter and divisive debate on New York, serious questions were raised about the level and extent of communication, confidence, and trust between the District Government officials and Congress. While I personally have been seeking, in a low-keyed way, to create a climate of communication and confidence between the local elected officials and both Houses of Congress, it is clear that, if the partnership is to succeed, greater effort must be made on the part of all concerned to strengthen our channels of communication, to eliminate the attitudes of suspicion and distrust, and to accept the fact that the Nation's Capital is both a local and a Federal city.

This, in no way, is to suggest any weakening of our commitment to home rule; quite the contrary, it is a reaffirmation of the commitment of the members of our committee to make home rule work and work effectively. We are equally committed to protecting the Federal interest, and do not believe that the objectives of home rule and protection of the Federal interest need be in conflict.

As I have already indicated, most of us on the committee would have waited until the New York situation had cooled down before confronting the Congress with any kind of bond authorization bill. But the decision was not ours; it was that of the elected officials of the District, operating under authority given under Public Law 93-198. This authority, the authority to issue bonds, was neither questioned nor challenged during the home rule debate and conference considerations, except on the matter of whether or not a public referendum should be required or simply permitted in connection with issuing bonds. Therefore, we approached our task of considering Senate Concurrent Resolution 78 not in the spirit of what we would have done or what they should have done, but whether permitting the bond authorization act to take effect at this time would adversely affect the Federal interest.

In considering Senate Concurrent Resolution 78, the full committee conducted 2 days of hearings and had the benefit of the testimony of 10 witnesses, including: Mr. David Mosso, Fiscal Secretary, U.S. Treasury, the official primarily responsible for handling the District's accounts at the Treasury; Mr. Elmer B. Staats, Comptroller General of the United States; Mayor Walter Washington; District of Columbia Chairman of the Council Sterling Tucker; Mr. Comer Coppie, Director of Budget and Finance for the District of Columbia; and others from the private sector familiar with the District's financial condition and the state of its accounts and records. Pursuant to instructions from the committee, five members of our committee, including myself and the ranking minority member, met separately with Senator EAGLETON and Mayor Washington in an effort to both fully understand the issues and hopefully to arrive at a compromise in this regard.

In structuring our hearings, the committee's position was that while the matter of the fiscal condition of the city and the bond act of the Council were somewhat related, they should be treated separately because they raise different questions.

The first day of our hearings concentrated on H.R. 11000, a bill which I introduced with 7 cosponsors, including the ranking minority member, that would provide for an independent audit of the financial condition of the District Government. At that hearing, the Comptroller General told us that there most certainly was a need for an independent audit of the city's books and records. While stating that the first and most pressing need was to develop an adequate financial management system for the District, because the city's records are kept in accordance with standards for Federal agencies and are not kept in accordance with generally accepted accounting procedures for municipalities, Mr. Staats assured the committee that the financial situation of the District was not alarming and in no way parallel to the New York situation.

Other witnesses testified to the need for an independent outside audit of the District, but most agreed with Mr. Staats that what was needed first was to review the present management systems and to establish a new system or systems whereby the city would be operating in accordance with generally accepted municipal accounting practices. Otherwise, they felt that an audit would be unproductive.

Mr. W. Keith Engel, President of the District of Columbia Institute of Certified Public Accountants—the D.C. Chapter of the American Institute of Certified Public Accountants—advised our committee that his organization, using their members who have special expertise in municipal fiscal affairs, would on a voluntary basis undertake a 6- to 8-week survey of the management systems deficiencies and needs of the District of Columbia Government and advise the committee of an approach for an in-depth analysis leading toward new management systems and legislation to define the scope of an audit.

We have already begun preliminary negotiations with the association regarding this survey. However, it is critical to stress that the witness who testified about the need for rational management and accounting systems stated clearly and unequivocally that this should not be determinative of whether or not the city should be allowed to go forward with bonds that are simply designed to refinance, at a lower rate of interest, an existing debt the city owes the U.S. Treasury. Savings for the city could be between $400,000 and $600,000 per year over a 30 year period. Under the act, the Mayor can reject any and all bids for the bonds and he has indicated that he will do so if the bids do not reflect a clear and substantial financial gain for the city.

Our second hearing focused on Senate Concurrent Resolution 78 and specifically whether the Congress should veto the Council's Bond Authorization Act. I think it important to understand the specificity of the Council's Bond Act. It is not to embark on a program of capital projects—which incidentally would have to be approved by the Appropriation Committees in the first instance—but to roll-over existing debt at a lower interest rate. The Assistant Secretary of the Treasury, who is responsible for the District's accounts, while quite properly taking no position on whether or not the Congress should veto the Council's act, stated:

> If the District were to issue its own obligations, they would be tax exempt, exempt from both Federal and state taxes as I understand and therefore, with an adequate credit rating, they would normally sell at a yield less than Treasury securities which means that they would cost the District less for interest expense.

That statement crystalized the issue for many of us. The Bond Authorization Act is not a $50 million commitment for new programs, but merely an option for the city to go to the private market for funds at an interest rate cheaper than the 8 percent interest rate paid on Treasury loans. As one Member described it, it was simply an authorization for the city to save money since it is estimated that the city would save $400,000 annually for every percentage point it obtains below the Treasury 8-percent level.

The committee was concerned that, in going to the public market, District officials be mindful of the New York financial crisis and assure that in entering the market a savings in fact be realized. We approached the Mayor on these matters and in response he submitted the following letters which satisfied us relative to those two issues and in which he also made a commitment to confer with both Senator EAGLETON and myself prior to committing the city to the sale of the bonds:

THE DISTRICT OF COLUMBIA,
Washington, D.C., December 9, 1975.
Hon. CHARLES C. DIGGS,
Chairman, Committee on the District of Columbia, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to reaffirm my commitment to maintaining the spirit of cooperation and partnership that has existed between your Committee and the Government of the District of Columbia.

The need for continued cooperation was emphasized at the hearing held this morning on Senate Concurrent Resolution 78. In this regard, I intend to confer with and keep the chairmen of the District Committees of both Houses appropriately advised as we proceed wtih our preparations for the bond issue. If the bond authorization act is permitted to go into effect, as I strongly believe it should, we will inform the committees of the numerous steps that will have to be taken in order to bring the bonds to market.

It is my intention to reject all bids on the City's bonds if the sale of the bonds at that time would not result in significant savings to the District. An average rate of interest, around 7 percent, would be required to yield significant savings. The City would save more than $400,000 a year by refinancing the two Treasury loans at an average interest rate of 7 percent with a maturity of 30 years. Total savings would equal approximately $12,000,000 under those circumstances.

I greatly appreciate your interest in the District's bond program.

Sincerely yours,
WALTER E. WASHINGTON,
Mayor.

THE DISTRICT OF COLUMBIA,
Washington, D.C., December 10, 1975.
Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In my letter to you dated December 9, 1975, I reaffirmed my commitment to maintain the spirit of partnership between your Committee and the District Government. Further, I stated my intention to confer with the Chairmen of the House and Senate District Committees in order to keep them advised as the District of Columbia proceeds with its preparations for the proposed bond issue.

In view of the Committee's deliberations today on S. Con. Res. 78, I believe it important to ensure a full understanding as to what was meant by my commitment. I will consult and seek the advice and counsel of the Chairmen of the House and Senate District Committees as I seek to determine just when the District should offer the proposed issue to the market.

Our financial advisors, who appeared before the Committee on December 8, 1975 will advise the city on market conditions and other factors to be considered in finally setting the date for the actual offer of the proposed issue.

I fully intend to cooperate with the Congress as necessary to ensure that the city will be able to exercise its bond authority.

Sincerely yours,
WALTER E. WASHINGTON,
Mayor.

Finally, let me say that the committee approached its task in a most serious way, looking not only at Senate Concurrent Resolution 78, but down the road because of our concerns about the broader implications of Senate Concurrent Resolution 78. We see a number of unresolved and complex issues involving the city—unfunded pension liabilities, increasing budget, decreasing tax base, just to mention a few—issues which, if they are to be resolved, will require the diligent effort of both Houses of Congress. Therefore, it was in the spirit of cooperation that we approached Senator Eagleton and we are in agreement on a number of matters relative to the future of this city and the role and responsibilities of Congress. Senator Eagleton said that he did what he felt he had to do with respect to the Bond Authorization Act, and we likewise feel that we did what we had to do on this issue. Our approaches were different but our objectives were the same.

The committee realizes the role that Congress through the years has played in bringing us to where we are today, and see the oversight and legislative roles it must continue to play in order to keep the Nation's Capital a viable Federal and local city. We will be making every effort to work with officials of the District Government, the appropriate committees of our own body and the Senate as we collectively, in the spirit of home rule and protecting the Federal interest, move toward making the Nation's Capital the Nation's model.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

Mrs. MEYNER. Mr. Speaker, I was unable to be here on Friday. I would like to take this opportunity to indicate how I would have voted if I had been present:

"Yea" on rollcall No. 774, the conference report on House Concurrent Resolution 466, the second concurrent resolution on the budget;

"Yea" on rollcall No. 776, the conference report on H.R. 8122, the public works appropriations bill; and

"No" on rollcall No. 777, the conference report on H.R. 9861, the Defense Department appropriations bill.

THE ENERGY POLICY AND CONSERVATION ACT DESERVES THE SUPPORT OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, I rise to urge my colleagues to support the Conference report of the Energy Policy and Conservation Act of 1975.

After almost a year of debate and compromise with the President, I believe this legislation, S. 622, is a worthy attempt by Congress to get this Nation on the road to energy self-sufficiency.

In future years, we will be able to look back to this legislation as a major influence in a program of national energy conservation, ending a long period of national energy waste.

We will all agree, however, that S. 622 is not a perfect bill. Its obvious weakness is its provisions for gradual decontrol of oil prices after an initial price rollback.

Our choice today—gradual or total and immediate decontrol—is not what many of us would like. In fact, this Chamber has many times before considered oil price decontrol and has always rejected it.

But unless we support the passage of the Energy Policy and Conservation Act, immediate decontrol and all that it would mean in terms of consumer costs, would be a reality.

I come from a New England State, Mr. Speaker, which is in an area of the country that depends upon imported oil for about 70 percent of its oil needs. If I thought for one moment that lifting price controls on "old" oil would end that dependence upon unstable energy sources at a cost a middle-income family could afford, then I would be leading the forces for immediate decontrol.

But, the facts indicate a different situation entirely. That fact is that a growing portion of our domestically produced oil, "new" oil, is already decontrolled and selling at the free market price. The fact is that there has been absolutely no significant effect as a result of this decontrol on the amount of oil imports used in New England.

Mr. Speaker, the fact is that we have no assurances that domestic oil supplies would sharply increase as result of further decontrol of oil prices.

What we can be sure of is that those of us in my home State of Connecticut who use this vital energy source to heat our homes and run our industries, and consumers across this country, would be paying higher prices across the board within a very few months after price controls are lifted.

A Library of Congress study conducted a few months ago shows that Americans would have to pay $40 billion in extra expenses in 1976 alone if total decontrol was to occur at once. That would mean an $800 increase in bills next year for an average family of four.

Even under gradual decontrol, New England residents can expect at least $750 million in additional costs after the 40-month control period is over.

In healthy economic times, we would think twice about instituting such a costly proposal as total decontrol. To do so today, with more than 8 million Americans out of work and countless other millions preparing for the roughest winter in four decades, would be intolerable.

If we are to make the choice, then, between gradual decontrol of oil prices over a 40-month period and immediate decontrol, we ought to vote for the former and lesser of the evils, and hope that future Presidential policy will lead to reinstatement of equitable—for consumers and industry—controls on the price of oil.

Mr. Speaker, I also would like to point out to my colleagues, some other provisions of this comprehensive energy bill before us today.

The House recognized the need to instill some competition into our energy industry when it accepted my amendment to prohibit partnerships, or joint ventures, among the largest oil companies in the development of energy resources on Federal lands.

The House-Senate conference, however, limited the prohibition to joint bidding on future Federal offshore leases to develop oil and gas resources.

As it now stands, the amendment also provides for studies to determine the feasibility of extending the joint bidding prohibition to all Federal leases, including onshore leases and those for development of coal and oil shale.

Under this amendment, nine oil companies—companies producing more than 1.6 million barrels of oil a day—will be barred from bidding together for leases on the Outer Continental Shelf.

This would in no way prohibit the small producer from entering into partnerships with these major oil companies or among each other. In effect, while the majors will be forced to go it alone or with the independents, the small companies will have a chance to compete for the first time for the most lucrative offshore leases.

The amendment also would make similar Interior Department regulations binding by law. The Interior regulations, proposed more than a year ago, were promulgated by the Secretary only after the House passed its version of the prohibition.

The Interior Department, then, also has recognized the need of such a regulation. It is the responsibility of Congress to insure that these prohibitions on joint bidding are not rescinded at some future point through constantly changing department policy.

I believe the conference version of my amendment is a small, but significant step in the ultimate recovery of energy industry competition. For it is competition that will lead, in the end, to greater energy production and lower consumer prices at the gasoline pump.

We can also take some satisfaction in the conference acceptance of some strong, and long overdue, auto fuel economy standards. Regulations for all car models built by 1985 to run at 27.5 miles per gallon, will certainly mean a significant savings in gasoline each day.

These automobile fuel savings, along with the energy saved through more efficient home appliances, which must be 20 percent more efficient than 1972 models by 1980, should help to control our future use of increasingly rare energy resources.

Mr. Speaker, the Energy Policy and Conservation Act has been a long time in coming, and it deserves the wholehearted support of his body.

A VICTORY FOR CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 15 minutes.

Mr. PHILLIP BURTON. Mr. Speaker, I would like to report to you about a victory, not just for a congressional subcommittee and its chairman, but a victory for Congress. This is a story about the preservation of the principle that Congress must be free to do its legislative and oversight activities without interference from the Executive.

Late in the afternoon of Monday, December 8, 1975, after 4 months of recalcitrance, Commerce Secretary Rogers Morton finally bowed to the powers of Congress and agreed to comply with a subpena for Arab boycott information.

The subpena, issued by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, was for reports about requests made to American companies to participate in the Arab trade boycott and are filed with the Department of Commerce pursuant to the Export Administration Act.

These reports are needed by this investigative subcommittee in order to fully evaluate the impact of the Arab boycott on American commerce, to ascertain whether Federal laws related to the boycott activities are effective as well as whether new laws are needed. Under the leadership of its very able chairman, JOHN E. MOSS of California, the subcommittee succeeded in obtaining all of the information it sought without giving up any of the powers vested to the Congress under article I.

The subpenaed material will be handled pursuant to the Rules of the House of Representatives, rule XI(K) in particular.

On the morning of December 8, 1975, the subcommittee received a very strong statement of support for the powers of Congress from 27 law school professors, including six law school deans, from throughout the country. That letter, well worth reviewing by all Members, is as follows:

Hon. JOHN E. MOSS,
Chairman, Subcommittee on Oversight and Investigations, House Committee on Interstate and Foreign Commerce, Rayburn Building, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing in regard to the contempt proceedings commenced by the Subcommittee on Oversight and Investigations against Commerce Secretary Rogers Morton for refusing to comply with the subpoena for Arab boycott reports compiled pursuant to the Export Administration Act. This controversy involves fundamental principles of government which must be preserved.

We find that common sense and long-established rules of construction cannot support the notion advanced by, and on behalf of, Secretary Morton that Congress has foreclosed itself from access to that information by a confidentiality section in the Act which does not mention Congress. Congress can surrender its constitutionally-mandated duties in a statute only by express language, not by implication or silence.

Therefore, we urge the Committee on Interstate and Foreign Commerce not to contribute to the continued destruction of congressional authority. The work of congressional oversight and investigations—to inquire into how efficiently tax funds are being spent, determines the effectiveness of Federal laws as well as how fully they are being enforced, and to ascertain whether new laws are needed—serves an essential role of accountability in our government. The constitutional plan of checks and balances, a basic safeguard for American liberties, is constantly endangered by the failure of Congress to assert its authority vis-a-vis the Executive. Accordingly, we urge you not to let this case prove to be another instance of such surrender. The rights at stake are not those of individual Congressmen, they are the rights of the American people represented by you and your colleagues.

Although the contempt sanction may seem stringent to some, it remains the only viable means by which Congress may enforce its responsibilities to obtain information from a recalcitrant Executive branch official. Surely the events of "Watergate" have revealed the necessity for effective congressional oversight, even of those closest to the President for as the Supreme Court recognized in *United States* v. *Nixon*, even a President is not above the law.

We would expect, of course, that once the subpoenaed reports have been received, that you will handle them in a responsible manner consistent with the Rules of the House of Representatives, your oath of office, and with respect to the rights of the affected parties.

Philip Kurland, Professor of Law, University of Chicago School of Law.

Francis Alfred Allen, Professor of Law, University of Michigan School of Law.

Edward L. Barrett, Jr., Professor of Law, University of California at Davis.

Paul Bender, Professor of Law, University of Pennsylvania Law School.

Verne Countryman, Professor of Law, Harvard University Law School.

Alan M. Dershowitz, Professor of Law, Harvard University Law School.

David L. Dickson, Professor of Law, Stetson University College of Law.

Norman Dorsen, Professor of Law, New York University Law School.

Charles T. Duncan, Dean, School of Law, Howard University.

Irving Ferman, Professor of Law, Howard University.

Matthew W. Finkin, Associate Professor of Law, Southern Methodist University School of Law.

Joel L. Fleishman, Professor of Law and Policy Science, Duke University School of Law.

John J. Fynn, Sr., Professor of Law, University of Utah.

Joseph Goldstein, Walton Hale Hamilton Professor of Law, Yale Law School.

Gary S. Goodpaster, Professor of Law, University of California, at Davis.

Neil S. Hecht, Professor of Law, Boston University School of Law.

Richard G. Huber, Dean, Boston College Law School.

Thomas G. Krattenmaker, Professor of Law, Georgetown University Law Center.

Pierre R. Loiseaux, Dean of Law, University of California, at Davis.

Burke Marshall, Professor of Law, Yale University.

Arval A. Morris, Professor of Law, University of Washington School of Law.

Charles J. Morris, Professor of Law, Southern Methodist University School of Law.

Kenneth L. Penegar, Dean, School of Law, University of Tennessee Law School.

Lucas A. Powe, Jr., Professor of Law, University of Texas Law School.

Victor G. Rosenblum, Professor of Law, Northwestern University School of Law.

Joseph Bradley, Professor of Law, University of Indiana.

Jonathan Rose, Professor of Law, Arizona State University.

Terrance Sandalow, Professor of Law, University of Michigan School of Law.

George Schatzki, Professor of Law, University of Texas Law School.

William Schwartz, Professor of Law, Boston University School of Law.

Paul M. Siskind, Dean, School of Law, Boston University School of Law.

Leonard P. Strickman, Associate Professor of Law, Boston College Law School.

Clyde W. Summers, Professor of Law, University of Pennsylvania Law School.

Harry H. Wellington, Dean, School of Law, Yale University.

Harvey L. Zuckman, Professor of Law, Catholic University School of Law.

Lewis B. Schwartz, Professor of Law, University of Pennsylvania.

Edgar Cahn, Co-Dean, Antioch School of Law.

AMENDMENT TO H.R. 9771

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, I request unanimous consent to include in the RECORD the text of an amendment which the Committee on Ways and Means has approved and which we expect to ask the Rules Committee to make in order as an amendment, as a title III to H.R. 9771.

Mr. Speaker, I also request permission to insert in the RECORD an amendment to be offered by a Member to be later designated which we will request that the Rules Committee make in order to the amendment to which I referred above.

The text of the committee amendment which will be offered as a title III is as follows:

Page 49, after line 9, insert the following new title:

TITLE III—AIRPORT AND AIRWAY TRUST FUND

SEC. 301. AUTHORIZATION FOR EXPENDITURES FROM TRUST FUND

(a) AMENDMENT OF 1970 ACT.—Subparagraph (A) of section 208(f) (1) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(f) (1) (A)) is amended to read as follows:

"(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1975 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1975);".

(b) AMOUNTS NOT TO BE USED FOR TERMINAL DEVELOPMENT.—Section 208(f) (1) of such Act is amended by adding at the end thereof the following new sentence:

"Nothing in this paragraph shall be deemed to authorize the making available of amounts to meet obligations incurred for terminal development other than terminal development authorized by subparagraph (A) as in effect on the day before the date of the enactment of this sentence."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to obligations incurred on or after the date of the enactment of this Act.

The text of the amendment which we are requesting the Rules Committee to make in order as an amendment to the above amendment is as follows:

In proposed section 301, strike out subsections (b) and (c) and insert in lieu thereof the following:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations incurred on or after the date of the enactment of this Act.

ADMINISTRATION PENNYPINCHING THREATENS NATIONAL PARKS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, recent hearings before a House Government Operations Subcommittee have revealed a bleak picture of the increasingly seedy condition of much of the Nation's magnificent National Park System, resulting from administration budget constraints on National Park Service personnel and operating funds over the last several years. According to a recent article in the Akron Beacon Journal, our colleague, Representative WILLIAM C. MOORHEAD, chairman of the subcommittee, has pointed out that manning levels for park operations have remained essentially the same as they were 10 years ago, despite a doubling of the number of park visitors and the addition of hundreds of thousands of new acres to the park system. Representative MOORHEAD is quoted as saying:

> It has reached the point where existing parks are threatened with deterioration, and new parks are manned—if at all—by only skeleton crews.

The fault for this serious situation can be laid at the door of the Office of Management and Budget. Now the OMB, according to another recent article in the Akron Beacon Journal, has issued a new directive instructing the Secretary of the Interior to acquire no new national park land, despite authorizations of such acquisitions by Congress. Specifically the directive would instruct the Secretary to spend no money from the Land and Water Conservation Fund in fiscal year 1977. This $300 million fund is supplied by revenues generated from offshore oil leases. These revenues are expected to exceed $7 billion this year. If none of the $300 million is spent next year, the money will not be available to meet other needs of the Government, since it is earmarked only for land acquisition for parks and recreation.

Failure to spend this money will not even help in the battle against inflation. The cost of land is constantly going up, especially in urban areas. Postponement of purchases now means more money will have to be spent when the land is acquired in later years.

The nature of the problem has been well described in a recent Akron Beacon Journal editorial. Copies of the editorial and news articles follow these remarks:

Directors Decry 'Seedy' Condition of National Parks

(By David Hess)

WASHINGTON.—Some of the nation's most priceless assets—its national parks and historic sites—are falling into shabby disrepair and will continue to deteriorate unless current budget handcuffs are removed, a group of park superintendents has told Congress.

In testimony before a House Government Operations Subcommittee, four superintendents and the spokesman for a national conservation group all drew a bleak picture of the increasingly seedy condition of most of the nation's parks.

Their portrayals were later affirmed by National Park Service Director Gary Everhardt, who said "a sort of domino effect has set in."

Stingy budgets over the past several years, Everhardt said, have led to a steady decline of park services and facilities.

"Neglect of maintenance leads to rehabilitation," he said, "a lack of rehabilitation leads to reconstruction, so that in the long run the cost is even greater than if we'd attended to the repairs in the first place."

Subcommittee Chairman William S. Moorhead (D-Pa.) said a preliminary investigation by his staff shows that manning levels for park operations have remained essentially the same as they were 10 years ago, despite a doubling in the number of park visitors and the addition of hundreds of thousands of new acres to the park system.

"Personnel ceilings appear to be the root of the problem," Moorhead said. "It has reached the point where existing parks are threatened with deterioration, and new parks are manned—if at all—by only skeleton crews."

In response to the subcommittee's findings and to the testimony of his superintendents, Everhardt said there has been an increase in park service spending over the past decade.

But now additions to the park system, along with "new responsibilities"—such as administration of Job Corps Centers—have diverted money from basic park operations and management.

Some park roads and bridges are approaching "a state of disrepair that if left untended will require total reconstruction," Everhardt said, "and many historical (structures) are in jeopardy of being lost forever."

Among those most in danger, he said, is historic Fort Jefferson in the Dry Tortugas off the Florida Keys. The fort is being slowly consumed by the sea.

The four park superintendents chronicled a long list of deteriorating assets in their parks.

Roads, hiking trails, buildings, campsites, historical structures, patrolling and policing services, wildlife management and protection, and natural wonders all are going to pot, they said.

Meanwhile, vandalism, mindless destruction of plants, animals and natural monuments, they said, continues apace as the ranks of forest rangers are thinned by * * * shrinkage.

William R. Failor, superintendent of the C&O National Historical Park on the Potomac River, said he needs at least 20 rangers to protect park property and ensure public safety, but his tight budget allows him to employ only eight.

In a dramatic plea for congressional help, Boyd Evison, superintendent of the Great Smoky Mountains National Park, said:

"In parks, the medium most assuredly is the message. Rotting historic structures . . . rutted trails and littered roadsides tell the public that America doesn't care enough to husband its most distinctive natural and historic resources.

"Why, then, should the recipients of such messages treat those resources with care? Neglect begets neglect.

"The results are costly. The costs are not only in terms of dollars, or of manpower. Perhaps the most serious costs are in terms of resources irretrievably impaired and of experiences forever lost."

Anthony Wayne Smith, head of the privately supported National Parks and Conservation Association (NCPA), delivered to the subcommittee a detailed inventory of the deteriorated facilities and services in each of the major parks.

The superintendents said later that Smith's survey was "essentially accurate."

Smith, along with Moorhead, blamed the President's Office of Management and Budget (OMB) for the "deliberate neglect" of park needs.

Smith charged that OMB has imposed "unreasonable and unrealistic" budget ceilings on the park service and is causing a "degradation" of the entire park system.

On this score, Everhardt testified that the Cuyahoga Valley National Park and Recreation Area and two other major new parks—Big Cyprus in Florida and Big Thicket in Texas—face prolonged land acquisition delays, followed by delays in program and facilities development, as a result of personnel shortages.

According to Department of Interior and congressional sources, White House budgetmakers have ordered virtually all land acquisition for national parks halted for the next fiscal year.

Among new parks that would be affected are the Cuyahoga Valley park, Big Cypress, Big Thicket, and the Sleeping Bear Dunes National Park in Michigan.

The directive from the Office of Management and Budget was issued last month and instructs the Secretary of Interior to spend no money in fiscal 1977 from the multimillion dollar Federal Land and Water Conservation Fund.

Interior Secretary Thomas Kleppe has appealed the directive, sources said.

Everhardt later conceded under questioning that OMB had slashed more than $57 million last year from the park service budget.

Everhardt said most park services and maintenance efforts are now "substandard."

Park Site Buying Ordered Halted

(By David Hess)

WASHINGTON.—White House budget-makers have told the Department of Interior to halt virtually all land acquisition for national parks next fiscal year, according to congressional and department sources.

If the order sticks, an Interior official said Friday, land purchases for a dozen new parks and twice as many existing parks "would come to a screeching halt."

Among new parks that would be affected are the Cuyahoga Valley National Recreation Area in Ohio; the Big Cypress National Park in Florida; the Sleeping Bear Dunes National Park in Michigan, and the Big Thicket National Park in Texas.

Interior Secretary Thomas Kleppe, sources said, has appealed the directive, issued last month by the Office of Management and Budget (OMB).

Specifically, the directive instructs the secretary to spend no money from the multimillion dollar Federal Land and Water Conservation Fund in Fiscal 1977, which starts next October.

The fund was established by Congress in 1965 to ensure a steady and reliable source of money to acquire federal recreational lands and to help states plan, acquire and develop state and local recreational lands.

The $300 million fund is fed by revenues generated from Interior Department sales of offshore oil leases and other concessions. Total income from these concessions this year will exceed $7 billion, according to a House Interior Committee spokesman.

Whitney Shoemaker, an OMB official, refused Friday to confirm or deny the directive. He insisted that pending budgetary matters are confidential until the President officially releases his annual budget message.

Rep. Roy Taylor (D-N.C.), chairman of the Interior Subcommittee on National Parks and Recreation, reportedly is preparing a letter of protest on the no-spend order.

Subcommittee aide Cleve Pinnix said Friday that any halt in the "continuity" of land purchases could discourage and disrupt state park acquisition programs.

He also said that acquisition delays now will simply mean higher costs later on.

In the Cuyahoga Valley area, land values are rising from 10 to 15 percent a year, an aide to Rep. John F. Seiberling (D-Ohio) said.

Land acquisition delays, the aide said, could push the price beyond the $34.5 million authorized by Congress.

Don't Stop Buying Land for Valley Park Area

A major obstacle in the way of government economy is the pet project that everyone seems to have, whether it be development of a new aircraft, expansion of a food program or land acquisition for a new national park.

The Cuyahoga Valley National Recreation Area has been one of our pet projects—so it is our ox that now appears about to be gored by the Office of Management and Budget order to halt land acquisition for parks.

To say that park land acquisition should continue may sound a bit like a childish "mine's-more-important-than-yours" argument. But buying land is in fact significantly different from most government spending.

Land prices in the Cuyahoga Valley are increasing faster than the rate of inflation. An aide to U.S. Rep. John Seiberling (D-Akron) estimates that the rise is from 10 to 15 percent per year.

If the nation is indeed committed to the valley park—and the Congress has said that it is—then delays in land acquisition are false economies. They save money in the short run but assure greater expense in the long run.

Even if the government were to begin acquiring land now and change its mind about the park idea sometime in the future—admittedly unlikely—it would not, or should not, lose any money.

No other federal program or project comes to mind that carries with it the same value guarantee or assurance of higher future price.

If can be argued, we suppose, that construction of a building or development of an aircraft will be cheaper now than in the future. But in those cases it is at least possible that a delay would allow future developments to be incorporated into the projects.

Most federal programs are heavy with operating costs. Delays in such programs result in indisputable dollar savings.

We cannot, of course, argue for land purchases in the Cuyahoga Valley while ignoring other park areas that would be affected by the OMB order. Big Cypress National Park in Florida, Sleeping Bear Dunes National Park in Michigan and Big Thicket National Park in Texas are all in similar situations.

They are similar but not the same. The thing that makes the Cuyahoga Valley park so exciting is that it is located in the middle of a large population area; some six million people live within a reasonable day's drive of the valley.

Until the park service acquires the land, those six million people will continue to apply heavy upward pressure on its value. The cost of land in the other park areas, which are much more sparsely populated, is likely to remain relatively stable.

Those same people have the potential to make the Cuyahoga Valley park the most popular of all national parks. That, too, is something for OMB budget-makers to think about before any final decision is made regarding park land purchases.

RESOLUTION HONORING KEN POMEROY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, on August 1, I addressed the House on the occasion of the death of Ken Pomeroy, one of the Nation's leading foresters. Throughout most of his lifetime Mr. Pomeroy was active in all phases of forestry improvement. Among his many activities he was the Washington office representative of the National Association of State Foresters. In this capacity, his services were invaluable in obtaining the enactment of sound, needed forestry legislation. I am glad to state, also, that Ken Pomeroy was among my closest personal friends. Our families enjoyed a long and warm relationship.

At the annual national meeting of the State Foresters, this important body adopted a resolution which I feel should be reprinted in the RECORD and I submit that resolution for the information of the membership of the Congress:

RESOLUTION

Whereas, Kenneth B. Pomeroy made substantial and sustained contributions to the practice of forestry in the United States, and

Whereas, he was a zealous proponent of the improved practice of sound forestry principles by private forest landowners, and

Whereas, he was a major instrument in the shaping of the destiny of forestry in his country for so many years, and

Whereas, his entire adult life was devoted to the selfless dedication of his time and talent to the creation and maintenance of a quality environment for all people, and

Whereas, his passing marks the end of an era made notable by his gentle and human compassion for all people exposed to his influence, now therefore,

Be it resolved, that the National Association of State Foresters in national meeting assembled does lament his passing and acknowledges its great debt for his fellowship, counsel and stimulus as an integral part of the Association and be it further resolved that a copy of this resolution be spread upon the minutes of this organization and that this expression of sympathy and indication of esteem be conveyed to his family, and

Be it further resolved, that a copy of this resolution be inserted in the Congressional Record.

MR. KISSINGER, DÉTENTE, AND ANGOLA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the situation in Angola now appears bleak for the interests of the Western powers. Russian-backed Popular Front troops are winning militarily. This is due primarily to an ample supply of modern military equipment, including rockets, and the presence of 3,000 Cuban troops whose training provides good support for native forces plus more effective use and maintenance of modern equipment.

Although the other native factions holding territory to the north and south of the Popular Front forces around Luanda have joined their efforts, they are not sufficiently well-equipped and they do not have sufficient help from technicians or mercenaries to offset Russian weapons and Cuban troops.

The U.S. State Department is seeking the involvement of the United Nations to bring peace. This probably is a vain hope. Some pressure apparently is being exerted by Mr. Kissinger and by European nations to try to induce all foreign forces to be removed from Angola and leave the Africans to resolve their own problems. This, also, is not a promising prospect. The Russians are winning and they are not likely to relinquish their gains.

The danger in a Communist takeover is that countries such as Zaire and Zambia have no ports and are dependent upon a railroad which extends through Angola to ship their copper overseas. To the south lies Rhodesia and South Africa. They, as well as Zaire and Zambia, would be subjected to immediate harassment from Communist-trained terrorists seeking to expand Communist control in Africa.

It should be kept in mind by Mr. Kissinger that the only effective trump we have is a refusal to pursue SALT II talks and other negotiations with the Russians as long as they insist on taking over human bodies and territory by whatever means are available anywhere in the world. Détente is a weak reed at best and if it is to be détente in name only insofar as the Russians are concerned, we should not give up American assets or defense to assure its perpetuation.

The United States does not have an appetite for troop involvement in Africa. Nevertheless, if we are disturbed about another Communist takeover, the time to make weapons available, without troops, is due before another big part of the world falls into Communist hands.

COAL COMPANIES' SELFISHNESS DESTROYS LAND AND PEOPLE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the New York Times on December 3 published excerpts from a lecture delivered at Southern Illinois University by Thomas E. Gish, editor and publisher of the Mountain Eagle, Whitesburg, Ky. Mr. Gish is one of the most knowledgeable and sensitive observers of the human and environmental tragedy known as "Appalachia."

Mr. Gish points out that the coal mining community is a closed society. Part of what is usually a one-industry and even a one-company community, the miner is not only tied economically to the coal company but traditionally has had no independent sources for information. Mr. Gish notes that over the years the coal companies have gotten across the message that they cannot afford safety measures that would protect the lives of miners, cannot afford to pay taxes that would support adequate schools, cannot afford public health programs, cannot afford to obey truck weight laws to prevent the destruction of the roads, cannot afford workmen's compensation, cannot afford to build decent housing for the miners' families, and cannot afford the cost of strip mining reclamation. He summarizes the coal company "line" this way:

> No matter how serious the problem, no matter how great the mine disaster, no matter how many miners' lives are snuffed out, no matter how many children are orphaned, no matter how poor the schools, how inadequate the health care, the coal industry can't afford to do any better. Even the slightest tax would make the entire industry collapse. Any kind of mine safety will drive coal off the market.

As we all know, the end result has been that the Central Appalachian area is one of the leading poverty centers in the entire country. Incomes average less than one-half the national average. The education system is the worst in the Nation. More than a third of the housing is substandard. The creeks and hollows are filled with maimed and broken people. The hillsides are being gutted by strip mines, and the creeks are filling with rock and mud.

Mr. Gish concludes:

> If there is any place in the United States that is a total mess, it is the Appalachian coal fields.

Mr. Speaker, the arguments of the coal companies are by now only too familiar to Members of Congress. We have heard them whenever we have tried to pass effective black lung legislation. We have heard them when we tried to pass effective coal mine safety legislation. We have heard them when we tried to pass effective strip mine control and reclamation legislation. In every case, the Congress has ultimately responded with appropriate remedial legislation. Unfortunately, in the case of strip mine legislation, the President of the United States is apparently so remote from the human realities and so ignorant of the economic and environmental facts that he has twice in the last 12 months vetoed moderate, carefully worked out strip mine control legislation that had been overwhelmingly passed in both Houses.

Since the beginning of the "energy crisis" the coal companies—many of whom are already owned by oil companies—have joined the oil company chorus endlessly chanting their opposition to every form of Federal regulation on the ground that it will curtail the Nation's energy production or raise prices of energy to the consumer. By now, this line should be wearing a little thin.

The fact is that the profits of the coal companies are now so astronomical that the relatively small additional cost of stripmining controls will have virtually no effect on coal production or coal prices. The fact is that coal prices are being set today, not by the cost of mining coal but by market forces, principally the tremendous increase in the price of oil, coal's principal competing energy sources.

Last Monday, the Arkon Beacon Journal, in an article about Occidental Petroleum Co., stated that one of Occidental's most profitable ventures was its ownership of Island Creek Coal Co. The article noted:

> Island Creek, the nation's third largest coal company, benefited dramatically from the rising demand for coal that parelleled the upsurge in oil prices. Island Creek's profit margin on coal jumped from 11 cents a ton in 1972 to $10.02 per ton in the first nine months of this year, according to company figures.

During the very time when Island Creek and other coal companies were experiencing these fantastic increases in coal earnings, their representatives were lobbying Members of Congress, including this Member, "poormouthing" that they could not afford the cost of a stripmining bill that would add an average of about $1 a ton to the cost of mining coal. Yet if the bill had been in effect during the first 9 months of this year, it would have reduced Island Creek's profit margin from $10 a ton to about $9 a ton, so that instead of experiencing a 9,000-percent increase in its profit margin in the last 3 years, Island Creek would have experienced "merely" an 8,200-percent increase.

Mr. Speaker, we will soon have before us a bill reported out of the Interior Committee to facilitate leasing of the huge deposits of coal located on Federal land in our Western States. The Interior Committee is also considering legislation to enable coal slurry pipelines to be built to facilitate the transportation of western coal to electric generating plants in the South and the Midwest. Arguments have been made that these measures are essential in order to develop the Nation's coal resources to meet our energy needs and lessen our dependence on oil. This may well be correct. But these two legislative steps must not be taken unless they are part of a triangular legislative package, with the third "leg" being a strip mining law strong enough to guarantee that the West will not be ravaged as Appalachia has been and that some of the enormous profits which will be generated by the mining of coal on Federal lands will be earmarked for the benefit and protection of the people in the coal mine areas.

I refuse to believe that we in this Congress, knowing the facts, will not do everything in our power to insure that the shamful treatment of the land and people of Appalachia will not be repeated in the new coal fields of our Western States. Speaking for myself, I will not cast a final vote for either the coal leasing or the coal slurry pipeline legs of the triangle unless I am assured that the third leg—effective national stripmining standards—will also be enacted in this Congress. I know that other Members share my position on this matter.

The proposed regulations recently promulgated by the Secretary of the Interior with respect to stripmining standards for coal on Federal land do not meet the problem, for three basic reasons:

First, the standards are too weak and fall far short of those repeatedly enacted by the Congress;

Second, they would apply only to Federal lands, creating an impossible administrative situation in Western States, where many of the Federal coal lands are "checkerboarded" with private lands, on which very different State stripmining laws are applicable; and

Third, until there are national stripmining control and reclamation standards which every State must meet as a minimum, the States that desire to enact and enforce strong stripmining control laws will be thwarted, as they are now, because of the fact that coal mined in their States is in competition with coal mines in States that have weak or nonexistent laws.

In the next session, Members will have another opportunity to vote on a strip mine bill. If, as experience would indicate, such a bill is passed and sent to the President again, we may hope that he will be more sensitive in his treatment of this major human and environmental issue than in the past. But if the coal company arguments should again persuade him to veto the bill, then I would hope that the few additional Members needed to override the veto will by then be sufficiently aware of the facts to insure that this essential legislation will be adopted.

Mr. Gish's article follows these remarks:

IN APPALACHIA, HUMAN FUEL

(By Thomas E. Gish)

CARBONDALE, ILL.—For a variety of reasons the coal mining community is a closed society. The working miner more or less eats and sleeps coal 24 hours a day. His friends are other coal miners, usually the same men he sees during his shift at work. His own well-being is tied to the well-being of the coal industry generally, and more specifically to the coal company he works for.

The miner has a vital stake in day-to-day developments that affect coal. The Mideast oil situation, the ups and downs of the steel industry, the demand for electricity—*all* these and many other factors have a direct bearing on whether the miner works three days or one day or five days a week. Traditionally, the miner has had no independent sources of information about political or economic trends that might affect the coal industry. His one information source has been the coal company he works for.

And over the years, the coal company has gotten across the message that it cannot afford to pay property taxes because a tax rate any where like that paid by other industries would drive the price of coal so high it would have to go out of business. The company has told its workers that it couldn't afford decent safety measures, that state and Federal mine health and safety and welfare legislation all are unnecessary, and would force up the price of coal.

The coal industry can't afford safety measures that would protect the lives of miners. It can't afford to pay the taxes that would support a halfway adequate public school system. It can't afford to support public health programs that would provide enough hospitals, enough doctors. It can't afford to obey truck weight laws that would prevent the destruction of every road in the area. The coal industry can't afford the costs of stripmine reclamation. It can't afford to pay workmen's compensation for miners who are forced into early retirement by black-lung disease. It can't afford to build housing for miners and their families.

No matter how serious the problem, no matter how great the mine disaster, no matter how many miners' lives are snuffed out, no matter how many children are orphaned, no matter how poor the schools, how inadequate the health care, the coal industry can't afford to do any better. Even the slightest tax would make the entire industry collapse. Any kind of mine safety will drive coal off the market.

This has been the message the coal industry has preached for the past century. The only thing the coal industry has been able to afford is politicians. And the coal operators long ago learned how to buy out the courthouses. The result has been that perhaps the rarest critter on the face of the earth is the coal field public official who will stand up to a coal company. Where is the county official who will enforce truck weight laws or propose a tax to support public education?

Whenever anyone challenges any of the coal company mythology about what the company can or can't afford, the public officials are quick to echo the company line and to assure anyone who asks that the overweight coal trucks must be permitted to run or else the whole industry will have to close down and everybody will be jobless tomorrow. No genuine discussion or debate is tolerated.

So it is little wonder if the coal miner and his family, and the people of the coal fields generally, come to believe and to support the coal company myths. It becomes accepted gospel that any coal industry reform is totally outside the realm of feasibility. Anyone who discusses the problems or hints that change might be in order becomes instantly recognized as a heretic, a radical, a fool, a traitor, a Communist, someone who must be hushed.

These were the attitudes and conditions that faced the miner who wanted change and who supported unionization of the coal fields a half century ago. These were the attitudes that jailed Theodore Dreiser and many other outside visitors—some writers, some radicals, some organizers—when they came to the coal fields in the 1930's and reacted to what they saw in places like Harlan County.

And these are still the attitudes that dominate in the region today. Harlan County miners who work for Doris Duke at her Brookside mines have been living all these years in unheated coal company shacks throughout the 1960's and 1970's and yet were fearful to join a union. Much of the Eastern Kentucky-Eastern Tennessee-Western Virginia coal field remains nonunion, largely because working miners themselves have been intimidated over and over and over.

The end result has been that the Central Appalachian area where I am from is one of the leading poverty centers in the entire country. Incomes average less than half the national average. The education system is the worst in the nation. More than a third of the housing is classified as substandard. The creeks and hollows are filled with maimed and broken people. The hillsides are being gutted by strip mines, and the creeks are filling with rock and mud. If there is any place in the United States that is a total mess, it is the Appalachian coal fields.

CANCER FROM OUR DRINKING WATER?

(Mr. DELANEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DELANEY. Mr. Speaker, my office has received numerous inquiries concerning the possible health hazard associated with the artificial fluoridation of our drinking water. You will recall that back on July 21, on pages 23730–23733, I recommended the immediate suspension of all artificial fluoridation pending further research into its carcinogenicity.

The shoddy handling of this entire matter by the National Cancer Institute is presently before two subcommittees of the House of Representatives and both Chairman Flood and Chairman Fountain have promised a full investigation into the agency's conduct.

In addition, I wish to call my colleagues' attention to the following letter from the scientists whose report I presented in July.

The time is long past for "statistical ping-pong." In the interest of the American people, I demand that all artificial fluoridation of our water supplies be suspended immediately.

The letter follows:

December 11, 1975.

Hon. James J. Delaney,
Rayburn House Office Building,
Washington, D.C.

Dear Congressman Delaney: This letter is in response to your request to us for brief summaries of:

(1) Our most recent studies on fluoridation-linked human cancer deaths based on year-by-year time trend data on cancer mortality in large American cities. These studies independently confirm and extend our earlier conclusion (Cong. Record, July 21, 1975, pp. H 7172–76) that some 25,000 or more excess cancer deaths per year occur in U.S. communities subjected to imposed public water fluoridation.

(2) Our comments on the report, "Fluoridated Drinking Water and the Occurrence of Cancer," 35 typewritten pages, dated November 14, 1975, and signed by Robert N. Hoover, M.D., Frank McKay, and Joseph F. Fraumeni, Jr., M.D., Epidemiology Branch, National Cancer Institute, and forwarded to you by Dr. James A. Peters, Director, Division of Cancer Cause and Prevention, NCI. This "November NCI Report" continues to confirm and extend earlier NCI Reports (March 5, 1975; April, 1975), all concluding that there are no upward cancer mortality trends attributable to consumption of fluoridated water.

The reasons for the foregoing wide discrepancy of conclusion are not far to seek, as will be detailed in This Letter. In brief, the November NCI Report conclusion could not have been reached had this report paid responsive and responsible attention to our July 21, 1975 Congressional Record report and to our new year-by-year time trend data submitted to NCI officials *early in September* and which the NCI chose to disregard—to look the other way—as partly indicated by the NCI Report statement (p. 16) that "It is beyond the scope of this (November) report to reconcile our negative findings with the positive report in the Congressional Record that also utilized U.S. cancer mortality statistics." Such a disregard is surely unscientific and methodically reprehensible. In your own words, Mr. Delaney, "This conduct can only indicate either outright incompetence or a sinister manipulation of official public information," by a "bureaucracy that insists on playing games while the health of our American people is placed in possible danger" (your November 17, 1975 letter to Chairman Daniel J. Flood, House Appropriations Committee, Subcommittee on Health, Education, and Welfare).

(I) NEW STUDIES: YEAR-BY-YEAR CANCER MORTALITY TRENDS LINKED TO ARTIFICIAL WATER FLUORIDATION

Data on *year-by-year* cancer mortality trends have been taken from "Vital Statistics of the United States," as published annually by the National Center for Health Statistics for the years 1944–1969 with respect to *central cities*. In this study we use data for central cities in preference to data for counties, because the cities we have used are basically either 100% fluoridated or not fluoridated at all (0%), and the fluoridation of any given city was set up in some one particular year during 1952–1956 and continued uninterruptedly thereafter (with the single exception of Pittsburgh: 90% fluoridated 12/52–1/53, the remaining 10% in 1958). Considerably less definitive fluoridation data are available for counties. Most counties are served by several different water systems, some fluoridated and some not fluoridated, and the fluoridated parts of a county may have been fluoridated at widely different times over periods of years.

The ten fluoridated central cities we report year-by-year time trend data on in this letter are the same as those reported on in the "static" Type I Comparison cited in our earlier Congressional Record report, and are the ten largest American cities whose fluoridation was set up for each city in some one of the years 1952–1956. In 1960 (U.S. Census) the combined population of these ten cities was 11,500,000 persons. The ten cities fluoridated, and their dates of starting fluoridation, are, in order of decreasing population: Chicago (8-1956), Philadelphia (7-1954), Baltimore (11–1952), Cleveland (7–1956), Washington, D.C. (6-1952), St. Louis (9-1955). San Francisco (8-1952), Milwaukee (7-1952), Pittsburgh (12-1952), and Buffalo (6-1955), with respective populations, in thousands, of 3,550, 2,002, 939, 876, 764, 750, 743, 741, 604, and 533.

The ten nonfluoridated cities studies were the ten largest American central cities nonfluoridated before 1970 (except Seattle, 12-1969), and whose cancer death rates in 1953 were over 155 deaths/years/100,000 population: Los Angeles, Boston, New Orleans, Seattle, Cincinnati, Atlanta, Kansas City (Mo.), Columbus (O.), Newark (N.J.), and Portland (Ore.), with respective 1960 populations, in thousands, of 2,479, 697, 627, 503, 498, 475, 472, 471 405 and 373 with a combined population of 7,000,000 persons.

The four last-named cities replace Houston, San Antonio, San Diego, and Memphis used in our earlier static Type I Comparison (Congressional Record report), so that the ten nonfluoridated cities now reported on have average, annual, age-unadjusted cancer death rates virtually identical to the ten fluoridated cities during the *pre*fluoridation period (1944–1950) (data for the years 1951–1952 are not available in "Vital Statistics of the United States). In this way, the sum of *all* factors, whatever their number and kind industrial, urbanizational, socioeconomic, migrational, or more specific ones such as age, sex, race, number of years of schooling, diet (e.g., consumption of meat, cereal, alcohol), smoking of cigarettes or marijuana, hard vs. soft water, sunlight, etc., *ad infinitium*) leading to cancer mortality is now matched in both nonfluoridated and prefluoridated groups for initial cancer death rate and also for prefluoridation trends in cancer death rate increase. The revised list of ten nonfluoridated cities leads, incidentally, to an improved geographic and demographic similarity with the ten fluoridated cities.

Hence, upon commencement of fluoridation, 1952–1956, of ten of the foregoing twenty cities, any increases in average death rate compared to those in the nonfluoridated group, on a year-by-year basis, for the next five, ten, or even more years, can be linked with high certainty to the one new factor introduced, namely fluoridation, especially in view of the very large populations involved, of the order of 10,000,000 persons per group. This follows both from the long-established principle of William of Occam (1400 A.D.) and from "Schneiderman's rule" to the effect that if such "comparisons change upward (in the fluoridated group) this would lend support to your hypothesis of fluoridation being (almost immediately) carcinogenic" (letter of Sept. 10, 1975 from Dr. M. A. Schneiderman to Dean Burk).

Actually, in the present study, we are not dealing with a hypothesis or postulate but a statement of reported facts. As Isaac Newton pointed out many times during his life, hypotheses should follow not precede, informational facts, and this is the course of procedure we have chosen to follow. Our linkage of fluoridation with cancer mortality arose historically in this manner, and was derived from the available data, not from *a priori* hypotheses or postulates, or, in plainer language, from any form of "wishful thinking." Our results came to us as a surprise, with zero prior bias, but now that they have come we have, as scientists, acquired a considerable bias, just as Newton eventually did with respect to his inverse square law of gravitation. Bias based on fact is quite different from bias based on anything else, such as prior commitments, organizational networks, industrial values.

The average, annual, age-unadjusted cancer death rates, per 100,000 population, for the two groups of ten cities each during the prefluoridation period were (date—prefluoridation group, nonfluoridated group): 1944—162, 162; 1945—168, 165; 1946—171, 168; 1947—173, 174; 1948—173, 178; 1949—179, 179; and 1950—180, 178. For the years 1944–1950, prior to any artificial fluoridation at all, the data are virtually identical for both groups. Unfortunately, cancer mortality data for cities for 1951 and 1952 were not reported in "Vital Statistics of the U.S."

After fluoridation, the cancer death rates of the fluoridated and nonfluoridated groups were: 1953—191, 189; 1954—194, 185; 1955—196, 190; 1956—204, 189; 1957—207, 189; 1958—204, 189; 1959—205, 193; 1960—207, 191; 1961—209, 190; 1962—207, 190; 1963—211, 189; 1964—213, 190; 1965—219, 194; 1966—225, 193; 1967—224, 199; 1968—227, 199; and 1969—221, 199, respectively.

During 1953–1969, the total cancer death rate increased in the nonfluoridated group to a value of about 195–200 cancer deaths/year/100,000 population. During the same period, 1953–1969, however, the cancer death rate of the group that started fluoridation in 1952–1956 increased to a value of about 220–230 cancer deaths/year/100,000 population, amounting to an excess rate of 20–35 cancer deaths/year/100,000 population, 10–18% greater than the nonfluoridated total rate of 195–200. For the fluoridated population this comes to (20 to 35) X 115=2500–4000 observed excess deaths, which calculated by an extrapolation method based on fluoridation data in Table 3 of the "Flouridation Census 1969" (U.S. Government Printing Office: 1970 0–380–791, issued by DHEW), and applied to the currently fluoridated population in the United States of 93,000,000 persons (American Dental Association figure) would implicate some 20,000 to 30,000 excess deaths/year/93,000,000 persons currently subjected to imposed, artificial water fluoridation. This indicated range of excess deaths unquestionably represents minimum values, in view of mixing or dilution factors such as population migration, local commuting between fluoridated and nonfluoridated areas, transfers of foods and drinks between fluoridated and nonfluoridated areas, etc., all of which would very considerably tend to reduce or hide the proper values, so that, *in our judgment*, the likelihood is a number of 30,000 or more excess cancer deaths per year linked with artificial fluoridation in the United States in 1975, for something *less than half* the current American population of 215,000,000 persons.

An annual total cancer mortality of 30,000/year linked to artificial fluoridation is of the general order of magnitude as those of each of the two leading cancer death sites, namely, breast cancer and lung cancer, but in these two instances for the *whole* of the American population. Each one of these three leading modes of cancer death amounts to the order of about one-tenth of the total annual cancer deaths in the United States (*ca.* 350,000/year), and all three together hence to about one-third of the total annual American cancer deaths. Were *all* of the American population subjected to imposed water fluoridation, cancer deaths linked thereto might then become twice as great as each of the two leading site types of cancer death (breast and lung), and equal to the sum of them! This is surely something for promoters of fluoridation to think about, whether the NCI does or not.

Short latency period for development of fluoridation-linked cancer

It is commonly believed or stated that chemically induced cancers usually have a long latent period for development—even twenty to fifty years (as notably with cigarette smoking, radiation, etc.). Nevertheless, Nobel Prize winner Charles B. Huggins and his group have shown with rats that a single feeding of a polynuclear hydrocarbon (e.g., 7,12-dimethylbenz(a) (anthracene) can induce breast cancer in less than a month. Biologically equivalent results have also been reported for fluoride (I. H. Herskowitz and I. L. Norton, *Genetics, 48*:307–10 (1963), and A. Taylor and N.C. Taylor, *Proc. Soc. Exptl. Biol. Med.*, 119:252–5 (1965)). One of most interesting time-trend observations has been that in the case of fluoridation the increased (excess) cancer mortality rates in humans can be observed with statistical certainty within five years, even one or two years in instances.

Other year-by-year trend comparisons

We have made many other year-by-year time-trend comparisons with other groupings of fluoridated and nonfluoridated cities, and also on single cities before and after fluoridation, with observation of similar early and prompt linkage of fluoridation with excess cancer deaths. For example, with San Francisco, first fluoridated in 1952, and with a prefluoridation base line rate increase of zero or slightly negative for six to eight years before 1952, there was an increase of 3% after two years, 6% afer four years, 12% after six years, and 20% after twelve years. By contrast, nearby, nonfluoridated Oakland showed an increase of only 3% during the same total time period; and the West Coast city Los Angeles, also nonfluoridated, maintained a virtually unchanged cancer death rate, without notable increase or decrease, for the whole period 1944–1972. Washington, D.C., fluoridated since 1952, showed results similar to those of San Francisco, both when compared against itself, and when compared with another southern city, nonfluoridated Atlanta. Likewise, but along the upper northeast coast, Providence, R.I., also fluoridated in 1952, showed increases in cancer death rate of 3% in two years, 6% in four years, 15% in ten years, and 25% in sixteen years (1968); whereas nonfluoridated Boston showed respective increases of but 1%, 2%, 4%, and 6%. St. Louis, first fluoridated in 1955, showed slightly smaller increases than did Providence (15% by 1968), as compared to very much smaller increases reported for nonfluoridated Kansas City (Mo.) (4% by 1968). New York central city, first fluoridated in 1965, showed a relative increase when compared to a negative base line provided by adjacent nonfluoridated New Jersey metropolitan areas. Other major central cities showing *five*-year postfluoridation excess cancer death rate increases over *five*-year prefluoridation periods were (city-before, after): Chicago—188, 196; Philadelphia—187, 205; Baltimore—171, 195; Cleveland—188, 199; St. Louis—201, 223; Milwaukee—176, 187; Pittsburgh—177, 209; Buffalo—193, 202. All these and other year-by-year, or five-year before and after, time trend studies for central cities 100% fluoridated (not counties usually less than 100% fluoridated, as in the November NCI Report), have been or will be reported in more detail elsewhere.

Regrettably, the "Vital Statistics of the United States" volumes did not begin to report on specific organ sites (digestive, respiratory, and other) until 1953. Trend data regarding death rates in specific sites, while unavailable in the detail and during the years required, indicate less of a tissue specificity than that previously reported in our Congressional Record letter. In any event, the aspect of cancer site, with respect to evocation of the Delaney Amendment, is here quite secondary to the matter of actual total excess cancer deaths involved. The aspect of cancer site is historically important because it led to the discovery of fluoride-linked human cancer deaths.

(II) COMMENTS ON THE NOVEMBER NCI REPORT, "FLUORIDATED DRINKING WATER AND THE OCCURRENCE OF CANCER"

The November NCI Report has little or no direct or indirect bearing on our data and conclusions indicating that some 25,000 or more excess cancer deaths per year in the United States are linked with imposed public water fluoridation ("artificial fluoridation"). The statement on p. 16 of the NCI report, to the effect that it was beyond the scope of that Report to reconcile its negative findings with our positive findings, is all the more remarkable in view of the fact that the NCI report, and two earlier NCI reports, owe their existence and origin to the appearance of our positive findings, without which it is a virtual certainty that the various NCI reports would never have appeared. This view is confirmed by the statement of Dr. Donald S. Fredrickson, Director, NCI in his letter of Dec. 4, 1975 to Chairman Daniel J. Flood, "It is important to note that Dr. Hoover's comments and the statements issued at that time by the Public Health Service were in response to the (National Health) Federation's announcement." Earlier in This Letter we have indicated that the various NCI "responses" have, in our opinion, been neither responsive nor responsible, as follows.

The November NCI Report diverts a great deal of its attention to two aspects, *"natural* fluoridation" and cancer *incidence* (not mortality) that our work has deliberately avoided because (1) we felt that the available data were still relatively incomplete, ill-defined, and inaccurate compared to the available data on artificial (imposed) fluoridation and on cancer mortality, (2) artificial fluoridation involves ten times as many Americans as does natural fluoridation (American Dental Association estimate), and (3) as stated in our Congressional Record letter of July 21, "we have not been interested at present in making an exhaustive analysis of all possible aspects of fluoridation-linked cancer mortality, but rather in examining for any quantitatively and statistically significant fluoridation-linked human cancer" of direct and positive bearing "on the evocation of the Delaney Amendment.

Much more important, however, is the fact that the November NCI Report does not address itself directly to any significant fraction of our positive data dealing specifically with:

(1) Absolute cancer mortality rates and rates of mortality increase;

(2) Numerical population values;

(3) Cities;

(4) 100% fluoridated areas in comparison to 0% fluoridated areas;

(5) Year-by-year time trends (extending some 25 years);

(6) Total populations (white and nonwhite, male and female);

(7) Carefully defined initial year of fluoridation;

(8) Population size consistency (low ratio of largest/smallest populations);

(9) Carefully defined criteria for basis of sample selection; and

(10) Surprisingly short latency time periods for development of fluoridation-linked human cancer deaths.

On the contrary, the November NCI Report makes a point of failing to employ these indicators and parameters, many of them crucial for observation of positive fluoridation-linked cancer. This deliberate and stated avoidance of critical data is not science but something else. Instead, the NCI Report "looks the other way," or into the sand, in a manner that is surely scientifically reprehensible:

The NCI Report deals with counties only, where the percentage of fluoridation is seldom better defined than as "over 67," in contrast to our cities where fluoridation can be defined as 100%. On the other hand, the areas it terms as "nonfluoridated" are not 0% fluoridated but someplace between 0 and 100%. Thus, as may be seen from NCI Report Appendix Table 2, more than half (22 out of 37) of the so-called *control* (nonfluoridated) counties from Texas, and used in the artificial fluoridation study, contained as much or more fluoride (0.7 to 2+ ppm fluoride) in the drinking water as did the "fluoridated" counties. Such counties in Table 1 are Andrews, Brewster, Dallam, Jim Hogg, and

Ochiltree (high level group); Ector, Garza, Hutchinson, Reagan, and Reeves (intermediate level group); and Brooks, Cameron, Crockett, El Paso, Galveston, Gray, Hidalgo, Howard, Lubbock, Maverick, Webb, and Winkler (low level group). To what extent the same is true of the many non-Texas counties listed is not ascertainable from any data in the NCI Report.

The NCI Report is based largely upon relative mortality values expressed as rather obscure ratios without specification of the numerator and denominator components that could be subject to independent confirmation. These ratios appear to consist of unpublished or otherwise uncertain cancer death rates divided by values based on what the Report estimates the cancer death rates of the areas involved should be. At the same time, the criteria used for sample selection are but vaguley defined, if at all. The population ratio of largest area/smallest area, or the "population consistency" of the sample, varies among chosen counties by some 1,000-fold (5,000 to 5,000,000), in contrast to our spread of no more than 10-fold (350,000 to 3,500,000).

The Report's time trend studies are based on a limited number of five-year intervals (pentads) during which the year of initial fluoridation is not given or accurately defineable because of wide variation within a county that would be too complicated to report in detail. As we have already indicated, much more accurate one-year intervals are available in the "Vital Statistics of the United States." The reason for their exclusion from the NCI Report is only partly clarified by a statement made by Dr. Hoover to Dr. Yiamouyiannis on July 30, 1975, "You do have available to you secular term information better than we have. I give you five-year periods because it is very difficult for me to go to the individual years the way in which the system we have is designed." The two undersigned found no great difficulty in obtaining and using year-by-year data without "system restriction," but we do have difficulty in understanding why the much-larger-staffed NCI should have, if such information is critical and superior ("better").

We have at hand many other adverse comments on and scientific criticisms of the November NCI Report, but these can perhaps best be reserved for the Congressional hearings on the matter predicated by Chairman Flood and Chairman Fountain to you in in reply to your letters to them of Novem- their respective letters of Dec. 2 and 5, 1975 ber 17 and 19, 1975. One matter, however, deserves comment at this time. Among a number of demonstrably unfounded conclusions drawn in the NCI Report refers to "reduced mortality from cancers of the brain and nervous system in systems with high levels of natural fluoride. The data used to support this proposal is, in fact, based on a total difference of only *one* brain or nerve cancer death over the course of two years, as set forth on p. 3 of Table 1 of the Report Appendix. This suggestion would appear to perhaps be the most substantial of NCI efforts to implicate fluoride as a means of preventing cancer rather than of inducing cancer. In any event this proposal received great attention in the press over the nation when the NCI released the November NCI Report, even front-page headlining, at the expense of other aspects of the Report. How many times has the NCI castigated others for giving false hopes to the public! And how many times has the NCI referred to "fluoridation scare" when the facts of the matter were much more to the point and better faced than run away from, regardless of prior commitment, institutionalism, or industrial discomfort.

Mr. Delaney, we agree with the statement in your letter to Chairman Flood, that the claim of the November NCI Report that it is a "definitive" study "is nothing short of brazen, coming from an official Government agency." It would appear that the devious path adopted in this Report arises from the fact that the NCI has not been able to demonstrate any profound, scientific errors in our work or conclusion. Part I of this letter should place any such project—in our opinion—beyond hope.

Sincerely,

Dr. John Yiamouyiannis, Ph. D.,
Science Director, National Health Federation, Monrovia, Calif.
Dr. Dean Burk, Ph. D.,
Retired, U.S. National Cancer Institute (1939–1974); Dean Burk Foundation, Inc., Washington, D.C.

(A graphic presentation of this latest research, drawn up in consultation with Dr. W. Edwards Demming, an internationally known and respected statistician, is available upon request from my office.)

EXPLANATION AND ANALYSIS OF WAYS AND MEANS COMMITTEE AMENDMENT TO H.R. 9771, ALONG WITH MINORITY AND SUPPLEMENTAL VIEWS

Mr. ULLMAN. Mr. Speaker, under the unanimous consent I have been granted, I include in the Record at an appropriate place a document which explains the proposed Ways and Means Committee amendment to H.R. 9771 which would add a new title III to that bill, which document also contains minority and/or individual views with regard to the proposed amendment. Although the printer's cost estimate for including this in the Record at this point is $1,144, this document relates to important legislative business which will be before this House this week and it is not only necessary but also in the public interest that Members of the House be advised as to the views expressed in the document in explanation of the Ways and Means amendment as well as those views which are opposed to it. The document follows:

Explanation of Ways and Means Committee Amendment to the Airport and Airway Trust Fund, To Be Offered as a Title III to H.R. 9771 (Airport and Airway Development Act Amendments of 1975)

(Prepared by the Committee on Ways and Means of the U.S. House of Representatives)

TOGETHER WITH ADDITIONAL AND SUPPLEMENTAL VIEWS

EXPLANATION OF WAYS AND MEANS COMMITTEE AMENDMENTS TO THE AIRPORT AND AIRWAY TRUST FUND, TO BE OFFERED AS A TITLE III TO H.R. 9771 (AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1975)

The Ways and Means Committee has reexamined the provisions of the Airport and Airway Trust Fund (sec. 208 of the Airport and Airway Revenue Act of 1970) as they relate to H.R. 9771 (the Airport and Airway Development Act Amendments of 1975).

As a result of that reexamination, the Ways and Means Committee has directed the Chairman of the committee to offer an amendment to H.R. 9771 to add a Title III to that bill, to provide amendments to the Airport and Airway Trust Fund provisions of present law.

The text of the proposed committee amendment is set out immediately below. This is followed by the committee's explanation of, and reasons for favoring the adoption of the amendment, in essentially the same form as a committee report.

AMENDMENT TO H.R. 9771, AS REPORTED FROM THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Page 49, after line 9, insert the following new title:

"TITLE III—AIRPORT AND AIRWAY TRUST FUND

Sec. 301. Authorization for Expenditures From Trust Fund.

"(a) Amendment of 1970 Act.—Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(f)(1)(A)) is amended to read as follows:

"'(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1975 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1975);'.

"(b) Amounts Not To Be Used for Terminal Development.—Section 208 (f)(1) of such Act is amended by adding at the end thereof the following new sentence:

'Nothing in this paragraph shall be deemed to authorize the making available of amounts to meet obligations incurred for terminal development other than terminal development authorized by subparagraph (A) as in effect on the day before the date of the enactment of this sentence.'

"(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to obligations incurred on or after the date of the enactment of this Act."

EXPLANATION OF TITLE III, RELATING TO THE EXPANSION OF PURPOSES FOR WHICH AIRPORT AND AIRWAY TRUST FUNDS MAY BE SPENT

I. Summary

The proposed title III expands the purposes for which funds may be spent from the Airport and Airway Trust Fund. By making available trust fund moneys to meet obligations incurred under titles I and II of the Airport and Airway Development Act Amendments of 1975 (H.R. 9771), it permits expenditures to be made for servicing airway facilities, developing State construction standards for general aviation airports, international security charges, a plan for a national airport system, snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control.

II. General Statement

A. Present Law

The Airport and Airway Revenue Act of 1970 imposed a series of user taxes,[1] created the Airport and Airway Trust Fund, provided that the user taxes (together with certain other taxes already being imposed[2] and various additional sums) are to be covered into the Trust Fund, and made Trust Fund moneys available to meet specified obligations of the United States.

In the case of airports, the 1970 Act provided that Trust Fund monies are to be available to meet obligations incurred under Title I of that Act (the "Airport and Airway Development Act of 1970"), as in effect on the date of the enactment of that Act. As a result, subsequent expansion of the Title I Trust Fund provisions, would not be sufficient to authorize the making available of Trust Fund moneys for the additional purposes, unless corresponding amendments were made to the Title II Trust Fund language. Among the "airport development" costs not allowed to be met out of the Trust Fund are those for public parking facilities for passenger automobiles and those for the cost of construction, alteration, or repair of a hanger or of any part of an airport building. (Sec. 20(b) of the 1970 Act.) A special exception in that Act permitted the use of Trust Fund monies for "those buildings intended to house facilities or activites directly related to the safety of persons at the airport."

---

[1] The following taxes were imposed or increased by the 1970 Act; gasoline and other fuels used in noncommercial aviation (sec. 4041 of the Internal Revenue Code of 1954), tax on transportation of persons by air ("ticket tax", sec. 4261), tax on transportation of property by air ("waybill tax", sec. 4271), and tax on use of aircraft (sec. 4491). See Appendix B for revenues from these taxes.

[2] The then existing taxes which the 1970 Act earmarked for the Trust Fund included the following: tax on tires and tubes of the type used on aircraft (sec. 4071), 2 cents of the 4 cents manufacturers tax on gasoline (sec. 4081), and that portion of the ticket tax that was already in existence and was up to that time covered into the general fund of the Treasury (sec. 4261). See Appendix B for revenues from these taxes.

The 1970 Act authorized expenditures for "the maintenance and operation of air navigation facilities" (Sec. 14(d) of the 1970 Act). In 1971, the Congress amended the Act to remove that authorization for maintenance and operation of air navigation facilities; however, the Trust Fund language was not amended. As a result, after 1971 the Act as a whole no longer authorized Trust Fund expenditures for obligations incurred for the maintenance and operation of air navigation facilities.

B. Reasons for the provision

H.R. 9771, as reported by the Committee on Public Works and Transportation, would modify the provisions of Title I of the 1970 Act to permit the Federal Government to incur certain obligations that are not permitted under present law. As your committee made clear in its report on the 1970 Act (H. Rept. 91-601, p. 50), the 1970 Act was so drafted as to assure that any additions to the categories of obligations funded out of Trust Fund revenues would be subject to scrutiny by those committees of Congress concerned with raising those Trust Fund revenues.

In conducting this examination, your committee has divided the additional obligation categories into three types. The first of these categories relates to expenditures for (1) developing State construction standards for general aviation airports ($1.275 million for 1976), (2) international security charges ($3 million per year for 1976, 1977, and 1978, and $0.75 million for the transition quarter of October-December 1976), (3) a national airport system plan ($2 million for 1976), and (4) snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control (expected to average $20-$25 million per year for the remaining period of the Trust Fund). As to these items which do not add major expenditure categories to the Trust Fund, your committee concluded that it was appropriate to provide financing out of the Trust Fund revenues.

The second category deals with the servicing of airway facilities, which includes (1) servicing of navigation aids, landing systems, towers, and radars (excluding cost of engineering support and planning, direction and evaluation); (2) airway facility leased communications; and (3) supplies and parts related to facility maintenance. The amount authorized is initially set at $50 million for 1976 and is to increase by $25 million a year for each subsequent year (in addition, $12 million is authorized for the transition quarter). It appears to your committee that these expenditures could have been financed from the Trust Fund as originally enacted in 1970, that the decision to restrict Title I of the 1970 Act by the 1971 legislation was a narrowing of the existing authority, and that reestablishing the 1970 standards in this area would not involve any further amendment to the Trust Fund provisions. Accordingly, your committee concluded that it should not object to this reinstatement of the original standards of the 1970 Act. Also, it was noted that these expenditures were already being made from Federal funds and that permission to make these expenditures out of the Trust Fund would not involve additional Federal expenditures and would not involve an additional category of Federal expenditures.

The third category relates to the proposal to permit expenditures for parts of terminal buildings. This category could involve expenditures ranging from $77 million for 1976, in increasing amounts to $93 million for 1980. Except to the extent that the 1970 Act permits construction, alteration, or repair of buildings intended to house facilities or activities directly related to safety of persons at the airport, this represents a sharp departure from the standards set forth in the 1970 Act. Permitting the use of Trust Fund monies for this purpose would require an amendment to the Trust Fund provisions. Your committee concluded that such an expansion of the Trust Fund provisions is not appropriate at this time. It is to be noted that, up to now, such construction has been paid for by operators and owners of airport terminals, and has not been paid for out of Federal tax funds.

C. Explanation of provision

Title III of H.R. 9771, of the Airport and Airway Development Act Amendments of 1975, as proposed to be added to that bill by the Ways and Means Committee, amends the Airport and Airway Trust Fund provisions (sec. 208(f)(1) of the Airport and Airway Revenue Act of 1970) to permit Trust Fund moneys to be used to meet obligations incurred by the United States under Title I of the Airport and Airway Development Act Amendments of 1975, as in effect on the date of enactment of the 1975 Act. However, these changes in the Trust Fund are not to permit the use of Trust Fund moneys for terminal development (other than the terminal development expenditures permitted under the 1970 Act as originally enacted, i.e., those relating to certain safety facilities as described in sec. 20 of the 1970 Act). The new categories of expenditures thus authorized are those for developing State construction standards for general aviation airports, international security charges, a national airport system plan, snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control.

As indicated above, the proposed obligation authority for servicing of airway facilities is comprehended under the present Trust Fund provisions, and so no further amendment to the Trust Fund provisions appears necessary in order to permit Trust Fund moneys to be spent to meet obligations incurred for that purpose.

Title III is to apply to obligations incurred after the date of enactment.

Title III does not affect any tax liabilities nor does it affect the amounts of taxes or other items to be transferred to the Airport and Airway Trust Fund.

APPENDIX A—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS FISCAL YEARS 1971-80[1]

[In millions of dollars]

Item	1971-73	1974-75	1976	3-mo interim	1977	1978	1979	1980	Total 1971-75	Total 1976-80
Airport development:										
Air carrier: regular	250	275	308	77	324	340	356	372	1,300	1,777
General aviation	30	35	65	16	70	75	80	85	160	391
Subtotal, airports[2]	280	310	375	93	394	415	436	457	1,460	2,168
Air carrier terminals[3]			77	19	81	85	89	93		444
Airway facilities and equipment	250	250	250	62	250	250	275	275	1,250	1,362
Servicing airway facilities[3][4]	(5)		[6]50	[6]12	[6]75	[6]100	[6]125	[6]150		[6]512
Developing State construction standards for general aviation airports[3]			1							1
Research and development	50	50	85	24	(7)	(7)	(7)	(7)	250	[7]109
Planning	15	15	15	4	15	15	15	15	75	79
International security charges[3]			3	1	3	3				10
National airport system plan[3]			2							2
Total[8]	[5]595	625	857	216	[7]818	[7]868	[7]940	[7]990	3,035	[7]4,689

[1] Actual authorizations shown for fiscal years 1971–75; authorizations for fiscal years 1976–80 are from H.R. 9771, as reported by House Committee on Public Works and Transportation (H. Rept. 94-594).

[2] Public Law 93-44 expanded the definition of "airport development" to include "security equipment" effective fiscal 1974 and thereafter. H.R. 9771 would further expand that definition to include snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control.

[3] New items out of trust fund.

[4] Currently financed out of the general fund (along with system operations); the total appropriated for FAA maintenance and operations for fiscal years 1974–76 was: fiscal year 1974—$1.3 billion; fiscal year 1975—$1.4 billion; and fiscal year 1976—$1.5 billion.

[5] Amounts for FAA maintenance and operations of the airway system were $1.023 billion for fiscal year 1971–72 before the enactment of Public Law 92–174, which deleted the original authorization for such expenses out of the trust fund.

[6] Includes (1) servicing of navigation aids, landing systems, towers, radars (excluding cost of engineering support and planning, direction and evaluation as proposed by the administration); (2) airway facility leased communications; and (3) supplies and parts related to facility maintenance.

[7] Specific authorizations for R. & D. not included for fiscal years 1977–80, but they are expected to be included later; the Science and Technology Committee was the source of the fiscal year 1976 and interim amounts.

[8] Other than undetermined authorization for administrative expenses related to capital items, research and development, and planning (items specifically provided for in title I as amended by Public Law 92–174—which deleted the authorization for maintenance and operations expenditures out of the trust fund).

Note: Amounts may not add to totals due to rounding.

APPENDIX B.—ESTIMATED AIRPORT AND AIRWAY TRUST FUND REVENUES FROM AVIATION USER TAXES ESTABLISHED BY THE AIRPORT AND AIRWAY REVENUE ACT OF 1970 (PUBLIC LAW 91-258) FISCAL 1976-80 (AND ACTUAL FY 1975)

[In millions of dollars]

Tax	1975 (actual)	1976	Interim 3 mo	1977	1978	1979	1980 [2]
8 percent airline ticket tax	779	815	203	865	936	1,003	1,074
5 percent waybill tax	54	48	12	55	63	72	81
$3 international departure tax	55	52	13	56	58	63	69
7 cents per gallon fuel tax (general average)	54	54	14	57	61	63	66
Aircraft registration tax [1]	20	22	5	26	28	32	32
Aircraft tire and tube tax	1	1	1	1	1	1	1
Less refunds	−1	−2	−1				
Total tax revenues	962	990	247	1,060	1,147	1,234	[2] 1,323

[1] The aircraft registration tax consists of two parts: (1) a $25 annual per plane tax, plus (2) a weight tax for aircraft weighing more than 2,500 pounds of 3½ cents per pound for turbine-powered and 2 cents per pound for other aircraft (the first 2,500 pounds was exempted for each planes as of July 1, 1971).

[2] These amounts are for the full fiscal year through Sept. 30, 1980, although the present law tax liabilities are scheduled only through June 30, 1980 (the end of the Federal fiscal year before the change to an Oct.-Sept. 30 fiscal year).

Source: Based on March 1975 projections by the Department of Transportation, Federal Aviation Administration.

III. EFFECT ON THE REVENUES OF THE TITLE AND VOTE OF THE COMMITTEE ON WAYS AND MEANS IN REPORTING THE TITLE

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effects on the revenues of Title III of this bill. The Committee on Ways and Means estimates that Title III of the bill will have no effect on tax liabilities for fiscal 1976, the transition quarter, and fiscal 1977. The Treasury Department agrees with this statement.

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the record vote by the Committee on Ways and Means on the motion to report the title. The title was ordered reported by voice vote.

IV. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 208 OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1970

SEC. 208. AIRPORT AND AIRWAY TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Airport and Airway Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261, 4271, and 4491 (taxes on transportation by air and on use of civil aircraft) of the Internal Revenue Code of 1954;

(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under section 4081 of such Code, with respect to gasoline used in aircraft; and

(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under paragraphs (2) and (3) of section 4071(a) of such Code, with respect to tires and tubes of the types used on aircraft.

The amounts appropriated by paragraphs (1), (2), and (3) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraphs (1), (2), and (3) received in the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) TRANSFER OF UNEXPENDED FUNDS.—At the close of June 30, 1970, there shall be transferred to the Trust Fund all unexpended funds which have been appropriated before July 1, 1970, out of the general fund of the Treasury to meet obligations of the United States (1) described in subparagraph (B) or (C) of subsection (f)(1) of this section, or (2) incurred under the Federal Airport Act (49 U.S.C., sec. 1101 et seq.).

(d) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (f) of this section.

(1) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Transportation) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next five fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENTS.—

(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on orignal issue or at the market price, is not in the public interest.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(3) APPLICABILITY OF PARAGRAPH (2).—Paragraph (2) of this subsection shall not apply until the beginning of the fiscal year immediately following the first fiscal year beginning after June 30, 1970, in which the receipts of the Trust Fund under subsection (b) exceed 80 percent of the expenditures from the Trust Fund under subsection (f)(1).

(f) EXPENDITURES FROM TRUST FUND.—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures after June 30, 1970, and before July 1, 1980, to meet those obligations of the United States—

[(A) hereafter incurred under title I of this Act (as in effect on the date of the enactment of this Act), or incurred at any time before July 1, 1970, under the Federal Airport Act (49 U.S.C., sec. 1101 et seq.):]

(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1975 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1975);

(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C., sec. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

(i) air traffic control,
(ii) air navigation,
(iii) communications, or
(iv) supporting services,

for the airway system; or

(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

Nothing in this paragraph shall be deemed to authorize the making available of amounts to meet obligations incurred for terminal development other than terminal development authorized by subparagraph (A) as in effect on the day before the date of the enactment of this sentence.

(2) TRANSFERS FROM TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time

from the Trust Fund into the general fund of the Treasury amounts equivalent to—

(A) the amounts paid after June 30, 1970, and before July 1, 1980, in respect of fuel used in aircraft, under sections 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), and 6427 (relating to fuels not used for taxable purposes) of the Internal Revenue Code of 1954, and

(B) the amounts paid under section 6426 of such Code (relating to refund of aircraft use tax where plane transports for hire in foreign air commerce),

on the basis of claims filed for periods beginning after June 30, 1970.

(3) TRANSFERS FROM TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 of the Internal Revenue Code of 1954 with respect to fuel used in aircraft during taxable years ending after June 30, 1970, and beginning before July 1, 1980, and attributable to use after June 30, 1970, and before July 1, 1980. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES WITH REGARD TO TITLE III

In compliance with clauses 2(l)(3) and (2)(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with regard to title III of the bill.

Oversight findings.—With regard to subdivision (A) of clause 3 (relating to oversight findings), the Committee on Ways and Means advises that in its review of the financing needs of the airport and airway system as included in Titles I and II of this bill, the authority to make available amounts in the Trust Fund needs to be expanded to include many of the new items of obligation authority provided in Titles I and II of this bill.

New budgetary authority.—In compliance with subdivision (B) of clause 3 of rule XI, the Committee on Ways and Means states that the changes made by title III of this bill involve no new budgetary authority. Title III makes no changes in tax expenditures, as it expands authority to make Trust Fund monies available to meet additional obligations, but provides no additional revenues. Consequently, it does not affect the overall totals involved. There is no revenue effect on fiscal year 1976, the transitional quarter, or on fiscal year 1977.

Congressional Budget Office comments.—With respect to subdivision (C) of clause 3 of rule XI, the Committee on Ways and Means advises that no comparison has been submitted to the Committee by the Director of the Congressional Budget Office relative to the provisions of title III of this bill.

Committee on Government Operations comments.—With regard to subdivision (D) of clause 3 of rule XI, the Committee on Ways and Means states that no oversight findings or recommendations have been submitted by the Committee on Government Operations relative to title III of this bill.

Inflationary impact.—In compliance with clause 2(l)(4) of rule XI, the Committee on Ways and Means believes that title III of this bill will not have any inflationary impact, as it does not increase the amount of Trust Fund monies that are to be available to meet U.S. obligations.

ADDITIONAL VIEWS OF REPRESENTATIVES SCHNEEBELI, CONABLE, DUNCAN, CLANCY, ARCHER, VANDER JAGT, CRANE, MARTIN, BAFALIS, & KETCHUM

During its consideration of the Airport and Airway Development Act Amendments of 1975 we had hoped the Committee on Ways and Means would approve proposed reductions in the taxes now used to finance this program.

Our consideration of this measure was confined to the limiting language in the Airport and Airway Trust Fund. In our view it should have been expanded to include action on three tax amendments which were ruled out of order. Therefore, absent further legislative action, the surplus now in the Airport and Airway Trust Fund will continue to grow. This means that the public will continue to pay airline ticket prices higher than necessary since the tax will remain at its existing level even though not all of the revenues from the tax are needed. We see no legitimate reason for this situation. Taxes of this nature should be levied only to finance specific programs, not to generate a large surplus which can then be borrowed from the Trust Fund by the Treasury at low interest rates for general purpose uses.

The Airport and Airway Trust Fund is financed by various user taxes imposed or modified in Title II of the Airport and Airway Development Act of 1970. These taxes have produced revenues more than adequate to support the program which the Act provided. Even with the expanded program embodied in H.R. 9771, the Trust Fund will accumulate a $2.5 billion surplus by the end of fiscal year 1980. Amendments offered in Committee would have cut taxes to eliminate or reduce that surplus.

Clearly, reductions in the present tax structure are warranted. The first amendment would have reduced the present 8 percent ticket tax, the 5 percent waybill tax and the $3.00 international tax to 6 percent 3 percent and $2.00 respectively. The following charts outline the fiscal status of the Trust Fund; Chart I under the Bill reported by the Public Works and Transportation Committee with the present tax structure, and Chart II with reduced tax levels.

CHART I.—TRUST FUND STATUS 8 PERCENT TICKET TAX, PERCENT WAYBILL TAX, $3 INTERNATIONAL TAX

[In millions of dollars]

	Fiscal period—		Interim period	Fiscal year—			
	1975	1976		1977	1978	1979	1890
Trust fund income	963.7	999.7	265.1	1,081.0	1,065.0	1,255.0	1,347.2
Prior year surplus	283.6	886.0	1,069.7	1,190.7	1,446.6	0,754.0	2,099.7
Total	1,223.3	1,885.7	1,334.8	2,271.7	2,611.6	3,009.0	3,446.9
Less annual appropriation	(624.7)	(857.9)	(216.0)	(903.4)	(953.4)	(1,025.4)	(1,075.4)
Balance	598.6	1,027.8	1,018.8	1,368.3	0,653.2	1,983.6	2,370.5
Plus earned interest	94.0	41.9	71.9	78.3	95.8	116.0	038.9
Plus released reserves	913.4	0	0	0	0	0	0
Surplus	886.0	1,069.7	1,190.7	1,446.6	1,754.0	2,099.7	2,510.4

NOTES

1. Income data is based on FAA projections of Dec. 4, 1974.

2. Fiscal year 1975 interest is based on Treasury data. Fiscal year 1976-80 interest computed at 7 percent on prior year balance figure.

3. "Released reserves" represents the amount held in reserve for obligation authority which was not used.

4. "Interim period" represents income and expediture estimates necessary for change in fiscal year to Oct. 1, 1976.

CHART II.—TRUST FUND STATUS—REDUCED TAX RATES

6 PERCENT TICKET TAX, 3 PERCENT WAYBILL TAX, $2 INTERNATIONAL TAX

[In millions of dollars]

Trust fund income	939.7	757.9	803.7	864.7	931.8	1,000.3
Prior year surplus	283.6	886.0	920.8	966.5	1,024.6	1,034.5
Total	1,223.3	1,643.9	1,724.5	1,831.2	1,907.2	2,034.8
Less annual appropriation	(624.7)	(765.0)	(819.5)	(870.0)	(940.0)	(990.0)
Balance	598.6	878.9	905.0	961.2	967.2	1,044.8
Plus earned interest	94.0	41.9	61.5	63.4	67.3	67.7
Plus released reserves	193.4	0	0	0	0	0
Surplus	886.0	920.8	966.5	1,024.6	1,034.5	1,112.5

NOTES

1. Income data is based on FAA projections of Dec. 4, 1974 adjusted for tax levels stated.

2. Fiscal year 1975 interest is based on Treasury data. Fiscal years 1976-80 interest computed on prior year tax balance at 7 percent.

3. Released reserves represent the amount held in reserve for obligational authority which was not used. The $193+ million passed into surplus when title I of the act of 1970 expired June 1975.

The bulk of user revenues from commercial carriers results from the ticket, waybill and international taxes.

However, most of the user revenues from general non-commercial aviation are obtained from taxes on fuel which are presently set at 7¢ a gallon. Revenues from this tax account for about 6% of total program taxes.

The second amendment would have reduced the aviation fuel tax by 1¢, to 6¢ a gallon, to afford a broader tax reduction than would be accomplished by lowering only the tax rates associated with commercial aviation.

Recognizing a need to review this matter, the Chairman of our Committee has agreed that next year we will consider what tax levels are appropriate to meet the needs of the programs authorized by the Committee on Public Works and Transportation, without generating a large surplus.

The third amendment would have dealt with a separate but related matter, exempting movement of persons by air ambulance from the 8% tax on air transportation. Present law does not provide an exemption from the tax on amounts paid for air transportation when an aircraft is used as a ambulance. This amendment would simply have exempted from the tax transportation of any injured or ill person in specially equipped aircraft used primarily for the transport of injured and ill persons, and not operated on an established line. Representatives of the Treasury Department have indicated that the revenue impact of this amendment would be negligible.

As the use of aerial medical evacuation equipment expands, and as the aircraft used for these purposes become more sophisticated, the lives and well-being of more injured and ill persons will be protected. The tax code should not, in our view, impede the development of these lifesaving services and we are hopeful that the Committee on Ways and Means will act to rectify this situation promptly.

L. A. Bafalis, H. T. Schneebeli, Barber B. Conable, John J. Duncan, Bill Archer, William M. Ketchum, Jim Martin, Donald D. Clancy, Guy Vander Jagt, Philip M. Crane.

Additional Views of Representatives Schneebeli, Conable, Archer, Vander Jagt and Steiger

The issue which the House must resolve is whether to authorize the use of Airport and Airway Trust Fund revenues for development of airport terminals. The Committee on Public Works and Transportation would expand the present uses of these Trust Fund revenues to include nonrevenue-producing terminal development; the Committee on Ways and Means would not.

Last year 467 passengers and crew members were killed in accidents involving U.S. airline planes, more than twice as many as the year before. The incident which took the largest toll occurred in December, 1974, just outside of Dulles International Airport, just miles from the Capitol. That incident, adjacent to a fine, well-developed terminal facility, helped to push U.S. airline fatalities to a fourteen-year high, and accident frequency to a nine-year high. Clearly, there is a need for improved safety.

The provision of Federal aid for terminal development could have a deleterious effect on safety. As Federal funds become available, great pressures will be generated to construct excessively large, elaborate and costly facilities, all with the intention of permitting more takeoffs and landings. Of necessity, this will produce greater numbers of planes in a given area at any one time, aggravating the existing dangers. This is not the way to facilitate the movement of people by air.

Of course, once Federal funds are used for this purpose there will be pressure to increase the taxes used to support the Trust Fund. It would be preferable to reduce the user taxes now in place, as suggested elsewhere in this Report, to eliminate the present Trust Fund surplus. That, in and of itself, would reduce the pressure to use Federal funds for terminal development. For it is the Trust Fund surplus which is driving this move to expand the use of those revenues, not any real need.

Let us point out that there is already adequate provision for Federal support for air terminal development. The Internal Revenue Code excludes interest earned on Industrial Revenue Bonds from taxable income and these bonds may be used to finance, among other things, airport construction. Numerous municipalities and local governments have successfully utilized this device to construct airport terminals. There is no need to disturb this successful program.

Guy Vander Jagt,
William A. Steiger,
H. T. Schneebeli,
Barber B. Conable,
Bill Archer.

Supplemental Views of Representative James G. Martin

In substance, I concur in the views submitted jointly by Mr. Bafalis and several of our colleagues. It is necessary, however, to mention an additional point of considerable concern.

This bill, because of an amendment added in the Committee on Ways and Means, makes airport terminal facilities ineligible for project funding. The objective of that restriction is purported to be to prevent airport expansion, thus preventing further congestion, thus helping improve safety records. That may be true at a few already overloaded airports, but not at most. The only way to have 100% air safety is to abolish aviation. I submit there are many American communities which need airport expansion and can expand without adverse safety consequences. They could thereby help carry more of the interconnection load and allow some relief of congested facilities.

In voting against the modified closed rule request for our Committee's title to this bill, I—and I assume others—were hoping to see an open rule permitting floor debate on not only terminal facilities, but also the high tax rates and growing Fund surpluses so well discussed by Mr. Bafalis and those who signed with him. I commend their efforts and will support any effort they make, and I also urge support for the effort to strike this bill's language making terminal facilities ineligible for project funding.

Jim Martin.

ADDITIONAL VIEWS OF CONGRESSMAN SAM GIBBONS AND CONGRESSMAN WILLIAM A. STEIGER

(Mr. GIBBONS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, again this weekend we learned of a near tragedy in our airways—an Eastern Airlines jet on the way to Florida and an Air Force fighter-bomber came within 20 to 50 feet of colliding in the sky near Richmond, Va.

This was the fifth near-miss involving commercial airliners since November 26. Two-hundred and seven near-misses have been reported in the first 10 months of this year. Less than 3 weeks ago disaster was narrowly averted in the skies over Detroit when the pilot of a DC–10 with 190 passengers aboard was ordered by an air traffic controller to dive 2,000 feet. Several people were injured in the dive and the plan avoided another jetliner carrying 113 persons by only 20 to 100 feet.

The problems of air travel safety have reached crisis proportions and more funds are urgently needed to improve safety in our airways. In view of this, we certainly should not be diverting funds from the Airport and Airway Trust Fund to new, less important uses. Thus, we ask your support, in the name of safe air travel and economy in Government, in a fundamental disagreement between the Public Works and Transportation Committee and the Ways and Means Committee about the use of these trust fund moneys.

The Committee on Public Works and Transportation has favorably reported H.R. 9771 for action by the House. Among other things, this bill would permit the use of trust fund revenues for the development of nonrevenue producing public use areas in airport terminals.

It is our belief, and the position of a majority of the Ways and Means Committee, that the use of these trust fund revenues should not be expanded to include terminal development. Terminal development must take a back seat to air safety. There is no need for, nor do the American people indicate any great desire for, elaborate airport terminals. They have shown alarm about the growing number of mid-air near misses and the danger of hundreds of passengers and crew dying in a single collision.

Already, the Internal Revenue Code provides a subsidy to governmental units wanting to construct or expand air terminal facilities. Section 102 of the Code provides that industrial revenue bonds may be issued to finance the construction of such facilities as airport terminals. Interest on these obligations is not taxed by the Federal Government. Using this device, many localities have been able to finance the construction of adequate terminal facilities.

Finally, in view of our concern about embarking upon entirely new and costly Federal expenditures programs when our deficit is $74 billion, we should realize that the demand for 50–50 matching grants for terminal construction will be very great if the Public Works and Transportation Committee's amendment to title I stands. This seemingly modest beginning could prove very costly to us in Federal revenues—and in air travel safety.

We urge you to support the Ways and Means Committee's position and prevent the diversion of valuable trust fund moneys from air safety to terminal construction. Diversion of these funds would not be in the public interest.

AIR, WATER, AND JOBS

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial which appeared in the New York Times of Friday, December 12. Mr. Peterson's remarks were made at the Environmental Industry Conference, which was held in Washington several days ago. The conference was a resounding success by any measure. Several hundred manufacturers of environmental control equipment, consultants, and representatives of the executive and legislative branches of Government were in attendance.

The point was often made that environmental controls actually create more jobs than are lost by reductions in some industrial activities to accommodate these controls. Each billion dollars spent on environmental controls creates nearly 70,000 jobs. This fact was little known and little discussed in information previously available. As a result of this conference, it is much better known today.

I commend the editorial for the reading of all Members, especially those who are concerned about the economic benefits of environmental regulations:

AIR, WATER, AND JOBS

Russell W. Peterson, chairman of the Council on Environmental Quality, has pointed out on several occasions (as have we) that pollution-control measures generate jobs. In repeating this truth—now a truism—a few days ago for the benefit of some manufacturers of environmental equipment, he added something new by citing two Wall Street analysts to the effect that "environmental control-related employment has been one of the relatively few areas of job strength during the recent recession."

According to Mr. Peterson's estimates, the 1975 expenditures for pollution control—by private industry as well as by Federal, state and local governments—total $15.7 billion. With each billion dollars generating 66,900 jobs (the figure used by the Bureau of Labor Statistics), that expenditure when fully used should open up more that a million jobs for the nation's work force. Offsetting this encouraging total, according to the Environmental Protection Agency's figures, not more than 15,700 have lost jobs through the closing of plants for environmental reasons—and many of these plants were being phased out in any case.

This kind of analysis is too often lost on industrialists who see pollution controls only as an initial cost item to themselves—and to those trade union leaders who see the blocking of a highway or dam only as an employment opportunity lost to some of their members.

Generally the opposition is not couched in these crude terms. The argument more commonly advanced is that environmental expenditures are "non-productive." In an earlier refutation of this argument, Mr. Peterson offered a breakdown that bears repeating. A typical waste-water treatment plant for a city of 100,000 people, he reported, costs about $4.2 million, of which 11.6 percent goes for metal products, 26 percent for machinery and equipment, 15.7 percent for other materials (glass products, lumber, etc.) and 28.9 percent for labor, leaving 17.8 percent for the overhead and profit of those supplying the required commodities.

Is an investment of this magnitude for improving the nation's water, air and countryside any less productive than money spent on, say, motels or golf courses or fur coats? Is it less productive, for that matter, than money spent on needless military hardware, or on environmentally destructive dams or highways so often defended as a stimulus to the economy?

ACID PRECIPITATION

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the Clean Air Act of 1970 is presently being debated for extension and revision. This is a significant piece of legislation affecting the quality of the air breathed by all Americans. There have been proposals to weaken this act or to delay the implementation of controls contained therein. Weakening amendments or delays should not be permitted.

The following article, which was printed in the November 1975, issue of the Highlands Voice, published by the West Virginia Highlands Conservancy, is one of several that have been printed in that newspaper on the subject of acid precipitation. Acid precipitation is, to put it simply, acid rainwater resulting from air pollution. Pollution is taken up by moisture in the air which then takes on the character of the dirt such as acidity and particulate matter. Rain resulting from the moisture releases the character of the dirt as it percolates through the soil. The soil becomes more acid if this is the characteristic transmitted by the rain.

Random occurrences of this nature may matter little. But continual pollution of the air by acid moisture can bring about changes in the soil. This process will obviously have profound effects on agriculture over a period of time.

I submit the following article for the reading of all my colleagues as one more piece of information about the possible results of air pollution. Let us act decisively to eliminate this problem when the Clean Air Act is presented for renewal.

The article follows:

ACID PRECIPITATION: A FURTHER EVALUATION

(By Gordon T. Hamrick)

Over the past few years, the Voice has carried a number of articles dealing with acid precipitation. The most recent was a summary of the article, "Acid Rain: A Serious Regional Environmental Problem", by Gene E. Likens, of Cornell University, and E. Herbert Bormann, of Yale University, which appeared in the June 1974 issue of Science. This summary appeared in the August 1974 issue of the Voice.

In the article cited, the authors emphasized that (1) acid precipitation is now falling on most of the northeastern United States; that (2) the annual acidity averages about pH 4, but values between pH 2.1 and pH 5 have been recorded for individual storms. Further, the acidity apparently increased about twenty years ago and the increase may have been associated with increased use of natural gas and with the installation of particulate-removal equipment in tall smokestacks. The authors concluded that the effects—both economic and ecological—of widespread introductions of acids into the natural systems are unknown but must be considered in new energy proposals and development of air quality emission standards.

The May 1975 issue of Science carries an article titled "Acidity in Rainwater: Has an Explanation Been Presented?", by Leonard Newman, of Brookhaven National Laboratory. In his article, Newman has chosen to question Likens and Bormann's tentative conclusion that tall smokestacks have altered the nature of regional precipitation.

Newman points out that a concomitant increase in acidity of rainfall in northeastern United States has not been documented in the data of Likens and Bormann, since their data shows the pH remaining relatively constant over an eight-year period. (Editor's note: Likens and Bormann's original report states that recent data does not show any marked trend for the period since 1963.) Newman goes on to demonstrate by means of analysis of reactions that particulate emissions from smokestacks could not neutralize sulfur as completely as Likens and Bormann projected. Newman therefore concludes that Likens and Bormann have not proven that tall smokestacks and particulate-removal equipment have significantly altered the regional acid problem.

In a rebuttal appearing in the same issue of Science, Likens and Bormann stress the point that Newman has chosen to emphasize a speculative conclusion of their report, rather than consider the main point—that acid precipitation is a serious regional problem in northeastern United States. Likens and Bormann go on to point out that the problem of acid precipitation appeared some twenty or twenty-five years ago; that adequate data is not available for the early years; and that the intensity and area of acid precipitation has increased markedly since then. Likens and Bormann emphasized, in their earlier article, that there had been a shift in the predominant form of sulfur in the air, although total sulfur in the atmosphere had declined. Therefore, the authors feel that the major change in rainfall may be associated with a dramatic shift in precipitation chemistry that occurred during the 1950's. Further, they consider a root cause to be combustion of fossil fuels (and the tremendous increase in the use of such fuels) and feel that this problem may be further increased by a careless rush to solve the energy crises by relaxing air quality emission standards.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, this morning I addressed a conference of political scientists at the University of Chicago on the new election laws. Consequently, I was not present for three votes. Had I been present, I would have voted "yea" on H.R. 11016, to extend the Renegotiation Act of 1951, "yea" on H.R. 3035, to provide for earnings on tax and loan accounts of the United States, and "yea" on H.R. 11070, the Sports Broadcasting Act of 1975.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RUSSO (at the request of Mr. O'NEILL), for today, on account of official business (Subcommittee on Crime of the Judiciary Committee hearings in Chicago on victims of crime legislation).

Mr. HUNGATE (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. GAYDOS (at the request of Mr. O'NEILL), for this week, on account of illness.

Mr. THOMPSON, for December 15 and 16, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Steiger of Wisconsin, for 60 minutes, on Tuesday, December 16; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mrs. Fenwick) and to revise and extend their remarks and include extraneous matter:)

Mr. Kemp, for 1 hour, today.

Mr. Young of Alaska, for 10 minutes, today.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Archer, for 12 minutes, today.

Mr. Frenzel, for 60 minutes, on December 16, 1975.

Mr. McDade, for 5 minutes, today.

(The following Members (at the request of Mr. English) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Riegle, for 10 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mrs. Meyner, for 5 minutes, today.

Mr. Long of Louisiana, for 5 minutes, today.

Mr. Dodd, for 5 minutes, today.

Mr. Vanik, for 10 minutes, today.

Mr. Phillip Burton, for 15 minutes, today.

Mr. Benitez, for 60 minutes, December 17, 1975.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Delaney, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $643.50.

Mr. Edgar and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $786.50.

Mr. Ullman and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,144.

Mr. Hammerschmidt to revise and extend his remarks immediately following the unanimous-consent request on H.R. 1547.

Mr. Satterfield to revise and extend his remarks immediately following the consideration of H.R. 1547 on the Consent Calendar.

Mr. Jones of Alabama, and to include an editorial.

(The following Members (at the request of Mrs. Fenwick), and to include extraneous matter:)

Mr. Kemp in three instances.

Mr. Archer.

Mr. Young of Alaska.

Mr. Steiger of Wisconsin.

Mr. Crane.

Mr. Sarasin in two instances.

Mr. Rousselot in two instances.

Mr. Abdnor in two instances.

Mr. Bell.

Mr. Johnson of Pennsylvania.

Mr. Steiger of Arizona in two instances.

Mr. Forsythe.

Mr. Collins of Texas in three instances.

Mr. Myers of Pennsylvania.

Mr. Gradison.

Mr. Armstrong.

Mr. Kindness.

(The following Members (at the request of Mr. English) and to include extraneous matter:)

Mr. Anderson of California in three instances.

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Gaydos.

Mr. Meeds.

Mr. Brooks.

Mr. Solarz.

Mr. Clay in 10 instances.

Mr. Rangel in 10 instances.

Mr. Udall.

Mr. Harrington in three instances.

Mr. Downey of New York in five instances.

Mr. McDonald of Georgia in four instances.

Mr. Risenhoover in two instances.

Mr. Drinan.

Mr. Riegle.

Mr. Fraser.

Mr. Patten in two instances.

Mr. Carney in two instances.

Mr. Long of Louisiana.

Mr. Florio.

Mr. Ambro.

Ms. Keys.

Mrs. Meyner.

Mr. Bingham in 10 instances.

Mr. Badillo in five instances.

Mr. Bonker.

Mr. Brodhead.

Mr. Maguire in two instances.

Mr. Scheuer in three instances.

Mr. Preyer.

Mr. Wirth.

Mrs. Mink.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1136. An act to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes; to the Committee on the Judiciary.

S. 1267. An act to expand competition, provide improved consumer services, strengthen the ability of financial institutions to adjust to changing economic conditions, and improve the flow of funds for mortgage credit; to the Committee on Banking, Currency and Housing.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes;

H.R. 8674. An act to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system; and

H.J. Res. 733. Joint resolution making further continuing appropriations for the fiscal year 1976, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On December 12, 1975:

H.R. 2724. An act to provide for establishment of the Father Marquette National Memorial near St. Ignace, Mich., and for other purposes;

H.R. 8773. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes;

H.R. 9883. An act to amend the joint resolution approved December 28, 1973, providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac, and for other purposes;

H.R. 9924. An act to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes; and

H.R. 11027. An act to amend the effective date of the Defense Production Act Amendments of 1975.

On December 15, 1975:

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending 1976, and for other purposes;

H.R. 8674. An act to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system; and

H.J. Res. 733. Joint resolution making further continuing appropriations for the fiscal year 1976, and for other purposes.

ADJOURNMENT

Mr. ENGLISH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 21 minutes p.m.), under its previous order, the House adjourned until Tuesday, December 16, 1975, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2197. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on recommendations, and actions related thereto, contained in the first annual report of the National Advisory Council on Indian Education, dated March 31, 1974, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2198. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112 (b) of Public Law 92–403; to the Committee on International Relations.

2199. A letter from the Secretary of Health, Education, and Welfare, transmitting the first annual report on the health maintenance organization program, pursuant to section 1315(a) of the Public Health Service Act, as amended (87 Stat. 933); to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

2200. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescissions and deferrals and the supplementary reports revising two previously reported deferrals contained in the message from the President dated November 18, 1975 (House Document No. 94–309), pursuant to subsections 1014 (b) and (c) of Public Law 93–344 (H. Doc. No. 94–322); to the Committee on Appropriations and ordered to be printed.

2201. A letter from the Comptroller General of the United States, transmitting a report on the audit of the United States Capitol Historical Society for the year ended January 31, 1975, pursuant to section 451 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2202. A letter from the Comptroller General of the United States, transmitting a report assessing reading activities funded under the Federal program of aid for educationally deprived children; jointly, to the Committees on Government Operations, and Education and Labor.

2203. A letter from the Comptroller General of the United States, transmitting a report on the financing arrangements and management of overseas military banking facilities; jointly, to the Committees on Government Operations, Armed Services, and Banking, Currency and Housing.

RECEIVED FROM THE COMPTROLLER GENERAL

2204. A letter from the Attorney General, transmitting a draft of proposed legislation to insure that the compensation and other emoluments attached to that seat on the Federal Maritime Commission vacated by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975; jointly, to the Committees on Post Office and Civil Service, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee of conference. Conference report on S. 1281 (Rept. No. 94–726). Ordered to be printed.

Mr. JONES of Alabama: Committee of conference. Conference report on H.R. 4073 (Rept. No. 94–727). Ordered to be printed.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 10631. A bill to amend the Urban Mass Transportation Act of 1964 to authorize financial assistance for emergency rail passenger service operating assistance; with amendment (Rept. No. 94–728). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6644. A bill to provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes; with amendment (Rept. No. 94–729). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. S. 2350. An act to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council (Rept. No. 94–730.) Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama. Committee on Public Works and Transportation. Senate Concurrent Resolution 62. Concurrent resolution making apportionment of funds for the National System of Interstate and Defense Highways (Rept.. No. 94–731). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS. Committee on Interstate and Foreign Commerce. H.R. 9464. A bill to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976; with amendment (Rept. No. 94–732). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee of conference. Conference report on H.R. 5247 (Rept. No. 94–733). Ordered to be printed.

Mr. MURPHY of Illinois: House Resolution 929. Resolution providing for the consideration of H.R. 8235. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes (Rept. No. 94–734). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 930. Resolution providing for the consideration of H.R. 9771. A bill to amend the Airport and Airway Development Act of 1970 (Rept. No. 94–735). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 931. Resolution providing for the consideration of H.R. 10979. A bill to improve the adequacy, efficiency, and financial viability of the rail system of the United States by reforming the regulatory process under which such rail system operates, by providing long-term financial assistance for such rail system, and by amending the Regional Rail Reorganization Act of 1973 to enhance and insure the private enterprise character of the Consolidated Rail Corporation (Rept. No. 94–736). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself, Mr. Grassley, Mr. Hutchinson, Mr. Kindness, Mr. Lujan, and Mrs. Pettis):

H.R. 11152. A bill to amend the Occupational Safety and Health Act of 1970 to improve the administration of such act and to establish more efficient regulatory procedures for carrying out such act, and for other purposes; Committee on Education and Labor.

By Mr. BLANCHARD (for himself, Mr. Bedell, Mr. Jones of North Carolina, Mr. Ketchum, Mr. Miller of California, Mrs. Fenwick, Mr. Charles Wilson of Texas, Mr. Lagomarsino, Mr. Baucus, Mrs. Spellman, Mr. Holland, Mr. Pattison of New York, Mr. Hechler of West Virginia, Mr. Yatron, Mr. Bennett, Mr. Mathis, Ms. Burke of California, Mr. Emery, Mr. Hawkins, and Mr. Edgar):

H.R. 11153. A bill to amend the Congressional Budget Act of 1974 to require full congressional review of each Federal program once every 2 years under zero-base budgeting procedures; to the Committee on Rules.

By Mr. DRINAN (for himself, Mr. Ambro, Mrs. Burke of California, and Mr. Sarasin):

H.R. 11154. A bill to amend the Solid Waste Disposal Act to encourage research, development, and implementation of energy and resource recovery from solid waste, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Science and Technology.

By Mr. DRINAN (for himself, Mrs. Collins of Illinois, and Mr. Edwards of California):

H.R. 11155. A bill to require the Federal Energy Administration to preserve all fees collected under the oil import fee program for eventual distribution to the consuming public; jointly to the Committees on Ways and Means and the Judiciary.

By Mr. EARLY:

H.R. 11156. A bill to provide that a State or political subdivision may levy a tax with respect to a federally assisted housing project which under Federal law is otherwise exempt from State and local taxes but is required to make payments in lieu of taxes, where such payments are less than the amount of the taxes from which it is so exempt; to the Committee on Banking, Currency and Housing.

By Mr. EILBERG:

H.R. 11157. A bill to amend the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 11158. A bill to promote more efficient use of the Nation's construction resources, to foster the preservation of buildings of historic or architectural significance, and to enhance the social and economic environment within and surrounding Federal office buildings; to the Committee on Public Works and Transportation.

By Mr. FISH (for himself, Mr. Badillo, Mr. Vigorito, and Mr. Wolff):

H.R. 11159. A bill to terminate the granting of construction licenses of nuclear fission powerplants in the United States pending action by the Congress following a comprehensive 5-year study of the nuclear-fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technology Assessment, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. FRASER (for himself, Mr. Obey, Ms. Abzug, Mr. Bedell, and Mr. Moffett):

H.R. 11160. A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ (for himself, Mrs. Fenwick, Mr. Del Clawson, Mr. Miller of Ohio, Mr. Harrington, Mr. Brown of California, Mr. Ashley, Mr. Chappell, Mr. Perkins, Mr. Butler, Mr. Lent, Mr. Mazzoli, Mr. Fascell, Mr. Stark, Mr. Fuqua, Mr. Fountain, Mr. Duncan of Tennessee, Mr. Sarbanes, Mr. Robinson, Mr. Lloyd of California, Mr. Burgener, Mrs. Burke of California, and Mr. Cornell):

H.R. 11161. A bill to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 11162. A bill to amend section 1821 of title 28 of the United States Code to provide for the payment of certain witnesses on the basis of the earned income lost by reason of their appearance as witnesses; to the Committee on the Judiciary.

By Mr. JOHNSON of Colorado:

H.R. 11163. A bill to amend section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241); to the Committee on Interior and Insular Affairs.

By Mr. LITTON (for himself, Mr. Eilberg, Mr. Roybal, Mr. Harris, Mr. Pritchard, Mr. Edgar, Mr. Harrington, Mr. Downey of New York, Mr. English, Ms. Holtzman, Mr. Winn, Mr. Carr, Mr. Pattison of New York, Ms. Spellman, Mr. LaFalce, Mr. Ottinger, Mr. Mottl, Mr. Weaver, Mr. Thone, Mr. Russo, Mr. Riegle, Ms. Chisholm, Mr. Baucus, and Mr. Bedell):

H.R. 11164. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. LLOYD of California (for himself, Mr. Blanchard, Mrs. Burke of California, Mr. Goodling, Mr. Patterson of California, and Mr. Charles Wilson of Texas):

H.R. 11165. A bill to abolish certain Federal regulatory agencies and to bring about the abolition of certain Federal regulatory agencies or their successor agencies after a specified period of time, and for other purposes; jointly to the Committees on Government Operations, and Rules.

By Mr. MEEDS:

H.R. 11166. A bill to amend the Federal Voting Assistance Act of 1955 to require the Postal Service to deliver absentee ballots whether or not such ballots are mailed with sufficient postage, and for other purposes; to the Committee on House Administration.

By Mr. METCALFE:

H.R. 11167. A bill to amend the State and Local Assistance Act of 1972; to the Committee on Government Operations.

By Mr. RINALDO:

H.R. 11168. A bill to establish a reduced rate of postage for letters sealed against inspection mailed by private individuals; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.R. 11169. A bill to establish a Commission on Security and Cooperation in Europe; to the Committee on International Relations.

By Mr. UDALL:

H.R. 11170. A bill to allow certain individuals who were given or administered a drug as part of an experiment to bring an action for damages against the United States; to the Committee on the Judiciary.

By Mr. WHALEN:

H.R. 11171. A bill to provide that States may elect to use area triggers for purposes of emergency unemployment compensation benefits; to the Committee on Ways and Means.

By Mr. HENDERSON (for himself and Mr. Derwinski):

H.R. 11172. A bill to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes; jointly to the Committees on Post Office and Civil Service, and the Judiciary.

By Mr. McDADE (for himself, Mr. Flood, Mr. McKinney, Mr. Gradison, Mr. Dickinson, Mr. Myers of Indiana, and Mr. Heinz):

H.R. 11173. A bill to amend section 5701 (a)(2) of the Internal Revenue Code of 1954 so as to change the bracket tax on cigars to an ad valorem tax; to the Committee on Ways and Means.

By Mr. MAHON:

H.R. 11174. A bill to rescind certain budget authority recommended in the messages of the President of November 18, 1975 (H. Doc. 94–309), and November 29, 1975 (H. Doc. 94–311), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. MYERS of Pennsylvania:

H.R. 11175. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for certain employment-related expenses paid or incurred by a handicapped individual; to the Committee on Ways and Means.

H.R. 11176. A bill to amend the Internal Revenue Code of 1954 to provide that the special expenses incurred in maintaining a retarded or handicapped individual shall be allowable as a medical deduction without regard to the 3-percent floor; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas (for himself and Mr. Waggonner):

H.R. 11177. A bill granting the consent of Congress to an amendment to the Sabine River Compact entered into by the States of Texas and Louisiana; to the Committee on Interior and Insular Affairs.

By Mr. CHARLES WILSON of Texas:

H.R. 11178. A bill to reduce the rate of duty on ceramic insulators used in spark plugs; to the Committee on Ways and Means.

By Mr. LITTON (for himself, Mr. Hechler of West Virginia, Mr. Winn, Mr. Won Pat, Mr. Thompson, Mr. Bennett, Mr. Weaver, Mr. Martin, Mr. Hannaford, Mr. Harrington, Mr. Downey of New York, Mr. LaFalce, Mr. Ottinger, Mr. Kemp, Mr. Hughes, Mrs. Spellman, Mr. Mann, Russo, Mr. Kindness, and Mr. Baucus):

H.R. 11179. A bill to require the President to transmit to Congress copies of each Presidential proclamation and Executive order; to the Committee on Government Operations.

By Mrs. MINK:

H.R. 11180. A bill to authorize a study of the feasibility and desirability of establishing and a master plan for the establishment of a unit of the national park system in order to preserve and interpret the Kalaupapa settlement located on the island of Molokai in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ABDNOR:

H.J. Res. 747. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. DOWNEY of New York:

H.J. Res. 748. Joint resolution to establish a joint committee for purposes of conducting a congressional conference on aging; to the Committee on Rules.

By Mr. ABDNOR (for himself and Mr. Pressler):

H. Con. Res. 510. Concurrent resolution to encourage teachers, students, parents, and associates of our Nation's schools to participate and declare a day in the spring of 1976 as a Community Cleanup Day as a Bicentennial gift to our Nation; to the Committee on Post Office and Civil Service.

By Mr. PERKINS:

H. Con. Res. 511. Concurrent resolution relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. BROOKS:

H. Res. 927. Resolution to provide additional copies of housing report; to the Committee on House Administration.

By Mr. THONE (for himself, Mr. Bowen, Mr. Jenrette, Mr. Hubbard, Mr. Sebelius, Mr. Stark, Mr. Beard of Rhode Island, Mr. Clay, Mr. Carney, Mr. Mazzoli, Mr. Kastenmeier, Mr. Madigan, Mr. Goodling, and Mr. Jeffords):

H. Res. 928. Resolution to insure that the quality and quantity of free broadcasting service not be impaired; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 11181. A bill for the relief of Cathy Gee Yuen; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 11182. A bill for the relief of Filomena E. Batan; to the Committee on the Judiciary.

By Mr. CHARLES WILSON of Texas:

H.R. 11183. A bill for the relief of Ed J. Damuth; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

344. By the SPEAKER: petition of the Board of Directors, Indian Nations Council of Governments, Tulsa, Okla., relative to continuation of the excess property program; to the Committee on Government Operations.

345. Also, petition of the city council, Hyattsville, Md., relative to revenue sharing; to the Committee on Government Operations.

346. Also, petition of the city council, Bridgeton, Mo., relative to revenue sharing; to the Committee on Government Operations.

347. Also, petition of the Southern Methodist University Jewish Student Association, Dallas, Tex., relative to the United Nations resolution equating Zionism with racism; to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8235

By Mr. EDGAR:

H.R. 8235. Amendment in the nature of a substitute to title I.

Strike out everything after line 2 on page 1 up to and including line 20 on page 75, and insert in lieu thereof the following:

TITLE I

SHORT TITLE

Sec. 101. (a) This title may be cited as the "Federal-Aid to Transportation Act of 1975".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 23, United States Code.

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

Sec. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1978, and the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1979.", and by inserting in lieu thereof the following: "the additional sum of $1,000,000,000 for the three-month period ending September 30, 1976, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1977, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1978, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1979, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1980.

TRANSPORTATION AUTHORIZATIONS

Sec. 103. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated—

(1) For the rural transportation assistance program, out of the Highway Trust Fund, $325,000,000 for the three month period ending September 30, 1976, $1,300,000,000 for each of the fiscal years 1977 and 1978;

(2) For the urban transportation assistance program, out of the Highway Trust Fund, $325,000,000 for the three month period ending September 30, 1976, $1,300,000,000 for each of the fiscal years 1977 and 1978;

(3) For the control of outdoor advertising under section 131 and for control of junkyards under section 136, $16,000,000 for the three month period ending September 30, 1976 and $65,000,000 for each of the fiscal years 1977 and 1978;

to such State under paragraphs (1) and (2) of section 104(b) in the ratio which these respective amounts bear to each other in that State.

TRANSFER OF FUNDS

Sec. 104. (a) On or before September 30, 1976, all sums apportioned or allocated under chapter 1 (except those sums apportioned for the Interstate System) may, with the approval of the Secretary, be transferred to any program authorized under title 23, United States Code. However, funds apportioned for the urban transportation assistance program and allocated to an urbanized area having a population of two hundred thousand or more under section 150 may not be so transferred without the approval of the responsible local officials of such urbanized area.

(b) The provisions of subsection (a) of this section supersede the provisions of section 209 of the Highway Revenue Act of 1956 to the extent provisions of that section are inconsistent with subsection (a) of this section.

DEFINITIONS AND POLICY

Sec. 105. (a) Section 101(a) is amended as follows:

(1) The definition of the term "construction" is amended to read as follows:

"The term 'construction' means the supervising, inspecting, actual building, and all the expenses incidental to the construction, reconstruction, rehabilitation, or restoration of a highway, including (1) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration of the Department of Commerce); (2) acquisition of rights-of-way, including real property affected by the construction of highway projects or operations thereof and needed for an efficient and coordinated transportation system compatible with socially, economically, and environmentally sound patterns of land use; (3) relocation assistance; (4) acquisition of replacement housing sites; (5) acquisition and rehabilitation, relocation, and construction of replacement housing; (6) elimination of hazards of railway grade crossings; and (7) improvements which directly facilitate and control traffic flow, such as grade separations of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas.".

(2) The definition of the term "urban area" is amended to read as follows:

"The term 'urban area' means a small urban area or an urbanized area.".

(3) Following the definition of the term "urban area" insert the following:

"The term 'small urban area' means an urban place so designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary.".

(4) The definition of the term "urbanized area" is amended by deleting "Such" and inserting in lieu thereof "To the extent deemed practicable by the Secretary, such".

(5) The definition of "State highway department" is repealed and the following is inserted in lieu thereof:

"The term 'State highway agency' means that department, commission, board, agency, or official of any State charged by its laws with the responsibility for highway construction.".

(6) Following the definition of the term "rural areas" insert the following:

"The term 'highway safety improvement projects' means projects on any public road (except a route on the Interstate System) to eliminate, reduce, or alleviate accidents or accident potential, including projects to correct high-hazard locations, eliminate roadside obstacles, eliminate hazards at railway-highway crossing (including through the separation of grade crossings) or to replace or rehabilitate bridges which are inadequate because of structural deficiencies or physical deterioration.".

(7) Following the definition of the term "public lands highways" insert the following:

"The term 'public road' means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.".

(8) The definition of "forest highway" is amended to read as follows:

"The term 'forest highway' means a forest road which is of primary importance to the States, counties, or communities within, adjoining, or adjacent to the national forests.".

(b)(1) The second paragraph of section 101(b) is amended by striking out "twenty-three years" and inserting in lieu thereof "twenty-four years", by striking out "June 30, 1979" and inserting in lieu thereof "September 30, 1980", and by striking out ", and that the entire system in all States be brought to simultaneous completion".

(2) The third paragraph of section 101(b) is repealed.

TRANSPORTATION ASSISTANCE PROGRAMS

Sec. 106. (a) Section 102 is amended to to read as follows—

"TRANSPORTATION ASSISTANCE PROGRAMS

"Sec. 102. (a) The Secretary shall establish two transportation assistance programs, the rural transportation assistance program and the urban transportation assistance program.

"(b) Funds authorized for the rural transportation assistance program are available for projects in any rural or small urban area, including projects on any public road, highway safety improvement projects, the construction of bus passenger loading areas and facilities (including shelters), fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and the purchase of passenger equipment (including rolling stock for fixed rail systems).

"(c) Funds authorized for the urban transportation assistance program are available for projects serving urbanized areas, including projects on any public road, highway safety improvement projects, the construction of passenger loading areas and facilities (including shelters and intermodal passenger terminals), fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, the purchase of passenger equipment (including rolling stock for fixed rail systems), and the construction of facilities for public mass transportation.

"(d) Public mass transportation projects carried out under this section shall be subject to the provisions of law applicable to projects under section 142 of this title, except to the extent determined inconsistent by the Secretary."

(b) The analysis of chapter 1 is amended by striking out "102. Authorization." and inserting in lieu thereof "102. Transportation Assistance Programs."

FEDERAL-AID SYSTEMS

Sec. 107. (a) Section 103(b)(2) is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1976", and by striking out "urban areas" and inserting in lieu thereof "small urban areas".

(b) Section 103(c)(2) is amended by striking out the first sentence and inserting in lieu thereof "After September 30, 1976, the Federal-aid secondary system shall consist of major rural collector routes and their extensions into or through small urban areas."

(c) Section 103(d)(2) is amended by strikink out the first sentence and inserting in lieu thereof "After September 30, 1976, the Federal-aid urban system shall be located in each urbanized area and shall consist of extensions of the Federal-aid primary system through the area, other arterial routes, and collector routes. The routes on the Federal-aid urban system shall be designated by responsible local officials, subject to the approval of the Secretary as provided in subsection (f) of this section and shall be in accordance with the planning process required pursuant to the provisions of section 134 of this title.".

(d) Section 103(e)(2) is amended by striking out from the second sentence "Upon the request of a State highway department" and inserting in lieu thereof "Upon the request of a State Governor". It is further amended by amending the fourth sentence and adding a new sentence immediately thereafter, to read as follows: "The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated under the third sentence of this paragraph subsequent to January 1, 1973, shall not exceed the cost to the United States of the aggregate of all mileage approval for which is withdrawn under the second sentence of this paragraph, as such cost is included in the 1972 Interstate System cost estimate approved by Congress, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate. Full Federal interstate participation will be allowed in all interstate substitutions made under the provisions of this paragraph prior to January 1, 1975.

(e) Section 103(e)(4) is amended to read as follows:

"(4) Upon the joint request of a State

Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which is within an urbanized area and which was selected and approved in accordance with this title prior to January 1, 1973, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the 1972 Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal Aid to Transportation Act of 1975 or the date of withdrawal or approval under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that was the basis of the 1972 cost estimate, shall be available to the Secretary to incur obligations for the Federal share of projects authorized under any transportation assistance program under section 102 of this title which will serve the urbanized area from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area, and which are submitted by the Governor of the State in which the withdrawn route was located. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of the substitute projects shall be determined in accordance with the provisions of section 120 of this title applicable to the transportation assistance program of which the substitute project is a part, except that in the case of mass transportation projects, the Federal share shall be that specified in section 4 of the Urban Mass Transportation Act of 1964, as amended. The sum available for obligation shall become part of, and be administered through the Urban Mass Transportation Fund and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of approval of the withdrawal, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal Aid to Transportation Act of 1975, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal Aid to Transportation Act of 1975 shall be reduced in the proportion that the unobligated portion of the sum made available for substitute projects bears to the Federal share of the total cost of all interstate routes in that State as reflected in the latest cost estimate approved by the Congress less any reduction in the interstate apportionment attributable to the Federal share of any substitute project made prior to the enactment of the Federal Aid to Transportation Act of 1975. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.".

(f) Section 103(g) is amended to read as follows:

"(g) On October 1, 1977, the Secretary shall remove from designation as a part of the Interstate System each segment of such system which he finds is not essential to completion of a unified and connected Interstate System and for which a State has not notified the Secretary that such State intends either to construct such segment or to request withdrawal of such segment as permitted under subsection (e) (2) or (e)(4) of this section. The notification by the State must include a schedule for the expenditure of funds for the completion of construction of such segment or alternative segment or a schedule for the request for withdrawal of such segment, and sufficient assurances satisfactory to the Secretary that such schedule will be met, or the segment shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of this subsection shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest.".

INTERSTATE SYSTEM

SEC. 108. (a) Section 103(e)(4) of title 23, United States Code, is amended to read as follows:

"(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which is within an urbanized area and which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal-Aid Highway Act of 1975 or the date of approval of each substitute project under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the urbanized area from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area, and which are submitted by the Governor of the State in which the withdrawn route was located. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of the substitute projects shall be determined in accordance with the provisions of section 120 of this title applicable to the highway program of which the substitute project is a part, except that in the case of mass transit projects, the Federal share shall be that specified in section 4 of the Urban Mass Transportation Act of 1964, as amended. The sums available for obligation shall remain available until obligated. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1975, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1975 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of said Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1975, shall be effective as of August 13, 1973.".

(b) Section 103(e)(4) of title 23, United States Code, is further amended by adding the following sentence at the end thereof: "In the event a withdrawal of approval is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System as long as said sums were applied to a transportation project permissible under this title.".

APPORTIONMENT

SEC. 109. (a) Section 104(a) is amended to read as follows:

"(a) Whenever an apportionment or allocation is made of any of the sums authorized to be appropriated for expenditure for Federal-aid programs, the Secretary shall deduct a sum, in such amount, not to exceed 3¾ per centum of all sums so authorized, as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for Federal-aid programs and for carrying out the research authorized by section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure for Federal-aid programs until such sum has been expended.".

(b)(1) Section 104(b) is amended by

striking out everything down through "following manner:" and inserting in lieu thereof the following:

"(b) On October 1 of each fiscal year the Secretary, after making the deduction authorized by subsection (a) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure for Federal aid to transportation for that fiscal year among the several States and urbanized areas in the following manner:".

(2) Section 104(b)(1) is amended by striking out "(1) For the Federal-aid primary system:" and inserting in lieu thereof "(1) For the rural transportation assistance program:" and by striking out "of rural areas" each time it appears and inserting in lieu thereof "outside of urbanized areas".

(3) Section 104(b)(3) is amended to read as follows:

"(3) For the urban transportation assistance program:

"In the ratio which the population of each urbanized area or part thereof, in each State as designated by the Bureau of the Census, bears to the total population of all urbanized areas in all the States as shown by the latest available Federal census. No State shall receive less than one-half of 1 per centum of the total amount apportioned each fiscal year.".

(4) Paragraphs (4), (5), and (6) of section 104(b) are repealed and a new paragraph (4) is inserted to read as follows:

"(4) For the Interstate System for the fiscal years 1977 through 1980:

"(a) One-half in the ratio which the estimated Federal share of the cost of completing the Interstate System in each State bears to the sum of the estimated Federal share of the cost of completing the Interstate System in all of the States; and (B) one-half in the ratio which the estimated Federal share of the cost of completing routes on the Interstate System in each State determined by the Secretary to be of national significance and essential for connectivity of the Interstate System bears to the sum of the estimated Federal share of the cost of completing such routes in all of the States. Sums apportioned on the basis of the cost of completing routes determined by the Secretary to be of national significance and essential for connectivity of the Interstate System shall be available for expenditure only for such routes. The Secretary, in cooperation with the State highway agencies, shall transmit to the Senate and House of Representatives within six months of the enactment of this Act a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this chapter. Such estimate shall identify those routes determined by the Secretary to be of national significance and essential for connectivity of the Interstate System and shall be based on rules and standards of uniform applicability to all of the States. Upon approval of the estimate by the Congress, the Secretary shall use the Federal share of the approved estimate in making apportionments for the fiscal years 1977 and 1978. The Secretary shall make a final revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this chapter in the same manner as stated above, and transmit the same to the Senate and the House of Representatives by January 15, 1978. Upon the approval of the estimate by the Congress, the Secretary shall use the Federal share of the approved estimate in making apportionments for the fiscal years 1979 and 1980."

(c) Section 104(c) is amended to read as follows:

"(c) If requested by the Governor of the State and approved by the Secretary as being in the public interest, an amount not to exceed 40 per centum of the amount apportioned in any fiscal year under section 104 (b)(1), 104(b)(2), or 104(b)(3) may be transferred from the apportionment under one paragraph to the appointment under the other paragraphs. However, funds apportioned to an urbanized area having a population of two hundred thousand or more under section 150 of this title may not be so transferred without the approval of the responsible local officials of such urbanized area.".

(d) Subsection 104 (d) and (g) are repealed and subsections (e) and (f) are redesignated as subsections (d) and (e), respectively.

(e) Section 104(d) as redesignated herein is amended to read as follows:

"(d) To permit the States and designated recipients to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State, and responsible local officials of each urbanized area which is apportioned funds under sections 104(b) (3) and 150, of the amount that will be apportioned each year under this section not later than seven months before the beginning of the fiscal year for which the sums to be apportioned are authorized.".

(f) Section 104(e), as redesignated, is amended to read as follows:

"(e)(1) On October 1 of each fiscal year, the Secretary shall set aside not to exceed 1 per centum of each apportionment made under subsection (b)(3) of this section, for the purposes of carrying out section 134 of this title.

"(2) The Secretary shall apportion these funds, set aside for each urbanized area under paragraph (1) of this subsection, to the metropolitan planning organization corresponding to such urbanized area that has been designated by the State as responsible for carrying out the provisions of section 134.

"(3) The Secretary shall not require that these funds be matched in accordance with section 120 of this title.".

SEC. 110. (a) Section 105(a) is amended by striking out the first sentence and inserting in lieu thereof the following: "As soon as practicable after the apportionments for the Federal-aid programs have been made for any fiscal year, the State highway agency of any State and designated recipient of urban transportation assistance program funds desiring to avail themselves of the benefits of this chapter shall each submit to the Secretary for his approval a program or programs of proposed projects for the utilization of the funds apportioned to it under section 104.".

(b) Subsection (d) of section 105 is amended to read as follows:

"(d) In approving programs for projects in an urbanized area of 200,000 population or more on the Federal-aid urban system, the Secretary shall require that when a State government did not pay 50 or more per centum of the non-Federal share of the approved program of projects in such urbanized area for the preceding fiscal year, such projects for the current fiscal year shall be selected by the appropriate local officials of such urbanized area, and that when a State government did pay 50 or more per centum of the non-Federal share of the approved program of projects in such an urbanized area for the preceding fiscal year, such projects for the current fiscal year shall be selected by the appropriate local officials of such urbanized area with the concurrence of the State highway department of each State and, in all urbanized areas, in accordance with the planning process required pursuant to section 134 of this title. In approving programs for projects on the Federal-aid urban system in areas other than urbanized areas having a population of 200,000 or more, the Secretary shall require that such projects be selected by the appropriate local officials with the concurrence of the State highway department of each State.".

(c) Section 105(g) is amended by striking out the first sentence and inserting in lieu thereof the following: "In preparing programs to be submitted in accordance with subsection (a) of this section, the State highway agencies or designated recipients of urban transportation assistance funds shall give consideration to projects providing direct and convenient access to public airports and public ports of water transportation and in approving such programs the Secretary shall give consideration to such projects.".

PLANS, SPECIFICATIONS AND ESTIMATES

SEC. 111. Section 106 is amended to read as follows:

"§ 106. Plans, specifications, and estimates.

"(a) Except as provided in section 117 of this title, the State highway agency or designated recipient of urban transportation assistance funds shall submit to the Secretary for his approval, as soon as practicable after program approval, such surveys, plans, specifications, and estimates for each proposed project included in that State's or designated recipient's approved program as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

"(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under control and supervision of the State highway agency, and (2) the Federal-aid urban system, shall be determined by appropriate local officials in accordance with the planning process required pursuant to section 134 of this title.

"(c) Items included in any such estimate for construction engineering shall not exceed 10 per centum of the total estimated cost of a project financed with Federal Aid to Transportation funds, after excluding from such total estimated cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

"(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects to be constructed with Federal-aid funds shall be accompanied by a value engineering or other cost reduction analysis.".

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 12. Section 108 is amended as follows:

(1) Subsection (a) is amended by inserting after the words "State highway department" each time such words appear in such subsection the words "or designated recipient of urban transportation assistance funds" and by amending the last sentence of subsection (a) by inserting after "request is made" the words ", unless a longer period is determined to be reasonable by the Secretary".

(2) Subsection (c)(2) is amended to read as follows:

"(2) For the purpose of acquiring rights-of-way for future construction of projects authorized under this title and for making payments for the moving or relocation of persons, businesses, farms, or other existing uses of real property caused by the acquisition of such rights-of-way, in addition to the authority contained in subsection (a) of this section, the Secretary, upon request of a State highway agency or designated recipient of urban transportation assistance funds, is authorized to advance funds, without interest, to the State or designated recipient of urban transportation funds from amounts available in the right-of-way revolving funds in accordance with rules and regulations prescribed by the Secretary. Funds so advanced may be used to pay the entire costs of projects for the acquisition of rights-of-way, including the net cost to the State or designated recipient of urban transportation assistance funds of property management, if any, and related moving and relocation payments made pursuant to any Federal law.".

(3) The first sentence of subsection (c) (3) is amended by striking out "earlier" and inserting in lieu thereof "later". Subsection (c) (3) is further amended by adding after "State" the words "or designated recipient of urban transportation assistance funds".

STANDARDS

Sec. 113. Section 109 is amended as follows:

(1) Subsection (a) is amended by striking out "on any Federal-aid system" and by deleting the period after "locality" and inserting in lieu thereof: ", except the design and construction standards for the Federal-aid urban system shall be those approved by the Secretary in accordance with the State highway agency and responsible local officials. Such standards, as applied to the Federal-aid urban system, shall reflect the lower speed capacity of the system and the need for flexibility in alinement in urbanized areas. The Federal-aid urban standards shall be issued within one year of the enactment of this Act.".

(2) Subsection (e) is amended by striking out "Federal-aid highway, or highway affected under chapter 2 of this title," and inserting in lieu thereof "transportation assisted under chapter 1 or 2 of this title".

(3) The first sentence of subsection (i) is amended to read as follows: "The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses, which take into account the degree of access to the highway, and after July 1, 1972, shall not approve plans and specifications for any proposed project for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.".

PROJECT AGREEMENTS

Sec. 114. Section 110(a) is amended as follows:

(1) By inserting in the first sentence after "highway department" the following: "or designated recipients of urban transportation assistance funds, whichever is appropriate,".

(2) By striking out in the second sentence everything after "for" the first time it appears and inserting in lieu thereof the following: "the State's or designated recipient's pro rata share of the cost of construction of such project and for the maintenance thereof after completion of construction.".

LETTING OF CONTRACTS

Sec. 115. (a) The first sentence of section 112(a) is amended by striking out "or" and serting in lieu thereof a comma, and by inserting after "supervision," the words "or by designated receipts of urban transportation assistance funds.".

(b) Section 112(e) is amended by striking out "on the Federal-aid system".

CONSTRUCTION

Sec. 116. The first sentence of section 114 (a) is amended by striking out "or" the second time it appears and inserting in lieu thereof a comma, and by inserting after "supervision" the words "or by designated recipients of urban transportation assistance funds". Such section is further amended in the second and third sentences by adding after the words "State highway department", each time such words occur, the words "or designated recipients of urban transportation assistance funds".

MAINTENANCE

Sec. 117. Section 116 is amended by inserting after the words "State Highway department", each time such words occur, the words "or designated recipient of urban transportation assistance funds.".

CERTIFICATION ACCEPTANCE

Sec. 118. (a) Section 117(a) is amended to read as follows:

"(a) The Secretary may discharge any of his responsibilities under any Federal law or Executive order (including implementing regulations and procedures) relative to projects under this title, except projects on the Interstate System, upon the request of any State, by accepting a certification by the Governor of the performance of such responsibilities, if the Secretary finds that such responsibilities will be carried out in accordance with State laws, regulations, directives, and standards which will accomplish the policies and objectives contained in, or issued by the Secretary or other appropriate Federal officials pursuant to applicable Federal laws, and in addition, the State has an agency suitably equipped and organized to carry out to the satisfaction of the Secretary the duties under such applicable Federal laws.".

(b) Section 117(b) is amended by inserting after "final inspection" the words "or review".

(c) Section 117(e) is amended to read as follows:

"(e) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under the National Environmental Policy Act of 1969, section 4(f) of the Department of Transportation Act, or under any Federal law or Executive order relating to civil rights or equal employment opportunity.".

AVAILABILITY OF SUMS APPORTIONED

Sec. 119. (a) Section 118(a) is amended by deleting "to each State highway department" and by striking out "to each Federal-aid system or part thereof" and inserting in lieu thereof "for Federal aid for transportation" and by striking out "expenditure" and inserting in lieu thereof "obligation".

(b) (1) The first sentence of section 118(b) is amended to read as follows:

"(b) Such sums shall continue to be available for obligation for the appropriate Federal-aid program or part thereof for a period of two years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unobligated at the end of such periods shall lapse, except that any amount apportioned to the States for the Interstate System under section 104(b) of this title remaining unobligated at the end of the period during which it is available under this section shall lapse and may be reapportioned among those States which can obligate such sums expeditiously for the completion of routes on the Interstate System determined by the Secretary to be of national significance and essential for connectivity of the Interstate System.".

(2) The second sentence of section 118(b) is amended by striking out "expended" and inserting in lieu thereof "obligated" and by striking out everything after "covered by" down through the period and inserting in lieu thereof "project approvals under section 106 of this title."

(3) The third sentence of section 118(b) is amended by striking out "expenditure" and inserting in lieu thereof "obligation".

PREVIOUS AUTHORIZATIONS

Sec. 120. (a) Chapter 1 of this title is amended by adding immediately after section 118 the following new section:

"§ 119. Previous authorizations.

"The provisions of this title apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for the expenditure of Federal funds upon the Federal-aid systems.".

(b) The analysis of chapter 1 is amended by striking out "119. Administration of Federal aid for highways in Alaska.". and inserting in lieu thereof, "119. Previous authorization.".

PAYMENT FOR CONSTRUCTION

Sec. 121. (a) The section heading of section 121 is amended to read "Payment for construction.".

(b) Section 121(a) is amended by inserting after "State" the following: "or designated recipient of urban transportation assistance funds".

(c) Section 121(b) is amended by inserting after "State" the following: "or designated recipient of urban transportation assistance funds".

(d) Section 121(c) is amended by deleting "located on a Federal-aid system and" and by inserting after "State" the following: "or designated recipient of urban transportation assistance funds".

(e) Section 121(d) is amended to read as follows:

"(d) In making payments pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments contained in sections 120 and 130 of this title. Payments for construction engineering on any project financed with Federal aid to transportation funds shall not exceed 10 per centum of the Federal share of the cost of construction of such project and excluding from the cost of construction the costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State or urbanized area with respect to which the Secretary finds such higher limitation to be necessary.".

EMERGENCY RELIEF

Sec. 122. (a) Section 125(a) is amended to read as follows:

"(a) An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title for (1) the repair or reconstruction of highways, roads, trails, or other projects funded under this tile, which he finds have suffered serious damage as the result of natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, and (2) the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1975, because of imminent danger of collapse due to structural deficiencies or physical deterioration. Subject to the following limitations, there are hereby authorized to be appropriated such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis. Not more than $150,000,000 is authorized to be expended in any one fiscal year to carry out the provisions of this section, except that, if in any fiscal year the total of all expenditures under this section is less than the amount authorized to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years. Pending such appropriation or replenishment the Secretary may expend from any funds heretofore or hereafter appropriated for expenditure in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriations herein authorized when made.".

(b) Section 125(b) is amended (1) by striking out from the first sentence "highways on the Federal-aid highway systems, including the Interstate System," and inserting in lieu thereof "any public road", and by adding after the last sentence "If the President declares that a major disaster exists, the concurrence of the Secretary is not required.".

(c) Section 125 is amended by adding at the end thereof the following new subsection:

"(d) Action taken or assistance provided under this section that has the effect of restoring facilities substantially as they existed prior to the disaster shall not be deemed a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.".

REPEAL OF SECTION 126

SEC. 123. (a) Section 126 is repealed.

(b) The item in the analysis of chapter 1 relating to section 126, diversion, is repealed.

FERRY OPERATIONS

Sec. 124. Section 129(g)(5) is amended to read as follows:

"(5) Such ferry may be operated only within the State (including the islands of Hawaii and the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii and the Commonwealth of Puerto Rico and operations between the States of Alaska and Washington, including stops at approximate points in the Dominion of Canada, or between any two points within the State of Alaska, no part of such a ferry operation shall be in any foreign or international waters.".

TRANSPORTATION PLANNING

SEC. 125. (a) The section heading of section 134 is amended by striking out "in certain urban areas".

(b) Section 134(a) is amended to read as follows:

"(a) It is declared to be in the national interest to encourage and promote the development of transportation system embracing various modes of transport in a manner that will conserve the Nation's energy resources, encourage more efficient use of the Nation's highway and transit facilities, and serve the States and local communities efficiently and effectively. To accomplish these objectives the Secretary shall, pursuant to such regulations as he deems necessary, cooperate with the States, as authorized in the title in the development of short-range and long-range highway plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urbanized areas and to the need to conserve energy and obtain a more effective utilization of existing urban transportation facilities. The development of projects in urbanized areas shall be based on a continuing cooperative and comprehensive planning process covering all modes of surface transportation. This planning process is to be carried on between States and the governing bodies of local communities, with the full cooperation of transportation agencies responsible for implementing significant elements of the long-range plan and program. After July 1, 1965, the Secretary may not approve under section 105 of this title any program for projects in any urbanized area unless he finds that such projects are based tion planning process carried on cooperatively by States and local communities and on a continuing comprehensive transporta- that the plans and programs conform with the objectives of this section. No highway project may be constructed in any urbanized area unless the responsible local officials of the urbanized area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and the design of the project.".

(c) Section 134 is amended by adding at the end thereof the following new subsection:

"(c) On January 15, 1979, and every four years thereafter, the Secretary shall submit to the Congress a report assessing the performance of the Nation's transportation system and evaluating alternatives for achieving future improvements in the performance of that system.".

(d) The analysis of chapter 1 is amended by striking

"134. Transportation planning in certain urban areas."

and inserting in lieu thereof

"134. Transportation planning.".

TRAFFIC OPERATIONS IMPROVEMENT PROGRAMS

SEC. 126. (a) Section 135 is amended to read as follows:

"§ 135. Traffic operations improvement programs.

"(a) The Congress hereby finds and declares it to be in the national interest that each State shall have a continuing program designed to reduce traffic congestion and facilitate the flow of traffic.

"(b) The Secretary may approve under this section any project for improvements which directly facilitate and control traffic flow.".

(b) The analysis of chapter 1 is amended by striking out

"135. Urban area traffic operations improvement programs."

and inserting in lieu thereof

"135. Traffic operations improvement programs.".

EQUAL EMPLOYMENT OPPORTUNITY

SEC. 127. Section 140(b) is amended by striking out the second sentence and by inserting in lieu thereof the following new sentence: "Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection.".

PUBLIC TRANSPORTATION

SEC. 128. (a) Section 142(a)(1) is amended by inserting at the end thereof the following new sentence: "Unless otherwise approved by the Secretary, in the event fees are charged for use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person operating the facility).".

(b) Paragraph (3) of subsection (e) of section 142 is amended to read as follows:

"(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided by subsection (a) of section 4 of the Urban Mass Transportation Act of 1964, as amended.".

(c) Subsection (k) of section 142 is repealed.

FEDERAL TRANSPORTATION ROLE

SEC. 129. (a) Section 145 is amended to read as follows:

"§ 145. Federal transportation role.

"The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the rights of States or responsible local officials to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted transportation program.".

(b) The analysis of chapter 1 is amended by striking out

"145. Federal-State relationship."

and inserting in lieu thereof

"145. Federal transportation role.".

ALLOCATION OF FUNDS FOR THE URBAN TRANSPORTATION ASSISTANCE PROGRAM

SEC. 130. (a) Section 150 is amended to read as follows:

"§ 150. ALLOCATION OF FUNDS FOR THE URBAN TRANSPORTATION ASSISTANCE PROGRAM.

"The funds apportioned to any urbanized area under paragraph (3) of subsection (b) of section 104 are attributable to that urbanized area and shall be made available for expenditure within such urbanized areas for projects in programs approved under subsection (d) of section 105 of this title in a fair and equitable manner as determined by the responsible local officials, with the approval of the Secretary. The responsible local officials, with the concurrence of the Secretary, shall designate recipients to receive and dispense funds apportioned under paragraph (3) of subsection (b) of section 104 that are to be used for highway projects under this title. Funds apportioned under paragraph (3) of subsection (b) of section 104 that are to be used for public transportation programs authorized by section 142 of this title shall be received and dispensed by recipients determined under the procedures of section 5 of the Urban Mass Transportation Act of 1964, as amended.".

(b) The analysis of chapter 1 is amended by striking out

"150. Allocation of funds for urban trans-

and inserting in lieu thereof

"150. Allocation of funds for urban transportation assistance program.".

FOREST HIGHWAYS

SEC. 131. (a) Section 202(a) is amended by striking out everything down through "for such fiscal year" and by inserting in lieu thereof "(a) Whenever an apportionment is made under section 104(b) of this title of the sums authorized to be appropriated for expenditure for the rural transportation assistance program for fiscal years 1977 through 1980, the Secretary shall deduct therefrom such sums as he may deem necessary, not to exceed $34,000,000 for each fiscal year, for the construction and maintenance of forest highways. Thereupon, the Secretary shall apportion the deducted sums".

(b) Sections 204 (d) and (e) are amended by striking out "appropriations" and inserting in lieu thereof "funds available".

TERRITORIAL HIGHWAYS

SEC. 132. (a) Section 215(c) is amended by striking out "No part of the appropriations authorized under this section" and inserting in lieu thereof "Whenever an apportionment is made under section 104(b) of this title of the sums authorized to be appropriated for expenditures for the rural transportation assistance program for fiscal years 1977 through 1980, the Secretary shall deduct therefrom such sums as he may deem necessary, not to exceed $5,000,000, $3,000,000, and $2,000,000 to carry out this section for the Virgin Islands, Guam, and American Samoa, respectively. None of those funds".

(b) Section 215(d) is amended by striking out each time they appear the words "sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of" and by inserting in their place "funds available for each fiscal year for".

(c) Sections 215 (e) and (f) are amended by striking out "authorized to be appropriated" and inserting in lieu thereof "available".

RESEARCH AND PLANNING

SEC. 133. (a) The text of section 307 is amended to read as follows:

"(a) The Secretary is authorized in his discretion to engage in research on (1) all phases of highway construction, reconstruction, modernization, development, design, maintenance, safety, economics, financing, and traffic conditions, (2) truck freight and bus passenger terminal facilities and related vehicle design features, including size and weight standards, (3) highway transportation of hazardous materials, (4) economic, social, environmental, and other community impacts of highway transportation, (5) reducing the energy demand of highway transportation, and (6) the effects of State laws on the subjects referred to in clauses (1) through (5). The Secretary is authorized to test, develop, conduct feasibility studies, prepare plans for operational demonstrations or applications, or assist in the testing and developing of any material, invention, patented article, process or new technological developments. The Secretary may publish the results of such research. The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization, or person. The Secretary is also authorized, acting independently or in cooperation with other Federal departments, agencies, or instrumentalities, to make grants for research fellowships for any purpose for which research is otherwise authorized by this section.

"(b) The funds required to carry out this section shall be derived from the administrative and research funds authorized by section 104 of this title, funds authorized to carry out section 403 of this title, and such funds as may be deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this section.

"(c) (1) Not to exceed 2 per centum of the sums apportioned for each fiscal year to any State or urbanized area under section 104(b) of this title shall be available for expenditure for engineering and economic surveys and investigations, planning and policy development with respect to future transportation programs and systems and planning for the financing thereof, studies of the economy, safety, and convenience of transportation service and the desirable regulation and equitable taxation thereof, research and development necessary in connection with the planning, design, construction, and maintenance of transportation systems and the regulation and taxation of their use, and the collection of transportation system data, the monitoring of transportation system performance, and the reporting of such data to the Secretary for use in the development of national transportation policy and program evaluation.

"(2) In addition to the percentage provided in paragraph (1) of this subsection, not to exceed one-half of 1 per centum of the sums apportioned for each fiscal year under paragraphs (1), (2), and (3) of section 104(b) of this title shall be available for expenditure upon request of the State highway agency for the purposes enumerated in paragraph (1) of this subsection, including demonstration projects in connection with such purposes.

"(3) Sums made available under paragraphs (1) and (2) of this subsection shall be matched by the State in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal aid to transportation program would be better served without such matching.".

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROGRAM

SEC. 134. Section 147(a) of the Federal-Aid Highway Act of 1973, as amended, is amended by striking "of which $50,000,000 shall be out of the Highway Trust Fund," from the first sentence and "from the General Fund" from the second sentence.

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

SEC. 135. Section 217(e) of title 23, United States Code, is amended by striking out "$40,000,000" and inserting in lieu thereof "$45,000,000", and by striking out "$2,000,00" and inserting in lieu thereof "$2,500,000".

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

SEC. 136. (a) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended by inserting immediately after subsection (h) the following new subsections:

"(i) The Secretary of Transportation shall carry out a demonstration project in Metairie, Jefferson Parish, Louisiana, for the relocation or grade separation of rail lines whichever he deems most feasible in order to eliminate certain grade level railroad highway crossings.

"(j) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Augusta, Georgia, for the relocation of railroad lines and for the purpose of eliminating highway railroad grade crossings.".

"(k) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Pine Bluff, Arkansas, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.".

"(l) The Secretary of Transportation shall carry out a demonstration project in Sherman, Texas, for the relocation of rail lines in order to eliminate the ground level railroad crossing at the crossing of the Southern Pacific and Frisco Railroads with Grand Avenue-Roberts Road."

(b) Existing subsections (i), (j), (k), and (l) of section 163 of the Federal-Aid Highway Act of 1973 are relettered as (m), (n), (o), and (p), respectively, including any references to such subsections.

(c) Subsection (o) (as relettered by subsection (b) of this section) of section 163 of the Federal-Aid Highway Act of 1973 is amended by striking out "1976, except that" and inserting in lieu thereof the following: "1976, $6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, $26,400,000 for the fiscal year ending September 30, 1977, and $51,400,000 for . . .

ACCELERATION OF PROJECTS

SEC. 137. The Secretary of Transportation shall carry out a project to demonstrate the feasibility of reducing the time required from the time of request for project approval through the completion of construction of highway projects in areas that, as a result of recent or imminent change, including but not limited to change in population or traffic flow resulting from the construction of Federal projects, show a need to construct such projects to relieve such areas from the impact of such change. There is authorized to be appropriated out of the Highway Trust Fund to carry out such project not to exceed $25,000,000.

MULTIMODAL CONCEPT

SEC. 138. Section 134 of the Federal Aid Highway Act of 1973 is amended by inserting "(a)" immediately following "SEC. 143." and by adding the following new subsection at the end thereof:

"(b) The Secretary of Transportation is authorized and directed to study the feasibility of developing a multimodal concept along the route described in paragraph (1) of subsection (a) of this section, which study shall include an analysis of the environmental impact of such multimodal concept. The Secretary shall report to Congress the results of such a study not later than July 1, 1977.".

RIDE-SHARING PROGRAMS

SEC. 139. (a) For the purposes of this section—

(1) the term "ride-sharing" means the use of a motor vehicle with a seating capacity designed to transport at least eight and no more than fifteen individuals, for the transportation of a group of individuals on a regularly scheduled basis;

(2) the term "recipient" means a municipality or other local government; and

(3) the term "Secretary" means the Secretary of Transportation.

(b) There are authorized to be appropriated, out of the Highway Trust Fund, $20,000,000 for the fiscal year ending September 30, 1977, $25,000,000 for the fiscal year ending September 30, 1978, and $30,000,000 for the fiscal year ending September 30, 1979, for the purpose of carrying out this section.

(c) The Secretary shall apportion the funds authorized to be appropriated for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, the sums authorized to be appropriated for such periods for expenditures for ride-sharing projects, using the following formula: three-quarters of such funds apportioned in the ratio which the population of each State bears to the population of all of the States as shown by the latest available Federal census, and one-quarter of such funds apportioned in the ratio which the public road mileage in each State bears to the total public road mileage in all of the States. No State shall receive less than one-half of 1 per centum of the total amount apportioned each fiscal year.

(d) On or before January 1 preceding the commencement of each fiscal year, the Secretary shall certify to each State highway department the sums which he has apportioned hereunder to such State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (h) of this section.

(e) On and after the date that the Secretary has certified to each State highway department the sums apportioned to each pursuant to an authorization under this section, such sums shall be available for expenditure under the provisions of this section.

(f) Sums apportioned to a State shall continue to be available for expenditure in that State for the appropriate ride-sharing program for a period of two years after the close of the fiscal year for which sums are authorized, and any amounts so apportioned remaining unexpended at the end of such period shall be reapportioned among the other States in accordance with the provisions of subsection (c) of this section. Such sums for any fiscal year shall be deemed to be expended if an amount equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is covered by formal project agreements providing for the expenditure of funds authorized by each Act which contains provisions authorizing the appropriation of funds for ride-sharing programs. Any ride-sharing program funds released by the payment of the final voucher or by the modification of the formal program agreement shall be credited to the same class of funds previously apportioned to the State and be immediately available for expenditure.

(g) The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with subsection (c) of this section for such fiscal year and all preceding fiscal years.

(h) Whenever an apportionment is made of sums authorized to be appropriated for expenditure for a ride-sharing program, the Secretary shall deduct a sum, in such amount not to exceed 2 per centum of all sums so authorized, as the Secretary may deem necessary for administering the provisions of this section.

(i) As soon as practicable after the apportionments for ride-sharing projects have been made for any fiscal year, the State highway department of any State desiring to avail itself of the benefits of this section shall submit to the Secretary for his approval a program or programs of proposed projects for ride-sharing for senior citizens and handicapped persons, workers, and developmental projects to encourage ride-sharing in rural and in urban areas. The Secretary shall act upon programs submitted to him as soon as practicable after the same have been submitted. The Secretary may approve a program in whole or in part. The Secretary shall require that such a project be selected by the State highway department and the recipient of the grant in cooperation with each other.

(j) The State highway department shall submit to the Secretary for his approval, as soon as practicable after program approval, such estimates of both acquisition and operating costs for each project included in an approved program as the Secretary may require. The Secretary shall act upon such estimates as soon as practicable after they have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its Federal share for such project.

(k) The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section, except that any motor vehicle acquired by a recipient of a grant shall be publicly owned during its useful life.

(l) The Federal share of any project receiving Federal financial assistance under this section shall not exceed 80 per centum of the cost of such project, except that the Federal share of operating costs shall not exceed 50 per centum.

CAR POOLS

SEC. 140. The last sentence of subsection (d) of section 3 of the Emergency Highway Energy Conservation Act (Public Law 93-239) is hereby repealed.

USE OF TOLL RECEIPTS FOR HIGHWAY AND RAIL CROSSINGS

SEC. 141. Section 2 of the Act entitled "An Act granting the consent of Congress to the State of California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended as follows:

(1) Subsection (a) is amended by striking out "heretofore enacted." and inserting in lieu thereof a period.

(2) The first sentence in subsection (b) is amended by striking out "of not to exceed two additional highway crossings and one rail transit crossing across the Bay of San Francisco and their approaches." and inserting in lieu thereof "(1) not to exceed two additional highway crossings and one rail transit crossing across the Bay of San Francisco and their approaches, and (2) any public transportation system in the vicinity of any toll bridge in the San Francisco Bay Area.".

(3) The third sentence in subsection (b) is repealed.

EXTENSION OF REPAYMENT

SEC. 142. The first sentence of section 2 of Public Law 94-30 is amended by striking out "before January 1, 1977." and inserting in lieu thereof "January 1, 1979, at a rate of 20 per centum by January 1, 1977, 30 per centum by January 1, 1978, and 50 per centum by January 1, 1979. If a State fails to make any repayment in accordance with the preceding sentence, the entire unpaid balance shall immediately become due and payable.".

TRAFFIC CONTROL SIGNALIZATION DEMONSTRATION PROJECTS

SEC. 143. (a) The Secretary of Transportation is authorized to carry out traffic control signalization demonstration projects designed to demonstrate the increased capacity of existing highways, the conservation of fuel, the decrease in traffic congestion, the improvement in air and noise quality, and the furtherance of highway safety, giving priority to those projects providing coordinated signalization of two or more intersections. Such projects can be carried out on any highway whether on or off a Federal-aid system.

(b) There is authorized to be appropriated to carry out this section out of the Highway Trust Fund, not to exceed $75,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978.

Each participating State shall report to the Secretary of Transportation not later than September 30, 1977, and not later than September 30 of each year thereafter, on the progress being made in implementing this section and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the benefits resulting from such projects comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such traffic control signalization. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1978, on the progress being made in implementing this section and an evaluation of the benefits resulting therefrom.

CONGRESSIONAL INTENT

SEC. 144. It is the intent of Congress that in any case where a bridge is constructed, reconstructed, replaced, repaired, or otherwise altered under authority of title 23 of the United States Code or any other provision of law, such construction, reconstruction, replacement, repair, or other alteration shall, to the extent feasible, provide for reasonable access to the water traversed by such bridge. Such access shall be provided at or in the vicinity of such bridge and shall be for the purpose of permitting the public to use such water for recreation purposes.

DEMONSTRATION PROJECT

SEC. 145. The Secretary of Transportation, acting pursuant to his authority under section 6 of the Urban Mass Transportation Act of 1964, shall conduct a demonstration project in urban mass transportation for design, improvement, modification, and urban deployment of the Automated Guideway Transit system now in operation at the Dallas/Fort Worth Regional Airport. There is authorized to be appropriated to carry out this section $1,500,000 for the three-month period ending September 30, 1976, and $5,500,000 for the fiscal year ending September 30, 1977.

REPEALS

SEC. 146. (a) The following provisions are repealed on the date of enactment of this title—

(1) Section 137, Fringe and Corridor Parking Facilities.

(2) Section 217(e), Limitation on use of authorizations for bicycle transportation and pedestrian walkways.

(3) Section 3 of Public Law 89-139 (79 Stat. 578).

(b) The analysis of chapter 1 is amended by striking out—

"Section 137. Fringe and corridor parking facilities."

and by inserting in lieu thereof—

"Section 137. Repealed."

TECHNICAL AMENDMENTS

SEC. 147. Title 23, United States Code, is amended as follows:

(1) The analysis of chapter 1, section 111, is amended to read:

"111. Agreements relating to the use of and access to Interstate System rights-of-way.".

(2) The analysis of chapter 1 is amended by striking:

"113. Relocation Assistance.".

(3) The term "State highway department" is amended to read "State highway agency" each place it appears.

(4) Section 112(e) is amended by striking out "on the Federal-aid secondary system".

By Mr. **HARSHA**:

Page 26, line 14, strike out "(a)".

Page 26, lines 23 and 24, strike out "$4,000,000,000" each place it appears and insert in lieu thereof at each place "$3,250,000,000".

Page 27, strike out line 16, and all that follows down through and including line 15 on page 29.

Page 38, strike out line 11 down through the period on line 20 and insert in lieu thereof the following: years ending September 30, 1977, and September 30, 1978.

Page 41, line 22, after the period insert the following: "The mileage of the route or portion thereof approval of which is withdrawn under this paragraph shall be available for designation on the Interstate System in any other State in accordance with paragraph (1) of this subsection.".

Page 42, strike out lines 1 and 2 and insert in lieu thereof: "cluded in the 1972 Interstate System cost estimate set forth in table 5 of House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443, increased or decreased, as the case may be, as determined".

Page 41, line 11, strike out "(a)".

Page 44, strike out line 17 and all that follows down through and including line 25.

Page 66, strike out lines 17 and 18 and insert in lieu thereof the following:

(b) There are authorized to be appropriated $20,000,000 for the fiscal year

Strike out lines 17 through 24 on page 70, and lines 1 through 12 on page 71.

Renumber succeeding sections and all references thereto accordingly.

Page 72, line 7, strike out "$75,000,000" and insert in lieu thereof "$25,000,000".

Page 72, line 12, strike out "$75,000,000" and insert in lieu thereof "$25,000,000".

Page 77, line 10, strike out "$62,500,000" and insert in lieu thereof "$31,250,000".

Page 77, line 11, strike out "$250,000,000" and insert in lieu thereof "$125,000,000".

Page 77, line 12, strike out "$250,000,000" and insert in lieu thereof "$125,000,000".

Page 34, strike out line 22 and all that follows down through and including line 26.

Page 35, line 1, strike out "(18)" and insert "(17)".

Page 35, line 6, strike out "(19)" and insert "(18)".

Page 35, line 7, strike out "(17) or (18)" and insert "or (17)".

Page 37, after line 18, insert the following:

(d) (1) Not to exceed 10 per centum of each amount authorized in paragraphs (1) and (2) of subsection (a) of this section which is apportioned to each State in accordance with paragraphs (1), (2), (3), and (6) of subsection (b) of section 104 of title 23, United States Code, may be transferred from the apportionment under each of such paragraphs for projects for the construction, reconstruction and improvement of any off-system road (including but not limited to, the replacement of bridges, the elimination of high-hazard locations, and road side obstacles). No part of any funds apportioned under such paragraph (6) which are attributable to urbanized areas of 200,000 population or more shall be transferred under authority of this subsection without the approval of the appropriate local officials of such area.

"(2) Projects under this subsection shall be subject to all of the provisions of chapter 1 of title 23, U.S. Code applicable to highways on the Federal-aid secondary system or in the case of projects located in urbanized areas, to highways on the Federal-aid urban system, except for the requirement that these roads be on a Federal-aid system, and those other provisions determined by the Secretary to be inconsistent with this subsection. The Secretary is not authorized to determine as inconsistent with this subsection any provision relating to the obligation and availability of funds.

"(3) As used in this subsection the term "off-system road" means any toll-free road (including bridges) which road is not on any Federal-aid system and which is under the jurisdiction of and maintained by a public authority and open to public travel."

By Mr. MYERS of Pennsylvania:

Page 52, after line 4, add the following new section: Section 115(a) Section 127 of Title 23 of the United States Code is amended by striking out the following:

"twenty thousand pounds carried on any one axle, including all enforcement tolerances: or with a tandem axle weight in excess of thirty-four thousand pounds, including all enforcement tolerances: or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500(LN/N-1+12N+36)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances",

and inserting in lieu thereof the following: "eighteen thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-two thousand pounds, or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500(LN/N-1+12N+32)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 32,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed seventy-three thousand two hundred and eighty pounds".

(b) The first sentence of section 127 of title 23, United States Code, is amended by striking out "Federal-Aid Highway Amendments of 1974", and inserting in lieu thereof the following: "Federal-Aid Highway Act of 1975". The third sentence of such section is amended by striking out "Federal-Aid Highway Amendments of 1974", and inserting in lieu thereof the following: "Federal-Aid Highway Act of 1975".

(c) Nothing in the amendments made by subsections (a) and (b) of this section shall be construed to deny apportionment to any State allowing the operation within such State during the period from January 4, 1975, and ending on the day the amendments made by subsections (a) and (b) of this section take effect in such State, or any vehicles or combinations thereof that could lawfully be operated within such State in accordance with section 127 of title 23, United States Code, in effect during such period.

(d) The amendments made by subsections (a) and (b) of this section shall take effect in each State on the 30th day after the first day of a regular session of the legislature of that State which session begins after the date of enactment of this Act.

H.R. 9464

By Mr. KEMP:

An amendment to the substitute, proposed to be offered by Mr. Krueger and appearing in the RECORD of December 8, 1975, at pages 39152–39156, to the bill, H.R. 9464, as follows:

Following section 209 of the proposed substitute, add the following new section:

"Sec. 210. (a) Notwithstanding any provision of the Natural Gas Act or any other provision of federal law or any contractural price limitation applicable thereto on the date of enactment of this section, sales of any natural gas (except synthetic or liquified natural gas) by small producers shall be exempt from regulation of the Federal Power Commission and may be made without any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)); and any such sale shall be made at a price not less than that which adequately compensates the seller for current costs, including an adequate return on investment, as determined by the seller and the purchaser.

"(b) For purposes of this section 'small producer' shall mean an independent producer of natural gas (1) who is not affiliated with a natural gas pipeline company or a producer who is not included within this definition, (2) whose total sales of natural gas on a nationwide basis, together with such sales of affiliated producers, are not in excess of 10 million Mcf at 14.05 P.S.I.A. during any calendar year, and (3) whose average production per well for all wells for such calendar year is not in excess of 100 Mcf per day.

"(c) For purposes of this section 'affiliated producers' are persons who, directly or indirectly, control or are controlled by, or are under common control with, a small producer".

H.R. 9771

By Mr. EDGAR:

Strike section 19.

Renumber the succeeding sections of this Act accordingly.

By Mr. JAMES V. STANTON:

Page 39, immediately after line 14, add the following:

GRANT AGREEMENT CONDITIONS

SEC. 12. Section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719) is further amended by—

(1) inserting "(a) Offer and Acceptance.—" immediately before the first sentence;

(2) striking out the second sentence and inserting in lieu thereof the following: "An offer shall include a condition that the sponsor or sponsors of the airport at which such airport development is to be accomplished shall not permit the landing, except for emergency purposes, of any civil supersonic aircraft engaged in commercial service which aircraft generates noise at a level in excess of the level prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 C.F.R., part 36), as such regulations are in effect on October 1, 1975. In addition to the condition set forth in the preceding sentence, an offer shall be made on such other terms and conditions as the Secretary considers necessary to meet the requirements of this part and the regulations prescribed thereunder."; and

(3) adding at the end thereof the following new subsection:

"(b) Violation of Grant Agreement Condition.—If any sponsor permits any aircraft to land at any airport at which such sponsor has expended funds received pursuant to a grant agreement containing the condition set forth in the second sentence of subsection (a) of this section in violation of such condition, then (1) such sponsor shall immediately repay to the United States all funds received pursuant to such grant agreement, and (2) the Secretary shall not make any other grant to either (A) such sponsor for any project for airport development at the airport at which such aircraft landed or at any other airport, or (B) any other sponsor for any project for airport development at the airport at which such aircraft landed.".

Renumber the succeeding sections of this Act and all references thereto accordingly.

H.R. 10979

By Mr. BEARD of Tennessee:

On page 209 of the bill, add a new subsection 5 of section 601 after line 11:

"(5) The provisions of this section shall apply in any state which, on the date of enactment of this section, has in effect a provision of its constitution (or an amendment thereto) which provides for the reasonable classification of property for state purposes."

On page 209 of the bill, add a new subsection 5 of section 601 after line 11:

"(5) The provisions of this section shall not apply in any state which, on the date of enactment of this section, has in effect a provision of its constitution (or an amendment thereto) which provides for the reasonable classification of property for state purposes."

By Mr. EDGAR:

On page 64, at line 17, delete the number "3", and insert in lieu thereof "4". At end of line 20 change the period to a comma and add: "and (4) the Research, Education and Training for Railroad Development and Improvement Account." On page 87 add a new section 805 Research Education and Training for Railroad Development and Improvement Account.

"SEC. 805. (a) There are authorized to be appropriated to the Research, Education and Training for Railroad Development and Improvement Account not more than—

"(1) $2,000,000 by September 30, 1976
"(2) $5,000,000 by September 30, 1977
"(3) $10,000,000 by September 30, 1978
"(4) $5,000,000 by September 30, 1979
"(5) $2,000,000 by September 30, 1980

All funds appropriated pursuant to this authorization shall remain available until expended,

"(b) Funds appropriated pursuant to subsection (a) may be expended by the Secretary to assist public and private nonprofit institutions of higher learning in establishing and carrying out comprehensive training, planning, and research in the problems of rail transportation. Such funds shall be used to conduct competent and qualified research and investigations into the theoretical and practical problems of rail transportation to provide for the training of persons to carry on further research or to obtain employment in private or public organizations, which plan, construct, operate, or manage rail transportation systems. Such research and investigations may include, without being limited to, the design and functioning of rail transportation systems; the interrelationship between various modes of transportation; the role of transportation planning in overall planning; public preferences in transportation; the economic allocation of transportation resources; and the legal, financial, engineering, and aesthetic aspects of rail transportation. In expending funds pursuant to this paragraph, the Secretary shall give preference to institutions of higher learning that undertake such research and training by bringing together knowledge and expertise in the various social and managerial sciences and technical discipline that relate to rail transportation problems."

EXTENSIONS OF REMARKS

REASSESSING DÉTENTE

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. BELL. Mr. Speaker, as you are aware, there is growing concern among Americans over the administration's policies of détente.

It is increasingly apparent that these policies may be nonproductive, or even counterproductive to U.S. interests.

In this connection, I wish to call to the attention of my colleagues an editorial published last week by the Hearst Newspapers, the text of which follows:

LET'S REASSESS DÉTENTE

(By William Randolph Hearst, Jr.)

As Cuban mercenary soldiers, directed and supplied by the Soviet military, conduct cleanup operations after "liberating" the former Portuguese colony of Angola on Africa's southwest coast, it behooves all Americans to take a closer look at our policy of détente with Russia.

Détente isn't working. Under it, Russia is expanding her colonization in strategic parts of the world, eroding American power and prestige, and creating military bases that have the potential of threatening America's vital supply routes for oil and other essentials.

Three American leaders and two other important world figures have criticized this country's compromising role under détente just within this past week and it is time we paid some heed.

This nation's highly respected and supremely articulate chief delegate to the United Nations, Daniel P. Moynihan, warned that it is the Soviet intent to "colonize" all of Africa. Said Mr. Moynihan:

"Any lessened expenditure of energy on military technology (under detente) will lead to an increased expenditure on what the Communists will see as an equally inviting, equally productive area of ideological conflict." And the Soviets, he said, are stepping up their ideological conflict.

Former Secretary of Defense James R. Schlesinger, who was fired by President Ford because his views on detente differ so widely from those in the White House and State Department, assessed detente as "continuation of confrontation in a different form." He said that detente requires the striking of "a delicate balance" between the twin objectives of reducing international tensions and maintaining "the requisite firmness." This, he said, we are not doing.

Admiral Elmo R. Zumwalt Jr., the retired chief of naval operations, charged, in testimony in the House of Representatives, that Secretary of State Henry A. Kissinger had withheld information from President Ford about "gross violations" by the Soviet Union of the 1972 agreements on the limitation of strategic arms. Those accords placed limits on strategic weapons and restricted deployment of anti-ballistic missile systems.

Admiral Zumwalt said that Mr. Kissinger's lack of candor sprang from his personal and political commitment to the success of the detente policy, which made him "reluctant to report the actual facts."

When President Ford and Mr. Kissinger were in Peking this past week, China's peppery Deputy Prime Minister, Teng Hsiao-ping, spoke sharply against detente with Russia. He warned bluntly:

"Today it is the country which most zealously preaches peace that is the most dangerous source of war. Rhetoric about detente cannot cover up the stark reality of the growing danger of war."

The angriest outcry against detente came this past week from Aleksandr I. Solzhenitsyn, the Nobel Prize-winning dissident Soviet writer, now in exile, in an article in the "New York Times." In a slashing attack on Secretary Kissinger, he criticized the secretary's defense of detente by pointing to the alternative of nuclear war.

"Mr. Kissinger is least of all a diplomat. 'Alter' in Latin means 'other' (of two). An alternative is a choice between two possibilities. This is a scientific concept. But even scientific situations often allow a much broader choice. But diplomacy is not a science. It is an art, one of the arts concerning the nature of man. To construct diplomacy on an 'alternative' is to put it on the lowest and crudest level.

"How many great diplomats of the past have won negotiations even with empty hands or backed by inadequate power, in circumstances of military weakness, conceding nothing and paying nothing, defeating the opponent only by intellectual and psychological means. That is diplomacy."

Detente, as practiced thus far, has given the Russians virtual domination over the routes on which we must convey our vital supplies of Mideastern oil. Russia's navy, newer and far superior to ours, patrols the Mediterranean and stalks our tankers and our own Sixth Fleet. From bases in Somalia on Africa's east coast, Russian naval vessels patrol the Indian Ocean through which must sail the supertankers that are too large to pass through the Suez Canal.

And now Soviet and Cuban troops are "assisting in the liberation" of Angola, the former Portuguese colony, on the west African coast, with the obvious purpose of establishing Russian bases there which would give other units of the Soviet navy and air force surveillance of the South Atlantic.

Once the Soviets have succeeded in "colonizing" Angola, the Middle East and all of Africa will be completely ringed by Russian naval and air power. And all of this, it must be remembered, has been achieved by the Soviets during our period of detente.

When Secretary of State Kissinger finally became alarmed over the activities of the Popular Movement for the Liberation of Angola that is being engineered from Moscow with the use of Cuban mercenaries, he delivered a mild admonition—"continuation of an interventionist policy (by the Soviets) must inevitably threaten other relationships."

The reply came from "Pravda," the official Communist party newspaper. Detente, said Pravda, in no way inhibits support for "wars of national liberation," nor should it be regarded as freezing spheres of international influence.

The introduction of detente into our foreign policy was a natural consequence of the extremely wholesome efforts of President Richard M. Nixon and Secretary of State Kissinger to halt the arms race with the Soviet Union. It was unrealistic, however, to expect what Moynihan has described as "wholesale relaxation of tensions." That might be our way of doing things, but not the Russians.

The pursuit of detente, and of peace, is the proper and morally correct objective of our foreign policy. Peace should be its goal. Peace, but not peace at any price.

A militarily soft American cannot hope to pursue peace, and as the leading nation of the Western world, it cannot, with a weakened military, offer the necessary security to the other democracies that depend on it.

Detente has caused the United States to "halt the arms race," but except in the area of some missiles, it has not slowed down the Soviets. Under detente the Russians are gaining territory and military bases in ever-widening areas of the world.

China's Teng was right. I agree with him—it's time to take a long, hard look at this thing called detente. It seems to be causing us irreparable harm.

GOVERNMENTAL FISCAL POLICIES

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, December 15, 1975

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks an editorial from Nation's Business, December 1975, captioned: "Swarms of Officers To Harass Our People, and Eat Out Their Substance."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SWARMS OF OFFICERS TO HARASS OUR PEOPLE, AND EAT OUT THEIR SUBSTANCE

On July 4 of next year, we will observe the 200th anniversary of the signing of the Declaration of Independence.

In that document, the distinguished representatives of the colonies listed a series of grievances against King George III. Among those grievances: "He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People, and eat out their Substance."

Those words are being echoed today by America's middle-income taxpayers, who contribute the bulk of the money to finance government, as spending continues to rise at an alarming rate.

The federal budget for fiscal 1977, which begins Oct. 1, 1976, is likely to send federal spending beyond $400 billion for the first time in the nation's history.

It wasn't until fiscal 1961, or 185 years after the Declaration of Independence, that federal spending reached $100 billion. But it took only nine more years to reach $200 billion; and then only five years to hit $300 billion.

The jump to $400 billion is taking only two years.

Projections by the Office of Management and Budget show the possibility of a $1 trillion annual federal budget by the end of this century.

Budget forecasts, however, overlook a vital factor that cannot be measured precisely.

That factor is how long middle-income taxpayers will put up with the triple impact they suffer under present fiscal policies.

The triple impact is felt this way:

1. The government takes from middle-income workers a substantial amount of the money they earn. A recent congressional report points out the family outlay going up the fastest is not for food or energy, but for taxes.

2. The government then uses that tax money to pursue programs that feed inflation, causing further erosion of personal incomes. The average American lost purchasing power last year for the first time in 15 years.

3. Finally, most middle-income families are shut out of many programs they pay for, such as tax-financed college scholarships.

And so, after 200 years, the basic grievance is the same—"Swarms of Officers to harass our People, and eat out their Substance."

PRIVATE COLLEGES AVERT SETBACKS

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. PRESSLER. Mr. Speaker, South Dakotans have a strong and continuing commitment in education, shown by the numerous public and private colleges which we have in our State. South Dakota has eight private, nonprofit colleges including: Augustana College; Dakota Wesleyan College; Huron College; Mount Marty College; Presentation Junior College; Sioux Falls College; Yankton College; Freeman Junior College. As a member of the Education Committee in Congress, I am particularly interested in our private colleges. The 94th Congress will have a unique opportunity to consider major pieces of comprehensive higher education legislation which will affect these and many other institutions of higher learning.

Knowing that my colleagues join me in believing that education is a foundation stone of our Republic and that the greatness of this country depends upon the education of our children, I believe it is our obligation to become as knowledgeable as possible about the problems now facing our Nation's educational systems. The Association of American Colleges has recently issued a study of accredited, private, nonprofit, 4-year institutions of higher education and I would like to bring to the attention of my colleagues an article by Noel Epstein, printed in the December 7, 1975, Washington Post, concerning this report:

PRIVATE COLLEGES AVERT SETBACKS

(By Noel Epstein)

Private colleges and universities have not suffered the severe financial or academic setbacks predicted in recent years, and most of their presidents see better times ahead.

These are some of the surprising findings of a study to be issued this week by the Association of American Colleges, which represents most of the nation's private campuses.

The study, headed by Howard R. Bowen, a leading economist of higher education, attributes the widely held belief that private campuses are in peril to "evidence that is circumstantial, incomplete and out-of-date."

The report, based on a fall survey of 100 representative colleges and universities, does note "budgetary tightness" at independent campuses, increased rivalry with lower-tuition public universities, a decline in enrollment at some colleges and other problems to be faced.

But, far from sounding another note of alarm, on balance it portrays a private campus world that is generally healthy and guardedly optimistic.

The report shows, for example, an overall enrollment rise since 1970, a revenue gain that has outpaced inflation, a growth in faculty, scarcely any erosion of assets and a significant expansion in academic programs.

"One of the themes that recurs throughout this study is that the private colleges and universities have enormous staying power," the report says. "They are still a viable and sturdy part of the American system of higher education."

Moreover, of the campus presidents surveyed, 76 per cent said they expect their college's prospects to improve or at least hold steady through this decade.

The report does not deal extensively with 1980, when the traditional college-age population will be in decline. Many campuses have begun efforts to lure older students with a theme of "lifelong learning."

The study, which surveyed campuses ranging from Dartmouth, Georgetown and Notre Dame to Williams, Fisk and Oberlin, is likely to have considerable impact because of its sponsorship by the private colleges' own association and the prestige of its chief author.

Bowen, an economics professor at California's Claremont Graduate School, a private school, has headed several prominent colleges and is president of the American Association for Higher Education.

Frederic W. Ness, president of the group issuing the study, said the findings will upset private college officials "who have been predicting major disaster" for independent campuses to congressional committees working on a broad higher-education bill.

But he suggested in an interview that the Bowen report also would buttress arguments that private colleges have been a sound investment for federal and state governments.

"There will be a continuing need for aid from public sources," Ness said. "There is a delicate balance, and it would not take much to turn the curve downward. That would be a serious blow to American higher education."

The Bowen study acknowledges the serious stresses at some campuses and the collapse of other four-year colleges. But it suggests that concentrating on these troubles obscures the basic strength of the private campus network.

The 16 accredited private colleges that have closed since 1970, it says, "represent a mortality rate of the order of 0.5 of 1 per cent a year, which is infinitesimal compared, for example, with mortality among small business firms."

The study adds: "One is also impressed by the smallness, newness, or obscurity that characterizes most of the institutions that have become defunct."

The researchers did find that 27 of the 100 campuses surveyed were in "serious distress" but said that "we are by no means predicting that 27 per cent of all private colleges and universities are headed for extinction." There are 866 private colleges out of a total of 2,400 colleges and universities in the United States.

While there are no comparable data for earlier years, the study says, "at any given time in the past, some private institutions have been in distress and there have been periods when distress was widespread."

"It is not known to what degree the present situation is 'normal' or 'exceptional.' Moreover, it is possible that some of the many institutions now apparently in trouble will achieve a turnaround," as several others have since 1970.

Judging by mortality rates alone, the report notes that 19 per cent of the 290 colleges founded between 1947 and 1970 had disappeared by 1970. "Thus we must be cautious in drawing the inference that the recent mortality since 1970 . . . was exceptional," the report warns.

Moreover, measured as a whole, the report paints a picture of private campuses holding up surprisingly well in a nation beset by hard times.

Their strength has been maintained, the report notes, amid donor anger at student protests, the depressed economy and stock market, soaring inflation, the gap between private and public college tuition, and "the constant and possibly self-fulfilling allegation that most private institutions would soon be defunct."

Despite all this, the Bowen report found:

Overall enrollment rose 7 per cent from 1969-70 to 1971-72, held steady for the next two years, then added another percentage-point gain. The most dramatic increases came at the graduate and professional levels, more than offsetting a slight decline in the total number of undergraduates. Federal and state student aid, as well as more recruiting, helped bolster enrollment.

Total revenue to finance current operations, after allowing for inflation and enrollment growth, increased slightly from 1970-71 through 1973–74. Though tuition and fees rose 25 per cent in that period, private colleges didn't—"despite much opinion to the contrary"—gain a greater share of their income from these sources, primarily because of inflation.

Predominantly black liberal arts colleges showed greater revenue gains than their white counterparts, chiefly because of increased government tuition aid to their students.

Outlays for instruction and research rose less than total expenditures from 1970-71 through 1973-74, while spending on administration and other services increased more. The rapid rise in administrative outlays was linked to increases in fund-raising, student recruiting and paperwork stemming from government regulations.

Faculty ranks grew by 5 per cent from 1969–70 through 1974–75, though salary boosts slipped behind soaring living costs. The colleges increased administrative and clerical staffs at more than double the rate of faculty growth, but cut back on blue-collar employees as one way of retrenching.

"New (academic) programs and expansion of existing programs are far in excess of deletions and contractions . . . Most institutions have not yet suffered financial reverses so severe that educational performance has been adversely affected."

COURT ACTION FOR DAMAGES AGAINST FEDERAL GOVERNMENT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. UDALL. Mr. Speaker, I have today introduced a bill to allow certain individuals who were given or administered hallucinogenic drugs as part of experiments by the Armed Forces of the United States to bring an action for damages against the Government.

In recent months, the Nation has been shocked by revelations that over a period of years the Armed Forces and the CIA conducted drug experiments on human beings.

In the course of hearings conducted by the Health Subcommittee and the Subcommittee on Administrative Practice and Procedure, various individuals presented shocking testimony about their experiences during and following LSD and other drug experiments. These witnesses testified that in some cases these experiments were conducted without proper medical supervision, and in many cases these drugs were administered without the subjects' knowledge or approval. The tragic result was that many "subjects" were totally unprepared to cope with the effects of the drugs. The graphic descriptions of the physical and psychological effects of these experiments on the victims is a horrifying story of Government malfeasance. In many cases, the result was death or attempted suicide by the victims.

Action is now being taken to see that these flagrant abuses never again occur. Legislation has been introduced to extend the jurisdiction of the National Commission for the Protection of Human Subjects of biomedical and behavioral research to cover all Government agencies. This is essential if such massive abuses of individual rights are to be prevented in the future. But we should not ignore what has happened to the people who became the unwilling victims of these experiments. The Government should accept legal responsibility for any damages suffered by the victims of these experiments.

Many of those involved in these experiments were military personnel at the time. Unfortunately, the Federal Tort Claims Act precludes these people from any legal redress for injuries. If these people have suffered damages as a result of negligence by the Federal Government, the Federal Government has a responsibility to see that they are properly compensated. My bill will simply waive any jurisdictional limitations and governmental immunity to suit and allow any individual who has a claim the chance to take his case to court.

AGE OF FISCAL MISMANAGEMENT

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. ABDNOR. Mr. Speaker, the big spenders of the Congress may think they are doing the people of this country a big favor with their recordbreaking budgets, but there is increasing evidence that the American public is beginning to think otherwise. More and more, people writing my office are expressing their dismay at the increasing deficits and what it means to the future of this Nation and its free enterprise system. They are clearly worried about our future freedom.

Mr. C. B. Shroyer, of Mitchell, put it succinctly. I want to share his letter with my colleagues:

DECEMBER 8, 1975.

JAMES ABDNOR,
U.S. House of Representatives,
Washington, D.C.

To the Honorable Congressman ABDNOR: I would like to pass on my personal viewpoint on our U.S. Government spending levels. I believe that Congress is making a fatal error in their continued disregard for the need to match spending with income. Politics being what they are, it is far easier to "look good" by voting for additional government programs and increased spending levels than it is to cut back and match the government's income level. My prediction is that I will never see a year in my lifetime where our income equals our spending. I see no way for the U.S. Government to continue ad-infinitum with this practice and avoid a serious, if not fatal financial collapse. I know alarmist talk like this is always dismissed with "it will never happen here." However, after seriously studying the New York (City and State) and Great Britain situations, it's my belief that it will happen here. Specifically, how many years away are we from the day when our debt service charges get too big to handle with ease? I'll bet we are closer than most people think. Whatever steps we take to ease the burden at that point are bound to have serious ramifications for our major banks. The steps from there to a full blown financial crisis are short ones.

In summary, I think it is a moral crime against our sons, daughters, and friends of the next generation to continue our present overspending policies. I think history will identify this era as the "age of fiscal mismanagement." I urge you to think seriously about this and take whatever steps you can to change our present direction and head off the inevitable "day of reckoning."

Sincerely,

C. B. SHROYER.

OIL BOOM RETURNS TO PENNSYLVANIA TOWN

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. JOHNSON of Pennsylvania. Mr. Speaker, practically the entire Pennsylvania oil fields are located in the 11 counties which comprise my congressional district, the 23rd District of Pennsylvania. One of the leading cities in the 23rd district is Oil City, located in Venango County just a few miles from the location of the world's first oil well. The Drake Well, drilled in 1859, started the oil industry of the world. This oil strike is the greatest discovery of natural resource in history, coming 10 years after the discovery of gold in California. Bill Richards, a Washington Post staff writer, visited Oil City recently and wrote an article about Oil City. On the eve of the 200th anniversary of our independence, I thought it would be interesting for others to read about Oil City as it is today. The Washington Post article of November 2, 1975 follows:

OIL BOOM RETURNS TO PENNSYLVANIA TOWN

(By Bill Richards)

OIL CITY, Pa.—It is not the place it used to be—and probably never will be again—but fortunes still rise and fall by the liquid barometer of oil here near the spot where it all began.

Just a couple of Allegheny foothills away, about 15 miles up a road now lined with fat, round, bulk oil storage tanks and the stacks of refineries, is the site of the world's first oil well—a 2,000-barrel-a-year producer when it was drilled in 1859 by an unemployed railway conductor, Edwin Laurentine Drake.

Since Drake's momentous find there have been good times and some bad times here. But now, with oil bringing more than $12 a barrel, things are once again looking up in Oil City.

There is new construction under way, including a multitiered parking garage and a $6 million building for the Quaker State Oil Refining Corp., one of two refiners with headquarters here.

Last year Quaker State drilled 444 wells in a swath known as the Penngrade area, running from western New York to West Virginia and Ohio. Oil exploration and production have kept the unemployment level here at 6.7 per cent, less than either the state or national average, and orders are flowing in to local businesses for supplies.

A general air of optimism prevails as a result of the sprucing up in this grimy little city (population 16,000) nestled near a bend in the Allegheny River.

"This city,' 'Chamber of Commerce official Richard Blouse proclaimed recently, "seems to be going through a revival."

The source of this optimism is the knowledge that locked in a bed of sandstone about 800 feet beneath the surface of the Penngrade area is a storehouse of millions of barrels of high-grade crude oil.

"They keep saying we're going to run out, but we keep finding more," said Quaker State Corp. President Quentin E. Wood, an enthusiastic petroleum engineer who has been with his company for 27 years. "The oil is there," he said. "Yes sir, it sure is there."

The oil that has drawn Wood's enthusiasm and the interest of other corporate and private drillers in the last few years here is a thin, greenish-colored substance that doesn't gush from the ground like it does from deep wells in Texas and Oklahoma.

Instead, it seeps into thousands of shallow wells that have been punched down through the hillsides and stands of white oak that surround this area, rising to the surface at an average rate of a quarter of a barrel a day.

Pennsylvania crude oil is high in paraffin and lubricants unlike Western oil, which is primarily composed of an asphalt base and is low in lubricants. Most Western oil goes into the production of gasoline, but here the oil usually ends up being refined as motor oil and machinery lubricants.

There are no million-barrel gushers here, raining down black gold on the heads of dancing wildcatters. Instead, oil wells discreetly scattered across the countryside are known as "strip wells," and they are tapped about the way a Vermont farmer taps his sugar maples—a trickle at a time.

Quaker State, the most active oil producer in the area, relies on these strip wells for more than 80 per cent of the 20,000 barrels it refines daily.

There have been advantages and disadvantages to this low profile.

When the big oil fields of the Southwest began to open up in the 1920s and 1930s, much of the action shifted away from here. The hordes of prospectors, speculators, lease buyers, drillers and general hangers-on that go with an oil boom drifted West. Big refiners such as Pennzoil moved their headquarters from Oil City to Houston.

Left behind was a slumping business dependent on low-volume wells that appeared to be drying up. The discovery in the early 1960s of a method of removing additional oil from wells believed to be almost worked out still left the problem of mounting production costs eating up the profits from the relative trickle of oil coming from the ground.

"There was a time when nearly everybody around here owned at least one oil well on the side," said Blaine Luke, a 59-year-old area native who owns 150 wells on his 350-acre farm.

Luke dropped out of the oil business full-time in 1970 because, he said, "oil was selling for $3 a barrel and no matter how hard you try with the cost of things you just can't make her work at that price."

An unexpected advantage to the low profile occurred however, when the government's price regulations on oil—imposed after prices started climbing during the Arab embargo two years ago—excluded strip wells that produced fewer than 10 barrels per day.

Federally regulated oil, which includes oil from wells drilled before 1972, is currently priced at $5.25 per barrel, while oil drilled from newer wells and strip wells is selling for $12.25 per 42-gallon barrel.

The federal regulations made the abandoned oil wells here more attractive to operate and spurred the drilling and exploration of new wells.

"There's no question that oil fever is around here again," said Alan McKissick, a professional pilot who formed a small syndicate that invested about $30,000 in two new wells here last summer.

McKissick's wells haven't paid their way yet, he said, adding in classic gambler's fashion, "but we're going to drill more wells as soon as we get more money."

The prospect of all the unregulated oil money is even more attractive to others here who own the idle wells.

After work these days, Luke and his 20-year-old son, Clark, tinker with the rusty machinery that can pump eight wells simultaneously. For an hour each night the two run the pumps and watch as each well grudgingly gives up a single barrel of oil.

The painstaking process, Luke said, is paying off. In the last year the two have tripled their income from their part-time oil business to $6,000.

"If the government just leaves the price alone," said the small gray-haired driller as he watched the long rusty push rods that connect the wells with the pumping engine squeaking back and forth, "I just may end up being able to retire with a little money after all."

"WOMEN'S WORLD PLAN OF ACTION": NATIONAL ACTION

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. FRASER. Mr. Speaker, the "World Plan of Action," which was the working paper of the United Nations Conference on International Women's Year, has a section titled "National Action" which is particularly relevant to this body as well as to other public and private institutions.

Since the World Plan has not been widely distributed, I am inserting this section, paragraphs 26 through 48, so that my colleagues may have this information conveniently at hand:

I. NATIONAL ACTION

26. This Plan provides guidelines for national action over the 10-year period from 1975 to 1985 as part of a sustained, long-term effort to achieve the objectives of the International Women's Year. The recommendations are not exhaustive, and should be considered in addition to the other existing international instruments and resolutions of the United Nations bodies which deal with the condition of women and the quality of life. They constitute rather the main areas for priority action within the decade.

27. The recommendations for national action in this Plan are addressed primarily to Governments, and to all public and private institutions, women's and youth organizations, employers, trade unions, mass communications media, non-governmental organizations, political parties and other groups.

28. Since there are wide divergencies in the situation of women in various societies, cultures and regions, reflected in differing needs and problems, each country should decide upon its own national strategy, and identify its own targets and priorities within the present World Plan. Given the changing conditions of society today, operative mechanism for assessment should be established and targets should be linked to those set out, in particular, in the International Development Strategy for the Second United Nations Development Decade,[3] and in the World Population Plan of Action.[4]

29. Changes in social and economic structures should be promoted which would make possible the full equality of women and their free access to all types of development, without discrimination of any kind, and to all types of education and employment.

30. There should be a clear commitment at all levels of government to take appropriate action to implement these targets and priorities. Commitment on the part of Governments to the ideals of equality and integration of women in society cannot be fully effective outside the larger context of commitment to transform fundamental relationships within a society in order to ensure a system that excludes the possibility of exploitation.

31. In elaborating national strategies and development plans in which women should participate, measures should be adopted to ensure that the set targets and priorities should take fully into account women's interests and needs, and make adequate provision to improve their situation and increase their contribution to the development process. There should be equitable representation of women at all levels of policy—and decision-making. Appropriate national machinery and procedures should be established if they do not already exist.

32. National plans and strategies for the implementation of this Plan should be sensitive to the needs and problems of different categories of women and of women of different age groups. However, Governments should pay special attention to improving the situation of women in areas where they have been most disadvantaged and especially of women in rural and urban areas.

33. While integrated programmes for the benefit of all members of society should be the basis for action in implementing this Plan, special measures on behalf of women whose status is the result of particularly discriminatory attitudes will be necessary.

34. The establishment of interdisciplinary and multisectoral machinery within government, such as national commissions, women's bureaus and other bodies, with adequate staff and budget, can be an effective transitional measure for accelerating the achievement of equal opportunity for women and their full integration in national life. The membership of such bodies should include both women and men, representative of all groups of society responsible for making and implementing policy decisions in the public sector. Government ministries and departments (especially those responsible for education, health, labour, justice, communications and information, culture, industry, trade, agriculture, rural development, social welfare, finance and planning), as well as appropriate private and public agencies should be represented on them.

35. Such bodies should investigate the situation of women in all fields and at all levels and make recommendations for needed legislation, policies and programmes establishing priorities. Follow-up programmes should be maintained to monitor and evaluate the progress achieved within the country to assess the implementation of the present Plan in national plans.

36. These national bodies should also cooperate in the co-ordination of similar regional and international activities, as well as those undertaken by non-governmental organizations, and self-help programmes devised by women themselves.

37. Constitutional and legislative guarantees of the principle of non-discrimination on the ground of sex and of equal rights and responsibilities of women and men are essential. Therefore, general acceptance of the principles embodied in such legislation and a change of attitude with regard to them should be encouraged. It is also essential to ensure that the adoption and enforcement of such legislation can in itself be a significant means of influencing and changing public and private attitudes and values.

38. Governments should review their legislation affecting the status of women in the light of human rights principles and internationally accepted standards. Wherever necessary, legislation should be enacted or updated to bring national laws into conformity with the relevant international instruments. Adequate provision should also be made for the enforcement of such legislation, especially in each of the areas dealt with in chapter II of the Plan. Where they have not already done so, Governments should take steps to ratify the relevant international conventions and fully implement their provisions. It should be noted that there are States whose national legislation guarantees women certain rights which go beyond those embodied in the relevant international instruments.

39. Appropriate bodies should be specifically entrusted with the responsibility of modernizing, changing or repealing outdated national laws and regulations, keeping them under constant review, and ensuring that their provisions are applied without discrimination. These bodies could include, for example, law commissions, human rights commissions, civil liberties unions, appeals boards, legal advisory boards and the office of ombudsman. Such bodies should have full governmental support to enable them to carry out their functions effectively. Non-governmental organizations could also play an important role in ensuring that relevant legislation is adequate, up to date and applied without discrimination.

40. Appropriate measures should be taken to inform and advise women of their rights and to provide them with every other type of assistance. Accordingly, the awareness of the mass communication media should be heightened so that they may offer their broad co-operation through public education programmes. Non-governmental organizations can and/or should be encouraged to play similar roles with regard to women. In this context, special attention should be paid to the women of rural areas, whose problem is most acute.

41. Efforts to widen opportunities for women to participate in development and to eliminate discrimination against them will require a variety of measures and action by society at large through its governmental machinery and other institutions.

42. While some of the measures suggested could be carried out at minimum cost, implementation of this Plan will require a redefinition of certain priorities and a change in the pattern of government expenditure. In order to ensure adequate allocation of funds, Governments should explore all available sources of support, which are acceptable to Governments and in accordance with Governments' goals.

43. Special measures should also be envisaged to assist Governments whose resources are limited in carrying out specific projects or programmes. The Fund for International Women's Year established under Economic and Social Council resolution 1851 (LVI), in addition to multilateral and bilateral assistance which is vital for the purpose, should be extended provisionally pending further consideration as to its ultimate disposition in order to assist Governments

---

[3] General Assembly resolution 2626 (XXV) of 24 October 1970.

[4] See *Report of the United Nations World Population Conference, 1974* (United Nations publication, Sales No. E.75.XIII.3).

whose resources are limited in carrying out specific programmes or projects. Women in countries holding special financial responsibilities entrusted by the United Nations and its specialized agencies with a view to assisting developing countries are called upon to make their contribution to the implementation of the goals set in connexion with the governmental assistance earmarked for improving the status of women especially of those in the under-developed States.

44. It is recognized that some of the objectives of this Plan have already been achieved in some countries, while in others they may only be accomplished progressively. Moreover, some measures by their very nature will take longer to implement than others. Governments are therefore urged to establish short-, medium- and long-term targets and objectives to implement the Plan.

45. On the basis of this World Plan of Action the United Nations Secretariat should elaborate a two-year plan of its own, containing several most important objectives, aiming at the implementation of the World Plan of Action under the current control of the Commission on the Status of Women, and the over-all control of the General Assembly.

46. By the end of the first five-year period (1975–1980) the achievement of the following should be envisaged as a minimum;

(a) Marked increase in literacy and civic education of women, especially in rural areas;

(b) The extension of co-educational technical and vocation training in basic skills to women and men in the industrial and agricultural sectors;

(c) Equal access at every level of educatiton, compulsory primary school education and the measures necessary to prevent school drop-outs;

(d) Increased employment opportunities for women, reduction of unemployment and increased efforts to eliminate discrimination in the terms and conditions of employment;

(e) The establishment and increase of the infrastructural services required in both rural and urban areas;

(f) The enactment of legislation on voting and eligibility for election on equal terms with men and equal opportunity and conditions of employment including remuneration and on equality in legal capacity and the exercise thereof;

(g) To encourage a greater participation of women in policy-making positions at the local, national and international levels;

(h) Increased provision for comprehensive measures for health education and services, sanitation, nutrition, family education, family planning and other welfare services;

(i) Provision for parity in the exercise of civil, social and political rights such as those pertaining to marriage, citizenship and commerce;

(j) Recognition of the economic value of women's work in the home in domestic food production and marketing and voluntary activities not traditionally remunerated;

(k) To direct formal, non-formal and lifelong education towards the re-evaluation of the man and woman, in order to ensure their full realization as an individual in the family and in society;

(l) The promotion of women's organizations as an interim measure within workers' organizations and educational, economic and professional institutions;

(m) The development of modern rural technology, cottage industry, pre-school day centres, time and energy saving devices so as to help reduce the heavy work load of women, particularly those living in rural sectors and for the urban poor and thus facilitate the full participation of women in community, national and international affairs;

(n) The establishment of an inter-disciplinary and multi-sectoral machinery within the government for accelerating the achievement of equal opportunities for women and their full integration into national life.

47. These minimum objectives should be developed in more specific terms in regional plans of action.

48. The active involvement of non-governmental women's organizations in the achievement of the goals of the 10-year World Plan of Action at every level and especially by the effective utilization of volunteer experts and in setting up and in running of institutions and projects for the welfare of women and the dissemination of information for their advancement.

THE FEDERAL ROLE IN THE MID-AMERICA REGION

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. RISENHOOVER. Mr. Speaker, Oklahoma has produced no greater leader and innovator than the late Senator Robert S. Kerr. Today, Oklahoma and this Nation are fortunate that his son, Robert S. Kerr, Jr., inherited the father's imagination, courage, and dedication to public service.

At a public forum on domestic policy chaired by Vice President ROCKEFELLER at Austin, Tex., last November 11, Mr. Kerr, as president of Oklahoma Water, Inc., and the Water Development Foundation of Oklahoma, Inc., issued a proposal which demands national attention and has my full support and endorsement.

A plan for orderly development of mid-America—that expanse of our Nation from the Mississippi River to the Rockies—is dramatically sketched in the fascinating position paper by Mr. Kerr which I will furnish upon request to interested persons.

A summary of Mr. Kerr's proposals—including the idea of a mid-America development association—merits review by Congress. Therefore, I include it in the RECORD:

THE FEDERAL ROLE IN THE MID-AMERICA REGION—SOME SPECIFIC PROPOSALS

(By Robert S. Kerr, Jr.)

The development of Mid-America represents the challenge to our nation throughout the balance of this century. As a matter of national interest, it is imperative that we adopt a policy of preferred growth such as I've proposed.

Continued growth is inevitable, but it can be controlled if proper planning is performed, and if proper methods are applied.

First, an incentive to encourage the natural migration pattern which is already evident is needed. Such an incentive could be extended by the Federal Government through investments in water and other resource programs which are badly needed in the Mid-America region. Not only would thousands of people be put to work in constructing resource projects, creating an immediate economic transformation in many areas, but the end result would be projects which would beneficially serve both present and future populations. In the case of water development, the benefits would be in the form of assured water supplies to support the new population base; increased agricultural production from irrigated acreages; impetus for industrial expansion; flood control benefits; recreational opportunities; and the benefits to be derived from the development of navigable waterways.

A federal investment in water resource development would, then, begin paying dividends almost immediately. It would pay large returns through the creation of jobs, the stabilization of the economy and the encouragement of fiscal responsibility, and would act as a magnet for private investment. The federal program should "prime the pump", to create the infra-structure of a state-regional-federal cooperative effort.

To plan and initiate policy, a Mid-America Development Association should be established. This association should be composed of representatives of the various states of the region, specifically the governors of those states; representatives from the private sector and responsible representatives of various environmental and special interest groups. The association would eventually eliminate the need for the multitude of federal agencies which now control the strings of regional economic development.

The association would be the agency responsible for the development and implementation of preferred growth and economic policies for Mid-America. It provides the most viable method of assuring that the ultimate development of the region is controlled by the state, regional and local interests who have the most to gain—and the most to lose—from such development. Let me emphasize here that I am proposing a mechanism by which the states within the Mid-America region will recapture and retain control over their own destinies. The states themselves will be responsible for making their own plans and establishing their own priorities. The challenge of the Federal Government in this instance is to cooperate—rather than to regulate.

In essence, I concur with Senator Jacob K. Javits' remarks for Limits to Growth '75: "What the United States needs is a national policy on growth, a 'Balanced Growth Policy' that strives to meet our basic needs for decent housing, education, jobs, public services, a healthy and a better environment, and sets priorities in these areas and proposals for achieving these goals. We need to take into account the rapid exhaustion of our non-renewable resources—or of imported materials which are under monopoly control—and develop conservation measures that will conserve and use these resources wisely. We must find some means of reconciling a more mature growth rate with greater—not less equality of opportunity and a decent standard of living. And we must do this without sapping individual initiative and creativity, which has been the mainspring of this society. We can never permit a state in which we are all wards of the state."

I believe the program I've proposed will serve the dual national interests of helping to create a dynamic domestic policy and of making government more responsible to the people it serves.

SUMMARY AND RECOMMENDATIONS

America today faces great challenges in developing a domestic policy for the future.

The development of the nation's natural resources presents the greatest challenge, and is the cornerstone of all other domestic policies.

Water resource development is the key to natural resource development because of the essential nature of water to all things.

The nation's population will continue to grow, and the challenge is to develop a policy of preferred growth to direct it to the areas which can best accommodate it.

The Mid-America region, with its many

inherent **advantages**, represents the most logical area. Immigration, in fact, is already occurring there.

The federal role should be to provide incentives to draw people into the region.

The region itself should determine the scope and substance of the development.

The most viable way to assure this is to create a private, autonomous association to plan for and direct the development of the region.

THE VOICE OF DEMOCRACY

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. SARASIN. Mr. Speaker, this past weekend, I had the honor and privilege of being one of three judges to evaluate the Waterbury, Conn., entries in the Voice of Democracy contest and to select the local winner to go on to the next level of the competition. As I am sure my colleagues are aware, the Voice of Democracy program is a patriotic script writing scholarship competition sponsored each year by the Veterans of Foreign Wars of the United States, its ladies auxiliary, and the National and State Associations of Broadcasters.

Local posts of the VFW organize the programs in the communities, which are open to public, parochial, and private high school students in the 10th, 11th, and 12th grades. The competition I was invited to help judge was sponsored by the Wheeler-Young VFW Post No. 201 of Waterbury, under the chairmanship of Mr. Oscar Teubner, and was indeed an inspiration to all involved. My fellow judges were Waterbury mayor-elect Edward Bergin and Mr. Frank DeZinno, executive assistant to incumbent Mayor Victor Mambruno.

The theme for this year's contest is "What Our Bicentennial Heritage Means to Me," and the entries provided heartening proof that the young men and women in our high schools do take their great heritage seriously and look with cleareyed optimism to the future. Reading or listening to the scripts prepared by these young Americans can give us all hope for an even greater country in the next 200 years, remembering past accomplishments and learning from past mistakes.

The three finalists in the local judging were Bruce Charpie, age 17, of 113 Clowes Terrace, Waterbury, a student at Wilby High School, Timothy J. Maloney, age 16, of 61 Rosemont Avenue, Waterbury, a student at John F. Kennedy High School, and William Gruber, age 16, of 19 Dewberry Road, Waterbury, a student at Crosby High School. All submitted outstanding entries, but we finally awarded first place to Bill Gruber, for his thoughtful and mature essay, which I offer for my colleagues' consideration:

WHAT THE BICENTENNIAL MEANS TO ME, A YOUNG AMERICAN

(By Bill Gruber)

America: A word that means many things. To some people it means everything.

America: A call. A shout. A way of life.

America: For Two Hundred Years, something men have died for, and lived for: with no other purpose than to protect the values and ideals for which it stands.

That is what the bicentennial means to me.

PART I

It is hard for me to talk about this country. I sustain the somewhat unpopular opinion that America is the greatest country in the world. People don't feel such dated emotions as patriotism anymore. Perhaps I am a bit naive in the minds of progressive thinkers, but I still hold great stock in such ideals as democracy and liberty-and-justice-for-all.

I feel this is a time to glance back at past accomplishments; There have been many. And past mistakes; we must be sure they do not happen again. Certainly it is a time to fly flags and have parades, but the important thing is to sit down and think. Where are we going? What can I do to help this country—my country?

No one really likes to talk politics, but we must. We must get involved in government. We don't have to run for office, but at least get off of our duffs and vote. After all, Isn't that what government by the people is all about?

We must stop trying to tear apart government agencies. Everyone wants a perfect system. There is no such thing. Organizations such as the C.I.A. are vital to the preservation of the ideals which Americans hold dear. If, at times, they must do acts which may seem unconventional, let us consider them a necessary evil. By opening them up and destroying effectiveness, we are draining our own life blood.

This is a time to realize that we must accept a less than perfect system. It is run by people. They are not supermen. They will, from time to time make mistakes. Despite it's imperfection, I still think that the United States has the best form of government going. In this world, anyway.

PART II

How can I help?

For the average teenager, who cannot vote, and has little say in how the government is run, the means of contribution are limited. In my opinion, the thing to do is to take the country seriously. Stop to appreciate things that American youth take for granted. Begin to develop a positive attitude about this country of ours. And prepare ourselves to help out when our time comes.

As for myself, I am applying in the Spring of 1976 for a nomination to a United States Service Academy. I desire a career in the armed forces of the United States. I feel I can make no greater contribution. I am prepared to spend my life in the service of America. This country has been around for the last two hundred years, and, from what I've seen in the last sixteen, I love it.

In a very short time, we young people are going to have the greatest country in the world dropped right in our laps. To others, that may seem an awesome and unfortunate responsibility. As for me. . . . I can't wait.

VOTING RIGHTS

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. MEEDS. Mr. Speaker, my distinguished colleagues. I am today introducing legislation which if passed into law will alleviate an inequity within the U.S. Postal Service affecting the voting rights of many Americans.

The U.S. Postal Service's current practice regarding absentee ballots with insufficient postage imperils the voting rights of any citizen who may avail himself or herself of this privilege to the extent of possibly denying franchise to such an individual. If the Postal Service receives an absentee ballot with insufficient postage, their current practice is to open said ballot to attempt to ascertain a return address thus risking the possibility of invalidating the ballot. If no return address is found, the ballot is offered to the addressee for delivery upon payment of the postage due plus a 10-percent fee. This practice places a financial burden on the addressee; namely, the auditor's office, which they may or may not be willing to assume.

In my correspondence with the Postal Service on this matter they assert that there is "no need to be unduly concerned." My assertion, Mr. Speaker, is that if this practice denies the franchise of just one American citizen then it must be altered.

The legislation that I introduce today will guarantee the delivery of these absentee ballots without denying the Postal Service their right to collect any postage due.

SOCIAL SECURITY SURVEY RESULTS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. GAYDOS. Mr. Speaker, as has been my custom over the past several years, I would like to bring to the attention of my colleagues the results of a recent telephone poll I conducted among residents of the 20th Congressional District of Pennsylvania.

The poll dealt with the growing problem of financing the Federal social security program and participants were asked their opinion of a proposal to use general revenue funds to help offset the continued rising costs now borne by employers and employees. In short, they were asked if they wanted the Federal Government to assume a full one-third partnership in the social security program. The participants were furnished information "pro and con" on the proposal before being asked their opinion.

The results showed 1,184 of those contacted favored the proposal; 856 opposed it and 643 expressed no preference.

Mr. Speaker, there are approximately 3,000 persons who voluntarily participate in these periodic polls and based on the latest response from 2,683 of them it means an amazing 88 percent of those contacted demonstrated an interest in their Government. It makes me extremely proud to represent such people and appreciative of their willingness to share their views with me.

HOUSE OF REPRESENTATIVES—*Tuesday, December 16, 1975*

The House met at 11 o'clock a.m.

The Reverend Robert Davidson, Mount Carmel Catholic Church, Ridgewood, N.J., offered the following prayer:

Let us pray.

God, our Father, in Your loving kindness guide the deliberations and actions of this House. As we look forward to celebrating holidays this year, keep us mindful of the justice and peace our world must have to truly celebrate. In the midst of our recognition of the 200th anniversary of our freedom, may we remember that it is our obligation to make the ideal of freedom a reality in our own land. Above all, O God, make the love and concern that you feel toward every individual a driving force in our own thoughts and actions, so that the rights, dignity, and worth of every person may be recognized and affirmed by all. Father, we seek Your way, and Your blessing. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1753. An act to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes;

H.R. 2110. An act for the relief of Joyce Ann Farrior and Sarah E. Farrior;

H.R. 4865. An act to amend title 39, United States Code, to prohibit certain franked mailings by Members of the Congress and certain officers of the United States, other than mailings related to the closing of their official business, after such Members or officers have left office;

H.R. 6642. An act to provide for allotment or assignment of payments from civil service annuities, and for other purposes; and

H.R. 7976. An act to amend title 5, United States Code, to provide that annual leave lost by a Federal employee because of an unjustified or unwarranted personnel action shall be restored to the employee, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5900) entitled "An act to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10647) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) entitled "An act to improve public understanding of the role of depository institutions in home financing."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5559. An act to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations.

H.R. 4573. An act to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes; and

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5559) entitled "An act to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Long, Mr. Talmadge, Mr. Hartke, Mr. Nelson, Mr. Mondale, Mr. Gravel, Mr. Curtis, Mr. Fannin, Mr. Hansen, and Mr. Dole to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1009. An act to amend title 13 of the United States Code to require the compilation of current data on total population between censuses and to require the use of such current data in the administration of Federal laws in which population is a factor.

FATHER ROBERT ERNEST DAVIDSON

(Mr. MAGUIRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAGUIRE. Mr. Speaker, in 30 years of life, Father Robert Ernest Davidson has managed to share his sense of care and caring with many people. He shares with me an understanding of the ministry as a service to people that goes beyond the walls of the church.

Ordained only 5 years to the Roman Catholic priesthood, Father Bob has reached out to touch the poor in spirit and wealth, the handicapped—especially the deaf—the young, and the isolated.

Living the priesthood in the original manner—teaching all with love and joy, living without many material goods—his simple life has been made rich and complicated by his work and vision.

This is his spirit of life, the life he shares with his parishioners at Mount Carmel Roman Catholic Church of Ridgewood, N.J., and with all who become part of his priestly life.

Mr. Speaker, it is a great personal pleasure for me to welcome Father Davidson to the House today.

EXECUTIVE PROTECTIVE SERVICE—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 12) to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protection Service, and for other purposes.

The Chair recognizes the gentleman from Wyoming (Mr. Roncalio).

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that further consideration and final action on the bill (H.R. 12) be postponed until Tuesday, January 20, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 10624, REVISING CHAPTER IX OF THE BANKRUPTCY ACT

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, with the Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and appoints the following conferees: Messrs. Edwards of California, Seiberling, Drinan, Badillo, Dodd, Butler, and Kindness.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

BOULOS STEPHAN

The Clerk called the bill (H.R. 1391) for the relief of Boulos Stephan.

There being no objection, the Clerk read the bill as follows:

H.R. 1391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a) (23) of the Immigration and Nationality Act, Boulos Stephan may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of the Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KEVIN PATRICK SAUNDERS

The Clerk called the bill (H.R. 1645) for the relief of Kevin Patrick Saunders.

There being no objection, the Clerk read the bill as follows:

H.R. 1645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Kevin Patrick Saunders may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GABRIEL EDGAR BUCHOWIECKI

The Clerk called the bill (H.R. 1647) for the relief of Gabriel Edgar Buchowiecki.

There being no objection, the Clerk read the bill as follows:

H.R. 1647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Gabriel Edgar Buchowiecki may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEONARD ALFRED BROWNRIGG

The Clerk called the bill (H.R. 2399) for the relief of Leonard Alfred Brownrigg.

There being no objection, the Clerk read the bill as follows:

H.R. 2399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of the Immigration and Nationality Act, Leonard Alfred Brownrigg shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Leonard Alfred Brownrigg may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JULIET ELIZABETH TOZZI

The Clerk called the bill (H.R. 1425) for the relief of Juliet Elizabeth Tozzi.

There being no objection, the Clerk read the bill as follows:

H.R. 1425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Juliet Elizabeth Tozzi may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VALERIE ANN PHILLIPS, NEE CHAMBERS

The Clerk called the bill (H.R. 4046) for the relief of Valerie Ann Phillips, nee Chambers.

There being no objection, the Clerk read the bill as follows:

H.R. 4046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Valerie Ann Phillips, nee Chambers, may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and motion to reconsider was laid on the table.

MITSUE KARIMATA STONE

The Clerk called the bill (H.R. 4113) for the relief of Mitsue Karimata Stone.

There being no objection, the Clerk read the bill as follows:

H.R. 4113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Mitsue Karimata Stone may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OSCAR H. BARNETT

The Clerk called the bill (H.R. 4941) for the relief of Oscar H. Barnett.

There being no objection, the Clerk read the bill, as follows:

H.R. 4941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to convey by quitclaim deed or by other appropriate instruments, without consideration and without warranty of title, to Oscar H. Barnett, all right, title, and interest of the United States in and to the following tract of land located in Leake County, Mississippi: South half of northwest quarter of northwest quarter, section 25, township 11 north, range 7 east of Choctaw meridian in Leake County, Mississippi.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

SOMBER EVENTS IN ANGOLA POSE THREAT TO "PEACE ON EARTH"

(Mr. MOTTL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOTTL. Mr. Speaker, Members of the House of Representatives, while the American people are preparing to celebrate Christmas, somber events in far-off Angola pose a serious threat to "peace on earth."

All of us have a general idea of what is happening in Angola.

The Soviet Union and Cuba, in violation of international law and in total disregard of the spirit of détente, are attempting to force their ideology and military domination on an emerging nation.

I hope that our national administration will not make the error of rushing in to meet this force with military measures which may threaten the peace of the world.

But I urge that we take an immediate action which would notify the men in the Kremlin that the free world is aware of their transgression, and prepared to do something about it.

I propose an immediate embargo on shipments of wheat and corn to the Soviet Union until they stop their aggression in Angola.

I wonder if the men in the Kremlin would dare to tell the Russian people that they must forego their daily bread to provide bullets for Angola.

Let us use our food power for peace—but let us not take a series of unwise steps that might plunge our Nation into another Vietnam.

"Peace on earth, good will to men of good will" should be our policy—and no American food to fuel the fires of aggression.

PROJECT SURVIVAL APPEAL

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, I rise to urge my colleagues and their staffs on Thursday, December 18, 1975, to bring canned and nonperishable goods to the front steps of the Capitol to aid in a worthwhile program to help the hungry poor of the District of Columbia. Project Survival—Protestant, Jewish, Catholic—a coalition of Washington area people from three religious traditions, who are exploring ways to do something real and constructive to improve their city, is sponsoring this food drive. For several years, this group has been effectively soliciting food from churches and public buildings. They have established an excellent track record for collecting and distributing emergency food to the poor. People find a special appeal in giving to Project Survival because it is a strictly volunteer organization with all of its contributions used to feed the hungry of Washington, D.C.

Last year Members of Congress and their staffs raised nearly a truckload of food for the needy—this year we are asking you to do the same tremendous job. Urge. Urge. Urge.

CALL OF THE HOUSE

Mr. WYLIE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House will be ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 791]

Ambro
Andrews, N.C.
Ashley
Brown, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Byron
Chisholm
Clausen, Don H.
Collins, Ill.
Conyers
Dellums
Diggs
Dingell
Eckhardt
Esch
Eshleman
Foley
Ford, Mich.
Gaydos
Harsha
Hastings
Hébert
Hinshaw
Long, La.
McDonald
McKinney
Macdonald
Mahon
Mathis
Metcalfe
Moss
Ottinger
Pickle
Reuss
Rogers
Runnels
Scheuer
Sisk
Staggers
Steiger, Wis.
Teague
Thompson
Udall
Vander Jagt
Waxman

The SPEAKER. On this rollcall 387 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DISAPPROVING GRANTING OF PERMANENT RESIDENCE IN THE UNITED STATES TO CERTAIN ALIENS

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the resolution (H. Res. 926) disapproving the granting of permanent residence in the United States to the aliens hereinafter named, in which cases the Attorney General has submitted reports to the Congress pursuant to section 244(a) (1) of the Immigration and Nationality Act, as amended, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WYLIE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I reserve the right to object—and I will not object. This resolution has not been available to the Members of the House for review because it was not printed. The Private Calendar objectors met this morning, and we decided that there are extenuating circumstances and will make this resolution an exception so it can be considered by the Members of this body.

The Private Calendar objectors think this resolution does deserve immediate consideration. We would like the Record to show, however, that we do not regard this "expediting" procedure as a precedent as far as the minority Members of the Private Calendar objectors are concerned.

Mr. Speaker, I would yield to the gentleman from Pennsylvania for an explanation of the resolution.

Mr. EILBERG. Mr. Speaker, this resolution has been brought to the floor under the provision of section 244 of the Immigration and Nationality Act which establishes procedures for suspending the deportation of aliens who have had long periods of residence in the United States.

Under that section of law, the Congress is required to review administrative decisions which have recommended the suspension of deportation of aliens who have satisfied the following statutory requirements: First, 7 years of continuous physical presence in the United States; second, good moral character during that time; and third, unusual hardship in the event of their deportation.

It was the feeling of the committee, after reviewing 340 cases, that the aliens contained in the resolution did not meet these statutory requirements, particularly as it relates to hardship; and it is the opinion of the committee that their deportation should not be suspended.

I should emphasize that this is a disapproval resolution and unless it is adopted in this session of Congress permanent residence will be granted to those aliens named in the resolution.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the resolution as follows:

H. Res. 926

Resolved, That the House of Representatives does not approve the granting of permanent residence in the United States to the aliens hereinafter named, in which cases the Attorney General has submitted reports to the Congress pursuant to section 244(a) (1) of the Immigration and Nationality Act, as amended:

A17 926 460, Cantu-Cantu, Triniad.
A17 385 958, Jagdish Rai Chadha.
A14 862 226, Jeffrey H. K. Dowa.
A14 007 721, Lucia Paulino.
A13 601 720, Adib Sami Salem.
A13 950 009, Jose Jesus Villalobos-Calderon.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MRIKA MRNACAJ

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the bill (H.R. 10555) for the relief of Mrika Mrnacaj, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WYLIE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, this bill now before us has not been on the calendar for 7 days, as required by the rules of the Private Calendar objectors. It had not been printed until today. It was not available for the Members to consider until this morning. The private objectors on the minority side feel there are extenuating circumstances and regard this as a meritorious bill. Mr. Speaker, we do not wish our position on this bill to be taken as a precedent that other bills will be considered prior to the 7-day requirement for bills on the private calendar. So I would ask the gentleman from Pennsylvania to explain why this bill is deserving of special consideration, for the record.

Mr. EILBERG. Mr. Speaker, Mrika Mrnacaj, the beneficiary under this bill, is a native of Albania who is 111 years old. She was admitted to the United States on September 10, 1974, and was granted permanent residence on November 3, 1975.

Mr. Speaker, we have observed that this is a very patriotic lady and, obviously, at 111 years old, her life expectancy is very short. She is extremely desirous before she passes away of voting in a national election, and we feel, Mr. Speaker, that she will not have that opportunity beyond next year and the committee, therefore, feel that this hardly is a precedent that the House needs to be concerned with and feels there is an emergency about it in view of the lady's very advanced age.

Mr. WYLIE. Do I understand correctly that this person is 111 years old?

Mr. EILBERG. Yes, sir.

Mr. WYLIE. She is already in the United States?

Mr. EILBERG. Yes, sir.

Mr. WYLIE. She is living with her citizen son?

Mr. EILBERG. Yes, sir.

Mr. WYLIE. What this bill then would do is to say that this 111-year-old citizen of Albania can remain here with her son in the United States?

Mr. EILBERG. The naturalization requirements would be waived so that she could become a citizen and vote.

Mr. WYLIE. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Pennsylvania (Mr. Eilberg)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Mrika Mrnacaj shall be held and considered to have satisfied the requirements of sections 312 and 316 of the Immigration and Nationality Act relating to requirements as to understanding the English language, history, principles, and form of government of the United States and requirements as to periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act, she may be naturalized at any time after the date of the enactment of this Act if she is otherwise eligible for naturalization under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JANA HLAVATY

Mr. RUSSO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the bill (H.R. 10792), for the relief of Jana Hlavaty, and ask for its immediate consideration.

The Clerk read the title of the bill.

The **SPEAKER.** Is there objection to the request of the gentleman from Illinois?

Mr. WYLIE. Mr. Speaker, I reserve the right to object, and I will not object. I reserve the right to object to have the gentleman from Illinois (Mr. Russo) explain the reason again as to why this is a meritorious bill.

Mr. RUSSO. Mr. Speaker, the beneficiary of the bill will have the necessary residence and physical presence requirements for naturalization by March of next year. In the spirit of Christmas and in view of the fact that this is the last opportunity we have to meet this year on these matters, I feel we should discuss this bill today.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I will yield to the gentleman from New York.

Mr. KEMP. I thank my friend for yielding his consideration of our attempts to provide citizenship for this outstanding young woman. We have had outstanding cooperation from both the chairman of the Judiciary Committee and the subcommittee chairman and I am grateful to them.

Mr. Speaker, I would like to join the gentleman from Illinois (Mr. Russo) in urging favorable consideration of this bill. I feel this is a case that does deserve special consideration by the Congress for humanitarian reasons.

Mr. Speaker, the gentleman from Illinois, Mr. Russo, Mr. Metcalfe, and myself, have been particularly anxious to help this young woman, who has been in the United States since 1969. She is a native of Czechoslovakia and will make an outstanding citizen of this country.

Mr. Speaker, I am deeply appreciative of the work my friend from Illinois (Mr. Russo) has done, and for his explanation to the House that the beneficiary of this bill is one who deserves this congressional consideration, and I would appreciate the gentleman from Ohio, withdrawing his objection so that we can move forward expeditiously in granting her naturalization.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I believe that the gentleman from Ohio (Mr. Wyle) has given the gentleman from Illinois (Mr. Russo) a chance to explain this bill in sufficient detail. I do think the bill is extremely meritorious.

I join in urging the gentleman to heed the wishes of our colleagues, the gentleman from Illinois (Mr. Russo) and the gentleman from New York (Mr. Kemp), and others who have expressed such great interest in this humanitarian measure.

Mr. WYLIE. Mr. Speaker, I thank the 2 gentlemen from Illinois for their explanation, and I thank the gentleman from New York (Mr. Kemp) for his.

Does the gentleman from Illinois (Mr. Russo) wish me to yield further to him?

Mr. RUSSO. Yes, Mr. Speaker, I do.

Mr. WYLIE. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, just to correct the record, this would provide that the beneficiary shall be held and considered to have been lawfully admitted to the United States for permanent residence as of August 26, 1969.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Illinois (Mr. Russo) and (Mr. Kemp) the gentleman from New York, for their explanation, and I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the bill as follows:

H.R. 10792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Jana Hlavaty shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act, she may be naturalized at any time after the date of enactment of this Act if she otherwise is eligible for naturalization under the Immigration and Nationality Act.

AMENDMENT OFFERED BY MR. RUSSO

Mr. RUSSO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Russo: Strike out all after the enacting clause and insert in lieu thereof the following:

That, for the purposes of the Immigration and Nationality Act, Jana Hlavaty shall be held and considered to have been lawfully admitted to the United States for permanent residence on August 26, 1969.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5559, EXCLUSION OF INCOME FROM TEMPORARY RENTAL OF RAILROAD ROLLING STOCK BY FOREIGN CORPORATIONS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The **SPEAKER.** Is there objection to the request of the gentleman from Oregon?

Mr. SCHNEEBELI. Mr. Speaker, reserving the right to object, along with the gentleman from Oregon (Mr. Ullman), I support this procedure.

The bill has the approval of the leadership on our side.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, it would be our hope that we could have a conference today and, hopefully, bring the conference report to the floor later this afternoon under suspension of the rules. That would be subject to the will of the Members of the House, of course.

Mr. SCHNEEBELI. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman from Oregon (Mr. Ullman) explain to us how a railroad rolling stock tax bill is going to be converted into a 6-month extension of the present withholding tax rates?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, it would be the purpose of the committee, under whatever procedures might be used to bring up this bill, to provide ample time to fully discuss the tax matters involved. I am sure the gentleman understands the procedural situation we find ourselves in, and if we are going to get this very important matter to a vote, we simply are bound to follow this kind of a procedure.

Mr. BAUMAN. Is it the gentleman's intention to go to the Committee on Rules and seek a rule allowing this consideration?

Mr. ULLMAN. That decision will have to be made later on today, depending upon the outcome of the conference, and consultation with others.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. SYMMS. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

MOTION OFFERED BY MR. ULLMAN

Mr. ULLMAN. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Messrs. ULLMAN, MILLS, BURKE of Massachusetts, ROSTENKOWSKI, LANDRUM, SCHNEEBELI, and CONABLE.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may we know what reports the gentleman from Missouri is referring to?

Mr. BOLLING. The reports will concern rules on H.R. 9464, Natural Gas Emergency Act; H.R. 7897, Indochina Refugee Children Assistance Act, and House Resolution 868, a rule change requiring a 2-hour time period for printed reports and bills before House consideration, giving us time for printing or otherwise reproducing reports.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection, and I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REINTRODUCTION OF H.R. 8231, TO ESTABLISH A METHOD WHEREBY CONGRESS MAY PREVENT ADOPTION BY EXECUTIVE BRANCH OF RULES CONTRARY TO CONGRESSIONAL INTENT

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEL CLAWSON. Mr. Speaker, upon request of several of my colleagues, I am again introducing with cosponsors legislation first introduced as H.R. 8231, to establish a method whereby Congress may prevent the adoption by the executive branch of rules or regulations contrary to law or inconsistent with congressional intent, or which go beyond the mandate of the legislation they are designed to implement. The bill requires a 60-day congressional review period for executive agency rules and regulations and is intended as a vehicle for protecting the constitutional congressional lawmaking function frequently being improperly exercised by the bureaucracy through rulemaking.

Since introduction of the bill and the hearings before the subcommittee chaired by our distinguished colleague WALTER FLOWERS, we have received numerous inquiries and expressions of support. I am sure the office of ELLIOTT LEVITAS has had similar experience with reference to the legislation he has sponsored requiring submission of specified rules and regulations involving a criminal penalty. I think I speak for the 140 cosponsors of H.R. 8231 and identical bills in welcoming the support and the endorsement of principle received in instances where language requiring congressional review of rules and regulations has been incorporated in other legislation. But I would emphasize the hope that the proposal will be given an opportunity to prove itself with appropriate implementation in the House rules and in our committee structure.

REQUEST TO AUTHORIZE SPEAKER TO RECOGNIZE ADDITIONAL MOTIONS TO SUSPEND RULES FOLLOWING ALL VOTES ON SCHEDULED SUSPENSION BILLS

Mr. O'NEILL. I ask unanimous consent today that the Speaker be authorized to recognize additional motions to suspend the rules following all votes on the seven or so scheduled bills which may be postponed pursuant to clause 3(b), rule XXVII.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain why this is necessary.

Mr. O'NEILL. If the gentleman will yield; yes. At the present time, on today's schedule, we have seven suspensions. It could well be that in the course of the day we may add one or two more. However, under the rules, once we conclude postponed votes on suspensions, we cannot come back to suspensions. Therefore, in the event that a conference report should come over that would be of import, we would want to clear it up before the end of the week.

Let us say that the tax bill came back from conference. We would like to try to bring it up under suspension. Under the rules of the House, once we have the postponed votes on suspensions and we go into other matters, we cannot go back into suspensions again.

We would like to have this right for the purpose of trying to expedite the program of the week.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, what is the necessity for this? Through the medium of a unanimous consent request, we would be in the position of which the gentleman speaks.

Mr. O'NEILL. Actually, I really cannot explain other than to say that there is the tax bill, and there is another bill pending at the present time, As I understand it the Senate is going ahead on the flood insurance bill. If they were to pass that bill today, we would want to take it up. If they do not pass it today, we would want to pass the flood insurance temporary extension bill because the law expires at the end of the year. For that reason, that would be one of the bills that we would like to consider, if possible, later in the day. In the meantime, if the Senate bill is passed, we would bring the Senate bill up and act on that.

This other method would be a substitute method, but once we ended the suspension calendar, we could not go back to suspensions.

Mr. ROUSSELOT. That could be done by unanimous consent as they came up.

Mr. O'NEILL. One can do almost anything by unanimous consent.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I certainly do not want to cause problems with any bill at this critical stage, but really and truly, anything could be brought up.

Does this apply only to today?

Mr. O'NEILL. Only to today. The suspensions are only for today. This is the last day for suspensions until we come back. We will not have any suspensions now until February; at least, I believe that, unless we possibly might have some on the 19th or 20th of January.

Mr. ROUSSELOT. But it could be done pursuant to a unanimous consent request. On the suspension calendar procedure, is the gentleman telling us that this applies only to the rest of today? He is not asking for it for tomorrow?

Mr. O'NEILL. No, no, only for today.

Mr. ROUSSELOT. The balance of the day?

Mr. O'NEILL. It is purely to expedite matters. I am sure it is absolutely above board, and I am amazed that the gentleman would think anything otherwise.

Mr. ROUSSELOT. Mr. Speaker, I just want to clarify that this is only for today.

I appreciate the gentleman's comment, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

EXTENDING THE STATE TAXATION OF DEPOSITORIES ACT

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2672) to extend the State

Taxation of Depositories Act, as amended.

The Clerk read as follows:

S. 2672

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of the State Taxation of Depositories Act (section 7(c) of Public Law 93-100) is amended by striking out "January 1, 1976" and inserting in lieu thereof "September 12, 1976".

SEC. 2. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended by inserting after "Masachusetts" a comma and the following: "Connecticut, Rhode Island, Maine, Vermont,".

SEC. 3. (a) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by redesignating subsections (p), (q), and (r) as subsections (r), (s), and (t), respectively, and by adding after subsection (o) the following:

"(p) The term 'discount' as used in section 167 means a reduction made from the regular price. The term 'discount' as used in section 167 shall not mean a surcharge.

"(q) The term 'surcharge' as used in section 103 and section 167 means any means of increasing the regular price to a cardholder which is not imposed upon customers paying by cash, check, or similar means."

(b) Section 130(f) of the Truth in Lending Act (15 U.S.C. 1640(f)) is amended to read as follows:

"(f) No provision of this section or section 112 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such proceedings as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

(c)(1) Section 167(a) of the Truth in Lending Act (15 U.S.C. 1666f) is amended by inserting "(1)" immediately after "(a)" and by adding at the end thereof the following new paragraph:

"(2) No seller in any sales transaction may impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means."

(2) Section 167(b) of the Truth in Lending Act (15 U.S.C. 1666f) is amended by striking out "not in excess of 5 per centum".

(d) Section 171 of the Truth in Lending Act (15 U.S.C. 1666j) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provisions of this title, any discount offered under section 167(b) of this title shall not be considered a finance charge or other charge for credit under the usury laws of any State or under the laws of any State relating to disclosure of information in connection with credit transactions, or relating to the types, amounts or rates of charges, or to any element or elements of charges permissible under such laws in connection with the extension or use of credit."

The SPEAKER. Is a second demanded?

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 20 minutes and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes. The Chair now recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I move to suspend the rules and call up the bill (S. 2672) to extend the State Taxation of Depositories Act, and for other purposes, with an amendment thereto.

Mr. Speaker, as you know, Public Law 93-100, the State Taxation of Depositories Act, approved on August 16, 1973, sought to defer the imposition of all types of "doing business" taxes in States other than the States in which depositories have their principal offices until such time as uniform and equitable methods could be developed for determining jurisdiction to tax and for dividing the tax base.

Public Law 93-100 directed the Advisory Commission on Inter-governmental Relations to make a study of all pertinent matters relating to multistate taxation of depositories and to make a report to the Congress of the results of its study and recommendations not later than December 31, 1974. In order that Congress would have 1 year to consider the Commission's recommendations, a moratorium or interstate taxation of depositories was provided to expire on January 1, 1976.

Mr. Speaker, the Commission did not submit its completed report to the Congress until September 12, 1975. S. 2672 would extend the moratorium provided for in Public Law 93-100 over interstate taxation of depositories from January 1, 1976, to September 12, 1976. This extension of the moratorium will give the Congress 1 full year to consider the important matter of multistate taxation of depositories as was provided for in the original legislation.

As you are aware, Mr. Speaker, Public Law 93-100 also authorized NOW accounts to be offered in two States—Massachusetts and New Hampshire—on an experimental basis, while prohibiting them for the rest of the Nation. The legislation before us would extend the NOW account experiment throughout New England to include Connecticut, Rhode Island, Maine, and Vermont.

As you know, the Senate recently passed FIA, which provides for the extension of NOW accounts nationwide, and the House Banking Committee is presently involved in a comprehensive study which will ultimately lead to a total restructuring and reorganization of our financial institutions. While we are looking for the earliest possible enactment of comprehensive financial institution reform, a situation has developed in New England which requires our immediate attention. The New England States, other than Massachusetts and New Hampshire, in anticipating the enactment of FHA or comprehensive financial reform legislation, have already granted State-chartered institutions third-party payment powers.

In effect, all State-chartered thrift institutions as well as all commercial banks—both National and State chartered—in Connecticut, Maine, Rhode Island, and Vermont will or already have some type of transaction account power by January 1, 1976. In fact, of the 941 financial institutions in New England, only the 31 Federal savings and loan associations will not have some type of third party payment powers or access to such powers as of the first of the year.

This provision would remedy the inequity by exempting all financial institutions in Maine, Vermont, Connecticut, and Rhode Island from the ban on NOW accounts presently existing. In effect institutions in these States would be put on the same footing as their counterparts in Massachusetts and New Hampshire.

This provision is essential to maintain the dual banking system and to preserve competitive parity between State and federally chartered financial institutions in the affected States. In order to have a workable dual banking system, Congress and the various State legislatures are asked from time-to-time to enact laws which will give financial institutions under their respective jurisdictions adequate investment and deposit authority to allow them to compete with one another without being placed at a competitive disadvantage. Without this provision, the 31 Federal savings and loan associations located in the four New England States previously mentioned will not be able to offer any form of transaction account by January 1 and will thus be placed at a severe competitive disadvantage.

At this point, Mr. Speaker, I wish to defer to my distinguished colleague, the gentleman from Illinois (Mr. ANNUNZIO), chairman of the Subcommittee on Consumer Affairs, to describe the provisions amending the Truth-in-Lending Act. I yield the gentleman such time as he may consume.

Mr. ANNUNZIO. I am grateful to my colleague, the gentleman from Rhode Island (Mr. ST GERMAIN), for allowing me the time to talk on this amendment.

Mr. Speaker, S. 2672, which passed the Senate on December 8, contained an amendment—section 3—which amends the Fair Credit Billing Act.

Section 3 will have several harmful effects to consumers. First, the amendment changes substantially section 167, use of cash discounts, and is in direct conflict with the discount section of H.R. 10561, the antisurcharge bill. Second, it fails to deal with the credit card surcharge issue addressed in that bill.

The House approved the antisurcharge bill by an overwhelming majority, 398 to 3, on November 17 and has, therefore, made it clear that it opposes credit card surcharges and favors cash discounts. Furthermore, the Federal Reserve Board has expressly asked Congress to clarify the surcharge issue. If the present section 3 remains in S. 2672, H.R. 10561 will probably not be acted on by the Senate.

To rectify this problem, I propose that section 3 of S. 2672 be struck and replaced with the House antisurcharge bill as passed, with the exception of one word change, technical in nature, to make the antisurcharge provision apply to all credit cards. Differences between the Senate and House versions of S. 2672 can be resolved in conference.

Let me briefly explain why my amendment is necessary. Section 3(b) of S. 2672 adds the words "Not in excess of 5 per centum" after "discount" in section 167 (a) of the Fair Credit Billing Act. Section 167(a) prohibits third party credit card issuers from forbidding merchants who honor their cards from offering price discounts to customers who pay cash. Prohibiting such discounts is anticompetitive and harmful to merchants and consumers alike. Section 3 would contradict the present law because it will permit card issuers to prohibit discounts of over 5 percent. Section 3 would also conflict with the House antisurcharge bill which sets no limit on the amount of discount a merchant can offer.

Section 3(c) of S. 2672 provides an exemption from State usury laws on discounts for cash purchases. Such an exemption is necessary and the antisurcharge bill contains a similar provision. However, unlike the House bill, which has this exemption provision in the relation to State laws section, the Senate bill has its exemption provision in the use of cash discounts section.

Finally, the Senate bill fails to deal with the most important issue addressed by the House antisurcharge bill—that merchants should not be allowed to surcharge consumers who pay by credit card. Such surcharges would represent an oppressive and unfair financial burden on consumers.

The House has already gone on record, 398 to 3, that such surcharges should be prohibited.

I want to make it clear that the antisurcharge bill's prohibition of surcharges only affects credit card transactions, and with respect to credit card transactions it does not prohibit finance charges on unpaid balances.

It would be unfortunate for consumers if Congress allowed the antisurcharge bill to go unacted upon. Therefore, I urge you to support this amendment to S. 2672.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I yield to the distinguished ranking minority member, the gentleman from Ohio (Mr. Wylie).

Mr. WYLIE. I thank the gentleman from Illinois for yielding.

Mr. Speaker, I wholeheartedly support his amendment to this bill. On Monday, December 8, the Senate passed a bill which would extend the State Taxation of Depositories Act, as the gentleman has mentioned.

The Senate, as it is prone to do on occasion, attached another bill which is nongermane to the first bill, which would deal with the Fair Credit Billing Act and would amend section 167 of that existing law. The Senate amendment will do two things. It will prohibit a discount of more than 5 percent to the cash paying customer and it will exempt discounts for cash up to 5 percent from violation of the State usury laws. The Senate amendment differs substantially from the bill which passed this House with only three dissenting votes.

The House bill would prohibit the imposition of any surcharge, while the Senate bill makes no mention of this prohibition, and the House bill would permit unlimited discounts, as the gentleman from Illinois has suggested.

I agree with the gentleman. As I said, we must go to conference on this issue and we cannot allow the Senate nongermane amendment to be passed with this bill today. I appreciate the gentleman offering his amendment and I know it will pass the House.

Mr. ANNUNZIO. I thank the gentleman for his very constructive support.

I ask the Members of the House to support the House committee, please support the House position. We want to go to conference. We passed the bill 398 to 3, and I ask for an "aye" vote.

Mr. ROUSSELOT. Mr. Speaker, first of all I wish to compliment my colleagues, the gentleman from Rhode Island (Mr. St Germain) and the gentleman from Illinois (Mr. Annunzio) for their efforts to bring this Senate bill (S. 2672) to the floor. The House can be pleased especially for my colleagues' desire to demand that under section 3 of this bill, by committee amendment, we insist upon the House-passed position.

I rise in support of S. 2672, a bill which will extend through September 12, 1976, the current moratorium on State depository taxation. This extension will give Congress an opportunity to consider and to act upon the study of this issue which has been completed by the Advisory Commission on Intergovernmental Relations.

The bill will also extend to the entire New England region the experiment under which depository institutions in Massachusetts and New Hampshire have been permitted to offer negotiable order of withdrawal—NOW—accounts. This bill will permit the extension of this experiment to an area which is clearly ready for it, pending the consideration by the Congress of the FINE Study Discussion Principles and the Financial Institutions Act, both of which call for the availability of NOW accounts nationwide.

Finally, section 3 of the bill, as amended today by the House, provides for permission for merchants to grant a "discount" for the payment of cash and a prohibition of the imposition of a "surcharge" with respect to sales which are subject to the Fair Credit Billing Act. In addition, this section provides for the preemption of State usury laws, which might otherwise operate to prevent the granting of a discount in accordance with this legislation. This preemption is troublesome to me because it may constitute another step in the direction of a Federal usury statute, which would be a most unfortunate development.

On balance I believe that S. 2672 is a useful and necessary piece of legislation and will support it despite my reservations about section 3.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentlewoman from New Jersey 1 minute.

Mrs. FENWICK. Mr. Speaker, I thank the gentleman for yielding.

I rise in hearty support of the position taken by the chairman of our subcommittee and the ranking minority member and the members of the committee.

I hope that in this Chamber there is someone who will be a member of the conference committee and will take heed of the urgency that we feel attaches to striking that section of the Senate bill. The House bill was carefully worked out by the gentleman from Illinois (Mr. Annunzio) and the gentleman from Ohio (Mr. Wylie) and all members of the committee, with due regard to all parties concerned and special regard for the consumer. I trust the conferees will insist on the House version and elimination of this particular section.

Mr. ROUSSELOT. I appreciate the gentlewoman's comment. I know she is an active member of the Committee on Banking, Housing and Urban Affairs, and I know she has been especially interested in this particular issue on the subcommittee on which she serves.

Mr. Speaker, I believe it is also important, as my colleague, the gentleman from Rhode Island has pointed out, to make sure that we pass section 1 of this bill, because of the extension of the State taxation of Depositories Act, which expires on January 1, 1976, needs to be extended because the Commission, even though it has reported, has not really given Congress time to act.

So I wish to state that the Members of the minority on the Committee on Banking and Currency, including our ranking Member, the gentleman from Pennsylvania (Mr. Johnson) support the effort to have this legislation move through the House, especially with the committe amendment.

Mr. Speaker, I reserve the balance of our time.

Mr. DODD. Mr. Speaker, I rise in support of the Taxation of Depositories Act Extension, S. 2672, which is before the Committee of the Whole House for consideration under a suspension of the rules. I would like to express my support particularly for the provision which was included in this bill by way of an amendment offered by the distinguished gentleman from Massachusetts, Senator Edward Brooke, which calls for the extension of permission to issue NOW accounts to Federal savings and loan associations in Connecticut, Rhode Island, Maine, and Vermont. Currently, these accounts are available at Federal savings and loan institutions in the States of Massachusetts and New Hampshire only, where they have been permitted by Congress since 1972.

The concept of NOW accounts is a simple one: The depositors at savings and loan institutions which offer this type of account are permitted to write negotiable orders of withdrawal against their savings account while still receiving interest on it. In effect, Mr. Speaker, this is like receiving interest on a checking account.

The success which NOW accounts have had in the 3 years which they have been in effect at savings and loan institutions in Massachusetts and New Hampshire is abundantly clear in terms of consumer enthusiasm and in providing a more equitable basis of competition between Federal savings and loan associations and other financial institutions.

As Senator Brooke noted in the Record of December 8, 1975:

> In the 3 years since NOW accounts were introduced, the number of accounts has risen to over 500,000 in Massachusetts alone, and the number is growing at a rate of approximately 30,000 per month.

With this in mind, it is easy to see that NOW accounts have enjoyed overwhelming success with consumers, and that it is clearly in the public interest to make them available at savings and loan institutions in other States.

As I mentioned earlier, Mr. Speaker, the extension of NOW account availability is imperative to provide a basis of competition between Federal savings and loan institutions to which this legislation would apply, and the State chartered thrift institutions and commercial banks in Connecticut, Rhode Island, Maine, and Vermont which already have NOW-type accounts or will have them by January 1, 1976.

As a further point of information, Mr. Speaker, I want to remind my colleagues that there was a provision in the Financial Institutions Act, H.R. 10024, which would have allowed savings and loan institutions nationwide to issue NOW accounts. I believed then, as I do now, that this is an important step toward promoting fair competition in the financial community, and it is clearly within the public interest. On that basis I opposed the amendment offered by the gentleman from Georgia, Mr. Stephens, to strike the nationwide NOW account provision, but despite my opposition, and that of the distinguished chairman of the Subcommittee on Financial Institutions, Mr. St Germain, who spoke strongly against this amendment, it was agreed to in House action on October 31.

The NOW account provision of the bill which is before the Committee of the Whole House today, S. 2672, is unlike that which was included in H.R. 10024, in that it will extend permission to issue NOW accounts only to those Federal savings and loan institutions in New England States which do not already have them. It is imperative that NOW accounts be permitted in these institutions in the other New England States prior to January 1 so that federally chartered associations will be on a competitive par with those holding State charters, and with commercial banks.

I urge my colleagues, therefore, to promote this means of establishing a basis of equitable competition between financial institutions, and to enable the people of my great State of Connecticut, and of the other New England States, to enjoy the same benefits which have been available to savings depositors in Massachusetts and New Hampshire for the past 3 years, by joining me in voting to approve the Taxation of Depositories Act Extension with this NOW accounts provision.

Mr. ST GERMAIN. Mr. Speaker, I appreciate the support the minority has given us.

Mr. Speaker, I have no other requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Rhode Island (Mr. St Germain) that the House suspend the rules and pass the Senate bill (S. 2672), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the Senate bill (S. 2672) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

DISPOSITION OF FUNDS APPROPRIATED TO PAY JUDGMENTS IN FAVOR OF SAC AND FOX INDIANS

Mr. MEEDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4016) to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following funds:

(1) the funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa in Indian Claims Commission docket 219;

(2) the funds appropriated by the Acts of July 6, 1970 (84 Stat. 376), and March 21, 1972 (86 Stat. 86), to pay judgments to the Sac and Fox Nation in Indian Claims Commission dockets 153 and 135, respectively;

(3) any funds which are now or which may hereafter be appropriated to satisfy any final award of the Indians Claims Commission to the Sac and Fox Nation in dockets 158, 231, and 83; and

(4) the amount of $20,421.78 from funds appropriated by the Act of June 12, 1975 (89 Stat. 193, 194), to pay a judgment to the Sac and Fox Nation in Indian Claims Commisison docket 95,

shall, together with interest earned thereon and after the payment of attorney fees and other litigation expenses, be distributed as hereinafter provided.

Sec. 2. (a) The funds in docket 219 shall be divided between the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa, and the funds in dockets 153 and 135, 158, 231, 83 and that portion of docket 95 as provided in paragraph (4) of section 1 hereof, shall be divided among the Sac and Fox Tribe of Oklahoma, the Sac and Fox Tribe of the Mississippi in Iowa, and the Sac and Fox Tribe of the Missouri in Kansas and Nebraska, on the basis of the relative numbers of members of each tribe who were enrolled on or who were entitled to be enrolled on the census rolls of each tribe as of January 1, 1937.

(b) For the purpose of carrying out the provisions of section 2(a) of this Act, each Sac and Fox Tribe shall have not to exceed ninety days from the date of this Act in which to identify those persons, living or deceased, who were inadvertently omitted from the January 1, 1937, census roll of the tribe.

(c) The provisions of section 2(a) of this Act shall apply only to the division of the judgment funds described in section 1 of this Act, between or among the respective Sac and Fox Tribes, as appropriate, and nothing in this section shall be construed as applicable to the payment per capita of any portion of the share of any Sac and Fox Tribe that may be so distributed.

Sec. 3. After the judgment funds are divided as provided in section 2(a) of this Act, the sum of $5,000, together with appropriate interest thereon for not less than one day, shall be deducted from the share of the judgment funds that is due the Sac and Fox Tribe of Kansas and Nebraska from the judgment in docket 153, and shall be divided between the Sac and Fox Tribes of Iowa and of Oklahoma according to the formula for division of the judgment funds as provided in section 2(a).

Sec. 4. (a) The funds, as divided under the provisions of this Act, may be utilized for any purposes that are authorized by the respective tribal governing bodies and approved by the Secretary of the Interior: *Provided,* That not less than 20 per centum, together with accrued interest thereon, of the share of each Sac and Fox Tribe shall be used for programing purposes.

(b) Any portion of the share of the judgment funds accruing to any Sac and Fox Tribe that may be distributed in individual shares shall be paid to persons whose names appear on the membership roll of said tribe compiled in accordance with the membership criteria of the tribe's constitution, made current as of the date of this Act.

Sec. 5. Sums payable to enrollees or their heirs or legatees who are less than eighteen years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

Sec. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, nor shall such funds or their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

Sec. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

The SPEAKER. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4016 provides for the division and distribution of judgment funds awarded to the Sac and Fox Indians in certain Indian Claims Commission dockets. This bill was introduced by Mr. Steed for himself and other members of the Oklahoma delegation, and is identical to the proposal submitted by the Secretary of the Interior in the 93d

Congress. By this legislation, it is hoped that the Congress will finally resolve a longstanding controversy between the various groups of Sac and Fox Indians in a fair and equitable manner to the satisfaction of all the parties involved.

Presently there are three successor groups of the old Sac and Fox Tribe as it existed when their lands were ceded to the United States in the early 19th century. The controversy I referred to has centered around which of several tribal rolls most fairly reflects the size of each successor group at the time of the land cessions. These groups are commonly known as the Oklahoma group, the Iowa group, and the Kansas/Nebraska group.

This bill affects the judgment distribution of seven Indian Claims Commission dockets amounting to a total distribution of over $18,130,000 for the Sac and Fox Nation. With the exception of one docket—219—all the dockets affected are to be divided between the Oklahoma and Iowa group, and amounts to only $900,000 of the total.

Because of the frequent migration of the Sac and Fox Tribes during the 19th century, accurate population counts of the three groups at the times of the land cessions have been difficult to obtain.

Thus far, congressional efforts to resolve the division of the judgment funds among the three groups have focused on three enrollments of the tribe. The earliest of the three rolls, 1891–92, was strongly recommended against by the Interior Department because of its inaccuracies and irrelevancy to the land cessions on which the claims were based. A second proposed roll based upon the current membership would unduly favor a group with more lenient membership requirements.

Therefore, Mr. Speaker, in keeping with the custom of distributing judgment awards on the basis of the most accurate roll closest to the dates of the actual land cession, the committee centered upon the 1937 census roll.

The 1937 roll was decided on for several important reasons:

First. It was the official base roll for membership in the Oklahoma and Iowa groups;

Second. The same criteria were used in preparing the 1937 census rolls of all three groups;

Third. The varying enrollment criteria of the respective Sac and Fox groups were developed subsequent to the preparation of the 1937 census rolls; and

Fourth. It was recent enough to be corrected to include eligible persons who were inadvertently omitted. In short, the committee felt that over a 100-year period, the 1937 rolls most accurately reflected the relative size of the three Sac and Fox groups.

Each of the three groups is organized and governed by a tribal council. The estimated membership of the Oklahoma group is 2,100; the Iowa group is 779; and the Kansas/Nebraska group is 227.

As I stated earlier, H.R. 4016 provides for the division of the judgment funds in docket 219 between the Oklahoma group and the Iowa group. Based upon the 1937 rolls and the relative size of the groups, the Oklahoma group would receive approximately 66 percent of the award and the Iowa group this remaining 34 percent.

The other six dockets, which make up the vast bulk of the $18 million award would be divided approximately 62 percent for the Oklahoma group, 30 percent for the Iowa group, and 8 percent for the Kansas/Nebraska group.

Mr. Speaker, this bill also provides that the responsibility for the utilization and distribution of these funds once divided, be vested in the tribal council of each group with the reservation that 20 percent of the share of each group be set aside for tribal programing purposes.

The original bill provided only for the distribution of three dockets. The committee amended the bill to include four more awards to the Sac and Fox Tribe made subsequent to the introduction of H.R. 4016. Thus, rather than requiring the Congress to come back and legislate a new act to cover these four awards, this amendment included them in H.R. 4016. Additionally, an amendment exempts the per capita payments from Federal and State income taxes and from being considered as other income or resources under the Social Security Act or other federally assisted programs.

Mr. STEED. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Oklahoma.

Mr. STEED. Mr. Speaker, I just want to take this opportunity to thank and to congratulate the committee for the work it has done in bringing this bill here, and to emphasize the fact that the only issue we have is the formula to be used to distribute the funds. There has been some disagreement, and as a result all the people involved have been denied these funds which have been ruled to be theirs for all these years. I think that the time has come when we all should want a settlement.

I think the committee has made the fairest and the most workable settlement it is humanly possible to make and I certainly hope the House will go along with the good judgment of the committee.

Mr. MEEDS. I thank the gentleman from Oklahoma for his statement, and also thank him for his patience and longstanding support of an equitable settlement of this matter in which he has been involved since I have been in Congress. I am sure that if we pass this bill today, it will be a happy occasion for him also.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, I also want to commend the subcommittee chairman, the gentleman from Washington (Mr. Meeds) for doing an excellent job in bringing about this settlement. The people who are going to benefit from our action today are the Indian people themselves. It is high time that this judgment be distributed, and I want to rise in strong support of the committee position and urge its passage.

CALL OF THE HOUSE

Mr. OTTINGER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. McFall). Evidently a quorum is not present.

Mr. O'HARA. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 792]

Addabbo
Andrews, N.C.
Archer
Bell
Bonker
Burke, Fla.
Burton, John
Byron
Collins, Ill.
Conable
Conyers
Dellums
Diggs
Dingell
Drinan
Eckhardt
Erlenborn
Esch
Eshleman
Ford, Mich.
Forsythe
Fraser
Gaydos
Harsha
Hastings
Hébert
Heinz
Hinshaw
Jarman
Karth
Kemp
Krueger
McEwen
Metcalfe
Myers, Ind.
Neal
O'Neill
Patman, Tex.
Quie
Railsback
Rees
Rogers
Runnels
Sarbanes
Sisk
Steiger, Wis.
Stephens
Stuckey
Teague
Thompson
Udall
Waxman
Wiggins
Wilson, C. H.

The SPEAKER. In this rollcall 380 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DISPOSITION OF FUNDS APPROPRIATED TO PAY JUDGMENTS IN FAVOR OF SAC AND FOX INDIANS

The SPEAKER. The Chair recognizes the gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. Grassley).

Mr. GRASSLEY. Mr. Speaker, I personally want to say that I will be referring to the Sac and Fox Indians of Oklahoma and I hope that the Speaker will not take offense at my remarks.

The SPEAKER. The Chair will state that they are a great group and I am sure that those in Iowa are equally as great.

Mr. GRASSLEY. Mr. Speaker, I wish to thank the gentleman from Alaska for yielding me time. I also want to thank the gentleman from Washington (Mr. Meeds) who is the chairman of the subcommittee for the manner in which he has handled the difficult task that he has in trying to arrive at an equitable solution. I particularly want to thank the gentleman from Washington and his subcommittee for allowing me and the Sac and Fox of Iowa to present our testimony before the subcommittee.

I thank the gentleman from Alaska (Mr. Young) also for carrying the cause of the Sac and Fox of Iowa in the Subcommittee on Indian Affairs when he tried to substitute the language of H.R. 8084 sponsored by the gentlewoman from Kansas (Mrs. Keys) which was presented as an alternative to the bill we now have before us. That alternative bill was defeated in the subcommittee by a tie vote.

I also would like to express to the gentleman from Alaska (Mr. Young) my appreciation for his willingness to carry the ball in the full committee.

Mr. Speaker, why are we here today? We are here today presenting the cause of the Sac and Fox Indians of Iowa because there is a great difference of opinion on how the claims money ought to be divided. The Sac and Fox of Iowa have in the past in Congress been in a stronger position when past claims have been settled by this Congress, vis-a-vis the Sac and Fox of the State of Oklahoma. At that time former Congressman John Kyl from the State of Iowa, who at one time was the ranking minority member of the Subcommittee on Indian Affairs had the Sac and Fox of Iowa as constituents. Since he is no longer a member of this body and because the Sac and Fox of Iowa, as a result of reapportionment, are now constituents of mine, I am here to present their case to the Members.

I would like first to present the question of what is the issue today? The issue, Mr. Speaker, is who is a Sac and a Fox? Who belong to the tribe of the Sac and Fox of Iowa? Who belong to the tribe of the Sac and Fox of Oklahoma? And who belong to the tribe of the Sac and Fox of Missouri, Kansas, and Nebraska? Who belong to the tribes of the Sac and Fox when funds are distributed on a per capita basis? That is what we are talking about. We are talking about the distribution of funds on a per capita basis. The tribe with the most members will naturally get the most money. That is what the issue is. We are distributing funds on a per capita basis. So who is a Sac and Fox and what tribe do they belong to is very intricately involved in how much money a tribe is going to get. In H.R. 4016, that is the bill before us, the Sac and Fox of Iowa will only receive about 30 percent of the money being distributed.

Under the bill sponsored by the gentlewoman from Kansas (Ms. KEYS), House Resolution 8084, the one that the gentleman from Alaska (Mr. YOUNG) tried to substitute in the subcommittee, the Sac and Fox of Iowa would get roughly 36 percent, and the Sac and Fox of Oklahoma in each instance would get correspondingly more or less. I know 6 percent does not sound like a very big percentage, but 6 percent of the amount of money we are talking about in these claims is a big hunk of money for a group of people like the Sac and Fox of Iowa, who number between 800 to 1,000 people.

The Members will probably ask me why should the Sac and Fox of Iowa be entitled to 36 percent or more instead of the percentage that is in House Resolution 4016. The answer to that is: First, that previous awards to the tribes in question were divided in accord with the 1891 and 1892 allotment and annuity rolls. Congress previously—now we are talking about what Congress has done previously—approved this distribution formula in the past because it was considered the best evidence of the relative membership at the time of the taking of the Sac and Fox lands.

Second, the Sac and Fox of Iowa would use 50 percent of the funds they receive for tribal purposes, whereas the Sac and Fox of Oklahoma indicated their intentions to use only 20 percent, which is the statutory minimum in the bill that we have before us. Thus, the Sac and Fox of Iowa are more dedicated to the maintenance of the unity and the heritage of the tribe.

It seems to me, Mr. Speaker, that the policy of this Congress ought to be to promote the pride of the native Americans and pride in their Indian culture, and at the very least our actions should not be—and our action in approving H.R. 4016 would be—that we would be penalizing those who do not want to hang onto their tribal heritage.

Third, the Sac and Fox in the first place initiated action which led to the current claim, and, of course, without such initiation, no Sac and Fox would receive anything.

Last, for all practical purposes, what the dispute on the distribution of these claims is all about is this: Should a tribe, for instance, the Sac and Fox of Oklahoma, who have a very liberal enrollment policy, be rewarded by scratching the countryside trying to find anybody who has a small quantum of Sac and Fox blood in him at the expense of a tribe that has a very restrictive enrollment policy like the Sac and Fox of the State of Iowa?

Another question that should be answered when the Members vote on this claim, is should the claim awards penalize those who practice their Iidian culture daily at the profit of those who do not? I would ask that the Members consider this, and I wish that they could all tour with me the settlement in my district, the Sac and Fox of Iowa, where they would find that the Mesquakie language is still spoken and that it is taught to Indian children in their own schools.

I want to point out to the Members that the Sac and Fox of Iowa own their land and do not live on a traditional reservation as you might think. They are so proud of their Indian heritage that they have their annual Indian Powwow, which this year was the 77th, in which they put on their native dress. They are proud of their heritage, and they are willing to demonstrate that to the rest of the world.

We should opt to distribute claims to these people, the Sac and Fox of Iowa, in person as compared to a tribe the Sac and Fox of Oklahoma, that will distribute their claims money through the mail.

We should opt for the former, I would hope. The question is: Should Congress change its mind today and award claims on a basis different than it did in the past? I want to emphasize to the Members that this Congress in the past has distributed these claims on the basis of the 1891 and 1892 allotments and not on the basis of a 1937 census as we are doing today. The percentages were fair then. They are fair today. It is too bad that this bill came up under suspension so that the Sac and Fox of Iowa, through me, could not introduce an amendment to rectify this reversal of congressional precedent and miscarriage of justice.

Mr. MEEDS. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. Mr. Speaker, I thank the chairman for yielding.

I would like to say to the gentleman from Iowa (Mr. GRASSLEY) we understand his position representing his constituents in Iowa. He appeared before the subcommittee and testified in their behalf.

But I think something ought to be pointed out when we talk about the liberal enrollment policies of the Oklahoma Sac and Fox and the tribal heritage of the Iowa Sac and Fox. During the subcommittee testimony it was brought out that the children of only the fathers were eligible to remain to become eligible for this division. The mothers' children were not eligible. This is one of the reasons that the Oklahoma Sac and Fox number more than the other tribes, because they have taken in the children of the mothers from Iowa and allowed them to enroll in the Oklahoma Sac and Fox.

I say anyone who votes against the bill H.R. 4016 will find this is the kind of thing he is letting himself in for.

This legislation has been pending for 10 years. The Sac and Fox in Iowa and Kansas and Nebraska and Oklahoma, the people who should have benefited from this award, are old people now. There is a very high rate of unemployment. If we do not get this bill through this Congress during this session, none of the Sac and Fox in any of the three States is ever going to benefit.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to compliment the chairman of the subcommittee and the chairman of the full committee and the gentleman from Iowa (Mr. GRASSLEY) for the fine work they have done and the work the subcommittee has done on this legislation and especially the gentleman from Iowa for trying to present and justify what he felt was proper for his constituents.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I was wondering, just for historical perspective, if the gentleman from Washington or the gentleman from Alaska could tell me which Sac and Fox were driven out of Illinois during the Black Hawk war. I am wondering about their pattern of immigration to Iowa, Kansas, and Oklahoma. Can you gentlemen enlighten us on this?

Mr. STEIGER of Arizona. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Speaker, it is my understanding the Sac and Fox were not driven from Iowa but rather fled with a great deal of vigor and fervor from Illinois and only got as far as Iowa because of their exhaustion.

Mr. DERWINSKI. The gentleman may not know very much about the Sac and Fox, although he knows much more about the Apaches.

Mr. GRASSLEY. Mr. Speaker, I would point out the name of the tribe is the Sac and Fox of the Mississippi. They came to Iowa and came there to live at the time of the war the gentleman is referring to. Chief Black Hawk was born in Iowa. Later as a result of being driven from Iowa by the Americans at that time they went to Kansas and they did not like it and they got together all the money they could and came back to Iowa and bought land there themselves. They are very different from this standpoint. They own the land they live on as a tribe. They came to Iowa because they loved it.

Mr. DERWINSKI. Mr. Speaker, then they are different from the Osage Indians since they are not living on a reservation that is sitting on oil. I gather they are not quite as fortunate.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. Yes. I will be pleased to hear the gentleman's comments.

Mr. MEEDS. Mr. Speaker, recognizing the gentleman's penchant for historical accuracy, the Sac and Fox who were driven out of Illinois into the Great Lakes region was the entire tribe. At that time it was a compact unit of one tribe.

Mr. DERWINSKI. Mr. Speaker, I commend the gentleman for the historical research he has put into this matter.

Mr. GRASSLEY. Mr. Speaker, will the gentleman from Alaska yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Speaker, I would like to respond to what the gentleman from Oklahoma said about determining who is a member of the tribe, by saying that the three tribes got together in Kansas City, Mo., on July 24, 1971, and came up with this distribution that is somewhat different than in the bill and more fair to the Sac and Fox of Iowa, the Sac and Fox of Oklahoma would get 46 percent, the Sac and Fox of Iowa 39 percent and the Sac and Fox of Missouri, Kansas, and Nebraska, 15 percent. This bill deviates from that considerably, so I would have to raise the point about that being legitimate when the tribes have already agreed to a previous division.

Second, I would like to point out the fact that whether we are talking about on the mother's or father's side determining who is a member of the Sac and Fox, that the Sac and Fox of Oklahoma still will enroll people who have a small quantum of blood in them, whether it is on the mother's or father's side, than the Sac and Fox of Iowa will. It gets to a point of question of how little Sac and Fox blood they could have in them and still be a member of the Sac and Fox of any of these three regions.

Third, we are talking a little about the sovereignty of these tribes and the respect that the U.S. Government has had for the sovereignty of the Indian tribes of America and their determination of who should belong or should not belong and who is a part of their nation.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time.

Mr. MEEDS. Mr. Speaker, I would just like to conclude by pointing out that the debate which has taken place here clearly indicates why this has not been solved in 12 years. The basic question is which roll is going to be used to determine who the present recipients of the award for the land, which were taken from the original Sac and Fox group, is to be.

The subcommittee and the full committee have considered this matter very seriously. We have had extensive hearings. We have examined the various rolls. It is our feeling that the 1937 roll most accurately represents who the actual recipients ought to be; that the 1891 roll was inaccurate and that it would be unfair to use the present count. So we have, in effect here, somewhat of a compromise; although, in doing so, we are acknowledging what we consider to be the most accurate roll.

The SPEAKER pro tempore (Mr. McFall). The question is on the motion offered by the gentleman from Washington (Mr. Meeds) that the House suspend the rules and pass the bill (H.R. 4016), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the Record on the bill (H.R. 4016) just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPOSITION OF FUNDS APPROPRIATED TO PAY A JUDGMENT IN FAVOR OF THE COWLITZ TRIBE

Mr. MEEDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5090) to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218 and for other purposes, as amended.

The Clerk read as follows:

H.R. 5090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by the Act of July 1, 1973 (87 Stat. 99), to pay a judgment to the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218, together with the interest thereon, after payment of attorney fees and litigation expenses, and such expenses as may be necessary in effecting the provisions of this Act, shall be distributed as provided herein.

Sec. 2. (a) The Secretary of the Interior shall prepare a roll of all persons—

(1) who were born on or prior to and living on the date of this Act;

(2) who are lineal descendants, of one-sixteenth degree or more of Cowlitz blood, of members of the Cowlitz Tribe of Indians as it existed in 1863; and

(3) whose name or the name of a lineal ancestor appears as a Cowlitz Indian on any available census roll or other record or evidence acceptable to the Secretary.

(b) Applications for enrollment must be filed in the manner and within the time limits prescribed by the Secretary for that purpose. The determination of the Secretary regarding the utilization of available rolls or records and eligibility for enrollment of an application shall be final.

(c) No person shall be enrolled pursuant to this section as a descendant of the Cowlitz Tribe if such person has shared in or is eligible to share in a per capita distribution of a judgment against the United States recovered by any other tribe, except through inheritance, nor shall any person be so enrolled if such person is currently enrolled as a member of any other Indian tribe.

Sec. 3. The funds authorized to be distributed herein shall be distributed by the Secretary per capita to those eligible for enrollment. Sums payable to adult living enrollees or adult heirs of deceased enrollees shall be paid directly to such persons. Sums payable to living enrollees who are minors or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

Sec. 4. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, nor shall such funds or their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

Sec. 5. The Secretary of the Interior is authorized to promulgate rules and regulations necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCORMACK. Mr. Speaker, I demand a second.

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Is the gentleman from Alaska opposed to the bill?

Mr. YOUNG of Alaska. No, I am not, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from Washington opposed to the bill?

Mr. McCORMACK. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The gentleman from Washington qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. Meeds) will be recognized for 20 minutes, and the gentleman from Washington (Mr. McCormack) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Washington (Mr. Meeds).

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5090 is to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket No. 218.

On April 12, 1973, the Indian Claims Commission accepted a compromise proposal in docket 218 and awarded $1,550,000 to the Cowlitz Tribe as payment for lands taken in 1863, without the benefit of a treaty or compensation. Funds to cover this award were appropriated by the act of July 1, 1973 (87 Stat. 99).

On November 18, 1974, the Secretary of the Interior submitted to the House of Representatives a proposed plan for the use and distribution of the judgment funds awarded in docket 218. The plan was submitted pursuant to the provisions of the act of October 19, 1973 (87 Stat. 466), which provides that such a plan will go into effect 60 days after the submission of the plan, unless either House passes a resolution disapproving the plan.

The Distribution Act of October 19, 1973, requires the Secretary to engage in active consultation with the affected Indians and Indian tribes, including the holding of a hearing of record on or near the reservation or community of such Indians. It is the purpose of this process to insure that, within the limits of the act, the desires of the Indian beneficiaries would be given the greatest effect.

At the hearing of record, a majority of the Cowlitz Indians present opposed the plan offered by the Bureau of Indian Affairs.

Notwithstanding this opposition and without trying to accommodate the wishes of the Indians to the extent possible, the Department submitted to the Congress its original proposed plan. Serious Indian objection resulted.

Disapproving resolutions were introduced in both Houses at the beginning of the 94th Congress. Because of the late organization of the Houses, the committees would have been unable to take timely action on the resolutions before the expiration of the 60-day review period. In order to accommodate congressional action, the Secretary withdrew the proposed plan, and in accordance with the Indian Judgment Fund Distribution Act, legislation was introduced providing for the distribution of the funds in docket 218.

The Cowlitz Tribe of Indians of the State of Washington is incorporated within the State of Washington, but are not recognized by the Federal Government except for the purpose of pursuing a claim before the Indian Claims Commission.

The Cowlitz Tribe of Indians submitted a plan reserving $10,000 for purchase of a land base, with the remainder being distributed per capita to the lineal descendants of the tribe as it was constituted in 1863. However, to be eligible, a person must have at least one-sixteenth Cowlitz blood and must not have received previous benefits from any other award. Approximately half of those attending the hearing of record favored this plan.

A number of descendants at the hearing wanted a straight per capita distribution to all who can prove lineal descendancy to the Cowlitz Tribe as it existed in 1863. Many of the persons objecting to the plan proposed by the tribe of Cowlitz Indians are affiliated with the Yakima Nation, and have shared in recent Yakima distributions.

Mr. Speaker, the committee decided to reject the claims of the Yakima to any share in these funds as descendants of Cowlitz Indians. It ill behooves the Yakima to claim a right to share in these funds when, in past awards made to them, they excluded descendants of the Yakima Tribes who are not members of the Yakima Nation. In addition, they secured passage of a law which prohibits nonmember Indians from inheriting lands on their reservation.

In addition, the committee decided to reject the request of the Cowlitz Tribe of Indians to set aside $10,000 of the award for land purchase. This provision might be recognized as the assumption of a Federal responsibility for the tribe. While I might support such a move, I strongly feel that judgment distribution legislation should not be used as a backdoor approach to Federal recognition of Indian tribes.

The bill, as reported, limits sharing in the award to Cowlitz of one-sixteenth blood of the Cowlitz or more and excludes from sharing therein any descendant of the Cowlitz who are members of other tribes which have or which might participate in judgment distribution awards.

Mr. Speaker, I urge passage of the bill.

Mr. McCORMACK. Mr. Speaker, I object to placing this bill H.R. 590 on the Suspension Calendar at this time. This bill needs to be amended, because as it is presently drafted it will deprive a substantial body of Indians from their just rights to share in the judgment award, as pointed out in the report of the Secretary of the Interior, which is contained in House Report 94–479.

Section 2(c), page 2, line 16 through line 22 of the bill, specifies that "No person shall be eligible for enrollment as a descendant of the Cowlitz Tribe if such person has shared in or is eligible to share in per capita distribution of a judgment against the United States recovered by any other tribe, except through inheritance, nor shall any person be so enrolled if such person is currently enrolled as a member of any other Indian tribe."

As pointed out in the report of the Secretary of the Interior, this language will eliminate all Indians of Cowlitz blood, regardless of blood quantum, from sharing in this award if they are members of another tribe, have shared in a previous award, or are eligible to share in a future award. The effect of this subsection, according to an estimate supplied by the Secretary of the Interior, would be to eliminate over 60 percent of the known Cowlitz descendants, and most of these descendants so eliminated reside within my congressional district as members of the Yakima Indian Nation.

Mr. Speaker, I would therefore object to the suspension of the rules, as I believe that this action is contrary to past action on the part of the Congress.

I would like an opportunity to debate this matter and protect my constituents in this regard.

The Yakima Nation has presented a compromise on the bill to the chairman of the subcommittee, and I understood that it was under consideration. I would like to think that this matter could be compromised prior to the passage of this bill.

I deeply regret that there is any confusion on the understanding as to how the bill should be brought up or when. It came as a complete surprise to me to learn that it was on today's calendar. I learned about it this morning. Perhaps I should have known about it yesterday. But it was my understanding that there were negotiations underway between representatives of the Yakima Tribe and staff members of the subcommittee and that we would be notified when and if they arrived at some resolution to these discussions.

So at the present time, Mr. Speaker, I find myself here without having either the adequate information on the bill or knowledge as to whether or not any compromise has been reached. We suddenly have the bill before us. For this reason, Mr. Speaker, I object to the consideration of the bill under the suspension of the rules at this time, and I recommend that the motion be defeated, that the bill be referred back to the committee and that there be opportunity to work out a compromise that has been requested, or at least that we have an opportunity to learn what the discussions were.

Mr. MEEDS. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, first I would like to set the record straight with regard to the negotiations to which my colleague, the gentleman from Washington (Mr. McCORMACK), referred.

Mr. Speaker, this bill passed the full committee about 5 or 6 weeks ago. It was placed on the Unanimous-Consent Calendar. I was unaware of any problem that the gentleman from Washington (Mr. McCORMACK) had with the bill at that time. When it was placed on the Unanimous-Consent Calendar the gentleman from Washington (Mr. McCORMACK) indicated that he had a problem with the bill and he indicated to me we should discuss it. I said that we should discuss it and that I would try to make appropriate arrangements for that. For that reason, I had the bill passed over on the Consent Calendar for almost 5 weeks now and the gentleman from Washington has not talked to me about the matter. I did talk to an attorney representing the Yakima Indians. I think that is the same attorney to which the gentleman referred having negotiations with my staff.

I talked to him about 4 weeks ago, at which time I indicated to him that my position was the same as that of the bill, but I would be very happy to talk further with him or to talk further with the gentleman from Washington (Mr. McCORMACK).

It is my understanding from discussions with my staff that the attorney talked to my counsel, Mr. Ducheneaux, 1 week ago, at which time my counsel advised the attorney that we had not changed our position.

I think we have demonstrated ample flexibility here, Mr. Speaker, in delaying this bill and waiting for the gentleman from Washington (Mr. McCORMACK) to come forward and discuss his problem. The bill has been delayed and delayed. I do not even know what the problem is other than from what the gentleman from Washington (Mr. McCORMACK) says and other than what I might assume it would be. It is very clear he would have a problem with the bill. He represents the

Yakima Indians, and about 40 to 60 percent of former Cowlitz Indians are now married to Yakimas or are living on and residing on the Yakima Reservation.

This is not an untoward thing with the Salish Tribes of western Washington and Oregon. There has been much intermarriage, and the spouses have often moved to other reservations. This has happened to the Cowlitz. A good many of them have for many years been residing on the Yakima Reservation, and as such they have shared in awards, I would say, in excess of $10 million. They have shared as Yakimas in these awards.

Mr. Speaker, the Yakimas have a very, very closed society. I must say that I admire them for it. They have maintained their Indian ways to a very high degree. However, they have some very restrictive requirements for membership. No. 1, they have to reside and have a place of residence on the Yakima Reservation; and No. 2, they have to be of one-quarter blood Yakima. There are a number of other requirements under which judgments have already been made.

That is to say those people who were Cowlitz were residing on the Yakima Reservation, most of whom were qualified for awards as Yakimas because they were residing there.

I think it would be unfair now to allow them to come in and take the award of the Cowlitz who were not Yakimas.

Mr. Speaker, I just want to point out to the House that in all of these awards which have previously been made to the Yakima Indians, they have been made in such a fashion that all of the funds were vested in the tribal governing body. The official membership roll of the Yakima Tribe prepared by the Secretary of the Interior, with the advice and consent of the Yakima Council, excludes any person who is enrolled in any other tribe of Indians or who has received an allotment of land on any other reservation.

So we are including a restriction in this bill, but it is not one that is as restrictive as the Yakimas have already placed in their previous distributions.

This is not a precedent. There are a number of Indian distribution awards in which Indians, who have already participated as members of another tribe in claims, are excluded from the claim and excluded from funds which are being distributed under the Act before the House.

So from all standpoints it seems to me that the time has come to pass this bill. This matter has been pending for a long time. The time has come to settle it, and we should pass the legislation, which will give to those true representatives of one-sixteenth Cowlitz blood the distribution to which they are entitled.

Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from Florida (Mr. HALEY).

Mr. HALEY. Mr. Speaker, this is not an unusual situation, I suppose.

Here we have a tribe that has participated in the distribution of Federal funds. Now, then, they come in here and want to participate in another tribe's funds.

That is not unusual if they can get away with it. I say all they are trying to do here is to have their cake and eat it again and again.

Therefore, Mr. Speaker, I think this is a good bill. I think it is a fair bill, and I hope that the House will pass it unanimously.

Mr. McCORMACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to point out to the gentleman that with respect to the question of fairness at the present time, the Yakimas who are making this protest against the bill as drafted are in the process of distributing a land claims award; and the court has required that they share approximately 50-50 with the Colville Indians who are the next tribe to the East. Therefore, here we have, indeed, a double standard. Under this bill the Yakimas have to share their award with their neighbors, on one side, but they may not share the award with the neighbors on the West.

I say this is a double standard, and I say it is working to the disadvantage of the Yakimas. I say if we are going to be consistent and if we are going to be fair, we should strike the provision of section 2(c), lines 16 to 22, of the bill. If the bill were before us without being on suspension, I would move that this section be stricken.

Mr. Speaker, this is my fundamental reason for objecting to having the suspension of the rules to consider this bill in this manner.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. Yes; I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of this bill.

I would like to compliment the chairman of the subcommittee. I can only say that I am not trying to get involved in an interstate battle.

A great deal of time has been spent and a lot of time has elapsed, as shown by the fairness of this legislation, which is an attempt to solve a problem that has faced this tribe over a period of years.

As a ranking member of that subcommittee on the minority side, I would say that the gentleman deserves the courtesy of seeing that this legislation is passed.

Mr. MEEDS. Mr. Speaker, I yield myself 1 minute to again clarify the record with respect to the Yakima and Colville tribes, which really do not have anything to do with the Yakima-Cowlitz dispute.

However, the fact is that this is not a double standard. The fact situation with respect to the Yakima-Colville dispute is as follows: The Yakima and the Colville both claimed land which the Indian Claims Commission has adjudicated and given an award. The Claims Commission did not decide which of the tribes was entitled to that land. The Court of Claims is now apportioning the judgment award based on the claim of each tribe to the land. It is not on a question of tribal membership or tribal rolls at all, but on the question of a claim of conflicting interest in the same piece of land.

Mr. McCORMACK. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Washington (Mr. MEEDS) that the House suspend the rules and pass the bill (H.R. 5090), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FEDERAL MARITIME COMMISSIONER COMPENSATION

Mr. HENDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11172) to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes.

The Clerk read as follows:

H.R. 11172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the compensation and emoluments of the office of Commissioner of the Federal Maritime Commission which was vacated by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, notwithstanding any salary increase resulting from the Executive Salary Cost-of-Living Adjustment Act, approved August 9, 1975 (Public Law 94-82; 89 Stat. 419), or any other provision of law, or provision which has the force and effect of law, enacted or becoming effective during the period beginning at noon, January 3, 1975, and ending at noon, January 3, 1977.

(b) The provisions of subsection (a) shall take effect beginning on the date of the enactment of this Act, and shall cease to be effective at noon, January 3, 1977, or on the date the person next appointed to fill the vacancy in the office referred to in subsection (a) ceases to hold office, whichever first occurs.

SEC. 2. (a) Any person who has standing to seek judicial review of any action taken by the Federal Maritime Commission after the filing of the vacancy referred to in the first section of this Act, or who is a party to a proceeding pending before the Commission may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the person filing such vacancy on the ground that such appointment and continuance in office are in violation of article I, section 6, clause 2, of the Constitution. Such court shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court.

(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

The SPEAKER pro tempore (Mr. McFall). Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. Henderson) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. Bauman) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from North Carolina (Mr. Henderson).

Mr. HENDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 11172, is based on an official request just recently transmitted by the Attorney General to the Speaker.

The purpose of this bill is to provide that until January 3, 1977, the compensation and other emoluments for the office of Commissioner of the Federal Maritime Commission which was vacated by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, notwithstanding any salary increase resulting from the Executive Salary Cost-of-Living Adjustment Act which was signed into law on August 9, 1975.

This legislation is necessary in order to remove the constitutional impediment to the appointment of Congressman Bob Casey to the seat on the Federal Maritime Commission which was vacated by the resignation of Commissioner George Henry Hearn.

When Bob Casey began his term of service in the House of Representatives on January 3, 1975, the salary for the office of Commissioner of the Federal Maritime Commission was $38,000.

Subsequently, in October of this year, the salary of that office was increased to $39,000 as a result of the Executive Salary Cost-of-Living Adjustment Act, approved August 9, 1975, Public Law 94–82.

That salary increase brings into play article I, section 6, clause 2 of the Constitution which provides—

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Under H.R. 11172, the salary and other emoluments of that particular position of Commissioner of the Federal Maritime Commission which was vacated by George Henry Hearn will be rolled back and frozen at the level existing on January 1, 1975.

The salary and emoluments will remain frozen at that level until noon on January 3, 1977—the beginning of the 95th Congress—or until Bob Casey ceases to hold the office of Commissioner, whichever date first occurs.

Mr. Speaker, I am sure you will recall that during the 93d Congress, the Congress considered and passed similar legislation to remove the constitutional impediment to the appointment of Senator William B. Saxbe to the office of Attorney General.

During the consideration of that legislation there was much discussion as to the legal effect of this type of legislation.

That question is for the courts to decide and cannot be settled here.

However, in that connection, I wish to point out that section 2 of H.R. 11172 provides a means for expediting action in the courts to settle any constitutional question that may arise in the event Bob Casey is appointed to the Federal Maritime Commission.

Under section 2, an action may be brought in the U.S. District Court for the District of Columbia to contest the constitutionality of Bob Casey's appointment.

Any such action would be heard by a three-judge panel and any appeal would go directly to the Supreme Court.

Mr. Speaker, in view of the fact that Bob Casey's nomination is now pending in the Senate, I urge prompt consideration and passage of this legislation.

Mr. Speaker, I ask unanimous consent that I may be permitted to insert in the Record at this point the official request for this legislation that was submitted by the Attorney General.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The material follows:

Office of the Attorney General,
Washington, D.C., December 16, 1975.

The Speaker,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Enclosed for your consideration and appropriate reference is a legislative proposal to provide that the compensation and other emoluments attached to that seat on the Federal Maritime Commission vacated by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975.

Article I, Section 6, Clause 2 of the Constitution provides: "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office."

When Congressman Bob Casey of Texas began his term of service in the United States House of Representatives on January 3, 1975, the salary for the seat on the Federal Maritime Commission held by Commissioner George Henry Hearn was $38,000. Since that time the salary for the seat, as the result of the Executive Salary Cost-of-Living Adjustment Act of August 9, 1975 (P.L. 94–82) and action taken thereunder, has become $39,900.

The accompanying legislation is designed to remove the question concerning the impact of Article I, Section 6, Clause 2 on the President's nomination of Congressman Bob Casey to the seat on the Federal Maritime Commission held by Commissioner George Henry Hearn.

I urge prompt consideration and enactment of this legislation.

The Office of Management and Budget has advised that enactment of this proposal is in accord with the Program of the President.

Sincerely,

Edward H. Levi,
Attorney General.

Mr. HENDERSON. Mr. Speaker, I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Speaker, as cosponsor of H.R. 11172, I hope my colleagues will join with me in its support and passage.

As the chairman of our committee has explained, this bill is necessary to remove the question of any constitutional impact on the appointment of the gentleman from Texas (Mr. Casey) to a seat on the Federal Maritime Commission.

The bill will freeze the salary of that position at its January 1975 level for a period of 2 years, and I think we should note with some admiration that the gentleman from Texas will be taking a pay cut of $6,600 to assume his new duties. Upon his confirmation and appointment, his salary will drop from the congressional level of $44,000 to $38,000 which is the pay for executive level IV before the October increase. Mr. Speaker, it does credit to this body to have one of its Members make such a financial sacrifice to continue in the service of his Government.

Mr. BAUMAN. Mr. Speaker, I have no further requests for time.

Mr. HENDERSON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. Henderson) that the House suspend the rules and pass the bill H.R. 11172.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FLOOD INSURANCE TEMPORARY EXTENSION

Mr. BARRETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 848) to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes, as amended.

The Clerk read as follows:

S. 848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(b) (1) of the National Housing Act is amended by striking out "$10,000 ($15,000" and inserting in lieu thereof "$12,500 ($20,000)".

Sec. 2. Notwithstanding the provisions of section 103(a) (2) and (3) and section 104 of the Housing Act of 1949 or of any law (1) the maximum project capital grant for Project No. Mass. R–107 may exceed two-thirds of the net project costs of said project, and any such excess shall not be considered in determining the project capital grant for any other project in the same municipality and (2) the maximum amount of local grants-in-aid required in connection with Project No. Mass. R–107, under the Contract No. Mass. R–107 (LG) or amendatory contracts for capital grant for said project, shall be one-half of the maximum project capital grant for said project authorized under section 7(d) of said contract, dated December 28, 1965, prior to any amendatory contract, and any local grants-in-aid provided in connection with said project in excess of such maximum amount or any local grants-in-aid provided in connection with any other project in the same municipality shall not decrease the amount of the project capital grant for said project under said contract and amendatory contracts: *Provided,* That any local grants-in-aid provided in connection with said project in excess of such maximum amount shall not be considered in determining the local grants-in-aid required for any other project in the same municipality.

SEC. 3. The National Housing Act is amended by striking out the words "by not to exceed 45 per centum in any geographical area" where they appear in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) and inserting in lieu thereof in each such section the words "by not to exceed 75 per centum in any geographical area".

SEC. 4. (a) The seventh sentence of section 221(f) of the National Housing Act is amended by striking out ", but not more than 10 per centum of the dwelling units in any such project shall be available for occupancy by such persons".

(b) The proviso to subparagraph (C) of section 236(j)(5) of such Act is amended by striking out ", but not more than 10 per centum of the dwelling units in any such project shall be available for occupancy by such persons".

SEC. 5. Section 1336(a) of the National Flood Insurance Act of 1968, as amended, is amended by striking out "December 31, 1975" and inserting in lieu thereof "March 31, 1976".

The SPEAKER pro tempore. Is a second demanded?

Mr. J. WILLIAM STANTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. BARRETT) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. J. WILLIAM STANTON) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Pennsylvania (Mr. BARRETT).

Mr. BARRETT. Mr. Speaker, the bill before us, S. 848, was originally passed by the Senate on September 10. The House acted on its own bill in order to accommodate the Senate due to a failure of communications on the part of the Senate Banking Committee and other Members of the Senate who had an interest in the flood insurance provision. Mr. Speaker, the Senate had almost 2 months to act on H.R. 9852. It is the feeling of the members of the House Banking Committee that we went out of our way to accommodate the Senate and were rewarded for our efforts with the Senate Christmas-treeing our House-passed bill with some 12 additional and controversial amendments, a number of which are nongermane. We are, therefore, left in the final days of this session with the alternative of accepting completely the Senate action or attempting to go to conference and complete action in a very short period of time.

Mr. Speaker, S. 848, the legislation we are now considering, is very similar to H.R. 9852, a bill which passed the House on October 20 under suspension of the rules. The distinguished chairman of the Committee on Banking, Currency and Housing has already ably outlined the parliamentary situation which necessitates our taking action on this legislation today. I merely want to emphasize that in every important respect S. 848 is identical to the bill the House passed earlier.

S. 848 consists of five sections. Section 1 provides for a modest increase in FHA mobile home limits. Previous ceilings were set in 1969 and 1970. An identical provision was contained in H.R. 9852.

Section 2 deals with a longstanding and unique inequity resulting from an agency of the Federal Government first inducing a community to undertake an urban renewal project and then, at a later date, arbitrarily refusing to continue participation in the project, resulting in serious damage to the community. An identical provision was contained in H.R. 9852.

Section 3 authorizes the Secretary of HUD to increase maximum mortgage limits under FHA's multifamily programs in high cost areas by up to 75 percent of the basic per-unit dollar limits. A similar provision was contained in H.R. 9852.

Section 4 corrects an error in the final language of the conference report of the Housing and Community Development Act of 1974, by repealing the 10-percent limitation on the number of dwelling units in projects insured and subsidized under the National Housing Act that may be occupied by nonelderly single persons, an identical provision was contained in H.R. 9852.

Finally section 5 extends the emergency flood insurance program for 1 year. At present, about 12,000 communities are participating in the national flood insurance program. Approximately 11,500 of these communities are participating under the emergency insuring authority, while awaiting the completion of the detailed studies required under the regular program. An identical provision was contained in H.R. 9852. It is this provision which makes it urgent that we pass S. 848 at this time for without this extension all those residing in areas being covered under the emergency provisions would lose their protection.

Mr. Speaker, there was one provision in H.R. 9852 which is absent from the Senate bill we have before us. That is section 5 of H.R. 9852, which was designed to insure that sufficient community development funds will be available in fiscal year 1977 for nonentitlement localities in metropolitan areas. There will be ample time, early in our next session, to enact this very desirable provision.

As you can see, the legislation before us is practically identical to the House bill we passed earlier. Let me close by emphasizing, as I did earlier in the floor debate on H.R. 9852, that this legislation calls for no additional expenditures of Federal funds. I strongly urge its prompt passage by the House.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield myself such time as I may consume.

The chairman of our subcommittee has explained the bill. Basically it is a 3-month extension of the present temporary flood insurance bill. However, Mr. Speaker, I have serious reservations concerning this approach and I will have Mr. BROWN, the ranking minority member on this subcommittee, state the minority position.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Michigan such time as he may consume.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

At the outset let me clarify if I may how the bill is being brought to the floor. Apparently the chairman of the subcommittee is asking the House to act upon S. 848 as it came to the House except for the date of the extension of the emergency flood insurance program.

Is that correct?

Mr. BARRETT. If the gentleman will yield, that is correct.

Mr. BROWN of Michigan. Otherwise the gentleman from Pennsylvania is treating that as a committee amendment and amending the bill to change the date of December 31, 1976 back to March 31, 1976.

Mr. BARRETT. That is correct.

Mr. BROWN of Michigan. I regret I have not had an opportunity to discuss this with the gentleman from Pennsylvania. At the present time I am constrained to object to the act and will seek the support of my colleagues in opposing this act.

Let me explain. This is getting to be a kind of habit with the other body. As the gentleman knows, on a related matter, the matter of the amendment to the Real Estate Settlement Procedure Act of 1974, the other body in that case sent us a piece of legislation which basically suspended certain provisions. We in turn in effect almost copied their act and approved it but repealed the same sections to which the other body's legislation related. If there were to be any differences between the other body and this body it seems to me they should have been differences between what they gave us at first and what we sent to them in return.

Instead, when the legislation that we passed got to the other body, they came up with two new ideas and two new changes. In effect, the other body asked for two bites of the apple, or asked to double dip, if I may say so, and they are doing the same thing on this legislation. The Senate has passed to us S. 848. It seems to me if they sent it to us, we should pass it in the form in which we received it, not concede to them again and let them change their own enactment by changing the date of the extension from 12 months to approximately 3 months.

I think the chairman of the subcommittee agrees with me. I am getting awfully tired of this kind of action by the other body. It is not the gentleman from Pennsylvania that is advocating reducing the extension of flood insurance from 12 to 3 months. It is the other body.

So I am constrained to object and oppose the action that the gentleman from Pennsylvania is advocating at this time.

Mr. BARRETT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. Yes, surely.

Mr. BARRETT. Mr. Speaker, I want to point out, I do not disagree with the gentleman from Ohio; but I am very much concerned that we protect 11,500 participants in the emergency flood program. We want to do everything we can to cooperate with the Senate side and not be obdurate in this thing for there is the possibility of not getting this bill through today or for this year.

Therefore, I am asking that we protect the people. In order to do that, we must get the bill through the House today.

Mr. BROWN of Michigan. Mr. Speaker, I appreciate what the gentleman is saying; but all we have to do is pass S. 848 as it came to us and those people are then protected, not for 3 months, but 12 months. We do not need the amendment the gentleman offered.

I am in a little dilemma as to how the gentleman can bring before the House a committee amendment to the bill, an amendment that has never been considered by the committee or even agreed to by the minority, and as far as that goes, which was even discussed with the minority.

As I say, if the gentleman wants to protect the people, we do not have to have any Senate action. All we do is pass S. 848 and send it to the President. I do not see any justification for our adoption of an amendment to a Senate bill which the other body urges. To do so would give that body yet another opportunity to again change its mind and to incorporate further amendments. If the gentleman wants action to be taken and taken now, let us pass S. 848 as it came to us and thereby avoid the necessity of any further Senate action.

Mr. BARRETT. Mr. Speaker, will the gentleman yield further to me?

Mr. BROWN of Michigan. Certainly.

Mr. BARRETT. Mr. Speaker, again I do not want to disagree with my colleague, a very capable Member, but one has to consider the need for creating harmony with all groups. I am of the opinion that if we accept this, we will create a condition that brings a better rapport with the Senate and our side when we go to conference on other bills.

Now, we are doing right in this extension of 90 days to help the people who are waiting to be covered by the Emergency Insurance program. If we are obdurate on this, we can always anticipate entering into a controversy on the slightest thing that we go to the Senate with.

I am saying to my colleague, and I know the gentleman's feeling, but somebody has to try to ameliorate the contending groups. I hope we can extend to them this courtesy to give them at least 3 months to get their house in order.

Mr. BROWN of Michigan. Mr. Speaker, I would suggest we are not ameliorating. We are grovelling in their dust and I object to it.

PARLIAMENTARY INQUIRY

Mr. BROWN of Michigan. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McFALL). The gentleman will state it.

Mr. BROWN of Michigan. Mr. Speaker, the bill (S. 848) is before us on suspension with a pending committee amendment; is that correct?

The SPEAKER pro tempore. The Chair would state to the gentleman that the bill is before the House with an amendment which was sent to the desk at the time a motion to suspend the rules was made.

Mr. BROWN of Michigan. But do we get an opportunity to act upon the amendment?

The SPEAKER pro tempore. The Chair would state to the gentleman that we do not act separately on the amendment. It is all in the motion as presented to the House.

The Chair would state further that it is not necessary for that amendment to have been adopted by the committee.

Mr. BROWN of Michigan. Further inquiring of the Chair, if I may, if the bill S. 848, as submitted to the House with the amendment, if it is defeated, there is nothing that stands in the way of S. 848 being submitted without an amendment, is that correct?

The SPEAKER pro tempore. The Chair would say that the Speaker would have the power to recognize the chairman of the subcommittee for another motion to suspend the rules.

Mr. BROWN of Michigan. And pass S. 848 as it was reported from the Senate to the House?

The SPEAKER pro tempore. If the chairman did offer that motion for suspension of the rules, that is correct.

Mr. BARRETT. Mr. Speaker, in order to create harmony between the minority side and our side, I would ask unanimous consent to withdraw my 3-month amendment and move that we suspend the rules and pass the bill S. 848.

The SPEAKER pro tempore. The Chair will ask the gentleman to ask unanimous consent to withdraw his motion.

Mr. BARRETT. That I do request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ICHORD. Mr. Speaker, reserving the right to object, what will be the effect, I would ask the distinguished gentleman from Pennsylvania, if the House adopts S. 848 without the amendment which the gentleman is now asking to withdraw?

Mr. BARRETT. Well, if we do not extend the emergency flood insurance program then there will be no flood insurance available come January 1. If my unanimous-consent request is granted, this flood insurance program will be extended to December 31, 1976.

Mr. ICHORD. Further reserving the right to object, it is my understanding, I would state to the gentleman from Pennsylvania, that the Senate is now considering H.R. 9852, or at least it is on the Senate calendar for consideration today, and it is my further understanding that my junior Senator from the State of Missouri, Senator EAGLETON, is offering an amendment that would repeal some of the harsh sanctions that are contained in the act as now written. If we pass this bill today, there will be no way to stop the sanctions that are scheduled to go into effect, as I understand it, on January 1. Is that not correct?

Mr. BROWN of Michigan. Mr. Speaker, if the gentleman will yield, I would be happy to respond to him.

Extending the emergency program does not affect the regular program whatsoever. All S. 848 does is extend the emergency program.

Mr. ICHORD. When is the moratorium, I would ask the gentleman, scheduled to expire; the moratorium on the sanctions that are imposed if the community does not adopt strict planning and zoning restrictions?

Mr. BROWN of Michigan. There is no moratorium. There is legislation pending in both bodies to do something about the sanctions, but that basically relates to the regular program and not the emergency program. We call it the emergency program, but it is really phase one of the regular program. One has to go through the emergency program, take the steps there, before one can get into the regular program.

Most of the communities in the Nation today are in the emergency program. They have not gone into the regular program yet, and if we terminate the emergency program we are going to terminate it with respect to many communities that would never have gotten into the regular program.

Mr. ICHORD. Further reserving the right to object, Mr. Speaker, it is my understanding that the sanctions are scheduled to go into effect on January 1, 1976.

Is that not correct?

Mr. BROWN of Michigan. That is in part correct but the date doesn't necessarily apply to all comments.

Mr. ICHORD. Then why should not this body gives the Senate the opportunity to consider the removal of those sanctions that will go into effect on January 1, 1976, before we quit and go home this session?

I know that the gentleman's committee has under consideration several pieces of legislation that would repeal or relax the sanctions that are scheduled to go into effect on January 1.

Mr. BROWN of Michigan. Let me explain to the gentleman. First of all, the emergency program has a provision with respect to existing dwellings where one can dispose of them, et cetera, without complying, that the sanctions do not apply to existing dwellings, et cetera.

Second, we are talking about the emergency program which does not get into the issue raised by the Senate bill or the House bill with regard to general application of sanctions. That is still pending. We can still act on that. But the passing of the emergency bill does not hinder in any way Congress from acting on pieces of legislation that are pending dealing with the issues of sanctions. We are not jeopardizing that. As a practical matter, as a very practical political matter, what has happened is that there are those in the other body, with whom I am sure the gentleman is familiar, who have wanted to hold up the extension of the emergency program, not because the extension of the emergency program would in any way jeopardize their rights, but really to hold the emergency program as hostage for treatment of the sanctions under the regular program. I do not think that is a good way to legislate.

Mr. BARRETT. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. Barrett.)

Mr. BARRETT. I thank the gentleman for yielding.

Mr. Speaker, I want to point out to the gentleman that this program will terminate the 31st of this month. In the gentleman's own State there will be 7,231 flood insurance policies affected, totaling some $125,490,000 in dollar coverage. The number of communities affected in the gentleman's own State, and probably a good number of them in the gentleman's district, will be 317. If we let this die on the 31st of December, then the gentleman's State has nothing.

Mr. Speaker, we are now looking at, as I pointed out in my statement, 11,500 participants that will be hurt if we do not extend this program. The gentleman will be depriving all of these communities throughout the country of flood insurance coverage. I tried hard to satisfy the gentleman's State for the last several days, and particularly yesterday we did everything we could to satisfy them. I am mentioning the gentleman's State. We even got an agreement that we could probably extend this emergency flood insurance program for 90 days. The gentleman witnessed here that the minority will not accept it. In order to protect these 11,500 communities participating, we are going back to the 12-month extension, to December 1, 1976, and we must do that. We cannot, according to the rules of the House, say we will do this later, because when suspensions terminate today, there will be no further opportunity to consider this matter.

I am hoping the gentlemen on the minority side will vote very quickly, in the essence of time here. We ought to vote on it today.

Mr. ICHORD. Mr. Speaker, further reserving the right to object, as the gentleman well knows, the State of Missouri is not the only State faced with difficulty.

Mr. BARRETT. If the gentleman will yield, I pointed out that there are 11,500 communities all over the country.

Mr. ICHORD. When does the gentleman from Pennsylvania (Mr. Barrett) plan to hear the various bills and take action on the same in regard to a relaxation of sanctions or repeal of sanctions?

Mr. BARRETT. We will consider, as soon as late January, on the various flood insurance amendments contained in H.R. 9852. That may occur in late January, but we must in order to protect this legislation vote this out today.

Mr. ICHORD. Then the gentleman does intend to hold hearings on the amendment and have the committee consider that legislation at the earliest possible time when we convene next year?

Mr. BARRETT. We will probably hold hearings when necessary, and we will go to conference on H.R. 9852 and then come over here and get the bill passed.

Mr. ICHORD. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. BARRETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 848) to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes.

The Clerk read as follows:

S. 848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(b)(1) of the National Housing Act is amended by striking out "$10,000 ($15,000" and inserting in lieu thereof "$12,500 ($20,000".

Sec. 2. Notwithstanding the provisions of section 103(a) (2) and (3) and section 104 of the Housing Act of 1949 or of any other law (1) the maximum project capital grant for Project No. Mass. R–107 may exceed two-thirds of the net project costs of said project, and any such excess shall not be considered in determining the project capital grant for any other project in the same municipality and (2) the maximum amount of local grants-in-aid required in connection with Project No. Mass. R–107, under the Contract No. Mass. R–107 (LG) or amendatory contracts for capital grant for said project, shall be one-half of the maximum project capital grant for said project authorized under section 7(d) of said contract, dated December 28, 1965, prior to any amendatory contract, and any local grants-in-aid provided in connection with said project in excess of such maximum amount or any local grants-in-aid provided in connection with any other project in the same municipality shall not decrease the amount of the project capital grant for said project under said contract and amendatory contracts: *Provided,* That any local grants-in-aid provided in connection with said project in excess of such maximum amount shall not be considered in determining the local grants-in-aid required for any other project in the same municipality.

Sec. 3. The National Housing Act is amended by striking out the words "by not to exceed 45 per centum in any geographical area" where they appear in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) and inserting in lieu thereof in each such section the words "by not to exceed 75 per centum in any geographical area".

Sec. 4. (a) The seventh sentence of section 221(f) of the National Housing Act is amended by striking out ", but not more than 10 per centum of the dwelling units in any such project shall be available for occupancy by such persons".

(b) The proviso to subparagraph (C) of section 236(j)(5) of such Act is amended by striking out ", but not more than 10 per centum of the dwelling units in any such project shall be available for occupancy by such persons".

Sec. 5. Section 1336(a) of the National Flood Insurance Act of 1968, as amended, is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1976".

The **SPEAKER.** Is a second demanded?

Mr. BROWN of Michigan. Mr. Speaker, I demand a second.

The **SPEAKER.** Without objection, a second will be considered as ordered.

There was no objection.

Mr. HUGHES. Mr. Chairman, I rise in support of S. 848, the Housing Act amendments. One of the most critical provisions of this legislation is the extension of the emergency implementation provision of the national flood insurance program for 1 year until December 31, 1976. This will insure the continued availability of federally subsidized flood insurance to those communities who have not as of yet filed an approved flood plain plan.

This extension means that persons in those towns that are not currently participating in the national flood insurance program will be able to finance a home mortgage. Without this extension, such a mortgage would be almost impossible to get, as federally insured banks would not be allowed to make, increase, extend, or renew such a loan.

The continued availability of this insurance is essential to the growth and prosperity of the flood-prone areas of the Second District. In my native South Jersey, scores of communities are in low-lying areas and are particularly vulnerable to tidal flooding. I can remember the terrible losses that were suffered during the storm and widespread flooding that struck along the Jersey shore in March of 1962. If this insurance had been available at that time, there still would have been tremendous losses, but some of the financial tragedy would have been avoided.

In short, the availability of flood insurance is crucial to the security of the individual homeowner. The extension of this emergency implementation program will give those communities who have not done so the necessary time to participate in the flood insurance program. In the meantime, individuals will be able to purchase or sell a home in these areas.

Mr. MILLER of Ohio. Mr. Speaker, I am concerned with the manner in which this bill, S. 848, flood insurance temporary extension, has been brought to the floor.

Because of the great controversy which has developed over the mandatory provisions and sanctions imposed by the current law, it is unfortunate that under the suspension procedure the House is being denied the opportunity for full and free debate of the adverse impact the program has had on hundreds of communities throughout the country. There are certain amendments which I feel are necessary to clarify and improve the purpose and coverage of the law. We should be able to offer these amendments today and give them the consideration they deserve.

The 1973 Flood Disaster Protection Act tells local officials that any town unwilling to accept the flood-prone designations and flood-level standards of HUD will be cutting itself off from a wide range of Federal assistance in such designated areas.

In introducing corrective legislation in both the 93d and 94th Congresses, I called the 1973 act unfair and described implementation procedures as a "heavy handed way to deal with a very complex problem."

My bill (H.R. 3676) would amend the Flood Insurance Act of 1968 to continue the present, voluntary, federally subsidized flood insurance program in any locality where construction of an adequate flood protection system has begun, and to eliminate the compulsory features added to that program by the Flood Disaster Protection Act of 1973. Nearly 100 Members of the House of Representatives have either sponsored or cosponsored similar legislation, which is a clear indication that reconsideration of the act is in order.

Businessmen, government officials, and homeowners of southeastern Ohio have pointed to several shortcomings worth noting. The flood hazard boundary maps, for example, have oftentimes been found to be outdated and inaccurate. The maps, which in some cases were 5 or 6 years old, did not reflect the impact of planned major flood control projects. In other cases, the flood-prone boundaries included areas which had not experienced flooding for many decades. Some of the examples of the maps shortcomings lead us to believe that detailed research and precise scientific evaluations of affected areas were not conducted prior to the issuance of the maps.

Challenges to the maps should not be necessary. Had local communities affected by the compulsory features of the act been given the opportunity to work with HUD in determining local flood-prone areas and flooding frequency rates, much of the current resentment and opposition to the implementation of the program might have been avoided. Instead, the act was implemented in a manner which leaves no room for compromise between those enforcing the program and those forced to live with it.

The current law imposes serious penalties on property owners in many communities who do not have the power to determine whether that community will enter or will not enter the flood insurance program. Banks and lending institutions will have their freedom to make loans restrained. This, in turn, adversely affects the housing construction industry and the employment picture. The act depresses property values. In addition, it steadily wears down the local, the State, and the Federal tax base in affected communities. Projects planned with Federal aid will, most likely, be scrapped.

Mr. BARRETT. Mr. Speaker, I have no requests for time. If the gentleman from Michigan (Mr. BROWN) wants to speak, I will yield to him.

Mr. BROWN of Michigan. Mr. Speaker, I think in the course of colloquy on the prior suggested action of the House we have discussed the matter in great depth, and that should be sufficient.

Mr. Speaker, I have no requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. BARRETT) that the House suspend the rules and pass the Senate bill S. 848.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BARRETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

Mr. MEEDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6644) to provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes as amended.

The Clerk read as follows:

H.R. 6644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to review those applications submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established by the Secretary pursuant to the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the "Settlement Act"), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: *Provided,* That Natives enrolled under this Act shall be issued stock under the Settlement Act together with a pro rata share of all future distributions under the Settlement Act which shall commence beginning with the next regularly scheduled distribution after the enactment of this Act: *Provided further*, That land entitlement of any Native village, Native group, Village Corporation, or Regional Corporation, all as defined in such Act, shall not be affected by any enrollment pursuant to this Act, and that no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native village", as defined in such Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: *Provided further*, That no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a "Native group", as defined in such Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: *And provided further*, That any "Native group", as defined in such Act, shall not lose its status as a Native group because of any enrollment pursuant to this Act.

(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not recognized as village corporations under section 11 of Alaska Native Claims Settlement Act and which are included within the boundaries of former reserves who elected to receive surface and subsurface entitlement pursuant to subsection 19(b) of the Settlement Act. The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(b) or remain enrolled to the Regional Corporation in which the village or group is located on an at-large basis: *Provided,* That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12(b) or 14(h)(8) of the Settlement Act.

(c) In those instances where, on the roll prepared under section 5 of the Settlement Act, there were enrolled as resident of a place on April 1, 1970, the minimum number of Natives required for a Native village or Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under the Act on grounds which include a lack of sufficient number of residents, the Secretary shall, in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act: *Provided,* That each Native whose place of residence on Apirl 1, 1970, is changed by reason of this subsection shall be issued stock in the Native corporation or corporations in which such redetermination entitles him to membership and all stock issued to such Native by any Native Corporation in which he is no longer eligible for membership shall be deemed canceled: *Provided further,* That no redistribution of funds made by any Native corporation on the basis of prior places of residence shall be affected: *Provided further,* That land entitlements of any Native village, Native group, Village Corporation, Regional Corporation, or corporations organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any determination of residence made pursuant to this subsection, and no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native group" as defined in said Act, shall become eligible for land or other benefits as a Native group because of any redetermination of residence pursuant to this subsection: *Provided further,* That any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act made by the Secretary or his delegate prior to any redetermination of residency shall not be affected by the provisions of this subsection. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such reexamination as shall any Native Corporation which it appears may gain or lose stockholders by reason of such redetermination of residence.

SEC. 2. (a) From and after the date of enactment of this Act, or January 1, 1976, whichever occurs first, any and all proceeds derived from contracts, leases, permits, rights-of-way, or easements, issued pursuant to section 14(g) of the Settlement Act, pertaining to land or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting corporation or individual entitled to receive benefits under such Act. As such withdrawn or formerly reserved lands are conveyed, the Secretary shall pay from such account the proceeds which derive from contracts, leases, permits, rights-of-way, or easements, pertaining to lands or resources of such lands, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act together with interest. The proceeds derived from contracts, leases, permits, rights-of-way, or easements, pertaining to lands withdrawn or reserved, but not selected or elected pursuant to such Act, shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefit such lands were withdrawn or reserved, be deposited in the Treasury of the United States or paid as would have been required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States the escrow account proceeds referred to in subsection (a) of this section, and the United States shall pay interest thereon semiannually from the date of deposit, such deposit to bear simple interest at a rate determined by the Secretary of the Treasury: *Provided*, That the Secretary in his discretion may withdraw such proceeds from the United States Treasury and reinvest such proceeds in the manner provided by the first section of the Act of June 24, 1938 (25 U.S.C. 162a): *Provided further*, That this section shall not be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

(c) Any and all proceeds from public easements reserved pursuant to subsection 17(b)(3) of the Settlement Act, from or after the date of enactment of this Act, shall be paid to the grantee of such conveyance in accordance with such grantee's appropriate share.

(d) To the extent that there is a conflict between the provisions of this section and any other Federal laws applicable to Alaska, the provisions of this section will govern. Any payment made to any corporation or any individual under authority of this section shall not be subject to any prior obligation under section 9(d) or 9(f) of the Settlement Act.

Sec. 3. The Settlement Act is amended by adding at the end thereof the following new section:

"Sec. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.".

Sec. 4. The Settlement Act is further amended by adding at the end thereof the following new section:

"Sec. 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act shall be disregarded.".

Sec. 5. For purposes of the first section of the Act of February 12, 1929 (45 Stat. 1164), as amended, and the first section of the Act of June 24, 1938 (52 Stat. 1037), the Alaska Native Fund shall, pending distributions under section 6(c) of the Settlement Act, be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes: *Provided*, That nothing in this section shall be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

Sec. 6. The Settlement Act is further amended by adding a new section 30 to read as follows:

"Sec. 30. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders which participated in said mergers or consoldiations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: *Provided*, That, where a Village Corporation organized pursuant to section 19(b) of this Act merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 6(c), 7(m), 12(b), 14(h)(8), and 7(i) of this Act.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidations, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14 (f) to withhold consent to mineral exploration development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.".

Sec. 7. Section 17(a)(10) of the Settlement Act is amended to read as follows:

"(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim, comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.".

Sec. 8. (a) Notwithstanding the October 6, 1975 Order of the United States District Court for the District of Columbia in the case of Alaska Native Association of Oregon et al. v. Rogers C. B. Morton et al., Civil Action No. 2133–73, and Alaska Federation of Natives, International, Inc., et al. v. Rogers C. B. Morton, et al., Civil Action No. 2141–73 (— F. Supp. —), changes in enrollment of Alaska Natives which are necessitated or permitted by such Order shall in no way affect land selection entitlements of any Alaska Regional or Village Corporation nor any Native village or group eligibility.

(b) Stock previously issued by any of the twelve Alaska Native Regional Corporations or by Alaska Native Village Corporations to any Native who is enrolled in the thirteenth region pursuant to said order shall, upon said enrollment, be canceled by the issuing corporation without liability to it or the Native whose stock is so canceled: *Provided*, That, in the event that a Native enrolled in the thirteenth region pursuant to said order shall elect to reenroll in the appropriate Alaska Regional Corporation pursuant to the sixth ordering paragraph of that order, stock of such Native may be canceled by the Thirteenth Regional Corporation and stock may be issued to such Native by the appropriate Alaska Regional Corporation without liability to either corporation or to the Native.

(c) In the event section 5(a) of the Settlement Act is amended to reopen the Alaska Native Roll for additional enrollment, any Native enrolling under such authority who is determined not to be a permanent resident of the State of Alaska under criteria established pursuant to such Act shall, at the time of enrollment elect whether to be enrolled in the thirteenth region or in the region determined pursuant to the provisions of section 5(b) of the Settlement Act and such election shall apply to all dependent members of such Native's household who are less than eighteen years of age on the date of such election.

(d) No change in the final roll of Alaska Natives established by the Secretary pursuant to section 5 of the Settlement Act resulting from any regulation promulgated by the Secretary of the Interior providing for the disenrollment of Alaska Natives shall affect land entitlements of any regional or village corporation or any Native village or group eligibility.

Sec. 9. Section 16 of the Settlement Act is amended by inserting at the end thereof a new subsection (d) to read as follows:

"(d) The lands enclosing and surrounding the village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the village of Klukwan shall select an area equal to twenty-three thousand forty acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h)(8) of this Act: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the Village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957 (71 Stat. 597) after the date of enactment of this Act and prior to the date of enactment of this subsection.".

Sec. 10. Section 16(b) of the Settlement Act is amended by adding at the end thereof the following: "Such allocation as the Regional Corporation for the southeastern Alaska region shall receive under section 14 (h)(8) shall be selected and conveyed from lands not selected by such Village Corporations that were withdrawn by subsection (a) of this section, except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas.".

Sec. 11. Section 7(a) of the Settlement Act is amended by changing the period at the end thereof to a colon and adding the following: "*Provided*, That the boundary between the southeastern and Chugach regions shall be the 141st meridian: *Provided further*, That, with respect to any lands conveyed to it in the vicinity of Icy Bay, the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the village of Yakutat the same rights and privileges to use such lands for purposes traditional thereon, including, but not limited to, subsistence hunting, fishing, and gathering, as it accords to its own shareholders, and shall take no unreasonable or arbitrary action relative to such lands for the primary purpose, and having the effect, of impairing or curtailing such rights and privileges.".

Sec. 12. Cook Inlet Settlement. (a) The purpose of this section is to provide for the settlement of certain claims, and in so doing to consolidate ownership among the United States, the Cook Inlet Region, Incorporated ("Region" hereinafter), and the State of Alaska, within the Cook Inlet area of Alaska in order to facilitate land management and to create land ownership patterns which encourage settlement and development in appropriate areas. The provisions of this section shall take effect at such time as all of the following have taken place:

(1) The State of Alaska has conveyed or irrevocably obligated itself to convey lands to the United States for exchange, hereby authorized, with the Region in accordance with the document referred to in subsection (b);

(2) The Region and all plaintiffs/appellants have withdrawn from Cook Inlet v. Kleppe, No. 75–2232, 9th Circuit, and such proceedings have been dismissed with prejudice; and

(3) All Native village selections under section 12 of the Alaska Native Claims Settlement Act of the lands within Lake Clark, Lake Kontrashibuna, and Mulchatna River deficiency withdrawals have been irrevocably withdrawn and waived.

The conveyances described in paragraph (1) of this subsection shall not be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339).

(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, convenants, reservations, and other restrictions set forth in the document entitled "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area," which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, the terms of which are hereby ratified as to the duties and obligations of the United States set forth therein:

(1) Approximately 10,240 acres of land within the Kenai National Moose Range; except that there shall be no conveyance of the bed of Lake Tustamena, or the mineral estate in the water-front zone described in the document referred to in this subsection:

(2) Title to oil and gas and coal in not to exceed 9.5 townships within the Kenai National Moose Range;

(3) Federal interests in townships 10 South, Range 9 West, F.M., and township 20, North, Range 9 East, S.M.;

(4) Township 1 South, Range 21 West, S.M.: secs. 3–10, 15–22, 29 and 30; and rights to metalliferous minerals in the following sections in township 1 North, Range 21 West, S.M.: secs. 13, 14, 15, 22, 23, 24, 25, 26 27, 28, 32, 33, 34, 35, 36;

(5) Twenty-nine and sixty-six hundredths townships of land outside the boundaries of Cook Inlet Region; unless pursuant to the document referred to in this subsection a greater or lesser entitlement shall exist in which case the Secretary shall convey such entitlement;

(6) Lands selected by the Region from a pool which shall be established by the Secretary and the Administrator of General Services: *Provided*, That conveyances pursuant to this paragraph shall not be subject to the provisions of section 22(1) of the Alaska Native Claims Settlement Act: *Provided further*, That conveyances pursuant to this paragraph shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in paragraph (5) of this subsection and on the basis of values determined by agreement among the parties, notwithstanding any other provision of law. Effective upon their conveyance, the lands referred to in paragraph (1) of this subsection are excluded from the Kenai National Moose Range, but they shall automatically become part of the Range and subject to the laws and regulations applicable thereto upon title thereafter vesting in the United States. The Secretary is authorized to acquire lands formerly within the Range with the concurrence of the owner. Section 22(e) of the Alaska Native Claims Settlement Act, concerning refuge replacement, shall apply with respect to lands conveyed pursuant to paragraphs (1) and (2) of this subsection, except that the Secretary may designate for replacement land twice the amount of any land without restriction to a native corporation.

No lands outside the exterior boundaries of Cook Inlet Region shall be conveyed to Cook Inlet Region, Inc., unless, in the following circumstances, the consent of other Native Corporations is obtained:

i. Where the township to be nominated is located within an area withdrawn as of December 15, 1975, pursuant to Section 11 (a)(1) CIRI shall obtain the consent of the Region and Village Corporation affected.

ii. Where the township to be nominated is located within an area withdrawn pursuant to Section 11(a)(3) as of December 15, 1975, CIRI shall obtain the consent of the Region in which the township is located.

There shall be established a buffer zone outside the withdrawals described in subparagraphs i and ii which zone shall extend one township from any such Section 11(a)(3) withdrawal and one and one-half townships from any Section 11(a)(1). Any nomination of a township within such zone shall be subject to the consent of the Region, or of the Village Corporation if adjacent to a Section 11(a)(1) withdrawal, *Provided, however*, That the affected Regional Corporation may designate additional lands to be included by substitution in the buffer zone so long as the buffer zone location is no greater than two townships in width and the total acreage of the buffer zone is not enlarged. The affected Region shall designate the enlarged buffer zone, if any, no later than six months following the passage of this act. Any use or development by Cook Inlet Region, Inc., of land conveyed under this paragraph shall give due protection to the existing subsistence uses of such lands by the residents of the area; and no easement across Village Corporation lands to lands conveyed under this paragraph shall be established without the consent of the said Village Corporation or Corporations.

(c) The lands and interests conveyed to the Region under the foregoing subsections of this section and the lands provided by the State exchange under subsection (a)(1) of this section, shall be considered and treated as conveyances under the Alaska Native Claims Settlement Act unless otherwise provided, and shall constitute the Region's full entitlement under sections 12(c) and 14(h) (8) of the Alaska Native Claims Settlement Act. Of such lands, 3.5 townships of subsurface in the Kenai National Moose Range shall constitute the full surface and subsurface entitlement of the Region under section 14(h)(8). The lands which would comprise the difference in acreage between the lands actually conveyed under and referred to in the foregoing subsections of this section, and any final determination of what the Region's acreage rights under sections 12(c) and 14(h)(8) of the Alaska Native Claims Settlement Act would have been, if the conveyances set forth in this section to the Region had not been executed, shall be retained by the United States and shall not be available for conveyance to any regional corporation or village corporation, notwithstanding any provisions of the Alaska Native Claims Settlement Act to the contrary.

(d)(1) The Secretary shall convey to the State of Alaska, all right, title and interest of the United States in and to all of the following lands:

(i) At least 22.8 townships and no more than 27.0 townships of land from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settlement Act in the Lake Iliamna area and within the Nushagak River or Koksetna River drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to the document referred to in subsection (b); and

(ii) Twenty-six townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in the document referred to in subsection (b). All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided, however*, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled unde section 6(b) of the Alaska Statehood Act.

(2) The Secretary is authorized and directed to convey to the State of Alaska, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in the document referred to in subsection (b) except for one compact unit of land which he determines, after consultation with the State of Alaska, is actually needed by the Bureau of Land Management for its present operations: *Provided*, That in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in accordance with the generalized land use plan outlined in the Greater Anchorage Area Borough's Far North Bicentennial Park Master Development Plan of September 1974: *Provided*, That if the land is not used for the above purposes it shall revert to the United States. Except as provided otherwise in this paragraph, in making the conveyance authorized and required by this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act: *Provided, however*, That the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

(3) The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described in the document referred to in subsection (b).

(e) The Secretary may, notwithstanding any other provision of law to the contrary, convey title to lands and interests in lands selected by Native corporations within the exterior boundaries of Power Site Classification 443, February 13, 1958, to such corporations, subject to the reservations required by section 24 of the Federal Power Act.

(f) All conveyances of lands made or to be made by the State of Alaska in satisfaction of the terms and conditions of the document referred to in subsection (b) of this section shall pass all of the State's right, title, and interest in such lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Alaska Native Claims Settlement Act, except that dedicated or platted section line easements and highway and other rights-of-way may be reserved to the State.

(g) The Secretary through the National Park Services, shall provide financial assistance, not to exceed $25,000, hereby authorized to be appropriated, and technical assistance to the Region for the purpose of developing and implementing a land-use plan for the West side of Cook Inlet, including an analysis of alternative uses of such lands.

(h) Village corporations within the Cook Inlet Region shall have until December 18, 1976, to file selections under section 12(b) of the Alaska Native Claims Settlement Act, notwithstanding any provision of that act to the contrary.

(i) The Secretary shall report to the Congress by April 15, 1976, on the implementation of this section. If the State fails to agree to engage in a transfer with the Federal Government, pursuant to subsection (a)(1), the Secretary shall prior to December 18, 1976, make no conveyance of the lands that were to be conveyed to the Region in this section, nor shall he convey prior to such date the Point Campbell, Point Woronzof and Campbell tracts, so that the Congress is not precluded from fashioning an appropriate remedy. In the event that the State fails to agree as aforesaid, all rights of the Region that may have been extinguished by this section shall be restored.

Sec. 13. Section 21 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), is hereby amended by adding the following subsection at the end thereof:

"(f) Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 7, including the right to receive distributions under subsection 7(j), and stock of any Village Corporation organized pursuant to section 8 shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.".

Sec. 14. (a) The Secretary shall pay, by grant, $250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act.

(b) The Secretary shall pay, by grant, $100,000 to each of the following Village Corporations:

(1) Arctic Village;
(2) Elim;
(3) Gambell;
(4) Savoonga;
(5) Tetlin; and
(6) Venetie.

(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act.

(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of $1,600,000 in fiscal year 1976.

Sec. 15(a). The Secretary shall convey under sections 12(a)(1) and 14(f) of the Settlement Act to Koniag, Incorporated, a Regional Corporation established pursuant to section 7 of said Act, such of the subsurface estate, other than title to or the right to remove gravel and common varieties of minerals and materials, as is selected by said corporation from lands withdrawn by Public Land Order 5397 for identification for selection by it located in the following described area:

T 36 S, R 52 W
T 37 S. R 51 W
T 37 S. R 52 W
T 37 S, R 53 W, sec. 1–4, 9–12, 13–16, 21–24, north ½ of 25–28
T 38 S, R 51 W, sec. 1–5, 9, 10, 12, 13, 18, 24, 25
T 38 S, R 52 W, Sec. 1–35
T 38 S, R 53 W, sec. 1, 12, 13, 24, 25, 36
T 39 S, R 51 W, Sec. 6, 7, 16–21, 28–33
T 39 S, R 52 W, sec. 1, 2, 11, 12, 13–16, 21–24
T 39 S. R 53 W, sec. 26, 33–36
T 40 S, R 53 W, all except sec. 20, 29–33.
T 40 S, R 43 W, all except sec. 35 and 36.
T 41 S, R 52 W, sec. 4, 8–15.
T 41 S, R 54 W, sec. 3.
T 41 S, R 53 W, sec. 1, 2, 11, 12, 13.

Notwithstanding the withdrawal of such lands by Public Land Order 5179 as amended, pursuant to section 17(d)(2) of the Settlement Act: *Provided*, That notwithstanding the future designation by Congress as part of the National Park System or other national land system referred to in section 17(d)(2)(A) of the Settlement Act of the surface estate overlying any subsurface estate conveyed as provided in this section, and with or without such designation, Koniag, Incorporated, shall have such use of the surface estate including such right of access thereto, as is reasonably necessary to the exploration for and the removal of oil and gas from said subsurface estate, subject to such regulations by the Secretary as are necessary to protect the ecology from permanent harm.

The United States shall make available to Koniag, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights of way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 et seq., and the regulations implementing that statute which are then in effect.

(b) The subsurface estate in all lands other than those described in subsection (a) within the Koniag Region and withdrawn under section 17(d)(2)(e) of the Settlement Act, shall not be available for selection by Koniag Region, Incorporated.

Sec. 16. Within ninety (90) days after the date of enactment of this Act, the corporation created by the enrolled residents of the Village of Tatitlek may file selections upon any of the following described lands: Copper River Meridian

Township	*Range*	*Section*
9.S	3.E	23, 26, 31–35
10.S	3.E	2–27, 34–36
11.S	4.E	5, 6, 8, 9, 16, 17, 20–22, 27–29, 33–35
9.S	3.E	3–6, 9–11
9.S	3.E	14–16, 21, 22, 27, 28

The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 12(a) or 12(b) of the Alaska Native Claims Settlement Act (85 Stat. 688) and were withdrawn pursuant to section 11 of that Act.

The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations. This section shall not be construed to increase the entitlement of the corporation of the enrolled residents of Tatitlek or to increase the amount of land that may be selected from the national forests system. The subsurface of any land selected pursuant to this section shall be conveyed to the Regional Corporation for the Chugach Region pursuant to section 14(f) of the Alaska Native Claims Settlement Act.

Sec. 17. Section 22(f) of the Alaska Native Claims Settlement Act is amended to provide as follows:

(f) the Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including Native selection rights, with the Group Corporations, Village Corporations, Regional Corporations, the Native Corporations for the cities of Juneau, Sitka, Kodiak, and Kenai, other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency for the purpose of effecting land consolidations or to facilitate the management or development of the land, or for other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: *Provided*, That when the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

Sec. 18. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

The SPEAKER. Is a second demanded?

Mr. DINGELL. Mr. Speaker, I demand a second.

The SPEAKER. Does any Member from the minority side demand a second?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second, but I am in favor of the bill.

Mr. DINGELL. Mr. Speaker, I am opposed to the bill.

The SPEAKER. The gentleman qualifies.

Mr. DINGELL. Mr. Speaker, I will say to my good friend, the gentleman from Alaska (Mr. YOUNG), that I will yield him such time as he might need on the bill.

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 6644, as introduced by the gentleman from Alaska (Mr. YOUNG), is to amend and supplement in certain respects the Alaska Native Claims Settlement Act of 1971 in order to resolve some inequities, some inadequacies, some oversights, and some administrative problems that have arisen since the passage of this legislation.

First, the bill would reopen the Alaska Native roll for a 1-year period of time from the passage of the act in order to enroll those Natives who failed to meet the March 30, 1973, enrollment deadline. It is estimated by the Department that there are between 1,000 and 2,000 persons who would qualify if they had the opportunity to enroll.

Second, the Secretary would be required to redetermine the place of residence of Natives who had enrolled in Native villages or groups, which Native villages or groups were later held to be ineligible as such.

Thus, these people are, in effect, without villages and without a place which they can repair to to exercise their rights under the Alaskan Native Claims Settlement Act.

Third, the Secretary is directed to establish an escrow account into which he could deposit funds earned on land withdrawn for Native selection pending issuance of patents thereon.

Next, the Native corporations would be exempt from the provisions of the Securities Act of 1933, the Securities and Exchange Act of 1934, and the Investment Company Act of 1940 until December 31, 1991.

What has happened here is that these regional corporations will be largely taking money and investing it prior to the vesting of their land rights, which will not happen, in many instances, until 1991. Therefore, they should not, at least until that time, be treated under the Securities and Exchange Acts as investment companies; and this would exclude them from that act.

Next, clarification is made that payments and grants to Natives under the act are not to be deemed as a substitute for any governmental programs that the Natives would otherwise receive or be eligible for as citizens of the United States, and that benefits received by the Natives under the act are not to be counted as income or other resources for the purposes of the food stamp program. The latter provision merely carries out the dictates of a ninth circuit court opinion just handed down recently.

Money in the Alaskan Native Fund, pending distribution, would, under the provisions of this act, be treated as trust funds for Indian tribes for investment and interest purposes.

Next, mergers of Native village corporations, which are now too small to be economically viable, with other Native village corporations or with the regional corporation in which those Native village corporations are located would be permitted under certain conditions.

The next section extends the life of the Joint Federal-State Land Use Planning Commission for a period of 3 years. This is necessary because most of the decisions which that Commission will make are yet to be made.

Next, the decision on the village of Klukwan to retain their formal reservation under section 19(b) of the act rather than share the benefits as provided otherwise in the act resulted in a severe inequity when it was discovered that the village of Klukwan really was subject to some prior existing rights which took precedence over the act. Therefore, this is necessary to give them some land.

The Regional Corp. of southeastern Alaska—Sealaska, Inc.—is given authority to select its share of the land entitlement under section 14(h)(8), which is to be divided by all of the regional corporations. It is given authority to select its entitlement from lands withdrawn for villages within southeast Alaska, but not actually selected by such villages. This really constitutes selections in the Tongass National Forest.

The severe land selection problem encountered by the Cook Inlet Native Region is in securing its land entitlement under this Act, which is resolved by providing for certain conveyance of land to the Regional Corporation from the United States and the State of Alaska. This is a very intricate arrangement and agreement which has been made by all parties, the Department of the Interior acting through Parks and BIA.

The State of Alaska is to be commended on its very forward and progressive policy with regard to this, as well as the Cook Inlet Regional Association and the other regional associations in Alaska.

The value and shares of stock in native corporations and the right to receive dividends therefor are excluded by this legislation from being included in the gross estate of a native shareholder for Internal Revenue Code purposes.

This is in keeping with all other Indian settlements of claims and will be treated as a settlement of a claim.

Grants of $250,000 each are authorized for the Native Corporations of Juneau, Sitka, Kodiak, and Kenai, and $100,000 each for the villages of Arctic, Elim, Gambell, Savoonga, Tetlin, and Venetia for planning and development purposes.

These corporations were, by the act, excluded from monetary benefits to villages and, to use their land base, it is necessary that they have some developmental funds.

Finally, the Koniag Native regional corporation is conveyed title to approximately 186,000 acres of subsurface estate in lands which lands are proposed for inclusion in the Aniakchak Caldera National Monument.

Mr. Speaker, and Members of the House, this is a very complex and complicated piece of legislation, which deals in a great number of areas, to settle and I hope correct some of the inequities which have been discovered in the Alaska Native Claims Settlement Act of 1971. It is my hope that the House will pass this legislation because it is very badly needed in Alaska by the natives and Alaskan areas.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I would like to commend the gentleman from Washington, the chairman of our subcommittee, on working more than 2 years with this piece of legislation, even in the last session. There has been a good deal of work involved and a great deal of time and a great amount of effort spent in the hearings, listening to negotiations regarding this legislation. I think the gentleman from Washington probably understands better than any other Member the problems that are faced through the Alaska Native Claims Settlement Act. The gentleman was one of the original sponsors of the act some 4 or 5 years ago, and worked with the legislation until it passed the House.

As I say, the gentleman has great understanding of the tremendous difficulties that have been faced in the Alaska Native Claims Settlement Act. I further understand that the gentleman only wants to do that which is right for the Natives of Alaska and for the State of Alaska.

Mr. MEEDS. Mr. Speaker, I thank the gentleman from Alaska for his kind remarks and also I wish to thank the gentleman for his help for the promulgation in the subcommittee of this act and I know and respect his intense interest in and his work for the welfare of the residents of his State.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, the Committee on Merchant Marine and Fisheries has asked for a sequential referral of H.R. 6644 since it involves lands within the Kenai National Moose Range, an area over which the Committee on Merchant Marine and Fisheries has jurisdiction. The letter from Chairman SULLIVAN, dated December 12, 1975, setting forth in more detail the reasons for requesting the sequential referral, will be included in the RECORD at the conclusion of my statement.

Mr. Speaker, since writing that letter it has been brought to our attention that there may be attempts to offer amendments to the bill at some point as it goes through the legislative process that would have grave impact upon Alaska units of the National Wildlife Refuge System. Should these amendments become a part of this legislation, they would result in the following objections so far as the Merchant Marine and Fisheries Committee is concerned.

First. They would establish a privileged group of natives whose eligibility to select land would be based on far less criteria than any other native organization. These would be group corporations that had filed for eligibility, but which had been found ineligible as village corporations.

Second. They would allow nonresident native groups to be eligible to select substantial tracts of land in any area they may choose even though they may have no immediate history of past use or need related to those areas. In certain cases, these lands could be removed from areas within the National Wildlife Refuge System.

Third. They would encourage a proliferation of the concept of native groups to the point that other native entities might receive less lands than now contemplated under the act. This proliferation, in all likelihood, would lead to further selection of refuge lands which was not intended under the act when it became public law.

Fourth. They would have the effect of removing the flexibility vested in the Secretary in particular as this discretion relates to the use of refuge land claims by native groups. In other words, the Secretary would have to use refuge lands in the satisfaction of these claims if they were the nearest available lands to the locale whereas under the act, as it presently exists, the Secretary has an option of not allowing the use of these lands in satisfying such claims whenever the public interest requires him not to do so.

Mr. Speaker, because of this additional information that has been brought to our attention and with a view toward allowing H.R. 6644 to go forward as reported by the Committee on Interior and Insular Affairs since it appears to be meritorious, Chairman SULLIVAN and I, on behalf of the Committee on Merchant Marine and Fisheries, have agreed to withdraw the request of the committee for a sequential referral of H.R. 6644.

I have some concern that affects committee jurisdiction—I hope the gentleman will agree with me that the units of the National Wildlife Refuge System come under the jurisdiction of the Committee on Merchant Marine and Fisheries and that the Committee on Interior and Insular Affairs receives no jurisdiction over any of these areas as a result of this legislation.

I hope the gentleman will agree with me that any amendments that may be offered to this legislation that may have an impact on any units within the National Wildlife Refuge System or that may impact on the subject matter of H.R. 6089, a bill that has been jointly referred to the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs, which presents the administration's recommendations as to how the 80 million acres in Federal ownership in the State of Alaska should be divided among the National Wildlife Refuge, the National Park, the National Forest, and the National Wild and Scenic River Systems, will not be accepted by the gentleman of the Committee on Interior and Insular Affairs.

I hope the gentleman will agree with me that any amendments offered to this bill along the nature I have just enumerated would not appear to be germane and should be the subject matter of separate legislation which would be jointly or sequentially referred, as the case may be, to the two committees for consideration.

The letter follows:

DECEMBER 12, 1975.

Hon. CARL ALBERT,
Speaker of the House,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: It has been brought to my attention that the Interior and Insular Affairs Committee has ordered reported H.R. 6644, with amendments, a bill having to do with an agreement to divide certain lands in the State of Alaska pursuant to the Alaska Native Claims Settlement Act.

It is my understanding that in perfecting the agreement called for by the legislation, approximately 10,000 acres of lands within the Kenai National Moose Range, a unit of the National Wildlife Refuge System, will be conveyed by the Secretary of the Interior in fee title to the Cook Inlet Region, Inc. In addition, the legislation would allow the Cook Inlet Region, Inc., to select oil and gas rights on certain lands within the range up to approximately 200,000 acres.

As you are aware, pursuant to the Rules of the House, the Committee on Merchant Marine and Fisheries has jurisdiction over national wildlife refuges and all units of the National Wildlife Refuge System. A portion of the legislation, as ordered reported, therefore, would involve lands over which my Committee on Merchant Marine and Fisheries has jurisdiction.

It is my further understanding that certain portions of H.R. 6644 would have an impact on the 80 million acres owned by the Federal Government which is the subject of legislation jointly referred to the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs in the form of H.R. 6089, which provides for the division of the lands among the National Wildlife Refuge System, the National Forest System, the National Park System, and the National Wild and Scenic River System.

In view of the foregoing, I would like to request that H.R. 6644 be sequentially referred to the Committee on Merchant Marine and Fisheries for consideration of the matters contained therein that are subject to, or will affect, the jurisdiction of my Committee.

LEONOR K. (Mrs. John B.) SULLIVAN,
Chairman.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DINGELL. Mr. Speaker, I yield 3 additional minutes to the gentleman from California.

Mr. LEGGETT. I would like to ask the Chairman of the subcommittee: Does he agree with the concept as specified in the Rules of the House that the jurisdiction over units of the National Wildlife Refuge System lies in the Committee on Merchant Marine and Fisheries?

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

Let me answer the gentleman by saying that it is not the intent of this committee to in any way change the jurisdiction as it is decided by the House of Representatives by this amendment which we have before us today. The authority for those portions of the amendments dealing with Native claims on refuges comes clearly from the Alaskan Native Claims Act of 1971, Secton 12(a)(1), in which it sets out that there is a right of withdrawal and Native selection in National Wildlife Refuges under certain circumstances. It is not our intent to try to enlarge that jurisdiction in any way or to try to diminish the gentleman's jurisdiction, which we recognize, but only to assert jurisdiction given by the 1971 Act.

Mr. LEGGETT. I am sure the gentleman recognizes that it is possible that amendments might be made that would have the effect of enlarging that Acts jurisdiction.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

I am troubled. I get the impression that the gentleman from Washington is differing with the Rules of the House which set out quite clearly that the Committee on Merchant Marine and Fisheries has jurisdiction over the question of the boundaries and the management and the administration of the Refuge System. If I am in error, I would appreciate his correcting me, because I have trouble on this point.

Mr. MEEDS. Mr. Speaker, will the gentleman yield so that I may respond?

Mr. LEGGETT. I yield to the gentleman from Washington.

Mr. MEEDS. The gentleman is seldom in error but if he is saying that the Subcommittee on Indian Affairs and the Committee on Interior and Insular Affairs do not have exclusive jurisdiction for the purpose of settling the Alaskan Native land claims, then I have to disagree with him.

Mr. DINGELL. Then I suggest the gentleman had better disagree with me because the hard fact is the rules of the House are very clear as to which committee has jurisdiction over the refuges. If the gentleman has a quarrel with the rules of the House I think he can proceed on that separately, but I think this legislation speaks for itself.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. DINGELL. I yield the gentleman from California 4 additional minutes.

Mr. LEGGETT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I think that given the set of circumstances we have, the questions relating to sequential and joint referral of matters are fairly well known. Is the gentleman intending to proceed on boundaries and settlement of refugees without reference to this committee in the future?

Mr. MEEDS. If the gentleman will yield, I have privately apologized and I now apologize to the gentleman for not having contacted him and indicating to the chairman of the Subcommittee on Fisheries and Wildlife the progress of this legislation. I would certainly not do that in the future, but that is not going to the question of jurisdiction. This would be a courtesy which I think I should extend.

Mr. DINGELL. I am, of course, grateful for all courtesies extended to me, but I am much more prickly with regard to protection of the rights of the subcommittee and the question of protection of the boundaries of the refuges.

I am curious. Can the gentleman answer some other questions. I observe here that the bill extends the time for filing of Native land claims for a period of an additional year. Can the gentleman tell us what that means? How many more Natives will file on what areas and what kind of action will that involve?

Mr. MEEDS. The bill does not extend time for Native land claims. It extends the time for enrollment of natives under the Alaskan Native land claims for 1 year.

There are also prohibitions against that additional enrollment creating any additional rights for the Natives. The land selection will not be enlarged by the addition to the rolls.

Mr. DINGELL. Will that make possible additional villages having rights under the Claims Act?

Mr. MEEDS. It in no way changes the rights that already exist. If there was no right to establishment of villages the addition of these people by enrollment will not change those rights a bit.

Mr. DINGELL. I appreciate the gentleman advising me on that. That is a matter of great comfort.

Mr. LEGGETT. I would like to ask this additional question of the gentleman. We are concerned that the refuges of the country might be bartered away in settlement of the Native land claims. Obviously, there are some restrictions in the Native land claims bill. Obviously, the gentleman is aware of the fact that we have had jointly referred to our two committees H.R. 6089, which will divide among four separate federal systems some 80 million acres of Alaska lands and we have some general targets of how we want to apportion that land. I would hope the gentleman would not exercise the largesse of his subcommittee so greatly that this bill might become moot. We do intend to apportion under H.R. 6089 the 80 million acres of land and we hope that land would be there when it comes time to apportion it, so while we are dealing here in this bill with some 10,000 acres of the Kenai Range and some mineral rights on other portions of that range, I would hope we would not have this legislation effervesce into all aspects of the Alaskan problem.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I am delighted to give the gentleman some comfort and let the gentleman know that 80 million acres has already been withdrawn.

The gentleman is speaking of the Kenai National Moose Range?

Mr. LEGGETT. The Kenai National Moose Range has been withdrawn; but the gentleman is being fast and loose with the Kenai settlement. What we are concerned with is that the gentleman will use the withdrawn acreage as a future settlement and I would like the gentleman's assurance that will not occur.

Mr. MEEDS. The U.S. Fish and Wildlife Service supports the agreement involving the Kenai National Moose Range. That is contained in this legislation.

Mr. LEGGETT. I understand that.

Mr. MEEDS. They worked very closely on it. I commend them for their efforts to solve a very difficult and thorny problem. Indeed, I think it will be better for them having solved it this way. It will stave off a larger Cook Inlet claim in the future.

Mr. LEGGETT. Can I have some assurance that the position of the gentleman with respect to using this legislation as a Christmas tree for further refuge and potential refuge gifts to the Natives of Alaska will not occur without the necessity of appearing in our Fish and Wildlife Committee?

Mr. MEEDS. In view of the time of the year, Christmas and all, I am inclined to say that I would not be a Santa Claus in any event to something to which I did not think the Natives were entitled.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I would like to commend again the chairman of the subcommittee and those Members that are asking questions, as I serve on both committees. Members can be assured, as I serve on both committees, that there is no damage done or invasion of the rights of either committee. This legislation is legislation that has been in the works for approximately 2 years. It has been thoroughly studied by the Department. There is no complete agreement within the Department of the Interior, but the majority of the Department of the Interior does support the concept of this bill.

The one part that does give the gentleman from Michigan problems was clearly scrutinized by the parks and refuge liaison people and the Secretary of that Department and they have reached agreement with the State and the corporations and the Interior Department and actually the boroughs, because they were all involved.

This Congress passed a very complex piece of legislation, a piece of legislation that many people thought would not work because there was a short time in which to work with the native people of Alaska, but they have done so. There is an attempt in this legislation to make sure that the intent of Congress is followed through. I can give many examples, as the chairman did, but I will not repeat them; but I will say that if this legislation is not passed, the fulfillment of the act itself will never be fulfilled. The exchange of land by the State to the Interior Department and the corporations, especially the Kenai National Moose Range, is a workable method by which we can make sure of the wise and sound development in the State of Alaska and the Federal involvement in Alaska takes place.

I can again say that it has been a pleasure to work with all those people representing the State of Alaska and the Members of this committtee. I can only say I hope that this body in its wisdom passes this very important piece of legislation, so those people who are truly the first Americans on this continent, the Alaskan Natives of Alaska, can enjoy what this Congress said was theirs.

Mr. Speaker, this bill H.R. 6644 contains a package of amendments to Alaska Native Claims Settlement Act of 1971. As my distinguished colleague and chairman of the Subcommittee on Indian Affairs, the gentleman from Washington (Mr. MEEDS) has indicated, the purpose of that settlement was to settle the just claims of Alaska Natives to lands in Alaska. In short, the settlement confirmed Native title to 40 million acres of land and provided $962.5 million as compensation for the extinguishment of all other Native land claims. Half of the money is being appropriated by Congress over an 11-year period, and the remainder is to come from revenues accruing to the United States and the State of Alaska from mineral leases on public lands in the State.

The act provided for the establishment of a roll of all Natives eligible to participate in the settlement; for the selection of land by the Natives, and for the creation of a system of regional and village Native corporations to manage the lands and to administer the funds for the benefit of their Native shareholders.

Not surprisingly, implementation of this major legislation, which deals with a broad range of problems and conflicting interests, has resulted in conflicts and controversies over the meaning and intent of various provisions. The Department of the Interior in particular has often interpreted provisions of the law to the detriment of the Natives for whom the act was intended to benefit. This has frequently led to litigation on which the Natives have had to spend much of their claims compensation.

The essential purpose of H.R. 6644 is to eliminate certain troublesome ambiguities in the Settlement Act and to provide for the resolution of various problems which have arisen in its implementation. I would like to emphasize that this legislation is strongly supported by Alaska Natives, whose representatives have worked long and hard in shaping its provisions.

Section 1 of the bill seeks to insure that Natives in three different situations will not be denied benefits they are entitled to because of administrative obstacles.

LATE ENROLLMENTS

First, it provides for the roll of Alaska Natives to be reopened for 1 year to enroll those Natives who failed to meet the March 30, 1973, enrollment deadline. More than 800 Natives who filed after the deadline had their applications summarily denied and others did not file at all after learning it was too late. While the deadline may have been a necessary administrative tool, it should not be allowed to prevent otherwise eligible Natives from sharing in the settlement. This provision assures such Natives of one final opportunity to participate in the act's benefits.

GROUPS ON RESERVE LANDS

Second, this section provides that Natives enrolled to groups living on former reserve lands will not be denied benefits under the act. When, for example, the village corporations of Gambell and Savoonga on St. Lawrence Island elected to retain their former reserve lands, they thereby pre-empted all available lands on the island. This left some 30 Natives enrolled to groups on the island without land to select and thus excluded them from benefits under the act. This provision gives those Natives and any others similarly situated the option to enroll either in a reserve corporation or to become at-large regional stockholders.

REDETERMINATION OF RESIDENCE

The third provision in this section concerns a situation in which certain Natives are being treated as both residents and nonresidents of the same place and, as a result, are denied rights to membership in Native corporations which qualify for benefits under the act. In addition to receiving rights to benefits as individuals, Natives have rights to membership in village corporations. This valuable right is determined by a Native's place of residence as shown on the official roll. To be eligible for benefits as a village, a place had to have at least 25 eligible Natives enrolled to it who resided there as of April 1, 1970. Some places, originally found eligible as villages, were later determined ineligible.

Consequently, unless their places of residence are changed on the roll, some being carried on the roll as residents of Natives will suffer from the anomaly of places of which they are not residents for the purpose of membership in a Native corporation. This section directs the Secretary of the Interior to redetermine the places of residence of such Natives. In some cases this will result in no change; however, redeterminations of residence may also result in the placing of some of these Natives in villages or groups the corporations of which receive benefits under the Settlement Act.

ESCROW ACCOUNT

Section 2 of H.R. 6644 authorizes the Secretary of the Interior to establish an interest-bearing escrow account for the proceeds from contracts, leases permits, rights-of-way, or easements on Federal lands withdrawn for Native selection pursuant to ANCSA. Funds are to be paid to the person or entity receiving title to the lands at the time of conveyance. This is a housekeeping measure made necessary by bureaucratic delays between selection of land and conveyance of title. Without this authority, the funds generated on Federal lands must be deposited in the U.S. Treasury until title passes, despite the fact that such lands may have been selected by a Native corporation. The corporations are thus denied a significant asset which they would be entitled to receive but for the existence of problems beyond their control—delays in conveying the selected land and lack of authority to protect Native proceeds in the interim.

EASEMENTS

Another housecleaning provision of this section relates to public easements reserved in any conveyance pursuant to section 17(b)(3) of the Settlement Act. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation would have been made in the conveyance, this section insures that proceeds derived from these section 17(b)(3) reserved easements at any time after conveyance has been issued will be paid to the grantee of such conveyance in accordance with the grantee's proportionate share. The Department of the Interior believes it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation without the certainty provided by this section.

SECURITIES ACT EXEMPTION

Section 3 of the bill exempts all Settlement Act corporations from the Securities Acts of 1933, 1934, and 1940 through December 31, 1991. These acts are basically designed to inform shareholders, the SEC and the investing public as to the securities and actions of publicly traded companies. For this purpose they require extensive registration and reporting; however, Native corporations which have attempted to comply with these requirements have found it to be a costly process which results in highly technical data incomprehensible to the average Native stockholders and thus of little benefit for the cost. Natives' stock in their corporations is inalienable until January 1991. The corporations are subject to the securities acts and corporate laws of the State of Alaska which require filing of annual reports similar to those required by the Federal securities acts.

In addition, the corporations must file annual audits with the Secretary of the Interior. This section is therefore intended to relieve the Native corporations of the costly and unnecessarily burdensome requirements of these Federal securities acts until such time the stock becomes alienable and the companies no longer are protected under the provisions of the Settlement Act.

FOOD STAMPS

Section 4 of the bill exempts benefits received by any member of a Native household under the Settlement Act from being used in a determination of that individual's eligibility to participate in the food stamp program. This section thus legislatively reinforces a 1975 ninth circuit court of appeals decision in the case of Hamilton against Butz, which prohibited the Secretary of Agriculture from considering funds paid to Natives under the Settlement Act as "resources" available to Native households in determining eligibility for the food stamp program.

In March, 1974, the State of Alaska concluded that under section 2(c) of the Settlement Act, which provided that "no provision of this act shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or Alaska "payments to Natives were to be disregarded in considering income for food stamps. Also in March of 1974, the Department of Health, Education, and Welfare concluded that such payments were to be disregarded in determining eligibility for the aid to families with dependent children and supplemental security income programs.

However, the Agriculture Department, interpreting the same language, concluded that such payments should be considered as income for purposes of the food stamp program, primarily because the act did not specifically require such payments to be disregarded for the food stamp program. This section affirms the Natives' right not to have funds paid to them in settlement of an aboriginal claim or diminish their right as citizens to receive benefits under governmental programs.

ALASKA NATIVE FUND

The fifth section of H.R. 6644 provides for the payment of interest on the Alaska Native Fund pending quarterly distributions. For this purpose only the fund is to be considered as a trust fund held by the United States for the benefit of Indian tribes.

Since 1929, under Federal law, all Indian trust fund accounts containing more than $500 earned interest at a rate of 4 percent per annum, and since 1938 the Secretary of the Interior has been permitted to withdraw such funds from the Treasury for alternative investment. Under an October 1972 ruling by the Comptroller General, these laws applied to the Alaska Native Fund until the final role of Alaska Natives was completed on December 31, 1973.

However, at that time the Comptroller ruled that the fund would no longer bear interest or be eligible for investment by the Secretary. The effect of this ruling is that funds appropriated under the Settlement Act may remain idle for up to 3 months without payment of any interest to the Natives. The United States in effect can use these funds as an interest-free loan during that period to offset other obligations. The quarterly distribution schedule, which was set up to avoid administrative inconvenience, was not intended to permit the United States to use the Natives' fund during the interim. These funds are, in substance, the property of the Natives from the date of enactment of the appropriations bill.

Under the provisions of this section, the Alaska Native Fund would be restored to the status it held under the Comptroller General's ruling of October 1972, and his ruling of December 28, 1973, would be reversed.

MERGER AUTHORITY

Section 6 amends the Settlement Act to provide authority for mergers or consolidations among Native corporations within the same region. This authority is required because ANCSA prohibits for 20 years the sale or other alienation of corporation stock except under limited circumstances which do not include alienation for the purpose of merger or consolidation.

Many of the more than 200 village corporations lack the financial wherewithal and trained manpower they need to become economically viable entities. They currently receive distributions from the appropriate regional corporation and will derive money from the development of their surface estates. However, since many village corporations have relatively few shareholders, their monetary allocations from the region may be quite small.

Moreover, if they do not have lands with recreational, timber, or other surface potential they will derive little income from this ownership. In addition, many village corporations in the remote areas of Alaska do not now possess a trained leadership group, and it is unlikely that they will be able to develop one or to hire needed personnel in the foreseeable future.

For these reasons, it is likely that many village corporations will fail if merger authority is not provided. This would frustrate the purposes of the Settlement Act, by denying Natives the opportunity to participate in its benefits and by possibly leading to Native corporations losing the use and control of their land. A lack of sufficient cashflow to a failing corporation might require the hasty and undesired development of those natural resources which a corporation does possess, and such development could seriously jeopardize Native culture.

LAND USE COMMISSION

Section 7 of H.R. 6644 extends the life of the Joint Federal-State Land Use Planning Commission for Alaska until June 30, 1979. The Commission, created pursuant to section 17 of ANCSA, was established to provide Congress, the State of Alaska and the Native people with independent information and advice concerning a wide variety of land use issues involved in the implementation of the Settlement Act.

The Commission is currently scheduled to go out of business in December 1976. However, State, Federal, and Native officials are unanimous in their support for extending the life of the Commission past that date so that it may continue its invaluable work. That work has included extensive socioeconomic, management, and land use studies and recommendations. Well after its current expiration date the Commission could be expected to be continuing its work regarding proposals for the four national land use systems provided in section 17(d)(2) of ANCSA. Congress has until December 1978 to take final legislative action on these proposals, and it is only logical that the Commission's expertise be available through that time. Also, the State of Alaska, which will be selecting some 30 million acres of land under the Statehood Act, has asked the Commission to make recommendations respecting the use and classification of the State public domain.

Clearly there is a continuing need for the type of work which the Commission is uniquely qualified to perform. It is a model of intergovernmental coordination and cooperation which should be retained for at least the additional 2½ years which this amendment provides.

13TH REGION

Section 8 of H.R. 6644 includes technical amendments which facilitate the implementation of an October 1975 U.S. district court order which provided for the creation of a 13th regional corporation for nonresident Alaska Natives. These amendments provide: First, that changes in enrollment resulting from establishment of the 13th region will not affect regional or village land entitlements; second, that stock may be cancelled and reissued pursuant to the court's order without liability to any affected corporation or the individual whose stock is so affected, and, third, that in the event the Alaska Native roll is reopened pursuant to section one of this bill, a nonresident Alaska Native must elect whether to enroll in the 13th region or to the appropriation Alaska regional corporation.

A further amendment in this section provides that any disenrollment of Natives under recent Department regulations will not affect regional or village land entitlements under ANCSA. This latter provision bars any possibility that a village or region having the minimum number of shareholders for its existing entitlement could lose an entire township if only one of their shareholders were successfully challenged and disenrolled.

KLUKWAN

Section 9 amends section 16 of ANCSA to allow the shareholders of the village of Klukwan, Inc., to participate in the act's benefits, including selection of land, as if they had not elected to acquire title to their former reserve.

Klukwan's shareholders elected to acquire title to the surface and subsurface estate of its former reserve under section 19(b) of the act. The major element of value of the reserve is a mineral lease negotiated by Chilkat Indian Village, Inc. At the time Klukwan voted to take title to the reserve, it was assumed that the interest in the lease would pass to Klukwan, Inc. when the reserve was formally extinguished. This later turned out not to be the case, and the benefits of the lease remain limited to the members of Chilkat, Inc.

Though all of Chilkat's members belong to Klukwan, the reverse is not true, which means that under current circumstances, approximately 150 members of Klukwan who do not belong to Chilkat cannot benefit from either the lease or the Settlement Act. This provision remedies their predicament by providing for Klukwan to select its acreage entitlement from lands originally withdrawn for its selection, and to allow the shareholders to participate fully in the Settlement Act's benefits to the extent they would have had had they not elected to acquire title to their former reserve in the first place.

SEALASKA LAND SELECTION

Section 10 of H.R. 6644 amends section 16(b) of ANCSA to provide for selection of Sealaska Regional corporation of its section 14(h)(8) land entitlement from lands withdrawn for village selections under section 16 but not selected by the villages. Sealaska is specifically barred from selecting lands on Admiralty Island and cannot select from certain environmentally critical areas in the Saxman and Yakutat withdrawal areas without the consent of the Governor of Alaska.

This section embodies a compromise negotiated and supported by Sealaska, the State of Alaska, Native villages in the region and various environmental groups. It was necessitated by the fact that nearly all the land in southeast Alaska is either within a national monument or national forest. Most of the remaining area, from within which Sealaska would otherwise have had to make its only land selections, are in remote areas of the region and of little, if any, economic value. Since a key factor in the corporations long term survival as a profit-making enterprise is the successful management of its land resources, it was imperative that Sealaska be able to select lands with economic potential.

Under the terms of this section, the corporation will be able to select such lands in areas generally contiguous to existing village selections, thus providing for large and more efficient Native land management units. The State's interests in lands on Admiralty Island which it may select for park and recreational areas are protected. The concern of the State, Natives on Admiralty Island and environmental groups regarding potential commercial development are similarly protected by the ban on selections by Sealaska on the island.

SEALASKA CHUGACH BOUNDARY

Section 11 settles a boundary dispute between Sealaska and Chugach regions by amending section 7(a) of ANCSA to fix their mutual boundary at the 141st meridian. It further provides that Natives enrolled to the village of Yakutat in the Sealaska region shall be accorded rights and privileges of traditional uses of the lands in the vicinity of Icy Bay in the Chugach region, such uses including, but not limited to, subsistence hunting, fishing, and gathering. These provisions are supported by both regions as a fair and equitable solution to their dispute.

COOK INLET SELECTIONS

Section 12 provides for a resolution of the complex land selection problems of Cook Inlet Region, Inc., whose boundaries encompass the city of Anchorage and extensive Federal and State landholdings. After lengthy negotiations, the State, the Interior Department, Cook Inlet, and adjoining regions recently concluded an agreement providing for Cook Inlet's land selections. The terms of the agreement, set forth in a 25-page document incorporated by reference into this bill, call for the United States to convey interests in certain lands in and around the region to the State and to the region, and for the State to convey to the Federal Government certain State lands for reconveyance to Cook Inlet Region.

In addition, the region will be able to select a portion of its lands from within the five adjoining regions, subject to their consent. Under this arrangement, Cook Inlet will receive some lands with economic development potential, and some of its coastal villages which had to select deficiency lands in far-off mountains will instead receive former State lands contiguous to their boundaries.

If the Alaska State Legislature ratifies this agreement, as it must do for it to take effect, then the State will acquire title to valuable lands in and around Anchorage. These will include the Campbell tract, also known as Campbell airstrip which will be conveyed subject only to the condition that it be used for public parks and recreational purposes. This is especially valuable land, since it is located near where more than one-half of the State's population resides. In addition to the Campbell tract, lands within the Point Woronzof, Point Campbell, and Goose Lake tracts will be reserved by the United States for early conveyance to the State. The Federal Government, on the other hand, will acquire lands considered critical to the proposed Lake Clark National Park.

This agreement is a milestone in that it provides for the resolution of one of the most difficult and complex problems involved in the implementation of the Settlement Act. I wish to congratulate and commend the negotiators for the many hours of arduous work which went into producing this agreement. As I indicated earlier, the Alaska State Legislature must approve the terms of this agreement for it to take effect. I am hopeful that the members of the legislature will view this agreement, which carefully balances so many interests, as a fair and honorable settlement, and I urge my former colleagues in the legislature to give it prompt consideration and approval.

ESTATE TAXATION

Section 13 of this bill adds a new subsection to section 21 of ANCSA to provide that the stock of any regional or village corporation organized under the act shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code until January 1, 1992. Section 21 provides that shares of Native stock are not subject to any form of Federal, State, or local taxation. This additional language specifically prevents the Internal Revenue Service from including the value of Native stock, which may be incalculable until 1991, in a decedent's estate for tax purposes. As such, this section is intended to preclude unnecessary litigation of the issue.

STARTUP PAYMENTS

Section 14 provides startup payments to 10 Native corporations which received land benefits but no funds under the Settlement Act. Corporations for Natives in the urban centers of Kenai, Kodiak, Juneau, and Sitka have only a single potential asset—23,040 acres they each will receive under section 14(h)(3) of ANCSA to be put to income-producing use. Although members of these corporations are stockholders in their respective regional corporations, the four corporations are not themselves recipients of funds under the act.

They are, however, incurring expenses in organizing and operating themselves, making land selections, and engaging in appropriate and necessary planning. Understandably, they are reluctant to borrow on the security of future land uses, and financial institutions are equally reluctant to advance funds on any other basis. In addition, meeting the terms of financial institutions automatically places the corporations in a situation in which the need is felt to make immediate use of land to satisfy creditors, thereby precluding the consideration of all development alternatives. This section provides for a one-time payment of $250,000 to each of these four named corporations, to be used only for planning, development, and other purposes for which corporations are organized under the act.

Under section 19 of ANCSA, Native reserves in Alaska established prior to the enactment of the act were revoked, with the exception of the Annette Island Reserve. Members of village corporations formed in the area of each reserve were given the opportunity to hold an election to decide whether they wished to acquire title to the surface and subsurface estate of the former reserve or to acquire benefits normally accorded to a village corporation established under the act. Seven villages chose to retain their reserve status and as such are not eligible to select other land under the act or receive distributions of regional corporation funds, and the members thereof are not stockholders in their respective regional corporations.

Thus, like the four urban corporations, the reserve corporations have only one asset—their land which, unlike the four urban corporations, is already selected. Under these circumstances, the reserve corporations' need for startup funds to plan their land is less than that of the named corporations which must both select and plan their land. Therefore, a smaller one-time payment of $100,000 is authorized to each of the reserve corporations other than Klukwan, Inc.; namely, Arctic Village, Elim, Gambell, Savoonga, Tetlin, and Venetie.

KONIAG LAND SELECTION

Section 15 of H.R. 6644 deals with the land selection problems of the regional corporation for Koniag region. Most of the land area within this region is within the Chugach National Forest or the Kodiak National Wildlife Refuge. Consequently, the region has a subsurface in lieu land entitlement of more than 300,000 acres. However, the only nearby available land lies more than 50 miles away across Shelikof Strait, on the Alaska Peninsula. The Interior Department recognized Koniag's deficiency problem in its environmental impact statement on the proposed Anaikchak Caldera National Monument on the peninsula, and provided for dual withdrawals within the area. Section 15 directs the Secretary of the Interior to convey to Koniag regional corporation the subsurface estate to approximately 186,000 acres of land within the proposed monument. Interior, the State of Alaska, the Joint Federal-State Land Use Planning Commission and the Alaska Federation of Natives all support this proposal. The findings to the resource staff of the Commission indicate that acquisition by Koniag of the subsurface estate would not significantly affect the values which the monument proposal is designed to protect, and that the area selected creates no substantial conflicts with other land uses or ownership in the area.

Although there are few if any worthwhile hard rock minerals in the lands to be conveyed, development in these lands is restricted to oil and gas. Surface access to the land will of course be subject to appropriate regulations promulgated by the Secretary of the Interior.

TATITLEK

Section 16 of this bill prevents the village of Tatitlek from losing part of its land entitlement as a result of a misunderstanding with the Interior Department. Tatitlek relied on a consultant's erroneous advice and what it thought was the approval of the Department and selected two townships of its five township entitlement in a regional D–2 withdrawal area.

Subsequently, these selections were disapproved. Because the village had assumed that its selection would have departmental approval, it did not overselect to provide alternate lands for selection in case its selections were not approved. Consequently, through no fault of its own, Tatitlek faced a 40,000 acre underselection. This completely noncontroversial section provides that Tatitlek can select the remainder of its entitlement, about 40,000 acres, from within the village deficiency area originally withdrawn for its selection.

The last selection of H.R. 6644 is a technical amendment which provides the Federal, State, and regional parties to the Cook Inlet agreement in section 12 of this bill with appropriate authority to complete the land transaction specified in that agreement.

Mr. SEBELIUS. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Speaker, the Alaska Native Claims Settlement Act, enacted in December 1971, contains provisions for the identification of up to 80 million acres of public land in Alaska, which area should be considered for eventual protection by and incorporation into the existing "four systems"—that is for national parks, national wildlife refuges, national forests, and national wild and scenic rivers. These proposals, developed by the administration, are now before the Congress for its consideration.

The proposals are the product of considerable negotiation, and the resolution of final boundaries as may eventually be enacted by the Congress, could be a rather detailed and complex process.

Mr. Speaker, the bill before us, H.R. 6644, has several provisions which are quite relevant to land selections as they may affect the boundaries of the proposed "four systems" areas. As ranking member of the Subcommittee on National Parks and Recreation, I want to register a concern at this time that there well may be provisions in this bill which will preempt future flexible decision-making as to logical boundaries for the new national park and other areas, and I think this might be a serious mistake to handle the Alaska land disposition in a disjointed manner.

For example, section 15 of this bill permits a substantial amount of acreage within the proposed new Aniakchak Caldera National Monument to be subjected to withdrawal for the purpose of exploration and removal of subsurface oil and gas, along with necessary contingent surface access. We are hereby now authorizing the exploration and removal of commodities within a possible future unit of the National Park System. This practice is grossly contrary to protections conventionally afforded our national parks and monuments, and as a matter of fact, I am sure that all Members have become aware of the current high public arousal over the fact that prospecting and mining is now legally underway in Death Valley, Calif., and several other of our national park areas. Legislation is now under active consideration in both the House and the Senate regarding the curtailment of these mining activities in several existing national park system units.

Again, Mr. Speaker, I am a bit uneasy that we are, in this bill, possibly preempting some major decisions which we will have to make later, and our full flexibility may thereby be somewhat jeopardized.

Mr. MEEDS. Mr. Speaker, I have no further requests for time.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I think the substance of the agreement is excellent. I do not protest the substance of the legislation. I cannot vote for it, for several reasons. I want my good friend, the gentleman from Washington, to understand my concern, first that throughout the history of the Alaska Natives claims there has been a great generosity with the refuge lands and much of this over the objection of the chairman of the subcommittee dealing with refuges on the Committee for Merchant Marine and Fisheries, which has clear jurisdiction over those questions.

There has been a great inadequacy of consultation on this particular matter, and as my good friend from Washington has graciously pointed out, there has been a failure to properly consult in connection with this particular matter. My purpose in securing the second was not for the purpose of castigating the gentleman, because he is an honorable, able, and properly respected Member of this body. Quite frankly, my purpose was to let him know that we on the Committee on Merchant Marine and Fisheries have been, over the long period of time I have been on that committee, seeking ways to protect and enhance the usefulness and purpose for which the refuge system was constituted, and quite frankly we are honestly troubled about the effect this legislation will have on those areas.

It is my hope, in consideration of matters of this kind in the future, that the Committee on Interior and Insular Affairs and the distinguished and able gentleman from Washington, for whom I have great respect and affection, will become aware of the fact that there are concerns on this matter in other committees, and that there are concerns with regard to the protection of the refuge system which go well beyond the question of satisfying native claims and deficiencies.

The fact is that refuges have already been set aside, set aside for very valid and good reasons, for the protection of wildlife habitat and the overall spectrum of refuge values, and it is not the purpose of the Congress in the series of statutes relating to this that these values should be lightly dissipated. As I indicated, the content of the statement appears to be a sound one, and the gentleman has dissipated some of my concerns with regard to the extension of the time of filing.

I do note that this bill is brought rather hurriedly before the House. I inquired for a copy of the bill. I received a copy, but I did not receive the copy that has the language of the amendments included in it, but I was very kindly presented with a copy of that by members of the staff. That appears to me to be a rather hasty consideration of a matter of considerable concern. It would be my hope that in handling matters of this kind, there would be time in the future for appropriate consultation and notification of other committees which have jurisdiction.

I notice there are in the bill amendments to the Holding Company Act and to the Food Stamp Act. Those are things which should properly be considered elsewhere in the interests of having a fair and proper exposition of the questions which might arise.

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Speaker, I would like to commend the gentleman from Michigan for alerting the House to this very important conflict of jurisdiction between two committees. I would like to ask the gentleman this question:

Admittedly, apparently by all parties, our committee—to-wit, the Committee on Merchant Marine and Fisheries—has jurisdiction over refuges. Admittedly, the Interior Committee has jurisdiction over Alaskan Natives and other kinds of interior matters. Does the gentleman understand that the mere fact of the enactment of the Alaskan Native claims bill, which would provide for the settlement of various Native claims, does not per se authorize its use in the settlement of such claims as they relate to refuges, forests, petroleum reserves, and that further legislation implementing the settlement could take place irrespective of the rules of the House?

Mr. DINGELL. The answer to that question is that the rules of the House were not amended by the Alaskan Native claims legislation. I was present, as was the gentleman from California and as was the gentleman from Washington. I think any of the three of us will agree, but I will yield to the gentleman from Washington if he wants to differ with me on that point. But, the gentleman from Washington is an able, respected and decent Member of this body and very much concerned about the matters under the jurisdiction of his committee. He has done a good job in looking after the affairs of Indians and resolving some of their problems. I do want the gentleman to know that there are problems other than those, and hope he will keep those matters in mind.

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise in support of H.R. 6644, as amended by the Committee on Interior and Insular Affairs.

Certain provisions of this legislation will affect the proposals which have been made for the future establishment of new units of the National Park System in the State of Alaska.

At the time of the committee consideration of this measure, I offered an amendment which would have restricted the mineral rights selected by the Koniag Regional Corp. within the proposal for the Aniakchak Caldera National Monument to the extraction of oil and gas. I want to commend the gentleman from Washington for agreeing to this amendment, which should serve to minimize the impact of making a selection of these lands for mineral purposes. Although I am concerned that the opportunity for the Congress to consider these lands not be compromised, I support H.R. 6644 as amended, and I agree with the chairman of the subcommittee that there is a need to make the determinations for the regional corporations without delay.

Mr. Speaker, I yield back the balance of my time.

Mr. STEIGER of Arizona. Mr. Speaker, I am very pleased that the committee was able to complete its work on the amendments to the Alaska Native Land Claims Settlement Act for floor action today. However, I am disappointed that the committee took no action on an amendment reaffirming our original intent in section 4 of the Claims Act to extinguish all claims based upon aboriginal title, including trespass claims which are the subject of the law suit in Edwardsen against Morton.

I appreciate that the committee report indicates that the subcommittee intends to continue to follow this matter and will move for a legislative solution if the issue is not expeditiously resolved in the courts in Alaska. I was a member of the committee when the Native Land Claims Settlement Act was originally passed, and I feel very strongly that it was precisely the type of litigation in Edwardsen against Morton and in the more recent case in Alaska involving over 120 defendants that we were trying to avoid in passing the Settlement Act.

I am pleased that the administration recently came out in support of such an amendment, and I would be willing to help move on this very quickly if the issue cannot be otherwise resolved expeditiously.

Mr. SEIBERLING. Mr. Speaker, I am prepared to support this bill, but I must record my serious misgivings over section 15, which would grant to a regional corporation up to 220,000 acres of subsurface estate within the boundaries of the administration—proposed 447,000 acre Aniakchak Caldera National Monument. As a cosponsor of H.R. 9540, a bill that would authorize creation of this national monument, I think it is premature for the Congress to vote on this provision of the Native claims amendments until after the Committee on Interior and Insular Affairs has had a chance to consider the Aniakchak Caldera National Monument bill.

An intense controversy is now raging over mining being allowed by law in six units of the national park system. If we grant subsurface rights within the proposed monument boundaries and then later establish the national monument, we could be creating another situation where we have allowed activities in a national park that are incompatible and destructive of the values that the park was created to preserve.

The full Interior Committee considered this question, and as a reasonable compromise limited the subsurface rights to only oil and gas. I can accept section 15, indeed the bill, if this limitation is retained. If the other body removes this limitation, then I would strongly urge the House conferees to refuse to accept such a change. Otherwise I would feel constrained to oppose the conference report.

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 6644. This bill amends and supplements the Alaska Native Claims Settlement Act of 1971. As my colleagues have described, that act extinguished all Native land claims to Alaska in exchange for approximately $1 billion and 40 million acres of land. The bill before us clarifies some ambiguities in the original act and resolves certain legal and administrative problems which have arisen in its implementation.

The Alaska Natives, the Department of Interior, Alaska's State officials and congressional delegation have all worked hard to produce the various provisions of this legislation. The Indian Affairs Subcommittee took testimony on the bill in 2 days of hearings. Last week the full Interior Committee reported the bill without a dissenting vote.

I wish to commend the gentleman from Alaska (Mr. YOUNG) and the chairman of the subcommittee (Mr. MEEDS), for their cooperative efforts in producing this legislation. It is of great importance to them and to the citizens of the State of Alaska, and I urge the House to pass it without delay.

Mr. YOUNG of Alaska. Mr. Speaker, many of my constituents have written me with regard to the Edwardsen against Morton case which is presently before the courts in Alaska. They expressed concern that the Alaskan Native Claims Settlement Act has been seriously misinterpreted by Judge Gasch's ruling here in Washington. Although Judge Gasch's ruling is not a final judgment and has not been reviewed by any appellate court, his interpretation would establish a precedent which would leave Alaskan Natives free to litigate any claims for presettlement Act activities on aboriginal claimed lands. This, of course, was the very purpose for extinguishing all claims based on aboriginal title in exchange for 40 million acres and a billion dollars.

Mr. Speaker, it was the intent of the Settlement Act to extinguish all claims based on aboriginal title, including trespass claims. Now we have a situation in Alaska where the Edwardsen case has led to further litigation. On October 7, 1975, the United States, pursuant to a stipulation in Edwardsen and acting as a trustee for the Arctic Slope natives, filed United States against Atlantic Richfield Co. This new suit, which is before the Federal District Court in Alaska, claims that the State of Alaska and some 120 private parties had committed trespass upon Eskimo Native lands by making entries on the Arctic Slope. In light of Congress intent in passing the Settlement Act that litigation such as this be avoided, I am concerned that this case might lead to further litigation which will divide the concerned interests and make uncertain the future of development in Alaska.

Senator STEVENS, who was prominent in the passage of the Settlement Act, pointed out to the Subcommittee on Indian Affairs that congressional intent in the enactment of the broad extinguishment provision in section 4 of the Settlement Act was misread in Edwardsen and urged the adoption of a corrective amendment immediately.

However, we have not legislated to clarify the original intent of this act at this time, because we are hopeful that the Alaska Federal District Court will expeditiously dismiss the Arco case on the basis that the Settlement Act extinguished trespass claims based on aboriginal title. Further clarifying legislation would then not be necessary.

Our decision not to go to legislation at this time should not be construed as approval of the Edwardsen court ruling. On the contrary, we oppose the ruling and reserve the right to legislate at a later date.

I would also like to note that the administration supports my views. President Ford, who was minority leader in Congress at the time the Alaskan Native Claims Settlement Act was enacted, has recently indicated that it was his opinion section 4 of the settlement extinguished all claims based on aboriginal title including trespass claims. Accordingly, he would support a legislative effort to clarify the original intent.

I have commented on Edwardsen today because I feel it is important that Alaskans know how I feel concerning this matter and what legislative options are open to us should this matter not be quickly resolved in the courts.

Mr. MEEDS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Washington (Mr. MEEDS) that the House suspend the rules and pass the bill H.R. 6644, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1469) to authorize the Secretary of the Interior to enroll certain Alaska Natives for benefits under the Alaska Native Claims Settlement Act, to resolve certain issues arising from the implementation of such Act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is directed to review those applications previously submitted or hereafter submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established pursuant to the Alaska Native Claims Settlement Act, 85 Stat. 688 (hereinafter referred to as the "Settlement Act"), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met.

(b) In those instances where, on the roll prepared under section 5 of the Settlement Act, there were enrolled as residents of a place on April 1, 1970, a sufficient number of Natives required for a Native village or a Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under said Act on grounds which include a lack of sufficient number of residents, the Secretary shall, in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such redetermination of residence as shall any Native corporation which it appears may gain or lose stockholders by reason of such redetermination.

(c) Each Native who is enrolled, or whose place of residence has been redetermined, pursuant to this Act shall be issued stock in the Native corporation or corporations in which such enrollment or redetermination of residence entitles him to membership and, in the case of redetermination of residence, all stock issued to such Native by any Native corporation in which he or she is no longer eligible for membership shall be deemed canceled. No prior distribution of funds made by any Native corporation shall be affected by any such enrollment or redetermination of residence and future distributions by such corporation shall be adjusted to insure that cumulative distributions to individual Natives so enrolled or affected by redetermination of residence will be equal to distributions to Natives previously enrolled in such corporation. The land entitlement of any Native village, Native group, Village Corporation, Regional Corporation, or corporation organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in the Settlement Act, shall not be affected by any enrollment or redetermination of residence pursuant to this Act. No tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a Native village or Native group, as defined in said Act, shall become eligible for land or other benefits as a Native village or Native group because of any enrollment or redetermination of residence pursuant to this Act, and no Native village or Native group, as defined in said Act, shall lose its status as a Native village or Native group because of any enrollment or redetermination of residence pursuant to this Act.

(d) No distribution of funds from the Alaska Native Fund pursuant to section 6(c) of the Settlement Act made by the Secretary or his delegate prior to enactment of this Act shall be affected by the provisions of this Act. The Secretary shall make any necessary adjustments in future distributions of funds pursuant to said section 6(c) to accommodate the changes in the roll made pursuant to this Act.

SEC. 2. (a) Any and all proceeds received by any agency or instrumentality of the Federal Government derived from contracts, leases, permits, rights-of-way, or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act on and after the date of its enactment shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to said Act have been conveyed to the selecting corporation or individual entitled to receive benefits under said Act. As such withdrawn or formerly reserved lands are conveyed the Secretary shall pay from such account the proceeds pertaining to the lands or resources of such lands, together with interest, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act. The proceeds pertaining to lands withdrawn or reserved, but not selected or elected, pursuant to said Act, shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefits such lands were withdrawn or reserved, be paid as required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States such escrow account proceeds referred to in subsection (a) of this section and the United States shall pay interest thereon from the date of deposit to the date of payment with simple interest at such rate as may be determined by the Secretary of the Treasury: *Provided, however*, That the Secretary in his discretion may withdraw from the United States Treasury such proceeds deposited by him under this Act and reinvest such proceeds in the same manner provided for by the first section of the Act of June 24, 1938 (52 Stat. 1037).

SEC. 3. Any and all proceeds from public easements reserved pursuant to paragraph (3) of section 17(b) of the Settlement Act shall be paid to the holder of the land with respect to which such conveyance is made in accordance with such holder's proportionate share.

SEC. 4. For purposes of the first section of the Act of February 12, 1929 (45 Stat. 1164), as amended, and the first section of the Act of June 24, 1938 (52 Stat. 1037), the Alaska Native Fund shall, pending distribution under section 6(c) of the Settlement Act, be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes.

SEC. 5. The Settlement Act is further amended by adding a new section 28 to read as follows:

"MERGER OF NATIVE CORPORATIONS

"SEC. 28. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders which participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidation, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.".

SEC. 6. The Settlement Act is amended by adding a new section 29 to read as follows:

"TEMPORARY EXEMPTION FROM CERTAIN SECURITIES LAWS

"SEC. 29. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not after such date be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.".

SEC. 7. The Settlement Act is further amended by adding a new section 30 to read as follows:

"RELATION TO OTHER PROGRAMS

"SEC. 30. (a) The payments and grants authorized under this Act shall not be deemed a substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964 (78 Stat. 703), as amended, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefits received by any member of such household under this Act shall be disregarded.".

SEC. 8. Section 17(a)(10) of the Settlement Act is amended to read as follows:

"(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim, comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.".

SEC. 9. (a) The Secretary shall pay, by grant, $250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act.

(b) The Secretary will pay, by grant, $100,000 to each of the following Village Corporations:

(1) Arctic Village,
(2) Elim,
(3) Gambell,
(4) Savoonga,
(5) Tetlin, and
(6) Venetie.

(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act.

(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of $1,600,000 in fiscal year 1976.

SEC. 10. (a) Section 16 of the Settlement Act is amended by inserting at the end thereof a new subsection (d) to read as follows:

"(d) The lands enclosing and surrounding the Village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the Village of Klukwan shall select an area equal to 23,040 acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided, however*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the

Village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise.".

(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not recognized as Village Corporations under section 11 of the Settlement Act and which are included within the boundaries of former reserves the Village Corporation or Corporations of which elected to acquire title to the surface and subsurface estates of said reserves pursuant to section 19(b) of the Settlement Act. The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(b) or to enroll on an at-large basis to the Regional Corporation in which the village or group is located.

SEC. 11. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any such provisions.

AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS: Strike out all after the enacting clause of S. 1469 and insert the provisions of H.R. 6644, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6644) was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORTS

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file privileged reports on House Resolutions 910, 911, 912, 914, 915, and 916, disapproving the deferral of certain budget authority relating to the Department of Agriculture proposed in the President's message of November 29, 1975 (H. Doc. 94–311), and transmitted pursuant to section 1013 of the Impoundment Control Act of 1974.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CALL OF THE HOUSE

Mr. LEGGETT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 793]

Addabbo
Andrews, N.C.
Burke, Fla.
Burton, John
Burton, Phillip
Butler
Cederberg
Collins, Ill.
Conyers
Diggs
Esch
Evins, Tenn.
Ford, Mich.
Fraser
Gaydos
Harsha
Hastings
Hayes, Ind.
Hébert
Heinz
Helstoski
Hinshaw
Kemp
LaFalce
McKinney
Macdonald
Metcalfe
Mikva
Mineta
Patman, Tex.
Railsback
Reuss
Riegle
Roncalio
Rosenthal
Runnels
Satterfield
Scheuer
Shuster
Sisk
Stephens
Stuckey
Thompson
Udall
Ullman
Waxman
Wilson, C. H.

The SPEAKER. On this rollcall 387 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AUTHORIZING APPROPRIATIONS TO SECRETARY OF THE INTERIOR WITHOUT REFERENCE TO AGENCIES INVOLVED

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1922) to amend the Act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Touchet Division, Walla Walla project, Oregon-Washington, and for other purposes", approved July 7, 1970 (84 Stat. 409), is amended to read as follows:

"SEC. 6. There are authorized to be appropriated for construction of the works involved in the Touchet Division the sum of $22,774,000 (January 1969 prices), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes, and, in addition thereto, such sums as may be required to operate and maintain such division.".

Mr. JOHNSON of California. Mr. Speaker, I yield myself such time as I may consume. I would like to offer the following comments in explanation and elaboration of S. 1922—to amend the act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

The Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs held formal hearings on H.R. 8749, a measure identical to S. 1922.

At that time representatives of the executive branch fully endorsed the legislation and recommended its enactment.

This measure is needed to conform the authorizing act for the Touchet division, Walla Walla project in Washington, to the standard format which the Congress has developed for reclamation authorizations and which has otherwise been utilized in every project act for the last 25 years or more.

Let me say that when the authorizing legislation for the Touchet division was being considered in the 91st Congress we decided to try a new approach to the funding of the project.

Taking note of the fact that approximately one-half of the costs of the Touchet division were being incurred on behalf of anadromous fish enhancement we thought it would be a good idea if the Fish and Wildlife Service were given the responsibility for obtaining a portion of the appropriations.

The act was so drawn.

The experience has indicated, however, that this concept of divided responsibility for securing appropriations creates very difficult problems of administrative coordination.

Also, we are now advised that the fish and wildlife share of this project is greater than the construction budget for all other programs of the Fish and Wildlife Service, thus creating a serious imbalance in that agency's ongoing programs.

For these reasons, the committee believes—as does the administrator—that the authorizing legislation should be amended to consolidate in one budget the construction appropriations for this project.

This will allow an otherwise very fine and badly needed water resource development to go forward on a timely basis.

I therefore strongly urge approval of this measure.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION TO FILE PRIVILEGED REPORT ON H.R. 11174

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on H.R. 11174, a bill to rescind certain budgetary authorities recommended in the messages of the President.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. O'HARA. Mr. Speaker, reserving the right to object, I should like to inquire of the gentleman from Texas (Mr. Mahon) if the bill on which he has just requested unanimous consent to have until midnight to file a report, involves a rescission of any funds for education.

Mr. MAHON. If the gentleman will yield, a large part of the rescissions proposed by the President relate to education in the sum of $1.3 billion. There is a proposed rescission in the bill as approved by the committee this morning in the form of an amendment to the subcommittee recommendation which would provide some rescission in impacted aid funds for the schools. But we are not now asking to bring the bill before the House but simply to file the committee report.

Mr. O'HARA. Further reserving the right to object, Mr. Speaker, will the gentleman from Texas advise me whether he intends to bring this rescission bill up during this week.

Mr. MAHON. I have not considered that matter in any depth at this time. We do not have any plans set. It has not yet been discussed with the leadership. We felt compelled to take action on the proposed rescissions pending before the Committee on Appropriations prior to adjournment. As to what may happen by way of squeezing it into the House program, I just do not know at this time. I will be glad to confer with the gentleman, and I will be glad to confer with the Speaker and to confer with the minority with regard to the matter.

Mr. O'HARA. Mr. Speaker, if the gentleman were to assure me that he has no plans to bring this bill up this week, I would not object to his having until midnight to file a report. If the gentleman indicates there is any possibility that he intends to bring that bill up before the end of this week, I would have to object to his unanimous-consent request.

Mrs. MINK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORTS ON HOUSE RESOLUTIONS 920, 921, 922, 923, AND 924

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file privileged reports on House Resolutions 920, 921, 922, 923, and 924, disapproving the deferral of certain budgetary authority relating to the Environmental Protection Agency proposed in the President's message on November 29, 1975 (H. Doc. No. 94-311), and transmitted pursuant to section 1013 of the Impoundment Control Act of 1974.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERSONAL STATEMENT

Mr. GOLDWATER. Mr. Speaker, upon reading the Congressional Record this morning I discovered that I am incorrectly recorded on rollcall 771, the vote to strike section 102 of the ERDA conference report. I inadvertently voted for the motion to strike. I wish to inform the House that I intended to vote "no," against the motion to strike, and I ask that my statement in explanation be printed in the Record.

RICE PRODUCTION ACT OF 1975

Mr. MATHIS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8529) to establish improved programs for the benefit of producers and consumers of rice.

The SPEAKER. The question is on the motion offered by the gentleman from Georgia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8529, with Mr. Flowers in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Before the Committee rose on December 10, 1975, the Clerk had read through section 1 ending on page 1, line 5, of the bill, and there was pending the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. Breaux).

The Chair recognizes the gentleman from Louisiana (Mr. Breaux).

Mr. MOORE. Mr. Speaker, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its sitting.

The gentleman from Louisiana is recognized for 5 minutes in support of his amendment in the nature of a substitute.

Mr. BREAUX. Mr. Chairman, the amendment I offer at this point in the nature of a substitute is what was originally the bill that was introduced and considered in the House committee as H.R. 4741. It was a bill that was sponsored by a number of my colleagues from major rice-producing areas throughout the United States as a result of a series of meetings by major rice producers of the United States.

As a result of a meeting in Houston, Texas, the major rice producers decided some changes were inevitable and they would make an effort to compromise.

The amendment I am offering in the nature of a substitute is a result of a great deal of effort of the major rice producers from major rice-producing areas to have a substitute we could have considered and passed in this House.

Let me explain what the committee bill does briefly. I know most of the Members do not have rice production in their areas and this is a foreign crop to most Members. The system we have at the present time provides no direct subsidy payments or deficiency payments.

They will be entitled under the committee bill for a subsidy payment if the price they get for their product drops below a certain level. The rice farmers of the United States do not want the rice subsidy program. They do not want deficiency payments and this is what the committee bill establishes. Also, it demands open production of rice, regardless whether we need any more rice. What could be more ridiculous than having something required when we do not even need it. It is not something the farmers of America need, nor do they want.

This bill has a potential cost to the taxpayers if the price drops down to just $5 per hundredweight for rice, which was the price of rice 3 years ago; there would be a potential cost of $168 million a year in subsidy payments to rice farmers.

I do not know how the folks from the New York and other areas can justify a committee bill that provides rice payments for people that do not want rice payments.

Let me tell the House the present situation and anyone will see the committee bill is not necessary. We have had record rice production over the last 2 years in this country. These are the USDA facts. We have had open production in the last 2 years. That means anybody, anywhere, can produce rice if they have the land to produce it on. We produced some 9 percent more rice this year under the present program than we did last year, and last year was some 23 percent more rice than the year before.

The present program has no payment subsidies. Rice prices to farmers have been declining since June of 1974. We have operated at no cost to the Government. We have no export subsidies and we have record production.

Now, on November 11, the Department of Agriculture came out with their projected carryover of rice that we will not sell. Just 30 days later, December 11 of last week, they projected we would be carrying over some 510,000 tons of rice more than they had projected the month before. Thirty days later, they are projecting a carryover of rice that will not be sold of over one-half million tons. Yet the committee is coming to us and saying we need a new rice bill because we need more rice. I just say it is not necessary and it is a bad policy.

Let me tell this House what the substitute amendment does that I am offering here today. No. 1, it starts off by providing for open production, to allow anybody, anywhere, at any time, to come in and produce rice. The only way that we can go back to allotments is if the formula in the bill shows we have an oversupply of too much rice.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. BREAUX was allowed to proceed for 1 additional minute.)

Mr. BREAUX. Mr. Chairman, in addition, the substitute provides for no direct payments. There is no target provided in the substitute I am offering.

In addition, in an effort to compromise, the farmers have come and said, "We want to lower the loan level."

It is 65 percent of parity. This substitute lowers the loan level down to 60 percent of parity, or $8 a hundredweight, whichever is higher.

I submit that my substitute amendment is the proper approach. It is a 2-year program. If it does not work, the Congress can come back and look at it again.

Let us not make the drastic experiment of completely changing the bill, when we are getting more rice than we can possibly sell. We do not want subsidies. I do not think anybody can go back and justify a program of direct payment subsidies to rice farmers, who are standing here in Congress and saying, "We do not want it and we do not need it."

Mr. MATHIS. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, I rise in somewhat reluctant opposition to the amendment of my dear friend, the gentleman from Louisiana, because he has very well attempted to protect the rights of growers in the gentleman's district and in the other districts of the country where expansion has occurred to the point that no longer can rice producers expand. That is the very crux of the argument that addresses itself to this House today.

The substitute amendment that the gentleman offers and calls a compromise is, I would submit to this Committee, roughly comparable to the same compromise that occurred at Appomattox about 110 years ago.

This is absolutely no compromise. It simply provides for a continuation of the current program by which the entrenched producers of rice in this country have a locked-in monopoly on the production of rice.

The present law provides, Mr. Chairman, that the producers of rice are allowed 1.65 million acres to produce, under which they have a loan rate of some $8.52 per hundredweight. The bill the committee has reported provides that we will raise that by almost 200,000 acres, to 1.8 million acres. The substitute amendment offered by my dear friend from Louisiana provides for 2 million acres under the protection of a loan to be established at a level of 60 percent of parity or $8.00 per hundredweight.

The gentleman comes in and says his rice growers do not want deficiency payments. I submit that they are not going to receive deficiency payments because it is the long-range consideration of this committee that the price of rice is going to remain strong. There are and have been witnesses; witness after witness after witness came before the committee and said that they were willing to invest millions of dollars in the expansion of rice production abroad.

The gentleman's compromise is no compromise. It simply, as I said, puts a great big sign up that says, "No new growers allowed. Keep out."

That is the long and short of it, and that is it in a nutshell. Mr. Chairman, I hope that Members will understand. They have seen letters from both proponents and opponents of the substitute amendment which have been circulated. I hope we will not get into prolonged debate, because some Members are anxious to vote on this matter, as are those who have been fighting the rice battle, as it were, for 2½ years. But I see no reason for prolonging debate. I simply rise to urge members of this committee to oppose the Breaux substitute amendment and vote with the committee.

Mr. JOHNSON of Colorado. Mr. Chairman, will be gentleman yield?

Mr. MATHIS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I am another Member who does not want to get into prolonged debate over the Breaux amendment, which amounts to, in effect, gutting the bill we have brought to the floor by an enhancement of the present growers' position. I would hope that the Members understand the difference between the programs.

I support what the gentleman from Georgia has said.

Mr. MATHIS. I appreciate the gentleman's contribution.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Georgia.

Mr. Chairman, the Breaux substitute is no more than a token revision of the present rice program.

It only reduces the loan level from 65 percent of parity to 60 percent, which leaves rice at a high minimum price level, making U.S. rice noncompetitive in world markets and raising costs to consumers and taxpayers.

The loan level in the Breaux substitute would be set at just below $8 per hundredweight, well above the $6 rate in the bill itself. This means the floor on rice remains high. The expense for this is borne by our consumers. It also means the Government will have to pay export subsidies if we are to sell rice on the world market, since the world price is lower.

What else does the Breaux substitute do?

First. It continues marketing quotas and denies new growers the assurance of continued open production.

Second. It continues the acreage allotment monopoly of the present rice program, squeezing out new producers who want to grow rice.

Third. It discourages investment in new mills, dryers, and storage and other facilities needed to expand rice production.

Fourth. It continues the present instability of prices due to the farmers' lack of certainty about how much to plant each year. Rice farmers deserve full protection, as wheat, corn, and soybean farmers now receive.

The Breaux substitute was given full consideration by the Agriculture Committee, and rejected by both the Oilseeds and Rice Subcommittee and by the full House Agriculture Committee.

In this time of world hunger and food shortages, the United States cannot in good conscience limit food production. We are blessed in this country with fertile land, water, and sun—this is not the time to idle this productive land.

The original Rice Production Act of 1975, with a $20,000 payment limit, which I plan to offer as an amendment, is a positive step forward in meeting our commitment to providing food to American consumers at reasonable prices, and to fulfilling our responsibility to help ease the world food shortage. We cannot afford to step backward and accept substitutes to this responsibility.

Mr. BOWEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to rise in support of the observations made by the chairman of the committee, who has done a very fine job of presiding over the deliberations on this bill. I too would like to point out to the members of this committee that the substitute amendment offered by the gentleman from Louisiana is really a worse program than the one we are trying to reform right now. It increases the acreage available to the old, entrenched allotment holders. It does absolutely nothing to reform the system that has seen a sharp rise in the loan level, which is pricing American rice out of world markets.

This has led over the years to a system in which Government has had to acquire vast quantities of rice and has had to store it at Government expense. We have spent millions and millions of dollars for export subsidies, and the consumers and taxpayers have had to pay through the nose.

That is the reason, Mr. Chairman, that we are asking support for the legislation and opposition to the substitute. If in fact we had the increase in loan levels in the next 2 years which has taken place in the last 2 years, the loan level, and consequently the price of rice, would be up to almost $11 a hundredweight. A mere 5 percent cutback, which the gentleman from Louisiana proposes, would have no impact in terms of opening up the market.

The Secretary of Agriculture is going to announce this month a cutback of production from 2.8 million acres to about 1.65 million acres. That cutback is going to wreak devastation in the American consumer market, and impose great additional cost upon the taxpayers of this country. The best estimates we have been able to arrive at are that it would cost the country almost a billion dollars in lost export sales of rice.

Just imagine what is going to happen when 40 percent is knocked off of the production of any commodity. At the same time, it is going to cost the consumers at least 50 percent more in the first year under that system and double the price in 24 months. It is an unconscionable system, and I think the time has come to reform it. The country has rice growers who are very ready, willing, and very able to grow rice at world prices, and there is no real justification for continuing to protect a small, privileged caste, as proposed by the gentleman from Louisiana.

I would like to read a telegram I received that indicates what the consumers of this Nation think about this bill and about the Breaux substitute. It reads:

> The undersigned organizations, representing millions of people to whom rice is a vital staple, reaffirm their strong support for H.R. 8529, the Price Production Act of 1975.
>
> Failure to pass this bill will mean sharply reduced production in 1976 and higher prices.
>
> We urge you to vote against the Breaux substitute and other amendments and vote for H.R. 8529.

It is signed by the following organizations:

Action Committee on Hunger; Chinese-American Restaurant Association; Harlem Consumer Education Council; Japanese-American Citizens League; League of United Latin American Citizens; New York Consumer Assembly; Organization of Chinese Americans; Rice Consumer Institute of America; and World Hunger Year.

I think that indicates, Mr. Chairman, the broad support that consumers across the country have for the legislation this committee has brought out and the sharp opposition they have voiced to the Breaux substitute, which would actually completely kill the committee bill.

The Breaux substitute would be a great blow to consumers, to taxpayers, to all Americans, and I urge the committee to vote against the Breaux substitute.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Breaux amendment in the nature of a substitute.

Mr. Chairman and fellow members of the committee, I rise in support of this substitute offered by my colleague, the gentleman from Louisiana (Mr. BREAUX). I offered this substitute for him because I believe he was right in the subcommittee and in the full committee, this is not a surprise. I disagree that this bill is not a change from the existing law. It is a departure from the existing law. It is one I think should be supported for one simple reason: the law of supply and demand.

This bill the committee brought forth is trying to repeal the law of supply and demand. The substitute my colleague, the gentleman from Louisiana, has offered will try to keep them in balance.

Let me cite some facts, which is my reason for supporting the Breaux substitute. First, U.S. production of rice is up 7 percent over last year. Second, world production of rice is up 4 percent over last year. Third, as my colleague told the Members, the carryover of rice from last year's unsold crop is huge, sitting in warehouses, and it has caused the price of rice to drop. Therefore, supply is high and the demand is low.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I will yield to the gentleman from Georgia (Mr. MATHIS).

Mr. MATHIS. I thank the gentleman for yielding. Will the gentleman tell us exactly what the carryover of rice is in the 1974 crop year and 1975?

Mr. MOORE. Yes. For 1974 it looks like it is going to be anywhere from 27.6 to 34.6 million hundredweight.

Mr. MATHIS. If the gentleman will yield further, I would say that the carryover was some 700 million hundredweight.

Mr. MOORE. That was last year. This is what they are projecting for this year.

Mr. MATHIS. If the gentleman will yield further, what were the department's estimates at this time last year that the carryover would be?

Mr. MOORE. The carryover for this year?

Mr. MATHIS. The carryover coming into this year from last year's crop.

Mr. MOORE. According to the figures I have seen, they are 11.1 million hundredweight off. It is that much higher than expected.

Mr. MATHIS. I would suggest to the gentleman that it is just exactly the opposite of that. In fact, the department at this time last year was saying we are going to have a carryover of 2,500 to 2,700 hundredweight. We ended up with 700 million hundredweight.

Mr. MOORE. The only thing we have to go by is the USDA figure. They are showing it as high as 36 million carryover. The point I am making is that we have a greater supply of rice than we have demand.

In addition, as a fourth fact to consider, the USDA is now admitting the international market for rice is not what they thought it was going to be. In their report of October 1975, they say, on page 3, that—

> Export commitments have been lagging, possibly reflecting some hesitation on the part of buyers until the price outlook becomes clearer.

On page 9 of this same report, it says that—

> With 1975-1976 crop prospects bright, world import demand in 1976 may decline from recent high levels.

Mr. Chairman, this is the point I have been trying to make, that we do not have the international market the proponents of this bill have been speaking of. As a matter of fact, from the figures we have been able to receive from the USDA last week, we lost a rice market of 750,000 metric tons in Southeast Asia when those countries turned Communist. That was 30 percent of our exports of rice last year.

I would also point out that the Public Law 480 program sales are down some 43 percent, according to the Foreign Agricultural Service Report of the USDA dated December 11, 1975. On page 28, the report states:

> Outstanding export sales of rice as of November 30, 1975, were 324,000 metric tons or 43 percent below a year ago, mainly reflecting reduced sales to other Asian-Oceania countries under the PL-480 programs.

Again, that gives us evidence that the demand from foreign countries is going down, not up.

The committee report on page 4 indicates that we are going to make up that lost market that we no longer have in Southeast Asia by selling rice to Korea and Bangladesh. It is said we are going to make it up in terms of sales to them of 800,000 metric tons, with the bulk of it going to Korea.

We have just received information last week that Korea is essentially canceling its purchases of American rice. They were supposed to take some 400,000 metric tons; they are now only going to take 40,000 metric tons, or 88.5 percent less than what they normally buy.

The evidence is clear, therefore, that we simply do not have the international market that the proponents say we have. As a result, we and foreign growers are going to have a greater supply of rice than last year, and decreased foreign markets. This bill will encourage greater production yet which will so glut the market that it is going to wreck the rice industry in this country.

Therefore, Mr. Chairman, I support the substitute, and I urge the Members to vote for it and against the full committee bill.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the first place, I would like to congratulate the chairman of the subcommittee and the ranking minority member for having had both the foresight, intelligence and courage in bringing out this rice bill.

In looking at the legislation, the Members will notice that my name is not on it as a cosponsor, even though I am on the Committee on Agriculture. I would not cosponsor this legislation, because in my opinion it does not go far enough. However, it does make a major step forward, and it seems to me in this legislation we are giving the present grower the best of all worlds.

I cannot understand why this opposition is taking place. If commonsense were used by the growers who are involved, they would never be resisting this legislation, because it provides an opportunity for them to continue under a program that heavily favors them. It gives benefits to them that it does not give to others who are growing rice. I think that is one of the key factors here.

Mr. Chairman, I have looked at the analysis provided by my good friend, the gentleman from Louisiana (Mr. BREAUX), and I have read his letters. I agree with the breakdown as to the comparison of the two bills. I would like to speak about one of the important things now, and I would like to translate this into different terminology from that of the rice industry, because most of us do not have rice or any product similar to that. Suppose one were in an urban or a suburban area and he wanted to open up a retail store, but he had to deal with a commissioner who is in charge of retail stores.

Suppose the commissioner said, "All right, you can open a retail store, but in any given year I may have to tell you that due to the volume of sales recorded we are going to close your store, and there is no redress for this. I will decide whether your store can stay open or not."

Who in the world is going to open up another store?

Yet we are saying to the rice growers in this substitute that is being proposed by the gentleman from Louisiana (Mr. BREAUX): "You can have open production, but any time that the Secretary of Agriculture decides in his opinion that the production is too large and there is a surplus, we are going to then tell you that you cannot produce."

Who is going to invest his time, his money, his land year after year in a situation when the next year he may not be able to produce anything?

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, the gentleman is making a point about allotments and restrictions, and that somehow this is just short of being unconstitutional.

The gentleman knows full well that if the gentleman wanted to build a TV station in New York City tomorrow, he could not do it without a permit. Furthermore, he could not establish a trucking line without an ICC permit. There are a number of other things he could not do without a permit, all of which are designed to help control supply and demand and production.

Mr. PEYSER. Mr. Chairman, I thank the gentleman from Louisiana for his comment.

Using the gentleman's analogy with respect to a TV station, it is true that one has to have the approval of the FCC, but we are talking about food that is essential not only in the outside world, but in the United States today. We are talking about rice and the people who will be hurt by not being able to afford to buy it.

I know that it is not the intention of my friend, the gentleman from Louisiana (Mr. BREAUX), or of anyone else to hurt anybody, but the people who will be hurt will be the lower- and middle-income people, many of the Spanish-speaking people in this country, the poor people in this country, the Chinese, and any other major users of rice. Incidentally, I include senior citizens, who today are among the major users of rice.

All of them will be hurt, because of the Secretary of Agriculture's very clear statement with respect to the cutback of usable rice land in the next year. We can anticipate a range of increase running from 30 to 40 percent, an increase in the cost at the retail marketplace, if we were to enact the Breaux substitute.

Mr. Chairman, this, to me, does not make sense. I think the committee has made a major step forward. I do not think that they have gone far enough, but I am enthusiastically urging my colleagues in all areas of the country to support this legislation, and let us have a breakthrough in this very vital area.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(On request of Mr. LEGGETT and by unanimous consent, Mr. PEYSER was allowed to proceed for 2 additional minutes.)

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I know that the gentleman from New York (Mr. PEYSER) is very much concerned about his Chinese merchants and the price they have to pay for rice. I agree with him, they pay too much for rice, but as I read the chart that has been circulated around the floor here and through the committee, it appears that we have increased the supply of rice by 34 percent over the past several years, and the farmers have lost over half of the value of the rice since the price has gone from 18 cents down to about 6.9 cents per pound. Still, the price that the gentleman's Chinese merchants are paying is 45 cents.

Mr. Chairman, I ask this of the gentleman from New York (Mr. PEYSER): How does he help his Chinese merchants by further pounding the farmers into the ground with respect to price?

Mr. PEYSER. Mr. Chairman, I would like to suggest to the gentleman that there is no pounding of the grower of rice into the ground here at all.

The only thing I know about this, and I am sure the gentleman will agree with me, is that based on the Secretary of Agriculture's statement with respect to the curtailment and cutback on the allocation, less rice will be grown next year.

I am sure that the gentleman from California (Mr. LEGGETT) will agree that with a shortage developing in rice, the prices are bound to go up, as the Secretary of Agriculture has indicated.

Mr. LEGGETT. If the article submitted by the committee or the letter saying that we are anywhere from 25 to 65 percent wrong in our projections of surplus is correct, and if we are not going to have, say, 34 million hundredweight surplus, and if it is going to be something like 20 million or 18 million, I do not consider that to be an abnormal carryover, and I see no reason to go back to the quotas under existing law.

I know that this time last year the Secretary said that unless we have a new rice bill, we are going to have to go back to quotas. We did not get the rice bill. The Secretary said: "I think I have kind of changed my mind."

I would think he can change his mind again.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Breaux amendment in the nature of a substitute but I wish to congratulate my friend the gentleman from Louisiana and his associates participating in this debate, because they have been successful in confusing this issue to the point where many members are uncertain as to what issue is pending before this House today.

In response to the gentleman from Louisiana (Mr. MOORE) who relies upon the Department of Agriculture carryover figures as evidence of the alleged large and unmanageable surplus that he fears next year, I would say to the gentleman that if there is anything that we can depend upon the Department of Agriculture for in forecasting carryovers, it is the fact that they are consistently wrong in that forecast.

Two points should be made:

USDA has a record of being consistently wrong in its carryover forecasts. Based on their projections for the last 3 years the average percent of error separating the original USDA forecasts and actual year-end carryover figures has been 45.8 percent.

I include the following:

[Carryover is in million hundredweights]

Marketing year	1972-73	1973-74	1974-75
Beginning carryover forecast	10.1	10.1	20.4
Actual carryover	5.1	7.8	7.1
Percent of error	49.5	22.8	65.2

The reason the current rice crop is not moving is because the present law contains a formula which establishes the loan rate on rice at so high a level as to make U.S. rice noncompetitive in the world market. The influence this loan rate level is having on the marketability of the 1975 crop is a dreary and expensive repeat of the influence it has had in 17 of the last 21 years. If USDA's most recent carryover projections are correct, that carryover is going to cost the U.S. taxpayers about $300 million in Commodity Credit Corporation acquisition, including a year's carrying charges in the next year.

This is the "cost free" program of which the opponents are so proud. It is the "cost free" program which the Breaux substitute will have the effect of continuing.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I will yield to the gentleman from Louisiana in just a minute.

The Breaux substitute which has been proposed in lieu of H.R. 8529 has a number of features which we hope you will consider carefully:

It continues the 1930's philosophy of the present law;

It continues the instability and uncertainty of the present law;

It does not provide any assurance to the operators of the 2,400 new farms on which rice was grown this year, but for which there were no acreage allotments, that they will be able to continue producing rice;

It does not contain any limitation on the payments allotment holders can receive in any year; and

It continues the high support price provisions which have made rice noncompetitive in the world market during 17 of the last 21 years.

Therefore, we believe it is time for a close look at what the Breaux substitute means in costs to American consumers and taxpayers.

THE COST TO U.S. CONSUMERS AND TAXPAYERS IF THE BREAUX SUBSTITUTE FOR H.R. 8529 IS ADOPTED

The estimates of costs of H.R. 8529 in table I are those distributed by supporters of the Breaux substitute.

TABLE I.—COMPARISON OF COSTS FOR THE BREAUX SUBSTITUTE AND FOR H.R. 8529 YEARS

Price per hundredweight	Dollars in millions			
	1976–77 Breaux substitute	H.R. 8529	1977–78 Breaux substitute	H.R. 8529
$7.50	$90	$78	156	$79
$7	129	119	195	120
$6.50	168	155	234	157
$6	207	168	273	170
$5.50	247	168	312	170
$5	285	168	351	170

The cost estimates in table I for the Breaux substitute assume that the Government is not going to be forced to take over any U.S. rice but rather that the rice would be exported under some form of subsidy.

However, if export subsidies are not forthcoming to correct for the artificially high support price in the Breaux substitute, the Government will be forced to acquire substantial quantities of rice and the cost to consumers and taxpayers will increase beyond that shown in table I. Table II below gives estimates of what these costs will be if the Government acquires, respectively, 10 million, 20 million, or 30 million hundredweights of rice under the Breaux substitute.

TABLE II.—YEARS[1]

[Hundredweights are given in millions]

Price per hundredweight	1976–77			1977–78		
	10	20	30	10	20	30
$7.50	$180	$270	$360	$246	$336	$426
$7.00	214	299	384	280	365	450
$6.50	248	328	408	314	394	474

[1] Costs including those resulting from acquisition of rice by the Government—in millions of dollars.

The estimates in table II are based on Government acquisition of rice shown at support prices of $8.65 per hundredweight in 1976–77 and $9.50 per hundredweight in 1977–78 and include the estimated cost to the Government for carrying rice, at $1.50 per hundredweight, for a year. They do not reflect the human consequences of smaller crops or the loss to the balance of payments caused by an artificially high support price that prevents commercial exports.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I will yield in a minute.

The gentleman cited figures that the bill will cost $168 million should the support price continue at $5 per hundredweight. I reply to the gentleman that his substitute would cost $285 million using the gentleman's same figures.

Now, Mr. Chairman, I yield to the gentleman from Louisiana for a question.

Mr. BREAUX. Mr. Chairman, I thank the gentleman for yielding. I am sure the gentleman from Arkansas realizes the difference between deficiency payments under a target price system and loans which farmers give rice to the Government in return for getting an amount equal to the value of that rice. This is not a deficiency payment.

Mr. ALEXANDER. They are both, a subsidy is a subsidy, you can call it what you want to but $285 million is a subsidy.

Now I yield to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentleman from Arkansas for yielding. I would say that the only figures we have on carryovers are those of the USDA and I do give them more credence than the remarks of the gentleman from Arkansas.

But I would say this to the gentleman, I wonder if the gentleman's pessimism as to the figures of the USDA also apply to their projections for exports.

Mr. ALEXANDER. I do not rely on the USDA for their projection on exports, I rely on the expertise of the rice industry that year after year has sold rice on the open market for dollars that have increased their sales 2½ times since 1970, and into world commerce, that has produced $750 million in foreign credits that have helped our balance of payments.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MOORE, and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 1 additional minute.)

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Louisiana.

Mr. MOORE. I would simply point out to the gentleman that according to the committee's report, the only evidence they seem to be able to cite of any foreign markets increasing is the USDA.

Mr. ALEXANDER. I have additional evidence which I will be glad to share with the gentleman which he might want to pass on to his farmers in Louisiana.

Mr. MOORE. I think it is about time somebody did.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Georgia.

Mr. MATHIS. I thank the gentleman for yielding.

I would say to my friend, the gentleman from Louisiana, that he sat through hour after hour after hour of subcommittee hearings when witness after witness came in and said the market is there. The market is there and they are willing—and they have told the gentleman from Louisiana and all members of the subcommittee—to invest millions of dollars into exploiting that market that is there. The gentleman knows that testimony is there, whether or not it appears in the committee report.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I appreciate the gentleman's yielding.

Mr. Chairman, I rise in support of what the gentleman has said and oppose the Breaux substitute and support the committee bill.

I rise in strong support of the Rice Production Act of 1975 and urge my colleagues in the House to give this very beneficial legislation their strong support and vote of approval.

This bill will provide important benefits for consumers, as well as farmers, since it will establish for rice the producer freedom and market-oriented policy which was provided for other farm commodities under the Agriculture and Consumer Protection Act of 1973. The bill offers an opportunity for the rice farmer to grow this staple commodity with a minimum of Government control and interference and also insures an ample production each year for the consumers of America.

Another important aspect of this bill is that it will lead to needed production for the less fortunate countries of the world that are in dire need of nutritious foods.

Mr. Chairman. It should also be noted that the legislation has more than ample safeguards to protect the present rice growers and insure them of a fair return on their investment in land and equipment, as well as annual labors in planting their rice crop.

I commend the Agriculture Committee for the intensive study they made of rice production and for this very reasoned bill they reported out. It is deserving of our support.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX) and commend my colleague for his work on this measure. I support it entirely.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I at this time yield to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. I thank the gentleman for yielding.

In answer to the comment made by the distinguished chairman of our committee, I would simply point out that most of that evidence about world markets came from the USDA officials, the ones that the gentleman from Arkansas does not wish to put credence in, the ones that are backtracking now, as evidenced by the decrease in sales in Korea. It also came from rice millers who have a vested interest in this bill, and from people in the Public Law 480 program who essentially said they can give all the rice away in the world or on a loan at 2 percent interest.

I submit that the figures I showed in my support for the Breaux substitute do not show any substantial new foreign markets. As a matter of fact, we have lost 30 percent of our foreign markets, and Korea has cut to 88 percent of what they bought last year. The USDA admits that sales all over the world have gone down. I submit that the figures that we got in that committee hearing 5 or 6 months ago were given to us before we knew the domestic crops were up, the world crops were up, and foreign imports were going to be down.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Georgia.

Mr. MATHIS. I thank the gentleman for yielding.

I would say to the gentleman that I hope that those committee meetings were not the only committee meetings that my friend, the gentleman from Louisiana, attended because there were other witnesses from private industry, those vested interests that the gentleman speaks of, whose testimony was more eloquent by the fact that they are willing to back up their testimony with millions of dollars in investment to exploit that market in anything that the USDA can bring in.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

I think we have a clear-cut choice. While we are trying to decide whose figures we are going to believe, we have a choice of believing the exporters who are in this business to make a quick buck, or we can consider agreeing with the figures of the beer brewers in this country, who want more rice so they can make beer a little bit cheaper, or we can look at the figures of the U.S. Department of Agriculture, who is strongly for the bill in its original form. Yet their own figures show we have a carryover of some 510,000 tons more rice than we are going to be able to sell and than they projected just last month. The gentleman might say they have been consistently wrong, but these are the best figures we have available, and that is the Department of Agriculture's figures, who says that we have more rice than we can sell and that we have to carry over into the next year's crops. If those figures have been consistently wrong in projecting a carryover, then they have been consistently wrong in supporting this legislation.

I submit we have a substitute program that is going to provide for no deficiency payments, no subsidies, and allow for open reduction in those cases where we do not need an oversupply to put restrictions on. It is only for 2 years. I say we ought to consider going for the substitute. If it does not work, let us then come back in 2 years and adopt this program. But this program has worked for 20 years. Let us not come in here with an irrational experiment and try to cram it down the throats of the rice growers of America who are already losing money on the program.

We are already losing money in the program. The gentleman from New York made a very good point about the rice on the shelf in New York being too high. Of course it is too high. It is about 6 times more than the farmer gets. I cannot think of very much they do to rice except put it in a cellophane bag between the time it leaves Louisiana and gets to New York to the shelf for the consumer when they charge 6 times more than the farmer gets. I suggest we look into that spread. Let us not attack the rice farmers. Let us attack the exporters and the beer brewers and others who are running around Washington saying they need a new rice program because rice is too high. It is not too high as far as what is paid to the farmer. We have a good program and it is working.

Mr. LEGGETT. Mr. Chairman, I rise in support of the Breaux substitute amendment and I move to strike the requisite number of words.

This debate in large part concerning one part of the country is not really related to the West where we do have one-quarter of the production of rice in the country. We are interested in producing. The facts have been pretty well laid out.

The gentleman from Arkansas (Mr. ALEXANDER) has indicated the Breaux amendment continues the thirties' philosophy of not having farmers in bread lines is not really such a bad philosophy.

He talks about the fact that we have had great instability in the rice market. This instability has cost the American taxpayers a total of $100,000 for the rice program in 1975, the balance of it being for export food for peace expenses. In 1974 the program cost $14.7 million, and the balance of the program has all been for food for peace.

It cost $21.6 million in 1973 and $5.4 million in 1972, and we can go back in history and show that the rice program has always been a low-cost Government program, but it has always needed some management.

But I would say this. The gentleman from Arkansas has been concerned about growing more rice. They have increased their production in Arkansas by a total of about 30 percent over the past 2 or 3 years. They are the largest State producer of rice in the United States. Their production per acre is not as great as we might have in California, but how be that, I think this bill is going to convert a good program to a system like we have in wheat and some other commodities where there is a substantial WPA program.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I do not have any time to yield to the gentleman, but, if we can get some more time, I will yield.

The target price programs do not breed markets. I just pulled this article out of the Wall Street Journal of yesterday, Monday, which is entitled "Big U.S. Wheat Exporters Have Trouble Making Sales as Buyers Turn Elsewhere." The article is as follows:

BIG U.S. WHEAT EXPORTERS HAVE TROUBLE MAKING SALES AS BUYERS TURN ELSEWHERE

For the past five years, big U.S. grain exporters haven't had to worry about the source of their next wheat sale. With production problems in Canada, Australia, Argentina and Russia, the U.S. rode high as granary to a hungry world.

Currently, however, the exporters are finding it difficult to make sales, even to long-standing customers. Some observers attribute this turnabout to the grain-inspection scandal unfolding in New Orleans and other Gulf ports, in which it has been shown that foreign grain buyers have been short-weighted, sent damaged goods and otherwise shabbily treated. Small wonder, these observers say, that more foreign nations are taking their business elsewhere.

The exporters contend the real reason is that foreign buyers currently have other suppliers. The world's leading wheat producers are reaping bumper crops this year, and as a result the world wheat-export trade has become a buyers' market almost overnight.

"The U.S. is holding the umbrella in the export market and all its leading competitors are underneath it," a prominent exporter says. The U.S. is offering hard red winter wheat for immediate export from U.S. Gulf ports at $147 a metric ton (2,204.6 pounds), but Argentina is offering a similar type and grade for $136 at its ports. "I'd venture to say that if we dropped our price down to $135 a ton, Argentina would come in (the market) at $132," the U.S. exporter said.

COMMON MARKET SALES

U.S. exporters are offering soft wheat at $3.70 a bushel, but the Common Market is quoting $3.51 a bushel. The week before last, the Common Market sold 50,000 tons to India and Pakistan, which are two regular U.S. customers under long-term, low-interest credit programs. The Common Market made the sale at $132 a ton; the lowest bid by U.S. exporters was $136 a ton.

Ironically, U.S. exporters themselves may end up exploiting these price differentials on their contracts with the Soviet Union. The Russians already have taken delivery of more than 90 million bushels of U.S. wheat and currently have less than 20 million bushels remaining on orders placed in midyear. But the exporters have orders for another 58.7 million bushels of wheat from any country of origin, and they expect to be asked by the Russians to shop around for the cheapest available grain, as long as it meets specified standards.

Grain dealers say Argentina probably will get a big slice of this business. Argentina has had poor harvests the past couple of years and has been practically out of the export market. But its harvest next month is forecast to be 8.2 million metric tons, more than 33% larger than either of the last two crops. The expected harvest is so big—possibly a record—that growers may have trouble storing it all.

ARGENTINE SALES DRIVE

Argentine government officials are pushing hard to sell wheat to other customers in an effort to shore up their nation's sagging economy. Argentina already has placed orders with Brazil (which is a major U.S. competitor in soybean exports) and is expected to get more. Argentina also is wooing Paraguay, Chile, Bolivia and Venezuela—all of which have bought almost exclusively from the U.S. in recent years.

Australia also is trying to crack the South American market. It sent a marketing mission through the area in September, but the salesmen managed to book only a few small orders. Currently they are working other parts of the globe. Australia will harvest a wheat crop forecast at 10.5 million tons in January, and the government has said 8.9 million will be available for export. But world wheat-market analysts figure Australia has at least an additional million tons for export from previous crops.

Canada also has lots of wheat to sell. After complaining most of the summer about its poor crop outlook, Canada harvested a near-record 600 million bushels. The international grain trade believes Canada was crying poor in an effort to bolster world wheat prices and generate some demand for its wheat. If that was the intent, it didn't work. Canada is making only routine sales, U.S. exporters say.

The wheat-selling agencies of Canada and Australia tried another scheme to attract business. Each day during several months in the middle of this year the agencies would announce they weren't offering wheat for export. At first, this was taken to mean they had all the business they could handle; the implication was that if a foreign buyer wanted some of their wheat he had better bid promptly and be prepared to pay a good price.

It worked for a while. Then it became evident that the two nations' agencies were quickly and easily accommodating big buyers such as Japan and the Soviet Union. The illusion of short supplies vanished, and Canada and Australia joined the increasingly longer parade of producers trying to peddle their wheat.

Mr. Chairman, all we have to do is look at the wheat futures and the grain futures which have gone through the basement.

Anyone can see that we have a problem of supply and demand and today we have a grain oversupply and a price instability that threatens the farmer.

Mr. Chairman, I will yield to the gentleman from Colorado (Mr. JOHNSON), who the other day made a misstatement with respect to the quality and kind of rice we export from my home State of California. We export the highest quality short-grain white rice, not unpolished brown rice.

Mr. Chairman, I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, is it the gentleman's understanding that the price of wheat for export is related to the target price that was set in 1973?

Mr. LEGGETT. There is no doubt about it.

Mr. JOHNSON of Colorado. Then the gentleman does not understand the target price system and the export system we have. It is another example of all the mishmash we have been listening to in this debate.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I will not use the 5 minutes. I do want to make just a couple of points that have not been fully and properly emphasized in the debate thus far, in my judgment.

The substitute amendment is really in substance and essence not significantly different than the program we now have. The sponsor says that he protects the rice farmers by the loan program under the substitute, while we have in addition to the loan program the direct payments, the target concept, under the committee bill.

Now, whether we call it the loan program or whether we use the term direct payments, it all amounts to the same thing. In the final analysis it comes out of the taxpayers' pockets, if the market price for rice drops low enough.

The second point and the major point that I want to emphasize is that we ought to vote down the Breaux amendment, and we ought to adopt the committee version of the bill. We should put an end to the monopoly in rice production, as we put an end to the monopoly in wheat, corn and cotton, the major commodities, with our last major farm bill. My rice growers have increased the production of rice this past year under open planning by 250 percent, more than any others throughout the country. The reason is that they are able and willing, yes, indeed, anxious, to grow rice, if we will just give them an opportunity to do it.

Now, our present program and our program under the Breaux amendment places a monopoly on who can grow rice. It limits the producers to those who have a history of growing rice, and this is not fair to my farmers or other farmers who do not have a rice history, but are able and willing and anxious to produce rice.

For these reasons, Mr. Chairman, I hope that we will defeat the Breaux amendment. If we do, we will find that we will have a program of less expense to the Government. We will find that rice will be cheaper to the consumer and we will find all of our farmers have the freedom and the liberty to grow whatever they choose to grow in the amount and acreage they choose.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I appreciate the gentleman's frankness.

I would like to ask this. I do not grow any peanuts or tobacco in my district. I do not think the gentleman does, either. The gentleman has, I think, about one-half of 1 percent of the Nation's rice in Missouri.

Mr. BURLISON of Missouri. We will have more if the committee bill is adopted.

Mr. LEGGETT. Does the gentleman support getting rid of the so-called monopoly of peanuts and tobacco, too?

Mr. BURLISON of Missouri. That is not an issue here, but the gentleman can be sure that I think all the farmers, the rice farmers, the tobacco farmers, the peanut farmers, ought to be bound basically by the same approach, as our wheat farmers and cotton farmers and feed grain farmers. If there are peculiar and distinctive problems as releated to peanuts or tobacco, we must look at those later.

Mr. BROOKS. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I am not going to talk about wheat or anything, just rice. I want to say to the members of the committee that I am not on the Agriculture Committee, but I have had a long lifetime interest in the rice business, and my district has a lot of it.

Mr. Chairman, H.R. 8529, the Rice Production Act of 1975, provides for deficiency payments to rice farmers which would prove costly to the American taxpayer should these payments be made. Every day our constituents are expressing their desire for a reduction in Federal expenditures and it seems unwise to consider a measure which could increase Federal spending. H.R. 8529 could prove the demise of the independent rice growers in this country and I believe we must consider the program which is in the best interest of our citizens.

It is difficult to comprehend why, at a time when markets are scarce, we would even contemplate passing legislation which provides for unlimited production with no market quotas. Speculative producers are willing to gamble on a loss in the event of oversupply, however, to penalize the regular producers, who traditionally are family farmers, would be unconscionable.

The Breaux substitute provides for, first, open production of rice by any producer; second, allows consumers an orderly supply of rice at consistent prices, while providing marketing quotas only in the event of unmanageable oversupplies, and third, reduces the loan rate now available to farmers from 65 percent of parity down to 60 percent of parity or an $8 hundredweight, whichever is higher. Congressman BREAUX's proposal provides no direct subsidies to rice farmers.

This substitute comprises a plan which was adopted by rice producers from major rice producing areas. I urge you to adopt the substitute introduced by the gentleman from Louisiana (Mr. BREAUX).

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the gentleman from Texas who was just in the well, and who spoke so eloquently on this bill. I join in the position he takes.

I am opposed to the legislation before us, and of course, as a member of the committee, my dissenting remarks are included in the committee report, but I certainly would urge the members of the committee to read the committee report in that regard. I am supporting the Breaux substitute amendment. I think it is a constructive alternative to the committee bill, and certainly would not do the damage that the committee bill would, and would be a useful program that we could try for the next two years and see how it actually works.

I am deeply afraid, for many reasons that are set forth in the committee report and in the remarks of the gentleman from Louisiana, and in the remarks of the gentleman who just spoke in the well, that the passage of this legislation would do a great deal of damage to the present rice growers. For that reason, I urge that the Breaux substitute amendment be adopted.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I thank the gentleman. I take this time just to address myself to some of the remarks we have heard from some of the speakers prior to the remarks of the gentleman from California regarding the present program, and the substitute amendment being some kind of throwback to the 1930's.

We have had the present program since about 1955, and it has been a very flexible program, a workable program. Quite simply stated, it allows the Secretary of Agriculture each December 31 to announce how much rice he thinks this country is going to need for the next year. Under that program, he can increase the allotment by 10 percent if he thinks he needs 10 percent more rice. Or he can remove allotment restrictions completely, as he has done for the past 2 years, and allow anyone to produce rice anywhere.

The only time they can put quotas back on is if the USDA says, "We cannot sell all of the rice; we are going to have a huge carryover." Then and only then will allotments be reinstituted.

I would like to point out one final thing, and that is that just over last month, just over November 11 to December 11, the Department of Agriculture is predicting and projecting that exports are going to be down 350,000 tons over what they were projecting we were going to export just last month. With those current figures—and some people say they are not accurate, but they are the most accurate we have—I can see no reason why we should be moving to something that is going to demand open production, regardless of how much rice we are going to need.

Mr. Chairman, the substitute prevents something like that happening. It prevents a tremendous carryover of rice that we just cannot sell.

Mr. BROWN of California. I thank the gentleman for his comments.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we in California produce about 23 percent of the Nation's rice. We have been in the rice business since the early 1900's, and during that period of time we have had our ups and downs, peaks and valleys. We have grown a lot of rice. Today we plant about one-half million acres. We get very good production. We have ideal land conditions. We have plenty of water. This has all been put together with a lot of hard work and effort on the part of some very fine farmers.

Mr. Chairman, along about 1955 the rice growers throughout the Nation, including the U.S. Department of Agriculture and the Congress, got together and passed the present act. The present act is doing a very good job at the present time and, as stated here, the Secretary of Agriculture has the right to increase the planting throughout the United States outside of the program, as he has done in the last 2 years. This has proved very successful. We have grown a lot of rice. We have furnished enough rice to meet the needs.

We have talked about rice production. We have talked about rice production throughout the world. We have talked about the enormous amount of rice. We in this country only produce about 2 percent of the world's rice. At the present time our rice production is up. World production is up, too.

At the present time, with the world at peace, many of these rice-growing areas are going to grow rice instead of fighting one another and other countries. So the market is drying up.

All of our rice poeple got together at Houston to get into this movement here where we have all of the rice growers in the United States meeting there, and they came up with the so-called Houston plan. That is the plan the gentleman from Louisiana (Mr. BREAUX) has before us as a substitute at the present time.

Mr. Chairman, while our people in California like the program we have right now, they figure it works well, it does a good job, it does not cost the consumer any more, the farmer himself is getting a very small percentage of the pie and they are just able to stay alive and keep going. We do not have large corporate farming operations in the rice business in northern California. Most of our growers belong to associations. They are all about the same size, for the most part, the majority of them. We have 3,500 people in the rice industry in northern California today.

The total value of the crop is around $300 million. Turn that over about four times, and it means a lot to the economy of northern California. We are only producing 22 to 23 percent of the rice.

The people at Houston put together a plan, and they all agreed upon it, with the exception of Arkansas and the Mississippi Valley people. They have a perfect right to disagree. But we in California, Texas, and Louisiana are trying to protect the rice industry with some sort of a program.

Therefore, Mr. Chairman, I support the substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BREAUX. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Louisiana (Mr. BREAUX) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 97, noes 310, not voting 27, as follows:

[Roll No. 794]

AYES—97

Abdnor
Adams
Anderson, Calif.
Andrews, N. Dak.
Bell
Bergland
Boggs
Breaux
Breckinridge
Brooks
Brown, Calif.
Brown, Ohio
Burgener
Burke, Calif.
Burleson, Tex.
Carter
Casey
Clausen, Don H.
Collins, Tex.
Corman
Daniel, Dan
de la Garza
Derwinski
Duncan, Oreg.
Edwards, Calif.
English
Esch
Fountain
Fuqua
Goldwater
Gonzalez
Hannaford
Harsha
Hawkins
Hechler, W. Va.
Henderson
Hightower
Hubbard
Hutchinson
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jordan
Kazen
Ketchum
Krebs
Krueger
Lagomarsino
Leggett
Lloyd, Calif.
Long, La.
McClory
McCloskey
McCormack
McFall
Mahon
Milford
Moore
Moorhead, Calif.
Moss
Myers, Ind.
Natcher
Nichols
Oberstar
Obey
Patman, Tex.
Patten, N.J.
Perkins
Pettis
Pickle
Poage
Preyer
Roberts
Rose
Rousselot
Santini
Satterfield
Sikes
Sisk
Smith, Nebr.
Snyder
Stanton, J. William
Stark
Steed
Steelman
Talcott
Teague
Treen
Van Deerlin
Waggonner
White
Wiggins
Wilson, Bob
Wilson, Tex.
Wright
Young, Alaska
Young, Tex.

NOES—310

Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Brodhead
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Chisholm
Clancy
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Conable
Conlan
Conte
Conyers
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Giaimo
Gibbons
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harrington
Harris
Hastings
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Helstoski
Hicks
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kelly
Kemp
Keys
Kindness
Koch
LaFalce
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McCollister
McDade
McDonald
McEwen
McHugh
McKay
Madden
Madigan
Maguire
Mann
Martin
Mathis
Matsunaga
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patterson, Calif.
Pattison, N.Y.
Pepper

Peyser
Pike
Pressler
Price
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton,
James V.
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Weaver
Whalen
Whitehurst
Whitten
Winn
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—27

Brinkley
Burke, Fla.
Burton, John
Collins, Ill.
Diggs
Findley
Ford, Mich.
Gaydos
Hébert
Heinz
Hinshaw
Landrum
McKinney
Macdonald
Mazzoli
Metcalfe
Mitchell, Md.
Moorhead, Pa.
Pritchard
Rees
Runnels
Stephens
Thompson
Udall
Waxman
Wilson, C. H.
Yates

Messrs. YOUNG of Texas and HUTCHINSON changed their vote from "no" to "aye."

Mrs. HECKLER of Massachusetts and Messrs. BOLLING, SIMON, JENRETTE, and HEFNER changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments? If not, the Clerk will read.

The Clerk read as follows:

TITLE I—RICE ALLOTMENTS AND PRICE SUPPORT

NATIONAL ACREAGE ALLOTMENT AND ALLOCATION

SEC. 101. Effective for the 1976 and 1977 crops of rice, section 352 of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"SEC. 352. (a) The Secretary shall establish for each of the 1976 and 1977 crops of rice a national acreage allotment in the amount of one million eight hundred thousand acres.

"(b) The national acreage allotment for each such crop of rice shall be apportioned by the Secretary to farms, and in producer States and administrative areas, to producers on the basis of the rice allotments established for the 1975 crop as adjusted in accordance with subsection (c) of this section: *Provided*, That not to exceed 1 per centum of the national acreage allotment apportioned within each State may be reserved by the State committee for (1) apportionment to new rice farms and new rice producers on the basis of the following factors: suitability of the land for the production of rice, the extent to which the farm operator (or producer in the case of a producer allotment) is dependent on income from farming for his livelihood, the production of rice on other farms owned, operated, or controlled by such person, and such other factors as the State committee determines should be considered for the purpose of establishing fair and equitable rice allotments; (2) making adjustments in farm allotments to correct inequities or to prevent hardship; and (3) making corrections in farm or producer allotments.

"(c) (1) If for any crop the total acreage planted to rice on a farm is less than the rice allotment for the farm (or in producer administrative areas, the producer allotments allocated to the farm), the farm or producer allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than the allotment for the farm, but such reduction shall not exceed 20 per centum of the farm or producer allotment for the preceding crop; except that if not less than 90 per centum of the farm acreage allotment is planted to rice, the farm shall be considered to have an acreage planted to rice equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to rice because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to rice. For the purpose of this paragraph, the Secretary may permit producers of rice to have acreage devoted to soybeans, wheat, feed grains, sugar, castor beans, triticale, oats, cotton, rye, or such other crops as the Secretary may deem appropriate, considered as devoted to the production of rice to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the rice program.

"(2) If no acreage is planted (or regarded as planted) to rice for two consecutive crop years on any farm which had a farm acreage allotment for such years or for any producer which had a producer allotment for such years, such farm or producer shall lose its allotment.

"(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, no farm or producer allotment shall be reduced or lost through failure to plant, if the cooperator elects not to receive payments for the portion of the farm or producer allotment not planted to which he would otherwise be entitled under the provisions of section 101(g) of the Agricultural Act of 1949.

"(d) Notwithstanding any other provision of this Act, if the Secretary determines for any year that, because of drought, flood, other natural disaster, or a condition beyond the control of the person involved in the production of rice, none or only part of the acres of an allotment can be timely planted or replanted by or for such person in such year, the Secretary may authorize for such year the transfer of the total number of such acres which are so affected to another farm in the same or any nearby county, but within the same administrative area, on which one or more persons on the farm from which the transfer is made will be engaged in the production of rice and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any allotment, or portion thereof, transferred under this subsection shall be regarded as planted to rice on the farm from which the transfer is made for purpose of establishing future farm allotments. For the purpose of determining the amount of payments and loans made under section 101(g) of the Agricultural Act of 1949 with regard to farms to which allotments, or portions thereof, are transferred under this subsection, the Secretary shall establish a farm yield for any such farm for which there is no established yield.

"(e) (1) The Secretary shall permit the owner and operator of any farm for which a farm acreage allotment has been established to sell or lease all or any part, or the right to all or any part of such allotment, to any other owner or operator of a farm in the same administrative area, or to transfer all or any part of such allotment to any other farm owned or controlled by him in the same administrative area. The Secretary shall also permit the person for whom a producer allotment has been established to sell or lease all or any part of such allotment to any other person in the same administrative area.

"(2) (A) If a producer in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm dies, his history of rice production shall be apportioned in the whole or in part among his heirs or devisees according to the extent to which they may continue, or have continued, his farming operations, if satisfactory proof of such succession of farming operations is furnished the Secretary.

"(B) Upon dissolution of a partnership in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm, the partnership's history of rice production shall be divided among the partners in such proportion as agreed upon in writing by the partners.

"(C) Any part of the farm rice acreage allotment on which rice will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county in amounts determined by the county committee to be fair and reasonable. Any allotment surrendered under this subparagraph shall be regarded for purposes of this subsection as having been planted on the farm from which it was surrendered.

"(f) Any acreage planted to rice in excess of the farm or producer acreage allotment in the crop years 1975 and 1977 shall not be taken into account in establishing farm, or producer acreage allotments in any year following such period.".

PAYMENTS AND LOANS

SEC. 102. Effective for the 1976 and 1977 crops of rice, section 101 of the Agricultural Act of 1949 is amended by adding the following new subsection at the end thereof:

"(g) Notwithstanding any other provision of law—

"(1) The established price for the purpose of making payments on rice under this subsection shall be $8 per hundredweight in the case of the 1976 crop, adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on the date of enactment of the Rice Production Act of 1975, and ending July 31, 1976; for the 1977 crop the established price shall be the established price for the 1976 crop adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the twelve-month period immediately preceding July 31, 1977: *Provided*, That any increase that would otherwise be made in the established price for the 1976 and 1977 crops to reflect a change in the index of prices paid by farmers may be further adjusted to reflect any change in (i) the national average yield per acre of rice for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre for the three calendar years preceding the year previous to the one for which the determination is made.

"(2) The Secretary shall make available, to cooperators in the several States of the United States, loans and purchases on the 1976 crop of rice at a rate equal to $6 per hundredweight, adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on the date of enactment of the Rice Production Act of 1975 and ending July 31, 1976: *Provided*, That any increase in the rate of loans and purchases for the 1976 crop to reflect a change in the index of prices paid by farmers may be further adjusted to reflect the change described in the proviso in paragraph (1) of this subsection. Loans and purchases for the 1977 crop shall be established at such rate as bears the same ratio to the loan rate for the 1976 crop as the established price for the 1977 crop bears to the established price for the 1976 crops. The loans and purchases for the 1976 and 1977 crops shall be made available to each cooperator with respect to a quantity of rice determined by multiplying the allotment of the cooperator for the crop by the yield established for the farm, as determined in the manner described in the second sentence of paragraph (4) of this subsection.

"(3) The Secretary shall make available to cooperators payments for each of the 1976 and 1977 crops of rice grown in the several States of the United States at a rate equal to the amount by which the established price for the crop of rice exceeds the higher of—

"(A) the national average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary; or

"(B) the loan level determined under paragraph (2) for such crop.

"(4) The payments for the 1976 and 1977 crops shall be made available to each cooperator with respect to a quantity of rice determined by multiplying the allotment of the cooperator for the crop by the yield established for the farm. The yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, other natural disaster, or condition beyond the control of the cooperator. If the Secretary determines that the persons involved in producing rice on a farm are prevented from planting all or any portion of the acres of the producer or farm acreage allotment to rice or other nonconserving crop, because of droughts, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment with regard to such acres so affected shall be the larger of (A) the foregoing rate, or (B) one-third of the established price, except that the Secretary shall make no payment pursuant to this sentence on a farm from which acres were transferred under section 352(d) of the Agricultural Adjustment Act of 1938 with respect to the transferred acreage. If the Secretary determines that, because of such disaster or condition, the total quantity of rice which the persons involved in producing rice are able to harvest on any farm is less than 66-2/3 per centum of the farm acreage allotment times the yield of rice established for the farm, the rate of payment for the deficiency in production below 100 per centum shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. Any payment made under the previous two sentences with regard to acres transferred under section 352(d) of the Agricultural Adjustment Act of 1938 shall be calculated with respect to the farm yield established on the farm to which such acres were transferred.

"(5)(A) The Secretary shall provide for a set-aside of cropland for a crop of rice if he estimates (without taking into consideration the effect of a set-aside), that the carryover of rice for the marketing year beginning in the calendar year immediately following the calendar year in which such crop will be grown will exceed 15 per centum of the total supply of rice for the marketing year beginning in the calendar year in which such crop will be grown. The Secretary shall make a preliminary determination prior to the beginning of the calendar year in which such crop will be grown and a final determination not later than April 1 of the calendar year in which such crop is grown of whether a set-aside shall be in effect and, if so, the acreage of cropland required to be set aside. The determinations and estimates on which they are based shall be published in the Federal Register at the time they are made. If a set-aside of cropland is in effect under this paragraph then, as a condition of eligibility for payments, loans and purchases under this subsection, the cooperators must set aside and devote to conservation uses an acreage of cropland equal to (i) such percentage of the farm acreage allotment as may be specified by the Secretary (not to exceed 30 per centum of the farm acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary shall permit cooperators to plant and graze sweet sorghum on set-aside acreage. The Secretary may permit, subject to such terms and conditions as he may prescribe, all or any part of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

"(B) To assist in adjusting the acreage of rice to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in paragraph (3) of this subsection, to cooperators on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be devoted under subparagraph (A) of this paragraph. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the cooperator and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

"(6) The rice program formulated under this subsection shall require the cooperators to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in the amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the cooperator agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) If the operator of the farm desires to participate in the program formulated under this subsection, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Payments under this subsection shall be made available to cooperators on such farm only if such cooperators set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator of the farm agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the cooperators on the farm, terminate or modify any such agreement entered into pursuant to this subsection if he determines such action necessary because of any emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of rice.

"(8) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers including provision for sharing, on a fair and equitable basis, in payments under this subsection.

"(9) In the case in which the failure of a cooperator to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

"(10) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subsection.

"(11) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

"(12) The provisions of subsection 8(g) of the Soil Conservation and Domestic Allotment Act (relating to assignment of payments) shall apply to payments under this subsection.

"(13) Notwithstanding any other provision of law—

"(A) The total amount of payments which a person shall be entitled to receive during a crop year under the rice program shall not exceed $55,000.

"(B) The term 'payments' as used in this paragraph shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation.

"(C) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such persons will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

"(D) The Secretary shall issue regulations defining the term 'person' and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this paragraph which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.".

SUSPENSION OF MARKETING QUOTAS AND OTHER PROVISIONS

SEC. 103. Sections 353, 354, 355, and 356 of the Agricultural Adjustment Act of 1938 shall not be applicable to 1976 and 1977 crops of rice.

TITLE II—RICE RESEARCH

SEC. 201. (a) The Secretary of Agriculture may, under rules prescribed by such Secretary, carry out regional and national research programs with regard to rice for the following purposes:

(1) to reduce fertilizer and herbicide usage in excess of production needs;

(2) to develop varieties of rice more susceptible to complete fertilizer utilization;

(3) to improve the resistance of rice plants

to disease and to enhance their conservation and environmental qualities;

(4) to increase the usage of rice and its processing byproducts;

(5) to develop better husbandry practices in production and conservation of rice;

(6) to develop more efficient rice practices;

(7) to improve domestic and international marketing of rice; and

(8) to benefit the general welfare.

(b) The Secretary shall, in implementing the program authorized in subsection (a), utilize the technical and related services of appropriate Federal, State, local governmental, and private agencies.

(c) There is authorized to be appropriated not more than $1,000,000 for any fiscal year to carry out the provisions of this section.

TITLE III—MISCELLANEOUS

UNUSED ACREAGE ALLOTMENTS

Sec. 301. Section 377 of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1976 and 1977 crops of rice.

FINALITY OF FARMERS' PAYMENTS AND LOANS

Sec. 302. Effective only with respect to the 1976 and 1977 crops of rice, section 385 of the Agricultural Adjustment Act of 1938 is amended in the first sentence thereof by inserting immediately after "cotton set-aside program," the following: "payments under the rice program authorized by section 101 (g) of the Agricultural Act of 1949,".

DEFINITION OF COOPERATOR

Sec. 303. Section 408(b) of the Agricultural Act of 1949 is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ": *Provided further*, That for the 1976 and 1977 crops of rice, a cooperator shall be a person who has a rice acreage allotment and, if a set-aside is in effect, who has set aside any acreage required under section 101(g).".

CONFORMING AMENDMENT

Sec. 304. Effective only with respect to the 1976 and 1977 crops of rice, section 408 of the Agricultural Act of 1949 is amended by adding at the end thereof the following new subsection:

"Reference to Terms Made Available to Rice

"(m) Reference made in sections 402, 403, 406, 407, and 416 in terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the level of loans and purchases for rice under this Act, and references made to the terms 'price support', 'price support operation', and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to the loan and purchase operations for such rice in this Act.".

Mr. MATHIS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Georgia?

There was no objection.

COMMITTEE AMENDMENTS

The **CHAIRMAN**. The Clerk will report the committee amendments.

The Clerk read the committee amendments as follows:

Committee amendments: Page 6, line 22, strike out "1975" and insert in lieu thereof "1976".

Page 8, lines 9 through 21, strike "each cooperator with respect to a quantity of rice determined by multiplying the allotment of the cooperator for the crop" and insert in lieu thereof "cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment".

Page 9, lines 10 through 12, strike "each cooperator with respect to a quantity of rice determined by multiplying the allotment of the cooperator for the crop" and insert in lieu thereof "cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment".

Page 9, line 21, strike "acres of the producer" and insert in lieu thereof "acreage allotments of producers on the farm".

Page 10, line 9 insert immediately before "farm acreage allotment" the words "acreage allotments of producers on the farm or of the".

Page 10, line 18, strike out the word "shall" and insert in lieu thereof the word "may".

Page 16, line 22, strike "shortage" and insert in lieu thereof "storage".

Page 17, line 4, strike ou the period and insert the following: ", with priority consideration for Land Grant Universities, State Experiment Stations, and other agricultural institutions of higher learning.".

Page 17, line 6, strike out "any fiscal year" and insert in lieu thereof "the period ending September 30, 1976,".

Page 17, line 7, after the words "section." Insert the following: "No funds authorized by this section shall be used for advertising or promotional activities.".

Page 17, line 25, and page 18, line 1, strike the words "a cooperator shall be a person who has a rice acreage allotment" and insert in lieu thereof "a cooperator shall be a person who produces rice on a farm for which a farm acreage allotment has been established or to which a producer acreage allotment has been allocated".

Mr. MATHIS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, considered as read, and printed in the Record.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Georgia?

Mr. BREAUX. Mr. Chairman, reserving the right to object, I would ask the chairman of the subcommittee what amendments the gentleman is talking about? How many do we have?

Mr. MATHIS. I would say to the gentleman from Louisiana, these are technical amendments and do not change the language of the bill. They are listed on the front page of the committee report.

Mr. BREAUX. Mr. Chairman, I withdraw my reservation of objection.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The **CHAIRMAN**. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. RICHMOND

Mr. RICHMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Richmond: Page 15, line 7, strike out the figure "$55,000" and insert in lieu thereof the figure "$20,000".

Mr. RICHMOND. Mr. Chairman, this bill as reported by the committee provides a $55,000 limit on deficiency payments to individual producers. This means that every rice producer could receive up to $55,000 if the price of rice falls below the target price.

Meanwhile, other major commodities such as wheat and corn have $20,000 payment limitations.

It is unfair to treat rice producers more favorably.

My amendment simply lowers the payment limit for rice to $20,000 to bring it into line with other commodities.

A $55,000 limit benefits only the large corporate rice growers, not smaller family farmers.

The Library of Congress estimates that if the price of rice drops from its present $8.50 to $7.50 per hundredweight the only producers needing more than $20,000 would be the 200 largest in the country out of some 10,000 total—all those with more than 930 acres.

But, the average rice farm is only 200 acres. An average 45 hundredweight per acre yield and maximum $2 per hundredweight payment mean the average rice farmer needs only $18,000 in payments to fully cover his crop.

To those supporters of the $55,000 limit who say the farmer won't get enough with a $20,000 limit, I say, which farmers are you concerned about: The large, wealthy corporate producers, or the smaller, family-owned individual farmers?

To those supporters of the $55,000 limit who say that limits on other commodities were lowered to $55,000 before they were lowered to $20,000 and that rice should be given the same privilege because rice production costs are so high, let me point out that production costs are amply covered in this bill, regardless of the payment limitation. Rice production costs average $331 per acre; total loan and deficiency payments in the bill insures a $360 return to every rice farmer.

And to those who oppose the bill on the grounds that they believe it will cost the Government money—which I do not agree with—let me say that whatever costs you are anticipating, this amendment would lower them by 10 percent or more. The USDA estimates that if maximum payments were made, this amendment would save the Government $27 million over 5 years.

I urge this adoption of this sound, practical, and equitable amendment.

Mr. MATHIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is very pleasant at this point in debate to find myself on the same side as the gentleman from Louisiana (Mr. Breaux) and the gentleman from California (Mr. Brown). I rise to oppose the amendment because it has been and is the considered judgment of the subcommittee and of the full committee that this $55,000 payment limitation would best serve the interests of the farmers and consumers and all the people who are concerned with rice legislation in this country.

Briefly, let me trace where we find ourselves today in terms of rice production. There has never been any kind of payment limitation on rice. As has been pointed out during the course of general debate and debate on some of the amendments, rice is a very expensive commodity for our farmers to produce. Let me share with the members of the committee, very briefly, a couple of figures.

Mr. Chairman, the figures that are available for all the larger commodity crops covered under previous legislation shows us that in 1970 it cost for an acre of corn, $183; to produce an acre of soybeans, $142; to produce an acre of wheat, $127; to produce an acre of cotton, $277. The average cost of producing an acre of rice in this country is $331 per acre. This is compounded, Mr. Chairman and members of the committee, by the fact that only one-third of the rice land on a producer's farm can be used to produce rice in any given year.

What we are talking about here is the process by which we start with a $55,000 payment for the 2-year life of this bill. At the end of 2 years we are going to be back in here again considering this legislation again. We know that, and at that time let us see how it has worked. At that time, let us consider, as we have done for every other major commodity crop, reducing it to $20,000 at that point.

Mr. Chairman, without attempting to prolong debate, I urge defeat of the amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I want to concur with what the gentleman in the well has said, but I do not want to take any more time than is necessary. I do believe that the amendment is ill-advised.

What we have tried to do is to provide justice for existing growers as well as for new growers who come into the field also. This amendment would upset what we have worked out. I concur with the remarks of the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, I thank the gentleman for his comments, and I urge the defeat of the Richmond amendment.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to reenter the picture on this debate on another side at this point.

We have now adopted, by defeating my substitute, a program on rice that will establish a target price if indeed rice prices drop below a certain level. I opposed the original concept that would have allowed deficiency payments of any kind. Now we find ourselves, with the substitute defeated, considering a program that does provide target price protection. The bill as reported by the committee has a payment limitation of $55,000, which means that no one participating in the program can get payments of more than $55,000. I want to emphasize to those Members who are not from rice-producing areas that these deficiency payments are not payments being made for not planting a crop. They are not being paid for letting land be idle. It simply is a deficiency payment where the price of the product drops below what this Congress thinks is a fair return.

I daresay that when we started off with the wheat, corn, and cotton programs, this Congress and these Members here today and in the past decided that that $55,000 was a proper level to put a ceiling on.

The gentleman from New York indicated we needed to drop it down to $20,000 because it is only going to help the big farmers with the $55,000 payment limitation.

The farming area in Louisiana in my congressional district has over 5,000 small rice farmers, and if we drop the payment limitation down to $20,000, anybody producing 250 acres would reach the maximum under the payment program.

Mr. Chairman, a 250-acre farmer in 1976 is not a big farmer. It is a family farm. We are not paying him for not planting. We are paying him to reach a price which is still below the cost of production.

If the Members want to make farmers go out of business, pass this amendment; because if there is any way to really mess up farming operations it is to stick a $20,000 payment limitation. Bear in mind it merely is to bring a farmer up to what they say is below the cost of production but is a fair return.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I will yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I like most of my colleagues in my State, intend to vote for this legislation. I am troubled about some of the representations made by those opposed to the legislation as to its impact on those farmers who grow rice. So I intend to vote against this $20,000 limitation, primarily out of concern that we are taking a step that I hope is a wise one. I think it is probably troublesome to add at this stage a payment limit that would really skewer this legislation.

Mr. BREAUX. Mr. Chairman, I thank the gentleman for his contribution.

I will make only one additional point. In the Agriculture Committee and subcommittee the gentleman from Illinois, who has been a consistent opponent of payment subsidies, offered an amendment to set it at $55,000, in an effort to give this program a chance to work for 2 years. And if it does not, and if there is abuse, we ought to come back and change it. But let us start out with a program with the same level they did for wheat, corn, and cotton, and I dare say it will make the bill a better one although one I still oppose.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman and Members of the Committee, I am troubled as I hear this debate about what we are going to do about the price of rice and what we are going to do about the rice farmer.

I think the thoughts I am about to voice are probably shared by 350 of the 435 Members, but perhaps I am the one Member who is not too timid to ask questions. I am going to ask them, and I hope I get a few answers.

I am as concerned about the price as anybody. Like many of the rest of the Members, I have a district with about 500,000 people. Like many other Members, I do not have one rice farmer in my district, not one, but I have an awful lot of rice eaters. I think it is a safe estimate that out of my 500,000 people I have 300,000 who probably eat more rice than the average consumer in other districts, because I happen to have the privilege of representing a large body of people who have Spanish surnames. I also have a large body of Asians, and rice is a staple of their diet.

I am not interested quite so much in the support payment to the rice farmer, I am not interested quite so much in the loan guarantee to the rice farmer, but I am greatly interested in the price per pound in the market to the consumer who eats rice. My people eat rice. They boil it, they steam it, they fry it, but they all eat it.

When they go into the market to buy rice, if the price of rice goes up 2 cents, that means they are taxed 2 cents, and if we are going to impose that kind of a tax on rice, I want to know why.

I will ask the Members who understand the rice economy, who understand the support payments, who understand the acreage limitations, and who understand the loan guarantees to tell something about what it costs to buy rice at the supermarket. My people eat rice; they do not grow it.

Mr. Chairman, I want to say something else. I have heard a lot about target prices for rice. I was born in a farm community, and I grew up in one. We did not grow one grain of rice; we grew other things. But in my years in politics I have learned one thing, and that is this: The target we are talking about is not the target price. The target of all commodities, be they wheat, corn, potatoes, rice, or any other commodity, is the consumer. These commodities go into his stomach, and the target price, as far as I am concerned, is the price he has to pay for it.

Mr. Chairman, I want to vote right on this bill. I want to do what is best for the people of my country and what is best for the agricultural economy of my country, and, far more important than anything else, I want to do what is best for the people in my district, the people who eat that rice.

Would some Member please get away from the gobbledygook about loan guarantees and acreage allotments and target prices and floors and ceilings and hundreds of thousands of acres and hundreds of thousands of pounds of rice and tell me what it is going to do to the price of rice on the shelf in the grocery store? If some Member can do that I will be listening, and I think there are 350 of us out of the 435 Members who have been waiting around on these benches to hear such an answer, and we have not heard it yet. I would like to have these Members do their job and convince me with some facts.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has expired.

(On request of Mr. PEYSER and by unanimous consent, Mr. DANIELSON was permitted to proceed for 1 additional minute.)

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding.

I want to make one comment, because the gentleman's interest is exactly the same as mine.

I have some of my remarks in front of me. These have just been handed back, and I would like to read from one paragraph. It says this:

> All of the people will be hurt because of the Secretary of Agriculture's very clear statement with respect to the cutback of the usable rice plant next year, and based on this we can anticipate a range of increase running from 30 to 40 percent in the cost at the retail marketplace if the BREAUX substitute is passed.

In other words, with the passage of this bill as it reads now, what we will be doing is to maintain the present level of rice. There will not be any major saving. The present retail level will stay the same, but we will not have an increase.

Mr. DANIELSON. Mr. Chairman, I thank the gentleman for his comments. I may want to support this bill, but all I have heard so far is argument about the poor rice farmer.

I want to hear something about the poor rice consumer. My people eat rice. Love that rice? Not necessarily, but it happens to be a staple, and they eat it. Arroz con pollo, and rice and beans are staples in my district, and so is fried rice. What I want to know is what it will cost the consumer.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of my objectives in my 15 years here as a Member of this body has been to advance the principle of planting freedom for the American farmer. I would like to live long enough to see the day when any American farmer can plant any crop that he wants without any interference on the part of the Government.

We have made a lot of progress toward that goal during these past 15 years. One of the crops which still is severely restricted in terms of planting is rice, of course; and I am gratified to see this body considering a bill which will extend this principle of freedom of planting of rice.

When the bill was before the subcommittee, I became convinced this was a significant advance for agricultural legislation, even if it is just for 2 years. I wanted to do the best I could to advance the acceptance of this principle of freedom of planting embodied in this bill.

The question of payment limits, of course, came up. As some Members know, for at least 10 years I have been doing the best I could to establish limitations on payments to individual farmers. For a long time I sought to get it at the $30,000 level. Then I worked at the $20,000 level. Others, notably the gentleman from Massachusetts (Mr. CONTE) joined in this effort. Fortunately, the $20,000 payment level was finally established in the Agricultural Act of 1973.

Mr. Chairman, the $20,000 limit now applies to three major crops. I would like to see it apply to all crops which have a payment program; but with the three major crops, wheat, cotton, and feed grains, we came to the $20,000 level by stages. We did not go immediately to the $20,000 limitation. We went first to $55,000, then to $20,000.

In the subcommittee I became convinced that the best approach under rice is to go by stages to the $20,000 level. If we did not go by stages I had great concern that this legislation would not be enacted. If that happened the great principle of freedom of planting would be lost, perhaps for years.

Therefore, Mr. Chairman, that is why I am on my feet opposing the amendment of the gentleman to reduce payment limitations to $20,000. I think it is better to leave the limitation as expressed in the bill as it came from the committee, and I say that solely in the interest of securing enough votes for the approval of the bill when the time for final passage comes.

Two years hence we can take another look at the payment limit question.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Committee on Agriculture has attempted, in reporting this bill, to make some changes in the rice program which are, admittedly, controversial and difficult.

The bill would authorize production for rice which is not now possible under the law and provide target prices, loan programs for present holders of allotments.

As the gentleman from Illinois (Mr. FINDLEY), who just left the well, indicated, the bill provides for a payment limitation of $55,000 for the 2 years that this bill would be in effect, the crop years of 1976 and 1977.

Mr. Chairman, I hope this Committee will sustain the position of the Committee on Agriculture and reject the amendment of the gentleman from New York for a $20,000 payment limitation.

I think that the judgment of the committee was wise. The committee position has the support of the gentleman from Illinois (Mr. FINDLEY), who with Mr. CONTE of Massachusetts has been the leading proponent of the $20,000 payment limit.

Let us see how this new program works in the next 2 years. We are making some major changes. We are altering in a substantial way a program, that has existed in rice-producing areas for many years. In order to insure that this new program is not disadvantageous to the existing rice producers of the country, I think we would be wise to retain the $55,000 level.

Two years hence the Congress will review the major farm legislation and the payment limitations incorporated in the 1973 act. At that time the payment limitations of the rice bill can be reexamined as part of that overall review.

Mr. Chairman, the gentleman from New York (Mr. RICHMOND) is my good friend and an outstanding member of the Agriculture Committee, but I would urge my colleagues to sustain the position of the Committee on Agriculture and reject the Richmond amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RICHMOND).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MOORE: Page 11, line 17; page 11, line 24; page 12, line 13; page 12, line 20; page 13, line 1; page 13, line 21; page 14, line 2, strike out the word "cooperators" and insert in lieu thereof the words "owners and operators of a farm"; and
>
> Page 14, line 11, strike out the words "a cooperator" and insert in lieu thereof "an owner or operator of a farm".

Mr. MOORE. Mr. Chairman, let me explain briefly what this amendment does. I have been speaking for the 2 days that we have had debate on this bill about the problems of rice supply and demand. Those arguments seem to have gone unheeded and seem to have been lost and I am taking this last opportunity in an attempt to do something to keep this point within the framework of the committee's bill.

In the bill, Mr. Chairman, there is a provision called a set-aside, and it simply means that if the USDA determines that there will be more rice grown than there ought to be grown, then they have the right to impose a set-aside, setting aside a certain amount of the rice production of the Nation and possibly paying the farmer money if that farmer accepts and enters into their set-aside program which the USDA imposes.

This applies only to the old growers, those growers of rice who have allotments and who have been growing rice for many years.

My thought is that if we are going to have the problems of supply and demand then it ought to apply to not only the old growers, but to the new growers as well and my amendment does just that.

My amendment simply states that a new grower can be brought into the set-aside plan only if he wishes and only if he agrees. The way that the Secretary of Agriculture can get him into the program is by offering a set-aside payment. If the Secretary of Agriculture does not agree, then the new grower is not touched and he can go on growing rice as he sees fit to do.

Mr. Chairman, I think that the new growers would support this amendment if they are worried about the future of the rice production industry.

If there is anything to the figures that have been cited about supply and demand on the international markets and on the domestic markets insofar as rice is concerned, then it is essential to consider this amendment. I believe the amendment will rectify the problem. It will give a tool to the USDA and the new growers.

The USDA has been consulted with regard to this amendment, we have worked with them, and they agree on the interpretation I have given. The possibilities of it being used are such it may never be used but there is no harm, I can assure the Members, in at least giving this power to the USDA to do such a thing.

I urge the support of the Members for my amendment.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. The gentleman is satisfied, then, he is expanding the setaside concept to include the new growers?

Mr. MOORE. That is correct.

Mr. BURLISON of Missouri. But does the gentleman's concept provide for paying the new growers who remove their cropland from reduction, as the bill provides for old growers?

Mr. MOORE. Yes; not target price, not loans, but set-aside payments; yes. Those set-aside payments are made voluntarily by USDA. They do not have to be made, so the new grower can withdraw from any set-aside plan if the new payments are not going to be forthcoming.

Mr. BURLISON of Missouri. If the gentleman will yield further, on what basis are those figures arrived at for the set-aside payments?

Mr. MOORE. It is in section 102(5) (B), the same section for everybody.

Mr. BURLISON of Missouri. It applies equally to the old growers as to the new growers?

Mr. MOORE. Yes, yes. There is no distinction. As I say again, the new grower does not have to go into it if he does not wish to. The old grower may very well have to go into it. I would further answer the gentleman by stating that there is in my mind a fear that the old grower may well suffer mandatory set-asides year after year if we have open production. I think it is only fair that all of the rice growers share in the setting-aside, but it is strictly voluntary as far as the new growers are concerned.

Mr. BURLISON of Missouri. How about the amount of acreage that is set aside? Will that vary with respect to the old growers or the new growers?

Mr. MOORE. Yes, it is the same formula. All we have done is broaden the definition to include the new grower. We have not changed any of the terminology or the mechanics or the formula at all.

Mr. BURLISON of Missouri. I thank the gentleman.

Mr. MOORE. Mr. Chairman, I would urge support for this procedure. I think it is necessary in view of the supply and demand problem that I anticipate with this bill.

Mr. MATHIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I think in the whole history of the House that I have been privileged to serve here, I have never seen an amendment that is quite as confusing as the amendment offered by the gentleman from Louisiana, with all good intentions to seek to protect his farmers by the set-aside provisions of the committee bill.

Mr. Chairman, I do not see any way in the world we could create any less than an administrative nightmare than by trying to bring noncooperators in, with the people who have the allotments.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

I simply advise the chairman of the committee that this was researched by the counsel to our committee. It was also discussed with the USDA. They have no such fears. They said they see absolutely nothing wrong with this provision. It can be administered very easily.

Mr. MATHIS. The gentleman from California, for one, and I think the gentleman from Louisiana (Mr. BREAUX) both have argued that their farmers and producers of rice are not interested in deficiency payments. We do not want to make deficiency payments. But yet the people on the same side of the argument are now coming in and saying we do not want deficiency payments, but we want set-aside payments to people who are not even under the program at the present time.

Mr. Chairman, it is my belief and, I think, the considered judgment of those of us who are familiar with this legislation, that this would be an administrative nightmare. It could open up a potential cost to the Treasury and the kind of exposure to the Treasury that the gentleman from Louisiana does not seek, I am sure.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

We have already covered the point about the administration. I point this out, that under my amendment it is entirely conceivable that there may well be payments to the new growers and not to the old. Therefore, it is strictly voluntary. We are not forcing anybody to do anything. We are simply saying that if the Secretary feels that this is necessary to provide a supply and demand balance to the growth of rice, which this bill, the committee bill, provides, then this will be spread to all growers and not just the old ones.

Mr. MATHIS. Does the gentleman have any idea what the potential cost of this kind of set-aside to potential new growers might be?

Mr. MOORE. If the gentleman will yield, yes, I do. The Administrator of ASCS, Mr. Ken Frick, has stated that he is not going to make any payments under this provision, so I would say that right now the threat is such that there will not be any payments made under it.

Mr. MATHIS. If it is not going to cost anything, why does he want to bring all of these people under it?

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out that this amendment pays people not to grow rice who have not been allowed to grow rice before because of a Government program. We do not have any base or allotment, and if the Members do not understand the set-aside program, they will not be able to follow what I am saying except I could give them an example.

In my district, people in Colorado who cannot grow rice because of the climate, will be paid not to grow rice under this amendment. There were several attempts to do this several years ago when people were trying to give farmers in various parts of the country corn allotments, so they would be paid not to grow corn in areas where corn simply could not be grown.

That is the kind of amendment this is. Those Members who do not have any rice growing in their areas will find farmers under this amendment applying for set-aside payments, and they will be paid not to grow rice. This is the kind of amendment which is mischievous and does not really offer anything to the whole program, because if the Members understand, the set-aside program only applies to allotment holders and those who participate in the program and have an incentive to participate in the program.

Mr. MATHIS. What the gentleman is saying is we peanut farmers do not grow any rice today and all our farmers are to have set-aside payments.

Mr. JOHNSON of Colorado. If they intend to grow rice—but we can establish that for peanuts too and we can claim to grow peanuts on Pikes Peak and under this kind of amendment, be paid not to grow them.

Mr. MOORE. Mr. Chairman, if the gentleman will yield, to answer the point raised by my distinguished minority leader on this committee, one has to have a history of growing rice even to be considered for set-aside payments. We will not have farmers who have never grown rice before get set-aside payments. The whole purpose is to have some control over the oversupply. We have opened up production completely. We are simply asking the new farmers to come in under this bill and the Secretary can have some control over the oversupply which he does not now have. We are only giving him a voluntary control over it if he and the new growers want to participate.

Mr. MATHIS. It is my opinion this amendment would create an administrative nightmare. No matter what the administration has said, I am convinced the administration might think it is not a nightmare but it is my opinion they do not know a white horse from a nightmare anyway.

Mr. ALLEN. Mr. Speaker, I move to strike the requisite number of words.

Would the gentleman who is chairman of the subcommittee please answer this question? In the gentleman's judgment, would not this amendment in effect place a blank check upon the Treasury of the United States to be filled in by anyone who undertakes to say he would like to grow rice whether he wants to or not?

Mr. MATHIS. If the gentleman will yield, I certainly would not go so far as to say that. That is stretching it a little bit further than I would like to stretch it, and I am prone to stretch a point now and again, but I would not be inclined to stretch it that far.

Mr. ALLEN. What would the effect of it be if it would not increase the burden on the U.S. Treasury?

Mr. MATHIS. It certainly could have the effect of causing funds to be spent from the U.S. Treasury, but I do not think it is a blank check on the Treasury. I think my friend from Louisiana would agree with that, even though he would not agree it is, as I say, an administrative nightmare, but I would insist it would be that.

Mr. MOORE. Mr. Chairman, if the gentleman will yield, my amendment is not going to cost anything if the bill is not going to cost anything. The Secretary is going to be administering this bill, and it is not going to cost anything if he is not going to make any payments to control rice supply. Participation is voluntary as far as the control over growing rice. It is not certainly a blank check or uncontrolled expenditure from the Treasury.

Mr. ALLEN. Someone else has said in the well this is rather a difficult amendment to understand, particularly for a newcomer. It is true that it has been represented that this bill is not going to cost any money, but, if those who have made that judgment are in error and it is going to cost money, would not this increase the cost of money to the Federal Government?

Mr. MATHIS. If the gentleman is asking me that question, I would have to agree the gentleman is probably correct.

Mr. Chairman, there is much ado about this amendment. I think we are prolonging the debate unnecessarily and I would like to resolve it and get to the vote as soon as possible.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief. I know most Members do not want to hear any more about this subject. I want to talk to those people that do not know what in the world this amendment will do. No. 1, under the committee bill, there are two kinds of people who can plant rice: those that have an allotment and those that do not have an allotment. That is the first point.

The next point is that they have a set-aside in the bill. That simply means if the Secretary of Agriculture decides he is going to have too much rice, at his option he may say we will have a set-aside program.

The way the bill is presently drafted, it means that a certain amount of acreage is going to have to be set aside that will not be planted in rice.

The defect in the committee bill is that the only people that can participate in the set-aside program are the allotment holders. That simply means that everybody else that does not have an allotment has no restraint. They can continue to plant too much rice and keep costing the Government money.

Now, this is probably one of the most unfair provisions in the bill and I think the amendment of the gentleman from Louisiana would correct it. It would provide set-asides to those who do not have allotments, as well as those who have allotments. It would not cost the U.S. Treasury any additional funds. The reason I say that is simply this: If the Department head decides we need 10 percent less rice, he sets aside 10 percent and he sets it aside equally among the allotment and nonallotment holders. The net result is the same amount of rice land would be set aside and used for other purposes. There is no additional cost. It just says to the people that the allotment holders and nonallotment holders are going to be treated the same.

The amendment offered by the gentleman from Louisiana is a great improvement to the bill. It means that the bill will be carried out in a fair manner. I do not think we can ask any more than that.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, I wonder if the gentleman from Louisiana would be willing to treat all the rice producers the same by extending the target price and the loan rate to all newcomers?

Mr. BREAUX. May I say that we took this approach to the chairman of the subcommittee. They are going to get more rice than ever under this bill already.

Mr. Chairman, I urge support for the amendment of the gentleman from Louisiana.

Mr. LEGGETT. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

Mr. Chairman, I doubt that many on the floor really understand exactly where we are. Here we are trying to enact a bill to stimulate the production of rice and to bring the price down, and simultaneously we are trying to handle a situation where we envision production of too much rice. So we have the provision in this bill that I have alluded to before. The current bill pays people who currently have an allotment for converting to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity and also to make payments to have them set aside the right for public hunting, trapping and fishing, and hiking. They will get paid for all those things under the existing bill we are enacting to allegedly help out the rice program. To extend this crazy program under the existing amendment to people without allotments makes no sense.

I just cannot agree to that. We cannot establish a disaster program for everybody. I think we have to limit it to the existing people. I do not think the program is going to work. I think it is an utter disaster to make payments to viable commercial producers that take their alloted acres out of production and to allow people with a fragile history of 6 months or a year to get paid for putting their property in hunting and fishing. If they write an article about this Congress, they will have to include an anecdote on what we are doing here today.

Mr. Chairman, I think this amendment ought to be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. MOORE).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. MOORE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Louisiana (Mr. MOORE) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a Californian whose congressional district contributes substantially to the American production of rice, I am urging my colleagues to oppose H.R. 8529. This bill, by amending our existing, successful rice legislation, would result in an overproduction of rice, placing an additional stress on the small and medium-sized farmers in particular.

Normally, the small farmer is growing as much rice as he has acreage to accommodate. He cannot increase his production to make up for any decrease in the market price of rice. Clearly, one result of the proposed amendments would be to squeeze out the small farmers. Additionally, studies have shown that even when the farmer is receiving a depressed price for his rice, the consumer may be paying a higher price. There is no correlation between what the farmer receives and what the consumer pays.

The present rice program has been so successful that for at least the last 5 years, the Federal Government has not had to pay any direct benefits to rice growers in California. Their production has been substantial—in 1974, 24,709,000 hundredweight was produced for a market value of $279 million—but there has been no overproduction. As far as our State is concerned, the program has worked. The California rice producers are unanimous in their opposition to this legislation.

I urge you to oppose H.R. 8529, because the changes it will make will not be beneficial to the California rice growers.

Mr. PICKLE. Mr. Chairman, I rise in support of the Breaux amendment. I am sincerely concerned that if the House passes the present bill, H.R. 8529, which is backed by a very diverse and sectionalized coalition, we will be marking the end of the road for the small and medium rice producer who has been the backbone of this industry for many years.

The current program is a well functioning arrangement of price supports through loans, allotments and quotas when necessary. Time has proved it successful. If demand warrants it, then open production is permitted, as we have seen during the last 2 years. But the Mathis-Bowen-Alexander bill will make open production mandatory. I predict that this will lead to unmanageable surpluses.

Since 1954, this country has had a viable rice program. I support it in its present form but to prevent the calamitous proposed legislation, I feel that the Breaux alternative is a much better vehicle.

In contrast to the committee bill, the Breaux bill provides no direct subsidy payments.

It is unfortunate that the rice-eating consumer has swallowed the arguments put forth by the large commercial brewers who want cheaper rice. The rice eater has been told that if we have complete open production, rice will be cheaper in the supermarket. I wish the proponents of the bill would explain why, with increased production by nearly 30 million hundredweight during the last 2 years, retail prices have increased from 14.8 to 35.5 cents per pound. At the same time, the farmer is receiving less per pound than he was in August of 1973.

Perhaps this bill would be more defensible if it could be successfully argued that the increased production would alleviate hunger throughout the world. But this is simply not the case. The legislation provides no new markets or means to distribute the oversupply. We have lost some of our biggest customers—Vietnam, Cambodia, Iraq, and Indonesia. I really do not believe that there are enough inhabitants of the oil-rich Middle East to consume all of our excess rice.

I hope we do not turn our back on the independent rice producer who has performed ably for the last 40 years.

Mr. MURPHY of New York. Mr. Chairman, once again, as in past years, I rise in support of the Rice Production Act (H.R. 8529). More than ever this legislation is necessary and worthy of passage. The proposed program for the production of rice is of particular interest to me as rice is a major staple in the diet of the large Chinese and Puerto Rican communities in my district. The price of this staple food has more than tripled since 1972 and the effect of this price rise has been devastating not only for my constituents, but also for low and fixed income people nationwide. The Chinese-American restaurant industry, for example, depends on an adequate and reasonably priced supply of rice. Restaurant owners in my district have indicated to me that the spiraling costs of rice threaten their very existence as businessmen. They have been forced to raise prices of their meals, the number of customers has subsequently declined and workers have been laid off. Chinese-Americans are justifiably concerned about this situation. But, as I said before, there are others who share in the implication of higher rice prices. Rice has been a traditional staple for the poor and the elderly. With today's economic situation, more people are depending on rice as part of their basic diet, however, the rising cost of rice has made its purchase prohibitive for those who depend upon it the most.

Now, I fully realize the passage of this bill will not bring about a dramatic decline in the price of rice. What I believe it will do is halt the outrageous escalation in costs for the consumers of rice. Yes, my direct interest with the consumers of rice but this is not to say that only consumers will benefit by the passage of this legislation. Producers will also benefit by the passage of this bill.

The rice program under which we are currently operating has done well in past years, but it is not capable of responding to present conditions both at home and abroad. The current program, strictly regulated by the Government, was designed to deal with chronic surpluses of rice. But we no longer have surpluses. Everywhere in the world we witness shortages—shortages which can be met by open production of rice and increased exportation. We need this more flexible program to take advantage of new export opportunities and these export opportunities will be advantageous to the producers of rice. The world market is expanding. The new-found wealth of the OPEC nations is a case in point. The potential rice market for these countries is enormous. This potential export market may also work toward alleviating our growing balance-of-payment problem in the international market.

In sum, H.R. 8529 will provide a market-oriented program that is responsive to current realities and adaptable to future circumstances. The program is well conceived and right-minded. And I, in the interest of both the consumers and the producers of rice, support its passage.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLOWERS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8529) to establish improved programs for the benefit of producers and consumers of rice, pursuant to House Resolution 85, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MOORE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MOORE moves to recommit the bill (H.R. 8529) to the Committee on Agriculture.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken.

Mr. MOORE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 102, nays 311, not voting 21, as follows:

[Roll No. 795]

YEAS—102

Abdnor
Anderson, Calif.
Andrews, N.C.
Bell
Bergland
Boggs
Breaux
Breckinridge
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Burgener
Burke, Calif.
Burleson, Tex.
Carter
Casey
Clancy
Clausen, Don H.
Collins, Tex.
Conlan
Corman
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Downing, Va.
du Pont
Eckhardt
English
Esch
Eshleman
Fisher
Fountain
Fuqua
Goldwater
Gonzalez
Guyer
Harsha
Hechler, W. Va.
Henderson
Hightower
Hillis
Hubbard
Hughes
Hyde
Johnson, Calif.
Jones, Okla.
Jordan
Kazen
Ketchum
Kindness
Krebs
Krueger
Lagomarsino
Leggett
Lloyd, Calif.
Long, La.
McCloskey
McFall
Mahon
Moore
Moorhead, Calif.
Moss
Mottl
Myers, Ind.
Neal
Nichols
Patman, Tex.
Patterson, Calif.
Pettis
Pickle
Pike
Poage
Preyer
Roberts
Robinson
Rose
Rousselot
Roybal
Satterfield
Sisk
Smith, Nebr.
Snyder
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Talcott
Teague
Treen
Van Deerlin
Waggonner
White
Whitehurst
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wydler
Wylie
Young, Tex.

NAYS—311

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brown, Mich.
Broyhill
Buchanan
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Chisholm
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Derrick
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Giaimo
Gibbons
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Helstoski
Hicks
Holland
Holt
Holtzman
Horton
Howard
Howe
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kelly
Kemp

Keys
Koch
LaFalce
Landrum
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madden
Madigan
Maguire
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pressler
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Weaver
Whalen
Whitten
Wiggins
Wilson, Bob
Winn
Wirth
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—21

Burke, Fla.
Burton, John
Collins, Ill.
Dent
Diggs
Ford, Mich.
Gaydos
Hastings
Hébert
Heinz
Hinshaw
McKinney
Macdonald
Metcalfe
Moorhead, Pa.
Rees
Runnels
Stephens
Thompson
Udall
Waxman

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Thompson against.

Mr. Waxman for, with Mr. Dent against.

Mr. Heinz for, with Mr. McKinney against.

Mr. Hinshaw for, with Mr. Moorhead of Pennsylvania against.

Until further notice:

Mr. John L. Burton with Mr. Stephens.

Mr. Macdonald of Massachusetts with Mr. Runnels.

Mr. Metcalfe with Mr. Rees.

Mr. Burke of Florida with Mr. Hastings.

Mrs. Collins of Illinois with Mr. Ford of Michigan.

Mr. Diggs with Mr. Udall.

Messrs YOUNG of Texas, MOSS, and ANDREWS of North Carolina changed their vote from "nay" to "yea."

Mr. DEL CLAWSON changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. PEYSER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 311, nays 104, not voting 19, as follows:

[Roll No. 796]

YEAS—311

Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bowen
Brademas
Brinkley
Brodhead
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Chisholm
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fraser
Frenzel
Frey
Giaimo
Gibbons
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Helstoski
Hicks
Holland
Holt
Horton
Howard
Howe
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kelly
Kemp
Keys
Koch
LaFalce
Landrum
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madden
Madigan
Maguire
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Pattison, N.Y.
Pepper
Perkins
Peyser
Pressler
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Thone
Thornton
Traxler
Tsongas
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
Whitten
Wiggins
Wilson, C. H.
Winn
Wirth
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—104

Abdnor
Adams
Anderson, Calif.
Andrews, N.C.
Ashbrook
Bell
Bergland
Boggs
Bonker
Breaux
Breckinridge
Brooks
Broomfield
Brown, Calif.
Burgener
Burleson, Tex.
Carter
Casey
Clancy
Clausen, Don H.
Collins, Tex.
Conlan
Corman
Daniel, Dan
Daniel, R. W.
Devine
Downing, Va.
du Pont
Early
Eckhardt
English
Eshleman
Fisher
Fountain
Fuqua
Goldwater
Gonzalez
Guyer
Harrington
Harsha
Hechler, W. Va.
Hefner
Henderson
Hightower
Hillis
Holtzman
Hubbard
Johnson, Calif.
Jones, Okla.
Jordan
Kazen
Ketchum
Kindness
Krebs
Krueger
Lagomarsino
Leggett
Lloyd, Calif.
Long, La.
McCloskey
McFall
Mahon
Mikva
Milford
Moore
Moorhead, Calif.
Moss
Mottl
Myers, Ind.
Neal
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pettis
Pickle
Pike
Poage
Preyer
Roberts
Robinson
Rose
Rousselot
Santini
Satterfield
Sisk
Smith, Nebr.
Snyder
Stark
Steed
Steelman
Steiger, Ariz.
Talcott
Taylor, N.C.
Teague
Treen
Van Deerlin
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Wolff
Wright
Young, Alaska
Young, Tex.

NOT VOTING—19

Burke, Fla.
Burton, John
Collins, Ill.
Diggs
Ford, Mich.
Forsythe
Gaydos
Hébert
Heinz
Hinshaw
McKinney
Macdonald
Metcalfe
Moorhead, Pa.
Runnels
Stephens
Thompson
Udall
Waxman

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Waxman against.

Mr. Burke of Florida for, with Mr. Hinshaw against.

Mr. McKinney for, with Mr. Heinz against.

Until further notice:

Mr. John L. Burton with Mr. Runnels.

Mr. Thompson with Mr. Stephens.

Mr. Metcalfe with Mr. Moorhead of Pennsylvania.

Mr. Diggs with Mr. Ford of Michigan.

Mr. Udall with Mr. Macdonald of Massachusetts.

Messrs. ANDERSON of California, ROUSSELOT, and MOORE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MATHIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERSONAL EXPLANATION

Mr. **YATES**. Mr. Speaker, I was working on a problem of a constituent and arrived too late to vote on the Breaux amendment to the rice bill.

Had I been present, I would have voted against the amendment.

SENATE CONCURRENT RESOLUTION 62, MAKING APPORTIONMENT OF FUNDS FOR THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. **JONES** of Alabama. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 62) making apportionment of funds for the National System of Interstate and Defense Highways.

The Clerk read the title of the Senate concurrent resolution.

The **SPEAKER**. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 62

Resolved by the Senate (the House of Representatives concurring), That the Secretary of Transportation shall apportion the sums authorized to be apportioned for the fiscal year 1977 for immediate expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in table 5, House committee print numbered 94–14.

Mr. **JONES** of Alabama. Mr. Speaker, Senate Concurrent Resolution 62 directs the Secretary of Transportation to apportion $3,250 million authorized for the fiscal year 1977 out of the highway trust fund to the several States for the continued construction of the National System of Interstate and Defense Highways. These funds will be apportioned to the various States based on the cost estimate submitted by the States through the Department of Transportation to the Congress as contained in House Document 94–14 dated March 1974.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 8235, FEDERAL-AID HIGHWAY ACT OF 1975

Mr. **MURPHY** of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 929 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 929

Resolved, That upon the adoption of this resolution it shall be in order to move without the intervention of any point of order that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8235) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, two hours to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Public Works and Transportation, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and title III of said substitute shall be considered as having been read for amendment. No amendment to title III of said substitute, including an amendment in the nature of a substitute for said committee amendment which would change title III, shall be in order in the House or in the Committee of the Whole except amendments offered by direction of the Committee on Ways and Means, which may be offered in the Committee of the Whole, and said amendments shall not be subject to amendment. It shall be in order to consider without the intervention of any point of order the text of an amendment by Representative Edgar of Pennsylvania printed in the Congressional Record of December 15, 1975, if offered as an amendment in the nature of a substitute for the committee amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 8235 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER**. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. **MURPHY** of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 929 provides for the consideration of H.R. 8235 without the intervention of any point of order against the bill or the committee substitute.

House Resolution 929 provides for a modified open rule, with 3 hours of general debate, 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The resolution also provides that the committee substitute shall be read for amendment under the 5-minute rule, by titles instead of by sections.

House Resolution 929 provides that no amendment to title III of the substitute, including an amendment in the nature of a substitute for the committee amendment which would change title III, shall be in order in the House or in the Committee of the Whole except amendments offered by direction of the Committee on Ways and Means, which may be offered in the Committee of the Whole and which shall not be subject to amendment.

Title I of the Federal-Aid Highway Act of 1975 authorizes outlays of $8.8 billion in fiscal year 1977 and another $8.8 billion in fiscal year 1978 for highway construction and other transportation programs conducted under the Federal-Aid Highway Act. The amount of $2.2 billion would be authorized for the transition quarter. This section of the bill also authorizes $4 billion through 1987 and $840 million in 1988 to complete the interstate highway program. A built-in inflation factor of 7 percent would be provided for expected rises in construction costs.

Title II of the bill pertains to the Highway Safety Act of 1975, increasing the funding and the scope of the existing safety program. This section also provides additional incentive grants to States which have significantly reduced traffic fatalities and provides for new studies dealing with highway safety.

Title III of this bill extends the highway trust fund and revenues for 2 years until October 1, 1979.

H.R. 8235 revises the Federal Aid Highway Act of 1973 to meet current needs, provides new and comprehensive highway safety efforts, and amends the highway trust fund legislation.

Mr. Speaker, I urge the adoption of House Resolution 929 in order that H.R. 8235 may be considered.

Mr. **BAUMAN**. Mr. Speaker, will the gentleman yield for a question?

Mr. **MURPHY** of Illinois. I will yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. **BAUMAN**. I thank the gentleman for yielding. It is the understanding of the gentleman from Maryland that this rule waives all points of order, thus protecting a number of provisions in the bill that might be subject to points of order under the new Budget Control Act.

Mr. **MURPHY** of Illinois. That is correct.

Mr. **BAUMAN**. Would the gentleman elaborate why the Committee on Rules felt compelled to grant a rule that already violates the procedures of the new Budget Control Act?

Mr. **MURPHY** of Illinois. The Budget Committee, No. 1, does not object to it.

I will yield to the gentleman from New Jersey (Mr. HOWARD), who will explain it further.

Mr. **HOWARD**. Mr. Speaker, we have been informed for several months, in the preparation of this legislation, that we could pass a highway bill at the end of this session and be able to go into conference with the other body, perhaps complete the conference after the first of next year. Near the very end of our deliberations we were informed that there was a change in the analysis of the situation which stated that although it said the bill and amendments must be concluded at the end of this year, a conference is considered as an amendment and, therefore, not only the bill but also the conference would have to be completed this year, otherwise a Federal-aid highway bill could not be brought to the floor until after May 15 of next year, which is the time another budget resolution is due to come. This, of course, would be rather disastrous around the country, when 36 States at last count were out of their highway funds. So the only waiver of the budget resolution would be to permit the House, if it passes the bill before the end of this session, to be able then to go into conference and be able to come up with a conference report after next year and, therefore, avoid having all of the States wait until after April 15. That was the only waiver concerning the budget resolution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield further?

Mr. MURPHY of Illinois. I will yield to the gentleman.

Mr. BAUMAN. I thank the gentleman for yielding. Then am I to understand the authority for making appropriations provided in this bill will be outside of the new budget process and will not come under the control of the new Budget Committee in the next session?

Mr. HOWARD. If the gentleman will yield, this, as I understand, is under the control of the Budget Committee.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, perhaps I can enlighten the gentleman.

Mr. MURPHY of Illinois. I will yield to the gentleman from Texas (Mr. Wright).

Mr. WRIGHT. Mr. Speaker, under the Budget Act, a provision was made to the effect that any authorization bill which included authorizations for the coming fiscal year—not the one which we are now completing—would not be considered between the times that the second budget for the present fiscal year was concluded and the time in May when the consideration of the first budget resolution for fiscal year 1977 shall have been concluded.

A special waiver was granted, with the concurrence and the approval of the Budget Committee, Members on both sides being acquainted with the problem, to the effect that if we would move ahead now with the highway authorization, that rule will be waived. The waiver was supported by members of the Committee on the Budget in the interest of the consideration of the highway bill so it could move through the House. Then we could consider a conference committee report later, notwithstanding the provisions in the Budget Act.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, he is saying that the provisions of this authorization bill are not removed from the budget aggregates set by the Committee on the Budget?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Texas.

Mr. WRIGHT. No, it does not. In effect, it does not.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, the Committee on the Budget may go back and reduce these authorization amounts and order the committee to spend less if it should see fit?

Mr. WRIGHT. Indeed, it could. The Committee on the Budget might well be within its rights, if it should determine for reasons sufficient to its members, and should the Members of the Senate and the House concur in that decision, that spending for fiscal year 1977 should be less than that authorized in this bill.

As a matter of fact, as the gentleman will recall, the Congress already has adopted spending ceilings for highway expenditures both for the fiscal year 1976 and for the transition quarter through the appropriation process, and those are somewhat less than would have otherwise been adopted.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the rule making in order the consideration of H.R. 8235, the Federal-Aid Highway Act of 1975. The purpose of H.R. 8235 is to provide funds for the continuation of the Federal-Aid Highway Act for the fiscal years 1977 and 1978. The bill also authorizes funding to carry on the construction of the Interstate Highway System through to completion in the fiscal year 1988.

This bill, which extends the Federal highway program for 2 years, must be passed to prevent numerous highway construction and safety projects throughout the country from grinding to a halt with a resultant loss of many jobs and costly delays. Thirty-six States have already run out of 1975 interstate highway funds and several more States will exhaust one or more funding categories within the next 90 days. If the House does not act prior to the holiday recess, the bill will be dead until after next May under the requirements of the new Congressional Budget Control Act.

We are in the process of completing a highway system in the United States which is already the finest in the world. I strongly support the Federal-highway program and the basic intent of H.R. 8235.

Some Members feel that this bill contains too much funding for our national highway program, while others strongly disagree this is so. While I believe there exists general support for the purpose of H.R. 8235, I am also aware of the sharply divergent points of view regarding some of the provisions of this bill which have been raised by many of my colleagues.

Mr. Speaker, a very large number of amendments are scheduled to be offered on the floor during the consideration of this bill. The rule was carefully drafted to provide for the proponents of the various amendments to be offered the full debate which this important legislation deserves.

I, therefore, urge the adoption of the rule so that we can consider H.R. 8235, and hopefully provide for an improvement in our Federal highway program which has already proved a great benefit to the American people.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin (Mr. Steiger).

Mr. STEIGER of Wisconsin. Mr. Speaker, I am grateful to the distinguished gentleman from Tennessee (Mr. Quillen) for yielding some time under the rule.

I take this time, Mr. Speaker, because I would like to explore with the chairman of the Committee on Ways and Means a problem which during the consideration by the Committee on Ways and Means I tried to deal with and was unsuccessful. I offered an amendment at the time to reduce the extension of the trust fund from 2 years to 1 year. That was defeated.

Mr. Speaker, it does seem to me that the Committee on Ways and Means has a responsibility to look more closely at what we are doing in the trust fund field generally and specifically in the case of the highway trust fund. During our consideration of the airport and airways trust fund the gentleman agreed with our friend, the gentleman from Florida (Mr. Bafalis), that the chairman of the committee would try to have the Committee on Ways and Means deal with the airport trust fund next year and hold some hearings.

Frankly, I would like to ask if the gentleman would be willing to consider—not only consider but agree to—taking some time during what I recognize is a very full schedule for our committee during 1976 to look at the highway trust fund at the same time we are looking at the airport and airways trust fund.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the chairman of the committee.

Mr. ULLMAN. Mr. Speaker, this bill would extend the trust fund for 2 years, and it certainly would be the purpose of the chairman of this committee to thoroughly examine the highway trust fund in coordination with the Committee on Public Works and Transportation, which has a joint responsibility within that 2-year time frame. Hopefully, this can be done well before the 2 years expire, so before this act would expire it would be our hope that we could thoroughly consider the trust fund.

We further hope that we could have extensive consultation with the Committee on Public Works and Transportation and that we can, hopefully, change the direction in the procedure of this trust fund.

Mr. STEIGER of Wisconsin. Mr. Speaker, I very much appreciate those remarks by the chairman of the Committee on Ways and Means.

Mr. Speaker, the hour is late, and there is lots left to do.

I must say, in all honesty, that the bill and the rule leave a lot to be desired. A lot of the bill can be dealt with by the amendment process, but the rule precludes any points of order. That disturbs me very, very much; but what disturbs me more is the fact that this bill came to us from the Committee on Public Works without sequential referral. It came to us in a fashion which made it very difficult for the Committee on Ways and Means to have any kind of substantive relationship to that responsibility under the rules that we have for the trust fund itself—how much is raised, to what extent, and for how long the trust fund stays on, and so forth.

Mr. Speaker, I will keep pursuing this

with our chairman and with my colleagues on the committee in an effort to have the Committee on Ways and Means take an extensive, indepth look at the highway trust fund.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5559, AMENDING INTERNAL REVENUE CODE TO PROVIDE FOR EXCLUSION OF INCOME FROM TEMPORARY RENTAL OF RAILROAD ROLLING STOCK BY FOREIGN CORPORATIONS

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations:

Conference Report—(H. Rept. No. 94–739)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5559) to amend section 883 (a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Section 1. Short Title.

This Act may be cited as the "Revenue Adjustment Act of 1975".

Sec. 2. Individual Income Tax Reductions.

(a) Low Income Allowance.—

(1) Increase.—Subsection (c) of section 141 of the Internal Revenue Code of 1954 (relating to low income allowance) is amended to read as follows:

"(c) Low Income Allowance.—

"(1) In general.—The low income allowance is—

"(A) $2,100 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2 (a)),

"(B) $1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,050 in the case of a married individual filing a separate return.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the following amounts shall be substituted for the amount set forth in paragraph (1)—

"(A) '$1,700' for '$2,100' in subparagraph (A),

"(B) '$1,500' for '$1,700' in subparagraph (B), and

"(C) '$850' for '$1,050' in subparagraph (C).".

(2) Change in filing requirements to reflect increase in low income allowance.—Paragraph (1) (A) of section 6012(a) of such Code (relating to persons required to make returns of income) is amended—

(A) by striking out "$2,350" in clause (i) of such paragraph and inserting in lieu thereof "$2,450";

(B) by striking out "$2,650" in clause (ii) of such paragraph and inserting in lieu thereof "$2,850"; and

(C) by striking out "$3,400" in clause (iii) of such paragraph and inserting in lieu thereof "$3,600".

(b) Percentage Standard Deduction.—

(1) Increase.—Subsection (b) of section 141 of such Code (relating to percentage standard deduction) is amended to read as follows:

"(b) Percentage Standard Deduction.—

"(1) General rule.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(A) $2,800 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,400 in the case of a married individual filing a separate return.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1) of this subsection, the following amounts shall be substituted for the amounts set forth in paragraph (1)—

"(A) '$2,400' for '$2,800' in subparagraph (A),

"(B) '$2,200' for '$2,400' in subparagraph (B), and

"(C) '$1,200' for '$1,400' in subparagraph (C).".

(2) Conforming amendments.—Section 3402 (m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$2,600" in paragraph (1) (B) and inserting in lieu thereof "$2,800", and

(B) by striking out "$2,300" in such paragraph and inserting in lieu thereof "$2,400".

(c) Earned Income Credit.—Subsections (a) and (b) of section 43 of such Code (relating to earned income credit) are amended to read as follows:

"(a) Allowance of Credit.—

"(1) General rule.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph.

"(b) Limitation.—

"(1) General rule.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph.".

(d) Disregard of Refund.—Any refund of Federal income taxes made to any individual by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) shall not be taken into account as income or receipts for purposes of determining the eligibility, for the month in which such refund is made or any month thereafter which begins prior to July 1, 1976, of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds, but only if such individual (or the family unit of which he is a member) is a recipient of benefits or assistance under such a program for the month before the month in which such refund is made.

(e) Extension of Certain Low-Income Allowance, Percentage Standard Deduction, and Tax Credit Provisions.—The last sentence of section 209(a) of the Tax Reduction Act of 1975 is amended to read as follows: "The amendments made by section 201(a) and 202(a) shall cease to apply to taxable years ending after December 31, 1975; those made by sections 201(b), 201(c), and 203 shall cease to apply to taxable years ending after December 31, 1976.".

(f) Extension of Earned Income Credit.—Section 209(b) of the Tax Reduction Act of 1975 (relating to effective date for section 204) is amended by striking out "January 1, 1976," and inserting in lieu thereof "January 1, 1977.".

(g) Effective Date.—The amendments made by this section apply to taxable years ending after December 31, 1975, and before January 1, 1977.

Sec. 3. Taxable Income Credit.

(a) Taxable Income Credit.—

(1) In general.—Section 42 of the Internal Revenue Code of 1954 (relating to credit for personal exemptions) is amended to read as follows:

"Sec. 42. Taxable Income Credit.

"(a) Allowance of Credit.—

"(1) In general.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(A) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed $9,000; or

"(B) $35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.

"(2) Application of six-month rule.—Notwithstanding the provisions of paragraph (1) of this subsection, the percentage '1 percent' shall be substituted for '2 percent' in subparagraph (A) of such paragraph, and the amount '$17.50' shall be substituted for the amount '$35' in subparagraph (B) of such paragraph.

"(b) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to retirement income credit),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs), and

"(5) section 41 (relating to contributions to candidates for public office),

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section.

"(c) Special Rule for Married Individuals Filing Separate Returns.—

"(1) In general.—Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

"(A) the amount determined under paragraph (1) (A) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (1) (B) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting '$4,500' for '$9,000'.

"(2) Application of paragraph (1) (B).—Subparagraph (B) of paragraph (1) shall apply to any taxpayer for any taxable year if—

"(A) such taxpayer elects to have such subparagraph apply for such taxable year, and

"(B) the spouse of such taxpayer elects to have such subparagraph apply for any taxable year corresponding, for purposes of section 142(a), to the taxable year of the taxpayer.

Any such election shall be made at such time, and in such manner, as the Secretary or his delegate shall by regulations prescribe.

"(3) Marital status.—For purposes of this subsection, the determination of marital status shall be made under section 143.

"(d) Certain Persons Not Eligible.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual.".

(2) Clerical amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. Taxable income credit.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1975. Such amendments shall cease to apply to taxable years ending after December 31, 1976.

Sec. 4. Corporate Tax Rates and Surtax Exemption.

(a) Corporate Normal Tax.—Section 11(b) of the Internal Revenue Code of 1954 (relating to corporate normal tax) is amended to read as follows:

"(b) Normal Tax.—

"(1) General rule.—The normal tax is equal to—

"(A) in the case of a taxable year ending after December 31, 1976, 22 percent of the taxable income, and

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1977, the sum of—

"(i) 20 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(2) Six-month application of general rule.—

"(A) Calendar year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the normal tax for such taxable year is equal to the sum of—

"(i) 21 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(B) Fiscal year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall cease to apply and the normal tax shall be 22 percent.".

(b) Corporate Surtax.—Section 11(c) of such Code (relating to surtax) is amended to read as follows:

"(c) Surtax.—

"(1) General rule.—The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(2) Special rule for 1976 for calendar year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the surtax for such taxable year is—

"(A) 13 percent of the amount by which the taxable income exceeds the $25,000 surtax exemption (as in effect under subsection (d) (2)) but does not exceed $50,000, plus

"(B) 26 percent of the amount by which the taxable income exceeds $50,000.".

(c) Surtax Exemption.—Section 11(d) of such Code (relating to surtax exemption) is amended to read as follows:

"(d) Surtax Exemption.—

"(1) General rule.—For purposes of this subtitle, the surtax exemption for any taxable year is $50,000, except that, with respect to a corporation to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

"(2) Six-month application of general rule.—Notwithstanding the provisions of paragraph (1)—

"(A) Calendar year taxpayers.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the provisions of paragraph (1) shall be applied for such taxable year by substituting the amount '$25,000' for the amount '$50,000' appearing therein.

"(B) Fiscal year taxpayers.—In the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall be applied by substituting the amount '$25,000' for the amount '$50,000' appearing therein, and such substitution shall be treated, for purposes of section 21, as a change in a rate of tax.".

(d) Technical and Conforming Changes.—

(1) Section 1561(a)(1) of such Code relating to limitations on certain multiple tax benefits in the case of certain controlled corportations) as such section is in effect for taxable years ending after December 31, 1975, is amended by striking out "$25,000". Section 962(c) of such Code (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) as such section is in effect for taxable years ending after December 31, 1975, is amended by striking out "$25,000" and inserting in lieu thereof "the surtax exemption".

(2) Section 21(f) of such Code (relating to increase in surtax exemptions) is amended—

(A) by striking out "Increase" in the caption and inserting "Change" in lieu thereof, and

(B) by inserting after "Tax Reduction Act of 1975" the following: "and the change made by section 3(c) of the Revenue Adjustment Act of 1975".

(e) Effective Dates.—The amendments made by subsections (b), (c), and (d) apply to taxable years beginning after December 31, 1975. The amendment made by subsection (c) ceases to apply for taxable years beginning after December 31, 1976.

Sec. 4. Withholding; Estimated Tax Payments.

(a) Withholding.—

(1) In general.—Section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source), as amended by section 205 of the Tax Reduction Act of 1975, is amended by inserting after the second sentence thereof the following: "The tables so prescribed with respect to wages paid after December 31, 1975, and before July 1, 1976, shall be the same as the tables prescribed under this subsection which were in effect on December 10, 1975.".

(2) Technical amendment.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1976" and inserting in lieu thereof "July 1, 1976".

(b) Estimated Tax Payments by Individuals.—Section 6153 of such Code (relating to installment payments of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(g) Six-Month Application of Revenue Adjustment Act of 1975 Changes.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 1, 1976, may be computed without regard to section 42(a) (2), 43(a) (2), 43 (b) (2), 141(b) (2), or 141(c) (2).".

(c) Estimated Tax Payments by Corporations.—Section 6154 of such Code (relating to installment payments of estimated income tax by corporations) is amended by adding at the end thereof the following new subsection:

"(h) Six-Month Application of Revenue Adjustment Act of 1975 Changes.—In the case of a corporation which has as its taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 1, 1976, may be computed without regard to sections 11(b) (2), 11(c) (2), and 11(d) (2).".

Sec. 6. Rolling Stock.

(a) Exclusion From Income.—Section 883 (a) of the Internal Revenue Code of 1954 is hereby amended by adding at the end thereof the following new paragraph:

"(3) Railroad rolling stock of foreign corporations.—Earnings derived from payments by a common carrier for the use on a temporary basis (not expected to exceed a total of 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States."

(b) Effective Date.—The amendment made by this section shall apply to payments made after November 18, 1974.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

Al Ullman,
W. D. Mills,
James A. Burke,
Dan Rostenkowski,
Phil Landrum,
Managers on the Part of the House.

Russell Long,
Herman Talmadge,
Vance Hartke,
Gaylord Nelson,
W. F. Mondale,
Mike Gravel,
Robert Dole,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5559) to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SECTION 1—SHORT TITLE

House Bill.—No provision.

Senate Amendment.—The Senate amendment provides that the Act may be cited as the Revenue Adjustment Act of 1975.

Conference Substitute.—The conferees agreed to the Senate amendment.

SECTION 2. (a) AND (b) INDIVIDUAL INCOME TAX REDUCTION

House Bill.—No provision.

Senate Amendment.—Under the Senate amendment the minimum standard deduction would be increased to $1,800 for single returns and to $2,200 for joint returns. The percentage standard deduction would be increased to 16 percent and the maximum standard deduction would be increased to $2,500 for single returns and to $2,900 for joint returns. Each change shall apply only with respect to the first 6 months of 1976.

Conference Substitute.—Under the substitute the minimum standard deduction would be increased to $1,700 for single returns and to $2,100 for joint returns. The percentage standard deduction would be increased to 16 percent and the maximum standard deduction would be increased to $2,400 for single returns and to $2,800 for joint returns. Each change shall apply only with respect to the first 6 months of 1976.

SECTION 2. (C) AND (D) EARNED INCOME CREDIT

House Bill.—No provision.

Senate Amendment.—The earned income credit provided by section 43 of the Internal Revenue Code would be extended for the first 6 months of 1976.

Conference Substitute.—The conferees accepted the Senate amendment, but modified it to provide that any refund received due to the earned income credit will not be taken into account before July 1, 1976, in determining eligibility for or the amount of a welfare payment (or other benefit or assistance financed in whole or part from Federal funds), if the recipient of the refund is already a recipient or beneficiary under the Federally funded program.

SECTION 3. PERSONAL EXEMPTION CREDIT

House Bill.—No provision.

Senate Amendment.—The Senate amendment increases the $30 personal exemption tax credit to $45 on a full year basis. However, the credit applies only with respect to the first 6 months of 1976.

Conference Substitute.—The conference substitute increases the $30 personal exemption tax credit to $35 or 2 percent of the first $9,000 of taxable income (whichever is greater) on a full year basis. However, the credit applies only with respect to the first 6 months of 1976.

SECTION 4. CORPORATE TAX RATES AND SURTAX EXEMPTIONS

House Bill.—No provision.

Senate Amendment.—The Senate amendment increases the surtax exemption from $25,000 to $50,000 on a full year basis. It also reduces the normal tax rate on the first $25,000 of taxable income from 22 percent to 20 percent on a full year basis. However, these changes apply only with respect to the first six months of 1976.

Conference substitute.—The conferees agreed to the Senate provision.

SECTION 5. INDIVIDUAL INCOME TAX WITHHOLDING AND ESTIMATED TAX PAYMENTS

House bill.—No provision.

Senate amendment.—The Senate amendment extends withholding tax rates in effect on December 10, 1975, through June 30, 1976. It also provides that the estimated tax payments made before July 1, 1976, are to take into account all reductions made by this Act.

Conference substitute.—The conferees agreed to the Senate provision.

SECTION 6. ROLLING STOCK

House bill.—The House bill amended section 883(a) of the Internal Revenue Code of 1954 to exclude from gross income earnings derived from payments by a common carrier for use on a temporary basis (not expected to exceed 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States.

Senate Amendment.—Same as House bill.

Conference substitute.—Same as House bill and Senate amendment.

HOME PURCHASE CREDIT

House Bill.—No provision.

Senate Amendment.—The Senate amendment extends the credit provided by section 44 of the Internal Revenue Code of 1954 until July 1, 1976.

Conference substitute.—The conference substitute does not include this provision.

AL ULLMAN,
W. D. MILLS,
JAMES A. BURKE,
DAN ROSTENKOWSKI,
PHIL LANDRUM,
Managers on the Part of the House.

RUSSELL LONG,
HERMAN TALMADGE,
VANCE HARTKE,
GAYLORD NELSON,
W. F. MONDALE,
MIKE GRAVEL,
ROBERT DOLE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 5559, AMENDING THE INTERNAL REVENUE CODE TO PROVIDE FOR EXCLUSION OF INCOME FROM TEMPORARY RENTAL OF RAILROAD ROLLING STOCK BY FOREIGN CORPORATIONS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations.

The Clerk read the title of the conference report.

The SPEAKER. Is a second demanded?

Mr. SCHNEEBELI. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

(For conference report and statement see proceedings of the House of today, December 16, 1975.)

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 797]

Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Badillo
Beard, R.I.
Bingham
Brooks
Brown, Mich.
Burke, Fla.
Burton, John
Byron
Casey
Chappell
Clay
Conyers
Crane
Daniel, Dan
Derwinski
Dickinson
Diggs
Drinan
Duncan, Oreg.
Esch
Evins, Tenn.
Foley
Ford, Mich.
Gaydos
Giaimo
Hagedorn
Hébert
Heckler, Mass.
Hefner
Heinz
Hinshaw
Jacobs
Jarman
Jones, Tenn.
LaFalce
Landrum
McKinney
Macdonald
Metcalfe
Moorhead, Pa.
O'Neill
Patman, Tex.
Pike
Preyer
Railsback
Rees
Rose
Rosenthal
Runnels
Satterfield
Scheuer
Stephens
Thompson
Udall
Vigorito
Waxman
Wilson, Tex.

The SPEAKER. On this rollcall 373 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4073) entitled "An act to extend the Appalachian Regional Development Act of 1965 for an additional 2-fiscal-year period."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2554) entitled "An act to amend Public Law 93-107 with regard to the broadcasting of certain professional sports clubs' games," agrees to a conference asked by the House on the disagreeing votes of the two houses thereon, and appoints Mr. MAGNUSON, Mr. PASTORE, and Mr. BEALL to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2635. An act to amend title 38, United States Code, to modify the pension program for veterans of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era and their survivors, and for other purposes.

CONFERENCE REPORT ON H.R. 5559, REVENUE ADJUSTMENT ACT OF 1975

Mr. ULLMAN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, let me first tell the Members of the House very briefly what the limitations of this conference report are. This in no way goes to the tax reform provisions of the bill that we passed. What happened was that the Senate took out the tax reduction provisions, only the reduction provisions, attached them to another bill that we had passed having to do with railroads and sent it back over here.

In conference we took into consideration the reduction provisions that we had passed, took into consideration the recommendations of the Senate, and came up with a conference report that is simple and deals only with the very limited problem of extending the reduction. The result we came back with deals with the reduction in an equitable way and upholds the general thrust of what we had attempted to do in our tax reduction provisions which were incorporated in the tax reform bill.

Mr. Speaker, the tax reform bill is still alive and well. It is pending before the Senate Finance Committee. It is my understanding that the chairman of the Committee on Finance has an understanding with the Members of the Senate that the tax reform bill that we passed will be passed before July 1 of next year; so the tax reform bill is alive. We will have that matter up in conference next year.

What has been out now is just an emergency extension. It extends, for a 6-month period, the $16.8 billion tax reductions provided earlier this year in the

Tax Reduction Act of 1975. For the 6-month period this is a reduction in liabilities of slightly over $8 billion. The reductions made so far have been instrumental in reversing the 18-month economic slide that started in late 1973. Not to extend these tax cuts—to enact a large tax increase on New Year's Day, at a time when over 7 million people are still unemployed—would be to invite economic disaster.

In an attempt to compromise with President Ford, the conferees have agreed to only a 6-month extension of the 1975 tax cuts instead of to the longer extension that the House passed last month in the Tax Reform Act of 1975. This is to give the Congress and the President a chance to determine tax rates for the period beyond fiscal year 1976 after a spending ceiling for that period has been established through the normal congressional budget process. I share with President Ford and most Members of Congress a serious concern with the excessive growth of Federal spending. We must get the Federal budget under control. That is why I sponsored the legislation setting up the congressional budget process which we have begun to use this year and which will be in full operation for fiscal year 1977. The cause of limiting Government spending can best be served by working through this process, not by trying to shortcut it.

Last week the Congress passed the second concurrent budget resolution for fiscal year 1976. That resolution established a binding spending ceiling for fiscal 1976. This is a real spending ceiling. It is protected by any Member's right to block any legislation that violates the spending ceiling simply by raising a point of order.

Under the existing budget procedures, the President will submit his budget in January of next year. By May 15, Congress will have passed a concurrent resolution that sets a spending ceiling for fiscal year 1977, which begins on October 1. With a 6-month extension of the tax cuts, Congress will be able to decide during May and June whether to extend the tax reductions through the rest of 1976 and possibly to future years. It will then have information about what the level of spending is going to be. Any Member who is dissatisfied with the level of spending may at that time vote against any future extension of the tax cuts.

This seems to me to be a sensible way to deal with the tax cut issue. I think it encompasses the spirit of President Ford's program of matching tax cuts with spending ceilings. The tax cut in this bill is only for the remainder of fiscal year 1976, which is the period for which Congress has already set a binding spending ceiling. The issue of tax cuts for the period after fiscal year 1976 is deferred until after Congress has determined a spending ceiling for fiscal year 1977. This is the logical and orderly way to proceed.

To determine a spending ceiling now—before we even have seen the President's budget, before we know what the economy will be like in 1976, before we know where the budget would have to be cut to achieve any specific ceiling—would be to undermine the congressional budget process. Such an arbitrary ceiling would have no credibility. Because it would have been enacted without the information needed to set sensible spending ceilings, it would not be taken seriously, as has been the case with spending ceilings in the past. The way to get spending under control is to stick to the normal congressional budget procedures.

The economy desperately needs the stimulus provided by extending these tax reductions. Over 7 million people are unemployed—over 8 percent of the labor force. The gap between what the economy actually produces and what it is capable of producing is approximately $190 billion. The gross national product is still 4 percent below its peak in late 1973. The fact of the matter is that while the economic slide has been reversed and the economy is now moving up, the level of economic activity is still extremely low. A tax increase at an annual rate of almost $17 billion starting on New Year's Day is foolish economic policy.

These tax cuts do not provide any new stimulus to the economy. They simply extend the stimulus that was provided by the Tax Reduction Act of 1975. There is a cut in tax liability for individuals that is sufficient to permit the extension of the withholding tables for workers that are now in use and an extension of the tax cuts for small business in the 1975 act for 6 months.

The economics profession outside of the administration, both Republican and Democratic, is overwhelmingly in favor of extending the 1975 tax cuts. A study by a subsidiary of Chase Manhattan Bank shows that failure to extend the tax cuts would reduce gross national product by $25 billion by mid-1977 and would lead to an additional 500,000 unemployed workers. Coming at a time when unemployment is already unacceptably high, this would be disastrous. The Chase study also predicts that extending the tax cuts would not change the rate of inflation in 1976 and would increase it by only two-tenths of 1 percent in 1977. At a time when the Nation has many idle men and machines, a relatively mild economic stimulus such as these tax cuts does not have the effect of pushing up prices.

There are other reasons why it is important to extend these tax cuts. The increase in the standard deduction provided in this bill will encourage those who file 9 million returns to switch from itemizing their deductions to using the standard deduction, which is a major simplification of the tax system. Everybody talks of simplifying the tax system; here is a chance to do something about it.

Also, if the tax cuts are allowed to expire, the tax threshold—the level of income at which people begin to pay income taxes—will drop significantly below the poverty level. For a four-person family, the tax threshold will be $1,600 below the poverty level, which means that a family that is defined by the Government as being poor could be asked to pay as much as $222 in income taxes. For a six-person family, the gap between the tax threshold and the poverty level would be almost $2,000, which could lead to a tax burden of $285. It is wrong to ask poor people to pay such large tax burdens at a time when the cost of living is so high and it is so hard to find a job. These tax cuts raise the tax threshold up to, or above, the poverty level.

Let me now summarize the major provisions that we agreed to in conference.

The Tax Reduction Act of 1975 provided an increase in the standard deduction and a $30 tax credit for taxpayers and their dependents. These tax cuts reduced tax liability for the calendar year 1975 by $8 billion. Because the act was not passed until the end of March, these tax cuts were reflected in lower withholding taxes in workers' paychecks over the last 8 months of the year, or at a rate of $1 billion per month. Extending these withholding rates for the first 6 months of 1976 requires a cut in tax liability for 1976 of slightly more than $6 billion. A full year extension of the withholding rates into 1976 would require a cut of just over $12 billion. The extension of the corporate tax cuts and the earned income credit increase the overall size of the cut to over $16 billion on an annual rate basis.

The House version of the Tax Reduction Act of 1975 made permanent the increases in the standard deduction that we enacted in the Tax Reduction Act earlier this year. The Senate bill included an increase in the standard deduction several hundred dollars larger than this. The compromise we worked out in the conference is approximately halfway between the two versions. It increases the minimum standard deduction from $1,300 to $1,700 for single returns and to $2,100 for joint returns. The percentage standard deduction is raised from 15 percent to 16 percent, and the maximum standard deduction is increased from $2,000 to $2,400 for single returns and to $2,800 for joint returns. This increase in the standard deduction will encourage taxpayers who file 9 million tax returns to switch to the standard deduction. The revenue loss on a full-year basis is $4 billion.

The House bill enacted a tax credit equal to the greater of $30 per capita or 2 percent of the first $12,000 of taxable income. This credit is not refundable. The conference agreed to a credit which is quite close to this and which equals the greater of $35 per capita or 2 percent of the first $9,000 of taxable income.

The revenue loss from the credit on a full year basis is $9.5 billion.

The way these tax reductions are enacted for a 6-month period is to increase the minimum standard deduction to $1,500 for single returns and to $1,700 for joint returns for the entire year 1976. Similarly, the percentage standard deduction is increased from 15 to 15.5 percent. The maximum standard deduction is increased to $2,200 for single returns and $2,400 for joint returns. In each case, the increase for 6 months is achieved by enacting an increase for the entire year 1976 that is one-half as large as the increase that would have been provided on a full year basis.

In the case of the credit, the half-year effect is achieved with a credit equal to the greater of $17.50 per capita or 1 percent of the first $9,000 of taxable income.

On a half-year basis, the revenue loss from the increases in the standard deduction and the credit is $6.7 billion.

The Senate bill contained a 6-month extension of the earned income credit. This credit equals 10 percent of the first $4,000 of earned income and is phased out for incomes between $4,000 and $8,000. On a full-year basis the revenue loss is $1.4 billion. The House agreed to extend this credit for 6 months by enacting a credit at a rate of 5 percent for the whole year 1976. However, in return for this concession, the House was able substantially to achieve one of the objectives of the tax reform bill, which was to provide for a disregard of the credit in determining eligibility for and benefits under Federal and federally assisted aid programs. In the conference bill, this disregard will apply to those people who are already covered under the programs.

The Senate bill also contained a 6-month extension of the housing credit that was enacted in the Tax Reduction Act. We were able to get the Senate conferees to recede on this issue.

The conference bill extends the changes in the corporate tax rate and surtax exemption that were provided in the 1975 act for the first 6 months of 1976. These will help stimulate capital formation. The corporate surtax exemption is increased from $25,000 to $50,000 and the normal tax rate on the first $25,000 of corporate income is reduced from 22 to 20 percent.

The 6-month extension of these cuts is achieved as follows: For fiscal year taxpayers, the full change in the surtax exemption and the corporate rate is made effective through June 30, 1975. The existing rules for prorating income of fiscal year taxpayers when there are changes in tax rates will automatically provide the appropriate result in this case. For calendar year taxpayers, we avoided the complication of prorating income by enacting a tax cut for the entire year 1976 that is one-half as large as the 1975 tax cuts. Thus, the tax rate on the first $25,000 of income is reduced from 22 percent to 21 percent—instead of 20 percent—for the full year 1976. Also, the surtax exemption is kept at $25,000 but taxpayers are given half the benefit of the surtax exemption on the next $25,000 of income through a reduction in the surtax rate on income between $25,000 and $50,000 from 26 percent to 13 percent. Corporations are allowed to reflect the full change in their tax liability in estimated tax payments that are due during the first half of the year.

The revenue loss from these changes on a full year basis is $1.9 billion, and the half year extension in this bill loses $1 billion. In fiscal year 1976, the reduction in receipts is $585 million.

The overall effect of the bill is to reduce taxes at a rate of $16.8 billion annually. The specific half year extension reduces tax liability for calendar year 1976 by $8.4 billion. For fiscal year 1976, the revenue loss is $6.13 billion, which is slightly less than the level provided for in the budget resolution. Of the tax reduction for individuals, 63.9 percent is received by taxpayers with incomes less than $15,000, so the reductions will go to those people who need the money most and who are most likely to spend it and thereby stimulate the economy.

It is essential that we enact this 6-month tax reduction as soon as possible. I believe that it is consistent both with the President's desire to link tax reductions to restrictions on Government spending and with the urgent need to prevent taxes from increasing on New Year's Day.

Mr. ULLMAN. Mr. Speaker, I reserve the balance of my time.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. Rhodes).

Mr. RHODES. Mr. Speaker, it will be my hope that the House would not suspend the rules and adopt this conference report. The people of the United States expect this House to be responsible and to do what is necessary to end the inflation which is still the primary problem in this country.

In order to do this, it is absolutely necessary that we adopt a spending ceiling for the fiscal year 1977. It would be my hope that when this report is voted down under suspension, we would then have the matter come back under a rule which will allow a motion to recommit, which would allow the House to again express its will on an expenditure ceiling. I think that a motion might be successful in adopting an expenditure ceiling.

If this is done, then of course the bill, which provides for a continuation of the rates of income tax which the American people are now paying, could then become law. The President would then sign such a bill, but he has said that he would not sign any tax bill unless it has an expenditure ceiling attached.

So it seems to me, Mr. Speaker, that we would serve our constituents and our country better, if we would defeat this motion, go to the Rules Committee, get a rule, bring up this conference report and then adopt the motion to recommit. That is the only way we can be sure that this bill will become law. It is necessary that we do it in order to prevent the type of chaotic condition which might occur in the event that there is doubt as to what the income tax withholding rates will be in the early part of next year.

We intend to leave soon. We intend to go to our various homes and enjoy the blessed Christmas season. I do not think we can do it with clear consciences unless we have this problem settled.

I hope we will vote no and not adopt this conference report under these circumstances.

Mr. SCHNEEBELI. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, as the committee chairman noted, there was very little change made in the difference between the House and the Senate approach to the tax cut. There was a reasonable balance struck, and about the only difference is that some of the percentage of the tax cut that went to the middle-income taxpayers was reversed and then put back into the lower income class. Some of us are greatly disturbed because in the recent past all of the tax bills we considered have given total emphasis to the lower-income taxpayers, and we think there should be more thought given to the middle-income class. And by "middle-income class" I mean people earning between $10,000 and $25,000.

Other Members will be talking about the procedure here. I would like to talk about the content and thrust of the conference report. Many of us on both sides are still opposed to this legislation because it has no spending ceiling. We have made our point three or four times on the floor here on the debt ceiling and under the previous consideration of this bill. As the minority leader indicated, there are very strong indications the bill will be vetoed, it will come back again for later consideration by the House.

Mr. Speaker, I would like to mention some of the press and editorial comments relating to this so-called confrontation between the White House and the Congress on this matter of a spending ceiling.

Mr. Roscoe Drummond, in the Christian Science Monitor, two or three times excoriated Congress for not facing up to the fact that we should address ourselves to the spending ceiling.

Just last week, many of the Members received the January issue of Harper's, and in there a very noted political analyst had this to say:

> Congressional Democrats took the first steps toward their quadrennial goal of finding the precise stance which could cost them the Presidential election.

What is the precise stance he is talking about? Dodging the issue of a spending ceiling. And who said this? Frank Mankewiecz. He is one of the noted political analysts and Democratic political tacticians. He said that evading the issue on the spending ceiling was one precise step toward losing the election next November.

After discussing what went on during this period of the last 6 or 8 weeks, he goes on to say that what emerged from all this discussion, is that the Congressional Democrats, and for that matter, almost all of the Democratic Presidential aspirants, missed the point. The spending issue could easily have been theirs for all of the rest of the campaign. All they had to do, and if they had tested the sentiment in this country what they might very well have done, was to accept the Ford proposal, embrace it as their own.

We are given many instances of Democratic governors and Democratic mayors who are raising this issue and who have the voting electorate with them. The Governor of Massachusetts, the Governor of Wisconsin, the Governor of New York, the Governor of Colorado and the Governor of California are all addressing themselves to this issue, and they are receiving the plaudits of the public.

Some of the political pundits are saying, "What is the matter with the Congress? Why don't they get the message? Why don't they address themselves to this issue? Why dodge this issue until next May? This is of importance right now."

When it comes to the point of extending it for 6 months, we have a very good example of what happens when we indulge in this exercise. Let us take the energy bill. The FEA was supposed to have expired with its authority last March. But the Congress extended it until August. In August they extended it until November. In November they extended it another 30 days until December 15. We still have not addressed ourselves to this problem. The authority for the FEA has now expired and we are getting nowhere. We are starting down that same path on this legislation. We are extending it and we are extending it and we are extending it, and the public will soon say, "What is the matter with the Congress that they are afraid to face the issue that is uppermost in their minds?"

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. Conable).

Mr. CONABLE. Mr. Speaker, I do not object strenuously to the fantasy that brings this tax proposal back to us on a railroad leasing measure from the Senate. In the never-never land of Congress we can only expect nongermaneness.

The second thing I do not object to strenuously is the particular formula in this bill. In fact, it does further violence to the tax-paying middle class. It provides 64 percent of the benefits to taxpayers with incomes under $15,000, despite the fact that this group pays a very substantially smaller proportion of the tax revenues. I suppose, however, that this is not far from the formula that was sent to the Senate in the first place. So there isn't much point in denouncing this particular unfairness.

But I do strenuously object to, first of all, the hypocrisy of extending these tax reductions for 6 months. Who do we think we are kidding? Are we going to come back in May and get control over expenditures then and bite the bullet and do the tough thing? We all know very well we are not. We are going to be in the middle of a political year, and nobody should pretend that a 6-month extension is anything but pretense. The extension in fact is for the year, without expenditure limitation.

Second, I object strenuously to the cop-out of failing to face up to the issue of spending.

Mr. Speaker, this country is in bad trouble. If this body will not acknowledge it, if it will not take the steps necessary to get our Government back under control, then all of us can go eventually to our political rewards with the satisfaction of knowing that we helped liquidate a great system—and the soundest monetary system in the history of the world. The time has come when we had better acept our responsibility in this regard.

Mr. Speaker, I do not think the American people want to be fooled any more. They want straight talk. If they cannot get it from this body, then perhaps they will want to change this body. I hope they will. The time is late, and the country needs understanding of its problems, their causes, and a serious interest in correcting them by the Members in this room. The first step in the budget process for 1977 should be taken today, by giving a spending target to a Budget Committee which otherwise will have no policy guidance for fiscal 1977.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Hays).

Mr. HAYS of Ohio. Mr. Speaker, I was interested in what the minority leader said about going home for the Christmas season with a clear conscience.

I am going to vote for this and go home with a perfectly clear conscience, and if the President wants to veto it, let him have his conscience upset while skiing in Colorado. It is really not going to upset mine.

Mr. Speaker, I want to tell the minority leader something else. The President wants a ceiling, and I am going to go him one better. If the other Members will do what I do, we will beat his ceiling and at the same time save the taxpayers even more money.

I have in my subcommittee and my committee jurisdiction over two agencies as to their authorization. One is the State Department, and the other is the Federal Elections Commission. I will make my promise right now that we will cut them both by at least 5 percent. This is a $400 billion budget, and if that is taken out and if we do it right straight down the road, that will take out $20 billion and then we will be well below the President's ceiling.

We will be well below the President's ceiling. I accept the challenge. I am making that commitment. Tell the boys down in the big building to get ready.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. Jones), a member of the committee.

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman for yielding.

We think we ought to put in perspective this issue of tying the spending ceiling to the tax cut itself.

The senior Senator from Oklahoma, who is also the ranking Republican on the Senate Committee on the Budget, has himself said that this issue of the spending ceiling is a phony issue.

I think the issue that we should concern ourselves with is whether or not extending this tax cut is going to aid the recovery of this economy.

It is a close call for me, but, on balance, I think the issue is clear that if we abruptly increase taxes as of January 1, we are going to put this country in a posture psychologically of reversing the recovery that we are on the road to making.

Mr. Speaker, I urge that this conference report be agreed to.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, I am going to vote no on this conference report because I object, first of all, to the procedure under which we are considering this matter today.

I have just come from the Committee on Rules where we are today conducting hearings on the natural gas emergency bill. The chairman of the Committee on Interstate and Foreign Commerce wrote a letter to the Speaker in which he requested that that important measure be considered under the suspension of the rules.

Let me read to the Members just one paragraph from the reply that he received from the Speaker of this House under date of December 12, 1975:

> Dear Mr. Chairman: I certainly appreciate the circumstances surrounding your request. However, it has been a well-established policy to consider only legislation under this procedure which is relatively non-controversial, and as it is known that there are a substantial number of Members who feel very strongly that the House should be able to consider this matter to the fullest possible extent, it does not seem appropriate to consider this bill under the suspension of the rules procedure.

Who in his right mind can suggest that the matter before the House this afternoon is a noncontroversial matter that ought to be considered under suspension of the rules?

If there ever was an occasion, as the minority leader has just said, when this committee ought to go to the Committee on Rules and get a rule which would give the minority the right, which it clearly ought to have, to attach to a vote a vote on the spending ceiling—which, I say to the gentleman from Oklahoma (Mr. Jones), is not a phony issue; 67 percent of the American people in a recent poll see nothing phony at all about equating reductions in expenditures with reductions in taxes—this is that occasion. But let me return to the point I seek to make: Under the signature of the distinguished Speaker of this House of Representatives, we have every reason in the world to vote down this conference report as a travesty upon the processes of this House and as demeaning the legislative procedures under which we ought to be acting when we conduct business on an important matter like this.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, this is as important a vote as any we are going to cast in the 94th Congress.

The issue is clear. All the tax reform camouflage has been stripped from the bill and is now languishing, perhaps forever, in the Senate.

A vote for this bill is a vote against the spending ceiling. Only the unrestrained spenders in this body will vote "yes."

A vote against this bill is a vote in favor of a spending ceiling. Those who are concerned about inflation and who believe what the majority of the American people believe, that inflation is our No. 1 problem, will vote "no."

If any Member thinks spending is a phony issue, let him go home and talk to some of the folks in the street. They do not think it is phony.

This free-spending Congress and its majority leadership has been adamant in its opposition to the spending ceiling. It rejected the ceiling last month. It opposes one now. It will oppose a ceiling 6 months from now, and forever thereafter.

The only way to get a ceiling is to demand one here and now. It is impossible to halt spending without a ceiling. This tax cut will soon surely be wiped out by inflation, and our constituents are not going to be grateful to get an extra dollar here and then have it taken away from them only a few months later by inflation.

So, we can do what we have to do and vote against this bill so we can send it to the Committee on Rules for repairs. If necessary we will have to vote against it again by sustaining the veto that seems sure to follow. That way we can have our tax cut, and we can have our spending ceiling, too.

Let no one be delusioned or hung up over the budget process. The budget process is helpful, it should be encouraged, but now it is like a whisper in a windstorm. It probably has saved slightly more than the combined staff salaries of our various budget committees.

The SPEAKER. The time of the gentleman has expired.

Mr. SCHNEEBELI. I yield two additional minutes to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I repeat that the budget process has probably saved a little more than the combined staff salaries of those many budget committees.

The only way to control our wild spending, which is what our constituents are demanding, is to demand a spending ceiling right now by our negative vote. I urge that this House reject this conference report.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, I would ask the gentleman from Minnesota if there is not a spending ceiling that has already been passed by the Congress for the period of this proposed tax cut.

Mr. FRENZEL. I thank the gentleman from Oklahoma for the question he has asked because I think the spending ceiling that was voted by this Congress in our budget resolution, as amended, is no spending ceiling at all. That ceiling represents an amalgamation of the combined want-lists of every committee chairman in this House and, as passed by us, contains a $75 billion deficit which I would like to avoid next year. It is precisely for the reason that the budget resolution does not, and will not, provide an effective ceiling that I urge this House to put one in this bill. Again, I urge that this bill be defeated.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, my colleague, the gentleman from New York (Mr. CONABLE) for whom I have great respect, said in July of 1976, we will be in the middle of a compaign year and for that reason we should not then deal with the tax reduction bill. However, in December of 1975 we are in the middle of a Republican primary battle and that presents at least as much of a problem as the one next July.

That is I think part of the motivation for attempting to coerce the Congress into undermining the new budget process by voting for an expenditure ceiling when we do not know anything about the make-up of the expenditures. This is an illusion.

I would remind those Members who are here that in the last Congress that shortly before we adjourned that session, a little over a year ago, the President asked us to raise taxes. When we got back in January the President asked us to lower taxes. I have no idea what the President will ask us in his budget for the fiscal year starting in October 1976. I hope it does not expand the $395 billion, and I hope the Budget Committee will find it can live within that amount. But, let us follow the right process.

The gentleman from Illinois (Mr. ANDERSON) seemed a little bit aggrieved because the House will not have the opportunity to vote on an expenditure ceiling. We in effect have done that twice this month when the tax reform bill was before the House and the House rejected such a ceiling both times. We have done that enough.

This bill will prevent a tax increase for the American people in January and it will handle that problem for 6 months. The best part of it is that in this 6 months we will have a chance to look at the spending ceiling, to see what the Budget Committee's recommendations are, and we will then fix an expenditure ceiling long before the October 1976 fiscal year begins.

I urge my colleagues to vote in support of the conference report.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I am really quite concerned over the statements I have heard today from the minority leader, from the ranking member and from the gentleman from New York (Mr. CONABLE) who serves on the Committee on the Budget because it demonstrates to me that we have not gotten the message across as to what the budget process and what the budget ceiling actually are. As far as appropriations, the budget ceiling is less than $375 billion which is $20 billion below the President's figure right at the present time.

We will run up against that ceiling come about February. I have already indicated to the House that when that happens, this Member will raise a point of order for any bills that go above that ceiling. That precisely covers the period for which this tax extension is being requested from the House. I am greatly disappointed at the fact that the minority has not reached an agreement with the Committee on Ways and Means chairman that for this 6-month period we would have a ceiling of $375 billion, which we have, and that we would extend the tax cut of only the limited amount for that limited period, so that in the spring we would consider, prior to May 15, what this House wants to vote for as a spending ceiling and at the same time consider what they want to vote for as a tax cut.

Let me assure the Members of this: If this fails and taxes go up, this will become a political issue, and I do not think that it should. I think that both sides should do what I had hoped would have been done to make it possible to back off and say, we will establish the ceiling for the 6 months; we will establish the tax cut for the 6 months; and that is all. I hope that my Republican colleagues will do that rather than make it simply a partisan issue, which it should not be.

The SPEAKER. The time of the gentleman has expired.

Mr. SCHNEEBELI. Mr. Speaker, I yield myself 1 minute.

We would be very happy, I might say to my friend, the gentleman from Washington, to establish a spending ceiling for 6 months. There is no spending ceiling whatsoever in this bill.

Mr. ADAMS. If the gentleman will yield, the ceiling is already in place. We voted for it 2 days ago.

Mr. SCHNEEBELI. We voted against it—many of us. The vote was 187 to 185, or something like that. We are trying to establish a spending ceiling for next year, which will be 6 percent above our present spending ceiling. This is a reasonable request, a 6-percent increase.

Mr. Speaker, what we are trying to head off is a 15-percent increase. The American public would be out of their minds to stand for our returning to Congress and passing a 15 percent increase over what we are spending at the present time.

My question is, How long are we going to indulge in this fiscal fiasco we have been indulging in in this House for the last 3 or 4 years?

As I reminded this House some time ago, the interest on our present Federal debt is about $100 million a day. As I said last week, this is perfectly disgraceful.

Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, to hear some people talk, there is really not much controversy in these tax cut bills. In an illusory way that is true. Everybody is for a tax cut.

All of us would like to vote for a tax cut, but some of us insist that we do so only when it is coupled with a comparable offsetting spending cut. There is no such spending cut in this bill, because the liberal majority refused to allow it.

That is the controversy: No spending ceiling for fiscal 1977.

Since that is not in the bill the majority is trying to sell their illusion that there is no controversy today.

The biggest illusion of all is the tax cut. It is so much snake oil. Most taxpayers will be happy to have a couple hundred more dollars in their pockets. But that will be an illusion because they will have less buying power because of inflation resulting from this deficit policy.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, it is evident that the majority party is willing once again to bankrupt this country to suit their political ends. I think it is very misleading for the gentleman from Washington to tell this House that the President's suggestion of a statutory ceiling on spending is in any way a derogation of the so-called budget process. This so-called budget process that the gentleman constantly talks about has been totally perverted in the last few months.

Only within the hour a member of the Budget Committee was willing to stand on this floor and say that billions of dollars authorized for 2 years for highways was perfectly all right; we will adjust spending ceilings next spring. When the flowers sprout next spring, the spending and debt ceilings will also rise. Yesterday we had the admission from the gentleman from Washington that the $2.6 billion for loans to New York City had never been considered by the Budget Committee. But that is all right he said, we will make adjustments when the time comes. Go ahead and pass it.

The manner in which the majority has distorted this budget process shows that the Members of the majority have all the self-control of a newborn infant in diapers, and economically it is just as messy for the American people to have to clean up the results. The only way we are ever going to impose any fiscal restraint on this Congress is to enact a spending ceiling at the same time we vote on reduced taxes, and that a majority is apparently unwilling to do.

The polls show and the people say that they want to cut back on spending and inflation. We cannot possibly continue with the economic policies the American people have endured under both parties for 40 years and ever bring this country out of debt and danger.

It is the hard earned dollar of every one of the Members' constituents—the people on fixed-incomes, the social security recipients, and even the welfare clients they pretend to have so much concern for—that are being eaten away by these irresponsible votes. All of the opinions handed down by the Budget Committee in its sham process, that has been so perverted this year, are not going to change these plain economic facts.

I hope the House will vote "no" on this conference report, not only for procedural reasons but also because of the principles that fiscal conservatives in both parties have always stood for; the sound economics that protects every American.

Mr. ULLMAN. Mr. Speaker, I yield myself 2 minutes.

I think we should recognize in this body that for the first time in almost 100 years we have established a real budget procedure. We built it into the structure of the House. We have a chairman of the Budget Committee in the House and in the Senate and a Congressional Budget Office. If we are going to be responsible about this whole business of cutting back on spending then the way to do it is through this new budgetary procedure.

I will yield again to the chairman of the Budget Committee who has made the point that this bill covers this fiscal year. The President has not asked for any expenditure reduction in this fiscal year. He has asked for it in the next fiscal year. This limited period of time for which the reduction applies will allow the budget procedure to work so that we can in fact put the proper expenditure limitations in place for fiscal year 1977.

I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, briefly what happened was the President asked for a $28 billion tax cut and $395 billion ceiling. Instead the Ways and Means Committee and the Budget Committee in this House in approving resolutions said we would only go the $6.4 billion cut in fiscal year 1976 and we will put a ceiling below $375 billion. This has been done. This has been done precisely as we said it would be done. The American people will understand that.

If the President wants $14 billion more of tax cuts to go up to his total amount for the whole calendar year, the Ways and Means Committee will consider it next year and we will consider it when we put in the budget ceiling and at some point the House is going to have to understand this process and how it works, because if we put a ceiling in it still will not work.

Mr. SCHNEEBELI. Mr. Speaker, I yield the 30 seconds we have remaining to the gentleman from New York (Mr. Conable).

Mr. CONABLE. Mr. Speaker, I would like to talk to the gentleman from Washington for a moment.

We are talking about 2 different fiscal years. The budget will rise $50 billion next year unless some direction is given by the Congress to the Budget Committee to set that ceiling.

Does the gentleman from Washington maintain that the Congress has no right to tell the Budget Committee within which parameters we will operate and how we will move to cut the pattern to fit the cloth?

Mr. ADAMS. That is exactly what we are going to do next spring.

Mr. CONABLE. We are trying to do that now.

Mr. ADAMS. We do not have the facts to do it now.

Mr. CONABLE. The gentleman knows very well if we wait until the line items are out there for everyone to see, they become the issue, and not the fiscal policy. The only way we will achieve sound fiscal policy is the way we are trying to do it.

Mr. ULLMAN. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington (Mr. Adams).

Mr. ADAMS. Mr. Speaker, if we had followed the recommendation made by the gentleman in the Budget Committee to cut taxes by the $28 billion suggested by the President we would have raised the deficit this year by an additional $5 billion. We refused to do that. The Ways and Means Committee refused to do that.

We therefore know we have saved that amount of money. We also went $20 billion below his ceiling.

Certainly this House and the Senate and the Congress together will decide what kind of spending ceiling a year from now they want, but neither the gentleman from New York nor the gentleman from Washington nor anybody in this room nor the President of the United States can tell us today where he is going to spend or cut that $395 billion.

Mr. ULLMAN. Mr. Speaker, I rise to close the debate on this issue.

I want to commend the members of the conference and particularly the staff for the monumental job of getting the paper work done in such a short period of time.

This is a responsible bill. The economy of this country is in trouble. The indicators during the past 2 months have indicated a downturn at a time when we ought to see a strong upturn in the economy. It would be suicidal in my judgment to allow a tax increase of major proportions to go into place in January. This Congress cannot allow that to happen. If the President persists in his effort to move to a spending ceiling in fiscal year 1977 on this bill and decides to veto the bill, I am confident that this Congress can override the veto.

This tax cut extension is of importance to the Nation. It is something, it seems to me, that we cannot go home without providing. This is a responsible package. We have considered it carefully. It is a worthwhile bill. We have extended for six months the withholding levels that are now in place—the withholding rates we put in place in the Tax Reduction Act of 1975 and we have also extended the tax cuts for this 6 months.

Mr. Speaker, this 6-month period will give the Congress an opportunity to work its will on the tax reform bill that is now pending in the other body. At that time we can also look at the economy to see whether the tax reduction should be extended.

Mr. Speaker, this is a sound package. I urge its approval overwhelmingly by the Congress.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. Ullman) that the House suspend the rules and agree to the conference report on the bill (H.R. 5559).

The question was taken.

Mr. SCHNEEBELI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 256, nays 160, not voting 18, as follows:

[Roll No. 798]

YEAS—256

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Fuqua
Giaimo
Gibbons
Ginn
Gonzalez
Green
Gude
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Helstoski
Henderson

Hicks
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
LaFalce
Landrum
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McDade
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Railsback
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Weaver
Whalen
White
Wilson, C. H.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—160

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Biester
Bowen
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Esch
Eshleman
Fenwick
Findley
Fish
Flowers
Flynt
Frenzel
Frey
Gilman
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hansen
Harsha
Hastings
Hechler, W. Va.
Hightower
Hillis
Holt
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Nichols
Passman
Pettis
Poage
Pritchard
Quie
Quillen
Randall
Regula
Rhodes
Roberts
Robinson
Rousselot
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Teague
Thone
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—18

Burke, Fla.
Casey
Ford, Mich.
Gaydos
Hébert
Heinz
Hinshaw
Jones, Tenn.
McKinney
Macdonald
Metcalfe
Moorhead, Pa.
Patman, Tex.
Runnels
Stephens
Thompson
Udall
Waxman

The Clerk announced the following pairs:

On this vote:

Mr. Udall and Mr. Thompson for, with Mr. Hébert against.

Mr. Waxman and Mr. Moorhead of Pennsylvania for, with Mr. Stephens against.

Mr. Ford of Michigan and Mr. Metcalfe for, with Mr. Casey against.

Mr. Macdonald of Massachusetts and Mr. Jones of Tennessee for, with Mr. Runnels against.

Messrs. ANDREWS of North Carolina, JEFFORDS, and FOUNTAIN changed their votes from "yea" to "nay."

Mr. FOUNTAIN changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR BEGINNING OF 2D SESSION OF THE 94TH CONGRESS

Mr. O'NEILL. Mr. Speaker, I offer a joint resolution (H.J. Res. 749) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES 749

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the Ninety-fourth Congress shall begin at noon on Monday, January 19, 1976.

SEC. 2. That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended (31 U.S.C. section 11), the President shall transmit to the Congress not later than January 21, 1976, the budget for the fiscal year 1977, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. section 1022), the President shall transmit to the Congress not later than January 26, 1976, the Economic report.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR TOMORROW AND REMAINDER OF WEEK

(Mr. O'NEILL was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I have taken this time in order that I may give the schedule for today and for tomorrow.

Mr. Speaker, all legislation has been completed for today. We will meet tomorrow at 10 a.m., and the program for Wednesday will be as follows:

First we will consider H.R. 5559, the tax reduction extension conference report. There will be a rule on that, of course, and that will be the first item on the calendar for tomorrow, followed by H.R. 10979, the railroad revitalization and regulatory reform bill, with an open rule and 2 hours of debate.

Then we will bring up H.R. 8235, the Federal Aid Highway Act, with an open rule and 3 hours of debate. The rule has already been adopted on that.

Next, we will bring up Senate Joint Resolution 121, the quarterly adjustments in the support price for milk conference report.

Finally, we will consider H.R. 9771, the Airport and Airways Development Act, with an open rule and 2 hours of debate.

Mr. Speaker, in view of the fact that the Members are going to the White House tomorrow evening, we would hope to be able to finish at a reasonable hour. We would appreciate it if we could keep Members on the floor because there are those who like to ask for quorum calls.

We would like to finish the whole schedule at a reasonable hour on Friday in view of the fact that there are a couple of airplane strikes and many of the Members of Congress have made arrangements to go home.

Mr. Speaker, we hope that everybody, in the spirit of Christmas, will keep that in mind.

That is all the legislation for today, and I thank the Members.

U.S. INVOLVEMENT IN ANGOLA

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I share the misgivings of the gentleman from Ohio (Mr. MOTTL) on the question of Angola. I wonder whether our country is backing into another Vietnam.

The Russian involvement in Angola is very disturbing. But so is U.S. involvement. Particularly disturbing is the fact that the Congress was not consulted in advance about the actions being taken by the administration with regard to Angola. We do not even know for sure what actions are being taken by the administration.

Furthermore, it appears that once again, high officials of the executive branch have deliberately lied to us. Two weeks ago at a large dinner in connection with the Pacem in Terris Conference, Mr. William Colby, Director of the CIA, publicly stated that the United States was not, directly or indirectly, supplying any military or paramilitary assistance to any of the factions in Angola. That statement was, as we now know, absolutely false.

We are given the impression that once again, the executive branch is acting unilaterally without approval by Congress, without disclosing the facts, and without having made any attempt to bring the conflict before appropriate international organizations, such as the United Nations Security Council.

Mr. Speaker, although I would strongly oppose sending U.S. troops to Angola, I am not now prepared to say that the Congress should prohibit any and all forms of assistance to any of the factions in Angola. However, I think it is time the Congress demanded full and accurate disclosure of the facts and the opportunity to participate in the formulation of national policy on this dangerous situation. To that end, I am introducing a resolution to prohibit military assistance to any faction in Angola without specific authorization by Congress.

NEW YORK CONSTRUCTION LABOR ASSAILS INTERSTATE RIP-OFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, the gentleman from Ohio, the ranking minority member on the Committee on Public Works and Transportation, and I have received telegrams from the construction industry and trade union locals in New York City protesting the intent to wipe out the West side highway construction as an interstate project under H.R. 8235, the Federal Aid to Highways Act of 1975.

New York labor and management make a compelling case that any Interstate capital funds resulting from the interstate withdrawal would merely allow diversion of city and State capital construction funds for operating subsidies, with no net gain in construction for mass transit. I include the text in the RECORD at this point with one caveat: While otherwise an excellent statement, it appears in error in the assertion that trust fund moneys—as distinguished from general revenues—could be diverted temporarily under the "Beame Shuffle."

Now, I ask, Mr. Speaker, are we going to upend the entire interstate program from coast to coast and make ourselves party to this brand of mischief?

For those Members to whom the text is not self-explanatory, I commend the minority views in the report to accompany H.R. 8235 and the "Dear Colleague" circulated to Members Monday evening by the gentleman from Ohio (Mr. HARSHA).

The text follows:

H.R. 8235, December 8, 1975, The 1975 Highway Act

On behalf of the 100,000 construction tradesmen and the 475 contracting firms in our city alone who would be affected by the above referenced House bill, we wish to thank you for your opposition to the Abzug amendment appearing under section 109, pages 42, etc.

We are currently experiencing unemployment of 40% to 90% and disastrous bankruptcies on behalf of employers. The west side highway is necessary as a self-help project (no charity) to save New York City. You undoubtedly, in your capacity, have recognized the causes for New York's present economic plight.

Transfer of capital funds to expense budget items:

The city of New York administration is a past master of and has a long standing practice of transferring capital monies or disguising capital monies for operating expenses. In just last year's capital budget, $800 million out of $1.1 billion went for operating expenses disguised as capital budget items and this has been the history for well into two decades.

State bond monies:

In late 1960 the voters of the State of New York approved a highway and mass transit bond issue. These monies were to build, among other things, a Second Avenue subway extension to the Bronx. The monies were diverted to operating expense items, and now, we, as New Yorkers, have only two huge holes in the ground on Second Avenue and massive unemployment. Channel 13, WNET, the Educational and Community Public Service TV station in our area conducted a program this past summer where they characterized these financial manipulations as "The Great Train Robbery".

(A) Irresistible impulse, from over 30 years of seeing how things happen in New York City, the Abzug amendment would once again establish the game plan whereunder the local officials would be subjected to irresistible pressure to cancel the West Side Highway project, (a project that can save New York City) and divert those monies to some alleged capital subway project.

(B) The amendment provides for purchase of passenger equipment, including rolling stock which is once again the old technique used not to build any more subways, and of course, not to build the West Highway.

"BEAME RIDER" TO THE URBAN MASS TRANSPORTATION ACT

Mayor Beame, through the "Beame Rider" can now borrow up to 50% of Federal grant moneys allocated to New York for capital construction of mass transit facilities and use said monies for operating expenses, providing a promise is made to repay. You know the city cannot repay anything, nor will it be able to in the future, except the highways trust fund's money that could be transferred to mass transit can now be used as operating expense funds just on a promise to repay.

Please save the city from another two generations of fund shifting so that we can have jobs and save our city. The Abzug amendment language is subtle and sophisticatedly disguised and hides the actual procedures that will be followed and have been followed.

Please save us.

General Contractors Association, City of New York; International Union of Operating Engineers, Locals 14 and 15; International Union of Laborers, Locals 731, 1010, 1018, 147, 29; District Council of Carpenters, Timbermen Local 1536; Dockbuilders Local 1456; Metallic Lathers Local 46; Teamsters Local 282.

A SUMMARY OF THE YEAR'S ACTIVITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

Mr. ADDABBO. Mr. Speaker, each year in December, I summarize the activities of the Congress in the preceding year, as well as the activities of myself, and present them to my constituents for their consideration.

I proudly represent the good people of the Seventh District of New York, and it has been their custom to inform me in no uncertain way when they are pleased or displeased with either my activities or those of the Congress.

Since the first tenet of democracy is an open dialog, I believe the give and take between myself and those whom I serve has proved to be of great value to all concerned through the years. I would like to share with those of you here in the House some of the thoughts I shall impart to those I serve.

We are now concluding the end of a year that has been beset with great difficulties for all Americans. We began 1975 with great hopes that we had at last surmounted the most serious of national problems and would be able to deal quickly and well with the nagging problems of energy, inflation, unemployment, Southeast Asia, the Middle East, and other great matters.

And when we look back on the accomplishments of Congress, we can tell the American people truthfully that we have met the test of some of those challenges.

We have acted on energy, on tax reform, on budget control, on approving money to meet national needs, on foreign aid, jobs, housing, unemployment, and a host of other issues.

In candor, we must say that we, the Congress, have not always triumphed in our contests of will between a Democratic Congress and a Republican White House. But the question of who was right or wrong on specific issues of contention will best be answered by the American people. For myself, I take pride in my role in what the Congress passed during the last 12 months.

Briefly, let me summarize the most important issues passed by the Congress in several major areas.

In the field of energy, the Congress has passed the Energy Conservation and Policy Act which would establish a comprehensive energy policy for the Nation. It will roll back fuel prices in 1976 and permit a gradual rise in prices over a 40-month period at which time controls on petroleum products would end or be reviewed.

The 1975 tax cut has been extended by a bill passed by the House, and is now under consideration by the Senate. The House bill would mean a tax savings of $13.3 billion to the Nation's taxpayers, and would eliminate many of the loopholes that have allowed the wealthier taxpayers to avoid their fair share of taxes over the years.

In perhaps the most underrated accomplishment of the year, the Congress established budget committees, which, for the first time, have brought Federal spending programs into line. The program this year limited Federal spending in the coming fiscal year to $373 billion.

We have enacted almost all appropriations bills for Federal spending programs for the current year. The chart below will explain in detail our action on the President's budget. Perhaps the most significant cooperation between the White House and the Congress occurred this year when both sides took the unusual step of rescinding spending programs in certain areas and saved the taxpayers substantial sums in eliminating unnecessary programs, and the Congress refused to rescind certain programs which were needed for the benefit of all.

The chart referred to follows:

ACTIONS ON REQUESTS FOR NEW BUDGET AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 94TH CONG., 1ST SESS.,[1] REVISED TO NOV. 21, 1975

[This table excludes "back-door" spending authority in legislative bills and permanent budget authority (Federal and trust) available without further action by Congress; amounts in dollars]

	House				Senate			Congress	
Bill and fiscal year	Budget requests considered	Reported by committee	Approved by House	Compared with budget requests considered by House	Budget requests considered	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
A. BILLS FOR FISCAL 1976									
1. Education (P.L. 94-94)[2]	6, 134, 339, 000	6, 845, 495, 000	7, 332, 995, 000	+1, 198, 656, 000	6, 134, 339, 000	7, 682, 511, 852	+1, 548, 172, 852	7, 480, 312, 952	+1, 345, 973, 952
2. Legislative (P.L. 94-59)	708, 624, 440	698, 076, 800	698, 076, 800	−10, 547, 640	838, 265, 425	825, 302, 485	−12, 962, 940	827, 546, 570	−10, 718, 855
3. Continuing Appropriations, 1976 (P.L. 94-41)		2, 004, 800, 000	2, 004, 800, 000	+2, 004, 800, 000		2, 379, 800, 000	+2, 379, 800, 000	2, 379, 800, 000	+2, 379, 801, 000
4. HUD-Independent Agencies (P.L. 94-116)	[3] 42, 366, 070, 000	[3] 42, 366, 024, 000	[3] 42, 366, 024, 000	−46, 000	[3] 48, 779, 570, 000	[3] 50, 275, 314, 000	+1, 495, 744, 000	[3] 49, 344, 914, 000	+565, 344, 000
5. Public Works (H.R. 8122)	7, 057, 462, 000	7, 211, 401, 500	7, 225, 401, 500	+167, 939, 500					
6. State-Justice-Commerce-Judiciary (P.L. 92-121)	5, 601, 907, 400	5, 675, 330, 000	5, 671, 669, 000	+69, 761, 600	5, 721, 747, 400	6, 188, 253, 000	+466, 505, 600	5, 958, 676, 000	+236, 928, 600
7. Labor-HEW (H.R. 8069)	35, 153, 357, 000	35, 873, 492, 000	35, 979, 641, 000	+826, 284, 000	35, 157, 909, 000	36, 272, 522, 318	+1, 114, 613, 318		
8. Transportation[3] (H.R. 8365)	3, 964, 974, 775	3, 744, 413, 775	3, 744, 413, 775	−220, 561, 000	4, 069, 994, 775	4, 194, 482, 775	+124, 488, 000	3, 978, 924, 775	−90, 070, 000
9. Agriculture and Related Agencies (P.L. 94-122)	11, 076, 869, 000	11, 047, 263, 000	11, 047, 263, 000	−29, 606, 000	11, 084, 514, 000	11, 092, 283, 000	+7, 769, 000	11, 061, 282, 000	−23, 232, 000
10. Treasury-Postal Service-General Government P.L. 94-91)	6, 330, 463, 000	6, 265, 532, 152	6, 265, 532, 152	−64, 930, 848	6, 330, 463, 000	6, 338, 985, 000	+8, 522, 000	6, 314, 070, 000	−16, 393, 000
11. Interior (H.R. 8773)	4, 034, 942, 000	4, 090, 302, 000	4, 101, 962, 000	+67, 020, 000	4, 307, 158, 000	4, 304, 340, 000	−2, 818, 000		
12. Defense (H.R. 9861)	97, 857, 849, 000	90, 219, 278, 000	90, 219, 045, 000	−7, 638, 804, 000	97, 857, 849, 000	90, 721, 789, 000	−7, 136, 060, 000		
13. Military Construction (H.R. 10029)	4, 109, 020, 000	3, 518, 723, 000	3, 518, 723, 000	−590, 297, 000	4, 109, 020, 000	3, 660, 295, 000	−448, 725, 000	3, 585, 014, 000	−524, 006, 000
14. Supplemental Appropriations, 1976 (H.R. 10647)	8, 928, 526, 861	7, 820, 606, 201	7, 820, 606, 201	−1, 107, 920, 660					
Subtotal, bills approved by House	233, 324, 404, 476	227, 380, 737, 428	227, 996, 152, 428	−5, 328, 252, 048	224, 390, 829, 600	223, 935, 878, 430	−454, 951, 170	90, 930, 540, 297	+3, 862, 626, 697
15. District of Columbia	(507, 841, 000)								
16. Foreign Operations	(5, 694, 340, 909)								
Total, bills for fiscal 1976	(239, 526, 586, 385)	227, 380, 737, 428	227, 996, 152, 428	−5, 328, 252, 048	224, 390, 829, 600	223, 935, 878, 430	−454, 951, 170	90, 930, 540, 297	+3, 862, 626, 697
B. BILLS FOR FISCAL 1975									
1. Foreign Assistance (P.L. 94-11)	5, 946, 460, 909	3, 498, 420, 000	3, 498, 420, 000	−2, 448, 040, 909	5, 946, 460, 909	3, 946, 096, 982	−2, 000, 363, 927	3, 674, 346, 982	−2, 272, 113, 927
2. Further Urgent Supplemental (P.L. 94-6)	142, 715, 000	117, 175, 000	142, 175, 000		143, 175, 000	143, 175, 000		143, 175, 000	
3. Emergency Employment (H.R. 4481) (Vetoed)[4]	(130, 000, 000)	(5, 368, 474, 000)	(5, 373, 474, 000)	(+5, 243, 474, 000)	(2, 042, 700, 000)	(5, 504, 535, 000)	(+3, 461, 835, 000)	(4, 729, 146, 000)	(+2, 686, 446, 000)
Temporary Employment Assistance[5]	125, 000, 000			−125, 000, 000	1, 625, 000, 000		−1, 625, 000, 000		−1, 625, 000, 000
4. Urgent Supplemental, Summer Youth Employment (P.L. 94-36)	412, 700, 000	473, 350, 000	473, 358, 000	+60, 650, 000	412, 700, 000	473, 350, 000	+60, 650, 000	473, 350, 000	+60, 650, 000
5. 2d Supplemental (P.L. 94-32)[6]	11, 540, 647, 646	11, 297, 417, 586	11, 397, 042, 586	−143, 605, 060	14, 956, 698, 548	15, 946, 662, 998	+1, 007, 964, 450	15, 071, 955, 998	+114, 897, 450
6. Additional Appropriation, Veterans (P.L. 94-17)	638, 038, 000	638, 038, 000	638, 038, 000		638, 538, 000	638, 538, 000		638, 538, 000	
7. Vietnam Refugee Assistance (P.L. 94-24)	507, 000, 000	405, 000, 000	405, 000, 000	−102, 000, 000	507, 000, 000	405, 000, 000	−102, 000, 000	405, 000, 000	−102, 000, 000
Total, bills for fiscal 1975	19, 312, 021, 555	16, 429, 400, 586	16, 554, 025, 586	−2, 757, 995, 969	24, 229, 572, 457	21, 570, 822, 980	−2, 658, 749, 477	20, 406, 005, 980	−3, 823, 566, 477

Footnotes at end of table.

ACTIONS ON REQUESTS FOR NEW BUDGET AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 94TH CONG., 1ST SESS.,[1] REVISED TO NOV. 21, 1975—Continued

[This table excludes "back-door" spending authority in legislative bills and permanent budget authority (Federal and trust) available without further action by Congress; amounts in dollars]

	House				Senate			Congress	
Bill and fiscal year	Budget requests considered	Reported by committee	Approved by House	Compared with budget requests considered by House	Budget requests considered	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
C. CUMULATIVE TOTALS FOR THE SESSION TO DATE									
1. House	252, 636, 426, 031	243, 810, 138, 014	244, 550, 178, 014	−8, 086, 248, 017					
2. Senate					248, 620, 402, 057	245, 506, 701, 410	−3, 113, 700, 647		
3. Enacted								111, 336, 546, 277	+39, 060, 220

[1] Additionally, the Congress has taken action to rescind budget authority during this period, as follows:

[Amounts in dollars]

Bills	Proposed rescissions considered	Approved by House	Approved by Senate	Approved by Congress	Compared with proposed rescissions
Budget Rescission (P.L. 94-14)	929, 420, 272	222, 550, 000	300, 456, 470	223, 336, 470	−706, 083, 802
3d Budget Rescission (P.L. 94-15)	1, 248, 674, 954	16, 454, 704	10, 955, 000	16, 454, 704	−1, 232, 220, 250
4th Budget Rescission (H.R. 6573)	238, 323, 000	17, 873, 000	1, 623, 000		
Budget Rescission (P.L. 94-111)	188, 888, 000	47, 500, 000	47, 500, 000	47, 500, 000	−141, 388, 000
Total	2, 605, 306, 226	304, 377, 704	360, 534, 470	287, 291, 194	−2, 079, 692, 052

[2] Includes advance appropriations for 1977.

[3] Originally, the fiscal year 1976 budget request estimated $26,100,000,000 over a 40-yr period for assisted housing annual contract authority. The House and Senate agreed to the administration's request, but more recent estimates indicate that $17,000,000,000 is the amount necessary for runout costs of the new commitments. All requests and approved amounts for annual contract authority have been adjusted to reflect the reestimate.

[4] Vetoed on May 28, 1975; sustained by House of Representatives on June 4, 1975.

[5] The Budget for fiscal year 1976 requested $125,000,000 of fiscal year 1975 budget authority previously transferred to the Economic Development Administration to be restored to the Temporary Employment Assistance program, Department of Labor. Subsequently in H. Doc. No. 94–74, the President requested an additional $1,500,000,000 for Temporary Employment Assistance to be included in a proposed supplemental appropriation for fiscal year 1975. Although the latter request arrived too late to be considered in the House hf Representatives, the House Committee on Appropriations did recommend $1,625,000,000 in the Emergency Employment bill. The Senate considered both requests and then approved the same funding as recommended by the House. After the veto of H.R. 4481 was sustained, funding for the program was included in the Continuing Appropriations Act (Public Law 94–41), but for fiscal 1976. To be consistent in tabulating actions on budget requests, therefore, the requests only are tabulated as applicable under B. Bills for fiscal 1975. The enactment of the funding is included with the totals for Public Law 94–41 under A. Bills for fiscal 1976.

[6] Includes advance appropriations for 1976.

[7] Conference agreement.

Note: The budget for 1976, as submitted Feb. 3, 1975, tentatively estimated total new budget authority for 1976 at $435,233,000,000 gross ($385,848,000,000 net of some $49,385,000,000 in intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget purposes only). Of this total, an estimated $181,100,000,000 does not require current action by Congress; it involves permanent appropriations such as interest and various trust funds already provided in basic law. Virtually all of the remaining $254,100,000,000 is for consideration at this Session in the appropriation bills. About $12,300,000,000 of the $254,100,000,000 was shown in the February budget as being "for later transmittal" for supplemental requirements under present law, new legislation, allowances and for contingencies and civilian pay raises. Parentheses indicate that amounts are not included in "C. Cumulative totals for the session to date."

Source: House Committee on Appropriations, Nov. 21, 1975.

The Congress provided $10 billion in housing subsidies to spur the housing industry out of the doldrums and to provide new and desperately needed housing for millions of American families.

To cope with the sagging economy, the Congress passed a $5.3 billion jobs bill, later vetoed by the President, and a bill extending unemployment benefits, as well as refusing the request of the President to limit increases in social security benefits.

Those are just a few of the major issues on which the Congress acted during the past 12 months. There are many others, for which I do not have the space to discuss here. There are other issues I will mention in which I played a particular role or which have a particular reference to my constituents.

Uppermost of all those bills, of course, was the year-long effort of the New York congressional delegation to secure Federal assistance for New York City so that it could cope with a potentially disasterous financial shortage.

As a life-long resident of New York City, I have watched with sadness over the years as cherished neighborhoods deteriorated and the problems of the city managers multiplied. But it is fair to say that neither I nor anyone else in the congressional delegation were prepared for the extent of the city's fiscal crisis.

Much of this year was spent in continual negotiation with the White House and with our colleagues in the Congress to determine how best we could help New York, the extent of the aid required, and how—in the end—to get the necessary votes to enact it.

Thankfully, we were successful in the end, and disaster was at least temporarily averted. But I cannot say enough for the Members of the New York congressional delegation from outside of New York City who worked so hard with us to convince other Members of Congress from around the Nation that in this case, a vote for New York City was a vote for the Nation.

Because of the grace and courage of those from other sections of the country who rejected a narrow and parochial outlook in order to help us, we have a chance to begin the rebuilding of our Nation's largest and most important city.

For those of us who live in New York, we must realize we face many bleak years ahead of us before we can look at the future with any certainty that there is a place in it for us.

We are all aware of the internal problems of New York City which led directly to the fiscal crisis. But what we in the U.S. Congress have an obligation to do is to look to root causes—the discriminatory Federal practices that have caused all major cities to suffer. I believe we ought to revise upward the percentage of revenue sharing funds that go to cities. I believe the Congress ought to consider federalizing welfare payments. I believe education funds ought to go to where the problems are, in the major cities. We have much to do in the months ahead, and I would hope that the Congress will assume the tasks of examining its own programs with the same courage and dedication it demonstrated in providing Federal assistance loans to New York City to avert a default.

DEFENSE SPENDING

As most of my constituents know, I serve as a ranking majority member on the House Defense Appropriations Subcommittee. Most of my working hours in any year in Congress are spent trying to absorb the details of a budget fast approaching $100 billion. Under the direction of Chairman GEORGE MAHON, the subcommittee worked from last January on a daily basis through summer before bringing the bill to a vote in the House. Then, after the Senate acted, we have worked—right up until the present—in seeking to resolve differences in the House and Senate bills.

I have not been happy with the final product of the Congress this year in terms of defense spending, even the House-passed defense appropriations bill was the first in many a year to absorb a $7 billion cut. I believe in a solid national defense, and I am willing to spend the money needed to produce an adequate defense. But I am afraid that the waste that we condone in Congress in the name of national defense is a national disgrace.

We have seen in the Yom Kipper war how an overwhelming quantity of cheap missiles utterly destroyed far superior aircraft and armaments. I find it wrong for the United States to spend $100 million per copy of a bomber that can be knocked down by a $10,000 missile. I think it idiotic to construct a new $100 million munition plant in one State when we close others for lack of need.

I think it foolish at best to spend $20 million a year to maintain a radar capability at an ABM site where we have removed the defensive capability because it does not work. I think we are spending millions and millions of dollars on programs that are unneeded and/or obsolete from the beginning.

I have fought each and every one of those battles this year. I have won a number of other battles, some of which are fairly significant. But it is a battle which must be repeated year after year after year. And whatever anyone thinks of the seniority system in Congress, it is a big help in fighting the defense budget bulge.

OTHER APPROPRIATIONS PROJECTS

As a member of the Appropriations Committee, I am involved in all the ways our Federal Government spends money. Because of the perilous shape of our economy, the Appropriations Committee early in 1975 devised a jobs-producing plan which would lump together vast sums of Federal money into public service and public works projects.

The bill was a $9 billion plan to put people back to work, and it passed the House and the Senate with flying colors. It was an innovative plan which, had it been implemented, would have made this year a far more pleasant one for millions of American families. But it was not to be. President Ford, for reasons that he must answer to in the upcoming Presidential campaign, refused to sign the bill. Our attempts to override the veto failed because most members of the minority party in the House voted with Mr. Ford. It was, I am convinced, a serious blow to the economy, and I can only note that the sad state of the economy today is a direct result of that decision of the President.

Subsequently, in the interest of compromise and hope to aid the economy and programs most needed, such as education, unemployment, and the aged, a legislative package was enacted and overwhelmingly passed by the House and Senate, but again, to no avail, due to Presidential veto. So what had been attempted as a massive dose of curing medicine for our domestic ills had to be relegated to small piecemeal, drop-by-drop programs setting a snailpace to recovery and employment and caring for our domestic needs.

THE CONCORDE FIGHT

We have fought the Ford administration tooth and nail all year long over whether the French and British produced supersonic transport airliner, the Concorde, would be allowed to land at John F. Kennedy International Airport in Queens, and at Dulles International Airport near Washington, D.C.

We have testified at every opportunity against letting the Concorde into the United States. There is no doubt that it violates the minimum noise levels of this Nation. There is serious question to whether Federal law was violated by the internal attempts of the Nixon and Ford administrations to foist this plane off on the American people.

Earlier this month, the Environmental Protection Agency—EPA—at last came out strongly against the plane, and early in January, the Department of Transportation will conduct another hearing into the application. I believe that we have stopped the plane from ever landing at JFK and I hope we have accomplished the same goal at Dulles. There is no justification whatsoever for allowing that plane—or any other plane that cannot meet minimum standards—to operate in this Nation.

SMALL BUSINESS COMMITTEE INVESTIGATIONS

In addition to my role on the House Appropriations Committee, I also serve on the House Committee on Small Business where I am Chairman of the investigations subcommittee; 1975 was the first year in which the House of Representatives made this committee a full-fledged standing committee with investigatory power. The committee, and in particular, the subcommittee, has taken this mandate to being a full range of hearings. Out of this has come my conviction that Federal laws affecting small business are unnecessarily snarled in red tape, are conflicting and, often, discriminatory, and that the commitment by the last two administrations to small business has been more in name than in fact.

In the year ahead, we plan to continue those investigations and to push the administration harder to fund the programs they have let lag while diverting money elsewhere.

Let me summarize some of what the subcommittee had done. The House passed and sent to the Senate my bill providing SBA funds for small businesses which are adversely affected, through no fault of their own, by natural and manmade disasters. This bill came as a result of the Manhattan fire which cut telephone service to small merchants for almost 2 weeks. The loss of a business phone for that long a period can be a devastating blow to a small concern which depends on the telephone for survival. Our intent is to protect those who may otherwise lose their businesses because of a disruption to a vital municipal service.

The threat of default to New York City posed a serious change in the life of every New York City resident, but an investigation of our subcommittee, conducted in New York, proved conclusively that a default would have wiped out hundreds of small, sometimes marginal, businesses throughout the city. My subcommittee believes that the Federal Government ought to have a contingency plan ready to deal with concerns that could be lost through a municipal default. Hopefully, we have averted that problem in New York City, but other cities remain fiscally insecure, and there is always the danger that the attempt to save New York will not succeed. We are seeking to drum up support for the bill as we enter the new year.

A continuing investigation throughout this year has shown inadequate implementation of the program designed to help small business concerns bid for Federal contracts, particularly those offered by the Department of Defense.

Implementation of the law, called the Walsh-Healy Act, has been uneven throughout the country, we have found, with requirements in New York that are not required elsewhere.

We have investigated allegations of misuse of the program by Government personnel who used the wording of the bill to aid some contractors while denying other worthwhile contractors an opportunity to bid.

We have delved deep into this with both the Department of Defense and with the Small Business Administration, seeking to resolve the matter without new legislation. As this is written, it is apparent that new legislation will be required to end the discrimination, and it will be presented to the full committee early in the new year.

On a matter strictly affecting Queens, our subcommittee held a hearing in Queens on the effect to the borough of the September rainstorm that caused so much damage throughout Queens. As a result of our hearing, we were able to forward data to the Federal Disaster Board and get Queens designated as a disaster area.

The above are some of the many investigations conducted by my subcommittee this past year. We have worked our members hard in a variety of areas, and I believe we can truthfully say we have had an impact of some importance on how SBA treats the small businessman who comes before the agency seeking help.

Other Achievements in Specific Legislative Areas

THE ECONOMY

A resolution which has been adopted calls on the Federal Reserve to increase the money supply and lower interest rates.

A law increases the Federal matching share for approved Federal-aid highways, thus permitting financially strapped States to proceed with backlogged projects.

FOOD STAMPS

Some 19.6 million food stamp recipients benefit from a law prohibiting the administration from increasing food stamp prices in 1975.

A law improves the child support program under the Social Security Act.

VETERANS

Effective this August, a $490 million veterans compensation law provides a 10- to 12-percent increase in compensation to service-connected disabled veterans and a 12-percent increase in compensation (DIC) to survivors.

A law provides for additional funds for continued alterations at St. Albans Veterans Hospital.

HEALTH

A law authorizes $147 million for developmental disabilities programs for fiscal 1976 and 1977.

OTHER

A law extends oil price controls.

A law implements the U.S. proposal for the early-warning system in the Sinai.

Two Presidential proposals to decontrol the price of domestic old oil have been disapproved by the House.

The House established a Select Committee on Intelligence chaired by Representative Otis Pike of New York.

Legislation to regulate the orderly and environmentally acceptable access to surface coal deposits and to establish a mine reclamation program was vetoed.

A TRIBUTE TO MATTHEW GINAL—LEADING LABOR LEADER IN WESTERN NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, today I would like to pay tribute to Matthew Ginal, a real gentleman and a true friend who has been an outstanding labor leader in western New York. I have known Matt for many years and wish to take this opportunity to salute his many years of service to his labor union—Local 36, American Federation of Grain Millers, and the entire union movement.

Matt has served the labor movement in many capacities. He was business representative of local 36 for 8 years. During his 8 years as mill representative for General Mills, he became close friends with my father, Dominic LaFalce, who also worked for General Mills. Matt has been on the executive board of the Buffalo AFL–CIO Council, which represents over 100,000 other union members in western New York. He has been a delegate to the grain millers master agreement policy meetings, a delegate to the ILA Great Lakes convention, a trustee of the union label trades, a delegate to the maritime trades department-Buffalo Port Council, a delegate to the Buffalo ILA Council and a director of the 36 Federal credit union.

In 1974 Matt Ginal received the Labor Man of the Year Award from the Am Pol Eagle, a prominent Buffalo newspaper.

Matt has also served his community well. He has been a member of the speakers bureau of the United Way and a member of the waterfront advisory committee, which was was organized to keep industries in Buffalo.

Matt is a graduate of the Diocesan Labor College and the Cornell Labor College.

Mr. Speaker, I am proud to be able to say that Matt Ginal has been my friend for he has served his community and the labor movement well. His unceasing efforts to better the standard of living and working conditions for his fellow union members and to contribute his time and energy to the communities of western New York are appreciated. As his days as business representative for local 36 come to an end, I am pleased to have this opportunity to express my admiration for Matt Ginal, and to offer the thought and hope that his service to the labor movement will continue and grow in the years ahead.

THE CAPTIVE NATIONS, THE WEEK, AND RUSSIAN LOBBYING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, as many analysts know, the last Captive Nations Week was a most outstanding one in terms of the unique convergence of events during that week—the Apollo-Soyuz orbital détente, Solzhenitsyn, Kissinger's apologia of détente, and the announcement of the European Security Conference.

To advance further insights into détente and the captive nations, I submit for the reading of my colleagues a free Chinese piece of the "New Captive Nations—The Tragedy in Vietnam, Cambodia, and Laos," published in the June issue of Asian Outlook, a most interesting letter of Captive Nations Week in the September 22 issue of Human Events, and an enlightening editorial on "Soviet Russian Lobbying in Washington" in the November 20 issue of America of Philadelphia:

[From Asian Outlook, June 1975]

NEW CAPTIVE NATIONS—THE TRAGEDY IN VIETNAM, CAMBODIA, AND LAOS

(By Liu Tsung-chou)

In his book published two years ago, reporting the situation of captive nations since the second world war, Dr. Lev E. Derwinsky and Mr. Daniel Flood listed in the inside cover 27 names of the countries and areas, and beneath them, under the title "Who Are the Next?" listed some others which might be chosen by Communists as subsequent targets of enslavement. It was unfortunate that the three small nations in Indochina—Vietnam, Cambodia and Laos—which were independent from French colonial rule for no more than 30 years, were among the next targets listed and within only two years after this book was published they were shut behind the Iron Curtain to become new captive nations.

The fall of South Vietnam was the most sorrowful historical event of Southeast Asian countries during the post-War period of World War II. Though the United States has given tremendous assistance, even with direct involvement in combats, the Vietnamese people themselves have paid an even higher cost in the struggle against international Communist aggression and enslavement. Of the total population of 17 million in South Vietnam, almost 15 to 20 per cent were killed in the battle. The country was rich in natural resources and its land was so fertile that it was once called the world's granary of rice. Because of war, however, its economic development was impeded and the people's standard of living was even lower than that during the colonial rule. Before being exhausted in resources and swallowed by the military invasion of Communists, the country had lived a life like that of a beggar, continuously soliciting help from others. She no longer had any strength to face aggression and hopelessly awaited the destiny of being enslaved.

Under the manipulation of the North Vietnamese, the Vietcong has occupied South Vietnam for more than two months. At the beginning, the Vietcong deliberately showed a leniency by allowing its people to enjoy the last freedom as a memory to their acceptance of enslavement. Within a month, however, its hideous face of wickedness and maliciousness was exposed. The following are a few facts:

(1) Prohibition of people's free movement. Those in the cities are not allowed to go to the countryside, and those in the countryside are not allowed to go to the cities.

(2) Establishment of neighborhood committees to enforce surveillance of each other among the people.

(3) Enforcement of a compulsory Communist education on any children at and above the age of six, which is completely contrary to the traditional culture, previous educational system and accustomed way of life.

(4) Ideological reform of the people in the military and civil service as well as the cadres of the top and middle level into another "mankind" mentally, by such methods as purges, massacres and brainwashing.

(5) Abolishment of the private ownership system by confiscating land, houses and other properties of the nation. In other words, the people now are no longer allowed to own a property except their own labor. If they are not allowed to render their service, the only road lying ahead of them is death.

(6) Thoroughly extinguishing the existence and appearance of Western culture and way of life in Vietnam. Together with the old history and culture of Vietnam, they are being cleaned under the accusation of decadence and degeneration.

(7) Treatment of the people with heavy punishment and inhuman method. A thief was openly executed to death at a public trial, and explosion of grenades was adopted to kill on the spot the people who were violating the Communist rule.

(8) A massive massacre at such places as Hue and Danang in the north. According to American intelligence sources, more than 500,000 innocent people have been killed since April 30 when South Vietnam was fallen to Communists.

(9) Suppression of the press by closing down 34 newspapers of the Vietnamese or Chinese language. Publishers of the Chinese newspapers were all put to death.

(10) Prohibition of Western journalists from working in Vietnam. Groups after groups, they have been expelled out of Vietnam since May 2.

In Cambodia, the situation was even more miserable. Of the population of nearly seven million, at least one and a half or two million might have lost their lives, adopting the old practice of Maoists, the Khmer Rouge has used killing as the first step to rule the nation. According to a report filed by the correspondent of *New York Times,* John Schanberg, from Bangkok after he had stayed in Phnom Penh under Communist rule for 17 days, the refugees pouring into the capital of Cambodia during the past five years had been all expelled to countryside to engage in manual labor for production.

The refugees included those who were sick. They crept and crawled to the countryside. Even those bed-ridden patients were carried away. No exception was made to the disabled, who were carried out by their relatives or friends. If no assistance was available, they would die in the travel.

In the process of massive expulsion to countryside, therefore, at least 10 per cent of the two million refugees were dead in the rolling and scattering around for sickness and lack of food, care and relief.

The second step taken by the Khmer Rouge was the murder of former military officers and men. According to an AP report from Surin of Thailand, most of the people killed were the officers and men under the Lon Nol government. The murder was carried out to eliminate any possibility of hostile attitude or action towards the new regimes. In Siem Reap province of the northwest, the Khmer Rouge used spades and clubs to beat to death the surrendered officers and men. In a case of as many as 40 in a time, the hands of the officers and men were tied at the back. Being unable to stand the pain any more they screamed to request immediate shooting to relieve the misery. After death, they were buried en masse in a big pit at the village of Phuon Prong.

In Odder Mean Chey province of the far northwest, 16 soldiers and policemen were buried together after being shot. A bypasser saw their hands and feet stretching out from the thinly covered soil. He also discovered that on their bodies there were traces of being bound by barbed wire with scratches here and there. A reliable source said that in the camp of Talork near Phnom Penh and a stronghold along the highway No. 4 south of the capital, about 3,000 people were openly executed within a week in early May.

The Newsweek magazine of the United States also reported that after the Khmer Rouge had entered Phnom Penh, many Cambodian air force personnel fled to Thailand. By sweet words of welcome, the Khmer Rouge had urged them to come back to their motherland. Of them about 200 were lured back. Only two hours after receiving a warm welcome at the border, they were shot to death en masse.

In slaughtering the people, the Khmer Rouge was taking an open action of mercilessness. Western journalists said the crime is comparable to that of the slaughter of Jews by the Nazi in the Second World War.

The Laotian Communists reached their goal of subversion and occupation of Laos by way of Trojan horse. The coalition government established in 1974 provided a base for the Communists to seize power step by step. After the fall of South Vietnam and Cambodia in April of this year, the destiny of Laos has quickly and miserably been changed. These were the latest developments:

(1) The rightist anti-Communist leaders, squeezed from the coalition government, were fleeing to other countries.

(2) The main anti-Communist forces in central Laos, led by General Wang Pao with his Mieo troops, were now only nominal after being reorganized, merged and disbanded. Gen. Wang himself had fled to Thailand.

(3) The deep-rooted anti-Communist strongholds in southern Laos were militarily occupied by Laotian Communists after revolted workers and students, at the instigation of Communists, had paved the way for the take-over. Important cities along Mekong River were fallen under the control of Communists one after another.

(4) Vietiane, the Laotian capital, was also under the control of Communists.

(5) All American aid organizations in Laos, including the U.S. Information Services, were closed down by forces.

In the population of three and a half million in Laos, the anti-Communist force now has lost its base of operation. Only within a short period of three months, Laos has become the third country, following South Vietnam and Cambodia of being enslaved by Communism.

It is a coincidence that within the 30 years after the Second World War, the number of captive nations and areas has been increased to 30. None of these nations has ever had a break of fortune during the long and miserable time. Is this a jeer to history or an irony to mankind?

On the occasion of observing the Captive Nations Week this year, we free people, who also have the feeling of being endangered, shall think more of what we can do and what we should do in the future.

[From Human Events, Sept. 22, 1975]

Captive Nations Week

(By Maxmilian J. Hodder)

Another annual Captive Nations Week recently came to a close, the 17th one since it was originally proclaimed by Dwight D. Eisenhower back in 1959. The only difference between the previous 16 and this last one was that this one was immediately followed by one more, and this time the final act of betrayal of the Captive Nations of East Europe, the Helsinki conference, a Yalta reincarnated.

For this reason I'd like to go back to July 11, 1970, and to quote verbatim an address read on the occasion of the Captive Nations Week celebration on that day:

"There are some Americans who think that Captive Nations Week should be soft-pedaled or forgotten. I strongly disagree. Americans must continue to make known their deep concern about the people of the Captive Nations and convey this message to the Captive World.

"Americans should continue to make known their refusal to accept the regimes imposed upon these unfortunate victims of tyranny."

This beautiful and noble address was signed: "Gerald R. Ford, House of Representatives."

Since the reading of this lofty appeal we have suffered the most disastrous five years in the history of the United States—the five years of the so-called detente—with the ensuing catastrophic military, economic and moral setbacks it inflicted upon this country, the rest of the free world, whatever is left of it, and, of course, the hopes and the aspirations of the Captive Peoples—over one billion of them!

How can we "convey our concern to the Captive World" with the Voice of America practically emasculated, the 10-minute scheduled readings from *Gulag Archipelago* only recently cancelled and every word, every program left geared not toward the easing of the plight of the slaves but toward pleasing of their masters?

Will Gerald R. Ford, if elected President, rid himself of the chief architect of the American tragedy of the past five years and will he uphold in 1976–1980 the high and noble ideals of Rep. Gerald R. Ford espoused and advocated in 1970?

[From America, Nov. 20, 1975]

Soviet Russian Lobbying in Washington

The Soviet Russian government has been very sensitive to what it calls "interfering in the internal affairs" of the USSR. Yet only a few days ago Uganda's President Idi Amin expelled Soviet Ambassador Zakharov for "meddling" in the country's domestic matters, while in Angola, which only a week ago was granted independence by Portugal, the Kremlin openly supports one of the two warring factions competing for control of the new independent nation. Soviet diplomats were expelled before from other African countries, especially from Egypt, where President Sadat would not tolerate their shenanigans.

In the United States, Soviet diplomats resort to more suave and refined tactics in the pursuance of their propagandistic and espionage objectives. They have "gone native" and are using the American technique of lobbying in Congress in order to get across their propaganda wares.

A case in point is a recent attack on Prof. Lev E. Dobriansky, President of the Ukrainian Congress Committee of America and Chairman of the National Captive Nations Committee, by the USSR Embassy in our Nation's capital. On September 10, 1975, Yevgeny Rudkovsky, Information Officer of the USSR Embassy, sent to Congressman Daniel J. Flood an article, titled "A Lie in Behalf of the Cold War," which, in essence, was a blistering attack against Prof. Dobriansky and the whole concept of the captive nations. In a covering letter, Mr. Rudkovsky wrote:

"I am enclosing the article which was written in response to the material by Mr. Dobriansky, promoted by you to the "Congressional Record." I hope you will find the manuscript interesting enough to do a follow up in the "Congressional Record" on Dobriansky's article."

The article in question, "The Despairing West and the Confident East" by Prof. Dobriansky in the Summer 1975 issue of "The Ukrainian Quarterly," and was subsequently introduced by Congressman Flood into the "Congressional Record" (94th Congress, First Session, 578–40610).

The Soviet rebuttal was written by one "Boris Bannov" and distributed by the "Novosti" Press Agency, an adjunct of the KGB propaganda network, and constitutes the usual Soviet fabrications. It accused Dr. Dobriansky of "distorting the notions of good and evil, as well as falsifying historical truths." The Soviet author further said that Ukraine today is a great industrial power, with "four million specialists with University diplomas," and with "some 1,600,000 students at the republic's colleges and universities . . ."

However, Boris Bannov failed, perhaps inadvertently, to deny the captivity of Ukraine, as he never referred to Ukraine as a "free and independent state," or to Ukrainians as being a free people.

Incidentally, the same rehashed article of aganda monthly "Golos Rodiny," published Boris Bannov also appeared in the September 1975 issue of the Russian-language propin Moscow, for distribution among Russian emigres in the free world.

What is disturbing is the fact that the Russian truth-jugglers have the temerity to appeal to U.S. legislators without heeding their own cautiousness of "not interfering in domestic affairs" of other countries.

We would like to see what would happen if a U.S. Information Officer in the American Embassy in Moscow would write to members of the Supreme Soviet, urging the release of Valentyn Moroz or Leonid Plyushch, or asking the Soviet government to allow Prof. Andrei D. Sakharov to go to Oslo and accept the Nobel Peace Award! We are sure that the Kremlin would demand the immediate withdrawal of such an American diplomat.

Needless to say, such lobbying by Soviet diplomats is contrary to the Helsinki agreement which supposedly bars such "meddling" in the affairs of other nations. But, apparently, this agreement does not bind the USSR, as its agents are doing whatever they please in foreign countries.

PASSAGE OF H.R. 3035 CULMINATES A LONG BATTLE ON TAX AND LOAN ACCOUNTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 30 minutes.

Mr. PATMAN. Mr. Speaker, yesterday, the House voted 391 to 0 in support of H.R. 3035, bringing to culmination a long effort to reform the Treasury Department's tax and loan account system.

This is a victory for the taxpayers and it means at long last that the Treasury will receive compensation for the huge balances of public funds left on deposit with commercial banks and other financial institutions around the Nation. At times these balances have been in excess of $10 billion, and in recent years they have been running at an average of about $5 billion.

This legislation, when it becomes law, will enable the Treasury Department to invest in obligations of the depositories of these funds. No longer will these funds remain idle, drawing no interest, and providing an unnecessary and unwarranted subsidy for the commercial banks.

ISSUE RAISED IN 1964

Mr. Speaker, in 1964, I raised questions about these tax and loan accounts on the floor of the House and I want to quote from my remarks at that time:

> A major taxpayers' headache connected with our banking world has been called the bankers' bonus. I refer to the "tax and loan account" gimmick.
>
> Hardly known to the general public is the fact that the U.S. Treasury is subsidizing banks every day of the year. Bankers—most of whom are conservative and Republican . . . generally oppose all Government subsidies, except, of course, the ones they re-

ceive. The tax and loan account is one of the bankers' principal subsidies.

When Federal income tax is deducted from your salary, the check is made out to the Internal Revenue. The check is returned to the boss' bank, but the money remains right there in a tax and loan account; it is not sent immediately to the Treasury Department although, eventually, it will be called for by the Government.

In the meantime, this money is loaned out at the going rate of interest by your bank to any qualified borrower, or it may be used to purchase securities—including Government bonds.

Last year an average of $5.3 billion was held by banks in tax and loan accounts throughout the Nation. At 4 per cent this means a cost of $212 million annually to the taxpayers. This costs the taxpayers more because the public debt is made higher by the Government's failure to take possession immediately of tax and loan money. It is the taxpayer who has to pay the interest on the additional debt.

It is the contention of the banks that they render service to the Government which cancels out any reasonable interest payments they might make to Uncle Sam for money they loan out from the tax and loan accounts. I would pay the banks for any service they render the Federal Government. I believe, however, that most of the services they talk about are those they must render in order to keep their customers from going across the street to their competitors.

Some day soon I hope that banks, which are so abundantly profitable, will pay the Treasury something for these deposits—August 3, 1964.

TREASURY OPPOSITION IN 1970

Mr. Speaker, this fight has continued through the years and has often been met by emotional and bitter opposition from the Treasury Department.

On November 18, 1970, I forwarded to the Secretary of the Treasury a resolution sponsored by 15 members of the Banking Committee asking that the Treasury come up with a plan by March of 1971 to make a better use of the tax and loan accounts. Undersecretary of the Treasury Charls Walker appeared before the committee on November 25, 1970, and promised "cooperation." When the committee had heard nothing from Mr. Walker by June of 1971, we wrote and asked for "cooperation," and Mr. Walker responded that "changing the tax and loan account structure is impossible."

Mr. Speaker, I want to include in the Record at this point the resolution and the correspondence between the committee and the then Undersecretary of the Treasury, Charls Walker:

Committee on Banking and Currency,
Washington, D.C., November 18, 1970.

Hon. David M. Kennedy,
Secretary of the Treasury,
Washington, D.C.

Dear Mr. Secretary: Enclosed is a House Banking and Currency Committee resolution sponsored by fifteen members of the House Banking and Currency Committee, which is self-explanatory.

In essence, the resolution calls for your office to propose a plan which would provide financial institutions with the use of interest-free tax and loan accounts in return for investments by these financial institutions in various and several programs.

In this light, it is expected that you would appear before the committee at 10:00 a.m., Wednesday, November 25, 1970, in Room 2128, Rayburn House Office Building.

With best regards, I am,

Sincerely yours,

Wright Patman,
Chairman.

Resolution

Be it resolved: That the Secretary of the Treasury is authorized and directed to prepare a United States Government Deposit Public-Interest Program, with appropriate draft legislation, to be forwarded to the House Committee on Banking and Currency no later than March 1, 1971, providing for the deposit in insured financial institutions of a specified percentage of the average United States tax and loan account balances in accordance with their contribution, actual or proposed, to low- and moderate-income housing programs; small business assistance; depressed area assistance; guaranteed student loans; state and local government financing; and such other public-interest programs as the Secretary of the Treasury may determine.

Representatives Wright Patman, William A. Barrett, Leonor K. Sullivan, Henry S. Reuss, Thomas L. Ashley, William S. Moorhead, Fernard J. St Germain, Henry B. Gonzalez, Joseph G. Minish, Richard T. Hanna, Tom S. Gettys, Frank Annunzio, Thomas M. Rees, Frank J. Brasco, and Michael J. Harrington.

December 29, 1970.

Hon. Charls E. Walker,
Under Secretary of the Treasury,
Treasury Department, Washington, D.C.

Dear Mr. Under Secretary: On November 18, the Secretary of the Treasury received a letter, along with a resolution signed by fifteen Members of the House Committee on Banking and Currency, requesting that the Treasury Department prepare a program with appropriate draft legislation, if necessary, providing for the deposit of United States tax and loan account balances in such institutions which make a contribution towards solving some of our nation's problems, including housing, small business, student loans, State and local development financing, etc.

You, Mr. Under Secretary, appeared before the House Committee on Banking and Currency on November 25, 1970, to discuss this resolution. At that time, you indicated that the Treasury Department has always cooperated with the Committee and that you would do so in this instance.

Therefore, it would be appreciated if your office would draft a program, with necessary legislation if necessary, which would effectively carry out the objectives of the resolution, a copy of which is enclosed for your information. It would be appreciated if your response will be completed by March 1, 1971.

Sincerely yours,

Wright Patman,
Chairman.

Committee on Banking
and Currency,
Washington, D.C., June 1, 1971.

Hon. Charls E. Walker,
Under Secretary of the Treasury,
Treasury Department, Washington, D.C.

Dear Mr. Under Secretary: You will recall that on November 25, 1970, you appeared before the House Committee on Banking and Currency to testify on a resolution which, if enacted, would provide for the deposit of U.S. tax and loan account balances in institutions which make a contribution toward solving some of our nation's problems, including housing, small business, student loans, State and local development financing, etc.

Following the hearing, you received a letter on December 29, 1970, accepting your invitation to request the Treasury to draft legislation which would effectively carry out the objectives of the resolution. In this letter you were requested to supply the draft by March 1, 1971.

This date has long since past and it would be appreciated if you would inform me of the status of this request.

Sincerely yours,

Wright Patman, *Chairman.*

The Under Secretary
of the Treasury,
Washington, D.C., June 9, 1971.

Hon. Wright Patman,
Chairman, Committee on Banking and Currency, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Your letter of June 1 has prompted us to review again the proposal to use Treasury tax and loan account balances to further social goals. We have done so, and have again concluded that it is impractical to attempt to use the tax and loan account system for purposes other than that for which it was originally designed—namely, to provide for a smooth flow of money into the Treasury with the least adverse impact on the total economy.

The system has been improved over the years to make it more efficient and thereby reduce the cost of handling the government's financial affairs. Between 1962 and 1969 the average monthly operating balance was reduced from 62 percent to 30 percent of total monthly disbursements. At the same time the average life of deposits in tax and loan accounts was reduced to 11.2 days in 1969 from 33.3 days in 1963.

Attempts to impose a conflicting objective, regardless of how desirable from a social standpoint, would decrease the efficiency of the system—thereby increasing government costs. Moreover, the volatility of these accounts would preclude their use in long-term investments such as housing, student loans, and other long-term commitments.

We have, therefore, concluded that changing the tax and loan account structure to meet two diametrically opposed objectives is impossible.

Sincerely yours,

Charls E. Walker.

Mr. Speaker, I also want to include in the Record articles which appeared in the Washington Post on November 20 and November 26, 1970.

The articles follow:

[From the Washington Post, Nov. 20, 1970]

Public Interest Plan Urged for Bank Funds

(By Jan Nugent Pearce)

The Treasury Department was asked yesterday to draft a plan to encourage commercial banks which hold Federal cash deposits to invest in public-interest projects.

Fifteen Democrats from the House Banking Committee asked Treasury Seecretary David Kennedy to come before that panel next Wednesday to discuss such a program.

These "tax and loan accounts," which largely represent Federal tax collections paid into specified banks by taxpayers, averaged a total of $5 billion last year. The banks pay no interest on the money, which the government reclaims when it needs it.

House Banking committee chairman Wright Patman (D.-Tex.) has repeatedly pressed the Treasury Department to place these funds in banks which lend money for public interest projects, such as low-income housing, small business and student loans.

Because the government can reclaim the funds when it gives notice, the accounts do fluctuate. At their lowest point last year, they totalled $902 million; at their highest $9 million.

At present, banks can use the government funds on deposit in any "prudent banking manner." Many banks use the money for short-term investment in the government securities market.

Treasury Secretary Kennedy, queried last year at a public hearing, indicated marked lack of enthusiasm for using Federal cash deposits to influence banks' lending practices.

Such a plan would be similar to one implemented in Illinois by former State Treasurer (now Sen.) Adlai Stevenson, in which banks were awarded deposits of state funds on the basis of their participation in public interest loan projects. When Treasury Secretary Kennedy was head of the Continental Illinois Bank in Chicago, that institution participated in the program.

The resolution proposed by the legislators would require Treasury to deposit "a substantial portion" of its funds in banks with loan policies oriented toward public interest projects. The resolution authorizes and directs the Treasury Secretary to prepare such a program no later than March 1, 1971.

[From the Washington Post, Nov. 26, 1970]

TREASURY REJECTS FUND PLAN

(By Jan Nugent Pearce)

The Treasury Department yesterday rejected a proposal that Federal cash deposits kept in commercial banks be used to stimulate socially desirable lending programs.

Treasury Undersecretary Charls Walker told the House Banking Committee his department endorsed the proposal's objectives, but not its methods.

Fifteen Democrats on the panel backed a resolution requiring the Treasury Department to draft a plan for use of these "tax and loan accounts" in public interest projects. A walkout by three Republicans at yesterday's session prevented a vote on the measure, due to the absence of a quorum.

The money in question is mainly tax payments, which are made by taxpayers and held in commercial banks until reclaimed by the government. The banks pay no interest on the funds, which averaged $5 billion last year.

Walker said yesterday that funds remain in the banks for relatively short periods of time and are then withdrawn by the government. Committee chairman Wright Patman (D-Tex.) said his information indicated the banks held amounts varying between $5 billion and $10 billion at all times.

The Treasury Undersecretary said he backed an approach which would give a tax incentive to any financial institution which participated in socially desirable lending programs.

1972 REPORT ON TAX AND LOAN ACCOUNTS

In May of 1972, the Domestic Finance Subcommittee, of which I was chairman, issued a report entitled, "Commercial Banks Holding Treasury Tax and Loan Account Balances on February 14, 1972," which revealed that of the total $5 billion in these accounts in 12,838 banks on that day, 43.8 percent of the money was held by only 102 of the banks.

Mr. Speaker, I enclose the letter of transmittal which accompanied the 1972 report and a press release based on the report:

Transmitted herewith is a list and analysis of the Treasury and loan account balances with various private commercial banks as of February 14, 1972. On that date the total of such accounts exceeded $5 billion, which was deposited in 12,838 banks. In 1963 the Subcommittee published a similar study and, because of a growing interest in the use of tax and loan account funds by the public, the Subcommittee has updated the 1963 study.

Almost from the time that the Treasury Department began using tax and loan accounts in 1917, there has been a controversy over whether or not the accounts are a subsidy to the commercial banking system or a method of channeling funds through the money market without major disruptions. Since the early 1950's, the General Accounting Office has consistently recommended changes in the tax and loan account structure including a recommendation that the law be changed to allow banks to pay interest on these demand deposits. In return the Government would pay the banks for services rendered on the part of the banks for the Government.

Many Members of Congress have expressed displeasure with the tax and loan arrangement, particularly the heavy concentration of funds in a few banks and the fact that banks do not pay interest to the Government on these deposits.

This new tax and loan account study shows that 102 banks hold 43.8% of all tax and loan accounts and that the 50 largest banks in the country hold more than one-third of all such deposits. The greatest concentration of these funds is in New York City where eight banks control 12.5% of all tax and loan funds. The study also points out that, despite the concentration of funds in the 50 largest banks, these banks do not participate in lending programs that would be beneficial to a majority of Americans, particularly in the area of lending to small businessmen. The 50 largest banks, which held more than $2 billion in tax and loan accounts on February 14, 1972, had only 3,306 loans outstanding that were made in cooperation with the Small Business Administration. The bulk of these loans, 3,007 totaling more than $151 million, were loans that were 90% guaranteed by the Small Business Administration, thus all but eliminating any possibility of risk on the part of the bank. Two of the 50 largest banks did not have a single SBA loan on their books, even though they had tax and loan accounts that totaled nearly $30 million.

Although the Government receives no interest from its tax and loan deposits, the banks are free to invest these funds as they wish. The tax and loan accounts in individual banks across the country range from a high of $177 million at the Chase Manhattan Bank in New York City to a low of $.72 at the East Prospect State Bank of Pennsylvania.

Based on the Treasury 90-day bill rate for the week ending February 18, 1972, the commercial banking industry on an annual basis would have earned more than $177 million by investing tax and loan funds, not a penny of which would go to the Federal Government.

This study is intended to serve as a research vehicle for further investigations of the Government's tax and loan policy.

[Press Release]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C.

WASHINGTON, D.C., May 28.—Chairman Wright Patman of the House Banking and Currency Committee today charged that the big commercial banks are reaping a bonanza by retaining billions of dollars in Federal tax payments.

"Through the benevolence of the U.S. Treasury Department, nearly $6 billion of income tax funds and related payments were in interest-free 'Tax and Loan' accounts in commercial banks across the United States in mid-February," Mr. Patman said. "These deposits of public funds—paid in by the average taxpayer—represent one of the largest single business subsidies provided by the Federal Government."

Mr. Patman made his comments on the release of a 300-page Banking and Currency Committee study of the Tax and Loan Account balances in 12,838 commercial banks. The phrase, "Tax and Loan Account", is used to describe funds belonging to the U.S. Treasury which are deposited in demand accounts in private commercial banks. These funds come from several sources, including payments for Government securities purchased by the bank, either for its customers or its own accounts; from payments of various taxes such as employees withholding income taxes, payroll taxes from the old-age insurance program, railroad retirement taxes, certain excise taxes; and corporate taxes. These deposits in the commercial banks have ranged as high as $11 billion in recent years.

Mr. Patman said that the banks "reaped untold millions in added profits from the deposits which they are free to invest any way they see fit under the law."

He said the money is subject only to periodical withdrawal from the accounts by the Treasury Department and that most banks—particularly the big money center banks—were able to estimate with great precision the average balances that could be expected from the Tax and Loan Accounts during any year.

The Banking and Currency Committee chairman said 102 of the Nation's nearly 14,000 commercial banks hold 44 percent of the Treasury's Tax and Loan Accounts. The 50 largest banks hold more than one-third of all such deposits. He said the greatest concentration of the funds is in New York City where 8 banks control 12½ percent of the Nation's Tax and Loan funds.

"It is ironic that the very commercial banks which have sought Federal subsidies and guarantees for loans to such corporations as Penn Central and Lockheed Aircraft Corporation are holding millions of dollars of interest-free tax money," Mr. Patman said.

The Texas Democrat said that the system is discriminatory against the smaller banks of the Nation and that the study shows a prima facie case of gross favoritism for the large banking institutions. It is even more discriminatory towards credit unions, savings and loan associations, and mutual savings banks who receive none of this Federal largesse, he noted.

"Since the great majority of the Tax and Loan funds come from withholding for income tax purposes, the system is also highly discriminatory against the average wage-earner," Mr. Patman said. "Most people are willing to pay their taxes in advance through withholding in the belief that their Government needs the funds, but in truth, these payments do not go directly to the Treasury but into deposits in the commercial banks. So the withholding system provides a massive welfare program for commercial banks."

Mr. Patman said that the study showed a need for the Federal Government to take one of two steps regarding the handling of the tax and loan accounts:

1. Require the payment of interest to the Treasury Department, or
2. Require the use of the Tax and Loan Accounts as a "carrot" to encourage banks to make more loans available for small business, housing, environmental quality projects, and other activities which would help provide jobs and meet national economic and social goals.

Mr. Patman said that the Treasury Department, led by Under Secretary Charls Walker, has exhibited a "plodding and unimaginative approach to the utilization of the Tax and Loan funds."

"These billions of dollars of tax funds could provide a tremendous incentive to move credit into areas of greatest need and it is tragic that we have a Treasury Department which spends all of its time finding excuses for not prodding and encouraging the commercial banking industry into a better allocation of credit," he said. "The Treasury's attitude—and the figures compiled in this study—lend credence to the belief that these funds remain as an interest-free subsidy to the banks and that they are allocated, at least in part, on the basis of political favoritism."

Mr. Patman said he had asked the staff to investigate Treasury Department claims that the money remains interest-free in return for various services that commercial banks perform for the Federal Government.

In the past, the Treasury has listed such things as issuing and payment of saving bonds, purchasing of Government securities, cashing Government checks and procuring and distributing Federal income tax forms to the public as "services" provided free for the Federal Government.

"The staff study establishes that virtually all of these activities are provided as a normal run of customer services which are used by the commercial banks to help attract and maintain depositors," Mr. Patman said. "These are services being provided for the depositor and not for the Federal Government."

Mr. Patman said that in many cases commercial banks are refusing to cash Government checks except for their depositors and that banks are requiring a service charge for the purchase of Government securities by smaller investors.

Mr. Patman also noted that some banks were charging the Federal Government for basic banking services despite the fact that they were beneficiaries of huge Tax and Loan Accounts. He said that Chase Manhattan had a Tax and Loan balance of $177.3 million in February and, at the same time, was charging the Treasury Department $4 million annually for operating banking facilities at military installations in the United States and overseas.

"It is a myth that commercial banks are providing any real service in return for this huge subsidy bonanza," Mr. Patman charged.

Mr. Patman said the committee has already launched a second study concerning various "time deposits" maintained by various governmental agencies in banks around the Nation. These funds are also interest-free and the committee wants to determine both the level and the allocation of these funds, he said.

Mr. Patman said the "sad use of public deposits" was one more evidence of the misallocation of credit in the commercial banking system.

"The lack of public interest direction in the deposit of public funds must be viewed alongside of the Federal Reserve System's traditional resistance to the use of monetary mechanisms to allocate funds to credit-starved sectors of the economy," the Banking and Currency Committee chairman said. "It is no wonder that our cities and rural areas have such a backlog of public needs in view of the joint Treasury-Federal Reserve foot-dragging about allocation of credit.

TREASURY NOW SUPPORTS TAX AND LOAN REFORM

Mr. Speaker, a real break on this issue came in July of 1974 when the Treasury Department finally issued a report confirming many of the arguments which we had pushed in the Congress. This report at long last placed the Treasury behind the idea that the Federal Government should be compensated for these deposits.

Following is the Treasury Department news release:

REPORT CONFIRMS NEED FOR TAX AND LOAN ACCOUNTS

Tax and loan accounts of the Treasury Department continue to be of major importance as a tool for monetary management and as a highly efficient collection system, findings of a report released today showed.

The report concluded, however, that with the higher level of interest rates prevalent in recent years, the implicit costs to the Treasury of tax and loan accounts has risen substantially beyond the value to the Treasury of the services that have been inherently or traditionally associated with such accounts.

The Treasury report is based on a study that included analysis of responses to a questionnaire sent to 600 banks, 300 with the largest Treasury tax and loan accounts and a sampling of 300 of the remaining 12,700 banks.

Basically demand deposits, left with banks for short periods at no interest, the tax and loan accounts represent tax payments by business concerns to their own banks, which in a bookkeeping transaction, debit the business customers and credit Treasury's balances.

While tax and loan accounts should be retained, said the Treasury report, means should be developed (1) for employing a portion of the funds in ways that provide added returns to the Treasury, and (2) for compensating banks for a limited number of services performed by fees paid from appropriations.

Legislation is required in both instances, to make possible the most efficient employment of Treasury cash in interest-bearing assets, and to provide appropriations for payments for certain services performed by financial institutions, according to the report.

As an interim measure, pending Congressional action on investment authority, it is Treasury's intention, said the report, "to pursue vigorously the two avenues that are clearly available without legal or regulatory changes:

"First, we will intensify our efforts to increase our balances at the Federal Reserve Banks to the extent consistent with moneymarket stability; conversely, this will decrease our balances in tax and loan accounts. This necessarily means that the Federal Reserve System will have to compensate for greater swings in the Treasury balance at Federal Reserve Banks through existing techniques such as open market operations.

"Second, we will experiment with placing funds in 30-day time deposits."

As for how banks should be compensated for services they perform for the Government, the report said that nearly all banks included in the study had earnings value in excess of the cost of services provided, "but some far more than others, even when the average tax and loan balances were comparable in size." There was no consistency, said the report, in the relationship between the earning value of tax and loan accounts and the scope of volume of services provided by banks for the Government, "whatever services might be considered in the Government's behalf."

In order to adjust the differences, the report suggested that certain services rendered by banks which Treasury believes should be compensable, but which are not directly related to the existence of the tax and loan accounts, might be compensated for from appropriated funds.

For those services that are within the Treasury's area of responsibility, the belief was expressed that only those relating to savings bonds shall be compensable through appropriation—specifically issuance of savings bonds, redemption of savings bonds, and exchanges of "E" for "H" bonds. Services directly related to the tax and loan account can appropriately be compensated for through the residual earnings value of the accounts, the report said.

In the nearly ten years since the last study of the subject, the amount of taxes flowing through tax and loan accounts has quadrupled, the size of account balances has risen, and interest rate levels have been higher (reaching two peaks when rates were the highest in U.S. history), thus providing significantly greater earnings potential on tax and loan balances. At the same time, the services banks have provided the government have declined.

I would also like to insert in the RECORD at this point a letter I received last July from Ralph Nader concerning the Treasury Department study:

JULY 11, 1974.

Hon. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you noted in your remarks published in the Congressional Record on July 1, the Treasury Department has finally reversed its Tax and Loan Account policy and has belatedly recognized what you have been pointing out for years—that the T & L Accounts operate as an unwarranted subsidy to the banking industry and cost the taxpayers hundreds of millions of dollars per year.

The Treasury study concludes that the nation's banks reap a $300 million windfall profit each year by investing idle T & L Account funds. That estimate, moreover, is probably conservative because it is based on the 1967–72 average interest rate on 91-day Treasury bills (5.5%). Using the more realistic "federal funds" rate, which averaged about 10.28 percent during the year ended June 30, 1974, it is reasonable to conclude that the actual windfall to the banks during the last fiscal year was about $560 million, or about twice that estimated by Treasury. For approximately that amount of money, the FY 1974 activities of all the following federal agencies could have been funded: the Civil Aeronautics Board, the Consumer Product Safety Commission, the Equal Employment Opportunity Commission, the Federal Power Commission, the Federal Trade Commission, the Occupational Safety & Health Review Commission, the Securities & Exchange Commission, the Selective Service System, and the Small Business Administration.

We cannot afford to permit the banking industry to earn another $500 million at the taxpayers' expense during the coming fiscal year. The Treasury report concludes that "Congress should consider legislation authorizing the Treasury to invest in money market instruments for cash management purposes." Preliminary research indicates that Treasury might not be able to act without Congressional authorization, since 31 U.S.C. § 521 requires that public funds be kept "safely, without loaning [or] using" them, except as otherwise permitted by statute. Accordingly, I urge your committee to hold hearings promptly on the need for legislation along the lines suggested in the Treasury study. I am sending a similar letter to Senator Thomas J. McIntyre.

Sincerely,

(S) RALPH NADER.

Unfortunately, it was months before the Treasury sent up legislation. But, that is behind us now. The Treasury Department fully supports this new effort to obtain compensation on these tax and loan accounts and I am confident that they will proceed in a vigorous manner to make this program work.

Mr. Speaker, many in the House deserve a great deal of credit for pushing this issue through the years. The members of the Domestic Monetary Policy Subcommittee which conducted the hearings and reported the bill have been particularly active and I am happy that we had bipartisan support in both the subcommittee and the full committee.

Mr. Speaker, at this point I would like to list the names of the members of the Subcommittee on Domestic Monetary Policy:

DOMESTIC MONETARY POLICY

Wright Patman, Tex., Chairman.
Joseph G. Minish, N.J.
Mark W. Hannaford, Calif.
Stephen L. Neal, N.C.
James J. Blanchard, Mich.
William A. Barrett, Pa.
Leonor K. (Mrs. John B.) Sullivan, Mo.
John B. Conlan, Ariz.
George Hansen, Idaho.
Willis D. Gradison, Jr., Ohio.

Chairman HENRY REUSS of the full committee who has supported this effort for a long time, expedited this legislation and his backing has been invaluable. Two of our colleagues from Ohio, JOHN SEIBERLING and RON MOTTL, have also spent many hours promoting this legislation and gaining cosponsors. Their activities have been very important to the success.

Mr. Speaker, I sincerely hope that the Senate will act quickly and that this legislation will be on the President's desk at the earliest possible moment. We are presently losing between $10 and $20 million monthly without this law and the Congress should proceed as expeditiously as possible to give the Treasury the full authority.

Once again, Mr. Speaker, I want to thank members of both parties in the Banking, Currency and Housing Committee and in the full House for their active support of this important legislation. They have done a good job for the taxpayers.

The 391-to-0 vote in the House of Representatives yesterday is a gratifying conclusion to a long battle to gain justice on this issue.

FEDERAL FIREARMS ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, today I introduce on behalf of the Subcommittee on Crime of the Committee on the Judiciary the "Federal Firearms Act of 1975." During the past 10 months the subcommittee conducted some of the most extensive hearings ever held on gun control legislation. Testimony from more than 200 witnesses was taken in seven cities and eight volumes of hearings and documentation were produced.

Through public hearings across the country the legislative process was brought to citizens in a way that, I believe, contributed to their heightened interest in this paramount public issue. An October Harris poll revealed that 77 percent of the American people favored registration of guns. A CBS poll in July reported that 51 percent wanted the sale of handguns banned. In fact, from 1938 to the present never fewer than 60 percent of the people polled expressed support for stricter gun laws. There is little doubt in my mind that Americans have become increasingly aware of the horrifying reality of gun-related violence.

The incontrovertible facts about gun violence are these: Forty to fifty million handguns are loose in the land. A new one is sold every 13 seconds. Each day of the year at least 33 people die as a result of handgun violence and another 540 people are injured by gunfire. One out of every 100 deaths is caused by a firearm, and 40 percent of the victims are 19 years of age or younger. Handguns are involved in more than 200,000 crimes each year. In 1973 13,072 gun murders occurred in the United States and 10,340 of them were committed with handguns. That year New York City alone had more than 800 handgun murders, 266 times more than in Tokyo, a city of 10 million, which had only 3 such murders.

New York City had 23 times the gun murders that occurred in England and Wales, the population of which is approximately 50 million. We surpass the rest of the world in our domestic arms race and violence caused by guns. Why? Because Americans enjoy the dubious distinction of having virtually unlimited access to guns. It is erroneous to claim, as some do, that Americans are more violent than others. We are, however, more lethal. Two-thirds of all the handgun killings result from a quarrel or act of passion within families or between friends. Most of these killings could have been avoided, according to the FBI, if it were not for the easy availability of guns. An altercation is more likely to end in bloodshed rather than a shouting match or fist fight simply because guns are around. Japan and England, and for that matter the rest of the industrialized world, simply have far stricter gun control laws. Can there be any question that one part of the solution is to put a stop to this social self-destruction by eliminating the easy access to handguns?

The accumulated evidence has persuaded me that the only way to reduce gun violence is to ban the manufacture, sale and possession of handguns. Nevertheless, on November 20 such legislation was rejected by the subcommittee and in its place this measure to strengthen the Gun Control Act of 1968 was approved. Although H.R. —— will not in my opinion reduce gun violence, it represents an important step in the development of meaningful Federal legislation in this area.

The bill eliminates weaknesses and tightens loopholes in the existing law. The importation of handgun parts is prohibited except as authorized by the Secretary of the Treasury for the purpose of repair or replacement. The shipping of firearms by carriers is regulated to reduce the high incidence of theft. The bill tightens title VII of the 1968 act concerning the possession of firearms by certain people. Two or more handguns cannot be purchased from a dealer within 30 days without prior approval of the Secretary of the Treasury.

A handgun cannot be purchased from a dealer until the purchaser executes a sworn statement which has to be certified by an appropriate law enforcement official and dealers are restrained from transferring handguns for at least 21 days and until notified that the transaction is lawful. Serial numbers are standardized and a National Handgun Tracing Center within the Bureau of Alcohol, Tobacco and Firearms is created which will monitor all transfers of firearms between licensees, excluding private parties.

New categories of Federal firearms licenses are established, which include separate licenses for manufacturers, importers, gunsmiths, ammunition dealers as well as wholesale and retail handgun dealers. Qualifications for licensees are upgraded and a new schedule of license fees is created. The time required to approve applications for licenses is increased from 45 to 90 days and the Secretary of the Treasury has the authority to assess penalties in cases where licensees violate Federal law.

Unfortunately, the bill establishes mandatory sentences for the commission with firearms of a Federal crime—(1–10 years, first offense; 2–25 years, second offense—in addition to any sentence for the crime itself. Suspended sentences and probations are barred. The mandatory sentence provision, I believe, does a disservice to those who want to reduce gun violence in America. Without the incentive of shortened prison terms for good behavior, those confined are more likely to practice violence both within prison and after they return to society. Prisons as a whole are 20 percent overpopulated and a number of prison systems are under orders to reduce overcrowding. Furthermore, mandatory sentencing removes judicial discretion, results in clogged court calendars and has contributed significantly to the breakdown in the criminal justice system.

The subcommittee wisely decided not to include a provision to ban the so-called "Saturday Night Special" because this would mislead the public into believing that its enactment would result in fewer guns being available for street crime. On the contrary, such a ban might not diminish the number of guns in existence and could lead to the production of more efficient and costly guns. Passage of this provision would also probably make it difficult to enact more effective legislation for a good number of years.

The members of the subcommittee and I have been gratified by the commitment of our colleagues to familarize themselves with the intricacies of this legislation. As this bill moves through the legislative process, I will continue to work with my colleagues to foster understanding of the role of handguns in domestic violence. I think this dialog is important and I know it will continue. But regardless of what gun laws are passed now or in the future, they must be seen as part of a criminal justice system that must become fair before it can become more effective. Finally, the criminal justice system itself must be viewed as part of a larger governmental framework which undeniably provides economic justice and political opportunity to all its citizens.

A summary of the bill's provisions and a print of the bill follow:

SUMMARY OF H.R. 2, THE FEDERAL FIREARMS ACT OF 1975

Title I contains findings relating to the increasing seriousness of the problem presented by handgun misuse, based on nine months of testimony and study by the Subcommittee on Crime.

Title II amends the Gun Control Act of 1968 to close acknowledged "loopholes" and improve the ability of Federal, State and local law enforcement authorities to curb illegal firearms trafficking:

Section 201 amends the Act's definitions, principally by requiring wholesale and retail firearms dealers to obtain separate licenses and establishing separate license categories for pawnbrokers, gunsmiths and ammunition retailers.

Section 202 increases license fees by category to make the Federal regulatory system cost-effective, and requires annual compliance inspections of certain licensee premises prior to license renewal.

Section 203 improves the license-applicant pre-screening process by imposing additional qualifications upon prospective licensees.

Section 204 increases the time during which the Secretary of the Treasury may consider license applications from 45 to 90 days.

Section 205 empowers the Secretary to prescribe reasonable regulations to prevent loss or theft of firearms from licensees.

Section 206 gives to the Secretary authority to assess civil penalties of licensees for violations of Federal firearms laws and to compromise, mitigate or remit liability for such violations. The section also sets forth a hearing and appeal process for aggrieved parties.

Section 207 imposes regulations upon interstate carriers and shippers of firearms which are designed to minimize risks of loss, theft or pilferage in transit.

Section 208 amends Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 to conform with the ruling of the United States Supreme Court in *Bass* v. *United States*, 404 U.S. 336 (1971).

Section 209 makes it unlawful: to sell, purchase or transfer more than one handgun in any thirty-day period without prior approval of the Secretary; to deal in imitation firearms unless they are clearly identifiable as such; to knowingly sell or transfer handguns in violation of State or local law; to perform work on any handgun unless the owner thereof demonstrates lawful possession; to import handgun parts for use in assembly or manufacture, with certain exceptions; to remodify any handgun in such a way so as to make it unacceptable for importation under the standards set forth in section 925(d)(3) of title 18 of the United States Code; and to accept, by way of pledge or pawn, any handgun.

Section 210 establishes requirements that all firearms manufactured after the effective date of this Act be marked with a unique serial number.

Section 211 amends the Act to clarify Congress' intent to reach unlawful acts of an intrastate nature which burden or affect interstate commerce.

Section 212 amends section 925 of title 18 to permit cured mental incompetents to apply for relief from disabilities imposed by the Act in the same manner as ex-felons may under current law.

Section 213 prescribes mandatory penalties for the use or carrying of a firearm in the commission of a Federal felony.

Section 214 sets forth effective dates for the amendments to the Act contained in title II.

Title III establishes a handgun purchase preclearance procedure and improves Federal record-keeping ability in an effort to curb the illegal interstate flow of handguns:

Section 301 prohibits the transfer by a dealer of any handgun within 21 days of application, during which time the dealer must forward purchase applications to State and local law enforcement authorities for record checks of the prospective purchaser. The appropriate law enforcement authorities must report back to the dealer during the 21-day period, or the weapon cannot be transferred.

Section 302 establishes within the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury a National Handgun Tracing Center. Each Federal firearms licensee is required to submit to the Center quarterly reports on all firearms transactions with other licensees. The Secretary is required to submit reports on this collected data to the Congress annually, and to make them available to State and local law enforcement agencies for evaluation and study. In addition, the Secretary is directed to assist in the promulgation of State and local firearms laws and to obtain additional information on handgun characteristics necessary to obtain a complete picture of illicit firearms trafficking. In addition, all licensees are required to report loss or theft of firearms or ammunition inventory within 48 hours of discovery. Willingness to share information and statistics is a precondition to State and local law enforcement authorities' use of the Center's facilities. The section also contains conforming amendments to chapter 44 of title 18 and the effective date of title III.

THE POSITION OF THE ANCIENT CHRISTIAN COMMUNITY IN LEBANON DETERIORATES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, how sad it is to note that the nations of the world continue to sit silently by as the position of the ancient Christian community in Lebanon deteriorates. The Arab Moslems surrounded the Christian areas and apparently have caused the Christians to evacuate parts of Beruit. One Wall Street Journal news item reported recently:

> Beruit Moslems laid siege to the last Christian stronghold. The Moslems unfurled a red "Peoples Flag" as they took control of most of the Lebanese capital's seaside area.

The Lebanese-Military Forces aided by the PLO have tightened the noose around the beleaguered Lebanese Christian community. The situation, Mr. Speaker, is beginning to approach, although not yet have reached, that which happened to the Christian Armenian community. It was overwhelmed and suffered enormous casualties at the hands of the Turks. It is unbelieveable that in 1975 such a situation could take place and the world sit idly by.

MILITARY MANPOWER STRENGTH ASSESSMENT AND RECRUITING RESULTS FOR MONTH ENDING OCTOBER 31, 1975

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, preliminary results have recently been announced showing that the total active strength of the four military services at the end of October was 2,097,000. This was 99 percent of the October objective of 2,110,000. Actual strength and service objectives for October are shown below:

ACTIVE MILITARY STRENGTH, END OF OCTOBER 1975 (PRELIMINARY)

[In thousands]

	Objective	Actual	Percent of objective
Army	779	773	99
Navy	528	527	99
Marine Corps	197	195	99
Air Force	605	601	99
DOD total	2,110	2,097	99

The services recruited 37,100 men and women in October and exceeded their objective of 35,000. Each service essentially met its recruiting objective. Army recruiters exceeded their recruiting objective for the first month since implementation of the weekly quota system in August:

ENLISTED ACCESSIONS, ALL SOURCES

[To nearest 100]

Service	October 1975		
	Objective	Actual	Percent
Army	15,300	17,300	113
Navy	8,900	9,100	102
Marine Corps	4,300	4,300	100
Air Force	6,400	6,500	101
DOD total	35,000	37,100	106

In October, 96 percent of all non-prior-service enlistees were in mental categories 1–111, the average and above average mental groups. High school graduates amounted to 76 percent of all non-prior-service enlistments. Women accounted for 9 percent blacks made up 16 percent of all non-prior-service enlistments in October.

The total selected reserve strengths at the end of September were 4,000 below the August end-strength:

SELECTED RESERVE STRENGTHS

[In thousands]

	End-strength September 1975 (preliminary)	Average strength	
		Fiscal year 1976 thru September	Fiscal year 1976 authorized man-year
Army National Guard	390.2	391.4	400.0
Army Reserve	221.7	223.2	219.0
Navy Reserve	99.2	98.7	106.0
Marine Corps Reserve	31.1	31.3	32.5
Air National Guard	93.7	94.0	94.9
Air Force Reserve	50.8	50.7	51.8
Total DOD	886.6	889.3	904.1

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. FORD of Michigan (at the request of Mr. O'HARA), for the period of December 15 and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ABNOR) to revise and extend their remarks and include extraneous material:)

Mr. CLEVELAND, for 5 minutes, today.

Mr. MCKINNEY, for 5 minutes, today.

Mr. YOUNG of Alaska, for 5 minutes today.

Mr. KEMP, for 60 minutes, today.

Mr. MCDADE, for 5 minutes, today.

Mr. MILLER of Ohio, for 10 minutes, today.

(The following Members (at the request of Mr. EARLY) to revise and extend their remarks and include extraneous matter:)

Mr. ADDABBO, for 30 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. PATMAN, for 30 minutes, today.

Mr. CONYERS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ABDNOR) and to include extraneous matter:)

Mr. COCHRAN.

Mr. WYDLER.

Mr. LUJAN.

Mr. CRANE.

Mr. DERWINSKI in two instances.

Mr. JEFFORDS.

Mr. JOHNSON of Pennsylvania.

Mr. TALCOTT in two instances.

Mr. MICHEL.

Mr. BELL.

Mr. GRADISON.

Mr. COHEN.

Mr. MITCHELL of New York in two instances.

Mr. ASHBROOK in two instances.

Mr. MCCLORY.

(The following Members (at the request of Mr. EARLY), and to include extraneous material:)

Mr. HARRINGTON in two instances.

Mr. TEAGUE.

Mr. O'HARA.

Mr. REES in two instances.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. EDWARDS of California.

Mr. EDGAR.

Mr. DOWNEY of New York.

Mr. ROYBAL.

Mr. RANGEL in two instances.

Mr. KARTH.

Mr. BAUCUS in three instances.

Mr. PREYER.

Mr. GINN.

Mr. LLOYD of California.

Mr. HELSTOSKI.

Mr. YOUNG of Georgia.

Mr. OTTINGER.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1009. An act to amend title 13 of the United States Code to require the compilation of current data on total population between censuses and to require the use of such current data in the administration of Federal laws in which population is a factor; to the Committee on Post Office and Civil Service.

S. 2635. An act to amend title 38, United States Code, to modify the pension program for veterans of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era and their survivors, and for other purposes; to the Committee on Veterans' Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2757. An act to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1753. An act to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes;

H.R. 2110. An act for the relief of Joyce Ann Farrior and Sarah E. Farrior.

H.R. 4865. An act to amend title 39, United States Code, to prohibit certain franked mailings by Members of the Congress and certain officers of the United States, other than mailings related to the closing of their official business, after such Members or officers have left office.

H.R. 6642. An act to provide for allotment or assignment of payments from civil service annuities, and for other purposes;

H.R. 7976. An act to amend title 5, United States Code, to provide that annual leave lost by a Federal employee because of an unjustified or unwarranted personnel action shall be restored to the employee, and for other purposes; and

H.R. 10647. An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

ADJOURNMENT

Mr. EARLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 17, 1975, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2205. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–71, "To authorize the District of Columbia to enter into the Interstate Parole and Probation Compact," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2206. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–72, "To amend the District of Columbia Tax Revision Act of 1974 to extend the time for filing appeals relating to real property tax assessments, equalizations, or valuations," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2207. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–73, "To authorize administrative or supervisory school officers who are granted sabbatical leave to receive one-half of their annual salaries," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2208. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–74, "To amend the Air Quality Control Regulations of the District of Columbia relating to the sulfur content of fuels," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2209. A letter from the Secretary of Defense, transmitting the 10th report on the Federal voting assistance program, pursuant to section 201 of the Federal Voting Assistance Act of 1955, as amended; to the Committee on House Administration.

2210. A letter from the Commissioner, Immigration and Nationality Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

2211. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a request for the withdrawal of certain cases involving suspension of deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2212. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, compiling the preliminary examination, survey, and review reports on river and harbor, flood control, and beach erosion control improvements transmitted to Congress as of December 31, 1974, requested by an item on page 4 of House Report No. 91–1665 (H. Doc. No. 94–323); to the Committee on Public Works and Transportation and ordered to be printed.

RECEIVED FROM THE COMPTROLLER GENERAL

2213. A letter from the Comptroller General of the United States, transmitting a report on the status of certain impounded budget authority, together with a recommendation that the Impoundment Control Act be amended to allow Congress the means to reject a proposed rescission in time to prevent the budget authority from lapsing (H. Doc. No. 94–324); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NEDZI: Committee on House Administration. H.R. 8627. A bill to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States by the Library of Congress Trust Fund Board (Rept. No. 94–737). Referred to the

Committee of the Whole House on the State of the Union.

Mr. NEDZI: Committee on House Administration. H.R. 8628. A bill to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States pursuant to an act of August 20, 1912, titled "An Act to accept and fund the bequest of Gertrude M. Hubbard" (37 Stat. 319) (Rept. No. 94–738). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 5559 (Rept. No. 94–739). Ordered to be printed.

Mr. NEDZI: Committee on House Administration. H.R. 3710. A bill to authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs; with amendment (Rept. No. 94–740). Referred to the Committee of the Whole House on the State of the Union.

Mr. NEDZI: Committee on House Administration. House Concurrent Resolution 96. Concurrent resolution authorizing a bust or statue of Martin Luther King, Jr., to be placed in the Capitol; with amendment (Rept. No. 94–741). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. House Resolution 910. Resolution disapproving the deferral of certain budget authority (D76–68) relating to the Department of Agriculture, Agricultural Research Service, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–742). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Resolution 911. Resolution disapproving the deferral of certain budget authority (D76–69) relating to the Department of Agriculture, Animal and Plant Health Inspection Service, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–743). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Resolution 912. Resolution disapproving the deferral of certain budget authority (D76–70) relating to the Department of Agriculture, Agricultural Conservation program, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–744). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Resolution 914. Resolution disapproving the deferral of certain budget authority (D76–72) relating to the Department of Agriculture, Rural Water and Waste Disposal Grants, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–745). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Resolution 915. Resolution disapproving the deferral of certain budget authority (D76–73) relating to the Department of Agriculture, Watershed and Flood Prevention Operations, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–746). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Resolution 916. Resolution disapproving the deferral of certain budget authority (D76–74) relating to the Department of Agriculture, Resource Conservation and Development, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–747). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. House Resolution 920. Resolution disapproving the deferral of certain budget authority (D76–79) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–748). Referred to the Committee of the Whole House on the State of the Union).

Mr. BOLAND: Committee on Appropriations. House Resolution 921. Resolution disapproving the deferral of certain budget authority (D76–80) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–749). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. House Resolution 922. Resolution disapproving the deferral of certain budget authority (D76–81) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974. (Rept. No. 94–750). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. House Resolution 923. Resolution disapproving the deferral of certain budget authority (D76–82) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–751). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. House Resolution 924. Resolution disapproving the deferral of certain budget authority (D76–83) relating to the Environmental Protection Agency, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–752). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 933. Resolution providing for the consideration of the conference report on H.R. 5559. A bill to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations (Rept. No. 94–753). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 934. Resolution providing for the consideration of H.R. 7897. A bill to authorize funds for assistance to local educational agencies for the education of Cambodian and Vietnamese refugees, and for other purposes (Rept. No. 94–754). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 10210. A bill to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes; with amendment (Report No. 94–755). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JONES of Alabama (for himself, Mr. Harsha, and Ms. Abzug):

H.R. 11184. A bill to amend title 3, United States Code, to provide for foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BIAGGI (for himself, Mr. Brademas, and Mr. Rangel):

H.R. 11185. A bill to promote services and programs designed to assure the opportunity for adoption for all eligible children; jointly to the Committees on Education and Labor, and Ways and Means.

By Mr. DEL CLAWSON (for himself, Mr. Blanchard, Mrs. Pettis, Mr. Ryan, and Mr. Sarasin):

H.R. 11186. A bill to establish a method whereby the Congress (acting in accordance with specified procedures) may prevent the adoption by the executive branch of rules or regulations which are contrary to law or inconsistent with congressional intent or which go beyond the mandate of the legislation which they are designed to implement; jointly to the Committees on the Judiciary, and Rules.

By Mr. DOMINICK V. DANIELS (for himself, and Mr. Perkins):

H.R. 11187. A bill to authorize appropriations for fiscal year 1976, for the period beginning July 1, 1976, and ending September 30, 1976, and for fiscal year 1977 for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and to amend title VI of such act; to the Committee on Education and Labor.

By Mr. FLOWERS:

H.R. 11188. A bill to limit the period of authorization of new budget authority and to require comprehensive review and study of existing programs for which continued budget authority is proposed to be authorized by committees of the Congress; to the Committee on Government Operations.

By Mr. PRITCHARD (for himself, Mr. Burgener, Mr. Fisher, Mr. Gude, Mr. Hughes, Mrs. Pettis, and Mr. Symms):

H.R. 11189. A bill to amend Public Law 89–260 to authorize additional funds for the Library of Congress James Madison Memorial Building; to the Committee on Public Works and Transportation.

By Mr. ROGERS:

H.R. 11190. A bill to amend title 13 of the United States Code to require the compilation of current data on total population between censuses and to require the use of such current data in the administration of Federal laws in which population is a factor; to the Committee on Post Office and Civil Service.

By Mr. SIMON (for himself, Ms. Chisholm, Mr. Downey of New York, Mr. Solarz, Mr. Badillo, Mr. Koch, and Mr. Zeferetti):

H.R. 11191. A bill to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR of North Carolina:

H.R. 11192. A bill to amend section 9a of the Tennessee Valley Authority Act of 1933, as amended, with respect to the operation of dams and reservoirs in the interest of recreational and other beneficial public uses; to the Committee on Public Works and Transportation.

By Mr. CONYERS:

H.R. 11193. A bill to amend title 18 of the United States Code to provide for more effective gun control, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHEUER:

H.R. 11194. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to add a requirement that the comprehensive State plan include provisions for attention to the special problems of prevention, treatment, and other aspects of crimes against the elderly; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 11195. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. MITCHELL of New York:

H.J. Res. 750. Joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the popular election of the President and Vice President; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.J. Res. 751. Joint resolution prohibiting the use of funds for certain security assistance and other activities in, to, for, or on behalf of Angola; to the Committee on International Relations.

By Mr. COHEN (for himself and Mr. ANDERSON of Illinois):

H. Con. Res. 512. Concurrent resolution to express the sense of the Congress that Congress should be consulted prior to the commitment of significant U.S. resources for covert military operations abroad; to the Committee on International Relations.

By Mr. EDWARDS of California (for himself and Mr. OTTINGER):

H. Con. Res. 513. Concurrent resolution providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas; to the Committee on House Administration.

By Mr. RANGEL (for himself and Mr. DIGGS):

H. Con. Res. 514. Concurrent resolution expressing the sense of the Congress with respect to American involvement in Angola; to the Committee on International Relations.

By Mr. STEED (for himself, Mr. JARMAN, Mr. JONES of Oklahoma, and Mr. ENGLISH):

H. Con. Res. 515. Concurrent resolution regarding the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. LITTON:

H. Res. 932. Resolution disapproving the deferral of budget authority relating to rural water and waste disposal grants (deferral No. D 76–72) which was proposed by the President in his special message of November 29, 1975, transmitted to the Congress under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HUBBARD:

H.R. 11196. A bill for the relief of Dr. Emmanuel Najera Macaraeg; to the Committee on the Judiciary.

By Mr. GIAIMO:

H.R. 11197. A bill for the relief of Roger W. Boyd, Jr.; to the Committee on the Judiciary.

Ms. HOLTZMAN:

H.R. 11198. A bill for the relief of Jackson Ormiston Edwards and Merle Adrianne Cleopatra Edwards; to the Committee on the Judiciary.

H.R. 11199. A bill for the relief of Hollis Anthony Millet; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

348. By the SPEAKER: Petition of members of Fairmount Temple, Cleveland, Ohio, relative to the United Nations resolution equating Zionism with racism, which was referred to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8235

By Mr. EDGAR:

Page 52, after line 4, insert the following:

WEIGHT AND WIDTH LIMITATIONS

SEC. 115. (a) Section 127 of title 23 of the United States Code is amended by adding at the end thereof the following: "No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles with more than ten thousand pounds on the steering axle of any truck tractor. Any amount which is withheld from apportionment to any State pursuant to the preceding sentence shall lapse.".

(b) Nothing in the amendment made by subsection (a) of this section shall be construed to deny apportionment to any State allowing the operation within such State during the period from January 4, 1975, and ending on the day the amendment made by subsection (a) of this section takes effect in such State, of any vehicles or combinations thereof that could lawfully be operated within such State in accordance with section 127 of title 23, United States Code, as in effect during such period.

(c) The amendment made by subsection (a) of this section shall take effect in each State on the 30th day after the first day of a regular session of the legislature of that State which session begins after the date of enactment of this Act.

Renumber succeeding sections accordingly.

H.R. 10979

By Mr. BRODHEAD:

Section 906, page 103, line 22, new section 306(a): "FINAL SYSTEM PLAN MODIFICATIONS

"Notwithstanding any other provisions of this Act, the Association may, upon petition of any State, modify the final system plan to make further designations with respect to lines and related rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations are likely to result in improved rail service to users on such lines and connecting lines and would not materially impair the profitability of the Corporation and other railroads operating in the region. Such designations, including designations of such rail lines and properties to a State, a profitable railroad, or a responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 209 of this Act. Such designations shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress and the final system plan shall for all purposes be deemed to be approved as modified by such designations."

Redesignate subsections (a) through (e) and (b) through (f) respectively.

By Mr. DODD:

Page 252, line 11, immediately after "restructuring.", insert the following new sentence: "In addition, the Secretary shall develop a proposal for a supplemental transaction involving the transfer of rail properties in any case in which service has been operated on rail properties for 2 consecutive years under a rail service continuation subsidy provided pursuant to section 304(c)(2) of this title, and the difference between revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties, together with a reasonable return on the value of such properties. has been one dollar or less.".

By Mr. EDGAR:

On page 213, in line 11, strike out the number "3" and insert in lieu thereof "4". At the end of line 14, change the period to a comma and add: "and (4) the Research, Education and Training for Railroad Development and Improvement Account."

On page 235, at line 3, add a new section 805:

RESEARCH, EDUCATION AND TRAINING FOR RAILROAD DEVELOPMENT AND IMPROVEMENT ACCOUNT

"SEC. 805(a) There are authorized to be appropriated to the Research, Education and Training for Railroad Development and Improvement Account not more than—

(1) $2,000,000 by September 30, 1976
(2) $5,000,000 by September 30, 1977
(3) $10,000,00 by September 30, 1978
(4) $5,000,000 by September 30, 1979
(5) $2,000,000 by September 30, 1980

All funds appropriated pursuant to this authorization shall remain available until expended,

"(b) Funds appropriated pursuant to subsection (a) may be expended by the Secretary to assist public and private non-profit institutions of higher learning in establishing and carrying out comprehensive training, planning, and research in the problems of rail transportation. Such funds shall be used to conduct competent and qualified research and investigations into the theoretical and practical problems of rail transportation to provide for the training of persons to carry on further research or to obtain employment in private or public organizations, which plan, construct, operate, or manage rail transportation systems. Such research and investigations may include, without being limited to, the design and functioning of rail transportation systems; the interrelationship between various modes of transportation; the role of transportation planning in overall planning; public preferences in transportation; the economic allocation of transportation resources; and the legal, financial, engineering, and aesthetic aspects of rail transportation. In expending funds pursuant to this paragraph, the Secretary shall give preference to institutions of higher learning that undertake such research and training by bringing together knowledge and expertise in the various social and managerial sciences and technical discipline that relate to rail transportation problems."

H.R. 10979

By Mr. JOHNSON of Pennsylvania:

Page 319, immediately after line 24, insert the following new section:

BRANCH LINE STUDY; OPERATION OF RAIL SERVICES

SEC. 109. (a) The Rail Services Planning Office (hereinafter in this section referred to as the "Office") shall conduct a study of each branch line of railroad in the region which is—

(1) less than 1½ miles in length;

(2) not receiving rail service on the effective date of the final system plan; and

(3) capable of serving an industrial park which has sewer and water lines and on which construction was completed in calendar year 1975.

Such study shall be conducted for purposes of determining whether rail service can be operated at a profitable level over any such line.

(b) In conducting the study required by subsection (a), the Office shall solicit the views of carriers, shippers, manufacturers, and other interested persons, and shall give due consideration to the existing and potential industrial and manufacturing activity in the area to be served by the line of railroad being studied.

(c) The Office shall, within 6 months after the date of the enactment of this Act, make its determination as to whether rail service can be operated at a profitable level over any line of railroad studied pursuant to subsection (a). Prior to such determination, any such line may not be abandoned. sold. or otherwise disposed of.

(d) Upon a determination by the Office. pursuant to subsection (c), that rail service can be operated at a profitable level over a particular line of railroad, the Consolidated Rail Corporation is authorized to operate rail service over such line. For purposes of operating such rail service, the Consolidated Rail Corporation shall enter into an operating agreement with the railroad or person owning such line. Such agreement shall be reasonable and equitable with respect to all parties to the agreement.

(e) For purposes of this section—

(1) the term "final system plan" means final system plan as defined in paragraph (6) of section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(6)); and

(2) the term "region" means region as defined in paragraph (13) of section 102 of such Act (45 U.S.C. 702(13)).

SENATE—*Tuesday, December 16, 1975*

(Legislative day of Monday, December 15, 1975)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, we thank Thee for prophets and seers who heralded the coming of Him who would be the Light of the World.

We thank Thee for the simple home into which He came, with its gentle yet royal ancestry; for the wise men who knew what to follow and when to stop; for shepherds who not only saw visions but acted on them; for the aged folk who having seen no star waited in patience for the coming of the Messiah.

We thank Thee for the one universal church of all creeds, sects, forms, and cultures, of all races and kindreds of mankind, grouped around the manger in common devotion, and in hope of a new and better day for the whole world.

Grant, O God, to renew in us this simple message and instill within us its higher hope.

We pray in His name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 16, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, December 15, 1975, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Michigan is recognized.

SELECT COMMITTEE TO INVESTIGATE ABUSES IN THE LABOR-MANAGEMENT FIELD

Mr. GRIFFIN. Mr. President, today I am sending out to my colleagues in the Senate a letter which reads as follows:

DECEMBER 16, 1975.

DEAR COLLEAGUE: As you may know, several weeks ago, I introduced a Joint Resolution (S. Res. 302) calling for establishment of a bi-partisan Select Committee—like the McClellan Committee of the 1950's—to investigate racketeering and other serious abuses in the labor-management field, particularly in light of current widespread allegations relating to the Teamsters Union and investment of its pension funds.

The mystery of what happened to Jimmy Hoffa is intriguing. But even more important to millions of union workers is the question: Why?

Almost all of the reaction to my resolution has been positive. In addition to hundreds of cards and letters from union members across the country, I have received petitions signed by 1,780 Teamsters in the Detroit area alone strongly supporting such a Congressional investigation. Furthermore, an organization, known as the Professional Drivers Council for Safety and Health (PROD), which says it represents 1,600 Teamsters in various States, is openly supporting our effort.

The Detroit Free Press recently editorialized that "a balanced investigative committee of the Senate is the antidote. . . . If the public interest is to be protected, as well as the legitimate pension rights of thousands of truckers, that investigation must be started promptly." The Chicago Tribune has spoken out editorially for the resolution. Indeed, the only significant opposition registered so far has come from Mr. Frank Fitzsimmons, who heads the giant Teamster Union.

Thus far, nine Senate colleagues have joined as cosponsors of the resolution. Others have indicated that they like the idea and may wish to become co-sponsors.

S. Res. 302 is now on the Senate's Calendar. At an appropriate time after the holiday recess, it will be my intention to move for consideration and press for a vote on this measure. In the meantime, if you should decide to become a cosponsor, I will welcome your support and I know it will be appreciated by thousands of rank and file union members.

Sincerely,

BOB GRIFFIN,
U.S. Senator.

THE OKLAHOMA ELECTION DISPUTE

Mr. GRIFFIN. Mr. President, I was shocked and deeply disappointed by the action along party lines on yesterday when the Committee on Rules failed, in my opinion, to face up and make the right decision for the benefit of the Senate in the dispute raised by Mr. Edmondson concerning the election by the voters of Oklahoma of Mr. BELLMON as Senator.

Mr. BELLMON won that election, not by 2 votes, but by 3,835 votes.

The principal complaint of Mr. Edmondson is that in Tulsa County the voting machines were not equipped with the straight party lever, and voters there had to vote for each candidate of their choice. However, it is very interesting, and somewhat disturbing, that the voting machines there are programed and arranged as they are, primarily because of actions taken, as I understand, by the secretary and chief clerk of the Tulsa County Election Board, both of whom are active Democrats.

In fact, as the testimony discloses, these two officials actually assisted after hours in Mr. Edmondson's election campaign. Furthermore, the machines in Tulsa County were exactly the same machines, operated exactly the same way, 2 years earlier when Mr. Edmondson was defeated in a race for the Senate by Mr. BARTLETT.

Following the election, Mr. Edmondson took his protest to the local county court. The local judge excused himself and an outside impartial judge was brought in to hear the case. He is a Democrat. The judge listened to all the testimony and then dismissed Mr. Edmondson's petition. Thereafter, the case was appealed to the Supreme Court of the State of Oklahoma, a court of nine judges, eight of whom are Democrats. The Supreme Court of Oklahoma received the case very carefully, and unanimously dismissed the petition, and directed that a certificate of election be issued in favor of Senator BELLMON.

This is a frivolous contest, one that should not be taken seriously except by partisans determined to wield raw political power. I am concerned that the handling of this case may reflect adversely on the Senate as an institution. I hope it will not be necessary for us to become bogged down in another spectacle in order for the minority to protect the rights of Mr. BELLMON and the people of Oklahoma who elected him.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes remaining.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the special orders have been concluded, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with a time limitation on statements of 5 minutes attached thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MANSFIELD. When the special orders have been completed and morning business is finished, what will be the pending business?

The ACTING PRESIDENT pro tempore. S. 2568 will be the pending business.

Mr. MANSFIELD. Is that Calendar No. 444?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. MANSFIELD. Mr. President, I yield the remainder of my time to the distinguished Senator from California (Mr. TUNNEY).

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

DEPARTMENT OF DEFENSE APPROPRIATIONS

Mr. TUNNEY. I thank the distinguished leader for yielding me time.

I wish to make a couple of points with respect to an amendment that I and a number of others are going to offer tomorrow when the military appropriations bill comes to the Chamber.

Inasmuch as we are going to have a secret session of the Senate for 2 hours prior to the time that we open debate on the bill for a period of a half-hour and inasmuch as we can expect some secret or classified information to be made available during that secret session, I think it is important to lay before the Senate, before I have had an opportunity to be privy to any secret or classified information, what the purpose of the amendment is and the form that it is going to take, so that no one can say at some future point that those of us who are sponsoring this amendment used the secret information that we obtained in a secret session to justify in the Chamber in open session publicly an amendment which perhaps would rely for the expression of opinion as to why it is important on the secret information.

The amendment is going to provide basically that no moneys under the military appropriations bill can be used in Angola for other than intelligence-gathering activities. It will be made very clear that the money can be used for intelligence-gathering, but the purpose of the amendment is to avoid any military or paramilitary support for one faction or the other in Angola. The amendment is not going to require the recommitting of the conference report. The amendment is going to be to a House amendment and will come after the vote on the conference report.

I think that it is clear to those of us who have been working on this amendment, Senators CLARK, CRANSTON, KENNEDY, BROOKE, and others, that we feel strongly that the issue is one of basic principle. Should the United States become involved once again in military activities in an undeveloped part of the world, perhaps being dragged into ever-increasing commitments such as occurred in Vietnam?

But I strongly emphasize that the Senator from California has no secret information at this time as to what is in that appropriations bill.

I only have rumors and all the others that I have spoken to only have rumors with respect to funds that may be made available to the CIA to support covert paramilitary or military activities in Angola.

I hope that the points that are brought out in the secret session will convince a majority of our colleagues that this amendment is meritorious and deserves to be supported, but it should be clear that the support for the amendment should not be dependent upon secret information being used in a fashion which is unlawful or which is contrary to the accepted principles that all of us have come to believe is necessary for the handling of top secret or classified information in our Government. I, for one, do not want to be a party to releasing confidential top secret information but, on the other hand, I do not want moneys that I am going to vote for to go to Angola.

I thank the distinguished leader for making the time available.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. TUNNEY. Yes, I yield to the distinguished leader.

Mr. MANSFIELD. Mr. President, I have been somewhat disturbed at various aspects of our foreign policy in recent weeks.

I commend the distinguished Senator from California for raising a warning signal at this time.

I did not vote for the 200 U.S. technicians to be stationed on the Sinai Desert, because it brought to my mind memories of 1954 when exactly 200 U.S. technicians were sent to Vietnam.

I do not want to see another Vietnam under any circumstances, and I am concerned not only about the stationing of 200 U.S. technicians in the Sinai, which in my opinion typifies a direct involvement or a possible direct involvement, but I am also concerned, in another sense, about the amount of money and the use of that money in Angola through the use, as I understand it, and this is only public knowledge on my part—I have no secret information either—of something on the order of five spotter planes, something on the order of various types of hardware being sent in, and rumors to the effect that Americans are being recruited to take sides in Angola.

So, I hope that this warning flag will be heeded.

I have requested the chairman and the ranking member of the Committee on Foreign Relations to call a full committee meeting at which time I hope it will be possible to hear the testimony of Secretary Kissinger and Mr. Colby, the Director of the CIA.

I also hope, furthermore, in line with the War Powers Act and other instrumentalities passed by Congress, that Congress will be kept better informed so that as the direct representatives of the American people we shall be able to establish the facts as we understand them and when necessary report to our people thereon.

So I commend the distinguished Senator, and I am delighted this matter is coming to a head before it is too late.

Mr. TUNNEY. Mr. President, will my leader yield to me for a question?

Mr. MANSFIELD. Yes, indeed.

Mr. TUNNEY. Does he not feel that there is a substantial difference between making funds available in a military appropriation bill or foreign aid bill, or whatever, for intelligence-gathering activities, which we recognize that Congress is not going to be totally informed of those activities, and the use of moneys for the purposes of carrying on military or paramilitary activities in a foreign land?

Mr. MANSFIELD. Yes, I agree. I am somewhat disturbed at the parallelism between the present situation developing in the Congo and what had developed in Vietnam and for which we paid a terrible price.

To me the Vietnam disaster is the most tragic episode in the history of the Republic: 55,000 died, 303,000 wounded, a cost up to this time of something of the order of $150 billion and, according to the estimates of the Bureau of the Census, Department of Commerce—I have not the figures ready, but they are in the Statistical Abstract of the United States—1973—we will be paying for that war into the end of the first half of the next century, about 2045, and the ultimate cost has been calculated, and I think it is going to be much more, at somewhere between $350 and $375 billion. We cannot afford these misadventures.

Again I commend the distinguished Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing estimates of the total cost of American wars, by rank.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NO. 408.—ESTIMATES OF TOTAL COST OF AMERICAN WARS, BY RANK

[In millions of dollars, except percent]

War	Estimated ultimate costs	Original war costs [1]	Veterans' benefits			Estimated interest payments on war loans	
			Total costs under present laws [2]	Percent of original war costs	Total costs to 1973 [3]	Total	Percent of original war costs
World War II	664,000	288,000	290,000	100	96,447	86,000	30
Vietnam conflict [4]	352,000	[5] 128,000	[6] 220,000	[6] 200	7,271	[7] 22,000	[7] 20
Korean conflict	164,000	54,000	99,000	184	16,960	11,000	20
World War I	112,000	26,000	75,000	290	52,411	11,000	42
Civil War (Union only)	12,952	3,200	8,580	260	8,572	1,172	37
Spanish-American War	6,460	400	6,000	1,505	5,526	60	15
American Revolution	190	100	70	70	70	20	20
War of 1812	158	93	49	53	49	16	17
Mexican War	147	73	64	88	65	16	14

[1] Based on expenditures of Departments of the Army and Navy to World War I and major national security expenditures thereafter. Usually the figures begin with the year the war began but in all cases they extend 1 yr beyond the end of the actual conflict. See "Historical Statistics of the Units States, Colonial Times to 1957, series Y 351–352 and Y 358.

[2] To World War I, estimates are based on Veterans' Administration data. For World War I, World War II, and Korean conflict, estimates are those of the 1956 report of the President's Commission on Veterans' Pensions plus 25 percent (the increase in the average value of benefits since the Commission made its report).

[3] Source: U.S. Veterans' Administration, "Annual Report of Administrator of Veterans Affairs."

[4] Estimates based on assumption that war would end by June 30, 1970 (except for original war costs and for veterans benefit costs to 1973).

[5] Estimated Department of Defense expenditure in support of Southeast Asia for fiscal year 1965 to 1972.

[6] Medium-level estimate of 200 percent (high, 300; low, 100) based on figures expressing relationship of veterans' benefits payments to original costs of other major U.S. wars.

[7] Medium-level estimate of 20 percent (high, 30; low, 10) based on figures showing interest payments on war loans as percentage of original costs of other major U.S. wars.

Source: Except as noted, U.S. Congress, Joint Economic Committee, "The Military Budget and National Economic Priorities, pt. 1, 91st Cong., 1st sess. (Statement of James L. Clayton, University of Utah.)

The above estimates are contained in the Statistical Abstract of the United States—1973. It is published by the U.S. Department of Commerce, Social and Economic Statistics Administration, Bureau of the Census.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. FANNIN) is recognized for not to exceed 15 minutes.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order be changed, so that the distinguished Senator from Utah may proceed before the Senator from Arizona.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. GARN. Mr. President, I thank the distinguished Senator from Arizona for switching with me so that I can make another appointment.

THE HIDDEN TAX ON OUR ECONOMY CAUSED BY GOVERNMENT OVERREGULATIONS

Mr. GARN. Mr. President, today I should like to talk about the hidden tax on our economy and on our people that is caused by Government overregulation—the bureaucracy.

The cost to every American, of excessive and wrongheaded Federal regulations, is placed from a conservative estimate of $60 billion per year to an estimated $130 billion per year, or $2,000 per American family as recently reported by President Ford. The number of Federal employees needed to man this regulatory Frankenstein monster is estimated to be from 63,000 to over 100,000 Government bureaucrats, and the number is growing year to year.

Congress is considering and passing new legislation placing more controls on our daily lives. From about the 1870's laws affecting or regulating commerce were passed with great care and up into the middle of the 1960's only about 15 laws were enacted to regulate our lives. However, since the midsixties there has been an explosion of regulatory legislative activity, with about 60 laws having been enacted to hamstring and hinder the dynamic, but fragile force known as the free enterprise system.

The cost of this rapid and unnecessary expansion of regulatory bodies is seen in our everyday lives from the cost of heating our homes, driving our cars, and cooking our meals, have increased because of Government interference in the energy market, by their setting artificially low prices for natural gas, which hindered new exploration, and by the slapping on of price controls on oil that we desperately need to run our factories. The sudden oil shortage of 1973 was brought about by shortsightedness, on the part of Government, by requiring import quotas on foreign oil—during the 1960's—which encouraged foreign development of oil sources to the detriment of new American sources.

The cost in terms of wasted manpower, loss of productivity, use of scarce capital to meet regulatory requirements, instead of putting it into use to produce more and better products and the immeasurable effect upon the economy, can scarcely be quantified, but certainly the loss is tremendous.

There are many agencies regulating our lives: Let us take a look at some of the costs of their regulating our economy.

When Congress jumped on the pollution bandwagon, it paid little attention to the inflationary costs. It is estimated that industry will spend more than $127 billion between 1972 and 1976; which means—additional costs which must be passed to consumers.

Restrictive rate policies of the Interstate Commerce Commission add $5 billion per year in excess freight rates, according to a recent economic study. Although paid by shippers, the ultimate costs are passed on to consumers.

Moreover, the Bureau of Domestic Commerce says that unnecessary National Labor Relations Board regulations that lead to featherbedding are costing Americans up to $3 billion in railway shipping costs, $400 million more at the supermarket, and more than $275 million in truck shipping costs.

A study by George Douglas and James Miller III, for the Brookings Institution, estimates that for the year 1969 alone, passengers paid excess fares ranging between $366 million and $538 million attributable to the lack of competition in air fares, for which passengers received service improvements valued between $118 million and $182 million. The difference between the fare and service figures represent one of the costs of the inefficiency in the airline industry which is promoted by CAB regulation.

The cost of buying a new auto has skyrocketed because of Federal mandated equipment. For example, new car buyers in 1974 paid over $3 billion more for Government-required safety equipment. Of course, the Congress recently saw the light on one issue and overturned the requirement for seat belt interlock system for starting one's car.

The Government's agencies also cause delay, which is often fatal to an industry or company. The agencies were established to expedite matters but, unfortunately, instead of expediting action, one of the largest parts of the hidden cost to the public of regulation is regulatory delay. This inherent delay in agencies set up for the purpose of speeding decisions is certainly one of the most serious deficiencies of regulatory agencies today.

An example of such delay is the merger case before the Interstate Commerce Commission—which was filed in 1963 to merge the Rock Island with various western rail carriers.

The Rock Island and the western railroads had been waiting since 1963—waiting through 274 days of hearings, lasting over 27½ months waiting for the administrative law judge to issue three volumes of an initial decision 10 years later, on February 15, 1973; and waiting for nearly a year after the ICC heard final oral argument on this case, for a Commission decision. On November 8, 1974, the Chairman of the ICC made a public announcement that a majority of the Commission had approved the merger of the Rock Island and Union Pacific Railroads, with certain conditions, but that the Commission's decision would not be available for distribution for an additional "several weeks."

The Commission's decision came 5 years after the ICC reported on the status of the Rock Island merger case at the Senate Commerce Committee "oversight" hearings.

Eleven years ago, before this merger case was filed, the Rock Island was a profitmaking railroad. Since 1965, while the case has been pending, the Rock Island lost approximately $90 million, with 1974 estimated losses of $17 million—up approximately 14 percent from 1973.

Another measure of change—in the last decade while the Rock Island and other Western railroads were waiting a merger decision, in order to change their plant facilities, Sears, in the retail market served by the Rock Island, opened approximately 110 new stores, and closed or relocated 70 old stores.

The Jones Act—which requires shipments of cargo from one port in the United States to another to be made by American vessels—also illustrates the conflict between two or more objectives. The staff of the Senate Finance Committee estimates that it costs 8 to 10 cents more per million cubic feet to transport liquified natural gas—LNG—between Alaska and the West coast by American-flag vessels than by foreign-flag vessels.

Attempts to avoid this 8 to 10 cents "tax" results in a roundabout, expensive procedure whereby Alaska exports LNG to other countries and the mainland United States imports LNG from the South Pacific and Russia—in foreign-flag vessels.

The Jones Act was enacted to aid the American shipping industry. In practice, it tends to aid foreign shipping industries and to reduce the availability or increase the cost of goods to the American consumer.

We all believe in making available the safest product possible and the CPSC is charged with the responsibility of making certain that consumer products are safe. However, the following story demonstrates how overregulation operates and how expensive it is to us all.

The Consumer Product Safety Commission, upon learning of a University of Oklahoma doctor's suspicion that there may be a link between abnormal children born to some of his patients who used spray adhesives, in the summer of 1973, called 3M and Borden executives and told them their spray glues—13 brands in all—were banned. Both companies promptly notified their distributors and set about removing the products from the market. Another spray gluemaker, Woodhill Chemical Sales Corp., Cleveland, removed its product voluntarily.

Seven months later, after university testing of the glues, the tests failed to find any link between the products and the genetic damage claimed by the doctor. The CPSC lifted its ban. 3M asserted that they lost $3 million in sales of the product during the ban; Borden dropped its line altogether, feeling it would not pay to reintroduce it, and Woodhill lost about $80,000 because of the ban.

The single greatest threat from CPSC, as business sees it, is the cost of altering products to meet CPSC standards. OPEI—Outdoor Power Equipment Institute—executive director, Dennis Dix, says OPEI's mower manufacturer members voluntarily spent $48 million to upgrade safety on their 1973 models. The cost of mandatory safety changes, especially unnecessary ones, could wipe out smaller manufacturers.

Upon recommendation by the CPSC, Consumers Union wrote a proposed set of standards for the lawnmower industry. CU's standards call for a deadman control to stop the mower blade 2 seconds after the operator releases the handle; complete enclosure of the blade within a half inch from the ground; reduction of maximum blade tip speed to 15,000 feet per minute; a sound alarm and signal light that would go on when riding mowers lean too far to the side; and a device that would stop the engine when the fuel tank cap is removed. Mower manufacturers protest that the requirements are all safety design, rather than safety performance standards; that they call for specific safety features rather than allowing manufacturers to design a variety of solutions.

In May 1975, the Outdoor Power Equipment Institute—OPEI—announced a study it commissioned from the Standford Research Institute—SRI—in which SRI concluded that it would cost the mower building industry $520 million to implement newly proposed mandatory lawnmower standards being developed by the Consumers Union for the Consumer Product Safety Commission. SRI estimates that 190,000 mower injuries occur annually, totaling some $400 million for such costs as medical expenses and lost wages.

SRI findings reveal over 85 percent of all lawnmower injuries are due to operator error, while a previous CPSC study showed 95 percent due to operator error. According to SRI, implementation of the proposed standards could reduce unit sales from 7,400,000 to 5 million, and SRI stated that engineering and new capital requirements to meet the standard could force 25 of the industry's smaller firms—of the estimated 60 to 75 mower manufacturers—out of production and result in causing the loss of some 16,000 jobs in the outdoor power equipment industry. OPEI concludes that the cost of a $100 walk-behind rotary lawnmower, could increase as much as $86 with compliance to the new standards.

Another example of an expensive mistake by a Government agency is the following tale of woe:

E. H. Weder, chairman of the Highland, Ill., Manufacturing & Sales Co., late in April 1972, received a letter from the Federal Drug Administration's Bureau of Product Safety, informing him that FDA was planning to ban the sale of all flammable cellophane Easter grass, and hence he needed to destroy his stock.

Failing to secure FDA's approval, allowing him to market his Easter grass marked "flammable" Mr. Weder destroyed his cellophone grass and, at a cost of $950,000, retooled his machinery to produce nonflammable Easter grass, which would cost consumers more.

While he was shopping during the following Easter season, Mr. Weder noticed that flammable cellophane Easter grass was being sold with the label "flammable" attached to the grass. Incensed, Mr. Weder phoned the FDA asking why he could not sell flammable grass while his competitors could. He was informed that since there were no medical reports claiming injuries caused by flammable Easter grass, it had been determined that it was rather senseless to ban the grass, if it was not harmful, and that he simply had not been informed of the Bureau's policy change.

The automobile industry has been on the receiving end of many new and costly regulations.

Since enactment of the Motor Vehicle Safety Act in 1966, 59 safety act standards and regulations have been put into effect. Today, nearly 900 separate points must be tested or checked on a typical full-size model in order to certify compliance. The average cost to the consumer on a cumulative basis, just to meet the presently applicable safety standards, is estimated to be approximately $400 per car. This includes approximately $155 for added bumper protection for the car's safety systems * * *.

It is estimated that the safety and damageability standards that have been proposed, or are scheduled to go into effect during the next 2 model years, could result in an additional cost to the consumer of approximately $350 at current economic levels. This would bring the total consumer costs for these standards alone to approximately $750 by 1977 * * *.

While there has been some postponement in the schedule to reach this ultimate reduction—of a further 90 percent reduction in emissions over the levels already achieved—the 1975 emission levels have resulted in equipment on the vehicle costing the consumer an estimated $215 on a cumulative basis.

If a way can be found to meet the 1977 and 1978 emission standards on production vehicles, current projection is that this could result in additional consumer costs of approximately $110 in 1977 and $150 additionally by 1978 * * *. Further, the 1978 emission levels have been achieved only experimentally at very low mileage. These additional costs would bring the total costs to the consumer—for emissions equipment—to approximately $475 by 1978 * * *.

To summarize, the cost on a cumulative basis to consumers for safety and emission control equipment on cars through the current 1975 models totals approximately $615 per car—consisting of $400 for safety and $215 for emission controls. Looking to 1978, and the prospect of more stringent safety and emission standards, as well as the imposition of Federal damageability requirements, consumer costs can be expected to increase by approximately another $610. Thus, by 1978 consumers would have to pay about $1,225 per car just for the equipment to meet Federal motor vehicle standards * * *.

To develop the ability to meet the wide range of mandated Government requirements, GM expenditures for automotive safety work, in the United States alone in 1973 totaled $653 million. These costs were for research and engineering development, reliability, testing, tools, and facilities. The automobile has been burdened by increased costs through price increases. However, even these increases have apparently contributed to deterring many consumers from buying—resulting in diminished new car sales and, in turn, substantial unemployment in the automobile industry * * *. Inevitably, unproductive use of capital and personnel leads to lower productivity and inflationary pressures.

The environmental protection agency has been another thorn in the side of our economy. It seems that these regulations are more important than jobs and our timberland.

In Gary, Ind., the United States Steel Corp. tried to meet EPA requirements for clean aid by building two new installations of nonpolluting furnaces. But initially their output was limited by factors beyond the company's control: a power failure that damaged its furnaces, the coal strike and a construction strike. U.S. Steel last fall asked EPA permission to keep its one remaining openhearth installation in operation 6 months more. It was told that the installation could be kept open for 3 months, with a $2,300 fine for each day of operation. Instead, the company closed the installation, and hundreds of workers are losing their jobs as a result.

An infestation of deadly tussock moths in 1972 defoliated 174,000 acres of magnificent Washington and Oregon forests. To prevent further ravages, State officials and conservationists pleaded with EPA to allow a carefully controlled spraying of DDT. EPA stubbornly refused even a temporary removal of its ban against DDT. Unchecked, the multiplying moths by the summer of 1973 had afflicted 700,000 acres of timber. Faced with congressional uproar and a lawsuit, EPA in February 1974 relented and authorized use of DDT. Helicopters sprayed the forest, and infestation ended. But the devastation inflicted by bureaucrats endures.

The U.S. Environmental Protection Agency recently disclosed that from 1971 to September 1975, EPA regulations were directly responsible for the loss of 13,460 jobs, 1,200 of which occurred during the past 6 months and that near future job losses could go as high as 33,000 workers. This news is especially depressing when the unemployment rate has been hovering around 8 percent for the past year.

Very often two agencies will issue conflicting standards and the poor businessman is caught in between. For example, the occupational Safety and Health Administration adopted, in early 1972, a maximum noise level standard of 90 dbA, which would cost $18 billion, to be implemented by business, whereas the Environmental Protection Agency demands a maximum noise level of 85 dbA, which bears a $31 billion price tag. The 90 dbA standard is the recognized occupational standard for noise today, as it is used in the Walsh-Healy Act, which sets mandatory occupational safety and health standards to govern Federal contracts. Since noise levels are measured on a logarithmic scale, 85 dbA is exactly one-half the energy of 90 dbA.

A Federal regulatory agency can also be very arbitrary in its dealings with American businessmen, as the following story discloses.

A high-rise, low-rent housing project in Fremont, Nebr., was examined by an OSHA safety inspector, who informed the Beall Construction Co. superintendent what equipment did not comply with OHSA's safety regulations.

By November 16, all but one deficiency had been corrected, and in order to secure spare parts, OSHA granted a repair delay. A second OSHA inspection on January 20, 1972, resulted in a $35,442 fine for safety violations.

Beall Co. appealed the fine and an OSHA review commission chairman determined that the second OSHA inspection was "provoked," because of the Beall Co.'s repeated requests for extensions of an abatement period to modify the one original safety deficiency, which could not be immediately corrected due to the lack of locally available repair parts. The OSHA review chairman lowered the OSHA fine to $620.

Another incident that occurred in California again reveals the arbitrariousness of OSHA officials. In Newport Beach, Calif., an OSHA official inspected Arsene Gardarian's "Blackie's Boatyard" and charged Gadarian for violating one of OSHA's ladder regulations, since Gadarian did not have a ladder at his pier's end.

Facing up to a possible $1,000 fine, Gadarian appealed to a Federal hearing examiner. After Gadarian revealed that the water around his dock was only 3 feet deep and, consequently, did not require a ladder for rescue—should someone fall off the low pier into the water, as the victim could stand up and easily climb back upon the pier—the examiner certified that Gadarian was innocent of the charge.

Last year OSHA issued final regulations in many areas affecting industry and these standards filled over 450 pages in the Federal Register. The standards dealing with the common everyday wooden step ladder ran for numerous pages and were explained in such technical terms that a person would need an engineering degree to understand its meaning, such is the burden placed upon the American businessman.

Overregulation is not merely a problem with agencies mandated to regulate commerce, we should also consider just the sheer size of government, both State and Federal, as a hinderance to a vigorous and expanding economy. Consider, for example, that the number of such employees has grown from about 3 million in 1940 to around 14.5 million in 1975, and this is excluding military people.

Government at all levels accounts for about 37 percent of the GNP, as against around 12 percent in the late 1920's. Just the sheer numbers and economic impact that all levels of government have is bothersome.

When one weights the cost in dollars and lost personal freedom that we all suffer, because of overregulation, one can understand the people's loss of confidence in our Government.

[Source: The materials found in this statement were taken in part or in whole from a document entitled "Regulatory Failure" prepared by the National Association of Manufacturers and specific sources can be found in that document.]

Mr. President, I should like to speak for a few moments about another aspect that goes beyond regulation and bureaucracy, to an area of cost to citizens in loss of freedom to them and their elected officials through acts passed by the Congress of the United States with little or no knowledge of the economic impact that these laws have when they pass them.

I will use, specifically, the example of amendments to the Fair Labor Standards Act of 1974.

When I was mayor of Salt Lake City and vice president of the National League of Cities, we opposed these amendments vigorously, as mayors across this country, representing 15,000 cities. For the first time, this act would include cities and counties, municipal and local government, across this country, under the Fair Labor Standards Act, with rules and regulations concerning overtime, compensatory time off, work rules and regulations for employees. For the first time, these were made uniform and mandatory on 80,000 units of local government across this country, taking away the authority of mayors and county commissioners and locally elected officials who were responsible and accountable to their voters in their cities to make these decisions for themselves.

I was the mayor of Salt Lake City. There was a good, old-fashioned way for the people of Salt Lake City to take care of their problem. They could get a new mayor in the next election, but there was no way they could get rid of the bureaucrats locked into civil service, who are never answerable or accountable for their actions. That is why they can become arbitrary and dictatorial and thumb their noses at the American people.

I will give an example of the economic impact of these amendments which are pushed through Congress despite the fact that the National League of Cities Board of Directors, the U.S. Conference of Mayors, and the Governors' Conference, representing all of the legally elected officials of this country, came to the U.S. Senate. I was one who testified as a mayor and said, "Do not impose this burden upon us." But they ignored us, because I suppose George Meany is more meaningful to this Congress than all the mayors and Governors and county commissioners.

In my city alone, the Fair Labor Standards Act imposed burdens such as overtime rules. With very distinct seasons in the State of Utah, we normally had our parks department employees working great amounts of overtime in the summer, and they would accumulate it on a voluntary basis and take it off in the middle of the winter—4 or 5 weeks at a time.

Our snow removal crew could work vast amounts of overtime in the winter and take 4 or 5 weeks off in the summer at time and a half, and they enjoyed this. It was all voluntary.

In its great wisdom, the Congress of the United States said, "No, you can not do that anymore. If you are going to give compensatory time off, you will give it during the week in which the overtime was incurred or the following week, or you pay it in cash."

Item No. 1: $1.5 million more on the people of Salt Lake City in taxes to pay, because Congress said we could not work it out anymore, even when our employees wanted to do it on a voluntary basis. So $1.5 million went into the last budget I prepared as mayor of Salt Lake City.

One other example: This bill mandated that firemen be put on a 40-hour week, despite the fact that their work weeks are different from those of policemen, garbage collectors, and street crews. You would have to pay them time and a half over 40 hours or pay them for sleeping. That requirement will cost Salt Lake City $3 million a year.

So now we have just one act of the Congress of the United States, ignoring the local government officials of this country, that would impose $3.5 million of additional cost. Yet, they passed revenue sharing for us. Salt Lake City's share was $4 million. So, big deal—they passed revenue sharing to help the cities of this country and then passed another act, without any knowledge of what they were doing, that takes away $3.5 million. So Salt Lake City has a net of a half million dollars out of revenue sharing. Again, big deal.

Tom Bradley, the mayor of Los Angeles, testified before the Senate Committee on Labor and Public Welfare that this would cost Los Angeles $32 million a year. Across the country, we do not know how much it will cost, but it will be hundreds and hundreds of millions of dollars a year on the taxpayers of the cities and counties of this country just because of some amendments to the Fair Labor Standards Act. That is the cost.

Something more important is the taking away of the right of a local mayor to make decisions within his community. There were many days when I did not feel like the mayor of Salt Lake City, just the local manager for the Federal Government.

I came back here, pleading to a bunch of Representatives and Senators who had never been involved in a city or local government or State government, who did not have the faintest idea of what it was all about, but they think they are so darned bright that they can pass uniform national laws to impose it on all of us, thinking that the mayors and the Governors are not smart enough to handle those matters and make those decisions in their own communities.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. GARN. I yield.

Mr. FANNIN. Mr. President, the Senator from Utah has had vast experience as an executive officer of the National League of Cities and has performed outstanding service as mayor of Salt Lake City. I should like him to comment on the problems that have been created by EPA coming in and telling the local jurisdictions what they should do with respect to their parking, so far as the facilities that can be constructed are concerned, so far as what can be done within a local community in regard to their traffic. Would the Senator like to comment on his experience in that regard? I think it would be very valuable to the other Members of the Senate.

Mr. GARN. I could stand here for 4 or 5 days and talk about examples of what the Federal Government did to us. EPA was one with which I was involved in a fight. I got a letter on—no, I did not. I read it in the Salt Lake City Tribune. They did not bother to talk to the mayor. I read about their great transportation plan for Salt Lake City in the Tribune. I wrote them a letter saying:

> I find it difficult to respond to your transportation plan because I can't believe any intelligent body could devise such a plan. I shall be at your meeting to try to respond in detail to your extermination plan for Salt Lake City.

It was a uniform transportation plan which was going to be imposed on Phoenix, Denver, and Salt Lake City, without regard to the local pollution problems, without being tailormade to the individual situation. Fortunately, in this case, we fought and won and they accepted our plan. But I could tell the Senator horror stories that would take me 3 hours about what EPA planned to do to many cities, totally without merit as to the actual problem that was there or specific solutions that would solve the problem in Salt Lake City.

Mr. FANNIN. I thank the distinguished Senator. I know that in my State of Arizona, we had the same experience. After quite a battle with EPA and a great deal of expense and a tremendous amount of time on the part of the city officials and State officials—not only the city officials of Phoenix but of Tucson—this was something that went on for months, delaying planning and programing. Many subdivisions were delayed. They did not know what to do, what they would be able to do, what to do as far as parking was concerned and the new facilities that were furnished for the shopping centers. It was tremendously expensive.

One of the great problems was that the Federal Government did not counsel with local officials. I imagine that was one of the problems that the Senator from Utah had.

Mr. GARN. The mayor of Phoenix did have an advantage, Senator, because our hearing was first. I heard about it in the newspaper. They did not have the courtesy to inform me. I called the mayor of Tucson and the mayor of Phoenix and said, "This is coming, get ready for it." So they had the advantage over me.

Mr. FANNIN. I am glad the Senator had the experience because they did not get help from the EPA officials. The officials went ahead and made their findings and had everything all set to incorporate it in their structure, without having the knowledge as to just what the needs might be or what the planning might be. They were going to dictate the policies that would be observed. In some cases, they were even advocating blocking off spaces in parking garages so they could not utilize them. They were not going to tell the garage owner how he could finance his facility, what he could do about paying his people. They were just going to tell him, "This is what needs to be done; you go ahead and do it."

Fortunately, it was through the assistance of the Senator from Utah and others that perhaps that was thwarted to a certain extent. We do not know what is coming next.

Mr. GARN. All they were going to do in Salt Lake City, when I talked about the extermination plan, just one particular thing in their strategy was that they would eliminate parking 6 hours a day in a 2-mile-square area of downtown Salt Lake City—that is all; just totally eliminate on-street parking, 6 hours a day, in a 2-mile-square area. They thought that was entirely reasonable and consistent with cleaning up the air. It would be clean, because business would have closed down. There would be nothing left. No one would be there except the rats and mice and whatever other animals wanted to take over the city after EPA closed it down.

Mr. FANNIN. Hundreds of millions of dollars had been spent on parking facilities and handling traffic. Still they were going to change the complete operation of the city. I think the Senator used good terminology as an example of what would happen. I think we know we were very fortunate that actions were taken to see that these programs were not carried through.

Mr. McCLURE. Would the Senator yield?

Mr. GARN. I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for the statement he has made. His is one of the few very clear voices in the Senate that warns of the encroachment of the Federal Government into local governments.

I could not help but note the simile he made in regard to parking areas that would bar people from areas and leave it to the rats and mice. That reminds me that one Federal agency is using 1080 to control rats and mice while another says nobody can use it.

That is an example of Federal overlap, where one agency says you cannot do something that another agency says you must do.

Mr. GARN. I suppose they like coyotes better than rats and mice.

Mr. McCLURE. Maybe the Senator will find that instead of the people of downtown Salt Lake City, the coyotes will move in and they will feed on rats and mice that are protected from people who are not there any more.

Mr. GARN. I thank the Senator.

I want to summarize what I was saying. Perhaps we can appreciate the magnitude of what the Federal Government has done if we consider I used one example of some amendments to one particular law that cost hundreds of millions of dollars, $3½ million in my own city. Then if we magnify that by the tremendous number of other laws, I do not know how we are even able to total up the cost.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. FANNIN) is recognized for not to exceed 15 minutes.

THE COSTS OF GOVERNMENT REGULATION

Mr. FANNIN. Mr. President, to continue with the problems we have with regulatory reform, the time has come for action.

There is a growing awareness among the American people that government regulation results in harmful economic and social costs. For many years, this has been recognized. In fact, since the Interstate Commerce Commission was established over 70 years ago, our constituents have been suggesting some changes for regulatory reform, but very little has been done. Now that the people are up in arms, I feel something will be done. This body is considering legislation. Today I will introduce a bill that is called the Regulatory Reform Act. I shall briefly mention some of the provisions of this bill and what it will accomplish. First, it would make every Government agency demonstrate to Congress that the economic benefit of a proposed rule or regulation exceeds an anticipated cost to the public.

Mr. President, I think this is very important. Here we have the Environmental Protection Agency and they require an environmental impact statement. This would be an economic impact statement.

Second, it would require the House and the Senate to approve every major regulation proposed by the agencies. If this is done, we shall not see the proliferation of rules and regulations coming through that we see today, thousands of pages that are printed each year regarding new rules and regulations in the Federal Register, thousands of pages in that very fine print that is involved.

Third, the act that I am talking about would make employers and employees jointly responsible for seeing to it that regulations are complied with and will protect an employer from legal sanctions where he can demonstrate that violations have been caused by acts of negligence or omission on the part of others.

Fourth, it would relieve a person from liability for noncompliance with agency standards where he can show that the violation was necessitated by compliance with other rules and regulations promulgated by the same or other agency.

This is quite a problem. Here we have an example where they say that a truck must have an audible sounding device when it is around a construction job or on a construction job and when it is thrown into reverse, it has to have this audible sounding device. Then they also specify that the workers that are involved in that same job must wear earmuffs so that their ears will not be affected by the noise. It is pretty difficult for a sound to be heard. So here we have one rule that is negating another. Of course, this is just a simple example of what has been done.

Another provision will eliminate unnecessary paperwork, report filing and record keeping requirements. It costs billions of dollars. In fact, there have been articles in publications recently, statements made by public officials, that there are as many as 63,000 employees of the regulator agencies, and OMB has stated it is over 100,000. Still, what are the results? The result to the American consumer is the cost of about $130 billion. That is about $2,000 per family. This estimate that has been made is not the total cost, but this is the cost to the consumer. In other words, the cost is passed on to the consumer in the way of higher prices. Then costs also are added because of the tremendous number of employees and all the work done by these agencies.

I am sure that we have all heard from constituents and have read accounts in the press of small businessmen and consumers who are being hurt by arbitrary and capricious decisions made by an army of faceless Government bureaucrats.

Taxpayers are increasingly angered and frustrated by the costs and wastes involved in Government regulatory programs and by the maze of Federal agencies and regulations that they must put up with and pay for. As one of my constituents put it: "Get Government off our backs and out of our pockets."

Employers complain of the mounting costs of running their operations as a result of the patchwork of regulations and reams of paperwork required by various agencies.

They protest that normal business decisions cannot be made without first clearing them with Washington. They argue that regulation stifles innovation and technological development and cuts deeply into business profits and productivity.

Employees find themselves bogged down in paper shuffling. Labor sees a loss in jobs in industry as a result of higher costs of running business under regulation. This pertains, too, to the cost of doing business in this great Nation of ours as compared with other countries of the world. Most of the countries have very simplified regulations and rules; in fact, they are cooperative programs and not ones that inhibit productivity and inhibit efficiency, so we have a very serious problem in this country in competing with the other countries in the world because of these added costs.

We do pay higher wages in this country, and we do have good employees and modern machinery, and we should be highly competitive with other countries in the world if we would just let the employers go about their business without all of the detail and all of the different rules and regulations that inhibit their operations.

Conservative critics of regulation decry the loss of personal freedom at the hands of "big brother" bureaucrats. They warn of the dangers to the free enterprise system and to individual liberties from Government controls and regulations. Liberals charge that the so-called independent agencies are neither independent nor agents of the public interest, but, in fact, serve the special interests of the industries they are supposed to regulate. They see an unholy alliance between Government and business whereby Government agencies protect regulated businesses from competition in the marketplace. Together conservative and liberal politicians of both parties, responding to the complaints and criticisms of taxpayers, consumer groups, businessmen, intellectuals, Government experts, and editorialists, are calling for deregulation and improvements in the Government's vast regulatory machinery.

It is now generally acknowledged by all but the bureaucrats themselves that the Federal bureaucracy has grown too big and powerful.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. FANNIN. I am very pleased to yield to the distinguished Senator from Idaho.

Mr. McCLURE. I commend the Senator on his statement as well as on the introduction of the legislation, which is a very helpful and hopeful piece of legislation.

The Senator's reference to the growing number of people who are responding against the growth of Government, who are speaking out against the regulatory overlap, reminds me of a statement made by one of the liberal Members of this body not long ago in private in which he indicated that many, many years ago when he had arrived in this place he had been a very strong liberal and, over the years, he had assumed that the solutions to many of the problems in this country lay in creating new programs and appropriating more money to concentrate on those problems; and that he had come to the conclusion that that had not worked, and if he stayed around much longer he was going to be voting to dismantle all of the apparatus he had helped to create.

Would not the Senator from Arizona agree with me that there is a widespread public acceptance, cutting across all kinds of ideologies and across party lines, that recognizes this failure of Government?

Mr. FANNIN. The Senator is so correct. A good indication of that having happened is the introduction of legislation in Congress that has come about in the last few months and even in the last few weeks where we do have so-called liberal Members of our body who are introducing perhaps very similar legislation to that being introduced by the Senator from Arizona, and the Senator from Arizona is not considered a full liberal, and I feel that this is—we have moderates, liberals, and conservatives all involved in this legislation, so we are hearing from the people, and I know I am hearing from my people in Arizona and from people all around the country.

Mr. McCLURE. Many of those of us

who regard ourselves as conservatives are inclined to say when we hear one of the liberals in the country talking about regulatory reform and talking about getting the Government out of the affairs of business, we nudge each other and say, "Hey, they are playing our song."

Mr. FANNIN. They have finally seen the light.

Mr. McCLURE. Some of us tend to be a little jealous of that and, I think, there is a danger that, instead of accepting their help, we will try to say, "Hey, that is ours, do not touch that."

Mr. FANNIN. I certainly want their help, and I feel that we have a common cause finally in this respect.

We say they have finally seen the light; they have felt the heat is what has happened in many instances around this body, which is, they started hearing from the people and feeling the heat from home or heat from the people who are supporting them and who are just saying, "Well, look, you are going in the wrong direction. This has cost me money. It is not of any benefit to me."

Senators know what has happened in recent years since OSHA was adopted. I do not imagine there are many agencies that have been more controversial than OSHA, but we can go on back as far as we would like to the beginning of the regulatory agencies, as I said earlier, where the Interstate Commerce Commission came into being, and they have been with us for over 70 years, and they are just about as controversial as any of the other agencies, and there is still a great demand—even with some of the legislation we are talking about—just to abandon the Interstate Commerce Commission.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. FANNIN. I am very pleased to yield.

Mr. HELMS. The Senator from North Carolina is very much interested in this colloquy between the able Senator from Idaho and the able Senator from Arizona.

Is it not a complicating factor, however, that some elements of the business community encourage Federal regulation beneficial to them? That is to say, regulation which protects them from competition?

Mr. FANNIN. No doubt about it. Many of them will say, "Well, we do not want these regulations," but if you go to them and say, "All right, fine, what if we do away with all regulations?" Then you will hear a different story in many instances, and this is a little provoking to the Senator, who was formerly a small businessman and who worked with some of the people who are now saying, "Get off our backs, but now, do not go too far."

Mr. HELMS. In other words, when the Senator really begins talking about really reducing all this regulatory deluge, you begin hearing complaints that you have stopped preaching and started meddling—is that not about the size of it?

Mr. FANNIN. That is right.

Mr. HELMS. The Senator mentioned the conservatives and liberals. I think I have some credentials as a conservative, but I find myself constantly intrigued by some of the same businessmen who make eloquent civil club speeches about doing away with Federal controls, and then when some of us try to do it, the flap begins.

Mr. PERCY. Mr. President, will the Senator yield on that point?

Mr. FANNIN. I yield.

Mr. PERCY. I do not know whether this is a private conversation in this corner or not.

Mr. FANNIN. No, we are honored to have the Senator from Illinois join us.

Mr. PERCY. I was so pleased to learn there was going to be a colloquy this morning, because this issue does cut across ideological lines and certainly party lines. I have been working recently with Senator ROBERT C. BYRD on this very subject, and we are going to introduce legislation very soon on it. I find a tremendous willingness in this body now, and certainly within the executive branch of Government, to get moving on this important issue. The President could not have been more forthright in meetings he has held with some of us where he said, "Hey, let us get together and work something out."

I would like to ask the distinguished Senator from Arizona whether or not one of the great problems of the regulatory agencies is the process of decisionmaking.

The Rock Island is in bankruptcy, and there are merger proposals with the Union Pacific that go back over a period of how many years?

Mr. McCLURE. Thirteen years.

Mr. PERCY. Thirteen years. For them to sit there and watch the railroads of this country die, and one of them going into bankruptcy, when there was a perfectly viable answer for this a dozen years ago, is incomprehensible to me. We are not trying to prejudge whether the ICC should or should not have allowed the Rock Island merger. But the incredible part of it, which finally led to the strangling of the Rock Island line, was that they could not make a decision one way or the other. Sometimes it is better to make a bad decision rather than not make a decision and let the problem go on. But a commission can somehow get comfort from the idea that they do not have to bite the bullet but can keep it on the agenda with endless hearings and proceedings, and never arrive at a decision.

Mr. FANNIN. That is one of the foremost complaints we have. I know in the studies we have made on just what is happening with the ICC, and whatever other agency may be involved, it is the problem that business people have of finding out just exactly where they are going. They do not know. The right hand does not know what the left hand is doing.

Mr. PERCY. I just came in on the tail end of a conversation which I felt was very much to the point. This year I addressed the U.S. Chamber of Commerce at one of their sessions, and then conducted a poll over there, and they concluded that the biggest single issue and problem facing business was Government regulation. So this is the No. 1 priority. But I had to point out to them, in addressing them, that one of the biggest barriers we will have is those businesses which are regulated, because they have developed such a nice, cozy relationship with the regulators. It is the truckers who will try to fight to try to keep the ICC, along with the railroads that are regulated; it is the airlines that are regulated that will want to keep the CAB. They certainly look disparagingly upon Government regulation except when it somehow favors them, and this is one of our great problems, how to deal with the vested interest groups.

I do not want to infringe on the Senator's time, but I simply want to commend the Senators for holding this colloquy. And I certainly would cordially invite them, when the Senator from West Virginia (Mr. BYRD) and I offer some legislation in this field to really cause us to set up a schedule, to join together with us on that.

Mr. McCLURE. Will the Senator yield?

Mr. FANNIN. Yes.

Mr. McCLURE. I would like to give a case history of the exact thing the Senator from Illinois is referring to, about the regulated industry being the one which tries to protect the regulatory process.

I became so frustrated with the ICC, as many other Members of this body have, that I introduced legislation which would abolish the ICC. I did it very seriously.

I recognize the performance and functions that need to be performed, but I have become convinced that the agency, as now constituted, in the relationship with the industry which they are supposed to regulate, has become so engrained in attitudes and so cumbersome in their procedures that they absolutely fail in their mission.

The Rock Island case is a good example of the reason why I came to that conclusion. If they cannot make a decision in 11 or 13 years, how in the world will they ever make a decision?

They seem to be aware of the problem, until eventually it becomes a moot point. There is nothing left to merge, there is nothing to salvage.

But when I introduced that bill to abolish the ICC, guess who dissented on me? The truckers.

Mr. PERCY. Of course.

Mr. McCLURE. They do not want the ICC abolished. They would like to do away with some of the regulations which the ICC has, but they like some of the regulations the ICC has.

There are too many men and women in business, too many business enterprises that have not just established a cozy relationship with the regulatory agency, but they have grown comfortable with it. They understand that process, they know how to use it to their benefit and they would rather fight the bureaucratic nightmare and jungle than be out in the open marketplace fighting the competitive market.

Mr. PERCY. The regulatory system has become a make-work program, because the city is filled with lawyers who specialize in getting along with these agencies.

The ACTING PRESIDENT pro tempore. The time of the Senator from Arizona has expired.

Under the previous order, the Senator from Idaho (Mr. McClure) is recognized for not to exceed 15 minutes.

Mr. McCLURE. I yield to the Senator from Illinois to complete his statement.

Mr. PERCY. There is a built-in mechanism to self-perpetuate all these agencies. Certain industries do not want to give up the special relation they have. They know people inside the agency; they know how to get along with them. They can get along with them, they think, better than their competitors or potential competitors in some other industry.

Therefore, they like the relationship because it creates, in a sense, a monopoly for them and freezes others out.

I do not like that. I like the free competitive system. I have been a free trader all my life. I recognize that in the photographic business for instance, a nice big tariff would keep competition out. But that is not what the consumer wants, and I think this is why we can join together. The consumer is the one, really, paying the price of regulation. The American public is paying the price.

I think the distinguished Senator from Idaho and the distinguished Senator from Arizona have performed a great public service in starting this colloquy. I hope it will help continue the momentum and interest, because we have to keep that up. If it is just a campaign issue for a year and then dropped, once again the American public will say that the bureaucrats and politicians are just talking about it and not doing anything about it.

Senator Byrd and I hope to offer a proposal to set up the kind of schedule the budgetary reform bill has set us on. I commend my colleagues.

Mr. McCLURE. I welcome the initiative of the Senator from Illinois.

I yield to the Senator from Arizona.

Mr. FANNIN. I thank the Senator from Idaho.

Today I wish to relate to the Senator from Illinois that I am introducing a regulatory reform bill. I covered earlier the different provisions of this bill. I say, finally, it will do away with the redtape and bureaucratic delay.

Everyone seems to agree that something must be done to cut Government down to size, to make the intricate web of agencies and regulators more responsive to public needs, interests and concerns and to improve the administrative process.

For too long too many Americans have looked to Washington for a quick remedy for the Nation's economic ills and for their own special problems. Characteristically, Members of Congress have responded to constituents' demands and to the pressures of special interest groups by proposing to spend more tax money, pass more laws, and create more Government agencies. Such simple solutions have proved inadequate and ineffective. The difficult and complex problems of our economy require much more than politics as usual. Fortunately, the electorate seems to appreciate this fact too. To paraphrase Lincoln, you cannot fool all the people all the time.

Mr. President, the American people are beginning to realize that another layer of bureaucracy and another set of rules and regulations can only add to their problems. Politicians traditionally have regarded regulation as an inexpensive way of enforcing socially desirable policies on business and achieving national objectives without adding significantly to the cost of Government. Consumers, however, now see that the cost of regulation shows up in the higher prices they must pay for the goods and services they need. They now understand that regulation contributes significantly to the high inflation rate and the shortages of essential products, such as natural gas.

As a consequence of this change in outlook, taxpayers are beginning to speak out against Government regulation. They are urging their elected representatives to tighten the reins on spending for Government programs and the Federal bureaucracy. They want the Congress to look into the operations of Federal agencies and the efficacy of economic regulation. Many are even urging a thorough revamping of the Government's regulatory system, with a view to eliminating those agencies and a repeal of those laws no longer needed.

The people are way ahead of the Congress in pressing for regulatory reform. Unfortunately, the record of Congress in this area is one of rhetoric rather than reform. I can only hope that the Members will soon heed the message and take positive and sensitive steps to correct this difficult but not insoluble situation.

Of course, regulatory reform is not new. Ever since the first regulatory agency, the Interstate Commerce Commission, was created 88 years ago, there has been talk of reform. Efforts have been made and commissions formed during the Eisenhower, Kennedy, Johnson, and Nixon administrations to study ways to improve the Federal Government's system of regulation and to cut down the size of the bureaucracy.

The impetus for current efforts at regulatory reform was the economic recession in our country together with the energy crisis which made most people realize that our domestic shortages and industrial lag could be traced directly to Government's overregulation of business.

Last year the Ford administration held a summit conference on the economy. Most of the participants, representing business, labor, the academic community and consumer interests, brought up the problem of Government regulation, the cost to the economy of regulation, the contribution that regulations were making to the inflationary spiral and the need to reexamine how government was regulating business and its citizens.

Then in June of this year, the President held a White House conference on regulatory reform with 24 Senators and Representatives. I was pleased to be one of those Members of Congress to discuss the problems of Government regulation with President Ford. In July, the President had a summit meeting with the commissioners of the major independent regulatory agencies to discuss how Government regulations stifle productivity, eliminate competition, increase consumer costs and contribute to inflation. At that meeting the President urged the regulators to undertake internal reforms to make their agencies more responsive to consumers and to cut down bureaucratic redtape and paperwork for small businesses.

It is encouraging that the President has taken the lead on this matter. In my opinion, regulatory reform is long overdue. The principal responsibility, however, rests with the Congress. It is unrealistic to believe that Government agencies and regulators will reform themselves without pressure from Congress. In addition, the Congress created the agencies and delegated to them the authority to make decisions and promulgate rules and regulations affecting business. The Congress has primary responsibility for oversight and control of the regulatory system.

It is time for the Congress to take a good hard look at what Government regulators and bureaucrats are doing to the economy. It is time for the Congress to investigate the Federal agency system, determine what improvements should be made and recommend specific changes in the laws.

Mr. President, I am pleased that we are holding this colloquy today—I hope, the first in a series of colloquies—to discuss the subject of regulatory reform.

The purpose of these colloquies is to examine our current system of Government regulation, and to analyze the problems created by Government regulation and to consider alternative methods to improve Government regulation. I hope that these sessions will provide a frank and candid exchange of different ideas and viewpoints. I welcome the participation of my Senate colleagues in what I hope will be a thoughtful and productive nonpartisan debate on the issues involved in deregulation and regulatory reform. Out of such discussion may come meaningful reform legislation.

Mr. President, later today I shall introduce a regulatory reform bill which is aimed not at specific Government agencies, but at specific problems common to many agencies which businessmen and consumers encounter in dealing with Government. Some of the problems covered by my bill include: The need of Government agencies to assess the costs against the benefits of proposed regulations; the failure of the Congress to exercise adequate oversight over the agencies; the problems of excessive and unnecessary paperwork, report filing and recordkeeping; Government redtape and bureaucratic delay; the proliferation of conflicting and contradictory regulations promulgated by different agencies; the quandary of the businessman who tries to comply with one set of regulations from one agency, but innocently violates another set of regulations from another agency.

These regulatory problems are familiar to you, so I shall not dwell on them or my proposals for curing them at this time. Instead, I would like to discuss briefly the most pressing problem created by Government regulation, namely, the costs or "hidden tax" on consumers.

There are many reasons why I favor regulatory reform, but perhaps the most important reason is the necessity to alleviate the tremendous costs to the consumer and harm to the economy caused by Government overregulation of business. I say "overregulation" because, in my opinion, there exist today so many agencies issuing and enforcing so many rules and regulations that the added costs to the public from regulation now far exceed the added economic and social benefits. I certainly do not quarrel with the purposes of most regulations. I believe that regulation is essential to accomplish certain desirable social goals, such as improved public health and safety. Unfortunately, the costs of such regulation now exceed these benefits. It is the responsibility of the Congress, therefore, to reform our Government regulatory system so that the public will once again be able to enjoy the benefits from regulation.

Mr. President, let me cite a few statistics which attest to the fact that we are being "overregulated" today. Prof. Murray Weidenbaum, the distinguished economist and former Assistant Secretary of the Treasury, says that in 2 years employment in the major Federal regulatory agencies rose from about 55,000 to about 64,000. The Office of Management and Budget estimates that there are almost 101,000 Federal regulators at work. In the past 10 years the total number of Federal agencies has increased from 77 to 102 according to the General Services Administration. However you look at it, there is a fairly large army of Federal bureaucrats living at the taxpayers expense.

No one knows for sure how much regulation, as a whole, costs the economy. Dr. Weidenbaum has stated that in the 12 months ending June 30, 1972, Federal spending for regulatory purposes totaled $1.3 billion. Within 2 years, outlays increased to $1.9 billion. Total spending for regulatory purposes was estimated at $2.2 billion in fiscal 1975. The General Accounting Office has put the yearly cost of government regulation at $60 billion. A more meaningful figure is the $130 billion cost to American consumers estimated by the President's Council of Economic Advisors. In other words, each American family spends approximately $2,000 each year for the total cost of the Federal bureaucracy and regulatory machinery plus the cost in terms of waste and excessive prices resulting from regulatory overkill.

Estimates of the costs of regulation by the Interstate Commerce Commission alone vary from about $4 billion to $9 billion per year. Let me cite an example of ICC regulated waste. Along the main cross-country interstate routes between Cleveland, Ohio, and Jacksonville, Fla. trucks roll along with trailers empty—even though shippers at both ends of the line would eagerly give them cargo. The truckers are permitted to haul freight one way only and must make the 1,000 mile return trip empty. Why? Because the ICC says that empty trucks on the highway are caused by "freight imbalances" along certain routes and by specialized vehicles, such as auto carriers, which can haul only certain kinds of loads. What a waste of energy and manpower. Yet it is the consumers who have to pay for this waste, in the form of higher prices passed along by shippers to the public.

Here is another example of an agency increasing costs to the consumer. A small airline operating only in Texas flies passengers between Dallas and Houston for as little as $15 per trip. An interstate airline, which operates under authority of the Civil Aeronautics Board, charges $31 for the same trip. A similar disparity exists in California on flights between San Francisco and Los Angeles. In both cases, the State-regulated airlines will charge lower fares, yet return comfortable profits. The passenger who happens to fly on a CAB-regulated airline will pay twice as much as the passenger who travels on a statewide carrier.

These are but a few of the many examples of the costs to the consumer and the economy as a result of Government over-regulation. I am sure that my colleagues can provide many other similar "horror stories" during these colloquies.

Suffice it to say that the costs to the economy from Government regulation are tremendous. Fortunately, the public has become wise to the effects of Government regulation and they now realize that they are paying a "hidden tax" for such regulation. Consumers realize that regulation can be "anticonsumer" because it raises prices they pay for foods and services they need and causes shortages in products they use. No wonder the taxpayers are demanding reform.

Mr. President, the people are looking to the Congress, to their elected representatives, for answers. It is time for us to take action.

I just wanted to cover that. I certainly will support the Senator's regulatory reform legislation, and I trust he will support mine.

I thank the Senator.

Mr. McCLURE. I say to both Senators, each of us is involved with pride of authorship, trying to push our own approach.

I think today the fact we are engaged in this colloquy ought to be evidence that this problem is broader than any individual approach to the problem and will require a concerted effort of each one of us to see that it is done.

I think the Senator from Illinois is exactly correct that it does cross party lines, ideologies, and various interests in our economy and society.

There is a widespread demand for the reform because there is a widespread recognition of what it is doing to us.

It is not just the businessman weighted down by the weight of regulation. It is not just the consumer who sees high prices and a smaller variety of goods in the marketplace. It is not just the person who seeks to enter into a business and finds it difficult to get into the business because of the regulatory barriers to the entry into the marketplace.

All of these groups and many more see the reason for the failure of the present regulatory structures in this country.

I do not join with those who charge some kind of a conspiracy between business and the regulatory agency. I think there grows up a relationship in which each finds that the other is useful to them. The regulatory agency would not have a job if they did not have a business to regulate. The business finds certain aspects of that regulation that assist them in the marketplace.

We have a whole host of people who live on that system, whether it is the corporate attorney, the lobbyist in this town, the attorneys for one of the regulatory agencies, the commissioners or staff, that all have a vested interest in seeing the system is not changed.

It is going to take the very best efforts of every one of us working together, a common purpose, to break down that resistance.

I could not help but think a moment ago, speaking of the Rock Island case, of my reaction when I saw that the Commission that is charged with the responsibility of administering a railroad, which they have already, and requiring divestiture of media in common ownership, whenever there was a change of ownership of a newspaper that also owns broadcasting facilities, that requires divestiture, or a separation.

The first case that comes up of any real note, at least that I am aware of, occurs in this town with the ownership of the radio, TV, and newspaper that are amalgamated together in the Washington Star newspaper and radio and TV. And what was the response of the regulatory agency when they were called upon to rule on the application of their own regulation? They thought it might take them a year to make up their mind.

Well, that is ridiculous. They wrote the regulation. They know why they wrote the regulation. They know what its application is within this market. Right or wrong they ought to be able to make a decision. My personal belief is that they should make a decision very soon and I would hope that they are consistent in that decision, that they are willing to apply here the same rule that they intend to apply everyhere else in the country. If it is good for small country newspapers in a single newspaper market, it is good in this market. If the arguments for the divestiture are valid in Peoria, they are valid in Washington, D.C. If they are valid in Boise, Idaho, they are valid in Washington, D.C. If they are not valid here, they are not valid anywhere in the country.

Certainly, they can make a decision. They can somehow use their regulatory process to take a look at the application of the regulation which they were competent to write, but seem incapable of applying.

Mr. President, I think that the effort undertaken by the Senator from Arizona in the introduction of this legislation, supported, as he is, this morning, by the Senator from Utah (Mr. GARN), the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Mr. PERCY), and others, is a hopeful move.

I am pleased to join in cosponsorship of that particular legislation. Every one of us in this body could give some case examples.

Mr. President, much will be said during the bicentennial year about our Nation's unique legacy of freedom. The fine old phrases of the Declaration will be repenned by schoolchildren and will roll from the tongues of orators. And the foresight of those who gave those phrases their life will once again be admired. The life of the words lies not only behind them, in the minds of their writers, but exists today in the American people who continue their interpretation. Proof of the living response of the U.S. citizen is in the fact that we are hearing more and more about the least talked about freedom of our legacy: the freedom from Government. As we turn from periodicals to broadcasts to interviews, we hear *more* people asking for less Government.

Ironically, the very legislators who claim the most sensitivity to those who call themselves alienated who say that their Government is unresponsive to their needs, continue to plan ways to saddle them with more of it. Indeed I find that the Congress is a more imaginative body than I had ever suspected. Having run out of areas in which it can regulate the citizen's lives it has changed from quantitative to qualitative regulation. Instead of simply thrusting another area of business, industry or recreation under the regulatory umbrella, Congress has involved itself in a series of measures each of which regulate everything from a different critical angle.

If the regulators have their way, we will have an agency to regulate everything from the consumer point of view, from the energy point of view, from the economic point of view and eventually from as many points of view as can be dreamed up. Each will have its own secure bureaucracy and none will be bothered by the fact that its resonsibility overlaps that of the others and duplicates the activities of a still-increasing number of commissions, committees, authorities, administrations, panels, boards, and task forces.

The inconvenience and absurdity of each governmental intrusion are obvious. But something more serious is at stake. Traditionally, Americans have been governed according to laws enacted by elected representatives who are in turn responsible to the voters. Under the regulation system, we are not only subjected to the whims and caprices of unelected bureaucrats, we are actually put in jeopardy because of the difficulty in reading, interpreting and applying the rules which have the force of law.

Mr. President, I would like to congratulate my colleague, Mr. FANNIN. It seems to me that his approach to regulatory reform is both timely and judicious. It is clear to anyone who reads the Senator's proposed legislation he is not favoring any special interest group, nor is he grinding any axes. He blames no one for the redtape or the bales of paper. He is simply trying to get rid of them. I would like to say that I am delighted to be a cosponsor of his bill.

Scarcely a day passes when a constituent fails to beg for help in fighting some regulation or other. The usual complaint is not that the regulations are confusing nuisances, but that they threaten the very livelihood of the citizen himself. I would like to recite the most recent complaint I have heard, not because it affects a large number of people, even in the State of Idaho, but because it provides a clear example of how deeply and thoroughly the Federal Government has gone in its effort to regulate every facet of life.

In my State of Idaho the sheep industry is an important part of the economic life of our State. The men traditionally and necessarily look after the sheep from mobile camps. For decades they have done this. They have gone out in covered wagons. That relatively old way of life has been retained for only one reason: It is efficient. It gets the job done that is necessary to be done in moving the sheep and protecting them from predators and protecting the resource in the grazing on the range.

The canvas of the wagon preserves its low center of gravity so that it has stability on the rough land that it must traverse. It adds very little weight to a vehicle that has to cover many rough, roadless miles.

The wood stove in that wagon provides heat as well as hot food and there is never a fuel problem in the area where they are going. The wagon's 75 square foot area is ample in that it is only very occasionally used by more than one person for sleeping.

The Labor Department is, of course, offended by the commonsense and convenience of these arrangements. Its new regulations insist that there be rear window exits precisely 24 inches by 24 inches. One man who had made a larger exit was required to diminish it to the required size. The Labor Department would like to see the old canvas tops of those wagons replaced with aluminum.

The two or three people who have made this adjustment have reported that the new tops are unwieldly and they are breaking prone and heavy. Also, they present such wind resistance that the occupants are highly vulnerable during storms. The Department also insists that people living in such conditions cannot be warm enough. They must carry propane for heat. This means space, weight, and fume problems, problems that did not exist before. But our bureaucrats blissfully consider themselves to be improving life. They require the current double mattress space to be divided into two, for reasons as yet unexplained. They require the integration of the college campus but they are going to require the separation in the sheep camps, although again space loss results.

The final absurdity is a new requirement of 60 square feet per person instead of the current 75 square feet per wagon. All of this is done not with a desire to correct past problems—there has never been a serious accident, to my knowledge, in a sheep wagon—but with a passion to regulate for the sake of regulation.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HELMS. Mr. President, I believe I have 15 minutes.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HELMS. I am glad to yield 2 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, if our forefathers had suffered such constraints in their efforts to cross the country in their covered wagons, only the east coast of the United States would be populated today. This illustrates what the founding fathers so clearly knew: The heel of the despot feels the same whether it is on the tyrant's boot or the shoes of numberless bureaucrats who have assumed our individual responsibilities for us in return for an ever-decreasing measure of economic security.

Mr. President, I would like to close by quoting Alexandr Solzhenitsyn, a man who has learned something of the nature of despotic governments. He said:

> Let the people breathe. Let them think and develop.

Mr. President, regulating them out of their jobs is no way to get that done.

I thank the Senator from North Carolina for yielding.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

GAO AUDIT REPORT ON SOUL CITY

Mr. HELMS. Mr. President, on March 5 of this year, in response to numerous allegations of apparent impropriety involving Federal funds and loans, the distinguished Member of the House of Representatives representing the Second Congressional District of North Carolina, L. H. FOUNTAIN, and I requested an audit and investigation of the financing and operation of so-called Soul City. Mr. President, this is a new "community" in my State authorized by title VII of the Housing and Urban Development Act of 1970.

Mr. President, that GAO report was released this morning.

Since that project has to date cost the taxpayers of America $4,600,000 in funds already spent, and since another $14,600,000 have either been reserved or awarded for Soul City, I feel that I should share the conclusions of the audit report with my colleagues.

Before I do that, Mr. President, let me say that this report brings to the mind of the Senator from North Carolina a declaration that we so often hear in this Chamber, "Oh, you cannot cut Federal spending. You cannot reduce the Federal budget. You will deprive the poor and the needy."

As a matter of fact, Mr. President, any Senator who has examined any Federal project is bound to be aware that we could take a switchblade knife and cut off 25 percent of it, and the people of America, and particularly the poor of America, would be better off if proper utilization of the remaining money was effected.

As I noted in this Chamber several months ago when the appropriations bill from the Department of Housing and Urban Development was under consideration, the plans for creating Soul City were first announced in 1969 by Mr. Floyd B. McKissick, and they were grandiose plans, indeed. Mr. McKissick and others widely advertised throughout this country that Soul City would be a haven for black people. Apparently, the idea was that blacks needed to have a city that was all their own. The project, it was said, would be a new "freestanding community" with its own industrial base to be developed by black controlled corporations.

The site of this project is located in my State of North Carolina, about 50 miles northeast of Raleigh in Warren County.

The city was to cover some 5,000 acres including a 928-acre industrial park which, it was said, would ultimately employ 8,200 people. To achieve all this, the Soul City foundation and a proliferation of other organizations created by Mr. McKissick and his associates for the obvious purpose of applying for Federal funds have been awarded numerous large grants, provided a loan guarantee, and the like, to develop programs in education, manpower training, health services, recreation, industrial development, and many other areas. So what has happened?

In one form or another over the past 6 years, the Federal Government has thrown millions of the taxpayers dollars at this project through the Department of Housing and Urban Development, the Office of Economic Opportunity—later the Community Services Administration—the Department of Labor, the Department of Commerce, the National Endowment for the Arts, and the Department of Transportation. In all, the Federal participation, in one form or another, including loan guarantees, amounts to $19.2 million.

Now, 7 years following the announcement of the grandiose plans, with the aid of the General Accounting Office and a very meticulous investigative reporter in Raleigh, N.C., we are able to gain an idea of how Soul City is being managed and how the millions upon millions of Federal dollars are being spent. There are, in all, nine organizations associated with the operation of Soul City, as follows: First, the Soul City Co., second, Warren Regional Planning Corp., third, Soul City Foundation, Inc., fourth, Health Co. Inc., fifth, Soul City Utilities Co., sixth, Soul City Sanitary District, seventh, Floyd B. McKissick Enterprises, Inc., eighth, McKissick Soul City Associates, and ninth, Madison & McKissick Development Co., Inc.

This confusing maze of corporate and other entities, with its interlocking directorates and nepotism, has the appearance of a family enterprise. In an editorial appearing in the News and Observer, Raleigh, N.C., on March 5, it was stated that—

> McKissick's control and influence within the four profitmaking and five nonprofit organizations that own and comprise Soul City give a clear appearance of conflict of interest. For instance, McKissick is chairman of the nonprofit Warren Regional Planning Corp., which got $274,000 in Federal funds in 1973 to provide "technical assistance" to the profitmaking Floyd B. McKissick Enterprises, Inc., which he also heads.

Stating that the allegations regarding interlocking relationships between the organizations is correct, the GAO report also verified that the Warren Regional Planning Corp. hired Gordon R. Carey, at $25,000 a year, to direct the aforementioned contract to provide the $274,000 in Federal funds to McKissick Enterprises. I do not know how the distinguished occupant of the chair (Mr. STONE) would describe a ripoff, but I think we have here a pretty good example, because Mr. Carey is a vice president and stockholder in McKissick Enterprises.

The interlocking relations are further illustrated by the GAO verified fact that Mr. Carey and Warrenton, North Carolina lawyer, T. T. Clayton are McKissick's partners in McKissick Soul City Associates, which is a limited partner in The Soul City Co. And, while directing the Warren Regional Planning Corporation project to provide technical assistance to McKissick Enterprises, Carey farmed out legal work (paid for with Federal funds) to T. T. Clayton's law firm—a goodly arrangement, Mr. President. Additionally according to the News and Observer editorial, Clayton's wife is the $20,000-a-year director of Soul City Foundation, Inc., one of the five groups with which Clayton is not directly connected. McKissick's son-in-law, according to the editorial, is the $17,000-a-year associate director of the foundation, which has obtained numerous Federal grants totaling more than $1 million to plan and implement social and human services programs for the future city.

The editorial concluded that—

> These questionable aspects of McKissick's venture in Warren County are but a few of its disturbing features. They suggest strongly that public funds aren't being spent wisely or in an accountable manner.

That seems to the Senator from North Carolina to be the understatement of the week. The editorial continued:

> Some order must be brought to management of the project to save it, or else to prevent further waste of public funds on it. And accounting is needed of the ethics and legality, or lack of them, that have brought the project to its present status.

So Representative FOUNTAIN of the Second District of North Carolina and I requested an accounting—an audit and investigation by the General Accounting Office. In the report of the Comptroller General in response to that request, it is revealed that in a statistical-sampling of 349 selected expenditure transactions, 86—or about 25 percent—did not meet one or more of the tests for allowability. Another examination of a sample containing 113 transactions revealed that 39—or about 35 percent—of the transactions did not meet one or more of the established tests for allowability. Of that number, 29 related to expenditures that had not been made in accordance with the provisions of the Federal grants or contracts. The report concluded that—

> On the basis of our projections at a 95 percent confidence level, the (total) number of transactions . . . which failed to meet one or more of the tests for allowability ranged from 1,063 to 1,926.

Additionally, the report in its recommendations states that—

> In view of the serious questions our review raised of expenditures of Soul City organizations and of the planned expenditures of millions of dollars of Federal funds by these organizations for the Soul City project, we recommend that the Secretaries of HUD, HEW, and Commerce and the Director of CSA:
>
> Determine the allowability of grant and contract expenditures made to date and recover all unallowable expenditures.
>
> Insure that adequate controls exist to prevent such unallowable expenditures in the future.

Copies of the report are being provided to those Department heads and I have written to them this morning urging that they take steps to ensure that the recommendations of the Comptroller General are fully carried out before their respective Departments consider approving or funding any additional grants, loans, guarantees, or other benefits for Soul City. That, of course, will be a very constructive step in the direction toward fiscal responsibility and financial integrity on the part of both the Federal Government and Soul City.

However, the matter is not entirely that simple. Other statements and revelations in the report of the Comptroller General raise additional questions management, or lack of it, at Soul City. But first, I would remind my colleagues that the "city" is appropriately named, because there is hardly a soul there. What then do the hardpressed taxpayers have to show for their $4.6 million that has been thrown at the project. The GAO report advised that construction finally began on an interim water system and an industrial fire protection system last April, the month after the request for the GAO audit and investigation was filed. This fall, a study for a waste water treatment system was underway. Following completion of the study, they will begin working on the plans for the system. According to the report, the underground utilities are further along—final design has been completed. A building and roads are under construction, and there are a number of housetrailers at the site. Viewing this and exercising an unsurpassed level of charity, GAO mustered the courage to suggest that the physical development was "essentially on target." The report does not indicate what would constitute being "essentially off target."

In short, Mr. President, at Soul City funds have been expended for art and culture, but there is no evidence of such there, except for the traditional folk art, and so forth, of the area, and we have always had that for free. There have been funds expended for industrial recruitment and employment training, but there is no industry and there are no employees. Funds have been expended for roads, water and sewer needs, and social planning, but except for the occupants of a few housetrailers, there are no people. Indeed, funds have been spent for education, but there are no students. In point of actual fact, Mr. President, there is no Soul City—just an expanse of bare land that has been somewhat tarnished by the most massive, wasteful boondoggle anyone in that area can remember.

As noted earlier, one of the nine organizations associated with the project is HealthCo, Inc. And, as also noted earlier, like the other organizations it reflects the interlocking relationship that exists with other of Mr. McKissick's organizations. Clearly, there have been some problems with HealthCo. Its stated purpose is to provide health-care services to residents of Warren and Vance Counties. In August 1974, when it opened, the HealthCo clinic treated an average of seven patients a day.

By May 1975, the clinic was treating 31 patients a day, which workload remained constant through August 1975. In August 1975, with such a patient load, the patient-visit cost was about $44, after deducting fees collected from patients and third-party payments. The GAO report advises that this cost resulted from the clinic's staffing level, which consists of 2 full-time doctors and 1 full-time dentist, 2 family-nurse practitioners, and 18 other employees in support and administrative jobs. In all, the clinic has 23 employees to serve 31 patients per day.

The regional Administrator told GAO that one problem with HealthCo had been the organization's attitude. He said that the emphasis seemed to be on employing people rather than achievements. Other Public Health Service officials assessed HealthCo's performance as poor, considering the amount of money spent—about $760,000 as of December 31, 1974—and the length of time the organization has been in existence—about 30 months. The official attributed HealthCo's poor performance to: First, lack of clearly defined program goals and objectives and second, ineffective management.

The regional Administrator of the Public Health Service was even more candid. He stated that the lack of continuity of employees in key positions and Mr. McKissick's influence on HealthCo's operations adversely affected management's capability to perform effectively. As an example of this interference, he referred to a letter dated July 21, 1974, from Mr. McKissick to the then executive director in which Mr. McKissick expressed his concern over the executive director's failure to:

> 1. Use the services of an insurance company which committed $750,000 to the Soul City Foundation for building Soultech 1 and which has a representative on the board of directors of Floyd B. McKissick Enterprises, Inc. Additionally, the insurance company had an interlocking board with a bank which was a financial backer of Soul City.
>
> 2. Purchase vehicles from dealers that were friendly to Soul City.
>
> 3. Employ, as promised, the wife of the General Manager of The Soul City Company.

Additionally, CPA and HEW audits of HealthCo raised questions regarding costs related to: First, improper control over travel advances and expenses paid to employees; second, salaries and wages in excess of budgeted amounts; and third, penalty and interest payments to the Internal Revenue Service for late payment of taxes in 1973 and 1974.

Finally, the Public Health Service in its review of grant proposals for HealthCo stated that—

> 1. It appeared that the level of funding for the project did not coincide in any way with what had been or should have been the goals and objectives of the program which were ambiguous and for the most part nonexistent.
>
> 2. It was high time that HealthCo seriously considered divorcing itself from the Soul City Foundation and McKissick Enterprises and got on with the business at hand. If that could not be done physically, then it should be done programatically.
>
> 3. The financial base, number of patients treated, and those projected did not indicate sufficient need nor warrant an expenditure for a permanent facility at that stage of the program.

The initial HealthCo grant provided for constructing a permanent health-care facility to contain about 16,000 square feet of space. Among its other unusual achievements, HealthCo imported a medical director from Jamacia to Soul City. If that is not enough, the Public Health Service disallowed the costs given him for travel expenses from Jamaica to Miami, Fla.—the port of entry. The medical director appealed PHS's decision, and as of July 1, the appeal was still pending.

In passing, let me note that the National Endowment of the Arts gave the Soul City Foundation $22,120 between January, 1973 and July, 1974 to plan and develop a long range cultural arts program. NEA's normal monitoring procedures includes making site visits to ensure that the grant funds are being spent for grant-related programs. As of July, 1975, NEA had not made any site visits to the Soul City Foundation. Additionally, NEA has not audited its grants to the Soul City Foundation. NEA officials told GAO that they selected for audit only those grants with a large dollar amount and those which had received adverse publicity. The official further stated that, although Soul City had received some adverse publicity, none of it related to the NEA grants, and NEA did not plan to audit the grants. Today, I sent a letter to Ms. Nancy Hanks, Chairman of the National Endowment of the Arts, advising her of the high level of unallowable transactions associated with Soul City. In that letter, I suggested that NEA might wish to reconsider its decision regarding an audit. In my view, that would be a minimum level of prudence.

Perhaps the most flagrant administrative abuses within the Federal Government in connection with Soul City grants occurred in the Office of Economic Opportunity—now the Community Services Administration of HEW. Since CSA assumed responsibility of the OEO grants, the audit report speaks in terms of CSA, even though many of the abuses mentioned no doubt occurred during OEO's tenure. Of the six grants CSA—or OEO—awarded, two were not processed according to normal review and approval procedures. Because of inadequate documentation, GAO could not determine if normal review and approval procedures were followed for three other grants.

According to a CSA headquarters official, in one instance the former CSA director had directed that a proposed grant in the amount of $502,875 be approved and funded even though the proposal had not progressed through the review and approval process. CSA regional office officials told GAO that another grant submitted by the Soul City Foundation to CSA headquarters was, in turn, referred to the Atlanta regional office for review and recommendation. However, GSA headquarters told the region that its allotment was being increased by $93,000 to fund the proposal.

Additionally, regional officials said that the Franklin-Vance-Warren Community Action Agency was responsible for monitoring the performance of the grant awarded by the region and that the only monitoring of the Soul City Foundation by CSA would be through its monitoring of the community action agency's performance. I have today written to the Secretary of the Department of Health, Education, and Welfare, inquiring as to whether in the light of the GAO report he feels that CSA should reconsider its stated monitoring policy regarding Soul City.

Mr. President, the list goes on. Indeed, I have a HUD grant notification dated December 15, 1975, to the Soul City Co. in the amount of $445,775. And, the GAO report consists of 96 pages. The tangled web of interlocking, nepotistic organizations that comprise Soul City is revealed. The GAO report failed to indicate a violation of conflict of interest provisions, but it did in large part validate the allegations contained in the News and Observer editorial and the research of a very fine and meticulous investigative reporter. I have forwarded a copy of the GAO report to the Attorney General with the request that he have the appropriate officials within the Justice Department review the conclusions of law contained therein. I am not an attorney, and I do not know what, if anything, that review will disclose. But, whatever the result, an obvious fact will remain—Soul City is suspected by many citizens of my State to be the greatest single waste of public money that anyone in North Carolina can remember. It is based upon concepts developed out of an intellectually and morally bankrupt doctrine—a doctrine that suggests that enough money thrown at any problem will make it go away, or thrown in similar fashion at any proposal will make it happen.

It just does not work that way. There really is no such thing as a free lunch. Somebody must pay the price. The taxpayers of my State are quite certain that they know who that "somebody" is.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 15 minutes, with statements therein limited to 5 minutes each.

FOREIGN ASSISTANCE ACT OF 1975—S. 2662

AMENDMENT NO. 1291

Mr. EAGLETON. Mr. President, recent administration testimony concerning the CIA's legal authority to conduct covert actions and our activities in Angola serve to highlight the need to assure that the War Powers Resolution covers paramilitary operations.

CIA Director William Colby, in testimony before the House Intelligence Committee on December 12, acknowledged the paramilitary nature of his agency's activities in Angola, although he described those activities as "modest." Subsequent press reports—some apparently the result of explanatory leaks from the administration—have indicated that "not more than five U.S. agents" are on the ground in Angola "to relay reports about the military and political situation." Another report states that the United States has supplied five "artillery spotter planes" piloted by Americans.

Mr. Colby testified that this "modest" operation was permitted under the war powers resolution because "paramilitary operations were stricken from the act." Mr. Colby is correct on this point. My own amendment to include civilian combatants as well as uniformed Armed Forces under the war powers resolution was rejected by the Senate—see CONGRESSIONAL RECORD of July 20, 1973, pages 25079–25092.

But should not Congress—the branch given primary responsibility under the Constitution for authorizing the involvement of the United States in hostilities—insist on its right to approve paramilitary operations? Should we have to hear the details of such operations, no matter how "modest," by controlled leaks to the press?

If the five pilots and five agents reported to have entered the hostilities in Angola were U.S. military instead of CIA civilian personnel, the President would be obliged, under section 4(a)(1) of the war powers resolution, to report that fact to Congress. In addition, if no action were taken within 90 days to authorize their activities, they would have to be withdrawn.

That is the formula of the war powers resolution as it applies to military personnel.

It is not a formula I endorse since I feel it contradicts the constitutional design—the design that says Congress gives its authority prior to our involvement in hostilities.

Yet the 90-day formula was written with our Vietnam experience in mind. It was written as a reaction to the difficulty Congress had in ending that interminable war. We wanted a mechanism to automatically terminate an unauthorized war.

But the war powers resolution has a gaping loophole which is now being used by President Ford to involve the United States in hostilities in Angola in much the same way we initially fell into the mire of Southeast Asia. Just as President Eisenhower used civilian pilots in 1958 to bomb anti-Sukarno rebels in Indonesia—just as President Kennedy in 1961 allowed the CIA to train an army and lead the invasion of Cuba at the Bay of Pigs—just as Presidents Johnson and Nixon waged a secret war in Laos without congressional consent, President Ford is now using CIA personnel in a paramilitary operation in Angola.

Some difficult questions have to be asked and presumably answered before our Angola policy can be assessed.

What is the nature of our involvement in Angola? What are the tactical and strategic implications? Is it sound policy to become embroiled in an African war, especially after having virtually ignored Africa for 6 years?

Is it wise to ally ourselves in this venture, even indirectly, with South Africa? Are the deepwater ports of Angola and the shipping lanes off its coast important enough to our national interests to warrant our involvement in a war?

Is our Angola intercession driven more by a feeling that détente will not work if the Soviets are allowed to move into previously neutral or pro-West areas? Is the other side of the détente coin the more familiar "containment" strategy of the fifties?

What is the nature of the administration debate over Angola which reportedly resulted in the resignation of the Assistant Secretary for African Affairs, Mr. Nathaniel Davis? Was Mr. Davis in fact advocating a policy of exposing Soviet imperialism through diplomacy rather than adopting Soviet techniques?

Mr. President, many in Congress will no doubt feel that our "modest" paramilitary operation is needed—that the risks are not as great as they might appear at first blush * * * that the deepwater ports of Angola and the protection of shipping lanes from the Persian Gulf are important enough to warrant an even greater involvement by the United States.

It is entirely possible that I could be persuaded to this point of view. But what is important now is that Congress be given an opportunity to debate these issues. What is important is that Congress have a say in matters involving war and peace. What is important is that Congress, after carefully considering the risks, either authorize or stop our involvement in Angola.

Mr. President, the legal implications of our inaction on this matter are as important as would be whatever corrective actions we might take. Thus far, Congress' desire to limit CIA covert operations has created a Catch-22 situation. We attempt to limit certain activities and the administration turns right around to cite the limiting provision as authority for that which is being limited.

For example, Mr. Mitchell Rogovin, special council to the Director of Central Intelligence, testified on December 9 before the House Intelligence Committee that the President not only possessed "inherent" powers to conduct paramilitary operations, but that Congress implicitly "acknowledged" this "inherent constitutional authority" in the war powers resolution.

Mr. Rogovin cited section 3 of the resolution which states that the President should "in every possible instance" consult with Congress "before introducing U.S. Armed Forces into hostilities." He then goes on to cite section 8(d)(1) which states that the war powers resolution is not intended to "alter the constitutional authority" of the President or Congress.

Referring only to those two sections, Mr. Rogovin then offers his penultimate conclusion:

> If the President has the power to dispatch troops to foreign countries and to use military force short of war (the term "war" is used by Mr. Rogovin to mean all-out, declared war)—and the foregoing discussion clearly demonstrates that he does—than it would logically follow that he has the power to send civilian personnel to foreign countries to engage in covert action (under which general category Mr. Rogovin includes covert paramilitary operations) . . .

Mr. President, those now considering legislative reforms in the intelligence area will find Mr. Rogovin's testimony interesting for its Orwellian logic. He in effect says that Presidents have an inherent authority to conduct covert actions—an untouchable constitutional power recognized in the war powers resolution. If you follow Mr. Rogovin's argument to its logical conclusion, he is saying that Congress cannot enact a statute outlawing covert actions—that such a statute would unconstitutionally infringe upon the President's "inherent" powers. Such a proposition is frankly preposterous.

Not so preposterous, however, are Mr. Rogovin's and Mr. Colby's assertions that the war powers resolution does not require the President to report the involvement of CIA or contract personnel in hostilities. Consider the following exchange between Chairman PIKE of the House Intelligence Committee and Mr. Rogovin:

> Chairman PIKE. Mr. Rogovin, you cite the War Powers Act in your testimony as imposing certain limitations on the presidency. The War Powers Act involves the use of American Armed Forces. Would you deem the CIA to be a part of the American Armed Forces?
>
> Mr. ROGOVIN. No sir.
>
> Chairman PIKE. So that in your view of the law there would be nothing to prevent the CIA from hiring individuals to fight a war without the approval required by the War Powers Act?
>
> Mr. ROGOVIN. That is correct. That legislation would not inhibit (it) . . . all the War Powers Resolution does is require the President to consult with Congress before introducing armed servicemen into hostilities.

Mr. President, when I urged the Senate to broaden the coverage of the war powers resolution to encompass combatants, I warned that failure to do so might encourage future Presidents to resort to paramilitary operations to avoid the reporting requirements for uniformed forces—see CONGRESSIONAL RECORD, May 21, 1975, page 15580.

Today in Angola we are participating in a hostile action—in a situation which would be covered by the war powers resolution if military instead of civilian personnel were being used. And, because of the loophole we left in the law, Congress has been excluded from the decisionmaking process.

It should make no difference whether the five American pilots reported to be flying artillery spotter missions in Angola are civilian or military. That is a combat function being performed in a hostile area at the direction of the President of the United States.

It should make no difference that the five agents on the ground in Angola are wearing seersucker suits instead of Army fatigues. They have been introduced into hostilities by the President of the United States. And, if they were military personnel, their presence in the midst of the Angola fighting would have been reported to Congress as required by the war powers resolution.

American involvement in hostilities, no matter how minor, should be a matter for Congress and the President to decide together. Our Angola adventure may be limited now, but the exigencies of maintaining those whom we support could well lead to deeper involvement. Whether that involvement is paramilitary or military in nature, Congress should participate in the decision. Congress should decide whether to stay in or get out.

Mr. President, I am introducing an amendment today to the Foreign Assistance Act soon to be considered by this body. The amendment is a provision of a bill I have introduced to amend the war powers resolution. It would circumscribe the President's use of American or contract civilian combatants in the same manner uniformed Armed Forces are now covered by the law.

Under the amendment a President would be required—as he is now required in the case of uniformed forces—to report the involvement of civilians, whether directly or as advisors, within 48 hours after their introduction into a hostile situation. Clearly, if this provision were now a part of the war powers resolution, we would not be scurrying around trying to find out the exact nature of our involvement in Angola.

Mr. President, the war powers resolution as it is written today unintentionally encourages a President to use covert civilian combatants in lieu of uniformed personnel. And unless we quickly close this obvious loophole, our Angola involvement will represent the precursor for a new type of presidential war—a war fought secretly with plainclothes soldiers and hired mercenaries.

I thank the Chair.

MESSAGES FROM THE HOUSE

At 10:55 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed without amendment the bill (S. 2757) to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5541) to provide for emergency relief for small business concerns in connection with fixed-price Government contracts.

The message further announced that the House has passed the bill (H.R. 1547) to amend title 38 of the United States Code in order to extend medical benefits to the survivors of any veteran who at the time of death was suffering from a total and permanent service-connected disability, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 11:49 a.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bills:

S. 2757. An act to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

H.R. 1753. An act to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes.

H.R. 2110. An act for the relief of Joyce Ann Farrior and Sarah E. Farrior.

H.R. 4865. An act to amend title 39, United States Code, to prohibit certain franked mailings by Members of the Congress and certain officers of the United States, other than mailings related to the closing of their official business, after such Members or officers have left office.

H.R. 6642. An act to provide for allotment or assignment of payments from civil service annuities, and for other purposes.

H.R. 7976. An act to amend title 5, United States Code, to provide that annual leave lost by a Federal employee because of an unjustified or unwarranted personnel action shall be restored to the employee, and for other purposes.

H.R. 10647. An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 12:25 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Ullman, Mr. Mills, Mr. Burke of Massachusetts, Mr. Rostenkowski, Mr. Landrum, Mr. Schneebeli, and Mr. Conable were appointed conferees on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Edwards of California, Mr. Seiberling, Mr. Drinan, Mr. Badillo, Mr. Dodd, Mr. Butler, and Mr. Kindness were appointed managers of the conference on the part of the House.

The message further announced that the House insists upon its amendments to the bill (S. 2554) to amend Public Law 93–107 with regard to the broadcasting of certain professional sports clubs' games; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Staggers, Mr. Macdonald of Massachusetts, Mr. Murphy of New York, Mr. Carney, Mr. Byron, Mr. Frey, and Mr. Madigan were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2735. An act to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes;

H.R. 3035. An act to require the payment of interest in certain funds of the United States held on deposit in commercial banks, to provide for reimbursement of commercial banks for services performed for the United States, and for other purposes;

H.R. 8304. An act to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes;

H.R. 9348. An act to name a building in Temple, Texas, as the "W. R. Poage Federal building";

H.R. 10268. An act to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents;

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes;

H.R. 11016. An act to extend the Renegotiation Act of 1951 for six months; and

H.R. 11045. An act to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such Act.

At 1:45 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has rejected the report of the committee of conference on the disagreeing votes of the two Houses on amendment of the Senate to the amendments of the House to the bill (S. 622) to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement U.S. obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery.

The message also announced that the House has receded from its disagreement to the amendment of the Senate to the amendments of the House to the bill (S. 622), supra, and concurs therein with an amendment in which it requests the concurrence of the Senate.

At 5:55 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed the bill (H.R. 8529) to establish improved programs for the benefit of producers and consumers of rice, in which it requests the concurrence of the Senate.

The message also announced that the House has passed without amendment the following bills:

S. 848. An act to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes; and

S. 1922. An act to amend the act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

The message further announced that the House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 62) making apportionment of funds for the National System of Interstate and Defense Highways.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. Stone) laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the Board of Supervisors of Santa Barbara County, California, urging support of S. 327; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOSS, from the Committee on Commerce, with amendments, and an amendment to the title:

S. 642. A bill to amend the Federal Trade Commission Act to authorize certain State and local officials to enforce certain rules promulgated by the Federal Trade Commission, and for other purposes (Rept. No. 94–564).

By Mr. HANSEN, from the Committee on Interior and Insular Affairs, with amendments:

S. 209. A bill for the relief of Willard H. Allen, Junior, and Nicole J. Allen (Rept. No. 94–566).

By Mr. METCALF, from the Committee on Interior and Insular Affairs, with amendments:

S. 2371. A bill to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes (together with minority views) (Rept. No. 94–567).

By Mr. HARTKE, from the Committee on Veterans' Affairs, with an amendment:

H.R. 10355. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes (Rept. No. 94–568).

By Mr. METCALF, from the Committee on Interior and Insular Affairs, with an amendment, and an amendment to the title:

S. 392. A bill to designate certain lands in the Flathead and the Lewis and Clark National Forests in Montana as wilderness (Rept. No. 94–569).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 9968. An act to amend section 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities (Rept. No. 94–570).

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs, without amendment:

H.R. 8151. An act to authorize the President of the United States to present in the name of Congress, a medal to Brig. Gen. Charles E. Yeager (Rept. No. 94–565).

Mr. PROXMIRE. Mr. President, from the Committee on Banking, Housing and Urban Affairs, I report favorably a bill (H.R. 8151) to authorize the President of the United States to present in the name of Congress a medal to Brig. Gen. Charles E. Yeager for his accomplishments with the XS–1 and for being the first man to fly an aircraft faster than the speed of sound, and I submit a report thereon.

The PRESIDING OFFICER. The report will be received and printed.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 1547. An act to amend title 38 of the United States Code in order to extend medical benefits to the survivors of any veteran who at the time of death was suffering from a total and permanent service-connected disability; to the Committee on Veterans' Affairs.

H.R. 2735. An act to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 3035. An act to require the payment of interest on certain funds of the United States held on deposit in commercial banks, to provide for reimbursement of commercial banks for services performed for the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 9348. An act to name a building in Temple, Texas as the "W. R. Poage Federal building"; to the Committee on Public Works.

H.R. 10268. An act to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents; to the Committee on Veterans' Affairs.

H.R. 10394. An act to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes; to the Committee on Veterans' Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, December 16, 1975, he presented to the President of the United States the enrolled bill (S. 2757) to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

HOUSE BILL PLACED ON CALENDAR

The bill (H.R. 8529) to establish improved programs for the benefit of producers and consumers of rice, was read twice by its title and placed on the Calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. FANNIN (for himself, Mr. Brock, Mr. Curtis, Mr. Eastland, Mr. Fong, Mr. Goldwater, Mr. Hansen, Mr. Helms, Mr. Hruska, Mr. Laxalt, Mr. McClure, and Mr. Thurmond):

S. 2792. A bill relating to the promulgation of rules and regulations by agencies of the United States. Referred to the Committee on the Judiciary.

By Mr. BUCKLEY:

S. 2793. A bill to provide for the establishment of a national cemetery on Long Island, N.Y. Referred to the Committee on Veterans' Affairs.

By Mr. WILLIAM L. SCOTT:

S. 2794. A bill for the establishment of a National Cemetery at Quantico, Va. Referred to the Committee on Veterans' Affairs.

By Mr. BARTLETT:

S. 2795. A bill to amend the Hobbs Act to provide for penalties for the damages to employers. Referred to the Committee on the Judiciary.

By Mr. BUCKLEY:

S. 2796. A bill to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes. Referred to the Committee on Public Works.

By Mr. BENTSEN:

S. 2797. A bill to amend title 39, United States Code, in order to provide free postage for voter registration materials and nonpartisan voter information for those States and other political subdivisions subject to the provisions of Section 4(a) and Section 203 of the Voting Rights Act. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FANNIN (for himself, Mr. Brock, Mr. Curtis, Mr. Eastland, Mr. Fong, Mr. Goldwater, Mr. Hansen, Mr. Helms, Mr. Hruska, Mr. Laxalt, Mr. McClure, and Mr. Thurmond):

S. 2792. A bill relating to the promulgation of rules and regulations by agencies of the United States. Referred to the Committee on the Judiciary.

REGULATORY REFORM ACT

Mr. FANNIN. Mr. President, I am pleased to introduce today on behalf of myself and Mr. Brock, Mr. Curtis, Mr. Eastland, Mr. Fong, Mr. Goldwater, Mr. Hansen, Mr. Helms, Mr. Hruska, Mr. Laxalt, Mr. McClure, and Mr. Thurmond, a bill relating to the promulgation of rules and regulations by Federal agencies. This legislation, to be known as the Regulatory Reform Act, is designed to cure many of the most common and most frequently complained of problems which businessmen and consumers encounter in dealing with Government regulatory agencies. Perhaps it should more properly be called the Consumers' Cost Reduction and Relief Act because I believe it will, if enacted, eliminate many of the hidden taxes that consumers pay as a result of Government regulation.

SUMMARY OF PROVISIONS

Briefly, my bill would accomplish the following:

First, it would make every Government agency demonstrate to the Congress that the economic benefits of a proposed rule or regulation exceed its anticipated costs to the public;

Second, it would require the House and the Senate to approve every major regulation proposed by the agencies;

Third, it would make employers and employees jointly responsible for seeing to it that regulations are complied with and would protect an employer from prescribed legal sanctions where he can demonstrate that a violation has been caused by acts of negligence or omission on the part of others;

Fourth, it would relieve persons from liability for noncompliance with agency standards where they can show that their violation was necessitated by compliance with other rules and regulations promulgated by the same or by another agency;

Fifth, it would terminate unnecessary paperwork, report-filing and recordkeeping requirements; and

Finally, it would do away with costly redtape and bureaucratic delay by requiring an agency to complete its findings and make its final determination within 6 months from the date a proceeding is initiated. If the agency fails to make its findings and reach a decision by that time, the Federal Government must then reimburse the applicant and other aggrieved parties for costs, plus estimated loss of revenues, attributable to the agency's inability to take timely action.

PURPOSE OF THE BILL

Mr. President, the Regulatory Reform Act is not aimed at any specific Government agency, such as the Interstate Commerce Commission or the Civil Aeronautics Board. Much has already been written and said by others concerning the need for deregulation and for abolishing or reforming specific agencies. In fact, legislative proposals have been or soon will be introduced by the administration and by certain of my Senate colleagues aimed at various agencies.

This bill, however, does focus on specific trouble spots and shortcomings common to numerous Federal agencies. It is my sincere belief that if enacted, the Regulatory Reform Act would substantially improve the operation of the entire Government regulatory system, by increasing the speed, efficiency, and responsiveness of the Federal bureaucracy, by reasserting and strengthening congressional oversight over all regulatory agencies, and by lowering the direct and indirect economic costs rising out of Government regulation of business that the public pays for goods and services.

GOVERNMENT OVERREGULATION AND THE NEED FOR REFORM

Mr. President, I have long been a proponent of regulatory reform, and my legislative record on this matter is clear. I have dealt with this subject at considerable length on previous occasions, inserting into the RECORD numerous statements of my own and articles by learned writers, journalists, economists, business leaders, Government experts, and numerous scholars attesting to the urgent need for reform of the Government's vast machinery of agencies, boards, bureaus, commissions, councils, departments, offices, or what have you, and for comprehensive review and assessment of the tangled web of Government rules and regulations that have grown up over the years.

In addition, as my colleagues are aware, in the Senate Interior Committee and on the floor, I have been active in the fight to end the Government's oil control program and to deregulate the natural gas industry. I have also introduced and cosponsored bills aimed at reforming the broadcast license renewal process and abolishing and phasing out Government agencies which have outlived their usefulness.

There are many reasons why regulatory reform is urgently needed, but in my opinion, the most important reason is the necessity to alleviate the tremendous costs to the consumer and harm to the economy caused by current Government regulation of business. Perhaps "overregulation" is a more accurate description of what we have today. I certainly do not quarrel with the benign purposes of most regulation nor would I argue that all regulation is necessarily bad. Some regulation may be essential to accomplish certain desirable social goals, such as improved public health and safety. The problem, as I see it, is that the Congress has too long permitted Government agencies to promulgate new rules and regulations without considering the impact of these regulations on the consuming public. As a result, there are today so many agencies attempting to enforce such a large number of rules and regulations, that the added costs to the public from new regulations now far exceed the added economic and social benefits.

Mr. President, during my over 10 years in the U.S. Senate, I have watched with alarm the steady growth of Government. During that period the number of Federal agencies—including departments, executive and legislative branch agencies, as defined by GSA—increased from 77 to 102. At the same time, the number of civilians employed by the U.S. Government grew from 2,496,000 to 2,802,000 and total Federal spending rose from $118.4 billion to about $274.8 billion. The distinguished economist and former Assistant Secretary of the Treasury Murray Weidenbaum has stated that in the 12 months ending June 30, 1972, Federal spending for regulatory purposes totaled $1.3 billion. By fiscal 1974, just 24 months later, outlays had increased 46 percent, to $1.9 billion, while for fiscal 1975, total spending was estimated at roughly $2.2 billion.

According to Professor Weidenbaum, in the past 2 years the number of persons employed in major Federal regulatory agencies rose from 55,316 to nearly 64,000. U.S. News & World Report recently estimated that there are currently 63,444 Government employees having regulatory functions. The Office of Management and Budget has put the number of Federal regulators at 100,980. Whichever figure you prefer, there is a good-sized army of Federal bureaucrats living at the taxpayers' expense.

Vice President ROCKEFELLER told a group of businessmen that nobody in Government has the slightest idea how much regulation as a whole costs the country. The General Accounting Office has put the yearly costs of Government regulation at $60 billion. A Federal Trade Commission report found $80 billion in economic waste in the American economy attributable to regulatory overkill. President Ford and the Council of Economic Advisors have estimated that the work done by Federal regulators is costing the taxpaying public some $130 billion annually, or approximately $2,000 each year for each American family. Estimates of the costs of ICC regulation alone vary from about $4 billion to $9 billion each year. In short, the economic costs of regulation are exorbitant and the Federal regulatory establishment is growing at a greater rate than the industries which it oversees.

The indirect costs of Government regulation are inestimable but have an equally serious impact on the economy. Regulation may distort normal supply and demand forces for a given product. For instance, the Federal Power Commission's regulation of natural gas prices has discouraged exploration for new reserves and encouraged many producers to sell their gas in unregulated intrastate markets where they could get higher prices. This, in turn, has resulted in severe shortages of natural gas available for interstate consumption.

Furthermore, ordinary business decisions are increasingly controlled by the actions of bureaucrats who are not responsive to the will of the people or to the influences of the marketplace. Government regulation also imposes tremendous burdens on small businesses, like mountains of paperwork and interminable delays, that decrease productivity. The regulatory process has tended to discourage innovation while perpetuating inefficiency. Finally, regulatory agencies discourage competition by protecting the very industries they are supposed to regulate.

In the words of former FTC Chairman Lewis Engman, a critic of regulation:

> Though most government regulation was enacted under the guise of protecting the consumer from abuse, much of today's regulatory machinery does little more than shelter producers from the normal competitive consequences of lassitude and inefficiency.

As Mr. Engman observed,

> Most regulated industries have become federal protectorates, living in a cozy world of "cost plus," protected from the ugly specters of competition, efficiency and innovation. Our system of hidden regulatory subsidies makes welfare fraud look like petty larceny.

It is evident that with the continued growth and expansion of Government control over the private sector, the tangible and intangible costs of regulatory activity will increase sharply. The resulting loss in productivity could lead to stagnation in real living standards and a decline in the quality of life. In my opinion, the trend toward more frequent and costly Government regulation must be checked. We can no longer afford to be so tolerant of such costly controls over our individual liberties and America's free market economy.

In a speech to the Chamber of Commerce of the United States on April 28 of this year, the President discussed the harmful effects of regulation. He said, and I quote:

> It is important to recognize that these obsolete and unnecessary regulations are not the result of perversity on the part of some regulatory body or government official. Rather, they result from the fact that the regulatory process is inherently static.
>
> Regulations do not automatically expire when they have outlived their usefulness. There is no systematic pattern of review and even when it is acknowledged that changes are warranted, procedural delays often result in obsolete rules remaining in force for years.
>
> In short, while the intention of regulation is to protect consumers, it sometimes does just the opposite.
>
> In many cases, the reduction or elimination of existing regulations would result in lower prices for the consumer and open new opportunities for business.
>
> In other industries, where there is inadequate competition, regulation should continue, but it is the job of Government to insure that such necessary regulation is administered efficiently and fairly.

In that address the President sounded the call for reform.

> All too often the Federal Government promulgates new rules and regulations which raise costs and consumer prices at the same time. To achieve small, or somewhat social benefits, in these cases we must either revise proposed rules and regulations to lower their costs or we must not adopt them in the first place.
>
> Moreover, we must examine the whole range of existing rules and regulations to determine whether modifications could lower costs without significantly sacrificing their objectives.
>
> Let me emphasize, however, that we do not seek to eliminate all regulations. Many are costly, but they are essential to preserve public health and public safety. But we must know their cost and measure those costs against the good that the regulations seek to accomplish.
>
> A major problem is that these costs are often hidden from the public generally. While we are accustomed to an open debate on the Government's budget, far too little attention has been focused on the ways in which Government regulations levy a hidden tax on the American people.
>
> In the nearly 90 years since we created the first Federal regulatory commission, we have built a system of regulations which are bound with contradictions and excesses, all to the detriment of the public.
>
> There are sound estimates that Government regulations have added billions of unnecessary dollars to business and consumer costs every year. To reverse this trend of growing regulation, my Administration is working hard to identify and to eliminate those regulations which now cost the American people more than they provide in benefits.

In his remarks at the National Federation of Independent Business Conference on June 17 of this year, the President again touched on the harmful effects of Government overregulation. I quote the President:

> Although most of today's regulations affecting business are well-intentioned, their effect, whether designed to protect the environment or the consumer, often does more harm than good. They can stifle the growth and our standard of living and contribute to inflation.
>
> When we consider revisions in these regulations, we must consider the case of those who may be injured by regulatory modifications. Our system can and will make needed changes which are fair to all. Obviously we cannot eliminate all regulations. Some are costly, but essential to public health and public safety . . .
>
> As a consumer, I want to know how much the tab at the front door check-out counter is raised through the backdoor of regulatory inflation. As President, I want to eliminate unnecessary regulations which impose a hidden tax on the consumer.

I am pleased that President Ford has taken the lead by speaking out on the subject of Government overregulation and the need for reform, by urging the heads of the major independent regulatory commissions to make improvements in their procedures and regulations so as to cut out the redtape and paperwork for businessmen and to seek out the views and protect the interests of consumers, and by recommending to Congress specific legislative proposals for eliminating price and entry controls and other anticompetitive practices in the field of transportation.

I was among a group of Representatives and Senators who met with the President some months ago to discuss ways in which to implement reform in Government, and I am gratified by the President's efforts to date in this area.

Regulatory reform is long overdue, in my opinion. The prime responsibility for action, however, must rest with the Congress which enacted the laws creating the agencies and establishing the regulatory system. The Congress must take a good hard look at what the regulators have been and are doing, with a view to changing or eliminating many of their procedures and functions, where they have been shown to be unnecessary, no longer effective or likely to create more harm than good.

The Regulatory Reform Act which I am proposing today, will go a long way toward accomplishing the objectives of improving the operation of agencies and of the regulatory process.

Let me elaborate, Mr. President, on the specific provisions of this legislation.

DEFINITIONS

Section 2 of the act defines the principal terms used in the bill. It is clear that the legislation covers only major rules and regulations promulgated by Government agencies, including recordkeeping and report-filing requirements, and does not cover purely internal business or housekeeping matters of the agencies, such as rules of practice or definition, which have no significant impact on parties or persons outside the agencies. It is also clear that this legislation relates to both the dependent administrative agencies within the executive branch and the independent regulatory commissions subject to congressional oversight as well as to their respective subagencies. This is necessary, in my view, because the rules and regulations of both the dependent and independent agencies have an impact on the economy. For instance, the safety standards promulgated by the Occupational Safety and Health Administration within the Department of Labor are just as meaningful to businessmen and consumers as a rule-making on cable television proposed by the Federal Communications Commission or a rate-making proceeding conducted by the Interstate Commerce Commission.

CONGRESSIONAL REVIEW OF REGULATIONS

Section 3 provides that no new rule or regulation proposed by an agency can become effective unless and until, first, the agency sends a copy of the rule or regulation to the Congress, together with a statement of proof that the economic benefits to be derived from the rule or regulation will exceed its projected costs and, second, the Congress reviews and approves such rule or regulation by concurrent resolution.

This section—the most controversial portion of the bill—is designed to prevent Government agencies from engaging in harmful regulatory activity and from adopting rules and regulations which will produce inflationary costs, the hidden taxes I have described. It will also reassert congressional control and scrutiny over the regulatory process.

Before a regulation becomes law, the agency considering the regulation, the Congress, and the public should have some idea of the anticipated costs and benefits of such regulation. There is a need, before a regulation is produced or a decision to regulate is made, for the agency to make an intelligent effort to balance the costs of that regulation—human costs as well as money costs, direct costs as well as indirect costs—against the social and economic benefits. Only in this way can there be an adequate assessment of the need and probable efficacy of proposed regulations or of alternative approaches to certain problems.

The President has stressed the need for measuring costs against benefits or regulation. As he told the National Federation of Independent Business:

> Let us evaluate the costs as well as the benefits. The issue is not whether we want to control pollution—we all do. The question is whether added costs to the public make sense when measured against actual benefits.

Pursuant to Executive Order No. 118821, the executive departments and agencies are required to include inflationary impact statements with proposals for major regulations. When recommending proposed regulations or possible alternatives, the agencies must provide statements which consider the cost impact on businesses, consumers, markets, and governments and the effects on productivity, competition, product and service supplies, employment and energy demands. The Congress must make similar judgments when considering legislative proposals. It is not, therefore, unreasonable to expect Government agencies to submit such statements to the Congress for its evaluation of proposed regulations.

A cost-benefit analysis is not sufficient, however, to avoid overregulation and its hidden taxes, the agencies must do more than merely measure the benefits and then the costs: They should also be made to demonstrate that economic benefits actually exceed the costs. This should prove to be a worthwhile study for it is probable that if such an analysis shows that the actual costs of a proposed regulation exceed its anticipated benefits, the agency will reject the regulation and consider an alternative, or even decide that no regulation is needed and that reliance on the marketplace may be the most reliable way to eliminate a problem.

In the case of dependent agencies, the Office of Management and Budget will not authorize funds to be spent by the regulators on regulatory activity which has been shown to be inflationary or unsound. Similarly, independent agencies can be persuaded through congressional oversight to follow the dictates of their cost-benefit analysis. We must be sure, however, that Government regulatory bodies do more than engage in an analytical exercise. To show regulators how foolish it would be for them not to utilize cost-benefit analysis is not sufficient to stimulate them to reform. We must be certain that the results of their analyses are not ignored, or worse yet, that the information is not shaded in such a way to justify any regulatory activity whatever. That is why I propose that Congress be required to review and approve every major regulation proposed by an agency.

The Congress, as the most representative branch of Government, directly responsible to the people, has the primary responsibility for insuring that the Government's complicated scheme of agencies and regulations function properly. After all, we created the agencies and established the system of Government regulation. It is, therefore, our duty as lawmakers to see that these agencies and these rules and regulations are responsive to the people's needs, interests, and concerns.

Too often the Congress enacts new laws and sets up new agencies without a clear precise mandate. Instead, authority and discretion—perhaps too much authority and too broad discretion—is delegated to the agencies, to appointed commissioners and bureaucrats who promulgate regulations and make decisions necessary to carry out the general tasks which we have assigned by law to particular agencies. For all practical purposes, the agencies are then left free to operate as they see fit without substantial congressional interference, control, or supervision.

Too often the Congress forgets completely about the agencies, assuming that they are performing adequately the jobs which were delegated to them, until the phone calls and letters start pouring in from angry constituents complaining about regulatory meddling. At that point, the Congressman's only recourse may be to call the commissioners on the carpet, threaten to vote against the next appropriations bill for their agency, introduce relief legislation, or just plead shock and surprise and promise the constituent to look further into the matter, hoping it will somehow go away.

In time, Government agencies, no matter how lofty their goals or vigorous their administrators, tend to become stale, lax, or lazy. In addition, regulators, not being elected officials directly accountable to the people, are insulated from considerations of profit and loss, and though their decisions affect management, they have no management responsibilities. They operate under a double standard: which businesses can be forced by Government to comply with rules and regulations, agencies are often left free to ignore them. The result is that regulators become increasingly preoccupied with their own narrow regulatory interests—indeed, with expanding their agency's jurisdiction and power—and less concerned with the effects their regulations may have on a company or industry, on consumers or society as a whole. They lose sight of the objectives of regulation, of the additional costs of their activities and decisions, and whether such costs can be justified in terms of benefits to be achieved from regulation.

The only method the Congress seems to have for fighting this process of bureaucratization is to heckle the agencies, take potshots at the administrators, threaten reprisals, and issue more directives and demand more reports—while simultaneously voting regulators more funds to pay for more personnel and more work. This patchwork approach to oversight produces much paperwork, but few positive results.

The people who elected us expect more from us than that. They have a right to assume that we, their elected representatives, know what the agencies are doing and can control the bureaucracy and prevent foolish and harmful regulation from being adopted. Understandably, they hold us responsible for what Government does in its regulatory capacity.

Section 3 of my bill, by granting to Congress a legislative veto over proposed regulations, will insure that consumers have greater opportunity for input into the rulemaking process. The people will have a final say over what Government agencies and regulators propose to do at the most important point in the regulatory process; that is, before rules and regulations become effective. This proposal will help to restore credibility in the Congress and public trust and confidence in the institutions and processes of government.

Under these provisions I envision a process similar to the one established under the Congressional Budget and Improvement Control Act. Under that law, the Congress must approve proposed rescissions before spending cuts can be made or programs terminated. This reform enabled Congress to exercise control over Presidential impoundments and comprehensive review of the entire budgetary process. In my view, the reforms that I propose in section 3 of my bill will permit the Congress to better oversee agency activities and better control the regulatory process.

Committee procedures suggested by section 3 would be similar to those followed in the normal legislative process. Each agency would submit proposed regulations, together with economic impact statements, to the appropriate committee or committees of the House and Senate having oversight over the agency and jurisdiction over the subject matter. It would then become the responsibility of the committee staffs to review the regulations and accompanying economic impact statements. The proposed regulations would be published in the Federal Register at the time of their submission. Consumers would have ample opportunity to comment and testify on proposed regulations during committee hearings. In fact, section 3 would guarantee consumers and consumer groups a greater voice in the regulatory process without the need or intervention of consumer advocates. Finally, as with budget rescissions, both Houses would vote on a concurrent resolution approving proposed regulations.

Mr. President, I am aware of several criticisms that have been raised against this proposal. For one, there may be a problem of separation of powers as a result of a congressional veto over the actions taken by dependent agencies within the executive branch. I do not believe these objections are frivolous, and I would welcome the comments of the Justice Department on this matter. I hope also that the Senate Judiciary Committee will hold hearings at some future date.

Some of my colleagues may be concerned by the workload that section 3 would seem to place on them and their committee staffs. Personally, I do not feel that Members of Congress or their staffs are especially overworked. After all, the Congress recently enacted legislation enlarging committee staffs so that we would all hire more assistants and be better prepared to carry out our legislative duties. And it is part of our duties to find out what Government is or is not doing, supervise the agencies and enact laws. Congressional oversight may not be glamorous and it may involve hard work, but that is what the people elected us to do.

As a practical matter, I believe that this legislation would have a chilling effect on regulatory activity. The regulators, knowing that their regulations would be reviewed by Congress, would be less likely to promulgate foolish, unnecessary or harmful regulations. The number of proposed regulations will decline dramatically, in my opinion. The entire regulatory process will, in fact, be slowed which may not necessarily be a bad thing. In any case, much of the review of proposed regulations will be routine, since the regulations submitted to Congress will be thoughtful, better written regulations and, therefore, less likely to be challenged.

Perhaps section 3 could be amended to redefine the kinds of major regulations subject to review or provide special handling for regulations covering emergencies. In any case, I do not find these problems insurmountable and the issues involved are too important to disregard.

EMPLOYEE RESPONSIBILITY FOR REGULATORY COMPLIANCE

Section 4 of the act would authorize every Government agency to promulgate rules imposing equivalent sanctions on employers and employees for failure to comply with its regulatory standards. In addition, the agency would be prohibited from imposing penalties against an employer alone where the employee is also subject to such penalties. This section would protect employers where they can show that they complied with agency regulations whereas employees were the only party to violate such regulations. The effect of these provisions would be to impose joint responsibility on employers and employees for carrying out Government rules and regulations. Both employers and employees could be fined for failure to comply with agency requirements.

In my opinion, this provision would improve occupational safety and health standards at worksites. An employer has the primary duty to see to it that his working places are safe for all employees. Employers would still be required to take appropriate steps to promote on-the-job safety, through employee training programs, posting warning notices, renovating industrial machinery, and replacing defective equipment, enforcing job safety rules and adopting other accident prevention measures. However, now employees would have an equal legal requirement to comply with Government regulations and employee rules relating to industrial health and safety.

Studies have shown that on-the-job accidents are primarily the result of employee carelessness. It makes more sense—and far better safety—to have workers share in the responsibility to obey OSHA rules. If an employee refuses to use a safety belt when climbing a tower ladder or wear a helmet on a heavy construction site, despite his employer's admonishments, and in violation of plant rules, it is unjust and foolish to cite management for noncompliance. Section 4 would encourage closer cooperation between management and workers to improve industrial working conditions and to take better precautions to prevent accidents.

PROTECTION AGAINST INNOCENT VIOLATIONS OF CONFLICTING REGULATIONS

Section 5 of the act would protect a businessman or consumer from incurring penalties in a situation where such person is compelled to violate one Government agency's rule or regulation in order to comply with a different rule or regulation of the same or another agency.

There are many different kinds of agencies exercising control over business. Some agencies specialize by industry. For instance, the Civil Aeronautics Board regulates the airline industry, and the Federal Communications Commission regulates all aspects of radio and television broadcasting. Other Government agencies, like OSHA, regulate only one aspect of business activity—for example, job safety—but its authority extends to many industries. The Environmental Protection Agency, for instance, deals with environmental impact only but its regulations affect all industry.

In addition, there is a proliferation of Government regulations, some of them contradictory and confusing. No one knows how many Federal regulations there really are. Just to list all the rules and regulations established last year required 45,000 pages of very small print in the Federal Register. Many of these rules, besides being complex and obscure, are written by government lawyers in very legalistic and bureaucratic jargon—"governmentese"—which is difficult for the average layman to understand. In fact, they are often impossible for other lawyers to comprehend.

It is not uncommon, therefore, for someone, in trying to obey one regulation, to run afoul of another. For example, in order to desulphurize coal and reduce air pollution, a combination with lime is required. But when that is done, large quantities of solid waste, calcium sulphate, are generated. In turn, disposing of calcium sulphate creates water pollution problems.

In the meat packing industry, Federal standards set by the Food and Drug Administration require plants to be kept clean and sanitary. Surfaces easiest to clean are usually tile or stainless steel. Unfortunately, those materials are also highly reflective of noise and may not always meet Occupational Safety and Health Administration standards.

Mr. President, let me cite several situations mentioned by Murray Weidenbaum which demonstrate the problems faced by an ordinary businessman attempting to comply with Government regulations.

> Let's take the personnel department. It's quite clear that before you can hire anyone, you have to make sure you follow the rules of the Equal Employment Opportunity Commission.
>
> Certainly, once the people are hired, you have to meet the requirements of the Wage and Hour law.
>
> If you have landed a federal contract, you have to file an affirmative action program. Also, you will have to make sure you comply with the Davis-Bacon Act or the Walsh-Healy Act.
>
> In all cases, you must make sure you don't violate the rules of the Occupational Safety and Health Administration. And sometimes those rules get in the way of the Equal Employment Opportunity Commission.
>
> For example, both OSHA and EEOC have jurisdiction over toilets. OSHA once said women need special lounge facilities as part of their restrooms. But EEOC says, well, if you provide lounges for women, you have to provide them for men also. Regulation, like justice, must be blind.

In those situations where an individual is faced with having to comply with so many confusing and conflicting regulations, it is not unreasonable to expect that errors will be made and rules will be broken. In such a situation, an individual who makes a reasonable effort to comply with appropriate Government regulations but mistakenly or innocently disobeys one regulation while complying with another, should not be held liable for such noncompliance. The burden of proof remains with the transgressor to show extenuating circumstances.

REDUCING THE PAPERWORK BURDEN

Section 6 would prohibit Federal agencies from requiring applicants to file any information previously furnished or not directly relevant to considerations affecting the grant or denial of an application. This provision would eliminate repeated and unnecessary filings and reduce the paperwork burden for both applicants and agency personnel. Of course, the agency might require of the applicant any new or additional facts it deems necessary to make its findings.

Over the years, grant of renewal application procedures have become increasingly involved and complicated as a result of the changing requirements of Government agencies. Such processes have become major undertakings for the average small businessman who is hard pressed to meet burdensome reporting requirements. The time, effort, expense and personnel needed to compile reports and keep records of all transactions are considerable. Indeed, the fees that must be paid to expensive lawyers to translate agency rules and to complete and file requisite documents can eat up a businessman's hard-earned profits. Excessive costs are, of course, passed on to the consumer in the form of higher prices.

As the Arizona Republic recently editorialized:

> Reports required by government of business and individuals have become so complicated and numerous that corporations have had to create new positions—at an estimated cost of $18 billion—simply to comply with the fettishes of paperwork tyrants.
>
> But the cost and harrassment is not the worst part of it. More depressing is that most of the government-required paperwork cannot possibly be read, analyzed and used for concrete action. The paperwork demand of government simply has become a mindless juggernaut out of control, and with no meaning.

Let me cite a few examples. A company with 40,000 employees has to maintain 125 file drawers of records to meet Federal reporting requirements on personnel, according to some estimates. An Oregon company operating three small television stations filed 45 pounds of forms for its license renewal applications. A small radio station in New Hampshire paid $26 in postage just to mail its application to Washington. The Bureau of Land Management called for bids on a pickup truck which should have cost about $4,000. But the successful low bidder had to hire 8 people to complete the 155-page technical bid report—and ultimately offered the $4,000 truck for $15,497. Such horror stories are all too common.

In my opinion, section 6 of my bill would substantially alleviate report filing and recordkeeping requirements of individuals and businessmen. It would expedite agency action on any grant or renewal application and would free agency personnel from paper shuffling to more important matters. It would eliminate the paperwork tyranny that has become too pervasive under Government regulation. Most importantly, it would avoid needless expense to applicants and parties, thereby reducing overhead costs for businesses, and yielding savings to consumers.

No one knows how big the paperwork problem is. One Senate select small business subcommittee estimated that 10 billion sheets of paper flow through Federal offices every year, enough to fill 4.5 million cubic feet of space. It is calculated that 50 different forms must be filled out each year by every man, woman, and child in the country. One estimate puts paperwork burden losses on American business at $18 billion a year, while another indicates that the costs to the full economy run to more than $40 billion. This legislation would stop such an enormous drain on the economy.

AN END TO BUREAUCRATIC DELAY

Section 7 of the act would require an agency to make a final determination or finding in a license proceeding within 6 months from the date of initiation of said proceeding. If the agency fails to take final action within that time, the Government would compensate the applicant and other interested parties for their full costs, including reasonable attorney's fees, and estimated loss of revenues attributable to regulatory delay. Reimbursement would be made out of funds appropriated for the operation of the agency. Should there be a dispute concerning the amount of such reimbursement, an aggrieved party could appeal to a Federal district court for de novo review of the award.

The purpose of this section is to force agencies to speed up regulatory proceedings. Regulatory delay is a disease that afflicts every Federal agency, burdening regulated companies with millions of dollars in legal fees and often costing customers of those companies higher rates or prices as a result. President Ford has called on independent regulatory commissions to streamline their work, improve their procedures and consider new approaches "to eliminate the interminable delays often created before regulatory matters are resolved."

Of course, regulatory proceedings are complex, often involving complicated questions of cost accounting, industry structure and competition. Because the stakes are high it may be in the interest of one party seeking the grant of an exclusive license to delay the proceedings as long as possible. Since many agency proceedings are adversarial in nature, if one applicant believes it is about to lose some advantage as a result of an agency decision, delay may become an asset rather than a liability. Furthermore, the regulators and bureaucrats may not share the profit-and-loss concerns of the applicants in a speedy outcome. Obviously a good many Washington lawyers make a handsome living from prolonged proceedings. Thus, too often regulatory agencies create administrative wars of attrition in which neither businessmen nor consumers can afford to participate.

It is not difficult to point to situations where the administrative process has dragged on for years and years, exhausting the funds and the patience of all parties concerned. Perhaps the classic case of bureaucratic delay in the regulatory process is the unresolved dispute between two broadcasters in New York and Albuquerque. For over 34 years the FCC has been unable to decide which of two radio stations—WABC or KOB—should be permitted to operate at 770 kilocycles on the AM dial. The problem arose because the agency assigned the two stations to the same frequency. Since 1941, when an international agreement required the FCC to grant a new frequency to KOB, the FCC has been unable to figure out how to restrict the operations of one of the stations in order to eliminate interference between the two.

Since 1969, the FCC has had a proposed rulemaking pending on this matter. Meanwhile, the delay has caused a paperwork nightmare at the Commission, cost the respective broadcast licensees a small fortune in legal fees and prevented listeners from receiving interference-free programming from either station.

Under section 7 of my bill, Federal agencies would be encouraged to make timely decisions. Perhaps 6 months is a rather stringent deadline which few agencies could meet without doing injustice to the parties. However, to many applicants in licensing proceedings who have a considerable financial stake in the outcome, 6 months may be too long to wait. In any case, in order to improve agency performance and cut down costs to the economy, I believe it preferable to strive for a regulatory time limit of 6 months rather than 6 years.

CONCLUSION

Mr. President, the Regulatory Reform Act does not purport to perform miracles. It would not cure every regulatory defect about which consumers, businessmen, economists, scholars, and editorialists have complained when advocating regulatory reform. Nevertheless, this bill, by concentrating on specific problems prevalent in the Government regulatory system, should go a long way to improving that system.

While I am not wedded to specific provisions or specific language of any section in this bill, I believe that the Regulatory Reform Act raises questions and poses answers which must be considered by the Congress in approaching the subject of regulatory reform.

I believe that this legislation will provide a reasonable basis upon which the Congress can undertake a comprehensive review of the operation of Federal regulatory bodies and reassessment of Government regulation. Because of the economic costs and important issues involved, I hope that the Congress will give prompt and careful consideration to this legislation.

Mr. President, I ask unanimous consent that the full text of the Regulatory Reform Act be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Reform Act."

Sec. 2. As used in this Act the terms—

(1) "agency", "person", "party", "license", "licensing", and "agency action" have the same meaning as given each of such terms under section 551 of title 5, United States Code; and

(2) "rule" and "regulation" mean the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy, and include the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or evaluations, costs, or accounting, or practices bearing on any of the foregoing. Such terms also include record keeping and reporting requirements imposed by any agency but do not include rules of practice or rules which are issued to define specific terms or rules which have no bearing or effect on parties or persons outside the agency.

Sec. 3. Notwithstanding any other provision of law no rule or regulation promulgated on or after the date of enactment of this Act by any agency shall become effective unless—

(1) such agency transmits to the Senate and the House of Representatives a copy of such rule or regulation together with a statement demonstrating that the economic benefits to be derived from such rule or regulation exceed the costs incurred therefrom; and

(2) the Congress by concurrent resolution approves such rule or regulation.

Sec. 4. (a) Subject to the provisions of section 3 of this Act, each agency is authorized to promulgate rules and regulations which impose a penalty, for the violation by an employee of any rule or regulation in effect against the employer of such employee, if the penalty to be imposed against the employee is equivalent to a penalty to which the employer is subject.

(b) No employer may be penalized for the violation by an employee of any rule or regulation if such employee is subject to any penalty for such violation.

Sec. 5. No person may be penalized by any agency for the violation of any rule or regulation promulgated by such agency if such violation was necessary in order to comply with another rule or regulation of that or any other agency.

Sec. 6. Notwithstanding any provision of chapter 5 of title 5 of the United States Code, or any other provision of law relating to administrative procedures, in order to expedite action on any grant or renewal application, rule-making, or other agency proceeding, and to avoid needless expense to applicants and parties, no agency shall require any such applicant or party to file any information or document, in whole or in part, which previously has been furnished to the agency or which is not directly relevant to the considerations that affect the grant or denial of such application or are involved in such proceeding, but the agency may require of the party any new or additional facts it deems necessary to make its finding. Pending any hearing and final decision on any such application or the disposition of any petition for rehearing or other proceeding or rule-making, any applicant or party thereto may continue his operations.

Sec. 7. (a) Notwithstanding any provision of chapter 5, of title 5 of the United States Code, or any other similar provision of law, in the case of any agency that fails to make a final determination or finding in any licensing proceeding within six months from the date of announcement of the initiation of any such proceeding, the applicant or party seeking that agency determination, and all interested parties to such proceeding shall be reimbursed out of funds appropriated for the operation of such agency for the complete costs of their application, including reasonable attorneys' fees and estimated loss of revenues directly resulting from the agency's failure to complete the licensing proceeding.

(b) Any person aggrieved by a determination of an agency as to the amount of reimbursement required in any proceeding under subsection (a) may bring a civil action in an appropriate district court of the United States to review such action. Any proceeding in any such court under this subsection shall be de novo. The district courts of the United States have jurisdiction over any action brought under this subsection.

By Mr. BUCKLEY:

S. 2793. A bill to provide for the establishment of a national cemetery on Long Island, N.Y. Referred to the Committee on Veterans' Affairs.

VETERANS CEMETERY ON LONG ISLAND

Mr. BUCKLEY. Mr. President, the National Cemetery System of the Veterans' Administration governs a network of approximately 100 cemeteries across the United States. The largest such facility in the State of New York is Long Island National Cemetery.

The best indication of the importance of Long Island National Cemetery is the fact that the interments at this one site represent in excess of 25 percent of the total in the entire VA cemetery system.

It is now estimated that all of the available gravesites in this massive facility will have been assigned by approximately 1978.

This would not be cause for great concern if facilities of similar scope were scheduled for completion in this area in the near future. However, at the present time, I am informed that there are no VA cemeteries under construction any closer than Otis Air Force Base in Massachusetts and the future outlook for such construction is not considered promising.

In view of the above facts—the heavy usage of Long Island National Cemetery and the rapid approach of what will amount to its elimination as an available facility—it is imperative that steps be taken to develop a new site. In view of the lengthy interval involved between the time a new facility is designated and the time the gravesites actually become available, it is imperative that some action be taken as soon as possible.

Considering the fact that the acquisition of private land is both more expensive and more time consuming—frequently involving condemnation—than the acquisition of federally owned land, the use of federally owned land would be the most expeditious method of arranging for the designation of a new VA cemetery in this area.

Fortunately such Federal land exists and has been visited and evaluated by representatives from the National Cemetery System of the Veterans' Administration, who found that its potential for development into a VA cemetery is excellent. I am referring to that area now comprising the Naval Weapons Reserve Plant in Calverton, Long Island. This area is currently under the jurisdiction of the Department of the Navy and is leased to a variety of agricultural interests on a short-term basis.

The Calverton area appears to be the only site which is: First, federally suited for development into a cemetery; second, geographically convenient for absorbing the overflow from Long Island National Cemetery; third, relatively available. Therefore, I am today introducing legislation authorizing the Navy Department to transfer jurisdiction of 900 acres of this area to the Veterans' Administration, and directing the Veterans' Administration to utilize this land for the construction of a badly-needed VA cemetery.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is authorized and directed to transfer to the Administrator of Veterans' Affairs jurisdiction over that tract of land, consisting of approximately 900 acres, which partially comprises the grounds of the Naval Weapons Reserve Plant on Long Island, New York, which is located north of State Route 25 and borders State Route 25A, and which is no longer needed by the Department of the Navy.

SEC. 2. The Administrator of Veterans' Affairs shall, at the earliest practicable time following the transfer of jurisdiction to him over the tract of land referred to in the first section of this Act, develop such tract of land for use as a national cemetery.

SEC. 3. The transfer of jurisdiction required by the first section of this Act shall be completed within 90 days after the date of enactment of this Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. BARTLETT:

S. 2795. A bill to amend the Hobbs Act to provide for penalties for the damages to employers. Referred to the Committee on the Judiciary.

Mr. BARTLETT. Mr. President, today I am introducing legislation to amend the Hobbs Act, to provide that organized labor related violence be considered a Federal crime under the act.

The Hobbs Act was passed in 1949 in an effort to curb the use of violence in labor disputes. However, in 1973 the Supreme Court severely restricted the application of this statute. In United States against Enmons, the Court determined that the Hobbs Act applies to the obstruction of interstate commerce by robbery or extortion only in cases where "union officials threaten force or violence against an employer in order to obtain personal payoffs and instances where unions use the proscribed means to exact 'wage' payments from employers in return for imposed, unwanted superfluous, and fictitious services." In the opinion of the court, the Hobbs Act did not apply to the use of violence "to achieve legitimate union ends".

The case, United States against Enmons, resulted from an indictment of union employees of the Gulf States Utilities Co. of Louisiana. The defendant, union employees, was charged with acts of violence in the destruction of Gulf States property, including blowing up a transformer substation owned by the company. But, in the opinion of the Court, the Hobbs Act did not apply to the use of violence "to achieve legitimate union ends".

Mr. President, implicit in that ruling is an invitation to Congress to correct this obvious shortcoming of the Hobbs Act. The invitation is stated explicitly in a concurring opinion by Mr. Justice Blackmun:

> I readily concede that my visceral reaction to immaturely conceived acts of violence of the kind charged in this indictment is that such acts deserve to be dignified as Federal crimes. That reaction on my part, however, is legislative in nature rather than judicial. If Congress wishes acts of that kind to be encompassed by a Federal statute, it has the constitutional power in the interstate context to effect that result.

In his dissenting opinion, concurred with by Chief Justice Powell and Justice Rehnquist, Justice Douglas wrote:

> Seeking higher wages is certainly not unlawful. But using violence to obtain them seems plainly within the scope of "extortion" as used in this act (the Hobbs Act) just as is the use of violence to exact payment for no work, or the use of violence to get a sham substitution for no work. The regime of violence, whatever its precise objective, is a common device or extortion and is condemned by this act.

Mr. President, my amendment is not directed at the isolated incidents of "brick throwing or stick striking," but rather to acts of violence that result in substantial damage—$2,000.

Additionally, there is the safeguard in my amendment that in order to be designated a Federal crime the destructive action must be willful.

The people of the United States are greatly disturbed by the continued acts of violence that labor commits to achieve its demands, and the Congress has the responsibility to help correct this deplorable situation. It has become obvious over the years that local and State law enforcement officials are not always capable of providing the protection from labor-related violence American citizens deserve. Surely that is evidenced by the very acceptance of the Hobbs Act as being necessary to deal with union violence. My amendment to that act would, in the words of the Supreme Court, "dignify" all such acts of violence "as Federal crimes" and recognize that "the regime of violence, whatever its precise objective, is a common device of extortion, and is condemned by this act."

I heartily urge rapid action by the Senate to enact this amendment.

By Mr. BUCKLEY:

S. 2796. A bill to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes. Referred to the *Committee* on Public Works.

Mr. BUCKLEY. Mr. President, I am today introducing legislation to meet the problem of protecting foreign diplomats at foreign missions outside Washington, D.C., in cases of extraordinary protective need.

Earlier this year, the Senate passed a broader bill, H.R. 12, which was subsequently vetoed. This version, on which such items as the method of authorization has been changed, represents a compromise with the administration. The administration has no objection to its enactment.

I ask unanimous consent that a copy of the letter from OMB Director James Lynn to that effect be printed at this point in the Congressional Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of Management and Budget,
Washington, D.C.

Hon. James L. Buckley,
U.S. Senate, Washington, D.C.

Dear Jim: This is to confirm that substitute draft legislation for H.R. 12 has been developed by your staff with the assistance of my staff.

That draft bill meets the basic objections to H.R. 12 set forth in the President's veto message, and the Administration would have no objection to its enactment.

Sincerely yours,

James T. Lynn,
Director.

By Mr. BENTSEN:

S. 2797. A bill to amend title 39, United States Code, in order to provide free postage for voter registration materials and nonpartisan voter informaton for those States and other political subdivisions subject to the provisions of section 4(a) and section 203 of the Voting Rights Act. Referred to the Committee on Post Office and Civil Service.

Mr. BENTSEN. Mr. President, I am today introducing legislation to enable States and political subdivisions covered under the Voting Rights Act to encourage voter participation in State and Federal elections. My bill would grant free postage for voter registration materials and nonpartisan voter information to those States and political subdivisions subject to the requirements of the Voting Rights Act.

Compliance with the act due to increased postage costs will place a considerable financial burden on each State and other jurisdiction involved. In addition, many mass mail-outs come at a time when county budgets have already been set, making expenditures in budgeting extremely difficult.

Providing free postage for voter registration materials for appropriate areas is an important means of assisting these jurisdictions to deal with the costs inherent in meeting the Voting Rights Act requirements. It also has the important benefit of helping to insure compliance by increasing voter registration efforts and participation.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 34 of Title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3406. Free Postage For Voting Materials.

"(a) (1) Any voting materials which are directly related to any election for Federal office or for State office, and which are mailed by an election official of any State or political subdivision of a State which is—

"(A) subject to the provisions of Section 4(a) of the Voting Rights Act of 1965, as determined in accordance with Section 4(b) of such Act; or

"(B) subject to the provisions of Section 203 of such Act; may be mailed free of postage within the United States, if such election official makes such mailing as a means of complying with the provisions of the Voting Rights Act of 1965 specified in subparagraph (A) or subparagraph (B).

"(2) Any such election official, in making any mailing under this Subsection to any individual eligible to vote in the election involved, may enclose free mail covers in any such mailing. Any such free mail cover shall list a return address and may be used only for the transmission of voting materials.

"(b) For purposes of this section—

"(1) the term 'election official' means any individual designated by the chief executive officer of a State, or by the laws of such State, to be responsible for the conduct of elections for Federal office or for State office in such State;

"(2) the term 'free mail cover' means any envelope, wrapper, label, or card used to transmit mail free of postage under this section;

"(3) the term 'State' includes the District of Columbia; and

"(4) the term 'voting materials' means voter registration application forms, voter registration certificates, absentee ballots, and institutions relating to the proper use of such materials.".

Sec. 2. (a) The table of sections for chapter 34 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"3406. Free postage for voting materials.".

(b) (1) Section 2401(c) of title 39, United States Code, is amended by striking out "3405" and inserting in lieu thereof "3406".

(2) Section 3627 of title 39, United States Code, is amended by striking out "3405" and inserting in lieu thereof "3406".

Sec. 3. Authorization of Appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2207

At the request of Mr. Fong, the Senator from Maryland (Mr. Beall) was added as a cosponsor of S. 2207, a bill to provide for the exclusion of industrially funded personnel in computing the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year.

S. 2402

At the request of Mr. Fong, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 2402, a bill to amend the Internal Revenue Code of 1954 to make the tax treatment of retirement income comparable to that of social security income.

S. 2705, 2706, AND 2707

At the request of Mr. Bellmon, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 2705, a bill to provide for a study of the need for regulation of weather modification activities; S. 2706, a bill to authorize an experimental research program relating to weather modifications; and S. 2707, a bill relating to the prevention and alleviation of drought emergencies.

SENATE RESOLUTION 319

At the request of Mr. Curtis, the Senator from Michigan (Mr. Griffin) was added as a cosponsor of Senate Resolution 319, relating to the occupation of certain Baltic nations by the Soviet Union.

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN ASSISTANCE ACT OF 1975—S. 2662

AMENDMENT NO. 1291

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (S. 2662) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

(The remarks of Mr. Eagleton when he submitted the above amendment appear earlier in today's Record.)

PREVAILING FEES OF MEDICARE—H.R. 10284

AMENDMENTS NOS. 1292 AND 1293

(Ordered to be printed and to lie on the table.)

Mr. BEALL submitted two amendments intended to be proposed by him to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

AMENDMENT NO. 1296

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE submitted an amendment intended to be proposed by him to the bill (H.R. 10284), supra.

AMENDMENT NO. 1301

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (H.R. 10284), supra.

PAYMENTS TO THE GOVERNMENT OF THE VIRGIN ISLANDS—H.R. 9432

AMENDMENT NO. 1294

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE submitted an amendment intended to be proposed by him to the bill (H.R. 9432) to amend the Internal Revenue Code of 1954 in order to provide for quarterly payment rather than annual payment, to the Government of the Virgin Islands of amounts equal to internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

UNIFORM REVIEW PROCEDURES UNDER SOCIAL SECURITY—H.R. 10727

AMENDMENT NO. 1295

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE submitted an amendment intended to be proposed by him to the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles.

AMENDMENT NO. 1300

(Ordered to be printed and to lie on the table.)

Mr. BEALL. Mr. President, I submit an amendment for printing to H.R. 10727, which is identical to S. 1286, which would permit the Department of Defense to withhold State income taxes from military personnel.

SUSPENSION OF DUTIES ON CERTAIN SILK—H.R. 7727

AMENDMENTS NOS. 1287, 1298, AND 1299

(Ordered to be printed and to lie on the table.)

Mr. BEALL. Mr. President, I submit for printing four amendments to H.R. 7727.

Amendment No. 1287 is identical to S. 667, the Historic Structures Tax Act of 1975.

Amendment No. 1298 is identical to S. 2215 which would amend the tariff schedules of the United States to certain footwear.

Amendment No. 1299 is identical to S. 556, which would permit the Department of Defense to withhold State income taxes from military personnel.

FISHERIES CONSERVATION AND MANAGEMENT ACT—S. 961

AMENDMENT NO. 1302

(Ordered to be printed and to lie on the table.)

Mr. STEVENS. Mr. President, today I am introducing an amendment to S. 961, the Magnuson Fisheries Conservation and Management Act, which will return a certain amount of management control, where practicable, back to the State governments. The State regulations will, however, still be subject to the approval of the Secretary of Commerce. It is my belief that some States, because of their size, location, and characteristics of the fish species which inhabit their shoreline, are capable of managing the fish stocks off their shores. My home State, Alaska, is one such State.

The State of Alaska has for many years practiced sound management and conservation principles. The Alaska Department of Fish and Game, the State agency responsible for fish and game management, is a highly sophisticated organization which bases its fish and game regulations upon sound, scientific research and data. The Department has developed a reputation for its fish management expertise which is reowned nationwide.

Alaska is geographically isolated from her 49 sister States. A State such as Alaska could therefore realistically and practically manage the fisheries stocks off her coasts. State management would not be practicable for the smaller States, as the species of fish which inhabit their coastal waters mingle across State boundaries. We have no such problem in Alaska.

Alaskans view this as more than a simple issue of who will manage the fisheries stocks off the coast of the United States. To my constituents the real issue is who will determine the destiny and lives of Alaskan fishermen, the Federal Government or the citizens of the State of Alaska.

My amendment allows any sovereign State, with species of fish off its coast which neither comingle with a similar species of fish from any other State nor travel through the territorial sea or fisheries zone contiguous to any other State, to promulgate management regulations for such species. As with the regulations of the proposed regional management councils the management regulations promulgated by a sovereign State will still be subject to the approval of the Secretary of Commerce. Appeals for relief from State fish management decisions shall be made directly to the Fisheries Management Review Board, created by this act.

I would urge each of you who is concerned not only about viable fisheries management but about States rights to vote for this amendment. The question is, where practicable as dictated by the characteristics of the fisheries, should the citizen of a sovereign State be able to determine their own destiny or should the Federal Government determine it for them.

Mr. President, I ask unanimous consent that my amendment be printed in the Record immediately following my remarks.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1302

On page 54, line 4, add: "(3) Those fisheries capable of being managed as a unit, which reside principally within the waters of a single state or the fisheries conservation zone seaward of the single state, shall be managed by that state, providing the management is consistent with the national standards. Appeals for relief from state fish management decisions shall be made directly to the Fisheries Management Review Board created by this Act."

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1976—H.R. 9861

AMENDMENT NO. 1303

(Ordered to be printed and to lie on the table.)

Mr. TUNNEY (for himself, Mr. Brooke, Mr. Clark, Mr. Cranston, Mr. Kennedy, Mr. Bayh, Mr. Hathaway, Mr. Abourezk, Mr. Moss, Mr. Hartke, Mr. Philip A. Hart, Mr. Weicker, Mr. Hatfield, Mr. Nelson, Mr. McGovern, Mr. Biden, and Mr. Burdick) submitted an amendment intended to be proposed by them jointly to the amendment of the House to the amendment of the Senate numbered 75 to the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1237

At the request of Mr. McIntyre, the Senator from New York (Mr. Javits) and the Senator from Massachusetts Mr. Kennedy) were added as cosponsors of amendment No. 1237, intended to be proposed to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

NOTICE OF HEARINGS

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs, will hold hearings on S. 958, a bill to provide for Federal regulation of foreign banks establishing, acquiring, operating, or controlling banks, branches, and agencies in the United States, and for other purposes.

The hearings will be held on January 28, 29, and 30, 1976. They will begin each day at 10 a.m., room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, 202-224-7391.

ADDITIONAL STATEMENTS

SELECTIVE SERVICE SYSTEM'S BUDGET SHOULD NOT BE CUT

Mr. ALLEN. Mr. President, our country's national defense capabilities could be severely undermined if drastic budget cuts in the Selective Service System, currently being considered by the White House, are approved by the Congress.

The President, acting on the recommendation of the Office of Management and Budget, is expected to ask Congress to reduce the Selective Service System's budget from its $28 million request to $6 million for the fiscal year which begins October 1, 1976.

In my judgment, this would be a reckless move and if such a proposal is made, I will strongly oppose it in the U.S. Senate.

A cut of this magnitude in the funding of this vital organization would, in effect, reduce it to a mere paper agency. It would take at least 6 months to bring it back up to an effective level of operation, in the event of a national emergency.

On such a limited budget, the System could not register and classify the 1.7 million men each year who reach age 18.

About all that would be left of the Selective Service System, if the budget cut is carried out, would be planners in Washington drawing up requirements for office space, forms and others supplies should a draft ever be ordered.

The Selective Service System is an integral part of our national defense system. This Agency did an outstanding job during past emergencies, meeting our manpower needs in an orderly, efficient manner. It is ready to do so again if the need arises.

But to reduce its funding from $28 million to $6 million, would gut the entire program, leaving little more than a skeleton operation.

Legislation which Congress passed in 1971, called for a phasing out of the draft and a reduction in the activity of the Selective Service System. This legislation purposefully contained safeguards, in the form of a standby system. This was done so that the machinery of the organization would be ready to reinstate the draft immediately in the event of a national emergency.

Unfortunately, no position was taken by Congress on the level of spending to maintain this standby status.

Apparently the Office of Management and Budget would like to use this omission to further reduce the capabilities of our national defense forces by slashing the System's budget.

This is just another example of the heavy-handed tactics used by OMB on national security budget programs. I hope President Ford, who consistently voted in favor of funds for a strong national defense during his years of service in the House, will reject such a drastic cut.

It would be a foolish move and would put our great Nation in a vulnerable position. I for one will not stand still and permit the dismantling of the Selective Service System.

I plan to do everything within my power to see that adequate funding is provided for the System. I am not opposed to cutting out the fat in any program, but I believe it is most important that this agency be kept at a high level of readiness.

A strong national defense serves as an absolute foundation for all our national goals. An effective standby selective service system will serve as the foundation for a strong national defense.

It is commendable to be able to say that no young American has been drafted into the Armed Forces since December 31, 1972. But it would be totally incorrect to say that tensions throughout the world and goals of conquest have disappeared during this same period. Reality demands that we face up to the fact that the Russians are committed to achieving overwhelming military superiority over us.

Strength is the one thing the Communists understand and respect. Every reduction in the United States' defense capabilities is taken as a sign of weakness on our part. And every cutback in defense spending is met with an increase by the Russians. Commonsense tells us where such a policy will lead.

Former Secretary of Defense, Schlesinger, took a strong public position in favor of maintaining an effective Selective Service System. Mr. Byron V. Pepitone, the System's present Director, has stated that such an unreasonable cut in the budget would dismantle the whole apparatus.

It is my desire, like that of all our citizens, to have peace and protect our freedom. This is accomplished through strengthening those agencies and organizations which contribute to our national defense posture, not by weakening them.

NOMINATION OF JOHN PAUL STEVENS

Mr. PERCY. Mr. President, the Senate Judiciary Committee's action in unanimously approving the nomination of John Paul Stevens to be an Associate Justice of the Supreme Court is testimony to the nominee's unique qualifications and to his acceptability to a wide range of individuals and philosophies. In addition, his nomination has elicited overwhelmingly positive comment from the Nation's editorial writers and columnists, and I urge my colleagues, consistent with thoroughness, to confirm expeditiously Judge Stevens' nomination.

From the dozens of editorials which have appeared as a result of this nomination I have selected a representative sample and ask unanimous consent that they be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record as follows:

[From the New York Times, Nov. 30, 1975]

Court Nominee Is Hard to Label

President Ford has nominated a successor to Justice William O. Douglas on the Supreme Court. He named John Paul Stevens, a judge of the United States Court of Appeals for the Seventh Circuit since 1970, a selection that confounded political speculation Mr. Ford would pick either a woman or his old Republican colleague from Michigan, Senator Robert Griffin.

Judge Stevens' legal outlook may also prove unexpected. Some immediate comment categorized him as "conservative," apparently on the basis of 11 of his opinions listed by the White House as "representative."

But a group of law school professors who studied all his opinions for the American Bar Association rejected any labelling and gave him high marks as a judge. They used such words as "practical, not always bound by the conventional wisdom, analytical, very smart, moderate, imaginative, elegant, aggressive, a little brisk, hard to categorize."

In the field of criminal law, for example, Judge Stevens declined in 1972 to hold unconstitutional on its face the Federal law allowing official wiretaps under court order, he said particular abuses could be dealt with as they occurred. It may have been on the basis of such an opinion that a news agency jumped to the conclusion that "Stevens is unsympathetic to rights of the accused."

But in 1974 he rejected the claim of Federal agents that they were entitled to break into a man's home without a warrant in order to keep him from destroying marijuana; the value of privacy outweighed the state's interest, he said. In 1973, upholding the claims of some prisoners, he said: "The restraints and the punishment which a criminal conviction entails do not place the citizen beyond the ethical tradition that accords respect to the dignity and intrinsic worth of every individual."

This year, voting to reverse an Illinois corruption conviction, he said the evidence of guilt was strong and the crime shabby. He hesitated to upset the conviction, he said, but he did not want to compromise fair procedure for others. He added:

"This case brings to mind the trial of Titus Oates, a guilty man who was convicted by improper means. Macauley's observation about that trial is worth repeating: 'That Oates was a bad man is not a sufficient excuse; for the guilty are almost always the first to suffer those hardships which are afterward used as precedents against the innocent.' "

Mr. Ford's nominee is not likely to have much difficulty getting confirmation in the Senate, where hearings will be held this week. Before his appointment to the bench in 1970 he had been a leading anti-trust lawyer in Chicago. He also was a law clerk to Supreme Court Justice Wiley Rutledge from 1947 to 1949.

[From the Washington Post, Dec. 3, 1975]

The Stevens Nomination

If President Ford was looking for a Supreme Court nominee who could be confirmed with minimal difficulties, it appears that he has chosen well. John Paul Stevens is a non-controversial judge, whose credentials are impressive, although not overwhelming, and whose record, as far as we now know, contains nothing that should impede his confirmation. On that record and those credentials, Judge Stevens is clearly a better choice than were most of the six men nominated for the Court by former President Nixon.

It is difficult, if not impossible, to predict what kind of a justice Judge Stevens would be. His opinions on the circuit court have been, for the most part, tightly reasoned and confined to the issue before him. That is as it should be, for a circuit judge's task is to stay generally within the bounds of precedents. Because a judge on circuit courts is not confronted frequently with the kinds of broad issues that are routine on the Supreme Court, it is usually impossible—unless his service has been exceptionally long—to tell from his work there how he will approach major constitutional questions.

What one looks for, therefore, in a nominee coming from a lower court are demonstrations of scholarship, technical excellence, thoughtfulness—and a breadth of mind and spirit. Judge Stevens' work is full of examples of the first three qualities. But his adherence to the traditional role of a lower court judge has given him few opportunities to demonstrate the fourth. If he is confirmed, he will need to adjust quickly to the wide horizons required of one who interprets the sometimes vague language of a constitution as compared to the narrow focus of one who is involved in interpreting statutes and following precedents. Many of those who know Judge Stevens, either as a lawyer or a judge, believe he has the capacity for this kind of growth and will make a major contribution to the Court.

We hope that the Senate will act on this nomination as expeditiously as it can. Unless there is something in the Judge's record that is not now evident, we see no reason why a thorough review cannot be completed and the nominee confirmed before the Christmas recess. The Court has been handicapped for almost a year now because of the illness of Justice Douglas. It needs a full complement of members in place when it begins its January argument period.

[From the Chicago Tribune, Dec. 1, 1975]

Judge Stevens' Nomination

President Ford has made an excellent choice in his nomination of Federal Judge John Paul Stevens of Chicago to the Supreme Court. If confirmed by the Senate, he will fill the vacancy caused by the retirement of Justice William O. Douglas.

We are pleased, of course, that Judge Stevens is from Chicago—he is only the fourth Illinoisan out of the 105 justices who have served on the court. But a strong case could also be made—and was made—for naming a woman, and there were some creditable candidates.

Judge Stevens' virtue is that he has earned this appointment not by controversial stances or his place of residence or his sex or his politics, but simply because in his five years on the 7th Circuit Court of Appeals he has been a steady judge and a good one. He has looked for the right answer or the best one, not for the one that would bring cheers or headlines. A good measure of his success is that in these five years he has never been reversed by the Supreme Court. His record supports the comment by White House counsel Philip Buchen that "he won't stretch to find a federal question arising in cases where there are only state questions."

His virtue as a strict constructionist is enhanced by the fact that his reputation is not engraved in stone as either a liberal or a conservative. For too long the Supreme Court has been divided between relatively inflexible blocs—the liberal activists on one side and the conservatives on the other. As the usual "swing" members, Justices Stewart and White have had more influence than any two men should. If Judge Stevens' nomination is confirmed, he will become a third member of this influential group and will thereby strengthen the court.

His nomination has the endorsement of Sen. Stevenson as well as of Sen. Percy and Atty. Gen. Levi, both of whom have known and worked with him. We have every reason to hope and believe that his nomination will be confirmed quickly. The Supreme Court has been weakened too long by its strong ideological division and by the illness of Justice Douglas. It has much important work ahead of it.

THE NATIONAL COUNCIL ON THE AGING: 25 YEARS OF SERVICE TO THE ELDERLY

Mr. KENNEDY. Mr. President, for 25 years, the National Council on the Aging has provided ongoing service and leadership to public and private agencies working to meet the continuing needs of the Nation's elderly. As the spokesman for America's aged—the National Council on the Aging has led the way in playing a vital role in the development and implementation of a public national policy which is more responsive to the concerns of our Nation's older citizens. Throughout this quarter century, the National Council on the Aging has sought to facilitate the full utilization by the aged of services and programs that could make their lives more meaningful and personally gratifying.

As a result of this ongoing effort by the National Council on the Aging, there has been a considerable improvement in the quality of life for older people—particularly for those citizens who require special social programs and other services to meet special individual needs.

Mr. President, I do not have to elaborate on the many problems still facing the elderly of the Nation. As a member of the Select Committee on Aging, I know all too well that the burden of inflation has severely punished the elderly who are mostly living on fixed incomes. And not only have food prices skyrocketed, the cost of medical care and housing has turned retirement into a virtual nightmare for most of our older citizens. The National Council on the Aging is all too well aware of these and other problems, and the Council's important recommendations to meet these problems warrant careful study by my colleagues and the public.

I ask unanimous consent that the policy statements of the National Council on the Aging be printed in the RECORD.

There being no objection, the policy statements were ordered to be printed in the RECORD, as follows:

SEPTEMBER 1975.

OLDER AMERICANS AND THE ARTS

For 25 years the National Council on the Aging has sought to facilitate the full utilization by the aged of services and programs that could make their lives more meaningful and personally gratifying.

NCOA continues to seek new alliances that can improve the quality of life for older people particularly as that quality relates to the loneliness, isolation and lack of new social roles that exist in the world of the aged. Leaders and policymakers in the burgeoning field of cultural services must be increasingly made aware of how the arts network, both public and private, can serve and be served by older Americans. Agencies and practitioners in the field of aging must become active advocates for older persons in the field of the arts.

NCOA believes that while the aged's involvement in cultural services and programs may not be a matter of life and death for older persons, it can be a matter of happiness or unhappiness, usefulness or uselessness. The overall goal in this area is to ensure that older persons have an equal opportunity, with other population groups, to participate in and have access to cultural programs and services.

In addition, NCOA recognizes the need to preserve the folklore and forgotten arts of America, including the ethnic heritages of our diverse population, for the enjoyment of all citizens. It is the older adult who has the knowledge and skills not only to produce such crafts and artwork, but also the capability to teach others the techniques of these accomplishments.

With these goals in mind, NCOA makes the following recommendations:

1. The arts constituency should be broadened to include the elderly.
2. The quality of arts programs now available to older people should be upgraded.
3. New employment opportunities for artists young and old in the field of aging should be provided.
4. Art forms which otherwise might be lost forever must be preserved.
5. Support for the arts should be broadened through better use of the energy and ability of older persons whether as volunteers or as paid professionals.
6. Arts resources at local, state and national levels in both the public and private sectors that are currently overlooked or underused in the field of aging should be mobilized.
7. Local initiatives to preserve the folklore and forgotten arts of America can be encouraged by developing co-ops and/or channels to the retail market where they can reach the consumer. Any public effort to develop such channels should ensure that the proceeds of sales benefit the older artisan.
8. Older artisans should be given opportunities to share their knowledge with others and be provided opportunities to improve their skills. Both Federal and state governments need to be sensitive to these needs and provide avenues by which this unique talent can be shared and enhanced.

To date, cultural services for, with and by the aged is a concept without priority status in either the arts or aging fields. We recognize that promoting a new concept which is not considered as important as survival support services is difficult at best and is more so in two fields that are currently underfunded. The arts are primarily concerned with survival of cultural institutions and the individual artist. Likewise, practitioners in aging emphasize survival and support of aging service agencies and the aged themselves. Nevertheless, NCOA remains convinced that there is something positive for both the arts and the aging fields in the marriage we have proposed.

CRIME AGAINST THE ELDERLY

The elderly, especially the urban elderly, are the most vulnerable victims of the recent dramatic increase in crime in America. Millions of the aged are virtual prisoners in their own homes, self-confined victims who fear even going out in the streets. The quality of life for thousands and thousands of elderly people is degraded not only by the existence of robberies, assaults, fraud and rape, but also by the threat of such crimes. In a recent NCOA study conducted by pollster Louis Harris, those over 65 rate crime or the fear of crime as their most serious personal problem.

Unfortunately, there is no reliable index of the volume of such offenses against the elderly. Numerous studies showing the high numbers of unreported and underreported crimes also indicate that the elderly are more likely to be silent victims. In addition, reported crime records only note the age of the criminal, not that of the victim.

NCOA believes that a number of steps must be taken immediately, at both the national and local levels, to make America safe for its nearly 21 million older citizens.

1. A national Senior Citizens Crime Index should be developed to monitor the growth and delineate the development of offenses against older people.
2. The Law Enforcement Assistance Administration (LEAA) of the Justice Department should undertake studies to determine how localities may best cope with the problem of crime against older people and to use its resources to fund programs which protect the elderly.
3. Local police authorities should be encouraged to set up strike forces to prevent attacks on the elderly and to pinpoint the locations and modus operandi of the attacks.
4. Local police should undertake regular visits and liaison to facilities used by the elderly such as senior centers, housing projects, etc.
5. Self-help programs which train the elderly themselves in crime-prevention procedures should be developed.
6. Senior center leaders should be trained to train their members in crime prevention.
7. Community watch programs, involving community groups of all ages (teen patrols, radio-dispatch cab drivers, police hookups, high school student escorts, etc.) should be established to be alert to threatening or suspicious activities.
8. Patrol of streets (perhaps by retired policemen or police cadets) and areas older people use that have high incidences of criminal activities should be encouraged, and escort services to and from transportation services to housing projects, shopping malls, senior centers, clubs, clinics, etc., should be set up.
9. The police should train and assign the elderly stay-at-homes or home-bound to observe streets or sections of their neighborhoods, and to report suspicious behavior to police.
10. Regular police secruity checks of buildings and sites housing the elderly should be made (just as the fire department makes regular fire prevention inspections).
11. Housing for the elderly should have installed (on government subsidy or as tax-deductible expense) burglar-proof photoelectric beams on windows and doors, one-way glass, TV monitors in elevators and corridors, and central alarm buzzer systems linked to police dispatchers or patrol units.
12. Since crime against the elderly is reduced in specific housing as compared to intergenerational housing, more housing especially for the elderly should be encouraged and built.
13. Government checks should be mailed to banks for individual deposit; banks should provide free checking accounts for the elderly.
14. An offense against an older person

should be made a Federal crime if committed in Federally funded facilities such as housing projects, centers, etc.

EMPLOYMENT

The nation is experiencing its highest unemployment rates since the Depression. Millions, regardless of occupation or age, are suffering. Middle-aged and older workers, with heavy family and financial responsibilities, tend to suffer special hardships when the economy takes a downward turn. Men and women over 40 constitute almost half of the present labor force and more than a fourth of all unemployed. As Bureau of Labor Statistics figures indicate, they undergo longer terms of unemployment than younger age groups. They tend to drop out of the labor force through discouragement in a futile job search. Advocates of a broader definition of unemployment believe that present figures—which categorize discouraged workers as not-in-the labor force—understate by a considerable extent the true unemployment rate. Middle-aged and older workers are often victims of age discrimination on the part of both employers and employment-manpower service agencies.

One goal of a national employment policy should be to assure continued participation for all age groups since it is a major factor in a full and satisfying life style. It should also be noted that periods of unemployment have serious repercussions in terms of unemployment insurance, welfare costs and social security benefits.

The basic premise of employment and manpower programs from the inception of the Wagner-Peyser Act of the 1930's to the present Comprehensive Employment and Training Act (CETA) approach, has been that all Americans in need of assistance related to employment may fully participate in available programs. The desired outcome is free access for all individuals to the job market regardless of age and other possible limiting factors over which the individual worker has no control.

THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA)

There is no question that middle-aged and older workers are not receiving an equitable share of manpower services through the CETA and the United States Employment Service networks. These groups of workers lack priority in these systems—only 4 to 8 percent of the CETA participants are men and women over 45 and analysis of Employment Service data reveals that middle-aged and older workers are less likely to receive services than those under age 40.

NCOA's concern, therefore, with the current regulations pertaining to CETA is that they in no way guarantee improved status for middle-aged and older persons in need of employment assistance. CETA regulations must be established which assure that funds allocated to prime sponsors are equitably distributed to all participating age groups.

NCOA recommends that the Department of Labor include the following general guidelines and specific changes in revised regulations pertaining to Title I and II of the Comprehensive Employment and Training Act.

Prime sponsors and their agents in order to assure fair and equitable participation of middle-aged and older men and women of all racial and ethnic backgrounds in CETA programs must include within any state plan an analysis of the universe of need of individuals they intend to serve by age and sex categories. The following groupings are suggested: Under 22; 22–39; 40–54; 55–64; 65+.

An appropriate reporting system should be standardized whereby Prime Sponsors and any Subcontractor can report comparative services to age groups on a quarterly basis.

Prime Sponsors should see to it that middle-aged and older individuals, familiar with the manpower and employment needs of workers over 40, are included in fair proportions of all state and local manpower planning committees.

Any Prime Sponsor with responsibilities for implementing a Title II Public Employment Program must develop an Affirmative Action Plan to accommodate individuals within the protected group of the Age Discrimination in Employment Act. All state and local government and/or public employers are now covered and bound by federal age discrimination in employment legislation.

Middle-aged and older workers, by reason of their long neglect on the part of the Department of Labor, should be regarded as a new minority. Each Prime Sponsor, therefore, should be bound to submit within his state plan special training and technical assistance provisions to agents, or subcontractors on how to:

Assess the needs of middle-aged and older workers within a community.

Develop outreach capabilities to bring these older workers into CETA training and employment programs.

Develop special training methodologies and skill conversion techniques for middle-aged and older men and women.

Develop job placement strategies, in cooperation with other employment related agencies (e.g., the State Employment Security Agency) for those older individuals.

Appropriate Prime Sponsors should be informed and directed by the Manpower Administration that it is their responsibility to support all Senior Aide programs currently being funded by the Department of Labor through national contractors. *These are programs of demonstrated effectiveness.*

A separate title should be established under CETA that will address the manpower needs of the middle-aged and older worker, just as the Job Corps has been established for youth. It is important to note that although older workers were specifically mentioned along with Indians and youth in Title III, no money has ever been appropriated for this group.

AGE DISCRIMINATION IN EMPLOYMENT (ADEA)

The Age Discrimination in Employment Act (ADEA) has recently fostered significant legislative, administrative and judicial activity. The law's major objective is to eliminate discrimination against individuals between 40 and 65 years of age in matters of hiring, job retention, compensation or other terms, conditions and privileges of employment. ADEA promotes a policy of employment according to ability rather than age. Despite recent legislative improvement in the Age Discrimination in Employment Act, systematic implementation and enforcement is needed. In addition, because any worker, regardless of age, should be evaluated according to functional ability, NCOA recommends that the present upper age limitation for application of ADEA be removed.

To ensure uniform national standards protecting all citizens against discrimination in employment, NCOA further recommends the establishment of one national regulatory body with the authority and resources to enforce effectively one federal statute which prohibits employment discrimination on the basis of race, color, religion, sex, national origin, age and handicapped status.[1]

MANDATORY RETIREMENT

A recent survey conducted by Louis Harris and Associates for NCOA found that a large majority of Americans feel that "nobody should be forced to retire because of age," and a smaller majority agree that "most older people can continue to perform as well on the job as they did when they were younger." Yet in mid-1974 there were over four million unemployed or retired persons age 65 and over who wanted to work but were not employed, compared to some 2.5 million who were working full- or-part-time.

NCOA strongly urges that flexible rather than fixed retirement ages be adopted by employers and unions, allowing those who wish to retire early or at the "normal" retirement age of 65 do so and allowing others to work as long as they are able, perhaps as determined by a physical examination or an objective scale such as that employed in the Industrial Health Counseling Service for the last four years in Portland, Maine. The fact that not all employers require mandatory retirement is evidence that flexible retirement is administratively feasible.

UNITED STATES EMPLOYMENT SERVICE

To increase services to middle-aged and older workers, NCOA recommends that the Manpower Administration mandate that the Older Worker Specialist be a full-time position at the state and local office level and institute a system for financial incentives to local offices that do an outstanding job of placing older workers. In addition, we recommend that the Manpower Administration set up on a pilot basis an employment service based on the 40-plus methodology to test techniques and procedures for adequate service to middle-aged and older workers.

SENIOR COMMUNITY SERVICE PROJECT (SCSP)

The Senior Community Service Project has clearly demonstrated that older workers can adequately carry out diverse work assignments, involve people in meaningful relationships, motivate them to initiate action on their own behalf, mobilize community resources and generally serve as a bridge between the consumer of services and the agency providing the services. It has also demonstrated that the program participants measure up in all ways to standards for younger workers—and often exceeded these standards. SCSP is a manpower model for the older disadvantaged worker. It has successfully carried out its primary mission of providing meaningful public service employment for older workers.

NCOA believes that the funds available for this program and similar ones are totally inadequate and that steps should be taken by the national Manpower Administration, local prime sponsors and national contractors to establish these projects at the local level on a permanent basis.

FUNCTIONAL CAPACITY

NCOA believes that middle-aged and older persons should be assured of opportunities for continuing employment. The extension of employment opportunities for this group and the removal of barriers to their employment remain primary goals. There is a need for the expanded use of techniques which have been developed for relating the functional abilities of workers to the functional requirements of jobs. In general, functional capacity and not chronological age must become the primary employment standard.

PRE-RETIREMENT PLANNING

Planning ahead for retirement can significantly reduce the mistakes and frustrations that accompany a trial-and-error approach after retirement. Problems may still arise, but the individual will be better prepared to cope with them. The three critical elements are opportunity and incentive to plan, and concrete, relevant data on which to base the planning.

NCOA recommends that the Federal government recognize the need for planning and assume a partnership with educational institutions and private industry by funding research and training programs, sponsoring demonstration projects and providing incentives for employers to pay the tuition for appropriate courses as well as setting an example as a model employer.

---

[1] Basic recommendation from the *Federal Civil Rights Enforcement Effort 1974,* U.S. Commission on Civil Rights, July 1975.

SECOND CAREERS

A change in mid-life from one job pursuit to a different field is no longer considered unusual in our rapidly changing society. For some workers, because of technological displacement or involuntary early retirement, the need for a second career is a necessity. To fill the need, career oriented educational and training programs should be developed which are aimed not at the beginning worker but at those who must transfer from one career track to another.

WOMEN AND MINORITIES

Unemployment and poverty among middle-aged and older single women and members of minority groups are particularly severe problems. NCOA urges that special attention be paid to the employment problems of these groups in Employment Service job development and in training programs.

Energy and the Elderly

A limited supply of electricity, natural gas, fuel and motor oil at inflated prices is potentially damaging to older people themselves, as well as to the institutions and programs which serve them. As the price of energy continues to rise, increasing numbers of older people living on fixed incomes will be forced to decide between heat or food. Cost-of-living increases in Social Security and Supplemental Security Income benefits are quickly eroded by inflation in this area alone. Already inadequate public and private transportation becomes either too expensive or non-existent. The loss of volunteer drivers due to the lack, or high cost, of gasoline can cripple many programs geared to serve older Americans, including homemaker-home health aide projects, escort services, meal deliveries and senior centers. Reduced heat in the home aggravates arthritis and many other chronic conditions that affect the elderly. The benefits of programs, including those authorized under the Older Americans Act, are reduced because appropriations do not include increased costs for lighting, heating, cooking and transportation.

To avoid and/or alleviate these present or potential problems, NCOA recommends the following:

1. The development and implementation of a national energy policy should assure that all citizens are equitably treated and particularly that the elderly and other vulnerable groups are not adversely affected.

2. The use of any gas line allocation formula should include extra supplies to agencies who operate elderly transportation services and unrestricted access for volunteer agency drivers.

3. Any fuel allocation and/or rationing, if developed, should take into consideration the special needs of the elderly.

4. Government program regulations which restrict reimbursement of drivers should be changed periodically to reflect the higher price of gasoline.

5. The appropriations for service programs dependent on energy resources should be increased to account for inflation's impact on the cost of energy.

6. The Federal government should institute a program of low-cost loans for housing insulation.

7. Comprehensive consumer information on energy conservation and rights should be developed for the elderly and effectively distributed to them.

The President's Response to the Annual Report of the Federal Council on the Aging

The National Council on the Aging urges the President to reconsider his rejection of the major recommendations made by the Federal Council on the Aging in its first annual report.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act to advise and assist the President on the special needs of the elderly. Members of the Council were confirmed by the Senate on June 5, 1974, and, on March 31, 1975, as required by law, they submitted their first annual report to the President. On July 2, President Ford transmitted that report with his comments to the Congress.

NCOA believes that, because the FCOA is composed of leading experts from the field of aging, the recommendations and advice in that report deserve more consideration than the President's negative comments gave them. It is especially unfortunate that the first official dialogue between the President and the FCOA should be so negative. We hope that this is not the beginning of a pattern of animosity which would destroy a potentially valuable relationship for all concerned—particularly for the nation's 21 million older people.

The President criticized the report for being "limited to a particular area of interest and advocacy." NCOA believes this criticism is inappropriate and unjustified. The Congress established the FCOA to perform a limited and particular function which it also considered essential; that is, the Council was to provide advice, assistance and advocacy on the special needs of older Americans. The FCOA's first report definitely fulfills this mandate.

NCOA has consistently supported the major policy recommendations contained in the FCOA report: The development of high standards of safety and care in nursing homes and the rejection of Administration proposals to cut back Federal programs essential to the welfare of the elderly.

We congratulate the FCOA on its initial efforts and look forward to the findings and recommendations of its ongoing studies. NCOA remains hopeful that, in the future, the President will be more receptive to the recommendations of the Federal Council on the Aging.

Health of the Elderly

Good health is a basic ingredient of a satisfactory life for all people. For older Americans this goal is more difficult to attain and maintain than for the remainder of the population. Growing older is almost always accompanied by an increasing need for health care services (people aged 65 and over, while approximately 10 percent of the population, account for 30 percent of health care costs).

While recognizing that good health should be a public policy goal for all Americans, the National Council on the Aging is particularly concerned that there be a public commitment to assuring that the necessary steps are taken so that older Americans can live healthfully and can choose and purchase appropriate health care services.

NCOA believes that the final responsibility for comprehensive health services, both physical and mental, for older Americans lies in the public sector at the Federal level. The objective of such health services should be the provision of expanded and specialized health programs and facilities and rehabilitative and preventive care, including mental health services, for older persons. The provision of these facilities and services must be complemented by the establishment and enforcement of national standards to guarantee quality physical and mental health care and decent living conditions. Therefore, NCOA supports the early establishment of a national health security program which incorporates the following principles:

1. Comprehensive physical, mental, environmental and social health care benefits for all Americans;

2. The integration of Medicare into a national health security program for Americans throughout the life span;

3. The elimination of all co-insurance, deductibles and premiums;

4. Administration and fiscal management of the new health security program by a public agency without an intermediary between the providers and the public agency;

5. Financing of the health program through general revenues and payroll taxes.

6. Consumer participation of the aged in the development and implementation of this program including involvement in quality controls (in such areas as accessibility, acceptability and accountability) and in cost controls.

7. Coverage for the full range of long-term care services including home-based, community-based and institutional-based services, with appropriate quality and cost controls specifically designed for the aged.

8. Monies allocated to research and output measurement to include appropriate attempts to develop criteria for evaluation of health care delivery to the aged related to functional capacity, ranging from minimal self-care to full independence; and

9. The exclusion of means tests from any aspect of the program.

Pending the establishment of a national health security program and recognizing that health care costs are now increasing 50 percent faster than the economy as a whole; that per capita health care costs in 1973 were 3½ times greater for people aged 65 and over than for younger age groups; that Medicare, which covered 49 percent of the total costs for medical expenses in 1969 covered only 38.1 percent of these expenses in 1974; and that skyrocketing costs of health programs do not reflect advances in health services for older people, NCOA recommends:

10. The present Medicare and Medicaid programs should be improved and expanded immediately to meet more adequately the health needs of older persons in relation to such matters as length of stay in acute hospitals; extended care and nursing home facilities; psychiatric hospitals; coverage for home care; diagnostic and preventive services; and out-of-hospital drugs and medicines; the elimination of the premium paid for Medicare Part B and the co-insurance features related to hospital care.

11. Greater coverage should be provided for dental care, eye and hearing care and aids as well as for other prosethetic devices which contribute to social and health functioning, and which facilitate mobility.

12. A nation-wide program of comprehensive long-term care for older persons suffering from chronic disease and disabilities must be developed. Such a program should include specialized health programs and facilities for rehabilitation and resocialization as well as alternatives to institutional care, such as health maintenance organizations, neighborhood clinics, day or night hospital care, and home care services.

13. Present standards of care should be better enforced and, when promulgated, vigorous state implementation of national standards for nursing homes and personal care homes should be encouraged. This should assure not only the safety and appropriate levels of health care for older persons, but also the inclusion of social care perspectives which help to preserve the human rights and dignity of the older residents.

14. The encouragement of specialties in geriatric medicine and other health professions should be a matter of national policy, with funds made available for recruiting and training these specialists required to staff a comprehensive health service for older persons.

15. A national policy and program on the physical fitness of older Americans should be developed and coordinated.

HOUSING FOR THE ELDERLY

With the moratorium on subsidized housing, instituted in the last several years, the need for suitable housing for older persons has reached critical proportions. Waiting lists for existing low and moderate income housing for the elderly are extensive and growing. Hundreds of thousands of America's older people are forced to live in environments which are substandard, too expensive, too difficult to maintain, too inefficient for their age and capacities.

Older people everywhere find it difficult to understand why a demonstrated need for a program which has been singularly successful—financially and socially—should be suspended and unfulfilled.

Because of time, because of special needs with age, older Americans require a special priority today. They have the right to make independent choices of their living arrangements regardless of their current income situation. These choices can include single family homes, independent apartments, congregate facilities and rehabilitative centers. In all instances, such housing should have easy access to senior center activities, health services, therapy programs, nutrition programs, cultural activities—all designed and implemented to maintain independent living even when disability occurs.

NCOA has the following specific recommendations:

1. To achieve independent choice of living arrangements, all the programs of low and moderate income housing authorized by the Congress should be used fully and immediately. Of vital importance in this regard is the full implementation of the Section 202 Program. Congress has authorized and appropriated substantial funds for a new beginning of this very successful program of housing for the elderly. The Administration should accept this action and institute an effective program of direct financing both in the construction period and for the permanent loan for qualified nonprofit applicants.

2. Such loans should have available to them a special set-aside of Section 8 subsidy to ensure that low incomes will not bar older people from suitable housing. This is a priority, major action required today.

3. There should also be enactment and execution of full appropriations under the Section 8 program and Section 236. These programs individually, and especially in combination, could generate the volume of specially-designed housing older Americans need and require.

4. In addition, a substantial program of special grants to senior citizens who own their own homes should be underway on a sizeable basis. This will permit older persons of modest incomes to improve and rehabilitate their own homes and to go on living independently in neighborhoods of their own choice.

5. In any housing program, more than sheer shelter is required. Urgently needed senior centers, adequate nutrition programs, physical and occupational therapy, health programs, cultural enrichment programs, etc., should be financed by grants, rather than out of the rents of residents.

6. Administration of the subsidy programs must be realistic if the program is to be effective. This means reassessing fair market rents, construction costs, methods of financing and speed of administrative processing.

7. New construction should be emphasized. Too many older person live in homes which are too old and too inefficient for them. They require having arrangements suitable to their age and physical conditions at rentals and prices they can afford.

8. A major national focus must be directed at rural America with particular emphasis given to the housing needs of older adults. An effort to broaden the programs of, and the appropriations for, the Farmers Home Administration specifically to meet the housing needs of rural America would be an important step in this regard.

9. There is a great need for a new investment in research on the physical and social aspects of housing for the elderly. New generations of older Americans with different values and different abilities will soon constitute our retirement populations. We need to evaluate the past, conduct research on the frontiers of our knowledge and develop criteria for the near future.

10. There should be legislative enactment creating the Office of Assistant Secretary of the Department of Housing and Urban Development for Housing for the Elderly. The field is so large and so important that overall policy and planning should be centered by law in an Assistant Secretary with trained staff to ensure effective knowledge, coordination and administration.

THE DEVELOPMENT OF SOCIAL UTILITIES FOR LONG-TERM CARE

The growth of the nursing home industry in recent years has been phenomenal; and, for the most part, caused by the introduction of Federal funds through Medicare and especially the Medicaid program. In fact, publice funds now account for approximately $2 out of every $3 in nursing home revenues. In 1973, Medicare contributed $200 million and Medicaid $2.1 billion to the industry. In addition, there are almost 50 other Federal programs which assist nursing homes. These public funds support an industry in which 77 percent of the nursing homes are operated for profit, 15 percent are philanthropic, and only 8 percent are government owned.

Despite this rapid growth and public support, a recent study by the Subcommittee on Long-Term Care of the Senate Special Committee on Aging concludes that there is no coherent policy on the long-term care of older Americans. As a result, in too many cases, public funds are used to perpetuate deficient care for thousands of older people, thus causing them to live in unconscionable conditions. That Senate report concludes that the majority of nursing homes in the country do not meet minimum standards of acceptibility.

It is critical that the Federal government redirect public funds to encourage the development of quality long-term care institutions. Therefore, NCOA believes that there should be a systematic diversion of Federal funds now being spent on proprietary nursing homes (estimated between $3.5 and $7.5 billion) into public or private nonprofit social utilities for long-term care. By social utilities we mean facilities or services *not* exclusively oriented to the care of inpatients, but also planned to provide services beyond their walls. In other words, those facilities would become an integral component of the service delivery network to the elderly throughout the community.

The possible services are many and diverse—day care, congregate dining, disease detection, intellectual and social programs, group and individual counseling and psychotherapy, outreach care, social services and health education. Thus, while offering a quiet sanctuary for those who require it, these facilities for long-term care could also become lively places with ties to the larger community. Instead of the dread of inhumane treatment or the fear of being left in a home only to die, an older person entering such a facility would expect and receive the kind of care which offers rehabilitation and a renewed sense of hope and self-esteem.

The elderly need and deserve long-term care facilities geared to meeting the full range of their medical and social needs, places where they can go and be assured of quality treatment. In the best tradition of American society, public support for the social utilities described here would reinforce competition in the nursing home industry and encourage proprietary homes to develop similar constructive programs.

THE MEDIA AND THE ELDERLY

Because the Media reflect society's perception of older persons and also make these perceptions self-fulfilling, the National Council on the Aging believes that the Media must make a major nationwide effort to develop greater public understanding of the diverse character and characteristics of older persons. NCOA, through the National Media Resource Center on the Aging, has developed recommendations for a new focus within the Media on a more positive and accurate portrayal of older man and women.

1. The Media should enable more older persons to play a fuller role in the community by exposing and reducing ageism and discrimination by increasing public understanding of the older population's value.

2. The general public should be educated to a better understanding of the processes and potentials of aging. Everyone ages and therefore has a stake in assuring that society provides the elderly with opportunities and options making its possible for them to live a full and contributing life.

3. The Media should stimulate consciousness-raising among the elderly themselves to enhance their own sense of worth and power.

4. The social issues and programs which affect the elderly should be dealt with more fully so that lack of information or misinformation does not prevent them from participating in activities and assistance programs which are available.

5. Staff should be developed with special knowledge in the area of aging, perhaps to monitor neighborhoods with a high concentration of elderly residents and report accurately on developments within them.

6. More cultural programs which are for, by and with the elderly should be initiated by the broadcast media.

NUTRITION FOR THE ELDERLY

Proper nutrition is a prerequisite of good health, but it is often hard for older people to maintain an adequate diet. Poor nutrition is frequently found among older adults because they live alone; they are often frail; and many more are poverty stricken. Inflation has increased food costs alone by 20 percent in the last year. Thus, the elderly poor are forced to "pay more to eat less." To ensure an appropriate public commitment to providing adequate nutrition benefits for older Americans, NCOA believes:

1. Title VII of the Older Americans Act should be fully funded to provide the necessary support for the Nutrition Program for the Elderly which, despite its success, now reaches only a minority of those who need such support.

2. The food stamp program should have an expanded outreach as well as an improved administration in order to be of greatest value to older persons.

3. Information about the influence of nutrition on the aging process should be incorporated into all health education programs. Such programs should be given in the public schools, be an integral part of the health education functions of the proposed national health security program, and be a significant part of senior center programs and of other services through which large numbers of older persons can be reached.

4. Standards for nutritional quality for food services for older people should be established at the Federal level and be included in the licensing and inspection procedures in every state and community.

Research on Aging

During the past decade there has been a substantial degree of Federal government support for research and development of social, behavioral and biomedical research on aging. This has come through as many as 30 government agencies and departments, each which has found that it needs to support research on problems of aging and evaluation of its programs for the elderly.

There is naturally some question whether this variety of research projects and programs is well planned and coordinated so as to cover essential problems without overlapping in some places or causing serious gaps in other areas.

The situation is now ripe for a major effort to get more coherence and better planning into the Federal government's support of research on aging.

The new National Institute on Aging is almost ready to function and its National Advisory Committee has been at work for several months. Also, the Department of Health, Education, and Welfare has a Federal Council on Aging consisting of non-governmental personnel which advises on programs in HEW. We urge these two groups to get together, and perhaps to jointly create a Task Force on Research and Development in Social Gerontology, with the mission of producing a *Five Year Plan* for government support of research and development in this area.

Some of the most needed research can be foreseen. NCOA recommends:

1. Studies of methods of providing long-term care of elderly persons in feeble physical condition should be undertaken. This involves studies of standards and methods of financing nursing homes; as well as studies of facilities that can serve home-bound or physically impaired people through homemaker services and home-delivered meals—thus avoiding the cost and difficulty of moving into a nursing home.

2. Research should be started on ways of protecting the incomes of elderly people from erosion by monetary inflation.

3. Senior centers should be carefully studied. These agencies are increasing in numbers, and probably are the most useful single service facility for the elderly. A variety of model programs should be studied, evaluated and then those that work well should be spread over the land.

4. Television and radio programs, as well as the printed media, should be monitored and evaluated for their values to elderly viewers. Possibly some experimental programs should be created and tried out.

5. Research should be done on the adequacy of existing retirement roles and programs for development of new retirement roles.

6. Factors that affect policies governing retirement age should be studied.

Retirement Income

In the last few years, there has been a sharp reduction in poverty for persons 65 and older, from one out of four older Americans in 1969 to one in six by 1973. Nevertheless, the elderly are still the most economically disadvantaged age group since the proportion of aged living in poverty (16.3 percent) is higher than for any other age group. The majority of aged persons in poverty are women living alone.

Many more older Americans, although not considered to be in poverty, do not have incomes sufficient to meet a modest standard of living. Almost half of all aged couples have incomes below the Bureau of Labor Statistics intermediate budget for a retired couple ($6,041 in 1974) which was recommended as a standard by the 1971 White House Conference on Aging.

Thus, the nation has still not achieved the long-sought goal of an adequate retirement income for all even though income maintenance for the aged has been improved in three major areas: Social Security benefits have been substantially raised; the old age assistance welfare program has been federalized by enactment of the Supplemental Security Income program administered by the Social Security Administration; and, private pensions have been made more secure by the pension reform law.

At the same time that these improvements have been made, however, inflation has offset their impact on retirement income. Social Security increases have lagged behind price increases, particularly in the areas where the elderly have their greatest expenditures—housing, food, medical care and transportation. In the SSI program, recipients in at least 21 states will not even receive the benefits of a recent eight percent cost-of-living increase which they are entitled to along with other Social Security and SSI recipients.

Reduced Social Security taxes because of the recession and a long-term change in the population mix, have generated questions about the financing of the Social Security program. The National Council on the Aging has addressed itself to the financing aspects as well as to the adequacy of benefits in a statement adopted earlier this year. The goal with regard to financing is to bring income and outgo of the Social Security trust funds into balance within the next few years and maintain them in balance over the long-range future. There is no need to achieve a close balance in the present recessionary period or to maintain such a balance in the future over every year or short period of years.

The suggested measures to achieve this goal are:

1. The amount of earnings subject to Social Security taxes and counted in determining Social Security benefits should be increased substantially, as of 1977, from the present $14,100, and from then on adjusted, on an automatic basis, to increases in average wage levels. An increase to $24,000 in 1977 could be expected to bring the Social Security system as a whole (cash benefits and Medicare) into financial balance for the next several decades without an increase in the tax rates.

2. Beginning in about 1985 and increasing over the following three or four decades until covering about one-third of costs, a contribution from general tax revenues should supplement employer and employee tax contributions to the Social Security cash-benefits program. The general revenue contribution should begin within the next decade and be phased in gradually.

In order to achieve more adequate Social Security benefits (and supplemental work income) the National Council on the Aging recommends:

3. An increase in the amount of earnings covered (see above no. 1) which would lead to higher future benefits and therefore greater economic security for workers in the middle and upper income brackets.

4. Gearing benefits to total wages in covered employment instead of to changes in the cost-of-living. Thus, as standards of living and levels of living increased for the working population, the retired would have a share in the increases.

5. Abolishing the premiums paid by beneficiaries for Part B Medicare.

6. Increasing the amount a Social Security beneficiary may earn in a year without reduction in benefits from $2,520 to $3,000.

The objective of the Supplemental Security Income program for the elderly is to provide an adequate standard of living for those who do not have income, or enough income, from Social Security, pensions or savings. It provides a federal "income floor" for those without other adequate income resources. Experience with the program has shown, however, that although there are some 2.3 million aged persons receiving benefits, there are still many aged persons not receiving benefits to which they are entitled, and that implementation of the program is reducing already limited benefits.

To achieve the goal of bringing all eligible aged persons into the program and to provide a more adequate income from SSI benefits, NCOA recommends that the Social Security Administration take the following, necessary administrative steps:

7. Field visits to those potential beneficiaries who are homebound and unable to come to local SSA offices.

8. Development and implementation of a permanent outreach and information program to inform potential recipients of their rightful benefits.

9. States should be mandated to pass along all cost-of-living increases in the federal portion of the SSI payment by requiring states to at least maintain supplementation payments at June, 1975 levels.

10. SSI recipients should be guaranteed that SSI benefits will not be reduced when Social Security benefits rise.

11. All applications for SSI benefits should be processed with the utmost promptness, preferably within thirty days. The present $100 advance should be increased to cover the full amount of the standard monthly payment for two months, and the present provision for advance payments on the basis if presumptive disability should be broadened to include presumptive blindness.

12. Legislation should be enacted authorizing the Secretary of HEW to provide a permanent mechanism for on-going emergency assistance, as often as needed, effective within twenty-four hours of a recipient's application for such aid.

13. The use of an Ombudsman at the state or regional level to respond to claims that individuals have been denied benefits to which they are entitled should be studied and seriously considered for use in the program.

The Employee Retirement Income Security Act of 1974 provided some new protections and guarantees for the some 30 million employees covered by private pension plans.

Enforcement of the new pension reform law has just begun and it is too early to assess its impact. Studies will be needed (and some are provided in the law) to determine its impact in such areas as the employment opportunities of middle-aged and older workers, the improvement of survivor provisions and the expansion of private plan coverage. The provision establishing individual retirement accounts for those not covered by other pension plans is already quite popular, but there is little information if the additional requirements provided by the law have had any effect on establishment of additional group plans. It is important that additional plans be established to extend coverage for less than half of the work force in private industry is now covered by retirement plans.

NCOA recommends two goals with regard to private pensions:

14. Existing pension plans should continue to be liberalized with regard to such features as early vesting, portability between employers and the provision of survivor benefits.

15. The establishment of new pension plans should be encouraged so that coverage would be extended to a larger proportion of the workforce.

Specific legislative and other recommendations await further study and experience under the new pension reform law.

Extension of the General Revenue Sharing Program (State and Local Fiscal Assistance Act of 1972)

Since the inception of the General Revenue Sharing Program in 1972, the National

Council on the Aging has provided technical assistance to public and private local, state and national agencies serving the elderly and poor on how they should go about obtaining their "fair share" of the allocated funds. We were pleased that social services to the poor and aged was one of the priority areas in which local governments were required to spend their funds. Yet a recent study by the General Accounting Office revealed that less than half of one percent of the total monies authorized for expenditure by the local governments surveyed were directed specifically to programs to benefit the aged. To compound the problem, cutbacks in and even complete elimination of categorical programs benefiting the poor and aged have been justified on the existence of general and special revenue sharing funds to take their place.

It is clear, without additional safeguards in the legislation being drafted to extend the program, the needs of the poor, particularly the elderly poor, will not be a significant objective of revenue sharing programs. Therefore, NCOA urges the Congress and the President to support in any legislation extending the State and Local Fiscal Assistance Act of 1972 the following provisions:

1. A restriction on the use of general revenue sharing funds by both state and local governments to the eight priority areas in the current legislation.

2. A requirement that states and local governments spend *no less* of these funds on social services for the poor and aged than the percentage of aged and poor in that particular political jurisdiction as determined by Bureau of the Census data.

The Rural Elderly

Until very recently there has been a large migration of the American people from rural to urban areas. Thus, people residing in rural areas faced a dramatic reduction in income, a lack of essential services and, of course, a reduced population. Rural America became less visible in terms of priority in Federal and state programs. What was once the backbone of the country became a skeleton, standing alone and forgotten. Interestingly, the same could be said of the older adult throughout America. For an older adult living in rural America, the problems of poverty, isolation, poor health, inadequate housing, and lack of visibility were compounded.

However, recent migration trends seem to be changing. The population is now leaving urban areas for rural ones, although services are not so quick to follow. The National Council on the Aging calls for a national effort through the voluntary public and private sectors to utilize the capabilities of rural older adults to restore them to productiveness and to expand and develop services to enable rural older adults to enjoy a life of dignity, health, and safety. To this end, we make the following recommendations:

In non-metropolitan society, pensions or annuities are almost nonexistent. Therefore, older adults rely on social security benefits or income maintenance programs for their only source of income. To relieve the burden of these often inadequate income levels for older adults in rural areas:

1. An accelerated effort to develop rural manpower programs should be made to enable older adults to remain self-sufficient.

2. An income maintenance program tailored and directed to meet the needs of the rural older adult should be established. Such programs should take into account the traditional multi-generational family model which is still common in rural America since this structure often prevents older family members from receiving full income benefits although they must contribute to the family's income in order to avoid impoverishing them.

3. An effort by Federal, state and local governments must be made to protect the independence of rural older adults by reducing property taxes, especially those of persons on limited incomes.

Noting that in 1973 the U.S. Department of Health, Education and Welfare spent only $7 million out of $175 million on health services delivery in rural areas although statistics show that approximately 140 rural counties in the nation do not have a physician and very limited auxiliary health services, NCOA recommends the following:

4. The Federal government should collaborate with medical schools in planning for special stipends for medical students who make a commitment to serve in rural areas (as well as other delivery areas) following their training as well as field placements during their training.

5. More support should be given to developing other professionals such as doctor's assistants, nursing and medical aides to provide supportive medical services to older adults in rural areas.

6. Mobile health service units, mini-medical clinics, visiting nurses services and emergency transportation services should be developed to alleviate this serious problem.

7. More emphasis should be given to medical service development, linkage of auxiliary services and provisions to enable the utilization of these services.

Public transportation is virtually nonexistent in most rural areas and medical and social facilities are too distant from residential areas to be reached by taxi or by walking. These conditions immobilize older adults and keep them from making social contacts and reaching professional services. NCOA recommends:

8. The National Mass Transportation Act of 1974 should be re-examined and new allocations made to offer more than token assistance to rural areas.

9. Efforts should be made toward ensuring the full development and utilization of volunteer transportation services, minibus services and school buses during "off hours" to fill this transportation gap.

10. State Public Commissions should remove those regulations which might restrict the implementation of transportation programs, and state Agencies on Aging should be prepared to follow up such action with recommendations of transportation programs which would benefit the elderly.

Sixty percent of the substandard housing reported in the nation's counties is in rural areas; one-fourth of those dwellings are occupied by the older adult. NCOA recommends the following:

11. A major national housing focus must be directed at rural America with particular emphasis given to the housing needs of older adults. An effort to broaden the programs of, and the appropriations for, the Farmers Home Administration specifically to meet the housing needs of rural America would be an important step in this regard.

12. Legislation should be enacted to make available funds for low-interest rate loans for major home repairs. The development of community services to provide minor home repairs could enable many older adults to maintain their independence by remaining in their own homes. Many others, by using their skills in carpentry, masonry and plumbing could earn extra income.

13. Planners and administrators should make greater efforts to provide social services, which are so often denied the rural elderly because of their limited mobility, with public housing projects for the elderly.

Senior Citizens

Findings from the National Institute of Senior Centers' Multipurpose Senior Center Research Project affirm the role of the Senior Center as a community focal point for older person services and activities. Nutrition, health and social services plus educational, recreational and community service opportunities are made accessible and available for older persons through Multipurpose Senior Centers in thousands of communities throughout the country. There are, however, great gaps in the development of Multipurpose Senior Centers. In rural areas, for instance, where services are particularly sparse and accessibility a major problem, there are great numbers of older persons who could benefit from Center services; yet, these are the communities which do not have sufficient local resources for such programs. NCOA thinks the following steps are necessary:

1. The Congress should appropriate funds to provide Title V of the Older Americans Act with the means to do the task it was authorized to accomplish. At the minimum, each planning and service area should have a Multipurpose Senior Center from which service delivery could be coordinated—in a sense the action arm of the Area Agency on Aging.

2. A Part C for Title V of OAA, which would provide assistance to existing programs which qualify or have the potential to become Multipurpose Senior Centers by authorizing grants to sustain all or part of the costs of staff, should be developed. The current focus of Title V is too limited. It reflects a major restriction on service delivery throughout the Older Americans Act—no support for ongoing programs. Emphasis is on new projects, with nothing to maintain services and activities which have been proven to be life-sustaining to millions of America's aged.

3. Community Development funds should be authorized for nonprofit Senior Centers in addition to those which are publicly sponsored. We also urge the Department of Housing and Urban Development to encourage support of Senior Centers in the Community Development program. The extension and ultimate funding of Title V remains the primary route of Federal support for Senior Centers. Reports from around the country indicate that centers are not receiving monies under the Housing and Community Development Act of 1974. Although Centers were specifically designated by the Congress as eligible recipients of such funds, little support has emerged.

4. The Administration on Aging should encourage Area Agencies on Aging to develop service contracts with Senior Centers whenever possible, thus recognizing and extending the comprehensive service delivery system which Multipurpose Senior Centers represent.

5. The Administration on Aging should provide support for the development of standards for Senior Centers. This would be an important step forward in the provision of services for older people because it would assure more consistency in quality and a means to maintain programs meaningful to the community and to older persons. The Senior Center field as a whole should assist in the development of these standards and be involved subsequently in their adoption as a means of promoting the best for those who deserve the best—the older people of America.

Social Services and the Elderly

A social service system exists to help individuals and families to make optimal use of the resources which exist to sustain and enhance social functioning in our very complex society and its physical environment. Social services are needed by all people at some time in their lives to maintain or to attain their roles as socially or economically productive members of society, and to effectively cope with their environment.

The elderly particularly, because of their vulnerability and the impact of their problems on family and society, as well as their relatively little knowledge about the social interventions which are needed, represent a primary target for social services. The provision of social services in their preventive, supportive and restorative functions can provide for the individual and collective needs of older persons.

Social services can include a wide variety of individual and group or community services, such as nutrition, health, educational or recreation and involve not only delivery systems but policy formation, training, education, and research. Transportation as well is an important ingredient of services and a link to resources in the community.

Where responsibility rests for providing needed social services for the aged has not been clearly defined. Neither has accountability been clarified nor the mechanisms for this developed. Perhaps most importantly, the resources which are provided are insufficient.

Social services have developed in three separate systems, one private profitmaking, and the others private-voluntary and public. None of these systems function adequately for the aged and the separation of the three systems have been dysfunctional to meet all the needs of the total elderly person. The identification of this group as a special category to receive government resources has weakened not only the principle of right to service but the integration of all services, private (profit-making and voluntary) and public, into one cooperative system which functions effectively.

The National Council on the Aging is aware of the wide disparity which exists at present between the needs of the elderly and the social services which are provided to meet the greatly varied needs and wishes of this diverse population. No national policy now exists regarding meeting the needs of all Americans; this should be a primary goal. There should be a public commitment to the elderly so that necessary steps may be taken to ensure that the gap be closed between service needs and services for Older Americans.

The new Social Service Amendments of 1975 (Title XX) basically represent special revenue sharing as applied to public service programs. Unfortunately, Title XX does not provide for the provision of essential services and omits the specific language permitting group eligibility or standards for adult care; it does not define strongly what constitutes an eligible service. What is most important, moreover, is that no attempt has been made to coordinate this social service program with other programs—private and public—which provide services to the elderly.

NCOA has continually worked for improvements to insure that the current delivery and future expansion of critical social services to older Americans be facilitated. Delivery and expansion of services, however, is not enough. NCOA is concerned with regulation and means to insure the quality of the services.

The assumption is that there will be little change this year in provision of social services, and the present pattern will continue until review and planning can affect new modes of implementation. Since Title XX provides for public review and comment, mechanisms for utilization of these to maximize allocations for the elderly are essential. In this way changes may take place in direct response to service needs of the elderly.

The National Council on the Aging makes the following policy recommendations accordingly:

1. Title XX should make explicit that services be designated for the elderly specifically, so that low-income elderly are not in competition with other groups for services;

2. Group eligibility in the provision of services to adults should be allowed under Title XX.

3. Standards which ensure quality adult care must be established under Title XX. Funding to ensure enforcement of these standards through inspection and education must also be forthcoming.

4. Attempts should be made to coordinate the Title XX programs with other service programs—private or public—which serve older people.

5. Provision of services under any law is useless unless knowledge and access to the service is made readily available to the group which needs them. Thus, a system which will provide information and make referral for the elderly to link them to services should be developed.

6. Transportation is a means to bring services and older people together. Mass transportation and/or diverse mobility systems which are responsive to the unique needs of older people should be developed.

7. Levels of appropriation for services should meet the massive needs of the elderly. Insufficient funding represents tokenism and results in inadequate services and blocks access to services.

THE SPIRITUAL WELL-BEING OF THE ELDERLY

Spiritual well-being is the affirmation of life in a relationship with God, self, community and environment that nurtures and celebrates wholeness.

The spiritual is not one dimension among many in life; rather it permeates and gives meaning to all life. We call attention to this fact of life: To ignore or to attempt to separate the need to fulfill the spiritual well-being of man from attempts to satisfy his physical, material and social needs is to fail to understand both the meaning of God and the meaning of man.

We recognize that human wholeness is never fully attained. Throughout life it is a possibility in process of becoming; thus, it is no less important to the older man and woman than it is to the adolescent. In the Judeo-Christian tradition, life derives its significance through its relationship with God. While we acknowledge and respect the rights of others to have other frames of reference, we reaffirm our belief that it is this relationship with God that awakens and nourishes the process of growth through wholeness in itself, crowns moments of life with meaning and extols the spiritual fulfillment and unity of a person.[1]

Spiritual wholeness is the right of all people. So that older persons can achieve and maintain a state of spiritual well-being and fulfillment, the National Council on the Aging recommends the following:

1. The spiritual leadership of the nation should address itself to a greater commitment of psychic and financial resources toward serving the elderly. While meeting the needs of the elderly and working for programs that contribute to the well-being of the elderly, religious bodies should attempt to ensure that older persons share in the planning and implementation of all programs related to them, and that these programs are directed not only to the independent aged in the community, but also to the elderly living in public or private institutions.

2. The religious community should take it upon itself to become the prime impetus toward developing special understanding and competency in satisfying the spiritual needs of the aging among its members and among those who deliver services to the aging in private and public agencies.

3. Religious bodies should take the initiative in developing a greater sensitivity toward, and appreciation of, the cultural and ethnic diversity of our nation in order to better serve the elderly. They should work closely with the diverse minority communities to ensure that cultural or language barriers to communication are broken down without destroying the common ethnic or racial identities which bind those communities and which give greater meaning and identity to so many older people.

4. Religious organizations should be aware of agencies and services other than their own which can provide a complete ministry to older persons. Other organizations designed for the benefit of older persons should develop, as part of their services, channels to persons and agencies who can help in spiritual problems.

5. Religious bodies have traditionally and properly developed their own philosophies. In this context, they should work together with the elderly and coordinate their efforts with other groups to develop and declare an affirmation of rights for the elderly as well as to become actively concerned with spiritual, personal and social needs. Such efforts would work to ensure the basic values of all while guaranteeing the basic right of freedom of religion.

6. Religious bodies and the government should affirm the right to, and reverence for, life. In that framework, we believe an individual has the right to choose to die a natural and dignified death. When there is no reasonable expectation of recovery from physical or mental disability, an individual should be allowed to die and must not be kept alive by artificial or heroic means. Medication should be mercifully administered during time of terminal suffering, even if it hastens the moment of death. Such a decision by an individual does not ask that life be directly taken, but that dying be not unreasonably prolonged. This decision should be made by an individual for himself or herself. To ensure that such a request for a natural death is understood and not abused by others, individuals are urged to compose living wills. These wills would communicate the conscious desire to be allowed to die even though the individual be unconscious or otherwise incapacitated near the moment of death.

7. Institutions caring for the aged should provide the opportunity for chaplaincy services. In all cases, however, the aged resident should be the sole arbiter of the religious denomination and degree of any assistance provided.

8. The government should cooperate with religious bodies and private agencies to help meet the needs of the elderly, but, in doing so, should observe the principle of separation of church and state.

We hope that these recommendations will stimulate a rededication of national efforts toward enriching the lives of our older people. In particular, we seek a society and spiritual atmosphere in which the elderly can grow to accept the past, to be aware and alive in the present, and to live in hope of fulfillment.

TRAINING AND EDUCATION

TRAINING

With what is bound to be a major expansion of services and programs for the elderly during the next few years, there is a growing need for continuing education of people in the field. NCOA believes the following steps are necessary:

1. Continuing education and supplementary training programs for people who wish to serve as staff members of area agencies, as staff members of senior centers, and as staff of low-term care institutions should be supported.

2. The present flow of young people through doctoral programs in gerontology and related disciplines should be maintained. The provision of a limited number of fellowships for doctoral candidates in the

---

[1] The introduction was adapted from a statement on Spiritual Well-Being developed by the National Interfaith Coalition on Aging at its Fourth Annual Meeting, April 29-30, 1975, in Washington, D.C.

spring of 1975 is commendable and should be continued.

3. Training grants for university programs in the social and biological aspects of aging should be maintained with funds that will guarantee the supply of research and university teaching personnel at a somewhat increased level.

4. The continuing needs for training persons at the doctoral and the semi-professional levels should be coordinated with the aid of the National Institute on Aging and the Federal Council on Aging. The time has come to set up an ongoing program for at least five years, with funding authorized by the Congress. Appropriations for training have been $8 million in the most recent years, and support should be continued at this level, or increased over the next five years.

EDUCATION

Programs of general cultural and socio-civic education provided for people in their 50s, 60s, and 70s are now beginning to catch the attention and interest of mature people much more than they have in the past. This is partly due to the ingenuity and effort of educators, working especially in community colleges and in extension divisions of the state universities. It is also partly due to the increasing level of formal education of elderly people. Within ten years, the majority of people aged 65 will be high school graduates. And those who have the most formal education are the ones who want more continuing education.

To encourage and meet this growing interest, NCOA recommends:

1. Educational programs should be effectively free of tuition charges for all people over age 60, which means that colleges and public schools should have access to Federal or state funds to support such program.

2. Legislation has paved the way for support of continuing education programs, but very little money has yet been appropriated and made available. Federal funds should be appropriated specifically for these programs.

3. Curricula regarding the aging process should be developed and introduced at all educational levels.

TRANSPORTATION AND THE ELDERLY

Transportation provides a link to needed services for the elderly, who are more reliant on transportation than any other segment of the population. Yet the elderly are least likely to be served by the present transportation system. Most transportation money goes to networks serving the private automobile, and the elderly are generally non-drivers. Where transportation is available—and almost none is available in rural areas—the elderly either can't afford it or design, routing or scheduling make use of facilities difficult. Thus, barriers are created to service and employment for the elderly, particularly the elderly poor. NCOA, therefore, recommends:

1. The Federal government must take the leadership in increasing the mobility of older people through subsidies and promotion of free or low-cost coordinated, accessible transportation systems with special attention to their unique needs. Ultimately, the responsibility in this area must rest with state, regional and local transit authorities.

2. The provision of transportation is an essential part of any social service, welfare or health program serving older people. Any of these which receives subsidy from local, state or Federal government should include transportation as the vital linkage between the older person and the service.

3. Funds should be provided by all levels of government to test out new alternative ways to provide low-cost transportation to meet the needs of older persons in both urban and rural areas.

4. Older people themselves should be actively involved in the planning, policy making and development of transportation programs designed to serve them.

HELP FOR THE NEEDY

Mr. BELLMON. Mr. President, the American Public Welfare Association recently gave special recognition to the Oklahoma Department of Institutions, Social and Rehabilitative Services for a statewide food stamp outreach program which represents "a creative and administratively sound contribution to the development of public welfare programs and services." The program will be among 18 new State and local public welfare service or administrative improvements featured in an Idea Fair at APWA's 1975 National Round Table Conference in New Orleans this week. The 18 were selected for presentation from 38 entries received from all parts of the United States. Selection was based on evaluation by public welfare program and management specialists for uniqueness, documented improvement in service to clients or administration, and/or dollar savings to the agency.

In announcing selection of the Oklahoma program for recognition, Edward T. Weaver, executive director, APWA, commented:

> This program represents the sound, professional approach to public welfare administration advocated by the Association. We have initiated the Idea Fair at this biennial National Round Table Conference to draw attention to progress in the public welfare field and to give administrators and personnel of state and local agencies an opportunity to exchange views and ideas for improving services.

Mr. President, as I am sure my colleagues will agree, this is certainly the time when the officials of State welfare agencies should get together to compare ideas and develop better programs in their own States. Food stamp reform has been given considerable attention by Congress this session and it is the feeling of many of my colleagues that perhaps the Federal welfare program in the biggest state of chaos is food stamps. While the very size of the program is frightening, what has focused widespread congressional concern on food stamps is the ever-increasing charges of fraud, abuse and Government bungling. However, I am pleased to report that the State of Oklahoma has one of the lowest error rates in the food stamp program as compared with the rest of the Nation.

Mr. President, of equal concern to Congress is that Federal redtape keeps too many of the deserving needy out of the food stamp program. Is this not the original intent of Congress: to insure that resources are more properly allocated to persons in genuine need? I am proud to say, Mr. President, this is Oklahoma's major intent also: to reach the truly needy people.

Oklahoma's Outreach program is unique in that the State hires home economists as Outreach specialists to provide food stamp information and to promote wise use of the food dollar for better health through adequate nutrition. The Outreach specialists work closely with county administrators to plan activities and assure full coverage of public assistance and low-income households. They meet with senior citizens, AFDC mothers, and other groups to provide assistance in food budgeting and meal planning. Work with numerous target groups, such as Indian tribes, has enabled the Outreach specialist to produce a Cherokee translation of a current publication on nutrition and food stamps.

Mr. President, I would like to point out that the Oklahoma Department of Institutions and Rehabilitative Services is receiving this nationwide honor, not only because of the fine staff and outstanding services they are providing, but also because of the truly fine and dedicated director, Mr. L. E. Rader. Mr. Rader will also be honored by the American Public Welfare Association this week for distinguished service in the field of public welfare. Mr. Rader is one of five persons who will receive APWA awards for outstanding contributions to public welfare policy and practice. He was selected to receive one of the awards in recognition of his 24 years of continuous service as Oklahoma State welfare director and the influence he has had in the shaping of national social policies in these years.

APWA's selection for this award was made because, "Lloyd Rader has been in a position to make a unique contribution to the development of human services. As a State agency director for more than two decades—the longest record of continuous service of any State public welfare director in the Nation—Rader has developed an intimate knowledge of the workings of government and the relationships between various levels of jurisdiction. He has used this knowledge to improve services to people, not only in Oklahoma, but throughout the Nation. As an active member and officer of the National Council of State Public Welfare Administrators he has presented invaluable testimony and recommendations on numerous laws and regulations. Laws now on the books for which he worked most vigorously include amendments to the Social Security Act providing title XIX—medicaid—benefits to residents in institutions for the mentally retarded and a more favorable Federal matching formula for public assistance grants in States with lower per capita income. Most recently he worked for the successful enactment of legislation extending eligibility for food stamps to recipients of supplemental security income, the Federal assistance program for the aged, blind, and disabled. Lloyd has always been willing to share his knowledge with others and to develop new leadership in the field of public welfare. His practical counsel has had a far-reaching and constructive influence on social policies and programs."

Mr. Rader's public welfare career began November 15, 1951, with his appointment as director of the Oklahoma department. Previously he worked with the State tax commission and in private business. He has a law degree from Oklahoma City University. Mr. Rader has received many honors during his career including election to the Oklahoma Hall of Fame.

Mr. President, as former Governor of Oklahoma who worked closely with and observed Mr. Rader's administration of the welfare programs, I must agree with the American Public Welfare Association has chosen wisely when they selected Lloyd Rader and the Oklahoma Department of Institutions, Social and Rehabilitative Services for special recognition for work they have done in developing and successfully administrating programs to help Oklahoma's deserving needy.

SOCIAL SECURITY WAGE REPORTING

Mr. McINTYRE. Mr. President, before Christmas the Senate will take up an amendment to the social security regulations that will be a major cost-cutter to American small businesses.

In July I introduced S. 2156, a bill to provide for the annualization of wage reporting to the Social Security Administration by permitting changes in the tax code to allow the Social Security Administration and the Internal Revenue Service to exchange information so that American businessmen would not have to file quarterly reports outlining the wages they pay their employees.

The bill would allow the abolition of what has been described as the "most onerous" piece of paperwork that American businessmen must fill out, the form 941–A.

Last week the Senate Finance Committee reported the bill that I introduced to end the quarterly reporting of wages to the Social Security Administration. That bill would mean savings to American businessmen of about $275 million every years. It means that they would only have to fill out one form every year for each employee instead of five under existing procedures.

The bill has the support of the Secretary of the Treasury and the Secretary of Health, Education, and Welfare who have written to support the principle of changing the current quarterly reporting system to an annual system. But since the two Secretaries have not presented a bill of their own yet, we must move on our bill.

The time has come for the Senate to state strongly that it supports this bill and urge the House to move on it quickly. Since I first introduced the bill on September 19, 1973, to help business, that means they have paid over half a billion dollars that they could have saved.

As cochairman of the Federal Commission on Paperwork and chairman of the Select Committee on Small Business Subcommittee on Government Regulation, I know this bill will bring immediate relief to small businesses and big businesses too. It should be enacted in the Senate anad pass the House quickly.

Let us look at the paperwork savings. If a company has 100 employees, the bookkeeper for that company must fill out the 941–A for each employee every quarter and file an annual report as well. That is a total of 500 entries. If we abolish the 941–A, that bookkeeper would only have to file 100 pieces of information.

Clearly for the small and medium-sized companies that have not computerized their payroll accounts, the savings will be substantial.

POLITICAL RIGHTS OF WOMEN

Mr. PERCY. Mr. President, on Friday, December 12, the Senate Foreign Relations Committee held a hearing at my request to consider the ratification of the U.N. Convention on the Political Rights of Women and the Inter-American Convention on the Granting of Political Rights to Women. A number of outstanding witnesses gave eloquent testimony urging ratification. These conventions grant women political rights that are constitutionally guaranteed to every American woman.

I firmly believe that in this International Women's Year the Senate can do no less than to ratify these conventions as a reaffirmation of our national commitment to equal rights and opportunities for all. In the very near future the committee will be meeting in executive session to consider the issue. I would like my colleagues to have the benefit of the excellent testimonies given. I, therefore, ask unanimous consent that my opening statement and the statements of the witnesses be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Opening Statement by Senator Charles H. Percy

Mr. Chairman. I want to thank you for agreeing to hold this hearing to consider the U.N. Convention on the Political Rights of Women and the Inter-American Convention on the Granting of Political Rights to Women. It is both timely and important that we are taking testimony on these two conventions during Human Rights Week in International Women's Year.

The rights granted by these two conventions are constitutionally guaranteed to every American woman. The U.N. convention provides that women shall be entitled, on equal terms with men and without discrimination, to vote in all elections, to be eligible to run for all publicly elected positions, to hold public office and to exercise all public functions established by national law. The Inter-American convention provides that the right to vote and to be elected to national office shall not be denied or abridged by reason of sex.

It is ironic that the Senate, renowned for its dedication to the pursuit of human rights and freedoms, chose not to ratify the U.N. convention and to take no action on the Inter-American convention. The U.N. convention, adopted in 1952, entered into force in 1954, and ratified by 79 U.N. member states was submitted to the Senate for its advice and consent in 1963. In 1967, this committee after holding hearings on three human rights conventions, including the convention on the Political Rights of Women, voted to table the convention. The Inter-American convention, adopted in 1948 and ratified by 17 of the 21 American republics, was submitted to the Senate in 1949. During the past 26 years no action has been taken on the convention until today.

U.S. resistance to ratification centers on concern that the political rights of women are not matters of international concern and, therefore, not proper subjects for treaty-making. Ratification, opponents claim, would violate our domestic jurisdiction and disturb our constitutional Federal and State relationship. These objections, based on the traditional view that international law is concerned with the rights of states, not with the right of individuals, were eloquently rebutted in the 1967 hearings. Our witnesses today, I am sure, will present further rebuttals. I will, therefore, take the time now to make only one major point.

Like Thomas Jefferson, I do not advocate capricious changes in laws or institutions. However, Jefferson recognized as I do that, ". . . laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed and more enlightened, as new discoveries are made, new truths discovered and manners and opinions changed with the change of circumstances, institutions must advance also to keep pace with the times."

Since World War II, with the creation of the U.N. and the adoption of the U.N. Charter and subsequent declarations and treaties, international law, although still primarily concerned with the rights of states, now also recognizes the rights of individuals. Today there is a U.N. Commission on Human Rights, a Universal Declaration of Human Rights adopted by the U.N. without a single dissent, regional institutions that deal with human rights problems, and a Human Rights Court. The development of international human rights law reflects "the progress of the human mind." In this 20th century international law can no longer just concern itself with relations between states. Two world wars and numerous regional conflicts have taught us that domestic oppression often leads to foreign aggression. The achievement of world peace, the ultimate goal in relations between states, is inextricably linked with respect for basic human rights.

U.S. resistance to ratification of international conventions dealing with the political rights of women is an anachronism. In 1975, International Women's Year, the argument can no longer be supported that women's rights are not proper subjects for international concern. In 1967, this committee reported favorably the Supplementary Convention on the Abolition of Slavery, the only major U.N. human rights convention this country has ratified, but tabled the Convention on the Political Rights of Women. If the outlawing of slavery, which included involuntary marriage, the sale of women and the transfer of widows as inherited property, is a proper subject for treaty-making, why not the guarantee of basic political rights to women, particularly at a time when the maximum use of every nation's human resources is so obviously a matter of international priority.

I hope this hearing will help the Senate "keep pace with the times." In this International Women's Year this committee can do no less than to make the realization of equal rights for women as important as the abolition of slavery by recommending for ratification the U.N. Convention on the Political Rights of Women and the Inter-American Convention on the Granting of Political Rights to Women.

Statement of Stephen M. Schwebel, Deputy Legal Adviser, Department of State

I am grateful for the privilege of testifying before this Committee on the question of affording advice and consent to ratification by the United States of two conventions: the Inter-American Convention on Granting of Political Rights to Women, and the United Nations Convention on the Political Rights of Women.

The United States appears to stand in an anomalous posture on the issue of equal political rights for women. Provisions of the federal Constitution guarantee, and specific federal legislation reinforces, the right of women to cast votes and to seek and hold public office on an equal footing with men.

Yet virtually alone amongst the enlightened peoples of the world, this nation has so far declined to ratify two international conventions embodying that rudimentary principle of non-discrimination in the exercise of political rights. In this forum, our reluctance may be explained by concern over the legality or desirability of adhering to treaties touching an issue of great domestic significance, by a determination to preserve the proper balance of federal and state responsibilities, and by hesitancy to participate in an international convention which duplicates existing Constitutional and statutory law. But abroad, our failure to ratify these two treaties may be interpreted as evidence that our commitment to equal political rights for women lacks depth and conviction, or, at any rate, a proper respect for the opinions of mankind as reflected in these instruments.

Examination of the texts of these two treaties reveals how unnecessary our reluctance to consent to ratification has been. The Inter-American Convention on Granting of Political Rights to Women originated at a Conference of American States at Bogota in 1948 and was signed at that time by representatives of fourteen American nations, including one from the United States. President Truman transmitted the OAS convention to the Senate on January 13, 1949. During the nearly twenty-seven years that the convention has awaited the advice and consent of the Senate, twelve of the instruments' other thirteen signatories have ratified the convention, as have four other Latin American states. The OAS Convention contains a solitary operative paragraph: contracting parties "agree that the right to vote and to be elected to national office shall not be denied or abridged by reason of sex." That this provision comports with existing federal law is undeniable.

In 1952, the United Nations General Assembly adopted a similar Convention on the Political Rights of Women. The UN Convention breaks down into three articles the same guarantee embodied in the OAS document: that women shall be allowed to vote, to run for election to all national public offices, and to hold national public offices and exercise public functions, "on equal terms with men, without any discrimination." President Kennedy transmitted the U.N. convention to the Senate on July 22, 1973, and, in 1967, a subcommittee of the Senate Foreign Relations Committee conducted three days of hearings on this convention and two others involving the abolition of forced labor and of slavery.

Thirty non-governmental organizations and officials of the Administration endorsed ratification of the Convention on Women's Rights. The American Bar Association was alone in opposition. Apparently in response to the ABA's criticism, the UN convention was tabled, while the other human rights conventions under consideration received prompt and decisive assent. 80 nations currently are parties to the Convention on Women's Political Rights; the United States is one of two signatories to the initial agreement which have not ratified it.

By their terms, these conventions guarantee to women rights which the U.S. Constitution and existing federal law have already fixed as their due. Discrimination against women in the exercise of the franchise is currently proscribed by the 19th Amendment to the Constitution. Modern interpretations of the Fifth Amendment would preclude any attempt to qualify the right to seek or hold national public office on the basis of sex. In transmitting the UN Convenion to the President in July 1963, Secretary of State Rusk confirmed that there were "no substantive legal questions" posed by US participation in the convention. Ambassador Goldberg reiterated this point in testimony before the Senate Subcommittee in February 1967. Goldberg stated, "There is no doubt that Constitutional guarantees and legislation now in force already reflect the aims and [purpose] of the convention. We need no additional laws to ensure that women shall, on equal terms with men, be entitled to vote in all elections, be eligible for election to all publicly elected bodies established by national law, and be entitled to hold public office and exercise all public functions established by national law."

The ABA did not dispute these conclusions in its criticism of the UN convention.

The ABA's difficulty with the UN Convention—its primary and almost solitary reason adduced for declining to ratify the instrument—is that the scope of the franchise is a uniquely domestic concern and thus an impermissible basis for exercise of the treaty power. The Association's legal premise is accurate: the Supreme Court has admonished that the treaty power must be limited to matters of international import, for example in the noted case of *Geofroy* v. *Riggs*, 133 U.S. 258, 267 (1890). But in applying that precept to the UN Convention, the ABA has, we respectfully submit, underestimated the range of this country's international interests, and obligations. The Association of the Bar of the City of New York has cogently stated the implications of ratification for our foreign policy:

"By becoming a party we would underscore our commitment to basic freedoms, which is an important source of our influence in international affairs. Ratification would also give us standing to call to account both the countries which have acceded to these Conventions and countries which profess acceptance of the Conventions' substantive terms but have not become parties to them."

The opinion of the New York City Bar harmonizes with the broader view of the proper subject matter of treaties propounded by the Reporter for the Restatement of Foreign Relations Law in 1965. Discussing the significance of "human-rights" treaties, the reporter asserted that the United States participates in such international agreements, "not merely to protect its own standards, but to promote conditions abroad that will foster economic development and democratic institutions that are conducive to prosperity in the U.S. and achievement of its foreign policy objectives. It cannot effectively urge other states to adhere to such conventions without doing so itself."

In our view, the very terms of the Preamble to the Charter of the United Nations challenge the ABA's argument that equal political rights for women is not a proper subject for an international agreement. The Preamble provides that this nation and all others which subscribe to the Charter "reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small . . ."—provisions that are carried forward in Article 1.55 and 56. To insist that domestic legislation must be the sole guardian of the principle of non-discrimination between the sexes is to deny that international affirmation of fundamental principles of human rights can have a salutary and indeed legal effect on international relations. Yet the United States did not shy from such an affirmation in adopting the Charter of the U.N. Nor, in ratifying the Supplemental Convention on Slavery in 1967, did the Senate conceive that a multilateral statement of intent to abolish serfdom, debt bondage, and other institutions of slavery through domestic enactment and sanction lacked significance for this country's foreign relations. Rather the Senate saw in that document, as it should perceive in this one, a meaningful statement of a common will to abolish affronts to fundamental human rights wherever they may exist. If a binding expression of our own intent to insure equal political rights lends support to our desire that other governments extend a broad and nondiscriminatory franchise, then clearly an important international interest is served. We conclude that there can be no valid claim that actions taken to promote and expand human rights abroad, which are embraced by the U.N. Charter, transcend the proper scope of the treaty power.

Other arguments which have been raised against ratification of the U.N. Convention prove, in our view, still less substantial. The ABA has suggested as an ancillary point of contention, that a treaty with the force of federal law governing the rights to vote and to hold public office may infringe on state interests and powers. Former Justice Goldberg responded succinctly that absolutely no prerogative would be lost to the states by such a federal law. The point was reiterated in his testimony and that of other proponents of ratification that the U.N. Convention guarantees women an equal right to seek and hold only national office. The OAS Convention similarly speaks only of an equal right to be elected to national office. And the equal right of women to vote is already protected in both federal and state spheres by the Nineteenth Amendment to the federal Constitution. [*Breedlove* v. *Suttles*, 303 U.S. 277, 283 (1937)] Any question which might otherwise arise as to whether primary elections are covered by the treaties is rendered moot by the fact that all states allow women to vote in such elections on equal terms with men. Thus the spectre of a federal-state imbalance is a singularly grossamer objection to the ratification of the two conventions.

Finally, from the fact that all of the substantive rights guaranteed by the conventions are already accorded women under domestic law, the ABA has extrapolated the argument that further Congressional action to reinforce political rights for women would be gratuitous. In fact, the contrary conclusion is as warranted: because ratification of the conventions creates no new rights and requires no public debate, but merely confirms and reaffirms the existence of current political entitlements, this country may lend its support to these international agreements at no domestic cost and for a certain international benefit. Conversely, our failure to ratify the conventions may seem to cast doubt abroad on our commitment to equal political rights for women. Having enshrined that commitment as the law of the land, we need hardly shrink from recommending that all nations follow suit. The potential gains from ratification, and the damage to our stature in humanitarian affairs caused by failure to ratify, while not profound, argue not only that these conventions involve a proper international concern, but also that their reaffirmation of a fundamental principle is anything but gratuitous.

Reservations have been expressed, not by the ABA but by proponents of ratification, concerning the range of "public offices" and "public functions" open to women under the conventions. Support for ratification has been predicated on the understanding that military service is not comprehended in the term "public office." Eleanor Roosevelt, U.S. Representative to the General Assembly at the time the UN Convention was adopted, noted the possibility of confusion and articulated the view of the U.S. delegation that military service was not intended to be included. While the likelihood that this ambiguity will prove a problem may be remote, the Senate may foreclose the possibility by including in its resolution of advice and consent a statement that its approval is conditioned on the understanding that reasonable discrimination in the armed services will still be allowed. That statement of understanding would then be governing.

Given that no genuine legal barriers to ratification exist, our long-standing reluctance to approve these conventions is all the more questionable in light of the initiatives this country has taken in recent years in support of women's rights. The United States lent its full support to the decision of the United States to declare 1975 "International Women's Year." We were instrumental in proposing the World Conference of the International Women's Year, held in Mexico this past June and July, and we have consistently supported implementation of the World Plan of Action which emerged from that meeting. We have repeatedly signalled our interest in the status of women everywhere by recommending at every opportunity that development and educational programs of international organizations should inure to the equal benefit of men and women, much as the Percy Amendment requires that this country's development assistance impact on foreign peoples in a non-discriminatory manner. Our central role in international humanitarian endeavors should be unchallenged, yet our commitment to the promotion of human rights may have been called into question because of our treatment of conventions like the two we consider today. We subject that the time could scarcely be more propitious for ratification of these two treaties.

Testimony by Ray M. S. Tucker on Behalf of the National Council of Jewish Women

My name is Ray M. S. Tucker. I am a National Board Member of the National Council of Jewish Women and Chairwoman of its National Priority Task Force on Constitutional Rights. I am an attorney.

The National Council of Jewish Women, an education, community service and social action organization of over 100,000 women in Sections throughout the United States, has, since its inception 83 years ago, been committed to the principle of equal opportunity for all, including equal legal rights, equal access to education and equal employment opportunities. This commitment was reaffirmed by delegates from throughout the country gathered at the Biennial Convention in March of this year by the adoption of the following Resolutions:

"I. Individual Rights and Responsibilities. . . . We Therefore Resolve:

6. To support measures which ensure equal opportunity and legal rights for women." and

"VI. Foreign Policy

The National Council of Jewish Women believes that United States foreign policy should be directed toward world peace by striving to achieve those conditions wherein human beings can live in dignity and freedom. . . .

We Therefore Resolve:

4. To promote human rights and freedom throughout the world, including:

(d) The ratification of the Human Rights Conventions.

(e) The implementation of the Universal Declaration of Human Rights."

The Convention on the Political Rights of Women provides that women be entitled to vote in all elections on equal terms with men and without discrimination; be eligible for election to all publicly elected bodies, established by national law; be entitled to hold public office and to exercise all public functions, established by national law, all on equal terms with men, without any discrimination. These basic rights are consistent with our domestic law and the United States Constitution. The 19th Amendment guaranteed "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex." The Supreme Court held in Breedlove v. Suttles, 303 U.S. 277, 283 (1937) that the amendment by its own forces, supercedes inconsistent measures, whether Federal or State.

During the 55 years since the right of women to vote was guaranteed in our country, much significant progress has taken place recognizing the rights of women at home as well as in other nations. The U.N. Document adopted by the World Conference of International Women's Year in Mexico City this summer contained a "World Plan of Action" with the following objective: "Enactment of legislation on voting and eligibility for election on equal terms with men and equal opportunity and conditions of employment including remuneration and on equality in legal capacity and exercise thereof." (Section 46(f) page 11—July 1975) Our government participated in developing these objectives and voted for the "World Plan of Action" for International Women's Year. The National Council of Jewish Women to vote was guaranteed in our country, of International Women's Year in Mexico City through its membership in the International Council of Jewish Women as well as attendance by leaders of our National organization. The National Council of Jewish Women is committed to implementation of the "World Plan of Action."

During the Hearings before a Subcommittee of the Senate Committee on Foreign Relations held in 1967 many cogent reasons were advanced by Richard N. Gardner, representing the Ad Hoc Committee on the Human Rights and Genocide Treaties, of which National Council of Jewish Women was a member organization, for ratification of the Convention on the Political Rights of Women. He stated:

"First, our ratification will encourage other nations to adhere to these conventions and implement their provisions in their own territories. This is particularly true of newly independent countries that frequently take U.N. conventions as a model. . . .

Second, ratification will put the United States in a better legal and moral position to protest infringement of these human rights in countries that have ratified the conventions but failed to implement them in practice.

Third, ratification will increase United States influence in the continuing U.N. process of drafting legal norms in the field of human rights. . . .

Fourth, ratification will dissipate the embarassing contradictions between our failure to ratify these conventions and our traditional support of the basic human rights with which they are concerned."

Now, on the threshold of 1976, more than ever before, it is imperative that we ratify the Convention on Political Rights of Women. The United States has made vast strides domestically in human rights since 1953 when the treaty was introduced. The 1964 Civil Rights Act, Title VII, provides for eliminating sex discrimination in employment; Title IX of the 1972 Education Amendments provides for eliminating sex discrimination in education; and the proposal by the 92nd Congress of the joint resolution proposing the Equal Rights Amendment to the Constitution passed in the House in 1971 and in the Senate in 1972 would constitutionally guarantee an end to any discrimination by reason of sex.

Ratification of the Convention of Political Rights of Women would require no new domestic laws. The Convention on Political Rights of Women deals with a matter of international concern and is within the treaty power of the Federal government. It embodies ideas consistent with our Constitution and with our traditional basic values.

The world community is enhanced by nations who avail themselves of the political participation and capabilities of all their citizens not just the male half. The world problems of population, hunger, health, living standards can begin to be dealt with through the effort of the indigenous populations with the joint involvement of their female as well as male inhabitants. We should not withhold our encouragement and support from these essential objectives.

The National Council of Jewish Women urges this committee to support ratification of the Convention on the Political Rights of Women.

Thank you for giving me on behalf of the National Council of Jewish Women the opportunity to be heard on this timely and vital issue.

Statement of Dr. Irene Tinker, Chairperson of the International Women's Year Committee of the Federation of Organizations for Professional Women

I am Irene Tinker, Chairperson of the International Women's Year Committee and former President of the Federation of Organizations for Professional Women. By profession I am a political scientist, serving as Head of the International Office of the American Association for the Advancement of Science. I am here today to represent the views of the Federation of Organizations for Professional Women.

First I want to thank the Senate Foreign Relations Committee for inviting the Federation to bring the concerns of our member organizations to the attention of this Committee. The Federation, which was formed three years ago, is an umbrella organization of more than 80 affiliates with a wide range of professional identifications. Our purpose is to provide a mechanism for improving the status of women by promoting equality of opportunity in education and employment. Among our affiliates are the American Association of University Women, the American Medical Women's Association, Graduate Women in Science, the Association of Women in Science Association, the Modern Language Association, and the American Economics Association. We ourselves are affiliated to the International Alliance of Women—a continuation of the suffragette movement.

I am here today to urge that the Senate Foreign Relations Committee recommend to the Senate ratification of the Convention on the Political Rights of Women and the Inter-American Convention on the Granting of Political Rights to Women. There are several compelling reasons why this should be done and no sound reason for continuing to delay ratification.

First, it would be fitting during International Women's Year for the United States government to begin a new, positive chapter in its treatment of international conventions dealing with the rights of women. As this Committee is well aware, the United States has not been in the forefront of those championing these agreements. Of seven such conventions signed by the United States, only one has been approved—and that occurred in 1934. The time is long overdue for the Senate to begin consideration of the other agreements. It is appropriate and heartening that two of these conventions are now before this committee for consideration.

Second, when one examines the conventions before you, it is difficult to understand why there has been a 22 year delay in their adoption. They are not controversial documents and they guarantee rights which have been protected by the United States Constitution for 55 years.

The Convention on the Political Rights of Women guarantees that "Women shall be entitled to vote in all elections on equal terms with men" and "shall be eligible for election to all publicly elected bodies" without discrimination.

The OAS Convention contains a more limited guarantee that assures that "the right to vote and to be elected to national office" shall not be abridged because of sex.

These are hardly revolutionary doctrines. Seventy-nine (79) nations have ratified or acceded to the U.N. Convention on the Political Rights of Women. Sixteen (16) OAS states have ratified or acceded to the Inter-American Convention.

Given the simplicity and apparent acceptability of these guarantees, it may be worthwhile reviewing the possible reasons why these conventions have not been adopted before. The primary intellectual argument is that these conventions deal with matters appropriately within the domestic jurisdiction of each state, and they are beyond the scope of international agreement. The conflict between the demands of protecting domestic jurisdiction and protecting human rights is an old one. In terms of the relevance of that argument to these conventions, however, it appears necessary only to note several facts.

1. What constitutes a matter within the sole domestic jurisdiction of states changes over time and appears to be determined by consensus among nations.

2. The United States itself has not felt compelled to seek consistency in determining what it believes is beyond the appropriate scope of international conventions and indeed has been willing to ratify agreements which deal with matters that are generally the subject of municipal law. Less than ten years ago, in 1967 the United States Senate ratified the Supplementary Slavery Convention. This convention had been submitted to this body in 1963 along with the United Nations Convention on the Political Rights of Women by President John F. Kennedy. One might suppose, given the domestic jurisdiction argument that the convention simply extended prohibition on internal slave trade. The convention did that, but it also dealt with the abolition of bondage and serfdom, the buying, selling, and inheritance of women, and the exploitation of women. Clearly there is precedent in the Supplementary Slavery Convention for ratifying the conventions guaranteeing political rights to women.

3. The Foreign Relations Committee's decision in 1967 not to send the Convention on the Political Rights of Women to the floor of the Senate apparently was based on a last minute recommendation by the American Bar Association. As the Committee may recall, when this convention along with the Supplementary Slavery Convention was subcommitted to the Senate, the Foreign Relations Subcommittee which held hearings on the agreements recommended approval of ratification by the full committee. Only after the American Bar Association by a vote of 115 to 92 recommended against the convention did the full committee determine not to send the convention to the floor of the Senate. A mere 22 votes by an organization that had fewer than 3% women members and whose profession was known for its discrimination against women was permitted to sway the position of the U.S. Senate. It is time this injustice was rectified.

In light of the foregoing it must be concluded that there are no compelling reasons to refusing to ratify these conventions and many reasons they should be ratified. First, the U.S. delegations to the U.N. Status of Women Commission and to the International Women's Year Conference have shown strong leadership in the effort to recognize women's equality under law and in development. It is time for the Senate to support this leadership. Secondly, the U.S. has signed the International Women's Year Plan of Action adopted in Mexico City and presently being endorsed by the U.N. General Assembly. The Plan calls for ratification of these conventions. Ratification of these conventions would be one concrete step the United States could take to demonstrate its support for the recommendations that emerged from the International Women's Year Conference.

Additionally, although no new political rights for American women are guaranteed by these conventions, adoption by the United States Senate would reiterate support for the principle of women's participation in politics at a time when women in the United States are moving into politics in increasing numbers. Despite the accelerating rate of participation and the undisputed gains in office holding enjoyed by women, the absolute numbers remain disappointing. In the fall of 1975, women held less than 6% of all public offices in the United States, although they comprise 53% of the population. In federal office there is no woman yet in the Senate, only one woman in the cabinet and merely 19 women in Congress. There has never been a woman in the Supreme Court; women constitute less than 1% of the federal judiciary—a total of only 8 women. In light of these dismal statistics which are replicated at the state and local level, it would be a welcome gesture for the United States Senate to reaffirm their support for the political participation of women.

In the past, the United States has refrained from endorsing conventions that guarantee women's rights. In light of the paucity of arguments against those conventions and the significant arguments in support of those agreements, it appears that perhaps women's rights have not been deemed sufficiently important for the Senate to devote time to deliberation of these matters. The Federation of Organizations for Professional Women hopes that the days of this disinterest have passed, and that in 1975, the U.S. Senate will seek to begin a new chapter in its consideration of conventions guaranteeing Women's rights.

Statement of B'nai B'rith Women

(Presented by Mrs. Michael Shapiro, Past International President, B'nai B'rith Women Member, Executive Committee, U.S. Committee for Cooperation, Inter-American Commission of Women)

Distinguished members of the Senate Foreign Relations Committee, I come before you today as the representative of B'nai B'rith Women, and international Jewish women's service organization of 140,000 members in the United States. Our membership has, historically, been actively concerned with the rights of women throughout the world. In the United States, we have been in the forefront in the struggle for securing long-overdue rights for women in government, in the marketplace, in our educational institutions and in all aspects of our society where either law or custom has limited the opportunity for women to participate and contribute as equal citizens.

Internationally, as a non-governmental organization affiliated with the United Nations, we have enthusiastically supported the work of that body in removing the social, economic and cultural barriers against women in countries throughout the world, and our membership has been actively participating throughout 1975 in observances of International Women's Year. We now look forward to intensified international action on women's rights during the forthcoming Decade for Women and Development as adopted by the World Plan for Action in Mexico City.

Although the stated goals of International Women's Year of peace, equality and development have made great inroads in raising the consciousness of the world to women's needs, these goals are far from realized. Years of work lie ahead in educating the governments of many countries where social and cultural barriers have seriously hindered women's participation for centuries.

B'nai B'rith Women is committed to the securing of equal rights and opportunities for women in all aspects of society; the full participation of women in national and international life, assuring their freedom of choice and the development of individual potential, while emphasizing their increasingly important role and contributions in economic, social, cultural and political development; the expansion of free choice in planning life patterns; and women's participation in the decision-making process at local, national and international levels, and in international relations to aid in the development of cooperation among states in the strengthening of world peace.

As the preamble of the United Nations Declaration on the Elimination of Discrimination Against Women states: "discrimination against women is incompatible with human dignity and with the welfare . . . of society . . . the full and complete development of a country, the welfare of the world, and the cause of peace require the maximum participation of women as well as men in all fields."

I come before you today, gentlemen, to respectfully urge your prompt approval of the U.N. Convention on the Political Rights of Women, and the Inter-American Convention on the Granting of Civil Rights to Women which now await this Committee's judgement.

The U.N. Convention on the Political Rights of Women was signed in New York in 1953 and first introduced in the U.S. Senate in 1963 by President Kennedy. At that time, B'nai B'rith Women urged its approval, without success. In 1967 and 1968 we again sent messages to the United States Senate regarding ratification of this Convention, including formal statements from the delegates of our International Triennial Convention. You may recall it failed ratification in 1967. During those years we also supported approval of the Supplementary Convention on the Abolition of Slavery, which we were gratified to see ratified by the U.S. in 1967. We note, as well, the incredible fact that the U.S. Government has not even signed the OAS Convention on the Granting of Civil Rights to Women.

It seems difficult to reconcile the possibility—indeed, the paradox—of the United States government, a recognized leader in the struggle for the attainment of international human rights, and a symbol of freedom to the world for two hundred years, on the eve of its Bicentennial celebration refusing to approve a treaty which would recognize the rights of over half the population of the world. The image of the United States as a champion of the rights of all people could be seriously tarnished by such an act of disapproval at this time, and our credibility as a humanitarian nation questioned. Certainly we all agree that international tensions need not be aggravated in these unsteady times, and we would not wish to risk placing our ambassadors to other nations in ambiguous positions.

We are cognizant that there have been objections in the past by the government of the United States to such treaties, but we feel these may be readily dispelled, to the satisfaction of the Committee.

Some have claimed that such a treaty would extend beyond the bounds of the U. S. Constitution—which, indeed, it does not. The Supreme Court of the United States has ruled that treaty-making power would not authorize what our Constitution forbids, nor any changes in the character of our government or a cession of territory. Clearly, the issue of women's rights is in keeping with the democratic character of the United States government—and in any case where a provision would exist which might be in conflict with our system or policy, it is possible to ratify the Convention with specific exceptions and modifications.

Other critics claim that human rights are a domestic issue—and do not represent an area in which we should deal internationally. I respectfully refer the members of this Committee to my previous statements of the basic role and conscience of this great nation in international affairs as a symbol of human rights. I also refer you to previous U.N. Conventions which the United States has ratified, such as the supplementary Convention on the Abolition of Slavery, and earlier, the League of Nations Convention on Slavery under President Hoover's leadership.

For those who fear that human rights conventions might result in the states acceding some of their historic jurisdictions to the Federal Government, we refer again to the Supreme Court, which has declared there is no such interference, according to our Constitution. Additionally, on the federal level, the 14th, 15th and 19th Amendments to the Constitution already guarantee the rights embodied in these Conventions.

In this historic International Women's Year 1975, it becomes even more necessary for the United States to express its commitment to the rights of women as enunciated in our Constitution and in our many laws and statutes which have sought to improve opportunities for women in this country, by translating our principles to international levels. (Indeed, our foreign policy itself already reflects the United States' concern for human rights and individual freedom).

In sum, the United States has a moral obligation to itself and its citizens as well as to the global community in ratifying these historic Conventions. Our image as a nation which has, admittedly, taken important steps to improve the status of women in our own country may be further enhanced, and in addition, could create a ripple effect on those nations which still resist the recognition of women's rights. Our ratification will underscore our dedication to freedom, and our encouragement to other nations to take steps to remove discriminatory barriers against their women citizens. Thus, our leadership as a democratic, humanitarian nation would be unquestioned by virtue of our example.

We urge, therefore, that the members of the Senate Foreign Relations Committee promptly approve the U.N. Convention on the Political Rights of Women and the Inter-American Convention on the Granting of Political Rights to Women. We further hope that the unanimity which we would wish to see expressed by the vote in this Committee will be conveyed to the floor of the Senate, where prompt ratification may be achieved. In this month which represents a Holy time of year for many of the world's great religions, the United States would thus be sending its most eloquent message of the true meaning of human rights and human dignity to every nation of the world.

Thank you for the opportunity to express to this Committee the views of B'nai B'rith Women.

STATEMENT OF ELIZABETH ATHANASAKOS, MEMBER OF THE NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

Chairman Sparkman and Members of the Committee:

I am Elizabeth Athanasakos, a Member of the National Commission on the Observance of International Women's Year. By profession I am an attorney at law, practicing in Ft. Lauderdale, Florida. Also, I am a former Municipal Court Judge, and at present serve as a Member of the Secretary's Advisory Committee on the Rights and Responsibilities of Women of the Department of Health, Education and Welfare. I am here representing the National Commission in the matter of the ratification of the United Nations and OAS Conventions dealing with the political rights of women. A Resolution, urging ratification during 1975, was recently adopted by the Commission. Attached to my written testimony is the full text of that Resolution.

Moreover, at the United Nations World Conference on International Women's Year, a World Plan of Action was adopted—a Plan which the United States supported. This document also calls for the immediate ratification of the Conventions on the Political Rights of Women by all states which have not yet done so. To our embarrassment, the United States, which considers itself a leader in matters of human rights, is one of those states which has allowed these Conventions to languish, since 1948 in the case of the OAS Convention and 1952 in the case of the U.N. document. The Resolution adopted by the National Commission states in part that "the failure of the United States to ratify these international conventions concerning women's rights contravenes the spirit of our Constitution and discredits the strength of our national commitment to equal rights and opportunities for all."

Since the United States is already legally bound by our Constitution and statutes to all the major human rights commitments included in these conventions concerning human rights, we suggest that it is in the best interest of this country to ratify these conventions as a reaffirmation of our recognition of and support for minimum universal standards guaranteeing dignity to over half of the human race.

In reviewing the history of the last attempt by the Senate to deal with this issue, I was shocked by the injustice done and by the circumstances which led the Foreign Relations Committee to over-ride the recommendation of its own Sub-committee, deleting the matter of political rights for women from the so-called Kennedy Package of human rights conventions under consideration at that time.

Looking through the full Senate debate of November 2, 1967, we find that the only argument used against the political rights convention was that it is a human rights matter, thus a matter of domestic concern and not a proper subject for an international convention. This was the position of the only organization then opposed to ratification—the American Bar Association. Twenty-nine other non-governmental organizations, as well as officials from the administration, testified in support of the convention.

The action by the Senate Foreign Relations Committee at that time was itself inconsistent with other actions taken by the Committee on the Kennedy Package of human rights conventions. I call your attention to the fact that within the Kennedy Package of conventions was the Supplementary Slavery Convention, a human rights matter if ever there was one, which was endorsed by the Foreign Relations Committee and sent on to the full Senate where it was ratified overwhelmingly. Most of the provisions of the Slavery Convention concerned purely domestic matters.

It was also argued in 1967 that the women of the United States already enjoy full political rights and that it is therefore unnecessary to ratify this convention.

Are we to assume, then, that in 1967 the practices prohibited by the Supplementary Slavery Convention including "debt bondage, serfdom, delivery of children by parents or guardians to others for purposes of exploitation, involuntary marriage or transfer of women for consideration, and transfer of widows as inherited property" were the practice and therefore were the proper subject of an international convention ratified by the United States? Of course not.

The jurisdictional question brought up by the ABA was absurd and its position was further clouded by the circumstances under which that position was reached. Meeting in Honolulu that year, the ABA argued about the Kennedy Package and finally decided on a compromise position which opposed only the Convention on the Political Rights of Women. Even then the vote was 115 to 92. That the ABA itself was divided on this matter was demonstrated at the time by the fact that the Bar Associations of the District of Columbia, the City of New York, the State of New York, and the State of New Jersey, testified in favor of passage before the Foreign Relations Committee.

The two prime arguments which arose around the question of ratification were the jurisdictional one already mentioned and the matter of possible conflict with states' rights. However, the Supreme Court has ruled that domestic matters may be the subject of international treaties—Geofroy v. Riggs, 133 U.S. 258, 267 (1890)—provided there is nothing which would require a change in the Constitution or in national law. Furthermore, in the case of Missouri v. Holland, 252 U.S. 416 (1920), the Supreme Court took the view that treaty-making power is not circumscribed by the provisions of the Tenth Amendment which make a general reservation of power to the States.

The action of this Committee in 1967, in allowing the ABA position to prevail, in the face of overwhelming opposition from citizens' groups and government experts, constituted an injustice to over half the citizens of this nation. It would seem that the real reason behind this rejection was not the validity of the jurisdictional argument, but was indifference to the question of women's rights. It was considered a "women's issue" and therefore not accorded political importance. In effect, I do not believe the issue was considered on its merits. Perhaps in 1967, it was thought that women would not notice such a slight. But this is not 1967 and women are more politically aware than they have ever been. I can assure you that failure to ratify these Conventions in 1975 will not pass unnoticed.

While ratification of these instruments constitutes largely a symbolic gesture, since in the U.S. we already enjoy the rights guaranteed by the Conventions, such a symbolic act would be of great domestic and international importance in complying with the commitment to the World Plan of Action adopted in Mexico City. Since this is International Women's Year, it would be particularly appropriate for this Committee to act favorably on these Conventions. Indeed, given the political awareness of women today, it might be highly inappropriate not to ratify them.

As a gesture of respect to the women of this nation and around the world, and as a gesture of continued support for the principles of human rights laid down in the Charter of the United Nations, we urge you to act favorably on these Conventions on the Political Rights of Women.

RESOLUTION ON INTERNATIONAL CONVENTIONS CONCERNING WOMEN'S RIGHTS

The National Commission on the Observance of International Women's Year urges the ratification during 1975, International Women's Year, of the Convention on the Political Rights of Women and the Inter-American Convention on the Granting of Political Rights to Women.

We believe the failure of the United States to ratify these international conventions concerning women's rights contravenes the spirit of our Constitution and discredits the strength of our national commitment to equal rights and opportunities for all.

Since the United States is already legally bound by our Constitution and statutes to all the major human rights commitments included in these conventions concerning women's rights, we propose that it is in the best interest of this country to ratify these conventions as a reaffirmation of our recognition of and support for minimum universal standards guaranteeing dignity to half the human race.

As a major commitment to the observance of International Women's Year, we pledge to do all in our capacity to carry forward the recommendation of the International Women's Year World Plan of Action that every effort be made by Governments which have not already done so to ratify these existing international instruments relating to women's rights during the year. We urge concerned individuals and organizations to lend their support to this effort.

STATEMENT OF RITA Z. JOHNSTON, DELEGATE OF THE UNITED STATES AND VICE-PRESIDENT, INTER-AMERICAN COMMISSION OF WOMEN (ORGANIZATION OF AMERICAN STATES)

I am Rita Z. Johnston, principal delegate of the United States to the Inter-American Commission of Women (Organization of American States). I have served in this capacity since July, 1973. In September 1974, I was elected Vice-President of the Commission. I also serve on the National Commission on the Observance of International Women's Year and was an alternate delegate to the United Nation's World Conference on Women in Mexico City.

I speak also on behalf of the United States Committee of Cooperation with the Delegate to the Inter-American Commission of Women. The Committees of Cooperation of the IACW exist in each member country of the IACW according to Chapter IX of the Organic Statute of the IACW as amended in 1968 and according to Chapter XXI of the Regulations of the IACW dated 1970. The membership of the United States Committee of Cooperation reflects the major women's organizations in the United States, government agencies and individuals who are concerned with carrying out the objectives of the IACW in the hemisphere and with implementing the objectives of the United States Committee which are to act as an advisory body to the delegate, to petition the government to implement resolutions of international and inter-American conferences on women and to establish relations with all national, inter-American and international organizations relating to the objectives of the Inter-American Commission of Women.

The United States Committee of Cooperation at its meeting in April agreed that its particular concern during International Women's Year was to develop a concerted effort to secure ratification of the Inter-American Convention on Political Rights of Women and the signing of the Inter-American Convention on Civil Rights of Women.

And so it is with the expressed concern of that committee that I appear before you to speak for the ratification of the Inter-American Convention on the Political Rights of Women.

Nineteen countries including the United States signed the convention on May 2, 1948 at the 9th International Conference of American States in Bogota, Colombia. The instrument has been ratified by seventeen countries, only Venezuela and the United States remain non-ratified. Chile was the most recent one to ratify. This was on January 18, 1975. They also ratified the convention on civil rights of women on the same date.

The Convention on Political Rights was submitted to the Senate of the United States on January 13, 1949 with a request for advice and consent to ratification. No action was taken on this convention. These are in fact the first hearings to be held on the matter.

In a letter from the Board of Directors of the United States Committee of Cooperation to the President dated April 25, 1975, it was stated that we have noted with pride that the United States has, in fact, led the way in granting civil rights to women and has inspired some of our neighbors by our example to do the same. We were dismayed therefore, to discover that our own government is one of the few member states of the Organization of American States to refuse to sign or ratify conventions concerning the basic rights of women as equal citizens in this nation.

In looking for the reasons that the United States might have to avoid ratifying this convention on political rights of women, we find that the opposition has centered around the American Bar Association's perception of a possible conflict with states' rights that it is a matter of essentially domestic concern. We submit that the right of women to vote in the United States is protected by the Nineteenth Amendment and that their right to be elected to national office has long been recognized.

It is to the honor of our hemisphere that the first organization to declare itself against discrimination on the basis of sex and to take concrete measures to combat it, was the Organization of American States. The Charter of the OAS, adopted at the Ninth International Conference of American States in Bogota in 1948, and amended by the Protocol of Buenos Aires in 1967, categorically declares, in article 3,j. that the American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex. And going from declarations to realities, we must recall that the birth of the Inter-American Commission of Women, goes back to the Fifth International Conference of American States, held in Santiago, Chile, in 1923, which pointed out the duty to struggle for the granting to women of the same political and civil rights enjoyed by men. The Sixth International Conference of American States, held in Havana in 1928, established the Inter-American Commission of Women, and the Inter-American system thus created the first intergovernmental organization in the world founded for the expressed purpose of working for the rights of women.

Since that time, many American women from every part of the hemisphere, have been carrying on a brave many-faceted struggle. Over the years, they have created a favorable climate that has enabled them to achieve or encourage the granting of political rights and the amendment of Civil Codes throughout the hemisphere. The first chairperson of the Inter-American Commission of Women was a United States citizen, Doris Stevens. United States participation and leadership have been meaningful support to the work of the IACW over the forty-eight years of its existence. The ratification of the Inter-American Convention on Political Rights of Women would serve as the most positive step to reaffirm our concern and our support of the Inter-American Commission of Women and to demonstrate to the Organization of American States, itself, our commitment to the principle of fundamental rights of every human person.

I respectfully urge that the Inter-American Convention on the Granting of Political Rights to Women receive the immediate attention necessary to achieve ratification at the earliest possible date.

TESTIMONY OF REPRESENTATIVE BELLA S. ABZUG

I don't know whether I should laugh or cry over the fact that this Committee is finally holding hearings on the ratification of these conventions granting equal political rights to women dating back to 1948 and 1953. The failure of this body to act on these conventions during the intervening twenty years is both inexplicable and inexcusable. I hope that you will favorably report them after the hearing today and see that they are ratified by the Senate before the expiration of this International Women's Year.

While these conventions are laudable in guaranteeing women the right to vote in all elections, to be elected to all publicly elected bodies and to hold public office and exercise all public functions, they merely restate already existing law in this country.

American women struggled for over a century to gain the right to vote and the ratification of the 19th Amendment was an important step in gaining equality. With the ballot and female participation in the political process came a growing awareness of the vital contribution women make to our society and of the necessity for full political, social and civil rights for women. This struggle continues today on the national and international level.

Despite the active participation of the United States in drafting these conventions, the opponent of ratification, principally the American Bar Association, contended that ratification would upset the delicate balance of federalism by permitting the Federal Government to intrude into an area otherwise reserved to the States. Although the individual States have been free to set voting qualifications, they can only do so consistent with our substantive law.

Opponents also claimed that political rights for women were a domestic matter and, therefore, an inappropriate subject for an international treaty. This argument was incorrect in 1963 when the Treaty was first sent to the Senate by President Kennedy and I think, today, their error is apparent. The United States is, and properly should be, concerned with the political status of women throughout the world.

As a nation founded upon the principles of liberty, equality and justice for all, we should take the lead in advocating the removal of any barriers which interfere with the exercise of these rights.

The Charter of the United Nations also contains a commitment to the equality of men and women. Any doubts as to the international significance of the question of equal rights for women must be dispelled by the designation by the United Nations of 1975 Women's Year, the convening of the Mexico City Conference and its World Plan of Action.

Despite the fact that, numerically, women constitute half of the population of the world, the World Plan of Action found that in the vast majority of countries only a small percentage of them are in positions of leadership in the various branches of government. Consequently, major decisions are often taken in bodies composed solely of men and the views and needs of women are often overlooked. A major objective of the World Plan of Action is to ensure that women have, in law and in fact, equal rights and opportunities with men to vote and participate in public and political life at the national, local and community levels, and to ensure that women all over the world are made aware of their responsibilities as citizens and of the problems affecting them directly.

The anti-Zionism clause of the Declaration of Mexico illustrates women's lack of power and their manipulation by governments composed predominantly of men. Had women been in complete control of the Mexico City conference I believe this never would have been included since the issue of Zionism is irrelevant to the legitimate struggle of women for equal rights throughout the world.

These conventions affirming women's right to participate equally in the electoral process set a minimum international standard to which all nations must adhere. In 1945, over half of the nations of the world had not granted women the franchise. Today there are only nine countries—Bahrain, Kuwait, Lichtenstein, Nigeria, Omar, Oatar, Saudi Arabia, United Arab Emirates, and Yemen—where women can't vote; nevertheless, ratification is still important. The United States must be on record in the international community as a supporter and a world leader of equal political rights for women.

Quite frankly, it is embarrassing that this nation is not among the 87 countries that have signed these documents. Their significance extends beyond the right to vote to the timely question on ensuring the active participation of women in the decision-making process of the government.

A majority of Americans agree that this country needs more women in office. A Gallup Poll released three months ago reported the 71% of Americans feel the country would be governed as well or better with more women in public office, and 73% said they would vote for a qualified woman for President.

In just about the last 10 years, we have seen a revolution in the way this nation perceives women and in the way women perceive themselves. Women are now recognized as a power in this nation—not just because the newspapers and TV woke up suddenly one morning and realized that women are a majority of the population—but rather because a very effective women's movement has been organized.

On the national level there are now 19 women in the House. Connecticut has elected the first woman governor and we now have women lieutenant governors in New York, Mississippi, and Kentucky. At the state and local level, more women are becoming actively involved in the political process and seeking elective office. This represents a good start for American Women but we and other nations are still a long way from equal representation in our government. Ratification of these conventions is long overdue, and I hope it will signify a renewed commitment by the United States to strive for political equality for women.

A century ago in 1876 when this nation celebrated its first centennial, Susan P. Anthony and other women held a rally at Independence Hall, Philadelphia demanding the right to read their Declaration of Rights for Women which included the right to vote.

At the rally, which featured speeches and songs, one of them titled "A Hundred Years Hence" is particularly appropriate for today's hearings.

"Then woman, man's partner, man's equal,
shall stand,
While beauty and harmony govern the land,
To think for oneself will be no offense,
The world will be thinking, a hundred years
hence."

Well, a hundred years hence is nearly upon us, and I'm sure Susan B. Anthony would be surprised to find that the granting of political rights to women is still an unresolved issue in the United States Senate.

As we approach our bicentennial year, I urge the correction of this error of history by quick ratification of these conventions as an expression of our commitment to the full inclusion of women and the sharing of political power not only in American government but also in other governments throughout the world.

WOMEN'S EQUITY ACTION LEAGUE,
Washington, D.C., December 12, 1975.
Sen. JOHN SPARKMAN,
Chairman, Senate Foreign Relations Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR SPARKMAN: I am writing on behalf of the Women's Equity Action League (WEAL) to express our support for the ratification of the OAS Convention on the Granting of Political Rights to Women and the UN Convention on Political Rights of Women. These Conventions, which have been pending since 1948 and 1952 respectively, embody provisions which are already included in the Constitution of the United States and which are basic to the dignity of women in this country as well as elsewhere.

We are shocked and not a little embarrassed by the knowledge that the U.S. has failed to ratify these Conventions. We understand that the only opposition to ratification when the matter came unsuccessfully before the Senate Foreign Relations Committee in 1967, was the rather specious argument of the American Bar Association to the effect that political rights of women is purely a domestic matter and not properly the subject of an international convention. The ABA defeated the logic of its own position by failing to oppose for similar reasons the Supplementary Slavery Convention which was considered at the same time and eventually ratified by the Senate. The Supplementary Slavery Convention addressed various conditions of servitude which are purely domestic in scope and which were in no more need of prohibition in the United States than barriers to political participation of women.

Because this legalistic argument of the ABA is of such a frail nature, we find it difficult to believe that the Senate Foreign Relations Committee was persuaded by it. We believe there was another factor operative which was more telling in the decision to delete the Convention of the Political Rights of Women from the matter sent on to the full Senate for ratification in 1967. We believe that the controlling factor was a general disregard for anything which smacks of being a "women's issue." We find this insulting. Perhaps in 1967 the Senate Foreign Relations Committee felt it could get away with this slight to women far more easily than it could disregard the wishes of the ABA. Times have changed and women are more politically aware and sophisticated, and more importantly, organized for political action as they have not been since the suffragist movement. This time, failure to ratify these international conventions, which are so in keeping with the principles of equality which underlie our basic national philosophy, will not pass unnoticed.

Ratification of these conventions now, dur-International Women's Year, would be an appropriate tribute to the women of this nation. Furthermore, any person presuming to represent the people of the U.S., particularly in an election year which is coming up, will have a difficult time justifying a negative vote in this matter this time.

We sincerely hope the Senate Foreign Relations Committee will act to rectify the injustice done in the 1967 decision on these matters and move to ratify the conventions dealing with the political rights of women.

Sincerely yours,

ELLEN S. OVERTON,
Chair.

GUN CONTROL VERSUS CRIME CONTROL

Mr. ALLEN. Mr. President, I was saddened and deeply concerned at the two recent assassination attempts on President Ford's life. These two occurrences once again focus nationwide attention on the problems of crime and violence in the United States. They are menacing problems which threaten the very foundation of our society.

For Congress, however, to react by passing stronger gun control measures would, in my judgment, be unwise and unacceptable.

The theory—and it is only a theory—that taking guns away from law abiding citizens would reduce crime and violence in America has been refuted time and again during debate in both the House and Senate. In fact, no credible evidence has been presented to prove that tougher gun laws would have any measurable effect in controlling crime.

As Senators know, in 1968 Congress passed the Gun Control Act, replacing the Federal Firearms Act of 1938, and expanding the coverage of the National Firearms Act of 1934. This act, which was passed by Congress following the assassinations of Martin Luther King and Senator Robert Kennedy, contains much stricter and more detailed controls than the previous laws.

Initially, the focus of legislative proposals was on eliminating mail-order traffic in handguns. Over the years, however, a number of groups and individuals began gradually to press for more restrictive measures. By 1968, several Members of Congress were advocating both national registration of guns and national licensing of gun owners. And since that time, literally hundreds of gun control bills have been introduced in Congress.

Most of the gun control proposals of the previous Congresses have been reintroduced in the 94th Congress. The general thrust of these pending bills in varying combinations is:

First. National registration of all handguns.

Second. National licensing as a prerequisite to handgun ownership.

Third. Elimination of cheap handguns by prohibiting the manufacture or transfer of handguns made of metal that fails to meet certain technical requirements, including an established minimum melting temperature.

Fourth. Prohibition of the further manufacture or sale of handguns that fail to meet the present criteria for importation.

Fifth. Prohibition of the further manufacture or transfer of any handgun.

Sixth. Prohibition of the private possession of any handgun.

Additionally, several proposals have been introduced which would provide for stricter penalties against persons who use guns in the commission of a Federal crime. The arguments for this approach is that present penalties have failed to establish a proper deterrent to violent crimes.

The administration also has introduced legislation which provides for: First, the tightening of requirements for Federal gun dealer licenses; second, a ban on multiple sales of any handgun; third, a waiting period between the purchase and receipt of a handgun, allowing for a police check on the purchaser; and fourth, a change in title VII of the Safe Streets Act to make illegal the mere possession of a firearm.

The administration has also proposed certain administrative steps in the gun regulation field. Principal among these is a plan to "double" the investigative efforts of the Bureau of Alcohol, Tobacco, and Firearms in the Nation's 10 largest metropolitan areas.

Mr. President, the respective subcommittees in the House and Senate which have jurisdiction over gun control bills have completed hearings and are ready to send the bills to the full committees, following the Christmas recess. It is my understanding that these bills, in varying forms, contain some or a major part of the proposals I have discussed.

In addition, bills are pending before the two Commerce Committees which contain provisions that would exclude firearms ammunition from items over which the Consumer Product Safety Commission has jurisdiction.

It is my considered opinion that we do not need additional gun control laws. In fact, I feel that the present Gun Control Act goes too far and infringes on the rights of our citizens.

Therefore, I will oppose, with every ounce of energy I possess and in every honorable way, all proposals which would take away the right of American citizens to obtain and keep firearms.

I refuse to be engulfed in the atmosphere of panic surrounding this important issue. An atmosphere which has been pressed on our citizens by the liberal news media and overzealous politicians.

Certainly, I will support proposals to fight *crime*. But it is totally unrealistic to believe that stronger gun control laws will provide most of the answers to the complex problem of crime.

It seems to me that we have put the cart before the horse. If Congress wants to reduce gun-related crime, it should pass legislation directed at the criminals, not the gun. Criminals should be taken to task, not law abiding citizens.

And yet, because of the pressure and attention by the national television networks and big city newspapers, many Members of Congress are twisting and stunting like hard-driving football linemen in order to get to the hopper to drop in yet another gun control bill.

Members are being flooded with "authoritative" reports, both pro and con. And so-called unassailable polls are being presented to prove, once and for all, that Americans want all handguns confiscated.

But underlining this slick promotion campaign is a distinct Madison Avenue, public relations flavor. It goes something like this: we know what is best for the people of this country. We will sell them on the idea whether they like it or not.

This hard-sell approach is unconvincing to me. It only reinforces my belief that legislation must be drafted and passed in a thoughtful, enlightened environment. Congress must never allow the passions of others to persuade it to take hasty action on gun control measures. Such action could set a dangerous precedent, and the people of the Nation would suffer the consequences.

After all the arguments have been made, the statistics presented and the polls taken, we still must return to some essential facts: Gun ownership is a basic, fundamental right given to the citizens of this Nation. The second amendment of our Constitution clearly guarantees American citizens the right to keep and bear arms.

There are those who tell us that this really does not mean what it says. These people have, in many cases, retained legal scholars to come up with opposing interpretations. These self-professed legal minds try to convince us that this provision of the Constitution is not applicable to modern times. They say it means that a citizen has the right to bear arms only in a military capacity.

Mr. President, I wonder how these advocates of gun control would advise the head of a household to protect his home, loved ones, and possessions from intruders. Would they advise him to call the Army?

For too long, law enforcement agencies and courts have bent over backward to protect the rights of criminals while stripping away the rights of law-abiding citizens.

Gun laws, no matter how stringent, will not prevent criminals from obtaining and using firearms. At a time when one of our greatest needs is to reduce crime and violence, taking guns away from our citizens would, in my judgment, only increase criminal acts.

Mr. President, I am convinced that additional gun control laws would be a further infringement on the rights and freedoms of U.S. citizens and I will oppose such measures when they come before the U.S. Senate.

AMBASSADOR MOYNIHAN—A STOUT DEFENDER OF THE UNITED STATES

Mr. GOLDWATER. Mr. President, in the language of the day, it is not often that patriotic Americans receive any favorable "vibes" from the United Nations. But in recent months the rhetoric from the United Nations—if not the action—has been much more to the liking of the American people. My reference is to the spirited defense of American policies voiced by Ambassador Daniel Patrick Moynihan.

It is certainly a welcome relief to find someone standing up everyday to defend this country against attacks from those people who have no use for us, except to drain off all the money that warm-hearted America can expend. Because of his distinguished service to the United States and to the cause of freedom, I have been disturbed over recent reports in the press that Ambassador Moynihan may have earned the displeasure of certain State Department bureaucrats with his outspoken defense of the United States.

So far, Mr. President, these are only rumors and I sincerely hope that they are without foundation. If there is one place in the world where the United States needs a steadfast and articulate defender, it is in the United Nations. We have that defender in Ambassador Moynihan and I hope and trust he will be allowed to continue his valuable work.

NEEDED: MORE INFORMATION ON SPANISH-SPEAKING AMERICANS

Mr. KENNEDY. Mr. President, I wish to add my strong support to Senate Joint Resolution 115 which was submitted a short time ago by my distinguished colleague, Senator DOMENICI, of New Mexico. This resolution urges several agencies in the executive branch to develop techniques relating to the publication of economic and social statistics for Americans of Spanish origin or descent.

Over 12 million Americans identify themselves as being of Spanish-speaking background. These Americans—including many Puerto Ricans and other Hispanic groups in Massachusetts—are making significant contributions to enrich American society, despite the discrimination which has denied many equal opportunities to the benefits of this land. Unfortunately, while many Americans are aware of some of the issues facing this important community, we know little about Spanish-speaking Americans statistically, a fact which has led to the denial of too many social services and programs to Americans of Spanish origin which most other Americans take for granted.

Despite a significant increase in the rate of immigration of Spanish-speaking peoples to our Nation, when we are now the Nation with the fifth highest number of Spanish-speaking in the world, our Government has not yet developed an adequate method of determining their status in society and their needs. We can only become more sensitized to the needs of Spanish Americans if we know more about their needs. And in view of the severe economic hardships confronting minority groups and newly arrived immigrants, it is imperative that we improve the manner in which our Government collects social and economic information concerning Americans of Spanish origin.

That is why I fully support the purposes of Senate Joint Resolution 115 and have joined as a cosponsor. This resolution would go far in providing the types of information which would enable Spanish Americans to participate more fully in the social programs of our Government. The resolution directs the Secretary of Labor, in cooperation with the Secretary of Commerce, to determine the feasibility and cost of developing and publishing monthly nationwide unemployment rates among Spanish-origin Americans. In addition, the Director of the Office of Management and Budget is instructed to develop a Government-wide program for the collection of data on Hispanic Americans.

Moreover, the Department of Commerce would be directed to study and determine what steps are needed for developing estimates of undercounts of Spanish Americans in future censuses, and provide for bilingual questionnaires in the collection of census data.

Mr. President, this simple measure would go far toward insuring that our Government remain sensitive to the needs of Spanish Americans so that they too can fully participate in the American dream, and I urge swift and unanimous adoption of this resolution.

VIOLATION OF DÉTENTE BY SOVIETS

Mr. THURMOND. Mr. President, it is encouraging to read editorials in the heartland of America in which I see more evidence each day that many in the American press are not being fooled by the Soviets' policy of détente.

Just such an example appeared in the December 2, 1975, issue of the Augusta Chronicle newspaper, Augusta, Ga. which published an editorial entitled "Perilous Détente."

Mr. President, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Perilous Détente

To no one's surprise, Red China's distrust of Soviet Russia, and its opposition to Soviet-U.S. "détente" was brought without delay to President Gerald Ford's attention on the first day of the President's current visit to Peking.

What is, if not surprising, at least food for sober thought, is the vehemence and urgency of the warning given the President by Acting Premier Teng Hsiao-ping.

Only hours after President Ford set foot in Peking, the Red Chinese official emphatically restated Mao Tse-tung's position with regard to the Kremlin. Russia today is, he said, "the country which most vehemently preaches peace," but nevertheless, at the same time, "is the most dangerous source of war." Russia is driving toward "world hegemony," despite its "rhetoric about détente," he insisted.

The grimmest part of Teng's warning envisions an outcome which would extend to global war: * * * viet world Hegemony) is bound to lead to a new world war. This is independent of man's will." In other words, the tide of events has set in, and a fatalistic acceptance of war is the only sensible course, we are told.

Mr. Ford's reply, understandably, was more optimistic than was Teng's deterministic reading of events. The President made it clear that Washington will not take instruction from Peking on the matter of relations with third nations, saying our course will be determined only by "our differing position in the world and our perspectives of our national interest."

For an instant reaction, such a statement may have been the diplomatic thing to say.

Nevertheless, we trust that our President will take very seriously the Red Chinese warning as to Communist Russia's intentions. In light of the Communist record of subversion, espousal of revolution, its hold on captive nations, support for Communist aggression in Southeast Asia, efforts to bring Portugal within its orbit, we must concede that Mao and his henchmen are right insofar as Moscow's intentions are concerned.

Even without accepting the pessimistic Peking opinion that we are rushing headlong into global war "independent of man's will," our government must wake up as to the pitfalls of detente. The entire concept has been warped by clever Soviet officials, wrapping our naive negotiators around their fingers. This deception has made possible an increase in Russian attack capabilities while restraining our own defense efforts.

Detente is good insofar as it seeks to increase the real chance for peace on equitable terms. But, if it is a screen for gaining Russia the upper hand throughout the world, while soothing too—trusting American officials with sweet talk, then all we can say is that Washington must wake up—before it is too late.

If we extend trust to Communist schemers who are wholly untrustworthy, we will find ourselves eventually on the toboggan to total submission to overwhelming Soviet power. A mindless detente is the way to U.S. national suicide.

This is not, of course, to whitewash the Peking Communists. We trust them no more than we trust the aggressive Marxists in Moscow. In fact, Teng told President Ford that the factors for revolution (throughout the world) are increasing . . . "the people want revolution." If Russia requires watching, so does Red China.

Nevertheless, at the moment the more powerful of the two is Russia, and even though Peking's warning is based clearly on self-interest, it has a validity which we can ignore only at our peril.

WILLIAM ROY, SUPERB NEW COLOR PHOTOGRAPHER AT THE WASHINGTON GALLERY

Mr. McINTYRE. Mr. President, 1 year ago at this time, the State of New Hampshire was indeed honored to be represented at the Washington Gallery of Photography, by the excellent artistry of one of this Nation's premier portraitists, Ms. Lotte Jacobi, of Deering.

This year, New Hampshire is again proud to have yet another of her fine photographers, Mr. William Roy, of Lebanon, N.H., exhibited at this same Washington Gallery.

Born and raised in the Granite State, William Roy has spent the past 6 years experimenting in color photography, using as his primary source of material, the color that is found in natural settings. This exhibition currently displays the first major area showing of color photographs printed through the use of the recently developed Cibachrome process. This process is an innovative approach to color photography that involves printing directly from the slide without the use of intermediate negatives. It is the newest, and most exciting professional approach to color photography.

Believing that there is something unique to be found in everything, William Roy has succeeded in orchestrating a successful exhibition that ranges in its form from the realistic, to the abstract; from the solid beauty of the New Hampshire mountains, to the simple fantasy of a country carnival.

The true value of the photographic arts is immeasurable in today's frantic urban society. It is my hope that my colleagues will join me in congratulating and supporting such fine young artists as Mr. Roy, and that they will make it a point of experiencing his superb exhibition at the Washington Gallery of Photography, 216 7th Street SE., on display now through January 10, 1976. The Gallery is open Tuesday through Friday, 10 a.m. to 10 p.m., Saturdays and Sundays, 10 a.m. to 6 p.m.

DR. JOHN RAY DUNNING

Mr. HRUSKA. Mr. President, a group of people gathered at a memorial service a week ago at Columbia University to pay tribute to Dr. John Ray Dunning, one of the scientists who helped lay the cornerstone of the atomic age. They were saddened by his loss but expressed thanks to God for His gift to the world and to America in Dr. Dunning's work, his philosophy, and his contributions to mankind.

A national figure who in 1946 was awarded the Presidential Medal for Merit, highest honor given to civilians, Dr. Dunning holds a special place in the hearts of Nebraskans, who point proudly to the fact that he graduated from Nebraska Wesleyan University in 1929.

From there he went on in the spirit of the "new Renaissance man," the embodiment of his personal philosophy of life, developing his career as a scientist-engineer.

In 1939, Dr. Dunning and his associates proved that splitting of the uranium atom would produce a huge release of energy.

Later, at Columbia University, he directed the development of Columbia's first cyclotron, now on display at the Smithsonian Institution.

Dr. Dunning spent almost 20 years at Columbia, serving as the dean of the faculty of engineering and as professor of Physics and of Applied Science.

It is fitting that he was honored there. And it is fitting that tribute to him was paid by another alumnus of Nebraska Wesleyan University, my respected colleague, Carl T. Curtis.

Mr. President, I ask unanimous consent to have Senator Curtis' tribute to Dr. John Ray Dunning printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech of Senator Carl T. Curtis

Mr. Chairman, ladies and gentlemen, friends and admirers of the late Dr. John R. Dunning.

Shelby, Nebraska. The U.S. Census Reports state that in the year 1900 Shelby had a population of 425 people. It lies in a rich farming area, and the community was populated then and is now by the sturdiest of citizens. The land is flat, and there are no hindrances for one who wishes to see the beauties of the sunrise or the sunset. Fourteen miles to the north flows the life-giving Platte River, which has been described as sometimes being one mile wide and one inch deep.

It was at Shelby that on September 24, 1907, there was born to Albert and Josephine Dunning a son, and they called him John Ray.

Little did anyone know, or even dare hope, what would lie ahead of this young boy. The history of his life on this earth has now been written, and a marvelous history it is.

At the age of twelve John Dunning built and operated a radio-sending set. This would be an accomplishment for any twelve-year old boy, but at that time it was a first. There were no other radio stations for miles around. Its message reached out into the country. One of the listeners was a young girl whose name was Esther Blevins, who later became John Dunning's wife, his devoted companion, and his inspiration.

All of John's years were busy years. A recitation of the accomplishments of this great scientist-engineer would be a colossal undertaking. Others have written about these accomplishments and have documented them. I shall but mention a few. There were many good reasons why in 1946 Dr. John Ray Dunning should receive the Medal for Merit, the highest award made by the President of the United States to civilians.

Nebraska Wesleyan University at Lincoln, Nebraska, points with great pride to the fact that John Ray Dunning attended that institution and was graduated in 1929. Throughout his four years in college he constructed and operated the college radio station. In fact, he built two radio stations between 1926 and 1929.

It was at Nebraska Wesleyan University that John Ray Dunning came to know a great and beloved instructor. I refer to the late John Christen Jensen, Head of the Physics Department at Nebraska Wesleyan, who served that institution from 1907 to 1952. Professor Jensen was a great man and a true teacher. Considering the size of the university, the number of outstanding scientists who sat at the feet of Professor Jensen is an extraordinarily long list. A number of Professor Jensen's graduates were associated with Dr. John R. Dunning at various points in his brilliant and exciting career. Were John Dnnning to speak today, I am sure that he would have some kind words for Professor Jensen.

Those of us who had an opportunity to attend Nebraska Wesleyan University and receive the benefits under dedicated instructors can understand what motivated Daniel Webster to say in his argument before the Supreme Court of the United States, in the famous Dartmouth College case, "Dartmouth is a little college but we love her."

It has truly been said that Dr. Dunning was one of the scientists who helped lay the cornerstone of the atomic age. It was on the night of January 25, 1939, that the crucial experiment was completed by Dr. Dunning and his associates that proved the splitting of the uranium atom would produce a huge release of energy.

Dr. Dunning directed the development of Columbia's first cyclotron, which was built in 1936 in the basement of Pupin Hall, the physics laboratory. This instrument was used in some of the history-making experiments of the early wartime period and is now on display at the Smithsonian Institution at Washington, D.C.

In the biography which appeared in the New York Times on August 28, 1975, we find this significant paragraph: "Dr. Dunning had an 'uncanny feel' for the practical solution to an engineering problem. 'He would see to the end while the theoreticians were spending half a billion on dead ends.' "

Some years later Dr. Dunning in a speech said, "The steam engine contributed more to the theoretical development of thermodynamics than thermodynamics contributed to the practical development of the steam engine."

Dr. Dunning was a doer. He accomplished things. He was a practical man. He was a coordinator for the scientist, the engineer, and the business leader.

I would like to honor Dr. Dunning by further quoting from the same speech of his. This speech reveals this great man's philosophy. It was delivered at Nebraska Wesleyan University on October 30, 1959. On that occasion he said, "I very profoundly believe that the world is being reshaped by science and its applications and that enlightened citizenship is possible only to the man or woman who understands science.

"This time, however, I want to go further. It seems to me that our contemporary revolution is of a special kind. It is, of course, a transformation of our habitat, of our habits of work, of our habits of play and leisure, of our relationships with one another. In this respect it is analogous to the Industrial Revolution, in which the role of man in the economic process was changed."

Dr. Dunning went on to say, "But, nonetheless, there is a new spirit abroad in the scientific world. There is a kind of self-consciousness about creativity, a kind of self-consciousness about emancipation from old mechanistic habits of thought, a kind of self-consciousness about the pre-eminent importance of science which cannot fail to remind us of the Renaissance self-consciousness."

The title of Dr. Dunning's speech on that occasion was, "The New Renaissance—And The New Renaissance Man." And again I want to quote from that speech because it so well reveals his philosophy of life. "The new Renaissance Man is an engineer. That is to say, he is simultaneously a thinker of thoughts and a creator of things. He is amphibious; he lives in that blindingly bright universe in which all the muddy complexities of the physical world become beautifully transparent and orderly and elegant; and he also lives in the muddy, complicated world itself, where his fellow human beings are grubbing for a livelihood and hoping for a little comfort and tranquility."

Dr. Dunning's practical philosophy and the doer that he was is revealed in this thought from that speech, "The academician might work with the leisurely deliberateness of the cloister. But the engineer had to make scientific decisions in a hurry, often with inadequate data, and without the assurance of a fully verified theory. The engineer, in other words, often had to supply science that was not there; and so he had to be a man of keen intuitions, a man who sensed rather than formulated the inherent order of nature. In short, the engineer was an artist."

Dr. Dunning's words reveal not only his philosophy of life but his sense of humor and his well-stated defense of the scientist-engineer, for he said, "To the literary critic, the historian, the theologian, the Latinist, the musician—to these inheritors of the older forms of intellectual and artistic wealth, the engineer seems like an alien and slightly vulgar figure. *They* are the civilized Romans. *He* is the burly and distressingly competent Ostrogoth. He speaks a language they cannot speak. He wins battles. It is not known whether he bathes.

"In actuality he does bathe. He speaks not only his own strange tongue, but also the common tongue of the civilized world. He wins battles, but he is not blood-thirsty. In other words, the modern scientist-engineer is by no means insensitive to or ignorant of the areas of culture outside his own specialty."

Dr. Dunning goes on to say, "I will not regale you with a description of the pride of many English teachers, sociologists, and historians at being too fine-grained and civilized to know what goes on under the hoods of their cars—their snobbishness towards the poor engineer, whom they darkly suspect of sitting all evening in front of a television set watching Westerns, or worse yet, going around in back of it to watch the tubes glow. It must be admitted, I think, that to the *intellectual*, what goes on in the back of a television set is frequently more interesting than what comes out of the front. Note, please, that it is the engineer who is responsible for what goes on at the back; while it is the literary man, the sociologist, and the theatrical artist who are responsible for what comes out of the front.

So today we are gathered to pay tribute to a great scientist-engineer who knew what went on at the backside of the television set—and who also knew what went on in the universe.

Dr. Dunning's years at Nebraska Wesleyan were at the time that that institution was headed by Dr. Isaac B. Schreckengast. This kindly God-fearing gentleman spoke frequently at the chapel services. Oftentimes he would challenge his listeners with this rhetorical question, "What are you going to do with your life?"

Dr. John R. Dunning has answered with a life that has indeed made a mark in the history of the world, with a life of endless contributions to the field of human knowledge. He has earned the benediction, "Well done thou good and faithful servant . . . enter thou into the joy of thy Lord."

THE CURRENT RECESSION IN PERSPECTIVE

Mr. BELLMON. Mr. President, the trauma which the current economic recession is producing for millions of Americans as well as government at all levels is reason for every Member of the Senate to attempt to understand the conditions which brought on our present difficulties. Fuller understanding may make it possible for the Congress to make future decisions which will avoid a repetition.

One of the most thoughtful and understandable reviews of conditions and activities which led to our present economic situation is contained in an address by Arthur Burns, chairman of the Board of Governors of the Federal Reserve System, to the 12th annual meeting of the Society of American Business Writers delivered on May 6, 1975.

While he has his critics, Dr. Burns is one of the most highly respected economists and Government officials in the country. I believe his thoughts and comments deserve the attention of Members of the Senate and I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE CURRENT RECESSION IN PERSPECTIVE

(By Arthur Burns)

I am glad to meet with this distinguished group of business and financial journalists in a leisurely setting. As a policymaker, I feel I have much in common with the members of your profession. Both you and I must be alert to every twist and nuance of the changing economic scene. Both you and I must keep busy searching the business skies for some clues to the economic future. I find this aspect of my work exciting and intriguing, as I am sure you do. But it does involve a certain risk for both of us.

Sharing—as we do—the problem of continually meeting deadlines, we are in danger of becoming so preoccupied with the very short run that we fail to see economic events in perspective. For that very reason, I have wanted to take advantage of your invitation, so that we might ponder together the historical developments which have brought our economy to its present condition. This is a large and highly important subject. I cannot hope to do full justice to it on the present occasion. Nevertheless, I shall make a start this evening.

As you are well aware, these past few years have been trying times for the American people. Not only have we lived through the agony of Vietnam and Watergate, but some of us have even begun to wonder whether our dream of full employment, a stable price level, and a rising standard of living for all our people is beyond fulfillment.

Early last year, economic expansion began to falter in our country, as it did in other countries around the world. At the same time, the pace of the inflation that had been building for more than a decade accelerated sharply further. As the year advanced, it became increasingly clear that our economy was moving into a recession.

During the past two quarters, the real gross national product has declined by 5 per cent, and the level of industrial production is now 12 or 13 per cent below last September. The unemployment rate has risen swiftly, and so also has the idle capacity in our major industries. The decline in business activity since last fall has been the steepest of the post-war period, and yet the advance of the price level—while considerably slower than last year—is continuing at a disconcerting pace.

No business-cycle movement can be comprehended solely in terms of the events that occur within that cycle or the one preceding it. The economic currents of today are heavily influenced by longer-range developments—such as changes in economic and financial institutions, the course of public policy, and the attitudes and work habits of people. By examining the historical background of recent economic troubles, we should be able to arrive at a better understanding of where we now are.

The current recession is best viewed, and I believe it will be so regarded by historians, as the culminating phase of a long economic cycle.

There have been numerous long cycles in the past—that is, units of experience combining two or more ordinary business cycles. One such long cycle ran its course from 1908 to 1921, another from 1921 to 1933. And if we go back to the nineteenth century, we encounter long cycles from 1879 to 1894 and from 1894 to 1908. These long cycles differ in innumerable ways from one another. But they also have some features in common—in particular, each culminates in an economic decline of more than average intensity.

The beginning of the long cycle that now appears to be approaching its natural end may be dated as early as 1958, but it is perhaps best to date its start in 1961. The upward movement of economic activity which began in that year was checked briefly in 1967 and interrupted more significantly in 1970. Although these interruptions were watched with concern and some anxiety by practicing economists and other interested citizens, they will be passed over lightly by economic historians concerned with large events.

The reason is not hard to see. Putting aside monthly and quarterly data, and looking only at annual figures, we find that total employment rose every year from 1961 through 1973. So also did disposable personal income and personal consumption expenditures—both viewed on a per capita basis, and in real terms. This sustained upward trend of the economy came to an end in 1974.

The successive phases of the long upswing from 1961 to 1974 provide a useful perspective on our current problems. Some years ago, in my work at the National Bureau of Economic Research, I observed a pattern in past long upswings—an initial stage that may be called the "industrial phase" followed by what is best described as the "speculative phase." The imbalances that develop in this latter phase lead inevitably to the final downturn. The events of the past 15 years conform rather closely to this pattern.

The period from 1961 through 1964 may be regarded as the industrial phase of the long upswing. Productivity grew rapidly—increasng in the private nonfarm sector at an annual rate of 3.6 per cent between the final quarters of 1960 and 1964, or well above the average rate of the preceding decade. Unit labor costs were then remarkably stable, and so too was the general price level. Real wages and profits rose strongly. During this period of sustained economic expansion, unemployment fell from about 7 per cent of the labor force to 5 per cent, while the rate of use of industrial capacity rose substantially.

The second—or speculative—phase of the long upswing began around 1965 and continued through much of 1974. This ten-year period was marked by a succession of major, interrelated, and partly overlapping speculative waves that in varying degrees gripped other leading industrial countries as well as the United States.

The first speculative movement involved corporate mergers and acquisitions. In the euphoria of what some commentators have called the "go-go" years, rapid growth of earnings per share of common stock became the overriding goal of many business managers. Other yardsticks of corporate performance—such as the rate of return on new investments—were neglected, and so too were the serious risks of increased leveraging of common stock.

The aggregate volume of large corporate acquisitions, which for some years had been running at about $2 billion per year, jumped to $3 billion in 1965, to $8 billion in 1967, to $12½ billion in 1968, and then tapered off. This was the great era of conglomerates when a variety of unrelated businesses were brought together under a single corporate management. Entrepreneurs who displayed special skill in such maneuvers were hailed as financial geniuses—until their newly built empires began to crumble. Being preoccupied with corporate acquisitions and their conglomerate image, many businessmen lost sight of the traditional business objective of seeking larger profits through better technology, aggressive marketing, and improved management. The productivity of their businesses suffered, and so too did the nation's productivity.

The spectacular merger movement of the late 1960's was reinforced, and to a degree made possible, by the speculative movement that developed in the market for common stocks. The volume of trading on the New York Stock Exchange doubled between 1966 and 1971, and for a time trading volume on the American Exchange rose even faster. The prices of many stocks shot up with little regard to actual or potential earnings. During the two years 1967 and 1968, the average price of a share of common stock listed on the New York Exchange rose 40 per cent, while earnings per share of the listed companies rose less than 2 per cent. On the American Exchange, the average price per share rose during the same years more than 140 per cent on an earnings base that again was virtually unchanged.

Much of this speculative ardor came from a section of the mutual fund industry. For the new breed of "performance funds," long-term investment in the shares of established companies with proven earnings become an outmoded concept. In their quest for quick capital gains, these institutions displayed a penchant for risky investments and aggressive trading. In 1965, a typical mutual fund turned over about one-fifth of its common stock portfolio; by 1969, that fraction had risen to nearly one-half. As Wall Street then had it, the "smart money" went into issues of technologically-oriented firms or into corporate conglomerates—no matter how well or poorly they met the test of profitability.

Speculation in equities was cooled for a time by the stock market decline of 1969–1970, but then it resumed again and took on new forms. Money managers began to channel a preponderant part of their funds into the stocks of large and well-known firms—apparently with the thought that earnings of those companies were impervious to the vicissitudes of economic life. A huge disparity was thereby created between the price-earnings ratios of the "favored fifty" and those of other corporations. Share prices of these "favored" companies were, of course, especially hard hit in the subsequent shakeout of the stock market. Speculation in common stocks was not confined to the United States. From the late 1960's until about 1973, nearly every major stock exchange in the world experienced a large run-up in share prices, only to be followed by a drastic decline. Indeed, speculation reached a more feverish pace in some countries than in the United States. On the Tokyo stock exchange, for example, both share prices and the trading volume actually doubled in the twelve months between January 1972 and January 1973, and then suffered a sharp reversal.

The third speculative wave that nourished the long upswing of our national economy occurred in the real estate market. Homebuilding fluctuated around a horizontal trend during the 1960's. The vacancy rate in rental housing was at a high level from 1960 to 1965, then fell steadily until the end of the decade, and thus helped pave the way for a new housing boom. Between January of 1970 and January of 1973, the volume of new housing starts doubled. Since then, homebuilding has plunged, and in some sections of the nation it has virtually come to a halt. Failures of construction firms and unemployment among construction workers have reached depression levels. These unhappy developments stem in large measure from the excesses of the housing boom that got under way in 1970.

Inflationary expectations clearly played a substantial role in bolstering the demand for houses. But the boom was fostered also by an array of governmental policies designed to stimulate activity in the housing sector. These governmental measures, however well-intentioned, gave little heed to basic supply conditions in the industry or to the underlying demand for housing.

In response to easy credit and Federal subsidies, merchant builders moved ahead energetically, put up one-family homes well ahead of demand, and thus permitted the inventory of unsold homes to double between 1970 and 1973. Speculative activity was even more intense in the multi-family sector—that is, in apartments built for renting, and particularly in condominiums and cooperatives, which accounted for a fourth of the completions of multi-family structures by the first half of 1974.

The boom in housing was financed by a huge expansion of mortgage credit and construction loans. Real estate investment trusts played an exceptionally large role in supplying high-risk construction loans for condominiums, recreational developments, and other speculative activities. The growth of real estate trusts was extraordinary by any yardstick. Their assets, amounting to less than $700 million in 1968, soared to upwards of $20 billion by 1973. Unsound practices accompanied this rapid growth and, as a result, many real estate trusts now face difficult financial problems.

The speculative boom in real estate was not confined to residential structures. It extended to speculation in land, to widespread building of shopping centers, and to construction of office buildings. By 1972, the vacancy rate in office buildings reached 13 per cent, but this type of construction still kept climbing.

The real estate boom in the United States during the early 1970's had its parallel in other countries. Speculation in land and properties became rampant in the United Kingdom. In 1972 alone, new house prices rose 47 per cent on the average. The amount of credit absorbed in real estate ventures rose so rapidly that the Bank of England felt forced to place special controls on bank lending for such purposes. And in Germany, the boom in residential construction during 1971–73 left an inventory of about a quarter million unsold units—more than a third of a peak year's output—that now overhang the market.

It is in the nature of speculative movements to spread from one country or market to another. Just as the speculative wave in real estate was beginning to taper off in 1973, a new wave of speculation got under way—this time in inventories. That was the fourth and final speculative episode of the long economic upswing from 1961 to 1974. It involved massive stocking up of raw materials, machinery, parts, and other supplies in the United States and in other industrial countries.

The inventory speculation of 1973 and 1974 was the outgrowth of a boom in business activity that had raised its head by 1972 in virtually every industrial country of the world. The synchronism of economic expansion in these countries was partly coincidental, but the expansion that stemmed from ordinary business-cycle developments was reinforced by the adoption of stimulative economic policies almost everywhere. As a result, production increased rapidly around the world, and led to a burgeoning demand for raw materials, machine tools, component parts, and capital equipment—goods for which our country is a major source of supply. The pressure of rising world demand was reinforced in our markets by the devaluation of the dollar, which greatly improved our competitive position in international trade.

By the beginning of 1973, as business firms attempted to meet intense demands from both domestic and foreign customers, serious bottlenecks and shortages had begun to develop in numerous industries—especially those producing steel, non-ferrous metals, paper, chemicals, and other raw materials. In this environment of scarcities, the rise in prices of industrial commodities quickened both here and abroad. The dramatic advance of food prices in 1973, and later in energy prices, greatly compounded the worldwide inflationary problem. In our country, these price pressures were suppressed for a time by price and wage controls, but the general price level exploded when controls were phased out in late 1973 and early 1974.

One of the unfortunate consequences of inflation is that it masks underlying economic realities. As early as the spring of 1973, a perceptible weakening could be detected in the trend of consumer buying in this country. The business community, however, paid little attention to this ominous development. The escalating pace of inflation fostered expectations of still higher prices and persistent shortages in the years ahead, so that intensive stockpiling of commodities continued. Inventories increased out of all proportion to actual or prospective sales. In fact, the ratio of inventories to sales, expressed in physical terms, had risen by the summer of 1974 to the highest figure for any business-cycle expansion since 1957—another year when a severe recession got under way.

In summary, the period from 1965 to 1974 was marked by a succession of interrelated, partly overlapping speculative waves—first, in buying up of existing businesses; then, in the stock market; next, in markets for real estate; and finally, in markets for industrial materials and other commodities.

A prolonged speculative boom of this kind can seldom be traced to a single causal factor. In this instance, however, a dominant source of the problem appears to have been the lack of discipline in governmental finances.

The industrial phase of the long upswing drew to a close in late 1964 or early 1965. By then, the level of real output was very close to the limits imposed by our nation's physical capacity to produce. By then, the level of wholesale prices was already moving out of its groove of stability. Nevertheless, our Government did nothing to moderate the pace of expansion of aggregate monetary demand. On the contrary, it actually embarked on a much more expansive fiscal policy. The tax reductions of 1964 were followed in 1965 by fresh tax reductions and by a huge wave of spending both for new social programs and for the war in Vietnam. These misadventures of fiscal policy doomed the economy to serious trouble, but we were slow to recognize this. Indeed, substantial tax reductions occurred again in 1969 and 1971, and they too were followed by massive increases of expenditures.

Deficits therefore mounted, and they persisted year in and year out. Over the last ten complete fiscal years—that is, from 1965 through 1974—the Federal debt held by the public, including obligations of Federal credit agencies, rose by more than 50 per cent. The large and persistent deficits added little to our nation's capacity to produce, but they added substantially to aggregate monetary demand for goods and services. They were thus directly responsible for much of the accelerating inflation of the past decade.

Monetary and credit policies were not without some fault. As every student of economics knows, inflation cannot continue indefinitely without an accommodating increase in supplies of money and credit. It is very difficult, however, for a central bank to maintain good control of money and credit when heavy governmental borrowing drives up interest rates, and when the public is unwilling to face squarely the long-run dangers inherent in excessively stimulative economic policies.

To make matters worse, laxity in our national economic policies spilled over into private markets. The "new economics," of which less is now heard than before, held out the possibility if not the actual promise, of perpetual prosperity. Many businessmen and financiers came to view the business cycle as dead, and to expect the Federal Government to bail out almost any enterprise that ran into financial trouble. All too frequently, therefore, the cannons of financial prudence that had been developed through hard experience were set aside.

Many of our business corporations courted trouble by permitting sharp reductions in their equity cushions or their liquidity. In the manufacturing sector, the ratio of debt to equity—which had been stable in the previous decade—began rising in 1964 and nearly doubled by the end of 1974. Moreover, a large part of the indebtedness piled up by business firms was in the form of short-term obligations, and these in turn grew much more rapidly than holdings of current assets.

Similar trends developed in some segments of commercial banking. Large money-market banks came to rely more heavily on volatile short-term funds to finance their business customers, and at times they increased their loan commitments to businesses beyond prudent limits. A few bank managers, too began to concern themselves excessively with maximizing short-run profits, so that the prices quoted for their common stock would move higher. Capital ratios of many banks deteriorated; questionable loans were extended at home and abroad; insufficient attention was given here and there to the risks of dealing in foreign exchange markets; and too much bank credit went into the financing of speculative real estate ventures.

A variety of loose practices also crept into State and local government finance. Faced with rapidly expanding demands for services and limited sources of revenue, some governmental units resorted to extensive short-term borrowing and employed dubious accounting devices to conceal their budget deficits. Statutory debt limits were circumvented through the creation of special public authorities to finance the construction of housing, schools, and health facilities. Some of these authorities issued so-called "moral obligation" bonds, which investors in many instances regarded as the equivalent of "full faith and credit" obligations. The move financial devices seemed innocuous at the time, but they have recently become a source of serious concern to investors in municipal securities.

A nation cannot realistically expect prosperous economic conditions to continue very long when the Federal Government fails to heed the warning signs of accelerating inflation, when many of its business leaders spend their finest hours arranging financial maneuvers, and when aggressive trade unions push up wage rates far beyond productivity gains. After 1965, the strength of the American economy was gradually sapped by these ominous trends. Productivity in the private nonfarm sector, which had grown at an annual rate of 3.6 per cent from 1961 through 1964 slowed to a 2.2 per cent rate of advance from 1964 to 1969, then to 1.5 per cent from 1969 to 1974. Expansion in the physical volume of national output likewise declined during successive quinquennia. The rate of inflation, meanwhile, kept accelerating.

With the pace of inflation quickening, seeds of the current recession were thus sown across the economy. Rising prices eroded the purchasing power of workers' incomes and savings. Corporate profits diminished—a fact that businessmen were slow to recognize because of faulty accounting techniques. New dwellings were built on a scale that greatly exceeded the underlying demand. Inventories of commodities piled up, often at a fantastic pace, as businessmen reacted to gathering fears of shortages. Credit demands, both public and private, soared and interest rates rose to unprecedented heights.

These basic maladjustments are now being worked out of the economic system by recession—a process that entails enormous human and financial costs. Our country has gone a considerable distance in developing policies to alleviate economic hardships, and these policies have been strengthened recently. Nevertheless, the recession has wrought great damage to the lives and fortunes of many of our people.

This recession has cut deeply into economic activities. It must not, however, be viewed as being merely a pathological phenomenon. Since we permitted inflation to get out of control, the recession is now performing a painful—but also an unavoidable—function.

First, it is correcting the imbalances that developed between the production and sales of many items, also between orders and inventories, between capital investment and consumer spending, and between the trend of costs and prices.

Second, business managers are responding to the recession by moving energetically to improve efficiency—by concentrating production in more modern and efficient installations, by eliminating wasteful expenditures, by stimulating employees to work more diligently, and by working harder themselves.

Third, the recession is improving the condition of financial markets. Interest rates have moved to lower levels as a result of declining credit demands and of the Federal Reserve's efforts to bolster the growth of money and credit. Commercial banks have taken advantage of the reduced demand for loans to repay their borrowings from Federal Reserve Banks, to reduce reliance on volatile sources of funds, and to rebuild liquid assets. The rapidly rising inflow of deposits to thrift institutions has likewise permitted a reduction of indebtedness and addition to their liquid assets.

Fourth, the recession is wringing inflation out of the economic system. Wholesale prices of late have moved down, and the rise of consumer prices has also slowed. Although general price stability is not yet in sight, a welcome element of price competition has at long last been restored to our markets.

These and related business developments are paving the way for recovery in economic activity. No one can foresee with confidence when the recovery will begin. The history of our country indicates clearly, however, that the culminating downward phase of a long cycle need not be of protracted duration.

Signs are multiplying, in fact, that an upturn in economic activity may not be far away. For example, employment rose in April after six successive months of decline. The length of the workweek also stabilized last month. The rate of layoffs in manufacturing is now turning down, and some firms have been recalling workers who formerly lost their jobs. Sales of goods at retail—apart from autos—have risen further. Business and consumer confidence has been improving. And prospects for an early upturn in economic activity have been strengthened by passage of the Tax Reduction Act of 1975.

Our nation stands at present at a crossroads in its history. With the long and costly cycle in business activity apparently approaching its end, the critical task now is to build a solid foundation for our nation's economic future. We will accomplish that only if we understand and benefit from the lessons of recent experience.

Since World War II, a consensus has been building in this country that the primary task of economic policy is to maintain full employment and promote maximum economic growth. We have pursued these goals by being ever ready to stimulate the economy through increased Federal spending, lower taxes, or monetary ease. Neglect of inflation, and of longer-run economic and financial problems, has thus crept insidiously into public policy making. Our Government has become accustomed to respond with alacrity to any hint of weakness in economic activity, but to react sluggishly, and sometimes not at all, to signs of excess demand and developing inflationary pressures.

The thinking of many of our prominent economists has encouraged this bias in our economic policies. During the 1950's and 1960's, they frequently argued that "creeping inflation" was a small price to pay for full employment. Some even suggested that a little inflation was a good thing—that it energized the economic system and thus promoted rapid economic growth.

This is a dangerous doctrine. While inflation may begin slowly in an economy operating at high pressure, it inevitably gathers momentum. A state of euphoria then tends to develop, economic decision-making becomes distorted, managerial and financial practices deteriorate, speculation becomes rampant, industrial and financial imbalances pile up, and the strength of the national economy is slowly but surely sapped. That is the harsh truth that the history of business cycles teaches.

To emphasize this truth, I should now like to offer this distinguished group of journalists a bit of professional advice. Since few of you are reluctant to pass along hints as to how I should do my job, I have decided to suggest to you what the really big economic news story of 1975 is likely to be.

The story has to do with the drama now unfolding on Capitol Hill in the implementation of the Budget Control Act adopted last year. If I am right in thinking that our present economic difficulties are largely traceable to the chronic bias of the Federal budget toward deficits, there can be no doubt about the importance of what is now being attempted. No major democracy that I know of has had a more deficient legislative budget process than the United States—with revenue decisions separated from spending decisions and the latter handled in piecemeal fashion. Budgets in this country have just happened. They certainly have not been planned.

We are now attempting to change that by adopting integrated Congressional decisions on revenues and expenditures. My advice to you journalists is to follow this new effort closely. It has a significance for our nation that may carry far into the future. But nothing can be taken for granted here. We have tried budgetary reform once before under the Legislative Reorganization Act of 1946, and it failed. It failed partly because of the challenge to cherished Committee prerogatives, partly also because Congress as a whole balked at accepting so much self-discipline. I would urge you to study the history of that earlier effort and to watch the present undertaking for tell-tale signs of similar faltering.

The potential gain for our nation from budget reform is enormous even in this first year of "dry run." If, in fact, the work of the new budget committees produces in the Congress a deeper understanding of the impossibility of safely undertaking all the ventures being urged by individual legislators, a constructive beginning toward a healthier economic environment will have been made. On the other hand, if the new budget procedures are scuttled, or if they are used with little regard to curbing the bias toward large-sized Federal deficits, there ultimately may be little anyone can do to prevent galloping inflation and social upheaval.

I am inclined to be optimistic about the outcome. More and more of our people are becoming concerned about the longer-range consequences of Federal financial policies. Perspective on our nation's economic problems is gradually being gained by our citizens and their Congressional representatives. A healthy impatience with inflation is growing. You journalists are becoming more actively involved in the educational process. I therefore remain hopeful that we shall practice greater foresight in dealing with our nation's economic problems than we have in the recent past, and that we will thus build a better future for ourselves and our children in the process.

HUMANITARIAN CRISIS IN ANGOLA

Mr. KENNEDY. Mr. President, a great deal is being said these days about the escalating civil war in Angola. And the recent revelations of American involvement have raised deep and troubling questions for many Americans.

Tomorrow in this Chamber we will hear further debate, and hopefully receive some clearer information, on the extent and intent of American involvement in the Angolan tragedy. The responsible committees of Congress must also continue to exercise close scrutiny and oversight of all aspects of American activities in Angola—especially covert activities. For if ever there is a "domino effect," it is how covert activities can easily fall into overt involvement and long-term commitments. The American people will not tolerate this. The United States must avoid this in Angola.

Mr. President, the crisis in Angola properly concerns many Americans, and it is a matter of great concern to the international community. Continued civil war in Angola, and further foreign involvement, simply prolongs the tragedy of the people of Angola.

Today their tragedy is lost in the political clamor of international forums, in the sometimes bitter debate over the future of their country, and in the litany of charges and countercharges over foreign intervention. Lost, too, is the urgent need for diligent new efforts to meet the escalating needs among refugees and civilian casualties and war victims of all kinds.

There is little hard information immediately available on the current humanitarian needs of the Angolan people. But all sources readily agree that the unrelenting conflict is producing a tide of refugees and escalating human misery. International relief organizations, voluntary agencies, government sources, and the press indicate that conditions among the civilian population, in nearly all areas of Angola, are deteriorating steadily. They further report that the modest relief efforts underway by the International Committee of the Red Cross (ICRC) barely scratch the surface, and that the ICRC's future operation is at a "crucial juncture."

The civil war in Angola is not unlike civil wars elsewhere. Untold tens of thousands of Angolans have had to flee their homes to avoid the fighting, and unknown numbers more are wandering fearful and without food through the bush. Civilian casualties have steadily mounted, even as the medical supplies to meet their needs have dwindled.

Once bustling towns are empty, and many rural communities are cut off and isolated. Marketplaces are bare and food is in short supply in cities and towns. Continued conflict and the disruption and blockade of food supplies to certain areas can only mean malnutrition and the threat of starvation. Once again the world will see the pictures and the television film of the gaunt, empty, expressionless faces of children, starving in their mothers' arms.

But can we not learn the lessons of past tragedy, of all civil wars, and begin now to address ourselves to the urgent need for humanitarian relief?

Mr. President, the time is past due for our Government, the international community, and the combatant leaders in Angola to find alternatives to continuing war and to search for new avenues to resolve the crisis of people in Angola. This task will not be easy, but a serious beginning must be made. To this end, I would like to make a few recommendations:

First, the President should join with other world leaders in support of strong diplomatic initiatives to secure an early truce among the warring parties in Angola. A New Year's truce of at least 10 days could provide a useful and timely cooling-off period to promote political and humanitarian objectives in helping to bring peace and relief to the people of Angola.

Second, strong efforts are urgently needed, through appropriate diplomatic channels, to curb all foreign intervention in the fratricidal war and the shipment of new arms which only feeds the conflict. The better future of Angola does not lie in an escalation arms race or the destructive rivalry of Great Powers, but in efforts by these same powers to promote conditions in which the people of Angola can sort out their own future. And the United States should take immediate steps to accomplish this end.

Third, new efforts are also needed to promote meaningful communication and dialog among the combatant leaders in Angola on the future of their country. In this connection, the Council of Ministers of the Organization of African Unity (OAU) will shortly meet in Addis Ababa to consider the crisis in Angola.

The activities of the OAU and many African leaders—in both the political and humanitarian areas—deserve the strong support of the international community.

Fourth, the President should lend his personal support to diplomatic efforts already underway to mobilize an international humanitarian relief effort commensurate with the escalating needs among war victims in Angola.

And fifth, the President should make an immediate contribution, from available funds, to support the modest humanitarian relief efforts of the International Committee of the Red Cross (ICRC) in all parts of Angola. So far the United States has contributed only $200,000 to the current ICRC program of some $5,000,000. This is truly a paltry sum, when compared to the urgent humanitarian needs in Angola, and to the millions and millions of dollars we have apparently poured into this new country for covert political and military operations which helped produce these needs.

I am totally dismayed over the warped sense of priorities reflected in American policy toward Angola. It distresses me, Mr. President, that once again our national leadership has shunted aside humanitarian concerns and the international appeals for assistance, in pursuit of political and military ends which have raised so many troubling questions for Congress and the American people. I believe that the American people expect more of their Government, and I am hopeful that their traditional humanitarian concerns will be reflected in an immediate contribution to the relief efforts of the ICRC in Angola, and the President's personal support for greater humanitarian initiatives by the OAU and the international community.

Mr. President, peace and relief are urgently needed today in Angola—to save lives and a country, and to promote the stability and peaceful development of the entire region. Hopefully, all concerned with the human and political tragedy of the Angolan people, who have struggled so long for their freedom and independence, will work to accomplish these ends.

A SALUTE TO LEADERSHIP— U.S. CITIZENS CONGRESS

Mr. THURMOND. Mr. President, we in America are fortunate to have such a dedicated patriot as William E. Simon serving as Secretary of the Treasury. This is a view which is widely shared by thinking, concerned citizens of this great Nation.

As evidence of this recognition, Secretary Simon was presented a Bicentennial award December 14 by the U.S. Citizens Congress. It was presented in grateful acknowledgement of the dedication, foresight, and outstanding services he has rendered to his country.

The ringing response he gave in accepting this award enunciated clearly and firmly the principles which guide his actions and which led to the honor of this special recognition. His inspiring words stressed individual liberty, initiative and responsibility. At the same time he decried the growth of Government debt, Government intervention, and the attitude of something-for-nothing through big Government. I commend him for his thoughts and concur in his philosophy.

It was also most pleasing to me that my friend and colleague, Senator CARL CURTIS, of Nebraska, was honored by the U.S. Citizens Congress. He is one of the finest and ablest Members of the U.S. Senate and his record of devoted service and patriotism is richly deserving of such recognition.

The U.S. Citizens Congress is an excellent organization which exemplifies the basic principles of strength and liberty in America. The membership of this group recognizes and subscribes to the fundamentals of fiscal responsibility, a strong national defense, and freedom from governmental overregulation.

One of the greatest assets of this organization, however, is its president, Rabbi Baruch Korff. This dedicated American has stood as an outstanding example of fairness and freedom. As one whose parents were killed by the Communist revolutionaries of Russia when he was a child, he knows the price of freedom lost. I congratulate him for his constant vigil in behalf of this land and for his leadership of the U.S. Citizens Congress.

Mr. President, there were a number of distinguished persons who participated in this fine program. In order that my colleagues may have a better understanding of this ceremony, I ask unanimous consent that the program and the stated goals of the U.S. Citizens Congress, along with the outstanding address by Secretary Simon, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A SALUTE TO LEADERSHIP

PROGRAM

National Anthem.

Invocation, The Reverend Joseph Makov, Pastor, All Souls Memorial Episcopal Church.

Dinner chairman, Adm. Elliott B. Strauss.

Greetings, Adm. William Lawrence, on behalf of former Vietnam POW's.

Presentations

Rabbi Herzel Kranz.

Mrs. Mary P. McLaughlin.

Mr. Reed J. Irvine.

Mrs. Gabriele Pitcairn Pendleton.

Mrs. Mildred S. Stein.

Admiral Arleigh A. Burke.

The Hon. Louise Gore, Chairman, Maryland Bicentennial Commission.

Mr. Ralph de Toledano, Author, Columnist.

Gen. James C. Fry.

Mrs. Carol Simon.

Response, Adm. Arleigh A. Burke, former Chief of Naval Operations.

The Hon. Carl T. Curtis.

The Hon. Earl L. Butz, Secretary of Agriculture.

Response, The Hon. Carl T. Curtis, United States Senate.

Dr. Andrei D. Sakharov, Nobel Laureate.

Response, Prisoner of the U.S.S.R.

The Hon. William E. Simon.

The Hon. Strom Thurmond, United States Senate.

Address, The Hon. William E. Simon, Secretary of the Treasury.

Closing remarks, Rabbi Baruch Korff, President, USCC.

Benediction, Father Reginald de Rocquois, Pastor, Church of the Epiphany.

Scrolls by Mrs. Sheila Waters.

WHAT MUST BE DONE

Cognizant of America's great past, of its present weakened fiber, and of its future imperatives, the United States Citizens' Congress consecrates itself to this program:

1. To insist on a strong national defense and to resist suicidal cuts in military spending;
2. To demand self-discipline and a rigorous code of ethics in the media which will protect the public from bias, misrepresentation, and the erosion of national confidence;
3. To combat inflation by securing reductions in wasteful Federal spending;
4. To return public education to public control and to oppose the dangerous social experimentation of the educationists and the sociologists;
5. To resist the usurpation of the people's rights by some elements of the Federal judiciary;
6. To strengthen America's moral fiber by fighting permissiveness in all aspects of our national life;
7. To protect Americans in their daily lives through the swift and forceful administration of justice;
8. To honor the Bicentennial year by demanding of government a re-dedication to the traditions and principles of our Founding Fathers which alone can guarantee a great and free America.

REMARKS BY THE HONORABLE WILLIAM E. SIMON, SECRETARY OF THE TREASURY

Rabbi Korff, Members of the United States Citizens Congress, and Distinguished Guests:

I am deeply honored tonight to receive the first Bicentennial Award from the Citizens Congress, and I want to thank each of you for your kindness in presenting it to me. Through my good friend Rabbi Korff, I have come to learn a great deal about the goals and supreme dedication of your membership. You are fighting for some important causes, and I wish you well in your pursuit of them.

Let me also add this note: as we celebrate this "salute to leadership" tonight, let us not overlook just how much genuine leadership you have right here in your own organization—Rabbi Korff, Admiral Strauss, Carl Shipley, Mrs. Russell—fine Americans who deserve the gratitude of all of us.

The tribute you are paying to me tonight ranks as one of the most complimentary of my public service. It has not always been so positive. For instance:

The day after I was sworn in as Secretary of the Treasury, Art Buchwald told me, "Congratulations, you have just become the purser on the Titanic."

This fall, the New York Times called me the "Cotton Mather of fiscal orthodoxy".

Then not long ago I received a letter from a citizen of New York City reminding me that the first Secretary of the Treasury, Alexander Hamilton, was born out of wedlock. "However, I want you to know," this fellow wrote, "that Hamilton was not the only bastard who has held that office."

I suppose all of us have come to expect slings and arrows for our beliefs, but I want you to know that it is also very encouraging to receive a bouquet from those whose friendships and judgments I value so highly.

On occasions like these, when brevity is in order, one is tempted to encapsulate in just a few words the thoughts that have been building up over several years of government service. Please allow me to do that here tonight.

I share with many of you in this chamber a strong sense of pride and belief in the heritage of our Nation. The values that have defined our national character over the years—personal liberty, the work ethic, self-reliance, compassion for our fellow man, and the supremacy of the individual over the State—all strike me as not only the soul of wisdom but the fount of so much of our progress as a people. They are the bedrock of our democracy.

Certainly we have had our troubles and conflicts as a nation. But there has been much more that has been right than has been wrong about this country. We must always remember both sides of the equation, not just the faults but the virtues of American life as well. Let us never forget that this democracy has given more freedom, more hope, more opportunity, more dignity, more progress, and more material and spiritual blessings to more people than any nation in history.

Rabbi Korff will probably recall a woman from Virginia who visited the Oval Office once to present a gift to President Nixon: a 3 x 5 foot American flag which she had made herself. The President naturally commented that it must have taken a lot of effort. And she said, "Mr. President, it was a lot of work. There are 78,000 stitches in that flag." But then she added, "But it was all worthwhile because to me every one of those stitches just stands for something that is right about America."

What she said represents the views of many of our people. Yet today we unquestionably suffer from a spiritual malaise in our Nation. Although the fears that once existed about an economic depression have rightfully vanished, we have not yet escaped a national mental depression. Many of our fellow countrymen are angry and disillusioned. They stumble in the darkness of apprehension.

I do not pretend to have all of the answers for rebuilding our sense of confidence and our spiritual strength. Much needs to be done in every home, in every place of worship, and in every community across the country.

I am convinced, however, that in order to restore public faith in our democratic institutions, we must first restore the principles that have been fundamental to the original success of that democracy. And we must have leaders who not only profess a belief in those principles but have the courage to follow them.

In the last 10–15 years, this nation has drifted far from its original moorings. Who among us would have predicted all that we have seen in recent years? A relentless surge toward bigger and bigger government, a continuing inability to live within our means, widespread permissiveness, a failure of nerve among leaders of many of our institutions, and a trail of broken political promises that stretches all the way from the Great Society to the shores of Indochina.

Some say we are floundering today because the principles of the past are outdated, that they are obsolete and irrelevant. I categorically reject that charge. Our principles have not failed us at all; no, it is we who have failed to live up to them.

Just look at the record of mismanagement on the economic front alone:

When President Eisenhower left public office, the Federal budget was nearing $100 billion a year. Since then, it has quadrupled in size.

In the early 1960s, the Federal debt stood at $240 billion. Since then, the debt has more than doubled.

In the early 1960s, the money supply was growing at an average rate of 2½ percent a year. Since then, the growth has more than doubled.

And in the early 1960s, there were about 100 domestic assistance programs. Today there are over 1,000.

The government is now the Nation's biggest employer, its biggest customer, and its biggest borrower.

And what have been the rewards from all these years of trying to regiment our economy, trying to put the Federal Government in charge of our affairs, and abandoning many of the values of our past? The worst inflation in our peacetime history.

The worst recession in a generation. Millions unemployed. Crime breaking new records. Washington becoming the newest "sex center" of the United States. Our children, black and white, being bused against their will. The people of the Asian peninsula whose personal freedom we fought so hard to defend are now under the thumb of the Communists. And most importantly, the public confidence that was once the cement of our democratic institutions has begun to crack and crumble away.

History has not been kind to those who have lost their moral and political fiber. The late historian Arnold J. Toynbee believed that the decline of the great nations of the past can be directly attributed to a lack of spiritual faith during changing times. The Roman Empire lasted about 600 years, and there were few who could foresee its end because its leaders shielded the citizenry from the savage truths about their society. There is growing reason to believe that America is no more unique and exceptional than Rome or any of the other great nations.

The question facing us tonight is whether we can produce strong, firm leadership—not just in government but in all of our institutions—that can face up to the hard truths about America and make the changes that are so clearly needed to become masters again of our own destiny.

On the eve of our Bicentennial, let us ask ourselves: Where are the true statemen of our day—the Washingtons, the Franklins, and the Jeffersons? Where are the men and women who will restore the principles that have been the driving force in our history, who will tell the public not what they supposedly want to hear but what they need to hear, and who will work relentlessly for a strong and free America?

We need a resurgence of strong leadership in the United States.

We need to revive public support for our democratic institutions, recognizing that bad public officials are usually elected by good people who fail to vote.

And we need statesmen who will tell the truth:

That America is great not because of what government has done for people but because of what people have done for themselves;

That more government today means fewer opportunities and less freedom tomorrow;

That the horrendous growth of government, if continued, will ultimately mean the end of our private enterprise system;

That the private enterprise system remains the greatest engine for social progress ever invented;

That if economic freedom disappears in our country, political and social freedoms will also perish;

That through our inability to become more self-sufficient in energy, we are increasingly placing our fate in the hands of foreign rulers and enhancing our image as the pigeons of the Western world;

That in matters of defense, there is no such thing as being second; if we are second, we are last;

That in protecting our national security, a strong intelligence service is just as vital as a strong military service;

And that no nation, just as no individual, can live by bread alone. There are higher values to which we must aspire and they must continue to be the foundation of our civilization.

Certainly, the times often seem to discourage the emergence of forthright and firm leaders. It is never easy to overcome popular cynicism and distrust, particularly that which exists in the press. Certainly it is easier for our so-called leaders to accept conventional wisdom and always "play it safe".

But let us be honest with each other. Most of us in this chamber tonight are extremely fortunate individuals; we have an opportunity to serve our country at a critical time in its history. With that opportunity comes challenge and most importantly there comes an affirmative, moral responsibility to hold ourselves to the highest possible standards. Let us act not just as leaders of today but as the trustees of tomorrow. Let us speak the truth as God has given us the light to see that truth and learn again how to trust in the goodwill and virtue of others so that they can trust in us.

Indeed, as George Washington said at the Constitutional Convention, "Let us raise a standard to which the wise and the honest can repair."

It is in that spirit that I gratefully accept this award tonight.

Thank you.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been 26 years since President Truman first submitted the Genocide Convention to the United States for ratification. At that time the United States was in the forefront of those nations which sought to make genocide an international crime. In the intervening years 87 nations have ratified this treaty but the Senate has yet to act. Despite the passage of time, it remains as imperative as ever before that we do so.

Historically, the United States has been known as a champion of human rights. Our concern for fundamental human rights—which extends back to the Declaration of Independence and Bill of Rights—requires us to take a leading role in the international protection of human rights. The fact that we have not done so puzzles our friends and delights our enemies.

Over the years the Genocide Convention has become a symbol of the U.S. failure in this area. It was the first major human rights treaty to be drafted since the Universal Declaration of Human Rights and, moreover, was one which the United States took the initiative in drafting. In fact, former U.S. Ambassador to the United Nations, Charles Yost, a career diplomat, has testified that Senate inaction on this treaty was one of the most difficult aspects of U.S. policy—or lack of it—that he has ever had to explain in international forums.

Mr. President, we must not overlook the psychological impact of U.S. ratification. International law develops incrementally but the support of the major nations of the world remains a sine qua non for this development. The United States remains the only major power that has not ratified this important human rights treaty and I urge my colleagues to join with me in seeking prompt action.

ADVICE TO SPARE: INDIVIDUALS SERVING ON FOUR OR MORE FEDERAL ADVISORY COMMITTEES

Mr. METCALF. Mr. President, examination of the 1,412-page index to the membership of Federal advisory committees that was issued 6 weeks ago as a Senate Government Operations Committee print turns up the unexpected information that 196 persons serve on anywhere from 4 to 15 advisory committees.

This research by the Subcommittee on Reports, Accounting, and Management discloses that 107 persons serve on 4 advisory committees, 47 persons serve on 5 advisory committees, 21 persons serve on 6 advisory committees, and 21 others serve on 7 or more advisory committees.

The source of this information is the alphabetized three-way index to the membership of the 1,242 Federal advisory committees, commissions, boards, councils and other panels in existence at the end of 1974. The index to these 22,702 members lists them alphabetically by name, by affiliation and by the committee(s) on which they serve.

The index also reveals that 29 large companies have from 21 to 95 representatives on advisory committees, that 58 universities and institutes have from 23 to 350 representatives on advisory committees, and that the AFL–CIO has 92, followed by 42 unions having from 3 to 30 representatives on advisory committees. In the trade and other associations category, 3 have from 21 to 34 representatives on advisory committees.

That major corporations welcome the opportunity to place numbers of representatives on advisory committees goes without saying, given the stakes. Consider this excerpt from "Private Influence on Environmental Policy: The Case of the National Industrial Pollution Control Council," by Henry J. Steck, associate professor of political science, State University of New York, College at Cortland, in the winter 1975 issue of Environmental Law:

> Advisory committees are a common but obscure method employed by federal agencies to tap the expertise of the private sector, to solicit the advice of private groups and individuals in formulating policies and developing programs, to secure the assistance and assent of affected groups in administering programs and measuring their effectiveness and to introduce public participation into administrative activities. The complex nature of modern government has led both administrators and organized groups to accept the proposition that administrative agencies must have access to and knowledge about the distinctive needs and specialized competence of particular segments of society. Indeed, the participation of organized groups and knowledgeable individuals is regarded as a virtual sine qua non of good administrative practice. The use of advisory committees is so widespread both in the United States and elsewhere that it can be regarded as a regular and legitimate element in the structure of public administration. Advisory committees exist, moreover, not simply to provide advice and assistance in the administrative process. They are looked to by agencies for generating support from their respective social, economic, scientific, or functional constituencies and for providing a form of public and group endorsement for administrative programs. Naturally, the interaction between groups and agencies is complex and subject to variation. Some committees appear to have substantial influence over policies while others are little more than "social clubs" as one official put it, regarded at best as rubber-stamps for agency decisions and at worst as nuisances. Nonetheless, the utility of advisory groups is repeatedly acknowledged by both agency officials and group members. So fond are both Congress and agencies of such groups that in 1972 new groups were created at roughly the computed rate of one new committee for each 1.5 working days . . . Overall, the system of advisory committees can be regarded as a long-standing major institutional method for linking private interests and private expertise to public authorities in the administrative process.

Nor does it astonish me that seven universities—California, Harvard, Texas, Massachusetts Institute of Technology, Johns Hopkins, Michigan and Columbia—should between them claim more than 1,000 representatives on Federal advisory committees. In his article, "The Controversy over Peer Review," in the December 12 issue of Science, Thane Gustafson, assistant professor of government at Harvard, acknowledges complaints that have been made about representativeness on scientific advisory groups, including this one:

> Another charge is that advisory panels are dominated by representatives from prestige universities. Statistics for NSF and NIH do confirm that the top graduate institutions are heavily represented. An American Chemical Society (ACS) study of 11 NIH study sections in biochemistry showed that of 113 institutions represented, 32 contributed more than two-thirds of the advisers, and the eight institutions most heavily represented supplied nearly one-quarter of the advisers. In NSF the picture is similar: the 18 top institutions, which employed 9 percent of the nation's academic doctorate-holding scientists in 1971, contributed more than a third of the advisers.

What does astonish me is that so many persons can find the time to serve on so many advisory committees, although for Government officials there can be extenuating circumstances: often they serve ex officio, and the Federal Advisory Committee Act requires that there "shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee."

Professors, for example, grumble that departmental and other campus committees—quite apart from Federal advisory committees—increasingly demand time they would rather spend on classroom and laboratory activities.

Time is a no less precious commodity to the businessman. In an article, "The Saudi Arabian Connection," Kenneth C. Crowe, an Alicia Patterson Foundation award winner on leave from Newsday, traces the career of Charles W. Robinson, the Under Secretary of State for Economic Affairs, who before moving to Washington was president of San Francisco's Marcona Corp., an international mining and shipping concern. "By his own account," Crowe writes, "he spent 50 percent of his time as president of Marcona on quasi-government bodies."

Interestingly, only one of those bodies was a Federal advisory committee, but through his performance on that one—a State Department advisory committee on international economics—he attracted the attention of then Secretary of State William Rogers. Robinson turned down the post of Under Secretary of State for Economic Affairs when Rogers offered him the job in 1972, but changed his mind about going to Washington when Henry Kissinger became Secretary of State. Crowe writes:

> Senate sources said that Kissinger personally selected Robinson because of his performance as a dynamic, aggressive executive and because of his ties to the multinational corporate world. Robinson said that his selection came after "a survey was made of business leaders through the country."

Mr. President, John D. Harper, chairman of the Aluminum Co. of America, was serving on six Federal advisory committees at the end of 1974. There has been at least one change in those commitments this year, in that his resignation from the President's Export Council was accepted by President Ford effective November 24. I would guess that Mr. Harper finds the time to serve on these advisory committees because of their enormous potential for corporate influence.

One of these advisory committees is the President's Labor-Management Committee, whose ambitious recommendations of May 21 for increasing electric utility construction and output were accepted and endorsed by President Ford with considerable fanfare. The nature and procedures of the President's Labor-Management Committee, which has held nothing but closed meetings since it was created by Executive order on September 30, 1974, were explored at an August 1 hearing before the Subcommittee on Reports, Accounting, and Management, at which the committee's coordinator, Secretary of Labor John T. Dunlop, testified.

That hearing and much additional information were published and are available from the subcommittee.

While serving as a member of the President's Labor-Management Committee, Harper doubles as chairman of the policy committee of the Business Roundtable, a potent assembly of more than 150 giant corporations. Incredibly, five other members of the President's Labor-Management Committee also serve as members of the policy committee of the Business Roundtable: Richard C. Gerstenberg, member, board of directors, General Motors Corp.; Reginald H. Jones, chairman, General Electric Co.; Rawleigh Warner, Jr., chairman, Mobil Oil Corp.; Arthur M. Wood, chairman, Sears, Roebuck & Co.; and Walter B. Wriston, chairman, First National City Bank.

In other words, of the eight nonlabor members of the President's Labor-Management Committee, six are members of the policy committee of the Business Roundtable—an outfit described this way in the lead of a New York Times article of November 16 by Eileen Shanahan:

> A carefully organized lobbying effort, chiefly directed by a little-known organization whose members are all giant corporations, has succeeded in killing a proposed major amendment to the antitrust laws. Similar efforts against other legislation are in process and planned.

If that lead strikes you as a trifle grand, consider the opening of a Wall Street Journal article of July 15 by James Gannon discussing the electric utility financing recommendations of the President's Labor-Management Committee:

> Labor Power. Big Business Power. White House power. Pork barrel power. Put them all together and you have Washington's big electric power play of 1975.
>
> That's partly pun, but the subject isn't funny. It is no laughing matter when big corporations and big unions together concoct a scheme to siphon $600 million a year

from the U.S. Treasury, sell the idea to the President, and then get the Secretary of the Treasury to set aside his principles and act as their special interest lobbyist in Congress.

With stakes like these, with influence to be wielded on so grand a scale, it is no wonder that people like John D. Harper find the time to serve on several advisory committees. What better way could there be for people to work from the inside—behind the acceptable facade of a Federal advisory committee—to promote Government giveaways while working together on the outside to defeat legislation perceived as threatening to big business?

Mr. President, I ask unanimous consent to have printed in the Record the subcommittee's tables of multiple representation on advisory committees and of individuals serving on four or more advisory committees, a copyright article from CQ of November 23, 1974, headed "Business Roundtable: Big Corporation Bastion," the portion of the Group Research Report of December 3, 1975, dealing with the Business Roundtable, and Professor Gustafson's Science article on peer review.

There being no objection, the material was ordered to be printed in the Record, as follows:

Multiple Representation

BUSINESS-INDUSTRY

1. AT&T	95
2. RCA	95
3. ITT	86
4. General Electric	80
5. Communications Satellite Corp	64
6. Exxon Corp	48
7. IBM	40
8. Mitre Corp	37
9. Boeing	36
10. Western Union	35
11. General Motors	33
12. Westinghouse	33
13. Raytheon	31
14. Lockheed	30
15. Rockwell International	29
16. Ford Motor Co	28
17. Rand Corp	28
18. Hughes Corp	27
19. Honeywell	26
20. Mobil Oil	26
21. Aeronautical Radio	25
22. Motorola	25
23. United Airlines	25
24. Dupont	24
25. Gulf Oil	22
26. GTE	22
27. Bendix Corp	21
28. R&D Assoc	21
29. TRW, Inc	21

UNIVERSITIES-INSTITUTES

1. University of California	350
2. Harvard University	167
3. University of Texas	110
4. Massachusetts Institute of Technology	108
5. Johns Hopkins	103
6. University of Michigan	103
7. Columbia University	102
8. University of Wisconsin	96
9. University of Washington	93
10. Stanford University	91
11. State University of New York	85
12. University of Pennsylvania	85
13. Yale University	85
14. University of Illinois	84
15. University of Chicago	71
16. University of Minnesota	64
17. Washington University	62
18. Duke University	59
19. Princeton University	54
20. University of North Carolina	54
21. University of Maryland	49
22. New York University	48
23. University of Colorado	48
24. University of Pittsburgh	44
25. University of Iowa	43
26. Howard University	42
27. Indiana University	42
28. University of Utah	42
29. Caltech	40
30. University of Southern California	39
31. Penn State	38
32. University of Rochester	38
33. University of Arizona	37
34. Michigan State	34
35. Northwestern	34
36. Ohio State	34
37. University of Virginia	33
38. Purdue	30
39. University of Alabama	30
40. City University of New York	29
41. Mayo Clinic	28
42. University of Massachusetts	28
43. University of Miami	27
44. Georgetown University	26
45. George Washington University	26
46. Boston University	26
47. Oregon State	26
48. University of Oregon	26
49. Rutgers University	26
50. Vanderbilt University	26
51. Brown University	25
52. Lawrence Radiation Labs	25
53. Stanford Research Institute	25
54. University of Florida	25
55. University of New Mexico	25
56. Yeshiva University	25
57. University of Kansas	24
58. Rockefeller University	23

FEDERATIONS, NATIONAL UNIONS, AND EMPLOYEE ASSOCIATIONS

1. AFL-CIO	92
2. ALPA	30
3. USA	16
4. IBEW	15
5. CJA	12
6. ACWA	11
7. AFGE	11
8. IAM	11
9. IWA	8
10. LIUNA	8
11. PAT	8
12. SEIU	8
13. CWA	7
14. NMU	7
15. GAIU	7
16. AWU	6
17. BRASC	6
18. ILGWU	6
19. IUE	6
20. IUUE	6
21. TWU	6
22. URW	6
23. APWU	5
24. OCAW	5
25. RWDSU	5
26. SCME	5
27. TWUA	5
28. UPIU	5
29. BBF	4
30. BCW	4
31. BRS	4
32. ICW	4
33. ILA	4
34. RCIA	4
35. SMW	4
36. AIW	3
37. GBBA	3
38. IAFE	3
39. IAW	3
40. ICWU	3
41. IMAW	3
42. OPEIU	3
43. PPF	3

TRADE AND OTHER ASSOCIATIONS

1. Air Transport Association of America	34
2. Aircraft Owners & Pilots Association	26
3. National Business Aircraft Association	21

Individuals on 7 or more Federal advisory committees and their affiliations:

NO. OF FAC MEMBERSHIPS

A. Corporations, businesses, banks, and associations:

1. Baer, Charles M., Communications Satellite Corp., 15.
2. Benham, Edward E., ITT Corp., 10.
3. Highton, Francis E., consulting economist, 7.
4. Huck, Michael V., Aircraft Owners & Pilots Assoc., 7.
5. Lyons, Walter, Singer/Tele-Signal Corp., 7.
6. Mills, William W., Systems Engineering Facility, 8.
7. Simonds, Raymond E., RCA Frequency Bureau, 8.

B. Government (Federal):

1. Crowell, Raymond B., FCC, 9.
2. Dent, Frederick D., Dept. of Commerce, 8.
3. Fine, Harry, FCC, 8.
4. Gage, Stephen J., Council on Environmental Quality, 8.
5. Gatti, Joseph, FAA, 10.
6. Hurwitz, Irvin, FCC, 7.
7. Stone, Robert S., National Institutes of Health, HEW, 12.
8. Weinberger, Caspar, HEW, 7.
9. Yeutter, Clayton K., Dept. of Agriculture, 8.

C. Labor:

1. Loope, Nicholas R., CJA, 8.
2. Oswald, Rudolph A., SEIU, 8.
3. Spector, Eugene P., NMU, 7.
4. Teper, Lazare, ILGWU, 8.
5. Webber, Clyde, AFGE, 7.

Individuals on 6 Federal advisory committees and their affiliations:

A. Corporations, businesses, banks and associations:

1. Ball, John E. D., Public Broadcasting Service.
2. Bartlett, George W., National Assoc. of Broadcasters.
3. Harper, John D., Aluminum Company of America.
4. Jones, Reginald Harold, General Electric.
5. Kelleher, John J., Natl. Scientific Laboratories.
6. Meaney, Martin H., Jr., Natl. Broadcasting Company.
7. Nesti, Anthony J., Natl. Electrical Manufacturers Assoc.
8. Sackett, John C., Doyon Ltd/Tanana Chiefs Conference.
9. Schneider, Stanley S., Aeronautical Radio, Inc.
10. Strauss, Willis A., Northern Natural Gas Company.
11. Thomas, Elmer, Page Communications Engineers, Inc.
12. Weppler, H. E., AT&T Company.
13. Wheeler, John L., Xerox.

B. Government (Federal):

1. Feltner, Richard L., Department of Agriculture.
2. Long, Robert W., Department of Agriculture.
3. Stever, H. Guyford, National Science Foundation.

C. Labor:

1. Abel, I. W., USA.
2. Burkhardt, Francis X., PAT.
3. Fisher, Ronny G., URW.
4. Fitzsimmons, Frank E., International Brotherhood of Teamsters.

Individuals on 5 Federal advisory committees and their affiliations:

A. Corporations, business, banks and associations:

1. Allen, Ethel D., physician/city councilperson.
2. Blaker, H. T., Collins Radio Company.
3. Dykstra, Jacob J., Pt. Judith Fishermen's Coop. Assoc., Inc.
4. Ferrari, Walter J., Air Transport Assoc.
5. Gibson, Owen B., AT&T.

6. Gladieux, Bernard L., Jr., Grocery Manufacturers of America, Inc.
7. Holcomb, Benjamin F., US Steel Corp.
8. Hult, John L., Rand Corp.
9. Kimball, Thomas L., National Wildlife Federation.
10. Kuhfuss, William J., American Farm Bureau Federation.
11. Lokken, Harold E., Fishing Vessel Owner's Association, Inc.
12. Long, William G., Jr., Computer Sciences Corporation.
13. Partridge, John W., Columbia Gas System, Inc.
14. Reinhart, Edward E., Rand Corporation.
15. Rich, William L., Jr., International Organ. of Masters, Mates and Pilots.
16. Shea, Joseph F., Raytheon Company.
17. Smith, Hillyer S., Aeronautical Radio Company, Inc.
18. Tankersley, G. J., Cons. National Gas-East Ohio Gas Co.
19. Tuft, Leonard W., RCA Global Communications, Inc.
20. White, Frank C., Air Transport Assoc.
21. Winger, John G., Chase Manhattan.

B. Government (Federal):
1. Brennan, Peter J., Dept. of Labor.
2. Connor, James E., Atomic Energy Commission.
3. Coriden, Guy E., Dept. of State.
4. Craig, John, CIA.
5. Dotson, Larry D., U.S. Army.
6. Gregory, John M., Jr., Dept. of State.
7. Hashimoto, Richard, U.S. Air Force.
8. Knauer, Virginia H., Office of Consumer Affairs.
9. Robinson, John T., FCC.

C. Labor:
1. Brubaker, Otis F., USA.
2. Donovan, Harry A., AIW.
3. Froh, Walter O., APWU.
4. Kimble, Charles C., IUE.
5. Newell, Reginald, IAM.
6. Perkell, George, TWUA.
7. Roberts, Markley, AFL-CIO.
8. Sheets, James R., LIUNA.

D. Universities, Institutes:
1. Baldeschweiler, John D., Cal Tech.
2. Carry, Charles R., Tuna Research Foundation.
3. Flax, Alexander H., Institute for Defense Analyses.
4. Ginzberg, Eli, Columbia University.
5. Goland, Martin, Southwest Research Inst.
6. Hagen, John P., Penn State Univ.
7. Hertzberg, Abraham, Univ. of Washington.
8. Linden, Henry R., Institute of Gas Technology.
9. Woodson, Herbert H., Univ. of Texas.

Individuals on 4 Federal advisory committees and their affiliations:

A. Corporations, business, banks, and associations:
1. Amram, Philip W., Attorney (American Bar Association).
2. Avery, Ben F., rancher-reporter (Arizona Republic).
3. Bagge, Carl E., National Coal Assoc.
4. Bennett, Ralph D., consulting engineer—Martin-Marietta.
5. Biddle, James, National Trust for Historic Preservation.
6. Brown, Carl F., Ford Motor Company.
7. Catucci, Henry G., Western Union International, Inc.
8. Clothier, Ernest A., American Pilots Assoc., Inc.
9. Corey, Gordon R., Commonwealth Edison Company.
10. Cranmer, Victor H., AT&T.
11. Culbertson, J. Steele, Nat'l. Fish Meal & Oil Assoc.
12. Dickinson, A. Wright, rancher.
13. Ellison, Stanley C., rancher.
14. Elmer, William M., Texas Gas Transmission Corp.
15. Flournoy, Robert L., rancher.
16. Ford, O'Neil, architect-Ford, Powell & Carson.
17. Fowler, Charles A., Raytheon Company.
18. Fubini, Eugene G., E. G. Fubini Consultants, Ltd.
19. Gomes, Abilio A., ITT World Communications.
20. Greenwald, Douglas, McGraw-Hill Publishing.
21. Hagedorn, George G., Nat'l. Assoc. of Manufacturers.
22. Heery, George T., Heery & Heery, Inc.
23. Height, Dorothy I., National Council of Negro Women.
24. Heine, Edward J., Jr., U.S. Lines.
25. Herzfeld, Charles M., ITT.
26. Holleb, Arthur I., American Cancer Society.
27. Kajander, John, Pennzoil.
28. Kreutzer, Arthur C., National LP-Gas Assoc.
29. Lohse, E., Burroughs Corp.
30. Lyng, Richard, American Meat Institute.
31. Mack, Wilbur H., Michigan Consolidated Gas Co.
32. Madden, Carl H., U.S. Chamber of Commerce.
33. Madgett, John P., Dairyland Power Coop.
34. Martin, Edward J., Communications Satellite Corp.
35. Martinka, Paul D., American Electric Power Service Corp.
36. McGuire, George F., Western Union Telegraph.
37. Mitchell, George P., Mitchell Energy & Development Corp.
38. Murray, Ralbern H., CNG Energy Company.
39. Netshert, Bruce C., Nat'l. Econ. Research Associates.
40. Parker, James D., CBS.
41. Post, John, Business Roundtable.
42. Potts, James B., Communications Satellite Corp.
43. Quinby, G. F., NARCO Scientific Industry.
44. Rensch, Joseph R., Pacific Lighting Corp.
45. Roche, James M., General Motors.
46. Roddis, Louis H., Jr., Consolidated Edison Co. of N.Y.
47. Sabacek, Ronald, TRT Telecommunications Corp.
48. Salsburg, Sidney W., Chrysler Corp.
49. Serafin, John, ABC.
50. Sierzenski, Ray, General Electric Company.
51. Silbert, Myron S., Myron S. Silbert Company.
52. Smith, James R., American Waterways Operators.
53. Smith, William H., Federated Employers of the Bay Area.
54. Strohbehn, Edward L., Natural Resources Defense Council.
55. Thomas, Robert E., Mapco., Inc.
56. Van Drimmelin, Frederik E., Foxboro Company.
57. Warner, Thomas R., U.S. Independent Telephone Assoc.
58. Weese, Harry M., Harry Weese & Associates, Ltd.
59. Weiss, H. J., Communications Satellite Corp.
60. Wright, Myron A., Exxon Co., U.S.A.
61. Wriston, Walter B., First Nat'l. City Bank, N.Y.
62. Yeh, Leang P., L. P. Yeh & Associates.
63. Young, Roy, rancher.

B. Government (Federal and State):
1. Armstrong, Robert P., U.S. Navy.
2. Arnett, G. Raymond, Calif. Dept. of Fish & Game.
3. Bidstrup, Dudley, Dept. of Agriculture.
4. Blackburn, William B., Dept. of Agriculture.
5. Campbell, J. Phil, Dept. of Agriculture.
6. Cutts, Robert L., FCC.
7. Dixon, Julian T., FCC.
8. Endicott, Kenneth M., HEW.
9. Foster, Charles H. W., Mass. Exec. Office of Envir. Affairs.
10. Freibaum, Jerry, NASA.
11. Jacobs, George, USIA.
12. Keys, Carlton A., FAA.
13. Kratz, Jeremiah F., AEC.
14. Lee, Charles Edward, So. Carolina Dept. of Archives & History.
15. Martin, Edgar T., USIA.
16. Morton, Rogers C. B., Dept. of Interior.
17. Myhen, E. MacDonld, Dept. of Commerce.
18. Olson, Kenneth B., HEW.
19. Padgett, Joseph E., EPA.
20. Pogue, Forrest C., Eisenhower Inst. for Historical Res.; George C. Marshall, Res. Found.; Smithsonian Institution.
21. Pomerance, William, HEW.
22. Schmidt, Alexander M., HEW.
23. Smith, E. K., Dept. of Commerce—Inst. for Telecom. Sci.
24. Train, Russell E., EPA.
25. Utlaut, William F., Dept. of Commerce—Inst. for Telecom. Sci.
26. Whedon, G. Donald, HEW.

C. Labor:
1. Biemiller, Andrew J., AFL–CIO—Dept. of Legislation.
2. Cantor, Arnold, AFL–CIO.
3. Madison, Joseph J., TWU.
4. Miller, Vera, ACWA.
5. Pillard, Charles H., IBEW.
6. Woodcock, Leonard, UAW.

D. Universities/Institutes:
1. Ashley, Holt, Stanford Univ.
2. Balzhiser, Richard E., Electric Power Research Institute.
3. Betts, Austin W., Southwest Research Institute.
4. Bobrow, Davis B., Univ. of Maryland.
5. Campbell, Rita Ricardo, Stanford Univ.
6. Dils, Robert E., Colorado State Univ.
7. Hargis, William J., Jr., Va. Institute of Marine Science.
9. Parker, Eugene N., Univ. of Chicago.
8. McElroy, Michael B., Harvard Univ.
10. Schuller, Gunther, New England Conservatory of Music.
11. Teller, Edward, Lawrence Livermore Lab.
12. Villard, Oswald G., Jr., Stanford Research Inst.

[From the Congressional Quarterly, Nov. 23, 1974]

BUSINESS ROUNDTABLE: BIG CORPORATION BASTION

Unlike other special interest groups that rely on professional lobbyists to bargain with Washington legislators and bureaucrats, the Business Roundtable uniquely leaves that responsibility to its members—150 chief executives of the nation's largest corporations.

"Businessmen needed to do more in Washington. They rely too heavily on trade associations," John Post, the roundtable's executive director explained in an interview. "The roundtable does more to encourage executives to express themselves than they would do otherwise."

Established in early-1973, the roundtable "seeks to strengthen the economy and make clear the role of business in our society," according to a lobby registration form filed in July with the House clerk that listed economic stabilization, energy and tax proposals as major legislative interests. (Registration, Weekly Report, p. 2843)

A far more colorful description of the organization was offered by The Kiplinger Washington Letter in 1973: "They (business executives) . . . can go to the top and get attention, call a senator directly or the head of a government department. Thus get the business view planted, and the reasons behind it. Make government sit up and listen . . . roll a little thunder here . . . a heavy-weight business outfit . . . ready to use its heft . . try to polish up the business image."

The roundtable "can very effectively bring together Washington officials and executives of major corporations," Post said. "I don't know of any other organization that exists where you can get them together."

METHOD OF OPERATION

But because industry traditionally has depended on trade associations to do its Capitol Hill leg work, "businessmen are not accustomed to the advocacy position," said Post. He monitors issues that could affect roundtable members and then encourages corporation leaders to personally contact Washington officials. Referring to Sen. Henry M. Jackson's (D Wash.) grilling of oil officials last winter, Post remarked, "Look what happens to them."

While there have been reports of some "uneasiness" with the roundtable role by other business groups, such as the Chamber of Commerce and the National Association of Manufacturers, Post indicated that the roundtable was "sensitive" to their activities. "I talk with them frequently."

Addressing this "territorial issue," an internal roundtable prospectus states: "In all of its work the roundtable cooperates with other business organizations. . . . It avoids duplicating the work of other organizations. In a real sense the roundtable helps other business organizations and they help it."

Yet questions remain inside the roundtable about its purpose and activities. "Is this organization necessary? Is it relying too heavily on chief executives? It's the reason we don't build a staff," according to Post.

Since its formation, one or two companies have dropped out of the roundtable, Post said, "not because of any disagreement on issues but because they felt their needs were best served in other ways."

FOCUS

While most business lobby groups concentrate on a wide range of issues pending in Congress, the roundtable limits its focus. In 1974, for example, the organization's major lobby efforts were directed against land use legislation (HR 10294) and the Senate consumer protection agency bill (S 707). "Trade associations with wider membership than the roundtable become hostage to more issues," Post said. "The advantage of this organization is that it doesn't try to cover everything."

A troublesome issue for the roundtable and one that has occupied much of its time is the question of granting food stamps to striking workers and their families. In 1973, the House passed an amendment that would have denied the stamps to strikers, but the amendment was later stricken from the 1973 farm bill (HR 8860) during a House-Senate conference. The roundtable contends that "governmental intervention by way of subsidization of strikers tends to alleviate the strikers' economic stress, enabling them to prolong strikes."

During the legislative battle on the issue, the roundtable dispatched a letter and fact sheet to its membership stressing the need for direct lobbying: "Personal contact with senators and congressmen to explain the scope and impact of food stamps for strikers is essential. Letter writing campaigns will help but are not enough."

Whether the roundtable members follow up on such alerts is not entirely known to the Washington headquarters. "Some of the members become involved but they often don't tell us what they did," Post said.

HISTORY

The roundtable is the offspring of two business groups, the Construction Users Anti-Inflation Roundtable, set up in the late 1960s to slow inflation in the construction industry, and the Labor Laws Study Committee, which worked for changes in labor laws.

The organization's 150 members pay from $2,500 to $35,000 in annual dues depending on a company's gross revenues and stockholder equity. Membership is open to any company, but the roundtable, which does not solicit new members, is a bastion for large corporations rather than small business interests.

The membership of the roundtable seldom meets as a group, leaving management decisions to a policy committee that convenes every two months and issue selection to a construction committee and a labor management committee. Four other panels—litigation, public information, government relations and economic research—carry out roundtable policies.

REGISTRATION

Although the Business Roundtable itself has not registered to lobby with the House clerk, Post filed a registration form July 11. Explaining that his work involves "legislative intelligence"—reading, following legislative developments and contacting congressional staff members on occasion—rather than meeting with members of Congress, Post said the decision to file a lobby report was made after Common Cause brought suit against the National Association of Manufacturers for failing to register.

Post said the roundtable's lawyer, Edward A. McCabe, originally had advised him not to register because "you're not involved in lobbying."

In a spending report filed with the House clerk for the third quarter of 1974, Post listed receipts of $100 and expenditures of $5, explaining that the figures reflect "those amounts which might be said to come within the purview of the (lobbying) act."

The roundtable filed for a tax exemption with the Internal Revenue Service on Nov. 10, 1972, with the exception granted Feb. 14, 1974. Its first tax form will not be available for public inspection until 1975.

LEADERSHIP

Topping the roundtable's organizational structure as its policy committee, chaired by John D. Harper of Aluminum Company of America. Co-Chairmen of the committee are John D. deButts of American Telephone and Telegraph and Howard J. Morgens of Procter and Gamble. The three also serve as chairmen of the roundtable's executive committee elected annually by the policy committee members.

Members of both the policy and executive committees, according to roundtable stationery, are these chief executives: Richard C. Gerstenberg, General Motors Corp.; Shearon Harris, Carolina Power & Light Co.; J. B. Jackson, J. C. Penney Co. Inc.; J. K. Jamieson, Exxon Corp.; Reginald J. Jones, General Electric Co.; Frank R. Milliken, Kennecott Copper Corp.; David Packard, Hewlett-Packard Co.; Irving S, Shapiro, E. I. du Pont de Nemours & Co. Inc.; J. Stanford Smith, American Newspaper Publishers Association, and Edgar B. Speer, U.S. Steel Corp.

Other members of the policy committee are: William O. Beers, Kraftco Corp.; Benjamin F. Biaggini, Southern Pacific Co.; Donald C. Burnham, Westinghouse Electric Co.; Frank T. Cary, International Business Machines Corp.; Henry Ford II, Ford Motor Co.; Robert S. Hatfield, Continental Can Co. Inc.; Ralph Lazraus, Federated Department Stores Inc.; Ian K. MacGregor, American Metal Climax Inc.; Brooks McCormick, International Harvester Co.; Louis W. Menk, Burlington Northern Inc.; Roger Milliken, Kennecott Copper Corp.

Also, Charles J. Pilliod Jr., Goodyear Tire and Rubber Co.; Harold A. Shaub, Campbell Soup Co.; Mark Shepherd Jr., Texas Instruments Inc.; Shermer L. Sibley, Pacific Gas & Electric Co.; Donald B. Smiley, R. H. Macey & Co. Inc.; George A. Stinson, National Steel Corp.; J. E. Swearingen, Standard Oil Co. (Indiana); O. Pendleton Thomas, B. F. Goodrich Co.; C. C. Tillinghast Jr., Trans World Airlines, Inc.; Lynn A. Townsend, Chrysler Corp.; Rawleigh Warner Jr., Mobil Oil Corp.; Maurice J. Warnock, Armstrong Cork Co.; F. Perry Wilson, Union Carbide Corp.; J. Robert Wilson, Kansas-Nebraska Natural Gas Co.; Arthur M. Wood, Sears, Roebuck & Co., and Walter B. Wriston, First National City Bank of N.Y.

[From Group Research Report, Dec. 3, 1975]

BUSINESS ROUNDTABLE BECOMES A SUPER LOBBY

A loose affiliation of industrial executives called Business Roundtable has converted itself from a group of salesmen for free enterprise into a potent, well-organized lobby for big business across a wide front.

On February 26 we reported that the organization had teamed with Reader's Digest to sponsor a series of articles extolling the virtues of business. On November 16, the New York Times reported on page one that the Business Roundtable killed a bill in Congress which would have given the 50 state attorneys general authority to bring treble damage suits for violations of the antitrust laws.

Congressman Wright Patman, the liberal Democrat from Texas, put the Times article in the Congressional Record with a reminder that the Business Roundtable helped defeat an effort two years ago to have Congress audit the books of the independent Federal Reserve System.

OPERATIONS OF THE ROUNDTABLE

The organization has a New York City office as well as a Washington office where its Executive Director, John Post, is a registered lobbyist. The Times reported that the Roundtable has 158 corporate members who include "the three largest automobile manufacturers, the three largest banks, seven of the largest oil companies, the largest steel companies, major retailing organizations and many of the largest utilities, including American Telephone and Telegraph Company." The annual budget was put at about $1,500,000.

Supplementing the formal budget are the lobbying efforts of corporate executives, such as general counsels and plant managers, brought to Washington for specific lobbying assignments.

Other issues in which the Roundtable is involved include decontrol of oil and gas, tax status of international corporations and environmental legislation. It recently boasted that it worked "in concert with some 30 other organizations" against the common situs picketing bill which is favored by labor.

One of the items distributed from the Washington office is a 1975 public opinion poll on "unions today," which is highly critical of organized labor. It was conducted by Opinion Research Corporation of Princeton, N.J., an outfit used frequently by the National Right to Work Committee and other conservative groups.

[From the Science magazine, Dec. 12, 1975]

THE CONTROVERSY OVER PEER REVIEW

(By Thane Gustafson)

One of the most striking features of federal support of fundamental science is heavy reliance on scientists outside the government and on the decentralized decision-making process of the scientific community. Much of the overall direction of federal support for fundamental science depends on the individual decisions of working scientists about which fields to enter and which lines of investigation to pursue. These decisions are communicated to government agencies through requests for funds for project support and through the opinions of nongovernment scientists who advise the government at many different levels. This advice is principally of two sorts: evaluations of requests for project support for their scientific merit and relevance to agency goals; and expressions of opinion as to which fields and lines of investigation are especially worthy of federal support.

The outstanding example of such decentralized mechanisms in federal science policy is "peer review," used by the National Institutes of Health and the National Science Foundation. In its purest form, peer review relies on the flow of unsolicited grant applications from individual researchers ("proposal pressure") (1) as the funding agency's principal guide for the planning of research support, and uses committees of nongovernment scientists as the main instrument of proposal evaluation and policy assessment (2).

In practice, peer review procedures and patterns of proposal vary widely from one government body to another and even within a single agency. In some agencies peer review is elaborate, proposals are largely unsolicited, and the influence of advisory committees is great; in others peer review is cursory, the influence of agency staff outweighs that of outside advisers, and research proposals originate in response to requests from the agency.

The most influential advisory committees and the most highly developed system of peer review are to be found in the NIH, which funds 75 percent of the biomedical research performed in American medical schools as well as more than 40 percent of all university research. The NIH peer review mechanism has two parts. Initial review of proposals for research grants is delegated to approximately 50 study sections composed entirely of nongovernment scientists. They are organized by scientific discipline and rank grant applications according to their scientific merit. The recommendations of the study sections are then forwarded to the pentinent NIH institute. By law, each institute must maintain an advisory council of nongovernment scientists and informed laymen. The advisory council, by working its way down the project ranking as established by the study sections, decides how far the institute's available funds can extend (thus eliminating many projects approved by the study sections). In addition, the councils may raise the priority of projects that are considered to be especially relevant to the institute's objectives. Without the prior approval of their council, institute officials cannot make research awards.

The result is a unique type of dual review which ranks projects at the first stage according to their scientific merit, and at the second stage according to their relevance to the institute's objectives as well as the nation's (the latter is reflected in the size of each institute's appropriations.)

Thus, peer review, even in its purest form, is far from a device for giving a blank check to nongovernment researchers. Its interest as an administrative mechanism lies in the fact that it combines the intrinsic criteria of the scientists with the extrinsic criteria of government agencies, yet in such a way that the two types of criteria remain distinct.

In addition to two-stage review, which is unique to NIH, two further types of peer review that are widespread in the federal government are single-stage review and mail review. Single-stage review is used by certain divisions of the NSF (3). The initial evaluation of proposals is done by NSF program directors, who make a preliminary ranking. Although advisory panels of outside experts exist for each NSF program, their role is confined mainly to a review of cases considered borderline by the program director. The outside experts do not assign priority scores, and the final assignment of priorities is left to the program director. Outside scientists are not without influence, however, in some NSF programs the influence of the panels is greater than that of the program director (4).

Mail review, which is also used in NSF as well as in other federal agencies, is the form of peer review that gives the greatest role to the program director. Project proposals are sent by mail to outside reviewers around the country, but the opinions of the reviews are not binding on the program director. Even in this form of peer review, however, the influence of the program directors is limited by the fact that all large projects are subject to the approval of the National Science Board (5).

Peer review relies heavily on the discretion, integrity, and good judgment of working scientists and agency staff. The opinions of reviewers are confidential (6). Accountability is maintained (at least in principle) through the review of funding decisions by agency superiors and through periodic oversight by congressional committees.

Peer review has its critics, however. The system has undergone recurrent attacks from several sources and is currently under fire once again. A few conservative members of the House of Representatives have recently attacked the confidentiality of peer review in NSF and have questioned the integrity of its program officers. For example, Representative R. E. Bauman of Maryland denounced the peer review system in bitter terms on the floor of the House (7):

"I suggest that there is a need for revision of the basic system by which . . . research grants are made. They are handed out in an unregulated and secretive manner known as the "peer review system." This system allows cronies to get together and finance their pet projects, where grant application writing has become an art and where many people are not devoting themselves to basic research needs but rather to feathering their own needs."

Another congressman, Representative John Conlan of Arizona, has charged that in some instances the peer review system has been deliberately tampered with by program officers of NSF. Specifically, Conlan stated that in two instances the comments of outside reviewers had been misrepresented by NSF program directors. Representative Conlan further objected to the secrecy which has traditionally shrouded the identity of outside reviewers and criticized the refusal of NSF officials to make their reviews public (8).

However, these congressmen are not the only figures in government who are skeptical about peer review. The Office of Management and Budget in 1973 issued a sharply worded critique of the peer review system in NIH (9). Criticism also comes from outside the government. Representatives of small liberal arts colleges have complained that the peer review system is biased in favor of the major graduate universities (10). Feminist groups have charged that peer review and advisory groups are heavily biased against women scientists (11). And, there are protests that peer review groups, in choosing new members, discriminate against younger scientists (12).

Despite the dark suspicions of congressional critics, we should begin by noting that integrity is not the main issue; it is most unlikely that the integrity of external advisers and agency staff will be found wanting. In NIH study sections, for example, great care is taken to avoid conflicts of interest. Grant applications of study section members are never assessed by the section to which the applicant belongs. Study section members who belong to the same institution as the applicant whose proposal is under consideration are required to absent themselves during the debate and final vote (13). Recent statistical studies have shown that, in NSF, applications from top-ranked universities do not receive preferential treatment in the assignment of reviewers; no correlation exists between the rank of an applicant's department and that of the reviewer's (14).

What is at issue depends on the position of the critic. One can discern three principal preoccupations.

The first concerns the management of the peer review system, especially its integrity and its accountability to political authority. The second is directed at the principle which governs the choice of research proposals and of advisors—whether it should be that of merit, equity, or relevance to national goals. The third preoccupation focuses on the functions and limits of peer review. Under this category come questions as the extent to which new techniques of programming and evaluation, such as benefit-cost analysis, should be substituted for peer review and proposal pressure as policy-making instruments and whether peer review should serve chiefly as a one-way signaling mechanism from the scientific community to the funding agencies, or as a two-way channel that includes a feedback link for the communication of agency priorities to the scientific community.

These three concerns—over management, principles, and functions—are present simultaneously in the three most prominent criticisms of the peer review mechanism. They are: (i) that there is favoritism and discrimination in the selection of advisory committee members and in their behavior; (ii) that agency staffs play excessive or improper roles in the selection of research projects; and (iii) that the peer review system is not the most reliable way to coordinate federal funding of basic research with the political goals of the government. My principal purpose is to review the evidence on these issues and to determine, where possible, their impact on the progress of fundamental research.

BIAS IN STRUCTURE AND BEHAVIOR OF SCIENCE ADVISORY COMMITTEES

According to critics, members of external advisory committees are predominantly white, male, and more than 35 years of age, they are drawn disproportionately from prestige graduate universities, they discriminate against younger researchers and untried approaches, and they perpetuate these biases by their long terms of service and by their tendency to maintain an entrenched "old boy network" by nominating their personal acquaintances to succeed them.

Most of the critics share the premise that the selection of committee members and of research projects should be based primarily on professional achievement and scientific merit according to universalistic standards. Their principal concern is that biases in representation will lead to biases in evaluation of the "state of science" that is, of the intellectual opportunities facing the scientific community. Some critics, however, feel that to be representative in their advice, panel members must be representative in their socioeconomic characteristics. This is a popular viewpoint among reformers (15). However, it assumes that social characteristics or institutional affiliation influence the panel members' scientific judgment; and, as we shall see, this assumption is not easy to substantiate in the case of science advisory bodies for fundamental science.

Other critics are less concerned about scientific merit than about equity, defined as equality of funding among regions or as adequate representation for minority groups or less prestigious institutions. This is a more fundamental challenge, for it calls into question the concept of universalistic professional standards on which the peer review system rests.

THE EVIDENCE ON REPRESENTATIVENESS

Membership on scientific advisory groups in the federal government is publicly available in most cases; the names, occupations, and addresses of nearly all the 20,000-odd individuals who advise the government in formal committees are published annually, as required by the Federal Advisory Committee Act of 1973 (16). In addition, the composition of NIH and NSF committees has long been made available in annual reports. Recently a major gap has been filled as a result of the decision of the National Science Board to make public the names of the approximately 35,000 reviewers throughout the country who advise NSF on project selection (17).

Unfortunately, this abundance of information has not yet been used for systematic studies of the characteristics of scientists serving on peer review committees. Published studies of other types of scientific advisers, if used with caution, can be used to gain an approximate idea of the characteristics of peer review groups. Since peer review groups tend to be more prestigious than most advisory committees but somewhat less so than policy-making advisory bodies, it seems reasonable to speculate that the characteristics of their members may fall somewhere between those of the two types of bodies.

The most thorough analysis now available of the social and professional characteristics of scientific advisers is contained in a study of the National Research Council (NRC) (12). The study reports that NRC advisers are an average of 10 years older than the population of scientific doctorate holders in the United States. While 50 percent of the advisers studied were more than 50 years old, only 3 percent were less than 35 (12, p. 53). The situation was similar in another agency investigated in the study; for the five senior advisory bodies of the Department of Defense the median age was 50 years (12, p. 54). The median age of NSF advisers in 1970 was also in the same range (47 years) (18).

National Research Council advisers were predominantly male. Whereas 7 percent of the holders of scientific doctorates in the United States in 1969 were women, 1 percent of the NRC advisers were female. Subsequent studies have shown that similar ratios prevail in NIH; in 1972 women accounted for 2 percent of the advisory body membership (11). This pattern is not universal, however, female scientists in NSF make up nearly 8 percent of the advisory group panels (19).

Certain regions were found to be better represented in the NRC than others, although the pattern varied with the importance of the advisory committee involved. For the NRC system as a whole, the South Atlantic region was the best represented (12). But on 35 policy-related committees the New England, Pacific, and Mid-Atlantic regions were dominant, while the South Atlantic trailed behind. The latter pattern is also characteristic of NSF panels; the New England, Pacific, and Mid-Atlantic states together, while employing about 50 percent of the nation's doctoral scientists and engineers (20), account for nearly two-thirds of NSF advisers (19). As for NSF reviewers, data for fiscal year 1974 show that California, Massachusetts, Maryland, and Washington, D.C., are represented considerably more than proportionately in relation to their populations of scientists (14).

Another charge is that advisory panels are dominated by representatives from prestige universities. Statistics for NSF and NIH do confirm that the top graduate institutions are heavily represented. All American Chemical Society (ACS) study of 11 NIH study sections in biochemistry showed that of 113 institutions represented, 32 contributed more than two-thirds of the advisers, and the eight institutions most heavily represented supplied nearly one-quarter of the advisers (21). In NSF the picture is similar, the 18 top institutions, which employed 9 percent of the nation's academic doctorate-holding scientists in 1971, contributed more than a third of the advisers (22).

In contrast, there is little evidence that the science advisory apparatus consists of a small number of individuals who spend long years on one committee or rotate from one committee to another. The ACS study of NIH biochemistry study sections found that only seven out of 366 advisers from 1964 to 1973 served twice. This appears to be in part the result of deliberate policy, for NIH's practice is to make no immediate reappointments to its study sections. Similarly, a study of science advisers to the U.S. Public Health Service (which included NIH study sections at the time of the study) showed that over the period from 1957 to 1964 fewer than 15 percent of the advisers served two full terms and fewer than 20 percent served more than one full term. The median seniority of Public Health Service advisers was a little more than 1 year during the period covered by the study (23).

If periods of service are so short, then recruitment must be very large. The study of the Public Health Service concluded that the intake of its panels would eventually include one out of every two active biomedical researchers in the United States. The ACS study of NIH biochemistry panels, which used a different approach, came to a similar conclusion.

In contrast to the rank and file of science advisers, there is evidence that the consistently influential advisers that serve the most important committees come from a smaller pool of individuals and rise in the science advisory hierarchy over a period of several years (23). Nevertheless, the dominant picture is one of great mobility among science advisers, which is consistent both with the extraordinary fluidity of the active research population in the American scientific community and with the high turnover rates in the professional staffs of science-funding agencies.

To sum up the evidence I have reviewed so far, the available studies confirm that the membership of science advisory committees does not strictly reflect the composition of the doctorate-holding scientific community, at least in some overall social and institutional features. The next question is what to make of this point.

First, there may be more appropriate criteria by which to judge representativeness. For example, although the prestige universities may appear to be overrepresented in comparison to the number of Ph.D.'s they employ, they seem underrepresented when one looks at the number of Ph.D.'s they train since the top 20 doctorate-granting institutions account for more than two-thirds of the output of doctorate-holding scientists.

Defenders of the peer review system assert that the selection of peer reviewers mirrors scholarly achievement. There is some evidence for this; according to a recent statement by Deputy Director of NSF Richard Atkinson, the distribution of NSF reviewers by state approximates the geographical distribution of scholarly publications. By that measure, the only overrepresented states are New York and the District of Columbia, and in the latter case the explanation is that many NSF proposals are reviewed by officials of other federal agencies, so as to ensure coordination (14, p. 11, figure 3).

A better indicator of merit would be the impact of research publications on the scientific community. Sociologist Hagstrom of the University of Wisconsin, by counting the frequency with which the publications of scientists from prestige institutions are cited, has concluded that the impact of those institutions is roughly in line with their representation on science advisory committees in Washington (24).

Most important, the representativeness of committee membership is significant only if we accept the premise of the advocates of representative reviewship that skewed membership leads to a skewed pattern of awards. I now turn to the evidence on distribution of research awards among institutions and among individuals in order to determine whether it is true.

PATTERNS OF AWARDS

Raw data on patterns of funding indicate a strong advantage for prestige institutions. In NIH, according to a recent memorandum by the Office of Management and Budget, applicants from ten institutions accounted for 46 percent of all grant funds in 1971, and their share then was greater than it had been 5 years before (9, p. 9). Similar patterns prevail in NSF. In 1974, research grant awards to the top 20 institutions represent one-third of total NSF obligations for all programs (24, p. 15). In the field of chemistry alone, according to an in-house study, the top 20 departments, employing 18 percent of the country's graduate chemistry faculty, received 49 percent of the NSF chemistry awards in 1973, an increase of 5 percent over 1972 figures (25). Moreover, the success rate of the top 20 departments was 53 percent, compared to 30 percent for all other departments (26).

However, the issue of concentration in funding is more complicated than it appears at first glance. For example, concentration does not always work to the advantage of the prestige institutions. A study of the allocation of NSF project grants in metallurgy and materials research shows that they are clustered among the middle-ranked institutions rather than the top-ranked ones (27, 28). In addition, the more significant pattern of concentration may not be among institutions, but within them. Several studies have found that when one takes into account the size of each institution, and particularly the number of faculty members capable of performing or supervisor graduate-level research, the funding distribution among institutions becomes more nearly uniform. Thus, on a per capita basis, most of the inequality is among faculty within a single department. Whether the department is rated high or low, approximately 70 percent of the outside funding is received by the more productive half of the faculty, the half which receives more than 90 percent of the citations in the scientific literature (29).

A related issue is the extent to which concentration increases in times of budgetary crisis. Critics complain that in hard times the representatives of prestige institutions act to protect their own. Data from NIH provide some evidence on this point: from 1967 to 1970, when the purchasing power of NIH funding declined sharply, the number of institutions funded declined from 330 to 227 (30). However, during a similar period (1966 to 1972) the total pool of NIH grant recipients declined much less—from 10,250 to 8,150 (31). The implication is that the concentration of NIH funding in the prestige institutions, even when reckoned on a per capita basis, increased during this period, a point which receives confirmation from Office of Management and Budget data (9). Since the early 1970's the number of institutions funded by NIH has expanded again, although much of the increase is due to the new prosperity of the National Cancer Institute (NCI). In 1974 alone the NCI allocated its funds among 367 institutions (32).

In times of reduced funding, how new proposals and younger researchers fare in comparison with scientists applying for renewals is of interest. At first glance, hard times seem harder for the research seeking his first grant. From 1967 to 1970 the share of NIH research grants awarded to new projects declined from 23 percent to 16 percent (33). Since that time the downward trend in the percentage of NIH grants awarded to new applicants has continued for all NIH institutes except the NCI and the National Heart and Lung Institute (34). Particularly in the NCI the increased flow of money since 1971 has had a dramatically different effect. Despite the enormous influx of new-project applications (proposals to NCI now account for roughly half of all applications to NIH), the success rate of new principal investigators (that is, the ratio of awards to applications) has risen from 30 percent in 1970 to 54 percent in 1974 (34, p. 479).

Even in bad times, however, younger researchers among the new applicants have not been neglected. For NIH as a whole in 1971, applications of young scientists (age 36 and less) for traditional project grants were approved (that is, recommended by the study sections) at a higher rate than those of older scientists (34, p. 48). Funding data for 1972 and 1973 for NCI give the same picture (31, pp. 240 and 241).

Of those investigators 35 years of age and under applying for research support, 52% were funded . . . in fiscal year 1972, and 35% were funded . . . in fiscal year 1973. Of those applicants older than 35, only 32% were funded . . . in 1972 and 25% . . . in 1973.

A similar pattern has been observed in internal studies of NSF, funding of younger investigators (35).

Once again, we must question the meaning of these data and then ask whether the observed pattern of awards is unfair or inefficient. For those who value equity over scientific merit, the existing pattern is discriminatory. However, for those whose principal concern is scientific merit, the key question is whether the existing distribution of awards is out of line with the distribution of scientific quality in the country's research institutions. In order to find the answer some reasonable indicator of the quality of research is required (36).

One possibility is the response of the scientific community itself to the present pattern of awards, for presumably researchers are good judges of whether NSF and NIH are funding the best science. Until recently most researchers gave the appearance of being satisfied. But this was primarily because, until the late 1960's, most worthy proposals could find support from one federal agency or another. Unsuccessful applicants usually recast their proposals in response to reviewers' comments and tried again. In NSF, for example, the number of rejections was never so great as to warrant a separate review and appeals procedure. In recent years, however, funding for fundamental research has dropped and the number of funding sources has declined. More and more front-rank scientists find themselves the unhappy recipients of "declination" notices from NIH and NSF. The two agencies are now faced with mounting protests from these disgruntled applicants. Consequently, in order to justify the pattern of funding produced by the peer review system, more objective indicators are necessary.

One measure that is attracting increasing attention is the rate at which scientific publications stemming from NSF and NIH grants are cited in the scholarly journals. Although subject to certain distortions, the citation rate does provide a rough indicator of the impact of a scientific work within the scientific community. This makes it possible to cross-check the judgment of peer review groups by comparing it to the reaction of the scientific community as a whole. A study by the Rand Corporation is enlightening (37). By surveying the 15-percentile fraction of NIH grants that produced the most heavily cited publications, the study showed that their greater merit was recognized from the beginning by NIH study sections, which awarded that fraction a significantly better priority score than they did to the remaining group. Figures on applications for renewal were also revealing: the most frequently cited researchers received a much higher priority score in applications for renewal than they had in their initial applications. These findings appear to indicate that peer review groups have a good capacity for recognizing potential in a research proposal, and for recognizing outstanding achievement when they see it (38).

The Office of Management and Budget's charge that NIH study sections deliberately approve more applications than can be funded in order to make a case for higher appropriations for the agency (9) can also be illuminated by these points. Their claim appears to be weakened by the fact that the average priority score awarded to new grant proposals by NIH study sections has remained much the same since 1967 (37). This suggests that the study sections are doing much as they have always done; what has changed is the amount of funding available to cover the proposals they approve.

The link between citation rates and peer review scores also provides a means for judging the claim that peer review groups award too much money to prestige institutions. For example, an internal study of NSF awards in chemistry shows a striking correlation between the distribution of citation rates and the allocation of NSF funds. Of NSF awards in chemistry, 80 to 85 percent go to departments whose faculty averaged more than 60 citations per author during the 5-year period ending in 1972; the top four or five departments, which received the lion's share of NSF grants, averaged around 400 citations per author (39). If one accepts the premise that citation rates reflect the quality and impact of research results rather than simply the visibility of their authors, then the charges of bias leveled at peer review groups lose much of their force.

On balance, however, these conclusions are still tentative. There has been too little research into the impact of the peer review system of funding patterns and on the quality of the resulting research. At this writing, several major studies are under way. It seems certain that, in view of the growing popularity of citation analysis and the controversy that surrounds the peer review system, the questions addressed in this article will soon be much better understood (24).

Up to this point we have concentrated exclusively on the use of outside scientists in the peer review system. However, in many programs and agencies professional staff officers play an important or even dominant role. Let us now examine their influence in peer review.

AGENCY STAFFS AS A FORCE IN PEER REVIEW

Program officers of funding agencies such as NIH and NSF play an important role in the evaluation of proposals. In several important respects the program officers are themselves the peers of the applicants for research funds: they are professional scientists with a background in research; they are often not career employees of their agencies; and their length of service is usually short (40).

However, program officers in many cases (the executive secretaries of NIH are an exception) are expected to further the program objectives of their agencies, and these do not necessarily coincide with those of the scientific community. Consequently, the program director may feel torn by competing criteria and he may find himself at odds with the external advisory committee attached to his program.

However, the potential for conflict varies, because the role of the program manager differs from agency to agency and from program to program. In comparison with that in NIH, the peer review process in most other agencies is less formal and sharp, and the influence of agency staff is generally greater.

The question of how much influence agency staff members have in the process of peer review is also relevant. Even where the influence of outside scientists is greater, as in NIH, agency staffers such as executive secretaries of study sections play an important, if discreet, role. In NIH, the staff of the Division of Research Grants has the power to rearrange study sections (2, p. 26). The executive secretary appoints the study section chairman and together they recommend replacements for panel members (41). When applications first reach the NIH Division of Research Grants, it is an executive secretary, temporarily acting as referral officer, who decides to which institute to assign the application (42)—a crucial decision since institutes differ widely in the number of approved projects they can fund. Executive secretaries in NIH decide which study section members shall have primary responsibility for reviewing a given proposal; in NSF the program director selects the reviewers for each proposal. During the processing of applications, the program officers of both agencies are the principal contacts between reviewers and applicants (43). In NIH the executive secretary acts as the link between the study section and the net stage of review by interpreting the decisions of the study sections to the advisory council of the institute. In NIH advisory councils it is the professional program manager who has the responsibility for recommending departures from the priority ranking established by the study sections whenever he deems a proposal especially relevant to the institute's mission (2, p. 28). Finally, the program directors of both NIH and NSF have final authority in funding decisions, although they will only very exceptionally make awards to proposals that have been disapproved by reviewers or panels.

Thus, even in the programs in which external peer review panels have the greatest sway, there appears to be the opportunity for the agency staff to influence the process of proposal evaluation by shaping the agenda, channeling the flow of information to and from the outside advisers, or actually altering or overriding their decisions. In NIH this influence is discreet and informal while in NSF it is usually more important than that of the external advisers. In both agencies the importance of the professional staff appears to be growing.

Of late, program officers find themselves increasingly involved in controversy. There are several reasons for this: funds are short and researchers are anxious; agency leaders are under pressure to pursue a wide array of social objectives; reformers call for openness in administrative procedures and for direct accountability to the public; and in mistrustful times the good faith of all administrators is under suspicion. As the chief points of contact between scientists and agency leaders, the program officers are caught in the middle.

Recent congressional attacks on program officers have focused mainly on their integrity. For example, Representative Conlan has charged (8, p. 4):

"It is common knowledge in the scientific community that NSF program managers can get whatever answer they want out of the peer review system to justify their decision to reject or fund a particular proposal. Since program managers soon learn, like college students, which professor is good for an easy "A" and which can be counted on for an almost certain "C" or "D," it's no trick to rig the system."

Such charges are extreme. The real issue, just as in the case of the external advisors, is not the program officers' integrity, but rather their accountability. According to the congressional critics, NSF section heads and division chiefs do not have time to give more than a cursory look at program officers' recommendation (8, p. 7), and reviewers' reports are not made public; therefore, in this view there is no effective mechanism to check up on the decisions of program officers. The issue of accountability arises also in NIH, since several institutes have shifted their emphasis from grants (which require the traditional two-stage peer review) to contracts, in which the major decisions are made by staff officers (44).

Critics in Congress propose to remedy the problem of accountability both by making reviewers' names and comments public and by making information available to Congress about individual research projects in advance of final approval (45).

Such remedies would make a major departure from the accepted administrative doctrine, which has evolved out of long experience in dealing with technical programs in government. Three points are central to the doctrine: (i) in the assessment of scientific merit, a certain degree of confidentiality is required in order to encourage candor on the part of reviewers and to guard against the danger of plagiarism; (ii) congressional oversight is best conducted after the fact, not before, and should be devoted to assessment of overall policy rather than detailed review of individual projects; and (iii) accountability is best achieved by focusing responsibility on visible and answerable superiors, not on their subordinates. The measures recently proposed in Congress would discourage candor or even participation by outside reviewers; they would involve congressmen directly in "legislative service" in support of scientists from their districts; and they would place the political spotlight directly on the program officers rather than on their policymaking superiors.

These dangers were clearly present in the minds of several members of the House Subcommittee on Science, Research, and Technology at congressional hearings on peer review this summer.

If the Conlan-Bauman proposals are not adopted—and it seems unlikely that they will be—the question is raised as to what reforms of the peer review system are needed. To answer this question it is necessary to look carefully at the purposes of the peer review system and its inherent limitations.

PURPOSES AND LIMITATION OF PEER REVIEW

Peer review and proposal pressure are signaling mechanisms for providing funding agencies with information about the possibilities of science. The decentralized systems of rewards and communications of the scientific community supply external advisory panels with the necessary knowledge and cues for appraising proposals and recommending new policies. Most important, the peer review system is based on the assumption that the flow of proposals to funding agencies will provide a reasonably accurate sampling of the universe of research opportunities arising in all fields of science. The objective of any reform should be to safeguard the accuracy of this signaling device.

Recent developments in the support of fundamental science may make this objective difficult to attain. The bulk of funding for basic research is now concentrated in four federal agencies, all of which are under growing pressure to promote "targeted" research programs. Such concentration creates new networks of communications and rewards alongside the traditional ones, altering the "market" mechanisms of the scientific community. There is the danger that proposal pressure, filtered through peer review, will no longer provide a reliable guide to the best science. An illustration of this problem is the remarkable flood of proposals to the NCI since 1971, or the recent surge of energy-related applications to NSF. In both cases researchers appear to be responding to the news of increased funding. The question is whether their response really matches the actual distribution of intellectual opportunities in science.

Distortions in the signal generated by the proposal pressure-peer review system can arise from four sources.

1) The structure and mechanism of the peer review system itself can distort the signals reaching the funding agency from the scientific community, thus producing a false impression of the intellectual opportunities available in each field (selective channeling).

2) The application of extrinsic criteria and funding constraints by agency staff, by encouraging some directions of research and neglecting others, may sharply affect the distribution and content of proposals submitted in the next time period (indirect feedback).

3) Agency staff may influence the generation of proposals through direct publicity, requests for proposals, seminars, and other. External advisors may carry back to their departments information on new funding priorities in Washington or informal lore on which proposals will be best received (direct feedback).

4) The practice of funding by project rather than by institution may cause a pattern of over response by researchers to short-term swings in agency priorities, because of the necessity of applying for new funding at frequent intervals.

Some observers of the peer review system, particularly in government, would say that these features of the peer review system are virtues, not defects. Items 2 through 4 above stimulate a fast response by the scientific community to national needs as they are perceived in Washington. Nevertheless, the signaling function of proposal pressure and peer review is vital. Without an accurate picture of the state of science, funding agencies run the risk of pouring public money into fields whose titles are politically appealing but which are not scentifically ripe for major advances, and of neglecting others in which gains might be made, but which appear esoteric or unintelligible to the layman.

Ways of limiting distortions in the signaling function must be found. One method is to move away from the traditional project grant and make greater use of funding by institution, thus leaving project selection to local institutional management as is currently done in national laboratories and coherent area programs. Funding takes the form of subvention for the institution as a whole, or a particular research center or broad field within an institution, and leaves allocation of resources as a responsibility of the local management, to be justified only after the fact. High scientific merit is maintained through the use of outside visiting committees, overseeing corporations, or various kinds of internal peer review. Institutional funding is already widely used in programs that require an interdisciplinary, well-coordinated approach.

An institutional approach helps to reduce several of the sources of distortion discussed above. It reduces the risks bearing on the individual researcher. When project grants are the sole source of research funds, the funding of a particular proposal nearly becomes a life and death decision for the career of a scentist or the survival of a department. This exacerbates the sensitivity of researchers to news of changing priorities in Washington (46). In addition, funding by institution clearly separates decisions on the political relevance of a field of research from those on the scientific merit of individual proposals.

However, many of the institutional funding mechanisms currently in use have been criticized by the scientific community. Many scientists argue that in national centers and area programs scientific merit is not as carefully scrutinized as in universities. An example is the National Center for Atmospheric Research (NCAR), which is funded as a unit by NSF. Until 1973 NCAR scientists were given wide latitude in their selection and execution of research proposals. Peer review took the form of general supervision by a University Consortium. According to a recent evaluation of NCAR, however, the results of this approach were disappointing (47). Scientists at the NCAR had few publications to their credit in proportion to the support provided to them, their research was not interdisciplinary as had been advertised in justifications of the NCAR approach; and the work and the quality of its personnel were not as highly regarded among atmospheric scientists as should have been expected, given the amount of funding and of logistic support. According to critics, one of the reasons for the undistinguished performance of the NCAR was a lack of close supervision by the managing consortium.

Another example of the mixed results of funding by institution is the center-grant program of NIH. Research funds in such centers are allocated at the local level. However, critics charge that this system produces "peer reviews at home rather than peer review at a distance," which carries the potential for conflicts of interest and personality (13). Similar problems plagued the NCI in the management of its Cancer Chemotherapy National Service Center in the early 1960's (42, p. 206).

Thus, while institutional funding may be the answer for certain large and closely coordinated programs, it will not necessarily enable funding agencies to obtain a reliable sampling of the best research opportunities. For most types of fundamental research the traditional project grant, selected by peer review, with overall priority among fields and subfields determined at least in part by proposal pressure, appears to provide the best available guarantee of scientific merit and accurate information. It is important, however, to extend existing safeguards: to choose advisors and agency staff who are representative of the best science; to limit their terms of service; to separate as much as possible the evaluation of scientific merit from that of funding so as to reduce the dependence of researchers on the priorities or biases of any one agency or congressional committee; and finally, to subject the entire system to periodic review and criticism. Given the present—admittedly tentative—state of our knowledge about the impact of the traditional peer review system, there is not a convincing case that the system's defects warrant the risk of sacrificing its virtues.

REFERENCES AND NOTES

1. Most project proposals come from an individual "principal investigator," who represents a small group of junior colleagues and collaborators, including graduate students. The advantage of this system is that it focuses scientific accountability, the "principal investigator" serves as the channel of responsibility between the project team and the sponsor.

2. J. G. Wirt, A. J. Lieberman, R. E. Levien, *R & D Management: Methods Used by Federal Agencies* (Rand Corporation R-1156-HEW, January 1974).

3. For background information on the various types of proposal review, see Wirt *et al* (2). Specific details on the roles of program directors, advisory panels, and outside reviewers in each NSF program may be found in *Peer Review and Proposal Evaluation: Staff Study* (National Science Foundation, Washington, D.C., June 1975).

4. An interesting question for future in-

vestigation is the mechanism of the distribution of power between the program director and his advisory panel. In some cases, it may be a matter of tradition; in other cases, power is wrested from the advisory panels by the section head. For example, before 1966 the advisory panel for chemistry is said to have played a very influential part in NSF chemistry awards. With the arrival of a new section head, however, the panel's powers were sharply reduced. It is interesting to speculate, incidentally, on the connection this fact may have with the remarkable subsequent stability of the chemistry section staff. Turnover among program directors could conceivably be inversely related to the power they enjoy.

5. Projects involving more than $500,000 during the first year or more than $1,000,000 over the lifetime of the project must be approved by the National Science Board (NSB). However, the NSB rarely rejects a basic research project after it has received a favorable recommendation from the NSF staff; such rejections, when they occur, are based on considerations of policy, not of scientific merit. By contrast, the NSB has never succeeded in reinstating any project rejected by the top level staff of NSF, even though the project may have been energetically recommended by the program officers at the disciplinary level.

6. Paraphrases of the opinions of reviewer may be made available to applicants upon request. The NSB is considering whether to release the names of reviewers under some circumstances.

7. *Congressional Record,* 24 June 1975, p. 20553.

8. Statement by Representative John B. Conlan (R-Ariz.) before the Subcommittee on Science, Research, and Technology of the U.S. House Committee on Science and Technology, 22 July 1975.

9. Office of Management and Budget, *Drug Research Reports,* 16 (No. 22), 4 (1973).

10. See for example, the statement by J. L. Powell, Provost of Oberlin College, before the Subcommittee on Science, Research, and Technology of the House Committee on Science and Technology, 24 July 1975.

11. D. Shapley, *Science* 175, 1090 (1972).

12. Charges such as these led to the formation by the National Academy of Sciences of a Committee on the utilization of Young Scientists and Engineers in Advisory Services to Government. See the report of the Committee. *The Science Committee* (National Academy of Sciences, Washington, D.C., 1972).

13. N. Wade, *Science* 179, 158 (1973).

14. Statement by R. C. Atkinson, Deputy Director, NSF, before the Subcommittee on Science, Research, and Technology of the House Committee on Science and Technology, 23 July 1975.

15. For a review of the issue of representative bureaucracy, see C. Mosher, *Democracy and the Public Service* (Oxford Univ. Press, New York, 1968); K. J. Meir, *Am. Political Sci. Rev.* 69, 526 (1975).

16. Public Law 92–463. A crucial exception to the coverage of the act is the many advisory committees of the National Academy of Sciences—National Research Council, which account for nearly half of the total number of advisory committees in the federal government.

17. *Science & Government Report* 5 (No. 13), 8 (1975).

18. The median age of NSF advisers has undergone some interesting changes over the last 20 years. From 51 years in 1954, it dropped to 44 in 1966, and rose again to 47 years in 1970. (These data are drawn from a forthcoming study by N. Mullins et al. at Indiana University. I thank Professor Mullins for making some of his findings available to me.)

19. National Science Foundation, *NSF Management Statistics* (prepared by the NSF Administration Directorate, July 1975), p. 19. It should be observed that the apparent sex bias is no doubt a reflection of the age bias. That the percentage of Ph.D.'s awarded to women has been increasing in scientists would reflect the sex discrimination of graduate education 20 or 30 years ago.

20. NSF Administration Directorate, *An Analysis of the Geographical Distribution of NSF Awards as Compared with Other Selected Indicators* (National Science Foundation, Washington, D.C., 1975), p. 1.

21. Findings of the Public Policy Committee, Division of Biological Chemistry, American Chemical Society. I thank E. W. Westhead, professor of biochemistry at the University of Massachusetts (Amherst), for a summary of the committee's data.

22. Preliminary results of a study of the NSF advisory system by N. C. Mullins, *Social Stud.* Sci. (1 July 1975).

23. N. C. Mullins, *Sci. Stud.* 2, 7 (1972).

24. Hagstrom's work is described in N. Wade, *Science* 188, 429 (1975). It is conceivable, however, that this finding would not hold for peer review panels; since the latter are highly prestigious, they may draw more than proportionately from prestige institutions.

25. Data presented by NSF to the Committee on Science and Public Policy of the National Academy of Sciences, cited with permission.

26. Atkinson (14, pp. 13, 23). The success rate is defined as the ratio of successful applications to total applications.

27. D. Kuhlmann-Wilsdorf, University of Virginia, before the Subcommittee on Science, Research, and Technology of the House Committee on Science and Technology, Washington, D.C., 29 July 1975.

28. Kuhlmann-Wilsdorf's statement has aroused considerable controversy, which is discussed in D. Shapley, *Science* 189, 622 (1975). The explanation may be that metallurgy-materials research in the prestigious institutions is generously supported through the Materials Research Laboratory program, which is block-funded.

29. Kuhlmann-Wilsdorf (27, p. 607). Similar conclusions were reached by the Westheimer Panel in the mid-1960's. See National Academy of Sciences—National Research Council, Committee for the Survey of Chemistry, *Chemistry: Opportunities and Needs* (National Academy of Sciences, Washington, D.C., 1965).

30. T. J. Kennedy, Jr., J. F. Sherman, R. W. Lamont-Havers.

31. C. D. Douglass and J. C. James, *Science* 181, 241 (1973).

32. F. J. Rauscher, Jr., *ibid.* 189, 115 (1975).

33. Kennedy *et al.* (*30*, p. 604). In NSF the percentage of funds awarded to new proposals has averaged about 10 percent in recent years. NSF memorandum, *Selection of Physics Research Proposals for NSF Support.*

34. Data drawn J. T. Kalberer, Jr., *Cancer Res.* 35, 473 (1975).

35. The NSF studies were performed under C. Falk at the behest of the NSB.

36. In practice, the various categories are not as neat as I have painted them here. The NSF, for example, applies several criteria such as scientific merit primarily and geographic and disciplinary distribution secondarily. As Deputy Atkinson explained in a recent statement, NSF program officers have no set formula for weighing the merit and equity criteria; rather, when choosing between two proposals of roughly equal merit, they decide to a large extent on the basis of geography. But as Atkinson stressed, it is done largely "by intuition" (14).

37. G. M. Carter, *Peer-Review, Citations, and Biomedical Research Policy: NIH Grants to Medical School Faculty* (Rand Corporation, R–1583–HEW, December 1974).

38. Evidence in the same direction comes from D. Kuhlmann-Wilsdorf's study. For NSF as a whole, she found a close relation between the size of the NSF grant and the rate at which the applicants' overall work was cited (27, p. 7).

39. NSF report to National Academy of Sciences, Committee on Science and Public Policy, 1972. Cited with permission of K. Wilson.

40. To document this point it is instructive to compare the rosters of program officers listed in NSF's Annual Report for 1969 and 1974. Although reorganizations and expansions of disciplinary categories occasionally make comparison difficult, the overall picture that emerges is one of remarkable movement. Sections such as physics, atmospheric sciences, and oceanography underwent almost complete turnover. In fact, the only major research section for which the program officers in 1974 were the same as in 1969 was chemistry.

41. Wirt *et al.* (*2*, p. 60). On the other hand, in NSF all external advisors are appointed by the director.

42. U.S. Office of Science and Technology, *Biomedical Science and its Administration: A Study of the National Institutes of Health* (Government Printing Office, Washington, D.C., 1965), p. 193.

43. G. N. Eaves, *Fed Proc.* 31 (No. 1), 3 (1972).

44. The NCI, which was the leader in this trend, is beginning to reverse itself. Some programs that were funded by contracts will be funded via special cancer research emphasis grants.

45. Representative Conlan has introduced legislation (HR 9892) that would establish a "peer review office" in NSF, which would maintain a detailed record of applications, reviews, and final actions. See J. Walsh, *Science* 190, 253 (1975).

46. For interesting illustrations, see G. N. Eaves, *Fed. Proc.* 32 (5), 1541 (1973).

47. N. Wade, *Science* 182, 36 (1973).

48. This article is based on a survey of American policy on fundamental science conducted for the Joint Working Group on Science Policy under the U.S.–U.S.S.R. Agreement on Cooperation in Science and Technology. A similar survey of Soviet science policy is being conducted simultaneously by the U.S.S.R. Academy of Sciences. I thank H. Brooks, D. K. Price, and W. W. Lowrance for advice and comments.

JOINT ECONOMIC COMMITTEE NEW YORK HEARING

Mr. HUMPHREY. Mr. President, on November 11, 1975, the Joint Economic Committee held the second of a series of regional economic hearings. This one was in New York City. These regional hearings are an attempt to find out why we have not been meeting the goals established by the Employment Act of 1946.

In New York City the committee also examined the possibility of a default by the Nation's largest city and the impact of such an event on the regional and national economy. We received testimony from public officials, distinguished businessmen, union officials, economists, and private individuals.

Many of the witnesses who testified in New York expressed concern about the administration's policy toward New York City's financial crisis and the problems of other cities.

Mayor Beame testified at the hearing that:

> This Administration apparently pursues an anti-New York, anti-large city policy. It publicly defends a local assistance policy which

> aggravates the fiscal problems of local governments. It drags its heels on a housing policy which should be ten times as massive and aggressive if our nation's slums are to be eliminated. And most unwise of all, it consciously fostered an increase of unemployment as a way to combat inflation. It methodically kept interest rates high and sent the construction industry in many parts of the country into a depression.

This point was reinforced in the testimony of Albert Shanker, president of the United Federation of Teachers, who pointed out some of the problems New York City will face in its attempt to retain a solid tax base and maintain essential services:

> If you take any of the estimates (regarding expenditure cuts New York City must make to get financial assistance)—the fact is that over a period of one and a half years the city will have to cut its services approximately in half. I submit to you that a city with half of its fire force, half of its educational system, half of its cultural institutions—that city is not going to get the tax revenues two years from now that it has today.

All of the witnesses drew attention to the fact that the recession has increased New York City's unemployment rate by about 70 percent in the last year alone. Citing statistics from the New York State Economic Development Agency, Mayor Abraham Beame, said:

> New York City's 11.9% unemployment rate is expected to increase to 16% in the next 12 to 18 months.

Governor Carey added:

> If unemployment in New York City alone were reduced by half, to an acceptable level of 6%, do you realize we would generate in terms of revenues on the present base over $800 million for the City, State and Federal coffers.

Mayor Beame and Governor Carey supported the findings of a recent study by the staff of the Joint Economic Committee entitled "New York City's Financial Crisis, an Evaluation of its Economic Impact and of Proposed Policy Solutions." This study noted that a New York City default could mean a loss of 100,000 jobs in the New York City metropolitan area in the next 2 years, and a nationwide loss of possibly 300,000 jobs in the next year alone. This study pointed out if default does occur, it will seriously impede economic recovery and this would increase the Federal deficit by as much as $4 billion.

Further testimony in New York City indicated that the employment policies being implemented in New York City are confusing and contradictory. Victor Gotbaum, executive director, American Federation of State, County and Municipal Employees testified that:

> About 35,000 jobs have been cut out of the public service economy in the City of New York and 16,000 CETA workers are back on the job. These are new workers. So it means in terms of total overall progress, there are now 19,000 more people unemployed in the public service sector. Our members are bewildered . . . those working can't quite comprehend what sort of policy there is that consigns some people to a junk heap and brings in 16,000 others in the name of progress.

All of the witnesses agreed that the impact of a New York City default will not be confined to New York alone. Many suggested that default will lead to higher interest rates for other States and local govenments across the country, many of which are already experiencing financial difficulties. In fact, the mere prospect of default has already increased interest rates on the municipal bond market forcing many States and localities to withdraw their proposed issues of securities and bonds. C. Douglas Dillon, chairman of the U.S. Foreign Securities Corporation testified:

> Because of the crisis (in New York City) interest rates on municipal securities of all types have risen. Because of it, various agencies of the state of New York can no longer market their securities in the normal fashion and are threatened with imminent default . . . default would increase pressures on the municipal market. It could even lead to the inability of New York State to roll over forthcoming maturities of its debt . . . There is also likely to be the tendency to shun all city issues because it will simply be too difficult for investors to distinguish among city borrowers.

Perhaps the most important aspect of our regional hearings is the discovery that the forces pushing New Yok City toward bankruptcy are at work in other large American cities.

Working people have been leaving the central city at a rapid rate; while, at the same time, there has been an inflow of the poor and unskilled to the cities. Between 1960 and 70, about 1 million working-class residents left New York City, while the same number of very low income people entered the city. The result has been a growing economic and racial gap between the cities and the suburbs.

The problems facing New York and other large cities are extremely serious and we desperately need more responsible policies from this administration. I commend the record of this hearing to any of my colleagues interested in reaching a better understanding of these problems and their implications for our entire Nation.

Mr. President, we received very valuable testimony from all of the witnesses at our hearing in New York. Unfortunately space does not allow inclusion of all the testimony in the Record. However, I would like to ask unanimous consent to have printed in the Record the full statements of Mayor Abraham Beame and Gov. Hugh Carey.

There being no objection, the statements were ordered to be printed in the Record, as follows:

TESTIMONY BY MAYOR ABRAHAM D. BEAME

Senator Humphrey, members of the Joint Economic Committee:

Thank you for inviting me to testify on the problems of unemployment, especially as it exists in New York City.

This is a particularly important forum—especially for this City—because it cuts away much of the superficial speculation regarding the immediate financial crisis confronting us, and focuses on the root causes of the urban dilemma. I speak of the poor performance of the national economy since 1969.

National economic policies in the past six years can be summed up as an abdication by the central government of its responsibilities to all the people. Those policies discriminate unjustly against some segments of our society. Moreover, they foolishly jeopardize the well-being of the whole country.

This Administration apparently pursues an anti-New York, anti-large city policy. It publicly defends a local assistance policy which aggravates the fiscal problems of local governments. It drags its heels on a housing policy which should be ten times as massive and aggressive, if our nation's slums are to be eliminated.

And, most unwise of all, it consciously fostered an increase in unemployment as a way to combat inflation. It deliberately intensified the recession in a vain attempt to reduce prices. It methodically kept interest rates high and sent the construction industry in many parts of the country into a depression.

This is an Administration which experimented with the lives of millions of people only to prove the correctness of an economic model; a theory that prosperity would come for some, if all took a small dose of recession and hard times.

Well, it turned out to be a runaway experiment, whose bad effects were mostly felt in the nation's large cities. The national effort to increase unemployment, intensify recessionary trends and keep interest rates high especially hurt New York City, which is now highly vulnerable to national business downcycles.

Yet when we sought relief from the Federal governmnet from a condition which was greatly generated by national policies and actions, we were scolded publicly and made political targets.

We are witnessing the acting out of an incredible national policy of hostility towards the nation's urban centers. Cutting back assistance to urban centers is myopic, because it means local communities have to take up an increased tax burden or drop and reduce the services. Either choice means erosion and the urban economic base and acceleration of unemployment.

Day after day, the central cities of our nation are reaping the bitter fruits of a national housing policy which is failing miserably to stem the tides of spreading slums and housing abandonments. This unaggressive housing policy, you will recall, was preceded by a two-year moratorium on Federal housing subsidies imposed during the Nixon Administration.

That was a foolish policy which seriously depressed the construction industry and aggravated living conditions for millions of residents in our large cities.

We are also the unwilling victims of a stubborn Federal tight money policy. That policy was devastating. It was a knockout blow to the construction industry and added to the burden of hard-pressed local governments by driving up the cost of borrowing for capital projects.

It's interesting to note that Federal officials are now easing up on the money supply. There is speculation that the reason for such action is not because lower interest rates are needed to increase employment, but only because they will blunt the impact of a possible New York City default on the credit market and the financial community.

Implicity, the Federal Administration is acknowledging that the default, which they find desirable, will have wide national repercussions.

Finally, the whole nation is suffering from the Federal failure to cope with the national recession.

More than 13 months ago, when the newly inaugurated President was limiting his receptivity to ideas on how to "whip" inflation, my position was that Federal action was needed not only to check inflation, but also to check the recessionary trends—including unemployment—which were already quite obvious in our big cities.

And, herein lies the basic injustice against our cities in general, and New York City in particular.

The national economy, in terms of real rate of growth and employment, reached a peak in 1969. From that year to 1972, the economy was characterized by an under-performance whose effects were largely felt in the cities. In 1972, a presidential election year, there was a slight surge. Since then, it's been all down hill for the nation, which experienced the worst economic setback the nation has seen since the Great Depression.

Let me tell you first what this has meant to New York City's government and then to the labor force in both the private and public sectors.

The long national slide from 1969 on meant an even sharper declining local economy, in terms of tax receipts related to fiscal potential. We have estimated that the tax levy revenue lost to New York City since 1969 because of the recession has been over $1.2 billion. In the last fiscal year alone, that loss is estimated at $400 million.

Those estimates are based upon a comparison of the tax levy growth rate between 1969 and 1975 with the corresponding growth rate, which was relatively even, between 1961 and 1969.

On the expenditure side, we estimate, by the same method, that the recession alone forced the City to increase its welfare contributions without Medicaid by $310 million since 1969, and of that sum, $40 million occurred in the last fiscal year alone.

The recession also forced the City to increase its Medicaid payments by $336 million since 1969, of which $46 million occurred in the last fiscal year.

All those figures show primarily the effects of the recession and do not include the impact of certain inflationary trends since 1969.

Therefore, in the face of mandated increases in costs caused by recession, inflation and unemployment, the budget cuts which I have been forced to make were in such remaining vital services of police, fire sanitation and education.

During that seven-year period, the City attempted to keep pace with the deepening recession by raising taxes. Despite that, we were swamped by increased shortfalls of revenues and added expenditures required to deal with the effects of the recession.

It is estimated that the accumulated revenue shortfalls and the added expenditure burdens between 1969 and 1975, attributable to the recession, total nearly $2 billion—more than $500 million of which occurred during this last fiscal year.

This accumulated $2 billion caused by the recession is a big chunk of our accumulated deficit over the years. I am convinced that if we did not have a business recession with its rising unemployment, New York City would be in relatively good financial state today.

Now, what does this mean to the labor force in our City?

Since January 1st of this year, I have reduced the payroll by some 35,000 full-time positions.

This alone represented an increase in the City's unemployment rate by more than a full percentage point.

When you consider that the spending of those families has been reduced and that the City has also had to reduce its purchases from vendors and contractors, there is a multiplier effect working here that has hurt the entire City economy.

In September of this year, the unemployment rate was 11.9%. Some 376,600 men and women willing and able to work, and looking for work, were unemployed.

In September of 1974, the rate was 7.3% (or) 228,600 persons were out of work.

So, in one year's time, the number of unemployed men and women in New York City increased by 65%.

Now, this is not a case of jobs leaving the City for the suburbs. The whole New York City area, which includes several New York suburban counties has been affected. The area's unemployment rate is 10.9%, compared with 6.6% in September of 1974.

And, similar statistics prevail in the consolidated New York area which includes several northeastern New Jersey counties. The unemployment rate for that area was 10.7%, compared with a 6.3% rate in the previous year.

What this means for the entire area is that 721,000 men and women are unemployed in the New York Metropolitan region.

What is significant about the statistics is that the unemployment rate has been a double-digit rate since January. And, there doesn't seem to be an end in sight to the increase in unemployment.

The State Economic Development Board recently reported that New York City's 11.9% unemployment rate would increase to 16% in the next 12 to 18 months.

That report said the number of newly unemployed persons would be between 145,000 and 165,000 in government and seven other fields—apparel, printing, construction, transportation, utilities, wholesale and retail trades, and finance, insurance and real estate.

Consider just the construction field alone which is in a real state of shock and depression.

In New York City, jobs in the construction field dropped from 107,600 in 1973 to 82,000 in 1975. These, incidentally, are all September figures for the year cited.

In Westchester, construction jobs dropped from 18,500 in 1973 to 13,200 in 1975. In Nassau and Suffolk, construction jobs dropped from 48,600 in 1973 to 34,100 in 1975.

These are massive drops, and I hate to say that the City government's fiscal problems will aggravate this condition even more.

As you know, the State Equalization Board recently came out with new equalization rates which forced me to rescind hundreds of millions of dollars of capital projects.

Recently, too, I was forced to eliminate another $390-million out of the capital budget as part of the Emergency Financial Control Board fiscal plan.

The shock of these cuts in capital projects to the construction industry must be measured in the light of the fact that the City had been providing roughly half of the construction work available in the City, with private business supplying the other half.

As a result of the City cutbacks, we have estimated that another 8,000 construction workers will be out of work, bringing construction employment down in the City to 74,000 jobs—a drop of 33,000 from 1973.

Over the long haul between 1969 and 1975, total jobs in New York City declined by 510,000, and virtually all of them can be attributed to the recession.

New York City is not alone in suffering from the Ford Administration's refusal to face the facts of recession.

The Detroit and Boston areas have unemployment rates of 13% or more. The Newark and Philadelphia areas are at 11%. The Atlanta, San Francisco, Los Angeles and Seattle areas have nearly 10% of their workforces unemployed.

Those are area figures including the suburbs and the unemployment rates in the central cities are higher, and in the ghetto areas, they are much higher.

Unemployment probably has more socially corrosive effects that any other condition in our lives. Long-term unemployment can demoralize a working man or woman, destroy the human spirit, loosen the bonds which keep a family together, and reduce that family to a state of dependency and humiliation which usually does not exist in other tragedies.

I cannot understand Federal officials who insist on pursuing policies which can only continue and increase the unemployment which exists now in the country.

One is moved to anger that the present national Administration has virtually "engineered" this recession, in order to vindicate its misguided position of fighting inflation.

The need for full employment is imperative now.

We must implement the social policy of full employment first stated in the Unemployment Act of 1946.

We support the bills introduced by you, Senator Humphrey, and co-sponsored by other Senators, that would establish a national machinery for guaranteeing full employment for any and all Americans able and willing to work.

Further, we cannot let local governments and especially New York City fall into bankruptcy, which will further aggravate the unemployment problem in this country.

A study prepared for the use of this Joint Economic Committee, notes that a New York City default would result in a further contraction of construction activity through the country, a loss of 100,000 jobs in New York City and a loss of 300,000 jobs throughout the country.

In order to prevent all that, we must avoid default.

In order to do that, we need Federal guarantees backing our bonds and notes.

This is the first order of business, if we are to keep unemployment throughout the country from rising. I know I can count on the support of the Chairman and several members of this Joint Economic Committee to see that New York City will get the loan guarantee it is seeking.

On a long-term basis, we need the implementation of full employment in this country. We need an easier money policy and lower interest rates. We need counter-cyclical revenue-sharing for local governments in times of recession. We need aggressive Federal housing programs to stimulate employment and rebuild our country. We need a massive Federal public works program. And, we need the Federal government's assumption of all local welfare and Medicaid costs, in order to relieve local governments and local taxpayers of a burden which rightfully belongs to the Federal government.

The people of the City of New York are becoming united behind these programs. What we need is to convince the people in the rest of the country that it is to their benefit to prevent New York City from collapsing, it is to their benefit to seek full employment, and it is to their benefit to push for a change in the national attitude toward the urban centers of our country.

Testimony by Governor Hugh L. Carey

We meet today to discuss what government can do to achieve full employment in America. We realize that the right to find employment, to live in dignity and security has been denied to millions of Americans by economic policies of the Federal government over the last decade.

But before we can address that subject, we must face the national economic emergency which emanates from New York City. For unless the government of the United States acts to prevent the default and bankruptcy of New York City, there will be a vast and unnecessary addition to the already devastating numbers of unemployed in this city, this state, and the entire nation.

In protecting this nation from the consequences of default, the Federal government will be protecting the right of people to work—the right of teachers, firemen, nurses, laborers, policemen and workers in every part of the private sector.

Unless we obtain the guarantee of New York securities we seek—a guarantee which I must say again and again will not cost the taxpayers of this nation a cent—New York City will default and be in bankruptcy.

Nationally respected economists estimate that the private sector in New York City will lose at least 15,000 and perhaps as many as 60,000 jobs as a result of the financial cuts and loss of public employment necessary to put New York City's finances in order.

Default and bankruptcy will cause countless thousands of private sector jobs elsewhere in the nation to disappear.

Jobs will be lost as businesses which depend on New York City cannot collect their bills. For example the New York Telephone Company estimates that it will lose from $40 million to $60 million in one year if the city defaults. Such losses in revenues and profits ultimately mean layoffs.

Then other corporations like New York Telephone in at least 22 states which do business with New York City.

Jobs will be lost as businesses which hold New York City paper for collateral on their loans are forced into foreclosure.

Jobs will be lost as businesses not willing to exist under federal occupancy leave the city.

We have to keep in mind that unemployment as a result of Federal policies is already nearly 12 percent in New York City—the city has lost 370,000 jobs since 1969 and 100,000 jobs in the last year alone.

If the Federal government were to begin honoring its obligations to this nation as enunciated in the Full Employment Act of 1946—if as a result, New York city's unemployment was cut only in half—to a mere 6 per cent—200,000 more people would have jobs, the city's economy would get a $1.3 billion shot in the arm and $350 million would be generated in additional city, state and federal taxes.

We have heard financial experts from coast to coast—including the Chairman of the Federal Reserve—tell us that default will harm our present economic recovery.

Respected economists, including staff members of this Committee have developed an estimate that default will reduce the growth rate of the Gross National Product by one per cent.

That means this nation will lose $14 billion dollars of new business, $4.5 billion in new taxes and a half a million jobs which would have been created.

A recent report by the Municipal Finance Officers Association shows us how the fear of default alone has already harmed the nations economy.

That report states that 107 municipal bond offerings from areas all across that nation either received no bids, were postponed or completely withdrawn from the market.

Those offerings totaled nearly $1.5 billion. That means that schools and hospitals and homes for the aged all across this nation have not been built. It means citizens all across this nation have been deprived of the services of those planned facilities. And it means that we have lost thousands and thousands of jobs.

Default is despair: It is disaster: It will mean devastation to the right of Americans to work and provide food and shelter to their families.

As the specter of default hangs over New York State we find nearly every determined effort we have made to initiate and retain jobs this year in a state of paralysis.

Because we cannot borrow, we cannot build. The most urgent problem is the severe danger of default by four major state agencies—The Housing Finance Agency, The Medical Care Facilities Financing Agency—The Dormitory Authority and the Environmental Facilities Corporation.

Those agencies' financial situations are sound. They have the unquestionable ability to pay their debt service. But because their securities bear the name "New York," there is no market for them.

Unless we can obtain the loan from the Federal Reserve, which we officially asked for last week, those agencies will default.

The first will be the Housing Finance Agency which has financed more than 800 projects worth more than 5.8 billion dollars over the past 15 years.

That may occur as early as this week if we do not obtain federal assistance.

These state agencies are stricken with the contagion, the crisis in financial confidence caused by New York City's problems. If they default, our state will stand dotted with $2.5 billion dollars worth of half-built classrooms, public and private hospitals, nursing homes, and housing for low-income families.

And more than 50,000 additional jobs will be lost.

Because local governments and the state of New York cannot borrow, the future of our $2.7 billion accelerated environmental public works program which will create 141,000 jobs in 50 counties is in jeopardy.

Because we cannot borrow, we cannot rebuild our railroads at this point. We cannot create the 7,500 jobs and $675 million in economic activity mandated by the passage of the Rail Preservation Bond Act which I signed this June.

I am here today to tell you that the difficulty Congress is having in passing measures to save New York City and this nation from financial disaster, the difficulty the President is having coming to grips with the real issues involved—these difficulties are symptoms of how New York and other major industrial cities and centers of the urban industrial belt are exposed to economic hardship by poorly planned federal policies.

Federal subsidies spurred the mechanization of agriculture in the South after World War II and recharged the greatest migration in the history of the world—the migration of poor rural farmers to the big cities.

But it became the cities responsibility to educate and reemploy the American migrants.

The Federal Government in its policies of tax deductions on home mortgage interests and in the billions of dollars poured into the federal highway network has benefited suburbia while ignoring urban renewal and urban mass transit.

When we examine exactly where the federal tax dollars collected from our nation's industrial centers go, we find they go most heavily to finance industrial development in the South and West.

In the last reported years, we find that the federal government extracted $7.4 billion more from New York State than it spent here for all purposes.

By contrast, California received $2 billion a year more than it paid to the federal government.

Virginia netted $1.3 billion and Texas received $1 billion more than it paid each year. The civilian industrial centers of the Northeast and Midwest have been financing the growth of the military bases and military industry elsewhere for more than 20 years.

In the past 10 years, New York State has lost 18,000 military personnel and 26,000 federal civilian jobs. While federal civilian employees increased by half a million between 1969 and 1974, New York State suffered a net decrease of 11,000 federal civilian jobs.

In 1958, New York State received only 8.2 percent of federal employment. Today it receives about 6 per cent.

When we examine what New York State has received from the Economic Development Administration since 1965, the picture becomes more clear.

We received 3.1 per cent of their economic development grants and loans; 2.7 per cent of their public works money; 4.4 per cent of their business development loans; 5.6 per cent of their technical assistance grants and only 2.8 per cent of their regional planning grants.

New York City and New York State share this common problem with many other cities and centers of America in the older industrial centers of the Northeast, Mid-Atlantic and Midwest.

New York City's population remained fairly constant from 1960 to 1973. But hundreds of thousands of middle class white and blue collar workers moved to the suburbs and hundreds of thousands of the less fortunate moved in.

From 1960 to 1973 Pittsburgh lost more than 20 per cent of its population; Boston lost more than 11 per cent; Chicago more than 10 per cent; Cleveland more than 22 per cent. The list goes on and on.

Yet cities in the south and west gained population. Jacksonville's population increased more than 159 per cent; Houston's more than 40 per cent and Phoenix's population grew 45 per cent and Los Angeles grew by nearly 11 per cent.

By contrast, in the northeast region, job opportunities in the 1960's grew 40 per cent more slowly than the national average. And by the 1970's, job opportunities in the northeast were growing 70 per cent more slowly than the national average.

These facts underline my overwhelming concern, not only for New York, but for its neighbors as well. The problems of our city and state today will be the problems of countless others tomorrow.

Today, New York City cannot borrow and it cannot rebuild itself. Because credit may be denied to many other American cities tomorrow, they will not be able to build.

We need to do more than prevent default of New York City. We need—as Senator Humphrey has said so often—we need a Marshall Plan for the cities of America—we need more than a survival plan—we need a plan to rebuild our cities—to rebuild their physical structures and their inner character.

Every day the industrial cities of America decay. Every day, people of means move out and people without means move in.

Every day business moves away. Every day industrial and commercial sites decline in value. The problems of the cities long ago emerged as the most pressing problems within this nation. They have been ignored too long by this Federal Government. We can no longer accept urban blight as a matter of course. We no longer can simply count our poor and unemployed. We can no longer simply quote studies and statistics about our dying cities. We must develop a national recovery program for our cities.

We must, on a national level, give our cities the breath of life they so desperately need. We don't expect more for our cities than for our suburbs and rural areas. We just want to be treated fairly and equally.

A Federal Economic Development Board committed to long range economic planning as proposed by Senators Hubert Humphrey and Jacob Javits this year could be one effective instrument to begin correcting the built-in economic injustices in urban industrial America.

That proposed national economic planning board is similar to the Economic Development Board I set up in New York State this year.

It is composed of talented individuals from labor and management from every area of the state, and staffed by a top calibre professional team.

The purpose of our Economic Development Board is to bring government, management and labor together to plan for our own economic rebuilding; to help business cut through unnecessary government red tape and to evaluate the economic impact of government programs in every region of our state.

Last weekend top officials of labor and management from every area of this state including members of the state's Economic Development Board held a conference in Buffalo to study the short range and long range prospects for rebuilding the economy of New York State.

Labor and management agreed that the federal government should completely take over the welfare system, an arbitrary and unmanageable burden on the states. And they expressed equal concern about New York State taxes which are already the highest in the nation.

We have learned from our past that increased taxes drive business from our state.

Between 1965 and 1972, state taxes in New York increased 135.3 per cent—increased from 4.7 of the personal income in the state to 7.2 per cent.

During the same time more than 300,000 manufacturing jobs and more than a million people left our state.

But, this year there is a new and determined spirit of cooperation and understanding between business and government and labor in our state.

What this nation needs is for business and labor and government to come together—as they are in New York State—in the common purpose of making the right to a job a reality to every able and willing American.

In the Employment Act of 1946 and in the Universal Declaration of Human Rights in the United Nations in 1948, this nation set forth our principles of social and economic justice.

It is the law of the United States of America that every man and woman in this nation who is willing and able to work has a right to a job.

Yet, who is upholding that law? When it was passed, even two per cent unemployment was unacceptable.

In the past seven years, instead of designing programs to create jobs, the national administration of this nation has simply changed the definition of what it considers "acceptable" unemployment.

Eight per cent unemployment may be "acceptable" to President Ford, but it is certainly not acceptable to the eight million Americans who are out of work.

In the last seven years we have seen wheat deals and an increasing dependency on foreign oil; we have seen the tariff on energy and the one shot tax cut.

But we have not seen a commitment or a desire or a plan by this national administration to make full employment more than just a phrase in a speech.

We have a policy of welfare in this country instead of a policy of employment.

Unemployment in New York State is nearly 11 per cent. If we had federal policies and programs to reduce it to a mere 5 per cent, half a million more New Yorkers would have jobs; our state's economy would receive a $3.2 billion shot in the arm and $800 million in new state local and federal taxes would be generated.

We ended the great depression in this nation by innovative experimentation. We were not afraid to try programs and policies designed to put people to work. The lesson of the 1930's needs to be put into practice in the 1970's.

And, if the Federal Government remains unwilling to use all of its resources and energy to put the people of America back to work, then give the states the funds and the flexibility to try new and creative programs as well as old and proven programs of employment.

I recognize that achieving full employment while reckoning with inflation will not be easy. But just because it is a complex problem, that does not relieve the Federal Government from its responsibility to solve it.

Full employment is the best cure this nation can prescribe to its ailing cities.

Full employment is the best cure the Federal Government can prescribe for the recession of its economy and the depression of its people's confidence.

When our nation was founded, we called it the United States of America.

The test before Congress: the test before our national government in the last quarter of the 20th century is more than a test of economic responsibility.

It is a test of whether or not we will once again be a nation united in spirit, united in purpose and united in the related convictions that every American has a right to a job and our cities and industrial centers of this nation have the right to survive and thrive.

That challenge is to pass legislation to put the people of America back to work; that challenge is to standardize and nationalize our welfare program for people who cannot work; the challenge is to rebuild our cities, physically and spiritually; the challenge is to live up to all this nation ever hoped to be on its 200th anniversary.

CATHOLIC BISHOPS OFFER CONSTRUCTIVE HOUSING PROGRAM

Mr. HUMPHREY. Mr. President, no one will deny that we are presently facing an enormous housing crisis, affecting both producers and consumers of housing. At present, our rate of new housing is woefully inadequate—less than half of our national goal. Mortgage rates are sky high—often above 9 percent. Only 1 out of every 6 American families can afford the median-priced, new home and only 1 out of 5 families can afford the median-priced existing home. Almost 20 percent of our Nation's families are living in housing that is inadequate to their needs for one reason or another. It is a pretty sad story about Federal Government policy failures.

Yet, we have had no change in Federal policy to reverse this devastating course of events. We simply have a policy of business as usual which has turned our national goal of "a decent home in a suitable living environment for every American family" into an empty promise and a sham.

Despite this lack of governmental policy, there are several groups that recently have produced innovative and constructive programs for correcting many of our Nation's housing problems. One of these groups, the Catholic Bishops of the United States, has recently produced an extremely thoughtful document titled, "The Right to a Decent Home." This pamphlet details many of the developments that have weakened the country's commitment to our national housing goals, and offers many creative ideas for getting our housing industry back on the right track.

Mr. President, I would like to share the fine work of the Catholic Bishops with my colleagues. I highly recommend their pamphlet, "The Right to a Decent Home," to all of my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

THE RIGHT TO A DECENT HOME

A PASTORAL RESPONSE TO THE CRISIS IN HOUSING

I. Introduction

1. The United States is in the midst of a severe housing crisis. This is a broader, more pervasive and more complicated phenomenon than the customary photographs of urban slums and rural shacks indicate. It involves more people, more neighborhoods and communities than was thought to be the case even a few years ago. It touches millions of poor families who live in inhuman conditions, but it also involves many middle-income families whose ability to provide themselves with decent housing is being painfully tested. Rising costs of shelter, maintenance and utilities—as well as high interest rates and regressive property taxes—are forcing many families to live in inadequate housing or to do without other basic essentials. Other low- and middle-income families have been confined to neighborhoods without adequate services, minimal safety or necessary community life.

2. The dimensions of our housing crisis are apparent in the following statistics:

One of every five families in the United States suffers from serious housing deprivation. They either live in physically inadequate buildings, suffer from severe overcrowding, or spend an excessive proportion of their income for shelter.[1]

Housing costs have increased to the point that millions of families cannot obtain decent housing unless they deprive themselves of other essentials of life. Only 15% of American families can afford to purchase a median-priced new home.[2]

4.7 million housing units lack adequate plumbing facilities and 5 million families live in overcrowded housing.[3]

80% of those with incomes under $5,000 experience some form of housing inadequacy.[4]

Two-thirds of officially substandard housing is in rural areas and small towns.[5]

It is estimated that over 23.3 million new homes will be needed between 1970 and 1980, yet housing production for the first quarter of 1975 was at the lowest level since World War II.[6]

40% of our available housing stock is more than 30 years old and the accompanying deterioration and abandonment are threatening many neighborhoods.[7]

It is authoritatively estimated that 13.1 million American families suffer serious housing deprivation.[8]

3. Over 25 years ago, the United States Congress declared the housing policy of this country to be "a decent home in a suitable living environment for every American family."[9] This goal has not been achieved. The harsh and frustrating reality is that it certainly will not be achieved in the near future and may never be achieved at all. This means that millions of American families are condemned to live in poor housing or in unsuitable environments unless dramatic action is taken.

II. Housing: A Pastoral Imperative for the Church

4. In the face of this cruel and discouraging condition, we, the Bishops of the United States, cannot remain silent. The reality of this housing crisis provides a challenge to our country as we approach the Bicentennial. In the past 200 years our nation, with the abundant blessing of God, has overcome many other complex problems and has provided a standard of living previously unknown to the world.

5. We are not so naive as to believe that there are easy solutions to this crisis. The housing crisis is overwhelming. It touches facets of our economic, political and social life that are extremely complicated. Any attempt to solve these intricate problems can give rise to petty self-interest and alarming divisions. Addressing ourselves to our own people and to the whole country, we plead with all, in both the private and the public sector, to confront our housing crisis with the courage, conviction and talent that have brought about our greatest achievements in the past.

6. As preachers of the gospel, we proclaim

Footnotes at end of article.

the message of Jesus Christ who identifies Himself with the needs of the least of the brethren. The second great commandment is to love our neighbor. We cannot deny the crying needs for decent housing experienced by the least of the brethren in our society. Effective love of neighbor involves concern for his or her living conditions.

7. We begin with the recognition that decent housing is a right. Our Catholic tradition, eloquently expressed by Pope John XXIII[10] and Pope Paul VI,[11] insists that shelter is one of the basic rights of the human person. The Second Vatican Council has said with great directness: "There must be made available to all men everything necessary for leading a life truly human, such as food, clothing and shelter. . . ."[12]

8. As teachers, pastors and leaders, we have the responsibility to articulate the principles and values that govern the Church's concern for housing. We believe that each individual possesses an inherent dignity and priceless worth because he or she is created in the image and likeness of God. We also believe each person should have the opportunity to grow and develop his or her potential to the fullest extent possible. Human dignity and development are threatened whatever social and economic forces imprison or degrade people. We call on Catholics and all citizens to join us in working against these debilitating forces.

9. In particular, we take this opportunity to reflect on the consequences of poor housing. The physical and social environment play an important role in forming and influencing the lives of people. We cannot ignore the terrible impact of degrading and indecent living conditions on people's perception of themselves and their future. The protection of the human dignity of every person and the right to a decent home require both individual action and structural policies and practices.

10. Our faith teaches us that "the earth is the Lord's" (Psalm 24) and that wealth and private property are held in trust for others. We are trustees of God's creation, and as good stewards we are required to exercise that trust for the common good and benefit of our brothers and sisters.

11. The role of those who own land or other wealth is one of stewardship. While the Church has traditionally recognized the right to private property, that right is always subject to certain limitations. As the Second Vatican Council pointed out:

> God intended the earth and all that it contains for the use of every human being and people . . . Whatever the forms of ownership may be, as adapted to the legitimate institutions of people according to diverse and changeable circumstances, attention must be paid to the universal purpose for which created goods are meant. In using them, therefore, a man should regard his lawful possessions not merely as his own but also as common property in the sense that they should accrue to the benefit of not only himself but of others.[13]

12. This teaching is central to a discussion of the ethical and moral dimensions of the housing crisis. It imposes major responsibilities on those whose land and shelter resources or skills might help society guarantee the right to a decent home.

13. This concept of stewardship must be reflected in our concern and action on housing. It must be practiced not only by individuals, but also by institutions. The Church must give witness to this trusteeship in the use of its own property and resources. Just as individual property holders are bound by this principle, so it must be reflected in public policy at each level of government.

14. Our concern is not simply for houses or programs but for the people who inhabit these dwellings or are affected by these programs. These include families whose attempts to create a stable and wholesome family life are inhibited by inadequate living conditions; people and parish communities in neighborhoods without the housing services or community life which foster love and Christian service; the many elderly whose meager incomes are consumed by housing maintenance costs, utility bills and property taxes; and countless young families who lack the resources to acquire decent housing. The statistics we cite are not simply numbers or points on a graph; they are individual human tragedies. We are shocked by the pervasiveness and depth of our housing crisis and what this means for our country and our people.

III. National housing goal

15. We affirm the national housing goal first articulated in 1949: "a decent home and a suitable living environment for every American family." We believe this inclusive goal is in line with the values and principles we have already articulated, and is a suitable basis for national policy. We take this opportunity, however, to suggest two needed qualifications of this goal. First, decent housing must be within the means of each family. The cost of such a home or apartment should not deprive the family of other essentials. Secondly, our housing goal must allow families freedom of choice as to where they will live and whether they will rent or own their homes. Equal housing opportunity and the possibility of home ownership for those who desire it should be integral components of our national housing policy.

16. As we have already stated, this national goal is far from being realized. Even now, social and economic forces—and current housing policy—make its realization more and more difficult. We are faced with the cruel paradox of urgent and growing housing needs and the inability of our present system of housing production, delivery and financing to meet this challenge.

17. The achievement of this housing goal will require a reordering of priorities and a substantial increase in expenditures for housing and community development. A realistic appraisal of our housing needs indicates that the resolution of our present crisis will be expensive and difficult.

18. In many ways the housing crisis is an institutional one, reflecting the limitations of our political, economic and social institutions. Effective action for better housing will depend on a competent analysis and significant changes in the structures and policies that have helped create and maintain our current housing delivery system. Our present way of financing and building housing seems not to lend itself to the resolution of our problems. The traditional law of supply and demand has not proved adequate to the task of providing decent housing for all our people. The demand, as we have seen, is present and growing, yet the response is clearly inadequate, especially for low- and middle-income people.

19. The housing crisis is, of course, part of a larger pattern of neglect. It is intricately linked to other social and economic problems. In fact, poor housing is often cited as an index or symptom of general social deprivation. We do not undertake here as in-depth examination of the relationship between housing and employment, income, education, health, crime, discrimination, environment or transportation. However, we recognize that a lasting solution to our housing problems will require a comprehensive attack on a variety of social injustices. An essential dimension of comprehensive housing strategy is action on unemployment and inadequate income, which severely limit the ability of families to acquire decent housing. A comprehensive response to our shelter needs will include more than increased housing production and elimination of blight. This broader response requires a serious analysis of economic and tax policies, the treatment accorded neighborhoods and rural areas, the use of land and resources, as well as issues of environmental preservation and civil rights.

IV. Housing issues

20. Questions of housing and community development are extremely complex and often technical. They involve a variety of interests: private enterprise and government participation; maximum production and environmental and consumer protection needs; increased housing needs and tight budgetary restraints; public interest and private gain; as well as questions of equity and efficiency.

A. Housing and the Economy

21. The housing crisis and proposed solutions to it are often stated in economic terms. The present housing crisis itself is often attributed to the critical state of the economy in a period of inflation and recession. However, there has been a serious housing problem for at least the last 25 years, during which we have experienced unparalleled prosperity. Since the problem has persisted in both good and bad economic times, it is apparent that we cannot rely on economic recovery alone to meet our housing needs.

22. Nonetheless, it is obvious that current economic difficulties have greatly intensified housing problems. For example, during the recent recession, housing production has been approximately one-half of the annual need of over 2.3 million units.[14] At this level of production, almost no housing for the poor is being constructed. Recession, inflation and monetary policies have combined to leave the housing industry in a lamentable condition. The recent steep decline in housing production was the fifth and sharpest in the last 20 years. This situation is particularly ominous for low-income families and apartment dwellers since the production of multi-family developments is even lower. Recent economic projections show some signs of hope, but even the most optimistic forecasters predict a level of housing starts well below our requirement.

23. Another serious factor in our current difficulties is the devastating impact of inflation. Rising construction costs, high interest rates and increasing utility bills have combined to make decent housing an unrealizable goal for many families. Studies indicate that 85% of American families cannot afford to purchase the median-priced new home.[15] The price of that median home rose from $23,400 in 1970 to $39,900 in May of 1975.[16] An income of $21,170 is needed to support the median-priced *existing home.*[17] Declining production, shrinking real income and the tendency of builders to produce higher-priced homes have severely limited the number of new homes available to middle- and moderate-income families. Low-income people face even bleaker prospects. Their rents and utility costs are climbing, yet they have virtually no place to go.

24. Another important economic factor is the availability and cost of housing credit. High interest rates substantially increase the cost of housing and often lead to a downturn in housing production. For example, the increase in the cost of buying a $25,000 home at 10% interest rather than 6% is $19,800 over the life of a 25-year mortgage.[18] National monetary policy must insure an adequate supply of affordable credit for socially desirable purposes such as housing.

25. The number, intensity and durability of these economic downturns in housing point out the necessity for fresh approaches. More efficient use of land and materials must be sought through the use of attached dwellings,

---

Footnotes at end of article.

planned unit developments and other innovations.

26. The focus of the housing crisis is shifting from problems associated with the condition of the structure to problems associated with the cost of housing. It is not that the problem of substandard housing has been solved, although progress has been made. Rather, the impact of economic factors has become so great that they must now become the central focus of efforts to remedy our housing problems.

B. Neighborhoods

27. Housing conditions cannot be separated from the surrounding environment. City services, education, community cohesiveness, safety, government responsiveness, and taxation policies are critical factors in the creation and maintenance of decent housing.

28. In our view, the key element in the deteriorating urban environment is the decline of neighborhoods. In the past, the neighborhood has played a critical role in the lives of its residents. More recently, neighborhoods have lost some of their influence and importance. Centralized decision-making, suburban migration, deteriorating city services and the loss of ethnic identity have contributed to this decline and resulted in less responsibility for local concerns. A psychological and physical process of abandonment has set in, and fewer resources and people have been available to assist neighborhoods in combating blight and indifference.

29. Our cities are composites of smaller communities. Strong neighborhoods are the cornerstone of strong cities, and decent housing is a critical factor in the survival and viability of neighborhoods.

30. We applaud the renewed interest in neighborhoods by those who live in them and govern them. The neighborhood is the most logical basis for a positive housing policy. We hope that recognition of this fact will be translated into policies and provide neighborhoods with the tools and resources necessary to survive. The local parish has a critical role to play in the revitalization of neighborhoods. Effective use of revenue-sharing and community development funds can be a step in promoting neighborhood recovery.

C. Disinvestment

31. We are particularly concerned about the abundant evidence of "red-lining" or disinvestment. This is the practice by which financial institutions deny or restrict mortgage and home improvement loans in particular areas. This practice often becomes a self-fulfilling prophecy leading to the rapid decline of a neighborhood or community. Where it exists it must be condemned; discrimination based on geography is as destructive as other forms of discrimination. We must insure fair and equal access to available credit.

32. We urge banks and savings and loan associations to meet their responsibilities in central city areas. We commend financial institutions which have chosen to intensify programs of investment in these neighborhoods. We support the principle of disclosure of lending patterns. Savers and consumers are entitled to information about the lending practices and patterns of the institutions seeking their business. We also urge individual depositors and those responsible for Church funds to encourage a responsible and sensitive lending policy on the part of the financial institutions which they patronize.

D. Racial and Economic Segregation

33. There are disturbing signs of increased racial and economic segregation in urban areas. We deplore discrimination, still present in our society, against persons because of their race, economic status, sex, or religion. Such attitudes contradict the Christian belief in the equality and inherent dignity of all people and they must be opposed.

34. Central cities are increasingly becoming islands of economic hardship populated by the elderly, racial and ethnic minorities and the working poor. The eroding tax base of cities follows the trend of suburban migration. Exclusionary zoning continues as a major factor which limits housing opportunities for low and middle income families and minority persons in suburban areas. In addition to these economic hurdles, many persons still find their housing choice limited by discriminatory practices in the sale or rental of housing. Suburban communities must recognize and act on their responsibilities without utilizing improper zoning, overly rigid building codes, onerous referendum requirements, or other barriers to avoid contact with the less affluent.

35. Continued vigilance is necessary in the struggle to expand equal housing opportunity. We take this occasion to renew our support, expressed in 1966, for:

> Sound programs to assure equal housing opportunities for all, without discrimination of race, creed or color. Here is a unique chance for responsible dialogue, for learning from successes and failures and thus constructing harmonious communities in every part of the nation.[19]

36. The uniqueness of neighborhoods and diversity of communities are healthy signs. We have a pastoral responsibility to respond creatively to questions of ethnicity and race. Positive ethnic identity, whether it be Black-American, Hispanic-American, Irish-American, Italian-American, or any other, recognizes the worth of the individual and respects his or her particular cultural heritage and lifestyle.

37. However, heightened awareness of ethnic background cannot be allowed to lead the exclusionary practices or intergroup competition. Rather, a healthy sense of cultural pluralism should lead to a greater ability to interact with neighbors of different backgrounds in a positive way.

38. The housing needs of racial minorities remain critical and the unfulfilled dream of open housing cannot be abandoned. An absence of racial discrimination is no longer enough. We must insist upon effective programs to remedy past injustice.

E. Rural Housing

39. The housing crisis is often thought of as a predominantly urban problem. This misconception has resulted in unfortunate consequences for rural people. According to 1970 Census figures, 30% of Americans live outside metropolitan areas; at the same time, over 60% of all overcrowded housing or units without plumbing are in rural areas and small towns.[20] The housing crisis is at least as severe in rural areas as in urban centers.

40. The housing delivery system is inadequate in many small towns and rural areas. Almost half of all rural counties have no public housing agency. In addition, many rural areas do not have sufficient construction or financial institutions which make private development feasible. While some progress has been made, disparities remain.

41. Economic factors also account for widespread housing deprivation in rural areas. The gap between housing costs and income is even wider in rural communities than in cities. Only one rural family in twenty can afford the median-priced newly constructed home. In recent years, one-third of all new housing units in rural areas have been mobile homes.

42. The simple fact is that neither rural people nor rural communities have the resources to solve their housing problems without outside assistance. It is clear that too often national housing policy has neglected rural areas.

F. Special Needs

43. Several groups in our society have particularly severe housing problems. The poor suffer disproportionately in this regard. They lack the income and economic resources to acquire and maintain adequate housing. Rising rents and utility costs, as well as a decline in the availability of low-cost housing, have intensified their problems. Four out of five families with incomes below $5,000 suffer some form of housing deprivation.[21]

44. Many elderly people have special housing problems resulting in part from their small fixed incomes, growing isolation, rising property taxes and housing maintenance costs. New approaches to housing maintenance and health care are needed to enable the elderly to remain in their own homes and communities. Present government housing programs for the elderly do not begin to meet the need. A recent survey of federal housing for the elderly revealed that, for every senior citizen in an apartment for the elderly, there is another on a waiting list for such an apartment. The average waiting time is over twenty months.[22]

45. Migrant farmworkers also suffer serious housing deficiencies. Their high mobility, low income and regular periods of unemployment seriously hamper their efforts to obtain decent shelter. The housing available in migrant farm labor camps is often deplorable, yet effective enforcement of housing standards is rare.

46. The high levels of poverty and unemployment among Native Americans in both rural and urban areas have seriously affected their ability to acquire good housing. On Indian reservations the problems are particularly severe. Two-thirds of the housing on reservations either lacks adequate plumbing or is overcrowded. Most lending institutions are reluctant to make loans to Native Americans whose reservation land is held in Federal trust. In addition, housing assistance is often caught in the bureaucratic maze surrounding the provision of services on Indian reservations.

47. People with physical handicaps often experience difficulty in obtaining suitable housing at a cost they can afford. The planning and construction of housing often restrict it to able-bodied people. Architectural barriers are often put in the way of handicapped in conventional housing as well as public buildings and accommodations.

48. Housing policy must be more sensitive to the needs of these particular groups, whose problems have too often been neglected or intensified by past housing practices.

G. Housing Stock

49. The existing housing stock of nearly 70 million units is perhaps the largest single component of our national wealth. According to the 1970 Census, 27.4 million of these units are more than 30 years old. We must act now to preserve and maintain this valuable resource or it will be abandoned and lost to us.

50. Too often older housing has been allowed to simply deteriorate. Conservation of existing housing must be encouraged by modifying tax and fiscal policies which penalize those who seek to maintain and rehabilitate existing housing. These approaches can help preserve part of our housing supply and prevent the destruction and large-scale displacement of people which marked earlier urban renewal efforts.

51. Rehabilitation and housing maintenance programs which are innovative, imaginative and economically feasible should be encouraged and implemented. The preservation of existing housing is an essential and economical approach to meeting our housing goal.

H. The Resource of Land

52. There is increasing awareness of the limitations of land and resources and the

---

Footnotes at end of article.

implications of these limitations on efforts to house our citizens. Since only a fixed amount of land is available and housing needs are growing, legitimate questions may be raised regarding the amount of land a person owns, the manner in which that land is used and regulation of land ownership by society.

53. The principle of stewardship discussed earlier has specific application to this question. As Pope Paul said in *Populorum Progressio:*

> . . . Private property does not constitute for anyone an absolute and unconditional right. No one is justified in keeping for his exclusive use what he does not need, when others lack necessities. In a word, according to the traditional doctrine, as found in the Fathers of the Church, and the great theologians, "the right to property must never be exercised to the detriment of the common good."[23]

54. Land speculation is a particularly vexing problem. Where basic human rights are concerned, one person simply must not take an unreasonable gain at the expense of another. Huge increases in the cost of land, resulting in part from such speculation, seriously impair efforts to provide affordable housing to people of low- and moderate-income.

55. The demand for land to meet a variety of competing growth needs, such as urban expansion, highway and mineral development, parks and recreation, is forcing upon us difficult decisions with respect to the use and control of our land resources. These decisions can no longer be left to the private market alone to resolve. Since land use decisions are characteristically irreversible and hold consequences for the nation as a whole, they should be opened to some degree of public participation.

V. Government housing activity

56. The federal government has for decades exerted a major influence upon the production and consumption of housing. Its involvement in the housing field is intricate and tangled, including economic and taxation policies, regulation of mortgage financing, as well as provision of housing subsidies.

57. Since decent housing is a human right, its provision involves a public reponsibility. The magnitude of our housing crisis requires a massive commitment of resources and energy. Government must supplement and regulate the activities of private individuals and institutions in order to achieve our housing goals. A creative partnership of private enterprise and government is necessary. Public agencies have a particular responsibility to aid those in need as well as to oversee the development of a comprehensive housing and community development policy.

58. Fiscal and monetary policy has a dominant influence on housing. The rise and fall of inflation, employment and productivity are felt to a pronounced degree in the housing market. Monetary policy, the availability and rate of credit are likewise critical factors in the system of housing production and consumption.

59. Beyond these broad economic policies the federal government utilizes two basic approaches in housing: indirect subsidies to homeowners through the tax system and direct subsidies to producers and consumers of housing.

A. Indirect Action

60. Indirect housing subsidies through the tax system make up the largest share of federal housing activity. In 1972, federal housing expenditures and tax subsidies rose to a level of $15 billion of which only $2.5 billion went for direct housing subsidy programs. This indirect tax subsidy consists primarily of the deduction of mortgage interest and property taxes by homeowners. It is estimated that this deduction alone will cost $11.3 billion in 1976.

61. The higher a person's income, the more likely it is that he will be entitled to this kind of subsidy, and the higher the subsidy is likely to be.[24] In 1972, less than 5% of the taxpayers with incomes below $5,000 were entitled to this kind of subsidy, as against more than 80% of all taxpayers with incomes above $20,000.[25] This means:

Four out of five households with incomes over $20,000 received housing subsidies through the tax systems.

Only one out of 20 households with incomes below $5,000 received this form of housing subsidy.

In addition, it is estimated that in 1976: [26]

The 1% of the population with incomes over $50,000 will receive more than 10% of both direct and indirect housing subsidies (an estimated $1.4 billion in 1976).

The 14% of the population with incomes below $3,000 will receive less than 7% of either direct or indirect housing subsidies ($0.9 billion).

62. We do not quarrel with the objectives of these policies. The use of tax incentives to achieve desirable social goals (i.e., home ownership) can be appropriate, but it inevitably raises questions of equity which must be addressed through public policy.

B. Direct Housing Programs

63. Since the 1930s the federal government has used seven basic approaches to provide more direct forms of assistance to builders and consumers of housing.

1) Mortgage insurance, begun during the Great Depression, enabled millions of middle-income families to buy homes with long-term, low down payment mortgages.

2) Insurance of bank deposits and purchase of mortgages from private institutions—sometimes with a subsidy—have provided a flow of credit into housing and sustained construction during periods of tight money.

3) Low interest rates for rental and sales housing have been direct subsidy programs since 1958. Under these programs, the federal government can reduce interest costs, thus substantially lowering the monthly cost to the consumer.

4) Public housing is the oldest direct housing subsidy program. Begun in 1937, it provides for building, buying, or renting housing by local housing authorities. Over one million public housing units are occupied primarily by families with incomes below $4,000.

5) Block grants recently have been made available to assist local communities in their efforts to provide adequate community development.

6) Housing assistance payments to families and individuals are currently being tested as a new approach to the housing problems of low-income people.

7) Large-scale leasing of housing units is a relatively new and untested approach to assist low-income people in gaining decent housing.

64. The Department of Housing and Urban Development (HUD) is responsible for administering a variety of programs in metropolitan areas across the country. The Farmer's Home Administration serves rural areas with direct lending and other programs. In the past, many of these federal programs were designed to encourage the participation of non-profit housing development corporations. A large number of these have been established by religious organizations or community groups.

65. Currently, the federal government relies almost exclusively on its leased housing program to meet national housing needs. This is not enough. The housing crisis requires a variety of tools responsive to the many dimensions of housing need. No single program will be the answer. Programs which might be improved and used as effective vehicles for the production of housing should not be abandoned. The country needs a firm commitment by the federal government to meet our housing goal. The agencies charged with this duty must move forcefully and creatively to meet their responsibilities. Adequate funds and administrative staff must be made available to them. The free market, acting alone, cannot supply a sufficient quantity of low- and moderate-income housing to meet our needs. A new commitment of will and resources is needed if we are to make progress in providing "a decent home and suitable living environment" for all Americans.

C. Local and State Activity

66. Local governments control housing development through zoning and building codes and the provision of such community facilities as streets or roads, water, sewers, schools and health and recreation centers. Many communities with older housing also have housing codes which set basic standards for all existing housing.

67. Unfortunately, on some occasions these local controls have been used to exclude minorities and the less affluent from communities and to evade common responsibilities for housing and community development. On a more positive note, however, many communities have initiated housing rehabilitation and construction programs aimed at providing adequate housing at costs which low- and middle-income people can afford.

68. Recently, many state governments have set up housing finance agencies or departments of community affairs. They assist local communities with advice and resources, sometimes providing financial assistance and often using federal subsidy programs to help local groups.

69. These local and state efforts to provide greater housing opportunities for all our people are encouraging and should be expanded. We urge state and local governments to develop sensitive and responsible policies regarding land use and zoning disputes. We also hope local governments will use their new community development funds to assist the victims of housing deprivation.

VI. The role of the Catholic community

70. The Catholic community has a responsibility to act effectively to help meet the needs of those who lack adequate housing. We must confess that we have not done all we could. It is not enough for us to point to the reality of poor housing and recommend that government and other institutions take appropriate action. We must also reflect on our own responsibilities and opportunities for action. We call on individual Catholics, dioceses and parishes, as well as other Catholic organizations, to join us in a new commitment to those who suffer from poor housing.

71. The Church alone cannot provide a significant quantitative answer to the cries for better housing. This is not its specific role, nor does it have the financial and technical resources to build all the required homes. However, it is our responsibility to proclaim the Gospel of Jesus Christ and its implications for our society. We must analyze in a competent and critical manner the aspects of housing which pertain to social justice. We must point constantly to human rights—and human suffering—involved in this issue. We must apply Christian social teaching to the resolution of the problem. We must seek to have a qualitative impact on the problem of housing deprivation in our society by attempting to change the systems and the policies that result in housing deprivation. There seem to be five possible approaches for Church involvement in housing: awareness, advocacy, providing services, stewardship and community-building.

Footnotes at end of article.

A. Awareness

72. The first element of the Church's response is building awareness of the extent of the housing crisis and our participation in it. Christ's concern for those in need is an essential dimension of our faith. The Catholic community must remind itself and all others that indecent housing is a moral and ethical issue demanding a response.

73. We cannot be at peace with ourselves while so many of our brothers and sisters suffer from inadequate housing. We are often unconscious participants in the systems that result in poor housing. All of us, through our involvement in the community, can assist in the development of humane and just policies pertaining to shelter. We encourage individual Catholics to join and support organizations which have demonstrated a sincere and effective concern for better housing for all people.

74. Particular persons have particular responsibilities. Those who own rental property must maintain and manage it in a way that provides decent, sanitary and safe housing. Landlords must respect the human dignity and rights of tenants and observe the principles of justice in setting their rents. Tenants must cultivate a respect for property and their neighbors and meet their financial obligations. Those employed in the housing field should seek to encourage a sensitive response on the part of private industry, labor unions and government agencies.

75. We urge parishes and organizations within the Catholic community to undertake programs to promote understanding of housing problems and the role each of us might play in meeting those needs.

B. Advocacy

76. As an advocate, the Church should analyze housing needs in the light of the Gospel, make judgments and offer suggestions. On the national level, we should attempt to educate people regarding the demands of justice in the area of housing and suggest principles upon which proposals for change might be based. We should also involve ourselves in the ongoing dialogue over housing policy and underline the moral dimensions of the problem.

77. The United States Catholic Conference will continue to monitor and participate in the development of housing and community development policy. In line with the following principles we shall encourage governmental action that:

1) Affirms and advances the realization of the national housing policy of "a decent home and suitable living environment for all American families."

2) Provides a variety of programmatic tools and sufficient resources to meet the housing needs of low- and moderate-income families, including the continued participation of non-profit, community-based housing corporations.

3) Focuses programs and resources on the special needs of the following: low-income people, rural Americans, the elderly, farmworkers, Native Americans and the handicapped.

4) Adapts our housing delivery system to meet the economic realities of inflation, recession and unemployment.

5) Recognizes the central role of the neighborhood in the survival of viable urban areas by encouraging rehabilitation and reinvestment in central cities.

6) Encourages land use policies that provide for adequate planning and effective controls on unreasonable and wasteful development and speculation.

7) Encourages a monetary policy and credit allocation system that provides a sustained supply of affordable credit for housing production.

8) Encourages the integral participation of housing consumers and tenants in decisions regarding housing at local, regional and national levels.

9) Encourages equal housing opportunity, within a framework of cultural pluralisms, through voluntary compliance and, where necessary, legal remedies.

78. We applaud the involvement of the National Conference of Catholic Charities, the National Catholic Rural Life Conference and the Interreligious Coalition for Housing in this area. We hope to work in collaboration with them and other groups in advancing these principles.

79. The same responsibility for action exists on the local and regional levels. We encourage local and regional organizations to work with their people and political leaders to achieve these same ends.

80. The parish is the setting for perhaps the most important Catholic response to poor housing. With its roots deep in the community, the parish can play a critical advocacy role regarding the housing problems of its people. Working with individuals, community organizations and members of the private sector, it can harness its own resources and energies to combat decay, blight and indifference. Parish programs of rehabilitation and housing maintenance could be initiated. In addition, parishes can join with others to utilize government programs and monitor public and private efforts to alleviate poor housing.

81. Through education and involvement, the local church can help its people gain a wider measure of justice in the area of housing.

C. Providing Services

82. The Catholic Church in this country has a long tradition of providing services to those in need. Our concern must also extend to the shelter needs of people.

83. Many dioceses, Catholic Charities and parishes have already sponsored the development of housing for low-income people and the elderly or have initiated rehabilitation programs. Using federal programs, Catholic institutions and organizations have provided a substantial amount of housing for low- and middle-income people and for the elderly. A 1974 survey of 60 dioceses conducted by the National Housing and Human Development Alliance indicated that more than 25,000 units have been built under Catholic sponsorship in the past ten years. Over 20 congregations of religious men and women are involved in housing, with 2,600 units already constructed.

84. We strongly support these efforts and are deeply impressed by what has been achieved thus far. Given the compelling need for new housing, we believe there is an important role for non-profit developers willing to sponsor viable and creative housing where the private market is unable or unwilling to build.

85. This special "housing ministry" requires sensitivity and adequate technical expertise. Housing sponsorship inspired by Christian values should bring a qualitative difference to housing. The housing development motivated by Christian concern must reflect a lively awareness of human need and the dignity of the person in its treatment of tenants, in its relationship to the local community, in its planning, location and employment practices.

86. There are a variety of other social and human services relating to shelter. Housing management, education in tenant rights and responsibilities, financial and personal counseling, housing rehabilitation and maintenance assistance are other important and appropriate services provided by Catholic organizations and individuals.

87. Providers of housing services should endeavor to involve tenants and the local community in an integral way in housing management and the provision of services. Housing sponsorship and management under Church auspices should provide models for others. This housing ministry must be encouraged, for it offers us an opportunity to act on our principles and give witness of our concern for the poorly housed.

D. Stewardship

88. In proclaiming the principle of stewardship, we must take note of the fact that the Church is also an institution possessing land, economic and personnel resources. While speaking to other organizations about the promotion of human rights and social justice, the Church must examine its own conscience and actions to determine if its efforts and use of resources are just. In the 1971 Synod document, *Justice in the World*, the Bishops state:

> While the Church is bound to give witness to justice, she recognizes that anyone who ventures to speak to people about justice must first be just in their eyes. Hence we must undertake an examination of the modes of acting and of the possessions and lifestyle found within the Church itself.[27]

89. In the particular area of housing, we might take an inventory of our property and real estate, reflect upon its utilization and examine how it might better be put at the service of those who lack adequate shelter. We might also consider how we could make better use of our economic and personnel resources to assist those who need housing. In addition, a review of our investment policies may indicate how we might better harness our economic resources to assist in resolving the housing crisis.

E. Community Building

90. The alienation and isolation in our communities are important components of the housing problem. This more subtle concern is central to the resolution of the housing crisis. The Church is called to reconcile people with God and with one another, to bring them into a community of mutual support and love. We have noted that the Church must identify with the needs and aspirations of the community it serves. The Church should encourage the development of community organizations, neighborhood institutions and programs concerned with housing. As Pope Paul VI pointed out in *A Call To Action:*

> There is an urgent need to remake at the level of the street, of the neighborhood, the social fabric whereby man may be able to develop the needs of his personality. Centers of special interest and of culture must be created or developed at the community and parish levels with different forms of associations, recreational centers, and spiritual and community gatherings where the individual can escape from isolation and form anew fraternal relationships.[28]

91. It is important to recognize that historically neighborhoods often developed side by side with the growth of the local parish. If the neighborhood is the foundation stone of the city, it is obvious that the local parish plays a critical role in many neighborhoods. Often in rural areas and small towns a similar relationship exists between the local church and the community.

92. This fact imposes great responsibilities and provides important opportunities for the local church. With the encouragement of the local diocese, Catholic parishes in urban areas should seek out a creative pastoral role in the development of sound and healthy neighborhoods. In metropolitan and rural areas alike, parishes must develop a ministry of "community-building," helping to identify and resolve serious problems through education and participation in the life of the community. It should encourage its members to become informed and involved in community affairs and housing issues.

93. The parish itself should join with other

Footnotes at end of article.

community groups and churches to gain greater housing opportunities for all people. Traditionally, the Catholic parish has rendered a major service in meeting the educational needs of communities; it should now also attempt to meet other critical human need of a decent home and a suitable living environment.

VII. Conclusion

94. The dimensions of the crisis in housing seem overwhelming in the number of people and communities affected, the complexity of the problem, and the magnitude of the effort required to meet our housing needs. There is a temptation to feel discouraged in the face of this situation.

95. However, we do not address this crisis to emphasize the difficulty, but to issue a challenge. The greatest obstacle is apathy and indifference. We ask all those in our society—individuals, private enterprise, government, social and religious organizations—to reexamine what role they might play in eliminating poor housing in our nation. Responsibility for this problem has been passed from one segment of the community to another for too long. We pray that this statement will not further divide, but rather unite us in a common effort to meet our housing needs. For our part, we pledge to work with others in a renewed effort to promote awareness and action on the housing crisis. Shared responsibility, ecumenical coordination and cooperation with any group sharing our concern will mark our housing activities.

96. We are hopeful. We have faith in the basic values of people. We believe that once they understand the nature and extent of housing problems and their moral responsibility, they will respond with individual and collective action to meet housing needs. They believe, as we do, that every person has a right to a decent home in a decent environment.

97. Our hope flows from the core of the Gospel: new life springs from suffering and death. We believe our cities and rural areas can be resurrected and bloom again with renewed vitality and community life. As the prophet said:

> "They shall rebuild the ancient ruins, the
> former wastes they shall raise up
> And restore the ruined cities, desolate now
> for generations. (Isaiah 61,4).

98. Our Faith tells us that men and women are called by God to continue the work of creation, to fashion a better, more just society as we wait for the coming of the Kingdom of God. Effective action for decent housing is an essential dimension of this continuing creation.

99. This is a time for renewed dedication and action. Decent housing for all our people is a moral imperative. We pledge our support to those who carry out the demand of the traditional corporal work of mercy, "to shelter the homeless."

100. We are not suggesting a project or a program for this year or the next, nor are we calling for a reassertion of a public policy already declared, but never realized. What we are proposing is a long and determined effort, with all its frustrations, toward a better life for millions of Americans. This task is more than an element of a better society or an aspect of the common good; it is indispensable to the future health of America and its people.

101. In this undertaking, we summon our fellow Catholics and all who recognize this pressing concern to a task that calls for intelligence, resiliency and unremitting vigor. We will find allies in this work, and we must welcome them; we will find foes who think our dream utopian and unrealizeable, and we must persuade them. The one thing we cannot do is to acknowledge the immoral situation of indecent, inadequate housing and do nothing about it. We seek in this statement to initiate a fresh response to the unanswered pleas for help that come from the oppressed, neglected and forgotten. We pledge our continuing efforts as we set out on the long road that offers a lasting hope for decent shelter to this nation and its people.

References

[1] "America's Housing Needs: 1970 to 1980," Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University. (Cambridge, 1973), pp. 4–7.

[2] "Availability of Homes for Middle-Income Families," Congressional Research Service, Library of Congress. (Washington, 1975), p. 19.

[3] "General Housing Characteristics for the United States: 1970." Bureau of the Census, U.S. Department of Commerce, March 1972, p. 1–53.

[4] "America's Housing Needs: 1970 to 1980." *Op. cit.*, pp. 4–12.

[5] "General Housing Characteristics for The United States: 1970." *Op. cit.* Officially substandard refers to units lacking adequate plumbing and overcrowded conditions.

[6] "America's Housing Needs: 1970 to 1980." *Op. cit.*, pp. 3–13. Also, Bureau of the Census U.S. Department of Commerce: (1) *Housing Construction Statistics, 1889 to 1964*, p. 18, table A–1; (2) *Construction Reports, Housing Starts 1959 to 1971*, C 20 supplement; and (3) *Construction Reports, Housing Starts*, series C 20.

[7] "Detailed Housing Characteristics for The United States: 1970." Bureau of the Census, U.S. Department of Commerce. June, 1972, pp. 1-287.

[8] "America's Housing Needs: 1970 to 1980." *Op. cit.*, pp. 4–7.

[9] *The Housing Act of 1949*. Section 2.

[10] *Peace on Earth*, 11. Pope John XXIII. April 1963.

[11] *A Call to Action*, 11–12. Pope Paul VI. May 1971.

[12] *Pastoral Constitution on the Church in the Modern World*, 26. December 1965.

[13] *Ibid.*, 69.

[14] The National Association of House Builders estimates that housing starts for 1975 will not exceed 1.2 million starts. The Harvard-MIT Study previously cited estimates a ten year need of 23 million new units.

[15] "Availability of Homes for Middle-Income Families." *Op. cit.*, Page 19.

[16] "New One-Family Houses Sold and For Sale," Bureau of the Census, U.S. Department of Commerce. Series C–25.

[17] "Availability of Homes for Middle-Income Families." *Op. cit.*

[18] Interest on a $25,000 mortgage, payable in 25 years, at 6% is $23,300; at 10%, $43,100.

[19] "On Poverty and Race Relations." United States Catholic Conference. November 1966.

[20] "General Housing Characteristics for the United States: 1970." *Op. cit.*, pp. 1–53.

[21] "America's Housing Needs: 1970 to 1980." *Op. cit.*, pp. 4–12.

[22] Senate Subcommittee on Housing for the Elderly. July 1975.

[23] *Populorum Progressio*, 23. Paul VI. March 1967.

[24] In 1973, 112,000 people with incomes below $3,000 claimed these subsidies, and the average subsidy was $23. At the other end of the income scale, 118,000 people with incomes of $100,000 or more claimed these subsidies and the average subsidy was more than 100 times the subsidy for the low income person: $2,449.

[25] *Housing in the Seventies*. Report of the Department of Housing and Urban Development (HUD). (Washington, 1973). Pp. 2–8.

[26] By the National Rural Housing Coalition. Washington, D.C., 1975.

[27] *Justice in The World*. November 1971.

[28] *A Call To Action*, 11. Pope Paul VI. May 1971.

INFLUENTIAL BUSINESSMEN CALL FOR CONTINUATION OF TAX CUT

Mr. HUMPHREY. Mr. President, I urgently commend to all Members of Congress the just released statement by the Program Committee of the Committee for Economic Development: "The New Congressional Budget Process and the Economy." The statement strongly recommends a continuation of the 1975 tax cut which is to expire on January 1 and which the President says he will veto.

It also takes issue with the President's demand on Congress to pass a $28 billion expenditure cut 9 months after his proposed $28 billion tax cut. In this connection it lauds the newly established congressional procedures for review of the Federal budget, and points out that the President's proposal flies in the face of this process.

A summary of the statement was released to the press of December 8. I ask unanimous consent to have this summary printed in the Record, together with the names of the members of the Program Committee.

There being no objection, the material was ordered to be printed in the Record, as follows:

Committee for Economic Development

New York.—A group of national business leaders today called for a temporary continuation of the personal income tax reduction voted by Congress earlier this year. According to the program committee of the nonpartisan Committee for Economic Development (CED), expiration of the tax cut on January 1 would in effect result in a $12 billion tax increase, and would thus be inconsistent with stabilization policy required under present economic conditions. But, the committee said, the tax cut "should be promptly modified or reversed once the economic situation makes this appropriate."

The panel also gave strong support to a permanent extension of the 10 percent investment tax credit. Such a move, the group asserted, would not only bolster recovery of the economy but also provide greater incentives for the capital investment needed to control inflation in the future.

At the same time, the business panel voiced concern about the inflationary risks of adding greatly to the present amount of fiscal stimulus, either through a substantial tax cut that is not immediately offset by expenditure reductions or through a major breach in the expenditure ceiling that Congress has imposed for the 1976 fiscal year.

The panel's statement, entitled "The New Congressional Budget Process and the Economy," said that the budget reform act, which achieved wide-ranging changes in congressional budgetary procedures during the past year, has committed Congress to make explicit decisions on fiscal policy to improve the health of the economy in 1976.

The statement noted that the administration's proposal for immediate enactment of a spending ceiling for the fiscal year beginning October 1, 1976 "would run counter to the procedures" of the budget reform act. "It would require Congress to make its key decisions on the fiscal 1977 budget before having seen the detailed proposals contained in the President's annual budget message and before the new process for considering these proposals has gotten under way."

The budget reform act requires Congress for the first time to consider and to vote on total federal expenditures and revenues simultaneously. The law established new budget committees in the House and Senate, and a new Congressional Budget Office, and set specific timetables for congressional action on the budget.

The committee praised Congress for its "impressive" accomplishments during the "trial run" in the first year of the budget reform act and urged the legislators to continue to press for improvements in its budgetary procedures. "In the past, the absence of an adequate congressional budget mechanism has been a major impediment to the conduct of effective fiscal policies aimed at stabilizing the economy at a high level."

"The crucial test of the new process and of the willingness of Congress to be governed by its own law" will occur in the coming year when the provisions of the budget reform act become fully mandatory, the panel said.

To strengthen the budget process, the statement calls on Congress to:

Distinguish clearly between decisions on short-term stabilization policies and decisions on longer-term budget priorities and resource allocation;

Base budget decisions on program effectiveness measured in terms of specific program objectives;

Plan and implement budgeting on a multiyear basis whenever possible; and

Assure that fiscal and monetary policies work in harmony.

As Congress assumes a firmer hold on fiscal policy, "the stabilization burden that has tended to fall on monetary policy should be reduced," the panel emphasizes. A shift in the fiscal-monetary mix "is desirable to help create a financial climate conducive to adequate long-term growth in capital formation."

The statement by the 10-member program committee is based on extensive studies by the CED Research and Policy Committee dating from 1947, when the organization first recommended procedures that would allow a comprehensive review of both the expenditure and revenue sides of the budget, and a mechanism for determining the impact of the budget on the economy.

The Committee for Economic Development is an independent, nonprofit, and nonpolitical research and policy organization of two hundred corporate and university executives.

PROGRAM COMMITTEE

1. Mr. Philip M. Kultznick, Chairman, Kultznick Investments.
2. Mr. John L. Burns, President, John L. Burns and Company.
3. Mr. John R. Coleman, President, Haverford College.
4. Mr. E. B. Fitzgerald, Chairman, Cutler-Hammer, Inc.
5. Mr. William H. Franklin, Chairman, CED Board of Trustees, Chairman of the Board (retired), Caterpillar Tractor Co.
6. Mr. Franklin A. Lindsay, Chairman, Itek Corporation.
7. Mr. Alfred C. Neal, President, Committee for Economic Development.
8. Mr. Howard C. Petersen, Chairman, The Fidelity Bank.
9. Mr. Melvin J. Roberts, Chairman, Colorado National Bankshares, Inc.
10. Mr. Wayne E. Thompson, Senior Vice President, Dayton Hudson Corporation.

THE HUMAN DIMENSIONS OF UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, I am increasingly concerned with the so-called social costs of unemployment—the relationship of joblessness to mental illness, crimes against property, aggression and so on.

There has been far too little attention paid this subject. We are able and ready to condemn the obvious economic costs of unemployment, especially the value of lost output.

Yet, these values pale beside the human suffering and mental anguish brought about by unemployment; brought about by a diminished self-esteem, a heightened tension resulting in serious illness, and reduced living standards.

The Catholic Bishops of the United States were addressing the human dimensions of unemployment long before many of us in Washington became seriously concerned with that aspect of unemployment. And we still have a great deal to learn from them.

In that regard, I ask unanimous consent to have printed at this point in the Record, the most recent statement on the human dimensions of unemployment, by the Catholic Bishops of the United States, as distributed by the U.S. Catholic Conference.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Economy: Human Dimensions

"This unemployment returning again to plague us after so many repetitions during the century past is a sign of deep failure in our country. Unemployment is the great peacetime physical tragedy of the nineteenth and twentieth centuries, and both in its cause and in the imprint it leaves upon those who inflict it, those who permit it, and those who are its victims, it is one of the great moral tragedies of our time."—The Bishops of the United States, Unemployment, 1930.

1. This was the judgment of our predecessors as they responded to the economic crisis of 1930. As pastors, teachers and leaders, we recall and emphasize their words as our country faces important economic social and moral decisions in the midst of the highest unemployment since the 1930s.

I. THE CHURCH'S CONCERN

2. Despite recent hopeful signs, the economy is only slowly and painfully recovering from the recent recession, the worst since World War II. We are deeply concerned that this recovery may lack the strength or duration to alleviate the suffering of many of the victims of the recession, especially the unemployed. It is the moral, human and social consequences of our troubled economy which concern us and their impact on families, the elderly and children. We hope in these limited reflections to give voice to some of the concerns of the poor and working people of our land.

3. We are keenly aware of the world-wide dimensions of the problem and the complexity of these issues of economic policy. Our concern, however, is not with technical fiscal matters, particular economic theories or political programs, but rather the moral aspects of economic policy and the impact of these policies on people. Our economic life must reflect broad values of social justice and human rights.

II. THE CHURCH'S TEACHING

4. Our own rich heritage of Catholic teaching offers important direction and insight. Most importantly, we are guided by the concern for the poor and afflicted shown by Jesus, who came to "bring good news to the poor, to proclaim liberty to captives, new sight to the blind, and to set the downtrodden free" (Luke 4:18). In addition, the social encyclicals of the Popes and documents of the Second Vatican Council and the Synod of Bishops defend the basic human right to useful employment, just wages and decent working conditions as well as the right of workers to organize and bargain collectively. They condemn unemployment, maldistribution of resources and other forms of economic injustice and call for the creation of useful work experiences and new forms of industrial organization enabling workers to share in decision-making, increased production, and even ownership. Again and again they point out the interrelation of economics and ethics, urging that economic activity be guided by social morality.

5. Catholic teaching on economic issues flows from the Church's commitment to human rights and human dignity. This living tradition articulates a number of principles which are useful in evaluating our current economic situation. Without attempting to set down an all-inclusive list, we draw the following principles from the social teachings of the Church and ask that policy-makers and citizens ponder their implications.

a. Economic activity should be governed by justice and be carried out within the limits of morality. It must serve people's needs.[1]

b. The right to have a share of earthly goods sufficient for oneself and one's family belongs to everyone.[2]

c. Economic prosperity is to be assessed not so much from the sum total of goods and wealth possessed as from the distribution of goods according to norms of justice.[3]

d. Opportunities to work must be provided for those who are able and willing to work. Every person has the right to useful employment, to just wages, and to adequate assistance in case of real need.[4]

e. Economic development must not be left to the sole judgment of a few persons or groups possessing excessive economic power, or to the political community alone. On the contrary, at every level the largest possible number of people should have an active share in directing that development.[5]

f. A just and equitable system of taxation requires assessment according to ability to pay.[6]

g. Government must play a role in the economic activity of its citizens. Indeed, it should promote in a suitable manner the production of a sufficient supply of material goods. Moreover, it should safeguard the rights of all citizens, and help them find opportunities for employment.[7]

6. These are not new principles. They are drawn directly from the teachings of the Church, but they have critical relevance at this time of economic distress. Under current conditions, many of these principles are being consistently violated.

III. DIMENSIONS OF THE ECONOMIC SITUATION

7. In these reflections we wish to examine briefly the dimensions of our economic problems in three areas: unemployment, inflation and distribution of wealth and income.

A. Unemployment

8. In October, government figures show eight million persons were unemployed, representing 8.6% of the work force.[8] Millions of other persons have given up seeking work out of discouragement or are in part-time jobs although they desire full-time work. Taking this into account, the actual level of unemployment in our country is over 12%. It is estimated that 20 million people will be jobless at some time this year, and that one-third of all Americans will suffer the traumatic experience of unemployment within their families.

9. The official unemployment rate does more than underestimate the true extent of joblessness. It also masks the inequitable distribution of unemployment. The figures for October indicate that minorities, blue collar workers, young people and women bear a disproportionate share of the burdens of joblessness.[9]

Footnotes at end of article.

10. These realities clearly indicate that the nation's commitment to genuine full employment has been seriously eroded, if not abandoned. Since World War II, unemployment has been substantial, persistent and drifting upward. In fact, when joblessness rose dramatically during the latest recession, it took the form of an acute and visible crisis, superimposed on a long-term unemployment problem which has persisted for decades.

11. The costs of this tragic under-utilization of our country's human resources are enormous. In economic terms, these high levels of unemployment cost literally hundreds of billions dollars in lots productivity and tens of billions of dollars in lost revenue and increased expenses for all levels of government.

12. As lamentable as these financial costs are, the social and human impact is far more deplorable. In our society, persons without a job lose a key measure of their place in society and a source of individual fulfillment; they often feel that there is no productive role for them. Many minority youth may grow up without meaningful job experiences and come to accept a life of dependency. Unemployment frequently leads to higher rates of crime, drug addiction, and alcoholism. It is reflected in higher rates of mental illness as well as rising social tensions. The idleness, fear and financial insecurity resulting from unemployment can undermine confidence, erode family relationships, dull the spirit and destroy dreams and hopes. One can hardly bear to contemplate the disappointment of a family which has made the slow and painful climb up the economic ladder and has been pushed down once again into poverty and dependence by the loss of a job.

13. The current levels of unemployment are unacceptable and their tremendous human costs are intolerable. Unemployment represents a vast and tragic waste of our human and material resources. We are disturbed not only by the present levels of joblessness, but also by official government projections of mass unemployment for the rest of this decade. We sincerely hope that these figures do not represent resignation to the human and economic waste implied in these rates of unemployment. As a society, we cannot accept the notion that some will have jobs and income while others will be told to wait a few years and to subsist on welfare in the interim. For work is more than a way to earn a living. It represents a deep human need, desired not only for income but also for the sense of worth which it provides the individual.

B. Inflation

14. There are those who insist that we must tolerate high levels of unemployment for some, in order to avoid ruinous inflation for all. Although we are deeply concerned about inflation, we reject such a policy as not grounded in justice. In recent years, our country has experienced very high levels of inflation. During this past year, there has been some reduction in inflation, but there are already signs of its renewal, spurred by large increases in food and fuel prices.

15. Inflation weakens the economic stability of our society and erodes the economic security of our citizens. Its impact is most severe on those who live on fixed incomes and the very poor. The double distress of inflation and recession has led to a painful decline in real income for large numbers of people in recent years. Clearly, steps must be taken to limit inflation and its impact.

16. However, low unemployment and high inflation are not inevitable partners, as history and the experience of other industrialized countries bear out. Policy-makers should seek and use measures to combat inflation which do not rely upon high rates of joblessness. For many of our fellow citizens, the major protection against inflation is a decent job at decent wages.

C. Distribution of income and wealth

17. Within our country, vast disparities of income and wealth remain. The richest 20% of our people receive more income than the bottom 60% combined. In the area of ownership, the disparities are even more apparent. The top one-fifth of all families own more than three-fourths of all the privately held wealth in the United States while over one-half of our families control less than 7% of the wealth.

18. The distribution of income and wealth are important since they influence and even determine our society's distribution of economic power. Catholic social teaching has condemned gross inequality in the distribution of material goods. Our country cannot continue to ignore this important measure of economic justice.

IV. POLICY DIRECTIONS

19. Fundamentally, our nation must provide jobs for those who can and should work and a decent income for those who cannot. An effective national commitment to full employment is needed to protect the basic human right to useful employment for all Americans. It ought to guarantee, through appropriate mechanisms, that no one seeking work would be denied an opportunity to earn a livelihood. Full employment is the foundation of a just economic policy; it should not be sacrificed for other political and economic goals. We would support sound and creative programs of public service employment to relieve joblessness and to meet the vital social needs of our people (housing, transportation, education, health care, recreation, etc.).

20. The burden and hardship of these difficult times must not fall most heavily on the most vulnerable: the poor, the elderly, the unemployed, young people and workers of modest income. We support efforts to improve our unemployment compensation system and to provide adequate assistance to the victims of the recession. Efforts to eliminate or curtail needed services and help must be strongly opposed.

21. We continue to support a decent income policy for those who are unable to work because of sickness, age, disability or other good reason. Our present welfare system should be reformed to serve our country and those in need more effectively.

22. Renewed efforts are required to reform our economic life. We ask the private and public sectors to join together to plan and provide better for our future, to promote fairness in taxation, to halt the destructive impact of inflation and to distribute more evenly the burdens and opportunities of our society. We also ask that consideration be given to a more efficacious use of the land, the nation's primary resource in order to provide gainful employment for more people. We should also explore the impact of technology and endeavor to preserve the small family farm and other approaches to economic life which provide substantial and productive employment for people. It is not enough to point up the issues in our economy and to propose solutions to our national problems while accepting uncritically the presupposition of an economic system based in large part upon unlimited and unrestrained profit.

23. We pledge our best efforts in support of these goals. We call on local parishes, dioceses, Catholic institutions and organizations to undertake education and action programs on issues of economic justice. We renew our commitment to assist the needy and victims of economic turmoil through programs of financial assistance and active participation in the dialogue over the formulation and implementation of just economic policies. We call on our people to pray for our country in this time of need and to participate in the difficult decisions which can still fulfill the promise of our land.

24. Working together with renewed vision and commitment, our country has the productive capacity and human and material resources to provide adequately for the needs of our people. We take this opportunity to renew the challenge of our fellow Bishops of 45 years ago:

"Our country needs, now and permanently, such a change of heart as will, intelligently and with determination, so organize and distribute our work and wealth that no one need lack for any long time the security of being able to earn an adequate living for himself and for those dependent upon him."—The Bishops of the United States, *Unemployment*, 1930.

APPENDIX

In adopting this resolution, the Bishops sought to link this effort to a major statement issued in 1919 on similar matters. Entitled, "The Bishops' Program For Social Reconstruction," the statement called for: minimum wage legislation; unemployment insurance and protection against sickness and old age; minimum age limit for working children; legal enforcement of the right of labor to organize; a national employment service; public housing; and a long term program of increasing wages.

It also urged: prevention of excessive profits and incomes through regulation of public utilities and progressive taxes on inheritance, income, and excess profits; participation of labor in management; a wider distribution of ownership through cooperative enterprises and worker ownership in the stock of corporations; and effective control of monopolies even by the method of government competition if that should prove necessary.

Most of these proposals have been enacted. Partial progress has been made toward others. The 1919 statement provides a historical framework for the current resolution and evidences a long-standing concern for economic justice on the part of the Catholic community in this country.

FOOTNOTES

[1] Vatican II, *The Church In The Modern World*, 64; John XXIII, *Mater et Magistra*, 38–39.

[2] Vatican II, *The Church In The Modern World*, 69.

[3] John XXIII, *Mater et Magistra*, 73.

[4] Pius XI, *On The Reconstruction of The Social Order*, 74; John XXIII, *Pacem In Terris*, 11, 18; Vatican II, *The Church In The Modern World*, 67; Paul VI, *A Call To Action*, 6.

[5] Vatican II, *The Church In The Modern World*, 65.

[6] John XXIII, *Mater et Magistra*, 132.

[7] John XXIII, *Mater et Magistra*, 20; Vatican II, *The Church In The Modern World*, 67, 70.

[8] The Employment Situation: October 1975; U.S. Department of Labor, Bureau of Labor Statistics; November 7, 1975.

[9] Department of Labor figures for October 1975 indicate:

One out of five teenagers were jobless.

Over 11% of all blue collar workers were out of work.

14.2% of all minority persons were unemployed.

Nearly 40% of all minority teenagers were jobless.

134 of our 150 major urban areas were officially listed as areas of substantial subemployment.

JOINT ECONOMIC COMMITTEE'S ATLANTA REGIONAL HEARING ON UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, there is a wealth of valuable information and ideas to be gathered outside of Washington—away from the traditional information sources we rely upon far too heavily.

This is particularly true of economic issues in general and the issue of unemployment in particular. There is simply no other way to acquire a true feeling for the tragedy of unemployment than to meet and talk with able workers who simply cannot find jobs.

It is a tragedy when one person becomes unemployed, but it is a national disaster when over 8 million are willing and able to work—but cannot find jobs.

The Joint Economic Committee held a field hearing in Atlanta on Monday, December 8. The hearing focused on the issue of unemployment. And I want to share some of the testimony at that hearing with my colleagues.

This hearing was of particular value for several reasons. But its timing was of great coincidence, for the Bureau of Labor Statistics released new unemployment figures the previous Friday.

These numbers were revealing and alarming. They show that many of our workers now see economic recovery only as rhetoric—not supported by fact. They reveal that our economic recovery, in fact, has slowed substantially.

In October, we experienced a large inflow to our labor markets—an inflow of persons previously not looking for work. They heard statements from Washington that the great recession was over; that the economy was recovering.

They came back looking for work—looking for the jobs which an economic recovery creates.

But there were no jobs.

There was no "peoples recovery."

And the unemployment rate rose as these frustrated workers went door-to-door without success.

In November, these workers again had dropped out of the labor force. They stopped looking for work because the recovery has floundered. In fact, the total number of employed workers fell in November as did labor force participation.

The Joint Economic Committee went to Atlanta to hear firsthand about unemployment. And we got more than we bargained for—from Mrs. Annie P. Smith, for example, of Atlanta, an unemployed auto worker.

Her testimony was quite powerful and I ask unanimous consent to have her remarks printed in the RECORD, followed by my own opening remarks at that hearing.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT OF TESTIMONY BEFORE THE JOINT ECONOMIC COMMITTEE, ATLANTA, GA., DECEMBER 8, 1975

Chairman HUBERT H. HUMPHREY. Mrs. Smith, we want to hear from you.

Thank you very much for coming and feel perfectly relaxed and tell us your story.

Mrs. SMITH. I am a housewife and mother. I'm the mother of seven children. I had an eight room house. At the present I have lost my job. I have been out of a job a year——

Chairman HUMPHREY. A year?

Mrs. SMITH. A year and nine months. I'm unemployed and things are just tough. I draw unemployment, $70 a week.

Chairman HUMPHREY. How much?

Mrs. SMITH. $70.

Chairman HUMPHREY. $70?

Mrs. SMITH. $70. When you try to pay rent, lights, gas and feed the children, you don't have anything. I had to give up something, I had to give up my home. I didn't want to give it up, I couldn't afford to pay the rent—that's a true fact. So then we got food stamps. That's the only thing really that saved us for food because if I had to pay $70 rent a week—and my grocery bill is $90 a week for seven children. I can't afford to not feed them, so I lost my house, I lost my car. My children have been lacking for almost two years. We just barely scrape by. Things that they have to have, we can't afford to get and things they have to have at school they can't get—books, important things, we just can't make it.

I'm not only speaking for myself, I'm speaking for all mothers who have lost their husbands or who haven't lost their husbands, who are out there trying to make a living, and not only with seven children, but with one child, six children, four children. It's awfully hard.

If they don't do something about it, putting us back to work, I don't know what's going to happen to them. We have children dropping out of school, bad children, stealing, on dope and everything right now, actually pushing it. I pray and hope to the Lord my children don't go out there, I pray for them and we talk about it, but I really don't know what's going to happen. I love them, they love me and we're kind of close, but I've been out of a job so long and if they can't get the proper things they need in school and the proper clothes like the other children, something might happen. I hope it don't. I hope the President and you all will get together and try to make something better.

I worked for the General Motors, Lakewood Plant—

Chairman HUMPHREY. General Motors?

Mrs. SMITH. The Lakewood Plant, and I have been out a year and a half, we're supposed to go back to work but we have had letters saying before that, we're going back to work. Yet under this depression we're going further and further back. And I hope there is something you all can do for all the mothers.

Chairman HUMPHREY. How long did you work for General Motors?

Mrs. SMITH. I worked there five years before I got laid off.

Chairman HUMPHREY. Five years, and you were taking care of your family?

Mrs. SMITH. Yes.

Chairman HUMPHREY. Now let me ask you, you get unemployment compensation still?

Mrs. SMITH. Yes, that's all I get.

Chairman HUMPHREY. And you get some food stamps?

Mrs. SMITH. Yes.

Chairman HUMPHREY. But you have to buy some of those food stamps.

Mrs. SMITH. I have to pay for my food stamps.

Chairman HUMPHREY. I think this is important for the record. So many people feel that food stamps are just passed out.

Mrs. SMITH. No, you have to pay for them.

Chairman HUMPHREY. You pay a part payment for them, for example, if you get five dollars worth of food stamps, what do you pay, two or three dollars?

Mrs. SMITH. They don't come in five dollars—

Chairman HUMPHREY. I know. How does it go with you?

Mrs. SMITH. If you get $150 in food stamps, you pay $50 or $48. It's according to your family size and income.

Chairman HUMPHREY. In other words, you pay a share of the cost of the food stamps.

Mrs. SMITH. Yes.

Chairman HUMPHREY. And without those food stamps, I understand you to say you'd just be down and out.

Mrs. SMITH. That's right, I couldn't make it. You couldn't feed the children on $70 a week and pay house bills. And I have moved into my sister's house and we're staying in three bedrooms, it's a five room house with three bedrooms and it's really hard. She has four children so we are really stacked up.

Chairman HUMPHREY. I say you are. Your sister has four children?

Mrs. SMITH. Yes.

Chairman HUMPHREY. And you have six—seven?

Mrs. SMITH. I have seven but I have six at home.

Chairman HUMPHREY. So there are ten children in that home plus your sister and you?

Mrs. SMITH. That's right.

Chairman HUMPHREY. And how many bedrooms you say?

Mrs. SMITH. Three.

Chairman HUMPHREY. You are stacked up.

Mrs. SMITH. Plus I lost a five bedroom house. I had ten rooms but I had five bedrooms and I lost that and my car too.

Chairman HUMPHREY. You go down to the Employment Office looking for work?

Mrs. SMITH. Yes I have gone and looked for jobs, filled out applications, taken physicals, I have walked so much I have holes in the bottom of my shoe almost going back and forth and they say, "Well come over here and be here, I'm going to hire today." But you go over there, and they say, "well I'm sorry we'll call you." They take your application and then you get your hopes built up, go take a physical, go all the way through it, you're all the way built up. Then "we'll call you later." And you sit by the phone and you sit by the phone and read the paper. They say you get 95 percent of your money, that's not so, you get 95 percent of your money if you're working but not employment you don't.

And I'd rather work, I don't want to be unemployed. I don't want that $70 a week. I'd rather be working and taking care of my children. I do not want welfare. Welfare is for someone who really is not able to work. I'm able to work and I want myself and my children to realize they have to work.

Chairman HUMPHREY. How old are your children?

Mrs. SMITH. My oldest one is 19, the youngest one is—17, 16, 15, 14, 12 and 11.

Chairman HUMPHREY. Are any of your children able to help on jobs?

Mrs. SMITH. My oldest son just got a job but he'll be laid off next week. The rest of them are in school, we're trying to keep them in school because I really want them to get an education, hoping maybe things will break open for them when they get an education, they can come out and do something, be able to get a good job.

Congresswoman HECKLER. I'd like to say that I admire your spirit and you're on the right track in bringing up your children well, and I really think you deserve a great deal of credit for the struggle and for the example you're giving to your children.

Mrs. SMITH. Thank you.

Congresswoman HECKLER. I know, I have three teenaged children at home myself and you have six.

Mrs. SMITH. Yes.

Congresswoman HECKLER. And I know what that food bill means and I know what the struggle is like. Tell me why is it that the GM plant laid off. How many people were laid off and what are the prospects of the plant re-hiring you?

Mrs. SMITH. There was two thousand—two thousand, five hundred laid off and they were going to call back next January 19, they will be calling back, they say.

Congresswoman HECKLER. How many will be called back, do you know?

Mrs. Smith. They say all.

Congresswoman Heckler. They say everyone will be called back?

Mrs. Smith. Yes.

Congresswoman Heckler. You said you have received other notices that you may be called back?

Mrs. Smith. We got the same letter in July and then it came up that later on we got the second notice that production was pulling up and we weren't needed.

Congresswoman Heckler. That's why you don't have any confidence in this new notice, is that right?

Mrs. Smith. That's right.

Congresswoman Heckler. What was the reason for the layoff, was it the energy crisis?

Mrs. Smith. Yes.

Congresswoman Heckler. Are you worried about having your unemployment benefits cut off soon?

Mrs. Smith. It will be cut off.

Congresswoman Heckler. When will they be cut off?

Mrs. Smith. January the second.

Congresswoman Heckler. Do you read the help wanted ads and look for a job yourself?

Mrs. Smith. I have gone, I have looked for a job myself, I have—if anyone calls and tells me they know where there is a job, I go; but there's so many people out there, you fill out a lot of applications and come back, when you're out there they take your application and everything, we'll call you. They call some people, some they do hire.

Congresswoman Heckler. What did you make when you worked at the plant?

Mrs. Smith. How much was my salary?

Congresswoman Heckler. How much did you earn?

Mrs. Smith. I was making $5.42 an hour.

Congresswoman Heckler. Do you feel the Union has helped you during this period?

Mrs. Smith. Yes. My Union really has been sticking by me.

Congresswoman Heckler. They have? What have they done?

Mrs. Smith. They have sent me to places trying to get a job, tried to help. I got a call from them Friday, my check was messed up at the Employment Office, two or three weeks behind, or even a month behind. I have to go down there, they will call and find out why my check was late.

Congresswoman Heckler. So they do social counseling?

Mrs. Smith. Oh, yes.

Congresswoman Heckler. So you don't go to government to do that?

Mrs. Smith. No. They got us the food stamps.

Congresswoman Heckler. The Union helped you do that?

Mrs. Smith. Yes, they got that.

Congresswoman Heckler. Is there any special Union program or other program for Christmas benefits for people who are laid off?

Mrs. Smith. I do not know.

Congresswoman Heckler. Keep up the struggle. You are really a very fine, very aspiring woman.

Mrs. Smith. Thank you.

Chairman Humphrey. Let me ask you, you talk with your friends and your neighbors, is your story typical of what you know amongst your associates and your friends?

Mrs. Smith. Yes, it's the same.

Chairman Humphrey. Very much the same?

Mrs. Smith. Yes.

Chairman Humphrey. Could you just kind of fill me in on this? You lost your home, you had to give up this home that you had where you had enough space for your children and yourself and obviously it was a little more comfortable.

Mrs. Smith. That's right.

Chairman Humphrey. Is this happening to other friends of yours?

Mrs. Smith. Oh, yes. I have six that I can call by name that have lost their homes because—

Chairman Humphrey. Lost their cars too?

Mrs. Smith. Yes. I lost my car too—they really have given up. We really don't know which way to go. We had some that went to work off and on, but you have to wait until they call. A lot of them don't have families here, they have to go stay with friends. When you have had a job and been working and been independent all your life, its hard to turn to someone else, they help you, but may be not really wanting to. I feel guilty about putting all my burdens on my sister. It's too much with a large bunch like that, moving into her home, crowding her. That hurts my pride. I want to be able to do something. I don't want this to fall on my children and fall on her children. We feel bad about trying to get food stamps but we really can't do anything about it. If we don't get food stamps we would starve, I'm telling you what I know. If I had to buy groceries—and all you ladies and men, most of you, go to the grocery store. You don't go in the grocery store with $5 to get nothing but a loaf of bread and milk and that would take it.

Chairman Humphrey. Mrs. Smith, you mentioned your children. One of the things that concerns me about the recession and the inflation is its impact on family life and what is happening to a number of our young people that can't find jobs. The share of the work force that is between 16 and 25 is about 26 percent of the total work force, but the unemployment rate for that age group is about 45 percent.

Mrs. Smith. That's right.

Chairman Humphrey. The work force of young people is about a quarter of the total work force but in terms of the national unemployment picture, the national picture which of course is very general, it's about 45—almost half of the total unemployment, and the thing that is so distressing to me as a father and a grandfather, as a Congressman, a member of the Congress, is the fact that these young people become—they get turned off so to speak, as we say.

Mrs. Smith. Yes.

Chairman Humphrey. They become very discouraged and they don't acquire a rewarding work experience. You need a work experience to develop the discipline that's necessary and the habits that are necessary for gainful employment. When you're off the payroll for such a long period of time or never even get a chance to get on a payroll, it's just like never learning how to swim.

Mrs. Smith. That's right.

Chairman Humphrey. Or never learning how to do any normal activity.

Mrs. Smith. That's right.

Chairman Humphrey. I'm sure that you visit with mothers and with people in your community. What do you hear, what do they have to say about what's happening to their young people?

Mrs. Smith. They're worried about their young people because they go out looking for jobs, they can't find jobs, they are turned down. The children have then got to turn to something else to do, the wrong things to do or the wrong way to do it. My children have been very discouraged. My daughter just sits and cries. She says Momma, I've got my social security and I go out looking for a job—she goes to Zayre's and Treasure Island, she goes to Richway, Rich's, everywhere, she can't find one. You have to say to them, "you're old enough to get a job, go try to make a living." What happens? They say "Momma, you have worked so hard and you go out looking for a job, we're going to help you." I have tears in my eyes really. It really hurts. I can't make a living, they go out there and try and they can't make a living either.

But I sit down and we talk about it. Well things ain't going to be like this always.

We was brought up real poor and I say, "I have tried real hard to do by you all the best I can. Right now we can't get it but after awhile, maybe we'll be able to stretch out." But that "maybe" keeps stretching from one year into another year, and it's hard. And the other mothers feel the same way. We sit and talk about it; it's discouraging. Mothers have children going to college and coming out, they can't find jobs. My oldest son is 19, he's going to an area technical school to be an architect, it's disgusting to him. His tuition is up and he can't find a job, it really is hard, either way you go.

I really hope the President and you all will try to come down and do something for all Americans.

Chairman Humphrey. What do you think we ought to do? I'm sure your advice is better than some that we've been getting from some of the top economists. I'd like to hear what you think we ought to do.

Mrs. Smith. I think right now, right now we're in a depression. Even so, we could all get put back to work even if we do not have to work 40 hours, we don't have to work 40 hours, just a little. If we work 12 hours, a lot of jobs I know were for four hours, three days a week, that would help everybody stay on the job. Everyone would get a chance. Everyone would be self-employed. That's what we need and then jobs would be open for all.

Chairman Humphrey. Would your children, for example, if a job was offered by the community to work in a park or to go out and work in the forests or work in an office, government job—not paying too much—would they be willing to accept it?

Mrs. Smith. Yes. A check—it doesn't have to be but five dollars but with their name on it, that's important.

Chairman Humphrey. A check with their name on it.

Mrs. Smith. That's important to a child. I know how I felt when I got my first check. When I got my first check I was so proud and it wasn't but thirteen dollars, but I was proud, that's my name, that's important to children and that's important to make them want more, to work harder and say, "this is mine, I can go spend it if I want to, buy candy, if I want to, buy me a pair of shoes downtown. I can go get it." "If I want a blouse, I can pick up and go get it." It's very important.

Chairman Humphrey. Anybody ever ask you, Mrs. Smith, what ought to be done?

Mrs. Smith. No. No one ever asks.

Chairman Humphrey. That's why we're not getting it done, you see, there's more plain common sense out here. You two have talked more sense here than we've heard for a long time.

Mrs. Smith. That's the truth.

Chairman Humphrey. You got anything else?

Congresswoman Heckler. I'm very interested in what you said, your attitudes on welfare. You obviously are proud of your work. You've worked hard. You're encouraging your children to work and their frustration comes from not being able to find any opportunities and I can sense how deep a frustration that is and how difficult it is for a mother to continue to encourage a child to seek employment when nothing seems to be available. I'm interested in your attitudes on welfare. You feel welfare should be for the disabled. Will you explain that a little bit more? The attitudes of people that you know, the women that you know in your situation. How do they feel about going on welfare? How do they feel about welfare as an alternative?

Mrs. Smith. Well welfare—I'll tell you how I really feel about welfare, I'm not kicking welfare. It's necessary. Welfare is for mothers who have little children, who have to stay home with their children or with disabled people. I'm not kicking welfare, I just say I do not want to be on welfare because I'm able to work and I think a lot of mothers—all the women that I know—prefer working.

Anyone in their right mind would rather work than be on welfare, and draw a check every week. Welfare is just a check once a month, that once a month check goes out in one day. When you go to the grocery store and pay your bills that welfare check is gone.

I know a lot of people who were down to two or three dollars, but would rather work, and never went down to apply for welfare. We think we're going back to work and praying and hope we go back to work. The ones who are on welfare today, they are looking for work. I know a lot of them on welfare and they're working too because they have to have both of them. They have to buy groceries and their little check comes in, they have to give the children a little bit of money to have something or to buy some clothes. Because I know how it is with seven children where you have to buy and I have one coming out of high school now this year and things are so hard. Every day you come home, I've got to have such and such, such and such. I don't have the money to come up with this but I want my child to march down the aisle. This is very important to me, it's very important to all mothers, even the mothers on welfare. I say put more jobs for more mothers and fathers, they will not accept welfare, they would rather be working.

Congresswoman Heckler. So among your friends, most of the women who are heads of household as well as yourself would rather find a job.

Mrs. Smith. That's right.

Congresswoman Heckler. You feel welfare should be available for those who are unable to work or are disabled but in general you feel it is not an attractive option.

Mrs. Smith. That's right.

Congresswoman Heckler. Most of the women you know would prefer to work.

Mrs. Smith. Yes.

Congresswoman Heckler. And for the record, will you give me the name of the Union, because I think this Union has been extremely helpful to you obviously in terms of trying to iron out the snags in your check and delays with the government, etc. If the Union is doing congressional work I think they deserve the credit.

Mrs. Smith. It's the UAW, Local 34.

Congresswoman Heckler. Local 34.

Mrs. Smith. And another thing I didn't say, they were very understanding and helped—they had a government man out there for the ones who had government homes. I didn't have a government home, I had a consumer home, and they helped me as much as they could. When my payments were late after being laid off, they called the man up. I appreciated that, too.

Chairman Humphrey. I wish—how I wish that certain people I know in government could have heard what you had to say. It's deperately needed. You have been very impressive. We thank you. This record, as you know, is going to be made available to our colleagues in the Congress and I'm going to do my level best to see this particular portion of this record is brought to the attention of people that ought to hear it and ought to know it. I wish they could have been here and felt the impact of what you had to say as I have. I'm very thankful. I have been very moved and very touched with what you had to say Mr. Sims and you Mrs. Smith. You represent wonderful citizenship in this country.

Mrs. Smith. Thank you.

Chairman Humphrey. You make everybody proud. Thank you very much.

Opening Comment by Hon. Hubert H. Humphrey, Chairman, Joint Economic Committee, Atlanta Field Hearing, December 8, 1975

The Joint Economic Committee is holding hearings throughout our nation to evaluate the fundamental state of our economy—to determine why; year after year:

6 to 9 million of our people look for work, but can't find it;

inflation rages at rates of 7, 8 and even 10 percent;

interest rates remain at levels of 10 or 12 percent for consumers, small business and farmers;

the number of new homes built is less than one-half the number needed;

our mines and factories produce at only 70 percent of their capacity, and;

why the budgets of American families continue to be squeezed by both inflation and unemployment?

We have a troubled economy, with contradictions everywhere. For example, despite a Federal budget deficit of $65 billion, unemployment has remained over 8.3 percent for months.

Industrial output rose 11 percent last quarter, yet our total output next year, in 1976, will be no greater than in 1973.

While 30 percent of our industrial capacity stands idle, inflation continues at a 7-8 percent annual rate and wholesale prices have been rising at a double digit rate.

The price of oil and gas has doubled, yet we are finding fewer new oil and gas wells than at the old price.

These contradictions point up clearly the characteristics of the new economic world we live in—a world where old solutions are no longer effective.

Budget deficits don't always reduce unemployment;

Tight money policies don't always stop inflation; and

Higher prices don't always mean greater output.

Ours is an economy that cannot be managed with the old, traditional policies, or understood with the old simplistic economic theories.

We must find new policies, new tools and use new ideas if we are to achieve a rapid economic recovery to full employment without renewing inflation.

The Employment Act of 1946 is the principal law governing national economic policy. It calls upon Congress and the President to pursue policies to maximize employment, production and purchasing power.

Yet, our experience under the Employment Act of 1946 has been very discouraging. We have failed to maintain high permanent employment levels. Moreover, instead of redoubling our efforts to keep our people at work, successive Administrations and Congress accepted even higher unemployment rates as reasonably full employment. Today many in the Administration would accept a 6 percent rate as full employment. This is completely unacceptable.

This hearing in Atlanta today is one of a series designed to review that Act—to consider why it has failed to bring about full employment and to consider steps that can be taken to make it effective.

I have some ideas on that subject which are reflected in my legislation designed to put the American economy back to work—legislation including the Balanced Growth and Economic Planning Act of 1975, and the Equal Opportunity and Full Employment Act.

This hearing is being conducted, however, for another reason also—to hear suggestions on how fast our economic recovery should occur.

It is no secret that the majority of Democrats in Congress and the President fundamentally disagree on the speed with which our economy can recover.

Most Democrats in Congress want a rapid recovery—a recovery designed to cut unemployment quickly—and a recovery which will make use very quickly of our idle factories and labor rather than allowing them to remain idle through the end of this decade, or longer.

The President would move much more slowly. He has urged that Congress accept a leisurely economic recovery as the best we can do.

The President's policies would still leave 5 million people or more unemployed in 1979—4 years from now. And it is not guaranteed by any means to hold down inflation.

In short, the President would have our society do without $1.5 trillion or more in goods and services by the end of the decade—lost because unemployment will be too high.

I don't want to lose that production. I want a faster recovery and the lower unemployment it brings.

Yet, there is another important reason I reject the President's economic prescriptions.

Unemployment and economic uncertainty create tremendous social pressures.

They cause crime to rise; they place heavy stress on family life; they weaken the fabric holding our society together.

This worries me a great deal.

We can restore employment. We can raise incomes and restore savings accounts. But it is much more difficult to restore the human spirit—and sometimes there is nothing we can do, it becomes a permanent casualty of recession.

We must now act to reduce unemployment and achieve rapid economic recovery. We must do so to achieve our full economic potential. But even more importantly, we need full employment to restore our national spirit—to restore the spirit which can only come with gainful, productive work.

We will be hearing from a variety of witnesses today. Following our host, Mayor Jackson, Governor Busbee will appear.

He will be succeeded by a panel of unemployed workers and then a panel to review the economic and employment outlook.

After lunch, we will hear first from a panel analyzing the social impact of unemployment; they will be followed by a panel reviewing some innovative job creation programs in the Southeast.

Finally, at around 3:30 to 4:00, we will invite anyone from the audience to speak who wishes to, on the subject of employment and economic recovery.

Mr. President, our recession shows every sign of continuing for years. There is little interest in the administration and at the Federal Reserve with an accelerated recovery, that I see unemployment rates of 5 or 6 percent at least through this decade. In this situation, the only alternative to unemployment and its associated welfare burden is productive public sector employment.

But we have a clearly inadequate public employment program built on the creaky legs of the Comprehensive Employment and Training Act of 1973, or CETA. This legislation can deal with far less than 1 million persons annually—at a time when over 8 million are jobless.

It is inadequate.

But, equally distressing, it functions very badly.

Mayor Fulton of Nashville, testified to these and other points, at the Joint Economic Committee's field hearing in Atlanta on Monday, December 8, 1975. I found his comments most interesting, and I want to share them with my colleagues now. I, therefore, ask unanimous consent to have Mayor Fulton's remarks printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Statement of the Honorable Richard H. Fulton, on Behalf of the United States Conference of Mayors, Before the Joint Economic Committee, December 8, 1975, Atlanta, Georgia

Mr. Chairman, I appreciate the opportunity to appear here today as Mayor of the great city of Nashville, Tennessee and as a Representative of the United States Conference of Mayors. There is a special pleasure that I derive from these hearings as it seems only yesterday that I sat as a member of the Ways and Means Committee in the House of Representatives. I am delighted to see some of my former colleagues and I extend on behalf of the Nation's mayors, our appreciation to the Joint Economic Committee for hosting this hearing in Atlanta.

It has become apparent to me during my initial weeks as mayor of a growing southern city that no problem or concern at the local level is greater than the need for a national examination or re-examination of the employment and training programs needed to restore the confidence of citizens in our economy. I was a member of the Congress in 1973 when the Comprehensive Employment and Training Act (CETA) became law.

As did many of my former colleagues, I felt very strongly about the need to create a single delivery system for consolidating the categorical programs which have grown to frustrate job seeks throughout the country. Today, some two years later, I remain convinced that the creation of the Comprehensive Employment and Training Act and the designation of local prime sponsors was the most positive step taken in the manpower field during the last two decades. In recent weeks, however, CETA has come under extreme criticism. It has been cast in the shadow of doubt with the very basis of the CETA concept being questioned by the foes of local government control and decision making.

Fortunately, the program has weathered the storm. Many of the questions asked about isolated incidents of patronage, abuse of public service employment and prime sponsor indecision, can be answered briefly. Simply, our economic picture in 1973 was healthy in comparison to today's economy which has been marred by the high levels of unemployment and recession. Moreover, we still bear the scars of double digit inflation and the uncertainty and instability at the national level has had a domino effect on local governments.

In recent months more local governments are beginning to express concern over impending deficits. Some have experienced unprecedented layoffs of permanent civil servants, increased welfare rolls and minority job seekers. Crowding the unemployment labor market are many skilled workers in the automotive and housing industries.

The response of the Administration has been the signing into law the Emergency Employment Act of 1974, creating Title VI of CETA and authorizing 310,000 public service jobs.

Currently, there are 9.1 million Americans unemployed and the authorization for these 310,000 employees expires at the end of this month.

Although, the Department of Labor has granted prime sponsors an extension of the funds through June, our research indicates some twelve prime sponsors deplete their funds in January. With an additional 120 of the 900 prime sponsors running out of funds for public service jobs by March 30, 1976. Our most immediate recommendation then, would be a simple extension or re-authorization of Title VI through fiscal year 1977.

I will offer some specific recommendations for public service employment later, but I simply want to make the point that this small gesture by the Administration and the Congress to address a national unemployment crisis of 8.3 percent is locally inadequate. In recent weeks, there has been applause for the signals of recovery; however, we are simply not seeing a recovery at the local government level.

Currently, my city has a 7.2 percentage unemployment rate as compared with a 4.2 percentage a year ago.

We must caution ourselves as a country against the poisonous complacency afforded by administration economists who take pride in the fact that 7.5 percent is the lowest level of unemployment that we can anticipate between now and 1980.

Unemployment is, and must be viewed as, the most cancerous sickness affecting the American people and we will not have a stable economy until we rid ourselves of this unnecessary ill.

Mr. Chairman, before I go on to offer some specific short and long term recommendations, let me just say that after a few short months, as Mayor of Nashville, I know what I had suspected earlier—that the chronic shortage of jobs for skilled and semi-skilled workers, coupled with concentrations of frustrated minorities, disadvantaged and growing numbers of poor will leave cities, counties and suburbs in chronic depression, if unchecked.

Widespread unemployment today is extracting an enormous toll of human suffering and lost opportunity and it is sparing no segment of our society. Dependency rates among the nation's senior citizens, youth, and the poor continue to grow, increasing the levels of welfare dependency.

The efforts of the present Administration to shift the burden of welfare expenditures to local governments could conceivably result in revenue shortfalls which will surely be borne by the wealthy residents of the State whether they live in the central cities or suburban communities.

As a Mayor, the grim reality which confronts all of us daily is the presence of large numbers of unemployed citizens living in areas in need of development, yet we are helpless in our efforts to provide them with a work experience due to one of the following:

1. The absence of a national manpower policy which would take into account emergencies such as the present;
2. The inadequacy of funding for employment and training programs on the whole;
3. The de-emphasis on a full employment economy.

In conclusion, I would like to offer on behalf of all the Mayors, several recommendations.

First, it is essential that shortfalls eminent in the public service employment area be met with an immediate response by the Congress. It is prudent that Congress seek to grant a simple extension of Title VI under CETA and to amend the Emergency Employment Assistance Act by adopting the following changes to the Federal legislation:

1. A re-authorization for a two-year period.
2. Authorization of an additional five billion dollars for fiscal year 1976 and a similar amount for fiscal year 1977 or as long as unemployment remains at current levels.
3. An increase in current salary ceilings with 25 percent to the new jobs created with ceilings at 12,000 per annum.
4. An increase to 15 percent in the allowable cost underlays of the Administration for equipment and supplies.

In the absence of any long term national policy, public service employment remains an essential element in our arsenal of programs to respond to the job needs of our citizens. My own city can best illustrate these needs.

The demands of these jobs have been so intense that the city of Nashville has expended over half of the public service employment funds in the first few months of this fiscal year. Effective December 15, 1975, one week from today, Nashville will have to lay off 250 public service employees funded under the Comprehensive Employment and Training Act. On January 15, 1976, an additional 269 CETA funded workers will be released. Most will not be able to return to their previous jobs.

Commencement of layoffs of public service workers next week signals alarm for the city of Nashville. The issue of indefinite unemployment will begin to cut deeper yet. The prospects for recovery will seem dimmer than ever now. The responsiveness of government to meet the need of citizens by providing the "Dignity of Work", will seem that much more lacking.

Mr. Chairman, we also need jobs which pay realistic salaries. Local officials need the flexibility to employ public service workers in projects involving construction, for example.

We need at least a million public service jobs and we need a formula which allocates those jobs to areas having the most severe unemployment problems. The current program limits salaries to $10,000, restricts our ability to provide supplies and equipment to CETA workers, and fails to adequately link public service jobs to the needs we see in our community.

Of equal importance to the nation's mayors are the programs authorized under CETA, Titles I and II. Surely, few prime sponsors would quarrel under normal circumstances with the idea of prioritizing programs around the needs of minorities and the disadvantaged.

Unfortunately, an inordinate amount of time and effort during the last year has been devoted to implementing the public service employment portion of the CETA program. Many mayors share the view of Department of Labor Assistant Secretary Colberg, that Title I offers the best opportunity to integrate training with job development and placement and it offers the flexibility needed by local officials to do comprehensive manpower planning.

It is the hope of the mayors that a simple extension of Title VI can be done expediciously thereby enabling prime sponsors to return to their longer range employment and training goals.

Finally, the distinguished Senator from Minnesota has been in the forefront of the movement to turn the attention of the Congress and the American people toward the national manpower policy and the full employment economy, we wish to commend you for your efforts here and the nation's mayors are committed to supporting you in the Congress in this regard.

The only hope for a stable economy is the return to the work ethic around which this country was founded—with every able-bodied American guaranteed the most basic of opportunities: The right of full employment.

I appreciate the opportunity and will be glad to respond to any questions you might have.

DEMOCRATIC MAYORS DEVELOP URBAN POLICY

Mr. HUMPHREY. Mr. President, last week, the National Conference of Democratic Mayors completed and made public an extensive policy statement examining our Nation's current urban dilemma. The statement includes many innovative and positive policy recommendations. Because of the high quality of its recommendations and because it represents the unanimous view of the Democratic mayors, this policy statement is one of the most important documents to be developed in a long time dealing with urban problems.

The New York City crisis has once again brought our Nation's often neglected urban problems to the forefront of national attention. The problems have once again been identified and solutions suggested. Just this week, the Congress enacted direct loan legislation designed to provide short-term assistance to New York City.

But this legislation is only a bandaid to cover a spreading cancer. We have done absolutely nothing to arrest the decline that is affecting many of our Nation's cities, both large and small. Nothing has been done about the drain of jobs from our central cities; nothing has been done to arrest the flight of middle- and upper-income families; and nothing has been done to assist our central cities to meet the enormous needs of their indigent populations.

As we look back in history we see study after study, commission report after commission report, and policy statement after policy statement condemning our Nation's urban policy. But nothing has been done to arrest the malevolent neglect of our cities. The problems persist and the Nation continues to turn its back and look the other way. But we cannot afford this neglect much longer.

Mr. President, the policy platform developed by the National Conference of Democratic Mayors represents the first comprehensive urban program to be presented to the Nation in some time. It is a concrete result of a great commitment of time and resources by all of the Democratic mayors, but particularly, by the Honorable Henry Maier, chairman of the National Conference of Democratic Mayors and Mayor of Milwaukee, Wis.; the Honorable Lee Alexander, mayor of Syracuse, N.Y.; the Honorable Richard Hatcher, mayor of Gary, Ind., the cochairpersons of the drafting committee.

Mr. President, I recommend highly to all of my colleagues the recommendations made in this policy statement and ask unanimous consent to print the entire statement in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A PREFACE TO COMMITMENT

As the American experiment of 1776 reaches its bicentennial, it begins also its third century in a world as chaotic and hostile to the principles of true democracy as it ever has been.

Yet the stronger threat to the vitality of that experiment comes, not from without, but from within. The socially and economically helpless are confined within arbitrary political boundaries which no longer serve to delineate this Nation's cities so much as to isolate and insulate those without from those within.

America's cities are the centers of National society; yet—denied access to the very wealth they support, America's cities are threatened today—not by problems for which there are no solutions—but by the denial of the commitment and the means by which those solutions must be implemented.

Urban America encompasses three-fourths of the population of this Nation centered largely in metropolitan areas—in a very real sense, the character of life in America's cities is the character of life in America. Yet, over the past seven years, an extraordinary insensitivity in place of leadership has succeeded only in the development of a new kind of refugee—an urban refugee—who is pushed into isolation by forces beyond his control, and often beyond his knowledge.

The Nixon-Ford Administrations have initiated an undeclared war against our cities which threatens the foundations of our National security.

A proper assessment of America's goals and priorities for its third century requires a penetrating effort to perceive, understand, and attend to the problems that have engulfed the cities of America, and so, America itself.

A new National vision of courage and responsibility must transcend the physical and philosophical boundaries which now divide our cities from the Nation which could not have been built without them.

That new vision will identify the problems faced by Americans in their urban centers today—it will explore the methods and policies of the past which have been devised to meet those problems—identifying those which have worked, while rejecting those which have not—and it will ultimately shape a coordinated policy based on leadership, clear and realistic goals, and a rational ordering of priorities.

The National Conference of Democratic Mayors recognizes and assumes a responsibility for achieving this vision and establishing with that responsibility a commitment to the future of the cities.

URBAN RESOURCES: WHO DOES WHAT? WHY? WHO PAYS FOR IT?

The two horns of the fiscal dilemma of America's cities is the deepening trend toward an ever-growing concentration of the poor and the relatively poor in the central cities, and the exodus of industry and business and eventually relatively affluent whites into the suburbs.

Encouraging these trends has been a whole series of national policies—in agriculture, transportation, housing, education, welfare, taxation, defense spending, and energy. These federal policies have served to further isolate central cities and turn them into racial and poverty ghettos.

The cumulative effect of this situation is that the same forces that have affected the ability of many large cities to raise revenues have also expanded the service demands placed on these governments. As many middle and upper income families have fled the cities, they left behind the indigent, the elderly, the young and other groups that are heavily dependent on local government services. The growth of this dependent population has been accelerated by migration into central cities of poor and minority families.

National policy has not taken into sufficient consideration the added expenditures that the cities incur in providing services to this population.

During the 1972–1974 period, the Federal Government cut $4.5 billion in urban programs and cut another $7 billion in programs to aid the poor, the untrained, the unemployed and the medically indigent. At the same time, municipalities lost $3.3 billion in purchasing power. The net impact was $14.8 billion loss in fiscal capacity. This revenue loss has dramatically increased the fiscal burden of the cities.

At the same time that the fiscal plight of the cities has been aggravated by a prolonged period of inflation, deepending national unemployment has cruelly sharpened the crisis of the poor in cities.

The growth of pay levels in public employment has generally exceeded those for private sector employees, but the process has been one of catch up, which has simply resulted in public sector employees receiving today approximately the same pay as that received by employees in all industries.

Wages and salaries are supplemented by so-called fringe benefits. Such supplements as retirement benefits, social security coverage, health and hospital insurance, and life insurance add a substantial cost to wage and salary costs. These costs have been increasing more rapidly for both private and public sectors during the past decades. However, the average costs for fringe benefits for state and local employees still lags behind both private industry and federal employees, according to the Maxwell School of Government.

RECOMMENDED SOLUTIONS

Any effort to improve the quality of life and to restore fiscal soundness to our cities can only be accomplished through a meaningful reordering of priorities at the federal government level.

This re-examination of national priorities is not only necessary, but imperative, because the resources of the federal government are not unlimited.

It is simply not feasible to develop new programs and new policies without making off-setting cuts in some other expenditures or by obtaining new revenue to pay for the programs.

The primary goal of any new priorities must be full employment with reasonable price stability. The country has failed miserably in its efforts to obtain full employment in the last seven years and that failure has cost the cities dearly.

In order to enact these full employment programs and other policies, a re-examination of our priorities must take place and meaningful cuts must be made in certain portions of the budget.

A reordering of national priorities demands recognition of the fact that the social defense of this nation is every bit as vital to the national defense as the military defense.

The imbalance between domestic expenditures and Pentagon and foreign aid expenditures must be readjusted if vital city programs are to receive a proper share of federal revenues.

If we eliminate the items which are fixed by law and contractual obligation, including such items as social security and railroad retirement funds (which are financed by separate payroll taxes, unlike defense expenditures which come out of general revenues), and other items fixed by law such as interest payments, federal pensions, etc., we find that only twenty-six percent of the national budget is subject to appropriations controlled by the Congress.

Of that twenty-six percent, eighteen percent goes to the military (including military foreign aid) and only eight percent for domestic civilian needs. The imbalance in these priorities is blatantly clear.

In addition to realigning national priorities, a careful effort must also be made to gain new revenues through tax reform. There are now almost $100 billion in tax expenditures—taxes which are not collected as a result of one provision or another in the Internal Revenue Code. Many of these are for the wealthy and the powerful and should realistically be eliminated. Billions of dollars in revenue could be gained if loopholes are closed.

Finally, many Federal government tax and expenditure programs have a profound but unintended impact on where jobs and people locate. This impact up to now, has worked to the detriment of our major cities.

The Federal tax code gives better treatment to new investment in plant and equipment in the suburbs, while not rewarding maintenance and reinvestment in the central cities. Finally, tax policies have supported and encouraged the rapid turnover of both residential and commercial properties leading to poorly maintained properties and abandonment.

Similarly, expenditure policies have undermined the relative attractiveness of central city living and working. Highway and other transportation investments have extended the commuting and trading areas in urban regions, contributing to the decentralization of working and living opportunities. Housing policies have underwritten new construction in the suburbs while ignoring the value of existing housing already in place in the inner city.

In short, while there has been no conscious Federal growth or location policy, the net effect of Federal tax and expenditure programs has been to undermine the strength and vitality of the central cities. These effects will undoubtedly have to be reversed if a Federal program to revitalize the cities is to be successful.

By cutting back certain expenditures and by raising revenues through tax reform, eliminating Federal programs that have an anti-urban bias, sufficient resources will be made available for some new priority social programs. However, these new resources will still not be adequate to reverse the downward spiral of many of our Nation's large central cities. To reverse this spiral and to restore vitality, it is necessary to target Federal programs far more effectively toward the areas of need. This will entail some difficult choices, requiring a redistribution of some Federal resources from some governments to others. But it is absolutely necessary if a revitalization program is to be effective with the limited resources that are available.

The principal Federal government components of the new priorities program to restore the cities to sound condition are:

1. Adoption of a countercyclical fiscal assistance program. Current federal policy, by addressing neither inflation nor unemployment, has concentrated the country's economic ills in its cities. The situation has forced city government to undertake actions which are counterproductive to what national economic policy ought to be accomplishing, i.e., a reduction in both unemployment and inflation. By not providing countercyclical aid to the cities, federal policy is self-defeating.

2. Revision in the Federal revenue sharing formula. The current revenue sharing formula does not give sufficient weight to the special problems of cities. Greater weight should be given to need, but any revised formula must assure all political subdivisions their present level of revenues, so that support by the coalition of cities, states and counties is not weakened.

3. Federal encouragement of the use of regional tax bases. Federal aid programs, as currently designed, support the present local government jurisdictional system. That system fragments the regional economic base, often resulting in the strongest part of the base being located in the jurisdiction with the least public service needs, while those needs are at their greatest in jurisdictions with the weakest part of the base. As a minimum, federally aided activities of a regional kind should provide incentives to suburban areas to help cope with the problems of central cities.

4. Federal financing of total welfare costs. The logic for federal financing of total welfare costs would simply recognize that the causes of dependence are national, not local. The removal of this burden from state and local government would recognize the national character of the problem and make it possible for state and local governments to concentrate their resources on genuinely local needs.

5. Federal incentives for states to undertake property tax reform. Overdependence of city government on the property tax has hastened the flight of middle-income families to the suburbs and imposed severe hardships on many low-income and elderly persons that remain in the city. Federal incentives should be available to induce states to impose and share with local governments progressive income taxes to reduce the burden of the property tax on low and moderate income persons.

6. The creation of a "functional" tax system which recognizes that property taxes were intended to pay for the cost of services related to property, such as police and fire protection, sewers, and garbage collection. The social overhead costs, relating to special services required by the poor, children, the elderly, the untrained, the socially troubled—must be taken off the property tax base. These services must be paid for out of other revenues related to their functions.

EMPLOYMENT AND ECONOMIC DEVELOPMENT

While urban America has continued to expand, many of the Nation's older central cities have entered a period of economic stagnation and decline.

Unemployment rates in central cities have been twice the national average, reaching high double-digit levels during this recession, with much higher rates among minority and poverty groups and the young and old.

The worsening fiscal situation of municipalities has accelerated financial borrowing and weakened the municipal bond market. Budgetary reductions of services make cities increasingly less appealing to tax-paying residents, business, and private investors.

Small business bankruptcies have risen significantly, further weakening the urban economic base.

White middle-class flight, a direct result of these mounting pressures, has made the implementation of Brown v. Board of Education ever more difficult, causing severe strains between blacks and working-class whites. This is occurring at the very time when cohesion between poor and working-class blacks and whites is essential to resist the corporate-oriented government economic policies which are their undoing.

In sum, the United States' cities have experienced massive and crippling "disinvestment." The result: economic and social "apartheid" and enormous waste of human and physical resources.

Now the cancer is spreading. Older industrial and urbanized regions of our nation have also begun to experience declining rates of growth and net outmigration of jobs and population. Recent leaps in the costs of energy and food to energy and food importing regions have increased costs for residents and businesses and further depressed economic activity and investment in these areas.

National economic policy remains oblivious to urban economic problems over the short- and long-term. Infatuation with macroeconomic "magic" has isolated policymakers from the realities of the microeconomic investment calculus and what it takes to stimulate creation of jobs for specific people in specific areas. This one-sided approach has led to the following distortions:

Severe cutbacks in state and local government services are projected to run $7.5 to $8 billion this year, at the same time that Congress and the Administration return billions into the economy via tax cuts and rebates.

Unacceptably high unemployment, disproportionately concentrated in the Nation's cities, will apparently be accepted if not encouraged for the next several years.

The economy is being stimulated in the familiar "trickle-down" fashion by reducing corporate taxes, increasing corporate investment credits, swelling the military budget, and running a large federal deficit. These measures will not "target" the benefits of increased economic activity in the central cities; in fact, they will probably fuel further suburban sprawl by financing new suburban plant and equipment. The price of the recession and federal budgetary controls will be paid by the cities and their badly overburdened citizens while the benefits of renewed national economic activity will be distributed through the marketplace to corporations and the affluent.

Needed short-range measures, such as extended unemployment compensation and expanded public service employment programs, will probably be enacted but targeted assistance to needy communities and their governments which will improve the long-term well-being of local economies, create permanent private sector jobs, and maintain municipal services will apparently be vetoed or resisted. Such programs would include public works and economic development programs, credit allocations and targeted investment credits, small business acceptance, and municipal anti-recession fiscal assistance.

Furthermore, the Administration's proposed FY76 budget requests no significant increase in assistance to state and cities or community and economic development programs. It simply attempts to restrain federal growth by controls on human resources assistance.

The FY76 budget proposal includes no effective increase for the Economic Development Administration, the Federal government's only agency significantly concerned with urban development. EDA has been very poorly funded in the past—less than $3 billion in 10 years, with only a fraction of that amount allocated to urban communities.

The new Community Development Block Grant Program, rather than increasing federal assistance for urban development, is as yet only an approximate substitute for categorical assistance programs.

Recommended solutions

Economic development has become an interestingly important area of municipal policy along with the traditional delivery of services. Programs have moved from business promotion to targeted intervention in the local economy, using more sophisticated tools and techniques. States and cities are establishing new capital-generating institutions to stimulate private investment. Municipalities are adopting a "development focus" for city policy which coordinates various programs and financial assistance towards the improvement of their economies.

But successful urban economic development will also require major, targeted federal assistance to leverage greatly increased private investment in urban economies. Neither the Administration nor Congress is yet offering a federal urban economic redevelopment program which recognizes devastation of our cities and the inordinate urban share of the costs of recession and inflation. Both have ignored concentrated urban centers as we shift to a resource-conservative society involving energy, transportation, economies of scale, land use, and the like.

What is required is a major National Urban Investment Program which coordinates well-funded federal programs into a total development assistance package for the redevelopment of urban economies. These would include:

1. A long-term multi-billion dollar Federal urban economic development program to modernize and expand urban economies; provide needed public works, business development assistance; and create the municipal capacity to administer development programs.

2. Substantial funding increases and the coordination of such programs as community development, manpower (especially the expansion of a comprehensive year-round youth program), anti-poverty, rail and mass transportation, and minority business assistance with economic assistance programs.

3. Changes in the federal tax system to encourage urban investments, including selective tax investment credits for urban redevelopment, and federal tax support for state and local urban investment incentive

programs. The federal tax system should also be altered to remove those provisions which encourage urban "disinvestment," such as some real estate tax shelters.

4. Federal incentives to encourage metropolitan development cooperation, the metropolitan tax base, and metropolitan service delivery systems.

5. A national domestic development bank directing capital investment into urban and other depressed local economies.

6. A credit allocation program to meet the credit needs of urban businesses.

7. Improving federal business credit assistance programs making them more responsive to urban development needs and encouraging greater private financial institutional participation.

8. A permanent, anti-recession public works program to provide public works financing to economically "depressed" cities and other communities.

9. Federal tax incentives for private urban job development programs. This would be particularly beneficial for urban small businesses.

CRIMINAL JUSTICE AND PUBLIC SAFETY

Recent surveys report that nearly one-half of all Americans are afraid to walk in their neighborhoods at night. One in every five Americans feels threatened at night, even in his own home. This anxiety is supported by crime statistics which indicate that one out of every four families in this country will become victims of crime during the year.

But Americans not only fear crime—they fear and resent the system of criminal justice and public safety which seems so inadequate to prevent their victimization. And together, these fears have established a general frustration so deep, it threatens the very foundations of our society.

The National Conference of Democratic Mayors believes that fear in America cannot be eliminated until our system of criminal justice and public safety recognizes and establishes two primary goals—to remove the social and cultural conditions which permit crime to exist as an alternative to enforced poverty and injustice—and to establish a rational context in which the detection, conviction and punishment of lawbreakers is both swift enough and sure enough to dissuade those who need no social motivation to break the law.

The social evolution of a nation can neither be ordered nor enforced by government. Government may lead but the pace of progress is set by the people, themselves.

But a revolution in the system of justice designed to deal with the shortcomings of this process can be ordered and enforced by government, and this goal can be accomplished immediately and dramatically.

Clearly, though these goals are distinct, they are interrelated. For genuine social progress cannot be possible in a context of criminal anarchy, no matter how inaccurate or distorted the reality of that context may be. The prospect of fear is as damaging as the reality of it. Confidence is the only cure—a confidence based on the perspective provided by a system of laws reflecting rational needs, a system of enforcement which reflects a balanced application of those laws, a system of judicial determination which provides the same justice for all, and a system of punishment which actually punishes, or of rehabilitation which actually rehabilitates.

Equal treatment under the law is a constitutional guarantee which requires attention to the following elements of the system:

Laws

Rational limits of necessary criminal sanction should be established. Presently, far too many offenses are included in federal and state criminal codes. Fully 40 percent of all arrests in the nation arise from so-called victimless crimes. Nearly all such laws are either applied discriminately or not at all in a poor but complex and expensive attempt to regulate social moral conduct which should be outside the legitimate interests of government.

A crazy-quilt of unforceable laws, can only encourage a disrespect for the law that reaches beyond the nonsense into the critical areas where enforcement is absolutely necessary.

Police

$3 billion has been spent in the war on crime since 1967 by the Law Enforcement Assistance Administration, with more than half that money distributed to the nation's police forces. That expenditure for police equipment and techniques is necessary, but it is not enough. Crime has accelerated in virtually every category every year the program has been in effect. In the period beginning in 1968, the population of the nation rose by 6.2 percent, yet, during the same period, locally-reported crime rose by 38 percent. Violent crimes—murder, rape, assault and robbery—rose by 64 percent during the period. And crime is no longer just a problem for central cities. The sharpest increases in 1974 were reported in suburban and rural areas and in cities with less than 25,000 population. The increase in such areas was a third higher than for cities with populations of 100,000 or more. All of this took place while police departments everywhere were becoming more professional and better equipped than ever before.

When the statistics for 1974 were released, LEAA Director Donald Santarelli said, "I think that unless we do substantially more as a society than we have done about crime, we will see an intolerable, continuous problem. . ." He said the capability of paid professionals to perform the civic, social and basic duty of establishing an orderly society has been overemphasized. "What we need," he said, "is more citizen participation, rather than more and more paid professionals. . ."

Courts

Ineffective as are our systems of laws and enforcement, the courts of America, particularly those in the nation's larger cities, still have been inundated by a volume of defendants and criminal actions so absurdly high that the courts have become a public mockery.

Even while he was New York City's police commissioner, Patrick Murphy criticized the distribution of fully 80 cents of each criminal justice dollar to the police, while the remaining 20 cents was all that went to the courts, district attorneys' offices, prisons and rehabilitation programs combined.

Across the nation, district attorneys and judges are so pressed by the level of possible prosecutions they face, that plea bargaining has become the major tool of justice in America. Nationally, 90 percent of all serious crimes are cleared by guilty pleas to lesser charges. If plea bargaining were reduced by only 10 percent, the trial load would double. No court in America is equipped to handle such an increase.

But plea bargaining, effective as it is mechanically, is not without serious implications. On the one hand, persons guilty of serious crimes are given sentences which are less than deserved. On the other hand, some persons guilty of no crimes are encouraged to plead guilty to avoid conviction and harsher penalties.

Add to this a wide disparity in sentencing, which frequently seems to favor the rich and the powerful over the poor and the weak, and a totally inadequate system of bail and pre-trial release, and a picture emerges which cannot but produce the threatening distrust which now serves as the public view of the nation's system of courts.

Corrections

The nation's courts and correction facilities have failed either to rehabilitate criminals or to deter them. After studying hundreds of prison programs over a 20-year period, Columbia University criminologist Robert Martinson concludes: "The prison which makes every effort to rehabilitate succeeds no better than the prison which leaves its inmate to rot."

The nation spends more than $1 billion a year to confine more than 200,000 offenders in state and federal prisons, yet authorities estimate that recidivism rates exceed 50 percent. On the other hand, only 10 to 20 percent of those behind bars are violent persons of some immediate danger to society. Prisons serve an obvious and useful function, but all persons convicted of crimes do not present the same risk to society, and they need not be confined in the same way.

Some alternative to prison is necessary. Currently that alternative is confined in large part to the release of convicted persons on some form or other of probation. The gap between relative freedom and complete imprisonment must be bridged, if the American tradition of punishment fitting the crime, and the criminal, is to be achieved with consistency and fairness. Such alternatives are today the except in to the rule, rather than the rule which they must become.

Juvenile crime

On a percentage basis, young people are the single largest contributors to the crime problem. In 1974, nearly half of all serious crime was committed by those under the age of 18. Between 1960 and 1973, total arrests for juveniles rose by 144 percent. Because much crime goes unreported, the program may be significantly more serious. Studies, in fact, indicate that perhaps 90 percent of all young Americans have committed at least one act for which they could have been taken to juvenile court.

Of the known crimes by juveniles, the estimated national cost is about $16 billion annually. That represents an increase of about 300 percent since 1968.

As the problem increases, so does the evidence that the system cannot handle it.

Perhaps one million young people enter the juvenile justice system each year. Perhaps ten percent are incarcerated in various juvenile institutions. Estimates suggest that from 60 to 80 percent of these young people will commit additional crimes once they are released—a recidivism rate which is far higher than that for adults.

Handguns and violence

There are approximately 40 million handguns in the possession of Americans. This arsenal is increased by about 2.5 million weapons annually.

Including the 96 million rifles and shotguns owned by Americans, there are about 65 guns for every 100 men, women and children in the country.

In 1973, the FBI reported that there were 19,150 murders in the United States. More than half were committed wtih handguns. One hundred and thirty-two police officers were killed in 1974, 95 by handguns. Between 1964 and 1973, 71 percent of all law enforcement officers killed were slain by persons using handguns.

In one major American city in 1972, arguments between married couples and among friends accounted for 38 homicides. More than 70 percent of the killing took place in the home. In 53 percent of the cases, the weapon used was a handgun.

In another major American city, 766 persons were murdered, 60 percent of them by persons using handguns.

In 1975, two persons within a matter of days of each other attempted to assassinate the President of the United States. Both used handguns.

Any instrument of violence which is at once so dangerous and so accessible, must be rigidly controlled. The nation can no longer afford the cost in lives which must result from delay on this issue.

America cannot reduce the disillusionment with the criminal justice system until Americans recognize the very real limits of the system. It cannot prevent crime. Prevention can only come with the effective treatment of those economic and social conditions which make criminal activity profitable economically and socially, and which glorify the criminal in the eyes of those who cannot escape their enforced, substandard condition of life.

The American public must be assured that the police will detect crime and apprehend criminals, that district attorneys will prosecute them, that courts will quickly and fairly judge them, and that our prisons will punish those found guilty—if punishment is appropriate—or rehabilitate them—if rehabilitation is possible.

Needed now is a nationwide effort to reestablish a balance in the system—to buttress the emphasis on police, equipment and technology, with a major investment for efficient court administration and correctional system reform. The Federal government must also recognize that, while local governments need financial assistance from Washington, law enforcement and criminal justice decisions must be made locally.

Root causes of crime

The findings of the Katzenbach Report in 1967, the Wickersham Crime Commission in 1931, the Kerner Commission in 1968, and the Milton Eisenhower Commission in 1969, were summed up by the Committee for Economic Development in 1972, which declared:

"The recommendations over a period of forty years display a remarkable degree of consistency and similarity . . . a suitable agenda for action has been available for forty years."

The consistent points made by all of these commissions has been:

1. Crime is connected with other social problems and particularly unemployment;

2. Crime is principally deterred by the certainty of justice, not the severity of justice;

3. There is a definite correlation between America's leadership in the distribution of firearms and America's leadership in crime statistics over those nations which control firearms;

4. If we really want to reduce crime, it will require costly expenditures in social programs, but no single investment of public funds would so improve the quality of American life.

If the Administration and Congress are serious about curbing crime, they must recognize that warring on poverty, inadequate housing and unemployment is warring on crime.

Funding for education is funding the fight against crime.

Medical, psychiatric, and family counseling services are services against crime.

Recommended solutions

1. Resources must be directed toward innovative methods to ease the load of the courts, to improve correction facilities, and to establish a new public awareness of responsibility and participation, without which no police department can function effectively.

2. Certain non-victim offenses should be decriminalized.

3. LEAA must permit cities to set their own planning, funding and program priorities, with unencumbered block grants.

4. Discretionary and indeterminate sentencing should be abolished.

5. Guidelines must be drawn up and adopted to eliminate the abuses which diminish the positive effects of plea bargaining.

6. State and local governments should immediately begin to separate juveniles from adult offenders in all correctional facilities.

7. All procedures concerning juvenile status offenses which would not be offenses if committed by an adult should be eliminated.

8. Group homes and shelters should be established to take the place of prisons for youthful offenders and qualified adult offenders.

9. The Juvenile Justice and Delinquency Prevention Act should be immediately funded in full.

10. National legislation should be passed prohibiting the manufacture, importation, sale and private possession of handguns, except for use by law enforcement personnel, the military, and for sportsmen's clubs within a controlled and regulated facility.

11. States should enact legislation to fund the purchase of all voluntarily surrendered handguns, and which authorizes the registration and modification of handguns to be retained by private citizens as collectors' items.

12. Federal and state legislation should require minimum prison sentences for persons convicted of crimes while possessing real or simulated handguns, rifles and shotguns.

13. A national study should be undertaken to determine what specific programs should be initiated to deal with the root causes of crime.

Until positive and direct action is taken to re-establish confidence in the criminal justice system in America, citizens of this nation will feel neither safe, nor really free. Neither can be guaranteed without national leadership and direction which recognizes that if crime is, indeed, a local problem, it is a problem that does not recognize state and local boundaries. Crime cannot be fought by policies which do recognize such boundaries. Those who fight the lawbreakers must be at least as imaginative and resourceful as they are.

HOUSING AND COMMUNITY DEVELOPMENT

In virtually every American city, housing and community development present inseparable problems. Without a comprehensive program of attack, neither can be solved, and to the extent that neither is solved, the quality of life in virtually every American city deteriorates.

Yet, as clear as the needs of the nation's cities may be, the history of action on housing and urban development has been one of broken promises.

The 1949 Housing Act set a goal of a decent home and a suitable living environment for every American family, as it expanded programs of public housing, initiated federal assistance for urban renewal efforts, instituted a housing program for rural families, and as it strengthened other supportive government programs.

A second landmark commitment came just a decade ago, when President Lyndon Johnson announced that urban renewal would be a major part of his program. The promise produced the Housing and Urban Development Act of 1965, establishing a cabinet-level department and many new programs.

The Housing Act of 1968 qualified the nation's housing policy by calling for the construction or rehabilitation of 26 million housing units over the succeeding 10 years—with six million units aimed specifically at low and moderate income families.

Then the Housing and Community Development Act of 1974 again redefined the commitment, calling for 400,000 new units of subsidized housing in 1975, and redefining the thrust of urban renewal into urban rehabilitation and revitalization through a system of block grants to unify a variety of previous programs.

Except for units already planned, there has been virtually no new housing for low and moderate income families since President Nixon ordered funds for such programs impounded in January, 1973. The production of new housing, generally, reached a peak of 2.5 million in 1972. Three years later, it was below one million and still falling. In an annual report required by the 1968 Housing Act, President Ford included almost 3 million mobile homes in the totals of housing units produced since 1969 in order to bring production figures into line with the goals of the program for 1974. The report, itself, was late by almost eleven months, and the decision to include mobile homes in the report was in contrast to decisions in previous reports to redefine downward the goals of the program in view of the realities of production. Homes and apartments have a life expectancy approaching 50 years. Mobile homes may last perhaps 10 years.

Meanwhile, subsidies provided by the Housing and Community Development Act and the Emergency Mortgage Credit Act were expected to stimulate the production of only 200,000 housing units—about half the goal set for the programs—and the $7.5 million in emergency federal mortgage support was being absorbed quickly without appreciable impact on the downward housing spiral.

A Library of Congress report in 1975 indicated that despite all of the programs and promises, only three out of twenty families can buy a new home. Yet, incredibly, the Ford Administration in 1975 supported efforts to increase the cost of home ownership even more by raising the interest rates on government-sponsored FHA and VA mortgages.

And beyond all of this, over the remainder of this decade, almost 1.7 million families will be formed each year—the highest rate in our history—while the nation will lose as many as 700,000 units of housing a year. With millions of American families living in sub-standard housing of all kinds, the need for expanded production cannot be questioned.

In the broader context of urban renewal and revitalization, the Housing and Community Development Act of 1974 properly put to rest a zigzagging federal policy toward the cities which should have been called "urban destruction," more appropriately.

Intended to eliminate slums and urban blight, and under the direction of President Johnson, aimed at revitalizing downtown business areas, the program alternately attempted too much and too little. Its chief hallmark was the bulldozing of whole neighborhoods into parking lots, thus chasing the poor and the elderly out of their homes, as bad as they may have been, and into other, newly created slums. Redeveloped areas became too expensive for anyone except the affluent. Developers and others schooled in the proper techniques of grantsmanship fed easily at the federal money tree.

And people everywhere continued to desert the cities and the urban decay which had not been stemmed, merely disguised.

Urged on by city leaders through the U.S. Conference of Mayors and the National League of Cities, Presdent Nixon moved toward a return of basic decision making authority to the cities through various revenue sharing proposals. The Community Development Act signed by Preisdent Ford after Nixon's resignation was one of these, designed to attack rigidly structured aid programs which left little control to the cities they were supposed to help.

Perhaps an evaluation of the new direction of urban assistance requires more time under the program, but some problems are already evident.

Money available to cities is in some cases, particularly for the larger urban centers, more than they've ever received under the programs replaced by Community Development grants; but many cities get only as much as they did, and virtually all will get significantly less than they did under the old programs once those programs are completely phased out, even if the need for many of them remains.

For the first time, shares of the development funds will also go to urban counties and other communities which haven't been part of the Housing and Urban Development Department process—but funding has not been appreciably increased to reflect the expanded range of the process.

And, although a share of the decision making process has been returned to local communities, requirements for local decision making processes are so complex, and grant approval requirements are so cumbersome, that local options still remain extremely limited.

By itself, federal community development cannot encourage private development of property, which in many cases, is considered worthless and is voluntarily ceded to government control, where it also generally remains worthless and undeveloped.

The record on housing and urban revitalization is generally dismal. The goal of a decent home for every American family in an attractive and vital environment has not been met—nor is it likely to be met without a commitment which at least equals the authority of the rhetoric.

The consequences for the nation's cities are exactly the same consequences which in 1949 sparked the first national effort to attack the problem—substandard living conditions in a deteriorating environment.

Recognizing that even in the best of times, many families and individuals will not be able to afford to acquire adequate housing in the marketplace, it is essential that large scale, adequately funded programs be developed to assist these families and individuals to obtain adequate housing. These programs using the best experiences of the past, in combination with such new mechanisms of the future as are necessary, should provide for both ownership and rental opportunities through reliance on private enterprise, non-profit organizations and public bodies.

Recommended solutions

1. National legislation to allocate adequate credit to the private housing sector, including maximum limits on mortgage interest rates;

2. Funding community development block grants at a level adequate to meet local development needs;

3. Emphasized concentration on rehabilitation of existing housing, including the funding of local grants-in-aid to support the private purchase and rehabilitation of single-family homes by qualified participants for their own use, and with provision for the rehabilitation and resale of housing units by local governments, themselves, through contracts with local private and public developers; and where possible, whole neighborhoods should be identified for rehabilitation and resale of housing units by local governments, themselves, through contracts with local private and public developers; and where possible, whole neighborhoods should be identified for rehabilitation purposes, with occupants of such neighborhoods remaining on-site as the work is accomplished;

4. Until the nation's housing stock catches up with its needs, housing should be principally provided through new construction of substantial rehabilitation.

Where necessary, adequate counseling in social services should provide to those receiving assistance and all efforts should be made to avoid this housing becoming a burden upon the community in which it is located.

5. A comprehensive program of urban conservatism, reclamation and preservation which would salvage the investment of a community's past for the benefit of its future. Such a program would include the rehabilitation of existing structures for current uses, the rehabilitation of structures for redefined uses, a policy of historical preservation of buildings and grounds for use by the general public, and other goals;

These actions recognize the dual responsibility of government and private business. Each has a responsibility to meet if the promises of 1949 are to be kept. It is time for those promises to be kept.

ENVIRONMENT AND ENERGY

A basic goal of the nation is to protect the health, welfare and safety of its citizens. Providing this protection necessitates adoption of a dual environmental strategy: protecting man's environment from further degradation, and improving the quality of the total environment.

These needs are most acute in our urban society. The problems of water pollution, air pollution, transportation, land management, solid waste, noise, aesthetics, energy and congestion must be addressed as one in developing policies and programs to improve the urban environment. Particular attention must be given to the extent to which the environment can support the population of an urban area, the nation and the world, now and in the future.

Conservation of limited natural resources must become a primary consideration guiding the actions of all individuals and governments. The effects of social, physical and technological change upon our environment must be recognized so that such change does not further reduce environmental quality. Our environmental resources must be protected against the encroachments of unregulated growth.

Over the past year, many persons, including our Chief Executive, have seen fit to use our rather difficult energy situation as a basis for advocating the relaxation of environmental quality standards and goals. Actions taken and proposals offered by the present Administration place heavy emphasis on developing fuels which at this time are either environmentally unacceptable themselves, or which cause the environment to be degraded during their production. We believe that the urban accouterments of good environmental quality and ample energy supplies are essential to the continual viability of the nation's cities.

There can be few trade-offs between environmental quality and energy demands. The maximum requirements of both must be satisfied.

Because the quality of the environment is so closely linked to our national health, welfare and safety, it is a responsibility of all levels of government to act positively to protect and improve it. Policies and programs must be developed and implemented which will manage the use of natural resources, encourage their reclamation and reuse, and stimulate other government and private actions to further protect and improve the environment. Regulation and enforcement must be supplemented, where appropriate, by economic incentives.

Where federal standards are established, the federal government must assume responsibility to assure local government adequate capacity and time to achieve those standards. Local government must have the flexibility to select among alternative means to achieve federal and state mandates. They must be able to weigh the economic, social, energy and environmental costs and benefits of alternative strategies with locally determined plans and priorities.

Pollution control activity should attempt to control pollution at the source and should impose indirect source controls (such as parking restrictions, "controlled growth" policies and so forth) only when direct control at the source is not feasible. Control policies should encourage reduction of waste and material at the source rather than allowing materials to enter the waste stream. If waste must enter the waste stream, policies should encourage recycling of such waste. The federal government should revise programs and policies, including tax policies and other subsidies, which distort the price system of products in a manner which encourages the exploitation of resources, discourages recycling and provides incentives for greater pollution. Where possible, tax incentives and the imposition of pollution costs should be used to encourage industry to eliminate pollution.

Air Pollution

Air pollution continues as a threat to our health and welfare. All levels of government and private industry must take concerted action to prevent further degradation of existing air quality and attain the goal of achieving clean air. A national clean air strategy must be developed to attain national air quality standards, to protect the public health and welfare, and to be achieved within a reasonable time. We must recognize that there are important factors which also must be considered, such as economic growth, the long-term planning process for cities and their urban area, and the appropriate placing of responsibility for pollution control.

Each city should be able to choose from several alternative strategies to achieve federal and state air quality standards, and where pollution is caused by automobiles, the primary means for abatement of such pollution should be stringent emission controls on all motorized vehicles.

The U.S. Environmental Protection Agency should fully implement and enforce the requirements of the Clean Air Act of 1970. Variances and extensions of deadlines for compliance with air quality standards should be granted only after ample justification presented at open public hearings at which all views are given opportunity for presentation.

Solid Waste

The disposal of wastes and the conservation of resources are two of the most challenging problems to be solved by this nation in the latter third of this century.

With almost half of our cities running out of current disposal capacity in from one to five years, America's urban areas face an immediate disposal crisis.

The crisis of solid waste management must be solved through an aggressive program of source reduction, volume reduction, resource recovery and ultimate disposal, all of which must be compatible with sound environmental considerations.

An expanded national program is needed to stimulate development and application of scientific and technical advances in solid waste management and energy recovery, because solid waste problems frequently exceed the internal capabilities and geographic limitations of any one political jurisdiction.

Current demonstrations of heat and energy recovery from urban waste show that solid wastes can and must be considered as a supplemental fuel source. Technological innovations in both the public and private sectors, plus the increased cost and diminishing supply of traditional fuel sources, have enhanced the relative value of municipal solid waste as a supplemental source of energy. However, the need for further development of resource recovery technology still exists. Congress must, therefore fund continued research, development and demonstration efforts to stimulate energy recovery from solid waste. Congress must also mandate the integration of energy recovery from solid waste with general energy conservation planning and studies.

Programs must be initiated by government and private industry to curtail packaging practices and other activities which add to the volume of solid waste. If volume is not reduced voluntarily, federal standards and deadlines must be established to control activities which contribute significantly to solid waste problems. To help local government support improved solid waste management systems, the Federal government should impose taxes on, control, regulate, and where necessary, prohibit, disposable packaging and other practices which aggravate solid waste management difficulties.

Federal regulatory source reduction measures, including the phasing in of Federal packaging standards and a ban on the sale of no-deposit, no-return beverage containers should be supported. A ban on the sale of non-returnable containers should be coupled with a mandatory deposit of sufficient value to encourage the return of containers to proper distribution points.

Water pollution

The availability of an ample supply of clean water is vital to our nation. Positive steps must be taken through research, planning and preventive action to avoid the harmful effects of pollution, drought, and consumptive withdrawal upon our water resources. Water resources to meet all domestic uses, including recreation, must rate the highest priority. Current sources must be protected, preserved and recycled where possible. Sources that have deteriorated below levels acceptable for domestic use must be rehabilitated.

The basic principle for dealing with water pollution must be that no one has the right to pollute—that pollution continues because of technological limits, not because of any inherent right to use the nation's waterways for the purpose of disposing of wastes. However, the impracticability of immediately eliminating all pollution must also be recognized. A reasonable relationship of economic and social costs and benefits should be a necessary precondition toward achieving a no-pollution goal.

The ability of municipalities to comply with any clean water program must be recognized as contingent upon adequate funds for building treatment facilities. In addition, any clean water goal must be applied on a uniform national basis to prevent movement of industry in search of loosely enforced standards.

Three years ago, a strong Democratic coalition in Congress twice overrode the veto of a Republican President and enacted the Federal Water Pollution Control Act Amendments of 1972. This new public law represented a significant and overdue new direction in national water pollution control and abatement efforts. However, the success in meeting the goals and requirements of the Act have been severely hampered by both the Nixon and Ford Administrations' illegal withholding of treatment work construction funds. Earlier this year, the Supreme Court ordered the release of $9 billion in water pollution funds impounded over the previous three years. The release of these funds has meant that most states and communities can now begin to plan effectively and in an orderly manner, to meet the national water quality standards. However, even with full release of these funds, we cannot rest assured that our nation's waterways will be cleaned. The FWPCA Amendments of 1972 laid the groundwork and provided the initial installment for national water cleanup efforts. It is essential that the second installment be enacted at the earliest possible date to avoid disruption in the local planning process and to proceed more rapidly to the day when our nation's urban areas will again enjoy the benefits of clean, safe water.

ENERGY

The issue of the national energy policy is complex and touches upon many vital concerns of the cities. Energy shortages and interruptions negatively affect industrial production, the local economy, employment opportunities and essential public services. The Federal Government must establish a national energy policy which would simultaneously guard against further environmental degradation. The direction of energy policy in both the short- and long-term should be the achievement of significant reductions of overall per capita energy consumption and the encouragement of an increased domestic supply.

Recommended solutions

1. Maintain a mandatory allocation system which assures local governments of fuel stocks on amounts adequate to provide essential services and which do not produce rapid short-term price increases in the costs of such services;

2. Adopt a major program of energy conservation with the overall objectives of reducing significantly the rate of growth in energy demand. As part of any energy conservation program, the Federal Government should:

Revise transportation freight rates to achieve energy savings through encouraging greater utilization of recyclable products, reclamation of materials, and reduction of non-productive movements of major carriers;

Revise tax laws to discourage the energy waste inherent in urban sprawl;

In cooperation with local governments, provide incentives for the development of energy-efficient modes of transportation such as mass transit, bicycles, walking and car pools;

Require mandatory "energy-efficient" labeling of all energy consuming products and increase public knowledge of the alternatives available and the costs incurred in various patterns of energy use

Revise government procurement policies to take into account not only initial cost, but also potentials for energy savings so as to encourage manufacturers to develop more efficient equipment

Provide federal assistance to cities to review and revise building codes and maximize energy saving techniques as well as demonstrate applications of potential new approaches to energy conservation and supply

3. Eliminate the pricing policies and tax subsidies which artificially lower the cost of energy rather than making the market cost of energy reflect its full cost. If new taxes must be administered to restrain oil consumption, such taxes should not be placed upon crude oil at dockside, but upon the point of transaction for various end uses.

4. Establish a quasi-governmental corporation to expedite the exploration, production and distribution of fuels as a means of supplementing existing supplies and providing an economic and environmental yardstick for measuring the performance of private firms in the field.

5. Rigorously enforce anti-trust laws to protect the consuming public against anticompetitive activities and prevent monopolistic control of fuels and energy through "energy companies" which acquire holdings in competing fuels or processes. No fuel producer should own or control production of reserves in any other fuel, except in the case of oil and gas which often occur together in nature.

6. Adopt a major federal program to fund greatly expanded research, development and demonstration projects in the fields of energy conservation and resource development.

Federal energy research policies should be directed much more heavily to development of greater energy-efficiency in production processes, building design and construction, urban land use configurations and transport systems. Along with emphasis upon energy-efficiency, there should also be a parallel emphasis upon research energy resources. Renewable energy research should be basically of two kinds. First, there is need for expanded development and engineering research on applications of so-called "intermediate" technology, i.e., such areas as solar, wind and fuel cell development which employ relatively simple and well-understood technical principles, but are lacking in research on specific, cost-effective applications.

The second, and equally important, class of renewable energy research involves the exploration of more advanced and larger-scale technical concepts such as solar farms using high temperature collectors, hydrogen producing "wind-mast" applications, and tidal and wave power. Priorities in advanced technology applications should be assigned according to probable length of time required for practical application.

7. Establish strong incentives to step up the installation of solar water space heating in residential, commercial and industrial buildings. Such incentives are especially urgent in those areas of the South and West, where climatic conditions allow high energy yields from solar systems with relatively small collector areas and heat storage volumes. Similar incentives for "wind-assist" systems (perhaps in conjunction with solar-assist facilities) should be developed immediately for rural areas and small towns where settlement patterns and other circumstances make such systems feasible.

TRANSPORTATION

Urban transportation systems today reflect the neglect of yesterday's unimaginative emphasis on individual, private automobiles. For more than the last twenty years, in excess of $230 billion has been spent at all levels of government on a network of highways which then served to relegate public mass transit systems to the status of secondary—even tertiary—back-up systems. With no substantial allocation of funds to mass transit until an emergency aid package was negotiated in 1974, public transit's reputation for second-class service at first-class prices was all too easy to establish.

From the end of World War II to the mid-1960's, no new major transit construction project was undertaken with public support. The physical resources of transit systems then reflected the result: aged and worn-out buses, outdated and neglected subway and rail cars, ineffective—even non-existent—maintenance programs, and hopelessly incomplete and inadequate schedules. Meanwhile, fares for both public and privately-operated public transit systems inched steadily upward.

The public responded as could have been expected. Public transit ridership declined from almost 19 billion at the end of the war to about 5.5 billion in 1973. Decreasing use of public transit further eroded the system by fostering both increased fares and heightened the use of private automobiles.

This vicious cycle took place as fundamental changes occurred across America—particularly within the nation's urban centers—pollution, sprawl, economic and social decay, a transition of the more affluent to the suburbs along with the tax base necessary to support public transit, leaving the less affluent behind with a growing need for public mass transit but without the means to support its development.

Ultimately, some states sought to step in with publicly supported regional or local transit authorities or other semi-autonomous public and semi-public agencies designed to revitalize and expand urban transit systems. The goals of such programs quickly proved to be unattainable or nearly so, as state resources provided to be inadequate to do the job alone.

By 1973, local governments began facing the collapse of privately-operated public transit systems on the one hand, and the increased demand for local support of state-sponsored mass transit programs on the other. The recession of 1974–75 brought the problem to the point of crisis, aided by the Arab oil embargo which seriously restricted the flow of fuel, while raising fuel prices to unheard of levels.

Precisely at a time when public transit should have responded to fuel restrictions and high fuel prices by providing an effective and inexpensive alternative to the private automobile, public transit systems found themselves unable to do so, primarily because the national leadership necessary to adopt programs to support mass transit was sorely lacking; and though local and state leadership did exist, local and state funds sufficient to do the job did not exist.

By the end of 1974, operating deficits for existing public transit systems nationally were expected to reach $900 million. Unable to maintain service even at then current levels, many systems limped along with crushing deficits. Others sought to lurch along for a few months by raising fares. Some simply collapsed under the pressure.

President Ford responded by opposing emergency aid to public mass transit though several bills had been proposed, later opting to endorse an aid program only in conjunction with a comprehensive package covering all forms of transportation. It was a logically expedient position, but one which only served to delay any aid at all for critical weeks.

Two years after the plea for help, Congress enacted and the President signed a comprehensive mass transit bill which provided more than $11 billion to public transportation systems nationwide, including for the first time Federal operating subsidies for hard-pressed systems on the verge of collapse. It was enough, perhaps only barely enough, to provide the time needed to solve many remaining and serious problems. Unfortunately, those problems still remain to be solved.

Apart from comfortable, efficient, and low-cost service, chief among the needs is routing and scheduling designed to make public mass transit a genuine alternative to the private automobile. A bus may never stop at every home in America, but it ought to pass within walking distance of every home in America often enough to establish it as an alternative.

During the oil embargo, there was a modest spurt in transit ridership, and imaginative planning and direction, mostly at the local level, has enhanced the chances that more people will continue to use public transit systems; but there can be no increase where there is no service.

Tremendous social and economic benefits must accrue to those cities served by a comprehensive public transit system.

Central cities have notorious traffic and parking problems. Without a mass transit system which reaches beyond the borders of such cities, there can be no effective encouragement of economic traffic into depressed downtown business and office districts. Likewise, the opportunity for jobs outside those cities is denied to thousands of people who can afford no other kind of transportation. Where such transit exists or can be developed, parking garages can give way to parks and open spaces to further enhance the cultural and social comfort that central city residents and workers too often have been denied.

The ultimate goal of action on transportation for the nation's cities must be one emphasizing both comprehensive coverage and integrated design.

Beyond the major goal, transportation planning must be keyed to real needs and rational proposals.

Projects designed to allocate almost $300 million to take streetcars off the streets of one American city—or $450 million to build a personal rapid transit system of several hundred automated 12-passenger cars, as proposed for another city, may indeed prove successful; but it costs nothing to set aside one lane of arterial highways for express buses. Technology should be consulted for answers to transportation problems only with extreme caution.

Action already taken in cities across the nation can provide a catalogue of hard lessons. Those lessons require design based on need, the comprehensive testing of unproved ideas, the use of technology to develop better systems and not to reduce personnel, and the requirements of public accountability and control.

Locally, transportation planning must become an integral part of area-wide planning keyed to growth, future land use, densities, environmental impact, recreation, open space preservation, and more. Planning should encompass the widest possible region consonent with the overall character of the area and its possible transportation needs. Major corridors should be identified. The possible alternative emphasis of highways, busways, light rail, rapid transit, commuter railroads and other systems should be considered. The special needs of the young, the elderly, the handicapped and the poor should be considered. A single strategy of traffic and transit management should be developed, including terminals and transit stops designed to effectively integrate all forms of local transportation into a compatible structure. Pedestrial movement should not be overlooked.

Nationally, only those elements of the interstate highway system considered essential should be completed. Highway funding by the federal government should be thereafter restricted to maintaining the system, not expanding it. Federal highway fund sources should be diverted to the use of local and regional governments for mass transit development. To the extent federal funds are provided for local highway purposes, those funds should be aimed at improving streets and highways only within a comprehensive transportation plan, including the resurfacing of roadways used by buses and the elimination of hazards. Improvements aimed at facilitating the movement of pedestrians and bicycles should be supported.

Recommended solutions

1. The reconstruction and rehabilitation of all existing mass transit systems. The rehabilitation of existing systems and the construction of new or expanded systems should be carried out with both national assistance and local planning under a program of unemcumbered grants, with coordination provided through state master plans, rather than through federal guidelines. Local governments should be relieved of the sole responsibility for operating costs by both federal and state governments.

2. Amtrak improvement programs must continue until all major metropolitan centers are served by a network of rail transit comprehensive enough to provide rail service as directly as possible among the centers. Action must be taken to permit the public ownership of roadbeds, with state and federal support for their maintenance. Efforts to implement the Regional Railroad Reorganization Act must continue and be integrated into a program of comprehensive transit planning.

3. Long-term financial assistance must be made available to improve local airport facilities and operations. Ultimately, each urban area must be assured of adequate air service. A national responsibility must exist and be served by federal regulatory and control agencies empowered to provide every possible facility to insure safe aircraft operation, including the full funding of ground-based systems designed to enhance air traffic control, with the Airport and Airway Trust Fund providing the source of that support. Planning should insure rapid ground access to airports and financial support for the development of airport facilities intended for use by the public. Airport development should be consistent with local land-use planning.

Only through a coordinated and comprehensive system of planning and action at all levels of government can a truly national system of transportation be developed to serve the needs of all Americans. The real goal of such a system would not eliminate the automobile as an important element in the system; rather, it would provide those important alternatives which now largely do not exist, or which exist to an extent below need, or which remain uncoordinated and incompatible to the public interest. The health of America's cities depends on how well this goal is served.

HEALTH

For most Americans, the health care crisis is a crisis first of ever-rising costs.

From 1959 to 1974, the amount spent by Americans for health care rose astonishingly from $12 billion to $104 billion—from a 4.6 percent share of the Gross National Product to 7.7 percent of the GNP. Compared to $142 spent for health care in 1970 for every man, woman and child in the nation, the expenditure in 1974 had reached $500. The Social Security Administration reports that nearly 50 percent of the increase is due to inflation, which during this period, boosted the cost of medical services by 14 percent.

Medical costs have increased for a variety of reasons, including the overutilization of hospital services, unnecessary hospital construction, duplication of expensive and underutilized specialty services, and more—all, in large part, the result of, or related to, health insurance policies which cover care in hospitals but not doctors' offices, an excess of surgeons and a poor distribution of practitioners in general, and a monumental malpractice problem.

Thousands of American communities are without a doctor, and as the trend toward medical specialization continues, there are fewer family physicians to practice in rural and inner-city areas, with more and more specialists gravitating to the suburbs and major medical centers.

A recent Chicago study revealed that the city lost 2,000 doctors between 1950 and 1970—a 35 percent decrease, while the suburbs around the city gained 1,900 doctors—a 130 percent increase.

As fewer and fewer doctors remain to serve the people in the nation's urban centers, inner city hospital emergency rooms and outpatient departments have more and more become the only alternatives for inner city medical care. Hospital budgets have been so strained by the heavy demand that many private hospitals have closed their emergency rooms, leaving municipal and public hospitals as the only sources of medical care in some cities.

Emergency room care is an unnecessarily expensive source for the treatment of routine illnesses. Moreover, many of the patients of municipal emergency rooms have inadequate insurance coverage and cannot pay the costs involved. Municipal hospital budgets are, therefore, doubly burdened—first, by accepting patients private hospitals will not, and then by providing treatment for which payment cannot be made. Finally, an inevitable deterioration takes place across the hospital's entire range of services.

Yet another serious problem is the fragmentation and complexity of health services, and the inability of many patients to cope with the confusing array of specialists, laboratories, and institutions.

Patients are released from hospitals before room for them is found in nursing homes.

They are sent away with prescriptions that can't be filled because pharmacies are closed. They are forced to move from one specialist to another, or to pay for consulting specialists they may never see. They may be required to face a battery of laboratory sessions and tests designed less to assess their condition than to protect doctors against lawsuits.

In fact, the system seems shaped for the convenience of doctors and hospitals, rather than for the patients, many of whom are significantly disabled, or merely old. And if the system of delivery of services has been fragmented, so has the system of control and evaluation of the quality of that system.

The impact of all of these problems and more on the American family has been devastating. Beyond a basic loss of confidence in a system they can no longer understand, the principal effect has been that good health care has become both harder to get and almost prohibitively expensive.

Far from producing efficiency and reduced costs, assembly line medicine has raised the average cost for a day in the hospital from $32 in 1960 to $125 today. Workers lucky enough to have good health insurance find their premiums skyrocketing, until in many cases employer contributions to such insurance plans have become, not an added benefit, but a replacement for cash wage improvements.

But many people still pay for their own health insurance. In 1973, Americans paid more than $24.5 billion in health insurance premiums, and the insurance purchased with those premiums covered only 25 percent of all personal health care costs in the nation. The rest came directly out of consumers' pockets or from government programs. For many Americans—primarily those who are neither very poor nor very rich, health care costs have meant financial disaster. And even those with insurance find gaps in coverage leading to bankruptcy precisely when they need the strongest protection.

For the elderly, there is a special problem. Inflation has so eaten away at the value of their Medicare coverage that the average Medicare patient spent $119 out of his own pocket for care in 1972, compared to $94 in 1966, the year before Medicare began.

Many American families have no insurance protection at all. According to the Social Security Administration, 41 million people under the age of 65 had no coverage in 1973. More than 140 million have no insurance which covers visits to doctors' offices. For them, even a minor illness or injury can spell financial disaster.

Though in many cases they are covered by special government programs which pay the dollar costs of health care, the poor must still pay for those services with their dignity. Hospitals consider the poor as second-class patients. The poor wait for hours for routine treatment at public hospitals which can't cope with the demand for their services, or are turned away from private hospitals which refuse to cope with the demand. They are victimized by doctors specializing in lucrative poverty practices in which care may be incidental to profits.

Lost in the maze of professional apathy and overburdened health care systems, they often choose to avoid treatment, rather than to submit to the insensitivity they have learned to expect. And always it is the children who are the special victims of this system. Often they are denied even the most basic kinds of routine care simply because their families do not trust the system set up to provide that care.

It is a strange system which encourages those it supposedly serves to avoid its services until trauma eliminates the choice.

Most visible, of course, has been the impact of costs and availability of services on public budgets at every level of government.

Federal, state and local expenditures for health care in 1950 amounted to $3 billion—about 25 percent of the total spent for health care that year. With the advent of Medicare and medicaid, and with inflation, this increased to more than $41 billion in 1974—or nearly 40 percent of all health expenditures in the nation. Of this amount, more than $12 billion came from state and local governments, with about $4 billion of that going to public and municipal hospitals.

Rapidly rising costs, largely without visible improvement in health care delivery, are forcing many states to cut back on medicaid programs, which further squeezes hospital budgets tighter. At the Federal level, the current Administration proposed to cut Medicare and Medicaid assistance levels by requiring the elderly and the poor to pay more than $600 million more out of their own pockets for health care. Federal and state cutbacks have led and are leading to ever more pressure on municipal budgets, but those budgets are in virtually every instance, the source of last resort.

A national economic crisis has left more people unemployed and more families requiring public health care; but it has also meant lower tax receipts and higher pressure for government expenditures for health services. Tragically, at all levels of government, the nation has reacted to falling revenues and rising costs by cutting services upon which more and more families must depend.

If ever there were a time for a restructuring of health care in America, that time is now. The outline of that reform exists.

Recommended solutions

1. A subsidy for the education of doctors in return for required service in those urban and rural areas now served inadequately or not at all.

2. The imposition of a moratorium on all new hospital construction, with the enactment of strong certification requirements which tie new construction to real needs.

3. The federalization of Medicaid programs, with benefits standardized and with uniform eligibility levels. Medicaid funding could remain a state responsibility under federal guidelines and direction, but a federal takeover of the costs may be warranted (estimated cost, $6.3 billion).

4. Encourage medical schools and hospitals through grants to establish family practice oriented clinics to serve both urban and rural communities.

5. Expand Medicare to cover all necessary health expenses which are actually incurred by those covered by the program.

But, more than this, a comprehensive system of national health insurance coverage is absolutely essential. Such a system is the answer to the problems which now plague the nation's health care delivery system.

Such a system would provide:

1. Comprehensive health insurance coverage to every American, regardless of income, employment, or any other factors;

2. Controls on the rising costs of health care designed to stem the inflationary pressures which threaten the stability of the entire system;

3. Incentives to health professionals to enter undeserved areas, and which plans a network of health services that reaches into every community;

4. Encouragement for efficiencies suited to the needs of the patients, and which generates assurances of quality in the services delivered.

Most current proposals are comprehensive, but all except the Health Security Act also require patients to pay part of the costs involved. And the proposals differ fundamentally in their capacities to control costs, and assure both access and quality. Most also differ in the extent to which they replace existing programs.

The H.S.A. bill comes closest to the ideal. It would insure every resident of coverage under a single program under the umbrella of the Social Security Administration, with funding from a combination of payroll and income taxes. The program would incorporate all existing Medicaid programs, and county and municipal and health care centers would be totally reimbursed for covered services. Under its provisions, the proposal could save state and local governments between $8 billion and $10 billion a year.

The proponents of the bill maintain costs, access to services and the quality of those services can be more effectively controlled if the federal government is the single insurance source for everyone. Particularly, the budget process would be subject to public review and public accountability at a single level.

Significantly, since funding through Social Security passes all costs of the program through the federal budget, the $76 billion to be spent under the program would be visible. Passing such costs through premium payments to private insurance companies, on the other hand, would tend to obscure such costs.

The essential debate now is whether to provide health care to Americans through a public system of services and guarantees, or through some combination of public and private interests. It should be clear, however, that a major reason the debate has taken place at all is because the private sector has failed to meet the needs first identified in 1946. It should also be clear that the profit motive of the private sector has not so far generated an efficiency which could stem the upward advance of costs.

No matter what system is ultimately achieved, those Americans who can pay for the system will be required to pay for it in one form or another. The obligation of government will be to insure that that payment is achieved equitably and openly, and with certain guarantees that the services so supported represent the value they would imply. If some concern is warranted for doctors, hospitals, and insurance companies, some concern is also warranted by government for the young, the old, the ill, the poor, the individuals and families who now need help, but who have been denied that help until they may now expect none.

EDUCATION

The nation's cities—indeed the nation—must have a restructured system of education which achieves a sensible balance among all levels of government in recognition of the special responsibility each may best serve.

Such a system would assign the direction of specific educational policy to the local level, where it now largely rests; it would assign the responsibility for support to the states, where it now partially rests; and it would assign to the federal government the responsibility for guaranteeing the states will have access to the resources they need to fulfill their roles, and the responsibility for guaranteeing equal educational opportunity to every child, no matter where that child may attend school.

One ultimate consequence of such a system would be to remove from the property tax the burden of the cost of education which it was never designed to support, and which it has never supported very well. If that burden can be removed, the property tax may be so infused with new vigor, that it can again become the important revenue source it might have become.

Educational funding, as reflected in the current chaos surrounding the property tax, is a significant element in the problem and the existing federal responsibility toward funding has been both insubstantial and misdirected.

Federal outlays for elementary, secondary, and vocational education actually declined from 1.6 percent of the federal budget in 1969–70 to 1.3 percent of the budget in 1974–75. In that year, federal aid to elementary and secondary programs amounted only to $4.7 billion of the $61.1 billion spent from all sources nationally. In contrast, the federal share of the $39.5 billion spent nationally for higher education was $6.2 billion.

A minimal and uncoordinated federal commitment to education, with the lion's share of that commitment reserved for higher education, has serious implications for America's cities.

The Statistical Abstract of the U.S. for 1973 reports that in 1971, more than 51 million children were enrolled in schools of elementary and secondary education, while only 8 million students were enrolled in higher education programs. Of the 46 million children enrolled in public school programs alone, fully 28 million attended schools within city and central city metropolitan districts.

The statistics clearly indicate that federal programs provide more aid to one college or university student than such programs divided up among six elementary or secondary education students, and that the greatest impact of that imbalance is within the school districts of America's urban areas.

The total federal outlay for elementary and secondary education in 1971 amounted to no more than 25 percent of all federal education aid. Even considering vocational and training program assistance—not included in the enrollment totals for lower education programs—the federal support of basic education still does not equal the total spent under federal support for advanced education.

Yet, consistently, less is spent per pupil in cities than is spent per pupil in suburban and rural communities. Reading scores are lower in cities—drop-out rates are higher, as are incidents of unrest and disruption. Fewer students graduate from city schools. Fewer continue their education, when they do graduate.

At the same time, because the average income of city taxpayers is lower than the income of suburban taxpayers, urban taxpayers consistently pay more of their income toward the support of their schools than rural and suburban taxpayers do—yet all too frequently, state and federal aid to education is at a higher effective level for rural and suburban schools than for urban schools. Without a sane federal commitment to basic education, per-pupil expenditures in seven states vary by a ratio of 10 to 1—that is, the richest district in each of the seven states provides $10 per student for every $1 provided per student in the poorest school district. Only in 11 states is the ratio 2 to 1 or lower. It's higher in all of the others.

The costs are not all in dollars.

As of March, 1974, 3.5 percent of whites and 12.2 percent of non-whites over 25 years of age had completed less than five years of elementary school. In the same age group, 38.6 percent of whites and a staggering 55.8 percent of non-whites had failed to complete high school.

More than a half-dozen studies included in the Advisory Commission on Intergovernmental Relations report on school financing released in January 1973, strongly support the relationship between expenditures and educational performance. Yet, without some system of support beyond the inequitable and already overburdened property tax, additional funding is not likely to be made available.

The property tax, generally the major source of local school funding, increased for single family homes nationally by more than 30 percent between 1962 and 1971. For many cities, constitutional or other limits, have already been reached, removing the tax as a source of additional funding, even if local voter approval could be established.

On the other hand, although their revenue sources are less restrictive, and more likely to pace inflation than any local sources, the states have not responded with sufficient additional educational support to stall the crisis in educational funding at the local level which has now begun to eat into resources which should go to other essential local services, but which must, instead, be diverted to cover the gap between educational needs and resources.

When federal countercyclical aid was denied cities by the Congress in 1975, cities in New York State sought and received more than $20 million in emergency aid from the State. A substantial part of that aid was then diverted by those cities to cover local school budget deficits, at the expense of some city programs and services.

That this had to be done was made clear by a study commissioned by the U.S. Office of Education, which in October, 1975, concluded that one out of every five American adults is functionally illiterate and unable to cope with the routine problems of today's society.

The study by the University of Texas at Austin discovered that 23 million Americans cannot read newspaper help-wanted ads, figure the best grocery buys, or make a train reservation. It found that 15 million Americans could not address an envelope properly for mailing, and that more than 68 million Americans could not read a simple paragraph that explained why it would be illegal to be held in jail for two weeks without being charged with a crime.

The study has grave implications for a society as complex as is America's, for ignorance is the ultimate enemy of a Democratic society.

If the states have failed to assume a proper responsibility in education, Federal support for education has actually been no support at all.

Federal programs now provide about eight percent of the financial resources available to public schools. This extremely limited contribution is spread over more than thirty fairly narrow, special purpose programs—none of which contributes to the general education of all pupils.

Designed primarily to serve as remedies to specific ills, they have largely failed that design, while contributing to the continuation of other, larger problems, of which unequal educational opportunity may be the most serious.

A child in America is not offered an education. That child is offered a challenge to succeed at one in an atmosphere of confusion, cultural ambiguity, and economic constraint, which the evidence clearly shows has produced for millions of such children nothing more than functional illiteracy.

Recommended solutions

1. Nationally devised standards of educational expenditure equalization, adjusted to account for specific state educational needs;
2. The abolishment of the property tax as a source of funding for educational purposes—substituting instead, the authority for states to retain a portion of federal income or other taxes for the support of local educational needs, with states required to assume a full responsibility for the funding of those needs in line with equalization standards provided for previously.
3. Enactment of immediate temporary transitional emergency legislation to provide grants-in-aid to local school districts now without the immediate and necessary resources to meet basic educational needs.

Such a system of state-federal cooperation for education would assign the basic responsibility for educational quality to the states, but it would not leave states without the resources necessary to meet that responsibility. It need not require an end to the local control of educational direction—indeed, it should not, and safeguards can guarantee that the control will remain in local hands; but it would recognize that, although control and direction should be local, funding is, and will continue to be, beyond the limits of local resources, even with partial state and federal support.

These proposals, and others which may apply, are clearly intended to establish for America the second half of a most basic responsibility.

It is not enough to make an education available to every child. We must also give that child the opportunity to enjoy an effective and meaningful education.

For thousands of children in cities across America, that opportunity is their only way out of poverty and despair. And today, for those same children, it is an opportunity denied.

IN SUPPORT OF URGENCY

Every American city does not exist on the brink of disaster—yet all move toward it. That the danger is largely undiscernable in the case of all cities provides an insidiousness which tends to obscure the evidence available in those cities which have reached that brink.

Crime, poverty, unemployment, illiteracy, illness, all these are generally described as problems of the cities—that they are to a very real extent the problems of the cities is an indictment of the lack of national leadership which has made them so. And clearly, if the cities cannot receive the help they need to deal with them, they will soon become the problems of those who, in isolation, thought such problems could be ignored.

The true course of courage for America and its national leadership is to establish now and nurture a sense of urgency which can salvage the proud imagination of those who built this nation's cities as they refined this nation's spirit, and so to recapture the image of our cities as the havens of the American dream, which has been their heritage.

We need not erase the established limits which define the towns, villages, and cities of America to achieve such an urgency. We need only destroy the barriers erected to differentiate between the rights and responsibilities of those who live within the others, and which determine the quality of life from the standpoint of mere location, rather than justice.

Many of the problems of urban American society may not be easy to solve, many of the solutions may not be easy to find, and there may be more than one course of action which is appropriate to either the problems or their solutions—indeed, many of the problems cannot be solved at all at any single level of government, and some will require the active participation of people and resources outside of government;

But the effort must be made.

America's cities are America.

As a people, we ignore our responsibility to the cities only at the peril of the nation.

BILLY KILMER

Mr. McGOVERN. Mr. President, today's Washington Post carries a stirring account by Joan Ryan about Billy Kilmer, the great Washington Redskins quarterback.

As a longtime admirer of this courageous athletic leader, I ask unanimous consent that Ms. Ryan's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Emotion Restored by Kilmer

(By Joan Ryan)

Something wonderful happened in Irving, Texas, Saturday afternoon. George Allen won't agree with me. He will say stodgily that there is nothing wonderful about losing.

While the battle with the Cowboys may have been lost, some war within me was won when Billy Kilmer cried. He shed his tears openly. He showed his pain and disappointment with no shame. And a certain purity that had been missing from football was restored by the depth of his caring.

Other fans have been searching in vain through the morass of pettiness for some small sign of hope. But, in the last few years, it has been somewhat difficult to work up a sentimental lump in the throat over some of the jaded aspects of the game; the politics, the anything-to-win mentality, the greed, the airing of dirty laundry.

Yes, there were other searchers who were uplifted by Kilmer's tears. He shared with his television audience the beauty of a man's emotional commitment beyond himself. Caring and trying have always been Kilmer's trademark.

It was a coincidence that CBS chose to highlight the special qualities of Kilmer in their halftime film produced by NFL Films of Philadelphia. Phil Tuckett, a former pro player of little note, synchronized filmed clips of Kilmer's ups and downs with husky-voiced Peggy Lee's rendition of "Something Wonderful" from "The King and I."

"The thing about Kilmer is that he is so vulnerable," said Tuckett, one of those searchers for purity in football. "And it always shows in his face. He wears a different kind of bar on his helmet so that his expression always shows.

"I'd been thinking of doing a film on Kilmer all season but I could never think of the right song to go with his story. I heard the first few lines of Peggy Lee's song and I knew that was it."

The song begins, "This is a man who stumbles and falls, but this is a man who tries . . ." This is Kilmer.

"The big thing in football now is to acquire a stoical mask," said Tuckett. " A mask that hides your feelings. But Kilmer's so different. If he's happy, you see it; if he's hurt, you see it.

"He just shows on every play that he's so human. That's just not the case in pro football these days. But there he is, this guy with the bad body, no classic style, scratching for everything he gets. Every man on the street identifies with him. With Kilmer, it's all in the heart."

NFL Films has been trying to convey this all-but-forgotten emotion in the CBS halftime films. Tough guys will put them down as too mawkish, but, for me, the return to emotional commitment is welcome.

Vince Lombardi's triumphant march through pro pootball is backed with Frank Sinatra's autumnal rendition of "My Way." George Allen is revealed against a backdrop of "I've Gotta Be Me."

The Pittsburgh Steelers' Super Bowl conquest is labeled "The Impossible Dream," and Cleveland Brown owner Art Modell's anguish over a current 3–10 season is outlined against clips of Jim Brown, Paul Warfield and Gary Collins while Edye Gorme sings pointedly, "What Did I Have Then That I don't Have Now?"

But it was Kilmer's tears, highlighted on film at halftime, replayed for real in the fourth quarter as he left the field for the final time, that put something wonderful back into football.

THE TAX CUT AND THE BUDGET

Mr. PERCY. Mr. President, Congress has voted to extend the current tax reductions into 1976. The Senate has voted to extend the cuts for 6 months; the House has voted to extend the cuts for a year. The differences in the two tax bills will be resolved speedily and we will be sending a bill to the President for his consideration this week.

The President has stated that he will veto any extension of the tax cut if it is not accompanied by equal reduction in the expected increase in the Federal deficit. The President is firmly committed to this stand, and a confrontation looms between the White House and Congress.

At this crucial juncture in the uncertainty of the economic recovery, an extension of some portion of the tax cut seems essential to maintain confidence among both consumers and producers. In my opinion it would be unwise to threaten economic recovery by abruptly increasing Federal withholding taxes.

At the same time, we are all concerned about the alarming increase in the Federal deficit. The size of the deficit is in itself a significant inflationary pressure. Inflation is the most insidious economic force, a thief of equitable buying power and steady economic growth.

I believe we can most effectively deal with this economic challenge by relying upon the new congressional budget procedure that is now in its first use in the House and Senate. Under the direction of Senators Muskie and Bellmon, chairman and ranking member of the Senate Budget Committee, and Congressmen Adams and Latta, chairman and ranking member of the House Budget Committee, the process is off to a promising beginning. It will be tested and refined even further in the coming year.

The procedure provides an orderly process for setting spending ceilings and priorities. It makes stiff requirements on Congress to pass joint budget resolutions in April and October. These resolutions are the heart of the budget process and provide a logical vehicle for reduction of the growing Federal deficit.

As we prepare for the April resolution, we should look carefully at the budget and determine how much we can cut from existing and projected programs to reduce the growth in the deficit as much as possible. This reduction process should be done with a scalpel and not a cleaver. As was intended by the drafters of the budget procedure, budget cutting should proceed on an item-by-item basis, not a sweeping reduction across the board to meet an arbitrary figure.

It is impossible now to say exactly how much the Federal deficit can be reduced in the coming year. But the President and the American people should put their faith in this new budget process. This is no pie-in-the-sky blueprint for spending reform. It offers an effective partnership of the Congress and the President in ordering up the Nation's spending priorities.

In conjunction with the Congress effort to reduce the deficit under the new budget procedure, I believe we can and should raise additional Federal revenue to help bring the budget closer into balance. The question is not how to tax without injury. It is how to tax with equity. Congress should consider a number of options that would yield increased revenue and at the same time meet national priorities.

First, we should consider passage of a 10-cent a gallon increase in the Federal gasoline tax with a rebate for essential driving. This would produce $5 billion a year for the Federal Treasury and would encourage gasoline conservation. I can think of no better approach to our continuing energy dependency and our massive Federal deficit than a gasoline tax that would reduce luxury driving and increase revenue.

Second, we should consider increasing the Federal tax on alcohol and tobacco by 50 percent. By so doing I am not expressing criticism in any way of those who use alcohol and tobacco. But, I am saying they are not real necessities. It is not unreasonable to pay a little more, especially in these times of massively unbalanced budget. These taxes, which are imposed on essentially luxury items, have not been raised at the Federal level in over 20 years. A 50-percent increase in these taxes would raise an additional $4 billion a year.

Third, we should abolish the deductability of State and local gasoline taxes on Federal income tax returns. This deduction gives most taxpayers a very small savings, but it is nothing more than a subsidy for driving at a time when energy conservation is supposed to be a top national priority. Ending this deduction would raise $650 million a year in Federal taxes.

The challenge of extending tax cuts to maintain confidence and reducing the rise in the Federal deficit to foster fiscal stability is essentially a matter of procedure. In the new budget process, I believe we have the ideal procedure to reduce the deficit. Beyond that, there is ample opportunity to raise additional revenue, as I have indicated in the three examples cited above that would reduce the deficit by approximately $10 billion thus helping in a major way in the battle against inflation. There are certainly even additional revenue raising options that should be considered.

It would be most unfortunate if we robbed taxpayers in December of the additional buying power we provided them in April. And it would be even more unfortunate if we ignored a promising budget reform process for the sake of politics.

FEDERAL BRANCHING POLICY

Mr. WILLIAMS. Mr. President, in recent weeks, the distinguished chairman of the Subcommittee on Financial Institutions, Mr. McIntyre, has made three excellent statements on a subject long worthy of reconsideration by the Congress. I am referring to the subject of Federal branch banking policy, particularly as it relates Federal law to State law.

Federal branching policy was formulated over 40 years ago in a climate considerably different than that which we face today.

Senator McIntyre has announced that the subcommittee is undertaking a comprehensive review of branching policy with a view toward assessing what Federal policy on this subject should be in the future. I commend the Senator for having initiated this undertaking, and I ask unanimous consent that the three recent statements which he has made on the subject be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Address by U.S. Senator Thomas J. McIntyre, Northern New England School of Banking, Durham, N.H., September 11, 1975

FEDERAL BRANCHING POLICY: TIME FOR REAPPRAISAL

Members of the Northern New England School of Banking, guests and friends:

Your letter of invitation suggested that I talk about banking legislation and what's happening on the national legislative scene.

But today I would like to take up a subject long overdue for Congressional reassessment—and that is the subject of Federal branching policy.

The branching issue, in fact, is a loose thread left dangling after our recent efforts on the Banking Committee—unsuccessful, as you know—to enact temporizing EFTS legislation.

Without digressing to explain the circumstances surrounding those efforts, I would like to outline three points which bear emphasis.

One, the Committee action strongly reaffirms my belief that all of us—the public, the financial community, financial regulators, and legislators alike—must go through a substantial educational process on Electronic Fund Transfer Systems in the weeks, months, and years ahead.

Secondly, I am sorry to say that our efforts on the EFTS bill highlight once again the fact that Congress is—regrettably—a body which reacts rather than acts.

Where was the crisis? Where was the urgency? Where were the aggrieved special interest groups which seem to be so essential now to generating any impetus for legislative action?

The answer is that there were none of the above.

So, predictably, I suppose, the Committee washed its hands of the matter to await the turmoil of one sort or another that will inevitably bring the issue to life once again.

The legislation is not dead; it's dormant. What is most regrettable, however, is that Congress is currently in a unique position to forge a rational policy of moderation in the EFTS area, because EFTS is still in an early state of implementation. We still have time to assess the many public policy considerations which attach to EFTS development. For the time being, however, we are likely to remain in punt formation.

The third and key point I wish to focus on today concerns the basic and fundamental question of Federal bank branching policy; that is, the degree to which State law pertaining to State-chartered institutions should govern the permissible activities of Federally-chartered institutions within a particular State.

Emphatically, I repeat that the McFadden Act and Federal branching issue are overripe for reassessment. What's more, I now propose to do something about it, deliberately and directly, at the Congressional level where it belongs.

Therefore, I am today announcing that the Subcommittee on Financial Institutions will shortly launch a comprehensive study of national policy governing all forms of geographic expansion by banking institutions with emphasis on branching.

I, for one, have discovered that few people really took the time to study our EFTS bill, S. 1899, in order to comprehend and appreciate a significant policy directive which was implicit in its provisions. EFTS is a new animal, and it would be a classic error for Congress to wrap this new animal in the old clothes of 40 year old branching laws. The EFTS branching issue is appropriate for Congress, and Congress alone, to decide. And if ever there was an effective stimulus to reassess the McFadden Act, EFTS was that stimulus. But hiding under the robes of the judicial branch was not only an evasion of duty, it runs the further risk of encouraging continued litigation which will only have the unfortunate effect of providing precedent once the issue presents itself inevitably to the Congress for resolution.

My differences with the Comptroller of the Currency are a matter of record, but I sincerely regret that the Courts are now deciding the legality of the Comptroller's EFTS actions on the basis of the McFadden Act.

While it is conceptually possible that the Congress may enact an EFTS McFadden Act, I feel strongly that it will not; that the environment of the 1980's and beyond calls for rules and regulations which are less, rather than more, restrictive and which recognize the national and international markets in which we do business and the increasing mobility and financial sophistication of our population.

While litigation remains inevitable in the short-run, I still remain fully convinced, even in the absence of the legislative framework of S. 1889, that the time has come to tackle the branching issue head on.

Even if some of my colleagues disagree with me over the need for a go-slow policy on EFTS development at the present time, I trust they would agree with me that national branching policy is at the very heart of the issue and is even more deserving now of prompt attention by the Congress. For electronic banking, a subject not even dreamed about forty odd years ago, is inextricably linked to traditional branching policy established then and in effect yet, today.

For all too long a period of time now, Congress has skirted the issue of national branching policy, a policy which has existed virtually without change for more than forty years. Yet—as everyone is aware—the Nation's economy is vastly more sophisticated and complicated today than it was when Federal branching policy was first formulated.

The Congress, which enacted those laws in the first place, has the clear responsibility to now investigate that policy in terms of our present economy and the public's continuing right to the most efficient and responsive financial system possible.

But I guess that assumes a lot about Congress.

As one Washington wit put it, "I think I know what Congress's problem is. Maybe they just don't want to get involved."

As you know, national policy on geographic expansion by branching is embodied in the McFadden Act of 1927, as amended by the Banking Act of 1933. These statutes are intended to establish branching equality between State-chartered and Federally chartered banks. This is done by providing that national banks may branch only over the same geographic areas, as those specified by the States for State banks.

What has resulted is a mishmash pattern of branching laws nationwide. Roughly 40 percent of the States have Statewide branching laws; 30 percent have laws limiting branching to some geographic area smaller than the entire State; and the remaining 30 percent of the States have laws under which branching is, for all intents and purposes, prohibited altogether.

But this is merely the tip of the iceberg. A further probe will unveil a bewildering, even ludicrous, system of branching laws which defies any rational explanation. This is particularly true if one is attempting to relate branching policy to the public interest.

Over the years the various States have developed protective laws and regulations on branching which are most noteworthy for their ingenuity and complexity. A classic example is the "home office" protection device which prohibits branching by another bank into the area of the home office of an existing bank.

In short, a bank may not branch into a given area without buying out the bank already in existence. The device has no reasonable justification other than to protect the existing "home office" bank against competition. And in any instance where branching is permitted only by merger, there are serious questions raised in terms of the Federal antitrust laws.

All in all, it is ludicrous that in 1975, the authority of banks to branch in many jurisdictions is still based upon laws and practices, not designed to promote competition, but based upon the fact that existing institutions, however noncompetitive they may be, will not be adversely affected!

The branching issue is further complicated by the various state laws which either limit branching or prohibit it altogether. In one or two states the branching laws cannot be changed except by constitutional amendment. In several states, while branch banking is prohibited, satellite banking, chain banking or bank holding company banks circumvent the prohibition in many respects.

In some states, banks are permitted to establish offices separate from the main office providing that they are connected by tunnels or pneumatic tubes, that they do no more than accept deposits, that they be located within so many feet of another bank.

Moreover, in attempting to interpret branching laws, the courts have had to decide whether or not an automobile sales agency that processes loan applications is a branch, whether an armored car that picks up deposits and delivers them to a bank is a branch, and whether a deposit machine or a cash dispensing machine is a branch.

The plain fact is that in 1927 and 1933, the Congress inadvertently made it possible for banks to carve up their markets in such a way as to insulate themselves from competition and thus from serving the public to a maximum degree. It is as if a blanket exemption to the most elementary antitrust principle—market division—was awarded the banks of this nation. Moreover, these laws have become so complicated that, at present, no prudent banker in any State with a restrictive law would dream of branching without a battery of lawyers at his side.

For banking organizations, the only exception Congress has made to the basic national policy laid down on geographic expansion more than forty years ago has been in connection with bank holding companies. Under the Bank Holding Company Act Amendments of 1970, bank holding companies were authorized to engage in nonbank activities determined by the Board of Governors of the Federal Reserve System to be closely related to banking and beneficial to the public interest. In implementing that statute, the Board has from the outset permitted bank holding companies to conduct permissible nonbank activities free of geographic limits—even those limits that generally prohibit bank holding companies from establishing purely banking offices on an interstate basis.

Taking all of this together, if I ever had any doubts about how urgently a Congressional study of the relevancy of Federal laws governing geographic expansion by banking organizations is needed, they have been further dispelled by recent events.

For example, in addition to my earlier comments on EFTS, the U.S. Supreme Court has now joined the growing list of critics of geographic restrictions on banking organizations. It did so in its June 17 decision in *United States vs. Citizens and Southern National Bank* upholding an Atlanta national bank's mergers with five so-called "correspondent associate" banks.

The Supreme Court's decision in favor of the mergers, which the Department of Justice challenged on antitrust grounds, hinged largely on a finding that the acquisition of the five banks constituted a "procompetitive" action designed "to defeat a restraint of trade" imposed by Georgia's restrictive branching law.

The Court's decision contained a number of references highly unfavorable to existing branching policy. For example, the Court said: "The banking business is, of course, riddled with state and federal regulatory barriers to entry. . . . But most of these barriers—e.g., chartering requirements—at least arguably serve the overriding public interest in maintaining customer confidence in the industry as a whole by assuring adequate financial stability and responsible management for all banks. Anti-branching laws, on the other hand, are now widely recognized as a simple device to protect outlying unit banks from the rigors of regional competition."

In my estimation, the Supreme Court decision clearly underscores yet again the need for Congressional review of the geographic restraints on expansion by banking organizations.

Concern over bank branching policy is not new, of course. But it has been the focal point of increasing attention in recent years in terms of the continuing evolution of bank structure and regulation.

In 1971, for example, the Department of Justice specifically urged the Council of State Governments to encourage State legislatures to liberalize State branching laws as a means of encouraging competition in banking. Simply stated, the Department's position, which remains the same today, is that permission to branch creates procompetitive alternatives to banks seeking to protect their markets.

Also in 1971, the Hunt Commission urged, in a series of recommendations designed to revitalize the Nation's financial institutions, that "the power of commercial banks to branch, both de novo and by merger, be extended to a statewide basis, and that all statutory restrictions on branch or home office locations based on geographic or population factors or on proximity to other banks or other branches thereof be eliminated."

Even though the concern over branching restrictions is generally raised in the context of State laws, I believe that the Congress has an overriding responsibility to address and formulate a national policy on the underlying issue, namely, the geographic expansion of banking services in the future.

For example, the Congress is presently engaged in the shaping of a new national policy on the structure of the Nation's financial institutions which will have ramifications for decades to come. The Senate Subcommittee on Financial Institutions, which I chair, has now completed two years of hearings of the comprehensive financial restructuring proposals contained in the Financial Institutions Act. The Senate Banking Committee is now scheduled to mark up that legislation at the end of this month.

Within the context, and coupled with our continuing watch over developments within the EFTS marketplace, isn't branching policy such an integral element of the Nation's financial framework so as to also warrant the same kind of attention? I believe so.

Therefore, as a first step in the branching study I am calling for, the Subcommittee will seek to compile and publish a compendium of papers; one, on the history and background of the Federal branching laws which Congress enacted some forty years ago, and, two, on the issue of whether the policy on geographic expansion by banking institutions contained in those laws is consistent with timely national goals for a sound and competitive financial system serving the best interests of the public today and well into the future. Numerous experts in and out of government will be invited to provide factual and analytical materials to be included in the compendium.

Once the materials are collected and published, I anticipate the need for eventual Subcommittee hearings to determine what new Federal legislative initiatives are necessary.

My basic intention in commissioning this study is to take an important first step—the collection and consideration of thoughtful analysis—to highlight a fundamental element of banking structure and public policy which the Congress can ill-afford to ignore any longer.

This task will likely prove to be an arduous one. There are not only substantive issues involved but emotional issues as well. Nevertheless, I look forward to the job, and I hope and trust I will have the complete support and cooperation of the banking community.

Speech by U.S. Senator Thomas J. McIntyre (Democrat of New Hampshire), Before the Payment Systems Research Program at the Arizona Biltmore Hotel, Phoenix, Ariz., November 17, 1975

A REVIEW OF FEDERAL BRANCHING POLICY: EFTS AT WORK

Today, I want to follow up on my September announcement that the Senate Subcommittee on Financial Institutions, which I chair, will launch a comprehensive study of national policy governing *all* forms of geographic expansion by banking institutions—with particular emphasis on branching.

I pointed out then—and stress again today—that recent developments—including the emergence of off-premise electronic funds transfers facilities—underscore the need for the Congress to conduct a thorough reexamination of branching policy as set forth in the McFadden Act of 1927 and the Banking Act of 1933. In my opinion, a Congressional study of this kind is long overdue.

In calling for such a study,

I cited the position taken since 1971 by the Department of Justice, that, from the standpoint of the Nation's antitrust laws, liberalized branching would likely encourage competition in banking and benefit the public.

I cited the 1971 Hunt Commission recommendation urging statewide branching for all banks as well as the elimination of any anticompetitive restrictions on geographic expansion, such as so-called home office protection laws.

I cited the U.S. Supreme Court's decision earlier this year flatly branding antibranching laws "as a simple device to protect outlying unit banks from the rigors of regional competition."

I cited the inescapable fact that EFTS expansion, which Congress (unwisely, in my opinion) opted to let the courts decide on the basis of Federal laws enacted long before electronic funds transfer was even dreamed of, is inextricably linked to traditional branching policy.

I also cited Congress' on-going efforts to restructure the powers of the Nation's financial institutions in the Financial Institutions Act of 1975 and said I believed branching policy deserves early attention by Congress. Frankly, the momentum now building for financial restructuring is due in large part to EFTS developments in the marketplace.

In short, I said Congress has an overriding responsibility to study and formulate a national policy on future geographic expansion of banking services.

At this time, it is a fair question to ask what the scope of our study will be and what our intended objective is.

The study will deal with the basic issues of whether State laws any longer should dictate the extent to which financial institutions chartered by the Federal government can expand geographically—and whether State boundaries should continue to be the ultimate barriers to bank expansion.

In other words, we propose to take a hard look at the rationale behind and the contemporary validity of the McFadden Act of 1927, as amended by the Banking Act of 1933.

As you know, these two laws, written over 40 years ago, were aimed at establishing branching equality between State chartered and Federal chartered banks. They provided that national banks may branch only over the same geographic areas as those specified by State law for State banks.

The McFadden Act, as amended in 1933, contains two basic principles which are still in force today. One is that State boundaries are the ultimate limit for geographic expansion by banks. The other is that States, not the Federal government, should have the exclusive authority to determine whether and to what extent, multi-office banking is to exist within their borders.

The result of this policy has been the proliferation of a mishmash of State branching laws that find about 40 percent of States allowing Statewide branching, about 30 percent of States limiting branching to some geographic area smaller than the entire State, and another 30 percent of States, for all intents and purposes, prohibiting branching altogether.

Moreover, some State laws permitting branching contain such provisions as home office protection clauses which appear designed, not to promote the availability of financial services to the maximum public benefit, but to insulate banks from competition.

The situation is complicated by the fact that, in some States which prohibit branching, the restriction can be overcome through other forms of multi-office expansion such as satellite banking, chain banking and multi-bank holding company banking.

Moreover, the fact that the ground rules for multi-office expansion by some thrift institutions, particularly savings and loan associations, are different than those for banks adds to the confusion. There is no McFadden Act for Federal savings and loan associations. There is only the long-standing, traditional policy of the Federal Home Loan Bank Board which generally permits Federal savings and loans to branch up to 100 miles from their main offices in any State which permits geographic expansion by branching, no matter how limited, or by any other means such as by banking holding company.

The ramifications of the Bank Board's branching policy, of course, will become increasingly important as Federal thrift institutions obtain, as proposed in the pending Financial Institutions Act of 1975, many of the operating powers now enjoyed only by commercial banks.

We will be examining the history behind present Federal branching policy as well as the banking structure resulting from State and Federal regulatory implementation of that policy over the past 40-odd years.

More importantly, however, we also will be seeking answers to a number of serious public policy questions that surround the entire issue of branching in the decades immediately ahead.

I intend to consider the questions of safety and soundness; the relationship, if any, between bank performance and bank structure; bank performance as it relates to competition in the public interest; the availability of credit in smaller communities; and the relationship between bank structure and EFTS.

Now some of this is pretty heavy stuff, and I approach it with all the apprehension of a man who recently heard a speaker conclude *his* remarks by saying:

"Now some of the suggestions I made in this speech may seem a little far out to you. But before you reject them, all I ask is that you sleep on them. And as I look about me, I see that *some* of you have *already* begun."

But I am going to have a go at it anyway. So let's take a look at those key public policy issues our study will examine.

One is the relationship of branching policy (indeed, multi-office banking generally) to the continued safety and soundness of the Nation's financial system.

Branching, as well as other forms of multi-office banking, has often been defended on the ground that it provides sufficient diversification of risk to minimize the possibility of bank failures. On the other hand, it is argued that deposit insurance has eliminated this problem, if indeed it ever existed, and that in any event the record does not indicate that larger institutions, with or without branching systems, are free from the risk of failure.

We want to determine whether unit banks have been more susceptible to failure than banks with branching systems and to what extent the existence of deposit insurance neutralizes the impact banking structure might have on bank failures. If there appear to be differences in the safety or soundness of unit banks and banks with branching systems, we want to know whether these differences are attributable to banking structure, to the size of the institutions involved, or to some other factor.

Another key public policy issue is the relationship, if any, between bank performance and bank structure. By performance, I mean the ability—and willingness—of banking organizations to serve the public needs and convenience in terms of the availability and cost of financial services.

We want to know to what extent branch banking facilitates economies of scale which are difficult, if not impossible, for unit banks, even of the same size, to achieve, and whether this is beneficial to the public interest.

We want to learn the differences between branch banking and unit banking in terms of the availability of credit, the cost of credit, the interest paid on time and savings accounts, and the scope of financial services which are offered the public.

We want to find out whether the convenience of obtaining financial services is substantially different under unit banking than it is under branch banking.

We want to determine whether unit banking or branch banking tends to promote higher loan-to-deposit ratios, a factor which provides a strong indication of how well an institution is serving the public.

We also want to see if there are any differences attributable to banking structure which tend to result in discrimination against certain classes of borrowers such as farmers, small businessmen, the poor, and State and local governments.

A third public policy issue of importance is the relationship of banking structure to maximum competition in the public interest. Banking is not only a regulated industry; it is also a competitive industry. Moreover, the degree to which banking performs in the public interest depends to considerable extent on a high level of competition in providing financial services.

In that connection, we want to know how statewide concentration ratios differ from state to state depending on whether the banking structure involves unit banking, branching banking or some other form of multi-office banking.

We want to find out whether changes in statewide concentration ratios in recent years are attributable to changes in state laws on multi-office banking. By the same token, we want to determine whether such changes are the outgrowth of mergers and acquisitions or of de novo expansion.

We also want to know whether concentration ratios based on statewide data are meaningful. If not, we want to ascertain whether concentration differs according to banking structure in markets less than statewide in scope where actual competition exists. For example, if there have been changes in the degree of concentration in relevant markets over recent years, we want to know the extent to which this is attributable to changes in banking structure such as liberalization of branching laws or the spread of bank holding companies.

We want to learn how entry into competitive markets is different under branch banking than it is under unit banking and the extent to which this is significant in terms of assessing the competitive advantages of the two kinds of systems.

Since geographic limits on bank expansion are presumably intended to prevent one or two institutions from dominating competitive markets, we want to see if geographic limits have been successful in this respect. We want to know whether they are needed at all, given the applicability of the Federal antitrust laws to bank expansion. We also want to find out whether alternative means of guarding against undue concentration of banking resources—for example, a limit on the percentage of assets that may be controlled by a single banking organization—have any merit.

Finally, in this sense, we want to know the extent to which the so-called home office protection laws in some branching states restrict competition and whether there are public interest benefits which offset the disadvantages of the anti-competitive nature of such statutes.

A fourth public policy issue of importance is the impact of multi-office banking, particularly branching, on the availability of credit in smaller communities. This issue has been disputed for years, especially in the rural areas of the Midwest where the controversy over branching tends to be keenest.

In general, opponents of branching argue that funds are diverted from smaller communities to more profitable uses in metropolitan areas. To the extent that this happens, the argument goes, it damages, if not threatens the existence of, small local banks that typically devote their entire resources to the financial needs of their home communities. The counterargument is that branch banking provides a flexible system under which funds can be efficiently channeled to areas of greatest need, including smaller communities, whenever the demand for funds exceeds the supply.

In this connection, we want to determine the facts about the availability of funds in small communities based on whether unit banking or branch banking exists.

We want to learn how local lending compares to total resources under unit banking and under branch banking.

We want to know if there are significant differences between branching systems and holding company systems in their ability to serve local needs, particularly with respect to the transfer of funds from one locality to another.

We want to see if unit banks tend to be more responsive to the financial needs of small communities than banks with branching systems or multi-bank holding companies.

We also want to know what the impact would be on small local banks if laws on multi-office banking were liberalized to allow entry into their markets by larger institutions. By the same token, we want to find out if liberal State branching laws are conducive to newly organized banks being able to grow and thrive.

A fifth public policy issue, and one of particular relevance to this audience, is the relationship of branching laws to off-premise electronic banking facilities.

I have said it before. It was a great disappointment to me that the Congress earlier this year declined the opportunity to forge a new, rational policy of moderation on EFTS expansion until the many other public policy considerations surrounding the advent of electronic banking could be properly assessed. The immediate result of Congress' inaction—and one I sincerely regret—is that the courts will be deciding the legality of off-premise electronic banking facilities on the basis of the McFadden Act.

While that is the short-run outlook, I am convinced that the long-run outlook is for the issue of EFTS expansion to be settled ultimately by Congress. With that in mind, we want to make certain our study of multi-office banking covers the question of whether the definitions of branches in the McFadden Act and the Banking Act of 1933 should have any bearing on the establishment of off-premise electronic banking facilities.

We want to determine the fundamental differences between off-premise EFTS facilities and traditional branches. We want to measure the extent to which retail businesses might be expected to offer financial services by electronic means in direct competition with financial institutions. We want to know the practical limits, in terms of distance, in which off-premise EFTS facilities can be operated profitably away from main offices or established branches. We also want to determine whether the geographic restrictions on EFTS facilities, if any, should be different than those which might prove warranted for traditional branches.

My own feeling is that EFTS expansion should not be bound by the ancient tenets of McFadden, but by a new policy set by Congress—a new policy that looks *ahead* 40 years, not *behind* 40 years.

Such a policy should be responsive to the economy's need for less, rather than more, restrictive regulation of the Nation's financial system. It should recognize the national and international markets in which our financial system functions. And it should take into account the increasing mobility and financial sophistication of the American public.

So these are some suggested headings to date—safety and soundness, the relationship, if any, between bank performance and bank structure, bank performance as it relates to competition in the public interest, the availability of credit in smaller communities, and the relationship between bank structure and EFTS. These headings are by no means exhaustive, and I am sure that as we get under way, they will not be.

I readily concede that the study I have just outlined is, indeed, an ambitious undertaking. But it must be done if we are ever to adapt banking structure to the financial demands that will prevail over the last quarter of the century.

The first step in the study, which will be under way shortly, is to solicit from a number of acknowledged banking structure experts the necessary facts and analyses on the issues I have cited.

This exercise could provide us with a reasonably balanced assessment which can then be published to serve as the basis for later deliberations by the Subcommittee.

Shortly after such document is published, I intend to schedule Subcommittee hearings to explore the need for legislative initiatives in Congress to correct any proven deficiencies in existing national policy on multi-office banking, particularly as it applies to branching.

In the end, what I hope will be accomplished is a fresh Congressional expression of what national policy toward multi-office banking should be. You asked for a Congressional perspective on EFTS. In response, I have given you a classic response, I have given you a classic example of how EFTS is affecting the legislative process.

Based on recent developments, particularly the Supreme Court's attack on branching restrictions and the uncertainty that has arisen over EFTS expansion, I am firmly convinced that Congress can no longer afford to ignore the issue of geographic restrictions as they relate to financial services.

Moreover, I consider it the responsibility of Congress—and Congress alone—to reexamine national policy on the issue in terms of our present economy and the public's continuing right to the most efficient and responsive financial system possible.

The study which I have discussed today is designed to respond to the urgent need for Congress to live up to that responsibility.

ADDRESS BY U.S. SENATOR THOMAS J. MCINTYRE, DEMOCRAT OF NEW HAMPSHIRE, BEFORE THE NATIONAL CONFERENCE OF CARTER H. GOLEMBE ASSOCIATES, INC., TO CONSIDER THE ABILITY OF BANKS TO SERVE THE PUBLIC, TO BE GIVEN AT THE CONTINENTAL PLAZA HOTEL, CHICAGO, ILL., DECEMBER 9, 1975

BRANCHING AND THE DUAL BANKING SYSTEM

Today I'm going to talk about an issue which has fascinated me for some time.

As you know, the Banking Committees of both Houses of Congress are moving full speed ahead in terms of banking legislation, opening up for consideration almost every item imaginable within our respective jurisdictions.

Within these many issues, reference is often made to this or that item in terms of how it relates to the dual banking system.

So, the question is raised,—*What is the dual banking* system.

Whatever the dual banking system may be, it is treated with the same reverence accorded apple pie and motherhood. *But, really, what is it?*

Of course, I understand the obvious reply—a dual system of chartering and regulating financial institutions. But that says nothing about the significance of the dual system to those of us charged with legislating or regulating in the financial area. Still—if this audience is typical of many banking audiences I've addressed in the past—I've probably *already* offended a few of you just by asking *questions* about the dual banking system.

For surely, this is one of the most emotional issues to be found in the financial area. I get emotional, too. Especially when I read the mail accusing me of high treason for undertaking a reassessment of the McFadden Act. Don't I believe in states' rights? Don't I believe in the Constitution? It's old, too. Maybe we should do away with it as well!

After all, if you're convinced that the states have a vital role to play in our own form of government; if you believe in the inherent virtues of local government as opposed to a massive Federal bureaucracy; if you are certain that the citizens of each state and each community can manage their own destinies better than Washington officials; if you prefer the sturdy, self-reliant small businessman to the giant corporation—then you must believe in dual banking. This, at least, is the claim.

I don't intend to duck this issue. I want to face it squarely. I happen to believe in the virtues I listed above. But I also believe it is important to look at the facts, free from the emotionalism and the mystique attached to a discussion of dual banking.

Coming back then to my question, just what *is* this dual system of banking about which we have heard so much for so many years? Briefly described, it is simply a system under which financial institutions may be chartered by either the Federal or state governments, and are thereafter primarily supervised by their respective chartering authorities. This is a simple, bare bones, description that begs a fleshing out.

In a broader context, duality means that with respect to banking—a highly regulated industry imbued with the public interest—we have left with the states a significant amount of authority. Indeed, we have provided that the states and the Federal government shall, in a sense, be partners with respect to administering in the public interest as it relates to banking.

And what have been the results of this unusual approach?

In general, I believe they have been most impressive. For two centuries, public policy in the United States opposed monopolization of credit institutions. The dual banking system has played a most important role, for it has been instrumental in preventing the evolution of a closed industry, dominated by a handful of giant institutions. Today we have some 14,000 commercial banks, serving virtually every community in the nation—a system unique in the civilized world; indeed, unique among regulated industries in this country.

The dual banking system not only has encouraged competition, it has encouraged innovation. Through dual banking we have, to a large extent, avoided the kind of stultifying, oppressive regulatory bureaucracies which dominate some of the regulated industries in this country, and do so to the detriment of the public interest.

Under the dual banking system, the laws under which banks operate may be more closely attuned to the needs of a particular locale. In a nation of our great diversity, a state system of banking, operating side by side with a Federal system—and with freedom for banks to move from one system to the other—provides the means for each section of the country to enjoy the special kind of banking services which it requires.

Now I think it may be overdoing it to attribute all of these good results to a system of dual chartering and dual supervision, but certainly much of the credit must go to that system.

But now let's take a closer look at the matter of geographic restraints on banks; on their ability to branch and to serve public needs.

It should be obvious that if there are to be two systems of banking in this nation—state and Federal—one of these systems cannot enjoy so great a competitive advantage as to drive the other system out of business. Certainly there are, and should be, many differences between the two systems, for this is one of the distinct advantages of a dual system. To mention but a few, these differences go to the types of loans which may be made, the nature of the collateral which may be accepted, the amounts which can be loaned to individual borrowers. Even more significant, perhaps, are differences in the reserves which state chartered, non-Federal Reserve member banks may hold, as compared with Fed-member banks.

At the same time there are other differences which go to the very survival of one system or the other. For example, in 1933 there were some who thought that Federal deposit insurance should be available only for national banks; indeed, some of the bills considered by the Congress would have made that limitation. But the Congress chose not to discriminate and made sure that all banks, whether national or state chartered, had equal access to the deposit insurance system. Had the Congress not done this the state system would have disappeared. For neither in 1933, nor in 1975 for that matter, could the state system of banks as we know it today maintain itself against the national banking system if only national banks were provided with the strength of Federal deposit insurance.

Another crucial area in which there must be competitive equality if the two systems of banking are to survive relates to branching, and, more precisely, to deposit gathering. If one system of banks is permitted to branch and the other is not, that system denied such facilities would shrivel up and die.

The Congress wrestled with branching all during the 1920's and early 1930's and the result, as we know, was the adoption of the McFadden Act in 1927 and the Banking Act of 1933.

The McFadden Act, as amended by the Banking Act, made it possible for the dual banking system to continue. With respect to branching, it assured competitive equality between national banks and state banks. And it did this by adopting two basic principles which remain in force today. One is that state boundaries serve as the ultimate limit for branch expansion by banks. The other is that the states, not the Federal government, determine whether and to what extent the banks operating within their borders—both national and state—shall be able to expand geographically through branching. Whatever a state's decision, both classes of banks must abide by the same rule.

Let me suggest that this compromise was not written in the heavens. We could just as well have fashioned a purely Federal solution which would have assured competitive equality. As you know, we settled the crucial problem of depositor protection by devising a deposit insurance law at the Federal level rather than one dependent upon 50 state insurance systems. In any event—and despite considerable opposition in the Congress—we gave to the states the authority to administer this compromise.

After the passage of some 40 years, it's legitimate to ask just how this has been handled by the states. And this is precisely what I suggested on September 11 of this year. On that day I announced that the Senate Subcommittee on Financial Institutions, which I chair, will launch a comprehensive study of national policy governing all forms of geographic expansion by banking institutions, with special emphasis on branching.

I pointed out then—and I emphasize again today—that a study of this kind is long overdue. I noted the bewildering variety of state laws which have resulted from this forty-year-old policy. I called attention to the concern of the Department of Justice over some possible anti-competitive implications of several of the state branching laws and I noted as well the Hunt Commission's recommendations in 1971 calling for liberalized branching under state authority, and a recent U.S. Supreme Court decision raising questions about restrictive branching laws. Finally, I said EFTS at the retail level appears to be inextricably linked to branching considerations.

In our study, we will be reviewing the history behind Federal policy on multi-office expansion, as well as the banking structure that policy has fostered. We will be taking a hard look at the various ways in which branching restrictions have resulted in other forms of multi-office expansion . . . satellite banking, chain banking, and multi-banking holding company banking, for example. And, of course, we will be looking at the branching authority of savings and loan associations, which are not governed by any equivalent of the McFadden Act. Yet if the pending Financial Institutions Act of 1975 is enacted, S & L's *will* be exercising many of the powers now enjoyed only by commercial banks.

Even more importantly, our study will focus on key public policy issues. We will concern ourselves, for instance, with the relationship of branching policy to the continued safety and soundness of the nation's financial system. We will want to know, for example, whether branching brings added strength to banking organizations, as has been argued by some, or whether present provisions for regulation and insurance have eliminated any differences in the safety and soundness of unit banks and banks within branching systems.

Another key public policy issue we will take up is the relationship between bank performance and bank structure. By performance I mean the manner in which banks serve the public. We will want to know whether or to what extent restrictions on branching place impediments on the ability of banks to serve the public. And we will want to know more about differences between branch banking and unit banking in terms of the availability of credit, the cost of credit, the interest paid on time and savings accounts, and the scope of financial services that are offered to the public. Perhaps there is *no* difference. Or perhaps there are *important* differences which the Congress should know about.

Still another—and most important—public policy question is the relationship between banking structure and the maintenance of a fully competitive banking system. In achieving many of the public policy objectives for banking, we depend heavily upon the fact that banking is not only a regulated industry but also a competitive industry. And thus we will want to know whether differences in banking concentration ratios which reflect differences in branching laws from one State to another are of any significance. And, if so, what the implication may be for competition. We will also want to know whether entry into local markets is made easier or more difficult by liberalized branching laws, and just how this might affect oompetition in such communities. Is the application of fundamental antitrust law to banking furthered—or hampered—by restrictions on branching, or by laws which prohibit banks from entering local markets except through merger?

A most important issue for the Subcommittee to consider will be the relationship between branching and the availability of credit in smaller communities. Do liberalized branching laws draw needed funds *out* of small communities and *into* major cities? Or is the contrary true? Does a flexible branching system make it possible to channel funds into smaller communities, funds which would not otherwise be available under a unit system? In short, we would like to know *which* of the kinds of banking systems is *most* responsive to the needs of small communities.

Another vital public policy issue we'll take up is the relationship of our present system of branching laws to off-premise electronic funds transfer facilities. I was disappointed when the Congress earlier this year declined the opportunity to forge a new—and I believe—rational policy of moderation on EFTS expansion. Until the many other public policy considerations surrounding the advent of electronic funds transfer can be properly assessed, surely such a policy is needed. But now—because of Congress' inaction, the courts will likely be deciding the legality of off-premise EFT facilities on the basis of the McFadden Act—a result which I deplore. But with that possibility in mind, the Subcommittee will want to consider the question of whether branching policy, as laid down in the McFallen Act and implemented by the states, should have any bearing at all on the establishment of off-premise EFT facilities.

I could elaborate further on the items to be considered but time does not permit it. Surely, many of you have thought of matters which should be investigated but which I have not mentioned. Perhaps we have overlooked something. I therefore urge all of you to forward to the Subcommittee suggestions for the study. And I hope that if you are called upon to provide additional input, you'll help us all you can.

But now let me return to the matter of branching and the dual banking system in order to consider whether the study I have described is a *threat* to dual banking.

To claim that it is, and therefore argue that it should not be conducted at all, would be absurd. If by some chance we were to find that in all respects the public was being poorly served as a result of the branching compromises of 1927 and 1933—and if we were to suggest a fundamental change in those laws—it is difficult for me to see that dual banking would be affected at all.

At this point, I must say that one of the frustrations of dealing with the dual banking issue is the lack of balanced and articulate input from those responsible for state bank regulation. Indeed, ranging from EFTS to regulation of foreign banking, many state regulators appear to cling to the McFadden Act as the *sole* expression of the state role in bank regulation.

While trade associations may be *expected* to mouth the vested interests of *their* members, it is regrettable that some public officials at the state level merely echo industry opinion, ignoring in many instances, the reality of change, technological and otherwise, in today's financial environment.

Apart from branching, there are a number of areas where state regulators *could*, and I think, *should* be more aggressive, not only at the Federal level, but at their own state levels.

A good example is in the area of consumer protection.

In a number of consumer credit proposals being considered, or, indeed, already adopted at the Federal level, provision is made for exemption from Federal enforcement where the laws of the states are as tough or tougher than the Federal law. State regulators should be seeking to amend their own state laws, seeking delegation of enforcement powers over consumer matters to state banking departments.

Yet, consider the Truth in Lending Act. So far, only a handful of states have sought exemption from Federal enforcement of the Truth in Lending Act. This lack of aggressiveness at the state level is evident in other areas as well, including bank holding company legislation, disclosure exemptions for bank securities and credit discrimination. If only state regulators were as aggressive in *these* areas as they are in branching.

From the point of view of those who would maintain the present system, let's consider for a moment the worst possible case. Let's assume we conclude that the states have bungled the job of providing a branching system which is in the public interest and, further, that to permit the states to *continue* in their present roles would be even more damaging, given the technological developments which are already pressing upon us.

And let us assume further that we saw no way in which a different kind of compromise with the states could be devised . . . that there was no alternative to scrapping the states' present authority and handing it over to the Federal government.

Now I'm setting forth this possibility for *discussion* purposes only. The fact is that after balancing all of the findings and after weighing the various advantages and disadvantages to the public, we may well conclude that there should be no change at all in the present system. Or we may find that some modification is needed. Or that some more precision should be given to the definitions of branching in Federal statutes in order to carve out certain kinds of activities which can best serve the public. At this point I don't have the slightest idea *what* we may decide. And I have *no* preconceptions.

But in order to place this dual banking issue in proper perspective, let us assume a complete transfer of decision-making authority to the Federal government. What effect would this have on the dual system? Subject to one important qualification, my response would be: no effect whatsoever.

The qualification is that the Federal government, in *whatever* action it takes, *must* assure that the competitive advantage of national banks is *not* enhanced at the expense of state chartered banks. Given this essential pre-condition, I see no relation between the continuation of the dual banking system and a change in our branching laws.

Let us take a simple case. Just for an illustration, suppose that regardless of state law a national bank were authorized by Federal law to branch anywhere within the state in which it is located, subject only to Federal regulation. Obviously, in about one-third of the states such a Federal law would have little or no effect. That is, in states already permitting unrestricted, statewide branch banking, permission for national banks to engage in what they can already engage in would be redundant. National banks in California, for example, would obtain no more authority than they presently possess under California law.

But it is true that in about two-thirds of the states which limit branching to specific areas, or prohibit branching entirely, there would be an immediate reaction. My guess is that many of those states would amend their laws with respect to their own banks in the blink of an eye . . . amend them so as to grant their banks the same authority given by Congress to national banks. And it goes without saying that if Congress were ever to take the kind of step I am hypothesizing here, there'd be ample opportunity for those states to provide competitive equality for their state chartered institutions.

After the dust had settled, what would be left of the dual banking system? The fact of the matter is—all of it.

The only thing that would have changed would be that the Federal government, rather than the states, would have established the ground rules for branching.

There would still be national banks and there would still be state banks. New banks could still opt to be chartered by the Federal government or by state authority. Depending on the source of the charter, banks would still operate according to a national banking code or a state banking code, and all of the differences and all of the similarities which now exist with respect to those operations would be unchanged.

Now in conclusion, let me make this as clear as I can. I do not mean to suggest that it is of little consequence whether the McFadden compromise of some 40 years ago is continued, modified, or abandoned. There may be great consequences—consequences affecting the basic structure of our banking system, affecting the rate at which the new electronic funds transfer systems will be extended, and the manner in which banks may serve the public. Such complex issues as interstate banking, of course, are intimately related to what may be decided. That is why

I took a little time earlier to touch upon the nature of the questions the Subcommittee will be asking, hoping to suggest the breadth and complexity of the issues involved.

Nor do I wish to suggest by my remarks that champions of the dual banking system should relax their vigilance in support of that system. In any movement of fundamental reform it may often happen that worthwhile arrangements are discarded inadvertently, in the haste to achieve what appears to be a desirable objective. There is always that danger, whether we refer to the dual system of banking or to any other principle underlying our financial system.

So far as I am concerned, my objective will be to assure that there is no tilting of the competitive balance which now exists between nationally chartered banks and state chartered banks on fundamental issues like branching. But maintenance of the competitive balance may not depend, necessarily, upon states continuing to call all the shots on branching.

Regardless of the decisions we make on branching policy, I firmly believe that the dual banking system will continue with as much vitality as it now enjoys.

Those who suggest otherwise are resorting to an emotional appeal projected by the special interests of bankers fearing competition. These interests are losing credibility in Washington. And well they should!

However defined, the dual banking system is predicated on competition, my friends. And as long as that premise is maintained, I believe the public interest will continue to benefit.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

PHASEOUT OF GOVERNMENT INDEMNITY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2568, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2568) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Joint Committee on Atomic Energy with amendments, as follows:

On page 2, in line 11, after "outside" insert "both".

On page 2, in line 12, after "State" strike out "or" and insert "and".

On page 2, in line 17, strike out "and/or" and insert "or which".

On page 3, in line 4, after the comma insert "and".

On page 5, in line 7, strike out "August 1, 1976," and insert "twelve months from the date of enactment of this Act,".

On page 5, in line 18, strike out "maximum amount of any" and insert "standard".

On page 5, at the end of line 22, strike out "protection" and insert "protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and cost arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this Act shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission."

On page 6, in line 8, after "one" insert "calendar".

On page 6, in line 10, after "standard" strike out "maximum".

On page 6, in line 16, after "or" insert "shall".

On page 7, in line 15, strike out "Sec. 6. Subsection 170 e." and insert "Sec. Subsection 170 d.".

On page 8, in line 6, after *"Provided,"* insert "That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude: *And provided further,"*

On page 9, in line 13, strike out "section" and insert "subsection".

On page 10, at the end of line 12, strike out the period and insert a comma and the following:

And by adding a new subparagraph (4) to read as follows:

"(4) the Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection 170 i. of this Act setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 of the Atomic Energy Act of 1954, as amended, is amended by amending subsections q. and t. to read as follows:

"q. The term 'nuclear incident' means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however*, That as the term is used in subsection 170 l., it shall include any such occurrence outside the United States: *And provided further*, That as the term is used in subsection 170 d., it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: *And provided further*, That as the term is used in subsection 170 c., it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to chapters 6, 7, 8, and 10 of this Act, which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Commission to another person licensed by the Commission.

"t. The term 'person indemnified' means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in subsection 170 c., and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Commission or any project to which indemnification under the provisions of subsection 170 d. has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.".

Sec. 2. Subsection 170 a. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"a. Each license issued under section 103 or 104 and each construction permit issued under section 185 shall, and each license issued under section 53, 63, or 81 may, for the public purposes cited in subsection 2 i. of the Atomic Energy Act of 1954, as amended, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection 170 b. to cover public liability claims. Whenever such financial protection is required, it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection 170 c. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State Law.".

Sec. 3. Subsection 170 b. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"b. The amount of financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources. Such financial protection may include private insurance, private contractual indemnities, self-insurance, and other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. In prescribing such terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from the date of enactment of this Act, include, in determining such maximum amount, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided*, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such financial protection: And provided further, That the standard deferred premium which may be charged following any nuclear incident under such a plan shall not be less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this Act shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission. The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than the standard premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard. The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.".

SEC. 4. Subsection 170 c. of the Atomic Energy Act of 1954, as amended, is amended by deleting the phrase "and August 1, 1977, for which it requires financial protection," in the first sentence and substituting therefor the phrase "and August 1, 1987, for which it requires financial protection of less than $560,000,000," and by deleting the date "August 1, 1977" in the last sentence wherever it appears and substituting therefor the date "August 1, 1987".

SEC. 5. Subsection 170 d. of the Atomic Energy Act of 1954, as amended, is amended by deleting the phrase "until August 1, 1977," in the first sentence and substituting therefor the phrase "until August 1, 1987,".

SEC. 6. Subsection 170 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The aggregate liability for a single nuclear incident of persons indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed (1) the sum of $500,000,000 together with the amount of financial protection required of the licensee or contractor or (2) if the amount of financial protection required of the licensee exceeds $60,000,000, such aggregate liability shall not exceed the sum of $560,000,000 or the amount of financial protection required of the licensee, whichever amount is greater: *Provided*, That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude: *And provided further*, That with respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection 170 d. is applicable, such aggregate liability shall not exceed the amount of $100,000,000 together with the amount of financial protection required of the contractor.".

SEC. 7. Subsection 170 f. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"f. The Commission is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 103: *Provided*, That the Commission is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of $60,000,000. For facilities licensed under section 104, and for construction permits under section 185, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 104, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than $100 per year.".

SEC. 8. Subsection 170 i. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"i. After any nuclear incident which will probably require payments by the United States under this section or which will probably result in public liability claims in excess of $560,000,000, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, and, except as forbidden by the provisions of chapter 12 of this Act or any other law or Executive order, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.".

SEC. 9. Subsection 170 k. of the Atomic Energy Act of 1954, as amended, is amended by deleting the date "August 1, 1977" wherever it appears and substituting therefor the date "August 1, 1987".

SEC. 10. Subsection 170 o. of the Atomic Energy Act of 1954, as amended, is amended by adding at the end of the second sentence in subparagraph (3) the words "and shall include establishment of priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds.", and by adding a new subparagraph (4) to read as follows:

"(4) the Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection 170 i. of this Act setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided.".

SEC. 11. Section 170 of the Atomic Energy Act of 1954, as amended, is amended by adding subsection p., to read as follows:

"p. The Commission shall submit to the Congress by August 1, 1983, a detailed report concerning the need for continuation or modification of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section.".

The ACTING PRESIDENT pro tempore. Debate on the bill is limited to 1 hour.

Who yields time?

Mr. PASTORE. Mr. President, I ask unanimous consent at this time that privileges of the floor be granted to George F. Murphy, Jr., James B. Graham, William Parler, James Asselstine, and Mike Adams.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I must say at this moment that this is a very important matter, it has to do with the expansion of our nuclear power programs, especially in these times when we are trying to achieve energy independence from foreign governments.

It was agreed with the leadership yesterday that this matter would come up at this time.

Mr. President, I am pleased to support S. 2568 and urge the prompt enactment of this bill so that the period of applicability of the Price-Anderson Act can be extended with a significant revision to enable the phaseout of the existing Government indemnity in the 1980's. The orderly development of nuclear power in this country has required a number of complex systems, including the basic legislative charter, the Atomic Energy Act of 1954, and the Price-Anderson Act which was initially enacted in 1957. The Price-Anderson Act has contributed significantly to the orderly development of nuclear power in this country without costing the Government 1 cent in the commercial nuclear power area. And while it is extremely unlikely that a nuclear accident will happen in the future which will affect the public, we must, in a responsible manner, provide an umbrella of protection for the public while the nuclear power industry continues to develop.

Although the development of nuclear power in this country has not been as rapid as some would like, the progress which has been made to date is still amazing. I have been privileged to watch our vital nuclear power industry develop and move from the Government's national laboratories in the 1950's and into the industrial sector in the 1960's. Government and industry, with the authorization and encouragement of the Congress, have expended several billions of dollars so that nuclear power could reach its present stage where it is making a substantial contribution to our energy supply. This investment is already paying off in terms of helping alleviate our energy crisis and making us much less dependent, even now, on foreign sources of energy supply and on our finite domestic supplies of oil and gas. A thimbleful of nuclear fuel produces as much fuel as 1,100 gallons of fuel oil or 7 tons of coal. Each large nuclear powerplant saves the equivalent of about 10 to 12 million barrels of oil per year or about 300 million barrels of oil over the lifetime of the plant. Assuming a price of $10 per barrel, each nuclear powerplant represents a potential savings of about $3 billion from a balance-of-payments standpoint over its lifetime.

Even last year with nuclear energy supplying less than 8 percent of all the electricity generated in the United States, it saved electric utilities and their customers over three quarters of a billion dollars in fuel costs. It generated electric power which would have otherwise taken 185 million barrels of oil or 45 million tons of coal.

NUCLEAR POWER GENERATION IN NEW ENGLAND

In 1974, nuclear powerplants accounted for 24 percent of the electricity generated in New England.

In the first 10 months of 1975—through October—nuclear powerplants generated 26.2 percent of the electricity in New England.

In 1974, if the nuclear powerplants were not in existence, New England utilities would have had to burn an additional 29.6 million barrels of oil—at a cost of $340 million.

In the first 10 months of 1975, nuclear power generation saved the equivalent of 27.7 million barrels of oil.

There are six operating nuclear plants in New England: Yankee Rowe, Connecticut Yankee, Pilgrim 1, Millistone 1, Vermont Yankee, and Maine Yankee—Millistone 2 went critical in October 1975, but has not produced substantial quantities of electricity.

NUCLEAR POWER GENERATION IN CHICAGO AREA

In 1974, nuclear powerplants accounted for 30.1 percent of the electricity generated by Commonwealth Edison which services the Chicago metropolitan area.

In the 12-month period, through the end of October 1975, nuclear plants accounted for 33.1 percent of the total.

During the 12-month period, nuclear plants generated 19.35 billion kilowatt-hours of electricity. The equivalent savings of oil was 32.25 million barrels.

In recent months, nuclear powerplants have been producing close to 50 percent of the electricity in this area.

Over the past 3 years, nuclear plants generated 50 billion kilowatt-hours of electricity. If coal had been burned, it would have cost Commonwealth $300 million more for the fuel.

Capacity factor for 33 months ending September 1975 was 55.7 percent for nuclear units; 54.5 percent for their fossil units.

All nuclear units except for one—Dresden 1—now operating; these include Dresden 2–3, Zion 1–2, and Quad Cities 1–2.

I ask unanimous consent to have printed in the RECORD at this point the status of nuclear powerplant development in this country to date.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATUS OF U.S. NUCLEAR POWERPLANTS—NOVEMBER 30, 1975

Number of units	Rated capacity (*MWe*)
* 55 Licensed to operate	38,000
**63 Construction permit granted	63,000
26 Under operating license review	25,000
37 Operating license not yet applied for	38,000
78 Under construction permit review	87,000
**23 Site work authorized, safety review in process	24,000
55 Other units under CP review	63,000
23 Ordered	30,000
19 Publicly announced	23,000
238 Total	238,000

*In addition, there are two operable ERDA-owned reactors with a combined capacity of 940 MWe.

**Total of units under construction (Construction permit granted plus site work authorized): 86 units, 87,000 MWe.

SUMMARY OF NUCLEAR POWERPLANT DELAY*

	MWe
Total units not delayed: 57	65,544
Total units delayed: 127	136,374
Total units canceled: 21	23,855
Total: 205	225,773

*Date as of Nov. 15, 1975—delays and cancellations since June 30, 1974

Mr. PASTORE. Mr. President, we are now facing an energy crisis in this country which would be much worse if we did not have the nuclear capacity which we now have. Without question our energy future will become more reliant on nuclear energy as the finite supplies of oil and natural gas diminish. Even now, we are rapidly approaching the end of major energy production from oil and natural gas, while the energy needs of our Nation and the entire world continue to expand. The time has long since passed when multiple use fossil fuels, such as oil, should be burned in boilers to produce electricity. Dr. Seamans, the Administrator of Energy Research and Development, has stated:

> If we don't increase our capacity to generate electricity, other than with oil and gas, we are going to be in deep trouble. The two alternatives are coal and nuclear.

We need all of the energy resources which are available to us if we are to maintain and allow for reasonable expansion and improvement in our society and strong international relations.

When the nuclear powerplants now licensed for construction and in advanced planning stages come on the line in the 1980's, there will be even greater savings in fuel costs. By the year 1980, it is presently projected that about 80 million kilowatts of nuclear power will be in operation. This capacity will produce the energy equivalent to about 3 million barrels of oil per day. This represents about one-half of the amount of oil currently being imported into the United States. Over the lifetime of these nuclear plants, they will save the United States about 25 billion barrels of oil. To put this further into perspective, the current U.S. domestic reserves of oil are estimated to be only some 40 billion barrels. As nuclear power approaches the 50-percent mark for the production of electricity in this country, that energy source will be doing the work of almost 3 billion barrels of oil per year worth many billions of dollars, even at current prices. There simply is no alternative to the fact that nuclear power is and must be one of the major keystones of our energy supply strategy in the years to come.

Further impediments in the path of the continued development of nuclear power in this country could have disastrous consequences with regard to our ability to meet our energy needs in the 1980's. Energy is the very mover of our industrial-based society. It is needed for the economic well-being of our people. It is an essential ingredient in helping to forge strong and beneficial international relationships instead of international dependency. The electric utility industry is the lifeblood of our entire economic fabric. Our economy could not survive without electric power. The long-term interest of all types of consumers in our society is to have a reliable and adequate source of electric power at reasonable prices. Nuclear power is essential to the future destiny of our country and our people for many reasons:

It saves substantial amounts of oil and natural gas. One 1,000 megawatts plant equals 10 to 12 million barrels of oil per year.

Nuclear power is one of the only two reasonable energy resource alternatives which are now available to reduce our demand for foreign oil and subsequently enhance our national security and economic well-being. We are consuming about as much imported oil today as we were at the time of the 1973 Arab embargo.

Nuclear energy is good for competition. Without the competitive pressures that nuclear fuel can exert on the prices of other fuels, there would be no moderation in the increase of electric rates.

Nuclear energy can be safely produced. It is environmentally sound. The regulatory review process employed in the atomic energy program is such that no reactor would be licensed if there were a reasonable likelihood that it could not be safely operated.

From the beginning of the atomic energy program, scientists and engineers who worked on the development of nuclear power for commercial use concentrated on public safety as a prime goal, because of the recognized unusual nature of this new technology. Public health and safety and environmental problems have been and are being focused on long before the fact and not after an adverse situation has developed. This places the Government-industry developmental efforts in the commercial nuclear energy area in a position which I believe is unique in the exercise of foresight in the avoidance of problems which may not be in the best interest of our people. This well-publicized concentration on public health and safety and environmental protection has resulted in very safe nuclear plants as well as a great deal of public awareness and concern with the substantial impact possibility of very low-probability nuclear accidents which cannot be categorically ruled out as being impossible.

The enactment of S. 2568 is needed to avoid impairment in the continued development of nuclear power which this country needs to meet its energy goals.

SUMMARY

The Price-Anderson Act was enacted in 1957, and extended and amended in 1965 and 1966. The act was designed to protect the public and the emerging nuclear industry by assuming the availability of funds for the payment of claims and by protecting the nuclear industry against unlimited liability in the unlikely event of a catastrophic nuclear accident. Funds would be made available to compensate the public for losses caused by a nuclear accident through a combination of private insurance and Government indemnity. Beginning in 1957, the joint committee has found on the basis of expert testimony, and it again finds now, that the likelihood that a serious nuclear accident will ever occur is extremely remote. Nevertheless, no one can correctly conclude that such an accident could never occur. For this reason, the need for the protection afforded by the Price-Anderson Act persists.

The bill meets this need by extending the Price-Anderson Act for an additional 10 years. Funds will be available to compensate the public under the Price-Anderson system for its losses in the unlikely event of a nuclear accident. Moreover the nuclear industry will be required to gradually assume greater financial risk through a system of private insurance. Although the limit on the nuclear industry's liability is continued under the bill, that limit will eventually rise as the number of nuclear plants in operation increases and once the Government's responsibility as indemnitor is placed by the system of private insurance.

MAJOR OBJECTIVES OF S. 2568

First. It would phaseout and, at least by 1985, completely replace the Federal Government's role as an indemnitor for liability to the public for losses caused by a major nuclear accident. In place of Government indemnity, the bill requires the electric utility industry to compensate the public for losses caused by a major nuclear accident, and establishes a system to guarantee that the money will be available if needed.

Second. Once the Government's indemnity obligation has been eliminated, the bill would provide for a gradually increasing sum of money to be provided by private industry to compensate the public. The amount of money available will gradually rise to over a billion dollars.

Third. The indemnity authority would also be continued for the major Government contractors which operate the major nuclear installations of the United States.

Fourth. It would continue all of the protections provided by the existing system—such as the waiver of defenses or no-fault provisions and the private insurance requirements—which guarantee the public an assured source of funds for the payment of losses with a minimum of administrative redtape.

Fifth. The bill would extend the Price-Anderson system for 10 years—until August 1, 1987.

SECTION-BY-SECTION ANALYSIS OF S. 5268

Section 1 of the bill would amend subsection 11 q. of the Atomic Energy Act of 1954, as amended, to alter the definition of "nuclear incident" as that term is used in subsection 170 d., by substituting the words "source, special nuclear, or byproduct material" for "a facility or device." Its purpose is to gain specificity and consistency. Section 1 of the bill would also amend subsection 11 q. to specially define "nuclear incident" as that term is used in subsection 170 c. The purpose of this amendment is to extend the full aggregate indemnity to offshore nuclear powerplants and to shipments between licensees in the United States which are routed beyond territorial waters.

Section 1 of the bill would also amend subsection 11 t. of the Atomic Energy Act of 1954, as amended, by broadening the definition of "person indemnified," as that term is used in subsection 170 c., to include nuclear incidents outside the United States. This change preserves consistency within the Act. Section 1 would further amend subsection 11 t. by an alternative description of a "person indemnified" as a person "who is required to maintain financial protection." This provides for the situation in which the $560 million limit on liability is provided wholly by private insurance protection, in which case the execution of an indemnity agreement would not be an absolute requirement.

Section 2 of the bill would amend subsection 170 a. of the Atomic Energy Act of 1954, as amended by substituting the word "may" for "shall" in the second sentence. The purpose of this change is to provide consistency with subsection 170 c., as amended. Additional language has been added in the first sentence of subsection 170 a. to emphasize the public purpose of the Price-Anderson provisions, as stated in subsection 2 i. of the act.

Section 3 of the bill would amend subsection 170 b. of the Atomic Energy Act of 1954, as amended, to provide authority for the Nuclear Regulatory Commission to regulate the terms and conditions of nuclear liability insurance. This section requires the Commission within 12 months of the date of enactment of this act, to include in determining the maximum amount of private liability insurance available any deferred premium plan which meets certain requirements. Any such plan must have a standard retrospective premium within the range of $2 to $5 million for each licensed facility required to maintain the maximum financial protection available from private sources. Any State premium taxes which may be due on assessed premiums are to be the responsibility of the licensee and are not to be included in the premium set by the Commission. In addition, participation in the secondary layer must not be conditioned on provision of the basic financial protection through insurance means. This assures that an individual licensee may fulfill some or all of its base liability by means other than insurance and yet be eligible for the retrospective coverage.

Section 3 further requires the Commission to develop a plan to assure payment of such deferred premiums when due in the event of a nuclear incident, and requires the Commission to provide reinsurance or guaranty to assure the availability of funds despite any defaults in retrospective assessments. This provides, in effect, that the full amount to pay any liability will be available promptly with the Government undertaking the burden of later recovery from the defaulter. In connection with the recovery of such funds, section 3 authorizes the Commission to specify the terms of any guaranty agreement as appropriate to permit reimbursement, including liens on property and revenues of a defaulting licensee, and automatic revocation of any license.

Section 4 of the bill would amend subsection 170 c. of the Atomic Energy Act of 1954, as amended, by changing the date "August 1, 1977" wherever it appears to "August 1, 1987". The purpose of this amendment is to extend for 10 years the indemnification authority of the Price-Anderson legislation as it pertains to NRC licensees other than licensees subject to the provisions of subsections 170 k. or 107 l. of the act.

Section 5 amends subsection 170 d. of the Atomic Energy Act of 1954, as amended, by extending until 1987 the authority of the Energy Research and Development Administration to enter into indemnity agreements with its contractors.

Section 6 amends subsection 170 e. of the Atomic Energy Act of 1954, as amended, by providing that except as to incidents occurring outside the United States to which agreements of indemnification entered into under the provisions of subsection 170 d. are applicable, the limit on aggregate liability arising from a nuclear incident shall be either, first, $500 million plus the amount of financial protection required of the licensee, if the financial protection required is less than $60 million or second, $560 million or the amount of financial protection required of the licensee, whichever is greater, in cases where the financial protection required is $60 million or more.

Section 7 amends subsection 170 f. of the Atomic Energy Act of 1954, as amended, to authorize the Commission to reduce the indemnity fee for persons with whom agreements of indemnification have been executed in reasonable relation to increases in financial protection above a level of $60 million.

Section 8 amends subsection 170 i. of the Atomic Energy Act of 1954, as amended, to require a report by the Commission or the Administrator to the Congress on any nuclear incident which will probably result in public liability claims in excess of $560 million. The act presently provides for such a report for any nuclear incident which will probably result in payments by the United States. As amended by the House, H.R. 8631, a bill which is otherwise identical to S.

2568, would explicitly provide that the report on nuclear accidents to the Congress will be made available to the public in its entirety, except for information which would cause serious damage to the national defense or foreign relations of the United States.

Section 9 amends subsection 170 k. of the Atomic Energy Act to extend until 1987 the authority for the Commission to indemnify licensees found by the Commission to be nonprofit educational institutions for public liability in excess of $250,000 arising from a nuclear incident.

Section 10 amends subsection 170 o. of the Atomic Energy Act of 1954, as amended, by authorizing and directing the establishment, in any plan for disposition of claims, of priorities between classes of claims and claimants, to the extent necessary to insure the most equitable allocation of available funds. Section 10 also requires the Commission or the Administrator to provide the Congress with the information it will need to determine what additional action is necessary in the event of an accident causing losses beyond the limit on liability.

Section 11 adds a new subsection 170 p. which provides that the Commission shall submit to the Congress by August 1, 1983, a report and recommendations concerning the need for continuation or modification of section 170 based upon relevant conditions at that time, including the conditions of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other factors.

Mr. President, in 1974, nuclear powerplants accounted for 24 percent of the electricity generated in New England. If nuclear power were abolished tomorrow, a substantial percentage of New England would be put in darkness, and a substantial percentage of our people would be put out of work, because the very source of energy is electricity.

In Illinois, in the Chicago area, one-third of all the electricity is generated by nuclear power.

I hear many people say, "Let us phase it out. Let us declare a moratorium. Let us do without it." These people do not stop to think about what the repercussion would be, and that is what we are talking about.

We talk about alternatives. Many people say, "Cut out nuclear power and get into solar." That is fine. We are spending a great deal of money to develop solar, but it is a long way off, before people are going to heat their homes with solar energy. Maybe my children or my children's children will, but it certainly will not be me. The evidence is that it is going to take 25 or 30 years.

Then they say, "How about wind?" Wind is all right, provided it blows. But I do not know how much wind there is in Florida. We get some in New England every once in a while.

But these are all supplemental sources. The important thing is that nuclear power is here. Twenty-four percent of electricity in New England comes from nuclear power.

What are we trying to do? We are not trying to stud this country with nuclear plants all over creation, but we are saying that this source of energy must be made safe, can be made safe, will be safe, is regulated for safety by the Nuclear Regulatory Commission and should be developed as an alternative. It is not the whole answer to our problem, naturally.

Regrettably, I am making this speech for the benefit of only the Senator from Tennessee, who agrees with everything I am saying. Then, all those who are opposing it or all those who have been lobbied by this group or that group will come on the floor of the Senate at 11 o'clock and make an emotional speech about everybody being killed, irradiated, and what have you, which is a lot of nonsense. But where are they now?

They will come here with their troops in due time and try to stir up a little emotion, and we will take care of that when the time comes.

For the purpose of this presentation, I have said everything I intend to say in an empty Chamber, and when the proper time comes, I will finish it.

Now I yield to my good friend the Senator from Tennessee.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. BAKER. Do I correctly understand that under the previous order, there is an hour on the bill, 2 hours on the Gravel amendment, and 30 minutes on each amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct, except for amendments in the second degree, which have 15 minutes.

Mr. BAKER. I will not take much of that hour.

Mr. President, Congress, in 1957, enacted the Price-Anderson legislation to provide for a well-defined system of financial protection which would apply in the unlikely event of a catastrophic nuclear accident. From the beginning, the need for such a system has been predicated on the potential magnitude of a catastrophic accident and not on the probability of such an accident ever occurring.

Since its inception, the Price-Anderson Act has served its purpose well. Fortunately, in the commercial nuclear power area there has never been an accident which has called for the system to be placed in operation. With the continuing growth of the nuclear industry, the joint committee, last year and this year, decided that the system should be amended to impose an increasing share of the financial risk on the utilities which operate nuclear powerplants. This feature of the bill encountered no opposition last year and I am not aware of any this year. The one feature of the bill which I believe will be the subject of an amendment later on today is the provision in the act which establishes a limitation of liability on the private sector in the event of a catastrophic nuclear accident. Of course, an argument that the public should have the right to seek additional recovery from the private sector has great appeal, at least on the surface. But, the effect of the adoption of such an amendment should be clearly understood.

Much more is involved than simply the broad question of whether any industry, including the nuclear energy industry, should be protected by a limitation of liability which would have the effect of preventing citizens from seeking legal remedies in the courts. An analysis of whether or not the limitation of liability should be removed, should, I suggest, take into account the following considerations:

Note, first of all, the principle of limitation of liability is not unique in our legal system. Elements of limitation of liability go to the heart of the State and Federal workmen's compensation laws and no fault insurance laws, and also govern the extent of recoveries in the maritime and international air transport fields. So this is a legal principle which is not unique to the nuclear energy area. Indeed, I have seen several bills recently which would establish a limitation of liability on the part of those who may pollute our oceans and coastlines, as a result of offshore oil exploration and transport.

Second, one should recognize that the Price-Anderson system, including the provision for limited liability, is designed to permit public interest goals to be accomplished through the development of nuclear energy in this country. These public interest goals were fortunately foreseen as early as 1957, 17 years before the OPEC nations demonstrated to us the critical importance of forms of energy other than oil. The view of these developments, the public purpose goals of the Price-Anderson system are needed now more than ever.

Third. The Price-Anderson system recognizes, of course, that there must be adequate financial protection to the public, as well as some protection for the various participants in the nuclear energy industry against the potentially severe consequences of an unlikely catastrophic nuclear accident. Although one may wish to separate the public protection and industry protection purposes of the Price-Anderson Act, they are, in fact, inseparable, Electric utilities in this country have a responsibility to provide adequate and reliable sources of power to their customers, and to provide that power as cheaply as possible. But beyond that responsibility, there is the importance of electricity to the public health and safety and to the economic well-being of our society. In view of the very important public purposes which are served by an electric utility, it is difficult, if not impossible, to divorce actions which have an impact on the utility from those affecting the public interest.

Fourth. The firms which build and operate nuclear power plants in this country do not exist in a vacuum. Rather, in order to construct additional needed plants they must compete with other sectors of the economy for scarce resources including money to finance construction and essential materials and services. Disruptions in the supply of those resources or increases in their costs, such as would result from the removal of Price-Anderson's limit on liability, would have an adverse impact on both the utility and the electricity-consuming public.

Fifth. But there would be an even greater adverse impact on the public interest from the removal of the liability limit. Let us assume that an amendment to the Price-Anderson system is adopted which would subject a public utility to unlimited liability. If this is done, we should clearly understand who will bear the ultimate burden of such unlimited liability. Will it just be the stockholders who invest their money in the utilities? The answer is clearly "no." There is no escape from the fact that those who will ultimately bear the burden will be the consumers of electricity in the region served by the utility. In view of the importance of the services which the utility provides, public liability judgments which would otherwise place the utility in bankruptcy would not be allowed to interfere with the viability of the utility or its obligation to furnish reliable and adequate power. But, for the purpose of argument, let us assume that this did happen. Those who would suffer would clearly be the consumers of electricity in the region served by the utility. On the other hand, let us assume, as is far more likely, that the viability of the utility would not be disrupted. In order to accomplish that, the utility would have to satisfy a large public liability judgment, and at the same time repair necessary damages to its own property and continue to provide reliable and adequate power to its customers. The money to do all of these things, including the satisfaction of public liability judgments, must come from some place. The utilities do not have unlimited resources; and indeed, quite the reverse is true. In fact, the only source of sizable sums of money available to the utility would probably be in the form of higher rates for electricity. The ones who would suffer, I repeat, would be the consumers of electricity in the region served by the utility operating the reactor which caused the accident. Such a result would impose a most unjust and unreasonable burden on a very small segment of our society. The Price-Anderson Act was enacted in 1957 to avoid this very kind of problem, and this is why its extension with the limitation of liability is needed at this time.

Sixth. How does the Price-Anderson Act avoid this problem? It establishes a legal regime which assures that there would be prompt and efficient payment of all legitimate claims. Enactment of the bill before you today would result in the vast bulk of those claims being satisfied from funds paid by the utilities which operate nuclear facilities. In other words, the risk would be spread throughout the industry so that particular members of our society would not end up paying the ultimate burden. Also, the bill before us today would raise the limitation of liability, and therefore the amount of money available to pay just claims, to over a billion dollars by the 1980's.

This assured source of funds would be sufficient in all probability to cover any nuclear accident which might ever happen. But there is still more involved in the system to assure that the public purpose goals of the Price-Anderson Act are met. In the unlikely event that the limitation of liability is exceeded by the losses from a nuclear accident, there is still another avenue available for the prompt settlement of outstanding legitimate public liability claims. The bill provides for a prompt report to the Congress with regard to the situation, which would include the amount of additional funds needed to pay all such claims. On the basis of this report, the Congress would be in a position to decide what specific action should be taken. This is exactly as it should be in the event of a major catastrophe, whether caused by a nuclear accident—the only catastrophe that the Price-Anderson system covers—or whether caused by some other event.

No limited segment of our society should be expected to bear the brunt of the sacrifices and suffering which would prevail in the event of such a disaster. Thus, the limitation of liability features of the Price-Anderson Act do not simply protect the electric utilities and other participants in the nuclear energy industry. Instead, they serve a much broader purpose. They insure that no single segment of our society will be forced to carry the burden of such a catastrophe alone and that instead, the burden will be spread as broadly as possible. In this way, all segments of our society share the risk just as all segments share the full benefit of the development of nuclear power in this country.

I share with the distinguished chairman of the Joint Committee on Atomic Energy, Senator PASTORE, his dedication to the general concept that our future national welfare and energy well-being depend on the development of nuclear power, along with the development of every other reasonable power source that we can contrive or that we can think of in the next decade or so.

I truly wish it were a situation in which we could pick and choose among the several alternative sources available to us. I suspect that, for my part, even if we could do that, I still would go forward with an energetic and rapid development of the fission power cycle, because I think it is a good one. It provides us with an abundance of power, safely generated, that can be rivalled by no other system I know of, and certainly with less environmental detriment.

I have been on the Joint Committee on Atomic Energy for a relatively short period of time, but I know first hand of the dedication of that committee to the concept of total safety so far as the human situation will permit the development of any system which is totally safe. I believe that the recent studies and analyses of the potential for accident in the power industry and peaceful use reactors clearly demonstrate that the risk of a cataclysmic accident is so remote that it ranks with the more bizarre of the cataclysmic accidents that the human mind has ever conceived of, such as the destruction of tens of thousands of people by the striking of a meteor from outer space or the destruction of a stadium full of people by the crashing of an airplane.

They are theoretically possible, I suppose, but they are so bizarre and remote that I find it distinctly reassuring that the safety potential and prospects for nuclear power are so great that the chances of a cataclysmic accident from that source are even more remote than that.

The State of Tennessee, in many ways, is and has been for many years in the vanguard of the development of nuclear power. I recall, as a young man, the development of Oak Ridge as a Federal facility. None of us in the valley knew then what that giant facility was being developed for, when suddenly, overnight, on the slopes of Oak Ridge, there grew up a Federal compound of 60,000 people, where before there had been less than a hundred people.

The enormous hustle and bustle and wartime constraints soon produced an enormous industrial complex that, as we who lived in the area used to say, had lots going in but nothing coming out. It was with mixed pride, awe, surprise, and concern that I first learned of the purpose of that facility when the first atom bomb was exploded over Japan.

Mr. President, we have come a long way since then. Nuclear power then was the promise of abundant energy for mankind, and it still is. It involves enormously complex questions. It is difficult of attainment. However, unlike the other exotic energy sources, nothing has to be discovered or invented with nuclear power. The remaining problems are engineering problems.

How do you make an efficient plant? How do you make a plant that is attractive to private industry, to the utility industry? How do you make a plant that is safe? How do you provide for the fuel recycling facilities, the so-called back end system? How do you provide the assurance of the abundance of fuel? How do you avoid the reliance on foreign fuel sources so that you avoid the same pitfalls with uranium that we now have with oil?

How do we go about demonstrating the feasibility of the breeder reactor concept? How do we go about further research and development with fusion power, which is highly promising, but one of those where the inventive process is still before us? It is not just a question of putting enough money into the program to solve the problems.

These things, Mr. President, are a vignette of the nuclear power picture as we know it. One of the things that must be attended to is the housekeeping detail—the design, the construction, the operation, the integration of these plants into the utility grid, the financing of construction, both short and long term, the development of the expertise by the contractors and suppliers, and the insuring of the plant. That is where Price-Anderson plays such a vital role, because Price-Anderson assures that the public and the country are protected in the case of that remote and unlikely event of personal injury or damage from nuclear power.

The Price-Anderson Act was passed in the mid-50's, I believe in 1956. It is a matter of some reassurance, I am sure, to our colleagues and the country that, since 1957, there has never been a cent paid from the Price-Anderson program to a claimant as a result of nuclear accident.

Mr. President, I yield the remainder of my time.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum without its being taken out of the time of either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unaimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I move that the committee amendments be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the committee amendments are considered and agreed to en bloc.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DURKIN). Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I ask unanimous consent that Bill Hoffman be granted the privileges of the floor during the deliberations on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1249

Mr. HATHAWAY. Mr. President, I call up my amendment No. 1249.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, insert between lines 6 and 7 the following:

"SEC. 10. Section 170n. (1)(iii) of the Atomic Energy Act of 1954 is amended by striking 'ten years' and inserting in lieu thereof 'thirty years'.".

On page 10, line 7, strike "SEC. 10." and insert in lieu thereof "SEC. 11.".

On page 10, line 21, strike "SEC. 11." and insert in lieu thereof "SEC. 12.".

Mr. HATHAWAY. Mr. President, I would like to modify my amendment; on line 4 change "thirty years" to "twenty years".

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 10, insert between lines 6 and 7 the following:

"SEC. 10. Section 170n. (1)(iii) of the Atomic Energy Act of 1954 is amended by striking 'ten years' and inserting in lieu thereof 'twenty years'.".

One page 10, line 7, strike "SEC. 10." and insert in lieu thereof "SEC. 11.".

On page 10, line 21, strike "SEC. 11." and insert in lieu thereof "SEC. 12.".

Mr. HATHAWAY. Mr. President, this amendment is to section (n) of the existing Price-Anderson Act, the subsection which deals with the waiver of defenses in the event of an "extraordinary nuclear occurrence." Included in these provisions is a waiver of the defense of the expiration of the statute of limitations, for up to 10 years. My amendment quite simply extends this to a 20-year statute of limitations, as I feel it should be extended, given the nature of the potential injuries which may result from radiation exposure as a result of such an occurrence.

Studies of the Atomic Bomb Casualty Commission, which was established following the end of World War II as well as other studies of the effects of radiation exposure on man and on animals since 1948, show the need for such an extension of the statute of limitations. For example, the ABCC found a higher-than-normal acute leukemia rate among the exposed surviving population through 1966, some 21 years after exposure. (Robert W. Miller, "Delayed Radiation Effects in Atomic-Bomb Survivors," 1969. p. 3).

Additionally a correlation has been found between exposure, levels of exposure, and the occurrence of solid tumor cancers—such as lung and breast cancer—a correlation which showed up for 25 years after exposure. Although our research into the long-term effects of radiation exposure is necessarily continuing, the conclusion that there are such longterm effects, at least up to 20 years after exposure, does not seem to be actively in dispute. In discusssing the health effects that could ensue from a core melt-down accident of a nuclear reactor, the Rasmussen report also acknowledges the possibility of such long-term health effects. Although the risk of such an accident may indeed be very low, and the ability to detect the causal relationship between such exposure and later incidence of cancer still in a primitive state, the Price-Anderson Act is intended to address those remote possibilities.

The section of the Price-Anderson Act which my amendment relates to is often characterized as the "consumer protection" aspect of the act; this is the section which imposes strict liability on the industry for any offsite discharges of dispersals of radioactive materials which might result in substantial damage or injury to offsite property or the public. I am in complete agreement with imposing strict liability; it might well be imposed on the industry regardless of these provisions. Given the nature of the source of the harm in this case—exposures to unsafe levels of radioactivity—and the lack of public ability to be aware of the potential harm or to control it, permitting defenses such as contributory negligence or assumption of the risk would go against any notion of justice or equity in determinations of liability for such damages and injury. The public must, in fact, rely on the industry and on Government to inform them when such dangerous exposures may have occurred.

Included in this general waiver of defenses clause is a requirement that insurance contracts and indemnity agreements waive—

> (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof, but in no event more than ten years after the date of the nuclear incident.

My amendment simply extends this time period to 20 years, without changing the requirement to institute suit within 3 years of when the harm and its cause are discovered.

The statutory language in existing law appears to be quite clear on its face; that suit for damages or injuries must be brought within 10 years of the date of the incident. A 10-year statute of limitations for ordinary liability situations would appear to be reasonable; however, we are not dealing with an ordinary situation in this statute. The very existence of the Price-Anderson Act acknowledged that the nuclear industry poses hazards and potential liabilities which cannot in any sense be deemed to be "ordinary." The insurance industry recognized this when they declined to insure the nuclear industry for its full potential liability after the passage of the Atomic Energy Act in 1954; and it was recognized again when the act was extended in 1965.

Now in 1975 we must again recognize that fact; though the direct governmental subsidy is eventually being phased out by the bill before us, the Joint Committee's report itself makes it clear that they intend to treat the nuclear industry in a different manner from other industries in respect to liability for well beyond the duration of the pending 10-year extension.

At page 9 of the committee report, they state that—

> The Joint Committee wishes to stress that there are a number of features of the Price-Anderson Act which should be viewed as permanent. These include the mandatory insurance coverage, the no-fault provisions, the provisions for consolidation of claims in a single federal court and for advance payment of claims, the contractor indemnity provisions, and the mandatory retrospective premium system. These elements make up a pattern of public protection which must be continued. The provisions for termination in 1987 should be viewed as a device to insure that Congress will reassess the situation prior to that time and make revisions as required, rather than as congressional intent to provide for an eventual termination of the Federal regulation of nuclear liability insurance.

Without necessarily agreeing with this particular interpretation of "congressional intent"—in fact, I do not think I agree with it at all—it does clearly point up the special treatment which the nuclear industry is presently being accorded by the Government, and the fact that it may well continue indefinitely into the future.

What is the basis for this special treatment? The answers perhaps were more obvious in 1955 when the nuclear industry did not exist, but a political and scientific judgment was made that it should be promoted with the hope of it being a clean and secure source of energy for future generations. But the reasons for this particular form of protection were the same then as they are now. Unwilling to assume the risk of potential liability which could result in bankruptcy, and with no operating experience, insurance companies, manufacturers and utilities were unwilling to commit their resources to nuclear development. That same risk of potential liability exists today, 20 years after passage of the first 10-year Price-Anderson Act. Though the Rasmussen report may assure us that the risk factor itself is very small, perhaps even minimal, and surely a risk factor which is lower than other risks which are part of our daily lives, there still exists a potential risk of damages and injuries which could result in billions of dollars worth of damage, and affect thousands of lives. And that risk, as we know, comes from the very nature of the material which we are dealing with, the risk of radioactive contamination of our land, our water, and our air.

The present 10-year statute of limitations in the Price-Anderson Act recognizes that the effects of radioactive exposure which might be incurred after an "extraordinary nuclear occurrence" may well not be obvious immediately. But current studies show that 10 years is not long enough; latent cancer effects may show up 20 and 25 years later.

It may be difficult right now, as the Rasmussen report again indicates, to establish the precise causal relationship between the exposure and the development of cancer several years later, but this only points up the necessity of stringent monitoring and development of sound statistical bases for expected normal occurrences of cancer so that persons who have been exposed to radiation may be carefully followed and their medical histories thoroughly traced. What we do know right now is that a 10-year statute of limitation may very well result in cutting off legitimate claims of persons whose injuries in the long run may be even more serious than those of persons whose exposures were highest and the injuries showed up shortly thereafter.

Those affected in the short term will be more easily identifiable for treatment, while others, unaware that they have suffered injury, may fall victim to perhaps even greater affliction—cancer—several years after the incident. Yet they, and their families, under the present Act, will apparently have no recourse—or at minimum no recourse under the Price Anderson Act. And knowing that no more claims for liability can be pursued after those 10 years, Government and industry may well not institute the monitoring and health research mechanisms which should be employed should there be any major nuclear occurrence.

My amendment then, straightforward and relatively simple as it may seem, effects a very necessary change in the present statutory scheme. It recognizes the long-term potential effects of radiation exposure and permits claims to be brought up to 20 years after the incident. Nowhere in the Price-Anderson Act—or the Atomic Energy Act—which I am aware of is it said that in addition to limiting aggregate liability, we shall also compensate only those persons who suffer immediate damage and injury from any nuclear occurrence. The 10-year statute of limitation in fact seems to point in the contrary direction—that the act recognizes there may well be long-term effects which will have to be compensated. But the present act does not go far enough; it does not cover the period during which those long-term and frequently more injurious effects may appear; instead it adopts a time period of 10 years, perhaps for administrative simplicity, or perhaps, to downplay the potential long-term effects which may result from radition exposure.

I have been told that under the wording of this statute, the individual States can enact longer statutes of limitation than 10 years. Perhaps there is some legislative history which indicates that this statute of limitation was not intended to preclude the States from passing a longer statute of limitation. I still do not see, however, how the language of this statute would easily permit it. But even if such an interpretation can be supported, on what basis would the person bringing his claim under a longer statute of limitation? Would the strict liability provisions of Price-Anderson still apply? What recourse would the person have if the liability limitation had already been reached? Would the individual have to show negligence in order to pursue his claim? And if Price-Anderson provisions, with the limitation on liability and the waiver of defenses do not apply, and the person could in fact pursue his claim in a State with a longer statute of limitation and under ordinary tort laws, then what justification is there for the limitation on liability provisions?

But if Price-Anderson provisions would in fact apply, as I suspect would be the necessary result, then the argument that the 10-year statute of limitation is needed in order to expedite disposition of the moneys and ease in administration of the act does not carry much weight if the States can in fact enact longer statutes of limitation.

If the argument can be made that it was the intent of this provision to interfere as little as possible with the State's right to pass a longer statute of limitation, then this is a State's right which seems to be without substance, for their residents, whom they presumably intend to protect by passing such a statute, are not in fact being accorded any protection.

Further questions also arise under this interpretation of the language. What law is a court going to apply if the claimant lives across the State line in a State with a short statute of limitations, but his claim arose from an incident originating in a State with a longer statute of limitation? The simple answer might be that the law of the State where the incident occurred should be applied; but as we all know, conflict of law problems do not have simple answers.

More likely, I think, would be that answer that despite the gravity of the injury, despite the inability of the claimant to know of his injury until several years after the incident and, therefore, to pursue it before either the statute of limitations or the liability limits were reached, Congress has spoken and no claims may be brought later than 10 years after the incident. If this is what is intended in this provision then it should be made clear so that the effectiveness of these waiver provisions as "consumer protections" may be honestly evaluated. On the other hand, if it were intended to leave the States the latitude of enacting a longer statute of limitation, then we should look carefully to see if that latitude has any substance—to see if the States are able, in fact, to declare a policy which will be able, in any way, to protect their own residents. I think I have outlined for you the reasons that I feel there is no substance to the State's ability to enact such a law; that any protection offered by the State to its own residents will be illusory at best.

For these reasons, I feel it is necessary to extend the statute of limitation in the Federal law to cover the period when in fact such latent injuries may be expected to occur and be verified as arising from the accident. A demand for administrative ease should not be allowed to outweigh a claimant's ability to receive compensation for serious injuries; Britain has recognized this, and in a very similar liability scheme for nuclear incidents, they have incorporated a 30-year statute of limitation. Germany also has a 30-year statute of limitation.

The argument is frequently heard that should there ever be an extraordinary nuclear occurrence, Congress will have to step into the situation in any case. I do not like to rely on that. Nor do I like to rely on the kind of tradeoffs that Congress might choose to make at that time. Perhaps economically it may appear then that it is necessary to cut off claims after 10 years.

Nor do I find any comfort in the idea that is sometimes put forth that one bad accident is all that will ever happen—that should that remote possibility actually occur, the nuclear industry would have to shut down and therefore we would necessarily not be faced with such a situation again. This is certainly turning the Price-Anderson Act on its head—its purpose after all is to promote the industry. To assume that at some future date, when nuclear reactors may indeed be supplying a large proportion of our energy, that a nuclear accident is going to result in closing down the industry is simply not realistic. The more likely result, I fear, may be a suppression of the seriousness of the incident, a downplaying of the gravity of the accident which has happened and of the risk involved in permitting the continued operation of other facilities. I hope of course that this will not be the result—and I would not contend that it would happen deliberately—but many pressures will be brought to bear to prevent any extensive and nationwide disruptions after a nuclear accident.

So we well may have to deal with the statutory scheme which has been devised in this act, and its provisions may well be tested more than once. So if we are going to offer any public protection in this act, then we should not be sidetracked by some of the more facile arguments which are sometimes made.

As the Joint Committee itself seems to intend, these provisions for strict liability may become permanent, and as such, they should be drafted in such a form as will in fact protect the public as they were intended. The statute of limitations of 10 years is clearly an unreasonably short, and inequitable, statute of limitations for the types of injuries which might be sustained. An extension to 20 years may not even be adequate and at some future date might need revision. But now it appears to cover the possibility of verifiable injuries, and I do not think that this act should be extended for an additional 10 years without a change in the statute of limitations being made.

I have discussed this amendment with the manager of the bill, the Senator from Rhode Island, and I understand he is in agreement with it and will accept the amendment, as modified.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HATHAWAY. Yes.

Mr. PASTORE. The Senator is absolutely correct. As a matter of fact, Mr. President, we have a 10-year provision in the bill as reported by the committee which, of course, extends the statute of limitations which might be of a shorter period in any particular State to the 10 years as provided for in the bill.

The argument has been made by my distinguished colleague that it is not sufficient, it ought to be greater. He had originally had 30 years, and I told him if he reduced it to 20 years I would be very happy to accept the amendment.

I have discussed it with the Senator from Tennessee, who is my counterpart on the other side of the aisle, and we have both agreed we will try very hard in conference to maintain that position of 20 years.

Mr. HATHAWAY. Mr. President, I thank the Senator from Rhode Island for accepting the amendment.

I ask that Senator Gravel be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I would only say I agree with the remarks by the Senator from Rhode Island. I really reluctantly agree to this amendment but, on these representations, to move this bill along I, as my chairman has, am willing to accept it and to stand by that commitment in conference.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. PASTORE. I yield back my time.

Mr. HATHAWAY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Maine.

The amendment, as modified, was agreed to.

Mr. HATHAWAY. Mr. President, I call up my unprinted amendment.

The PRESIDING OFFICER (Mr. DURKIN). Will the Senator send the amendment to the desk, please?

Mr. HATHAWAY. It is my understanding that my amendment was sent to the desk last night, but I will send this copy.

The PRESIDING OFFICER. We have another printed one, but not the unprinted one.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 7, insert "(a)" after "Sec. 4.".

On page 7, insert between lines 14 and 15 the following:

(b) Such subsection is further amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

On page 7, line 15, insert "(a)" after "Sec. 5.".

On page 7, insert between lines 19 and 20, the following:

(b) Such subsection is further amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

On page 9, insert between lines 13 and 14 the following:

Sec. 8. The last sentence of subsection h. is amended by striking "may include reasonable" and inserting in lieu thereof "shall not include".

On page 9, line 14, strike "Sec. 8." and insert in lieu thereof "Sec. 9.".

On page 10, line 3, strike "Sec. 9." and insert in lieu thereof "Sec. 10. (a)".

On page 10, insert between lines 6 and 7 the following:

(b) Paragraph (1) of such subsection is amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

SEC. 11. Subsection 170. l. of the Atomic Energy Act of 1954, as amended, is amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

On page 10, line 7, strike "SEC. 10." and insert in lieu thereof "SEC. 12."

On page 10, line 21, strike "SEC. 11." and insert in lieu thereof "SEC. 13.".

Mr. HATHAWAY. Mr. President, this amendment would strike from the bill the sections which include the costs of investigation, settlement, and defense of claims from the overall liability limit, so that these costs would not be deducted from the $560 million maximum that is made available under the bill for compensating injured claimants.

Quite simply, what this amendment does is to require that the entire resources of the $560 million fund—or whatever limit is established through the retrospective premium system—be used only for the purpose of compensating people who are injured or sustain damages as a result of a nuclear accident. It amends several provisions of the Price-Anderson Act which at present, permit the payment of investigative costs, settlement fees, and defense costs out of the overall liability limit. My amendment specifically excludes these costs from any determination as to when the overall liability limitation has been reached.

This amendment, I believe, more properly fulfills what is the avowed purpose of the act, which is to ensure that funds are quickly available to provide compensation to victims of a nuclear accident. The aggregate liability limitation has already been provided to protect the nuclear industry from liability costs which some contend could bankrupt sections of the industry; however, there appears to be no equitable reason as to why the persons injured should, in effect, also be required to bear the burden of these investigative, settlement, and defense costs.

The adequacy of the fund itself, the $560 million limitation presently in effect, which even under the bill being considered is not expected to rise appreciably for approximately 10 years, has been questioned by many. Debate as to the relative risk of whether or not this liability limit will ever be reached as a result of a major nuclear accident is not, however, really relevant to my amendment. Even the Rasmussen report concedes that property damages alone, from the worst possible accident, could run into billions of dollars.

So the real question is, given the liability limitation, who is to be paid out of these funds? Under existing law, the investigative, settlement, and defense costs are to be paid out of the money included in the overall liability limitation.

Since we have never actually had any major nuclear accident resulting in offsite damages or injuries, it seems difficult to estimate just what these costs might be. However, it seems to me that in any major accident, which might well result in a complex situation requiring extensive investigation, as well as controversy as to damages or injuries, particularly latent injury, these costs could well rise to millions of dollars. And these amounts under present law would be deducted from the pro rata share of each individual claimant's share of the amount of funds available. In a situation where total liability has been limited, it does not seem appropriate to make the injured parties bear the cost of these expenditures, even if the strict liability provisions of the Act are to be applied in the given situation.

I understand that the Joint Committee, in the amendments to the act which are now pending, intended that the provision for the establishment of the priority of claims under subsection (o) of the act would apply only to the claims of those who have suffered damages or injuries as a result of a nuclear accident where the damages may exceed the overall liability limits. Although I do not see that spelled out in the section which adds the priority provision, if that is in fact their intent, then my amendment simply implements the committee's intent in that regard, by prohibiting the payment of these costs out of the funds available to compensate victims of the accident.

The intent of my amendment, then, is to provide the full amount of the funds up to the overall liability limit solely for the payment of claims of injured parties. I think the arguments in favor of this amendment are quite straightforward, and that it is a change in the act which I feel conforms with the overall intent of the act and is long overdue.

Mr. President, I have discussed this amendment with the distinguished Senator from Rhode Island. I understand that he agrees with the amendment.

I yield to the Senator from Rhode Island.

Mr. PASTORE. That statement is absolutely correct. As a matter of fact, that provision is a codification of the provision contained in the original act of 1957. The reason stated at that time was that it was according to the common law, or the accepted law. But under the present bill, getting into no fault, in other words, all that has to be done under the present bill is to establish the fact that an injury did take place, and that as a result of catastrophic accident—which, of course, in my humble opinion is very unlikely.

For that reason, we are willing to take it to conference and see if we can work out some language that suits the purpose of the Senator from Maine and also keep it in the proper context of the judicial procedure.

Mr. BAKER. Will the Senator yield?

Mr. PASTORE. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I, too, am willing to accept the amendment on behalf of the minority and go to conference to see what we can do.

But in terms of greater clarification is it clear from the amendment and in the requirement of its sponsors that we are dealing here with a no-fault situation, but the primary responsibility is commercial insurance carriers, indemnification over and above that belongs to the Government. The cost of the investigation ordinarily is charged against that insurance before it ever gets to the indemnity side.

Is there anything in this amendment that changes that relationship?

Mr. HATHAWAY. No.

Mr. BAKER. I thank the Senator.

Mr. HATHAWAY. I want to thank both the Senator from Rhode Island and the Senator from Tennessee for their agreement on both of these amendments.

Mr. President, I ask that the Senator from Alaska (Mr. GRAVEL) be added as a cosponsor of this amendment, also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. I yield back my time.

Mr. PASTORE. I yield back all time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

AMENDMENT NO. 1154

Mr. GRAVEL. Mr. President, I call up my amendment No. 1154. I would be happy to have a quorum call if the managers will accept the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alaska (Mr. GRAVEL) for himself and Mr. PHILIP A. HART proposes an amendment numbered 1154.

The amendment is as follows:

> On page 7, line 22, insert "of the insurer" after "liability".
>
> On page 8, line 4, insert "of the insurer" after "liability".
>
> On page 8, line 18, strike "tractor.". and insert in lieu thereof: "tractor: *Provided further*, That injured parties may bring suit to recover damages incurred as the result of a nuclear incident to the extent that such damage and injuries could not be reimbursed under the limits of liability otherwise provided for by this subsection; and liability for damage or injury in excess of the specified limits shall be determined by the ordinary rules of tort law.".

Mr. GRAVEL. Mr. President, this amendment would allow the victims of a nuclear power accident, acting under normal tort law, to recover damages from the nuclear industry if the money otherwise provided by Price-Anderson should prove inadequate to pay claims fully. Under present law, recovery from nuclear utilities is limited to $560 million, and recovery from the nuclear manufacturing industry is altogether prohibited—even if it is tortuous conduct by the industry which has caused the accident.

By adding the words "of the insurer" at the beginning of subsection E, we maintain a limit only on that amount of money which is to be made available on a no-fault or absolute liability basis in the event of a nuclear accident. By adding the other language of the amendment at the end of subsection E, we make it clear that, if the no-fault amount proves insufficient to justly compensate victims, then victims may recover from any party who is found to be liable under the rules of tort law.

The ACTING PRESIDENT pro tempore (Mr. STONE). Is the Senator utilizing the 2 hours a side for this particular amendment?

Mr. GRAVEL. Yes.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator.

Mr. GRAVEL. I thank the Chair.

Mr. President, there is nothing in this amendment which would hamper the ability of victims to collect the no-fault amount which is already guaranteed. A precedent here is the Alaska Pipeline Act, which authorizes limited no-fault awards while expressly guaranteeing the right of victims to recover further under tort law.

Neither is there anything in this amendment which prevents the Congress from acting, at any time, to aid victims who have been less than adequately compensated by the no-fault awards.

The purpose of this amendment is simply to expose the nuclear industry, now that it is large enough to accept such exposure, to the same liability that is accepted by other industries in this country.

I think there are four reasons why it is desirable to restore such liability responsibility to the nuclear power industry.

First, it has been established that nuclear power accidents might cause damages totaling more than the current liability ceiling of $560 million. If the industry which is profiting from nuclear power is found to have acted tortiously in such an accident, then it should be required to pay, as far as it is able, the claims which exceed the no-fault ceiling.

The charge is often made, Mr. President, if this were to happen the accident would be so expensive that all these companies would go bankrupt.

I think the proviso was stated earlier, which everybody accepts, that at some point if an accident were that large, Congress would step in. Certainly, the record of Congress in New York, Lockheed, and Penn Central is all there. We would not see them all wiped out because of this liability.

I think what is important to recognize, and I have just stated, is that there is no reason why a company which engages in a profitmaking enterprise such as making valves, should not be held liable under tort law just because it makes valves for the nuclear industry.

Just as if the same company made, let us say, cylinders for the landing gear of 747 aircraft, it has tort liability for those cylinders. But if it were to make valves for a nuclear reactor, because of an act of Congress, it would not have similar tort liability.

I think it is obvious that distinction should not be made, and it is proper to extend that liability so we would have the benefit when they are making valves for the reactor—they would be just as careful as when they are making cylinders for a 747 on a subcontract to Boeing Aircraft Co.

Second, the amendment would encourage even greater safety in the nuclear power industry—a point I just made—especially among nuclear manufacturers who are now entirely isolated from liability. Third party liability is meant to act as an automatic regulator on hazardous activities. Nuclear fission, which is an inherently hazardous process, is the last place such liability protection should be removed. Former Atomic Energy Commissioner William Kriegsman has said:

> Do away with (the Price-Anderson liability ceiling) and you'd probably see nuclear valves coming off the assembly line in better shape.

It is that simple.

Third, the amendment would also return the risk/benefit assessment to industry scientists and executives—that is, to those who know best whether the risk of catastrophe is really as remote as proponents have claimed. The nuclear industry says its product is safe—then asks for a continued liability ceiling.

This is inconsistent. What do the atomic experts in the industry really believe about nuclear safety? If in fact they have doubts, we will never know it as long as Congress maintains Price-Anderson's liability ceiling. Because as long as industry is isolated from liability and thus from the consequences of risk, these experts will never have to confront the key question which liability imposes: that is, "Is this enterprise as safe for their shareholders as they claim it is for the public?"

Finally, the fairness and constitutionality of the liability ceiling are questionable. Other industries are not protected from their tortious acts—including those which might face similar very high claims, and which have been described as being more risky than nuclear power. Limits which do exist, like workman's compensation and the international airline convention, have been allowed by the courts only with the understanding that the limit is a reasonable approximation of what is lost. But $560 million is less than one-tenth of the potential losses in a nuclear power catastrophe.

Assuming that the Nuclear Regulatory Commission is correct, that would be somewhere around $15 billion plus for the outside, most severe accident. That would mean that a person who suffered under that situation could probably get a return of 3 cents on the dollar for what he has lost. That, of course, is totally inadequate.

Mr. President, the liability ceiling was enacted as a temporary—and I underscore "temporary"—measure at a time when the nuclear industry was small and there was a universal desire to stimulate peaceful nuclear energy. Now, 20 years later, the nuclear industry is large enough to give up the liability ceiling. It is easy to understand why the industry opposes this amendment. As long as nuclear businessmen can persuade the Congress to give them this unique protection, they will hold on to it. People do not look a gift horse in the mouth. But the time for weaning has come.

Either this industry can stand on its two feet, or it cannot; either it is viable in the marketplace, or it is not. There is only one way to test that, and that is in the marketplace.

An industry which claims to be so safe, an industry which promises it can supply so large a share of this country's energy, need not be built upon a constitutional breach. That breach has continued for 20 years and need go no further.

I would like to point out that this amendment is supported by the American Trial Lawyers Association, representing 25,000 attorneys, and the California State Bar Association, representing 50,000 attorneys. It is also supported by each of the major environmental groups, including the League of Conservation Voters, which will count the vote on this amendment in calculating their environmental rating. The United Auto Workers, the United Mine Workers, the National Taxpayers Union, and Common Cause also support the amendment for the very simple reason that this amendment is a very acceptable amendment that asks no more than to permit every citizen in this country to sue under normal tort law to realize the full potential of his privileges under the Constitution of the United States.

I find it difficult to understand why the managers of the bill, why the proponents in industry, insist on opposing this kind of a reasonable amendment.

Mr. President, I reserve the remainder of my time.

Mr. PASTORE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PASTORE. I can tell the Senator from Alaska why I am interested. It is because this amendment is intended to gut the expansion of the nuclear power program. It is very simple.

If I were sure that the Senator from Alaska was amenable to the expansion of this nuclear program, I might not have said what I have just said. This amendment is being sponsored by a lot of people who have no part in the development of the nuclear power program. That is pure and simple.

We went out of our way to create what is known as the Energy Research and Development Administration. We called into public service a great scientist, Dr. Seamans. This is what he had to say in a letter to me:

> Dear Senator Pastore: We appreciate the opportunity to comment on Senator Gravel's proposed amendment to the extension of the Price-Anderson Act which would leave the $560 million liability limit unchanged, but restore to the public the right to sue nuclear industry companies for damages beyond the limit.
>
> The Price-Anderson Act was enacted in 1957 and amended in 1965 and 1966. It was designed to protect the public by assuring the availability of funds for the payment of claims and the emerging nuclear industry by offering protection against unlimited liability in the unlikely event of a catastrophic nuclear accident. Beginning in 1957, the Joint Committee found, on the basic of expert testimony, that the likelihood that a serious nuclear accident will ever occur is extremely remote. Nevertheless, no one will correctly conclude that such an accident could never occur. For this reason, the need for the protection afforded by the Price-Anderson Act persists.
>
> In assessing the need for the proposed amendment to the extension of the Price-Anderson Act, two questions should be considered:
>
> 1. Would it increase the level of protection afforded to the public?
>
> 2. What would be the practical effect of enactment of the proposed amendment?
>
> Our responses to these questions are as follows:
>
> 1. Enactment of the proposed amendment would not increase the protection afforded to the public if an extremely unlikely major nuclear incident were to occur. The Joint Committee reiterated its belief that any increase in, or elimination of, the limit of liability is unnecessary when on November 10, 1975 it issued its "Report Together with Separate Views by the JCAE to Accompany H.R. 8631."
>
> 2. Enactment of the proposed amendment would increase public concern about the safety of nuclear reactors despite the industry's unprecedented safety record.

Mr. President, I ask unanimous consent that the entire letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Energy Research and
Development Administration,
Washington, D.C.

Hon. John O. Pastore,
U.S. Senate.

Dear Senator Pastore: We appreciate the opportunity to comment on Senator Gravel's proposed amendment to the extension of the Price-Anderson Act which would leave the $560 million liability limit unchanged, but restore to the public the right to sue nuclear industry companies for damages beyond the limit.

The Price-Anderson Act was enacted in 1957 and amended in 1965 and 1966. It was designed to protect the public by assuring the availability of funds for the payment of claims and the emerging nuclear industry by offering protection against unlimited liability in the unlikely event of a catastrophic nuclear accident. Beginning in 1957, the Joint Committee found, on the basis of expert testimony, that the likelihood that a serious nuclear accident will ever occur is extremely remote. Nevertheless, no one will correctly conclude that such an accident could never occur. For this reason, the need for the protection afforded by the Price-Anderson Act persists.

In assessing the need for the proposed amendment to the extension of the Price-Anderson Act, two questions should be considered.

1. Would it increase the level of protection afforded to the public?

2. What would be the practical effect of enactment of the proposed amendment?

Our responses to these questions are as follows:

1. Enactment of the proposed amendment would not increase the protection afforded to the public if an extremely unlikely major nuclear incident were to occur. The Joint Committee reiterated its belief that any increase in, or elimination of, the limit of liability is unnecessary when on November 10, 1975 it issued its "Report Together with Separate Views by the JCAE to Accompany H.R. 8631."

On page 12 it states:

"At the time of the extension of the Act in 1965, the Joint Committee . . . said:

" 'In the event of a national disaster of this magnitude, it is obvious that Congress would have to review the problem and take appropriate action. . . . The limitation of liability serves primarily as a device for facilitating further congressional review of such a situation, rather than an ultimate bar to further relief of the public.' "

This assurance on the part of the Congress that it will take whatever action is needed to protect the public in the event of a nuclear accident causing losses greater than the limit of liability is included as a provision in the bill. . . .

The recently released final report of the Reactor Safety Study under the direction of Professor Norman Rasmussen of the Massachusetts Institute of Technology has indicated that the probabilities of a nuclear incident are much lower and the likely consequences much less severe than has been thought previously."

Since the inception of the Price-Anderson Program in 1954, the only claim paid out under an insurance policy used to provide financial protection for licensees involved the shipment of a spent fuel cask. It was necessary to decontaminate two trucks and a claim of $3500 was paid by insurance companies.

2. Enactment of the proposed amendment would increase public concern about the safety of nuclear reactors despite the industry's unprecedented safety record. It would affect the public views of the fiscal soundness of organizations installing nuclear facilities. This would further disrupt utility plans to construct nuclear reactors and deprive the public of the advantages of nuclear power—a low cost, reliable, domestic source of electricity. It would induce many component suppliers to withdraw from the nuclear industry and thereby tend to concentrate the industry in a few large firms.

For these reasons we believe enactment of the proposed amendment is unnecessary and contrary to the public interest.

Sincerely,

Robert C. Seamans, Jr.,
Administrator.

Mr. PASTORE. Mr. President, I also have a letter signed by Frank Zarb, the Federal Energy Administrator, who more or less takes the same position. I ask unanimous consent that that letter be printed in the Record also.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Federal Energy Administration,
Washington, D.C., December 3, 1975.

Hon. John O. Pastore,
Chairman, Joint Atomic Energy Committee,
Washington, D.C.

Dear Mr. Chairman: I have reviewed the proposed amendments to the Price-Anderson renewal bill now before the Congress and have concluded that some eliminate, if adopted, vital and necessary features of this important legislation. Additionally, failure to enact this legislation could result in a serious disruption to needed expansion of nuclear generating capacity.

The major thrust of the proposed amendments is to eliminate the limitation of liability provision in Subsection 170e. This would seriously undermine the strict liability concept in the legislation which provides for public protection through an efficient no fault disposition of claims in the event of a major accident. The no fault, or waiver of defenses, provision set out in Sections 170a and 170n of the existing and proposed legislation, is an optional rather than a mandatory requirement. If the limitation of liability is removed, licensees would be extremely reluctant to waive viable legal defenses to claims falling within the $560 million indemnity coverage, because of the impact such waiver could have on tort suits for amounts in excess of the indemnity coverage, where the corporate assets would be exposed to satisfy such claims. Therefore, the legislative intent of providing an expeditious no fault disposition of claims would be seriously impaired.

Also, elimination of the limit of liability and provision could well cause extensive needless litigation and difficulty in the processing of claims, even if the no fault provision is accepted by the licensees. The purpose of the no fault provisions is to establish a Federal court plan for the disposition of the available funds up to the current $560 million limit of liability. If claimants file tort actions for amounts over that limit, the state courts would normally have jurisdiction and there would be the possibility of duplicative litigation, resulting in substantal confusion and delay for claimants.

A further problem with removing the liability limitation is a possible disruption in the supply of vital components needed for nuclear facilities. Nuclear plants use great quantities of such components, which include electronic and electrical equipment, motors, pumps, pipes, and valves, all designed and manufactured to special standards and with rigid quality requirements demanded for nuclear plants. Without a limitation on liability, suppliers may concentrate on non-nuclear customers and discontinue their sales of nuclear components, rather than subject themselves to a claim exposure that could in the remote event of a major accident, far exceed their assets. In fact, several suppliers of such equipment—but not reactor suppliers—have indicated that without Price-Anderson they would cease supplying components for nuclear facilities.

In addition, by 1985, and probably sooner, the proposed act would serve to completely phase-out Federal indemnity. This would be accomplished through a second tier of private insurance which would be assessed retroactively in the case of a major accident. As more plants are licensed, this second tier of insurance coverage would automatically rise, and by 1985, it is anticipated that the current $560 million limit of liability would be exceeded by private insurance coverage. Thus, the current Price-Anderson extension will facilitate both the phase-out of government indemnity and the increase in private insurance coverage, which is expected to exceed the current liability limit by at least 1985.

Finally, another serious objection to eliminating the limitation of liability provision would be the deleterious effect on the utilities ability to finance nuclear plants. The impact of the removal of the liability limit is, therefore, far greater than its impact on the disposition of damage claims.

One other amendment that has been proposed would limit the Price-Anderson extension to five years, rather than the proposed ten-year period. A utility embarking now on a program to add nuclear capacity would need two years to select a site and file application documents for a construction permit. That permit might be issued roughly two years later. Thus, a five-year extension of Price-Anderson until 1982 would possibly not cover projects begun after 1978. This would, then, amount to an unreasonably short extension of time.

In view of the foregoing, we strongly oppose the suggested amendments to the Price-Anderson renewal legislation and ask your support in this regard, since this legislation is vital to maintaining a domestically-based, viable nuclear power capacity as we pursue our energy independence goals.

Sincerely,

FRANK G. ZARB,
Administrator.

Mr. PASTORE. We have to look back a little bit to the history of Price-Anderson. Industry never came to the Government and said, "We want to get into the nuclear business." As a matter of fact, in 1954 I was the manager of the bill that took atomic energy out of the classified area and brought it into the peaceful area. It was known as Atoms for Peace.

I want to say at this juncture unless we can use this phenomenon for the betterment of society, and if the only purpose that it will have for mankind is to make a bigger and better bomb, I am going to resign from that committee tomorrow. If that is my responsibility, to invent something that will only kill more and kill them better, I will have no part of it.

Unless this atomic energy has any promise for the betterment of mankind we might as well forget the whole thing.

As I have already pointed out, 24 percent of the electricity generated in New England is generated by atomic energy. We have never had to pay a dime, we never had to pay a nickel, we never had to pay a penny in damages to third parties. We had a Rasmussen report and they say, "A catastrophic accident? Maybe one in a million."

What are they saying with this amendment? In this amendment they are saying the sky is the limit. The minute we do that, no insurance company will underwrite it. There is not an insurance company that came before our committee which said, "We are prepared to underwrite the sky is the limit." So if one cannot buy insurance, we do not build a reactor. If we do not build the reactor, we do not achieve energy independence. We begin to put sections of the country in the dark. Where have we ended up?

I know it sounds glamorous to say the public should be protected. The public is being protected. The very people who want "sky is the limit" want Price-Anderson removed completely. They want it repealed completely. Why? Because they know that the minute that we cannot get Price-Anderson, it is the end of the nuclear industry in this country. It is the end.

All we are asking here is a delivery extension. And how are we doing it? We are saying here that we have to get the Government out of the indemnification. We have already built up a fund of $560 million; $435 million is the indemnification by the Government, and $125 million is insurance that they are already buying, paying premiums for, and we have made money on it. We have made money on this deal so far.

What are we doing here? There are 64 nuclear reactors under construction. When those 64 nuclear reactors come up and apply for their licenses to operate, the Nuclear Regulatory Commission will determine, between the limitations of 2 million and 5 million, how much they are to be responsible for as a deferred premium. It means that step by step, as more nuclear reactors come on the line, the Government responsibility will diminish. The fund will grow larger, maybe to the extent that we even will eventually achieve 50 percent of our electrical power from nuclear reactors in the country; certainly to the extent of at least a billion and a quarter dollars in the 1980's.

Now, Senators say to me, "But what if you have an accident where the damages are over $560 million?"

I say, "God forbid. Do you know what would happen? We would close down the whole caboodle."

We would close down the whole caboodle. If PASTORE, thought for 1 minute we were gambling with an accident here that goes over $560 million, I would be the first one to say, "Let's call it quits."

I have lived with this since 1952. I have been a member of that Joint Committee. Do not let anyone tell me on the floor of the Senate that they love their children and grandchildren more than I do, that they are out to protect them more than I am, whether it is Ralph Nader or anyone else. Do not let them say that to me. I do not know how many children they have, but what I have is the most precious thing in my life. If anyone thinks for 1 minute I would stand on this floor and jeopardize the lives and safety of my grandchildren, he has another think coming.

What are we trying to do? We are trying to put the lights on. If we shut down the reactors we have now, where are we going to get the oil and where are we going to get the gas? We are already being told we have to conserve it.

So we put the lights out. And what happens then? If we put the lights out, we will put a lot of people out of work. That is what it will do. Maybe not in Alaska; maybe they just have to find some more oil up there. But until they found that oil, they had a lot of trouble in Alaska, too.

All this business about the lawyers; I have had it up to here with lawyers about no-fault. The lawyers did not even like the no-fault provisions in here. Do you know why? Because they could not get rich on those claims. But let us think about the general public.

Now the same people who want to protect the people are the people who do not want Price-Anderson. Why should we have Price-Anderson? To protect the people. That is why we started this.

From 1957 to 1975, almost 20 years, we have not paid one nickel—one nickel—for any damage done by a reactor. They say to me, "How do you know what is going to happen?" Is not the best proof experience? Does that not amount to something?

What are we talking about here? They

say, "What if you have an accident where the damages are $15 billion?"

Well, if we do, we are going to kiss this whole program goodbye. We are getting into something here we should not be getting into at all. But we have to be reasonable. We have to consider the likelihood in order to carry out our responsibility. That is the reason why we have this. We want the Government to get out of it, and that is what this bill is all about.

If we agree to this amendment today—and I wish the rest of the Members of the Senate were here—if we agree to this amendment today, we kiss the program goodbye; and that is the purpose behind it. The people who want a moratorium are the same people who are backing this proposal.

Mr. President, I reserve the remainder of my time, and yield to the Senator from Tennessee.

Mr. **BAKER**. Mr. President, this is obviously an important bill, and just as clearly this is a determinative amendment. It is important not only to the nuclear program, but in my judgment to the independence of movement in foreign policy and domestic issues of the United States. Unless we can develop indigenous sources of energy, this country will never be the same, a free agent in its relationships with the other nations of the world.

Whether you like it or not, there is no reasonable likelihood we are going to develop anything else except coal, nuclear power, and an extended development of our liquid hydrocarbon resources through further drilling for oil and natural gas.

It is not either-or; we have to do them all. Mr. President, if we hobble this program now, we really have substantially diminished our chances of attaining an independent posture in the next decade and those that follow thereafter. That is precisely what is about to happen and would happen if we adopt the Gravel amendment.

I really am troubled by the expressions of concern about the tort liability coverage under this amendment. You know, I was a lawyer for a long time. My colleague from Alaska may not know. I practiced law in the courtroom for almost 18 years before I came to the Senate. I have tried my share of cases for the plaintiff and my share for defendant, and I have won some and lost some, prospered in some cases and failed in others. But I challenge anyone in the Senate to have greater sympathy with the point of view of the trial lawyer than I have, because I have been through it.

I have also been through the fight over no-fault. As my colleague from Rhode Island will recall, I was one of those who opposed no-fault. I felt we ought to leave it up to the States to decide. I have not been wholly successful in that respect; certainly not in the committee. I must say that a part of my opposition to no-fault stems from that same experience as a trial lawyer.

But in the Gravel amendment, Mr. President, we are faced with a situation where it is not either no-fault or tort; we are faced with a situation where it is both. They want it both ways. They want no-fault on the front end of the thing, and tort liability thereafter, and the inevitable effect of that, in my judgment, would be that they would not be able to finally liquidate and settle all the claims made under Price-Anderson. First they would have to settle both the tort claims and the no-fault aspects of the matter, which might take years. This would certainly make it a more lengthy procedure to pay the people who might be injured in the unlikely event of a nuclear accident.

We agreed to accept the Hathaway amendment a few minutes ago, which provided that the cost of investigation, as I recall the colloquy, would be added to the $560 million limitation. And I am not certain of this point, but it is my interpretation of the Hathaway amendment that attorneys' fees would go on top of that $560 million also. So in the past hour or so, we have been pretty good to our colleagues, the lawyers of the land, because we have added their fees and the cost of investigation as well, and now it is proposed that we give them tort claims above the $560 million and slow down the procedure until both the no-fault and the tort claims are settled. The administrative costs themselves would be substantially greater than they are now.

I said during the Commerce Committee deliberations with respect to automobile no-fault that I agree with and support the principle, just as I approve of and agree with the principle of workmen's compensation benefits or the Federal Employers Liability Act.

But in every one of those cases, there is some sort of tradeoff. In the case of workmen's compensation, which is a form of no-fault, we say to the employee: "Look, you can recover these benefits notwithstanding that this may have been patently your fault that you got injured, but notwithstanding the employer has to pay." That is a tradeoff there for the limitation of liability.

In the case of the Federal Employers Liability Act, the tradeoff is: "We are going to deprive you of the defense of contributory negligence or assumption of risk, and a number of other common law and generally statutory remedies, in exchange for your having to pay except under extraordinary circumstances."

While it is true that there is no limitation of liability under FELA, there is certainly limitation of the right to recover. There is the tradeoff, the quid pro quo, the this for that.

But that does not exist in the Gravel proposal. It is not this for that. It is not the tradeoff of likelihood of recovery or limitation of liability. It is all for that and none for this.

Mr. President, that is not good for the future of this country, because we cannot afford the luxury of doing without the development of nuclear power, oil, solar, geothermal, fusion, or coal. We have to do them all, and even then we are going to be strapped for our reasonable requirements to maintain our present standard of living, let alone have any expectation of meeting our aspirations for the better life in the future for ourselves and others around the globe.

So, let none of us be beguiled by this situation, by any appeal of this amendment. This is a crucial and crossroads decision as to whether we go forward with the development of nuclear power in an orderly way.

Mr. **PASTORE**. Mr. President, will the Senator yield for a question?

Mr. **BAKER**. Yes.

Mr. **PASTORE**. As a practical proposition, where we have a situation of a claimant who is entitled to no-fault and a claim under tort law, does the Senator see any settlement being made in one section as against the other until it is all resolved in one package? I mean, what this is doing is creating a confusion and a delaying tactic that in the long run is going to hurt more people than help for the simple reason, if a person has a no-fault claim at the same time there is a tort claim with reference to the same acident, he is going to wait until he resolves both of them.

Mr. **BAKER**. I believe that is exactly right.

Mr. President, I think the chairman stated it correctly.

Mr. **PASTORE**. That is as a practical proposition.

Mr. **BAKER**. I believe as a result of the Gravel proposal, if it were adopted, the additional funds would be beyond the limitation of liability. Under this provision the no-fault principles of Price-Anderson continue to apply until the claims under both no-fault and tort are fully satisfied administratively before there would be a final liquidation of the claims.

Mr. President, on behalf of the distinguished manager of the bill we reserve the remainder of our time.

Mr. **GRAVEL**. Mr. President, how much time remains on each side?

The **ACTING PRESIDENT** pro tempore. The Senator from Alaska has 48 minutes, and the manager of the bill has 42 minutes.

Mr. **GRAVEL**. Mr. President, the last statement made by our distinguished colleague from Tennessee, confirming the statement made by the Senator from Rhode Island, I shall dispute. The effect of my amendment would not be to confuse and tie up the possible recipient of any funds in the event of a nuclear accident. That is not at all the case.

My amendment is very simple. Let me state it again. It says that if the $560 million is not enough to pay for the nuclear accident that might occur, and if a person suffers more as a result of the accident, then he would, after getting his fair share of the $560 million—because that is no-fault—be able to sue under tort law. In many States one has to prove delinquency, he has to prove that something was wrong, and then he could sue and recover additional damages. That is all my amendment does. We can try to make more of it, but it does no more than that.

I wish to make one thing abundantly clear. I would never stand here in this body and question the affection that the Senator from Rhode Island has for his grandchildren. I know he loves them deeply. I know he is concerned about them just as I am concerned about my children, and in the future would hope to be concerned about my grandchildren. But I think that we all stand here as equals in trying to assess the actions that we do. So I think it serves little purpose to detail our individual motivations—in my case a motivation alluded to that I wish to see the end of the nuclear industry, or that we are here to gut the nuclear industry. That is not the case at all.

I have legislation in to have a moratorium. If I could have the attention of the Senator from Rhode Island and the Senator from Tennessee, I would be happy to say that I shall withdraw right now my moratorium legislation if they will accept this amendment.

This is the test. The only reason we go for a moratorium is because obviously we cannot get the normal checks and balances in the society to work. They have been abrogated. That is why we try to do legislatively what they have been doing legislatively for 20 years. We are making a decision for the American people on behalf of the American people.

What I am talking about here is a position I have held very consistently in this Chamber. I wish to deregulate. I want to let the American people make a decision.

I do not think we are so smart. I think we may have some holes. I can make mistakes. The Senator from Rhode Island can make mistakes, and the Senator from Tennessee can make mistakes. We are not infallible and recognize that.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. GRAVEL. Let me finish the point I am making.

Mr. PASTORE. All right, finish.

Mr. GRAVEL. All I am saying is since we recognize our fallibility, let us let the marketplace do it. If there is nothing wrong with it, and if it is so safe, then obviously the marketplace will make that judgment.

They say that the passage of my amendment will gut the whole nuclear power program, will wipe it out. That is not what is going to happen. If the nuclear power program is gutted or wiped out, because of the passage of this amendment, which says that every American citizen is entitled to the full privilege of the Constitution and is entitled to sue under existing tort law like in any other industry; if after my amendment passes reestablishing these rights, if the nuclear power industry gets gutted, do Senators know who will do it? It will not be me. It will be the insurance companies. Do Senators know what the insurance companies' job is in the United States? They are the specialists who assess gamble and risk in our society. That is who will gut it.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. GRAVEL. I shall yield in a moment.

Do Senators know who will gut it? It will be the scientists in the nuclear power industry, because they are the ones knowledgeable about nuclear power, so they will be the ones who will gut it.

Do Senators know who will gut it? It will be the utility companies that do not want to risk the net worth of the utility. Do Senators know who will gut the nuclear power movement? It will be General Electric, it will be American Atomic, it will be Westinghouse, because no longer will those public companies be able to hide under the umbrella of legislative protection. They will have to stand up in the light of day and say, "If we want to make a valve, if we want to make a section of pipe, and we are not sure that is a good valve or section of pipe, we may be held liable," just like Ely Lilly Co. when they make a drug.

Now they say that the sky is the limit. The sky is already the limit.

All one can get for airline insurance is $225 million. Now a nuclear reactor can get $125 million for people, and it can get $175 million for property. So they can get more insurance now for nuclear reactors than one can for the airline industry. In the airline industry the sky is the limit.

So what is the big deal? We fly. We are going to have a Christmas rush this year that is going to be unparalleled, and we are going to get on airplanes, and the sky is the limit.

Does that destroy the aviation industry in this country? Of course not. It did not destroy the aviation industry any more than this amendment will destroy the nuclear power industry.

All this amendment is going to do, and I underscore this, it is going to make the nuclear power industry safer. That is exactly what it is going to do. When you pass a law saying that you do not have to be safe, where is the percentage?

It is interesting that we have this dichotomy. Utilities are regulated, and the amount of profit they make is regulated. They have some degree of liability, and they will have even more under this bill. They will have a $2 to $5 million assessment. But the companies in the United States that are nonregulated—General Electric, Westinghouse, and the others—can make as much profit as they want, and they get more liability coverage, more protection, under existing legislation than do the utilities that have their profits limited. There is something wrong in this legislation. That is all we are trying to clear up. So we come back to the very fundamentals.

My colleague was quick to say that in 17 years, not a nickel has been paid out, and that is obviously the reason why the nuclear industry can get more insurance than the aviation industry. Tort protection to American citizens and fifth amendment full privileges to the American citizen have not ruined the aviation industry, have not ruined the drug industry, and they will not ruin the atomic industry. This will create the necessary checks and balances in our private enterprise system which are so vital.

Leaders of the atomic energy industry come forward and say that the reason why atomic energy is in difficulty today is that it has been hanging onto the udders of Government. It is time to get off. Push the mammaries away. It is time to get off and stand up and be a man. If they cannot stand on their own two feet after 20 years, I submit that they never will.

But let us have no misunderstanding. It will not be MIKE GRAVEL who will gut the nuclear industry. It will be the authorities of the nuclear energy industry. It will be the managers of the nuclear industry who will gut the industry, if this amendment is adopted. That is what is at issue.

Mr. President, I reserve the remainder of my time.

Mr. PASTORE. Mr. President, if the Senator from Alaska pretends for one moment that he is more interested in the people of this country than I am, I think he had better take another look at himself. We can demagog this until the cows come home, and we can raise this specter and that specter.

The Senator from Alaska (Mr. GRAVEL) is willing for the Government to be in a position to indemnify up to $435 million. He does not want to do away with that. But he gets into this gimmick of one particular accident, and this goes to one particular accident. He wants to have it both ways.

All I am saying is that you cannot buy that insurance, and he knows that you cannot buy that insurance. The reason why I say you cannot buy that insurance is that it is not available. If that insurance is not available, no utility is going to get into a nuclear reactor. That is exactly what he wants. The day that happens, he will be satisfied, because he is against the nuclear power program. He is for a moratorium. He does not want another nuclear reactor built. He has his own reasons, and I respect them. But when he gets up and says, "I am for the people and PASTORE is not for the people," I say he should take a good look at himself.

I have been in public life continuously for 41 years, and everybody can look at my record. He tries to tell me that we are ignoring the people with this extension. The happiest day of his life would be if he could kill this bill. There is no question about that, if he will only admit it.

I am not going to demagog this. I know there is a limitation. I know why there has to be a limitation. I have explained it. We have gone through this in the committee. Insurance company after insurance company will not undertake this. That is the reason why the Government got into it in the first place. That is the reason why we established the fund of $500 million, and at that time it was $60 million of private insurance. Now it is $125 million. It is going to grow, so that ultimately we can get out of the whole picture. But it is not going to be done overnight.

The question here is this: Do you want the nuclear power program to come to a halt? If that is what the country wants, then let us do it in a clear-cut way. Let somebody come here with a resolution providing that from now on it is against public policy to build a nuclear reactor, and we would have it all done with.

[At this point a disturbance occurred in the gallery.]

The ACTING PRESIDENT pro tempore. The guests in the gallery are cautioned that they are guests, and order will have to be maintained or the galleries will be cleared.

The Senator will suspend until the Sergeant at Arms obtains order in the gallery.

Mr. **PASTORE**. Under the circumstances, if we want this program to continue, we have to be reasonable about it. I can understand that people can be very emotionally upset. That is the name of the game.

Mr. President, I reserve the remainder of my time.

Mr. **GRAVEL**. Mr. President, I will not stand here and say that I will be happy if the bill is killed. My intention is not to kill the bill. The committee has done well to bring in a no-fault liability aspect. I am for the no-fault liability aspect. We are not trying to kill the bill. We are trying to do something like what exists already with respect to the Alaska pipeline. We have no-fault in the Alaska pipeline, and we also have the liability of the citizen, if he is not compensated properly by that no-fault, to secure his rights in court, under tort law. That is all we are asking for. I do not think it is unreasonable.

The managers of the bill have skirted the issue. They have not faced up to the problem that this amendment really addresses itself to, and that is that what we ask for is to give the American citizen the ability to sue under tort law.

It makes no sense in reasonableness to argue the point that this will destroy the nuclear industry; because if that is so, why do we not pass a Price-Anderson bill for the drug industry? Why do we not pass a Price-Anderson bill for the aviation industry? I stated earlier, and I will say it again, that the aviation industry has less overall insurance than does the nuclear industry. They were able to grow and to become more efficient and to become an integral part of our society without Price-Anderson.

Today, nuclear power is in trouble. The reason why it is in trouble is that we have had these types of band-aid proposals. It is in trouble because it never has been subjected, from its very beginning, to the true test. It never has had adequate checks and balances in the marketplace.

As long as the proponents, as long as the managers of this legislation, who have been party to the nuclear leadership in this country since its inception, insist that nuclear energy be treated in some special manner, be treated differently from the way in which any other human activity is treated, we are always going to see this industry under great suspicion.

If you really like this industry, the first thing you should want is to make it like any other industry; and in that way, as it grew, you would be guaranteed that it would be healthy and not grow as some anomaly, some cancer, that constantly would be under threat of being ripped out.

I quote Richard A. McCormack, the president of the General Atomic Co., which is a joint venture of Gulf Oil Co. and Royal Dutch Shell. This is a statement he made in Seattle:

> The fundamental cause of our malaise is the nature of the nuclear business itself. It was born in the Government and consciously weaned by statutory and administrative policies to go through an adolescence of Government support. But the business was never firmly founded and the magnitude of the problems of getting it established in the private sector was never fully appreciated.

No, Mr. President, until the nuclear industry is weaned, until it is asked to do what any other industry is asked to do, it will never have a secure place in meeting its roles and satisfying the energy needs of this country. It may well play a role, but we do not know what that role is going to be unless we take it out of the cocoon of Government protection.

Let me reiterate a point I made earlier. That was with respect to private companies who make a profit, who enjoy this umbrella of safety. I have, in Dun's Review of December 1975, a two-page advertisement from a company that I admire, whose leadership I admire. I think the person who built up this conglomerate is a veritable genius in the financial area. He is a friend of mine. I want to use this as an example.

In this advertisement, it talks about how the company has grown and the profits they have made and the good job they have done in America. It talks about how they built a bridge. It talks about how they build trucks. It talks about how they build steel plants. In those three areas of this company's activities the public is protected by liability, because if the company does a bad job and the wrong kind of steel is put into a bridge and people fall through that bridge, they can sue under tort law. If this truck runs over somebody because of a defective brake cylinder, they can sue under tort law. If this steel mill is ineffective, that company is liable.

But that fourth picture, that is the Commonwealth Edison Co., which plans to build one of the world's largest nuclear power stations, using piping and components produced by Taylor Forge, a major operating plant of the energy group of Gulf & Western. When they build pipes, beware, American people, because you do not exercise the same judgment upon them; you do not exercise the same safety upon these fine industrialists as you do when they build bridges, when they build trucks, and when they build steel mills.

Why the exception? Will the managers of the bill tell me why we have to make an exception when that company, which is in business for profit, has no liability for one and has liability for the others? It makes no sense at all.

Mr. President, how much time do I have?

The **ACTING PRESIDENT** pro tempore. The Senator has 30 minutes remaining.

Mr. **GRAVEL**. One of the points made by my distinguished colleague was the fact that if atomic energy were just to be used for bombs, he would be no party to it and that he was in at the beginning, when we initiated a program for peace. I compliment him and laud him for something that I have identified with. I hope that any human discovery, any advancement in technology, all that our imagination and human talent can provide, I hope that whatever it is can be used for the benefit of the human race. But if, perchance, we spot some activities that are suspect, that are inherently hazardous in their very nature, I hope that in our zeal we would not wear our emotions on our cuffs and that we would not race forward to do away with the checks and balances that society, that the western world, has developed through many, many years, hundreds of years of common law practice; through all the experience that the human race has attained in the industrial revolution. I hope that we will not put aside the simple check and balance of liability, so that if we do something wrong, we pay the consequences. This is so vital in our system.

I say to my colleague that I share with him his desire to make the atom peaceful. But it is not his wish or my wish or our collective emotions that will make it peaceful and make it valuable. What will make it peaceful and valuable will be if it truly fits the needs of the human race.

I do not want to turn out the lights. I want to have energy supplied to this country, to New England or to any other place, as safely and effectively as possible. But, pray tell me, why we have to let a person who manufactures pipe, a person who manufactures valves, why we let him not have the discipline, not have the accountability of making the best pipe and making the best valves that he can. I pose that as a question to the managers of the bill. I submit, if they cannot answer that question, then their position is bankrupt.

Let me ask that question again: Why is it that Gulf & Western, why is it that General Electric, why is it that Westinghouse, why is it that Union Carbide, if they make a piece of pipe, should not be forced to make that pipe as safe, or if they make a valve, to make that valve as safe as is humanly possible? The way to make them do that is to make them responsible for their actions.

Why do we have to take away that responsibility? If they can answer that question, I should like to hear it. If they cannot, then their posture is bankrupt.

Mr. President, I reserve the remainder of my time.

Mr. **PASTORE**. Mr. President, the fact remains that they are responsible. I do not know how anyone can make the statement that they are not responsible. Of course they are. They have to buy insurance. There is $125 million of private public liability insurance for any one incident, plus the indemnification by the Government.

I am not going to debate this any further. If the Senate wants nuclear power, they can have nuclear power. If they do not want it, they can vote for this amendment. If that is the will of Congress, that is the will of Congress.

I repeat again, I am just trying to do my job. I have been with this thing since 1952. I have seen this thing grow.

The only argument I can make to the Senate is, we are getting all fussed up here about a cataclysmic or catastrophic accident. The fact still remains that the best testimony is that it is very unlikely, one in a billion. The proof of it is in the eating. Since 1957, we have not had to pay one single penny in damages. Besides this coverage for third party injury, we have in-house property insurance that they carry.

Certainly, I am not standing up for Westinghouse or General Electric or Union Carbide. I could not care less. But I want to keep the lights burning. I want to keep our people working. When we realize that 8 percent of the energy in this country today is nuclear power, where would we be without it? Where would we be without it in achieving independence if we did not have that 8 percent?

One might say to me, it is only 8 percent. But it gets into thousands of megawatts; because, after all, we are the most industrial Nation in the world. There is no question at all about it. Energy is our lifeblood. If we cannot use oil because we cannot buy it or we cannot find any more, if we cannot use gas because we cannot buy it or find any more, and it is hard to get into the coal because we have to scrub it and we get ourselves into an environmental problem, here we are: we have nuclear energy.

We have thousands upon thousands of people working in these plants every day. They are not complaining. They are not complaining one-billionth as much as the Senator from Alaska.

You tell these people:

> Look, you have been all wrong for these 17 or 18 years. Now we are going to close down that plant and you just go home; go home because we do not like the idea on the floor of the Senate.

I mean, it does not make sense to me. If we have got to be careful, as we have been in nuclear programs, let us be careful. But this idea that unless we pass this amendment they are not going to be careful down there at General Electric—why, they had a small, a little bit of a crack in one little piece of pipe in a boiling water reactor, and Bill Anders closed down 23 of those plants until they discovered what the trouble was. That is how careful we are.

Let me say this to the Senator from Alaska: There is no committee in this whole Congress that watches more carefully over the safety of any of its responsibilities than the Joint Committee on Atomic Energy. I dare anyone to dispute that record. That has been going on since 1954, since the act was adopted.

I understand the Senator from Illinois would like to put a question or two to me.

Mr. PERCY. I appreciate very much the distinguished Senator's yielding for the purpose of putting a couple of questions.

I am deeply concerned about not making any change in the present legislation because inflation alone has made those figures somewhat obsolete, and we ought to take that into account.

Second, I am concerned that a dollar limitation of $5 million per company is inequitable. There are some small, marginal companies in this field where $5 million would be a tremendous amount. To General Electric, which has assets, if I recall correctly, in excess of $9 billion, this would probably amount to less than 30 percent of their present cash on hand. Thus it could be paid out of petty cash and would not really be missed, and therefore would not have the salutary effect of potential liability that would cause them to take every conceivable step to insure quality control.

I find the concept of unlimited liability difficult to support simply because I would not know what consequences that would have. As the Senator from Rhode Island has stated, it may cause a slowdown in expansion at the same time that we should become more, not less, dependent on nuclear energy. We want to get less dependent on imported oil, and this is one of the avenues that is certainly in the national interest.

But I think the industry is ready to accept more of the burden. We have now had many years of experience without a single accident of the kind that we are contemplating. With this experience they should be able to assume more of the responsibility for liability in the future than they have in the past with Government indemnity.

So, in principle, we are weaning ourselves away from the concept that liability must be very limited in order to allow expansion.

My question to the distinguished Senator from Rhode Island, whose knowledge and devotion to this field has made him, to a great extent, the father of nuclear energy from the standpoint of legislation and oversight, is it not possible for us now to arrive at some liability figure based on the size and assets of a utility or a corporation rather than keeping the $560 million limit which, in concept, now seems to be somewhat out of date?

In considering the possibility of offering an amendment along this line, the Senator from Illinois has taken a figure of 25 percent of the assets of a corporation, whether it be General Electric or Commonwealth Edison or Detroit Edison, 25 percent of the assets which would not force a company to liquidate if it had a very, very large liability or catastrophe, but would be sufficiently large to cause that concern to take every conceivable measure and not shave or cut any corners?

Whether the figure of 25 percent is right or whether it should be 50 percent or 10 percent I am not sure, although 25 percent of assets seems to be a reasonable figure. But I would very much like a response from the Senator from Rhode Island as to whether in principle we should not work toward having some degree of liability. It would be limited but substantially larger than is now provided, because the $560 million today really seems to be out of keeping with the ability of the industry now to determine with greater accuracy than many years ago what the potential liability may be.

Mr. PASTORE. If I may answer the Senator, that is precisely what we are trying to do in this bill. The only thing the Senator is suggesting is a different formula than the formula we have adopted. But the principle and the philosophy of which he speaks are identical to what we are doing in this particular bill.

When the Senator speaks about the $5 million, that only applies to a utility company and, at the time we were discussing that, we realized there are some small utility companies, public utility companies, for instance—a city that might own its own utility and wants to build a reactor, nuclear reactor—we knew they cannot afford to pay $5 million, so that is the reason why we have the leverage of $5 million down to $2 million. In that particular case the assessment would probably be closer to $2 million than $5 million.

This is the way this works: At the present time the total liability is $560 million. One hundred and twenty-five million dollars of that is insurance they have to buy. Four hundred and thirty-five million dollars is the amount the Government guarantees as an indemnity.

As new reactors come on the line—for instance, you have 55 reactors now, and let us assume we add 145 more reactors. That will bring it up to 200 reactors. Let us assume the medium the Nuclear Regulatory Commission strikes is $3 million per reactor. You see, the fund will increase by 200 times 3—do I make my point clear—which is $600 million which is added on to the insurance they already have. So you add that on and you can see you are going up to almost $1 billion and, in the meantime, as the total amount of financial protection goes up, the Government indemnity responsibility diminishes because the utilities are picking it up, they are picking it up from $125 million. The minute you consume the $435 million, you add the difference between the $435 million and the $600 million that I mentioned to the Senator, so you add the difference between the $435 million and the $600 million, which is $165 million, which will raise it from $560 million plus $165 million more, and that is how the financial protection goes up, and would continue to go up during the extended life of the Price-Anderson Act.

The Senator is right. Frankly, the Senator has made a meritorious suggestion and, I think, possibly the committee ought to delve into it, hold hearings, find out whether or not the utilities can afford to pay this. As a matter of fact, as far as I know, most of the utilities today are in difficult financial straits. Some of them are not even paying dividends to their stockholders—you know that, Mr. President. That happened in New York. A lot of them have ventured into the nuclear business, and then because of certain lawsuits and what have you that have been brought, they either have to remain stalemated or still in the courts fighting it out, and that has been the story.

Now, in order to overcome all this, the administration made the suggestion that we extend this for 10 years. This bill is being backed by the administration. That does not make it good only because the administration backs it, but this law that is existing today will expire in 2 years, and all of the 55 reactors now operating are already covered. The question here is what are you going to do about the new ones which will receive construction permits after August 1, 1977? That is the argument that I made to the Senator from Alaska. If you make it impossible for them to buy the insurance, you have to look at this in a practical way, and the insurance is not available—you cannot buy that kind of insurance. There is not an insurance company that can take their assets and allocate it to this particular risk and put it in their reserves waiting for that one-in-a-billion accident to happen. I mean, that just does not happen in business.

So I am saying apart from all the emotion in this case, we have got to be a little practical, we have got to pragmatize a little bit and understand what we are up against. We have gone all through this. So far as I am concerned, I am, very frankly, going to tell you I do not carry any brief for the utility companies. I do not carry any brief for Union Carbide or General Electric. I am worrying about that fellow who needs the energy in order to create and maintain jobs. I am worried about the lights that have to go on when you turn on the switch, and that is what this is all about.

They tell us the oil is running out, they tell us the gas is running out, they are telling us we have to gasify our coal, and all of these things are in the future, and here it is, we have got atomic energy—8 percent of our electricity is atomic energy today in the country.

In my section of the country, it is 24 percent. In the State that the Senator comes from, Illinois, 33 percent of the electricity is nuclear.

Mr. **PERCY**. Will the Senator yield for a comment on that?

Mr. **PASTORE**. Yes.

Mr. **PERCY**. The Senator from Illinois recognizes the great dependence of the State of Illinois on nuclear energy. We have been in the forefront and we are certainly ahead of every other State in the Union.

Mr. **PASTORE**. That is right.

Mr. **PERCY**. We have an extraordinary management at Commonwealth Edison that has been aggressive and yet safety conscious. We have been blessed with that.

On the other hand, the Senator from Illinois feels that the industry now has matured, that it is doing well and that the industry itself has a duty to recognize that.

We have a duty to recognize that because of the considerable growth of the industry, it is now in a position to assume certain costs that it was possibly not in a position to assume before.

As for assets of certain companies, Arizona Public Service has over $1 billion, Arkansas Power & Light over $1 billion, Duke Power $3.4 billion. We could go on through the list.

These are considerable companies with great assets and great resources available. The question now is whether they should not, in order to give us a truer cost of nuclear power, be building into their cost structure what we consider to be the public interest in taking on the insurance cost to insure against potential accident and to see that the basic rights of individuals are protected.

The principle of our legal system is that persons injured by negligence should be able to sue for full and just compensation. This is a principle we ought not to subvert and we ought not to exempt one particular industry from forever.

Certainly, the Senator from Rhode Island, I believe, recognizes this: Price-Anderson does severely limit the public's opportunity to recover such compensation in the event of a nuclear accident on the grounds the weak, new nuclear industry could not survive in the face of potentially unlimited liability.

No longer is it weak or new. It is a mature, full-blooded industry now that has taken its proud role as one of the major power suppliers, as exemplified by 33 percent of electricity being generated in the State of Illinois.

They are ready now to assume that cost and they have to, as a regulated industry, pass that cost on to their customers.

We are talking about higher rates, but everyone using oil is certainly paying more, in coal they are paying a great deal more, and we should not be in a position by law of subsidizing this industry to reduce its costs unreasonably and having artificial cost structures by not taking into account a potential liability that could be upon them if we did have some catastrophic accident.

I think we have a deep evaluation to make yet, to set up a cost structure to insure policing inside the industry sufficiently to prevent that kind of accident. Accidents have occurred which usually can be traced back to some hazard, some fault of an industry, a supplier, when there was not sufficient incentive to guard against that.

What we want to build into the industry now is a sufficient factor that does not give them full and total responsibility, but gives them a great financial responsiblity to adhere to safety standards.

So I simply again put the question, what would be a reasonable ceiling, taking into account that at this stage I do not think we are ready to move to an unlimited liability, but what is a reasonable liability for a company to have?

I suggest again, respectfully, the figure of 25 percent of assets, which taking into account the condition of most of the companies I have mentioned, a long list which I have here, does not seem to be an onerous amount.

It would be $262 million for Arizona Public Service. This is a large amount, but it certainly is not going to destroy a company that has assets of over a billion dollars. It would be a figure that I think they could handle, but certainly a figure that would cause them to take a look at everything they are doing to make absolutely certain the safety standards that they establish will be beyond any reasonable reproach.

Mr. **PASTORE**. I keep emphasizing, and I would like to say it again, that is precisely what we are trying to do under this bill.

I do not know whether or not there is any insurance company that is ready to underwrite $260 million insurance for that particular company. I mean, these are matters we have to go into very carefully. It is something that we cannot resolve on the floor of the Senate.

Maybe at some future date we ought to get into this, as to how much faster we can accelerate this removal of the Government from this field. But at the present time, that is precisely what we are trying to do. That is why we are levying this deferred premium against all utility companies which operate nuclear power reactors.

I repeat again, there may be another system. But I frankly must say that we have labored long and hard over this. This has been studied by the old AEC, studied by our experts, studied by our staff. We have had prolonged hearings on it and this is the best solution we can find as of this time.

Later on in the distant future, as we get more experienced, maybe some other formula will be more appropriate. But I am not prepared, and I do not think the Senator from Illinois is prepared, to say this afternoon whether we should strike the 15 percent, 25 percent, or 50 percent of their assets.

I do not know the answer to it. We are certainly not going to do it this afternoon. Maybe the ceiling on this is right now, as near as the $560 million.

But here again, I am afraid if we start putting amendments in this, that what we are doing is impeding the progress of nuclear energy and, frankly, I am a little worried about what the consequences of all this might be.

Maybe we can get along without nuclear power. Maybe we can again go back to the bow and arrow. I do not know. Maybe we can live in the dark a little bit longer than we are accustomed to do. Maybe we do use too much electricity, but the point is that we need this electricity in order to keep people working.

I do not want to do anything today that will in any way impede the orderly progress of the development of nuclear power if it is safe, and the experts tell us that it is.

If it is unsafe, then let us chuck it out. But if it is safe, let us not stand up and say, "Let us do without," when we know what the problems are.

I yield to the Senator.

Mr. **BAKER**. Mr. President, I thank the Senator for yielding.

I think our colleague from Illinois has raised three good questions that are not answerable here on the floor of the Senate, but I think they are worthy of his concern and of ours.

I assure him, for my part, the Joint Committee on Atomic Energy will give them careful attention.

The three issues as I perceive his concern, as he expressed them here, are, one, is $560 million enough?

Should we not consider a higher limit, I suppose, in favor of the ravages of inflation? The answer is clear, I think, we should consider it. If we do not stop inflation, we will have to consider that and everything else. I think that is a realistic concern.

Fortunately, as the chairman of the committee pointed out, the amount does go up. It does go up rather dramatically, as a matter of fact, and within the 10-year time frame of this estimate it would go to well over a billion dollars, even at less than the maximum premium paid by the utilities.

As an incidental benefit, it would take the Federal Government out of the indemnity business altogether. It would get that down to zero pretty fast.

So the first answer, as far as I am concerned, is that we should. I think we have, but maybe we ought to look more fully before that 10 years expires, well before it expires, and I am willing to do that.

The other is: Should we not consider some sort of liability limitation on the vulnerable assets or the assets at risk of a particular corporation? Should we say, for instance, that only 25 percent of the resources of a particular utility would be at risk in a case of this sort?

Frankly, that is one we have not considered. I suppose, under some circumstances, that might be taken into account, but that would be a new approach. That would be a limitation of liability coupled with a new obligation, such as a tort liability response, which is not embraced here. That is a fundamental concern.

I cannot give a direct, straightforward answer on point two as I could on point one. I am willing to think about it, and if it seems indicated or necessary, I am willing to do it.

The third point that he expressed not as a reservation but as a commitment to the public development of nuclear power I fully and wholeheartedly agree with. I join with the Senator from Illinois in expressing pride in the leadership of his State and the electric utilities which serve as being in the vanguard in the development of these techniques. Illinois is indeed fortunate to have the quality of leadership in their industry as they do in their government. I commend them for it.

Mr. President, I believe the Senator from Illinois has raised good questions. They are worthy of our concern. I am glad he raised them and I assure him we will take account of them as we continue to monitor the performance of this program.

Mr. GRAVEL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. GRAVEL. Mr. President, the Senator has raised a good point, though I raised it earlier. He feels that corporations not presently covered should have some degree of liability. I posed this question to the managers of this bill and they still do not focus on that. We are told that we should wait.

This is a renewal for 10 years. Let me say, if we are talking about waiting, one should not hold his breath because we will not see a chance for this for 10 years.

Again I read from Dunn's Review of December where General Electric is one of the 200 leading performers at 16.8 percent, 5-year average return on common equity. Of course, that is not the case with the utility companies in the State of Illinois, nor in the State of Alabama, nor in the State of Arkansas. But those utilities have some degree of liability. They have $125 million in liability. General Electric, doing this work, operating within the State of Illinois, has no liability in this regard. They can manufacture a good valve or a bad valve, or a good piece of pipe or a bad piece of pipe, or a good breaker or a bad breaker, and it makes no difference. All they have to do is worry about selling it.

Where does the protection to the American people come from in this regard?

We can listen to pontifications and they will not protect the American people. There is only one way to protect the American people. That is to let these people who manufacture suffer the liability of their actions. There is no reason why we should delay. Most of the Members involved in this colloquy are attorneys. I am not an attorney. But the attorneys readily understand what we are talking about. It is not a complex issue.

When my colleague tells me that what we are interested in is jobs and keeping the lights on, I think it has already been stated by my colleague from Rhode Island that, if there was an accident in this country which exceeded $560 million, the likely result would be that we would close down every nuclear reactor in the country. That means that all those people who are dependent upon 8 percent of that electrical energy now, all those people who are employed would be immediately thrown out of work. Why? Because something has gone wrong.

Would it not make more sense to try to avoid something going wrong before it goes wrong? That is all that we are asking in this amendment. It is simply to say that, if nuclear energy cannot stand up to the competition by other industries, then it should not be in existence.

The question is not, "Do you want power?" The American people want safe power. We do not know whether this is safe or not, and we are not permitted the normal checks in our society to make that determination.

I would like to pose a question to my colleague from Illinois, the senior Senator from Illinois, if I can get his attention. The question I would like to pose to him is one with which I am sure he is familiar. I do not have the experience he has in this regard. I have some concern about saying to a company to limit the percentage of liability to their assets. Let us take Westinghouse right now. They have signed contracts with a lot of utilities to provide fuel. If they do not go through with those contracts, it will cost $1 billion or more. I do not know the details of it, but I am sure that they have a separate company and they will let that company go bankrupt. So in point of fact the assets of Westinghouse will not be in jeopardy.

I would suspect that every company in this country involved in nuclear activity must have used to the greatest ability it can the shield of the corporate entity. If I want to go out and take on a commercial project I will try and do it as a corporation. I do not want to put MIKE GRAVEL's name on it. If it goes wrong, I cut it off and let it go down the chute. That is the end of my risk, the amount of money I actually put up.

In point of fact, I do not know the degree of protection that would be, but I would query the managers of the bill: Do the utilities presently use the shield of the corporate unit as a device to shield themselves from liability?

Let me repeat the question. Do utility companies use the——

Mr. PASTORE. Was the Senator addressing me?

Mr. GRAVEL. Yes.

Mr. PASTORE. I thought the Senator was talking to Senator PERCY.

Mr. GRAVEL. I will ask it of anybody who believes he can respond to it.

Mr. PASTORE. Ask the question. I will respond to it.

Mr. GRAVEL. The practice in commercial enterprise, as I know it, is to limit liability by setting up a corporate unit. If things do not go well, the unit will go bankrupt. It is cut off. A person would try not to sign his personal name to it because that would give him liability. In the nuclear industry, why can they not set up a corporation and say that is John Jones' corporation or the ABC corporation which owns the reactor but the rest of the utility company is not tied into that other than buying power from the reactor?

Mr. PERCY. If that is a common or a general business practice, can the Senator cite any business corporation in America in the last 20 years or 10 years where that has happened?

Mr. GRAVEL. I think all corporations do that.

Mr. PERCY. Name one.

Mr. GRAVEL. Exxon is one. General Electric is two.

Mr. PERCY. What is the subsidiary that they would let go into bankruptcy?

Mr. GRAVEL. Exxon owns a piece of the Alaskan pipeline. If the Alaskan pipeline went broke, the rest of Exxon would not go gurgling down the drain with it. That is one. I am sure it is a common practice.

I have sold property to companies and they have these shell companies in front of them. A person has to go through three or four companies.

It is not uncommon to see in Business Week and other magazines the whole table of what the empire is where one has to go through a labyrinth to find out what company is being dealt with. This is not anything new.

I am saying a little square in that labyrinth is the only unit that has liability. The rest of it is safe, free.

Mr. PERCY. Will the Senator yield for a question?

Mr. GRAVEL. Yes.

Mr. PERCY. First, I do not accept the fact that this is common practice. Second, I have not heard the Senator from Alaska name a company that has actually done this.

Mr. GRAVEL. I named Exxon.

Mr. PERCY. The Senator said they could. The Senator from Illinois asked him to name a specific company which has done this.

The third point, and perhaps more important, is the fact that we are talking about negligence suits in court. The court can pierce the veil of real ownership and see where the liability is. All the Senator from Illinois has done is to say that there should be some limit, and a large enough limit, so that it is a real deterrent.

But the situation might not be any different under the amendment introduced by the Senator from Alaska as concerns corporate liability.

All the Senator from Alaska is saying is that corporations can be 100 percent liable and go into liquidation. The Senator from Illinois is saying we are not trying to force them into a position where they pay a very substantial portion, but not to liquidate them and put them out of business. They can be stopped and shut down by regulatory agencies or anything else, but we are not trying to force them to do this.

I do not see any difference in this respect, again, between the amendment of the Senator from Alaska and the position of the Senator from Illinois.

Mr. GRAVEL. Let me pose the question again to the Senator from Rhode Island——

Mr. PASTORE. I heard the argument. The Senator does not have to pose it again. Let me give you the facts. You cannot cut up a utility organization and have it get a license to operate a nuclear reactor. If there is any doubt about efforts to escape responsibility, the license would not be granted.

Lest Senators suspect that all these fine people in Government who have the responsibility are stupid—and they ought to be fired if they are—first of all, you have to get the construction license and then the operating license, and that means you have to go through a very rigid licensing process and inspection. They have the best people in this field who are charged with that responsibility. We have good people doing it. That is a reason why we have not had, up to this time, the third-party liability the Senator is talking about.

We do inspect this equipment. You say they can make a vow that they have no responsibility. No. 1, the vendors have a contractual responsibility with the purchasing utility which probably subjects them to substantial financial risks. Second, using the example of a defective valve, that valve has to undergo rigid inspection and meet rigid specifications. They cannot do it any way they want to.

To answer the Senator's question about the small, little corporate organizational box that he created with the palms of his hands, before you do all this you have to justify it on your application for a license. That has not happened and will not happen, and if anyone makes it happen they ought to be fired.

Mr. GRAVEL. Using the example my colleague mentioned, supposing the department head within that valve company wants to make money, make his department look good, and save some time on inspection. Suppose, in order to increase the profit, they cut down on the degree of inspection, and let through a faulty valve. Are you telling me that now that company is liable?

Mr. PASTORE. Of course, it is liable. It is liable to the contracting person who buys it.

Mr. GRAVEL. Oh. Well, what about the citizen who owns a $50,000 house, worked all his life for it, and all he is going to get——

Mr. PASTORE. Why not put a baby in a crib in that house?

Mr. GRAVEL. All right, put a baby in the crib in the house, and he loses it, whom does he sue? Does he sue, or are you only protecting the utilities?

Mr. PASTORE. First of all, that valve will not pass inspection. Now, you are giving a hypothetical question, if, if, if, if, dressing it up with a $50,000 home, a man with 15 children, 2 of them in the cradle, in the middle of the night, the valve goes. Why not finish your whole drama?

Mr. GRAVEL. I will give you one. The Senator is familiar with Brown-Sperry. We are dealing with Brown-Sperry; let us talk about Brown-Sperry.

Mr. PASTORE. All right. Who died?

Mr. GRAVEL. We have a multimillion-dollar reactor, and a guy underneath the reactor inspecting with a candle, testing whether or not there might be a leak somewhere. Why does he have a candle? Because if it flickers, he can tell there is a leak.

He finds a leak, and do you know where the leak is? In the electrical wires coming out from underneath the vessel.

So he finds some polyurethane, stuffs it up in there, and tests it again, and the flame gets sucked up and causes a fire. He begins to panic, and takes a flashlight and tries to put the fire out with the flashlight.

Mr. PASTORE. Which is all stupid.

Mr. GRAVEL. Oh, purely stupid. But what happens? A few minutes later, someone comes in with a small extinguisher and tries to put it out. After that, the fire starts raging, with smoke coming into the control room.

Then what? After that, they are going to press the button to save the whole thing; they are going to activate the emergency core cooling system. And what happens? It does not work, because they caught the electrical system on fire.

We continue with these impossible occurrences——

Mr. PASTORE. Before you go into that——

Mr. GRAVEL. Do you think they would call the emergency crew? Oh, yes, they finally call the emergency crew.

Mr. PASTORE. I would like to interrupt, before you stop crying.

Mr. GRAVEL. After a period of time, they call the emergency crew in, an hour later, and do you know what happens? They get the wrong number. They could not get the emergency crew because they did not have the right number.

But now finally the emergency crew comes in, and they are going to fight this fire; all of a sudden the firemen come in, and they get into an argument, because they do not have any more of these carbon dioxide containers to put out the fire.

One of them says, "Let's turn on the water."

The other says, "No, you can't fight an electrical fire with water."

So they stand there and watch it burn for 3 hours. Finally, after 3 hours, they take a gamble on turning on the water, and put it out in 20 minutes.

This is a whole day that went on. Do you think they would turn around and call the emergency civil defense? Oh, no. They did not even alert the emergency civil defense in the neighboring community.

But you have to give them an A for credit, because of the American ingenuity of an individual who was able to rig some pumps so that they were able to move the rods down when the activation of the emergency core cooling system did not take place.

No, when my colleague stands here and says these things cannot happen, when you get an emergency situation like this, here is a $50 billion industry running around with a candle looking for a leak, and of course the poor citizens of Alabama——

Mr. PASTORE. If the Senator will yield——

Mr. GRAVEL. If this accident had occurred, what would the poor citizens of Alabama have gotten? Three cents on the dollar. My God, if you are concerned about the children in that cradle, if you are concerned about the grandchildren of the people in Alabama, what about paying them for the liability?

Mr. PASTORE. Well, of course, if anyone was hurt they would have been paid, under Price-Anderson.

Mr. GRAVEL. Three cents on the dollar. That is what the amount, in an extreme accident of this type, would have been. An extreme accident would be a $15 million accident.

Mr. PASTORE. The fact still remains that, thank God, nobody was hurt.

Mr. GRAVEL. We do not want to thank God; we want to be able to thank the checks and balances of our system, if it will work.

Mr. PASTORE. In the establishment of the Alaska pipeline, some people are going to be hurt, and that is regretable——

Mr. GRAVEL. Would you put the same limit——

Mr. PASTORE. Wait a minute. A short while ago, two planes almost collided coming into O'Hare. Does that mean we have to ground every plane?

Mr. GRAVEL. I am not asking you to ground every plane.

Mr. PASTORE. The point is, when you raise your voice and say "a $50 billion industry lighting a candle," that was an individual who did that. That was the stupidity of an individual, and that is why that happened.

After all, God made us all, but he did not make us all perfect, and he did not make everyone as smart as the Senator from Alaska. Maybe that is what is wrong with the world.

Mr. GRAVEL. All I can say is, if you are talking about planes colliding, why not go along with the same liability as the airline industry has, if you think nuclear power is so great? The aviation industry can get $225 million of insurance.

Mr. PASTORE. And they do not have no-fault. The Senator knows that.

Mr. GRAVEL. If you are talking about no-fault, fine. I think it is a good feature. I think you have done good work in this regard. But are you saying to the American people, "We are going to pay you 3 cents on the dollar for your damages"? That is what you are saying. You are saying, "We are protecting you," and that is as much as you are protecting them. You are giving them 3 cents; if their house is destroyed and their wife is killed, that is all you are giving them.

Do not give them 3 cents. Give them their rights under the Constitution of the United States to sue under tort law, as we have given the rights for aviation accidents and for any other industrial activity in this country.

Why does the Senator want something different? If it is so safe why can they not stand the test?

The very existence of this law is the indictment that the position is bankrupt. That is the very existence of the law.

What we are trying to do is bring some sanity to this situation.

The Senator says now, and I repeat it again, that we will kill or we want to gut the nuclear industry. We do not want to gut the nuclear industry. I am not smart enough to make that decision.

I wish to let everyone in our society come into play and contribute to that decision, and if this amendment passes it will not be us, any Member of the Senate, or myself. It will be the people who know most about it.

Under the present situation, those who know the most take the least risk.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Alaska has 7 minutes remaining.

Mr. GRAVEL. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island has 15 minutes remaining.

Mr. PERCY. Mr. President, will the Senator from Tennessee or the Senator from Rhode Island yield?

Mr. PASTORE. How much time do we have remaining?

The ACTING PRESIDENT pro tempore. Fifteen minutes.

Mr. PASTORE. I yield 5 minutes to the Senator from Illinois.

Mr. PERCY. That is fine.

The Senator from Illinois very much appreciates the comments made by the Senator from Tennessee (Mr. BAKER).

The Senator from Illinois has also had an opportunity this morning through his staff to check with one of our major public utilities in the nuclear field to get its attitude, which I think is consistent with the pattern of attitude that we are getting from several that we have contacted.

They accept the notion that there is some level of limited tort liability in addition to Price-Anderson no-fault funds which could be instituted without seriously damaging the nuclear industry.

If they accept that principle, and I seem to feel that on that principle there can be some universal and general agreement, then the question is how much liability?

The Senator from Illinois would be the first to say that this is the kind of a thing that it would be desirable to have hearings on, to have a considered judgment, and not try to legislate something that important in the Chamber without knowing what the end result would be.

The concern that the Senator from Illinois has is, as the Senator from Alaska has said, we might not get any changes in 10 years. Now the Senator from Illinois does not believe that. It is a real problem we are going to have to face up to, and there is a possible solution. We are going to find the solution and bring it to the Chamber as soon as we can.

But it is true the incentive for doing it, with the steady pressure of work Senators all have, would be removed.

The thought occurs to the Senator from Illinois that this is not emergency legislation. It does not have to be enacted until August 1977, and it is in effect for a 10-year period.

The concern the Senator from Illinois would have is that if we let the day go by and enact this—if we enact the Gravel amendment obviously we will open up a tremendous area of unlimited liability about which the Senator from Illinois shares the concern of Senators from Rhode Island and Tennessee but if we do nothing today, the Senator from Illinois would be concerned that we may simply not get around to this as quickly as we can or should.

Would it be possible for the full debate to not take place on this issue today, but to take this back to committee to have such hearings early next year, so that before the August 1977 deadline, hopefully before August 1976, we would dispose of it, but be able to at least establish in principle that there should be limited tort liability? This would then insure that the industry would take every due diligence in addition to their social conscience and responsibility. It would be an additional financial liability that they would have. We should be able to determine a figure that would not cripple the industry but would pass on to consumers adequate costs for this additional liability that now, in the general interest, we feel the companies actually should assume.

I simply would ask the question whether or not it would be possible for this measure to be reconsidered in committee and taken up and what the time frame would be that the Senator from Rhode Island would have in mind for having such hearings, and opening this issue for comment by the industry as well as by consumer interests.

Mr. PASTORE. It would be most unfortunate to do that. We ought to go through with it today. If the Senate wishes to knock this down, let them knock it down. We have spent hour after hour on this, and this is a new proposition that comes up.

Apparently the Senator's staff has been picking up the telephone, and certain people are agreeing in principle to this, that, and the other.

I tell the Senator I am perfectly willing to hold hearings, but I do not think this bill ought to go back to the committee. There is a lot of pressure on the part of the administration to pass this bill. It takes 7 to 10 years to build a reactor. This will dam it up at this time. We have 64 construction permits outstanding, 78 applications under construction permit review, and additional plants on order. We have not gotten to the point of licenses to operate for these plants. We could run concurrently. I see no harm in looking at this once we have passed it, if we can pass it, and then if we have to add on we can always add on.

But what the Senator is saying here now has been raised in the committee, and there has not been that forthright willingness to do what he said when they came before our committee.

If there is a change of mind, I am perfectly willing to hear it again, but I do not think we ought to send this back to committee. I tell the Senator frankly, if it goes back to committee, it will go on the back burner and stay there as long as I am in the Senate.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. BAKER. Mr. President, I am sympathetic with the point of view of the Senator from Illinois, but I must say I hope he will not press for that course of action. It is too important that we proceed with the passage of this renewal now, not, as he pointed out, because it is about to expire—it does not expire until 1977—but because of the impact failure to pass would have on those long-leadtime articles that have to be ordered years in advance in order to put a reactor in place. There is testimony before the committee, I believe, that the failure to renew Price-Anderson at this time would have adverse effect and impact on the willingness of utilities, engineers, and suppliers generally to go forward with the projects that have a long leadtime anyway.

One of the reasons we are behind schedule in nuclear power now is because the leadtime has stretched out farther and farther because of necessary regulatory efforts and because of the delay in fabricating components.

It is essential that we not have any further time delays, and to avoid that it is essential that we go ahead with the renewal of Price-Anderson at this point.

I share with the Senator from Rhode Island willingness to take a look at this, to call the utilities back in to ask them their point of view on the Percy proposal, but I very much hope he will not press now to send this bill back to committee. We need to act on it at this time.

Mr. PERCY. I would like to ask both the Senator from Tennessee, as the ranking minority member, and the chairman, to give some indication as to when this could be taken up in committee and in what form they might envision it so that we could enact a change in policy that would take into account what I detect to be a willingness of the industry, in its maturity, to assume a greater degree of liability so as to remove some of the consumer pressures that now exist and are evident by the Gravel amendment.

Mr. PASTORE. If the Senator will yield, if he will have his staff give us the names of all companies he has been talking to, we are coming back on January 19, and sometime after our recess, in February we would be very happy to hold hearings. But we have to have names. We have to have names. I want to know these companies, who are now willing to assume a greater risk, who appeared before our committee and refused to do so.

Mr. PERCY. The Senator from Illinois would be misleading if he is saying there is anyone in the industry that is out front asking Congress to impose upon them greater liability. That is not the case at all.

Mr. PASTORE. That is what we wish to know. That is not the way they testified before our committee.

Mr. PERCY. I think the Gravel amendment has created and opened up an area for responsible discussion. It has created an atmosphere where the industry has admitted they would be willing to accept change but they are not going to go to seek it. I do not expect that we ever will write legislation if we leave it to the industry to impose costs upon itself. They are not out looking for that.

Mr. PASTORE. That is the reason why I cannot understand why the Senator says that we checked with these people and there is a willingness to do it, when they come before our committee and say, "No." I would like to know the names of the people who are willing to do it. After all, we have a lot of things to do in the Senate. I am not going to waste my time up there.

I repeat: If the Senate wants to kill the nuclear power reactor program, let it do so on the floor of the Senate.

Mr. BAKER. Mr. President, I do not think we have come to that pass. I believe that we can accommodate the aspiration of the Senator from Illinois to take a look at this, with the obligation we have to go forward in the committee. I am willing to hear whoever from industry is willing to get in touch with us, either individually or the committee en masse. I think that is the solution to it. Let us defer just until we do hear from industry and they are willing to make their representations.

Mr. PASTORE. Whom do we call in?

Mr. BAKER. Whoever gets in touch with us.

Mr. PASTORE. Nobody is going to get in touch with us, because the Senator has said they are not going to impose an extra fee on themselves. There has been some contact with some people who today are saying they are willing to assume a little more than they said when they came before the committee. All I say is, "Give us the names, and we will call them in."

Mr. BAKER. Mr. President, I have another matter I should like to discuss briefly, if there is time, if the Senator will yield.

Mr. PASTORE. I yield.

The ACTING PRESIDENT pro tempore. The managers of the bill have 5 minutes.

Mr. BAKER. Mr. President, the Senator from Alaska made reference to the fire at Browns Ferry, and I would like to say a word or two about it.

To begin with, the Browns Ferry Nuclear Plant belongs to the TVA, the Tennessee Valley Authority, and is a matter of great interest to me because that is the agency that serves all the power subscribers in my State. It is headquartered in my hometown of Knoxville.

The Tennessee Valley Authority did, indeed, suffer an extraordinarily unfortunate fire there, and it is going to cost many millions of dollars, possibly tens of millions of dollars, to put that plant back in service at full capacity. But let us separate what happened down there and what it means to us.

To begin with, they did have an electrical fire caused by an installer who was in fact using a candle that set fire to insulation. That is not the first industrial fire we have had, and it is not the last industrial fire we will have—not even the last of that size. It probably will not even be the last fire from burning insulation on wire that takes several hours to put out.

It is important to remember that no aspect of that accident involved the nuclear components of that plant. There was never a runaway reactor incident. There was never a failure of the control rods. There was never a failure of the water to cool the reactor. There was never the inability to stop the reactor, to deactivate it. There was never the loss of any radioactive material. No one was injured. There was no threat outside the containment vessel. The plant is going to be put back in service.

We lost a lot of money, and unfortunately the power subscribers in my region are going to have to pick up the tab for those tens of millions of dollars.

As I understood the Senator from Alaska, the point he made was that the emergency core cooling system was called on to operate and it failed to operate. That is not so. It operated in the automatic mode. I believe it was three times—more than once—and was tripped out after it was determined that coolant was there; that it was receiving a false signal saying that a situation existed which did not exist—that is, a danger to the reactor. The emergency core cooling system operated not once or twice but three times. There was never a loss of coolant. The coolant was there to cool the reactor and was in fact used to cool the reactor.

It is true that some of the valves could not be operated from the remote locations, that some of the sequence of valving could not be accomplished from the control room. But there was also full and in most cases redundant ability to shut down that reactor, to scram it, which they did. There was never any threat to anyone from that. There was an extremely unfortunate insulation fire, but there was never a nuclear threat to anyone. It is going to cost the people of the Tennessee Valley a great deal of money, but it says nothing about the safety of nuclear power.

Mr. GRAVEL. Mr. President, I disagree with the statement of the Senator from Tennessee.

I ask unanimous consent to have printed in the Record several articles relating to the incident.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From Business Week, Nov. 17, 1975]

How Brown's Ferry Skirted Disaster

For years the nuclear power industry has insisted that the chance of a reactor meltdown—a calamity that would spew radioactive gases for miles around a nuclear power plant—is negligible. Indeed, safety systems upon safety systems are built into these plants to prevent such a disaster. But last Mar. 22 the impossible almost happened at the Tennessee Valley Authority's three-reactor Brown's Ferry (Ala.) plant, designed by General Electric Co. Says Stephen Hanauer, the Nuclear Regulatory Commission's top technical adviser: "It was the worst accident in light-water reactor history."

The incident started soon after noon, while an engineering aide was making a routine check beneath the plant's control room for air leaks that could carry radioactive contamination from the reactors to the outside world. As usual, he was carrying a candle, counting on its flame to flicker with the slightest breath of air. Suddenly it did. Air, he discovered, was escaping from a hole through which many of the plant's 2,000 electrical cables passed.

He tried to block the leak with polyurethane foam, then lit the candle again. This time the draft sucked the flame right into the hole, igniting the foam. Yelling "Fire!" the technician started beating at the flame with a flashlight, but to no avail. Next he tried to smother it by stuffing rags in the hole. No luck. Then another worker handed him a carbon-monoxide extinguisher. Then a dry-chemical extinguisher. Another one. Too late. By now the fire was moving down the cables.

SMOKE

Above, control room personnel were beginning to realize how serious the situation was. Though the cooling system pumps had triggered automatically in the two reactors that were operating, "panel lights were changing color, going on and off," recalled one operator later. "I was sent to bring back flashlights. When I returned there was smoke in the control room."

At 12:51 an engineer shouted "Let's scram the unit!" and the operators inserted control rods between the fuel rods to halt the fission reaction. But as they waited, one was jotting down some increasingly ominous notes on the performance of one reactor: Pressure on the vessel rose to max of 1,000 psi . . . relief valves were popping . . . lost the ECCS"—meaning that the emergency core cooling system, the very heart of the safeguards, had conked out. The fire had burned through the system's cables.

Without power, water could not continue to flow through the core, and the decay heat quickly started to evaporate the water that was already there. "The control room was filling with smoke and fumes," said one engineer. "It was obvious the control room would have to be evacuated in a short time unless ventilation was provided." Despite the pandemonium, TVA personnel managed to jury-rig pumps normally used to drive control rods into the reactor to pump water instead. Now the problem seemed under control.

But at 6 p.m. the emergency pressure relief valves failed and pressure began to build up again. By 9:50 the water level dropped from 12 ft. to within 48 in. of the fuel rods, when a worker was finally able to repair the valves. Had he been unable to do so, the reactor core could have melted, the containment structure would probably have ruptured, and nearby Decatur, Ala., might have been decimated.

A TENUOUS LINK

Industry spokesmen point to the happy ending as evidence that the layers of safety systems do work. But it is also clear that the human element remains a tenuous link in today's reactor designs.

Incredibly, a quarter hour passed before anyone thought to call the plant's emergency crew—and when someone finally did, he got a wrong number. An hour and a half after the fire started the local Athens (Ala.) fire crew finally arrived on the scene. The fire chief immediately advised the TVA man in charge to spray water on the blaze, but the man refused to use water on electrical cables. The fire burned out of control for five hours before workers finally took the fireman's suggestion. The blaze was extinguished in 20 minutes. All through the day, no one even bothered to notify the civil defense coordinator for Limestone County, Ala., where the plant is located.

Eventually the incident may force the TVA and all other nuclear-power utilities to spend millions of dollars to improve their reactor systems. Sums up the NRC's Hanauer: "It was like a mild heart attack. Maybe it woke us up."

[From the Washington Star, Oct. 22, 1975]

A Nuclear Plant Nightmare May Change Safety Rules

(By John J. Fialka)

The story of a $100 million fire that devastated one of the nation's largest nuclear power plants, that threatened to send a massive atomic reactor out of control, and that will probably change fire prevention plans for the entire nuclear power industry begins with one man and a candle.

It was March 22. Inside the Browns Ferry Nuclear Plant, operated by the Tennessee Valley Authority near Athens, Ala., an electrician's helper was confronted with a problem. There was a 2-by-4 inch hole in the 30-inch thick concrete wall of the building that houses one of the plant's two operating nuclear reactors.

The worker was standing in an adjoining "cable spreading room" filled with thousands of spaghetti-like cables that linked the reactors and their multiple safety and control systems with the plant's control room on the floor above him. He solved the problem with what was the standard operating procedure at the plant, which is among the largest and most sophisticated of the nation's 56 operating atomic power facilities.

He stuffed a sheet of highly flammable plastic foam into the hole, which had been made to accommodate a new cable going into the reactor building. Then he lit a small candle and held it in front of the hole.

Nuclear power plants bristle with redundant safety devices, designed to operate as a "defense in depth" against the possibility of a major release of radioactivity or the possibility that a reactor might overheat and turn into a massive, molten glob of radioactive metal.

But on this fateful day at Browns Ferry, parts of this system operated perversely, enhancing the first which knocked out a major portion of the plant's safety and control systems and brought one of the plant's reactors, "Unit 1," dangerously close to running out of control.

As detailed in a 1,194-page report released by the Joint Committee on Atomic Energy, the near-disaster began with what was a commonly accepted test in the plant to see if holes in the wall had been plugged.

The electrician's helper held the candle in front of the hole. If the hole had been plugged, he would know because then the flame would burn straight up. But the hole wasn't plugged and a draft—created by a slight imbalance in air pressure in the reactor room designed to create an inward draft to help keep any radioactive particles from escaping—stretched the flame out horizontally, drawing it into the hole. The foam ignited and began to burn.

The worker pointed out the fire to an electrician who gave him a flashlight and told him to "beat the fire out." The fire melted the lens on the flashlight.

Another electrician working nearby offered some rags to smother the fire. The worker stuffed these into the hole, but they quickly began to burn because the fire was feeding on the air trapped in the plastic foam.

Then somebody gave him a fire extinguisher and he shot a cloud of carbon dioxide (CO_2) into the hole. It shot right through the hole and out the other side into the reactor room. When the extinguisher was emptied, the flames popped up again, burning more brightly and moving deeper toward the reactor room side.

Within moments, an acetylene-like flame appeared into the reactor room. The hole was on the wall, 20 feet above, the floor of the room and the flame, feeding on the polyurethane foam and the draft, spluttered and roared as it burned.

Workers inside the reactor building climbed ladders and quickly sprayed more CO_2 on the flames, quenching them momentarily. But as soon as the fire extinguishers were exhausted, the fire blazed anew.

"There was a lot of blue arcing and popping of electricity, and the fire was slowly backing down the cable tray into the spreader room," a public safety officer told investigators later. (The report does not contain the names of most plant employes.) He ran out of the room to get more chemical extinguishers and oxygen masks.

But many of the special oxygen packs designated for firefighting in the plant were found to be useless because they lacked masks or sufficient oxygen to bring the men to the scene of the fire. And the CO_2 from the hand extinguishers seemed to have little effect.

An assistant shift engineer then resorted to the ultimate defense against fire in the cable spreading room. It was a special chemical sprinkler system installed on the ceiling. When the room was evacuated, the system was designed to pour a massive dose of CO_2 on the cable trays.

The problem was the system wouldn't turn on. First, the engineer tried the automatic switch but found the electricians had cut the power off. Then he found the power switch and turned it on but nothing happened. Then he turned to a special emergency manual switch, designed like a fire alarm handle. You had to break the glass before you could pull the handle.

Someone, however, had installed a metal plate behind the glass, so the switch couldn't be reached. (Later investigators found that all the safety switches in the plant had been covered in this manner to prevent damage while the plant was under construction.)

After trying to pry the plate off without success, the engineer was relieved to hear the CO_2 rumbling through the pipes and into the cable room. The automatic switch had worked after all.

But as soon as the CO_2 system was shut off, the fire in the cable spreading room resumed again, so the system had to be activated again. This went on through most of the afternoon. Afterwards, investigators found that the switch that started the CO_2 system did not cut off the room's ventilation system, which drew a considerable portion of the CO_2 away from the fire and out of the room.

And some of the CO_2 as well as the smoke from the burning neoprene drifted up through holes in the room's ceiling into the plant's control room above, where the plant's operators were struggling with a problem that was growing more serious than the fire: how to keep the plant's two reactors under control.

It had taken about 15 minutes for word of the fire to reach the control room. At first the electricians had failed to sound the alarm. Then someone picked up the phone to warn the control room, but dialed the wrong number.

By about 1 p.m., however, it had become abundantly clear in the control room that something was wrong. All of the instruments that were supposed to monitor the chain reaction in unit 1, had become "inoperative."

By that time the operators at Browns Ferry had managed to "Scram" both reactors, a maneuver that consists in slamming the control rods down into the fuel cores, slowing down the chain reaction or the process of nuclear fission to the point where power production is stopped.

But the Scram does not completely stop the fission. There is always a certain amount of "decay heat" in the fuel core that must be constantly dissipated to keep it from overheating. From 1 p.m. on, that became the major problem at Browns Ferry as the fire raged on, out of control.

"At 2 o'clock," according to one investigation report, "fire-fighting efforts in the Reactor Building were abandoned in favor of an orderly station (reactor) shutdown. For the next two hours, the cable fire was allowed to burn uncontrolled for lack of manpower, lighting and visibility."

The fuel core of a nuclear power plant consists of a living room-sized assembly of uranium fuel, arranged in metal tubes. This sits inside the reactor, which is, essentially, a large stainless steel pot designed to keep the fuel core constantly immersed in water. The water must be circulated constantly to remove excess heat.

There are 13 separate defense systems at Browns Ferry against the possibility of a meltdown. One is a group of high-pressure pumps designed to force water into the reactor, even when there is steam at high pressure inside. There are five systems in this group and each is protected by a redundant set of control cables. But the cables were in the same burning room and, by 1 p.m., two of the five systems were knocked out. Engineers had to rewire, or jury-rig the plant's control panel to keep two others running.

Backing up this group, there are six low-pressure systems that can be called into play. But by 1 p.m., these could not be used at all because there was too much pressure inside the reactor.

And backing up these two groups are 11 relief valves which can be used to release the steam from the reactor in order to bring the low-pressure systems into play. By 1 p.m., the fire had burned through the compressed-air system which operates these valves. The engineers could still operate four of these valves manually, but the other seven valves were locked shut.

In short, much of the "defense in depth" of reactor No. 1 had been penetrated. (After the fire investigators found that 482 safety cables leading from the unit had been burned.)

Normally, the fuel core is covered by at least 15 feet of water. As the pressure built up in unit 1, however, operators watched the water level drop to just 4 feet above the radioactive fuel. The remaining high pressure systems, they decided, were not enough to prevent the water level from dropping further and uncovering the fuel core. At that point, they decided to attempt a "blowdown." This was a maneuver to release the steam through the four operable valves in an attempt to bring the low-pressure cooling systems back into play.

That worked for a while, until the last four valves slammed shut and the pressure inside the reactor began to build again, knocking out all of the low-pressure water delivery systems.

Time and time again, various plant employes braved the smoke and the darkness of the reactor room in attempt to get at stuck valves and open them manually. But they were frequently driven back by insufficient oxygen, or masks that leaked in the acrid smoke. Some could not find the right valves in the darkened room, several passed out. Some received shocks from the arcing cables.

After an afternoon of often heroic attempts to reach the right valves, the problem was finally solved by wiring the valves open.

By 7 p.m., it had become clear that a major nuclear disaster had been averted. With the valves wired open, there were enough systems available to keep the reactor depressurized and cooled down. The fire, however, remained to be dealt with.

With all of the sophisticated fire-fighting equipment and trained expertise in the complex, billion-dollar array of technology that the Browns ferry plant contains, it might be difficult to believe that the solution to the fire problem had arrived at the plant at as early as 1:45 p.m. in the form of Chief A. E. Bumpus, chief of the Athens, Ala., Fire Department. He brought six firemen and a pumper truck up to the plant gate. His men were given radiation detection badges and admitted to the plant.

Bumpus, 59, a 31-year veteran of the department, had to be led into the reactor room "You couldn't see nowhere," he told a reporter. "You had to go pretty much by feel."

When Bumpus saw the problem, he recommended spraying water on the cables. "I informed them," Bumpus later told investigators, "that this was not an electrical fire and that water could and should be used because the CO_2 and dry chemical were not capable of providing the required cooling. Throughout the afternoon, I continued to recommend the use of water to the plant superintendent. He consulted with people over the phone, but apparently was told continue to use CO_2 and dry chemical."

Later, when members of the Joint Committee asked about this, the plant's superintendent, Harry J. Green, testified: ". . . I did not authorize the use of water, and it was because we had lost so much control equipment and we didn't understand at the time the mechanism whereby we had lost so much. We had lost redundant components that we didn't think you could lose, and I was afraid that if we put water on (the cables) we would short out additional controls that we needed."

By 4:30, there were enough oxygen packs and portable lighting units available to make another attempt to enter the reactor room and put out the fire.

"This was not your average corner store," explained Bumpus, who said his men had been inside the huge plant before during numerous fire drills, but were unable to find their way, unaided, to the reactor room. Several plant employes with a radiation monitor went in ahead of them. "There are people who have worked in there for years and they still lost," added Bumpus.

Flames were still spewing up from the cable trays and a black liquid, a by-product of the burning neoprene was seeping down the plant's walls. Several employes climbed ladders to get a better shot at the cables with the CO_2, but they were often driven back by the smoke. When the CO_2 hit the flames, they went out. Afterwards, however, they sprang up again.

Bumpus noted that there was a fire hose position about 60 feet away from the major part of the fire and again pressed Green to use water. Green still resisted the idea.

Finally, sometime after 6 p.m., Green gave in and told Bumpus to go ahead and try the water. Bumpus and two of the plant's shift engineers grabbed the firehose nearest the fire and pointed it up at the flames.

The hose, however, was fitted with a special nozzle designed for electrical fires that emitted a fine spray. There was no way the men could get the nozzle to shoot water up to the burning cable tray, 20 feet above them.

* * * * *

About 7:15 they returned and discovered that water cascading down on the trays had put out the fire.

The crisis was over, but Browns Ferry's two reactors had been heavily damaged. Burning neoprene creates a corrosive acid that had been spread by the smoke, almost uniformly, over the metal components of the reactors. The fuel cores had to be removed. TVA officials estimate that it will cost them $3 million to repair the plant and around $100 million to buy electricity from alternate sources until Browns Ferry's units resume again, sometime in January.

Investigators from the Nuclear Regulatory Commission (NRC), have swarmed over the plant and are said to be in the process of compiling plans for a major revision in nuclear plant fire-fighting and safety regulations, revisions that, according to some industry sources, could require major "retrofitting," and the expenditure of "billions of dollars" by owners of existing plants. The NRC report will be released next month.

In an interim report, NRC investigators pointed out that the hole in the wall where the fire started was made in violation of existing regulations. Leaving the hole unsealed while operating the plant is another violation. So far, however, according to NRC spokesman, no charges have been filed against the TVA, which is, like the NRC, a federal agency.

Expert investigators from the Factory Mutual Engineering Association, retained by the NRC, have criticized the lack of adequate oxygen and fire-fighting equipment in the plant. They have also noted:

". . . It is obvious that vital electricity circuitry controlling critical safe shutdown functions and control of more than one production unit (reactor) were located in an area where normal and redundant controls were susceptible to a single localized accident."

The most scathing criticism of the incident, however, has come from the Nuclear Energy Liability and Property Insurance Association (NELPIA), members of a pool of private companies that insure nuclear plants.

The NELPIA report notes: "The widespread use of combustible nonmetallic cable constructions in nuclear power stations has introduced a fire hazard that is not sufficiently appreciated by station (plant) operators. Unless those in authority begin to recognize the seriousness of this hazard and its consequences, losses involving millions of dollars can be expected.

"The premise that grouped nonmetallic cables will not burn or propagate flame has been a fallacy often promoted by certain interest groups. Up until recently users of electrical cable often believed that their tray cable was 'nonburning,' 'nonpropagating,' 'fire resistant,' or 'self-extinguishing'. Not so!"

And as for the cable spreading room, NELPIA points out that it was a mess of cables "situated in every direction conceivable," without any aisles or spaces that could accommodate a fireman. "To go into the heart of this (room) full of smoke and acrid fumes to put out a fire even wearing self-contained breathing apparatus would be considered beyond the realm of heroism."

TVA officials have accepted some of the criticisms, although they claim that, at no point, was the plant on the verge of a nuclear disaster. In fact, they conclude, the fire really shows that "defense in depth" worked.

"In effect," Aubrey J. Wagner, the chairman of TVA's board, later told the Joint Committee, "the Browns Ferry fire was a test—although a most unwelcome one—of the ability of a nuclear power plant to shut down safely under very difficult and extreme conditions. The plant and TVA personnel met that challenge successfully, but it was a costly test."

Although the plant's radiation monitoring system was also knocked out by the fire, it appears that there were no releases of radiation to the surrounding area. This was fortunate, because two backup systems designed to detect radiation also failed.

One of them was a radiation monitoring system that was supposed to be run by the Alabama Department of Public Health downwind from the plant. According to Aubrey V. Godwin, an official of the department the system had broken down three months before the fire and the department hadn't found the funds to replace it.

Neighboring cows, Godwin later pointed out, would have ingested any escaped radiation, and their milk could be tested. So he contacted a local dairy. That "system" didn't work either, though, as he later explained to the joint committee.

"We called him (the dairyman) up and said, 'How about holding some milk?' I didn't get there before the other guy (a customer) came around buying milk, so they sold it to somebody else. He (the customer) lives rather close to the reactor and I take it that he was not too concerned."

[From Newsweek Magazine, Oct. 20, 1975]

INCIDENT AT BROWNS FERRY

Shortly after noon last March 22, two technicians were on a routine search for air leaks beneath the control room of the Tennessee Valley Authority's Browns Ferry nuclear plant near Decatur, Ala. They used the usual technique: a naked candle flame that would flicker at the least breath of air. Suddenly the candle flame was pulled out almost horizontally. A careful search disclosed the source of the draft, a 2- by 4-inch wall opening through which passed some of the more than 2,000 cables serving the control room. The men filled the hole with two pieces of polyurethane-foam sheet, and one of them rechecked the repairs with the candle. The draft, which had not been blocked, sucked the flame into the hole, and the foam ignited instantly.

Thus began one of the most dramatic and disturbing episodes in the entire history of the U.S. nuclear-energy program—an incident that may cost the industry billions of dollars to refit the 56 reactors now in operation, and lead to even stricter regulations for the new plants that are to augment them. One of the technicians at the Browns Ferry plant described what happened next:

SMOTHER

"The electrician handed me his flashlight with which I tried to knock out the fire," he explained. "This did not work and then I tried to smother the fire with rags stuffed in the hole. This also did not work and we removed the rags. Someone passed me a carbon dioxide extinguisher with a horn that blew right through the hole without putting out the fire, which had now gotten back into the wall. I then used a dry chemical extinguisher, and then another, neither of which put out the fire."

By this time the blaze was a serious one, but no one in the room thought to dial 299, the plant's emergency number. When an electrician sprinted to a nearby guard post to grab another fire extinguisher, the guard sensing trouble, grabbed a phone to report the incident. He got the wrong number, but the man who received the call reported the fire himself. Nevertheless, it was fourteen long minutes after the blaze erupted until the fire alarm sounded. And despite the alarm the operators in the control room did not immediately close down the reactors.

Six minutes after the alarm sounded, in the control room just above the fire, the engineer monitoring one reactor saw vivid evidence that danger was imminent. An indicator showed that the pumps in the reactor's emergency cooling system had started automatically; lights on his control board flashed brightly, dimmed, went out; and then came on again. He remembers saying, "These are unknown conditions." Then ominous clouds of smoke came billowing up from behind the control panel.

RISK

At 12:51, the pumps stopped, and the operator shouted "Let's scram the unit!"—that is, close down the reactors by inserting special control rods between their radioactive-fuel units. They did and this stopped the major heat-producing process of the nuclear reactions. But it was not sufficient to prevent the fuel from generating what is known as "decay heat" as it settled down. Engineers knew that the decay heat alone could melt the reactor fuel, a process that in turn would destroy the plant, release clouds of radioactive gas into the atmosphere, and expose thousands of people to the risk of radiation injury and even death. Only huge amounts of water—stored in tanks against just such an emergency—could prevent that disaster, but at 12:55 the electrical supply to the water-pumping system was knocked out by the fire.

Desperate plant personnel improvised ways to pump at least some water into the shutdown reactors, and finally succeeded in bringing the plant under control—though not until the level of water in one reactor had fallen from 200 inches to a mere 4 feet above the core. By the time the fire was finally doused seven hours later, standard emergency procedures had been found wanting, radiation monitors around the complex had been put out of action, and at least seven of the plant's twelve safety systems had failed.

The damage to the nuclear industry's reputation was more severe. Government investigations of the fire have revealed a series of errors and omissions, by both men and machines, so great as to shake confidence in the adequacy of safety arrangements in the nation's nuclear power plants.

EMERGENCY

Nuclear Regulatory Commission investigators pinpointed eleven specific deficiencies in the plant's preparation for, and reaction to, the fire. Among them: construction personnel using open candle flames had received no training in fire fighting, and many were not even familiar with the plant's emergency procedures; plant management apparently made no effort to obtain expert advice on fighting the fire; emergency breathing apparatus had not been maintained properly and did not work; and more cables had been installed in the area where the fire started than the plant's approved design specified.

Coincidentally, the Reader's Digest Press last week published an account of the most harrowingly spectacular nuclear accident that has yet occurred in the U.S.—an incident marked also by minor mistakes and human errors. Entitled "We Almost Lost Detroit," the book recounts the steps that led to the partial melt-down of fuel—but no atmospheric release of radioactivity—in Detroit Edison's experimental Enrico Fermi Atomic Power Plant's fast-breeder reactor in October 1966. Author John G. Fuller takes an unabashedly skeptical view of the prospects for nuclear power, and even industry spokesmen concede the accuracy of his reporting. According to the Atomic Industrial Forum, an industry lobbying group, "Fuller's reconstructions of the early reactor accidents are valuable reminders of the consequences that can still result from insufficient attention and care."

TESTS

The warning seems equally appropriate for the TVA, which runs the Browns Ferry plant. According to a report by the Nuclear Energy Liability-Property Insurance Association to be released this week, the TVA gave only "minimal consideration" to the "obvious burning characteristics" of the cables used at Browns Ferry, while the area beneath the control room where the fire started "was considered to be poorly designed form an operational and fire protection standpoint." Amazingly, investigators found that no one had run flammability tests on the polyurethane used to seal air leaks. The government also came in for its share of blame because the Atomic Energy Commission, the predecessor of the NRC, had licensed the installation at Browns Ferry.

Representatives of the nuclear industry downployed the implications of the accident. They pointed out that the safety systems did work, despite the pressure on them, and so prevented any radioactivity from escaping.

FIGHT

What most distresses the nuclear industry is the prospect of increased governmental regulation as a result of the Browns Ferry fire. NEWSWEEK has learned that nuclear lobbyists are fighting NRC regulations so strongly that they have privately called on the White House to fire William Anders, the exastronaut who heads the commission. But Anders is determined to send commission inspectors to check each of the nation's 56 nuclear reactors for signs of the malfunctions that allowed the Browns Ferry fire to spread.

That action is likely to get support from Congress's Joint Committee on Atomic Energy, once a rubber stamp for the nuclear industry. Nuclear power "has an excellent safety record as witnessed by the fact that no one has been killed or injured in a nuclear accident as a commercial power plant," said committee chairman Sen. John Pastore of Rhode Island last week. "However, the fire at Browns Ferry is a striking example of how things can and do go wrong. The scope, magnitude and implications of this fire are of considerable importance for the development of commercial nuclear power in the U.S." Certainly the fire did not indicate that present reactors are unsafe to the public. But it did reveal some surprising flaws in the system—and these cannot fail to stir new public fears about the safety of nuclear power.

[From the National Observer, Aug. 23, 1975]

THE FRIGHTFUL LOG OF A NUCLEAR NEAR-MISS—CANDLE STARTS A FIRE, SHAKES FAITH IN SAFETY SYSTEMS AT POWER PLANTS

(By William J. Lanouette)

It began with a candle, which accidentally lit some flammable insulation, burned some cables, and nearly caused one of the most serious nuclear-power plant accidents possible—a "meltdown" of the heat-producing, radioactive core.

From the Browns Ferry Nuclear Plant near Athens, Ala., where the seven-hour blaze began, warnings and misinformation fanned through the emergency network of the Tennessee Valley Authority (TVA), the plant's owner, to state and Federal officials in nearby cities. One official recalls reports that the plant's reactors were "wiped out" and that the only way to keep the radioactive fuel from melting was "to bring in river water and circulate it to and from ditches for cooling."

That's history now, although the March 22 fire sparked a controversy about the safety and reliability of nuclear power that is sure to smolder for years. And while some public officials and nuclear-industry executives were angered with the spread of misinformation about the accident, they are equally disturbed about coming so uncomfortably close to serious trouble.

THE OTHER CLOSE CALL

How close? A spokesman for the Nuclear Regulatory Commission (NRC) now considers the March fire at Browns Ferry to be one of the two most serious accidents in the U.S. nuclear-power industry's 18-year history. The other close call was a partial core melt-down at the Fermi fast-breeder reactor near Detroit in 1966. But in many ways the shadow cast by the candle at Browns Ferry may be darker. For that fire has raised new questions about the reliability of the safety systems that protect the nation's 53 nuclear-power plants.

In the hours and days after the accident, the Browns Ferry fire was reported as just that—a fire. No members of the public received abnormally high radiation doses, the NRC reported. No plant employes were seriously injured, the TVA said. And it appeared for a while last spring that the most serious public impact of the $50 million accident fell on TVA's customers. The utility must spend an extra $10 million a month to buy the 2 million kilowatts of electricity that the Browns Ferry units can't produce.

Now the NRC has released a 463-page report on the fire, based on a four-month investigation, and its details reveal just how close the Browns Ferry reactors were to being "wiped out" and how they were saved from core meltdown. What follows is an account of the fire based on the NRC's report and augmented by Observer interviews with NRC inspectors and administrators, TVA officials, nuclear engineers, representatives of the General Electric Co. (the plant's designer), and spokesmen for groups that favor and oppose the spread of nuclear power.

MAINTAINING A VACUUM

To prevent escape of radioactive air around a reactor's core, nuclear-power plants use a vacuum to maintain a "negative pressure" in the buildings that surround the core. Then, if a radiation leak develops, air would rush *in* to those buildings, not out.

Whenever wires, pipes, and cables pass through the concrete walls of the reactor building, the space around them must be sealed to prevent air from constantly rushing in. At many nuclear plants, including Browns Ferry, the wires and cables that monitor and control the reactor go through the reactor building's walls, into an adjacent cable-spreading room, and then to the control room one floor above.

On March 22, several plant workers were in the cable-spreading room testing the polyurethane foam used as seals around cables that pass through the walls of the unit-one reactor.

A common method to find air leaks at the Browns Ferry plant was to hold a lighted candle up to the wall openings, then watch to see if rushing air moved its flame. It was 12:20 p.m. when, as one engineering aide remembers:

HORIZONTAL FLAME

"We found a 2-by-4-inch opening . . . with three or four cables going through it. The candle flame was pulled out horizontal, showing a strong draft. [An electrician] tore off two pieces of foam sheet for packing into the hole, but he could not reach the opening. I inserted them as far as I could into the hole. . . . I rechecked the hole with the candle. The draft sucked the flame into the hole and ignited the foam, which started to smolder and glow. [The electrician] handed me his flashlight, with which I tried to knock out the fire. This did not work and then I tried to smother the fire with rags. Someone passed me a CO2 [carbon dioxide] extinguisher . . . which blew right through the hole without putting out the fire, which had gotten back into the wall. Then I used a dry-chemical extinguisher, and then another, neither of which put out the fire. . . . In the past, on three or four occasions, I have had fires started by the candle . . . which [were] readily extinguished."

Another electrician ran out to a guard post nearby and returned with a fire extinguisher. This alerted the guard to report the fire by telephone. But he dialed the wrong number. The person who answered in turn dialed the control room, warning the unit-one operator about the fire. In the control room, an assistant shift engineer flipped on the fire alarm. It was 12:34 p.m.

REINFORCEMENTS

The assistant shift engineer then grabbed a dry-chemical fire extinguisher and ran into the reactor building. Flames were shooting along the cables through the air leak.

Recalling that fires had been set by the use of candles before, another engineering aide said later, "The flames were always easy for me to extinguish with my gloved hand." At least two other employes interviewed by the NRC also recalled setting fires with candles, but these were always contained by using gloves, extinguishers, or bare hands.

A candle fire two days earlier had been noted in the plant's operating logs, and some supervisors said later they were concerned about continuing this method of testing for leaks. It appears that concern hadn't reached senior administrators, however, for as one assistant superintendent told NRC investigators, "I do not know of any requirement to make written reports of small fires."

At about 12:40 p.m. the spreading-room fire began affecting the plant's operations. Unit two's operator lost power in half the systems used to shut down the reactor. But he managed to control his unit.

"CONDITIONS UNSTABLE"

Unit one was another story. Just after 12:40 p.m. the control-panel instruments indicated that the two pumping systems of the unit's emergency core cooling system had begun to run automatically. "I checked, but the pumps were not running," the operator said. He called for help at the control panel because, he said, "conditions were unstable."

Alarms signaled that two more unit-one pumps were running, yet the operator's panels didn't show it. The unit-one operator remembers that "the lights on the [cooling-system] panel . . . began getting bright and then getting dim. These were more unknown conditions." Smoke began drifting up from behind the cooling-system panel. "Numerous alarms occurred on all control panels and the unit [was] in unstable swing," according to the operator's log.

At 12:51 p.m. the operator said, "Let's scram the unit." A "scram" is the sudden shutdown of a nuclear reactor. "Safety rods" are inserted between the radioactive fuel elements to interrupt the heat-producing process of nuclear fission. A scram is not enough to prevent the radioactive core from melting however, because the radioactive fuel still generates much "decay heat." The core must constantly be cooled by circulating water.

If the fuel had melted from its own heat—"a meltdown"—it could have destroyed the building that contained it, released plumes of radioactive clouds and steam, and endangered people for miles around.

CONFIRMING A "SCRAM"

Just as the unit-one operator confirmed that the scram had occurred, he lost his ability to monitor the core's radiation and heat.

Then pressure began building rapidly within the steel chamber that surrounds the core. Water must be continuously pumped into this chamber to replace what is boiled away as steam by the core's heat. Electrical failures had limited the operator's choices to two pumping systems, then to one as 7 of the 11 relief valves used to lower pressures were also lost.

At 12:59 p.m. the water level in the chamber began to drop. Normally the radioactive core is covered by more than 16 feet of water, but in the next half hour this level fell to less than 4 feet above the top of the fuel, which always must be covered by water. "At this time I knew that the reactor water level could not be maintained, and I was concerned about uncovering the core," the operator said later.

At 1:35 p.m. an assistant operations supervisor recalls, the control room "was full of smoke and the operators were wearing Scott Air Paks." Adds an assistant shift engineer: "I saw people forcing rags in holes under the electrical operator's desk. CO2 was coming through them."

Meanwhile, the fire continued to run along the cable trays, in the cable-spreading room, and farther into the reactor building. In the cable-spreading room, the plant's fire fighters couldn't turn on an overhead CO2 spray system because metal construction plates, in which the system had been shipped to the plant, could not be removed without a screwdriver. "A wheeled dry-chemical cart had been brought . . . [in] but its nozzle was broken off . . .," an assistant shift engineer recalls.

"I hit my mask against something and got a leak," he continued. "I got quite a bit of smoke and passed out. . . . I remember reviving on top of a table in the lunchroom. I didn't know how I got there. I rested a bit and, since the first-aid room was locked . . . went back to the control room."

AIR PACKS FAIL

"The whole fire-fighting effort was hindered due to lack of air," a reactor operator said later. Many of the air packs were designed to provide 30 minutes of breathing, but because the recharging equipment was broken, the refills diminished as the afternoon wore on. Some men were forced to use 10-minute air supplies.

Just after 1 p.m. the Athens Fire Department was called. The department's chief said later that he recommended putting water on the fire in the cable-spreading room, but the plant's superintendent, who was in control, objected because he didn't want water used on electrical wires. The chief said it was not an electrical fire. "Throughout the afternoon, I continued to recommend use of water," the chief said.

When the plant superintendent agreed, there were still problems. Firefighters didn't pull a water hose completely from its rack, restricting water pressure for several minutes. With the nozzle on the plant's hose, water couldn't reach to all the burning trays, but when Athens firemen tried a substitute nozzle they found that the threads didn't match. Nevertheless, once the use of water was authorized, the fire was extinguished in 20 minutes—at about 7:45 p.m.

Throughout the afternoon's firefighting efforts, several more problems arose. At 1:57 p.m. the control room lost its phones and public-address system to the rest of the plant, making it difficult for supervisors to dispatch men to manually open and close various valves. At times as many as 75 people were in the 40-by-100-foot control room, an eyewitness remembers.

A computer needed to monitor events during the accident ran out of tape. Electrical fuses blew. Attempts to record all telephone calls in and out of the plant failed because of faulty recording equipment. Some valves that had been opened manually had to be wired to prevent closing.

With widespread electrical failures throughout the plant it also became impossible to monitor automatically for possible releases of radioactivity to the atmosphere. Some air samples were taken at a meteorological tower near the plant beginning at 5:14 p.m., but at 6:05 p.m. the tower was abandoned as smoke headed toward the tower. Other samples showed that radiation levels were within NRC limits.

At 5:45 p.m. TVA's health-laboratory director reported that environmental air sampling for possible radiation had started in Athens, 10 miles northeast of the plant; in Hillsboro, 10 miles southwest; and in Rogersville, 25 miles northwest. "The sampler at Decatur, Ala., [20 miles southeast] was thought to be inoperable," the NRC staff reported, and ". . . at 7:50 p.m. there was no air sampler available at Decatur," a city of 40,000 directly downwind from the plant. No radiological samplers were available at Decatur that evening, the NRC notes, although an air-pollution sampler was set up there at 9 p.m. At 8:37 p.m. the aircraft-warning lights on the plant's 600-foot stack went out.

DELAYS IN REPORTING

NRC investigators also discovered some serious gaps in the response of public-safety officials. Limestone County's (Athens) sheriff heard about the fire after it was out, and said he would rely on the county's civil-defense coordinator for information about possible public evacuations. The county's civil-defense co-ordinator said he heard about the fire two days later, and thinks the plant's emergency plan needs updating and revision. And the sheriff of Morgan County (Decatur) said he heard about the fire that afternoon, but "I was asked to keep quiet about the incident to avoid panic. . . ."

How close was unit one to a meltdown? Opinions vary. "It gets awfully fuzzy to play 'what-if' on this," says Norman Moseley, director of the NRC's Atlanta regional office. "There are just too many variables." A TVA spokesman says, with a nervous chuckle, that "all that would have had to occur is to lose all cooling water." But, he insists, unit one always had at least one high-pressure and one low-pressure cooling pump working. Adds a spokesman for Central Electric, the plant's designer: "We really weren't very close, but I'd just as soon not be that close again."

Mr. GRAVEL. In point of fact, it did lose the coolant. It dropped from 12 feet to 48 inches.

I quote from this "liberal" magazine, Business Week:

> TVA personnel managed to jury-rig pumps normally used to drive control rods into the reactor to pump water instead. Now the problem seemed under control.

That was after a whole day.

Mr. BAKER. The Senator from Alaska is wrong, and so is Business Week. I went down and inspected that plant, and that is an error.

Mr. GRAVEL. I hope my colleague will back up the error with writing of authorities on the subject. I just put some in the Record. I do not know if they are authorities, but that is what I have available to me. I hope my colleague will do the same, so people will not be relying on just my opinion and his opinion.

Mr. BAKER. Mine already are in the Record. The hearing records are published Senate documents; and if the Senator from Alaska will read them, he will know why I made the statement I made.

Mr. GRAVEL. I probably read the joint committee's records more than any other Member of the Senate.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. HATHAWAY. Mr President, I believe that the Senator from Alaska and the Senator from Illinois have raised very serious questions which, in the time I have been here this morning, have not been answered satisfactorily.

It has been indicated that $560 million is nowhere near enough to cover possible damages today. If that were a sufficient amount 20 years ago, just the rate of inflation alone, as put out by a Library of Congress study, which takes into consideration the rate of inflation and other factors, indicates that the amount should be at least $3 billion.

The answer which the proponents have given is that in a 10-year period with premiums paid in by utilities, the amount of money that will be on hand to pay claims will be about $1 billion. That, 10 years from now, will be only about a third of what is estimated should be the amount today.

The argument has been made by the proponents that this is a tradeoff, that there is no-fault liability or absolute liability in exchange for a limitation on the amount that has to be paid out. I think that in most jurisdictions, if an accident such as the one we are contemplating would happen, any court would hold it to be an ultrahazardous activity and would hold that there is absolute liability, anyway.

I wholeheartedly agree with the Senator from Illinois when he suggests that the matter should be sent back to committee. There is no reason why we have to take this matter up at this time. The act does not expire until August of 1977. Although it would delay, I suppose, the construction of some nuclear plants, it should not be more than 6 months or a year. Certainly, that much of a delay is well worth the time in which we could be exploring the questions that have been asked here today. We could see if we could come up with some more realistic basis for liability, a much more realistic amount of liability, and a more realistic pinning of the responsibility on the utilities, at least to a certain percentage of their assets. Perhaps we could set up a tier system.

There is no question that there are some small producers, putting out small parts, who could not afford to incur the liability that might be imposed upon them; but certainly the giant utilities and the giant companies of this country who are in the energy business could afford a great deal more than what is being imposed upon them by the bill before the Senate.

I thank the Senator from Alaska for yielding.

Mr. GRAVEL. I thank my colleague. I think he has put forth a good thought.

What is the remainder of my time, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute.

Mr. GRAVEL. I can close simply by saying there are three elements to the argument we have made. One is the constitutionality. The American people are deprived of their rights under the Constitution by the existing law.

Two, it would bring about safety. That is something the proponents have not been put to. I think they have made the agrument that they want to give a liability umbrella. That, in my mind, does not add to safety.

Three, with respect to energy policy, we all want to become independent and have a good energy policy, but we have to internalize the real cost so we can make a true comparison among the various forms of energy. As long as we keep nuclear in the cocoon of Government protection, we will never know what the real cost is. More importantly, we shall never know what the true risk is to our society until a catastrophe occurs. God pray that never happens, but when and if it does, there are many people who will bow their heads.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the Senator from Alaska (Mr. GRAVEL) which would remove the legal liability limit of $560 million for utilities in case of nuclear accident. I feel this amendment is unnecessary because S. 2568 calls for the orderly phaseout of Government indemnification and for an increase in liability as more reactors become operational. The report of the Joint Committee on Atomic Energy directs the Nuclear Regulatory Commission to establish a new retrospective premium schedule sufficient to end Government indemnification by 1985. After that date, it is expected that total public protection will surpass the current $560 million and exceed $1 billion when more nuclear powerplants are built and operating.

Mr. President, the liability limit of the Price-Anderson Act is balanced by a valuable public protection, the "no-fault" provision. The provision enables citizens to recover financially from a nuclear incident by merely showing their damage from such an incident and the dollar amount of damage.

Additionally removal of the liability limit would subject electric utilities and others to unacceptable financial exposure, with serious threats to the public interest. Many architects, engineers, and component suppliers would withdraw from the nuclear industry because their potential profit from nuclear-related business is insufficient to warrant placing all of their assets at risk. This would reduce competition and diminish sources of supply. Passage of this amendment would result in increased cost of investment capital for nuclear projects because of the decreased financial security of investors. This lack of capital would relegate the smaller utilities to fossil fuels, which are in short supply, because they could no longer qualify financially for the Federal licenses needed to build and operate nuclear plants.

Mr. President, I feel passage of this amendment would result in more costly and potentially less available electric power to the consumer. The House of Representatives has already defeated a similar amendment. I urge the Senate to do likewise.

Mr. HUGH SCOTT. Mr. President, with considerable deliberation and thought, I have withdrawn my cosponsorship of the Gravel-Hart amendment to the Price-Anderson legislation. I have done this because in my best opinion this amendment commits an injured party to expensive and protracted litigation in an attempt to prove fault just at the time when he—the victim—most needs funds to rebuild his shattered life.

Further, if there were a catastrophic nuclear accident, the damages would be in the billions of dollars, an amount far in excess of what the majority of firms in the nuclear industry would ever be able to repay if a judgment were awarded.

Since the Government would in all probability have to provide disaster relief funds because industry could not make reparations, it is my opinion that we are deluding ourselves if we think we are giving the potential victims anything but a false sense of security.

Now, as we discuss this amendment, I do not want anyone to think that I am predicting that catastrophic nuclear accidents will occur. As we all know, we have never had that type of accident—I pray we never will. We believe the probability of such an accident is quite slight; the amount of damage, however, is overwhelming. Therefore, even though the current Price-Anderson legislation eventually causes industry to bear the financial burden of maintaining liability insurance, which it should, we must realize that there are not sufficient funds to fully repay all victims of a catastrophic accident; and we must begin to think about these victims.

Further, Mr. President, let me point out that I have long been a supporter of the development of nuclear power, and I will continue to be a supporter as long as its development is consistent with sound environmental policies. Only through the use of every single source of energy including nuclear resources, can we lessen our requirements for foreign energy resources and achieve true energy independence. This must be our goal.

Mr. BUCKLEY. Mr. President, I believe the proponents have the better of the argument on every point. I can see no reason why the stockholders of the affected industries ought not bear the risk of unindemnified damages that the industries assure us will not exist. The Gravel-Hart amendment poses no impediment to the building of new nuclear energy plants that cannot be accommodated by administrative action modifying the regulations defining financial capacity.

Mr. President, I believe a phased-out system of insurance subsidies, as proposed in the bill itself, is not unreasonable given the lack of experience and limited number of plants with which the insurors are required to deal. There is no actuarial base on which to calculate premiums.

I believe that the preservation of the public's right to sue in tort for damages incurred is equally reasonable.

The ACTING PRESIDENT pro tempore. All the time of the Senator from Alaska has expired. The Senator from Rhode Island has 1 minute.

Mr. BAKER. Mr. President, I wonder if the Senator will yield?

Mr. PASTORE. I want to read something into the record.

Mr. BAKER. While he is looking for that, I was going to inquire if we could reach some agreement on a time to vote.

Mr. GRAVEL. How about right now?

Mr. BAKER. That would be fine, but today is Tuesday and that is the day the Republican policy meeting is held, from 12:30 until 2. I have no desire to stop that progress, but I wonder—may I ask unanimous consent to postpone the vote on this amendment or any other amendment, to begin sequentially at 2 p.m.?

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I should like to read into the record a statement made by Hubert Nixon, senior vice president, Commonwealth Edison Co., representing the Edison Electric Institute. Here is what he had to say:

> It is not at all clear what the expiration of Price-Anderson will do the ability of utilities who plan nuclear plants to raise capital.
>
> Certainly, all electric utilities have found it increasingly difficult to compete in the money market. Failure to extend Price-Anderson is very likely to increase the difficulties.
>
> The absence of the limitation of liability may be regarded as adding an element of risk, however attenuated the risk may be, to the securities of companies with nuclear projects. That inevitably means that the expiration of the Price-Anderson would make capital harder to get, increase its price, and, therefore, increase the costs that consumers must ultimately bear.
>
> For these reasons, we believe that abandonment of Price-Anderson would be adverse to the public interest . . .

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAKER. Mr. President, just so there is no lack of clarity on my unanimous-consent request, it was meant only to apply to rollcall votes.

The ACTING PRESIDENT pro tempore. The Chair understands.

Mr. BUMPERS. Mr. President, there are two points. One, I want to call up an amendment. Before doing that, I should mention that I have to leave here precisely at 2 o'clock to catch a plane. I should like to vote on at least the Gravel amendment. Would it be possible to start the voting at 5 minutes to 2? Would the Senator have any objection to that?

Mr. BAKER. Mr. President, I have no objection to that.

The ACTING PRESIDENT pro tempore. The unanimous-consent agreement is modified, without objection, for the rollcall votes to commence sequentially at 5 minutes to 2.

Does the Senator request that the Gravel amendment thereby be set aside until 5 minutes to 2, for voting thereon then?

Mr. BAKER. I understand that is the effect of the unanimous-consent request if the time has expired.

The ACTING PRESIDENT pro tempore. Time has expired. The yeas and nays have not been ordered.

Mr. GRAVEL. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is at this time not a sufficient second.

Mr. GRAVEL. Could we try at 5 minutes to 2?

Mr. PASTORE. The only trouble with that is if they start at 5 minutes to 2, the Senator will never make his plane.

The ACTING PRESIDENT pro tempore. There are three Senators too few for the second.

Mr. BUMPERS. Mr. President, I have an amendment which will only take 3 or 4 minutes. I think I have discussed it with the managers of the bill and the sponsors may try again for a second at the conclusion of that.

The ACTING PRESIDENT pro tempore. Does the Senator call up his amendment?

Mr. BUMPERS. Yes, sir.

The ACTING PRESIDENT pro tempore. It would take unanimous consent to take it up at this time. Is there objection?

Mr. GRAVEL. Reserving the right to object, I shall not object.

This would not automatically push the bill into third reading, would it? Other Members may have amendments.

Mr. PASTORE. No, it will not do that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment of the Senator from Arkansas will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

> On page 9: strike lines 21, 22, and the first three words of line 23, and insert in lieu thereof the following: "reported to the Joint Committee, to the Congressmen of the affected districts, and to the Senators of the affected states, and, except for information which would cause serious damage to the national defense of the United States,"

Mr. BUMPERS. I think I can explain the amendment in 60 seconds. I have discussed it with the managers of the bill.

The bill simply provides that in the case of a nuclear accident, the President of the United States, when he receives a full and formal report of the accident, its cause, and all other information contained in such report, can withhold the contents of that report from the public if he finds it in the interest of national defense. My amendment provides that he can withhold it in the interest of national defense, but he must notify any Congressman from affected districts or any Senators from the affected States.

My reason for the amendment is simple. I simply feel, for example, in my own State, where I have two atomic energy plants, that I would not want the President withholding information from me while I am a representative of the people of my State. I should want to know the full consequences, no matter how dire they might be. That amendment will simply require the President to furnish that information to the Senators and the Congressmen.

Mr. PASTORE. Will the Senator yield?

Mr. BUMPERS. Yes, I will.

Mr. PASTORE. I ask for the yeas and nays on the Gravel amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is not a sufficient second.

The Senator from Rhode Island is recognized.

Mr. PASTORE. I have discussed this amendment with my colleague. It is a good amendment.

Mr. BAKER. Mr. President, I understand it is virtually identical with an amendment passed on the House side. I think it is a good amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question recurs on the yeas and nays on the amendment of the Senator from Alaska.

Mr. BAKER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged to neither side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on the Gravel amendment.

THE ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The rollcall with take place at 1:55 by unanimous-consent agreement.

The bill is open for further amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that I may call for a quorum without charging it to either side.

THE ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

THE ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 1:45 P.M.

Mr. PASTORE. I do not know of any other amendments pending at this time, and since we have an agreement to vote at 1:55, I move we stand in recess until a quarter of 2.

The motion was agreed to, and at 1:13 p.m., the Senate recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. STONE).

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPORTS BROADCASTING ACT OF 1973

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2554.

The ACTING PRESIDENT pro tempore (Mr. Stone) laid before the Senate a message from the House of Representatives insisting upon its amendments to the bill (S. 2554) to amend Public Law 93–107 with regard to the broadcasting of certain professional sports clubs' games, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PASTORE. I move that the Senate agree to the request of the House for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. Magnuson, Mr. Pastore, and Mr. Beall conferees on the part of the Senate.

PHASEOUT OF GOVERNMENTAL INDEMNITY

The Senate continued with the consideration of the bill (S. 2568) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of Government indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

Mr. BAKER. Mr. President, if I may have the attention of the distinguished Senator from Rhode Island, from the colloquy with the senior Senator from Illinois earlier today as we were discussing the Gravel amendment, I was not quite sure I fully understood the situation as it ended.

It is my understanding that the chairman of our committee has indicated to Senator Percy from Illinois that the Joint Committee on Atomic Energy next year, say, after our February recess would be willing to hear and look into the representations made by the Senator from Illinois.

Mr. PASTORE. That is correct, the first week in March.

Mr. BAKER. I thank the Senator for yielding for that purpose.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SMALL RECLAMATION PROJECTS ACT AMENDMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 523, H.R. 6874, and I ask for the immediate consideration of the bill.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6874) to amend the Small Reclamation Projects Act of 1956, as amended.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. CHURCH. Mr. President, I rise in strong support of Senate passage of H.R. 6874, a bill to amend the Small Reclamation Projects Act of 1956.

With the passage of the original Small Projects Act in 1956, Congress created a valuable tool for the development and effective utilization of water and related land resources in the arid Western States. For almost 20 years this program has been wholeheartedly pursued by the water resources community and the program's history is one of continued success. The importance of the program to the Nation can be measured by the number of projects which have been initiated under the act. Nationwide, 49 loan projects have been completed with loans totaling $95 million, and 15 more projects valued at $65 million are under construction. Over $240 million worth of potential projects are presently in various stages of preparation. Without question, this program benefits the entire Nation.

On May 21 of this year, I introduced S. 1794, a companion measure to H.R. 6874. On September 16 the Subcommittee of Energy Research and Water Resources of the Senate Interior and Insular Affairs Committee held hearings on S. 1794. As chairman of the subcommittee, I can report to my colleagues that the small reclamation projects program is continuing to function well but is in need of revision. Congress has periodically reviewed the small projects program and has amended the basic act to reflect changing times or congressional intent for the program. Evidence gathered by the subcommittee during the September 16 hearing indicates that the act is again in need of amendment if it is to continue to be a viable asset in the development of Western water resources.

Foremost among the needs faced by the program is the ability to adjust to inflationary cost increases in construction. Over the past 3 years since the act was last amended, inflation has eaten away at the authorized cost ceiling for projects in such a way that current projects under the act are only two-thirds the size originally envisioned by Congress. H.R. 6874 would provide for the adjustment of cost ceilings to reflect inflationary pressures. Additionally, because of the enthusiasm with which the program has been pursued by the water resources community, there is a need to increase the authorization level for the entire program. And finally, testimony indicated that a saving may be realized to the program if authorization is given for the use of program funds for the purchase of existing project related facilities, thereby preventing useless duplication of project features.

Mr. President, H.R. 6874 reflects two decades of experience with a widely used Federal program and with enactment, Congress will insure that the Small Reclamation Projects Act will continue to be of vital service to the production of food and fiber for the Nation and the world.

I strongly urge the Senate's approval of H.R. 6874 as reported by the Committee on Interior and Insular Affairs.

The bill was ordered to a third reading, read the third time, and passed.

McKAY DAM, UMATILLA PROJECT, OREGON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 530, S. 2361, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill (S. 2361) to reauthorize and modify McKay Dam, Umatilla project, Oregon, for multiple functions, and for other purposes, which was read the first time by title and the second time at length.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2361) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That McKay Dam and Reservoir, Umatilla project, Oregon, is hereby reauthorized for the purposes of irrigation, flood control, fish and wildlife, recreation, and safety of dams, and the costs thereof shall be reallocated among these purposes by the Secretary of the Interior, hereinafter referred to as the Secretary, in a manner consistent with the provisions of this Act.

Sec. 2. The Secretary is authorized to perform modifications to the spillway structure at McKay Dam as he determines to be reasonably required for safety of the dam from failure due to overtopping by potential flood inflows to the reservoir.

Sec. 3. Not to exceed six thousand acre-feet of storage capacity in McKay Reservoir shall be allocated for the primary purpose of retaining and regulating flood flows.

Sec. 4. Costs incurred in the modification of McKay Dam to insure its safety from failure shall be nonreimbursable and nonreturnable. All other costs of McKay Dam and Reservoir, heretofore or hereinafter incurred shall be allocated among the authorized purposes served by the dam and reservoir in accordance with standard cost allocation procedures, and the joint costs allocated to flood control, recreation, and fish and wildlife shall be nonreimbursable.

Sec. 5. The Secretary is authorized to enter into amendatory repayment contracts with the Stanfield and Westland Irrigation Districts, or other water users, if appropriate, to secure the return of reimbursable irrigation construction and operation and maintenance costs arising from the modification and reallocation of McKay Dam and Reservoir.

Sec. 6. There is hereby authorized to be appropriated for modification of McKay Dam the sum of $1,300,000 (based on July 1975 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved, and, in addition thereto, sums as may be required for operation and maintenance of McKay Dam and Reservoir.

ORDER FOR FILING REPORT ON S. 2371 NOT LATER THAN MIDNIGHT

Mr. METCALF. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs have until midnight tonight to file a report on S. 2371, Minings in the National Park.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METCALF. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METCALF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PHASEOUT OF GOVERNMENTAL INDEMNITY

The Senate continued with the consideration of the bill (S. 2568) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of government indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the Senate will now proceed to vote on the amendment of the Senator from Alaska.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh) and the Senator from Idaho (Mr. Church) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. Ribicoff) is absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. Taft) is necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft) would vote "nay."

The result was announced—yeas 34, nays 62, as follows:

[Rollcall Vote No. 596 Leg.]

YEAS—34

Abourezk
Biden
Brooke
Buckley
Bumpers
Case
Clark
Cranston
Culver
Durkin
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Javits
Kennedy
Leahy
Long
McGovern
McIntyre
Mondale
Moss
Muskie
Nelson
Packwood
Proxmire
Randolph
Roth
Schweiker
Tunney
Williams

NAYS—62

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
Metcalf
Montoya
Morgan
Nunn
Pastore
Pearson
Pell
Percy
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—4

Bayh
Church
Ribicoff
Taft

So Mr. Gravel's amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. Laxalt). What is the will of the Senate? The bill is open for further amendment.

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GRAVEL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 11, strike out "1987" and insert "1982" in lieu thereof.

On page 7, line 14, strike out "1987" and insert "1982" in lieu thereof.

On page 7, line 19, strike out "1987" and insert "1982" in lieu thereof.

On page 10, line 6, strike out "1987" and insert "1982" in lieu thereof.

On page 10, line 25, strike out "1983" and insert "1981" in lieu thereof.

Mr. PASTORE. May we have order in the Chamber?

The PRESIDING OFFICER. The Senate will please be in order.

Mr. HATHAWAY. Mr. President, will the Senator from Alaska yield for a unanimous-consent request?

Mr. GRAVEL. Yes, I yield.

Mr. HATHAWAY. I ask that a member of my staff, Elizabeth Boynton, be allowed privileges of the floor during debate on this and succeeding amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield to me for a similar request?

Mr. GRAVEL. Yes, I yield.

Mr. BAKER. On behalf of Senator Dole, I ask unanimous consent that Stuart Hardy be accorded privileges of the floor during the remainder of debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Will the Senator yield for a unanimous-consent request?

Mr. GRAVEL. I yield.

Mr. LEAHY. Mr. President, the Senator from Vermont makes a unanimous-consent request that Douglas Racine of his staff have floor privileges during the vote and consideration of the matter involving Price-Anderson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, the amendment that I have before the body is exactly what the committee did last year. I have been mystified as to why the committee should seek a 10-year extension or renewal when, last year, it came up with a 5-year renewal. The controversy has gone on unabated. In fact, it has increased. Certainly, we have raised a lot of questions. Therefore, I present the amendment to do exactly what the committee had done last year. That is, because this is such a controversial issue, because it raises such a question in the minds of the American population, I wish to return to the decision made by the committee last year, made by the Senate last year, made by Congress last year; that is, to have a renewal for 5 years rather than 10 years. That is all the amendment is. I hope the managers of the bill will accept the amendment.

I reserve the remainder of my time.

Mr. PASTORE. Mr. President, while it is true that that was done, that amendment was a compromise because there were certain sensitivities of the bill which do not exist at this time. It takes between 7 and 10 years to bring a reactor from the planning to the operational stage. This has been thoroughly analyzed since the occurrence of last year. This is the amount that was recommended by the administration and the amount reported by the committee this year. If there is no further debate, I am going to move to lay this on the table.

Mr. GRAVEL. There is further debate. I wish to discuss this one point.

The Senator says it takes 10 years to build a reactor. That is something the committee knew last year. That is not new information. I still do not understand why the committee, though it takes 10 years to build a reactor, approved 5 years before. What we are talking about is giving sufficient leadtime. So a reactor that will be finished 10 years hence, if it were started right now, would have the benefits of Price-Anderson up until 1977. In point of fact, the effects of this law would stay in being without a renewal at all up until 1987. If we put a 5-year extension on it, that will make it until 1992.

I do not know why we have to go until 1997, to get almost to the turn of the century, before we can permit a serious reexamination of this. I see no reason why the committee should have reversed itself from last year to this year. The statement made by the manager of the bill offers no new information. That same information was available to the committee last year. They knew it. They went for 5 years.

Certainly, the dialog in the Nation has not diminished from last year to this year. If anything, it has increased; all the more reason why we should keep this industry, with respect to this particular spoon-feeding, on a short leash.

My colleague can table my amendment. I should like an up-and-down vote on this issue and ask for the yeas and nays. Certainly it is within his prerogative to table or have an up and down. I do not think anything is to be gained by tabling it. Obviously, he is the judge of his own tactics.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I shall not take much time, except to point out that each of our preceding bills, except for the last one, has been for 10 years. The last one was made 5 years by agreeing last year, I believe, on the floor of the Senate.

Ten years is the timeframe that we have dealt with in the past. It seems necessary for an orderly transition. It takes us to upward of a billion dollars of financial protection for third-party liability claims. It gets the Government indemnity down to zero. I think it is an appropriate timeframe and I shall oppose the amendment.

Mr. GRAVEL. If I may respond on the billion dollar indemnity: That is the way this bill is being sold. What it does is take the Government out of the insurance business. It does not take the Government out of the protection business. It really does not offer much indemnity, because the accident that the Nuclear Regulatory Commission has come up with on the outside is a $15 billion accident. What they are talking about is 10 years from now, if we expand the nuclear industry to that level, we will have $1 billion worth of protection, which is one-third of what the $560 million would be if we had let inflation blow that figure up to what it should be now, which is $3 billion.

This was passed in 1957. If we are talking about inflated dollars, then the amount of money should be $3 billion that this should have been expanded to. But the committee has insisted on keeping regressive protection. I say regressive, not for the people who are protected, but from the public's point of view. At least in 1957, they had $560 million worth of protection. Now they do not have that amount of protection, because everything else costs more. We should have at least a minimum of $3 billion. We do not have that.

What the Senator says now is that in 10 years, we will give them $1 billion worth of protection, when the accident that the Nuclear Regulatory Commission defines, that could happen, could have a cost of $15 billion.

I might say that if the Nuclear Regulatory Commission said $15 billion, that is only for property. That is not paying 1 cent for life. We can take our own guesses as to what life would be.

Since this body insists on treating the nuclear industry differently from any other industry, all I ask is why? There is an ever-growing body of people in this country who are asking why is it that General Electric has to be protected while it makes profits and might sell us a value that is not as safe as a valve that is sold to Boeing Aircraft, why is it that an industry that has more insurance than the aviation industry has to be protected?

When they say the sky is the limit, I say the sky is the limit in every other facet of life. Why should it be any different in the nuclear facet of life?

We want nuclear plants to be safe. There is only one way we are going to make them safe: That is by keeping the constitutional privileges we have. Giving the nuclear industry protection by breaching a person's constitutional rights, in this case under the fifth amendment, makes no sense at all. All I am saying is that the committee, in its wisdom last year, saw fit to limit it to 5 years because they knew the controversy was here. They knew it should be kept on a short leash, but now, for whatever reasons, they go back to 10 years. The fact that it was done that way the last time for 10 years is not answer enough. I think what we need is a discipline. This is asking very little discipline, to have 5 years rather than a 10-year renewal. This means that plants built will have protection up until 1997 if the committee position goes through. If my amendment goes through, they will have protection up until 1992—a big difference.

Mr. PASTORE. Mr. President, the Senator from Alaska is dead wrong. I hope he would read this bill and see what the committee was trying to accomplish. There is no cruelty in this bill. We are not out to persecute or prosecute anyone. We are out to protect the people. If trouble is here, this results because there are some people adverse to the development of nuclear power reactors, and they feel that way about it. They want a moratorium, a phaseout of nuclear power. They just do not want nuclear power, so they come here with all these gimmicks, whether it is this or that, in order to create something that will impede the progress of this program.

What is this program intended to do? Under this program $560 million is made available as a floor. Of that $560 million, $125 million is private bought insurance. The rest of it, the $435 million, is the indemnity on the part of the Government in case of a catastrophe, which is very unlikely and is said to be one in a billion of ever happening.

We have already gone through with the arguments the Senator from Alaska is making, but what is the effect of this 10-year period? As each new reactor comes on the line above the 55 that we already have—and there are 64 construction permits now underway—what happens? Between the figure of $5 million and $2 million the Nuclear Regulatory Commission will make a judgment as to what the responsibility is of the new entrepreneur between the figure of $2 million and $5 million.

So, as you go along and you add on that $125 million of private insurance, you will reach the stage where you get the Government completely out of the picture by absorbing the $435 million, and then even going above the $560 million total, and that is the reason for the 10 years. The reason for the 10 years is to put the Government out of it, but not abruptly as the Senator from Alaska would want to do it, but to do it gradually.

After all, industry did not get itself into this business; we urged industry to get into this business back in 1954. We had a cooperative program on which we spent almost $2 billion, and here we are today where we are in a tight squeeze. We need energy. We are trying to create independence from foreign governments, and the only practical, realistic alternate source you have today is nuclear energy, whether you like it or not.

Now, the argument is going to be made that you are going to contaminate the world. That is an easy assertion to make, but we have been under this act since 1957, and the Government has not paid one red penny in damages for a third-party injury. How more in fact can you make an argument? Here we have had this program for almost 17 years, and we have never had an incident whereby the Government had to pay one nickel for a commercial nuclear reactor. Yet they come over here and say, "Well, it is possible." Well, it is possible for the world to be burned by fire; it is possible for the world to come to an end tomorrow. How do we know? Anything is possible.

But to stand up here with a background of an experience of 17 years, where we have not had to pay a nickel, stand up here and say that this is for the protection of General Electric, it is for the protection of Union Carbide—it is for the protection of the people. All we are saying here is that the people need protection, and this is the only fund they can look to, and that is what this is all about.

Now, 5 to 10 years, yes, I agreed to 5 years the last time. Do you know why? Because I had to make a concession because of certain amendments that came up. That is not new on this floor. But this is a new day, and here we are, we are a year later, and I say if you want to achieve independence on the part of the Government, if you want to free the Government from this responsibility, stay with 10 years.

In due time, when the time is up, I am going to move to lay this amendment on the table.

Mr. GRAVEL. I would like to debate it further. The fifth amendment to the Constitution of the United States says that a person is entitled to just compensation.

My colleague here is saying we are protecting the people. Is it not so that the Nuclear Regulatory Commission has come out with its appraisal of what an accident could be, what an extreme accident could be, and that is $15 billion? If the Nuclear Regulatory Commission says that an accident could be $15 billion, and all you have in terms of protection is $560 million, that would mean you would have 3 cents on the dollar.

If General Electric manufactured a valve, and this valve was deficient, and they sold it to a utility, that utility would be liable to the tune of $125 million. A person who lived within the environs of that utility, and if he suffered damage, and it went to a total of $15 million or $25 million, then that means General Electric, which manufactured the valve, which might be the culprit that caused the whole chain reaction of the accident, would not suffer any liability at all. But the citizen who has his home destroyed or may have his family destroyed, the most he can collect when it is all washed out would be 3 cents.

I would like to know how the proponents of this measure can stand up and say they are protecting the public when, in point of fact—and let me state it again—the Nuclear Regulatory Commission said that the outside accident could be $15 billion and we only give them $560 million. The committee comes forth and says with great magnanimity, "After 10 years we are going to give him $1 billion." Is that not generous, one-fifteenth?

I do not know what kind of rhetoric you can use to say that is protecting the public. How, when a person suffers damage, and he can only get 3 cents on the dollar, how can that person stand up here, using the English language, and tell us he is protecting the public when General Electric, Westinghouse, Union Carbide, and the others who sell the equipment suffer no threat of liability for their normal commercial activities?

In this regard, their normal commercial activities could conceivably have started the chain reaction that set this $15 billion holocaust into action. I do not know what kind of logic can be used. Obviously, it is logic that is persuasive enough to win votes in this body but, I submit, it is not logic that is persuasive enough to gain the full agreement of the American people.

This is a complex issue, and a lot of people can be stampeded and scared into saying this is going to wipe out the nuclear industry. Let me state one more time, obviously, this amendment will not wipe it out. But any effort to restore equality of treatment to the nuclear industry, if that wipes out the nuclear industry, then it should be wiped out. All I am trying to get here is the possibility that Congress will examine this at least within 5 years and not 10 years, and I still think the arguments made thus far—and I could pose the question—I thought it came out of committee last year as 5 years, and it was not something that came out on the floor. I pose that question, was it on the floor or did it come out of committee last year? Perhaps the manager of the bill can answer that question.

The question is, last year when it passed, the 5-year limitation extension, did that come out of committee?

Mr. PASTORE. No, it came out of the committee with 20 and out of the House with 10. We reduced it to five in order to accommodate certain Senators who opposed it for one reason or another.

I did that as sacrifice and as an accommodation.

Mr. GRAVEL. But that was agreed to on the floor?

Mr. PASTORE. That is right.

Mr. GRAVEL. And the Senator was able to carry that position in conference?

Mr. PASTORE. Yes, but the President vetoed the bill.

Mr. GRAVEL. Did he veto it for that reason?

Mr. PASTORE. No.

Mr. GRAVEL. Then this amendment could be acceptable to the conferees and it would keep a tighter rein by the Congress on this very controversial issue.

I do not think it is unreasonable to ask the managers of the bill to accept something that they themselves were for at a more reasonable time.

The controversy has increased, not abated.

Is it unreasonable to ask this? We can win it in conference.

Mr. PASTORE. I have already explained my reasons to the Senator. I told him why we compromised for the 5 years and why we cannot do it now.

I realize how the Senator feels about the nuclear power reactors. He has a perfect right to this feeling, and I respect it, but I do not think he ought to stand there time and time again and try to destroy the program.

Mr. GRAVEL. If I could——

Mr. PASTORE. This idea of $15 billion, if I thought 1 minute we were dealing with a $15 billion accident, I would say we should forget the nuclear power reactor program.

We can take the figures, and I have something that says one in a billion, and that is even better than an earthquake in San Francisco.

Mr. GRAVEL. In point of fact, greater likelihood.

Mr. PASTORE. Do we want nuclear power or do we not want it?

Mr. GRAVEL. I would want it, like any other American, to be safe.

Mr. PASTORE. I do not know about that.

Mr. GRAVEL. If it is safe.

Mr. PASTORE. There we go again.

Mr. GRAVEL. We cannot stand and say, "Do you want it or not."

Do we want cancer, or not? That is not a question.

Mr. PASTORE. Let us not dramatize that again.

Mr. GRAVEL. It is the same thing. It is either a legitimate question, or not.

Mr. PASTORE. Let me ask a question. Can the Senator point out anyone, or any one accident, where we had to pay a third-party indemnity? Can the Senator point out one?

Mr. GRAVEL. That means it is so safe that I cannot point out one. It is so safe we do not need this cocoon. We do not need to protect them. Let them act like any other industry.

If it is so safe, what is the Senator afraid of?

Mr. PASTORE. If it is so safe, what is the Senator afraid of?

Mr. GRAVEL. I do not claim it is that safe, the Senator does.

Mr. PASTORE. My goodness.

Mr. GRAVEL. I do not claim it is that safe. I want it to be tested in the marketplace. I want Mr. John Q. Public to make the decision, not the rarified group here, is all I am saying.

Let the people out there decide. It is a free world. If they do not want nuclear power, let them decide, not MIKE GRAVEL and JOHN PASTORE.

Mr. PASTORE. What makes the Senator think he speaks for the people outside any more than I do?

Mr. GRAVEL. I am not saying that. I am saying if we do not protect the industry, then they have to act like any other industry.

Why should we protect them if they are so safe, as the Senator keeps saying? If they are so safe, let them act like anybody else.

They can get more insurance than the airline industry. Why is it that the Senator has some thought in his mind that there is a greater threat to the nuclear industry than the airline industry? The airline industry can get only $225 million. We can get $125 million for people and $175 million for reactors.

Why do we have to protect them? Why do we have to build this form of energy on a breach of the Constitution? Why?

Mr. PASTORE. Mr. President, what is the time situation here?

The PRESIDING OFFICER. The time for the Senator from Alaska has expired. The Senator from Rhode Island has 7 minutes remaining.

Mr. TUNNEY. Mr. President, I ask unanimous consent that Bob McNair of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PASTORE. Yes.

Mr. HATFIELD. Mr. President, I ask unanimous consent that my staff person, Larry Smith, be granted privilege of the floor for this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Will the Senator yield for a question?

Mr. PASTORE. Yes.

Mr. PERCY. The Senator from Illinois concurs with the principle of not extending it for 10 years simply to have a benchmark so that we can come to grips with this issue.

I am very grateful, indeed, for the agreement that has been reached while the Republicans were in their policy committee meeting that hearings will be held in March. That is most reassuring.

Can the Senator from Rhode Island indicate why it is necessary to extend it for 10 years if we are going to have such hearings, why could we not have a cutoff on this legislation at 1980 rather than even 1982 or 1988, so that at least we are on notice?

What my concern is that if there is too long an extension, why would anyone come in and say, "We will assume and take on additional liability"?

Mr. PASTORE. Because the Congress at any point——

Mr. PERCY. Why would it not be a good idea to set a shorter time frame than 1988 if, in effect, we are going to take them up and seriously grapple with this question?

Mr. PASTORE. Because the administration, the members of the committee, were quite disturbed when I compromised on 5 years for the simple reason that the whole thrust of this legislation is to work the Government out of becoming an insurer.

They have said that the proper media would be the 10-year period which would allow them to go above this $435 million for which the Government is responsible and, thereby, ultimately taking the Government out of this picture entirely and letting the private companies assume full responsibility.

That was the reason for it.

But the point is that at any point in time if we find there have to be any amendments, we can do that easily. It is done all the time.

I hope we will go along with the House on the 10 years at this time because it is consonant with the formula we inaugurated when we reported the bill in order to make sure the Government gets out of this picture because, after all, we have been in it 17 years and the time will come when we will get out of it.

The industry is maturing day by day and the point is that ultimately we will be out of it with the exception in cases where there is a default on the deferred premium. That is the reason for it, and I think it is good sense.

I do not think we are shut off forever whether we make it 5, 10, or 20 years. At any point in time, we may bless this day. When they shut off the spigot on foreign oil coming in or we run out of natural gas, we will bless this day, in all probability, that we had the acumen in this time, on this 16th day of December, to do something that would encourage private industry to go forward with this program.

As I said here before, if anybody feels that the nuclear power program is useless, that it is unsafe, then they ought to have the courage and the gumption to come on the floor and introduce a resolution to do away with it.

But this idea got it in by the back door. This is for the protection of the people. The Government is guaranteeing, at this stage of the game, $435 million so that if that little utility company in Vermont, Maine, or wherever, should happen to have an accident and cannot meet their responsibility because they cannot buy that kind of insurance, the Government is backing them up.

Why anybody should be against this is beyond me, because that is the reason why we passed the law, to protect the public. At the time, the utility companies were rather uncertain about building nuclear power reactors and in order to give them some assurance so that this program could go forward, we not only got into a cooperative research and development program where we spent billions and billions of dollars, we made certain warranties on fuel. That is the reason why they came about.

The only living alternative we have to fossil fuels today is nuclear energy. So why pass it up? Why pass it up, why sweep it under the rug now?

We have these people marching up and down saying, "Well, you know, we can afford to conserve, we can afford to shut off the lights at 6 o'clock, we can afford to do this."

What am I going to tell the people that work in the factories in Rhode Island when they turn on that switch to make the loom move, to let the machinery go? What am I going to tell them? "Go see GRAVEL"?

Mr. PERCY. The Senator from Illinois is certainly for this program.

Mr. PASTORE. I certainly am.

Mr. PERCY. The Senator from Illinois does not want to discourage expansion and certainly does not want to impede the flow of capital into it from the private sector. But we want to do so consistent with every degree of safety and every measure of safety that we can build into it. The Senator from Illinois is very reassured that hearings will be held in March.

Mr. PASTORE. That is right.

Mr. PERCY. I look forward to participating in those hearings. If we have an understanding that if it looks feasible to move ahead, still putting a limit on liability but increasing the liability to the industry, and it can be done without crippling that industry and impeding its future growth and progress, and we can be assured we will have a chance then to modify existing law at the earliest opportunity after those hearings, then the Senator from Illinois is certainly reassured.

Mr. PASTORE. I want to say this: I would like to see that happen, but I hope if we do it, we do it no-fault all the way. The minute we begin to mix these two, we are causing more troubles than we solve. Nobody is going to straighten out a case on no-fault if they know they are going to be sued tomorrow for something else because of the same accident. If we are going to do it all, it has to be all no-fault or we have to revert back to the tort procedure. We cannot have the two mixed up.

Mr. PERCY. The Senator from Illinois will reserve his judgment until the hearings so we can get as much evidence as we possibly can. I would feel better with the shorter time frame extending this authority, but the most reassurance I have is the agreement which has been reached between Senator BAKER and Senator PASTORE on this issue.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. GRAVEL. I thought I had the yeas and nays on this.

Mr. PASTORE. The Senator had the yeas and nays on his amendment. Does he ask for the yeas and nays on the motion to table?

Mr. GRAVEL. Yes.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "aye."

The result was announced—yeas 62, nays 31, as follows:

[Rollcall Vote No. 597 Leg.]

YEAS—62

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Eastland
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Laxalt
Magnuson
Mansfield
McClellan
McClure
McGee
McIntyre
Montoya
Morgan
Moss
Muskie
Nunn
Pastore
Pearson
Pell
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—31

Abourezk
Biden
Buckley
Case
Clark
Cranston
Culver
Durkin
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Humphrey
Kennedy
Leahy
Long
Mathias
McGovern
Metcalf
Mondale
Nelson
Packwood
Percy
Proxmire
Randolph
Roth
Schweiker
Tunney
Williams

NOT VOTING—7

Bayh
Bumpers
Church
Fannin
Ribicoff
Stennis
Taft

So the motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. PASTORE. I yield.

Mr. BELLMON. Mr. President, I ask unanimous consent that Mr. Bill Oakley of my staff be granted privileges of the floor during the remainder of the day.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, at the end of line 6, add the following:

"SEC. 12. Section 170 of the Atomic Energy

Act of 1954, as amended, is amended by adding subsection q., to read as follows:

(q) (1). Congress finds:

(a) That a limitation of liability on the part of the nuclear power installation creates uncertainty regarding the property values and personal rights of citizens as the result of construction of such nuclear power installations; and

(b) that if such persons are not clearly authorized to resolve such uncertainties by judicial process they may sustain immediate loss in property values and may be denied an opportunity adequately to insure themselves and their property against loss.

(2) Any person may bring a declaratory judgment action in the United States District Court for the District of Columbia not later than 90 days after the effective date of this section to determine the constitutionality of this section or any provision thereof. Any such action shall be heard by a district court of three judges appointed in accordance with 28 USC 2284, and any appeal from a decision of that court shall be directly to the Supreme Court of the United States.

Mr. HATHAWAY. Mr. President, the purpose of this amendment is to set up a procedure whereby the constitutionality of the limited liability provision can be tested.

The amendment provides that within 90 days after the enactment of this bill, after the President signs it, an action may be brought in the U.S. court for the District of Columbia and that a three-judge panel shall be established to determine the question of the constitutionality of the limit on liability, and there shall be a direct appeal from that court to the Supreme Court of the United States.

The action must be brought within the 90 days, or it cannot be brought at all.

It has been brought out in the course of debate all day long that there is a question on the constitutionality of the limitation of $560 million that has been establishd in this bill. I do not argue that under certain circumstances a limit on liability can be imposed.

As the Senator from Tennessee and the Senator from Rhode Island have pointed out, limits on liability have been upheld as constitutional in workmen's compensation cases and perhaps other cases.

The question is whether or not there is a rational connection in this case between the no-fault or absolute liability that is imposed and the $560 million that is established as the maximum that can be paid out.

At the present time there is a case in North Carolina pending to determine this question. It seems that the outcome of that case may be in the negative, and the court may decide that the plaintiffs in that case have no standing to sue.

A similar case has been so decided in the District Court for the District of Columbia. I have the memorandum and order, which I ask unanimous consent to print in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia]

MEMORANDUM AND ORDER

The Conservation Society of South Vermont, Inc., et al., Plaintiffs, v. Atomic Energy Commission, et al., Defendants. Civil Action No. 19–72.

Plaintiffs are environmental groups which oppose the construction and operation of various nuclear power facilities located around the country. In 1972 they filed this action in district court attacking the constitutionality of the Atomic Energy Act of 1954. 42 U.S.C. § 2011 et seq. They claimed that the Act violated their due process rights by vesting both developmental and regulatory functions within a single agency, the AEC, depriving them of a fair and impartial hearing in individual licensing proceedings. Alternatively, they argued that the AEC's implementation of the Act's regulatory provisions had been biased by the agency's promotional activities. Their complaint requested declaratory and injunctive relief, requiring that the agency be split into separate licensing and developmental components and prohibiting further licensing activities until that separation had been accomplished. Their complaint also raised a subsidiary issue of the constitutionality of the Price-Anderson provision, 42 U.S.C. § 2210, which sets a ceiling of $560,000,000 on aggregate liability resulting from a "single nuclear incident." A three-judge district court was convened to hear the case pursuant to 28 U.S.C. § 2282.

Late in 1974, while various preliminary motions were still pending, Congress passed the Energy Reorganization Act, P.L. 93–438, which divided the AEC's functions among two new agencies. The research and development functions were absorbed by the Research and Development Administration, and the Nuclear Regulatory Commission assumed the AEC's licensing responsibilities. Nevertheless, plaintiffs strenuously oppose defendant's motion to dismiss as moot on the grounds that although the new act takes case of the future, it does nothing about the past. Licenses already issued will remain in effect until they expire by their own terms, or until modified by further proceedings. Thus, plaintiffs assert, there is a residual impact which warrants resolution of the question of the prior arrangement's validity.

Plaintiffs focus on the past is new. The injunctive relief requested by the complaint would operate prospectively only. We do not suggest that plaintiffs are bound in this respect by their pleadings: their claim should be measured by the relief to which they may be entitled, not necessarily the relief for which they have asked. Fed. R. Civ. P. 54 (c). But we think it is significant that plaintiffs have always been, and are still, free to raise the issue of bias in the context of individual licensing proceedings, and to press such claims before the courts on review of final agency action. By remedying the broad structural and operational defects alleged by plaintiffs, we think Congress robbed the present action of any vitality which it may have possessed independent of such proceedings.

There remains the problem of the Price-Anderson provision, which is unaffected by the Energy Reorganization Act. We cannot agree with the Government that because the complaint did not make a request for relief on the Price-Anderson issue, we can ignore that claim in deciding the mootness question. If the issue is a viable one, the action is not moot. See, e.g., Powell v. McCormack, 395 U.S. 486 (1969).

The present injury giving plaintiffs standing to bring this suit was the consequences of a proliferation of nuclear plants. Although plaintiffs have not so stated, their position must be that the Price-Anderson provision contributes to this proliferation by reducing the cost-of-doing-business for nuclear power companies. Without the limitation on liability, potential investors might prefer conventional plants whose potential for large-scale damage is not so great. But the interest in which plaintiffs' attack on the provision's validity is rooted is not their interest in non-proliferation atomic power plants. Rather, it is the property interest of those who might be injured in a nuclear accident. In any accident in which damages exceed $560,000,000 plaintiffs assert, at least some of those injured will be deprived of their rights to seek full recovery. The Act thus imposes a forfeiture of "legal rights never voluntarily surrendered or limited by the legal owners thereof" in violation of due process.

We may assume, for purposes of our analysis, that plaintiffs would have standing to assert the rights of those injured in a serious nuclear accident, even though not affected by it themselves. Our question is whether, even granting this point, the issue is ripe for adjudication. Plaintiffs do not allege that a nuclear accident causing damages in excess of the statutory ceiling has actually occurred. Indeed, our understanding is that the likelihood of an accident of that magnitude is quite small, although not capable of precise measurement. The Supreme Court has allowed review of the constitutionality of statutes prior to their official application, *see, e.g.*, City of Chicago v. Atchison, Topeka & Santa Fe Railroad, 357 U.S. 77 (1959); Pierce v. Society of Sisters, 268 U.S. 510 (1925), but never where they had no real or immediate impact on the rights asserted, *see, e.g.*, Poe v. Ullman, 367 U.S. 497 (1961). Plaintiffs' failure to base their claim on a legally protected interest which is currently threatened by the Price-Anderson provision leaves us with no choice but to dismiss. Accordingly, it is

Ordered that defendants' Motion to Dismiss be, and hereby is, granted.

DAVID L. BAZELON,
Chief Judge, U.S. Court of Appeals.
WILLIAM B. BRYANT,
Judge, U.S. District Court.
JOSEPH C. WADDY,
Judge, U.S. District Court.

Dated: April 16, 1975.

Mr. HATHAWAY. The reason that this case was dismissed was because there was no case or controversy, there was no standing to sue, no one had been hurt, and so there was no basis to bring the action.

I should think that the proponents of this bill, the private utilities, and others that might be subject to liability at some date in the future would welcome this amendment. Let us say that this amendment is not adopted and it does not become part of the legislation. This question would be brought up at a later date when a nuclear accident occurred and damage was done. At that time a person who does suffer injury could raise this question.

If the Supreme Court at a later date should decide that this limitation on liability was unconstitutional, the whole provision could easily be stricken from the act as not being constitutional and would leave the company that had this nuclear accident subjected to an unlimited liability.

So I should think that the companies involved would welcome this amendment so that they could be protected for the future so that they would know just how they stand.

As a last point that I wish to make in my argument in favor of this amendment, we already have such a provision in the campaign finance laws. As a matter of fact, as all of us know, there is a case now pending before the Supreme Court to test the constitutionality of that law.

If it will aid in helping to pass this amendment, I shall make the following statement which is really taken out of the Campaign Act, that I consider that it shall be the duty of the court of appeals or the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter that comes before them affecting this provision.

Mr. President, I reserve the remainder of my time.

Mr. **GRAVEL**. Mr. President, I ask unanimous consent that I may be added as a cosponsor of the amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **PASTORE**. Mr. President, first of all, it is unwise for the Senate to pass any law unless it thinks it constitutional. But in order to make doubly sure, the fact remains that we did seek an opinion sometime back in 1965. Ramsey Clark at the time was the Deputy Attorney General, and he wrote this:

> DEAR MR. CHAIRMAN: This is in response to your request for the opinion of the Attorney General concerning constitutionality of section 170e of the Atomic Energy Act of 1954, as amended.

It goes on:

> I am enclosing a memorandum which has been prepared in the Department concerning the constitutionality of section 170 e. of the act and the proposed amendment thereof. Although the memorandum does not, of course, constitute an "opinion" there would appear to be little question that the section and the proposed amendment are within the constitutional authority of the Congress. It is hoped that this memorandum will be of assistance to your committee.
>
> Sincerely,
>
> RAMSEY CLARK,
> *Deputy Attorney General.*

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from Ramsey Clark, together with his memorandum.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF THE
DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 24, 1965.

Hon. CHET HOLIFIELD,
Chairman, Joint Committee on Atomic Energy, Congress of the United States, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the opinion of the Attorney General concerning the constitutionality of section 170 e. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2210(e)), and the proposed amendment of that section as provided in H.R. 8496 and S. 2042.

I am enclosing a memorandum which has been prepared in the Department concerning the constitutionality of section 170 e. of the act and the proposed amendment thereof. Although the memorandum does not, of course, constitute an "opinion" there would appear to be little question that the section and the proposed amendment are within the constitutional authority of the Congress. It is hoped that this memorandum will be of assistance to your committee.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

MEMORANDUM RE CONSTITUTIONALITY OF SECTION 170 e. OF THE ATOMIC ENERGY ACT OF 1954

Two bills now pending before the Joint Committee on Atomic Energy, H.R. 8496 and S. 2042, would amend section 170 of the Atomic Energy Act of 1954, as added September 2, 1957, 71 Stat. 576, and amended, 42 U.S.C. 2110. In the hearings on these bills, the constitutionality of the proposed amendments to section 170 e. and of section 170 e. itself has been questioned.

Section 170 of the Atomic Energy Act provides for the indemnification of and limitation of liability of licensees and permittees of the Atomic Energy Commission. Each license or permit issued for the commercial transfer, production, possession, use, import or export of atomic utilization or production facilities, for medical or other research utilization of atomic facilities, or for construction or modifiction of atomic production or utilization facilities, must require that the licensee or permittee maintain financial protection to cover public liability claims. Similar requirements may be made of those acquiring or distributing source material, special nuclear material or nuclear byproducts. The Atomic Energy Commission determines the amount of financial protection required.

In addition the Atomic Energy Commission must agree to indemnify all licensees and permittees of whom it requires financial protection, with respect to licenses issued between August 30, 1954 and August 1, 1967. The indemnity extends to public liability arising from nuclear incidents which is in excess of the level of private financial protection required. However, the aggregate indemnity for all persons indemnified may not exceed $500 million for any single nuclear incident. Further, the Commission is authorized to indemnify its own contractors up to $500 million for incidents occurring in the United States and up to $100 million for incidents occurring outside the United States.

Section 170 e. provides that the aggregate liability for any single nuclear incident for all persons indemnified (including reasonable costs of investigating and settling claims and defending damage actions) shall not exceed $500 million plus the amount of private financial protection required. For incidents occurring outside the United States, however, the aggregate liability is limited to $100 million plus the required private financial protection. If it appears that the public liability arising from any nuclear incident is going to exceed the limitations imposed by this section, the Commission or any person indemnified may apply to the district court having bankruptcy venue over the location of the incident for an order limiting liability, staying payment of claims or judgments, permitting partial payments of claims, setting aside part of the funds for possible latent injury claims, or similar appropriate relief. If the incident occurs outside the United States, venue is in the U.S. District Court for the District of Columbia.

The amendments to section 170 e. proposed by H.R. 8496 and S. 2042 would insert a new proviso limiting the total aggregate liability, including both insurance and indemnity, to $560 million.

It has been suggested that Federal legislation limiting the tort liability of corporate or other persons engaged in the field of atomic energy and, consequently, limiting the recovery of persons injured by a nuclear incident, exceeds the constitutional authority of Congress. This memorandum concludes, however, that in the area of atomic energy Congress may, in the interest of developing maximum utilization of nuclear resources, limit the public liability of those engaged in this industry. Further, Congress may limit not only the liability covered by Federal indemnity, but may also limit the aggregate liability covered by Federal indemnity and private financial protection. In summary, section 170 e. of the Atomic Energy Act is constitutional and the amendments proposed by H.R. 8496 and S. 2042 are likewise constitutional.

BACKGROUND OF SECTION 170

The original Atomic Energy Act (act of Aug. 1, 1946, 60 Stat. 755), vested complete control of the entire field in the Federal Government. At that time the chief use of nuclear energy was military, and national security and defense required strict Federal control. By 1954, however, the peaceful uses of atomic energy were also being emphasized and the Atomic Energy Act was revised to provide for increased private participation in nuclear development (act of Aug. 30, 1954, 68 Stat. 921). However, private industry appeared somewhat reluctant to enter the field and it was brought to the attention of the Joint Committee on Atomic Energy that one of the reasons for this reluctance was the difficulty of insuring against liability arising out of nuclear accidents. (See S. Rept. 296, 85th Cong., 1st sess. (1957).)

In 1956 the Joint Committee conducted hearings on proposals for governmental indemnity against reactor hazards in private industry. Witnesses for the AEC testified that the safety record in atomic energy facilities had been good but that industry representatives had indicated reluctance to enter the field until some liability insurance could be arranged (hearings before the Joint Committee on Atomic Energy, "Governmental Indemnity," p. 68 (1956)). A memorandum from the General Counsel of AEC pointed out that in the event of an accident or "nuclear incident" various theories of public liability might be applied in the different States, such as strict liability, an application of the doctrine of res ipsa loquitur or an extension of liability to manufacturers or suppliers and this uncertainty as to the determination of liability created further insurance problems (hearings, pp. 70–74).

Witnesses from various public utilities and electronics industries emphasized that the inability to obtain comprehensive liability insurance would retard full-scale efforts by many companies to enter the field and they urged some form of governmental protection against the possibility of enormous damage claims. They pointed out the high damage claims based on a single incident could exceed the entire assets of a company and could bankrupt it (hearings, pp. 103, 109, 141, 182). Representatives of the insurance industry explained that in a field as new as atomic energy they were not equipped to calculate the risks or to offer coverage which would protect against the incalculable claims which could arise from a single major accident.

Various forms of Government protection were suggested: Government insurance, reinsurance, indemnity, and limitation of liability. Several witnesses expressed doubt as to the constitutionality of a Federal limitation on public liability (hearings, pp. 43, 190). However, the Special Committee on Atomic Energy of the Association of the Bar of the City of New York submitted a supplemental memorandum expressing the view that the constitutional validity of a limitation of liability could be supported by findings that the likelihood of exceeding a $500 million limitation is remote, that limited Federal indemnity plus limited private liability would serve the public better than no indemnity and unlimited liability, and that the $500 million should not be interpreted as an absolute limit beyond which

Congress would never be willing to go (hearings, p. 328).

At the request of the Joint Committee, the Legislative Reference Service of the Library of Congress and the counsel for the Pennsylvania Power & Light Co. submitted memorandums on the constitutionality of limiting liability. Both concluded that such a limitation would be constitutional. The Library of Congress memorandum pointed out that when Congress assumes an obligation that it is moral rather than legal it may impose limitations. Further, it concluded that Congress could limit the liability of others in carrying out one of its enumerated powers and cited as an example the limitation of shipowner's liability (46 U.S.C. 183) under the commerce clause. It suggested that a limitation of liability in the event of nuclear accident might be justified under the bankruptcy clause (art. 1, sec. 8, clause 4), since a major disaster could wipe out an entire company (hearings, pp. 406–407).

The memorandum of Pennsylvania Power & Light Co. pointed out that the Atomic Energy Act itself rests on the defense power, the commerce power, and the power to regulate the use of Government property (production facilities and special nuclear material). In the exercise of these powers, Congress may adopt measures which limit or affect private rights as long as such measures are reasonably related to the objectives they are designed to serve. Thus, shipowner's liability has been limited to encourage private capital to enter the industry and homesteads have been exempted from liability for certain debts in order to promote development of public lands. The memorandum concluded that Congress could limit liability of private industry in order to promote increased development and utilization of nuclear energy (hearings, pp. 386–390).

There was no congressional action on the indemnity and limitation of liability provisions in the 84th Congress, but there was little discussion of the constitutionality of a limitation of liability (hearings before the Joint Committee on Atomic Energy, "Governmental Indemnity and Reactor Safety" (1957)). Thereafter, a bill to provide both indemnity and limitation of liability was reported. Senate Report 296, 85th Congress, 1st session, recites the constitutional bases of the bill as the power to provide for the national defense and security, the responsibility to supervise and protect the use of special nuclear materials to which the Government retains title, and the power to provide a uniform rule of bankruptcy. It explains that the determination of liability in the event of a nuclear incident would be left to the States, but if it appeared that insurance and indemnity were not adequate to cover all claims, a Federal court would take jurisdiction in order to prorate the available amount equitably. The so-called Price-Anderson Act became law on September 2, 1957, and it added section 170 to the Atomic Energy Act.

THE CONSTITUTIONAL BASES OF SECTION 170 e.

The second section of the Atomic Energy Act (42 U.S.C. 2012) recites certain congressional findings which indicate the constitutional bases of the entire act. It refers to providing for the common defense and security, protecting the public health and safety, regulating interstate and foreign commerce, protecting against interstate damage occurring from the operation of nuclear materials, and promoting the general welfare. In the exercise of these powers, Congress undertook to regulate the entire field of atomic energy from its inception. This absolute Government monopoly was unique in American law, but the circumstances surrounding the development and utilization of nuclear energy were also unique. The importance to national security of controlling the use of nuclear energy resulted in provisions which vested the ownership of almost all production facilities in the Federal Government (42 U.S.C. 2061(a)), retained title to all special nuclear materials (42 U.S.C. 2072), and imposed strict control over the ownership, possession, and transfer of source materials and byproduct materials (42 U.S.C. 2092, 2111).

It was not until August 26, 1964, that private ownership of special nuclear materials was permitted (Public Law 88–489, 78 Stat. 602). That statute repealed 42 U.S.C. 2072 and deleted the congressional findings that Government ownership of such materials was necessary to national security and public safety (42 U.S.C. 2012 (b), (h)).

Apparently few have questioned the constitutionality of the Atomic Energy Act itself. In *Pauling* v. *McElroy* (164 F. Supp. 390 (D.C.D.C. 1958), aff'd 278 F. 2d 252 (C.A.D.C. 1960), cert. denied, 364 U.S. 835 (1960)), the court indicated that the defense power alone would provide ample constitutional basis for that act. Nor would there appear to be any doubt that the processing and utilization of nuclear material is so involved in interstate and foreign commerce as to justify Federal regulation of the industry on this basis.

The question raised in the present hearings is not whether the Atomic Energy Act is constitutional but whether section 170 e. of that act, limiting the liability of private industry, is constitutional. In effect, the issue may be stated as follows: Is the limitation of liability of private industry engaged in nuclear development and utilization *necessary and proper* to the unquestioned authority to regulate atomic energy?

When section 170 e. was enacted in 1957, various constitutional bases were cited as justifying the limitation of liability:

1. The necessity of protecting the public against interstate damage occurring from the operation of facilities (42 U.S.C. 2012(f));

2. The necessity of protecting the public and encouraging the development of atomic energy in order to promote the general welfare and the national defense and security (42 U.S.C. 2012(i));

3. The responsibility of protecting the public from damages resulting from the use of Federal property—special nuclear material (S. Rept. 296, 85th Cong., 1st sess.); and

4. The authority to provide a uniform rule of bankruptcy (S. Rept. 296, 85th Cong., 1st sess.).

Since enactment of Public Law 88–489, title to special nuclear material need no longer be vested in the Government, and thus protection of the public from hazards resulting from the use of Federal property may no longer justify section 170 e. It has also been suggested that the consideration of national defense and security which justified section 170 e. in 1957 may no longer be valid today (transcript of hearings on H.R. 8496 and S. 2042, p. 258).

Before considering whether the limitation of liability in section 170 e. is a necessary and proper exercise of the defense power, the commerce power, and/or the bankruptcy power of Congress, it is appropriate to point out that section 170 e. is an act of Congress, approved by the President. Congress was aware that doubts had been expressed as to its constitutionality and, in enacting it, Congress expressed its judgment that the section was constitutional. Similarly, in approving the act, it must be assumed that the President was also satisfied that it was constitutional. From these facts alone, section 170 e. is entitled to a presumption of constitutionality.

A. The exercise of the defense power

The Senate report in what is now section 170 e. indicated that the national defense and security required increased private development and utilization of nuclear energy and that full-scale entry of private industry into this field could not be assured unless private industry were protected from enormous private damage claims by Government indemnity and limitation of liability (S. Rept. 296, 85th Cong., 1st sess). Further, the Price-Anderson Act contained the following congressional findings:

"In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents and may limit the liability of those persons liable for such losses" (sec. 1, 71 Stat. 576; 42 U.S.C. 2012(i)).

It has been suggested that the facts which justified this finding in 1957 no longer exist. However, Congress has not seen fit to withdraw or amend this finding, and thus it remains as an indication of the congressional judgment of the necessity for section 170 e. It is not the purpose of function of this memorandum to look behind the congressional finding. Congressional findings are not conclusive as to the facts recited and they may be examined in the light of changed circumstances. But they are entitled to great weight and are generally accepted unless clearly unfounded or irrational (*Communist Party* v. *Control Board*, 367 U.S. 1, 94–95 (1961); *Block* v. *Hirsch*, 256 U.S. 135, 154 (1921)). Absent a clear showing that the facts which justified the finding in 1957 no longer exist, it must be assumed that Congress has a rational basis for considering the continuing development of the atomic energy industry to be necessary to the national defense.

The power of Congress to provide for the national defense and security is unquestioned. Having determined that private development of atomic energy is necessary and proper to this end, and having determined that a limitation of liability is necessary and proper to secure the private development of atomic energy, Congress has the constitutional authority to limit the liability of persons engaged in the atomic energy industry.

B. The exercise of the commerce power

The Senate report on the Price-Anderson Act places little emphasis on the interstate and foreign commerce aspects of the atomic energy industry. However, the Atomic Energy Act itself recognized that the processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce (42 U.S.C. 2012(c)) and it further recites:

"The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source of special nuclear material places the operation of those facilities in interstate commerce for the purposes of this Act" (42 U.S.C. 2012(f)).

Whatever changes may have occurred in the defense relation of the atomic energy industry since 1957, it is beyond question that the interstate aspects of the industry have not altered since 1954.

During the 1956 hearings on "Government Indemnity and Limitation of Liability," both the Legislative Reference Service of the Library of Congress and the Counsel for the Pennsylvania Power & Light Co. pointed out that Congress has imposed a limitation on the liability of shipowners in order to promote this aspect of interstate and foreign commerce, and that this had been held a constitutional exercise of the commerce power. The provisions for limiting the liability of shipowners (46 U.S.C. 181 et seq.) date from 1851. They were designed to encourage the development and expansion of the American shipping industry and the Supreme Court has determined that protecting shipowners from financially crippling liability claims arising from marine catastrophes is a valid exercise of congressional authority under the Commerce Clause (*Providence &*

N.Y.S.S. Co. v. *Hill Mfg. Co.*, 109 U.S. 578 (1883)).

While it may be argued that the limitation of shipowner's liability is not a direct precedent for limiting liability in the atomic energy industry, there are similarities which should be noted. A single marine disaster involving tremendous loss of life and property could give rise to liability claims of such staggering amounts that an entire shipping company could be wiped out by a single accident. Likewise, a major nuclear incident in an atomic reactor plant could result in claims exceeding the total assets of even an "industrial giant." Corporations and public utilities therefore might well be as reluctant to risk their existence by entering the atomic energy field, as shipowners might be to risk a marine disaster. Certainly it is reasonable for Congress to conclude that fostering the atomic energy industry today is as important as fostering the shipping industry was in 1851.

It might also be noted that, by accepting the Warsaw Convention on International Air Transportation (49 Stat. 3000), Congress agreed to a limitation of the liability of air carriers (art. 22, 49 Stat. 3019). Although this involved an exercise of the treaty power rather than the commerce power, there would appear to be no relevant difference in the applicable considerations of constitutional law.

It has been argued that by limiting liability for nuclear incidents Congress has deprived individuals of their rights to compensation and has infringed the power of the States to enforce their own rules of tort liability. Yet it is no longer open to question that in the exercise of its commerce power, Congress may supersede the laws of the States and may restrict the rights of private individuals (*United States* v. *Darby*, 312 U.S. 100 (1941); *Wickard* v. *Filburn*, 317 U.S. 111 (1942)).

The background of the Price-Anderson Act indicates that the limitation of liability was designed to serve two purposes: (1) to encourage the entrance of private industry into the atomic energy field, and (2) to protect the public by assuring equitable distribution of the available funds to meet all damage claims. As indicated above the limitation of liability to encourage an industry was found to be a valid exercise of the commerce power with respect to the shipping industry. It is certainly arguable that the limitation of liability to protect the public from losses resulting from the operations of an interstate industry would also be a legitimate exercise of the commerce power.

There does not appear to be any legislative precedent under the commerce clause for limiting liability in order to insure that all claimants will receive at least partial payment of their claims. Legislation of this type is more directly related to the bankruptcy power. Nevertheless, interstate businesses have been regulated in countless ways in order to protect the public, and it is not unreasonable to assert that Congress may choose this means of protecting the public from personal and financial losses resulting from the operation of an industry involved in interstate and foreign commerce. Indeed, it may be particularly appropriate to provide for the limitation and apportionment of funds to cover damage claims in the atomic energy industry, since the nature of nuclear energy increases the likelihood that injuries resulting from nuclear incidents would occur not only at the site of the incident but in neighboring States as well.

In summary, the atomic energy industry is clearly involved in interstate and foreign commerce and is, therefore, subject to congressional regulation and supervision. Having determined that a limitation of the liability of persons engaged in that industry for damages resulting from nuclear incidents is necessary and proper both to foster the industry and to protect the public, Congress has the constitutional authority, under the commerce clause, to provide a limitation of liability.

C. The exercise of the bankruptcy power

Article I, section 8, clause 4, of the Constitution provides that Congress shall have the power to provide "uniform Laws on the subject of Bankruptcies throughout the United States." The Legislative Reference Service of the Library of Congress suggested in 1956 that this authority would justify the limitation of liability of persons engaged in the atomic energy industry, and Senate Report 296, 85th Congress, 1st session, recites this as one of the constitutional bases of section 170 e.

The general bankruptcy laws of the United States are published in title 11 of the United States Code. They are designed not only to protect the rights of creditors, but to protect debtors as well. For example, insolvent corporations may petition for reorganization (11 U.S.C. 530), insolvent railroads may petition for reorganization (11 U.S.C. 205), and insolvent wage earners may petition for an adjudication of bankruptcy (11 U.S.C. 1022). The Supreme Court has emphasized that the bankruptcy power is not limited to the protection of the creditor alone and that voluntary bankruptcy can be authorized for the debtor's benefit:

"The determination of the *status* of the honest and unfortunate debtor by his liberation from incumbrance on future exertion is a matter of public concern, and Congress has power to accomplish it throughout the United States by proceedings at the debtor's domicil." (*Hanover Nat'l Bank* v. *Movses*, 186 U.S. 181, 192 (1902); *cf., Louisville Joint Stock Land Bank* v. *Radford*, 295 U.S. 555, 588 (1935)).

Moreover, in an industry affected with the public interest, the congressional authority extends to measures which are designed to forestall actual bankruptcy (*Continental Ill., Nat'l Bank & Trust Co.* v. *Chicago Rock Island & Pac. Ry.*, 294 U.S. 648 (1934)).

The 1956 hearings on "Government Indemnity and Limitation of Liability" indicate that the purpose of section 170 e. was to prevent the financial destruction of those involved in the atomic energy industry and to assure at least partial payment to all having damage claims arising from a nuclear incident. It was pointed out that damage claims might exceed the available liability insurance and might even exceed the corporate assets of persons liable for a nuclear incident. Thus, a single incident could result in bankruptcy. In addition, injuries resulting from a nuclear incident might not be immediately detectable, and one suffering from latent radiation injuries might be unable to obtain damages because earlier claims had consumed all insurance and assets.

Accordingly, section 170 e. provides that if it appears that damage claims will exceed both insurance and the indemnity afforded by the Government, a petition may be filed in the court having jurisdiction in bankruptcy to postpone payment of claims until the available funds can be equitably prorated among all claimants. While such a provision appears to be unique among bankruptcy laws, it is not so unrelated to the bankruptcy power as to be obviously unreasonable.

If Congress has determined that section 170 e. of the Atomic Energy Act is a necessary and proper exercise of the authority to provide a uniform rule of bankruptcy, then it would appear that such protection of both "debtor" and "creditor" is a constitutional exercise of that power.

D. Exercise of combined powers

This memorandum has indicated that section 170 e. of the Atomic Energy Act would be a constitutional exercise of the defense power, the commerce power, or the power to provide a uniform rule of bankruptcy. However, in enacting that section, Congress did not rely on any single express power. Rather, it indicated that section 170 e. was enacted as an exercise of several powers enumerated in the Constitution. Certainly Congress is not obligated to select a single constitutional basis for legislation but may rely on a combination of powers in order to provide for the common defense and promote the general welfare. Since section 170 e. would be a constitutional exercise of any one of the three powers mentioned, it is likewise a constitutional exercise of the combined defense, commerce, and bankruptcy powers.

CONSTITUTION OF PROPOSED AMENDMENTS TO SECTION 170 e.

Both H.R. 8496 and S. 2042 would amend section 170 e. by adding the following proviso in the first sentence: "*Provided, however*, That such aggregate liability [*i.e.*, the aggregate liability for a single nuclear incident] shall in no event exceed the sum of $560,000,000."

The present aggregate liability under section 170 e. is $500 million plus the private financial protection required of the person indemnified. The effect of the proviso quoted above would be to limit the total aggregate liability, including both Federal indemnity and private financial protection, to $560 million.

Should Congress determine that such a total limitation is both necessary and appropriate to accomplish its purposes in limiting liability, there is little question that the limitation would be constitutional. The constitutional bases for the statutory limit of aggregate liability would be the same as the constitutional bases for section 170 e. If the present section is constitutional—and it seems clear that it is—the proposed amendment would be no less constitutional.

Mr. PASTORE. Mr. President, while it is true that an amendment of this kind could very well be taken to conference, the fact still remains that the same amendment was proposed in the House and was defeated by a vote of 225 to 161. So it would not have a chance in conference, to begin with. The House would have to reverse itself, and it will not reverse itself.

The regular process of challenging the constitutionality of any act is still in being and is still available to any person who would like to challenge it.

I think it would be a mistake at this time to set up a procedure which creates at least a suspicion, if not curiosity, on the part of many people that we were not sure of the constitutionality of the law we were passing.

Mr. HATHAWAY. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, I point out that the Attorney General's statement, as I understood it from the Senator from Rhode Island, is dated in 1965. I am sure that the situation has changed considerably since that time. It already has been brought out in debate that inflation alone has increased or should increase the limit of liability well beyond $560 million.

I do not think it is particularly relevant that the House voted down this particular amendment. We have never considered ourselves bound by a House vote previously. There are many instances in which the House votes one way and we vote another way, and we try to hammer it out in conference. Simply because the House voted against it does not mean that our conferees could not prevail and make this part of the final law that is enacted.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. GRAVEL. Information has been brought forth that changes the situation. The first Brookhaven study came out in 1956–57. At that time, the outer limits of liability on an accident that could occur was about $7 billion, and now it is double. The Nuclear Regulatory Commission has come out with a figure of $15 billion on an outside accident, and that is not even counting the loss of life.

If we are going to have special treatment, which is what this legislation would do, by limiting the liability, then we should have the perspicacity to set up the mechanism whereby we can have a special look at this from a legal point of view, to see that what we have done is legal. From 1956 to date, we do not know whether or not it is legal. We make these statements. I think that an adjudication of a court certainly would be warranted under the circumstances.

I commend the Senator from Maine for bringing forth this amendment, which I think could lay the matter to rest. Certainly, the amendment of the Senator from Maine is an asset to the industry. Think of all the companies that have gone nuclear and that intend to go nuclear, and they do not know whether or not they truly have any liability. Five years from now or 10 years from now, if the Supreme Court renders a decision knocking down the 1957 act with respect to limited liability, that would mean nothing prospective; it would be retroactive. So if there is anything that a reasonable financial manager should know, it is whether or not this is truly legal, and that is all the Senator from Maine asks—that we set in motion the mechanism to make this determination.

Mr. President, I ask unanimous consent to have printed in the Record a summary of the argument made in the North Carolina case.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary of Argument

Plaintiffs come to this Court with a live question of the utmost national significance. What is involved here is not a request merely to lay a statute next to a constitutional provision and determine whether the former squares with the latter; rather, this Court is asked to determine a question of first impression and importance: Whether Congress can limit a citizen's common law right to recover damages arising out of a nuclear incident to a proportionate share of an arbitrary and obviously insufficient sum.

Plaintiffs submit that by limiting liability arising out of nuclear incidents to $560 billion, Congress has, at the admitted behest of the energy industry, violated principles embodied in the Fifth Amendment by (i) limiting the aggregate amount of damages from a nuclear incident to a sum wholly unrelated to the damages predicted by the Government itself; (ii) irrationally treating victims of a nuclear incident less favorably than victims of all other private wrongs; (iii) unreasonably limiting persons affected by the Act in their access to the courts and to their common law remedies against private persons for private wrongs; and (iv) contravening the requirement of Art. 1, § 8, cl. 4 of the United States Constitution that all laws on the subject of bankruptcies be uniform throughout the United States.

Plaintiffs are actually injured by the subsidy which the Act effectively confers upon defendant Duke Power Company and others and which in truth makes possible and encourages construction of facilities (without adequate safety incentives) which plaintiffs claim will deprive them of life, liberty and property in violation of the Fifth Amendment.

II. The limitation of liability provisions of the Price-Anderson Act violate plaintiffs' rights under the fifth amendment to the United States Constitution.

Plaintiffs have set forth above in detail the results of the invasion of their rights occasioned by the Price-Anderson Act which gives them standing to challenge its provisions. This section of the memorandum points out the four principal ways in which the limitation of liability imposed by the Act violates the rights of persons, including plaintiffs, affected by the Act.

A. The limitation of liability is not reasonably related to the probable damages from a nuclear incident and thereby constitutes a taking of property without just compensation and a deprivation of due process of law.

The Government defendants have suggested in their initial memorandum that limitations of liability relating to private conduct have been sanctioned both by Congress and the courts. What the defendants have failed to point out is that in each case the limitation of liability has strictly conformed to the overriding principle of the Fifth Amendment that the damage limitations must ". . . reasonably approximate the probable damages . . ." *Crowell v. Benson,* 285 U.S. 22, 75 L.Ed 598 (1932) and that the courts will strike down any limitation of liability which ". . . is not proportioned to the actual damages." *Mo. Pac. Ry. Co. v. Tucker,* 230 U.S. 340, 57 L.Ed 1507 (1913). Although the due process review applicable to economic legislation (which the plaintiffs do not concede this to be) may well be restrained, the minimal constitutional standard of rationality is clearly applicable. *Id.* Plaintiffs have shown above that they are prepared to prove that the $560 million limit contained in the Price-Anderson Acts bears no reasonable relationship to the damages to be sustained even in a small nuclear incident. Thus, the Price-Anderson Act lacks even that minimum rationality necessary to sustain an act of Congress against challenge under the Fifth Amendment.[7]

The defendants have also alluded to the Warsaw Convention, 49 Stat. 3000 (1934), as evidence of an approved limitation of liability upon private conduct. Reliance on the Warsaw Convention to sustain Price-Anderson is weak indeed. First, the Warsaw Convention governs consensual, voluntary relationships. Purchasing a ticket subject to the Convention is a matter of contract whereas exposure to the risks of nuclear power plants is non-contractual and involuntary. Second, even the Warsaw Convention itself does not limit damages based upon willful conduct or gross abuse. Id. Art. 25 Price-Anderson, however, constitutes an absolute limit on all legal liability so that even if a plant operator intentionally caused a nuclear incident no one would be held accountable except in accordance with the Act's limits. Third, the limits of liability under the Warsaw Convention are made on a "per person" basis whereas Price-Anderson contains no lower limit of personal damages. Thus, if 1 million persons were equally damaged by a nuclear incident, each one would get only $560. At least under the Warsaw Convention each injured person is guaranteed a sum certain.

Finally, a close reading of the United States' participation in that Convention reveals that the Fifth Amendment precept of "just compensation" has affected even this exercise of the treaty power. In 1965 the United States filed a notice of denunciation on the ground that the limitation of liability had become obsolete and essentially unrelated to the damages suffered in an international air disaster. On May 13, 1966 United States withdrew its notice of denunciation upon the making of a special contract under Article 22(1) of the Convention to the effect that the limitation of liability for United States passengers would thereafter be $75,000. Accordingly, the Warsaw Convention, as modified by the Article 32(1) agreement, reasonably relates to the likely damages from an aircraft disaster. Furthermore, to the extent that a due process challenge may be made to such limits, there is a special reluctance on the part of the judiciary to enter into matters of treaty law and international relations.[8]

The principle of reasonable relationship to damages has not only covered United States participation in the Warsaw Convention, but it has also protected against arbitrary governmental action in other areas in which Congress has limited liability. For example, the workmen's compensation statutes have been approved because they "reasonably approximate the probable damages", *Crowell* v. *Benson, supra,* and because those statutes provide a "reasonably just substitute" for the common law remedies upon which workers had previously relied. *New York Central R. Co.* v. *White,* 243 U.S. 188, 61 L.Ed 667 (1917). *Accord, Hawkins* v. *Bleakly,* 243 U.S. 210, 61 L.Ed 678 (1917); *Mountain Timber Co.* v. *Washington,* 243 U.S. 219, 61 L.Ed 685 (1917). In a like manner other limitations of liability imposed by Congress upon private relations have clearly and reasonably related to the damages to be suffered.[9]

One act not mentioned in the footnote is the Act of March 8, 1946 which provides for a limitation of the liability of the United States in the event of a purchase of war surplus ships from the Government. That limitation of liability, which was designed to encourage maintenance of a merchant marine service, is strictly drawn to provide "just compensation" for purchases of such materiel.

See 50 App. U.S.C. § 1743. As the statutes cited in the text and in the margin clearly indicate, the exercise of congressional power is always subject to the Fifth Amendment and limitations of liability, while no novelty, have always been carefully tailored to conform to the approximate amount of damages to which they relate. The glaring exception to this course of conduct is the Price-Anderson Act which limits liability to an amount wholly unrelated to the damages which the Government itself has predicted will be caused by a serious nuclear incident.

---

[7] The Government defendants have suggested that special weight be accorded to Congress and the President by their approval of the Act after giving specific consideration to the question of its constitutionality. This argument hardly merits a response. Both ancient and recent Supreme Court decisions make clear that the judiciary is the ultimate arbiter of the constitutionality of an act of Congress. *Marbury v. Madison,* 1 Cranch 137, 2 L.Ed 60 (1803); *United States v. Nixon,* — U.S. —, 41 L.Ed. 2d 1039 (1974).

[8] E.g., *Banco Nacional de Cuba* v. *Sabbatino,* 376 U.S. 398, 11 L. Ed 2d 804 (1964).

[9] 15 U.S.C. § 694b(b) (secondary guarantee of 90% of performance bonds for small business investment programs); 49 U.S.C. § 20 (11) (relief of common carriers from liability subject to principle that relief does not extend to liability for its own negligence); 46 U.S.C. § 181, 190 (limitation of liability with respect to certain vessels not applicable to negligent acts and damages allowed up to full value of goods); 46 U.S.C. § 1304 (Carriage of Goods by Sea Act allows liquidated damages for property damage); 10 U.S.C. § 2635 (limitation of liability in medical emergency helicopter transportation service not applicable to suits against the Government or other persons than those specified in the statute).

Finally, the defendants may rely upon the legislative history and declared purposes of the Price-Anderson Act which are, among other things, to promote the use of nuclear energy for peaceful purposes[9a] and insure public safety. By virtue of its arbitrary limitations of liability the Act appears to accomplish exactly the opposite of one of its declared purposes. By eliminating any possibility that the law can be used to affix financial responsibility upon either the Government or private entrepreneurs in excess of $560 million, the Act in effect destroys incentive for serious evaluation of all the possible social costs of a nuclear accident. *See* H. Green, *Nuclear Power: Risk, Liability and Indemnity,* 71 Mich. L. Rev. 479, 503–04 (1973).

In fact, the results of workmen's compensation and other such legislation limiting damages has been to "internalize" the costs of safety and thereby provide the requisite incentive for a safe work place. In the case of the development of private nuclear power, however, there is no "internalization" of safety costs; indeed, there is a protective umbrella placed over the treasuries of the exploiters of nuclear energy, and the very purpose of the Price-Anderson Act to assure safety is thereby subverted.

B. The distinction drawn by the Price-Anderson Act between persons injured by a nuclear incident and persons otherwise injured is, for purposes of limitation of damages, irrational and therefore in violation of the principle of equal protection of the laws embodied in the Fifth Amendment.

The principle of equal protection of the laws, which is expressly applicable to state legislation by virtue of the Fourteenth Amendment, is likewise applicable to acts of Congress by virtue of the Fifth Amendment, e.g., *Bolling v. Sharpe,* 347 U.S. 497, 98 L.Ed 884 (1954), and requires that this Court assess the rationality of the classification, for purposes of limiting damages, between persons injured by a nuclear incident and persons otherwise injured. Although there may well be a rational basis for distinguishing nuclear incidents from other liability-forming incidents for purposes such as limiting the flow of public information to protect national security, plaintiffs can discern no reasonable ground whatsoever for placing victims of a nuclear tragedy into a class of persons whose right to damages is limited to a proportionate share of an arbitrary (and unconscionably low) sum.

Neither the purposes of the Price-Anderson Act to assure public safety and to assure adequate compensation of persons damaged by nuclear incidents nor the legislative history of that act affords the defendants a basis on which to sustain this legislation as rational. As we have previously emphasized, the public safety is not fostered by legislation which virtually destroys private and governmental incentive to consider the costs of a catastrophic incident. *Supra* p. 21. Moreover, the aggregate damage limit of $560 million is woefully inadequate in terms of the damage likely to be caused by a major accident at a small nuclear power plant.

In fact, the very evils which the act ostensibly seeks to remedy may even be brought about rather than halted by this legislation, because this act, by insuring that no liability can be imposed beyond a meager extent, has encouraged and will continue to encourage the proliferation of nuclear power plants. Had Congress forthrightly declared the sole purpose of this act to be a means by which private entrepreneurs could exploit the nuclear energy field at the expense of its victims, perhaps a macabre rationality could be discerned in the limitation of damages provisions. This Court, however, must take the Act as it finds it—and no rational basis for classifying persons injured by nuclear incidents, for the purpose of limiting their damages, appears anywhere. *See* H. Denenberg, "Nuclear Energy is an Insurance Swindle" (Reprint 1974).

C. The limitations of liability provisions effectively deny to persons injured in nuclear incidents access to the courts and to common law remedies in violation of the Ninth and Tenth Amendments and thereby deny to such persons due process of law.

It is well established that federal law is interstitial, *see* H. Hart & H. Wechsler, *The Federal Courts and the Federal System,* (1st ed. 1953), and that primary human activities are to be governed generally by state law. *Hanna v. Plumer,* 380 U.S. 460, 14 L.Ed 2d 8 (1965). The Ninth and Tenth Amendments codify these important principles of our federal system, and any act of Congress in derogation of common law rights and remedies must be premised on a specific grant of power to the Congress and must conform to other provisions of the Constitution such as the Due Process Clause of the Fifth Amendment.

The defendants will probably seek to sustain this legislation by reference to the commerce, defense and bankruptcy powers in the Constitution.[10] To the extent that the defendants rely on the Commerce Clause, we have already shown that the limitation of damages provision of this act will not insure public safety and promote the just compensation of victims of nuclear tragedies. Thus, reliance on the commerce power to sustain this legislation as a means of facilitating interstate commerce must fail. To the extent that the defendants rely upon the Defense Clause, the link between national defense and the private exploitation of nuclear energy is tenuous at best and surely does not rise to the degree necessary to sustain this legislation as constitutional. This act was in fact promulgated for the peaceful use of the atom.

Moreover, our defense facilities do not rely upon power plants for production of fissionable material. As to the defendants' possible reliance on the Bankruptcy Clause, this legislation does not even conform to the constitutional requirements of a law relating to bankruptcies. *Infra,* § IID. There is, therefore, no apparent constitutional ground for the gross invasion of the fundamental right to sue. Cf. *Boddie* v. *Connecticut,* 401 U.S. 371, 28 L.Ed 2d 113 (1971). What the Price-Anderson Act has done is to eliminate reliance upon the law and substitute in its stead an insurance scheme to foster the exploitation of nuclear energy.

The importance of the virtual elimination of common law in the area of nuclear liability cannot be overstated. It is nearly incomprehensible that reckless or even intentional conduct resulting in liability will in all probability escape accountability. That circumstance flies in the face of the fundamental precept of the tort law that liability exists partly to guarantee that standards of care are observed. *See,* W. Prosser, *Handbook of Law of Torts,* p. 23 (1971 ed.). In short, a "nuclear exception" to the damages part of our tort law appears unconscionable and should be sustained only under the most compelling circumstances—none of which are present in this case.[11]

D. The limitation of liability provision of the Price-Anderson Act is not "uniform" within the meaning of Article 1, Section 8, Clause 4 of the Constitution and thereby denies persons affected by the Act due process of law.

Article 1, Clause 8, Section 4 of the Constitution provides Congress with the power "To establish . . . uniform laws on the subject of Bankruptcies throughout the United States." The Supreme Court has clearly and consistently held that the uniformity required by the foregoing section of the Constitution is geographic in nature and that the uniformity clause requires that an act of Congress apply in a like manner to all creditors and all debtors regardless of their respective geographic situations. *Regional Rail Reorganization Act Cases, supra,* 43 U.S.L.W. at 4048–49; *Vanston Bondholders Protective Committee v. Green,* 329 U.S. 156, 91 L.Ed 162 (1946); *Hanover National Bank v. Moyses,* 180 U.S. 181, 46 L.Ed 1113 (1902). It is manifest that debtors and creditors of persons in a geographic region affected by a nuclear incident subject to the Price-Anderson Act will be treated differently from debtors and creditors of persons in other parts of the nation. Although the Price-Anderson Act is not limited by its terms to a specific geographic region, the Act will be unconstitutionally applied because of the effect it will have on debtor-creditor proceedings and bankruptcy proceedings only in the geographic area affected by a nuclear incident. Thus, unlike the recent *Rail Reorganization Act Cases,* the Price-Anderson Act does, on the basis of regionalism, restrict the rights of creditors and materially affect the bankruptcy jurisdiction of the federal district courts.

Mr. BAKER. Mr. President, I ask unanimous consent that Kirk Betz, of the staff of the Committee on Government Operations, be permitted the privilege of the floor during the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the matter before us is not a new one. It has been considered a number of times in committee and in the House of Representatives and is now before the Senate in this amendment.

I really cannot quarrel with the idea of making sure that a controversial piece of legislation is constitutional. However, it seems to me that of late we have fallen into the habit of putting in place the mechanism for expedited hearing and argument in determination of a constitutional issue on virtually every piece of legislation we adopt.

[9a] To the extent that Price-Anderson was adopted to provide seed capital for private energy developers, that purpose has been fulfilled and no longer provides a justification for the Act. In fact, private enterprise is playing an ever-increasing role in nuclear energy development and Price-Anderson is no longer needed as a spur for capital formation. *See* President Ford's proposals for nuclear fuel production by private enterprise.

[10] Commerce Clause, Article 1, Section 8, Clause 3; Defense Clause, Article 1, Section 8, Clauses 11, 12, and 13; Bankruptcy Clause, Article 1, Section 8, Clause 4.

[11] Plaintiffs do not contend that certain modifications in affixing responsibility should not be imposed upon the law of torts as applied to nuclear incidents. For example, the waiver of defenses section of the Price-Anderson Act appears to be reasonably related to the ends of the Act. What plaintiffs object to is the limitation of liability to such a ridiculously low amount that access to common law rights and remedies is effectively foreclosed.

Reference was made to a similar provision in the Campaign Finance Act. I think that is an entirely different thing and of extraordinary importance because of its effect on an immediate, upcoming election.

There are any number of ways that this act can be challenged as to its constitutionality. If the parties have the appropriate standing, they can test it under the existing declaratory judgment statutes. There are certain other circumstances in which the matter can be presented directly and any number of others in which the question of constitutionality can be presented collaterally for determination.

I do not quarrel with the purpose. I believe it is a bad precedent. This is not the appropriate step to take at this point, and it is with some reluctance that the managers of the bill oppose this amendment.

Mr. HATHAWAY. Mr. President, I should like to ask the Senator from Tennessee if he could spell out in a little more detail how somebody could get standing to sue.

The District of Columbia case I have before me indicates that the complainants in that action were testing the same provisions and did not have any standing to sue. I think the same judgment is going to prevail in the North Carolina case. If it does not, we do not have to worry about it. It will go to the Supreme Court, and the provision I am offering will not be needed. I am offering this amendment only to assure us that we are going to have some way to test the constitutionality.

I agree with the Senator from Tennessee that we should not be putting this in every act, but here we have a situation in which irreparable harm could be done. Many companies could go bankrupt if there were an accident that amounted to several billion dollars and the Supreme Court decided that the $560 million was an unconstitutional limitation.

Mr. BAKER. Mr. President, in response, I reiterate that I have no quarrel with the purposes and the motives of the sponsor of this amendment. I think it is bad policy.

On the question of how someone could have standing to sue, I think the Senator will agree with me that part of the reasoning or rationale in the Declaratory Judgment Act is to test the constitutionality of legislative enactments. As I said earlier, a party must have the standing to sue. I can think of any number of ways that a party could have the standing to sue. A civil suit in damages, for example, would give a litigant a standing on whether or not there was a limitation on his claim under the circumstances or whether or not there had been an abridgement of his tort rights there and the common law rights.

Mr. HATHAWAY. Would that not be after he had sustained some damage?

Mr. BAKER. It could be after the conflict had arisen but not necessarily after he had sustained damages. He had the capacity to sue as a party in interest.

Mr. President, I believe and I assert the belief that the Federal Declaratory Judgment Act does provide a method for testing the constitutionality of this proposal and this act. I believe there are any number and range of circumstances in which a party could have standing to sue, in addition to the one I have stated, which could permit him to make a constitutional challenge under these circumstances, without the necessity of a nuclear accident beforehand.

Mr. President, I am willing to yield back the remainder of my time.

Mr. HATHAWAY. Before the Senator does that, I have a few more remarks to make.

As I understand, it was an action that was brought in the district court under the Declaratory Judgment Act, and still the court stated that the parties did not have any standing to sue.

Even if the Senator from Tennessee should turn out to be right, that there was some way we might be able to engineer, under existing law, some case that would decide this matter, I would think that the Senator, as well as other Senators, would like to see this matter resolved expeditiously, and that is exactly what this amendment intends to do.

The action has to be brought within 90 days, and it goes to the Supreme Court of the United States, with the exhortation I have made, that it is our intent, in adopting this amendment, that the Supreme Court advance such a case on its docket so that it can be heard immediately after the appeal is taken from the three-judge court. So I would think that within a matter of no more than 6 months we should have a decision in this matter that would have some very far-reaching and long-ranging effects.

Mr. BAKER. Mr. President, I do not think it is a good idea.

Mr. HATHAWAY. Especially since the act does not expire until August of 1977, I think we have an ample amount of time to make this determination.

Mr. BAKER. Mr. President, I do not think it is a good idea to proceed in this way. I am sure my colleague would agree that part of our constitutional responsibility as Senators is to pass legislation that we conceive of as being constitutional, and it is not necessary for us to call on the courts to pass judgment on every act that we take as an abstract proposition. There is a remedy in place for someone to challenge the constitutionality of this act; we have gone already too far in putting in place a mechanism to challenge the constitutionality of each act. I therefore will oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. We are ready to yield back our time, Mr. President.

Mr. HATHAWAY. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), and the Senator from Iowa (Mr. CLARK) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Alabama (Mr. ALLEN) are absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) and the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is necessarily absent.

The result was announced—yeas 46, nays 47, as follows:

[Rollcall Vote No. 598 Leg.]

YEAS—46

Abourezk
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Cranston
Culver
Dole
Durkin
Eagleton
Fong
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Javits
Kennedy
Laxalt
Leahy
Long
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Percy
Proxmire
Randolph
Roth
Schweiker
Sparkman
Tunney
Weicker
Williams

NAYS—47

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Domenici
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Hansen
Helms
Hollings
Hruska
Inouye
Jackson
Johnston
Magnuson
Mansfield
McClellan
McClure
Montoya
Morgan
Nunn
Pastore
Pearson
Pell
Scott, Hugh
Scott, William L.
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Young

NOT VOTING—7

Allen
Bayh
Bumpers
Church
Clark
Ribicoff
Taft

So Mr. HATHAWAY's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 21, strike "$2,000,000 nor more than $5,000,000" and insert in lieu thereof "$10,000,000".

Mr. GRAVEL. Mr. President, I will be very brief because I know Members want to go about their business.

If I could have the attention of the body, it is very easy to explain. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order on the floor so that we may hear the Senator from Alaska?

Mr. GRAVEL. The purpose of the Price-Anderson Act, as it has been presented to us today, and its renewal for a 10-year period, is to try to increase the indemnification by private industry. That is the way the proponents have cast this renewal.

What this amendment would simply do is to accelerate the process by saying that the private sector will carry its indemnification right now.

I strike the language "from $2 million to $5 million on an assessment basis if an accident occurs," and I would insert the amount of "$10 million," which means that since we have about 55 reactors in the country today, if there was an accident they can go ahead and have an assessment of $550 million right now. This means we will no longer be subsidizing because when you carry the insurance for somebody you subsidize him. There is a cost, and so what this would do is internalize this expense of insurance, and it would do no more than that. It is not asking too much. It is a very reasonable amendment, and I hope the managers of the bill will accept it.

Mr. PASTORE. This may sound rather fancy or rather good, but the purpose, why we went from five and down to two, is to help the small utilities and cooperatives. The small utilities in the Midwest and the West, as well as in other regions.

I realize that Commonwealth Edison in Chicago perhaps can be able to pay the $10 million, but I doubt very much that a small utility company that operates in a city, or a public utility or cooperative, can afford to do it.

If one wants to keep these people out of the nuclear business, pass this amendment.

That is what it is all about. That is why we had to reduce it down to two in order to give the Nuclear Regulatory Commission the flexibility it needs in order to accommodate the small utilities.

What the Senator is doing is levying a high tariff on those who can afford to pay it, and I do not question that, but the result is that what is actually being done is putting the small people, the municipals and cooperatives out of the nuclear business.

Mr. GRAVEL. I question whether that would be the result. Nobody can pay a billion dollars if there is an accident.

The Senator from Rhode Island stated on the floor, if there is an accident of more than $560 million, everything would be shut off and we would have mass panic. It would fall right back to Congress to do something.

All we say is that this increase—the people providing this form of energy must internalize the cost so the people of this country know exactly what they are paying for oil, gas, coal, nuclear power, and solar power.

If one wants to give nuclear power a break, why not give hydro power and oil a break, why not give other forms of energy a break?

This makes the accounting sheet, the balance sheet, at least square up. Otherwise, we are skewing the energy choices made in our society. Again, this will help the small utilities.

Big utilities, small utilities, to accept a tab of $2 billion to $5 billion is preposterous. They cannot hack it.

Mr. PASTORE. All I say, as far as hydroelectric is concerned, much has been financed by loans given by the Government because we want to cultivate our natural resources.

I find no fault with it. I have always supported it.

All I say is that this is the wrong amendment, the wrong amount.

What they are doing is leaving the small utilities right out of this business. That is it, pure and simple.

Mr. President, I am ready to yield back my time and let the will of the Senate decide.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

Mr. PASTORE. The yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH) and, the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. ALLEN) are absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

The result was announced—yeas 19, nays 75, as follows:

[Rollcall Vote No. 599 Leg.]

YEAS—19

Abourezk
Biden
Clark
Durkin
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
McGovern
McIntyre
Moss
Nelson
Percy
Proxmire
Randolph
Stevenson
Tunney

NAYS—75

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
Metcalf
Mondale
Montoya
Morgan
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—6

Allen
Bayh
Bumpers
Church
Kennedy
Ribicoff

So Mr. GRAVEL's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. PHILIP A. HART. Mr. President, the question posed to the Senate by the Gravel amendment boils down to a rather simple issue. Are we going to continue to subsidize the nuclear energy industry at the expense of potential victims of a reactor accident?

The rationale supporting enactment of the Price-Anderson Act in 1957—that limited liability was a prerequisite to private investment in the infant nuclear industry—is no longer valid. The last two decades have seen substantial private participation in development and operation of nuclear reactors and have provided us with much operating experience as well as theoretical data on the magnitude and likelihood of risks from nuclear power. Some 56 nuclear reactors now provide about 8 percent of this country's electrical generating capacity. And yet, the Senate is being asked to continue the same $560 million limit on the industry's liability with no recourse beyond that sum for victims of a potential nuclear accident.

Mr. President, at the very least, we should adjust this $560 million figure to reflect inflation and the decrease in the value of the dollar since 1957. The Congressional Research Service calculates that a liability limit of $3 billion would be necessary to provide the same degree of public protection as was determined necessary in 1957. But even doing this would beg the basic point that the operating side of the nuclear energy industry is sufficiently grown up to compete on its own with other energy industries.

Mr. President, I would urge my colleagues to take a hard look at the Gravel amendment, understanding the light in which it is offered. We are not trying to cause the demise of the nuclear energy industry through a back-door route, nor are we seeking to impose on that industry burdens not borne by its competitors. We are simply saying that it is time that this industry assume the normal costs of doing business, and spread those costs among those who benefit from this activity rather than continue to place them on the shoulders of the taxpayers, and in the event of nuclear disaster, on the backs of the victims.

This is hardly an unreasonable request in view of the conclusions of the so-called Rasmussen Report on Reactor Safety. According to this several year, multimillion dollar study, the likelihood that a reactor incident of major proportions will occur is less than that a disaster will occur in one of our nonnuclear industries, such as airline operation, manufacture of explosive chemicals, and construction and operation of the Alaska pipeline. None of these endeavors is artificially supported by statutory limits on liability, and yet they continue as vital enterprises in this country. It is high time that the nuclear energy industry assume these same responsibilities and that we provide for nuclear accident victims, which we never hope to have, the right to sue for compensation for losses.

Mr. BAKER. Mr. President, I am grateful for the opportunity to express my thoughts today regarding the enactment of S. 2568, the Price-Anderson Act. Often, seemingly routine legislation has an impact far beyond its surface benefits; and I will agree with the opponents of this bill that such is the case today. I am also willing to grant that all forces interested in this bill, either pro or con, are doing so on the basis of what they feel to be in the public interest.

The distinguished Senator from California, Mr. Tunney, in opposing the committee report, has forthrightly stated his position in a credible and laudible way. The amendment offered this morning by Mr. Gravel to extend unlimited liability in the case of the Price-Anderson Act is an amendment, I believe, based on Mr. Gravel's honest perception of the public good. Likewise, I am sure that the considerations expressed in Mr. Hathaway's amendments are designed to address sections of the bill that he conscientiously feels need strengthening.

The well-calculated remarks of these Senators have pointed up the need for consistent action on behalf of the public, as well as to enable the free-enterprise system to function without unnecessary requirements or assistance from the Federal Government. As each of these gentlemen has adequately developed the history of this legislation and the particular faults that they find with it, I do not intend to develop additionally the background of this bill, but rather, to focus upon the future import of this legislation.

I can admit to my colleagues today that I foresee a time in the not too distant future, when the nuclear safety record will be so well established, the investment response so overwhelmingly positive, and indemnity acceptance so universally acknowledged, that Price-Anderson will no longer be needed. I do not believe, however, that we have as yet reached that time.

Even more disturbing to me, Mr. President, than the legitimate opposition to this act itself, is the growing tendency on the part of some elements of the antinuclear community to seize on every issue as a vehicle for delay and sabotage of America's total nuclear energy development package. As Federal Energy Administration Director Frank Zarb has noted in a recent letter to Chairman Pastore, of which I received a copy, the only two viable alternatives we have in the immediate future to meet America's energy needs are coal and nuclear power. It is imperative that America move to develop all possible energy sources at a time when her needs are so substantial. The major objection to the stance of delay or major change to the Price-Anderson Act which I have today, is that the stakes are so great at a time when America's energy needs are generally so substantial. Not only does an adequate energy supply contribute directly to the maintenance of the lifestyle the American people have come to enjoy, but it plays a significant role in impacting employment or unemployment, inflation or economic stability, business growth or recession, and the Federal tax base, among other things. Noting these areas, every major ERDA and FEA official is consistent in his belief that it is in the best interest of America and her energy development capability for Price-Anderson to be extended.

I would further encourage my colleagues to note that after a lengthy debate on this issue, and amendments pertinent to it on December 8, the House voted by the overwhelming margin of 329 to 61 to continue Price-Anderson as stated in this bill.

Let me reiterate in brief fashion my opposition to the Gravel amendment and to the recent amendment intended to shorten the extension of Price-Anderson from 10 to 5 years. The attempt today to remove the limitation of liability on the Price-Anderson Act is an amendment that is, in my opinion, totally unnecessary. The administration bill phases out Federal indemnity and the $560 million limit on liability in favor of private indemnity and establishes a constantly increasing limit of liability thereafter. As a matter of fact, Mr. President, the committee report of the Joint Committee on Atomic Energy has definitively stated that the Congress would act in the unlikely event of a significant nuclear accident. This intention has been further strengthened today by Chairman Pastore and by me.

I believe that adoption of the Gravel amendment at this time would seriously impair the development of nuclear power, while unnecessarily focusing upon an issue to which the committee and the floor leadership has already addressed itself. This additional risk, if placed upon the utilities, rather than upon the country in toto, as is normally the case in the event of a disaster situation, would not only prove detrimental to further energy development, but the amendment totally ignores the fact that the utilities simply are unable to obtain additional insurance because the maximum amount of insurance which is available is not adequate to cover the potential risk of a total nuclear accident. In other words, the utilities are currently paying for as much insurance as they can obtain in the public market.

The other amendment that has disturbed me the most today is the one that would reduce the extension of the Price-Anderson Act from 10 to 5 years. Mr. President, I believe this is the most detrimental act we could take. The Senators need to understand that it will be during the second 5 years of this 10-year extension that Price-Anderson will, in essence, phase itself out. The projected numbers of nuclear reactors to be built during the next 10 years, based on existing work orders and construction permits, will provide for self-indemnification. Even those who oppose the Price-Anderson Act would be wise to note that their interests would likely be best served through a 10-year, rather than 5-year, extension as far as protection of the public is concerned.

Furthermore, because of the administrative and congressional action required, 5 years is, in my opinion, a simply unreasonably short extension. As a practical matter, this extension would make the act only cover new projects begun before 1978, since it takes some 4 years now to move from the need for new capacity to a construction permit. The additional extension of this second 5-year span is, in my opinion, one of the most crucial sections of this entire bill.

There are a number of other objections to the amendments that have been offered and general observations on the bill itself that I might make in closing if time permitted, but let me simply summarize in a succinct fashion my opposition to the amendments that have been offered and my general opinion as to why Price-Anderson should be fully extended for another 10 years:

First. Elimination of the liability limitation in Price-Anderson would seriously undermine the strict liability concept in the legislation. This would actually harm the public through elimination of the no-fault disposition of claims provisions;

Second. Many suppliers of nuclear equipment will be less likely to provide minor, yet important, parts if they face unlimited liability due to an unlikely malfunction;

Third. By 1985, and maybe sooner, Price-Anderson will phase itself out as far as Federal indemnity is concerned.

For these and other reasons, I would heartily encourage my colleagues to follow the example of the House and overwhelmingly approve the extension of Price-Anderson as embodied in S. 2568.

Mr. DOMENICI. Mr. President, the United States has made a commitment to the generation of electricity by nuclear power. Nuclear power is expected to supply an increasing part of the Nation's future energy input and by the year 2000, ERDA estimates that the national electric generating capacity will be about 2,000 plants generating on 1,000 megawatts each, of which nuclear power may account for slightly more than half. The Federal Energy Administration anticipates that nuclear power generating capacity will rise from between 47,000 and 52,000 megawatts in 1975 to from 500,000 to 730,000 megawatts by 1990.

Because of this commitment to development of nuclear power, it seems imperative that we extend the protection offered by the Price-Anderson Act. The primary issues to be considered for extension of the Price-Anderson Act are the need for continuing an upper limit of financial liability for damages resulting from a nuclear accident that released radioactive wastes to the environment, and the relative roles of Government, private industry, and the public in providing liability insurance and in accepting uninsured risks.

Central to these issues are questions related to long-term safety of nuclear facilities and radioactive waste disposal methods, and the estimation of short- and long-term damages to the population and property affected by a nuclear accident. I have read the committee report and hearing records and find that expert witnesses find that the likelihood of a serious nuclear accident occurring are extremely remote. However, I feel that in the unlikely event of a nuclear accident, there is a need for the protection afforded by the Price-Anderson Act.

S. 2568, extends the Price-Anderson Act for an additional 10 years to provide funds to compensate the public for its losses in the unlikely event of a nuclear accident. It also provides for the nuclear industry to gradually assume greater financial risk through a system of private insurance.

I believe enactment of this legislation is important to provide needed public liability insurance while the private sector gains the assets to assume the full responsibility. The original Price-Anderson Act was for 10 years and was extended in 1965. The act is now scheduled to expire on August 1, 1977. Because of the long-lead times involved in planning new commitments and the promise nuclear energy offers in contributing toward energy independence, I believe the Federal Government should provide additional time for the private sector to develop this industry while assuring the public is protected. I am afraid without an extension of Government indemnity there would be an adverse effect on the ability of the private sector to finance nuclear projects.

Some critics of nuclear energy have questioned the safety of nuclear powerplants. Nuclear power is a controversial subject. But what is the nature of the controversy? I feel that a speech given by T. A. Nemsek, Director, Division of Reactor Research and Development, before the International Platform Association addresses this question. I ask unanimous consent that the speech entitled, "Nuclear Power—Myth and Reality," be printed in the Record at this point.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Nuclear Power—Myth and Reality

(By T. A. Nemzek)

INTRODUCTION

Dan Tyler Moore's letter asking me to speak on this program is perhaps the most intimidating invitation I've ever received. First his letter invokes the names of Daniel Webster, Teddy Roosevelt, William Jennings Bryan, and others. Then it cites some immortal prose drawn from talks delivered before this group and finally exhorts me to wordsmith my phrases so as to assure me a place in the . . . quote . . . "Pantheon of Great Speakers and Molders of Public Opinion." Let me tell you, Dan Tyler Moore, if you want to scare the hell out of an engineering manager who works for the government, your invitational letters are models of just how to do it.

But, at the same time, your letter asking me to defend nuclear power presented a challenge I could not, or would not, decline to accept. The stakes are too high; the problem of energy is too pervasive; the controversy which has enveloped nuclear power and our other energy options is too serious; and, very frankly, you are too important an audience to miss speaking before.

My talk today will not be a semi-technical recital of facts, figures and graphs. It is aimed directly at and for this audience. I hope to introduce you to some fresh and useful perspectives on the role of nuclear power. My ultimate hope is that you will incorporate this fresh perspective into your own unique and influential activities throughout America.

The International Platform Association has already heard several speakers with strong opinions about nuclear power. Last year's Association meeting featured speakers who were very critical of this energy source and today you heard more criticism. Nuclear power is a controversial subject.

But just what is the nature of this controversy? What are the issues which have escalated emotions to the point where many people have become involved in a pitched debate on the very merits of the technology itself? Well, the individual issues seem to have a certain vogue to them—they change and they are added to; they increase and decrease in popularity; but they never seem to completely go away, even when persuasive facts refute the arguments.

THE NUCLEAR MYTHOLOGY

At the core of the concerns expressed about nuclear power lies what appears to me to be a sincere, yet, self-fulfilling, mythology—with its disciples intent on converting believers with the zeal of a lay priesthood. What are the myths? What are the realities? At the risk of oversimplification, I would like to briefly address eight of them:

Myth 1.—"A nuclear power plant is a potential atomic bomb."

Reality.—This is completely untrue. There's no way that anyone could cause a nuclear explosion with today's nuclear power plants—no matter how he tried. There is neither the concentrated nuclear material nor the conditions needed to initiate such a reaction.

Myth 2.—"Nuclear power reactors are unsafe. Key safety systems have not been tested and there have already been numerous 'near misses'."

Reality.—Safety systems are exhaustively analyzed in the design stage and tested before and throughout the plant's operating lifetime. Power reactors do not rely on just one safety system. There are many, many safety systems which back each other up to assure safe operation, as well as, barrier after protective barrier to assure safe conditions, even if a serious accident should somehow happen.

The potential for a catastrophic accident has been studied and restudied for nearly 20 years. Most recently, a government-sponsored analysis by a team of scientists, working under the direction of nationally renowned MIT Professor Norman Rasmussen, concluded that the risk from nuclear power is exceedingly small. Their draft report covers 14 full volumes. In essence it concludes that you are 100 times more likely to be hit by a meteor when you walk out of this room than to be killed by the release of radioactivity from a nuclear power plant accident.

Yes, there have been minor accidents and incidents at nuclear power plants. None of these has caused radiation injury or death to either workers or the general public. This is due to sound conservative design, not luck.

The most serious accident to date at an operating U.S. nuclear power plant involved a fire among control cables. Even though several safety systems were knocked out of commission, many systems were still available and both of the plant's operating nuclear reactors were safely shut down. No one was injured and no radioactivity was released.

Of course, there is always room for improvement where safety is concerned, even when you already have an impressive safety record. That's why research continues on the development of ways to make today's reactors even safer. But of all the risks we face in this life, few are less cause for concern than nuclear power.

Myth 3.—"Low level radiation from nuclear power plants is causing disease and death."

Reality.—This tired argument continues to defy a simple fact. Even if nuclear energy had never been discovered, cosmic rays and naturally radioactive elements in the earth itself expose us to thousands of times more radiation than that released by nuclear plants. On the average, each American citizen annually receives about 180 units of radiation exposure from sources completely unrelated to nuclear power and less than one additional exposure unit from all the operating reactors. If you are going to permit yourself to be concerned with such small levels of radiation, then forget about going to meetings such as this—the people sitting next to you contain enough natural radioactivity to expose you to additional radiation.

For over a decade, every competent authority who has examined claims of damage from low level radiation from nuclear power plants has rejected them as being without scientific bases.

Myth 4.—"There is no way to safely handle or store the deadly radioactive wastes from nuclear power plants. They will remain deadly for thousands of years. Further, it is immoral to pass on to future generations the risk associated with managing these massive amounts of wastes."

Reality.—There are appropriate, adequate and well known methods available now for handling and disposing of nuclear waste from nuclear power plants. The simple fact is that today there just isn't very much waste from commercial power plants to dispose of, and there won't be for some time. If a waste storage facility existed today, it would stand empty.

There is neither mystery nor conceptual difficulty involved in solving the waste management needs for the future. This coming year, ERDA will complete its expanded environmental impact statement on handling both the interim management and the final disposition of nuclear wastes. After review and hearings on that plan, a choice will be made from the several available alternative methods and we will get on with the business of constructing and operating a federal waste disposal center.

As for quantity, the nuclear fuel that produces a year of electric power for the average family in this nation will produce highly radioactive wastes equivalent to the size of an aspirin tablet. We are talking about relatively modest quantities of high level waste to be managed, even taking into account all the reactors slated for operation past the turn of the century. Of course, though the waste material is small in size, this material is potentially hazardous and must be isolated from the environment—and it will be. There are several viable options for safely storing the wastes for many decades with little required supervision and for permanently disposing of the material in underground geological formations which have been stable for millions of years.

Myth 5.—"Nuclear power produces plutonium, which is the most deadly substance on earth. If stolen, a few pounds could be used to make a nuclear bomb."

Reality.—Plutonium is a by-product of nuclear power. It is also a vital form of nuclear fuel which can be used to generate additional electric power. Plutonium is not the most hazardous substance on earth, although it certainly is dangerous enough to require that it be handled with very great care.

If it were true, as the antinuclear mythology would have it, that a pound of plutonium could kill 9 billion people and that a speck will cause lung cancer, we should all be dead. Atmospheric testing of nuclear weapons during the past 30 years has put 10,000 pounds of plutonium into the world's atmosphere. There is no evidence that anyone, worker or member of the public, has ever developed a cancer, let alone died from exposure to plutonium—not one.

Plutonium is cited as the skull and crossbones of nuclear power, while its same critics ignore other lethal realities. A single teaspoon full of botulism toxin could kill about 140 million people. Well, people die every year from botulism, but critics don't call for the shutdown of all home and commercial bottling and canning.

There is now only a relatively small amount of plutonium available in the U.S. from commercial operation of nuclear power plants. That amount will certainly increase, and along with it will increase the stringent safeguards to protect it. Most of it will remain in the safest possible location—inside power reactors where it will generate electricity. All of it will be strictly guarded and protected. Even if some plutonium were somehow diverted, it would take a very sophisticated and well manned operation, and a significant amount of time, to attempt to assemble a weapon. Even then the probability of success would be low.

Even if the United States were to halt its nuclear power industry, other nations would not. The worldwide task is to safeguard nuclear material, not to prevent its existence and use as a valuable energy source which is badly needed.

Myth 6.—"There is less than a 40 year supply of nuclear fuel available. We should abandon nuclear power in favor of renewable energy sources."

Reality.—This is the kind of argument where the critics try to have it both ways. On the one hand, they say there is not enough nuclear fuel and, on the other, they are against using plutonium and developing new reactor systems which would lead to a virtually inexhaustible supply of nuclear fuel.

It is true that today there are limited known reserves of relatively cheap uranium. But the ultimate solution to this problem is plutonium, which is produced as a by-product in today's generation of nuclear power plants. Nuclear fuel is the only fuel which can be recycled. About 20% of all used nuclear fuel can be recovered for reuse to generate electric power. In that respect, nuclear fuel is a renewable energy source. This is largely due to the presence and properties of plutonium, which can also be used in a new generation of reactors.

This new generation of nuclear power reactors is currently being demonstrated in France, England and the Soviet Union, with additional units under construction in Germany and Japan. They are called "breeder reactors." They create useful plutonium fuel from an otherwise useless form of abundant uranium. This new fuel is then used to generate electricity. The breeder reactor improves the efficiency of uranium fuel utilization 60 times over that of current reactors.

The U.S. government and private industry are partners in the construction of the first U.S. demonstration breeder reactor, which will be built in Tennessee. It is to go into operation in the early 1980's. At the same time, the U.S. Nuclear Regulatory Commission is currently conducting a comprehensive study of the implications of using plutonium in today's reactors and the new generation of breeders.

The fuel produced by the breeder reactor will permit the full scale implementation of nuclear power and its continued operation for hundreds of years. While breeder reactors are still being tested, they are not new. In 1951, an experimental breeder reactor in Idaho produced the first electric power from a nuclear reactor. At this very moment, breeder reactors are operating and producing electricity.

Myth 7.—"Nuclear power is uneconomical and unreliable."

Reality.—When analyzing the nuclear debate, this is one of the more curious myths one has to contend with. It relies heavily on the misuse of a dizzying array of statistics; but the carefully constructed house of cards collapses in the face of one unarguable fact: whenever a nuclear power plant goes into operation, electric bills go down.

Many in this audience have enjoyed that pleasant experience. While nuclear power plants are still more expensive to build than oil or coal fired plants they are much less expensive to operate. Because nuclear fuel is so much cheaper, each nuclear plant saves utility customers tens of millions of dollars every year. Nationwide, this savings was $800 million in 1974 and about $200 million in the first 3 months of 1975. While it's true that nuclear plants haven't, on the average, performed as well as we would like, their reliability compares very favorably with other plants. As new nuclear plants pass through their break-in periods, their performance will improve.

Myth 8.—"Nuclear power plants are so risky that insurance companies won't write policies on them."

Reality.—This myth is a perfect example that even when an issue has been beaten into the ground and shown to be untrue, it is never dropped from the litany of arguments against nuclear power. The myth that nuclear plants are too risky to insure has been around for years and years. So too has nuclear insurance, which began in 1957, before the first commercial nuclear power plant ever operated. Every nuclear power reactor in the United States is insured for a total of $735 million, $300 million of which is provided by the insurance industry, the rest by the Federal government. Since there have been no reactor accidents affecting the public, not one cent has ever been paid out under this insurance. Every year, the private insurance pools refund about 70% of the money paid in as premiums by the nuclear utilities, a practice not followed by the federal government, which retains all of the money it receives in insurance fees, about $1.5 million in 1974 alone.

So then these are eight of the more common myths about nuclear power. There are others, and there are facts and realities to rebut them.

NUCLEAR POWER AND OUR ENERGY OPTIONS

As the nuclear power debate swirls throughout the nation, its dusty rhetoric tends to obscure several essential points which constantly need re-emphasis. The most fundamental of these points is that we've run out of energy options for the short-term. We have precious little time to push ahead with the development of the new options we must have to make this nation self-sufficient in energy. The energy clock is ticking away our precious natural fuels. We can't wait until the eleventh hour to have alternative energy sources available. The age of cheap energy is over. The age of something for nothing never was. We will need a mix of energy sources—some that are known and proven, and some that we will have to push ahead with in the hopes that they will pay off.

We must have: extensive and increasing use of coal; enhanced recovery of oil and natural gas; continued use of current nuclear reactors and development of breeder reactors; synthetic fuels from coal and oil shale; development and utilization in the next century of solar energy and thermonuclear fusion for electric power production.

Those of you interested in examining in some detail the approach the government is taking will want to read "Creating Energy Choices for the Future," which is the recently released plan of the Energy Research and Development Administration. It's available from ERDA on request.

Coupled with programs to develop new electric energy sources are complementary efforts to improve the efficiency of existing devices for power generation and utilization. Improving the efficiency of things as diverse as electric power plants and air conditioners will help reduce the amount of energy needed to do the same amount of work. The nation has already demonstrated that it can effectively respond to the need to conserve energy and our designers, manufacturers, architects and regulators are all working towards greater energy conservation.

But, unfortunately, there are limits to what can be gained by conservation. Ralph Nader notwithstanding, there is no practical way to substitute conservation measures for the need for new electric generating capacity.

THE DELICATE ECOLOGY OF ENERGY

Now, with the mythology behind us, I'd like to switch themes and play an old game I'm sure you know: the "What If?" Game.

There's an old saying, "Be careful what you wish for, because you just might get it!" That's an apt admonition for those striving to drastically postpone or eliminate nuclear power as one of our available energy options. Let's take a look at what might happen if their wish were granted.

"America Abandons the Atom," the headlines would read. The Nuclear Regulatory Commission receives order to issue no more construction permits or operating licenses. Procedures are developed for the gradual phaseout, over a five-year period, of the nation's operating nuclear power plants (which in some regions now supply as much as 20 to 30 percent of all electric power). The stop order affects about 240 nuclear power plants in various stages of operation, construction and preparation. At a conservative $500 million per plant, over $120 billion is pulled out of the economy.

The impact on the labor force wipes out about 5½ million jobs. The multiplier effect of the lost income spreads the impact throughout the entire economy. The lost dollar flow is felt throughout the thousands of companies producing equipment for these plants and the thousands more that will lose business from the new unemployed. The welfare rolls swell. Taxes inexorably rise so that the welfare payments can be met. Investment expenditures are sharply cut back by those companies that survive; for many, no such decision is needed—they simply go under. In New England, New York, Illinois and elsewhere, electricity rationing begins, with rolling blackouts and constant brownouts.

One of the hardest hit areas is environmental protection. With nuclear power plants foreclosed as an energy alternative, utilities desperately turn to coal-fired stations. Anti-pollution laws are suspended to meet the national emergency. Massive strip and deep mining is necessary to supply the vast amounts of coal required. But there is not enough mining equipment and the nation's railroads are simply unable to transport the fuel in the quantities required. Airlifts are undertaken around the clock. Utility expenses skyrocket; electric rates inflate to the point where they overwhelm the ability to pay; and as more people are unable to pay their electric bills, the utilities are deprived of vital income and begin to go bankrupt, one by one.

Through it all, of course, the American people remain stalwart and optimistic, as they always do in times of stress. They recognize that nuclear power has been eliminated for their own good. Those who can, cheerfully pay the higher taxes needed to support the millions thrown on welfare. The blackouts are stoically accepted as a small price to pay for the increased safety and security offered by a nuclear-free United States.

U.S. oil imports steadily escalate. U.S. expenditures on oil jump from $26 billion to more than $100 billion. A tense confrontation with the OPEC ministers produces an agreement that they will limit their price increases to only 30% per year, and they agree to reinvest a portion of that in American corporations, which they suddenly begin to control.

The curtailment of such a large block of electrical power affects the processing of raw materials essential for the development of alternative energy sources. The recycling of materials also becomes too expensive to pursue. Aluminum manufacturers, intensive users of electric power, begin to close their facilities. The newly emerging solar power industry is halted by the staggering energy cost increases and the lack of raw materials. The nation's forests are felled to provide supplemental fuel for boilers and homes. As the impact of increased energy costs continues to grow, the cost of every manufactured item and all services steadily escalate. Inflation rises so fast people begin to barter things instead of carrying sacks of money.

Desperate schemes surface to cope with the emergency. One government scientist calculates the energy potential of a human worker. Since the average large nuclear power plant would have produced 1000 megawatts of electric power, his calculations show that the same energy equivalent could be provided by about 20 million laborers, working to full capacity. He advocates the establishment of regional treadmills to generate electricity, while helping to solve the unemployment problem. A committee is appointed to study the feasibility of the project.

While all of this is happening, Americans look at the rest of the world and are puzzled. Other countries relying more and more heavily on nuclear power flourish, they are experiencing no comparable health, social or economic problems.

If a lot of this sounds extreme, frankly, I agree. But make no mistake. There is more than an element of truth in the stark forecast I've just portrayed. There simply is no feasible energy alternative to nuclear power that we can develop in the next 10 to 15 years, regardless of how much money we spend.

Nuclear must stay in our energy base and its use must grow. Nuclear must also be steadily supplemented by new energy sources, whose very development and implementation will require vast amounts of raw materials, energy and a stable economy in order to secure the very large capital investments which will be called for.

The elimination of the nuclear option would be a disaster whose impact can hardly be conceived, let alone be calculated.

It is too often overlooked that, in addition to the ecology of nature, we've increasingly come to understand there is also a delicate ecology of energy. Once a significant segment of that energy ecology is disturbed, tremors spread throughout the entire economic and social environment, with serious and often irreversible impact.

The prudent course of action seems self-evident—conserve wherever possible, increase efficiency, eliminate waste, but still provide the electric energy needed to maintain an appropriate level of growth. Nuclear power is essential to these goals.

PUBLIC ATTITUDES

Those for and against nuclear power have candidly acknowledged that they are deeply involved in a struggle to capture public opinion. Ralph Nader says that, if they knew the dangers, the American people would prefer candles to nuclear power. Yesterday, the results of a nationwide public opinion poll conducted by the Louis Harris organization were released. It tells another story. This poll specifically explored the public's attitudes toward nuclear power.

According to the survey, the American people are strongly in favor of building more nuclear power plants. 63% endorsed nuclear power, while 19% were opposed and 18% were not sure.

Those in favor of nuclear power indicated that while they were aware of some problems and drawbacks involved in using it, they endorsed nuclear because they felt:

It will help to solve the problems of the energy crisis and dwindling fossil fuels

It is less expensive

It is the energy source of the future

It is clean and non-polluting

It will make the U.S. independent of foreign energy suppliers, and

There is an unlimited supply.

Those surveyed put scientists at the top of their list of credible sources of information on nuclear power. Last January, an important "Energy Manifesto" was issued by 32 prominent U.S. scientists, including 11 Nobel Prize winners. They expressed their confidence in nuclear power and urged that nuclear, along with coal, be utilized to the maximum, to come to grips with our immediate energy needs. Unfortunately, their statement received relatively little publicity.

Since then, it has become evident that the opponents of nuclear power are also seeking to enlist scientists to counter the overwhelming support of nuclear power by scientists worldwide. A drive is now underway to produce a petition linking scientist opposition to the peaceful use of nucler power, with the anniversary of the Hiroshima bomb.

I wonder if they have read that the first recorded use of solar power was attributed to Archimedes, who used mirrored reflectors to set fire to an attacking fleet of Roman ships in the Battle of Syracuse. That was in 200 B.C. And obviously, this historical fact is irrelevant to the suitability or feasibility of developing solar power, just as the fact that nuclear weapons were the first major use of uranium and plutonium is irrelevant to the peaceful uses of nuclear power.

I know that the matter of whom to believe is becoming a very difficult and frustrating problem for you and the rest of the public who are being asked to take sides in the nuclear controversy.

There are those who choose to measure progress by its moments of darkness and terror. And, there are those who invariably measure the same moments of history by developments which bring light and promise. It was the same when the primitives discovered fire. Some saw the flames and feared death. Others felt the warmth and knew that it could be useful.

Today, there are those who would mark nuclear energy by the date it was first used as a weapon. Others mark it by the day it first produced electric power to light and warm homes.

You, each and every one of you, must make the same decision each generation before us has had to make, and each one after us will have to make. That decision is whether to side with fear and misgivings or to press forward with our collective talents to shape these promising technologies to our needs. Nuclear power is not a promise of the future. It is a reality of today.

As a nuclear engineer who has devoted his professional life to the task, I am convinced that nuclear power is feasible, is safe and is absolutely necessary. If we choose to stop its further use, we will be on an escalator taking us steadily backward. If we move forward, nuclear power will help clear the way to energy independence and stability. These are the stakes, and these are the choices.

Mr. DOLE. Mr. President, I rise to support S. 2568, the bill now before us. This commendable measure will eliminate the role of the Federal Government as an indemnitor of nuclear powerplants in gradual steps over a 10-year period. Moreover, it will significantly increase the financial protection to the public, in the highly unlikely event of a serious nuclear accident, by raising the liability ceiling as more plants come into operation. These worthy goals are accomplished gradually, and on a timetable that the nuclear industry can live with.

Mr. GRAVEL has offered an amendment that would entirely abolish the legal liability limit on individual nuclear plants, which is now set at $560 million. I fully share Mr. GRAVEL's concern for the indemnity rights of potential victims of nuclear accidents. Nevertheless, I oppose this amendment for several reasons.

In the first instance, this amendment would subject nuclear utilities and their suppliers and designers to unacceptable financial exposure at a time when they can least afford it. S. 2568 already provides for a phaseout of the liability limitation—but at a gradual and orderly pace.

Immediate abolition of the liability limit may discourage investment capital—which is already scarce, and prevent smaller utilities from building nuclear plants. It may also precipitate the withdrawal of essential architect—engineers and component suppliers whose potential profit from nuclear related business does not warrant placing all of their assets at risk. Finally, the Gravel amendment ignores the fact that the liability limit is balanced by a "no-fault" provision, which allows potential victims to recover losses without long and costly litigation. Both aspects should be considered together. It is unfair to abolish one without the other.

In sum, I fear that the Gravel amendment, offered with the best of intentions, would have the unfortunate effect of seriously jeopardizing the future health of the vital nuclear industry. Nuclear powerplants now account for approximately 8 percent of national electric capacity. Given the shrinking supplies and rising costs of oil, nuclear power remains the only viable alternative to coal generated electrity. The industry must not be jeopardized by the well-intentioned, but precipitous action of this House.

Mr. MONTOYA. Mr. President, I support S. 2568, a bill which would provide for the phaseout of governmental indemnity in the unlikely event of a very serious nuclear accident and which would continue the financial protection provided by the act until 1987.

The Price-Anderson system has been in effect now for more than 18 years. During that time, the system has served well its dual purpose of providing financial protection to the public and of eliminating a potential deterrent to the establishment of a nuclear industry.

For as long as the Price-Anderson system has been in existence, the public has been absolutely assured that if a catastrophic nuclear accident were ever to occur, there would be a substantial sum of money available immediately to swiftly compensate the victims with a minimum of administrative and/or legal redtape. Moreover, this assurance of financial protection for claims arising in the commercial nuclear industry has been provided at no cost to the Federal Government whatsoever.

Yet, there are those who persist in arguing that the Price-Anderson system represents some kind of special subsidy to the nuclear industry. That argument should be rejected for the following reasons:

First. First of all it should be understood that the Price-Anderson Act is not a substitute for the maximum amount of liability insurance which would be underwritten by the private insurance industry. The Price-Anderson Act does not impede the development of or in any way act as a substitute for the insurance which can be provided wholly from the resources of the private insurance industry. Utilities are required by the act to purchase the maximum amount of insurance available, for which they pay substantial premiums averaging around $20 million or more per year.

Second. The utilities' investment in the reactor, some one-half to three-fourths of a billion dollars, is not covered by the Price-Anderson insurance system but is covered only by property insurance underwritten by the private insurance industries. At the present time, $175 million of insurance is provided for each reactor site—a fraction of the total value of the plant—and each utility pays up to $2 million per year in premiums for this protection.

Third. The Government indemnity which is provided under the present Price-Anderson Act is needed simply because the amount of liability insurance from the private insurance industry is not sufficient to provide the amount of coverage up to the limitation of liability level. This indemnity is provided by the Government at an annual fee. It bears repeating that over the years not one cent of money has ever been paid from the Federal Treasury for claims arising in the commercial nuclear industry. At the same time, the Government has collected and brought into the U.S. Treasury over $10½ million in indemnity fees.

Fourth. Even without the Price-Anderson system, the private insurance industry would not provide any additional amount of liability insurance. In view of the foregoing, Price-Anderson does not constitute a subsidy in any commonly accepted sense of that term. It could be properly viewed as a subsidy only by those who do not agree with either or both of its two objectives: public protection and giving assurance to those who are engaged in the nuclear energy industry that their assets would not be completely wiped out by unlimited liability in the highly unlikely event of a catastrophic accident having consequences of great magnitude. In this regard, the following excerpt from the Joint Committee on Atomic Energy's report—House Report 883, August 26, 1975, at page 8—on the bill which extended the Price-Anderson Act to its present expiration date is pertinent:

> "Although the committee regards the Price-Anderson legislation as a necessary building block for a healthy, progressive nuclear industry, the committee does not consider the legislation to be a subsidy for that industry, as this term is commonly understood. To date, no Government money has ever been expended under a Price-Anderson indemnity agreement with an AEC licensee. The costs of administration of this program have been nominal, and have been more than repaid through indemnity fees paid by AEC licensees. In fact through June 30, 1965, the AEC has already received almost $343,000 in indemnity fees and these fees are expected to increase substantially in the future." This legislation is also consistent with the basic principles underlying other Federal programs such as, for example, reclamation projects and improvement of the inland waterways of our Nation. In determining the value of these programs, the costs to the Federal Government of the improvements must be measured against the savings to the American people which the improvements must produce. As has already been stated, the savings to the American taxpayer resulting from the nuclear power program have been estimated at $1 billion per year, and the Price-Anderson indemnity legislation has thus far cost the Government nothing. It is true that the Government's indemnity is valuable and is provided at a charge which is presumably much lower than the charge which would be assessed for "commercial" insurance if such insurance were available. However, the fundamental reason why the indemnity is necessary is that there is yet not enough experience on which to base a firm judgment on the likelihood of the indemnity ever being utilized. Expert opinion holds this indemnity almost certainly will never be utilized. If this opinion eventually is proven correct, then there surely is no Government subsidy involved here, and in fact power reactor operators would have been paying for protection above that which is necessary.
>
> Moreover, the basic financial protection for which these reactor operators are paying—nuclear liability insurance—involves no Government subsidy. Under the Price-Anderson Act, operators of large power reactors must carry the maximum amount of such insurance from private sources. The premiums for this insurance are currently much higher than for conventional liability insurance. For example, according to testimony presented to the committee the annual liability insurance premiums plus indemnity fee for a 450,000-electrical kilowatt nuclear plant amount to over $361,000, versus about $6,500 for a conventional plant of the same capacity, without taking into consideration the partial refund of premiums for nuclear liability insurance which is expected to be made under the nuclear insurance pool's industry credit rating plant.

Fifth. Even if the Price-Anderson Act were viewed as some kind of subsidy for the nuclear energy industry, it does not follow that it should be abandoned. As in the case of any legislation which either does or could involve the expenditure of Government funds, the benefits of the legislation have to be considered along with the cost to the American public. As has been stated, to date no Government money has ever been spent under a Price-Anderson indemnity agreement with an AEC licensee. Over $10 million has been received by the U.S. Treasury. On the other hand, at the same time, the American public has been assured that in the event a catastrophic accident does occur, their interests would be protected by the Price-Anderson system which assures a readily available source of funds and arrangements for the prompt payment of legitimate public liability claims. Moreover, those who are involved in the nuclear energy industry, including anyone involved in the construction of the nuclear plant, the suppliers of materials for that plant and the banks which finance a large part of the money needed to construct the plant, would be assured that they would not be forced into bankruptcy in the event of a catastrophic nuclear accident.

Sixth. Finally, I want to stress that one of the principal purposes of the bill now before the Senate is to phase out the need for governmental indemnity of licensees in the commercial nuclear power industry. The bill provides for the gradual replacement of governmental indemnity by a workable system of self insurance on the part of the electric utility companies. Through this orderly phaseout of governmental indemnity, private industry will gradually assume full responsibility for providing the compensation required under the act and the dual purpose of the Price-Anderson system will continue to be met. I urge passage of the bill as reported.

Mr. HATHAWAY. Mr. President, after careful consideration of the debate today and weighing the arguments regarding this act over the past several weeks, I have concluded that I am going to vote against this 10-year extension of Price-Anderson. My reasons for this are several. First, the most convincing argument I have heard in support of an extension is that without it, several smaller companies and utilities might decide to forego involvement in the nuclear industry. Industry spokesmen agree that the large companies, having made a large investment in the nuclear field, are going to continue regardless of the fate of Price-Anderson.

They would, of course, prefer an extension for it is clearly beneficial to them, both through the existing indemnity and the liability limitation. But the act is not necessary to insure continued nuclear development.

The act. however, subsidizes the entire industry, from the smallest valve manufacturer to the largest; it is not finely drawn to meet possibly legitimate needs of smaller companies and utilities. It seems to me if that is indeed the problem, then a much more sophisticated approach than a blanket subsidy could be devised to insure that smaller companies can continue to participate in the industry.

This subsidy to nuclear power additionally makes valid comparisons with the costs of alternative sources of energy more difficult. It stacks the deck, so to speak, in favor of nuclear, and at the expense of solar, tidal, hydroelectric, wind and all the other alternatives which might be more economically competitive if this subsidy to nuclear were ended. If ending the subsidy would not, as many in the industry agree, increase the price of nuclear power, then at least we would have a realistic basis for evaluating the existing technologies and developing more rational energy priorities.

I am not opposed to safe nuclear development, per se. Rather, I have become convinced that this particular form of subsidy—a subsidy which is really at the expense of the members of the public who may be injured by a nuclear accident—is inappropriate. The industry largely admits that they do not need Price-Anderson in order to continue, the Rasmussen report confirms this, and the public does not need Price-Anderson.

Finally many amendments have been offered on the floor which I feel would have improved the act. But they have not prevailed, including my own which would have permitted rapid adjudication as to the constitutionality of the liability limitation. Such a determination, prior to the time of any major accident, would protect the industry really more than the public; such suits will surely follow rapidly on the heels of any accident. Even without the amendment, however, I hope of course that the courts will in fact, make a decision on the merits as to the validity of these provisions prior to the time when many people may have suffered irreparable harm. If we wait for such a decision until after an accident, then we may find to our dismay that we have not succeeded in protecting anyone at all.

My doubts about the adequacy and constitutionality of this liability limitation, the unnecessary blanket subsidy which the act continues for all of the industry, and the difficulty this type of hidden subsidy presents for making rational energy choices have led me to decide finally to vote against this 10-year extension.

Mr. PASTORE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 504, H.R. 8631.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

An act (H.R. 8631) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. PASTORE. I move that all after the enacting clause of H.R. 8631 be stricken, and that the text of S. 2568, as amended, be substituted therefor.

The motion was agreed to.

Mr. PASTORE. I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PASTORE. I now yield to the Senator from California.

Mr. TUNNEY. I thank the distinguished chairman of the Joint Committee for yielding. I shall take only about a minute and a half of the Senate's time.

Mr. President, I shall vote against the extension of the Price-Anderson Act, though not because I oppose atomic energy. I think we are going to need atomic energy between now and the end of this century. I think if we are going to supply our industries and our homes in this country with adequate electricity, some atomic component will be needed.

My views on that subject are fully presented in the report of the Joint Committee on Atomic Energy accompanying S. 2658, and I shall summarize them now.

The question before the Senate is simple. It is not a matter of insuring energy independence.

It is not a matter of extending routine benefits to a fledgling nuclear industry.

It is not a question of whether the Price-Anderson Act shall be phased out over the next 12 years.

The essential question is simply this: Whether the Senate will take another step toward making the extraordinary provisions of the Price-Anderson Act virtually a permanent part of our national energy policy.

As we all know, the 1957 passage of the act was accompanied by assurances that its protections were purely temporary, a response to "roadblocks" to the development of nuclear power in the private sector.

The creation of limitations on liability and massive Federal indemnity provisions was designed to give the fledgling nuclear industry time to establish a track record of safety and time to grow into an economically potent entity which could assume its own risks.

In 1965, when the Congress extended the act for another 10 years to August 1977, we were told that private operating experience was insufficient to enable us to put the burden of insuring nuclear power where it belonged, on the producers and users of that power. However, the Congress again expressed the hope that Price-Anderson could be allowed to expire at the end of its 20-year life span.

Again we are debating whether to extend this law. We are told that we will now phase out the governmental indemnity provisions through an ingenious system of "retrospective premiums." But we are not going to phase out guarantees which could make the Government liable for utilities' failures to pay those premiums. We are not going to phase out the provisions which leave the Congress of the United States morally responsible to victims of a catastrophic accident.

I say that enough is enough. The time has come to end Price-Anderson. We have fulfilled the original intent of the act. We have both a theoretical and operational basis for private insurance. Let us end the artificial subsidies to utilities, and to those who manufacture nuclear facilities, and let them do business as other enterprises do.

Our mammoth institutions of insurance are adequate to insure nuclear enterprise. A multimillion dollar report commissioned by the Atomic Energy Commission and the National Regulatory Commission and supervised by Dr. Norman Rasmussen, maintains that the theoretical chance of a major reactor accident is minimal. The chance of a serious reactor accident, according to the report, is about one in 10 million in any given year. Of course, regardless of theoretical calculations, major accidents involving nuclear reactors could happen.

Consequences could be severe. Even the Rasmussen report acknowledges that damages from a reactor accident could reach $14 billion. Others have estimated ing from $17 billion to $280 billion.

If that maximum credible accident does occur, we know what will happen if Price-Anderson is extended. First and foremost, the victims of such an accident will only be able to recover up to the liability limitations. If damages reached $14 billion, that means that each victim would recover 4 cents of each dollar of damages. As the debate on the Gravel amendment has made clear, that is simply not acceptable, at least not to me. The preservation of liability limitations, the placing of the burden of risk on victims, runs counter to every fundamental principle of fair play of our society.

Second, such an accident would mean that the Federal Government would be left holding the bag for liability in excess of private coverage. Until the total of private coverage including retrospective premiums, reaches $560 million, the Federal Government would be obligated to indemnify the victims in amounts of up to $325 million. In any case, the Government would be guarantor of the payment of retrospective premiums. More importantly, the Congress would be the agency charged with the responsibility for reimbursing victims of a catastrophe.

This means that the big guys—the utilities, the plant manufacturers—have it both ways. They get their liabilities limited, and they get the Federal Government to pick up the tab for the lion's share of damages from a major accident. The little guys—the victims and their families, the taxpayers of the United States—get socked in the neck with the bill.

Fundamentally, that is what I object to about Price-Anderson. It protects the people who need protection the least, and denies protection to those who need it the most. Without Price-Anderson, the public will be protected as it is ordinarily—by the full legal liability of nuclear operators for damages caused by their activities. That is why this bill should be defeated.

We hear a lot about the American free enterprise system in the Congress. I believe in that system, as I am sure everyone in this Chamber does. If there was ever an issue before the Congress which raised fundamental issues of free enterprise in their starkest terms, it is this one.

On the one hand, we have the basic goal of the economic system under which we live—to let the private sector provide services for a profit, and in doing so, to bear the costs of doing business. The most fundamental tenet of venture capitalism is that the person who puts up the money for an enterprise, the person who reaps the benefits of an economic activity, should also be prepared to accept the liability for his actions.

On the other hand, diametrically and unalterably opposed to that concept, we have the Price-Anderson Act. It does fundamental violence to the principles of our legal, economic, and social system, and it should not be renewed for that reason, if no other.

Let me make one thing clear. I do not oppose the development of the nuclear power industry in this country. I believe we may have to rely on nuclear power to provide us adequate energy for the foreseeable future. And I believe that the safety record of the past two decades shows that the risks associated with nuclear power can be minimized.

What I do object to is the maintenance of a piece of legislation that symbolizes the worst in corporate welfarism, a desire to take the profits without taking the risks. It represents one further chapter in the all-too-familiar story of an alliance between big government and the big companies, an alliance which advances the interests of the private sector at the expense of the public. That is intolerable to me, and I see Price-Anderson as one of its most objectionable manifestations. It is not the free enterprise system.

Accordingly, I shall vote against extension of Price-Anderson by opposing adoption of the pending legislation, and I urge my Senate colleagues to do the same.

Mr. PASTORE. Mr. President, I am going to take only 2 minutes, because I have said this perhaps 5 or 10 times before, when some Senators were busy with other chores.

The utilities are buying $125 million worth of insurance. They have been paying the premiums on it, and the Government has been involved to the tune of $435 million.

The purpose and thrust of this bill is to get the Government out of the business. For that reason, as a new reactor comes on the line, an adjustment is made, which will eventually eat up the $435 million and go beyond the ceiling of $560 million.

The reason why this system was instituted in the beginning, in 1957, was to encourage utilities to get into the business of commercial nuclear power. While we see the time is coming when the Government should get out, if we do it abruptly, we will break this whole industry apart. That is what we are trying to avoid, and that is the reason why the committee reported this bill.

Mr. BAKER. Mr. President, will the Senator yield for 1 minute?

Mr. PASTORE. I yield.

Mr. BAKER. Before we proceed to final passage of this bill, I think we have dealt in a responsible way with an emotional subject. I think we have dealt responsibly with a variety of amendments. The debate has been meaningful and significant, and I think the passage of this measure will mark a crossroads toward further development of nuclear power. I think it will result in rededicating this country to the development of new sources of energy, not the least of which is nuclear power.

The **PRESIDING OFFICER.** The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The **PRESIDING OFFICER** (Mr. PERCY). The bill having been read the third time, the question, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) and the Senator from Connecticut (Mr. RIBICOFF) are absent because of illness.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

The result was announced—yeas 76 nays 18, as follows:

[Rollcall Vote No. 600 Leg.]

YEAS—76

Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Cannon
Case
Chiles
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—18

Abourezk
Byrd, Robert C.
Clark
Cranston
Durkin
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Leahy
McGovern
McIntyre
Nelson
Proxmire
Scott,
  William L.
Tunney

NOT VOTING—6

Allen
Bayh
Bumpers
Church
Kennedy
Ribicoff

Mr. CLARK subsequently said: Mr. President, on final passage of the Price-Anderson bill, I inadvertently voted "aye." I ask unanimous consent that the record on the vote be changed to show that I voted "nay." It will not change the outcome. I ask unanimous consent that it be placed in the RECORD after the vote rather than in interruption of this colloquy.

The **ACTING PRESIDENT** pro tempore. Is there objection? The Chair hears none. Without objection, it is so ordered.

(The foregoing tally reflects the above order.)

So the bill (H.R. 8631), as amended, was passed, as follows:

H.R. 8631

Strike out all after the enacting clause and insert:

That section 11 of the Atomic Energy Act of 1954, as amended, is amended by amending subsections q. and t. to read as follows:

"q. The term 'nuclear incident' means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided however*, That as the term is used in subsection 170 l, it shall include any such occurrence outside the United States: *And provided further*, That as the term is used in subsection 170 d., it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: *And provided further*, That as the term is used in subsection 170 c., it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to chapters 6, 7, 8, and 10 of this Act, which is used in connection with the operation of licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Commission to another person licensed by the Commission.

"t. The term 'person indemnified' means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in subsection 170 c., and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Commission or any project to which indemnification under the provisions of subsection 170 d. has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.".

SEC. 2. Subsection 170 a. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"a. Each license issued under section 103 or 104 and each construction permit issued under section 185 shall, and each license issued under section 53, 63, or 81 may, for the public purposes cited in subsection 2 i. of the Atomic Energy Act of 1954, as amended, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection 170 b. to cover public liability claims. Whenever such financial protection is required, it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection 170 c. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.".

SEC. 3. Subsection 170 b. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"b. The amount of financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. In prescribing such terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from the date of enactment of this Act, include in, in determining such maximum amount, private liability insurance available under an industry retrospect rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided*, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such financial protection: *And provided further*, That the standard deferred premium which may be charged following any nuclear incident under such a plan shall be not less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this Act shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission. The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than the standard premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard. The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.".

Sec. 4. (a) Subsection 170 c. of the Atomic Energy Act of 1954, as amended, is amended by deleting the phrase "and August 1, 1977, for which it requires financial protection," in the first sentence and substituting therefor the phrase "and August 1, 1987, for which it requires financial protection of less than $560,000,000," and by deleting the date "August 1, 1977" in the last sentence wherever it appears and substituting therefor the date "August 1, 1987".

(b) Such subsection is further amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

Sec. 5. (a) Subsection 170 d. of the Atomic Energy Act of 1954, as amended, is amended by deleting the phrase "until August 1, 1977," in the first sentence and substituting therefor the phrase "until August 1, 1987,".

(b) Such subsection is further amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

Sec. 6. Subsection 170 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The aggregate liability for a single nuclear incident of persons indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed (1) the sum of $500,000,000 together with the amount of financial protection required of the licensee or contractor or (2) if the amount of financial protection required of the licensee exceeds $60,000,000, such aggregate liability shall not exceed the sum of $560,000,000 or the amount of financial protection required of the licensee, whichever amount is greater: *Provided*, That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude: *And provided further*, That with respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection 170 d. is applicable, such aggregate liability shall not exceed the amount of $100,000,000 together with the amount of financial protection required of the contractor.".

Sec. 7. Subsection 170 f. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"f. The Commission is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 103: *Provided*, That the Commission is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of $60,000,000. For facilities licensed under section 104, and for construction permits under section 185, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities under section 104, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than $100 per year.".

Sec. 8. The last sentence of subsection 170 h. of the Atomic Energy Act of 1954, as amended, is amended by striking "may include reasonable" and inserting in lieu thereof "shall not include".

Sec. 9. Subsection 170 i. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"i. After any nuclear incident which will probably require payments by the United States under this section or which will probably result in public liability claims in excess of $560,000,000, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, to the Congressmen of the affected districts, and to the Senators of the affected States, and, except for information which would cause serious damage to the national defense of the United States, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.".

Sec. 10. (a) Subsection 170 k. of the Atomic Energy Act of 1954, as amended, is amended by deleting the date "August 1, 1977" wherever it appears and substituting therefor the date "August 1, 1987".

(b) Paragraph (1) of such subsection is amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

Sec. 11. Subsection 170 l. of the Atomic Energy Act of 1954, as amended, is amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

Sec. 12. Section 170 n. (1) (iii) of the Atomic Energy Act of 1954 is amended by striking "ten years" and inserting in lieu thereof "twenty years".

Sec. 13. Subsection 170 o. of the Atomic Energy Act of 1954, as amended, is amended by adding at the end of the second sentence in subparagraph (3) the words "and shall include establishment of priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds.", and by adding a new subparagraph (4) to read as follows:

"(4) the Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection 170 i. of this Act setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided.".

Sec. 14. Section 170 of the Atomic Energy Act of 1954, as amended, is amended by adding subsection p., to read as follows:

"p. The Commission shall submit to the Congress by August 1, 1938, a detailed report concerning the need for continuation or modification of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section.".

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD obtained the floor.

Mr. PASTORE. Mr. President, will the Senator yield so that I can complete this?

Mr. HATFIELD. I yield, with the understanding that I will not lose my right to the floor.

Mr. PASTORE. Mr. President, I ask that S. 2568 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate amendments to H.R. 8631.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I compliment my counterpart, the Senator from Tennessee (Mr. BAKER) for his fine cooperation.

Also, I commend the members of the staff—George Murphy, James Graham, James Asselstine, and William Parler—for the fine work they have done.

ORDER OF BUSINESS

Mr. HATFIELD. Mr. President, now that I have obtained the floor, I should like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. First of all, Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Nothing is pending before the Senate at the moment. Therefore, technically, speeches are not in order, either.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. HATFIELD. I yield, without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from North Dakota for the purpose of his calling up a bill on the Consent Calendar, without the Senator losing his right to the floor.

DICKINSON DAM MODIFICATION, DICKINSON UNIT, PICK-SLOAN MISSOURI BASIN, N. DAK.

Mr. BURDICK, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 533.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2089) to authorize modifications to Dickinson Dam, Dickinson Unit, Pick-Sloan Missouri Basin program, North Dakota, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President, S. 2089 would authorize the construction of bascule gates on the existing Dickinson Dam. This would supply an additional 900 acre-feet of municipal water to help meet the city's needs. This portion of the project will cost approximately $840,000, according to recent Bureau of Reclamation estimates. If S. 2089 is promptly passed and if funds are appropriated for the work, the city of Dickinson will be able to meet its water supply needs only for the next 10 years or so. As vital as this project is, it is only a partial solution.

The long-range solution to the city's needs is dependent, to some extent, upon the findings of the feasibility investigation of the proposed Versippi project. But, whatever the long-range solution, it will surely be an extraordinarily expensive one. Therefore, it is imperative the cost to the city of the project, to be authorized by S. 2089 be minimized. Accordingly, the language of S. 2089 provides that the city not be required to assume the costs attributable to a safety of dams component recommended by the Bureau to be undertaken at the same time as the bascule gates are installed.

This safety component involves an auxiliary spillway that will cost nearly $3 million. The municipal water supply benefits attributable to the vastly enlarged spillway are minimal.

I urge the passage of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to modify the spillway of Dickinson Dam on the Heart River in the State of North Dakota, to increase conservation storage by installing gates on the existing spillway. The Secretary is also authorized to construct a new spillway to assure the safety of Dickinson Dam from floods currently estimated to be capable of occurrence.

SEC. 2. The Secretary is authorized to enter into an amendatory repayment contract with the city of Dickinson, North Dakota, to accomplish the repayment of that portion of the cost of the work authorized herein properly allocable to municipal and industrial water supplies in not to exceed forty years from completion of construction: *Provided,* That the total cost of the new spillway and related works incurred for the safety of the structure shall be nonreimbursable and nonreturnable.

SEC. 3. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of the capital costs allocated to interest-bearing features of the works authorized herein shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 4. There is hereby authorized to be appropriated for construction of works authorized herein the sum of $4,000,000 (January 1975 price levels) plus or minus such amounts as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

Mr. YOUNG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. JACKSON addressed the Chair.

Mr. HATFIELD. I have the floor.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HATFIELD. For what purpose?

Mr. JACKSON. For the purpose of calling up a conference report.

Mr. HATFIELD. Mr. President, I am sorry that I cannot yield.

Mr. ROBERT C. BYRD. Mr. President, there has to be some measure before the Senate or the Senator would be out of order. There has to be some business before the Senate before the Senator can proceed.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. HATFIELD. Mr. President——

Mr. JACKSON. Mr. President——

Mr. HATFIELD. Mr. President, since I have the floor——

The PRESIDING OFFICER. The Senator from Oregon has the floor.

MOTION TO RECESS

Mr. HATFIELD. I move that we recess.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HATFIELD. Mr. President, is the motion debatable?

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MANSFIELD. Call the roll.

Mr. HATFIELD. A parliamentary inquiry, Mr. President.

Mr. MANSFIELD. Mr. President, the question is not debatable.

Mr. HATFIELD. A parliamentary inquiry.

The PRESIDING OFFICER. The question is not debatable.

Mr. HATFIELD. A parliamentary inquiry.

Mr. MANSFIELD. Call the roll. I asked for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN), and the Senator from Connecticut (Mr. RIBICOFF) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

The result was announced—yeas 29, nays 61—as follows:

[Rollcall Vote No. 601]

YEAS—29

Bartlett
Bellmon
Brock
Case
Curtis
Dole
Domenici
Fannin
Fong
Garn
Goldwater
Hansen
Hatfield
Helms
Hruska
Javits
Mathias
McClure

Packwood
Pearson
Roth
Scott, Hugh
Scott,
William L.
Stafford
Stevens
Taft
Thurmond
Tower
Young

NAYS—61

Abourezk
Baker
Beall
Bentsen
Biden
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Magnuson
Mansfield
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Proxmire
Randolph
Schweiker
Sparkman
Stennis
Stevenson
Stone
Symington
Talmadge
Tunney
Weicker
Williams

NOT VOTING—10

Allen
Bayh
Bumpers
Church
Kennedy
Laxalt
Leahy
Long
McGovern
Ribicoff

So the motion was rejected.

Mr. MANSFIELD. Mr. President, before the vote on the motion to recess was taken, I was under the impression that what the distinguished Senator from Oregon (Mr. HATFIELD) was attempting to do was to delay consideration of the conference report on energy which, of course, is a privilege matter.

I am happy to acknowledge that I was mistaken and, therefore, I hope there will be no delay on consideration of the conference report on energy.

ENERGY POLICY AND CONSERVATION ACT

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 622, the Energy Policy and Conservation Act.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House which the clerk will state.

The legislative clerk read as follows:

> Resolved, That the House recede from its disagreement to the amendment of the Senate to the amendments of the House to the bill (S. 622) entitled "An Act to provide standby authority to assure that the essential energy needs of the United States are met," and so forth, and concur therein with an amendment.

(The amendment of the House of Representatives is printed in the RECORD of December 15, 1975, beginning at page 40681.)

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Washington (Mr. JACKSON), the manager on the part of the Senate conferees, be recognized, and he be allowed to yield for not to exceed 2 minutes to the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Tennessee (Mr. BAKER) for the purpose of calling up and disposing of the conference report on Appalachia; and that at the conclusion of that the distinguished Senator from Oregon (Mr. HATFIELD) be recognized for not to exceed 1 hour to discuss a matter extraneous to the pending business; and at the conclusion of the remarks of the Senator from Oregon, the Senator from Washington be recognized and that, in the meantime, despite these interpolations, he not lose his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, Mr. President, I would like to state a parliamentary inquiry, if I may.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. The inquiry I have is this: If I understand, what we are dealing with on the energy conference report is not really a conference report, it is a message from the House and not a conference report; am I correct?

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER. That is correct. It is a message from the House.

Mr. McCLURE. If I may inquire further, Mr. President, the effect of the message from the House is to lay before us a House bill with Senate amendments, as amended by the House; is that correct?

Mr. JACKSON. It is a Senate bill, S. 622, and the House sent it over with an amendment in the nature of a substitute which amended—

The PRESIDING OFFICER. It is a House message apprising the Senate——

Mr. JACKSON. They amended it last night.

The PRESIDING OFFICER (continuing). That the House amended the Senate amendment to the House amendments to the Senate bill.

Mr. McCLURE. Do the rules of the Senate require that the amendment of the House be read to the Senate?

The PRESIDING OFFICER. There is no rule or precedent so requiring.

Mr. McCLURE. Might I ask the majority leader if it is the intention of the majority leader to have the message laid before the Senate under a rule or under a request for the waiving of the reading of the amendment?

Mr. MANSFIELD. That question has never arisen.

The PRESIDING OFFICER. The message has already been laid before the Senate, and there was no request that it be read.

Mr. McCLURE. There was no point at which a request that it be read could be made because the message was all that was laid before the Senate; is that not correct?

The PRESIDING OFFICER. That is correct. But the amendment is a part of that message and the request could have been made.

Mr. McCLURE. Well, the Senator was on his feet seeking recognition at the time the unanimous-consent agreement was stated. I do not wish to press this point on that basis, but I do think the Senate is confronted with a difficult parliamentary situation on which very little precedent exists because of the manner in which the House treated a conference report. Instead of trying to send the matter back to conference they aborted that by just agreeing to the conference report and then seeking to amend directly an action which had been taken by the Senate at a previous time. This is a unique proceeding, one in which the Senate has not indulged very often in the past, and I am very much concerned that under the circumstances the matter may be laid before the Senate without the opportunity of the Senate to have the matter read as is usually the case under the consideration of a bill, under the consideration of an amendment to a bill, under the consideration of a conference report. Am I not correct, Mr. President, that in each of those instances any Member has the right to ask that the amendment, the bill or the conference report be read?

The PRESIDING OFFICER. That is correct.

Mr. McCLURE. If indeed this is not subject to that requirement, it is unlike any other procedure which is used in the Senate.

The PRESIDING OFFICER. The Chair will reserve judgment on this matter.

Mr. McCLURE. Mr. President, I do not wish to delay the matter with respect to the pending request of the majority leader for unanimous consent, but I would like to reserve my right to ask for the reading of the amendment. If I may do so, without having to make that request at this time, I would like to reserve that right.

The PRESIDING OFFICER. Is there objection to the Senator's reserving that right?

Mr. JACKSON. Mr. President, point of order. Does not the request or whatever it is come too late? It has already been laid before the Senate.

The PRESIDING OFFICER. When the Chair stated that the Chair lays before the Senate a message from the House which the clerk will report, and the clerk reported it without reading the whole amendment. The demand should have been made then.

Mr. McCLURE. Mr. President, may I state the request or question in this fashion: if, as a matter of fact, I had the right at that time to demand the reading, do I understand the Chair to have made that ruling that I had the right to demand a reading?

The PRESIDING OFFICER. Not that he had the right but that he could have made the request.

Mr. McCLURE. How would a Member of the Senate make that request when he does not have the floor?

The PRESIDING OFFICER. He simply asks that the whole message be read. Nobody had the floor at that time.

Mr. MANSFIELD. Mr. President, if I may interpolate, I was on my feet, I was recognized, both before and after the message was read. The usual procedure is to allow either the majority or the minority leader prior recognition. I do not doubt that the Senator from Idaho was on the floor at the time, but I was, and I achieved recognition. The proper request was made and the proper procedures followed.

Mr. McCLURE. Reserving the right to object—and I do not question that the Senator followed the proper procedure—it is just the question I am seeking to lay before the Senate at this time is the procedural matter whether or not this and this alone, this procedure and this procedure alone, waives the requirement for the reading of the material laid before the Senate.

The PRESIDING OFFICER. There is no requirement for a total reading.

Mr. McCLURE. In this instance or other instances.

Mr. MANSFIELD. Mr. President, if the Senator will yield, it is my understanding there is no rule covering that procedure, and had that request been made at that time, it is now too late, the Chair would not be in a position to rule, but it would have been up to the Senate to render a verdict; is that correct?

The PRESIDING OFFICER. There is no rule, and the Chair cannot find a precedent right on that point. If the question had been raised, the Chair would have submitted it to the Senate.

Mr. McCLURE. If I may—reserving the right to object, Mr. President—the question is simply this: that in the normal course of events the majority leader was recognized to ask that a message from the House be presented to the Senate, the message was read and the Senator from Idaho had no opportunity to ask for the reading of the material sent from the House because the majority leader again, very properly, being on his feet, was recognized and then asked the pending unanimous-consent request.

I do not question that there was any breach of the procedures, but is this not the only instance in which a matter can thus be laid before the Senate without an opportunity of the Members to determine whether or not that matter should be read to the full Senate so that the Senate may know what is pending before the Senate?

The PRESIDING OFFICER. Matters are laid before the Senate all the time without being read.

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, I object.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Will the Senator yield without losing his right to the floor?

Mr. JACKSON. For that purpose only.

Mr. MANSFIELD. Mr. President, may I say, the leadership thought it was accommodating certain Senators who have other pressing needs at the moment and I must express my apologies to the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Tennessee (Mr. BAKER) and to the Senator from Oregon (Mr. HATFIELD). I am sorry that it did not turn out the way we though it would.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. RANDOLPH addressed the Chair.

Mr. BAKER. Will the Senator yield without losing his right to the floor?

Mr. MANSFIELD. Mr. President, let me try again. First, I ask unanimous consent—if I may have the attention of the Senator from Idaho—that the distinguished Senator from West Virginia and the distinguished Senator from Tennessee be recognized for not to exceed 2 minutes for the purpose of calling up a conference report on Appalachia without the Senator from Washington losing his right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from West Virginia.

REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1975—CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I submit a report of the committee of conference on H.R. 4073, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. PERCY). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional two-fiscal-year period, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 15, 1975, at page 40649.)

Mr. RANDOLPH. Mr. President, the Senate and House conferees have reached agreement on differences and have concluded the conference on legislation to extend the Appalachian Region Development Act of 1965.

Our colleagues worked diligently throughout the conference to reach the best possible recommendations with respect to the Appalachian Commission. I believe we have been successful.

With minor exceptions, the conference report retains the substantive amendments of the Senate in the Appalachian Commission and the title V regional commissions.

The Senate agreed to the 4-year extension provided in the House bill rather than the Senate's 2-year extension.

The House conferees agreed to retain the Senate amendment providing a 1-year extension of the title V regional action planning commissions.

With respect to the Appalachian program, the legislation authorizes a total of $640 million to support nonhighway programs during the transition quarter next year and 4 full fiscal years—1976–79. The highway program is extended for 2 additional years, through fiscal year 1980, and authorizations are increased by $840 million. The developmental highway system is enlarged by 200 miles, primarily to meet needs in areas that were not part of the designated Appalachian region when the highway program was started. There is a corresponding reduction of 200 miles in the access roads program.

The conference report contains provisions from the Senate bill intended to strengthen the role of the States in the conduct of commission affairs. These provisions were perhaps the most controversial aspect of this legislation. I have on other occasions, and again emphasize, the importance of participation by high-level State officials to the success of this program.

The partnership of the State and Federal Governments is a key ingredient of the Appalachian program. The provisions of this measure will enhance this relationship by assuring a strong voice by the States.

The growing importance of coal to meet the Nation's energy needs is recognized in this legislation. The States of the region produce vast amounts of coal, and their reserves of this vital resource can contribute immeasurably to improving economic strength in Appalachia.

This conference report, therefore, includes language outlining the Appalachian Regional Commission's role in energy production. We envision the Commission as becoming a coordinating body for Federal, State, and local efforts toward anticipating the effects on the region of alternative national energy policies and practices. Authorized is a limited demonstration in the area of energy-related enterprise development.

As a clearinghouse for the proper management and utilization of Appalachia's coal reserves, the Commission can occupy an important position in the effort to find solutions to important energy and environmental questions.

Mr. President, I express appreciation to my Senate colleagues for their strong support and active participation in achieving a successful resolution to the issues which were before the conference. The distinguished Senator from Tennessee (Mr. BAKER), the ranking minority Member of the Senate Public Works Committee, and Senators McCLURE, BUCKLEY, MONTOYA, MORGAN, and MUSKIE are commended for their patience and contributions in five conference sessions. Their participation makes it possible for this report to come before the Senate.

The Senate prevailed in every substantive issue before the conference. The report is a strong one and on behalf of my colleagues in conference I recommend that the Senate agree to our report.

This legislation will mean much for the people of Appalachia and other regions of the country with similar problems.

The Appalachian experiment is now 10 years old. The passage of this extension will launch the second decade of this unique and successful effort.

For 10 years the Appalachian program has been a major force in the 13 States that comprise the region. Its mission was a simple one: To transform Appalachia from a "pocket of poverty" into a full participant in the general prosperity of America.

These 10 years have produced their share of frustration for those of us who are particularly concerned with life in Appalachia. Because we knew the magnitude of the problems and their impact on the people, we wanted to see them overcome as quickly as possible. As realists, however, we knew that this goal would take time to achieve.

Solid advances have been made in improving the quality of life, diversifying the economy and providing the basic facilities for future improvements. In the process, we have seen the establishment of intergovernmental relationships more innovative than any developed in this country for many years.

While improving the quality of inadequate human services remains a first priority, it is also time to approach the new challenges and problems faced by Appalachia in a changing world. This legislation will give them our mandate. Energy supply, for example, has become a high national priority. Appalachian coal is now widely recognized as a major national asset. As the most important producer of our largest domestic source of energy, Appalachia now faces the future in the context of this new relationship to the Nation.

Crucial energy needs of our country present Appalachia with a new opportunity to assist the Nation, but there may also be a new responsibility to assist the region so as to assure that accelerated coal production will lead to sound development, conservation, and self-sustaining economic growth. I believe that the Congress has made the necessary adjustments to provide the Appalachian Regional Commission with the resources to meet these new responsibilities.

Mr. President, I ask unanimous consent that the "Joint Explanatory Statement of the Committee of Conference" be printed in its entirety in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional two-fiscal-year period, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

SHORT TITLE

House bill

The short title of the House bill provides the legislation may be cited as the "Appalachian Regional Development Act Amendments of 1975."

Senate amendment

Provides the Act may be cited as the "Regional Development Act of 1975".

Section 101 provides title I may be cited as the "Appalachian Regional Development Act Amendments of 1975."

Conference substitute

Identical to Senate amendment as to the Act and to both House and Senate provisions as to the title.

EXTENSION OF COMMISSION EXPENSE AUTHORIZATION

House bill

Section 2 extends the authorization for expenses of the Appalachian Regional Commission not to exceed $4 million for the period beginning July 1, 1975 and ending September 30, 1977. No more than $750,000 of this amount is to be available for expenses of Federal Cochairman, his alternate and his staff. In addition, $4 million is authorized for the two-fiscal-year period ending September 30, 1979. Of this amount, not more than $750,000 is to be available for expenses of the Federal Cochairman, his alternate, and his staff.

Senate amendment

Section 106 of the bill increases to $4,600,000 the authorizations for the period July 1, 1975, to September 1, 1977, for the Commission's administrative expenses, sufficient to cover pay and other cost increases, and would include a limitation of $800,000 for expenses of the Federal Cochairman, his alternate, and staff.

Conference substitute

Extends these authorizations for four years with $4,600,000 for the period July 1, 1975 through September 30, 1977 and $5,000,000 for the next two-fiscal-year period. Not more than $800,000 in the first period is available for the expenses of the Federal Cochairman, his alternate, and his staff and not more than $900,000 for that purpose in the second period.

OFFICE SPACE RENTAL

House bill

Extends the authority of the Commission to rent office space through September 30, 1979.

Senate amendment

Extends the authority of the Commission to rent office space through September 30, 1977.

Conference substitute

Same as the House provision.

HIGHWAY SYSTEM AUTHORIZATION EXTENSION

House bill

Increases highway authorizations from $185,000,000 for fiscal year 1977 and $180,000,000 for fiscal year 1978 to $300,000,000 for the period beginning July 1, 1976, and ending September 30, 1977, and $300,000,000 per year for fiscal years 1978, 1979, and 1980.

Senate amendment

Increases highway authorizations from $180,000,000 for fiscal year 1978 to $250,000,000 for that fiscal year and $30,000,000 for fiscal year 1979, $300,000,000 for fiscal year 1980, and $170,000,000 for fiscal year 1981.

Conference substitute

Same as the Senate amendment.

EXTENSION OF AUTHORIZATIONS FOR OTHER PROGRAMS

House bill

Authorizes $340,000,000 for the period July 1, 1975 through September 30, 1977, and $300,000,000 for the two-fiscal-year period ending September 30, 1979 for programs other than the highway program.

Senate amendment

Authorizes $267,000,000 for the two-fiscal-year period ending September 30, 1977 for programs other than the highway program.

Conference substitute

Same as the House provision.

TERMINATION DATE

House bill

Extends the termination date of the Act (other than the highway program) to October 1, 1979.

Senate amendment

Extends the termination date of the Act (other than the highway program) to October 1, 1977.

Conference substitute

Same as the House provision, except that the Appalachian Regional Commission is directed to submit to the Congress by July 1, 1977, a report on the progress being made in implementing section 2(b) of the Appalachian Regional Development Act, the energy-related enterprise development demonstration authority in section 302 of such Act, and other amendments made by this title.

STATEMENT OF PURPOSE

House bill

No comparable provision.

Senate amendment

Amends the statement of purpose of the Act recognizing current problems, particularly changes occurring in national energy requirements and production which affect the region, to establish the purpose of coordinating Federal, State, and local efforts toward (1) anticipating the effects on the region of alternative national energy policies and practices, (2) planning for the growth and change generated through the accelerated coal development so that it will further the social and environmental well-being of the region, and (3) implementing the activities of Federal, State and local governments in the region to better meet the special problems generated in the region through national energy policies.

Conference substitute

Same as the Senate amendment.

COMMISSION STRUCTURE AND OPERATION

House bill

No comparable provision.

Senate amendment

Makes the following amendments dealing with Commission membership, voting, and administrative powers: (1) Only the Governor may be a State member of the Commission; (2) Each State member may have a single alternate appointed by the Governor from among the members of his cabinet or his personal staff; (3) No decision involving Commission policy, approval of State, Regional or subregional Development Plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, or any allocation of funds among the States, may be made without a quorum of State members present; (4) A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present; (5) The approval of project and grant proposals shall be a responsibility of the Commission exercised in accordance with section 303. No Commission powers or responsibilities, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings; and (6) The term of the State Cochairman shall be at least one year.

Conference substitute

Same as the Senate amendment.

COMPENSATION

House bill

No comparable provision.

Senate amendment

The amendment increases the rating of the Federal Cochairman from level IV to level III of the Executive Schedule and the Alternate

Federal Cochairman from GS-18 to level V on the Executive Schedule.

Conference substitute

Same as the Senate amendment.

COMMISSION FUNCTIONS

House bill

No comparable provision.

Senate amendment

The amendment specifies that the identification of subregional characteristics, needs and goals should be undertaken by the Commission.

Conference substitute

Same as the Senate amendment.

EXECUTIVE DIRECTOR

House bill

No comparable provision.

Senate amendment

The amendment reaffirms that the executive director is the chief administrative officer of the Commission staff.

Conference substitute

Same as the Senate amendment.

PUBLIC PARTICIPATION

House bill

No comparable provision.

Senate amendment

Section 107 of the Act is amended to require that public participation be provided for, encouraged, and assisted by the Commission, States, and local development districts.

Conference substitute

Same as the Senate amendment.

HIGHWAY MILEAGE REVISION

House bill

No comparable provision.

Senate amendment

The Senate amendment would authorize a 200-mile increase in developmental highway mileage, with a corresponding 200-mile decrease in local access roads, to provide corridors for a sector of the region which was not part of the Appalachian program when the original corridors were established.

Conference substitute

Same as the Senate amendment.

DEMONSTRATION HEALTH PROJECTS

House bill

No comparable provision.

Senate amendment

Makes the following amendments to section 202: (1) To allow acquisition of facilities previously operated for profit where that is the most cost-effective way of providing increased health services, (2) to clarify that Commission determination on need for a project is controlling once HEW establishes compatibility with basic HEW legislative authority, and (3) to add reference to title XX of the Social Security Act, enacted since the 1971 Appalachian Act amendments.

Conference substitute

Same as the Senate amendment with the additional requirement that acquisition of facilities previously operated for profit requires a finding by the Commission that but for this acquisition the health services would not otherwise be provided in the area served by the facility.

MINING AREA RESTORATION

House bill

No comparable provision.

Senate amendment

Amends section 205 of the Act relating to mine area restoration to allow separate grants for planning or engineering projects; to make cover materials eligible project costs; to allow waivers wherever a State, local government or other nonprofit applicant agrees to indemnify the Federal Government, for all claims of loss or damage resulting from the use and occupation of lands for projects assisted under section 205.

It also amends section 205 to allow reclamation on lands owned by private nonprofit entities for public recreation, conservation, community facilities and public housing.

Conference substitute

Same as the Senate amendment.

HOUSING

House bill

No comparable provision.

Senate amendment

Amends section 207 of the Act to expand the types of housing programs which may be assisted with "seed money" grants or loans to include any Federal or State low- or moderate-income housing assistance program; to include limited dividend or cooperative organizations as eligible for assistance; to allow up to 10 percent of the value of rehabilitated housing for off-site improvements for housing rehabilitation projects; and to authorize funds for States to make similar assistance to that under section 207.

Conference substitute

Same as the Senate amendment.

VOCATIONAL AND TECHNICAL EDUCATION PROJECTS

House bill

No comparable provision.

Senate amendment

Amends section 211 of the Act to broaden the scope of areawide demonstration projects from strictly vocational and technical education projects to include projects for career education, cooperative and recurrent education, and guidance and counseling.

A second amendment makes clear that the present requirement for public ownership does not preclude training and on-the-job employment activities away from facilities of a demonstration project if the project is administered by a public body.

Conference substitute

Same as the Senate amendment.

SUPPLEMENTARY GRANTS

House bill

No comparable provision.

Senate amendment

Amendes section 214 of the Act to include additional Federal grant-in-aid programs as eligible for supplementation. These include titles I and IX of the Public Works and Economic Development Act of 1965, as amended.

Conference substitute

Same as the Senate amendment.

PROGRAM IMPLEMENTATION

House bill

No comparable provision.

Senate amendment

Amends section 223 of the Act to require a determination that the program or project authorized under the title has been determined to be not incompatible with the provisions and objectives of Federal laws before implementation of that program or project and to require the Commission to determine it meets the requirements of sections 224 and 225 of the Act, which determination is to be controlling and accepted by Federal agencies.

Conference substitute

Same as the provisions of the Senate amendment.

The Congress designed the Appalachian Regional Development Act of 1965 so that in many of the programs under the Act (such as those authorized in sections 202, 204, 205, 207, 211, and 214), the supplemental or special basic grant assistance approval by the Commission is subsequently extended to the grantee through the framework of Federal grant-in-aid programs administered by Federal departments and agencies. Section 116 of the Conference Report provides further clarification that the responsible Federal official shall review such grants only to determine that they are not incompatible with the provisions and objectives of the framework laws which he administers. In making this modification, however, it is intended that the Federal official administering the framework program through which the Appalachian Act assistance is provided, shall continue to discharge responsibility for assuring that such grants are not incompatible with other Federal laws such as, for example, the National Environmental Policy Act. Thus, the conferees intend, in such cases, that the department or agency responsible for the basic program would make such reviews and assessments as might be required by the National Environmental Policy Act.

PROGRAM CRITERIA

House bill

No comparable provision.

Senate amendment

Amends section 224 of the Act by adding a new subsection which reemphasizes that programs and projects may be funded under this Act only if the Commission has determined that the funds will not diminish the level of effort by the State in its Appalachian counties in order to substitute funds authorized by this Act.

Conference substitute

Same as the Senate amendment.

PLANNING PROCESS

House bill

No comparable provision.

Senate amendment

Amends the Act to add a new section 225 requiring a State Development Plan. These Plans are to (a) describe the State organization for Appalachian development planning, including the procedures established for the participation of local development districts in the process and the means for relating the process to State planning and budgeting and coordinating it with other Federal, State and local programs; (b) set forth the goals, objectives, and priorities of the State for the region; and (c) describe the development program for achieving the goals and objectives, including funding sources and recommendations for specific projects. Plans would be revised annually, and an implementing investment program would be submitted by each State.

Conference substitute

Same as the Senate amendment.

ADMINISTRATIVE EXPENSE GRANTS AND RESEARCH AND DEMONSTRATIONS

House bill

No comparable provision.

Senate amendment

Amends section 302 of the Act to provide assistance in preparing State development plans as well as specifying that grants for administrative expenses of local development districts may include costs for development of areawide plans or action programs and technical assistance activities.

It also authorizes a new, limited demonstration program in the area of energy-related enterprise development in subsection (b) of section 302. For purposes of the new demonstration authority, the restrictions in section 224(b)(2), (3) and (4) are waived which preclude the use of Commission funds for financing industrial facilities or working capital, or the cost of facilities for the generation, transmission, or distribution of electric energy or gas.

Another provision directs the Commission to conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian migrants. In carrying out this study, the Commission may undertake pilot projects and demonstrations within the region. A third provision also directs a study of physical hazards which are constraints on land use (with strong emphasis on mudslides, landslides, sink holes and subsidence) and the risks associated with these hazards. The study is to provide identification of high-risk hazard areas throughout the Appalachian Region.

Conference substitute

Same as the Senate amendment with the additional authorization to the Commission to carry out demonstration projects, at not to exceed $2,500,000 per fiscal year, for development and stimulation of the indigenous arts and crafts of the region.

APPROVAL OF DEVELOPMENT PLAN, INVESTMENT PROGRAM, AND PROJECTS

House bill

No comparable provision.

Senate amendment

The amendment rewrites section 303 of the Act to provide that State Development Plans, the Regional Development Plan, and implementing investment programs must be approved by the Commission as in accordance with the Regional Development Planning Process. Once a State Development Plan is approved, the submission and approval of a project by a State, when joined by an affirmative vote of the Federal Cochairman for such project, shall be deemed to satisfy the requirements for affirmative votes for decisions in section 101(b).

Conference substitute

Same as the Senate amendment.

REPEAL

House bill

No comparable provision.

Senate amendment

The amendment repeals section 104 of the Public Works and Economic Development Act of 1965, which now prevents cooperative funding of Appalachian Regional Commission and Economic Development Administration projects.

Conference substitute

Same as the Senate amendment.

LIMITATIONS

Conference substitute

Contains a provision limiting new or increased authority to enter into contracts under section 201 of the Appalachian Regional Development Act to only such amounts as are provided in appropriation Acts.

TITLE II

SHORT TITLE

House bill

No comparable provision.

Senate amendment

Provides Title II may be cited as the "Regional Action Planning Commission Improvement Act of 1975."

Conference substitute

Same as the Senate amendment.

AUTHORIZATIONS FOR COMMISSIONS

House bill

No comparable provision.

Senate amendment

Amends Section 509(d) of the Public Works and Economic Development Act (hereinafter stated as Act) to increase the authorization to carry out the Title for the fiscal year 1976 from 150 to 200 million dollars and 50 million dollars for the transition quarter ending September 30, 1976. It authorizes 250 million dollars for the fiscal year 1977. After deducting the amounts required by the Secretary to carry out the administration and technical assistance, the Secretary is to apportion the remainder of sums appropriated to the existing seven Commissions based on the following formula:

14 percent on the basis of equality of the Seven Regional Commissions.

14 percent on land area.

28 percent on the basis of population.

44 percent on the basis of per capita income (weighted inversely).

All funds are to be apportioned prior to the end of the fiscal year.

Conference substitute

Same as the Senate amendment except the formula for allocating appropriated funds to the regions is deleted. Funds authorized by the Senate amendment are to be allocated to the regional commissions which have been established for more than two fiscal years. An additional $5,000,000 for fiscal year 1976, $1,250,000 for the transition period, and $5,000,000 for fiscal year 1977 is authorized for the management and authorized activities of new commissions that may be established by the Secretary, for their first two fiscal years.

For fiscal year 1976 funds were allocated to the regional commissions in accordance with the formula which was contained in the Senate amendment. It is the intent of the conferees that the Secretary of Commerce utilize the same formula for fiscal year 1977 for the existing regional commissions. The Senate Committee on Public Works and the House Committee on Public Works and Transportation will evaluate the formula with the goal of devising a permanent formula for future fiscal years.

REGIONAL TRANSPORTATION DEMONSTRATION PROJECTS

House bill

No comparable provision.

Senate amendment

Amends Section 513 of the Act to authorize each Commission to conduct studies and investigations of the transportation needs of the region. Each Commission can make grants for planning, construction, purchase of equipment and operation for transportation demonstration projects. Planning grants may be up to 100% of costs. Grants for construction, equipment and operation are authorized for up to 80% of costs. Not more than 5 million dollars of the funds apportioned to each region can be expended in any one fiscal year to carry out this section.

Conference substitute

Same as the Senate amendment.

The new authorities contained in sections 513, 515, 516, and 517 of the Conference substitute are intended to provide each commission additional tools to carry out its mission of economic development.

ENERGY DEMONSTRATION PROJECTS AND PROGRAMS

House bill

No comparable provision.

Adds a new section 515 to the Act to authorize grants for energy related demonstration projects and programs. Not more than 5 million dollars of the apportioned funds to each Regional Commission may be expended in any fiscal year for the purpose of carrying out this section.

Conference substitute

Same as Senate amendment except that, in addition, it authorizes each Commission to carry out demonstration projects, not to exceed $2,500,000 per Commission per fiscal year, for the development and stimulation of the indigenous arts and crafts of the region.

HEALTH AND NUTRITION DEMONSTRATION PROJECTS

House bill

No comparable provision.

Senate amendment

Adds a new Section 516 to the Act which authorizes grants for multicounty demonstration health projects. Grants may be used for planning, construction, equipment, and operation or projects similar to those authorized by the Appalachian Regional Development Act. Construction and equipment grants may not exceed 80% of cost. Grants for the operation may be up to 100% of cost for the first two years and 75% of cost for the next three years of operation.

Conference substitute

Same as the Senate amendment.

EDUCATION DEMONSTRATION PROJECTS

House bill

No comparable provision.

Senate amendment

Adds a new section 517 to the Act to authorize grants for planning, construction, equipping and operating vocational and technical education projects which will serve to demonstrate area-wide educational planning services and programs. Construction and equipment projects may not exceed 80% of cost. Grants for operation may be up to 100% of cost for the first two years and 75% of cost for the next three years. A planning grant for the development of a demonstration project may not exceed 75% of such expenses. All projects must be for publicly owned facilities. Funds for projects under this section may be combined with the funds available under other Federal grant-in-aid programs.

Conference substitute

Same as the Senate amendment.

REVIEW OF REGIONAL DEVELOPMENT PLANS

House bill

No comparable provision.

Senate amendment

Each Regional Commission must submit to each Committee on Public Works within 120 days after enactment of this Act their regional development plan. The Committee must study and review the plans to determine their conformity to the purposes of the Act.

Conference substitute

Same as the Senate amendment except that the last sentence of the section requiring Committee study and review of plans was deleted. A review of such plans by the Committees will form the basis for additional legislative changes tailored to the needs of particular regions.

STRUCTURE AND OPERATION OF COMMISSIONS

Conference substitute

The conferees agreed to amend section 502 of the Act to make applicable similar changes in the commission structure and operation of the Title V Regional Commissions as we were made to the Appalachian Commission by amendments to the Appalachian Regional Development Act. The amendment makes the following changes dealing with commission membership, voting, and administrative powers: (1) Only the Governor may be a State member of the Commission; (2) Each State member may have a single alternate appointed by the Governor from among the members of his cabinet or his personal staff; (3) No decision involving Commission policy, approval of the Regional Development Plan or implementing investment programs, or any allocation of funds among the States, may be made without a quorum of State members present, (4) A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present; (5) No Commission powers or responsibilities, nor the vote of any Commission member, may be delegated to any person not a Commission member who is not entitled to vote in Commission meetings; and (6) The term of the State Cochairman shall be at least one year.

DESIGNATION OF REGIONAL COMMISSIONS

Conference substitute

The conferees agreed to amend section 501 of the Act to add California, Texas, the Commonwealth of Puerto Rico and the Virgin Islands as exceptions to the requirement that a region must be within contiguous States to be designed as an "economic development region".

Section 502 is amended to permit the Secretary to designate single State Commissions for the State of California or the State of Texas if they otherwise meet the requirements for an economic development region. Congressional intent is also expressed that the Secretary encourage formation of a regional commission along the Mexican border in the States of Texas, New Mexico, Arizona and California.

These border areas in both the United States and Mexico historically have suffered severe economic depression. By most statistical accountings, all indices of economic deprivation—unemployment—illiteracy—low median family income—fully qualify this region as being more economically depressed than other areas where regional commissions have been established.

PRESIDENTIAL REVIEW

House bill

No comparable provision.

Conference substitute

Requires the President to review the structure and authorities of Title V Regional Planning Commissions and then report to Congress his recommendations concerning the Commissions not later than six months after the enactment of this Act.

Conference substitute

Since both Committees will be considering further extensions and amendments to the Act within the next few months, the conferees agreed to delete this provision and reconsider it at a later time.

TITLE OF THE BILL

Conference substitute

The conference substitute adopts the amendment of the Senate to the title of the bill since it more accurately reflects the text as proposed in the conference substitute.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
ROBERT MORGAN,
HOWARD BAKER,
ROBERT T. STAFFORD,
JAMES A. MCCLURE,
Managers on the Part of the Senate.
ROBERT E. JONES,
JIM WRIGHT,
HAROLD T. JOHNSON,
ROBERT A. ROE,
WILLIAM H. HARSHA,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

Mr. BAKER. Mr. President, I recommend to my colleagues the conference report on the Regional Development Act of 1975. I hope it will be approved promptly and I strongly urge the President to sign the bill into law.

It has been my pleasure to work with my distinguished chairman (Mr. RANDOLPH)—who was the original sponsor of the Appalachian Regional Development Act in 1965. I also want to acknowledge the work of the chairman of the Subcommittee on Economic Development (Mr. MONTOYA)—who especially provided leadership for title II of the bill—the ranking member of the subcommittee (Mr. MCCLURE) and the other Senate members of the conference, the senior Senator from Vermont (Mr. STAFFORD), the senior Senator from Maine (Mr. MUSKIE), and the junior Senator from North Carolina (Mr. MORGAN). The conferees on the part of the House under the able leadership of the chairman of the Public Works and Transportation Committee, Congressman JONES; the ranking member, Congressman HARSHA; and the chairman of the conference, Congressman WRIGHT should also be acknowledged for their interest and cooperation.

I would like to mention briefly a few of the major changes adopted by the conference. The conferees accepted the House provision to extend the Appalachian Regional Development Act for 4 years—to September 30, 1979, as recommended in the administration's bill—in lieu of a 2-year extension provided by the Senate bill.

While a 4-year extension is provided, I believe it is important to point out the intention of the conferees, as specified in the statement of managers, that the Appalachian Regional Commission reports to the Congress by June 1977, regarding implementation of the program. The conferees believe it is important to provide an opportunity for oversight of the structural improvements contained in the bill and the substantial new authority in energy-related areas.

The conference report retains the House authorization figures for nonhighway authorities—including health, education, and housing—of $340 million for the 2-fiscal-year period ending September 30, 1977, and $300 million for fiscal years 1978 and 1979. From these sums, $3 million annually is earmarked for the energy-related demonstration program, and by an amendment added by the House conferees, no more than $2.5 million is earmarked for development of indigenous arts and crafts in the region.

Regarding the Appalachian Regional Development program, the House conferees agreed to accept the Senate authorizations, which extend the program for 1 year beyond the House bill. The total authorization of $840 million for fiscal years 1978 through 1981 includes an increase from $180 million to $250 million in fiscal year 1978, additional amounts of $300 million for each fiscal year 1979 and 1980, and $170 million for 1981.

The Senate bill contained a new subsection to the existing statement of purpose of the act, directing the Appalachian Regional Commission to pay attention to new problems in the region, especially in the energy-related area. This new purpose—which I introduced in the Senate committee—outlines the Commission's role in the energy development area and will enable it to provide a framework for coordinating Federal, State, and local efforts toward these ends. I am glad that this Senate provision was retained in conference. It is crucial, I believe, that the region's energy potential be developed wisely and to the benefit of the social, environmental and economic well-being of the region as well as to the benefit of the national interest.

I am also glad that the House conferees retained the Senate provision contained in subsection (b) of section 302 which authorizes a new, limited demonstration program in energy-related enterprise development.

Finally, I would like to point out that the Senate changes to the Appalachian Regional Commission's structure and organization were adopted fully by the House conferees. These provisions were discussed in the Senate committee very carefully and represent the considered judgment of the appropriate steps required in order to assure the continued success of the program. These structural and organizational changes are designed to strengthen and enhance the Federal-State partnership.

Mr. President, current authority for the Appalachian Regional Commission expired on June 30, 1975. The program is now operating under Public Law 94–41, the interim funding resolution for fiscal year 1976. I believe it is imperative that new authority be enacted. I urge the adoption of the conference report and further strongly urge the President to sign this most important bill into law.

Mr. President, I also call attention to title II of the bill that would expand the program authority of the regional action planning commissions authorized under title V of the Public Works and Economic Development Act of 1965. It would extend the authorizations of the commissions for an additional year, increase their monetary authorization, and provide new and broad program authorities in four areas: energy, transportation, vocation education, and health.

In addition, the conferees agreed to amend section 502 of the act to make applicable similar changes in the commission structure and operation of the title V regional commissions as were made to the Appalachian Commission by amendments to the Appalachian Regional Development Act. For example, the conference substitute would require that only the Governor may be a State member of the Commission.

The conferees agreed to amend section 502 to permit the Secretary to designate single State commissions. They also agreed to amend section 501 to add Puerto Rico and the Virgin Islands as exceptions to the requirement that a region must be within contiguous States to be designated as an "economic development region."

The conference substitute also added to the Economic Development Act the provision added to the Appalachian Regional Development Act which authorizes $2.5 million per fiscal year, for the development and stimulation of the indigenous arts and crafts of the region.

Mr. President, this new authority will give the title V commissions the tools in carrying out economic development in their lagging regions. I recommend adoption of the conference report.

Mr. FORD. Mr. President, will the Senator from West Virginia yield me 15 seconds?

Mr. RANDOLPH. Yes, I will yield to the able Senator from Kentucky.

Mr. FORD. Mr. President, I want to compliment the Senator from West Virginia and the Senator from Tennessee for their effort here.

I am still concerned that we have given too much authority to the bureaucrats and we have placed too much responsibility with the Governor for attendance at meetings.

I think the intent is right. I am concerned about it and I hope they will have some oversight.

Mr. RANDOLPH. Mr. President, I assure the Senator from Kentucky (Mr. FORD) that the committee will continue to conduct oversight on the Appalachian Regional Development Act and closely observe implementation of this legislation. Additional oversight hearings will be necessary within the next 2 years. The July 1, 1977, report of the Appalachian Commission required by section 122(b) of this legislation will be most useful to the committee in those hearings on the amendments contained in this measure. We will continue to hold informal meetings with Commission participants to determine that the programs and procedures are functioning as this legislation intends.

Mr. President, I am appreciative of the concern of the able Senator for the Appalachian program. Although he is not a member of the Committee on Public Works, he has diligently followed the development of this legislation. We have had the benefit of his counsel. The Senator is a citizen of Appalachia, and as a former Governor his knowledge and experience have been valuable to us in understanding the problems of the area.

SEVERAL SENATORS addressed the Chair. Vote! Vote!

Mr. RANDOLPH. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. Does the Senator from Tennessee yield back his time?

Mr. BAKER. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MANSFIELD. Will the Senator from Washington yield to me without losing his right to the floor?

Mr. JACKSON. I yield.

Mr. MANSFIELD. For the purpose of proposing another unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from New Mexico (Mr. MONTOYA) be recognized for not to exceed 1 minute to present a conference report which has been cleared all around, and again with the proviso that the distinguished Senator from Washington be allowed to maintain the floor; that after that is disposed of the distinguished Senator from Oregon be recognized for not to exceed 1 hour for the purpose of discussing a matter of extreme importance to him and the Republican Party, at which time the floor would revert, never having been lost, to the Senator from Washington.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MONTOYA. Does the Senator from Washington yield to me?

Mr. JACKSON. Yes, for that purpose and with the stipulation.

Mr. FORD. Mr. President, while the clerk is getting the legislation may I ask the Senator to yield for a unanimous-consent agreement without losing his right to the floor?

Mr. JACKSON. For how long?

Mr. FORD. Just for a unanimous-consent agreement for a couple of staff members.

Mr. JACKSON. We will get to that in just a moment.

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT OF 1975—CONFERENCE REPORT

Mr. MONTOYA. Mr. President, I submit a report of the committee of conference on H.R. 5247, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 15, 1975.)

Mr. MONTOYA. Mr. President, I would just like to say briefly, this is the culmination of a lot of hard work for 6 months on the part of the Public Works Committee of the Senate and the Public Works Committee of the House. The conferees took quite a few days. We ironed out all the divergent views expressed in the legislation by the respective houses.

This is an authorization of $6,125 million for public works programs in different categories under the Public Works and Development Act of 1975.

I am submitting an amplifying statement analyzing the different provisions of the bill.

In the interest of time, I would like to have a vote on this, unless somebody has any questions.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I wish to reserve a point of order against one of the sections in this conference report. Not having been advised of the fact that this matter was coming up at this time, I do not even have my copy of the bill before me.

The PRESIDING OFFICER. The 1 minute of the Senator has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent, under these same circumstances, that 1 more minute be allowed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, there is one section of this conference report that exceeded the authority of the conferees on the part of the Senate and on the part of the House, a section which was never considered nor voted upon by the House committee or by the Senate committee, and which was injected into the conference without being in the bill of either the House or the Senate.

In my opinion, it is subject to a point of order.

I would suggest, Mr. President, that rather than try to prolong it at this time, if we can just have a moment to identify it in the print——

The PRESIDING OFFICER. A point of order would have to be made against the conference report.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senators get together to see what they can work out concerning the conference report, and, in the meantime, the distinguished Senator from Oregon be recognized under the same situation, that the Senator from Washington will not, under any circumstances, lose his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Will the Senator yield for a unanimous-consent request?

Mr. JACKSON. I yield.

PRIVILEGE OF THE FLOOR—S. 622

Mr. FORD. I would like to ask unanimous consent that the following staff members be granted the privilege of the floor during the consideration of the pending legislation: John Cevette and Tom Langlin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. JACKSON. Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. JACKSON. Mr. President, I ask unanimous consent that the following Senate staff be allowed the privileges of the floor during the consideration of S. 622, the Energy Policy and Conservation Act of 1975; William J. VanNess, Thomas Platt, Ben Cooper, Gren Garside, Mike Harvey, Pat Berry, Patti Ladner, Marjorie Gordner, Lyn Sutcliff, Les Goldman, Mike Brownlee, Allen Hoffman, Dan Jaffe, Rip Forbes, Lucille Langlois, Arlon

Tussing, Dan Dreyfus, Mary Chuman, Romano Romani, Len Bickwit, and Dave Hofemeister.

Mr. PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Will the Senator yield?

Mr. HATFIELD. Mr. President, on this time——

Mr. MANSFIELD. Mr. President, the time will not be taken from the Senator from Oregon.

Mr. FANNIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HATFIELD. I yield.

Mr. FANNIN. Mr. President, I ask unanimous consent that during the consideration of S. 622, the legislation now under consideration, the following individuals be granted the privileges of the floor: Harrison Loesch, David P. Stang, Gaye Vaughan, Faye Widenmann, Nolan McKean, Tom Imeson, Mike Hathaway, Tom Biery, Jim Range, Dave Clanton, Lyle Roshton, Phil Grill, Bob Dotchin, Pam Turner, Len Bickwitt, and Daune Hafemeister.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon has the floor.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HATFIELD. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John Brooks, a member of my staff, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. JOHNSTON. Will the Chair add the name of Paul Haygood to that request?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, will the Senator yield to me for a motion so this matter is properly before the Senate, without losing his right to the floor?

Mr. HATFIELD. I am happy to yield to the Senator from Washington for that purpose.

ENERGY POLICY AND CONSERVATION ACT

The Senate continued with the consideration of the motion to concur in the amendment of the House to the amendment of the Senate to the amendments of the House to the bill (S. 622) to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement U.S. obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery.

Mr. JACKSON. Mr. President, I move that the Senate concur in the House amendment to the amendment of the Senate to the amendments of the House to Senate bill S. 622, the Energy Policy and Conservation Act.

Mr. FANNIN. Reserving the right to object, Mr. President——

Mr. MANSFIELD. Will the Senator yield to me?

Mr. HATFIELD. I yield.

The PRESIDING OFFICER (Mr. HUDDLESTON). Will the Senator from Washington repeat his motion?

ORDER FOR VOTE ON NOMINATION OF JUDGE JOHN PAUL STEVENS ON WEDNESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the nomination of Judge John Paul Stevens occur at the hour of approximately 1 p.m. tomorrow afternoon. I do so with this proviso: A vote on the conference report on the defense appropriations bill occurs at the hour of 12:30. I ask unanimous consent that at the conclusion of that vote the time be equally divided, between the end of that vote and the hour of 1 p.m., between the chairman of the Committee on the Judiciary and the ranking Republican.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

ORDER FOR YEAS AND NAYS ON NOMINATION OF JUDGE JOHN PAUL STEVENS

Mr. MANSFIELD. Mr. President, I ask that it be in order at this time to ask for the yeas and nays on the Stevens nomination.

The PRESIDING OFFICER. As in executive session, is there objection to ordering the yeas and nays at this time? The Chair hears no objection.

Mr. MANSFIELD. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

ENERGY POLICY AND CONSERVATION ACT

The Senate continued with the consideration of the motion to concur in the amendment of the House to the amendment of the Senate to the amendments of the House to the bill (S. 622) to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement U.S. obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery.

Mr. JACKSON. Will the Senator yield so we can clarify a matter?

Mr. HATFIELD. I yield.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. As I understand it, the motion calling up the conference report is the pending business.

The PRESIDING OFFICER. The Chair will advise there is no conference report to call up.

Mr. JACKSON. I mean the motion that I made to concur in the House amendment to the Senate amendment to the House amendments to the Senate bill S. 622.

The PRESIDING OFFICER. That is the pending question.

Mr. JACKSON. Mr. President, I ask unanimous consent that, in connection with the previous unanimous consent request, wherever my name appears, that it be "or my designee", in case I am not in the Chamber.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I ask unanimous consent that Steve Entin, of my staff, have the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I would like to ask how much of my 1 hour remains.

The PRESIDING OFFICER. By unanimous consent none of the Senator's 1 hour has been taken.

THE OKLAHOMA SENATORIAL CONTEST

Mr. HATFIELD. I thank the Chair, and I want to thank the distinguished majority leader (Mr. MANSFIELD) for his request for unanimous consent for this particular hour to be yielded in the Senate today for me to make this presentation.

I cannot help but observe, Mr. President, in the last few minutes, especially——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate be in order, and that Senate attachés take their seats. The Senator from Oregon is entitled to be heard.

The PRESIDING OFFICER (Mr. STONE). The Senate will be in order. Senators and staff members will kindly take their seats.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I cannot help but observe, particularly in the last few minutes, how vital the unanimous-consent procedure is to make this body function. I only want to call attention to that because I rise at this time to discuss a question which I think relates to the rights of a minority, rights which I feel are possibly in the process of being jeopardized and violated, not in any illegal or unconstitutional manner, but merely in an example of what can be called the tyranny of the majority.

I refer specifically to the action of the Committee on Rules and Administration of the Senate of the United States, which on yesterday took the following action by a straight party line of 5 to 3, and one abstaining:

This is a result of a question concerning the Oklahoma senatorial contest which has been pending before this committee now for approximately a year. But to distinguish it, as it is to be distinguished in many ways from the contest from New Hampshire, in this case the Senator, Senator HENRY BELLMON, was seated by the U.S. Senate contingent on the findings of the Rules Comimttee. So Senator BELLMON has been functioning as the duly-elected and certified Senator from Oklahoma for this period of time.

Mr. President, there are many fronts to this case, and I only wanted to introduce it today because I want to put the Senate on notice that we are going to have much discussion on this question. I want to say, because of my feeling that there has been indication that the majority party on the Rules Committee has shown little interest in the law of the State of Oklahoma and the findings of the trial court judge and of the Oklahoma Supreme Court, and because, in the action of the Rules Committee, they in effect, overturned the precedent so well-established by previous cases that have been heard before the Rules Committee, and in place of the sound foundation of law and the sound foundation of precedent the committee saw fit to substitute a base of conjecture as represented by a national study on voting habits conducted by a political science professor.

I do not feel that is a very good substitution for a solid rock foundation of court cases and precedents from the Senate itself. Therefore, it has all the earmarks of a political steamroller in the making.

I do not make these observations lightly, because I am sure that the Senate will have many opportunities to hear them in the future, and to have a great deal of consideration given to these questions. I am only disappointed that there was so little evidence that the Rules Committee wished to really give serious attention to the hearings as they related to the law of the case, and chose instead to take a political action which results in this resolution from the Rules Committee that will be reported to the Senate, I assume, sometime after the Christmas recess, which in effect calls for a new election in the State of Oklahoma.

First of all, I think it ought to be recalled that there are certain vital statistics that sometimes slip out of the memory of people as time goes on. I recall that on November 5, 1974, the certified and official statewide results in the Oklahoma U.S. Senate race were as follows:

HENRY BELLMON, the Republican candidate, 390,997 votes.

Ed Edmondson, the Democratic candidate, 387,162 votes.

Paul Trent, the Independent candidate, 13,650 votes.

HENRY BELLMON received a 3,835-vote plurality of the votes cast in this statewide election. No recount was requested nor conducted.

On November 7, 2 days following the election, Mr. Edmondson filed a lawsuit in Tulsa County district court, alleging certain violations of Oklahoma's election laws in the operation of the voting machines in Tulsa County—primarily the absence of a single straight-party voting lever. I might note that there were no allegations of fraud or of willful misconduct in the elections. Mr. Edmondson requested the court to order a new statewide election, or declare the Tulsa County results void and Edmondson the statewide winner on that basis.

Let me inject here the Tulsa County results in that election:

HENRY BELLMON, the Republican, 72,145.

Ed Edmondson, the Democrat, 49,775.

Paul Trent, the Independent, 1,798.

HENRY BELLMON received a 22,370-vote plurality in Tulsa County.

I think it is very interesting to note at this point that this voting pattern in Tulsa County is a rather predictable one, because if you go back through 1972, when Mr. Edmondson was the Democratic candidate for the U.S. Senate against Mr. DEWEY BARTLETT, the winner, we find that in Tulsa County Mr. Edmondson received 40.4 percent of the votes, Mr. BARTLETT received 59 percent of the votes, and the third candidate 0.6 percent of the votes.

In the 1974 election, in the Senate Tulsa County results, Mr. Edmondson, running again for the U.S. Senate, received 40.2 percent of the votes—0.2 percent less than he had in 1972—Mr. BELLMON received 58.3 percent, and the Independent candidate 1.5 percent of the votes.

Now, Mr. President, let us go back and look at another election year, because again it illustrates that Tulsa County has maintained a fairly level voting pattern, particularly in the U.S. Senate race.

In 1968, the Republican candidate was Mr. HENRY BELLMON, who ran against Mr. Monroney. At that time, Senator BELLMON received 56.3 percent of the votes; Senator Monroney, the Democrat, 41.3 percent of the votes; and the third candidate, 2.4 percent of the votes.

Senators will note, Mr. President, that the Democratic candidate and the Republican candidate for the U.S. Senate, running in three separate elections, varied within 1 percent of the vote that they received in any one of the three elections.

On November 13, 1974, 8 days following the election, after a 2-day hearing in district court, J. Knox Byrum, a retired judge who was a Democrat specifically appointed by the Oklahoma Supreme Court to hear the case, rendered his judgment in favor of HENRY BELLMON. Judge Byrum, in that hearing and in that ruling, said the following:

> There was no testimony or evidence that any party was denied the right to vote a mixed split or straight-party vote by reason of the machines used or the format or presentation thereon. There is no evidence that any voter was disfranchised or misled or deprived of their right to vote for the party or candidate of their choice. It is possible to determine with mathematical certainty that HENRY BELLMON received the greatest number of votes. There was no irregularities of such nature as to invalidate or render illegal the votes cast in Tulsa County.

Following the trial court decision, a motion for new trial was filed by Mr. Edmondson, fully heard and overruled by Judge Byrum. Mr. Edmondson appealed the decision to the Oklahoma Supreme Court. On December 19, 1974, the Oklahoma Supreme Court—composed, by the way, of nine members, eight of whom are Democrats and only one a Republican—by a unanimous 9 to 0 decision, upheld the lower court and ordered a certificate of election issued to HENRY BELLMON.

In reviewing the facts and in pointing out Oklahoma's election laws, the court declared the following:

> All the votes cast in Tulsa County were properly recorded, and the exact number of votes cast can be determined with mathematical certainty.
>
> The record will not support a finding that any voter was deprived of his right to vote in the U.S. Senate race or failed to vote in the race because he could not vote a straight party ticket—by a single lever.
>
> We hold the Tulsa County votes cast by use of the voting machines are not illegal or void.

This has been identified as the case 45 Oklahoma L.J. 2983.

Then, following the Supreme Court's unanimous decisions, Mr. Edmondson filed a petition for rehearing before the Oklahoma Supreme Court, and the petition was fully considered and denied by the court on January 2, 1975.

On January 3, 1975, the Oklahoma State Election Board, by the way made up of two Democrats and one Republican, issued a certificate of election to HENRY BELLMON.

On January 9, 1975, Mr. Edmondson filed a petition with the U.S. Senate making the same allegations found to be without merit by Oklahoma courts. Mr. BELLMON filed an answer to the petition along with a motion to dismiss.

On January 14, 1975, the Senate on recommendation of the Committee on Rules and Administration seated Mr. BELLMON without prejudice to Edmondson's complaint.

On August 1, 1975, the Committee on Rules and Administration authorized a field investigation of Mr. Edmondson's complaint and sent a team of investigators to Tulsa. The team, consisting of Mr. James H. Duffy, the minority counsel of the Subcommittee on Privilege and Elections, Mr. James F. Schoener, the minority counsel of the Subcommittee on Privileges and Elections, and Mr. Richard D. Casad, from the permanent Subcommittee on Investigations. The team conducted 3 days of hearings, and returning on October 13 for further investigation.

In testimony presented in open public hearings these points of the investigating committee were brought out:

No. 1, a single lever to permit straight party voting in Tulsa County has not been used in a statewide race since 1968.

Is it not interesting that we should have this race contested in 1974 and yet this is the way the Tulsa ballots and the machines have been operating since 1968 as it relates to the single lever?

No. 2, at least 4 days before the election, Mr. Edmondson's Tulsa County campaign manager contacted the county election board and requested the secretary of the board to advise all voters on how to vote a straight party ticket, since "We no longer use a single party lever." That was from the instructions of Mr. Edmondson's county campaign manager.

The board secretary, Mr. Danny McDonald, notified voters through the news media that voting machines would not be programed to permit straight party voting by use of a single lever.

No. 3, Mr. Danny McDonald, a full-time secretary of the three-member board, made up, as I said before, of two Democrats and one Republican, repeatedly asserted that he is an active Democrat and campaigned for Mr. Edmondson in both his 1972 and his 1974 Senate races.

Mr. McDonald testified that the voting machines were programed in what he thought to be a legal and proper manner.

I emphasize that Mr. McDonald conducted his campaign activity on behalf of Mr. Edmondson after working hours so they did not impinge upon his duties and responsibilities as a secretary to the board.

No. 4, although there was not a single lever on the congressional ballot, Senate and House race, party symbols were placed by each candidate's name. A straight party ticket could be voted by moving two selectors instead of one lever. In order to vote for HENRY BELLMON, the senatorial selector on the voting machine had to move past Mr. Edmondson's name.

I emphasize this point because not all the voting machines are alike in Oklahoma, nor do they necessarily represent the same kind of machine that may be used in other States. In order for a voter to cast a vote for HENRY BELLMON, he had to move his selector down the voting machine past Mr. Edmondson's name.

This, I think, is a very significant action that was required of the voters so that one can very easily see the voter had a very deliberate choice on his way to Mr. BELLMON by leaving the lever or stopping the selector at Mr. Edmondson's name if he had chosen to do so.

No. 5, no candidate, nor any other citizen, protested before the election, nor did any one of the 123,709 persons who voted in Tulsa County complain on election day about the absence of a single lever for straight party voting. This is, however, the major basis of Mr. Edmondson's complaint and his petition.

Mr. President, I emphasize the fact that these voting machines were used by Democrats, Republicans, Independents, and any other person who went to vote that day in Oklahoma. Whatever impingement was upon one person or one party person was certainly upon all people if they wanted to vote a straight party ticket. I think that Mr. Edmondson is really in some ways raising a question of the intelligence of the Democratic voters in Tulsa County—that somehow they do not understand how to vote only but a straight party ticket, and if they cannot vote a straight party ticket then they get confused. This is certainly, I think, a very unkind and perhaps, I would judge, not being an authority, but I would say an unmerited comment upon the voters' intelligence of Tulsa County. I would say that if one took an IQ test he probably would not find any difference between a Republican and a Democratic voter in Tulsa County. I do not think the Republicans are that much smarter in Tulsa County or the Democrats that much dumber that they cannot understand how to operate a straight party vote or a split party ballot, but the implication is very clear that somehow Mr. Edmondson would have won the election if the Democrats, going to vote on election day, could have turned only one lever and voted a straight party ticket.

Again let me emphasize the record will not show that this is necessarily true, because I did cite the statistics from three past senatorial elections in other elections that could be used to support the contention that Tulsa has had a long history of splitting their ballot.

Mr. President, I think there are many things that could be said, but I think that there are at least four reasons why Mr. Edmondson is not entitled to a new election.

No. 1, Mr. Edmondson should be estopped on the argument that ballot placement was an irregularity. He contends that this was one of the reasons why he was denied the victory that otherwise would have been his. It was that the ballot placement of his name constituted an irregularity.

Let me point out, No. 1, that the general election ballot placement was the same as it was in the primary, no different.

No. 2, that general election ballot placement was the same as it was in the runoff; no different.

Therefore, Mr. Edmondson knew well in advance of the general election what the ballot position was going to be and could have gone to court to compel the election officials to place the congressional ballot before the two State offices columns if in fact the congressional ballot was in the wrong position on the face of the machine. Let me also point out that the sample ballots were sent to each candidate's campaign headquarters well before the day of election, and that Mr. Harmon Moore, who was the chief clerk of the Elections Board who laid out the ballot position, was an active campaign worker for Mr. Edmondson after his working hours.

However, remember the Supreme Court of Oklahoma specifically did not hold that the ballot placement was irregular, but whether the Oklahoma Supreme Court assumed for the sake of argument that even if it had been an improper placement, it did not affect the outcome of the election. This, one might say, is a gratuitous observation by the court, because they not only rejected Mr. Edmondson's contention that the placement of his name on the ballot was an irregularity but also said, in effect, assuming, for the sake of argument, that it was an irregularity, it was not of sufficient consequence to affect the outcome of the election.

Let me stop here, Mr. President, because I think one has to recognize the fact that in every election there probably are irregularities. If there were a way in which we could go back and reconstruct and review and analyze the election of every Member of the Senate, I believe we would find that there were irregularities of some kind, and we usually refer to those as administerial irregularities.

Most elections are run by lay people who may only have the experience of every 2 years or every 4 years. The courts have long made the assumption that in every election there are certain irregularities; but the courts have said—

> Were the irregularities of such consequence that they would substantially affect the outcome of the election? Were the irregularities of a fraudulent or criminal nature? Were the irregularities of such character that they denied the people the right to vote?

If they were not, if such irregularities were not ascribed to the contestant who was determined to be the winner, then there should not be a new election and it should not be the basis upon which to call for a new election. That is not my opinion or the opinion of the Rules Committee. That is established by the courts of the Nation, and I shall refer to the court citation of those cases a little later. If not today, I will have ample opportunity from now until Christmas of next year.

However, I think we also should remember that we must compare the requirements of ballot placement on a voting machine to the paper ballots and that in Oklahoma there are not voting machines in every county. There is a mix in this State, where there are paper ballots in 76 counties and machines in only two counties.

Remember that the placement of the names of the candidates for the Senate on the voting machine and the paper ballots would have been compared in this way: In Oklahoma, when a voter goes to a paper ballot voting precinct, he does not receive his separate ballots in any certain order. So if this had been such a vital part of the election results in Tulsa County, how would you then explain the results in the rest of the State?

Point No. 2 of the four points I would like to present today as to why Mr. Edmondson's petition should have been denied by the Rules Committee and Mr. BELLMON seated, is that Mr. Edmondson should be stopped on the basis that the lack of straight party levers is an irregularity.

Let us look at this for a moment, because when Mr. Edmondson claims this in his petition, the evidence clearly demonstrates that he or his agents knew beforehand of the lack of levers on at least Thursday before the election. But let me go back and say that the levers were the same as they were in the 1972 election as well. These levers were not in any different operating order than they had been when Mr. Edmondson lost his election to Senator BARTLETT. Even in this year's election, the 1974 election, Mr. Edmondson's people—his agents, his campaign organization—knew this at least 5 days before the election. This is not an allegation or an opinion but, rather, a statement of fact, because Mr. Edmondson admitted this before the Rules Committee.

He even said to the Rules Committee that they held a council of war, as he called it, which included his attorneys. I point out that Mr. Edmondson is an attorney, practicing law in Oklahoma.

I should like to substantiate that statement further by the investigation of the Rules Committee, which included the interviews with various officials in Oklahoma, including Mr. Danny Lee McDonald. This is the statement:

> Congressman Edmondson's campaign manager in this county called me on Thursday prior to the election, and his opening statement to me was that "since we no longer use straight party voting levers in Tulsa County, would you be sure and remind people of that," which I did, both in the newspapers and on the radio, as I recall.

So here is the testimony again affirming the fact that Mr. Edmondson's agents and his representatives in Tulsa County were fully aware of the lever configuration on these machines before the election.

The third reason why Mr. Edmondson should be estopped from his argument on the vote totals in certain precincts is this. Here, again, Mr. Edmondson could have filed for a recount pursuant to Oklahoma law, which he did not choose to do. It should be fully understood that it would be impossible to conduct a recount at this time, either by the Senate or by Oklahoma officials, because Mr. Edmondson did not exercise the Oklahoma recount statute as he had the right to do.

Another reason is that there is no allegation calling for a recount in Mr. Edmondson's petition to the Senate. Also, Mr. Edmondson stipulated at the trial court, before Judge Byron, that the vote totals were accurate.

Perhaps I am again emphasizing the role of evidence in a case of this kind. I do not happen to be a lawyer, but I would like to think that even an intelligent, fair-minded nonlawyer would want to have some kind of evidence or criteria upon which to make a decision when he is called upon to act as a judge; and we, in effect, are acting in a quasi-judicial role when we are reviewing elections under the Constitution of the United States. Obviously, when one looks back at the record of the Rules Committee, the evidence factor was not terribly important. However, when one recognizes that evidence does play a role in these determinations, one must recognize that there is no evidence that the vote totals were not accurate, no evidence of any kind.

Mr. Harmon Moore explained away many of Mr. Edmondson's contentions. Mr. Moore, after all, has indicated his sympathies to Mr. Edmondson's political thoughts and philosophies of the past. In addition, if the Senate investigative panel would have asked Mr. Moore in Tulsa, he not only could have explained but also could have put the investigators in contact with precinct workers.

Thus, there are valid reasons for the time limitation for conducting recounts, and Mr. Edmondson should be bound by Oklahoma law and not be allowed to assert something now by inference which is not even conclusive and has not been explained fully.

One further reason why Mr. Edmondson is not entitled to a new election as now determined by the majority party of the Rules Committee, considering the first three points, notwithstanding any or all of them, is that for Mr. Edmondson to have a new election would be a futile thing. When one considers Mr. Edmondson's allegations of irregularities, the so-called effect of the irregularities by testimony of experts, and thus his desire to hold a new election, it will be seen, even if one takes Mr. Edmondson's arguments at face value, that the Senate would be doing a futile thing if a new election were held. I submit this proposition on the following basis of evidence and logic.

First of all, a new election will require filing of candidates for the office of U.S. Senator, which will further require a primary and possibly a runoff election before a general election is held. Thus, if a member of the American Independent Party files, there will be more than two political parties on the ballot and the Tulsa County machines would not have the straight party levers, notwithstanding the 1974 statutory amendment, effective January 1, 1975, for statewide elections. What I am saying here, in effect, is that it is impossible to reconstruct the situation as it occurred in 1974; among other reasons, because there is a new election law. That election law was passed in 1974 to take effect on January 1, 1975.

I point out that this new election law, which was an amendment to the Election Code of Oklahoma, was sponsored by Finis Smith, Democratic senator from Tulsa; John D. Luton, Democratic senator, Muskogee; Charles Elder, Democratic representative, Purcell; Ross Ducett, Democratic representative, Mustang, and David L. Boren, Democratic representative, Seminole, presently Democratic Governor of Oklahom .

The bill passed the house of representatives, April 16, 1974, passed the senate April 23, 1974, and was signed by the Democratic Governor, David Hall running for reelection, on May 4, 1974.

There is no question, and witnesses could have been called if the committee had any question to testify, that this bill was passed so that straight party levers would never have to be on the voting machines in Tulsa County in any election after January 1, 1975.

So the very crux of Mr. Edmondson's whole contention is totally wiped out, completely wiped out, by the action of the Democratic legislature of Oklahoma saying, in effect, "You don't have to have straight party levers on the Tulsa voting machines this fall."

So the very contention was that if he had had straight party levers on the voting machines, he could have won the election. Now he wants a new election. You do not have to have, under the new law, straight party voting levers. So obviously, Mr. Edmondson's whole case falls apart.

I think also the 1974 amendment, even if a third party candidate does not run, will not require straight party levers on the voting machines in Tulsa County, for this reason, and I quote specifically from the law. This is 26 OS 9–107. It says:

> Said voting machines must be programmed so as to permit straight party voting, as well as split or mixed tickets, unless existing machines are so constructed as to make straight party voting impossible without substantial modification of the machines.

Thus, let me emphasize again, Mr. Edmondson's experts claim that the major reason he did not win the 1974 election was due to the lack of straight party levers. Ballot placement should not be an issue for the Senate to consider because of the estoppel discussion that I have already made on point No. 1, and we cannot rerun the entire 1974 slate of offices.

If we take their speculations as absolutes, then the converse must also be true: That is, if this irregularity is as important as Mr. Edmondson claims, since there will not be levers on the machines in Tulsa County if a new election is held, then he cannot possibly win.

I think we have to recognize that to give further evidence on this matter, there are two kinds of voting machines in Tulsa County: what they call the Amarillo machines and the Tulsa machines. When one looks at these machines—and the Senate Committee on Rules had samples of both of these machines before our committee and any Member of the Senate who would like to see them can go down there to the committee, room 301 of the Russell Senate Office Building, and see those machines. The Amarillo machine does not require levers and there is some question as to the Tulsa machine requiring levers, because of "substantial modification of the machine," irrespective of whether there are more than two political parties, the same as in the 1974 elections generally. It is evident that the Oklahoma legislature was receptive to the historical problems of Tulsa County and its continued use of the Tulsa machines when this above provision was enacted, because the Amarillo machine purchase was not approved—I want to underscore this with great emphasis—by the Tulsa County commissioners until June 14, 1974.

That is significant, because the legislature passed the above amendment and the Governor signed it on May 4, before the county made the determination to buy the Amarillo type of machine.

Also, even if the purchase of the Amarillo machines was contemplated by the legislature it is clear that the legislature didn't intend for only some of the machines in Tulsa County to never require levers but rather that all machines to be programed substantially the same; that is, "Tulsa machines" would require substantial modification to adopt to levers and therefore levers will not be required in statewide elections held in Tulsa County regardless of whether there are more than two political parties or not.

Here again, Mr. President, we are back to a basic question of what are the criteria that the Senate should use for making this determination? I think they are the same criteria that the Committee on Rules should have used. I suppose this is, of course, the only place now that we have to appeal to the fairmindedness of people and appeal, on the basis of equity in this case, to the full Senate. Because, again, I think the Senate is interested in having some kind of base and criteria other than a partisan political basis.

I cannot really believe that Democrats can only think in terms of awarding contested elections to Democrats and Republicans can only think in terms of awarding contested elections to Republicans. I say to the Democrats that they have 62 people here. They can make that decision any day of the week; but one of these days—maybe some of us are still engaged in wishful thinking—the shoe might be on the other foot. I want to say that if I am here at that time, I doubt very much if any kind of party discipline could bring me into line on that basis, because I feel very strongly that the whole reputation and stature of the United States Senate is at stake here.

The distinguished majority leader, Mr. Mansfield, said that I had a matter of great importance to the Republicans to take up. I have a matter of great importance to the entire American electorate to take up, because I think the basic attitude of the electorate is that they want these decisions based upon the equity, fairness, and precedent of the law and not just upon a cloud of majority authority that has 62 votes and can say, "Start up the railroad, we are now going down the track." I do not think that is what the American people expect.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. HATFIELD. I will be very happy to yield for a question, but not for anything other than a question. Since I am under a limitation of time, I can only yield for a question.

Mr. LONG. Is the Senator of the opinion that the Democrats hewed unanimously to a party line vote when we had the New Hampshire contest before us?

Mr. HATFIELD. I shall say to the Senator that whenever there is a lack of opportunity for the minority to really have its case heard in the court of the U.S. Senate—the Senator from Louisiana, who is probably one of the greatest experts in this field of anyone, knows very well that there are rules of procedure that only a minority can raise as a weapon in its defense. I would say that was the case in the New Hampshire case.

I also wish to say to the Senator from Louisiana that I have now been speaking and addressing myself to the courts of law, to the courts of evidence, to the case as it has been tried and retried, and not to any kind of precedent on the New Hampshire case as it relates to the role of the Senate. The Senate is not engaged here in determining an election that was determined in a State by a two-vote margin, in which ballot machines were broken down, in which there were ballots lost, in which it was impossible to determine the outcome.

I am talking about a case that is now coming to the floor of the U.S. Senate in which the highest court of the State, made up of eight Democrats out of nine Supreme Court Justices, said there is no evidence, no evidence, that because there was not a straight party lever on the Tulsa County machines, that anybody had been denied the right to vote and that therefore, Mr. Bellmon should be denied the right to be seated. If that is a case, it is a case of law, a case of precedent. It is not a political decision.

Yet, let me say to the Senator from Louisiana that it is very seldom that the full Committee on Rules even sat for the hearings. A small part of that committee sat for the hearings. At that time, when the decision was made by the Committee on Rules, there was not one statement made, a verbal statement, by the majority party. They sat there in utter silence, like a Quaker meeting. Finally, the chairman said, "Well, this is the quietest this committee has been," waiting for the minority to take the initiative to see what kind of action should be taken.

Finally, on the first vote by the Rules Committee, may I say to the distinguished Senator from Louisiana, who is the chairman of the Finance Committee, the only question that was resolved on the first day was never made in the form of a motion. It was laid before the committee because there was a lack of anybody to make a motion of the disposal. The chairman laid the question and called for a vote on that question.

So, all I am saying is because of this factor I am appealing to the fairness of the judicial mind of the Senate to look at this case not on the basis of the resolution of the Rules Committee but on what the Rules Committee failed to do, and to go back and establish a criterion other than political superiority of numbers.

Mr. LONG. The point I had in mind is simply a matter of inquiring if, in the Senator's opinion, it is not true there was a considerable number of Democrats in the New Hampshire contest who declined to vote with the majority of their party and voted to protect the rights of the minority, and look upon the contest as made and, based upon the experience the Senator has had in this session of Congress, why would the Senator assume the Democrats are going to vote a straight party line vote on a matter that he is discussing? Why would he not assume that he would have an experience similar to what he had in the New Hampshire contest where a substantial number of Senators who were not willing to agree with the majority of their party about the matter, insisted on thinking independently for themselves in connection with that matter?

Mr. HATFIELD. I respond to the Senator's question by saying the reason I am raising this question and am concerned about the possibility of straight party voting is on this basis: in the New Hampshire case the Rules Committee brought to the floor of the Senate a number of tie votes cast by four Democrats on one side, three Republicans and one Democrat on the other side, so it was not straight party voting on the part of the Democrats.

In this instance, this resolution that is coming now before the Senate of the United States is a line of five Democrats on one side, three Republicans on the other side, and one abstention.

So here we have, unlike the New Hampshire case, a straight party line vote, which causes me great concern because in that there was no argumentation made at the time this resolution was passed by the majority party. They sat mute.

Mr. LONG. Is the Senator familiar with what happened in the Dennis Chavez contest some years ago when Eisenhower was President?

Mr. HATFIELD. Yes. In answer to the Senator's question I would like to read from that case because that is where the majority party was on this side, and I would like to read from that. I am glad he asked me that question, and I had that in mind.

I read from the Senate Election, Expulsion and Censure cases from 1789 to 1972 document 92–72, the case of Patrick J. Hurley versus Dennis Chavez of New Mexico. This was the statement of the case:

> *Statement of the Case:* In the 1952 Senate election in New Mexico, Senator Dennis Chavez, the incumbent, received 122,543 votes to 117,168 for Maj. Gen. Patrick J. Hurley. Hurley requested an investigation, contending that the election laws had been violated.

As in the case of Mr. Edmondson.

> Before its canvass of ballots was completed, the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration recommended that some votes be thrown out on grounds that the constitutional right to a secret ballot had been violated. Voting with Subcommittee Chairman Barrett to throw out the votes was Senator Charles E. Potter (R., Mich.). Senator Thomas C. Hennings, Jr. (D., Mo.), third subcommittee member, dissented, saying the Senate should not "disfranchise voters because of failure of election officials to fully comply" with "technical election statutes."
>
> May 27, 1953, the committee heard arguments of counsel for the contestants on the motion of Senator Chavez to dismiss contestant's petition and for a bill of particulars. The committee denied both motions.
>
> On the basis of its preliminary investigation, the Rules Committee decided to hold a full-scale investigation and asked for funds to finance the probe.
>
> June 8, 1953, Senate Resolution 106, to obtain funds for the subcommittee, was presented to the Senate for consideration. This resolution asked that the limit of expenditures of Senate Resolution 333, 82d Congress, for the Committee on Rules and Administration, be increased to $100,000. After the resolution was amended to $75,000 it was passed without objection.
>
> August 3, 1953, the subcommittee, by Senate Resolution 137, again requested additional funds and asked that the limit of expenditures referred to above be increased to $160,000. However, this resolution was amended to $37,500 before passage by a voice vote.
>
> In addition to investigating the violation of the right to a secret ballot, the committee concerned itself with alleged fraud and criminal conduct against the rights of voters——

Not so contested here in Oklahoma.

> assistance to illiterate and physically handicapped voters, the New Mexico registration system, the qualifications of voters on United States Government installations in the State of New Mexico, alien voting, violations by election officials, the recount, and the premature destruction of the ballots in Dona Ana, Lincoln, and Otero Counties.

You see the seriousness of these violations. Here is what the decision of the Senate was:

> *Decision of the Senate:* On January 3, 1953, Senator Taft requested that Senator Chavez

> should be permitted to take the oath and be seated without prejudice, and this was done. At no time was any charge or suggestion of election fraud or irregularity made against the Senator.

Any more than against Senator BELLMON.

> The Subcommittee on Privileges and Elections filed with the Committee on Rules and Administration on March 11, 1954, a report relative to the contested election of November 4, 1952, pointing out certain irregularities in New Mexico's election procedures and recommending a determination that no Member of the Senate was elected from the State of New Mexico in the 1952 general election.
>
> The Committee on Rules and Administration considered and adopted the report of its subcommittee on March 16, 1954, and, on March 16, Senator Jenner, from the committee, reported a resolution (S. Res. 220) to the effect and declaring that a vacancy existed in the representation of that State in the Senate.
>
> Senator Cordon proposed an amendment adding: "and that it is the sense of the Senate that said vacancy should be filled only by election held pursuant to the laws of the State of New Mexico."
>
> After debate the amendment and the resolution were rejected March 23, 1954, by votes of 36 yeas to 53 nays, with 7 not voting.

What I want to point out is that in these elections you have had in the past, wherever no irregularity has been charged to the contestant who has been duly certified by the State election procedures of his own State, he has been seated without prejudice, and in this case similarly you have no irregularities charged as against Senator BELLMON by Mr. Edmondson.

The point I am making is that at no time, to my knowledge, have you had any other than a careful review of the State's laws in effect, the procedures, the practices, the methods by which they conduct elections.

When I asked the chairman in this particular case, and I think the Senator from Louisiana will be interested in knowing this, when we listened to, had the court case introduced, and we used that as discussion, when we used the precedents set before the committee by the minority of preceding cases of the Senate, and when we had these various other pieces of evidence provided, I said, "Does the chairman reject the Oklahoma Supreme Court ruling out of hand and all the evidence and law in that State and, if he does—" and he said, "Yes, I reject its rulings."

I said, "Then what does the chairman ask us to substitute as the base, the criterion, to make a judgment?"

The chairman said, "The new evidence presented by the expert witness on Mr. Edmondson's staff."

Let me ask this Senator who was this so-called expert witness? He was a professor of political science who had conducted a national survey of voting habits and patterns of the Nation's voters, and out of this national survey he came to the conclusion that where people had an opportunity to vote a straight party ticket, their voting habits were different from those who had to vote a split party ticket.

May I say to the Senator from Louisiana, the interesting thing is that if we take any national study and try to apply it to my State, as far as the specifics are concerned, we would not find it fit entirely.

I am sure such is the case in Louisiana. I do not think we can take a national study and draw these great conclusions upon which we are going to reject a Supreme Court ruling and take in lieu of that a national projection of studies and evaluations and conjectures and speculations.

That is all the professor of political science offered the committee. That is all.

Then we have found—and the distinguished Senator is a lawyer—that the committee did not even have the evidence of the study before it. It took only a verbal synopsis from the so-called expert and for 3 weeks a request has been pending on receiving from that expert the full study to make an analysis of that evidence.

So even without that evidence in hand, as I raised that question before the committee, what was the response? Silence. Or, "Well, if you had wanted that, you could have asked me and I could have gotten it for you," because we had asked for it other than going through the chairman.

My point is simply this. When the committee is willing to substitute a conjectural type of study, a speculative study, that if there had been a State voting machine lever, we would have had a different outcome.

Let me say, Tulsa County has always split its votes in modern history. Mr. Edmondson did not get that much different vote in 1972 when he ran against Mr. BARTLETT, and when Mr. BELLMON ran against Mulroney in 1968. The Democrats and Republicans have split about the same percentage, within 1 percent difference in those three Senatorial elections.

But this time, the Rules Committee sits there with all its dignity and says in effect, we are not going to listen to the court cases of Oklahoma, including the Supreme Court, we are not going to look to the precedents of the U.S. Senate, but some theoretician from the classroom who tells about some great study he made about national voting habits.

Does the Senator from Louisiana think we should apply that as a base or criteria?

This is what causes my concern.

When the majority sat there silently and voted one, two, three, four, five; voted one, two, three, four, five; hup, two, three, four; lock step on an issue, that should be a serious, "semi"-quasi-judicial process which, to me, raised some very serious questions in my mind.

That is why I wanted to raise this before Christmas, so we would have the holy days to think about it and perhaps give a lot more serious consideration to it than the Senate Rules Committee gave it.

I do not implicitly or explicitly in any way infer that the group sitting over there on that side of the Senate are going to lock step down on the rollcall, when it finally comes to the vote. But in the Rules Committee, hup, two, three, four, down to number five.

I was deeply concerned because I just could not see how even a lawyer, or a nonlawyer, either—and our chairman is a lawyer—could say, "Yes, I reject a Supreme Court ruling and am going to take in its place a theoretical, speculative study of a political science professor."

This is why I raise these questions.

Mr. LONG. The point I want to make to the Senator is that while in these very types of contests, I suppose, invariably are a very large number of Senators who vote their party position, the outcome in my judgment usually goes with those independent-minded Senators who do not vote the party line.

I was thinking of the Chavez contest because at the high water mark of the challenge, my recollection is that all Republican Senators save two voted against Senator Chavez, even though in my judgment the Chavez case was clearly one that should have been decided in Senator Chavez' favor.

As I recall it, Margaret Chase Smith and John Sherman Cooper were the only two Republicans to break rank in what I thought was a very clear case that Senator Chavez should have been permitted to keep his seat.

There is a tendency to follow a party line in situations like that. But it has been my experience while I have served here that the outcome of those contests invariably goes where the independent votes go.

I do not think the Senator need worry about enough independent votes in this Senate to assure that there will be a fair decision on the matter, even though I can understand his concern when his party is in the minority and they have seen a measure of this sort go down in the committee.

Mr. HATFIELD. I thank the Senator for his observations.

I want to say that I welcome the Senator's comments, his objectivity, and independence, as he looks at this case.

I am sure the evidence will be so overwhelming that this will not be a straight party line. Obviously, if it is a straight party line, I think that perhaps our side will have failed to present the evidence sufficiently, or the mentality of the other side is so completely conformed and regimented that it is impossible to get through to them, and I do not choose to think that of any Members of the other side.

But I did want to raise this because of the fact that when I saw this kind of procedure occur, to me, it had all the earmarks, it had every indication that we had the steamroller all oiled up, we had it all fueled up and all ready to go. If there had been a long discussion or if there had been a long give and take debate, that would be one thing, but when it was raised as the issue and it went through with the kind of procedure that was followed in that committee, I felt the obligation to bring this to the full attention of the Senate to prepare them for what amounts to conduct, as one person on this side representing the minority, a full disclosure, a full exposition, a full review of every aspect of this election because I do not think elections of this kind should be determined by how many votes the party has on the side of a petition.

If we do that, as the Senator knows, we invite every election in the future to be determined by this body rather than letting the States determine it, especially where the States have had their voting machines, and those people that have expressed their views and pursued their case clear through.

We have a constitutional right and responsibility and we cannot discard all those State proceedings. We have no constrictions upon the Senate to make any decision it wants.

All I am saying is that I do not think it should be a political base upon which we make that decision, but it should be some evidence, some base of law and precedent and background of that case, and cases similar to them that the Senate considered in the past and what the courts have ruled.

I thank the Chair.

ENERGY POLICY AND CONSERVATION ACT

The Senate continued with the consideration of the motion to concur in the amendment of the House to the amendment of the Senate to the amendments of the House to the bill (S. 622) to provide standby authority to assure that the essential energy needs of the Untied States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement U.S. obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery.

The **ACTING PRESIDENT** pro tempore. Recognition is due to the Senator from Washington or his designee on the energy bill, the managers of the bill.

The Senator from Illinois.

Mr. **STEVENSON**. Mr. President, for the last 9 months four committees of the House and Senate have labored to produce a comprehensive energy program, and they have succeeded.

The energy policy of the Conservation Act establishes a 1 billion barrel national strategic oil reserve and standby rationing on emergency conservation authorities.

It sets automobile fuel economy standards and mandates energy efficiency labeling for major home appliances. It gives the President the authority to bargain with nations on government-to-government basis for the purchase of foreign oil. It provides FEA with authority to order conversion of major fuel installations to coal; it authorizes assistance for new coal mines and provides for GAO audits of oil company energy conservation programs.

It promotes the use of recycled oil, and puts in place a flexible, 40-month incentive-based price control formula for domestic oil that is fair to producers and consumers alike.

This bill will not make everyone happy. But it is a sound compromise on a complicated subjected; it deserves the approval of both the Congress and the President.

Considering the complexity of the issue and the pressures of the special pleaders, this product of many months of effort in the Congress and administration is no mean achievement. If approved by the Senate and signed by the President, we can get on with the business of rounding out an energy policy for the Nation.

If disapproved, the result will be more inflation, recession and unemployment with no significant increase in energy supplies—and energy consumption decreased only as a result of declining economic activity.

Approval could mean a $12 billion increase in GNP, a 1-percent drop in the Consumer Price Index, and jobs for 500,000 more workers by 1977—as opposed to conditions with continued controls under the Emergency Allocation Act. Disaproval of the act, and consequent immediate decontrol, would mean a $20 billion loss in GNP, a 1.5 percent increase in the Consumer Price Index and an increase in unemployment of almost 1 million workers by 1977. That is the choice we face.

The oil industry would have us believe that inadequacies in the pricing provision are enough to dismiss the bill. But the industry claims are self-serving and contradicted by studies the industry itself has furnished Congress and the administration.

The House and Senate conferees adopted a national weighted average price of $7.66 per barrel. That price gives the administration authority to establish sufficient incentives for optimal domestic production.

There is no reason for the price of all domestic oil to rise to the price necessary to produce small volumes of high-cost oil.

The conference had to strike a balance between requirements for increased production and decreased consumption on the one hand and the requirements of the economy on the other. The initial $7.66 per barrel average price for domestic oil would mean a "new" oil price of $11.28 per barrel. If the administration rescinds the $2 per barrel tariff on oil imports, as it proposes, the "new" oil price would fall to about $11.70 without any controls. So the act does not roll back the price of "new" oil significantly. Two years ago, the price of domestic oil was about $3.40. This "new" oil price of $11.28 is adequate, to say the least.

Balancing the need to restore economic growth and employment against the need for energy investment and price certainty, the conferees developed a pricing formula which may result in a modest near-term rollback in the average price of oil. It also establishes a 40-month period of price stability. And the average price of $7.66 would be increased by 10 percent per year and, in practice, by higher costs for exempt Alaska oil, more than enough to cover inflation and higher prices for special categories of high cost oil production.

The concern that any rollback will encourage wasteful consumption is not convincing. The rollback, if any, will be modest and temporary. The increase of 20 cents in the price of gasoline over the last 2 years has had a negligible impact on gasoline consumption. The conversion provisions of this act offer a more effective means of conserving energy than another wave of OPEC controlled oil prices.

The President's energy advisers have recommended that he approve the act. The Congress and the administration have labored for almost a year to produce this bill.

Mr. President, I urge the Senate to complete this process, to do its duty, and to enact this bill without still more delay. There has been too much delay already.

Mr. **JACKSON**. Mr. President, I commend the distinguished Senator from Illinois for his excellent remarks. I especially thank him for the major role that he played in putting the conference report together.

As many of my colleagues know, we were in conference for 5 weeks and we had three committees involved: the Commerce Committee, the Public Works Committee, and the Interior Committee. The ability of all three committees to work together, I believe, was a major factor in reaching an agreement.

I would hope that the Senate would recognize the tremendous effort that has gone into the particular matter that is now pending before the Senate and act favorably.

Mr. President, the Senate today faces one of the most significant decisions of the year in its consideration of S. 622, the Energy Policy and Conservation Act, as amended by the House yesterday. The House amendment consists of the text of the conference report on S. 622 with two changes. The first change deletes a definition in section 102. The second change strikes part B, application of advanced automotive technology, from section 301 of title III of the conference report.

Since January the President and the Congress have been deadlocked over national energy policy. This deadlock—characterized by the President's unbending commitment to an energy program based almost exclusively on taxes, tariffs and higher prices—has resulted in a dangerous game of "economic brinksmanship." For the third time in 4 months, as of midnight last night, all petroleum price control and allocation authority has expired. For the third time in 4 months the Nation's economy is threatened by a sharp and sudden surge in energy prices and all goods and services in which energy is a component.

Mr. President, the debate on energy policy can continue; the deadlock cannot.

Unless the Congress approves, and the President signs, the Energy Policy and Conservation Act, we will see the Nation's difficult energy and economic problems grow steadily worse: a return to double-digit inflation, continued vulnerability to the oil weapon from abroad, and continued squandering of valuable energy resources at home.

Repeatedly in the past year the Congress has rejected the administration's program of "conservation by price and conservation by inflation." Despite enormous pressure to acquiesce to an energy policy which would have unfairly penalized the average American family and unjustly enriched the major oil companies, Congress held its own. Both Houses went about the task of developing comprehensive energy programs that did not ignore the economic realities of high unemployment and inflation. This task is now completed.

The Energy Policy and Conservation Act sets automobile fuel economy standards and mandates energy efficiency labeling for all major home appliances. It provides the Federal Energy Administration with authority to order conversion of powerplants to coal, authorizes loan guarantees for the opening of new coal mines, establishes federally-funded State energy conservation programs, sets industrial energy efficiency targets, and provides for the creation of a 1-billion barrel national strategic petroleum reserve to protect the country from future embargoes.

These and other energy policies embodied in S. 622 will serve the Nation far better than the policies endorsed by President Ford last January, which called for immediate decontrol and a combination of taxes and tariffs to raise energy prices to unprecedented and economically hazardous levels. But these measures to curb demand and increase supply have received little attention, when compared to the pricing provisions of S. 622.

Mr. President, I am not surprised that Mr. Ford and the oil industry find these pricing provisions less than perfect. I am not surprised because S. 622 explicitly rejects the contention that only exorbitant world oil prices—artificially maintained by a foreign cartel and inflated further by a tariff of doubtful legality—will solve the Nation's energy problems. We should remember that the price of a new—uncontrolled—barrel of oil has jumped from about $3.40 to well over $13 in a little more than 2 years. The rollback provided for in S. 622 must be viewed against this background.

The reduction in crude oil prices required by S. 622 consists of two major elements. First, there is the requirement that the actual national weighted average price for domestic crude oil not exceed $7.66 a barrel. Second, the President is committed to remove the $2 oil import tariff when he signs the bill.

Mr. President, the reduction in crude oil prices required by S. 622—estimated by the FEA and committee staff to exceed 3 cents per gallon—2.5 cents per gallon when spread over all products—will help spur our still sluggish economic recovery. It is not as deep a rollback as I would have liked to see, but it is significant. This is the most that can be done for the American consumer so long as President Ford occupies the Oval Office.

The alternative to the pricing policy proposed under the Energy Policy and Conservation Act is clear.

It is immediate decontrol.

This would mean higher consumer prices and oil company profits.

This would mean reduced consumer purchasing power and economic activity.

This would mean more inflation and still more unemployment.

Decontrol is not, in fact, a responsible alternative.

The choice confronting us today is fundamentally different from that which we faced earlier in the year. The Congress is no longer fighting a rear-guard action to prevent implementation of the administration's rationing by price program. The Congress has developed, and S. 622 embodies, a comprehensive energy program. As important as continuing petroleum price controls is, the issue is no longer confined to the question of price controls. We are deciding whether or not the country can be permitted to drift without a national energy policy—without protection from oil embargoes, without building energy conservation into the fabric of our society and economy, and without utilizing domestic energy resources in a responsible manner.

Mr. President, a great deal of valuable time has been lost since January—time during which reasonable approaches to our energy problems could have been developed by an administration sincerely interested in cooperation with the Congress. A true atmosphere of cooperation may be developing. The conference committee worked closely with representatives of the President in developing the Energy Policy and Conservation Act. Indeed, Mr. Ford's energy advisers have urged him to sign S. 622.

I believe the apparent evolution of the administration's position since January is a result of an increasing awareness in the White House of the realities of the energy situation.

These realities are:

First, steep, artificial increases in energy prices and in oil company profits do not constitute a solution to U.S. energy problems.

Second, while we must alter the structure of the domestic economy to greatly increase the efficiency with which energy is used, this is an enormously difficult task which will require ingenuity, diligence and, most of all, time. It is foolish to maintain that energy efficiency will substantially increase solely because of tariffs and high energy prices. More importantly, sharp increases in these costs are very dangerous for the economy in the short run.

Third, it is now—and will continue to be—necessary for the Federal Government to play an active role in the domestic economy to insure that the inequities and imbalances created by the actions of the OPEC cartel are dealt with in as efficient and equitable a manner as possible.

Finally, continued involvement of the public sector will be necessary to see that the kind of energy conservation and energy resource development which is necessary to increase our energy self-sufficiency actually takes place. Reliance on the major oil companies to do it all is simply not a responsible exercise of the authority of the Federal Government.

I am hopeful that the President will sign the Energy Policy and Conservation Act. I strongly urge him to do so.

The Congress has provided the President with an opportunity to end the deadlock. For the good of the country, I hope this opportunity is not lost.

Mr. RANDOLPH. Mr. President, precisely because the welfare of the American people is closely tied to national petroleum policies, the need for thoughtful actions is imperative.

I have emphasized on numerous occasions, since the inception of Project Independence, that the United States has become more, not less, dependent on imported oil. We are now the largest importer of OPEC supplies.

I stress the fact that in 1974 Russia became the world's leading oil-producing nation at 3.4 billion barrels of crude oil annually. The United States is in second place in domestic oil production at 3.2 billion barrels.

OIL PRICE CONTROLS

When the Emergency Petroleum Allocation Act was enacted in November 1973, our country was faced with a severe shortage of crude oil and petroleum products caused by an oil embargo. The United States was threatened by a substantial dislocation in the availability of petroleum as well as severe economic pressures. The principal purpose of that act was to assure that we met our country's priority needs for petroleum. However, the measure also undertook to allocate, on an equitable basis, available petroleum supplies among consumers at equitable prices.

This was intended to preserve the competitive viability of the independent sectors of the oil industry.

Under the act the Federal Energy Administration was able to respond to shortages with minimum adverse impact on our economy. In addition, the market position of the independent segments of the industry was preserved. The result, however, was establishment of an intricate, but known, Federal structure of allocations and entitlements which eventually must be phased out.

OIL PRICE DECONTROL

Mr. President, every day the present deadlock on oil price decontrol is allowed to continue, the American consumer suffers. Domestic oil production continues to go down and down, to be replaced by higher cost imports. Meanwhile, balance of payments deficits increase, as do consumer prices.

Unfortunately, however, the elimination of oil price controls will not return us to a free market. Rather, we will turn the establishment of the U.S. oil prices over to an international producers cartel—the Organization of Petroleum Exporting Countries.

As domestic oil production continues to decline, oil imports continue to rise and the case for oil price decontrol becomes steadily stronger. We are unrealistic if we assume that we can indefinitely maintain the United States as an island of low-cost energy in a world of escalating oil prices. When decontrol comes it will be painful, however, if we achieve the dual goal of reduced energy consumption and increased domestic production it will be well worth the costs.

The approach taken by the conferees on S. 622 represents their best judgment for a phased program of oil price decontrol. In my judgment there is room for further refinement to reflect broader national interests than short-term price concerns. Nevertheless, there is a consensus of the conferees. Provision also is made for the President to determine that additional price increases are warranted to foster new energy supplies.

For almost a year the Congress and the Ford administration have been negotiating a plan for oil price decontrol. Several attempts have been unsuccessful. This proposal represents the most recent negotiations and should be approved as reasonable, although there is a need for a future amendment to reflect greater concern for the promotion of energy self-sufficiency.

The principal objective of oil price decontrol should be to spur greater development of domestic oil supplies. In addition, we must be concerned for establishment of a ceiling price, other than the OPEC international price, which also recognizes the aggregate investment requirements of industry for the exploration and development of new domestic energy supplies. We also must minimize the possibility for price increases greater than necessary to meet national reinvestment requirements. And we must provide as simple a Federal regulated price structure as feasible.

Unfortunately, the principal objections to the decontrol of oil prices have focused on concern that such a move would aggravate inflation and dampen economic recovery from the recession. Conversely, concern has not been directed toward the establishment of oil prices which foster greater energy self-sufficiency.

The agreement proposes to initially roll back domestic oil prices by about $1.38 per barrel, or 3.3 cents per gallon, before allowing phased decontrol of domestic oil prices to continue, beginning at an average domestic oil price of $7.66 per barrel. During the period of the 40-month decontrol plan, while domestic prices are held down, international oil prices are not affected.

Should domestic production decline and be replaced by higher cost oil imports, consumer prices will actually increase despite controls on domestic production. The price rollback provision may well tend to discourage both conservation and new domestic supplies. To the extent that this action promotes increased oil imports it may well promote the interests of OPEC as well as actually result in increased consumer prices. As imports are increased OPEC's present problem of surplus production capacity will be relieved; this could well strengthen OPEC's position to demand future price increases, rather than weaken the solidarity of OPEC. For the benefit of an immediate rollback in oil prices, the American consumer may become increasingly dependent on foreign oil supplies.

Years of Federal control over natural gas have demonstrated that by holding down prices below market levels we foster excessive demand and shortages, as well as inefficient use of these energy resources which are nonrenewable. It is imperative that we do not allow this to now occur for petroleum so vital to our economy.

Our national interest requires that we continue to take positive steps to reduce dependence on imported energy supplies through the conservation and development of alternative domestic supplies. To the extent that this objective is accomplished under the conference agreement, it is consistent with our national interest.

Over the next 40 months it is proposed to decontrol domestic oil prices.

However, domestic oil prices must rise faster than international oil prices if this is to be achieved. Otherwise the gap between domestic and international oil prices may increase. This very likely could result in the imposition of permanent domestic oil price controls.

DOMESTIC SUPPLY AVAILABILITY

Mr. President, the Energy Policy and Conservation Act deals with several matters affecting domestic energy supply availability in general. Some provisions of S. 622 address leasing practices on the Outer Continental Shelf and other Federal lands, as well as the availability of energy supplies and equipment for the production of domestic energy supplies. For example, authority is provided to assure that roof bolts are available for use in the underground production of coal—a significant constraint on coal production during the oil embargo in the winter of 1973.

Provision is also made for the establishment of a system of national strategic energy reserves, in the event of future energy supply interruptions. Mandatory for petroleum, similar reserves are to be evaluated by the Federal Energy Administrator for other energy supplies such as coal for utility and industrial uses. This measue provides other authorities necessary to implement the International Energy Agreement. This agreement was signed between the United States and other industrialized nations who are faced with potential energy supply interruptions. These authorities also extend to the formulation of energy conservation and rationing contingency plans.

In addition, special provisions are made for coal conversion, for loan guarantees for new underground coal production, for industrial energy conservation, and for Federal initiatives on energy conservation.

COAL CONVERSION

Mr. President, this bill provides a 2-year extension of the coal conversion program provided for in the Energy Supply and Environmental Coordination Act of 1974. This extension has been approved by the Senate and the House several times this year.

The Emergency Petroleum Allocation Extension Act of 1975, S. 1849, contained a 6-month extension of ESECA which I authored. However, this legislation was vetoed by President Ford. A similar extension was approved by the Senate as S. 2337, the Coal Conversion Energy Supply and Environmental Coordination Act Amendments of 1975. In addition, I authored a floor amendment to S. 622, the Standby Energy Authorities Act, the measure now under consideration.

At the time ESECA was passed Mr. President, it was an emergency program. Mandatory coal conversion was untried; its economic and environmental consequences were unknown. The Congress limited FEA's authority to existing plants or installations that had the necessary equipment to burn coal on June 22, 1974. The 1974 act authorized the FEA Administrator to prohibit certain powerplants and "major fuel burning installations" from burning oil or gas as their primary energy sources, and to order certain powerplants in the "early planning process" to be built with coal burning capability.

Since enactment of ESECA, the Federal Energy Administration had identified numerous powerplants and major industrial installations which are currently burning oil and gas but have the capability to burn coal.

On June 30, 1975, the last day before their authority expired, FEA ordered 32 electric powerplants to cease the use of oil and gas and convert to coal. Before these orders can take effect, the EPA must certify that each plant can burn coal and meet air quality requirements. However, the EPA has yet to complete its review and certifications for any of these facilities.

The FEA also identified and issued orders to 47 electric powerplants in the early planning process being designed for oil firing and capable of being modified to include the capability of burning coal without impairing either the reliability or adequacy of service.

Under ESECA and section 119 of the Clean Air Act, we attempted to, in a well-reasoned way, make coal a usable fossil fuel.

On September 23, 1975, I sent a letter to EPA Administrator Russell Train. I requested a report on the status of the finalization of the FEA's construction and prohibition orders under the Energy Supply and Environmental Coordination Act.

Mr. Train indicated that the EPA has a role in the finalization of these FEA coal conversion orders. Under ESECA the EPA is directed to notify the FEA within 90 days of the issuance of an FEA order prohibiting the use of oil or natural gas if the facility can immediately burn coal and comply with applicable air pollution requirements. If not, the EPA must certify to the FEA the earliest date the prohibition order can become effective.

After almost 6 months, Mr. President, the EPA has not acted. I do not mean to be critical, but the EPA has indicated it has this role under ESECA.

Yes we have had problems along the way. We must have this partnership and combined efforts, so we can have a successful implementation of ESECA. If this cooperative energy and environmental effort could be made to work, we would have the means to achieve important fuels savings.

Mr. Train, in his reply to me, said that he was confident that EPAs' responsibilities under ESECA are being discharged in a reasonable and expeditious way.

We do begin to wonder, after 6 months, whether the intention to work with the FEA and us is reflected in the implementation of this program.

Both the EPA and the FEA have asked for an extension of the ESECA authority. Mr. Train indicates that this would allow the present program to proceed with greater success. It would provide both agencies with an opportunity to expand the program to cover additional facilities that convert to coal consistent with national policies to protect and enhance the quality of the environment. I agree with this dual objective.

This ESECA program is extended by the Energy Policy and Energy Conservation Act, S. 622, as approved by the House and Senate conferees. There is an extension for 2 years, until June 30, 1977, of the FEA's present authority to issue coal conversion orders for facilities with the capability to use coal: First, by prohibiting the use of natural gas or petroleum products; second, by requiring new installations to be constructed with a coal-burning capacity; and, third, by requiring the allocation of available coal supplies.

Mr. President, expanded authority is provided to the FEA to enforce coal conversion rules and orders through December 31, 1984, rather than the present December 31, 1978. In addition, the omnibus energy bill provides new authority for the FEA to order the use of coal by installations which acquire a coal-burning capability after the date of enactment of ESECA. There would also be a significant expansion of the scope of FEA's authority so that orders can be issued to major fuel-burning installations, as well as electric powerplants, in the early planning process requiring them to be constructed with a coal-burning capability.

COAL LOAN GUARANTEES

To foster new coal supplies and to enhance competition, the conference agreement authorizes loan guarantees for new underground coal mines. Such new production must be either low-sulfur coal or coal which can be used in compliance with Federal or State requirements pursuant to the Clean Air Act, as amended.

The total outstanding indebtedness by the Federal Energy Administration for this program is limited to $750 million; however, any one person, including affiliates, would be restricted to a maximum loan guarantee of $30 million, or 80 percent of the principal balance of the loan to develop the new underground production.

Since a purpose of the provision is to stimulate competition and encourage new market entry, the loan guarantees are restricted to producers: First, who did not in the year preceding application produce more than 1 million tons of coal; second, who did not produce more than 300 thousand barrels of crude oil or own a refinery in the previous calendar year; and, third, who did not have gross annual revenues in excess of $50 million.

To protect the Federal investment, any person receiving a loan guarantee must demonstrate the capability to develop and operate the new mine, in compliance with the Federal Coal Mine Health and Safety Act. In addition, evidence of enough coal reserves and long-term supply contracts to assure repayment of the loan must be furnished the FEA Administrator.

Mr. President, this loan guarantee provision passed the House. I sponsored it in the Senate, and it can serve to stimulate significant new underground coal supplies. Between 20 and 30 million tons of new annual production of coal can be brought on line as an alternative to oil imports. This is of vital value as we work for energy sufficiency in our country.

INDUSTRIAL ENERGY CONSERVATION

Mr. President, there are provisions on energy conservation in the conference agreement. These rightly reflect the significant savings that are potentially achievable in the industrial sector. I emphasize that industry in the United States consumes at least 40 percent more energy in relation to output as does West Germany. Moreover, from the standpoint of national income the U.S. total energy use is approximately 50 percent greater than in West Germany. This large disparity in energy use between the two countries, in a recent report by the Stanford Research Institute, suggests that continued economic growth and improvement in the standard of living in our country should be possible without a proportionate increase in energy consumption.

The SRI's "Comparison of Energy Consumption Between West Germany and the United States," examines six energy intensive industries: Food, paper, chemicals, petroleum, and coal products, primary metals, and stone, clay, glass, and concrete products.

Data by the Stanford Research Institute indicate that energy use in the United States in relation to industrial output is higher, whether measured on the basis of monetary value or weight of the product. This result is reflected in two tables which I ask unanimous consent be printed in the RECORD at this point in my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COMPARISON OF INDUSTRIAL ENERGY CONSUMPTION IN RELATION TO VALUE OF SHIPMENTS FOR THE UNITED STATES AND WEST GERMANY, 1972

Industrial sector	10^3 Btu per dollar of shipments		West Germany as percent of United States
	United States	West Germany	
Food	11.9	8.3	70
Paper	104.0	38.6	37
Chemicals	71.8	40.8	57
Petroleum and coal products	112.0	56.0	50
Stone, clay, glass, and concrete products	75.3	54.8	73
Primary metals	97.0	77.6	80
Total for 6 energy-intensive industries	61.2	42.4	69
Other manufacturing	9.4	7.1	76
Industry total	34.8	25.1	72

ENERGY USE PER TON OF PETROLEUM PRODUCTS, STEEL, AND PAPER FOR THE UNITED STATES AND WEST GERMANY, 1972

	10^6 Btu per ton		West Germany as percent of United States
	United States	West Germany	
Petroleum products	4.9	3.3	67
Steel	27.3	18.6	68
Paper	46.6	26.6	57

Mr. RANDOLPH. Mr. President, part D of title V of the conference agreement provides for a voluntary industrial energy conservation program. After considerable deliberation by the conferees, the Senate passed measure was modified to eliminate mandatory industrial energy consumption standards. Recognizing the energy conservation efforts that industry has instituted, on its own initiative, the conference agreement emphasizes a voluntary program with reports being required from energy intensive industries. The conference report also states:

> The program, including the reporting requirements, is not intended to preclude continuation of current FEA industrial energy conservation programs, nor does it preclude any other voluntary energy conservation programs involving industries which are not required to participate in this program.

The conferees recognized that considerable progress has been made by industry under a voluntary approach to energy conservation; it was felt that its continuation and expansion is essential.

I stress that energy conservation is a national goal of the highest priority. It requires a continuing effort by both the public and private sectors. The industrial sector of our economy consumes 40 percent of the Nation's energy, and the conference committee rightly determined that an organized program to increase industrial efficiency is essential. The conference agreement is designed to encourage and foster improvements in present industrial energy conservation efforts, which are voluntary in character. In the long term, the proposed program, along with market forces, will lead to even greater energy conservation on the part of our industrial sector.

FEDERAL ENERGY CONSERVATION PROGRAMS

Mr. President, section 381 requires the President to develop and implement a 10-year energy conservation plan for buildings owned or leased by any Federal agency.

The Senate Public Works Committee, Mr. President, has convened hearings on the subject. The Buildings and Grounds Subcommitttee, under the able chairmanship of the Senator from North Carolina (Mr. MORGAN), recently initiated an investigation into the activities of the executive agencies in developing energy conservation techniques for application to Federal buildings.

At the forefront of Federal efforts to utilize and develop such techniques is the General Services Administration. As early as fiscal year 1974, the GSA through an aggressive conservation program realized a savings of 20 percent in the consumption of energy in Federal buildings over the previous year. Complete figures are not available for fiscal year

1975, but it is estimated that there was a 30-percent savings.

The General Services Administration, to facilitate further reductions in energy consumption, and in cooperation with other Government agencies and the private sector, developed two energy conservation guidelines. The first, "Energy Conservation Design Guidelines for New Office Buildings," establishes performance specifications for the construction of new Federal office buildings. The second, "Energy Conservation Guidelines for Existing Office Buildings," sets guidelines for use in retrofitting existing structures.

Later this month, Mr. President, the third conservation document developed by the General Services Administration, "Energy Conservation Guidelines for Building Operations," will be released.

The GSA's program also recognizes the importance of demonstrating new energy-saving techniques in actual building design and construction. The proposed Federal building in Manchester, N.H., was selected as an energy conservation demonstration facility. It is anticipated that a 50- to 70-percent savings in energy consumption will be realized through the use of solar collectors and other advanced building design features. Data compiled at this demonstration facility will be used in future Federal construction.

Mr. President, in light of its leadership in Federal energy conservation efforts, the President on October 18, 1974, asked the GSA to recommend to the Energy Resources Council a multiyear program to increase energy efficiency in all Federal facilities and operations. In response, the Agency has submitted such a plan. The President's selection in 1974 of GSA to formulate an overall Federal energy conservation plan has proven to be a wise one.

As chairman of the Senate Committee on Public Works and personally I encourage the President to again designate the GSA as the lead Agency to coordinate and develop the 10-year energy plan for Federal facilities required by section 381 of this bill.

NEEDS OF HANDICAPPED PERSONS

Mr. President, as chairman of the Senate Subcommittee on the Handicapped, I am sensitive to the special needs of handicapped Americans. My colleagues know—and have demonstrated many times in their votes for bills to aid this population—handicapped individuals have rights to a free appropriate public education, to medical treatment, and to equal opportunity employment. More than any other segment of our population, disabled persons are dependent on others for transportation to enjoy these rights.

A mentally retarded child often must travel outside his immediate school district in order to participate in an appropriate educational program; an individual confined to a wheelchair frequently is unable to use mass transit services; citizens who have lost their sight often must travel in order to receive vocational rehabilitation services which will enable them once more to become an employed and productive member of society. In essence, adequate transportation is absolutely essential for these persons if they are to take their rightful place in society.

The President should be directed to take into consideration the mobility needs of the handicapped when he prescribes energy conservation contingency plans pursuant to section 202. This priority is in section 203 which provide for a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel. The conferees are stating that they understand the importance of transportation to disabled persons. The conferees intended that when a rationing system is instituted appropriate arrangements should be made for handicapped individuals unable to personally apply for, or receive, coupons or proof of their rights. The conferees intended that when consideration is given to the needs of handicapped individuals this consideration should extend to the needs of the parent or guardian of a handicapped person who must transport that person to or from special services or place of employment.

Mr. MOSS. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield to the Senator from Utah.

Mr. MOSS. Mr. President, I wish to commend the chairman of the Committee on Interior and Insular Affairs, the Senator from Washington (Mr. JACKSON), for the long and intensive work he has done and the leadership he has demonstrated in bringing now before this body the bill which we are considering. It has been a long and frustrating job, and it has stretched back over a matter of years.

I recall well that in service under the chairman of the Committee on Interior and Insular Affairs, we were working on energy problems long before we could get the White House to acknowledge that there was any energy problem, either immediate or showing on the horizon. Since we came into the energy shortage and the embargo, and it finally dawned on everyone, including the White House, that there was an energy problem, the chairman and the members of his committee have been deeply involved in trying to solve this difficult situation, which certainly is not solved as yet. But this bill does permit us now to proceed in an orderly way without delivering a tremendous economic shock to our economy, and enabling us to start to rebuild our economic system at the same time that we reach out and begin to provide different forms of energy, and more of the petroleum energy of which we are so short.

I had just one small matter that I wanted to call to the attention of the manager of the bill, and make sure that we made some legislative history on it.

What we have before us, of course, is the House amendment to S. 622. S. 622 takes note of the glaring need for reform of FEA's regulations. Earlier the Senate Committee on the Judiciary pointed out, in their report, that those regulations were inequitable. Particularly I want to call attention to the new section 11.

THE HOUSE AMENDMENT TO S. 622 ON THE ENERGY POLICY AND CONSERVATION ACT ORDERS A NEEDED REFORM IN THE FEA REGULATIONS

The House amendment on the Energy Policy and Conservation Act (S. 622, H.R. 7014) takes note of the glaring need for reforms in FEA's regulations. As the Senate Judiciary Committee pointed out in a report earlier this year:

> Under the Emergency Petroleum Allocation Act, the FEA is directed, as a "priority need," to "restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors . . . and to preserve the competitive viability of independent refiners, small refiners. . . . and . . . independent marketers." The Federal Energy Administration Act directs the agency to "promote free and open competition in all aspects of the energy field."
>
> Testimony by FEA officials, however, indicated that FEA's regulatory program in its current form can only have exactly the opposite effect. Instead of fostering competition and preserving the competitive position of independent firms. FEA regulation tends to increase concentration in the petroleum industry.

The report, page 94, calls attention to a new section 11 to be added to the Emergency Petroleum Act of 1973. It deals with the regulation which section 4(a) of the 1973 act directed the President to promulgate. The new section 11 directs the President, after giving interested persons an opportunity to comment on the operation of the existing regulation as related to "the attainment of the objectives specified in section 4(b)(1) of section 4, "to" promulgate, pursuant to the limitations and authority under section 12, such amendment, or amendments, to the regulation promulgated under section 4(a) as he determines are necessary or appropriate—

> (A) to modify any provisions of such regulation in a manner which is consistent with the attainment, to the maximum extent practicable, of objectives specified in section 4(b)(1); or
>
> (B) to eliminate any provisions of such regulation no longer necessary to provide for the attainment of such objectives.

I know that does not sound very clear, but what I am trying to get at is the fact that the FEA has issued regulations which have the effect, really, of excluding competition in the field of those who deliver petroleum from small producers to the refineries by settling on certain times when the amount delivered, in effect, becomes frozen in, and no new competition may come into the field.

Reform is badly needed. The existing regulation locks out competition in many respects, whereas the law requires FEA to "restore and foster competition. The law—section 4(b)(1) of the 1973 act—says that—

> The regulation under subsection (a), to the maximum extent practicable, shall provide, *inter alia*, for:
>
> * * * * *
>
> (D) preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent mar-

> keters, and branded independent marketers; . . .

At least one section of the regulation, section 211.63, does precisely the opposite, perpetuating a monopoly of wholesale marketers and excluding all new competitors. Until last month—November 24—the regulation said:

> All supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program, . . .

The November 24 amendment is discussed later on.

All producers selling to crude oil marketers December 1, 1973, are thus required to continue sales to those same marketers. Crude oil marketers buy oil from small independent producers and resell it to refiners. The regulation prohibits purchases by new crude oil marketers which would disturb any supplier/purchaser relationship in existence on that date. Yet the regulation provides no mechanism by which new crude oil marketing companies may obtain supply sources.

The regulation thus froze, protected, and perpetuated a monopoly enjoyed by a handful of big companies against all competition from newcomers. A large quantity of domestic production is thus monopolized, about 1 million barrels daily. Data filed by one of these privileged companies—Permian Corp., wholly owned by Occidental Petroleum Co.—with the Securities and Exchange Commission reveal a skyrocketing of profits after the regulation was promulgated, from $19 million in 1973 to $59 million in 1974, notwithstanding that the volume of oil moved was not substantially larger.

The U.S. District Court for the Western District of Texas, San Antonio Division, in a decision October 6, 1975, captioned *Basin, Inc.* v. *Federal Energy Administration*, Civil Action No. 75–CA 250, issued a preliminary injunction against FEA. It ruled:

> There is a substantial question as to whether section 211.63 of the regulations, insofar as it denies plaintiff as a crude oil marketing company the right to purchase crude oil and makes no provision for allocation of supply purchased by the crude oil marketing industry on a fair and equitable basis among the members of that industry is in compliance with the Congressional mandate of the Emergency Petroleum Allocation Act of 1973 to restore, foster, and preserve competition in all segments of the petroleum industry. . . .

The court found that, as a result, "the plaintiff will in all likelihood be forced to discontinue its business."

FEA appealed that decision to the temporary emergency court of appeals, and it then hastily prepared an amendment to its regulations.

On November 24, 1975, on the eve of argument in the court of appeals, after 22 months of travail, hearings, conferences, and so forth, in which FEA repeatedly admitted the inequity of the existing regulation, FEA published in the Federal Register (40 Fed. Reg. 54422) its revised regulation. FEA's announcement claims that "the purpose of the proposed amendment was to allow for new entry into the business of marketing crude oil," thus conceding the inequity that the district court had put its finger on. But, having done this, FEA's new regulation incomprehensibly requires—as a condition to the establishment of a new supplier-purchaser relationship—that the new wholesale marketer obtain from the refiner "their written consent to the proposed supplier substitution," thus undoing everything the announced reform would accomplish.

The refiner, of course, has no reason at all to consent to the substitution; he has existing trade relationships with the entrenched big crude oil marketer who has been fattening on his FEA-protected monopoly, and the refiner has no reason to imperil that relationship by telling that marketer to stop selling to the refiner, and move over and give up part of the business to a little competitor. All that is needed, in order to continue the freeze-out of this competition, is a phone call from the big locked-in monopolist wholesale marketer to the refiner, suggesting, subtly or otherwise, that he should refuse to give his consent, even though the terms of sale to the refiner are exactly the same. The new regulation is an invitation to collusion, and is squarely in the teeth of the statutory mandate in favor of competition. The little producer who would like to change marketers, in order to get better service, is at the mercy of an arbitrary veto by the big refiner who buys his oil, just as is the new wholesale marketer who is locked out by the refiner's refusal to do business with him.

One would think that the antitrust laws had never been enacted. FEA has apparently never heard of them, or the "priority needs to foster and preserve competition" that Congress wrote into FEA's Organic Act.

The joint explanatory statement of the conference committee on the bill which became the Emergency Petroleum Allocation Act of 1973, said of section 4(b):

> It is imperative that the Federal Government now accept its responsibility to intervene in this marketplace to preserve competition and to assure an equitable distribution of critically short supplies. Toward this end, the conference substitute requires the President to promptly implement a mandatory allocation program which must be drafted so as to accomplish Congressionally defined objectives. These are set out principally in section 4(b) of the conference substitute. Very generally stated they establish guidelines for the priority uses of fuels covered by this Act and set forth standards of action concerning the competitive structure of the industry and general economic policy to be followed in the establishment of the fuel allocation program.

The district court, in enjoining enforcement of section 211.63 of the regulation, was conservative in characterizing that regulation as "questionable." This regulation, both before and after the amendment of November 24, 1975, is plainly in conflict with the intent and will of Congress.

There are doubtless other examples of provisions of the FEA regulation "which are inconsistent with the objectives specified in section 4(b)."

The new section 11 is designed to force the reexamination and elimination or revision of all such provisions of the regulation.

Mr. President, I also ask unanimous consent to have printed in the RECORD a small document that sets out a case history in which this has happened.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

A PLEA FOR EQUAL JUSTICE UNDER LAW

This is a cry for help.

The reaction of most people who have heard our story is that it simply could never happen in America. But it is happening. And it will continue—unless someone who cares enough does something about it.

In this deliberately brief document we condense the tragedy of the imminent destruction of a young and aggressive American business enterprise by a single regulation of the Federal Energy Administration.[1] With no explanation of its purpose, and without even so much as an advance warning of its consideration, the regulation complained of was issued. It completely forbade all competition within a significant industry, and—incredible as it may seem—this all occurred under an act of Congress which specifically required the regulations to provide for the "preservation of an economically sound and competitive petroleum industry, including the priority needs to restore and foster competition" within that industry.

With deference to the heavy schedules of the important officials to whom this plea is addressed—and even at the risk of being overly concise—we implore your evaluation of this abbreviated narrative.

WHY BASIN, INC. EXISTS

1. My name is W. R. Davis. I live in Midland, Texas. I am president of Basin, Inc.

2. In April, 1952, I organized The Permian Corporation and was its principal owner. It was created to engage in the purchasing and marketing of crude oil and is now the largest independent company in this business in the United States.

3. In 1966 Permian was sold to Occidental Petroleum Corporation and I became Executive Vice-President and a Director of Occidental. Some years later I left full-time employment with Occidental but continued under a contractual relationship in the capacity of a consultant.

4. My contract with Occidental prohibited my competing with Permian and from working for any company which competes with Permian.

5. Before long I tired of the inactivity. Naturally I wanted to return to the crude oil marketing business in which I had spent most of my adult life. But this meant competition with Permian. I asked Occidental for a release from the contractual restraints on my right to compete. The price for that release, I was told, would be approximately $600,000 to be paid to Occidental by my surrender of earned deferred compensation in pension rights. On September 1, 1973, I accepted the sacrifice and purchased my freedom.

6. I organized Basin, Inc. We were chartered in Texas on October 2, 1973, and by the end of November, 1973, were licensed to engage in the crude oil marketing business in six other states as well.

7. Basin, Inc. assembled a competent team of experienced and knowledgeable men and women. All of us were eager to bring some additional, much needed, competition to an

---

[1] A more complete presentation—available for those with time to consider the supporting detail—appears in our formal Petition for Special Redress or Other Relief also dated January 6, 1975, and filed with the Federal Energy Administration.

industry in which there is a great public interest on the part of consumers. We invested large sums of money acquiring a headquarters building in Midland, Texas, purchasing petroleum transport trucks and trailers, LACT units (metering systems), storage tanks, IBM data processing systems and other equipment required in this business. Our capital commitments have passed $1,800,000 and are expected to double with plans already on the drawing board. Basin, Inc. has established a $5,000,000 line of credit with two Texas banks which I have personally guaranteed.

HOW BASIN, INC. WAS ORDERED NOT TO COMPETE

The following sequence of rapid-fire events summarizes how the jobs and the large capital investments provided by Basin, Inc.—indeed the *entire future* of a promising company—are being jeopardized by the FEA.

8. On *November 27, 1973,* shortly after our company was well launched, the President signed into law the Emergency Petroleum Allocation Act of 1973. In this statute, § 4(a), Congress directed the President to "promulgate a regulation for the mandatory allocation of crude oil" but *expressly required,* § 4(b), that the regulation provide for—

"preservation of an economically sound and competitive industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers."

9. *On December 13, 1973,* FEO, acting by delegation from the President, made public certain *proposed* regulations. Section 200.29 (b) assured Basin, Inc.—and of course all others who wished to enter the business—*the right to compete* in the purchase of crude oil, by providing—

"Notwithstanding any provision to the contrary contained herein, upon written notice given to the then purchaser of crude at least 30 days prior to the commencement of any allocation quarter this program is in effect, *a producer may sell all or any portion of his crude oil to another purchaser* for that allocation quarter . . ."

10. *On January 2, 1974,* FEO's original regulations were issued by publication in the Federal Register (39 FR 744), the proposed regulation 200.29(b) quoted above being redesignated 200.29(1). Thus, as late as January 2, 1974, Basin's right to compete in the crude oil marketing industry was preserved and confirmed.

11. Then it happened. *On January 15, 1974,* there appeared in the Federal Register (39 FR 1924) *revised* FEO regulations. They totally *eliminated* section 200.29(1) and *substituted* a completely *new and revolutionary section 211.64(a)* which commanded—

"All contracts for sales, purchases, and exchanges of domestic crude oil in effect on December 1, 1973, shall remain in effect for the duration of this program except purchases and sales made to comply with this program . . ."

Later FEO made clarifying changes so that the section, renumbered as 211.63, now reads—

"All supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program."

12. The effect of this revolutionary change in the regulations—made, as it was, without notice or explanation—was to *freeze out all new competition* in the crude oil marketing business retroactively to December 1, 1973, and thereby to deny Basin, Inc. and all others who might wish to enter the business the right to *compete* against the *entrenched crude oil marketers.* We do not know who sponsored this "lock out" regulation—although it is obvious who are its direct beneficiaries—or what silent rationale motivated this sudden mandate against competition. If the door is to remain closed, certainly Congress, having directed a policy to restore, foster and preserve competition, is entitled to ask those questions.

13. Surely, we thought, this lock out would be of quite limited duration. In the meantime Basin, Inc., decided to tough it out—sustaining itself, despite heavy losses, by restricting its purchases and marketing to "new", "released" and "stripper" crude oil which it was permitted by the regulations to purchase—if, but only if, the entrenched competitor elected not to meet Basin, Inc.'s bid. It soon became clear that even this nebulous right to continue in business proved so circumscribed as to be virtually *nullified* by the italicized language in subsection (3) of regulation 211.63(a)—

"the provisions of this paragraph shall not apply to the seller of any new crude petroleum or released crude petroleum, as defined in Part 212, *if the present purchaser of such crude petroleum refuses, after notice by the seller, to meet any bona fide offer made by another purchaser* to buy such crude petroleum at a lawful price above the price paid by the present purchaser."

CONCLUSION AND REQUEST FOR ACTION

14. It thus becomes obvious that this is what happened:

A. *First,* FEO began by respecting the Congressional mandate to restore, foster and preserve competition. It proposed and issued regulations which permitted newcomers in the industry to compete on reasonably equal terms with the long-established and entrenched marketers.

B. *Second,* for unknown reasons—and it is impossible to understand why it was done—FEA suddenly reversed its field, summarily *forbidding* Basin, Inc. and all other newcomers to compete. The protected position of the marketers with a "supplier/purchaser relationship" on December 1, 1973, was secured as though frozen in concrete.

C. *Third,* the revised FEO regulations made the position of the favored few even more secure by conferring upon them the right of *first refusal* for the "new" crude that would become available.

15. These actions by the FEO (now the FEA)—for whatever reasons they were taken—do violence to the Constitutional right of an American company to engage in a lawful business without governmental *discrimination* in favor of its competitors. Even worse, if that is possible, they completely ignore the expressed mandate from Congress.

16. There is nothing right, just or fair about this situation. It should not be perpetuated. The FEA should be urged—or, if necessary, required—to repeal section 211.63 in the interest of returning the right to compete once more to the American scene.

Respectfully submitted,

W. R. DAVIS,
President, Basin, Inc.
CECIL E. MUNN,
NORTHCUTT ELY,
Attorneys for Basin, Inc.

Mr. MOSS. I ask the manager of the bill if he could assure me that section 11 of the bill will accomplish what I have set out I think its purpose should be and that FEA will be required to reexamine its regulations. Will the Senator from Washington be able to respond to that?

Mr. JACKSON. Mr. President, let me respond in this way: I am generally familiar with the class of problem the Senator from Utah refers to. The purpose of section 454 is to reexamine the regulations under the Allocation Act and to conform those regulations to the purposes of the act. This review should include cases such as the Senator from Utah has described.

I think that effectively responds to the question and points made by the Senator from Utah.

Mr. MOSS. I appreciate that. I think it is clear, but I only wished to make certain by additional legislative history that FEA would be aware of the fact that they have an obligation to open up this competitive area.

Mr. JACKSON. I thank the Senator, and I trust that is responsive to the question that he has raised.

Mr. MOSS. I thank the Senator.

Mr. WEICKER. Mr. President, I rise in opposition to this bill, and my comments this evening are not meant to go up against the wind with a realization that this is all that we have before us prior to a recess and, therefore, it should pass.

Rather it is my hope and the hope of my colleagues on this side that we will be able to persuade sufficient of the Members to take the responsibility of passage or nonpassage on the shoulders of the Senate, not buck the problem to the President.

Mr. MOSS. I appreciate that.I think it

The basic difficulty with this bill, Mr. President, is that it gives the illusion of solution rather than the reality of failure.

It is not so that this is better than nothing. It is far worse than nothing, because when the United States Senate acts the people have a right to believe that we have addressed ourselves in a truthful and a realistic way to the energy crisis.

Nothing could be worse for the American people than to operate under that illusion. The crisis that confronts the United States today in energy is worse than that of 2 years ago. If the people in my State of Connecticut, and this would apply to the rest of the country, felt relief when the gasoline lines went away, then they have to live with the tragedy that the unemployment lines took their place, and the unemployment lines in this Nation today are far longer than any of the lines outside of gasoline stations of 2 years ago.

The unemployment lines are there because the energy problem has not been resolved. Nothing is such a damper on the economy than our failure to address the energy crisis in a serious way.

I hope that my colleagues would not engage in this last act of deception, an act which portrays solution but in reality is retreat.

The stated purposes of this bill are threefold. To maximize production, to conserve our fuel resources, and to decrease dependence on foreign imports.

Mr. President, the bill we have before us today is a strikeout on all three counts.

Three months ago, 6 months ago, 2 years ago, this country needed an effective, long-term energy policy.

When we needed a national energy policy, we got a political energy copout. A bill has been drafted which guarantees high prices, short supply, and no protection against OPEC oil merchants.

Many Members of the Senate and House are intimately familiar with the benefits of this legislation. Unfortunately these benefits have nothing to do with energy.

The Chicago Tribune explained this sorry display in its editorial entitled "Gas Pump Politics":

> In effect Congressmen seem to be saying, "Let's turn every gasoline pump into a campaign sign." And, of course, a bill like this gives our economic geniuses in Congress another chance to kick the oil companies in the shins for the large profits which followed the OPEC induced price increases two years ago. Never mind that those artificially high profit levels are down substantially this year.

Nothing categorizes the bill better than that principle which is specifically enunciated by a rollback prior to the election of 1976 and allowing the prices to rise after that date.

Yesterday I had the occasion to talk to one of our unions in the State of Connecticut. I told them at that time that they should know that their Senator was not going to hold back until after the election, rather they and the people of my State would be told the news now, that, yes, there was going to be an increase in the price of oil, and they should know that before the election and not after the election.

How I would admire the sponsors of this bill if they would stand here on the Senate floor and explain in terms of an increase and of decontrol, what this bill encompasses. But the only points they explain are price rollback and giving the image of being against decontrol.

In effect, the price is to be paid by the after-the-next-election generation of Americans. I think the time has come for this generation of leadership to stand up and explain to the American people the cost, and it is up to this generation to pay the cost.

But the U.S. Senate will not be shamed into doing its duty. We will roll prices back until after next November. We will lock in energy shortages by extending controls that had never worked. We will tighten the rope that will hang us.

Controls meant less domestic production, 8 percent less in 1975 than in 1973. The reduced prices have political appeal.

OPEC devastated us in 1973. Back then they supplied 49.7 percent of our total imports; in the second quarter of 1975, 65.8 percent. But controls is reelection.

I do not wish to shock Senators, but price controls is long-term political suicide.

Maybe it is that the Members of this Chamber feel that they have fooled the American public. Not so according to the latest Harris poll. Sixty-one percent of Americans call energy waste morally wrong. Harris concludes that Americans no longer doubt that cutbacks are needed and changes in lifestyle required.

Any politician of either party, whether in the White House, the Senate, in the House, who tries to mislead the American people into believing that there is no price to be paid not only does the national interest a disservice but also his own election chances.

Mr. President, the first goal of this bill was supposed to have been maximizing domestic production. Congress decided upon the carrot-and-the-stick approach. It decided to clobber the oil companies with the carrot, and after 1976, stick it to the unsuspecting citizen.

Rolling back the average price per barrel of oil by $1.09 will decrease domestic production by some 1.6 million barrels a day, by 1980, below what it would be with decontrol. Price controls will be reimposed on oil from new fields discovered since 1973. It will roll back the average price received for all domestic oil both old and new. Under the existing system, new oil is decontrolled. Under this bill it is forced under controls, and an artificial limit placed on price. In short, Congress has rewritten the laws of nature to say that more production will result from punishing exploration.

The rollback might save consumers, in the short term, a few cents per gallon. It will spur consumption. It will drain off the revenues needed for investment, reducing further the opportunities for exploring desperately needed new oil and gas reserves. And so, we are back to the consumer—supply shortages, increased imports, higher prices. The Washington Post summed it up:

> It is silly and dangerous to hope that this country can maintain itself indefinitely as an island of cheap energy in a world where the cost is steadily rising.

Mr. President, the American people recognize that such a policy is absurd. But American politicians do not have the guts to act.

As persons in our own country look to a higher quality of life, that is the case throughout the world. The law of supply and demand, which I will get to in a domestic sense in a few minutes, means internationally that millions of people who up to this point have been satisfied without the benefits that energy can bring them are now demanding the same quality of life that is enjoyed by American citizens. There is the demand internationally that did not exist 3 years ago, 5 years ago, 10 years ago.

While that demand has been increased dramatically, the supply has diminished. No amount of finagling on the floor of the Senate is going to get around the simple fact of life of increased demand and lesser production worldwide.

The legislation drafted here is so constructed as if our destiny is entirely in our own hands, and it is not. The sponsors of this bill know it, but they are telling an entirely different story to the American people.

The second stated goal of this legislation is conservation. Again, Congress has chosen a unique method—dieting by forced feeding, and the discouragement of lower prices.

In its first annual report, the International Energy Agency stated:

> The American (energy) program must overcome an extremely high per capita historical energy pattern and as such must be comprehensive and strong to be effective. At the present time, it is neither.

I wish the American people had had the opportunity to sit in on House-Senate conference and see the vacillation and the backing off when it came to demanding mandatory fuel conservation.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. JACKSON. Mr. President, I ask unanimous consent that Richard D. Grundy be granted the privilege of the floor in connection with the pending measure.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. WEICKER. During the course of that conference, every time the words "mandatory conservation" came up, it was as though someone had thrown a pail of cold water in the face of every Senator and Representative present, each one afraid to go out of that room and demand sacrifice of the American people in order to resolve this crisis.

In the propositions which I have made informally throughout my State of Connecticut as to energy conservation, one was the closing of gas stations on Sunday. Somebody responded, "That does not fit in with my plans. What if I am going to be on the road on Sunday?"

The time has come to explain to each American that there is no system that is going to work which is not going to require sacrifice and a change in lifestyle. The alternative is to live as we have for 2 years, with high prices and short supply.

I heard someone use the term "return to double-digit inflation." The fact is that we have never left double-digit inflation. We have that artificial 50 percent that was imposed on us by the OPEC nations, and we still live with it; and because we live with it, we have no chance of climbing out of this recession.

I cited the first annual report of the International Energy Agency. In today's Wall Street Journal is an article about a Twentieth Century Fund task force:

> A Twentieth Century Fund task force found that the full impact of the higher cost of imported oil is yet to be felt by the oil-importing countries.
>
> The task force, which released a report yesterday on what it called "the international oil crisis," expressed concern about the "new complacency" over energy problems.
>
> To date, the task force said, "less than half of the money and other claims transferred to the oil producers" by the oil-importing countries "has been redeemed for actual goods and services." As a result, the task force said, "the full cost of imported oil hasn't yet come home to the importing countries" even though the added burden on consumers of the oil cartel's quadrupling of oil prices since 1973 has contributed to both inflation and recession.
>
> The Twentieth Century Fund is a research foundation engaged in policy-oriented studies of economic, political and social issues and institutions. The energy task force was comprised of 16 economists, bankers, oil consultants and businessmen.
>
> The task force concluded that the best "remedy" for the problems caused by the increased price of oil would be simply to lower the price. But this remedy, the task force said, should be sought through reliance on market forces rather than through negotiation with the Organization of Petroleum Exporting Countries, or OPEC.

"Market pressures on the price set by OPEC should be strengthened primarily by enlarging the world's capacity to produce oil and alternate fuels, but also by increased conservation efforts," the task force recommended.

Whether it is that report or the report of the international energy agency, these are harsh but accurate assessments of our conservation efforts to date. The United States has set a fine example for other consuming nations. We have not taken one step to immediately curtail energy consumption. Instead, we keep prices artificially low, rewarding consumption. By a lack of a coherent conservation policy, we perpetuate the myth that the energy crisis is contrived.

What provisions of the bill that are constructive—for example, establishing mandatory auto efficiency standards and requiring energy labeling of appliances—are also easy. They are things that almost everyone agrees on.

But when the going gets tough, Congress takes a powder. This bill maintains America's place as the world's oil junkie.

Congress blew two chances to stand up to its responsibility. First, the House-passed mandatory gasoline allocation program. Although I did not agree with some of its provisions, I commend the House for taking the energy problem seriously. Gasoline consumption accounts for 39 percent of our total petroleum consumption. Total gasoline consumed by auto travel is approximately 4.9 million barrels a day. Any conservation policy worth its salt must cut this lavish consumption, immediately. Unfortunately, rather than improve upon this program, the House conferees quickly surrendered.

On another matter, the bill authorizes bloc grants-in-aid to States to assist in the development of State-administered energy conservation programs. The bill calls for each State plan to receive a reduction in energy consumption of 5 percent in 1980. During the conference, I offered an amendment to bring the target date forward to 1978. The amendment was defeated. Once again, the conferees avoided the tough but necessary steps that will get us out of the energy noose. Once again, we were content with a minimum response to a maximum need.

Goal 3 of this bill was, once upon a time, to cut our reliance on imported oil. In this, it is the biggest flop of all.

In addition to granting the cartel the leverage to raise prices, imports are likely to increase by 50 percent above present levels by 1980.

What does this mean for the American economy, for American jobs? In 1 year, 1974, U.S. expenditures on oil imports skyrocketed from $8.2 to $24.3 billion.

Such an enormous outflow of dollars could not help but have adverse consequences—and it did. We starved American industry of vitally needed capital—capital that could be invested in America. We sent abroad money to buy oil that could have been spent in America creating jobs.

This bill does nothing to lessen the devastating flow of American dollars to the Middle East. It does nothing to lessen American dependence on foreign oil. Forty percent of our oil comes from imports. Sixty-five percent of our imports come from OPEC. In short, this bill gives OPEC brass knuckles at a time when the next oil embargo could kayo America.

Faced with a serious threat to our national security, Congress has played into the hands of OPEC. We have signaled to OPEC that we are willing to take their oil at any price. In essence, OPEC will continue to call the shots—the result could prove to be economic disaster for the United States.

Mr. President, I return to my initial point, the central issue of this energy copout legislation. It is chicken-politics. But it is not just chicken-politics for a day; this legislation makes chicken-politics a matter of law. Every time a tough decision must be made, this legislation dumps it on the executive branch, or on a future generation of Americans. When there is a possibility for cheap publicity at the expense of energy responsibility, Congress grabs the ball. This legislation directs the President to raise oil and gas prices, but then says Congress can disapprove his findings or price recommendations at any time. Even the discretion given the President to raise prices in accordance with the GNP deflator of 7 percent and/or an inflationary escalator of 3 percent is subject to a congressional veto. A presidential decision to allow higher prices for Alaskan oil—which every single Member of Congress, the conferees best of all, know to be much more costly to produce—would be subject to a congressional veto by a simple majority vote.

Mr. President, one policy, although not an energy policy, is clearly established by this legislation. It is the policy that he who runs away lives to run another day.

Mr. President, I am a Senator from an oil-consuming State. In Connecticut, oil is a necessity, not a bonanza. There is no oil beneath Connecticut, only rocks. Above the ground are miles of stone walls built by generations of our farmers, fighting for a future. There are factories and businesses that employ our citizens, fighting for a future. That is why this Senator prefers fighting for a future with oil to settling for artificial prices now and a future of economic hopelessness.

Mr. President, the Senate would do well to consider the words of that old hymn, still sung in Connecticut, where all people ask of a politician is that he do the right thing:

> Once to every man and nation,
>   Comes the moment to decide.
> Then it is the brave man chooses,
>   While the coward stands aside,
> Till the multitude makes virtue
>   Of the faith they had denied.

It is a sad day for any nation when those who are entrusted with developing the policies of its future chicken out to the pressures of the moment. Tragically, that is what this conference report really does.

It is a compromise, all right. But it is not a compromise between the legislative and the executive branches of Government. It is not a compromise between Democrat and Republican, or between liberal and conservative, or between consuming State and oil- and gas-producing State. It is a compromise of our children's future for a few months of artificial ease, for a few votes in a national election.

I am not prepared to engage in that kind of compromise and I hope a majority of my colleagues are not, either. The American people are looking for a leadership that demands sacrifice, and gives them the truth rather than politics. As I understand this business of politics, we should leave something behind better than that which was given to us. That simple criterion, applied to the measures contained in this bill, demands a "no" vote.

I yield the floor, Mr. President.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President I should like to comment on the conference report that is before the Senate. I, personally, would consider it a foundation of a national energy policy. I think, taken together with the ERDA conference report that will soon be coming before the Senate, we in Congress could say we have developed at least the heart of a national energy policy.

The reason that I argue this is that this particular measure addresses a broad spectrum of national needs. First, it addresses the problem of conservation. It was 2 years ago that a bill went from Congress to the then President's desk addressing the problem of conservation, but it suffered a veto. This bill before us now, and the conference report, addresses conservation. It sets up a mandatory average fuel performance standard for automobiles—which, incidentally, consume approximately one-third of the petroleum used in this country. It authorizes grants in aid for States to assist in their development and implementation of conservation plans.

The estimate made by the Federal Energy Administration is that at least 4 percent of petroleum-based energy sources can be saved in this one area alone.

Furthermore, it sets up energy labeling standards for home appliances and other consumer products so that the individual consumer can see how much energy is consumed and can buy intelligently.

Furthermore, there is an energy information section which, in my opinion, goes in the right direction. It provides, for example, for the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies.

It authorizes the Securities and Exchange Commission to take necessary steps to have uniform accounting standards so that the energy companies will be able to be compared and analyzed by Congress.

Furthermore, there is, of course, the provision which will encourage the Federal Power Commission, at long last, to find out what resources of natural gas we have in this country.

In addition to energy conservation, there is the strategic reserve section which sets up for the United States of America a strategic reserve in the event of a cutoff of foreign source energy supplies.

Additionally it establishes a very fruitful and proper approach to energy pricing. I think very few people in the United States would consider that the price of petroleum products is governed by the free market system, and it is for this reason that we have to indulge in price controls which none of us like, but which are necessary.

The average price is set in the bill on the basis of a $5.25 price for old oil, and $11.28 for new oil, which certainly is a sufficient incentive to encourage exploration.

Furthermore, when you consider that new oil approximately 2 years ago was selling for $3.50, the present price $11.28 is more than enough to encourage those in that business to find new petroleum sources.

Additionally, the President of the United States is permitted to allow the price of petroleum products to go up 10 percent each year, and he is given the discretion, of permitting, the price of secondary, tertiary and other high cost oil to be priced far higher than other old oil.

I would say this measure dealing with conservation, dealing with strategic reserves, dealing with sensible controls, much as we may deplore them as being necessary, is a cornerstone in an energy policy, and I compliment the chairman of the Senate Interior Committee, Mr. Jackson, the chairman of the Commerce Committee, Mr. Magnuson. I commend the Senator from Illinois (Mr. Stevenson), and the Senator from South Carolina (Mr. Hollings), all of whom worked very hard to put this package together for giving us this bill.

I mentioned the ERDA budget bill as a companion measure dealing with energy in rounding out the foundation of an energy policy because that bill deals with future energy sources. I think we are all quite cognizant of the finite aspect of the fossil fuels, whether they be hydrocarbons or other sources of fossil energy, and the ERDA bill will, when adopted—as I am sure it will be by Congress and sent to the President's desk—give a large thrust of research and development into the new energy sources which, in a decade from now, have got to carry the industrial machines of the United States and the world. I speak specifically of solar and geothermal energy.

So, Mr. President, I conclude these remarks actually by congratulating Members of Congress for putting into effect in a very short time against great difficulties, I may say, a national policy.

There is one postscript to this particular bill I would like to mention. I am sure the chairman of the Interior Committee has put into the Record the correspondence between himself and Mr. Zarb, the Federal Energy Administrator. This correspondence shows that the figures we were working upon in conference, that is, the average price of old oil in the United States, the average price of new oil, the average price of domestic oil were, to use the best term I can describe them, very soft figures. As a matter of fact, in correspondence Mr. Zarb admitted they were policy prices, and I am not quite sure what policy prices mean, but I suggest, Mr. President, that this illustrates a need that we go much further than we have gone to date in getting really hard factual information on energy sources, on energy prices. I suggest and I intend to work in this direction in the next year so we broaden our base of information not just to energy materials but to materials generally.

Mr. President I would like to ask the distinguished chairman of the Interior Committee whether he has put in the Record his correspondence with Mr. Zarb.

Mr. JACKSON. Mr. President, I have not placed that correspondence in the Record, but I shall do so.

Mr. HASKELL. I think, I would like to say to the distinguished Senator, it would be very valuable because it would illustrate the difficulty that all of us were working under in the conference in that we did not have figures we could depend on.

Mr. JACKSON. Mr. President, I ask unanimous consent that the correspondence with Mr. Frank Zarb be printed in the Record at this point.

Mr. HASKELL. I would appreciate that.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

Washington, D.C.,
November 24, 1975.

Hon. Frank Zarb,
Administrator, Federal Energy Administration, Washington, D.C.

Dear Mr. Zarb: At least two recent news articles have raised questions concerning the numerical parameters of the domestic crude oil price policy agreed to by the Conference Committee on S. 622, the "Energy Policy and Conservation Act", and in particular, about the benefits of this policy for American consumers. These questions pertain to the price levels for crude oil which currently prevail in the United States, the relationship between these prices and the policy adopted by the Conference Committee, the size of the price rollback mandated by the Committee, and the extent to which this rollback will translate into lower prices for gasoline, heating oil, and other refined products.

In order to clarify the situation with regard to these numbers, and to amplify your letter of November 18 addressed to Chairman Staggers and myself, I would appreciate your early response to the following questions.

I. INFORMATION AND DATA CURRENTLY IN POSSESSION OF FEA

With respect to crude oil prices, FEA presently publishes data series describing:

A. the percentage of domestic crude oil production sold at controlled and uncontrolled prices;

B. domestic crude oil prices at the wellhead (controlled and uncontrolled crude oil);

C. the refiner acquisition cost of crude petroleum (average cost of domestic crude petroleum, imported crude petroleum and a composite acquisition cost); and

D. the estimated landed cost of imported crude petroleum from selected countries.

(1) Please describe the source and composition of each data series, identify any assumptions, and include a description of the accuracy and method of verification of each series.

(2) Please provide a complete set of data values for each series, including the most current figures available to FEA.

(3) Committee staff has been led to understand that the $5.25 per barrel price for controlled "old" oil, published each month by FEA, is not a weighted average of actual price observations based either upon an audit or upon accepted sampling techniques, but is a number which is simply assumed from the regulation and the base period distribution of production. Please provide the best estimate of the recent and current actual average price of controlled old oil and the present distribution of this production at various prices.

II. ESTIMATES OF CURRENT PRICE LEVELS

(1) For each of the series discussed above please estimate, to the best of the ability of your agency to make such projections, the values (and, if any, the associated range of uncertainty) for the months of September, October, November and December, 1975. In each case, provide a discussion of the assumptions associated with your estimates.

(2) Assuming the current price control regime were continued, provide your best estimate of the average value at the wellhead (excluding all transportation costs, and costs associated with crude oil purchaser/resellers or other middlemen) of domestic uncontrolled oil, controlled crude oil, and the average for all domestically produced crude oil and condensate for the months of September, October, November and December, 1975. Provide a discussion of the basis for each estimate.

(3) With respect to these estimates, which numbers can be inferred in a straightforward manner from data which the FEA now collects and has in its possession and which require reference to data not routinely collected by FEA?

III. FEA ESTIMATES TRANSMITTED TO THE CONFEREES

Committee staff is aware of three documents originating in the FEA which contained assertions as to current and projected domestic crude oil price levels.

A document dated October 30, 1975, entitled "Fact Sheet on Average Price Plan" described the first oil pricing proposal drafted by FEA which was submitted to some Conferees and to the Committee staff. Tables contained in this submission placed the "average current" price for domestic crude oil at $8.75 per barrel, for domestic uncontrolled oil at $14.00 per barrel and for imported crude oil at $15.00 per barrel. In other tables, projections estimating average crude oil prices, supply and demand, and import levels in future years under alternative policies were presented.

Subsequent to that time, to preface discussions of oil price policy by the Conferees, Committee staff formally presented the figures describing "current" crude oil prices (old, new and imported) to the Conferees on specific advice from representatives of FEA that these figures were accurate.

During the course of the discussions of oil price policy, two additional documents dealing with old price levels were transmitted by FEA to Committee staff. A two-page sheet entitled "Reference" reiterated both the $14.00 per barrel and $15.00 per barrel figures for uncontrolled domestic and imported crude oil respectively and the assertion that the current average price for all domestic oil production is $8.75 per barrel. On November 10 an Administration oil pricing proposal was forwarded to Committee staff which placed the "domestic composite price" at $8.75 per barrel on January 1, 1976.

(1) What were the assumptions associated with, and what was the basis for, the estimates of "current" prices transmitted to Members and staff of the Conference Committee by representatives of FEA during the discussions and negotiations over oil price policy between October 6 and November 12, 1975?

(2) What were the assumptions and what was the basis for the projections of future prices—over the life of the various proposed 40-month crude oil pricing plans—which the FEA supplied the Conferees during these negotiations?

IV. ADMINISTRATION OF THE ENERGY POLICY AND CONVERSATION ACT

(1) Should the Energy Policy and Conservation Act become public law, how would FEA interpret the "average domestic composite price" (or "national weighted average price") referred to in discussions of the proposed legislation with the Conferees and staff?

(2) What are the implications for administration, compliance and legal certainty of the various possible statutory specifications of the domestic average composite price: wellhead price, price at first sale (actual or imputed) or some other concept?

(3) What further specification of the domestic average composite price would FEA contemplate implementing by regulation in order to define the concept operationally? To what extent, if any, would these specifications differ from those embodied in the current regulation?

(4) What data series would FEA intend to use in the administration of the crude oil pricing policy adopted by the Conferees?

V. RECENT ESTIMATES BY "FEA SOURCES"

In prominent articles appearing in the Washington Post on November 18 and the New York Times on November 19, FEA personnel are quoted as estimating average domestic crude oil prices and prices for uncontrolled domestic crude oil production at levels differing significantly from those transmitted to the Conferees by the FEA.

An unidentified FEA "statistician" was quoted in the Post article to the effect that the current domestic "new" oil price is $13.50 per barrel and that the domestic average composite price is "somewhere around $8.50 per barrel", in contrast to the figures of $14.00 and $8.75 per barrel communicated to Members and staff of the Conference Committee on at least three occasions as described above. According to the Times article of November 19, an entirely different figure, $8.39 per barrel, should be used to describe the current domestic average crude oil price.

(1) Which, if either, of these sets of values are accurate?

(2) What, in fact, was the actual price of domestic new oil at the wellhead (excluding transportation costs and costs associated with crude oil purchase/resellers or other middlemen), based either on FEA data, on the most accurate and reliable industry pricing service or on other data available, for the months of September, October and November?

(3) Based on FEA's best estimates of the actual price of domestic new and old crude oil and the actual composition of domestic production for each of these months what, in fact, was the domestic average composite price at the wellhead for September, October and November?

(4) In FEA's internal analysis of the impact of the oil price policy approved by the Conference Committee, to what extent has FEA relied upon or used figures such as those referred to above—or to what extent were other figures or assumptions relied upon—which are different from the figures communicated to the Conference Committee?

VI. CONSUMER BENEFIT OF A ROLLBACK IN CRUDE OIL PRICES

In both newspaper articles referenced above, and in conversations with Committee staff *subsequent to the final November 12 meeting of the Conferees,* FEA representatives have made various contentions—based on differing and mutually inconsistent assumptions and rationale—that the reductions in crude oil costs to domestic refineries which are mandated by the oil price policy approved by the Conference Committee will be absorbed by refiners themselves, or by distributors, marketers and retailers of refined petroleum products and not passed on to consumers. These FEA representatives have further maintained that this transfer of the benefits of a crude oil rollback from consumers to sectors of the oil industry would occur in a manner which is entirely consistent with, not only current FEA regulations, but also the provisions of the Energy Policy and Conservation Act agreed to by the Conferees.

(1) Provide your best estimates, including a description of all assumptions and the reliability of these assumptions, of the change, if any, in the national average price of domestic crude oil run in U.S. refineries, in the price of all crude oil run in U.S. refineries, and in the price of motor gasoline, home heating oil, diesel fuel, residual fuel oil and jet fuel to final consumers which would result first, if the oil price policy adopted by the Conference Committee were put into effect, and, second, if current controls were continued. In making this estimate specifically designate:

(a) the effect of different assumptions which have been identified with respect to the value of the current national average price of crude oil;

(b) the effect of reasonably expected levels of imports of crude oil and refined petroleum products;

(c) the effect of the removal of the $2.00 per barrel supplementary fees on imported crude oil as stipulated by representatives of the Administration;

(d) the influence of current FEA regulations with respect to the disposition of banked costs held by refiners and distributors;

(e) the influence of FEA regulations with respect to the margins allowed marketeers and retailers of refined petroleum products;

(f) the effect of the expected and reasonably projected supply and demand of each principal refined product under discussion domestically and in key regions of the U.S.;

(g) the role of competition among refiners, distributors, marketers and retailers of refined petroleum products; and

(h) the role in reducing consumer prices of any relevant provisions of the Energy Policy and Conservation Act, including the amendment to the pricing policy offered by Senator Hartke which would require that FEA regulations provide for a mandatory flow-through of all reductions in crude oil prices from the producer to the retail level.

(2) Please indicate the extent to which recently publicized assertions of FEA officials about the minimal impact of reductions in crude oil prices on consumer prices of gasoline and home heating oil and other refined petroleum products are consistent with estimates provided in the White House announcement of July 25, 1975 describing the impact of the President's proposed 39-month decontrol plan. According to that announcement the impact of the initial rollback in crude oil prices embodied in that plan would have affected the "average petroleum product prices (such as gasoline)" by a cumulative amount of —0.5¢ to —1.0c per gallon by the end of 1975.

(3) Please furnish any analysis, statements or other data in which FEA has analyzed or set forth their best estimates of the impact of reduction in crude oil prices on consumer prices of refined petroleum products as a result of removing the oil import tariff:

Your prompt response to this inquiry is necessary to dispell doubts which have arisen concerning the information—supplied by FEA—which the Conferees in good faith relied upon in reaching their decision on oil pricing policy. I do not need to remind you that the potential impacts of relatively small differences in oil prices are very substantial. For example, a difference of only 36¢ per barrel in the price of domestically-produced crude oil—as between the $8.75 figure quoted to the Conferees and the $8.39 figure published in the New York Times—represents over a billion dollars in direct costs to U.S. consumers.

The FEA has a responsibility to provide the Congress with the best and most reliable available information with respect to this complex and highly important issue. If the figures which were provided to the Conference Committee were not, in fact, the best and most reliable available, the most serious questions about the operation of our public policy process are immediately raised, and a far wider examination of this issue must be undertaken.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

FEDERAL ENERY ADMINISTRATION,
Washington, D.C., December 6, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of November 24, 1975, regarding the numerical parameters of the domestic oil price policy agreed to by the Conference Committee as a part of the "Energy Policy and Conservation Act." This letter answers the questions you asked.

You state that questions have arisen concerning the price levels for crude oil which currently prevail in the United States and the relationship of those price levels to the oil pricing policy adopted by the Conference Committee. In my view, these questions have arisen because the news articles you refer to have not adequately dealt with the distinction between the price figures that have consistently been used for policy planning purposes and the various and understandably different price figures that are estimated to prevail on any given day.

The fundamental point in this regard, and one that has been well understood by all concerned with the detailed consideration of alternative oil pricing policies, is that for purposes of evaluating such alternatives a crude oil average price figure representing FEA's best judgment as to what an average crude oil price would be, assuming continuation of the present program, has been used. This approach is obviously the only rational basis upon which to base a policy decision on whether an alternative to the present program should be adopted.

The actual daily average price for domestic crude oil, on the other hand, has been in a continuous state of transition since February 1, 1975, in response to a $1.00 per barrel increase on that date in the fee applied to imported crude oil, a further $1.00 per barrel increase in that fee on June 1, 1975, and the increase in OPEC prices that was announced in October, 1975.

Thus, the projected domestic crude oil average price for purposes of policy planning has remained essentially the same throughout the period of time that alternative price policies have been analyzed and debated, while the actual daily average price (which is not available except as an estimate), has undoubtedly been increasing from month to month. This is illustrated, for example, by the October 30, 1975 document that you refer to in your letter, which listed a domestic crude oil price of $8.75 in a table under a column headed "Average Current Price/bbl." That this was a price expressly intended to be used for policy planning purposes as the price that would obtain assuming continuation of the current program is demonstrated by the November 10, 1975 document, also referred to in your letter, which compared the projected price effects of alternative price policies and which listed the domestic composite price under "current controls" at the end of January 1, 1976 as $8.75 per barrel.

It is therefore important to note that the extent to which the oil pricing policy adopted by the Conference Committee will result in price rollbacks at the crude oil level cannot be determined exclusively by reference to what the actual daily average price was in November or is in December (if those figures were presently known), or by reference to the price used for policy planning purposes by FEA. Rather, the actual amount of any rollback under the oil pricing policy adopted by the Conference Committee would be determined by the difference between the actual crude oil average price being charged in the month prior to the month in which the requirements of the new legislation were implemented, and the average price charged pursuant to those requirements. For the reasons set forth in detail below, we are confident that the figures that have been used for policy planning purposes represent a reasonable and conservative approximation of the price levels that would obtain for domestic crude oil in the proximate future, were the present program to be continued.

Let me also respond as a preliminary matter to the general issue, raised throughout your letter, of the reliability of the data provided the Conference Committee by FEA. As this letter will set out in considerable detail, all the information provided the Conference Committee was without exception what we regarded to be the most reliable information available to FEA at the time. It was the same information in every case that FEA was using internally, with other Federal agencies and with the White House for purposes of policy evaluation.

You correctly refer to the highly complex nature of this issue. I believe that this complexity, together with some unfortunate statements made by persons apparently unaware of the complexities involved, is responsible for the apparent misunderstandings to which your letter refers.

One key element in this complexity is the possible failure to distinguish between estimates of "current" data and the latest, or "current," published series of data collected several months earlier than the date of publication. As in any similar endeavor (*e.g.*, measurement of the Gross National Product), actual measurements of recorded experience are simply not available on a real time basis. As set out in detail below, there is typically a lag of at least 90 days in most of FEA's data series between the time a particular price is charged in the marketplace and the time it is reported to FEA, processed, tabulated, and made available for use.

A second key element is that the FEA's data series were developed for the administration of existing programs and to fulfill FEA's reporting responsibilities under existing legislation. The implementation of a weighted average price concept for domestic crude oil like that adopted by the Conference Committee will require more precise data series tailored to that program.

Accordingly, any estimates of "current" prices must necessarily be just that—estimates. We attempted to make this fact clear to the Committee staff on numerous occasions, and, indeed, thought that it was obvious to everyone concerned in any event. I regret any misunderstandings that may have arisen in this regard and sincerely believe that throughout this entire process FEA has made every effort to be completely open and candid with all concerned, as it has been in all of its dealings with the Congress.

Finally, your letter refers to information supposedly supplied to the press by unnamed "FEA sources" which tends to contradict the FEA-supplied estimates on which the Committee relied. I do not know who those alleged sources were or how they arrived at their figures. They were not acting under my authority or direction. I have no idea of what data they were relying upon or how reliable that data was. I can only say that I tend to discount the reliability of those figures because they do not agree with the figures arrived at by the professionals on my staff who have access to the most recent information available and in whose judgment on such matters I have complete confidence.

Your letter posed six sets of questions, more detailed answers to which are as follows:

"I. Information and data currently in possession of FEA with respect to—

"A. The percentage of domestic crude oil production sold at controlled and uncontrolled prices;"

(See Enclosure 1 for a detailed response.)

Briefly, FEA collects information on this question from two FEA data systems, which information is supplemented by other data. As the basis for its published data series, FEA obtains data monthly from the Bureau of Mines on total crude oil production in the United States. It also collects monthly data on FEA Form 90, directly from producers of "new" and "released" oil, on the amount of oil produced by them and the prices at which it is sold. FEA also obtains annually an estimate of total stripper well production made by the Interstate Oil Compact Commission and the National Stripper Well Association.

Using these three data series, the sum of new, released, and stripper production is subtracted from the Bureau of Mines report of total production to generate an estimate of crude oil production subject to price controls.

Since November 1974 FEA has also collected from refiners, on a slightly different time sequence, similar information as part of the data collection necessary for the administration of FEA's old crude oil entitlements program. Each refiner reports monthly its crude oil receipts for the preceding month in three categories: price controlled "old" oil; new, released, and stripper crude oil (*i.e.*, domestic production not subject to price controls); and imported crude oil. This data is then tabulated during the following month for use in calculating that month's entitlement list.

The data available from these two series are shown at Enclosure 1.

An important point that emerges from an examination of Enclosure 1 is that the two FEA measurement systems generate slightly different results on a monthly basis. This is to be expected as they are measuring slightly different quantities in a differing time sequence (production at the lease vs. crude oil receipts at refineries) by different methods. Nonetheless, the two methods do generate results that correspond quite closely, lending added confidence to the validity of the data.

As indicated by both methods, the ratio of controlled to uncontrolled production varies slightly from month to month. However, it is clear from Enclosure 1 that the planning figure of 60 percent of domestic production being price controlled that has been used in *all* FEA's calculations supplied to the Conference Committee is approximately the median within this month-to-month variability. The most recent data available to the agency (i.e., the most recent four months of entitlements data) confirms this belief.

It should also be noted, based on the discussion contained in Enclosure 2, that this 60 percent figure would most likely prove to be a conservatively high estimate of what the percentage of price controlled crude oil will be in January or February of 1976, when the weighted average price program adopted by the Committee would go into effect. This is so because during the first quarter of 1972 there existed certain production constraints in major producing fields which were removed during the second quarter of that year and which resulted in significantly higher production for the balance of the year. Assuming, therefore, a continuation of our current crude oil pricing regulations, the percentage of old oil during the first quarter of the next two years can be expected to average between four to six percentage points below the percentage of old oil produced during the last quarter of the preceding years. This, combined with what appears to be a gradual downward movement in the domestic old oil ratio, resulting from natural production decline, demonstrates that the estimate of 60 percent used by FEA is a reasonable and conservative method of reflecting current domestic crude oil pricing trends and produces a weighted average price estimate that is conservatively on the high side for the purposes for which it was used by the Committee.

"B. Domestic crude oil prices at the wellhead (controlled and uncontrolled crude oil)."

First sale prices for old crude oil are fixed by regulation at the highest May 15, 1973, posted price for that grade of crude oil at that field plus $1.35 per barrel. See 10 C.F.R. § 212.73. Some low-quality price-controlled oil sells for as little as $3.50 per barrel; other high-grade crudes sell for as much as $7.00 per barrel, depending on the May 15, 1973 posted price.

The estimate of an average price of $5.25 per barrel for price controlled crude oil was made by the Cost of Living Council, which first promulgated the old oil ceiling price rule, in the manner described in Enclosure 2. Since legal maximum prices have not changed, this estimate has been carried forward and used consistently by FEA in all its estimates of average prices. FEA's published data series have shown this average price for each month since their inception.

There has never been any legal, regulatory, policy, or planning requirement to have an exact measurement of the average "wellhead price" of price-controlled crude oil. The FEA Form 90 collects data from producers of new and released oil, and, incidental to that collection, also obtains information on controlled oil prices for properties that also produce new and released oil, but the reliability of this data has never been checked, nor has it been used by FEA for any purpose.

Prices of domestic crude production not subject to price controls are collected monthly by FEA on the FEA Form 90 from producers of new and released oil. These average prices are then compared with advertised postings of major purchasers and prices reported in trade journals. Average prices ranging from $9.82 per barrel in January 1947 to a *preliminary estimate* based on incomplete reports of $12.46 per barrel in September 1974 (prior to the anouncement of the OPEC price increase, which of course influences the price of domestic uncontrolled oil) are shown at Enclosure 2.

"C. The refiner acquisition cost of crude petroleum (average cost of domestic crude petroleum, imported crude petroleum, and a composite acquisition cost);"

(See Enclosure 3 for detailed answer.)

FEA obtains a monthly report from each

refiner on the acquisition cost of both domestic and imported crude oil. This report, which is subject to FEA audits, is the basis for the refiner's allowable cost pass-through under FEA's price regulations. The latest month for which full data are available, August 1975, prior to the October OPEC price increase of ten percent, reflects a reported average cost of domestic crude oil of $8.48 per barrel, an average landed cost of imported crude oil of $14.25 per barrel, and an average composite cost of $10.81 per barrel.

"D. The estimated landed cost of crude petroleum from selected countries."

(Detailed data are shown at Enclosure 4.)

It is important to note that the data at Enclosure 4 do not include any supplemental fees ($1.00 per barrel from February 1975 through May 1975, and $2.00 per barrel from June 1975 to the present).

"II. Estimates of current price levels."

Detailed estimates are provided at Enclosure 6 together with the assumptions underlying those estimates. Estimates of "current" prices depend on two major considerations: the rate at which OPEC posted price increases are reflected in actual prices charged for imported oil and the rate at which prices for domestic crude production not subject to price controls increase to reflect increases in the cost of imported crude oil.

The key point is that under a set of entirely reasonable assumptions, prices for imported and uncontrolled domestic production could well go higher than figures used in FEA's policy planning, which were provided to the Conference Committee staff. FEA has in every instance, however, used what in its judgment was the best available estimate of the relevant price levels.

"III. FEA estimates transmitted to the Conferees."

The assumptions associated with and bases for estimates provided the Conference Committee staff are set out in detail in Enclosure 5 in answer to the previous questions. As stated above, they were in every instance the best estimates FEA was able to make given uncertainties involved. Moreover, these were the same estimates being used by FEA to evaluate the impact of different proposals and being provided by FEA to other elements of the Executive Branch of the Government.

Briefly, the estimates provided the Conference Committee staff all derive from four key parameters:

(1) Price-controlled oil represents 60 percent of domestic production.

(2) The average price of price-controlled domestic production is $5.25 per barrel.

(3) The average price of domestic production not subject to price controls would be $14.00 per barrel by January 1976.

(4) The average price of imported crude oil would be $15.00 per barrel by January 1976.

The basis for the first two parameters is set out above and in more detail in Enclosures 1 and 2.

The basis for the third parameter is the fact that uncontrolled domestic crude oil sold at an average of $11.28 per barrel in January, and although prices have been in transition since that date, they can reasonably be assumed to reflect at present, or in the proximate future, the $2.00 per barrel supplemental fees imposed since then, plus 81 cents per barrel as an estimate of the effect of the October OPEC price increase for a total of $14.09 per barrel. This estimate was then rounded down to $14.00 per barrel for use in calculating the estimates provided the Conference Committee staff. Although 81 cents per barrel was attributed to the OPEC price increase, that increase, if fully effective, would range from a low of $1.13 per barrel to a high of $1.58 per barrel, with an estimated average of about $1.25 per barrel. Please note that a different set of assumptions could therefore have produced an entirely reasonable estimate of as much as $14.58 per barrel ($11.28 + $2.00 fees + $1.25 OPEC increase). For reasons detailed in the enclosure, we used what we believed to be a more nearly correct and lower value.

The fourth estimate was generated in the same way—to the January 1975 average price of $12.77 per barrel for imported crude was added $2.00 per barrel to account for the impact of the supplemental fees and 81 cents per barrel as an estimate of the effect of the October OPEC increase. This figure was even more conservatively rounded down to $15.00.

January 1975 values were used as the starting point for these last two calculations because these are most recent actual data values free of the influence of (1) the supplemental fees first imposed on February 1, 1975, and (2) the effect of the October 1975 OPEC price increase. We have learned that the price of uncontrolled domestic crude responds slowly—over a period of four to six months—to the price of imported crude. The landed price of imported crude also changes monthly in response primarily to changes in tanker rates and the mix of imports by quality and country of origin.

Accordingly, the price series for uncontrolled domestic production from February 1975 forward is a "moving target" that is clearly going in the direction of imported crude prices but with lags in timing that cannot be measured precisely nor estimated with any precision.

While later data were available for the landed price of imported crude (see Enclosure 4) the same methodology for estimating the $15.00 price was used for consistency and to assure that comparisons made in using the parameters would be based on truly comparable estimates. Moreover, the latest available data were checked to assure that they were not inconsistent with the approach used in generating the estimates. Since they were not, the estimating procedure outlined here was used.

"IV. Administration of the Energy Policy and Conservation Act."

FEA views the "average domestic composite price" or "national weighted average price" for crude oil as the sum of all domestic crude oil production multiplied by the first sale price of that production divided by the total amount of domestic production. In the case of inter-affiliate transfers rather than arms-length transactions, regulations would specify the method for establishing a price that would be used as the equivalent of the first sale price.

FEA recommends that the legislation specify a "first sale" price (with discretion in the President to impute, in a manner to be specified by regulation, an equivalent price for inter-affiliate transfers), rather than a "wellhead" price, because of the lack of precision in the latter term. The first sale price, which is currently the price to which FEA's current ceiling price rules apply, is the price charged in the first transfer for value by the producer or royalty owner, which transfer usually but not always occurs at or near the wellhead. The term "wellhead price," on the other hand, while sometimes loosely used as a synonym for first sale price (including in one of FEA's published data series), is not currently a precise regulatory term. The injection of this new term into the statute could result in its being construed as requiring that, for purposes of calculating the weighted average price, the President would have to impute a price at the wellhead in all instances where the actual first sale does not occur at that point. Any such requirement that a price different from that to which ceiling prices must necessarily apply be used to calculate weighted average prices would create an administrative nightmare for no apparent purpose.

It should be noted that use of an imputed "wellhead" price for purposes of making the weighted average price calculation would not result in lower product prices than would result if the first sale price were used. Indeed, the effect is likely to be the opposite. The first sale price for crude oil may in some instances include costs for transportation and other services (which presumably would be excluded from "wellhead" prices). If only imputed wellhead prices were used in arriving at the maximum weighted average price, these transportation and other costs would be added to the maximum, thus increasing the input costs to refiners and allowable product prices to consumers.

Finally, it should be noted that the estimates that were before the Conference Committee in its deliberations were all based on first sale, rather than imputed "wellhead," figures.

FEA is now considering three alternative data systems for directly measuring first sale prices for domestic production and has not yet decided which would be most appropriate. An expanded discussion of the alternatives now being evaluated is at Enclosure 7.

"V. Recent estimates by 'FEA sources.'"

As set out above, I have no way of knowing the basis for the estimates attributed to such "sources," or even if such sources actually provided the estimates attributed to them. I do know that no responsible FEA official who was authorized to speak for the agency has provided such estimates and that at no time has FEA used for policy planning purposes any estimates other than those provided the Conference.

"VI. Consumer benefit of a rollback in crude oil prices."

There have been some apparent misunderstandings on the part of some people on the amount and timing of the potential product price reductions that would be generated by the rollback. I am happy to have this opportunity to attempt to clarify the matter.

One estimate of the amount by which the bill would cause a rollback in prices to the consumer that was often quoted at the time of the Committee's deliberations was approximately 3.5 cents per gallon. While that estimate is fairly close to our estimate of what the total potential reduction would be if only products refined in U.S. refineries were considered, it did not take into account product imports, natural gas liquids production or volume expansion through the refinery process. Based on prices of $5.25 for the 60 percent of domestic production that is price controlled, $14.00 for other domestic production, and $15.00 for imported crude, the composite price for domestic production is:

$$.6\ (\$5.25 + .4\ (\$14.00) = \$8.75 \text{ per barrel}$$

The composite price for all crude runs to refineries (8.5 million barrels per day of domestic production and 3.9 million barrels per day of imports) is approximately:

$$[8.5\ (\$8.75) + 3.9\ (\$15.00)] \div 12.4$$
$$= \$10.72 \text{ per barrel}$$

If domestic crude is rolled back to $7.66 per barrel and the import fee is removed, the new composite price of crude runs to refineries would be about:

$$[8.5\ (\$7.66) + 3.9\ (\$13.00)] \div 12.4$$
$$= \$9.34 \text{ per barrel}$$

This represents a reduction of $1.38 per 42 gallon barrel, or about 3.3 cents per gallon for products refined in U.S. refineries.

In the period August 1974 through July 1975 the U.S. consumed an average of 16.6 million barrels per day of refined products. However, only 12.4 million barrels per day of that amount involved products refined in the U.S. The remainder was made up of product imports, natural gas liquid products produced at gas plants, prices of which will not be affected by lowering domestic crude prices, and refinery volume expansion. Accordingly, when these considerations are included, as they must be, the maximum effect on domestic product prices will be about:

3.3 cents per gallon (12.4 ÷ 16.6)
= 2.5 cents per gallon

The question of how fast this decrease will flow through to ultimate consumers depends more on market conditions than on law or FEA regulations. Under Section 4(b)(2)(A) of the Emergency Petroleum Allocation Act companies are authorized to pass through to consumers increased costs of crude oil, but FEA regulations interacting with market conditions have prevented them from doing so on a current basis. As of November 1, 1975, refiners collectively had unrecovered crude oil cost increases of about $1.4 billion that they were authorized to recoup in higher prices but had as yet been unable to recoup because of the competitive pressures of the marketplace.

These "banks" of unrecovered costs are not equally distributed among all refiners. Most are held by refiners who had higher than average feedstock costs before FEA's old crude oil entitlements program began operating. Accordingly, some refiners who currently have little or no banked costs because they have been passing through increased crude oil costs on a current basis will be required to pass on immediately in product prices any reduction in their average crude feedstock costs caused by this bill. In a market characterized by plentiful supplies of product, this mandatory reduction in prices by some refiners will place substantial competitive pressures on other refiners to meet these lower prices so as to preserve their market shares and their volumes of sales.

The exact timing and extent of price reductions therefore simply cannot be predicted with any degree of confidence. They depend on the individual business decisions of literally thousands of refiners, distributors, and retailers of petroleum products. Each is caught between two conflicting motivations; trying to collect as much as possible of any increased costs not yet recovered, versus the need to meet competition so as to keep volume and market share up. Profit-maximizing behavior for each company will be different depending on its own circumstances.

The general direction of the forces at work is clear. Currently, product markets are characterized by plentiful supplies and prices below those allowable under existing law and regulations. For those refiners without "banks" of unrecovered product costs, regulations will force lower prices early, thereby imparting downward pressure on all market prices. How fast that flow-through will be, on which products it will occur and in what amounts will be determined entirely by the interaction of supply and demand in the marketplace so long as prices are below legal limits.

Regardless of the rate at which the cost reductions flow through in lower prices to consumers, the Conferees may rest assured that their actions, if enacted by the Congress and signed by the President, should result in a savings to consumers of about 2.5 cents per gallon on petroleum products. These savings, however, will not necessarily be evidenced by actual and immediate decreases from current product price levels at the point of final purchase. They will also be evidenced by a reduction in prices in future months as a result of the immediate reduction in the amount of costs that refiners and resellers will have available for passthrough to consumers in those future months. Thus, prices will be less in future months than they otherwise would have been under a continuation of the present program. The combined effect of the operation of FEA regulations and competition in the marketplace should assure that consumers will reap the full benefit of the rollback one way or the other. What cannot be specified with any precision is exactly how that benefit will be distributed over time and among the products covered by price regulations.

The analysis set out above is consistent with that developed by FEA in its evaluation of the President's 39-month decontrol proposal, as set out in more detail in Enclosure 8. This proposal spoke of a range of expected reductions in overall product prices below what they would have been in the absence of the proposal, and was made before the recent OPEC price increase. The uncertainties set out above caused that range to be stated as "between —0.5 cents and —1.5 cents per gallon."

FEA was careful to point out in its evaluation of the 39-month decontrol proposal the contingent nature of the extent and timing of crude oil costs being reflected in market prices, and the reasons for the uncertainties necessarily associated with the estimates. Our motive was to avoid giving rise to expectations that might not be fulfilled.

In the case of the Conference Committee Agreement, we would expect the range of price reduction to me from −1.0 cents to —2.5 cents, depending on particular market forces operating for each product and each company involved. Although it is impossible to predict with any degree of certainty, it seems likely that these reductions would begin to appear noticeably in the marketplace within several months after the effective date of the rollback in domestic crude oil prices.

I trust this letter is responsive to your questions. If I may be of further assistance, please let me know.

Sincerely,

FRANK G. ZARB,
Administrator.

PERCENTAGE OF DOMESTIC CRUDE OIL PRODUCTION SOLD AT CONTROLLED AND UNCONTROLLED PRICES

The data are derived from four sources: (1) Form FEA–P–102, (2) Form FEA–90, (3) Bureau of Mines, Mineral Industry Surveys, and (4) The National Stripper Well Survey.

The most current source of this data comes from FEA's entitlements program (Form FEA–P–102). The purpose of the entitlements data is to assure that old oil is equally distributed among all domestic refiners in such a fashion as to minimize the cost disparities caused solely by the two-tier pricing system and to permit a more competitive environment within the refining, wholesale and retail sectors of the industry. These reports detail the volume of all crude oil used by refiners, of old oil, uncontrolled domestic oil and imported oil. This is a census figure in that all refiners are required to report all crude oil receipts. The old oil receipts percentage of total domestic oil *at the refinery* is:

	Percent
November 1974	65.3
December 1974	66.2
January 1975	58.4
February 1975	58.4
March 1975	58.5
April 1975	59.9
May 1975	60.5
June 1975	60.1
July 1975	60.2
August 1975	60.7
September 1975	61.8

Additionally, FEA maintains another data base which captures similar information from producers as oppposed to refiners. This data lags behind entitlements data. Data applicable to new and released oil is derived from FEA Form 90. This form collects data on a lease basis from over 600 respondents which produce new oil. This is not a census figure, since not all producers report, but the companies that do account for approximately 87 percent of total production in the United States. Stripper well production data is estimated from an annual survey conducted by the National Stripper Well Association and the Interstate Oil Compact Commission. Volumes of oil in each of the three categories are then compared to the total domestic production during the relevant period in order to produce the percentage splits. This is the source of the data which is included in FEA's *Monthly Energy Report*. The most recent month for which this information is available is March, 1975, and the percentage of old oil to total domestic production is 60%. Specifically, this data is:

	Controlled old oil	Uncontrolled new oil	Released	Stripper
1974:				
January	60	17	10	13
February	62	15	10	13
March	60	16	11	13
April	60	16	11	13
May	62	15	10	13
June	63	15	9	13
July	64	15	9	12
August	66	14	8	12
September	67	13	8	12
October	66	14	8	12
November	67	13	8	12
December	66	14	8	12
1975:				
January*	58	19	10	12
February*	61	17	9	12
March	60	18	10	12

*Total does not add to 100 due to rounding.

DOMESTIC CRUDE OIL PRICES AT THE WELLHEAD (CONTROLLED AND UNCONTROLLED CRUDE OIL)

The estimate of $5.25 per barrel as the average wellhead price of controlled oil was derived from an examination of representative crude oils by the Cost of Living Council and has been carried over to the FEA and is generally used in all its published data. More specifically, in March 1973, crude oil prices for 34° API crudes were approximately $3.65/bbl. In the following four months typical market prices for that quality of crude increased twice by increments of about $.25 and $.35, respectively, bringing the total to about $4.25/bbl when the Cost of Living Council issued its Phase IV regulations in August of 1973. At that time the Cost of Living Council established the maximum price at which old oil could be sold as the May 15, 1973, posted price in the applicable field plus $.35 per barrel. It then adjusted the price of all old oil upward by $1.00 on December 18 of that year, which accounts for the current $5.25 per barrel estimate. A precise average controlled oil price, on the other hand, has never been determined by the FEA, because old oil prices have remained frozen since December 18, 1973 and because there has been no regulatory need for a more precise figure. While the FEA Form 90 collects some data on old oil prices, that form covers only those producers that also produce new and released oil.

The price of old oil varies from field to field, depending on the May 15, 1973 posted price in that field for the grade and quality of crude oil concerned, and may be as low as $3.50 a barrel and as high as $7 a barrel. These price differentials reflect the different values of crude oils depending upon their yield characteristics and other relevant factors. It is important to note that although the ceiling price of controlled oil has been frozen for nearly two years, the average price of all controlled oil undoubtedly varies slightly from month to month as a function of the mix of types of crude oil selling at controlled prices.

In conjunction with the second reporting system outlined in Enclosure 1, FEA requires reports on its Form 90 of pricing data from all properties which have produced new and released oil. In addition to being subject to FEA audits, the reliability of these price reports is tested by comparison with advertised price posting of selected crude oil purchasers and prices reported in trade journals (i.e., Platts Oilgram).

The FEA's best estimate, determined in this manner, of domestic crude oil prices per barrel at the wellhead since January 1974 is:

1974:	*Old*	*New and Released*
January	$5.25	$9.82
February	5.25	9.87
March	5.25	9.88
April	5.25	9.88
May	5.25	9.88
June	5.25	9.95
July	5.25	9.95
August	5.25	9.98
September	5.25	10.10
October	5.25	10.74
November	5.25	10.90
December	5.25	11.08
1975:		
January	5.25	11.28
February	5.25	11.39
March	5.25	11.47
April	5.25	11.64
May	5.25	11.69
June	5.25	11.73
July	5.26	12.30
August	5.25	12.38
September	5.25	[1] 12.46

[1] Preliminary figure based on early reports.

REFINER ACQUISITION COST OF CRUDE PETROLEUM

Refiner acquisition costs are derived from mandatory reports (Form FEO-96) submitted directly to the FEA by all refiners (155 reports). These figures represent the average cost of crude oil purchased by refiners which they may pass through to their purchasers in the form of price increases. Refiners report their purchases of domestic and imported crude oil separately. These costs include not only the acquisition cost but the cost of transporting the oil into the refiner's inventory and the supplemental import fees. These data are subject to audit by full-time onsite FEA auditors at the largest 30 refiners to determine whether there have been violations of FEA pricing regulations. However, the FEA's data on average crude oil costs, which is normally published 30 days after the end of the reporting period, is usually based upon FEO-96 reports that have not yet been audited by that time.

Refiner acquisition costs of crude petroleum for January, 1974, through September, 1975, were as follows:

1974:	Domestic	Imported[1]	Composite
January	$6.72	$9.59	$7.46
February	7.08	12.45	8.57
March	7.05	12.73	8.68
April	7.21	12.72	9.13
May	7.26	13.02	9.44
June	7.20	13.06	9.45
July	7.19	12.75	9.30
August	7.20	12.68	9.17
September	7.18	12.53	9.13
October	7.26	12.44	9.22
November	7.46	12.53	9.41
December	7.39	12.82	9.28
1975:			
January	7.78	12.77	9.48
February	8.29	13.05	10.09
March	8.38	13.28	9.91
April	8.23	13.26	9.83
May	8.33	13.27	9.79
June	8.33	14.15	10.33
July	8.37	14.03	10.57
August	8.48	14.25	10.81
September	[2] 8.49	[2] 14.04	[2] 10.79

[1] The refiner acquisition cost of imported crude petroleum is the average landed cost of imported crude petroleum to the refiner and represents the amount which may be passed on to the consumer. It includes transportation costs and fees, and any other costs incurred in purchasing and shipping crude oil to the U.S. before March 1975, the estimated landed cost of imported crude petroleum from selected countries did not represent the total cost of all imported crude. Imported crude costs to U.S. company-owned refineries in the Caribbean were not included in the landed cost, and costs of crude petroleum from countries which export only small amounts to the U.S. were also excluded. Beginning in March coverage was expanded to include U.S. company-owned refineries in the Caribbean.

[2] Preliminary data.

ESTIMATED LANDED COST OF IMPORTED CRUDE PETROLEUM FROM SELECTED COUNTRIES

Beginning in March 1975, the estimated landed cost of imported crude from selected countries has been developed from data on import purchases reported to the FEA on Form FEA F-701 by all importers who import more than 500,000 barrels a month. Prior to March, 1975, the FEA Form 1001 was the source of this data. The estimated costs are a weighted average, by volume, of landed costs, and do not contain the supplemental import fees that were imposed during 1975. Verification of data for individual companies submitted on Form FEA F-701 is subject to audit by the FEA, which audit has begun and will continue. The data are also compared to those from traditionally recognized trade sources, i.e., Petroleum Intelligence Weekly, Middle East Economic Survey, the Petroleum Economist, and Patt's Oilgram, to generally verify their accuracy.

These data are published 45 days after the end of the reporting period.

The most recent estimated landed costs of imported crude petroleum from selected countries are as follows:

[Dollars per barrel]

	Algeria	Canada	Indonesia	Iran	Nigeria	Saudi Arabia	U.A. Emirates	Venezuela
1973: December	NA	6.32	6.42	6.37	8.54	5.49	NA	6.70
1974:								
January	NA	6.70	NA	8.53	12.13	NA	NA	10.28
February	NA	10.90	NA	12.11	12.74	NA	NA	11.31
March	NA	11.14	12.13	13.02	13.26	NA	NA	11.78
April	13.63	11.02	12.49	12.83	13.67	11.59	NA	11.38
May	14.67	11.47	12.95	13.84	13.83	11.53	NA	11.28
June	14.43	12.56	13.21	13.44	13.03	11.27	13.06	10.39
July	13.65	12.65	13.77	13.02	12.75	11.97	12.34	10.64
August	13.96	12.49	14.32	12.31	12.70	12.16	12.69	11.20
September	13.83	12.51	13.42	11.87	12.28	11.45	NA	11.01
October	13.20	12.53	14.24	12.07	12.12	11.51	12.84	10.95
November	13.43	12.33	13.45	12.15	12.83	12.15	13.54	11.15
December	13.08	12.15	14.15	11.63	12.88	11.75	14.59	11.37
1975:								
January	12.72	12.43	13.30	12.11	12.07	12.07	13.14	11.37
February**	12.11	12.15	13.52	11.86	12.18	11.94	12.67	11.55
March**	12.46	12.79	13.94	12.08	12.56	11.78	13.40	11.66
April**	12.36	12.95	13.71	12.34	12.46	12.16	12.55	11.61
May**	12.41	12.08	13.72	11.93	12.34	12.27	13.29	11.54
June**	12.37	11.90	13.73	12.51	12.49	11.93	12.48	11.51

ORIGIN OF ESTIMATE PROVIDED CONFERENCE COMMITTEE STAFF

The following factors were used in preparing estimates furnished the Conference Committee staff and in all of FEA's calculations evaluating the effects of various proposals.

(1) Percentage of domestic crude production subject to price controls: 60 percent.

The derivation of this estimate is outlined in Enclosure 1.

(2) Average price of domestic crude production subject to price controls: $5.25 per barrel.

The derivation of this estimate is outlined in Enclosure 2.

(3) Average price of domestic crude production not subject to price controls: $14.00.

This latter estimate is based on FEA's best judgment of the trends in the market for domestic oil not subject to price controls.

These estimates were necessarily subject to a range of uncertainty. To minimize that uncertainty, FEA took as the baseline for developing the estimates the January 1975 price of domestic oil not subject to price controls of $11.28 per barrel. This is the most recent reported figure that is free of the "market lag" influences of the supplemental fee additions of February 1, 1975 and June 1, 1975, and the OPEC price increase of October 1975.

Then, it was assumed, based on experience with the $1.00 fee imposed February 1, 1975, that the full effect of the second $1.00 fee imposed effective June 1, 1975, would be reflected in domestic uncontrolled oil prices by approximately January 1976. This produced an estimate of $13.28 per barrel for uncontrolled domestic prices in that month, exclusive of any effect of the OPEC October price increase.

The amount of that increase agreed to at the October meeting of OPEC was 10 percent. Posted prices before the increase ranged from $11.30 per barrel for Arabian light to $15.80 per barrel for Libyan sweet. Thus, a 10 percent increase in postings ranges from $1.13 to $1.58, with a conservatively estimated average of $1.25 per barrel based on the possibility that the mix of various kinds of crude from different countries of origin will be weighted slightly toward the lower-priced crudes. Adding this increase to the $13.28 per barrel estimate derived above generates an estimate that the price of domestic uncontrolled crude could rise to as much as $14.53 per barrel.

However, in early November there was limited information available to indicate that not all OPEC countries were in fact posting the full 10 percent increases. Based on such data as were available at the time, FEA estimated that the increases to be expected during the remainder of 1975 would amount to approximately eight percent. Moreover, there was some evidence that even these postings were being shaded in some cases. Thus, to estimate the total dollar impact of the announced increase, the FEA staff used an estimate of 81 cents per barrel as the amount of the increase to be expected on the average for the remainder of 1975.

Adding this 81 cents to the $13.28 price derived above generated an estimate of $14.09 per barrel for domestic crude not subject to price controls. This figure was conservatively rounded down to the $14.00 per barrel estimate used for all FEA's calculations.

(4) Price of imported crude oil: $15.00 per barrel.

This estimate is based on the January 1975 value of $12.77 per barrel as the last value before the imposition of the supplemental fees and the OPEC October price increase. To this amount were added $2.00 for the supplemental fees and the 81 cents per barrel estimate for OPEC price increases in 1975, for a total of $15.85 per barrel. Again, because of the uncertainty associated with these estimates, this estimate was reduced to $15.00 for purposes of computations.

ESTIMATES OF PRICE LEVELS BY MONTH

September 1975:

Assume:

Old oil 60 percent of domestic production.

Old oil price $5.25 per barrel.

Uncontrolled oil price $12.56 per barrel. This price estimate is based on the new oil price as reported on Form FEA-90 for August, 1975, of $12.38 per barrel, plus an estimated increase of $.18 per barrel reflecting continuing upward adjustment in response to the $2.00 supplementary import fee. (Uncontrolled domestic prices rose a total of $1.10 per barrel in the seven-month period beginning in February, 1975, and are estimated to increase another $.90 in the five-month period of September, 1975, through January, 1976, to reflect the import fee.)

Total domestic production 8.5 MMB/D.

Total crude oil imports 3.9 MMB/D.

Imported crude oil price $14.18 per barrel. This price is based on the average import cost for the seven months of February, 1975, through August, 1975, during which OPEC prices were relatively stable, and average monthly import costs as reported on FEA Form 96, exclusive of import fees, were between $12.05 and $12.28 per barrel.

Therefore, the composite price of crude oil would be determined as follows:

$$\frac{[5.25\ (8.5\times0.6)+12.56\ (8.5\times0.4)+14.18\ (3.9)]}{12.4}$$

The domestic crude price would be:

$$\frac{[5.25\ (8.5\times0.6)+12.56\ (8.5\times0.4)]}{8.5}=\$8.17$$

October 1975:

Assume:

All assumptions except the two noted below are identical to those set forth in the September calculations.

Uncontrolled oil price $12.94 per barrel. This represents an increase of $.38 per barrel over the September estimate. It was included in recognition of a further $.18 response to the supplementary import fee and a $.20 increase as a partial response to the October OPEC price increase.

Imported crude oil price $14.99 per barrel. This reflects an increase of $.81 per barrel over the September estimate and represents our best estimate of the short run magnitude of the October OPEC increase on imported crude prices.

Therefore, the composite price of crude oil would be calculated as follows:

$$\frac{[5.25\ \ (8.5\times0.6)+12.94\ \ (8.5\times0.4)+14.99\ \ (3.9)]}{12.4}=\$10.42$$

The average domestic crude price would be:

$$\frac{[5.25\ (8.5\times0.6)+12.94\ (8.5\times0.4)]=\$8.37}{8.5}$$

November, December and January:

Assume:

All assumptions applicable to October estimate remain except as provided below.

Uncontrolled oil price $13.32 for November, $13.70 for December, and $14.08 for January, reflecting monthly increments of $0.38 per barrel as set out in the assumptions for October.

Therefore, the composite price of crude oil in these months, calculated as above, would be:

November	$10.52
December	10.63
January	10.73

The average price of domestic crude would be:

November	$8.47
December	8.63
January	8.78

PROPOSED NEW DATA SERIES FOR CRUDE OIL PRICING POLICY

FEA is in the process of determining the most appropriate data series to use in the administration of a crude oil pricing policy based upon a weighted average first sale price limitation on domestic crude oil. Among the alternatives currently being considered are:

1. Producer reporting:

This approach would involve the collection of data from a representative sample of producers under a new form in order to determine the prices and volumes of old and uncontrolled oil and thus provide the weights necessary for calculation of the domestic composite price.

2. Purchaser reporting:

All purchasers of crude oil directly from producers would be required to report under a new form and the producer-operator would be required to certify old and new oil.

3. Refinery gate price less transportation cost procedure:

Determine the average first sale price of domestic crude oil by subtracting the average transportation cost per barrel (which would be determined under a new form) from the average cost of crude oil delivered to refineries (which is now compiled by FEA).

COMPARATIVE ANALYSIS OF 39-MONTH PROGRAM IMPACT VS. ESTIMATES PROVIDED CONFERENCE COMMITTEE STAFF

The economic impact of the President's 39-month phased decontrol program was issued by the FEA on July 28, 1975. This analysis contained the results of sophisticated econometric modeling, and, although the pricing environment has substantially changed during the past four months, the data contained in that report is remarkably consistent with the abbreviated analytical methodology presented to the Conference Committee staff. For example, the July 28 analysis contained a price path for crude oil which reflected FEA's expectation of average costs (domestic and imported) for crude runs in domestic refiners. At that time it was projected that average crude costs would be $10.56 in the fourth quarter of 1975 assuming a continuation of existing price controls. Uncontrolled domestic crude prices were projected to be $13.50 with old oil at $5.25 and foreign crude at $14.50 per barrel. To the extent that these price estimates were made prior to the recent OPEC increase, it would be appropriate to adjust the uncontrolled oil price upward by the amount of the OPEC increase for purposes of current price projections. An increase in the price of imported crude will affect about 60% of the crude used by domestic refiners by the amount of the increase. Therefore, a one dollar OPEC increase translates into an increase of approximately 60 cents in the composite cost of crude.

To adjust the $10.56 composite fourth quarter 1975 crude cost predicted in July for the OPEC increase requires adding $0.49 (0.6 x $0.81=$0.486=$0.49) to that figure, for an adjusted estimate of $11.05. This compares to the current estimate of $10.73 for January 1976. These estimates are within a reasonable range of one another, considering the uncertainties involved, and show that FEA's November 1975 calculations were consistent with its July 1975 ones.

The estimates contained in the White House fact sheet of July 25, 1975, stated that domestic prices would decline by .5 cents to 1.0 cents per gallon by the end of 1975. This estimate was based on the fact that the 39-month program was to be implemented in September 1975 and would have rolled back the uncontrolled domestic price from $13.50 to an initial price of $11.50. By November 1975 this would represent a reduction of $1.85 per barrel in what would otherwise have been the price for uncontrolled domestic crude, since the price was to increase by $.05 per month beginning in September 1975. To the extent that this increment of oil represents about 20% of total domestic demand, this would equal a reduction of approximately .6 cents per gallon after an appropriate reduction applicable to the phased decontrol of old oil. Additionally, since this program was scheduled to be implemented in September the cushioning effect of banked costs was anticipated to have been neutralized by the end of the year.

U.S. SENATE,
Washington, D.C., December 8, 1975.

Hon. FRANK G. ZARB,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR MR. ZARB: I have reviewed your response to my letter of November 24 requesting clarification of the oil price figures supplied by the Federal Energy Administration to the Conference Committee on S. 622, the "Energy Policy and Conservation Act." Your December 6 letter contains the rationale for the data upon which the conferees relied in arriving at their decision on oil pricing policy. I note, on page two, your explanation that the "average current price/bbl." contained in documents submitted by FEA to the conferees is "intended to be used for policy planning purposes as the price that would obtain assuming continuation of the current program" and is not, in fact, the actual "average current price/bbl.".

In addition, your letter sets forth in a straightforward manner an analysis which supports the Conferees' expectation that the rollback in crude oil prices, including price reductions mandated by the Act, will be reflected in significantly lower refined product prices to domestic consumers.

The purpose of this letter is to point out that your reply with respect to several issues raised in my letter of November 24 fails to address or addresses a number of important questions in less than complete fashion. I would greatly appreciate receiving your answers to these questions at the earliest date prior to Senate consideration of the Conference Report on S. 622.

1. I understand that the $5.25 per barrel price for controlled "old" oil is not a weighted average of actual price observations but is, in fact, a number which has been assumed on the basis of estimates made by the Cost of Living Council in mid-1973. As requested

in my original letter to you, I would hope that you could provide FEA's best estimate of the recent and current actual average price of controlled old oil and the present distribution of the actual production of old oil at the various old oil prices.

2. With respect to the data series published by FEA describing: (a) the percentage of domestic crude oil production sold at controlled and uncontrolled prices; and (b) the refiner acquisition cost of crude petroleum (average cost of domestic crude production, imported crude, petroleum and a composite acquisition cost), your December 6 reply does not appear to contain an estimate of the value of these quantities in the months of October, November and December of 1975.

3. The analysis of the assumptions underlying the "average current price(s)/bbl." provided by FEA was quite complete. However, I am very interested in reviewing your discussion values and justification of the price trajectories transmitted to the Conferees, particularly for the case in which current controls are continued and for the case that immediate decontrol occurs.

4. What data series would FEA intend to use—producer reporting, purchaser reporting or other scheme—to assist in the administration of the Energy Policy and Conservation Act?

5. In estimating the actual current price of new oil and the actual current composite domestic price at the wellhead your estimates do not appear to reflect the results of any survey of actual pricing data for recents months available from FEA itself or from a review of the most accurate industry figures for September, October or November. Was such a review or sampling made? If so, what were the results?

6. On page 6 of my November 24 letter, a copy of which is enclosed, I requested that you provide estimates of the changes in the price of crude oil and in the prices of the principal refined product prices and the influence of various factors on the realization by consumers of these rollbacks for the case that current controls are continued and the case that the Conference Committee Oil Pricing Policy is adopted. Your reply to this question is less than complete in a number of respects, particularly with respect to parts (a), (c), (e), (f) and (h) of question (1). I would greatly appreciate it if the information and analysis requested could be provided.

7. Finally, on page 7 of my letter I asked for copies of any previous statements, analyses or other data in which FEA has analyzed or set forth their best estimates of the impact of the reduction in crude oil prices on consumer prices of refined petroleum product prices. The only document my staff has in its possession is the fact sheet distributed on July 25 to accompany the President's proposed 39-month decontrol program. I would like to request a copy of your July 28 analysis of the impact of this program and reiterate my request for copies of any and all FEA or other Administration analyses of the effect of removal of the supplementary import fees on the prices of refined petroleum products to consumers.

I hope that this request will receive high priority, and that your response can be available for the use and consideration of the Senate in its review of the Conference Report on S. 622.

Sincerely yours,
HENRY M. JACKSON,
Chairman.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., December 15, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of December 8, concerning my letter to you of December 6 on the oil price figures supplied by the Federal Energy Administration to the Conference Committee on S. 622, the "Energy Policy and Conservation Act."

You have asked for further clarification of several issues first raised in your November 24 letter and discussed in my December 6 response, listing seven specific questions to be answered. These questions are addressed below in the order set forth in your most recent letter:

1. *Estimated recent and current prices of "old" oil.*

As you know, first sale prices for "old" crude oil are fixed by regulation at the highest May 15, 1973, posted price for that grade of crude oil at that field, plus $1.35 per barrel. The range of prices is from about $3.50 to more than $7.00 per barrel. The estimate of an average price of $5.25 per barrel for price-controlled crude oil was made by the Cost of Living Council, as indicated in my December 6 letter to you. FEA has used the $5.25 figure in all published data series and internal analyses.

As noted in my December 6 letter, there has never been any legal, regulatory, policy, or planning requirement to have an exact measurement of the average "wellhead price" of price-controlled crude oil, and the FEA has collected such data only on Forms CLC-90 and FEA-90 incidental to data collected for properties that also produce new and released oil. The "old" oil data so collected represents about 60 percent of total old oil production, and thus does not include about two million barrels per day. As I indicated in my previous letter to you, the reliability of this information has never been verified and, for the reasons set forth below, is subject to question. Therefore, this information has never been used by FEA for any purpose.

In view of the questions you raised concerning old crude oil prices in your letter of November 24, FEA data analysts have been examining carefully the data that has been collected on those prices by Form FEA-90, in an effort to determine whether that data could be used to provide an estimate of actual recent and current prices for all old crude oil. Although this analysis is still incomplete, it does not appear that the current Form FEA-90 data provides accurate information on old crude oil prices. I would like to outline briefly the problems we have encountered with this data.

Data on crude production and prices was first collected on the Cost of Living Council Form-90 issued in August 1973. Due to subsequent changes in the crude oil price regulations and certain technical deficiencies in the form, the data obtained from this form on old oil prices was never considered reliable nor used for any purpose. In recognition of the technical problems associated with Form CLC-90, FEA revised and reissued this form as Form FEA-90. This revised form has been in use since January 1975, but it still does not have to be submitted by producers which produce only old oil.

Because there was never any need to compile the data on old oil prices collected on the CLC-90 and FEA-90 and because this data was known to be substantially incomplete in any event, this information was not a high priority item for computer processing. As of this date, therefore, the only old crude oil price data collected on Form FEA-90 which has been processed by computer is the data for January, 1975, and even that processing was completed after receipt of your November 24 letter. The data for February, 1975 is just now being entered into the computer for the first time. Since each monthly report involves some 30,000 separate leases, the data is too voluminous for manual processing.

Our analysis of the information that has been produced by the computer processing of the January, 1975, old crude oil price data has just been completed during this past week. This analysis has given us several bases for concluding that this data still is not reliable, notwithstanding the revisions in the Form 90. To begin with, there has been no effort to verify the reported information by comparison to reports filed with state agencies or with other existing sample data, as would be done if the information were to be relied upon for any regulatory purpose. Also, anomalies in the data appear to have arisen from the fact that one of the entries called for by Form FEA-90 can be a negative number (Column D of Part IV, "Adjusted Total Production," which is "Total Production" minus "Current Cumulative Deficiency"). It appears that many of the respondents to the form were confused by this fact, thereby making their responses somewhat unreliable.

Finally, there are certain anomalies in the cumulative figures we have been able thus far to derive from the January, 1975, Form FEA-90 data which suggest that the figures are unreliable. For example, the break-out of prices according to gravity shows, in some instances, significantly higher prices for lower valued low gravity crude oils than for higher valued high gravity crude oils in the same state, which, in general, cannot be an accurate reflection of actual price levels.

Enclosure 1 at Tab A is a tabulation of old crude oil prices for January, 1975, which has been prepared from the Form FEA-90 data for the seven largest domestic producing regions (Texas, Louisiana, Offshore-Gulf of Mexico, California, Oklahoma, Wyoming, and New Mexico). This tabulation omits information from the smaller producing regions, where some of the anomalies referred to above were most apparent. The weighted average price for that amount of old oil produced in these seven regions and reported on the Form FEA-90 is $5.08 per barrel. I must again emphasize, however, that this number has been derived from an unvalidated, partial sample, using a computer system that does not yet take account of reporting inconsistencies.

It is important to note that this $5.08 per barrel number has been derived solely in response to your letters of November 24 and December 8, and, therefore, was not available to me or members of the FEA staff at the time they were consulting with the Conference Committee staff on energy legislation. Furthermore, no other FEA data system collects old oil price data at the "wellhead." In connection with the crude oil entitlements program, FEA does collect price data for controlled old crude oil at the refinery gate (which includes transportation costs in undetermined amounts). The reported refiner acquisition costs, however, have varied by $.19 per barrel during the last year, ranging from $5.31 to $5.50 per barrel. This data is set forth in Enclosure 2 at Tab B. As noted in Enclosure 2 of my letter of December 6, fluctuations in actual average old crude oil prices are to be expected from month to month as a function of changes in the mix of types of crude oil selling at old oil prices.

It is clear that if the Energy Policy and Conservation Act becomes law, its implementation will require considerably different data collection and validation procedures. Until a new, reliable crude oil price data system is implemented (which will take at least until the middle of 1976) it is our intention to continue utilizing the figure of $5.25 per barrel as the best estimate of the weighted average old crude oil price, for purposes of devising a new crude oil price regulatory scheme which complies with the $7.66 per barrel maximum weighted average first sale price ceiling established in the Energy Policy and Conservation Act. We also intend to utilize the estimated 60/40 ratio of controlled to presently uncontrolled domestic crude oil for this purpose. Therefore, until our new data collection system is operative in mid-1976, no new FEA crude oil price regulatory scheme would allow a weighted average price for the presently uncontrolled domestic crude oil to exceed $11.28 per barrel, except as allowed to be adjusted in accordance with the adjustment provisions of that Act.

As you have been careful to point out in your letters, and as I am well aware, the conferees arrived at the composite domestic crude oil price on precisely these assumptions, i.e., 60 percent of domestic crude oil to be sold at an average price of $5.25 per barrel and 40 percent of domestic crude oil to be sold at an average price of $11.28 per barrel. I want to emphasize again that I believe the estimate of 60 percent controlled domestic crude oil production at an average price of $5.25 per barrel was arrived at in a reasonable manner and yields a conservative result for planning purposes.

As I am sure you understand, these estimates are closely related, and the extent to which either estimate may prove to be inaccurate would have equally significant effects on the composite price of all domestic crude oil. And, if I correctly understand the concern you have expressed with respect to our estimates concerning the price and ratio of old crude oil, it is that when these values are actually measured they should not turn out to be such that they result in allowing a higher price for the presently uncontrolled component of domestic crude oil production than the $11.28 per barrel figure that was contemplated by the Conference Committee. For reasons set forth more fully below, I believe it is highly unlikely that such a result could occur.

I should first like to illustrate the relationship between old crude oil prices and the percentage of old crude oil under the composite domestic crude oil price policy. Assuming that an average price of $11.28 per barrel is to be maintained for presently uncontrolled crude oil, a reduction of 1 percentage point in the ratio of old crude oil to other domestic oil actually produced would require a reduction in the ceiling price of old crude oil of more than $.10 per barrel in order to meet the $7.66 per barrel composite price limitation, as shown in the following table:

Old crude oil ratio:	*Old crude oil price per barrel*
60 percent	$5.25
59 percent	5.15
58 percent	5.04
57 percent	4.93
56 percent	4.82
55 percent	4.70

Of course, if in fact the old crude oil ratio becomes less than 60 percent, ceiling prices for old crude oil cannot as a practical matter be reduced below their current levels. The only other alternative is to establish ceiling prices for what is presently uncontrolled domestic production at levels below $11.28.

As you know, we used 60 percent as the estimate of the old crude oil ratio in our analysis. As set forth in my letter of December 6, at pages 4–6 and in Enclosure 1, we indicated that the 60 percent figure was "approximately the median within (the actual) month-to-month variability," and that "this 60 percent figure would most likely prove to be a conservatively high estimate of what the percentage of price controlled crude oil will be in January or February of 1976 . . . because during the first quarter of 1972 there existed certain production constraints in major producing fields which were removed during the second quarter of that year and which resulted in significantly higher production for the balance of the year."

We therefore stated that "the percentage of old oil during the first quarter of the next two years can be expected to average between four to six percentage points below the percentage of old oil produced during the last quarter of the preceding year."

Since my letter of December 6, we have received data in connection with the entitlements program which shows that the actual old crude oil ratio for October, 1975, is 61.0%. As discussed more fully below in response to paragraph 2 of your letter, this leads us to believe that the old crude oil ratio for November and December of this year will be in the range of 61 to 62 percent, and, if the present crude oil price regulations remain in effect, the ratio in the first quarter of 1976 may therefore be significantly less than 60 percent. Indeed, it could well be, in light of this later information, that the ratio of old crude oil may never again be as high as our 60 percent planning figure after December of this year, since the decline in that ratio in the past few months appears to have been more significant than we anticipated. The data on which these conclusions are based is summarized for your convenience in Enclosure 3 at Tab C.

The point is simply that, even if the actual weighted average price of old crude oil is somewhat less than $5.25 in January 1976, it will be more than offset by the probability that the old oil ratio will be less than 60%. Thus, I am confident that, when the combined effect of the old oil price and ratio is actually measured, it will be reasonably close to our estimate and, in any event, will not be such as to result in higher prices for presently uncontrolled domestic crude oil than were contemplated by the Conference Committee.

2. *FEA published data series for the percentage of old oil and refiner acquisition costs for October through December, 1975.*

Price projections for October through January were provided in Enclosure 6 of my previous letter and represent FEA's best estimate for planning purposes of the distribution of controlled and uncontrolled domestic oil, as well as domestic composite prices, at the first sale level. Two assumptions underlying these price projections were that the percentage of old oil of domestic production is 60 percent and the weighted average first sale price of old oil is $5.25. As explained in my answer to your first question, these estimates were used because they were and still are the best available. We did not attempt to estimate actual percentages of old oil or refiner acquisition costs for the months of October through December as will be reported on Form FEA-P-102 and Form FEA-96, respectively.

Since my letter of December 6, we have prepared preliminary data for the month of October, which serve to update the information supplied on Enclosure 1 and 3 of that letter.

They are as follows:

Old oil receipts as a percentage of total domestic crude oil at the refinery (October, 1975): 61.0 percent;

Refiner acquisition cost of domestic crude oil (October, 1975): $8.59/bbl.;

Refiner acquisition cost of imported crude oil (October, 1975): $14.66/bbl.; and

Refiner acquisition cost of all crude oil (October, 1975): $10.95/bbl.

Our estimate of old crude oil as a percentage of all domestic crude oil for the months of November and December, 1975, is 61 to 62 percent.

This estimate is based on (1) the fact that the percentage of old oil has been approximately 61 percent for the four months of July through October, 1975; (2) the fact that the percentage determined through Form FEA-P-102 has generally paralleled that obtained through a combination of sources and published in the FEA's Monthly Energy Review, as set forth in Enclosure 1 of my December 6 letter; and (3) that although Form FEA-P-102 data is not available for the period of July through December, 1974, the data published in the Monthly Energy Review indicates that during that period, the level of old oil production remained relatively stable (an average of 66 percent). (See Enclosure 3 at Tab C.)

Accordingly, we would not expect the figures for November and December of 1975 to depart significantly from the figures for the preceding four months, except that the Form FEA-P-102 data indicates that the December figure may be somewhat higher than the November figure.

Our estimates of refiner acquisition costs for November and December are as follows:

Estimated refiner acquisition cost of domestic crude oil (November, 1975): $8.69/bbl.; (December, 1975): $8.85 bbl.

Estimated refiner acquisition cost of imported crude oil (November, 1975): $14.99/bbl.; (December, 1975): $14.99 bbl.

Estimated refiner acquisition cost of all crude oil (November, 1975): $10.67/bbl.; (December, 1975): $10.78/bbl.

These estimates are derived in part from the estimates set forth in Enclosure 6 of my December 6 letter with respect to estimated first sale or "wellhead" prices of domestic crude oil and the estimated landed cost of imported crude oil for September 1975 through January 1976, which were as follows:

	Domestic Wellhead	Import	Composite
September	8.17	14.18	10.06
October	8.37	14.99	10.42
November	8.47	14.99	10.52
December	8.63	14.99	10.63
January	8.78	14.99	10.73

Although the estimated first sale prices of domestic crude oil are exclusive of transportation, the estimated monthly increments in the first sale price would also be reflected in higher refiner acquisition costs. Accordingly, the monthly increments in these estimated domestic first sale prices (increments of $.10 per barrel from October to November and $.16 per barrel from November to December) have been applied to the October refiner acquisition cost of $8.59 per barrel, to yield the estimated refiner acquisition cost of domestic crude oil for November of $8.69 per barrel and December of $8.85 per barrel. Landed costs of imported crude oil were previously estimated at $14.99 for the months of October through January, and although our preliminary data indicate they reached a level of $14.66 for October, we continue to anticipate that imports will reach $14.99 for November and December.

3. *Assumptions underlying price trajectories used to analyze alternative price policies.*

The assumptions associated with the table entitled "Domestic Composite Price," and the untitled graph attached to a document entitled "Amendment Proposal" which was submitted to the Committee staff on November 10, 1975, were as follows:

For current controls:

Old oil price $5.25 per barrel.

Supplemental fee continued.

Total domestic crude oil production, MMB/D:

End of 1976	8.2
End of 1977	8.3
End of 1978 and 40th month	9.5

Total old oil production MMB/D:

End of 1976	4.7
End of 1977	4.3
End of 1978 and 40th month	4.0

Uncontrolled domestic oil price:

1/1/76	$14.00
End of 1976	15.42
End of 1977	16.15
End of 1978	17.70
End of 40 months	18.08

Imported crude oil prices begin at $15.00 per barrel, including the supplemental fee, and increase by approximately seven percentage points per year.

For immediate decontrol:

All domestic crude oil production permitted to be sold at free market prices which were estimated to begin at $12.00 per barrel and increase by approximately seven percentage points per year.

Assumes immediate removal of supplemental fees.

4. *Data series FEA intends to use to administer The Energy Policy and Conservation Act.*

The implementation of the Energy Policy and Conservation Act, if it becomes law, will require a completely new data collection and reporting system. At this point, we are still evaluating alternative ways to collect the data, with the major alternatives being producer reporting, purchaser reporting, and refinery acquisition cost and transportation cost reporting, as indicated in my letter of December 6. However, I have not reviewed the detailed proposals and have made no decisions. Obviously, we will choose whichever method is both administratively feasible and complies fully with the requirement of the Act that we rely on "valid and reliable information."

5. *Sampling of data for September–November.*

FEA's experience under the Emergency Petroleum Allocation Act has been that samplings of product cost data which are not verified as representative have tended to be only rough reflections of what was ultimately contained in later reports. During the Conference Committee deliberations on S. 622, FEA used $14.00 as the average uncontrolled oil price for purposes of estimating the domestic composite price and for evaluating alternative proposals. The methodology used in these calculations was detailed in my previous letter. FEA staff has recently made random telephone inquiries concerning the uncontrolled price, but these inquiries were not structured in any sense and no conclusion could be drawn from them other than that prices were moving upward.

6. *Estimates of price changes resulting from the Conference Committee pricing policy and the impact of various factors on such changes.*

As set forth at page 12 of my December 6 letter, our estimate is that, when compared with prices that would have obtained under the current system of controls, domestic crude oil prices will be reduced from $8.75 per barrel to $7.66 per barrel—a reduction of $1.09 per barrel, and that overall crude oil prices will be reduced from $10.72 per barrel to $9.34 per barrel—a reduction of $1.38 per barrel.

We have further estimated, in the manner described in my December 6 letter, that this will translate into price reductions at the consumer level of from 1.0 to 2.5 cents per gallon.

(a) *Effect of assumptions as to current domestic crude oil prices on these estimates.*

As we have indicated, the predicted level of domestic crude oil prices is a function of three variables:

The price of old crude oil, which we have estimated to be $5.25/bbl.;

The price of presently uncontrolled domestic crude oil, which we have estimated to be $14.00/bbl.;

The percentage of domestic crude oil which is old crude oil, which we have estimated to be 60%.

As the composite price of domestic crude oil is set at $7.66 under the oil pricing policy adopted by the Conference Committee, the impact of differing assumptions with respect to the three variables above is simply that a price somewhat different from the $8.75 per barrel would obtain for domestic crude oil, were the present system of controls to be continued.

I believe it is reasonable to assume that the actual price of old crude oil could vary by as much as $.25 per barrel less than the estimated price of $5.25 per barrel; that the actual price of uncontrolled crude oil could vary by as much as $.50 per barrel higher or lower than the estimated price of $14.00 per barrel; and that the ratio of old crude oil could vary by as much as 5 percentage points lower than the estimate of 60 percent.

Using these margins of uncertainty, the price of domestic crude oil which would obtain if the present system of controls were to be continued, which we have estimated as $8.75 per barrel, could vary from a high of $9.41 per barrel to a low of $8.40 per barrel, as calculated below.

A comparative analysis has also been prepared for the overall price of crude oil, which adds import prices as a variable, and assumes that they could vary by as much as $.50 per barrel higher or lower than the estimated price of $15.00 per barrel. This analysis indicates that the overall price of crude oil, which we have estimated as $10.72 per barrel, could range from $10.33 per barrel to $11.33 per barrel. Obviously, it is most unlikely that all of the variables concerned would converge at the high or at the low side of our estimates, and we remain convinced that our estimates of $8.75 per barrel for domestic crude oil and $10.72 per barrel for all crude oil are reasonable. These analyses use the same methodology and should be compared with the analysis set forth in Enclosure 6 to my letter of December 6.

DOMESTIC CRUDE OIL

Low Range

January 1976 price estimate contained in December 6, 1975, letter	\$8. 75
If old oil price is \$5 instead of \$5.25— $0.25\left(\frac{8.5\times 0.6}{8.5}\right)=\$0.15$	—. 15
If \$13.50 is used as the price of uncontrolled domestic crude oil— $0.50\left(\frac{8.5\times 0.4}{8.5}\right)=\$0.20$	—. 20
Lowest estimated price for domestic crude oil in January 1976	\$8. 40

The complete formula would be:

$$\frac{5.00\ (8.5\times 0.6)+13.50\ (8.5\times 0.4)}{8.5}= \quad \$8.\ 40$$

High Range

January 1976 price estimate contained in December 6, 1975, letter	\$8. 75
If 55% old oil ratio used instead of 60%— $(8.5\times 0.05)\left(\frac{14.50-5.25}{8.5}\right)=\$0.463$	+. 46
If \$14.50 is used as the price for domestic uncontrolled oil— $0.42\left(\frac{8.5\times 0.45}{8.5}\right)=\$0.189$	+. 19
Highest estimated price for domestic crude oil in January 1976	*\$9. 40

The complete formula would be:

$$\frac{5.25\ (8.5\times 0.55)+14.50\ (8.5\times 0.45)}{8.5} = \quad {}^{*}\$9.\ 41$$

*The difference results from rounding of numbers.

ALL CRUDE OIL

Low Range

January 1976 price estimate contained in December 6, 1975, letter	\$10. 73
If old price is \$5 instead of \$5.25— $0.25\left(\frac{8.5\times 0.6}{12.4}\right)=\$0.103$	—. 10
If \$13.50 is used as the uncontrolled price of domestic crude oil— $0.50\left(\frac{8.5\times 0.4}{12.4}\right)=\$0.137$	—. 14
If \$14.50 is used as the price for imported crude oil— $0.50\left(\frac{3.9}{12.4}\right)=\$0.157$	—. 16
Lowest estimated price for all crude oil in January 1976	\$10. 33

The complete formula would be:

$$\frac{5.00\ (8.5\times 0.6)+13.50\ (8.5\times 0.4)+14.50\ (3.9)}{12.4} = \$10.\ 33$$

High Range

January 1976 price estimate contained in December 6, 1975, letter	\$10. 73
If 55% old oil ratio used instead of 60%— $(8.5\times 0.5)\left(\frac{14.50-5.25}{12.4}\right)=\$0.317$	+. 317
If \$14.50 is used as the price for domestic uncontrolled oil— $0.42\left(\frac{8.5\times 0.45}{12.4}\right. =\$0.130$	+0. 130
If \$15.50 is used as the price for imported crude oil— $0.50\left(\frac{3.9}{12.4}\right)=\$0.157$	+. 157
Highest estimated price for all crude oil in January 1976	\$11. 33

The complete formula would be:

$$\frac{5.25\ (8.5\times 0.55)+14.50\ (8.5\times 0.45)+15.50\ (3.9)}{12.4} =\$11.\ 33$$

(b) [Paragraph (c) in your November 24 letter.] Effect of removal of the $2 per barrel supplemental import fee.

The effect of removing the $2 per barrel supplemental fee would be to reduce the price of imported crude and all currently uncontrolled domestic crude by $2. For the composite price of all crude, the impact would be measured as follows:

$$2.00\left(\frac{8.5\times 0.4}{12.4}\right)+2.00\left(\frac{3.9}{12.4}\right)=\$1.18$$

per barrel less than if the supplemental fee were to remain in effect, assuming a 60/40 domestic old/controlled oil distribution

(c) [*paragraph (e) of your November 24 letter*] *Influence of FEA regulations on reseller margins.*

FEA pricing regulations provide for the passthrough of increased product costs and, subject to certain limitations, increased non-product costs by all marketers and retailers of covered petroleum products. Briefly, this is accomplished by comparing the cost of product in inventory on a base date (May 15, 1973) with current product costs, and permitting the difference to be added to May 15, 1973, selling prices. Non-product costs are those costs incurred by the marketer or retailer other than the actual purchase price of the product and the additional cost, if any, of transporting it into inventory. Typical costs which would be included in this category would be labor, rent, utilities and other miscellaneous operating expenses. Such increased non-product costs may be passed through only to the extent they do not exceed specified increments which have been determined by FEA, generally on a product-by-product basis and according to the level of distribution concerned.

FEA regulations have therefore operated to freeze gross margins at May 15, 1973 levels, with the only exception being increases deemed necessary to offset the effect of increased non-product costs. An examination of the available data applicable to retail gasoline sales tends to indicate that a very competitive environment exists which has restrained retailers from receiving the maximum price permitted in accord with current regulations. Specifically, in May 1973, the gross margin applicable to retail gasoline sales was approximately 7.3 cents per gallon. Current regulations permit an increase of 3 cents per gallon for non-product costs. However, the most recent data available (August 1975) indicates that gross margins are 8.4 cents per gallon and therefore considerably below the maximum of about 10.3 cents per gallon.

To the extent that this data reflects considerable price pressure in the marketplace, it is reasonable to conclude that current margin controls at the retail gasoline level are having very little effect, because of the overriding effects of price competition. We believe this is a likely case for most of the major product categories with the possible exception of aviation fuel, of which only a small portion is not sold directly by refiners. The impact of this situation on the question of how fast the decreases in crude oil prices will flow through to the ultimate consumers is identical to the impact of "banked costs" on this question which is discussed in pages 13–14 of my December 6 letter.

(d) [*paragraph (f) of your November 24 letter*] *Effects of supply and demand of refined products.*

Except for anticipated possible spot shortages of propane, current estimates project adequate supplies of principal petroleum products in all regions of the country and levels of product distribution, so that competitive forces should continue to operate to reduce consumer prices to reflect reduced crude oil acquisition costs.

(e) [*paragraph (h) of your November 24 letter*] *The role of relevant provisions of the Energy Policy and Conservation Act, including the amendment to the pricing provision offered by Senator Hartke.*

As you know, the Hartke amendment is embodied in section 401 of the conference substitute, which among other things adds a new section 9 to the Emergency Petroleum Allocation Act which provides in relevant part that FEA pricing regulations "shall provide for a dollar-for-dollar pass-through in prices at all levels of distribution from the producer through the retail levels of decreases in the costs of crude oil, residual fuel oil, and refined petroleum products (including decreases in costs which result from [the rollback of the weighted average first sale price of domestic crude oil to $7.66 as required by the Conference Substitute])."

We understand this provision to be essentially the obverse of section 4(b)(2)(A) of the current Act, as amended by section 402(a) of the conference substitute, which provides in very similar language for a dollar-for-dollar passthrough of crude oil and product price *increases*. We have interpreted the latter provision in the past as requiring the FEA to permit sellers at least the opportunity to passthrough all of their increases in the cost of crude oil or products incurred since the base date of May 15, 1973, even though market conditions may as a practical matter prevent the full passthrough of such increases. The courts have upheld this interpretation in several different cases. By the same token, we believe the new section 9 will require the FEA to force commensurate reductions in a seller's maximum lawful selling prices if he enjoys a reduction in his crude oil or product costs.

Thus, for example, section 4(b)(2)(A) requires the FEA to structure its pricing regulations so as to permit a seller who had a maximum lawful selling price of $.50 per gallon and who incurred an increased product cost of $.05 cents per gallon to increase his maximum lawful selling price to $.55. As a practical matter, however, the seller may in fact be able to increase his actual selling price only from $.50 to, say, $.53 if he wants to remain competitive. Similarly, the new section 9 would require a seller who had a maximum lawful selling price of $.50 and a price *decrease* of $.05 cents to reduce his maximum lawful selling price to $.45. However, an actual price reduction of $.05 may not result if, for example, the seller was previously selling at $.48 cents per gallon, despite a maximum lawful selling price of $.50, because of competitive conditions. The actual price reduction mandated by section 9 in such a situation would then be only $.03.

In addition, we do not interpret the new section 9 as prohibiting the passthrough of existing "banked costs" during the period that the conference substitute would require crude oil costs to be rolled back below existing levels. This is so because the conferees, in addition to adopting the Hartke amendsection 4(b)(2) which expressly recognize the right of sellers to passthrough existing banked costs, subject to the limitation in the case of refiners that not more than 10 percent of the amount of banked costs in existence as of January 31, 1976 can be passed through in any one month.

See section 402. Thus, a firm that incurs a decrease in crude oil or product costs may be able to temporarily to delay passing that decrease on to its customers if it has banked costs currently available to offset any reduction in prices that would otherwise be required by the Hartke amendment and market conditions will permit it to pass through those banked costs.

Our view of the proper interpretation of the Hartke amendment is in every respect consistent with the interpretation contained in the Joint Explanatory Statement of the Committee of Conference. That Statement says in relevant part:

"The Conference Substitute required that *decreases* in a firm's cost of crude oil, residual fuel oil, or refined petroleum products be fully taken into account in computing that firm's maximum lawful selling prices."

". . . This provision of the Conference Substitute will help to assure that as much of the crude oil price reduction as is possible will be passed through the various levels of refining and distribution to the consumer level. Of course, it cannot realistically result in a full and immediate dollar-for-dollar reduction if that seller is already below its maximum lawful prices and if the Federal Energy Administration does not alter the rules regarding so-called 'banked costs.'" S. Rep. No. 94–516, 94th Cong., 1st Sess., at 195 (Dec. 8, 1975) (emphasis in original).

Then, in order "to clarify the relationship between the passthrough in prices of cost decreases provisions of the Conference Substitute and the provisions on banked costs," the Joint Statement quotes at length and with apparent approval from the discussion contained in my letter to you of December 6, 1975 concerning our understanding of the likely passthrough of crude oil cost reductions in light of the interplay of the banked cost rules and existing market forces.

7. *Effects of 39-Month Program.*

As you requested, I am enclosing an evaluation of the economic impact of the President's 39-month decontrol proposal. It should be recognized that the analysis assumes continuation of the $2 import fee, world oil prices held constant, and a somewhat different short-term economic outlook (see Enclosure 4 at Tab D).

I hope this letter properly addresses your concerns. I look forward to responding to any further questions you may have.

Sincerely,

FRANK G. ZARB,
Administrator.

ENCLOSURE 1

OLD OIL PRICE AND PRODUCTION DATA COMPILED FROM THE JANUARY 1975 FORM FEA 90

Gravity range	Weighted average ceiling price	Old oil production
Texas:		
Under 25	$5.11	1,794,615
25 to 30	5.05	4,126,357
30 to 34	5.10	8,565,197
34 to 40	5.20	14,150,433
Above 40	5.27	10,165,322
Louisiana:		
Under 25	5.10	3,086,688
25 to 30	5.13	2,521,614
30 to 34	5.19	3,197,018
34 to 40	5.28	6,058,445
Above 40	5.32	3,242,625
Off shore Gulf of Mexico:		
Under 25	5.42	
25 to 30	5.12	1,137,163
30 to 34	5.17	603,483
34 to 40	5.25	2,001,226
Above 40	5.35	398,577
California:		
Under 25	4.02	5,182,558
25 to 30	4.77	1,086,027
30 to 34	5.04	346,615
34 to 40	5.16	90,832
Above 40	5.06	58,466
Oklahoma:		
Under 25	5.02	143,160
25 to 30	4.80	632,526
30 to 34	4.94	264,086
34 to 40	5.10	1,698,864
Above 40	5.20	645,734
Wyoming:		
Under 25	4.48	2,551,260
25 to 30	4.86	549,560
30 to 34	4.91	209,738
34 to 40	5.20	1,792,196
Above 40	5.21	232,578
New Mexico:		
Under 25	4.85	50,524
25 to 30	5.02	48,465
30 to 34	5.06	330,802
34 to 40	5.19	952,131
Above 40	5.26	973,155
Total for above 7 regions:		
Under 25	4.54	12,809,058
25 to 30	5.03	10,101,712
30 to 34	5.13	13,516,939
34 to 40	5.23	26,744,127
Above 40	5.28	15,716,457
Total	5.08	[1] 78,888,293

[1] This figure represents 50.8 percent of all old oil production in January 1975.

ENCLOSURE 2

WEIGHTED AVERAGE REFINER ACQUISITION COST OF OLD CRUDE OIL (FORM FEA-P-102-M-O)

[Dollars per barrel]

	1974	1975
January		5.50
February		5.40
March		5.38
April		5.35
May		5.37
June		5.35
July		5.31
August		5.33
September		5.33
October		5.31
November	5.36	
December	5.44	

ENCLOSURE 3

PERCENTAGE OF OLD OIL TO TOTAL DOMESTIC PRODUCTION

	1974		1975	
	MER[1]	FEA-P-102	MER[1]	FEA-P-102
January	60		58	58.4
February	62		61	58.4
March	60		60	58.5
April	60			59.9
May	62			60.5
June	63			60.1
July	64			60.2
August	66			60.7
September	67			61.8
October	66			61.0
November	67	65.3		
December	66	66.2		

[1] Data published in FEA's Monthly Energy Review, which is derived from Form FEA-90 and from an annual survey conducted by the National Stripper Well Association and the Interstate Oil Compact Commission. (See enclosure 1 of my Dec. 6 letter).

ORDER AUTHORIZING THE RENEGOTIATION BILL (H.R. 11016) TO REMAIN AT THE DESK

Mr. LONG. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that the renegotiation bill remain at the Senate desk.

Mr. TOWER. Reserving the right to object, what was the request?

Mr. LONG. That the renegotiation bill, H.R. 11016, remain at the desk. We will probably call it up if it is at the desk, if we want to call it up after this conference report.

Mr. TOWER. I have no objection. I did not hear the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I thank the Senator.

ENERGY POLICY AND CONSERVATION ACT

The Senate continued with the consideration of the motion to concur in the amendment of the House to the amendment of the Senate to the amendments of the House to the bill (S. 622) to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement U.S. obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery.

Mr. JACKSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HASKELL. I certainly will. As a matter of fact, I will say to the distinguished Senator, I will yield the floor. I yield the floor.

Mr. JACKSON. Mr. President, I ask unanimous consent that all debate on the pending motion to concur in the House amendments be limited to 4 hours, to be equally divided.

Mr. TOWER. I object.

Mr. JACKSON. Mr. President, I ask unanimous consent that all debate on the pending motion to concur in the House amendments be limited to 6 hours, to be equally divided.

Mr. TOWER. I object.

Mr. JACKSON. Mr. President, I ask unanimous consent that all debate on the pending motion to concur in the House amendments be limited to 8 hours, to be equally divided.

Mr. TOWER. I object.

Mr. JACKSON. Mr. President, it is regrettable but quite clear that a filibuster is underway.

Mr. TOWER. Mr. President, will the Senator yield at that point?

Mr. JACKSON. Certainly.

Mr. TOWER. I am one of those around here who do not like the idea of filibusters, but I do believe I am an advocate of extended discussion on a bill that is going to reduce the independence of the United States on domestic sources of energy still further, and I think it ought to be thoroughly debated, and I think people should understand it. I think, too, people should understand what the House did do on this. The Senate got bamboozled, and the people who have some interest in coal, I think, are justifiably infuriated at what the House has done.

If the Senate is going to supinely lie down every time the House does something like this, then I think it sets a bad precedent because we encourage the House to treat us this way in the future and, therefore, I intend to object for the time being to any time limitation.

Mr. JACKSON. Mr. President, this is a comprehensive energy bill. It dates back to February. It covers more than pricing, it covers conservation, it covers strategic reserves, it covers a long list of things. We were in conference for 5 weeks with 25 Senate conferees from three committees. This was probably the largest conference ever undertaken between the House and the Senate.

Mr. President, a great amount of time has already been spent on this bill because each individual bill incorporated into this omnibus energy bill was debated at length. I think it is regrettable that a filibuster is underway.

Mr. President—let us be very candid about this—an attempt was made to force the reading of the amended version of S. 622 as passed by the House—about 240 pages.

We are not so naive as to believe, when that kind of motion is made, or the attempt is made, that anything but a filibuster is underway. What kind of time would be involved in reading 240 pages?

Mr. HANSEN. Will the Senator yield at that point?

Mr. JACKSON. Just a moment, and I will be glad to.

I just want to say that the signals are clear and, obviously, if that is going to be the position of a group of Senators, we are simply not going to have an energy bill and we are going to have not only total decontrol of prices, but we are going to foreclose any possibility of doing anything about the other critical areas of conservation, strategic reserves, and so on.

I yield first to the Senator from Wyoming and then to the Senator from Colorado.

Mr. HANSEN. I thank my colleague from Washington.

I would just like to say, Mr. President, that being one of the conferees, that request or that effort which was not fruitful to have the report read may not have been as much an exercise in futility as some Senators might suspect.

The fact is that I doubt that there are more than a very, very few, if indeed there are any—and I would exclude the distinguished Senator from Washington because he probably has read it, but we voted on amendment after amendment after amendment that had not even been written.

All we voted on was the report. The idea was that somebody said, "I offer an amendment." I asked two or three times to have the amendment read. All that I got by way of an explanation of the amendment was simply to tell what an objective was.

In the intervening time between the conclusion of that energy conference and this evening, or until last week, I think it is a fact that Senate and House conferees worked long and hard, oftentimes into the night, trying to agree upon language which would fairly implement, in the judgment of both sides, what we had intended to do.

I thank my colleague from Washington.

Mr. JACKSON. Mr. President, I want to say that the Senator from Wyoming has made it clear to me personally that he is not part of any filibuster, and I agree with that.

I would point out, Mr. President, that obviously the reading of 240 pages of a bill, I am sure, would command full attention of the Senate.

I am sure, Mr. President, that when a document has been printed for quite some time it is not possible for Senators to have read it.

We do not mind a little bit of this sort of rhetoric, but we can be candid once in a while and recognize that it is not customary for the Senate to have the clerk read a document of 240 pages.

Mr. FANNIN. Will the Senator yield on that point?

Mr. JACKSON. I yield first to the Senator from Colorado.

Mr. HASKELL. Mr. President, I ask unanimous consent that a vote on this conference report occur at the hour of 7:14 on December 17.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HASKELL. I thank the Chair.

I say to the distinguished Senator from Washington that we know what is going on.

Mr. JACKSON. I yield the floor to the Senator from Indiana.

Mr. HARTKE. Mr. President, today the Senate is considering the conference report on S. 622, the Energy Policy and Conservation Act. Few pieces of legislation have been as controversial as S. 622; few as complex; and few as misunderstood. No one would claim that this is a perfect piece of legislation—in a democracy we prefer accommodation to perfection. And, indeed, S. 622 abounds with accommodations. There are accommodations between the House and the Senate; there are accommodations between various interest groups; and there are accommodations between the legislative and executive branches. I stress this last set of accommodations because the rhetoric issuing from the White House these days would lead one to suspect it had been written without the President's participation. In reality, the conferees were in constant touch with administration officials whose views were taken into account and which formed an integral part of the final product.

President Ford's constant campaign theme is that the Congress—more specifically, the Democrats in Congress—lacks an energy policy. This supposed failing is contrasted to the well-defined, clearly articulated energy program presented by Mr. Ford. The difficulty lies in discovering what this policy really is. It began with WIN buttons and voluntary conservation measures. It then moved toward rigorous adherence to total and immediate decontrol of oil prices. When it was pointed out to Mr. Ford that this would precipitate economic disaster, the policy became one of phased decontrol. After making this the cornerstone of his program, the President came to the tardy realization that what we in Congress had been saying all along made sense: A free market in oil does not exist because the Arab cartel effectively sets not only its own price but the market price of domestic oil; therefore, the so-called free market price is nothing more than the OPEC-dictated price.

Since then, Mr. Ford has said that he would modify his position further to include a ceiling price on domestically produced oil. As to what that price should be, the White House has been exceptionally vague. The final change in the President's energy policy came amid reports that his own energy advisers were recommending that he endorse the present work of Congress.

What Congress has done in the oil pricing provisions of S. 622 is adopt a variation of the ceiling concept for domestically produced oil. It is an improvement because it combines a ceiling with a certain amount of flexibility that might be necessary to maximize production in certain areas. The law mandates that the President insure that the average weighted price of domestically produced oil not exceed $7.66 a barrel with provisions for this price to keep pace with inflation. Within the framework established, a maximum amount of latitude is given the Federal Energy Administration to create different ceilings for different areas and types of oil.

Pricing is only one aspect of S. 622 which runs the gamut from the creation of strategic reserves to insulate the Nation from any future embargoes to guidelines for the use of recycled oil. It establishes standby energy authorities to allow the President to deal with emergency situations; it sets standards for energy efficiency and conservation in automobiles, appliances, and industry itself; and it takes a major step toward the goal of an accurate and reliable energy data base.

It is good, comprehensive legislation. It is an energy program and an energy policy. It is the Congress, not the White House, that has articulated a coherent policy. I believe that Mr. Ford would be well advised to sign S. 622 as a law of the land; the American people are growing weary of the stale charge of congressional inactivity. The House-Senate conference that produced S. 622—so ably chaired by Congressman STAGGERS and cochaired by Senator JACKSON—lasted a record 6 weeks and involved 32 Members from the two Houses.

As any participant in that historic process can attest, the members and the committee staffs—three committees were involved—worked long and hard. Its work was undertaken in an atmosphere devoid of philosophical rigidity. Decisions were made on issues, not preconceived notions. It is, therefore, pragmatic legislation. But it is also distinguished by a strong sense of justice and equity. It is consumer-oriented, recognizing that what is a national problem should not be shouldered by only one segment of society. It avoided stiff taxes on fuel and astronomical prices because these solutions bear heaviest on those already hard-pressed to survive the present economic crisis.

In what I believe to be a key provision of the bill, the conferees accepted a suggestion I offered which insures that any savings accruing from the pricing provisions of S. 622 will actually be passed on to the consumer. The Hartke amendment, which is part of section 401, requires some elaboration, especially in light of recent speculation on its relationship to bank costs not yet passed through to consumers.

DESCRIPTION OF HARTKE AMENDMENT

The conference substitute contains a provision requiring the President to promulgate a pricing regulation which requires a dollar-for-dollar passthrough in prices of all decreases in the costs of crude oil, residual fuel oil, and refined petroleum products which have occurred or will occur. Under current regulations, the opportunity is provided for a refiner or marketer to pass through its increased crude oil or product costs. This is done by allowing the maximum lawful selling price of each seller to be increased upward to reflect increases incurred in the cost of crude oil or products puchased. The conference substitute requires that decreases in a firm's cost of crude oil, residual fuel oil, or refined petroleum products be fully taken into account in computing that firm's maximum lawful selling prices.

Until now such a provision has been unnecessary because few, if any, firms have enjoyed a reduction in their input costs. The pricing provisions contained in the conference substitute and the removal of import fees should, however, result initially in a significant reduction in the actual weighted average first sale price of domestic crude oil. This provision of the conference substitute will help to assure that as much of the crude oil price reduction as is possible will be passed through the various levels of refining and distribution to the consumer level.

WHAT WILL HAPPEN AT THE GAS PUMP? WHEN?

The Hartke provision will not result in a full and immediate dollar-for-dollar reduction of any seller's current selling price if that seller is already below its maximum lawful prices and if the Federal Energy Administration does not alter the rules regarding so-called bank costs. The Hartke amendment is very much related to another provision in the conference substitute pertaining to cost passthroughs and the banking of those cost passthroughs. In a letter of December 6, 1975, from Federal Energy Administrator Frank Zarb to the Honorable HENRY M. JACKSON, Mr. Zarb estimated that the maximum effect on domestic product prices as a result of the pricing provisions in this conference substitute would be about 2.5 cents per gallon. In that letter, Mr. Zarb went on to explain the relationship between this price decrease and the way that it could be expected to flow through to the consumer.

Mr. Zarb says:

> The question of how fast this decrease (2.5 cents per gallon) will flow through to ultimate consumers depends more on market conditions than on law or FEA regulations. Under Section 4(b) (2) (A) of the Emergency Petroleum Allocation Act companies are authorized to pass through to consumers increased costs of crude oil, but FEA regulations interacting with market conditions have prevented them from doing so on a current basis. As of November 1, 1975, refiners collectively had unrecovered crude oil cost increases of about $1.4 billion that they were authorized to recoup in higher prices but had as yet been unable to recoup because of the competitive pressures of the marketplace.
>
> These "banks" of unrecovered costs are not equally distributed among all refiners. Most are held by refiners who had higher than average feedstock costs before FEA's old crude oil entitlements program began operating. Accordingly, some refiners who currently have little or no bank costs because they have been passing through increased crude oil costs on a current basis will be required to pass on immediately in product prices any reduction in their average crude feedstock costs caused by this bill. In a market characterized by plentiful supplies of product, this mandatory reduction in prices by some refiners will place substantial competitive pressures on other refiners to meet these lower prices so as to preserve their market shares and their volumes of sales.
>
> The exact timing and extent of price reductions therefore simply cannot be predicted with any degree of confidence. They depend on the individual business decisions of literally thousands of refiners, distributors, and retailers of petroleum products. Each is caught between two conflicting motivations: trying to collect as much as possible of any increased costs not yet recovered, versus the need to meet competition so as to keep volume and market share up. Profit-maximizing behavior for each company will be different depending on its own circumstances.
>
> The general direction of the forces at work is clear. Currently, product markets are characterized by plentiful supplies and prices below those allowable under existing law and regulations. For those refiners without "banks" of unrecovered product costs, regulations will force lower prices early, thereby imparting downward pressure on all market prices. How fast that flow-through will be, on which products it will occur and in what amounts will be determined entirely by the interaction of supply and demand in the marketplace so long as prices are below legal limits.
>
> Regardless of the rate at which the cost reductions flow through in lower prices to consumers, the Conferees may rest assured that their actions, if enacted by the Congress and signed by the President, should result in a savings to consumers of about 2.5 cents per gallon on petroleum products. These savings, however, will not necessarily be evidenced by actual and immediate decreases from current product price levels at the point of final purchase. They will also be evidenced by a reduction in prices in future months as a result of the immediate reduction in the amount of costs that refiners and resellers will have available for passthrough to consumers in those future months. Thus, prices will be less in future months than they otherwise would have been under a continuation of the present program. The combined effect of the operation of FEA regulations and competition in the marketplace should assure that consumers will reap the full benefit of the rollback one way or the other. What cannot be specified with any precision is exactly how that benefit will be distributed over time and among the products covered by price regulations.

TO WHICH PRODUCTS MIGHT BANK COSTS (PERMITTED TO BE PASSED THROUGH) BE PASSED THROUGH?

In the first place, under S. 622 any cost passthrough is limited to 10 percent per month of the existing bank. This now includes gasoline.

Second, S. 622 prevents by statute any pricing of propane, home heating oil, diesel fuel oil and aviation fuel in a proportion greater than what those products by volume bear to a refined barrel of crude oil. Thus, any permitted passthrough of bank costs could not be loaded on propane, home heating oil, diesel oil, and aviation fuel. In fact, the conference committee fully intended that existing flexibility to tilt away from propane and home heating oil be preserved.

SMALL REFINER EXEMPTION

Section 403(a) of the Energy Policy and Conservation Act of 1975 provides limited relief to a group of small oil refiners. The provision cancels the obligation of an eligible refiner to buy entitlements based on the first 50,000 barrels per day of its runs. Eligible refiners are those with a total capacity of 100,000 barrels per day or less. It should be emphasized that this section clearly provides that small refiners who are sellers of entitlements should continue to receive their full measure of entitlement payments.

Section 455 of the act provides the President with a mechanism to deal with those cases where the partial exemption contained in the bill may cause an unwarranted and unfair economic or competitive advantage to accrue to benefited refiners compared to other small refiners as defined in the Emergency Petroleum Allocation Act. It also permits an amendment to the partial exemption if it were found that the operation of the exemption seriously impaired achievement of the objectives of section 4(b)(1) of the Emergency Petroleum Act.

It was clearly not the intent of the conferees to create a partial exemption for certain small refiners with one hand and to permit the President to abolish it entirely with the other. I believe that the language of the conference report and the joint statement of managers speaks for itself in this regard.

Mr. JACKSON. I agree with the comments of the Senator from Indiana. The conference substitute allows the President to amend the regulation in order to prevent some small refiners from obtaining an undue competitive advantage through the operation of this exemption, but only to the extent necessary to eliminate such advantage, and not to the extent of wiping out the exemption in its entirety.

In any event, the conferees contemplate that the procedures associated with the development of any amendment under this section shall be open to the views and input of all affected persons. Moreover, the review procedures contained in section 551 will insure that the Congress will have a full opportunity to evaluate any proposed amendment on the merits.

What I am saying in substance, Mr. President, is that this bill will provide for an actual reduction at the gasoline pump of the price of gasoline. The only question is when. I think it is a good idea that this be clearly stated to the American people and that the President understand that the only enunciated, clearcut proposal in energy comes from the Congress and, unfortunately, not from the White House. In other words, we have a program and a policy from the Congress and a rhetoric from the President.

Mr. BENTSEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. Mr. President, these pricing provisions that we have seen are not so much a rollback on the pricing of gasoline as they are an increasing of our dependence on OPEC.

It is interesting that they have singled out the independent producer here, who does 90 percent of the drilling and exploration, that he has been the one who has really been struck down in this measure, and much more so than trying to help the American consumers. The bill spells trouble for both the independent producer and the American consumer. It may be good election year politics, but it is bad economics. And I hope my colleagues recognize the political motivations behind it and join me in urging the President to veto it.

I do not want to be misunderstood, Mr. President. This report contains many good and necessary provisions which I supported in the Senate. The provisions for creating strategic reserves and automobile fuel efficiency standards are two examples.

I also supported an extension of the Allocation Act so that a workable compromise could be worked out between the President and the Congress.

But the pricing provision in the bill offers no compromise, Mr. President, only more dependence on foreign oil.

It is incongruous that independent producers should be the single most imperiled segment under the bill's pricing provisions.

It is incongruous that the American consumer is being told in press releases that prices are being rolled back, while this bill is labeled an "energy conservation act."

Energy is a national problem.

And it is a long-range problem.

We must seek long-range, national solutions. And anyone who tries to set one section of this country against another; anyone who promises to roll back the price of energy until the Presidential election is safely behind him is offering not solutions, but election year politics.

This kind of fraudulent political promise—for political gain—will not roll back the price of energy. It can only roll back the number of jobs.

The American people know we face some hard choices in the fight to meet our energy needs. They are far more willing to face those choices than some of the politicians. And I do not think they will be fooled by election year promises that cannot be kept.

This country has a serious shortage of natural gas because of unwise Federal regulation. The Senate recognized this in October and faced one of these hard choices when it approved my and Senator PEARSON's natural gas bill.

But now we are about to take a step backward by approving these irresponsible oil pricing provisions that will only worsen the energy shortage.

It will only increase our dependence on foreign sources.

It will only increase energy costs to American consumers.

And by promising the American people to roll back the price of energy—even though this is a false promise—the pricing provisions undo all the conservation efforts in other sections of the bill.

We must stop moving from crisis to crisis and take a serious look to the future about our energy needs.

This bill is addressing the wrong oil prices, domestic, not foreign.

How will a domestic price rollback help us produce the marginal wells?

How will it encourage more exploration?

How will it encourage the development of alternate fuels?

It will not. It will do just the opposite. And 6 months from now—in the heat of Presidential politics—we will start seeing the results of this ill-conceived program. By the end of the year it will be more clear.

Domestic drilling activity will be off—wells that would have been drilled would not be drilled.

Domestic production will be off—by 1979, 1.3 million barrels per day less will be produced than would be produced under the present system.

Demand will be up.

Imports will be increased and there will be serious talk of imposing quotas to prevent our becoming even more dangerously dependent on OPEC oil.

If quotas come, so will rationing. And the American voters will start looking for someone to account to them.

It might be, Mr. President, that it will take more than 6 months—maybe more than 12 months—before the results become apparent to the American people. But when they do, they will be looking for the truth—not politics as usual.

And let us not forget who is hurt the most by this legislation. Not the big oil companies, but the independent producers who drill 90 percent of the exploratory wells in this country.

I have been in touch with countless independent producers over the past few months. Their message has always been the same: "Give us certainty."

Without certainty they cannot make commitments for new leases.

Without certainty they cannot borrow to finance the new wells.

Without certainty they cannot and will not reinvest the earnings from present production.

Without certainty they cannot provide the American consumer an adequate supply of energy.

After the adoption of this bill:

It will be months before FEA issues rules.

It will be 1977 before a decision on Alaskan oil is made.

And it will be 1979 before producers know whether they will have market pricing.

That is too long for many of them to wait.

And some of our oil will be lost forever. Over 12 percent of our domestic production comes from stripper wells, many of which will be plugged and abandoned because of this legislation. Once plugged, a well is too costly to ever redrill. The remaining oil will be lost forever.

This is only one example of the shortsightedness of this legislation.

Another is the fact that these producers who own old oil will refrain from seeking new oil. Old oil approximates 60 percent of production today; new oil 40 percent. Should this ratio change to 59 percent-41 percent, new oil prices must drop an average of 16 cents per barrel—and so on, as the ratio shifts to new oil. What this means is that Congress is discouraging the production of new oil. The major oil companies control most of the old oil in this country, and they will continue to profit. Meanwhile, the independent producer who has been drilling 90 percent of the new exploratory wells will watch his prices rolled back if he continues his efforts to make our Nation more energy self-sufficient.

Finally, it will be April of 1977 before a decision to exempt any high cost Alaskan oil from the composite price, and it will be April of 1977 before drillers have enough price certainty to take the tremendous risks necessary to drill in unproven areas. For every barrel of Alaskan oil that is included in the composite average and assigned a high price, there must be an offsetting reduction in the price for oil from the lower 48. Again, the independents are penalized. Why not make the decision today to exempt the Alaskan production and avoid this needless uncertainty?

Mr. President, there are many other elements of the pricing provisions of this legislation that I could talk about. The ones I mentioned are just examples of the shortsightedness of this irresponsible action. I will vote against the conference report, and I urge my fellow Senators to do the same.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I understand that an attempt has been made on at least three and maybe four different occasions to try to bring about a time certain to vote on the pending business, and that the attempts have been met with objection.

It had been anticipated by the leadership that tonight, if the House of Representatives had agreed to a suspension of the rules to take up and approve the tax conference report, we might take it up this evening; but in view of the fact that the House did not agree to suspending the rules, we are faced with a continuing debate on the pending business.

I would hope that there is not a filibuster in progress in the consideration of this most important conference report, and I would hope that the Senate is aware of the fact that we are trying to get out by Friday of this week, and that if we do not get out by Friday, we will be in Saturday and next week as well.

Mr. President, in view of the fact that all we can do is talk tonight, and not get anywhere except to waste time, it is my intention to move very shortly that the Senate recess until the hour of 9 o'clock tomorrow morning. But I shall withhold that request pending any other talks—I hope they are brief—that Senators may wish to make; and if they are going to be long, I do not intend to subject the Senate to that sort of treatment at this late date in the first session—a session which, I might say, has occupied more hours than any other session in the history of the Republic as far as a session is concerned, and has undergone more rollcalls than any other session in the history of the Republic.

Mr. President, with that statement, I shall withhold what I intend to do, to permit others to speak; but if they intend to speak long, I wish they would notify me, because, I repeat, I do not wish to subject the Senate to undue punishment at this late date.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes, indeed.

Mr. BARTLETT. I was intending to talk for about 12 minutes, maybe 15. I have about nine pages.

Mr. MANSFIELD. All right.

Mr. BARTLETT. But if it will please the majority leader, I will be happy to do this tomorrow instead of tonight.

Mr. MANSFIELD. No, that is a reasonable time. What about the Senator from Kansas?

Mr. DOLE. I have laryngitis.

Mr. MANSFIELD. Good.

Mr. DOLE. If we all had laryngitis, we might be better off. But in any event, if it is possible to vote tonight, I would like to do that.

Mr. MANSFIELD. I see no possibility of a vote tonight.

Mr. DOLE. Oh, there is not any possibility of a vote?

Mr. MANSFIELD. The only thought I had was the possibility of taking up the tax measure, but that is not possible.

Mr. President, I ask unanimous consent that a vote on the pending business occur at the hour of 10 o'clock tonight.

Mr. DOMENICI. On S. 622, is that what the majority leader says? The pending matter?

Mr. MANSFIELD. Yes.

Mr. DOMENICI. I object.

Mr. WILLIAM L. SCOTT. Ten o'clock tonight?

Mr. MANSFIELD. Yes.

Mr. WILLIAM L. SCOTT. You have already got one objection; that is enough.

Mr. MANSFIELD. Eleven?

Mr. WILLIAM L. SCOTT. I object.

Mr. MANSFIELD. Midnight?

Mr. WILLIAM L. SCOTT. I object.

Mr. MANSFIELD. Ten o'clock tomorrow night?

Mr. DOLE. Nine o'clock tonight?

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HANSEN. Mr. President——

Mr. MANSFIELD. Ten o'clock tomorrow night?

Mr. HANSEN. Mr. President, reserving the right to object——

Mr. MANSFIELD. Wait, while I ask unanimous consent that a vote occur on the conference report, the pending business, at 10 o'clock tomorrow night.

Mr. HANSEN. Mr. President, reserving the right to object, and I personally do not object to this strategy, but I shall have to object unless Senator TOWER is here in the Chamber, and I do not see him here, so I do object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MANSFIELD. Mr. President, will the Senator suggest a more reasonable hour?

Mr. FANNIN and Mr. WILLIAM L. SCOTT addressed the Chair.

Mr. FANNIN. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. FANNIN. I certainly wish to cooperate in every way possible.

Mr. MANSFIELD. The Senator has always been most cooperative.

Mr. FANNIN. I thank the distinguished majority leader.

Mr. JACKSON. I concur in that.

Mr. FANNIN. We do have a problem which has been brought to my attention and complained about. We do not have a copy of the bill for Senators to even examine. It is not yet printed.

Mr. McCLURE. It is printed in the RECORD.

Mr. FANNIN. In other words, I am trying to be fair.

Mr. JACKSON. Here is a copy of the report with the two changes.

Mr. FANNIN. The report? All I am told is there is not a copy of the bill that has been printed. I am only bringing this up in fairness to some of the complaints that have been made, and I recognize——

Mr. JACKSON. It is all printed there. Here are the two changes.

Mr. MANSFIELD. I say we do not have the bill itself. It is all there except the two changes.

Mr. FANNIN. The bill is not completed as yet.

Mr. MANSFIELD. It is all there.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes.

The ACTING PRESIDENT pro tempore. Will Senators clear the aisle and will Senators use their microphones? Will Senators speak through the Chair?

At this moment, the Senator from Montana has the floor and is yielding to the Senator from Arizona.

Mr. FANNIN. I do not wish to delay anything.

Mr. JACKSON. Mr. President, will the Senator just yield?

The ACTING PRESIDENT pro tempore. Will the Senator suspend a moment, please, so the Chair can obtain order.

The Senator from Montana has the floor and is yielding to the Senator from Arizona.

ORDER FOR THE RECOGNITION OF SENATOR BARTLETT AND SENATOR ROBERT C. BYRD TOMORROW

Mr. MANSFIELD. Mr. President, in order to allow tempers to cool, I ask unanimous consent that after all other special orders have been finished tomorrow that there be an allocation of not to exceed 15 minutes to the distinguished Senator from Oklahoma (Mr. BARTLETT) and the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) following the orders already entered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY POLICY AND CONSERVATION ACT

The Senate continued with the consideration of the motion to concur in the amendment of the House to the amendment of the Senate to the amendments of the House to the bill (S. 622) to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement U.S. obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery.

Mr. MANSFIELD. Now I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I still wish to emphasize that it is customary to have a copy of the bill. I am not objecting. I only wished to bring out that this has been the objection expressed to me that Senators have not had a chance to go over these matters, and this is a very lengthy bill and as far as a legitimate amount of time I think we should. I am not trying to delay action, but I do feel that in fairness to many of the Senators on both sides of the aisle—I have objections expressed from both sides of the aisle—reasonable time is in order. I do feel that the Senator from Montana has been unreasonable in his request.

Mr. JACKSON. Mr. President, will the Senator yield for a clarification?

Mr. MANSFIELD. Before I yield to the Senator from Washington, I say it was all printed in yesterday's RECORD, and that is all before us today. I do not believe there is a lack of information, but I appreciate the viewpoint of the distinguished Senator from Arizona.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, just to keep the record straight about not having a bill available, I have here in my hand the conference report which was printed on December 8.

This report is on the desk and has been available for every Senator with the following deletions which are embraced in a memorandum that accompanies the report. I emphasize that the report has been in print since December 8.

Mr. President, I ask unanimous consent that the memorandum accompanying the report on S. 622 be printed in the RECORD at this point.

There being no objection, the memorandum accompanying the conference report was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., Demember 16, 1975.

MEMORANDUM

To All Members of the Senate.

From Senator Henry M. Jackson, Vice-Chairman of the Conference Committee on S. 622.

Re Status of S. 622 and Changes Adopted by the House of Representatives.

Yesterday the House of Representatives sustained a point of order against the Conference Report on S. 622, the "Energy Policy and Conservation Act." The effect of the House action was to reject the Conference Report.

The House did adopt an amendment in the nature of a substitute to S. 622 which is now before the Senate. The text of the House amendment is identical to the Conference Report (Rept. No. 94-516) on S. 622 except for two deletions.

The deletions are:

First, on page 8 of the Conference Report, paragraph (4) of subsection 102(c) dealing with the definition of the term "developing new underground coal mines" has been deleted.

Second, Part B of the new Title V to the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) entitled "Application of Advanced Automotive Technology" has been deleted. In the Conference Report this language is contained in section 301 on pages 51 through 58 (sections 541 through 550).

Mr. JACKSON. Mr. President, the deletions are as follows: First, on page 8 of the conference report, paragraph (4) of subsection 102(c) dealing with the definition of the term "developing new underground coal mines" has been deleted.

Second, part B of the new title V to the Motor Vehicle Information and Cost Savings Act entitled "Application of Advanced Automotive Technology," has been deleted. In the conference report this language is contained in section 301 on pages 51 through 58—sections 541 through 550.

I am sure the Senate, in the interest of economy if nothing else, would not want a reprint of this document when there is only a small portion in relation to the total that has been deleted, and that explanation is there. This document has been available, I say to the majority leader, since December 8, and fully printed in the RECORD.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JACKSON. Yes, I yield.

Mr. STEVENS. The Senator knows my great affection for him personally, but I remind him in the conference committee, on which I serve, I did not sign the conference report. We had agreed that we would go back in and we would be able to examine this language to see if it carried out the agreements we made. We have never been back in that conference committee. We did not go over the language.

I have great respect for the staff, but we never got a chance to go over it until it was printed. Then after it was printed, the House of Representatives met, and the House deleted two items. First, it turned down the conference report, and then it deleted two items that, in my opinion, had they not been in there we would have won the conference on the oil pricing question.

That is really the problem, in my opinion. There were matters that were put in there to assist to obtain votes from the coal-producing States. Those matters were now deleted by the House, and we were in the position now that if we went back to conference I think we would win.

The Senator, who is in the Chair, will recall some of these items in conference. This has led to some of our feelings about the problem that is here.

I still do not believe in the pricing mechanism that is in the bill, and I do not think that the coal Senators believed in the pricing mechanism that is in this bill, and if their sections were not in there, in the first place, they would not have voted for this bill as it came out of the conference before it was actually drafted.

We did not see one word of this bill in conference. No member of the conference saw it before that conference report was filed in either the House of Representatives or the Senate.

I have great respect for the Senator from Washington, but I have to say I do not see how we can be expected to vote on a bill that none of us who were in conference ever saw before it was reported to the Chamber, and none of us now know the true impact of what has been deleted and particularly we do not know what the votes would have been in conference had the measures that the House of Representatives deleted been deleted in the conference.

That is the real problem with this. I think perhaps we are fighting a losing battle with my good friend from Washington, but I do think the record ought to be clear as to what happened, and what happened was that the items that were put in that conference with regard to incentives for coal production have now been deleted by the House of Representatives in a very extraordinary procedure, in a procedure that I had a long discussion with the Parliamentarian about this morning. I know of no way now to touch some of these matters that are before the Senate for the first time. They were not in the Senate bill when it passed. They were not in the House bill that was passed. They are now in the bill because the conference committee changed the total text.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. STEVENS. The Senator from Washington yielded to me, and I am pleased he has done so, but I only wish to express my feelings about this conference report and the way it is coming up.

I know it is the last hours of this session and it is an unfortunate circumstance.

Mr. JACKSON. Mr. President, will the Senator yield for clarification?

Mr. MANSFIELD. I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, first, let me say that the conference report was circulated to all the members of the committee.

Mr. STEVENS. I have to beg my friend's pardon. I was on the conference committee. I did not see it until it was printed.

Mr. JACKSON. The staff informs me that they were sent to all of the members of the conference the day before it was filed.

Second, I point out to the Senator that he has made reference to the coal provisions here. May I say that the only change made by the House of Representatives is in connection with the definition of those eligible, and that is to be found on page 8. The effect of it was not to knock out the guarantee provisions or assistance provisions for coal mine operators who were not involved in a new type of mine. It is a change of definition.

Mr. STEVENS. It took out all new coal mines; did it not?

Mr. JACKSON. No; just the opposite. It eliminated the old mines, but new mines that were developed were included. It just changed the definition.

Mr. President, so that the record is complete, I point out that the entire text is to be found starting on page 40681 of the RECORD covering yesterday's proceedings, with the changes made by the House. I believe it costs $600 a page to have it printed.

Mr. President, I yield to the majority leader.

Mr. HANSEN addressed the Chair.

Mr. MANSFIELD. Mr. President, I should like to bring this matter to a conclusion tonight, because I do not think the Senate can accomplish much in the way of results. Will the Senator from Wyoming permit me to proceed?

Mr. HANSEN. Yes.

PRIVILEGE ON THE FLOOR DURING THE CLOSED SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the closed session, in addition to the Secretary of the Senate, the Assistant Secretary of the Senate, the Legislative Clerk, the Journal Clerk, the Sergeant at Arms, and the Deputy Sergeant at Arms, all of whom are authorized under rule 36, except that current titles have been used where they have been changed, that the following personnel be authorized to be on the floor: The Parliamentarian, the Assistant Parliamentarian, the Assistant Legislative Clerk, the Administrative Assistant to the Sergeant at Arms, the secretaries to the majority and minority, and their assistants, the general counsel and associate general counsels of the Democratic Policy Committee (Messrs. Ferris, Leach, and Williams), the administrative assistants to the minority leader and the assistant minority leader (Messrs. Davis and Holmes), the official reporters of debates (Mr. Walker, Mr. Perry, Mr. Mohr, Mr. Firshein, Mr. Reynolds, Mrs. Ross, Mrs. Garro, Mr. Smonskey, and Mr. Timberlake), the Appropriations Committee staff (Messrs. Calloway and McConnell), Senator TUNNEY's staff (Mr. Moran), minority policy committee staff (Jody Baldwin).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the official reporters be authorized to take proceedings of the closed session in shorthand; that the notes be transcribed; and, when the session is concluded, the original notes be placed in the custody of the Secretary of the Senate and kept secret by him along with other minutes and matters of such nature already in his custody.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. STEVENS. Is there a minority member for the Committee on Appropriations?

Mr. MANSFIELD. We have two, to whom I think Senator YOUNG and Senator McCLELLAN have agreed.

Mr. President, I ask unanimous consent that, at the conclusion of the closed-door session, the complete transcript of the proceedings be personally delivered in a sealed envelope by the Chief Reporter to Senator McCLELLAN; that the transcript of the remarks of each Senator who participated in the debate be made available by Senator McCLELLAN under his direction to said Senators for revision of their remarks; and that when this is completed, the transcript shall be resealed and put in a secure place for safekeeping for any future disposition by the Senate. I include with Senator McCLELLAN the ranking member of the Committee on Appropriations, Senator YOUNG.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT OF SPECIAL SENATE DELEGATION TO VISIT CERTAIN COUNTRIES IN THE SOUTHWEST PACIFIC

Mr. MANSFIELD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The resolution (S. Res. 331) was read, considered, and agreed to as follows:

S. RES. 331

Resolved, That the President of the Senate is authorized to appoint a special delegation of Members of the Senate to visit certain countries in the Southwest Pacific to conduct a study on United States security and foreign policy interests in that area and to designate the co-chairmen of said delegation.

SEC. 2. (a) The expenses of the delegation, including staff members designated by the co-chairmen to assist said delegation, shall not exceed $35,000, and shall be paid from the contingent fund of the Senate upon vouchers approved by the co-chairmen of said delegation.

(b) The expenses of the delegation shall include such special expenses as the co-chairmen may deem appropriate, including reimbursements to any agency of the Government for (1) expenses incurred on behalf of the delegation, (2) compensation (including overtime) of employees officially detailed to the delegation, and (3) expenses incurred in connection with providing appropriate hospitality.

(c) The Secretary of the Senate is authorized to advance funds to the co-chairmen of the delegation in the same manner provided for committees of the Senate under the authority of Public Law 118, Eighty-first Congress, approved June 22, 1949.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5247

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the vote on the nomination of Judge John Paul Stevens at approximately 1 p.m. tomorrow, there be a time limitation of 30 minutes on the Public Works appropriation bill which was considered briefly this evening; that the time be divided equally between Senator MONTOYA, the manager of the bill, and Senator McCLURE; that the vote occur upon the conclusion of that period.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, I understand from the unanimous-consent request and my understanding of the rules of the Senate that this would not in any way waive points of order. I direct that inquiry to the Chair.

The ACTING PRESIDENT pro tempore. Yes, points of order would be waived, because a point of order might prevent the taking of a vote at the appointed time by the unanimous-consent order.

Mr. McCLURE. Mr. President, I wonder whether the unanimous-consent request could include the possibility of the raising of a point of order by any Member of the Senate who might desire to do so on any matter which is pertinent to the consideration of that bill.

Mr. MANSFIELD. Yes, indeed. I make that request, also.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, reserving the right to object, I am not quite sure that I understood the request or the suggestion of Senator McCLURE. Will the Senator restate that, please?

Mr. McCLURE. I say to the Senator from Tennessee that the request I made was that the unanimous-consent agreement reserve to any Member of the Senate who might desire to do so the right to raise any point of order that would be pertinent to the proposed legislation, so that no Member of the Senate, by the unanimous-consent agreement, is waiving a point of order that he might make in the absence of the unanimous-consent agreement.

Mr. BAKER. Mr. President, reserving the right to object—and I do not intend to object—it is my understanding, then, that the purpose of that suggestion is to preserve any right to raise a point of order, but it in no way abrogates the unanimous-consent order to vote at the end of the 30-minute limitation.

Mr. McCLURE. With only this understanding: I assume that if a Member of the Senate were to raise a point of order which was sustained, it would have the effect of abrogating the vote which otherwise would be held.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOMENICI. Mr. President, reserving the right to object, I should like a clarification.

The Senator mentioned "appropriation"—it is an authorization bill.

Mr. MANSFIELD. An authorization bill. I am glad to be corrected.

Mr. BAKER. This is H.R. 5247.

I have no objection.

ENERGY POLICY AND CONSERVATION ACT

The Senate continued with the consideration of the motion to concur in the amendment of the House to the amendment of the Senate to the amendments of the House to the bill (S. 622) to provide standby authority to assure that the essential energy needs for the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement U.S. obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. TOWER. I have been one of the dilatory people here this evening on the energy conference.

Mr. MANSFIELD. Not yet.

Mr. TOWER. I suggest to the Senator from Montana that I think an agreement can be worked out. I would prefer not to try to work one out tonight, but tomorrow. I think we can agree on an expeditious time to vote. We have some bases to touch on this matter. We wanted some time. We did not want to get ourselves locked into a controlled time situation. I can assure the majority leader that tomorrow we can come to terms.

Mr. MANSFIELD. The Senator will never know how grateful I am to him for the statement he has just made.

Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, it is not my purpose or desire to take very much time. I simply want to illustrate why I think we do need to have time at least overnight, or to put the staff to work overnight—I intend to go to bed—to look at this bill.

I ask the distinguished floor manager of the bill, the Senator from Ohio, if he is familiar with section 403 of the bill, on page 92.

Mr. MANSFIELD. I beg the Senator's pardon.

Mr. HANSEN. I was asking the distinguished Senator from Ohio if he is familar with the import and the thrust of section 403 of this bill, headed "Entitlements" on page 92.

Mr. GLENN. The section the Senator from Wyoming refers to would grant exceptions from entitlements. Is that the section the Senator is referring to?

Mr. HANSEN. Yes. Is the Senator familiar with that section?

Mr. GLENN. What is the question with regard to that section?

Mr. HANSEN. As I read this section, it occurs to me that we have given a tremendous advantage to any refiner whose refining capacity does not exceed a certain number of barrels in that he will be exempt from having to pay any entitlements on the first 50,000 barrels per day of import if he is using old oil. Am I right?

Mr. GLENN. That is partially correct?

Mr. HANSEN. Is the Senator aware that there are some people in the refining business who think that this bonanza that we have included in there could amount to a very, very sizable amount of money per year, as much as 10 cents per gallon of oil, considering how the present entitlements program now works? Is the Senator aware that the effect of this change would be to make it possible for a refiner to avoid paying the amount of money that the entitlements program otherwise would require of it?

Mr. GLENN. The figure of 10 cents a barrel which the distinguished Senator from Wyoming uses is not a figure that has ever been submitted, to my knowledge, in hearings or during the conference committee nor here, on the floor. I would certainly be interested in seeing the figures and how that was arrived at. That is not a figure that I believe has been used in any debate regarding this legislation.

Mr. HANSEN. I do not question the statement made by the distinguished Senator from Ohio at all. I think it is exactly right. My point is that if we study the section—in what little time I have had to look at it, and it has not been very much, because I just had a phone call about it 15 minutes ago, it occurs to me that this is the way it is going to work.

The entitlements program now requires that payments be made by refiners who use a certain mix of oils if they have domestic crude of their own that they can use or if they have access to domestic crude. The information that I have is that this could conceivably amount to more than $1 billion a year of advantage to small refiners.

Mr. GLENN. Does the Senator from Wyoming recall that he was a cosponsor of this particular section of the bill when we had hearings on this?

Mr. HANSEN. Yes.

Mr. GLENN. I presume that if there had been any objections at that time of the type that he now raises, they should have been raised at the proper time, when he was a cosponsor of this particular section.

Mr. HANSEN. That is a good answer. The only trouble with it is that like so many sections of this bill, I am not at all certain that the language in this section 403 conforms precisely to what we were working on. Maybe it does. If it does, then it certainly is true that it escaped my attention.

It was not my intention at all to make possible such a situation. The fact is that the industry, the people who have to live and operate and work under this law, are just having time now to go through it. I think that what the Senator from Ohio says underscores the point very well.

There are all kinds of sections in this bill which, until it was printed in this conference report, no one had read. The reason no one had read them was that they had not been written.

Mr. GLENN. The Senator from Ohio would certainly concur with that; that we did not have a chance to read them until they were written. But they have been written now and they have been published in the Record. Everyone is familiar with the intent. All that is required at this point, as I see it, is that we go through and make sure that those intentions were carried out in the legislation, which has been printed and available for some time as the Senator from Washington pointed out. There were only minor changes made that now need to be checked. The rest of it has been available for some time.

The staff points out that, on page 97, with regard to the concerns of the Senator from Wyoming, subparagraph (g) (1), about a third of the way down that page, reads:

> "(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—
>
> "(1) results in unfair economic or competitive advantage with respect to other small refiners; or
>
> "(2) otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b) (1) (D) and for the attainment of those other objectives specified in section 4(b) (1);
>
> submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such sections 551.".

I have indicated to the distinguished Senator from Wyoming that this is a section that does deal with the entitlements that he is concerned about on page 92. Since we are going to be on this bill tomorrow, I suggest that he, overnight perhaps, might be able to refer to that part on page 97 as an answer to the entitlements problem he indicates on page 92.

Mr. HANSEN. Mr. President, let me say that I am glad the Senator from Ohio, a man for whom I have very high regard, read the entire appropriate portion of that reference on page 97. I underscore the words that he read last, which are: "such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such sections 551." Based upon the President's track record this year of trying to persuade Congress to take some action and to follow his leadership on practically every energy matter we have had before us, I should say, if I were in the business and were complaining about the section to which I referred earlier on page 93 of this pamphlet, that I should not find very much comfort in the section that has just been read to me by the Senator from Ohio. That is because either House of Congress, as the Senator recalls, can disapprove the actions of the President. It underscores once more the importance of knowing what is in this bill.

I did not know, and as the Senator from Ohio has said, I was a cosponsor of an amendment which had a certain objective. He said the important thing here is to see that our intentions are carried out. I am afraid that realistically, in the cold light of tomorrow and all of the tomorrows after that, the issue is going to be, what do the words say? Unless there is legislative history that clearly contravenes what the words say, I suspect that most courts and most regulatory bodies and authorities are going to interpret these words literally. I submit again that this section 403 does not do what I intended that it should do.

I think that if the Senator from Ohio was aware of what I have said about this section, how it has been interpreted, and if it were his intention that it should work in that manner, I shall be very much surprised, because I think that the Senator from Ohio is a much fairer man than one would have to conclude was capable of doing what clearly, it seems to me, this particular section would accomplish.

Mr. GLENN. If the Senator from Wyoming will yield, I believe that the entitlement section to which he refers, section 403, is identical, or nearly identical, to what was in the original language of the House. It has been available for study for a lengthy period of time. There are only two sections that were changed in the House, as the Senator from Washington, the floor manager of the bill, pointed out earlier. This entitlement section was not one of them. That has been available for some time. I think if we are to go now and take sections of the bill that were approved, and which have been available, and have been through committee here on the floor and through the House, and now raise questions concerning them, this would be, in truth, an endless exercise for such a complicated bill.

It is admittedly a very complicated piece of legislation, but the energy problem is a complicated problem. I do not think we can simplify it much more than has been done here.

Mr. HANSEN. I would have to agree with my friend from Ohio on that, that it is a very complicated problem, and if we think it is complicated now, wait until we pass this bill. It is really going to get complicated then. I agree with my friend from Ohio, and I am even more frightened by what he just said.

If sections that we had looked at as closely as seemingly we had this one, and what I have said is true, and it is on the record, and I invite Senators to read it and interpret it overnight and see if the conclusion that has been reached by a person who called me on the phone just a few minutes ago is in error, and if it is not in error, then I say we had better make haste very slowly because I am truly frightened that, given the situation we now have, admitting that the energy situation is in a very critical situation, that it is complicated, it is difficult to understand, there are all kinds of laws that we call upon the Federal Energy Administrator to administer, seemingly in an effort to try to make greater fairness and equity prevail within the industry, with all of its ramifications, if that situation is true now, it sure is going to get a lot, lot worse.

I am not encouraged at all by the very well-intentioned observations that my friend from Ohio has just made in saying that, impliedly, we do not possibly have time enough to go through it, I grant that, and it seems to me that that might be an awfully good reason, if what I have called attention to here is typical at all of what is in this bill, to have the bill not passed by the Senate.

Mr. GLENN. If the Senator will yield, Mr. President, I would like to ask the staff to place in the record tomorrow information which was supplied by the Federal Energy Administration, which deals with the entitlements program and pricing. The costs of exemptions the Senator has referred to in this case, will be available for the record. Will the staff please bring these documents tomorrow?

Mr. HANSEN. I have no objection, Mr. President.

Just one further and final observation: I think, too, it has been correctly interpreted that if this regulation were to stand it would encourage the bringing into being of a number of small refineries for a very obvious reason, they would have a tremendous purchasing advantage if, by buying old oil they could escape the impact that normally would result from the entitlements program, and we would be moving in the wrong direction. We do not find our most efficient economical plants to be the small plants in today's real world. It is the biggest plants that can operate most efficiently, and I just add that as a footnote to what I had earlier said.

I yield the floor.

Mr. STEVENS. Mr. President, I would like to ask the manager of the bill a question, and again I state I do not know of a time when I have felt more frustrated by a bill that meant more to my State than this does.

I remember discussing and, perhaps, the Senator from Ohio will recall, the definition of Federal land. I have just checked it again, and I find the change that I thought was made is not there.

My State has been given the right to select lands as part of its Statehood Act, and those lands that are tentatively approved, which is a technical definition, of tentatively approved lands, after selection, are treated as State lands, and the State was specifically given the right to lease those lands.

Production of oil and gas from those tentatively approved lands has been treated as State oil. I find that the term "Federal land" as it is defined on page 6 in subsection (10) does not include lands that were tentatively approved to a State in the process of its selection, and I wonder if the Senator from Ohio will recall that exchange we once had in the conference committee, and tell me is this definition now that says it means all lands owned or controlled by the United States, is this to be taken literally or does it mean lands in Alaska that are tentatively approved are still not lands that are owned or controlled by the United States?

Mr. GLENN. In reply to the distinguished Senator from Alaska, I do not specifically recall the conference committee discussion on this. It may well have occurred while I was there, but there was a lot of discussion, of course, and so I have no quarrel with the fact that it occurred as stated.

I think probably what I would like to do on this is to get a legal opinion and have it available tomorrow here on the definition, and have it printed in the RECORD tomorrow to clarify any questions that the Senator from Alaska might have, if that is satisfactory.

Mr. STEVENS. I am hopeful—I am sure the staff will remember my discussing it on several occasions, and the fear I have is this could be interpreted, unless there is a proper record for it, as being in contravention of specific terms of the Statehood Act which permits the State to treat the tentatively approved lands as though they are owned by the State.

Mr. GLENN. There was no such intent to do that, and I think this could be clarified with a statement that we will have available tomorrow morning.

Mr. STEVENS. I appreciate that very much because it is very much of a difficult problem, and I will be pleased to see that.

I have some other questions. I do not know whether this is a proper time to raise them or whether we should wait until tomorrow to raise the question concerning the language as it appears in the bill and, I might say, to my friend, I am sure there has been no secret that I have been very disappointed with the conclusions of the conference committee with regard to Alaskan oil and gas potential, particularly the oil potential and its problem as far as I am concerned to try to deal with this.

Let me again just make sure the RECORD shows my exchange, if I might, with the Parliamentarian and make a parliamentary inquiry, Mr. President.

Is my understanding correct that the Senate has no opportunity even though this is not a conference committee report, this is a bill, that the Senate has no opportunity whatsoever to amend this language?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. Does the Senate have the opportunity to refer this bill to a committee with specific instructions to add an amendment or to change language and have it reported back to the floor?

The ACTING PRESIDENT pro tempore. The only available parliamentary motions at the moment are a motion to table, a motion to postpone indefinitely, a motion to postpone to a day certain, and a motion to refer, the motion to agree having been made which precludes a motion to disagree.

Mr. STEVENS. A motion to refer to a committee with instructions would be in order, is that correct?

The ACTING PRESIDENT pro tempore. Not with instructions to add an amendment.

Mr. STEVENS. I do not understand the Chair's ruling. I thought it was in order to instruct a committee from the floor of the Senate.

The ACTING PRESIDENT pro tempore. An amendment in the second degree is not subject to further amendment and a motion to refer cannot accomplish indirectly what cannot be done directly.

We can refer this matter to a committee, but we cannot amend it.

Mr. STEVENS. If it were referred to a committee, the committee could treat S. 622 as a bill before that committee and make such amendments as it saw fit.

The ACTING PRESIDENT pro tempore. The committee could not amend this bill further in any way. This bill has been amended in two degrees, by the two Houses and reference to a committee could not result indirectly in further amendment of the bill.

Mr. STEVENS. I hope the Chair is seriously considering its ruling. We will have to challenge that tomorrow. I think that would be a terrible precedent for the Senate if that were the case, because the House could emasculate a bill and the Senate could have no power either through its committees or on the floor to amend that legislation before it sent it to the——

Mr. GLENN. Mr. President, I believe in this particular case, the reason we are up against this is that the amendment would be out of order because the House amendment to S. 622 was in the second degree and any future amendments would be in the third degree and therefore out of order. Under longstanding practice and precedent this would apply, whether it went to committee or was taken up on the floor.

The ACTING PRESIDENT pro tempore. That is the opinion of the Chair and that is the advice to the Chair.

Mr. STEVENS. I cannot concur and I thought I had studied my parliamentary procedure for some manner of years.

I think the Senate is becoming hidebound by misinterpretation of a precedent, if that is the case, because certainly the Senate has a right to stop this bill and to turn it around if it decides to do so.

S. 622 is merely a bill of this body and it could be put into a committee and changed completely, in my opinion, and sent back to the House anew.

I do not see how we can possibly get to the position where we are tied so tightly to what the House has done. I think it is very much a frustrating situation for those of us who, again, had no chance to determine what would happen to this bill if the House made the maneuver that it did.

Is the Chair of the opinion the bill cannot be sent back to the conference committee?

The ACTING PRESIDENT pro tempore. The conference committee was discharged when the House disagreed to the conference on yesterday, and there is no longer a conference committee to which this bill could be recommitted.

Mr. STEVENS. Then if the Senate were to ask for a conference, is that in order?

The ACTING PRESIDENT pro tempore. The Senate can ask for a conference if the motion to agree is defeated and then the Senate disagrees and requests a conference.

Mr. GLENN. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. GLENN. This being an unusual condition where we would be getting into third-degree amendments, I think it probably is a little bit unusual and is not normally encountered.

I would refer the Senator and any of those wishing to check the record to examine the book on Senate procedure, pages 83 and 84.

I hardly think it is necessary to have those reprinted in the RECORD. If Senators could refer to the pages 83 and 84 in Senate procedure, it outlines exactly all the procedures regarding amendments between houses.

I think that covers this exact situation.

Mr. STEVENS. I did refer to them, but I do not think there is an exact precedent for what the House did to us last night.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, may I say that the matter before the Senate is the motion to agree to the House amendment to the Senate amendment to the House amendment to the Senate bill S. 622.

When that matter came back before the Senate, there were only six motions available to Senators: A motion to disagree, a motion to agree, a motion to refer, a motion to postpone to a definite time, a motion to postpone indefinitely, and a motion to table, and in that order of inverse precedence.

The pending motion before the Senate is a motion to agree, which is a motion of higher precedence than a motion to disagree. The reason being that the motions are so arranged that they will make possible the resolution of disagreements between the two Houses.

The measure that is before the Senate has been amended in the second degree. In the Senate, no amendment can be offered in the third degree. The same is true with respect to amendments between Houses—no amendment can be offered in the third degree.

In view of the fact that no amendment can be offered on the Senate floor in the third degree, the same cannot be accomplished indirectly which cannot be accomplished directly.

Consequently, while the motion to refer to a committee is in order, a motion to refer with instructions to bring back the bill with certain amendments is not in order because, if that could be done, then that would be accomplishing indirectly that which cannot be accomplished directly.

The matter is not altogether a matter of precedence, and the Chair is precisely correct in his statement. I would hope that no challenge would be made to the Chair's statement. If such is made I would have to do everything I could to persuade the Senate to uphold the ruling of the Chair. The Chair is correct.

I realize that what the Senator from Alaska is saying has a lot of merit. It is frustrating to Senators who wish to amend the measure at this time and who cannot do so. But this is the situation in which the House placed the Senate, and, under the precedents, there is nothing we can do about it except to proceed in the direction of one of the six motions that I have outlined.

The ACTING PRESIDENT pro tempore. The Chair would state that the Chair completely agrees with the distinguished Senator from West Virginia and would refer the Senator from Alaska to the first paragraph on page 83 of Senate procedure, which says:

> In the Senate, when acting on "amendments between Houses," the original amendment added to the bill by the second House is open to amendment in two degrees; that is, an amendment to the original amendment, and an amendment to the amendment to the original amendment.

Mr. STEVENS. I appreciate what the Chair said and what the Senator from West Virginia said. But I still believe a motion to refer has higher priority. It is in order, and once that committee got that bill, they could just put that in the cabinet and leave it and take the next numerical order in numbered bills and make the bill read the way the Senate wants it, report it back to the floor, and we could send it to the House.

I have never seen the time when one House can frustrate the other one if it really wants to do the thing right.

Last night the House undid that conference. Last night the House reneged on part of the conferees' agreement.

I did not sign the conference report because of other provisions, but I did want that coal provision in here and we had agreed to it in that form.

I think it is a very bad precedent to let one House pull that kind of action, and that is what they have done to us.

I say to my friend that I think we are both capable of seeing to it that the Senate would work its will if we both wanted to see it happen. I wish the Senator was totally with me because I can assure that I can get that bill over to the House in a condition where they have to take it the way we brought it out of the conference committee, or else.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. The Senate can do exactly what the Senator says. It can refer this to the committee, the committee can put it in a box, lock the box, and forget about it and that is the end of that bill.

Mr. STEVENS. And bring another bill and send it over.

Mr. ROBERT C. BYRD. Bring out another bill.

But with the time restrictions that are upon us, I think that would be the end of it.

Mr. STEVENS. I understand, but it can be done. I just do not believe that the impact, we cannot do indirectly what in committee we cannot do on the floor, is exactly correct, with due respect to the occupant of the Chair.

Mr. ROBERT C. BYRD. The Chair is exactly correct, that the Senate cannot do indirectly that which it cannot do directly in respect of S. 622. But if it wants to put S. 622 in the committee and put it in cold storage until the spring thaws come, it can do that. In the meantime, time permitting, it could bring out another bill. But therein lies the problem.

Mr. STEVENS. I will not belabor the Senate tonight, but it does seem to me there are other questions about this bill the way it has been drafted.

I might say again with all due respect, because I have high respect for the staff that sits behind the manager of the bill, regarding Alaskan oil, which, incl-to my knowledge, the minority staff was not in on the drafting of the bill at all. To my knowledge, there are some changes that have been made in this bill that are different from the ones in the last draft of the bill that I saw in conference. I do not argue with them; I just have not had time yet to understand whether I want to argue with them. That is a frustrating thing. This bill is going to cost my State, I would estimate, between 100,000 barrels to 500,000 barrels a day in terms of the impact of this bill.

As far as I am concerned, it is going to put exploration for new oil in my State in a permanent deep freeze for 40 months. Almost every rig in my State is stacked now. There is only one seismic crew operating in Alaska today. Alaska is an area one-fifth the size of the United States. All those rigs should be active in view of the intense demand for oil. I just believe that somehow there ought to have been another way for us to have an expression.

I hasten to admit to my friend that I was operating under the feeling that perhaps we might get a second go-round at this. But now that that question of a veto seems to be on a teeterboard, I am examining the language just a little bit more. I find some language, as I said, that I am not familiar with.

For instance, I do not know the impact of the provisions of section H, with regard to judicial review. That is on page 90. I am not saying I quarrel with them. It is just that that is new language as far as I am concerned. It pertains to judicial review of the amendment dentally, is limited to the trans-Alaskan pipeline. I argued that in conference and lost. I do not believe it should have been so limited.

What is the impact of that judicial review limitation if the judicial review is sought by my State?

The Senator from Ohio may want to present something from the staff in the morning.

Mr. GLENN. That is correct. We have a statement.

Mr. STEVENS. I believe my State may well want to challenge that determination by the President, the way I understand the FEA's attitude at the present time. I wonder, does that judicial review section limit my State as to the findings that it may challenge if the President makes an inadequate finding?

Mr. GLENN. We would like to address the issue raised by the Senator from Alaska with a statement for the RECORD in the morning. We have the scope of judicial review statement with us which can be printed in the RECORD. I will not read it all tonight. It is a number of pages. It should clarify that.

Mr. STEVENS. Again, I do not want to prolong the Senate tonight, but I do believe that there are some of these things which we should go into in depth tomorrow to make certain that there is no misunderstanding. Not that we may be in total disagreement, but at least so that we understand what is meant by some of the changes made in the final draft of the bill as it came out of the conference committee.

I appreciate that statement and will read it tomorrow morning.

Mr. GLENN. Mr. President, I will ask unanimous consent that a statement entitled "Summary Analysis of the S. 622 conference report," by the Library of Congress, Congressional Research Service, be printed in the RECORD. Will the staff also please submit tomorrow for the RECORD the statement entitled "Judicial Review of Oil Pricing Policy?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENERGY POLICY AND CONSERVATION ACT—SUMMARY ANALYSIS OF THE S. 622 CONFERENCE REPORT

INTRODUCTION

The Energy Policy and Conservation Act of 1975, reported from Conference on December 8, 1975, marks the culmination of more than two and a half years of almost continuous debate by the 93rd and 94th Congresses legislation to provide standby energy emergency authorities as well as longer run measures to conserve existing fuels and to increase the volume of domestic energy supplies.

As reported by the Conference Committee, the text of the bill consolidates provisions of five major bills introduced in the 94th Congress—H.R. 7014, the Energy Conservation and Oil Policy Act; S. 622, the Standby Energy Authorities Act; S. 677 the Strategic Energy Reserves Act; S. 349, the Energy Labeling and Disclosure Act; and S. 1882, the Automobile Fuel Economy Act—and amends and substantially extends the provisions of the expiring Emergency Petroleum Allocation Act of 1973.

Many of the provisions are very similar to those in the predecessor bill of the 93rd Congress, the National Energy Emergency Act which had been equally hotly debated. This bill was revised by literally hundreds of amendments, vetoed, and twice reintroduced before that Congress adjourned. If would be a mistake, however, to infer from this that there is little difference between the two. On the contrary, there appear to be major shifts in both the mood of Congress and the intent of the current legislative action.

It is indicative that the term "emergency" has been dropped from the title of the bill, the word "temporary" from the statement of the purposes, and that the termination date for most of the key provisions is now not two years hence but five.

Overburdened with detail as are the 123 sections of the bill, there may be seen throughout clear signs that this Congress is assuming both authority and shared responsibility for the outcome of the rigorous tasks required to shape a new energy policy for the nation's future.

The following brief summary highlights major provisions of the bill under the following five titles:

I. Matters Related to Domestic Supply availability

II. Standby Energy Authorities

III. Improving Energy Efficiency, including

IV. Petroleum Pricing Policy and Other Amendments to the Allocation Act

V. General Provisions

TITLE I.—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

Part A.—Domestic Supply

Coal Conversion

The authority of the Federal Energy Administrator is extended to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal. All powerplants that have a coal-burning capability on June 22, 1974 or acquire it thereafter would be required to use coal. In many areas, however, particularly in large urban areas this requirement could conceivably conflict with air quality standards. Some plants, PEPCO's Anacostia plant, for example, have recently been ordered to shift from coal to oil. Further reconciliation of these two goals will probably be necessary.

Incentives To Develop Underground Coal Mines

The legislation authorizes the FEA to guarantee loans to increase coal production by encouraging new market entry. The total guarantees to any person (or company) are limited to $30,000. The aggregate outstanding principal amount of loans guaranteed may not exceed $750 million and only 20% that amount can be used to develop coal which is not low in sulfur content. Eligibility restrictions will limit the loans to very small operators. Maximum interest rates are not specified nor are provisions for them discussed. There is no provision for penalties in cases of non-payment or for companies that already having financing problems. The cost of opening a new mine is so large and the cost of equipment so great that a loan of $30,000 would be only a very slight incentive. Because participation is limited only to small operators of underground low-sulfur coal mines, the volume of new production that it might stimulate is automatically reduced.

Domestic Use of Energy Supplies and Related Materials and Equipment

The President is given the authority to restrict exports of coal, petroleum products, natural gas, or petrochemical feedstocks as well as equipment necessary for further exploration, production, refining, or transportation of energy supplies. Exceptions are allowed for exchanges, for increased transportation efficiency, and for the historical trading relations with Mexico.

Materials Allocations

This section amends the Defense Production Act to authorize the President to require allocation or priority performance on contracts relating to supplies of materials and equipment needed to maximize domestic energy supplies. The authority may be used only if such supplies are scarce, critical, and essential to energy production, processing, distribution, conservation, or the construction and maintenance of energy facilities. This authority expires December 31, 1984. The bill provides that this special authority would continue even if the Defense Production Act of 1950 were otherwise to expire.

Prohibition of Certain Lease Bidding Arrangements

Increased competition in the oil industry is the objective of this Section. Joint venture bidding by major oil companies or their affiliates in the development of crude oil or natural gas on the Outer Continental Shelf is prohibited. A major oil company is defined as one producng in excess of 1.6 million barrels of crude oil, natural gas liquids, and natural gas equivalent per day. This restriction is quite similar to a rule recently made by the Interior Department on a temporary basis. The bill also requires a study to be made for similar limitations on crude oil, natural gas, natural gas liquids, coal, and oil shale on other Federal lands.

Production of Oil and Gas at the Maximum Efficient Rate and Temporary Emergency Rate

The President is authorized to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate on Federal lands. The states would still set the MER and TEP for areas, except for Federal lands, within their borders. During a severe energy supply interruption, the President may require that any field in any state be produced at the maximum levels allowed by those states. MER's and TEP's may be set by the Secretary of the Interior for fields on state land that are unitized with Federal lands and in energy emergencies production levels may also be set.

Part B.—Strategic Petroleum Reserve

A Strategic Petroleum Reserve would be established for storage of up to 1 billion barrels of petroleum products and not less than 150 million barrels within three years of enactment. The purpose of the reserve is to reduce the impact of petroleum product supply disruptions and to carry out obligations under the international energy program. An Early Storage Reserve is also established to meet near-term emergencies. It is not clear if the term "petroleum products" includes crude oil, for it is mentioned separately in other parts of the bill. If the term is not construed to be inclusive, it could be an oversight in the language of the section.

A plan for the Reserve is to be prepared and transmitted to Congress by December 15, 1976. Within seven years the volume of crude oil in the Reserve is to be equal to the total volume of crude oil imported during a base period, within 18 months 10%, within three years 25%, and within 5 years 65%. In this section the reference is to crude oil rather than to petroleum products. No limitation is placed on cost and siting of the Reserve or related facilities, although this and several other considerations are to be included in the Strategic Petroleum Reserve Plan. The impact of the acquisition of such large amounts of petroleum on world market prices and on competition within the petroleum industry is to be taken into account.

An Industrial Petroleum Reserve may also be established with up to 3% of the oil imported or refined being placed in storage. A Regional Petroleum Reserve in which demand for residual fuel oil and other products exceeds 20% of the demand for the preceding 24 months is also established. Authority is given to the Administrator of FEA to implement the reserve by storing crude oil produced from Federal lands including the Naval Petroleum Reserves, royalty oil, and oil purchased or received in trade. Drawdowns would be permitted by the President only in accordance with the distribution plan.

TITLE II.—STANDBY ENERGY AUTHORITIES

Part A.—General emergency authorities

The Conference bill requires the President to transmit to Congress, within 180 days after the date of enactment of this legislation, one or more energy conservation contingency plans and a gasoline rationing contingency plan. Additional such plans could be submitted at any time. No such contingency plan could become effective unless it was approved by a resolution passed by each House of Congress within the first period of 60 calendar days of continuous session of Congress after such transmittal, in accordance with procedures for expedited congressional review. No such approved plan could be put into effect unless (1) the President found that a severe energy supply interruption required such implementation, and he transmitted to Congress a request to put such plan into effect, and (2) neither House of Congress disapproved such request within the first period of 15 calendar days of continuous session of Congress after such transmittal. Such an approved plan could be put into effect without such additional review by Congress if and to the extent that the President determined, during a "7 percent shortfall period" that such implementation was necessary to meet the obligations of the United States under the international energy program. A "7-percent shortfall period" was defined as a period commencing on a date when the President determined countries who are parties to the international energy program have sustained a reduction in oil supplies equal to at least 7 percent of average daily consumption during the base period and ending 60 days after the date on which he finds that this condition no longer exists.

Energy Conservation Contingency Plans

An energy conservation contingency plan is defined as a plan which imposed restrictions on the public or private use of energy which were necessary to reduce energy consumption. No such plan could provide for the imposition of gasoline rationing or any tax, tariff, user fee, or minimum price for any petroleum product or for any credit or deduction in computing any tax. Energy conservation contingency plans could remain in effect for the period specified in the plan up to 18 months. States or political subdivisions could be exempted from an energy conservation contingency plan if the President determined that a comparable program or special circumstances exist in that jurisdiction.

Gasoline Rationing Contingency Plan

The Conference bill requires the President to prescribe a gasoline rationing contingency plan, as part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1972.

As amended by the bill such a plan must provide for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and for the assignments of rights entitling certain classes of end-users to obtain gasoline in precedence of other classes. No gasoline rationing contingency plan could be put into effect unless (1) the prerequisites for implementation of an energy conservation contingency plan were satisfied, and (2) the President determined that, without such rationing plan, all other practicable and authorized methods to limit energy demand were inadequate to achieve the objectives of section 4 (b) of the Emergency Petroleum Allocation Act. The President is directed to make appropriate adjustments in the petroleum allocation program in furtherance of a gasoline rationing contingency plan which is in effect. The President is directed to provide for the use of local boards whose composition reflected the community as a whole of States or their political subdivisions to receive petitions from end-users of gasoline and to order reclassfication or modification of any determination made with respect to the end-users' rationing priority or entitlement. No gasoline rationing contingency plan could impose a tax, provide for a tax credit or deduction, or impose any user fee except to cover administrative costs. A gasoline rationing plan could remain in effect for up to 18 months.

It is indicative of the extreme reluctance Congress has shown in respect to authorizing consumer end-user rationing that, although the President is permitted to order any other approved contingency plan to be put into effect in the case of an extreme interruption in energy supply without again obtaining Congressional consent, the gasoline rationing contingency plan is an exception to this authority and must be first resubmitted to offer Congress an opportunity to indicate disapproval.

Part B.—Authorities with respect to international energy program, international oil allocation and voluntary agreements

The President is authorized to require that the energy industry make arrangements to meet U.S. obligations in the international allocation of petroleum products. Such action would be immune from the antitrust laws. The Attorney General and the Federal Trade Commission are to be involved in the development of agreements and plns to propose alternatives which would avoid or minimize anticompetitive effects. Reports to Congress are to be made by both agencies every six months. Authorization is also provided for the establishment of an advisory committee. Exchanges of information are also authorized, except for material considered proprietary or trade secrets, unless the President certifies that it will not be disclosed because of adoption of adequate security measures by IAE. This information is to be transmitted only if other countries are supplying comparable data.

TITLE III.—IMPROVING ENERGY EFFICIENCY

Part A.—Automotive fuel economy

The Act requires that the average fuel economy for passenger automobiles manufactured after the 1977 model year must be no less than 18 MPG in 1978, 19 MPG in 1979, 20 MPG in 1980 with future increases to be set by the Secretary of Transportation at the maximum feasible level. By 1985 the standard is to be 27.5 MPG. Each year the Congress is to review these levels and to determine the ability of the industry to meet the 1985 levels. Manufacturers of less than 10,000 automobiles per year may be exempted. Any manufacturer may apply for modification of its average fuel economy standard. Each manufacturer would be required to attach to each automobile a label indicating its fuel economy, the estimated annual cost of operation, and the fuel economy range of comparable automobiles. This section is very similar to a comparable provision in H.R. 6860, which is still pending.

If a manufacturer or importer fails to meet the required average fuel economy standard, he would be liable for a civil penalty, which could be waived or modified under certain conditions. Conversely, if a manufacturer exceeds the fuel economy standard, he would be entitled to a credit of $5 for each extra ¹⁄₁₀th of a mile per gallon multiplied by the number of units manufactured to be applied to future model years. The penalty for noncompliance would be calculated the same way, plus an additional $10,000 per day for the duration of the violation period. A program to test the fuel economy improvement potential of retrofit devices would also be initiated.

Part B.—Application of advanced automotive technology

This part would establish within the Department of Transportation an advanced automotive technology program designed to improve automobile performance in terms of fuel economy, environmental impact, safety, damage susceptibility, reliability, and other characteristics. A report to the Congress within two years of enactment is required which would indicate the need for Federal support for prototype construction.

Part C.—Energy conservation program foi consumer products other than automobiles

The Energy Policy Act would require test procedures for and energy efficiency labeling of major home appliances and certain other consumer products using more than 100 kilowatt-hours. This information is essential to consumers in making an informed judgment in the purchase of appliances. The label must include representative annual operating costs associated with the use of these products unless the FEA determines that labeling would not be feasible or would not be likely to assist consumers in making purchasing decisions.

If the FEA prescribes a labeling rule for a class of major household appliances and then finds (1) that labeling will not suffice to induce manufacturers to produce (or consumers to purchase) products of that class which achieve the maximum energy efficiency which is technologically feasible, and (2) that the benefits of increased energy efficiency outweigh any increased consumer costs and any decrease in utility of the product, the FEA is authorized to prescribe an energy efficiency performance standard for that class of product.

The FEA would be required to exercise this authority in certain cases where industry is unable to achieve energy efficiency improvement targets which would be set by the FEA for major home appliances. These targets would be set at the maximum level which would be economically and technologically feasible, and would require at least a 20-percent overall improvement in energy efficiency for new major home appliances in 1980, in comparison to 1972 levels.

Part D.—State Energy Conservation Plans

This legislation authorizes a $150 million Federal grant-in-aid program ($50 million in each of three years beginning in FY 76) to assist States in developing and administering State energy conservation programs. These programs will have as a target a 5% reduction in energy consumption by 1980 below levels projected for that time. The legislation identifies conservation measures to be implemented by the States, but calls for administration of the programs on the State and local levels. State programs would include the following energy conservation measures:

Lighting efficiency standards and restrictions on hours of public buildings;

Programs to promote carpooling, vanpooling, and public transportation systems;

Energy efficiency and insulation requirements for new and remodeled buildings.

Within these Federal guidelines, States would establish conservation programs in a manner tailored to local economic geographic and climatological conditions. This legislation thus provides impetus, direction and financial assistance for energy conservation while protecting the States' interest in self-determination and local control.

Part E.—Industrial Energy Conservation

The goal of the industrial efficiency program is to increase the national average industrial energy efficiency by the maximum feasible amount by January 1, 1980. The Energy Policy Act recognizes that industry must share responsibility for attaining the goals of energy independence and wise utilization of scarce resources. The Project Independence Blueprint estimates that the energy equivalent of 400,000 to 600,000 barrels of crude oil per day can be saved in the industrial sector in the 1980's.

Industrial energy efficiency targets would be set for the ten most energy-intensive industries. Each target would represent the maximum possible improvement in industrial efficiency which a particular industry could achieve by January 1, 1980. The 10 most energy-intensive industries would be required to report annually on their programs in attaining energy-efficiency targets.

Part F.—Other Federal energy conservation measures

In addition, all Federal agencies would be required to develop a ten-year plan for energy conservation. This plan would lead with lighting standards, construction guidelines, restrictions on hours of operation, thermostat settings and other conditions related to the operation of Federal buildings.

TITLE IV.—PETROLEUM PRICING POLICY AND OTHER AMENDMENTS TO THE ALLOCATION ACT

This title includes what are probably the most controversial provisions of the entire Act. They are controversial not so much because of the still differing views over the quantitative levels of petroleum prices but because the basic confrontation has been and remains the far more fundamental one of public vs. private mangement of those prices.

Two Congresses have been debating this issue now for more than two years. Should the management of petroleum prices be left to the private producers and distributors of petroleum products and their mutual adjustments in the market or should those prices be subject to regulation by the executive within criteria laid down by Congress and closely monitored for conformance? The Conference bill provides an answer which, while clearly a compromise on levels of prices, accepts and asserts a right and responsibility in management and monitoring of those prices in the market as a whole.

A.—Effect of price level provisions

As reported in the Conference bill, the substantive provisions are likely to produce little if any reduction in the composite acquisition costs for crude oil paid by domestic refiners, and consequently little if any reduction in prices to the end-use consumer.

Once the acquisition costs of imported oil (now running in excess of 4 million barrels a day as compared with slightly over 8 million barrels a day from domestic crude) are equalized through the entitlements program, that averaged price could easily be $1.00 to $1.50 higher than the "weighted average first sale price" for all domestic crude of $7.66 mandated as the new domestic price. This may be the case even if the President's $2.00 import fee is removed and even if there is no additional upward pressure from companies who have withheld some $1.4 billion allowable "banked" prices increases and who may decide to pass them through to consumers.

The Conference report includes an explanation of reason why the full "rollback" of $1.09 in first sale average prices of domestic crude, highlighted in the official summary, may not be reflected immediately in consumer prices and may be offset by pass-throughs of banked costs. It does conclude that at least "prices will be less in future months than they otherwise would have been under the continuing of the present program."

Whatever level composite domestic-imported crude oil prices reach, the bill, if enacted, would insure that domestic crude oil prices *could* be maintained below the established world market prices established by the OPEC cartel.

B.—Effect of management provisions

On the other hand, the Conference bill reflects important and substantive changes which strengthen the authority for and mandate the participation of both the Executive Branch and Congress over a period which would extend until September 30, 1981. This does not mean that all allocation and all price controls would continue without change until that time. On the contrary, the bill provides for a shift from mandatory to discretionary authority in pricing regulations for the President 40 months after enactment, and for a much earlier shift from mandatory to standby authority for the continuing allocation regulations, if the President so recommends and Congress does not disagree.

Nevertheless, the combined effect of the pricing and allocation provisions of Title IV marks an assertion of the right of public regulation and surveillance of petroleum prices and responsibility for maintaining authority to correct inequities in both price and distribution of domestic and imported crude and refined petroleum products which is unprecedented in peacetime in the United States in a period not clearly identified as an emergency.

C.—Selected provisions

Among the many specific provisions of Title IV which give effect to this substantive strengthening of public responsibility for petroleum price management are the following:

Formal endorsement of and authority for continuing the "entitlements" program, under which the various domestic and imported prices are equalized among refiners with varying access to less expensive crude. (The program was launched by FEA in January 1975 and an earlier simple extension of the Emergency Petroleum Allocation Act from February 1975 to August 15, 1975 had been premised on Congressional understanding that the entitlements program would be undertaken by FEA.)

The previously floating uncontrolled price for "new", "released" and "stripper well" oil which makes up about 40 percent of all domestically produced crude oil was replaced by a ceiling to be imputed from a "maximum weighted average first-sale price" for all domestic crude of $7.66 per barrel. As described in the Conference report, this could be as high as $11.28 for all previously uncontrolled domestic oil, provided that "old" oil prices were continued at present levels of $5.25. The old stripper well provisions were explicitly repealed. Old oil was redefined as that volume of crude oil produced from a property in a month which is equal to or less than the volume produced and sold from such property in the months of September, October and November of 1975.

The President is given authority to adjust whatever prices are promulgated upward under prescribed criteria and subject to Congressional veto by as much as 10 percent a year, of which no more than 3 percent can be justified as needed to encourage additional production from difficult and high cost properties. Upward adjustments for inflation are permitted within this formula, again subject to criteria which seek to prevent undue weighting in the inflation rate from increased energy costs themselves. Even these levels can, under certain conditions, be increased if Congress agrees to the Administration's arguments.

Monitoring of prices at all levels of production and distribution would be tightened in timeliness and detail, and further audited by the General Accounting Office.

Any regulations and changes proposed are subject to Congressional right of disapproval over a period of 15 days, rather than the 5-day period provided for in the Old Emergency Allocation Act.

The President is directed to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships that have evolved under the Act.

The President is required to submit to the Congress on April 15, 1977, a report on the impact of anticipated Alaskan oil production levels and prices on domestic oil prices and on incentives to increase and maintain production in the lower 48 states. The President may then propose, subject to Congressional review, the exclusion of up to two million barrels per day of Alaskan production from the composite price ceiling and the establishment of a separate ceiling for this production not to exceed $11.28 per barrel as adjusted for inflation.

The bill permits conversion of allocation authority to standby status at an early stage if the President recommends and Congress agrees; converts the oil price control authority described in the Act to standby status at the end of 40 months; provides that the standby authority terminates after five years.

The President is specifically prohibited from using any authority in this legislation to prescribe minimum prices for crude oil, residual fuel oil, or any refined petroleum product. Establishment of a "floor" price for crude oil was a policy which the Administration has urged be adopted to encourage domestic production.

New discretionary authority is provided under which the U.S. government may exercise the exclusive right to import and purchase all or any part of the crude oil, residual fuel oil, and refined petroleum products of foriegn origin for resale in the United States.

In exercising this authority, the President is required to "endeavor to buy and sell without profit or loss," except that he may in individual cases sell on the basis of competitive bid any oil or oil product "at a price above or below the cost of such oil or product if, in the judgment of the President, such sales may result in progress toward a lower price for oil sold in international commerce."

New discretionary authority is provided under which the President may "require adjustments in the operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product" if this is necessary to assure adequate volume of any priority product in the event of shortages. The bill omits a House-passed mandatory ceiling that would have limited the consumption of gasoline to the level of 1972–1974 and would have further reduced consumption by 2 percent per year for each of the next three years.

He may also require maintenance of up to 90 days inventory of crude or oil products at any stage from production through distribution, except that no one is required to make physical additions to their existing storage capacity in order to comply.

V.—GENERAL PROVISIONS

The expanded data collection authority, which is included among the general provisions, provides one of the most important of the new energy policy management measures included in the bill. The authority of the Federal Energy Administration to gather information under the Energy Supply and Environmental Coordination Act of 1974 is extended until December 31, 1979. The Comptroller General is authorized to conduct detailed verification audits of books and records of any person or corporation in the energy industry who is required by this or other laws to furnish such information or if requested to do so by a full congressional committee with legislative or oversight jurisdiction. Furthermore, the Comptroller General may conduct verification examinations of financial information relating to energy resources and products of any vertically integrated petroleum company. A civil penalty of up to $10,000 is imposed for failure to comply with an inspection order, and each day of failure to comply will constitute a separate violation.

Among the many lessons of the Arab oil embargo and the subsequent experience of coping with the serious petroleum shortages which developed was the recognition of the difficulty of shaping and executing new policies in the absence of any reliable and current energy data base other than that supplied by the industry itself.

It is the intent of the 94th Congress that this weakness be corrected under the authority provided in this Act.

Scope of Judicial Review—Oil Pricing Policy

It is important to explain the scope of judicial review called for under Title IV relating to oil pricing policy. It is inaccurate to argue that the new section 8 of the Emergency Petroleum Allocation Act of 1973 would necessitate lengthy, detailed, expensive and time-consuming administrative proceedings or court review. In fact, just the opposite is the case.

This new provision establishes a pricing formula for domestically-produced crude oil which provides for an initial price but authorizes gradual increases in the prices received by domestic producers over a 40-month period. In determining the oil prices, there are two different types of procedures employed, depending on the situation.

In the first type of procedure, the President makes certain determinations based on an enumerated list of "findings." For example, in the new section 8(b)(2) which would be added to the Emergency Petroleum Allocation Act of 1973, the President is mandated to establish price ceilings and classifications of crude oil. Paragraph (b)(2) of that section would prohibit an increase in the price of any volume of old crude oil production from any properties unless the President finds that the increase (a) will give positive incentives for enhanced recovery techniques or deep horizon development; (b) is necessary to take into account declining production from such properties; and (c) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

This type of procedure, and others like it under the oil pricing scheme, are in the nature of a rule-making action pursuant to section 553 of the Administrative Procedure Act. As such, the President would be required to publish his proposed findings and proposed change in the regulation and give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. There should be no opportunity for cross-examination. Section 706 of the Administrative Procedure Act further defines the scope of review in such a rule-making procedure as "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law". Thus, given this narrow scope of review, decisions made by the President in this type of proceeding will not be buried in a myriad of extended court review.

The second type of procedure is identical to the first at the administrative level but provides for a different review mechanism. In the first place, the President must give Congress an opportunity to disapprove the action. In the new section 8 which S. 622 would add to the Emergency Petroleum Allocation Act, there are three circumstances where this procedure applies:

(1) A proposal to modify the 3% incentive adjustment and the 10% ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production;

(2) A proposal to continue or modify the production incentive or the adjustment limitation, or both; and

(3) A proposal to exclude up to two million barrels per day of Alaskan oil production from the composite price ceiling and the establishment of a separate ceiling for this production, not to exceed the highest price granted to significant volumes within the composite.

With respect to this type of procedure, where the President's proposals must first be submitted to Congress, the new section 8(h) specifically defines and limits the scope of review. This subsection provides that the reviewing court may not hold an amendment of the oil price unlawful or may not set aside such amendment on the grounds that the findings made by the President were not adequate to meet the requirements of the new section 8 provisions or that they were (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) unsupported by substantial evidence; or (3) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. Under section 706 of the Administrative Procedure Act, the Court could hold the President's action unlawful or set aside the action only if it was found to be (1) contrary to Constitutional right, power, privilege, or immunity; (2) in excess of statutory jurisdiction, authority, or limitations, or short of statutory rights; and (3) without observance of procedure required by law.

These limitations on the scope of review in this type of procedure where Congress must first be given the opportunity to disapprove are appropriate because this is a new, hybrid type of administrative action. Here, the action involves active participation by both the Executive and the Legislative branches. The reference to the substantial evidence test and de novo test in subsection (h) was included to assure that this hybrid action could not be subject to such standards. No implication can be drawn from such reference that any other procedure in section 8 is subject to the substantial evidence test or to the de novo court review.

OPPOSITION TO ENERGY POLICY ACT

Mr. DOLE. Mr. President, the junior Senator from Kansas opposes passage of this bill, the Energy Policy and Conservation Act.

It is a delusion for consumers.

It is detrimental to the national interest.

It would decrease domestic oil production and increase our dependence on foreign oil.

It would be worse than the existing program. That is why I introduced a bill yesterday, S. 2785, to extend until March 15, 1977, the Emergency Petroleum Allocation Act which contains the authority for the existing price control program on the oil industry.

The primary purpose of that bill is to show that there is a better approach than that contained in the conference report on S. 622, the Energy Policy Act. The purpose in introducing this bill is to show that S. 622 is not a step forward. On the contrary, it is a step backward. It is even worse than the existing price control program.

My purpose in introducing S. 2785 is not to say that a simple extension is the best possible approach to achieve energy independence. It is simply to say that a simple extension is better than the legislation that is now in its final stages.

The second purpose of my bill is to provide a rallying point for those Members of the Senate who recognize that the energy policy bill is contrary to the national interests. This is particularly important in view of continued silence from the White House as to whether the President will sign or veto the Energy Policy Act.

The prevailing argument in favor of the President signing S. 622 into law seems to be based on the argument that it is the best compromise energy policy that can be obtained from the Congress. It is my strong feeling that such an argument is wrong.

The introduction of a simple extension is intended to provide other Senators the opportunity to recognize that there is a better approach to our national energy policy. One approach—and not necessarily the best approach—is a simple extension of the existing program.

BETTER FOR NATIONAL INTEREST

There has been almost universal acceptance in this country that it is in our best national interest to obtain self-sufficiency in our own energy production, and thereby reduce our dependence on foreign produced oil. With nearly 40 percent of our total petroleum consumption coming from foreign sources, it is obvious that we have a long way to go.

The existing program of price controls does not move us toward energy independence as quickly as other programs might. However, it does maintain market prices for new stripper and high-cost recovery crude oil. This market-oriented aspect of the existing program has led to some important and striking results. In my own State of Kansas, for example, the oil industry reached a production peak in 1956. Oil production there has been declining in the 20 years since. This year in the first 10 months of 1975, that trend has been broken. For the first time in all those years, we have had a reversal of the decline and an actual increase in production.

That increased production could not and certainly would not have occurred without the tremendous market incentive that exists under the present system of controls.

The Energy Policy Act, S. 622, would go the opposite direction. It would establish price controls on new, stripper, and high-cost crude oil for the first time. The market incentive that has existed in these categories of production would be reduced.

The reduction of incentives would in turn reduce our domestic energy production.

If the crude price rollback is enacted and if there is any reduction in retail gasoline prices, then there would be a further increase in our petroleum consumption in this country. Greater consumption of petroleum here means a need to increase imports of foreign-produced oil. It would further increase our dependence on foreign oil production.

In short, S. 622, the energy policy bill, would strengthen the hand of the oil-exporting countries to further increase their prices and to force us to follow their dictates. A simple extension of the existing program does not reduce our dependence as quickly as I would like, but still it is far better than the policy contained in S. 622.

NO DELUSION OF CONSUMERS

An extension of the existing program does not attempt to give consumers the illusion that there is an easy or inexpensive way to achieve energy independence.

In my opinion, the supporters of the oil price rollback contained in S. 622 are attempting to convince the public that their bill will make it easier on consumers. In the long run, it clearly will not, since it will increase our dependence on foreign-produced oil, as I have already discussed. Even in the short term, the energy policy act may not make things any easier for consumers.

As I understand, a 2.5 cents-per-gallon decrease in retail gasoline prices is expected to accompany the oil price rollback in the Energy Policy Act. However, the reduction in retail prices may, in fact, be nowhere near 2.5 cents per gallon and may not even result at all. This is because several factors have not been taken into consideration in calculating the 2.5-cent decrease. For example, there are the banked cost of refineries which are costs that refiners have simply saved and have not passed on through to consumers. There is also the problem that all cost increases resulting from the most recent price increase of the petroleum exporting countries have not been passed through in the retail price of gasoline. Third, there have been increases in the cost of transportation and other overhead expenses that would tend to offset the price rollback. Finally, as I understand, it was assumed that the average price of crude oil for the purposes of calculating the 2.5-cent retail price decrease is $8.75 per barrel. In actuality, the cost of crude oil on an average may not be that high, so that any rollback in crude oil prices would result in a retail price decrease of less than 2.5 cents.

So, all these factors tend to offset the predicted 2.5-cents-per-gallon retail price decline. In the end, consumers would not only find themselves more dependent on foreign oil, but would possibly also receive the nasty shock of not even receiving a small price decrease in the gasoline and petroleum products they buy.

A continuation of the existing program makes no pretense of any kind of rollback or decrease in retail prices. It simply recognizes the fact that we are heavily dependent on foreign-produced oil and that if we are ever to achieve independence from the whims of those producers, we must greatly expand our own petroleum and energy production in this country.

Mr. President, there are numerous other things wrong with the Energy Policy Act which I have not mentioned. My discussion has been concerned only with the primary difficulty with this legislation. This is not to say that there are also some good provisions in S. 622. It is my hope that we might reenact those advantageous provisions at a later date.

But my primary purpose is to call attention to the fact that enactment of the Energy Policy Act would be a step backward from what we already have now. It is my hope that others in the Senate will recognize this fact and vote against the conference report on S. 622.

A strong showing in opposition to S. 622 will hopefully encourage the President to veto the bill, as he should do in the best consumer, public, and national interest.

Mr. JACKSON. Mr. President, section 461 of the Energy Policy and Conservation Act amends the Emergency Petroleum Allocation Act of 1973 by adding a new section 18 which extends that act, as amended, and the authority to promulgate regulations and issue orders thereunder, to September 30, 1981. Section 461 also makes clear that the mandatory requirements of the Allocation Act become discretionary at the end of 40 months.

Mr. President, section 463 of the Energy Policy and Conservation Act, provides that the amendments made by that act to the Emergency Petroleum Allocation Act of 1973 shall be effective as of midnight December 15, 1975. The clear purpose of this section is to avoid any hiatus or gap during which violations of the Federal Energy Administration's regulations would not be subject to price adjustments and civil sanctions.

Mr. President, when the Allocation Act temporarily lapsed in September, and again in November, I asked that a Library of Congress study and a legal memorandum addressing the retroactivity issue be printed in the Record. I ask unanimous consent that these documents again be printed in the Record, as well as a copy of an FEA ruling of September 17, 1975.

I ask that these documents be printed in the Record simply to put all parties on notice that they shall continue to be subject to applicable FEA regulations, notwithstanding the expiration of the Allocation Act at midnight last night.

There being no objection, the material was ordered to be printed in the Record, as follows:

[The Library of Congress, Congressional Research Service]

Effect of Retroactive Extension of the Emergency Petroleum Allocation Act on Current Oil Price Controls

Circumstances surrounding enactment of legislation extending the Emergency Petroleum Allocation Act have given rise to a serious question regarding its impact on existing relevant statutory and implementing regulation. Specifically, it is asked whether any hiatus occurring between expiration on August 31, 1975, of the current price regulations under the Emergency Petroleum Allocation Act, as amended, 15 U.S.C.A. 753(a), (g)(1) (Supp.), and an assumed congressional override of an expected presidential veto of S. 1849, the Emergency Petroleum Allocation Extension Act, would permit petroleum producers to irrevocably revise oil prices upward.

That Congress as a general matter could have properly legislated a price rollback in the present circumstances seems fairly clear. See, generally, *Amalgamated Meat Cutters & Butcher Workers* v. *Connally*, 337 F. Supp. 737 (D.C.D.C. 1971), and authorities cited therein. Because there exist statutory price setting authority and implementing regulation in place, Congress instead chose to extend it for an additional period in order to give itself time to consider a broad attack on the Nation's energy problems. For reasons hinted above and soon to be examined, such authority may expire before the recently adopted extension becomes effective.

Congress, and particularly the House of Representatives which was acutely aware of the possible gap between expiration and reinstatement of the price control law and regulation, took the position that extension, if and when effective, would be retroactive to August 31, 1975. Accordingly, if such action is valid, there would be no gap in the current price control mechanism when S. 1849 becomes law. Moreover, the clear intent of the Congress to have S. 1849 apply retroactively together with delaying its submission to the President for his signature until resumption of the current session, seems effective notice to all parties concerned that existing price levels are to be maintained through March 1, 1976.

Section 4(a) of the Emergency Petroleum Allocation Act, as amended, 15 U.S.C.A. 753 (a) (Supp.), gives the President authority to issue regulations fixing the price of petroleum products as well as allocating them. Current regulations fix the per barrel price of a substantial amount of domestically produced oil at $5.25. This latter is substantially below the world price (and even below the price of oil obtained from more recently developed domestic sources). 10 C.F.R. Part 212. However, the price regulation now in effect and the "authority to promulgate and amend [it] . . . expire at midnight August 31, 1975." 15 U.S.C.A. 753(g)(1) (Supp.). Because final House action on S. 1849 came on the eve of the congressional August recess and faces an all but certain Presidential veto, a hiatus of uncertain duration will likely result before the new March 1, 1976 expiration date becomes effective.

As will be noted shortly, key congressional spokesmen were aware that the resulting gap presented the oil companies with an opportunity to raise prices. Accordingly, they made legislative history clearly indicating that S. 1849 was retrospective legislation violation of which was undertaken "at the [violator's] peril".

That S. 1849 was intended to hold the present price line while Congress worked out a comprehensive energy program is unquestionable. In its report on the bill, the Senate Interior and Insular Affairs Committee declared its—

". . . strong [] belie[f] that a six month extension of the Act of essential to assure an orderly transition period for resolving the significant issue of domestic crude oil pricing. Without such an extension, there will be no opportunity either to phase out price controls gradually or to extend the Act with appropriate amendments for an interim period. Moreover, the abrupt termination of price control authority and the consequent increase in domestic prices may occur simultaneously with further price increases contemplated by the OPEC cartel this fall. This would place an intolerable burden on the economy and destroy any prospect of recovering from the current recession. . . .

"Because the Emergency Petroleum Allocation Act of 1973 contains the only existing authority to control prices of crude oil and petroleum products and to allocate fuels in time of shortage, the Committee believes it should not be allowed to expire. Accordingly, it is proposing a simple six month extension of the Act, without further amendment, from August 31, 1975 to March 1, 1976." Senate Report No. 94–220, at 2, 7.

During the course of the Senate debate on S. 1849, Interior and Insular Affairs Committee Chairman and floor manager on the legislation, Senator Henry Jackson, spoke of the adverse economic consequences likely to follow upon the lifting of oil price controls. He said:

". . . In addition to providing the authorities necessary for dealing with the shortage induced by the Arab embargo, the act has served to insulate the economy and the American consumer from the drastic petroleum price increases which followed.

"The act is now scheduled to expire on August 31, 1975. If it is not extended, . . . the two-thirds of domestic crude oil production now under price controls will jump abruptly from $5.25 to over $13 per barrel. With the **President's $2 tariff, the cost to the U.S.** economy of decontrolling old domestic crude oil—coupled with the higher costs for new and imported oil and intrastate natural gas—will amount to a staggering $33.5 billion per year. Assuming the OPEC cartel raises world oil prices by $2 this fall, . . . the total drain on the economy would approach $50 billion.

* * * * *

". . . S. 1849 extends the act for 6 months. Without such an extension there will be no opportunity either to phase out price controls gradually, or to extend the act with appropriate amendments for an interim period. Since the Allocation Act permits the President to increase crude oil prices, or exempt any category of petroleum from regulation, the issue of domestic crude pricing can and should be resolved while preserving the important protection provided by the act.

* * * * *

"The problem of exorbitant world oil prices and their adverse impact on the domestic economy and American consumers, coupled with the ever present danger of another embargo or other shortage condition, persuasively demonstrates the need for extending the Allocation Act an additional 6 months. The uncertain action of the oil producing cartel, which may raise world oil prices this fall by as much as $2 or $4 per barrel, further reinforces the case for maintaining a capability to control domestic crude oil prices in the next term." 121 Cong. Rec., p. 22548 (July 14, 1975). (Emphasis supplied).

Of course, the Senate did not directly consider the matter of retroactive application of the bill in so many words. At the time of the Senate's consideration of S. 1849—July 14 and 15—the lapse of price control authority was not imminent. Indeed, fully two weeks remained before the Congress would begin its summer recess. However, as clearly indicated by the remarks of Senator Jackson and others, the intent to retain unimpaired existing oil prices controls through March 1, 1976, is unmistakable. To all intents and purposes, this intent seems to be the equivalent of an outright *in haec verba* call for retroactive application.

The time situation was altogether different when the House considered the bill. It was now July 31 and the day before the beginning of a month long recess. The prospect of a gap in the price control authority, a foregone conclusion if **the President as** widely anticipated vetoed the measure, was a matter uppermost in the minds of supporters.

As Senator Jackson had before him, House Commerce Committee Chairman Harley O. Staggers stressed the need for a lid on oil prices for an additional period thereby giving the Congress sufficient time to develop a more comprehensive energy program. In his words:

". . . this bill contains interim extensions of certain energy authorities to allow an additional period of time for the Congress to work out a well reasoned energy policy.

". . . the provisions of the Emergency Petroleum Allocation Act are proposed to be extended beyond their August 31 termination date to March 1 of next year—an additional 6-month period. As my colleagues know, the Allocation Act constitutes the only existing authority for continuing price regulation of crude oil and petroleum products. A failure to extend this act would result in abrupt decontrol of existing price ceilings. Every economic analysis available to the committee indicates that abrupt decontrol holds great peril. Although different estimates of impact have been made, there is general agreement that resulting price increases would wound our economy, prevent recovery, and drive this Nation into a deeper recession. 121 Cong. Rec., p. 26181 (July 31, 1975).

Following similar supportive remarks by proponents of the legislation, Congressman John Dingell, Chairman of the Subcommittee on Energy and Power, and Chairman Staggers undertook to make it clear that the bill embodied retrospective legislation, that is, that it was to preserve the status quo ante midnight August 31, 1975 insofar as oil price controls were concerned. In brief, it was intended to preclude a gap in the current price control authority. Their remarks, in relevant part, follows:

Mr. DINGELL. Mr. Speaker, I have a question I would like to direct to the chairman of the committee in light of the comments I have raised.

There is a possibility of a veto of this extension. If a veto of this legislation does occur, there is a possibility that there would be a hiatus or a brief period during which there would be no authority to enforce the allocation and price control regulations relating to petroleum products, to supply relationships, to allocation and to entitlements.

Mr. Speaker, I am satisfied on the basis of reading the language in S. 1849 that it is the intent of the Congress that the extension of the allocation act included in S. 1849 take effect immediately and retroactively in the event of a veto and an override of that veto, and that there be no hiatus or gap during which violations of these regulations would not be subject to civil sanctions. Am I correct?

Mr. STAGGERS. Mr. Speaker, the gentleman is correct.

Mr. DINGELL. I am apprehensive that someone might interpret our actions today as failing to provide adequate notice to persons who might be affected by these regulations and it is my view that the consideration of this legislation at this time and the long history of the legislation, both in the House and in the Senate, makes it very plain that it is the intention of the Congress that there be no gap, no hiatus, and that the legislation be considered as following immediately and successively. That is to say, the allocation act as amended by this bill, if amended after the 31st of August, would none the less be read quite literally. As amended, the allocation act would continue, without interruption, to make enforceable the regulations. Thus, if this bill has not become law before August 31, and therefore, the authority to enforce the regulations under the EPAA should expire, if this bill becomes law thereafter, violations of the regulations during the interim would subject the violator to civil liability under the act.

The SPEAKER. The time of the gentleman from Michigan has expired.

Mr. STAGGERS. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. DINGELL. Thus, this legislation be considered as following immediately and successively upon expiration of the Emergency Petroleum Allocation Act on the 31st of August of this year at 12 o'clock midnight; is that correct?

Mr. STAGGERS. The gentleman is correct.

Mr. DINGELL. So, therefore, I might assume that all persons are necessarily on notice and there is no peril that this legislation would raise constitutional questions as to lack of notice by Congress regarding retroactivity in these matters; is that correct?

Mr. STAGGERS. The gentleman is correct.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Michigan, the chairman of the subcommittee, and the gentleman from West Virginia, the chairman of the full committee, in the colloquy they have just finished. I am in support of the resolution—121 Cong. Rec., p. 26186 (July 31, 1975).

Congressman Bob Eckhardt, also a member of the Commerce Committee, rose "to further emphasize [the] point. . . because . . . it is extremely important." His remarks in this regard follow:

. . . That is, that this act does not permit for any hiatus between the termination of the present Allocation Act and its effective date. Of course, this act would not go into effect until a veto override, assuming there were a veto and then an override, but the act purports to take effect immediately at the termination of the Allocation Act. If there were a veto override, there would indeed be a hiatus during which prices might rise, but Congress would have given notice that such rise is made illegal if Congress ultimately prevails by a veto override. Clearly Congress has authority to act retroactively, and that retroactive effect would be unconstitutional when those acting with notice of Congress intention have deliberately acted at their peril.—121 Cong. Rec., p. 26186 (July 31, 1975).

Accordingly, "any increase in price during the hiatus period could result in treble damages against whose [sic] who deliberately raised prices above the level that Congress ultimately mandated." 121 Cong. Rec., p. 26186 (July 31, 1975).

When challenged by an opponent of the bill, Congressman Eckhardt, citing *First National Bank of* [sic] *Dallas* v. *United States*, 420 F. 2d 725 (Ct. Cl. 1970), stated that extensive nonstatutory notice prior to enactment regarding retroactive effect of a statute constituted sufficient information in advance that if the act had retroactive effect such would not deny due process.

I was simply trying to make it clear that there is obviously extensive nonstatutory notice here and by this debate that the Allocation Act extension refers to and incorporates the Economic Stabilization Act, which provides for treble damages and other penalties and puts that into effect retroactively, assuming the President vetoes the bill and we override the veto, and that constitutes a binding effect.—121 Cong. Rec., p. 26186 (July 31, 1975).

Accordingly, if there were an ultimate override of a veto, that act would be in effect continuously until March 1, 1976.

The hiatus time woud be, in effect, be a time subject to a retroactive penalty governed by section 210 of the Stabilization Act which is adopted in this act, which reads to this effect:

In any action brought under subsection (a) against any person renting property or selling goods or services, who is found to have overcharged the plaintiff, the court may, in its discretion, award treble damages or $1,000 in each case, whichever is the lesser.—121 Cong. Rec., p. 26188 (July 31, 1975).

Congressmen Dingell and Staggers again made the point of intended retroactive effect before the final vote was taken on S. 1849. Their comments follow:

Mr. DINGELL. Mr. Speaker, I observe that the legislation before us strikes out the date "August 31, 1975," and inserts in lieu thereof "March 1, 1976." I observe that the language of section 4(g) (1) of the Emergency Petroleum Allocation Act states:

The regulation promulgated and made effective under subsection (a) shall remain in effect until midnight August 31, 1975 . . . The authority to promulgate and amend the regulation and to issue any order under this section, and to enforce under section 5 such regulation and any such order, expires at midnight August 31, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight August 31, 1975.

I note that the practical effect of the amendment is to extend the period during which the regulations must remain in effect and the life of the authority to promulgate, amend and, most importantly, amend the regulations until the first of March 1976. I think this is a very important point. I ask if my chairman of the committee agrees.

Mr. STAGGERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Michigan.

Mr. Speaker, the answer is "Yes."

Mr. DINGELL. I ask my friend, the chairman of the Committee on Interstate and Foreign Commerce who is managing this bill, if it is not the clear intention of this Congress that the literal reading of the plain language of S. 1849 and of the Allocation Act as amended by S. 1849 be followed. Thus, it is the Congress intent that the regulations be viewed as having continued in effect without interruption from their original effective date until March 1 of 1976.

Mr. STAGGERS. That is correct.

Mr. DINGELL. Therefore, if this bill is vetoed, and the veto overridden, the regulation and the authority to enforce it would continue according to the literal language of the Allocation Act as amended by this bill. No constitutional impediments exist to this interpretation in view of the notice which this debate and the legislative history of this bill affords all interested persons.—121 Cong. Rec., p. 26189 (July 31, 1975).

That the Congress intended to maintain the status quo relative to oil prices seems clear. That the Congress, particularly the House of Representatives where the issue became both apparent and acute, intended to maintain the status quo ante August 31, 1975, should a reconsideration of S. 1849 become necessary because of a presidential veto, also seems clear. The question, therefore, is whether the retroactive application of the measure, if then enacted, is valid. It would so appear.

The Constitution does not expressly prohibit retroactive or retrospective laws. ("The terms . . . are synonymous in judicial usage and may be employed interchangeably." 2 *Sutherland Statutory Construction* 4th (Sands) ed. s. 4101.) True, certain specific kinds of statutes with retrospective aspects are prohibited by the Constitution: ex post facto laws, bills of attainder, and legislation impairing the obligation of contracts. However, none of these constitutional restrictions has any appilcation to S. 1849. The first two relate generally to the area of criminal law and to nonjudicial determinations of guilt, respectively. See *Calder* v. *Bull*, 3 Dall. (3 W.D.) 386 (1798); *United States* v. *Lovett*, 338 U.S. 303 (1946)." . . . the impairment of contracts clause of the Constitution . . . is applicable on its face only to the states." *Amalgamated Meat Cutters & Butcher Workers* v. *Connally*, 337 F. Supp., at 763.

In the words of the court in the last mentioned case, "[a]s to the Federal Government [the application of legislation to existing contracts raises] concern [under] the due process clause." Ibid.

The essential problem posed by retroactivity relates to fundamental fairness. In the words of a leading treatise writer:

"It is a fundamental principle of jurisprudence that retroactive application of new laws involves a high risk of being unfair. There is general consensus among all people that notice of warning of the rules that are to be applied to determine their affairs should be given in advance of action whose effects are to be judged by them. The hackneyed maxim that everyone is held to know the law . . . presupposes that the law is at least susceptible of being known. But this is not possible as to law which has not been made. 2 *Sutherland Statutory Construction*, as s. 41.02.

As noted, the Congress, both in actions and words, gave notice of its intent to have S. 1849, when enacted, apply back to September 1, 1975. It has been held that "where there is reasonable cause to believe or expect that a tax will be imposed upon a presently nontaxable transaction, the retrospective application of such tax does not constitute a denial of due process." *First National Bank in Dallas* v. *United States*, 420 F. 2d 725, 730 (Ct. 1970). "Preenactment notice of a tax, followed by the enactment of such tax" was sufficient notice to comply with constitutional requirements. *Id.*, at 732. Such "warnings" were declared to "represent . . . elements of fairness, reasonableness, and equity." Accordingly, it was held that persons who in those circumstances "gamble" that a bill will not become law or will not cover their personal situation, act at their peril. *Id.*, at 731. This case, *inter alia*, was relied on by the House in passing S. 1849, 121 Cong. Rec., pp. 26188, 26189 (July 31, 1975).

However, even if the fact of notice were less conspicuous than it is in the present circumstances, persons potentially affected by extension of the Emergency Petroleum Allocation Act, would seem to be in a weak position to challenge it as a denial of due process. Such persons are not newly found subjects of government regulation. "Those who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendment to achieve the legislative end." *F.H.A.* v. *The Darlington, Inc.*, 358 U.S. 84, 91 (1958). As stated in *Flemming* v. *Rhodes*, 331 U.S. 100, 107 (1947);

"Federal regulation of future action based upon rights previously acquired by the person regulated is not prohibited by the Constitution. *So long as the Constitution authorizes the subsequently enacted legislation, the fact that its provisions limit or interfere with the previously acquired rights does not condemn it. Immunity from federal regulation is not gained through forehanded contracts.*" (Emphasis supplied.)

In *Flemming*, the Court sustained rent regulations as applied to prevent execution of a judgment of eviction rendered by a state court before the enabling legislation was passed.

RAYMOND J. CELADA,
Senior Specialist in American Public Law.

[Memorandum, Aug. 18, 1975]

CONTINUITY OF THE EMERGENCY PETROLEUM ALLOCATION ACT

In accordance with Section 4(g) (1) of the Emergency Petroleum Allocation Act (EPAA) existing "authority to promulgate and amend [an allocation and price control] regulation . . . expires as of midnight August 31, 1975. . . ." Apart from "proceedings, civil or criminal, not finally determined on such date, [on] any action or proceeding based upon any act committed prior to midnight, August 31, 1975," where jurisdiction continues under the specific terms of the EPAA, the EPAA will have no operative significance after August 31, 1975.

Immediately before adjourning on July 31, 1975, the House completed congressional action on S. 1849 which has been passed by the Senate on July 14. That bill, entitled the Emergency Petroleum Allocation Extension Act, would amend Section 4(g) (1) of the EPAA by substituting the date March 1, 1976, for the date August 31, 1975.

S. 1849, the Extension Act, is expected to be transmitted to the President not earlier than August 28, 1975. Under Article I, Section 7, Clause 2 of the Constitution, the President will then have 10 days (excepting Sundays) to determine whether to sign the bill into law, permit it to become law without his signature, or veto it and return it to Congress for possible override. President Ford has made clear his continuing determination to veto S. 1849 and decontrol the prices of all crude oil and petroleum products as of September 1, 1975.

Because Congress will not even be in session until September 3, there will clearly be a hiatus between the expiration of price control authority under the EPAA and the completion of any override action. Moreover, it is well settled that a bill which becomes law by virtue of a veto override is considered to take effect on the date that the override action is completed regardless of the date of original congressional action. *Matthews v. Vane*, 20 U.S. (7 Wheat.) 164, 211 (1822); *Gardner v. Collector*, 73 U.S. (6 Wall) 499 (1868); 2 C. Sands, Sutherland's Statutory Construction, § 33.06 at 9 (4th Ed. 1972). Thus, the Extension Act amendment to the EPAA will not take effect until *after* the EPAA's major provisions have expired by their own terms.

There is a body of law to the effect that when an amendment applies to a statute which has been repealed, or is otherwise ineffective, the amendment itself is void. *See*, e.g., *United States v. Auffmordt*, 122 U.S. 197 (1887); *State v. Blackwell*, 246 N.C. 642, 99 SE. 2d. 867 (1957); 1A C. Sands, *supra* § 22.03 at 108. But cf., e.g., *Mayor and Council of Wilmington v. State ex rel. Dupont*, 44 Del. 332, 57 A.2d 70 (1947) (where amendment is complete and interpretable on face as independent statute, its terms will be valid).

Given this precedent, and the obvious syllogism that one cannot change something which does not exist, it might be possible to argue that a veto override on the Extension Act would be useless. In fact, the Administration might well consider refusing to promulgate and enforce further allocation and price control regulations unless Congress passed a new act replacing, rather than amending, the EPAA.

The possibility of a Presidential veto and consequent hiatus before override was readily apparent in the House debate on the S. 1849 Extension Act. That debate took place after the House had disapproved the President's proposed 39-month phaseout of crude oil controls and Congressman Brown had introduced a letter from FEA Administrator Zarb clearly warning of a veto. While there was no specific discussion of the legal consequences of a hiatus before override, a colloquy between Representatives Dingell and Eckhardt made clear that the majority not only looked forward to continuation of the EPAA after August 31, by override if necessary, but also sought to put sellers on notice that revised regulations past September 1 could have retroactive effect in the hiatus period. 121 Cong. Rec., pp. 26186–26189 (July 31, 1975).

Based on a study of all applicable precedents, it appears almost certain that the clear intent of Congress to revise EPAA authority would prevail over any technical argument that the Extension Act is void because of the price expiration of rulemaking and enforcement authority under the EPAA. As more fully discussed below, the courts might either hold that the Extension Act itself reenacted and thus revived the EPAA or that the EPAA's saving clause preserving federal jurisdiction over controversies relating to pre-September transactions sufficed to keep the EPAA alive and hence amendable. Under either theory, the President would be obligated to reinstitute allocation and price controls on the date of override.

At the outset, it is important to note that the technical limitation on amending "nonexistent" statutes has been operative almost exclusively where the underlying statutes have been repealed. In fact, a leading commentator states flatly that "there is no question about the amendability of the statute which has lapsed by operation of its own terms." A. C. Sands, *supra* § 22.03 at 109.[1]

In the case of repealed statutes, judicial voiding of amendments has served to force legislators to be more precise in specifying when they intend to receive a moribund statute. The doctrine also prevents a minority from surreptitiously, or a majority from inadvertently, resurrecting a repealed statute by referring to its title in an act which might be argued to take the form of an amendment to the repealed statute, *See Brig Aurora v. United States*, 11 U.S. (7 Cranch.) 382 (1813) (revival of statute by reference to title); 1A C. Sands, *supra*, § 22.26 at 168. However, these considerations are inapplicable to a specific legislative effort to revive statute where the intent, impact and scope of the legislative action are clear.

In *Kersten v. United States*, 161 F.2d 337 (10th Cir.), *cert. denied* 331 U.S. 851 (1947), the court faced the revival problem in a context quite similar to the existing situation under the EPAA. *Kersten* arose under the Price Control Extension Act of 1946 (PCEA) which amended the Emergency Price Control Act of 1942 (EPCA). Price control authority under the EPCA expired, by its own terms, on June 30, 1946, although the EPCA, like the EPAA, survived as a basis for jurisdiction for litigation over events prior to its expiration. On June 19, 1946, Congress passed the PCEA to extend price control authority for one year. President Truman then vetoed the PCEA and his veto was sustained. However, on July 25, 1946 the PCEA was reenacted by Joint Resolution and signed by the President.

Section 1 of the PCEA was drafted in precisely the same terms as Section 102 of S. 1849 merely replacing the June 30, 1946 expiration date with a June 30, 1947 date. In addition, the PCEA expressly reinstituted the regulations in force on June 30, 1946 retroactive to that date with a proviso which exempted from civil or criminal liability any acts or transactions occurring between expiration and passage of the extension.

In *Kersten*, the defendant was charged with violating the statutory price ceilings in sales occurring on June 21 (prior to expiration), and August 10 and August 12 (after passage of the extension). He argued that because price regulation authority had lapsed prior to the amendment, the amendment was void.

The Tenth Circuit rejected the argument. Although, as was noted by another court reviewing the PCEA, neither Section 1 nor any of the other provisions of the Extension Act undertook in "express formal enacting words to re-enact or adopt provisions of [the EPCA]," *United States* v. *Gantt*, 72 F. Supp. 205, 206 (E.D.S.C. 1947), the Tenth Circuit found that the language of the extending act made it "plain" that the PCEA was to be extended and remain in force. 161 F.2d at 337. Per the Court: "Congress may revive or extend an act by any form of words which makes clear its intention so to do." *Id.* at 338.

Similarly, indications of Congressional intent to extend the EPAA abound in the Extension Act. The name of the act and the subtitle (Extension of Mandatory Allocation Program) are fairly strong indications in and of themselves. Moreover, the language of Section 102 of the Extension Act is identical to that of Section 1 of the post-World War II provision. Both take the form of an amendment and simply substitute a later expiration date. The sole difference on the face of the bills in Section 18 of the PCEA which provides for continuation of "all regulations, orders, price schedules, and requirements" under the original statute which were in effect as of the original expiration date. Under the EPAA, however, the President is not only authorized but *required* to promulgate an allocation and price control regulation. That regulation was to be devised and take effect within 15 days of the enactment of the EPAA. Specifying the continuation of such a regulation would appear to be largely superfluous. Further, the President is given the authority, within the general guidelines of the EPAA, to amend orders and regulations. By specifying the continuation of the regulation and orders in existence on August 31, 1975, Congress might have in effect been removing this power.

Moreover, there is one other common bond between the EPAA extension and the post-World War II extension of price controls. In both cases, Congress completed its initial passage of the Extension Act prior to the lapse in authority. Although this fact was not specifically mentioned in *Kersten*, other courts have regarded it as a significant indication of legislative intent to provide for the continuous enforcement of the statute. An example of this thinking is *Milk Control Board* v. *Pursifull*, 219 Ind. 396, 36 N.E. 2d 850 (1941).

In *Pursifull*, an amendment extending the date of expiration of a state milk control law was passed and approved by the governor prior to the expiration date of the law. Indiana, however, has a constitutional provision that unless an emergency clause is attached to a statute, it does not become effective until published acts have been distributed to all counties of the state. Through some oversight, the legislature neglected to attach an emergency clause to the extension. The governor was not able to proclaim statewide distribution until a week after the expiration of the underlying act.

The Indiana court was laboring under a broad commonlaw rule that the legislature cannot amend an act or a section of an act "not then in force." Yet it distinguished *Pursifull* from the previous case law on the grounds that at the time of passage, the earlier act was still in effect and "delay in performing these purely administrative acts [should not] be permitted to thwart the purpose and intention of the legislature [.]" 36 N.E.2d at 851.

Pursifull may itself be unique because formal approval by the governor was the last necessary step in the legislative process, that the bill had then become a duly enacted law and all that remained were "purely administrative acts." On the other hand, failure to include an emergency clause nevertheless meant that the statute was not valid in the sense of being enforceable until after those "purely administrative acts" were performed. Regardless of the actual result, it is clear from the court's opinion that the fact that the enactment was passed prior to expiration was a strong indication of legislative intent for continuous enforcement.

Another example of this approach is found in *State v. Lanza*, 74 N.J. Super. 362, 181 A.2d 399 (App. Div. 1962), *aff'd.*, 190 A.2d 574 (1963), *app. dis.*, 375 U.S. 451 (1964). At issue in *Lanza* was the expiration of condemnation authority. A two-year extension passed the legislature two weeks prior to the termination date, but the governor failed to sign the bill until 11 days after expiration. It was argued that the authority had lapsed and that, at the very least, the extension represented a new act, a fact which would require the state to stop all present condemnation proceedings and start them over again from scratch.

Opting for continuity, the court admitted that a statute "cannot make itself operative as of a date prior to its enactment but it can apply retrospectively." 18 A.2d at 398. Since the statute was passed prior to the lapse in condemnation authority, this is, of course, judicial fictionalizing. It indicates, however, the lengths to which courts will go to avoid thwarting the clear purpose of the legislature.

In light of these decisions, it is almost certain that a court faced with a challenge to the validity of the S. 1849 Extension Act would sustain the act. Congressional intent to give continuity to the full scope of existing control powers is clear from both the language and legislative history of S. 1849. And the choice of a format recognized to provide after-expiration continuity in *Kersten* certainly bolsters the argument that the August 31 expiration is no bar to revival.

An additional line of authority to the "indicia of intent" approach of *Kersten* distinguishes statutory existence from prospective regulatory authority and thus rejects the notion that because the authority to prospectively promulgate and enforce regulations under a statute has expired that the act itself has become a nullity.

The clearest explication of this view is found in *State ex rel. Dawes v. Bailey*, 56 Kan. 81, 42 P. 373 (1895). *Bailey* involved the amendment of an appropriations measure passed in 1889. Under the Kansas constitution, appropriations measures could not be valid for more than two years. In 1895, the Kansas Legislature passed an appropriations act purporting to amend the act of 1889. The amendment was attacked on the grounds that the 1889 measure had necessarily expired in 1891, four years before the amendment. The court was not receptive to this argument:

---

[1] It must be said, however, that the authorities backing this rather sweeping statement, though clear and unanimous, are not extensive. The most plausible reason for this occurrence is that there are very few circumstances in which a legislature will be found trying to amend an expired temporary act. The institutional structures are such that most intense pressures for the extension of an act will occur prior to its expiration rather than at some later date. This observation is borne out in the negative by the fact that in all of the cases thus far, the post-expiration amendments have been the result of procedural snafus or, as in the present case, the veto of an extension act passed prior to expiration.

> "The contention that this act is invalid because the act of 1889 had spent its force, and is therefore not a law capable of amendment, is not sound. It was a valid law for raising revenue for two years. It had a continuing force until amended for various purposes; among others, the collection of the amount levied wherever the same remained delinquent, and as a basis for all the necessary tax proceedings provided for its collection. It was never a mere nullity, and the legislature had ample power to amend it." 42 P. at 374.

A similar situation occurred in *Fenolio v. Sebastian Bridge District*, 133 Ark. 380, 200 S.W. 501 (1917), where the underlying statute authorized the county commissioners to levy assessments and issue bonds for the construction of a bridge. Authorization, however, was contingent upon the institution of certain proceedings within two years from the effective date of the statute. These proceedings were not undertaken. One month after the expiration of the two-year period, the legislature amended the act changing the words "two years" to "six years." The court held that this was a valid amendment:

> "[F]or if the law was enacted by the legislature it remained in force, even though the time for exercising the powers conferred expired before the amendment extending the time was enacted. The law itself was not dead, so the power conferred could no longer be exercised without further legislative action. *State v. Bailey*, 56 Kan. 81, 42 P. 373." 200 S.W. at 503.

There is a hint of this same approach in the tacit approval of the Price Control Extension Act of 1946 by the Supreme Court in *Fleming v. Mohawk Wrecking & Lumber Co.*, 331 U.S. 111 (1947), In *Mohawk*, in the context of a procedural issue, the Court said that the EPCA "was amended in 1946 to provide for its termination not later than June 30, 1947, saving, however, rights and liabilities incurred prior to the termination date. ... Though most of the controls have been lifted, the Act is *still in effect*. Liabilities incurred prior to the lifting of controls are not thereby washed out. ..." 331 U.S. at 119 (1947) (tacit approval of the PCEA); *Woods v. Cobleigh*, 75 F. Supp. 125 (D.N.H. 1947) (explicit approval of PCEA); *United States v. Gantt*, 72 F. Supp. 205 (E.D.S.C. 1947) (same).

Viewed from this perspective, it should be clear that the EPAA will not be a nullity on September 1, 1975. Because the savings clause maintains all pre-lapse causes of action, whether or not they had already been filed, all that will happen on the expiration date is the demise of the authority to promulgate, amend and enforce regulations concerning conduct after that date. Thus, the Extension Act could well be considered an amendment to existing rather than moribund legislation even if it is enacted by veto override.

In short, whatever mode of analysis is employed, the Extension Act will almost certainly be found to be valid means of extending the energy and pricing program, despite the hiatus in some operative provisions of the EPAA. The statutory language, timing, legislative history and presence of a savings clause in the original act all support, under applicable precedent, the validity of the extension.[2]

APPLICATION OF FEA'S MANDATORY PETROLEUM PRICE AND ALLOCATION REGULATIONS DURING SEPTEMBER 1975

The expiration of the Emergency Petroleum Allocation Act of 1973 ("EPA of 1973") on August 31, 1975 and the subsequent extension of that law by adoption of the Emergency Petroleum Allocation Act of 1975 ("EPAA of 1975"), which was signed by the President and became law on September 29, 1975, have raised a number of questions regarding the application of the FEA's regulations to transactions that occurred during the hiatus period of September 1 to September 29. The purpose of this Ruling is to give notice of the manner in which the FEA regulations apply to transactions occurring during that period.

I. BACKGROUND

S. 1849, which would have simply changed the expiration date in § 4(g) (1) of the EPAA of 1973 from August 31, 1975 to February 28, 1976, was passed by Congress on July 31, 1975. The President vetoed S. 1849 on September 9, 1975, and the veto was sustained by the Senate the following day.

Although S. 1849 passed the Congress a month prior to the scheduled expiration of the EPAA of 1973, it was contemplated at the time of its passage that the bill might not be sent to the President until late August, that the President was likely to veto it, and that it would become law only if Congress overrode the veto—which would occur at the earliest a few days after the August 31, 1975 expiration date. Thus, in the floor debate on S. 1849, several key proponents of the bill in the House made it clear that:

> "It is the intent of the Congress that the extension of the allocation act included in S. 1849 take effect immediately and retroactively in the event of a veto and an override of that veto, and that there be no hiatus or gap during which violations of these regulations would not be subject to civil sanctions." 121 Cong. Rec., p. 26185 (July 31, 1975) (remark of Cong. Dingell). *See also id.* at pp. 26186–26187.

During the month of August it became apparent that the President would indeed veto S. 1849 because he believed the six-month extension provided for therein would unnecessarily delay the resolution of the difficult energy issues confronting the Nation. However, on August 29, 1975, the President informed the Majority Leader of the Senate and the Speaker of the House that he would be willing to sign a short-term (approximately 30 to 45 day) extension of the Act if he received assurances that during the extension period the Congress would act to adopt a phased decontrol program. On that date FEA Administrator Frank G. Zarb issued a public statement, widely reported in the press, that:

> "A short-term extension, if signed by the President, would be applied retroactively. Since the Congress does not return until September 2, there would be a short gap in the Allocation Act authority between the August 31 expiration of current authority and any possible Congressional action on the short extension. It is likely, however, that the Congress will intend no regulatory gap and will intend to reinstate automatically the price and allocation regulations in effect on August 31 with the passage of any short extension.
>
> "FEA, in consultation with the Department of Justice, has reviewed the legal effects of such a gap and concluded that by an extension the Congress can revive the current controls retroactively to September 1. If the President signs such a short extension, appropriate regulatory action can then be taken to correct any transactions in violation of FEA's current controls that occurred during the gap."

There was substantial commentary in the trade press and elsewhere to the effect that the reinstitution of controls would, and could legally, apply retroactively to September 1. For example, the September 12 edition of the *Oil Daily* commented that:

> "All this points to the wisdom that oil companies must still act as if controls were in place unless there is more assurance that decontrol will stick. Any action taken outside of the mandates of the defunct EPAA might be subject to expensive adjustments when Congress makes up its mind on the issue of oil company regulation."

On September 11, 1975, the day following the Senate vote to sustain the veto of S. 1849, the House unanimously passed H.R. 9524, which would have extended the EPAA of 1973 for 60 additional days after September 1. The bill passed the Senate with certain amendments, including an expiration date of November 15, 1975 on September 26, 1975. The House concurred in the Senate amendments on the same day, and the EPAA of 1975 was signed into law by the President on September 29, 1975.

The EPAA of 1975 expressly states that the FEA regulations in effect on August 31, 1975 are to be considered reinstituted in full force and effective retroactive to that date:

> "Sec. 3. It is the intent of the Congress that the regulations promulgated under the Emergency Petroleum Allocation Act of 1973 shall be effective for the period between August 31, 1975, and the date of enactment of this Act."

In the floor debate on this amendment, Representative Staggers, the Chairman of the House Committee on Interstate and Foreign Commerce, stated:

> "It is the intent of both bodies of the Congress that the pricing and allocation controls contained in Federal Energy Administration regulations which were promulgated under that act continue in effect as though there had been no hiatus. Both the administration and leaders of the Congress have repeatedly stated that any extension of the Allocation Act finally agreed to would be retroactive in character. The industry has had ample notice of this matter.
>
> "Accordingly the Federal Energy Administration is called upon to enforce their regulations as if they had remained in full effect in the period it has taken for the Congress and the President to agree upon the terms of an extension of the act. In this regard the FEA will be expected to order a rollback and refunding of any price increases

---

[2] *Lanza* raises the additional point of retroactive application of the Extension Act to any statutory hiatus prior to final adoption. The unregulated period is unlikely to be more than a few days and it is doubtful that producers and refiners will raise prices dramatically before Congress has attempted to override the veto. Nevertheless, should the issue become important, it would appear that the act probably could be enforced for the intervening period. The validity of retroactive application is a very muddled and unclear area but basically boils down to questions of fairness and notice. *See* generally, 2 C. Sands, *supra*, § 41.05 et seq. at 259; *First National Bank in Dallas* v. *United States*, 420 F.2d 725 (Ct. Claims 1970). Retroactive application of the penal and treble damage provisions might cause problems, the former almost assuredly invalid as an ex post facto law. Retroactive civil and criminal liability were explicitly removed in the PCEA of 1946.

which may have occurred on or after September 1 and take other appropriate action to assure the continuity and integrity of the distribution system for petroleum products." 121 Cong. Rec., p. 30417 (September **26**, 1975).

Similarly, Senator Jackson, Chairman of the Senate Interior Committee, stated in connection with H.R. 9524, as amended, that "the extension restores petroleum price controls, on a retroactive basis to September 1, until November 15, 1975." 121 Cong. Rec. p. **30503 (September 26, 1975)**

Judicial precedent supports the FEA's and the Congress' determination that enactment of the EPAA of 1975 can lawfully reinstate the FEA's Mandatory Petroleum Allocation and Price Regulations as though they were continuously in force during the hiatus period, particularly where there was, as in this case, a clear expression of Congress' intention in this regard and extensive notice to the public that the EPAA of 1973 would be extended on a retroactive basis. See *Porter v. Senderowitz,* 158 F. 2d 435 (3d Cir. 1946), *cert. denied,* 330 U.S. 848 (1947); *Porter v. Shibe,* 158 F. 2d 68 (10th Cir. 1946); *Purvis v. United States,* 501 F. 2d 311 (9th Cir. 1974); *First National Bank v. United States,* 420 F. 2d 725 (Ct. Cl.), *cert. denied,* 398 U.S. 950 (1970).

II. GUIDELINES FOR DETERMINING COMPLIANCE WITH THE FEA REGULATIONS

A. Civil Remedies

Since the EPAA of 1975 reinstitutes the FEA Mandatory Petroleum Allocation and Price Regulations (Parts 210, 211, and 212, Chapter II of Title 10, Code of Federal Regulations) in effect on August 31, 1975 retroactive to that date, as stated above, FEA will apply its allocation and price regulations as though they had been in effect continuously since August 31, 1975. Persons subject to the regulations should carry out September transactions as though the EPAA of 1975 had been enacted prior to September 1. 1975.

This means, at a minimum, that any supplier/purchaser relationships, terminated during the hiatus contrary to the regulations must be immediately reestablished and that that portion of prices charged during the hiatus in excess of amounts permitted by the regulations must immediately be refunded or rolled back. It is recognized, however, that in other types of cases, particularly in the allocation area, there may be some practical difficulties in retroactively implementing measures that will result in strict adherence to all other regulations during the hiatus period. Thus, whether the FEA will require that steps other than reestablishing supplier/purchaser relationships and refunding overcharges be taken to remedy violations of the regulations during the hiatus will be determined on a case-by-case basis, depending upon the practical difficulties in doing so, the extent of injury already incurred by any person and the degree to which further remedy would amount to a penalty on any person.

Corrective actions to conform transactions during the hiatus to the regulations should be voluntarily undertaken by the firms involved as soon as possible. For example, supplier/purchaser relationships that were terminated during the hiatus period contrary to the regulations in effect on August 31 should be reestablished promptly. Prices charged in excess of amounts permitted by the regulations in effect on August 31 should be refunded where the overcharged customers are identifiable and, with respect to unidentifiable customers, should be "rolled back" through a reduction in the current (as opposed to the maximum lawful) selling price until the full amount of the overcharge is returned to the marketplace. To insure that proper credit is given by the FEA for the rollback or refund of prices charged during the hiatus period, firms are advised to keep detailed records of any corrective action taken and to advise the FEA of such corrective action. Firms that have questions concerning the form of remedy that **will be** acceptable to the FEA should seek guidance from the FEA as soon as possible.

The FEA will audit transactions that occurred during the hiatus period in the normal course of its compliance program. To the extent that violations are found not to have been remedied, the FEA, as part of its normal compliance efforts, intends to issue remedial orders and take such other action as is authorized by regulations to secure compliance with the regulations and to remedy violations that occurred during the hiatus.

B. Civil and criminal penalties

The *ex post facto* clause of the U.S. Constitution limits the authority of Congress to apply a criminal statute retroactively. Therefore, it is the FEA's intention not to seek criminal penalties for willful violations of FEA regulations that occurred during the hiatus period.

It is less certain that the *ex post facto* clause applies to a statute that imposes civil penalties, as does the EPPA of 1973, as amended by the EPAA of 1975, although due process considerations of course remain applicable. Therefore, while as a general rule the FEA will not seek civil penalties for violations that occurred during the hiatus period, it expressly reserves the right to do so if the factual circumstances of a particular case appear to warrant such action.

Finally, while FEA's authority to seek civil or criminal penalties for violations that occurred during the hiatus may be limited, the FEA does not consider such limitations to apply to violations of lawful orders issued after the hiatus period to remedy violations that occurred during the hiatus. As noted above, the FEA intends to issue orders after the hiatus period to remedy violations that occurred during the hiatus. Notwithstanding the FEA's general intent not to seek civil or criminal penalties for *violations of the regulations* during the hiatus period, a firm that willfully refuses to comply with a *remedial or other order* issued by the FEA to remedy a violation that occurred during the hiatus period will be fully subject to the civil and criminal penalties provided for in Section 5(a) of the EPAA of 1973 and Section 208 of the Economic Stabilization Act.

III. COMPLIANCE WITH PRICE REGULATIONS, ILLUSTRATIVE EXAMPLES

The following examples illustrate how the FEA's Mandatory Petroleum Price Regulations will be applied to transactions that occurred during the period September 1 to September 29, 1975.

Example 1 (*Producers*)*:* On September 2, 1975, Firm A, a producer of crude oil, sold 100 barrels of crude oil to Firm B, a refiner. Of the 100 barrels, 60 barrels were old crude oil subject to the ceiling price rule contained in § 212.73 of the regulations, and 40 barrels were new and released crude oil pursuant to § 212.74 of the regulations. Payment was made September 17, 1975 for all 100 barrels at the free market prices for new and released crude oil.

Firm A is required to present to Firm B a revised invoice that correctly states the volumes of old, new, and released oil sold on September 2, 1975 and specifies that payment for 60 barrels is to be made at or below the ceiling price for old crude oil, in accordance with § 212.73, and that payment for 40 barrels is to be made at the September 2, 1975 posted or free market price for new and released crude oil, in accordance with § 212.74 and with Ruling 1974-11, "New" and "Released" Crude Oil (Current Free Market Price Under § 212.74). Amounts paid by Firm B in excess of the corrected price shall be refunded.

Example 2 (*Refiners*)*:* Firm B, a refiner, entered into the above transaction. For purposes of §§ 212.82 and 212.83, in computing prices for October, Firm B's cost of crude oil for the month of measurement September must be computed according to the corrected invoices presented by Firm A. Prices charged by Firm B in October in excess of amounts permitted by the regulations (including amounts carried forward from previous months and available in accordance with § 212.83(e)) shall be refunded to identifiable customers and, to the extent its customers cannot be identified, shall be "rolled back" in the form of reductions from current (as opposed to maximum lawful) selling prices.

Example 3 (*Refiners*)*:* Firm B, a refiner, anticipating increased costs of crude oil purchased during September, began on September 1 to charge prices for refined petroleum products based on September costs of crude oil at free market price levels. In applying the formulae in § 212.83 to compute prices for September, Firm B's cost of crude oil must be computed from costs for crude oil purchased or landed in August, the month of measurement, and may not include the cost of crude oil purchased or landed in September. Prices charged by Firm B in September in excess of maximum lawful prices permitted by §§ 212.82 and 212.83 of the regulations (including amounts carried forward from previous months and available in accordance with § 212.83(e)) shall be refunded to identifiable customers and, to the extent its customers cannot be identified, shall be "rolled back" in the form of reductions from current (as opposed to maximum lawful) selling prices.

Example 4 (*Resellers*)*:* Firm C, a reseller, purchased refined products from Firm B in the circumstances of Example 2 and received a refund of overcharges in September by Firm B. Firm C is required to recalculate its product costs in the month of September to reflect the refund and to make appropriate refunds or rollbacks to its customers, to the extent that the recalculation has resulted in its own prices having been in excess of prices permitted by the regulations. That is, Firm C is similarly required to make appropriate refunds or rollbacks of prices charged in September in excess of amounts permitted by §§ 212.92 and 212.93 of the regulations (including amounts carried forward from previous months in accordance with § 212.93 (e) and available in accordance with § 212.93 (g)).

Example 5 (*Leases*)*:* Firm E, a refiner, is the lessor of real property used by Firm F in retailing gasoline. On September 2, 1975, Firm E notified Firm F of its intent to exercise the lease termination clause of their contract because of Firm F's failure to comvert to a 24-hour per day operation. Firm F did not operate 24 hours per day at any previous time.

Firm E's notice violates § 212.103(c) of the regulations and is therefore void.

Example 6 (*Leases*)*:* Firm E, a refiner, is the lessor of real property used by Firm G in retailing gasoline. On September 2, 1975, Firm E notified Firm G of its intent to exercise a lease clause permitting it to increase the rent up to 50%.

Firm E's notice is void, and Firm G is entitled to a refund of any rent already paid by it in excess of the amounts provided for in § 212.103(a) of the regulations.

IV. COMPLIANCE WITH ALLOCATION REGULATIONS, ILLUSTRATIVE EXAMPLES

The following examples and discussion illustrate how the FEA's Mandatory Petroleum Allocation Regulations will be applied with regard to the September 1-29 hiatus period.

Example 7 (*Supplier/wholesale purchaser relationships*)*:* Supplier H is the base period supplier of middle distillates to Firm J, a wholesale purchaser-reseller, and Firm K, a wholesale purchaser-consumer. On September 1, 1975, Supplier H notified Firms J and K that it would no longer supply them.

Supplier H must continue to supply Firm J since under § 211.9(a) (2) (i), supplier/wholesale purchaser-reseller relationships are fixed for the duration of the allocation program and may not be modified or terminated without FEA approval.

Supplier H must also continue to supply Firm K since supplier/wholesale purchaser-consumer relationships are also established for the duration of the program, as provided in § 211.9(a) (2) (ii), unless the parties have given their mutual consent to the termination of the supplier/purchaser relationship. Only if Supplier H and Firm K had so consented and could establish that their consent was in fact mutual and voluntary, would their supplier/purchaser relationship be considered terminated.

Example 8 (New supplier/wholesale purchaser relationships): During September, 1975, Supplier H entered into a contract to supply middle distillates to Firm L, a wholesale purchaser-reseller, and also agreed to supply Firms M and N, both wholesale purchaser-consumers. On September 1, 1975, Firm M and its base period supplier had mutually consented to terminate their supplier/purchaser relationship. Firm N had been notified that its base period supplier no longer intended to supply it.

The supply contract between Supplier H and Firm L does not establish a valid supplier/wholesale purchaser-seller relationship because FEA approval has not been obtained as required by § 211.12(e) (2) (ii). Unless Firm L is without a base period supplier or a new supplier as provided in § 211.10(e) (1), it may not even apply to FEA for assignment of Supplier H as its base period supplier.

The supply arrangement between Supplier H and Firm M may continue as a mutual arrangement as contemplated by § 211.12(e) (1). This new supplier/purchaser relationship is subject to the notice and approval provisions of § 211.12(e) (1) (ii) and (iii).

In the case of Firm N, however, the new relationship between it and Supplier H is not valid unless Firm N now arranges by mutual consent to terminate its supplier/purchaser relationship with its base period supplier, which unilaterally refused to supply it during September. If that termination is effected, Firm N is considered to have been without a base period supplier and is therefore able to enter into a mutual supply arrangement with Supplier H as provided by § 211.12(e) (1). In this event, the notice and approval provisions of § 211.12(e) (1) (ii) and (iii) apply.

Supplier H may, of course, supply purchasers with which it has no supplier/purchaser relationship to the extent that it has surplus product and has complied with the provisions of § 211.10(g).

Example 9 (Crude oil supplier/purchaser rule): On September 1, 1975, Firm O, a crude oil producer, contracted for the sale of its production to Firm P, to whom Firm O had never previously sold. Prior to September 1, 1975, Firm O had sold its production to Firm Q, which had purchased Firm O's production under a supplier/purchaser relationship with Firm O. Therefore, Firm Q continues to be entitled to purchase Producer O's production for the month of September 1975 and thereafter, except as to September 1975, production where the sale and delivery thereof to Firm Q is no longer feasible because it is no longer within Firm O's possession or control as of the date this ruling is published in the *Federal Register*. Crude oil which Firm O is otherwise contractually required to supply to Firm P but is still in Firm O's possession or control as of such publication date shall be delivered to Firm Q. This result would be identical if a broker or reseller, instead of Firm O, were the supplier to Firm Q.

In general, pursuant to the crude oil supplier/purchaser rule set forth in 10 CFR 211.63, all supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973 are required to remain in effect for the duration of the Mandatory Allocation Program, in accordance with the provisions of the EPAA of 1975, as a general rule, all crude oil supplier/purchaser relationships in effect under § 211.63 immediately prior to the period September 1 to 29, 1975 are required to be maintained in effect under § 211.63 for the period subsequent to August 31, 1975 during which the EPAA of 1973, as amended, is in effect.

If a valid termination under § 211.63 of Firm Q's supplier/purchaser relationship had been effected as of September 1, 1975, Firm O would no longer be required to sell its crude oil to Firm Q. Supplier/purchaser relationships required to be maintained under § 211.63 may be terminated by mutual consent of both parties and, as to new and released crude oil, may be terminated where the present purchaser of the crude oil refuses, after notice by the seller, to meet any bona fide offer for the crude oil by another purchaser at a higher lawful price. As to terminating by mutual consent. FEA has consistently ruled that any consent to such a termination must be made affirmatively in writing in light of the provisions of § 211.63. Accordingly, supplier/purchaser relationships in effect on August 31, 1975 may be terminated in the period September 1 to September 29, 1975 in the manner prescribed in § 211.63. No termination in this period is valid under § 211.63 unless effected in accordance with the provisions of that section.

Example 10 (Old oil allocation program). From September 1 to September 28, 1975 Firm R, a crude oil producer, sold its production to Firm S, a refiner. Firm R's entire production is classified as old crude oil under §212.72 and therefore constitutes old oil (as defined in § 211.62) for purposes of the old oil allocation set forth in § 211.67. All of such sales were made at a price in excess of the lawful ceiling price as computed under § 212.73.

Firm S must include the crude oil purchased from Firm R in its crude oil receipts (in accordance with the provisions of § 211.62) and must report these particular receipts as old oil for purposes of § 211.66 and § 211.67, in accordance with the certification under § 212.131 received by Firm S from Firm R, regardless of the fact that Firm S may have paid an exempt price for the crude oil. Firm S's remedy in this case is to seek a refund from Firm R (under the procedures set forth in Example 1 above) for these sales made at a price in excess of the lawful ceiling price.

Mr. MOSS. Mr. President, I am pleased to speak in support of S. 622 because I believe that it offers an opportunity to end the stalemate between the Congress and the administration on energy and to begin a national energy program in this Nation.

After months of study and debate, it has become apparent that there are no perfect solutions and no easy answers to the energy problem in this country. Compromises have to be made. This bill strikes not only an economic compromise but a political one. If the President signs the measure and I would urge him to do so, it will enable us to move forward to increase domestic energy production which has been dropping steadily below levels of last year, and to increase conservation as well. The measure will also have a favorable impact on the economy. Because of the price rollback on crude and refined products—gasoline and heating oil—and the associated ripple effects, I would expect to see an increase in consumer purchasing power, a reduction of inflationary pressures, and an increase in employment.

I believe that this compromise measure will signal an end to the uncertainty that has prevailed for so many months; will provide stability and enable consumers, businesses, and producers alike to plan ahead. The concept of implementation of this plan is one which not only avoids abrupt price increases, but more importantly it avoids the resultant shock effect on the economy that was sure to happen under immediate decontrol as the administration originally recommended earlier this year. A phased price increase will allow adjustments to be accomplished more gradually. After all, it will take time for people to adjust their patterns of living, and it will take time to substantially increase energy production. However, these facts serve to underscore the need to make a start.

Once this bill is approved, the administration and the Congress can and indeed we should soon focus on other aspects of the energy situation. For example, we need not only to get on with increasing domestic production of oil and natural gas, but to move toward greater use of coal and development of alternative sources of energy—such as oil shale, tar sands, nuclear and solar power, and others that are feasible. Similarly, I believe the climate to move forward to resolve individual aspects of the energy program will be aided by passage of this bill.

Achieving domestic energy sufficiency will require efforts to reduce energy consumption, to increase domestic energy production, and provide standby ability to meet the threat and the reality of future embargoes and other emergencies. This measure provides for these.

Along with addressing the oil price problem, this bill contains a number of other initiatives which meet urgent national energy needs. For example, the compromise bill includes a program for conservation, a program to require industry to produce more efficient automobiles and to require manufacturers to label major household appliances to show buyers how much energy they consume; a provision for Federal assistance to help States develop energy conservation programs, the benefits of which might be passed on to consumers in the form of lower taxes or prices; a loan guarantee program to encourage underground mining of clean coal; and finally, a provision to allow the GAO to audit industry figures on energy reserves. Up to now, Congress and FPC, who is responsible for regulating the oil industry, have lacked adequate information to accomplish their responsibilities.

It is regrettable that it has taken so long to reach this point in developing an energy program, but not all of the time has been wasted. Up to now we have not solved the problem, but we have avoided many bad solutions that were proposed along the way. For example, the administration, the Congress, and indeed, the country now have a greater awareness and appreciation of the energy problem. The additional time has also been valuable in giving Congress an opportunity to study the problem and enabled the country to avoid the energy shock which would have surely resulted from imposition of immediate decontrol as the administration originally proposed.

As chairman of the Senate Budget Committee's Task Force on Energy, I know of the urgency of finding a solution to the energy problem. Much of the Nation's present inflation is directly attributed to the high cost of energy. And there is a close interrelationship between energy, the economy, and the budget. Energy is the lifeblood of the American economy and our economic progress depends upon the availability of energy at a price the Nation can afford. As a conferee on this bill, I know something of the great efforts on the part of many in Congress to develop a bill that would lay the groundwork for an effective solution to this problem.

This bill is not everything I, or the other conferees, would have wanted, but based on hard economic analysis, it has much to recommend it. It is a compromise measure which signifies a victory for neither side, neither those advocating a price rollback, nor those seeking rapid deregulation. I believe it is the best result attainable. It represents a reasonable and responsible strategy for meeting the Nation's energy needs as they are assessed at this time.

If it is rejected by the Congress or the President, we are left with the worst of all alternatives—immediate decontrol. Let us labor to avoid that. We have already seen the adverse impact resulting from oil price increases following the oil embargo. The economy is still trying to recover.

Accordingly, I urge my colleagues to support S. 622 so that we can begin a national energy program which is long overdue.

Mr. BELLMON. Mr. President, it is extremely timely that while the Senate is considering the conference report on S. 622 that a story is published in the Washington Post entitled "Shell Oil Banking on 'Cognac' Field in Gulf" by Thomas O'Toole, relating to a new oil discovery in the deep waters off the Gulf of Mexico. The article expresses dramatically the need for this Nation to end the counterproductive energy price policies that have been in effect since the OPEC oil price embargo.

Anyone who reads Mr. O'Toole's article cannot escape the conclusion that immense investments are necessary and immense risks must be taken in order to produce energy from the deep waters of the Outer Continental Shelf. Increased investments of this nature must be made and risks of this magnitude must be taken if America's energy requirements are to be met by America's energy development.

According to Mr. O'Toole's article, more than 50 million barrels of oil will be produced from the Cognac field, but none will be coming ashore until after 1980; and then only after $400 million has been invested.

These simple but impressive facts illustrate the reason that this Nation must have a realistic energy policy that provides the incentive which investors need before risks of this scale can be taken.

Legislation which artificially restricts prices in an effort to bring temporary economic advantages to consumers and political advantages to politicians will simply strangle projects of this kind and leave this and other Cognac fields undeveloped and other energy reserves undiscovered.

Mr. President, Congress cannot have it both ways. Either we must allow a realistic price relationship to develop in the energy industry or we must be willing to accept a permanent position of economic and energy dependence and a second-class status in world affairs which will follow. I believe sincerely that American people want this Nation to continue strong and self-reliant. This means becoming independent of OPEC. The Post article gives a dramatic example of what must be done. I ask unanimous consent that this article be printed in full in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 16, 1975]

SHELL OIL BANKING ON 'COGNAC' FIELD IN GULF

(By Thomas O'Toole)

Aboard ***Pacesetter II***—The Mississippi River has carried more than 10,000 tons of silt into the Gulf of Mexico every day for at least 200 million years—silt rich in the organic material that is the basis of oil.

That is why there is so much oil to be found in the sediments off the shores of Texas and Louisiana.

The trouble is that 6.5 billion barrels of that oil has already been removed. The 2,700 oil producing platforms scattered across the Gulf still pump 1 million barrels of oil every day, but they were pumping 1.5 million barrels a day three years ago. Like the onshore fields of Texas and Oklahoma, the offshore wells of Texas and Louisiana have begun to run down.

So it's a major occasion when a new offshore field is found, like the Cognac field discovered by Shell Oil Co. just 100 miles southeast of New Orleans and 15 miles from the mouth of the Mississippi.

Shell drilled its first exploratory well in Cognac last June. It has drilled six more since and is now drilling an eighth. The first seven found oil and gas, not a bad performance considering that wells drilled in four out of five Gulf leases these days strike nothing.

"We're here to announce that Shell is committing itself to a $100 million production platform." Shell vice president Robert Ferris said the other day in an unusual press conference at the drill site. "The company is doing this because it is convinced there is enough oil and gas here in the Cognac field to justify it."

What is enough?

Shell's geologists say there are in the Cognac field at least 50 million barrels of oil, which is Shell's "threshold" volume to go to production. There could be twice or even three times that in Cognac but it will take another six months of exploratory drilling to find out.

Unique to Cognac is the fact that it's being drilled in more than 1,100 feet of water, making it by far the deepest water field drilled in almost 30 years of exploration in the Gulf of Mexico.

Drilling at that depth is made possible by a mammoth drilling rig being used by Shell, a semi-submersible platform named Pacesetter II that propelled itself from port in Morgan City, La., to the drill site. The rig cost $30 million. Shell rents it for $50,000 a day, so its roustabout crew works round the clock.

There are only a few rigs like Pacesetter in the world. They sit on six huge pylons mated to two ballast tanks sunk like pontoons 60 feet below the sea. Chains weighing almost 100 pounds per foot hold the tanks to the sea floor, while the whole rig rides moored to eight anchors weighing 30,000 pounds apiece.

The rig in the Gulf didn't budge the other day. There wasn't even a slight roll, sitting as it was in deep but calm water. It's built to take hurricane winds and 100-foot waves. A sister is drilling in the North Sea. Another one like it is drilling in 1,700 feet of water off the coast of Gabon in West Africa.

Shell admits some reluctance to being first to move into the Gulf's deepest water, but sees no other way for companies drilling offshore. Shell says the big fields in shallow water have all been found. The future in the Gulf and in the Atlantic and Pacific lies only in the deep water.

Pacesetter II will finish drilling its eighth exploration well in another few weeks, then move closer to the edge of the Cognac field and drill three or four more wells. This is to measure more precisely the size of the field, and to help geologists pinpoint where to put the production platform when that's moved to sea in 1977.

Pacesetter II is the biggest drilling rig in the Gulf, but the production platform will dwarf it. From its base at the bottom of the sea to its top 120 feet above the water it will be about as tall as the Empire State Building. It will weigh 45,000 tons, roughly the size of battleships and aircraft carriers.

Shell plans to drill 56 wells from its production platform, some of them straight down, some at shallow angles and some angled up to 60 degrees to pull the most oil possible out of the field.

The platform will come equipped with no fewer than 500 safety devices to guard against spills and blowouts, where high pressure gas rushes out of the well and brings oil with it. Shell says it's proud of its pollution record in the Gulf, where it is the biggest driller. It says its wells have spilled only 46 barrels of oil so far this year.

Shell won't get any oil out of Cognac until 1980. The platform must be proven, the wells must be drilled and a pipeline must be laid. A factory will have to be built onshore to remove the water from the oil and to separate the oil and natural gas. Facilities must also be built to get the oil to refineries.

By the time all that happens, Shell and six other companies will have spent close to $400 million getting the oil out of Cognac. But Shell has carefully figured the risks, right from the start 18 months ago when it leased the lands from the federal government for $214 million.

Shell figures the platform will produce 25,000 barrels of oil a day by 1981 and produce at that rate for at least two years. It figures oil will be selling for at least $16 a barrel by that time. It calculates the well will have a lifetime of at least 15 years, more likely 20.

That's at least 50 million barrels of oil. Equal to 50 days' production out of the entire Gulf of Mexico at current rates. It's also three days' consumption in the United States, which is what the energy crisis is all about.

THE ENERGY POLICY AND CONSERVATION ACT

Mr. BELLMON. Mr. President, if the current situation weren't so critical, the

Energy Policy and Conservation Act would be comical. This bill should appropriately be called the "Energy Hash Act." It purports to do something for everybody's energy ailment; but the net result if it becomes law is to insure perpetual national energy anemia.

Summed up, the bill amounts to a huge disincentive to producers and creates another vast Federal bureaucratic controlled mechanism. It encourages further wasteful use of scarce energy supplies. It punishes the small risk-taking independent energy businessman and rewards the major multinational oil companies, delays the development of alternate energy sources and it assures the weakening of both the Nation's economic and defense structures.

Our Arab friends will leap for joy if this bill becomes law. Under the terms of S. 622 the United States will become consistently more and more dependent on ever higher and higher priced and less and less dependable Arabian oil. Voting for this bill is like voting arms aid to the Palestinian terrorists and handing the Middle Eastern foreign policy decisionmaking over to the Syrians and Egyptians.

Mr. President, those who support S. 622 use as one of their main arguments the benefits consumers will receive from lower prices if it becomes law. The facts do not support this contention. The end of the present price control program and the end of the $2 per barrel tariff by the President, combined would produce a maximum of 3 cents per gallon increase in gas and fuel oil prices. Recently, fuel prices have been declining and there is real question as to whether the 3 cents per gallon increase would be passed on to consumers. Even if the full cost were passed on the impact of the small additional price increase is negligible.

Since over 40 percent of the crude oil used is now imported and since this percentage is rising rapidly, there is no way Congress through legislation can insulate the consumer from constantly increasing prices in foreign oil. Congress can protect American consumers against an energy price ripoff by foreign governments by taking effective action to insure increased domestic production. This bill will reduce domestic production and its long range impact on the consumer will therefore be negative.

Apparently the authors of the legislation intend to punish the major oil companies. If this is the case, they have missed their mark for the wounds will be inflicted rather on the Nation's consumers and on the elements of the industry which do not have the flexibility and survivability of the multinational oil companies.

The major oil companies which run integrated operations could still remain profitable by adjusting price structure, by keeping refineries and filling stations running full blast and by taking over the activities which independents will be forced to give up as the full impact of the bill is felt.

This Nation is the greatest loser under S. 622. Stripper wells will be plugged. Secondary and tertiary oil activities will diminish. Wildcatting for desperately needed new oil supplies will be phased down. Plans for producing solar energy will be deemphasized. Completion of coal liquefaction and gasification plants will be delayed. Additional exploration in the deeper water of the Outer Continental Shelf will be slowed down and a creeping paralysis will begin throughout the entire energy industry.

Under the terms of this bill every member of the public will be disadvantaged. The provisions relating to gas rationing, creation of costly oil storage, the plans for another oil embargo and the provisions for Government regulation of auto manufacturing are in many ways contrary to the national interest. This bill should never have survived the committee process.

Mr. President, summed up this legislation is a giant step in the wrong direction. It means further reliance on high priced, insecure foreign oil. It means that the day when the United States can again conduct its economic and international affairs without fear of interruption by the OPEC cartel is further postponed. In the national interest, this conference report should be rejected.

If the conference report passes, President Ford cannot allow it to become law.

Mr. PEARSON. Mr. President, one of the elements of this measure that most disturbs me is the potential impact it may have on production by independents. As Members know, independents are chiefly concerned with two prices: the price for new oil, and the price of oil from stripper wells. Most of the country's new oil is found by independents, and most stripper wells are operated by independents. As whatever they do not find and produce must be bought from OPEC, it is in the country's interest that prices for new and stripper oil remain at incentive levels.

Under the composite price formula provided in the bill, new and stripper oil prices are jeopardized by two factors:

In the event old oil prices are raised, new and stripper oil prices might be reduced in order to comply with the composite price requirement.

As old oil production declines, new oil will constitute a larger share of total domestic production. Consequently, the price of new oil might be reduced, again in order to maintain the composite price.

I understand that the conference committee was well aware of this problem, and further, that the report provides that,

"The President must find that the departure from current controls—on old oil—is likely to result in greater production from such properties than would otherwise occur had the departure not been made."

Now, my question is, Does the committee intend that FEA, in setting prices for new, old, and stripper oil, should take into account the relative long-term productivity of those prices? In other words, that FEA should determine whether a certain increase in old oil prices, or maintaining the new and stripper oil prices at incentive levels, would be likely to produce more oil over the long term?

Mr. JACKSON. Mr. President, the Senator has stated the committee's intent. As the report reads:

> The President is granted broad authority to establish ceiling prices for classifications of domestic crude oil production if he finds that such classifications are administratively feasible and will optimize domestic production.

It might be possible, by a sudden large increase in the price of old oil, to bring about an equally sudden rise in production through workovers, water-flooding, and other techniques. But if the result of doing that would be to cut the new oil and stripper oil price in such a way that the incentive was removed for finding and producing such oil, FEA would have sacrificed long-term production for a short-term gain. That is not what the committee intended.

The bill also provides that the annual production incentive adjustment should encourage the development of high-risk, high-cost properties, including production by independent producers, and to encourage production from stripper wells, most of which, as the Senator says, are operated by independents.

So I would say to the Senator that the conferees intended that the FEA should move very cautiously in increasing the price of old oil, with a view toward maintaining production of new and stripper oil; and that the incentive adjustment should be employed, at least in part, to offset the effect of the progressive change in the relative shares of old and new oil in total domestic production. We were aware that independents are chiefly concerned with new and stripper production, and we want FEA to encourage them, through its pricing policies, to continue to explore for new oil and to produce from stripper wells. Our purpose, as the report states, is to optimize production.

ORDER FOR RECOGNITION OF SENATOR STENNIS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the name of Mr. STENNIS be substituted for the name of Mr. ROBERT C. BYRD in respect of the order that was previously entered today for recognition on tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO HOLD H.R. 11045 AND H.R. 8304 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 11045, an act to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act, and H.R. 8304, an act to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes, be held at the desk pending further action.

The **ACTING PRESIDENT** pre tempore. Without objection, it is so ordered.

WIDOWS OF FORMER EMPLOYEES OF THE LIGHTHOUSE SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1535, and that the bill be considered as having been read twice.

The **PRESIDING OFFICER.** The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1535) to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the bill?

There being no objection, the bill (H.R. 1535) was considered, ordered to a third reading, read the third time, and passed.

RETIRED PAY OF CERTAIN MEMBERS OF THE LIGHTHOUSE SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6851, and that the bill be considered as having been read twice.

The **PRESIDING OFFICER.** The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6851) to increase the retired pay of certain members of the former Lighthouse Service.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the bill?

There being no objection, the bill (H.R. 6851) was considered, ordered to a third reading, read the third time, and passed.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

BRIG. GEN. CHARLES E. YEAGER

Mr. ROBERT C. BYRD. Mr. President, the Senate Committee on Banking, Housing, and Urban Affairs today reported, by its chairman (Mr. PROXMIRE), without amendment, H.R. 8151 (Report No. 94–565), an act to authorize the President of the United States to present, in the name of Congress, a medal to Brig. Gen. Charles C. Yeager.

The measure reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to present, on behalf of the Congress, to Brigadier General Charles E. Yeager, United States Air Force, an appropriate silver medal, equivalent to a noncombat Medal of Honor, for contributing immeasurably to aerospace science by risking his life in piloting the XS–1 research airplane faster than the speed of sound on October 14, 1947. For such purpose the Secretary of the Treasury is authorized and directed to cause to be struck a silver medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Air Force subject to the approval of the Secretary of the Treasury. There is hereby authorized to be appropriated the sum of $5,500 for this purpose.

SEC. 2. The Secretary of the Treasury shall cause duplicates in bronze of such medal to be coined and sold, under such regulations as he may prescribe, at a price sufficient to cover the cost thereof (including labor), and the appropriations used in carrying out the provisions of this section shall be reimbursed out of the proceeds of such sale.

Mr. President, Brig. Gen. Charles E. Yeager is a West Virginian, and I take great pride in asking unanimous consent that the Senate proceed to the immediate consideration of H.R. 8151.

The **ACTING PRESIDENT** pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

An act (H.R. 8151) to authorize the President of the United States to present in the name of Congress, a medal to Brigadier General Charles E. Yeager.

The **ACTING PRESIDENT** pro tempore. Without objection, the Senate will proceed to its consideration.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GLENN. I would like to support this measure, and speak on it just briefly.

I know General Yeager personally and have knowledge of his many years of test work. I think the U.S. Air Force and the country are better off for having had Chuck Yeager doing this testing over the course of many years. His most notable exploit was back some years ago, when he piloted the X–1 through the sound barrier for the first time and thus entered a new arena of flight that was unknown previous to that time, and could not be adequately predicted. His effort has led on to many other things with regard to military aviation and the upgrading of civil aviation.

I comment this action of Congress, and I am happy to speak on its behalf. I certainly hope the Senate passes this measure. I wish General Yeager very well, and offer him my sincere congratulations on behalf of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Ohio for his timely and very gracious comments.

The **ACTING PRESIDENT** pro tempore. The question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 9 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. BARTLETT and Mr. STENNIS will be recognized for not to exceed 15 minutes each, and in that order, after which there will be a closed session which will extend over a period of 2 hours with respect to the defense appropriations conference report or H.R. 9861.

Upon the Senate's going back into open session, there will be not to exceed 30 minutes of debate in open session, after which the Senate will proceed to vote on the defense appropriations conference report on H.R. 9861. That will be a 12 o'clock meridian vote.

Upon the disposition of that vote, the Senate will take up the nomination of Mr. Stevens to be a Justice on the U.S. Supreme Court, and the vote on the Stevens nomination will occur at no later than 1 p.m., after which the Senate will resume legislative session and will debate for 30 minutes the conference report on the public works authorization bill, H.R. 5247. If a point of order is not made on that conference report, a vote will occur thereon at the expiration of that time. If a point of order is made and is sustained, the conference report will go back to conference.

Then the Senate will proceed to take up the amendments in disagreement on the defense appropriations conference report, H.R. 9861. The Senate will then resume consideration of the bill S. 622, and the question at that time will be on adoption of the motion to concur in the House amendment to the Senate amendment to the House amendment to the Senate bill S. 622.

At some point tomorrow, the Senate is expected to take up the conference report on extending the tax cut. Senators are alerted to the fact that several rollcall votes will occur tomorrow.

RECESS UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 8:45 p.m. the Senate recessed until tomorrow, Wednesday, December 17, 1975, at 9 a.m.

EXTENSIONS OF REMARKS

A WATER CONSERVATION PROGRAM FOR SOUTH DAKOTA

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. PRESSLER. Mr. Speaker, I have long been interested in soil and water conservation. My parents' 160-acre farm near Humboldt, S. Dak., has enjoyed the protection of a windbreak. South Dakota has benefited greatly from the shelterbelts which were planted during the 1930's and from continuing tree-planting under the Soil Conservation Service. My bill to restore and establish shelterbelts is a new step in the direction of providing new legislation to maintain and strengthen our programs for soil and water conservation.

Mr. Si Rogers, a Sioux Falls businessman, has had a long-time interest and devotion to public interests and to programs for using our water and preserving our environment. Mr. Rogers wrote an excellent article, "A Water Conservation Program for South Dakota," which appeared in the Sioux Falls Argus Leader on November 2, 1975. I insert this into the Record:

In This Corner

(By Si Rogers)

Any water conservation program in South Dakota should be received with open arms.

The Oahe program reminds one of little boys playing in the sand box.

It is time for South Dakota to get out of its sand box and go to work. Let's think of all South Dakota as a unit.

Consider the following: Conservation, preservation, recreation, as they relate to trees, water and land.

Here is a program that would put the emphasis on conservation, preservation and recreation:

Notwithstanding any other provisions of law, each farm unit shall be entitled to ecological and environmental improvement payments equal to a maximum of 90 per centum of the actual cost of approved practices for land and water conservation, abatement of pollution, preservation of wildlife habitat, and the development of recreational facilities, not in excess of a maximum of $4,000 per annum or in the alternative a direct payment computation equal to the immediate 3-year average per acre net income of the remaining unit acres of production, whichever is greater for actual performance of prescribed practices of ecological and environmental improvement programs.

NATIONAL INTEREST

The intent and purpose of a national effort of ecological and environmental improvement shall be predicated upon the national interest with emphasis on each farm family unit and community improvement.

Farm unit participation shall be compensated upon performance as prescribed by the secretary but in no case at a rate less than a sum equal to the net average per acre income of the remaining acres of production of the farm unit.

Farm unit participation in preservation of wildlife habitat and the development of rural recreational facilities shall be premised upon controlled public access as prescribed by the secretary of the U.S. Department of Agriculture.

The secretary of the U.S. Department of Agriculture in prescribing public access to private lands shall rely upon the recommendations of the local, county and state elected committee members of the existing Agriculture Stabilization and Conservation Service or such other elected "peer" groups thereof.

Farm unit participation shall be emphasized and encouraged for improvement of the community and national ecological and environmental conditions with preference practices for the farm unit but including community and regional projects participation as may be approved by the secretary of the U.S. Department of Agriculture.

AGENCIES TO DRAW OUTLINE

State Game, Fish and Wildlife Commission, U.S. Department of Interior, the State Department of Agriculture, United States Department of Agriculture, Bureau of Reclamation and Army Corps of Engineers shall draw the original preliminary outline for the conservation program.

The above shall be participants in a share cost program.

Water and land conservation and tree planting should include the following:

Seven major rivers and streams and their tributaries thereto shall be developed under the program with a series of low head dams and bank stabilization program and a bank dike program.

Seven major streams consist of: Cheyenne, James, Sioux, Vermillion, Bad, Little White and Big White River.

The major lakes and ponds in the state shall be dredged of silt and recharged with water from the Missouri. The seven major streams shall be charged with water from the Missouri wherever feasible.

Using natural water, ponds and lake beds that existed in this state for the past 50 years shall be recharged wherever feasible. Examples: Lake Thompson, Red Lake and chain of lakes from Brown County to Lincoln County.

A tree planting program shall accompany the river bank stabilization of the seven rivers and shall also accompany the Missouri River on both the east and west bank from the Iowa and Nebraska line to the North Dakota line.

Holding water where it falls and supplementing water from the Missouri River where it is needed for the major streams and lakes is the prime purpose of this program for the purpose of wildlife preservation, irrigation, recreation and land improvement.

MORE SUPPORT FOR SMOKER AND NONSMOKER HEALTH PROTECTION ACT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. DRINAN. Mr. Speaker, I am pleased to report that support for H.R. 10748, the Smoker and Nonsmoker Health Protection Act of 1975, is continuing to emanate from all parts of the United States. I reproduce below the text of editorials which appeared in the Toledo (Ohio) Blade, the Wilmington (Del.) Evening Journal, and on the Knight Quality Radio Network of New England within the past few weeks:

[From the Toledo Blade, December 6, 1975]

New Plea for Nonsmokers' Rights

When U.S. Rep. Robert S. Drinan introduced a bill to ban or sharply restrict smoking in federal buildings and certain other public places, the Tobacco Institute was expectably indignant. It lost no time whipping out a statement declaring it "regrettable that Drinan has become the handmaiden of the anti-tobacco lobby."

What—except to the pot trying to call the kettle black—is regrettable about that? Congressman Drinan lays justifiable claim to be speaking for a much bigger "lobby" than does the Tobacco Institute, which primarily represents the major U.S. cigarette manufacturers. Although an estimated 50-million Americans now smoke, that is less than 25 per cent of the total population. And there is growing sentiment among the vast nonsmoking majority that it is due some protection from the offensive effects of the minority's habit.

Only a few zealots seriously suggest trying the prohibitionist tactic against tobacco. But an entirely reasonable approach is to bar smoking in public places, or at least to require that smokers indulge only in specified areas. That is not, after all, a new idea: Smoking long has been prohibited in many public gathering spots as a fire-prevention measure, and persons who remember the old days of train travel know that smoking often was limited to the rest-room lounges, particularly on pullman cars, or to the smoking car if there was one. A similar practice has been revived on commercial airplanes.

Moreover, a number of states and cities—Arizona, New York City, Dade County (Miami), to cite a few—have in the last couple of years adopted laws akin to the one Mr. Drinan proposes for federal facilities. Such a measure has been approved by a committee of the Ohio Senate. The trend can be expected to grow.

While the true magnitude of the effect of exhaled tobacco smoke on the health of those who breathe it is still scientifically uncertain, restrictions are warranted on grounds of common courtesy and public policy. Some smokers object to such restraints as an invasion of their private rights. That argument makes no sense in regard to public places, where it is the smokers who intrude upon the rights of others.

[From the Wilmington Evening Journal, Nov. 17, 1975]

A U.S. Ban on Smoking

For years, railroad travelers have had the choice of sitting in a smoking car or in one where smoking is prohibited. Recently, the air lines have designated smoking and nonsmoking sections in each aircraft. New York City last year banned smoking in some public places such as elevators, supermarkets and college classrooms. Massachusetts this fall did the same. And if Rep. Robert Drinan, D-Mass., has his way, the federal government will soon become involved in separating smokers from nonsmokers.

Congressman Drinan's "Smoker and Non-Smoker Health Protection Act of 1975" would require federal agencies to separate smokers from nonsmokers in work areas, recreation areas and cafeterias. On federal property (or federally controlled property), the bill would also ban smoking in elevators, reception areas, conference rooms and other "confined places" open to the public.

In addition, the Drinan bill would require stronger warning labels for cigarette packages and would increase the federal excise tax on cigarettes a penny a pack to finance medical research on smoking-related diseases. No criminal penalties are contemplated, but civil penalties up to a fine of $100 could be imposed on violators.

Don't dismiss Rep. Drinan's bill as being nothing more than an astute politician's jumping on the bandwagon of the clean air lobbyists. The detrimental effect of smoking, particularly of cigarettes, on the smokers themselves has been firmly established. But the effect on the nonsmoker who inhales the smoky air has only recently been recognized and is slowly getting the required attention.

The World Health Organization earlier this year issued a report attesting to the harm that nonsmokers can suffer. The U.S. surgeon general has reported that nonsmokers confined in enclosed spaces where tobacco is smoked suffer many of the same adverse effects as smokers. And as Congressman Drinan pointed out when he introduced his bill, smoke contamination is a health hazard for the 34 million Americans who already suffer from diseases like emphysema, chronic bronchitis, or heart disease.

The proposed smoking measure would not ban the manufacture of cigarettes, nor would it stop their sale. And it certainly would not deny any individual the right to smoke. In that sense it is totally different from the Prohibition Amendment with which it gets mistakenly compared.

All that the anti-smoke forces are asking is that more respect be shown for their preferences and health needs. That hardly seems unreasonable.

(Editorial by the Knight Quality Stations of New England supporting the enactment of Representative ROBERT DRINAN'S, Democrat of Massachusetts, bill called Smoker and Nonsmoker Health Protection Act of 1975.)

Our Knight Quality Stations listeners know how we feel about smoking in public places or for that matter, any type of smoking. There has been some real progress to protect the nonsmoker's rights. Now a great opportunity confronts all of us—Congressman ROBERT DRINAN (Democrat-Mass.) has proposed legislation making it a federal crime to smoke in certain places and to increase cigarette taxes with the proceeds to go to medical research for smoking-related diseases. We commend and support Congressman DRINAN'S proposals. No vested interests are supporting this bill—it can be enacted only if the majority of Americans who do *not* smoke get behind it!

The Knight Quality Stations suggest that you contact Members of Congress at once so that Congressman DRINAN'S Smoker and Nonsmoker Health Protection Act of 1975 can be enacted . . . it is truly a bill designed to help all Americans.

Time is available for *additional* viewpoints.

ENGINEERS URGE LOWER TRUCK WEIGHTS

HON. GARY A. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. MYERS of Pennsylvania. Mr. Speaker, in light of the efforts of many Members to urge reconsideration of the increased truck weights permitted in the Federal-Aid Highway Act Amendments of 1974, I would like to bring to the attention of the House the following letter from the National Society of Professional Engineers. I believe this letter offers a succinct statement of the concerns felt by many interested citizens in and out of government.

The letter follows:

NATIONAL SOCIETY OF
PROFESSIONAL ENGINEERS,
Washington, D.C., November 28, 1975.
Representative GARY A. MYERS,
Longworth House Office Building,
Washington, D.C.

DEAR MR. MYERS: I am writing on behalf of NSPE's 72,000 members to urge you to support an amendment to the federal highway bill that would repeal the truck weight limit increases granted in 1974. We understand that this amendment will be offered by Congressman Robert W. Edgar during the markup scheduled for early next week and that there will be a number of cosponsors.

The NSPE Board of Directors adopted a resolution at its 1975 Winter Meeting expressing grave concern over the consequences of the action of the 93rd Congress in approving legislation to increase allowable truck weights on the Interstate Highway System. Our position has historically been that bigger trucks on the Nation's highways are detrimental and will result in the following: an aggravation of safety arising out of the big truck versus smaller automobile mixture; an earlier obsolescence of the highway system with increased ultimate cost to the consuming public; a financial burden on state and local governments arising out of the need to construct new and more frequently repair older streets, bridges, and highways; an increase in danger incident to utilization of state and county roads and bridges presently incapable of sustaining larger loads; and the lack of safety standards dealing with items such as weight to horsepower ratios, braking capacities, coupling systems, acceleration capabilities, jackknife controls and overturn stability.

I urge you to vote in favor of the greatly needed truck weight rollback amendment. A delay will result only in increased costs, greater highway damage and a higher rate of highway accidents.

Sincerely yours,
PAUL H. ROBBINS, P.E.,
Executive Director.

FOOD POLITICS

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. ARMSTRONG. Mr. Speaker, a few months ago, the Washington Post published a sad and revealing article explaining why the island nation of Sri Lanka is sinking deeper and deeper into poverty and hunger.

At a time when famine is spreading throughout the world and millions are literally starving to death, thoughtful Americans are increasingly concerned. Anyone who wishes to better understand the causes of the tragic trends in hungry nations, would benefit from reading this article:

SRI LANKA: A LUSH ISLAND'S FOOD POLITICS

(By Lewis M. Simons)

COLOMBO, SRI LANKA.—"It's terribly funny, isn't it," the prominent surgeon said without a smile, "that here in the country which produces the world's best tea, we're only allowed one teaspoon of sugar a day."

The remark wasn't meant to be funny, of course. Nor was it made in anger. Rather it reflected a kind of melancholy which seems to be gripping many people in Sri Lanka these days.

By its natural gifts alone, lush green Sri Lanka ought to be leading the pack of young Asian nations which, like Malaysia and Singapore, are growing wealthier and more developed each day. Instead, this small island republic, which used to be known as Ceylon, is sinking deeper into the economic morass of its nearest neighbor, India. Beggars, once a rare sight in Colombo, are increasing in numbers and make their appeals to foreign tourists in the rolling Sinhaless language while alternately touching their stomachs and mouths: "No food, no food." Runner-drawn rickshaws, a sure sign that some men have reached desperation, have returned to the streets. Most of the runners come out at night, partly because fewer taxis ply the streets after dark but also, according to one resident, to hide their shame. "We haven't had anything like this since the British left," he said.

Few, if any, of the 18 million Sri Lankans are starving to death yet, as thousands regularly do on the Indian subcontinent, but most of them don't have enough to eat. Even the wealthy, like the surgeon, complain that they can't buy the food they want. "My wife can't plan a meal a day in advance," he said, "because she never knows what will be available."

Sugar is strictly rationed to three-quarters of one pound each month per person. This works out to one teaspoon a day. Rice, the staple of Sri Lankans' diets, is doled out free at one pound a week; in cities, housewives are allowed to buy two additional pounds.

Flour, too, is tightly rationed at one pound a week. Chilies, which are considered essential to make rice dishes palatable, are available only if customers buy other vegetables. Then they are allowed a quarter pound of the fiery peppers. Meat, fish, eggs and canned foods are beyond the means of all but the handful of wealthy people.

FEAR OF FAMINE

Food has long been a problem here. When the British dominated the island, they found it far cheaper to import rice and other basic commodities than to grow them here and take up land which could be used to grow tea and rubber.

When Ceylon won its independence 27 years ago, the new government maintained the same import policy. For a number of years it found it worthwhile to ignore domestic food production because tea and rubber earned a handsome profit and rice could be bought relatively cheaply.

The system worked so well, in fact, that a succession of governments began doling out free rice in ever-increasing amounts—as much as 4 pounds a week only a few years ago.

Then everything collapsed. The bottom fell out of the tea and rubber markets and food grains became scarce and expensive all over the world. Although prices have since risen, the increase has been negligible compared with the spectacular leap in the cost of food grains as well as crude oil and fertilizer, for which Sri Lanka is completely reliant on imports.

Now, what has been a serious problem for the last few years has developed into a crisis. After an all but total failure of the northeast monsoon last fall, Sri Lanka's rice crop this season has been a disaster. With the southwest monsoon still five months away, the government fears full-scale famine. "I anticipate a major food crisis by April," said Anura Bandaranaike, Prime Minister Sirimavo Bandaranaike's son, who is emerging as a major political influence on his mother.

To maintain the free rice ration, which is assumed to be vital for a government to retain power, 600,000 tons must be procured from farmers. Official statistics estimate that barely a sixth of that will be available. The Prime Minister has launched a "crash program" to get farmers in the so-called wet zone, the central core of the island, to grow extra crops. But laziness dies hard and the government is going bankrupt buying food abroad at high commercial rates.

According to Dr. H. A. D. S. Gunasekera, secretary of the Planning and Economic Ministry, the food bill this year will be about $300 million. "With the cost of oil, fertilizer and food grains up between 400 and 500 per cent and export earnings up barely 50 per cent, you can see that the picture is far from pretty."

But it's not the complete picture. The real flaw is the government's insistence on building a welfare state on an economic base far too wobbly to sustain it. Even Chinese Premier Chou En-lai once told Mrs. Bandaranaike that the welfare system was not consistent with the goals of socialism.

DRASTIC DECISION

There are indications, though still very faint, that Mrs. Bandaranaike has finally begun to absorb the significance of Chou's remark. Last year, she halved the rice ration to one pound. And Finance Minister Dr. N. M. Perera, the Trotskyite member of Mrs. Bandaranaike's three-party Socialist coalition government, was recently quoted as saying, "The government will have to reconsider free rice."

But a decision to eliminate the dole may be too drastic for the widowed prime minister to contemplate. Her moderate Sri Lanka Freedom Party has lost a series of nine by-elections since 1970 and her chief opponent, Junius Richard Jayewardene, is pressing for national elections this year.

Jayewardene, head of the pro-American United National Party, is promising to raise the rice dole to an unprecedented 8 pounds a week. So far, Mrs. Bandaranaike has refused to hold elections. Observers believe that if necessary, she will use the emergency powers she has held since the island was rocked by a violent insurrection in 1971 to hold off balloting for another two years.

Faced with weakening public support, Mrs. Bandaranaike is trying to nudge the government's policy away from a disastrous plunge to the extreme left. She recently stated that she could not be forced into "bull in the China shop" tactics of nationalization.

Gunasekera, seeking to couch the prime minister's intentions in terms acceptable to most voters, said in an interview, "We are a welfare state and we intend to remain one. But the question is how far do you intend to go. We don't intend to go any further—but we don't intend to cut back either. There would be political repercussions."

Rising food prices—up 20 per cent in the past year—are causing some Sri Lankans to question the system of government rationing.

Josie Nona, a mother of five, expressed her irritation the other day while waiting to buy vegetables and her quarter pound of chilies at the government-run "People's Fair" in Colombo.

"I've been standing in this queue for an hour and it isn't even moving," she complained, clutching a black umbrella against the midday sun. "If the government would lower prices so that we could afford to buy chilies in the boutiques (as small private shops are called throughout Sri Lanka) that would be better even than raising our salaries."

Mrs. Nona works in a tea factory and takes home a monthly net salary of $15. With that she must support her entire family of seven. "My husband has long been without work," she explained. But when asked whether she'd rather buy her rice at a reasonable price—and be able to buy as much as she needed—or get it on the government dole, Mrs. Nona looked puzzled. "She doesn't understand," said a friend who had traveled abroad. "Rice has always been given free here."

PUBLIC WORKS PROPOSAL

But there are hints that Sri Lankans are beginning to realize that the dole system is draining their government dry and will soon force them into starvation.

Felix Dias Bandaranaike, minister of justice and home affairs as well as local government and public administration, and a distant relative of the prime minister, insisted that the government was not altering its drive toward socialism. But he said Sri Lanka would have to devise innovations if it was going to extricate itself from its present fix.

"The conventional solutions won't work," he said, "because we don't have conventional problems." He said he was advocating an "FDR or New Deal" approach of public works projects, but that he had no support in the government.

Such a program, presumably, could be used to reclaim farmland from the jungle. One hurdle in the way of any serious attempt to boost agricultural production is that the country has exhausted its supply of cultivated farm land.

Bandaranaike conceded that executing this or other innovative approaches would be far more difficult than thinking them up. "The government is considered to have good ideas but not the ability to carry them out," he said.

"The opposition, on the other hand, has no ideas—or just wild ones," he continued. "That leaves the voters with the choice of the old stagnation or taking a great risk."

That's not much of a choice, is it, asked a visitor. The minister smiled but said nothing.

SHELTERBELTS

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. PRESSLER. Mr. Speaker, the villain of the Dust Bowl years again threatens the Great Plains. Recent Government and independent studies reveal that wind erosion in 1974 was at new record levels and will dramatically increase unless preventive measures are taken. Fortunately, the same inexpensive and effective conservation measure which helped to end the Dust Bowl years can be used today to prevent a recurrence of disastrous wind erosion. The solution to present wind erosion damage lies in a renewed commitment to the shelterbelts and windbreaks begun in the 1930's.

Immediate action must be taken because the erosion threat is critical. As our farms grow larger there are less farmsteads—and less trees and shelterbelts. The Soil Conservation Service reveals that a total of 5,684,304, acres of crop and rangeland were damaged in 1974—229,340 of these acres are in South Dakota. The immediate and future economic loss from erosion in terms of crop damage and lower future yields is truly frightening.

Based upon my belief that shelterbelts are the key to controlling wind erosion and a Government Accounting Office report that we presently do not have a program to restore and rehabilitate damaged shelterbelts, I have introduced H.R. 10684 entitled the Shelterbelt Act. The act creates a 10-year program to rehabilitate and restore existing shelterbelts, as well as providing for the additional windbreaks which are badly needed. The program is financed on a cost-sharing basis and carries a minimal cost in relation to its benefits: $15,000,000.

While we have never had an adequate number of shelterbelts, that is not the true extent of the erosion problem. Equally important is the deterioration and removal of the windbreaks planted in 1935 under the Prairie States forestry project. Farmers have maintained shelterbelts at a double expense—paying taxes on the land as well as losing acres which might be used for production. Higher grain prices have enticed many farmers to return windbreaks to productive land. Coupled with natural deterioration, the recent trend removing windbreaks for production is largely responsible for the increase in wind erosion.

The value of shelterbelts in fighting erosion has been long recognized. Studies conducted over the past 40 years show that wind velocity is reduced for distances up to 15 to 20 times a windbreak's height. This reduces soil blowing, controls snow deposition, conserves ground moisture, and protects crops from the planting stage to harvest. Windbreaks are so efficient that a 160-acre farm requires only 8½ acres of trees for adequate protection.

The USDA has compiled figures which reveal significantly higher crop yields for fields protected by windbreaks. Protected small grain fields in North and South Dakota yielded 36 to 74 bushels per one-half mile of windbreak more than unprotected fields. Corn yields averaged 19 percent higher in protected fields.

The desirability and value of shelterbelts is increased by the many practical and esthetic benefits they yield beyond their primary purpose of reducing soil erosion. Windbreaks provide food and cover for wildlife. By reducing the velocity of freezing winds, they can cut home heating costs by 15 percent or more. Perhaps equal to the practical advantages is the natural beauty of the long belts of trees on our plains.

The figures showing dramatic increases in wind erosion on the Great Plains are shocking. Those who lived through the "Dirty Thirties" can understand the ugly consequences we will face if this trend is not reversed. I believe that the Shelterbelt Act is the solution to this problem and I will do my best to assure its rapid passage by the Congress. A renewed commitment to the long-accepted use of shelterbelts will check wind erosion as well as provide other important practical and esthetic benefits.

BILL CAMP: INTEGRITY IN PUBLIC SERVICE

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. BROOKS. Mr. Speaker, this Nation lost a distinguished and able public servant with the death of Bill Camp. His loss is felt deeply by those of us who knew and loved him, and who admired his dedication toward bettering his country not only as Comptroller of the Currency, but through all of his contributions in his positions of civil service.

Bill Camp was a man of deep integrity and loyalty. He was an honorable man, a good man, a kind man, and a loyal man, not only to this country to which he was devoted, but to his lovely wife, and to his many friends.

He was my friend and was loved by my children whom he particularly enjoyed visiting at Christmas. My wife, Charlotte, and I shall never forget his many kindnesses to our family and we shall always cherish the friendship of Bill and Eileen Camp.

SUN CITY, ARIZ.

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. STEIGER of Arizona. Mr. Speaker, Sun City, Ariz., is a thriving retirement community of approximately 36,000 persons. It is one of the largest unincorporated cities in the Nation, and being unincorporated it has no city police force. A single professional law enforcement officer, a deputy from the Maricopa County Sheriff's Department, is on patrol duty. And yet Sun City has virtually no crime problem, although it is adjacent to a sprawling metropolitan area with an exceedingly high crime rate.

This remarkable situation is no accident, but rather, exists because of the Sun City Posse, made up of volunteers.

The posse is headed by Marvin Van Dera, a retired Navy captain who worked in naval intelligence and later for the State Department in Vietnam. His posse rank is also that of captain.

The posse members are carefully screened, well trained, and perform all the patrol and administrative functions of a professional police department with the exception that they rarely make arrests. If criminal activity is observed, or suspicious persons are noticed in the area, the sheriff's department is alerted by two-way radio. Possemen and women wear deputy sheriff uniforms, and drive their own cars with removable sheriff department insignia on the vehicles.

The posse was started with 39 men 2 years ago. New members are qualified in traffic control, first aid, and marksmanship. They attend lectures by qualified members of their own groups as well as from the sheriff's academy. Some carry credentials qualifying them as second man in a patrol car, which means they are qualified to ride with a regular deputy sheriff and handle all law enforcement duties that the deputy assigns them.

Two former sheriffs are possemen, as well as a retired FBI agent, and a retired Secret Serviceman who worked under President Truman. About half the posse members are retired military.

A member of the posse can make an arrest only if he witnesses a felony, while a regular officer can act on probable cause.

Capt. Van Dera says the most important function of the posse is that its mere presence discourages people from coming in to Sun City for the purpose of committing crime. He says the crime rate is lower than that of any city of comparable size in the United States.

A POSITIVE FOUR-POINT DIPLOMATIC OFFENSIVE ON ANGOLA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr BONKER. Mr. Speaker, Angola sneaks up on us day by day. It is not Vietnam, but then, at one point, Vietnam was not the disaster that it became. The dangers are real, yet subtle. The time to act is now, but we are seemingly caught on the horns of a dilemma which I firmly believe is false.

The dilemma is this: if we confront the blatant Soviet intervention in Angola with a parallel response by escalating support for one faction or another, we admit that Vietnam and Laos taught us nothing and that we are back to fighting surrogate wars in parts of the world where we have no national interests. On the other hand, if we simply abandon the field, the Soviet Union gets away with international thuggery and a reckless game of bluff poker.

We cannot afford to default, and we cannot afford—indeed are not justified to afford—step-by-step escalation of covert aid to one of the contesting factions.

For nearly a month now, I have been sponsoring an amendment to the Security Assistance Act, now before the House International Relations Committee, to prevent our growing involvement in the civil war in Angola. The amendment has two parts: one would end our direct aid through covert CIA channels to factions engaged in the fighting; the other would prohibit aid to Zaire insofar as it may be passed on to Angola.

I have argued in previous statements that Angola need not be considered yet another stereotypic testing ground of American resolve—although if we keep talking as though it is, it may just become one.

Yet I have little doubt that the Soviets are engaged in a blatant power play.

We are left to choose between the quagmire of Indochina and the shame of Munich. This dilemma, like most, rests on a fallacy—the fallacy that no other avenue is open. There is a third option, a practical and moral option.

As I have argued for the past month, the only way we can lose in Angola is by pursuing our present course. The only way we can win is by turning the challenge issued by the Soviet involvement into a positive disengagement of the superpowers.

I believe the administration should immediately launch the following four-point diplomatic offensive:

First. Announce and demonstrate American neutrality. No military aid should be extended to any faction, and we should be prepared to assist once a government is formed and the country is stable.

Second. Press all nations for neutrality and strong protestations against outside intervention, be it that of the Soviet Union, Cuba, China, North Korea, or South Africa. The imminent OAU meeting is just such an occasion, particularly since the OAU has itself already taken this position.

Third. Apprise all factions, including the MPLA, that we stand willing to recognize and support any victorious new government as long as it remains independent and conforms to our humanitarian ideals and practices benevolent government acceptable to the Angolan people themselves.

Fourth. Make détente a hostage of big power neutrality in Angola. If Angola truly is a test of U.S. resolve by the Soviets, then we must put détente on the line or admit that it is a hollow phrase with no substantive meaning. SALT and the grain deal are just two points where pressure can be exerted without total disruption of relations.

If a diplomatic offensive is pursued, even if the MPLA triumphs, Soviet gains are minimized and United States may gain with Black Africa generally.

On the other hand, if we must contest with surrogates in Angola, we simply force a stronger alliance between Russia and the MPLA. Angola is not now another Vietnam, but the way to convert it to another Vietnam is to escalate to the point that our honor and reputation are again on the line. How much further down the present road can we go without this happening?

The administration claims that we must have the flexibility in our foreign policy to contest such situations as Angola. The true test of flexibility, however, is whether we can at this point convert an ominous military course to a diplomatic course.

In the Mideast we were prepared to neutralize the Soviets by making overtures to Egypt and now even the Palestinians. A parallel course in Angola would be considerably cheaper at this time than in the Mideast.

POLICE OFFICERS THOMAS GALICH AND DONALD WRENCH OF YOUNGSTOWN, OHIO, TO RECEIVE RED CROSS CERTIFICATE OF MERIT AWARD

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. CARNEY. Mr. Speaker, it is with a great deal of pride that I call attention to the meritorious action taken by two of my constituents, Park Police Officers Thomas Galich and Donald Wrench.

On May 3, 1975, Officers Galich and Wrench, both trained in Red Cross first aid, saved the life of a boy who had been swept over a dam into deep water, following a boating accident. Officer Galich was alerted about the accident at the boat docks about a mile away and sped to the scene in a police boat. He then left his boat to search for the body. Spotting the victim's pink shirt in 5 feet of water, Officer Galich pulled him to shore. Officer Wrench arrived at that moment and the two men applied mouth-to-mouth resuscitation and other life-supportive first aid measures to the victim. A rescue squad was summoned and transported the victim to a hospital where he later recovered. Without doubt, the prompt, concerted application of Red Cross first aid measures by Officers Galich and Wrench saved the drowning victim's life.

Beacuse of their actions, Officers Thomas Galich, 1916 Comanche Trail, and Donald Wrench, 3247 South Wendover Circle, both of Youngstown, Ohio, have been named to receive the Red Cross Certificate of Merit and accompanying pin. This is the highest award given by the American National Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross in first aid, small craft or water safety. The certificate bears the original signatures of the President of the United States, honorary chairman, and Frank Stanton, chairman of the American National Red Cross. Presentation of the awards will be arranged by the Mahoning chapter of the American National Red Cross in Youngstown, Ohio.

Mr. Speaker, I am sure my colleagues will join me in commending the quick and decisive action by Officers Thomas Galich and Donald Wrench in saving the life of a drowning victim. This meritorious action exemplifies the highest ideals of the concern of one human being for another who is in distress.

EVERYONE'S MONEY BUT THEIR OWN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. HARRINGTON. Mr. Speaker, as our economy continues in our efforts to move away from our dependency on petroleum and petroleum by-products, I believe it is necessary to note the importance of the legislation which we considered last week, the Price-Anderson Nuclear Indemnity Act.

Although nuclear energy may not necessarily represent the most viable energy alternative, it is, at the present time, one which deserves serious attention.

The bill, which was passed by the House last week, is characteristically devoid of the one component which would have achieved the legislative goal of the original act—assuring compensation to the public.

The bill, as passed, places a limit on the liability to the public that the nuclear power company must accept in the event of an accident. It seems to me that this limit on liability is an unwarranted guarantee to the utilities and arguably does not encourage or provide any incentive toward the development and safe proliferation of nuclear power.

The nuclear industry has shown itself to be economically capable of responding to the economy's needs for the development of nuclear powerplants. Today the industry is a $80 billion reality, including 50 large nuclear reactors now in operation, contributing nearly 8 percent of the total electrical generating capacity in the United States. With this scale of production, it seems to me a logical expectation that the industry would accept total responsibility for its actions. Instead, with the rejection of the Bingham amendment, we will continue to impose the major financial risk of a $80 billion industry upon the taxpayers of this nation rather than the industry itself.

The Bingham amendment would have improved reactor safety and reliability. The utilities would have then been forced to bear the full consequences of an accident.

I am disturbed, although hardly surprised, that the Bingham amendment, which would have made this act a major legislative landmark in terms of progressive legislation in the field of nuclear energy was not adopted. Unfortunately as oftentimes appears to be the case with this Congress, there is little interest to take affirmative steps to promote the well-being of the general public instead of big business.

The passage of Price-Anderson will enable the private utilities to continue their growth in what, at the expense of the taxpaying public, can only be considered a highly efficient method—the expenditure of money that is not their own.

ARIZONA NEWSPAPER RECEIVES RECOGNITION

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. STEIGER of Arizona. Mr. Speaker, in the realm of American journalism, there have been some great newspapers. But like beauty, greatness is also in the eyes of the beholder. And, in my judgment, one of the great newspapers is the Arizona Strip Teaser, published twice a month by the Woman's Club of Fredonia, Ariz.

To those unfamiliar with Arizona geography, the newspaper's name can be deceiving. Fredonia is situated in northwestern Arizona, just a stone's throw from the Utah border, in what is known as the "strip" country. There is a "strip" of land which is somewhat isolated from the rest of the State by the magnificent Grand Canyon and the Colorado River.

The Arizona Strip Teaser was born of necessity, because there was no regular, reliable method for the dissemination of news in Fredonia, a paradise among the pines and cedars, which counts approximately 1,000 citizens, give or take a few as the seasons change.

Five years ago, the Fredonia Woman's Club took upon itself the task of filling this void, and its success and the acceptance of its effort surpassed even the members' most optimistic predictions.

The Strip Teaser prints all the news of the area with good sense, good humor, fairness to all and malice toward none. This in itself is an accomplishment which most of its big city counterparts not only fail to do, but make no effort to do.

The staff of the Strip Teaser are all volunteers who collect, write, edit, print, and distribute the newspaper, as well as sell advertising, for no pay other than the self-satisfaction which comes from performing a needed community service. The Fredonia Woman's Club does this very well, and its accomplishments and sense of dedication are deserving of recognition in the RECORD.

THE NATION'S HEALTH SYSTEM

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. PATTEN. Mr. Speaker, the time has come for some straight talk on the Nation's health system. People are uneasy. I don't think that New Jersey is unusual and my mail holds indications that constituents feel that much is to be desired from the health system that, in fact, is not forthcoming.

Hospitalization at $100 to $110 a day is no laughing matter.

We have talked about a doctor shortage for years, now, and medical schools have been subsidized for enrollment increases and we will have significant areas in New Jersey which are medically underserved.

Some hard-hitting, straight talk about health and health planning have come from Chairman DAN FLOOD of our Subcommittee on Labor/HEW Appropriations.

Chairman FLOOD, in fact, got out a full set of the transcripts of appropriations hearings we go through in 1 year and took them with him when he spoke to the Coalition on Health Funding a few weeks ago.

He put it to the Washington health professionals. He challenged them to do better homework; to bring better data to the Congress in support of their health proposals. He pointed out that fiscal decisions our subcommittee makes are life-and-death decisions that affect not just thousands of lives, but tens of thousands of lives each and every fiscal year.

In another recent speech to ophthalmologists, Chairman FLOOD praised some recent planning within the National Eye Institute but warned the researchers and professors that they had better make sure their scientific advances help patients fast. He told the audience that scientific progress that merely goes on display in a medical journal is not the sum of what the taxpayer hopes to get out of the National Institutes of Health.

I think every member of our subcommittee agrees with the chairman that the directors of the Institutes of NIH have the obligation to see that, of all the research done each year, the particularly valuable findings be identified and put in motion toward the bedside.

Our subcommittee is not interested in supporting science for science's sake. That is not what the taxpayers have paid their money to the Federal Government to do.

All of us on the subcommittee feel uneasy about the medical care delivery system and want to see it improved, the plight of the patient eased both financially and, where the system is falling down now, eased therapeutically as well. Some people do not get the care they need.

Chairman Dan Flood has put some of these thoughts in strong, targeted language that many people across the country need to hear.

I include the following two addresses by our chairman in their entirety in the Congreessional Record:

Address by Hon. Daniel J. Flood, MC, Chairman, House Subcommittee on Labor/HEW Appropriations, Before the Coalition for Health Funding, November 13, 1975

Talk about the United Nations!

Henry Kissinger only has the gamut from Afghanistan to Zambia.

But Dan Flood covers the world from the horizon of anesthesiology—a stunning beginning—to the horizon of zoiatrics. And I assure you there are many more points in between than Henry ever thought of.

Speaking of zoiatrics, I have a veterinary school in my state and I'm proud of it. It is a rarity, a private school, and it serves six states directly. Most of the others are land grant college veterinary schools. Don't trifle with my zoiatrics.

So you think you are the United Nations of health!?? Maybe you are right. Maybe you are right. Maybe you are determined to be about as unified as the United Nations is today.

I truly hope you can do better.

You call yourselves advocates.

You are.

I hear from you.

I hear from you one by one; and en masse. When all is said and done some of my committee think it is en mess.

There are others than O.M.B. who think of you as the Power of Babel. Of course I don't take the reactionary view that you speak with forked tongue. You do speak, however, with many voices.

Now here we are among ourselves, to churn a phrase.

I've spoken at your medical schools when the parents were there. I've mortised corner stones when your governors were there. I've visited your hospitals and greeted your patients. When you buried your dead I was there. When you've celebrated your Nobelists and lauded your Lasker Laureates, I've had a few words to say.

But we don't have an outside audience today. We're just here among ourselves. So, with no one to fool we can talk candidly.

One is apt to hear a great yuk-yuk among you intellectuals when the Congress is mentioned. Congressmen can't handle the facts given them in testimony. Yes, I know. Congress can't count. Sure. Decisions are made which stress the million over here but forget the billion over there. Yes.

But I put it to you:

Which of you has read just one time even one year's set of these books?

I didn't say "study" them. I just inquired whether you had scanned them one time.

I see no forest of hands out there.

And these are just a portion of what I had to listen to this year. Don't forget that I am on other appropriations bills as well.

Don't squirm. I'm not finished yet.

This is only the written testimony.

How about the visits that now and then take place in my office? Did you ever sit and wait for an appointment there without, in fact, watching a parade? If you sit there long enough you'll see more Irishmen than in a St. Patrick's Day parade, more Italians than in a Columbus Day parade, and more doctors than at an A.M.A. convention. *You* see them assembled all at once in Atlantic City. I see the same mob of doctors in football huddle-sized groups all year around. But I see them all. Boy, do I see them all!!

So, now, add their testimony to the testimony you see in these books.

Now do you give in? Would you like to make these decisions?

Would you want the decision on your conscience to cut back a baby program and add a bit to the geriatric crowd? Would you want the decision to shave research to lay a bit on delivery? Would you want to negotiate with the board of community mental health advocates when the outer office is filled with anti-psychiatrists?

Let's not fool ourselves.

It is up to each of you and each of our committee members to address these questions.

You can best help us by coming up with testimony that addresses the system. Put your own bailiwick in the right perspective. Get your facts straight on needs and resources. But then don't go off half cocked as if no other needs and resources had to be considered by our committee. Do your cost/benefit studies.

Neither you nor the Congress can come up with the blueprint for tomorrow's medical system in one fell swoop. But we can try to take these individual portions of the system as they are, describe some feasible advances, all within the context of the system.

It is all well and good to come up to the Hill and tell me that umpteen hundred thousands of babies are crying and your panacea, after a little slippage, will quiet a blubbery percentage of them so the rest of us can think. It is all well and good to say that 60,000 persons in the United States die every year from kidney failure and that, at the same time, we have the technology to save most of them, and to say immediately after that the cost of saving them would be the equivalent of, say, the entire federal health delivery budget already in place. But no one in this room has ever said to me that we should ditch the entire federal health delivery budget and save those lives.

You and I know we are letting those people die.

It is not just the doctors who make life and death decisions. They are just closer to the actual patient. We have a similar power. In one perspective it is a greater power.

Now let's not kid ourselves.

We're talking about human lives.

There are some young aides on the Hill writing authorization legislation who think they are the College of Cardinals when they get on the subject of patient consent, human experimentation. And they turn out just as pontifical judgments in other authorization legislation as well. Then, of course, I have to consider that stuff in appropriations hearings. Take a look at the child health area one time. Take a look at that. I defy you to make head or tail of national policy on maternal and child health, or for that matter on just a portion of it, the national research policy on child health, and I certainly won't direct your attention to how research results get from the National Institute of Child Health and Human Development to the practicing pediatrician. I'm reading from notes here and I see that my typist ran out of question marks on that one.

In fact, the world's greatest medical experiment in perinatal development took place in the National Institute of Neurological Diseases and Stroke (nee Blindness). Riddle me that.

We are the health group here today, aren't we?

After all if there was a one-line slip in my schedule, I might be addressing the Elks, Moose, or some other group. Health is just one subject my District is waiting for me to discuss, vote on, advocate, amend, appropriate for, or inveigh against.

This is just one of my stacks. Did I say my District? I've spoken in Florida and California this year and some states without blossoms. All over. Everyone wants to know what the chairman of the world's largest budget thinks; or as some would state the query, whether he thinks.

Now let me give you something to think about.

Britain is again having trouble with her National Health System. I've seen that system in action. I will not argue my distinguished peers, lords, barons on the merits of their system. You all know that many physicians left the sceptered isles when Britain installed her National Health System. They didn't leave in hordes. But they left in very large numbers. There were serious losses.

And I am sure that you sophisticates know that the Scandinavian schemes have not been without their difficulties. There have been doctor strikes in Belgium and Canada.

It is not in just medicine that socialism is groping. For all the cocktail party radical talk of the last four decades there are no clear signals—I repeat—absolutely no clear signals on how we are to give medicine the authority it needs to do its job while, at the same time, giving it the mechanism that automatically protects patients against overmedication, overkill by surgery, and against $100-a-day hospital rooms.

The need for an efficient system that is also humane and economical is easy to see. How to achieve it is not so easy to see. And I see nothing in any authorization legislation coming to my attention in recent years that tells me we are on our way.

H.M.O.'s clearly are an unproven answer. More Health Maintenance Organizations are being created by conversions of old group practices and other units than by creation of new organizations in the government's set pattern. I just don't see any wave of the future. It is, rather, a troubled sea with contrary tides and currents.

In this sea it is important for you to travel a measured, a carefully plotted course.

No one of you and—unless tomorrow we have a miracle—not all of you together can design a workable, popularly acceptable medical care system plus a way to get us from here to there.

We are all going to be forced to work it out as we go along.

Each of you can make your maximum contribution by coming to grips with the micro picture in your own area while relating it to the macro picture of the whole system.

And when you've done that—and if you do it, it will be for the first time for several of you—then start to make use of your coalition.

Why have a coalition?

A coalition is a mixed blessing.

But at the very least the entire body of you ought to be doing more than your individual parts. Otherwise, why have a coalition? If you can't get together and come up with and professors that they had better make sure their scientific advances help patients fast. He told the audience that scientific progress that merely goes on display in a medical journal is not the sum of what the taxpayer hopes to get out of the National Institutes of Health.

I think every member of our subcommittee agrees with the chairman that the directors of the Institutes of NIH have the obligation to see that, of all the research done each year, the particularly valuable findings be identified and put in motion toward the bedside.

Our subcommittee is not interested in supporting science for science's sake. That is not what the taxpayers have paid their money to the Federal Government to do.

All of us on the subcommittee feel uneasy about the medical care delivery system and want to see it improved, the plight of the patient eased both financially and, where the system is falling down now, eased therapeutically as well. Some people do not get the care they need.

Chairman DAN FLOOD has put some of these thoughts in strong, targeted language that many people across the country need to hear.

I include the following two addresses by our chairman in their entirety in the CONGREESSIONAL RECORD:

ADDRESS BY HON. DANIEL J. FLOOD, MC, CHAIRMAN, HOUSE SUBCOMMITTEE ON LABOR/HEW APPROPRIATIONS, BEFORE THE COALITION FOR HEALTH FUNDING, NOVEMBER 13, 1975

Talk about the United Nations!

Henry Kissinger only has the gamut from Afghanistan to Zambia.

But Dan Flood covers the world from the horizon of anesthesiology—a stunning beginning—to the horizon of zoiatrics. And I assure you there are many more points in between than Henry ever thought of.

Speaking of zoiatrics, I have a veterinary school in my state and I'm proud of it. It is a rarity, a private school, and it serves six states directly. Most of the others are land grant college veterinary schools. Don't trifle with my zoiatrics.

So you think you are the United Nations of health!?? Maybe you are right. Maybe you are right. Maybe you are determined to be about as unified as the United Nations is today.

I truly hope you can do better.

You call yourselves advocates.

You are.

I hear from you.

I hear from you one by one; and en masse.

When all is said and done some of my committee think it is en mess.

There are others than O.M.B. who think of you as the Power of Babel. Of course I don't take the reactionary view that you speak with forked tongue. You do speak, however, with many voices.

Now here we are among ourselves, to churn a phrase.

I've spoken at your medical schools when the parents were there. I've mortised corner stones when your governors were there. I've visited your hospitals and greeted your patients. When you buried your dead I was there. When you've celebrated your Nobelists and lauded your Lasker Laureates, I've had a few words to say.

But we don't have an outside audience today. We're just here among ourselves. So, with no one to fool we can talk candidly.

One is apt to hear a great yuk-yuk among you intellectuals when the Congress is mentioned. Congressmen can't handle the facts given them in testimony. Yes, I know. Congress can't count. Sure. Decisions are made which stress the million over here but forget the billion over there. Yes.

But I put it to you:

Which of you has read just one time even one year's set of these books?

I didn't say "study" them. I just inquired whether you had scanned them one time.

I see no forest of hands out there.

And these are just a portion of what I had to listen to this year. Don't forget that I am on other appropriations bills as well.

Don't squirm. I'm not finished yet.

This is only the written testimony.

How about the visits that now and then take place in my office? Did you ever sit and wait for an appointment there without, in fact, watching a parade? If you sit there long enough you'll see more Irishmen than in a St. Patrick's Day parade, more Italians than in a Columbus Day parade, and more doctors than at an A.M.A. convention. *You* see them assembled all at once in Atlantic City. I see the same mob of doctors in football huddle-sized groups all year around. But I see them all. Boy, do I see them all!!

So, now, add their testimony to the testimony you see in these books.

Now do you give in? Would you like to make these decisions?

Would you want the decision on your conscience to cut back a baby program and add a bit to the geriatric crowd? Would you want the decision to shave research to lay a bit on delivery? Would you want to negotiate with the board of community mental health advocates when the outer office is filled with anti-psychiatrists?

Let's not fool ourselves.

It is up to each of you and each of our committee members to address these questions.

You can best help us by coming up with testimony that addresses the system. Put your own bailiwick in the right perspective. Get your facts straight on needs and resources. But then don't go off half cocked as if no other needs and resources had to be considered by our committee. Do your cost/benefit studies.

Neither you nor the Congress can come up with the blueprint for tomorrow's medical system in one fell swoop. But we can try to take these individual portions of the system as they are, describe some feasible advances, all within the context of the system.

It is all well and good to come up to the Hill and tell me that umpteen hundred thousands of babies are crying and your panacea, after a little slippage, will quiet a blubbery percentage of them so the rest of us can think. It is all well and good to say that 60,000 persons in the United States die every year from kidney failure and that, at the same time, we have the technology to save most of them, and to say immediately after that the cost of saving them would be the equivalent of, say, the entire federal health delivery budget already in place. But no one in this room has ever said to me that we should ditch the entire federal health delivery budget and save those lives.

You and I know we are letting those people die.

It is not just the doctors who make life and death decisions. They are just closer to the actual patient. We have a similar power. In one perspective it is a greater power.

Now let's not kid ourselves.

We're talking about human lives.

There are some young aides on the Hill writing authorization legislation who think they are the College of Cardinals when they get on the subject of patient consent, human experimentation. And they turn out just as pontifical judgments in other authorization legislation as well. Then, of course, I have to consider that stuff in appropriations hearings. Take a look at the child health area one time. Take a look at that. I defy you to make head or tail of national policy on maternal and child health, or for that matter on just a portion of it, the national research policy on child health, and I certainly won't direct your attention to how research results get from the National Institute of Child Health and Human Development to the practicing pediatrician. I'm reading from notes here and I see that my typist ran out of question marks on that one.

In fact, the world's greatest medical experiment in perinatal development took place in the National Institute of Neurological Diseases and Stroke (nee Blindness). Riddle me that.

We are the health group here today, aren't we?

After all if there was a one-line slip in my schedule, I might be addressing the Elks, Moose, or some other group. Health is just one subject my District is waiting for me to discuss, vote on, advocate, amend, appropriate for, or inveigh against.

This is just one of my stacks. Did I say my District? I've spoken in Florida and California this year and some states without blossoms. All over. Everyone wants to know what the chairman of the world's largest budget thinks; or as some would state the query, whether he thinks.

Now let me give you something to think about.

Britain is again having trouble with her National Health System. I've seen that system in action. I will not argue my distinguished peers, lords, barons on the merits of their system. You all know that many physicians left the sceptered isles when Britain installed her National Health System. They didn't leave in hordes. But they left in very large numbers. There were serious losses.

And I am sure that you sophisticates know that the Scandinavian schemes have not been without their difficulties. There have been doctor strikes in Belgium and Canada.

It is not in just medicine that socialism is groping. For all the cocktail party radical talk of the last four decades there are no clear signals—I repeat—absolutely no clear signals on how we are to give medicine the authority it needs to do its job while, at the same time, giving it the mechanism that automatically protects patients against overmedication, overkill by surgery, and against $100-a-day hospital rooms.

The need for an efficient system that is also humane and economical is easy to see. How to achieve it is not so easy to see. And I see nothing in any authorization legislation coming to my attention in recent years that tells me we are on our way.

H.M.O.'s clearly are an unproven answer. More Health Maintenance Organizations are being created by conversions of old group practices and other units than by creation of new organizations in the government's set pattern. I just don't see any wave of the future. It is, rather, a troubled sea with contrary tides and currents.

In this sea it is important for you to travel a measured, a carefully plotted course.

No one of you and—unless tomorrow we have a miracle—not all of you together can design a workable, popularly acceptable medical care system plus a way to get us from here to there.

We are all going to be forced to work it out as we go along.

Each of you can make your maximum contribution by coming to grips with the micro picture in your own area while relating it to the macro picture of the whole system.

And when you've done that—and if you do it, it will be for the first time for several of you—then start to make use of your coalition.

Why have a coalition?

A coalition is a mixed blessing.

But at the very least the entire body of you ought to be doing more than your individual parts. Otherwise, why have a coalition? If you can't get together and come up with couldn't produce the medical research that today's society needed. The early part of this century saw great advances against the infectious diseases. Maybe we don't know them all, but the big ones we recognized have all been conquered. People expect a lot out of medicine. They expect more miracles.

They are willing to spend on health and, more than that, they are willing to see the federal government increasingly involved in health programs.

So the National Institutes of Health grew and grew. When I was first elected to the Congress, the appropriation for the National Institutes of Health totaled $2.5 million. Now they total $1.8 billion, or 740 times as much!

It certainly cannot grow that fast in the next 30 years, in my opinion. We needed that rate of growth, but we don't need that rate, and, in fact, can't stand that rate in the future.

Last year this country spent over $104 billion for health care. Back in the, fifties we spent about 4½% of our gross national product for health. Now we spend 8.3%.

No wonder the Congress is becoming cost-conscious. No wonder we like to see cost/benefit studies.

The big cry in Washington today is cost-benefit analysis. As you know, I take part in appropriating money for the Department of Defense and they've been using cost-benefit analysis for years.

But none of this should be a great problem to you.

Your lead institute, the National Eye Institute, is one of the best in bringing the ideas of planning, of explicit programming, to the world of research.

I have looked at your Vision Research Program Planning document. I am very much impressed that the Congress did not have to order this plan. We ordered one in the case of cancer. We ordered one in the case of heart. But the eye institute and the eye research community came up with a plan on your own initiative. That impresses the Congress.

Your plan talks of establishing research priorities. Congress has done a bit of that. The most widespread and feared of diseases are getting the largest research budgets. Now I understand that blindness is the second most feared disease after cancer. The figures in the NIH budget don't reflect that. I know it and you know it. It is apparent that the impact of the polls has not been felt by the committees of the Congres. No one can accuse me of bias. I've been faithful to both cancer and eye disease and have been treated for both.

My advice to you is that you approach the Congress with your figures well under control. Gross guesses and wild estimates are routinely flung around the halls of Congress every day. But we need something better than that.

I notice that one of your witnesses this year gave us properly documented data. He pointed out that 400,000 cataract operations are performed annually. Dr. Maumenee told my committee that cataract patients once spent a week or more in the hospital but now often stay just overnight. Now that is a tremendous saving, considering daily hospital charges.

We need more of this kind of data.

I notice that your plan calls for demonstration projects related to the prevention, diagnosis, and treatment of eye disease. I would advise you to get to these projects fast.

A committee of the Association for Research in Vision and Ophthalmology has told the President's Biomedical Research Panel that a clinical project study section might be created at the National Eye Institute to extend basic research achievements in rapid fashion to clinical field trials so that research benefits get to the people faster.

This is certainly an idea to be explored.

I want to say a special word about training. You know, the administration wanted to kill NIH research training programs, lock, stock, and barrel. They fought like tigers. Caspar Weinberger was no tropical flower out of California. The Office of Management and Budget didn't let us down, either. They maintained their prime time image as the ogres of the Potomac.

We didn't join 'em—we licked 'em!

They zero-budgeted training. We appropriated money for training. They impounded the money. The courts made them turn it loose. A new law allowed them to suggest recisions. We turned them down on that. Training was restored when the impounded money was released. I know training programs have been damaged. But the concept is firmly planted.

The fight is not over. It is one of those battles that must be fought repeatedly.

Here, again, we need solid facts and figures on what training does. Not what it does for beefing up research departments. Not what it does for trainees. But, what it does for the American people. For patients.

Watch how you handle this one. The number of active physicians was 272,000 in 1963. It is, now, about 363,000. Health industry personnel have been increasing rapidly in numbers.

When you justify a training program, make sure you tell us exactly what the trainees will be doing in training, five years from now, and in mid-career. What will the public get out of it.

I would think that at some stage of your planning—and you've just begun—you will come up with a model of the eye care delivery system: How many opthalmologists are needed, how many paramedicals, how many surgeries, probably all this in terms of personnel per 100,000 population, or some such objective measure.

This is really biting the bullet. But I can assure you that the unlimited production of medical manpower in this country will not wash. I hear from many ophthalmologists that there are too many in the field already. Your planning will need to come up with some objective measures of what is needed and why. The medical disciplines that do this will, in my judgment, be most persuasive with the Congress.

If you don't do it, there is good reason to believe that, under the pressure of National Health Insurance and continuing rising health spending, that the government will do it for you.

My committee believes strongly in good training programs. We have fought for you in the past. We'll fight again. But you must do your share. Give us the ammunition.

Whatever you do along these lines, stay in touch with Washington. Research to Prevent Blindness was instrumental in the original groundwork when we in Congress created the National Eye Institute. Research to Prevent Blindness has been active, consistent, ready with the figures whenever we've called on them.

Where such an organization is working closely with the Congress and the Executive Branch, we in Congress listen. And, when the same organization puts its own money into research, into the community, in helping with campaigns to build ophthalmology departments, then it's more than a lobby, and we really listen.

I was told in appropriations hearings, that one of the things you ophthalmologists have to brag about is Dr. Machemer's new cutter. It allows the removal of clouded portions of the vitreous, sometimes giving sight to the blind in a way that was only talked about in miracle stories until recently. I understand Research to Prevent Blindness gave some support to Machemer at Miami.

You have been able to create cataracts of the diabetic type experimentally and reverse them with chemicals. Even more important, you have begun to unlock the etiology of the cataract of senility. Since that ailment is so common, the failure of old eyes, that might be your greatest contribution of the decade. I look forward to further progress in that department.

I've been informed of your other steps forward, of your ophthalmetron for automatically checking vision. It handles 12 to 15 patients an hour. I know about your delayed-release medicine system for treating glaucoma. I think it is a very practical advance when these delayed-release inserts keep the drug on the eye for a week and put into limbo the older practice of eyedrops four or five times a day. You are getting to the school children with the ophthalmetron and the elderly with the slow-release inserts.

This is important. Keep the people informed. Keep the advances flowing. Spread them around.

I know that you are taking a good hard look at lens inserts to replace glasses after cataract operations. These intraocular lenses have been around for quite a while. We are told about them in Congressional hearings from time to time. The promise they hold is stupendous—spectacles within the human eye. I know you will carefully evaluate this one. This is certainly another great possibility for an advance that could impinge on the lives of hundreds of thousands of Americans.

As I see it, the eye community is on the verge of real maturity. You have your own institute. I have to be convinced that we need all the institutes that we are asked for. I've said many times at hearings that I expect the next request to be for a left eye institute. Now that you are maturing we need to see a system of vision establishments across the country. We can't have them all in Philadelphia, Los Angeles, and Boston.

They should be utilized, where they now exist, as regional centers. I would expect you to justify your training and some of your other programs on regional needs. Once you begin talking in terms of a system, then we can appropriate according to discreet needs, not just more and more or willy-nilly.

I know that you, yourselves, have done a great deal to create a foundation for the system. Since Research to Prevent Blindness began its research laboratory construction program, the eye research and development space, I am told, has tripled in this country.

Yet, I am an occasional eye patient. I know how much remains to be done. I have friends in Pennsylvania who have shown me a couple of statistics on diabetic retinopathy. They sometimes claim that our population is getting older, more diabetic, and I suppose they would say, more retinopathological. There are jobs to be done.

If we are to create more centers, more trainees, more clinical trials, more of everything, then we need to know the parameters.

That's a big order. You're not going to do it this year or next. But you can do some of it. Your people under Dr. Straatsma have begun the planning. You can keep it up.

You know, I was an actor before I entered the Congress and I have never found a Republican or a Democrat to replace Shakespeare.

But I must say, until I was invited to speak to ophthalmologists, I didn't realize how much Shakespeare had to say about eyes.

Hardly an act he wrote failed to mention eyes. "Love hath twenty pairs of eyes,"—He said in one speech, which brought the retort, "They say that love hath not an eye at all."

Shakespeare portrayed the classic fear of blindness at its most poignant when he used an entire scene in King John to illustrate the utmost in brutality with Hubert de Burgh threatening to put out Prince Arthur's eyes with red hot irons.

Hubert is under pressure from others to blind Prince Arthur but shows signs of relenting and the Prince then promises never to reveal it if Hubert fails to blind him.

"Is this your promise," Hubert asks.

The Prince answers, "Hubert, the utterance of a brace of tongues must needs want pleading for a pair of eyes."

Then the Prince offers to have his tongue cut out so that he won't reveal the secret. "Hubert, if you will," he says, "cut out my tongue, so I may keep mine eyes: O! spare mine eyes. . . ."

Well, of course, Arthur was only a prince, not a politician, so maybe that was the proper choice for him. And I am sure it would be the proper choice for most of the human race. So keep on saving eyes. You are doing a good job.

Good luck to you.

WHAT ARE WE DOING IN ANGOLA?

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. HARRINGTON. Mr. Speaker, with news reports appearing almost daily now which point to major U.S. involvement in the Angolan civil war, many of us in the Congress are experiencing a sinking feeling of here-we-go-again. The leaks and fragments that have appeared so far suggest a classic case of covert intervention, very much on the Laos model.

This time, however, Congress will not have the excuse that we had no way of knowing—the Intelligence Oversight Committees have been briefed and the press is way ahead of the rest of us in ferreting out the particulars. If this no-win contest is allowed to escalate in the shadows as Congress averts its gaze, we will deserve what we get from our constituents when the full cost, in prestige as well as dollars, is computed.

Congressman Bonker and I have announced our intention to introduce amendments to the foreign military aid bill, now being marked up by the International Relations Committee, which would terminate any U.S. contribution to the Angolan conflict. To help apprise my colleagues of the folly of U.S. interference in that country, I am inserting in the Record a perceptive piece of news analysis by David B. Ottaway in Saturday's Washington Post:

Kissinger Says United States Must Stop Soviet in Angola

(By David B. Ottaway)

Addis Ababa, December 12.—The Angolan civil war has created for the United States a major challenge not only to its shaky policy of detente with the Soviet Union, but also to its emerging diplomacy toward black Africa.

Having for years relegated this part of the world to the backwaters of American foreign policy, Secretary of State Henry Kissinger has suddenly discovered that Washington has some vital interest at stake in Angola. But much of black Africa does not share his perception of what is at stake there, or who is the main enemy.

Indeed, if Washington is not careful, the United States may end up making many more enemies than friends on the African continent through its growing involvement in the Angolan civil war.

In the first place, the fears and concerns of black Africa are not centered right now on Soviet "penetration" and "colonization" of the continent. For the majority of African leaders, the presence of Soviet and Cubans in Angola is of far less concern than the "penetration" by South Africa for the first time into a black-ruled nation and the presence of hundreds of white mercenaries there.

Washington seems to view Angola primarily as a test of Soviet-American detente and as a bold gambit by Moscow to upset the East-West power balance in Africa by exploiting American weaknesses after Vietnam and on the eve of a presidential election campaign.

But for most Africans, these are distant and ethereal concerns of the ever-warring superpowers that hold little meaning and even evoke outright anger because they imply that African nations are mere playthings, pieces of real estate, in the Soviet-American game of power politics.

Instead, Angola conjures up among Africans the nightmare of another Congo—of uncontrollable meddling of outside white powers in the internal affairs of a weak and divided newly independent African nation.

Already, the Angolan civil war has brought back to black Africa the plague of white mercenaries. Far worse, to the black nations, it has triggered for the first time the direct intervention of their number one enemy and pariah, white-ruled South Africa. Finally, it has re-ignited the flames of the Cold War struggle among the superpowers for influence, military bases and mineral resources such as black Africa has not witnessed since that much-remembered, disastrous civil war in the Congo (now called Zaire) 15 years ago.

An unfortunate reality of the Angolan civil war that the United States must deal with is that, for reasons primarily of military necessity, the two adopted "allies" of the West, the National Front for the Liberation of Angola and the National Union for the Total Independence of Angola (UNITA), have called upon the aid of South Africa and of white mercenaries.

They have thus made a pact with the devil, in African eyes, and have tarnished Western nations helping them with guilt by association.

"By seeking aid from South Africa," the African magazine West Africa commented last week, "UNITA and her ally (the National Front) have broken the unwritten rules of pan-Africanism, and their conjuring of the Russian bogey will not avail them much in Africa at least."

The United States is thus in danger of finding itself linked in the African mind with South Africa and of being condemned with it for helping to divide rather than preserve the unity of Angola.

There is already a widespread distrust of American motives and activities in many African quarters today. This has been spurred by recent revelations of U.S. Central Intelligence Agency plotting during the Congo crisis against Congolese leader Patrice Lumumba.

The appointment of Nathaniel Davis early this year as assistant secretary of state for African affairs also aroused African suspicions. Davis is best known in Africa for his presence in Chile during the events that led to the overthrow of President Salvador Allende.

Thus Kissinger's sudden interest in Angola immediately raised suspicions as to the real U.S. motives and purposes in the civil war there. But the American policy dilemma in Angola and black Africa is even more complex.

African states with longstanding close economic or political ties to the United States are seriously divided over which faction to support in the Angolan civil war.

The two giants of black Africa, Nigeria and Zaire, have lined up on opposite sides. The former is now openly supporting the Soviet-backed Popular Movement for the Liberation of Angola, and the latter is the main African backer of the National Front and UNITA.

With Nigeria now the second most important source of foreign oil for the United States, Washington obviously has little interest in alienating it. But it risks doing just this by choosing to back openly the allied forces of UNITA and National Front.

At the same time, the United States does not want to antagonize Zaire, where there is huge American private investment and for which the Ford administration is currently proposing an $80 million economic and military assistance package, the largest for any Black African nation.

Furthermore, Zaire has the support of a number of moderate African states, including Zambia, Gabon, the Ivory Coast and Senegal, for its policy of backing the two moderate Angolan nationalist groups against the more radical, Soviet-supported one.

A possible way out of this African policy dilemma for the United States might lie with the Organization of African Unity, which is scheduled to hold a special summit conference on the Angolan crisis in Addis Ababa Dec. 19.

Conceivably, African leaders might agree to put pressure collectively on both the Soviet Union and the United States to get out of the arms business in Angola and let the contending nationalist groups settle their own affairs without outside interference.

This would have the advantage of taking Washington off the spot regarding the escalation of its involvement, and of removing Angola as a bone of contention in Soviet-American relations.

But the chances of this happening seem slim, and the chances of such a demarche succeeding, even if attempted, even slimmer.

Already, about 13 African states have come out in open support for the Popular Movement in Luanda, and several others are leaning in its direction. No African country has yet recognized the opposing government of the National Front and UNITA in Huambo.

About the only thing the African organization is likely to agree on is the condemnation of South Africa's intervention in Angola. This will amount to an indirect vote of no confidence in UNITA and the National Front which have allowed South Africa in and have used its military assistance.

Thus, the United States is likely to find itself faced shortly with an African continent increasingly sympathetic to the Popular Movement and understanding of Soviet military aid to it. Under these circumstances, the growing American involvement in the Angolan civil war in support of the National Front and UNITA could seriously jeopardize Washington's relations with a majority of African states.

Whether Angola would be worth the enmity of a large bloc of African nations toward the United States is perhaps the key issue for U.S. policy makers in deciding the direction of American policy in Angola now.

PERSONAL ANNOUNCEMENT

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Ms. KEYS. Mr. Speaker, on Friday, December 12, I was unavoidably absent from the House.

Had I been present, I would have voted on matters coming before the House as follows:

"Yea" on rollcall No. 776, the conference report to accompany H.R. 8122, Public Works appropriations.

"Yea" on rollcall No. 777, the conference report to accompany H.R. 9861, Department of Defense appropriations.

GAS SHORTAGE EVAPORATES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. FLORIO. Mr. Speaker, this Congress has devoted much time both in committee and on the House and Senate floors deliberating on energy issues which include measures to alleviate the "Natural Gas Shortage." Particular emphasis was placed on the alleged dramatic shortages which the Nation would face this winter. While reserving comment, I wish to bring to the attention of my colleagues the following article from the Washington Post which is, at the least, worthy of some thoughtful consideration:

Gas Shortage Evaporates

(By Thomas O'Toole)

The severe shortage of natural gas in eight states forecast by the White House for this winter has not materialized, partly because producers are selling gas they didn't tell anybody they had to sell.

Producers in Texas, Louisiana and Oklahoma are moving this gas through interstate pipelines at prices two to three times higher than they would receive for regulated gas. The gas is being sold to customers in New Jersey, New York, Pennsylvania, Maryland, Kentucky, Virginia, West Virginia and Ohio, the states the White House said would be so short of gas they might suffer the loss of 100,000 jobs this winter.

"For weeks we've been hearing reports about how many jobs we were going to lose," said David Sweet, one of three members of the Public Service Commission of Ohio, the state expected to be hit hardest by the shortage. "Now I hear the problem is solved, and all I can say is that the solution has further eroded the weak credibility of the gas companies."

Producers of natural gas are taking advantage of a regulation by the Federal Power Commission that allows gas allotted for the intrastate market to be diverted to the interstate market for 60 days if an emergency shortage exists in the interstate market.

This means that gas produced and normally sold in the same state can be moved by pipeline to another state. Intrastate gas does not come under FPC price controls and sells for somewhere between $1.50 and $1.90 per thousand cubic feet. The FPC regulates interstate gas, whose delivered price is about $1 per thousand cubic feet.

On file with the FPC are six sales of natural gas under its 60-day emergency rules. An estimated 32 billion cubic feet of gas are involved in the six sales, at delivered prices that range from $1.70 to $3 per thousand cubic feet. The average price of the gas is $2.62 per thousand cubic feet.

This gas is being delivered to 107 customers in eight states for $82 million, almost three times what it would have brought on the regulated interstate market. The six producers selling the gas are the Pioneer Corp., Producers Gas Co., Oklahoma Natural Gas Co., Lone Star Gas Co., Michigan Consolidated Gas Co. and Houston Natural Gas Co.

The sellers deny they "found" this gas when it became convenient to sell it at the higher emergency price. They insist the gas had been committed to Texas, Oklahoma and Louisiana customers who turned out not to need it or were unable to pay for it.

The producers say the economic downturn has forced petrochemical customers to cut back on natural gas purchases and to slow down construction of fertilizer plants that would have used natural gas. They also say last summer was cold and wet in the Southwest, reducing gas demand for air conditioning and irrigation pumps.

The transporting "agent" for the gas is Columbia Gas Transmission Co., which gave another reason for the sudden flood of natural gas toward the consuming states in the North.

"Higher intrastate prices paid to producers," a Columbia spokesman said, "have greatly stimulated drilling and brought new and large increments of gas to the interstate market."

HEARINGS ON ALTERNATIVES TO THE MILITARY BUDGET

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. DOWNEY of New York. Mr. Speaker, alternatives to the present military budget will be the subject of a series to be held this week by the House Committee on Armed Services. Experts such as Prof. Seymour Melman, author of such books as "The Permanent War Economy," Walter Slocombe, former member of the National Security Council staff, and Barry Bleehman, senior fellow at the Brookings Institution will be called to testify.

I believe that these hearings will be extremely interesting and worthwhile, and would like to compliment Chairman Melvin Price for holding them.

Over the coming weeks and months we will have an opportunity to hear a great deal from the White House and the Department of Defense about our military needs. These hearings present an unusual opportunity to hear from civilian experts on the subject of our military defense posture.

I hope that my colleagues or members of their staffs will have an opportunity to attend.

The schedule follows:

Hearings

TUESDAY, DECEMBER 16, 1975

The full committee will meet in open session at 10:00 a.m. (and 2:00 p.m. if required) in Room 2118, RHOB to receive testimony from the following non-Executive Branch witnesses.

Professor Seymour Melman, Chairman of the Department of Industrial and Management Engineering, Columbia University, National Co-Chairman of SANE.

Mrs. Marion Anderson, Public Interest Research Group, Michigan.

Dr. Herbert Scoville, Jr., formerly Assistant Director, Arms Control and Disarmament Agency. Formerly Technical Director, Armed Forces Weapons Project of the Department of Defense.

WEDNESDAY, DECEMBER 17, 1975

The full Committee will meet in open session at 10:00 a.m. (and 2:00 p.m. if required) in Room 2118 RHOB, to continue receipt of testimony from non-Executive Branch witnesses on the Defense Budget.

Mr. Walter Slocombe, former member, National Security Council Staff.

Mr. Ernest Fitzgerald.

Mr. Gordon Rule.

THURSDAY, DECEMBER 18, 1975

The full Committee will meet in open session at 10:00 a.m. (and 2:00 p.m. if required) in Room 2118 RHOB, to continue receipt of testimony from non-Executive Branch witnesses on the Defense Budget.

Mr. Barry Blechman, Senior Fellow, Foreign Policy Studies Program, the Brookings Institution.

Dr. Fred Warner Neal, Chairman, International Relations Faculty, Claremont, Graduate School, Claremont, Calif.

Again, I hope that my colleagues or members of their staff will have an opportunity to attend.

"MOTOR CARRIER REFORM" LEGISLATION

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. RISENHOOVER. Mr. Speaker, Speaker Albert has nominated me for membership to the Committee on Public Works and Transportation and I respectfully request that my colleagues affirm that nomination.

One of the key reasons I sought this change was to better my position in a crucial fight which—if we lose—could knock rural America to her knees.

Developing the countryside of America—moving people and industries from the crowded cities into the healthy rural areas—should be a national priority. Rural transportation is a main stumbling block and it must be improved.

In a direct step backward from that goal, President Ford has proposed the "motor carrier reform" legislation. I appealed in vain to the White House before the President made the proposal—and now I must declare open war against it.

Both labor and management oppose this plan. And if properly exposed, I believe Congress will reject it.

"Teamster General President Frank E. Fitzsimmons called the Ford initiative 'the most destructive legislation proposal in the last 40 years,'" according to the International Teamster.

Fitzsimmons said:

> It would establish cutthroat competition in which truckers will be forced to bid for freight on only the most lucrative routes, leaving millions of Americans without dependable trucking for the distribution of necessary goods.

Those millions of Americans are in smaller cities, our promising towns, small villages, ranches and farms.

W. A. Bresnahan, president of the American Trucking Associations, Inc., in expressing the ATA's "adamant" opposition to the proposal, said:

> Though termed reform, it would completely dismantle the economic regulation system under which this nation has developed the finest truck transportation system in the world.

I have urged all the Democratic candidates for President to oppose this Republican proposal. Senator BIRCH BAYH has a most courageous and sensible position.

BAYH wrote me:

> I recognize the dangers inherent in abolishing the ICC and share your concern that simply doing away with the Commission will work a hardship on thousands of small towns that would lose regular freight service. While regulatory reforms makes sense, abrupt elimination of the ICC or any other regulatory body is not the logical way to proceed.

A most cogent attack on this misguided proposal was articulated by Vince Robison, executive vice president of the Associated Motor Carriers of Oklahoma and director of the National Committee for Effective Regulation, who said:

> The ICC is an arm of Congress, commissioned in 1887 to carry out the Congressional mandate to regulate commerce between the States. The Department of Transportation, on the other hand, is a relatively new Executive department which is a part of the personal household of the President. As such it is obligated and obliged to enforce the law as the Administration views it.
>
> It is interesting to note that the Administration's proposals to turn over transportation to the Executive branch of government apparently affords little or no system for checks and balances in transportation—or for transportation stability.
>
> Under such a system, transportation availability could be, (and probably would be), subject only to the arbitrary whims of bureaucratic determination and not based on the public's need, as is required under the present system. The principals of nondiscriminatory and non-prejudicial service at fair rates would be at an end should the plan be adopted.
>
> Those who propose "deregulation" purport to throw the motor transport industry back into the predatory jaws of cut-rate competitive practices, subject only to the "law of the fang."
>
> The Under Secretary of Transportation, Mr. John Snow, has claimed in public statements (now amplified in the new D.O.T. National Transportation Policy) that what they propose is not deregulation. They say it is not "deregulation." Yet, they ask for (1) "freedom of entry" and (2) the end to Bureau rate making. Like the shark in "Jaws"—they intend to consume us, but only in bite size proportions. Their announced logic is that because they don't intend to eat us all in one gulp we need not be concerned about being destroyed. Absolutely absurd!
>
> Needless to say, I.C.C. policies and procedures need continued review and modernization. But that need alone should not grant title to the United States Department of Transportation to conjure and promote impulsive unworkable panacea-styled legislation based upon out-of-context half-truths.
>
> The regulation of transportation has—in deed, as well as in fact—a public utility purpose. The position of D.O.T. concerning freedom of entry and of rate deregulation would end that public utility concept. The net result, would cripple an already struggling economy and bring disaster to the trucking industry!
>
> The Department of Transportation hierarchy admittedly announces that "great transportation market shifts" will occur with the adoption of their proposals. What that really means is many existing carriers will fall. Who will survive? What will be the effect on the general business community? What will happen to the industry's work force?
>
> Either they have no concept of the impact of such proposals upon the nation's well being—or—they are so calloused about promoting their own ideas they simply don't care. Could it be that their real intent is to turn us toward government-owned and government-operated transportation? Is this their true objective under the guise of "economic freedom?" Only time will tell.
>
> Examine one final important point about deregulation: Most producers of goods are regulated under anti-trust laws. Transportation, on the other hand, is regulated under a very special statute dealing solely with transportation—the Interstate Commerce Act.
>
> It is far more comprehensive about motor transportation than the more general anti-trust laws. It regulates virtually every phase of a carrier's business: mergers, acquisitions, operating authority, routes, commodities, rates, entry, service obligations and a host of other things.
>
> What does this "deregulation of transportation" really mean? If it means a reduction of red tape and elimination of unnecessary delays and upgrading the efficiency of the regulatory decision making process—that is one thing. We are for that.
>
> But to abolish the public utility purposes of regulation as we know it, will (of necessity) place transportation under the anti-trust laws which apply to business generally.
>
> But transportation regulation has a public utility purpose. The producers of goods could not function successfully for long if transportation did not operate under these special statutes that require regulated transportation to move people and the products of people from and to every single corner of this vast country at reasonable rates without discrimination, without prejudice and without preference. Transportation regulation, then, is the leveling factor that enables the production and sale of goods to function, under a private enterprise system.
>
> Under deregulation, carriers will virtually be forced to cut each other to ribbons, sacrificing their public utility purpose and whatever strength and stability they presently have. And why? For some unknown, unworkable "experiment" whose inevitable failure will make "nationalization" of transportation a dead sure certainty.
>
> What is being expressed by the advocates of deregulation, is not deregulation at all. It is re-regulation and it is re-regulation under untried, unproven, experimental, pipe-dream, do-gooder programs which are not in the public interest.
>
> We can not accept such superficial, shallow concepts.

For defenders of the free, competitive enterprise system, ATA President Bresnahan made an additional point:

> The argument that regulation has stifled competition in the trucking industry is just not true. There are presently 15,000 trucking companies subject to economic regulation by the Interstate Commerce Commission. Of these, 11,000 have gross revenues of less than $500,000. The four largest motor carriers account for only 10 percent of the total revenue volume and the eight largest for only 14 percent. Compare this with other American industries which are "regulated" by anti-trust laws.
>
> In the motor vehicle manufacturing industry, the four largest companies account for 91 percent of the volume, and the eight largest for 97 percent. In the steel business, the four largest account for 47 percent of the business; the eight largest, 65 percent. In the cigarette industry, the four largest have 84 percent of the total; the eight largest, virtually 100 percent.
>
> There is not only competition within the trucking industry as to service, but also as to pricing. There are literally thousands of rate adjustments each year to meet changing competitive situations. These changes are instituted under equitable procedures which give the shipping community adequate notice of the proposal. Most importantly, all shippers have access to the rates—a truly competitive situation guaranteed by the very economic regulation which the DOT chooses to ignore and destroy.

NEW YORK: STILL A MESS

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. GONZALEZ. Mr. Speaker, when the history of this year is written, it will include the question of whether the Federal Government helped New York City meet its crisis, or merely shoved it further down the fiscal hole. Congress has bought the President's prescription for New York. I believe that it is the wrong medicine, and that Congress has followed Corrigan the wrong way. At least that famous flyer flew the wrong way all alone; in the case of New York, the whole crew went along, too, except for those few of us who remembered in what direction the goal lay.

Business Week, in its December 15 editorial, strongly supported my view that the New York aid bill was wrong in concept, and will only exacerbate the already disastrous problems of the city. I include that editorial in the RECORD:

THE WRONG KIND OF HELP

> When President Ford reversed himself last week and decided to help New York City, he had a chance to force a fundamental change in the extravagant policies that brought the city to its fiscal knees. He threw that chance away.
>
> His insistence on new taxes has resulted in levies that weigh most heavily on the middle class and on business that the city desperately needs. Instead of widening the economic base, which is the only way New York can hope to prosper, the new taxes set the stage for still another large-scale emigration from the city.
>
> The President failed to insist on substantial cuts in the areas that add up to really big spending: the high level of medicaid and welfare payments, free tuition in an open-admissions city university, municipal hospitals that are overstaffed and underutilized, and an education hierarchy in which employment has almost doubled while the student body has increased a puny 10%. Without deep cutting in these items, there is no way the city can attain a balanced budget.
>
> In addition, the President set a dangerous precedent by endorsing a breach of New York's contract with its noteholders. The door is now open for any other government agency to call a moratorium on debt service when the budget gets tight.
>
> A default by any other name is still a default. The President's failure to grasp this point has opened the gates to a flood of lawsuits that could doom the rescue program. One bank already is suing to overturn the state legislation that forces noteholders to defer collecting the principal of maturing notes and instead accept bonds of the Municipal Assistance Corp. or a lower rate of interest. Other suits are likely to challenge this law as a violation of due process. Still others may seek to stop the payment of interest on MAC bonds ahead of the city's own short-term notes and to stop the stuffing of state and city pension funds with the MAC bonds.
>
> President Ford has not just missed an opportunity. He has chosen a form of help that will accelerate the deterioration of New York City.

HERE LIES THE UNITED STATES OF AMERICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. McDONALD of Georgia. Mr. Speaker, in a recent speech in Salt Lake City on November 23, 1975, the former Secretary of Agriculture, Ezra Taft Benson, outlined the reasons why he feels America is headed on a rendezvous with disaster. Mr. Benson is a fine constitutionalist and is known widely for his solidly held views on free enterprise. In this speech he points out that our failure to learn from the past, the smothering effect of big government brought on by greed and rampant inflation will all deliver us to a totalitarian system, unless our course is changed, and that it will be immaterial whether this comes from without or within at that point.

Mr. Ezra Taft Benson is also president of the Quorum of the Twelve Apostles of the Church of Jesus Christ of Latter Day Saints—Mormon Church. It is of interest that his church has held the belief that the day would come when the Constitution of the United States would hang as if by a single thread. As a result of actions and policies of the executive, judicial, and legislative branches of the Federal Government over the past 40 years that day of a "single thread" is surely now.

This speech is well worth the considered attention of my colleagues. The text follows:

HERE LIES THE UNITED STATES OF AMERICA

(By Ezra Taft Benson)

Through my good friend, Clarence Manion, (former Professor of Constitutional Law and Dean of Notre Dame Law School) I have an item which came from a professional archeologist who died a few years ago in Rome. During a long lifetime of professional diggings he had turned up hundreds of relics and readings from the ancient past. Always a passionately patriotic American, he didn't like the way things were going here in recent years, and in one of his last letters, he sent his anticipation of an epitaph—that centuries from now, some exploring archeologist will find carved upon the unearthed tombstone of the United States. Here it is:

"Here lies the greatest civilization that the world has ever seen. It died at the peak of its tremendous power, which it refused to use in its own defense.

"Here lies the nation that wagered its fabulous wealth and strength upon the love of mankind and in the process of the wager, lost all three.

"Here lie the people who abandoned their priceless patriotic heritage of religious truth and with it their freedom and their will to live.

"Here lies the last hope of earth. Here lies the United States of America."

As Americans, we have marched a long way down the soul-destroying road to socialism, atheism, and totalitarianism. It is the price we pay when we turn away from God and turn to government to do everything for us. It is the formula by which nations become enslaved by their own leaders.

As England's Lord Acton so succinctly put it, "Power tends to corrupt—but absolute power corrupts absolutely."

Increasing numbers of Americans today are subscribing to the myth that you can get something for nothing—as long as the government is footing the bill. In fact, they believe it is the duty of government to take care of them, from the womb to the tomb.

There is no such thing as a free lunch. Everything we get from the government—everything—we pay for in debilitating taxes. Everything the government gives to the people, it must first take from the people. This is something few Americans appear to understand.

AMERICA, THE GREATEST

We tend to forget how America became the greatest, most prosperous and powerful nation in the world, blessed with an abundance of everything needed for the good life.

It didn't just happen. It wasn't an accident. It was all an integral part of the divine plan for America. In the early frontier days of this country, a special breed of men and women came here from all over the world, seeking not only opportunity, but freedom. They were strong, proud, and fiercely independent. They believed that the surest helping hand was at the end of their own sleeves. They shared one thing in common—an unshakable faith in God, and in themselves. And that, without doubt, is the secret of success as viable today as it was yesterday.

With little but raw courage and indomitable purpose, those intrepid pioneers set forth into the unknown by covered wagon, on horseback, and sometimes on foot.

The land demanded iron men with steel in their backbones. Nature did the weeding out. But they didn't whine or bleat because things were tough. They asked no favors from any man. They knew what they were up against, and they accepted the challenge. All they wanted was to be left alone to do what had to be done. They were wrenching a civilization out of the wilderness.

America soon blossomed into a rich, fertile, productive nation. Individual initiative—free enterprise—paid off, and American ingenuity flourished in a climate of freedom. Very soon, our technology, our inventiveness, and our business know-how became the envy of the world. America had reached maturity—a giant among nations, a glowing example of free enterprise in action, and a perfect demonstration of what free men can do when they are left alone to do it.

But, as those affluent years slipped by, voices were heard in the land singing the siren songs of socialism. And many Americans tapped their feet to the beat of the music. Politicians were already promising something for nothing ... that elusive free lunch. Thus, gradually, the people let the government infringe upon their precious freedoms, and the preliminary signs of decay began to appear in our young Republic.

A current example of this moral erosion can be seen in the current Food Stamp Program. Originally intended to assist those who were on minimum subsistence by drawing on great government surpluses being stored at a cost of a million dollars a day and which had accumulated by government bungling, this program has burgeoned—increased—to the extent that today one out of 13 Americans is drawing food stamps—one out of every four has been made eligible, by recent legislation.

THE POOR GULLIBLE TAXPAYER

And who pays for all of this? We do so—the taxpayers. There is no such thing as a free lunch.

According to Earl Butz, Secretary of Agriculture, 71 per cent of Puerto Rico's population is drawing food stamps. One newspaper has advertised that taxpayers who make up to $16,000 a year are eligible for food stamps. By 1977, this program will be costing the American taxpayer 8 billion dollars a year. Even more importantly, let us ask ourselves the question: what has it done to the character and morality of the individual? It is an eternal principle that you cannot help people permanently by doing for them what they can and should do for themselves.

Today, as government becomes increasingly dominant in our affairs, we are becoming more and more like ancient Rome before it crumpled and collapsed. We are choosing bread and circuses instead of facing the challenges that always test a free people. We are no longer the proud leader of the world. We have lost the respect of almost every country ... through our policies of equivocation and our politics of expediency and appeasement. We think we are buying world peace. This is not diplomacy, it is national suicide! No wonder we have earned the contempt of our enemies, who are only too happy to take our money, our food, our industrial equipment, and our technical expertise.

WARNING TO AMERICA

Some of you no doubt have read the "Warning to America" by the Russian Nobel prize winner, Alexander (Sol-chen-et' -zen) Solzhenitsyn. The text of his first major public address was printed in full in the July 14, 1975 issue of U.S. News and World Report. Time will not permit an analysis of this remarkable address. I commend its reading to every American—leader and citizen. May I highlight only a few points made by Mr. Solzhenitsyn.

There are appeasing, strident voices in our midst, he said, who maintain that the Soviet leaders have given up their inhumane ideology. Mr. Solzhenitsyn answers the proponents of this thesis by charging that the Communist system is one which:

"Introduced concentration camps for the first time in the history of the world."

"Was the first to use false registration," that is, "they would order such and such people to come in and register. People would come in. At that point, they were taken away to be annihilated."

"It's a system which introduced genocide of the peasants (the deliberate and systematic destruction of people). Fifteen million peasants were sent off to extermination."

"A system which . . . artificially created a famine, causing six million persons to die . . ."

"It's a system where for forty years there haven't been genuine elections, but simply a farce."

"A system without an independent press."

"A system without an independent judiciary, where people have no influence on external or internal policy . . ."

"It's a system where unmasked butchers of millions like Molotov . . . have never been tried in the courts, but retire on tremendous pensions."

"It's a system where these forces continue today . . ."

"It's a system where the very constitution has never been carried out for one single day, where all the decisions are made somewhere high up by a small group in secret, and then released on the country like a bolt of lightning."

You ask how did such a system gain such a stranglehold on a third of the world's population? Mr. Solzhenitsyn answers. "A process" on our part, as Americans, which has been in progress for more than thirty years, "of shortsighted concessions, a process of giving up, giving up, and giving up in hope that at some point the wolf will have eaten enough." It's a process Mr. Solzhenitsyn unmasks as the present foreign policy of the United States toward the Soviet Union that is called detente.

Finally, he makes an appeal to our leaders and politicians to "stop this senseless process of endless concessions to aggressors, these clever legal arguments for why we should make one concession after another and give up more and more and more."

Despite what many say and think, the cold war continues today and during this period of detente. One of the main weapons in the cold war arsenal of our enemies is inflation.

Our economic situation, I believe, is extremely serious. The facts are harsh and cold. This is a grim topic. But how can one soften the truth? Inflation, like an insidious disease, is weakening us. We are in this position because we have lost our national pride, our sense of independence. When we want something, we go crawling to the government instead of doing it ourselves. We have exchanged those God-inspired principles upon which this once mighty nation was built, for a mess of shoddy values. No wonder our structures of freedom are cracking.

WHO OR WHAT IS TO BLAME?

Many voices in government today are blaming the businessmen—the unions—and even the buying public for not practicing thrift and economy in their shopping habits.

The blame for inflation must be laid directly at the door of the Federal Government itself. Inflation is an increase in the nation's money supply—an increase, to be more exact, in the supply of money and credit.

Inflation is not caused by rising prices and wages. To the contrary, rising prices and wages, as any solid economist knows, are the direct result of inflation. It stands to reason that when the money supply is increased, all money automatically becomes less valuable. This includes, of course, our savings.

So . . . when our dollars shrink in value, businessmen naturally raise their price tags, and then their employees demand higher wages. You can see how it all becomes a vicious circle.

In a free society such as ours only the Federal Government can cause inflation. And the reason it puts more money into circulation is to finance its disastrous policies of deficit spending.

As the Federal Government promotes more and more costly and unnecessary programs, it spends far more than it receives. So . . . to keep in business, the government has to borrow. To do this, it offers bonds, which are purchased mainly by private banks. Many of these bonds are resold to the Federal Reserves. The Federal Reserve then issues newly printed paper money—or issues credit to pay for the bonds. Thus, new money is created . . . the money supply is increased . . . and the value of all money is reduced.

It is well to remember that continued government deficits cause inflation; inflation is used as an excuse for ineffective price controls; price controls lead to shortages; artificial shortages inevitably are used as an excuse to implement rationing. When will we learn these basic economic principles?

The Prophet Isaiah wrote: "Therefore my people are gone into captivity, because they have no knowledge." (Isaiah 5:13).

ELIMINATION OF STUDENT AID?

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. PRESSLER. Mr. Speaker, I attended the University of South Dakota on student loans—and am very disappointed that the President has proposed the elimination of $800 million in college student aid in the fiscal budget. I realize that college student loans have received a bad reputation because the payback is poor. But the question for this Congress is how to tighten up the regulations on enforcement—it is not to eliminate this essential student loan program.

Vocational, technical, and university students frequently need loans to attend school. Many lower- and middle-income families simply cannot afford to send children to college without the opportunity for student loans.

There are 13 institutions of higher learning in my district—thus education is a very important aspect of the economic basis in my home area.

I am outraged that the administration has chosen to submit budget rescissions which slash the education appropriations but leaves many other areas untouched. When this comes to the House floor, I shall fight to restore this essential money.

"CAUSES AND EFFECTS," AN ESSAY BY STEPHEN S. ROSENFELD

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. BRADEMAS. Mr. Speaker, I am inserting in the RECORD a stimulating and constructive article by Stephen S. Rosenfeld, published in the Washington Post of December 12, 1975.

The article, "Causes and Effects," follows:

CAUSES AND EFFECTS

(By Stephen S. Rosenfeld)

A refreshing question is coming to the fore in public debate over the United States' international embarrassments of recent years. Did what we did, besides drawing criticism and revealing one or another national character flaw, make a real difference? I don't mean a difference in the grand eternal scheme of things or a difference just in our image or self-esteem but a difference in the particular place, where, and at the particular time when, the deed was actually done?

Thus did the New York Times editorialize last Sunday about the Senate intelligence committee's staff report on Chile: "The central fact that emerges is that although the United States did inexcusably interfere in the Chilean political process the United States still was not basically responsible for the overthrow of the Chilean government of President Salvador Allende."

Thus does retired diplomat Lowell Citron write in the last Foreign Policy magazine that journalist Laurence Stern "generally overestimates the centrality of American actions and inactions as decisive factors in the Cyprus imbroglio. Clearly, our diplomatic tactics throughout the crisis were ineffectual in averting and/or ameliorating the disaster. But that disaster was created and worsened by the hubris, treachery, and sheer stupidity of the protagonists."

For what it's worth, I agree with the Times that the United States, though it interfered inexcusably, was not "basically responsible" for the downfall of the inept, divided, minority Allende government, and I disagree with diplomat Citron's contention that American actions and inactions were not "decisive factors" in the Cyprus tragedy.

But these are clearly judgment calls. The encouraging thing is that people are arguing the point. Not only is it a service to truth to try to figure out the effect, as well as the motive and content, of our policies. It is a service to our understanding of ourselves.

In fact, a curious switch between left and right has come about in our approach to this matter of effect.

Previously, even historically, the left held history responsible for most of the good or ill in human affairs. Like Stalin, people of the left easily evoked history to justify arbitrary decisions of their own. The right, though not entirely lacking its own sources of determinism, tended to hold that events could be shaped by men, particularly by leaders.

In its disillusionment with the way the world has been going, however, broad sections of the American left—rejecting determinism as a coward's copout—have come to impute great powers of decision to the institutions and leaders of states—the better to be able to blame them.

My favorite example is "Inside the Company," ex-CIA agent Philip Agee's expose of his former employer. Relentlessly penitent, he cannot bear to comtemplate any misfortune unshaped by the CIA, even attributing to "the Company" the downfall of an early-1960s Ecuadorean president whose alcoholism alone unquestionably provided adequate cause.

So pronounced is the left's inclination to unforgivingly center responsibility on particular people that one conservative observer, Henry Fairlie, writing in the new Commentary, has called for a "Marxist correction" of the left's view—by which Fairlie means that history and the culture should share the rap.

Meanwhile, back on the right, which is where I would put the center of gravity of American foreign policy these days, the tendency grows to explain defeats and frustrations by reference to the inherent intractability of reality, the cloying denseness of history, the determinative mortgage of the past.

Fifteen years ago in Washington, people thought the world was America's to run, and vast schemes to make men everywhere free and prosperous were launched almost as casually as paper airplanes. But now the thrust of policy is to seek out small limited openings in order to make what progress, or to deter what retrogression, one can.

For myself, I would like to have the truths of both left and right: the left's demand for the accountability of power, the right's respect for the complexity of the medium through which power must move. And I would like to dispense with the defects of both left and right: the left's perverseness in insisting that all problems will yield to the virtue and diligence of good men, the right's weakness for expediency.

A search for the actual effect produced by American policy seems to me an awfully good way to establish that vital balance.

A BICENTENNIAL GIFT

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. ABDNOR. Mr. Speaker, students of the senior psychology class at Lake Preston, S. Dak., high school, writing me last week have succinctly demonstrated that the younger generation still knows what this country is all about. They are proposing that next spring at the opening of our Nation's 200th anniversary year, teachers, students, parents and others throughout the Nation, donate their time, effort and the use of necessary vehicles and tools for a 1-day community cleanup.

They propose this as a Bicentennial gift to the Nation which has already given them so much in personal freedom and opportunity. It is an effort which I believe deserves the support and encouragement of all of us.

Today I am introducing a concurrent resolution asking the proclamation of such a day in 1976 by the Congress of the United States, and by the Governors of the individual States.

It is my belief that the proposal of these young people gets to the heart of what our Bicentennial celebration is all about. Offered in the same spirit of getting things done which has made this Nation what it is, the program for individual involvement in the Bicentennial underscores our traditional reliance on individual initiative and responsibility as principles on which to build.

TAINO TOWERS: CLARIFYING THE RECORD

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. RANGEL. Mr. Speaker, a short time ago, an article appeared in the New York Times concerning the construction of Taino Towers which is in my congressional district. This project was built as a low-income facility designed to assist the less fortunate in East Harlem to achieve a modicum of mobility and possibly to reverse the continuing cycle of poverty stricken families.

Much concern was raised by the article in and outside of the East Harlem community. The article contained several misconceptions which gave the impression that Taino Towers was a poor man's utopia.

I believe that in the interest of fair journalism, the other side of the story must be told so that my colleagues aren't misled into accepting the Times article as the gospel.

The firm of Silverman and Cika, the New York based architects who designed Taino Towers have submitted the following response to the New York Times. In their reply, the firm carefully delineates where the misleading story goes astray. I include in the RECORD at this point the full text of their analysis for my colleagues to decide for themselves on the wisdom of this innovative approach to low income housing. The response follows:

The New York Times in their article entitled "Four Luxury Towers to House the Poor Opening in Harlem" did a great injustice by falsely reporting the economic values built into the ten year effort of self help by these Harlem communities in the development of Taino Towers—Urban Development Project.

The Times reported a development cost of $68,597.00 per apartment and in a parallel article pointed to a low income project "Amsterdam Houses" constructed at a cost of $47,484.00 per apartment. The true residential cost of Taino Towers is $35,433.00 per apartment, well below the cost of other low income new housing on today's market. The Times charged against the apartment cost the cost of a major 60,000 sq. ft. medical center; a 130,000 sq. ft. educational and job training center; a 38,000 sq. ft. day care center, and other facilities serving the community at large. All these non-profit facilities serving the greater population of the area represent approximately 48 percent of the project cost, and 48 percent of the project income. Similarly, the Times charged the subsidies built into the project to support part of these non-profit service structures against the residential construction.

These community facilities which are planned to support the upward mobility of the people of the area in comprehensive and inter-related health, educational, vocational and cultural services have been developed to educate and assist people in reaching the goals of economic and personal self-sufficiency. Taino Towers is a truly anti-welfare concept with built-in means of accountability for services rendered. Leading local organizations and institutions with good track record have joined together to provide the services and programs required.

If the Times wished to make a rational comparison of housing structures built together with service structures serving the community at large, they could have made comparisons with the housing and school construction built by the New York Educational Fund. If they charged the cost of these schools against the housing, they would have found costs well over $100,000 per unit.

Taino Towers further builds into its project ownership through a policy making, residential and community service tenant board of directors. For the first time, tenants will be accountable to other tenants for the proper maintenance and operation of the project.

The Times further pointed to the "luxury" characteristics of Taino Towers. It is regretable and contrary to the interests of all tenants in the city that when a project is developed at a lower cost than average and with better construction, that it is reported in a negative way. Specifically, within the $35,433.00 per unit, it is true that central air conditioning was permitted for the first time in low income housing. However, before approval was given by HUD, a special design was created eliminating a great quantity of piping, as required under standard systems and the economic values had to be substantiated. It is also true that 28 triplex, six bedroom, apartments for large families are incorporated in the project. However, these large apartments were planned so as to eliminate the excessive areas of interior and public corridors standard to large apartments in city housing projects.

It is true that better materials have been used in order to dignify the tenant environment, but these also have been attained within the cost of $35,433.00 per unit as evaluated by HUD before closing and as substantiated in construction costs.

The Wall Street Journal editorial of October 29, 1975, immediately following the Times article, and reiterating misleading representation of apartment cost further used Taino Towers as a symbol of the difficulties that the City has encountered. It is difficult to understand how the Federal subsidy and mortgage funds brought to the City of New York to provide low income housing and essential public services is construed as negative to the interests of the City. It is also difficult to understand that when an honest and effective effort of self-help by a depressed community brings work for thousands of men in the field and in the shops, that this is viewed negatively. It is difficult to understand that when the costs of construction are controlled by the contractors and the standards of open site planning, environmental control and better construction are fought for and achieved, that such an effort to contribute to reversing the decay of the City is not respected.

Less worthy projects have received greater tax abatement and land writedown advantages than Taino Towers. Taino Towers projects tax payments to the city equal to that received when the block contained slum quarters.

Taino Towers has brought to Manhattan Island the first vacuum pneumatic waste disposal system planned for the island, saving the city Sanitation Dept. more than $25,000.00 per year in garbage collection and eliminating the unsightly conditions fostered by standard systems.

Taino Towers stands as an effort by community developers to promote a dignified environment for its people and a visual asset to the City of New York. The project reflects what a dedicated effort of self-help by an impoverished people can attain. Taino Towers has none of the hidden public costs of the tax shelters built into speculative projects which in itself could cost many millions of dollars in public funds.

The true sadness of the articles in the Times and the Wall Street Journal is that they have evoked an inflammatory response within the community and outside the community, stirring negative racial and governmental responses and making it more difficult for the project to resolve its outstanding problems in this most difficult of times. A terrible disservice.

In America, it has long been its pride that a poor man, putting forth the effort required, can better himself. The community developers of Taino Towers have, with the support and assistance of the people of the neighborhood made just that effort, and The New York Times and Wall Street Journal have not even made the effort to find the true facts, or understand them.

SILVERMAN and CIKA, *Architects.*

IN HONOR OF IRMA FLECK: BRINGING THE ARTS TO THE BRONX

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. BADILLO. Mr. Speaker, recently, a luncheon was held to honor Irma Fleck, a Bronx resident. The Bronx—most people think of it as the home of the Yankees, the Grand Concourse, and yes, some of the worst slum neighborhoods in New York. But the Bronx has become one of the country's foremost models of what a community arts program can bring to an area. And one of the driving forces behind this great cultural renaissance is Irma Fleck, who recently retired as director of the Bronx Council on the Arts.

The Bronx Council on the Arts, as it is presently constituted, had its beginnings in a desk drawer in Irma's Bronx residence. It has expanded to the point where it provides financial assistance and other forms of help to over 100 cultural and community organizations and provides programs in which thousands of individuals participate.

When as Bronx Borough president, I initiated what became the Bronx Council on the Arts, I had the good sense to appoint Irma its first chairwoman. That was in 1967. She took hold of every facet of the organization, from publicity to fund raising, from writing the funding proposals to planning the exhibits. She helped establish the Bronx Museum of the Arts, and originated Project SPAN—

Students Promotiong Arts in the Neighborhoods—which brought cultural opportunities into every corner of the borough. She originated and established a neighborhood arts service project and developed cultural programs at colleges and other institutions in the Bronx.

In paying tribute to Irma, Sister Christine Marie, president of the Council, said:

> Irma has left a legacy of culture in the borough. The Board of Directors and myself are most grateful to her, for the arts are alive and well in the Bronx. We are indeed happy that she will remain with us as an advisor and that she will continue in another undertaking for the Council that will nurture culture and assist creative people in our area.

And it pleases me too, that the word retire for Irma is an inoperative verb. For she will be working on the Collector's Corner, a new council project—a nonprofit gallery run by and for the artists of the Bronx. She has also been named to a special statewide committee of the New York State Council on the Arts by its chairwoman, Joan Davidson, that will study ways of distributing State council funds on a local level.

My life, and the life of every Bronx resident, has been enriched by Irma Fleck—and it will continue to be for many years to come.

PERCY MIMS ROGERS

HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. JONES of Alabama. Mr. Speaker, the death of one of Alabama's most outstanding citizens, Mr. Mims Rogers, has saddened his many friends.

He was a valued and trusted companion who worked tirelessly and enthusiastically to improve his community, his State, and his Nation.

Mims' influence and leadership were felt in practically every worthwhile public endeavor.

The legacy of trust and respect he leaves can be equalled by few men.

His passing was the subject of an editorial in the Florence (Alabama) Times-Tri-Cities Daily. I include the editorial as a part of my remarks at this point:

PERCY MIMS ROGERS: OUTSTANDING CITIZEN

Percy Mims Rogers (1914–1975).

Perhaps the best one-line description of Mims Rogers is that he was an outstanding member of an outstanding family.

Mims Rogers would have been only 62 if he had lived until March 4 of next year so death came to him earlier in life than to many.

But during his time, Mims Rogers lived a rewarding and productive life.

Not only was he chairman of the board of Rogers, Inc., one Alabama's most successful and outstanding family-owned department store groups, he was, for many years, a successful practicing attorney.

Moreover, his warm feelings for his fellow citizens were amplified by the zest and zeal with which he endeavored to make his hometown, his Tennessee Valley and his state a better place for all.

He was highly active in the Florence Area Chamber of Commerce, updating the organization's by-laws and serving on numerous of its committees and project assignments over the years. He was the Chamber's president in 1950.

A veteran of World War II, he returned to be elected to the Alabama House of Representatives in 1946, serving from 1947 until 1951 under the first Folsom administration. One of his colleagues, Florence attorney William A. Barnett, recalls that "Mims was very much respected by members of the legislature as a gentleman and a man of honor and integrity."

A devoted husband and father, Mims Rogers also had a second love—that for his alma mater, the University of Alabama.

For years, he worked diligently in behalf of the university and served as state president of the UA Alumni Association after his election in 1956.

Many of his hundreds of UA friends from all over the state, and the south, have voiced their expressions of deep regret upon hearing of his death.

Alabama Athletic Director and Coach Paul W. Bryant summed up the sentiment by declaring "we have lost a dear friend and a gentleman who devoted much of his life in making the university a better place for everyone."

That was the ultimate aim of Mims Rogers, and this area and state is, in deed, better for his having come our way.

RESOLUTIONS OF THE NATIONAL ASSOCIATION OF PRO AMERICA

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. ROUSSELOT. Mr. Speaker, today I am sharing with my colleagues the second installment of the resolutions of the National Association of Pro America. The first group of these resolutions appeared in the CONGRESSIONAL RECORD on Tuesday, December 9. The final installment will appear in a subsequent issue of the RECORD:

COMMEND THE FREEDOM STUDIES CENTER OF THE INSTITUTE FOR AMERICAN STRATEGY, NO. IX, 1975

Whereas, The Freedom Studies Center of the Institute for American Strategy recently concluded a monumental Fairness-on-TV Study (covering two full years of CBS Television News Broadcasts, including among other programs, the "CBS Evening News with Walter Cronkite") and published their findings in a book entitled "TV and National Defense;" and

Whereas, This study provides the most conclusive findings to date that CBS has failed in its responsibility to provide the American people with the unbiased information they need to decide matters of national policy and also proves that CBS is systematically ignoring the requirements of the Fairness Doctrine; and

Whereas, Releases regarding this study by the Associated Press and United Press International created a remarkable amount of publicity throughout the country which was ignored by national television news stories; and

Whereas, CBS network, vigorously fighting the study and labeling it biased, has proved its own bias by its distortion of a release by the Institute's chairman, Mr. John Fisher, at the conclusion of the first year's study (the comment of CBS's Mr. Salant inferred that the judgment was made before the study was begun); and

Whereas, The Freedom Studies Center has made it plain that, unless CBS presents balanced programs as required by the Federal Communication Commission (FCC) and by any standard of fairness, the Institute will file a formal complaint asking that, in addition to providing fair and balanced programming, CBS be required to present some compensatory programs to make up for past imbalance; now, therefore, be it

Resolved, That the National Association of Pro America highly commend the Freedom Studies Center of the Institute for American Strategy for its monumental study of CBS news broadcasts and its release of its findings to the public; and be it further

Resolved, That the National Association of Pro America reaffirm its Resolution No. III (1970), entitled "The Communications Media."

URGE REPEAL OF HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, NO. X, 1975

Whereas, Specific objectives include Land Community Development Act of 1974 containing 108 pages and 40,000 words, provides for control over almost every aspect of life; and

Whereas, Specific objectives include Land use—Sec. 101 (c–5), Land acquisition—Sec. 105(a–1,2), Code enforcement and inspection of homes—Sec. 101(c–2) and Sec. 104(4–A), Housing rehabilitation—Sec. 105(4), Child development—Sec. 105(8) Human Resources—Sec. 401(m–4), Population distribution and new communities—Sec. 401(n), and the changing of State laws to comply with federal laws—Sec. 401(e); and

Whereas, Title VIII, National Housing Goal, establishes an authoritarian nongovernmental agency known as the National Institute of Building Sciences, with a Board of Directors *appointed* by the President and consisting of not less than fifteen nor more than twenty-one members—Sec. 809(b–1) and (c–1); and

Whereas, Sec. 809(e–1,2,3) provides that the function of the Institute shall be to establish national uniform housing and building standards, regulatory provisions, model building codes and other regulations; and

Whereas, Sec. 809(e–2,3) provides that the Institute exercise responsibilities by conducting investigations, and in Sec. 809(e–2), monitoring the performance achieved, giving particular attention to the development of methods for encouraging all sectors of the economy to *cooperate* (emphasis ours) with the Institute, and to accept and use nationally recognized performance criteria, standards, and other technical provisions for use in federal, State and local building codes and other regulations which result from the program of the Institute; and

Whereas, Sec. 809(e–3C) provides that the Department of Justice is to be consulted and is responsible to the extent necessary "to insure that the national interest is protected;" and

Whereas, Sec. 809(g–2) provides that every department, agency and establishment of the federal government shall be encouraged to accept, use and comply with any of the technical findings of the Institute, including all projects and programs involving any federal assistance in the form of loans, grants, guarantees, insurance, technical aid, and so forth; and

Whereas, Sec. 809 (g–4) provides that the Institute shall include programs to encourage any change in existing State and local laws, to utilize or embody such findings and regulatory provisions; and

Whereas, Every project or program must be cleared by the Environmental Protection Agency and the policies of the National Environmental Policy Act of 1969–Sec. 104 (h–1), The Civil Rights Act of 1964, and Civil Rights and Fair Housing Act of 1968–Sec. 104 (a–5), the Intergovernmental Co-operation Act of 1968–Sec. 104 (e), and other federal laws; and

Whereas, Judging from the similarity between this law and the Rockefeller "Commission on Population Growth and the American Future," it appears to have been adopted from the report of the said commission; and

Whereas, This whole concept is a complete violation of the rights and liberties guaranteed to United States citizens in the Constitution and Bill of Rights, and of Pro America principles; now, therefore, be it

Resolved, That the National Association of Pro America urge Congress to repeal the Housing and Community Development Act of 1974 at once; and be it further

Resolved, That the members of the National Association of Pro America urge that no community accept federal funds to carry out the provisions of this act.

Urge Investigation of Henry Kissinger, No. XI, 1975

Whereas, United States Secretary of State Henry Kissinger has so centralized the intelligence gathering process that he is almost the only official in the present administration who knows all intelligence available on Russia and Communist China, and there is no place in this republican form of government for omnipotent power in the hands of one man or several men; and

Whereas, many of Dr. Kissinger's recommendations for sensitive government posts are alleged serious security risks (for example, David Popper, who was brought into the United States government in 1945 by Communist Agent Alger Hiss) and certainly not appropriate choices to represent the United States abroad, and are particularly insulting to anti-communist governments such as Chile; and

Whereas, Soviet Ambassador Anatolyn F. Dobrynin has indicated that Dr. Kissinger is serving as negotiator for Soviet leaders as well as for this government in the Middle East negotiations; and

Whereas, The recognized and respected authority on intelligence matters, Frank Capell, and others, have been, over a period of months, making the most serious charges concerning Mr. Kissinger's association with the Soviet Union, without contradiction or challenge; and

Whereas, The United States government, just emerging from the Watergate debacle, can ill afford the sort of scandal which rocked the West German Republic (with apparently more disclosures to come) and toppled Willy Brandt when it was learned that Brandt's personal aide, and one of his closest confidents, was a Soviet agent; and

Whereas, aside from the North Vietnam deal in which this country traded American military withdrawal and the release of the surviving prisoners of war for the continued presence of tens of thousands of North Vietnamese troops on South Vietnamese soil (so-called "Peace with Honor") and the 1972 Moscow agreement made between the United States and the Soviet Union for the limitation of strategic arms which gives to the latter country a substantial superiority in nuclear missiles, the American public knows nothing of the possible or probable secret commitments, understandings and promises that have been made and are continuing to be made in its name; and

Whereas, Dr. Kissinger's grandiose international schemes and secret agreements are all being made in the name of "detente," a policy which Joseph Luns, the Secretary General of NATO, has recently described as a "one-way process serving the exclusive interests of the Soviet Union;" and

Whereas, in the words of Francis Lowenheim, formerly connected with the Eisenhower State Department and presently associate professor of history at Rice University, ". . . an inquiry into Dr. Kissinger's conduct of American foreign policy is overdue and cannot and should not be further delayed."; now, therefore, be it

Resolved, That the National Association of Pro America call upon Congress to recognize the extreme urgency of this situation, and immediately begin a thorough investigation into Dr. Kissinger's background and his conduct of United States foreign policy, particularly his alleged security-risk appointments, the secret commitments and promises he has apparently made and is continuing to make in the name of the people of the United States.

Oppose Law Enforcement Assistance Administration, No. XII, 1975

Whereas,The Law Enforcement Assistance Administration (LEAS) which was created by the Omnibus Crime Control Act of 1968 to deter crime and is operational in ten regional capitals, lays the groundwork for a national police force by granting aid to State and local police agencies contingent upon federal guidelines; and

Whereas, during the 1960's, the years of violence, sired by radicals and financed by the Office of Economic Opportunity (O.E.O.) and the Ford Foundation, were intended to produce a demand from the middle-class for "more law and order;" and

Whereas, Within hours after the shooting of Senator Robert Kennedy, President Lyndon Johnson had by-passed local police and appointed a commission to examine the "phenomenon of physical violence across the nation;" and

Whereas, The National Advisory Commission on Criminal Justice Standards and Goals (created and financed by LEAA) now recommends Citizen Review Boards, gun registration and/or confiscation, and elimination by merger of all police departments with fewer than ten men, which could result in the elimination of more than 80% of the local police forces; and

Whereas, Former Administrator Jerris Leonard has attempted to silence local officials by stating in LEAA Newsletter of January, 1973, that constructive suggestions are welcomed, *but* (emphasis ours) "All I am saying is that city officials can no longer afford the luxury of aimless broadsides against legislation that was created to help *them*" (emphasis his); and

Whereas, Police officers are involved in such sensitivity training as "role playing, small group interaction, video-tape critique, and other progressive approaches to understanding human values and problems;" and

Whereas, The purpose of the LEAA is apparently to control the police rather than to control crime by judicial expenditures; and

Whereas, When police departments have been consolidated, made dependent on federal money and subject to federal guidelines, it seems inevitable that the management will be assumed by the regional office of LEAA, and when that happens, the United States will have a national police force; now, therefore, be it

Resolved, That the National Association of Pro America oppose the Law Enforcement Assistance Administration which will radicalize, regionalize and nationalize local police forces into a national police force, with its consequent dangers to freedom, and urge its members to alert the police as to the dangers inherent in the Law Enforcement Assistance Administration program; and, be it further

Resolved, That the National Association of Pro America reaffirm Resolutions No. V(1971) and No. VIII(1973).

Support United States Military Superiority, No. XIII, 1975

Whereas, Senator John McClellan stated: "I would again remind my colleagues that the highest priority . . . for any of us, for any individual, is the preservation of life itself—survival. And so it is with our nation. National security that insures the preservation of our freedom and way of life is our highest governmental priority. No other obligation of government is paramount to or transcends the obligation to insure national survival;" and

Whereas, Outlays for national defense have shrunk during the ten year period of 1966 to 1976 from 41.5 percent of total federal budget outlays to 26.9 percent requested for fiscal year 1976; and

Whereas, Since fiscal year 1966 the cost of the federal government has gone up $214.7 billion—from $134.7 billion to $249.4 billion estimated for fiscal 1976; and

Whereas, Of that total increase, only $38.2 billion or 17.8% is attributable to national defense spending, while the remaining 82.2% goes to non-military functions; and

Whereas, The export of this country's technology, credit and food to the Soviet Union makes it possible for Russia to use 40% of its gross national product for armaments, and the taxpayers of this country are required to subsidize this Soviet build-up at the expense of United States security; and

Whereas, Opinion Research Corporation's recent poll found that 91% of the American people want the United States to be stronger than Russia even at the price of spending billions of dollars more than is proposed to regain military superiority, while U.S. News & World Report's poll indicates that five out of six of the members of the 94th Congress want defense spending drastically cut; now, therefore, be it

Resolved, That the National Association of Pro America demand the cessation of government support for trade with communist countries in strategic materials, food and technology, and request Congress to instigate a crash program to restore United States military strategic superiority; and, be it further

Resolved, That the National Association of Pro America reaffirm Resolutions No. XVI (1971) and No. XII (1972).

MR. BERNARD HARDING

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. McDADE. Mr. Speaker, I take this opportunity to bring to the attention of my colleagues the outstanding record of Mr. Bernie Harding of Scranton, Pa., whose timely actions as a public servant were instrumental in avoiding a municipal default.

Mr. Harding has had a noteworthy career in service to the public. He has served as a borough and city engineer, school district engineer, director of the Scranton Public Works Department, northeastern regional engineer for the Pennsylvania Department of Highways, and as Scranton City Postmaster. In each position, his performance has been characterized as excellent.

After retiring as Scranton's postmaster, Mr. Harding assumed the chairmanship of the Scranton Sewer Authority. At that time the authority was about to default on its bond payments.

Mr. Harding immediately cracked down on delinquent account holders and those who were not paying for services at all. Since 1970, under Mr. Harding's direction, the authority has not only restored its credit rating, but has increased its collector lines fivefold to 300 miles of sewer line, added $490,000 in new equipment, committed itself to $2 million in new construction contracts, reduced the delinquency rate on rentals to 5 percent, and submitted a budget for the next 2 years with no increase in rental costs.

Mr. Harding deserves great tribute. In these days of municipal hardship, his record should serve as an inspiration to us all.

ON BEHALF OF THE RULE OF LAW

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. HARRINGTON. Mr. Speaker, last week Federal Judge W. Arthur Garrity Jr. placed South Boston High School under limited Federal receivership on the grounds that the Boston School Committee and the administration of the high school had failed to comply effectively with his order of a year and a half ago to achieve racial integration of the school. There is no doubt that the issues involved in the busing of children to achieve racial equality and equality of education in the schools is a complex and difficult one. About two of the components of that issue, however, there can be no doubt.

In 1956, the Supreme Court ruled, in Brown against the Topeka Board of Education, that separate educational facilities for blacks and whites are inherently unequal. Time and time again over the past 19 years the Court has maintained that deprivation of equal educational opportunity to any American, whether de facto or de jure, is both illegal and unconstitutional. In 1965 a Federal court placed a school in Georgia under receivership for previous failure to implement a desegregation order. Last August, the U.S. Civil Rights Commission recommended that the entire Boston school system be placed in Federal receivership. Judge Garrity has acted within the clear guidelines of legal precedent.

At the same time, the Boston School Committee has shown itself, over the past 18 months—and indeed for many years prior to that—to be unwilling and unable to formulate a means of implementing the Federal Court's order to bring about racial equality in the Boston school system while permitting and encouraging the process of education to be carried on. A number of Federal court precedents—as well as a ruling by the Supreme Judicial Court of Massachusetts—demand that responsible officials, in this case the Boston School Committee, act "in good faith" to bring about genuine desegregation of school systems.

The committee has clearly and blatantly failed to act in good faith, and has therefore abdicated its responsibility under the law. Unfortunately, Judge Garrity had little choice, apart from the closing of South Boston High School altogether, but to place the school in limited receivership in order to counteract the unconscionable inaction of the school committee and the consequent impeding of the educational process at the school.

The issue of busing to achieve recial equality has been before the House of Representatives in one form or another during my entire 6 years in the House. I have consistently maintained that our task must be to undo what has been the singular disgrace of this country's history in dealing with the problem of race. I have never suggested that busing represents the ultimate or sole answer to the question of full racial and social equality. Nonetheless, the courts have made clear their determination that the Constitution as well as basic moral sensibility demands that there be no compromise whatever in guaranteeing equal opportunity and equal education for all.

Judge Garrity's decision was no doubt painful and difficult for him; nonetheless, its necessity is evident. I fully support the Judge's decision and commend him for his courage in acting reasonably, appropriately, and forcefully to insure compliance with the law.

SOCIALIZED MEDICINE IN CANADA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. CRANE. Mr. Speaker, the advocates of a system of national health insurance for the United States repeatedly point to those countries which have adopted socialized medical systems and urge that we emulate them.

If such American advocates of government control of medical care looked at socialized systems more carefully, they would discover a state of affairs which is hardly worthy of repeating in our own country.

They would find long waiting lists for almost every kind of medical procedure, they would find a shortage of hospital beds, a shortage of doctors, and cost per patient which far exceeds that in our own private practice medical system.

At the present time, doctors in Great Britain are striking in protest against the National Health Service and Prime Minister Harold Wilson's labour government is launching an investigation of the bureaucratic inefficiency which has made that system both expensive and unresponsive to the needs of either doctors or patients.

The situation in nearby Canada is much the same. Recently, the New England Journal of Medicine carried an article hailing the Canadian system. This article brought forth a response from Dr. E. R. Yendt of Queen's University, Kingston, Canada.

Dr. Yendt says this of Canada's socialized medicine:

> I can only describe it as an administrative nightmare in which service to the public is declining in quality and the morale of the profession deteriorating rapidly.

Dr. Yendt quotes approvingly from a talk presented to the Massachusetts Medical Society by Elliot Richardson in which he said that,

> The advent of substantial federal government intervention must as a practical matter be viewed as a harbinger of potential bureaucratic horror.

Dr. Yendt states that—

> On the basis of our experience in Canada, I for one would say that his misgivings are well founded.

I wish to share with my colleagues the letter from Dr. E. R. Yendt which appeared in the October 30, 1975, issue of the New England Journal of Medicine, and insert it into the RECORD at this time:

> KINGSTON, CANADA.
>
> NEGATIVE VIEW OF CANADIAN NATIONAL HEALTH INSURANCE
>
> *To the Editor:* Your readers may be interested to know that many Canadian physicians do not share Dr. Lee's enthusiasm for our national health-insurance scheme (N Engl J Med 293:459, 1975). The system may look admirable from Dr. Lee's vantage point in McGill University's Department of Health and Epidemiology, but in my position as Head of the Department of Medicine at Queen's University and physician-in-chief of a teaching hospital, I can only describe it as an administrative nightmare in which service to the public is declining in quality and the morale of the profession deteriorating rapidly. In his lecture to the Massachusetts Medical Society (N Engl J Med 291:283, 1974), Elliot Richardson made the following comments on the possibility of a national health-insurance scheme in the United States. "The advent of substantial federal government intervention must as a practical matter be viewed as a harbinger of potential bureaucratic horror. There is, of course, no logically necessary reason for this attitude. But empirical evidence from other areas and more recently in health suggests that there is a somewhat sinister force that, like a law of nature, drives inexorably from ill designed government intervention to complexity, to confusion, to incomprehensibility, to the stifling of creativity—ultimately to citizen contempt, to cynicism. The product of this pattern is evident in the labyrinthine and nightmarish networks euphemistically referred to as 'social service systems.' It is evident also in the massive disenchantment with—and alienation from—government institutions generally. And there is no obvious reason why, in the absence of consciously designed coutervailing forces, the health system should not similarly yield to the force and pattern of bureaucratization."
>
> On the basis of our experience in Canada, I for one would say that his misgivings are well founded.
>
> E. R. YENDT, M.D.,
> *Queen's University.*

GEORGE C. MARSHALL PARKWAY

HON. THOMAS E. MORGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. MORGAN. Mr. Speaker, I would like to bring to the attention of all Mem-

bers of the House the redesignation of the Uniontown Bypass, which is located in my congressional district, as the Gen. George C. Marshall Parkway. Act 97 of the 1975 session of the Pennsylvania State Legislature authorized this change which was supported by many local citizens, including Mr. Joe Vicites, former national commander-in-chief of the Veterans' of Foreign Wars, and Mr. Joseph Fidandis of Uniontown, Pa.

VFW Post 47 in Uniontown was constructed on the site where General Marshall was born and raised, and the post's Marshall Hall is named in his memory. The Uniontown Bypass is a modern highway providing quick and safe access to the entire Uniontown area and will play an important role in the economic development of the area.

General Marshall was one of America's great statesman, and Uniontown residents are especially pleased to honor the General in this small but appropriate manner.

LEGISLATION INTRODUCED TO INCORPORATE GOLD STAR WIVES OF AMERICA

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. FORSYTHE. Mr. Speaker, I recently introduced legislation to incorporate the Gold Star Wives of America.

This national organization was established in 1945 by the widows of members of the Armed Forces who died while in active service of their country.

A growing, active organization, it now has more than 2,000 energetic members located in every part of the Nation.

The Gold Star Wives, Mr. Speaker, have been seeking incorporation in the form of a Federal charter for many years. Because the House Judiciary Committee has refused to act on such legislation in the past, I decided in 1973 to seek a District of Columbia incorporation so the Judiciary Committee could be bypassed.

However, because the leadership of the organization strongly believes they should have a full Federal charter, I am sponsoring this legislation, which undoubtedly will be referred to the House Judiciary Committee.

Within the committee, however, there prevails an entirely new atmosphere surrounding Federal legislation to incorporate organizations. I believe the time is right for the highly respectable Gold Star Wives of America to be federally incorporated.

I know of no other group more deserving of national incorporation. Its membership is composed of women who have experienced the great anguish of losing their husbands through active duty in the Armed Forces of our Nation.

Their objectives are both praiseworthy and significant; what more valuable contribution to society can be made than to bolster the fortitude and uplift the spirits, as well as to aid materially, the widows and children of those who paid the supreme sacrifice in the interest of their fellow citizens?

The Gold Star Wives of America has a role to play that is nationwide in scope and worthy of national recognition. The organization has similar noteworthy accomplishments to those made by our veterans' and adjunct organizations which have been granted national charters. In addition, for several years Gold Star Wives of America has been participating actively in the Annual Women's Forum on National Security, which is composed of 16 organizations which have received Federal charters.

I have been informed by the officers of this organization that its goals could be more effectively and easily attained if it were incorporated at the national level. The scope of its membership and business now transcends any one State or group of States. Its declared purposes and activities extend to the widows and children of servicemen killed who live in every section of the country, and the number of chapters doubled in a short time, as hundreds of new widows turned to Gold Star Wives of America for assistance with their financial and emotional problems. Its officers and board members reside in such scattered States as Massachusetts, Washington, California, Colorado, Kansas, Minnesota, Virginia, Missouri, Louisiana, Kentucky, New Jersey, Illinois, Arkansas, Florida, and Indiana. In every sense of the term and in all aspects of its operations this is truly a national organization dedicated to significant national purposes.

The Gold Star Wives of America has repeatedly been hindered and prevented from giving assistance to the young widows who desperately need the help that could have been available to them through this organization, solely because of their lack of a Federal charter. Efforts to make the Gold Star Wives of America known through survivor assistance officers at military installations have been refused on the basis that the organization is not recognized as a reputable organization, while in other instances, contacts at military bases have resulted in inquiries to the Department of Defense as to the reliability of Gold Star Wives of America. Officials of the Veterans' Administration, I am advised, have suggested that a Federal charter should be priority legislation for Gold Star Wives of America, as a means of establishing the status and integrity of this relatively young organization. The organization could thus acquire the respect and stature which come only to those organizations who are so recognized by the Congress.

Mr. Speaker, I have carefully examined the criteria set forth in 1969 in the Standards for the Granting of Federal Charters by subcommittees of the Senate and House Committees on the Judiciary. In every aspect it appears to me that the Gold Star Wives of America, Inc., more than measures up to those required standards. It is clearly a national permanent organization operating in the public interest; the character of this organization is such that chartering by the Congress as a Federal corporation is the only appropriate form of incorporation; it is solely a patriotic, nonprofit, nonpartisan organization devoted to civic and membership betterment; and it aspires to provide nationwide services which cannot be adequately organized without a nationally granted charter.

The objects and purposes of the Gold Star Wives of America are most commendable. In addition to honoring the memory of loved ones who paid the supreme sacrifice while serving in the Armed Forces of the United States, it is committed to assisting their widows and children, both materially and spiritually. One of its stated goals, for example, is to provide the benefits of a happy, healthful, and wholesome life to minor children of persons who died in the service of our country. Another aim is to promote activities and interests designed to foster among its members the proper mental attitude to face the future with courage. Direct aid to the widows and children of former servicemen is likewise an obligation which this organization has assumed. I am pleased to note also that the Gold Star Wives of America have dedicated themselves to the noble cause of safeguarding and transmitting to posterity the principles of justice, freedom, and democracy for which members of our armed services fought and died. They have likewise pledged themselves to assist in upholding the Constitution and laws of the United States of America, and to inculcate a sense of individual obligation to the community, State, and Nation. In all these respects this organization deserves the treatment which Congress has previously accorded other similar national groups.

Mr. Speaker, our colleague in the Senate, Senator BAYH of Indiana, introduced similar legislation in the other body on June 24, 1975. I strongly urge the prompt consideration be given to the adoption of these bills for incorporation of the Gold Star Wives of America in order that the organization can have the national stature and corporate structure so essential to implement achievement of its very desirable purposes.

NORTH CAROLINA DAY CARE ASSOCIATION

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. PREYER. Mr. Speaker, I would like to share with my colleagues a position statement from the North Carolina Day Care Association regarding child care delivery systems. I share the concern of the Association about the Federal Inter-Agency Day Care Requirements—FIDCR's—of 1968 now incorporated into Federal law through the enactment of the Social Security Amendments of 1974.

One of the primary differences between the Federal requirements and most State licensing requirements are those requirements which call for more staff and space. These differences can make a dramatic difference in the cost of providing this care. Congress has mandated a study of the impact of the FIDCR's and I offer this statement for your consideration as this matter is further studied by the Congress:

NORTH CAROLINA DAY CARE ASSOCIATION—POSITION STATEMENT ON CHILD CARE DELIVERY SYSTEMS REVISION: ADOPTED AUGUST 7, 1975

The NCDCA promotes these premises as vital to child care in our state and nation:

1. The child is the responsibility of the parent(s). The community has the responsibility for providing services to help in the development of every child to his fullest potential. The community also has the responsibility for providing information to assist parents in the selection of these services.

2. Quality child care service should be available in every community to every child whose family needs and wants them. Child care services should be diverse enough to meet the varied needs of different children in different families and allow the parents choice in what program best fits their child's needs.

3. On the basis of need, public funds should be used to enable the parent(s) to exercise their responsibility and right to purchase child care. All barriers to the flow of public funds should be removed so that all existing child care programs, both public and private, are being utilized and government operated programs are initiated only when services cannot be provided under private auspices.

S. 622: "ENERGY FLIM FLAM"

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. GRADISON. Mr. Speaker, I am shocked that the Congress of the United States would play games with an issue as important as our national energy policy.

In an area where there is an urgent need for comprehensive, foresighted legislation to meet our future energy needs, the Congress has chosen the politically easy way out, rolling back oil prices until after the next election then allowing them to rise until controls are lifted. This legislation is politics at its most cynical.

The energy bill we are considering today makes a serious mistake in treating the American people as "economic illiterates," to quote an apt phrase from the Cincinnati Post. Supporters of the bill would have us believe that this is a consumer bill. Nothing could be further from the truth.

S. 622 ignores the damage that a temporary price rollback would cause at this time. A rollback would encourage consumption precisely at a time we are trying to reduce gasoline usage. It will increase imports precisely when we are seeking to reduce our dependence on foreign sources. It will discourage domestic production when we wish to become energy independent.

Finally, it will create legislated shortages and long lines at the gas stations. Passage of this bill will put the United States at the mercy of the OPEC nations through their ability to set the market price of oil.

Congress needs to pursue long range policies which will encourage domestic exploration and development of our energy supplies. I will continue to support gradual elimination of price controls on oil together with a windfall profits tax. This tax is necessary to assure that additional revenues are plowed back into continued energy research and development rather than used to further enrich the oil companies.

Mr. Speaker, it is time we stopped playing "politics as usual" in Congress and got down to the tough decisions needed on pressing issues. I believe the American people will no longer stand for this kind of politically-motivated policymaking, in which Congressmen look out for themselves first and the Nation second.

As an indication of the failure of Congress to fool the American people on this issue, I am including copies of two editorials from Cincinnati papers, the Cincinnati Post and the Cincinnati Enquirer.

[From the Cincinnati Enquirer, Nov. 13, 1975]

A SELF-DEFEATING LAW

It is the very kind of program to "benefit" the American consumer that has put us in bondage to the Organization of Petroleum Exporting Countries (OPEC) and that the Congress has just adopted in trying to legislate lower petroleum prices.

From the early 1950s on, it was the conscious policy of the federal government, both Congress and the executive, to increase prosperity by holding down the cost of gasoline, jet fuel, heating oil and natural gas.

Prosperity is a much-desired and worthy goal, but the national energy policy was shortsighted and self-defeating in the long run.

We have given the 13 member nations of OPEC the power to set the price of crude oil, and with that the steadily rising price of refined petroleum products. We have done so by deliberately making ourselves dependent on this source of energy, and discouraging both domestic production of it and economic use of it by holding the price down. The chasm between the needs of the nation and the price-consumption policy of the federal government is most strikingly and painfully clear in the shortage of natural gas.

By seeking to decree that the price of a barrel of domestically produced petroleum shall be only about two-third of that of imported oil over the next few years, the Congress is hurting the national economy and undercutting the very prosperity it seeks to promote.

At the legislated price of petroleum the Congress would have, Americans are going to use ever more OPEC petroleum.

They will do so because mixing domestic and foreign crude oil together in price lowers the net price by about a fourth. That assumes the present ratio of about 40% imported oil to 60% domestic oil. The lower price encourages consumption without, however, generating an equal increase in supply.

The Congress fails to legislate greater supplies because it controls neither the decisions of the OPEC nations on the price at which they will be willing to sell their oil nor the decisions of the American petroleum industry on production here at home.

The Congress can, of course, influence those decisions. The influence in this piece of legislation is negative. It discourages domestic production by the artificially low ceiling price set on our own petroleum and by allowing the petroleum industry to pass through to the consumer the costs of imported oil. There is no short-term profit loss to the industry from the legislation, although there is a long-term profit gain that it would be forced to forgo.

This is a bad piece of legislation. It deserves to be vetoed by President Ford.

[From the Cincinnati Post, Nov. 19, 1975]

ENERGY FLIMFLAM

With its eye fixed firmly on the 1976 election, Congress has decided on an energy bill that is good politics and bad national policy.

And what may be worse, President Ford, who knows better, is reported by his aides to be leaning toward signing Congress' handiwork.

The measure treats Americans like economic illiterates, believing that they will be so grateful for temporarily cheaper gasoline that they will overlook long-term damage to the country.

If Ford swallows the bill, it would promptly roll back the average price of a barrel of domestic crude oil by 12 per cent, from the present level of $8.75 to $7.66.

That is designed to cut the price of gasoline by 3.5 cents a gallon. Under its complicated provisions, the bill would keep gas prices down until the election is safely past. Then they would start rising and would be 3.5 cents above today's prices when price controls expire in 40 months.

The plan is an ingenious one to allow congressmen to posture as champions of the consumer and promote the re-election of as many as possible. But it would be harmful in at least three major ways.

By artificially lowering gasoline prices, it would encourage consumption when conservation should be the watchword.

By cutting the oil industry's income, which is already slipping, it would cause a drop in exploration and a faster decline in domestic oil production.

As a result of using more fuel and producing less, this country would have to import more high-priced foreign oil, now 40 per cent of overall consumption.

Inevitably we would become more dependent on the pricing and supply whims of the OPEC cartel and more vulnerable to another embargo.

Apart from its basic flaws, the measure contains a number of useful provisions. These include requiring Detroit to produce more fuel-efficient cars; setting energy standards for household appliances; building up an oil reserve to protect against an embargo, and helping small coal operators to increase output.

Such steps toward a sensible energy policy show that Congress can do better on the oil-price issue—if President Ford vetoes its flimflam and demands an honest bill.

ANGOLA IS OUR NEW VIETNAM

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. BADILLO. Mr. Speaker, Sunday, the New York Times' story on the worsening situation in Angola stated:

> When the United States finally evacuated Saigon in defeat, a national debate on American policy seemed imminent. It never really occurred. . . . Now the same subject seems to have returned, called Angola: American and Russian power and influence colliding in distant places that are in, as Mr. Kennedy said, a small world.

And what has changed since the end of our involvement in Vietnam? Apparently not much. CIA Director Colby tells us that his interpretation of the War Powers Act does not preclude "paramilitary operation." And so, Henry Kissinger and William Colby have consulted, and, now the $25 million of the taxpayer's money has been spent covertly, we are asked to believe that this is another involvement in the American interest.

The parallels with Vietnam must be drawn and reinforced. We have been told that the Communists have put much more money and arms into Angola than we have and so we have to "catch up." Yet in doing so we have aligned ourselves with South Africa—a country whose policies we loudly proclam as being repugnant to us. As in Vietnam, we proclaim the right of the people to determine their own future, and yet we have allied ourselves with factions in Angola that are so weak that they are almost certainly doomed to failure.

And yet we persist. Despite the fact that we may lose close allies like Zaire and Zambia, despite the fact that Africa-watchers have been advising against our involvement for many months, and most of all, despite the War Powers Act, the Secretary of State has once again chosen the imperial route of unilateral action in the formulation of our foreign policy. It is my fervent hope that before the Congress recesses, we will assert our role as an equal partner in the policy-making process, and inform the administration just how antithetical our continued involvement in the affairs of another country is to the Congress.

The following articles from yesterday's and today's New York Times clearly define the situation in Angola, and the folly of our role:

No Questions, Please

(By Anthony Lewis)

BOSTON, December 14.—In the last six months the Ford Administration has secretly supplied $25 million in arms and money to factions it favors in Angola. The President has just approved another $25 million. American pilots are flying five American artillery spotter planes in and out of Angola from neighboring Zaire.

The Angola operation is already one of the largest covert actions ever mounted by the United States outside Indochina, and it raises large questions of policy. Does the Angolan faction we oppose, which gets aid from the Soviet Union and Cuba, threaten American interests? Is there any realistic chance of defeating it, or is the prospect an endless struggle without success? And more.

But there is a fundamental question of process before those of policy. If American action is needed, why should it be clandestine? Why has our policy on so dangerous a problem been made and executed in secret?

The answer given is that U.S. aid might embarrass the recipients if sent openly. American motives are suspect in Africa these days, in part because of leftist bias but also because of the record of American activities in the Congo, Chile and elsewhere.

But an operation as large as that in Angola could hardly be expected to remain secret for long, so that answer is less than persuasive. In any event, the Angola action has now been disclosed in considerable detail—by unnamed sources who sound very much like the C.I.A. Continuing to handle the policy covertly is not likely to avoid embarrassment.

The Angolan affair, in fact, makes clear what must often be the real reason that officials choose the covert path. It is more convenient. It allows policy to be made by a handful of men who know best. It avoids annoying questions by Congress, the public and experts within the executive branch.

After Vietnam, an open decision to intervene in an armed struggle thousands of miles from the United States and outside our traditional sphere of interest would surely have aroused some questions. There is no need for conjecture. Seymour M. Hersh of The New York Times has disclosed that there was governmental opposition to the Angolan policy—and that it was suppressed.

Secretary of State Kissinger made the decision for military aid against the advice of his own Assistant Secretary for African Affairs, Nathaniel Davis. Mr. Davis felt so strongly about it that he quit the job last August. Since then Mr. Kissinger has cut down the flow of cables on Angola to the department's African specialists and even to the Bureau of Intelligence and Research, which also opposed his decision.

Mr. Davis is said to have seen three main dangers in the growing U.S. involvement in Angola. The factions we favor are so weak that the policy probably will not work. A prolonged struggle ending in failure would deeply damage the two African figures on whom we most rely, Presidents Kaunda of Zambia and Mobutu of Zaire. And the United States may become identified with white South Africa.

Those arguments look rather convincing today, after a direct South African military intervention in Angola and after the decline in the fortunes of the Angolan groups favored by the Ford Administration. But right or wrong, the arguments should have been heard—heard by someone other than Henry Kissinger.

Under the American system, secret decisions by one official or a few are wrong in principle. They also tend to be wrong in practice. Whatever good we can imagine covert operations doing, what they actually did is evident enough in the major examples: Vietnam, Laos, Cuba.

Henry Kissinger's record makes it particularly unwise to leave policy on Angola largely in his hands. A National Security Council memorandum drafted under his direction in 1970 predicted continued Portuguese power in Angola, and thereafter some help was given to Portugal in its colonial war. This absurd episode is described by Tad Szulc in the current issue of Foreign Policy.

But the point is much larger than the specifics of Angola. Our attitude toward that affair will really indicate whether we have learned from Vietnam and Watergate and the rest how much harm we do to ourselves by secrecy—by letting a handful of officials make policy without public examination of the premises.

The worst danger of covert action on such a scale is that it may commit the United States to a position and make extrication awkward. That may indeed be the intention. The time to stop the process is now. Senator Dick Clark of Iowa has a foreign aid bill amendment that would bar any Angolan aid unless Congress has authorized it. That proposal takes no position on the rights or wrongs in Angola. It would simply make sure that the country has a constitutional opportunity to look out for quagmires before taking this large step.

The Mini-Vietnam in Angola

(By C. L. Sulzberger)

WINDHOEK, SOUTH-WEST AFRICA.—The Angolan mess bears some resemblance to Vietnam, if on a smaller scale. The civil war started among rival nationalists after the principle of independence had been gained and foreigners intervened to suit their global interests. But, unlike Vietnam, no great-power intruder came from regions near the chosen battlefield.

The external forces involved aren't strangers to the game. The United States has at various times exerted tangible influence to attain policy goals in Zaire (formerly the Belgian Congo). The Soviet Union has invested much in unproductive attempts to control Zaire, Sudan and Egypt, and in areas where success was achieved, notably Somalia. China has been involved in Africa for well over a decade, sending money, engineers and military experts to various lands including Zaire, Tanzania and Mozambique.

Everyone has used one or another form of mercenaries: unemployed professional soldiers or military units from smaller ideological allies. Thus, Russia has been employing commando troops from its little client, Cuba, on African assignments since the 1960's. North Korean officers are on a training mission in Zaire.

All these factors play a role in the civil war that has engulfed Angola, just north of South-West Africa (controlled by Pretoria). Three principal guerrilla groups are fighting each other to gain ascendancy and an odd mixture of foreign nations are directly involved.

The Popular Movement for the Liberation of Angola, headed by Agostinho Neto, which seems at present to have an upper hand, is heavily backed by the Soviet Union. There is evidence that Soviet advisers are helping Neto in Luanda, his capital, and that Moscow has sent him an extensive inventory of arms.

Standing loyally with Russia is Fidel Castro, who has dispatched between three and five thousand Cuban regulars to spearhead M.P.L.A. attacks. The Cubans are the only large non-African combat force in Angola. Several hundred of them are combat veterans of the independence struggle in Guinea-Bissau.

The two anti-M.P.L.A. guerrilla forces, UNITA (National Union for the Total Independence of Angola), and F.N.L.A. (Front for the National Liberation of Angola), have joined in uneasy alliance. UNITA is led by Jonas Savimbi and F.N.L.A. by Holden Roberto, brother-in-law of Zaire's President Mobutu. This coalition is at present supported by Communist China, the United States, Zaire and South Africa.

The United States uneasily opposes the threat of a Soviet-dominated Angola that would provide Russia with naval and air bases and a strong-point aimed at the enormous mineral wealth of Southern Africa and Zaire. Even if Moscow proves unable to control these resources, it would be in a position to deny them to others with its strong navy.

Washington is well aware of this danger and the Soviet threat to move into the South Atlantic as it has in the Indian Ocean, but it is leery of direct involvement because of its Vietnam experience. China has less of a complex.

Last June Mr. Roberto boasted: "All my troops have been trained by the Chinese." Whether Chinese instructors are still with F.L.N.A. cannot be proved and some reports claim Peking is diminishing its role. But China is concerned with its third-world relations and is extra-susceptible to copper-producing states, from Chile to Zambia and Zaire, where Roberto's brother-in-law is boss.

South Africa, for its part, fears Soviet efforts to spread revolutionary propaganda in South-West Africa and also through the African National Council in the republic itself. Small South African forces have been stationed twenty miles inside southern Angola with instructions to engage in hot pursuit, if necessary, 200 miles northward. There are South African advisers and armor farther north and its troops apparently control Sar da Bandeira airfield south of Huambo.

It is still early to forecast how the Angolan contest will end. So far the Soviet Union has shown great resolve but, in the past, its staying power in West Africa has not been impressive. China, on the other hand, has been courting the black states for years and its ideological practices have considerable appeal. But African nations have not been notable for tying themselves inexorably to any ideological creed.

The outcome in Angola—and its eventual implications—may be affected by any United States determination to step up its role or even by the import of further mercenaries by one or another competing group. Well-trained professional soldiers with good weapons have shown they can have considerable effect on African battlefields.

The Black Companies now being led around Angola by Cuban ideologues or white officer hirelings are every bit as important as the White Companies of unemployed English knights who settled arguments between Italian city-states following the Hundred Years War. But this time the ultimate strategic repercussions might echo on a global scale.

COMMUNISM AND THE WAR IN ANGOLA

(By George M. Houser)

The conflict of opposing political movements for control of an independent Angola is rapidly escalating into an international confrontation reminiscent of Vietnam, and United States spokesmen are grossly distorting the real issues involved.

Secretary of State Henry A. Kissinger has pointed an accusing finger at the Soviet Union and Cuba for intervening in Angola. Characteristically, United Nations Ambassador Daniel P. Moynihan went further when he said that Soviet involvement in Angola was a first step in the colonizing of the whole continent. But little is said about reported United States military aid sent to Angola.

American spokesmen are simplistically portraying the Angolan conflict as "Communism" versus "anti-Communism." The Popular Movement for the Liberation of Angola (M.P.L.A.), whose government at Luanda has been recognized by sixteen African states (33 countries in all), is constantly described as "Marxist," "Soviet-backed" or just "Communist." The National Front for the Liberation of Angola (F.N.L.A.) and the National Union for the Total Independence of Angola (UNITA) are called "anti-Communist."

Before any portion of the American people respond to any call for Vietnam veterans to join the fight against Communism in Angola, several important factors should be considered. What about the Communism of the M.P.L.A.?

I have been in touch with the leaders of this movement for many years, most recently last March when I was in Angola, where I met with members of all three political movements. They make no secret of a basically socialist orientation in their design for Angola.

In a continent where there is little private accumulation of capital, socialism of one sort or another is an accepted norm. Capitalism is a reality in most of Africa only through the interests of foreign corporations and enterprises. So organizing a society along socialist lines is to be expected.

Such a form of social organization should not automatically end United States willingness to maintain friendly relations. And indeed the United States has recently agreed to diplomatic relations with Guinea-Bissau and Mozambique, countries in which the political parties (African Parties for the Independence of Guinea and Cape Verde and the Front for the Liberation of Mozambique) have programs very similar to that of the M.P.L.A.

In fact, all three had been joined in an alliance against Portuguese colonialism for more than fifteen years. Why then does the United States treat the M.P.L.A. differently?

The issue is portrayed as Soviet influence and control in Angola. Soviet support of the M.P.L.A. is not new. It goes back to the beginning of the armed conflict in Angola in 1961. Scandinavian countries gave support to the M.P.L.A., too. The M.P.L.A. would have been glad to take help from wherever it was offered—even from the United States.

Where was the United States during the years of struggle? It was firmly welded into an alliance with Portugal and had a policy of avoiding contacts with the liberation movements in Portuguese colonies.

The United States limited its "support" to high-sounding statements on the right to self-determination. The M.P.L.A. has little reason to be grateful to the United States. M.P.L.A. support from the Soviet Union does not mean Soviet control in Angola. It has not meant this in Mozambique, Guinea-Bissau, or Cape Verde.

Some Americans may find this difficult to understand in view of our widespread biases against the Soviet Union and Communism. But these political movements, after long years of combat against the Portuguese, will not easily accept domination by a new foreign power. It is a gross and demeaning distortion of reality to present the men and women of M.P.L.A. as Soviet puppets. And certainly the Cubans are not taking over Angola.

There is a second distortion involved in official United States interpretation of events in Angola. Spokesmen have said virtually nothing about United States involvement in Angola. Covert United States support for the F.N.L.A. and UNITA was admitted in testimony before the Senate Foreign Relations Committee on Nov. 6 by William E. Colby, the Director of Central Intelligence, and Joseph J. Sisco, Under Secretary of State for Political Affairs.

The New York Times reported Friday that, according to a high-ranking Government official, the United States had sent $25 million in arms and support funds to Angola over the last three months and planned to send $25 million more in supplies. The official said that the first sum had been distributed by the Central Intelligence Agency.

This aid has gone principally through the Government of Zaire, which since 1962 has been the mainstay of the F.N.L.A., the most conservative of the Angolan parties.

Major publications here and abroad have reported that United States transports have been flying daily from Zaire into F.N.L.A. military centers in northern Angola, such as Ambriz, with guns, ammunition and gas.

For Mr. Kissinger and other United States leaders to point the finger at the Soviet Union and make no mention of United States involvement in the conflict in Angola is hypocritical.

United States spokesmen have made no mention of South Africa's growing intervention in Angola. Presumably the involvement of this white-supremacist state is an embarrassment the United States would prefer to ignore. But this involvement is an important development in the Angolan conflict, with far-reaching repercussions. It was the incursion of South African troops that has led Nigeria's "moderate" Government—even in United States Government eyes—to recognize the M.P.L.A. government in Luanda.

There can be no doubt about the growing South African intervention. When I was in Zambia in early November, I was told by high Zambian officials that at that time South African troops and some dissident Portuguese mercenaries from Angola and Mozambique had already occupied a strip fifty miles deep across southern Angola.

South African columns have penetrated hundreds of miles into the interior, with many casualties reported and at least one reconnaissance plane shot down.

An immediate objective of South Africa is to use the Angolan fighting as a smokescreen behind which it can eliminate the forces of S.W.A.P.O. (Southwest African People's Organization, the main liberation movement of Namibia) from northern Namibia and southern Angola.

Namibia—South Africa calls it South-West Africa—is the territory occupied by South Africa in defiance of United Nations decisions that even the United States has supported.

South Africa sees the Angolan conflict as the real beginning of the war for its own survival as a white-dominated state in southern Africa. For years South Africa has been attempting to build itself into the Western alliance on the back of the anti-Communist cause. Now South Africa is calling for the Western alliance to stop a "takeover" in Angola.

The current United States position, supporting the most conservative internal Angolan elements, is directly abetting South African strategy. It is not helping the Angolans preserve their independence but making them victims of the most reactionary force in Africa. It would be a tragedy for the United States to repeat the errors of Vietnam because it looks upon the Angolan conflict as an occasion for another anti-Communist crusade.

"INTEGRITY IN THE BUSINESS LANDSCAPE," AN ARTICLE BY STANLEY MARCUS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. BRADEMAS. Mr. Speaker, one of the most thoughtful and public spirited business leaders in the United States is Mr. Stanley Marcus, chairman of Neiman-Marcus of Dallas, Tex.

I believe that every Member of the House of Representatives and Senate will read with great interest the following article by Mr. Marcus, "Integrity in the Business Landscape," published in the New York Times of December 15, 1975.

The article, which follows, was excerpted from an address Mr. Marcus delivered in Omaha, Neb.:

INTEGRITY IN THE BUSINESS LANDSCAPE

(By Stanley Marcus)

There is a massive loss of faith in the business community by the American people—and perhaps a loss of faith on the part of businessmen as well.

Let's not kid ourselves into believing that the negative attitude toward business is merely part of an "anti-Establishment" mood throughout the nation. It is a lot more specific than that—and a lot more justified than that.

Americans still believe in the free-enterprise system. They have no quarrel with profit-making. But they do have a quarrel with unethical and questionable business practices conducted at the public expense.

They do have a quarrel with companies which pollute our water and air and are apparently indifferent to the hazards of pollution until the Government intervenes.

They do have a quarrel with that majority of businessmen who have fought and obstructed and delayed every piece of progressive legislation enacted during this century.

Who among the business community today would seriously propose that Congress repeal our child-labor laws—or the Sherman Antitrust Act? The Federal Reserve Act, the

Securities Exchange Act? Or workman's compensation? Or Social Security? Or minimum wage? Or Medicare? Or civil rights legislation?

All of us today recognize that such legislation is an integral part of our system; that it has made us a stronger, more prosperous nation—and, in the long run, has been good for business. But we can take precious little credit for any of the social legislation now on the books, for business vigorously opposed most of this legislation.

I wonder sometimes if we really believe in the free-enterprise system. When those who have the greatest stake in it often turn out to be its greatest enemies, I wonder if free enterprise can survive.

Can it survive when some of its greatest proponents seem determined to strangle the life force of the system—*competition*—with such practices as collusive bid-rigging and price-fixing?

Can free enterprise survive inaccurate, misleading, or "unexplained" financial reporting? Or auditors who violate their code of ethics to help companies falsify financial statements and perpetrate massive swindles, running into the hundreds of millions of dollars, that involve inflated assets, sales and earnings, fraudulent insurance policies, nonexistent securities, and the collection of death benefits on coverage that never existed?

What are we to think—not just of the executives behind the fraud and the auditors who helped them—but of the dozens of employees who knew about the fraud but did nothing, and the powerful investors who benefited from the inside information?

Can free enterprise survive companies which flout the law by making illegal political contributions with corporate funds? Is it any wonder that 53 percent of our population believes that the large corporations should be broken up when they read that in 1972 seven companies alone contributed nearly a half-million dollars to the Committee to Re-elect the President?

It does no good to try to justify these contributions—as some have done—as the cost of doing business with the Government. Other companies *refused* to give—and they're still in business.

I am well aware of the fact that the twin movements of consumerism and reform have put the spotlight of publicity on business wrongdoing, and have also conditioned the public to expect a higher standard of ethics from business at all levels.

I also recognize that communications have improved so vastly that a crime committed in Duluth becomes known in Dallas the night it is discovered. Fifty years ago, it might have taken the people of Dallas six months to learn that such a crime was even committed. So I don't think that business is worse. It's just that our flaws show up much faster today than they used to.

But that is small comfort when we continue to read about shoddy products or services which do not live up to their claims. Or when the people become victims of false or misleading advertising, poor service, unnecessary repairs, or meaningless warranties.

These practices pose a moral dilemma for our nation in general and for the American business community in particular. Our culture is based on the Judaeo-Christian code of ethics, which epouses lofty moral standards of fair and honest dealing. Now, however, we seem to have revised those standards. We still talk about dealing honorably and forthrightly with people. But we're now saying that we believe in this credo domestically, but it doesn't count overseas. In other words, to hell with the foreigner; we insist on honest scales at the supermarket but not for overseas shipments of grain.

I don't believe we can get away with that. I don't believe a double standard works, whether you're an individual, a corporation, or a nation.

THE NEED FOR FULL EMPLOYMENT

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. SOLARZ. Mr. Speaker, the unemployment figures released earlier this week by the Bureau of Labor Statistics clearly indicate the Ford administration has no plans to reduce unemployment.

Although the statistics show a drop in the rate of unemployment this decline is due more to the manner in which the rate is computed than any improvement in the economy. In fact, the Bureau of Labor Statistics in releasing the latest figures conceded that joblessness "has been on a virtual plateau for the last 6 months."

Besides offering no encouragement for an improvement in the employment picture, the latest statistics show that the recession is deepening for many Americans. The latest BLS figures revealed that once again the length of time required to find new employment has increased. In November, the average duration of unemployment reached 16.8 weeks, a high for this recession. This rise was caused by an increase in the number of persons unemployed for 27 weeks or more. If the recession continues the unemployment benefits of these Americans will end and they will be forced into bankruptcy and on to the burgeoning welfare rolls.

With more than 8 million Americans still unemployed, the Congress must make the goal of full employment its number one priority and enact comprehensive legislation such as the Hawkins-Humphrey bill to guarantee every American a meaningful job. Unemployment is extremely costly in both economic and human terms. Each 1 percent of unemployment costs us 50 billion in unproduced goods and $14 billion in lost tax revenues. These figures of course understate the economic loss because they do not include the increased cost in social services caused by the increase in joblessness.

However, even these figures do not reveal the total cost of unemployment. These cold statistics do not reflect the thousands of personal tragedies that occur as a result of every increase in the unemployment rate. For through work, people do not only earn their living, but also derive much of their identity and feeling of confidence and self worth. That joblessness shakes the very foundation of the personal lives of working Americans is evidenced by the fact that when the unemployment rate goes up so does the suicide rate, the rate of new admissions to mental hospitals, the rate of new prison incarcerations, the rate of family breakups, and the rate of infant mortality.

Given the disastrous effects of joblessness, I cannot see how we in good conscience can allow the unemployment rate to remain so high. We have to know how to replace the planned recession of the Nixon-Ford administration with a full employment economy which seeks to use the labor and talents of all Americans. The nations of Western Europe have for decades had unemployment rates which are a mere fraction of our rate. They have been able to do this through the use of a vigorous fiscal policy that maintains a high level of aggregate demand and the employment of labor market policies that insure the existence of a qualified work force. There is no reason why we cannot implement these same policies here.

THE FRENCH DEFENSE OF THEIR CONCORDE/SST DOES NOT FLY HERE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. SCHEUER. Mr. Speaker, several ridiculous and petty charges have been hurled at the American people by the French backers of the Concorde supersonic aircraft.

At a press conference last week, the Deputy Director of the French Concorde program and a representative of the Concorde manufacturer generally termed "unscientific" the charges made by EPA Administrator Russell Train and many others that the Concorde is too noisy to land in America.

The Concorde spokesmen also suggested that American opposition is based on the fact that the Concorde is not American built.

Mr. Speaker, I am at the end of my rope in listening to the interminable debate over an aircraft whose impact upon our environment would be at best "undesirable," to quote the assessment of EPA Administrator Train.

The remarks of the French Concorde backers came on the heels of Mr. Train's assessment of the effect of Concorde operation at Kennedy Airport in New York and the release last month of the FAA environmental impact statement. They are a predictably limp response to the grim facts of life regarding the environmental impact of the Concorde. And their response further spotlights the specious foundation upon which the pro-Concorde position is precariously built.

It is simple to dismiss as sour grapes the allegation about "unscientific environmental assessments, which have been prepared by a virtual armada of independent scientists, environmental groups, and Federal authorities.

But further, the French Concorde spokesmen are trying to build a straw man, as phony as a 3 franc note, by contending that Americans are opposing the Concorde because it is not American built. We would oppose the Concorde just as vigorously and on identical grounds if it were American built—just as we successfully opposed the construction of our own SST several years ago for very much the same reasons as we now oppose the Concorde.

I am both astonished and amused that the Concorde backers are claiming to be victims of discrimination. They clearly have the ear of Secretary of State Kissinger and Secretary of Transportation Coleman who are seriously reviewing "foreign policy considerations" as a rationale for possibly allowing the Concorde to operate in this country.

The entire Concorde issue would have been settled years ago if the FAA and the EPA had not determined to give an exemption to the original Concorde from our national noise and emission standards embodied in FAR 36. The British admit that there exists no technology with which they could equip the Concorde to enable it to meet the requirements of FAR 36. Yet Secretary Coleman is still considering approval of the Concorde. This is indeed discrimination—but the Concorde backers are the beneficiaries of it—not the victims.

The Deputy Director of the French Concorde program is quoted as saying that the four daily takeoffs and landings of the Concorde at Kennedy International Airport in my district would have "little effect on the community near Kennedy."

Mr. Speaker, I want personally to invite this Concorde champion to come to our Queens communities of Howard Beach, Lindenwood, Laurelton, and Rosedale and deliver such pompous condescensions to the residents of these neighborhoods surrounding Kennedy Airport. I wonder whether he and his family would be willing to live in a neighborhood afflicted with four ear-splitting Concorde flights every day superimposed on hundreds of subsonic jet flights.

The representative of the French manufacturer of the Concorde said that he is "not used to the American people behaving like this." He had better get used to it immediately, just as we are used to the French people enforcing their own laws on their own soil when Americans do business in France.

Mr. Speaker, the Concorde is clearly a hazard to the health and tranquility of our citizens, an outrageous intrusion of hideous proportions into the lives of millions of Americans who live near our international airports.

These ill-conceived and petulant allegations by the French Concorde representatives amount to a trans-Atlantic assault on our intelligence—as is the Concorde itself—and should be dismissed accordingly.

REVENUE SHARING

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. WIRTH. Mr. Speaker, among the mail I have received on the subject of general revenue sharing are letters from Mayor McNichols, of Denver, and Mayor-elect Richter, of Thornton, Colo. These letters express the very real concern on the part of local governments that these Federal funds on which they have come to depend may not be forthcoming in 1977. The consequences of our failure to reinstitute this program would be extremely serious. I believe the situation described in these Colorado cities is representative of that all over the United States, and so I would like to share these letters with my colleagues and urge once again that the House act promptly to review revenue sharing:

NOVEMBER 28, 1975.

Hon. TIM WIRTH,
Member of Congress,
Cannon House Office Building,
Washington, D.C.

DEAR TIM: If General Revenue Sharing is not reenacted by the Congress within the next several months, the impact on Denver will be calamitous.

Denver currently receives an average financial benefit from this program of approximately $13,960,000 per year. If the Act is allowed to expire in May, 1976, Denver would receive the amount noted above for the calendar year of 1976. This money is already budgeted for our operations and services for the forthcoming year since, as is the case with Congress, we must complete budgeting prior to the start of the calendar or fiscal year. We would also receive, early in 1977, the payment for the final quarter of 1976 which will be approximately $3,300,000. Although this payment accrues in 1976, it has not been included in the budget planning for next year.

Undoubtedly you can immediately detect the effects of termination in financial terms of what would happen to Denver's budget. In 1977, rather than almost $14 million of receipts, we would receive only $3,300,000. Thus there would be created a requirement for an additional $10,700,000 in revenues from other sources just to maintain the level of current expenditures. In following years, an additional $14 million per year from other sources would be needed. The alternatives available to compensate for this loss of revenue would be to heavily increase local taxes to offset the loss (and as you must realize, Denver's tax base is limited to the most regressive kind of taxes) or to reduce expenditures for vital operations and services in order to save the $10,700,000 in 1977 and $14 million in subsequent years.

To give you a further indication as to how serious the problem really is and to assess the potential impact of loss of Revenue Sharing on reduction of municipal services, it is important to note that for next year *with* Revenue Sharing, it has been necessary to reduce the city's work force by 758 positions from the 1975 authorized level. Anticipating the monetary crunch in which we find ourselves, I issued an Executive Order early this year placing a freeze on filling vacanies. Nonetheless we will still have to lay off 321 employees currently on the payrolls. If the loss of Revenue Sharing were to be reflected in layoffs in 1977, approximately 900 additional positions will be eliminated, and in 1978, 300 more. This potential loss of 1200 employees would seriously impair all services throughout the city, services to which our residents are entitled. The basic problems of the core city would be compounded and it would be difficult to maintain any degree of vitality or level or acceptability for living and working.

As I indicated to you earlier, we must depend locally upon three basic areas of taxation, namely, property taxes, sales taxes, and the occupational privilege or so-called "head tax." Each of these, as you can readily understand, is of a regressive nature. If we were forced to increase taxes in the three areas enumerated, the net result would again be to the detriment of the city and its citizens because the long-term effect would be diminishing the attractiveness of the city to homeowners, business and industry.

Let me repeat that from a timing standpoint, it will be essential to the city to know the disposition of the Revenue Sharing program early in 1976 to avoid massive impact on programs. Possible sources of revenue cannot be "turned on" over night but require planning and legislative action. If Congressional action is delayed until May of 1976, it may be too late to implement the revenue increasing measures which must be effective in 1977. Our 1977 budget process will begin in early 1976 and if no Revenue Sharing and no alternative sources are firm by then, huge personnel reductions will be the only remedy available at that time.

I plead with you, therefore, to help with your colleagues in the Congress to force immediate action on the renewal of the General Revenue Sharing program without interruption. I would hope that legislation would include provisions for institutionalizing the program permitting the cities to plan their expenditures and revenue measures on a consistent long-term basis. I would like to suggest also that provision be made for growth in the dollar amounts of funds available to the cities to meet the impacts of inflation and of increasing Federal and State mandated programs.

In terms of impact on those citizens most in need and least able to provide services for themselves, namely, the indigent, minorities and the aged, the importance of extending this program cannot be over-emphasized.

I am sending a duplicate of this letter to all other members of the Colorado Congressional delegation.

Sincerely yours,
W. H. MCNICHOLS, Jr.,
Mayor, City and County of Denver, Colo.

DECEMBER 5, 1975.

Hon. TIM WIRTH,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE WIRTH: I feel very strongly that we in the State of Colorado should continue to support the Revenue Sharing Program as we have done in the past.

Revenue Sharing has been a viable part of our funding in the past, and it has made funds available to help support many projects that are very beneficial to the citizens of the City of Thornton, as well as to the citizens outside the City of Thornton. It would be a terrific blow to many cities to lose the Revenue Sharing Program. This loss could possibly result in a tax increase to compensate for losing these funds. I would, therefore, oppose any attempt to discontinue the Revenue Sharing Program.

Sincerely,
TONY RICHTER,
Mayor Elect, City of Thornton, Colo.

RUSSIAN EMIGRATION POLICIES DISCRIMINATE AGAINST SOVIET JEWS

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. BRODHEAD. Mr. Speaker, Russian emigration policies have long discriminated against Soviet Jews. These policies are in direct contradiction of the inherent rights of all people to make their choice of country in which to reside.

One of my constituents, Mrs. Phyllis Friedman, recently brought to my attention the plight of Mr. Mikhail Mager, who wishes to emigrate from the Soviet Union to Israel.

Mager is an electronics engineer who lives in Vinnitze, U.S.S.R. In July 1972 he applied for an exit permit together with other members of his family. They were all refused. Then in January 1973, the whole family, with the exception of Mikhail Mager, received exit permits and left for Israel. Before they left they were told that Mager would soon be able to join them. However, he has been forced to remain in the Soviet Union. Mager has been repeatedly questioned by the KGB, and it is rumored that he will soon be put on trial on as yet unspecified charges.

I have written to Secretary Leonid Brezhnev and Ambassador Anatoly Dobrynin in an effort to help this man. Mager's difficulties are representative of those faced by thousands of Russian Jews.

SIDEWALK CURB MAILBOXES

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. SANTINI. Mr. Speaker, I just received a very excellent letter from the Chairman of the Carson City Planning Commission concerning the relative new policy of the Postal Service in demanding sidewalk mailboxes or street curb mailboxes.

The Chairman of the Commission resides in my State's capital city. It is one of the very finest cities in Nevada and with higher than normal growth. Many new homes are being constructed every day. Nevadans are proud of their State capital and Carson City.

They want to maintain a beautiful western city without cluttering up the neighborhoods with street curb mailboxes. I have taken this matter up a number of times with postal authorities without success and I am again calling upon the Postmaster General and Members of Congress for support in altering this nonsensical policy of the Postal Service.

The Service has recently announced a deficit of nearly $1 billion. Increased mail rates and congressional action will be needed to meet this deficit.

Does the Postal Service policy of demanding curb mailboxes actually save efficient funds to cause the need for curb line mailboxes? I doubt it.

A few years back, FHA demanded underground electrical and telephone facilities in all new subdivisions. They were unsightly and unsafe and this rule was adopted after much consideration. It has served the Nation well.

Now Postal Service authorities demand street curb mailboxes to cause further degradation of our neighborhood communities. They are unsafe, unsightly, costly, and restrict pedestrian flow where sidewalks in some cases leave little curbline. America's cities do not all have the same zoning laws. No set policy such as adopted by the Postal Service can possibly accommodate every city in our Nation.

It is time to call the Postal Service to task. I hope all Members of the Congress will object to this obnoxious new policy.

Surely the Postal Service with its billions of pieces of mail is saving little in demanding we delete door-to-door delivery service to our postal patrons who reside in new homes. I suspect the savings in gasoline alone on our postal vehicles by parking them and permitting the mailman to deliver mail throughout a given area will more than make up for the savings on starts and stops of the vehicle.

I hope my colleagues will voice their objections to the Postmaster General. We continue to hear of cost-saving devices, but every year we are faced with larger Postal Service deficits.

A BILL AUTHORIZING A STUDY OF THE SITE OF THE KALAUPAPA NATIONAL HISTORICAL PARK

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mrs. MINK. Mr. Speaker, I am introducing legislation today calling for an immediate study by the Secretary of Interior for a new national historic park at Kalaupapa on the island of Molokai, State of Hawaii. I authored H.R. 12012 in the 93d Congress and House Joint Resolution 220 in this Congress, establishing such a national park. I believe this new study bill will help further the enactment of the national park bill and is needed to provide this Congress and the people of America with information on the treasured and historic significance of this area.

Kalaupapa may already be known to the Members of this House through the long and dedicated service of a Belgian priest named Father Damien, who committed his life to the people of Kalaupapa settlement * * * a colony which was established more than a century ago for the care and treatment of the victims of leprosy.

At its October meeting, the National Advisory Council of the National Park Service approved, endorsed and recommended to the Secretary of the Interior that Kalaupapa settlement be designated as a national historic landmark. This recommendation and endorsement followed a professional evaluation of the potential historical significance of the peninsula undertaken at my urging.

This new bill contains three key elements. First, it authorizes and directs the Secretary of Interior to conduct a study of Kalaupapa. The purpose of this study would be to formulate the basic design of this national park.

Second, it creates an advisory commission based in Hawaii to consult with the Secretary during the course of this study. This is to assure that local input is had during the early stages of planning.

Third, it provides that a proposed master plan for development of the park area be made part of the Secretary's report.

The cape on which the site is located is among the most remote locations in all Hawaii. It is the scene of heroic service by Father Damien and many others who came later. As you know, modern methods for treatment of leprosy have since been developed and so today the patient population has dwindled to less than 150 persons, most of whom currently live there by choice, and not by necessity. These persons adamantly refuse to leave their homes on Kalaupapa and do not wish to leave under any circumstances. Any study should allow these persons to remain for their lifetimes.

Within 50 years there will be no more patients at Kalaupapa. It is therefore imperative that this study be authorized now. Time is of essence.

Kalaupapa is a national treasure whose historic significance is already noted by the selection of Father Damien as one of the two greatest personages from Hawaii whose statue is in Statuary Hall in the House of Representatives.

Mr. Speaker, I am pleased to report that this legislation calling for a study of Kalaupapa for national historic park purposes has the support of citizens groups in Hawaii and, most importantly, the concurrence of the resident and staff population of the settlement itself. Through the enactment of this study bill I believe these residents of Kalaupapa will have their best assurance of being allowed to remain there for the rest of their lives. The State of Hawaii has served notice to them that they may be evicted in 10 years, which they are strongly resisting. The State legislature on the other hand, has given numerous assurances to these residents that they could indeed remain.

The matter of establishing this historic peninsula as a park is not at issue in the legislature. I believe it has overwhelming support. The only issue is whether it should be a national park or a State park. Some of our county leaders and State legislators believe that the State should not give up any more of its lands to the Federal Government. There is rather widespread opinion that the State park could adequately preserve this area. To enable this matter to be satisfactorily answered, the study called for by my bill will delineate the magnitude of the undertaking, the cost for development and the funds needed for restoration and preservation of those sites already heavily in disrepair. My bill will also authorize the preparation of a master plan. This will supply all of us who seek to have this historic area with better than "ball park" figures of the full cost of this undertaking. My bill authorizes $150,000 for the preparation of this report.

In view of the historical significance of Kalaupapa, both at the State and national levels, I would urge the earliest possible consideration of this legislation.

SURRENDERING THE PANAMA CANAL

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. KINDNESS. Mr. Speaker, what should be the future role of the United

States in the Panama Canal Zone? The outcome of this question will have major implications for our foreign policy, as well as for American commercial and defense interests.

The U.S. interest in the Isthmus of Panama, dating from the early 1800's, centers around Panama's strategic location, which provides a short-cut route between the Atlantic and Pacific Oceans.

In 1903, Panama ratified the Hay-Bunau-Varilla Treaty, which granted us "in perpetuity the use, occupation, and control" of the Canal Zone "which the United States would possess and exercise as if it were the sovereign of the territory." In exchange for these rights to the Canal Zone, the United States initially paid Panama $10 million, plus a yearly annuity.

Since then, Panama has increasingly resented this pact, claiming it contains inequitable provisions drawn up at the expense of a new, inexperienced republic. This opposition has culminated in sporadic rioting by Panamanians and strained diplomatic relations between the United States and Panama. In response to such pressures, the United States has periodically revised the treaty to increase Panama's annuity and her rights in the Canal Zone. However, the major issue remains Panama's wish to regain sovereign powers in the Canal Zone. This has prompted the United States, beginning with the administration of President Lyndon B. Johnson, to conduct negotiations for a new treaty. Three draft treaties have been rejected as unsuitable by the Panamanians. The Ford Administration has asked U.S. Ambassador Ellsworth Bunker to reopen discussions with the Panamanian Government in an effort to resolve the long standing controversy.

In a December 2 address, Ambassador Bunker stated:

> In our negotiations we are attempting to lay the foundations for a new—a more modern—relationship which will enlist Panamanian cooperation and better protect our interests.
>
> Unless we succeed, I believe that Panama's consent to our presence will continue to decline—and at an ever more rapid rate.
>
> Some form of conflict in Panama would seem virtually certain—and it would be the kind of conflict which would be costly for all concerned.
>
> Now some have held that the mere mention by United States officials of the possibility of violence over the canal will help to assure that such violence occurs.
>
> I am aware of that concern, but I believe the situation demands candor.
>
> It would be irresponsible to fail to point out to the American people the possible, indeed the likely, consequences of inaction.

I hate to think that the United States would surrender control of an area of such strategic importance because we were intimidated by the neighboring Panamanians. I would also agree with those—mentioned by the Ambassador—who feel that for the chief U.S. negotiator to list possible violence as a reason for approving a new treaty only invites such violence.

Under current guidelines, a new treaty would include: Removal of the "in perpetuity" clause of the original pact, fixing a termination date for the new agreement; termination of U.S. sovereignty and jurisdiction in the Canal Zone, but allowance for our operation of the canal during a transition period; Panamanian participation in canal administration and defense, providing for the eventual turn-over of all operations to Panama upon expiration of the treaty; and the equitable division of economic benefits of the canal.

Although some feel that a new treaty would be desirable in terms of improving United States-Latin American relations, and as an indication of our intention to treat other nations as equals, I believe that a treaty ultimately resulting in a relinquishment of our rights to the Panama Canal would be highly detrimental, not only to American interests, but to international trade and economic stability.

My principal objection to nullifying the current treaty is the effect it would have on our national commerce and defense. Over 70 percent of the cargo moving through the canal goes either to, or comes from the United States. Ambassador Bunker has stated:

> We want a canal that is open to all the world's shipping—a canal that remains neutral and unaffected by international disputes.
>
> We want a canal that operates efficiently, profitably, and at rates fair to the world's shippers.
>
> We want a canal that is as secure as possible.

But in light of our current relationship with Panama and our experiences in the United Nations over the past several months, it is frightening to imagine what could develop.

By giving up control of the Canal Zone, we would be inviting higher tariffs and costs for goods at a time when our economy and consumers cannot afford them. More importantly, our current military presence there—which would be reduced or eliminated by the new treaty—safeguards the uninterrupted operation of the canal and deters strategic ambitions of hostile powers who would pose a threat to hemispheric security by gaining access to the canal.

Furthermore, nullifying the treaty, which was legally ratified, and giving land back which was legally purchased would set a bad precedent for future American foreign policy. The United States has invested over $6 billion in the canal to ensure its efficient operation and safety, which have benefitted all nations engaged in international trade. Finally, Panama's history of political instability and the lack of technical expertise needed to administer the canal seriously undercut her ability to efficiently operate and maintain the canal.

Inasmuch as Panama has already reaped significant economic benefits from the canal—Panama has the highest per capita income in Central America—I feel that continued economic benefits from the canal, combined with adjustments in the present treaty, would improve and solidify relations between the United States and Panama. The evidence is heavily in favor of our retaining the present treaty and control of the Canal Zone.

Ambassador Bunker has stated:

> The real choice before us is not between the existing treaty and a new one but rather between a new treaty and what will happen if we should fail to achieve a new treaty.

But what will happen if we do finalize these agreements to surrender the canal. The problems resulting from relinquishing our sovereignty are too great and potentially damaging to our national interests to be overlooked.

A "SOCKDOLAGER" FOR THE CONSTITUTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. McDONALD of Georgia. Mr. Speaker, throughout history men have instituted governments to provide protection from criminals—and have ended up needing protection from government. The problem was how to grant government enough power to protect the rights of the people while placing limits to prevent the government itself from violating those rights.

The problem was solved when the Founding Fathers devised the U.S. Constitution, a document granting the Government only specifically enumerated powers separated and balanced among three branches and divided between a central Government and many States. The people could do anything they wished, except that specifically forbidden by law; the Government could do nothing, except that specifically granted by law.

But this ingenious system can work only so long as it is adhered to in principle. Once the Constitution is ignored, no matter how seemingly insignificant the indiscretion, the limits on government are removed in principle—and the floodgates are open.

Many years ago a Congressman from Tennessee, Davy Crockett, voted with the majority to appropriate $20,000 to the homeless victims of a Georgetown fire—and was soon confronted by a constituent, Horatio Bunce, who demanded an explanation. Where, Mr. Bunce inquired, did the Constitution grant Congress the authority to give away public money in charity?

Crockett termed Bunce's argument a "sockdolager"—a knock-out punch that settled the matter once and for all—and later successfully fought a bill to grant public funds to the widow of a naval officer on the grounds it was unconstitutional:

> We have the right, as individuals, to give away as much of our own money as we please in charity; but as Members of Congress we have no right so as to appropriate a dollar of the public money.

Today, with our Constitution all but totally ignored, our Government appears intent upon spending us into bankruptcy. Perhaps we need a new sockdolager—aimed at unconstitutional Government spending.

The following account of Crockett's

sockdolager, condensed from "The Life of Colonel David Crockett" by Edward S. Ellis, was printed in the Freeman magazine:

SOCKDOLAGER

Crockett was then the lion of Washington. I was a great admirer of his character, and, having several friends who were intimate with him, I found no difficulty in making his acquaintance. I was fascinated with him, and he seemed to take a fancy to me.

I was one day in the lobby of the House of Representatives when a bill was taken up appropriating money for the benefit of a widow of a distinguished naval officer. Several beautiful speeches had been made in its support, rather, as I thought, because it afforded the speakers a fine opportunity for display than from the necessity of convincing anybody, for it seemed to me that everybody favored it. The Speaker was just about to put the question when Crockett arose. Everybody expected, of course, that he was going to make one of his characteristic speeches in support of the bill. He commenced:

"Mr. Speaker—I have as much respect for the memory of the deceased, and as much sympathy for the sufferings of the living, if suffering there be, as any man in this House, but we must not permit our respect for the dead or our sympathy for a part of the living to lead us into an act of injustice to the balance of the living. I will not go into an argument to prove that Congress has no power to appropriate this money as an act of charity. Every member upon this floor knows it. We have the right, as individuals, to give away as much of our own money as we please in charity; but as members of Congress we have no right so to appropriate a dollar of the public money. Some eloquent appeals have been made to us upon the ground that it is a debt due the deceased. Mr. Speaker, the deceased lived long after the close of the war; he was in office to the day of his death, and I have never heard that the government was in arrears to him. This government can owe no debts but for services rendered, and at a stipulated price. If it is a debt, how much is it? Has it been audited, and the amount due ascertained? If it is a debt, this is not the place to present it for payment, or to have its merits examined. If it is a debt, we owe more than we can ever hope to pay, for we owe the widow of every soldier who fought in the War of 1812 precisely the same amount. There is a woman in my neighborhood, the widow of as gallant a man as ever shouldered a musket. He fell in battle. She is as good in every respect as this lady, and is as poor. She is earning her daily bread by her daily labor; but if I were to introduce a bill to appropriate five or ten thousand dollars for her benefit, I should be laughed at, and my bill would not get five votes in this House. There are thousands of widows in the country just such as the one I have spoken of, but we never hear of any of these large debts to them.

"Sir, this is no debt. The government did not owe it to the deceased when he was alive; it could not contract it after he died. I do not wish to be rude, but I must be plain. Every man in this House knows it is not a debt. We cannot, without the grossest corruption, appropriate this money as the payment of a debt. We have not the semblance of authority to appropriate it as a charity. Mr. Speaker, I have said we have the right to give as much of our own money as we please. I am the poorest man on this floor. I cannot vote for his bill, but I will give one week's pay to the object, and if every member of Congress will do the same, it will amount to more than the bill asks."

He took his seat. Nobody replied. The bill was put upon its passage, and, instead of passing unanimously, as was generally supposed, and as, no doubt, it would, but for that speech, it received but few votes, and, of course, was lost.

Like many other young men, and old ones too, for that matter, who had not thought upon the subject, I desired the passage of the bill, and felt outraged at its defeat. I determined that I would persuade my friend Crocket to move a reconsideration the next day.

Previous engagements preventing me from seeing Crocket that night, I went early to his room the next morning and found him engaged in addressing and franking letters, a large pile of which lay upon his table.

I broke in upon him rather abruptly, by asking him what devil had possessed him to make that speech and defeat that bill yesterday. Without turning his head or looking up from his work, he replied:

"You see that I am very busy now; take a seat and cool yourself. I will be through in a few minutes, and then I will tell you all about it."

He continued his employment for about ten minutes, and when he had finished he turned to me and said:

"Now, sir, I will answer your question. But thereby hangs a tale, and one of considerable length, to which you will have to listen."

I listened, and this is the tale which I heard:

"Several years ago I was one evening standing on the steps of the Capitol with some other members of Congress, when our attention was attracted by a great light over in Georgetown. It was evidently a large fire. We jumped into a hack and drove over as fast as we could. When we got there, I went to work, and I never worked as hard in my life as I did there for several hours. But, in spite of all that could be done, many houses were burned and many families made houseless, and, besides, some of them had lost all but the clothes they had on. The weather was very cold, and when I saw so many women and children suffering, I felt that something ought to be done for them, and everybody else seemed to feel the same way.

"The next morning a bill was introduced appropriating $20,000 for their relief. We put aside all other business and rushed it through as soon as it could be done. I said everybody felt as I did. That was not quite so; for, though they perhaps sympathized as deeply with the sufferers as I did, there were a few of the members who did not think we had the right to indulge our sympathy or excite our charity at the expense of anybody but ourselves. They opposed the bill, and upon its passage demanded the yeas and nays. There were not enough of them to sustain the call, but many of us wanted our names to appear in favor of what we considered a praiseworthy measure, and we voted with them to sustain it. So the yeas and nays were recorded, and my name appeared on the journals in favor of the bill.

"The next summer, when it began to be time to think about the election, I concluded I would take a scout around among the boys of my district. I had no opposition there, but, as the election was some time off, I did not know what might turn up, and I thought it was best to let the boys know that I had not forgot them, and that going to Congress had not made me too proud to go to see them.

"So I put a couple of shirts and a few twists of tobacco into my saddlebags, and put out. I had been out about a week and had found things going very smoothly, when, riding one day in a part of my district in which I was more of a stranger than any other, I saw a man in a field plowing and coming toward the road. I gauged my gait so that we should meet as he came to the fence. As he came up I spoke to the man. He replied politely, but, as I thought, rather coldly, and was about turning his horse for another furrow when I said to him: 'Don't be in such a hurry, my friend; I want to have a little talk with you, and get better acquainted.' He replied:

"I am very busy, and have but little time to talk, but if it does not take too long, I will listen to what you have to say."

"I began: 'Well, friend, I am one of those unfortunate beings called candidates, and—'

"'Yes, I know you; you are Colonel Crockett. I have seen you once before, and voted for you the last time you were elected. I suppose you are out electioneering now, but you had better not waste your time or mine. I shall not vote for you again.'

"This was a sockdolager. . . . I begged him to tell me what was the matter.

"'Well, Colonel, it is hardly worth-while to waste time or words upon it. I do not see how it can be mended, but you gave a vote last winter which shows that either you have no capacity to understand the Constitution, or that you are wanting in the honesty and firmness to be guided by it. In either case you are not the man to represent me. But I beg your pardon for expressing it in that way. I did not intend to avail myself of the privilege of the constituent to speak plainly to a candidate for the purpose of insulting or wounding you. I intend by it only to say that your understanding of the Constitution is very different from mine; and I will say to you what, but for my rudeness, I should not have said, that I believe you to be honest. . . . But an understanding of the Constitution different from mine I cannot overlook, because the Constitution, to be worth anything, must be held sacred, and rigidly observed in all its provisions. The man who wields power and misinterprets it is the more dangerous the more honest he is.'

"'I admit the truth of all you say, but there must be some mistake about it, for I do not remember that I gave any vote last winter upon any constitutional question.'

"'No, Colonel, there's no mistake. Though I live here in the backwoods and seldom go from home, I take the papers from Washington and read very carefully all the proceedings of Congress. My papers say that last winter you voted for a bill to appropriate $20,000 to some sufferers by a fire in Georgetown. Is that true?'

"'Certainly it is, and I thought that was the last vote which anybody in the world would have found fault with.'

"'Well, Colonel, where do you find in the Constitution any authority to give away the public money in charity?'

"Here was another sockdolager; for, when I began to think about it, I could not remember a thing in the Constitution that authorized it. I found I must take another tack, so I said:

"'Well, my friend; I may as well own up. You have got me there. But certainly nobody will complain that a great and rich country like ours should give the insignificant sum of $20,000 to relieve its suffering women and children, particularly with a full and overflowing Treasury, and I am sure, if you had been there, you would have done just as I did.'

"'It is not the amount, Colonel, that I complain of; it is the principle. In the first place, the government ought to have in the Treasury no more than enough for its legitimate purposes. But that has nothing to do with the question. The power of collecting and disbursing money at pleasure is the most dangerous power that can be intrusted to man, particularly under our system of collecting revenue by a tariff, which reaches every man in the country, no matter how poor he may be, and the poorer he is the more he pays in proportion to his means. What is worse, it presses upon him without his knowledge where the weight centers, for there is not a man in the United States who can ever guess how much he pays to the government. So you see, that while you are contributing to relieve one, you are drawing it from thousands who are even worse off than he. If you had the right to give anything, the amount was simply a matter of discretion with you, and you had as much right to give $20,000,000 as $20,000. If you have the right to give to one, you have the right to give to all; and, as the Constitution neither defines charity nor stipulates the amount, you are at liberty to give to any and everything which you may believe, or profess to believe, is a charity, and to any amount you may think proper. You will very easily perceive what a wide door this would open for fraud and corruption and favoritism, on the one hand, and for robbing the people on the other. No, Colonel, Congress has no right to give charity. Individual members may give as much of their own money as they please, but they have no right to touch a dollar of the public money for that purpose. If twice as many houses had been burned in this county as in Georgetown, neither you nor any other member of Congress would have thought of appropriating a dollar for our relief. There are about two hundred and forty members of Congress. If they had shown their sympathy for the sufferers by contributing each one week's pay, it would have made over $13,000. There are plenty of wealthy men in and around Washington who could have given $20,000 without depriving themselves of even a luxury of life. The congressmen chose to keep their own money, which, if reports be true, some of them spend not very creditably; and the people about Washington, no doubt, applauded you for relieving them from the necessity of giving by giving what was not yours to give. The people have delegated to Congress, by the Constitution, the power to do certain things. To do these, it is authorized to collect and pay moneys, and for nothing else. Everything beyond this is usurpation, and a violation of the Constitution.' "

"I have given you," continued Crockett, "an imperfect account of what he said. Long before he was through, I was convinced that I had done wrong. He wound up by saying:

" 'So you see, Colonel, you have violated the Constitution in what I consider a vital point. It is a precedent fraught with danger to the country, for when Congress once begins to stretch its power beyond the limits of the Constitution, there is no limit to it, and no security for the people. I have no doubt you acted honestly, but that does not make it any better, except as far as you are personally concerned, and you see that I cannot vote for you.'

"I tell you I felt streaked. I saw if I should have opposition, and this man should go to talking, he would set others to talking, and in that district I was a gone fawn-skin. I could not answer him, and the fact is, I was so fully convinced that he was right, I did not want to. But I must satisfy him, and I said to him:

" 'Well, my friend, you hit the nail upon the head when you said I had not sense enough to understand the Constitution. I intended to be guided by it, and thought I had studied it fully. I have heard many speeches in Congress about the powers of Congress, but what you have said here at your plow has got more hard, sound sense in it than all the fine speeches I ever heard. If I had ever taken the view of it that you have, I would have put my head into the fire before I would have given that vote; and if you will forgive me and vote for me again, if I ever vote for another unconstitutional law I wish I may be shot.'

"He laughingly replied: 'Yes, Colonel, you have sworn to that once before, but I will trust you again upon one condition. You say that you are convinced that your vote was wrong. Your acknowledgment of it will do more good than beating you for it. If, as you go around the district, you will tell people about this vote, and that you are satisfied it was wrong, I will not only vote for you, but will do what I can to keep down opposition, and, perhaps, I may exert some little influence in that way.'

" 'If I don't,' said I, 'I wish I may be shot; and to convince you that I am in earnest in what I say I will come back this way in a week or ten days, and if you will get up a gathering of the people, I will make a speech to them. Get up a barbecue, and I will pay for it.'

" 'No, Colonel, we are not rich people in this section, but we have plenty of provisions to contribute for a barbecue, and some to spare for those who have none. The push of crops will be over in a few days, and we can then afford a day for a barbecue. This is Thursday; I will see to getting it up on Saturday week. Come to my house on Friday, and we will go together, and I promise you a very respectable crowd to see and hear you.'

" 'Well, I will be here. But one thing before I say good-by. I must know your name.'

" 'My name is Bunce.'

" 'Not Horatio Bunce?'

" 'Yes.'

" 'Well, Mr. Bunce, I never saw you before, though you say you have seen me, but I know you very well, I am glad I have met you, and very proud that I may hope to have you for my friend. You must let me shake your hand before I go.'

"We shook hands and parted.

"It was one of the luckiest hits of my life that I met him. He mingled but little with the public, but was widely known for his remarkable intelligence and incorruptible integrity, and for a heart brimful and running over with kindness and benevolence, which showed themselves not only in words but in acts. He was the oracle of the whole country around him, and his fame had extended far beyond the circle of his immediate acquaintance. Though I had never met him before, I had heard much of him, and but for this meeting it is very likely I should have had opposition, and had been beaten. One thing is very certain, no man could now stand up in that district under such a vote.

"At the appointed time I was at his house, having told our conversation to every crowd I had met, and to every man I stayed all night with, and I found that it gave the people an interest and a confidence in me stronger than I had ever seen manifested before.

"Though I was considerably fatigued when I reached his house, and, under ordinary circumstances, should have gone early to bed, I kept him up until midnight, talking about the principles and affairs of government, and got more real, true knowledge of them than I had got all my life before.

"I have told you Mr. Bunce converted me politically. He came nearer converting me religiously than I had ever been before. He did not make a very good Christian of me, as you know; but he has wrought upon my mind a conviction of the truth of Christianity, and upon my feelings a reverence for its purifying and elevating power such as I had never felt before.

"I have known and seen much of him since, for I respect him—no, that is not the word—I reverence and love him more than any living man, and I go to see him two or three times every year; and I will tell you, sir, if every one who professes to be a Christian lived and acted and enjoyed it as he does, the religion of Christ would take the world by storm.

"But to return to my story. The next morning we went to the barbecue, and, to my surprise, found about a thousand men there. I met a good many whom I had not known before, and they and my friend introduced me around until I had got pretty well acquainted—at least, they all knew me.

"In due time notice was given that I would speak to them. They gathered up around a stand that had been erected. I opened my speech by saying:

" 'Fellow-citizens—I present myself before you today feeling like a new man. My eyes have lately been opened to truths which ignorance or prejudice, or both, had heretofore hidden from my view. I feel that I can today offer you the ability to render you more valuable service than I have ever been able to render before. I am here today more for the purpose of acknowledging my error than to seek your votes. That I should make this acknowledgment is due to myself as well as to you. Whether you will vote for me is a matter for your consideration only.'

"I went on to tell them about the fire and my vote for the appropriation as I have told it to you, and then told them why I was satisfied it was wrong. I closed by saying:

" 'And now, fellow-citizens, it remains only for me to tell you that the most of the speech you have listened to with so much interest was simply a repetition of the arguments by which your neighbor, Mr. Bunce, convinced me of my error.

" 'It is the best speech I ever made in my life, but he is entitled to the credit of it. And now I hope he is satisfied with his convert and that he will get up here and tell you so.'

"He came upon the stand and said:

" 'Fellow-citizens—It affords me great pleasure to comply with the request of Colonel Crockett. I have always considered him a thoroughly honest man, and I am satisfied that he will faithfully perform all that he has promised you today.'

"He went down, and there went up from that crowd such a shout for Davy Crockett as his name never called forth before.

"I am not much given to tears, but I was taken with a choking then and felt some big drops rolling down by cheecks. And I tell you now that the remembrance of those few words spoken by such a man, and the honest, hearty shout they produced, is worth more to me than all the honors I have received and all the reputation I have ever made, or ever shall make, as a member of Congress.

"Now, sir," concluded Crockett, "you know why I made that speech yesterday. I have had several thousand copies of it printed, and was directing them to my constituents when you came in.

"There is one thing now to which I will call your attention. You remember that I proposed to give a week's pay. There are in that House many very wealthy men—men who think nothing of spending a week's pay, or a dozen of them, for a dinner or a wine party when they have something to accomplish by it. Some of those same men made beautiful speeches upon the great debt of gratitude which the country owed the deceased—a debt which could not be paid by money—and the insignificance and worthlessness of money, particularly so insignificant a sum as $10,000, when weighed against the honor of the nation. Yet not one of them responded to my proposition. Money with them is nothing but trash when it is to come out of the people. But it is the one great thing for which most of them are striving, and many of them sacrifice honor, integrity, and justice to obtain it."

SALUTE TO THE EDITOR

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. DERWINSKI. Mr. Speaker, I direct the attention of the House to the death of my good friend and the friend of many Members of Congress from the Chicago Metropolitan Area, Vernon E. Meidell, editorial director of the Star-Tribune publications of Chicago Heights, Ill.

Mr. Meidell began his career in 1927 with Star-Tribune publication when the Chicago Heights Star was their only newspaper. He was a high school student who wanted to be a sports reporter. The only interruption in his career was for service in World War II when, incidentally, he served on a PT boat commanded by our former colleague, Charlie Chamberlain. When he returned from the service, he became editor of the Star, and headed the editorial staff of the organization, which has grown to 13 newspapers, for nearly 30 years. He has been editorial director since 1973. He is credited by the publisher of Star-Tribune with being responsible for the high quality of the newspapers and the many State and national awards they have received over the years.

Mr. Speaker, I insert as part of my remarks an editorial tribute to their editorial director by the Star-Tribune publications which appeared on December 11.

As We See It: Salute to the Editor

The readers of this newspaper lost an editor this week with the death of Vernon E. Meidell. If they did not know Vernon Meidell—although many hundreds did—that may seem of small import. But if those people have been readers of this newspaper for many years, their reading has been affected significantly by Mr. Meidell, for he has held prime responsibility over the editorial content of this newspaper for nearly 30 years. And his initial contributions, as a teen-age sports reporter, started 48 years ago.

His influence has pervaded the content: If the grammar was sound, it was so because of Mr. Meidell; if the news was presented accurately and objectively, then it was because that was the way he wanted his reporters and editors to present the news—that was the only way. And if all was presented in its rightful perspective, it was because of Mr. Meidell.

His persistence in pressing his staff on the tenets he held so precious were a part of the daily life of those he supervised. But those standards, through the newspaper, also transfer their impact in some manner to the thousands of readers.

Many an editor or reporter would flinch under an adroit touch of sarcasm from this boss, whenever inaccuracy, misuse of the language or a hint of bias filtered into a story. Vernon Meidell in few words could make a point, and the news personnel under him and the readers all would benefit.

Beyond that, Mr. Meidell absorbed throughout his lifetime one of the great assets of a community newspaper editor—a massive knowledge of the people and events of his time. We have all drawn upon that knowledge, and the reader has gained the benefits.

While we who worked with Vernon Meidell are readily aware of his positive influence in our lives and our work, the readers should also take more than mere passing note that a newspaper editor has died. He meant more to them than they know.

We salute him for all he has given to us.

I BELIEVE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. TEAGUE. Mr. Speaker, recently Mr. John Green, a constituent of my Sixth Congressional District, from De Soto, Tex., sent me a copy of John D. Rockefeller, Jr.'s "I Believe." They are words worth reading and heeding. I hope each and every Member of Congress will take a few minutes to read these fine words.

The article follows:

I Believe

(By John D. Rockefeller, Jr.)

I believe in the supreme worth of the individual and in his right to life, liberty, and the pursuit of happiness.

I believe that every right implies a responsibility; every opportunity, an obligation; every possession, a duty.

I believe that the law was made for man and not man for the law; that government is the servant of the people and not their master.

I believe in the dignity of labor, whether with head or hand; that the world owes no man a living but that it owes every man an opportunity to make a living.

I believe that thrift is essential to well ordered living and that economy is a prime requisite of a sound financial structure, whether in government, business or personal affairs.

I believe that truth and justice are fundamental to an enduring social order.

I believe in the sacredness of a promise, that a man's word should be as good as his bond; that character—not wealth or power or position—is of supreme worth.

I believe that the rendering of useful service is the common duty of mankind and that only in the purifying fire of sacrifice is the dross of selfishness consumed and the greatness of the human soul set free.

I believe in an all-wise and all-loving God, named by whatever name, and that the individual's highest fulfillment, greatest happiness, and widest usefulness are to be found in living in harmony with His will.

I believe that love is the greatest thing in the world; that it alone can overcome hate; that right can and will triumph over might.

WAKING UP TO NIGHTMARES

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. HARRINGTON. Mr. Speaker, "if an unemployment rate of 8 or 9 percent is insufficient to bring inflation to a halt," said Federal Reserve Board Chairman Arthur Burns only a few days ago, "then our economic system is no longer working as we once supposed."

If a full 12 months of national unemployment figures above 8 percent is insufficient to convince Chairman Burns that something is seriously wrong with the economy, then Mr. Burns is no longer as perceptive as we once supposed.

It is difficult to understand how a man who has access to the most current and comprehensive economic data available can consistently fail to recognize what most of the country long ago understood to be a situation demanding fundamental reconsideration of Federal economic policy. What is more, even though Burns professes to be waking up to the reality of our current economic nightmare, we have no real reason to feel optimistic. The administration has shown itself to be unphased by such figures as 40-percent unemployment among black teenagers, predictions of another 5 years at least of 8- or 9-percent national unemployment, and thousands of jobs soon to be lost through the termination of Federal jobs programs like CETA.

With a little luck, however, Chairman Burns' recent enlightenment will lead him to consider that perhaps holding down inflation while holding up unemployment is neither reasonable nor realistic after all. He might even be able to convince his colleagues, on the basis of this startling information that has finally come his way, that maybe they too ought to look a little closer at our comatose economy, which they keep insisting is "on the road to recovery."

HEARINGS ON ALTERNATIVES TO THE MILITARY BUDGET

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. DOWNEY of New York. Mr. Speaker, the Committee on Armed Services this week is holding an unusual series of hearings during which it is exploring alternatives to our present military budget. These hearings have been most valuable to the members of the committee and to all those who have had an opportunity to be present, and I would like, once again, to compliment Chairman Melvin Price for holding them.

On Wednesday of this week, the committee will hear from Mr. Ernest Fitzgerald, an Air Force procurement expert, and Mr. Walter Slocombe, a former member of the National Security Council staff. The committee will meet Wednesday in open session at 10 a.m., in room 2118, Rayburn House Office Building. I hope that my colleagues or members of their staffs will be able to join me in hearing the remarks of these gentlemen.

At this time, Mr. Speaker, I would like to insert for the Record a copy of an article by Mr. Gordon Rule, Navy Director of Procurement Control, which recently appeared in Newsday. In the article, Mr. Rule talks about our system of defense procurement—which he terms "insidious"—and urges young naval officers to attempt to follow a different standard. The article, I believe, points out the value of hearing from experts such as Mr. Fitzgerald and Mr. Slocombe when the Congress turns its attention to the Defense budget.

A Shameful Ripoff of Defense Dollars

(By Gordon W. Rule)

When I receive an invitation to talk with a group of young Navy supply corps officers, I consider it a duty and a pleasure to accept.

Why? Simply because I feel that at my age and with my experience in spending the taxpayers' money I have a responsibility to people of your age who are newly minted in Navy procurement and at an age when you haven't yet been irrevocably molded to cynicism and accommodation.

Bluntly put, my hope is that some of my experience can rub off on you. Let me warn you that in order for you to restore credibility to the Navy's track record of estimating, cost growth and overrun experience, you must set your moral and professional standards and goals a great deal higher than you ever imagined necessary.

I say this because, in my opinion, the moral climate in this great country of ours, and in this great Navy of ours is so eroded today that we are headed for national disaster. I believe there is one basic philosophy and one basic reason that has brought about this moral climate.

The basic philosophy was accurately described by the late Gen. Douglas MacArthur when he said what was wrong in our country was that people were trying to see how little work they could do for how much money they could get.

The basic reason is the amount of money available today for defense procurement. The very size of today's defense budget is corrosive and corruptive, in the absence of wage and price controls. And don't forget for one second that the only people directly responsible for the prudent spending of those defense dollars are those of us in procurement. Every other category of individuals in the weapons system acquisition arena, with the possible exception of the lawyers, have other primary objectives than prudent contracting.

Navy contracts today include labor and material escalation provisions, some of which even protect a contractor after his contract delivery dates, regardless of whose fault the late delivery may be. Additionally, defense contractors are asking, and getting, labor rate projections of up to 20 per cent per year on the grounds that labor agreements are to be negotiated and coverage is therefore demanded in the contract for rate increases.

For the first nine months of 1975, 612 labor contracts were negotiated covering 2.5 million workers. These contracts averaged a 10.3 per cent increase for the first year of the contract compared with 9.8 per cent for contracts signed in 1974. For the bigger contracts, those covering more than 5,000 workers, the first year average increase was 11 per cent. Last year, first-year wage settlements trailed the rise in the cost of living, while so far this year the settlements are far in excess of consumer price rises.

It really doesn't take a great brain to realize that when the labor unions know the extent to which the government has protected the contractors against wage increases, there really won't be much hard bargaining at the negotiating table on the part of the contractors.

Our leaders must know this, but apparently they do not have what it takes to face this very real cause of inflation because it would be politically unpopular. These same leaders have no hesitancy in freezing wage increases for government workers at 5 per cent while workers in the defense industry are covered by the government for whatever amount is negotiated with the unions.

It is my considered opinion that our taxpayers' defense dollars are being ripped off shamefully. And until or unless this country reimposes wage and price controls—at least on the defense sector—we, as a country, will continue to head downhill to disaster or to another form of government from that which exists today.

Multi-million dollar defense contracts have now become multi-billion dollar contracts. I suggest that corporate, political and individual morality reached the choke point with all these billions of taxpayers' money up for grabs.

All one has to do is look around and see the conflicts of interest, the officers leaving the Navy for jobs with defense contractors or officers retiring and being rehired as civilians or obtaining contracts with the Navy. Other indications, of course, are the stories in the papers every day about defense contractors who admit to entertaining officers in this country and offering bribes—or kickbacks as the chairman of Lockheed prefers to call them—when attempting to obtain contracts from foreign countries.

Do you believe that these defense contractors who have admitted illegal campaign contributions in the United States and bribes and kickbacks abroad have a double standard or corporate morality which precludes them from improper and/or illegal practices in this country when trying to obtain defense contracts? In short, do you believe for one minute that they have one corporate policy within the United States and another that takes effect the minute they leave our shores? I don't believe it and neither do you.

I am sorry to say that I do not believe our Department of Defense will take the affirmative—punitive action against these defense contractors or the admirals and generals who appear to have violated the clear intent and meaning of the Defense Department conflict-of-interest regulations. Putting letters of admonition or censure for poor judgment in their files after they retire is silly. The secretary of defense says belatedly that the services should discipline their own people. Where has the secretary been?

Let one of you young lieutenants be on the Northrop [guest] list of duck hunters at the [Maryland] Eastern Shore, and I guarantee you've had it and positive disciplinary action would be taken promptly. It would be cynical to advise you to keep your noses clean until you reach flag rank and then you may act with impunity, but the course record certainly points in that direction.

I have long contended that defense procurement would be sanitized by permitting defense contractors to go into bankruptcy if they fail to meet their contractual commitments and obligations. The Defense Department still would obtain its procurements if a company goes into bankruptcy, and such action can result in needed management changes. We all know, however, that the Lockheeds, Grummans, and Northrops are sacred cows for the politicians and the defense hierarchy with the result that corporate morality is all but forgotten.

These corporations who do business with the Defense Department on their terms are not even subjected to enlightened trade association disciplines in their industry. Even voluntary codes of ethics and fair trade practices are either nonexistent or not enforced. Defense contractors laugh at efforts to require them to be truly accountable for their spending of the taxpayers' defense dollars.

Similarly, I have long contended that if one admiral or general—or any other officer—was court-martialed and dismissed for conflict-of-interest violations, the entire procurement operation, as well as Navy credibility, would be immediately enhanced. Continued reminders of Defense Department instructions and directives about standards of conduct and conflicts of interest are patently ineffectual. Bold, positive, disciplinary action is required by our leaders, but don't hold your breath until you see such action.

Because the Navy's cost credibility with the Congress and the public is not exactly enviable—and here I do not include the fleet—I suggest it would prove salutary to require all Navy personnel who testify before the Congress on costs to do so under oath. Testimony under oath before congressional committees may not be the total answer to Navy credibility, but I guarantee that it will make persons think twice before making incorrect or disingenuous statements.

Unfortunately, the system doesn't work that way today, and that is where you come in. I say to you sincerely, albeit with genuine sorrow, that you must face the real challenge. You must undertake to make the system better by your complete dedication to honesty, integrity and challenge of wrongdoing, cover-up or appearance thereof at all times and at all levels—or you should get out of procurement. Either you must strive to change the system or you should face the fact that you don't have the guts to stand up for what the Navy needs and get out. You must also realize that the present system is insidious and without your being conscious of it, you will be molded into an "aye, aye, sir" type. Please don't let this happen.

THANK YOU TO THE MEMBERS OF CONGRESS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. ROYBAL. Mr. Speaker, Marie and Verdun Archache, who formerly resided in my congressional district, have asked me to insert in the CONGRESSIONAL RECORD a thank you note which they addressed to all the Members of Congress.

Marie and Verdun Archache were born and raised in the Philippines. They were living with their parents in Manila when the city was occupied by the Japanese during World War II. In the subsequent battle that led to the American occupation of that city, Verdun Arcache's arm was severely injured. In 1950, the two sisters left the Philippines and settled in Lebanon.

In 1956, Verdun, accompanied by Marie, came to the United States for medical treatment necessitated by the injury she suffered in the bombing. Marie worked in Washington, D.C., for a long period of time and then both sisters moved to Los Angeles.

During this period, numerous efforts were made to assist these women in adjusting their status to that of lawful permanent residents of the United States. However, they were unable to meet the requirements of the Immigration and Nationality Act, since the nonpreference quota for the Philippines was hopelessly oversubscribed and they had no relatives in this country, nor did they possess any special skills to permit them to establish eligibility under the preference system.

In 1973, however, a second application for suspension of deportation was approved by the Immigration and Naturalization Service in Los Angeles, and when no objection was raised during the following two sessions of Congress, they were finally able to become permanent residents of the United States.

After 19 years of uncertainty and frustration, Marie and Verdun Arcache are very grateful that their immigration problem has been resolved and although they now reside in Honolulu, Hawaii, they have requested me to extend their thanks to the Members of Congress. Their letter follows:

HONOLULU, HAWAII,
November 29, 1975.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR SIRS: We wish to express our sincerest thanks and deepest appreciation for granting us the privilege of becoming permanent residents of the United States.

Our best wishes to each one of you.

Respectfully yours,

MARIE ARCACHE,
V. LINDA ARCACHE.

HON. RICHARD L. ROUDEBUSH

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. GINN. Mr. Speaker, the Honorable Richard L. Roudebush, the distinguished Administrator of Veterans' Affairs, spoke this November 11 to the Veterans Day banquet of American Legion Post 135 in Savannah, Ga.

Mr. Roudebush brought a message of great importance to all Americans, and I include it in the RECORD at this point:

ADDRESS BY RICHARD L. ROUDEBUSH

I am glad that you are having such an event as this one and that you were kind enough to invite me to participate in it. It is an honor to be with such interested and distinguished citizens.

Today . . . November 11 . . . is a day that has a great deal of personal meaning to nearly one million veterans of a great war and they are in our thoughts tonight as we gather to honor all veterans.

We are thinking of them with special fondness and special interest tonight, not only because this day marks the 57th Anniversary of the end of the war they fought and won but because they led the effort to have November 11 re-established as Veterans Day.

I think it was a good and proper move and I congratulate them and all others who had a part in making it successful.

But, of course, today is a day of great historic and patriotic significance to all Americans. Thank you for letting me share it with you.

The official national observance of Veterans Day is conducted each year in Arlington National Cemetery and it was my honor to deliver the main address there two weeks ago on the day that is still officially the one to observe on the federal calendar.

Arlington is an ideal place for such an observance. It is an impressive ceremony held in the amphitheater next to the Tomb of the Unknowns. The President laid a wreath at the Tomb early that morning before the program began.

There was a good crowd there to do honor to those who had died in service to their country. There was military music . . . cannon . . . taps.

It was a service that not only did honor to veterans but to the country that thinks enough of them to take time out to remember. I look forward to the time when the Arlington program will once again be conducted on November 11, with all that date means to so many people.

But it occurs to me each year that the service is conducted in Arlington, in a cemetery where you are surrounded by the graves of thousands who have given their lives, that to too many of our citizens Veterans Day is only a day for the dead.

Veterans Day must also be a day for the living, as I pointed out in my speech two weeks ago, or we lose the meaning it has for us.

It is a day for us to look around and to be thankful for what we have and to be thankful for those who have helped us preserve it.

Forty-four and one-half million Americans have worn their country's uniform during the last 200 years. Two-thirds of them live today, giving added meaning to their military service by making a civilian contribution each day . . . and living with the privileges and under the institutions that they helped to defend.

We will never forget the dead and we will always honor them on this day. But with 29½ million veterans alive at this time, this has to be primarily a day for the living.

So, how do we honor them. . . . The Nation's living veterans?

I have told many audiences that I think we should be proud of the fact that our country does more to assist its veterans than any society in history. They are shown our understanding and our respect every day of the year by the fact that their fellow Americans believe so strongly about their needs and their well-being.

Let me make it clear right now that I do not believe that the Nation does all it must for its veterans if our goal is to repay them completely for their time, their hard work, the danger they faced, the disruption to their lives or their sacrifice.

But this is an impossible debt to repay and we must necessarily expect to fall far short of it.

There is no way to repay a man adequately for lost health, lost youth, lost opportunities, a broken body, a broken life. There is nothing that the American people can do . . . or the Veterans Administration can do . . . to make things just as they were for a man before he went into service, or just as they would have been if he had not been called.

But we . . . the people and VA . . . can still do a great deal to satisfy a part of the Nation's debt to its veterans, and we are determined to do all we can.

It is our intention to do what we do with as much energy, imagination, kindness and understanding as possible . . . to give assistance that has substance and meaning and to give it freely and with dignity.

And it is our purpose to always be alert to programs that are not doing well and to service that is not what it should be.

It is our goal at VA . . . and I hope it is the goal of the American people . . . to find new ways in which help may be given those who need it, new programs that make squaring our obligations to veterans a greater possibility.

So, the provision of special benefits and services is one way that the Nation honors its living veterans.

But most veterans do not need a great deal of help. In fact, citizens who have been strong enough to go to war and return are more likely than others to make it without help in a civilian world.

Also, I think too much can be made of veterans as a class of citizens apart from others.

What I am leading up to is the observation that veterans can be honored by actions that bring benefit to all Americans, policies and activities that build our society and enrich our communities and our country.

Your large veterans organizations have understood this for a long time and have made it their business to sponsor projects that have made life better in towns across America and to give us a stronger country.

They have recognized that a good way to honor their fellow veterans, living and dead, is to give spirit and meaning to the things they served and fought for.

They have said that you don't just defend on a battlefield the right to life, liberty and the pursuit of happiness. You involve yourself as a citizen with the causes and principles for which you fought, after you return.

So, I think any discussion on Veterans Day of ways to honor veterans would have to involve what we can do to discharge our duties of citizenship in such a way as to enhance the value of our freedom and to enlarge the opportunities of all our people.

As we discharge these duties properly, we give ourselves a better country in which to live and we give added meaning to the actions of those who have defended it.

But, of course, the greatest honor that can be paid our Nation's veterans, those who live and those who are dead, is to do the best we can to preserve the peace with which we are now blessed.

This is an obligation that we all have but it is an obligation that is difficult to assess in individual terms. How much can one person really do?

I am not prepared to give you an answer. But I know that our society is based upon the assumption that each person does count . . . and that each person's contribution, whether it be to the cause of peace or to some other cause, is important.

And perhaps we can get at least a partial answer to the question of what an individual can do by considering the contributions individuals have made in time of war, when they were fighting in defense of our country and its principles.

We know that each man counted . . . counted in terms of victory in battle, in terms of an ultimate conclusion to the conflict he was in, in terms of goals sought by his nation, in terms of eventual peace and safety for Americans of his day.

We have got to think that we as individual civilians can do as much to maintain the peace which has been so elusive in recent years and I think that today . . . Veterans Day . . . is the most appropriate day in the year to think of the task of preserving the peace and to dedicate ourselves to it.

There are thirty million Americans who have seen service in our armed forces, or are in them now, who hope fervently that there will be no more war and who would consider a commitment to peace to be the best tribute to them and what they have done.

I have enjoyed my stay in Savannah and I have enjoyed being with you tonight. It is good to see you so interested in your community and so active in veterans affairs.

Let me leave you with the assurance that my colleagues at VA and I intend to provide the best service we know how to give, service that is valuable to veterans, that is prompt and adequate and that reflects the great appreciation and respect the American people feel for those who have earned that service.

Thank you for your invitation and for your hospitality.

STAFF MEMBER LISA PHILLIPS IS EXPERT IN DEFENSE CATEGORY

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. LLOYD of California. Mr. Speaker, I would like you and my colleagues to know of an honor accorded to a member of my staff wherein she is recognized as an expert member of an elite, male-dominated, research area—defense. As an aspirant to that group myself, I have always known that a Victorian Studies graduate would prove successful, but it is nice to know that the Navy League agrees:

The article follows at this point:

VICTORIAN STUDIES GRADUATE IS NOW CONGRESSIONAL AIDE AND F18 EXPERT

Defense is a field dominated almost exclusively by man, both in industry and government. But there is one woman who knows as much if not more about the Navy's new combat fighter, the F18, as any veteran defense observer.

She is Lisa Phillips, legislative aide for armed services to freshman California Congressman Jim Lloyd. At 26, Phillips is "very, very liberal" in her politics, but on the Hill she puts aside her personal inclinations to work with her "moderate" boss on the House Armed Services Committee.

As with so many people, Phillips stumbled onto her job. After receiving a degree in Victorian studies, she worked for the National Endowment for the Arts and Humanities. "Part of my job was doing some political things, and after a while, I decided I wanted to pursue that aspect," she said. She worked for another Congressman before moving on Lloyd's office, where she started out writing routine legislative correspondence.

Lloyd occasionally asked her to do some research for the work he was doing on the Armed Services Committee, and gradually both realized she was spending most of her time on that project. "Somebody had to do the footwork for the committee, and since I had already started, I got the job," she explains.

Then started the hard part. For months she spent her days researching every aspect of the controversial F18. "It was hard for me to get the men to take me seriously at first," Phillips said. But gradually they realized she knew what she was talking about and that she was serious about the job. Having a student pilot's license helped too.

Now I find that it is easier for me," she said. "I think men find it easier to talk to a woman and they enjoy the change."

After examining both sides of the F18 issue, Phillips thinks the Navy should go with it. "There are three basic issues involved," Phillips explained. "One, the allegation that the Navy violated Congressional directive by choosing the F17 instead of the F16 that the Air Force chose. Two, many experts think the F14 would be better and cheaper. And third, there was a rumor that the Navy didn't really want the F18, that Congress pushed it down its throat."

Phillips then went into detail on each of the issues. "There was a point in one of the losing companies protesting the 'improperly awarded contract.' The production lines should be kept open because we can't afford to rely on a single source. However, it isn't life or death for the company, and it took them six months to protest the selection." But the issue has been resolved, since the General Accounting Office ruled that the Navy had followed the Congressional directive.

The second issue is the most hotly contested one. Many Congressmen and the builder of the F14 believe it would be to the Navy's advantage to buy more F14s. "The reasoning is that there would be no research and development costs since the F14 already exists and that the F14 is a much better and more capable plane for the money," Phillips said. "But the total cost depends on whose figures you are using. The manufacturer of the F14 did not include the cost of the weapon system, which amounts to $1.4 million per plane, and used 10-year operations and maintenance figures. They also ignored the fact that the A7 will have to be replaced in 15 years. The F18 could be easily adapted to this role—the F14 could not and a completely new plane would have to be developed at that time."

Then there was the mistaken idea that the Navy didn't really want the F18. "The Navy was unenthusiastic at first because it was afraid it would lose the F14. So when former Secretary of Defense James Schlesinger approved the F18, (Secretary of the Navy) Middendorf and (VADM William) Houser guardedly said that they needed it for the role of a lightweight fighter, but never wholeheartedly supported it," Phillips said. "After the rumors started flying, both realized the impression they had given and came right out and said the Navy wanted the F18 and that it was a good plane."

"There's one thing everyone seems to be ignoring—the role. Its role is not the same as the F14 and therefore cannot be compared with it." She continued, "Besides, there isn't enough carrier deck space for more F14s—they're going to have to come up with a smaller plane because the carriers will probably be smaller."

What is Lisa Phillips going to do with all the technical knowledge she has on fighter planes? "Let's just say I have personal political aspirations," she says. With her knowledge and the 75 per cent success rate of Congressional staffers who run for public office, she shouldn't have any problems.

RAILROAD REVITALIZATION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. EDGAR. Mr. Speaker, I plan to introduce an amendment to title VIII of H.R. 10979, The Railroad Revitalization and Reorganization Reform Act of 1975. This amendment would authorize funds to go to educational institutions to enable them to implement, upgrade, and expand their training programs in the field of railroad management and railroad technology. Because of the importance of this amendment, I would like to share with my colleagues a statement made by Newton O. Cattell, director of Federal relations at Pennsylvania State University. Mr. Cattell is well acquainted with the need for more training programs to insure that our Nation will have the competent manpower required to operate our railroads:

Amendment to Title VIII of H.R. 10979: Research, Education and Training for Railroad Development and Improvement Account

(By Newton O. Cattell)

There is no doubt that the success of ConRail is dependent upon having an adequate supply of highly qualified manpower in all areas of its operations. Where is this supply of qualified manpower? It doesn't exist. We must move rapidly to develop the needed qualified manpower. This amendment to H.R. 10979 will provide the needed impetus for our educational institutions to react immediately in helping to develop qualified manpower.

Without this amendment to H.R. 10979 the development of trained and retrained manpower so needed for revitalization of the railroads will be slow in developing. This manpower training need is now, not seven or ten years from now. We must overcome this gap by acting quickly to reestablish railroad programs at all levels in our educational institutions. Our vocational and collegiate institutions must focus their attention to this pressing problem area of our great economy. This amendment will provide an incentive for immediate action.

We should not forget that this amendment to H.R. 10979 will have many indirect benefits to this Nation. Training and retraining of manpower will aid in revitalization of the railroads. This will result in a greater amount of employment for our present pool of unemployed. This amendment will provide a method for many of our unemployed to develop the necessary skills for jobs that are being created with the revitalization of our railroads.

Trained and retrained manpower is essential for revitalization of the railroads. New and better ways of handling railroad operations must be developed. This amendment to H.R. 10979 provides an important method by which the resources of our Nation's universities can be mobilized to aid in the development of an outstanding railroad system necessary to meet the needs of this great Nation. The benefits of this amendment will not only aid in the development of ConRail but will provide ConRail with a leadership role. At the same time, all railroads will benefit from having developed new and better operational methods and from having developed a pool of railroad manpower.

Transportation education in our universities has all but disappeared. Transportation courses presently exist in only a few institutions and in these universities, little attention is given to railroads. In our great universities, engineering colleges no longer have railroad engineering courses. Law schools no longer have courses involving transportation law. Colleges of business administration no longer have courses directed towards railroad management. Departments of economics no longer provide courses in railroad economics. And yet if we are going to bring about a revitalization of the railroads, we need to train and retrain manpower—both for now and for the future. We must mobilize the best minds in our Nation's universities. Our universities must bring into existence courses of study and programs in all of these areas. This amendment to H.R. 10979 will provide an incentive and a challenge to our educational institutions to meet the needs of this great Nation.

This bill (H.R. 10979) is designed to get our northeastern railroads operating profitably again. To do this, they need trained manpower. Once they are operating at a profit, they should pay for their own training programs like all American industry. This amendment phases in federal funds for research and training. It assumes that H.R. 10979 will succeed in bringing the railroads back and phases the support out during the last two years of the bill's authorization.

Until the mid-1940's, many of our great universities had railroad engineering curriculums. Those were phased out when there were no more careers for college graduates on the railroads. This amendment will get the universities started again. We need research and engineering talent to show us how to build road beds that are safe at reasonable speeds of 100 or more mph.

The average age of engineers employed by the Penn Central today is nearly 50. ConRail must hire new, up-to-date talent—but our schools don't have railroad options for the civil and mechanical engineers today. This amendment will bring those options back.

ConRail has the potential for putting people along the eastern seaboard back to work. This amendment will enable colleges and universities in the ConRail states to conduct continuing education programs in various disciplines so they can be employable anywhere in the system.

Even for "normal operations," trained manpower is absolutely essential to complex enterprises such as railroads. And now the railroads needs to be up-graded in terms of managerial and technological inputs. Thus, they need inputs from university classrooms and laboratories—fresh people, fresh ideas, bringing the latest in technology and management.

Can universities make a major contribution to the U.S. railroads at this time? Yes! Trained manpower and new solutions to railroad problems can be their stock in trade. If the Country is to have the full benefit of our investment in railroad revitalization, we must be certain that these ingredients are provided promptly.

FATHER OF BLACK HISTORY HONORED IN BUCKINGHAM COUNTY, VIRGINIA, BY ASSOCIATION FOR STUDY OF AFRO-AMERICAN LIFE AND HISTORY

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. FAUNTROY. Mr. Speaker, on December 19, 1975, the Association for the Study of Afro-American Life and History of Washingtoon, D.C. will place a bronze marker at the birthplace of Dr. Carter G. Woodson, father of black history, in New Canton, Buckingham County, Va.

The placement of this marker represents the initial step in a joint Bicentennial project where the ASALH and the Amoco Foundation will errect 100 or more markers to commemorate and to recognize the contributions to our society which black Americans have made to our society.

The Buckingham Negro Life and History Society of which George Harris, the director of Instructions for the Buckingham County School Board, is the principal organizer has purchased a site 105 feet by 210 feet, which is located about 150 yards from the actual birth site. Everyone, Mr. Harris has said, has given their full support for this project. The board of supervisors has declared December 19 as Carter G. Woodson Day in the country.

The text follows:

Carter G. Woodson

Woodson was born December 19, 1875, of former slaves. In spite of these humble beginnings, he became recognized as a man whose foresight, determination, genius and hard work have stood the test of time.

He organized the Association for the Study of Negro Life and History (ASNLH) in 1915. He founded the Association to keep the history of Black America from being suppressed or forgotten, and to help people appreciate and understand the lives of Black Americans. He directed the Association for 35 years—until his death on April 3, 1950.

In order to present research on Black history, Dr. Woodson produced the first issue of the *Journal of Negro History* on January 1, 1916. Ten years later, he initiated the first yearly observance of Negro History Week, which demonstrated the accomplishments of Blacks despite tremendous obstacles.

Negro History Week reached large audiences, popularized Negro history, and created an audience for the *Negro History Bulletin*, a journal for general audiences that was first published in 1937. Both the *Journal* and the *Bulletin* have never missed an issue since.

Numerous books about Negro history were published by the Associated Publishers, which Woodson founded "to produce books and pictures of Negroes not generally accepted by other firms." Most of the 21 books written by this eminent historian were published by this firm.

In addition to the books he wrote and edited, Woodson had planned to publish the *Encyclopaedia Africana,* which he was unable to complete due to financial considerations.

The organization founded by this noted leader, now the Association for the Study of Afro-American Life and History, continues to move toward fulfilling a great man's dream.

Although poverty prohibited his regular attendance at school, by the age of 17 Carter Woodson had taught himself basic "common-school subjects." Although he wanted to continue his education, it was necessary that he mine the Fayette County coal fields of West Virginia to make a living.

In 1897, Woodson received his diploma from Douglass High School. Four years later, he returned to the West Virginia school as principal.

While working on his Litt. B. degree, which he received from Kentucky's Berea College in 1903, the prominent educator taught school in Winona, West Virginia.

That year Woodson was appointed superintendent of schools in the Phillipines, where he worked until 1907, becoming fluent in Spanish. He spent his summers in Illinois, studying at the University of Chicago. These efforts culminated when he received his A.B. degree March 17, 1908. He transferred to the Graduate School in January and was awarded the M.A. degree in History on August 28, 1908.

The historian spent a year traveling in Asia, Egypt and Europe. While attending the famous Sorbonne University in Paris, France, he studied history and mastered French. Woodson's knowledge of languages was put to good use when he taught French and Spanish at both Dunbar and Armstrong high schools in Washington, D.C. He taught English and history as well.

Harvard granted Woodson his Ph.D. in 1912. By 1915, the historian had founded the ASNLH, and by 1916, the first issue of the *Journal of Negro History* had appeared.

The noted leader became thoroughly immersed in his role as educator. He was the principal of Washington, D.C.'s Armstrong High School (1918–1919), dean of the College of Liberal Arts at Howard University (1919–1920), and dean at West Virginia State College (1920–1922).

In 1922, Woodson left the world of educational administration. He bought a row house at 1538 Ninth Street, NW, in Washington, D.C., which served as headquraters for both the Association and the Associated Publishers until 1971. Then the Association, now the Association for the Study of Afro-American Life and History, moved to its present address at 1401 Fourteenth Street, NW. When the profound historian returned to Washington, he retired from the teaching profession and devoted his time to research, writing, and the mangement of the Association.

TOWARD A NATIONAL FOOD PROGRAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. BROWN of California. Mr. Speaker, it is time for the Congress and the people of this Nation to realize that the world food crisis is not a temporary problem caused by simple, temporary factors. In the next 25 years, we are going to be subjected to a possible doubling in our total population, with the largest increases taking place in the poorer, less-developed countries. North America has already emerged as the major supplier of grains for the growing world demand, and as each marketing year passes, we witness an increasing global dependence on our food exports. In the last decade. this growing import demand has depleted world grain reserves from the 229 million metric tons in 1966—including the grain equivalent of idled U.S. cropland—to the present 100 million metric tons, which is estimated as being enough grain for 31 days of world consumption.

In the face of such statistics, we should be making every effort to develop a national food policy which will protect our farmers from the highly fluctuating markets and maintain enough reserves to stem the enormous food price increases which our consuers have recently experienced. Such a program would require significant global organization, food information dispersal, and, most of all, a basic acceptance of the gravity of the present and future world food situation and the many interrelated problems which accompany such a crisis.

I submit a statement prepared by Sargent Shriver which addresses this topic and calls for "new vision and new leadership". He acknowledges the need for immediate action and suggests a defined program which is worth consideration.

The article follows:

Food and Agriculture Policy Statement

(By Sargent Shriver)

If the Nixon-Ford-Butz years have accomplished nothing else—and there's a lot to be said for that point of view—they've brought farmers and consumers closer together in the search for stability. It hasn't been by design. The potential alliance of those who produce and those who eat represents a reaction to policies which have made life harder for both the producers and the eaters: Those policies have:

Increased retail food prices by 37% between 1971–1974, by 14% in 1974, and by a projected 10% this year. Food prices are 62% higher today than when the Republicans took office;

Run down our food reserves, so that those rescerves today—at a time of surging world demand—reached the lowest level since World War II;

Slashed "Food for Peace" shipments, so that those shipments reached the lowest level—¼ the volume of prior years—at a time of international famine;

Called for all-out production while closing access to major foreign markets without warning, forcing surpluses to back up to depress farm prices;

Cut farm income in 1974 and 1975, leaving an expectation of bankruptcies this year; and

Polluted our grain exports through mismanagement and fraud in our inspection agencies.

The litany could continue—but you know its conclusion: Farmer and consumer alike have been sacrificed to Secretary Butz's free market fixation. Somehow, the Soviet grain authority managed to qualify as a free market force—Adam Smith would have loved that! So, for the last seven years of food and agricultural policy, we've had an Administration committed to the view that the best government is no government—no government for the grain exporters, for the food middlemen, for the giant agri-business combines and for Marxist state-trading authorities.

Old myths die hard. Secretary Butz opposed a long-term grain deal with the Soviets until his opposition left Secretary Kissinger so embarrassed that President Ford finally made it clear just who is running our agricultural policy—that's right, the Secretary of State. Because the White House hasn't released the text of the proposed agreement, it's premature to offer final comments. But, the history of the negotiations reveals the abject failure of the Administration's non-policies in the food and agriculture areas—and its betrayal of the farmers.

Despite our bare cupboard reserve program and the great grain rip-off of 1972, it is clear that the Ford-Butz team was prepared to "play it again, Earl." Farmers were urged to produce without limit. Promises were made of unlimited—and unregulated—access to overseas markets—mainly the USSR. Those promises could not be kept—because food consumers would not stomach another 1972, and because Jerry Ford couldn't swallow the political consequences of continued food price inflation. One promise has been kept—Butz will *not* increase assistance for farmers forced to carry whatever surplus may remain. Nor does he think that government should act as a buyer of last resort—or any resort. The farmers may be left holding the surplus bag if the Russians have—as some believe—already bought from others what we were negotiating to buy from us. And, there is some reason to believe that Kissinger's insistence that grain be linked to a useless oil agreement delayed conclusion of the pact. The negotiations were a missed opportunity in another respect, too: They failed to secure a Soviet undertaking to implement the Rome Conference's call for an international grain reserve system and world-wide production data. In the days ahead, we will want to pay particular attention to the interests of our traditional trading partners in relation to this agreement. I am for grain sales to the Soviet Union on a long-term basis. But that country should not be given preferred access to our market over Japan and other regular customers in times of short supplies. We will want to study the agreement with great care to make certain it does not have that effect.

The collapse of the Nixon-Ford-Butz food and agricultural non-policies have brought us to this incredible situation: Among American farmers—the most productive in the world—concern with overproduction is growing at a time of mounting world demand for American grain. If that concern ripens into production cutbacks—as it threatens to do—the American consumer, no less than his foreign counterpart, will suffer.

That is the way it promises to be if Ford and Butz remain in office. There is a better way. It lies in recognizing the points of common concern—the intersections of interest—which farmers and consumers share. That shared interest is what a Shriver Administration would serve. And, beyond identifying that community of concern, my Administration would implement programs which link both groups in a common cause.

The points of common concern are clear. Farmers and consumers are neither neutral nor necessary enemies.

To the farmers of America, I say this: I know you want to produce the best and largest crops at the least cost and that you and your families have devoted your lives to doing just that. Cutting back crops to keep prices up violates you most fundamental beliefs. As an Iowa farmer put it: "I want to do well while doing good."

Doing good means full production—for a world as well as domestic markets. Doing well means assurance of a reasonable income in bad years, as well as promise of a better income in good years. Yours is a risky business. You confront not only the unpredictable forces of nature, but also world, as well as American, economic uncertainties. Managing family farms with an average investment of hundreds of thousands of dollars, you are exposed more even than most Americans to the ravages of inflation because you depend more than most on high priced oil, petrochemical fertilizers and other fuels to operate your sophisticated and costly equipment. More dependent than any other American industry on foreign markets, you are internationalists, rightly sensitive to any governmental effort to restrict access to overseas markets. You do not seek high food prices in the supermarkets of America, but you rightly demand your fair share of America's bounty. That goal cannot be achieved by standing in splendid isolation from your fellow citizens or by supporting policies which put the government on the side of everyone but farmers and consumers. I ask you to join with me and America's consumers in the search for solutions which reconcile your need for income stability with the consumers' concern for price stability.

To the consumers of America, I say this: The last eight years have been a disaster for all of us. Between 1971 and 1974 alone, retail food prices increased by 37%. You pay today 35 cents for a loaf of bread that used to cost 25 cents. These prices rose 14% more last year and some predict that 1975 will be another double digit year. In 1973, soaring food prices meant that a family of four with an annual income of $7,280 had to spend at least 45% of its disposable income to maintain a modest diet. That's almost $1 out of every available $2 for food—and this is the greatest agricultural country in the world. Even worse, soaring food prices have coincided with a falling economy, so the American worker in 1974 suffered—for the first time in 16 years—a real decline in income—the largest per capita drop since the Depression. For only the second time in this century, millions of Americans—workers as well as the unemployed—are haunted by the fear that they will not be able to give their families a decent diet.

American consumers do not want to deny farmers the opportunity to earn a good living. Without that opportunity, prices can only increase as suppliers decline. But consumers rightly demand an end to roller coaster food prices, and some reasonable assurance of price stability for the future. And consumers and farmers alike resent, bitterly, the high profits of middlemen and other distributors—the only people in the food picture who seem impervious to economic instability. In 1974—an unbearable year for farmers and consumers—the cost of bringing food to market increased by 20%—the largest annual jump in our entire history. I ask you, too, to join in the search for a better way.

To our foreign customers and to the legions of hungry people who look to American farmers for their survival, I say this:

America will meet her commitments to her traditional customers and will seek to meet the needs of others. But the game must be played under fair rules open to all—rules which assure advance information about your needs and which establish long-term arrangements allowing American farmers to meet those needs without starving, or squeezing, American consumers. And those rules must bar the obscene practice of using American food for political ploys—to support corrupt regimes, while millions starve, and tens of millions go without needed medicines or housing or education just so they can afford to eat.

What, then, should we do to accomplish reasonable food prices, a fair return to farmers and—most of all—stable food and farm prices?

If we are to expect farmers to produce in abundance, we must protect them against surplus production. While adequate in theory, the present price support system has been made obsolete in practice by an Administration which has irresponsibly refused to increase most support levels in five years. Supports today don't even cover last year's production costs. They must be increased to levels which are realistic—in terms of real production costs and world prices.

But what about lean years, when production lags behind demand? How do we protect the American consumer against double digit food price inflation and assure price stability at the market place? To provide this protection I advocate a new federal reserve program to facilitate storage of basic agricultural products in times of surplus and to sell in times of shortage, whether caused by crop failures or by high export demand. Such a program would take the wild gyrations out of food and farm prices. The very existence of reserves would help to break the inflationary expectations that dominate consumer thinking today—the expectations that prices will go up because prices always go up. By setting the price at which grain is added to the reserve at a realistic support level, this system would establish a floor below which farm income could not fall. And by setting a ceiling price above which reserves would be released to the market, the system would set a cap on prices consumers would have to pay.

Farmers have traditionally opposed food reserves because they have been used to drive prices down to levels too low to support farm families. Political expediency has been allowed to dictate such reckless dumping, with the understandable result that many farmers come to believe that reserves are used only to accommodate whatever constituency may hold sway over those in charge.

So what we need is a mechanism for managing food reserves in a way that farmers have reason to trust—a way that takes politics out of the grainery. When our country faced a similar need in the management of money, we created an authority independent of the political branches of government—the Federal Reserve Board. The independence of the Fed was crucial to the survival of banking and of our economic structure. Today, that independence has gone too far; Arthur Burns exercises almost limitless power and should be subjected to new restraints. But in the agricultural area, what's needed is a greater degree of independence—independence from politics in the decision of how much food to accumulate, how much to release to the market and when to release it. The price would be set by the Board within a Congressionally specified floor and ceiling. To provide that independence, I would propose legislation to create a Food Reserve Board, answerable to Congress but not to the Department of Agriculture, the State Department, or the White House. The agency I have in mind would be the creature neither of a Butz, nor of a Kissinger, nor of a Ford—nor of a Shriver—but the servant of the only interests that should count when food is at stake: The interests of those who live by its production and of those who pay to consume it. The mission of this new FRB would be to formulate and pursue a consistent food reserve policy—one farmers could rely on, and one that would protect consumers at the same time. It would operate within limits and under standards set by Congress, and with a membership including both farmer representation and a voice for consumers.

By stimulating production and by protecting consumers against skyrocketing food prices, these policies should make a major contribution to achieving stability for farmers and consumers alike. But they will not succeed at acceptable cost to the taxpayers unless we are committed to expanding our food exports. Exports are vital not only for the farmer, but for the consumer who will otherwise bear the burden of supporting farm income through higher prices or higher taxes. In 1974, almost 21.5% of our corn crops, 41.8% of our soybean production, and a whopping 55% of our wheat crops were sold abroad. These crops could not have been sold on the domestic market without driving prices below levels acceptable to farmers or, under the reserve program I propose, calling upon the government to support the cost of strong massive amounts. But, although exports are vital and must be maintained, the American consumer must never again be forced to subsidize foreign sales.

Access to American grain supplies must instead be assured on a basis consistent with maintaining reasonable food prices at home. That objective can be accomplished by establishing an export policy in place of the stop and go non-policies of the Republican Administration—non-policies which rob consumers, farmers and our trading partners alike. The policy I advocate would set minimum and maximum quantities for all major foreign buyers, so that fluctuations in demands will be smoother by requiring importing nations to accumulate stocks in times of high world production. Our Government's approval would be needed for a country to buy more—or less—than the agreed amounts. To assure adequate domestic supplies, the United States would announce to the world its domestic requirements, as well as its commitment to foreign customers and less developed countries. We would make it clear that those supply requirements would be met by whatever management devices are required.

As an essential element of our export policy, the United States should take the lead in creating with other exporting and importing nations an international reserve program for grains—as called for by the World Food Conference. Such a reserve would serve not only the interests of the participating countries but also our moral obligation to the hungry.

These policies would not displace the free enterprise system. Rather, they would put that system to work for people by taking the shocks out of supermarket purchases and farm sales. But we must recognize that the system will not work if farmers and consumers are pitted against each other in a struggle which can end only in losses for both. The compact between farmers and consumers which I propose guarantees neither group everything it might wish. As in any partnership, there are risks to be shared and hard choices to be made. The accommodation of conflicting interests which I propose means some give and take by all. The reserve system puts a ceiling on the prices consumers must pay in bad crop years, just as it sets a floor under the prices farmers will get in surplus crop years. I believe American farmers and consumers will accept this.

To cement the new alliance between farmers and consumers, we must also focus attention on those trends in equipment manufacturing, food processing and agricultural marketing that work against the interests of producers and families alike. When, according to the Federal Trade Commission, supermarkets enjoy a 16% return on investment, when monopoly in the manufacture of farm machinery costs farmers a quarter of a billion dollars each year, when monopolistic meatpacking robs consumers of a half a billion dollars annually, when bread prices rise nearly 17% at the same time flour prices fall 25%, and when shoppers continue to be misled by labeling and advertising that distorts the truth about nutrition, it doesn't take an expert to conclude that manufacturers and middlemen need to be brought into line—and fast. It's not enough to talk about vigorous antitrust enforcement in litigation that will take years and may consume millions of dollars. In food, as in fuel and medical care—and in every industry that is vital to daily survival—legislation is needed that would shift the burden of proof against those wielding concentrated or irresponsible economic power. Wherever those interests fail to justify their structures and practices to fair-minded men and women, they must be broken up or subjected to whatever controls are needed to create prices people can afford, under marketing principles people can accept.

What all of this adds up to is a specific instance of that principle I described on the day I announced my candidacy: Above all, what this nation and the world need is a commitment to a common existence—a sharing of benefits and burdens in a community of interest between groups that cannot succeed or even survive unless they come to perceive their mutuality of concern and learn to act in creative concert rather than divisive competition.

We have long talked about turning our swords into plowshares. But the truth is: We have yet to make the most of the plowshares already available. When the world's most resourceful farmer, working the world's richest soil with the world's most advanced agricultural technology are manipulated by politics, subordinated to middlemen, and pitted against both consumer needs and the realities of hunger and malnutrition, we can be sure the fault lies not with those who produce our food but with those whom we have elected to high office. It is time to bring new vision and new leadership to the farm and food policies of America. That is my pledge in this campaign; it will be the commitment of my presidency.

A LETTER FROM THE HEART

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I was quite pleased last week to notice that a letter to the editor had been published in the Bradford, Pa. Era which was written by Mrs. Sarah Smith. Mrs. Smith is a resident of East Smethport, Pa., which is located in my 23rd Congressional District. Mrs. Smith calls on the people of the United States to pray for our Nation during these troubled times, and also comments on the belief that prayer and Bible reading should be allowed in the public schools. I would like to share Mrs. Smith's warm letter from the heart with my colleagues. The letter is as follows:

OTHER VOICES

Dear Sir: While reading The Era Saturday, Nov. 22, I read where President Ford picked certain Bible verses to be read for eight days beginning Nov. 23 through Nov. 30. Being a Christian I know this is a good idea, not only for the eight days mentioned, but all year round. This great country of ours can stand a lot of Bible reading and prayers.

As I stated in an editorial last spring about prayers and Bible reading being out of our schools, that's when some of our young people started a life of crime. Many children never hear the word of God, only when it's used as a swear word. In the Era Nov. 15 our Congressman, A. W. Johnson, (in whose home here in Smethport I work as part-time housemaid and caretaker), had an article about putting prayers back in our schools. After working in their home over twenty years and the many talks we have had about this. I really know he means it, but one man cannot do it alone. Our whole nation must stand for the cause.

As we read in the passages from the Bible given by President Ford, let us also read and remember—

2 Chronicles, 7:14—"If my people which are called by my name shall humble themselves and pray, and seek my face, and turn from their wicked ways, then I will hear from heaven and forgive their sin and will heal their land."

We all know our country needs a lot of healing. We also know that our country was founded for religious rights and it seems that even this is being taken away from us. So as we stand on the threshhold of our 200-year celebration next year, let everyone of God's people pray for our nation. It can still be a nation to be proud of.

So let's all of us that are called by His name and those who wish to be called by His name humble themselves and pray. I know our God will hear and answer. This may not get printed before Thanksgiving day, but it is for all the year round. Those that claim to love the Lord, please pray without ceasing for our country.

MRS. SARAH SMITH.

U.S. SECRET INVOLVEMENT IN ANGOLA

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. YOUNG of Georgia. Mr. Speaker, as we now witness the agony of civil strife in the newly independent African state of Angola, we are more each day made aware of the covert role our Nation is playing in this tragedy. This dangerous course, embarked upon by the executive branch of government in the spring, is being challenged in the Congress and by public interest groups increasingly across our Nation as an inappropriate response to southern Africa events.

John Marks, author of the article inserted below, represents this growing position of advocacy. Currently, he is an associate of the Center for National Security Studies in Washington and is coauthor of the book, "The CIA and the Cult of Intelligence." He has served as an executive assistant to Senator CLIFFORD CASE of New Jersey and also as an assistant to the director of the State department of intelligence, Mr. Ray Cline.

I have recently returned from a visit to Zambia where in conversations with liberation groups based in that country and with President Kenneth Kaunda and Foreign Minister Rupiah Banda much of John Marks' analysis was confirmed through their observations.

I believe, Mr. Speaker, that it is crucial that the Congress act now to cut off the flow of U.S. funding to various factions in Angola and that all U.S. military involvement in the way of armaments and supplies be immediately discontinued. The Congress must have the courage to stipulate that outside intervention on the part of South Africa and the military escalation supported by the Soviet Union, Cuba and above all the United States must cease and that an African initiated political solution ought to be a priority.

Angola, after years of struggle to liberate itself from the cruel power of Portuguese colonialism, should not have to suffer a more devastating period of external power partitioning. Angola, after 500 years of imperial domination, should and must be left alone to coordinate its own prospects of nationhood.

There is no basis, Mr. Speaker, for the United States to wield its vast power within the confines of the fragile new

State of Angola. To continue along the path of covert or overt intervention there will be a monstrous mistake for our national destiny and peoplehood. I urge every one of my colleagues to read the article below and then to act decisively to change this course of American history:

THE SECRET WAR IN ANGOLA

(By John Marks)

The United States is today deeply involved in a war in Angola. Like the Vietnamese and Laotian conflicts in their early years, the Angolan war is—as far as the public and most of the Congress are concerned—a secret war, run by the CIA. But as was true in Indochina, the President himself has been making the key decisions. In fact, at about the same time last spring that the Indochina war was finally ending and the administration seemed determined to show its toughness (*à la Mayaguez*), President Ford personally authorized the CIA to provide covert money and arms to two African independence groups in Angola.

The Soviet Union, Cuba, and other countries have steadily increased their aid to a third Angolan liberation group in recent months, and the administration has reacted by escalating the CIA programs. A well-placed government source reports that the CIA is now spending "in the tens of millions of dollars" on the Angolan war. According to the source, U.S. Air Force C–141 transport jets, flying in behalf of the CIA are regularly landing at the airport in Kinshasa, Zaire (the former Congo, bordering on Angola), and disgorging tons of military supplies, including machine guns, light artillery, and ammunition; these supplies are in turn being flown into Angola by small planes.

According to another government source, Henry Kissinger pushed hard last spring for the CIA intervention. "Henry wanted to be told why we should intervene," says the source, "not why not." Many within the government, including Nathaniel Davis, then the State Department's highest official for African affairs, were opposed, but Kissinger carried the bureaucratic struggle, first at a meeting of the supersecret 40 Committee and then, ultimately, when the President gave his approval or—as the policy-makers say—"signed off on" the secret war.

The President's moment of truth, the source believes, came last spring when he endorsed the decision of the 40 Committee (chaired by Kissinger) to give several hundred thousand dollars in covert "black bag" funds to Jonas Savimbi, head of UNITA, the independence group based in southern Angola. The immediate question, in the source's words, was whether or not "to put Savimbi in the game, to have the CIA give him some chips." The Agency was already providing a modest level of secret assistance to another faction, the FNLA in the north, but the source states that Kissinger and Ford were clearly aware that adding UNITA to the American payroll would signal a major escalation, indeed a commitment declaring that the United States was not about to allow the third independence group, the MPLA, to control Angola.

Angola, which was granted independence by Portugal on November 11, is a rich, fertile country, twice the size of Texas, blessed with abundant supplies of oil, iron ore, atomic minerals, and diamonds. State Department officials deny that the American interest there is economic, although the number two man in the Defense Department has told a congressional committee that American policy is tied to "resources we will need in the future." The administration claims that its principal concern in Angola is to show the Soviets that they cannot make advance in Africa through the victory of the group they (and many other countries) support, the MPLA.

Unfortunately, the conflict inside Angola does not easily reduce itself to an ideological struggle, a conflict between communist and capitalists. All three of the independence groups have come out in favor of some form of African socialism, and each has a strong tribal base. The MPLA is unquestionably to the left of the other two groups, but then the MPLA has also been able to work out a relatively smooth working relationship with Gulf Oil, which continues to operate extremely productive wells in the northern enclave of Cabinda. Moreover, independence groups with similar views to the MPLA have taken over in Mozambique and Guinea-Bissau, without any apparent damage to American interests.

Henry Kissinger stated on September 23, "We are most alarmed at the interference of extra-continental powers [in Angola] who do not wish Africa well, and whose involvement is inconsistent with the promise of true independence." He was presumably talking about the Soviet Union and not the United States. In any case, with both powers currently stepping up their involvement, the stage has been set in Angola for a classic cold war confrontation. The result, so far, according to a well-placed State Department official, has been "a mutual ante-raising, an inconclusive situation, and a hell of a lot dead Angolans."

The great power conflict in Angola is further complicated by the fact that a lot of other foreign countries are involved. A government source reports that the British have joined with the United States (and South Africa) in aiding UNITA. French assistance is going to the FNLA through Zaire. Zaire itself is helping both UNITA and the FNLA, and in fact, a key element in the American decision to intervene was the fervent urging of Zaire's President Mobutu, who is the United States' most important client in Africa. The Chinese had been giving military aid and training to the FNLA, but they have now backed off as the US role has increased. Portuguese mercenaries are serving with UNITA and the FNLA, and two government officials report that another factor in the US intervention was a desire to counter leftist forces in Portugal who support the MPLA. Support for the MPLA has arrived from Cuba and from newly independent Mozambique. Still other countries are doing what they can for the faction of their choice. All three independence groups have foreigners fighting with them.

If this all seems horribly complicated, it is. There is some thought in Washington that the administration believes it can get away with waging secret war in Angola because the public will not be able to understand what the initials stand for or who is on what side.

But the country with the largest direct involvement in Angola is currently white-supremacist South Africa. South African troops entered Angola in late October, according to communications intercepts picked up by US intelligence, and there are now two separate mechanized South African units, with a strength between 1000 and 1500 men each, operating inside the country. Additionally, a separate armored column of about 1500 Africans and 500 white mercenaries—equipped in South Africa and staging from South African bases—has in the last month been steadily advancing through southern Angola and seizing key positions from the MPLA, ostensibly in behalf of UNITA and the FNLA which have joined together in a shaky alliance.

A State Department policy-maker, while acknowledging that the South Africans were supporting the same groups as the United States, says rather defensively, "The South African operations are not in concert with us. We did not initiate them. Whatever they're doing is strictly on their own."

There may well not be any overt [but, of course, covert] US-South African cooperation in Angola, as there was in the Congo (now Zaire) during the early 1960's when South African intelligence worked together with the CIA to recruit mercenary forces fighting in an earlier CIA secret war. The CIA may not even be taking advantage of what three government sources describe as the "close" liaison relationship which the CIA has maintained for many years with South African intelligence. But even if the CIA has been able to resist joint planning with its South African counterparts, there is no way the United States is going to avoid, as one official says, "being tainted with the South African brush." For all effects and purposes, the official believes, the South Africans are "our faithful allies," backing the same two Angolan clients. As the secret war proceeds, the official believes that the United States is building up an increasing debt to the South Africans, who "are not at all adverse to calling in their markers." Indeed, South Africa already has asked the United States and other western countries to increase their aid to South African-supported forces in Angola.

Because invading columns must maintain radio communication with their own headquarters, supply bases, and supporting aircraft, American policy-makers have been able to keep track of the South African advances inside Angola by having the National Security Agency (NSA) monitor their radio channels. Similar techniques have been used to produce data on increased Soviet and Cuban activity, and the administration has not hesitated to selectively leak this highly classified information to the press. Thus, the New York Times reported on November 21 that 3000 Cuban "fighting men and advisers" have been sent to Angola "in recent weeks" to support the MPLA. No mention was made in the article of the South African forces that had already invaded the country a month before, although the "United States officials" who provided the story presumably had access to the intelligence proving the South African presence. The Times article does state (in the 13th paragraph) that "an undisclosed number of South African military advisors" were with UNITA's forces in the south.

Although CIA money and other support has been going to UNITA since last spring, the Agency has seemed content to largely leave the southern front to the South Africans while the CIA's major effort has been in the north in behalf of Holden Roberto's FNLA. According to five different CIA, White House, and State Department sources, Roberto has been secretly on the CIA payroll since 1962.

A former White House aide recalls that during the Johnson administration, American policy toward the Portuguese colonies was "to play all ends against the middle." By this, he explains, the US government provided the Salazar dictatorship with a modest degree of military and political support; took a public stance in favor of nonviolent change in the colonies; and secretly subsidized (but never with enough support to turn the tide) independence groups committed to armed revolution against Portugal.

The official says that the CIA had the "habit of picking out single individuals and making them our guys, somehow assuming they would turn out all right. It was mainly a cash-in-the-envelope kind of thing—conscience money to show American good intentions." In Mozambique, the source notes, the CIA's man was Eduardo Mondlane (the FRELIMO leader who was assassinated a few years ago), and in Angola it was Holden Roberto.

Roberto's FNLA operated out of bases in Zaire—as it still does—and much of the CIA's assistance to Roberto flowed through the CIA's surrogate, Zaire's Mobutu. In 1969, according to the official, the Nixon administration decided to end the CIA's "program aid" to the independence groups, as part of a larger Nixonian policy to ease up American pressure against white-minority rule in southern Africa. The CIA did, however, retain a connection with Roberto, according to three State Department aides, paying him as an intelligence source. Therefore, when the Ford administration decided last spring to become actively—if covertly—involved in Angola, it was a relatively simple matter, as one official describes it, "to turn Roberto back on."

In fact, Roberto was never really turned off, since in the 1969–1975 period, his brother-in-law Mobutu supplied him with large amounts of weapons and other aid. That aid came at least indirectly from Mobutu's most important foreign benefactor, the United States. Mobutu told a visiting US congressional delegation this summer that he expects to be reimbursed for all the assistance he has given to Roberto. Knowledgeable Capitol Hill aides believe that the pay back has come in the form of the administration's current request for a $79 million aid package for Zaire (roughly a ten-fold increase over last years aid levels). Nevertheless, Henry Kissinger explained to Congress that stepped up military assistance ($19 million of the total amount) was needed "to help modernize [Zaire's] forces and meet its legitimate defense needs in view of increased threats to its security—particularly that posed by the instability in Angola." Kissinger failed to mention that Zaire needed the help because it had been giving away large amounts of its own military supplies to Holden Roberto's FNLA or that Zaire's own troops had been fighting in Angola. (It is illegal under US law for American military to be used for "non-defensive" purposes or to be transferred to a third country.)

The administration has so far chosen to keep most members of Congress (and of course, the public) in the dark about the secret war in Angola, although in accordance with a 1974 law it informed a few senior members of six House and Senate committees last spring of the CIA's actions. One administration official who opposed the policy noted how disappointed he and his fellow dissenters were that the Senate Foreign Relations Committee (of whose members only Senators John Sparkman and Clifford Case were briefed) did nothing to stop the CIA's paramilitary programs. He believes that "especially in the context of the times and current attitudes toward the CIA," the senators could have threatened to go public with the information or at least call a meeting of the full committee to discuss the situation. Neither Sparkman nor Case—nor any of the sitting members of the five other committees—did anything of the kind. Another senator—who was not briefed—notes that the oversight law requires only that the committees be informed and makes no provision for congressional review or approval. The senator notes, however, that the CIA has taken the lack of Congressional objections as their tacit approval for covert operations.

This fall, after the *New York Times'* Leslie Gelb wrote the first article about CIA assistance to the FNLA and UNITA, Senator Dick Clark, the chairman of the Foreign Relations subcommittee on Africa, asked that the full committee be briefed by the CIA and the State Department on the US role in Angola. According to reliable sources, only "three or four" senators out of 16 members bothered to attend. Partial accounts of the administration briefing, which apparently centered on covert arms shipments to the FNLA and UNITA, quickly leaked out to the *New York Times* and the *Washington Post*, but nothing appeared in the press about the large sums of money involved or the growing South African presence.

Finally knowledgeable about what was going on, Senator Clark had a real problem. He opposed the CIA's secret war in Angola, but the testimony he had received was classified. Revealing it would have put him in violation of the Senate's rules. Congressman Michael Harrington had faced the very same dilemma last year when he read a secret transcript in which CIA Director Colby laid out how the CIA had destabilized the Allende government in Chile from 1970 through 1973. Harrington chose to disclose the information, claiming a higher responsibility to reveal CIA misdeeds. As a result, Harrington was fiercely attacked within the House for breaking the rules, and he was forced to submit to censure proceedings. Clark has chosen not to go public. Instead, he is fighting back through the slow process of legislation. He now plans to introduce an amendment that would cut off all military aid—overt and covert—to Angola and Zaire.

When I called Senator Clark, he would not talk about the secret war. He stated, "If I were to tell you that the US was involved in covert activities in Angola, I could be kicked out of the Senate." He agreed that his freedom of action had been limited by receiving the classified briefing, but he stressed that having access to the facts would not prevent him from taking a position against the secret war in Angola.

Clark traces the problem in Angola to the "super-powers who want to play out the cold war in every part of the world." He believes that "the super-powers ought to be able to get together with a spirit of detente to say it's in their own best interest—and that's all anyone seems concerned with—not to let this thing get out of hand."

For the moment at least, the super-powers along with the South Africans and other outsiders seem perfectly willing to fight on to the last Angolan. There is no evidence of restraint on any side nor of meaningful negotiations which could bring the bloodshed to an end. A clear military victory for any faction appears unlikely, and the alternatives seem to be either an endless war or partition of the country into three feuding parts. (The latter solution might not be too objectionable to US policy-makers with a South African-supported UNITA state in the south, Holden Roberto's FNLA in the north, the MPLA squeezed into the middle, and the northern enclave of Cabinda, where Gulf oil has large holdings, either controlled by Roberto or brother-in-law Mobutu who has been openly coveting it for Zaire.)

Nevertheless, in violation of the constitutional provision that only Congress can declare war, an American president has once again used the CIA to take the country into a secret war. Against Castro's Cuba, the tactic was a miserable failure. It didn't work in Vietnam where the CIA's secret involvement grew into the commitment of half a million American troops. Nor did it work in Laos where the Meo tribesmen who fought the CIA's *Armee Clandestine* were largely decimated by the time the US government was forced to withdraw.

All one can say is, here we go again. . . .

NEED FOR INCREASED HEW COMMITMENT TO BLACK COLLEGES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. RANGEL. Mr. Speaker, the present economic crisis is severely affecting the black colleges in America. These are institutions which have historically provided educational opportunities for minority students who would otherwise be denied access to higher education. The presidents of a number of black colleges met recently with David Mathews, Secretary of Health, Education, and Welfare, to discuss the plight of their schools and the urgent need for an increased Federal commitment to their survival and expansion.

I include at this point in the RECORD news accounts of the meeting and discussion:

FORTY-FOUR BLACK COLLEGE PRESIDENTS TELL HEW OF NEED FOR PARITY

WASHINGTON.—The presidents and aides from 44 black colleges and universities met last Tuesday with the new Secretary of Health, Education and Welfare, Dr. David Mathews, to press for parity of educational facilities for their students.

While they received no definite promises from Secretary Mathews, former president of the University of Alabama who knows many of the black college heads personally, his office has indicated that there will be follow-up meetings with these colleges to find ways of meeting their needs.

Speaking for the colleges were: Dr. Charles A. Lyons, Jr., president of the conference sponsoring body, the National Association for Equal Opportunity in Higher Education and also chancellor of Fayetteville, N.C., State University who presided; Dr. Roy D. Hudson, vice president of the association and president of Hampton Institute.

Dr. Milton K. Curry, Jr., president of the United Negro College Fund and head of Bishop College; and Dr. Charles L. Hayes, president of Albany, Ga., State College and chairman of the Office for Advancement of Public Negro College Advisory Committee. All of the colleges represented are members of association. Mark Fisher, IV, is its executive secretary.

Goal set by the speakers was for a leadership partnership between their colleges and the federal government to achieve parity for the historically black colleges by the year 2000. If such a partnership is not set in motion, the college heads expressed fear that the relative gap between the number of whites and blacks who finish college will continue to widen. The gap, they said, widened from seven percent in 1960 to 13 percent in 1974.

Major emphasis was placed on the need for more opportunities at black colleges and universities for their students to pursue professional and technical education. For example, there are only two black medical colleges with a third being developed at Morehouse.

Also the college heads pressed for more funds for student aid programs. They said they now need $250 million for such aid, instead of the $100 million they are receiving.

Dr. Mathews, who indicated a great understanding of the problems of black colleges, was introduced by Dr. Joffre T. Whisenton, a former teacher of educational psychology at the University of Alabama, whom he has brought here to serve as his special assistant for educational policy. For the past several years, Dr. Whisenton has been with the Southern Association of Colleges.

The following black colleges and universities were represented at the conference: Alabama A & M, Lomax-Hannon College, Miles College, Oakwood College, Stillman College, Tuskegee Institute, Delaware State, Federal City College, Howard, Washington Tech., Edward Waters College, Albany State, Atlanta University, Fort Valley State, Morris Brown, Pine, Southern, Bowie State, Morgan State, Shaw College at Detroit, Alcorn, Rust, Utica Jr. College, Lincoln University of Missouri, Barber-Scotia, Fayetteville State, Johnson C. Smith, Livingstone, Shaw, St. Augustine's College, Wilberforce, Cheyney State, Lincoln, Benedict, South Carolina State, Fisk, Lane, Tennessee State University, Bishop, Texas Southern, Wiley, Hampton, St. Paul's College and Virginia Union.

BLACK COLLEGE PRESIDENTS TELL HEW OF NEED FOR PARITY

WASHINGTON.—"We boldly propose that the federal government recognize the historically black colleges as the major architects, traditionally, of equal opportunity with attainment and productivity," a group of black college presidents told Dr. F. David Mathews, Secretary of Health, Education, and Welfare in a meeting last week.

"We further propose that in concert with this additional development, HEW develop a leadership partnership with the historically black colleges for the purpose of achieving parity in all areas of higher education and parity in all professional and technical fields in the work force."

The National Association for Equal Opportunity in Higher Education met with Mathews, a former president of the University of Alabama, to map out a "Partnership for Leadership in the Development of a Year 2000 Plan for Parity in Education."

They recommended to Mathews that blacks participate in the policy planning and review process for all major HEW agencies; that the federal government undertake an annual collection of racial data in higher education; that programs having a "significant impact on equalizing opportunity for blacks" not be regionalized and that discriminatory funding patterns be ended in minority programs.

A black college president panel told Mathews that black colleges play a special "role" in higher education. "We have 100 years of experience in dealing with those victimized by elementary and secondary school discriminatory patterns," said Dr. Roy D. Hudson, president of Hampton Institute. "More than half the baccalaureate degrees are given by black colleges."

Dr. Milton K. Curry, president of Bishop College, said that black institutions "trained young people to believe in themselves . . . and told them if they had integrity or heart and developed their intelligence, they could make great achievements."

Mathews pledged "cooperation" with the black college organization, representing over 100 black colleges, but did not detail any specific programs. He called the black colleges a "reservoir of hope and determination."

Afterwards he expressed sympathy for the plight of many black colleges caught between desegregation decrees aimed at integrating their facilities to a "tipping point" where in effect they may no longer remain "black."

Black college enrollment is now approaching 200,000 with a pattern of growth from about 140,000 in 1966 to almost 200,000 in 1975. Freshman enrollment increased by 10.7 per cent from 1973 to 1974 as compared to a 5.8 per cent increase nationally.

Undergraduate degrees granted increased from 15,728 to 25,094 and graduate and professional degrees awarded blacks increased from 2,158 to 6,186. Of the estimated 48,000 blacks who graduated in 1974, 25,000 earned their degrees at black colleges.

The figures for law, medicine and dentistry are less precise but at least half of the baccalaureate origins of these professional school graduates are also flowing out of these colleges. During the 1972–73 school year, 60 per cent of those blacks who earned doctorates had earlier earned their undergraduate degrees in black colleges.

The following black colleges and universities were represented at the conference: Alabama A&M, Lomax-Hannon College, Miles College, Oakwood College, Stillman College, Tuskegee Institute, Delaware State, Federal City College, Howard, Washington Tech., Edward Waters College, Albany State, Atlanta University, Fort Valley State, Morris Brown, Paine, and Southern.

Also participating were Bowie State, Morgan State, Shaw College at Detroit, Alcorn, Rust, Utica Jr. College, Lincoln University of Missouri, Barber-Scotia, Fayetteville State, Johnson C. Smith, Livingstone, Shaw, St. Augustine's College, Wilberforce, and Cheyney State.

Also Lincoln, Benedict, South Carolina State, Fisk, Lane, Tennessee State University, Bishop, Texas Southern, Wiley, Hampton, St. Paul's College and Virginia Union.

ABRAHAM OF NEW MEXICO

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. LUJAN. Mr. Speaker, as the Bicentennial approaches, and we recall the great acts of foresight, heroism, and statesmanship by our Founding Fathers, it should be brought to the attention of all Americans that in the Southwest of this continent, where New Mexico and Texas now are, many men appealed for freedom for the citizens of those areas, then under the rule of Spain.

Their work on behalf of the citizens of the Southwest is strikingly similar to the activity of better-known Colonial leaders on the eastern seaboard.

Today I wish to bring to the attention of my colleagues the work of Don Pedro Beautista Pino, prominent rancher, civic and political leader in Santa Fe, and the sole representative of the Territory of New Mexico to the first Cortes, or Parliament, held in Spain.

In his writing, entitled the "Exposicion," he reported accurately about the state of the citizens in the Southwest. And he warned, as others had earlier warned the British, that the Spanish Crown could no longer ignore the well-being of its subjects in the Southwest part of what is now the United States. If Spain continued to do so, he accurately predicted, then Spain would lose its power there.

Don Pedro has been called the "Abraham of New Mexico." He spoke often and eloquently for better conditions. On one occasion he told the Cortes that all of his sacrifices for his people "I shall consider well spent if they contribute to remedy those misfortunes which afflict my fellow countrymen."

Don Pedro continued:

> It now remains only for me to request of you this most urgent aid for the relief of the province in order that it may begin to enjoy its legitimate prosperity.

He then asked for establishment of a bishopric in Santa Fe; establishment of a seminary college of higher learning and public schools; for uniformity in military service and salaries for all settlers who might enlist; and for the establishment of a civil and criminal audience in Chihuahua for the settlers.

As a statesman attending the Spanish Cortes, Don Pedro petitioned on behalf of the people of New Mexico for fundamental claims of liberty and justice from the Spanish empire. It is the contributions of men such as these that have brought to America the tradition of a free people, of a people dedicated to service of their fellow men.

I pay tribute to this farsighted man, who sounds often like a Jefferson or a Tom Paine in his pleadings for justice for settlers in the Southwest. Living descendants of Don Pedro in our State include Pedro, Virginia, Reynaldo, and Arthur Ortiz y Pino, and Josefita, Concha Ortiz y Pino de Kleven, and Mela Ortiz y Pino de Martin.

A recent ceremony in Cadiz, Spain, formally acknowledged Don Pedro as a great statesman and unveiled a marble and bronze plaque on the outer wall of the San Felipe de Neri Church where the first Spanish constitution was drafted to commemorate the New Mexico representative.

As the Bicentennial approaches, I take this time to remind my colleagues that in other parts of our country, others struggled for the freedom of identity and purpose for their people. Don Pedro and his descendants have written an important chapter in the history of the Southwest and of the Nation.

CRIMES AGAINST THE ELDERLY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. SCHEUER. Mr. Speaker, despite the recommendations of the 1971 White House Conference on Aging which called for action from the Congress to deal with the manifold problems of crimes against elderly persons, little has been done. We all know that the elderly are more likely to live alone, in high crime areas, and to be dependent on public transit; thus they are more vulnerable to criminal attack. We all know that the elderly are generally less able to physically defend themselves against attack, and to suffer greater economic and psychological stress as a result of personal attack. Thus, they need special attention and care.

Law Enforcement Assistance Administration—LEAA—studies of victims of crime in 26 large cities, done this year, indicates that—

First. The rate of personal larcency with contact—purse snatching, pocket picking—is higher for persons over 50 than for the population at large.

Second. Women over 65 are six times more likely to be robbed than other persons.

Third. More than half of all robbery victims are women over 55.

Fourth. In one large city, half the victims of crimes who were over 60 suffered physical injury as a result of the crimes.

The Harris poll indicates that the elderly rank fear of crime as their most serious problem. We cannot treat this phenomenon with any less seriousness. I am, therefore, introducing a bill which would mandate the States in planning for the use of funds granted by the Law Enforcement Assistance Administration to pay special attention both to the prevention of crimes against the elderly, and to the economic and psychological problems stemming from such crimes as they affect the lives of our senior citizens.

TOM EVANS' EXCELLENT BICENTENNIAL POEM "HAPPY BIRTHDAY AMERICA"

HON. JAMES B. ALLEN

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Tuesday, December 16, 1975

Mr. ALLEN. Mr. President, the Nation's approaching Bicentennial is responsible for a revival of interest in the history of our country and has inspired a renewal of public expressions of love and respect for our great Nation. Evidence of this is seen and heard almost daily in our newspapers, in periodicals, on television and radio and in stores in practically every city and town.

Mr. Tom Evans, who operates the Shelby Handle Factory in Alabaster, Ala., and who appears from time to time as an entertainer, has written a poem, "Happy Birthday America," in honor of the approaching Bicentennial. I ask unanimous consent that the poem be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

HAPPY BIRTHDAY AMERICA

Two hundred beautiful years have come and gone and as we celebrate your bicentennial
I pray your traditions shall forever live on

Your shores have always given birth to freedom
From the landing at Plymouth Rock till today
Your rivers, your lakes, your prairies, have been a land of enchantment to all who ever came your way

Your mountains have been sites for future visions
And in your valleys, men's dreams have come true
In your skies, men have conquered outer space to soar far beyond the heavens blue

Your peoples, regardless of race, color or creed yellow, brown, black or white
Have strived to build a great nation under God that believes in truth and right
Your flag waves high as a symbol of a free people who share the same rights in a free land
And there is not another nation under heaven you haven't offered an helping hand

You have opened your doors to the outcast
Stretched forth your arms to those in need
You have never asked for a return of favor
From the Nations you so often had to feed

That's why you are called the land of the free and the home sweet home of the brave
It was men like Washington, Jefferson, Lincoln without thousands of others who dared to die
That no man would ever be another man's slave

From the woodlands of Canada, to the golden Gulf of Mexico
From the sunkissed slopes of California, to the rockbound shores of Maine
You have been a paradise to the small, the great, the rich, the poor who so proudly have chosen to be called Americans by name

You have honored the Almighty God of the heavens
Knowing his blessings would not be forgotten soon
That's why old glory waves tonite
Like a red, white and blue halo around the moon

So I humbly and proudly say, happy birthday America, my America
May your banners forever fly high as the stars up above
You are the one nation believing all men are brothers under God
May you forever remain the one country
Filled with brotherly love.

TRIBUTE TO STEVE BROIDY

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. REES. Mr. Speaker, it is with true pride and great pleasure that I take this opportunity to pay tribute to a man from my district, Steve Broidy, who personifies all of the finest qualities of American initiative, generosity, brotherhood, and compassion.

As we approach the 200th anniversary of our Nation's founding, we tend to look to our distant past to find heroes and our symbols of greatness. On January 31, 1976, an impressive gathering of civic, professional, and social leaders and friends will fill the International Ballroom at the Beverly Hilton Hotel to honor a great American of our own era—Steve Broidy, president and chairman of the board of directors of Cedars-Sinai Medical Center.

Just as our Founding Fathers had great visions thought unattainable by much of the world, so did Steve Broidy have an "impossible dream." When two great hospitals, Cedars of Lebanon and Mount Sinai, merged in 1961, the first president of this combined health care endeavor was Mr. Broidy—now in his 13th year in that office. It was Mr. Broidy who dreamed of a great new Cedars-Sinai Medical Center which would provide unsurpassed total health care services for the people of Los Angeles. Largely through his inspiring leadership, personal energies, efforts, and unflagging dedication, that dream has indeed become a reality, and at this very moment, plans are well advanced for the dedication of the 1,120-bed medical center which will be the largest nonprofit, voluntary hospital west of the Mississippi.

In an age of economic uncertainty, when so many seem to be looking to the Federal Government for answers and for dollars, Cedars-Sinai and Mr. Broidy have confidently and capably turned to their community for the funding of this $100 million medical center.

In an age when rapidly changing technologies, insurance, and legal complexities, increasingly sophisticated consumer health care demands and unrelenting economic pressures make day-to-day existence a difficulty for much of the health care field, Mr. Broidy courageously and steadfastly urged Cedars-Sinai forward, building a medical center not just for today, but for many tomorrows as well.

Our Nation's story began in New England and so does Steve Broidy's. Born in Malden, Mass., he began his career in the difficult days of the depression as a film salesman. Affiliated with Allied Artists as a member of the firm's Boston sales staff, he moved up to branch manager, was elected to the board of directors and was named a vice president in 1940—the year he moved to California, where he has since lived. In true American tradition, he became the company's president a few years later and, in 1959, was named Pioneer of the Year by the Motion Picture Pioneers.

His many community activities have included the presidency and membership on the board of directors of the Jewish Federation Council; president and chairman of the board of Brandeis Camp Institute; chairmanship of the United Ways; membership on the Salvation Army Advisory Board; board of directors of Claremont Men's College; and board of governors of the Academy of Motion Picture Arts and Sciences, which has honored him with its prestigious Jean Hersholt Humanitarian Award.

Mr. Broidy was the first west coast recipient of the American Judaism Award of the United American Hebrew Congregations and Hebrew Union College.

The irresistible force of Mr. Broidy's vision, enthusiasm and leadership have helped create a magnificent immovable object which will bring health care benefits to many generations of Los Angeles residents.

Mr. Speaker, Steve Broidy is one of our Nation's modern day pioneers and I am honored to take this opportunity to join his many friends in paying tribute to him.

HOUSE CONCURRENT RESOLUTION

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. COHEN. Mr. Speaker, today I introduced a House concurrent resolution which, if approved, would express the sense of Congress that Congress should be consulted prior to the commitment of significant American resources to covert military operations abroad. Although it has not yet been given a number by the House Parliamentarian, I would like to insert it in the RECORD for the consideration of my colleagues at this point:

CONCURRENT RESOLUTION

To express the sense of the Congress that Congress should be consulted prior to the commitment of significant United States resources for covert military operations abroad

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that no significant United States financial, material, or human resources for covert military operations abroad should be committed by any department or agency of the government of the United States unless there has been prior consultation with the appropriate committees of both Houses of Congress.

THE HALF-COST PROVISION: FACT AND FICTION

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. O'HARA. Mr. Speaker, as the Student Financial Aid Act of 1975 (H.R. 3471) moves slowly toward approval by the Subcommittee on Postsecondary Education, one argument seems to be consuming an enormous amount of letterhead, time, and postage, in proportion to its significance in the real world.

That issue is the half-cost limit in the basic educational opportunity grant program—BEOG. As Members may know, under the basic grant program, each student is entitled to an educational grant up to $1,400, minus a "reasonable family contribution"—a circumlocution way of saying that if your family income is much over $13,000, you do not get anything. But above and beyond this use of individual family economic situation as a way of rationing relatively scarce BEOG funds, the existing law also contains a provision to the effect that a student may not receive more than one-half of his cost of education in the form of a basic grant. Because a basic grant cannot go over $1,400 in any event, because the administration's family contribution schedule means that only students from very poor families will get the full grant, and because of the very high cost of even low-tuition schools these days days, the half-cost limit, which may have been intended to symbolize national concern for the protection of private education, does exactly one thing: It penalizes students from low-income families if they choose to go to low-price schools.

Because this provision serves a laudable objective in such an indefensible way, I believe we should get rid of it altogether. I am still surprised at the vigor with which this invidious discrimination against certain students at certain schools is defended by those who believe it benefits other schools.

One of the most useful analyses of this controversy that I have seen in print appeared in the Chronicle of Higher Education for December 8, 1975. Written by Mr. Chester Finn of the Brookings Institution, the article "The Half-Cost Perplex" neatly sums up the rationale for and the arguments against the half-cost limit:

THE HALF-COST PERPLEX

(By Chester E. Finn, Jr.)

An obscure provision in the Education Amendments of 1972 has precipitated a battle that is pitting public colleges against private—and private against private—as all strive to shape new legislation currently making its way through Congress.

The relevant section, in its entirety, reads as follows:

"The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 50 per centum of the actual cost of attendance at the institution at which the student is in attendance for that year."

Although little known outside the student-aid fraternity and the ranks of Washington higher-education lobbyists, this brief paragraph has become the year's grand symbolic entry in the enduring debate over whether federal policy serves to sustain or to endanger the private sector of American higher education.

The paragraph refers to the basic-educational-opportunity-grants program, the supposed foundation of all federal student-aid efforts. It means that no student may receive a federal basic grant larger than half of what it costs him to attend college. (Costs include room, board, transportation, books, and miscellany, as well as tuition and fees.)

Students at low-priced public colleges are the hardest hit by the current regulation, because the half-cost provision works in tandem with another feature of the basic-grants program which says that no student may receive a grant larger than $1,400. It follows that the provision confining his scholarship to "half of cost" will cut his grant only if he attends an institution where the full cost is less than $2,800 a year. And there is another wrinkle: because the student's actual grant is computed by subtracting his "family contribution" from $1,400, only the most poverty-stricken of students lose money because of the half-cost limit.

Consider the cases of two students:

Jane's working-class family earns about $9,000 a year and is able to muster about $800 for her college expenses. Under the guidelines, Jane is "entitled" to a basic grant of $600.

Bruce's family makes less—under $5,000 a year—and cannot pay anything toward his college education. Bruce is entitled to the maximum grant of $1,400.

If Jane and Bruce both enrolled in a college costing $3,000 a year, they would both receive their full grants: $600 and $1,400, respectively. But if both happened to choose a college that costs only $1,800 a year, the half-cost rule would take effect in Bruce's case, cutting his grant from $1,400 to $900. However, Jane's grant would remain the same as at the more expensive institution. Jane would have to attend a college that cost less than $1,200 a year—which practically none does—before the half-cost rule would affect her grant.

If that seems complicated, it is. But since it also sounds vaguely unjust, one naturally wants to know why Congress inserted such a provision.

There are three possible explanations, and each has a kernel of truth in it.

First, by reducing some grants, Washington obviously saves money, making a finite appropriation stretch to more students than would be covered if individual amounts were larger.

Second, there is the Protestant ethic; no student should get a free ride to college by courtesy of the taxpayer. Everyone should have to come up with some resources of his own.

Third—and this is the ticklish one—if the half-cost provision weren't there, some students might find it economically more alluring to enroll in low-priced colleges. According to one commentary on the 1972 Amendments, "The higher-cost private schools, it was felt, would thereby be placed at a disadvantage in competing for students and would suffer loss of enrollment while the low-cost public institutions would become overcrowded."

With the legislation expiring in June, the question facing Congress in the next six months is whether to carry this provision over into the "Education Amendments of 1976" or to drop it and permit basic grants to cover the full costs of college attendance up to whatever dollar ceiling is placed on them.

Many commentators believe that the half-cost limitation should go. The Carnegie Council on Policy Studies in Higher Education called it "inconsistent with the program's major objective, to ensure equality of opportunity." The Association of American Universities reported a "clear consensus, although not unanimity, that removal of the one-half-cost limitation is sound." A spokesman for the land-grant colleges testified that such a change would make for a "more reasonable approach to the entitlement concept the program implies." And the American Council on Education, after much debate, agreed that "the present half-cost limitation should be removed."

The logic of those wanting to erase the provision is straightforward. How can the basic-grants program serve as a foundation for student aid if only half the foundation is there? How can access to college without regard to family income be assured if no more than 50 per cent of the necessary funds will be available to students in the least-favored circumstances? How can it be equitable to impose a theoretical limit which in practice is felt only by the most poverty-stricken of students? Reformers point out that only an estimated 8 per cent of those currently enrolled in public institutions would be substantially aided by the removal of half-cost, and that they are the neediest of all, nearly all from families earning less than $7,000 a year, the ones for whom the basic-grants program was presumably intended.

But nothing in the realm of student aid is simple, and the proposal to scrap the half-cost limitation is perceived by some as another nail in the coffin of private higher education. The National Catholic Educational Association argues that such a change "will inhibit students' choice of attending private institutions." Boston University's colorful president, John Silber, fears "disastrous price competition between independent and state institutions." The National Council of Independent Colleges and Universities has made clear its opposition to removing the provision on the grounds that doing so would create a "preferred class of students at a preferred class of institutions."

These and other private college spokesmen have a clear and understandable worry: that if the maximum amount of aid a student can get from Washington is small—too small, in any case, to cover the price of private higher education—and if the half-cost ceiling is demolished, federally aided students will gravitate to public colleges in even greater proportions than they do now.

Despite the apocalyptic rhetoric, however, and the near-theological conviction that this issue has engendered, the essential problem with the basic-grants program is not the half-cost provision. Rather, the grant ceiling is so low that for all practical purposes the program is insensitive to the enormous price differentials in higher education. The most significant of these, of course, is the widening gap between public and private tuitions. A grant of $1,400 is not really enough money to attend any college, if the student is otherwise penniless. (The City University of New York and the California community colleges are the main exceptions.) It is most assuredly not enough to pay the freight at a private college costing $4,000 to $5,000 a year.

Trying to correct this fundamental flaw by imposing a half-cost limitation is a bit like fighting hunger by decreeing that neither the macaroni aficionado nor the devotee of filet mignon should be enabled to eat more than one meal a day. In effect, it says to the low-income student that, since Uncle Sam will not give you enough money to attend a high-priced college, we want to make sure you don't get enough to sway you toward a low-priced one. From the perspective of private colleges, it is a rational tactic. From the aspect of social policy, however, it is marvelously deficient. Many private-college leaders recognize this, and some even concede it, although not for attribution.

Nothing is wrong with the Protestant ethic or with the notion of "self-help." In many eyes it would be fine if all tuition structures and aid programs were designed so that every student would have to save, work, or borrow in order to meet at least part of the price of his college education. It would be equally splendid if federal-assistance programs were price-sensitive, so that a student's choice of college would not greatly affect the amount of money he would have to come up with on his own. But to seek these ends through a provision that punishes low-income students choosing low-priced colleges—and which affects almost nobody else—seems at best odd and at worst scandalous.

Yet the private colleges have a most important point. Student-aid programs aimed only at enabling students to have "access"—which usually means the ability to pay for the least costly forms of higher education, such as that provided by a heavily subsidized community college—tend to be unfair to institutions that depend on student payments for most of their income.

But half-cost (or the Ford Administration's version known as "half-need") fosters student choice—and succors private higher education—only by being punitive. Furthermore, its victims (to my knowledge no one has yet had the chutzpah to call them beneficiaries) are only the economically distressed students who might enroll in a low-priced college. No surtax is placed on the wealthy youngster electing a community college. No premium is paid to the middle-income person choosing a private university.

Unfortunately, higher education is fast tearing itself apart over the half-cost limitation. Attempting to forge a sensible compromise—dropping half-cost, but recasting other aid programs to tilt toward private colleges—the American Council on Education found itself charged with forsaking the private sector. Urging a somewhat similar two-pronged approach, the Consortium on Financing Higher Education has been tagged as an elite group of wealthy and selective private institutions that do not care about the plight of their less-favored brethren.

Some public colleges have indicated a willingness to bargain. They have supported changes in programs that foster student choice and help the private sector in return for getting rid of half-cost and thereby aiding their own needy students. But public colleges have been made out to be self-seeking, and that impression gained credence recently when one important state-college association formally resolved to oppose the use of more public funds to promote choice or to help private institutions.

But the half-cost limitation is ultimately doomed. It may survive the current round of legislative activity, but in time half-cost will fall of its own weight. Very few people understand how making some colleges less attractive to needy students actually improves access or choice or how it strengthens the pluralistic system of American higher education. Those who do understand will be increasingly hard pressed to justify the notion that punishing the poor is desirable social policy. Other approaches to student choice will eventually have to be devised. More humane schemes for making federal-aid programs sensitive to basic price differences will have to be considered. One day soon, those who care about the future of private higher education and about the overall impact of federal policy on that future will, one hopes, begin this search and be joined by thoughtful leaders of the public sector.

"The worst, the most corrupting of lies," George Bernanos cautioned, "are problems poorly stated." We seem to be forgetting that just now, and to be training guns on each other in a no-win battle over a remote statutory paragraph that is at best weak surrogate for larger and more important concerns. Lacking precision, we also reveal a worrisome shortage of vision, some generalized failure to comprehend that the attainment of equal educational opportunity and the strengthening of that peculiarly American dual system of public and private colleges call for imagination, compromise, and a measure of selflessness. It will be particularly ironic this Bicentennial year if the fractious elements of the academy allow this single proviso to nettle them into hanging separately at a time when far bigger stakes and more revolutionary principles should impel them to hang together.

NATIONAL ACCLAIM FOR WARREN TOWNSHIP MARCHING BLUE DEVILS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. McCLORY. Mr. Speaker, one of the great activities of young people today is to participate in marching bands and similar organized activities which, in turn, enhance pageants, parades, sporting events, and other public performances.

Mr. Speaker, the Marching Blue Devils of Warren Township High School, Gurnee, Ill., have gained a national reputation in their competition with the marching bands of other secondary institutions. A recent description of the Warren Township High School Marching Band was contained in the publication "What N' Where in Waukegan," wherein the following article appeared:

What N' Where In Waukegan

Adding color and showmanship to any football game must be a band with those same qualities. The "Marching Blue Devils" of Warren Township High School, Gurnee, Illinois, is a colorful show band that has performed from coast to coast, from Disneyland to Disneyland, on high school campuses, college gridirons, and the NFL.

This 196-piece band with flag bearers, arrayed in natty uniforms of blue and gold, have delighted thousands of football fans through their precise routines and superior musicianship. They have won several superior ratings in state and mid-west marching band competitions.

Football season this year found the "Pride of Lake County" with a rigorous schedule. They started the season off at Soldier's Field in August and delighted Chicago Bears fans with their instrumental ability as they played in the rains that prevented a field performance. In September, 57,000 Packer fans applauded a show during the annual Bishop's Charities Game at Green Bay. While performing at their own home games they prepared for competition and on October 4 were judged Class AA champions at Illinois State University and received the Best of Bands Award in addition.

To top off the schedule, the "Marching Blue Devils," under the capable direction of Curt Braa and ably assisted by Bruce Mack, will perform in the half-time show in the Astro-Bluebonnet Bowl in Houston, Texas on December 27. This show is being billed as the nation's largest bicentennial celebration to date and will be telecast. On New Year's morning, these 196 youngsters from Warren Township High School will be in Dallas, Texas, where they will appear on CBS national television in the Annual Cotton Bowl Festival Parade.

This band combines talent, instruction, and rehearsals into the intricacies of their half-time shows which have resulted in pride and honors to Warren and its band and numerous invitations for public performance.

Mr. Speaker, I know that many of us will be watching the Astro-Bluebonnet Bowl in Houston, Tex., on December 27, at which time the Warren Township High School Blue Devils will be performing at half time. Also, on New Year's morning the band will take part in the annual Cotton Bowl Festival parade to be televised on the CBS national network.

Mr. Speaker, I am sure that many of my colleagues will want to join in this expression of support and commendation to the young people in the Marching Blue Devils of Warren Township High School and to wish them well in their careers following their high school education.

Mr. Speaker, I also take this occasion to commend the band director, Curt Braa, his assistant, Bruce Mack, the Warren Township High School Superintendent Dr. Calvin Leader and his administrative assistant, Bill Souza.